

1 THE COURT: SWAT officer in Ohio. How long ago did he retire?

2 PROSPECTIVE JUROR #216: He was employed for 30 -- or 40 years.

3 THE COURT: All right. So how long ago was that? When did he retire?

4 PROSPECTIVE JUROR #216: Let's see. Probably four years ago.

5 THE COURT: Okay. Are you close to him or where you close to him?

6 PROSPECTIVE JUROR #216: Yes.

7 THE COURT: All right. Now without getting into all the 40 years' worth of
8 conversations, has he told you anything over the years that would cause you to be
9 something other than fair and impartial toward either side in this case?

10 PROSPECTIVE JUROR #216: No.

11 THE COURT: Okay. Now two other follow-up questions since he worked in a
12 different state. It may be that as the trial goes on you hear testimony about certain
13 police procedures or things that police did or didn't do. You also will be instructed
14 by me on the law that applies to this case. Now it may be that the law in Nevada is
15 different than the law in Ohio. It may also be that police procedures are different
16 between Nevada and Ohio. All right. If that turns out to be the case, if you hear
17 something that, you know that I instruct you on or some other testimony about police
18 procedures that differs than -- from something that your brother-in-law might have
19 told you, could you put aside what you think you know about how they do things in
20 Ohio? The other thing is if your brother-in-law worked there for 40 years, over time,
21 you know, things evolve. Forty years ago they didn't have DNA. They didn't have
22 all this computer stuff and, you know, things like that.

23 PROSPECTIVE JUROR #216: Yes.

24 THE COURT: So things change over time. But if you hear things that are
25 different than what your brother-in-law may have told you about something he did or

1 did not do or was trained to do in Ohio, could you put that aside and base your
2 verdict just upon what you hear in this case?

3 PROSPECTIVE JUROR #216: Yes.

4 THE COURT: Okay. I appreciate that. Let me get you to pass the mic.

5 Anyone else in the back row with their hand up? How about the middle
6 row? There was -- can you raise it real high. Yeah. Thanks.

7 Your badge number?

8 PROSPECTIVE JUROR #219: 219.

9 THE COURT: Ms. Self, who do you know in law enforcement?

10 PROSPECTIVE JUROR #219: His name is David Shoen. It's my brother-in-
11 law; he's an attorney.

12 THE COURT: What's his name? David --

13 PROSPECTIVE JUROR #219: David Shoen, S-H-O-E-N.

14 THE COURT: And do you know what kind of law he practices?

15 PROSPECTIVE JUROR #219: I'm thinking it's whenever -- like they get
16 divorced. Like the child custody.

17 THE COURT: Okay. Do you know if he's ever been -- do you know if he also
18 does criminal defense or was he a prosecutor at some point in his career?

19 PROSPECTIVE JUROR #219: I don't want to say I'm for sure, but I think he
20 does criminal defense. I know he comes here on a weekly basis --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR #219: -- for court cases.

23 THE COURT: Well, that doesn't -- we also have some family law judges --

24 PROSPECTIVE JUROR #219: Yeah.

25 THE COURT: -- in this building, so --

1 PROSPECTIVE JUROR #219: That's why I don't --

2 THE COURT: -- it could either way.

3 PROSPECTIVE JUROR #219: -- want to say for sure.

4 THE COURT: Okay. Has he told you stories -- let's -- has he told you stories
5 about criminal cases that he's worked on?

6 PROSPECTIVE JUROR #219: I don't think so.

7 THE COURT: Okay. And really the question I'm getting at, you've heard it a
8 couple times, has he told you anything over the years that would cause you to be
9 something other than fair and impartial toward either side in this case?

10 PROSPECTIVE JUROR #219: No.

11 THE COURT: Okay. If it turns out he does criminal defense, would that be
12 something that enter into your thinking in any way if you were asked to serve as a
13 juror in this case?

14 PROSPECTIVE JUROR #219: As long as he's not in here.

15 THE COURT: I mean, let's say hypothetically -- let's say, you know -- I know
16 we don't know, but let's guess for a second, let's say he does do criminal defense
17 and let's say it turns out you find out later that he might know one of the defense
18 attorneys or he might know one of the prosecutors or might know me or something
19 else like that. I know you don't know that right now, so we're kind of talking --

20 PROSPECTIVE JUROR #219: Right.

21 THE COURT: -- in a vacuum, but if that's a possibility that he knows one of
22 us, that he's -- you know, buddies with one of us, is that something that would
23 matter to you at all?

24 PROSPECTIVE JUROR #219: Probably not.

25 THE COURT: Okay. All right. I appreciate the information.

1 Anyone else in the middle row with your hand up? Could you pass the
2 microphone.

3 What is your badge number?

4 PROSPECTIVE JUROR #194: Yes, it's 194.

5 THE COURT: 194.

6 PROSPECTIVE JUROR #194: 194.

7 THE COURT: Let me find you. Mr. Allen, who do you know in law
8 enforcement?

9 PROSPECTIVE JUROR #194: Yeah, my father was a Metro police officer
10 here in town.

11 THE COURT: All right. What's your father's name?

12 PROSPECTIVE JUROR #194: Robert Allen.

13 THE COURT: Okay. Is he still active or is he retired?

14 PROSPECTIVE JUROR #194: He's retired.

15 THE COURT: All right. When did he retire?

16 PROSPECTIVE JUROR #194: About six years ago.

17 THE COURT: Six years ago. Do you know what his last assignment was?
18 Do you know which area command or what unit he was on?

19 PROSPECTIVE JUROR #194: I just know it was here in town.

20 THE COURT: Okay. And you've heard what I'm interested in. Has he told
21 you anything over the years that would cause you to be something other than fair
22 and impartial toward either side in this case?

23 PROSPECTIVE JUROR #194: No.

24 THE COURT: Okay. Let me ask you another question. Since six years ago
25 is not that long ago, if an officer -- if officers from the Metro police department were

1 to come in here and testify there's always a possibility that they might have known
2 your father or worked with him on some case or just saw each other around, you
3 know, whatever it is, talked to each other on the radio. There's a million ways in
4 which, you know, officers interact with other officers. First of all -- well, let me back
5 up a second. Did you recognize any of the names that you heard as anyone that
6 your father may have mentioned or anyone who, you know, went to a barbeque or
7 some picnic with them?

8 PROSPECTIVE JUROR #194: No, I didn't recognize any of the names.

9 THE COURT: Okay. If it turns out that someone comes in here to testify,
10 some Metro police officer, turns out that oh, I kind of recognize that guy from some
11 picnic or something like that, is that something that would matter toward that
12 person's credibility to you in any way?

13 PROSPECTIVE JUROR #194: No.

14 THE COURT: Okay. If officers were to come in here and testify would you
15 find them to be more credible or less credible than any other witness because they
16 work in the same department as your father did, or might know your dad, or might
17 have been buddies with them or something like that?

18 PROSPECTIVE JUROR #194: Yeah, I'd try to be as impartial as I could.

19 THE MARSHAL: Could you speak directly into the microphone.

20 THE COURT: Sorry. Yeah.

21 PROSPECTIVE JUROR #194: I'd try to be as --

22 THE COURT: Again, I can hear you, but --

23 PROSPECTIVE JUROR #194: -- I'd try to be as impartial as possible.

24 THE COURT: Okay. So you wouldn't find officers to be more credible --

25 PROSPECTIVE JUROR #194: No.

1 THE COURT: -- just because they work in the same department?
2 PROSPECTIVE JUROR #194: No.
3 THE COURT: Okay. All right. I appreciate that. Let me get you to pass the
4 microphone.
5 THE MARSHAL: Anybody else in the middle row?
6 THE COURT: How about the front row?
7 Hi, ma'am. Your badge number?
8 PROSPECTIVE JUROR #201: 201.
9 THE COURT: 201 you said? You're Ms. Tatum?
10 PROSPECTIVE JUROR #201: Yes.
11 THE COURT: All right. Who do you know in law enforcement?
12 PROSPECTIVE JUROR #201: Well, my husband was in law enforcement.
13 He worked at Indian Springs Prison.
14 THE COURT: Oh, okay. So he was a corrections officer also?
15 PROSPECTIVE JUROR #201: Yes.
16 THE COURT: And you said he worked there. Is he not working there
17 anymore?
18 PROSPECTIVE JUROR #201: No. Actually, he was murdered at the job.
19 THE COURT: Oh, wow.
20 PROSPECTIVE JUROR #201: He was killed in the line of duty.
21 THE COURT: I'm sorry to hear that.
22 PROSPECTIVE JUROR #201: I just -- I don't feel like I could be -- I'm very
23 bitter when it comes to the court of what happened to him.
24 THE COURT: Okay. Can I ask you -- I don't want to, you know, open up a
25 whole bunch of things. What year did that happen?

1 PROSPECTIVE JUROR #201: In 1982.

2 THE COURT: 1992 [sic]. He was murdered by who? Was it an inmate, or
3 another officer, or family member, or what --

4 PROSPECTIVE JUROR #201: Because of the investigation it's still a open
5 murder case that hasn't been solved yet. But from what they told me they believe
6 that the guards killed him.

7 THE COURT: His -- other guards killed him?

8 PROSPECTIVE JUROR #201: Co-workers, yes.

9 THE COURT: Okay. And that's still an open case?

10 PROSPECTIVE JUROR #201: Yes.

11 THE COURT: Is that being investigated by the attorney general? Do you
12 know who you talked with?

13 PROSPECTIVE JUROR #201: The last detective I talked to was Detective
14 Hatch. I think he's retired now. But because it was never solved they say it's just a
15 open murder case that will just be open until it's solved.

16 THE COURT: Okay. So -- I mean -- I guess -- I'm going to try to be delicate,
17 but sometimes, you know, as you probably picked up today I'm -- sometimes I'm a
18 little more blunt than -- you know, just because it kind of speeds things up honestly.
19 I understand that -- well, okay, I really don't want to be indelicate so I'm trying to
20 apologize in advance. I understand that this may be emotionally difficult, but do you
21 think that you could put aside your emotions and be fair and impartial or would you
22 not be able to do that?

23 PROSPECTIVE JUROR #201: I don't think I'll be able to do that.

24 THE COURT: Okay. Can I ask you why? Is it because of the nature of the
25 alleged crime?

1 PROSPECTIVE JUROR #201: I think it's because of the nature of the crime;
2 because he was murdered; because he was missing for almost a month before they
3 found his body. And I went to court almost three years with workmans comp going
4 back and forth, so I'm just not comfortable with the whole court -- justice system
5 because of that.

6 THE COURT: Gotcha. I understand. All right, ma'am, here's what I'm going
7 to do. Given, you know, the nature of the charges, the allegations in this case and
8 what you've said, I'm going to go ahead and excuse you, so please report to jury
9 services on the third floor. I apologize for your loss and I thank you for your
10 willingness to serve; all right.

11 THE MARSHAL: And replacing seat 18 will be badge number 228.

12 Do you have an answer to that question, sir?

13 UNIDENTIFIED SPEAKER: What's that?

14 THE MARSHAL: Do you have an answer to that question that he's got right
15 now?

16 UNIDENTIFIED SPEAKER: No.

17 THE COURT: All right. Do you what.

18 THE MARSHAL: Who else in this bottom row?

19 THE COURT: Hang on. This gentleman in the middle just raised his hand a
20 second. I don't know what he wants to add. Can you pass it back for a second.

21 And what was your badge number again, sir?

22 PROSPECTIVE JUROR #194: 194.

23 THE COURT: 194.

24 PROSPECTIVE JUROR #194: 194.

25 THE COURT: All right. Mr. Allen, what did you want to add?

1 PROSPECTIVE JUROR #194: Yeah, my brother's also a corrections
2 officer --

3 THE COURT: Oh, okay.

4 PROSPECTIVE JUROR #194: -- here in town.

5 THE COURT: Currently?

6 PROSPECTIVE JUROR #194: I'm sorry?

7 THE COURT: Is he currently a corrections officer?

8 PROSPECTIVE JUROR #194: Yes.

9 THE COURT: How long has he been doing that?

10 PROSPECTIVE JUROR #194: I don't know, seven years, eight years.

11 THE COURT: All right. Do you know where he's posted now?

12 PROSPECTIVE JUROR #194: I'm not really sure. I believe it's Indian
13 Springs, but I'm not really sure.

14 THE COURT: All right. Kind of the same question. Anything that he's told
15 you in conversation that would cause you to be something other than fair and
16 impartial in this case?

17 PROSPECTIVE JUROR #194: No.

18 THE COURT: Okay. I appreciate your thinking of that.

19 How about the front row? Who else had their hand up in response to
20 that question? There's one person here.

21 Hi, ma'am. Your badge number?

22 PROSPECTIVE JUROR #206: 206.

23 THE COURT: Ms. Thomas.

24 PROSPECTIVE JUROR #206: Yes.

25 THE COURT: Who do you know in law enforcement?

1 PROSPECTIVE JUROR #206: My brother, who has since retired.

2 THE COURT: Okay. Where --

3 PROSPECTIVE JUROR #206: Worked at a federal prison for years.

4 THE COURT: Federal prison. In what state?

5 PROSPECTIVE JUROR #206: Georgia.

6 THE COURT: Georgia. When did he retire?

7 PROSPECTIVE JUROR #206: Oh, it's been a while. I think it's about ten
8 years ago.

9 THE COURT: Ten years ago. Is that the only law enforcement job that he
10 had?

11 PROSPECTIVE JUROR #206: No, he worked for a short while with the SBI.

12 THE COURT: Oh, gotcha. Okay. So -- okay. I know that was a while ago in
13 a different state, but let me just ask you. Would you consider yourself close to him?
14 Has he told you things about his job or his thoughts about the criminal justice
15 system?

16 PROSPECTIVE JUROR #206: Years ago he did.

17 THE COURT: Okay. Has he told you anything that would cause you to be
18 something other than fair and impartial toward either side or toward any witness in
19 this case?

20 PROSPECTIVE JUROR #206: No.

21 THE COURT: Okay. Would you find some -- a law enforcement witness -- if
22 a law enforcement witness were to come in here and testify would you find them to
23 be more credible than any other witness just because they're in the same general
24 line of work as your brother used to be?

25 PROSPECTIVE JUROR #206: No --

1 THE COURT: Okay.

2 PROSPECTIVE JUROR #206: -- not without listening to evidence.

3 THE COURT: Okay. All right. I appreciate the information.

4 Anyone else in this area with their hand up? How about back there;
5 anyone with their hands up? Nobody.

6 All right. Is there anybody here who thinks that they would not be able
7 to follow all instructions of the Court on the law even if those instructions differ from
8 your personal conception of what the law ought to be. I know that sentence is kind
9 of complicated so let me explain it to you. At the end of this case I will read you the
10 law that applies to this case. I don't write the law. As you guys know from basic
11 civics class the law is written by our legislature and the governor and it's interpreted
12 by the Nevada Supreme Court. I just read you the principles that have been settled
13 by them.

14 Now it may be that some of those principles may be things that you
15 think are bad laws or may be shouldn't be laws. But none the less, if you are asked
16 to serve as jurors in this case you would be taking an oath to follow the law as it is in
17 the State of Nevada. Is there anybody here who thinks that they would not be able
18 or might not be able to do that? All right. There being no hands up.

19 Under our system of criminal justice certain principles of law apply in
20 every crime trial. They are that the Information or Indictment filed in a case is a
21 mere accusation and is not itself evidence of guilt. Secondly, that the Defendant is
22 presumed innocent. And third, the State must prove that the Defendant is guilty
23 beyond a reasonable doubt.

24 Now I kind of covered this a second ago with Ms. Taylor, but what that
25 means among other things is this. As Mr. Newell sits before you he is an innocent

1 man because the State has not shown you any evidence that he is guilty beyond a
2 reasonable doubt. No witnesses have come in here and testified. You've not seen
3 any actual evidence. You've heard accusations, but that -- from -- as I said a minute
4 ago, from lawyers, but that's all you've heard. So if I were to ask you to render a
5 verdict right now, your verdict would have to be not guilty because you haven't
6 heard any evidence. The State hasn't proven anything. Is there anybody who
7 doesn't understand that or doesn't agree with that?

8 All right. Does anybody -- I asked you before. Let me just double
9 check. Does anybody think they might have heard something about this case other
10 than what's been stated in court today?

11 All right. Anyone here ever served on a jury before? We have kind of a
12 handful of people. Okay. Again, we're going to start kind of left to right and back to
13 front; all right.

14 And your badge number, sir?

15 PROSPECTIVE JUROR #175: 175.

16 THE COURT: Mr. Arrell; right?

17 PROSPECTIVE JUROR #175: Arrell.

18 THE COURT: Where and when did you serve?

19 PROSPECTIVE JUROR #175: I served on a jury in Douglas County, Oregon.
20 It must have been about 1987 or '88.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR #175: I served on one jury at that time. And then I
23 served on a jury in Medford, Oregon in probably 1990 -- I'm gonna say 5 or 6 and I
24 served on two juries at that time.

25 THE COURT: Okay. Do you remember, were they civil or criminal tries?

1 PROSPECTIVE JUROR #175: They were -- the first one was civil and the
2 second two were criminal.

3 THE COURT: Okay. The ones that were criminal do you remember what the
4 charges were?

5 PROSPECTIVE JUROR #175: Yes. One was death by deception and the
6 other one was escape. Charges were dropped in that because they had changed
7 the terms, but when they brought him into court they had them changed to the new
8 terms specifying what he had done.

9 THE COURT: Okay. That was actually going to be my next question. So the
10 next one then didn't go to verdict? In other words, you didn't have --

11 PROSPECTIVE JUROR #175: It didn't go to verdict.

12 THE COURT: -- to render a verdict; right?

13 PROSPECTIVE JUROR #175: No.

14 THE COURT: How about the first two. Did those cases actually go to
15 verdict?

16 PROSPECTIVE JUROR #175: Yes. The first one was not guilty.

17 THE COURT: Okay. Hang on.

18 PROSPECTIVE JUROR #175: Oh.

19 THE COURT: I was going to say you don't have to tell us what the verdict
20 was.

21 PROSPECTIVE JUROR #175: Okay.

22 THE COURT: I was just wondering if they went to verdict --

23 PROSPECTIVE JUROR #175: Okay.

24 THE COURT: -- or was it a hung jury, was it negotiated.

25 PROSPECTIVE JUROR #175: They both went to verdict.

1 THE COURT: So those two went to verdict. Were you the foreperson on
2 either jury?

3 PROSPECTIVE JUROR #175: No.

4 THE COURT: All right. Was there anything about your service on any one of
5 those cases, or all three of them, that would cause you to hesitate before serving
6 again on a jury?

7 PROSPECTIVE JUROR #175: No.

8 THE COURT: All right. Anything that happened during those -- during your
9 service on those three jurors -- juries that would cause you to be something other
10 than fair and impartial?

11 PROSPECTIVE JUROR #175: No.

12 THE COURT: All right. Super. Let me get you to pass the microphone.

13 Who else had their hand up in the back row there? Anyone else? How
14 about the middle row; anybody?

15 THE MARSHAL: Nobody in the back row. Front row? Middle row here.

16 THE COURT: Oh, we have one person in the back row there.

17 All right. Ma'am, your badge number.

18 PROSPECTIVE JUROR #187: 187.

19 THE COURT: Ms. Collis.

20 PROSPECTIVE JUROR #187: Correct.

21 THE COURT: Where and when did you serve?

22 PROSPECTIVE JUROR #187: Back in Texas; '84, '85. It was -- it didn't go to
23 -- it didn't complete. It was -- something happened in the middle of the trial and the
24 judge said we were all excused, so I don't know what happened. It just --

25 THE COURT: Okay.

1 PROSPECTIVE JUROR #187: And it was civil I believe.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR #187: I just remember I was there a half a day and I
4 was gone.

5 THE COURT: Oh, okay. All right. So given that, was there anything about
6 your half days of service that would cause you to be something other than fair and
7 impartial in this case or cause you to have serious reservations about serving
8 again?

9 PROSPECTIVE JUROR #187: Not at this time.

10 THE COURT: Okay. All right. I appreciate the information.

11 How about the middle row?

12 All right. Hi. What is your badge number?

13 PROSPECTIVE JUROR #197: Good afternoon, Your Honor. 197, Howard
14 Bluestone.

15 THE COURT: Mr. Bluestone, where and when did you serve?

16 PROSPECTIVE JUROR #197: Probably mid '80s. Cook County, Illinois. It
17 was a civil matter. It was a traffic accident.

18 THE COURT: Okay. Did the case actually go to verdict?

19 PROSPECTIVE JUROR #197: Yes.

20 THE COURT: Were you the foreperson?

21 PROSPECTIVE JUROR #197: No.

22 THE COURT: All right. Anything about your service on that jury that would
23 cause you to hesitate before serving again?

24 PROSPECTIVE JUROR #197: Nothing.

25 THE COURT: All right. Anything that would cause you to be something other

1 than fair and impartial?

2 PROSPECTIVE JUROR #197: Nothing.

3 THE COURT: All right. Super. Let me get you to pass the microphone.

4 PROSPECTIVE JUROR #197: Thank you.

5 THE COURT: Anyone that's in the middle row?

6 Hi. Your badge number?

7 PROSPECTIVE JUROR #194: 194.

8 THE COURT: Mr. Allen, when and where did you serve?

9 PROSPECTIVE JUROR #194: Yeah, it was a civil trial here in town.

10 THE COURT: What year?

11 PROSPECTIVE JUROR #194: It was about six years ago.

12 THE COURT: So like 2008ish?

13 PROSPECTIVE JUROR #194: Yes.

14 THE COURT: Okay. Did the case actually go to verdict?

15 PROSPECTIVE JUROR #194: Yes.

16 THE COURT: Were you the foreperson?

17 PROSPECTIVE JUROR #194: No.

18 THE COURT: All right. Was there anything about your service on that jury
19 that would cause you to hesitate before serving again?

20 PROSPECTIVE JUROR #194: No.

21 THE COURT: Was there anything that would cause you to be something
22 other than fair and impartial in this case?

23 PROSPECTIVE JUROR #194: No.

24 THE COURT: All right. Super. Let me get you to pass the mic.

25 Middle row; anybody?

1 THE MARSHAL: Anybody else in the bottom row?
2 THE COURT: Front row? All right. Pass the --
3 Hi, ma'am. Your badge number?
4 PROSPECTIVE JUROR #203: 203.
5 THE COURT: Ms. -- is it Strouse?
6 PROSPECTIVE JUROR #203: Yes.
7 THE COURT: All right. Where and when did you serve?
8 PROSPECTIVE JUROR #203: In Los Angeles.
9 THE COURT: What year?
10 PROSPECTIVE JUROR #203: Oh, late '90s, early 2000.
11 THE COURT: All right. Was it a civil or a criminal case?
12 PROSPECTIVE JUROR #203: Civil case.
13 THE COURT: Did the case actually go to verdict?
14 PROSPECTIVE JUROR #203: Yes, it did.
15 THE COURT: Were you the foreperson?
16 PROSPECTIVE JUROR #203: No, I was not.
17 THE COURT: Was there anything about your service that would cause you to
18 hesitate before serving again?
19 PROSPECTIVE JUROR #203: No.
20 THE COURT: Anything that would cause you to be something other than fair
21 and impartial?
22 PROSPECTIVE JUROR #203: No.
23 THE COURT: All right. Let me get you to pass the mic.
24 Anyone else with their hands up?
25 THE COURT: Hi, ma'am.

1 PROSPECTIVE JUROR #206: 206.
2 THE COURT: Ms. Thomas. Where and when did you serve?
3 PROSPECTIVE JUROR #206: I think this was between 15 to 20 years ago in
4 North Carolina on a criminal case.
5 THE COURT: All right. North Carolina; 15, 20 years ago. What was the
6 charge?
7 PROSPECTIVE JUROR #206: It was -- involved a shooting.
8 THE COURT: Okay. Did the case actually go to verdict?
9 PROSPECTIVE JUROR #206: Yes, it did.
10 THE COURT: Were you the foreperson?
11 PROSPECTIVE JUROR #206: No.
12 THE COURT: Was there anything about your service on that jury that would
13 cause you to hesitate before serving again?
14 PROSPECTIVE JUROR #206: No.
15 THE COURT: All right. Anything about your service that would cause you to
16 be something other than fair and impartial in this case?
17 PROSPECTIVE JUROR #206: No.
18 THE COURT: All right. Let me get you to hand the microphone back to
19 Randy.
20 Who else had their hand up; anybody? I think there's one back there.
21 Hi. Your badge number?
22 PROSPECTIVE JUROR #233: 233.
23 THE COURT: 233, Ms. Tan.
24 PROSPECTIVE JUROR #233: Yes, Judge.
25 THE COURT: Where and when did you serve?

1 PROSPECTIVE JUROR #233: I'm not sure. About probably eight, nine years
2 ago.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR #233: It was a civil law suit.

5 THE COURT: Civil case.

6 PROSPECTIVE JUROR #233: Civil.

7 THE COURT: Was it here or somewhere else?

8 PROSPECTIVE JUROR #233: It was here.

9 THE COURT: Okay. Did the case actually go to verdict?

10 PROSPECTIVE JUROR #233: Yes.

11 THE COURT: Were you the foreperson?

12 PROSPECTIVE JUROR #233: No.

13 THE COURT: All right. Anything about your service on that jury that would
14 cause you to hesitate before serving again?

15 PROSPECTIVE JUROR #233: No.

16 THE COURT: Was there anything about your service that would cause you to
17 be something other than fair and impartial in this case?

18 PROSPECTIVE JUROR #233: No, Judge.

19 THE COURT: All right. Let me get you to pass the microphone back to
20 Randy.

21 Has anyone here ever been the victim of a crime? All right. We got
22 three, four hands up. Let's start again here left to right, back to front. So let's start
23 with Mr. Arrell, badge number 175. And let me expand that out, not just you, but
24 anyone close to you, a spouse or close family member.

25 All right. So, Mr. Arrell, we're talking about you; right?

1 PROSPECTIVE JUROR #175: Yes.
2 THE COURT: What were you the victim of?
3 PROSPECTIVE JUROR #175: I had a break in and theft.
4 THE COURT: All right. What years?
5 PROSPECTIVE JUROR #175: 19 -- or no, it was 2010.
6 THE COURT: 2010. Was that here or somewhere else?
7 PROSPECTIVE JUROR #175: Medford, Oregon.
8 THE COURT: In Oregon; all right. Did you call the police?
9 PROSPECTIVE JUROR #175: Yes.
10 THE COURT: Did they respond?
11 PROSPECTIVE JUROR #175: Yes.
12 THE COURT: Anyone arrested?
13 PROSPECTIVE JUROR #175: Yes.
14 THE COURT: Did you have to testify in court or anything like that?
15 PROSPECTIVE JUROR #175: No.
16 THE COURT: Okay. Here's really what I'm interested in. Was there anything
17 about either what happened to you or the law enforcement response that would
18 cause you to have any feelings about the law enforcement response, about law
19 enforcement in general, about the court system? In other words, was there -- you
20 know, example, were you happy or unhappy with the law enforcement response in a
21 way that might carry over into your feelings about law enforcement in this case?
22 PROSPECTIVE JUROR #175: I was very unhappy.
23 THE COURT: You were very unhappy?
24 PROSPECTIVE JUROR #175: They were caught in the act --
25 THE COURT: Okay.

1 PROSPECTIVE JUROR #175: -- and they plea bargained, without me being
2 able to control it, down to simple criminal -- third degree criminal trespassing, even
3 though they've stolen over \$8,000 worth of merchandize -- worth of stuff from me.

4 THE COURT: Okay. So you're unhappy with the fact that it was pled down.
5 So is that something -- is that a feeling that would cause you to be -- that you would
6 carry over into this case in any way?

7 PROSPECTIVE JUROR #175: Probably not.

8 THE COURT: Okay. Do you think that it would affect your ability to be fair
9 and impartial toward either side in this case?

10 PROSPECTIVE JUROR #175: No.

11 THE COURT: Okay. All right. Let me get you to pass the microphone.

12 In the back row, anyone else with their hand up? Okay.

13 Hi, ma'am. Your badge number?

14 PROSPECTIVE JUROR #181: Hi. 181.

15 THE COURT: Ms. -- Is it Hengels?

16 PROSPECTIVE JUROR #181: Correct.

17 THE COURT: All right. What were you or someone close to you the victim
18 of?

19 PROSPECTIVE JUROR #181: I was a victim of a burglary.

20 THE COURT: Where and when?

21 PROSPECTIVE JUROR #181: At my home. May 2013.

22 THE COURT: May 2013. Here in Las Vegas?

23 PROSPECTIVE JUROR #181: Yes.

24 THE COURT: Did you call the police?

25 PROSPECTIVE JUROR #181: Yes, I did.

1 THE COURT: Was someone arrested?

2 PROSPECTIVE JUROR #181: Yes.

3 THE COURT: All right. Did you have to come in and testify in court?

4 PROSPECTIVE JUROR #181: I had been subpoenaed several times, but it's
5 always been continuations.

6 THE COURT: Oh, is it still an open case then?

7 PROSPECTIVE JUROR #181: I believe it is.

8 THE COURT: Okay. Who responded? Was it Metro, North Las Vegas,
9 Henderson?

10 PROSPECTIVE JUROR #181: Metro.

11 THE COURT: It was Metro. And is that case being handled by the Clark
12 County DA's Office?

13 PROSPECTIVE JUROR #181: Yes.

14 THE COURT: Okay. Now given what happened to you and the fact that it's
15 an open case, is there anything about what happened to you, let's start with that,
16 that would cause you to be something other than fair and impartial toward either
17 side in this case?

18 PROSPECTIVE JUROR #181: No.

19 THE COURT: All right. Now given that it's an open case that's being handled
20 by other prosecutors in the same office that Mr. Stephens and Ms. Wong work in, is
21 that something that would enter into your thinking in any way? Would you find their
22 witnesses be more credible just because their office -- not them, but their office is
23 also handling that other case?

24 PROSPECTIVE JUROR #181: No.

25 THE COURT: Okay. How about any Metro police officers. If they were to

1 come in here and testify would you find them to be more or less credible just
2 because of whatever interaction you had with them in connection with your case?

3 PROSPECTIVE JUROR #181: No.

4 THE COURT: Okay. Beautiful. Let me get you to pass the microphone.

5 Who else in the back row had their hand up? How about middle row?

6 Hi. All right. Your badge number.

7 PROSPECTIVE JUROR #224: 224.

8 THE COURT: 224.

9 PROSPECTIVE JUROR #224: Yes.

10 THE COURT: Let me find you. Is it Mr. Oza?

11 PROSPECTIVE JUROR #224: Yeah.

12 THE COURT: All right. What were you the victim of?

13 PROSPECTIVE JUROR #224: A mugging.

14 THE COURT: What do you mean?

15 PROSPECTIVE JUROR #224: In Henderson with a weapon.

16 THE COURT: Okay. Mugging in Henderson with a weapon. What year?

17 PROSPECTIVE JUROR #224: '99, 2000.

18 THE COURT: '99 or 2000. Did you call the police?

19 PROSPECTIVE JUROR #224: Yes.

20 THE COURT: Did they respond?

21 PROSPECTIVE JUROR #224: Yes.

22 THE COURT: Was it Metro or Henderson that responded?

23 PROSPECTIVE JUROR #224: Henderson.

24 THE COURT: Okay. Was anyone arrested?

25 PROSPECTIVE JUROR #224: No.

1 THE COURT: So you never had to come in and testify or anything like that?

2 PROSPECTIVE JUROR #224: No.

3 THE COURT: Okay. Were you happy or unhappy with the law enforcement
4 response in any way that would carry over into this case?

5 PROSPECTIVE JUROR #224: No.

6 THE COURT: Okay. Anything about your -- what happened to you, or the
7 police response, or any interaction that you had with the police officers that would
8 cause you to be something other than fair and impartial toward either side or toward
9 any witness in this case?

10 PROSPECTIVE JUROR #224: I don't think so.

11 THE COURT: All right. Let me get you to pass the microphone. I think the
12 gentlemen next to you had their hand; is that correct?

13 Hi. Your badge number?

14 PROSPECTIVE JUROR #197: 197.

15 THE COURT: 197. You are Mr. Bluestone.

16 PROSPECTIVE JUROR #197: Correct.

17 THE COURT: What were you or someone close to you the victim of?

18 PROSPECTIVE JUROR #197: My cousin's home was burglarized here in
19 Henderson.

20 THE COURT: What year was that?

21 PROSPECTIVE JUROR #197: Last week.

22 THE COURT: Last week. Were you a witness; were you involved in it in any
23 way?

24 PROSPECTIVE JUROR #197: No.

25 THE COURT: Okay. You know about it because they told you or you heard

1 about it?

2 PROSPECTIVE JUROR #197: Yes.

3 THE COURT: Okay. Do you know if -- do you know a lot about it?

4 PROSPECTIVE JUROR #197: Not much more than that?

5 THE COURT: Do you know if anyone's been arrested?

6 PROSPECTIVE JUROR #197: I know they have not.

7 THE COURT: Okay. That was the Henderson police that responded; do you
8 even know that?

9 PROSPECTIVE JUROR #197: Correct.

10 THE COURT: Okay. Was there anything that you know about that incident
11 that would cause you to be something other than fair and impartial toward either
12 side or toward any witness in this case?

13 PROSPECTIVE JUROR #197: No.

14 THE COURT: All right. Let me get you to pass the mic back to Randy.

15 Anyone in the front row with their hand up? A couple people; all right.

16 Hi. Your badge number?

17 PROSPECTIVE JUROR #199: 199.

18 THE COURT: Ms. Tait?

19 PROSPECTIVE JUROR #199: Yes.

20 THE COURT: What were you or someone -- what was -- what were you or
21 someone close to you the victim of?

22 PROSPECTIVE JUROR #199: Well, it might be -- I was identity theft with my
23 sister. She used my name in North Las Vegas and was charged with intent with
24 deadly weapon, as well as trespassing with illegal substances.

25 THE COURT: Okay. When did this happen?

1 PROSPECTIVE JUROR #199: About eight years ago.

2 THE COURT: Eight years ago. All right. Let's -- so -- okay. Your sister stole
3 your ID, is that what happened, and used it in some way?

4 PROSPECTIVE JUROR #199: She -- well, she didn't have any identification
5 on her, so she was able just to use my name --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR #199: -- with the officers.

8 THE COURT: Did you call the police to report that?

9 PROSPECTIVE JUROR #199: Well, once I found out I had to press charges
10 against her, so I went and filed a report in North Las Vegas.

11 THE COURT: Okay. Do you think that she was treated fairly or unfairly by
12 the system after your report?

13 PROSPECTIVE JUROR #199: No. I don't think she was charged fair
14 enough. I mean, she didn't go to jail or do any time for it, so it was a slap on the
15 hand.

16 THE COURT: Okay. So you think that she was treated a little too leniently,
17 I'm guessing?

18 PROSPECTIVE JUROR #199: Correct. Yes.

19 THE COURT: And how about you. Do you think that you were treated fairly?
20 Were you happy with the law enforcement response, other than that?

21 PROSPECTIVE JUROR #199: Yes and No. I mean, I still have it on my
22 record. I mean, it doesn't go away. I just have to let everybody know what had
23 happened to me before -- like, if I go for a job or anything like that because it still
24 comes up on my record.

25 THE COURT: All right. Okay. Did you have to go into court to testify against

1 her?

2 PROSPECTIVE JUROR #199: Yes.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR #199: And in order to get the charges dropped off of
5 me I had to press charges against her. And, again, nothing happened to her.

6 THE COURT: Okay. So -- I mean -- okay. There's kind of a lot of things
7 going on here, and I understand that you think that she was treated too leniently.
8 Do you have -- are the feelings about either how you were treated or how she was
9 treated such that they would carry over into this case in any way?

10 PROSPECTIVE JUROR #199: No.

11 THE COURT: Okay. What I'm really -- to put it most bluntly, what we worry
12 about is, you know, do you have any axe to grind either toward or --

13 PROSPECTIVE JUROR #199: No, not toward -- just to her.

14 THE COURT: -- against the DA or the police or --

15 PROSPECTIVE JUROR #199: No. No.

16 THE COURT: Okay. All right. All right. Let me make a note of that. I
17 appreciate the information. Can you pass the microphone down. I think someone
18 else had their hand up.

19 Hi. Your badge number.

20 PROSPECTIVE JUROR #204: 204.

21 THE COURT: 204. Mr. Smith.

22 PROSPECTIVE JUROR #204: Right.

23 THE COURT: What were you or someone close to you the victim of?

24 PROSPECTIVE JUROR #204: I was a victim of a ponzi scheme in 2010.

25 THE COURT: Ponzi scheme. Here in Las Vegas?

1 PROSPECTIVE JUROR #204: No, Colorado.

2 THE COURT: 2010 in Colorado. All right. Did you call the police or the FBI
3 or somebody?

4 PROSPECTIVE JUROR #204: No. We -- a colleague of mine, we initiated --
5 the FBI Security Division Colorado and the Attorney General's Office.

6 THE COURT: Okay. Was someone arrested?

7 PROSPECTIVE JUROR #204: With the grand jury.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR #204: Grand jury.

10 THE COURT: Did you have to come in and testify.

11 PROSPECTIVE JUROR #204: I testified for two days.

12 THE COURT: Okay. So were you happy or unhappy with what happened?

13 PROSPECTIVE JUROR #204: I was very happy with what happened.

14 THE COURT: You were very happy with what happened. All right. Was
15 there anything about what happened to you, or the law enforcement, or criminal
16 justice response that would cause you to be something other than fair and impartial
17 toward either side or toward any witness in this case?

18 PROSPECTIVE JUROR #204: [Inaudible response.]

19 THE COURT: We kind of talked over each other.

20 THE MARSHAL: Can you hold the microphone a little closer.

21 THE COURT: All right. So let's do this.

22 PROSPECTIVE JUROR #204: It would not.

23 THE COURT: Let me ask you the question again and don't answer until I'm
24 done talking because otherwise Sara's not going to know what to do; all right. So
25 was there anything about what happened to you or the law enforcement response

1 that would cause you to be something other than fair and impartial toward either
2 side or toward any witness in this case?

3 PROSPECTIVE JUROR #204: No.

4 THE COURT: All right. I appreciate that.

5 Anyone else in the front row with their hands up? How about back
6 there? Oh, we have a couple hands back there.

7 THE COURT: Hi.

8 PROSPECTIVE JUROR #234: Hi. Badge number 234.

9 THE COURT: 234. Ms. -- is it Linehan?

10 PROSPECTIVE JUROR #234: Linehan.

11 THE COURT: Lineham; I'm sorry.

12 PROSPECTIVE JUROR #234: It's okay.

13 THE COURT: Only two ways to pronounce it and I guessed the wrong one;
14 right? All right. So what were you the victim of or someone close to you?

15 PROSPECTIVE JUROR #234: My dad's car was broken into in our driveway
16 and \$300 was stolen out of it.

17 THE COURT: When was that?

18 PROSPECTIVE JUROR #234: Six years ago.

19 THE COURT: Here in Las Vegas.

20 PROSPECTIVE JUROR #234: Yes, in Henderson.

21 THE COURT: Okay. In Henderson. Did your -- were you there? Were you a
22 a witness --

23 PROSPECTIVE JUROR #234: It was in the middle of the night. I was at
24 home sleeping.

25 THE COURT: Okay. Were the police called?

1 PROSPECTIVE JUROR #234: They were and no one came out to look at
2 evidence or anything.

3 THE COURT: No one even came out?

4 PROSPECTIVE JUROR #234: No. They broke the window and they had left
5 -- like crawled into the back window and left a sheet and no one came out to
6 respond. But a couple weeks later on my 13th birthday I TP'd a neighbor's house
7 and they came out for that and tried to write everybody who was at my house for my
8 birthday party tickets for being out past curfew.

9 THE COURT: Okay. Well -- all right. Well -- you know. That's interesting.

10 All right. So let's start with the incident with your dad's car. Was there
11 -- I mean, I gather you're not entirely happy with the law enforcement response, but
12 is that a feeling that would carry over into this case in any way?

13 PROSPECTIVE JUROR #234: Not at all.

14 THE COURT: All right. What about the incident then when you TP'd a
15 neighbor's house. Was that -- were you actually arrested or cited for that or did the
16 police just come out and sort of talk to you and let you go?

17 PROSPECTIVE JUROR #234: They came to the house and they started to
18 write tickets to everyone at my birthday party for being out past curfew, but my dad
19 was with us so we had parental supervision and then they didn't write us tickets, but
20 they tried to.

21 THE COURT: Okay. So there was no formal court thing --

22 PROSPECTIVE JUROR #234: Correct.

23 THE COURT: -- is that what you're saying? Okay. Any feelings about that --
24 let's put the two together. Any feelings about both those incidents that would cause
25 you to be something other than fair and impartial in this case?

1 PROSPECTIVE JUROR #234: No.

2 THE COURT: Okay. Yeah -- I mean -- you know, honestly, on behalf of the
3 criminal justice system I have no explanation for that other than -- I mean, there may
4 be some. Maybe, you know, the incident with your dad maybe it was a really busy
5 night. If there were, you know, ten homicides, you know, maybe the officers just
6 weren't available. But I can't speak for them, but, you know, I can think of a couple
7 reasons, but other than those exceptions I really don't know, so -- all right. I
8 appreciate that.

9 Anyone else with their hand up?

10 PROSPECTIVE JUROR #238: 238.

11 THE COURT: You're Ms. Krafft; right?

12 PROSPECTIVE JUROR #238: Yes.

13 THE COURT: What were you or someone close to you the victim of?

14 PROSPECTIVE JUROR #238: My house was robbed and I was robbed at
15 gunpoint.

16 THE COURT: All right. What years are we talking about?

17 PROSPECTIVE JUROR #238: The robbery at gunpoint was probably like
18 1994. It was in a fireworks booth.

19 THE COURT: Okay. And what was -- your house was --

20 PROSPECTIVE JUROR #238: Was burglarized '96.

21 THE COURT: '96. Were they both here in Las Vegas?

22 PROSPECTIVE JUROR #238: Yes.

23 THE COURT: Okay. Did you call the police on both of them?

24 PROSPECTIVE JUROR #238: Yes.

25 THE COURT: Did they respond?

1 PROSPECTIVE JUROR #238: Yes.

2 THE COURT: Was anyone arrested?

3 PROSPECTIVE JUROR #238: No.

4 THE COURT: On either one of them?

5 PROSPECTIVE JUROR #238: No.

6 THE COURT: Okay. So whatever unhappiness you may have -- was it Metro
7 or Henderson or North Las Vegas?

8 PROSPECTIVE JUROR #238: Metro.

9 THE COURT: Okay. So I'm assuming you're somewhat unhappy. Is that a
10 feeling that would carry over into this case at all?

11 PROSPECTIVE JUROR #238: No.

12 THE COURT: Okay. Would you be fair and impartial toward either side --
13 toward both sides and toward all the witnesses in this case notwithstanding
14 whatever feelings you have about those incidents?

15 PROSPECTIVE JUROR #238: Yes.

16 THE COURT: Okay. All right. I appreciate the information.

17 All right. Then the next question for everybody here, and this might
18 touch on some of the responses we just went through. Anyone here ever been
19 accused of a crime, whether or not there's a formal charge or conviction, or had
20 someone close to you who was accused of a crime. And I think we covered the TP
21 incident, but other than that, any other -- anyone else ever been accused of a crime
22 or had someone close to you accused of a crime, whether or not there was a formal
23 arrest, formal charge? We have one hand here.

24 Hi, ma'am. Your badge number?

25 PROSPECTIVE JUROR #205: 205.

1 THE COURT: 205. Ms. Cowley, what -- are we talking you or someone else?

2 PROSPECTIVE JUROR #205: I don't know if this is what you're asking, but it
3 was my sister.

4 THE COURT: Okay. What was she accused of and when?

5 PROSPECTIVE JUROR #205: She had a warrant out for her arrest after a
6 traffic incident.

7 THE COURT: Okay. What year was this? When we talking about?

8 PROSPECTIVE JUROR #205: Oh, God. Probably eight years ago.

9 THE COURT: Okay. Eight years ago. Here in Las Vegas?

10 PROSPECTIVE JUROR #205: Yes.

11 THE COURT: Okay. So there was a warrant for her arrest. Do you know
12 what happened with that?

13 PROSPECTIVE JUROR #205: There was a fatality.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR #205: And she just didn't know that there was a
16 warrant out for her.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR #205: And she got picked up and spent the
19 weekend in jail.

20 THE COURT: Was there any kind of formal charge filed?

21 PROSPECTIVE JUROR #205: I don't know. I believe there was, but we
22 were young and so I don't know the details. And I know her record has been
23 sealed.

24 THE COURT: Okay. So here's really what I'm interested in. And this is also
25 for everybody else so maybe it will trigger a thought. What I'm interested in is this.

1 Do you think that -- from what you know about this case, do you think that she was
2 treated fairly or unfairly by the police, by the criminal justice system?

3 PROSPECTIVE JUROR #205: What I know of what happened I think it was
4 unfair, but --

5 THE COURT: Okay. Unfair by who? By the police, by the DA's Office, by
6 who?

7 PROSPECTIVE JUROR #205: That I can't say because I don't know all the
8 details.

9 THE COURT: Okay. This is the question that this is all kind of leading up to.
10 Whatever feelings of unfairness you have, do you think that that would cause you to
11 be something other than fair and impartial in this case. In other words, some people
12 -- you know, this is really what I'm interested in. Some people maybe in the past
13 they were falsely accused or wrongly accused of something and they were arrested
14 by the police and so they have this [indiscernible] that oh, the police are always
15 wrong or something along those lines. Is that a feeling that you have?

16 PROSPECTIVE JUROR #205: No.

17 THE COURT: Okay. So you don't have any strong feelings about how she
18 was treated that you would carry over into this case?

19 PROSPECTIVE JUROR #205: No.

20 THE COURT: Okay. So you could be fair and impartial?

21 PROSPECTIVE JUROR #205: Mm-hmm.

22 THE COURT: All right. Excellent.

23 Anyone else with their hand up in response to that question? We have
24 actually a couple hands here.

25 Hi. You're Mr. Allen; right?

1 PROSPECTIVE JUROR #194: Yes.

2 THE COURT: 194; is that correct?

3 PROSPECTIVE JUROR #194: Yes.

4 THE COURT: All right. Are we talking about you or someone close to you?

5 PROSPECTIVE JUROR #194: Me.

6 THE COURT: All right. What were you accused of and when?

7 PROSPECTIVE JUROR #194: When was it? '94 I was arrested for domestic
8 violence.

9 THE COURT: Okay. Was that here or somewhere else?

10 PROSPECTIVE JUROR #194: Here.

11 THE COURT: Okay. Were formal charges filed or not?

12 PROSPECTIVE JUROR #194: No.

13 THE COURT: Okay. Do -- was this -- are we talking Metro, Henderson,
14 North Las Vegas?

15 PROSPECTIVE JUROR #194: Metro.

16 THE COURT: Metro. Do you think you were treated fairly or unfairly by
17 Metro?

18 PROSPECTIVE JUROR #194: Fairly.

19 THE COURT: I'm sorry; fairly?

20 PROSPECTIVE JUROR #194: Fairly.

21 THE COURT: Okay. Any feelings about the accusations or about how you
22 were treated by Metro that you would carry over into this case?

23 PROSPECTIVE JUROR #194: No.

24 THE COURT: Okay. So you wouldn't have any feelings about, for example,
25 any Metro police officers who were to come in here and testify in this case?

1 PROSPECTIVE JUROR #194: No.

2 THE COURT: You could be fair and impartial and treat them like any other
3 witness?

4 PROSPECTIVE JUROR #194: Yes.

5 THE COURT: All right. Excellent.

6 Anyone else with their hand up in response to that question? We have
7 one person back there.

8 And let's see, are you 234, Ms. Linehan?

9 PROSPECTIVE JUROR #234: Correct.

10 THE COURT: All right. What are we talking about here; where and when?

11 PROSPECTIVE JUROR #234: In 2008 I was accused of possession and
12 distribution of a controlled substance on school district property. The police showed
13 up, but they did not get involved. They left it up to the school and I had to go
14 through school hearings.

15 THE COURT: Okay. So there wasn't any kind of criminal case; it was just
16 administrative -- okay. Is that correct?

17 PROSPECTIVE JUROR #234: Correct.

18 THE COURT: All right. Do you think that you were treated fairly or unfairly by
19 either the Metro police or CCSD police or anyone else having to do with the criminal
20 justice system?

21 PROSPECTIVE JUROR #234: Not by anyone in the criminal justice system,
22 just the school.

23 THE COURT: Okay. But do you think that you were treated fairly or unfairly?

24 PROSPECTIVE JUROR #234: I was treated fairly by the criminal justice
25 system.

1 THE COURT: Okay. Any feelings about what you were accused of or about
2 what everybody did in response to those accusations that you would carry over into
3 this case?

4 PROSPECTIVE JUROR #234: No.

5 THE COURT: Okay. So you could be fair and impartial to everybody
6 including any law enforcement witnesses?

7 PROSPECTIVE JUROR #234: Correct.

8 THE COURT: All right. Excellent.

9 Let me get you to pass the microphone back to Randy.

10 So here's what we're going to -- you know, let me ask you a question
11 here. It's now 12:30. I don't know if anyone here has any dietary issues or blood
12 sugar issues. Are you guys okay with going forward for another ten or 15 minutes or
13 do you guys want to take break now? Let's see this. Is there anybody here who
14 needs to take a break now to get something to eat because of a blood sugar issue
15 or anything else like that? All right. Let's go ahead for another couple minutes then.

16 All right. Then, Randy, here's what we're going to do. Let's start in the
17 top left hand corner here. What I'm going to want all of you to do is pass the
18 microphone down the line. You know, same thing, left to right this way and then
19 front to back -- I mean, back to front. I'm going to ask you just to give me a short
20 biographical sketch. Here are the questions I'm going to ask you. And I'll ask them
21 all, but just so you guys can start thinking about it. What do you do for a living? Are
22 you married? If you are married, what your spouse does for a living? Do you have
23 any adult kids, and if so, what they generally do for a living? If you have a whole
24 bunch of adult kids I don't need all their specific job titles, just generally what field
25 they're in, and how long you've been in Las Vegas.

1 So let's start with Mr. Arrell, badge number 175. What do you do for a
2 living?

3 PROSPECTIVE JUROR #175: I'm retired.

4 THE COURT: All right. What did you use to do?

5 PROSPECTIVE JUROR #175: I was an industrial sales representative and
6 before that a custom cabinet maker --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR #175: -- and auto mechanic.

9 THE COURT: Excellent. I know your wife is going in for surgery next week.
10 Is she employed or was she employed?

11 PROSPECTIVE JUROR #175: She's not employed.

12 THE COURT: All right. Did she used to be employed?

13 PROSPECTIVE JUROR #175: Not for a long time.

14 THE COURT: Okay. Do you have any adult kids?

15 PROSPECTIVE JUROR #175: Yes, we have three.

16 THE COURT: And what do they generally do?

17 PROSPECTIVE JUROR #175: One works for Microsoft, one's a housewife,
18 and one is brain -- severe brain injury and is disabled.

19 THE COURT: Wow, I'm sorry to hear that. All right. So how have you been
20 in Vegas, you and your wife?

21 PROSPECTIVE JUROR #175: A year and two weeks.

22 THE COURT: A year and two weeks. You guys planning on staying here for
23 the long haul --

24 PROSPECTIVE JUROR #175: We bought a house --

25 THE COURT: -- or you just passing through?

1 PROSPECTIVE JUROR #175: -- so we're stuck here for a while.
2 THE COURT: Okay. All right. Let me get you to pass the microphone.
3 Ms. Taylor, badge number 176. I know what your fiancée does. What
4 do you do for a living?
5 PROSPECTIVE JUROR #176: I'm a full-time student right now.
6 THE COURT: And where -- where are you a student?
7 PROSPECTIVE JUROR #176: UNLV.
8 THE COURT: What are you studying to do or to be?
9 PROSPECTIVE JUROR #176: Hospitality management.
10 THE COURT: Okay. Hospitality. So how long have you been in Vegas?
11 PROSPECTIVE JUROR #176: Eight years.
12 THE COURT: Okay. I'm guessing you don't have any kids yet?
13 PROSPECTIVE JUROR #176: I do not.
14 THE COURT: Okay. All right. Let me get you to pass the microphone.
15 I'm sorry, what was your badge number again?
16 PROSPECTIVE JUROR #179: 179.
17 THE COURT: Ms. Grubish. I know you're in real estate; you have three
18 closings this week. Are you married?
19 PROSPECTIVE JUROR #179: I have a domestic partner.
20 THE COURT: All right. And what does he or she do?
21 PROSPECTIVE JUROR #179: She's retired.
22 THE COURT: From what?
23 PROSPECTIVE JUROR #179: A high school principal.
24 THE COURT: Okay. How long have you guys been in Vegas?
25 PROSPECTIVE JUROR #179: I've been here about 40 years.

1 THE COURT: Forty years; okay. Any kids -- any adult kids?

2 PROSPECTIVE JUROR #179: No.

3 THE COURT: All right. Let me get you to pass the microphone.

4 PROSPECTIVE JUROR #179: Sir, could I please just say that about my work
5 before, I wasn't worried about my income. I'm worried about the obligations I have
6 to other people.

7 THE COURT: No, I understand. I do have a note of that. I mean, kind of the
8 way it works is there's some people where it's -- as you've seen, where it's very
9 obvious like someone -- her husband's going in for life threatening surgery. There's
10 no point in keeping her on because it's sort of like why postpone the inevitable. But
11 on things like employment it's kind of -- there's a process and there's some more
12 questions that I'm sure the attorneys are going to ask. You know, I didn't spend 20
13 minutes with you asking specifically about those closings because, you know, I don't
14 know if that's going to be important or not, but that may be coming up is kind of
15 where it's going. Sort of what we've done so far is the people that I let go was very
16 obvious. Like, for example, the guy who has the nose bleeds and has to lie down
17 for an hour. Why even keep him here; right? All right. So -- but I appreciate the
18 information. Can you pass the microphone.

19 Hi, Ms. Heck. Is it 180; is that correct?

20 PROSPECTIVE JUROR #180: Yes.

21 THE COURT: Let's see here. What do you do for a living? Are you
22 employed right now?

23 PROSPECTIVE JUROR #180: I'm a teacher.

24 THE COURT: For a private school or for CCSD?

25 PROSPECTIVE JUROR #180: CCSD.

1 THE COURT: All right. And are you married?
2 PROSPECTIVE JUROR #180: I am.
3 THE COURT: What does your husband or spouse do?
4 PROSPECTIVE JUROR #180: He's freelancing. He does graphic design.
5 THE COURT: Graphic design. I know you're breastfeeding now, so you have
6 some very young children. Do you have any adult kids?
7 PROSPECTIVE JUROR #180: No, I do not.
8 THE COURT: How long have you been in Vegas?
9 PROSPECTIVE JUROR #180: Ten years.
10 THE COURT: Ten years. All right. Let me get you to pass the microphone.
11 Hi, ma'am. Your badge number again?
12 PROSPECTIVE JUROR #181: 181.
13 THE COURT: Ms. Hengels.
14 PROSPECTIVE JUROR #181: Mm-hmm.
15 THE COURT: What do you do for a living?
16 PROSPECTIVE JUROR #181: I'm retired.
17 THE COURT: What did you used to do?
18 PROSPECTIVE JUROR #181: IT work. Computer work.
19 THE COURT: IT.
20 PROSPECTIVE JUROR #181: Mm-hmm.
21 THE COURT: Okay. Are you married?
22 PROSPECTIVE JUROR #181: Yes.
23 THE COURT: What does your husband do or what did he do?
24 PROSPECTIVE JUROR #181: He is retired and he also did IT work.
25 THE COURT: Okay. How long have you guys been in Vegas?

1 PROSPECTIVE JUROR #181: Seventeen years.
2 THE COURT: Any adult kids?
3 PROSPECTIVE JUROR #181: No.
4 THE COURT: All right. Let me get you to pass the microphone.
5 Hi. Your badge number?
6 PROSPECTIVE JUROR #209: 209.
7 THE COURT: 209 you said?
8 PROSPECTIVE JUROR #209: Yeah.
9 THE COURT: Mr. Ang or is Mr. Ong?
10 PROSPECTIVE JUROR #209: Ang.
11 THE COURT: Mr. Ang --
12 PROSPECTIVE JUROR #209: Yeah.
13 THE COURT: -- what do you do for a living?
14 PROSPECTIVE JUROR #209: I valet and I'm a student.
15 THE COURT: You're a student?
16 PROSPECTIVE JUROR #209: Yeah --
17 THE COURT: Where?
18 PROSPECTIVE JUROR #209: -- and valet job. Oh, at CSN.
19 THE COURT: CSN. What are you studying to do or be?
20 PROSPECTIVE JUROR #209: Hotel management.
21 THE COURT: Okay. How long have you been in Vegas?
22 PROSPECTIVE JUROR #209: Just about a year.
23 THE COURT: Just about a year. Where did you move from?
24 PROSPECTIVE JUROR #209: Hawaii.
25 THE COURT: Okay. Are you married?

1 PROSPECTIVE JUROR #209: No.
2 THE COURT: No adult kids?
3 PROSPECTIVE JUROR #209: No.
4 THE COURT: All right. Let me get you to pass the microphone.
5 Hi. You're badge number again?
6 PROSPECTIVE JUROR #216: 216.
7 THE COURT: 216, Ms. Levinson.
8 PROSPECTIVE JUROR #216: Yes.
9 THE COURT: I know what you're brother-in-law used to do. What do you do
10 for a living?
11 PROSPECTIVE JUROR #216: Special ed reading assistant.
12 THE COURT: Okay. Special ed reading assistant for the school district --
13 PROSPECTIVE JUROR #216: Yes.
14 THE COURT: -- or for someone else?
15 PROSPECTIVE JUROR #216: CCSD.
16 THE COURT: Okay. Married?
17 PROSPECTIVE JUROR #216: Yes.
18 THE COURT: And what does your spouse do?
19 PROSPECTIVE JUROR #216: He's a mechanical engineer.
20 THE COURT: Okay. How long have you guys been in Vegas?
21 PROSPECTIVE JUROR #216: Eighteen years.
22 THE COURT: Eighteen years. Any adult kids?
23 PROSPECTIVE JUROR #216: No.
24 THE COURT: All right. Let me get you to pass the microphone.
25 Hi, ma'am. Your badge number?

1 PROSPECTIVE JUROR #187: Hi. 187.
2 THE COURT: 187; Ms. Collis.
3 PROSPECTIVE JUROR #187: Collis. Uh-huh.
4 THE COURT: What do you do for a living?
5 PROSPECTIVE JUROR #187: Mary Kay sales director. Previously banking.
6 THE COURT: Okay. Are you married?
7 PROSPECTIVE JUROR #187: Widowed; four years.
8 THE COURT: Sorry to hear that. Any adult kids?
9 PROSPECTIVE JUROR #187: Adult step-daughter.
10 THE COURT: All right. And what does she do?
11 PROSPECTIVE JUROR #187: She's at Zappos.
12 THE COURT: Okay.
13 PROSPECTIVE JUROR #187: And I didn't mention it previously, but we did
14 go through a court case with her five years ago on a DUI.
15 THE COURT: Oh, so she was accused of a DUI?
16 PROSPECTIVE JUROR #187: Yeah, everything.
17 THE COURT: Here or somewhere else?
18 PROSPECTIVE JUROR #187: Here.
19 THE COURT: Okay. Were you like a passenger in the car? Were you
20 involved in the case --
21 PROSPECTIVE JUROR #187: No.
22 THE COURT: -- or just --
23 PROSPECTIVE JUROR #187: No. I just participated in the counseling that
24 was court ordered.
25 THE COURT: Okay. Who arrested her? Was it Metro or North Las Vegas --

1 PROSPECTIVE JUROR #187: Metro.

2 THE COURT: -- or Henderson? Metro. Do you think that she was treated
3 fairly or unfairly?

4 PROSPECTIVE JUROR #187: Considering everything, she was treated
5 fairly.

6 THE COURT: Okay. Was -- do you know who the prosecuting entity was?
7 Was it the Clark County DA's Office, was it a City attorney's office; do you even
8 know?

9 PROSPECTIVE JUROR #187: I really don't know.

10 THE COURT: Okay. Any feelings about what happened with her or how she
11 was treated by law enforcement or the court system that would cause you to be
12 something other than fair and impartial toward either side or toward any witness in
13 this case?

14 PROSPECTIVE JUROR #187: Not really.

15 THE COURT: All right. So if Metro police officers were to come in here and
16 testify you wouldn't have any grudge against them because of how they treated your
17 step-daughter?

18 PROSPECTIVE JUROR #187: No, none at all.

19 THE COURT: Okay. All right. How long have you been in Vegas?

20 PROSPECTIVE JUROR #187: Twenty-three years.

21 THE COURT: Twenty-three years. All right. Let me get you to pass the
22 microphone.

23 Hi. Your badge number?

24 PROSPECTIVE JUROR #190: 091 [sic].

25 THE COURT: Zero --

1 PROSPECTIVE JUROR #190: Oh, 191 [sic]. I'm sorry.

2 THE COURT: 191. Hang on a second. That can't be right. Can you double
3 check that because 191 was the Armenian --

4 MR. COFFEE: Yeah.

5 PROSPECTIVE JUROR #190: Oh, 190. I'm sorry.

6 THE COURT: I'm sorry; 190.

7 PROSPECTIVE JUROR #190: I apologize.

8 THE COURT: All right. So, Ms. Denninger; right?

9 PROSPECTIVE JUROR #190: Yes.

10 THE COURT: All right. Good. So what do you do for a living?

11 PROSPECTIVE JUROR #190: I'm a housewife.

12 THE COURT: And what does your husband do?

13 PROSPECTIVE JUROR #190: He's an electrician.

14 THE COURT: Electrician. Any adult kids?

15 PROSPECTIVE JUROR #190: No.

16 THE COURT: How long have you guys been in Vegas?

17 PROSPECTIVE JUROR #190: I've been here all my life.

18 THE COURT: All my life. All right. Excellent. Let me get you to pass the
19 microphone.

20 Hi.

21 PROSPECTIVE JUROR #208: Hi.

22 THE COURT: Your badge number?

23 PROSPECTIVE JUROR #208: 208.

24 THE COURT: 208; Ms. -- is it -- how do you pronounce your last name?

25 PROSPECTIVE JUROR #208: Sese.

1 THE COURT: Sese. What do you do for a living?
2 PROSPECTIVE JUROR #208: I work at HealthCare Partners Medical Group.
3 THE COURT: Okay. What's your job --
4 PROSPECTIVE JUROR #208: I do --
5 THE COURT: I'm sorry.
6 PROSPECTIVE JUROR #208: I do referrals; the coordinator.
7 THE COURT: Okay. Excellent. And are you married?
8 PROSPECTIVE JUROR #208: Yes.
9 THE COURT: And what does your spouse do?
10 PROSPECTIVE JUROR #208: Medic -- oh, he's not medical. It's a
11 [indiscernible] -- he's doing customer service.
12 THE COURT: Okay. And any adult kids?
13 PROSPECTIVE JUROR #208: Yes.
14 THE COURT: And what do they do generally.
15 PROSPECTIVE JUROR #208: My daughter is a nurse in MountainView
16 Hospital.
17 THE COURT: Okay. And any other kids -- adult kids?
18 PROSPECTIVE JUROR #208: Yeah, four kids.
19 THE COURT: And how many of them are adults?
20 PROSPECTIVE JUROR #208: All of them are adults.
21 THE COURT: Okay. So what do they do generally? Your daughter's a
22 nurse --
23 PROSPECTIVE JUROR #208: So they're -- yeah, a nurse. The second and
24 a third and a fourth they're in UNLV --
25 THE COURT: Okay.

1 PROSPECTIVE JUROR #208: -- student.
2 THE COURT: What do they want to do or be?
3 PROSPECTIVE JUROR #208: The second one is a pilot.
4 THE COURT: Okay.
5 PROSPECTIVE JUROR #208: And the third one is -- it's not medical --
6 physical therapy.
7 THE COURT: Okay. And how about the --
8 PROSPECTIVE JUROR #208: And the third one is business.
9 THE COURT: Okay. So how long have you guys been in Vegas?
10 PROSPECTIVE JUROR #208: Twelve years.
11 THE COURT: Twelve years. All right. Excellent. Let me get you to pass the
12 microphone.
13 Hi, ma'am. Your badge number again?
14 PROSPECTIVE JUROR #193: 193.
15 THE COURT: 193; Ms. Crook. What do you do for a living?
16 PROSPECTIVE JUROR #193: I'm a school teacher.
17 THE COURT: For the school district or someone else?
18 PROSPECTIVE JUROR #193: School district, CCSD.
19 THE COURT: Okay. And how long have you been in Vegas?
20 PROSPECTIVE JUROR #193: Twenty-three years.
21 THE COURT: Twenty-three years. Are you married?
22 PROSPECTIVE JUROR #193: Yes.
23 THE COURT: What does your spouse do?
24 PROSPECTIVE JUROR #193: He's a general contractor.
25 THE COURT: Okay. Any adult kids?

1 PROSPECTIVE JUROR #193: Yes.

2 THE COURT: And what do they do generally?

3 PROSPECTIVE JUROR #193: Two are housewives and five are employed.

4 THE COURT: Okay. The five who are employed what do they generally do?
5 You don't have to give me their job titles, but are they in construction; are they in
6 entertainment; are they in --

7 PROSPECTIVE JUROR #193: One is -- he works at -- he works in Utah and I
8 can't remember how to say it, the mine -- he does water treatment. He tests the
9 water for --

10 THE COURT: Okay. So does he work for like a city or municipal
11 government; is that what he's doing, or is it --

12 PROSPECTIVE JUROR #193: No, it's -- kind of -- oh, I can't remember -- I
13 can't remember it. It starts with a C. It's a big copper mine.

14 THE COURT: Oh, okay. He does water treatment for a mine then.

15 PROSPECTIVE JUROR #193: Yes.

16 THE COURT: Okay. I think --

17 PROSPECTIVE JUROR #193: Uh-huh.

18 THE COURT: -- I kind of know what he does. Okay. And what do the other
19 ones do?

20 PROSPECTIVE JUROR #193: One is in hotel services --

21 THE COURT: Mm-hmm.

22 PROSPECTIVE JUROR #193: -- and one is a physical trainer.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR #193: And another one is in sales and two are
25 housewives.

1 THE COURT: Okay. Excellent. Let me get you to pass the microphone.

2 Hi, Mr. Allen; badge number 194. Let's see here. I know what your
3 father used to do and what your brother does. What do you do for a living?

4 PROSPECTIVE JUROR #194: I'm a bartender.

5 THE COURT: You're a bartender. All right. How long have you been in
6 Vegas?

7 PROSPECTIVE JUROR #194: About 49 years.

8 THE COURT: Forty-nine years. All right.

9 PROSPECTIVE JUROR #194: Yes.

10 THE COURT: Are you married?

11 PROSPECTIVE JUROR #194: No.

12 THE COURT: All right. Any adult kids?

13 PROSPECTIVE JUROR #194: Twenty-three year old.

14 THE COURT: And what does he or she do?

15 PROSPECTIVE JUROR #194: He's not doing anything.

16 THE COURT: Okay. Does he want to be doing something in particular?

17 PROSPECTIVE JUROR #194: He's talking about being an electrician.

18 THE COURT: Okay. All right. Excellent. Let me get you to pass the
19 microphone.

20 Hi. Your badge number again, ma'am?

21 PROSPECTIVE JUROR #219: 219.

22 THE COURT: 219; Ms. Self.

23 PROSPECTIVE JUROR #219: Yes.

24 THE COURT: Oh, yeah. You know, you just -- you're in a probationary
25 period at the -- let's see, Steinberg Diagnostics; right?

1 THE COURT: 197; Mr. Bluestone.

2 PROSPECTIVE JUROR #197: Correct.

3 THE COURT: What do you do for a living?

4 PROSPECTIVE JUROR #197: I'm retired.

5 THE COURT: What did you used to do?

6 PROSPECTIVE JUROR #197: I'm retired military.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR #197: Then I owned an Ace Hardware. Worked for
9 Princess Cruises at sea and wound up selling paint for Benjamin Moore.

10 THE COURT: Okay. Excellent. That's a diverse career you've had. Are you
11 married?

12 PROSPECTIVE JUROR #197: Yes.

13 THE COURT: And --

14 PROSPECTIVE JUROR #197: My wife is retired.

15 THE COURT: What did she used to do?

16 PROSPECTIVE JUROR #197: She was a teacher.

17 THE COURT: Okay. So long have you been in Vegas?

18 PROSPECTIVE JUROR #197: Three and half years.

19 THE COURT: Three and half years. Any adult kids?

20 PROSPECTIVE JUROR #197: I have two adult sons. One is in business
21 promotions and one works for Sony in television production.

22 THE COURT: Okay. Excellent. Let me get you to pass the microphone back
23 to Randy.

24 Hi, ma'am. Your badge number again?

25 PROSPECTIVE JUROR #199: 199.

1 THE COURT: Ms. Tait, what do you do for a living?
2 PROSPECTIVE JUROR #199: Accounts payable at a car dealership.
3 THE COURT: Accounts payable car dealership. Are you married?
4 PROSPECTIVE JUROR #199: No, not yet.
5 THE COURT: Any adult kids?
6 PROSPECTIVE JUROR #199: No.
7 THE COURT: How long have you been in Vegas?
8 PROSPECTIVE JUROR #199: All my life.
9 THE COURT: Okay. Let me get you to pass the microphone.
10 Hi, sir. Your badge number?
11 PROSPECTIVE JUROR #210: 210.
12 THE COURT: 210; Mr. Kitterman. I know what you do for a living. How long
13 have you done that?
14 PROSPECTIVE JUROR #210: Been doing it since I was 19.
15 THE COURT: Okay. So long have you been in Vegas?
16 PROSPECTIVE JUROR #210: All my life.
17 THE COURT: All right. Are you married?
18 PROSPECTIVE JUROR #210: No.
19 THE COURT: Any adult kids?
20 PROSPECTIVE JUROR #210: No.
21 THE COURT: All right. Let me get you to pass the microphone.
22 Hi. Your badge number?
23 PROSPECTIVE JUROR #228: 228.
24 THE COURT: Mr. Holcombe.
25 PROSPECTIVE JUROR #228: Yes.

1 THE COURT: What do you do for a living?
2 PROSPECTIVE JUROR #228: I do financial and estate planning.
3 THE COURT: Okay. How long have you been in Vegas?
4 PROSPECTIVE JUROR #228: Twenty-five years.
5 THE COURT: Are you married?
6 PROSPECTIVE JUROR #228: No.
7 THE COURT: Any adult kids?
8 PROSPECTIVE JUROR #228: No.
9 THE COURT: All right. Let me get you to pass the microphone.
10 Hi, sir. Your badge number?
11 PROSPECTIVE JUROR #202: 202.
12 THE COURT: 202; Mr -- is it Corbman?
13 PROSPECTIVE JUROR #202: Yes.
14 THE COURT: What do you do for a living?
15 PROSPECTIVE JUROR #202: Retired.
16 THE COURT: What did you use to do?
17 PROSPECTIVE JUROR #202: Healthcare management.
18 THE COURT: Okay. How long have you been in Vegas?
19 PROSPECTIVE JUROR #202: Ten years.
20 THE COURT: Married?
21 PROSPECTIVE JUROR #202: Yes.
22 THE COURT: What does your wife or spouse do?
23 PROSPECTIVE JUROR #202: Retired.
24 THE COURT: What did she use to do?
25 PROSPECTIVE JUROR #202: Green Valley Rancho Casino host.

1 THE COURT: Okay. Any adult kids?
2 PROSPECTIVE JUROR #202: Yes, one.
3 THE COURT: What does he or she do generally?
4 PROSPECTIVE JUROR #202: Works for Apple.
5 THE COURT: All right. Let me get you to pass the microphone.
6 Hi. Your badge number?
7 PROSPECTIVE JUROR #203: 203.
8 THE COURT: 203; Ms. Strouse. What do you do for a living?
9 PROSPECTIVE JUROR #203: I'm a vice president at UNLV and executive
10 director of the UNLV Foundation.
11 THE COURT: Oh, okay. Interesting. And how long have you been in
12 Vegas?
13 PROSPECTIVE JUROR #203: Almost ten years.
14 THE COURT: Are you married?
15 PROSPECTIVE JUROR #203: No.
16 THE COURT: Any adult kids?
17 PROSPECTIVE JUROR #203: Three.
18 THE COURT: What do they do generally?
19 PROSPECTIVE JUROR #203: Vice president in the entertainment business.
20 My daughter's getting her PhD in public health at Cal, and my son is a fire captain.
21 THE COURT: Here in Las Vegas or somewhere else?
22 PROSPECTIVE JUROR #203: No, in California. They're all in California.
23 THE COURT: Okay. Excellent. What are you vice president of at UNLV?
24 What's your job title?
25 PROSPECTIVE JUROR #203: I'm the senior associate vice president of

1 development, which means that I'm in charge of all of the fundraising for the
2 university.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR #203: Now no one will talk to me -- none of the rest
5 of the group.

6 THE COURT: In this economy. So you probably knew Jim Rogers pretty
7 well, right --

8 PROSPECTIVE JUROR #203: Yes.

9 THE COURT: -- who just passed --

10 PROSPECTIVE JUROR #203: Yes.

11 THE COURT: -- this weekend. Okay.

12 PROSPECTIVE JUROR #203: Yes, I know. Yeah.

13 THE COURT: All right. I appreciate the information. Thank you.

14 PROSPECTIVE JUROR #203: Mm-hmm.

15 THE COURT: Let me get you to pass the mic.

16 Hi.

17 PROSPECTIVE JUROR #204: 204.

18 THE COURT: 204; Mr. Smith. What were you -- what do you do for a living?

19 PROSPECTIVE JUROR #204: Retired.

20 THE COURT: What did you use to do?

21 PROSPECTIVE JUROR #204: CFO for a major oil company.

22 THE COURT: Okay. How long have you been in Vegas?

23 PROSPECTIVE JUROR #204: Fourteen years.

24 THE COURT: Fourteen years. Are you married?

25 PROSPECTIVE JUROR #204: I'm married 46 years.

1 THE COURT: And congratulations. What does your wife do or what did she
2 do?

3 PROSPECTIVE JUROR #204: She's a housewife.

4 THE COURT: Okay. Any adult kids?

5 PROSPECTIVE JUROR #204: I have two children. One was a vice president
6 for Marriott Corporation, the other is a school teacher in California.

7 THE MARSHAL: Sir, can you speak into the microphone, please.

8 THE COURT: Oh, yeah. I'm sorry, I forget. I can hear you, but sometimes
9 Sara can't quite pick it up.

10 PROSPECTIVE JUROR #204: My son's vice president for Marriott
11 Corporation.

12 THE COURT: Okay. Excellent.

13 PROSPECTIVE JUROR #204: And my daughter's an elementary school
14 teacher.

15 THE COURT: All right. Let me get you to pass the microphone.

16 Hi. Your badge number?

17 PROSPECTIVE JUROR #205: 205.

18 THE COURT: Ms. Cowley.

19 PROSPECTIVE JUROR #205: Mm-hmm.

20 THE COURT: Let's see here. What do you do for a living?

21 PROSPECTIVE JUROR #205: Special education teacher.

22 THE COURT: Okay. And you're married. Your husband -- I'm looking at my
23 notes here. What does he do for a living?

24 PROSPECTIVE JUROR #205: He's a teacher also.

25 THE COURT: Is it for CCSD or someone else?

1 PROSPECTIVE JUROR #205: Yes, both of us.
2 THE COURT: Okay. How long have you guys been in Vegas?
3 PROSPECTIVE JUROR #205: Eighteen years.
4 THE COURT: Do you have any adult kids?
5 PROSPECTIVE JUROR #205: No.
6 THE COURT: All right. Let me get you to pass the mic.
7 Hi, ma'am. You're Ms. Thomas, right, 206?
8 PROSPECTIVE JUROR #206: Yes.
9 THE COURT: I know you're brother's retired. What do you do for a living?
10 PROSPECTIVE JUROR #206: I'm a nurse.
11 THE COURT: All right. And how long have you been in Vegas?
12 PROSPECTIVE JUROR #206: Fourteen years.
13 THE COURT: Fourteen years. Are you married?
14 PROSPECTIVE JUROR #206: Yes.
15 THE COURT: What does your spouse do?
16 PROSPECTIVE JUROR #206: He's retired, but he's a pastor.
17 THE COURT: Okay. Any adult kids?
18 PROSPECTIVE JUROR #206: Three.
19 THE COURT: And what do they do generally?
20 PROSPECTIVE JUROR #206: On is in diversity, one is in marketing and one
21 is a waiter.
22 THE COURT: Excellent. Let me get you to pass the microphone.
23 Hi, ma'am. Your badge number?
24 PROSPECTIVE JUROR #207: 207.
25 THE COURT: Ms. Kelly, what do you do for a living?

1 PROSPECTIVE JUROR #207: I'm currently a full-time student at UNLV.

2 THE COURT: Okay. What are you studying to do or be?

3 PROSPECTIVE JUROR #207: I'm studying communications to be a sports
4 broadcaster.

5 THE COURT: Okay. Excellent. So how long have you been in Vegas?

6 PROSPECTIVE JUROR #207: I was born and raised, but I went to school in
7 California for two years and then came back here for financial situation.

8 THE COURT: Gotcha. Okay. Are you married?

9 PROSPECTIVE JUROR #207: No, I'm not.

10 THE COURT: I'm guessing no adult kids; right?

11 PROSPECTIVE JUROR #207: No.

12 THE COURT: All right. Let me get you to pass the microphone to Randy and
13 let's do the -- let's do that row back there.

14 Hi, sir. What's your badge number?

15 PROSPECTIVE JUROR #230: 230.

16 THE COURT: 230?

17 PROSPECTIVE JUROR #230: Yes, sir.

18 THE COURT: Mr. Jackson; right?

19 PROSPECTIVE JUROR #230: Yes, sir.

20 THE COURT: What do you do for a living?

21 PROSPECTIVE JUROR #230: Driver for Cintas.

22 THE COURT: Okay. And how long have you been in Vegas?

23 PROSPECTIVE JUROR #230: Six years.

24 THE COURT: Are you married?

25 PROSPECTIVE JUROR #230: No, sir.

1 THE COURT: All right. Any adult kids?

2 PROSPECTIVE JUROR #230: No, sir.

3 THE COURT: All right. Let me get you to pass the microphone.

4 PROSPECTIVE JUROR #230: Hi, ma'am. You're -- let's see here. Are you
5 233, Ms. Tann?

6 PROSPECTIVE JUROR #233: 233, yeah.

7 THE COURT: What do you do for a living?

8 PROSPECTIVE JUROR #233: I'm a spa receptionist.

9 THE COURT: Okay. How long have you been in Vegas?

10 PROSPECTIVE JUROR #233: I've been here for 20 years. I've been
11 married to 20 years as well.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR #233: I have two kids. My son is 15 and my
14 daughter is ten.

15 THE COURT: Okay. And I know you have a husband. What does he do?

16 PROSPECTIVE JUROR #233: He is self-employed; insurance business.

17 THE COURT: Okay, insurance. And I'm sorry, did you say you've been here
18 for 20 years; right?

19 PROSPECTIVE JUROR #233: Yes.

20 THE COURT: Okay. Excellent.

21 PROSPECTIVE JUROR #233: I've only lived here in Vegas.

22 THE COURT: Gotcha. Okay. Let me get you to pass the microphone.

23 Hi, Ms. Linehan; badge number 234.

24 PROSPECTIVE JUROR #234: Yes.

25 THE COURT: What do you do for a living now?

1 PROSPECTIVE JUROR #234: I'm a full-time student at UNLV and also a
2 CCSD employee at Channel 10 Vegas PBS.

3 THE COURT: Oh, okay. What are you studying to do or be at UNLV?

4 PROSPECTIVE JUROR #234: I'm a broadcast, journalism and media studies
5 major and sociology minor.

6 THE COURT: Excellent. How long have you been in Vegas?

7 PROSPECTIVE JUROR #234: About 16 or 17 years.

8 THE COURT: Okay. Are you married?

9 PROSPECTIVE JUROR #234: No.

10 THE COURT: I take it no adult kids; right?

11 PROSPECTIVE JUROR #234: Correct.

12 THE COURT: All right. Let me get you to pass the microphone.

13 Hi, ma'am. What is your badge number?

14 PROSPECTIVE JUROR #236: 236.

15 THE COURT: 236. Is it Ms. Pranin?

16 PROSPECTIVE JUROR #236: Pranin.

17 THE COURT: Pranin. I'm sorry.

18 PROSPECTIVE JUROR #236: Yes.

19 THE COURT: What do you do for a living?

20 PROSPECTIVE JUROR #236: I'm a full-time student at North Western
21 University in Chicago.

22 THE COURT: Okay. What are you studying to do or be?

23 PROSPECTIVE JUROR #236: Computer science and psychology.

24 THE COURT: Okay. So how long have you been in Vegas?

25 PROSPECTIVE JUROR #236: Thirteen years.

1 THE COURT: Are you just here on your summer vacation right now?
2 PROSPECTIVE JUROR #236: Yeah, I got my jury summons yesterday.
3 THE COURT: Oh, okay. So are you -- let me ask you this. After you
4 graduate, are you actually planning on coming back here to Vegas or are you not
5 sure?
6 PROSPECTIVE JUROR #236: Probably not.
7 THE COURT: Probably not.
8 PROSPECTIVE JUROR #236: Sorry.
9 THE COURT: Okay. So how long have you lived in Vegas?
10 PROSPECTIVE JUROR #236: Since '01.
11 THE COURT: Since '01. Gotcha. Let me get you to -- I'm sorry. Did I ask
12 you if you're married? Are you married?
13 PROSPECTIVE JUROR #236: I'm not married; no adult kids.
14 THE COURT: All right. Let me get you to pass the microphone.
15 Ms. Krafft, let's see here. I'm sorry, badge number 238; right?
16 PROSPECTIVE JUROR #238: Yes.
17 THE COURT: What do you do for a living?
18 PROSPECTIVE JUROR #238: I'm a teacher.
19 THE COURT: For the school district or someone else?
20 PROSPECTIVE JUROR #238: Faith Lutheran junior, senior high school.
21 THE COURT: Okay. And how long have you been in Vegas?
22 PROSPECTIVE JUROR #238: Forty years.
23 THE COURT: Forty years. Are you married?
24 PROSPECTIVE JUROR #238: No.
25 THE COURT: Any adult kids?

1 PROSPECTIVE JUROR #238: No.

2 THE COURT: All right. Let me get you to pass the microphone back to
3 Randy. Let's do this. Can I get counsel to approach very quickly for literally like 15
4 seconds.

5 [Bench conference -- not recorded]

6 THE COURT: All right. Ladies and gentlemen, here's what we're going to do.
7 It's ten till one. Let's go ahead and take a lunch break now. Let me ask you this. I
8 know you guys are probably not that familiar with downtown, but is there anybody
9 here for any dietary reasons for any other issues needs to take more than an hour
10 lunch break to handle anything? Any hands up? All right. So let's go ahead and
11 make this an hour.

12 During this lunch break the same admonishments I mentioned before
13 apply. Don't reach any conclusions about this case as you've not heard any of the
14 evidence. Don't talk with each other about what this case may be about. Don't talk
15 to anyone who doesn't also have a white badge on. That also applies even if you
16 leave the courthouse and you go to one of the places -- one of the lunch places
17 within walking distance. There's a couple sandwich places and a pizza place and
18 some other places within walking distance. If you go there please leave your badge
19 on. It may be possible that someone associated with this case may also be getting
20 lunch there. So if you're there, don't talk to anyone who doesn't have a badge on.
21 Don't talk about this case while you're there so that other people can hear you. Try
22 not to listen to any conversations from other people about -- especially about any
23 case at all or especially if you hear someone talking about this case; all right.

24 Don't do any research about this case on your own. Don't get on your
25 phones and Google it or, you know, anything like that. Don't discuss the facts of this

1 case with each other. Remember your badge at all times. You can leave stuff here
2 during the lunch break. We will lock the courtroom. When you step out in the
3 hallway Randy will give you some instructions about where you can go to eat lunch
4 and also where he wants you to reconvene after lunch.

5 It's now about seven minute to one o'clock. Let's just make the return
6 time around two o'clock then; all right. So I'll you guys at two o'clock. Thanks.

7 [Outside the presence of the prospective jury panel]

8 THE COURT: All right. We're still on the record outside the presence of the
9 jury. I don't recall if we had any sidebars other than the last one where I asked you
10 -- what you guys thought about taking a lunch break now. I don't know that we have
11 anything to memorialize, but I might be skipping over something.

12 Anything you guys want to put on the record to memorialize or
13 address?

14 MR. STEPHENS: Your Honor, do you have any other questions for the jurors
15 or are we be starting --

16 THE COURT: I'm done. This would be where I turn it over to you guys, just
17 to let you guys know.

18 MR. STEPHENS: Can you ask one follow-up question. I know some people
19 may have been trying to contact employers or some doctors. Could you ask just a
20 question if there's any follow-up from any of your phone calls that you may have
21 made --

22 THE COURT: I don't recall --

23 MR. STEPHENS: -- or do you want me to follow-up?

24 THE COURT: -- that we were waiting. The only guy that we were waiting for
25 -- I think we let go a couple people who were going to make phone calls. I don't

1 actually recall -- like Mr. McCue was going to call his client. I don't have any specific
2 notes about other people. Did you have someone in mind?

3 MR. STEPHENS: I didn't. I just know that it was mentioned at least once,
4 and I didn't make a note so I was hoping maybe you did.

5 THE COURT: Yeah, I typically do. I know Mr. McCue was going to call his
6 client --

7 MR. STEPHENS: Okay.

8 THE COURT: -- because he had his out-of-town client, but you guys
9 stipulated to let him go. Let me just -- you know, while we're on the subject I might
10 as well double check to see if I got anything else who was going to make a phone
11 call. There was one guy back there who volunteered to make a phone call. Let me
12 find him.

13 THE COURT CLERK: The guy with the medical condition.

14 THE COURT: Yeah, that was the guy with the bloody nose.

15 MR. STEPHENS: Oh, that's right.

16 THE COURT: He was going to call his physician about the medication.
17 Those are the only ones that I have any notes on.

18 MR. STEPHENS: I only remember it once or twice. That's probably it.

19 MR. COFFEE: The only other thing, Judge, is once we start do we address
20 general panel questions and then go to specific people; is that how you prefer to do
21 it?

22 THE COURT: That's how I prefer it. Because that's why -- you know,
23 because a lot of these -- the reason I do that quick thing at the end is that, you
24 know, that sort of takes up some of the stuff that you would ask if we went one by
25 one. So at this stage generally is -- yeah, you can ask general panels, follow-up

1 questions, or if you have specific follow-up questions on something that I covered
2 that you want more information on, like a job thing, or a health thing, you can start
3 with that person. But, you know, I don't know that at this stage we need to go one
4 by one -- just everybody.

5 MR. COFFEE: There were a couple like police contact and that kind of
6 thing --

7 THE COURT: Yeah, I gathered there --

8 MR. COFFEE: -- that somebody would ask follow-ups.

9 THE COURT: -- would be some follow-ups and the real estate person who
10 really wants out of here. I'm sure some of you guys might have some follow-ups.

11 MR. COFFEE: Yeah.

12 THE COURT: So, yeah, if it's a follow-up to something I asked you can go
13 straight to that person. If you want -- you can also ask general questions and
14 specific follow-ups --

15 MR. COFFEE: Okay.

16 THE COURT: -- but we're not doing the whole one by one mic kind of a thing,
17 just to let you guys knows; all right.

18 MR. COFFEE: Sure.

19 MR. STEPHENS: Thank you, Your Honor.

20 THE COURT: All right. See you guys --

21 MR. COFFEE: Thanks, Judge.

22 THE COURT: -- at around -- you know, show -- the other thing that I should
23 let you guys know is if you guys are planning on using any PowerPoints for any
24 technology today, show up early and make sure it works because we just upgraded
25 the digital JAVS about six months ago, but we've had some glitches, some -- I

1 guess some of the computers need like a patch for it. Yeah, we've had -- most -- I
2 think most of the DA's computers have been upgraded, but we've had a couple
3 where they had to have our IT tech come in here and load something up. So if
4 either of you guys are planning on using it just show up early and make sure it
5 actually synchronizes with our system them.

6 MR. COFFEE: Do we expect we'll get to openings today?

7 THE COURT: From here on out honestly depends on you guys.

8 MR. COFFEE: Depends on us.

9 THE COURT: I'm done with what I was going to do --

10 MR. COFFEE: Okay.

11 THE COURT: -- subject to any challenge you guys have. I don't know how
12 long you guys typically go, but, I mean, we're reconvening at two o'clock. We might
13 have a panel by like three. I don't know if you guys are planning just quitting for the
14 day or not, but -- I mean, I'm not guaranteeing. I don't know how long you guys --

15 MR. COFFEE: Okay.

16 THE COURT: -- were going to do this, but I don't know, what do you guys
17 think?

18 THE MARSHAL: I need to know so I can get the courtroom set up.

19 THE COURT: Yeah, because we need to move --

20 THE MARSHAL: I got to move the podium, the Elmo, the TVs.

21 THE COURT: Because of the acoustics in here, if you guys were going to do
22 openings we need to put a mic in the middle of the room because there's a weird
23 echo thing in there, so --

24 [Colloquy between the State and defense counsel]

25 MR. COFFEE: I mean, I -- yeah, we're probably the same thing. We got ten

1 or 15 minutes -- the openings are going to be short I expect, right, ten, 15 minutes
2 for that. With that -- we'll probably get to it today.

3 THE COURT: Either way. If they're really going to be that short it almost
4 makes no difference if you do them today or tomorrow.

5 MR. COFFEE: I mean, if it's easier to do it just first thing in the morning,
6 whichever --

7 THE MARSHAL: It's up to you guys. I just need to know so during lunch I
8 can get --

9 MR. COFFEE: Okay.

10 THE MARSHAL: -- everything set up.

11 THE COURT: You tell me.

12 [Colloquy between the State and defense counsel]

13 MR. COFFEE: Let's plan on doing it tomorrow.

14 THE COURT: So we can do this -- because the other thing that I forgot -- I
15 always forget this, but obviously it's part of the trial. Before you guys do your
16 openings I have about 15 minutes of pretrial instructions, so --

17 MR. COFFEE: Oh, yeah. That's right.

18 THE COURT: -- at least we can do -- swear them in, I'll do that, and send
19 them home if you wanted to do that that way.

20 MR. COFFEE: Perfect.

21 MR. STEPHENS: That's a good idea. Thanks, Judge.

22 MR. COFFEE: Perfect. Thanks, Judge.

23 [Recess taken at 12:59 p.m.]

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

25 [Outside the presence of the prospective jury panel]

1 THE COURT: All right. State versus Patrick Newell, C285825. We're outside
2 the presence of the jury. Mr. Newell is present in custody with his attorneys.

3 All right. What's going on?

4 MR. STEPHENS: Your Honor, Juror 176, currently in seat 2, Your Honor,
5 we've stipulated to releasing.

6 THE COURT: Oh, yeah. She was one of the ones where I kind of knew a
7 challenge would be inevitable, but --

8 MR. STEPHENS: Yes. We're just going to --

9 THE COURT: Yeah, we hadn't reached that stage yet. Okay. So when we
10 get in we'll just -- just kick her right away then; is that the stipulation?

11 MR. COFFEE: That's fine.

12 MR. STEPHENS: Yeah.

13 THE COURT: All right. And then we'll plug someone else in. It looks like it's
14 going to be -- the next person going to be 230, Mr. Jackson. That leaves us only
15 with one, two, three, four -- four extras, for want of a better word, just so you guys
16 know for your -- I mean -- you know -- I also -- I will tell you that I did have Paula call
17 jury services during lunch time and they're holding ten more jurors just in case we
18 need them.

19 MR. COFFEE: Okay.

20 THE COURT: So there is another ten if we do need them. All right. So we'll
21 do that when -- I think Randy's lining them up right now -- or he's getting ready to.

22 MR. COFFEE: Well, we're hopeful, but --

23 THE COURT: Yeah.

24 MR. COFFEE: Four's not many.

25 THE COURT: Yeah, Randy came in and got the list because he said the

1 jurors forgot what order they're in so he has to -- yeah -- spend a minute doing that
2 apparently.

3 Anything else you guys want to address while we're waiting?

4 MR. COFFEE: No, I think we're good.

5 THE COURT: All right. As soon as he gives us the signal.

6 All right. Are they in line, Randy?

7 THE MARSHAL: Yes, sir.

8 THE COURT: All right. I think we're ready to bring them in as soon as you're
9 ready.

10 [In the presence of the prospective jury panel]

11 THE COURT: All right. Ladies and gentlemen, welcome back. During the
12 break I had a conversation with the attorneys and we've agreed based on the
13 responses that we're going to go ahead and excuse the juror is badge number 176.
14 Ms. Taylor, thank you for your willingness to serve. Please report to jury services;
15 they'll give you further instructions. That means we need to move someone else
16 into the empty seat here --

17 THE MARSHAL: 230 --

18 THE COURT: -- who I believe it will be --

19 THE MARSHAL: -- will now take seat number 2.

20 THE COURT: And that's 230, Mr. Jackson.

21 All right. Does the State wish to inquire the panel?

22 MR. STEPHENS: Yes, Your Honor.

23 THE COURT: You may proceed.

24 MR. STEPHENS: Thank you.

25 I just got one general question for everybody here. Is there anyone

1 here who has any religious or moral beliefs that would prohibit them from sitting in
2 judgment of another? No hands. Was there a hand, sorry. I saw a quick
3 movement.

4 PROSPECTIVE JUROR #207: It's not that, but --

5 THE COURT: Hang on. We need the microphone.

6 THE MARSHAL: We need your badge number and your name.

7 PROSPECTIVE JUROR #207: Badge number 207. Before I also failed to
8 mention that although I am a full-time student I do also work, so I don't know if that
9 inquires with anything, but I forgot to say before I'm a lifeguard and --

10 THE COURT: Where do you work?

11 PROSPECTIVE JUROR #207: I work at the pool -- the Wynn pool.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR #207: I'm a lifeguard, so I forgot to mention that I do
14 work.

15 THE COURT: Okay. I appreciate the update.

16 MR. STEPHENS: I'll let you keep the phone. Since you have it there I'll ask
17 you some questions. You're doing sports broadcasting or hopefully going to get
18 involved in that?

19 PROSPECTIVE JUROR #207: Mm-hmm. Yes.

20 MR. STEPHENS: What is it that you'd like to broadcast? Do you have a
21 particular sport?

22 PROSPECTIVE JUROR #207: Baseball.

23 MR. STEPHENS: Baseball. Why baseball?

24 PROSPECTIVE JUROR #207: Because it is my favorite sport. I played
25 softball for the majority of my life. I played two years in Santa Barbara and then --

1 so that's one of my favorite sports.

2 MR. STEPHENS: Good. That's all I have for you.

3 We'll start over here the -- Juror Number 1, Mr. Arrell.

4 PROSPECTIVE JUROR #175: Arrell.

5 MR. STEPHENS: Arrell. Mr. Arrell, you lived in Oregon for quite a while it
6 sounded like.

7 PROSPECTIVE JUROR #175: Yes.

8 MR. STEPHENS: Why did you leave Oregon.

9 PROSPECTIVE JUROR #175: Because -- is this on?

10 MR. STEPHENS: I can hear you fine.

11 THE MARSHAL: You have to speak directly into it.

12 PROSPECTIVE JUROR #175: Yeah, okay.

13 THE MARSHAL: Just don't tap on it.

14 PROSPECTIVE JUROR #175: Okay. Just I'm not hearing myself back as
15 loud as I did before. Maybe it's not turned up quite as much, but -- well, it's basically
16 the medical condition that my wife has. She started just feeling extremely cold all
17 the time. Just the list of conditions are her hair was falling out, and she was -- had
18 some personality changes. And when we moved down here she broke her foot right
19 away and then we found out that for the past five or six years she had a parathyroid
20 condition which is causing high blood calcium and robbing calcium out of the bones.
21 And she's in danger at any time of breaking another bone, that's why the doctor's
22 want to operate right away. We tried to see if they could get it done before I went on
23 jury duty, but they just couldn't squeeze it in. She also, because of the condition,
24 has a high risk of kidney stones or even kidney failure until they fix that and her
25 blood calcium will go back down. Now she says, boy, if we knew about this five

1 years ago we'd still be living in Oregon and she wouldn't have been cold.

2 MR. STEPHENS: That's true. She probably loves the summer then. It's nice
3 and warm here.

4 PROSPECTIVE JUROR #175: I love the heat too.

5 MR. STEPHENS: Okay.

6 PROSPECTIVE JUROR #175: I miss the trees, but I love the heat.

7 MR. STEPHENS: You at one point expressed that you were a little bit
8 unhappy with law enforcement for a crime that was committed against you.

9 PROSPECTIVE JUROR #175: Yes.

10 MR. STEPHENS: Was that solely based upon the fact that the case was just
11 negotiated without your input?

12 PROSPECTIVE JUROR #175: Well, in addition to that, what I thought later I
13 should have brought up at that point was that the people were breaking in over and
14 over. And I called the police out three different times when stuff had been stolen.
15 And one time I even said don't you want to take fingerprints and they didn't take any
16 fingerprints. Well, then one day I was coming home and there they were, so I
17 parked out at the street and called the police and they came and arrested them.
18 And they were gonna go for a full \$8,000 restitution and I was already to -- in fact, I
19 was about to walk out the door to go down to the courthouse and I got a phone call
20 that because the times that the break-ins happened before and the stuff turned up
21 missing, we didn't catch them then that they couldn't charge them with any of that.
22 And because they made them replace the stuff they were taking the time they got
23 caught, the best that they could do was criminal trespassing. I had no -- where,
24 again, you know, it was already decided before they called me.

25 MR. STEPHENS: I see. Okay. That overall experience then with those

1 separate incidences and the one that was specifically resolved, anything about that
2 give you any concerns about sitting as a juror in this case, any biases or --

3 PROSPECTIVE JUROR #175: Well, it did shake my faith in the criminal
4 justice system, but as far as judging this case I don't think it -- you know, being able
5 to be a juror on this case I don't think it's going to affect it.

6 MR. STEPHENS: Okay. All right. Will you hand the mic to the person next to
7 you.

8 I apologize. I just didn't hear your answer when I -- how are you
9 employed?

10 PROSPECTIVE JUROR #230: I was a driver for Cintas -- or I'm a driver for
11 Cintas.

12 MR. STEPHENS: What's Cintas?

13 PROSPECTIVE JUROR #230: A uniform company.

14 MR. STEPHENS: Oh, okay. That's all I have for you.

15 Ms. Grubish, you can pass the mic also.

16 Ms. Heck, you're a teacher with the Clark County School District. What
17 grade do you teach?

18 PROSPECTIVE JUROR #180: I teacher seventh grade science.

19 MR. STEPHENS: Does that include all the general sciences or it is specified?

20 PROSPECTIVE JUROR #180: It's -- I'm specifically earth science -- earth
21 and space.

22 MR. STEPHENS: Did you get all your finals grade already?

23 PROSPECTIVE JUROR #180: Yes, I did.

24 MR. STEPHENS: Good work. You can pass the mic. Thank you.

25 Ms. Hengels, you and your husband both work as IT --

1 PROSPECTIVE JUROR #181: We are retired.

2 MR. STEPHENS: -- or used to?

3 PROSPECTIVE JUROR #181: Yes. Mm-hmm.

4 MR. STEPHENS: That's correct. I apologize. Did you two meet on the job,
5 you and your husband?

6 PROSPECTIVE JUROR #181: Yes, actually we did.

7 MR. STEPHENS: That's the way I met my wife too. The -- you were also a
8 victim of a burglary case that I believe is still ongoing as far as you know?

9 PROSPECTIVE JUROR #181: Correct.

10 MR. STEPHENS: Okay. And you'd be able to be fair and impartial as you --
11 you don't have any biases one way or the other for the State or against the State?

12 PROSPECTIVE JUROR #181: No, sir.

13 MR. STEPHENS: Okay. You can pass the mic.

14 Mr. Ang, you can pass the mic also.

15 Ms. Levinson, you work as a reading assistant in the special ed
16 department?

17 PROSPECTIVE JUROR #216: Yes.

18 MR. STEPHENS: Is that with Clark County School District?

19 PROSPECTIVE JUROR #216: Yes, it is.

20 MR. STEPHENS: Okay. And do you focus on any specific grade?

21 PROSPECTIVE JUROR #216: Sixth grade.

22 MR. STEPHENS: Sixth grade. All right. Thank you. You can pass the mic.

23 Ms. Collis?

24 PROSPECTIVE JUROR #187: Yes.

25 MR. STEPHENS: All right. I think if I heard correctly you said your step-

1 daughter was accused of a DUI?

2 PROSPECTIVE JUROR #187: She was accused and charged.

3 MR. STEPHENS: And charged; okay. And I believe I heard at one point that
4 you said she was kind of accused of everything?

5 PROSPECTIVE JUROR #187: There -- she was actually pulled over two or
6 three different times. One time was very questionable and her attorney was able to
7 plead it out so she didn't have to do any -- I think it was either the second or third
8 time on the DUI and there was something strange about it and he pleaded it out.
9 And then the third time, where she couldn't get out of it, that's when she went
10 through the court appointed counseling and all the things like that. She's now past
11 everything. Whatever's -- whatever happens after two to four years she's gone
12 through all that stuff now.

13 MR. STEPHENS: You can read my mind. I was just wondering was the case
14 closed out then?

15 PROSPECTIVE JUROR #187: Yes.

16 MR. STEPHENS: Okay. Thank you. You can hand it to the gentlemen in
17 front of you here. I'll go backwards.

18 THE MARSHAL: Where you going?

19 MR. STEPHENS: Mr. Bluestone. He's Juror 197.

20 Mr. Bluestone, what brought you to Las Vegas?

21 PROSPECTIVE JUROR #197: We were -- I was retiring and we sold our
22 house by accident in five days and then we had to decide on some place to go. And
23 we have -- I have a son that lives in California, near Los Angeles, a brother and
24 friends in Arizona, cousin here, and it was in the middle.

25 MR. STEPHENS: Okay. How did you sell your home by accident?

1 PROSPECTIVE JUROR #197: We had some work -- well, it really wasn't an
2 accident, but we had some work done and my wife said it's gonna take us a year,
3 year and a half to sell the house, why don't we put it on the market and see what
4 happens. We put it on the market and it sold in five days. And then we decided oh,
5 my God, we have to go someplace.

6 MR. STEPHENS: Fair enough. You mentioned that you were originally
7 retired military?

8 PROSPECTIVE JUROR #197: Correct.

9 MR. STEPHENS: What division of the --

10 PROSPECTIVE JUROR #197: I was in armor -- in the army for 21 years.

11 MR. STEPHENS: Thank you for your service. What grade did your wife
12 teacher?

13 PROSPECTIVE JUROR #197: She was an elementary school teacher. She
14 taught both second at one point and fourth at another.

15 MR. STEPHENS: Thank you, Mr. Bluestone. Will you hand that to the juror
16 next to you.

17 Mr. Oza, you work as a gemologist?

18 PROSPECTIVE JUROR #224: That's correct.

19 MR. STEPHENS: Okay. I can guess what that is, but can you tell me what
20 that is?

21 PROSPECTIVE JUROR #224: Related to stones and jewelry.

22 MR. STEPHENS: So do you determine the value of jewelry or --

23 PROSPECTIVE JUROR #224: That's correct.

24 MR. STEPHENS: Okay. Have you ever been asked to testify in a court
25 proceedings as to the value of jewelry?

1 PROSPECTIVE JUROR #224: No.

2 MR. STEPHENS: No. Thank you. You can pass the mic.

3 Ms. Self?

4 PROSPECTIVE JUROR #219: Yes.

5 MR. STEPHENS: All right. I want to talk to you just a little bit more about
6 your work situation. You -- I believe you said you're kind of on like a probationary
7 period right now or you just ended that.

8 PROSPECTIVE JUROR #219: Three month probation --

9 MR. STEPHENS: Three month.

10 PROSPECTIVE JUROR #219: -- from the time that I started.

11 MR. STEPHENS: Okay.

12 PROSPECTIVE JUROR #219: My three months ends on July 7th.

13 MR. STEPHENS: July 7th.

14 PROSPECTIVE JUROR #219: Mm-hmm.

15 MR. STEPHENS: I'm assuming you spoke to your work about this jury
16 subpoena to come today at least?

17 PROSPECTIVE JUROR #219: Yeah, they know.

18 MR. STEPHENS: Okay. And I guess -- do you have any concern that if you
19 -- there would be ill effects if you sat as a juror for the rest -- the next three days.

20 PROSPECTIVE JUROR #219: Well, they said that it won't, you know, affect
21 the probation. I'm just worried about being able to afford like the rent and the bills,
22 you know, since I'm a single mom.

23 MR. STEPHENS: Okay. Okay. All right. It's more the financial aspect rather
24 than the actual keeping the job aspect?

25 PROSPECTIVE JUROR #219: Yes, sir.

1 MR. STEPHENS: Okay. Thank you, Ms. Self. You can pass the
2 microphone.

3 Mr. Allen, do you work at the Tropicana?

4 PROSPECTIVE JUROR #194: Yes.

5 MR. STEPHENS: See, I'm pretty good. I can guess well. As a bartender
6 there do you ever deal with individuals that become overly intoxicated?

7 PROSPECTIVE JUROR #194: Yes.

8 MR. STEPHENS: Let me ask you. What do you do in those situations when
9 someone becomes overly intoxicated?

10 PROSPECTIVE JUROR #194: If they ask me for another drink I -- you know,
11 I politely tell them that you -- you know, tell them nicely [indiscernible] and I cut them
12 off.

13 MR. STEPHENS: Okay. Okay. The -- do you ever cut people off just
14 because they annoy you or other customers or is it just based upon their intoxication
15 level only?

16 PROSPECTIVE JUROR #194: Yeah, it could be if they're annoying other
17 customers, but I'm concerned about the safety of my customers also.

18 MR. STEPHENS: Okay.

19 PROSPECTIVE JUROR #194: They're there to have a good time, but if they
20 had too much to drink and they get in a car --

21 MR. STEPHENS: Fair enough.

22 PROSPECTIVE JUROR #194: -- [indiscernible] when I cut them off.

23 MR. STEPHENS: All right. Fair enough. You can hand the microphone to
24 Ms. Crook.

25 What grade do you teach, Ms. Crook?

1 PROSPECTIVE JUROR #193: I teach special ed and I teach early childhood,
2 so the children are three to five.

3 MR. STEPHENS: Okay. Is there a specific school that has that program or is
4 it --

5 PROSPECTIVE JUROR #193: Many schools in --

6 MR. STEPHENS: Many schools.

7 PROSPECTIVE JUROR #193: -- Clark County have that program.

8 MR. STEPHENS: Okay. Do you have to travel to each school or how does
9 that work?

10 PROSPECTIVE JUROR #193: No, I'm assigned to one school.

11 MR. STEPHENS: Okay. Your husband is a general contractor?

12 PROSPECTIVE JUROR #193: Yes.

13 MR. STEPHENS: Is he -- does he work with a specific company or is he like
14 a private contractor?

15 PROSPECTIVE JUROR #193: Private.

16 MR. STEPHENS: Okay. Thank you. You can pass the microphone.

17 Ms. Sese?

18 PROSPECTIVE JUROR #208: Yes.

19 MR. STEPHENS: All right. All right. I only caught -- I got some questions
20 about your kids. I believe you said you have a daughter that's a nurse?

21 PROSPECTIVE JUROR #208: Yes.

22 MR. STEPHENS: Someone attending Harvard?

23 PROSPECTIVE JUROR #208: Oh, no, no.

24 MR. STEPHENS: No. I'm sorry; I misheard. Tell me what your children do?

25 PROSPECTIVE JUROR #208: All of them go to school at UNLV --

1 MR. STEPHENS: Okay.
2 PROSPECTIVE JUROR #208: -- three of them. The second one is a pilot.
3 MR. STEPHENS: You said a pilot?
4 PROSPECTIVE JUROR #208: Not yet.
5 MR. STEPHENS: Oh, not yet.
6 PROSPECTIVE JUROR #208: He's taking it.
7 MR. STEPHENS: Okay. All right. And one's in physical therapy?
8 PROSPECTIVE JUROR #208: Yes, physical therapy.
9 MR. STEPHENS: And what does the other one do?
10 PROSPECTIVE JUROR #208: The other one is business.
11 MR. STEPHENS: All right. Thank you very much. You can pass the
12 microphone.
13 Ms. Denninger, you can pass the microphone up here.
14 PROSPECTIVE JUROR #190: Okay.
15 MR. STEPHENS: Ms. Tait, you were the victim of an ID theft by your sister?
16 PROSPECTIVE JUROR #199: Correct.
17 MR. STEPHENS: Do you still maintain a relationship with her?
18 PROSPECTIVE JUROR #199: Only when she calls and that's on birthdays
19 only and I just try to be civil about it.
20 MR. STEPHENS: Okay.
21 PROSPECTIVE JUROR #199: Other than that, no.
22 MR. STEPHENS: Okay. Does she live nearby you?
23 PROSPECTIVE JUROR #199: I don't know.
24 MR. STEPHENS: Don't know where she lives?
25 PROSPECTIVE JUROR #199: No.

1 MR. STEPHENS: Okay.

2 PROSPECTIVE JUROR #199: I know she does live in state here, but don't
3 know where.

4 MR. STEPHENS: All right. And you work in accounts payable in a car
5 dealership?

6 PROSPECTIVE JUROR #199: Correct.

7 MR. STEPHENS: Okay. What specifically does that entail at your job?

8 PROSPECTIVE JUROR #199: Paying all bills that -- you know, that we get
9 from everywhere, as well as the parts. If they buy parts from other dealerships I pay
10 off those invoices as well.

11 MR. STEPHENS: So it's pretty busy then?

12 PROSPECTIVE JUROR #199: Yes.

13 MR. STEPHENS: All right. You can pass the microphone. Thank you.

14 Mr. Kitterman, I apologize. Did you say you're a car porter?

15 PROSPECTIVE JUROR #210: Bar porter.

16 MR. STEPHENS: Bar?

17 PROSPECTIVE JUROR #210: Basically a bar back.

18 MR. STEPHENS: Oh, okay. Let me ask you some of the same questions
19 that I asked of Mr. Allen. Do you ever -- do you ever deal with people who are
20 overly intoxicated?

21 PROSPECTIVE JUROR #210: At times.

22 MR. STEPHENS: At times. And what do you do in those situations where
23 someone's overly intoxicated?

24 PROSPECTIVE JUROR #210: Similar to him. Usually cut them off, offer
25 them water. If they become too rowdy I usually end up having to get security

1 involved --

2 MR. STEPHENS: Okay.

3 PROSPECTIVE JUROR #210: -- because we're at a pool deck, so --

4 MR. STEPHENS: Okay.

5 PROSPECTIVE JUROR #210: -- there's a lot more like danger around
6 where --

7 MR. STEPHENS: Gotcha. Okay. And then you also had expressed that this
8 could be a financial burden on you if you had to sit as a juror.

9 PROSPECTIVE JUROR #210: Yeah. Missing three days of work and mostly
10 depending on tips.

11 MR. STEPHENS: Tips; okay.

12 PROSPECTIVE JUROR #210: Yeah.

13 MR. STEPHENS: Is there any way for you to work extra shifts at all next
14 week or -

15 PROSPECTIVE JUROR #210: Essentially for these three days because
16 we're opened from 8 to 8 I would miss them.

17 MR. STEPHENS: Just miss them.

18 PROSPECTIVE JUROR #210: Yeah, I would miss them for this week, but --

19 MR. STEPHENS: Okay. All right. Thank you.

20 You work in financial planning -- or financial and estate planning?

21 PROSPECTIVE JUROR #228: Yes, sir.

22 MR. STEPHENS: Do you ever work with attorneys in those fields?

23 PROSPECTIVE JUROR #228: I do.

24 MR. STEPHENS: Do you ever discuss with them the justice system or courts
25 at all?

1 PROSPECTIVE JUROR #228: No. Uh-uh. No, just generalities about estate
2 planning and, you know, succession planning, et cetera.

3 MR. STEPHENS: Okay. Do you yourself have a law degree?

4 PROSPECTIVE JUROR #228: I do not; no.

5 MR. STEPHENS: Do not; okay. But there is some sort of like licensing that
6 you have to go through.

7 PROSPECTIVE JUROR #228: I do; yes. I'm federal licensed, SCC. Got all
8 my licenses through them; yes.

9 MR. STEPHENS: Okay. And how many years of school do you need to
10 attend in order to get those licenses?

11 PROSPECTIVE JUROR #228: I don't know. It takes GED, I guess.

12 MR. STEPHENS: Okay.

13 PROSPECTIVE JUROR #228: As long as you pass the test.

14 MR. STEPHENS: That's -- just a basic test.

15 PROSPECTIVE JUROR #228: I don't there's any degree requirements or
16 anything like that, but --

17 MR. STEPHENS: Oh okay.

18 PROSPECTIVE JUROR #228: -- you know, I graduated UNLV and started
19 my career after that.

20 MR. STEPHENS: All right. Awesome. Thank you.

21 PROSPECTIVE JUROR #228: You're welcome.

22 MR. STEPHENS: Mr. Corbman?

23 PROSPECTIVE JUROR #202: Yes, sir.

24 MR. STEPHENS: All right. Sorry, you're back here. You can pass the
25 microphone.

1 PROSPECTIVE JUROR #202: I did that well.

2 MR. STEPHENS: That was perfect. Perfect.

3 Ms. Strouse, how do you like working as a vice president for UNLV?

4 PROSPECTIVE JUROR #203: Oh, I love it.

5 MR. STEPHENS: Love it.

6 PROSPECTIVE JUROR #203: That's why I'm here.

7 MR. STEPHENS: Good. The -- you said -- I believe you said you have three
8 children, one of them worked as a vice president of entertainment, public health and
9 a fire captain?

10 PROSPECTIVE JUROR #203: Mm-hmm.

11 MR. STEPHENS: Okay. Where do those children live?

12 PROSPECTIVE JUROR #203: My son lives in Ventura, my daughter lives in
13 Los Angeles and my other daughter lives in Berkley.

14 MR. STEPHENS: All right. I can't ask you any more questions. I'm starting
15 to feel guilty of what I've donated, so --

16 PROSPECTIVE JUROR #203: It's music to my ears.

17 MR. STEPHENS: No, I can't ask you any more questions.

18 Mr. Smith, you worked as a CFO for an oil company?

19 PROSPECTIVE JUROR #204: Yes.

20 MR. STEPHENS: All right. Where did you work? What city? I don't --

21 PROSPECTIVE JUROR #204: I worked for an oil and gas business. We
22 were transferred ten times.

23 MR. STEPHENS: Oh, wow.

24 PROSPECTIVE JUROR #204: The last place was LA -- Los Angeles.

25 MR. STEPHENS: Okay. I'm doubting you ever really spent time here

1 working.

2 PROSPECTIVE JUROR #204: Pardon me?

3 MR. STEPHENS: Did you ever work in Las Vegas specifically?

4 PROSPECTIVE JUROR #204: No.

5 MR. STEPHENS: No; okay. Did you ever get to go overseas?

6 PROSPECTIVE JUROR #204: No. Oh, I traveled overseas.

7 MR. STEPHENS: Traveled overseas --

8 PROSPECTIVE JUROR #204: Yes.

9 MR. STEPHENS: -- but you didn't get to stay there.

10 PROSPECTIVE JUROR #204: I had no foreign assignment.

11 MR. STEPHENS: What was your favorite place you visited?

12 PROSPECTIVE JUROR #204: Beijing, China.

13 MR. STEPHENS: Thank you.

14 Ms. Cowley, I wanted -- you have some childcare issues also that you
15 informed the Court about.

16 PROSPECTIVE JUROR #205: Yes.

17 MR. STEPHENS: And --

18 PROSPECTIVE JUROR #205: They can be worked out though.

19 MR. STEPHENS: They can be worked out.

20 PROSPECTIVE JUROR #205: Yeah.

21 MR. STEPHENS: Okay.

22 PROSPECTIVE JUROR #205: I'll figure it out.

23 MR. STEPHENS: All right. Your mom's also having shoulder surgery. Are
24 you going to have to care for her also after the shoulder surgery?

25 PROSPECTIVE JUROR #205: No.

1 MR. STEPHENS: Okay. You mentioned that your sister was arrested on a
2 traffic ticket and you thought that she, to some extent, was treated unfairly.

3 PROSPECTIVE JUROR #205: Mm-hmm.

4 MR. STEPHENS: Can you tell me what aspect specific. Like, was it the fact
5 that she was actually arrested or --

6 PROSPECTIVE JUROR #205: Well, it was months later, and so -- and she
7 was out and just -- it was a Friday night, she was picked up, and so her date came
8 to the door and said your sister was arrested. So the whole situation of how it
9 happened. I mean, it was months later. We didn't know.

10 MR. STEPHENS: Okay.

11 PROSPECTIVE JUROR #205: There was nothing we could do over the
12 weekend and so -- it was a hard time.

13 MR. STEPHENS: Yeah, that is hard. The -- you work in special education as
14 a teacher?

15 PROSPECTIVE JUROR #205: Mm-hmm.

16 MR. STEPHENS: The -- do you work at a specific school?

17 PROSPECTIVE JUROR #205: I do.

18 MR. STEPHENS: Okay. And what grade do you specifically work with?

19 PROSPECTIVE JUROR #205: It's primary, so it's kinder, first, second and
20 third.

21 MR. STEPHENS: I'm assuming you don't have any interaction with Ms.
22 Crook?

23 PROSPECTIVE JUROR #205: No. None of these teachers; no.

24 MR. STEPHENS: None of the teachers; okay. Fair enough. Thank you.

25 Ms. Thomas, you work as a nurse?

1 PROSPECTIVE JUROR #206: Yes.

2 MR. STEPHENS: And where specifically do you work?

3 PROSPECTIVE JUROR #206: I work for UMC.

4 MR. STEPHENS: At UMC do you have a lot of interaction with the police?

5 PROSPECTIVE JUROR #206: I work out of a clinic at UMC and we do have
6 interaction with the security at UMC.

7 MR. STEPHENS: Okay. Based upon your interactions there would you hold
8 any biases either for or against the Metropolitan Police Department based upon your
9 interactions at work?

10 PROSPECTIVE JUROR #206: No, it's usually -- it's mostly to UMC.

11 MR. STEPHENS: Okay. Do you work in a particular branch at the hospital?

12 PROSPECTIVE JUROR #206: Yeah, I work in a -- outside in a clinic.

13 MR. STEPHENS: Outside --

14 PROSPECTIVE JUROR #206: UMC clinic.

15 MR. STEPHENS: Okay. It's not the one at Charleston? Do you work at the
16 main --

17 PROSPECTIVE JUROR #206: No, I work -- the one down from Charleston
18 on Shadow.

19 MR. STEPHENS: Okay. Thank you.

20 PROSPECTIVE JUROR #206: Mm-hmm.

21 MR. STEPHENS: And, Ms. Kelly, I already asked you questions.

22 Court's brief indulgence, Your Honor.

23 THE COURT: Sure.

24 MR. STEPHENS: Your Honor, I'll pass for cause.

25 THE COURT: All right. Does the defense wish to inquire the panel?

1 MR. COFFEE: I do, Judge.

2 THE COURT: You may proceed.

3 MR. COFFEE: You've made it this far. We asked some general questions on
4 specific things: do you have relatives in law enforcement, have you been accused
5 of a crime, that kind of thing to get background. Is there anything that we've missed
6 or should have asked that would cause somebody not to be able to be a fair juror in
7 this case? Does that question make sense? Anything in your background, anything
8 in your past, anything that we just happen to miss that makes you say, you know,
9 not this case; I can't sit through it; I can't do it; I can't think about it; I can't give him
10 fair time and consideration, anything like that? Okay, good. It's always good -- oh,
11 wait a minute.

12 THE MARSHAL: She's not on the panel.

13 MR. COFFEE: Okay. If you get called up we will address it then, I promise.

14 There was a gentleman -- or I'm sorry, a lady, sitting in seat number 2,
15 Ms. Taylor, who had some concerns. She heard that somebody had caught fire --
16 somebody been lit on fire and said case is over for me; it's done. Is there anybody
17 else having heard that, that can't consider the law that the Judge is going to give
18 you; can't consider the circumstances. Just -- you know, fire and [indiscernible]
19 that's it. It's a scary thing, fire. I mean, [indiscernible] dogs and drowning it's
20 probably some of the scariest things we could think about being lit on fire. But if
21 anybody's got that kind of concern raise your hand for me. Okay.

22 Is anybody here -- you were asked questions about your religion before.
23 If you have a religious problem with judging other people and there's certain
24 religions that have that problem. Is there anybody that's a member of a pacifist
25 religion, okay, who believes that turning that other cheek is always the right answer

1 and that we should never engage anybody even when they confront us? Do you
2 understand what I mean by that? Is there anybody that follows that practice in their
3 life? Okay.

4 Is there anybody that has a problem with the concept of self-defense?
5 And we won't get into the particulars, that's for the Judge to do, but the concept of
6 self-defense that at times it is allowable under the law to use force to protect
7 yourself. Does everybody agree with that? Okay. Anybody have an issue with
8 that?

9 You're going to be asked whether you can follow the law. One of the
10 things you're going to hear is if you're not the aggressor, if you don't start the
11 confrontation, you don't have to turn tail and run; okay. Nevada is a stand your
12 ground state. Is there anybody that's going to have a problem with that, that's going
13 to say, you know, I understand what the Judge has told me, I understand what the
14 instructions say, but in my mind if you can run you better run, that's the way you got
15 to do things even though the law says something different; okay. Do we understand
16 what I mean by following the law in this instance? Is there anybody that has a
17 problem with the idea of standing your ground? Okay. Very good.

18 I want to ask some specific questions now. We had some people who
19 were involved in law enforcement or had family members involved in law
20 enforcement, worked at Nevada Department of Prisons, that sort of thing. Does
21 everybody understand that as we sit here we got this gentleman, Mr. Newell, who
22 the State is claiming did something, but there's no conviction, he's not in prison at
23 this point. If we were going to call the people at the Nevada Department of Prisons,
24 those people, right, the bad people the Judge was taking about, he's not one of
25 those people at this point. Does everybody understand that? Is everybody okay

1 with that? Okay.

2 Does everybody understand that while the State can charge someone
3 with something by filing the paperwork and going through the appropriate means
4 that this is kind of where the rubber hits the road. What I've said, what they've said
5 up to this point doesn't mean much. What you hear from the witness stand has got
6 to control your decision in the case and the law that the Judge gives you. Does that
7 make sense?

8 For example, it wouldn't be appropriate to speculate or think, well, it
9 could've happened this way. I know they didn't prove it, but what the heck, we're
10 going to forget this presumption of innocence. That wouldn't be appropriate. Does
11 everybody understand that? Is everybody okay with that concept?

12 If you were sitting in this gentleman's seat accused of something
13 dramatic, tremendous, devastating -- attempt murder, battery with use of a deadly
14 weapon with substantial bodily harm, assault with a deadly weapon, I want each of
15 you to think for a second would you want somebody like yourself to sit on a jury if
16 you were sitting in that seat. Does that question make sense? Would you like 12
17 jurors such as yourself to consider what's going to happen? And that goes for the
18 State's side too. If you were the State would you like 12 jurors such as yourself;
19 okay. Does the question make sense? For example, people might have problems
20 with police officers and say I've had run-ins with the police and I can't consider what
21 the police say, I think it's all made up, and it wouldn't be fair for the State to have
22 that kind of person on the jury. The flipside is the fact that the State has went
23 through the trouble of accusing Mr. Newell, somebody could say, you know, it's
24 over. I'm a follower. Some policeman said he's guilty; what the heck, he must be
25 guilty let's just quit here; okay. And that wouldn't be appropriate either. Does

1 everybody understand? Is there anybody that has an issue with that?

2 Is there anybody that has any problems hearing, listening,
3 understanding or following what we've been doing so far? And it's okay if you do.
4 This is -- it's going to get more technical when we get into things. By the time we
5 get instructions you're going to have a stack and it's going to get more technical so
6 it's better to know now.

7 Is there anybody that doesn't feel that they can't participate with the
8 other jurors? Okay. For example, I am -- because of my background I -- for
9 whatever reason don't think I could speak my mind, participate with my other jurors
10 in reaching a decision. Does that question make sense? Okay. Because this is a
11 decision that's going to take all of you in the jury room to come together and decide.
12 And everybody is going to bring difference experiences, from bartender to whatever
13 you might have done in the past. There's a reason we put 12 people in, but it only
14 works if everybody participates, so we can't just sit on our hands. Is everybody
15 willing to do that? Is everybody willing to listen to other people's opinions too? It's
16 also a situation where it's hard to plant flags; right? You have to discuss things
17 amongst yourselves.

18 There were some questions about -- you said at UMC you worked with
19 security; is that right [indiscernible].

20 PROSPECTIVE JUROR #206: [Indiscernible.]

21 THE MARSHAL: Hang on.

22 MR. COFFEE: I'm sorry.

23 THE MARSHAL: They don't have the microphone.

24 MR. COFFEE: I'm sorry.

25 PROSPECTIVE JUROR #206: They come over if we have problems --

1 THE COURT: Hang on. Hang on.
2 PROSPECTIVE JUROR #206: with patients.
3 THE COURT: Badge number, ma'am.
4 PROSPECTIVE JUROR #206: Oh, 206.
5 MR. COFFEE: 206. It's -- I'm sorry, your name?
6 PROSPECTIVE JUROR #206: Patricia Thomas.
7 MR. COFFEE: Patricia, I'm sorry.
8 PROSPECTIVE JUROR #206: I work with them when we have problem
9 patients and we call them.
10 MR. COFFEE: When you have problem patients. What do you mean by
11 problem patients?
12 PROSPECTIVE JUROR #206: They get loud, unruly, cursing, things like that.
13 MR. COFFEE: Why don't you just deal with those folks yourself?
14 PROSPECTIVE JUROR #206: Because that's the rule to call security.
15 MR. COFFEE: And sometimes it's safe --
16 PROSPECTIVE JUROR #206: And if someone feels threatened we call
17 security.
18 MR. COFFEE: When you say threatened, does that necessarily mean a gun
19 or a knife?
20 PROSPECTIVE JUROR #206: No, just threatened verbally.
21 MR. COFFEE: Verbally. People could be a physical threat even if they not
22 got weapons I would imagine.
23 PROSPECTIVE JUROR #206: Mm-hmm.
24 MR. COFFEE: Okay. Thank you.
25 PROSPECTIVE JUROR #206: Mm-hmm.

1 MR. COFFEE: Mr. Allen and Mr. Kitterman, is that right, you both worked in
2 the alcohol business, for lack of a better description. And if I could have the mic for
3 Mr. Allen.

4 You both worked in the business of serving. You work at the Tropicana
5 currently as a bartender?

6 PROSPECTIVE JUROR #194: Yes.

7 THE MARSHAL: Badge number?

8 MR. COFFEE: Badge number. I'm sorry.

9 PROSPECTIVE JUROR #194: Yes, it's 194.

10 MR. COFFEE: 194. Thank you. Have you worked any place else as a
11 bartender?

12 PROSPECTIVE JUROR #194: Yes, I was at the Stratosphere for 13 ½ years.

13 MR. COFFEE: Okay. Different crowd between the two places?

14 PROSPECTIVE JUROR #194: A little bit different, not that much.

15 MR. COFFEE: Not that much. How about at smaller establishments?

16 PROSPECTIVE JUROR #194: No.

17 MR. COFFEE: Both of those establishments, is it fair to say, have fairly large
18 security forces?

19 PROSPECTIVE JUROR #194: Fairly large.

20 MR. COFFEE: People can -- I mean, if people get -- you said I think --
21 somebody talked about people being unruly somebody can intervene fairly quickly if
22 necessary at those locations?

23 PROSPECTIVE JUROR #194: Yes.

24 MR. COFFEE: In fact, that probably happens at those locations on occasion?

25 PROSPECTIVE JUROR #194: Sometimes.

1 MR. COFFEE: It's Vegas. Do what you want as long as you don't go too far,
2 but if you go too far we got a lot of people that'll put you back in place; right?

3 PROSPECTIVE JUROR #194: [Inaudible response.]

4 MR. COFFEE: Have you ever had to deal with those individuals yourself?

5 PROSPECTIVE JUROR #194: I don't know, it just depends on the situation.
6 If I can calm them down myself, you know, if they get a little unruly, but if I have to --
7 if I see someone that doesn't an ID and they refuse to leave the bar then, you know,
8 in those situations I'll call security for that even.

9 MR. COFFEE: Okay.

10 PROSPECTIVE JUROR #194: I'm not gonna argue with a customer.

11 MR. COFFEE: And you're not going to -- so I suppose the way it works is you
12 would ask them for ID and then ask them to leave?

13 PROSPECTIVE JUROR #194: Yes.

14 MR. COFFEE: Try to -- it gets more -- it escalates at some point I would
15 imagine. You need to go, something like that?

16 PROSPECTIVE JUROR #194: Yes.

17 MR. COFFEE: And if they won't listen you call in security who will help you?

18 PROSPECTIVE JUROR #194: Yes.

19 MR. COFFEE: And you've been trained, I would imagine, on how to call
20 security and who to call?

21 PROSPECTIVE JUROR #194: Yes.

22 MR. COFFEE: And does it say that you do that for your safety as well? I
23 mean, I know a lot of liabilities involved with a casino, but you do it for your own
24 safety too I would imagine.

25 PROSPECTIVE JUROR #194: Yes, if it ever came down to that. I don't know

1 if I've ever had -- worried about my safety, but --

2 MR. COFFEE: Okay.

3 PROSPECTIVE JUROR #194: -- if I did --

4 MR. COFFEE: Okay. And that's an interesting point, even though we're not
5 confronted every day with somebody who's so drunk and belligerent that we have to
6 defend ourselves. What if it came down to you got to have security?

7 PROSPECTIVE JUROR #194: Yes.

8 MR. COFFEE: Okay. Could you pass the microphone to Mr. Kitterman.

9 And your badge number?

10 PROSPECTIVE JUROR #210: Badge number 210.

11 MR. COFFEE: I'll remember. Same thing. You're working as a bar back
12 now?

13 PROSPECTIVE JUROR #210: Yes.

14 MR. COFFEE: Have you worked at other bars also?

15 PROSPECTIVE JUROR #210: Yes.

16 MR. COFFEE: What [indiscernible].

17 PROSPECTIVE JUROR #210: I've worked over at the Wynn.

18 MR. COFFEE: Okay.

19 PROSPECTIVE JUROR #210: And I've also worked -- not the one -- I'm
20 sorry. Aria -- City Center. And then I've worked at the M Resort.

21 MR. COFFEE: Where?

22 PROSPECTIVE JUROR #210: The M Resort.

23 MR. COFFEE: Oh, the M Resort.

24 PROSPECTIVE JUROR #210: Yes.

25 MR. COFFEE: Okay. So fairly -- I'm not going to say ritzy, but legitimate

1 establishments?

2 PROSPECTIVE JUROR #210: Yes.

3 MR. COFFEE: And clientele probably doesn't get that unruly on a regular
4 basis, but --

5 PROSPECTIVE JUROR #210: Not usually.

6 MR. COFFEE: Surely not beyond the realm of possibility?

7 PROSPECTIVE JUROR #210: Yeah.

8 MR. COFFEE: Have you ever had to deal with drunk and disorderly people?

9 PROSPECTIVE JUROR #210: Up to a minor extent. Like you said, most
10 people want to come and have a good time and they keep themselves in line. Most
11 of the time they don't get too unruly.

12 MR. COFFEE: And most of the time they listen if they're ask to calm down?

13 PROSPECTIVE JUROR #210: For the most part.

14 MR. COFFEE: Have you ever been in a situation there where you felt like
15 your life was in danger?

16 PROSPECTIVE JUROR #210: No.

17 MR. COFFEE: Has anybody ever been in a situation when they had to
18 protect themselves? Had to use physical force to protect themselves? Mic please.
19 And we don't mean to get too personal, but it is important.

20 PROSPECTIVE JUROR #187: 187. Yes, when I was younger drunken
21 boyfriends almost got into domestic violence. And thank goodness my dad taught
22 me how to defense myself and I threw him out and he never came around. But it did
23 really make me learn that I have to stand up for myself. And if somebody is drunk
24 and disorderly and threatening me or somebody I care about, I'll have to take action.

25 MR. COFFEE: Now you said you had to defend yourself. Was it physically

1 you threw somebody --

2 PROSPECTIVE JUROR #187: Yes.

3 MR. COFFEE: -- out of the house?

4 PROSPECTIVE JUROR #187: Yes. It was my apartment; I physically threw
5 him out.

6 MR. COFFEE: Okay. Very good.

7 Anybody else been in that situation where you thought -- and the juror
8 back in the middle.

9 PROSPECTIVE JUROR #181: Number 181. I mentioned I was involved in a
10 burglary in May of 2013. I was home when my house was burglarized.

11 MR. COFFEE: Okay.

12 PROSPECTIVE JUROR #181: So I had the experience of feeling my life was
13 threatened. I didn't fight. I ran, so that was the outcome.

14 MR. COFFEE: Perfectly reasonable and often the same choice. But you
15 understand some people may make different choices than that?

16 PROSPECTIVE JUROR #181: Absolutely.

17 MR. COFFEE: Some people may choose to stand up and throw people out.
18 It doesn't make the choice unreasonable necessarily, would everybody agree with
19 that? Different people make different choices. All right.

20 Well, I thank you for answering my questions. Is there anything -- I'm
21 going to ask one more time -- based on the few questions that we've asked if there's
22 anything else that we've missed, if not, I would pass the panel for cause. Thank
23 you, ladies and gentlemen.

24 THE COURT: All right. Can I get counsel to approach very quickly.

25 [Bench conference -- not recorded]

1 THE COURT: All right. Ladies and gentlemen, what's going to happen now
2 is we're pretty close to the end. The attorneys are going to do some paperwork right
3 now. What I would ask all of you to do is sort of sit quietly. If you want to, you can
4 talk quietly among yourselves, but no so loud that you're distracting them because
5 then it will take longer to do what they need to do. You're going to see them passing
6 some paper back and forth. Just sit tight for just a couple minutes and -- let me do
7 this. Does anybody need a bathroom break right now? Oh, actually we have a
8 couple hands. All right. Let's do this. We might as well then send them out for a
9 short break and have you guys come back in here.

10 During the break the same admonishments that I've been giving you all
11 day long apply. We're reaching the stage where there might be people in the
12 hallway who are connected with this case in some way. So if you see anybody who
13 doesn't have a white badge on don't talk with them, don't stand close enough to
14 them that you can hear what they're saying, and don't stand close enough to them
15 that they can hear what you're saying. Don't reach any conclusion about this case
16 as you've not heard any evidence. Do not investigate any facts of this case on your
17 own. Do not talk to anyone who may be involved in any way with this case. Do not
18 discuss the facts of this case with each other. Remember to wear your badge at all
19 times at the courthouse. You can leave stuff on the chairs because no one else will
20 come in the courtroom, and let Randy know when you're ready then; all right.
21 Thanks.

22 [Outside the presence of the prospective jury panel]

23 THE COURT: All right. Still on the record outside the presence of the jury.

24 Anything that either side wanted to memorialize or address?

25 MR. COFFEE: No.

1 MS. WONG: No.

2 THE COURT: All right. I know you guys wanted the panel in here. When
3 they're ready I'll have Randy bring them back in. You might as well see if there's at
4 least a couple challenges that you guys can do in the meantime. If not, then, you
5 know, we'll bring them back in here, but that's -- you know, that's a common thing,
6 as you guys know, after lunchtime people, you know, drank a bunch of water and
7 now they need a quicker break, so we might as well go head and take a break then.

8 All right. Let's go off the record then.

9 [Recess taken at 2:51 p.m.]

10 [Proceedings resumed at 3:04 p.m.]

11 [Outside the presence of the prospective jury panel]

12 THE COURT: All right. This is State versus Patrick Newell, C285825. We
13 are outside the presence of the jury panel. Mr. Newell is present in custody.

14 I've just been handed the peremptory challenge sheet. It appears that
15 the State is challenging the following jurors: badge number 175, Mr. Arrell; badge
16 number 187, Ms. Collis; badge number 194, Mr. Allen; badge number 197,
17 Bluestone, and badge number 210, Mr. Kitterman. Is that correct?

18 MS. WONG: That's correct.

19 THE COURT: And it appears the defense is challenging -- and I'm not going
20 in any order of the challenges. Well, I might as well do it in order. The first
21 challenge was to badge number 190, Ms. Denninger. Their second was to 208, Ms.
22 Sese. Third was to badge number 179, Ms. Grubish. The fourth was to badge
23 number 199, Ms. Tait. And the fifth was to badge number 203, Ms. Strouse. Is that
24 correct?

25 MR. COFFEE: That's correct.

1 MR. GUTIERREZ: That's correct.

2 THE COURT: All right. Then that means our panel is going --

3 THE COURT CLERK: What was the last two?

4 THE COURT: The last two?

5 THE COURT CLERK: Uh-huh.

6 THE COURT: Defense's fourth and fifth; 199, Ms. Tait and 203, Ms. Strouse.

7 Okay. So that means our jury will be composed of jurors with present
8 badge numbers: 230, Mr. Jackson; 180, Ms. Heck; 181, Hengels; 209, Mr. Ang;
9 216, Ms. Levinson; 193, Ms. Crook; 219, Ms. Self; 224, Mr. Oza; 228, Mr.
10 Holcombe; badge number 202, Mr. Corbman; badge number 204, Mr. Smith; badge
11 number 205, Ms. Cowley, and our two alternates will be 206, Ms. Thomas and 207,
12 Ms. Kelly. Does that match with what everybody has?

13 MR. GUTIERREZ: That's correct, Your Honor.

14 THE COURT: All right. Let's go ahead and bring them in. And we will bring
15 them in -- as we discussed earlier, what we'll do is we'll bring them in; we'll excuse
16 everybody but those 14. We'll have them sworn. I'll do my pretrial instructions and
17 then we'll adjourn for the day unless you guys wanted to take a shot at openings
18 today.

19 MS. WONG: We don't have anything set up, so that's okay.

20 THE COURT: Okay. All right. Then we'll do that.

21 Let's go ahead and bring them in, Randy.

22 THE MARSHAL: Ms. Heck is still on our panel. You gonna discuss with them
23 about the times for --

24 THE COURT: Oh, Ms. Heck is the breastfeeding person. She needs a longer
25 break every couple hours. As long as you guys are aware of that.

1 THE MARSHAL: If we start at ten, then if we go till one she can do it during
2 lunch.

3 THE COURT: I think she said it was every -- was it every three hours?

4 MR. COFFEE: Every three hours, 20 minutes at least.

5 THE COURT: Yeah, so we're okay. With a ten o'clock start she can take the
6 one break during lunch, but it sounds like around 4ish she's going to have to take a
7 long break. On Tuesday, Wednesday, Thursday we'll just have to work around that
8 I suppose.

9 MR. COFFEE: Sure.

10 THE COURT: All right. Let's go ahead and bring them in.

11 [In the presence of the prospective jury panel]

12 THE COURT: All right. Ladies and gentlemen, welcome back. During the
13 break we used the time productively and the following jurors are excused.

14 THE MARSHAL: When your numbers are called come to me.

15 THE COURT: Those of you whose names and numbers I'm about to read I
16 thank you for your willingness to serve. Please report to jury services on the third
17 floor. All right. Badge number 175, Mr. Arrell, you can go to -- where Randy is and
18 he'll give you further instructions. Let's see here. 179, Ms. Grubish; 187, Ms. Collis;
19 190, Ms. Denninger; 208, Ms. Sese; 194, Mr. Allen; 197, Mr. Bluestone; 199, Ms.
20 Tait; 210, Mr. Kitterman; 203, Ms. Strouse. And in addition, the four of you sitting
21 back there you're also excused.

22 All right. I'll wait for second while everybody passes down the badges.
23 Make sure you get the one that actually corresponds to the number you should get.
24 It should go in order from this way to this way; 1 through 7 and 8 through 14.

25 All right. Ladies and gentlemen, as you probably gathered by now that

1 means that the 14 of you who are left will be the jury in this case.

2 Madam Clerk, let's go ahead and have them sworn.

3 [The clerk swore in the jury panel]

4 THE COURT: All right. Let me -- before -- I have some standard jury
5 instructions I will give you at this point. Let me cover a couple things out of order.

6 Ms. Heck, your previous badge is 180. I don't know which badge
7 number you are now.

8 JUROR NUMBER 2: Two.

9 THE COURT: You're number 2 right now. I know you have this
10 breastfeeding issue and you needed to take a longer break every -- was it every
11 three hours?

12 JUROR NUMBER 2: Yes.

13 THE COURT: Okay. We're going to start at ten o'clock the next three days
14 so you -- that the three hours overlaps with lunch, so that's not a problem, but does
15 that also mean you also have to take a break around four o'clockish or so?

16 JUROR NUMBER 2: No, I can do it at lunch. That'll be fine.

17 THE COURT: Are you sure?

18 JUROR NUMBER 2: Mm-hmm.

19 THE COURT: Okay. Because I was going to volunteer that we can sort of
20 work with you. I don't if there's -- all right. So just the lunch break would be enough
21 for you?

22 JUROR NUMBER 2: Yes, it is.

23 THE COURT: And then badge number -- previous badge number 219, Ms.
24 Self. Where are you? All right. You're number 7 now; right? I know you had this
25 employment issue. You're on probationary period; right? What I can offer you is

1 this. I mean, the way this works is the attorneys in this case, you know, deemed
2 that you would be an appropriate juror in this case. We have a standard jury letter --
3 juror letter that we can give to you and you can take to your employer. What I want
4 to also offer as I know you're on a probationary period, if you also want I'm happy to
5 make a phone call to your employer, explain that you're on jury service, it's a
6 criminal case and that kind of thing and sort of -- you know, if I need to twist their
7 arm a little bit to make things okay or easier with you are you -- do you need me to
8 do that or want me to do that?

9 JUROR NUMBER 7: You can do that. It's just worry about like paying bills
10 and everything.

11 THE COURT: Okay. No, I understand. I mean -- you know, the -- neither of
12 the attorneys in this case saw fit to -- I mean -- well, they both agreed that you would
13 be an appropriate juror in this case, so it kind of is what it is. If you need a jury letter
14 I'm happy to do it. We have a form letter that we can do. If you want me to make
15 that phone call let me know also. Just give me the name and information and all
16 that kind of stuff; okay.

17 All right. Ladies and gentlemen, just a couple preliminary things. First
18 of all, now that you're actual jurors on this case you can dispose of the white
19 badges. The blue badges are what you will be wearing from now on. Please keep
20 those with you and don't lose them. They cost a lot more money as you can tell
21 than the white badges. The white badges you can throw away, keep as souvenirs,
22 whatever you want to do.

23 That also means that now that you have been sworn as jurors you're
24 under the custody and care of this Court rather than jury services. From now on you
25 will not be going back to the third floor until the very end of the case. Every morning

1 when you report Randy's going to tell exactly where he wants you to report, but
2 come up to the tenth floor and come up here rather than the jury service on the third
3 floor; all right.

4 That also means that if you guys have any issues regarding your
5 service you don't contact the jury commissioner anymore; you contact Randy.
6 Randy will give you his cell -- or we'll also give you a card that has my executive
7 assistant's number on it. If you have any issues, like you're stuck in traffic or
8 running late or something like that, you would call my chambers rather than calling
9 jury services; all right.

10 What we're going to do is -- it's 3:15 now. I'm going to give you some --
11 about 15 minutes worth of standard pretrial instructions and then we will adjourn
12 early for the day. We'll convene tomorrow at around ten o'clock and then we will get
13 the case underway.

14 And also, Randy, have they been given their notebooks?

15 THE MARSHAL: No, sir. Not until tomorrow.

16 THE COURT: All right. Well, let's give them just in case. I don't know if they
17 want to write down -- because we're taking a long overnight break, in case they want
18 to write down any of the pretrial instructions you might as well do it.

19 THE MARSHAL: Okay.

20 THE COURT: During this trial you will be able allowed to take notes of what's
21 going on in the trial. Please keep those notes to yourself. Those notebooks do not
22 leave this courtroom. And after the verdict is in those notebooks are shredded, so
23 you can write whatever you want to. Be as honest or forthright as you want to in
24 those notebooks. Let's me take a minute and Randy will hand them out. On the
25 back of the notebooks there is a number that should match the number on your

1 badge. Make sure you get the right notebook so that every day you'll get the same
2 notebook. All right. Does everybody have a notebook and a pen or pencil?
3 Anybody not have one?

4 All right. Ladies and gentlemen, during this trial you are admonished
5 that no juror may declare to a fellow juror -- hang on one second.

6 [Bench conference -- not recorded]

7 THE COURT: I apologize for the interruption.

8 All right. Ladies and gentlemen, during this trial you are admonished
9 that no juror may declare to a fellow juror any fact relating to this case of his or her
10 own knowledge. And if any juror discovers during the trial or after the jury has
11 retired that he or any other juror has personal knowledge of any fact of controversy
12 in this case he shall disclose that situation to me in the absence of the other jurors.

13 Now that's a very convoluted sentence. What that means is this. A
14 little while ago I had the attorneys read to you the location of the alleged incident
15 and also the names of the witnesses that they intend to call. It may be that if a
16 witness comes in here and testifies later in this trial you didn't recognize him by
17 name, but when he comes in you recognize him as, hey, I see that guys in Vons all
18 the time, or that's my neighbor who lives on the next street I didn't know his last
19 name, or if -- as the testimony develops it turns out that some memory was triggered
20 and, oh, I remember driving by that location on such and such date and I think I may
21 have seen something on that. If anything like that happens you need to let me know
22 immediately. And the way that you let me know that or anything else during this trial
23 is take a clean sheet of paper in your notebooks, write your juror badge number on
24 the top of that clean sheet of paper and write down whatever the information, or the
25 question, or the statement is that you want me to know. Raise your hand real high

1 so that Randy can see it and he'll come over and get your note and hand it to me; all
2 right.

3 If you learn during the course of this trial that you acquainted with the
4 facts of the case or the witnesses and you've not previously told us of that
5 relationship you must declare that fact to me through the method that I just
6 described.

7 You are admonished that you are not to visit the scene of any of the
8 acts or occurrences mentioned during this trial unless specifically directed to do so
9 by the Court. During this trial you are not to visit any of the scenes. The reason that
10 we don't want you visiting the scenes is -- simplest explanation is this is Las Vegas.
11 As we all know, there's construction everywhere all the time, and it's entirely
12 possible that in the however period of time it has been since this alleged incident
13 occurred that there may have been some construction. Maybe a new traffic light
14 was put in, maybe a new lane was there, you know, all kinds of things could have
15 happened. And if you were to visit any of the locations in this case in the next
16 couple days it may be that it looks different today. And if you were to do so you may
17 come away with a false impression about what happened. If there's -- if the location
18 or appearance of any of the scenes is important during this trial you will be shown
19 those through videos, photographs, aerial photographs, maps, those kinds of things,
20 that have been screened to ensure that they are accurate representations of the
21 way the scene appeared on the date in question as opposed to today.

22 This case is a criminal case commenced by the State of Nevada.
23 Sometimes I may refer to State as Patrick Newell. This case is based upon an
24 Information. The clerk will now that Information to you and state the plea of the
25 Defendant.

1 [The clerk read the Information aloud]

2 THE COURT: This case is based upon the Amended Information which has
3 just been read to you by the clerk. You should distinctly understand that the
4 Information is simply a charge and that it is not in any sense evidence of the
5 allegations that it contains. The Defendant has pled not guilty to the charges. The
6 State therefore has the burden of proving each of the essential elements of the
7 Information beyond a reasonable doubt.

8 The purpose of this trial is to determine whether the State will meet that
9 burden. It is your primary responsibility as jurors to find and determine the facts.
10 Under our system of criminal procedure you are the sole judge of the facts. You are
11 to determine the facts from the testimony you hear and the other evidence, including
12 exhibits introduced in court. It is up to you to determine the inferences which you
13 feel may be properly drawn from the evidence.

14 The parties may sometimes present objections to some of the
15 testimony or other evidence. At times I may sustain those objections or direct that
16 you disregard certain testimony or exhibits. You must not consider any evidence to
17 which an objection has been sustained or which I have instructed you to disregard.
18 It is the duty of a lawyer to object to evidence which he believes may not properly be
19 offered and you should not be prejudiced in any way against a lawyer who makes
20 objections on behalf of the party that he or she represents. I may also find it
21 necessary to admonish the lawyers. And if I do so, you should not show prejudice
22 towards the lawyer or their client because I found it necessary to admonish them.

23 Throughout the trial, if you cannot hear a question asked by an attorney
24 or the answer given by any witness, please raise your hand as an indication. If I
25 don't see your hand up, please say excuse me, I didn't hear that, and we will ask

1 that the question be repeated or the answer be repeated. If you wish, you may take
2 notes to help you remember what any witness has said. If you do take notes,
3 please keep those notes to yourself until you and your fellow jurors go to the jury
4 room to decide the case. Please do not let note taking distract you so that while
5 you're writing down the answer to one question three or four more questions are
6 asked and answered and go right past you and you have no recollection of those
7 answers. You should reply upon your own memory of what was said and not be
8 overly influenced by the notes of other jurors when you go back to deliberate.

9 This case will proceed in the following order. First, the State will make
10 an opening statement outlining its case. The opening statement is not evidence. It
11 is an overview of what the State believes the evidence will show. After the State
12 opens the Defendant has the right to make an opening statement if he wishes to do
13 so. Neither party is required to make an opening statement.

14 After the opening statements the State will first introduce evidence. At
15 the conclusion of the State's evidence the Defendant has the right to introduce
16 evidence; however, please remember the Defendant is not obligated to present any
17 evidence or to prove his innocence. The law never imposes upon a Defendant in a
18 criminal case the burden of calling any witnesses or introducing any evidence. The
19 Defendant and his attorneys can sit through the trial and do nothing, not ask any
20 questions, not call any witnesses, do nothing at all because the Defendant has no
21 burden of proof in a criminal trial.

22 As we already discussed, the State has to prove two things to you.
23 First, the State has to prove to you beyond a reasonable doubt that a crime
24 occurred. And second, the State has to prove to you, also beyond a reasonable
25 doubt, that the Defendant committed that crime. At the close of the Defendant's

1 case, if any, the State may introduce rebuttal evidence.

2 At the conclusion of all of the evidence I will instruct you on the law.

3 You must not be concerned with the wisdom of any rule of law stated in these
4 instructions or the instructions which I will read to you after the evidence is in.

5 Regardless of any opinion you may have as to what the law ought to be, it would be
6 a violation of your oath to base a verdict upon any other view of the law than that
7 given to you by the Court.

8 After the instructions on the law are read to you, each party has the
9 opportunity to argue orally in support of their case. This is called the closing
10 argument or the summation. What is said in closing is not evidence. The
11 arguments are designed to summarize and interpret the evidence for you and show
12 you how the evidence and the law relate to each other. Since the State has the
13 burden of proving the Defendant guilty beyond a reasonable doubt, the State has
14 the right to both open and close the arguments, which means at the end of the trial
15 the State gets to argue to you twice and the defense gets to argue to you once.

16 After the attorneys have presented their argument you will retire to
17 select a foreperson to deliberate and arrive at your verdict. Faithful performance by
18 you of your duties is vital to the administration of justice. It is your duty to determine
19 the facts and determine them from the evidence and the reasonable inferences
20 arising from the evidence, and in so doing, you must not indulge in guess work or
21 speculation. The evidence which you are to consider consists of the testimony of
22 witnesses and the exhibits admitted in evidence. You must not consider anything
23 which you may have seen or heard when Court is not in session, even if what you
24 see or hear is said or done by one of the parties or by one of the witnesses.

25 In every case there are two types of evidence. Direct evidence and

1 circumstantial evidence. Direct evidence is testimony by a witness about what that
2 person saw, or heard, or did. Circumstantial evidence is testimony or exhibits which
3 are proof of a particular fact from which if that fact is proven you can infer the
4 existence of a second fact.

5 A simple example of the different between direct and circumstantial
6 evidence might be something as follows. If a witness were to come in here and
7 testify that on January 5th, 2014 he saw it rain that day, that is direct evidence that it
8 rained on January 5th because the witness is describing something that he
9 personally saw. However, if a witness were to come in and testify that on January
10 4th I didn't see it rain, but when I went to bed the streets were dry and it was very hot
11 and when I woke up the next morning on January 5th my entire neighborhood was
12 wet, there was water running on the street and the temperature had dropped 20
13 degrees. That's not direct evidence that it rained that night because the witness did
14 not actually see it rain; however, it is circumstantial evidence of certain things that
15 the witness did see from which you can infer that it may have rained the night
16 before. You may consider both direct and circumstantial evidence in deciding this
17 case. The law permits you to give equal weight to both types of evidence, but it is
18 up to you decide how much weight to give to any particular piece of evidence.

19 Opening statements and closing arguments are intended to help you in
20 understanding the evidence and in applying the law, but please understand that
21 what the attorneys tell you is not evidence. They are not witnesses, they have not
22 firsthand information and therefore what they tell you is not evidence.

23 You are not to concern yourself in any way with the sentence which the
24 Defendant might receive if you should find him guilty. Your function is solely to
25 decide whether the State has proven to you beyond a reasonable doubt that the

1 Defendant is guilty of the crimes charged. If, and only if, you find him guilty then it
2 becomes the duty of the Court at a later date to pronounce sentence. You must be
3 influenced in any degree by any personal feeling of sympathy for or prejudice
4 against any party to the case, for each party is entitled to the same fair and impartial
5 consideration.

6 No statement, ruling, remark or facial expression which I may make
7 during the course of the trial is intended to indicate my opinion as to what the facts
8 are. I don't get to decide the facts. You are the ones who determine the facts. In
9 this determination you alone must decide upon the believability of the evidence and
10 its weight and value. In considering the weight and value of the testimony of any
11 witness you may take into consideration the appearance, attitude and behavior of
12 the witness, the interest of the witness in the outcome of the case, the relationship of
13 the witness to any party to the case, the inclination of the witness to speak truthfully
14 or not, the probability or improbability of the witness' statements, and all other facts
15 and circumstances in evidence. Thus, you may give the testimony of any witness
16 just such weight and value as you believe that witness is entitled to receive.

17 During the trial I may take notes of what the witnesses are saying. Do
18 not make any inference from this action on my part because I'm required to take
19 notes for very different reasons than you are taking notes and that may have nothing
20 to do with whether I believe that what a witness is saying is either truthful or not
21 truthful or important to your consideration or not important. I have to prepare for
22 legal arguments which frequently have nothing to do with whether I believe a
23 witness is telling the truth or not.

24 Until this case is submitted to you, do not talk to each other about it or
25 about anyone who has anything to do with it until the end of the case when you go

1 to the jury room to decide your verdict. Now, when I say do not talk to anyone about
2 it; that includes your family, your friends and your co-workers. Those of you whose
3 -- who have jobs who are going to be impacted by this trial, you are permitted to tell
4 your employers and your co-workers that you are serving on a jury in a criminal
5 case. You can also tell them the hours that you'll be serving and the date that you
6 will be expecting to go back to work; however, you're not allowed to tell them
7 anything else. You can't tell them the name of the case, what it's about, the
8 charges, anything like that until the end of this case. The same goes for your family
9 and your friends.

10 Do not let anyone talk to you about this case or about anyone who has
11 anything to do with it. If someone should try to talk to you about this case while
12 you're serving as a juror please report that to me immediately by contacting our
13 marshal. As I said earlier, I don't believe that there is any press coverage on this,
14 but you never know. If some reporter tries to call you or some blogger tries to call
15 you, do not talk with them until this case is over and let me know through our
16 marshal and through the note taking -- the note process that that has happened.

17 Do not read any news stories or articles or listen to any radio or
18 television reports about this case or about anyone who has anything to do with it.
19 Do not do any research or make any investigation about this case on your own.
20 That includes any internet reports or blogs or anything like that.

21 Do not make up your mind about what the verdict should be until after
22 you've gone to the jury room to decide this case and you and your fellow jurors have
23 discussed the evidence. It's important throughout the trial to keep an open mind.

24 At the end of the trial you'll have to make your decision based upon
25 what you recall of the evidence. You will not have a written transcript to consult.

1 Even though we have a court recorder who records all the testimony, it's not typed
2 up into a readable format and it is difficult and time consuming for the recorder to
3 play back lengthy testimony; therefore, I would urge you to pay close attention to the
4 testimony as it is given.

5 After the attorneys have completed their questioning of any witness, if
6 there is a factual question that you would like answered which wasn't asked, or if
7 you need clarification of any answer given by the witness, you may submit your
8 question to the marshal in writing before the witness is excused from the courtroom.
9 The marshal will give me your question and I will discuss the question with the
10 attorneys and determine whether or not your question is proper or if another witness
11 later in the trial might be covering the exact same issue covered by the question that
12 you have asked.

13 Since the law requires that any question asked of any witness comply
14 with the rules of evidence, it is possible that the Court will deem your question
15 inappropriate and therefore it might not be asked. You are not to draw any
16 inferences or conclusions one way or the other if the question you submit is asked
17 or not asked. If your question is asked and answered, you're not to place undue
18 weight on the response given to your question.

19 All right. That concludes the Court's pretrial instructions. Randy is
20 going to take you outside right now. We're going to go ahead and adjourn for the
21 day. He's going to give you some additional instructions, one of which will be that
22 now that you are actually jurors on this case, you can now park in the County
23 parking garage, which is a lot more convenient than wherever I'm guessing you
24 parked today, at valet or wherever it is. One thing I would note is that when you go
25 into that garage, that is also the garage where other district attorneys, other lawyers,

1 other corrections officers, those kind of things, also park. So the minute you get out
2 of your car please put your blue badge on in the morning so that everyone knows
3 that you're a juror and knows not to -- sort of assume that you're a lawyer and start
4 talking to you about this case or any other case.

5 Please leave your notebooks on your chairs. We will reconvene
6 tomorrow at ten o'clock. And as I said, you're not going to go to the third, so come
7 straight up to the tenth floor. Randy's going to take outside in the hallway right now
8 and point out a specific corner where he wants you to meet, which will be kind of a
9 little bit down the hall. Because when you get here at ten o'clock there will almost
10 definitely be some witnesses who are getting ready to testify and we want to kind of
11 keep you guys separated so that nothing -- there's no accusation of anything going
12 on there.

13 And also, as you guys have I'm sure noticed today, this building has
14 some issues with the elevators. Sometimes you have to wait for a pretty long period
15 of time, so Randy's going to give you some instructions as well. He's going to ask
16 you to come here a little bit early if you can just because -- you know, if I say ten
17 o'clock, you guys get here at ten, you guys may be line downstairs until 10:15 as I'm
18 sure you guys have seen this already; right. So he's going to tell you exactly what
19 he wants you to do. Please leave your notebooks on your chairs.

20 I'm going to read you an admonishment now, which is going to become
21 the admonishment I read you during every break from now until the end of the trial.
22 You're admonished that for tonight until you begin deliberations you're under oath
23 and have not been discharged. Do not reach any conclusions about this case as
24 you've not heard the evidence. Do not talk to anyone about this case. Do not
25 investigate any facts of this case. Do not view any media, press or internet reports

1 about this case. Do not talk to anyone who may be involved in any way with this
2 case. Do not discuss the facts of this case with each. Remember to where your
3 badge at all times in and around the courthouse. Please leave your notebooks on
4 your chairs.

5 One last thing is those of you who do need letters for your employers or
6 need me to make a phone call, Randy's going to take notes of the -- whatever
7 phone number you want me to call, wherever you want me to send the letter, or I
8 can give the letter to you. Let Randy know that and we'll have the letters ready
9 tonight.

10 One other thing. Juror Number -- let's do this. Juror Number 219, if I
11 can have you stay for just a couple of minutes to talk about your employment
12 situation that would be great. The rest of you please step out in the hallway with
13 Randy; all right.

14 [Outside the presence of the jury except for Juror Number 7]

15 THE COURT: All right. We're still on the record. All the jurors have left the
16 courtroom except for -- in my notes your badge number 219, but what's your juror
17 number right now? I'm sorry. You're number 7; is that correct?

18 JUROR NUMBER 7: Seven.

19 THE COURT: All right. Juror Number 7 is still in the courtroom.

20 Here's what I wanted to talk to you about. When we had you sworn in
21 and I started my instructions, the attorneys noticed that you seem to be taking this
22 kind of hard. I understand you have this childcare situation and the probationary
23 job. So actually during one of the sidebars we had a discussion. I believe the
24 attorneys -- just because you seem to be taking this kind of in a hard way, that
25 they're going to agree to go ahead -- is the stipulation in effect? Just want to make

1 sure.

2 MR. COFFEE: Stipulation.

3 THE COURT: They're going to go ahead and excuse you from this case. So
4 actually you're not going to be a juror on this case anymore, and we will go ahead
5 and proceed with the other 13 jurors then. Let's do this. The reason I don't want
6 this -- the reason I wanted to talk to you alone is, you know, I don't want the other
7 jurors now getting ideas that, you know, hey, maybe if I just sort of start talking
8 about employment or something like that then they'll get out of it as well.

9 As soon as Randy pokes his head back in I'm going to have you --
10 Randy's going to give you some instructions about what to do with your badge. You
11 have to give the badge back and all this kind of stuff; all right.

12 JUROR NUMBER 7: Thank you so much.

13 THE COURT: Let's do this. Can you poke your head in the hallway and see
14 where Randy is. I don't -- just make sure he's -- he's probably giving them maps to
15 the parking garage, but I just want to make sure.

16 Is he still talking to them?

17 UNIDENTIFIED SPEAKER: Yes, sir.

18 THE COURT: All right. Let me ask you to do this. Let me go ahead and
19 have you step outside, but don't go down the hall to where Randy is right now. Just
20 sort of hang out maybe outside the door right here and then when Randy comes --

21 JUROR NUMBER 7: Do you guys want this back?

22 THE COURT: Hang on to it for now. When Randy comes back tell him that I
23 told you to stay outside the doorway and he'll probably just poke his head in here; all
24 right.

25 JUROR NUMBER 7: Okay.

1 THE COURT: So just hang out -- don't necessarily go down the hall with the
2 other jurors yet; all right.

3 UNIDENTIFIED SPEAKER: I'm sorry. They're literally right here, so --

4 THE COURT: Oh. All right. Yeah, let's see here. The problem is he's -- if
5 he's collecting phone numbers and stuff it may actually be a few minutes. Let's do
6 this. Why don't you do this. Go ahead and join the other group but don't say
7 anything to the other jurors. And then just sort of when they all leave hang around
8 with Randy for a second. He'll know who you are and he'll probably just sort of bring
9 you back here in a couple minutes. So go ahead and sort of join the other group
10 sort of surreptitiously and hang out after they're all gone; all right.

11 JUROR NUMBER 7: Okay. Thank you.

12 [Outside the presence of the jury panel]

13 THE COURT: All right. We're still on the record outside the presence of the
14 jury. I don't know that it needs further memorialization, but technically I didn't
15 actually memorialize the sidebar at which the stipulation to let Juror Number 7 go
16 was discussed. So the stipulation is that we were going to let her go based on her
17 reaction of being on the jury, and that we're going to basically make Juror Number
18 13, who would have been the first alternate, a member of the panel, and so we're
19 going to proceed with one alternate, that being Juror Number 14. Is that correct?

20 MR. COFFEE: Correct.

21 THE COURT: Is that correct, State?

22 MR. STEPHENS: Yes.

23 THE COURT: All right. You guys want to just quit for the day or you want me
24 to spend five minutes doing his -- the Fifth Amendment canvass or what? I doesn't
25 matter. It's a four day trial; we don't have to do it now. I just --

1 MR. COFFEE: You can if you'd like. We've talked with him about it. We
2 haven't made a decision yet.

3 THE COURT: Yeah. I'm just going to go over -- all right. So why don't we go
4 ahead and do that. Might as well since it's pretty earlier in the day.

5 THE COURT CLERK: Before we get into that, are we going to make Juror
6 Number 13 -- we going to make her number seven or are we just going to move
7 everybody up one?

8 THE COURT: That's a good question. We didn't actually discuss that. Does
9 it matter?

10 THE COURT CLERK: No, not to me. I just need to know -- I'll have a --

11 THE COURT: Well, I guess --

12 THE COURT CLERK: -- [indiscernible] on my list, so I have to --

13 MR. COFFEE: Whatever's easiest for the clerk.

14 THE COURT CLERK: It doesn't make any difference to me.

15 THE COURT: Okay. Why don't we leave --

16 MS. WONG: I think we should just make her number seven.

17 THE COURT: Want to make her number seven; okay. So we'll have to like
18 switch badges with the other person, all kind of stuff, when they come in the
19 morning. All right. It doesn't really matter to me. I don't really know that it makes a
20 difference one way or the other.

21 MR. COFFEE: Otherwise we switch ten.

22 THE COURT CLERK: Yeah.

23 THE COURT: Right.

24 All right. So when we come in tomorrow morning first what we'll want to
25 do is take the person who is currently Juror Number 13 and reassign her the number

1 Juror Number 7; is that correct?

2 MS. WONG: That's correct.

3 MR. COFFEE: Correct.

4 THE COURT: All right. Let's go ahead and do this for just a second.

5 Mr. Newell.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You have -- first of all let me ask you this -- a couple questions
8 here. How old are you again?

9 THE DEFENDANT: I'm going to be 63 next month.

10 THE COURT: All right. How are did you go in school?

11 THE DEFENDANT: I went through college and some post-graduate work.

12 THE COURT: All right. So you read, write and understand the English
13 language?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. I'm going to go over some basic rights here. I don't
16 need an answer now because we're on the first day of the trial, but at some point
17 after the State rests I'm going to sort of pick this up and continue this conversation,
18 but I want you to at least get started thinking about this, if you've not already done
19 so; okay.

20 You have the right under the Constitution of the United States and
21 under the Constitution of the State of Nevada not to be compelled to testify in this
22 case. That means that no one can make you take the witness stand and make you
23 answer any questions. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. You may, if you wish, give up this right and you may

1 take the witness stand and testify. If you do so, you will be subject to cross-
2 examination by the district attorney, as well as by your own attorney, and anything
3 that you say, whether in response to questions by your attorney or the DA, will be
4 the subject of fair comment when the DA speaks to the jury in final argument. Do
5 you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: If you choose not to testify, the Court will not permit the DA to
8 make any comment to the jury concerning the fact that you've not testified. Do you
9 understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: If you elect not to testify, the Court will instruct the jury only if
12 your attorney specifically requests an instruction reach reads substantially as
13 follows: The law does not compel a defendant in a criminal case to take the stand
14 and testify, and no presumption may be raised and no inference of any kind may be
15 drawn from the failure of a defendant to testify. Do you have any questions about
16 anything I've covered so far with you?

17 THE DEFENDANT: No.

18 THE COURT: All right. Now this next part may or may not apply to you, but I
19 don't know. If you choose to testify, and if you have been convicted of a felony
20 offense within the past ten years, or have been on parole or probation for a felony
21 offense within the past ten years, or been incarcerated for a felony offense within the
22 past ten years, the DA will be permitted to ask you in cross-examination if you have
23 been convicted of a felony, what the felony was and when it happened. No other
24 details be gone into regarding any prior felony convictions that you may have.
25 However, if you choose to take the stand and testify, and if you deny having a felony

1 conviction, and in fact you do have one, the State may impeach your testimony by
2 introducing certified copies of conviction which may contain more information in
3 them than simply what the felony was and when it occurred. Do you understand all
4 that?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you have any questions about anything that I have just
7 read to you?

8 THE DEFENDANT: No. I believe I understand it very clearly.

9 THE COURT: All right. So what's going to happen is -- I don't need an
10 answer from you right now. Normally at some point I would ask you if you're going
11 to exercise your right to testify. I'm not going to ask today because it's the first day
12 of the trial. We haven't even heard a single one of the State's witnesses. But at
13 some point -- I don't know when, but at some point the State is going to announce
14 that they rest, meaning they called all their witnesses. Usually at that stage I'll take
15 a break and I'll ask you have you discussed with your attorney all the things that we
16 talked about in the [indiscernible] regarding your Fifth Amendment right to testify or
17 not to testify. And I'm going to ask if you understand your attorney's advice. If you
18 and your attorney have reached an agreement -- if you tell me there's a
19 disagreement I might probe a little bit further, but -- you know, we're not there yet.
20 I'm just giving you a preview of the discussion that we're going to pick up on later
21 on; all right.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: So if you've not already done so -- and I would imagine with an
24 attorney of Mr. Coffee's caliber, he's probably already at least started the
25 conversation with you. I don't need to know now whether you reached a final

1 decision, but at some point in the next couple of days you're going to need to. So
2 that's something that you and your attorney, among all the other things, need to at
3 least start thinking about; all right.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. Anything else you guys want to address while we're
6 here?

7 MR. COFFEE: Judge, as far as *Carter*, you won't need to ask us again.
8 We're going to request a *Carter* instruction.

9 THE COURT: Okay, gotcha. Just wanted to make sure. Yeah -- you know, I
10 wasn't -- yeah. I appreciate that. I -- you know, we're not even there yet, but I
11 appreciate knowing that, so I'll at least take -- make sure it's in the packet then.

12 All right. On behalf of the State anything you want to address or
13 memorialize now?

14 MS. WONG: No.

15 THE COURT: All right. See you guys tomorrow at ten o'clock. And it's a
16 pretty light calendar, so we should be able to start -- and I'm told I don't have any
17 probation revos, so I should be able to start on time. Of course, as you guys know,
18 the other caveat is if, you know, some private lawyer doesn't roll in until 9:55 then,
19 you know, it is what it is, but hopefully we'll get started on time then; all right.

20 MR. STEPHENS: Thanks, Your Honor.

21 THE COURT: See you guys tomorrow.

22 THE COURT: We excused number seven; right?

23 MR. COFFEE: Yeah.

24 THE COURT: So you need to take her badge and all that kind of stuff. I told
25 her -- here's what I told her, Randy, but not to talk to you about it in front of

1 everybody else because I didn't want them getting ideas. So I'm hoping you were
2 able to pick up that you're going to have a private conversation with her.

3 THE MARSHAL: I didn't say nothing to her.

4 THE COURT: Okay. So --

5 THE MARSHAL: I already knew ahead of time.

6 THE COURT: Yeah. I already told her she's excused, so you need to collect
7 her stuff, tell her what to do when she's excused. I don't know if she needs to go to
8 jury services, but you to at least --

9 THE MARSHAL: Yeah. She'll need to go to jury services and let them know.

10 THE COURT: Okay. All right. Thanks, Randy.

11 [Jury trial - Day 1 concluded at 3:49 p.m.]

12 * * * * *

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21 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25

Sandra A Pruchnic
SANDRA PRUCHNIC
Court Transcriber

PATRICK NEWELL,) No. 66552
)
 Appellant,)
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 vi.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)

Employee, Clark County Public Defender's Office

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Respondent.

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Docket 66552 Document 2014-40866

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CLERK OF THE COURT

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6
7 Plaintiff(s),

8 vs.

9 PATRICK NEWELL,

10 Defendant(s).

CASE NO. C285825

DEPT. NO. XX

11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 TUESDAY, JUNE 10, 2014

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **CALENDAR CALL**

17
18
19 APPEARANCES:

20 For the State:

HETTY O. WONG
ROBERT STEPHENS
Deputies District Attorney

21
22
23 For the Defendant:

SETH GUTIERREZ
AMY D. COFFEE
Deputies Public Defender

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, JUNE 10, 2014, 8:47 A.M.

2 * * * * *

3 THE COURT: State versus Patrick Newell, C285825. This is on for calendar
4 call. Mr. Newell -- is he here? Yep, he's present in custody. What's your trial
5 readiness?

6 MR. GUTIERREZ: We have a couple preliminary issues that have to be
7 resolved before we'd be able to announce ready, Your Honor, if we could go ahead
8 and address those right now. The first thing is -- okay, sorry, I didn't see Hetty
9 there, I didn't want to start without her.

10 The first thing is, Your Honor, just as a matter of procedure, I do need
11 to go ahead and approach briefly, if I could, on a matter.

12 THE COURT: All right.

13 [Bench conference -- not recorded]

14 THE COURT: All right, so Mr. Gutierrez, I understand there was some kind of
15 representation you wanted to make.

16 MR. GUTIERREZ: Your Honor, I would like to go ahead and inform the Court
17 that in our due diligence of investigating this case we did learn that back in I believe
18 it was around 1999 we -- we did in fact represent the named victim in this case in a
19 probation revocation. I have no information in our JustWare system. I can't find
20 anything about this information or about that representation. I just simply wanted to
21 inform the Court of that.

22 I also don't believe that that would actually be a conflict for us in this
23 case moving forward. I'll submit it to Your Honor to go ahead and decide.

24 THE COURT: All right. So, it's my understanding that you, based on the
25 circumstances and the age of the case, being a 1996 conviction, that you don't

1 believe that there is a conflict with your ability to zealously and effectively represent
2 Mr. Newell; is that correct?

3 MR. GUTIERREZ: That is correct, Your Honor.

4 THE COURT: All right, so based on that, I don't see any reason, unless the
5 State has any additional information on the victim, anything to add?

6 MS. WONG: I do not, Your Honor.

7 THE COURT: All right, based on your representation it doesn't sound like we
8 need to replace you guys. It is an older case and if you feel that there's nothing
9 specifically about that case that would cause you to have any issues with your
10 effective representation, then it seems like you can stay on the case. Is there
11 anything else you wanted to address?

12 MR. GUTIERREZ: Yes, Your Honor, we're awaiting some additional
13 discovery, simply -- we requested a police report, I don't know if the -- all right, I'm
14 being --

15 THE COURT: It looks like you're being handed something.

16 MR. GUTIERREZ: -- indicated that I have it, so --

17 THE COURT: Okay.

18 MR. GUTIERREZ: -- that clears up that issue. There is one remaining issue
19 and that is the introduction of a 9-1-1 tape as evidence. Currently there is -- this is
20 where we stand, the owner of the -- the store clerk at the Circle K called 9-1-1 to
21 report the incident that recording has been provided to the defense through
22 discovery. After listening to the 9-1-1 tape, I contacted the witness, that witness is
23 unavailable.

24 We simply seek to go ahead and introduce it under the hearsay
25 exception. I've spoken to the State, they obviously have some objections to the

1 content of that tape. But it's our position that the tape is admissible under hearsay
2 exception.

3 THE COURT: So, I'm not sure what you're -- I mean, okay, so basically what
4 you're telling me is, you've got a tape you want to introduce, you think the State is
5 going to make an objection to it at the time?

6 MR. GUTIERREZ: They've already indicated that they are objecting to the
7 admission of the --

8 MS. COFFEE: Perhaps I can just clarify a little bit. My understanding is the
9 State has informed us that the particular witness I believe is out of state and ill or
10 getting surgery. So he's completely unavailable. My understanding, and I have not
11 personally listened to the tape, I'm standing in today for my husband, Scott Coffee,
12 who's out of town on investigation, but my understanding is the clerk describes
13 what's going on as it's happening, it's a present-sense impression. He's on the
14 phone saying, you know, X, Y, and Z is happening right now, the tape is important to
15 the defense's case. We want to be able to play the tape without the witness present
16 and that's -- that's basically what we want to do, and I understand that the State has
17 an objection to that of some sort.

18 THE COURT: All right, so basically, procedurally what we have here is
19 you're -- I know the State hasn't even really spoken yet, but basically, it's sort of the
20 State's motion in limine to exclude this 9-1-1 tape; is that what's going on?

21 MS. WONG: I guess we can --

22 THE COURT: Or their motion in limine to admit it?

23 MS. WONG: Correct.

24 THE COURT: Right, all right. I mean, obviously the problem is I haven't
25 heard the 9-1-1 tape. What we can do is this, if you want -- is that the only other

1 issue or was there something else affecting trial readiness? Now, a ruling on the
2 admissibility of that tape, is that going to affect your trial readiness? Or are you
3 ready to go either way?

4 MS. COFFEE: Yes.

5 THE COURT: Okay. So, I mean, what we're going to have to do is basically,
6 if you guys want to give me the copy of the tape, I can listen to it, and we can, you
7 know, set this for, like, a status check or I guess a resolution of the motion in limine
8 on this Thursday.

9 MS. COFFEE: If we do that, Judge, can we still keep the calendar call open?
10 My husband will be here on Thursday. I don't want to drop the trial date --

11 THE COURT: The problem is, here's the thing, I don't know what's going on
12 with James Logan, he's the only case that's older than yours and he's an in-custody
13 who invoked. So you might not have gone anyway. I don't know what Mr. Logan's
14 status is unless you guys know. Have you talked with whoever Mr. Logan's counsel
15 is?

16 MS. COFFEE: I believe this is an overflow-eligible case as well.

17 THE COURT: Which one? Mr. Newell is?

18 MR. GUTIERREZ: Yes, Your Honor.

19 MS. COFFEE: This one, yes.

20 THE COURT: Okay. So let's do this, let's make it a continued calendar call
21 and also a, we'll call it a hearing on the oral motion in limine, if you guys can give me
22 a copy of the tape so I can at least listen to it and we'll set it for argument, let's make
23 it 10:00 o'clock on Thursday just we don't have to have everybody waiting. And
24 then we'll, you know, I guess we'll just do it orally so that you guys don't have to
25 spend the next couple of days writing a bunch of motions and I can at least listen to

1 the tape then. So if somebody can get that to me today, that would be super.

2 MR. GUTIERREZ: I'll go ahead and have it ran over this afternoon,

3 Your Honor.

4 MS. COFFEE: And, Judge, if we could just know the grounds that the State
5 has so we can properly respond to that.

6 THE COURT: Right. What's the objection?

7 MS. WONG: Grounds to what? Oh, actually, Judge, I actually wanted to
8 provide some context to this, to this 9-1-1 call.

9 THE COURT: Okay.

10 MS. WONG: The store clerk, his name is William Lewis, he was inside of the
11 store and he looks out the window and he sees two sets of flames. Mr. Lewis would
12 have testified if he -- if he were present, that earlier that night he had kicked the
13 victim out of the gas station because he was drinking beer inside the store.
14 Moments later, the defendant then walks into the store holding a knife and says,
15 You better call the police before I stab this guy.

16 Then that's -- then a few minutes later, that's when the clerk sees the
17 two sets of flames going on outside. The clerk then calls the 9-1-1, calls 9-1-1 and
18 says, Hey, there's a guy outside, meaning the victim, and he's throwing matches
19 and then says, Oh, and by the way, now he's taking his clothes off and lighting them
20 on fire. Well, that's not really what happened. And what happened was the
21 defendant sprayed the victim with gasoline and lit the victim on fire.

22 And if you talk to Mr. Lewis now he will tell you that when he called
23 9-1-1 and said matches were being thrown and that the victim was lighting his own
24 clothes on fire, those were assumptions that he was simply making. And he now
25 knows that he was mistaken, he's reviewed the video, he knows that's not what

1 happened.

2 So Mr. Gutierrez is saying that it's necessary to play this 9-1-1 call to
3 the jury knowing that facts contained in that 9-1-1 call are inaccurate and the
4 witness will tell you that he was wrong and that he was mistaken. So my issue with
5 playing the 9-1-1 call is that Mr. Lewis is not present to tell the jury, Yes, that is what
6 I told the police or that's what I told the 9-1-1 operator, but, no, I was wrong about
7 what I thought I saw because I was simply assuming that the victim was throwing
8 matches and was lighting his own clothes on fire. So I'm not sure why the 9-1-1 call
9 is necessary because it contains inaccurate facts.

10 THE COURT: And this person is not available next week is what I heard?

11 MS. WONG: He is not available. He's -- due to medical issues and he does
12 not know when he will be available. He's scheduled to have surgery tomorrow. I
13 talked to him yesterday. I asked him when he thought he would be available. He
14 said he had no estimates to provide to us.

15 Now, me -- I spoke to Mr. Gutierrez last night, so I'm actually a little
16 surprised by his position this morning. I spoke to him last night and I was willing to
17 make a compromise. I know the defense wants to elicit facts that Mr. Lewis had
18 thrown the victim out of the gas station minutes or 20 or 30 minutes prior to this
19 incident. I have no problems eliciting that testimony from the officer because that is
20 what Mr. Lewis told the officer that night. As to what else Mr. Lewis would testify to,
21 I -- I spoke to Mr. Gutierrez about that and I said, Look, we can call Mr. Lewis, and
22 the facts that he still maintains today, the ones that he believes are still true and
23 accurate, I have no problems either stipulating to those facts or eliciting them
24 through either their investigator, our investigator, the officers or whomever, just so
25 that the testimony that they want gets out.

1 But the testimony that -- that comes out should be accurate. So the
2 9-1-1 call contains a bunch of inaccurate facts which Mr. Gutierrez acknowledges is
3 inaccurate because he knows there were no matches thrown that day, he knows
4 that Mr. Bejarano, the victim, did not light himself or his own clothes on fire. So I'm
5 not sure why this 9-1-1 call is necessary in this case or why it would affect the trial
6 setting.

7 THE COURT: All right. All right, I mean, here's what I have to do, I'm -- I
8 haven't -- I'm the only one here who hasn't heard the 9-1-1 call, so let's do it on
9 Thursday. Get me a copy, I'll listen to it. I understand what you're saying, I mean,
10 just because you don't like some -- I mean, okay, if it's -- clearly, it's hearsay,
11 however, if it meets the present-sense impression exception, which I don't know if it
12 does or not, that -- that would make it admissible unless there are indicia about it
13 that are so unreliable that it doesn't even -- that it doesn't even meet the threshold
14 for admissibility.

15 But if it's admissible under some exception to the hearsay rule, just
16 because you don't like it doesn't mean it stays out because now you're talking about
17 weight and truthfulness which, technically speaking, they're somewhat related to
18 admissibility because if something's so untruthful, it's unreliable, it doesn't come in,
19 but if it's -- if it meets all the exceptions to some doctrine of admissibility, just
20 because you don't like it is not actually a reason to exclude it.

21 But I'm talking in a vacuum, I don't know if it's so unreliable, I'm the only
22 one here who hasn't heard the tape. So let's address this on Thursday and -- so, if
23 the -- let me just ask you this then, if this witness is not available -- okay, if I -- if this
24 tape were to come in, if I listen to the tape and find, okay, that it's a present-sense
25 impression, it comes in, it meets all the elements, and it's -- there's no inherent

1 indicia of unreliability here, would you be making a *Hill* or *Bustos* motion because
2 you don't have this guy to rebut the -- the testimony or what?

3 MS. WONG: Well, actually, I'd be -- no, what I would do, if that's the case, is
4 I'm going to have my investigator speak or my process server speak with the
5 witness today, get a statement from him, and if that 9-1-1 call comes out, I'm going
6 to impeach him with my investigator, my process server, with the correct facts and
7 his correct recollection of events.

8 THE COURT: Okay, and I'm not saying I'm going to do that, I haven't heard
9 the tape yet, so. All right, we'll have to pick this up on Thursday at 10:00 o'clock. If
10 you guys can give me a copy of the tape, and then and, you know, any other state --
11 does the person on the 9-1-1 tape make any other voluntary statements that I need
12 to look -- that I should look at to put this all in context?

13 MS. WONG: He -- he does write a voluntary statement, but I'm also going to
14 provide the Court with a copy of the video in this case.

15 THE COURT: Okay.

16 MS. WONG: So that the Court can see whether there are matches flying or
17 that the victim lit his own clothes on fire.

18 THE COURT: Okay. All right, yeah, give me all that stuff and we'll address it
19 on Thursday then.

20 MS. WONG: Okay.

21 THE CLERK: Judge, we do have another 10:00 o'clock matter set, Higuera,
22 evidentiary hearing with Ms. McLetchie.

23 THE COURT: Is that the one with Arnold Olmo? Is that the one we've been
24 waiting for that guy Olmo? Yeah, that probably should only take a minute. So,
25 yeah, we'll make this 10:00 o'clock then,

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All right, see you guys then.


MS. STEPHENS: Thank you, Your Honor.

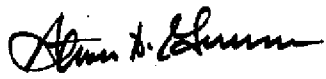
MR. GUTIERREZ: Thank you, Your Honor.

THE DEFENDANT: Thank you, Your Honor.

PROCEEDING CONCLUDED AT 9:02 A.M.

ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.


SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STATE OF NEVADA,

6
7 Plaintiff,

8 vs.

9 PATRICK NEWELL,

10 Defendant.

CASE NO. C-12-285825-1

DEPT. NO. XX

11 BEFORE THE HONORABLE JEROME T. TAO, DISTRICT COURT JUDGE

12
13 THURSDAY, JUNE 12, 2014

14 **ROUGH DRAFT**
15 **RECORDER'S TRANSCRIPT OF**
16 **CALENDAR CALL AND MOTION IN LIMINE**

17 APPEARANCES:

18 For the State:

19 HETTY O. WONG
20 ROBERT STEPHENS
Deputies District Attorney

21 For the Defendant:

22 SETH GUTIERREZ
23 AMY L. COFFEE
Deputies Public Defender

24
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

Rough Draft - Page 1

1 LAS VEGAS, NEVADA, THURSDAY, JUNE 12, 2014, 10:19 A.M.

2 * * * * *

3 THE COURT: This is State versus Patrick Newell, C285825. Mr. Newell is
4 present in custody. This is on for a continued calendar call and also there is a --
5 Mr. Coffee, I know you weren't here on Tuesday, I know Ms. Coffee was, but this is
6 sort of an oral motion in limine on the 9-1-1 call.

7 MR. COFFEE: Correct, Judge, and just if I could fill in the blanks to make
8 sure I'm up to speed, and I think I am, my wife told me what went on. But
9 essentially I think what's happening is -- and I don't know. Do we need to wait for
10 Ms. Wong? Are we okay?

11 MR. STEPHENS: I know Ms. Wong would prefer to be here. She's in
12 another sentencing in Bixler's department.

13 MR. COFFEE: She was here just a moment ago, and I don't want to proceed
14 without her, and I don't want to step on her toes in that way, so whatever the Court's
15 preference is.

16 THE COURT: I, you know --

17 THE MARSHAL: I can see if she's done, Judge.

18 THE COURT: Okay, yeah. Randy will stick his head in there and see.

19 MR. COFFEE: Very good. Anyway, Judge, just if we could fill in the
20 background while we're waiting on Ms. Wong. My understanding is we've got a
21 gentleman that's having throat surgery in Texas, William Lewis --

22 THE COURT: He's the person who made the 9-1-1 call.

23 MR. COFFEE: -- who's a clerk at a Circle K who made a 9-1-1 call. He's
24 unavailable at this point.

25 THE COURT: Right; right.

Rough Draft - Page 2

1 MR. COFFEE: We would like to have him as a witness, but we understand he
2 may not be available. We want the 9-1-1 call in for certain, the defense side does.

3 THE COURT: Well, here's -- let me ask you this --

4 MR. COFFEE: The State had offered to do it with some stipulations, but
5 we're not willing to agree to those stipulations. I think that's basically the
6 background around it.

7 THE COURT: Okay. Well, without stipulations -- 'cause that was going to be
8 my first question, without any stipulations, how are you going to get this in here
9 without -- without either the person making the 9-1-1 call, or you calling the 9-1-1
10 dispatcher, who isn't on your witness list?

11 MR. COFFEE: If there's -- well, if there's a question about the 9-1-1
12 dispatcher, then we would ask to endorse the 9-1-1 dispatcher, we can bring
13 somebody from the 9-1-1 station down now. The late endorsement comes about
14 because this witness was unavailable. We didn't realize about the unavailability
15 when we were putting together a witness list, so if that's a problem, if the State
16 needs a continuance to talk to a 9-1-1 dispatcher, which would be shocking, I think
17 it's their right to have a continuance to talk to the 9-1-1 dispatcher to see if it's
18 authentic, but I don't think anybody's disputing the authenticity of the tape, Judge.

19 THE COURT: So do you want this in for? I listened to the tape. I watched
20 the video. What do you want this in for? To show what?

21 MR. COFFEE: Well, it's the same --

22 THE COURT: I know it doesn't match, but what does that prove?

23 MR. COFFEE: It's not that it doesn't match, and we don't care that it doesn't
24 match. It's the present-sense impression of what's going on. We are saying that
25 Mr. Newell is defending himself, and the actions of the -- Mr. Bejarano, Bejarano,

1 how you -- I will pronounce it wrong, I'm sure. The actions of Mr. Bejarano are
2 erratic at best. The 9-1-1 tape establishes that to some extent. It says he's drunk.
3 He's acting out. He's causing problems. He's been thrown out. Those are all parts
4 of our case that we think we're entitled to get into.

5 The State's going to get into the counterpoint on this, Judge. They're
6 going to bring in a Derrick Phillips, and I didn't mean to argue the substance before
7 Ms. Wong gets here, but --

8 MR. STEPHENS: Go ahead. Go ahead.

9 MR. COFFEE: -- the State's going to bring in a Derrick Phillips, and Derrick
10 Phillips is going to say, I don't know that Mr. Newell necessarily needed to light the
11 match to put this person on fire, but Mr. Phillips comes in midpoint, after the
12 confrontation's already begun. The 9-1-1 call is a present-sense impression of how
13 Mr. Bejarano was acting, and it was erratic. It was drunk.

14 THE COURT: Well, here -- let me tell you one of my -- one question I have
15 about this is without the actual person who made the 9-1-1 call here, okay, I mean
16 first of all you have an authentication problem. I don't -- if the State's not willing to
17 stipulate, then you at least need either him or someone from Metro.

18 MR. COFFEE: I can have them subpoenaed by this afternoon if the Court
19 wants me to.

20 THE COURT: But here's the thing, basically, what you're trying to do without
21 the declarant here is, you're trying to use the State -- you're trying to use the
22 hearsay statement itself to authenticate itself; that it's -- that it's a present-sense
23 impression. In other words, merely because the 9-1-1 call sounds like a
24 present-sense impression, you're going to say it's a present-sense impression
25 because you don't have the witness to say, Yeah, I was telling what I saw and

1 here's the 9-1-1 call.

2 MR. COFFEE: Well, it's obvious from the 9-1-1 call it's a present-sense
3 impression. You can look at the videotape from inside the store as to when the call
4 was made. You can see things are contemporaneously going on outside. That
5 shouldn't be a problem. We've agreed that the video is admissible. We've -- I don't
6 think there's a question as to timing on the 9-1-1 call, so I don't think it's an issue.
7 It's not a situation where he's calling two months after the fact. This is
8 contemporaneous.

9 THE COURT: All right. What's the objection to the 9-1-1 call?

10 MS. WONG: Well, Your Honor, first of all, it's not really a present-sense
11 impression. What is a present-sense impression is the witness seeing two sparks or
12 two flames, and that the victim is running around naked. Those are present-sense
13 impressions. When you make assumptions, and you're sort of guessing at what's
14 actually going on, that's not a present-sense impression; and now normally, if the
15 victim -- if the witness were available, we would have a hearing outside the
16 presence of the jury to determine whether or not this is actually a present-sense
17 impression.

18 THE COURT: Well, that's exactly the question I asked Mr. Coffee is was I
19 listed to the tape; and, you know, some of it might or may not be, but we don't have
20 the guy here.

21 MS. WONG: Correct; and we -- I have spoken to the witness, and I'm sure
22 the defense has as well. I know they had a conference call scheduled with him
23 earlier in the week, and I've asked the witness all of these questions in the presence
24 of my investigator, whether or not he actually witnessed the victim throwing
25 matches. He said no. Did he witness the victim take off his shirt and light his

1 clothes on fire? The witness said no.

2 He said these are all assumptions. The only things that he actually
3 really saw were the two sparks of flame and the victim running around outside
4 naked. That's what he saw. Those are present-sense impressions; and if
5 Mr. Coffee wants to admit those statements, I certainly have no problems with that.

6 MR. COFFEE: And, Judge, we're not going to be arguing that he was
7 throwing matches or lit his own clothes on fire. The point is the clerk thinks the
8 man's acting erratically; and they're going to say that he wasn't; that our client had
9 no reason to defend himself, no reason to pull out -- to hose with him gas, no reason
10 to light the spark, because if he had a reason, there's a self-defense claim. This
11 shows that other people at the scene think that the gentleman that was lit on fire
12 was acting erratically; and because of that, it is admissible. If for some reason the
13 Court does not think the 9-1-1 tape is admissible; if the Court doesn't think I can
14 subpoena a custodian of records --

15 THE COURT: Well, hang on --

16 MR. COFFEE: -- or if the Court thinks that it's not admissible for other
17 reasons, then I'm asking for a continuance because it's a necessary witness. I've
18 told Ms. Wong that also. I'd like the 9-1-1 tape. I'm doing it because I know this
19 case has been continued numerous times. Preferably, I'd rather have the witness
20 here, but as a substitute --

21 THE COURT: Hang on. Does anyone know what his status is, what kind of
22 surgery he's undergoing, or can he -- is it an out-patient thing? Is there any chance
23 we can get him here next week?

24 MS. WONG: It's a -- no. He had surgery yesterday, and he's going to have to
25 learn to speak and talk again.

1 THE COURT: What kind of surgery, was it like throat surgery or something?
2 MR. COFFEE: Throat cancer.
3 MS. WONG: Correct.
4 THE COURT: Oh.
5 MR. COFFEE: Having him here solves the problem.
6 THE COURT: Okay, wait. Let me back up for a second. So basically, I
7 guess, okay -- he's going to have to learn to speak again?
8 MS. WONG: That's what he told us.
9 THE COURT: So -- I mean I'm -- okay, I'm just going to jump to the end here.
10 Forget, you know --
11 MR. COFFEE: Yes.
12 THE COURT: -- so even if we continue this case, are we ever going to get
13 this guy back here to testify?
14 MR. COFFEE: Yes, I expect; and even if he can't speak or talk, he can read
15 and write, and we can figure out something along those lines, I suppose, if we had
16 to, but I don't think it's a situation where he's going to be permanently incapacitated.
17 I've not heard that. If the State wants to make those representations, then maybe
18 we have a permanent unavailability situation, but I don't think that's the situation.
19 MS. WONG: Well, Your Honor, the defense hasn't established why this
20 witness is necessary. First of all, they never actually subpoenaed this witness.
21 They simply placed a phone call to this witness at about 3:30 the day before
22 calendar call to find out his status. They never issued a subpoena. I'm not sure
23 why he's even necessary in this case, and until they make that showing I'm not --
24 not sure why they're asking for a continuance.
25 THE COURT: Well, I mean --

1 MR. COFFEE: We're relying on the State's witness list. They filed a witness
2 list; and when they file a witness list, they say, We expect to call these people at
3 trial. That's what the statute says. On the witness list, you put the people you
4 expect to call at trial. They endorsed this person. We were relying on the
5 assumption that they were being honest in their witness list; that they were
6 expecting to call this person during their case in chief. When that changed, we
7 made phone calls. We've done what we can, but that's what we were relying on.
8 So there's not a lack of diligence at this point.

9 MS. WONG: Well, I wasn't -- I was -- I'm unaware of the rule that compels the
10 State to call every single witness on its witness list.

11 THE COURT: Right. I mean, why didn't you -- I mean, here's my question.
12 When I read -- when I was looking at this case the other day, I noticed that you guys
13 didn't -- I guess as a practical thing, you guys didn't do what everybody does, which
14 is why didn't you just copy the State's witness list as your witness list?

15 MR. COFFEE: I will tell you why I didn't that, because the Supreme Court
16 took issue with me doing that in the past. The State had a witness that had last
17 name unknown, address unknown, and they brought in a surprise witness at trial.
18 The case was -- oh, boy, George Arthur, a surprise witness at trial, last name
19 unknown. I'd endorsed everybody on the witness list, and when it got to the
20 Supreme Court, the question was -- it was Mr. Waters arguing it -- why did you put
21 this person on your witness list if you didn't know what he was going to say, and he
22 said, We do what everybody else does, which is copy the witness list and put the
23 State's witnesses on that list; and the Supreme Court said, Well, then you've waived
24 everything, Mr. Coffee, because he was on your witness list. You're assumed to
25 have known what he was going to say.

1 So, rather than deal with that issue again, I'm endorsing who I expect to
2 call. I'm asking the Court and the State to abide by the rules which are simply you
3 put on your witness list who you expect to call. That's what the statute says. The
4 Court can look at it if it'd like, but that's the way I'm doing business from now on,
5 because I've been hung up by the Supreme Court in the past for doing business a
6 different way.

7 THE COURT: All right. So what are the -- okay, so the specific portions of
8 the 9-1-1 tape, Ms. Wong, that you're objecting to, 'cause some of it sounds like it's
9 a present-sense impression. He says I can see a fire. What are the specific parts
10 that you say are not a present-sense impression? Do you remember the specific
11 parts of it that you have an issue with?

12 MS. WONG: Yes. That he's throwing matches; that the victim is outside
13 threatening everybody; that he's falling down drunk, because if you -- if we actually
14 had a hearing outside the presence of the jury, the victim would tell you -- or the
15 witness will tell you that's not what he saw.

16 MR. COFFEE: I don't know what the witness would tell you, and it's
17 inappropriate for her to say what he would tell you.

18 THE COURT: See, here's the problem, okay. I mean, I guess when I listened
19 to the tape, I had some concerns. Some of it sounds like it's a present-sense
20 impression -- see this is why, you know, I -- maybe I didn't phrase my question in --
21 elegant enough. A minute ago I asked you, Well, you're kind of using the hearsay --
22 the contents of a hearsay statement to authenticate itself. The problem is without
23 the actual 9-1-1 caller here, okay, some of it sounds like it might be a present-sense
24 impression, but the problem is looking at the videotape, there's some other people.
25 There's -- there was that security guard in the reflective vest.

1 MR. COFFEE: Sure.

2 THE COURT: Some of the things about falling-down drunk, I'm actually
3 wondering if he sort of like, people are coming out and yelling things, and he's sort
4 of repeating what he's hearing; in which case, it's not a present-sense impression;
5 but the problem is without him here, how do you know -- you know, usually, you
6 have the guy here, and he says, Yeah, I just said what I saw --

7 MR. COFFEE: And I understand. I think that goes to admissibility -- or not
8 admissibility but to weight. The State can certainly say he's relying on what other
9 people are saying, but he's watching part of it, and he's the gentleman that 86ed the
10 person from the Circle K for drinking malt liquor.

11 THE COURT: Well, you see, I'm not sure it -- I'm not sure it goes to weight,
12 because it goes to admissibility; because if in fact parts of it are present-sense
13 impressions, and parts of it are let's say he's repeating what somebody is yelling, or
14 he's repeating some other thing, that's not actually even a present-sense
15 impression. That's double hearsay, although one -- at one level it may be a
16 present-sense impression of what the other guy is telling him, but, so it -- the
17 problem is without that guy here, we -- my concern is we don't -- I guess what I'm
18 saying is this, based on my reading of the tape, it sounds like, and I can't even say
19 for sure, that parts of what he's saying are present-sense impression; but without
20 him here, I don't know that for a fact.

21 I'm just giving you the benefit of saying, Well, when he's saying, I see
22 fire, that sounds like it's a present-sense impression. Some of the other things,
23 because they don't match what he is seeing -- in fact -- I'm sorry, because what he's
24 saying on the 9-1-1 call doesn't match what's actually occurring out in the parking
25 lot, it makes me wonder if he's not actually seeing it, but he's repeating what people

1 are yelling; and in which case, it's not actually a present-sense impression.

2 MR. COFFEE: But it also provides context to the rest of the call, Judge. I will
3 tell you if the State wanted to get in this 9-1-1 tape, it wouldn't be an issue; and,
4 frankly, I'm shocked that it's an issue that I want to get it in. I've never tried a case
5 where the State didn't want to put in the 9-1-1 call. The Court's always capitulated.
6 I come in and say the 9-1-1 call should come in. It's short. It's sweet, and now the
7 Court parses things to a degree that he's unreasonable I think.

8 THE COURT: Well, first of all, you've never been in front of me; --

9 MR. COFFEE: True

10 THE COURT: -- and second, you know -- if they get them in -- you know, the
11 rules of evidence are rules of evidence.

12 MR. COFFEE: I agree.

13 THE COURT: Usually, when 9-1-1 calls come in in my trials, because
14 everybody agrees to them. If the defense has an objection, and there's a valid
15 objection to be made, you know, I hold everybody's feet to the fire, so I don't know
16 what you're talking about; you're probably talking about other departments, and
17 that's fine; but, you know, in here the rules of evidence apply to everybody --

18 MR. COFFEE: I agree.

19 THE COURT: -- and I've kicked State's evidence, you know, because -- if
20 they don't know the rules of evidence either; and so what I'm doing is what I do for
21 everything. If the State were making this motion, I'd have the same concern, well --
22 'cause having watched it, I'm -- it may --

23 MR. COFFEE: And, Judge --

24 THE COURT: -- I guess -- I guess -- here's -- this is my confusion without
25 being able to hear from this guy, he's saying things that don't match. Maybe he's

1 seeing things, his perception is distorted, for whatever reason, but maybe not, in
2 which case I have a question. Is this a present-sense impression or is it not?

3 MR. COFFEE: And, Judge --

4 THE COURT: And I can't clear that up is the problem.

5 MR. COFFEE: Judge, a couple of things. I hope the Court wasn't intimating I
6 don't know the rules of evidence. I've done this for 20 years.

7 THE COURT: No, no, no, no. I think what you're --

8 MR. COFFEE: I've got a pretty good idea of what the rules of evidence --

9 THE COURT: -- intimating is that in other departments, maybe some people
10 don't know the rules of evidence.

11 MR. COFFEE: Okay.

12 THE COURT: What I'm saying is I apply the rules of evidence to everybody,
13 is the way I interpreted your comment.

14 MR. COFFEE: And I agree. The offer to put in the 9-1-1 tape was to move
15 things along. It was a way to get to the bottom line. My ultimate preference would
16 be to have this gentleman here, but I didn't think -- if the 9-1-1 tape came in, I
17 thought he was not necessary. If the 9-1-1 tape is not admissible, if the Court's
18 going to parse it out, I believe he is a necessary witness. If there's any failure in
19 diligence, it's my fault, and I'm ineffective for that without raising it.

20 THE COURT: Well, I mean the other way to look at this is -- I mean, let me
21 ask you this, State, to the extent that what he's saying doesn't actually even match
22 what's on the videotape, is it even being offered for the truth? Is it even hearsay,
23 because he's -- they're not actually saying that the defendant -- that there --
24 matches are being thrown, so it's -- arguably, it's not even being offered for the truth.

25 MS. WONG: But that's what they're offering it for. That's why the defense

1 wants to play it. Why would the --

2 MR. COFFEE: No.

3 THE COURT: Then why are you offering it?

4 MR. COFFEE: I think it's also part of the *res gestae* of the whole thing; to tell
5 the whole story of what's going on --

6 THE COURT: Well, hang on, hang on. Let's back up. Let's back up.

7 MR. COFFEE: -- which is another exception.

8 THE COURT: What is the purpose -- what's the purpose of getting this in?
9 What's the purpose of you offering it? Is it for the truth or is it not for the truth,
10 because that's the first question; because if it's not for the truth, then it's not even
11 hearsay, and we don't need an exception.

12 MR. COFFEE: Do we have -- do we have the transcript? We can go through
13 it line by line, and I'll give you which points are for the truth, and which points are not
14 for the truth, because it's not --

15 MS. WONG: Actually --

16 MR. COFFEE: -- again, just as the Court's parsing this out, I would have to
17 parse it out, also, as to what's offered for the truth and what's not. What is clear
18 from the phone call, and the main reason we want the phone call in, is because it
19 shows that the clerk is under the same impression as Mr. Newell. They're going to
20 argue that Mr. Newell is a fire-happy nut that lights this man on fire, and they've got
21 a security guard that they're planning on bringing in that's going to say, I thought Mr.
22 Newell overreacted.

23 The clerk clearly thinks that Mr. Bejarano, the man that's set on fire, is
24 acting erratically and a danger. It supports what Mr. Newell has said. That's the
25 reason we're asking to let it in because it's not like this gentleman is alone on an

1 island, and he's the only one that thinks that this guy's acting erratically. That's just
2 not true. It's not the facts of the case. That's the reason the testimony is necessary.

3 MS. WONG: Two things, Your Honor. One, the witness says that part of his
4 view was actually obstructed. There's a -- there used to be a doughnut case --

5 MR. COFFEE: Again, we need him here if we're going to argue this part.

6 MS. WONG: Okay, right, but he's not available, which is why --

7 THE COURT: That's -- that's exactly my problem, what I'm wrestling with is --
8 that's what -- that's the whole problem here is we can't clear any of this up is the
9 problem without him here.

10 MR. COFFEE: Right.

11 MS. WONG: Right -- and if they want to play this evidence, that's their
12 burden. But regardless, the witness will say that his view was obstructed. The
13 reason he thinks that the victim was the one hollering and threatening everybody,
14 the witness will tell you, is because the defendant comes into the store before he
15 sets the victim on fire, holding a knife, and says, You better call the police before I
16 cut this guy.

17 MR. COFFEE: And I don't know --

18 MS. WONG: That's why the witness thought what he thought.

19 MR. COFFEE: And I don't know any of that. I will tell you this morning I
20 personally went down and interviewed the manager of the Circle K on my way into
21 work. The manager of the Circle K said that the gentleman that was lit on fire was
22 an ongoing problem; that he had been 86ed from the premises before, and that she
23 felt sorry for Mr. Newell because she had a pretty good idea of what happened that
24 evening. The gentleman had a history of acting erratically. Those things are critical
25 to establishing a self-defense claim.

1 THE COURT: Does anyone have a transcript of the 9-1-1 call or is it just a
2 disk?

3 MS. WONG: I do, Your Honor. I wrote notes about what's actually on this
4 9-1-1 call. On the first 9-1-1 call, which occurred at 12:49 a.m., the witness calls in
5 and says, Hey, there's a drunk guy in the parking lot throwing matches, and he's
6 trying to start a fight with customers.

7 THE COURT: Right.

8 MS. WONG: That it's causing lots of problems, and he's falling down drunk,
9 and then he says he's trying to start a fight with a white guy in a pickup, and he says
10 he didn't see any weapons, and then he says the victim tried to start a fire by the
11 pump, and the security guard put it out. He confirms that a fire was started. Twelve
12 fifty-four, so about 5 minutes later, he calls back again and says, A guy just took his
13 clothes off, meaning the victim, and is burning it. Security guard said the victim got
14 burned. And then he claims this is the second fire. He took -- says the victim took
15 his clothes off and put gas on it and burned his clothes. The victim is totally naked
16 walking around the parking lot. He's hollering at everybody. He's threatening
17 everybody.

18 MR. COFFEE: And, Judge --

19 MS. WONG: That is the 9-1-1 call.

20 MR. COFFEE: And as an example, trying to start a fight is critical as to
21 whether or not this is self-defense. The Court knows that one of the questions in
22 front of the jury is going to be who the initial aggressor was, and who had the duty to
23 retreat, and who did not. Trying to start a fight is critical. We, obviously, want that
24 for the truth of the matter asserted.

25 MS. WONG: And I did ask the witness about that, What do you mean by he's

1 starting a fight? He says well he saw Mr. Newell and the victim arguing with one
2 another. I asked him, Do you know who started the fight? He said no. Again, if he
3 were present and available, he would be able to testify to that, and we would be able
4 to play that 9-1-1 call.

5 MR. COFFEE: And if he were present and available, I'd be able to
6 cross-examine him as to whether or not the district attorney put those words in his
7 mouth, and said, Do you see the same thing I do on the tape? All sorts of things. A
8 cross-examination is going to be a lot of fun if he comes in.

9 THE COURT: I mean, all right, so what do we know about this guy's
10 condition? He had the surgery, but what's his -- is he in the hospital? What's his
11 recovery time? What -- you said he's learning to speak. What does that mean?

12 MS. WONG: He didn't know. I asked him: Can you please give me an
13 estimate? He said no.

14 MR. STEPHENS: It really depends on how successful the surgery is and how
15 much stuff they find inside his throat --

16 MS. WONG: Correct.

17 MR. STEPHENS: -- is kind of -- he just didn't know what they were going to
18 specifically be doing to him.

19 THE COURT: And when was his surgery, yesterday you said?

20 MS. WONG: Yesterday.

21 THE COURT: I mean, the problem is -- I mean, I have some -- I guess, it's
22 kind of a complex thing, 'cause, you know, for the purpose -- for the moment I'm
23 going to assume that he's not available for the, you know, indefinite future. Let's
24 assume worst-case scenario 'cause that might be what's going on here, especially
25 when you're talking -- it's throat cancer is what I heard, right?

1 MS. WONG: Yes.

2 THE COURT: And that's typically, from what I know about the kind of thing,
3 where even the doctor doesn't know until he goes in and looks around. That's just
4 how cancer works sometimes. I mean, all right, parts of -- it seems like -- It seems
5 to me, like I said, when I listened to the 9-1-1 tape, parts of what was being said do
6 seem like they're present-sense impressions; but the fact that parts of what the
7 guy's seeing don't match what's on the video, raises questions into my mind about
8 what the basis of that statement is. Is it a present-sense impression in the sense of
9 he's seeing something and interpreting it wrong, or maybe he's seeing it an
10 obstructed way, or is it he's getting the information from something else? And the
11 problem is without him here -- 'cause that's a threshold thing, is it a present-sense
12 impression or is it not a present-sense impression?

13 Well, if he's not -- if we can't get him in here, if we can't get any
14 explanation from him, I'm not sure I have a basis to say it is a present-sense
15 impression. I can -- it can go both ways. It could be he's seeing it wrong or it could
16 be he's hearing some guy yelling, Oh, that guy's throwing matches; Oh, yeah, he's
17 throwing matches, in which case clearly it's not a present-sense impression, and I'm
18 not sure how to hash that out today without him here. I mean, you guys are saying,
19 well, you talked to him. He said this, but he's not here. That's not actual evidence.

20 So, you know, this is -- it's -- you know, I have to say this is a first,
21 because usually, you have the guy who's making the 9-1-1 call here, and he can at
22 least provide context, in which case you say, Okay, yeah, it comes in. I've -- you
23 know, I've redacted 9-1-1 calls where the guy said, No, I just heard that from some
24 other guy, and I've ordered that part to be redacted because that's not a present-
25 sense impression, it's not an excited utterance kind of a thing. But we can't do that

1 here, and the problem is we don't know when or if this guy's going to become
2 available.

3 So, basically, I have -- you know, I mean, the best I can do without him
4 here is I can, you know, parts of the 9-1-1 call -- the parts that seem like they are
5 present-sense impressions, and, you know, I wish we had a transcript because then
6 we could of sort of go through line by line, but we can't. We're kind of going off
7 everybody's memory. I'm comfortable saying, yeah, that sounds a heck of a lot like
8 a present-sense impression. Parts of it I'm not sure what to do with. They may or
9 may not be and without him here to clear it up -- I mean, if you really want to do the
10 trial next week, you know, honestly, because I'm not sure they are present-sense
11 impressions or not, maybe redact them out, but I don't know if that's what you want?
12 That's probably not what you want, right?

13 MR. COFFEE: No -- no; that's not what I want, and we wouldn't -- we
14 wouldn't agree to -- we would not agree to that. We'd ask for a continuance if the
15 9-1-1 call's not going to be admitted.

16 THE COURT: Well, State, let me ask you this. I mean, let me just play with it
17 another completely different way. Okay, given that what he -- this 9-1-1 call's being
18 made, you know, why does it matter to you? What's the prejudice here? Even --
19 'cause we -- you know, I guess really my -- here -- as a practical matter, not as a
20 legal thing, why do you care so much when we all know what he's saying doesn't
21 match the 9-1-1 call? The jury's going to know that from day one when they see the
22 tape, that ,oh, what's on the tape doesn't even match what's on the call, so why do
23 you even care about it so much?

24 MS. WONG: It's not about caring about it so much. On Tuesday, we didn't
25 really -- I was somewhat ambushed by the request to continue the calendar call.

1 They didn't make it clear that if they could not admit the 9-1-1 call, that they would
2 be seeking a continuance. I became aware of that fact after court, but I wasn't
3 aware at the time. The reason I'm just fighting the 9-1-1 call right now, is because it
4 doesn't comport with the evidentiary rules, and so I'm not just going to lay over --
5 you know roll over and let Mr. Coffee admit evidence that he knows contains false
6 information, but I -- I would think to get to the point, Your Honor, if the Court is going
7 to play the -- if the Court's going to continue the case, then I'm willing to let them
8 play the 9-1-1 call. I will have my investigator come on re -- on our rebuttal case to
9 impeach the statements that were made by the witness on that call.

10 MR. COFFEE: And, Judge --

11 MS. WONG: That is a last resort, or --

12 MR. COFFEE: And, Judge, that's going to be a proffered problem obviously.

13 THE COURT: Well, I'm not sure what you're saying. Your investigator is
14 going to say what? He's going to say --

15 MS. WONG: 'Cause she spoke to -- she was present during a conversation
16 that we had with the -- the witness. So we're going to have the investigator explain
17 that according to the witness, he's -- he now admits that he was mistaken in what he
18 say. He didn't actually see matches. He didn't see who started the fight. He didn't
19 see the victim light his own clothes on fire. He was making assumptions.

20 THE COURT: Well, how is that not hearsay?

21 MS. WONG: Because they are inconsistent with what he's saying on the
22 9-1-1 call.

23 MR. COFFEE: He's not -- he's not a witness.

24 MS. WONG: So I'm impeaching him --

25 MR. COFFEE: There's nothing to impeach. The 9-1-1 -- he's not a witness

1 on the 9-1-1 call. He's not under oath. You can't impeach with that.

2 MS. WONG: When a hearsay statement has been admitted in evidence, the
3 credibility of the declarant may be attacked or supported by any evidence which
4 would be admissible for those purposes if the declarant had testified as a witness,
5 N.R.S. 51.069, subsection 1. That 9-1-1 call is going to be treated like any other
6 witness testimony.

7 MR. COFFEE: And we'd object under *Crawford* because the rules of
8 evidence, whatever they may be, we have a right to confrontation particularly on
9 testimonial statements. A statement made to a prosecutor or to a prosecutorial
10 investigator is clearly testimonial. There's no question about that. *Crawford* says, If
11 you're going to offer testimonial, out-of-court statement, I get the right to
12 cross-examine under the Sixth Amendment.

13 THE COURT: Well, I mean, functionally, I know that *Crawford* is not
14 symmetrical. Let me just preface what I'm about to say by that, I completely aware
15 that it's the defendant's right and not the State's right, but functionally, as a matter of
16 fairness, what you're trying to do is you're going -- you're trying to use a -- one
17 out-of-court statement by a guy who's not here in your favor, and you're not going to
18 let the State put in other out-of-court statements that he made on the exact same
19 subject because it doesn't favor you. Is kind of -- is kind of what you're trying to do
20 here.

21 MR. COFFEE: That's exactly what I'm trying to do because *Crawford* allows
22 me to do it, and I think the rules of evidence also allow me to do it. I'm not going to
23 deny that I'm trying to do that. That's exactly what I'm trying to do. I think it's a
24 *Crawford* problem. If the Court wants to let them do that, once you put in the 9-1-1
25 tape, we will take it to the Supremes and see if they agree with me or not.

1 I am convinced it's a *Crawford* issue. It's clearly testimonial, and you
2 can't impeach with out-of-court statements that are testimonial. There's all kinds of
3 things that could have happened, all kinds of questions I would ask this man, and I
4 can do an offer of proof if you'd like. We can go for as long as you want on the
5 questions I would ask the individual, the clerk, if he were brought in, concerning why
6 he changed his mind, why he changed his statement, what conversations he had
7 with the District Attorney's Office, whether he had set down with the District
8 Attorney's Office before making the statement, whether he had agreed to sit down
9 with me. We could go at length on those sorts of things.

10 If they want to put in the statement, I have the right to cross-examine,
11 and if they want to put in the statement, I'm objecting under *Crawford*, and I'm
12 asking for a continuance if that's the case, if the Court's going to let that in because I
13 think it's a *Crawford* issue, and I'm not waiving my *Crawford* rights.

14 THE COURT: Well, I mean, you're -- you know, I know we kind of -- on the
15 last couple of questions, I kind of went out of order to kind of pass the issue here,
16 but the problem is -- okay, the threshold issue here is does it even meet the
17 requirements of being a present-sense impression, and as I indicated, I'm not
18 entirely sure it does because we don't have him here to clear it up, and, you know, if
19 we had him here, he could say, Yes. I just relayed what I saw, and some of it came
20 across inaccurately because I had an obstructed view, then it's a present-sense
21 impression even though it's false or incorrect. It's a present-sense impression --

22 MR. COFFEE: Correct.

23 THE COURT: -- but if he's saying, Well, that's what some guy told me before
24 I called 9-1-1, and so I was giving the story, that's not even a present-sense
25 impression. You'd agree with me on that, right?

1 MR. COFFEE: I'd agree with that.

2 THE COURT: But the problem is I don't know. We're missing a piece here,
3 and I kind of wish we had that piece, so let's do this, honestly, it kind of sounds like
4 we need him here, because I can't really make a ruling on whether it's a
5 present-sense impression, like I said, it sounds like -- parts of it do sound like it, but I
6 can't even sort out the parts that sound like it as opposed to he just, That's what the
7 security guard came and yelled and me, and, you know, I'm just repeating it. So
8 honestly it sounds like what we need to do is we need to have that guy here. The
9 problem is we don't know when he's available, right?

10 MS. WONG: Correct.

11 THE COURT: When can -- can you contact his doctor or family member? Do
12 you have any other -- how have you been getting information?

13 MS. WONG: I can contact his sister.

14 THE COURT: Okay. Let's do this. I mean, it sounds like we're going to need
15 to continue this trial, because I, you know, I'm not -- Mr. Coffee, here's what I'm
16 going to do. I'm not going to deny your motion, just because he's not here. I don't
17 think that's the fair thing to do because this -- I understand this is an important part
18 of your case. I'm just not comfortable making a ruling on something that might not
19 be a present-sense impression based on an assumption of what I heard, so I'm not
20 going to -- I'm not going to deny your motion and force you to go to trial 'cause I
21 don't think that's fair at all. It's a self-defense case. That's a key part of your case.
22 We just need him here, so I can make a clean ruling is what I need to do.

23 MR. COFFEE: I understand.

24 THE COURT: So let's set this for a status check on Tuesday. Can you call
25 his sister maybe on, you know, tomorrow, or Monday, and get --

1 MS. WONG: I will.

2 THE COURT: -- some information on when he might be available, or what's
3 going on, or --

4 MS. WONG: I will.

5 THE COURT: -- you know, the other idea is, if you guys are okay with it, if
6 he's bedridden or something, we can think about -- is he out-of-state or is he here?
7 We can think about doing like some kind of deposition-type of thing --

8 MR. COFFEE: Texas, I believe.

9 THE COURT: -- video or something like that. I don't know if that's -- it
10 depends -- it kind of depends on what's going on. Just I'm just throwing out options
11 to think about. So let's do this, status check on resetting the trial on Tuesday. Let's
12 try to get some more information or see if there's another way to get his testimony at
13 least on the threshold issue of, you know, I don't -- I don't know if they do
14 depositions. It's something you guys might want to consider. I didn't -- you know, I
15 don't know if that's even doable --

16 MR. COFFEE: Understood.

17 THE COURT: -- if he's out of --

18 MR. COFFEE: And, Judge, I know the State wanted to go forward, and I
19 know Mr. Newell wanted to go forward.

20 THE COURT: Oh, I know Mr. Newell does, he's been complaining since last
21 December, but --

22 MR. COFFEE: We're okay with ish -- whatever's opened up in the Court's
23 calendar. I've got January -- July 4th, I'm going to be out-of-town, but other than the
24 week -- the week or two weeks before, my calendar's open, so any place you can fit
25 us in that's accommodating to the State, where they have time to get their witnesses

1 together, we're okay with a short setting.

2 MS. WONG: Your Honor, if the only option here is to continue the trial, then
3 we're just going to let the defense admit that 9-1-1 call that obviously contains
4 inaccurate information, and we'll deal with their attempts to mislead the jury. We're
5 just deal with it.

6 THE COURT: Well, I mean, that's kind of an inflammatory way to put it, but,
7 all right, so basically what you're saying then is you're stipulating to admit the 9-1-1
8 tape and then play it to the jury?

9 MS. WONG: Correct.

10 THE COURT: Okay.

11 MR. COFFEE: And we're not going to impeach with the investigator?

12 MR. STEPHENS: No, no, no, no. We're not agreeing to that.

13 MR. COFFEE: Well, then we've still got the *Crawford* problem.

14 MS. WONG: We'll deal with it when we get to that point.

15 MR. COFFEE: I'm certainly not comfortable --

16 THE COURT: All right. So give me a proffer. Your investigator's going to talk
17 about what a conversation he had with this person, when?

18 MS. WONG: On Tuesday.

19 THE COURT: By phone, or did he see him in person?

20 MS. WONG: By phone. The witness is in Texas.

21 THE COURT: Yeah, I mean, honestly you have -- you have kind of a problem
22 there because that's -- I mean -- this conversation occurred on Tuesday? Is your
23 investigator handy? I mean, maybe I can -- you know, have -- maybe you can him
24 come here down here, and he can -- you know, give me a proffer now under oath of
25 what -- what he would -- what he intends to testify to.

1 MS. WONG: We can certainly do that. We put her on call.

2 THE COURT: Okay.

3 MR. STEPHENS: I spoke to her. I told her we might text her and have her
4 come down and testify.

5 MR. COFFEE: And, Judge, I would ask that we have the witness from Texas
6 present also for the hearing, so that I can see what his impressions of the interview
7 with the State being called a week before trial are.

8 MS. WONG: Actually --

9 MR. COFFEE: The point is, it's that gentleman, the gentleman from Texas,
10 it's what effect the interviews have on him. It's not what the investigator's
11 impression of it is, and that's the problem. That's the reason *Crawford's* in play. So
12 we're back to the same point. If they want to put on this investigator, I want to speak
13 to the gentleman from Texas.

14 MS. WONG: And, Your Honor, I mean --

15 THE COURT: Well, he --

16 MS. WONG: -- the defense had their investigator, Rudy Ramirez, talk to the
17 witness. We can certainly have him testify to see what his conversation was like
18 with the witness in this case. I'm sure that he got the same testimony we got.

19 THE COURT: Well, I mean, let me just -- again, --

20 MR. COFFEE: We have a whole --

21 THE COURT: -- hang on, hang on. Let me -- let's just as a practical thing, let
22 me skip over the *Crawford* objection for a second. Let me just ask the State this.
23 What's the point of this when everybody in the room is going to know what he says
24 on the tape doesn't match the video? What's the point of -- what does it add to the
25 trial to have the investigator come in and say, Yeah, he's admitting it doesn't match.

1 What's the point of that?

2 MS. WONG: Just so the jury isn't confused as to why they're even listening to
3 it. Because there are statements in here such as, Oh, you know, the victim is
4 starting a fight, I mean, they could interpret that as being true. We can certainly
5 make arguments to rebut that, but I want the jury to know the witness actually says,
6 No, I don't know who started the fight, I was assuming that.

7 MR. COFFEE: That seems pretty credible. It seems like something I'd like to
8 cross-examine about.

9 THE COURT: Yeah, I mean, 'cause the problem is now you're outside the
10 scope of even what's on the tape, because now he's testifying to some conclusion
11 or some impression. I mean, I'm not even sure --

12 MS. WONG: Well, because the statement is the victim is starting a fight. If he
13 then comes -- at some point makes a statement to someone else saying: I don't
14 know who started the fight, well, that's inconsistent.

15 THE COURT: Do you know -- I mean, are you just giving a paraphrase, or
16 what was the exact statement?

17 MS. WONG: By the witness?

18 THE COURT: Right, through your investigator.

19 MS. WONG: That he said he didn't see who started the fight? That's
20 verbatim. That's exactly what he said.

21 THE COURT: Then why does he say that someone's starting a fight?

22 MS. WONG: On the 9-1-1 call?

23 THE COURT: Yeah.

24 MS. WONG: Because of the situation about a few minutes before the
25 defendant and the victim got into their altercation, the store clerk, our witness,

1 kicked the victim out of the store for drinking beer inside, so victim goes outside,
2 talks to the defendant, asked for a ride, and then the defendant comes into the store
3 holding a knife and says to the clerk, You better call the -- you better call the police
4 before I cut this guy, and then he goes back -- and then defendant goes back
5 outside.

6 THE COURT: So, wait, wait, wait, but now you're talking about an
7 explanation that occurs wholly outside of the video, and you're talking about some
8 conversation that occurred before the video even starts. How is that not a
9 confrontation-clause problem?

10 MS. WONG: I wasn't trying to elicit that. Your Honor asked me why the
11 witness would have thought that, so I was just providing context.

12 THE COURT: But if this is part of his reason -- I mean, I'm -- I guess I'm --

13 MR. COFFEE: The Court understands my quandary, because this is exactly
14 the present-sense impression that I'm talking about.

15 THE COURT: Yeah, because the whole -- I mean, here's the thing. You
16 know, hang on. Let me just say this.

17 MR. COFFEE: Yeah.

18 THE COURT: I mean, this is my question, Ms. Wong, I understand, you
19 know, what the argument you're trying to make here in a statutory line, but, you
20 know, to the extent that you're talking about context, you're talking about included in
21 this conversation with your investigator, something that happened before the tape
22 even started, okay. How is that not a confrontation-clause problem?

23 MS. WONG: I wasn't trying to elicit that testimony from my investigator. Your
24 Honor asked me a separate question. Your Honor asked me why would the witness
25 say that on the 9-1-1 call, if that's not what he saw. And I'm just telling you on the

1 side this is what he told me.

2 Now, at trial, my -- I would ask my investigator, you know, Are you
3 aware that the victim had -- or witness had made a statement regarding seeing the
4 victim starting a fight, have you had a conversation with the witness since, and did
5 you ask him if he in fact saw who started the fight, and the witness will -- my
6 investigator will say, He actually admitted he did not see who started the fight.
7 That's all. I don't plan on bringing in all the other stuff.

8 THE COURT: Okay, but wait, but the obvious next question would be then
9 why would he say on a tape that he saw who started the fight, and that opens up,
10 well, because this whole thing happened before the tape even started. That's the
11 obvious next question.

12 MS. WONG: Well, I wouldn't be allowed to ask that question. But I couldn't
13 ask that.

14 THE COURT: No; I know that, but you're -- but that's -- but that's what you're
15 leaving dangling out there, which is, well, then why would he say that is the obvious
16 next question, right?

17 MR. COFFEE: Judge, if you look at *State versus Kasard Brown*, the State
18 made a very similar argument against me where two gentlemen go into a apartment,
19 and one of them turns a corner and fires a shot at an intruder who happened to be
20 his girlfriend who had come in through a window. I argued the witness, who didn't
21 see what happened, could testify to his impressions that he thought it was
22 self-defense, that the man was defending himself.

23 The Supreme Court didn't reverse, but they agreed with me that it was
24 in his perception, even though he didn't necessarily see it, the point being that the
25 clerk may not have seen everything -- he may not have seen pushing and shoving

1 back and forth, but he knows the demeanor of the people involved. He has a basis
2 for saying, I think this gentleman's starting a fight.

3 MS. WONG: And that's fine. If the witness were available, they certainly
4 could testify to that, but right now they're trying to admit a 9-1-1 call that contains
5 inaccurate information, and that we're trying to guess at what this witness actually
6 saw and what he was thinking at the time.

7 MR. COFFEE: Or what he perceived. He might have heard and made safe
8 assumptions if it's wet outside all over the ground, I know that it's been raining. He
9 may have a pretty good idea of who started the fight, even if he didn't see it.

10 MS. WONG: I mean, here's my problem, Your Honor. If the defense, and I
11 know the defense investigator spoke to the witness, because I know they had a
12 conference call scheduled, both parties know what the facts are. We know what
13 happened. We know what this witness saw and did not see, and yet the defense is
14 deliberately trying to proffer evidence that they know is false or inaccurate.

15 MR. COFFEE: It's not false.

16 THE COURT: Well, okay, hang on --

17 MS. WONG: This is not like we can't make this determination.

18 THE COURT: -- hang on. Here's the issue. What -- in a way, you know,
19 my -- this is the way I view things sitting up here. What you guys know the witness
20 is going to say is in a way not my problem. The problem is is there a threshold for
21 admissibility? If evidence is admissible under the rules of evidence, then he gets to
22 say what he's going to say, and what you guys know -- whether you guys know or
23 don't know what that is is sort of not my problem, okay.

24 The question is is an out-of-court conversation with your investigator
25 admissible, and you're kind of saying, Well, they also had a conversation with their

1 investigator, but -- so you're saying, well, -- I thought what you were saying, and
2 maybe I'm reading too much into what you're saying is, well, but, they can call their
3 investigators, the other [unintelligible], so basically you're going to have this guy
4 who's not here testify through a bunch of investigators, pieces of the statement.
5 And how is that not just a huge confrontation-clause problem? It's just hearsay
6 upon hearsay is what it is.

7 I mean, it's multiple levels of hearsay, including the 9-1-1 tape. I know
8 you're stipulating to it, but you've got -- you're admitting the one hearsay through
9 stipulation, and to fix that, everyone's going to start calling in investigators about
10 multiple conversations that happened on different days to different investigators,
11 none of which are under oath --

12 MS. WONG: Well, technically --

13 THE COURT: -- and everyone's just going to say, well, he told me this, oh,
14 but then on a different day he told me this. It's just a bunch of hearsay.

15 MS. WONG: And that's why generally hearsay is inadmissible --

16 THE COURT: Right, exactly.

17 MS. WONG: -- but because we're admitting a 9-1-1 call that is so unreliable,
18 we're stuck in this predicament.

19 THE COURT: But the problem is --

20 MS. WONG: And that's why.

21 THE COURT: -- I mean, I understand what you're trying to do. You know, I
22 understand that you are stipulating to admission of the 9-1-1 tape because you want
23 to do this trial, and you're all ready to go, but that doesn't mean that all other kinds
24 of hearsay through everybody come in here. Just because you stipulate to one
25 thing, doesn't mean we'll just open a door, and everybody's going to testify through

1 a bunch of other people --

2 MS. WONG: Right.

3 THE COURT: -- through a bunch of different conversations. I don't even --
4 there may be even more than two here. I'm assuming there's one with your
5 investigator, one with yours, and that's how we're going to do this trial. There's
6 going to be a whole bunch of people that had out-of-court conversations. That's
7 kind of what you're proposing.

8 MS. WONG: I mean, the reason I'm --

9 MR. COFFEE: Well, actually, Mr. Gutierrez will be a witness also.

10 MS. WONG: -- the reason I'm so adamant about trying to exclude this
11 evidence is because, you know, regardless of the rules of evidence, the defense has
12 to have a good-faith basis for trying to admit evidence and proffer evidence and
13 present it in front of a jury. I don't think they really have a good-faith basis, knowing
14 that some of these underlying information is inaccurate; but nonetheless, it's --

15 MR. COFFEE: And God knows I hope I'm not being accused of being
16 unethical because I told you what we were trying to do. I told you what we're trying
17 to do it, and you're doing the exact same thing by putting on the security guard to
18 say, I think that Mr. Newell overreacted. I can't believe that putting on a defense,
19 the same exact sort of information that the State's going to put on is somehow
20 unethical, to try to defend a man who's unethical. I take offense to that.

21 THE COURT: All right. Here's what I'm going to do. You know, I mean the
22 hearsay rule is a hearsay rule, a confrontation clause is a confrontation clause,
23 okay? My initial ruling was because we don't have the guy here to clear up whether
24 or not the 9-1-1 tape comes in, I was going to continue the trial so that we can at
25 least -- I can make a clean ruling on -- have him explain what -- you know, was this

1 what you saw or what you weren't going to see. You then basically made that moot
2 by offering to stipulate to the 9-1-1 call, but then everyone is asking then, well, on
3 top of that, everyone wants to produce a whole bunch of other hearsay, so my initial
4 ruling was the tape wasn't going to come in, but I was going to give Mr. Coffee a
5 chance to get the witness in here.

6 So, I'm just going to cycle back to the very beginning. The ruling is
7 none of this comes in. If you guys want to stipulate to let it in, that's a different thing,
8 but none of it's going to come in, okay, because it's all just, you know, that's -- it's
9 just a bunch of hearsay on hearsay. Given that, do you still want the stipulation that
10 the 9-1-1 tape comes in or not? Because, you know, given that now I'm not letting
11 any other hearsay come in, as well, do you want to sort of revisit that, and we'll just
12 continue the trial, or do you still want to go ahead with the trial stipulating the 9-1-1
13 tape coming in, but none of the other stuff comes in because they're not stipulating
14 to that other stuff?

15 MS. WONG: Judge, can I have two minutes?

16 THE COURT: Sure,

17 MS. WONG: I mean, this is -- this is a big decision on our part, I think.

18 THE COURT: No; I understand.

19 MS. WONG: If I could just get two minutes to talk to my co-counsel.

20 THE COURT: It's -- honestly, I don't know that I've ever had this come up
21 particularly in front of me where the 9-1-1 -- you know, we don't have someone from
22 the 9-1-1 call here to at least talk about it. Well, actually, I take that back. There are
23 some like domestic violence cases where the person's not there, but that's a clear
24 excited utterance, you can hear from the emotion. But present-sense impression
25 isn't something you can necessarily, especially in this case where it doesn't match

1 where I can say, yeah, that's a present-sense impression. That's the problem here.

2 MR. COFFEE: Or the caller's dead.

3 THE COURT: What's that?

4 MR. COFFEE: Where the caller's dead. We have that on occasion, where
5 the caller's --

6 THE COURT: Yeah, but on some things, like I said, on an excited utterance
7 you can tell just from the tape, yeah, I can hear the emotion in the voice. Here --
8 this one's kind of ambiguous because it doesn't match. That's the part that I've
9 never encountered before where it doesn't even match, so is that a present-sense
10 impression? Well, I'm not sure without the guy here to explain why it doesn't match.

11 All right. So you guys want to have a conversation?

12 MS. WONG: If we can actually get the -- if we can actually get this gentleman
13 into court for a hearing --

14 THE COURT: It solves the entire problem. It solves the entire thing.

15 MS. WONG: -- exactly. I mean, we won't even -- I mean, if the witness were
16 available, they could play the 9-1-1 call, and I would have no objection to it,
17 present-sense impression or not.

18 THE COURT: And you can get him to explain the whole thing.

19 MS. WONG: Exactly.

20 THE COURT: The premise is, though, we're assuming he can't. That's the
21 whole problem, --

22 MS. WONG: Correct.

23 THE COURT: -- and now everyone's trying to get in a bunch of hearsay to
24 sort of -- you know, but -- all right, so you want to have your conversation, and I
25 can -- for a couple of minutes; yeah, that's fine.

1 MR. STEPHENS: Thanks, Your Honor.

2 THE COURT: You can go ahead and have a seat, Mr. Newell. They're going
3 to have a conversation.

4 THE DEFENDANT: Thank you.

5 MR. COFFEE: May I talk to Mr. Newell, Sir?

6 THE COURT: Sure.

7 MR. COFFEE: Thanks, Judge.

8 [Proceeding trailed until 11:01 a.m.]

9 MS. WONG: Okay.

10 THE COURT: So, what do you guys want to do?

11 MS. WONG: We are going to allow the defense to admit the 9-1-1 call in their
12 case-in-chief.

13 THE COURT: Okay. Then you guys are starting Monday morning at 9:00
14 o'clock then.

15 MR. COFFEE: Monday morning?

16 THE COURT: Monday morning, 9:00 o'clock. There's no --

17 MR. GUTIERREZ: Actually, Your Honor, I had already spoke with the State
18 previously, and I was going to be asking, because of the -- this is a -- we're very
19 stretched thin on our team right now, and I have the calendar on that Monday in a
20 different courtroom. I was going to ask for a 1:00 o'clock start on Monday for
21 selecting the jury with openings beginning Tuesday morning.

22 THE COURT: How many witnesses are there total? How many days do you
23 think this trial's going to be?

24 MS. WONG: It's going to be about four days.

25 MR. COFFEE: Four, fair enough. I think that's probably accurate.

1 THE COURT: It's a non-life-tail case, right? I don't remember seeing any
2 life-tail charges.

3 MR. COFFEE: No. It's a non-life-tail case --

4 THE COURT: So it's just the 45 with the five perempts, all right.

5 THE CLERK: How many witnesses?

6 MR. COFFEE: Hetty, how many witnesses?

7 MS. WONG: About 11, 10, approximately 11.

8 MR. COFFEE: And, Judge, the only other concern that I've got is my wife. I
9 don't know how we managed to do this. We're never in trial, but we're both in trial
10 starting Monday. I have child-care issues. At 6:00 o'clock I turn into a pumpkin.
11 She's talked -- the other courtroom that she's in in front of Judge Adair, to make
12 sure she's out by 5:00 o'clock every day next week except for Monday. He wants to
13 get a jury seated in that case -- Judge Adair wants to get a jury seated in that case
14 by the close of business, if at all possible, so I would ask that we break at 5:00
15 o'clock on Monday. That's the only schedule accommodation that I need, but I do
16 have some child-care problems.

17 THE COURT: Well, why can't we have Mr. Coffee pick -- start picking the jury
18 at 9:00 o'clock? The reason I like -- you know, I moved my calendars around so that
19 we have Monday morning open, the reason being we get started picking a jury,
20 then, you know, I've only had one case, and it was a murder case where we didn't
21 have a jury picked that first day; and especially knowing that Mr. Coffee has to leave
22 at 5:00, we're starting at 1:00, you know, honestly, we start at 1:00, the jury's not up
23 here because of the elevator situation, 'til 1:30. You don't have a jury picked, and
24 we're going into Tuesday, and Tuesday's a shorter day 'cause I have a morning
25 calendar. Is there -- why don't we --

1 MR. GUTIERREZ: I'll withdraw that request, and we'll just go forward --

2 MR. COFFEE: No, no, no. He won't. No, you won't.

3 Judge, we're going to ask that Mr. Gutierrez be here also. He's more
4 familiar with the case than I am. He is lead counsel. If the Court orders us to go
5 forward at 9:00, I will be here at 9:00 to begin picking a jury, but, again, it's over our
6 objection.

7 THE COURT: No. I understand, but, I mean, the problem is you've just said
8 that you have to leave at 5:00 o'clock, which puts a cap on the end time, and I'm
9 worried, you know, I don't want to, you know, especially on a trial that should be
10 relatively short having two days of jury selection, and especially since Tuesday,
11 Wednesday, Thursday aren't full days in here like the way Monday is. We have to
12 start after whenever my morning calendar starts.

13 MR. COFFEE: I understand.

14 THE COURT: If we're still picking a jury, I'm worried that, you know, the
15 whole thing just becomes much more complicated. All right, let's do this. Which
16 department are you in, 25 on Monday morning?

17 MR. GUTIERREZ: That's correct, Your Honor.

18 THE COURT: What time does she usually end? If we say like 10:30 or so, is
19 that --

20 MR. GUTIERREZ: No.

21 THE COURT: No?

22 MR. GUTIERREZ: We might be barely starting, you know, first couple of
23 pages of the calendar by then.

24 MR. COFFEE: Judge --

25 THE COURT: Are you serious? What time does she start, 9:00? Or?

1 MS. WONG: She has a 9:00 o'clock calendar.

2 MR. GUTIERREZ: It's a 9:00 o'clock calendar.

3 MS. WONG: We might start at 9:25.

4 MR. GUTIERREZ: I'll leave it like that.

5 MR. COFFEE: And, Judge, does this Court do what most other courts do,
6 which is do the initial voir dire of the panel themselves?

7 THE COURT: Right.

8 MR. COFFEE: Perhaps what we could do is start without Mr. Gutierrez here
9 while the Court's doing that portion, because he's not critical for that, with the
10 understanding that once we get to the actual the attorney questioning, we could
11 have Mr. Gutierrez here. How soon do you think you can be done?

12 MR. GUTIERREZ: I suspect I could be actually done as early as 10:00,
13 10:30.

14 MR. COFFEE: Well, or we could try 10:30.

15 THE COURT: We could do that, 'cause usually -- when I -- usually the first
16 maybe hour I've been averaging -- well, yeah, for my questioning takes on average
17 in a non-life-tail case probably about an hour, fifteen minutes or so I've been
18 averaging, so by about 10:15ish or so is usually when I -- well, it depends actually.
19 Yeah, we can do that. Why don't we start at 9:00 with Mr. Coffee, and then, yeah, if
20 you want, even when I'm done with my part of the questioning, we can even take
21 like a short break so Mr. Gutierrez can be here. Does that work?

22 MR. GUTIERREZ: Yes; that will work.

23 MR. COFFEE: That will work, Judge.

24 THE COURT: Okay. Let's do that then.

25 MS. WONG: Court's indulgence.

1 MR. COFFEE: She's right. Judge, I have a calendar call with Ms. Wong on
2 another case at 9:00 o'clock that she reminded me of.

3 THE COURT: Which department, 25?

4 MS. WONG: It's going in Ellsworth.

5 MR. COFFEE: It's in Judge Ellsworth. If we could do --

6 THE COURT: Want to start at 10:00?

7 MR. COFFEE: I know the Court wants to start at 9:00; if we could do 10:00 --

8 THE COURT: Yeah, 10:00's fine.

9 MR. COFFEE: -- that'd be perfect, then that'd give him more time.

10 THE COURT: 10:00's fine because at least we're close to a full day. I'm just
11 worried 1:00 o'clock with the 5:00 o'clock end time, that's, you know --

12 MR. COFFEE: Understood.

13 THE COURT: -- you're forcing everybody to go at a different pace then. All
14 right. Let's start at 10:00 Monday morning then, all right.

15 MR. COFFEE: Judge, there was one other matter that I talked to Ms. Wong
16 about before -- before we came to court. There's something else maybe, but there's
17 one additional matter. After speaking with the manager at the 7-Eleven -- or the
18 Circle K -- I will get that confused during trial I'm sure -- at the Circle K this morning,
19 it's clear that the gentleman that was -- that was burnt had been 86ed from that
20 premises on more than one occasion. As the Court knows, if there are charges
21 pursued I can probably find the information pursuant to SCOPE, but if police were
22 called, there's going to be a log of a call. It used to be called MLRS or MRLS,
23 whatever it was -- LRMS. There's been a couple of databases for calls that the
24 State has access to that I do not have access to.

25 I'm making a *Brady* request at this point, and it's in good faith and not

1 for fishing, because again the information that I have is from the manager of the
2 store. He said that he'd been 86ed before.

3 THE COURT: What's the information you're seeking?

4 MR. COFFEE: I'm asking if there's been police calls for the victim at that
5 particular Circle K in the past.

6 MS. WONG: And, Your Honor, I'm not going to be able to -- one, it's
7 irrelevant. I'm not sure what -- why they're asking for this information. Whether or
8 not the victim had been 86ed from the property prior to being set on fire in October
9 of 2012 is irrelevant. But the other thing from a practical standpoint, I don't -- I can't
10 just request any calls where Theodore Bejarano was 86ed from Circle K. There's no
11 way of actually getting that information. If he can provide me with times and dates
12 where Circle K actually called the police, I can certainly look for that, using the time
13 and the date, but I can't just go on a fishing expedition. Metro can't either. There's
14 no way to track that.

15 MR. COFFEE: I don't think there's that many calls to the Circle K. I know the
16 area that it's in. It's by the South Point, catty-corner from the South Point. There
17 might be voluminous calls, and if that's the representation, that's great, but I don't
18 know that at this point. I don't think the call -- the police were called out there every
19 day necessarily. I would expect in the nine-month-to-one-year period beforehand
20 what we would be looking at from talking with the -- with the manager beforehand.

21 I used to issue subpoenas to this affect all the time to Metro, and they
22 used to comply, but Metro won't comply with our subpoenas at this point, so again
23 it's a request pursuant to *Brady*. I'm asking for it. If the Court wants to know why I
24 believe it's relevant, I can make an offer of proof concerning that. I think under *Petty*
25 *versus State* --

1 THE COURT: So wait, you want what? You want information on, what, calls
2 from the Circle K --

3 MR. COFFEE: Just concerning this particular victim.

4 THE COURT: The 9-1-1 calls concerning this particular victim?

5 MR. COFFEE: Yes. It's not 9-1-1 calls, just police calls, when he's been
6 86ed or thrown out. I'd like to know if there's a history of violence there. What I'm
7 looking for specifically is whether or not the State has information that this person's
8 been violent in the past; and just so we're clear, my *Brady* request includes that,
9 whether the person has been violent in the past. The reason that I want the
10 information is I think it's admissible. I can put on third-party witnesses pursuant to
11 *Petty versus State*.

12 THE COURT: Well, okay. Let me ask you this. Okay. Let's back up for a
13 second. You're making a *Brady* request for the first time on a Thursday before trial?

14 MR. COFFEE: Yes.

15 THE COURT: Let's say the State has this information but can't get it by
16 Monday. What does that mean?

17 MR. COFFEE: That's fine. That's fine. I deal with it mid-trial if it comes in
18 Tuesday or Wednesday. I don't have an issue with that. I will scramble an
19 investigator. It is a late request. I just found out this morning after interviewing the
20 witness. That's the reason for the lateness of the request.

21 THE COURT: All right.

22 MS. WONG: So according to the person that they've interviewed, the police
23 have been called, and the victim has been cited? Is that --

24 MR. COFFEE: No. I don't know that he's been cited.

25 THE COURT: Are you just looking -- yeah. You're not looking for -- you're

1 just looking for any call where the victim's name is mentioned, is that what you're
2 saying? I'm not sure what you're --

3 MR. COFFEE: I'm looking to see if there's any history of violence with the
4 victim in the past. He had been 86ed from the premises. My understanding is the
5 police have been called. I don't know what's out there. If I knew what was out
6 there, I wouldn't need to make the request.

7 THE COURT: So wait, let's back up for a second.

8 MR. COFFEE: Okay.

9 THE COURT: Okay, in fact there was violent incident involving the defendant,
10 presumably -- I mean involving the victim -- presumably, there's a police report on
11 that. Have you not been given police reports -- cases involving the victim, yet? Or
12 are -- 'cause really what I'm getting at, the next question is this, okay, assuming, and
13 I could be wrong, I don't know what discovery you guys have, assuming that
14 somebody has at least searched if the victim has any prior arrests, okay --

15 MR. COFFEE: That's been done.

16 THE COURT: Assuming you've got that, then what are you asking for now,
17 any calls that did not lead in arrest -- to arrests involving the victim?

18 MR. COFFEE: Yes, yes; calls that didn't lead to arrest because I'm looking
19 for a history of violence. Pursuant to *Petty versus State*, the victim's history for
20 violence is admissible. I could put on the victim, for example, if you punch
21 somebody in the 7-Eleven parking lot or the Circle K parking lot, and nobody did
22 anything about it, I could call in the victim and say I think he's a violent person. I
23 could put on reputation evidence pursuant to *Petty*. That's a case that I retried with
24 Mr. Brooks almost 20 years ago, so that's what I'm looking for is if the State is aware
25 of any violence on behalf of the victim, I would like to know about it. They're

1 assumed to know what's in the police files also, so I'm making a specific request, so
2 if later something comes up, it doesn't look like I didn't ask for it.

3 MS. WONG: This is not a specific request. He's asking me to go look
4 through all 9-1-1 calls that were placed to that Circle K and maybe one of them
5 contains information regarding the victim.

6 THE COURT: Yeah, I mean, okay, so you're asking --

7 MS. WONG: That's not specific.

8 THE COURT: -- for, I mean, okay, let me just ask you guys, have you guys
9 looked for police -- all police reports that mention this victim, whether they were led
10 to arrests or not, 'cause sometimes they file police reports, but, you know, say your
11 office denies it or something. Have you -- has that search been done already or
12 not?

13 MS. WONG: We've turned over a police report regarding his prior conviction.
14 I can go back and make sure we have all of them, and -- at least ones that pertains
15 to violence.

16 THE COURT: Okay. There's three things here. Okay, somebody makes a
17 police call, one of three things can happen, right? Police show up, nothing is done;
18 no report is generated. Second, a report is generated but no charges are brought;
19 or third, a report is generated; charges are brought, okay. You're asking for what, all
20 three of those things?

21 MR. COFFEE: I'm asking for all three of those things.

22 THE COURT: My question is which ones you already have, so we can focus
23 this a little bit?

24 MR. COFFEE: What I've got is -- based on the State's representations, and I
25 can only go from their representations, I've got prior convictions of the victim, and

1 we have prior arrests from the victim also?

2 MS. WONG: Not the arrests. Here's the -- that's the additional reports from
3 the case though that we just got. You already have --

4 MR. COFFEE: Okay. I got -- just --

5 MS. WONG: You already have -- you already have information on that case,
6 but there were just additional ones that we were able to get through records.

7 MR. COFFEE: And that's why I make these sorts of requests. I was just
8 handed a 45-page document -- 40-page document, give or take.

9 THE COURT: Okay, so --

10 MS. WONG: Your Honor, they asked for this last Thursday, and we got the --
11 giving to them as we were getting them.

12 MR. COFFEE: And we appreciate -- and we appreciate the State's
13 cooperation.

14 THE COURT: All right; hang on. So what have you just been handed? What
15 have you just handed him? Does that address his request or what?

16 MS. WONG: I'm sorry.

17 THE COURT: What did you just hand him? Does that address what he just
18 requested or not?

19 MS. WONG: On Tuesday, we provided him copies of police reports from the
20 victim's prior conviction.

21 THE COURT: Okay.

22 MS. WONG: That came from our DV detective, what he could pull up in a
23 matter of, you know, minutes. These are the additional records that we were able to
24 get through Metro records, which takes a little bit more time to get, and so now
25 we've -- we got them late afternoon yesterday, and I'm turning that over to him.

1 MR. COFFEE: Okay. What do they represent, if I might ask?

2 THE COURT: What are they? These are police reports of what?

3 MR. STEPHENS: Your Honor, there's a '96 case where our victim was
4 arrested for robbery with deadly weapon. It resulted in a conviction of attempt
5 robbery.

6 THE COURT: Okay.

7 MR. STEPHENS: Those are the police reports from that specific case. We
8 handed him a report earlier, but it was only one report, and so here is the rest of the
9 records that we were able to obtain from LVMPD.

10 MR. COFFEE: Very good. Thank you. We were aware of that. We hadn't
11 had the reports in hand. We had to ask for those. But again, if there's subsequent
12 calls, specifically to this location, the Court understands my request, I think.

13 THE COURT: So, basically, you're asking for them to do a search. If there's
14 any other police -- I mean, I'm not -- I'm not sure how they index them, if they index
15 them by subject name or not, but you're asking for the State to search any police
16 calls involving the victim that didn't lead to police reports is kind of what you're
17 asking for, right?

18 MR. COFFEE: And, Judge, in my experience, when they had LMRS online,
19 you could do a name search; and even if it wasn't the person charged, if the
20 person's name popped up, it would show up on the -- on the police database. I'm
21 not sure what that database is called at this point. They've changed names several
22 times. My opinion, the reason for the name change is so they could duck
23 subpoenas, but they've changed names several times. They won't provide the
24 information, but it is searchable by name. That's been the history since I've been
25 doing this for 20 years is it's a searchable database by names. Somebody in the

1 police department has to do it. I don't know if the District Attorney's Office has
2 access to it.

3 MS. WONG: Yes, we do have it. It's a new system. It's Premier One, and,
4 you know, Metro didn't change the Premier One to duck subpoenas, but I can
5 certainly look --

6 THE COURT: If they did, they wouldn't have given you access to it.

7 MS. WONG: Correct. I can certainly look in Premier One, put the victim's
8 name in there and see what police reports pop up.

9 MR. COFFEE: Perfect.

10 MS. WONG: I was just -- I just thought he was asking for 9-1-1 calls, which I
11 don't know how to get that entry. I'm not sure how I'm going to get that, but reports
12 running it through Premier One, I can certainly do. That's specific enough.

13 MR. COFFEE: Perfect, and that's what -- I didn't know what the name of it
14 was.

15 MS. WONG: Okay.

16 MR. COFFEE: I knew it was like LMRS or something.

17 MS. WONG: Okay.

18 THE COURT: Let's do that. You can run his name through there, and any
19 reports that didn't lead directly to convictions.

20 MS. WONG: That's fine. That I will do.

21 MR. COFFEE: Yeah. Sure.

22 MS. WONG: Okay.

23 MR. COFFEE: Thank you.

24 THE COURT: Okay. That sounds easy enough, right, okay?

25 MR. COFFEE: Yeah. I wasn't trying to be onerous. I just wanted to make

1 sure I have everything.

2 THE COURT: No; I understand. I just wasn't clear on what you're asking,
3 'cause I wasn't sure about what the systems are anyway. All right, does that
4 address everything then?

5 MR. COFFEE: Think so.

6 THE COURT: Okay. See you guys 10:00 o'clock Monday, then.

7 MR. COFFEE: Oh, hold on.

8 MR. GUTIERREZ: I just wanted to note on the record we had previously
9 indicated that we were going to do this. The order that I had you sign for the
10 additional records from Southern Nevada Adult Mental Health --

11 THE COURT: Right.

12 MR. GUTIERREZ: -- we will be picking up the remainder of those records
13 today and forwarding them over immediately to the District Attorney's Office.

14 MS. WONG: Okay.

15 THE COURT: All right.

16 MR. COFFEE: Very good.

17 MR. STEPHENS: Thank you, Your Honor.

18 MR. COFFEE: Thanks.

19 THE COURT: See you guys Monday at 10:00, and if you guys can't --

20 MR. STEPHENS: When are we starting, 10:00 or 10:30?

21 THE COURT: Ten, ten. If you guys can at least get started looking at jury
22 instructions, you know, and at least have a draft sent to the defense by then and
23 give me a set on Monday, so I can at least start thinking about 'em.

24 MS. WONG: By Monday?

25 THE COURT: That way we're not, you know, on the last day of trial spending

1 two hours with the jury sitting out there hashing over them, all right?

2 MS. WONG: Okay.

3 MR. COFFEE: Ms. Wong was kind enough. We've been talking about those
4 already.

5 THE COURT: Okay, good, excellent.

6 MS. WONG: We have each others to get, but we have them. Thank you,
7 Judge.

8 MR. GUTIERREZ: Thank you, Your Honor.

9 PROCEEDING CONCLUDED AT 10:19 A.M.

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19 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
20 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

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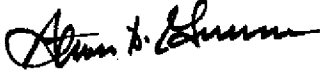
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SARA RICHARDSON
Court Recorder/Transcriber


CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

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Plaintiff,

CASE#: C285825-1

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vs.

DEPT. XX

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PATRICK NEWELL,

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Defendant.

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13

BEFORE THE HONORABLE JEROME TAO, DISTRICT COURT JUDGE
MONDAY, JUNE 16, 2014

14

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 1**

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16

APPEARANCES:

17

For the State:

ROBERT STEPHENS, ESQ.
HETTY O. WONG, ESQ.
Deputy District Attorneys

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For the Defendant:

SCOTT L. COFFEE, ESQ.
SETH GUTIERREZ, ESQ.
Deputy Public Defenders

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RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 MONDAY, JUNE 16, 2014 AT 10:01 A.M.

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3 [Outside the presence of the prospective jury panel]

4 THE COURT: Good morning. This is -- ready, Sara?

5 THE COURT RECORDER: Yes.

6 THE COURT: This is State versus Patrick Newell, C285825. This is the time
7 set for trial. Can everybody state their appearances for the record.

8 MR. STEPHENS: Rob Stephens and Hetty Wong for the State.

9 MR. COFFEE: Scott Coffee and Seth Gutierrez for Mr. Newell.

10 THE COURT: All right. And Mr. Newell is present in custody.

11 Anything that you guys wanted to memorialize or put on the record
12 before we bring the prospective panel up?

13 MR. COFFEE: Just two quick things, Judge.

14 THE COURT: Okay.

15 MR. COFFEE: I noticed that Mr. Newell didn't have a belt and we got a
16 button missing. Is it okay if I send somebody from my office back to grab him a belt
17 really quickly? This guy will run and get it just as quick as we can.

18 THE COURT: Yeah, I suppose so. It will take us probably ten minutes to get
19 the jury up here anyway with the elevators. Yeah.

20 THE CORRECTIONS OFFICER: Your Honor, we can't allow him to receive
21 any property that hasn't gone through [indiscernible].

22 THE COURT: Oh.

23 THE CORRECTIONS OFFICER: It violates our policy.

24 THE COURT: But other Defendants have belts. How does that -- how do
25 they do that?

1 THE CORRECTIONS OFFICER: What's that?
2 THE MARSHAL: They give it to them every time here.
3 MR. COFFEE: Yeah. He won't receive it. I'll take it back every day.
4 THE CORRECTIONS OFFICER: [Indiscernible.]
5 THE COURT: Yeah, we take it off.
6 MR. COFFEE: Yeah, I'll take it back.
7 THE COURT: And we take off the belt --
8 MR. COFFEE: Yeah. No, no, no. He wouldn't --
9 THE COURT: -- in time before you bring him out of here.
10 MR. COFFEE: Yeah. No, I wouldn't send anything back to the jail.
11 THE CORRECTIONS OFFICER: Fair enough. Fair enough.
12 THE COURT: All right. Anything else you want to address before we --
13 address on the record?
14 MR. STEPHENS: Your Honor, did you receive a copy of the Amended
15 Information. All it does is change the victim's name. We had it misspelled.
16 THE COURT: Okay. Any objection to the filing of the Amended Information?
17 MR. COFFEE: No, Judge.
18 THE COURT: All right. I do have a copy of it. And -- all right, with no
19 objection we'll file the Amended Information. That will become the operative
20 charging document in this case.
21 All right. For the purposes of the voir dire, any special questions you
22 guys want me to ask of the jury?
23 MR. STEPHENS: Your Honor, I would ask that you question the jurors as to
24 whether or not they've ever been victims or accused of crimes.
25 THE COURT: Yeah. I mean, other than the standard stuff --

1 MR. STEPHENS: Okay.

2 THE COURT: -- is there any particular stuff that -- I mean, I have sort of
3 standard questions: ever been the victim of a crime; ever been charged with a
4 crime. You know, if you -- are there any specific questions related to the facts of this
5 case that you want me to ask that you don't necessarily want the jury to know came
6 from you or came from Mr. Coffee.

7 MR. COFFEE: If I'd thought about it that way I'd come up with something, but
8 -- no, not in particular, Judge. Does the Court allow some leeway in voir dire? We
9 didn't give questions beforehand. For example, I've had Judges that say if you
10 haven't given them the proposed questions four o'clock the day before you can't ask
11 anything, so --

12 THE COURT: No. I run it pretty loosely subject to -- you know, as long as
13 everybody's reasonable about it --

14 MR. COFFEE: Okay.

15 THE COURT: -- and you're not just sort of hashing over -- you know, wasting
16 a lot of time on stuff that's just irrelevant and just -- you know, that kind of thing. So,
17 yeah, I run a pretty loose jury selection process.

18 MR. COFFEE: Okay. I assume it's going to be all right for both counsel,
19 assuming we don't repeat? There are Courts that are limiting to one counsel at this
20 point, which was new to me, but Mr. Gutierrez told me that that happened in another
21 courtroom so I wanted to make sure with both of us asking questions --

22 THE COURT: Well, what it is --

23 MR. COFFEE: -- if we don't repeat.

24 THE COURT: -- you were planning on doing?

25 MR. COFFEE: Hmm?

1 THE COURT: What is it you were planning on doing?

2 MR. COFFEE: I was planning on asking some questions specific towards our
3 case. Mr. Gutierrez was going to ask something different; not repeating what I do.
4 If he repeats what I do, we got an issue obviously.

5 THE COURT: All right. I mean, I never -- no one's every asked me to do it
6 that way. I'm not sure exactly how you had it in mind. It's not -- as you know, it's
7 not the typical thing to do.

8 MR. COFFEE: I've done it that way -- and I was, of course, born and raised in
9 front of Judge Mosley, who was person by person, so we would take turns doing voir
10 dire. And in capital cases it's not usual to do that either because of the long jury
11 selection.

12 THE COURT: Yeah, but capital cases are different, as you know.

13 MR. COFFEE: I understand, Judge. I'm just saying -- coming from by
14 background I'm just -- I'm used to do it that way. We'll do whatever the Court tells
15 us to do, obviously. But it's also a good opportunity for new attorneys to get on their
16 feet in front of a jury, which they don't get very often and can help with training and
17 with what they're doing the next time around, so that was the thought process.

18 THE COURT: All right. I mean -- I suppose -- I've never done it that way. No
19 one's asked me to do it that way. As -- I mean, as you mentioned, it's not really the
20 way most cases are done. I suppose I don't have any -- well, I guess we'll have to
21 see how it goes.

22 MR. COFFEE: Okay.

23 THE COURT: So, I guess, initially my gut reaction is, you know, I'll give you a
24 shot at trying it that way and we'll see how it goes.

25 MR. COFFEE: Okay.

1 THE COURT: If it ends up being redundant or all kind of stuff then we might
2 have to revisit it. But I suppose speaking in a vacuum I don't have any problem with
3 that; all right.

4 MR. COFFEE: Very good.

5 THE COURT: All right. Couple things. Because we have this recent
6 Supreme Court case, sidebars in here are not recorded, but what I've always done
7 is that at next break if there is something discussed at the sidebar that's substantive
8 I will sort of give my ten second summary of what I remember the issue was and
9 give you guys a chance to respond or add to the record.

10 Just so you guys know, one of the reasons we don't record them in this
11 courtroom is you guys notice this courtroom is laid out differently, so we have some
12 acoustical issues. So even when we were recording them, they're kind of no value
13 because you can't hear anything. And because of the way this bench is, it's -- it all
14 gets lost. And all the sidebars we used to transcribe were just inaudible, inaudible,
15 so what was the point of that. So just so you guys know.

16 The second thing is, this isn't a problem so much for the trial when we
17 have the impaneled 14. For voir dire when you guys are at the sidebar, because of
18 those acoustic issues, we have this weird thing where even when you're up here
19 whispering, if you're standing five feet away you can't hear. But if you're even
20 slightly above a whisper that last juror in the right corner and Randy -- for some
21 reason it bounces out, they can hear, but even two feet away from them you can't
22 hear. I did this whole experiment with my law clerk one day to see, and it's literally
23 that last chair. So what happens is when we get the 14 picked we leave that last
24 chair vacant, but for voir dire we kind of need to have somebody there just because
25 of space issue, so when you're at the bench just remember to really, really keep

1 your voice down or not say anything that you don't want that one guy over there to
2 here; all right.

3 MR. COFFEE: Comment on the good looks of the person sitting in number
4 14.

5 THE COURT: Yeah, right. But it's a weird thing. I had my law clerk kind of
6 go -- it's literally that seat and literally ten inches away you can't hear anything.
7 There's this weird -- just it bounces out that way for some reason. And you can be
8 five feet away in the line of sight and it just bounces over and you can't hear a thing,
9 so just kind of -- sort of keep that in mind.

10 Let's see. How do you want to do the alternates? Last two in, you want
11 to pick two chairs? I don't really care.

12 MR. COFFEE: The last -- I thought the statute says last two; right?

13 THE COURT: Yeah. I mean, that's the way most people do it and that's sort
14 of the default. But if you guys stipulate to something else I'm happy to do it. I don't
15 know if you guys have preferred method. Most people do, you know, 13 and 14.
16 Some people want to say they have these superstitions; I want that chair and that
17 chair. I don't really care, so that's what I'm asking you guys, if you have some
18 special stipulation you guys want to do.

19 MR. COFFEE: Thirteen and 14's fine with me.

20 MS. WONG: That's fine.

21 THE COURT: Okay. All right. So 13 and 14 will be alternates.

22 For purposes of the peremptories, do you want to do four plus one or
23 five? Do you know what I mean by that? You reserve one for the alternates or just
24 five any way.

25 MR. COFFEE: Prefer five.

1 MR. STEPHENS: I prefer five.

2 THE COURT: All right. So that's the way most people do it.

3 One of the -- it's the third or fourth question I ask. I ask the undue
4 burdens questions. How many days do you think this trial's going to be just so the
5 jury knows.

6 MS. WONG: Four days.

7 THE COURT: Four days.

8 MR. COFFEE: That's a good bet.

9 THE COURT: Okay. I ask the undue burdens question. What I do is I ask it
10 of everybody. I speak to everybody in the room. And then depending on how many
11 people say they have an undue burden with serving for the next four days --
12 hopefully with four days we shouldn't get a lot of hands up, but you never know. We
13 are into summer. Maybe they got whatever -- vacations or whatever it is.

14 Generally my practice is if it's only a small number -- say three people
15 raise their hands and they have even sort of plausible excuses, I just kick them. If
16 we get like ten, then what we do at that stage is I'll ask you guys to come up for a
17 sidebar. I'll ask you guys anybody that you agree based on their responses -- I
18 know, it's not a not a formal challenge, just anybody that you guys agree based on
19 whatever it is that they said, we'll just kick them right now and not waste any more
20 time with them.

21 So it's not actually a challenge because I know you guys haven't at that
22 stage -- it's early in the process, you guys haven't even asked any questions. It's
23 literally, all right, who do you guys agree that we should just kick right now. Usually
24 it's, you know, doctor appointments, plane tickets, that kind of thing. Usually it's
25 pretty easier because most people have a pretty good idea of who really has an

1 undue burden. You know, work issues, people don't stipulate nor would I kick them
2 anyway, but it becomes kind of this -- so what will happen is at that stage, when I
3 ask that question, I'll ask you guys for a sidebar. So that's what I'm looking for is
4 anybody that you guys agree right now we'll just get rid of them and not waste any
5 more time them.

6 If there's no agreement, if you guys want to ask questions then we keep
7 them for the next round of questioning. That's literally what that is. It's not a
8 challenge. I'm not making rulings. It's just who do you guys agree. We'll just -- you
9 know, jurors, whatever X, Y and Z; all right.

10 MR. COFFEE: And, Judge, also just -- so the Court's aware, since we don't --
11 we got a couple [indiscernible]. I'm fine with -- I know sometimes defense attorneys
12 throw a fit about bringing an interpreter in; somebody with -- that has foreign
13 language skills, that kind of thing, but I'm fine with whatever the Court wants to do if
14 we've got somebody who's having problems understanding, whatever the Court and
15 the other side wants to do I'm fine with.

16 THE COURT: Here's the thing. As you guys know, under the law just
17 because someone has -- needs the assistance of an interpreter, it's not
18 [indiscernible] of them serving as a juror --

19 MR. COFFEE: Absolutely.

20 THE COURT: -- if they otherwise would be qualified and if you guys want
21 them. But as a practical matter, as you guys know, okay, if it's a Spanish speaker
22 we can get someone in here probably in five or ten minutes. If it's some other
23 language, and sometimes we get exotic ones, as a practical matter we might have
24 to make a phone call, they have to get a contractor. It may take an hour to get
25 somebody out here, so that's something to keep in mind. You know, usually -- you

1 know, I'm not forcing you -- I'm just saying, usually what happens when you get
2 somebody with a rare language where somebody's not on site, everyone just says
3 rather than wait for an hour let's just kick this guy. But if you think that that's a -- you
4 know, any -- there's any prejudice to your client, you know, we'll just have to deal
5 with that when the time comes.

6 MR. COFFEE: Understood. Just so the Court's aware, we're fine with -- with
7 those sort of practicalities the defense isn't going to make an issue.

8 THE COURT: Right. I mean, in this day and age in Las Vegas it's -- you
9 know, in every group of 45 there's almost always one or two who need the
10 assistance of at least a Spanish interpreter and we just -- you know, Randy just
11 makes a phone call and we get them in five -- five or ten minutes. And usually what
12 we'll do we'll -- if he's in the box we'll move him kind of to the back row over there
13 because the interpreter has to sort of whisper in their ear. And so all the people
14 with Spanish interpreters we usually move them maybe to that corner over there, but
15 they're still sort of -- we'll leave the seat vacant if they're in the box.

16 MR. COFFEE: Very good.

17 THE COURT: So you guys have to remember that's where that guy is sitting
18 kind of a thing; all right.

19 MR. COFFEE: Very good.

20 THE COURT: Anything else you guys want to address while we're here?

21 MS. WONG: No.

22 THE COURT: All right, Randy, let's go ahead -- I guess we're still waiting for
23 the belt though; right? I don't know if we want --

24 MR. COFFEE: It should be here --

25 THE MARSHAL: Yeah, but by the time I get them up here --

1 MR. COFFEE: Yeah.

2 THE MARSHAL: -- he should be back.

3 THE COURT: Yeah, with the elevators this time of morning --

4 MR. STEPHENS: Yeah.

5 THE COURT: -- it's going to take him 15 minutes to get them up here
6 anyways, so --

7 THE COURT RECORDER: [Indiscernible.]

8 THE COURT: Yeah, let's go off the record.

9 [Off the record at 10:11 a.m.]

10 [Proceedings resumed at 10:25 a.m.]

11 [Outside the presence of the prospective jury panel]

12 THE COURT: All right. Let's go on the record real quick. Ready, Sara?

13 THE COURT RECORDER: Yes.

14 THE COURT: Back on the record State versus Patrick Newell, C285825.

15 In looking through the list of the panel, anyone have any -- seen any
16 names that they recognize as people they might know?

17 MR. STEPHENS: No, Your Honor.

18 MR. COFFEE: Not from the defense -- not that I do, let me ask Mr. --

19 THE COURT: I have one. Badge number 226 on the second page, Mary
20 Nobis. Now, that's not a really common name. I have a civil case in which she's a
21 Defendant. It's a breach of contract type of case. It's her and her husband. I don't
22 know if it's the same person, but, as I said, I don't know that Nobis is a very common
23 name. I don't know if that raises any concerns for anybody here. In fact, it's a civil
24 case that I actually just ruled on a motion on not even five days ago. I don't know
25 that I know what she looks like, but I definitely recognize the name. She's one of the

1 two Defendants in a case. It's some kind of -- they used to be partners investing in
2 real estate and then the whole partnership fell apart and so the partners are suing
3 each other kind of a thing. The case is over technically, but there's some post-trial
4 kind of motions. I just ruled on one five days ago. I don't know if that's an issue for
5 anybody here, but it may be an issue with her -- with her willingness to serve, I don't
6 know, but that's a name that I recognize.

7 All right. Any other name that you guys recognize or have concerns
8 about.

9 MR. COFFEE: No, Judge. And as to Ms. Nobis, will the Court just inquire as
10 to whether or not she has pending matters before the Court?

11 THE COURT: Yeah. I mean, the first thing is to find out if in fact it's the same
12 person. As I said -- you know, it's not a name that I've seen before, so I'm going to
13 guess there's at least a -- I don't know, 90 percent chance --

14 MR. COFFEE: Right.

15 THE COURT: -- that it is her. If it is her -- I mean, what I don't know -- the
16 way civil dockets work is -- in criminal, when you file the motion you can usually get
17 it on calendar within a week or so. In civil you file a motion; it takes 30 days to get
18 on calendar. I don't actually know if she has any motions, or her and her lawyer
19 have any motions pending in front of me right now. I wouldn't know if they -- you
20 know, if there's something 25 days out I -- you know, I don't look that far out. And
21 so that might be an issue there if there's something that she -- or for all I know
22 maybe there's something on calendar this Thursday that I haven't even looked --
23 you know, looked forward to yet and -- you know, I don't know if that's going to be
24 an issue or not, but I guess potentially it could be.

25 I'm thinking if it is her -- I'm wondering, just out of the abundance of

1 caution, because I can't sit here and say that I do or don't have anything pending
2 involving her, I might just excuse her just to, you know, eliminate any awkwardness
3 because as I said, for all I know there may be something coming up this Thursday. I
4 just didn't specifically look at my calendar obviously for her name.

5 MR. COFFEE: No objection from defense.

6 THE COURT: Yeah, that's probably what I'll end up doing then, if in fact it's
7 her.

8 All right, Randy, let's go ahead and bring them in.

9 [In the presence of the prospective jury panel]

10 THE COURT: All right. Good morning, ladies and gentlemen. Welcome to
11 Department 20 of the Eighth Judicial District Court. You've been summoned here
12 today to serve as prospective jurors in a criminal case commenced by the State of
13 Nevada. Ultimately 14 of you will be going forward as jurors and alternates in this
14 case. There are obviously more than 14 people in this room, so what we're going to
15 spend the next hour or two doing is I'm going to ask a series of questions, and the
16 attorneys are going to ask a series of questions, to determine who can or cannot
17 serve as jurors in this case. It may be that you would excellent jurors in another
18 case, but there may be some reason why you couldn't serve in this case. For
19 example, if you know someone involved in this case; if you were a witness to the
20 events; if you heard about it, things like that, that would disqualify you as jurors in
21 this case although you might be willing and able to serve as jurors in another kind of
22 case.

23 Now I want to begin by thanking you all for your willingness to serve. I
24 know that when you got your jury summons there were probably a few of you who
25 were curious or maybe even excited to be here. But I'm going to guess that there

1 were probably a good number of you that when you got your summons were
2 probably a little bit annoyed. I know that jury service is -- it is what it is. There's
3 some flaws in the way we do our jury system here. There's a lot of, as you've
4 experienced already, hurry up and wait and sit around and nobody talks to you kind
5 of a thing. I'm going to do what I can to minimize that for all of you because I
6 understand the sacrifice that you guys are making. But there are some things that
7 the law requires me to do where we're just going to have to have things where, you
8 know, you're not going to know what's going on, we're going to have you waiting
9 around, and that's just, you know, unfortunately the way that our laws are set up.

10 I want to begin by telling you a sort of a short story. I'm not going to
11 get, you know, partisan or political about this, but as you guys know there are a lot
12 of things going on in the world. A few months ago we almost got involved in a war in
13 Syria. Now there's some buzz about Iraq falling apart. I'm not going to get into a
14 political discussion. The reason I mentioned that is -- as an example is in those
15 countries, if you are accused of a crime, if you irritate or cross -- get at cross
16 purposes with the governmentalist countries, there's no such thing as a trial or any
17 formal accusation or lawyers or anything like that. You just -- they take you out and
18 they stone you to death or they put you in front of a shooting squad and that's it.

19 The reason I tell you that little anecdote is hopefully that puts in
20 perspective as annoying as jury service is, and I know it is, hopefully that puts into
21 perspective the service that you are being asked to render. This -- the right to have
22 trial conducted by members of the jury is a right that our founding father fought and
23 died for and hopefully that puts in perspective the service that you are about to
24 render.

25 Now, what I'm going to do is I'm going to ask a series of question to all

1 of you. What I want all of you to do, if you have a response to any of those
2 questions, please raise your hands real high -- or high enough so Randy can see
3 you. Then we've got a handheld microphone, as you guys can see. Everything
4 that's done in this courtroom is recorded. We have microphone scattered
5 throughout this courtroom. Wait until you get the microphone. When you get the
6 microphone look at the badge that you have on your chest right now, give me the
7 last three digits of your badge number, let me find you on my list, and then give me
8 your name and then tell me what your answer is going to be; all right. Please wait
9 until you get the microphone because if you talk without the microphone then it's not
10 going to end up on the recording and when Sara over there is trying to type it up
11 she's not going to have any idea what's going on; all right.

12 Now, jury service is done under oath. I have some preliminary
13 questions to make sure that everyone here is at least minimally qualified. Is there
14 anybody here who is not a United States citizen? All right. There being no hands in
15 the affirmative.

16 Is there anybody here who's been convicted of a felony crime, either in
17 Nevada or another state and not had your civil rights restored? All right. There
18 being no hands in the affirmative.

19 Does anybody here have any language issues or hearing issues that
20 might interfere with your ability to serve? If you speak a language other than
21 English we do have court interpreters who can assist you. If you have any hearing
22 issue please don't be embarrassed. We do have headphones that we can give to
23 you so that you can hear in an amplified way everything that's going on. Any
24 responses to that question? All right. We have a couple hands here. Let's pass the
25 microphone here.

1 Again, sir, when you get the microphone give me the last three digits of
2 your badge number.

3 PROSPECTIVE JUROR #182: 182.

4 THE COURT: 182. Are you Mr. Lopez?

5 PROSPECTIVE JUROR #182: Yes.

6 THE COURT: All right. What is your situation?

7 PROSPECTIVE JUROR #182: I think my English is not really good.

8 THE COURT: What is your native language?

9 PROSPECTIVE JUROR #182: Spanish.

10 THE COURT: All right. How good is your English? Have you understood
11 what I've said so far?

12 PROSPECTIVE JUROR #182: Most of it.

13 THE COURT: Most of it. But there are parts of it you don't understand?

14 PROSPECTIVE JUROR #182: Yes.

15 THE COURT: Okay. Let me do this. Let me see what some of the other
16 hands are. We can get a Spanish interpreter pretty quickly. Hang on one second;
17 okay. There was another hand up here somewhere. Can you pass the microphone
18 to him?

19 Hi. The last three digits of your badge number?

20 PROSPECTIVE JUROR #191: 191.

21 THE COURT: Are you Mr. -- is it Petikyan?

22 PROSPECTIVE JUROR #191: Yes.

23 THE COURT: What is your situation?

24 PROSPECTIVE JUROR #191: Same thing. I can't understand very well
25 English.

1 THE COURT: What is your native language?

2 PROSPECTIVE JUROR #191: Armenian.

3 THE COURT: Armenian. All right. Have you understood everything I've said
4 so far?

5 PROSPECTIVE JUROR #191: Not all of it.

6 THE COURT: Not all of it. All right.

7 Anyone else with their hands up in response to that question? I thought
8 I saw one other hand, but maybe not. Anyone else?

9 THE MARSHAL: Just those two.

10 THE COURT: Just those two. All right. Here's what I'm going to do.

11 Mr. Petikyan, under Nevada law you have the right to serve on a jury
12 and we can get a court interpreter; however, I already know for a fact that Armenian
13 is a language where the court interpreter's office doesn't have someone actually in
14 the building. They'll have to make a phone call and someone will drive in. The
15 problem is that's going to take -- I don't know, 45 minute or an hour. Rather than
16 just keep everybody waiting, I'm going to go ahead and excuse you. That's badge
17 number 191. Please report to jury services on the third floor and they'll give you
18 further instructions; all right. And thank you for your willingness to serve.

19 PROSPECTIVE JUROR #191: [Inaudible response.]

20 THE COURT: Yeah, go down to the third floor and they'll tell you what to do;
21 okay.

22 PROSPECTIVE JUROR #191: Thank you.

23 THE COURT: We're going to move someone else into the empty seat then.

24 THE MARSHAL: Replacing that chair will be badge number 208.

25 THE COURT: The person with badge number 208 can I get you to take his

1 empty chair.

2 THE MARSHAL: Will be in seat 10.

3 THE COURT: And then, Randy, for -- let's see.

4 THE MARSHAL: Mr. Lopez.

5 THE COURT: Yeah, for Mr. Lopez -- can I get counsel to approach very
6 quickly.

7 [Bench conference -- not recorded]

8 THE COURT: All right. Randy, scratch the interpreter. Here's what we're
9 going to do. We're just going to go ahead and let Mr. Lopez -- Mr. Lopez, we can
10 get a Spanish interpreter. We can get them here pretty quickly, but based on
11 discussion with counsel, rather than you wait even further, we're just going to go
12 ahead and let you go; okay. Please report to jury services on the third floor and
13 they'll give you further instructions. Thank you for your willingness to serve; all right.
14 Thank you.

15 THE MARSHAL: Replacing seat 6 will be badge number 209.

16 THE COURT: All right. 209, please take his empty seat.

17 All right. At this time, Madame Clerk, will you swear the members of the
18 panel in.

19 THE MARSHAL: All rise. Raise your right hand, please.

20 [The clerk swore in the prospective jury panel]

21 THE COURT: All right. Randy, here's what I'm going to do. I'm going to go a
22 little bit out of order. I notice there's one name that I recognize; badge number 226,
23 Ms. Nobis. Can you get the microphone -- for the record, ma'am, you're Mary
24 Nobis, badge number 226; right?

25 PROSPECTIVE JUROR #226: Correct.

1 THE COURT: All right. Ma'am, I recognized your name, obviously. You're
2 involved in a civil case that I -- you know, you've probably read a hundred pages of
3 stuff that I've written. Let me ask you this. Given the status of this case that's going
4 on -- and I know we're kind of in this post-settlement type of mode, has anything
5 happened with your involvement in that case, or anything that I've done, anything
6 your attorneys have done, anything that you've seen here in this courtroom that
7 would affect your ability to be fair and impartial if asked to serve as a juror in this
8 case?

9 PROSPECTIVE JUROR #226: I feel you were very fair. The plaintiff
10 attorneys I thought were very deceitful because we're being sued by an attorney.

11 THE COURT: Right. But they're not in this case; right?

12 PROSPECTIVE JUROR #226: Right.

13 THE COURT: Really the question is --

14 PROSPECTIVE JUROR #226: So --

15 THE COURT: -- anything that I did, anything that you --

16 PROSPECTIVE JUROR #226: Nothing that you did, no.

17 THE COURT: -- saw in the court procedures that would -- that you have
18 concerns about.

19 PROSPECTIVE JUROR #226: No.

20 THE COURT: Okay. Given what's going on -- and I don't want to, you know,
21 have you say anything that's potentially embarrassing, but given sort of what's going
22 on with that case -- and, again, I don't -- because I didn't know you'd be here. I
23 didn't look up your case to see if there's any other motions or anything like that, but
24 given that the -- there's a possibility, let's say, that maybe, you know, in a few days
25 or a few weeks or something there might be another motion in front of me, would

1 that be something that would interfere with your ability to take time out this week and
2 serve on this case, either emotionally, financially, in terms of you having meetings
3 with your lawyers, you know, anything like that?

4 PROSPECTIVE JUROR #226: I've been very emotional and it's been very
5 expensive. I want to say that I could be partial, but I'm not positive.

6 THE COURT: You mean you could be impartial or could be --

7 PROSPECTIVE JUROR #226: I mean impartial; yes.

8 THE COURT: Okay. Why would what's going on in the case affect your
9 ability to be impartial? Why might it affect your ability to be impartial?

10 PROSPECTIVE JUROR #226: I've just been so bitter with the whole thing.
11 It's been a year and a half and \$350,000 later we're still dealing with this.

12 THE COURT: Okay. All right. Let me ask you this in the simplest way. Do
13 you want to be a juror in this case?

14 PROSPECTIVE JUROR #226: I've always wanted to be called for jury duty.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR #226: And I've been in town for 24 years and got
17 called 15 years ago and never got to come. And then -- I've always wanted to, but
18 now that I'm here I'm not sure.

19 THE COURT: All right. Let me do this. Let me get you to sit tight. The
20 attorneys might have some follow-up questions, but based on what I've heard you
21 don't have any bitterness toward the court system per se, it's more about the
22 lawyers. And I know that -- I'm kind of familiar with that case. I know there's all
23 these accusations and this long history to it, but is -- you don't -- are the feelings that
24 you have about the court system, about any attorneys at all other than the attorneys
25 in that case? In other words, you know, you got two sets of attorneys here and

1 there's Mr. Newell here, he's charged with a crime, is there anything that you would
2 hold against one side as opposed to the other?

3 PROSPECTIVE JUROR #226: With the court system we were -- I feel like we
4 were harassed and some of the stuff should -- the other side shouldn't been allowed
5 to do, so I don't know if I can say I'd be a hundred percent -- that I'm a hundred
6 percent okay with the court system.

7 THE COURT: Okay. But is that something that you at least would -- I mean, I
8 don't know how to phrase this in a way -- you know, I don't want to embarrass you,
9 that's not my goal, but obviously I want to make sure that -- to the extent that you
10 don't like the -- some things that the court system did, is that something that you
11 would at least not take out against these people, and their clients, and their cases,
12 or do you think that you'd hold it against one side versus the other, or if you have
13 anger would it at least be equally towards both sides?

14 PROSPECTIVE JUROR #226: Yeah, equally towards both sides.

15 THE COURT: All right. Let me get you to sit tight. Some of the attorneys
16 may have some questions down the line, but I appreciate your honesty. Obviously I
17 recognize you from some of the other hearings and that's why I wanted to jump in
18 there, but --

19 PROSPECTIVE JUROR #226: Thank you.

20 THE COURT: All right. Let's get you to give the microphone back to Randy.

21 All right. At this stage I'm going to ask the attorneys to stand up,
22 introduce themselves and their co-counsel, tell you a little bit about the case, just
23 two or three sentences. They're also going to list you the names of any witnesses
24 that they might call in this case, and they're going to give you the address where the
25 allegations are said to have occurred. What I want all of you to do is listen to all the

1 names and the addresses. If there's a name that you need repeated or spelled,
2 please raise your hand. And at the end I'm going to ask if anybody here thinks they
3 might know something about this case, or thinks they might know or have an opinion
4 about somebody involved with this.

5 All right. On behalf of the State.

6 MS. WONG: Thank you, Your Honor.

7 Good morning, ladies and gentlemen. My name is Hetty Wong. To my
8 left here is my co-counsel, Robert Stephens, and we are here to present to you the
9 case of State of Nevada versus Patrick Newell.

10 The Defendant is charged with four counts in this case. Count 1,
11 attempt murder with use of a deadly weapon. Count 2, battery with use of a deadly
12 weapon resulting in substantial bodily harm. Count 3, assault with a deadly weapon,
13 and Count 4, performance of act in reckless disregard of persons or property. The
14 State has alleged that on October 10th of 2012 the Defendant the victim, Theodore
15 Bejarano, on fire at a gas station and threatened to cut him with a knife.

16 What I want to do now is read off to you a list of names of potential
17 witnesses that the State may call at trial. If you think you recognize any of these
18 names or know any of these individuals just make a mental note of it and the Judge
19 will ask you about it later. Officer Mayrie Aquino; Theodore Bejarano; Adam Carlos;
20 Jennifer Chandler; Officer Bryant Corea; Aaron Gach; Bryan Griggs; Officer --
21 Detective Kevin Johnson; Sheri Jones; Officer Bret Knudson; Detective Brian
22 Kowalski; William Lewis; Deborah Marriott; Nathan Ozobia; Derrick Phillips; Officer
23 Chad Randall; Vincent Roberts; Arthur Romero; Nick Sadeghi; Francisca Viado, and
24 Rachel Weber. Thank you.

25 THE COURT: All right. Anyone need any of those names repeated or

1 spelled? Anyone think they might know any of those names?

2 All right. On behalf of Mr. Newell.

3 MR. COFFEE: Thank you.

4 Stand up, please, Mr. Newell.

5 Good morning, everybody. My name is Scott Coffee. I represent 61
6 year old Patrick Newell. This is my co-counsel, Seth Gutierrez. Mr. Newell did light
7 somebody on fire. This isn't going to be a who done it. He didn't try to kill anybody;
8 you're going to see that during the course of the trial.

9 As to witnesses, we're relying on those that the State has mentioned. If
10 for some reason they don't call one, we might. Perhaps we'll put Mr. Newell on the
11 stand; perhaps we won't. That will be after discussion with me. But we thank you
12 for paying attention. Have a good day.

13 THE COURT: All right. Does anyone think they might know something about
14 this case other than what they've heard in court? I don't believe that there's been a
15 lot of press coverage, but in this day and age there might be some blog out there
16 that, you know, I don't know what people write in those blogs, so you never know.
17 Anyone think they might have heard something about this case?

18 All right. A few more names for you guys to think about. My name is
19 Jerome Tao. My name's on the front here. I sometimes go by Jerry Tao. To my
20 right is the court clerk, Linda Skinner. To her right is the court recorder, Sara
21 Richardson. You guys have met Randy Hawks, the marshal. That's my law clerk
22 over there, Bud Hafer. This is actually my JEA, Paula Walsh. Anyone who think
23 they might know no one of us or might have heard something about one of us?

24 All right. And what I want you guys to do now is take a quick look
25 around the room and I'm going to ask if anybody here thinks they might know

1 someone else in the room. All right. We have -- actually, couple hands up here.

2 Let's start over here with you, sir. What is your badge number?

3 PROSPECTIVE JUROR #200: 200.

4 THE COURT: 200, Mr. Eichorn.

5 PROSPECTIVE JUROR #200: Yes.

6 THE COURT: Who do you think you know?

7 PROSPECTIVE JUROR #200: One of the defense counsel.

8 THE COURT: And how do you know him

9 PROSPECTIVE JUROR #200: I believe he was a defense counsel for a case

10 I was a foreman on about five, six years ago.

11 THE COURT: Okay. Which one do you know, Mr. Coffee or Mr. Gutierrez?

12 PROSPECTIVE JUROR #200: Coffee.

13 THE COURT: Mr. Coffee. All right. That case was actually a trial; you were

14 on the jury?

15 PROSPECTIVE JUROR #200: Yes.

16 THE COURT: You were the foreperson?

17 PROSPECTIVE JUROR #200: Yes.

18 THE COURT: Did the jury actually render a verdict?

19 PROSPECTIVE JUROR #200: Yes.

20 THE COURT: Okay. Do you remember the name of the case?

21 PROSPECTIVE JUROR #200: Barry Redecker [phonetic].

22 THE COURT: Mr. Coffee, that ring any bells for you?

23 MR. COFFEE: Sure. I know Mr. Redecker.

24 THE COURT: Okay. Now let me ask you this. Without tell us so much about

25 the details of that trial, was there anything that happened during that trial, or any

1 thoughts that you have about Mr. Coffee, or anything else that happened in the trial,
2 such as his client during the faction like that, that would cause you to be something
3 other than fair and impartial toward him and his client in this trial?

4 PROSPECTIVE JUROR #200: Yes.

5 THE COURT: Okay. What do you mean? I guess, without getting in really
6 specific details, do you think that you would be biased against him or toward him?

7 PROSPECTIVE JUROR #200: Against.

8 THE COURT: Okay. Even knowing that this is a different case --

9 PROSPECTIVE JUROR #200: Correct.

10 THE COURT: -- with a different client and different facts?

11 PROSPECTIVE JUROR #200: Yes.

12 THE COURT: Okay. So something happened in that trial that you think you
13 would hold against Mr. Coffee as you sit here right now?

14 PROSPECTIVE JUROR #200: Just the overall flow of the trial and the
15 proceedings in the jury room. My tendency would be at this point if victims were
16 impugned, if witnesses were impugned, I would not be impartial toward the
17 Defendant and that wouldn't be fair to him.

18 THE COURT: Okay. And that's based on something that happened in the
19 previous trial?

20 PROSPECTIVE JUROR #200: Correct.

21 THE COURT: Okay. All right. Here's what I'm going to do. Out of an
22 abundance of caution, given that -- I appreciate your service. I'm going to send you
23 back down to jury services; they'll give you further instructions. And let's plug
24 someone else into his empty seat. And we got a couple hands back there we'll
25 address in a second.

1 THE MARSHAL: Replacing seat 17 will be badge number 210.

2 THE COURT: All right. And there were a couple hands back there. Can you
3 guys raise your hands again real high?

4 Hi, ma'am. Your badge number?

5 PROSPECTIVE JUROR #222: Hi. 222.

6 THE COURT: 222, Ms. Graham. All right. Who do you think you know?

7 PROSPECTIVE JUROR #222: I just know Joanne Krafft, to the back of me.

8 THE COURT: And let's see. For the record Ms. Krafft is -- let's see here.

9 THE MARSHAL: Badge number 238.

10 THE COURT: How do you know her?

11 PROSPECTIVE JUROR #222: I'm her hairstylist.

12 THE COURT: Oh, okay. So --

13 PROSPECTIVE JUROR #222: And we're friends -- like family.

14 THE COURT: Okay. Would you consider you to be close with her? Are you
15 more acquaintances or would you consider yourselves to be friends?

16 PROSPECTIVE JUROR #222: I would consider her family.

17 THE COURT: Okay. Family -- that close.

18 PROSPECTIVE JUROR #222: Yeah.

19 THE COURT: How long have you known each other?

20 PROSPECTIVE JUROR #222: Eight, nine years.

21 THE COURT: Okay. So here's the question -- and, Ms. Krafft, I'm going to
22 ask you the same question in a minute; okay. I don't necessarily need you to give
23 me sort of a whole description of your relationship and your feelings towards each
24 and all that kind of stuff. Here's my question. If both of you were to end up on the
25 jury -- on the final jury; okay. When you go back to the jury room to decide your

1 verdict, let's say that at the beginning you have a disagreement about something in
2 this case. You guys view the evidence one way. One of you thinks the witness is
3 believable; one of you thinks the same witness is not believable. Something like
4 that, some disagreement. The question is, would you be able to work out that
5 disagreement with her the same way that you would with anybody else in the room
6 who's a stranger to you, or would you treat her opinion differently with more weight
7 or less weight because of your relationship? In other words, would you just say I'll
8 just go along with her just to save our friendship and, you know, screw the facts and
9 that kind of thing, or would you be able to work out your differences the exact same
10 way you would if you were a complete stranger like everybody else in the room. Do
11 you understand that question?

12 PROSPECTIVE JUROR #222: I think I would work it out. Like -- I have my
13 opinion; she has hers. I wouldn't -- I mean, I don't -- that wouldn't make a
14 difference.

15 THE COURT: Okay. All right. Excellence. And let me ask you this. If she
16 had a view or an observation about something that happened in the trial -- say, you
17 know, her thoughts on some piece of evidence or the credibility of some witness and
18 she said that in the room, would you give that observation more weight because you
19 do know her than you would if it were -- if the same observation were made by any
20 of the other 11 people that you don't know?

21 PROSPECTIVE JUROR #222: Maybe because I respect her a lot --

22 THE COURT: All right.

23 PROSPECTIVE JUROR #222: -- and I judge her opinion. Probably, yeah,
24 because -- you know --

25 THE COURT: Right. Okay.

1 PROSPECTIVE JUROR #222: She's a smart lady. She's an educated
2 woman.

3 THE COURT: Okay. All right. Let me do this. Let me get you to hand the
4 microphone to Ms. Krafft.

5 PROSPECTIVE JUROR #222: Okay.

6 THE COURT: I'm going to ask her really the same questions.

7 So, Ms. Krafft, you heard the two questions I just asked. If you and her
8 -- Ms. Graham disagreed on something, would you be able to work out your
9 differences with her the exact same way that you would with the 11 other complete
10 strangers in the room, or would you treat her with more or less deference because
11 of your relationship with her?

12 PROSPECTIVE JUROR #238: I believe I would treat her the same.

13 THE COURT: Okay. And if she had an observation or thought about
14 something in the case -- her views on the evidence or her views on the credibility of
15 a witness, would you give her views more weight or less weight because you do
16 know her than you would any of the other people in the room?

17 PROSPECTIVE JUROR #238: Honestly, I'd give it more weight because I do
18 know her --

19 THE COURT: Okay.

20 PROSPECTIVE JUROR #238: -- and I trust her --

21 THE COURT: Right. But would --

22 PROSPECTIVE JUROR #238: -- and I trust her opinion.

23 THE COURT: But would you at least -- if you disagree with her, would you
24 feel that you voice that disagreement or would you just say, well, she's really smart;
25 I'm just going to go along with what she says, or would you have your own view of

1 things?

2 PROSPECTIVE JUROR #238: Well, I could disagree with her, yes.

3 THE COURT: Okay. All right. And I appreciate the information. I guess
4 what we'll have to do is -- I don't know that those answers disqualify you, but it's
5 something certainly to think about if in fact you guys end up sitting next to each
6 other; all right. I appreciate the honesty.

7 Anyone else with their hand up in response to that question?

8 All right. This case is expected to last four days. That means from
9 today until Thursday with the following hours. We're going to go today until five
10 o'clock. We're going to start tomorrow at around 10 and go until five o'clock with a
11 lunch break in between and breaks roughly every hour or so. And honestly,
12 Tuesday, Wednesday, Thursday will be the same; ten o'clock till five o'clock. And
13 the trial I'm told will not last past Thursday afternoon, but you never know. If we
14 have to go into Friday, then we'll start Friday at nine o'clock in the morning. Is there
15 anybody here for whom serving on those dates and times would be an undue
16 burden? And by undue burden I don't mean that you just don't want to be here, it's
17 going to be annoying -- something that you just can't get out of. We have a couple
18 up here. Here's how I'm going to do -- we have a lot of hands. I'm going to start
19 kind of this way and kind of work my way that way, just so you guys know. So let's
20 start in the back row here.

21 Hi. What is your badge number?

22 PROSPECTIVE JUROR #185: 185.

23 THE COURT: 185. Mr. McCue, what is your situation?

24 PROSPECTIVE JUROR #185: I'm a full-time practicing attorney and I have
25 several client obligations this week, including meetings that I'm personally handling

1 that I cannot reschedule.

2 THE COURT: Okay. What's your practice area? I kind of recognized your
3 name, but I can't remember where I recognized it from. What's --

4 PROSPECTIVE JUROR #185: Intellectual property.

5 THE COURT: Okay. And do you work for -- on your own or do you work for a
6 bigger firm?

7 PROSPECTIVE JUROR #185: A large firm. Lewis Roca Rothgerber.

8 THE COURT: Okay. And what is it that you have this week? I mean, I guess
9 here's really my question. I'm assuming that -- you know, I know it's a bigger firm in
10 town so you got associates and other partners. What is it that you have this week
11 that you can't get -- that you think you can't get out of?

12 PROSPECTIVE JUROR #185: This afternoon I have clients in from out of
13 town to meet with me this afternoon. They're leaving later tonight. I'm the only one
14 they're meeting with to discuss case strategy for another case pending before the
15 court.

16 THE COURT: Okay. Where they coming in from? Is it California or
17 someplace --

18 PROSPECTIVE JUROR #185: California, yes.

19 THE COURT: -- further away? Flying or driving, do you know?

20 PROSPECTIVE JUROR #185: I don't know.

21 THE COURT: Okay. And so for the rest of the week what else do you have?

22 PROSPECTIVE JUROR #185: I also have other client meetings and then I
23 have a series of deadlines for clients in other cases -- filings.

24 THE COURT: All right. All right. Let me ask you this. The clients who are
25 coming today -- obviously, depending on what they're doing, if it's driving or flying,

1 it's probably too late for you to do anything about that. Can you meet with them
2 after five o'clock today?

3 PROSPECTIVE JUROR #185: I don't know. I can check on a break and see
4 if they can stay. I know they're waiting -- they came in last week. They're waiting to
5 speak with me today before leaving --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR #185: -- but I can check.

8 THE COURT: Let me get you to do this. Can you at least at the next break
9 make a phone call and see what can be moved and what can't be moved. And in
10 terms of deadlines, are they deadlines in -- where? In the PTO in this courthouse, in
11 the federal courthouse?

12 PROSPECTIVE JUROR #185: One is a federal court case in the Central
13 District of California.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR #185: And then the others are PTO filings.

16 THE COURT: Okay. And are those deadlines this week or are they things
17 coming up that you just need this week to work on?

18 PROSPECTIVE JUROR #185: Things that I need this week to work on.

19 THE COURT: Okay. Let me do this. During the next break if you could make
20 a phone call and see what can be moved and what can't. And after you've made
21 that phone we'll readdress it then; okay.

22 PROSPECTIVE JUROR #185: Okay, Your Honor.

23 THE COURT: All right. I appreciate that.

24 THE MARSHAL: Anybody else in the top row?

25 THE COURT: We have actually people over here. Let's pass the microphone

1 down. You're badge number?

2 PROSPECTIVE JUROR #175: 175.

3 THE COURT: 175. Is it Mr. Arrell or --

4 PROSPECTIVE JUROR #175: Arrell.

5 THE COURT: Arrell. What is your situation?

6 PROSPECTIVE JUROR #175: Well, if the trial does indeed end this week
7 there's no problem. My wife's having surgery next week. We have medical stuff
8 coming up starting Monday. But if it does indeed conclude on Thursday or Friday at
9 the latest then there's no problem.

10 THE COURT: Okay. I appreciate the heads up though. All right. I'll make a
11 note of that.

12 All right. Who else?

13 Hi, ma'am. Your badge number?

14 PROSPECTIVE JUROR #179: 179.

15 THE COURT: Is it M.s Grubish?

16 PROSPECTIVE JUROR #179: Yes.

17 THE COURT: What is your situation?

18 PROSPECTIVE JUROR #179: I'm a real estate broker and property manager
19 and I'm the only one that does the business. It's just me. Turns out it's an extra
20 busy week. I have three closings that need a lot of organization. And the property
21 management I'm the only one who can authorize repairs, write checks, talk to
22 owners. So it's -- time wise, it's very difficult. I usually work about ten, 12 hours a
23 day.

24 THE COURT: What days are your closings this week?

25 PROSPECTIVE JUROR #179: One's tomorrow; one's Wednesday and one's

1 Friday.

2 THE COURT: Okay. Well, let me ask you this. I don't know a ton about real
3 estate, but I know a little bit. When you get to the closing stage, when you're a day
4 out or two days out, isn't most of what's being done being done by the escrow
5 company? What is there that you need to work on this week on those closings
6 considering you're, for examples, 24 hours out from one of them?

7 PROSPECTIVE JUROR #179: Two of them are loans and there's quite a few
8 phone calls and coordinating, and we need mobile notaries at another state. And
9 there's just a lot of time on the phone primarily.

10 THE COURT: Okay. All right. Let me make a note of that and I might come
11 back to you; all right.

12 Let me get you to pass the microphone. Anyone else in the back row
13 with their hand up?

14 Your badge number?

15 PROSPECTIVE JUROR #180: 180.

16 THE COURT: Ms. Heck?

17 PROSPECTIVE JUROR #180: Yes.

18 THE COURT: What is your situation?

19 PROSPECTIVE JUROR #180: I don't need to be excused. I just wanted to
20 let you know that I am breastfeeding and I need to pump every three hours for half
21 an hour.

22 THE COURT: Okay. That's fine. We take breaks even more frequently than
23 that. How long a break do you need to do that?

24 PROSPECTIVE JUROR #180: Thirty minutes.

25 THE COURT: How much?

1 PROSPECTIVE JUROR #180: Up to 30 minutes.
2 THE COURT: Oh, okay.
3 PROSPECTIVE JUROR #180: Twenty minutes -- 20 or 30.
4 THE COURT: Okay. All right. Let me make a note of that. Maybe there's a
5 way we can work around that. I guess we'll have to see. All right. I appreciate the
6 information. Let me get you to pass the mic.
7 THE MARSHAL: Anybody else in the top row?
8 THE COURT: How about the middle row here?
9 THE MARSHAL: Anybody in the bottom row?
10 THE COURT: Hi, ma'am. Your badge number?
11 PROSPECTIVE JUROR #195: 0195.
12 THE COURT: Ms. Gonzales.
13 PROSPECTIVE JUROR #195: Yes.
14 THE COURT: What is your situation?
15 PROSPECTIVE JUROR #195: Your Honor, I have several health issues.
16 THE COURT: Okay. Well -- okay, what does that mean in terms of your
17 ability to serve?
18 PROSPECTIVE JUROR #195: For one, I have irritable bowel syndrome.
19 THE COURT: Okay.
20 PROSPECTIVE JUROR #195: That means I have to use the bathroom quite
21 a bit.
22 THE COURT: Right. Well, if we take a break every hour is that enough or is
23 that not enough?
24 PROSPECTIVE JUROR #195: No.
25 THE COURT: Okay. And what are your other health issues?

1 PROSPECTIVE JUROR #195: I've been on oxygen for two years.

2 THE COURT: Okay. Well, what -- how -- what does that have to do with
3 your --

4 PROSPECTIVE JUROR #195: I have a lot of breathing problems. I have
5 pulmonary hypertension. That means my lungs don't give enough oxygen to my
6 heart.

7 THE COURT: Are you on medication for that?

8 PROSPECTIVE JUROR #195: I'm on several medications. I have a lot of
9 health issues.

10 THE COURT: Okay. Well -- all right. So, what side effects do the
11 medications have?

12 PROSPECTIVE JUROR #195: Dizziness.

13 THE COURT: That's it, just dizziness or what else -- anything else?

14 PROSPECTIVE JUROR #195: My sugar goes up and down. I have a lot of
15 anxiety. I get tight right here from my throat.

16 THE COURT: What do you do for a living?

17 PROSPECTIVE JUROR #195: I'm disabled.

18 THE COURT: I'm sorry, I can't hear you.

19 PROSPECTIVE JUROR #195: I'm disabled.

20 THE COURT: Okay. Are you under the care of a caregiver right now or on
21 you on your own?

22 PROSPECTIVE JUROR #195: Yes, I'm -- I have a physician that I see.

23 THE COURT: All right. How often do you take your medication during the
24 day?

25 PROSPECTIVE JUROR #195: I take several, so twice in the morning and

1 twice in the evening.

2 THE COURT: Okay. All right. Let me make a note of that and let me come
3 back to you; all right.

4 Can you pass the microphone back to -- anyone else in the middle row
5 with the their hand up?

6 Hi. Your badge number?

7 PROSPECTIVE JUROR #196: 196.

8 THE COURT: Ms. Churchill, what is your situation?

9 PROSPECTIVE JUROR #196: My husband has an aneurism of the aorta of
10 the stomach. He's due to have surgery this week and I need to be there because I
11 can --

12 THE COURT: When is his surgery? When is his surgery?

13 PROSPECTIVE JUROR #196: I think Wednesday morning.

14 THE COURT: What time?

15 PROSPECTIVE JUROR #196: They're hoping to do it right around ten
16 o'clock.

17 THE COURT: Okay. How long -- do you know how long the procedure's
18 going to be?

19 PROSPECTIVE JUROR #196: No, sir, I do not.

20 THE COURT: All right. What do you know about it? Afterwards is he going
21 to be sent home; is he going to stay in the hospital?

22 PROSPECTIVE JUROR #196: No, he will be in the hospital. He's gonna
23 have to have to be monitored 24 and then I'm gonna have to take family leave
24 afterwards to care for him.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR #196: And I can lose him in this surgery.

2 THE COURT: Let me ask you this, and this may be more of a question about
3 the doctor than anything else. How is that you don't yet know what time the surgery
4 is when it's 48 hours away?

5 PROSPECTIVE JUROR #196: Because they're having to pencil him in.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR #196: It is a mandatory surgery.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR #196: If it ruptures he dies in three minutes, sir. And
10 I'm not being smart-alecky. I've had him 40 years and I don't want to lose him.

11 THE COURT: All right. All right. I'm making a note of that.

12 Let me get you to pass the microphone back to Randy.

13 THE MARSHAL: Anybody else in the bottom row?

14 THE COURT: How about the front row here. We have one hand up here.

15 THE MARSHAL: Folks, you got to keep your hands up so I can see them.

16 THE COURT: Hi. Your badge number?

17 PROSPECTIVE JUROR #210: 210.

18 THE COURT: I'm sorry, 210?

19 PROSPECTIVE JUROR #210: Yeah.

20 THE COURT: You're Mr. Kitterman?

21 PROSPECTIVE JUROR #210: Yes.

22 THE COURT: What is your situation?

23 PROSPECTIVE JUROR #210: It will be a financial burden for me to be here
24 for that many days and miss work.

25 THE COURT: What do you do for a living?

1 PROSPECTIVE JUROR #210: I'm a bar porter at the Cosmopolitan.
2 THE COURT: What are your work hours?
3 PROSPECTIVE JUROR #210: Mostly 8 to 4, sometimes longer.
4 THE COURT: And you work when? Weekdays or what days do you work?
5 PROSPECTIVE JUROR #210: Off Sunday, Monday, so I'd be missing three
6 days of work. And I support two children and my mother.
7 THE COURT: All right. Is there -- can you switch shifts around, pick up some
8 other days, and other days, those kinds of things?
9 PROSPECTIVE JUROR #210: I could, but we are pretty short staffed, so not
10 likely to happen.
11 THE COURT: All right.
12 PROSPECTIVE JUROR #210: I more than likely just miss the days.
13 THE COURT: All right. Let me get you to pass the microphone.
14 Who else in the front row had their hand up; anybody? All right. Can
15 you pass it down.
16 Your badge number?
17 PROSPECTIVE JUROR #205: 205.
18 THE COURT: Ms. Cowley, what is your situation?
19 PROSPECTIVE JUROR #205: Just gonna be difficult to secure childcare.
20 Seems like insignificant now, but --
21 THE COURT: All right. How many kids do you have?
22 PROSPECTIVE JUROR #205: Two.
23 THE COURT: And how old are they?
24 PROSPECTIVE JUROR #205: Three and eight months.
25 THE COURT: Who's watching them right now?

1 PROSPECTIVE JUROR #205: My husband.

2 THE COURT: And can he not watch them the rest of the week?

3 PROSPECTIVE JUROR #205: He -- we're teachers on summer vacation, but
4 he has a part-time job in the summer. And he didn't have work today, but he has
5 clients on Tuesday, Thursday and Friday this week.

6 THE COURT: Do you have any other family members who can watch them
7 for a few hours a day?

8 PROSPECTIVE JUROR #205: My mom is their nanny, but she's actually
9 having surgery on her shoulder.

10 THE COURT: When is that surgery?

11 PROSPECTIVE JUROR #205: I believe it's scheduled for Thursday.

12 THE COURT: All right. But can she watch them Monday, Tuesday,
13 Wednesday?

14 PROSPECTIVE JUROR #205: Yeah.

15 THE COURT: Okay. What time on Thursday is her shoulder surgery?

16 PROSPECTIVE JUROR #205: Honestly, I don't know the details.

17 THE COURT: Okay. All right. Let me get you to pass the microphone back
18 to Randy.

19 Anyone else in the front row with their hand up? How about back
20 there?

21 THE MARSHAL: Everybody back here.

22 PROSPECTIVE JUROR #212: Badge 212.

23 THE COURT: What -- can you hold it closer? I can't hear you. What's your
24 badge number?

25 PROSPECTIVE JUROR #212: [Indiscernible.]

1 THE MARSHAL: 212.

2 THE COURT: 212. Is it Ms. Desrosier-Hasan?

3 PROSPECTIVE JUROR #212: Mm-hmm.

4 THE COURT: What is your situation?

5 PROSPECTIVE JUROR #212: I'm a language translator and I'm in the
6 middle of working on a collective agreement translation that has to be done by the
7 end of the week. If I come here every day I'll have to work till two o'clock in the
8 morning.

9 THE COURT: Okay. Ma'am, I can't hear you. Can you hold it closer to your
10 mouth?

11 PROSPECTIVE JUROR #212: I have to translate a collective agreement by
12 the end of the week.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #212: And if I come here I'm gonna have to work till
15 two o'clock in the morning every day, so my presence here won't be as clear as it
16 should be?

17 THE COURT: Who is your employer? Who do you work for?

18 PROSPECTIVE JUROR #212: I'm self-employed.

19 THE COURT: All right.

20 PROSPECTIVE JUROR #212: And I was told that if I can't provide it by the
21 end of the week that they would give it to some other translator and I've already
22 done most of the work.

23 THE COURT: All right. And it's due when; Friday?

24 PROSPECTIVE JUROR #212: It's due Friday, yes.

25 THE COURT: Due end of Friday or beginning of Friday?

1 PROSPECTIVE JUROR #212: Well, it's a hundred and thirty pages, so I still
2 have about ten pages to translate, plus I have to go over the whole document before
3 Friday. And I have to discuss today with the client whether he wants me to revise
4 the whole thing, changing the terminology so it's even or uniform the whole way
5 through.

6 THE COURT: All right. Let me get you -- I'm making a note of that. Let me
7 get you to hand the microphone back to Randy. Who else had their hands up?

8 THE MARSHAL: Oh, no, it's just going to go down the aisle.

9 THE COURT: Okay. Let me just be blunt. None of this is getting you out of
10 jury duty, this work stuff, okay, and here's why. If your husband were set on fire by
11 somebody, would you want a bunch of people not serving because they're going to
12 lose a little bit of money or would you actually want a jury of people who are paying
13 attention to what's going on. So those of you who are just going to say it's a
14 financial burden, you can say, I'm going to write down, but it's not going to get you
15 out of jury duty; all right.

16 MR. COFFEE: And, Judge, if I might, if you were charged with setting
17 someone on fire.

18 THE COURT: If you were charged -- yeah, if you were charged with it also,
19 would you want a jury of people who are actually, you know, from the community or
20 would you want just the people who don't have jobs and don't have anything else
21 going on. So some of this work stuff is not really -- I'm writing it down. I'm trying to
22 be polite, but -- you know, if everyone's going to raise their hand and say they have
23 financial burden, yeah, we all have financial burdens. Everyone's got a job, has
24 somewhere better to be, but that's not how this works. If you're ever charged with a
25 crime would you only want unemployed people on your jury and think about that

1 before you give me the next answers; all right.

2 What is your badge number?

3 PROSPECTIVE JUROR #214: 214.

4 THE COURT: Ms. Ayala, what is your situation?

5 PROSPECTIVE JUROR #214: I would love to be here, but I'm a mother of
6 five and I don't have a sitter. My husband took off today just to watch my children.

7 THE COURT: How old are your kids?

8 PROSPECTIVE JUROR #214: From age 3 to 12.

9 THE COURT: And why can't your mother watch them for the rest of the
10 week?

11 PROSPECTIVE JUROR #214: My mother, I don't know her schedule
12 honestly. We don't have that much family here, and our whole family works, so I -- I
13 mean, I can try during break to see if someone can sit, but I honestly do --

14 THE COURT: So --

15 PROSPECTIVE JUROR #214: I watch my children [indiscernible].

16 THE COURT: All right. I take it that you're a full-time homemaker; is that
17 what's going on?

18 PROSPECTIVE JUROR #214: No, I'm a teacher. I'm just off for the summer,
19 but I watch my children --

20 THE COURT: So who watches them when you're working?

21 PROSPECTIVE JUROR #214: When I'm working?

22 THE COURT: Yeah.

23 PROSPECTIVE JUROR #214: That would be my -- it depends. My husband
24 works with his schedule and then their grandparents.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR #214: But that's like a two day kinda -- I work my
2 schedule around theirs kinda.

3 THE COURT: So between your mom, your husband and your grandparents
4 then -- I mean, that's a fair number of people. Can they not watch them for the next
5 three days, four days?

6 PROSPECTIVE JUROR #214: My husband I know cannot, but I can ask the
7 grandparents, although they work as well. I mean, I can try. Like I said, I can ask
8 during break, but I do not know for sure.

9 THE COURT: Okay. Can you at least make some phone calls during the
10 next break and find out?

11 PROSPECTIVE JUROR #214: Definitely I can.

12 THE COURT: All right.

13 Who else had their hand up?

14 Your badge number?

15 PROSPECTIVE JUROR #215: 215.

16 THE COURT: Ms. -- is it Pelander?

17 PROSPECTIVE JUROR #215: Yes, it is.

18 THE COURT: What is your situation?

19 PROSPECTIVE JUROR #215: I have a ganglion cyst on my wrist and I have
20 a doctor's appointment on Wednesday at one o'clock. It's taken two weeks to get in
21 and it really needs to be taken care of.

22 THE COURT: Okay. What's the purpose of this appointment? Is it to
23 actually have it removed, or is it for him to look at it, or what is the --

24 PROSPECTIVE JUROR #215: They're gonna go into x-ray it and look at it to
25 see what needs to be done.

1 THE COURT: Okay.a

2 PROSPECTIVE JUROR #215: And the procedure might -- they might drain it
3 right there on the spot. That's what I ask them if they would be draining it or -- but
4 they said they had -- you know, to see it, so, I don't know.

5 THE COURT: All right. That's Wednesday at one o'clock?

6 PROSPECTIVE JUROR #215: Wednesday at one o'clock.

7 THE COURT: Let me ask you this. And I don't -- you know, I don't
8 necessarily want you to go into a bunch of details. And I'm not a doctor, nor do I
9 intend to be, but if that appointment were to be moved, do you know what the
10 adverse consequences, if there are any, are going to be?

11 PROSPECTIVE JUROR #215: No, because I don't know the extent of the
12 damage.

13 THE COURT: Okay. All right. I appreciate it.

14 Can you pass the microphone -- who else had their hand up?

15 Your badge number, ma'am?

16 PROSPECTIVE JUROR #219: 219.

17 THE COURT: Ms. Self, what is your situation?

18 PROSPECTIVE JUROR #219: I'm a newly single mom and I started a new
19 job. It's almost three months ago, so I'm almost off of the probation period. And
20 taking time off, I know you don't want to hear it as a financial burden, I have to put
21 my son in daycare longer than what he normally is, so it's costing me more money
22 and I'm also losing money not being able to work.

23 THE COURT: All right. How old is your son?

24 PROSPECTIVE JUROR #219: He is three years old.

25 THE COURT: And what is your new job? What do you do?

1 PROSPECTIVE JUROR #219: I'm front desk at Steinberg Diagnostic.

2 THE COURT: And what are your work days and work hours?

3 PROSPECTIVE JUROR #219: They're Monday through Friday, 9 to 5:30.

4 THE COURT: All right. And right now -- I mean, if you weren't here you'd be
5 at work from 9 to 5:30 --

6 PROSPECTIVE JUROR #219: Yes, sir.

7 THE COURT: -- so your son would be in daycare anyway; right?

8 PROSPECTIVE JUROR #219: No. My -- well, not husband anymore, ex-
9 husband, he doesn't go to work till 11, so he's watching him until 11.

10 THE COURT: All right. So I guess I'm not clear. I mean, your son's going to
11 be in daycare from 9 to 5:30 anyway.

12 PROSPECTIVE JUROR #219: Yes, sir.

13 THE COURT: I guess I'm not sure --

14 PROSPECTIVE JUROR #219: No, 11. Eleven to about 3:45. My dad gets
15 off at three and he picks him up just so I don't have to pay that much in daycare.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR #219: So I pay right now from 11 to 4.

18 THE COURT: So really the issue here is -- I mean, whether you're here or
19 whether you're at work your son would be in daycare from 11 to 4 those days
20 anyway. The issue is that on those days you're not also making money; is that the
21 situation?

22 PROSPECTIVE JUROR #219: Yes. And I have to pay the rent and I don't
23 know -- I don't make, you know, a lot of money.

24 THE COURT: All right. Let me make a note of that.

25 Let me get you to pass the microphone.

1 PROSPECTIVE JUROR #219: Thank you.

2 THE COURT: Who else had their hand up in response to that question?

3 PROSPECTIVE JUROR #220: 220, Catarina Chinn.

4 THE COURT: Ms. Chinn, what is your situation?

5 PROSPECTIVE JUROR #220: My mom's been in the hospital for about a
6 month and now going on 16 days. She had two strokes and they just gave her a
7 feeding tube. And I'm the power of attorney over her, and the durable, and I'm
8 having to make the decisions for her. And I don't think my -- I don't think I'm going
9 to be very good here, you know, because my mind's there.

10 THE COURT: So how -- okay. She's been in the hospital for a month now.

11 PROSPECTIVE JUROR #220: Yes.

12 THE COURT: Are you working during that period of time?

13 PROSPECTIVE JUROR #220: I am. I work three in the morning till 11:30
14 and then I go and I spend the rest of my hours there with her. Most of the decision
15 making has been through me.

16 THE COURT: All right.

17 PROSPECTIVE JUROR #220: And right now we're trying to figure out
18 whether or not she might have to go to hospice because her feeding tube is not
19 working.

20 THE COURT: All right. Let me make a note of that. Let me get you to pass
21 the microphone.

22 PROSPECTIVE JUROR #220: Thank you.

23 THE COURT: Who else had their hand up?

24 Hi. Your badge number again?

25 PROSPECTIVE JUROR #222: 222.

1 THE COURT: Ms. Graham, what is your situation?

2 PROSPECTIVE JUROR #222: I'm self-employed; I'm a hairstylist. And I'm
3 leaving a vacation on Friday and there's no one else to do my job in the next three
4 days and I'm booked solid.

5 THE COURT: So are you working by yourself?

6 PROSPECTIVE JUROR #222: Well, I'm a hairstylist. Yeah, the only one that
7 can --

8 THE COURT: I mean --

9 PROSPECTIVE JUROR #222: -- do my clients.

10 THE COURT: Okay. What time are you leaving on Friday?

11 PROSPECTIVE JUROR #222: Our flight leaves at ten in the morning.

12 THE COURT: Okay. All right. Let me ask you this question. And honestly
13 this is -- you know, it's only partly toward you, partly toward everybody else who's
14 sort of given me these answers. It's not like you got your jury summons yesterday.
15 You got it weeks --

16 PROSPECTIVE JUROR #222: Right. I took today off --

17 THE COURT: -- ago. Why did you --

18 PROSPECTIVE JUROR #222: -- to come here.

19 THE COURT: -- why did you book clients this week, or book so many, when
20 you knew that there's a chance --

21 PROSPECTIVE JUROR #222: I book clients --

22 THE COURT: -- you might be on a jury?

23 PROSPECTIVE JUROR #222: -- every week. I'm self-employed.

24 THE COURT: All right. Let me get you to pass the microphone.

25 Who else had their hand up?

1 Your badge number?

2 PROSPECTIVE JUROR #229: 229.

3 THE COURT: 229. Ms. -- is it Baracani?

4 PROSPECTIVE JUROR #229: Yes.

5 THE COURT: What is your situation?

6 PROSPECTIVE JUROR #229: I have an orientation for Reno for college on

7 Friday and I leave at six in the morning and I come back that same day, but -- I

8 mean, I've had this scheduled for probably four months.

9 THE COURT: All right. So you're leaving Friday at six o'clock. So if -- so you

10 would be able to serve Monday through Thursday at least?

11 PROSPECTIVE JUROR #229: Yeah.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR #229: Just if it goes till Friday.

14 THE COURT: Gotcha. All right. That's good to know. All right. Let me get

15 you to pass the microphone.

16 Your badge number?

17 PROSPECTIVE JUROR #232: 232.

18 THE COURT: 232. You know, I know I'm going to mangle your last name.

19 Can you pronounce it for me?

20 PROSPECTIVE JUROR #232: Vishnepolsky.

21 THE COURT: All right. What is your situation?

22 PROSPECTIVE JUROR #232: I'm a physician in town. I have a busy

23 practice, so --

24 THE COURT: I'm sorry, I can't hear you.

25 PROSPECTIVE JUROR #232: I'm a physician in town. I was hoping you

1 could excuse me.

2 THE COURT: What's your practice area?

3 PROSPECTIVE JUROR #232: Nephrology.

4 THE COURT: All right. So do you work in a hospital, do you work in clinic?
5 What is your exact situation?

6 PROSPECTIVE JUROR #232: Mostly hospitals and dialysis units and clinic
7 as well.

8 THE COURT: All right. What are your normal work hours and work days?

9 PROSPECTIVE JUROR #232: I worked yesterday. I worked all night. I'm
10 working all night today also. And then I have on calls on Wednesday night, but I
11 work through -- pretty much from 8 to 5.

12 THE COURT: All right. When you say you work all night, what does that
13 mean?

14 PROSPECTIVE JUROR #232: I'm on call. I answer pages for the whole
15 town -- for my group.

16 THE COURT: All right. I'll make a note of that.

17 Who else had their hand up in response to that question?

18 THE MARSHAL: Anybody else in the back row?

19 THE COURT: Your badge number?

20 PROSPECTIVE JUROR #233: 233.

21 THE COURT: Ms. Tan, what is your situation?

22 PROSPECTIVE JUROR #233: Yes. My mother-in-law is 85 and she has
23 dementia. And she doesn't live with us, but my husband and I take turns watching
24 her. I work early in the morning, so he watches her in the morning and then I do it
25 after work. I work very early.

1 THE COURT: What are your work hours?
2 PROSPECTIVE JUROR #233: My work hours are 5:45 to 1:15.
3 THE COURT: To 1:15.
4 PROSPECTIVE JUROR #233: 1:45, I'm sorry.
5 THE COURT: Wait. 5:45 in the morning to 1:45 in the afternoon?
6 PROSPECTIVE JUROR #233: Yes.
7 THE COURT: And your -- what are your husband's work hours?
8 PROSPECTIVE JUROR #233: He's self-employed, so he just leaves -- he
9 actually does work at home and then he goes to the office as well, but we just take
10 turns after work.
11 THE COURT: Okay. Can he watch him in the mornings for the next few days
12 while you're -- well, I guess, he was -- okay. So normally he would watch them in
13 the mornings and you would take over in the afternoons --
14 PROSPECTIVE JUROR #233: Yes.
15 THE COURT: -- is that the situation?
16 PROSPECTIVE JUROR #233: Yes.
17 THE COURT: Can he watch them in the mornings for at least a few days;
18 cover the shift that you would normally cover?
19 PROSPECTIVE JUROR #233: Possibly, because sometimes he has clients,
20 you know. He does insurance and business so -- this week he should be okay, but
21 normally he tries to book appointments in the afternoon, but just in case because
22 sometimes he gets called -- you know, clients call him like randomly.
23 THE COURT: All right. Let me make a note of that.
24 Who else had their hand up?
25 Your badge number?

1 PROSPECTIVE JUROR #235: Badge number 235.

2 THE COURT: Mr. Lee, what is your situation?

3 PROSPECTIVE JUROR #235: Yeah, I'm on medications for panic attacks
4 and nose bleeds. I really thought that this morning I would take my meds and I
5 would be because I thought I could do this. It was the standing during the filming
6 this morning that I actually did get one. They come sporadic and I'm afraid it will
7 disrupt when I have to get up and leave the room. I am willing to call both my ENT
8 and my primary physician during the break to see if I can increase my meds. I have
9 all of them with me if you'd like --

10 THE COURT: So if --

11 PROSPECTIVE JUROR #235: -- or the marshal would like to see them.

12 THE COURT: -- if you start getting one, what do you normally do?

13 PROSPECTIVE JUROR #235: I get the shakes and I can't be in crowds, and
14 so what happens is -- because combined with the sinusitis that I've had for some
15 time it will just start bleeding. I have some meds that will stop it, but it's sporadic
16 and I never know when they're coming. Actually, I haven't had one until last night,
17 but just because of the apprehension of coming here. But I really thought that if I
18 took them first thing in the morning I would be good for the eight hours. I can't
19 increase the meds without at least checking with my physicians.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR #235: So I'm willing to call both during the break to
22 see if I could get any further information.

23 THE COURT: Okay. So let me ask you this. If you -- if and when you get
24 one, do you -- what do you do? Do you just take medication on the spot or how do
25 you deal with it?

1 PROSPECTIVE JUROR #235: Usually I take one of them on the spot, but for
2 the nose bleeds I have to be excused for -- I have two different sprays for it. One's
3 steroids and one's a rinse.

4 THE COURT: Okay. When you say you have to be excused what does that
5 mean? When your -- if you get a nose bleed what do you do? Like, if you're at
6 home and you get a nose bleed what would you do?

7 PROSPECTIVE JUROR #235: I use the two sprays and then I use what is
8 called a neti pot to rinse and then that hopefully stops it because the steroid does
9 something with the blood vessels. I'm not a physician. They've tried to explain it to
10 me over and over again and I still don't understand it. But I'll have to lean back for a
11 period of -- 45 minutes to an hour usually will stop it. And, again, they're so sporadic
12 I really didn't expect it to happen this morning.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #235: But, like I said, I'd be happy to call both my
15 physician and my ENT to see if I could do anything more to get through to Thursday
16 to maybe prevent them from being disruptive to the proceedings.

17 THE COURT: Okay. All right. Let me get you to pass the microphone.

18 Who else had their hand up in response to that question?

19 Your badge number?

20 PROSPECTIVE JUROR #238: 238.

21 THE COURT: All right. Ms. Krafft, what is your situation?

22 PROSPECTIVE JUROR #238: I'm great all week; however, on Monday I
23 leave on vacation which has been paid for ahead of time. But if you said it would be
24 done by Friday we're -- I'm good.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR #238: Just a heads up.

2 THE COURT: So you're okay for this week just if it leaks into Monday; right?

3 PROSPECTIVE JUROR #238: Correct.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR #238: Thank you.

6 THE COURT: All right. I appreciate knowing that.

7 All right. Anybody else with their hand up in response to that question?

8 All right. Let's do this. We've been going for about 50 minutes now.

9 Let's go and take a short break. During this break, ladies and gentlemen, now that
10 you're starting to hear sort of bit and pieces about this case don't go out in the
11 hallway and get on your phones and try to Google what this case may be about or
12 try to find any information about it. Don't reach any conclusions about this case. Do
13 not talk to each other about what you think the facts of the case may be. If there's
14 anybody out in the hallway who doesn't have a white badge on don't talk with them,
15 don't listen to what they're saying, don't talk with each other close enough to them
16 so that they can hear what you're saying. Please only talk to people who have white
17 badges on. Those are people that you at least know are jurors as opposed to say
18 witnesses or lawyers or something to do with this case. Let's see. Do not
19 investigate any facts in this case on your own. Do not reach any conclusions in your
20 own mind.

21 And rather than put a time limit on it since there's so many of you, when
22 you guys are ready let Randy know. One other thing, because this is a long
23 process, and I know it, I don't mind if you guys want to grab like a soda or some
24 snacks or something. There's no snack machine on this floor, but there is one one
25 floor up, one floor down. Randy can tell you where they are. I'm fine with you

1 bringing stuff in here, just exercise some discretion. Don't do anything that's really
2 obvious like a big bag of chips where everyone's going to hear you munching, that
3 kind of thing. But short of that, I'm okay with you bringing like a soda and like a
4 PowerBar or whatever you want to do. And let Randy know when you're ready and
5 we'll bring you back in; all right. And also please remember which seat you're sitting
6 in. You're going to sit in the exact same seat when you come back; all right.

7 [Outside the presence of the prospective jury]

8 THE COURT: All right. We're still on the record outside the presence of the
9 jury. Sara needs a quick break. Do you guys want to take a quick restroom break
10 and we'll come back and reconvene? All right. Let's go ahead and do that then.

11 MR. COFFEE: Sure.

12 [Recess taken at 11:23 a.m.]

13 [Proceedings resumed at 11:42 a.m.]

14 [Outside the presence of the prospective jury panel]

15 THE COURT: All right. So after the -- are we on the record?

16 THE COURT RECORDER: Yes.

17 THE COURT: All right. Back on the record outside the presence of the jury.
18 Mr. Newell's present in custody. Based on the conversation that we just had with
19 the attorneys, what I did is I asked the attorney whether or not based on the
20 responses thus far if there were any jurors that they would agree to let go by
21 stipulation just based on the limited information that we have. And it's my
22 understanding that parties are stipulating to release the following jurors' badge
23 numbers: 185, 195, 196, 212, 214, 215, 220, 222, 226, 229, 232 and 235. Is that
24 correct?

25 MR. STEPHENS: Yes.

1 THE COURT: Is that correct, Mr. Coffee?

2 MR. COFFEE: Yes.

3 THE COURT: All right. When we get in here I'll release those people and
4 then we will move people around in the seats and go from there then.

5 All right. Go ahead let's bring them in Randy?

6 [In the presence of the prospective jury panel]

7 THE COURT: All right. Ladies and gentlemen, based upon the conversation
8 that the attorneys and I just had based upon the responses and the information we
9 have thus far, the following jurors are excused. Please report to jury services on the
10 third floor.

11 THE MARSHAL: Badge numbers call come to me.

12 THE COURT: Badge number 185, Mr. McCue; badge number 195, Ms.
13 Gonzales; badge number 196, Ms. Churchill; badge number 212, Ms. Desrosiers-
14 Hasan; badge number, Ms. Ayala; badge number 215, Ms. Pelander; badge number
15 220, Ms. Chinn; badge number 222, Ms. Graham; badge number 226, Ms. Nobis;
16 badge number 229, Ms. Baracani; badge number 232, Mr. Vishnepolsky; badge
17 number 235, Mr. Lee.

18 All right. We're going to shuffle some people around so we don't have
19 so many empty seats.

20 THE MARSHAL: In seat number 7 will be badge number 216. Seat number
21 13 is going to be badge number 219. Seat 14 will be badge 224.

22 THE COURT: All right. Next question for everybody in the room. Has
23 anybody here ever been engaged in law enforcement work or have a spouse or a
24 close relative who has ever been engaged in law enforcement work. And by law
25 enforcement work I include not just police department, sheriff's department,

1 corrections, parole or probation, but also any District Attorney's Office or Attorney
2 General's Office, any criminal defense work or private security or surveillance. Any
3 hands up? All right. Again we're going to start left to right and sort of back to front;
4 all right. Just so you guys know. Let's start with her.

5 Hi, ma'am. Your badge number?

6 PROSPECTIVE JUROR #176: 176.

7 THE COURT: Ms. Taylor. Are we talking about you or someone else?

8 PROSPECTIVE JUROR #176: My fiancée.

9 THE COURT: All right. And what does he do or did he do?

10 PROSPECTIVE JUROR #176: He's Department of Corrections at Indian
11 Springs.

12 THE COURT: Okay. And what's his job title?

13 PROSPECTIVE JUROR #176: Correctional officer.

14 THE COURT: Okay. And how long has he done that?

15 PROSPECTIVE JUROR #176: Right around two years.

16 THE COURT: Two years. Prior to that did he work in law enforcement in
17 another capacity?

18 PROSPECTIVE JUROR #176: No.

19 THE COURT: Okay. Does he talk with you much about his work, his
20 thoughts about the criminal justice system, those kinds of things?

21 PROSPECTIVE JUROR #176: Kind of.

22 THE COURT: Okay. Without getting into all the conversations that you've
23 had, has he told you anything that as you sit here right now would cause you to be
24 something other than fair and impartial to either side in this case?

25 PROSPECTIVE JUROR #176: Probably.

1 THE COURT: What do you mean by probably?

2 PROSPECTIVE JUROR #176: Well, because he says that like everyone
3 who's in there he considers them bad because he works there, so I would
4 probably --

5 THE COURT RECORDER: Could you please use the microphone?

6 THE COURT: Yeah, can you speak into it; yeah.

7 PROSPECTIVE JUROR #176: Sorry. I would probably be biased towards --

8 THE MARSHAL: Ma'am, you really need to hold that microphone up so
9 that --

10 THE COURT: Yeah. I can hear you, but she needs to --

11 PROSPECTIVE JUROR #176: Okay.

12 THE COURT: -- make sure everything's recorded.

13 PROSPECTIVE JUROR #176: Is that better?

14 THE COURT: Yeah.

15 PROSPECTIVE JUROR #176: I would probably be biased towards like the
16 Defendant. Like I wouldn't --

17 THE COURT: Well -- I mean, let me just ask you this. I mean, you would
18 hope that's how prison works, that it's full of bad people; right?

19 PROSPECTIVE JUROR #176: Yeah, of course.

20 THE COURT: You wouldn't want --

21 PROSPECTIVE JUROR #176: Of course. Yeah.

22 THE COURT: You wouldn't want a prison filled with tons --

23 PROSPECTIVE JUROR #176: Of course.

24 THE COURT: -- and tons of good people, right, because otherwise
25 something's wrong with the system; right?

1 PROSPECTIVE JUROR #176: Right.

2 THE COURT: So -- I mean, the idea of this is this. The purpose of a trial is
3 the jury is to determine whether or not Mr. Newell is guilty of the crime charged.
4 Now what your fiancée sees by definition are only the people who've been found
5 guilty. He doesn't see the people who didn't commit crimes; right?

6 PROSPECTIVE JUROR #176: Correct.

7 THE COURT: He doesn't see the people who -- you know, maybe the police
8 arrested the wrong guy. He doesn't see the people, that after hearing the evidence,
9 the jury says you're not guilty. By definition, he's only seeing the people that were
10 found guilty; right?

11 PROSPECTIVE JUROR #176: Right.

12 THE COURT: So in terms of your job, the job that you would be asked to do
13 to determine whether or not Mr. Newell is guilty of the crime charged, how would
14 that information, the fact that he sees the people who are guilty or have been found
15 guilty, how would that affect your ability to determine who's guilty and who's not
16 guilty; whether Mr. Newell is guilty or not guilty?

17 PROSPECTIVE JUROR #176: Well, because he is the Defendant. Like,
18 even though people that are guilty that haven't done the crime that have gone to
19 prison -- I would just -- because he is the Defendant and what I've heard already I
20 would just be biased towards the other side that's all.

21 THE COURT: Well -- I mean, I'm not sure what you -- so given that your
22 fiancée -- I'm not sure how -- and I'm not trying to embarrass you or anything. I
23 guess I'm not sure I understand what you're saying. So your husband's around the
24 people who are found guilty, so that means what? That means that you think
25 anybody who's accused of a crime is guilty?

1 PROSPECTIVE JUROR #176: No, but I'm saying the people that are in there
2 they say that they're not guilty -- they didn't do it sometimes. So it's like -- I don't
3 know, I would just be biased because I --

4 THE COURT: Okay. So some people who are -- some people who the jury
5 has found to be guilty, and maybe they're clearly guilty because there's a mountain
6 of evidence, say they're --

7 PROSPECTIVE JUROR #176: Correct.

8 THE COURT: -- not guilty, that doesn't mean that everybody who says
9 they're not guilty is guilty; right?

10 PROSPECTIVE JUROR #176: Right.

11 THE COURT: I mean, if I sit here and say I'm not guilty of killing Abraham
12 Lincoln, that doesn't mean that I killed Abraham Lincoln; right?

13 PROSPECTIVE JUROR #176: Right.

14 THE COURT: Right. Do you understand what I'm saying?

15 PROSPECTIVE JUROR #176: Yeah.

16 THE COURT: So I'm not sure I understand why you think -- I guess I'm not
17 sure what you're saying. Can you explain -- so you think -- you've heard all these
18 stories about people who are guilty -- by definition they're guilty because they're in
19 Indian Springs.

20 PROSPECTIVE JUROR #176: And supposedly people who aren't guilty that
21 are in there.

22 THE COURT: Okay. But the jury has found them guilty, so under the law
23 they are guilty --

24 PROSPECTIVE JUROR #176: Right.

25 THE COURT: -- that's why they're there. So what does that have to do with

1 your job in determining whether or not someone else who's not there is or is not
2 guilty?

3 PROSPECTIVE JUROR #176: Well, because of the information you've given
4 us already -- I mean, although I don't know the details and stuff, I'm just going to be
5 biased because -- I mean, he lit somebody on fire. I'm not saying that he's going to
6 be found guilty, but I'm just saying that's gonna make me biased from what I know
7 already.

8 THE COURT: All right. Let me just -- I don't know if this helps or not. Tell me
9 if it's not. Literally the question that I'm going to ask you in two questions or three
10 questions is this. When someone is charged with a crime the State files what's
11 called -- there's two ways to charge someone in Nevada. It's called -- the term that
12 you probably heard from TV shows is called Indictment. You probably heard that
13 word from TV; right? The other way to charge somebody is called an Information
14 and that's just -- I don't know why they named it that. That happened 200 years
15 ago. The State files an Information which accuses them of a crime. That
16 Information, okay, the accusation that you've not -- that you've heard here today,
17 that people talk about, it's not actually evidence of his guilt. It's just an accusation.
18 The evidence will come in the form of witnesses. You know, when the trial starts
19 people will come in here and talk about it. There may be other exhibits. You know,
20 papers, emails, phone calls, whatever it is. That's the evidence. What you've heard
21 is the accusation. In other words, you've not actually seen any evidence; right?

22 PROSPECTIVE JUROR #176: Right.

23 THE COURT: Do you understand that?

24 PROSPECTIVE JUROR #176: Right.

25 THE COURT: You just heard what the accusation is and -- but not a single

1 person who was there, right, has actually --

2 PROSPECTIVE JUROR #176: Right.

3 THE COURT: -- come in here and talked to you. It's just a bunch of lawyers.
4 And lawyers by definition are not witnesses because they weren't there; right?

5 PROSPECTIVE JUROR #176: Right.

6 THE COURT: Okay. So how is it that you think that based on what you've
7 heard, which is just the accusation by lawyers who weren't there, who didn't see a
8 thing, how does that make you think that he's guilty already?

9 PROSPECTIVE JUROR #176: Well, didn't his attorney say that he did indeed
10 light somebody on fire, so -- I'm not saying that he did it. There's no evidence yet,
11 but -- I mean --

12 THE COURT: Right. I understand what you're saying and I did hear what he
13 said. I guess I understand why you would be confused. Well --

14 MR. COFFEE: I could explain, if you'd like -- would help.

15 THE COURT: Well, let's do this. So, Ms. Taylor, I guess I'm -- the whole idea
16 of this is there's certain legal things that has to be -- that have to be proven to you.
17 And you're to find all those things to be proven beyond a reasonable doubt --

18 PROSPECTIVE JUROR #176: Right.

19 THE COURT: -- before you could return a verdict of not guilty; right?

20 PROSPECTIVE JUROR #176: Right.

21 THE COURT: Now the defense can stipulate to some things, but not stipulate
22 to other things; okay. Do you understand that?

23 PROSPECTIVE JUROR #176: Yeah.

24 THE COURT: So as you sit here right now, have you already reached a mind
25 in your -- reach a conclusion in your mind that because they stipulated to one thing

1 that everything else must also be true?

2 PROSPECTIVE JUROR #176: No.

3 THE COURT: Okay. Would you at least keep an open mind and view the
4 evidence fairly and impartially?

5 PROSPECTIVE JUROR #176: I would try.

6 THE COURT: Okay. But do you think that you would be unable to do that
7 because of the stuff you've heard from your fiancée?

8 PROSPECTIVE JUROR #176: Probably.

9 THE COURT: Okay. All right. Let me do this. Let me make a note of that.
10 I'm sure the attorneys are going to ask you some follow-up questions along those
11 lines. Let me go ahead and get you to pass the mic.

12 Who in the back row -- who also in the back row had their hand up?
13 Anyone about law enforcement employment. Let's pass the microphone down.

14 Hi. Your badge number?

15 PROSPECTIVE JUROR #216: Badge number 216.

16 THE COURT: You're Ms. Levinson?

17 PROSPECTIVE JUROR #216: Yes.

18 THE COURT: Who do you know in law enforcement?

19 PROSPECTIVE JUROR #216: My brother-in-law's a retired police officer.

20 THE COURT: Here or somewhere else?

21 PROSPECTIVE JUROR #216: Somewhere else.

22 THE COURT: What state or city?

23 PROSPECTIVE JUROR #216: Ohio.

24 THE COURT: Ohio. What was his job title? What type of law enforcement?

25 PROSPECTIVE JUROR #216: He was a SWAT officer.