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IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN DALE FARMER, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 THE STATE OF NEVADA, )  
 )  
 Respondent. )

No. 65935

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1           So first I guess I need to know do you intend to  
2 cross-examine these witnesses on those issues, and if you do  
3 then you need to tell me how those things are relevant.

4           MR. MANINGO: Your Honor, first of all, I think the  
5 threshold of the question is whether the Court should even  
6 address the motion. I believe that the motion is untimely  
7 based on the rules of practice for the Eighth Judicial  
8 District Court Rule 3.28. Motions in limine to exclude or  
9 admit evidence must be in writing and noticed at hearing no  
10 later than calendar call, or if the calendar call was set by  
11 the Court no later than seven days before trial. This was  
12 filed four days and after the calendar call. I don't think  
13 that the Court should even be addressing this motion as it was  
14 not filed timely.

15           THE COURT: I understand that, but I also understand  
16 that the State can make these objections contemporaneously  
17 during your cross-examination.

18           MR. MANINGO: They can, Your Honor.

19           THE COURT: And so --

20           MR. MANINGO: And --

21           THE COURT: So I prefer to address them up front.

22           MR. MANINGO: And -- and the truth is that the  
23 relevance may even become apparent to the State as the trial  
24 progresses. And if they want to make the objections at that  
25 time, I think, then, that's probably the proper way to do so.

1 I can tell you that the majority of the information, not just  
2 what's set forth in the motion, comes from, for the most part,  
3 from statements and court pleadings made in a divorce matter  
4 between two of the State's witnesses, Roxanne Cagnina and  
5 Scott Cagnina.

6           The two of them make these allegations of this kind  
7 of conduct against one another in pleadings that are filed  
8 with the Court and in statements that they've made against one  
9 another. Really, any of it becomes relevant in regards to two  
10 issues. First of all, toward credibility. If there's an  
11 accusation made by one of their witnesses that the other one  
12 is denying, one of those witnesses is not telling the truth on  
13 documents that they're filing with the Court and in statements  
14 that they're making previously.

15           It secondly becomes relevant in regards to anything  
16 that has to do with financial matters. Now, that infidelity  
17 does not have anything to do with financial matters, but if  
18 there's any work being done in pornography, if there's any --

19           What was the other one? I'm sorry. The first?

20           MS. BLUTH: Domestic violence, child abuse issues.

21           MR. MANINGO: Right. And those -- and those are  
22 allegations made back and forth by both witnesses. Obviously,  
23 the State's witnesses, who are both of these individuals,  
24 their credibility comes into play throughout the entire trial.

25           In fact, the credibility of Roxanne Cagnina is sort

1 of the -- the foundation of their -- their case. And they're  
2 making cross-allegations against one another and denying  
3 those. So these are basically lies that are set forth in court  
4 pleadings and in previous statements.

5           Now, we haven't -- I'll be honest, I haven't written  
6 out my cross-examination yet for -- for Ms. Cagnina regarding  
7 a number of different issues. It will depend on what is said  
8 in her direct examination, different areas that she goes into  
9 with that. Certainly, their divorce, the State, I think, is  
10 in agreement here, their divorce is going to be relevant and  
11 the financial aspect of their divorce and their relationship  
12 and their marriage.

13           The reason being is that part of our theory that Ms.  
14 Cagnina was in severe financial straits with a number of  
15 bankruptcies, foreclosures, and so forth, and that she was  
16 seeking money through a civil suit in this situation, which  
17 she did do and she has received money for that. So all of  
18 that is part of the divorce, as well. I don't know yet what  
19 Ms. Cagnina will go into, or Mr. Cagnina for that fact, as far  
20 as direct because we have depositions, their pleadings,  
21 previous statements, preliminary hearing transcripts where  
22 they go into all different areas and aspects.

23           So those are my answers to the motion. Number one,  
24 I don't think it's timely and shouldn't be heard at this  
25 point. And I think that any contemporaneous objections would

1 probably be more appropriate given that we're not sure what  
2 Ms. Cagnina will go into during direct.

3 THE COURT: State?

4 MR. KOICHEVAR: First of all, Judge, we don't dispute  
5 the fact that the financial elements of it because I can  
6 understand -- I mean, that's going to be -- we understand  
7 that's the defense's take on this is that they made these  
8 allegations in order to file the civil suit, and we -- all  
9 parties agree that there were financial issues going on.

10 So that's why it's not included in our motion  
11 because their financial position prior to 2008 and shortly  
12 thereafter I think is legitimate questioning that they can  
13 present to Roxanne and Scott and what were their motives for  
14 making these allegations and filing the civil suit. Thus, we  
15 have not included that in our motion.

16 But the subsequent allegations of domestic violence  
17 and abuse and whether, you know, Roxanne was, you know, making  
18 pornographic movies is completely irrelevant to what happened  
19 in May of 2008. And, first of all, the divorce became final  
20 in January of 2013. It happened way after these allegations  
21 occurred in May of 2008.

22 And as the Court is well aware, having practiced for  
23 years, in divorce proceedings, you know, allegations are  
24 thrown out on both sides when it becomes contentious. But it  
25 doesn't go to the credibility of these witnesses as they made

1 their allegations, in particular Roxanne in May of 2008.  
2 Furthermore, if they want to go into any of the alleged  
3 domestic violence of child abuse, things -- those are other  
4 bad acts that they are obligated to file motions just like we  
5 are obligated to file motions.

6 But more importantly, they're not relevant. They  
7 happened way after the fact, they're allegations, they don't  
8 go to the bias or the credibility of the witness as the  
9 allegations were made in May of 2008. For that reason we've  
10 asked the Court not to allow them to go into those areas.

11 THE COURT: Well, it does seem that your argument is  
12 it goes to -- I mean, you're trying to get in character  
13 evidence of a witness, your character for truthfulness or  
14 untruthfulness; right?

15 MR. MANINGO: Yes, Judge.

16 THE COURT: That's what you're doing?

17 MR. MANINGO: And essentially -- and -- and give  
18 both witnesses the opportunity to -- to deny that -- that ever  
19 happened --

20 THE COURT: To deny that whatever happened?

21 MR. MANINGO: Whatever the -- whatever the issue may  
22 be, whether it's the child abuse, the pornographic movies,  
23 anything like that. But the reason it goes to their -- not  
24 just for their voracity for truthfulness, but also it  
25 basically states that if they're making false accusations

1 against one another in -- in court proceedings and in Court  
2 documents filed with the family district court, then that  
3 certainly goes to their credibility. I mean, what we're  
4 saying here is that they are making false accusations in court  
5 in a court proceeding. And they're doing the same thing now  
6 -- well, not now, but at that time during the divorce against  
7 one another.

8 THE COURT: How do you know they're false?

9 MR. MANINGO: Well, we -- we don't.

10 THE COURT: Well, you can't prove it by extrinsic  
11 evidence. You can only prove character evidence for  
12 truthfulness or untruthfulness by opinion testimony. So  
13 that's only if it's admissible. I just don't see that it's  
14 admissible. I'll look at, at the break, at the statutes  
15 again. I always like to refresh on character evidence, but  
16 I'm not seeing it. So I don't have that with me.

17 MR. KOCHEVAR: But that's -- but that's my  
18 understanding, as well. If they want to go -- I mean, if they  
19 want to talk about character evidence, then you -- the only  
20 question you could ask is what is your opinion about this  
21 person's character for, you know, truthfulness? You don't get  
22 to go into extrinsic evidence of --

23 THE COURT: Well, no, you can inquire on cross. I  
24 mean, there are rules about if the person's character is  
25 attacked, either direct or on cross, then on -- in the

1 reverse, then you can go into on a witness they can be asked  
2 about it, but I don't think that you can on direct go into  
3 specific instances of conduct like that.

4 MS. BLUTH: Your Honor.

5 THE COURT: And, you know, like I said, I'll review  
6 again. I reviewed it last week, but I always re-review on  
7 character evidence every time it comes up, so --

8 MS. BLUTH: If I may, Your Honor, if you follow Mr.  
9 Maningo's logic, that means that every witness that ever took  
10 the stand in the trial, if I had, you know, some knowledge,  
11 oh, well, isn't it true that you committed a battery domestic  
12 violence? Isn't it true that you've beat your child? Isn't  
13 it true that you take pills? Isn't it -- you don't just get  
14 to -- you just don't get to destroy an individual's character  
15 because they take the stand, and that's why we have Petrocelli  
16 hearings and bad act motions like that. I mean, first we have  
17 to even find that it's relevant.

18 THE COURT: Well, right. Character evidence won't  
19 come in at all unless it's admissible. So that's the hurdle  
20 we have to get past, is it relevant.

21 MR. MANINGO: And I'm -- and I'm -- it's not as --  
22 as Ms. Bluth had stated, it's not trying to destroy their  
23 character because of what they had done, you know, whether it  
24 was abuse their child or take pills or anything else. It has  
25 to do with their truthfulness and their credibility.

1           And we're -- we're stuck with whatever answer they  
2 give us, the witness gives us, but we still get to ask the  
3 question because of the fact that these two witnesses, both  
4 are State witnesses which, I assume, will probably follow one  
5 right after the other, have basically told two different  
6 stories and made accusations back and forth in court and in  
7 their pleadings. And someone is lying. One of those  
8 witnesses is not telling the truth in court documents, and  
9 that is relevant and that goes directly to their credibility.

10           Now, if -- if I were to ask Roxanne did you abuse  
11 your -- your children and she says no, that's ridiculous,  
12 that's what I'm stuck with and that's it. But then I get to  
13 ask Scott why is he making these accusations. And then the  
14 jury can decide who do they believe.

15           THE COURT: Well, I don't know about that. All  
16 right. So we're going to be in recess for like two minutes  
17 while I go and get my notes.

18           MS. BLUTH: Okay.

19           MR. MANINGO: Thank you, Your Honor.

20           (Court recessed at 10:24 a.m., until 10:26 a.m.)

21           THE COURT: Okay. So we start -- we're back on the  
22 record. So we start with 48.045, which you're all familiar  
23 with. And so it's evidence a person's -- a person's character  
24 or trait of his -- his or her character is not admissible for  
25 the purpose of proving the person acted in conformity, except

1 evidence of a person's character or trait of his or her  
2 character offered by an accused, and similar evidence offered  
3 by the prosecution.

4 Then it says -- let me see. It says -- and then  
5 evidence of character or a trait of character of the victim of  
6 a crime offered by an accused, subject to procedural  
7 requirements of 48.069 where applicable and similar evidence.

8 So one of our folks here is an actual victim. See,  
9 I don't know who know who all -- who --

10 MR. KOCHEVAR: That's correct.

11 THE COURT: Is that Roxanne?

12 MR. KOCHEVAR: Roxanne Cagnina is a victim.

13 THE COURT: All right. Okay. All right. So then  
14 it says unless excluded by 50.090, evidence of character of a  
15 witness, offered to attack or support his or her credibility,  
16 within the limits provided guaranty 50.085.

17 So then 48.055, of course, says that in all cases in  
18 which evidence of character or trait of character of a person  
19 is admissible, proof may be made by testimony as to reputation  
20 or in the form of an opinion. However, 50.085 says that  
21 reputation, obviously, for truthfulness or untruthfulness is  
22 inadmissible. So the only way you can get in reputation, you  
23 know, character evidence of truthfulness or untruthfulness is  
24 opinion evidence.

25 And opinion evidence of character is admissible to

1 attack or support the witness's credibility, but opinions are  
2 limited to truthfulness or untruthfulness, and opinions of  
3 truthful character are admissible only after introduction of  
4 evidence of untruthfulness or other evidence impugning the  
5 witness's character for truthfulness.

6           So you can only put in evidence of opinion evidence.  
7 You can't put in evidence that they filed documents in court.  
8 You have to put on a witness that's going to give an opinion  
9 that this person is not truthful. And that's -- that's the  
10 only way you can -- I'm seeing puzzlement on that side of the  
11 table.

12           MS. BLUTH: On our side?

13           THE COURT: Yeah. Maybe not. My eyes --

14           MS. BLUTH: No.

15           THE COURT: -- of course, aren't as good --

16           MS. BLUTH: I'm not --

17           THE COURT: -- as you know.

18           MS. BLUTH: -- puzzled.

19           THE COURT: All right. So, I mean, it's very  
20 restricted. You're talking about asking them all about  
21 documents they filed in another case.

22           MR. MANINGO: And, Your Honor, it says --

23           THE COURT: You can't put in evidence. That's bad  
24 acts.

25           MR. MANINGO: It says unless there's been -- unless

1 there's been evidence to impugn.

2 THE COURT: That's if you want to rehabilitate your  
3 -- your witness and put in evidence, opinion evidence of  
4 truthful character, you can't do that unless there's been  
5 attack and impugning of that person's character first.

6 MR. MANINGO: And so what if we -- if those  
7 witnesses take the stand and I ask what is your opinion of the  
8 other State's witness's character for truthfulness?

9 THE COURT: Okay. Well, what -- first of all, you'd  
10 have to lay a foundation that somebody had the ability to  
11 offer an opinion.

12 MR. MANINGO: They were married for 13 years.

13 THE COURT: Okay.

14 MR. MANINGO: They lived together the entire time.  
15 They -- during this entire case they interacted with one  
16 another. They're still in contact now. They share children.  
17 I'd lay the foundation that she would obviously have some sort  
18 of an opinion for his truthfulness. Then I ask what is your  
19 opinion of that witness's truthfulness? Then she states,  
20 because she's at trial and is -- you know, wants an outcome,  
21 she says, oh, well, he's -- he's a truthful guy, I trust him,  
22 you know, like, you know --

23 THE COURT: No, you can't put that on because you  
24 can't put in your case in chief evidence, opinion evidence of  
25 good -- of character evidence for truthfulness.

1 MR. MANINGO: That's not my case in chief. It's the  
2 State's case in chief.

3 THE COURT: Oh, okay. You're saying that the State  
4 is going to offer -- well, they wouldn't be allowed to offer  
5 evidence of good character for truthfulness, unless you've  
6 somehow impugned the character for truthfulness, you know,  
7 somehow attacking that.

8 MR. MANINGO: Which we will be attacking her  
9 credibility and her voracity for truthfulness throughout the  
10 entire trial.

11 THE COURT: Okay. You may be able -- you may do  
12 that, but that doesn't necessarily mean that the State wants  
13 to put on her evidence of good character and open the door for  
14 -- for you to ask about evidence -- specific evidence  
15 instances of untruthfulness. I mean, you can't put in  
16 specific instances of conduct other than, of course, the  
17 conviction of crime. It may not be proved by extrinsic  
18 evidence, but if relevant to truthfulness, may be inquired  
19 into on cross if relevant on cross. All right. That's 50.085

20 Okay. So that's a separate paragraph. Specific  
21 instances of the conduct of a witness, for the purpose of  
22 attacking or supporting the witness's credibility, other than  
23 conviction of crime, may not be proved by extrinsic evidence.  
24 They may, however, if relevant to truthfulness, be inquired  
25 into on cross-examination of the witness or on

1 cross-examination of a witness who testifies to an opinion of  
2 another witness's character.

3           So, for instance, if you had a witness that got up  
4 and said I have an opinion that so and so is, you know, a  
5 truthful person, because there had been an opening of the  
6 door, you could -- you could say, well, are you aware that,  
7 you know, about this instance of conduct, that there -- there  
8 is untruthfulness, are you aware that, you know, he was fired  
9 from his job because he lied? And if they say, no, I'm not  
10 aware of that, you're done because you can't prove it by  
11 extrinsic evidence.

12           It's very limited. So, I mean, I don't know how  
13 it's all going to play out, but it sounds as if you're going  
14 to -- not going to be able to just start immediately  
15 cross-examining these witnesses about filings in another case  
16 that are irrelevant. And, I mean --

17           MR. MANINGO: Well, I think filings are -- are  
18 certainly relevant. I think what's --

19           THE COURT: Well --

20           MR. MANINGO: -- being -- being brought before the  
21 Court by the State is -- is separate parts regarding --

22           THE COURT: Well --

23           MR. MANINGO: -- specifically regarding accusations  
24 that Roxanne had made some pornographic films, abused her  
25 child, and infidelity during the marriage.

1 THE COURT: All right. But those -- you don't know  
2 -- you don't know what their answer is going to be, so you  
3 don't know whether -- I mean, you're basically bringing up --  
4 let's say it's true that somebody -- that he's going to say,  
5 yes, she made pornographic films during our marriage. That's  
6 completely irrelevant to this case and while it may not be the  
7 typical, you know, bad act, in the eyes of many people it is.  
8 Pornography is a bad act even though it may not be illegal. I  
9 don't see how it's -- it's relevant.

10 MR. MANINGO: Yes, ma'am.

11 THE COURT: Okay.

12 MR. KOICHEVAR: So is the Court's ruling at this time  
13 that that line of questioning is not permissible and if they  
14 -- I mean, obviously, we don't know exactly how the testimony  
15 is going to play out with either of these witnesses, but if it  
16 plays out and they -- the defense believes that somehow they  
17 are entitled to go there, that we will readdress the issue  
18 outside the presence of the jury before they're allowed to go  
19 there and we have to -- before it's throw the question out  
20 there and we have to object and now it's already -- the bell  
21 has already been rung.

22 MR. MANINGO: I would -- I would hope certainly at  
23 least Ms. Bluth and soon Mr. Kochevar will know me well enough  
24 I'm not going to just accidentally say, hey, porno films. If  
25 -- if I thought that we had a legitimate basis at all to -- to

1 go into that that differed from the Court's ruling, I would  
2 certainly approach and ask to address it. But I understand  
3 the Court's ruling.

4 THE COURT: We really have to see how it plays out.  
5 I mean, it's possible that some door gets opened, but right  
6 now I'm not seeing it. So if you think that you're entitled,  
7 then you'll let me know that, right, and you'll --

8 MR. MANINGO: Yes, Your Honor.

9 THE COURT: -- argue and cite me to the proper  
10 statutes.

11 MR. MANINGO: Yes, Your Honor.

12 THE COURT: Thank you.

13 MR. MANINGO: Thank you.

14 MR. KOICHEVAR: I appreciate that. Thank you.

15 THE CLERK: So that motion --

16 THE COURT: It's granted without prejudice for the  
17 objections to be made at trial.

18 Okay. Anything else outside the presence of the  
19 jury?

20 MS. BLUTH: Just a general housekeeping matter in  
21 regards to where we go from here. I know that there's new --  
22 are there new people outside? Are they getting brought in  
23 now? How do we go from here?

24 THE COURT: That's a good question. I was thinking  
25 about that this morning. You know, I -- I think maybe the

1 best thing to do would be bring in our folks we had left, let  
2 the 50 that we have stay in the jury lounge until we exhaust  
3 the ones that we've got left. Because once we bring those 50  
4 in we kind of have to start over, and I don't want anything  
5 that's -- these people might say to kind of taint that whole  
6 new group. Does that make sense? Does that sound like a  
7 logical way to approach it?

8 MS. BLUTH: Yes, Your Honor.

9 MR. MANINGO: Yes, Your Honor.

10 THE COURT: All right. Let's do that.

11 MR. BASHOR: Just so I understand, Judge. I  
12 apologize.

13 THE COURT: That's all right.

14 MR. BASHOR: We just replaced Juror No. 3. So for  
15 Juror No. 3, because he was -- he or she, I apologize --

16 MS. BLUTH: He.

17 MR. BASHOR: -- he was in the gallery, we would --  
18 you would do your general questions, Your Honor, then the  
19 State, then us, then the specifics?

20 THE COURT: Right. You know, when I get down to  
21 one, I'll go through all those general questions, then I'll  
22 ask them to go ahead and tell me about yourself, and I'll let  
23 you do your questions that maybe you would have done the  
24 general question --

25 MR. BASHOR: Okay.

1 THE COURT: -- before there because --

2 MS. BLUTH: Since it's only one.

3 THE COURT: Rather than have you come up and ask one  
4 person the same general questions. It doesn't --

5 MR. BASHOR: Perfect.

6 THE COURT: -- make sense in that setting.

7 MS. BLUTH: Okay.

8 THE COURT: Because the whole point of trying to do  
9 it that way is to make it quicker, but still let you get to  
10 ask the questions. But it doesn't -- once you get to one  
11 person it doesn't make it any quicker, so --

12 MR. MANINGO: Okay.

13 THE COURT: -- we'll just --

14 MR. BASHOR: Very good. Thank you.

15 THE COURT: -- have you ask those when I finish with  
16 them.

17 All right. Let's bring in our folks.

18 (Inside the presence of the prospective jury panel)

19 THE COURT: Thank you. Please be seated. The  
20 record will reflect that we are back before the venire panel,  
21 and this is Case No. 08-C245739, State of Nevada versus Steven  
22 Dale Farmer. The record will reflect the presence of the  
23 defendant with his counsel, the Deputies District Attorney  
24 prosecuting the case, all officers of the court, and our  
25 venire.

1           And, Marshal, did everyone check in that was  
2 dismissed yesterday?

3           THE MARSHAL: Everybody was here to check in today,  
4 yes.

5           THE COURT: Thank you. All right. And so when we  
6 left off yesterday, we had just replaced Juror Seat No. 3 with  
7 a new person. And, sir, we'll had you the microphone. If  
8 you'll state your name and your badge number.

9           PROSPECTIVE JUROR NO. 927: My name is Loran  
10 Huffman, Badge No. 927.

11          THE COURT: Thank you, Mr. Huffman. Now, have you  
12 ever served as a juror before?

13          PROSPECTIVE JUROR NO. 927: No, ma'am.

14          THE COURT: Okay. And have you ever been involved  
15 in law enforcement?

16          PROSPECTIVE JUROR NO. 927: Yes, ma'am.

17          THE COURT: What?

18          PROSPECTIVE JUROR NO. 927: I was a special agent  
19 with the office of special investigations.

20          THE COURT: That's right. I remember that from  
21 yesterday. And did you retire --

22          PROSPECTIVE JUROR NO. 927: Yes, ma'am.

23          THE COURT: -- from that? And I asked you yesterday  
24 if you felt that you would tend to give law enforcement  
25 officers more weight to their testimony merely because they

1 were law enforcement officers and for no other reason.

2 PROSPECTIVE JUROR NO. 927: No, ma'am.

3 THE COURT: You wouldn't; right? Okay. And your  
4 answer is the same as it was yesterday.

5 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

6 THE COURT: Okay. Have you ever been the victim of  
7 a crime?

8 PROSPECTIVE JUROR NO. 927: No, ma'am.

9 THE COURT: Have you -- do you feel that you could  
10 sit in judgment on another person? Do you have any -- you can  
11 sit down, too.

12 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

13 THE COURT: Okay. And so you have no legal -- or,  
14 excuse me, religious or moral compunction about that that  
15 makes it difficult for you to sit on -- in judgment on another  
16 person?

17 PROSPECTIVE JUROR NO. 927: No, ma'am.

18 THE COURT: Do you have any disagreement with our  
19 system of justice that states that a person who is charged  
20 with a crime is presumed innocent until proven otherwise by --  
21 beyond a reasonable doubt by the prosecution?

22 PROSPECTIVE JUROR NO. 927: Not at all.

23 THE COURT: Will you be able to follow the  
24 instructions on the law as the Court gives them to you, even  
25 if you may disagree with the law?

1 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

2 THE COURT: Okay. And have you ever been accused of  
3 a crime?

4 PROSPECTIVE JUROR NO. 927: No, ma'am.

5 THE COURT: Now, you understand, of course, that the  
6 defendant doesn't have to approve any -- or prove anything or  
7 put on any evidence; right?

8 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

9 THE COURT: And do you disagree with that premise of  
10 our system?

11 PROSPECTIVE JUROR NO. 927: No, not at all.

12 THE COURT: Thank you. Tell us about yourself.

13 PROSPECTIVE JUROR NO. 927: Retired about 12 or 13  
14 years ago. I've been -- I stayed in that line of work since  
15 then. I'm married, two kids, 30 and 27, and two beautiful  
16 little grand girls.

17 THE COURT: You said you stayed within that line of  
18 work. What do you mean by that?

19 PROSPECTIVE JUROR NO. 927: After I retired I worked  
20 with -- at the end of my career I was in the  
21 counterintelligence portion of -- of OSI, and I continued as a  
22 contractor.

23 THE COURT: And you're currently doing that?

24 PROSPECTIVE JUROR NO. 927: No. Right now I'm --  
25 you can say I'm unemployed or retired and looking, whichever

1 you would like.

2 THE COURT: So you were retired for awhile and then  
3 you got bored again and thought maybe you'd look again for  
4 work?

5 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

6 THE COURT: All right. Your children that are adult  
7 children, what do they do?

8 PROSPECTIVE JUROR NO. 927: My son is a truck  
9 driver, and my daughter works for a mechanical company here in  
10 town.

11 THE COURT: What's her job at the mechanical  
12 company?

13 PROSPECTIVE JUROR NO. 927: She does estimating for  
14 their contracts.

15 THE COURT: And does your wife work?

16 PROSPECTIVE JUROR NO. 927: Yes, she does. She's a  
17 manager at a pharmaceutical research company here in town.

18 THE COURT: When you say she's a manager, what does  
19 she manage?

20 PROSPECTIVE JUROR NO. 927: She manages their  
21 recruiting department.

22 THE COURT: Does she have any medical background or  
23 anything?

24 PROSPECTIVE JUROR NO. 927: Not really. She's got a  
25 degree in psychology. I keep her busy with that.

1 THE COURT: Thank you very much.

2 Would the State like to inquire further?

3 MS. BLUTH: Thank you, Your Honor.

4 Good morning, Mr. Huffman.

5 PROSPECTIVE JUROR NO. 927: Good morning.

6 MS. BLUTH: I'm going to ask you most of the same  
7 questions that I asked the other jurors yesterday. I'm sure  
8 you remember some of them. But first I want to ask you some  
9 specific follow ups to Her Honor's questions. When you did  
10 investigations before you retired, so when you're working for  
11 the military, was there a certain sect of things that you were  
12 investigating, or did you kind of do the whole gamut? Can you  
13 explain to me?

14 PROSPECTIVE JUROR NO. 927: OSI does all the major  
15 felony criminal fraud and counterintelligence investigations  
16 for the department in the Air Force. For about seven years I  
17 did basic criminal fraud stuff, and then for ten years I did  
18 counterintelligence and counterespionage.

19 MS. BLUTH: Okay. And so if it was a felony crime,  
20 you investigated it?

21 PROSPECTIVE JUROR NO. 927: Yes.

22 MS. BLUTH: So that would be a broad range of crimes  
23 that you had to investigate?

24 PROSPECTIVE JUROR NO. 927: Right.

25 MS. BLUTH: Her Honor asked if you were a victim of

1 crime and you said no, but you had a close friend or family  
2 member that has been a victim of a crime?

3 PROSPECTIVE JUROR NO. 927: Yes.

4 MS. BLUTH: And what type of crime was it?

5 PROSPECTIVE JUROR NO. 927: My nephew was murdered  
6 back in 1996.

7 MS. BLUTH: Okay. I'm sorry about that. And where  
8 was that at?

9 PROSPECTIVE JUROR NO. 927: In Ohio.

10 MS. BLUTH: Okay. And did you feel that that was  
11 properly investigated?

12 PROSPECTIVE JUROR NO. 927: Yes.

13 MS. BLUTH: And did you feel that justice was served  
14 in that situation?

15 PROSPECTIVE JUROR NO. 927: Yes.

16 MS. BLUTH: Did you have any issues with the legal  
17 process at all?

18 PROSPECTIVE JUROR NO. 927: No.

19 MS. BLUTH: Okay. Were you fairly involved in that?

20 PROSPECTIVE JUROR NO. 927: No, not -- not really at  
21 all.

22 MS. BLUTH: But you were just told things from your  
23 family members?

24 PROSPECTIVE JUROR NO. 927: Yeah.

25 MS. BLUTH: Okay.

1 PROSPECTIVE JUROR NO. 927: I attended court a  
2 couple times.

3 MS. BLUTH: Did that go all the way through trial?

4 PROSPECTIVE JUROR NO. 927: No, it was a guilty  
5 plea.

6 MS. BLUTH: I'm sorry?

7 PROSPECTIVE JUROR NO. 927: It was a guilty plea.

8 MS. BLUTH: Okay. And have you ever had a family  
9 member or close friend accused of a crime?

10 PROSPECTIVE JUROR NO. 927: No.

11 MS. BLUTH: After you retired and you stayed in that  
12 line of work, for how many years did you stay in that line of  
13 work?

14 PROSPECTIVE JUROR NO. 927: I retired in 2000 and  
15 just stopped working last year, so 12 years.

16 MS. BLUTH: Okay. And specifically what types of  
17 investigations did that entail?

18 PROSPECTIVE JUROR NO. 927: It was not really  
19 investigations. It was counterintelligence support to major  
20 military exercises like Red Flag and -- and those kind of  
21 things.

22 MS. BLUTH: Okay.

23 PROSPECTIVE JUROR NO. 927: No investigations. It  
24 was just counterintelligence support.

25 MS. BLUTH: I see. In working in either of those

1 scenarios, did you -- were -- did you have a lot of contact  
2 with law enforcement?

3 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

4 MS. BLUTH: Okay. And so you worked with them hand  
5 in hand?

6 PROSPECTIVE JUROR NO. 927: Yes.

7 MS. BLUTH: Was there anything about that type of  
8 contact that bothered you with, you know, law enforcement?

9 PROSPECTIVE JUROR NO. 927: Not at all.

10 MS. BLUTH: Have you been in a situation where, you  
11 know, either you've witnessed something that you felt was  
12 wrong, or you yourself have been a victim of something and you  
13 didn't report it?

14 PROSPECTIVE JUROR NO. 927: No.

15 MS. BLUTH: Okay. Did you investigate cases where  
16 people later reported?

17 PROSPECTIVE JUROR NO. 927: Yes.

18 MS. BLUTH: So they didn't report right away, but  
19 then sometime later they reported?

20 PROSPECTIVE JUROR NO. 927: Sure.

21 MS. BLUTH: Okay. And in your opinion, what were  
22 the reasons for that?

23 PROSPECTIVE JUROR NO. 927: Oftentimes embarrassment  
24 or threatened, you know, isolated away from everybody where  
25 they could report.

1 MS. BLUTH: Okay. Do you have any issues with a  
2 victim of a crime, you know, not only pursuing in criminal  
3 courts, but also suing civilly? Do you see anything wrong  
4 with that?

5 PROSPECTIVE JUROR NO. 927: No.

6 MS. BLUTH: Are you bothered by it in any way?

7 PROSPECTIVE JUROR NO. 927: No. No.

8 MS. BLUTH: And this probably seems like a silly  
9 question to you, but would you be bothered in any way by  
10 seeing, you know, pictures, graphic photos in this case?

11 PROSPECTIVE JUROR NO. 927: No, not at all.

12 MS. BLUTH: Are you an individual that feels  
13 comfortable speaking in front of others?

14 PROSPECTIVE JUROR NO. 927: Sure, yeah.

15 MS. BLUTH: Voicing your opinions?

16 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

17 MS. BLUTH: Do you watch any of the crime shows that  
18 I named yesterday, you know, CSI, NCIS, Law & Order?

19 PROSPECTIVE JUROR NO. 927: Not really, no.

20 MS. BLUTH: They don't interest you?

21 PROSPECTIVE JUROR NO. 927: Occasionally, but very  
22 rarely.

23 MS. BLUTH: Have you yourself ever had any negative  
24 contacts with law enforcement where you did not feel you were  
25 treated fairly or correctly?

1 PROSPECTIVE JUROR NO. 927: No, not at all.

2 MS. BLUTH: Have you had any family members that  
3 have had that same experience?

4 PROSPECTIVE JUROR NO. 927: Not that I'm aware of,  
5 no.

6 MS. BLUTH: When you received your jury summons,  
7 what was your initial reaction to that?

8 PROSPECTIVE JUROR NO. 927: It was something to do.

9 MS. BLUTH: Okay. So you wouldn't mind being  
10 selected as a juror?

11 PROSPECTIVE JUROR NO. 927: Not really, no.

12 MS. BLUTH: Do you want to serve?

13 PROSPECTIVE JUROR NO. 927: Sure.

14 MS. BLUTH: Now, the last is that if a victim  
15 testifies and you believe that victim beyond a reasonable  
16 doubt, that is sufficient to sustain a conviction. Do you  
17 have an issue with that?

18 PROSPECTIVE JUROR NO. 927: No, not at all.

19 MS. BLUTH: Did you investigate sexual assaults  
20 while you were working in your previous employment?

21 PROSPECTIVE JUROR NO. 927: Yes, ma'am.

22 MS. BLUTH: Did you always have DNA, fingerprints,  
23 all that sort of thing?

24 PROSPECTIVE JUROR NO. 927: No, not at all.

25 MS. BLUTH: Not at all?

1 PROSPECTIVE JUROR NO. 927: Oh, occasionally, sure,  
2 but sometimes you didn't.

3 MS. BLUTH: Right. So did it affect your  
4 investigations at all when you didn't have that?

5 PROSPECTIVE JUROR NO. 927: No, it made your job  
6 harder maybe as a prosecutor or defense attorney.

7 MS. BLUTH: I'm sorry? Could you say --

8 PROSPECTIVE JUROR NO. 927: It might have made your  
9 job harder as a prosecutor or defense attorney, but not for  
10 the investigator.

11 MS. BLUTH: Okay. Did it make you believe or  
12 disbelieve the victim any more?

13 PROSPECTIVE JUROR NO. 927: Absolutely not.

14 MS. BLUTH: Were there cases that you knew that that  
15 happened, but did not have the DNA, there was no DNA because  
16 none was left?

17 PROSPECTIVE JUROR NO. 927: Oh, sure. Yeah.

18 MS. BLUTH: Do you have any bumper stickers on your  
19 car?

20 PROSPECTIVE JUROR NO. 927: No.

21 MS. BLUTH: Have you ever had a family member or a  
22 close friend been the victim of rape?

23 PROSPECTIVE JUROR NO. 927: No.

24 MS. BLUTH: Do you have any friends or family  
25 members that have seizures?

1 PROSPECTIVE JUROR NO. 927: No.

2 MS. BLUTH: Have you ever known anyone to have a  
3 seizure?

4 PROSPECTIVE JUROR NO. 927: I've seen it happen.

5 MS. BLUTH: Okay. But not on a regular basis?

6 PROSPECTIVE JUROR NO. 927: No, it was just a  
7 passing incident.

8 MS. BLUTH: I have nothing further. Thank you, Mr.  
9 Huffman.

10 THE COURT: Thank you.

11 Defense, would you like to inquire further?

12 MR. MANINGO: Yes, please, Your Honor.

13 Hello, Mr. Huffman.

14 PROSPECTIVE JUROR NO. 927: Good morning.

15 MR. MANINGO: Thank you for coming back.

16 PROSPECTIVE JUROR NO. 927: You're welcome.

17 MR. MANINGO: That's the first step. Some of the  
18 questions that I ask you will touch on topics that have  
19 already been discussed. I'll do my best not to -- to actually  
20 repeat anything. Now, as a -- as someone who has investigated  
21 crime before, you were with the Air Force?

22 PROSPECTIVE JUROR NO. 927: Yes, sir.

23 MR. MANINGO: Okay. As an officer who has done that  
24 kind of investigation, have you ever had to judge people's  
25 credibility?

1 PROSPECTIVE JUROR NO. 927: Pretty much every day.

2 MR. MANINGO: Pretty much every day. What would you  
3 use to -- to make those credibility decisions? What would you  
4 look for?

5 PROSPECTIVE JUROR NO. 927: Body language, do they  
6 maintain their story throughout over repeated questioning, are  
7 they confident. An innocent person is going to lose their  
8 mind on you if you're accusing them of a crime.

9 MR. MANINGO: Okay.

10 PROSPECTIVE JUROR NO. 927: That kind of thing.

11 MR. MANINGO: Okay. So body language, consistency  
12 of their story, that kind of thing?

13 PROSPECTIVE JUROR NO. 927: Sure. Yeah.

14 MR. MANINGO: Okay. Would you -- would you also  
15 look for other types of evidence to help back it up?

16 PROSPECTIVE JUROR NO. 927: Absolutely.

17 MR. MANINGO: Okay. And what types of -- of other  
18 evidence would you -- would you hope to find that would help?

19 PROSPECTIVE JUROR NO. 927: What type of crime?

20 MR. MANINGO: Well, you said you had investigated  
21 some sexual assaults?

22 PROSPECTIVE JUROR NO. 927: Yes.

23 MR. MANINGO: Okay. So on something like that.

24 PROSPECTIVE JUROR NO. 927: First thing you're going  
25 to obviously look for would be the -- the DNA evidence or any

1 kind of trace evidence, those kind of things. If those aren't  
2 available or it's been a little while, get any -- is there any  
3 witnesses, maybe not to the actual even, but leading up to,  
4 see the people together or see them leave together, whatever,  
5 is there any video evidence. I mean, all around.

6 MR. MANINGO: Okay. Very good. Thank you. You  
7 have already been asked whether or not it would have -- being  
8 a police officer would affect how you judge credibility of  
9 other officers. So let me just ask, you've known a lot of  
10 other people in police work.

11 PROSPECTIVE JUROR NO. 927: Absolutely.

12 MR. MANINGO: Okay. Do you think it's a fair  
13 statement to say that -- that cops are people, too?

14 PROSPECTIVE JUROR NO. 927: Yes.

15 MR. MANINGO: There are good ones and there are bad  
16 ones?

17 PROSPECTIVE JUROR NO. 927: Sure. Hopefully --

18 MR. MANINGO: Just like in any -- in any profession?

19 PROSPECTIVE JUROR NO. 927: Sure. Hopefully you  
20 weed the bad ones out, but --

21 MR. MANINGO: Right. When -- when you -- when you  
22 lost your nephew and -- and he was -- he was murdered, you  
23 said there was a guilty plea?

24 PROSPECTIVE JUROR NO. 927: Yes.

25 MR. MANINGO: Okay. Does -- does that case -- will

1 that affect at all how you -- how you look at the facts in  
2 this case?

3 PROSPECTIVE JUROR NO. 927: No, I don't think. Not  
4 at all.

5 MR. MANINGO: Okay. Will you feel any kind of  
6 pressure or anything like that from -- from your family being  
7 on a jury after they had gone through this kind of experience?

8 PROSPECTIVE JUROR NO. 927: No, not at all. I mean,  
9 it's been a long time.

10 MR. MANINGO: Okay. Okay. You had told Ms. Bluth  
11 that it doesn't -- it doesn't bother you if someone sues in a  
12 civil action along with a criminal action.

13 PROSPECTIVE JUROR NO. 927: It's just part of the  
14 justice system.

15 MR. MANINGO: Okay. And you understand that there  
16 -- those are two different things?

17 PROSPECTIVE JUROR NO. 927: Absolutely.

18 MR. MANINGO: Okay. What are some of the things  
19 that -- that people seek in a -- in a civil matter, do you  
20 know?

21 PROSPECTIVE JUROR NO. 927: More often than not  
22 money.

23 MR. MANINGO: Money?

24 PROSPECTIVE JUROR NO. 927: Sure.

25 MR. MANINGO: Okay.

1 PROSPECTIVE JUROR NO. 927: Services.

2 MR. MANINGO: Okay. During your time investigating  
3 really any of the different types of crimes, but I guess in  
4 particular the sexual assaults, have you ever seen in your  
5 years a false -- a false accusation?

6 PROSPECTIVE JUROR NO. 927: Sure.

7 MR. MANINGO: Okay. So you understand that false  
8 accusations do happen?

9 PROSPECTIVE JUROR NO. 927: Oh, sure, yeah.

10 MR. MANINGO: Okay. Can you think of any reasons  
11 why someone would falsely accuse another person of -- of a  
12 crime?

13 PROSPECTIVE JUROR NO. 927: Sexual assault wise, I  
14 know we investigated one where the lady was caught having  
15 sexual intercourse with another man by a friend, and she was  
16 afraid that the friend would tell the husband, so she accused  
17 the other guy of rape.

18 MR. MANINGO: So to possibly --

19 PROSPECTIVE JUROR NO. 927: Cover it up and --

20 MR. MANINGO: Cover it up.

21 PROSPECTIVE JUROR NO. 927: -- make herself look  
22 better.

23 MR. MANINGO: Okay. Okay. And more generally, and  
24 this was one of my general questions from yesterday, more  
25 generally can you think of reasons why -- why people tell

1 lies? Not just false accusations, but lies in general.

2 PROSPECTIVE JUROR NO. 927: Sure. To make  
3 themselves look better, to support a loved one, to cover up a  
4 crime, to -- a million reasons.

5 MR. MANINGO: Okay. Would you agree greed is a  
6 reason?

7 PROSPECTIVE JUROR NO. 927: I'm sorry?

8 MR. MANINGO: Greed, would you agree that that could  
9 be a possible reason?

10 PROSPECTIVE JUROR NO. 927: It could be, sure.

11 MR. MANINGO: Okay. During your time doing  
12 investigations, did you also work with the -- with attorneys  
13 throughout that time?

14 PROSPECTIVE JUROR NO. 927: Yes.

15 MR. MANINGO: Okay. Both prosecutors and defense?

16 PROSPECTIVE JUROR NO. 927: Yes.

17 MR. MANINGO: Okay. Do you have any opinions good  
18 or bad that would -- about lawyers that would, other than the  
19 general --

20 PROSPECTIVE JUROR NO. 927: No. A lot of good  
21 jokes, but no.

22 MR. MANINGO: Right. Right. Nothing that would  
23 affect you or the way you look at this case fairly?

24 PROSPECTIVE JUROR NO. 927: No, you -- you folks  
25 have a job to do.

1 MR. MANINGO: All right. You know, having been  
2 involved in the system somewhat, that the State, who -- who  
3 brings the charges and does the accusing, they have to do all  
4 the proving.

5 PROSPECTIVE JUROR NO. 927: Yes.

6 MR. MANINGO: Do you think that's fair?

7 THE COURT: I already asked that.

8 PROSPECTIVE JUROR NO. 927: Yeah. Absolutely.

9 MR. MANINGO: Okay. Well, why do you think it's  
10 fair?

11 PROSPECTIVE JUROR NO. 927: Burden of proof lies on  
12 the government, on the prosecution, on the State to prove  
13 beyond a shadow of a doubt that a crime occurred, and that the  
14 gentleman at the defendant's table committed that crime.

15 MR. MANINGO: Okay.

16 THE COURT: Okay. Well, so I'm going to jump in  
17 here. The standard is not beyond a shadow of doubt. It's  
18 reasonable doubt and this jury will be instructed on what that  
19 means at a later time.

20 PROSPECTIVE JUROR NO. 927: I'm sorry, Your Honor.

21 MR. MANINGO: Do you -- I know you understand the  
22 burden of proof, and -- and you said you agree with it. But  
23 would you still want Mr. Farmer to -- to have to do any  
24 proving to you?

25 PROSPECTIVE JUROR NO. 927: No. No.

1 MR. MANINGO: Okay. Have you ever spent much time  
2 in hospitals?

3 PROSPECTIVE JUROR NO. 927: Sure, when family  
4 members were ill. I've been in the hospital a couple times.

5 MR. MANINGO: Okay. How would you describe the  
6 activity that goes on in a hospital?

7 PROSPECTIVE JUROR NO. 927: Doctors in and out,  
8 nurses in and out, sometimes like chaos.

9 MR. MANINGO: Chaos?

10 PROSPECTIVE JUROR NO. 927: Can be, sure.

11 MR. MANINGO: Fast-paced?

12 PROSPECTIVE JUROR NO. 927: It can be, yeah.

13 MR. MANINGO: Okay. Generally a lot of people  
14 around?

15 PROSPECTIVE JUROR NO. 927: Usually, sure.

16 MR. MANINGO: Okay. Are you nervous at all about  
17 being selected as a juror in this case?

18 PROSPECTIVE JUROR NO. 927: No.

19 MR. MANINGO: Okay. And you'd feel comfortable  
20 about making a decision that would, you know, be important to  
21 a lot of individuals?

22 PROSPECTIVE JUROR NO. 927: Sure.

23 MR. MANINGO: Okay. Thank you for your time.

24 THE COURT: Thank you. If you'd pass the microphone  
25 over.

1 PROSPECTIVE JUROR NO. 778: My name is Krista, and  
2 badge number is 778.

3 THE COURT: All right. And your last name is -  
4 PROSPECTIVE JUROR NO. 778: Tryba.

5 THE COURT: Tryba. Tell us about yourself.

6 PROSPECTIVE JUROR NO. 778: I am married. I have  
7 two kids, two and a half and five months. I work full time as  
8 an assistant manager in the retail industry. My husband is a  
9 job coordinator for a construction company here in town.

10 THE COURT: How long have you lived in Clark County?

11 PROSPECTIVE JUROR NO. 778: Born and raised.

12 THE COURT: You said you're in retail, what --

13 PROSPECTIVE JUROR NO. 778: Jewelry, specifically.

14 THE COURT: Have you always done that?

15 PROSPECTIVE JUROR NO. 778: When I first started  
16 working, I juggled three part-time jobs in order to buy my own  
17 car. I had moved out at 17 and graduated high school and  
18 everything. Been doing it on my own since, and then married  
19 my husband and made things work with the two of us. So now  
20 I've been in jewelry for almost four years, and I'm the  
21 assistant manager. I've been a store manager, a part-time  
22 sales associate, a full-time sales associate, an office  
23 manager. I've done almost everything that they have to offer.

24 THE COURT: And your husband, has he always been in  
25 the construction industry?

1 PROSPECTIVE JUROR NO. 778: Off and on. He's been  
2 an estimator. He's been a journeyman. He's -- was a garage  
3 door technician for awhile when construction kind of hit a  
4 low, and then went back to it.

5 THE COURT: So when he was a journeyman, what trade  
6 was that?

7 PROSPECTIVE JUROR NO. 778: Building houses.

8 THE COURT: Okay. Do you feel that you can be fair  
9 and impartial in this case?

10 PROSPECTIVE JUROR NO. 778: I do believe I can be.

11 THE COURT: Are there any questions that have --  
12 were asked of other juror -- potential jurors before that you  
13 thought to yourself, well, when they get to me I want to -- I  
14 hope they ask me that?

15 PROSPECTIVE JUROR NO. 778: No, ma'am.

16 THE COURT: All right. Thank you.

17 Would the State like to inquire further?

18 MS. BLUTH: Thank you, Your Honor. Your Honor, I'm  
19 sorry. I didn't write it down. Did you ask the victim,  
20 accused of a crime question?

21 THE COURT: I would have because she was already  
22 asked that --

23 MS. BLUTH: Okay.

24 THE COURT: -- as the --

25 MS. BLUTH: That's right.

1 THE COURT: -- general question.

2 MS. BLUTH: Mr. Huffman was the only -- okay. Thank  
3 you.

4 Is it Tryba? Am I pronouncing --

5 PROSPECTIVE JUROR NO. 778: Yes.

6 MS. BLUTH: -- it correctly?

7 PROSPECTIVE JUROR NO. 778: Tryba.

8 MS. BLUTH: Okay. Thank you. Yesterday you had  
9 raised your hand and said that you had spent a good portion of  
10 time in hospitals.

11 PROSPECTIVE JUROR NO. 778: Uh-huh. I had two kids,  
12 obviously, and then I sprained my ankle and was in and out for  
13 different things with that. I broke my arm and went to a  
14 hospital in Panguitch Lake, Utah. It's a very small  
15 community. Then had to drive to another hospital, then had to  
16 come back to Vegas and see a specialist, go to the hospital.  
17 My arm was the longest, probably, amount of time in there.

18 MS. BLUTH: Okay. So a fair amount of time --

19 PROSPECTIVE JUROR NO. 778: Yeah.

20 MS. BLUTH: -- in and out --

21 PROSPECTIVE JUROR NO. 778: And family members.

22 MS. BLUTH: -- of hospitals.

23 PROSPECTIVE JUROR NO. 778: Yeah.

24 MS. BLUTH: In Las Vegas, were the children born in  
25 Las Vegas?

1 PROSPECTIVE JUROR NO. 778: Yes.

2 MS. BLUTH: And which hospitals were they --

3 PROSPECTIVE JUROR NO. 778: Valley Hospital. My  
4 mother-in-law is a postpartum nurse at Valley, so we went  
5 there because we knew the whole staff, the whole floor.

6 MS. BLUTH: Okay. And in any of those stays did you  
7 ever have what they call the leads attached to your chest,  
8 your arm?

9 PROSPECTIVE JUROR NO. 778: I don't recall.  
10 Possibly when I had the surgery, but I don't think so. I was  
11 only 11 when I broke my arm, so --

12 MS. BLUTH: Okay. And in any of those hospital  
13 stays or times when you went to the hospital, were you ever  
14 treated by male nurses?

15 PROSPECTIVE JUROR NO. 778: Yes.

16 MS. BLUTH: Did you have any issue with your nurse  
17 being male?

18 PROSPECTIVE JUROR NO. 778: No.

19 MS. BLUTH: That was a no?

20 PROSPECTIVE JUROR NO. 778: No, ma'am.

21 MS. BLUTH: Okay.

22 PROSPECTIVE JUROR NO. 778: No issues.

23 MS. BLUTH: You don't -- you don't have to call me  
24 ma'am. And then yesterday when the question was asked, you  
25 know, do you think your memory can be affected, you know, by

1 time or other events, I can't read my writing, did you -- did  
2 you raise your hand saying that you believe it can or that you  
3 --

4 PROSPECTIVE JUROR NO. 778: It depends on the  
5 situation. Sometimes you remember clearly. I know there's  
6 things that have happened to me that I don't exactly remember,  
7 and then someone will bring up the story and you remember the  
8 finer details, you know. If you're on a trip, a vacation, and  
9 you forget that when you were at the Eiffel Tower someone  
10 threw a quarter off, you know, little things. But I think the  
11 finer details can be recalled later.

12 MS. BLUTH: So -- and the birth of -- you said your  
13 oldest child is like two and a half --

14 PROSPECTIVE JUROR NO. 778: Uh-huh.

15 MS. BLUTH: -- is that what you stated? That was  
16 probably a pretty big, monumental time in your life; right?  
17 Do you believe you have a clear memory of that account?

18 PROSPECTIVE JUROR NO. 778: Not -- well, when we  
19 start talking about it with my family and things, but the  
20 whole labor process was really intense because I didn't get  
21 the epidural until I was about 7, so -- I wanted to go  
22 natural, believe it or not. But so that was kind of hard to  
23 remember the details. But when we sit and talk I'm like, oh,  
24 I don't even remember you being there, you were there the  
25 whole time?

1 MS. BLUTH: Because of the pain and the --

2 PROSPECTIVE JUROR NO. 778: Uh-huh.

3 MS. BLUTH: -- adrenalin and everything else --

4 PROSPECTIVE JUROR NO. 778: Everything else  
5 happening.

6 MS. BLUTH: -- that's associated --.

7 PROSPECTIVE JUROR NO. 778: Yeah.

8 MS. BLUTH: -- with childbirth, then there are  
9 certain things that you've forgotten.

10 PROSPECTIVE JUROR NO. 778: Uh-huh.

11 MS. BLUTH: And is that a yes?

12 PROSPECTIVE JUROR NO. 778: Yes, ma'am.

13 MS. BLUTH: No, that's okay.

14 PROSPECTIVE JUROR NO. 778: Yes.

15 MS. BLUTH: Do you remember like what your spouse  
16 was wearing?

17 PROSPECTIVE JUROR NO. 778: No.

18 MS. BLUTH: Do you remember the nurse -- how many  
19 times the nurse came in the room?

20 PROSPECTIVE JUROR NO. 778: All the time it seemed  
21 like. Well, if I was resting they seemed to kind of leave me  
22 alone.

23 MS. BLUTH: Do you remember what outfit your child  
24 left the hospital in?

25 PROSPECTIVE JUROR NO. 778: Yes.

1 MS. BLUTH: So certain things you remember,  
2 others --

3 PROSPECTIVE JUROR NO. 778: I remember my husband  
4 had gym shorts on, but I don't remember what color they were.

5 MS. BLUTH: So that was two years ago; right?

6 PROSPECTIVE JUROR NO. 778: Yeah.

7 MS. BLUTH: So, you know, fast-forward maybe six  
8 years from now, so, you know, eight years total, your child is  
9 eight, do you think your memory at that time was -- you'll  
10 still kind of every year maybe forget a little more?

11 PROSPECTIVE JUROR NO. 778: A little more, yeah.

12 MS. BLUTH: You were the only individual who raised  
13 their hand in the box that stated, you know, you didn't need  
14 things like DNA or fingerprints or other type of evidence in  
15 order to believe.

16 PROSPECTIVE JUROR NO. 778: I don't think I would  
17 need it to make that decision.

18 MS. BLUTH: And why not?

19 PROSPECTIVE JUROR NO. 778: Because it's not always  
20 there. You don't always have proof. I know there's been  
21 situations with family members, and even with my two year old  
22 where there isn't really proof that he did it, but I know the  
23 reason that there's yogurt all over the kitchen floor is not  
24 the dog.

25 MS. BLUTH: Right. And when you say there's been

1 situations with other family members, have they been the  
2 victim of a crime or what did you mean by that?

3 PROSPECTIVE JUROR NO. 778: My cousin has multiple  
4 battery charges against her. And so the majority of them were  
5 toward my aunt. And it's her story versus her story, so you  
6 kind of just have to decide who you believe in by what they  
7 say and what my younger cousin witnessed.

8 MS. BLUTH: Okay. So eyewitness accounts.

9 PROSPECTIVE JUROR NO. 778: Uh-huh.

10 MS. BLUTH: Is that a yes?

11 PROSPECTIVE JUROR NO. 778: Yes.

12 MS. BLUTH: And then if you don't have that, from  
13 what I can glean from what you're saying is that you kind of  
14 look at both sides and then you make --

15 PROSPECTIVE JUROR NO. 778: Uh-huh. Yes.

16 MS. BLUTH: -- a determination based on --

17 PROSPECTIVE JUROR NO. 778: Yes.

18 MS. BLUTH: -- what you're listening to.

19 PROSPECTIVE JUROR NO. 778: Body language and  
20 confidence and, you know, the way that they're telling the  
21 story and you can kind of see a lot of times in faces whether  
22 or not they're being 100 percent truthful.

23 MS. BLUTH: Okay. Do you want to serve as a juror  
24 in this case?

25 PROSPECTIVE JUROR NO. 778: Yes.

1 MS. BLUTH: And why?

2 PROSPECTIVE JUROR NO. 778: Because it's my civil  
3 duty.

4 MS. BLUTH: Thank you, Ms. Tryba.

5 PROSPECTIVE JUROR NO. 778: I'll pass the juror,  
6 Your Honor.

7 THE COURT: Thank you.

8 Would the defense like to inquire further?

9 MR. MANINGO: Yes, please.

10 Hello.

11 PROSPECTIVE JUROR NO. 778: Hi.

12 MR. MANINGO: I just would like to follow up on --  
13 on some of these. Again, forgive me if I'm repetitive, but I  
14 go last, so --

15 PROSPECTIVE JUROR NO. 778: That's okay.

16 MR. MANINGO: -- that kind of happens. You  
17 mentioned yesterday, I believe, that you have a close family  
18 friend who ran for sheriff?

19 PROSPECTIVE JUROR NO. 778: Yes.

20 MR. MANINGO: Okay. And being closely associated  
21 with law enforcement, will you still be able to -- to judge a  
22 police officer just like any other person?

23 PROSPECTIVE JUROR NO. 778: Yes.

24 MR. MANINGO: Okay. And just because they're a  
25 police officer you wouldn't --

1 PROSPECTIVE JUROR NO. 778: No, sir.

2 MR. MANINGO: -- assume that they're telling the  
3 truth or assume they're lying?

4 PROSPECTIVE JUROR NO. 778: I don't think I would,  
5 no.

6 MR. MANINGO: Okay. Would the fact that you've been  
7 a victim of a burglary in the past, would that have any effect  
8 on -- on how you view this case or listen to the evidence?

9 PROSPECTIVE JUROR NO. 778: No, sir.

10 MR. MANINGO: Okay. And you know, obviously, the --  
11 I mean, it wasn't Mr. Farmer or anyone involved in this case  
12 that had anything to do with your burglary?

13 PROSPECTIVE JUROR NO. 778: Yes, sir, I know that.

14 MR. MANINGO: So you could keep that separate?

15 PROSPECTIVE JUROR NO. 778: Yeah.

16 MR. MANINGO: Okay. Great. You had stated  
17 yesterday during the general questions, I think, and I might  
18 be wrong, but that you didn't think that people lied in court?

19 PROSPECTIVE JUROR NO. 778: I think it's a  
20 possibility that they would.

21 MR. MANINGO: Oh, okay.

22 PROSPECTIVE JUROR NO. 778: But I -- personally, I  
23 don't think I would. I don't think that if you're sworn in  
24 that you should.

25 MR. MANINGO: Right. No, I agree. Do you think

1 it's possible that it happens?

2 PROSPECTIVE JUROR NO. 778: I would say it's  
3 possible that it's happened.

4 MR. MANINGO: Okay. For example, you were talking  
5 about like a case, I think you said with your aunt.

6 PROSPECTIVE JUROR NO. 778: Uh-huh.

7 MR. MANINGO: Was it your -- your aunt and --

8 PROSPECTIVE JUROR NO. 778: My aunt and her  
9 daughter.

10 MR. MANINGO: And her daughter.

11 PROSPECTIVE JUROR NO. 778: My cousin.

12 MR. MANINGO: So it's -- there's -- if it was just  
13 the two of them and they both came in and they both said  
14 different things --

15 PROSPECTIVE JUROR NO. 778: Their stories are always  
16 similar, but there's small changes in their stories, so --

17 MR. MANINGO: Right. Okay. In regards to the  
18 questioning about you don't think you would need other  
19 evidence. You said you don't think you'd need it --

20 PROSPECTIVE JUROR NO. 778: It would certainly be  
21 helpful, but if --

22 MR. MANINGO: Okay.

23 PROSPECTIVE JUROR NO. 778: -- if there wasn't any,  
24 you would, of course, need to rely on the recollection of  
25 those involved in it.

1 MR. MANINGO: Right. And so then you would -- you  
2 would have the task of judging that individual's credibility  
3 and whether or not you think that they were telling the truth?

4 PROSPECTIVE JUROR NO. 778: Yes.

5 MR. MANINGO: Okay. Would telling a consistent  
6 story factor in whether --

7 PROSPECTIVE JUROR NO. 778: Yes.

8 MR. MANINGO: You -- I believe you had said a few  
9 minutes ago that when you had your -- your epidural, did it  
10 change your awareness?

11 PROSPECTIVE JUROR NO. 778: Actually, I was a little  
12 more comfortable and I was so exhausted, I had been in labor  
13 for over 24 hours, that I slept. So --

14 MR. MANINGO: Oh, okay.

15 PROSPECTIVE JUROR NO. 778: -- it wouldn't have  
16 changed at all.

17 MR. MANINGO: Right. Right. Okay. I was jotting  
18 down notes, so I only heard part of it. You said I didn't  
19 even realize you were there to someone.

20 PROSPECTIVE JUROR NO. 778: I didn't realize that my  
21 father-in-law was in the room because he was in the corner  
22 behind where I was leaning forward.

23 MR. MANINGO: Oh.

24 PROSPECTIVE JUROR NO. 778: So I hadn't seen him.  
25 He was kind of in my -- if I turned he wasn't even peripheral.

1 It would have been I had to turn and see him there.

2 MR. MANINGO: Oh, okay.

3 PROSPECTIVE JUROR NO. 778: Which I was not looking  
4 that way. I was --

5 MR. MANINGO: Focused.

6 PROSPECTIVE JUROR NO. 778: You have your focal  
7 point, yes.

8 MR. MANINGO: Right. Okay. Okay. Now, I know you  
9 already -- you've already stated when the Judge asked you that  
10 you agree with the fact that Mr. Farmer doesn't have to do any  
11 of the proving, the State has to.

12 PROSPECTIVE JUROR NO. 778: Yes.

13 MR. MANINGO: Okay. And why do you think that's  
14 fair?

15 PROSPECTIVE JUROR NO. 778: Because it's their --  
16 their duty to prove that he's guilty. He's, you know, here  
17 under the presumption that he's innocent and he has nothing to  
18 prove to us.

19 MR. MANINGO: Right. He has nothing -- so let me  
20 give you an example. Did you drive in to court today?

21 PROSPECTIVE JUROR NO. 778: Yes.

22 MR. MANINGO: By yourself?

23 PROSPECTIVE JUROR NO. 778: Yes.

24 MR. MANINGO: Okay. Did you videotape your  
25 speedometer on the way in?

1 PROSPECTIVE JUROR NO. 778: No.

2 MR. MANINGO: Okay. Did you write down license  
3 plates of other cars as you were driving down the highway so  
4 they could --

5 PROSPECTIVE JUROR NO. 778: No.

6 MR. MANINGO: -- possibly be witnesses? Okay.  
7 Because if you walked into court and I grabbed an officer and  
8 said Ms. Tryba right there, she was going 120 miles down the  
9 highway, okay, arrest her.

10 THE COURT: Counsel, okay. Approach. I want  
11 everybody to approach.

12 (Bench conference)

13 THE COURT: All right. You're all familiar with  
14 Rule 7.70, questions that are in substance arguments of the  
15 case. Everybody is arguing the case here. Let's -- let's  
16 find out whether these jurors are qualified and save your  
17 arguments. You know, you're arguing the case. Go ahead.

18 MR. MANINGO: Jeff Maningo. Your Honor, actually,  
19 this has nothing to do with the case or the facts of the case.  
20 What I was just discussing was understanding the concepts of  
21 the law regarding burden of proof and -- and the fact that you  
22 cannot -- it's -- it's difficult to prove a negative. This  
23 wasn't at all arguing the case. We're talking about -- my  
24 hypothetical to the juror was about speeding into court, which  
25 has nothing to do with -- with argument in this case.

1 THE COURT: Okay. Well, the thing is that I've  
2 already asked -- I already asked the questions about, you  
3 know, do they understand, what's the presumption of innocence,  
4 the defendant has nothing to prove, do you require  
5 [inaudible], you said no, no, no. And now we're going to  
6 spend another -- I mean, I want to get a jury and it -- you're  
7 just going on and on with this instead of asking questions.  
8 You're painting these long scenarios. And while it's rather  
9 entertaining, I need to move it along. I'd like to get a jury  
10 today.

11 MR. MANINGO: Your Honor, I want to understand that  
12 the Court wants to move it along, but I think I'm entitled to  
13 question these -- these jurors about these topics. And the  
14 fact that we're going one at a time, I know it slows it down.  
15 If I were presenting a question to a larger group, then it  
16 might be different, but --

17 THE COURT: But you're not presenting a question.  
18 You're giving them this long scenario.

19 MR. MANINGO: With questions throughout and a  
20 question at the end. And it's not argument on the case. And  
21 I --

22 THE COURT: I think you are arguing your case  
23 because you're basically trying to set up in voir dire that  
24 your client didn't keep track of what he was doing to -- you  
25 know, so he can't prove that he didn't do these things.

1 That's what you're trying to argue.

2 MR. MANINGO: That's just burden of proof. That's  
3 -- that's not arguing my case. That's -- that's not -- has  
4 nothing to do with the theory of my case.

5 THE COURT: You can't argue -- you are arguing --  
6 you're trying to argue about burden of proof. I mean --

7 MR. MANINGO: I'm just trying to -- I'm sorry. Go  
8 ahead.

9 THE COURT: Okay. I'm just saying -- just can you  
10 -- do you have to -- every question has to be preceded by this  
11 long scenario? I mean --

12 MR. MANINGO: How many hypos have I given? I think  
13 I've asked one, this one.

14 THE COURT: We started with No. 3, and we started,  
15 you know, an hour ago, and we've only gone through two jurors.

16 MR. MANINGO: And I'm not the only one who has  
17 been --

18 THE COURT: I know.

19 MR. MANINGO: -- asking questions.

20 THE COURT: And I'm not --

21 MR. MANINGO: I'm just third in line, so --

22 THE COURT: That's why I brought everybody up here.  
23 I mean, I think it's going on to some extent on the other  
24 side, as well. But she's -- I think she's reacting to your --  
25 I want to -- I want to stop this --

1 MR. MANINGO: Oh, I'm --

2 THE COURT: -- on both sides.

3 MR. MANINGO: With this question that I'm asking --

4 THE COURT: Okay.

5 MR. MANINGO: -- all I'm trying to do is -- is help  
6 simplify what is a complex concept of the --

7 THE COURT: That's an argument --

8 MR. MANINGO: -- burden of proof.

9 THE COURT: -- that you'll -- no. You can argue  
10 that at the end of your case as to -- you don't -- you're  
11 trying to find out if the juror is qualified. You're not  
12 trying to explain the law. The burden of proof will be  
13 explained to them in the instructions. That's another thing.  
14 You're not supposed to, you know, ask questions that touch on  
15 anticipated instructions on the law. You're not supposed to  
16 argue your case, you know. So you're not supposed to, you  
17 know, touch on hypothetical facts that'll go towards their  
18 verdict. So --

19 MR. MANINGO: There's stuff that I'm not asking them  
20 to go either way on a verdict.

21 THE COURT: All right. I'm not going to argue with  
22 you. I'm just saying I've already asked that question about  
23 burden of proof, so let's move on from that, okay.

24 MR. MANINGO: So are you saying that we're not  
25 allowed to question them on any of the legal concepts because

1 you have already asked them three questions about --

2 THE COURT: If I've asked them questions about do  
3 they understand the burden of proof, do they -- are they going  
4 to require the defense to prove anything, do they disagree  
5 with that, you know, if I've asked them several questions  
6 about that, I don't want you to get up and ask them the same  
7 questions again, which is really what you're doing.

8 MR. MANINGO: Well, I'm not asking the same  
9 questions.

10 THE COURT: Just asking it a different way doesn't  
11 mean you're not asking them again. You're just asking it in a  
12 different way. All right. Step back.

13 (End of bench conference)

14 MR. MANINGO: Ms. Tryba.

15 PROSPECTIVE JUROR NO. 778: Yes.

16 MR. MANINGO: Still back to you.

17 PROSPECTIVE JUROR NO. 778: Okay.

18 MR. MANINGO: Do you believe that -- that memories  
19 can be affected by later events that happen?

20 PROSPECTIVE JUROR NO. 778: To a certain point, yes.

21 MR. MANINGO: Okay. So if you are in one situation  
22 and it happens now, and a number of different incidents  
23 happen, your opinion changes about a person you have a memory  
24 of, do you think it can -- can affect how you look back on  
25 them?

1 PROSPECTIVE JUROR NO. 778: I don't think your  
2 opinion would affect your memory. I think different events  
3 could affect it, you know. Just even sitting down and writing  
4 it down sometimes. I do that a lot if, you know, I'm having  
5 an argument with my husband, I'll write down, exactly how I  
6 remember it happening and then details will come up as I'm  
7 writing it. Oh, well, he said that. And then sometimes --  
8 I've gone to counseling a number of years, so a lot of times  
9 writing things can -- can change my memory. So later events  
10 can change it somewhat.

11 MR. MANINGO: Okay. Do you have any concern that  
12 the emotional content of this case --

13 PROSPECTIVE JUROR NO. 778: No.

14 MR. MANINGO: -- would be difficult for you to  
15 handle?

16 PROSPECTIVE JUROR NO. 778: No.

17 MR. MANINGO: Pass the juror.

18 Thank you, ma'am.

19 THE COURT: Thank you. Pass the microphone over.  
20 This is Douglas Sproul?

21 PROSPECTIVE JUROR NO. 853: Yeah.

22 THE COURT: Correct. And I asked you the questions  
23 yesterday about whether you'd been a juror before.

24 PROSPECTIVE JUROR NO. 853: Uh-huh.

25 THE COURT: And did I ask you whether you'd been a

1 victim of a crime?

2 PROSPECTIVE JUROR NO. 853: That's correct.

3 THE COURT: Okay. So tell us about yourself.

4 PROSPECTIVE JUROR NO. 853: I'm a native of Las  
5 Vegas. Well, my juror -- my badge ID is 853. I'm a native of  
6 Las Vegas. I'm single. I have one daughter who is 20 and a  
7 son who is 24.

8 THE COURT: I'm having a hard time hearing you.

9 PROSPECTIVE JUROR NO. 853: I have a daughter who is  
10 20 and a son who is 24. I'm employed as an RN at Valley  
11 Hospital.

12 THE COURT: Okay. And what about your adult  
13 children, do they work?

14 PROSPECTIVE JUROR NO. 853: Yeah, one is in retail  
15 sales, and the other one does construction.

16 THE COURT: Now, you work in a hospital --

17 PROSPECTIVE JUROR NO. 853: Yes.

18 THE COURT: -- setting as an RN.

19 PROSPECTIVE JUROR NO. 853: Uh-huh.

20 THE COURT: Do you work on -- in a special unit  
21 or --

22 PROSPECTIVE JUROR NO. 853: Medical surgical.

23 THE COURT: I'm sorry?

24 PROSPECTIVE JUROR NO. 853: Medical surgical, med  
25 surg.

1 THE COURT: Okay. What do you do?

2 PROSPECTIVE JUROR NO. 853: They're post surgical  
3 patients.

4 THE COURT: So you take care of the post surgical  
5 patients while they're in recovery or --

6 PROSPECTIVE JUROR NO. 853: Yeah. Uh-huh.

7 THE COURT: Just in the recovery room?

8 PROSPECTIVE JUROR NO. 853: Post surgical, I mean,  
9 within an hour after whatever surgery they've had, we take  
10 care of them up until they're discharged or go to rehab.

11 THE COURT: Okay. Are these patients, then, just  
12 patients that are there for -- for day surgery?

13 PROSPECTIVE JUROR NO. 853: No. Huh-uh.

14 THE COURT: So they could be kept overnight?

15 PROSPECTIVE JUROR NO. 853: Yeah, I actually work  
16 nights.

17 THE COURT: So are the patients moved to a room in  
18 the hospital after you've seen them?

19 PROSPECTIVE JUROR NO. 853: No, they're in a room  
20 when I see them, yes.

21 THE COURT: Oh, okay. So you're -- if they're post  
22 surgery, and no matter how long their stay is, you're going to  
23 be taking care of them?

24 PROSPECTIVE JUROR NO. 853: That's correct.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 853: Unless they're upgraded  
2 to ICU. I mean, unless their condition deteriorates and  
3 they're moved to the ICU department or something, then -- then  
4 they won't be my patient no more.

5 THE COURT: So you understand that this case  
6 involves incidents that may have happened in a hospital  
7 setting?

8 PROSPECTIVE JUROR NO. 853: Yes.

9 THE COURT: Okay. Do you feel that because you are  
10 an RN yourself that you'll overlay what you know to be true  
11 and not -- you know, not be able to consider the evidence?

12 PROSPECTIVE JUROR NO. 853: No, I mean, I would  
13 consider the evidence. The only apprehension that I do have  
14 is it's the same company I work for.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 853: Centennial Hills is --  
17 and Valley Hospital are the same -- essentially the same  
18 hospital. They're owned by the same company.

19 THE COURT: Okay. And so that causes you  
20 apprehension why?

21 PROSPECTIVE JUROR NO. 853: In the sense that I've  
22 spent a lot of -- I've spent a lot of clinical rotations at  
23 Centennial Hills. I didn't recognize names that were on the  
24 witness list, but that's not to say that I won't recognize  
25 them as they come in. I mean, it's the same company. I've

1 spent a lot of time at Centennial Hills. I've worked with a  
2 lot of different people there, doctors and RNs.

3 THE COURT: So it's possible that just because you  
4 didn't recognize a name, when you actually see the face --

5 PROSPECTIVE JUROR NO. 853: Exactly.

6 THE COURT: -- you may recognize these people as  
7 witnesses?

8 PROSPECTIVE JUROR NO. 853: Yeah.

9 THE COURT: You know, that you -- that you worked  
10 with?

11 PROSPECTIVE JUROR NO. 853: Uh-huh.

12 THE COURT: All right. And if that happened, I  
13 mean, is it possible that you worked with somebody quite a  
14 bit, but you don't really know their first -- you know, their  
15 name, you wouldn't have recognized the name on that?

16 PROSPECTIVE JUROR NO. 853: Yeah, because it's the  
17 same company. I mean, I spent five months there at clinical  
18 rotations and then my -- my internship, I mean, it's -- my  
19 internship training it's all the hospitals, and they own five  
20 hospitals, Centennial being one of them. So I've spent the  
21 last year with people, you know, a hundred-odd people.

22 THE COURT: Do -- do nurses generally spend a number  
23 of years at the same facility, or is there a lot of turnover?

24 PROSPECTIVE JUROR NO. 853: Well, physicians, they  
25 work at different hospitals.

1 THE COURT: Right.

2 PROSPECTIVE JUROR NO. 853: Nurses, after -- you  
3 know, after a year, you're contractually bound to the hospital  
4 for two years as a new grad. After the first year you can  
5 transfer to any hospital within their system. I mean, I've  
6 worked at Desert Springs and then transferred back to Valley  
7 Hospital.

8 MR. MANINGO: Your Honor, both sides would stipulate  
9 to excusing Mr. Sproul.

10 MS. BLUTH: That's correct, Your Honor.

11 THE COURT: Thank you. I think you're just a little  
12 too close to this case.

13 If you can call the next in order. Thank you.

14 THE CLERK: Andrea Schwartzman, badge 944.

15 Oh, I have a note there. I actually called the  
16 wrong one.

17 THE COURT: She called the wrong one. Sorry.

18 THE CLERK: I'm sorry. It should be Bonita  
19 Batchelder.

20 THE COURT: Bonita Batchelder.

21 THE CLERK: I don't know if I'm pronouncing it  
22 right, 939. No, that's the wrong one, too. Susan Soloranzo.  
23 Okay. Sorry.

24 THE COURT: What badge number is Susan?

25 THE CLERK: 941. I'm batting a hundred here.

1 THE COURT: Ms. Soloranzo. Have you ever served as  
2 a juror before?

3 PROSPECTIVE JUROR NO. 941: Yes, Your Honor, I have  
4 in Los Angeles.

5 THE COURT: That's right. I remember you telling us  
6 about that, and both criminal cases.

7 PROSPECTIVE JUROR NO. 941: That's correct.

8 THE COURT: You came to a verdict and you weren't  
9 the foreperson.

10 PROSPECTIVE JUROR NO. 941: That's correct.

11 THE COURT: All right. And have you ever been in  
12 law enforcement?

13 PROSPECTIVE JUROR NO. 941: No, I have not.

14 THE COURT: Has anyone in your family or closely  
15 associated with you been in law enforcement?

16 PROSPECTIVE JUROR NO. 941: No, they have not.

17 THE COURT: Have you ever been the victim of a  
18 crime?

19 PROSPECTIVE JUROR NO. 941: No, I have not.

20 THE COURT: Anyone closely associated with your or  
21 -- or, you know, family member or close friend ever been the  
22 victim of a serious like violent type crime?

23 PROSPECTIVE JUROR NO. 941: No, they have not.

24 THE COURT: Do you have any religious or moral  
25 beliefs that would cause you to make it, you know, difficult

1 for you to sit in judgment on another person?

2 PROSPECTIVE JUROR NO. 941: No.

3 THE COURT: Do you disagree with our system of  
4 justice in that it -- the premise is that a defendant is  
5 presumed innocent unless and until the State proves that he or  
6 she is guilty beyond a reasonable doubt? Do you disagree with  
7 that?

8 PROSPECTIVE JUROR NO. 941: No, I do not disagree  
9 with that.

10 THE COURT: Okay. Now, as part of that, obviously,  
11 the defense doesn't have to put on any evidence. If they  
12 didn't put on any evidence, though, would you feel like they  
13 really should put on some evidence?

14 PROSPECTIVE JUROR NO. 941: I understand that they  
15 don't need to, but I think I -- just to respond honestly, I  
16 think I would -- I would rather that they did.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 941: But I understand that  
19 they don't need to.

20 THE COURT: Okay. Well, if -- if the State, though,  
21 say, doesn't prove the case at the end of the case and you  
22 feel they didn't prove it beyond a reasonable doubt, would you  
23 be able to return a verdict of not guilty?

24 PROSPECTIVE JUROR NO. 941: Yes, I -- yes, I would,  
25 Your Honor.

1 THE COURT: Even if -- or would you still be saying,  
2 well, if they put on some evidence to show me, then -- then  
3 I'll be convinced, but I'm going to need the defense to put on  
4 some evidence?

5 PROSPECTIVE JUROR NO. 941: Well, it's sort of hard  
6 for me to respond, Your Honor, because I don't know the facts  
7 of the case, and so I'm just thinking hypothetically about --

8 THE COURT: Of course.

9 PROSPECTIVE JUROR NO. 941: -- whatever my  
10 experience has been. But the -- the trials that I served as a  
11 juror on were many, many years ago, like ten now. So I just  
12 can't conjure up a -- I'm just -- I would just -- if I respond  
13 to you, I'm just sort of talking.

14 THE COURT: Of course. I mean, you haven't heard  
15 any evidence --

16 PROSPECTIVE JUROR NO. 941: Right.

17 THE COURT: -- yet, and so that's sort of a good  
18 example. You haven't heard any evidence in the case yet, and  
19 so if you were told right now that you have to go and you have  
20 to decide is the defendant guilty or not guilty and you  
21 haven't heard any evidence, what would your verdict have to  
22 be?

23 PROSPECTIVE JUROR NO. 941: If I haven't heard any  
24 evidence --

25 THE COURT: Right.

1 PROSPECTIVE JUROR NO. 941: -- how could I submit a  
2 verdict?

3 THE COURT: Well, because if there's been no  
4 evidence to prove he's guilty, then --

5 PROSPECTIVE JUROR NO. 941: Oh, well --

6 THE COURT: -- you'd have to --

7 PROSPECTIVE JUROR NO. 941: -- then not guilty.

8 THE COURT: Right. So -- okay. So then that kind  
9 of brings up another question, and that is you understand a  
10 defendant doesn't have to testify, and because we have a Fifth  
11 Amendment that says you don't have to testify against  
12 yourself. You understand that?

13 PROSPECTIVE JUROR NO. 941: Yes, I understand that.

14 THE COURT: But some people still feel like, well,  
15 if they're really not guilty they'd take the stand and  
16 testify. Are you a person that feels like that?

17 PROSPECTIVE JUROR NO. 941: I've never really  
18 considered it before, but now that you're asking it, I believe  
19 perhaps I might, as I said earlier, prefer that.

20 THE COURT: So you might hold it against a defendant  
21 if -- if he didn't take the stand and testify?

22 PROSPECTIVE JUROR NO. 941: Well, I'm not sure I'd  
23 go so far as to say that, but -- I'm sorry, Your Honor. I'm  
24 not helping you.

25 THE COURT: No, we want you to be truthful in your

1 answers. That's why I asked you at the beginning, you know,  
2 and said how important it was for everybody to be truthful and  
3 asked you to be truthful. So, thank you, we appreciate your  
4 honesty because we just need to know whether you can be fair  
5 and impartial. So having answered those questions the way you  
6 have, do you feel that you can be fair and impartial in this  
7 case?

8 PROSPECTIVE JUROR NO. 941: I -- I'd like to say  
9 yes.

10 THE COURT: Okay. Tell us about yourself.

11 PROSPECTIVE JUROR NO. 941: Well, I've lived in Las  
12 Vegas 10 or 11 years. I currently work, have for the last  
13 three and a half years, at the Cleveland Clinic Lou Ruvo  
14 Center for Brain Health. I have an adult daughter who is an  
15 elementary school teacher, and her husband is a recreation  
16 therapist at Rawson-Neal Psychiatric Hospital. They have a six  
17 year old child, son, who is in Kindergarten. And there you  
18 go.

19 THE COURT: And what -- what do you do at the Lou  
20 Ruvo Center?

21 PROSPECTIVE JUROR NO. 941: I'm a social services  
22 assistant. And in that responsibility I work with a team of  
23 social workers to help patients and family members of -- and  
24 the community at large, with educational programs, counseling,  
25 support groups, and other resources, a library, for example,

1 that could benefit the families, the patients that we serve,  
2 and the community at large.

3 THE COURT: Have you ever worked in that role in a  
4 hospital setting?

5 PROSPECTIVE JUROR NO. 941: No, I have not.

6 THE COURT: No. Okay. All right. And I'm sorry,  
7 did you say you have a husband or significant other?

8 PROSPECTIVE JUROR NO. 941: No, I'm divorced.

9 THE COURT: Okay. And have you been divorced a long  
10 time?

11 PROSPECTIVE JUROR NO. 941: Seven years.

12 THE COURT: Okay. Well, so what did your husband,  
13 your ex-husband do?

14 PROSPECTIVE JUROR NO. 941: When -- I moved to Las  
15 Vegas to marry him. At that time he was, he still is,  
16 retired --

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 941: -- from -- from a  
19 software company.

20 THE COURT: So what did he -- what did he do for the  
21 software company?

22 PROSPECTIVE JUROR NO. 941: Sales, marketing and  
23 sales.

24 THE COURT: All right. Do you -- you've heard a lot  
25 of questions posed to the other jurors, the respective jurors.

1 Is there any reason you feel you could not be fair and  
2 impartial in this case?

3 PROSPECTIVE JUROR NO. 941: The only thing that come  
4 -- well, the primary thing that comes to my mind besides what  
5 we've spoken about before is patients. I -- it's just  
6 instilled in the -- the staff, the volunteers at the Cleveland  
7 Clinic that patients come first and that patients are  
8 precious. And so -- so that would be -- another juror  
9 mentioned children. Of course I wouldn't like to see any harm  
10 to children, but I would -- the harm to patients is -- is very  
11 problematic to me.

12 THE COURT: Okay. So you haven't heard any evidence  
13 in the case.

14 PROSPECTIVE JUROR NO. 941: Right.

15 THE COURT: You know what the charges are.

16 PROSPECTIVE JUROR NO. 941: Right.

17 THE COURT: But have you, just by hearing the nature  
18 of the charges, have you formed opinions?

19 PROSPECTIVE JUROR NO. 941: I haven't formed an  
20 opinion, but, you know, if there's areas where -- I'm very --  
21 I work in a -- I work in a facility that treats patients with  
22 memory loss and other neurological diseases, and -- and so I'm  
23 -- I'm just around that and their family members all the time.  
24 So they're -- people that are confused, people that are  
25 disoriented, people that are forgetful, people that get lost,

1 and their family members. And so, you know, that's a very, I  
2 don't know, tender population.

3 THE COURT: Okay. Do you think that you could  
4 listen to the evidence that's presented about the individual  
5 -- about the witnesses in this case and the evidence and  
6 listen to that and not -- not bring in your independent  
7 knowledge about -- I mean, I'm not asking you to park your  
8 common sense at the door. No one expects anyone to do that.  
9 But will you be able to listen to the evidence in this case as  
10 opposed to make assumptions based upon your independent  
11 knowledge of patients and patient care?

12 PROSPECTIVE JUROR NO. 941: I would hope that I -- I  
13 would try my very best, Your Honor, but -- I say but -- and I  
14 hear doctors and part of my -- the capacity of the role that I  
15 play at the Cleveland Clinic is educational seminars and so I  
16 listen to our doctors speak on a regular basis. And so I --  
17 I've learned an awful lot about the memory and so --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 941: So I -- you know, and  
20 I've been soaking it up like a sponge because I hear myself in  
21 conversations with friends and family, you know, spouting off  
22 stuff that I've heard. And so I have -- you know, I've got a  
23 lot of stuff that I've learned.

24 THE COURT: All right.

25 Would the State like to inquire further?

1 MS. BLUTH: Thank you, Your Honor.

2 Good morning.

3 PROSPECTIVE JUROR NO. 941: Good morning.

4 MS. BLUTH: In regard to working at the Brain  
5 Center, do you work with seizure patients?

6 PROSPECTIVE JUROR NO. 941: No, I don't work  
7 directly with patients. I coordinate support groups and  
8 educational -- weekly educational seminars and counseling  
9 sessions for the social workers. I'll see them. It's a very  
10 small facility, but I -- do we treat patients with seizures,  
11 if that's what you're asking?

12 MS. BLUTH: Yeah.

13 PROSPECTIVE JUROR NO. 941: It's possible. I say  
14 it's possible because we treat Alzheimer's, multiple  
15 sclerosis, Parkinson's, and Huntington's Disease, and also  
16 athletes that have been hit in the head and they sometimes  
17 suffer from seizures.

18 MS. BLUTH: So your in-person contact with  
19 patients --

20 PROSPECTIVE JUROR NO. 941: Uh-huh.

21 MS. BLUTH: -- is that a regular occurrence, or  
22 you're more on the outskirts? Could you explain that to me?

23 PROSPECTIVE JUROR NO. 941: Well, yeah. I don't --  
24 one on one, that's not part of my responsibility --

25 MS. BLUTH: Okay.

1 PROSPECTIVE JUROR NO. 941: -- to work with  
2 patients. But patients are invited to all of the programs,  
3 except certain support groups that are only for family  
4 members. So I see patients at our educational -- our weekly  
5 educational, we call them lunch and learn seminars, and at  
6 community events that are open -- that are actually especially  
7 designed for patients. So I see them. I don't treat them,  
8 but I see them and host them at -- at educational events.

9 MS. BLUTH: So I guess what I'm trying to assess is  
10 you don't have any personal knowledge about individuals with  
11 seizures?

12 PROSPECTIVE JUROR NO. 941: No, I do not.

13 MS. BLUTH: Okay. And I can tell you're obviously a  
14 very compassionate individual. That's probably why you do the  
15 work that you do.

16 PROSPECTIVE JUROR NO. 941: Uh-huh.

17 MS. BLUTH: But this process, we're just trying to  
18 find people that will be fair and impartial.

19 PROSPECTIVE JUROR NO. 941: Uh-huh.

20 MS. BLUTH: And so, you know, if someone comes in  
21 here and they happen to have been a patient at a hospital --

22 PROSPECTIVE JUROR NO. 941: Uh-huh.

23 MS. BLUTH: -- does that just make them, you know,  
24 automatically telling the truth to you?

25 PROSPECTIVE JUROR NO. 941: No.

1 MS. BLUTH: Can you judge the way they answer  
2 questions and the other evidence, as well, in assessing your  
3 opinion in this case?

4 PROSPECTIVE JUROR NO. 941: Yes.

5 MS. BLUTH: Okay. And I know you've probably heard  
6 all of these questions before, so I'll try to go through them  
7 quickly. But have you been in a situation where you felt  
8 something maybe -- you know, not a crime necessarily happened  
9 to you, or something happened to you that you didn't report  
10 right away, but then later you thought, you know, I'm not  
11 really comfortable with what happened to me. Have you ever  
12 been in that type of situation?

13 PROSPECTIVE JUROR NO. 941: No, I've never  
14 personally been in that situation.

15 MS. BLUTH: Okay. Do you have any issues with the  
16 victim of a crime pursuing their rights in a civil setting?

17 PROSPECTIVE JUROR NO. 941: Not at all.

18 MS. BLUTH: Would you have any issue seeing photos  
19 that some would consider to be graphic of certain body parts,  
20 private parts?

21 PROSPECTIVE JUROR NO. 941: It's -- I think it -- I  
22 wouldn't seek it.

23 MS. BLUTH: Right.

24 PROSPECTIVE JUROR NO. 941: But I don't know. I --  
25 I don't think so, but I --

1 MS. BLUTH: Hard to answer when it's not right in  
2 front of you; right?

3 PROSPECTIVE JUROR NO. 941: Uh-huh.

4 MS. BLUTH: But as you sit here, you don't -- you  
5 know, you don't think that you would have a visceral reaction?  
6 I mean, it's not like you're concerned about your health or  
7 mental -- mental status if you saw those types of things?

8 PROSPECTIVE JUROR NO. 941: You're correct.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NO. 941: No.

11 MS. BLUTH: You've been a juror twice before. When  
12 -- and I know that you returned a verdict in both those  
13 situations.

14 PROSPECTIVE JUROR NO. 941: Uh-huh.

15 MS. BLUTH: Did you feel comfortable voicing your  
16 opinion and concerns in front of the other jurors when you  
17 were able to do so?

18 PROSPECTIVE JUROR NO. 941: Yes.

19 MS. BLUTH: Do you watch any of the crime shows?

20 PROSPECTIVE JUROR NO. 941: No, I really don't watch  
21 any TV now, but I have watched them in, you know, past years.

22 MS. BLUTH: Have you or anyone that you are close to  
23 had any negative contacts with law enforcement that left you  
24 with a bad taste in your mouth?

25 PROSPECTIVE JUROR NO. 941: No.

1 MS. BLUTH: In regards to the question about a  
2 victim of sexual assault, would you need DNA, fingerprints, or  
3 if you believed their testimony beyond a reasonable doubt,  
4 what were your thoughts on -- in regards to that question?

5 PROSPECTIVE JUROR NO. 941: I -- I would have to --  
6 I don't have a real -- of course, everything would be neat if  
7 there were DNA and fingerprints and all of that stuff, but I  
8 wouldn't -- I can't -- I wouldn't -- I can't judge now that I  
9 would need that in order to --

10 MS. BLUTH: So you'd need to consider all of the  
11 evidence --

12 PROSPECTIVE JUROR NO. 941: Right.

13 MS. BLUTH: -- before making an opinion like that?

14 PROSPECTIVE JUROR NO. 941: Uh-huh.

15 MS. BLUTH: Is that a yes?

16 PROSPECTIVE JUROR NO. 941: That's a yes.

17 MS. BLUTH: Okay. Thank you. Any bumper stickers  
18 on your car?

19 PROSPECTIVE JUROR NO. 941: No bumper stickers.

20 MS. BLUTH: Have you known someone that was a victim  
21 of rape?

22 PROSPECTIVE JUROR NO. 941: Yes, I've known two  
23 people who were victims of rape.

24 MS. BLUTH: Okay. And were those adults or  
25 children?

1 PROSPECTIVE JUROR NO. 941: No, they were adults,  
2 both of them.

3 MS. BLUTH: What was their relationship to you?

4 PROSPECTIVE JUROR NO. 941: Friends.

5 MS. BLUTH: And how long ago were the assaults?

6 PROSPECTIVE JUROR NO. 941: A long time ago. One  
7 friend, a childhood friend who was raped during her college  
8 years as a foreign exchange student, and another in an office  
9 where I worked while I was in school who was -- was raped.

10 MS. BLUTH: Okay. And the foreign exchange student,  
11 if we could talk about that. Was that an ongoing assault or  
12 was it a one-time incident?

13 PROSPECTIVE JUROR NO. 941: It was a one-time  
14 incident.

15 MS. BLUTH: And did your friend report it right  
16 away?

17 PROSPECTIVE JUROR NO. 941: She was in Columbia.  
18 I --

19 MR. MANINGO: Objection, Your Honor. We're arguing  
20 the case.

21 MS. BLUTH: How is that arguing the case?

22 THE COURT: I'll allow it.

23 MS. BLUTH: You can continue, please.

24 PROSPECTIVE JUROR NO. 941: She -- she was an  
25 exchange student in Columbia. I'm sure that she would have

1 reported it definitely, but I don't know because I wasn't  
2 there.

3 MS. BLUTH: Okay. So you don't have personal  
4 knowledge about how --

5 PROSPECTIVE JUROR NO. 941: Right.

6 MS. BLUTH: Did she know the individual who did that  
7 to her?

8 PROSPECTIVE JUROR NO. 941: I'm not 100 percent  
9 sure. It was a long time ago. She may have.

10 MS. BLUTH: Okay. And so when she told you, years  
11 had passed?

12 PROSPECTIVE JUROR NO. 941: It was a few years  
13 later, uh-huh.

14 MS. BLUTH: And then the second individual you knew,  
15 are you saying you worked in the same office --

16 PROSPECTIVE JUROR NO. 941: Yes.

17 MS. BLUTH: -- as that person?

18 PROSPECTIVE JUROR NO. 941: Yes. I was going to  
19 school and it was a part-time job that I had when I was in  
20 college.

21 MS. BLUTH: Okay. And was the individual assaulted  
22 while you were working there?

23 PROSPECTIVE JUROR NO. 941: That's correct.

24 MS. BLUTH: And that was a one-time incident?

25 PROSPECTIVE JUROR NO. 941: That's correct.

1 MS. BLUTH: Okay. Did she know the individual?

2 PROSPECTIVE JUROR NO. 941: No. Well, she -- she  
3 thought he might be a neighbor in her apartment complex.

4 MS. BLUTH: And was it reported?

5 PROSPECTIVE JUROR NO. 941: Yes, definitely.

6 MS. BLUTH: And did they find the individual?

7 PROSPECTIVE JUROR NO. 941: I don't know. I don't  
8 know. I don't know.

9 MS. BLUTH: Okay. Thank you.

10 PROSPECTIVE JUROR NO. 941: You're welcome.

11 THE COURT: Would defense like to inquire further?

12 MR. MANINGO: Thank you.

13 Hello.

14 PROSPECTIVE JUROR NO. 941: Hello.

15 MR. MANINGO: I just want to follow up on some of  
16 the questions that the -- that the Court was asking. You had  
17 said that you -- now that the Judge has said so, you might now  
18 be someone who would want to hear from the defendant in the  
19 trial?

20 PROSPECTIVE JUROR NO. 941: Uh-huh.

21 MR. MANINGO: I'm sorry, you have to --

22 PROSPECTIVE JUROR NO. 941: Yes.

23 MR. MANINGO: Oh, okay. Thank you. And throughout  
24 this trial you will be given certain rules and things from the  
25 Judge. Will that still stay in your mind, I mean, just

1 personally that -- that you would want to hear from the  
2 defense?

3 PROSPECTIVE JUROR NO. 941: I don't know. I will  
4 definitely listen to the instructions of the Judge and try my  
5 very best to -- to follow them.

6 MR. MANINGO: Okay. But is it fair to say that you  
7 would be concerned about the fact that you might want the  
8 defense to -- to give you something, to give you evidence, to  
9 hear from Mr. Farmer?

10 PROSPECTIVE JUROR NO. 941: Is it fair to say that?  
11 Yeah, it's kind of fair to say that.

12 MR. MANINGO: Okay. And that's okay. That's all we  
13 want to know is just what you honestly think.

14 PROSPECTIVE JUROR NO. 941: Uh-huh.

15 MR. MANINGO: No right or wrong here. We just want  
16 to know what would be going on in your mind.

17 PROSPECTIVE JUROR NO. 941: Uh-huh.

18 MR. MANINGO: And even if we told you that we don't  
19 have to give you any evidence and told you that Mr. Farmer  
20 doesn't have to testify, that's still something that you would  
21 feel and believe to yourself; right?

22 PROSPECTIVE JUROR NO. 941: I believe so.

23 MR. MANINGO: Okay.

24 PROSPECTIVE JUROR NO. 941: Yes.

25 MR. MANINGO: At this time I would ask that Ms.

1 Soloranzo be excused for cause.

2 THE COURT: Does the State have any objection to  
3 that?

4 MS. BLUTH: Well, I'd like to traverse.

5 THE COURT: Traverse.

6 MS. BLUTH: As representatives of the State of  
7 Nevada we have the burden of proving to you that the defendant  
8 committed these crimes beyond a reasonable doubt.

9 PROSPECTIVE JUROR NO. 941: Correct.

10 MS. BLUTH: If I don't do my job and I don't meet  
11 that burden, and you never, you know, hear from Mr. Farmer,  
12 what is your verdict?

13 PROSPECTIVE JUROR NO. 941: I'm -- I guess it's not  
14 guilty.

15 MS. BLUTH: Well, when you say I guess --

16 PROSPECTIVE JUROR NO. 941: Uh-huh.

17 MS. BLUTH: -- that -- that --

18 PROSPECTIVE JUROR NO. 941: Well, I think I believe  
19 that the jurors would confer together and --

20 MS. BLUTH: Sure. And if you all agree that we  
21 haven't met our burden, do you feel comfortable walking back  
22 in here and saying he didn't do it, we find him not guilty?

23 PROSPECTIVE JUROR NO. 941: I guess so, yeah.

24 MS. BLUTH: Okay. So even if Mr. Farmer didn't  
25 testify, and I still don't meet my burden, you can walk in

1 that door and say you guys didn't do it, he's not guilty?

2 PROSPECTIVE JUROR NO. 941: Responding the way you  
3 stated the question, yes, I guess.

4 MS. BLUTH: Nothing further.

5 THE COURT: Defense, did you want to say anything  
6 here? I was going to ask her a couple more questions because  
7 she's still saying I guess.

8 And the problem that we all have is none of us can  
9 really get in your head --

10 PROSPECTIVE JUROR NO. 941: Right.

11 THE COURT: -- and know what you're thinking. So  
12 the only way we can find out what you're thinking is by asking  
13 a question. So what we need to know is are you going to be  
14 thinking -- you know, you're the only one that can search your  
15 heart and know whether you're -- you're going to do this or  
16 not. Are you going to be in a position where you're saying,  
17 you know, really, unless I hear from the defendant in this  
18 case that he didn't do it, unless he takes the stand and says  
19 he didn't do it, you know, I'd have a hard time with that?

20 PROSPECTIVE JUROR NO. 941: Well, I think I will  
21 have a hard time with that, Judge, but I'm -- I apologize for  
22 appearing difficult. I just can't anticipate what the -- what  
23 will unfold during the trial, and so --

24 THE COURT: I understand. I understand. All right.  
25 I'm going to grant the challenge for cause in this case.

1 Thank you very much --

2 PROSPECTIVE JUROR NO. 941: Thank you.

3 THE COURT: -- for your honest answers.

4 THE CLERK: Okay. Now it's Andrea Schwartzman,  
5 Badge 944.

6 THE COURT: All right. Before we get started, it is  
7 almost noon. How is everybody doing? How is my jury,  
8 prospective jurors doing? Are you ready for lunch? You  
9 hungry? Are you -- you'll be on lunch on your own, but if we  
10 went on it would only be for maybe another half an hour, but  
11 you're going to end up coming back anyway, so it's -- if  
12 you're hungry now, we can take lunch now. Show of hands, who  
13 wants to take lunch now? Okay. All right. Then we'll go  
14 ahead and take lunch now because you've got to eat at some  
15 point in time and it's noon, so that's sort of traditional.

16 All right. I'm going to read you the admonition.  
17 Ladies and gentlemen, we're going to take a 60 minute recess.  
18 During this recess it is your duty not to converse among  
19 yourselves or with anyone else on any subject connected with  
20 the trial, or to read, watch, or listen to any report of or  
21 commentary on the trial by an person or by any means of  
22 information, including, without limitation, newspaper,  
23 television, radio, or Internet, which includes smart phones,  
24 and you are not to form or express an opinion on any subject  
25 connected with this case until it is finally submitted to you.

1           Come back at 1:00. Don't go too far because, you  
2 know, it takes awhile to get through security and all of that.  
3 All right. Thank you.

4           (Prospective jury panel recessed at 11:56 a.m.)

5           THE COURT: The record will reflect that the venire  
6 has left the courtroom. Are there any matters outside the  
7 presence before we recess for lunch?

8           MS. BLUTH: Not on behalf of the State, Judge.

9           MR. MANINGO: No, Judge.

10          THE COURT: All right. We'll see you at 1:00.

11          MR. MANINGO: Thank you.

12          THE COURT: Thank you.

13          (Court recessed at 11:57 a.m., until 1:06 p.m.)

14          (Inside the presence of the jury)

15          THE COURT: Thank you. Please be seated. We are  
16 back in session in the State of Nevada versus Steven Farmer.  
17 The record will reflect the presence of the defendant with his  
18 counsel, the Deputies District Attorney prosecuting the case,  
19 all officers of the court, and the venire panel has rejoined  
20 us.

21                 And we left off with Ms. Schwartzman. Good  
22 afternoon. And so you have never been a juror before; is that  
23 right?

24          PROSPECTIVE JUROR NO. 944: No, Your Honor.

25          THE COURT: Okay. And so have you ever been the

1 victim of a crime?

2 PROSPECTIVE JUROR NO. 944: No, Your Honor.

3 THE COURT: Has anyone in your family or closely  
4 associated with you ever been the victim of a serious violent  
5 type crime?

6 PROSPECTIVE JUROR NO. 944: No.

7 THE COURT: Has anyone -- have you ever been accused  
8 of a crime?

9 PROSPECTIVE JUROR NO. 944: No, ma'am.

10 THE COURT: Has anyone closely associated you or a  
11 family member been accused of a crime?

12 PROSPECTIVE JUROR NO. 944: No.

13 THE COURT: Have you ever been involved in law  
14 enforcement?

15 PROSPECTIVE JUROR NO. 944: No.

16 THE COURT: Anyone in your family or closely  
17 associated with you in law enforcement?

18 PROSPECTIVE JUROR NO. 944: No.

19 THE COURT: Do you have any religious or moral  
20 beliefs that keep you from being able to sit in judgment on  
21 another person?

22 PROSPECTIVE JUROR NO. 944: No, ma'am.

23 THE COURT: Do you agree with our system of justice  
24 in that there is a presumption of innocence?

25 PROSPECTIVE JUROR NO. 944: Yes.

1 THE COURT: And so you understand that the defendant  
2 is presumed innocent until and unless the State proves beyond  
3 a reasonable doubt that he is otherwise; correct?

4 PROSPECTIVE JUROR NO. 944: Yes, ma'am.

5 THE COURT: Do you have any quarrel with that?

6 PROSPECTIVE JUROR NO. 944: No.

7 THE COURT: And you -- you've heard us, you know,  
8 because you've been here while we've discussed this, the  
9 defense doesn't have to produce any evidence. It's the  
10 State's burden entirely to -- to put on their case to convince  
11 you of the guilt or not guilt of the defendant. They need to  
12 persuade you beyond a reasonable doubt. And so if the defense  
13 didn't put on evidence in their case but only cross-examined,  
14 would you -- would you hold that against the defense?

15 PROSPECTIVE JUROR NO. 944: No.

16 THE COURT: Would you expect or want or desire the  
17 defendant to testify?

18 PROSPECTIVE JUROR NO. 944: No, it's --

19 THE COURT: Okay. You understand that he doesn't  
20 have to.

21 PROSPECTIVE JUROR NO. 944: Right. Exactly.

22 THE COURT: He has a Fifth Amendment --

23 PROSPECTIVE JUROR NO. 944: Yes.

24 THE COURT: -- right not to testify.

25 PROSPECTIVE JUROR NO. 944: Yes.

1 THE COURT: Okay. But even though everybody  
2 understands, everybody knows about Fifth Amendment because if  
3 they've watched television at all they know about the Fifth  
4 Amendment. But some people feel like they still, you know,  
5 would feel like somebody that's -- that's innocent would take  
6 the stand and testify.

7 PROSPECTIVE JUROR NO. 944: I don't -- I --

8 THE COURT: Are you such a person?

9 PROSPECTIVE JUROR NO. 944: No.

10 THE COURT: All right. Have you heard anything as  
11 we've asked the other questions of the other prospective  
12 jurors where you said, you know, I think -- I hope the Judge  
13 asks me that question or one of the lawyers asks me that  
14 question because it may play a part in my qualification? Is  
15 there anything you want to tell us about?

16 PROSPECTIVE JUROR NO. 944: No, ma'am.

17 THE COURT: Anything specific?

18 PROSPECTIVE JUROR NO. 944: No.

19 THE COURT: Okay. Do you feel you could be a fair  
20 and impartial juror in this case?

21 PROSPECTIVE JUROR NO. 944: Yes.

22 THE COURT: Tell us about yourself.

23 PROSPECTIVE JUROR NO. 944: I have lived in Las  
24 Vegas for 16 years. I am here from New York. And I have two  
25 children. I'm married. My children are ten and five years

1 old. My husband is a stay at home dad, so he takes care of  
2 the kids and I work. I am a manager of contracting at a  
3 health insurance company.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 944: And so I write contracts  
6 for ancillary services, what we consider -- like physical  
7 therapy or skilled nursing facilities, things like that, also  
8 for physician contracts. I mostly talk about money.

9 THE COURT: Do you have any role where you would  
10 have direct contact with nurses or physicians or hospital  
11 staff?

12 PROSPECTIVE JUROR NO. 944: No.

13 THE COURT: Do you do anything to, you know -- I'm  
14 blanking on the term, but where you have a contract for  
15 preferred provider groups and you need to check on the  
16 qualifications of the doctors, do you do any of that?

17 PROSPECTIVE JUROR NO. 944: I have someone that  
18 works with me that does that.

19 THE COURT: Okay. That's only for physicians,  
20 that's not something that is done concerning nurses; correct?

21 PROSPECTIVE JUROR NO. 944: Not -- it only -- it  
22 would only be APNs.

23 THE COURT: Okay. All right. And APN stands for --

24 PROSPECTIVE JUROR NO. 944: APN -- I'm sorry.

25 THE COURT: Authorized practical nurse or --

1 PROSPECTIVE JUROR NO. 944: Advanced. Advanced  
2 practical nurse.

3 THE COURT: Okay. And explain to me, again, what  
4 the difference is between a registered nurse and a practical  
5 nurse.

6 PROSPECTIVE JUROR NO. 944: I'm not 100 percent --  
7 I'm not 100 percent sure I know. I do know that an APN can  
8 practice independently in a practice.

9 THE COURT: I see. Okay. So similar to a  
10 physician's assistant?

11 PROSPECTIVE JUROR NO. 944: Yes.

12 THE COURT: Okay. All right. And your husband,  
13 before he was a stay at home dad, what did he do?

14 PROSPECTIVE JUROR NO. 944: He is a computer  
15 programmer and a systems analyst.

16 THE COURT: Okay. What brought you to Las Vegas  
17 from New York?

18 PROSPECTIVE JUROR NO. 944: My family had moved out  
19 here about two years before we made the decision to move here,  
20 and so now we're just all together.

21 THE COURT: You must be enjoying the weather knowing  
22 what it's been in New York lately.

23 PROSPECTIVE JUROR NO. 944: I'm kind of one of those  
24 weird people. I don't mind the snow.

25 THE COURT: Well, they've been having a lot of it, I

1 understand.

2 PROSPECTIVE JUROR NO. 944: Yes. Yes, they have.

3 THE COURT: All right. Thank you.

4 Would the State like to inquire further?

5 MS. BLUTH: Thank you, Your Honor.

6 Good afternoon, Ms. Schwartzman.

7 PROSPECTIVE JUROR NO. 944: Hello.

8 MS. BLUTH: In your job, your current job, do you --  
9 did you need any type of medical training or any type of  
10 classes to have that employment?

11 PROSPECTIVE JUROR NO. 944: No, ma'am.

12 MS. BLUTH: Okay. So you've heard all the questions  
13 that I've asked. I'm going to run through them.

14 PROSPECTIVE JUROR NO. 944: Sure.

15 MS. BLUTH: Have you ever had, you know, a crime  
16 happen to you or witness something that you thought you should  
17 have reported but you didn't do so immediately?

18 PROSPECTIVE JUROR NO. 944: No.

19 MS. BLUTH: Okay. Do you think -- or do you have  
20 any issues with someone who has been a victim of a crime also  
21 pursuing it in a -- pursuing their rights in a civil case?

22 PROSPECTIVE JUROR NO. 944: No.

23 MS. BLUTH: Okay. Any issues with photos that could  
24 be somewhat of a graphic nature that may be seen in this case?

25 PROSPECTIVE JUROR NO. 944: No.

1 MS. BLUTH: Are you someone who feels comfortable  
2 speaking in groups?

3 PROSPECTIVE JUROR NO. 944: Yes, as long as I'm not  
4 on a microphone.

5 MS. BLUTH: I don't think you'll have that back  
6 there.

7 PROSPECTIVE JUROR NO. 944: Okay.

8 MS. BLUTH: But, I mean, you feel comfortable  
9 voicing your opinions?

10 PROSPECTIVE JUROR NO. 944: Yes, I do. You know, at  
11 work we have meetings and things like that. I sit with people  
12 all the time like that.

13 MS. BLUTH: Okay. Do you watch the shows that we've  
14 been talking about, CSI, Law & Order, Special Victims Unit?

15 PROSPECTIVE JUROR NO. 944: You know, I watch far  
16 too much reality TV?

17 MS. BLUTH: Like Bravo?

18 PROSPECTIVE JUROR NO. 944: Yeah, love the  
19 housewives.

20 MS. BLUTH: Love them. When you received your jury  
21 summons, what was your reaction?

22 PROSPECTIVE JUROR NO. 944: I was happy to get it in  
23 the sense that I've never served on a jury before. I've  
24 always been interested in the process. I think it's an  
25 important process and I wanted to -- I've wanted to experience

1 it.

2 MS. BLUTH: And so when you came in here and heard  
3 of the charges, what was your initial reaction?

4 PROSPECTIVE JUROR NO. 944: That it would be an  
5 interesting case.

6 MS. BLUTH: So you want to serve as a juror?

7 PROSPECTIVE JUROR NO. 944: I do.

8 MS. BLUTH: And you think you'd be a good juror?

9 PROSPECTIVE JUROR NO. 944: Yes.

10 MS. BLUTH: Because why?

11 PROSPECTIVE JUROR NO. 944: I think I can be fair  
12 and impartial.

13 MS. BLUTH: All right. In regards to my question  
14 about, you know, a victim of a sexual assault coming in here,  
15 if you believe that individual's testimony beyond a reasonable  
16 doubt, that's enough to sustain a conviction, what do you feel  
17 about that statement, how do you feel about that statement?

18 PROSPECTIVE JUROR NO. 944: I understand it.

19 MS. BLUTH: Are you somebody that, no, I need DNA, I  
20 need -- I need fingerprints?

21 PROSPECTIVE JUROR NO. 944: No. I understand that  
22 that's not always available.

23 MS. BLUTH: Do you have any bumper stickers on your  
24 car?

25 PROSPECTIVE JUROR NO. 944: No.

1 MS. BLUTH: Have you ever known an individual that  
2 was sexually assaulted?

3 PROSPECTIVE JUROR NO. 944: No.

4 MS. BLUTH: Are you a part of any groups, like  
5 activist groups, anything like that?

6 PROSPECTIVE JUROR NO. 944: No.

7 MS. BLUTH: Do you have a close friend or a family  
8 member that suffers from seizures or a seizure disorder?

9 PROSPECTIVE JUROR NO. 944: No.

10 MS. BLUTH: Thank you so much, Ms. Schwartzman.

11 PROSPECTIVE JUROR NO. 944: You're welcome.

12 THE COURT: Would defense like to inquire further?

13 MR. MANINGO: Thank you, Judge.

14 Hi, Ms. Schwartzman.

15 PROSPECTIVE JUROR NO. 944: Hello.

16 MR. MANINGO: How are you?

17 PROSPECTIVE JUROR NO. 944: I'm good. How are you?

18 MR. MANINGO: Good. Thank you. You stated during  
19 the Judge's questioning that you understood about a defendant  
20 not needing to testify.

21 PROSPECTIVE JUROR NO. 944: Yes.

22 MR. MANINGO: Okay. Can you think of -- can you  
23 think of reasons why an innocent man would not testify?

24 PROSPECTIVE JUROR NO. 944: They've said they're  
25 innocent, and they're innocent until they're proven guilty.

1 MR. MANINGO: Okay. Can you think of any other  
2 reasons? Would you agree that there -- there's -- there's a  
3 lot at stake, it's an important --

4 PROSPECTIVE JUROR NO. 944: Oh, yes. Definitely I  
5 would agree with that.

6 MR. MANINGO: Okay.

7 PROSPECTIVE JUROR NO. 944: Yes.

8 MR. MANINGO: If you were in an important situation,  
9 you wouldn't want to be misunderstood, would you?

10 PROSPECTIVE JUROR NO. 944: No.

11 MR. MANINGO: Okay. Do you have -- you work in a  
12 medical field, but you write the contracts?

13 PROSPECTIVE JUROR NO. 944: It's a health insurance.

14 MR. MANINGO: Oh, okay. Okay. Do you have any  
15 medical background?

16 PROSPECTIVE JUROR NO. 944: No.

17 MR. MANINGO: Okay. Anyone in your family?

18 PROSPECTIVE JUROR NO. 944: No.

19 MR. MANINGO: What about legal background?

20 PROSPECTIVE JUROR NO. 944: No.

21 MR. MANINGO: Okay. No lawyers, cops, paralegals?

22 PROSPECTIVE JUROR NO. 944: No.

23 MR. MANINGO: Okay. Do you believe that false  
24 accusations can happen, that someone would accuse someone else  
25 falsely?

1 PROSPECTIVE JUROR NO. 944: Yeah, it's possible.

2 MR. MANINGO: Okay. Can you think of reasons why  
3 someone would do that?

4 PROSPECTIVE JUROR NO. 944: They want to maybe cover  
5 up something they did themselves.

6 MR. MANINGO: Okay.

7 PROSPECTIVE JUROR NO. 944: To, you know, get the  
8 attention off of them.

9 MR. MANINGO: Okay. Anything else?

10 PROSPECTIVE JUROR NO. 944: I'm -- there could be  
11 dozens of reasons why somebody would do that. I think -- I  
12 mean --

13 MR. MANINGO: Anger?

14 PROSPECTIVE JUROR NO. 944: Maybe.

15 MR. MANINGO: Greed?

16 PROSPECTIVE JUROR NO. 944: Possible.

17 MR. MANINGO: Revenge?

18 PROSPECTIVE JUROR NO. 944: Yeah.

19 MR. MANINGO: Okay.

20 PROSPECTIVE JUROR NO. 944: Yeah.

21 MR. MANINGO: There's a lot of possible reasons.

22 PROSPECTIVE JUROR NO. 944: Yes. Yeah.

23 MR. MANINGO: You stated that you would -- you would  
24 like to be a juror.

25 PROSPECTIVE JUROR NO. 944: Yes.

1 MR. MANINGO: Being a juror means you would have to  
2 judge the witness's credibility.

3 PROSPECTIVE JUROR NO. 944: Yes.

4 MR. MANINGO: Do you, in your work or your day to  
5 day life ever have instances where you have to judge someone's  
6 credibility?

7 PROSPECTIVE JUROR NO. 944: Judge someone's  
8 credibility, maybe not. I mean, I -- you know, I have to do  
9 judging when my kids are arguing, you know, between who did it  
10 and who didn't, you know, who is going to get punished and who  
11 isn't. So, yes, in my -- with my kids I do that.

12 MR. MANINGO: Okay. I think that's a perfect  
13 example. What are the things that you look at when you're  
14 trying to determine who did it and who didn't, who's telling  
15 the truth and who's not?

16 PROSPECTIVE JUROR NO. 944: I listen to what they  
17 have to say.

18 MR. MANINGO: Okay. How do you come to the decision  
19 after you've heard both stories, let's say both stories are  
20 different?

21 PROSPECTIVE JUROR NO. 944: I keep asking questions  
22 until I'm -- I'm sure.

23 MR. MANINGO: Okay. Do you look to check on whether  
24 their story remains the same, consistent?

25 PROSPECTIVE JUROR NO. 944: Yes.

1 MR. MANINGO: Would that effect --

2 PROSPECTIVE JUROR NO. 944: I mean, yes, I do. But  
3 kids are, you know -- kids will sometimes say things, you  
4 know, and five minutes later sometimes they'll say something  
5 else because they think they're going to get in trouble.

6 MR. MANINGO: Okay. Besides changing stories, what  
7 about if there's other witnesses, maybe their friends or other  
8 kids around, would you look to that also?

9 PROSPECTIVE JUROR NO. 944: I mean, if they're  
10 witnesses to something, yes, you do listen. You listen to  
11 everything they have to say.

12 MR. MANINGO: Okay. And if you have other evidence,  
13 you were talking with Ms. Bluth about other evidence. If you  
14 have that, does that help you come to a decision?

15 PROSPECTIVE JUROR NO. 944: If it's -- if it's  
16 available and it's presented, you take it into account.

17 MR. MANINGO: Okay. I mean, if you have -- if there  
18 is DNA testing and that kind of thing, is that something you  
19 want to know about?

20 PROSPECTIVE JUROR NO. 944: If it -- if it's  
21 something that's available and presented, I would definitely  
22 take it into consideration. But I understand in these cases  
23 it's not always available and that that's okay.

24 MR. MANINGO: Okay. Have you ever -- have you heard  
25 of the cases where someone has been convicted, and then 20

1 years later they're released from prison because DNA has shown  
2 that they weren't the person? Have you heard those stories?

3 PROSPECTIVE JUROR NO. 944: Yes.

4 MR. MANINGO: Okay. Science helping back things up?

5 PROSPECTIVE JUROR NO. 944: Yes.

6 MR. MANINGO: Would you agree that we have a lot  
7 more access nowadays to that technology than they did 20 years  
8 ago?

9 PROSPECTIVE JUROR NO. 944: Yes.

10 MR. MANINGO: Okay. When -- when you -- if you were  
11 to be selected for this jury and you go home, will there be  
12 any pressure on you in any way to -- to -- that will affect  
13 how -- how you are in a trial as far as someone who is  
14 pro-government, pro-defense --

15 PROSPECTIVE JUROR NO. 944: No.

16 MR. MANINGO: -- anything like that?

17 PROSPECTIVE JUROR NO. 944: No.

18 MR. MANINGO: No. Do you think that media can have  
19 an effect on the case?

20 PROSPECTIVE JUROR NO. 944: Sometimes, yes.

21 MR. MANINGO: Okay. How so?

22 PROSPECTIVE JUROR NO. 944: Well, I think sometimes  
23 the media blows things out of proportion.

24 MR. MANINGO: Okay. They blow it out of proportion?

25 PROSPECTIVE JUROR NO. 944: Yes.

1 MR. MANINGO: Okay. Is there anything that you  
2 think that I should be aware of or that the -- the government  
3 should be aware of that we haven't asked you?

4 PROSPECTIVE JUROR NO. 944: I don't think so.

5 MR. MANINGO: Okay. Thanks for your time.

6 PROSPECTIVE JUROR NO. 944: You're welcome.

7 MR. MANINGO: Pass this juror, Your Honor.

8 THE COURT: Thank you. And Mr. Holder.

9 PROSPECTIVE JUROR NO. 863: Yes, ma'am.

10 THE COURT: All right. So have you ever -- let's  
11 see, did I ask you about being a victim of a crime, those  
12 questions? Because I can't remember if you were seated out in  
13 the audience.

14 PROSPECTIVE JUROR NO. 863: All the general  
15 questions, yes.

16 THE COURT: All the general questions. And so tell  
17 us about yourself.

18 PROSPECTIVE JUROR NO. 863: Okay. I was born and  
19 raised here. I'm 23, and I've spent 19 of those years here in  
20 this county. The four that I wasn't I was in the Marine Corps  
21 and I was stationed in California. So I quickly came back as  
22 soon as I was done with that. I love this state. I love  
23 everything about it. I work at Costco as a picker at nights.  
24 I don't have any kids, no significant other. Nothing else I  
25 can really think of. Not much to tell.

1 THE COURT: And what does a picker do?

2 PROSPECTIVE JUROR NO. 863: I work at Costco  
3 business center, so they take a lot of large like truck-size  
4 orders for different companies, shipping products. I --  
5 basically I get the product onto the trucks.

6 THE COURT: And do you -- is that a daytime job?

7 PROSPECTIVE JUROR NO. 863: No, no. It's at night.

8 THE COURT: Okay. Are you planning on working at  
9 night during the trial?

10 PROSPECTIVE JUROR NO. 863: No, they won't even let  
11 me come in.

12 THE COURT: Good. All right. And you said you were  
13 in the Marine Corps for four years. What did you do? What  
14 was your job assignment?

15 PROSPECTIVE JUROR NO. 863: I was a heavy equipment  
16 operator. I drove dozers, very large forklifts, things like  
17 that.

18 THE COURT: So you were able to transfer that skill  
19 to your current job, then, I suppose. Do you have to still  
20 drive forklifts and stuff?

21 PROSPECTIVE JUROR NO. 863: Some of them do. They  
22 don't have enough for me to hop on them yet, but one day I'll  
23 get phased in.

24 THE COURT: Any reason you feel you could not be  
25 fair and impartial in this case?

1 PROSPECTIVE JUROR NO. 863: Not at all.

2 THE COURT: And you have any quarrel with the  
3 presumption of innocence?

4 PROSPECTIVE JUROR NO. 863: No.

5 THE COURT: Would you expect the defense to have to  
6 produce evidence in this case --

7 PROSPECTIVE JUROR NO. 863: No.

8 THE COURT: -- or are you going to hold the State to  
9 its burden?

10 PROSPECTIVE JUROR NO. 863: It's the State's job to  
11 prove his guilt.

12 THE COURT: Okay. And if the defendant doesn't take  
13 the stand, will you hold that against him?

14 PROSPECTIVE JUROR NO. 863: Not at all.

15 THE COURT: Do you have any religious or moral  
16 beliefs that would keep you from being able to sit in judgment  
17 on another person?

18 PROSPECTIVE JUROR NO. 863: Nope.

19 THE COURT: Do you feel that you will be able to  
20 deliberate with your fellow jurors and voice your opinion in  
21 the jury room?

22 PROSPECTIVE JUROR NO. 863: Of course.

23 THE COURT: Thank you.

24 Would the State like to inquire further?

25 MS. BLUTH: Yes, Your Honor.

1 Good afternoon.

2 PROSPECTIVE JUROR NO. 863: Good afternoon.

3 MS. BLUTH: Yesterday when I was asking the  
4 questions to the prospective panel, you had raised your hand  
5 that you need more than a victim's word; is that correct?

6 PROSPECTIVE JUROR NO. 863: Yes.

7 MS. BLUTH: Okay. And so why did you answer in the  
8 affirmative to that?

9 PROSPECTIVE JUROR NO. 863: Well, I just understand  
10 that things aren't -- are very rarely black and white. You  
11 know, there's a lot of perspectives, a lot of different sides  
12 to everything. So physical, hard evidence is the only thing I  
13 can really take with a guarantee. I mean, I can't look into  
14 anybody's head and see what they're thinking, so there's no  
15 real way for me to know 110 percent that what anybody is  
16 saying is true.

17 MS. BLUTH: Okay. So are you saying that in -- if a  
18 case does not have what you're calling hard, real evidence,  
19 then you can't be fair to both sides, that you need that in  
20 order to be a juror?

21 PROSPECTIVE JUROR NO. 863: Not necessarily. I do  
22 understand that, again, not very black and white, that kind of  
23 stuff doesn't always show up and a decision still needs to be  
24 made regardless. And I do have the capacity to, you know,  
25 make the attempt to figure out what's going on and if I don't

1 have evidence, I still, you know, try and do that to the best  
2 of my abilities.

3 MS. BLUTH: But back before we had all of these  
4 things now with DNA, fingerprints, that type of technology,  
5 there were still crimes.

6 PROSPECTIVE JUROR NO. 863: Of course.

7 MS. BLUTH: There were still murders, there were  
8 still rapes. And, you know, jurors still sat on juries and  
9 were able to make decisions. I mean, back when we didn't have  
10 DNA and victims were raped and there wasn't anything there,  
11 what do you think jurors relied on?

12 PROSPECTIVE JUROR NO. 863: Well, same thing we'll  
13 rely on if there's no evidence for us to use, you know. The  
14 ability to judge -- the ability to judge people -- well,  
15 mainly the ability to judge people.

16 MS. BLUTH: Okay. So I guess what it comes down to  
17 is you're not saying you have to have it. In a perfect world  
18 you'd like it.

19 PROSPECTIVE JUROR NO. 863: Absolutely.

20 MS. BLUTH: But you still think you can be fair and  
21 consider the evidence that's presented to you?

22 PROSPECTIVE JUROR NO. 863: Yes.

23 MS. BLUTH: Okay. You are also one of the  
24 individuals that raised their hand when -- when the question  
25 by Mr. Maningo was, you know, if your wallet was stolen would

1 you report it immediately.

2 PROSPECTIVE JUROR NO. 863: Yes.

3 MS. BLUTH: Can you think of any reasons why someone  
4 wouldn't report a crime immediately?

5 PROSPECTIVE JUROR NO. 863: Well, the first things  
6 that come to my mind generally like some kind of -- some kind  
7 of threat that they feel can't be mitigated immediately. You  
8 know, if you -- these people, they have your wallet, they have  
9 your ID, they know who you are. They can very easily figure  
10 out where you are. You know, you think they're going to go  
11 pay you a visit before you can, you know, do anything about  
12 it. That's going to be something you'll take into  
13 consideration.

14 MS. BLUTH: Okay.

15 THE COURT: Just a minute. We need to check the  
16 mic. The court recorder is saying she's not picking up the --

17 THE RECORDER: It's just cutting in and out.

18 MS. BLUTH: Do you think individuals are ever  
19 embarrassed or ashamed? Could you ever see that being a  
20 reason?

21 PROSPECTIVE JUROR NO. 863: Of course.

22 MS. BLUTH: Do you want to serve on this jury?

23 PROSPECTIVE JUROR NO. 863: Yes.

24 MS. BLUTH: Why?

25 PROSPECTIVE JUROR NO. 863: It's something I've

1 never done before. I feel it's an experience that would be  
2 good for me as an individual. And, you know, it is, of  
3 course, an important process. I don't feel there is any  
4 reason why I shouldn't do it.

5 MS. BLUTH: Do you think you would be a good juror?

6 PROSPECTIVE JUROR NO. 863: I believe so, yes.

7 MS. BLUTH: What characteristics do you think that  
8 you have that would make you a good juror?

9 PROSPECTIVE JUROR NO. 863: I -- I don't let my  
10 emotions play into very many aspects of my life, so it gives  
11 me a little bit of a sense of clarity I feel. So I think I'll  
12 -- I'll be able to be, you know, as fair and impartial as I  
13 can -- as really anybody can be.

14 MS. BLUTH: And you don't have an issue with an  
15 individual pursuing their rights in a civil proceeding, as  
16 well as in a criminal court?

17 PROSPECTIVE JUROR NO. 863: No, not at all.

18 MS. BLUTH: Okay. Thank you for your time, sir.

19 THE COURT: Would defense like to inquire?

20 MR. MANINGO: Yes, please.

21 Hello, Mr. Holder.

22 PROSPECTIVE JUROR NO. 863: Good afternoon.

23 MR. MANINGO: Are you nervous at all about being on  
24 this jury?

25 PROSPECTIVE JUROR NO. 863: I'm a bit of a nervous

1 speaker. I don't do social situations very well. So in that  
2 regard, yes, but in any other regard really no. I'm actually  
3 somewhat excited to be a part of this.

4 MR. MANINGO: Okay. You have said a few minute ago  
5 that you have the -- you obviously have the capacity to judge  
6 someone else.

7 PROSPECTIVE JUROR NO. 863: Yes.

8 MR. MANINGO: And judge whether or not they're  
9 telling the truth.

10 PROSPECTIVE JUROR NO. 863: I can certainly try,  
11 yes.

12 MR. MANINGO: Okay. What are some of the things  
13 that you'll look for?

14 PROSPECTIVE JUROR NO. 863: Well, I'm -- I'm not  
15 master of interrogation or anything, but I can -- I can still  
16 look for all the -- the signs, you know, body language and all  
17 that fun stuff.

18 MR. MANINGO: Okay. Do you think that you'll be  
19 able to -- to look at if there's holes in a story that don't  
20 match up or something like that?

21 PROSPECTIVE JUROR NO. 863: I should be able to spot  
22 them, yes.

23 MR. MANINGO: Okay. Would you look for a consistent  
24 story if someone is telling the truth?

25 PROSPECTIVE JUROR NO. 863: I think that would help,

1 yeah.

2 MR. MANINGO: Okay. If someone were telling the  
3 truth, would you expect their story to change every time they  
4 told it?

5 PROSPECTIVE JUROR NO. 863: Depending on the  
6 circumstances. I mean, if it's a really high octane kind of  
7 situation, it's hard to expect somebody to attain perfect  
8 clarity of that situation.

9 MR. MANINGO: Okay. The prosecution asked you a  
10 number of questions about if there isn't any kind of hard  
11 evidence, if there isn't any kind of physical evidence. You  
12 understand that sometimes evidence comes in the form of  
13 testimony?

14 PROSPECTIVE JUROR NO. 863: Of course.

15 MR. MANINGO: Okay. And so knowing that there'll be  
16 testimony, even if there isn't hard evidence, physical  
17 evidence, nothing -- no science, anything like that, would you  
18 still be able to be fair and impartial?

19 PROSPECTIVE JUROR NO. 863: Yes.

20 MR. MANINGO: Have you ever spent much time in  
21 hospitals?

22 PROSPECTIVE JUROR NO. 863: No.

23 MR. MANINGO: Okay. Do you have any medical  
24 background yourself or any of your close friends or family?

25 PROSPECTIVE JUROR NO. 863: No, none whatsoever.

1 MR. MANINGO: Okay. What about legal background?

2 PROSPECTIVE JUROR NO. 863: Not that I know of, no.

3 MR. MANINGO: Okay. And anyone, yourself, friends,  
4 family ever suffer from seizure disorders or epilepsy,  
5 anything like that?

6 PROSPECTIVE JUROR NO. 863: No.

7 MR. MANINGO: Okay. And you did stated earlier,  
8 actually yesterday that if a crime happened to you that you  
9 would report it right away.

10 PROSPECTIVE JUROR NO. 863: Absolutely.

11 MR. MANINGO: Okay. And that makes sense to you?

12 PROSPECTIVE JUROR NO. 863: Yes.

13 MR. MANINGO: Okay. Did you say that the reason  
14 that you came up with that someone might not report is because  
15 of a threat?

16 PROSPECTIVE JUROR NO. 863: Yes.

17 MR. MANINGO: Okay. Okay. Do you think that the  
18 media ever has an effect on -- on the public?

19 PROSPECTIVE JUROR NO. 863: Absolutely. Yes.

20 MR. MANINGO: What kind of effect do you think the  
21 media has?

22 PROSPECTIVE JUROR NO. 863: Well, you know, their --  
23 basically their whole job is to -- to get the news out there.  
24 Sometimes they like to sensationalize things, you know, report  
25 things that haven't been verified, just throw information that

1 may or may not be true out to the public. And, of course, the  
2 public has a tendency to affect things.

3 MR. MANINGO: Okay. And the media is trying to grab  
4 your attention; right?

5 PROSPECTIVE JUROR NO. 863: Of course.

6 MR. MANINGO: Okay.

7 PROSPECTIVE JUROR NO. 863: That's how they make  
8 their money.

9 MR. MANINGO: Exactly. If you're selected to sit on  
10 this jury, you've agreed that you'll hold the State to their  
11 burden to do all the proving?

12 PROSPECTIVE JUROR NO. 863: Of course.

13 MR. MANINGO: Okay. We had talked a little bit  
14 earlier about how sometimes these cases can become emotional.  
15 We may have witnesses that are crying, that are upset, that  
16 type of thing. Will that have any affect or impact on you?

17 PROSPECTIVE JUROR NO. 863: I should think not.

18 MR. MANINGO: I should say, you know, weighing that  
19 would make it so you can't be fair and impartial.

20 PROSPECTIVE JUROR NO. 863: No.

21 MR. MANINGO: Okay. Thank you, sir.

22 THE COURT: Ms. Reda.

23 PROSPECTIVE JUROR NO. 789: Yes.

24 THE COURT: Oh, and so tell us about yourself for  
25 starters.

1 PROSPECTIVE JUROR NO. 789: I'm a mother of three,  
2 grandmother of seven, I'm employed as a legal secretary at one  
3 of the largest law firms here in town. I assist a senior  
4 litigator. I've been doing this work with him for 23 years.  
5 And prior to that I worked for a senior litigator in Chicago  
6 for five years.

7 THE COURT: Okay. So you do legal litigation work,  
8 support for the attorney you work with closely. What type of  
9 litigation is it?

10 PROSPECTIVE JUROR NO. 789: Only civil. My law firm  
11 does not do criminal litigation.

12 THE COURT: So you understand there's a difference  
13 between the burden of proof in a civil case and a criminal  
14 case?

15 PROSPECTIVE JUROR NO. 789: Yes.

16 THE COURT: And so you'll be able to -- I know  
17 you're not actually putting on a trial, but, I mean, have you  
18 seen -- seen jury instructions before --

19 PROSPECTIVE JUROR NO. 789: Yes.

20 THE COURT: -- that you prepare for -- for your  
21 lawyer. And so you've seen the jury instruction on the burden  
22 of proof in a civil case. Would you be able to set that  
23 knowledge aside and abide by the instructions that the Court  
24 gives you in this case?

25 PROSPECTIVE JUROR NO. 789: Yes.

1 THE COURT: Because the burden is greater in a  
2 criminal case, you know. Correct. Okay. And I need you to  
3 answer out loud.

4 PROSPECTIVE JUROR NO. 789: Yes.

5 THE COURT: Yes.

6 PROSPECTIVE JUROR NO. 789: I understand the burden  
7 is different between civil --

8 THE COURT: All right.

9 PROSPECTIVE JUROR NO. 789: -- and criminal  
10 litigation.

11 THE COURT: Thank you. Great. And do you feel that  
12 there is any reason that you could not be fair and impartial  
13 in this case?

14 PROSPECTIVE JUROR NO. 789: No.

15 THE COURT: And the litigation that you've been  
16 involved in, even in a civil case sometimes the litigation  
17 involves or parallels a criminal case. Have you ever had a  
18 case like that? In other words, where it's civil litigation  
19 that arose out of a criminal proceeding.

20 PROSPECTIVE JUROR NO. 789: No.

21 THE COURT: Have you ever been involved in law  
22 enforcement?

23 PROSPECTIVE JUROR NO. 789: No.

24 THE COURT: Anyone in your family ever been involved  
25 in law enforcement?

1 PROSPECTIVE JUROR NO. 789: No.

2 THE COURT: Ever been the victim of a crime?

3 PROSPECTIVE JUROR NO. 789: No.

4 THE COURT: Anyone closely associated with you  
5 that's been the victim of a serious violent crime like rape or  
6 robbery, murder?

7 PROSPECTIVE JUROR NO. 789: Yes, in 1996 my niece  
8 was murdered.

9 THE COURT: Oh, I'm very sorry. And so was that  
10 here?

11 PROSPECTIVE JUROR NO. 789: No, it was in Chicago.

12 THE COURT: Was someone apprehended for that?

13 PROSPECTIVE JUROR NO. 789: No.

14 THE COURT: So there was never any trial, obviously,  
15 if no one was ever apprehended. Were you involved at all with  
16 speaking with the investigating officers in that case?

17 PROSPECTIVE JUROR NO. 789: No.

18 THE COURT: How about -- was this your -- your  
19 sister, your --

20 PROSPECTIVE JUROR NO. 789: My sister's daughter.

21 THE COURT: Your sister's daughter. Okay. Do you  
22 speak with your sister, about the investigation of the murder?

23 PROSPECTIVE JUROR NO. 789: Oh, yes. I went to  
24 Chicago and -- and spent time with my sister immediately, and  
25 then, of course, communicated with her over the telephone very

1 frequently during that period.

2 THE COURT: Did she express to you frustration about  
3 the inability of law enforcement to come up with a suspect or  
4 discovery who had done this crime?

5 PROSPECTIVE JUROR NO. 789: Not frustration, but  
6 sadness, sorrow, grief. Not frustration at law enforcement.

7 THE COURT: Do you think that there's anything about  
8 that, I know it happened a long time ago, but it's a very  
9 terrible thing to happen in your family to someone so close to  
10 you. Do you think you it would affect your ability to be fair  
11 and impartial in this case?

12 PROSPECTIVE JUROR NO. 789: No, it would not affect  
13 my impartiality.

14 THE COURT: Have you -- do you know anyone that's  
15 ever been raped or sexually assault in any way?

16 PROSPECTIVE JUROR NO. 789: No.

17 THE COURT: Have you ever been involved at all in  
18 the medical field in your legal practice? In other words, do  
19 you ever have to review medical records of any kind?

20 PROSPECTIVE JUROR NO. 789: Yes. As I'm organizing  
21 evidence for trial, I have to view the evidence in order  
22 categorize it, make copies available for the Court and  
23 opposing counsel and the attorney I assist, yes.

24 THE COURT: Do you ever have to summarize medical  
25 records at all, like review them for the contents?

1 PROSPECTIVE JUROR NO. 789: No. I wouldn't be able  
2 to do that because I don't have a medical background. The  
3 attorney I assist has hired nurses and other medical  
4 professionals to summarize for him the contents of a file, but  
5 I've never been asked to do that.

6 THE COURT: Okay. Would you review -- at any time  
7 have you ever reviewed a nurse's summarization of medical  
8 records at all?

9 PROSPECTIVE JUROR NO. 789: If I could change the  
10 word reviewed to -- I'm not thinking of the correct word, but  
11 generally I would look at the -- the patient name, the  
12 beginning paragraph, the ending paragraph, and generally what  
13 I would put on an index would simply be the date, the nurse's  
14 name who prepared the summary, the patient's name, and -- and  
15 simply give it a number so it would be our exhibit 23 or 35 or  
16 whatever. But, no, I wouldn't read the whole report.

17 THE COURT: And is -- does your law firm do medical  
18 malpractice --

19 PROSPECTIVE JUROR NO. 789: No.

20 THE COURT: -- at all? So medical records wouldn't  
21 be in connection with a medical malpractice type of a case at  
22 all?

23 PROSPECTIVE JUROR NO. 789: Well, we don't do  
24 medical malpractice and we don't do personal injury, either.

25 THE COURT: Okay. What -- in what context would

1 there be medical records being reviewed, then?

2 PROSPECTIVE JUROR NO. 789: A case in which an  
3 ophthalmologist wished to separate the practice and go in two  
4 different directions. We would assist with the settlement  
5 agreement between the parties. We would prepare the corporate  
6 documents so that each of the parties could go their own way  
7 with their new practice.

8 THE COURT: All right. So --

9 PROSPECTIVE JUROR NO. 789: Without referring to a  
10 specific case --

11 THE COURT: Right.

12 PROSPECTIVE JUROR NO. 789: -- which I think you  
13 don't want me to do --

14 THE COURT: So your -- your litigation emphasis is  
15 more business --

16 PROSPECTIVE JUROR NO. 789: Yes.

17 THE COURT: -- oriented, then?

18 PROSPECTIVE JUROR NO. 789: Yes. Uh-huh.

19 THE COURT: All right. Okay. Do you -- can you  
20 think of any reason that you could not be fair and impartial  
21 in this case?

22 PROSPECTIVE JUROR NO. 789: No.

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

25 MS. BLUTH: Thank you, Your Honor.

1 Is it Reda? Is that how, Ms. Reda?

2 PROSPECTIVE JUROR NO. 789: Yes.

3 MS. BLUTH: Thank you.

4 PROSPECTIVE JUROR NO. 789: Yes.

5 MS. BLUTH: You had raised your hand when Her Honor  
6 had asked if anyone was personally involved in lawsuits, and I  
7 didn't know whether that was purely because you were employed,  
8 or you had a personal lawsuit, as well.

9 PROSPECTIVE JUROR NO. 789: I do have a personal  
10 lawsuit.

11 MS. BLUTH: Okay.

12 PROSPECTIVE JUROR NO. 789: I am divorced. My  
13 divorce became final in 1988, a long time ago. Recently my  
14 ex-husband passed away.

15 MS. BLUTH: Okay.

16 PROSPECTIVE JUROR NO. 789: I am a creditor of the  
17 estate. Monies are owed to me from a pension fund that ended  
18 with the passing of my ex-husband.

19 MS. BLUTH: Okay.

20 PROSPECTIVE JUROR NO. 789: So that lawsuit in  
21 Chicago is -- is hopefully being resolved soon, yes.

22 MS. BLUTH: And how long has it been going on?

23 PROSPECTIVE JUROR NO. 789: Five years.

24 MS. BLUTH: Okay. Okay. So do you have any issues  
25 with a victim of a crime also pursuing their rights in a civil

1 arena, in a civil form?

2 PROSPECTIVE JUROR NO. 789: No, I understand that.

3 MS. BLUTH: So besides the divorce and then the  
4 creditor issue, those are the two that you are raising your  
5 hand in regards to?

6 PROSPECTIVE JUROR NO. 789: Yes.

7 MS. BLUTH: You were one of the individuals  
8 yesterday that raised their hand that you -- you wanted to see  
9 things like DNA and fingerprints and things like that; is that  
10 correct?

11 PROSPECTIVE JUROR NO. 789: No, I misunderstood the  
12 question.

13 MS. BLUTH: That's okay.

14 PROSPECTIVE JUROR NO. 789: I was confusing  
15 testimony with actual physical evidence. And so I -- to be  
16 clear --

17 MS. BLUTH: Sure.

18 PROSPECTIVE JUROR NO. 789: -- I understand that  
19 decisions, verdicts can be made without forensic evidence, if  
20 I'm using forensic as you all would.

21 MS. BLUTH: Yes.

22 PROSPECTIVE JUROR NO. 789: Yes.

23 MS. BLUTH: Okay. So you didn't mean to raise your  
24 hand, then?

25 PROSPECTIVE JUROR NO. 789: I didn't.

1 MS. BLUTH: So you understand that the position that  
2 if a victim's testimony is believed beyond a reasonable doubt,  
3 then you can sustain a conviction on that?

4 PROSPECTIVE JUROR NO. 789: Yes.

5 MS. BLUTH: And you agree with that premise?

6 PROSPECTIVE JUROR NO. 789: Yes.

7 MS. BLUTH: And I believe you also are one of the  
8 ones who raised their hand that you think that memory can be  
9 affected by the media and/or time.

10 PROSPECTIVE JUROR NO. 789: Yes.

11 MS. BLUTH: Both?

12 PROSPECTIVE JUROR NO. 789: Media, yes, to a lesser  
13 degree.

14 MS. BLUTH: Okay.

15 PROSPECTIVE JUROR NO. 789: Time --

16 MS. BLUTH: In regards to the media?

17 PROSPECTIVE JUROR NO. 789: In regards to the media,  
18 I think the media can have a definite effect.

19 MS. BLUTH: On your memory?

20 PROSPECTIVE JUROR NO. 789: No, not on my memory, an  
21 effect on my attitude.

22 MS. BLUTH: Okay. But you -- so you do not think  
23 that the memory can impact the way that you recall things

24 PROSPECTIVE JUROR NO. 789: No, I will look at the  
25 media and I would rethink, possibly agree, possibly disagree.

1 MS. BLUTH: Okay.

2 PROSPECTIVE JUROR NO. 789: And in the future, with  
3 more information on the same subject that I was looking at in  
4 the media, I'd rethink again.

5 MS. BLUTH: Okay. I guess what I'm asking is if --  
6 you know, if something happened to you in your personal life,  
7 and then the media reported on that incident, do you think the  
8 media's report on that incident would affect your memory?

9 PROSPECTIVE JUROR NO. 789: In what I would consider  
10 inconsequential ways.

11 MS. BLUTH: Okay.

12 PROSPECTIVE JUROR NO. 789: If the media reported  
13 that, in fact, that day I was wearing a white dress, since I'm  
14 not, as my daughters are and my granddaughters, terribly  
15 affected by fashion, I may not remember what I was wearing  
16 that day:

17 MS. BLUTH: Okay.

18 PROSPECTIVE JUROR NO. 789: But in terms of the  
19 important issues, if the media reported that this incident  
20 happened at Third and Bridger, when I know very well it was  
21 not that location, the media would not affect my knowing where  
22 an incident happened, the important issues.

23 MS. BLUTH: Okay. And then the memory and time  
24 question, if I could use it specifically, you know, you said  
25 that the lawsuit in regards to your ex-husband, that whole

1 lawsuit, five years ago.

2 PROSPECTIVE JUROR NO. 789: Yes.

3 MS. BLUTH: So are there things related to that  
4 today that you don't necessarily remember as well as you did  
5 five years ago?

6 PROSPECTIVE JUROR NO. 789: The reverse.

7 MS. BLUTH: Okay. Explain that, please.

8 PROSPECTIVE JUROR NO. 789: As my attorneys have  
9 asked for documents and I see that they're written and I see  
10 that I've signed some of them, my deceased ex-husband signed  
11 some of them, that's refreshing my memory. But -- does that  
12 answer your question?

13 MS. BLUTH: Yeah. I mean, I guess you have  
14 supporting documentation that you could reference --

15 PROSPECTIVE JUROR NO. 789: Yes.

16 MS. BLUTH: -- so it helps refresh your  
17 recollection.

18 PROSPECTIVE JUROR NO. 789: Yes.

19 MS. BLUTH: But without those documents to rely on,  
20 do you think in the five years that have lapsed, you know,  
21 there are parts that are a little more gray in your head than  
22 previously?

23 PROSPECTIVE JUROR NO. 789: No.

24 MS. BLUTH: You feel like you remember everything as  
25 much now as you did then?

1 PROSPECTIVE JUROR NO. 789: Even more so.

2 MS. BLUTH: Okay. In regards to the law, has it --  
3 for the -- I think you said you've been involved in law for 22  
4 years, was it?

5 PROSPECTIVE JUROR NO. 789: Actually, it's 23 here  
6 in Nevada, and then five in Chicago, so 28 years.

7 MS. BLUTH: Okay. And was it always the same type  
8 of law? Was it always the business and contract side of it?

9 PROSPECTIVE JUROR NO. 789: Always the litigation  
10 side of it.

11 MS. BLUTH: Okay. But what -- so what else have you  
12 done besides the business and contracts that you were  
13 discussing earlier?

14 PROSPECTIVE JUROR NO. 789: What types of  
15 litigation?

16 MS. BLUTH: Yes.

17 PROSPECTIVE JUROR NO. 789: May I give an example?  
18 It won't involve names of corporations.

19 THE COURT: Sure.

20 PROSPECTIVE JUROR NO. 789: When the Luxor was being  
21 built here in town, there was a dispute that the land  
22 surveyors had, in fact, started the construction six feet off.  
23 That's quite a memory for me because coming from Chicago. And  
24 our client was in charge of the Sphinx building in front of  
25 the Luxor and there was a dispute about the accuracy of -- of

1 -- many, many funny pieces of litigation in Las Vegas.  
2 Chicago is less humorous in terms of its approach.

3 MS. BLUTH: So never in the 23 years or 28 total  
4 have you done personal injury, med mal?

5 PROSPECTIVE JUROR NO. 789: No.

6 MS. BLUTH: Okay. Thank you for your time.

7 PROSPECTIVE JUROR NO. 789: There's one thing I  
8 wanted to offer that I didn't offer earlier.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NO. 789: Usually, and I figured I  
11 would just catch up with you. Usually I'm asked if I've spent  
12 time in a hospital.

13 MS. BLUTH: Okay.

14 PROSPECTIVE JUROR NO. 789: Only three times for the  
15 births of my three children. I did have abdominal surgery in  
16 2009.

17 MS. BLUTH: Okay.

18 PROSPECTIVE JUROR NO. 789: I spent five days in the  
19 hospital, UMC here in town. The surgery was very successful.  
20 I feel very healthy, very well.

21 MS. BLUTH: Good.

22 PROSPECTIVE JUROR NO. 789: Yes.

23 MS. BLUTH: In regards to that abdominal surgery, at  
24 any point during your stay or any of your stays in your  
25 hospital that you referenced, did you ever have the leads

1 attached to your body under your breasts, your arms?

2 PROSPECTIVE JUROR NO. 789: I was anesthetized, of  
3 course, for the surgery.

4 MS. BLUTH: Sure.

5 PROSPECTIVE JUROR NO. 789: So I don't remember what  
6 -- of course, I have no knowledge, recollection when I was  
7 sedated. No. On waking up it was simply the IV fluid. Leads  
8 only -- I've had several while check up and  
9 electrocardiograms. Is that what you mean by a lead?

10 MS. BLUTH: Yeah, they use leads in  
11 electrocardiograms. Exactly.

12 PROSPECTIVE JUROR NO. 789: Yeah, during an  
13 electrocardiogram I've had that. Uh-huh.

14 MS. BLUTH: Okay. And how many times have you had  
15 that done to you?

16 PROSPECTIVE JUROR NO. 789: Probably three.

17 MS. BLUTH: Okay. And how recently were those?

18 PROSPECTIVE JUROR NO. 789: The last one 2005.

19 MS. BLUTH: All three of them?

20 PROSPECTIVE JUROR NO. 789: No, that would be the  
21 last one.

22 MS. BLUTH: Oh, the last one.

23 PROSPECTIVE JUROR NO. 789: Uh-huh.

24 MS. BLUTH: Okay. Were there any other questions  
25 that you raised your hand for that you thought I have an

1 answer to that question and when I get up there I need to tell  
2 them just like you did right now?

3 PROSPECTIVE JUROR NO. 789: No.

4 MS. BLUTH: Okay. Thank you.

5 PROSPECTIVE JUROR NO. 789: You're welcome.

6 THE COURT: Defense, would you like to inquire  
7 further?

8 MR. MANINGO: Yes, please.

9 Hello, Ms. Reda.

10 PROSPECTIVE JUROR NO. 789: Hello.

11 MR. MANINGO: How are you doing?

12 PROSPECTIVE JUROR NO. 789: Well, thank you.

13 MR. MANINGO: Good. Working with an attorney for  
14 that long, first bless you. Thank you for doing that. That's  
15 very nice of you to put up with someone for that long in our  
16 profession.

17 PROSPECTIVE JUROR NO. 789: Actually, I've only  
18 worked with two attorneys, one in Chicago for five years, and  
19 the other here for 23 years. They both have halos.

20 MR. MANINGO: Working with someone for 23 years in a  
21 profession, have you had an opportunity to sort of see,  
22 obviously, behind the curtain what goes on in the legal  
23 process?

24 PROSPECTIVE JUROR NO. 789: Yes.

25 MR. MANINGO: Okay. What are your thoughts on -- on

1 what you've been able to experience and see as opposed to  
2 someone who doesn't have that legal background? Do you find  
3 it interesting?

4 PROSPECTIVE JUROR NO. 789: Fascinating, yes.  
5 Interesting. Perhaps people who haven't assisted attorneys  
6 for a trial would not be aware of the amount of hours  
7 necessary to prepare for depositions, prepare discovery  
8 documents, duplicate them and issue numbers so that everyone  
9 in the courtroom is looking at the same document at the same  
10 time. There's a bit of choreography there, if you will. The  
11 numbers of hours can stretch into the wee hours of the  
12 morning.

13 MR. MANINGO: Have you --

14 PROSPECTIVE JUROR NO. 789: Then turn around early  
15 in the morning to make sure that the copy center copied  
16 everything and the people assisting put the binders together  
17 correctly. And so it's a very time consuming, labor -- not  
18 physical labor intensive, but organizational thinking is  
19 absolutely necessary.

20 MR. MANINGO: Right. have you had opportunity to --  
21 to have contact with clientele?

22 PROSPECTIVE JUROR NO. 789: Yes.

23 MR. MANINGO: Okay. Have you been able to watch the  
24 attorney that you work for in court and see the process in a  
25 courtroom?

1 PROSPECTIVE JUROR NO. 789: There are times when  
2 I've gone in to assist in which I will be handing documents  
3 over.

4 MR. MANINGO: Okay. Based on your experience, and  
5 we asked this general question yesterday, do you think people  
6 are capable of telling lies in the courtroom under oath?

7 PROSPECTIVE JUROR NO. 789: Yes.

8 MR. MANINGO: Okay. In your civil practice, is --  
9 is there a lot of experts involved in different fields?

10 PROSPECTIVE JUROR NO. 789: Yes.

11 MR. MANINGO: Okay. Will it affect the way you look  
12 at this case if there are not a number of experts presented by  
13 either side?

14 PROSPECTIVE JUROR NO. 789: No.

15 MR. MANINGO: Okay. Will you be expecting a number  
16 of experts, or will you just take -- take the trial as it  
17 unfolds?

18 PROSPECTIVE JUROR NO. 789: Take the trial as it  
19 unfolds.

20 MR. MANINGO: Will you -- will there be any  
21 temptation to do any -- any research or talk to your attorneys  
22 about what's going on, or will you be able to -- if there is  
23 any temptation, will you be able to resist it is what I'm  
24 asking.

25 PROSPECTIVE JUROR NO. 789: Yes.

1 MR. MANINGO: Okay.

2 PROSPECTIVE JUROR NO. 789: I'm constantly reminding  
3 some of our clients that the attorney I assist is asking that  
4 they do not speak with opposing counsel or opposing parties.  
5 I do receive phone calls that I pick up for the attorney that  
6 I assist in which on the other end of the line is a client who  
7 is not represented by counsel, at which I've learned to simply  
8 jot a note to my attorney, let him know that Mr. Smith, Mr.  
9 Jones is on the line. And he will, again, sort of as a  
10 repetitive instruction, please inform him that we cannot speak  
11 with him unless he is represented by counsel. So this  
12 protocol is very much in my lexicon.

13 MR. MANINGO: Okay. Excellent.

14 PROSPECTIVE JUROR NO. 789: Uh-huh.

15 MR. MANINGO: There was discussion with Ms. Bluth  
16 about memory and how the media can possibly affect your memory  
17 on things. It's a little bit confusing. Let me give a quick  
18 example. Let's say you were to meet someone at a park on a  
19 regular Saturday afternoon and you speak to this person, and  
20 the person seems like a very normal, very nice person. You  
21 find out a week or two later on the news that that person is  
22 now accused of being a serial killer. The way you remember  
23 your meeting with that person at the park, can it change it  
24 all?

25 MS. BLUTH: Your Honor, objection. May we approach?

1 THE COURT: All right.

2 (Bench conference)

3 MS. BLUTH: Jacqueline Bluth. I mean, that's pretty  
4 much verbatim the facts of our case. You know, the initial  
5 victim comes out with a story, it hits the media, and then all  
6 of the other victims approach. So I think it's a hypothetical  
7 based on the facts of our case. I mean -- I mean, I think  
8 it's 7.0, you referenced it earlier. It's not permissible.

9 MR. MANINGO: Jeff Maningo. I'm not asking about  
10 any type of disclosures or about multiple disclosures. All  
11 I'm asking about is whether or not the new information will  
12 change the memory. That's it. And so I'm not going into  
13 anything other than that. And it's not -- I mean, it's not  
14 factually related, either, as far as the case is concerned.

15 THE COURT: I'll allow it as long as that's -- I  
16 mean --

17 MR. MANINGO: This is it.

18 THE COURT: [Inaudible]. Let's try not to expand on  
19 this.

20 MR. MANINGO: This is it.

21 THE COURT: All right.

22 (End of bench conference)

23 MR. MANINGO: Ms. Reda, you can -- you can answer  
24 the question. So you have an experience and then -- of just  
25 meeting someone. A few weeks later you find on the news or

1 through the media that they're accused of being a serial  
2 killer. Does that in any way darken or change your -- your  
3 initial experience, or do you think it could?

4 PROSPECTIVE JUROR NO. 789: Yes, I'm grateful you  
5 gave me that scenario because I can envision. I'm in the park  
6 frequently with grandchildren. If I read or heard in the  
7 media that this individual was guilty of a crime, I would -- I  
8 would be more protective of my grandchildren. We might go to  
9 a different area of the park. We might -- I'd be very  
10 vigilant. I might even leave the park.

11 MR. MANINGO: Okay.

12 PROSPECTIVE JUROR NO. 789: Does that answer your  
13 question?

14 MR. MANINGO: Yeah, but my question was really if  
15 they change the memory of your first visit which seemed  
16 innocent.

17 PROSPECTIVE JUROR NO. 789: Oh, no.

18 MR. MANINGO: So you wouldn't think, well, he was  
19 trying to do something or he had some motive at the time?

20 PROSPECTIVE JUROR NO. 789: No.

21 MR. MANINGO: Okay. The last thing I want to ask  
22 you. The Court had reminded you that the standard of proof in  
23 a criminal case is higher than it is in a -- in a civil case.

24 PROSPECTIVE JUROR NO. 789: Yes.

25 MR. MANINGO: Okay. And you understand that. You

1 had stated when you repeated the statement to the Judge you  
2 had said that you understand that the burden is different,  
3 that the burden in a criminal case is higher than it is for a  
4 civil case.

5 PROSPECTIVE JUROR NO. 789: Yes.

6 MR. MANINGO: Okay. Thank you.

7 PROSPECTIVE JUROR NO. 789: May I make one more  
8 statement which I'm realizing now that I'm speaking into a  
9 microphone. I had an ear infection a month ago. I've seen a  
10 doctor. I'm on no medications for it any longer, but I'm  
11 finding, and the doctors confirmed, a bit of a diminished  
12 hearing that she was going to test me for in the future.

13 Your Honor, I was having trouble hearing you. I had  
14 to listen very carefully. Would there be some way, if I am  
15 chosen --

16 THE COURT: Yes, we have something for you.

17 PROSPECTIVE JUROR NO. 789: I am so glad I brought  
18 it up. Thank you.

19 THE COURT: You're welcome.

20 PROSPECTIVE JUROR NO. 872: My name is Patrick  
21 McCoy. My number is 872.

22 THE COURT: Mr. McCoy. Have you ever been the  
23 victim of a crime?

24 PROSPECTIVE JUROR NO. 872: I have not.

25 THE COURT: And has -- wait just a minute.

1           There's a control to turn it up and down. Okay.

2           All right. So you said you've never been the victim  
3 of a crime. Has anyone in your family closely associated with  
4 you been the victim of a serious violent type crime?

5           PROSPECTIVE JUROR NO. 872: No.

6           THE COURT: Have you ever been accused of a crime?

7           PROSPECTIVE JUROR NO. 872: I have not.

8           THE COURT: Anyone in your family or closely  
9 associated with you been --

10          PROSPECTIVE JUROR NO. 872: No.

11          THE COURT: -- accused of a crime?

12          PROSPECTIVE JUROR NO. 872: No.

13          THE COURT: Do you have any religious or moral  
14 beliefs that would make it difficult for you to sit in  
15 judgment of another person?

16          PROSPECTIVE JUROR NO. 872: No.

17          THE COURT: Do you have any reason to feel it could  
18 not be fair and impartial in this case?

19          PROSPECTIVE JUROR NO. 872: No.

20          THE COURT: Tell us about yourself.

21          PROSPECTIVE JUROR NO. 872: I was born here, raised.  
22 I went to The Art Institute for graphic design. Shortly after  
23 starting my schooling I got a job making video games for slot  
24 machines, and I did that for about three years. And I don't  
25 like Vegas. I don't like the heat or the dryness, so I wanted

1 a change of scenery. So I moved to Texas when I was 20 or 19.  
2 And I became a counselor for the American Cancer Society. I  
3 don't know how it happened. It just kind of did. I know with  
4 an art background, it was kind of weird. That was probably my  
5 favorite job. I worked there for three years helping people  
6 quit smoking. There's a lot of in-person and over the phone  
7 communication.

8           And then around Christmas time because it's a  
9 non-profit organization we all got laid off on like Christmas  
10 Eve, I believe. And luckily they had another company that was  
11 similar come from Seattle to hire some of us, and then I  
12 worked from home doing the same thing, but it was more reading  
13 from a script as opposed to more personalized conversations  
14 and I grew tired of it and decided to move back to Vegas and  
15 to look for a job with art again. I found another one working  
16 for a printing company, and just last Christmas Eve I was laid  
17 off.

18           THE COURT: You must dread Christmas coming.

19           PROSPECTIVE JUROR NO. 872: I do. And then I got  
20 home and I checked the mail and saw my summons. And I was  
21 like this is -- and the next morning my dog was dying on my --  
22 my welcome mat.

23           THE COURT: Oh, my goodness.

24           PROSPECTIVE JUROR NO. 872: So --

25           THE COURT: So how are you feeling today?

1 PROSPECTIVE JUROR NO. 872: The jury summons was  
2 just kind of like the cherry on top. But in looking at it in  
3 a better light now it's giving me something to do. I mean,  
4 I've been job hunting for the past month and I've been more  
5 picky this time around as far as finding what I want. And so  
6 I'm here now.

7 THE COURT: Okay. I'm hoping you're not like  
8 thinking of your jury summons the equivalent of your dog  
9 dying.

10 PROSPECTIVE JUROR NO. 872: No. No.

11 THE COURT: Okay. All right. So you've had a  
12 chance. Well, gosh, about a day and a half you've spent with  
13 us and this is not the most exciting part, obviously, but it's  
14 really necessary.

15 PROSPECTIVE JUROR NO. 872: Yes.

16 THE COURT: And so -- because we're trying to find  
17 out if you can be a fair and impartial juror.

18 PROSPECTIVE JUROR NO. 872: Uh-huh.

19 THE COURT: And so is there any reason you think you  
20 could not be fair and impartial?

21 PROSPECTIVE JUROR NO. 872: No.

22 THE COURT: When you -- you came in here and heard  
23 the charges, did you immediately think, well, if the defendant  
24 is sitting there and these are the charges, he must be guilty?

25 PROSPECTIVE JUROR NO. 872: When I sat down I didn't

1 really know how the room was set up, so I was looking around  
2 and I didn't really spot anybody in particular. So I think at  
3 first I came in thinking that, but, you know, I didn't know  
4 what was going on, so I immediately just figured I'd sit and  
5 listen and wait to figure out what was going on.

6 THE COURT: Do you have any quarrel with the  
7 presumption of innocence?

8 PROSPECTIVE JUROR NO. 872: No.

9 THE COURT: Okay. So you understand that the  
10 defendant is presumed innocent until the State proves beyond a  
11 reasonable doubt otherwise?

12 PROSPECTIVE JUROR NO. 872: Yes.

13 THE COURT: Would you hold it against the defendant  
14 if he did not take the stand and testify and tell his story?

15 PROSPECTIVE JUROR NO. 872: I -- I try to empathize  
16 with people. And I feel like if I was innocent, I would want  
17 to say something. Just because like if -- if I'm not guilty  
18 and I leave and I never said anything, I would feel weird  
19 running into some of the people that were at the case that  
20 still think I did something. So it would be preferred, but I  
21 understand.

22 THE COURT: All right. So you -- as you sit there  
23 you think, well, if I was innocent that I would want to  
24 testify.

25 PROSPECTIVE JUROR NO. 872: Yes.

1 THE COURT: Can you think of any reasons if you were  
2 innocent you might not want to testify?

3 PROSPECTIVE JUROR NO. 872: Yes.

4 THE COURT: What?

5 PROSPECTIVE JUROR NO. 872: You could overcomplicate  
6 the situation. Things you say could be used in ways that you  
7 might not be anticipating when you say it. So sometimes, you  
8 know, silence is best, keep things simple, and let it sit with  
9 the -- the evidence.

10 THE COURT: So you can -- you can imagine there are,  
11 then, circumstances where someone who is not guilty would  
12 still elect not to testify?

13 PROSPECTIVE JUROR NO. 872: Yeah. Yeah. Because,  
14 you know, some people, you know, when they're put on the stand  
15 and everybody sitting around them is, you know, already  
16 assuming that they're guilty, you know, they might be nervous  
17 and they might not be good at speaking, so it might make them  
18 look like they're lying.

19 THE COURT: Would you feel that you would be able to  
20 hold your own in a jury room and discuss the evidence and --  
21 and tell the other jurors about your opinions?

22 PROSPECTIVE JUROR NO. 872: Yes.

23 THE COURT: Anything that you haven't been asked  
24 that you're thinking when it's my turn I hope they ask me that  
25 question so I can tell them what I'm thinking?

1 PROSPECTIVE JUROR NO. 872: Not -- not that I can  
2 think of.

3 THE COURT: All right.  
4 Would State like to inquire further?

5 MS. BLUTH: Yes, Your Honor.

6 Mr. McCoy, yesterday you raised your hand in  
7 reference to the question you would report a crime  
8 immediately.

9 PROSPECTIVE JUROR NO. 872: Yes.

10 MS. BLUTH: Can you think of reasons why someone  
11 would not report a crime immediately?

12 PROSPECTIVE JUROR NO. 872: Well, in regards to the  
13 stolen wallet, I mean, if I saw somebody take it, I'd report  
14 it. If it's missing from my car, I might want to investigate  
15 a little on my own to see if I misplaced it before I waste  
16 anybody's time.

17 MS. BLUTH: What about crimes of a more personal  
18 nature? Crimes that, you know, affect your -- your person,  
19 someone does something wrong to you?

20 PROSPECTIVE JUROR NO. 872: If it's somebody that I  
21 know, like a family member or like a friend --

22 MS. BLUTH: Uh-huh.

23 PROSPECTIVE JUROR NO. 872: -- it would really  
24 depend on the situation. If it's done out of anger or spit,  
25 you know, maybe it could be resolved on your own. But if I

1 felt that I was in danger, then I'd have to report right away.

2 MS. BLUTH: Can you think of situations or crimes  
3 committed against someone where they're embarrassed or maybe  
4 ashamed to talk about it?

5 PROSPECTIVE JUROR NO. 872: Yeah, I think a lot of  
6 relationships and domestic violence is probably seen a lot.

7 MS. BLUTH: Okay. What about the question that Mr.  
8 Maningo asked yesterday that you raised your hand for in  
9 regards to the media affecting your memory?

10 PROSPECTIVE JUROR NO. 872: Yeah, if I met somebody  
11 at a park --

12 MS. BLUTH: Okay.

13 PROSPECTIVE JUROR NO. 872: -- and it was just like  
14 a normal conversation and I didn't suspect anything, and then  
15 on the news I saw that they were a murderer, then I don't  
16 think it would affect the way I remembered the person, but our  
17 next meeting definitely.

18 MS. BLUTH: So you would take it into account --

19 PROSPECTIVE JUROR NO. 872: Yes.

20 MS. BLUTH: -- maybe in future meetings?

21 PROSPECTIVE JUROR NO. 872: Yes.

22 MS. BLUTH: But you're saying that you don't believe  
23 it would affect the way you recalled when you met that  
24 individual, is that --

25 PROSPECTIVE JUROR NO. 872: No.

1 MS. BLUTH: -- a fair, accurate -- am I saying it  
2 right?

3 PROSPECTIVE JUROR NO. 872: Yes.

4 MS. BLUTH: Okay.

5 PROSPECTIVE JUROR NO. 872: Uh-huh.

6 MS. BLUTH: Let's see here. Have you ever known  
7 anyone that was sexually assaulted?

8 PROSPECTIVE JUROR NO. 872: I've had ex-girlfriends  
9 tell me --

10 MS. BLUTH: Okay.

11 PROSPECTIVE JUROR NO. 872: -- that when they were  
12 like in their teenage years, but, you know, they never  
13 reported it. And a part of me thought that it was for  
14 attention because the stories would change often.

15 MS. BLUTH: So this happened with multiple  
16 ex-girlfriends?

17 PROSPECTIVE JUROR NO. 872: Two of them.

18 MS. BLUTH: Two of them. Okay. So the first  
19 ex-girlfriend that told you that.

20 PROSPECTIVE JUROR NO. 872: Yeah.

21 MS. BLUTH: She did not -- did you think both of  
22 them were --

23 PROSPECTIVE JUROR NO. 872: I think so.

24 MS. BLUTH: You think both of them were making it  
25 up. And why is it that you think they were making it up? I

1 know you said for attention, but could you elaborate a little  
2 bit more? I mean, why would they need attention from you?

3 PROSPECTIVE JUROR NO. 872: It's basically, I guess,  
4 a lot of their decision making and the way they were toward  
5 other people. They would bring up the situation a lot. And  
6 the story, like I said, would always change.

7 MS. BLUTH: Uh-huh.

8 PROSPECTIVE JUROR NO. 872: So when they'd say they  
9 were upset or nervous about something, they would bring up the  
10 story and it would be different every time. So it just made  
11 me believe that they were trying to find something else to  
12 point as the problem as opposed to themselves.

13 MS. BLUTH: Okay. And did you ever have a  
14 conversation with either of them on why they didn't let anyone  
15 know when this had happened to them?

16 PROSPECTIVE JUROR NO. 872: Yeah.

17 MS. BLUTH: And what was the reasoning?

18 PROSPECTIVE JUROR NO. 872: It was fear and  
19 embarrassment, not wanting family or parents to find out or --

20 MS. BLUTH: Okay. When you were working as the  
21 counselor for the American Cancer Society, would you field  
22 telephone calls all day from individuals that were trying  
23 to --

24 PROSPECTIVE JUROR NO. 872: Yes.

25 MS. BLUTH: -- quit smoking?

1 PROSPECTIVE JUROR NO. 872: Either that or they're  
2 trying to get some sort of help finding a cancer care, looking  
3 for patches, or nicotine gum.

4 MS. BLUTH: And how long did you -- were you in that  
5 position?

6 PROSPECTIVE JUROR NO. 872: About two and a half  
7 years.

8 MS. BLUTH: Two and a half years.

9 PROSPECTIVE JUROR NO. 872: Uh-huh.

10 MS. BLUTH: Was there ever an individual that  
11 continuously called you throughout --

12 PROSPECTIVE JUROR NO. 872: Yes.

13 MS. BLUTH: -- that time period? So there were some  
14 individuals that you helped throughout the two and a half  
15 years?

16 PROSPECTIVE JUROR NO. 872: Yeah. Like we would  
17 have some people call that were -- because we give them the  
18 option to call us anytime they have a craving, and some  
19 people's cravings got to the point where they wanted to commit  
20 suicide, so they'd be on the phone for a very long time.

21 MS. BLUTH: Did you receive any type of training or  
22 education in order to hold that position?

23 PROSPECTIVE JUROR NO. 872: Yes, there's a training  
24 that they would have. There was like an eight-week long  
25 program.

1 MS. BLUTH: And what type of things did they train  
2 you on?

3 PROSPECTIVE JUROR NO. 872: Basically we would have  
4 a small script to read from to give us ideas on ways to help  
5 them deal with their cravings. We'd have to ask them how many  
6 cigarettes they smoked a day, what medications they're on, how  
7 soon after they wake up they start smoking, and then based off  
8 of that we had different methods that we could suggest to  
9 them.

10 MS. BLUTH: So just to be clear, these individuals  
11 were solely calling you because of their issues with smoking.  
12 So it wouldn't be like someone who was dealing with a  
13 different type of cancer. It was --

14 PROSPECTIVE JUROR NO. 872: It was anything smoking  
15 related.

16 MS. BLUTH: Anything smoking related.

17 PROSPECTIVE JUROR NO. 872: Uh-huh.

18 MS. BLUTH: So since you have been employed, you  
19 know, besides looking for other forms of employment, like what  
20 does your normal day look like? What do you do in a day?

21 PROSPECTIVE JUROR NO. 872: Usually I work on my  
22 portfolio.

23 MS. BLUTH: Okay.

24 PROSPECTIVE JUROR NO. 872: Try and get, you know,  
25 some art pieces done throughout the week. And then I go on

1    Craigslislist and other websites to look at graphic design  
2    positions in hopes of trying to get back to like a gaming  
3    industry again.  Because my last job I worked for a print  
4    company in the Galleria Mall, and they didn't really pay you  
5    for being a graphic designer.  It was more like just customer  
6    service.  We did graphic design, but we never actually got  
7    paid for artwork.  It was for just being there.  So I'd like  
8    to find something that was more like my old job where we were  
9    on a salary and, you know, any type of art we did have we  
10   could patent it and then, you know, sell it out to websites  
11   that used clip art or whatever --

12            MS. BLUTH:  Okay.

13            PROSPECTIVE JUROR NO. 872:  -- and we got to keep  
14   the art for ourselves.

15            MS. BLUTH:  Okay.  And then lastly you raised your  
16   hand yesterday in regards to the DNA fingerprint question that  
17   you've heard me go over --

18            PROSPECTIVE JUROR NO. 872:  Yes.

19            MS. BLUTH:  -- with the previous jurors.  Now that  
20   you've listened, you know, to other people's answers and  
21   you've been here for a day, do you still need those types of  
22   things?

23            PROSPECTIVE JUROR NO. 872:  I feel like it is very  
24   important to me to be able to see the evidence.  I guess if it  
25   -- if it just wasn't there and then, you know, the case ended,

1 I might have some underlying thoughts in the back of my mind  
2 that, now, did somebody innocent go to jail or, you know, vice  
3 versa.

4 MS. BLUTH: So before we had things like we have in  
5 modern day technology and people were raped, what -- do you  
6 think all of those people should have just walked?

7 PROSPECTIVE JUROR NO. 872: No. I just -- like I  
8 said, it's a big deciding factor, but I would still have some  
9 type of thought at the end of the case. You know, because if  
10 there isn't a testimony and I only got to hear one side, I  
11 know that the system has been set up for a long time and if it  
12 was flawed, you know, it would be fixed. I mean, there's  
13 enough people involved in it. But I am still one of those  
14 people that would like to see the evidence.

15 MS. BLUTH: Sure. If -- if you're a juror on a case  
16 and a case doesn't have those things you want, DNA,  
17 fingerprints, can you not be fair, then? I mean, do you need  
18 that, or can you still be a fair and impartial juror if you're  
19 not presented with that?

20 PROSPECTIVE JUROR NO. 872: It's -- it's hard to  
21 decide now because I barely really know details about the case  
22 at all. I mean, maybe listening to a few witnesses and  
23 hearing their stories and being able to try and puzzle things  
24 together would be able to help me make a decision. But right  
25 now, knowing that maybe there's not any of that, I probably

1 wouldn't be able to.

2 MS. BLUTH: You probably wouldn't be able to what?

3 PROSPECTIVE JUROR NO. 872: To, I guess, be fair.

4 MS. BLUTH: Okay. So you -- as you sit here right  
5 now, you're not sure whether or not you can be fair?

6 PROSPECTIVE JUROR NO. 872: As far as the evidence,  
7 yes.

8 MS. BLUTH: Your Honor, I'd make a motion at this  
9 point.

10 THE COURT: Traverse?

11 MS. BLUTH: Thank you, Mr. McCoy.

12 MR. MANINGO: Yes, please.

13 Mr. McCoy, just on the subject of whether or not you  
14 could be fair, the prosecution was asking you some questions  
15 about what kind of evidence would you need --

16 PROSPECTIVE JUROR NO. 872: Yes.

17 MR. MANINGO: -- and would you be able to treat it  
18 fairly.

19 PROSPECTIVE JUROR NO. 872: Uh-huh.

20 MR. MANINGO: And you stated that one of your  
21 concerns was so that, you know, did an innocent man go to  
22 jail.

23 PROSPECTIVE JUROR NO. 872: Yes.

24 MR. MANINGO: Okay. So you would take it very  
25 seriously.

1 PROSPECTIVE JUROR NO. 872: I would.

2 MR. MANINGO: And if the Court gave you the  
3 instructions and the rules and told you that you are to listen  
4 to the evidence, the testimony, and that whatever is given,  
5 that's -- that's it, that's the case, and then you must decide  
6 in your own mind if that is proof beyond a reasonable doubt.  
7 Can you do that?

8 PROSPECTIVE JUROR NO. 872: I could.

9 MR. MANINGO: Okay. Could you -- would you be  
10 willing to be fair to the prosecution and listen to their  
11 evidence and what they have?

12 PROSPECTIVE JUROR NO. 872: Yes.

13 MR. MANINGO: Okay.

14 I don't know if the Court would like to follow up on  
15 that.

16 THE COURT: Thank you, Mr. Maningo. Will you be  
17 able to follow the instructions if, you know, the instructions  
18 indicate to you that you can make a decision based upon a  
19 testimony of -- of witnesses without forensic evidence, would  
20 you be able to do that, or are you saying that unless there is  
21 forensic evidence in every case, then I can't -- I just can't  
22 decide? I mean, there are many cases where there is not  
23 forensic evidence, all types of cases. It's just based upon  
24 the testimony of witnesses. Are you saying you can't evaluate  
25 the testimony of witnesses?

1 PROSPECTIVE JUROR NO. 872: I could. I could with  
2 the witnesses. But like I said, I would still be  
3 uncomfortable with the final decision not having any evidence.

4 THE COURT: Okay. So -- so you're --

5 PROSPECTIVE JUROR NO. 872: Yeah.

6 THE COURT: -- you're saying that you can't weigh  
7 the evidence equally because the testimony of witnesses is  
8 evidence. So you must have a certain type of evidence --

9 PROSPECTIVE JUROR NO. 872: Yes.

10 THE COURT: -- in order to make a decision. Is that  
11 what it is?

12 PROSPECTIVE JUROR NO. 872: Yeah.

13 THE COURT: And if it's not present you can't make  
14 the decision?

15 PROSPECTIVE JUROR NO. 872: Yes.

16 THE COURT: Do you want to ask any additional  
17 questions as a result of my questions?

18 MR. MANINGO: Yes. I don't know if --

19 MS. BLUTH: I mean, my motion is renewed, but I  
20 don't have any additional questions.

21 MR. MANINGO: Okay. Okay.

22 I'm not going to try and run you around --

23 PROSPECTIVE JUROR NO. 872: Okay.

24 MR. MANINGO: -- in too big of a circle here.

25 PROSPECTIVE JUROR NO. 872: That's fine.

1 MR. MANINGO: Obviously, if there's not enough  
2 evidence where you feel like it's -- there's a reasonable  
3 doubt, then you would come back as saying not guilty; right?  
4 I mean, if you felt like there wasn't enough evidence.

5 PROSPECTIVE JUROR NO. 872: Yes.

6 MR. MANINGO: Okay. But the evidence, it can be  
7 testimony, just witnesses speaking --

8 PROSPECTIVE JUROR NO. 872: Uh-huh.

9 MR. MANINGO: -- or it could be pictures, it could  
10 be a number of different things. You understand that?

11 PROSPECTIVE JUROR NO. 872: Yeah.

12 MR. MANINGO: Okay. And my example that I gave  
13 yesterday of someone taking your wallet --

14 PROSPECTIVE JUROR NO. 872: Uh-huh.

15 MR. MANINGO: -- if someone took your wallet, is  
16 there -- you know, there may not be physical evidence,  
17 especially if you never find a wallet. It's just your  
18 testimony.

19 PROSPECTIVE JUROR NO. 872: Yeah.

20 MR. MANINGO: And that would be enough for you;  
21 right?

22 PROSPECTIVE JUROR NO. 872: Yeah. Yeah. I mean,  
23 that's all I have, so --

24 MR. MANINGO: Right. And so if that's the situation  
25 with the prosecution in this case, are you willing to at least

1 listen and -- and give them -- be fair and impartial to them  
2 and -- and see what kind of evidence they have?

3 PROSPECTIVE JUROR NO. 872: Yeah. Like I said, I'll  
4 listen and, you know, I'll listen to the testimonies.

5 MR. MANINGO: Okay. And then you'll be asked to  
6 judge the witnesses as to whether or not you believe them and  
7 their credibility.

8 PROSPECTIVE JUROR NO. 872: Uh-huh.

9 MR. MANINGO: And you feel like you could do that?

10 PROSPECTIVE JUROR NO. 872: Yes.

11 MR. MANINGO: And you could do that fairly?

12 PROSPECTIVE JUROR NO. 872: Yes.

13 MR. MANINGO: Okay.

14 THE COURT: Let me expand on the wallet example. So  
15 if it wasn't your wallet, say it was another person's wallet  
16 that was taken and that was -- that was it, the testimony is  
17 presented, this person took my wallet, and that's the only  
18 testimony. There were no fingerprints, there was no DNA,  
19 there was no -- you know, that type of scientific evidence.  
20 Are you saying that you could not make a decision in that  
21 case?

22 PROSPECTIVE JUROR NO. 872: If it's -- like I said,  
23 if it's just words, like I said, it's just somebody saw  
24 somebody else take it, if their story stayed up and another  
25 person's story was very similar, then that would be enough for

1 me.

2 THE COURT: Okay. So you could weight testimony of  
3 witnesses, even if there's not scientific evidence such as DNA  
4 or fingerprint evidence or that type of stuff that you see on  
5 these crime type shows --

6 PROSPECTIVE JUROR NO. 872: Uh-huh.

7 THE COURT: -- many of which are, you know, some of  
8 that is not even real. You understand that; right?

9 PROSPECTIVE JUROR NO. 872: Yeah.

10 THE COURT: Okay. So will you be able to listen to  
11 the testimony of witnesses, weigh their testimony, and make a  
12 decision based on that?

13 PROSPECTIVE JUROR NO. 872: I believe so.

14 THE COURT: All right. The challenge is denied for  
15 cause.

16 Thank you. If you'd pass the microphone over. How  
17 is everybody doing? It's 2:30. Anybody need a restroom  
18 break? Did I see a hand? Counsel? Anybody? Okay. You  
19 count, too. All right. So we're going to take a ten minutes  
20 break.

21 Ladies and gentlemen, during this recess it is your  
22 duty not to converse among yourselves or with anyone else on  
23 any subject connected with the trial, or to read, watch, or  
24 listen to any report of or commentary on the trial by an  
25 person connected with the trial or by any medium of

1 information, including, without limitation, newspaper,  
2 television, radio, or Internet, and you are not to form or  
3 express an opinion on any subject connected with this case  
4 until it is finally submitted to you.

5 We will be in recess for ten minutes, so 2:41.

6 (Prospective jury panel recessed at 2:31 p.m.)

7 THE COURT: The record will reflect we're outside  
8 the presence of the venire. Any matters outside the presence  
9 before we take our break.

10 MS. BLUTH: Not on behalf of the State, Your Honor.

11 MR. MANINGO: No, Your Honor. Thank you.

12 THE COURT: All right. We're in recess for ten  
13 minutes.

14 (Court recessed at 2:32 p.m., until 2:44 p.m.)

15 (Inside the presence of the prospective jury panel)

16 THE COURT: Please be seated. The record will  
17 reflect we're back within the presence of the venire, the  
18 defendant is present with his counsel, the Deputies District  
19 Attorney prosecuting the case are present, as are all officers  
20 of the court.

21 Will counsel so stipulate?

22 MS. BLUTH: Yes, Your Honor.

23 MR. MANINGO: Yes, Your Honor.

24 THE COURT: Thank you. And we are now with, let's  
25 see, Mr. Norris; is that correct?

1 PROSPECTIVE JUROR NO. 797: Yes, hello.

2 THE COURT: Mr. Norris, have you ever been the  
3 victim of a crime?

4 PROSPECTIVE JUROR NO. 797: Nothing serious, just  
5 having a car broken into.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 797: Never reported it.

8 THE COURT: Never reported it?

9 PROSPECTIVE JUROR NO. 797: No, ma'am.

10 THE COURT: How come you didn't report it?

11 PROSPECTIVE JUROR NO. 797: Nothing major was  
12 stolen, just a couple tools, jumper cables --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 797: -- that's about it.

15 THE COURT: All right. What about anyone in your  
16 family or anyone you're close to have been the victim of what  
17 you'd consider a serious crime or a violent crime?

18 PROSPECTIVE JUROR NO. 797: No, ma'am.

19 THE COURT: Have you ever been accused of a crime?

20 PROSPECTIVE JUROR NO. 797: No, ma'am.

21 THE COURT: Anyone in your family or closely  
22 associated with you accused of a crime?

23 PROSPECTIVE JUROR NO. 797: No.

24 THE COURT: Ever been involved in law enforcement?

25 PROSPECTIVE JUROR NO. 797: No.

1 THE COURT: Have any moral or religious beliefs that  
2 keep you from being able to sit in judgment on another person?

3 PROSPECTIVE JUROR NO. 797: I do not.

4 THE COURT: Do you feel that you could be fair and  
5 impartial on this case?

6 PROSPECTIVE JUROR NO. 797: Yes, I believe so.

7 THE COURT: Do you have any medical training or  
8 background?

9 PROSPECTIVE JUROR NO. 797: No, ma'am.

10 THE COURT: Okay. Tell us about yourself.

11 PROSPECTIVE JUROR NO. 797: I'm 35 years old. I've  
12 been here in Las Vegas for 30 years. I'm married, coming up  
13 on eight years married. My wife, she works for U.S. Bank.  
14 Myself, I'm working as a bartender right now. I've been doing  
15 that for about a year. I am working the graveyard shift right  
16 now.

17 THE COURT: Before you were a bartender, what did  
18 you do?

19 PROSPECTIVE JUROR NO. 797: I was an equipment  
20 operator, union equipment operator.

21 THE COURT: Like heavy --

22 PROSPECTIVE JUROR NO. 797: Yes, ma'am.

23 THE COURT: -- big heavy equipment?

24 PROSPECTIVE JUROR NO. 797: Yes, ma'am.

25 THE COURT: And did you do that as part of the

1 construction here in town?

2 PROSPECTIVE JUROR NO. 797: Yes, actually, rock,  
3 sand, and gravel.

4 THE COURT: So working in one of those big rock --

5 PROSPECTIVE JUROR NO. 797: I ran a --

6 THE COURT: -- gravel pits?

7 PROSPECTIVE JUROR NO. 797: Yeah.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 797: Ran plants, frontend  
10 loader, stuff like that.

11 THE COURT: And so when the construction industry  
12 kind of fell off the cliff there, did that also slow down?

13 PROSPECTIVE JUROR NO. 797: Yeah, I was laid off for  
14 about seven months.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 797: And just kind of fell  
17 into this, and trying to -- trying to look for something else  
18 I'd like to do. I don't think I want to go back to that, but  
19 it might happen.

20 THE COURT: How do you like bartending?

21 PROSPECTIVE JUROR NO. 797: It's fun. The hours are  
22 kind of tough right now, but, you know, I enjoy being around  
23 people and, you know, I get regular customers in and, you  
24 know, kind of make friendships. And, you know, sometimes it  
25 doesn't even seem like a job.

1 THE COURT: Do you work in a large place, large  
2 employer, or for a small local place?

3 PROSPECTIVE JUROR NO. 797: Well, yeah, large  
4 employer, Dotty's, but we have several locations so I've got  
5 my own stores.

6 THE COURT: Are you trying to work while you're  
7 serving as a juror?

8 PROSPECTIVE JUROR NO. 797: That would be the plan  
9 because I can't afford to miss work. And I didn't want to  
10 bring it up yesterday because I just didn't see it as a -- I  
11 didn't want to make it as a major excuse to why I couldn't do  
12 this. I feel this is an important process. So, I mean, I  
13 would be willing to try it, but if it's -- in your eyes it  
14 would not work, I would understand that, also

15 THE COURT: What -- what hours do you work?

16 PROSPECTIVE JUROR NO. 797: Midnight to 8:30.

17 THE COURT: Okay. So basically you'd be -- you  
18 wouldn't get out of court until 5:00 --

19 PROSPECTIVE JUROR NO. 797: Yes, ma'am.

20 THE COURT: -- in the evening and you might not get  
21 home until --

22 PROSPECTIVE JUROR NO. 797: Last night I got home at  
23 7:00.

24 THE COURT: 7:00. So that leaves you only five  
25 hours of the day where you would be able to sleep.

1 PROSPECTIVE JUROR NO. 797: Try to, yeah.

2 THE COURT: Yeah. That's not going to work.

3 PROSPECTIVE JUROR NO. 797: I understand.

4 THE COURT: I mean, I'm sure that the trial will be  
5 interesting, but --

6 PROSPECTIVE JUROR NO. 797: That's kind of what I  
7 was thinking.

8 THE COURT: -- unless people can't -- I mean, that's  
9 assuming you do nothing else. Like you couldn't -- you  
10 wouldn't have any time to eat during those five hours.

11 PROSPECTIVE JUROR NO. 797: I like to do that.

12 THE COURT: You'd have to sleep. I just don't see  
13 how you could --

14 PROSPECTIVE JUROR NO. 797: No, I understand.

15 THE COURT: -- do that and be attentive.

16 Counsel have any problem with excusing this  
17 gentleman?

18 MR. MANINGO: No objection.

19 MS. BLUTH: No objection.

20 THE COURT: Thank you. Thank you very much.

21 PROSPECTIVE JUROR NO. 797: Thank you. Sorry to  
22 waste your time with it.

23 THE COURT: That's all right.

24 Call the next number.

25 THE CLERK: Badge 945, James Kennedy.

1 THE COURT: Mr. Kennedy. Welcome to Seat 9.

2 PROSPECTIVE JUROR NO. 945: Thank you.

3 THE COURT: Have you ever been the victim of a  
4 crime, sir?

5 PROSPECTIVE JUROR NO. 945: Not serious. I've had a  
6 couple of vehicles stolen out of my driveway, that sort of  
7 thing.

8 THE COURT: Okay. Recently?

9 PROSPECTIVE JUROR NO. 945: No, not recently. It's  
10 been about three or four years since the last incident.

11 THE COURT: Was it here in Clark County?

12 PROSPECTIVE JUROR NO. 945: It was.

13 THE COURT: Did they recover your vehicles?

14 PROSPECTIVE JUROR NO. 945: They did.

15 THE COURT: That's good.

16 PROSPECTIVE JUROR NO. 945: Five days after I got  
17 paid for it.

18 THE COURT: Five days after you got paid for it?

19 PROSPECTIVE JUROR NO. 945: Yeah.

20 THE COURT: Okay. So it's like 35 days or -- it was  
21 quite awhile.

22 PROSPECTIVE JUROR NO. 945: I waited a little while  
23 because I had a feeling. My feeling was wrong, but I was  
24 hoping it would be found, and I finally said it must be burned  
25 up somewhere. So I turned it in and got paid, and then they

1 found my truck.

2 THE COURT: All right. So did you feel that the  
3 police did an adequate job in trying to find your truck or  
4 solve the crime?

5 PROSPECTIVE JUROR NO. 945: Oh, yes. Yes. I mean,  
6 I know that manpower is an issue in one truck, you know, but  
7 they did everything they could, came to the house and took a  
8 bunch of statements and looked around and did all of that  
9 stuff. So, yeah, I was pleased with what they did.

10 THE COURT: So besides those incidents, you've never  
11 been the victim of a serious crime?

12 PROSPECTIVE JUROR NO. 945: No.

13 THE COURT: And how about anyone in your family or  
14 closely associated with you been the victim of a serious  
15 crime?

16 PROSPECTIVE JUROR NO. 945: A close friend of my  
17 wife's got mugged and kind of beat up pretty badly, but other  
18 than that, you know, I don't know what the instance was, what  
19 happened, if they ever found him or anything, I doubt it.  
20 But, no, nothing -- nothing like that.

21 THE COURT: Okay. You just heard about it and  
22 that's all?

23 PROSPECTIVE JUROR NO. 945: Right. Saw pictures of  
24 the scars and stuff.

25 THE COURT: How about have you ever been accused of

1 a crime?

2 PROSPECTIVE JUROR NO. 945: No.

3 THE COURT: Have you -- anyone in your family or  
4 closely associated with you been accused of a crime?

5 PROSPECTIVE JUROR NO. 945: My nephew did a little  
6 bit of jail time for drug issues, but nothing -- nothing  
7 closer than that.

8 THE COURT: Do you feel that your nephews were  
9 treated fairly by the justice system?

10 PROSPECTIVE JUROR NO. 945: Yes. Yes.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 945: Too fairly.

13 THE COURT: And do you have any moral or religious  
14 beliefs that make it -- would make it difficult of you to sit  
15 in judgment on another person?

16 PROSPECTIVE JUROR NO. 945: No, not at all.

17 THE COURT: Do you have any quarrel with our system  
18 of justice where we have a presumption of innocence?

19 PROSPECTIVE JUROR NO. 945: No. No.

20 THE COURT: So you agree with that?

21 PROSPECTIVE JUROR NO. 945: Absolutely, I agree with  
22 it.

23 THE COURT: So you understand it's the State's  
24 burden of proof to prove the case beyond a reasonable doubt?

25 PROSPECTIVE JUROR NO. 945: Yes.

1 THE COURT: The defendant is not required to put on  
2 any evidence?

3 PROSPECTIVE JUROR NO. 945: Nor should he be.

4 THE COURT: Okay. And if the defendant did not  
5 testify, would you hold that against him?

6 PROSPECTIVE JUROR NO. 945: No, I would not.

7 THE COURT: Okay. Tell us about yourself.

8 PROSPECTIVE JUROR NO. 945: I'm 46 years old,  
9 married with two kids, a son 11, daughter 10. I actually seem  
10 to be in a similar situation as the gentleman sitting here  
11 previously. As far as work, I have two jobs, one of which  
12 will be happening again. I'm on furlough. It's going to be  
13 graveyard, which is 9:00 to 5:30. Then the other job is a day  
14 job. I'm in the engineering department of the Smith Center.  
15 And I just found out last night they only pay for three days  
16 of jury duty, so that's kind of a financial burden, as well.  
17 But I've been here since 6th grade. I was in the Navy for  
18 four years. I love Vegas. I love this. I'm just a happy Las  
19 Vegas resident, heat and all.

20 THE COURT: And what did you do in the Navy?

21 PROSPECTIVE JUROR NO. 945: I was a nuclear  
22 electronics technician.

23 THE COURT: Now, so tell me about this graveyard  
24 job. You said you were furloughed, but now you're going back?

25 PROSPECTIVE JUROR NO. 945: I'm going back. I --

1 finding out how long this was going to be, I made some calls  
2 to find out about my Smith Center job and also for future  
3 holds for my furlough job being a Union electrician. And they  
4 notified me that within a week or two I'd be getting a call to  
5 continue work as starting again kind of thing.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 945: So my financial position  
8 just kind of requires me I take that work when I can get it.

9 THE COURT: And so would that -- when they call you  
10 for that electrician work, would that be a permanent job or  
11 just --

12 PROSPECTIVE JUROR NO. 945: As permanent as that --  
13 as long as that job lasts. They can last a couple of months  
14 or what have you.

15 THE COURT: Okay. So throughout this trial, and  
16 you're going to try and work at night because --

17 PROSPECTIVE JUROR NO. 945: I would need to just --

18 THE COURT: Smith Center is not going to pay you for  
19 the day time?

20 PROSPECTIVE JUROR NO. 945: Right.

21 THE COURT: I see. Okay.

22 PROSPECTIVE JUROR NO. 945: I would need to. Just  
23 the money can't --

24 THE COURT: That's a problem. You have -- are you  
25 the support for your family? You said your wife --

1 PROSPECTIVE JUROR NO. 945: I am the main support.  
2 My wife is a realtor and her income is very sporadic.

3 THE COURT: Counsel?

4 MR. MANINGO: No objection to excusing Mr. Kennedy.

5 MS. BLUTH: No objection, Your Honor.

6 THE COURT: Thank you very much.

7 PROSPECTIVE JUROR NO. 945: Thank you.

8 THE COURT: Call the next in order.

9 THE CLERK: Badge 958, Michelle Marquez.

10 THE COURT: Ms. Marquez, good afternoon.

11 PROSPECTIVE JUROR NO. 958: Hello.

12 THE COURT: Have you ever been the victim of a  
13 crime?

14 PROSPECTIVE JUROR NO. 958: Just, you know, car  
15 stolen. Nothing major, I guess.

16 THE COURT: Was that here in Clark County?

17 PROSPECTIVE JUROR NO. 958: Yes.

18 THE COURT: And did you feel like law enforcement  
19 did what they could to solve the crime?

20 PROSPECTIVE JUROR NO. 958: Yeah.

21 THE COURT: So you have no bad feelings about that?

22 PROSPECTIVE JUROR NO. 958: No.

23 THE COURT: Do you think that would affect your  
24 ability to be fair and impartial in this case?

25 PROSPECTIVE JUROR NO. 958: No.

1 THE COURT: Anyone in your family or closely  
2 associated with you that's been the victim of a serious  
3 violent type crime at all?

4 PROSPECTIVE JUROR NO. 958: No.

5 THE COURT: Okay. Specifically, of course, sexual  
6 assault or rape?

7 PROSPECTIVE JUROR NO. 958: No.

8 THE COURT: Okay. And how about have you ever been  
9 accused of a crime?

10 PROSPECTIVE JUROR NO. 958: No.

11 THE COURT: Anyone in your family or closely  
12 associated with you been accused of a crime?

13 PROSPECTIVE JUROR NO. 958: My uncle is in jail for  
14 murder, but, I mean --

15 THE COURT: Okay. That's pretty serious.

16 PROSPECTIVE JUROR NO. 958: Yeah.

17 THE COURT: Was that here in Clark County?

18 PROSPECTIVE JUROR NO. 958: No, it's in New Mexico.

19 THE COURT: New Mexico. And how long ago did that  
20 happen?

21 PROSPECTIVE JUROR NO. 958: Early 2000.

22 THE COURT: So did you go and -- you know, do you  
23 know anything about the details of the case at all?

24 PROSPECTIVE JUROR NO. 958: Yes.

25 THE COURT: Did you go observe the court

1 proceedings?

2 PROSPECTIVE JUROR NO. 958: It's still going through  
3 court.

4 THE COURT: Oh, okay.

5 PROSPECTIVE JUROR NO. 958: Yeah.

6 THE COURT: So he's just been charged, but there's  
7 been no trial?

8 PROSPECTIVE JUROR NO. 958: No.

9 THE COURT: Okay. Have you formed any opinions on  
10 the fairness of the legal system surrounding that, surrounding  
11 your uncle's charge?

12 PROSPECTIVE JUROR NO. 958: Like you mean like bad  
13 opinions or --

14 THE COURT: Yeah, or positive. Do you feel like  
15 things are being -- he's being treated fairly as far as you  
16 know?

17 PROSPECTIVE JUROR NO. 958: As far as I know, yeah.

18 THE COURT: And he's -- he's charged, obviously,  
19 with murder. Was there any -- any other crimes that he's  
20 charged with to your knowledge?

21 PROSPECTIVE JUROR NO. 958: To my knowledge, no.

22 THE COURT: Okay. Is there anything about the fact  
23 that that's happening now that would make it where it would  
24 impact your ability to be fair and impartial in this case?

25 PROSPECTIVE JUROR NO. 958: Oh, no. No.

1 THE COURT: Okay. Are you close to that uncle?

2 PROSPECTIVE JUROR NO. 958: When I was younger I  
3 was.

4 THE COURT: When was the last time that you spent  
5 any time with him?

6 PROSPECTIVE JUROR NO. 958: In the '90s. I haven't  
7 seen him since.

8 THE COURT: Do you have any religious or moral  
9 beliefs that would cause you to be unable --

10 PROSPECTIVE JUROR NO. 958: No.

11 THE COURT: -- to sit in judgment on another person?

12 PROSPECTIVE JUROR NO. 958: No.

13 THE COURT: Okay. And do you have any quarrel with  
14 the presumption of innocence?

15 PROSPECTIVE JUROR NO. 958: No.

16 THE COURT: Would you feel that the -- a defendant  
17 really needs to present some evidence or testify before you  
18 could find a defendant not guilty, or would you make the State  
19 meet its burden?

20 PROSPECTIVE JUROR NO. 958: I don't want to be  
21 difficult like other people have been. Personally --

22 THE COURT: I don't think anyone has been difficult.  
23 They've just been truthful.

24 PROSPECTIVE JUROR NO. 958: I would think --  
25 personal opinion wise, I would think that they would want to

1 go on the stand. But I do understand and I, you know, will go  
2 through the evidence and everything like that. And I  
3 understand that they don't have to and stuff, and I don't  
4 think that that would affect my decision.

5 THE COURT: So you could -- you could envision  
6 reasons why someone might not want to take the stand?

7 PROSPECTIVE JUROR NO. 958: That they don't -- that  
8 they wouldn't want to?

9 THE COURT: Yeah, aside from -- you know, can you  
10 envision any scenario where an innocent person would not want  
11 to take the stand?

12 PROSPECTIVE JUROR NO. 958: Yeah.

13 THE COURT: What would those be?

14 PROSPECTIVE JUROR NO. 958: Probably just that they  
15 don't see a reason that they would have to, you know, fight  
16 for their innocence or -- or that they're not good in, I  
17 guess, in public speaking, you know, that they might think  
18 that their -- that their views or how they act might be not  
19 perceived correctly.

20 THE COURT: Okay. Tell us about yourself.

21 PROSPECTIVE JUROR NO. 958: I'm sorry. I'm nervous.

22 THE COURT: That's all right. Don't be nervous.

23 PROSPECTIVE JUROR NO. 958: I'm from New Mexico. I  
24 moved here after I graduated college. I'm married, no  
25 children. I work at the airport. I'm an accountant. And

1 that's pretty much it.

2 THE COURT: Okay. And does your husband work?

3 PROSPECTIVE JUROR NO. 958: Yes. He works at the  
4 airport, as well.

5 THE COURT: What does he do there?

6 PROSPECTIVE JUROR NO. 958: Line service.

7 THE COURT: Okay. So -- and that's McCarran? We  
8 have several airports, so that's why I ask.

9 PROSPECTIVE JUROR NO. 958: Yeah, we're on McCarran  
10 Airfield, but it's the general aviation.

11 THE COURT: Okay. So he's a line -- so he's  
12 refueling the private jets --

13 PROSPECTIVE JUROR NO. 958: Yes.

14 THE COURT: -- and planes that come in privately as  
15 opposed to airlines?

16 PROSPECTIVE JUROR NO. 958: Yes.

17 THE COURT: Okay. Very good. Let's see. Anything  
18 that we've asked other jurors and you thought, oh, I need to  
19 bring this up when it's my turn?

20 PROSPECTIVE JUROR NO. 958: No.

21 THE COURT: Okay. Any reason you feel you could not  
22 be fair and impartial in this case?

23 PROSPECTIVE JUROR NO. 958: No.

24 THE COURT: Would State like to inquire further?

25 MS. BLUTH: Yes, Your Honor.

1 Ms. Marquez, am I saying it correctly?

2 PROSPECTIVE JUROR NO. 958: Yeah. It's close  
3 enough. I can't even say it correctly. I can't roll my Rs,  
4 so --

5 MS. BLUTH: Oh, yeah. I'm not good with that,  
6 either.

7 PROSPECTIVE JUROR NO. 958: Yeah.

8 MS. BLUTH: Okay. The case where your uncle is in  
9 jail, I'm a little confused because you said it happened in  
10 early 2000.

11 PROSPECTIVE JUROR NO. 958: Uh-huh.

12 MS. BLUTH: And he still hasn't gone to trial or he  
13 did go to trial?

14 PROSPECTIVE JUROR NO. 958: No, they're still --  
15 they're seeing if he -- because he wants to represent himself,  
16 but --

17 MS. BLUTH: Okay.

18 THE COURT: -- they're -- they're putting him  
19 through, you know, psychiatric and all that stuff and it keeps  
20 getting kicked back and stuff.

21 MS. BLUTH: Oh, okay. That makes more sense to me.

22 PROSPECTIVE JUROR NO. 958: Yeah.

23 MS. BLUTH: Did you know the victim in that case?

24 PROSPECTIVE JUROR NO. 958: No.

25 MS. BLUTH: In regards to some of the questions that

1 we asked yesterday, but, you know, you weren't able to answer,  
2 are you someone who feels voicing their opinions in front of  
3 other people?

4 PROSPECTIVE JUROR NO. 958: I would say so, yeah.

5 MS. BLUTH: I mean, if you get into a room and let's  
6 say, you know, there's ten people and nine of them disagree  
7 with you, how do you react in that type of a situation?

8 PROSPECTIVE JUROR NO. 958: I think it would depend  
9 on the situation and how, you know, if I believed, you know,  
10 my opinion and, you know, what I thought was --

11 MS. BLUTH: How strongly you felt --

12 PROSPECTIVE JUROR NO. 958: Yeah.

13 MS. BLUTH: -- your position was?

14 PROSPECTIVE JUROR NO. 958: Yeah.

15 MS. BLUTH: Okay. Do you take issue with the fact  
16 that a victim in a criminal case pursues civil avenues, sues  
17 someone civilly?

18 PROSPECTIVE JUROR NO. 958: No.

19 MS. BLUTH: You don't have any issues with that?

20 PROSPECTIVE JUROR NO. 958: Huh-uh.

21 MS. BLUTH: Is that a no?

22 PROSPECTIVE JUROR NO. 958: Oh, no. I'm sorry.

23 MS. BLUTH: That's okay. That's all right. They're  
24 typing down everything that we say. Have you been in a  
25 situation where you felt you were wrong somehow and you didn't

1 say something right away, and then later either did say  
2 something or thought I really wish I would have said  
3 something?

4 PROSPECTIVE JUROR NO. 958: No.

5 MS. BLUTH: You can't think of anything where that's  
6 happened?

7 PROSPECTIVE JUROR NO. 958: No. Huh-uh.

8 MS. BLUTH: Okay. When you received your jury  
9 summons, what was your reaction?

10 PROSPECTIVE JUROR NO. 958: The timing. I'm an  
11 accountant, and so this is our month end. So I'm having to  
12 work, you know, early before we come in, and then I'll have to  
13 go to work after -- after we get out. But I was kind of, you  
14 know, interested.

15 MS. BLUTH: Okay. And then once you came in and you  
16 heard, you know, about the facts of this case, did any of that  
17 bother you in any way?

18 PROSPECTIVE JUROR NO. 958: That it's going to be  
19 four to five weeks.

20 MS. BLUTH: Besides the time?

21 PROSPECTIVE JUROR NO. 958: No.

22 MS. BLUTH: Okay. You heard me ask the question  
23 about, you know, the victim's testimony standing alone, if  
24 believed beyond a reasonable doubt is sufficient to sustain a  
25 conviction, a) do you understand that premise?

1 PROSPECTIVE JUROR NO. 958: Yes.

2 MS. BLUTH: And, b) what are your thought on it?

3 PROSPECTIVE JUROR NO. 958: With just listening to  
4 the victim or -- I don't have any issue with using that as the  
5 evidence.

6 MS. BLUTH: Okay. Are you someone who watches legal  
7 shows, CSA, Law & Order?

8 PROSPECTIVE JUROR NO. 958: Yes.

9 MS. BLUTH: You are? Which ones do you watch?

10 PROSPECTIVE JUROR NO. 958: All of them. That's  
11 pretty much what we watch.

12 MS. BLUTH: Okay. How much of that in a percentage  
13 -- percentage wise, how much of that do you think is real?

14 PROSPECTIVE JUROR NO. 958: Oh, I know they're not  
15 real.

16 MS. BLUTH: Okay. So you don't have -- you don't  
17 think that you have any expectation from watching those shows  
18 that --

19 PROSPECTIVE JUROR NO. 958: No.

20 MS. BLUTH: Okay. Do you have any bumper stickers  
21 on your vehicle?

22 PROSPECTIVE JUROR NO. 958: Yes.

23 MS. BLUTH: And what -- how many and what do they  
24 say?

25 PROSPECTIVE JUROR NO. 958: I was waiting for this

1 one. I do have an Obama sticker. I do -- that I finished the  
2 -- I ran the half marathon here on the strip, so I do have  
3 that sticker.

4 MS. BLUTH: Okay.

5 PROSPECTIVE JUROR NO. 958: A World Wildlife Fund  
6 sticker, and the Sierra Club.

7 MS. BLUTH: The Sierra Club? Did you say Sierra  
8 Club?

9 PROSPECTIVE JUROR NO. 958: Sierra Club, yes.

10 MS. BLUTH: I'm sorry. I don't know what that is.  
11 What is that?

12 PROSPECTIVE JUROR NO. 958: It's, you know, for  
13 protection of animals, basically.

14 MS. BLUTH: Okay. Besides being an accountant or  
15 before being an accountant, did you have any other type of  
16 employment?

17 PROSPECTIVE JUROR NO. 958: No, this was my first  
18 job out of college.

19 MS. BLUTH: And do you have any family members,  
20 friends, acquaintances that have a seizure disorder?

21 PROSPECTIVE JUROR NO. 958: No.

22 MS. BLUTH: Was there any other questions yesterday  
23 that you though I have an answer for that?

24 PROSPECTIVE JUROR NO. 958: No.

25 MS. BLUTH: Like the bumper sticker question.

1 PROSPECTIVE JUROR NO. 958: No, that was the only  
2 one.

3 MS. BLUTH: All right. Thank you.  
4 Pass, Your Honor.

5 THE COURT: Defense.

6 MR. MANINGO: Thank you, Your Honor.  
7 Hello, Ms. Marquez.

8 PROSPECTIVE JUROR NO. 958: Hello.

9 MR. MANINGO: You've landed in the hot seat --

10 PROSPECTIVE JUROR NO. 958: Yes.

11 MR. MANINGO: -- apparently. We've rotated about  
12 four people through. You said a few minutes ago that you  
13 didn't want to be difficult, but -- and let me just say,  
14 you're not being difficult, okay --

15 PROSPECTIVE JUROR NO. 958: Okay.

16 MR. MANINGO: -- when we talk about this. We just  
17 need to know what your real, true feelings are about this  
18 topic, okay. You said that you just feel like that you would  
19 expect the defendant in a trial to testify.

20 PROSPECTIVE JUROR NO. 958: I would think so, yes.

21 MR. MANINGO: Okay. And that's just a belief that  
22 you have?

23 PROSPECTIVE JUROR NO. 958: Yes.

24 MR. MANINGO: And it's a belief you've always had?

25 PROSPECTIVE JUROR NO. 958: Uh-huh. Yes.

1 MR. MANINGO: Okay. And if I told you, well, just  
2 erase that belief from your head, that's not going to do it,  
3 is it?

4 PROSPECTIVE JUROR NO. 958: No, but, I mean, I do  
5 understand the whole process and stuff and I won't, you know,  
6 hold that against him or anything.

7 MR. MANINGO: Okay. But throughout the end of the  
8 trial, let's say the trial ends, are you going to say to  
9 yourself, well, he didn't testify, and start thinking about  
10 that? Is that going to come up in your own mind in your  
11 decision making?

12 PROSPECTIVE JUROR NO. 958: You mean like when the  
13 trial is completely over or when we're deciding?

14 MR. MANINGO: When you're deliberating, when you're  
15 deciding on a verdict.

16 PROSPECTIVE JUROR NO. 958: I wouldn't think so.

17 MR. MANINGO: Okay. You can keep that out of your  
18 head?

19 PROSPECTIVE JUROR NO. 958: I would hope so, yes.

20 MR. MANINGO: Okay. Have you ever been pulled over  
21 for like just a traffic stop?

22 PROSPECTIVE JUROR NO. 958: Yes.

23 MR. MANINGO: Does talking to the police officer,  
24 does it make you nervous?

25 PROSPECTIVE JUROR NO. 958: That's what I mean. I

1 mean, I have it in my head that they should be doing that, but  
2 like me right now, I'm shaking and stuff like that, so I do  
3 understand --

4 MR. MANINGO: Right.

5 PROSPECTIVE JUROR NO. 958: -- you know.

6 MR. MANINGO: Okay. And -- and that's fine. We  
7 just want to get a feeling of where you're at on it.

8 PROSPECTIVE JUROR NO. 958: Yeah.

9 MR. MANINGO: I mean, it's -- you understand that it  
10 could be very nerve wracking. Like --

11 PROSPECTIVE JUROR NO. 958: Oh, yes. Yes, I  
12 understand.

13 MR. MANINGO: And especially when if the trial is  
14 about you, things can be taken out of context.

15 PROSPECTIVE JUROR NO. 958: Yeah.

16 MR. MANINGO: And you know that if they -- if -- if  
17 a defendant takes the stand, they're also subject to  
18 cross-examination by trained professionals.

19 PROSPECTIVE JUROR NO. 958: Yeah.

20 MR. MANINGO: And that things can be misunderstood  
21 or twisted.

22 PROSPECTIVE JUROR NO. 958: Yes.

23 MR. MANINGO: I mean, that's a huge risk, would you  
24 agree?

25 PROSPECTIVE JUROR NO. 958: Oh, yeah, I completely

1 agree.

2 MR. MANINGO: And along those same lines, I mean,  
3 that's the whole reason why we say that the prosecution has to  
4 be able to prove it.

5 PROSPECTIVE JUROR NO. 958: Yeah.

6 MR. MANINGO: Okay. You had said that you -- you  
7 enjoy the legal shows?

8 PROSPECTIVE JUROR NO. 958: Uh-huh. Yes.

9 MR. MANINGO: And that you -- you had also said, I  
10 believe, and correct me if I'm wrong, that just testimony is  
11 okay?

12 PROSPECTIVE JUROR NO. 958: Yes.

13 MR. MANINGO: Okay.

14 PROSPECTIVE JUROR NO. 958: Yeah.

15 MR. MANINGO: Because there are some situations  
16 where that's all there -- there is.

17 PROSPECTIVE JUROR NO. 958: Yeah.

18 MR. MANINGO: Okay. Now, are you also aware of the  
19 -- those situations I spoke about earlier where you hear on  
20 the news where a man is freed from prison after 10, 20, 30  
21 years because DNA shows later that they weren't the person.

22 PROSPECTIVE JUROR NO. 958: Yeah.

23 MR. MANINGO: You've heard of those?

24 PROSPECTIVE JUROR NO. 958: Yeah. Yeah.

25 MR. MANINGO: Okay. So in a situation like this, in

1 a case like this, would you want other things, other types of  
2 evidence to help you make your decision?

3 PROSPECTIVE JUROR NO. 958: I mean, it would be  
4 helpful, but I understand that you can't have it all the time.

5 MR. MANINGO: Sure. Why are you nervous?

6 PROSPECTIVE JUROR NO. 958: I'm not good at public  
7 speaking.

8 MR. MANINGO: That's okay. I do it all the time and  
9 I'm nervous. So is there anything else that you wanted to --  
10 to bring up that you felt was important as to whether or not  
11 you can be fair and impartial?

12 PROSPECTIVE JUROR NO. 958: No.

13 MR. MANINGO: Okay. Thank you, Ms. Marquez.

14 I'll pass the juror.

15 THE COURT: Thank you.

16 Mr. Walker.

17 PROSPECTIVE JUROR NO. 902: My name is Cory Walker,  
18 Badge No. 902. Born and raised here.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 902: 20 years old. Currently  
21 engaged. I'm an automotive technician. Pretty much it.

22 THE COURT: Okay. Engaged, and your fiancé, what  
23 does she do?

24 PROSPECTIVE JUROR NO. 902: She's a manager in  
25 retail.

1 THE COURT: Selling like what?

2 PROSPECTIVE JUROR NO. 902: It's like handmade  
3 cosmetics, soap, and girl stuff.

4 THE COURT: You say you grew up here in Las Vegas?

5 PROSPECTIVE JUROR NO. 902: Yeah, born and raised  
6 here.

7 THE COURT: What do your parents do?

8 PROSPECTIVE JUROR NO. 902: My dad is a project  
9 manager for a construction company. Actually, they're like a  
10 contract maintenance company. And my mom is a -- I don't know  
11 what her official title is, but it's like an office  
12 administrator, I guess you could say, for like a lawyer, a law  
13 office, a large law office.

14 THE COURT: What kind of law does the law office  
15 practice, do you know?

16 PROSPECTIVE JUROR NO. 902: I'm not sure.

17 THE COURT: Does she ever talk to you about her  
18 work?

19 PROSPECTIVE JUROR NO. 902: No, not at all.

20 THE COURT: Have you ever been the victim of a  
21 crime?

22 PROSPECTIVE JUROR NO. 902: I've had my car broken  
23 into, but that's it.

24 THE COURT: Anything about that experience that  
25 would make it where you feel you couldn't be fair and

1 impartial in a case like this?

2 PROSPECTIVE JUROR NO. 902: No, not at all.

3 THE COURT: Have you -- anyone in your family been  
4 the victim of what you would consider a serious violent crime?

5 PROSPECTIVE JUROR NO. 902: No.

6 THE COURT: How about anyone closely associated with  
7 your friends?

8 PROSPECTIVE JUROR NO. 902: No. No.

9 THE COURT: Any -- have you ever been accused of a  
10 crime?

11 PROSPECTIVE JUROR NO. 902: No.

12 THE COURT: Anyone in your family or any friends,  
13 close associates that have been accused of a crime?

14 PROSPECTIVE JUROR NO. 902: No.

15 THE COURT: Do you have any religious or moral  
16 beliefs that would keep you from being able to sit in judgment  
17 on another person?

18 PROSPECTIVE JUROR NO. 902: No.

19 THE COURT: Anything that you haven't -- you know,  
20 you've heard the other jurors asked about that you feel  
21 differently about?

22 PROSPECTIVE JUROR NO. 902: The only thing is I'm  
23 confident in my ability that I could judge someone based off  
24 of juror testimony and not actual evidence --

25 THE COURT: Not juror testimony.

1 PROSPECTIVE JUROR NO. 902: I mean -- sorry.

2 THE COURT: You won't get to testify.

3 PROSPECTIVE JUROR NO. 902: Yeah.

4 THE COURT: Witness testimony.

5 PROSPECTIVE JUROR NO. 902: Yeah, witness testimony.

6 I could judge them and be able to tell if they're telling the

7 truth or not, you know, but I wouldn't feel comfortable giving

8 someone -- you know, saying guilty or innocent purely off of

9 what someone else is saying.

10 THE COURT: Okay. So you could not judge the  
11 testimony of witnesses?

12 PROSPECTIVE JUROR NO. 902: I feel like I could and  
13 I could -- I could make a -- you know, I could decide off of  
14 that, but it would always be in the back of my mind, you know,  
15 were those people actually lying.

16 THE COURT: Okay. So you can't envision any  
17 scenario where just on the testimony of witnesses alone that  
18 you could find someone guilty? You'd have to have -- either  
19 you'd have to have video of them doing the crime or --

20 PROSPECTIVE JUROR NO. 902: No, not necessarily  
21 that, either, but, I mean, I know that there's -- I'm sure  
22 there's some people that could come in that I could, you know,  
23 feel for sure that they were telling the truth and, you know,  
24 that I would -- I would believe what they were saying.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 902: But, like I said, and  
2 then make -- you know, say guilty or innocent but still, like  
3 I said, in the back of my mind feel uncomfortable about that  
4 like did I say an innocent person was guilty or did I say  
5 someone went free that was, you know --

6 THE COURT: Okay. I mean, is that going to be  
7 weighing on your mind so that you're basically paralyzed from  
8 making a decision?

9 PROSPECTIVE JUROR NO. 902: No. No. I know I  
10 could. I could make a decision. It's just I'm not really  
11 that comfortable with it. But I know if I -- if I needed to,  
12 I could without a doubt.

13 THE COURT: Okay. Would you be able to share your  
14 opinions with your fellow jurors --

15 PROSPECTIVE JUROR NO. 902: Yeah.

16 THE COURT: -- in deliberation?

17 PROSPECTIVE JUROR NO. 902: Yes.

18 THE COURT: Okay. Would you -- so you could discuss  
19 all the facts and give your opinion?

20 PROSPECTIVE JUROR NO. 902: Yes.

21 THE COURT: All right. Would the State like to  
22 inquire further?

23 MS. BLUTH: Yes, Your Honor.

24 Mr. Walker, so sometimes Mr. Maningo and I, we just  
25 go round and round so I'm just going to try to cut to the

1 chase. At the end of the day both sides are just looking for  
2 an individual who is willing to come in here, be fair and  
3 impartial to both sides, and then make a decision on the  
4 evidence that is presented. So there's a difference between  
5 -- well, let me ask you this. If I have said that -- that  
6 statement multiple times, you know, that the law states if a  
7 victim's testimony, you believe it beyond a reasonable doubt,  
8 that is enough to sustain a conviction. But what I hear you  
9 saying now is that you're uncomfortable with that.

10 PROSPECTIVE JUROR NO. 902: Yeah.

11 MS. BLUTH: And so -- and it's so hard to make these  
12 decisions in a vacuum; right? Because you don't know what's  
13 going to be presented. You know, you don't know the answers  
14 to all of those questions. But, unfortunately, you kind of  
15 have to make that call right now because four weeks down the  
16 road it's too late to be like, yeah, I'm not cool with this.  
17 So can you be fair and impartial in regards to this case in  
18 regards to both sides if, you know, all the pieces of evidence  
19 that you want aren't presented?

20 PROSPECTIVE JUROR NO. 902: Yeah. Yeah, I could use  
21 what I was given to make a decision.

22 MS. BLUTH: Okay. And so I'm -- what now makes you  
23 feel comfortable with that versus before?

24 PROSPECTIVE JUROR NO. 902: No, it's -- I'm still  
25 uncomfortable with it, I just know that I can. That's all.

1 It's just --

2 MS. BLUTH: So you --

3 PROSPECTIVE JUROR NO. 902: It's not something that  
4 I would want to do.

5 MS. BLUTH: Right. And so you know sitting there  
6 right now that you can do it? Is that a yes?

7 PROSPECTIVE JUROR NO. 902: Yeah. Yes.

8 MS. BLUTH: So you may feel uncomfortable, but you  
9 still think you could be fair?

10 PROSPECTIVE JUROR NO. 902: Yes.

11 MS. BLUTH: Okay. When you raised your hand  
12 yesterday and said, you know, if a crime was committed against  
13 you, you would report it immediately --

14 PROSPECTIVE JUROR NO. 902: Yeah.

15 MS. BLUTH: -- you raised your hand for that; right?

16 PROSPECTIVE JUROR NO. 902: Yes.

17 MS. BLUTH: Okay. Can you think of a scenario where  
18 you wouldn't?

19 PROSPECTIVE JUROR NO. 902: Yeah, if you were  
20 embarrassed or if it wasn't that serious or, you know,  
21 somebody threatened you, somebody said something to you.

22 MS. BLUTH: Okay. Did you -- when you received your  
23 summons were you excited? I mean, do you --

24 PROSPECTIVE JUROR NO. 902: No.

25 MS. BLUTH: -- want to serve? No?

1 PROSPECTIVE JUROR NO. 902: No.

2 MS. BLUTH: Is there anything in particular that you  
3 dreaded?

4 PROSPECTIVE JUROR NO. 902: No. Actually, you know,  
5 I'm actually not bothered by being here at all, it's just --  
6 just a bad -- just bad timing, basically. Just a lot of  
7 things --

8 MS. BLUTH: Are there other --

9 PROSPECTIVE JUROR NO. 902: -- that I'm planning and  
10 just, you know.

11 MS. BLUTH: Do you feel like there's anything that  
12 would cause you to be distracted during the trial?

13 PROSPECTIVE JUROR NO. 902: No. No.

14 MS. BLUTH: Okay. Thank you.

15 THE COURT: Defense.

16 MR. MANINGO: Thank you, Your Honor.

17 Hello, Mr. Walker. How are you?

18 PROSPECTIVE JUROR NO. 902: Good.

19 MR. MANINGO: Do -- I'm not sure if you answered  
20 this already for the State. Do you watch the legal TV shows?

21 PROSPECTIVE JUROR NO. 902: I used to, but not  
22 anymore.

23 MR. MANINGO: Okay. What kind of shows do you  
24 watch?

25 PROSPECTIVE JUROR NO. 902: I used to watch CSI

1 sometimes.

2 MR. MANINGO: Okay. And now?

3 PROSPECTIVE JUROR NO. 902: Nothing.

4 MR. MANINGO: Not too much of anything?

5 PROSPECTIVE JUROR NO. 902: Yeah, but definitely  
6 none of the -- none of the legal dramas.

7 MR. MANINGO: Oh, okay. Okay. And you had said  
8 that you could -- you could definitely, without a doubt, judge  
9 the credibility of witnesses, that kind of thing?

10 PROSPECTIVE JUROR NO. 902: Yes.

11 MR. MANINGO: What would you look for? I mean,  
12 you've heard a lot of answers from other people.

13 PROSPECTIVE JUROR NO. 902: Yeah.

14 MR. MANINGO: But what would you personally look for  
15 to tell if someone was telling the truth or not?

16 PROSPECTIVE JUROR NO. 902: My biggest thing is body  
17 language and consistency.

18 MR. MANINGO: And consistency?

19 PROSPECTIVE JUROR NO. 902: Yeah.

20 MR. MANINGO: Okay. Now, you had stated that you  
21 were just a little bit uncomfortable. Why is it? Why are you  
22 uncomfortable?

23 PROSPECTIVE JUROR NO. 902: It's just -- it's a big  
24 decision. That's all. That's basically it. I mean --

25 MR. MANINGO: Yeah, it's a big decision.

1 PROSPECTIVE JUROR NO. 902: Yeah.

2 MR. MANINGO: Now, you understand you won't have to  
3 make the decision all by yourself.

4 PROSPECTIVE JUROR NO. 902: Of course.

5 MR. MANINGO: You'll -- you'll be speaking with  
6 other jurors. Are you comfortable with if you go back into  
7 that deliberation room and 11 people vote one way and you  
8 disagree with them, are you comfortable expressing that to  
9 them?

10 PROSPECTIVE JUROR NO. 902: Yeah.

11 MR. MANINGO: Okay. Now, how long have you been at  
12 your -- I'm sorry, what's your -- what's your current job?

13 PROSPECTIVE JUROR NO. 902: I'm an auto tech.

14 MR. MANINGO: Auto tech. And how long have you been  
15 there?

16 PROSPECTIVE JUROR NO. 902: Two and a half years.

17 MR. MANINGO: Did you get any special training?

18 PROSPECTIVE JUROR NO. 902: No. I mean, it's real  
19 simple stuff, so just basic training.

20 MR. MANINGO: Okay.

21 PROSPECTIVE JUROR NO. 902: Like a week or two.

22 MR. MANINGO: And is there any special training in  
23 any of your family regarding the law or medicine?

24 PROSPECTIVE JUROR NO. 902: No.

25 MR. MANINGO: Okay. Thank you, sir.

1 PROSPECTIVE JUROR NO. 902: Yeah.

2 THE COURT: All right. If you'll pass the  
3 microphone over.

4 PROSPECTIVE JUROR NO. 903: William McKelphin, 903.

5 THE COURT: Mr. McKelphin, have you ever been the  
6 victim of a crime?

7 PROSPECTIVE JUROR NO. 903: No, I have not, Your  
8 Honor.

9 THE COURT: And I think I asked you this, though,  
10 before, didn't I? No? About being the victim of a crime?

11 PROSPECTIVE JUROR NO. 903: Maybe.

12 THE COURT: You don't remember?

13 PROSPECTIVE JUROR NO. 903: No, I don't, Your Honor.

14 THE COURT: Well, I'll ask again. So has anyone in  
15 your family or closely associated with you been the victim of  
16 a serious crime?

17 PROSPECTIVE JUROR NO. 903: No, they have not, Your  
18 Honor.

19 THE COURT: Has anyone in your family ever been  
20 accused of a crime or anyone, you know, a close friend?

21 PROSPECTIVE JUROR NO. 903: No, Your Honor.

22 THE COURT: How about yourself?

23 PROSPECTIVE JUROR NO. 903: No, Your Honor.

24 THE COURT: Do you have any religious or moral  
25 beliefs that keep you from being able to sit in judgment on

1 another person?

2 PROSPECTIVE JUROR NO. 903: I don't have any  
3 convictions that would override my ability to follow the  
4 process.

5 THE COURT: Okay. You will be able to follow the  
6 instructions on the law even if you think that the law should  
7 be something other than what it is?

8 PROSPECTIVE JUROR NO. 903: Yes, Your Honor.

9 THE COURT: You agree with the presumption of  
10 innocence?

11 PROSPECTIVE JUROR NO. 903: Yes, Your Honor.

12 THE COURT: Will you hold the State to its burden of  
13 proof, that being beyond a reasonable doubt?

14 PROSPECTIVE JUROR NO. 903: Yes, Your Honor.

15 THE COURT: And will you -- will you require that  
16 the defense put on evidence even though they don't have to?

17 PROSPECTIVE JUROR NO. 903: I would not require it,  
18 Your Honor.

19 THE COURT: All right. And so, you know, there's  
20 been discussion about the potential of the defendant not  
21 testifying because he has a Fifth Amendment right not to, it's  
22 completely up to him. Would you hold it against the defendant  
23 if he exercised his Fifth Amendment right?

24 PROSPECTIVE JUROR NO. 903: It would depend on the  
25 circumstances, Your Honor, but ordinarily no.

1 THE COURT: All right. What --

2 PROSPECTIVE JUROR NO. 903: There have been  
3 historical circumstances where it's -- it's suspect when  
4 someone pleads the Fifth. That's what I'm alluding to.

5 THE COURT: So what I want to make sure is that you  
6 wouldn't hold it against a defendant who elects not to testify  
7 because you'll be instructed that --

8 PROSPECTIVE JUROR NO. 903: Right.

9 THE COURT: -- you know, you can't do that. So  
10 you're the only one that can tell me whether you would or not.

11 PROSPECTIVE JUROR NO. 903: I don't want to say I'd  
12 hold it against him. I'm just -- I don't really know how to  
13 characterize it.

14 THE COURT: Would you feel like if somebody doesn't  
15 testify that they just must be guilty?

16 PROSPECTIVE JUROR NO. 903: No, I don't -- I don't  
17 think that. And that's why I say I don't want to really hold  
18 it against them. It's just sometimes you're just like, you  
19 know, responding something. I'm trying to like -- no, I  
20 wouldn't hold it against him, Your Honor.

21 THE COURT: So, you know, it's obviously the State's  
22 burden of proof. If you felt that the State hadn't proved  
23 their case at the end of the case and the defense didn't put  
24 on any evidence, would you be able to return a verdict of not  
25 guilty?

1 PROSPECTIVE JUROR NO. 903: Yes, Your Honor.

2 THE COURT: Tell me about yourself.

3 PROSPECTIVE JUROR NO. 903: I moved here in 2007  
4 from Texas, and Alabama before that.

5 THE COURT: I don't detect any southern accents,  
6 though.

7 PROSPECTIVE JUROR NO. 903: I don't have one. A lot  
8 of us don't.

9 THE COURT: Where in Texas are you from?

10 PROSPECTIVE JUROR NO. 903: I lived in San Antonio.  
11 No wife, no kids, work as a consultant.

12 THE COURT: In what field do you consult?

13 PROSPECTIVE JUROR NO. 903: Security.

14 THE COURT: So private security?

15 PROSPECTIVE JUROR NO. 903: Uh-huh. Yes, Your  
16 Honor.

17 THE COURT: Do you have large corporate clients or  
18 is it residential security?

19 PROSPECTIVE JUROR NO. 903: Very large corporate  
20 clients.

21 THE COURT: So you're hired on a contract basis?

22 PROSPECTIVE JUROR NO. 903: Yes, Your Honor, project  
23 to project. I basically string 40 hours together every week  
24 if I can.

25 THE COURT: Obviously you didn't express that it

1 would be a hardship for you to work, or to be on this jury and  
2 not be working.

3 PROSPECTIVE JUROR NO. 903: It's not an eminent  
4 hardship.

5 THE COURT: Any questions that were asked of the  
6 other jurors or potential jurors and you said -- thought to  
7 yourself, ah, when they ask me that I'm going to be able to  
8 tell them something that's important?

9 PROSPECTIVE JUROR NO. 903: I don't believe I have  
10 anything to add in that respect, Your Honor.

11 THE COURT: All right. Would the State like to  
12 inquire further?

13 MS. BLUTH: Thank you, Your Honor.

14 Good afternoon, Mr. McKelphin.

15 PROSPECTIVE JUROR NO. 903: Good afternoon.

16 MS. BLUTH: Yesterday you were also one of the  
17 individuals who raised his hand in regards to the question  
18 about wanting other pieces of evidence, whether it be DNA --

19 PROSPECTIVE JUROR NO. 903: Right. So that question  
20 kind of goes two ways.

21 MS. BLUTH: Okay.

22 PROSPECTIVE JUROR NO. 903: The one way is if you're  
23 going to enter some kind of a verdict against someone, or in  
24 the other direction is if you would, you know, release someone  
25 from the charges or whatever or liabilities. So in my mind I

1 was thinking in terms of if someone was going to potentially  
2 go to jail or be sanctioned in some kind of way, I feel I  
3 would need a little bit more in those instances, not  
4 necessarily to say that they were innocent, if that makes  
5 sense. I need more to do something to somebody than to  
6 release them.

7 MS. BLUTH: Okay.

8 PROSPECTIVE JUROR NO. 903: Yeah.

9 MS. BLUTH: Okay. So in the case where someone is  
10 charged with sexual assault --

11 PROSPECTIVE JUROR NO. 903: Yes.

12 MS. BLUTH: -- you need more?

13 PROSPECTIVE JUROR NO. 903: Yes, I think I need  
14 more.

15 MS. BLUTH: Okay. Are you stating, then, that you  
16 can't be fair in a case that doesn't have the things that you  
17 want it to have?

18 PROSPECTIVE JUROR NO. 903: I feel like it would be  
19 extremely difficult not to come up with at least one extra  
20 thing other than testimony in an instance like that, you know.  
21 I mean --

22 MS. BLUTH: Can you think about, you know, a case  
23 where an individual used a condom and so --

24 PROSPECTIVE JUROR NO. 903: Right.

25 MS. BLUTH: -- you know, nothing is left?

1 PROSPECTIVE JUROR NO. 903: But, I mean, there's a  
2 lot of things that, you know, your badge got swiped in, you're  
3 seen in the parking lot video, being in the vicinity. You  
4 know, I mean, like I said, it's very difficult to come up with  
5 nothing else than -- than testimony, but I don't know. It  
6 also depends on how hard you look. I don't know.

7 MS. BLUTH: All right. So you're saying, you know,  
8 knowing that the individual was in that area --

9 PROSPECTIVE JUROR NO. 903: Right.

10 MS. BLUTH: -- that they had contact with them?

11 PROSPECTIVE JUROR NO. 903: It's at least a little  
12 something extra than --

13 MS. BLUTH: That's interesting.

14 PROSPECTIVE JUROR NO. 903: -- I'm saying this  
15 happened.

16 MS. BLUTH: Okay. But you're not needing those --  
17 those two specific things, I guess, is what I was asking, the  
18 DNA, the fingerprints.

19 PROSPECTIVE JUROR NO. 903: Right. Right. Those  
20 specific things, no.

21 MS. BLUTH: Okay. Okay. And I could be wrong on  
22 this one, but I thought yesterday when I said have you or  
23 anyone close to you had any negative contacts with law  
24 enforcement, I thought that you kind of smiled or smirked.

25 PROSPECTIVE JUROR NO. 903: I did.

1 MS. BLUTH: Okay. What was that about?

2 PROSPECTIVE JUROR NO. 903: Well, when -- like  
3 anyone who has been pulled over knows that sometimes those  
4 situations go a lot more in depth than they really need to be.  
5 You know, it should be, hey, I caught you speeding, here's  
6 your ticket. Sometimes they want to go, you know, Mr. Rogers  
7 on you and give you a spiel and then still give you a ticket  
8 and nobody's got time for that. So like a bunch of different  
9 little things. And I'm -- you know, so that's why. Not  
10 everybody -- you know, a traffic cop or anything that you run  
11 into is maybe as well versed as they should be with  
12 interaction with others. I'll put it like that.

13 MS. BLUTH: Okay. But it wasn't anything where you  
14 felt like you were mistreated or treated unfairly?

15 PROSPECTIVE JUROR NO. 903: Right. Right.

16 MS. BLUTH: But just more annoyed.

17 PROSPECTIVE JUROR NO. 903: Uh-huh.

18 MS. BLUTH: Okay. You were one of the only  
19 individuals that didn't raise your hand to the question of,  
20 you know, do you -- is it important to you that stories stay  
21 consistent.

22 PROSPECTIVE JUROR NO. 903: Correct.

23 MS. BLUTH: Can you explain why you didn't raise  
24 your hand?

25 PROSPECTIVE JUROR NO. 903: Because you don't always

1 -- you're not always 100 percent at the start of, you know, if  
2 you're being questioned or whatever just based on different  
3 environmental issues. You may or may not remember things.  
4 You might be jittery. You might be under stress and it could  
5 affect the kind of story you're giving. And, I mean, there's  
6 probably things that you can even reference from that from,  
7 you know, there's people that do interrogations as their  
8 living. And, I mean, I don't know, I could see a bunch of  
9 scenarios in which your story can change over time just based  
10 on other things that you're focusing on and one given point of  
11 time and you're -- you're cleared up. You might remember more  
12 at a later given point in time.

13 MS. BLUTH: So timing at the different times you're  
14 spoken to about it, you think that can affect it?

15 PROSPECTIVE JUROR NO. 903: Who's speaking to you,  
16 how they're speaking to you, where you are, all that stuff can  
17 factor in.

18 MS. BLUTH: Okay. You also raised your hand to the  
19 question if anyone knew a rape victim.

20 PROSPECTIVE JUROR NO. 903: Uh-huh.

21 MS. BLUTH: And when -- well, first of all, who is  
22 that person to you?

23 PROSPECTIVE JUROR NO. 903: A friend of mine and a  
24 girl I dated.

25 MS. BLUTH: Those are two separate individuals?

1 PROSPECTIVE JUROR NO. 903: Two separate instances,  
2 yeah.

3 MS. BLUTH: With the friend, with your friend, is  
4 that he or she just so I can speak correctly?

5 PROSPECTIVE JUROR NO. 903: She.

6 MS. BLUTH: She. Did you know her when the assault  
7 happened?

8 PROSPECTIVE JUROR NO. 903: I did, but nothing was  
9 told to me like right away like when it happened.

10 MS. BLUTH: Did she report it to the authorities?

11 PROSPECTIVE JUROR NO. 903: I have no idea.

12 MS. BLUTH: You don't know. So did you guys have a  
13 lot of conversation about that, about the rape?

14 PROSPECTIVE JUROR NO. 903: No, not really.

15 MS. BLUTH: Did you find out from her?

16 PROSPECTIVE JUROR NO. 903: Yes.

17 MS. BLUTH: And did she know the individual?

18 PROSPECTIVE JUROR NO. 903: Not very well. I think  
19 it was just an individual at the place that they were at at  
20 the time.

21 MS. BLUTH: Okay. And then the second individual,  
22 I'm sorry, did you say that was an ex -- who did you say the  
23 second person was, an ex-girlfriend?

24 PROSPECTIVE JUROR NO. 903: Uh-huh. Yes.

25 MS. BLUTH: And were you dating her when that

1 happened?

2 PROSPECTIVE JUROR NO. 903: No.

3 MS. BLUTH: Did she provide you with the details?

4 PROSPECTIVE JUROR NO. 903: No, I didn't really push  
5 for details. It's not a best conversation to --

6 MS. BLUTH: Right.

7 PROSPECTIVE JUROR NO. 903: Yeah.

8 MS. BLUTH: Did you know whether or not she reported  
9 that to the authorities?

10 PROSPECTIVE JUROR NO. 903: I don't know.

11 MS. BLUTH: Were -- was -- in regards to your  
12 ex-girlfriend, did that assault happen as -- when she was an  
13 adult?

14 PROSPECTIVE JUROR NO. 903: I don't -- I don't know  
15 specifics about it. She just -- it was just something that  
16 happened before.

17 MS. BLUTH: Okay. And forgive me for not knowing  
18 this, but when -- as a consultant in the security business,  
19 like what types of things do you consult on?

20 PROSPECTIVE JUROR NO. 903: I consult on a wide  
21 range of things. A lot of what I do is information security  
22 related.

23 MS. BLUTH: Okay.

24 PROSPECTIVE JUROR NO. 903: So protecting  
25 information on computers, in transit, things of that nature.

1 We do policies and procedures, incident response handling,  
2 something has gone wrong and, you know, people who you call in  
3 to fix things and handle them. We do a lot of physical  
4 security work, cameras, locks, motion detectors, things like  
5 that, doors, man traps, a lot of stuff.

6 MS. BLUTH: So it's not like response to any type of  
7 crimes. Like you would never, you know, respond with local  
8 law enforcement. It's more like preventative type, would that  
9 be fair?

10 PROSPECTIVE JUROR NO. 903: Most of it is. I have  
11 done some -- I've never had badge credentials, but I have done  
12 some work. There is like an FBI office on Losee. They do  
13 investigations for child porn and we help them out sometimes.  
14 When I'd work for the DOE we shared space.

15 MS. BLUTH: Okay.

16 PROSPECTIVE JUROR NO. 903: And we had more capable  
17 personnel and a lot more of them than they did sometimes and  
18 so we would aid them in some of the things that they were  
19 doing from time to time.

20 MS. BLUTH: Okay. Makes sense. Thank you so much.

21 THE COURT: Defense.

22 MR. MANINGO: Thank you, Your Honor.

23 Mr. McKelphin, how are you?

24 PROSPECTIVE JUROR NO. 903: I am great.

25 MR. MANINGO: Good. I wish I could tell you that I

1 had all brand new fresh questions --

2 PROSPECTIVE JUROR NO. 903: That's all right.

3 MR. MANINGO: -- but you've heard all of these  
4 already. So I'm actually going to just cut to a few matters  
5 that -- that caught my attention a few minutes ago. First of  
6 all, with the private security -- being in the private  
7 security business, have you -- have you ever had any  
8 opportunity to do any sort of investigation on your own, that  
9 type of thing?

10 PROSPECTIVE JUROR NO. 903: We do, but it's, you  
11 know, more of like a corporate nature, this person was doing  
12 things they weren't supposed to do, that kind of a thing, you  
13 know, downloading something they weren't supposed to download  
14 or going to some website they weren't supposed to visit, that  
15 kind of a deal.

16 MR. MANINGO: Sure. And that certainly counts.  
17 That's -- that's definitely important. Have you, as part of  
18 the -- that -- that business, have you had a chance to ever or  
19 an opportunity to interview individuals about your  
20 investigation, interview potential witnesses, anything like  
21 that?

22 PROSPECTIVE JUROR NO. 903: No, that -- that wasn't  
23 something that I normally -- there is a potential that we  
24 could be called into, you know, court proceedings and testify  
25 as an expert witness or whatever, but no actual interviewing

1 of other people.

2 MR. MANINGO: Okay. Okay. Have you ever had to be  
3 called in as a -- as a witness?

4 PROSPECTIVE JUROR NO. 903: Not myself, no.

5 MR. MANINGO: Okay. Now, you also said when the  
6 State was talking about needing more evidence.

7 PROSPECTIVE JUROR NO. 903: Uh-huh. Yes.

8 MR. MANINGO: I believe you said that you would need  
9 more to do something to someone than to release them.

10 PROSPECTIVE JUROR NO. 903: Yes, I did.

11 MR. MANINGO: Okay. Have you ever heard the famous  
12 lawyer quote from Oliver Wendell Holmes, better than ten  
13 guilty men go free than one innocent man lose his freedom?

14 PROSPECTIVE JUROR NO. 903: Yes.

15 MR. MANINGO: Okay. Would you agree with that  
16 statement?

17 PROSPECTIVE JUROR NO. 903: I do.

18 MR. MANINGO: Okay. Now, there was some hesitation  
19 earlier one when you were speaking with the Judge about --

20 PROSPECTIVE JUROR NO. 903: Yes.

21 MR. MANINGO: -- requiring testimony from the  
22 accused or from the defense. Is there any light you can shed  
23 on why you have a little bit of hesitancy there or -- I  
24 believe you had said that it depends on the circumstances.  
25 You were a little bit conflicted about whether you would

1 expect any kind of testimony from the defense.

2 PROSPECTIVE JUROR NO. 903: Right. I'm trying to  
3 like model a specific instance in my mind of like a historical  
4 event where maybe there was examination and a question is  
5 posed and you can -- you can almost tell, because you never  
6 really know what they are or aren't going to say, but --

7 MR. MANINGO: Right.

8 PROSPECTIVE JUROR NO. 903: -- you know, your --  
9 your warm fuzzy of what's going to come out of their mouth and  
10 instead of hearing that you hear I plead the Fifth. You know,  
11 in my mind it's like a clear attempt to dodge the question  
12 sometimes, which -- which it is. It's a calculated type of  
13 deal or whatever, and it's their right to do so. But I  
14 don't --

15 MR. MANINGO: And it's hard to articulate.

16 PROSPECTIVE JUROR NO. 903: Yes, it is.

17 MR. MANINGO: Do you understand that the reason our  
18 -- our system --

19 PROSPECTIVE JUROR NO. 903: Oh, I understand the  
20 history of the system and why it is. I mean --

21 MR. MANINGO: Right.

22 PROSPECTIVE JUROR NO. 903: -- you know, I know that  
23 there was a time where someone in a high enough position could  
24 just point a finger at somebody and they're instamatically  
25 guilty, I know it's horrible, grammar is, but --

1 MR. MANINGO: No, but you're exactly right.

2 PROSPECTIVE JUROR NO. 903: Right. Because, you  
3 know, they have a higher station in life, so to speak, than  
4 the person being accused of a crime and they're beyond  
5 reproach and, you know, that is completely not fair to the  
6 person that falls victim to that.

7 MR. MANINGO: Right. Thank you. I appreciate it.  
8 Thank you, Judge.

9 THE COURT: Okay. Hand the microphone over to Ms.  
10 Pratt.

11 PROSPECTIVE JUROR NO. 819: Good afternoon. My name  
12 is Dawn Pratt, and my badge number is 819.

13 THE COURT: And have you ever been the victim of a  
14 crime?

15 PROSPECTIVE JUROR NO. 819: Just the burglary on my  
16 vehicle.

17 THE COURT: Okay. And you don't think that would  
18 enter into your ability to be fair and impartial in this case?

19 PROSPECTIVE JUROR NO. 819: No.

20 THE COURT: Okay. How about do you know anyone who  
21 was the victim of a serious crime, a violent crime? And that  
22 includes sexual assault, rape.

23 PROSPECTIVE JUROR NO. 819: No.

24 THE COURT: Okay. Have you ever been accused of a  
25 crime?

1 PROSPECTIVE JUROR NO. 819: No.

2 THE COURT: Anyone in your family or closely  
3 associated with you been accused of a crime, a serious crime?

4 PROSPECTIVE JUROR NO. 819: My cousin.

5 THE COURT: Okay. What was that?

6 PROSPECTIVE JUROR NO. 819: It was drug affiliated.

7 THE COURT: Okay. Was it just, you know, selling  
8 drugs or possessing drugs, or was there an additional crime  
9 associated with the drug crimes?

10 PROSPECTIVE JUROR NO. 819: He was selling.

11 THE COURT: Okay. Did -- was that here in Clark  
12 County?

13 PROSPECTIVE JUROR NO. 819: No.

14 THE COURT: In another state?

15 PROSPECTIVE JUROR NO. 819: In California.

16 THE COURT: How long ago was that?

17 PROSPECTIVE JUROR NO. 819: He had two offenses,  
18 actually, and his last run, he just got out maybe a year and a  
19 half.

20 THE COURT: Do you feel that he was treated fairly  
21 by the justice system?

22 PROSPECTIVE JUROR NO. 819: He should still be in  
23 there.

24 THE COURT: All right. Anything about that that  
25 makes you feel you couldn't be fair and impartial in this

1 case?

2 PROSPECTIVE JUROR NO. 819: No.

3 THE COURT: Do you have any -- anyone in your family  
4 in law enforcement?

5 PROSPECTIVE JUROR NO. 819: No.

6 THE COURT: Have you ever been in law enforcement  
7 yourself?

8 PROSPECTIVE JUROR NO. 819: No.

9 THE COURT: Anyone involved in the medical field in  
10 your family?

11 PROSPECTIVE JUROR NO. 819: No.

12 THE COURT: Have you ever been involved in the  
13 medical field?

14 PROSPECTIVE JUROR NO. 819: No.

15 THE COURT: Do you have any moral or religious  
16 beliefs that would keep you from being able to sit in judgment  
17 of another person?

18 PROSPECTIVE JUROR NO. 819: No.

19 THE COURT: And do you have any quarrel with the  
20 presumption of innocence as a part of our system of justice?

21 PROSPECTIVE JUROR NO. 819: No.

22 THE COURT: Would you hold it against a defendant  
23 who did not take the stand to testify?

24 PROSPECTIVE JUROR NO. 819: No.

25 THE COURT: Okay. Tell us about yourself.

1           PROSPECTIVE JUROR NO. 819: I'm happily married. I  
2 am bless with six children, three grandchildren, a fourth one  
3 on the way. I work in the accounting field for over 13 years,  
4 and just recently decided to come home. I realized that life  
5 is too short and too precious, and spending it with my  
6 children. But then, of course, I missed accounting, so now I  
7 work from home, independent contractor. So I -- I have my  
8 cake and eat it too.

9           THE COURT: Do you work for a large company at home,  
10 or do you work for several smaller clients?

11           PROSPECTIVE JUROR NO. 819: Right now I'm just  
12 working for one, looking for potentially more. And it's a  
13 rather large company based out of Utah.

14           THE COURT: So you handle all of their accounting  
15 work?

16           PROSPECTIVE JUROR NO. 819: Most.

17           THE COURT: Okay. Anything that you've heard the  
18 other, you know, jurors, potential jurors asked that you  
19 thought, ah, I need to bring this up to the Judge when it's my  
20 turn?

21           PROSPECTIVE JUROR NO. 819: No.

22           THE COURT: Do you think you could be fair and  
23 impartial in this case?

24           PROSPECTIVE JUROR NO. 819: Yes.

25           THE COURT: Any reason that you could not serve as a

1 juror in this case that you can think of?

2 PROSPECTIVE JUROR NO. 819: No.

3 THE COURT: State like to inquire further?

4 MS. BLUTH: Yes, Judge.

5 I'm going to stay right here since we're close  
6 enough, okay.

7 PROSPECTIVE JUROR NO. 819: That's fine.

8 MS. BLUTH: You were one of the individuals to raise  
9 their hand about the bumper sticker.

10 PROSPECTIVE JUROR NO. 819: I knew you were going to  
11 ask.

12 MS. BLUTH: I know. What is it?

13 PROSPECTIVE JUROR NO. 819: My children graduated  
14 from the D.A.R.E. program.

15 MS. BLUTH: Oh, okay.

16 PROSPECTIVE JUROR NO. 819: Uh-huh.

17 MS. BLUTH: All right. You were also somebody who  
18 raised their hand in regards to the DNA and fingerprint  
19 question that we've talked about ad nauseam. So I'll just --

20 PROSPECTIVE JUROR NO. 819: There's been a better  
21 clarity of that question. I don't necessarily need those two  
22 strict evidences. I do believe that testimony is also  
23 evidence, so I'm open.

24 MS. BLUTH: Do you want to serve?

25 PROSPECTIVE JUROR NO. 819: Yes.

1 MS. BLUTH: Why?

2 PROSPECTIVE JUROR NO. 819: I've never done it  
3 before.

4 MS. BLUTH: Okay.

5 PROSPECTIVE JUROR NO. 819: I also believe that, you  
6 know, I'm getting older and becoming more aware of rights and  
7 responsibilities and I believe this is a responsibility.

8 MS. BLUTH: Okay. I have nothing else. Thank you.

9 PROSPECTIVE JUROR NO. 819: Thank you.

10 THE COURT: Defense.

11 MR. MANINGO: Thank you, Your Honor.

12 Hello, Ms. Pratt.

13 PROSPECTIVE JUROR NO. 819: Hello.

14 MR. MANINGO: I didn't catch what your husband's  
15 work is or job.

16 PROSPECTIVE JUROR NO. 819: He's an engineering  
17 director.

18 MR. MANINGO: Okay. Where at?

19 PROSPECTIVE JUROR NO. 819: At a local Indian  
20 Reservation.

21 MR. MANINGO: Okay. And your kids, are any of them  
22 employed?

23 PROSPECTIVE JUROR NO. 819: Yes. I have four  
24 children that are grown.

25 MR. MANINGO: Okay.

1 PROSPECTIVE JUROR NO. 819: The first one, the  
2 oldest one, is in college, and he does security, as well.

3 MR. MANINGO: Is he at UNLV or --

4 PROSPECTIVE JUROR NO. 819: No.

5 MR. MANINGO: Okay.

6 PROSPECTIVE JUROR NO. 819: He's in California.

7 MR. MANINGO: Okay. And go on. I'm sorry.

8 PROSPECTIVE JUROR NO. 819: My second oldest is here  
9 locally and she's a stay at home mom. Third oldest is in  
10 school in California, and I don't believe work, volunteering.  
11 My forth child is working retail, and then my two babies are  
12 at home.

13 MR. MANINGO: Okay. Thank you. You had been a  
14 victim of identity theft?

15 PROSPECTIVE JUROR NO. 819: My bank account was  
16 compensated.

17 MR. MANINGO: Okay. Okay. So did that situation  
18 work out? Did -- were you able to get back the money and --

19 PROSPECTIVE JUROR NO. 819: The bank refunded my  
20 money, yes.

21 MR. MANINGO: Okay. Was anyone ever caught?

22 PROSPECTIVE JUROR NO. 819: Yes.

23 MR. MANINGO: Okay. You had stated that you would  
24 -- you would like to serve as a -- as a juror.

25 PROSPECTIVE JUROR NO. 819: Sure.

1 MR. MANINGO: Are you nervous about it at all or --  
2 or you feel comfortable with it?

3 PROSPECTIVE JUROR NO. 819: I feel comfortable with  
4 it.

5 MR. MANINGO: Okay. Do you feel like you'll be  
6 comfortable deliberating with -- with the other men and women  
7 who are selected on a jury?

8 PROSPECTIVE JUROR NO. 819: Yes.

9 MR. MANINGO: Okay. Will you feel comfortable if  
10 your opinion differs from the rest of them?

11 PROSPECTIVE JUROR NO. 819: Absolutely.

12 MR. MANINGO: Okay. Having six children, you've  
13 probably had a few opportunities to judge credibility and  
14 figure out who's telling the truth or not.

15 PROSPECTIVE JUROR NO. 819: Uh-huh. Yes.

16 MR. MANINGO: Okay. What are some of the things  
17 that you've used to do that, to accomplish that?

18 PROSPECTIVE JUROR NO. 819: Well, I mean, there's --  
19 there's various ways to find out if somebody is telling the  
20 truth. Of course, the obvious of the story consistency and  
21 body language, and then, of course, history, as well.

22 MR. MANINGO: Okay.

23 PROSPECTIVE JUROR NO. 819: History can play into  
24 it. There's a bunch of different ways.

25 MR. MANINGO: Absolutely.

1 PROSPECTIVE JUROR NO. 819: And I also follow my  
2 gut.

3 MR. MANINGO: Okay. Follow your gut. And you feel  
4 comfortable doing that with witnesses throughout this trial?

5 PROSPECTIVE JUROR NO. 819: Yes.

6 MR. MANINGO: Okay. Now, when it comes decision  
7 time, you realize, it's not just gut feeling.

8 PROSPECTIVE JUROR NO. 819: Absolutely.

9 MR. MANINGO: Okay. It has to be proof beyond a  
10 reasonable doubt.

11 PROSPECTIVE JUROR NO. 819: Absolutely.

12 MR. MANINGO: Okay.

13 PROSPECTIVE JUROR NO. 819: Gut feeling only meaning  
14 like credibility wise.

15 MR. MANINGO: Sure.

16 PROSPECTIVE JUROR NO. 819: Okay.

17 MR. MANINGO: Thank you, Ms. Pratt.

18 PROSPECTIVE JUROR NO. 819: Thank you.

19 THE COURT: Thank you.

20 Ladies and gentlemen, this is the time in the trial  
21 where the lawyers get to exercise what are known as peremptory  
22 challenges. In a case like this, each side gets eight  
23 peremptory challenges where they get to excuse a juror without  
24 -- or a prospective juror without stating a reason. And so  
25 those challenges are exercised one at a time, alternating

1 between the State and the defense.

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

3 MR. KOCHEVAR: Court's indulgence. Can we approach,  
4 Judge?

5 THE COURT: Yes.

6 (Bench conference)

7 MR. KOCHEVAR: Brian Kochevar on behalf of the DA's  
8 office.

9 THE COURT: Yes.

10 MR. KOCHEVAR: At this point for us to start  
11 exercising preempts, I mean, we've got six -- we've got to  
12 have a total of 16 and we've only got 12 people sitting over  
13 there.

14 MS. BLUTH: We have to qualify 36.

15 MR. KOCHEVAR: I mean, we need to qualify --

16 THE COURT: Well, but we're not -- we're going to --

17 MR. KOCHEVAR: Even to get to the -- just the  
18 venire, we need 8 plus 8, 16, plus 12 up there is 28 people  
19 before we start.

20 THE COURT: I know, but we -- we're going to fill  
21 them as you exercise. We're going to qualify them and clear  
22 them for causes.

23 MR. KOCHEVAR: So we're just going to --

24 THE COURT: Because we've only got two people before  
25 we even bring -- yeah, I don't -- I don't do it and then, you

1 know, clear enough so you can exercise all your peremptories  
2 and then you're done.

3 MR. KOCHEVAR: I'm just trying to figure out the  
4 process.

5 MS. BLUTH: I'm sorry. I have never done this this  
6 way, either.

7 THE COURT: That's why I -- that's why I tried to  
8 explain it to you before.

9 MS. BLUTH: Sorry. We didn't get it.

10 THE COURT: This is the old fashioned way.

11 MR. KOCHEVAR: So we're going to exercise one, then  
12 you're going to bring somebody in and fill that spot and we're  
13 going to question them?

14 THE COURT: Yeah. Clear them for cause, and then we  
15 go to the next person. That way you know who is coming up.  
16 Now, the fact that we have 50 people sitting in [inaudible], I  
17 think they've let the people from this morning that came in  
18 go, so these people that are here have only been here since  
19 1:00. 50 new ones, but --

20 MS. BLUTH: So when the new person takes the seat,  
21 are you going to ask right away if they can be here for five  
22 weeks?

23 THE COURT: Yeah.

24 MS. BLUTH: So we're going to do that one by one?

25 THE COURT: Well, I was thinking at least until we

1 can add these last two people, once we know we can get them in  
2 there, then we could bring everybody in and we can decide what  
3 we want to try and -- I didn't know how much time we have  
4 left. It's almost 4:00 already.

5 MS. BLUTH: Right.

6 THE COURT: Because I think it'll take -- it took us  
7 longer than an hour to go through everybody's excuses last  
8 time; right?

9 MS. BLUTH: Oh, yeah, and the media issue. Easy.

10 THE COURT: Yeah, see -- so I could -- we could --  
11 that's kind of why I wanted to get through these people  
12 because I was trying to figure out whether we should send and  
13 bring in the next group. Can we let these people go or not?  
14 I'd like you to be able to see, remember who we've got.

15 MS. BLUTH: Oh, yeah. Otherwise, it's going to --

16 THE COURT: You have to have them here, I think.

17 MS. BLUTH: The issue -- and sometimes -- and I know  
18 you've done a million trials so you know, but like in capital  
19 cases when you let them go and have them come back, you know,  
20 like Thursday at -- or, you know, Thursday at 10:00, you know  
21 what I mean, instead of having them [inaudible]. Because the  
22 way things are going, we still have so many.

23 THE COURT: I know. But the problem with letting  
24 these people go home and not come back is when you're  
25 exercising a peremptory challenge you'd like to, you know --

1 MS. BLUTH: No, you're right.

2 THE COURT: If you can't see them -- maybe you're  
3 better at remember than I am, but I --

4 MR. MANINGO: Right. I would be [inaudible].

5 MR. BASHOR: Ryan Bashor. One question of  
6 clarification, Your Honor.

7 THE COURT: Yes.

8 MR. BASHOR: If we pass, is that -- are we done, or  
9 is it pass just --

10 THE COURT: Only -- I'm glad you brought that up.  
11 If there has been no change in the jury, in other words, say,  
12 you waive and then the defense kicks someone, now it's  
13 changed.

14 MR. BASHOR: Uh-huh.

15 THE COURT: So, you know, let's say you waive, and  
16 then you waive, and now there's no change in the composition.  
17 Then, yeah, we're done because you're telling me you're happy  
18 with how it is. We love this jury. Then, yeah, but -- so,  
19 yeah, don't -- don't not exercise because you're thinking,  
20 well, let's see, if he kicks someone because then they'll have  
21 mine. Yeah, because if you're telling me you're waiving,  
22 you're waiving, there's been no change between anybody, then  
23 what you're telling me is that you love this jury and --  
24 and --

25 MR. BASHOR: Thank you, for that. And secondly, how

1 is Your Honor going to handle the alternates, then?

2 THE COURT: Once we get our 12, then we'll go ahead  
3 and put -- because you'll each get two, so we'll put four in  
4 and do it just like we did.

5 MR. BASHOR: So we'll pre-qualify four more and  
6 then --

7 THE COURT: Exactly.

8 MR. BASHOR: Okay. Very good, Your Honor.

9 THE COURT: Any other questions? Are we okay to at  
10 least get through -- at least get through these two people  
11 before we give them a break and figure out what we're going to  
12 do next?

13 MS. BLUTH: Sure.

14 THE COURT: Okay.

15 (End of bench conference)

16 THE COURT: Okay. The State will exercise its first  
17 peremptory challenge.

18 MS. BLUTH: Thank you, Your Honor.

19 THE CLERK: State, can you go by seat number.

20 MS. BLUTH: Yes.

21 MR. KOICHEVAR: The State would thank and excuse Seat  
22 No. 1, Juror 1833.

23 THE COURT: Thank you. If you'll report across the  
24 way to the jury commissioner, please.

25 Call the next in order.

1 THE CLERK: Badge 967, Wanda Brooks.

2 THE COURT: Okay. Where's the microphone?

3 Ms. Brooks, hello.

4 PROSPECTIVE JUROR NO. 967: Hi, how are you?

5 THE COURT: Good. You've been waiting a long time.

6 PROSPECTIVE JUROR NO. 967: Yes, I have.

7 THE COURT: All right. So first why don't you just  
8 tell us about yourself.

9 PROSPECTIVE JUROR NO. 967: Okay. I've been in Las  
10 Vegas for eight years. I moved here from the Bay Area, my  
11 husband and I. We have two children, both adults, and I have  
12 been with the post office for 26 years. He is retired. And  
13 both my daughters are involved with law enforcement. I have a  
14 daughter that's a 911 dispatcher and her husband is a police  
15 officer in the Bay Area. And my other daughter, she's an ATF  
16 agent and her husband is also an ATF agent.

17 THE COURT: Now, as a result of, you know, having  
18 all of these family members in law enforcement, do you think  
19 that you would give the testimony of a law enforcement officer  
20 more weight or credibility than you would any other witness  
21 just because they were in law enforcement and for no other  
22 reason?

23 PROSPECTIVE JUROR NO. 967: No, I would not.

24 THE COURT: You have been in the post office, were  
25 in the post office all those years and retired. What was your

1 position?

2 PROSPECTIVE JUROR NO. 967: No, I'm not retired. My  
3 husband is retired.

4 THE COURT: Oh, I'm sorry.

5 PROSPECTIVE JUROR NO. 967: I am still with the post  
6 office.

7 THE COURT: You are. And you've been there 26  
8 years?

9 PROSPECTIVE JUROR NO. 967: Yes.

10 THE COURT: Okay. So you've got a few more to go.  
11 Are you going to shoot for 30?

12 PROSPECTIVE JUROR NO. 967: I am.

13 THE COURT: Okay. What do you do in the post  
14 office?

15 PROSPECTIVE JUROR NO. 967: I'm what they call a  
16 human resource specialist. I handle claims for all employees  
17 that are injured on the job.

18 THE COURT: Do you -- is that the -- the only thing  
19 you do, workers compensation type claims?

20 PROSPECTIVE JUROR NO. 967: That's the only thing I  
21 do.

22 THE COURT: You've never done any other type of  
23 human resources, like, for instance, interviewing people when  
24 they're -- before termination, for instance?

25 PROSPECTIVE JUROR NO. 967: No.

1 THE COURT: And your husband, is he in the post  
2 office, as well?

3 PROSPECTIVE JUROR NO. 967: No, he's retired from  
4 banking.

5 THE COURT: From banking. What was his role in  
6 banking?

7 PROSPECTIVE JUROR NO. 967: He was a computer  
8 operator.

9 THE COURT: And your adult children, what do they --  
10 all of them are in law enforcement?

11 PROSPECTIVE JUROR NO. 967: The girl, the youngest  
12 one, she's the 911 dispatcher. And then the oldest one, she  
13 is an ATF agent.

14 THE COURT: Yeah. Okay. Is that -- is she assigned  
15 here out of Clark County?

16 PROSPECTIVE JUROR NO. 967: No, they're both in the  
17 Bay Area.

18 THE COURT: Okay. Have -- have you ever been the  
19 victim of a crime?

20 PROSPECTIVE JUROR NO. 967: No.

21 THE COURT: Anyone in your family or closely  
22 associated with you been the victim of a serious crime?

23 PROSPECTIVE JUROR NO. 967: No.

24 THE COURT: Anyone in your family or closely  
25 associated with you been accused of a crime?

1 PROSPECTIVE JUROR NO. 967: No.

2 THE COURT: How about yourself?

3 PROSPECTIVE JUROR NO. 967: No.

4 THE COURT: Any reason you fell you could not be  
5 fair and impartial in this case?

6 PROSPECTIVE JUROR NO. 967: No reason at all.

7 THE COURT: Do you believe in a presumption of  
8 innocence?

9 PROSPECTIVE JUROR NO. 967: I do.

10 THE COURT: And you would hold the State to its  
11 burden of proof beyond a reasonable doubt?

12 PROSPECTIVE JUROR NO. 967: Yes.

13 THE COURT: State like to inquire further?

14 MS. BLUTH: Thank you, Your Honor.

15 Ms. Brooks, I know you've heard all of the  
16 questions, so I'm going to try to move through them quickly.  
17 Do you have any issue with a victim of a crime pursuing their  
18 rights in a civil action, suing someone civilly?

19 PROSPECTIVE JUROR NO. 967: No.

20 MS. BLUTH: Do you understand -- or can you see  
21 reasons why they would do so?

22 PROSPECTIVE JUROR NO. 967: Yes.

23 MS. BLUTH: Have you ever witnessed something or  
24 felt like you were wronged in any way and you didn't report it  
25 either right away or actually never reported it?

1 PROSPECTIVE JUROR NO. 967: No, I have not.

2 MS. BLUTH: Would photos of a somewhat graphic  
3 nature bother you in any way?

4 PROSPECTIVE JUROR NO. 967: No.

5 MS. BLUTH: Do you feel comfortable speaking in  
6 front of others?

7 PROSPECTIVE JUROR NO. 967: I do.

8 MS. BLUTH: How would you handle a situation, you  
9 know, if you're in a room and there's ten of you and the other  
10 nine are opposite of your viewpoint?

11 PROSPECTIVE JUROR NO. 967: I would speak my  
12 opinion.

13 MS. BLUTH: Do you feel comfortable listening to  
14 others as well as you do voicing your opinion?

15 PROSPECTIVE JUROR NO. 967: I do.

16 MS. BLUTH: Do you watch the television shows we've  
17 been talking about, CIS, Law & Order?

18 PROSPECTIVE JUROR NO. 967: No, I watch none of  
19 those shows. There's only one show that I watch and that's  
20 Judge Judy.

21 MS. BLUTH: So how is Judge Ellsworth doing? Oh,  
22 man. Okay. Judge Judy. Why do you want that show? What do  
23 you -- what do you like about it?

24 PROSPECTIVE JUROR NO. 967: It's her playpen.

25 MS. BLUTH: It's her what?

1 PROSPECTIVE JUROR NO. 967: It's her playpen.  
2 That's -- that's her words that she used. She runs a good  
3 court.

4 MS. BLUTH: Yeah.

5 PROSPECTIVE JUROR NO. 967: And I like the shows and  
6 I know it's real.

7 MS. BLUTH: Okay. When we've -- you know, we've  
8 spoken about the -- the question regarding a victim's  
9 testimony that was, you know, been a victim of sexual assault.  
10 Do you need fingerprints, do you need DNA, or can you listen  
11 to what that victim has to say and -- and make judgments based  
12 on testimony?

13 PROSPECTIVE JUROR NO. 967: I believe I can be a  
14 fair and impartial juror without any type of evidence provided  
15 to me.

16 MS. BLUTH: Okay. So you're not looking for  
17 something specific, I guess, is what I'm asking.

18 PROSPECTIVE JUROR NO. 967: Correct.

19 MS. BLUTH: And you don't know anyone who has been  
20 the victim of a rape?

21 PROSPECTIVE JUROR NO. 967: No.

22 MS. BLUTH: Do you have -- have you ever had any  
23 experience knowing anyone with seizures or that type of  
24 medical disorder?

25 PROSPECTIVE JUROR NO. 967: No.

1 MS. BLUTH: Have any bumper stickers?  
2 PROSPECTIVE JUROR NO. 967: No.  
3 MS. BLUTH: Do you want to be a juror?  
4 PROSPECTIVE JUROR NO. 967: Yes.  
5 MS. BLUTH: Why?  
6 PROSPECTIVE JUROR NO. 967: I served before four  
7 years ago and I went through the process and I was actually  
8 selected when I first come in, and I was surprised. I learned  
9 a lot.  
10 MS. BLUTH: Okay.  
11 PROSPECTIVE JUROR NO. 967: And just -- it was a  
12 learning experience for me. And when I received my summons I  
13 was happy.  
14 MS. BLUTH: Was that a criminal or civil trial? I'm  
15 sorry if you answered that, I don't remember.  
16 PROSPECTIVE JUROR NO. 967: It was criminal.  
17 MS. BLUTH: It was criminal. And how long was that  
18 trial?  
19 PROSPECTIVE JUROR NO. 967: It lasted for a week.  
20 MS. BLUTH: When you say things, what did you learn?  
21 PROSPECTIVE JUROR NO. 967: I learned about the  
22 three-strike law.  
23 MS. BLUTH: Okay.  
24 PROSPECTIVE JUROR NO. 967: Which I didn't know  
25 anything about.

1 MS. BLUTH: Okay.

2 PROSPECTIVE JUROR NO. 967: The Judge explained the  
3 law to us before we went into deliberation. And before -- we  
4 had questions while we were in deliberation and she was -- she  
5 came in and she explained a lot to us again.

6 MS. BLUTH: Okay. And overall you felt like it was  
7 a positive experience?

8 PROSPECTIVE JUROR NO. 967: Yes, it was.

9 MS. BLUTH: Have you ever looked back on your  
10 decision, ever second guessed it?

11 PROSPECTIVE JUROR NO. 967: No.

12 MS. BLUTH: Okay. Thank you.

13 THE COURT: Defense.

14 MR. MANINGO: Hello, Ms. Brooks.

15 PROSPECTIVE JUROR NO. 967: Good afternoon.

16 MR. MANINGO: So one daughter and a son-in-law who  
17 are ATF agents?

18 PROSPECTIVE JUROR NO. 967: Correct.

19 MR. MANINGO: Okay. Do you know what type of work  
20 they do specifically?

21 PROSPECTIVE JUROR NO. 967: Somewhat.

22 MR. MANINGO: Could you share?

23 PROSPECTIVE JUROR NO. 967: They've shared some  
24 things with me about confiscating illegal weapons, closing  
25 down shops without license, that type of thing, gun shops.

1 MR. MANINGO: Okay. Okay. And they both -- both  
2 your daughter and her husband do the same type of work?

3 PROSPECTIVE JUROR NO. 967: Correct.

4 MR. MANINGO: Okay. And how long have they been ATF  
5 agents?

6 PROSPECTIVE JUROR NO. 967: 15 years.

7 MR. MANINGO: Now, your work experience was with  
8 injury claims?

9 PROSPECTIVE JUROR NO. 967: Yes.

10 MR. MANINGO: Okay. Do you have to evaluate the  
11 claims?

12 PROSPECTIVE JUROR NO. 967: Yes, we do.

13 MR. MANINGO: Okay. Do you have to make judgments  
14 on whether or not some were -- were legitimate and some were  
15 false?

16 PROSPECTIVE JUROR NO. 967: No, we don't adjudicate  
17 the claims.

18 MR. MANINGO: Okay.

19 PROSPECTIVE JUROR NO. 967: The claims all go to an  
20 outside entity for adjudication.

21 MR. MANINGO: Okay. But that is part of the  
22 process, it happens?

23 PROSPECTIVE JUROR NO. 967: Yes.

24 MR. MANINGO: Okay. Have you ever been aware of any  
25 false claims that have been made?

1 PROSPECTIVE JUROR NO. 967: Oh, yes.

2 MR. MANINGO: Okay. You've heard all the other  
3 questions.

4 PROSPECTIVE JUROR NO. 967: Yes.

5 MR. MANINGO: You're able to be fair to both sides?

6 PROSPECTIVE JUROR NO. 967: I believe I can.

7 MR. MANINGO: Okay. Having seen nor heard any  
8 evidence at this point right now, there's been no evidence  
9 presented right now, if the Judge told you you had to bring  
10 back a verdict, what would your verdict be?

11 PROSPECTIVE JUROR NO. 967: That's kind of hard to  
12 answer right now for me, even though I've heard all the  
13 questions that have been asked. Can you kind of like  
14 elaborate on that?

15 MR. MANINGO: Sure. Like the Judge explained, you  
16 know, there's a presumption of innocence.

17 PROSPECTIVE JUROR NO. 967: Yes.

18 MR. MANINGO: So every -- all of us as American  
19 citizens, we start off at point one, we're innocent unless the  
20 State can prove beyond a reasonable doubt that we're guilty,  
21 okay. So at this point with that presumption, that starting  
22 point of innocent, and we haven't heard or seen any evidence  
23 as of right now, what would your -- what would your verdict  
24 have to be?

25 PROSPECTIVE JUROR NO. 967: Not guilty.

1 MR. MANINGO: Would you feel comfortable with that?

2 PROSPECTIVE JUROR NO. 967: Yes, I would.

3 MR. MANINGO: Okay. Thank you, Ms. Brooks.

4 PROSPECTIVE JUROR NO. 967: You're welcome.

5 THE COURT: Thank you. It is the defense's first  
6 peremptory challenge.

7 MR. MANINGO: Your Honor, we would thank and excuse  
8 Ms. Tryba, No. 4, Seat No. 4.

9 THE CLERK: Badge 001, Mark Signorio.

10 PROSPECTIVE JUROR NO. 001: Hello.

11 THE COURT: Good afternoon, sir. How are you?

12 PROSPECTIVE JUROR NO. 001: I'm fine.

13 THE COURT: Good. Tell us about yourself for  
14 starters.

15 PROSPECTIVE JUROR NO. 001: My name is Mark  
16 Signorio. I've been in Las Vegas for almost seven years. I'm  
17 vice president of interior design for Las Vegas Sands Corp. I  
18 come from Chicago. I lived overseas in Singapore for a few  
19 years. I travel a lot with my job. Single. I like cars.

20 THE COURT: Have you always been in interior design?

21 PROSPECTIVE JUROR NO. 001: I've always been in  
22 development, so I've always developed businesses.

23 THE COURT: So what other aspects of development  
24 would you --

25 PROSPECTIVE JUROR NO. 001: I used to be on the

1 owner side. I worked for a company. This one happened to be  
2 a famous chef, so I did all of his business development and  
3 branding and licensing and extensions of the business. I grew  
4 it from a no-business to a multi-million dollar business.

5 THE COURT: Have you ever been the victim of a  
6 crime?

7 PROSPECTIVE JUROR NO. 001: I've had my car stolen.

8 THE COURT: Anything else you can think of?

9 PROSPECTIVE JUROR NO. 001: Nope.

10 THE COURT: Okay. And was that here in Clark  
11 County?

12 PROSPECTIVE JUROR NO. 001: No, it was in Chicago.

13 THE COURT: Did they ever recover your car?

14 PROSPECTIVE JUROR NO. 001: No, they have not.

15 THE COURT: Did you feel like law enforcement did a  
16 proper job in investigating it?

17 PROSPECTIVE JUROR NO. 001: I don't want to say no  
18 because it's very derogatory to say that, but I don't feel  
19 like -- it was just -- it was -- it's -- it was presented as  
20 it just happened, it's going to be impossible to find, just,  
21 you know, move on with it. It was -- that's how it was  
22 explained to me. I learned a lot about insurance at that  
23 point.

24 THE COURT: Okay. Would you hold that against --

25 PROSPECTIVE JUROR NO. 001: No.

1 THE COURT: -- law enforcement witnesses?

2 PROSPECTIVE JUROR NO. 001: No.

3 THE COURT: Okay. So you don't think that would  
4 affect your deliberations in this case?

5 PROSPECTIVE JUROR NO. 001: No.

6 THE COURT: Have you -- anyone in your family or  
7 closely associated with you been the victim of a serious  
8 violent type crime like murder, robbery, rape?

9 PROSPECTIVE JUROR NO. 001: No.

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

12 PROSPECTIVE JUROR NO. 001: No.

13 THE COURT: Anyone in your family or closely  
14 associated with you been accused of a crime?

15 PROSPECTIVE JUROR NO. 001: No.

16 THE COURT: Have you ever been involved in or anyone  
17 in your family involved in medical -- in medicine or, you  
18 know, nurses, any doctors or nurses in your family?

19 PROSPECTIVE JUROR NO. 001: My father was a chief of  
20 a fire department. That's about it.

21 THE COURT: Okay. And so --

22 PROSPECTIVE JUROR NO. 001: My sister is a pharmacy  
23 tech, but --

24 THE COURT: Okay. So no one ever worked in the  
25 hospital --

1 PROSPECTIVE JUROR NO. 001: No.

2 THE COURT: -- for instance? Okay. Any reason you  
3 feel you could not be fair and impartial in this case?

4 PROSPECTIVE JUROR NO. 001: Yes.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 001: I probably can't say it  
7 here, but I'd be more than happy to speak with the attorneys  
8 and everyone in the room because it may taint people's -- I  
9 had an experience at Centennial Hills Hospital last --

10 THE COURT: Okay. I don't want -- I don't want you  
11 to -- if you're concerned that it may taint everybody, I don't  
12 want you to talk about it if you're concerned about it --

13 PROSPECTIVE JUROR NO. 001: Right.

14 THE COURT: -- if you're concerned about that.

15 PROSPECTIVE JUROR NO. 001: Okay.

16 THE COURT: So we'll send the rest of the  
17 prospective jurors out in the hall for a few moments.

18 (Prospective jury panel recessed at 4:11 p.m.)

19 (Inside the presence of Prospective Juror No. 001)

20 THE COURT: The record will reflect that the other  
21 prospective jurors have left the room.

22 And so, Mr. Signorio, tell us what happened.

23 PROSPECTIVE JUROR NO. 001: I had a ski accident and  
24 I tore my ACL and I had to go to Centennial Hills in the  
25 emergency room. While I was there, back in the ER area, they

1 did have like a curtain pulled partially. There was a patient  
2 there who was screaming and accused of being touched  
3 inappropriately when running out of the room and locked  
4 himself into the bathroom. And then he got naked and he -- I  
5 will say he seemed a little off, but I don't want to pass  
6 judgment on him.

7           They were -- what struck was the -- the uncaringness  
8 of the hospital to try to deal with this person. They were  
9 laughing a little bit. They give him a robe to put on and he  
10 put it on backwards, so clearly he was still exposing himself  
11 and they thought that was funning. I don't know if the police  
12 came. I could only see through the crack and heard  
13 everything. But there were people in blue uniforms that  
14 looked official. I don't know if the hospital has security  
15 guards.

16           It just left me with a really uneasy feeling that  
17 this person was not -- you know, they -- they dismissed him.  
18 I mean, he was -- he wasn't violent, he wasn't unruly. He --  
19 he was screaming from his room. I heard him say don't touch  
20 me, don't touch me, get out of here. And then he's made some  
21 kind of comment about they touched me and then he went into, I  
22 think it was the men's room, the public in the back of the ER,  
23 and wouldn't come out. And I don't have to repeat my story,  
24 but --

25           THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 001: I just -- I witnessed  
2 it. I mean, granted, I was sitting with my leg in a splint  
3 and I only saw a little bit, but it was right on the bathroom  
4 door. I mean, I saw everybody going in and out. I saw some  
5 of the nurses chuckling.

6 THE COURT: So that whole experience makes you think  
7 you really couldn't be fair and impartial in this case because  
8 you have kind of formed opinions about how people, at least at  
9 that hospital --

10 PROSPECTIVE JUROR NO. 001: Yes, that's correct.

11 THE COURT: -- respond to accusations by patients?

12 PROSPECTIVE JUROR NO. 001: That's correct.

13 THE COURT: Counsel stipulate to excuse him?

14 MS. BLUTH: Yes, Your Honor.

15 MR. MANINGO: Defense would, yes.

16 THE COURT: Thank you. Thank you very much. And  
17 thank you for warning us before you --

18 PROSPECTIVE JUROR NO. 001: I'm sorry about this.

19 THE COURT: No, that was -- you did exactly the  
20 right thing.

21 PROSPECTIVE JUROR NO. 001: I didn't know how to  
22 bring it up when you asked, so I just waited.

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 001: All right.

25 THE COURT: Thank you.

1 (Outside the presence of Prospective Juror 001)

2 THE COURT: All right. The record will reflect  
3 we're still outside the presence of the main jury, the venire  
4 at this point. All right. So jury services is telling me  
5 they have dismissed, with my permission, one juror how didn't  
6 bring enough insulin with her for the afternoon. So we let  
7 her go, but they have still probably 49 left.

8 I'm thinking that we could at least tell these folks  
9 not to come right in at 1:00 when we're supposed to start  
10 because what we could do would be we could start with finding  
11 out from the whole venire panel if they've heard about that  
12 case and go through that because that'll -- if there are some,  
13 there may be some like we had last time. We'll take that  
14 individually. And then we could go through all of the excuses  
15 why they can't serve for the weeks. And maybe guesstimate  
16 that that'll take --

17 MS. BLUTH: 90 minutes probably.

18 THE COURT: Yeah, I was going to say an hour and a  
19 half. And so tell these folks not to come back until 2:30.

20 MS. BLUTH: I think that that's --

21 THE COURT: Does that sound --

22 MS. BLUTH: -- prudent.

23 THE COURT: -- like a good course? Everybody is in  
24 agreement?

25 MS. BLUTH: Yes, Your Honor.

1 MR. MANINGO: We agree. Yes, Judge.

2 THE COURT: Okay. Let's try that. Let's bring them  
3 back and let them know.

4 (Prospective jury panel reconvened at 4:17 p.m.)

5 THE COURT: Please be seated. All right. So,  
6 ladies and gentlemen, we are at a point where, as you can see,  
7 we have nobody waiting in the wings. And so what we want to  
8 do is let you go for the evening because we've got 49 people  
9 who are just like you were when you first arrived here on  
10 Monday and have to go through that initial process with them  
11 and you don't need to be here when we're trying to do that.

12 So we think that if you don't come back until --  
13 because we're not going to start -- I've got my morning  
14 calendar in the morning, so we won't be starting back up on  
15 this trial until 1:00, and we're going to be occupied  
16 initially with those new set of jurors before we really need  
17 you back with us. So you'll return tomorrow at 2:30, then we  
18 should be in good shape to -- to continue with you. All  
19 right.

20 So, ladies and gentlemen, we're going to have an  
21 overnight recess for you. And during this recess you are not  
22 to discuss this case. It is your duty not to converse among  
23 yourselves or with anyone else on any subject connected with  
24 the trial, or to read, watch, or listen to any report of or  
25 commentary on the trial by an person connected to the trial or

1 by any medium of information, including, without limitation,  
2 newspaper, television, radio, or Internet, and you are not to  
3 form or express an opinion on any subject connected with this  
4 trial until it is finally submitted to you.

5           Now, when I say you are not to supposed to talk to  
6 anyone else, by that I also mean your -- your friends and  
7 family members who will be very curious that you're  
8 potentially going to serve on a jury. But please don't  
9 discuss it with them. Tell them, you know, you're -- you  
10 don't -- you haven't even been selected yet for sure on the  
11 jury and it's a process where you really can't talk about it  
12 until the trial is over in any event because they may be  
13 reading the papers and want to engage you in conversation and  
14 that could taint you and we'd have to start over again. So  
15 please just don't discuss it. That's the easiest thing.

16           Thank you and I'll see you tomorrow at 2:30.

17           (Prospective jury panel recessed at 4:19 p.m.)

18           THE COURT: And, Marshal, will you bring the other  
19 venire panel in.

20           (Court recessed at 4:20 p.m., until 4:34 p.m.)

21           (Inside the presence of the second prospective jury panel)

22           THE COURT: Please be seated. The record will  
23 reflect that we are back within the presence of a second  
24 venire panel. This is State of Nevada versus Steven Dale  
25 Farmer, Case No. 08-C245739.

1 Ladies and gentlemen, good afternoon. This is going  
2 to be fairly brief this evening because we are approaching the  
3 5:00 hour. So what we're engaged in is trying to select a  
4 jury, and we're going through the voir dire process. I'm  
5 going to have the Deputy District Attorney give you a very  
6 brief synopsis of this case, and she's going to then read the  
7 list of witnesses.

8 Actually, you know, I'm not going to have you do  
9 that today --

10 MS. BLUTH: Okay.

11 THE COURT: -- because they won't remember it for  
12 tomorrow.

13 But I am going to have you sworn and I'm going to  
14 ask you some really basic questions. But before we do -- you  
15 know, I ask you those questions, you have to be sworn.

16 And I'm sorry. I didn't introduce myself. I'm  
17 Judge Carolyn Ellsworth, and good afternoon. I know you've  
18 been very patient in waiting all afternoon. We did not think  
19 that that would be the case and we apologize that you've been  
20 waiting. We've been working, just so you don't -- you know,  
21 we aren't a bunch of slackers in here. We have been working  
22 very hard to select a jury and you're the next step in that  
23 process.

24 So if the clerk could swear the venire.

25 (Prospective jury panel sworn)

1           THE COURT: Thank you. All right. Is there anyone  
2 that's sitting now here who is 70 years of age or older and  
3 does not want to serve as a juror? Because there's a  
4 statutory provision that provides for that if you don't want  
5 to serve. Of course, if you are -- do meet that qualification  
6 and you do want to serve, you may serve. All right. The  
7 record will reflect a negative response.

8           Is there anyone who is 65 years of age or older and  
9 lives at least 65 miles from the courthouse? You also do not  
10 have to serve if you meet that criteria. You'd have to live  
11 in Mesquite, Nevada, in order to qualify for that. The record  
12 will reflect a negative response.

13           All right. So this -- this trial is expected to  
14 last for four to five weeks. And so tomorrow we're going to  
15 be asking everybody about whether or not they can serve for  
16 that amount of time and taking everyone's excuses in that  
17 regard. However, we don't have enough time to do that in the  
18 next ten minutes.

19           So what I want to know right now is is there anyone  
20 who has surgery scheduled tomorrow. Raise your hand. The  
21 record will reflect a negative response.

22           Is there anyone who is scheduled to deliver a baby  
23 tomorrow or their spouse is expected to deliver a baby  
24 tomorrow? All right. The record will reflect a negative  
25 response.

1           Is there anyone who has prepaid airline tickets and  
2 is getting on an airplane to leave tomorrow?

3           PROSPECTIVE JUROR NO. 423: Tomorrow.

4           THE COURT: Tomorrow. Okay. We've got one  
5 gentleman in the back. Let's give him the microphone.

6           Sir, if you'll state your name and the last three  
7 digits of your badge number.

8           PROSPECTIVE JUROR NO. 423: My name is Consolador  
9 Apostol, and my -- the last three digits of my badge number is  
10 423, Your Honor.

11          THE COURT: Thank you. And you're getting on an  
12 airplane?

13          PROSPECTIVE JUROR NO. 423: Yes, ma'am, because I  
14 work in San Francisco and I have to go to work. I just took  
15 leave today.

16          THE COURT: Okay. So you live here, but you work in  
17 San Francisco?

18          PROSPECTIVE JUROR NO. 423: Yes, Your Honor.

19          THE COURT: Every day? Do you --

20          PROSPECTIVE JUROR NO. 423: Yes. Yes.

21          THE COURT: -- stay there all week and then come  
22 home on the weekends?

23          PROSPECTIVE JUROR NO. 423: Yes, ma'am.

24          THE COURT: I see. Okay. So obviously you have --  
25 you know, you have obligations. You've chosen to work in San

1 Francisco, but that's a little different than -- I mean,  
2 you're in basically the same position as everybody else who  
3 has a job.

4 PROSPECTIVE JUROR NO. 423: Yes, ma'am.

5 THE COURT: Who do you work for?

6 PROSPECTIVE JUROR NO. 423: I work for the  
7 government, ma'am.

8 THE COURT: Ah, okay. Well, you need --

9 PROSPECTIVE JUROR NO. 423: I work for the housing  
10 and --

11 THE COURT: -- to tell them that you --

12 PROSPECTIVE JUROR NO. 423: -- urban development.

13 THE COURT: -- won't be getting on the plane  
14 tomorrow.

15 PROSPECTIVE JUROR NO. 423: Ma'am?

16 THE COURT: You won't be getting on the plane  
17 tomorrow. You need to call and let them know that you won't  
18 be at work tomorrow because you're going to have to come back  
19 here tomorrow, all right.

20 PROSPECTIVE JUROR NO. 423: I understand, Your  
21 Honor.

22 THE COURT: Thank you.

23 Anyone else, though, that has like prepaid airplane  
24 tickets to go on a fabulous cruise or -- or something like  
25 that and they leave tomorrow? Any -- and a negative response

1 will be reflected on the record.

2           Anyone who has an important doctor appointment  
3 tomorrow that's been scheduled and now it's too late for you  
4 to change it because it's almost 5:00? We have one gentleman  
5 in the back.

6           PROSPECTIVE JUROR NO. 668: Arthur Escoto, Your  
7 Honor, badge number 668. I myself don't have the appointment.  
8 My son has cerebral palsy, I'm the primary caregiver, and he  
9 has his neurologist tomorrow afternoon --

10           THE COURT: Okay.

11           PROSPECTIVE JUROR NO. 668: -- at 2:30.

12           THE COURT: All right. And you're the only one that  
13 can take him to that?

14           PROSPECTIVE JUROR NO. 668: My wife is our sole  
15 support and she works during the day.

16           THE COURT: Okay. All right. Counsel have any  
17 objection to excusing this gentleman?

18           MS. BLUTH: No, Your Honor.

19           MR. MANINGO: No objection.

20           THE COURT: All right. Thank you. You're excused.  
21 If you'll report and just let them know that you'll need to --  
22 that you're excused.

23           THE CLERK: I missed his badge number.

24           THE COURT: Oh, we need your badge number again. My  
25 clerk did not get it.

1 PROSPECTIVE JUROR NO. 668: 668.

2 THE COURT: Thank you, sir.

3 PROSPECTIVE JUROR NO. 668: Thank you.

4 THE COURT: Did I see another hand in the front --  
5 front row?

6 PROSPECTIVE JUROR NO. 512: Yes. Allison Velasquez,  
7 512. I have a follow up appointment with my doctor for my  
8 back.

9 THE COURT: Okay. And that's not something that you  
10 can reschedule because it's tomorrow?

11 PROSPECTIVE JUROR NO. 512: It is tomorrow and I  
12 didn't -- yes, it's tomorrow in the afternoon.

13 THE COURT: All right. What time in the afternoon?

14 PROSPECTIVE JUROR NO. 512: It's 1:30.

15 THE COURT: All right. So any objection to excusing  
16 this prospective juror?

17 MS. BLUTH: No, Your Honor.

18 THE COURT: All right.

19 MR. MANINGO: No, Your Honor.

20 THE COURT: Thank you. And you'll need to report  
21 across the way, as well, and let them know that you were  
22 excused because of that conflict.

23 PROSPECTIVE JUROR NO. 512: All right.

24 THE COURT: Thank you.

25 Okay. So no one else with emergencies that -- where

1 you can't be back here tomorrow? All right. So now tomorrow  
2 we're going to be asking you a number of questions. Among  
3 them whether or not you could possibly sit on a trial that's  
4 going to last potentially five weeks. And so my guess is that  
5 there are some people out there who -- you know, probably  
6 quite a few who can't.

7           So if you're going to tell me you've got during this  
8 time period you are expecting a baby to be born in your family  
9 that's your -- your child, you're going to deliver a child or  
10 you're going to be the father of the child, then I need to  
11 know. That's fine. If it's not -- unless it's somebody that  
12 you're the attendant for, I need to know that, obviously. But  
13 any kind of -- and I don't need to know it today because I --  
14 because I know it's going to be more than one or two people.  
15 I'm going to take all of those -- I don't want to say excuses,  
16 but, you know, those -- those excuses.

17           I'm going to talk to you about those tomorrow and  
18 we'll take all of them at one time. We'll go through them,  
19 we'll make notes, and then we'll excuse the ones who can be  
20 properly excused under the law. And the others, if we don't  
21 feel that they can be excused under the law would have to  
22 remain. But we'll be doing that, as well you're going to hear  
23 a brief synopsis of what the case is about. You're going to  
24 hear a list of the witnesses, and we're going to go through  
25 the other questioning.

1           But we're not going to start tomorrow until 1:00, so  
2 you don't need to come in until 1:00. You'll need to gather.  
3 We'll start promptly at 1:00 and we'll have you come on in and  
4 we'll start the process. Any concerns of anybody that didn't  
5 previously say -- okay, wait, why didn't you tell me that you  
6 had some emergency and you can't come in tomorrow? That's  
7 what I'm needing to find out, some emergency that you can't  
8 come in tomorrow.

9           PROSPECTIVE JUROR NO. 477: I'm in another court  
10 battle right now with my daughter.

11          THE COURT: You have to be in court tomorrow? Okay.  
12 I need your name and your badge number, the last three digits.

13          PROSPECTIVE JUROR NO. 477: My name is -- my name is  
14 Amber Martinez and my badge number is 477.

15          THE COURT: Okay. And do you have to be in court  
16 tomorrow?

17          PROSPECTIVE JUROR NO. 477: No, but I have to be in  
18 court this week.

19          THE COURT: Okay. Well, again, we can't go through  
20 all of that right now because in three minutes we have to  
21 recess court. I just need you to come back tomorrow. We'll  
22 -- we'll address it very fully, all right.

23          PROSPECTIVE JUROR NO. 477: Yes, ma'am.

24          THE COURT: All right. Yes, ma'am? I need you to  
25 stand and state your name and your badge number.

1 PROSPECTIVE JUROR NO. 508: Espanol?  
2 THE COURT: No habla ingles?  
3 PROSPECTIVE JUROR NO. 508: Muy poquito.  
4 THE COURT: Nada?  
5 PROSPECTIVE JUROR NO. 508: Muy poquito.  
6 THE COURT: All right. This juror -- Marshal,  
7 what's her --  
8 Como te llama?  
9 PROSPECTIVE JUROR NO. 508: Yasmin.  
10 THE MARSHAL: Villalobos, and it's 790.  
11 THE COURT: Thank you. All right.  
12 THE CLERK: 490?  
13 MR. MANINGO: 508?  
14 THE COURT: The last three digits.  
15 THE MARSHAL: 790 -- oh, 508. Sorry. I'm looking  
16 at the wrong one. 508.  
17 THE COURT: You don't speak English?  
18 PROSPECTIVE JUROR NO. 508: Muy poquito.  
19 THE COURT: Okay. Very little. And have you  
20 understood what's been going on?  
21 PROSPECTIVE JUROR NO. 508: [Unintelligible].  
22 THE COURT: It sounds like she doesn't speak enough  
23 English to participate.  
24 MS. BLUTH: The State has no objection.  
25 MR. MANINGO: No objection.

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

2 Okay. We have a hand in the back row there. Name  
3 and last three digits.

4 PROSPECTIVE JUROR NO. 669: My name is Nidia  
5 Puba-Acosta, and my badge number is 669.

6 THE COURT: Yes, ma'am.

7 PROSPECTIVE JUROR NO. 669: I have class tomorrow  
8 from 12:30 to 1:15. I have an exam.

9 THE COURT: Okay. Are you a student at UNLV or --

10 PROSPECTIVE JUROR NO. 669: At CSN.

11 THE COURT: CSN. Full time or are you just a part  
12 time?

13 PROSPECTIVE JUROR NO. 669: Part time. Just that  
14 class.

15 THE COURT: Okay. Did you notify your professor  
16 that you had been called for jury duty?

17 PROSPECTIVE JUROR NO. 669: No, but I can't make up  
18 the test.

19 THE COURT: Okay. Is it a final exam?

20 PROSPECTIVE JUROR NO. 669: No, it's not a final.

21 THE COURT: Counsel, I don't know what your -- I  
22 don't know enough information from this prospective juror to  
23 make a decision at this point, so --

24 MS. BLUTH: The State has no objection, Your Honor.

25 MR. MANINGO: No objection.

1 THE COURT: All right. You're excused. Thank you.  
2 Okay. All right. Do we have any other full-time  
3 students present? All right. You're still going to have to  
4 come back tomorrow. I can't -- I can't hear all of this  
5 today. I apologize. But when you're called for jury duty it  
6 can continue from day to day. And until I make that  
7 determination, you're going to have to come back tomorrow and  
8 we'll discuss all of this tomorrow.

9 Let's see. It's 4:50. Oh, well, why did -- I  
10 thought it said --

11 THE CLERK: I think it was 4:47 when you --

12 THE COURT: All right. So I've got -- we've got  
13 nine minutes. All right. How many -- how many full time  
14 students do we have? One, two, three, four, five. All right.  
15 And starting with this lady in the front row. Name, badge  
16 number.

17 PROSPECTIVE JUROR NO. 505: Cassady Wright, badge  
18 number is 505.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 505: I'm a cosmetology  
21 student in Euphoria full time, and I'm making up hours. So  
22 the more days I miss, the more hours I have to make up.

23 THE COURT: Okay. I'm sorry. Badge number again?

24 PROSPECTIVE JUROR NO. 505: 505.

25 THE COURT: Okay. Have a seat.

1 Do we have full-time students, UNLV, CSN, Touro  
2 University?

3 PROSPECTIVE JUROR NO. 562: Hi. Name, Tyler  
4 Livingston, Badge No. 562. I'm a full-time pre-med biology  
5 student at UNLV.

6 THE COURT: How many units are you carrying?

7 PROSPECTIVE JUROR NO. 562: 12.

8 THE COURT: Okay. You're full time, then.

9 PROSPECTIVE JUROR NO. 562: Right.

10 THE COURT: All right. Thank you. Next.

11 PROSPECTIVE JUROR NO. 556: Nicholas Hevrin, Badge  
12 No. 556. I'm a full-time student at UNLV, as well.

13 THE COURT: How many units?

14 PROSPECTIVE JUROR NO. 556: 14.

15 THE COURT: Okay. So that's in the daytime you're  
16 going

17 PROSPECTIVE JUROR NO. 556: Yes.

18 THE COURT: Thank you. Next.

19 PROSPECTIVE JUROR NO. 511: My name is John Javier,  
20 Badge No. 511. I'm a full-time student at UNLV.

21 THE COURT: How many units?

22 PROSPECTIVE JUROR NO. 511: 12.

23 THE COURT: 12?

24 PROSPECTIVE JUROR NO. 511: Yes.

25 THE COURT: Are you a day or nighttime student?

1 PROSPECTIVE JUROR NO. 511: Day.  
2 THE COURT: Thank you. Anybody else?  
3 PROSPECTIVE JUROR NO. 625: My name is Scott  
4 Barclay, Badge No. 625, and I'm a full-time student at UNLV.  
5 THE COURT: How many units?  
6 PROSPECTIVE JUROR NO. 625: But all my classes are  
7 night, so --  
8 THE COURT: Okay.  
9 PROSPECTIVE JUROR NO. 625: -- it doesn't really  
10 affect it.  
11 THE COURT: How many units do you have?  
12 PROSPECTIVE JUROR NO. 625: 14.  
13 THE COURT: And you can go -- nighttime, you go  
14 every day at night?  
15 PROSPECTIVE JUROR NO. 625: 6:00.  
16 THE COURT: 6:00? And how long are your classes?  
17 PROSPECTIVE JUROR NO. 625: Until about 9:30 at  
18 night.  
19 THE COURT: Okay. And do you go every day?  
20 PROSPECTIVE JUROR NO. 625: Monday, Wednesday, and  
21 Thursday.  
22 THE COURT: Monday and Wednesday?  
23 PROSPECTIVE JUROR NO. 625: And Thursday.  
24 THE COURT: And Thursday. All right. Is that it?  
25 Okay. Counsel approach.

1 (Bench conference)

2 THE COURT: I didn't get all the names, but I got  
3 all the badge numbers.

4 MS. BLUTH: I don't really have an issue of any of  
5 the students because I think this trial is going on so long.

6 THE COURT: Right.

7 MS. BLUTH: And even when they're not here, you  
8 know, they still have to study and I just think it's unfair,  
9 to be honest.

10 MR. MANINGO: Jeff Maningo. I have no objection to  
11 any of the students, either. That's fine.

12 THE COURT: Okay. So I'm going to let them all go.  
13 And we'll tell the jury commissioner that we'll need some  
14 more, then, just so we have them.

15 MS. BLUTH: Okay.

16 THE COURT: All right.

17 (End of bench conference)

18 THE COURT: All right. So our students will all be  
19 dismissed. Badge Numbers 505, 562, 556, 511, and 625. Thank  
20 you very much.

21 All right. So we have a little extra time. Yes,  
22 ma'am, again, we'll give you back the microphone and you can  
23 tell us when you have to be in court.

24 PROSPECTIVE JUROR NO. 477: My attorney wrote you a  
25 letter, so I don't know if you would like that.

1 THE COURT: Oh, yes. Thank you. And I need your  
2 name and badge number again.

3 PROSPECTIVE JUROR NO. 477: My name is Amber  
4 Martinez-Gonzalez, Badge No. 477.

5 THE COURT: Thank you. All right. So Ms.  
6 Martinez-Gonzalez has shown me a letter from her counsel that  
7 indicates that she has to attend -- she has to attend a  
8 settlement conference in federal court, which would be  
9 mandatory, and she has to basically attend that via telephone  
10 on February 11th, which is going to be in the middle of our  
11 trial.

12 MS. BLUTH: No objection, Your Honor.

13 MR. MANINGO: No objection.

14 THE COURT: You'll be dismissed. Thank you very  
15 much.

16 All right. So, ladies and gentlemen, as I say, I  
17 need you back here at 1:00 tomorrow and we will talk to the  
18 rest of you.

19 PROSPECTIVE JUROR NO. 494: My name is Maria Munoz.

20 THE COURT: Yes.

21 PROSPECTIVE JUROR NO. 494: My badge number is 494.

22 THE COURT: Yes.

23 PROSPECTIVE JUROR NO. 494: I speak a little  
24 English.

25 THE COURT: Okay. How long have you lived here in

1 Las Vegas?

2 PROSPECTIVE JUROR NO. 494: Ten years.

3 THE COURT: Okay. Do you work?

4 PROSPECTIVE JUROR NO. 494: Yes.

5 THE COURT: Where do you work?

6 PROSPECTIVE JUROR NO. 494: Bellagio Casino.

7 THE COURT: What do you do there?

8 PROSPECTIVE JUROR NO. 494: Store department.

9 THE COURT: The store department?

10 PROSPECTIVE JUROR NO. 494: Yes.

11 THE COURT: Okay. What's your job within that  
12 department?

13 PROSPECTIVE JUROR NO. 494: It's a kitchen worker.  
14 Clean the silverware. I speak a little, not too much.

15 THE COURT: All right. Well, I think what we need  
16 to do is see how you do tomorrow when you come back. And if  
17 you're having lots of difficulty you'll let us now. Because  
18 we -- right now it seems like you're understanding, but we  
19 won't be able to tell until we've gone through the process a  
20 little bit more. All right?

21 PROSPECTIVE JUROR NO. 494: Okay.

22 THE COURT: And, of course, Bellagio will pay you  
23 for the time you're here for jury duty so you don't need to  
24 worry about that.

25 PROSPECTIVE JUROR NO. 494: Okay. Because my days

1 off is Monday and today.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 494: And tomorrow I call to  
4 my -- my boss.

5 THE COURT: You need to tell them that you were  
6 summonsed for jury duty.

7 PROSPECTIVE JUROR NO. 494: Okay.

8 THE COURT: They will pay you your salary while  
9 you're at jury duty. They're a good corporate citizen.

10 PROSPECTIVE JUROR NO. 494: Oh, okay.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 494: Thank you.

13 THE COURT: All right. So, again, 1:00 tomorrow.  
14 And, please, during this overnight recess of court it's your  
15 duty not to converse among yourselves or with anyone else on  
16 any subject connected with this trial, which, of course, you  
17 know nothing about yet, so please avoid reading any newspapers  
18 or, you know, reports on upcoming trials because that could  
19 taint your ability to serve in this case. And avoid  
20 discussing any upcoming trials with anyone or any person that  
21 may be connected with any trials pending in the courthouse.

22 And so you need to avoid newspaper, television, or  
23 radio. If something comes on TV, it starts talking about an  
24 upcoming case, you turn it off. And you're not -- because you  
25 can't form or express an opinion on any subject connected with

1 this case until it's finally submitted to you if you're a  
2 juror. So let's try overnight not to become tainted by  
3 anything that could be reported in the media.

4 Thank you very much. If you have any other  
5 questions, you can ask the marshal on your way out, and we'll  
6 see you tomorrow at 1:00.

7 (Prospective jurors recessed at 5:00 p.m.)

8 THE COURT: All right. The record will reflect  
9 we're outside the presence of the venire. Are there any  
10 matters outside the presence?

11 MS. BLUTH: No, Your Honor.

12 MR. MANINGO: No, Your Honor.

13 THE COURT: All right. We'll see you tomorrow at  
14 1:00.

15 (Court recessed at 5:02 p.m., until Wednesday,  
16 February 5, 2014, at 1:08 p.m.)

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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*Julie Lore*

*8-22-14*

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