

1 hours, maybe?

2 A. He was with us the whole day, basically;  
3 throughout the whole day. Except for the time when we  
4 broke and the 15 minutes before the shooting, we were  
5 together the whole day.

6 Q. From the time you came back in the apartment --

7 A. Uh-huh.

8 Q. -- to the time that you left when the shooting  
9 happened --

10 A. Uh-huh.

11 Q. -- did you ever go to the right-hand side and go  
12 in your mother's bedroom?

13 A. No, sir.

14 Q. Never did?

15 A. No, sir.

16 Q. Did you ever go into that hallway and go to the  
17 left into that room?

18 A. No, sir.

19 Q. So, there's two bedrooms that you were not in at  
20 all that night?

21 A. Yes, sir.

22 Q. You had, however, gone into the bedroom where  
23 Dajon was sleeping?

24 A. During the --

25 Q. Did at any time -- at any time, from the time

1 you went back to the house --

2 A. Yes, sir. Because I had school the next day, so  
3 I was preparing myself for school.

4 Q. So, you had gone in there?

5 A. Yeah.

6 Q. And you had gone into the bathroom there?

7 A. Got my clothes out of the closet, shoes from  
8 under the bed, and got in the shower. So, there could  
9 have been no one else in that room.

10 Q. Right. In that bedroom?

11 A. Yes, sir.

12 Q. Now, A.I. is with you guys and A.I. at some  
13 point in time says he's leaving to go get some water or  
14 get a drink?

15 A. Yeah; get a drink.

16 Q. And at the moment he leaves, are you scared of  
17 him?

18 A. No. We gave him -- we gave him the money to go  
19 get the drink.

20 Q. Is he getting drinks for you guys, too?

21 A. Yes, sir.

22 Q. Is he getting drinks for all of you or just one  
23 of you, or what?

24 A. We went in halves, so whatever he would have  
25 came back with, we would have all, basically, shared it.

1 Q. Now, are we talking about, like, Gatorade and --

2 A. No. No Gatorade.

3 Q. What? Beer?

4 A. Alcoholic beverages.

5 Q. Anything he gets?

6 A. Yeah.

7 Q. Okay. So, you guys would occasionally drink  
8 together?

9 A. Yeah.

10 Q. Now, prior to that, prior to him going to get  
11 something to drink you guys had not been drinking, though?

12 A. Throughout the day?

13 Q. Yes.

14 A. Yeah, we had.

15 Q. You had been drinking?

16 A. Yeah.

17 Q. All of you had?

18 A. I don't know about my brother, because he came  
19 later on that night. But me, Derrick, Jason, and --

20 Q. A.I.?

21 A. Yeah.

22 We was drinking.

23 Q. When did you all start drinking?

24 A. When we came back in from playing basketball,  
25 and in the midst of it kicking, you can add the drinking

1 in, as part of the kicking it.

2 Q. Were you drinking beer?

3 A. Yes, sir.

4 Q. Did you drink -- how much beer did you all  
5 drink?

6 A. I don't know.

7 Q. How much beer did you drink?

8 A. I had a couple.

9 Q. Two beers?

10 A. More than two.

11 Q. More than two?

12 A. Yeah.

13 Q. Three beers?

14 A. About three.

15 Q. You didn't have six beers yourself, did you?

16 A. No, sir.

17 Q. You didn't have five beers yourself?

18 A. No, sir.

19 Q. Did Derrick have something to drink?

20 A. Yes, sir.

21 Q. Jason had something to drink?

22 A. Yes, sir.

23 Q. You never saw Dajon have anything to drink?

24 A. Huh-uh. No, sir.

25 Q. You saw A.I. drinking?



1 A. Yes, sir.

2 Q. How much did A.I. drink?

3 A. We all was consuming it all together. So, it  
4 was about even. We all shared everything evenly.

5 Q. Is it fair to say that A.I. had about three  
6 beers the same as you?

7 A. Yes.

8 Q. Is it fair to say that Derrick probably had  
9 about three beers?

10 A. Yeah. We were all about on the same level.

11 Q. Okay. Now, were any of all smoking weed?

12 A. No, sir.

13 Q. Did you all do anything else, other than smoking  
14 weed?

15 A. No, sir.

16 Q. Were you drunk?

17 A. No, sir. I wasn't drunk.

18 Q. Did you feel intoxicated?

19 A. Yeah.

20 Q. You had a little buzz?

21 A. Yeah.

22 Q. Did you see any signs that A.I. was buzzed?

23 A. Yes, sir.

24 Q. So, he's gonna go -- when he leaves, he's going  
25 to get some more of something to drink --

1 A. Yeah.

2 Q. -- because you all were running out?

3 A. Yeah.

4 Q. And, basically, you all were going to split it;  
5 whatever he brought back, you all were going to drink it?

6 A. Yes, sir.

7 Q. So, you all were having a good on time in your  
8 drinking together, and you want to keep the good time  
9 going?

10 A. Yes, sir.

11 Q. So, he leaves and he's gone for about 10  
12 minutes?

13 A. 10 to 15 minutes, I'd say.

14 Q. He comes back. Now, when he comes back, at that  
15 time were you aware of Krissy being around?

16 A. No, sir.

17 Q. Because you never see Krissy in the apartment?

18 A. No, sir.

19 Q. At that time, you're staying in the apartment?

20 A. Yes, sir.

21 Q. Okay. He comes back into the apartment, you're  
22 sitting on the couch; correct?

23 A. I'm laying on the couch.

24 Q. And Derrick and Jason are on the couch?

25 A. Yes, sir.

1 Q. And Dajon is in that bedroom?

2 A. Yes, sir.

3 Q. Sleeping, you think.

4 A. Yes, sir.

5 Q. Does A.I. have any liquor with him?

6 A. Yes, sir.

7 Q. How much did he bring back?

8 A. A can.

9 Q. One can?

10 A. Yes, sir.

11 Q. That's it?

12 A. Yes, sir.

13 Q. Were you surprised by that?

14 A. Not really; because, we only had -- we only gave  
15 him \$2, so I was hoping he was going to get something, at  
16 least, enough for all of us. So, whatever he had and  
17 whatever he put, whatever he was with, is what we were  
18 gonna get.

19 Q. Okay. So, he comes in, and he immediately goes  
20 to the bathroom?

21 A. He says -- he sets the drink down on the little  
22 table in the living room, and says he has to use the  
23 bathroom, and he goes immediately in.

24 Q. And he's going in that bedroom to the left?

25 A. Yes, sir.

1 Q. And he was going to use the bathroom there, you  
2 jury?

3 A. Yes, sir.

4 Q. I mean, really, in terms of how close you are to  
5 that bedroom where Dajon is sleeping, if you're right  
6 here -- I mean, isn't it like 10 or 15 feet to that  
7 bedroom door?

8 A. You could say it's close to that area.

9 Q. I mean, you're really close.

10 A. Yeah.

11 Q. I mean, there's just a little wall between;  
12 right?

13 A. Yes, sir.

14 Q. There's no hallway; right?

15 A. Yes, sir.

16 Q. You just step right in there?

17 A. Yeah.

18 Q. So, you guys are sitting right here. He walks  
19 into that bedroom, and he closes the door to the bedroom?

20 A. Yes, sir. Behind him.

21 Q. All right. That was unusual, wasn't it?

22 A. Yes, sir.

23 Q. That was something you would not expect, the  
24 fact that he closed the bedroom door?

25 A. Well, I didn't think anything of it. Because,

1 like I said, he would be over there every day. So, I  
2 wasn't fearing anything about him moving around. It was  
3 no curiosity or nothing towards his actions. It was  
4 normal to me.

5 Q. Okay. Was the bedroom door open before, or was  
6 it closed before, when he went in there?

7 A. It was closed.

8 Q. It was closed?

9 A. Yes, sir.

10 Q. Okay. So, in other words, he comes in, says  
11 he's going to go in there and use the bathroom. He opens  
12 the door and goes in there, and then closes it again?

13 A. Yes, sir.

14 Q. Okay. Do you hear any sounds that would suggest  
15 he went into the bathroom?

16 A. No, sir. I heard gunshots.

17 Q. Okay. Did you hear any conversation before the  
18 gunshots?

19 A. No, sir.

20 Q. The first thing you ever hear that suggests any  
21 trouble is the sound of gunshots?

22 A. Yes.

23 Q. And you hear one or two gunshots?

24 A. I hear two.

25 Q. Two gunshots?

1 A. Yes, sir.

2 Q. And they are in -- they're, like, in quick  
3 succession?

4 A. Yes; right after another.

5 Q. Okay. And then you say there's a break;  
6 correct?

7 A. Yes, sir.

8 Q. And it's a long break?

9 A. Yes, sir.

10 Q. It's two minutes long, you testified. Is that  
11 right?

12 A. Yes, sir.

13 Q. Okay. So, you and the other two gentlemen are  
14 sitting in here, you've heard two gunshots, and you don't  
15 even know where this happened; right.

16 A. I knew where it was coming from.

17 Q. You did know?

18 A. Yes, sir.

19 Q. You immediately knew?

20 A. Yes, sir.

21 Q. That it was in that bedroom?

22 A. Yes, sir.

23 Q. Could you smell anything?

24 A. No. I could tell from the echo sound that I  
25 heard that it was coming from in the room.

1 Q. Okay. What did you do when you heard the first  
2 two shots?

3 A. I ran to the door and I opened it.

4 Q. Okay. The door to the bedroom or the door to  
5 the outside?

6 A. The front door going outside.

7 Q. And that's just a few steps away for you; right?

8 A. Yes, sir.

9 Q. Okay. You turn and you open the front door?

10 A. Yes, sir.

11 Q. And you start to go outside?

12 A. No, sir.

13 Q. You stand there?

14 A. Yes, sir.

15 Q. And you stopped there?

16 A. Yes, sir.

17 Q. Okay. What do you do, then?

18 A. I'm listening.

19 Q. Okay. What are you listening for?

20 A. Anything I can hear in the room.

21 Q. Do you hear anything?

22 A. Yes, sir.

23 Q. What do you hear?

24 A. I hear, "Where's my stuff at?"

25 Q. Now, do you think that was Glenford's voice that

1 said that?

2 A. It was his voice.

3 Q. It was his voice?

4 A. Yes, sir.

5 Q. Do you hear a response?

6 A. No, sir.

7 Q. And what are these two guys doing?

8 A. Derrick and Jason?

9 Q. Correct.

10 A. They had got behind the couch, like towards the  
11 kitchen area. Because right behind the couch was the  
12 kitchen, so they had got behind the couch.

13 Q. So, is it fair to say -- I'm pretending like I'm  
14 in the apartment facing the kitchen and the den. Okay?

15 A. Uh-huh.

16 Q. The door and the window going outside are behind  
17 me. That sofa is somewhere over here between me and the  
18 kitchen?

19 A. Yes, sir.

20 Q. They come around from the kitchen side of that  
21 sofa?

22 A. They jumped over the sofa to the back of it.

23 Q. Okay. What are they doing over there?

24 A. They're getting down, telling me to get back in  
25 the house.



1 Q. Does that suggest to you that someone thought  
2 there was shooting outside?

3 A. Yes, sir.

4 Q. But you disagreed with that?

5 A. Yes, sir.

6 Q. You knew the shooting was inside?

7 A. Yes, sir.

8 Q. Did you tell them to come on and get out of  
9 here?

10 A. No, sir. I didn't have the chance to. The only  
11 I said to them was that it's coming from in here.

12 Q. And when did you decide to go ahead and leave?

13 A. After I heard the third shot.

14 Q. You heard the third shot and then you went ahead  
15 and left out the front door?

16 A. Yes, sir.

17 Q. And those two guys stayed in that room when you  
18 left; right? They were still there.

19 A. Yes, sir.

20 Q. They had never gone outside?

21 A. No, sir.

22 Q. You come outside. When you come outside, you're  
23 on the second floor, aren't you?

24 A. Yes, sir.

25 Q. When you come outside the apartment, you can

1 make a left-hand turn onto a little balcony area; right?

2 A. Yes, sir.

3 Q. Or you can make a right-hand turn and go  
4 downstairs; correct?

5 A. Yes, sir.

6 Q. Was that area well lit?

7 A. No, sir.

8 Q. It was not well lit?

9 A. No, sir.

10 Q. I mean, basically, it's almost midnight; right?

11 A. Right in front of the -- the light from the  
12 living room and the crack of the blinds is the only light  
13 that lit that area.

14 Q. So, it was dark outside?

15 A. Yes, sir.

16 Q. It's dark outside. You're going out there,  
17 you're taking a right-hand turn and going downstairs;  
18 correct?

19 A. Yes, sir.

20 Q. And then you go down a little bit more stairs  
21 down to the ground level; right?

22 A. Yes, sir.

23 Q. Then you're taking a right and heading towards  
24 Charleston?

25 A. Yes, sir.

1 Q. Did you ever look back at the apartment as  
2 you're walking away?

3 A. No, sir. I was running away.

4 Q. And you didn't see Krissy out there, did you?

5 A. No, sir.

6 Q. Okay. You start running away. Now, you say, I  
7 think, that at some point you turned and looked back and  
8 saw A.I. someplace?

9 A. That was after I had dialed 911 and was waiting  
10 for the police to come to the 7-Eleven.

11 Q. Okay. So, what happens is, you leave, you go  
12 all the way out of the complex, down by Charleston to the  
13 7-Eleven; right?

14 A. Yes, sir.

15 Q. You call the police?

16 A. Yes, sir.

17 Q. And you're staying there by the telephone? Is  
18 that right?

19 A. After I called the police, I walked to the curb  
20 and was watching the street.

21 Q. Okay. And you see -- around that time, you see  
22 A.I. leaving that area?

23 A. Yes. I seen him running across the street with  
24 a gun in his hands.

25 Q. Okay. How long from the time you get on that

1 telephone, how long before you start seeing emergency  
2 personnel arriving?

3 A. (Witness whistles.) About three or four  
4 minutes.

5 Q. Who arrives first, if you know?

6 A. Police cars was the first ones to fly past me.

7 Q. How many?

8 A. Like, three.

9 Q. Three cars?

10 A. Yes, sir.

11 Q. And they went inside the complex?

12 A. Yes, sir.

13 Q. And they went to that apartment?

14 A. Yes, sir. As far as I know.

15 Q. Did one of those cars come over and pick you up?

16 A. Yes, sir.

17 Q. So, you stayed roughly where you were over near  
18 the 7-Eleven?

19 A. Yes, sir.

20 Q. And they came over and picked you up and they  
21 take you back over there?

22 A. Yes, sir.

23 Q. I mean, you stayed in the area for quite some  
24 time after that; right?

25 A. After the shooting?

1 Q. Yes.

2 A. I was -- I stayed on that corner after I got off  
3 the phone with police for about five more minutes before I  
4 was picked up.

5 Q. Okay. When they took you back over to the  
6 apartment, you didn't go back inside at that time, or you  
7 did go back inside?

8 A. I didn't even go back through the front gate,  
9 because all my parents and everyone was standing around  
10 right there. So, I was in the squad car right there.

11 Q. Did you stay in the squad car when you went back  
12 over there?

13 A. Yes, sir.

14 Q. Did your mother -- how long before she got  
15 there?

16 A. She was on the scene before I was. After I  
17 arrived in the squad car, everyone was already back by the  
18 front gate. So, I couldn't tell you when she got there.

19 Q. How long before you were allowed back inside the  
20 apartment?

21 A. I don't know.

22 Q. I mean, was it, like, hours or days?

23 A. I didn't go back into the apartment until  
24 that -- until they -- until everyone was done doing what  
25 they was doing, then we went back in the apartment.

1 Q. I mean, I would think this was hours; isn't it?

2 A. Well, yeah.

3 Q. Hours?

4 A. Yeah.

5 Q. I mean, you talked -- did you give a statement  
6 to the police about 2:00 o'clock in the morning; right?

7 A. Yes, sir.

8 Q. So, you're up all that time, through, at least,  
9 2:00 o'clock?

10 A. Yes, sir.

11 Q. Were you allowed into the apartment shortly  
12 after giving the statement to the police?

13 A. Not shortly. Not shortly. It was a while after  
14 I gave my statement before we went back into the  
15 apartment. Because we all kind of hung around outside.  
16 No one really wanted to even go back up there.

17 Q. Eventually, you go back in, and basically you  
18 guys pack up and move out; right?

19 A. Yes, sir.

20 Q. Okay. That's when you found this bullet in your  
21 clothing?

22 A. Yes, sir.

23 Q. Now, was that bullet a fired bullet or not  
24 fired?

25 A. It was a slug.

1 Q. It was a slug from the firing that had occurred  
2 before?

3 A. Yes, sir.

4 Q. By the way, when you say you were leaving there,  
5 you had heard the three shots right there and you were  
6 real close by. As you're running away, did you hear more  
7 shooting?

8 A. No, sir.

9 Q. Never did?

10 A. No, sir.

11 Q. When you come back in the police car and you're  
12 outside the apartment complex has a crowd gathered out  
13 there?

14 A. Yes, sir.

15 Q. People from all the neighbors' apartments and  
16 all?

17 A. Yes, sir.

18 Q. And people were talking about what happened?

19 A. Not as far as I know. We weren't discussing  
20 between other and us what had happened. I was talking to  
21 my mother. But I couldn't tell you what anybody else was  
22 saying.

23 Q. Do you know who Celeste Palau is?

24 A. No, sir.

25 Q. You had no idea who she was?

1 A. No, sir.

2 Q. If a person was standing next to you named  
3 Celeste Palau, you wouldn't have any idea?

4 A. No, sir.

5 Q. Okay. So, you never had a conversation with  
6 Celeste Palau, that you know of?

7 A. No, sir.

8 Q. Okay. Do you know who Tracey Rich- --

9 A. Troy?

10 Q. I'm sorry?

11 A. Troy.

12 Q. I think you might be ahead of me here.

13 Tracey Richards? Yeah, Tracey Richards. Do you  
14 know who she is?

15 A. No.

16 Q. I'm sorry?

17 A. No.

18 Q. You don't know who she was?

19 A. No.

20 Q. Were friends of your mother's around there in  
21 the evening to help your mother?

22 A. Pack.

23 Q. Just friends in general?

24 A. Oh, yes.

25 Q. But you didn't --



1 A. The family was there.

2 A. The family was there.

3 And the people were talking about what happened;  
4 right?

5 A. Yeah.

6 Q. And, I mean, you made no bones about it, that  
7 A.I. had done this; right?

8 A. I know he did it.

9 Q. Right. And you told these people that he had  
10 done it.

11 A. He did.

12 Q. When you told them, you -- I mean, you told them  
13 everything. You told them about the fact you all were  
14 playing basketball?

15 A. Yes, sir.

16 Q. And you told them about the fact that there had  
17 been a disagreement over this marijuana or the weed;  
18 right?

19 A. Yes, sir.

20 Q. And you told them about hearing the shots and  
21 running from the scene?

22 A. Yes, sir.

23 MR. BROOKS: The Court's indulgence, please.

24 THE COURT: Of course.

25 ///

1 BY MR. BROOKS:

2 Q. During the time that you guys were hanging out  
3 in your apartment, when you guys were just kicking it in  
4 the apartment, was anyone else coming and going from the  
5 apartment?

6 A. No, sir.

7 Q. Did anybody else at all come in there?

8 A. Not that I'm aware of, no, sir.

9 MR. BROOKS: Okay. Thank you for your  
10 testimony.

11 THE WITNESS: You're welcome.

12 MR. BROOKS: I'll pass the witness.

13 MR. KANE: No redirect, Your Honor.

14 THE COURT: No redirect?

15 You may step down, sir. Thank you very much.

16 Who's next?

17 MR. KANE: Call Dr. Rexene Worrell.

18 THE COURT: I think while the witness is coming  
19 forward, for the record, if there's anyone in the  
20 courtroom who anticipates being called as a witness, they  
21 should, of course, leave the courtroom.

22 RESENE WORRELL:

23 having been first duly sworn through the clerk to tell the  
24 truth, the whole truth, and nothing but the truth, was  
25 examined and testified as follows:

1 THE CLERK: Would you please state your name and  
2 spell it for the record.

3 THE WITNESS: Rexene Worrell, R-e-x-e-n-e  
4 W-o-r-r-e-l-l.

5 DIRECT EXAMINATION

6 BY MS. PANDUKHT:

7 Q. What is your profession?

8 A. I'm a physician.

9 Q. And how long have you been a physician?

10 A. Ten years, nine years.

11 Q. Where are you currently employed?

12 A. Currently, I am self-employed. I have the Las  
13 Vegas Autopsy Service. I am also a contract employee with  
14 Nye County as a medical examiner, and I'm doing the cases  
15 for anything south of Tonopah. But I'm also employed as  
16 an assistant professor at the medical school.

17 Q. Could you describe your education, training, and  
18 experience that qualifies you to testify today?

19 A. Yes, ma'am.

20 I did four years of college. After that I went  
21 to four years of medical school. And after medical school  
22 you pick your residency that you're going to, so I did a  
23 residency in pathology. And during that residency,  
24 forensic pathology became an interest. So, after I  
25 finished my residency, I did two years of forensic

1 pathology. And, at that point, I took an appointment in  
2 Las Vegas.

3 Q. Now, where were you working when you worked in  
4 Las Vegas?

5 A. I worked at the Clark County Coroner's Office up  
6 until a year ago, when I went out on my own.

7 Q. How many years did you work at the Clark County  
8 Coroner's Office, then?

9 A. Three years.

10 Q. Three years.

11 And during the course of your career,  
12 approximately how many autopsies have you performed?

13 A. I've done over a 2000 cases. Now, not all of  
14 those are autopsies, but the majority of them were  
15 autopsies.

16 Q. All right. And have you testified previously as  
17 an expert witness?

18 A Yes, I have.

19 Q. In what courts, and when was the first time?

20 A. The first time was in Chicago, in the Illinois  
21 Court System; there were several times there. I've  
22 testified in Clark County Court System, as well as the Nye  
23 County Court System multiple times.

24 Q. Now, of course, I'm assuming that you are a  
25 licensed medical doctor in the state of Nevada?

1 A. Yes, I am.

2 Q. Do you have any other particular certifications  
3 or licenses?

4 A. No.

5 Q. Is there anything special that is required in  
6 order to be a coroner?

7 A. Um -- you mean, a medical examiner?

8 Q. Yeah.

9 A. A coroner is different than a medical examiner.  
10 A coroner is not a physician.

11 Q. Medical examiner.

12 A. Okay, a medical examiner.

13 It is required that you do a forensic pathology  
14 residency.

15 Q. And, other than that, which you have of course  
16 done, are there any other qualifications that the jury  
17 should know about?

18 A. No.

19 Q. Now, you have testified approximately how many  
20 times as an expert witnesses?

21 A. Between 50 and 100.

22 MS. PANDUKHT: Your Honor, at this time I move  
23 to offer this witness as an expert medical examiner.

24 MR. BROOKS: No objection.

25 THE COURT: She will be so qualified.

1           You may proceed.

2       BY MS. PANDUKHT:

3           Q.     Now, while you were employed at the Clark County  
4       Coroner's Office, did you have occasion to perform three  
5       autopsies on or about May 28th, 2003?

6           A.     Yes, I did.

7           Q.     Did you perform autopsies on the bodies of Jason  
8       Moore, Dajon Jones, and Derrick Jones on that date, May  
9       28th, 2003?

10          A.     Yes, I did.

11          Q.     Which was the autopsy that you performed first?

12          A.     Is it -- can I refer to my notes, my autopsy  
13       notes for the time?

14          Q.     Would they assist you in testifying, in order to  
15       be able to refer to your notes occasionally?

16          A.     Yes, it will.

17               MS. PANDUKHT: Is there an objection from the  
18       Defense?

19               MR. BROOKS: No objection.

20               THE COURT: You may do so.

21               THE WITNESS: The first case I did was Jason  
22       Erik Moore.

23       BY MS. PANDUKHT:

24          Q.     Does it state what time did you that?

25          A.     I began this case at 8:30 in the morning.

1 Q. And when did you complete that particular  
2 autopsy?

3 A. This one would have been completed approximately  
4 1:30, because I started the second one at 1:30.

5 Q. Now before we actually get into --

6 A. Oh, I'm sorry 11:30. I'm not reading my  
7 handwriting.

8 Yes, I completed it, and at 11:30 I started the  
9 second one.

10 Q. Generally, who is actually present during an  
11 autopsy?

12 A. During an autopsy we have an ancillary staff  
13 that assists us, which would consist of an autopsy tech  
14 working with me, who's assigned just to work with me. We  
15 also have a circulator that will handle any fluids that I  
16 withdraw, labeling to go to the lab. Also at the autopsy  
17 in the cases of a homicide, such as these, oftentimes the  
18 homicide detectives are present.

19 Q. Were homicide detectives present on this date?

20 A. I don't recall. Right offhand, I don't recall.

21 Q. What about crime scene analysts?

22 A. They were present in the opposite room  
23 processing any cases, but not actually present when I'm  
24 doing the autopsy.

25 Q. Do they take any photographs before you perform

1 the autopsy?

2 A. Yes. They take their own set of photographs, as  
3 well as our employees at the coroner's office will take  
4 photographs.

5 Q. And could you tell us about the external  
6 examination that you conducted on the body of Jason Moore?

7 A. Are you asking me to go into the findings?

8 Q. Yes. What were your significant findings during  
9 your external examination?

10 A. The external examination of Jason Moore revealed  
11 that there were three gunshot wounds, one of them being on  
12 the back of the head. Another one on the right side of  
13 his neck. And the third one being to the back of the  
14 right shoulder.

15 Q. And could you describe, first, the injury, or  
16 the wound, to the back of the head?

17 A. This entered the back -- the left back of the  
18 head, which I call the area -- I split the head, the back  
19 of the head in half; and then there's the right half and  
20 the left half. So, this would have been on the left back  
21 of the head. And then it exited the body on the left  
22 forehead. So, the exit wound was a little bit higher, but  
23 it did go in the back of the left and enter the left  
24 front.

25 Q. And do you have an opinion as to whether or not



1 that wound would have been fatal?

2 A. Yes, that would have been a fatal wound.

3 Q. Why would that be?

4 A. The bullet passed through the brain and did a  
5 major amount of damage to the brain substance when it went  
6 through.

7 Q. What about the second gunshot wound?

8 A. The second wound entered the right side of the  
9 neck, and it exited the left upper chest, neck area. It's  
10 kind of like a high left upper chest. So, it went in the  
11 right neck up the chest is.

12 Q. Do have you an opinion as to whether or not that  
13 second gunshot wound would have been fatal?

14 A. Um -- let me -- may I correct what I said first?  
15 I mean, I pointed and I don't want to deceive the jury.

16 Q. Certainly.

17 Q. It was actually the left chest to the back, not  
18 the front. I was pointing to the wrong area.

19 And, yes, I believe this would have been a fatal  
20 wound.

21 Q. Why is that?

22 A. When it passed through the neck, it transected  
23 the trachea. And the trachea is that big tube that we  
24 breath through. So, a lot of blood would have been  
25 dumping or pouring into his lungs from that wound. And

1 when we breath, air needs to go through that to get to the  
2 longs, so that would have been disrupted.

3 It also, as it passed further and went through  
4 the top of the left lung, that would have caused major  
5 hemorrhage in to the left chest cavity, which we, in deed,  
6 found in autopsy.

7 Q. And what about the third gunshot wound?

8 A. The third gunshot wound was to the right back of  
9 the shoulder. It crossed over and broke the spinal cord,  
10 or the spinal column, the vertebra -- comes a fracture of  
11 the spinal vertebral -- the vertebral bodies -- and  
12 transecting his spinal cord. It then ended up on the left  
13 side of the neck, where I recovered a bullet. It did not  
14 exit the body.

15 Q. With the first two gunshot wounds, did that  
16 bullet exit the body?

17 A. Yes.

18 Q. But not with the third gunshot wound?

19 A. Correct.

20 Q. And where, again, did you locate that bullet?

21 A. This one was in the left back of the neck.

22 I just want to verify that on the picture that  
23 what I wrote was correct.

24 The left back of the neck, correct.

25 Q. Now, was that actually -- how would you describe

1 that bullet?

2 A. Um -- a large caliber, deformed, copper-jacketed  
3 bullet was recovered from the musculature of the left  
4 neck.

5 Q. Would that third gunshot wound have been  
6 considered fatal?

7 A. Perhaps. He definitely would have been  
8 paralyzed, because of the transect of the cord. And  
9 untreated, of course, it would have been fatal. He,  
10 perhaps, could have survived this if it was an isolated  
11 wound and he had received medical treatment.

12 Q. Did you also conduct an internal examination of  
13 the body of Jason Moore?

14 A. Yes, I did.

15 Q. What were the significant findings of your  
16 internal examination?

17 A. The findings on the internal exam were  
18 associated with the gunshot wounds. I was looking for the  
19 paths that they took, what organs had they injured, the  
20 effects that they have on those organs, the hemorrhage  
21 that it caused. And then I also, on every autopsy, look  
22 for natural disease and abnormalities that perhaps could  
23 be associated with the person's death. And he had no  
24 other injuries or disease processes that could have  
25 contributed to his death.

1 Q. So, based on both of your internal and external  
2 examinations on the body of Jason Moore, do you have an  
3 opinion as to the cause of death?

4 A. Yes, I do.

5 Q. What is that opinion?

6 A. He died of multiple gunshot wounds.

7 Q. And the manner of death?

8 A. Homicide.

9 Q. Did you then conduct a second autopsy right  
10 after that first one?

11 A. Yes, I did.

12 Q. And which body was that on?

13 A. That was on Dajon Jones. Is that the correct  
14 pronunciation? Dajon.

15 Q. And, so, you would have started that, I believe  
16 you said, at 11:30?

17 A. Yes. I started his at 11:30.

18 Q. And when was that autopsy completed?

19 A. That would have been completed right before I  
20 started the third one. And that time was 1:30.

21 Q. Could you describe your external and internal  
22 examination of this body?

23 A. Yes. The external examination on Dajon, he had  
24 a gunshot wound in the left neck, or the left side of the  
25 neck, that exited the back of the head on the right. So,

1 it was a very angled gunshot wound. This transected his  
2 spinal cord at a very high level, right under the base of  
3 the skull, and caused a fracture in the base of the skull  
4 as well. He had a second one on the left neck that exited  
5 out the back of the neck.

6 Q. So, were either of those gunshot wounds  
7 associated with a bullet that you recovered?

8 A. Both of these wounds, there were exit wounds.  
9 He was not holding any bullets.

10 Q. How close were the two gunshots wounds together?  
11 You said they were both on the left neck.

12 A. Yes, they were very close. I think I measured  
13 the closeness.

14 They were within an inch of each other. One was  
15 7.8 inches beneath the top of the head; the other one was  
16 8.4 inches. So, it's very close from the top of the head.  
17 And then one of them was 2.6, or about two and a half  
18 inches to the left of midline; the other one was 2.3. So,  
19 they were very close together.

20 Q. Did you notice anything else about the exterior  
21 of those gunshot wounds on the front of the left neck?

22 A. Yes. There was a stippling pattern around --  
23 covering the -- it's the left. I'm sorry. There was  
24 stippling extending up on his face and around on the neck.

25 Q. Could you explain to the jury what stippling is?

1           A.     Stippling is unburned gun powder that actually  
2 imbeds in the skin when a gun is fired in close proximity  
3 to the skin. And it actually burns or tattoos a pattern  
4 in the skin.

5           Q.     Is there a certain distance that someone has to  
6 be firing that weapon from, in order to get stippling?

7           A.     You know, it's very variable on guns. Some  
8 guns, the stippling will only occur up to, say, 12 inches;  
9 some guns, you'll see stippling up to 18 inches, and I  
10 mean 18 inches from the person that you're firing at.  
11 Others go up 24; some can go even farther. And I,  
12 generally in the literature that I have reviewed and the  
13 cases that I have done in my experience, I say that if I  
14 is see stippling, that gun was within 24 inches of that  
15 body.

16                 Now, in this case, I can't say which wound the  
17 stippling was caused from, or if it was caused from both;  
18 if they were, you know, fired at the very same time from  
19 the same distance. So, I'd have to assume or have to say  
20 it's one or the other or both. I can't say, but there is  
21 stippling.

22           Q.     Was that because of how close the two wounds  
23 were together?

24           A.     Correct.

25           Q.     And how extensive was this stippling pattern

1 around those gunshot wounds?

2 A. It extended 3.7 inches above and 4.5 inches  
3 below. So, you have seven -- an eight-inch spread of  
4 stippling from the center of those two wounds. And I  
5 measured it from the center of them, instead of the wound,  
6 because I don't know which wound is the wound with the  
7 stippling.

8 Is everybody following me here?

9 Okay. And then the spread side to side was five  
10 and a half inches, or just under five and a half inches  
11 this way, was the spread.

12 Q. So, based upon your experience, would that be  
13 considered a small or a great amount?

14 A. Wow.

15 Q. Just to you give us an idea.

16 A. Well, it's stippling. I really can't make a  
17 comment on that.

18 Q. And how about -- do you have an opinion as to  
19 whether or not they were firing at close range?

20 A. Well, to me, less than 24 inches is close range.

21 Q. Okay. Now, would either of the gunshot wounds  
22 the neck have been fatal in this case?

23 A. Yes, they were.

24 Q. One or both?

25 A. Um -- I would say both of these were fatal.

1 Q. And you said that one of the wounds had actually  
2 transected the spinal cord. The other wound?

3 A. The other one went through the external and  
4 internal jugular veins. And those are major vessels; even  
5 though they're veins, they're major vessels in the neck,  
6 and you can bleed to death from those.

7 Q. Based on upon your examination, did you have an  
8 examination as to the cause of death?

9 A. Yes. Also in Dajon, I found no other illnesses  
10 or injuries in the body that could be related to him  
11 dying. And I determined his death to be due to multiple  
12 gunshot wounds.

13 Q. And did you make an opinion as to the manner of  
14 death?

15 A. Yes. Homicide.

16 Q. Did you then performed a third autopsy after the  
17 second one?

18 A. Yes, I did.

19 Q. You began that autopsy -- that would be at 1:30?

20 A. 1:30, correct.

21 Q. When did you complete the third autopsy?

22 A. I believe this one went well into late  
23 afternoon, about 5:00 o'clock.

24 Q. And this autopsy was performed on whom?

25 A. On Derrick Morgan Jones.



1           Q.     Could you describe your significant findings  
2 with regard to that autopsy?

3           A.     Yes. We had seven wounds on Mr. Jones, and the  
4 first one was to the forehead and it exited -- it was  
5 along the midline, or in the midline. And it exited the  
6 left forehead, so that was pretty close -- it is an exit,  
7 pretty close.

8                     The next one was in front of the right ear, and  
9 that bullet ended up -- he was holding that bullet. And,  
10 by "holding," I mean that that bullet remained in the  
11 body. It did not exit the body, but I recovered it from  
12 the tissues in the body. And that was in the left neck,  
13 upper chest neck.

14                    The next wound was to the left ear, and it was a  
15 through -- what we call through-and-through of the left  
16 ear lobe. It just entered and went right back out.

17                    The next one was to the left shoulder, the back  
18 on the left shoulder. And that was a graze wound. And  
19 what I mean by that, it didn't really enter the body,  
20 other than just graze the surface. It took off the  
21 surface skin and the fatty tissue, but it didn't actually  
22 enter body cavities.

23                    The next wound was in the right upper back. And  
24 that one entered the right -- or exited the right midback.  
25 And this wound covered -- or did not enter a body cavity.

1 It just kind of went through -- it entered the back and  
2 went through the fat and the muscle tissue, and then  
3 exited the back. So, it didn't really go into a body  
4 cavity; it just stayed in the fat and muscle.

5 He then had a wound on the back of his right  
6 hand that exited the front of the hand. And the front of  
7 your hand is the palm of the hand, so it went in the back  
8 of the hand and exited the palm. And there was stippling  
9 around this wound, or stippling -- yeah, stippling on his  
10 hand.

11 And then the last wound on Mr. Jones was the  
12 back of the left upper arm. So, this would be your upper  
13 arm. This is the back of your left upper arm. And that  
14 wound came out on the back of the left forearm but the  
15 characteristic -- and I say that, just because one's  
16 higher than the other -- but the characteristics of this  
17 wound -- and it's very seldom that we cannot tell which is  
18 the entrance and which is an exit wound, and that's what  
19 we're trained to do -- but in this case I was unable --  
20 they were -- the characteristics were so close, I could  
21 not, to a reasonable degree of medical certainty,  
22 determine which one was the entrance and the exit wound on  
23 this arm, this non-lethal arm wound. I just could not  
24 actually say which one it was. Nor the position. I  
25 couldn't line them up to figure out the position.

1 Q. So, there were entrance wounds, there were  
2 gunshot wounds that entered to the back of the body of  
3 Derrick Jones?

4 A. Correct.

5 Q. How many entered from his back or -- and by the  
6 "back," I mean the back of his entire body?

7 A. Including the hand and arm?

8 Q. Yes.

9 A. Four.

10 Q. Four gunshot wounds entered from the back of  
11 Derrick Jones's body?

12 A. Correct.

13 Q. Which of those seven gunshot wounds would have  
14 been considered fatal, and why?

15 A. The first one I described to the forehead that  
16 went in the head, that did significant amount of damage to  
17 the underlying brain with hemorrhage, that would have been  
18 a fatal wound. I believe the second one that went in the  
19 front of the right ear -- that one did significant amount  
20 of damage to the neck. That would have been -- and the  
21 structures in the neck, and the neck is very concentrated  
22 with a lot of important veins and vessels. That one would  
23 have been fatal.

24 The ear lobe would have been irritating, but not  
25 fatal.

1           The graze, the fourth one I told you about,  
2 would not have been fatal.

3           The fifth wound that went through that fat and  
4 the muscle in back, that would not have been a fatal  
5 wound. The back of the right hand, and the left upper  
6 arm, neither of those would have been fatal.

7           Q. Did you also conduct an internal examination?

8           A. Yes, I did.

9           Q. What were the results of your internal  
10 examination?

11          A. The only thing I found -- and I didn't mention  
12 the other -- he most likely was a smoker, and there was no  
13 other significant disease or injuries.

14          Q. Do you have an opinion as to the cause of death?

15          A. Yes.

16          Q. What was that opinion?

17          A. He died of multiple gunshot wounds.

18          Q. And the manner of death?

19          A. Homicide.

20          Q. Is it also customary for you when you perform an  
21 autopsy to run what you called a toxicology?

22          A. Yes.

23          Q. Could you briefly, first, tell the jury what a  
24 toxicology is?

25          A. Toxicology is when we obtain fluids from the

1 body, various fluids, sometimes just blood, sometimes  
2 vitreous fluid. And we run tests on it to determine if  
3 there's any poisons or toxins or abnormal blood levels of  
4 certain substances that we're looking for.

5 We send the fluids to a lab, and they test it  
6 for us.

7 Q. What were the results of the toxicology tests,  
8 with regard to each of the three bodies?

9 A. All three of these gentlemen were negative for  
10 toxicology, except there was evidence of marijuana in  
11 their system. And marijuana shows up for -- up to 30  
12 days. And we don't quantitate it to tell you how much is  
13 there, just the fact that it's there.

14 MR. KANE: The Court's indulgence.

15 MS. PANDUKHT: Yes. Yes.

16 BY MS. PANDUKHT:

17 Q. And, you know, when you were speaking about  
18 first, second, third gunshot wounds, you were going in  
19 that order, is that an order that you assigned to the  
20 wounds?

21 A. Yes, it is.

22 Q. So, you would have no idea what order the  
23 gunshots were actually fired into the bodies?

24 A. Very sel- -- I mean once in a while you can  
25 tell. But I always number my gunshot wounds or injuries

1 from head to toe, regardless of what was first and what  
2 was second. Usually, we have no idea the order.

3 So, as they're laying on the stretcher, I go  
4 from head to toe, so I don't miss anything. That's the  
5 order I dictate, that's the order I number them;  
6 everything goes from head to toe.

7 MS. PANDUKHT: Thank you, Ms. Worrell. I have  
8 no further question.

9 I'll pass the witness.

10 THE COURT: Cross-examination.

11 MR. BROOKS: I have a few brief questions

12 CROSS-EXAMINATION

13 BY MR. BROOKS:

14 Q. You testified that all three individuals were  
15 positive for marijuana?

16 A. I believe so.

17 Q. And were all three individuals negative for  
18 alcohol?

19 A. Let me check my reports to make sure.

20 Derrick Jones, negative, except for marijuana.

21 Dajon Jones, negative, except for marijuana. No  
22 alcohol.

23 And Jason Moore, negative for everything  
24 including alcohol, except for marijuana.

25 Q. I'm sorry? Jason was negative for marijuana?

1 A. They all three had marijuana, and nothing else.

2 Q. Okay. Now, you have no assigned values of any  
3 kind to marijuana, here?

4 A. No.

5 Q. No metabolite value?

6 A. No.

7 Q. All right. Do you have any kind of  
8 distinguishing factor between metabolized marijuana or  
9 non-metabolized marijuana?

10 A. No. We don't do that at the coroner's office.

11 Q. You used to, at one time?

12 A. Not that I -- not since I worked -- I mean, not  
13 while I was working there. It's never a cause of death,  
14 and it's just not quantitated. They just qualitate it.

15 Q. Is there a cutoff between when you decide there  
16 is marijuana and not marijuana?

17 A. I don't know those cutoff values.

18 Q. But somewhere, someone has a cutoff value?

19 A. I can't answer that. You'd have to ask the lab,  
20 one of the toxicologists in the lab. I'm just not aware  
21 of whether it's there or no.

22 Q. Basically, you just rely on a report provided to  
23 you by a lab?

24 A. Quest Laboratories, correct.

25 I don't believe these were sent out. Quest does

1 all of our laboratories, but I'll check Quest.

2 Q. Is that Q-u-e-s-t?

3 A. Correct. Quest Diagnostics.

4 Q. Is the toxicology being done from blood or  
5 urine?

6 A. Blood.

7 Q. And do you sometimes do it from eyes? The  
8 vitreous fluid.

9 A. You know, I can do a tox on eyes. Frequently,  
10 if it's an auto accident, I'll do an alcohol. But when we  
11 do vitreous fluid, we're looking for electrolyte studies;  
12 you know, the potassium, the chloride, sodium. Glucose is  
13 done off the fluid of the eyes. But, generally, tox is  
14 not done unless you can't get blood.

15 Q. You've also testified that all three individuals  
16 died by what you called homicide.

17 A. Correct.

18 Q. What does had mean, exactly.

19 A. Homicide, to a forensic pathologist, is strictly  
20 one person taking the life of another. It makes no  
21 meaning of intent or mission. It's just strictly one  
22 person causing the death -- yeah, cause the death of  
23 another.

24 Q. So, it has nothing to do with a legal conclusion  
25 about whether it's first-degree murder, second-degree



1 murder, voluntary manslaughter, or anything like that?

2 A. Absolutely not.

3 MR. BROOKS: Okay. Thank you.

4 Pass the.

5 MS. PANDUKHT: I just have a couple of redirect  
6 questions.

7 REDIRECT EXAMINATION

8 BY MR. PANDUKHT:

9 Q. You had stated that marijuana stays in your  
10 system for up to 30 days?

11 A. Correct.

12 Q. How long does alcohol stay in your system?

13 A. Wow.

14 Q. Is it as long others marijuana?

15 A. I don't believe so. No.

16 Q. And if somebody was drinking alcohol on May  
17 26th, would that still be in their system two days later  
18 on May 28th?

19 A. Perhaps if they had a lot of alcohol, it might  
20 be there. I -- the clearance rate, it's linear. I just  
21 really can't answer that --

22 Q. Okay.

23 A. -- without knowing the amount that they took in.

24 MS. PANDUKHT: No further questions.

25 ///

## 1 RECROSS EXAMINATION

2 BY MR. BROOKS:

3 A. Well, just to clarify that -- I'm sorry. You  
4 did these autopsies on the 28th; correct?

5 A. Correct.

6 Q. Okay. And what's time -- it the afternoon,  
7 wasn't it?

8 A. From morning till afternoon. All day.

9 Q. So, let's assume a person was drinking, say,  
10 three beers on the 26th in the evening, sometime between,  
11 say 6:00 or 11:00 at night. Would you anticipate that the  
12 beer would still be there in the body and show up two days  
13 later when the autopsy is done?14 A. Not if they were alive, no. Three beers, two  
15 days later, no. If they had been -- if they died shortly  
16 after drinking those and I did the autopsy three days  
17 later, yes; I would expect to see it. But in a live  
18 person, no; three beers would have been --19 Q. Okay. So, if they were drinking beer between  
20 6:00 and 11:00, say on the 26th. Let's assume they died  
21 at approximately 11:45 12:00 o'clock that night, it should  
22 still be there?

23 A. I would expected to see something, yes.

24 MR. BROOKS: All right. Thank you.

25 THE COURT: Anything further, Ms. Pandukht?

1 MS. PANDUKHT: No, Your Honor.

2 THE COURT: This witness may step down.

3 MR. KANE: May we approach, Your Honor?

4 THE COURT: Certainly.

5 (Sidebar discussion held off the record.)

6 THE COURT: Ladies and gentlemen of the jury  
7 we're going to take our overnight recess. We'll be in  
8 recess until tomorrow at 8:30.

9 (The Court admonishes the jury, and the jury  
10 panel exits the courtroom for the evening recess.)

11 THE COURT: Please be seated, Counsel.

12 I learned at the last break that there is a  
13 possibility that was what I obligated -- at least I  
14 thought I was obligated to attend -- tomorrow afternoon  
15 may not be happening. If that's the case, we'll be  
16 continuing this trial into the afternoon. I know that we  
17 promised the jury that we would not do that, but I  
18 particular say that, because I want the State to be  
19 prepared. I'll know first thing in the morning. I hoped  
20 to know before we convened -- before we adjourned this  
21 evening. But I'll know first thing in the morning. f

22 So, if you need to sort of be thinking about the  
23 order, if you're proceeding with trial, keep that in the  
24 back of your mind.

25 MR. KANE: We'll have plenty off witnesses

1 standing by.

2 MS. PANDUKHT: Yes.

3 THE COURT: I would also like to note to those  
4 folks who are here -- and I have no way of knowing who  
5 are -- who belongs to who. I do know, or I assume, at the  
6 very least, that we have a number of victim family members  
7 here in the courtroom, as well as the defendant's family  
8 members.

9 This is to say, at the very least, an  
10 extraordinary difficult situation for all of you.  
11 However, I have been alerted by my bailiff of some conduct  
12 that I am concerned about. And if I find that anyone is  
13 not observing what is appropriate courtroom conduct, you  
14 will be removed from the courtroom and not allowed back in  
15 the courtroom.

16 And "appropriate courtroom conduct" means that  
17 you pay attention to the witnesses who are testifying, not  
18 to anyone else in the courtroom, unless one of our  
19 attorneys speaks to you, and they would, of course, speak  
20 to you directly. And they woman of course speak to you  
21 directly.

22 There is no contact in any form allowed with the  
23 defendant. And I just want all parties to make that very  
24 clear, or understand that you can't have that conduct.  
25 And if I find that there is any inappropriate conduct that


1 deals with a witness who testifies in this case, I will  
2 similarly take appropriate action. And that would be far  
3 more severe than just removing someone from the courtroom.

4 And, with that in mind, we will stand in recess.

5 (Whereupon, court adjourned at 6:00 p.m.)  
6

7 \* \* \* \* \*

8  
9 I hereby certify that the foregoing is a true,  
10 accurate and complete transcription of my stenographic  
11 notes taken at the time of the aforementioned trial  
12 proceedings.  
13

14   
15 JEAN M. DAHLBERG, RPR, CCR 759, CSR 11715

16 Dated: December 9, 2005  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 A. K-o-k-i-t-h-a.

2 Q. And when you were living there, how many  
3 bedrooms were there?

4 A. Three.

5 Q. Did anyone have their own bedrooms? How did  
6 that work?

7 A. My mother and my sister had their own room, and  
8 us boys shared the master bedroom.

9 Q. By "us boys," you and your brother?

10 A. And Derrick and Jason.

11 Q. Now, how long had you been living in that  
12 apartment?

13 A. About a month.

14 Q. Did you also know someone at that apartment by  
15 the name of A.I.?

16 A. Yes, ma'am.

17 Q. Is A.I. in the courtroom today?

18 A. Yes, ma'am.

19 Q. Could you point him out and describe an article  
20 of clothing he is wearing today?

21 A. Black button-up shirt and a red tie.

22 MS. PANDUKHT: May the record reflect the  
23 identification of the defendant?

24 THE COURT: The record will so reflect.

25 ///

1 BY MS. PANDUKHT:

2 Q. Did you know the defendant by any other name,  
3 other than A.I.?

4 A. No, ma'am.

5 Q. Did you know what "A.I." stood for?

6 A. A guess, but I never actually knew.

7 Q. What did you guess it stood for?

8 A. Allen Iverson.

9 Q. And who was Allen Iverson?

10 A. A basketball player.

11 Q. Now, at the time that you knew the defendant,  
12 how did you know him? From where?

13 A. The apartment complex. When I first moved  
14 there, he was there already at the house.

15 Q. Did he live in the same apartment complex you  
16 guys did?

17 A. I'm pretty sure he did. He was in the building  
18 every day.

19 Q. Do you know which apartment he lived in?

20 A. No, ma'am.

21 Q. Do you know which building he lived in?

22 A. No, ma'am.

23 Q. Do you know who he lived with?

24 A. His aunt and uncle.

25 Q. Do you know their names?

1 A. No, ma'am.

2 Q. And how did he look, specifically May 26th and  
3 May 27th of 2003, in terms of his hair?

4 A. It was all cut off; and, before, it was longer.  
5 He had braids.

6 Q. Okay. Could you describe how long the braids  
7 were?

8 A. Not that long. About three, four inches.

9 Q. How about, could you point on own head, to kind  
10 of show the jury?

11 A. Compared to mine, about here it stops.

12 Q. Okay. All right. So, you think it goes to  
13 about the top of your shoulder?

14 A. No. Huh-uh.

15 Q. Okay. So, a little above the top of your  
16 shoulder?

17 A. Back of the neck.

18 Q. Back of the neck?

19 A. Yeah.

20 Q. Okay. And how long had you known the defendant?

21 A. About a month.

22 Q. What did you used to do with the defendant?

23 A. Play basketball and just chill.

24 Q. And who used to hang out where the defendant,  
25 other than yourself?



1 A. We all did.

2 Q. But "we all," who do you mean?

3 A. Me, my brother, Derrick, and Jason.

4 Q. Now, I'd like to draw your attention to May  
5 26th, 2003, during the day some time.

6 A. Uh-huh.

7 Q. Did you spend time with the defendant?

8 A. Majority of the whole day.

9 Q. Okay. And could you tell the jury a little bit  
10 about what you did back then, early evening?

11 A. Play basketball.

12 Q. Okay. And when you were playing basketball,  
13 where were you playing?

14 A. In the court in front of the apartment complex  
15 by the front gate entrance.

16 Q. Where you were playing basketball, was it  
17 actually on the grounds of the complex?

18 A. Yeah.

19 Q. Is it on that diagram?

20 A. Yeah.

21 Q. Could you mark an "X" or circle, if it's  
22 labeled.

23 A. (Witness complies.)

24 Q. Is it actually labeled "basketball court"?

25 A. Yes, ma'am.

1 Q. Okay. Now, when you say you were playing  
2 basketball, who actually was playing basketball?

3 A. Me, him, Derrick, and Jason.

4 Q. Okay. Was Dajon there?

5 A. No, ma'am.

6 Q. And do you remember about what time you were  
7 playing basketball?

8 A. No. But it was in the a.m., in the morning  
9 time.

10 Q. Okay. And then did anything unusual happen  
11 while you were playing basketball?

12 A. Before, they had got into a confrontation, a  
13 argument.

14 Q. Who's "they"?

15 A. A.I. and Derrick.

16 Q. What was that about?

17 A. Offer some weed. He said someone told him  
18 that --

19 THE COURT: Who is "he"?

20 THE WITNESS: A.I. said someone told him that  
21 Derrick had stole his weed.

22 BY MS. PANDUKHT:

23 Q. And what happened after that?

24 A. We just started playing basketball; shooting  
25 cans and just started playing basketball.

1 Q. Did it seem as though that had been resolved?

2 A. Yeah.

3 THE COURT: Is that a "yes"?

4 THE WITNESS: Yes, ma'am.

5 BY MS. PANDUKHT:

6 Q. Did the defendant appear to be angry?

7 A. Not at the time; no, ma'am.

8 Q. Did you think anything else of it?

9 A. No, ma'am.

10 Q. Did anything else happen during the basketball  
11 game?

12 A. Yes, ma'am.

13 Q. What?

14 A. We were just playing, and him and Jason, they  
15 had fouled each other -- however it happened -- but they  
16 got into a confrontation over a foul.

17 Q. And, again, who is "they"?

18 A. Jason and A.I.

19 Q. Okay. And what did he -- what did the defendant  
20 say, if anything?

21 A. The defendant told him that he wasn't going to  
22 fight him; he was going to put some slugs in him.

23 Q. And when you're saying the defendant told  
24 someone, who did he tell?

25 A. Jason.

1 Q. What happened after that?

2 A. Nothing. We played -- finished playing  
3 basketball, and then we went to the apartment and just  
4 kicked it.

5 Q. Did the defendant appear to be angry when he was  
6 making that comment to Jason?

7 A. Yes, ma'am.

8 Q. Could you describe how he seemed?

9 A. Serious, like he will do it.

10 Q. How do Jason act?

11 A. Jason didn't take it into much concern. He kind  
12 of brushed it off, didn't pay no attention to it.

13 Q. Did you boys finish the game?

14 A. Yes, ma'am.

15 Q. Did it appear as though anyone was going to go  
16 out and have a fight or anything like that?

17 A. No, ma'am.

18 Q. So, what did you do after the game?

19 A. We went back to the apartment.

20 Q. Which apartment?

21 A. Apartment 2068, our house.

22 Q. Who actually went back to that apartment?

23 A. Me, Derrick, Jason, and A.I.

24 Q. And where was Dajon?

25 A. He came later on that night before all this

1 happened. So, he really wasn't aware of nothing else  
2 going on.

3 Q. Do you remember about when Dajon came back?

4 A. It was dark. I know it was dark.

5 Q. And how long were you at the apartment?

6 A. Between the time he came.

7 Q. Well, I meant, how long were you and Jason and  
8 Derrick and A.I. at the apartment?

9 A. Oh, we were there until the incident. We were  
10 there until the rest of the -- for the remainder of the  
11 day.

12 Q. What were you guys doing in the apartment?

13 A. Just rapping, kicking it, watching TV.

14 Q. Did anybody else come over?

15 A. Huh-uh.

16 Q. Now, were you guys in any particular part of the  
17 apartment?

18 A. In the living room.

19 Q. In the living room. What kind of furniture was  
20 in the living room?

21 A. Two couches and a TV and coffee table.

22 Q. Was there a TV in any other part of the  
23 apartment?

24 A. No, ma'am.

25 Q. Now, you said that Dajon came home.

1 A. Uh-huh.

2 Q. When Dajon came home, where did he go in the  
3 apartment?

4 A. He went to the room and layed down in the bed.

5 Q. Now, the room that you're talking about, is that  
6 the one that you and Derrick and Jason --

7 A. Yes, ma'am.

8 Q. -- all shared?

9 A. Yes, ma'am.

10 Q. And when he went back in there and layed down on  
11 the bed, was he alone?

12 A. Yes, ma'am.

13 Q. Do you know if he shut the door, or not?

14 A. The door was closed.

15 Q. How'd you know?

16 A. How do I know the door was closed? Because A.I.  
17 opened it before he went in.

18 Q. Now, before the incident actually occurred did  
19 A.I. stay inside the apartment the entire time?

20 A. I am not sure. I know when he left, he was  
21 supposed to go to the store. So, I can't tell you where  
22 he went when he left outside the door. I don't know if he  
23 left the apartment complex, or not.

24 Q. Okay. But could you tell the jury about what  
25 happened when he left. So, he left the apartment at some

1 point?

2 A. Uh-huh.

3 Q. Do you know when that was?

4 A. About 10, 15 minutes before the incident.

5 Q. Okay. And what time was the incident, about?

6 A. 11:30, 11:45.

7 Q. Where did he say he was going?

8 A. To the store to get something to drink.

9 Q. How long was gone, about?

10 A. 10, 15 minutes.

11 Q. And then what happened when he came back?

12 A. He said he needed to use the bathroom, so he  
13 went in the room. He opened the door and went in the room  
14 where my brother Dajon was.

15 Q. Then what happened?

16 A. I heard two gunshots and then I heard him say,  
17 "Where's my stuff at?" And then I heard another gunshot.  
18 And then I left. I ran.

19 Q. When you say you heard "Where's my stuff at?"  
20 could you tell who was saying that?

21 A. Yes.

22 Q. Could you recognize the voice?

23 A. Yes, ma'am.

24 Q. Whose voice did you recognize it to be?

25 A. A.I.'s.

1 Q. Now, when you heard all of this, where were you  
2 in the apartment?

3 A. Laying down on the couch.

4 Q. And where was Derrick?

5 A. On the other couch. Him and Jason was on the  
6 smaller sofa, and I was laying on the bigger sofa.

7 Q. What were you guys doing at the time?

8 A. Waiting on him to come back from the store with  
9 the drink.

10 Q. Was the T.V. on?

11 A. Huh-uh.

12 THE COURT: Is it a "no"?

13 THE WITNESS: No, ma'am.

14 BY MS. PANDUKHT:

15 Q. Now, you said that you heard gunshots?

16 A. Yes, ma'am.

17 Q. What did they sound like? How did you know?

18 A. I knew they were gunshots. I could tell.

19 Q. Okay. And how much time was in between the  
20 first and the second one?

21 A. Second apart; like they were fired immediately  
22 after each other.

23 Q. Okay. And what did you do after you heard the  
24 first and second gunshot?

25 A. I ran to the door and opened it. And while I



1 was stand there with the door open, Derrick and Jason was  
2 telling me to get back in the house 'cause they thought  
3 the gunshots was coming from the outside. But I knew they  
4 was coming from in the room.

5 Q. How do you know?

6 A. Because I heard it.

7 Q. Where could you hear that the gunshots came  
8 from?

9 A. From the master bedroom.

10 Q. Was anyone else in that back master bedroom  
11 besides A.I. and Dajon?

12 A. No, ma'am.

13 Q. Was there anybody else inside the apartment,  
14 other than you, Dajon, A.I., Derrick, and Jason?

15 A. No, ma'am.

16 Q. And so what did Jason and Derrick do when you  
17 guys had that conversation about where the shots were  
18 coming from?

19 A. They were hiding behind the couch they were  
20 sitting on, and they got, like, behind it, and was telling  
21 me to get back in the house.

22 Q. Did you get back in the house?

23 A. No.

24 Q. When did you leave?

25 A. After I heard the third shot.

1 Q. And how much time passed between the second shot  
2 and the third shot?

3 A. About two minutes.

4 Q. How did you leave?

5 A. I ran down the stairs.

6 Q. What were you wearing?

7 A. Boxers.

8 Q. Were you wearing any shoes?

9 A. No, ma'am.

10 Q. When you ran down the stairs, are you talking  
11 about outside the apartment or inside the apartment?

12 A. Inside the apartment.

13 Q. Okay. And do you still have that diagram up  
14 there?

15 Could you take that pen and draw the direction  
16 you ran out of the apartment, and where you went.

17 A. So, it was -- I can't really tell.

18 Q. And if you want to use this one first, the  
19 black-and-white copy.

20 A. I guess this is --

21 Q. So, when you were actually at your apartment  
22 could you -- and if could you actually look at this, but  
23 then draw on the color copy.

24 A. I'm assuming that the back of the apartment is  
25 this way, 'cause I ran towards the back.

1 THE COURT: Can you speak up, please.

2 THE WITNESS: I can't really tell on the diagram  
3 where the front and the back of the apartment begins, but  
4 I ran towards the back of the apartment.

5 BY MS. PANDUKHT:

6 Q. Well, let me ask you this, then: Where were you  
7 headed?

8 A. Towards the 7-Eleven on Charleston.

9 Q. Okay. Is Charleston labeled on the diagram?

10 A. No, ma'am.

11 Q. Is it written anywhere on there?

12 A. Oh, yeah. Here it is.

13 Q. Okay. And, so, did you run towards Charleston?

14 A. Yes, ma'am.

15 Q. Do you know if you --

16 A. So, it would be this way. To Charleston and  
17 down to the 7-Eleven.

18 Q. Okay. Now, did you go out -- did you go out the  
19 front entrance or main entrance to the complex?

20 A. No, ma'am. The rear of complex.

21 Q. How did you actually get out of the complex?

22 A. Jumped the fence.

23 Q. How -- what did that part of the fence look  
24 like?

25 A. It was steel rods with the curved tops.

1 Q. Was it locked?

2 A. No. It was a gate -- a fenced area. Didn't  
3 have a way in or out, so the only way out was over it.

4 Q. Okay. So, you didn't actually go through the  
5 gate?

6 A. I hopped the fence.

7 Q. You went over the fence?

8 A. Yes, ma'am.

9 Q. So, you weren't exiting out the front, over  
10 here?

11 A. No, ma'am.

12 MS. PANDUKHT: At this time, I am going to move  
13 State's Proposed Exhibit 2A with the markings of Lazon  
14 Jones.

15 MR. BROOKS: Could I see that for a minute,  
16 please.

17 MS. PANDUKHT: And I'm going to -- after I show  
18 it to Mr. Brooks, I was also going to publish it to the  
19 jury so they could see it, as well.

20 MR. BROOKS: Judge, we have no objection to the  
21 admission of this exhibit being used.

22 THE COURT: It will be admitted.

23 (Exhibit 2A was marked into evidence.)

24 THE COURT: It may be an exhibit, and you may  
25 publish.

1 MS. PANDUKHT: And, just, the only marking on  
2 this diagram that I didn't ask Mr. Jones to actually draw,  
3 there's a little squiggly line underneath Building 5, so  
4 there's really no --

5 THE COURT: A non-related matter, insignificant.

6 MS. PANDUKHT: May I -- is it okay to publish?

7 THE COURT: Yes.

8 BY MS. PANDUKHT:

9 Q. Okay. So, can you see that up on your screen,  
10 also, Lazon?

11 A. Yes, ma'am.

12 Q. Just for the jury's benefit, is this right here  
13 where you said your apartment was?

14 A. Yes, ma'am.

15 Q. And, then, is this where you said you guys  
16 played basketball?

17 A. Yes, ma'am.

18 Q. Now, the line that you drew to actually run out  
19 of the apartment complex, is this that line --

20 A. Yes, ma'am.

21 Q. -- that I'm going over here with my pen?

22 A. Yes, ma'am.

23 Q. And this is East Charleston Boulevard right  
24 here?

25 A. Yes, ma'am.

1 Q. And the 7-Eleven that you ran to, was it out  
2 here, where you have a -- it looks like a little arrow.

3 A. Yeah. It was a right turn I had to make in  
4 order get to the 7-Eleven.

5 Q. Okay. And the front entrance to the actual  
6 complex would be over here?

7 A. Yes, ma'am.

8 Q. Right in this area?

9 A. Yes, ma'am.

10 Q. And you didn't go out that way?

11 A. No, ma'am.

12 Q. Okay. Now, while you were at the apartment  
13 before this all happened, did everything seem okay with  
14 A.I.?

15 A. Yeah.

16 THE COURT: That's a "yes"?

17 THE WITNESS: Yes.

18 BY MS. PANDUKHT:

19 Q. The other thing I forgot to ask you is: Was  
20 your mother or your sister home that night?

21 A. No, ma'am.

22 Q. Okay. They were out that whole night?

23 A. Yes, ma'am.

24 Q. Now, as you were running down the stairs and  
25 away from your apartment, other than the three gunshots

1 you already told us about, did you hear any other  
2 gunshots?

3 A. No, ma'am.

4 Q. And as you were running out, did you notice any  
5 other people around you?

6 A. No, ma'am.

7 Q. Now, you said that you weren't wearing any shoes  
8 and you were wearing boxers. What were you wearing on  
9 top --

10 A. Nothing.

11 Q. -- do you remember?

12 MS. PANDUKHT: He said "nothing"? I couldn't  
13 here it.

14 THE WITNESS: Yeah.

15 BY MS. PANDUKHT:

16 Q. And when you ran over to the 7-Eleven, what did  
17 you do?

18 A. I called the police.

19 Q. How did you call the police?

20 A. 911.

21 Q. What kind of phone did you use?

22 A. The pay phone.

23 Q. And the pay phone at the 7-Eleven?

24 A. Yes, ma'am.

25 Q. And when you called the police, did you actually

1 connect with someone?

2 A. Yes, ma'am.

3 MS. PANDUKHT: At this time, I'm going to move  
4 to admit and play the 911 tape of his phone call.

5 THE COURT: Objection, Counsel.

6 MR. BROOKS: Judge, I simply will make the  
7 objection previously made before the court, to preserve  
8 the issue.

9 THE COURT: And my ruling will be the same.

10 You may, therefore, proceed.

11 THE REPORTER: Mr. Kane, did you want me to  
12 report this?

13 MR. KANE: No.

14 (911 tape being played to the jury.)

15 BY MS. PANDUKHT:

16 Q. Lazon, I wanted to ask you a couple of questions  
17 about what you said to 911. You said that "He was in the  
18 house when I ran." When you ran out the front door of  
19 your apartment, who was left inside your apartment?

20 A. Derrick, Jason, A.I., and my brother.

21 Q. Your brother Dajon?

22 A. Yes, ma'am.

23 Q. You had not seen A.I. leave that apartment  
24 before you ran out?

25 A. No, ma'am.



1 Q. Now, you also mentioned -- when the 911 operator  
2 asked you, "Did you see him with a gun?" you said, "Yes."  
3 Can you explain that?

4 A. I seen him -- after I had called the police, I  
5 was standing on the corner, watching, like, the streets.  
6 And that's what I seen him with the gun running across the  
7 street, away from the apartments.

8 Q. And who do you mean by "he"?

9 A. A.I.

10 Q. So, let me make sure I got this right. It was  
11 after you called the police?

12 A. Yeah. Is when I seen him with the gun.

13 Q. And where on his body was the gun?

14 A. In his hand.

15 Q. Where was he in the apartment complex when you  
16 saw him?

17 A. He wasn't. He was in the middle of the street  
18 crossing from the apartment complex and crossing to the  
19 next street.

20 Q. And which street are you talking about now?

21 A. Johnson.

22 Q. And was this before you actually spoke to any  
23 police officers, in person?

24 A. Yes.

25 Q. Okay. So, this was how long after you called

1 911?

2 A. It was as soon as I hung up, I ran into the curb  
3 and watched. And about three minutes after I hung up, I  
4 seen him running across the street.

5 Q. So, that was after you called 911?

6 A. Yes, ma'am.

7 Q. Did ever see him with a gun -- A.I. with a gun,  
8 before you called 911?

9 A. No, ma'am.

10 Q. Now, of course, when you mentioned "he," A.I.  
11 was one of your home boys, what did you mean by that?

12 A. I thought he was my friend.

13 Q. Now, you said that before the incident A.I. had  
14 the longer braids?

15 A. His hair was longer.

16 Q. Okay. And I also wanted to ask you about  
17 something that happened later on that same morning; so,  
18 now it would be May 27th, you know, after midnight. But  
19 did something happen after the police were done going  
20 through the apartment?

21 A. Something, like?

22 Q. Well, did you and your family go back to the  
23 apartment at some point?

24 A. Yes, ma'am. We were packing our clothes to  
25 leave.

1 Q. Okay. Do you remember when that was?

2 A. I don't know the exact time, but it was after  
3 everyone had cleaned up and left. So, it was just family  
4 there when --

5 Q. And by "everyone," you mean there's no more  
6 police officers --

7 A. No, ma'am.

8 Q. -- or anybody like that there?

9 A. No, ma'am.

10 Q. And could you tell the jury what happened?

11 A. I was picking my pants up to pack them inside my  
12 suitcase, and then a bullet fell out of them.

13 Q. Now, where were those pants?

14 A. In the closet.

15 Q. In what room?

16 A. The master bedroom.

17 Q. Was at that time room that you shared with your  
18 brother?

19 A. Yes, ma'am.

20 Q. And how close is the closet to the door of the  
21 room?

22 A. The closet is directly be- -- when the door  
23 swings open, the closet is directly behind the door when  
24 it swings open.

25 Q. And your pants, were they inside the closet or

1 outside the closet?

2 A. They were in the closet on the floor, but the  
3 door of the closet was open.

4 Q. And when the object fell out of your pants, what  
5 did you do with it?

6 A. We kept it. And then I told my daddy; he called  
7 somebody to come get it.

8 Q. And did somebody come and get that object from  
9 you?

10 A. Yes, ma'am.

11 Q. Do you know who that person was?

12 A. Reggie Weaver (phonetic).

13 Q. Did you know who Reggie Weaver was?

14 A. Yes.

15 Q. Who is he?

16 A. I don't see him in here, but he was the  
17 gentleman that was standing outside.

18 Q. Do you know who he works for?

19 A. Yes, ma'am.

20 Q. Who does he work for?

21 A. The District Attorney.

22 MS. PANDUKHT: Pass the witness.

23 THE COURT: Mr. Brooks.

24 MR. BROOKS: May I have that exhibit again, the  
25 exhibit with his drawing on it, please.

## 1 CROSS-EXAMINATION

2 BY MR. BROOKS:

3 Q. Lazon, my name is Howard Brooks. I'm just going  
4 to ask you some questions to clear up some things I don't  
5 understand. Is that okay?

6 A. No problem.

7 Q. Let me first ask you: This is all new, all this  
8 technology; it's a new courtroom, a new building. Are you  
9 looking at that on your TV screen --

10 A. Yes, sir.

11 Q. -- beside of you there?

12 I put on the screen here, the exhibit that was  
13 admitted by the State, which I believe is identified as  
14 2A, and I want to make sure I understand some things.

15 First of all, using your markings there, you  
16 were living in apartment 2068; is that correct?

17 A. Yes, sir.

18 Q. And that's up there in the corner of this  
19 building that's mark as Building 9 or Building 7?

20 A. Building 9.

21 Q. Building 9, okay.

22 Now, as you look at that picture there,  
23 Charleston Boulevard is at the bottom; correct?

24 A. Yes, sir.

25 Q. Okay. Now, do you know north and south on here?

1 A. Yes, sir.

2 Q. Okay. Is Charleston Boulevard to the north of  
3 where your apartment was?

4 A. From displaying on the screen, it's to the south  
5 of our apartment.

6 Q. Okay. If you walk outside of your apartment,  
7 just walking straight out, you're going to turn right to  
8 go over to Charleston; correct?

9 A. Yes, sir.

10 Q. If you were to go walking outside of your  
11 apartment and you wanted to go downtown, you'd take a  
12 right also, wouldn't you?

13 A. Downtown, like?

14 Q. Just to where the courthouse is. This area down  
15 here.

16 A. I don't know --

17 Q. You're not sure?

18 A. No, sir. I'm not sure.

19 Q. Okay. All right. If you walked outside of your  
20 apartment there and you wanted to go to the Stratosphere  
21 Tower -- do you know where the Stratosphere Tower is?

22 A. Yes, sir.

23 Q. -- wouldn't it be over to your left someplace?

24 A. Yes, sir.

25 Q. Okay. Isn't the Stratosphere Tower to the south

1 of where you lived?

2 A. I'm not sure.

3 Q. Okay.

4 MR. KANE: Judge, object to the form of the  
5 question.

6 And if what we're really trying to do is get  
7 oriented, there is a compass ruler that is visible --

8 THE COURT: Right.

9 MR. KANE: -- to the right of the photograph  
10 that shows that north is downwards towards East Charleston  
11 Boulevard, and east is towards the left of the page.

12 THE COURT: Correct.

13 MR. BROOKS: I don't want to say that. I don't  
14 see that on mine. Are we seeing just, like, one quarter  
15 of it?

16 THE COURT: You're seeing half of it, yeah.

17 MR. KANE: Correct.

18 MR. BROOKS: I see. Okay.

19 So, basically, then the bottom, where Charleston  
20 is, is the north; correct? And then the other direction  
21 to the left is south, okay.

22 BY MR. BROOKS:

23 Q. So, when you came running out of that apartment,  
24 you were running towards Charleston Boulevard; correct?

25 A. I ran down the stairs; so, yes, sir, that would

1 be going towards Charleston.

2 Q. And when you came out of that apartment and came  
3 down the stairs, you then took a right?

4 A. Yes, sir.

5 Q. Correct? Okay.

6 I want to go back and go over a few of the  
7 details here.

8 First of all, how long had you lived in that  
9 apartment?

10 A. About a month.

11 Q. And this was the apartment where your mother  
12 lived?

13 A. Yes, sir.

14 Q. This is the apartment where Dajon lived?

15 A. Yes, sir.

16 Q. Is Dajon also called Day-Day?

17 A. Yes, sir.

18 Q. Dajon was younger than you?

19 A. Yes, sir.

20 Q. At this time, he was 13?

21 A. Yes, sir.

22 Q. Almost 14?

23 A. Yes, sir.

24 Q. And at this time you were 16?

25 A. Yes, sir.



1 Q. And now you're about 18?

2 A. I'm 19.

3 Q. You're 19 years old.

4 Derrick Johnson --

5 A. Jones.

6 Q. -- Derrick Jones -- excuse me -- he was not your  
7 brother?

8 A. No, sir.

9 Q. He had the same last name, but not your brother?

10 A. Yes, sir.

11 Q. Jason Moore was not your brother?

12 A. No, sir.

13 Q. But both Jason and Derrick lived in the  
14 apartment?

15 A. Yes, sir.

16 Q. Okay. Now, if you enter the apartment where you  
17 lived, you enter into the apartment and you enter a  
18 immediately into a den area; correct?

19 A. Yes, sir.

20 Q. And once you enter into the apartment, you can  
21 turn left and there's a bedroom there; correct?

22 A. Yes, sir. The master bedroom.

23 Q. Who lived in the master bedroom?

24 A. Us four boys: Me, Derrick, Jason, and my  
25 brother.

1 Q. Okay. Standing back in the middle of that den,  
2 if you walk straight ahead there's sort of a kitchen and  
3 den area; correct?

4 A. Yes, sir.

5 Q. And all of you all would use that to eat and fix  
6 meals?

7 A. Yes, sir.

8 Q. Standing in the middle of that den, if you take  
9 a right-hand side, you go over and there's a hallway;  
10 correct?

11 A. Yes, sir.

12 Q. And once you get to that hallway, there's a  
13 bathroom; correct?

14 A. Yes, sir.

15 Q. And there's a bedroom to the left?

16 A. And one to the right.

17 Q. And another bedroom to the right?

18 A. Yes, sir.

19 Q. Is that bathroom the only bathroom in the  
20 apartment?

21 A. No, sir.

22 Q. Where's the other bathroom?

23 A. It's located in the master bedroom.

24 Q. Okay. So, your mother lived in one of these two  
25 bedrooms over here?

1 A. Yes, sir; the one to the left.

2 Q. And who lived in the other one?

3 A. My sister.

4 Q. Now, when A.I. came over, your younger brother  
5 was in the master bedroom?

6 A. Yes, sir.

7 Q. The room to the left?

8 A. Yes, sir.

9 Q. And there was a bathroom adjoining that room?

10 A. Yes, sir.

11 Q. Where did you live before you came to live in  
12 this apartment?

13 A. With my father.

14 Q. Is that in Las Vegas or somewhere else?

15 A. It's in California.

16 Q. You never knew A.I. before you came to this  
17 apartment complex?

18 A. No, sir.

19 Q. In fact, you met him once you came to the  
20 complex?

21 A. Yes, sir.

22 Q. And you met him because he hung out there and  
23 you hung out there?

24 A. Yes, sir.

25 Q. And it would be fair to say that during that

1 time that you knew him, during this one month, he was your  
2 friend?

3 A. Yes, sir.

4 Q. It's fair to say he was the friend of Derrick  
5 Jones?

6 A. Yes, sir.

7 Q. It's fair to say he was a friend of Jason  
8 Moore's?

9 A. Yes, sir.

10 Q. It's fair to say he was a friend of your little  
11 brother, Dajon?

12 A. Yes, sir.

13 Q. And all of you guys would hang out together?

14 A. Yes, sir.

15 Q. All of you guys would play basketball together?

16 A. Yes, sir.

17 Q. There were really no big problems between you?

18 A. No, sir.

19 Q. You had no reason to be scared of him?

20 A. No, sir.

21 Q. And you weren't scared of him?

22 A. No, sir.

23 Q. In fact, you trusted him?

24 A. Yes, sir.

25 Q. And that's why you let him into your house;

1 correct?

2 A. Yes, sir.

3 Q. Had you been inside his house?

4 A. No, sir.

5 Q. Now, if you had not been inside his house, how  
6 do you know where he lived?

7 A. I didn't say I knew where he lived. I said I  
8 knew he lived in the apartment complex. I haven't  
9 actually been to his house.

10 Q. Did you ever see your brother or Jason --

11 A. No.

12 Q. -- or Derrick go to his house?

13 A. We never went to his -- neither one of us knew  
14 exactly where he lived. We just all assumed he lived in  
15 the complex, because he was there every day.

16 Q. Okay. Now, Derrick and Jason and Dajon, how  
17 long had they been there in that apartment?

18 A. Dajon and Derrick was there for about the same  
19 time as me. And Jason had only been there for about two  
20 weeks. He came -- he came later, after we all came.

21 Q. On May 26th -- we're talking about late May.  
22 It's warm outside; correct?

23 A. Yes, sir.

24 Q. And it stays light fairly late in the evening?

25 A. Yes, sir.

1 Q. Do you know what time the sun would go down,  
2 approximately?

3 A. No, sir.

4 Q. And I wouldn't know that either, but I'm just  
5 thinking maybe you might.

6 A. No, sir.

7 Q. What time that day had you hooked up with A.I.?

8 A. From the morning when we were playing  
9 basketball.

10 Q. In the morning.

11 Do you know what time in the morning?

12 A. No, sir.

13 Q. Had you played basketball during the morning?

14 A. Yes, sir.

15 Q. You played basketball in the afternoon?

16 A. Yes, sir.

17 Q. Did you all eat lunch together?

18 A. No, sir.

19 Q. Did you all skip lunch?

20 A. No, sir.

21 Q. Did A.I. leave and come back and join you later?

22 A. Yes, sir.

23 Q. So, you guys had been together in the morning,  
24 you left for lunch, and got back together in the  
25 afternoon?

1 A. Yes, sir.

2 Q. That's a fair statement?

3 A. Yes, sir.

4 Q. You describe a confrontation between A.I. and  
5 Derrick; correct?

6 A. No. Jason.

7 Q. Jason. Jason --

8 A. Well, there was a confrontation between both of  
9 them, so which confrontation are you referring to?

10 Q. There was a confrontation between both of those  
11 fellas?

12 A. Yes, sir.

13 Q. They were two separate events?

14 A. Yes, sir.

15 Q. And in one of the confrontations, A.I.  
16 confronted Jason and wanted to know if he had stolen his  
17 marijuana?

18 A. No, sir. That was Derrick.

19 Q. That was Derrick?

20 A. Yes, sir.

21 Q. Okay. What happened in the other confrontation?

22 A. It was over a file.

23 Q. A file? It had nothing to do with a marijuana?

24 A. No, sir.

25 Q. Okay. Neither one of those confrontations ended

1 up being violent?

2 A. No, sir.

3 Q. They were just words?

4 A. Yes, sir.

5 Q. He didn't make you worried about anything?

6 A. No, sir.

7 Q. Were any other people playing basketball with  
8 you guys during these hours?

9 A. No, sir.

10 Q. When did you all stop playing basketball?

11 A. After the game was over.

12 Q. Do you know about what time it was?

13 A. No, sir.

14 Q. Is it fair to say the late afternoon?

15 A. Yes, sir.

16 Q. And the sun is still out?

17 A. I wouldn't say completely out. It's still  
18 daytime, but it's getting towards the late evening.

19 Q. Do you think it's closer to 5:00 o'clock p.m. or  
20 7:00 o'clock p.m. or 9:00 p.m.?

21 A. Between there.

22 Q. I'm sorry?

23 A. Between 5:00 and 7:00.

24 Q. Between 5:00 and 7:00?

25 A. Between that time, yeah.



1 Q. When you break up playing basketball, do all  
2 four of you go to that apartment, 2068?

3 A. Yes, sir.

4 Q. And you all hang out there together?

5 A. Yes, sir.

6 Q. The four of you?

7 A. Yes, sir.

8 Q. Now, Krissy was with you, also; right?

9 A. With me?

10 Q. With you all, the four of you.

11 A. No, sir.

12 Q. There was no girl named Krissy there?

13 A. No, sir.

14 Q. She wasn't hanging out with you in the  
15 apartment?

16 A. Not in the apartment, no, sir.

17 Q. She had not been hanging out with you at the  
18 basketball court, either?

19 A. No, sir.

20 Q. Who is Krissy, by the way?

21 A. She's A.I.'s girlfriend, or whatever.

22 Q. Did she show up outside at some point or inside  
23 at some point?

24 A. In the apartment?

25 Q. Yeah.

1           A.    No.  She left -- I never seen her go in the  
2 apartment.

3           Q.    That evening?

4           A.    No, sir.

5           Q.    Now, you guys are hanging out inside the  
6 apartment, and at some point in time there's -- one of you  
7 is gone.  Dajon is not there; correct?

8           A.    Yes, sir.  He's in the room.

9           Q.    Okay.  And is he sleeping or watching TV, or do  
10 you know?

11          A.    I'm assuming he was asleep, because there was no  
12 TV in the room.

13          Q.    Okay.  The other four -- this is the  
14 remainder -- the four of you guys were out there, still,  
15 in the den; right?

16          A.    Yes, sir.

17          Q.    And that includes A.I.?

18          A.    Yes, sir.

19          Q.    And you guys are hanging out there and watching  
20 TV and rapping, you say?

21          A.    Yes, sir.

22          Q.    And when you say "rapping," you mean just  
23 talking; right?

24          A.    Yeah.  Talking.

25          Q.    I mean, you guys hung out there for several

1 jury assembly area.

2 Who's next, Ms. Clerk?

3 THE CLERK: Badge Number 139, Joseph DeMilliano.

4 THE COURT: Counsel, would you approach?

5 Strike that. Strike that.

6 Sir, you've heard the questions that the others  
7 have been asked. Anything with regards that the attorneys  
8 need to know?

9 PROSPECTIVE JUROR 139: No. Not at this point.  
10 I know --

11 THE COURT: Have you ever --

12 PROSPECTIVE JUROR 139: I'm sorry.

13 THE COURT: Go ahead.

14 PROSPECTIVE JUROR 139: I know it was discussed  
15 earlier in the time period, and that. I mean, I just, for  
16 the record, I don't think it's going to be a conflict, but  
17 we'll be leaving town on the 20th of December, a week from  
18 Tuesday.

19 THE COURT: Let me ask you: Have you ever been  
20 a juror before?

21 PROSPECTIVE JUROR 139: I have not.

22 THE COURT: And anyone close to you ever been  
23 accused of or tried for a crime?

24 PROSPECTIVE JUROR 139: No.

25 THE COURT: Do you have any attitudes or beliefs

1 that would keep you from being fair and impartial, as to  
2 judges, lawyers, the justice system?

3 PROSPECTIVE JUROR 139: Not at all.

4 THE COURT: Mr. Kane or Ms. Pandukht?

5 MR. KANE: Judge, I have no questions for  
6 Mr. DeMilliano, and pass for cause.

7 THE COURT: And Mr. O'Brien or Mr. Brooks?

8 MR. O'BRIEN: Thank you, Your Honor. We pass  
9 for cause.

10 THE COURT: Now, Counsel, would you approach.

11 (Sidebar discussion held off the record.)

12 THE COURT: I'm going to thank and excuse Juror  
13 Number 137, Mr. Buch, and Juror Number 105, Mr. Delbridge.  
14 Thank you both for your time and your attention. Hope to  
15 see you again in another jury selection process.

16 Ms. Clerk, next in order.

17 THE CLERK: Badge Number 145, Loren Willis.

18 Seat number three -- or four, I'm sorry.

19 And Badge Number 147, Beverly Daisley.

20 THE COURT: Welcome to both of you. You've  
21 heard the questions that the attorneys have asked those  
22 who have been seated up here before you.

23 Anything that you think they might need to know  
24 about you?

25 PROSPECTIVE JUROR 145: No.

1 THE COURT: Ma'am?

2 PROSPECTIVE JUROR 147: Other than what's  
3 listed on the questionnaire --

4 THE COURT: Well, they'll get to that, probably.

5 PROSPECTIVE JUROR 147: Okay. No.

6 THE COURT: Have either of you been jurors  
7 before?

8 PROSPECTIVE JUROR 145: No.

9 PROSPECTIVE JUROR 147: No.

10 THE COURT: Have either of you had someone close  
11 to you, or yourself, accused of or tried for a crime?

12 PROSPECTIVE JUROR 145: No.

13 PROSPECTIVE JUROR 147: No.

14 THE COURT: And attitudes, beliefs, biases,  
15 about attorneys, judges, the justice system, that would  
16 affect your ability to be fair and impartial?

17 PROSPECTIVE JUROR 145: No.

18 PROSPECTIVE JUROR 147: No.

19 THE COURT: Mr. Kane or Ms. Pandukht?

20 MR. KANE: Your Honor, I have no questions for  
21 Mr. Willis and we'll pass for cause.

22 THE COURT: Mr. O'Brien or Mr. Brooks?

23 MR. O'BRIEN: Thank you, Your Honor.

24 ///

25 ///

## 1 VOIR DIRE EXAMINATION

2 BY MR. O'BRIEN:

3 Q. Good afternoon, Mr. Willis.

4 A. Good afternoon.

5 MR. O'BRIEN: The Court's brief indulgence.

6 THE COURT: Of course.

7 BY MR. O'BRIEN:

8 Q. Mr. Willis, you had mentioned in your  
9 questionnaire, in some cases -- you gave of a very  
10 thoughtful answer -- in some cases the death penalty may  
11 be appropriate and in some others it may not. Can you  
12 give me a sense of when you believe it might be  
13 appropriate?

14 A. When there's no doubt that the person is guilty  
15 of the crime of murder.

16 Q. Okay. I think they call that a not guilty  
17 verdict.

18 A. When there's no doubt whatsoever.

19 Q. Okay. Anything else?

20 A. No.

21 Q. Any aspects of the person convicted that would  
22 be important to you?

23 A. No. Not really.

24 Q. Would you -- if you, as part of a jury,  
25 convicted a man of intentional murder -- in this case, of

1 course there's several counts, there's several counts of  
2 intentional murder -- in a case where a man may be  
3 convicted of several counts of intentional murder, would  
4 you be able to consider factors of his background and his  
5 life?

6 A. Oh, of course. Yes.

7 Q. Oh. Is there anything regarding your spiritual  
8 life or beliefs that would either make you lean more  
9 towards -- heavily towards the death penalty, or a lesser  
10 sentence?

11 A. No.

12 Q. Just based on what you've heard through this  
13 lengthy process, do you have any inkling what your vote  
14 might be now, sentence-wise?

15 A. No. None whatsoever.

16 MR. O'BRIEN: Thank you very much. I'll pass  
17 for cause, Your Honor.

18 THE COURT: Thank you very much.

19 Ms. Pandukht or Mr. Kane?

20 MR. KANE: No questions for Ms. Daisley. Pass  
21 for cause, Your Honor.

22 THE COURT: Mr. Brooks or Mr. O'Brien?

23 VOIR DIRE EXAMINATION

24 BY MR. O'BRIEN:

25 Q. Good afternoon, Ms. Daisley.

1 A. Good afternoon.

2 Q. How long have you lived in Las Vegas?

3 A. Almost 20 years.

4 Q. And you enjoy our town or --

5 A. Excuse me?

6 Q. Do you like Las Vegas? Do you like living here?

7 A. So far, so good.

8 Q. When asked about our criminal justice system,  
9 you thought that it needed to be revamped. There's a  
10 judge here, tell her what needs to be fixed.

11 THE COURT: Well, that presupposes that she can  
12 do anything about it.

13 PROSPECTIVE JUROR 147: Exactly. Exactly.

14 There -- specifically, I can't say. I just know  
15 that there are things -- be it, due process, timely  
16 fashion, or things getting accomplished. I don't know  
17 what -- as far as some of the restraints of why things  
18 can't get done quicker, more expediently. But those  
19 are -- that's one of the things I'd like to see fixed.

20 BY MR. O'BRIEN:

21 Q. Anything else that you would like to vol- --  
22 after hearing all these questions -- some named, some not,  
23 maybe -- anything else you want to tell us? Anything you  
24 think we need to know?

25 A. Just the fact that I, as well, that I mentioned



1 on my brochure, that I am in a sales, commission-only  
2 capacity, and my livelihood depends on me being there.  
3 So, this would not be a case in which I would feel  
4 comfortable being on and following through with.

5 Q. Well, just -- you know some of these civil  
6 trials can be months long; so, time commitment-wise, I  
7 understand the heavy commitment and the heavy sacrifice.

8 MR. O'BRIEN: Thank you very much.

9 And, Judge, I'll pass for cause.

10 THE COURT: Counsel, will you approach.

11 (Sidebar discussion held off the record.)

12 THE COURT: I am going to thank and excuse Juror  
13 No. 145, Mr. Willis.

14 Thank you, sir, for your time and your  
15 attention. I hope to see you on another jury selection  
16 process.

17 And next in order.

18 THE CLERK: Badge Number 150, Sharon Kirby.

19 THE COURT: Welcome, Ms. Kirby.

20 Anything you think our attorneys need to know  
21 about you, with respect to your ability to be a fair and  
22 impartial jurist?

23 PROSPECTIVE JUROR 150: No.

24 THE COURT: Have you ever served as a juror  
25 before?

1 PROSPECTIVE JUROR 150: No, I haven't.

2 THE COURT: Anyone close to you ever been  
3 accused of a crime or arrested for a crime?

4 PROSPECTIVE JUROR 150: No.

5 THE COURT: How about you?

6 PROSPECTIVE JUROR 150: No.

7 THE COURT: Any attitudes, beliefs or biases  
8 that you that we might need to know about?

9 PROSPECTIVE JUROR 150: No.

10 THE COURT: Ms. Pandukht or Mr. Kane.

11 MS. PANDUKHT: The State has no questions.  
12 We'll pass for cause.

13 THE COURT: Mr. Brooks or Mr. O'Brien?

14 MR. O'BRIEN: The Court's indulgence, Your  
15 Honor.

16 THE COURT: Sure.

17 VOIR DIRE EXAMINATION

18 BY MR. O'BRIEN:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. When asked in your questionnaire whether or not  
22 the death penalty was appropriate in some cases, you  
23 responded, "Probably. It depends on what the crime is."

24 A. Uh-huh.

25 Q. Of course, we're dealing with murder, an

1 intentional murder. And in this case, the allegation  
2 involved three counts of intentional murder. Other than  
3 just what the crime is, what other factors do you think  
4 would make the death penalty appropriate?

5 A. Um -- just the most serious of cases. Murder.

6 Q. So, the most serious cases being murder?

7 A. Uh-huh.

8 Q. Do you think it's most appropriate for the worse  
9 of the worse of murders?

10 A. Well, I guess there's murder.

11 Q. Do you believe the death penalty is appropriate  
12 for all murder cases?

13 A. It depends.

14 Q. And what would that depend on?

15 A. I guess just the situation and what happened.

16 Q. Other than the facts of the incident itself,  
17 what other factors would being important for you in  
18 deciding whether or not to impose the death penalty?

19 MR. KANE: Judge, I repeat an early objection to  
20 that type of question.

21 THE COURT: I will sustain the objection.

22 Rephrase your question, please.

23 BY MR. O'BRIEN:

24 Q. Faced with the decision -- let me back up a step  
25 for a moment.

1           Can you think of another situation where you've  
2           had to make a very weighty decision that I'm sure it's not  
3           comparable to this, but that we could draw some analogies  
4           from?

5           A.     I can't think of anything like this. Just  
6           day-to-day decisions.

7           Q.     What is your feeling about the -- about  
8           psychologists and psychiatrists?

9           A.     Um -- I don't know. I think they help people.

10          Q.     Okay. I mean, you know, some people just think  
11          they're junk science, and the dismiss them out of hand. I  
12          take that that's not your thought?

13          A.     No.

14          Q.     Do you think they can provide people with  
15          insight?

16          A.     I think so.

17          Q.     And do you think they can help explain human  
18          behavior?

19          A.     I think so.

20          Q.     We were talking to another juror earlier before  
21          our lunch break and, you know, it sounded like he had a  
22          pretty tough start in life. And I asked him that question  
23          about, "Do you think regardless of our start in life that  
24          we've all got the chance to make good, or do you believe  
25          it's tougher for some people than others?" What are your

1 thoughts on that? .

2 A. I believe we all have a choice and we can choose  
3 to be good or choose to be bad, choose to improve or make  
4 life better.

5 Q. Two people. Say they both got a  
6 moderately-challenging childhood. Some pretty significant  
7 problems, but nothing horrendous. One person can overcome  
8 those obstacles; the other cannot. Do you think that's  
9 just because the other person doesn't want to?

10 A. I guess it depends if they have it in them.

11 Q. Okay. So, sometimes -- and that's when a  
12 psychologist or a psychiatrist might come in handy?

13 A. I guess they could.

14 MR. O'BRIEN: Thank you, ma'am. Nothing  
15 further.

16 Pass for cause, Your Honor.

17 THE COURT: Counsel will you approach.

18 (Sidebar discussion held off the record.)

19 THE COURT: Ladies and gentlemen, I have some  
20 good news and some bad news. For those of you who are  
21 seated in the jury box, congratulations. You are our  
22 jury. For those of you who remain, I think it is the bad  
23 news. It is such an honor and a privilege for me to be  
24 part of this, and I have never had a honor of sitting on a  
25 jury, for, what I think, are probably obvious reasons.

1 And I think that it is a wonderful, wonderful experience.

2 So, for those of you who won't have that  
3 opportunity, I think -- I think that is the bad new. The  
4 good news is for these guys; and the bad news is you all  
5 have to go home.

6 You'll be excused today from this courtroom.  
7 You'll have to report again to the jury assembly area. I  
8 most certainly hope that we see you again in a jury  
9 selection process.

10 And know that you're here now under subpoena.  
11 If you have an opportunity at sometime to come to our  
12 courthouse when you are not under subpoena, I urge you to  
13 do so. I'm very proud of what we do in this building and,  
14 as a community, this is your courthouse. I'd like you to  
15 see how great these attorneys are, the attorneys that work  
16 here, and how our public system can work.

17 Thank you so much. You may be excused. Thank  
18 you very much.

19 (Prospective jurors exit the courtroom.)

20 THE COURT: Ladies and gentlemen,  
21 congratulations, and welcome to your time as jurors in the  
22 case of the State versus Budd.

23 Everything, of course, as you know, that we do  
24 is done under oath. Everyone is sworn to tell the truth.  
25 Would you now all please stand and take the final juror

1 oath.

2 (The clerk swears the jury panel.)

3 THE COURT: Ladies and gentlemen, the trial will  
4 proceed in a pretty simple manner. The State gets to go  
5 first. That's because they have the burden of proof. We  
6 talked about that a number of times. The State also gets  
7 to go last. That means they sort of have two shots.  
8 Again, that's because they have the burden.

9 Now, during the course of this case, of course,  
10 the State puts on witnesses, the Defense has the  
11 opportunity to cross-examine those witnesses. And at any  
12 given time during that process, these attorneys may have  
13 to enter an objection.

14 I'm guessing that all of you have seen on  
15 television some dramatization of the courtroom scene of  
16 some type. And I think that in those situations,  
17 sometimes the audience, us of those who are viewing the  
18 TV, are lead to believe that attorneys jump up and down in  
19 court making objections because they want to keep  
20 something from the jury, or something of that nature.

21 That's not the case. These attorneys are under  
22 an obligation to make objections to what they believe is  
23 improper -- an improper question, a question that may  
24 elicit an inappropriate answer or something that is  
25 precluded by our Evidence Code or by our case law. And so

1 when they attorneys jump up to enter an objection, I want  
2 you to know that it is because they are obligated to do  
3 so. It is their ethical duty. They are not trying to  
4 interrupt the flow of things or to keep something from  
5 you. These are fine attorneys that we have here and, as I  
6 said, it's their job to make those objections.

7           There may be, sometimes, where some of the  
8 attorneys ask for something to be done outside the  
9 presence of the jury, or as we've done here a number of  
10 times, they will approach the bench and talk to me. If  
11 you don't hear what's being said when they're here at the  
12 bench, that's a good thing, because you're not supposed  
13 to. And that's because they either have simple questions  
14 for me, such as, "You know, what? I drank too much soda  
15 at lunchtime. I really need to take a break." Or, it may  
16 be something very important. You don't need to be  
17 concerned what gets said here at the bench.

18           You don't even need to be concerned if we ask  
19 you to leave the courtroom. Sometimes there are just  
20 evidentiary matters that we need to take up, that the High  
21 Courts have told us needs to be done outside your  
22 presence.

23           Again, as I said, both sides have the  
24 opportunity, the right, to put on witnesses. Both sides  
25 have the right to cross-examine any witness that is on the



1 witness stand.

2 Now, I want to remind you -- we talked about  
3 this a bunch of times -- the Defense does not have to put  
4 on any witnesses. They -- I think they sit in an  
5 important position; and that is, that they don't have to  
6 do anything unless the State proves their case beyond a  
7 reasonable doubt. So, they don't have to ask any  
8 questions, they don't have to put on any witnesses. So,  
9 whatever thoughts or feelings you have about that --  
10 either they're being too quiet or you think they're asking  
11 too many questions of the State's witnesses. That's their  
12 job.

13 Please understand how and why they are doing  
14 these things. Sometimes there are tactical decisions that  
15 they need to make, and that's because they know better  
16 than the rest of us. They know better where they want  
17 their case to go.

18 The red badges that you've just been given by  
19 the second-best bailiff in this courthouse, is a badge  
20 that you will now have to display every single time you  
21 get of your car in the morning until you go back to your  
22 car at night. That badge must always be displayed in a  
23 place where someone approaching you can see it  
24 immediately.

25 No one should talk to you about this case or

1 about what you're doing here, or "Hey, what's going on in  
2 Department 18? I see you're a juror." No one should be  
3 taking to you that way.

4 Again, as I mentioned before we took our lunch  
5 recess, it's entirely possible that you may come and go  
6 into this building or in and about this building -- for  
7 instance, in restrooms and snack areas -- where there are  
8 other employees of these attorneys' offices, other  
9 witnesses, family members. Please be mindful of that.  
10 You shouldn't be talking about this case or let anyone  
11 talk to you. And be careful when you're in public areas.

12 With that in mind, what's going to happened  
13 next, our attorneys will make opening statement, if they  
14 choose. They don't have to. Again, the State will go  
15 first. They always get to go first; they always get to go  
16 last. Because it's their burden. They have the burden of  
17 proof.

18 Anything that these attorney say is not  
19 evidence. The only thing that is evidence is that which  
20 you hear from the witness here on the stand or what I  
21 instruct you is evidence that has been admitted that you  
22 may consider during your deliberation process.

23 If these attorneys make one of those objections  
24 that I talked about, I'm either going to sustain it or I'm  
25 going to overrule it. If I sustain the objection, that

1 means that the question can't be asked. The person who's  
2 on, can't give the answer. And, then, I may even ask you  
3 to disregard what that person has just said. You have to  
4 do that.

5 If I overrule it, then the question is fair  
6 game; the answer will come out. And so long as it's not  
7 subject to further objection, it's okay for you to  
8 consider it. If, for instance, a question is asked and an  
9 objection is made, which I sustain before an answer is  
10 given by a witnesses, you should not speculate as to what  
11 you think the answer will be. Because the only thing that  
12 you can do this case is listen to the evidence from the  
13 witnesses and from any evidence that is admitted, and  
14 render a decision based upon that.

15 I'm going to not say too much more. If you have  
16 any questions about this process, concerns about someone  
17 talking to you, you would communicate that to me through  
18 Mr. Bailiff. Again, we will ignore you, as will any of  
19 these attorneys, if we see you in the hall or at the  
20 theatre or at the grocery store, because we can't talk to  
21 you; and for us to do so might taint your verdict.

22 With that in mind, Mr. Kane, Ms. Pandukht, are  
23 you prepared for opening statements?

24 MR. KANE: Yes, Your Honor.

25 THE COURT: You may proceed.

1 THE COURT: And, again, just so that you are  
2 aware: Remember when I introduced Ms. Brown to you, I  
3 told you that she's the court clerk and she keeps track of  
4 all the evidence. And, in fact, what's happening right  
5 now is that one of our attorneys is speaking to her about  
6 a piece of evidence that he my chose to use during his  
7 opening statement. Remember also, that Ms. Pierpont, who  
8 is seated to my far right, is the one who's in charge of  
9 all the technology. So, if you see any of our attorneys  
10 talking to either Ms. Pierpont or Ms. Brown, that's what  
11 they're doing. It just that simple. They either want the  
12 equipment turned on or they want a piece of evidence, and  
13 that's now what they're doing, Mr. Kane.

14 And I would also ask that all of you understand  
15 that is the only the second trial that we've had in this  
16 brand new courtroom, so if any of our technology or our  
17 ability to make the technology work is a little bit  
18 delayed, just bear with us. We're doing our best.

19 MR. BROOKS: The first criminal trial, Judge?

20 THE COURT: This is the first criminal trial,  
21 yes. Thank you.

22 OPENING STATEMENT BY THE STATE

23 MR. KANE: Ladies and gentlemen, I'm not going  
24 to take up a lot of your time. And some of you may be  
25 thinking, "If what the lawyers say isn't evidence and the

1 evidence comes from the witness stand, why do we have to  
2 listen to an opening statement anyway.

3 And the main reason is that life doesn't work  
4 out the way we want it to. And by that I mean, an ideal  
5 case -- both the State and the Defense, if they wish to  
6 call witnesses -- would present witnesses in exactly the  
7 order that they want. Each witness would have a discrete  
8 piece of the story and would be able to piece them all  
9 together chronologically. Life doesn't work out that way.  
10 It's very rare that there would even be a group of  
11 witnesses like that. But I guarantee you, if there were,  
12 they'd all have their individual work and travel problems.

13 And, so, by giving you an opening statement,  
14 when you listen to the evidence that comes in more or less  
15 out of order, you'll know where to fit it in. The best  
16 comparison I've heard, and it's a hairy old chest nut, is  
17 it's like the picture on the cover of a jigsaw puzzle box.  
18 As you look at each piece, you automatically glance at the  
19 picture to see exactly what part of the picture it fits  
20 in. So, maybe this will help you out a little in that  
21 way.

22 We're going to be presenting three main groups  
23 of witnesses. One group will be eyewitnesses, people who  
24 were present when these murders were committed, in or near  
25 the location where they were committed, and who will tell

1 you what they saw and heard and observed. And those  
2 witnesses will be Lazon Jones, Krissy Smith, and Celeste  
3 Palau.

4 We'll also be presenting a number of law  
5 enforcement or law-enforcement-related witnesses. And  
6 they'll be the coroner, Dr. Rexene Worrell; the homicide  
7 detectives that I mentioned to you, Jimmy Vaccaro and  
8 Marty Wildemann; a couple of other detectives who were the  
9 first police officers on the scene and who got in even  
10 before the homicide detectives, Detective Mike Wallace and  
11 Detective Patricia Spencer. And they'll tell you about  
12 the scene of these murders as they actually observed it,  
13 just minutes after they happened.

14 We'll be presenting the testimony of crime scene  
15 analyst Louise Renhard who will testify about some  
16 cartridge cases that she recovered from the crime scene,  
17 and you'll hear from a James Krylo who will be the  
18 firearms expert who will tell you that he examined those  
19 cartridge cases and what the results of his examination  
20 were.

21 And finally, we'll be presenting some witnesses  
22 to testify about what the defendant did and said, and how  
23 he acted in the days following the commission of the  
24 offense. And you may wonder why you have to listen to  
25 stuff like that. Well, in judging a person's intent and

1 their state of mind at the time that they do something,  
2 the way they react to it afterwards and what they do and  
3 say, is something that you can and ought to consider.  
4 And, so, we'll be presenting the testimony of Tracey  
5 Richards, of Winston Budd, and of Greg  
6 Lewis.

7 And, again, with the understanding that the  
8 evidence upon which you're going to have to base your  
9 decision comes from that witness stand and from  
10 documentary evidence, here's what we believe the evidence  
11 will show you:

12 The Las Vegas Metropolitan Police Department  
13 assigns numbers to every event in their day. So, every  
14 time they're contacted by a citizen, someone calls and  
15 says, "There's a break-in," "There's a gun shot," they  
16 assign a number to that.

17 And the way they arrive at that number is the  
18 first part of the number is the date. So, in our case,  
19 since this incident happened on May the 27th of 2003, the  
20 first part of the number is 030527, the year, the month,  
21 the day.

22 The second number indicates when that call was  
23 received on May the 27th, the very first call gets the  
24 number one, the next one gets the number two, and as high  
25 as they need to go. This event number is 030527-0001.

1 And that's because the 911 operator who got the call, who  
2 started this investigation, heard the ringing of that call  
3 as the chimes of midnight were sounding. And that's why  
4 we've told you that we alleged that murders occurred may  
5 the 26th to May the 27th, because they happened either  
6 right before or right after midnight.

7 But the 911 call was just a minute or so after  
8 midnight. And it was made by Lazon Jones. And you'll  
9 hear the 911 call played here in the courtroom, and you'll  
10 hear the first words that Lazon Jones spoke to the 911  
11 operator, which were, "Yes, I want to report a shoot-out  
12 at my house. I think everybody in there is dead."

13 Now, Lazon Jones' houses was an apartment,  
14 located at the Saratoga Palms Apartments at 2895 East  
15 Charleston Avenue, here in Las Vegas, Building 9,  
16 apartment 2068.

17 Lazon was 17 years old at the time. He lived at  
18 the apartment with his mom; with his younger brother  
19 Dajon, who was 14 years old; with a friend of theirs with  
20 the same last name, Derrick Jones, who was 19 years old;  
21 and with another friend named Jason Moore, who was also  
22 19.

23 They were all acquainted with a person who lived  
24 in the same apartment complex Saratoga Palms Apartments,  
25 and that was a person who they knew as A.I. And all the



1 people who you will hear from, who knew that was his  
2 nickname understood that the nickname was attributed to  
3 Allen Iverson. Allen Iverson is a quite flamboyant -- and  
4 justifiably flamboyant because he's quite talented -- a  
5 National Basketball Association Player. And one of the  
6 flamboyant things that he does is he wears his hair in  
7 kind of a fanciful hairstyle. And A.I. wore his hair that  
8 way, too. A.I. is Glenford Budd, and A.I. knew all of  
9 these people -- Dajon Jones, Derrick Jones, Jason Moore.  
10 He knew all of these people and was acquainted with them.

11 And the evidence will show that six hours or so  
12 before this telephone call was made, that this 911 call  
13 was made when Lazon Jones told the police, "Everybody in  
14 my apartment is dead," he was living a fairly normal life.  
15 He was out watching basketball games.

16 And if you look at the diagram that I have up in  
17 front of you -- and it's just a diagram of the apartment  
18 complex to kind of give you an idea of where things are --  
19 the apartment where we'll be spending most of our time  
20 talking about is 2068. And you'll have a copy of this to  
21 take back in the jury room, so don't strain to read the  
22 numbers. But that's where it's located.

23 The basketball court where the kids were playing  
24 is right over here. The apartment where Mr. Budd actually  
25 lived in the apartment complex is right back in this area

1 behind the storage and maintenance -- and we'll move that  
2 over because the light's washing out that building. You  
3 see, there's another building here, and that was Mr.  
4 Budd's apartment.

5 So, everybody lived in the same area, and they  
6 were all playing basketball in the afternoon. And Lazon  
7 was down watching the basketball game, and the basketball  
8 game was basically between A.I. and the two 19-year-olds,  
9 Derrick Jones and Jason Moore.

10 And while Lazon was watching the basketball game  
11 he noticed that there seemed to be some friction between  
12 them. At one point Lazon will testified that he heard the  
13 defendant ask Derrick Jones, "Where's my weed? Where's my  
14 stuff?" And at another point there was a fight or  
15 something that looked like a start of a fight, a foul in  
16 the basketball game between Jason Moore and A.I., and A.I.  
17 said, "There ain't going to be any fight," which Lazon  
18 mean that there was going to be violence.

19 So, what the boys understood at that point was  
20 that A.I. thought somebody had taken some weed, some  
21 marijuana that was his property, and he wanted it back or  
22 wanted to know who was responsible.

23 And, so, after the boys finished playing  
24 basketball, A.I. and the boys go back to their  
25 apartment -- and that's that apartment I was talking about

1 up here, 2068, and they hang out for a while.

2 And after a while A.I. leaves and he's gone for  
3 about 15 minutes, and he comes back, and when he comes  
4 back, all the same people are there. And he goes into a  
5 back bedroom where 14-year-old Dajon Jones is, saying that  
6 he needs to use the bathroom. And he goes back to that  
7 back bedroom and closes the door. And Lazon can hear a  
8 conversation back there, and he hears the defendant yell,  
9 "Where's my stuff?" And then he hears gunshots. And at  
10 that point, he tears out of the apartment.

11 Now, Derrick Jones and Jason Moore are either in  
12 the living room of the apartment or out on the landing  
13 patio area -- and you'll see photographs of all these  
14 areas, so you'll understand the spacial relationships.  
15 For whatever reason, Derrick Jones and Jason Moore,  
16 instead of running out of the apartment run into the  
17 apartment; whether to be assistance or because they  
18 thought that the shots were coming from somewhere else,  
19 they run into the apartment. And, for that, they wind up  
20 dead also.

21 Now, also present at the apartment at the time  
22 of the shooting is a young woman named Krissy, and Krissy  
23 is out to the patio landing, just outside the front door  
24 of the apartment. And when -- when Lazon comes running  
25 you out and says, "There's gunfire inside," she hears it,

1 too, and the two of them run down the stair to the  
2 apartment.

3 Now, Krissy knows some of the people who live in  
4 the apartment right below the apartment where the shooting  
5 takes place. So, she runs to them and they stick her in  
6 the apartment so she's out of the line of fire.

7 Lazon will tell you that he kept going in this  
8 direction. And he crossed this street here and then went  
9 behind these buildings and wound up at a 7-Eleven store,  
10 which is down the street in this direction. And, looking  
11 at this, you may wonder, "Well, the entrances seem to be  
12 over here or the other end of the apartment complex, why  
13 is he running this way?"

14 And that's where the testimony of Detectives  
15 Patricia Spencer and Mike Wallace will help you. Because  
16 Directives Wallace and Spencer were patrolling this  
17 neighborhood; not for any reason having to do with the  
18 shooting, but because there were kids hanging around,  
19 there was weed being used, there was weed being sold, and  
20 they were keeping an eye on things. And by pure  
21 happenstance, they happened to have enter the complex a  
22 few minutes before the shooting, driven up this way,  
23 driven around behind these apartments, and they were  
24 driving right up here at the exact time that Lazon Jones  
25 was coming across the street.

1           Now, Patricia Spencer was driving, and she had  
2     the window of the car rolled down, and she heard something  
3     and thought it was gunshots. Asked her partner, Mike  
4     Wallace, who hadn't heard it. But she said, "No. No, I  
5     heard something." And just about that time Dajon --  
6     excuse me -- Lazon Jones, who's not wearing shoes because  
7     he ran out of the house so fast, crosses right by their  
8     car, and he's headed down behind these buildings. And  
9     Spencer and Wallace know from having patrolled the area  
10    that there is a hole, either cut or made by bending the  
11    fence, right in that area where he's headed for. And kids  
12    use it to get in and out of the complex, people who are  
13    doing drug transactions that don't want to deal with  
14    Detectives Spencer and Wallace use it to get in and out.  
15    And that's where he was headed. That's where Lazon was  
16    headed. That's how he got outside, and that's how he got  
17    down to the 7-Eleven store to make the 911 call.

18           While he's calling 911, Detectives Spencer and  
19    Wallace, of course, turn the corner and drive up to  
20    apartment 2068. They're both going to testify for you,  
21    and they will testify about their observations inside the  
22    apartment, that they found a body of Dajon Jones having  
23    been fatally shot in the north bedroom of the apartment;  
24    that they found Derrick Jones still alive, but barely,  
25    having been shot several times lying in the south hallway

1 of the apartment; and that they found Jason Moore on the  
2 patio or landing area of the apartment, kind of curled up  
3 in the corner of the patio.

4 Now, while all this is going on, Celeste Palau,  
5 who's another resident of Saratoga Palms Apartments -- and  
6 her apartment is right at the corner of this Building 7 --  
7 is sitting on her balcony with a friend of hers. And her  
8 balcony gives a good line of sight over to the apartment,  
9 here. She know the people who live in the apartment, she  
10 knows A.I. She has seen them all around the apartment  
11 complex for the time that she's been living there.

12 She hears the first couple of shots. She looks  
13 towards Charleston, which is down here at the bottom of  
14 the diagram, because she initially thinks that's where the  
15 shots are coming from. She doesn't see anything, and so  
16 she turns around and looks in this direction. As she  
17 looks, what she sees is A.I., who she will identify adds  
18 Glenford Budd, standing in the doorway of Apartment 2068,  
19 and he's holding a gun and he's firing it straight down at  
20 the ground.

21 And then she sees him raise it a little bit like  
22 this and fire a second shot. And then she sees him take a  
23 few steps and she sees him fire a third shot. And, again,  
24 you will hear testimony that the body of Jason Moore was  
25 found in the corner of that patio after he'd been shot on

1 the doorstep, shot again as he tried to crawl away for his  
2 life, and shot a third time and lay in the corner of the  
3 patio where his lifeless body was finally found.

4 And the coroner will testify as to the number of  
5 bullet wounds that each of these young men received -- two  
6 for Dajon, seven for Derrick Jones, and the three that  
7 Celeste Palau saw were Jason Moore.

8 Now, the investigation of the crime scene did  
9 not result in the recovery of the weapon, and the weapon  
10 has never been recovered. But it did result in the  
11 recovery of a number of cartridge cases, eleven to be  
12 exact, and a lot of bullets and bullet fragments. And  
13 more bullet fragments were recovered from the bodies of  
14 Dajon Jones, Derrick Jones, and Jason Moore in the course  
15 of their autopsies. And all of these items were submitted  
16 to Jim Krylo, who's Metro's firearms expert for his  
17 examination. And although he didn't have a gun to compare  
18 them to, obviously, he'll tell you that he can compare the  
19 cartridge cases to each other, and he can tell you whether  
20 or not they were all fired from one gun, so that you'll  
21 know whether there was only one gun present in this  
22 apartment that night. And Jim Krylo will tell, "All  
23 eleven cartridge cases were fired from the same gun."

24 He'll also tell you that all of the bullet  
25 fragments that were recovered were either damaged, had hit

1 things -- bodies or furniture or parts of the apartment --  
2 and were not able to be compared, except to say that they  
3 were fired from the same type of firearm that the  
4 cartridge cases were fired from.

5 So, you will receive positive identification of  
6 the defendant as the person in the apartment firing the  
7 fatal shots from both Lazon Jones and from Celeste Palau.

8 Now, aside from the evidence of the witnesses to  
9 the crime and the evidence that the police gathered at the  
10 crime scene, you will also receive evidence -- as I told  
11 you -- of what the defendant did after the crime. And  
12 you'll hear from Tracey Richards, and Tracy Richards was  
13 an acquaintance of the defendant's. She saw him on the  
14 morning after the killings, and was sitting on a bench at  
15 a fast-food joint and just seemed to be at loose ends.  
16 She asked him what he was doing, and he told her he had a  
17 fight with his girlfriend and really didn't have any place  
18 to stay. And she said, "Well, why don't you come over to  
19 my house?"

20 And, so, he went over to her house, where he  
21 spent the day after the murder and that night. She said  
22 he seemed extremely nervous and he was chain-smoking.  
23 And, so, when she woke up on the next morning, she said,  
24 "Well, I'll go down to the store and get some more  
25 cigarettes." And as she was getting ready to leave, the



1 defendant said to her, "I had the weirdest dream. I  
2 dreamed that three guys stole my weed and I had to kill  
3 them all." And she just sort of laughed it off, went out  
4 to the store, and by the time she got back, he was gone.

5           You'll hear from the defendant's uncle, Winston  
6 Budd, who saw him later that day. So, we're now two days  
7 out from the murder. And when he saw him, the first thing  
8 he noticed about him is -- about the defendant -- was that  
9 all of his Allen Iverson hair was bald. It was gone. He  
10 looked like Michael Jordan, maybe; but not like Allen  
11 Iverson anymore. And you'll see photographs that the  
12 police took when they arrested him later that same day,  
13 that will show you that he basically shaved his head in  
14 the day or two between the murder and the time that he was  
15 arrested two days later.

16           The defendant discussed what happened with his  
17 Uncle Winston. He told him that three guys had tried to  
18 rob him and that he had to kill them. His Uncle Winston  
19 had already heard that the police were looking for  
20 Mr. Budd and wanted to talk to him, and he said to him,  
21 "Glenford, you could get life in prison or even the  
22 death penalty for this. You've got to turn yourself in."  
23 And the defendant told him, "I'd rather run." And before  
24 he would run, he was arrested by members of the Las Vegas  
25 Metropolitan Police Department.

1           The final witness that you'll hear from -- or  
2 maybe not the final witness, but the final one I want to  
3 talk to you about -- is a man named Greg Lewis.

4           MR. BROOKS: Judge, we object and ask to  
5 approach the bench.

6           THE COURT: Certainly.

7           (Sidebar discussion held off the record.)

8           MR. O'BRIEN: You'll hear from a gentleman  
9 called Greg Lewis, and Greg Lewis will testify that he met  
10 the defendant about a year after these murders were  
11 committed; that he struck up an acquaintance with the  
12 defendant, and over the course of that acquaintance, the  
13 defendant told him what had happened at the Saratoga Palms  
14 Apartments back in May of 2003. And Greg Lewis will say  
15 that the defendant told him he was mad because he thought  
16 somebody tried to steel his weed. He played basketball  
17 with him in the afternoon to try to ferret out who it was  
18 that stole it, but he couldn't find out, so he went to the  
19 apartment to make sure. Nobody would tell him, and so he  
20 snapped and he killed the three people who were there, but  
21 he let one person get away. And he'll say the defendant  
22 told him that he shaved his head afterwards and that he  
23 went over to a girl's house to lay low, but he figured the  
24 girl must have turned him in, because he was arrested a  
25 short time later. So, Lewis, no matter how believable or

1 not believable you find him -- and he's a criminal and  
2 won't make any secret about it -- will tell you things  
3 that the defendant told him, and you'll have to judge  
4 whether that makes his story credible enough for you to  
5 accept.

6 But in addition to the statements that the --  
7 the oral statements that the defendant made to Greg Lewis,  
8 we'll produce a letter that the defendant sent to Greg  
9 Lewis, and it was shortly after they had struck up their  
10 acquaintance. And, again, this is a little over a year  
11 after the murders. And the letter was basically a "Hi,  
12 how are you doing? You know, I'm still waiting to go to  
13 trial on my case." But the last page of the letter was a  
14 rap song that the defendant had written. And the rap song  
15 is entitled "Killer In Me," off the CD "Murda Music." And  
16 you'll hear a lot about it in the course of the trial, and  
17 I'm going to read it to you one time right now and then  
18 sit. And the song reads:

19 "They call me Smallz, aka A.I.  
20 Every day on the street I used to get high.  
21 There's rules for a killa don't get it  
22 confused.  
23 I'm wearing county blues with my face on the  
24 news  
25 Blew these niggaz" off "the earth

1           That's the way it had 2 go.  
2           I only killed 3 but I shoulda killed 4.  
3           Left them dead on the floor, but just right  
4           before  
5           They was cryin' and pleedin', screamin' for  
6           Jesus.  
7           Y'all can keep the weed cuz you can't smoke  
8           it now,  
9           Cuz ya ass is underground.  
10          Cross me I blow like a bomb,  
11          Took 3 niggaz from they moms.  
12          I'm a Thrilla Killa  
13          Ask Saratoga Palms.  
14          Call me - 'Murda Mann'."

15               And after we present all that evidence to you,  
16   I'm going to get up here again, and I'm going to ask you  
17   for a verdict of guilty of three counts of murder in the  
18   first degree.

19               THE COURT: Thank you, Mr. Kane.  
20               Mr. Brooks?

21               MR. BROOKS: Thank you, Judge.

22               OPENING STATEMENT BY THE DEFENSE

23               MR. BROOKS: We've had time to get to know each  
24   other a little bit in the last few days. My name is  
25   Howard Brooks. Tim O'Brien is my co-counsel. Glenford is

1 my client.

2 Let me emphasize to all of you that this is  
3 incredibly serious, and nothing that we say or do during  
4 the course of these proceedings is in any way intended to  
5 minimize the importance of what happened or the tragedy of  
6 three people dying in this case. Nevertheless, we're here  
7 because the issue exists regarding what the liability is  
8 under our law for what happened, and whether Glenford is  
9 criminally responsible.

10 Mr. Kane says the evidence will show that  
11 Glenford killed these three people. Let me make it  
12 absolutely clear, some evidence will show that Glenford  
13 killed these three people. The State's own eyewitness,  
14 however, Celeste Palau, was far too far away to see what  
15 she claims to have seen. When she describes the detail  
16 that she has of what happened, she was too far away to  
17 have seen that.

18 The State will also present evidence of people,  
19 saying that my client admitted the killing. In each and  
20 every case, those people had ability and the means to find  
21 out what happened in other ways. They had the ability to  
22 make up their stories, because they've heard the  
23 information from other people. I would submit to you that  
24 the evidence will show they had the motive, as well, to  
25 create false stories to protect themselves.

1           Mr. Kane has discussed here the letter,  
2           allegedly sent by my client to Gregory Lewis. In  
3           particular, he has referenced the rap song that was  
4           attached to the letter. When you look at the actual rap  
5           song, the handwriting of the rap song is dramatically  
6           different than the handwriting of my client's letter.  
7           It's a highly stylized document. It could easily have  
8           been written by Greg Lewis, and the evidence will show  
9           that he had every motivation in the world to concoct this  
10          piece of evidence to help himself.

11           In other words, what we're suggesting to you is  
12          that there is reasonable doubt here, as far as what  
13          precisely happened. When this case is over, we're asking  
14          you to keep an open mind throughout the case, consider all  
15          the evidence; and if the evidence shows a reasonable  
16          doubt, then we're asking you to follow the law and find  
17          Glenford not guilty.

18           On the other hand, some cases are whodunits;  
19          other cases are about what precisely the liability is  
20          under the law. In the event the evidence shows my client  
21          killed these three boys, then I'm asking you to take  
22          particular care to look at what the evidence shows about  
23          Glenford's state of mind.

24           The evidence will not show that he planned this  
25          killing. The evidence will not show that there was a

1 sophisticated scheme. What the evidence will show is that  
2 there was an impulsive and stupid and horribly tragic act  
3 by a very young man.

4 Under these circumstances, if my client is  
5 criminally guilty of doing this, I submit to you the  
6 evidence shows that he is guilty of three counts of second  
7 degree murder.

8 We ask you to keep an open mind. This is a  
9 tough case. But thank you.

10 THE COURT: Thank you, Mr. Brooks.

11 Ladies and gentlemen, before we hear our first  
12 witness, I think it's important that we take a very short  
13 recess. We'll be in recess for about ten minutes.

14 (The Court admonishes the jury, and the jury  
15 panel exits the courtroom for the afternoon break.)

16 THE COURT: Please be seated.

17 I understand there are some matters that we need  
18 to take up outside the presence.

19 MR. KANE: I think just one.

20 MR. O'BRIEN: I have four issues.

21 MR. KANE: Oh, okay. Let me get my one done and  
22 get it out of the way.

23 My one is that Lazon Jones is going to be our  
24 first witness, and he, naturally, wanted to stay and watch  
25 the proceedings after he testifies. The Defense has

1 indicated they're going to object because he would be  
2 subject to recall, since he's such a crucial witness. I  
3 just told him we'd relay the request to the Court and we  
4 will allow the Court to --

5 THE COURT: So long as he is anticipated to be a  
6 rebuttal witness, he can't stay.

7 MR. KANE: I understand.

8 THE COURT: Mr. Brooks.

9 MR. BROOKS: Judge, Issue One, I've asked the  
10 Court to allow the filing in open court of a document  
11 entitled "Defendant's Summary of Development Regarding  
12 Jury Questionnaire." I've provided that to the clerk a  
13 while ago. Just, in summary, all this does is summarize  
14 the history of the jury questionnaire and includes a  
15 sample copy of the questionnaire, and includes the fact  
16 that it was, in fact, given to the jury, and also that the  
17 Court has ordered it be part of the permanent record of  
18 the case.

19 I only thing I failed to include in my  
20 declaration is that the Court also ordered that it be  
21 sealed.

22 THE COURT: Sealed.

23 MR. BROOKS: So, I simply ask that that be  
24 filed.

25 THE COURT: It is noted. It is filed. And,



1 again, for the record, the agreement was is that the juror  
2 questionnaires will be filed under seal.

3 Mr. Brooks, Issue Number -- or Question Number  
4 Two?

5 MR. BROOKS: Issue Two, Judge: I'd like to make  
6 a record of the status of the jury composition, simply  
7 because this case will possibly involve a great deal of  
8 scrutiny in years to come. I'd like to make sure that  
9 my -- what I've done is subject to some type of analysis.  
10 So, I'd like to make the following record: This morning  
11 when we came back in, we commenced picking a jury. The  
12 remainder of the jury voir dire came into the room. And  
13 at that time I counted, and at that time we had we grand  
14 total of 46 people who could have been on the jury, and of  
15 the 46 people, five were black.

16 I did not object -- I have not objected to their  
17 being a misrepresentation of the black minority in the  
18 jury voir dire, because the five is roughly ten percent of  
19 46, and the last time I checked the black community, it  
20 was roughly ten percent of the population of Las Vegas;  
21 and, therefore, that's why I did not do anything in that  
22 particular regard.

23 THE COURT: The calculation is noted for the  
24 record.

25 Mr. Brooks.

1 MR. KANE: Judge, may I just say, so the record  
2 will be complete, I realize Mr. Brooks has noted his  
3 calculation for the record. We're not conceding that it's  
4 accurate. Quite frankly --

5 THE COURT: As to the population or as to the  
6 representation in these particular panel?

7 MR. KANE: As to the representation in this  
8 particular panel. Quite frankly, one of the jurors, when  
9 I picked up her questionnaire I read she was black, I was  
10 astonished. But I had no -- and that's happened to me  
11 many times in many trials. So, I think that these  
12 physical observations, where we say there's only five  
13 black people on the voir dire, are inherently suspect.  
14 And if anybody really thinks that's important enough, they  
15 can go look at the jury questionnaires and see what the  
16 jurors conceded.

17 THE COURT: And the fact that because they are  
18 now part of this court's record, I'm going to be able to  
19 do so.

20 MR. BROOKS: And, Judge, also, at 10:45, after I  
21 made that compilation of my own observations, I did pass  
22 Mr. Kane a copy of that, just letting him know what I was  
23 doing, so he had a chance to --

24 THE COURT: I think I saw that on a yellow piece  
25 of paper.

1           MR. BROOKS: Finally, Judge, after the jury has  
2           been impaneled -- we now have a jury -- I just want to  
3           make sure that the record reflects what the composition of  
4           the jury is. And based on my visual observation, there  
5           are two black women on the jury, one black man, one Asian  
6           man, one Asian women, four white women, three white men.  
7           Among the alternates, there are -- there are -- there is  
8           one black women and one white woman. And that, again, is  
9           just my visual observation.

10          THE COURT: I understand that; based on your  
11          visual observation.

12          Anything, Mr. Kane, for the record?

13          MR. KANE: No, Your Honor.

14          THE COURT: And the finally, Mr. Brooks?

15          MR. BROOKS: Judge, also, I would like to make  
16          sure that the record reflects that I have invoked an  
17          exclusionary rule during the course of the proceedings.

18                 I don't know if Glenford's mother is going to  
19          try to watch part of the trial or not. I did not see her.  
20          She is not a witness in the trial phase of the  
21          proceedings. She would be a witness in a possible penalty  
22          proceeding. In most cases such as this, the State does  
23          not object to our allowing my client's family to be  
24          present, as long as they're not testifying in the trial  
25          phase. I don't know if Mr. Kane has an objection or not,

1 because --

2 MR. KANE: Only if we're applying that is such  
3 for the goose is such for the gander rule in my mitigation  
4 and sentencing phase, the witnesses can stay --

5 THE COURT: I think that would be a precipitable  
6 agreement.

7 MR. BROOKS: That's correct, Your Honor.

8 THE COURT: Very well.

9 MR. BROOKS: And it's fine. We'll make a record  
10 regarding our objection during Mr. Kane's opening  
11 statement. Mr. Kane referenced to Greg Lewis testimony.  
12 He also referenced the letter which I anticipate he will  
13 attempt to introduce when Greg Lewis testifies.

14 At that time, we will be objecting regarding a  
15 lack of foundation for the letter. I simply want to make  
16 sure that if there is a risk involved, in terms of  
17 Mr. Kane presenting that letter to the jury that that be  
18 at the State's risk. And at that time, if the letter is  
19 excluded, then we will be making a motion for a mistrial  
20 based on the opening statement.

21 THE COURT: And, for the record, that concern  
22 was subject to a non-recorded bench conference at the time  
23 that Mr. Kane -- I think before he actually began, but  
24 during his opening statement.

25 But, at any rate, Mr. Kane, do you wish to be

1 heard? I would certainly like for you to put on the  
2 record what you stated here at the bench.

3 MR. KANE: Yeah. Only to say that I understood  
4 the risk and made the statements to the jury with full  
5 knowledge of that. I am not, however, by saying that,  
6 conceding that objection at this point is timely.  
7 Disclosure of the letter was made quite some time ago when  
8 I did a translation of that hard-to-read last page,  
9 including that part where the defendant writes, in the  
10 hard-to read writing, "I'm writing his in hard-to-read  
11 writing so nobody else will be able to read it."

12 I immediately disclosed that translation and  
13 transcription to Mr. Brooks; I had it about a week or so  
14 before the trial. So, I just don't want the impression  
15 left on the record that this was some sort of surprise  
16 piece of evidence that I just mentioned in my opening  
17 statement that Mr. Brooks was previously not aware of.

18 THE COURT: I didn't share that representation,  
19 Mr. Brooks. That was not the intent of your comment, was  
20 it?

21 MR. BROOKS: No, it was not.

22 THE COURT: Very well. Can we bring the jury  
23 in, Counsel?

24 Mr. Bailiff.

25 THE REPORTER: Mr. Kane, did you want to tell

1 the judge about the 911 tape now?

2 MR. KANE: No. I'll do it later.

3 THE COURT: Welcome back, ladies and gentlemen.

4 Let the record reflect that all parties are  
5 present.

6 Sir, remove your hat.

7 Counsel, will you stipulate, please, to the  
8 presence of the jury?

9 MS. PANDUKHT: Yes, Judge.

10 MR. BROOKS: Defense will, Your Honor.

11 THE COURT: Very well.

12 Who's the first witness?

13 MS. PANDUKHT: The State calls Lazon Jones.

14 LAZON JONES,

15 having been first duly sworn through the clerk to tell the  
16 truth, the whole truth, and nothing but the truth, was  
17 examined and testified as follows:

18 THE COURT: Would you please state your name and  
19 spell it for the record.

20 THE WITNESS: Lazon Jones, Jr. L-a-z-o-n  
21 J-o-n-e-s

22 THE COURT: Thank you. And you said there was a  
23 junior?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Please keep your voice up.

1 Everything that's is being said in the courtroom is being  
2 recorded.

3 Ms. Pandukht?

4 DIRECT EXAMINATION

5 BY MS. PANDUKHT:

6 Q. Lazon, how old are you?

7 A. I'm 19.

8 Q. In May of 2003, a couple years' ago, where were  
9 you living?

10 A. At Saratoga Palms.

11 Q. Do you know the address of the of the Saratoga  
12 Palms?

13 A. No. But apartment 2068.

14 Q. If I may approach the witness.

15 THE COURT: You may.

16 And, Counsel, you should all feel free to move  
17 about the well, as you need.

18 BY MS. PANDUKHT:

19 Q. Lazon, I am showing you what has been marked as  
20 Proposed State's Exhibit Number 2A. Do you recognize this  
21 diagram?

22 A. Yes.

23 Q. What is this diagram of?

24 A. The apartment complex.

25 Q. And does it have the address listed on the front

1 of the diagram?

2 A. Yes.

3 Q. Does that address appear to be correct to you?

4 A. Yes.

5 Q. And what is that address?

6 A. 7895 East Charleston.

7 Q. Is this where you were living in May of 2003?

8 A. Yes, ma'am.

9 Q. Does this diagram appear to be a fair and  
10 accurate representation of the apartment complex that you  
11 were living at in May of 2003?

12 A. Yes, ma'am.

13 MS. PANDUKHT: I move to admit State's Proposed  
14 Exhibit 2A.

15 MR. BROOKS: No objection.

16 MR. KANE: And, Judge, we'd move 2 in at this  
17 time, also. And that's the unmarked copy I displayed to  
18 the jury during opening argument.

19 THE COURT: As your demonstrative evidence, it  
20 could be used during opening statement?

21 MR. KANE: Yes, Judge.

22 MS. PANDUKHT: And that's technically what I'm  
23 moving to admit, actually, is just 2 -- 2A I'm going  
24 actually move to admit, once I have them finish drawing on  
25 it. So, thank you, Counsel.



1 MR. KANE: And, so the jury understands what  
2 we're doing, Judge, we have 2 and 2A, and then we have 3,  
3 4, and 5, which are additional copies of the diagram which  
4 will be marked a particular witness.

5 THE COURT: Each witness will use it?

6 MR. KANE: Yeah. So they're not all using the  
7 same one.

8 THE COURT: Understood.

9 MR. BROOKS: And, just for the record, Judge,  
10 we're looking at 2, 2A, 3, 4, and 5, essentially being a  
11 diagram of the Saratoga Palm Apartments; correct.

12 THE COURT: Being the same diagram.

13 MR. BROOKS: The same diagram?

14 THE COURT: Yes.

15 MR. BROOKS: Okay. No objection to all those.

16 THE COURT: Thank you very much

17 BY MS. PANDUKHT:

18 Q. Now, of course, at the bottom of this page, it  
19 has your name on here, Lazon Jones.

20

21 A. Uh-huh.

22 THE COURT: Is that a yes.

23 MS. PANDUKHT: Oh, yes.

24 THE WITNESS: Yes.

25 THE COURT: You have to answer out loud

1 THE WITNESS: Yes, ma'am.

2 BY MS. PANDUKHT:

3 Q. Could you use this pen, now, and mark where the  
4 apartment was where you were living at.

5 And take your time, because I know it's small.

6 A. (Witness complies.)

7 Q. Do you remember what building it was?

8 A. Seven or eight. I'm not sure, but it's  
9 apartment 2068.

10 Q. Take your time.

11 A. It's one of these. I can't read the -- I  
12 believe it's Building Number 8.

13 Q. Well, why don't you go ahead for now -- is it  
14 clear here?

15 A. (Witness shakes head in the negative.)

16 Q. Okay.

17 MR. KANE: For the record, Judge, I've handed  
18 counsel a black and white Xerox copy of that same diagram.  
19 I found, in Xeroxing it, it made the numbers look more  
20 legible.

21 THE COURT: Is that a little better for your  
22 ability to read, Mr. Jones?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Ms. Pandukht, you may proceed.

25 Counsel, any objection to the black-and-white

1 being used?

2 MR. BROOKS: No objection.

3 THE COURT: Very well.

4 THE WITNESS: Building 9.

5 BY MS. PANDUKHT:

6 Q. Okay. Do you see it on there?

7 A. Uh-huh.

8 Q. And, then, could you actually draw on the color  
9 copy, circle the apartment.

10 A. (Witness complies.)

11 Q. Now, could you write next to it "2068," just so  
12 we're clear.

13 A. (Witness complies.)

14 Q. All right. Now, I'm going to leave that up  
15 there with you -- and, actually this one.

16 That apartment complex that we were talking  
17 about, is that located here in Clark County, Nevada?

18 A. Yes, ma'am.

19 Q. Back then, in 2003, were you living with anyone  
20 in that apartment?

21 A. Yes, ma'am.

22 Q. Who were you living with?

23 A. My brother, my two friends, my mother, and my  
24 sister.

25 Q. What was your brother's name?

- 1 A. Dajon Jones.
- 2 Q. Could you spell "Dajon"?
- 3 A. D-a-j-o-n. Jones.
- 4 Q. How old was Dajon?
- 5 A. Thirteen.
- 6 Q. You said you were also living there with two
- 7 friends?
- 8 A. Yes.
- 9 Q. What are their names?
- 10 A. Derrick Jones and Jason Moore.
- 11 Q. How old was Derrick Jones?
- 12 A. Nineteen.
- 13 Q. How old was Jason Moore?
- 14 A. Nineteen.
- 15 Q. And you said your mother, as well?
- 16 A. Yeah.
- 17 Q. What is your mother's name?
- 18 A. Sheryl Jones.
- 19 Q. Could you spell that for the record? Sheryl.
- 20 A. S-h-e-r-y-l.
- 21 Q. And who else was living there with you?
- 22 A. My sister.
- 23 Q. What's your sister's name?
- 24 A. Kokitha Jones.
- 25 Q. Spell it.

1 THE CLERK: Badge No. 129, Shannon  
2 Santos.

3 THE COURT: Would you please call  
4 two, one to fill the empty seat we are going  
5 to be putting in the front?

6 THE CLERK: Okay. Badge No. 130,  
7 Andrew Sharp.

8 THE COURT: And, Counsel, just  
9 technically speaking, you should begin with  
10 the juror in the chair.

11 MR. BROOKS: Is the juror in the  
12 chair No. 130, Your Honor?

13 THE COURT: Yes. Mr. Sharp, welcome.

14 PROSPECTIVE JUROR 130: Hello.

15 THE COURT: You have not been at  
16 least in the courtroom for the last couple of  
17 days. You filled out a questionnaire. Our  
18 attorneys are going to ask you questions about  
19 your biases and your prejudices. Do you think  
20 you could be a fair and impartial juror in  
21 this type of a case.

22 PROSPECTIVE JUROR 130: Yes.

23 THE COURT: And could you consider  
24 all of the options for -- in fact, let me  
25 explain for those of you who are now just

1 getting into the room. In a situation like  
2 this with the charges that are before us,  
3 what's going to happen is the trial where the  
4 state has to prove beyond a reasonable doubt  
5 that the person who is charged is the person  
6 who committed the crime, that's sort of part  
7 one of the trial.

8 If in fact the jury were to come back  
9 with a guilty verdict, then there would be  
10 trial part two. So there are two phases, or  
11 at least potentially two phases, to this  
12 process. If the jury were to find the state  
13 met its burden and proved beyond a reasonable  
14 doubt that this is the person who committed  
15 the crime and the jury found him guilty, we  
16 would go to what is referred to as the penalty  
17 phase because the jury makes the decision  
18 about the penalty in this case, at least about  
19 the death penalty in this case.

20 So there could potentially be two  
21 parts. But you have heard me state what the  
22 schedule is going to be. Our attorneys have  
23 assured me by close of business next  
24 Wednesday, we will be done with both phases if  
25 need be. So is there anything about that

1 schedule or a possibility for two parts in the  
2 trial that concerns you in terms of being a  
3 fair and impartial juror.

4 PROSPECTIVE JUROR 130: No.

5 THE COURT: Have you ever been a  
6 juror before.

7 PROSPECTIVE JUROR 130: Yes, I have.

8 THE COURT: Where, sir?

9 PROSPECTIVE JUROR 130: Here.

10 THE COURT: Here in Clark County?

11 PROSPECTIVE JUROR 130: Yes.

12 THE COURT: Do you know any of these  
13 attorneys?

14 PROSPECTIVE JUROR 130: No.

15 THE COURT: Do you recognize any of  
16 the persons that they have identified who are  
17 going to be potential witnesses?

18 PROSPECTIVE JUROR 130: No, I don't.

19 THE COURT: Do you have any attitudes  
20 about lawyers or judges that would affect your  
21 ability to be fair and impartial?

22 PROSPECTIVE JUROR 130: No.

23 THE COURT: The last time you served  
24 as a juror, was it civil or criminal?

25 PROSPECTIVE JUROR 130: It was an

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

THE COURT: That would be civil.

PROSPECTIVE JUROR 130: So that would

THE COURT: Okay. Were you the  
on of that jury?

PROSPECTIVE JUROR 130: No.

THE COURT: You weren't in charge.  
telling me what your verdict was, did  
to reach a verdict?

PROSPECTIVE JUROR 130: Yes, ma'am.

THE COURT: And nothing about that  
ce would affect your ability to be  
impartial in this case?

PROSPECTIVE JUROR 130: No.

THE COURT: You understand civil and are different in subject matter. also different because the state in a case has a different burden, because en of proof is upon them, it's beyond able doubt. If you are chosen as a will give you the instruction, legal on, of what reasonable doubt is.

Do you think you could consider the  
nalty?



1 PROSPECTIVE JUROR 130: Yes.

2 THE COURT: Do you think you could  
3 consider all of the options, not just  
4 immediately move into a death penalty  
5 decision?

6 PROSPECTIVE JUROR 130: I believe you  
7 should be held responsible for your actions.  
8 If you are guilty of murder, we all know what  
9 the penalty for that should be.

10 THE COURT: Well, but the State of  
11 Nevada provides for other options. Could you  
12 consider all of those options equally?

13 PROSPECTIVE JUROR 130: No.

14 THE COURT: So, in other words, you  
15 believe that if a finding of guilt or  
16 responsibility was made in the first part of  
17 the trial, that the second part is already a  
18 foregone conclusion in your mind?

19 PROSPECTIVE JUROR 130: For me it is  
20 yes.

21 THE COURT: And, again, if I told you  
22 that the law requires you, as a juror, to  
23 consider all of those options, would you do  
24 that?

25 PROSPECTIVE JUROR 130: Not really.

1 THE COURT: Not really, meaning --  
2 one of the previously explained jurors  
3 explained it very well. When you say you  
4 would consider it, is it outside the box and  
5 okay, yeah, fine, I considered it, but  
6 actually already know what your decision is?

7 PROSPECTIVE JUROR 130: Yes.

8 THE COURT: Mr. Kane? Ms. Pandukht?

9 MS. PANDUKHT: I have no questions.

10 THE COURT: Is that a pass for cause?

11 MS. PANDUKHT: Pass for cause.

12 THE COURT: Mr. Brooks? Mr. O'Brien?

13 MR. O'BRIEN: I'm sorry, Judge.

14 THE COURT: He feels --

15 MR. O'BRIEN: Was there a cause  
16 challenge?

17 PROSPECTIVE JUROR: There was not.

18 MR. O'BRIEN: Oh, sure. I'll ask him  
19 a couple of questions.

20 THE COURT: Very well.

21

22 VOIR DIRE EXAMINATION

23 BY MR. O'BRIEN:

24 Q. Hi. Mr. Sharp, about the only thing  
25 you don't like about the death penalty is it's

1 not used enough?

2 A. It's not carried out. Even though  
3 it's been -- that was the verdict, they never  
4 execute them, or very rarely.

5 Q. If there is there is a conviction in  
6 this case on three counts of intentional  
7 murder, you already know what your penalty is  
8 going to be, don't you?

9 A. Yes, I do.

10 Q. What penalty would that be?

11 A. The death penalty.

12 Q. And you know that without  
13 considering -- you would not consider the  
14 other options, would you?

15 A. No.

16 MR. O'BRIEN: Challenge for cause.

17 THE COURT: In your mind, sir, if a  
18 finding of guilt was made in this case or any  
19 other murder case, would the second phase of  
20 that trial be meaningless to you?

21 PROSPECTIVE JUROR 130: Yes.

22 THE COURT: Thank you very much.  
23 I'll grant that challenge for cause. I ask  
24 you to return, please, to the jury assembly  
25 area.

1 Who is next, Ms. Clerk?

2 THE CLERK: Badge No. 132, Mike  
3 Carlquist.

4 THE COURT: Sir, I'm going to ask  
5 you, please, to take the seat here in front of  
6 the jury box. Even though we are in a nice,  
7 new courthouse, sometimes we still run out of  
8 space.

9 Have you ever been a juror before?

10 PROSPECTIVE JUROR 132: No.

11 THE COURT: Well, that's remarkable  
12 actually. Any attitudes or beliefs about  
13 lawyers or judges or the justice system in  
14 general that would affect your ability to be  
15 fair and impartial?

16 PROSPECTIVE JUROR 132: Probably.

17 THE COURT: What would that be?

18 PROSPECTIVE JUROR 132: I have  
19 respect for the judiciary, and varying degrees  
20 of disrespect for the practitioners.

21 THE COURT: So, in other words, you  
22 think judges are pretty good, but you're not  
23 so sure about lawyers.

24 PROSPECTIVE JUROR 132: Yes.

25 THE COURT: And, of course, you know

1 that judges are lawyers.

2 PROSPECTIVE JUROR 132: Yes.

3 THE COURT: So we might have started  
4 out not so good and then all of a sudden, we  
5 got good? You can say no to that because that  
6 would be the correct answer.

7 PROSPECTIVE JUROR 132: Okay, no.

8 THE COURT: You don't know any of  
9 these folks, do you.

10 PROSPECTIVE JUROR 132: No.

11 THE COURT: And you didn't recognize  
12 any of the names of the witnesses that either  
13 side is going to call.

14 PROSPECTIVE JUROR 132: No.

15 THE COURT: And if I were to tell you  
16 that one of the things that I think is  
17 particularly unique about being a juror is  
18 that when you sit as a juror, you get to  
19 assess the credibility of the witnesses, you  
20 get to assess actually how well these  
21 attorneys do their job, and more importantly,  
22 because of that unique position, you get to  
23 have a say about that, about whether the  
24 witnesses were believable, whether or not you  
25 think these guys did the best that they could.

1 In fact, the state is held to such a high  
2 standard that unless they prove their case  
3 beyond a reasonable doubt, you couldn't  
4 convict.

5 So it's a pretty unique place. Would  
6 you hold your attitude about lawyers against  
7 these guys?

8 PROSPECTIVE JUROR 132: No.

9 THE COURT: And when I say "guys," I  
10 mean, of course, guys and gals. You wouldn't  
11 hold it against them, would you?

12 PROSPECTIVE JUROR 132: No.

13 THE COURT: Because one of the things  
14 that we talked about -- believe it or not, you  
15 are not unique in this opinion. And one of  
16 the things that we talked about over the  
17 course of the last couple of days is none of  
18 us take any great or have any great concern  
19 about people who say that about lawyers  
20 because I think we would all acknowledge there  
21 are some lawyers who don't do the right thing  
22 and they are certainly not worthy of respect.  
23 And I think that's true in just about every  
24 profession; some are good and some are bad.

25 PROSPECTIVE JUROR 132: (Nodding.)

1 THE COURT: If you were seated at  
2 either of these tables, would you want  
3 somebody like you to be on the jury?

4 PROSPECTIVE JUROR 132: Yes.

5 THE COURT: Ms. Pandukht? Mr. Kane?

6 MR. KANE: Pass for cause.

7 THE COURT: Mr. Brooks? Mr. O'Brien?

8 MR. O'BRIEN: Thank you, Your Honor.

9  
10 VOIR DIRE EXAMINATION

11 BY MR. O'BRIEN:

12 Q. Good morning, Mr. Carlquist. Am I  
13 saying it right?

14 A. Yes, you are.

15 Q. You had some legal training?

16 A. Yes.

17 Q. And could you tell me about that?

18 A. I completed the legal assistant  
19 program at the Community College.

20 Q. And did you end up using that in your  
21 profession at all?

22 A. Very little.

23 Q. Is that kind of like a paralegal?

24 A. Yes.

25 Q. Is that where you started your

1 distaste of lawyers or --

2 A. No.

3 Q. You acquired that through other  
4 means?

5 A. Yes. I don't have a general  
6 distaste. I said -- I believe I said in  
7 varying degrees of disrespect.

8 Q. Sure. Actually, on the questionnaire  
9 it sounded like you admire both prosecutors  
10 and defense attorneys, so...

11 A. Yes, I do.

12 Q. I was just trying to -- I find it  
13 curious, you know.

14 A. Okay.

15 Q. How long did you live in Alaska?

16 A. Ten years.

17 Q. Now, you mentioned on your  
18 questionnaire that the death sentence might be  
19 appropriate in some cases and it might not be  
20 appropriate in some other cases. Do you  
21 recall that?

22 A. Yes.

23 Q. Can you tell me the kind of cases  
24 that you could envision where it might not be  
25 appropriate?



1       A.    The old line about a crime of  
2   passion, possibly.

3       Q.    Okay.  And you also mentioned in your  
4   questionnaire that you thought the death  
5   penalty was under-utilized?

6       A.    Yes.

7       Q.    Do you think that the death penalty  
8   is the -- should be the only consideration in  
9   killings that are intentional?

10      A.    No.

11      Q.    Do you believe that the death penalty  
12   should be the only option in multiple  
13   killings?

14      A.    No.

15      Q.    So you would be able to consider all  
16   of the options and weigh between those options  
17   if in fact we went to a penalty phase?

18      A.    I'm not so sure I could.  The only --  
19   it would have to be a special set of  
20   circumstances where I would consider the  
21   non-death penalty options.

22      Q.    Okay.  Would your biggest concern be  
23   between life forever in prison, no chance of  
24   ever getting out, and the death penalty --  
25   where are you at between those two choices?

1       A.   I would lean heavily in favor of the  
2 death penalty.

3       Q.   So given the choice of every day the  
4 rest of your life in prison, no opportunity to  
5 get released or the death penalty, you are  
6 biased towards the death penalty?

7       A.   Yes.

8       Q.   Would that opinion be the same in any  
9 intentional murder?

10      A.   No.

11      Q.   Would that conclusion or that opinion  
12 of yours, would that equally be true in a  
13 situation where there was allegedly one  
14 killing?

15      A.   I don't think so.

16      Q.   So if there was one killing, you  
17 might be more balanced towards the other  
18 sentencing options?

19      A.   Yes.

20      Q.   Just in the sake of continuity, let's  
21 say there is allegedly two murder victims.

22      A.   Right.

23      Q.   In that situation you got the -- and,  
24 of course, just for simplicity let's just  
25 focus on two choices for our discussion:

1 Death penalty or life without any possibility  
2 of parole. Where are you at now?

3 A. Death penalty.

4 Q. And now in this case, of course, the  
5 state is alleging three murder counts.

6 A. Right.

7 Q. How serious would your consideration  
8 be of life with the possibility of parole or  
9 life without the possibility of parole?

10 A. I don't believe I -- if I understand,  
11 I don't believe I would be inclined towards  
12 either one of those. I would be leaning  
13 towards death.

14 Q. Okay. And when we talk about  
15 leaning, would you be -- I'm sorry. Go ahead.

16 A. I would be -- it would be the  
17 opposite of presumed innocence.

18 Q. Okay. You would have a presumption  
19 for the death penalty; is that right?

20 A. Yes.

21 Q. I believe you said you would be able  
22 to consider all of the options. Is that a  
23 real consideration?

24 A. Probably not. If I even understand  
25 these circumstances we are talking about here,

1 I would say no.

2 Q. Your best feeling right now is if you  
3 sat on this jury and went to a penalty  
4 hearing --

5 A. Yes.

6 Q. -- you are going to impose the death  
7 penalty; is that right?

8 A. Yes.

9 Q. Would there be anything that would  
10 come out during the mitigation case -- you  
11 know, the mitigation case is part of the  
12 penalty phase where we would offer evidence to  
13 say not to kill -- is there any kind of  
14 evidence that would change your opinion?

15 A. I doubt that very seriously.

16 Q. By the same token, if the state were  
17 to put on aggravating evidence, would that  
18 push you even more firmly in the death penalty  
19 camp?

20 A. I don't think I can be any more  
21 firmly in the death penalty camp.

22 Q. I know we try to slice this pretty  
23 thin, but now that we've talked a little bit,  
24 do you think if there was a conviction on  
25 three counts of murder, that you would be able

1 to consider any or all four options: Death  
2 penalty, life without possibility of parole,  
3 20 to life for each count of a murder or 20 to  
4 50 years? You would be able to consider those  
5 honestly?

6 A. I doubt it.

7 Q. Can you make it more certain than  
8 that?

9 A. No, I wouldn't consider it.  
10 Realistically, I wouldn't consider it.

11 MR. O'BRIEN: Thank you for your  
12 honesty. I appreciate it. I know it's tough.

13 Judge, we challenge for cause.

14 THE COURT: Sir, the law of the State  
15 of Nevada requires that if a case goes into  
16 what we refer to as the penalty phase, that  
17 all options are considered by the jurors. Are  
18 you telling me that even given the order of  
19 this Court, that you would not consider them?  
20 Give them meaningful consideration?

21 PROSPECTIVE JUROR 132: I don't like  
22 to sit in court and say I would disobey the  
23 law. I'm not comfortable doing that. If you  
24 are asking me, but if you want the truth, I  
25 don't see how I can comply with those

1 instructions.

2 THE COURT: So, in other words, you  
3 think that if a finding of guilt is made in  
4 any murder case, then we don't even know to go  
5 to the second part because it should be death  
6 penalty, in your mind.

7 PROSPECTIVE JUROR 132: I think for  
8 the next five years or so, that would be an  
9 appropriate method.

10 THE COURT: Mr. Kane? Ms. Pandukht?

11 MR. KANE: No, Your Honor.

12 THE COURT: I'm going to grant the  
13 for cause and ask that you please return to  
14 the jury assembly area. I think this is a  
15 good time for us to take our lunch recess.

16 Mr. Bailiff, before we do the recess  
17 and I give the admonishment, would you  
18 approach for a moment, please?

19 (Bench conference with the bailiff off the  
20 record.)

21 THE COURT: We'll be in recess,  
22 ladies and gentlemen, until 1:30. At that  
23 time you will return to the area that  
24 Mr. Bailiff tells you to return and we will  
25 again be in our afternoon session.

1           During the recess, I want you to know  
2 that you cannot discuss this case among  
3 yourselves or with anyone else; you can not  
4 read, watch, listen to any report of,  
5 commentary on or to any person who might be  
6 associated with this matter. Do not form or  
7 express an opinion in any of these matters  
8 until this case has been fully and finally  
9 completed and submitted to you under  
10 instruction of law by me.

11           For those of you who just came into  
12 the courtroom today, it is important that you  
13 wear your juror ID badge in an area -- in a  
14 place where it is immediately available for  
15 others who approach you to see it. I prefer  
16 that they be on the outside of a jacket, for  
17 those of you who are wearing jackets. You  
18 leave it on for -- from the moment you get out  
19 of your car in the morning until you return to  
20 your car at night.

21           Please be mindful of the facts if you  
22 come and go into the courtroom, people that  
23 you may be in line with, people that you may  
24 be sharing a rest room with, our potential  
25 witnesses, members of even the district

1 attorney's office, our defense team's office,  
2 members of families of victims, members of  
3 families of witnesses, and you should not in  
4 any way discuss this case, nor should you  
5 allow anyone to discuss this case with you.  
6 If in fact someone should try and discuss this  
7 case with you, you would tell Mr. Clifton and  
8 he would report back to me.

9           Very quickly, before we recess, I  
10 want you to know that Mr. Clifton is the only  
11 person with whom you can have direct contact.  
12 None of us can have any contact with you. If  
13 we were to pass you in the hallway or outside  
14 at one of our local luncheon restaurants, we  
15 would ignore you. We would not do that  
16 because we want to be rude, but instead  
17 because it is our obligation to do so.

18           And, finally, my name's Nancy Saitta,  
19 as I think you have seen. I think it's below  
20 me here on the bench. And I want to introduce  
21 to you a few of the people that work with me.  
22 To my far right is Jo Anne Pierpont. She is  
23 the court recorder. She records everything  
24 that is said in the courtroom.

25           To my immediate right is Kristen



1 Brown, and she is the court clerk. She makes  
2 sure that all of the evidence and the exhibits  
3 are properly maintained and in general she  
4 keeps me in line. In front of me and to my  
5 left is Gayle -- and you're, Gayle, you're  
6 going to have to help me with your last name.

7 THE COURT REPORTER: Gayle Pichierri.

8 THE COURT: Gayle is a court  
9 transcriber or reporter. She is also taking  
10 down everything that is being said in this  
11 courtroom. Before we adjourn for the lunch  
12 recess, are there any of you who have just  
13 come into the courtroom who know any of us?

14 Yes, sir.

15 PROSPECTIVE JUROR: I was on a jury  
16 once and she was the -- you know.

17 THE COURT: Ms. Pandukht?

18 PROSPECTIVE JUROR: Yeah, well, just  
19 from that trial.

20 THE COURT: You are juror number --

21 PROSPECTIVE JUROR 212: 212.

22 THE COURT: 212? So without telling  
23 us what your verdict was, did anything happen  
24 in that trial that you would hold against her  
25 in this trial?

1 PROSPECTIVE JUROR 212: No.

2 THE COURT: You could still be fair  
3 and impartial, despite the fact you have  
4 already been in trial with Ms. Pandukht  
5 before?

6 PROSPECTIVE JUROR 212: Yes.

7 THE COURT: Thank you very much.  
8 Anyone else who thinks you know any of us?

9 PROSPECTIVE JUROR: I don't know  
10 anybody --

11 THE COURT: You're going to have to  
12 stand up, speak up, and give us your jury  
13 number.

14 PROSPECTIVE JUROR 177: 177. I don't  
15 know anybody. I won't be here next week. I  
16 am going out of the country.

17 THE COURT: Do you have proof of  
18 that?

19 PROSPECTIVE JUROR 177: Yes.

20 THE COURT: Mr. Bailiff, if you would  
21 take that.

22 MR. BROOKS: What number?

23 PROSPECTIVE JUROR 177: 177.

24 THE COURT: One more time.

25 PROSPECTIVE JUROR: 177.

1 THE COURT: Counsel, will you  
2 approach?

3 (Bench conference held off the record)

4 THE COURT: Sir, did you have a  
5 question?

6 PROSPECTIVE JUROR: Yes, I did.

7 THE COURT: Badge number?

8 PROSPECTIVE JUROR: 133.

9 THE COURT: 133? Yes, sir?

10 PROSPECTIVE JUROR: My wife is  
11 expecting. She dilated to a three and she  
12 started having contractions last night. And I  
13 didn't want to give an excuse, but I am a  
14 little worried about that. She is on her way  
15 to the hospital. My phone is off, but --

16 THE COURT: Thank you very much.

17 Mr. Bailiff, would you approach?

18 (Bench conference with the bailiff off the  
19 record.)

20 THE BAILIFF: There is another hand  
21 over here.

22 THE COURT: I missed that one.

23 Sorry.

24 THE COURT: Was there another hand?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: You know some of us.

2 PROSPECTIVE JUROR: No. But I  
3 have -- yesterday I have a back procedure and  
4 it is not healthy for me being seated.

5 THE COURT: What type of procedure  
6 did you have?

7 PROSPECTIVE JUROR: I had an  
8 epidural, and I have my paperwork with me  
9 because I will have another one next  
10 Wednesday. I brought all the paperwork.

11 THE COURT: What did your doctor tell  
12 you you were supposed to do today?

13 PROSPECTIVE JUROR: Rest a lot and  
14 not stay in the same position for a long time.

15 THE COURT: Okay. Thank you very  
16 much.

17 MR. KANE: What was the badge number,  
18 again, Judge, I'm sorry?

19 THE COURT: Badge number?

20 PROSPECTIVE JUROR: 214.

21 THE COURT: 214. Very well. In the  
22 meantime, please remember the admonishment...  
23 (Whereupon, the Court re-admonished the  
24 prospective jurors.)

25 THE COURT: Mr. Bailiff, the two that

1 I spoke to you about.

2 Thank you very much. See you at  
3 1:30.

4 Counsel, will you stay just for a  
5 second?

6 (Thereupon, the prospective jurors exited the  
7 courtroom.)

8 THE COURT: Counsel, as you know, I  
9 explained to you Mr. Cabrera was going to be  
10 excused for cause. I granted a for cause  
11 challenge. I found him to be very credible.  
12 I think that he is so concerned about his  
13 ability to provide for his family, that he  
14 would not be able to give the attention to  
15 this case that he should.

16 I would also like you to know that in  
17 addition to the young lady who is going out of  
18 the country, I am also going to excuse. And  
19 I've already told Mr. Bailiff that the  
20 gentleman whose wife is apparently about to  
21 deliver is also to be excused.

22 MR. KANE: 133?

23 THE COURT: 133, yes. The young  
24 woman who is seated directly behind counsel  
25 table having had the epidural is of no

1 consequence to me. She can get up and down as  
2 much as she needs to. She is not going to be  
3 excused, at least not on my motion.

4 MS. PANDUKHT: So you did excuse 177?

5 THE COURT: Yes. The lady traveling  
6 out of the country, yes.

7 MR. KANE: Judge, the only thing I  
8 want to add about the lady with the epidural,  
9 and I agree that's not an excuse, she did  
10 mention she had further surgery scheduled next  
11 week.

12 THE COURT: We can take it up when I  
13 come back. But I sure would be surprised if  
14 she had another epidural in a week. So let's  
15 see what we hear this afternoon.

16 MR. KANE: Thank you, Judge.

17 (Thereupon, Court adjourned for lunch recess at  
18 12:35 p.m.)  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5 I hereby certify that the foregoing  
6 is a true, accurate and complete transcription  
7 of my stenographic notes taken at the time of  
8 the aforementioned trial proceedings.  
9  
10  
11

12   
13 GAYLE G. PICHIERRI, RPR, CRR  
14 CCR No. 595, CSR No. 11406  
15

16 Dated: 12/8/05  
17  
18  
19  
20  
21  
22  
23  
24  
25

FILED IN OPEN COURT

DISTRICT COURT

DEC 09 2005 20

CLARK COUNTY, NEVADA

SHIRLEY J. PARRAGUIRRE, CLERK

BY *Jennifer L. Smith*  
JENNIFER L. SMITH, DEPUTY

ORIGINAL

THE STATE OF NEVADA,

Plaintiff,

vs.

GLENFORD ANTHONY BUDD,

Defendant.

Case No.: C193182

Dept. No.: XVIII

VOLUME 3B

(P.M. Session)

## REPORTER'S TRANSCRIPT OF JURY TRIAL

Before the Honorable Nancy M. Saitta, District Court Judge

Thursday, December 8, 2005

1:40 p.m.

## APPEARANCES:

For the State:

EDWARD KANE, ESQUIRE  
Deputy District AttorneyTALEEN PANDUKHT, ESQUIRE  
Deputy District Attorney

For the Defendant:

HOWARD BROOKS, ESQUIRE  
Deputy Public DefenderTIMOTHY O'BRIEN, ESQUIRE  
Deputy Public Defender

Reported by: Jean M. Dahlberg, RPR, CCR 759, CSR 11715



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

	I N D E X			
Witness	Direct	Cross	Redirect	Recross
LAZON JONES				
(By Ms. Pandukht)	68			
(By Mr. Brooks)		97		
REXENE WORRELL				
(By Ms. Pandukht)	133		155	
(By Mr. Brooks)		152		156

1 LAS VEGAS, CLARK COUNTY, NEVADA

2 THURSDAY, DECEMBER 8, 2005; 1:40 P.M.

3 -oOo-

4  
5 P R O C E E D I N G S

6 (Prior to the commencement of the afternoon  
7 session of Day Three, Volume 3B, the Clerk called the roll  
8 call for the potential jurors.)

9 THE COURT: Please be seated. Welcome back.

10 Ms. Clerk, would you call the next number juror,  
11 please.

12 THE CLERK: Badge number 136, Heriberto Beltran.

13 THE COURT: And let the record reflect that all  
14 parties are present with counsel.

15 Will you stipulate to the presence of the jury?

16 MR. KANE: Yes, Your Honor.

17 MR. BROOKS: Defense will, Your Honor.

18 THE COURT: Thank you very much.

19 Good afternoon, sir.

20 PROSPECTIVE JUROR 136: Hi.

21 THE COURT: And we have a new court reporter  
22 with us this afternoon.

23 Would you state your name please for my jurors.

24 PROSPECTIVE JURY 136: I go by --

25 THE COURT: That's okay.

1 Ms. Reporter, I'd like you to please state your  
2 name.

3 THE REPORTER: My name is Jean Dahlberg.

4 THE COURT: And does anyone know Ms. Dahlberg?

5 (No answer from anyone in attendance.)

6 THE COURT: Very well,

7 Sir, anything that you think our attorneys need  
8 to know about you?

9 PROSPECTIVE JUROR 136: No.

10 THE COURT: Ms. Pandukht? Mr. Kane?

11 MS. PANDUKHT: Thank you, Your Honor,

12 VOIR DIRE EXAMINATION

13 BY MS. PANDUKHT:

14 Q. Mr. Beltran, where do you work?

15 A. At the Rio.

16 Q. At the Rio?

17 Are you in security or anything like that?

18 A. No.

19 Q. Then -- you had mentioned that there had been a  
20 time when someone, either yourself or someone close to  
21 you, had been arrested?

22 A. Yeah. My uncle.

23 Q. Okay. Do you have any feelings, one way or  
24 another, about how your uncle was treated?

25 A. Well, I was really young. I was only, like, 10.

1 It was kind of scary. I was watching the whole thing.

2 Q. You actually witnessed it?

3 A. Yeah. It was in my back yard.

4 Q. Did you feel as though the police treated them  
5 fairly that day?

6 A. Yes. Because he was going crazy.

7 Q. Okay. Anything about that experience that would  
8 make you feel like you couldn't be fair and impartial?

9 A. No.

10 Q. You could be fair to both sides?

11 A. Yeah.

12 MS. PANDUKHT: Pass for cause.

13 THE COURT: Mr. O'Brien?

14 MR. O'BRIEN: Thank you.

15 BY MR. O'BRIEN:

16 Q. Good afternoon Mr. Beltran.

17 You had mentioned in your questionnaire that  
18 you're very quiet.

19 A. Yeah.

20 Q. Do you think if you were to serve as part of  
21 this jury that you would have an equal voice and be able  
22 to express your opinions?

23 A. It's hard to say. I -- I don't know.

24 Q. How -- you also mentioned that you had a hard  
25 time making up your mind.

1 A. Yeah.

2 Q. Can you think of a situation where you had to  
3 get together with a group of people and make a very  
4 important decision?

5 A. Um -- no.

6 Q. I'm just kind of curious. I guess what I would  
7 really like to know is: You know, given the fact that  
8 you're kind of quiet and you may have a hard time making  
9 up your mind, if you're just kind of gonna go with the  
10 flow and not have an independent voice?

11 A. Well, I'm loosing money. I'd rather be working;  
12 so, it's kind of -- you know, I have a lot of bills and --

13 Q. So, given those points, I --

14 A. I want it be fair and -- I don't know.

15 Q. So --

16 A. I'd probably go with the flow.

17 Q. I'm sorry?

18 A. To be honest, I'd probably go with the flow.

19 Q. Just kind of go with the flow.

20 And part of that would be because --

21 A. Because I just want to get out of here,  
22 obviously. I'm just --

23 Q. Okay. Part of that would be because maybe  
24 you're a little bit indecisive in a group?

25 A. That's it.

1 Q. And you're also a little bit quiet?

2 A. Yeah.

3 Q. And then another large part of that would be  
4 because you simply would want to get out of here as quick  
5 as possible?

6 A. Yeah.

7 Q. Well, I mean -- you know, what we've been  
8 talking about here, do you really think you would make  
9 that kind of rash decision just to get out of here, given  
10 what's at stake?

11 A. Um -- probably, yeah. 'Cause -- you know.

12 Q. When asked about your thoughts regarding the  
13 death penalty, you said, "Get what they deserve." Could  
14 you tell me more about that?

15 A. Um -- yeah. If they -- you know, if he's guilty  
16 and he really killed, like, three people, I think he  
17 should get the death penalty.

18 Q. But, you would consider other options, wouldn't  
19 you? Or would you just pick the death penalty?

20 A. Pick the death penalty.

21 Q. However, when asked if the death of penal- --  
22 excuse me -- if the death penalty was appropriate in all  
23 cases, you said, "Not always."

24 A. Well, not always. I mean, if it's not a murder  
25 case, then --

1 Q. Oh, okay. Do you think the death of penal- --  
2 excuse me. Do you think the death penalty is the only  
3 appropriate verdict in an intentional murder situation?

4 A. Unless there's something wrong -- unless he's  
5 insane or something. Psychologically, you know.

6 Q. Is there any -- you mentioned if he was insane  
7 or had some serious psychological problems --

8 A. Yes.

9 Q. -- I guess is --

10 A. Then it wouldn't be his fault.

11 Q. Right. Any other situations where the death  
12 penalty might not be appropriate in an intentional murder  
13 situation?

14 A. No.

15 Q. And, on the other hand, you're a law-abiding  
16 citizen; right?

17 A. Yeah.

18 Q. And if this judge asked you for your promise to  
19 follow the law as she gives it to you, are you going to be  
20 able to do that, given what you told me?

21 A. I don't think that I can.

22 Q. Okay. As you know, if this case goes to a  
23 penalty phase, there's going to be four sentencing  
24 options: The death penalty; a term of years in two  
25 variations, one with basically a 20 to life for each --

1 or, excuse me -- basically a 40 to life in each count; a  
2 20 -- to 40 to 100 on each count; and life without the  
3 possibility of parole. Given those four options, and  
4 assuming there's not a severe psychological -- any  
5 evidence regarding a severe psychological perform- -- or,  
6 you know, problem, are you just going to vote for the  
7 death penalty?

8 A. Yeah.

9 Q. You're not going to consider those other  
10 options?

11 A. No.

12 MR. O'BRIEN: I'll move to strike the cause,  
13 Your Honor.

14 BY THE COURT:

15 Q. Sir, if you were seated in the seat where the  
16 defendant is seated, and you were going through a trial  
17 for murder, you sure would want everybody to consider all  
18 the options in terms of sentencing, wouldn't you?

19 A. Yes.

20 Q. And you've heard me say, at least a couple of  
21 times since this morning, how important it is for all of  
22 us that a jury be chosen that will be free of bias and  
23 listen to the facts and circumstances in the first part of  
24 the trial. And if we need to get to a second phase -- the  
25 thing needs to be here. We need an open-minded jury. Do



1 you think you could do that?

2 A. Um -- I don't think I could be really  
3 open-minded. I mean --

4 Q. So, you would disregard the law as I would  
5 instruct you, when I say that there are several sentencing  
6 options and you need to consider all of those with your  
7 fellow jurors. Is that a fair statement?

8 A. I don't want to say no, but I have to go with  
9 what I think. You know, I don't think the death penalty  
10 is it.

11 THE COURT: Ms. Pandukht, Mr. Kane, anything for  
12 follow up?

13 MS. PANDUKHT: No, Your Honor.

14 THE COURT: I will grant the for cause.

15 Mr. Beltran, if you could return to the jury  
16 area, sir.

17 THE CLERK: Badge Number 137, John Buch or Buch  
18 (pronounced Buck and Butch.)

19 PROSPECTIVE JUROR 137: Buck.

20 THE CLERK: Thank you.

21 THE COURT: Goods afternoon, sir.

22 PROSPECTIVE JUROR 137: Hi.

23 THE COURT: Thank you for your patience in this  
24 process.

25 PROSPECTIVE JUROR 137: No problem.

1 THE COURT: You've heard the questions that the  
2 attorneys have been asked of the other folks. Anything  
3 you think they need to know about you?

4 PROSPECTIVE JUROR 137: Nope.

5 THE COURT: Have you been a juror before?

6 PROSPECTIVE JUROR 137: No.

7 THE COURT: And anyone close to you been accused  
8 of or arrested for a crime?

9 PROSPECTIVE JUROR 137: No.

10 THE COURT: Is there anything you think we need  
11 to know about you, any attitude or belief that we might  
12 need to consider in order to be sure that you're going to  
13 be a fair and impartial jurist?

14 PROSPECTIVE JUROR 137: No. I'm very fair. I  
15 take the information given, to make decisions.

16 THE COURT: Ms. Pandukht, Mr. Kane?

17 MR. KANE: No questions, Your Honor. Pass for  
18 cause.

19 THE COURT: Pass for cause?

20 Mr. Brooks?

21 MR. BROOKS: Thank you, Judge.

22 VOIR DIRE EXAMINATION

23 BY MR. BROOKS:

24 Q. It's Mr. Buch?

25 A. Correct.

1 Q. And I apologize. I wasn't quite sure I  
2 understand this. You're part of the second group that  
3 came in; you weren't in here the first part; correct?

4 A. Monday and Tuesday?

5 Q. Right.

6 A. No. I was actually out of town on business.

7 Q. Okay. So, you came in -- today is the first day  
8 in the courtroom?

9 A. Correct.

10 Q. In listening to these proceedings so far, do you  
11 find it helpful?

12 A. I believe everybody has their own beliefs. My  
13 reasoning is, I'm going to listen to the information  
14 given. I feel I can make an educated decision or opinion  
15 on what I feel.

16 Q. And you're going to follow the law?

17 A. Of course.

18 Q. Did you want to be on the jury?

19 A. Particularly, no.

20 Q. Do you have conflicts that you can -- that would  
21 allow you to motivate you to not be on the jury?

22 A. Yes.

23 Q. What are those conflicts?

24 A. I run multiple businesses. So, I just spent two  
25 weeks in London. I just returned. Spent a couple days

1 out of town, so I'm pretty far behind in my work, and I  
2 work about 14 hours a day. So, as I would be here all  
3 day, I would spend maybe evenings and morning catching up  
4 on my day-to-day work. So -- but, that's my main reason.  
5 And I leave out of town on vacation on the 18th, so, that  
6 doesn't really give much time to catch up.

7 Q. Are you suffering from jet lag?

8 A. Not anymore. I caught up after three day.

9 Q. You travel lots, so you're pretty used to --

10 A. Not too often. I'm busy this time of year at  
11 the middle of the month, because in each part of my  
12 businesses I have board meetings, which is why I wasn't  
13 here Monday and Tuesday. And I'm responsible for  
14 organizing at the end of the year -- which comes on the  
15 15th -- all bonuses and everything for funding, so there's  
16 a lot of things at this time of year that creates  
17 additional work on top of what I have. So, it's that time  
18 of the year that creates, I guess, a work problem; which  
19 means, I'll be working night and day to try to stay on top  
20 of my normal business. But be here to listen to the  
21 information and provide the best options I can.

22 Q. Can you handle all that?

23 A. I do now. I mean, I sleep on average, a lot of  
24 times -- right now, two to three hours a night, and it  
25 gets tiring. So, sitting in a chair gives me the

1 potential, because I move all day. I'm on the go. So,  
2 sitting in a chair like this, in what I feel is a warm  
3 room, I start dozing off. So -- but can I do it? If  
4 chosen to, I don't have a choice.

5 Q. Now, you realize if you end up on the jury and  
6 you can't stay awake, you should tell us. Tell the Court.

7 A. I just gave you my -- my truth and reality of  
8 how I know I am. In terms of afternoon, after I work  
9 until 3:00 in the morning and doing what I do, and get  
10 back up at 6:00 in the morning till 5:00 in the afternoon,  
11 I do get tired. And I take a break, I go get some coffee,  
12 and I continue on from there.

13 Q. In your comments in your questionnaire on  
14 "Public Defenders," you mentioned "No Comment." What does  
15 that mean?

16 A. I don't have an opinion one way or the other.

17 Q. On "Prosecutors," you said, "They try to win  
18 their case." Do you have any elaboration on that?

19 A. You're here to defend and the prosecutors are  
20 here to win the case for the State. Everybody has their  
21 own objectives.

22 Q. In talking about the death penalty, you stated  
23 that, "If proven guilty, I don't want to keep them in  
24 jail. I would rather execute them and move on." Is that  
25 your view?

1           A.     My opinion is yes in the situation where the  
2 evidence is very clear and the defendant is guilty of one,  
3 two, three, whatever the case may be. I've never been big  
4 on -- you know, they spend a lot of time in jail and so  
5 forth. If it's one that they're going to get sentenced  
6 for life, where is the point of -- you know, yeah, I guess  
7 for his family or the defendant's family side would be  
8 able to come and visit the defendant. But in terms of the  
9 defendant paying for their actions, compared to spending  
10 the government's money for the next 80 years, I believe  
11 that why not just finish the situation and move on.

12           Q.     One juror this morning -- you may have heard  
13 her -- she remarked that it was more expensive to actually  
14 put them in prison -- I'm sorry, to kill them than it is  
15 to put them in prison. Any response to that?

16           A.     I'd say long term, you're going to spend more  
17 money and State money keeping that person locked up and  
18 going through that process. I've never really weighed the  
19 cost of it. I'd say, over the course of 60 years or 70  
20 years, depending on how long the defendant might end up in  
21 prison, if they're found guilty, that is going to  
22 definitely outweigh it.

23                     And, you know, as I hear, you know, very medium,  
24 you should take medium for what it is, because they  
25 promote what they want to promote. Over a long period of

1 time, the expenses are going to well outweigh the costs,  
2 I'm sure, of -- but that's not really a consideration in  
3 terms of whether to keep them in prison or not. If  
4 they're found guilty and with no reasonable doubt or -- I  
5 don't know the exact words you guys are using; but,  
6 basically, I don't look at things in that nature, but long  
7 term, yeah, I assume it would cost the State and us,  
8 eventually, the taxpayers, more money to keep somebody  
9 sitting in a cell.

10 Q. Do you think by putting a person in prison for  
11 the rest of their life is punishment?

12 A. Punishment for what?

13 Q. Is it punishment?

14 A. It depends on the person. Some people like to  
15 be confined by themselves and prison might not be a bad  
16 place for them. There's other people that if this person  
17 is found guilty of three murders for really no reason, I  
18 don't know if I really consider that punishment. I mean,  
19 because they're continuing on with their life when they,  
20 for no reason, took the life of three others or how many  
21 they're being accused of.

22 Q. We talked about the presumption of innocence  
23 here. The Court will instruct you that you're supposed to  
24 presume my client innocent. Any problem with that?

25 A. No.

1 Q. You don't have any objection to making the State  
2 prove their case?

3 A. Not at all.

4 Q. In the event that my client is convicted of  
5 first-degree murder -- and first-degree murder is an  
6 intentional killing, with the intent to kill -- if you  
7 find him guilty of first-degree, intentional murder, are  
8 you open to putting him in prison forever?

9 A. Would that be my first choice? No. Am I open  
10 to it? Yes. But, as I'm very outspoken, what I do, I  
11 will go with what I wrote in my answers -- questions and  
12 answers -- that, you know, if that is the case, my first  
13 recommendation would be the death penalty.

14 Q. That's your first -- that's the one you favor  
15 the most?

16 A. Yes.

17 Q. But you're open to the other alternatives?

18 A. I'm open to what the jury decides and discusses.

19 Q. Are you open to yourself to go and decide other  
20 alternatives?

21 A. I make changes to what I don't believe every  
22 day. So, that would be yes, I guess.

23 Q. Okay. The law does not require you to  
24 necessarily weigh everything equally. The law merely  
25 requires you to be open to all four possible punishments.



1 And the same goes if you were in favor of life in prison.  
2 You only have to consider the death penalty; you don't  
3 necessarily have to -- I mean, the fact that you were  
4 against the death penalty or dislike it does not mean that  
5 you cannot serve on a jury.

6 A. I'm not against the death penalty.

7 Q. I understand that. I am just trying to use it  
8 as an example.

9 A. Oh, okay.

10 Q. Is there anything else that we should know about  
11 you before we make our decision on who's on the jury?

12 A. No.

13 Q. Okay. Thank you for your honesty and your  
14 openness.

15 MR. BROOKS: Pass for cause, Your Honor.

16 MS. PANDUKHT: We have a couple more voir dire  
17 questions for 129, please.

18 THE COURT: I'm saying we do.

19 Ms. Pandukht, Mr. Kane you may --

20 MR. KANE: Thank you, Your Honor.

21 VOIR DIRE EXAMINATION (continued)

22 BY MR. KANE:

23 Q. Ms. Santos, I'm sure it will come as no surprise  
24 to you, but we have a couple questions about your views on  
25 the death penalty.

1           In the portion of the questionnaire where you  
2       were just an open-ended question to comment on the death  
3       penalty, you wrote, "I don't agree with it. No person  
4       should have to die for the crime committed." Was that  
5       your feeling at the time?

6           A.     Yes. Still is.

7           Q.     Is it your feeling now?

8           And you went on, "Life is punishable by  
9       self-guilt enough throughout a lifetime." What did you  
10      mean by that?

11          A.     I think if you commit a crime, you're going to  
12      have to live with it regardless, and that should be  
13      punishable enough. And I don't -- I don't view killing a  
14      person as just punishment. I don't think that it would  
15      make anything better.

16          Q.     Okay. But when I went down to question 44, and  
17      that's the one that says, "If Mr. Budd here is convicted  
18      of murder, will you be able to consider all of the  
19      available penalties including death, life without, or life  
20      with," your answer was "Yes." Is that really your honest  
21      answer?

22          A.     It's kind of changed now. I do think that he  
23      should be punished; but I don't think that parole would be  
24      any part of me considering that. Like, I would not go for  
25      that.

1 Q. Okay. So, I sense a narrowing of options here.  
2 If he's convicted, you're not going to consider the  
3 possibility of parole?

4 A. No.

5 Q. And you're not going to consider the possibility  
6 of death; correct?

7 A. No.

8 Q. So, all that leaves is life without?

9 A. Yes.

10 Q. So, out of the four available penalties, there's  
11 really only one that you're willing to consider?

12 A. Yes.

13 Q. Now, would your views on not considering the  
14 death penalty change under one of these hypothetical  
15 examples we've all been tossing around. You've got  
16 Charles Manson or Adolph Hitler. Are you in favor of the  
17 death penalty then?

18 A. No.

19 Q. You'd be opposed to it at any time?

20 A. Yeah.

21 Q. If you're back in that jury room, there's going  
22 to come a point where all 12 people are going to take a  
23 vote on a penalty. Can you conceive of any circumstance  
24 under which you could raise your hand and say, "I vote in  
25 favor of the death penalty"?

1 A. No.

2 Q. And would that change no matter what legal  
3 instructions you were given by the judge?

4 A. No.

5 Q. Would that change no matter what evidence you  
6 heard from either side during the penalty?

7 A. No.

8 MR. KANE: Challenge for cause.

9 THE COURT: Mr. O'Brien or Mr. Brooks?

10 MR. O'BRIEN: Thank you.

11 BY MR. O'BRIEN:

12 Q. Good afternoon Ms. Santos.

13 A. Good afternoon.

14 Q. Have you ever had to make a decision comparable  
15 to the one you might have to make during the course of  
16 this trial?

17 A. It was a lot more petty, because it was  
18 involving an animal.

19 Q. Well, tell me about it.

20 A. I mean, the way -- I was thinking about this the  
21 other day. And I feel like if I'm being placed in this  
22 position, I have to look at human being like an animal, if  
23 it was to get that far; you know, as far as putting them  
24 to death. Like, one of my dogs, like, had bit a child,  
25 and we had to put him down for that. So, that, to me,

1 is -- I can't look at a human being in the same way I  
2 would look at an animal, because they know. They should  
3 already know what is right and what is wrong. An animal  
4 sometimes can't control it, so --

5 Q. Okay. So, I mean -- and you were able to make  
6 that dec- --

7 A. I had to make the decision and end up putting  
8 him down.

9 Q. Right. But you were able to make that decision?

10 A. I was younger. It was more of my parents'  
11 decision than mine.

12 Q. Okay.

13 A. But I did have some say in it.

14 Q. Okay. You were a part of the discussion about  
15 it?

16 A. Yes.

17 Q. It wasn't easy, was it?

18 A. No.

19 Q. And it wasn't a decision you wanted to make, was  
20 it?

21 A. No.

22 Q. And this isn't the kind of decision you want to  
23 make either; right?

24 A. But -- I mean, with all honesty, no. Not even  
25 close. I wouldn't want to have to -- I mean, I know that

1 you mentioned previously that nobody wants to be faced  
2 with that kind of decision, but -- I mean, I wouldn't want  
3 to hold that my conscious that I was a part of somebody --  
4 somebody's having their life taken away. And even though  
5 he did commit crimes, I couldn't hold myself to it.

6 Q. Okay. You did respond in your questionnaire  
7 that if you were involved in a penalty phase, that you  
8 would be able to consider all the options. Do you recall?

9 A. I did say that. But, like I said, it has  
10 changed. As far as the options? As far as, like,  
11 imprisonment with parole and things like that? Is that  
12 what you're referring to?

13 Q. Right; the four options that we've talked about.  
14 Basically, the life without any possibility of parole or a  
15 long term -- a long, long term of years.

16 A. Yes. As I told the State, I -- I have changed  
17 my mind about that. Like, I can't -- I can't agree to the  
18 death penalty. I can't agree with imprisonment with  
19 parole.

20 Q. And you couldn't even consider the death  
21 penalty?

22 A. No.

23 MR. O'BRIEN: I'll submit it to the Court.

24 THE COURT: Thank you. I'm going to grant the  
25 for cause, and I'm going to ask the juror to return to the

1 PROSPECTIVE JUROR 118: I don't know.

2 THE COURT: You don't know because  
3 you haven't heard any evidence or you don't  
4 know because you are concerned you would have  
5 a bias or a prejudice?

6 PROSPECTIVE JUROR: Probably a bias.

7 THE COURT: Tell me about your bias.

8 PROSPECTIVE JUROR: My bias is not  
9 just from my father's point of view, but  
10 murder, but it would be about his -- not just  
11 what he did, but he himself. He made -- what  
12 he has done.

13 THE COURT: What he is accused of  
14 doing.

15 PROSPECTIVE JUROR 118: Yeah, what he  
16 is accused of doing and the person himself.

17 THE COURT: You would listen to all  
18 of the facts and evidence; correct.

19 PROSPECTIVE JUROR 118: Yes.

20 THE COURT: You would be able to  
21 balance and weigh that evidence and render a  
22 decision based only upon what you see in this  
23 courtroom by way of witness testimony or  
24 admitted evidence?

25 PROSPECTIVE JUROR 118: No, I am not

1 sure on that.

2 THE COURT: So have you made up your  
3 mind about guilt or innocence in this case?

4 PROSPECTIVE JUROR: Yes, I have.

5 THE COURT: And so you, despite the  
6 instruction that I have given you that says  
7 that no one can make a decision because at  
8 this point the only decision or the only  
9 conclusion that one could come to is that  
10 Mr. Budd is presumed innocent, is your  
11 conclusion different than that?

12 PROSPECTIVE JUROR: It is.

13 THE COURT: Ms. Pandukht, Mr. Kane,  
14 anything you want to follow with?

15

16 VOIR DIRE EXAMINATION

17 BY MS. PANDUKHT:

18 Q. Well, I was a little confused by what  
19 you just said. Just because in your  
20 questionnaire the question of if a prosecutor  
21 has taken someone to trial, then the person  
22 must be guilty, you put false?

23 A. That may be true. But from what I  
24 have learned in this case, my opinion has  
25 changed.



1 Q. You mean by sitting in jury  
2 selection?

3 A. Yes. My observation, yes. From what  
4 I have gathered. I have just gathered bits  
5 and pieces about the drug relation and the  
6 murder itself.

7 Q. You had mentioned that you didn't  
8 talk about an arrest that you had, but it was  
9 in your questionnaire?

10 A. Yes.

11 Q. Were you talking about the DUI  
12 arrest?

13 A. Yes.

14 Q. Did you resolve that DUI case?

15 A. Yes.

16 Q. Or did you go to trial?

17 A. It went to trial.

18 Q. Did you go to trial?

19 A. Yes.

20 Q. Were you in any way thinking that the  
21 police officers treated you unfairly?

22 A. Yes, Highway Patrol.

23 Q. You did feel as though Highway Patrol  
24 treated you unfairly?

25 A. Yes.

1 Q. How about the prosecutor?

2 A. No. I didn't have any problem with  
3 the Judge or prosecutor.

4 Q. Luckily, we don't have any Nevada  
5 Highway Patrol officer witnesses. But  
6 regardless, would you have any ill will  
7 towards any of the police officers that would  
8 testify in this case because of that  
9 experience you had?

10 A. No, none whatsoever.

11 Q. And then would you be able to  
12 consider all four of the possible penalties in  
13 this case?

14 A. I have a problem with the 14-year  
15 old, and that has a tendency to sway me more  
16 towards -- if I may explain myself.

17 Q. Sure.

18 A. The intent -- in other words, if the  
19 three victims were unarmed and the defendant  
20 went to seek them out, I would have a problem  
21 with that.

22 Q. And your problem would be against  
23 who?

24 A. The intent.

25 Q. The state or the defense?

1 A. The defendant.

2 Q. Would you still be able to consider  
3 after hearing all of the evidence, all four of  
4 the possible punishments in this case?

5 A. Oh, I would.

6 Q. You would be able to consider all  
7 four?

8 A. And on the opposite side, if the  
9 defendant was in a -- defending himself, then  
10 I would weigh heavily on the acquittal.

11 MS. PANDUKHT: Okay. Pass for cause.

12 THE COURT: Mr. Brooks? Mr. O'Brien?

13 MR. O'BRIEN: Thank you, Your Honor.

14 BY MR. O'BRIEN:

15 Q. Good morning.

16 A. Good morning.

17 Q. You mentioned that in your  
18 questionnaire that your opinion of the  
19 criminal justice system was big business. Can  
20 you tell me more about that?

21 A. Well, I have had an opportunity to  
22 study, took a -- class, UNLV. And we -- it  
23 was a good class. It was a good instructor.  
24 And we talked about the system itself, how the  
25 system is built. And to use an analogy, if I

1 may, the first question he asked when we went  
2 to class, this was at UNLV, he asked if there  
3 was any criminals in the classroom and nobody  
4 raised their hand. Once we went through the  
5 systems, the theories, how the system works,  
6 his last question in the class is: Are there  
7 any criminals in the class? And everyone  
8 raised their hand. So he did a very thorough  
9 job. He got theories involved, the money  
10 involved, and it was very practical. It was  
11 very good.

12 Q. Now, you also mentioned your father.  
13 He ran an institution in Utah for the  
14 criminally insane?

15 A. Yes, state hospital.

16 Q. And you also -- I believe you said  
17 something about "my father's point of view" in  
18 regards to the death penalty. Did I get that  
19 correctly?

20 A. That's correct.

21 Q. Tell me about that. What was your  
22 father's point?

23 A. Well, his expertise were psychopaths.  
24 And he was having a conversation with one of  
25 the social workers; it was the Fall of 1968.

1 During that period of time, the death penalty  
2 was being attacked from all sides. And so he  
3 was in a conversation with a social worker who  
4 took the side of no death penalty. My father  
5 came out and said, "Well, there are certain  
6 cases where the death penalty is applicable,  
7 depending on the individual, not necessarily  
8 the crime." But he put more weight on the  
9 individual because with psychopaths you  
10 don't -- with a psychopath there is a lot of  
11 things you don't know about that person, they  
12 are not obvious to you or the court or anybody  
13 else. I mean, their behavior.

14 Q. How long did your father have that  
15 job?

16 A. He was with the state hospital for  
17 approximately, let's see, I would say  
18 approximately 25 years.

19 Q. Did you spend a lot of time at that  
20 institution?

21 A. I spent not a lot of time, but I was  
22 there on several occasions. Several.  
23 Probably about, I would say I visited the  
24 hospital 50 times.

25 Q. Can you -- you mentioned that in a

1 nutshell that your father thought sociopaths  
2 should be --

3 A. Psychopaths.

4 Q. Psychopaths? Sociopaths?

5 A. No, he didn't -- at that time he  
6 wasn't explicit about whether a psychopath  
7 or -- it was strictly subjective, talking  
8 about certain individuals that he felt that  
9 deserved the death penalty. So he didn't --  
10 he wasn't explicit about it.

11 Q. And it would be those individuals who  
12 killed for no reason at all, for joy or  
13 pleasure?

14 A. He didn't discuss that.

15 Q. If you were -- if this jury -- we  
16 have to prepare for the contingency that there  
17 is a conviction in this case. And, of course,  
18 there's three murder -- a potential of three  
19 murder convictions. From reading your  
20 questionnaire -- I'll just be as open and  
21 honest with you as I can. From reading your  
22 questionnaire, if this jury were to find  
23 Mr. Budd guilty of three murders, I believe  
24 you are going to look at one option and one  
25 option only and that's the death penalty. And

1 is that a fair statement?

2 A. Well, again, the intent, as I  
3 described to the prosecution, in a case where  
4 if this gentleman took an active role and  
5 sought out the victims, and the victims had no  
6 way to defend themselves, then that would --  
7 yes, I would vote for the death penalty.

8 Q. Okay. Depending on what the facts  
9 and circumstances are, you can envision a set  
10 of facts and circumstances that would prohibit  
11 you from considering all of the relevant  
12 sentences. Is that accurate?

13 A. No. I thought I was pretty explicit  
14 on that part. I made a specific statement,  
15 not a general statement. I was going with the  
16 intent of the parties.

17 Q. Um-hum.

18 A. Describing it, again, if he -- if the  
19 individual in this case sought (ph) the three  
20 victims out, and the victims were unarmed,  
21 unaware he was going to be there, then I would  
22 ask for the death penalty.

23 Q. Okay. And you would not be able to  
24 consider the other options; is that right?

25 A. Not in that case, no.

1           Q.   Okay.  That's why in your  
2   questionnaire, when asked if there was a  
3   conviction in this case and you had to  
4   consider all of the sentences, you responded  
5   death penalty only?

6           A.   Well, again, that questionnaire  
7   leaves a lot of things out.

8           Q.   Sure.

9           A.   There is no psychiatric evaluation.  
10   It doesn't give me the facts on his intent.  
11   So those are pretty critical areas.

12          Q.   Right.

13          A.   But under what the statement said,  
14   yes, I would.  That seems to me to be black  
15   and white.  It shows intent.  It shows a  
16   person that you know is capable of killing  
17   again.  It shows me the victims, in a way,  
18   were defenseless.

19          Q.   So in that instance you would be  
20   unable to consider any option but for the  
21   death penalty?

22          A.   Yes.

23               MR. O'BRIEN:  Judge, I'm going to  
24   challenge for cause.

25               THE COURT:  Mr. Kiger, let me ask you



1 a couple of questions. Assume that we get to  
2 a penalty phase, I would instruct you that the  
3 law requires you to consider all three  
4 options. In fact, as we've discussed before,  
5 the state would provide in their presentation  
6 of the facts and evidence why they believe the  
7 death penalty should be imposed. And the  
8 defense would set forth mitigators or reasons  
9 why the death penalty should not be imposed.

10           Regardless of what you determine the  
11 facts of this case ultimately to be, and you  
12 touched on some pretty interesting words:  
13 Intent -- at any rate, could you consider all  
14 three of the options when instructed to do so?

15           PROSPECTIVE JUROR 118: If he was  
16 convicted of murder?

17           THE COURT: Yes.

18           PROSPECTIVE JUROR 118: If it goes to  
19 my -- it goes back to my word "intent." The  
20 word I used was "intent." And again, his  
21 behavior, whether he would seek the victims  
22 out or not --

23           THE COURT: You would have heard all  
24 of that in the first part, the first part of  
25 the trial.

1 PROSPECTIVE JUROR 118: Oh, okay. I  
2 apologize. The death sentence.

3 THE COURT: So you would not consider  
4 the other two?

5 PROSPECTIVE JUROR 118: No, not in  
6 this case.

7 THE COURT: So even though you would  
8 be instructed by me that the law in the State  
9 of Nevada requires you to consider all three  
10 options when you deliberate during the penalty  
11 phase, you would not do so.

12 PROSPECTIVE JUROR 118: No, I  
13 wouldn't.

14 THE COURT: I'll grant the for cause.  
15 There was a for cause, was there not?

16 MR. O'BRIEN: There was, Your Honor.

17 THE COURT: Grant the for cause.

18 Ms. Clerk, could you call the next  
19 number, please. You can return to the jury  
20 services area.

21 THE CLERK: Badge No. 120, Jenine  
22 Alston.

23 THE COURT: Welcome, Ms. Alston.

24 PROSPECTIVE JUROR 120: Hi.

25 THE COURT: You heard the questions

1 that our attorneys have asked the others, and  
2 I know that we talked to you previously about  
3 the death penalty.

4 PROSPECTIVE JUROR 120: Yes.

5 THE COURT: Anything else you think  
6 they need to did know?

7 PROSPECTIVE JUROR 120: This is just  
8 a sensitive time for me. My mom died  
9 recently, and I'm just a little sensitive to  
10 the loss of life and I feel that that may play  
11 a part --

12 THE COURT: Sensitive to the point  
13 that you don't believe you could listen with  
14 an open mind to the facts and the evidence?

15 PROSPECTIVE JUROR 120: It may be a  
16 little tainted, yes.

17 THE COURT: Tainted or sensitive?  
18 Because if you are sensitive, that probably  
19 makes you a real good juror because you will  
20 listen with an open mind. Tainted meaning a  
21 bias or prejudice I would be concerned about.

22 PROSPECTIVE JUROR 120: Yes, it would  
23 be somewhat biased. And I would not want to  
24 look at the pictures of the victims that the  
25 state said they were going to --

1 THE COURT: You don't report to us --  
2 and I don't mean to inquire into a sensitive  
3 area, but you did not report your mother was  
4 killed as a result of a crime.

5 PROSPECTIVE JUROR 120: No, she  
6 wasn't killed. She died. No, she died. No,  
7 it wasn't as a result of murder.

8 THE COURT: Okay. Do you think that  
9 the state or the defense needs to be concerned  
10 about having somebody like you on the jury?

11 PROSPECTIVE JUROR 120: Well, to be  
12 fair, I mean, because just whether you have  
13 someone in your life that dies as of natural  
14 causes unexpectedly or if someone that was  
15 murdered, you can understand how you would  
16 feel for the victim's family. Whether  
17 Mr. Budd is guilty of it or not, whomever it  
18 may be, that's still an issue.

19 THE COURT: And one of the jury  
20 instructions I will give you will tell you  
21 that the jury can never, ever be influenced by  
22 sympathy. Could you put that aside?

23 PROSPECTIVE JUROR 120: I would try.  
24 I would really try, but it's a little  
25 difficult for me and I would rather be honest

1 with you right now than later --

2 THE COURT: I understand. Jury  
3 service in any criminal case is difficult, and  
4 in a murder case it is particularly  
5 heightened. I think all of us understand  
6 that.

7 Ms. Pandukht? Mr. Kane?  
8

9 VOIR DIRE EXAMINATION

10 BY MS. PANDUKHT:

11 Q. Yes. So your concern is that you  
12 would be tainted in Mr. Budd's favor?

13 A. Somewhat.

14 Q. What makes you feel as though you  
15 would be?

16 A. Well, I would say more so, if this  
17 can make sense, I'll try to put it to where it  
18 can be understandable. Just knowing that  
19 someone was taken away. I mean, it may not be  
20 in his favor due to me like say losing someone  
21 close to me, and I can understand how the  
22 families of the victims feel. So that  
23 wouldn't be in his favor then. But I'm not  
24 one for the death penalty and that's something  
25 even though I'm required by law to, because I

1 wouldn't want to. I wouldn't want to.

2 Q. And that was going to be another one  
3 of my questions. You actually left one of our  
4 questions blank, No. 45. It said: If you  
5 believe the evidence warranted the death  
6 penalty, could you personally vote to impose  
7 the death penalty? And you left it blank.

8 A. No. I'm sorry, I skipped that. No.

9 Q. What would your answer be to that  
10 question?

11 A. Would I oppose the death penalty?

12 Q. Could you personally vote to impose  
13 the death penalty?

14 A. No, no.

15 Q. Your answer would be no?

16 A. Correct.

17 Q. Are there any facts, any  
18 circumstances, that would change that mind of  
19 yours?

20 A. No. Like the previous jurors have  
21 said, eye for an eye, I don't believe in that  
22 at all. That shouldn't be in my hands. I  
23 wouldn't want that, no.

24 Q. If the Judge told you you had to  
25 consider all four of the possible penalties,

1 you still could not consider the death  
2 penalty?

3 A. Even if I had to consider it, it  
4 would be like outside the box. Well, okay,  
5 sure, I'll consider it, but I would never vote  
6 for it.

7 Q. You would never --

8 A. No.

9 Q. You would never actually vote for it.  
10 And you know that now --

11 A. Yes.

12 Q. -- before you even hear any evidence?

13 A. Yes, that is true.

14 Q. So there are no circumstances --

15 A. Um-um.

16 Q. -- where you would actually vote to  
17 impose the death penalty?

18 A. No.

19 Q. What about those previous examples  
20 Mr. O'Brien mentioned?

21 A. Like Hitler?

22 Q. Hitler, Manson?

23 A. He should be tortured, it should be  
24 something like that. But, no, I just can't.

25 Q. By someone else?

1 A. Yes, of course.

2 MS. PANDUKHT: Judge, I'll have to  
3 challenge for cause?

4 THE COURT: Mr. O'Brien? Mr. Brooks?

5 MR. O'BRIEN: Thank you, Your Honor.

6 BY MR. O'BRIEN:

7 Q. Good morning, Ms. Alston?

8 A. Um-hum.

9 Q. In reviewing your questionnaire, when  
10 you were asked if you could consider all of  
11 the potential penalties in this case, you had  
12 written undecided?

13 A. I did. I don't remember.

14 Q. You want to look at it?

15 A. Oh, I don't doubt you.

16 Q. I didn't think you doubted me. I  
17 just thought you might want to refresh your  
18 recollection.

19 Let me ask it this way: Can you  
20 compare this decision whether or not to kill  
21 somebody, you know, just in our hypothetical,  
22 for doing something albeit terrible, that's a  
23 tough decision; right?

24 A. (Nodding.)

25 Q. Can you compare that type of decision



1 with anything you've ever done before or any  
2 other decision you have had to make?

3 A. Okay. Now, say that again. That's a  
4 little --

5 Q. When you think of this weighty  
6 decision whether or not to impose the death  
7 penalty --

8 A. Yes.

9 Q. -- whether or not to exterminate  
10 someone, can you compare that decision to any  
11 other decision that was difficult for you?

12 A. I haven't had a decision that extreme  
13 in my life, no.

14 Q. So is it fair to say that just like  
15 you told us in question 44, you're kind of  
16 undecided?

17 A. Well, I can clarify that is that I  
18 know -- I was just filling that out. I was in  
19 a hurry, and it was just a long day. But, no,  
20 I couldn't go there with the death penalty  
21 ever. I don't care if it was regarding  
22 someone in my family, and someone did that to  
23 me, I still couldn't choose that.

24 Q. Okay. And, of course, the fact that  
25 you never have to vote for the death penalty,

1 only consider it, does that offer you any kind  
2 of out?

3 A. Wouldn't it be silly to consider  
4 something that you never would choose as an  
5 option? To me, that's just my opinion.

6 MR. O'BRIEN: I'll submit it to the  
7 Court, Your Honor.

8 THE COURT: I'm going to grant the  
9 for cause.

10 I ask Ms. Alston, please, to return  
11 to the jury assembly area. Thank you so much.

12 Next badge number.

13 THE CLERK: Juror No. 121, Keith  
14 Nelson.

15 THE COURT: Now, Mr. Nelson, if my  
16 notes are correct you've been here through  
17 this whole process already?

18 PROSPECTIVE JUROR 121: Yeah.

19 THE COURT: You've been in the  
20 courtroom?

21 PROSPECTIVE JUROR 121: Yes.

22 THE COURT: Very well, sir. As you  
23 take your seat, I'm going to ask you to  
24 determine whether or not you think our  
25 attorneys need to know anything more about you

1 or anything about you because you didn't talk  
2 to us during this process.

3 PROSPECTIVE JUROR 121: No. If I  
4 could just ask what that schedule is.

5 THE COURT: The schedule is going to  
6 be we are 8:30 to 12:30 tomorrow. We will be  
7 half day on Monday, half day on Tuesday, half  
8 day on Wednesday.

9 Do we think, Counsel, that we'll need  
10 an extra day?

11 MR. KANE: No, Your Honor. I don't  
12 believe so.

13 THE COURT: That looks like that's  
14 it.

15 PROSPECTIVE JUROR 121: The only  
16 thing I would say is that for six months I  
17 have had an obligation for next week, Friday,  
18 that is --

19 THE COURT: Next week Friday?

20 PROSPECTIVE JUROR 121: Next week  
21 Friday.

22 THE COURT: I think you'll be okay.

23 And, of course, the time frames we  
24 are all talking about, Counsel, includes the  
25 second phase if necessary.

1 MR. KANE: Yes, Judge.

2 THE COURT: Very well. You're all  
3 set.

4 Ms. Pandukht? Mr. Kane?

5 MR. KANE: I have no questions. Pass  
6 this juror for cause.

7 THE COURT: Mr. Brooks?

8 MR. BROOKS: Thank you, Judge.

9

10 VOIR DIRE EXAMINATION

11 BY MR. BROOKS:

12 Q. You're a musician?

13 A. That's right.

14 Q. What kind of musician are you?

15 A. As an instrument that I play?

16 Q. Yes, yes?

17 A. Base guitar.

18 Q. How long have you been in Las Vegas?

19 A. Since 1974 for the most part. I  
20 toured for about 10 years, so I was gone.

21 Q. Where are you from originally?

22 A. Pontiac, Michigan.

23 Q. Do you like Las Vegas?

24 A. Yeah, it's great for musicians.

25 Q. I was a little confused. Were you

1 here during all of the prior things?

2 A. Yes.

3 Q. So you're not part of the new group  
4 that came in?

5 A. No.

6 Q. We've talked about the presumption of  
7 innocence. Right now, if we stopped the trial  
8 and you are part of the jury and the Court  
9 said render a verdict, what would the verdict  
10 be?

11 A. Stop right now?

12 Q. Stop right now.

13 A. He's innocent.

14 Q. Why is that?

15 A. Because he's presumed innocent until  
16 proven guilty.

17 Q. Do you have any problem with that?

18 A. None whatsoever.

19 Q. Do you have any problem with the idea  
20 the state has to prove their case beyond a  
21 reasonable doubt?

22 A. No.

23 Q. This is a very serious case. We are  
24 looking at three murder charges. In the event  
25 that we get to the point that my client is

1 actually convicted of three counts of murder,  
2 are you open to all of the punishments at that  
3 point?

4 A. Yes.

5 Q. And, obviously, three murder  
6 convictions are much worse than one murder  
7 conviction. Are you still open to that -- the  
8 whole realm of punishment, even though he  
9 could be convicted of three?

10 A. Yes.

11 Q. And you understand that I ask these  
12 questions as I ask him -- I am not conceding  
13 in any way that that's what we are admitting.  
14 Does that make sense to you?

15 A. Yes, it does.

16 Q. Will you give my client a fair trial?

17 A. Absolutely.

18 MR. BROOKS: Thank you. We'll pass  
19 for cause, Judge.

20 THE COURT: Counsel, will you  
21 approach, please?

22 (Bench conference held off the record.)

23 THE COURT: Ms. Pandukht and  
24 Mr. Kane, would you like to make a  
25 brief question of Mr. Gregorio?

1                    VOIR DIRE EXAMINATION

2    BY MR. KANE:

3            Q.    Mr. Gregorio, my crystal ball tells  
4    me the defense is going to have some questions  
5    for you on your views of the death penalty.

6            All I want to ask you about is the  
7    second question on the questionnaire, the one  
8    that says have you read or heard anything  
9    about the case. You left that blank because  
10   you didn't hear anything?

11          A.    I didn't hear anything, no.

12          MR. KANE: That's what I assumed.  
13   Thank you. Pass for cause, Judge.

14          THE COURT: Mr. Brooks?

15   BY MR. BROOKS:

16          Q.    Mr. Gregorio?

17          A.    Yes.

18          Q.    Did you think we were going to forget  
19   about you hear?

20          A.    I thought you were.

21          Q.    Where are you from originally?

22          A.    New York.

23          Q.    How long in Las Vegas?

24          A.    Four years.

25          Q.    Do you like it?

1 A. Yes.

2 Q. You've heard us discuss all these  
3 different issues here from -- and the things  
4 we have talked about during the time you have  
5 been here. Do you have any problems with  
6 anything?

7 A. No.

8 Q. Okay. In your questionnaire there is  
9 the question about do you think that a  
10 defendant should be required to prove his  
11 innocence, and you said yes in your  
12 questionnaire.

13 A. Yes.

14 Q. Do you still have that view or have  
15 you changed?

16 A. No. I still have --

17 Q. You still have that view?

18 A. Yes.

19 Q. I mean, obviously, the court is going  
20 to instruct you that you my client is presumed  
21 innocent. And the implication of that is we  
22 don't have to prove anything. We don't have  
23 to prove our innocence.

24 Do you have a problem with that rule  
25 of law?



1 A. No.

2 Q. You don't have a problem with it?

3 A. No.

4 Q. Okay. So would you say now that you  
5 would disavow your statement that the  
6 defendant should be required to prove his  
7 innocence?

8 A. I don't remember what I put down.

9 Q. I'll show it to you. Look at  
10 question 38.

11 A. Yes.

12 Q. Okay. Now, originally when you  
13 filled out the questionnaire, you said that  
14 you thought the defendant should be required  
15 to prove his innocence?

16 A. Yes.

17 Q. Do you still have that position?

18 A. Yes.

19 Q. So that decision is contrary to the  
20 Court's instruction that we presume innocence?

21 A. Right.

22 Q. But we don't have to prove anything;  
23 okay.

24 A. Yes.

25 Q. So your position now is listening to

1 what the Court would say?

2 A. Yes.

3 Q. How would you resolve that, the  
4 difference? Are you going to follow the Court  
5 or are you going to follow your own beliefs?

6 A. I'm going to follow my own beliefs.

7 Q. Are you a strong person?

8 A. I would say so, yes.

9 Q. Do you stick to your convictions?

10 A. Yes, I do.

11 Q. So your conviction that we should be  
12 required to prove our innocence, which is  
13 contrary to what the Court will tell you, you  
14 are going to follow your on conviction?

15 A. Yes.

16 Q. Okay. Also, in the questionnaire we  
17 discussed the death penalty, and there is the  
18 statement that the death penalty is  
19 appropriate in some cases but not others. And  
20 in your questionnaire you say in all cases.

21 A. Right.

22 Q. Does that mean you are not open to  
23 the death penalty in this case if the client  
24 was convicted of murder?

25 A. I would say the death penalty, yes.

1 Q. And you would not consider the other  
2 choices?

3 A. No.

4 Q. Okay. And again, in question 44 it  
5 asks, you know, whether you would consider the  
6 other punishment, and you said no; death  
7 penalty. That just reiterates what you have  
8 told us.

9 A. Right.

10 MR. BROOKS: I really appreciate your  
11 honesty and openness.

12 Judge, we do challenge for cause.

13 THE COURT: Mr. Kane? Ms. Pandukht?

14 MR. KANE: No, Your Honor.

15 THE COURT: I am going to grant the  
16 for cause.

17 Thank you, Mr. Gregorio. I hope to  
18 see you on another panel.

19 PROSPECTIVE JUROR: Thank you.

20 THE COURT: Ms. Clerk, next in line.

21 THE CLERK: Badge No. 122, Karen  
22 Romney.

23 THE COURT: Welcome, Ms. Romney. You  
24 were one of the jurors that would have been,  
25 should have been, could have been in the first

1 group, but you were absent the first couple of  
2 days.

3 PROSPECTIVE JUROR 122: Yes.

4 THE COURT: You've -- Monday and  
5 Tuesday. You were told to report here today.

6 PROSPECTIVE JUROR 122: Yes.

7 THE COURT: So you are very much like  
8 the new group who have come in, although you  
9 filled out the questionnaire. Okay.

10 Is there anything that you think our  
11 attorneys might need to know about you that  
12 would touch upon your ability to be fair and  
13 impartial?

14 PROSPECTIVE JUROR 122: My mind would  
15 not be here.

16 THE COURT: What does that mean?

17 PROSPECTIVE JUROR 122: I have seven  
18 children, six of which are still at home, but  
19 one is multi-handicapped, profoundly retarded,  
20 and he escapes my house. He doesn't know how  
21 to wipe his bum.

22 THE COURT: Who is caring for him  
23 now?

24 PROSPECTIVE JUROR: He is at school  
25 right now. He gets out of school at 2:30 in

1 the afternoon. And I have -- I've only been  
2 in Las Vegas for two years. I don't have any  
3 family around here, or close friends, that  
4 could take care of him.

5 THE COURT: Who is going to pick him  
6 up today?

7 PROSPECTIVE JUROR 122: Well, you  
8 know, I don't have --

9 THE COURT: Simple question. Who is  
10 going to pick him up today?

11 PROSPECTIVE JUROR 122: Hopefully me.  
12 Hopefully I am going to be there. I did  
13 not -- I was told on the phone, when I called  
14 and said I had gotten the dates confused, that  
15 the jury had already been picked. So I didn't  
16 think I was going to be here --

17 THE COURT: Then you got a call from  
18 our office that told you to show up; right?

19 PROSPECTIVE JUROR 122: No, ma'am. I  
20 called in and said I mixed up on the dates.  
21 What do I need to do? And they said come here  
22 at ten o'clock. But the man said they've  
23 already chosen a jury, so I didn't figure that  
24 I would be staying today.

25 THE COURT: You know what? I don't

1 know what it is.

2 Mr. Kane, Ms. Pandukht, any  
3 questions?

4 MS. PANDUKHT: I have no questions.

5 THE COURT: Mr. Brooks? Mr. O'Brien?

6 MR. O'BRIEN: Are you inclined to --  
7 no questions, Your Honor.

8 THE COURT: Very well. I'm going to  
9 thank you and excuse Ms. Romney. I hope to  
10 see you again on another jury. Return to the  
11 jury assembly area.

12 Ms. Clerk, next in line.

13 THE CLERK: Badge No. 123, Idona  
14 Hunt.

15 THE COURT: Now, Ms. Hunt, I know  
16 you have been here for a while because one of  
17 the things I have enjoyed is the  
18 every-now-and-then smile that breaks on your  
19 face. Anything that you think our attorneys  
20 need to know about?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Now, we do know that you  
23 have served as a juror before. You have a son  
24 who has been accused of a crime. Do any of  
25 those things affect your ability to be a fair

1 and impartial juror?

2 PROSPECTIVE JUROR 123: Do I have to  
3 say what my son was --

4 THE COURT: No. You only have to  
5 tell me whether or not that experience would  
6 affect your ability to be fair and impartial.

7 PROSPECTIVE JUROR 123: No, it  
8 wouldn't.

9 THE COURT: Okay. You hesitated a  
10 little bit. I assume that your son was  
11 prosecuted; is that correct?

12 PROSPECTIVE JUROR 123: Yes, he was.

13 THE COURT: Was he prosecuted by the  
14 district attorney's office of Clark County?

15 PROSPECTIVE JUROR 123: No, this was  
16 in Chicago, Illinois.

17 THE COURT: Okay. The fact that you  
18 went through a difficult time with your son  
19 and that a state agency prosecuted him, would  
20 you hold that against the state?

21 PROSPECTIVE JUROR 123: Nope, I  
22 wouldn't.

23 THE COURT: How about if you were  
24 seated over here on the defense side? Would  
25 you want somebody like you on the jury?

1 PROSPECTIVE JUROR 123: I would say  
2 so.

3 THE COURT: Very well.

4 Ms. Pandukht? Mr. Kane?

5 MR. KANE: No questions, Your Honor.

6 THE COURT: Pass for cause?

7 Mr. Brooks? Mr. O'Brien?

8 MR. BROOKS: Thank you, Judge.

9

10 VOIR DIRE EXAMINATION

11 BY MR. BROOKS:

12 Q. You have heard us talk about the  
13 various issues here in this -- these  
14 proceedings. That's right, you have been here  
15 the entire time; correct?

16 A. Yes.

17 Q. Anything we should know about? Any  
18 views you have?

19 A. Well, I mean I don't believe in the  
20 death penalty. But if, you know, ordered to  
21 weigh everything, I will.

22 MR. BROOKS: Thank you. We'll pass  
23 for cause, Your Honor.

24 MR. KANE: Well, then I guess do I  
25 have a question.



1 BY MR. KANE:

2 Q. On your questionnaire when you were  
3 asked if you could consider all four penalties  
4 including death, you said yes. That's what I  
5 read.

6 A. Yes. But I don't believe in it. But  
7 I will, you know, consider it.

8 Q. Okay. "Consider" is a word that's  
9 been tossed around here a lot.

10 A. Yeah.

11 Q. If I were asking a girl out on a date  
12 and she's made up her mind she was going to  
13 say no, and then she said no and later told me  
14 she considered it, I wouldn't consider that  
15 much of a consolation. Would you? So  
16 consider means consider and it's a realistic  
17 option.

18 A. Yes.

19 Q. And that's all we can really can ask  
20 you.

21 A. Right.

22 Q. If you get back there in the jury  
23 room, are there any circumstances in which you  
24 could put up your hand and say I vote in favor  
25 of the death penalty?

1 A. Yeah.

2 Q. Okay. So it's not something you  
3 could do easily?

4 A. No.

5 Q. But under certain circumstances if  
6 you thought it was the right thing to do, it  
7 is something you could fairly consider?

8 A. Yes.

9 MR. KANE: Nothing further, Your  
10 Honor.

11 THE COURT: Pass for cause?

12 MR. BROOKS: Just pass for cause,  
13 Your Honor.

14 THE COURT: Counsel, will you  
15 approach?

16 (Bench conference held off the record.)

17 THE COURT: I'm going to thank and  
18 excuse juror No. 63, Ms. Castro. Thank you so  
19 much for your time and your attention. I hope  
20 to see you again on another jury someday.

21 Next in order, Ms. Clerk.

22 THE CLERK: Badge No. 126, Rodolfo --  
23 strike that. He is not present.

24 Badge No. 127 Evelyn Dagher.

25 MS. PANDUKHT: What seat?

1 THE CLERK: 4.

2 THE COURT: And Ms. Dagher, you have  
3 also been present from the very beginning.  
4 Thank you for your patience. You have heard  
5 the questions that our attorneys have asked  
6 the other jurors. Anything you think they  
7 need to know about you?

8 PROSPECTIVE JUROR 127: It's just  
9 that my mom call last night. She is very sick  
10 and she is -- and she is 106 --

11 THE COURT: She's very sick?

12 PROSPECTIVE JUROR 127: And she is  
13 106 years old.

14 THE COURT: 106?

15 PROSPECTIVE JUROR 127: Um-hum.

16 THE COURT: I would like to know what  
17 in the world she has done that has made her  
18 such an amazing human being.

19 PROSPECTIVE JUROR 127: She has been  
20 all over the world. She's in the hospital.

21 THE COURT: God bless her. She is in  
22 the hospital where?

23 PROSPECTIVE JUROR 127: In the Middle  
24 East, Lebanon.

25 THE COURT: Let me ask you whether or

1 not her condition would affect your ability to  
2 listen to this case with an open mind.

3 PROSPECTIVE JUROR 127: No.

4 THE COURT: It would not affect it?

5 PROSPECTIVE JUROR 127: It won't, but  
6 still I would like to go over.

7 THE COURT: Let me ask you this: God  
8 forbid should something serious happen to your  
9 mom during the course of this trial, would you  
10 be able to continue your deliberations?

11 PROSPECTIVE JUROR 127: I would, but  
12 it would be a little bit hard. I would like  
13 to be there.

14 THE COURT: Of course. If you were  
15 seated on either side of either of these  
16 tables, would you want someone in your state  
17 of mind to be a juror in your case?

18 PROSPECTIVE JUROR 127: Not at that  
19 time, no.

20 THE COURT: No, not now.

21 Ms. Pandukht? Mr. Kane?

22 MR. KANE: No questions, and no  
23 objection if the Court's inclination is what I  
24 think it is.

25 THE COURT: Mr. O'Brien? Mr. Brooks?

1 MR. BROOKS: May we approach, Judge?

2 THE COURT: Certainly.

3 (Bench conference held off the record.)

4 MR. BROOKS: Judge, we have no  
5 objection.

6 THE COURT: Ms. Dagher, I'm going to  
7 allow you to be excused from this jury with  
8 the hope that your mother continues to be the  
9 amazing human being that she obviously is.

10 PROSPECTIVE JUROR 127: Thank you  
11 very much.

12 THE COURT: I ask that you please  
13 return to the jury services area.

14 Ms. Clerk, next in order.

15 THE CLERK: Badge No. 128, Abel  
16 Cabrera.

17 THE COURT: Welcome, Mr. Cabrera.  
18 While you are moving up into that seat, I know  
19 you told us before that you had a financial  
20 concern about being on this jury. I thank you  
21 for your patience. Is there anything else you  
22 think our attorneys need to know about you?

23 PROSPECTIVE JUROR 128: It's on the  
24 questionnaire. Not that I -- no.

25 THE COURT: Ms. Pandukht? Mr. Kane?

VOIR DIRE EXAMINATION

BY MS. PANDUKHT:

Q. On your questionnaire you had written down that your father had been arrested maybe a couple of times?

A. Yes, ma'am.

Q. For a couple of different things?

A. Yes.

Q. Did you feel as though he was treated fairly by the police?

A. I witnessed on a couple of occasions violence just because of the fact that he provoked it.

Q. You mean violence by who?

A. Between the cop and him.

Q. You felt like your father provoked it?

A. Yeah.

Q. Could that have been the result of him drinking?

A. Of course.

Q. Now, did your father -- were you living with your father at the time this happened?

A. No. I've been -- he's been in and

1 out of my life since day one.

2 Q. So there would be no reason --  
3 anything that happened with your father, that  
4 you would hold that against the state or any  
5 police officers that testified in this case?

6 A. No, no.

7 Q. How about the incident where you were  
8 a victim of a crime? Would that affect your  
9 ability to be fair and impartial in this case?

10 A. No. To be honest, no, because  
11 dealing with all that situation has nothing to  
12 do with what's going on here today.

13 Q. Was that a while ago?

14 A. Eleven -- twelve years ago, to be  
15 exact.

16 Q. Twelve years ago. And it was you  
17 yourself that received that injury?

18 A. Yes.

19 Q. Would having been a victim of  
20 something like that cause you to not be fair  
21 toward the defense in this case?

22 A. No, but I must state being an ex-gang  
23 member, and being honest, I know the state of  
24 mind that I was in back then and now. No, it  
25 wouldn't have no effect. But back then, young

1 and dumb.

2 Q. And when you say ex-gang member, that  
3 was another lifetime ago for you?

4 A. That situation we are talking about  
5 changed my life.

6 Q. Okay. It was related to that?

7 A. Yes, ma'am.

8 Q. And you certainly wouldn't hold  
9 anything that happened during that time in  
10 your life against the State of Nevada in this  
11 case?

12 A. No. But I must say honestly being  
13 here missing work, I'm really frustrated. I  
14 don't think it's fair to Mr. Budd for me to  
15 sit here and being as frustrated as I am,  
16 missing work. I have a family to support just  
17 like everybody else. It's not fair for me to  
18 sit here and put his life in my hands, to be  
19 quite honest.

20 Q. I know that you had mentioned that  
21 with your job, you referred to the financial  
22 hardship. You had mentioned that. That's  
23 actually not something that the defense or the  
24 state has anything to do with. So I guess we  
25 would equally be hurt by that. But anyway,



1 with regard to your belief in the death  
2 penalty, you stated that you do believe in it?

3 A. (Nodding.)

4 Q. You would be able to vote to impose  
5 the death penalty?

6 A. Sure.

7 Q. Would you be able, though, to  
8 consider all four of the possible punishments?

9 A. Yes.

10 Q. You know, I have one other question.  
11 You did mention there was another family  
12 member -- you said in your answer to No. 36  
13 stating that something happened to another  
14 family member?

15 A. He was with me at the time.

16 Q. At the time when you were a victim?

17 A. Yes.

18 Q. That all happened at the same time?

19 A. Yes.

20 MS. PANDUKHT: Okay. All right.

21 I'll pass for cause.

22 THE COURT: Mr. Brooks? Mr. O'Brien?

23 MR. O'BRIEN: Thank you, Your Honor.

24 BY MR. O'BRIEN:

25 Q. Good morning, Mr. Cabrera.

1 A. Good morning.

2 Q. You kind of went through the School  
3 of Hard Knocks, it sounds like.

4 A. Most definitely.

5 Q. If I had to guess, I would say you  
6 had some pretty tough challenges growing up.

7 A. Throughout my whole life.

8 Q. But you were able to straighten up,  
9 and it sounds like you're doing great. You've  
10 got a nice family and --

11 A. My family is the world to me.

12 Q. Do you think life's pretty equal for  
13 all people?

14 A. At this time in my life, yes.

15 Q. Let me ask you this: I mean, like I  
16 said, obviously you had a tough start. You  
17 had some bad influences, but you have been  
18 able to straighten up and fly right. Do you  
19 think everybody is able to do that?

20 A. No.

21 Q. Okay. Do you think for some people  
22 life is just -- life's obstacles are harder to  
23 overcome?

24 A. Yeah. The only reason I straightened  
25 up, to be quite honest, is having to be

1 resuscitated six times and a life-changing  
2 experience, to be honest.

3 Q. And at that same time was it your  
4 brother that was killed?

5 A. No. Nobody was killed. I had -- my  
6 cousin was with me and he was the same victim.

7 Q. Okay. But you have had a family  
8 member --

9 A. Yes.

10 Q. But that was a different incident?

11 A. I could have wrote a whole paragraph  
12 on stuff. I just put what involved me, to be  
13 honest.

14 Q. That family member who was killed,  
15 was that as a result of a criminal act or --

16 A. He was involved in gangs. I'm sure  
17 he was involved in criminal things. And at  
18 the time when they came to his door and shot  
19 him dead, no, he was not involved in it.

20 Q. But he unraveled up all the string;  
21 right?

22 A. Right.

23 Q. So you're kind of a leader, take  
24 charge kind of guy. I mean, let me cut to the  
25 chase. If you believe there was a killing

1 here that was intentional, you're not going to  
2 consider the other options, you're just going  
3 to vote for the death penalty; is that right?

4 A. To be quite honest, it's hard to say.  
5 I can speak for myself. I believe in an eye  
6 for an eye, just from what I have been through  
7 in my life.

8 Q. Well, and you were honest. When I  
9 asked you that question on the questionnaire,  
10 you wrote only the death penalty.

11 A. Correct.

12 Q. Is that accurate?

13 A. What I was thinking, honestly, is me.  
14 If my family member, yes, eye for an eye. But  
15 somebody else, I can't -- I don't know, to be  
16 honest.

17 Q. Okay. You may hear from family  
18 members of the deceased. That's going to be  
19 very persuasive for you, isn't it?

20 A. I think it would be persuasive to  
21 hear the defendant's family also.

22 Q. Okay.

23 A. Just because of the fact that it has  
24 nothing to do with me and my family  
25 personally.

1 Q. Okay. Can you tell me why you were  
2 asked that question, if you were able to  
3 consider all of the penalties, you wrote  
4 only --

5 A. Why I was asked that?

6 Q. No. Could you tell me why, when we  
7 asked you if you were able to consider all of  
8 the penalties if there was a conviction here  
9 for an intentional murder, you chose to write  
10 down only the death penalty?

11 A. I think I was in the state of mind  
12 where I was taking that personal for a family  
13 member of my own, to be honest.

14 Q. And, you know, honestly what scares  
15 me is -- it sounds like you are in a better  
16 place now, but what if something happens  
17 during this trial that, you know, like flashes  
18 you back somewhere emotionally where you were  
19 and, you know -- is that a concern? Should I  
20 be worried about that?

21 A. Be concerned if it was, yes, a family  
22 member taken -- their life being taken  
23 violently, yes, be concerned. But not --  
24 don't be concerned, you know, for Budd, I  
25 mean, here and his trial.

1 Q. Okay. I mean, you're talking like a  
2 family member killing another family member?

3 A. No, no.

4 Q. I lost you.

5 A. To lose a family member to me in my  
6 eyes is beyond -- I don't know how I would be  
7 able to deal with that, to be honest with you.  
8 I've been through a lot in my life. I've seen  
9 a lot. My family is my life, to be honest  
10 with you. And to sit here and go through this  
11 and hear his side of the story, I can  
12 sympathize with his family -- and the people  
13 that were murdered, I can sympathize with  
14 them, too, just because I wasn't involved in  
15 that. I don't feel, to be honest with you, to  
16 put Mr. Budd to death or to put him in jail,  
17 to be honest with you, I don't really -- I  
18 don't want to use the word care, but I'm not  
19 really interested, to be honest with you.

20 Q. Okay. So you would be able to  
21 consider all sentencing options if we go to a  
22 penalty phase?

23 A. Honestly, at this time, being as  
24 frustrated I am missing work and worried about  
25 my family having a Christmas, to be honest

1 with you, no, I wouldn't want to be put in  
2 that situation and to have keep coming back.  
3 I would go with the majority, to be honest  
4 with you, just to get out of here.

5 Q. You would just go along to get along?

6 A. Pretty much.

7 Q. Just to get out of here? I don't  
8 believe that. I mean, come on. After all you  
9 said, do you think you would do that?

10 A. Only because of the fact it doesn't  
11 involve me. I'm not -- I've been through my  
12 ups and downs. I don't feel I should be  
13 putting this guy's life in my hands.

14 Q. Yeah. But Old Yeller wasn't my dog,  
15 but when I see the movie, I still cry. You  
16 are going to see things here that are going to  
17 make you emotional. You're not just going to  
18 write it off and say whatever you guys want to  
19 do, do that. Could you do that?

20 A. Yeah. I've seen enough in my life.  
21 I don't need --

22 Q. So even -- is it accurate to say,  
23 Mr. Cabrera, that you wouldn't even consider  
24 other options other than death if everyone was  
25 saying death?

1 A. No.

2 Q. You would not?

3 A. No. I just, to be honest, I would  
4 try -- I'm here against my will, to be honest  
5 with you, for this past four days, being  
6 frustrated and losing money, worried about my  
7 family not having Christmas.

8 Q. I agree with you.

9 A. That's my honest answer.

10 Q. Well, do you think you could be a  
11 fair and unbiased juror?

12 A. No, just because of the fact I would  
13 go with the majority just to get out of here.

14 MR. O'BRIEN: I'll submit it to the  
15 Court.

16 THE COURT: Counsel, will you  
17 approach?

18 (Bench conference held off the record.)

19 THE COURT: I'm going to thank and  
20 excuse juror No -- Mr. Bailiff? -- I'm going  
21 to thank and excuse juror No. 73, Mr. Johnson.  
22 Thank you for your time and your attention. I  
23 hope to see you on another jury panel as well.

24 And our Clerk will call the next in  
25 order.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENFORD A BUDD,  
Appellant,  
vs.  
THE STATE OF NEVADA  
Respondent.

Supreme Court No.:  
District Court Case No.: 03C193182  
Electronically Filed  
Nov 10 2014 09:01 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

APPELLANT'S APPENDIX – VOLUME V – PAGES 0815-1100

MATTHEW D. CARLING  
51 East 400 North, Bldg. #1  
Cedar City, Utah 84720  
(702) 419-7330 (Office)  
*Attorney for Appellant*

STEVEN B. WOLFSON  
Clark County District Attorney  
200 Lewis Avenue, 3<sup>rd</sup> Floor  
Las Vegas, Nevada 89155  
*Counsel for Respondent*

CATHERINE CORTEZ MASTO  
Attorney General  
100 North Carson Street  
Carson City, Nevada 89701-4717  
*Counsel for Respondent*

**INDEX**  
**Budd, Glenford**

<b>Document</b>	<b>Page No.</b>
Affidavit in Support of Motion to Proceed in Forma Pauperis filed on 05/01/2007	2568-2572
Amended Notice of Evidence in Aggravation filed on 11/18/2005	412-415
Amended Notice of Intent to Seek Death Penalty filed on 10/08/2004	387-389
Case Appeal Statement filed on 01/25/2008	2828-2829
Case Appeal Statement filed on 03/23/2006	2514-2516
Case Appeal Statement filed on 08/13/2007	2614-2615
Certificate of Facsimile Transmission filed on 07/28/2003	101-104
Clark County Public Defender's Response to Glenford Budd's Motion to Hold Clark Count Public Defender in Contempt filed on 07/12/2007	2592-2594
Clark County Public Defenders Notice of Qualification Pursuant to Supreme Court Rule 250(2) (g) and (h)	280-283
Clerk's Certificate Appeal Dismissed filed on 10/05/2007	2792-2796
Clerk's Certificate Judgment Affirmed filed on 02/08/2007	2560-2567
Clerk's Certificate Judgment Reversed and Remanded filed on 10/23/2009	2830-2836
Criminal Bindover filed on 06/26/2003	1-23
Criminal Order to Statistically Close Case filed on 09/03/2014	3039
Defendant's Motion to Vacate and Continue Trial Date filed on 01/27/2004	132-135
Defendants Amended Notice of Expert Witnesses, Pursuant to NRS 174.234(2) filed on 12/01/2005	423-426
Defendants Notice of Expert Witnesses, Pursuant to NRS 174.234(2) filed on 11/21/2005	416-420
Financial Certificate filed on 05/01/2007	2582
Financial Certificate filed on 09/21/2007	2616
Findings of Facts, Conclusions of Law and Order filed on 01/07/2008	2808-2815
Findings of Facts, Conclusions of Law and Order filed on 10/17/2014	3091-3103
First Supplemental Petition for Writ of Habeas Corpus Post Conviction filed on 05/23/2013	2847-2915
Fourth Supplemental Petition for Writ of Habeas Corpus (Post Conviction) filed on 12/26/2013	3000-3036
Information filed on 06/26/2003	24-26
Instructions to the Jury (Instructions No. 1) filed on 12/16/2005	1741-1761
Instructions to the Jury filed on 12/13/2005	1482-1506
Judgment of Conviction (Jury Trial) filed on 03/01/2006	2011-2012
Media Request and Order for Camera Access to Court Proceedings filed on 01/28/204	236-137
Media Request and Order for Camera Access to Court Proceedings filed on 01/31/2006	2009
Media Request and Order for Camera Access to Court Proceedings filed	

1	on 01/31/2006	2010
2	Media Request and Order for Camera Access to Court Room filed on 09/28/2005	411
3	Media Request to Permit Camera Access To Proceedings filed on 07/03/2003	27
4	Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus filed on 09/21/2007	2750-2785
5	Memorandum Regarding Petitioner's Exhibits (In Camera Review) filed on 12/12/2013	2990-2992
6	Motion 1: Defendant Budd's Motion in Limine for Order Prohibiting Prosecution Misconduct in Argument; and for Order that Court Takes Judicial Notice of Authority Cited in This Motion if Defense Objects at Trial to Improper Argument filed on 09/14/2004	138-230
7	Motion 10: Defendant Budd's Motion in Limine to Prohibit any Reference in Front of the Jury to the Trial Phase of the Proceedings as the "Guilt Phase" filed on 09/14/2004	276-279
8	Motion 11: Defendant Budd's Motion to Strike Allegations of Certain Aggravating Circumstances Alleged in State's Notice of Intent to Seek Death Penalty filed on 10/04/2004	374-382
9	Motion 12: Defendant Budd's Motion to Preclude the Admission During a Possible Penalty Proceeding of Evidence about the Personal Character of the Victims and the Impact of the Victims' Deaths on the Family filed on 10/04/2004	347-352
10	Motion 13: Defendant Budd's Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Law filed on 10/04/2004	369-373
11	Motion 14: Defendant Budd's Motion to Dismiss State Notice of Intent Because Nevada's Death Penalty Scheme Violates Due Process Guarantees by Failing to Require a Pre-Trial Finding of Probable Cause for Alleged Aggravators filed on 10/04/2004	353-368
12	Motion 2: Defendant Budd's Motion for Exchange of Jury Instructions on the First Day of Trial filed on 09/14/2004	231-233
13	Motion 3: Defendant Budd's Motion for Recording of All Proceedings Pursuant to Supreme Court Rule 250 filed on 09/14/2004	234-237
14	Motion 4: Defendant Budd's Motion to Disqualify all Potential Jurors who knew or were Acquainted with the Victims or Their Families filed on 09/14/2004	238-242
15	Motion 5: Defendant Budd's Motion to Disqualify all Potential Jurors Who Would Automatically Vote for the Death Penalty in the Event of a First Degree murder Conviction filed on 09/14/2004	263-266
16	Motion 6: Defendant Budd's Motion in Limine to Prohibit the State from Using Preemptory Challenges to Remove Minorities from Jury filed on 09/14/2004	243-247
17	Motion 7: Defendant Budd's Motion to Bifurcate Penalty Phase Proceedings filed on 09/14/2004	248-255

1	Motion 8: Defendant Budd's Motion to Allow the Defense to Argue Last in a Potential Penalty Phase Proceeding filed on 09/14/2004	256-262
2	Motion 9: Defendant Budd's Motion for Jury Questionnaire to be Completed by Jure Venire one Week Prior to Trial filed on 09/14/2004	267-275
3	Motion for Leave to Proceed in Forma Pauperis filed on 05/01/2007	2573-2574
4	Motion for Leave to Proceed in Forma Pauperis filed on 09/21/2007	2786-2790
5	Motion for Rehearing filed on 08/10/2007	2598-2613
6	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/ Court Case Documents filed on 05/01/2007	2575-2581
7	Motion to Hold Howard S Brooks, Attorney of Record in Contempt for Filing to Forward a Copy of the Case File filed on 07/05/2007	2583-2591
8	Motion to Withdraw as Petitioner's Attorney filed on 09/13/2012	2840-2843
9	Notice of Appeal filed on 01/23/2008	2825-2827
10	Notice of Appeal filed on 03/23/2006	2517-2519
11	Notice of Appeal filed on 08/10/2007	2595-2597
12	Notice of Entry of Decision and Order filed on 01/08/2008	2816-2824
13	Notice of Entry of Findings of Fact, Conclusions of Law and Order filed on 10/20/2014	3104-3117
14	Notice of Evidence in Support of Aggravating Circumstances filed on 10/08/2004	390-391
15	Notice of Expert Witnesses filed on 09/28/2004	312-344
16	Notice of Intent to Seek Death Penalty filed on 07/25/2003	99-100
17	Notice of Witnesses filed on 09/28/2004	345-346
18	Order for Petition for Writ of Habeas Corpus filed on 09/27/2007	2791
19	Order for Production of Inmate Glenford Anthony Budd filed on 11/25/2009	2838-2839
20	Order for Production of Inmate Glenford Anthony Budd filed on 12/23/2013	2998-2999
21	Order for Production of Inmate Greg Lewis, BAC #82483 filed on 11/28/2005	421-422
22	Order for Transcript filed on 03/20/2006	2513
23	Order for Transcript filed on 09/23/2014	3040
24	Order Granting State's Request for All Thirty-Three (33) Pages of Public Defender Brooks' Case Notes filed on 01/10/2014	3037-3038
25	Order of Appointment filed on 11/05/2012	2844
26	Order Re: Custody of Material Witness Greg Lewis filed on 04/11/2006	2520-2521
27	Order Re: Custody of Material Witness Greg Lewis ID filed on 12/15/2005	1507-1508
28	Order Setting Hearing Appointment of Counsel Re: Supreme Court Remand filed on 10/29/2009	2837
	Penalty Verdict Count 1 filed on 12/16/2005	1739
	Penalty Verdict Count 2 filed on 12/16/2005	1740
	Penalty Verdict Count 3 filed on 12/16/2005	1738
	Petition for Writ of Habeas Corpus Post Conviction filed on 09/21/2007	2709-2749

1	Petitioner's Reply Brief to the State's Response to the Defendant's	
2	Petition for Writ of Habeas Corpus Post Conviction filed on 11/20/2013	2959-2985
3	Petitioners Exhibits in Support of Petition for Writ of Habeas Corpus Post	
4	Conviction filed on 09/21/2007	2622-2708
5	Request for Evidentiary Hearing filed on 09/21/2007	2617-2621
6	Second Supplemental Petition for Writ of Habeas Corpus Post Conviction	
7	filed on 10/25/2013	2919-2927
8	Special Verdict (Aggravating Circumstance) filed on 12/16/2005	1737
9	Special Verdict (Mitigating Circumstances) filed on 12/16/2005	1735-1736
10	State's Response to Defendant's Memorandum Regarding Petitioner's	
11	Exhibits (In Camera Review) filed on 12/17/2013	2993-2997
12	State's Response to Defendant's Petition for Writ of Habeas Corpus (Post	
13	Conviction) and First Supplemental Petition for Writ of Habeas Corpus	
14	filed on 11/06/2013	2928-2958
15	States Opposition to Defendant's Motion to Bar the Admission of	
16	Cumulative Victim Impact Evidence in Violation of the Due Process	
17	Clause filed on 10/12/2004	400-403
18	States Opposition to Defendants Motion for Jury Questionnaire to be	
19	Completed by Jure Venire One Week Prior to Trial filed on 09/22/2004	308-311
20	States Opposition to Defendants Motion for Recording of all Proceedings	
21	Pursuant to Supreme Court Rule 250 filed on 09/21/2004	291-293
22	States Opposition to Defendants Motion in Limine for Order Prohibiting	
23	Prosecution Misconduct in Argument; and for Order that Court Takes	
24	Judicial Notice of Authority Cited in this Motion if Defense Objects at	
25	Trial to Improper Argument filed on 09/21/2004	284-287
26	States Opposition to Defendants Motion in Limine to Prohibit any	
27	Reference in Front of the Jury to the Trial Phase of the Proceedings as the	
28	"Guilt Phase" filed on 09/21/2004	297-299
	States Opposition to Defendants Motion in Limine to Prohibit the State	
	from Using Peremptory Challenges to Remove Minorities from the Jury	
	to filed on 10/06/2004	383-386
	States Opposition to Defendants Motion to Allow the Defense to Argue	
	Last in a Potential Penalty Phase Proceeding filed on 09/21/2004	288-290
	States Opposition to Defendants Motion to Bifurcate Penalty Phase filed	
	on 09/21/2004	304-307
	States Opposition to Defendants Motion to Dismiss the State's Notice of	
	Intent because Nevada's Death Penalty Scheme Violates Due Process	
	Guarantees by Failing to Require a Pre-Trial Finding of Probable Cause	
	for Alleged Aggravators filed on 10/14/2004	404-410
	States Opposition to Defendants Motion to Disqualify all Potential Jurors	
	who Knew or were Acquainted with the Victim's or Their Families filed	
	on 09/21/2004	294-296
	States Opposition to Defendants Motion to Disqualify all Potential Jurors	
	who would Automatically Vote for the Death Penalty in the Event of a	
	First Degree Murder Conviction filed on 09/21/2004	300-303

1	States Opposition to Defendants Motion to Preclude the Introduction of	
2	Victim Impact Evidence Pertaining to Victim and Family Members	
3	Characterizations filed on 10/12/2004	396-399
4	States Response to Defendant Budd's Motion to Strike Allegations of	
5	Certain Aggravating Circumstances Alleged in States Notice of Intent to	
6	Seek Death Penalty filed on 10/12/2004	392-395
7	States Response to Defendant's Petition for Writ of Habeas Corpus Post	
8	Conviction filed on 11/27/2007	2797-2807
9	Stipulation and Order Extending Time filed on 07/23/2013	2916-2918
10	Stipulation filed on 12/12/2005	1299
11	Stipulation to Enlarge Briefing schedule and Order filed on 03/29/2013	2845-2846
12	Third Supplemental Petition for Writ of Habeas Corpus (Post Conviction)	
13	filed on 12/12/2013	2986-2989
14	Verdict filed on 12/13/2005	1300-1301
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

## TRANSCRIPTS

Document	Page No.
Transcript – All Pending Motions filed on 05/11/2004	2558-2559
Transcript – Arraignment filed on 10/27/2003	127-131
Transcript – Calendar Call Status Check: Reset Motions filed on 04/20/2004	2522-2524
Transcript – Defendant's Motion to Vacate and Continue Trial Date filed on 04/20/2004	2541-2543
Transcript – Defendant's Petition for Writ of Habeas Corpus – Post Conviction filed on 09/26/2014	3041-3090
Transcript – Jury Trial Volume 1 filed on 12/06/2005	443-653
Transcript – Jury Trial Volume 2 filed on 12/08/2005	654-814
Transcript – Jury Trial Volume 3-A filed on 12/09/2005	815-941
Transcript – Jury Trial Volume 3-B filed on 12/09/2005	942-1100
Transcript – Jury Trial Volume 4 filed on 03/07/2004	2341-2512
Transcript – Jury Trial Volume 4 filed on 12/12/2005	1101-1298
Transcript – Jury Trial Volume 5 filed on 03/07/2006	2013-2192
Transcript – Jury Trial Volume 5 filed on 12/13/2005	1302-1481
Transcript – Jury Trial Volume 6 filed on 12/15/2005	159-1602
Transcript – Jury Trial Volume 7 filed on 12/15/2005	1603-1734
Transcript – Jury Trial Volume 8-B filed on 03/07/2006	2193-2340
Transcript – Jury Trial Volume 8-B filed on 12/23/2005	1861-2008
Transcript – Motions #1 to #14 filed on 04/20/2004	2528-2530
Transcript – Motions #1 to #14 filed on 04/20/2004	2536-2540
Transcript – Motions #1 to #14 filed on 04/20/2004	2547-2550
Transcript – Penalty Phase filed on 12/20/2005	1777-1860
Transcript – Pre Trial Motions filed on 12/02/2005	427-442
Transcript – Preliminary Hearing filed on 07/07/2003	28-98
Transcript – Preliminary Hearing Volume II filed on 08/08/2003	105-126
Transcript – Sentencing filed on 04/20/2004	2551-2557
Transcript – States Request to Reset Trial Date filed on 04/20/2004	2531-2533
Transcript – Status Check (Witness) filed on 04/20/2004	2534-2535
Transcript – Status Check filed on 04/20/2004	2525-2527
Transcript – Status Check filed on 4/20/2004	2544-2546
Transcript – Telephonic Hearing Re: Post Trial Jury Questions filed on 12/19/2005	1771-1776
Transcript – Verdict filed on 12/19/2005	1762-1770

DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED IN OPEN COURT  
DEC 09 2005 20

SHIRLEY B. PARRAGUIRRE, CLERK

BY *Jennifer Kimmel*

JENNIFER KIMMEL

DEPUTY

THE STATE OF NEVADA,

Plaintiff,

vs.

GLENFORD ANTHONY BUDD,

Defendant.

Case No. C193182  
Dept. No. XVIII

**VOLUME 3-A**  
(A.M. SESSION)

**REPORTER'S TRANSCRIPT OF JURY TRIAL**

Before the Honorable Justice Nancy M. Saitta

Thursday, December 8, 2005  
10:00 a.m.-12:30 p.m.

**APPEARANCES:**

For the State: EDWARD KANE, ESQUIRE  
Deputy District Attorney

TALEEN PANDUKHT, ESQUIRE  
Deputy District Attorney

For the Defendant: HOWARD BROOKS, ESQUIRE  
Deputy Public Defender

TIMOTHY O'BRIEN, ESQUIRE  
Deputy Public Defender

Reported by: Gayle G. Pichierri, RPR, CRR  
NV CCR No. 595, CA CSR No. 11406

PRESTIGE COURT REPORTING  
(702) 898-7676

000815

CLARK COUNTY CLERK

DEC 09 2005

RECEIVED



1 (10:17 a.m.)

2 THE COURT: Good morning. We have  
3 some matters we need to take up outside the  
4 presence?

5 MR. BROOKS: Yes, Judge. Excuse me.  
6 Howard Brooks on behalf of Mr. Budd, Your  
7 Honor. On Tuesday in discussions with  
8 Mr. Kane, I asked Mr. Kane what he intended to  
9 do about the testimony of Winston Budd.  
10 Winston Budd is the uncle of Glenford Budd.  
11 Winston Budd testified at the preliminary  
12 hearing. He testified that Glenford made  
13 admissions to him. Winston Budd, as of this  
14 moment, is currently living in Belize.

15 Mr. Kane informed me he did intend to  
16 move to admit the testimony from the  
17 preliminary hearing in this case. NRS 51.325  
18 provides former testimony in the same case is  
19 not inadmissible under the hearsay rule if the  
20 declarant is unavailable as a witness.

21 NRS 51.055 defines unavailability.  
22 And Subsection 1 d regarding the statute  
23 states that the witness must be absent from  
24 the hearing and beyond the jurisdiction of the  
25 court to compel appearance and the proponent

1 of the state has exercised reasonable  
2 diligence, but has been unable to procure his  
3 attendance to take his deposition.

4 As of today, Winston Budd is in  
5 Belize. Mr. Kane has told me the state has  
6 called his telephone number and has spoken  
7 with people at his residence who confirmed  
8 that he is in fact living there. Mr. Kane has  
9 informed me that he has asked for Mr. Budd to  
10 call him back, but Mr. Budd has not done so.

11 I'm not aware that anything else has  
12 been done beyond that and I could be wrong,  
13 but that's what I understand. I have  
14 personally talked to Winston Budd on the  
15 telephone presumably at the same address, the  
16 same phone number, as where Mr. Kane talked --  
17 tried to talk to him. He does live at that  
18 house. He has a job. He can be reached on  
19 the telephone at certain hours, usually at  
20 nighttime.

21 THE COURT: Does he have a job here?

22 MR. BROOKS: No, in Belize.

23 THE COURT: Okay. So you're not  
24 disputing the fact he is out of the country?

25 MR. BROOKS: No, he is in definitely

1 in Belize right now. He has a job there. He  
2 can be reached on the telephone.

3 When we talked to him, he is willing  
4 to come here to testify. We decided not to  
5 bring him in. Belize has a consulate in Los  
6 Angeles. The consul there is available to  
7 assist the state in procuring witnesses in  
8 Belize. I believe there is a procedure by  
9 which the state could have obtained a subpoena  
10 and procured his attendance.

11 I also believe that had the state  
12 actually contacted Mr. Budd, he would be  
13 cooperative with the state.

14 Under these circumstances, we dispute  
15 the contention that simply calling and not  
16 receiving a return phone call is reasonable  
17 diligence in procuring his testimony.

18 THE COURT: Or an appropriate showing  
19 of unavailability.

20 MR. BROOKS: Correct. And because  
21 they have not exercised reasonable diligence,  
22 they have not satisfied the unavailability  
23 requirements of NRS 51.055, which therefore  
24 does not satisfy the requirement of NRS  
25 351.325 for the former testimony to be

1 admitted; therefore, we object to the  
2 admission of Mr. Budd's testimony. We object  
3 to the state referencing that testimony in  
4 opening statement.

5 And also, just so the record is  
6 clear, Judge, we are ourselves are bringing in  
7 one or two witnesses from Belize. In fact,  
8 from the same household where Winston Budd  
9 currently resides. And I'm bringing this to  
10 the Court's attention now just because we do  
11 probably have opening arguments coming up  
12 within the next several hours.

13 THE COURT: Mr. Kane, do you wish to  
14 be heard?

15 MR. KANE: Judge, I think Counsel has  
16 made the record for me better than I could  
17 have, both earlier in the trial and today.  
18 Counsel has repeatedly complained that he has  
19 had trouble getting cooperation from the  
20 victim's family in preparing a mitigation case  
21 to present to the court.

22 Now, I issued a subpoena well in  
23 advance of the trial. My investigator managed  
24 to obtain information that led him to believe  
25 that Winston Budd was living in Belize. He

1 called down there. For all I know, the person  
2 he was talking to was Winston Budd, but he was  
3 told by someone that Mr. Budd lived there. He  
4 called back on several other occasions --  
5 first of all, he explained to the person he  
6 was talking to that we were anxious to obtain  
7 Mr. Budd's appearance here in Las Vegas for  
8 this trial.

9 My investigator then called on  
10 several subsequent occasions and left messages  
11 on the phone pleading with Mr. Budd to call  
12 us. Had I received any of the information  
13 that Mr. Brooks just disclosed in open court  
14 that there might have been another number that  
15 I could call at certain hours, or that the  
16 witness was willing to travel, I certainly  
17 would have been happy to make those  
18 arrangements.

19 We wanted to, and we would much  
20 prefer to, present his live testimony than his  
21 preliminary hearing testimony.

22 The court can certainly take judicial  
23 notice that Nevada subpoenas on their face  
24 have no extraterritorial application. And I'm  
25 glad Mr. Brooks is so confident without

1 citation of authority that there are  
2 procedures in place for dragging a witness  
3 back here from Belize, because my experience  
4 has been any time that I've tried to enforce a  
5 Nevada state subpoena internationally, I've  
6 had no luck whatsoever. We can't get  
7 extraditions done most of the time, much less  
8 be dragging witnesses back here who don't want  
9 to come.

10 And if he did want to come, we would  
11 have been happy to make the arrangements. We  
12 couldn't do that because he refused to make  
13 contact with us.

14 And Mr. Brooks in his statement has  
15 now confirmed that the place we tried to make  
16 contact with him is in fact the place where he  
17 lives. So the evidence is even stronger than  
18 if it was only me saying so, that he is  
19 deliberately not returning our calls and  
20 deliberately not willing to come back and  
21 testify.

22 Under those circumstances the state  
23 has proceeded in good faith. The witness is  
24 clearly unavailable. The prior testimony fits  
25 all other requirements for admissibility, it

1 was subject to cross-examination, it was in  
2 the same case, and we asked that it be  
3 admitted.

4 THE COURT: Anything further,  
5 Mr. Brooks?

6 MR. BROOKS: Submit it, Your Honor.

7 THE COURT: I'm going to allow -- I  
8 presume there will be a formal request to use,  
9 unless you want to have this substitute as,  
10 the formal request for use of that transcript,  
11 but I presume you could provide by  
12 affidavit -- can I presume that you could  
13 provide by affidavit the representations that  
14 you made here that you attribute to your  
15 investigator?

16 MR. KANE: Absolutely, Judge. I'll  
17 make sure that that's on file.

18 THE COURT: For the time being, any  
19 concern about the use of that is, as far as  
20 I'm concerned, yet to be determined. We'll  
21 deal with it when you bring that motion. I  
22 presume you'll bring a formal motion.

23 MR. KANE: Yes, I will, Judge. What  
24 I would like to do, though, now is offer as an  
25 offer of proof the statements that I have made

1 so we can get a ruling because we are going to  
2 want to reference briefly, not in any great  
3 detail, what Winston Budd will be saying, in  
4 our opening statement.

5 THE COURT: So long as you have the  
6 proof to support the representations that you  
7 have made regarding the efforts of your  
8 investigator.

9 MR. KANE: And I am aware of the risk  
10 there and I'll assume it, Judge.

11 THE COURT: My ruling would be that  
12 an informal finding of unavailability and/or  
13 an effort to avoid contact with the state is  
14 sufficiently made and you can use the  
15 preliminary hearing transcript.

16 MR. KANE: Let me just make one final  
17 offer, Judge, since Mr. Brooks and his  
18 cocounsel are apparently in touch with the  
19 family, if Mr. Budd is flying up with these  
20 other people and he is going to be here  
21 tomorrow, I would be more than happy to put  
22 him on as a live witness rather than use his  
23 testimony, and I make that offer in open  
24 court.

25 THE COURT: Very well. Anything else



1 outside the presence?

2 MR. BROOKS: Yes, Judge. This is not  
3 a formal motion. It's more a sense of a  
4 discussion here on the record regarding what  
5 we want to do in terms of the seating of the  
6 alternate jurors. Mr. Kane, Ms. Pandukht,  
7 Mr. O'Brien and myself discussed these issues.  
8 I can't recall if the court was here when we  
9 were discussing it or not.

10 THE COURT: No, I was not. You left  
11 it to you all to decide.

12 MR. BROOKS: I think basically we  
13 just have different preferences here. I can  
14 tell you what our preference is and the state  
15 can tell you what their preference is. My  
16 preference is that we go ahead and select the  
17 last two jurors as alternates and we simply  
18 not tell them they're alternates. But that  
19 way, we will know when were choosing the last  
20 two jurors, that they are in fact alternates.

21 I believe that complies with the  
22 statute. I'm not a hundred percent sure the  
23 statute wasn't changed in the last  
24 legislature. I know there was an issue that  
25 it was discussed. But we are opposed to the

1 idea of just having a random drawing at some  
2 later time to determine who the alternates  
3 are.

4 THE COURT: Mr. Kane?

5 MR. KANE: Well, Judge, the purpose  
6 of not letting the jurors know who the  
7 alternates are until the end of the trial is  
8 frankly, alternate jurors, there is a risk  
9 they won't pay as close attention --

10 THE COURT: Absolutely.

11 MR. KANE: -- because they think they  
12 won't be part of the deliberations. The other  
13 side o the coin is jurors aren't stupid. They  
14 are going to figure that the last two people  
15 are the ones who are going to be told they are  
16 the alternates unless we do it randomly. So  
17 if we are going to select the alternates at  
18 the end of the trial, I think it defeats the  
19 purpose to decide in advance it's going to be  
20 the last two because they will have figured  
21 that out before the end of the trial.

22 THE COURT: As I told you before, the  
23 trial I was in last week, and although we did  
24 have some argument, I boiled it down to chair  
25 selection in that case was the last three

1 seated were the alternates and I don't tell  
2 them that's the way I'm going to do it. And  
3 you'll be surprised how some jurors do get it  
4 and some jurors don't.

5 But given that, we are going to do  
6 the last two seated are the alternates and  
7 they don't get advised.

8 MS. PANDUKHT: Judge, can I ask then  
9 as people are removed for cause or for  
10 peremptories removed, are we going to have  
11 them moved up?

12 THE COURT: No, we don't do that  
13 unfortunately. And I know that is a problem  
14 with the last two. But it will be by seat.  
15 You'll know who it is. If you feel they need  
16 to be moved up, if for some reason you have a  
17 crystal ball and you want that person to be an  
18 alternate, let me know.

19 MS. PANDUKHT: Once we get to our  
20 alternate peremptories, it's just those two if  
21 they're still sitting there?

22 THE COURT: Pretty much. I know we  
23 were having some problems convening the jury  
24 downstairs.

25 MS. PANDUKHT: We were?

1 THE COURT: We're going to bring  
2 Mr. Shubert in outside the presence.

3 MR. KANE: Judge, there is one other  
4 outside-the-presence issue.

5 THE COURT: Yes.

6 MR. KANE: The court proposes to play  
7 the 911 tape of Lazon Jones, the survivor.

8 THE COURT: At least I had no  
9 pretrial motion to keep it out.

10 MR. KANE: I was just informed today  
11 the defense might have an objection and I'm  
12 just preemptively mentioning it to the court  
13 again because it's one of the things we would  
14 like to mention in opening statement and I  
15 just wanted to get a ruling.

16 THE COURT: Mr. Brooks? Mr. O'Brien?

17 MR. BROOKS: Judge, our position is  
18 the state has certainly presented the  
19 testimony of Lazon Jones regarding what he  
20 told the police in the call. What we object  
21 to the playing of the 911 tape as being overly  
22 emphasizing that particular event. It's a  
23 highly emotional tape and we just think it's  
24 cumulative and unnecessary, so we object to  
25 it.

1 MR. KANE: I'll remember that the  
2 next time the defense objects to a witness's  
3 testimony on the grounds that the tape  
4 recording of what he said at the time would be  
5 the most reliable record, and it is. And it's  
6 a classic excited utterance, and he says in  
7 the call that he reported events that happened  
8 two minutes before he picked up the phone.

9 THE COURT: It's coming in.

10 MR. KANE: Thank you, Judge.

11 THE COURT: Now, usually Cliff would  
12 have given me some type of a heads up. I  
13 don't see him yet. I know we were having  
14 problems convening. Do you mind stepping  
15 outside to see if we have them there?

16 (Pause.)

17 THE BAILIFF: They're coming up now.

18 THE COURT: Coming up now? Okay,  
19 good.

20 MS. PANDUKHT: Judge, are we going to  
21 deal with Mr. Shubert first?

22 THE COURT: Yes.

23 MR. KANE: And, Judge, I hadn't asked  
24 you before, but do you proceed on the basis  
25 that waiver of the challenge is not a waiver

1 of all subsequent challenges?

2 THE COURT: Correct.

3 (Long Pause.)

4 (Whereupon, Mr. Shubert entered the courtroom.)

5 THE COURT: Good morning,  
6 Mr. Shubert. We need to talk to you outside  
7 the presence because, quite candidly, we think  
8 you may have been involved in another case  
9 that involved one of our attorneys. I'm going  
10 to ask you to take a look at the four  
11 attorneys that are here representing the  
12 parties. Do you recognize any of them?

13 PROSPECTIVE JUROR SHUBERT: Your  
14 Honor, after the first day, yes. As a matter  
15 of fact --

16 THE COURT: Which means that you  
17 might recognize me, too, huh?

18 PROSPECTIVE JUROR SHUBERT: Yes, Your  
19 Honor.

20 THE COURT: And what is your  
21 recollection of the last time that we were all  
22 together?

23 PROSPECTIVE JUROR SHUBERT: I believe  
24 it was the Greg Chow case.

25 THE COURT: That is correct.

1 Obviously, now you would recall that Mr.  
2 O'Brien was the attorney in that case.

3 Obviously, Mr. O'Brien was defending  
4 the accused in that case, and a lot of his  
5 investigation, I suspect, had to do with your  
6 hotel. And I suspect that a lot of your  
7 personnel, your security folks, yourself  
8 included, were subject to either to inquiries  
9 made directly by Mr. O'Brien or by  
10 investigators on his behalf. Is that a fair  
11 statement?

12 PROSPECTIVE JUROR SHUBERT: Fair,  
13 yes.

14 THE COURT: What, if anything, about  
15 that situation, about Mr. O'Brien's  
16 representation, that someone was accused  
17 causing the death of someone in your hotel,  
18 would affect your ability to sit as a fair and  
19 impartial juror?

20 PROSPECTIVE JUROR SHUBERT: Your  
21 Honor, to be truthful with you, nothing  
22 whatsoever. Mr. O'Brien had a job to do. He  
23 does it to the best of his ability. There  
24 was -- he did nothing to offend me or anyone  
25 associated with the hotel that I am aware of.

1 THE COURT: Mr. O'Brien, would you  
2 like to do follow up?

3 MR. O'BRIEN: Sure. Were you aware  
4 of the verdict in the Chow case, Mr. Shubert?

5 PROSPECTIVE JUROR SHUBERT: Excuse  
6 me. I'm having a problem with the flu and the  
7 throat. I had heard through the grapevine, I  
8 was not told officially, but I heard it was a  
9 mistrial if I'm not mistaken.

10 MR. O'BRIEN: Um-hum. Did that  
11 affect you in any way when you learned about  
12 the verdict, knowing what did you about the  
13 case?

14 PROSPECTIVE JUROR SHUBERT: My  
15 personal opinion -- maybe to a certain extent  
16 because I knew certain things about the case,  
17 but once again, I've been involved in law  
18 enforcement for quite a bit of my life and I  
19 understand, you know, it's how it's presented,  
20 what is presented. And, no, it's definitely  
21 out of my hands.

22 MR. O'BRIEN: Would it be fair to say  
23 that you had expected a guilty verdict in that  
24 case?

25 PROSPECTIVE JUROR SHUBERT: I



1 wouldn't say I expected it. I had hoped they  
2 would have found a guilty verdict, but they  
3 did not. And, you know, I had nothing to do  
4 with it at that point. So I have no qualms  
5 about it whatsoever. That's the way the legal  
6 system works.

7 MR. O'BRIEN: I'll submit it, Judge.

8 THE COURT: Mr. Kane, anything you  
9 want to add?

10 MR. KANE: No, Judge, thank you.

11 MR. BROOKS: Judge, I would like to  
12 ask for a qualification. Was Mr. Shubert an  
13 actual witness in that case?

14 THE COURT: I believe so.

15 MR. O'BRIEN: Yes.

16 MR. BROOKS: He testified in the Chow  
17 case?

18 THE COURT: I believe so.

19 MR. BROOKS: And our office  
20 represented Mr. Chow?

21 THE COURT: Um-hum. Anything else  
22 you are concerned about or any other additions  
23 to the record, Mr. Brooks?

24 MR. BROOKS: That's all, Your Honor.

25 THE COURT: Mr. Shubert, are you

1 comfortable -- and I have no way of knowing  
2 whether or not you will be chosen for this  
3 jury, but are you comfortable sitting again  
4 or -- strike that - sitting in or being a part  
5 of a murder trial?

6 PROSPECTIVE JUROR SHUBERT: I believe  
7 so. I only have one real problem, Your Honor,  
8 and that is as I put in the questionnaire, I  
9 do have a vacation planned. I have flights  
10 scheduled leaving actually the 21st, 22nd. I  
11 also brought airlines if you need to see them.

12 THE COURT: I trust you. And for the  
13 21st, you said?

14 PROSPECTIVE JUROR SHUBERT: Yes.

15 THE COURT: I think we'll be done by  
16 then. I don't think it will a problem.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: Very well. You can go  
19 out in the hallway with the rest of the  
20 jurors.

21 Mr. Bailiff, whenever you're ready,  
22 we are ready to bring the jurors in.

23 For your information, Counsel, we  
24 will be going until 12:30, taking a break,  
25 hour break, and then coming back.

1 MS. PANDUKHT: An hour break?

2 THE COURT: Hour break, yes.

3 MR. O'BRIEN: Your Honor, what would  
4 you like to do with Mr. Shubert? Are you  
5 going to insert him back in order?

6 THE COURT: He will go back in order,  
7 but what that really means is he is the next  
8 called because we already passed his number.  
9 (Whereupon the prospective jurors entered the  
10 courtroom.)

11 THE COURT: Just for the record,  
12 Counsel, we are missing 92, juror No. 92  
13 again?

14 MR. BROOKS: Has there been any call  
15 or anything, Judge?

16 THE COURT: Not that we are aware.  
17 For what I think is a pretty good reason, I'm  
18 going to -- we can't have this type of  
19 unreliability. And, of course, you should all  
20 be aware we are bringing in the second group  
21 of jurors.

22 MS. PANDUKHT: Oh, we are, okay.

23 THE BAILIFF: Everybody check their  
24 phones and make sure they're turned off.

25 THE COURT: Welcome back to those of

1 you who have been here before. And welcome to  
2 those of you who are joining us for the first  
3 time. We are here in the matter of State of  
4 Nevada versus Glenford Budd. It is case No.  
5 193182. For those of you who have already  
6 been here, some of what I am about to say, you  
7 have already heard it. So for at least a very  
8 short period of time, you can tune out.

9 For those of you who have just joined  
10 us, and I know you have been waiting  
11 downstairs for a couple of days, thank you so  
12 very much for your patience. Even though I  
13 love our new courtrooms, we don't have enough  
14 room to house all of the people for jury  
15 selection that we need, so that's why you were  
16 kept downstairs. Nothing more nefarious than  
17 that. It just is the way it is.

18 What's going to happen here is we are  
19 in the jury selection process. We are going  
20 to be asking you a series of personal  
21 questions, questions that you wouldn't  
22 ordinarily ask in a group of strangers. But  
23 the reason that you are being asked these  
24 questions and the reason that your open and  
25 candid answers are so important is because

1 these attorneys who represent certain clients  
2 have to be sure that they have a jury that is  
3 like a hand-in-a-glove fit. As I usually say,  
4 I was born and raised in the Midwest and there  
5 were a couple of different hand gear, hand  
6 wear, we could use to keep our hands warm when  
7 it got cold. One was mittens, one was gloves.  
8 Gloves, we had to be sure we got every finger  
9 in the right place. Mittens, we would just  
10 sort of put our hand in and it didn't matter,  
11 the effect was the same, we still were able to  
12 keep our hands warm. What we are looking for  
13 in jury selection is hand in the glove. A  
14 mitten-fit isn't going to be good enough.

15           These attorneys are going to ask you  
16 personal questions. They are going to talk  
17 about things that sometimes are very difficult  
18 to talk about: Biases, prejudices. You  
19 filled out the jury questionnaires. We have  
20 that information here. So you know what a  
21 very serious case this is.

22           This case involves an accusation that  
23 indicates three people were killed; that in  
24 fact, in any courtroom there sits a person  
25 charged. That person is called the defendant.

1 In our case it's Mr. Budd. But one of the  
2 things so very important is that anyone,  
3 Mr. Budd or anyone else, who would be charged  
4 with a crime, any type of crime, is allowed  
5 and entitled to have the absolute presumption  
6 of innocence.

7 That means that whoever sits on the  
8 defendant's table is merely accused of a  
9 crime. And you, as prospective jurors, have  
10 to be able to understand and embrace and  
11 believe that concept. It is one of the most  
12 important parts of all of our rights, and that  
13 is that the state or the state entity has to  
14 prove beyond a reasonable doubt, which is a  
15 legal standard that I will instruct you on,  
16 that the person they have here in court is in  
17 fact the person who committed this crime.

18 They have to meet every one of the  
19 elements that make up the crime. It's a very,  
20 very large burden. And unless they meet that  
21 burden, then jurors cannot return with a  
22 verdict of guilt.

23 In this situation -- in all  
24 situations because of that presumption, that  
25 means that the defendants by and through

1 defense counsel don't have to do anything;  
2 they can sit back in the courtroom and rely  
3 upon that important presumption because if the  
4 state doesn't do their job, there can be no  
5 finding of guilt.

6 If the state doesn't prove beyond a  
7 reasonable doubt that the person charged is  
8 the person who did the crime in Clark County,  
9 then it has to be a verdict of innocent or not  
10 guilty in this case because the defendant is  
11 presumed innocent.

12 This case involves the possibility of  
13 imposition of the death penalty. That's a  
14 very, very difficult concept for most people  
15 to kind of get their arms around. And we need  
16 to know if you are someone who can and would  
17 consider the death penalty, but if you are  
18 also someone who can and would consider other  
19 penalties.

20 So when we ask you questions about  
21 your background that would touch upon your  
22 qualifications to serve as a juror in this  
23 very unique case, we are not doing it to  
24 embarrass you. And more likely than not, we  
25 will be a little bit tough on you. We know

1 that you would prefer to be elsewhere,  
2 particularly this time of the year. We all  
3 have other things that we would rather be  
4 doing. But the justice system doesn't work  
5 unless we have people who are willing to give  
6 up the other important things in their life  
7 and serve as jurors.

8 We also know for some of you it's a  
9 financial hardship. For some of you it may be  
10 a hardship because you may be caring for young  
11 children or elderly family members. You may  
12 be the only person in the family that's  
13 bringing in a paycheck. I tend not to be  
14 particularly sympathetic to that. As I said,  
15 the jury system and the important rights that  
16 are attached to the jury system are far too  
17 significant to allow just those situations to  
18 create an excuse for jury service.

19 Everything that we say in this  
20 courtroom is being recorded. Everything that  
21 you say, when you answer these questions, is  
22 going to be done under oath. If you lie or  
23 withhold information that could touch upon  
24 your qualifications to serve as a juror, it  
25 could subject you to further proceedings.



1           Would those of you who have not been  
2 previously sworn, please stand and raise your  
3 right hands.

4           (Whereupon, the additional prospective jurors  
5 were sworn in by the Clerk of Court.)

6           THE COURT: Thank you very much. We  
7 will also refer to you by the last three  
8 digits on your juror badge. So if you feel  
9 you need to respond to a question, you would  
10 raise your hand, I would ask that you stand  
11 and please give me your juror badge number.  
12 That's how we can identify you.

13           As I said, we have your  
14 questionnaires. We also have a list of each  
15 and every one of you and a bit of information,  
16 generally speaking limited to whether you are  
17 married, what zip code you live in, and  
18 whether or not you are employed. But we do  
19 have that information.

20           It's important for these attorneys to  
21 be able to determine who are going to be fair  
22 and impartial jurors. We do have an empty  
23 seat to be filled. And, for the attorneys, I  
24 want you to note that I have formally excused  
25 Ms. Slick from jury service. As you know, we

1 have had some concerns about her ability to be  
2 here in a timely manner in the past. And I  
3 will on my own motion strike Ms. Slick.

4 For the new jurors, I would ask  
5 please, Mr. Kane, Ms. Pandukht, if you would  
6 introduce yourselves, make a brief statement  
7 about the case and identify those witnesses  
8 you intend to call.

9 MR. KANE: Thank you, Your Honor.  
10 Ladies and gentlemen, those of you who haven't  
11 been here before, my name is Edward Kane.  
12 Seated with me at counsel table is Taleen  
13 Pandukht. Ms. Pandukht and I are deputy  
14 district attorneys. And we are going to be  
15 presenting to you the state's case, that is  
16 the evidence in support of the allegations in  
17 the case of State of Nevada versus Glenford  
18 Anthony Budd.

19 This is a case of murder. The state  
20 alleges three people, those being Dajon Jones,  
21 age 14; Derrick Jones, age 19; and Jason  
22 Moore, age 19, were killed with a handgun in  
23 an apartment in the 2800-block of East  
24 Charleston here in Las Vegas, Nevada.

25 We are going to be presenting a

1 number of witnesses. And we may not present  
2 all of the witnesses whose names I am going to  
3 read to you, but the reason we are reading  
4 these is because if you know any of these  
5 people, the Judge will ask you about that and  
6 ask you if that will affect your ability to be  
7 fair and impartial.

8 We will be presenting a couple of  
9 homicide detectives, those being James  
10 Vaccaro, Martin Wildemann and Michael Wallace.  
11 Also, Detective Spencer with the Las Vegas  
12 Metropolitan Police Department.

13 There will be a number of witnesses  
14 who are crime scene analysts, people who you  
15 see on television and go out to crime scenes  
16 and actually pick up the bullets, blood, other  
17 things that are found at crime scenes; and  
18 they would be Mark Washington, Ebony McGhee,  
19 Thomas Kern and Louise Renhard.

20 And finally, on the police side of  
21 things, we will be presenting the testimony or  
22 conclusions of experts who take a look at that  
23 crime scene evidence and make judgments based  
24 on it. James Krylo, who is a firearms expert,  
25 and David Welch, who is a DNA expert.

1           We will also be presenting testimony  
2 from Rexene Worrell from the Clark County  
3 coroner's office concerning her autopsies of  
4 the bodies of these three young men and state  
5 her opinion as to the cause of death.

6           And finally, we will be presenting  
7 the following witnesses who are not in any way  
8 affiliated with law enforcement, who are  
9 citizens: Lazon Jones, Celeste Palau, and  
10 that's spelled P-A-L-A-U, Tracey Richards,  
11 Linda Moore, Greg Lewis, Sheryl Jones, Winston  
12 Budd, Krissy Smith, Nakia Washington and Terry  
13 McKinley Key. Thank you.

14           THE COURT: Mr. Brooks, Mr. O'Brien,  
15 would you like to introduce yourself and your  
16 client?

17           MR. BROOKS: Thank, you, Judge. My  
18 name is Howard Brooks. I am a criminal  
19 defense counsel. My cocounsel is Tim O'Brien,  
20 and my client is Glenford Budd.

21           MR. O'BRIEN: Stand up.

22           MR. BROOKS: The burden in this case  
23 is for the state to prove their case. We do  
24 not decide whether to present any witnesses  
25 until we have heard their case. Thank you.

1 THE COURT: Thank you.

2 Ms. Clerk, would you fill the empty  
3 seat, please?

4 THE CLERK: Badge No. 104,  
5 Mr. Shubert.

6 THE COURT: Mr. Shubert, I'm going to  
7 ask you that you take the empty seat. Thank  
8 you. You have heard the questions the  
9 attorneys have asked of those of everybody  
10 seated in the box. Anything you think they  
11 need to know about you?

12 PROSPECTIVE JUROR 014: No, not that  
13 I --

14 MR. BROOKS: Court's indulgence, Your  
15 Honor. I think we have a problem with seating  
16 here. I think Ms. Slick was seated in  
17 position No. 9 and --

18 THE CLERK: Hang on a second. Oh,  
19 that's correct.

20 THE COURT: Okay. We are going to  
21 have Miss Sannicolas switch. I think it's  
22 just a switch.

23 MS. PANDUKHT: It's just a switch.

24 MR. BROOKS: Correct.

25 THE COURT: Thank you, Mr. Brooks.

1 MR. BROOKS: I only call that to the  
2 Court's attention because I can't keep track  
3 of things. It's --

4 THE COURT: Ms. Pandukht, did I hear  
5 a pass for cause?

6 MS. PANDUKHT: Yes.

7 THE COURT: Mr. Brooks? Mr. O'Brien?

8 MR. O'BRIEN: Thank you, Your Honor.  
9

10 VOIR DIRE EXAMINATION

11 BY MR. O'BRIEN:

12 Q. You were 24 years in the armed  
13 service; correct?

14 A. No, sir.

15 Q. Did I misread that? Were you in the  
16 Air Force?

17 A. No, sir.

18 Q. I'm sorry. Were you in the Army?

19 A. I was in the Army, yes, sir.

20 Q. And were you in the Army for  
21 24 years?

22 A. No, sir.

23 Q. I'm sorry. I guess I can't read your  
24 writing. How long were you in the Army?

25 A. I was in the Army for approximately

1 four years.

2 Q. Okay. Did you do security in the  
3 Army?

4 A. Yes, military police officer.

5 Q. And subsequent to that, was a large  
6 part of your career before and since been in  
7 security?

8 A. Yes. I had worked in the Federal  
9 Bureau of Investigation, fingerprint division  
10 prior to my military, and then after my  
11 military. And then with the Erie Police  
12 Department as a police clerk, as a police  
13 officer. And since then, I've been working as  
14 either the assistant director of corporate  
15 security at the Imperial Palace; and recently,  
16 the last three or four years, I have been the  
17 chief of security for two different downtown  
18 casinos with Barrick Gaming Corporation.

19 Q. I see. Of course, you have a lot of  
20 contact with law enforcement?

21 A. Correct.

22 Q. As a security director?

23 A. Yes, sir.

24 Q. And, of course, you were a police  
25 officer?

1 A. Yes, sir.

2 Q. And you were with the Erie Police  
3 Department?

4 A. Erie. City of Erie.

5 Q. How often would you have to testify  
6 in your duties as a police officer?

7 A. It actually depended. Probably on  
8 average maybe three times, four times a year.

9 Q. Is it fair to say that your dealings  
10 with defense counsel were maybe less enjoyable  
11 than those with prosecutors?

12 A. At times.

13 Q. Tell me how you feel about  
14 prosecutors.

15 A. I make no preconceived judgments of  
16 any individual or any either the prosecution  
17 or the defense tables. You know, I just do my  
18 job. I just state the facts I know, and, you  
19 know, that's it. Let the legal justice system  
20 work in its own way.

21 Q. I mean, you understand why we might  
22 be concerned about having you on this jury,  
23 given your vast experience with law  
24 enforcement?

25 A. (Nodding.)



1 Q. Do you honestly believe that you  
2 could be fair and unbiased to the defense as  
3 well as the prosecution?

4 A. I believe so.

5 Q. Of course, one of the largest jobs  
6 for a juror is to determine the credibility  
7 and weigh the evidence, particularly that of  
8 live testimony, of course. We have police  
9 officers, criminologists testifying here  
10 today. Isn't it going to be almost a  
11 knee-jerk reaction for you to give them more  
12 credibility because of your experience?

13 A. Sometimes I think it can be just the  
14 opposite. Working in the field, I think you  
15 believe and you get to know that they are not  
16 infallible; mistakes can be made. People can  
17 say certain things. And in a case such as  
18 this, I believe you have to deal with what is  
19 said in court, and you know what the  
20 prosecution -- the witnesses that they bring  
21 up and what is told by the witnesses, what the  
22 defense asked them in return and what their  
23 response is. I think that's what you have to  
24 take into consideration. Not necessarily a  
25 person's position or, you know, if a person is

1 a police officer or if he is a technician or  
2 whatever the case might be that worked on the  
3 case. It's their testimony.

4 Q. How about if we had a situation where  
5 two people, one being a police officer, viewed  
6 the same thing and, yet, their opinions about  
7 what happened are completely different. They  
8 had the same opportunity to see, the same  
9 perspective, the same lighting, all things  
10 were equal; and, yet, they both arrived at  
11 different conclusions. Would you tend in that  
12 situation to favor the testimony of one over  
13 the other?

14 A. I don't believe I would. I think I  
15 would just use my own judgment.

16 Q. Now, you wrote in your questionnaire  
17 that you thought that you would be able, of  
18 course, to vote for the death penalty; is that  
19 correct?

20 A. Correct.

21 Q. And you also mentioned it should be  
22 handed down for the most serious crimes.  
23 Could you tell me more about that?

24 A. Well, I don't believe that a death  
25 sentence is a sentence that should be handed

1 down lightly. It's something that you have to  
2 weigh the facts of the case and you have to  
3 make a judgment call on it. It's not  
4 something that I don't believe that any one  
5 person really wants to go out and make a  
6 judgment in another person's life. I think  
7 you have to take a look at all of the evidence  
8 and decide on the evidence that's presented,  
9 you know, what the finding should be as far as  
10 the penalty.

11 Q. Is it fair to say you believe the  
12 death penalty should be reserved for the worst  
13 of the worst murder cases?

14 A. I would believe so.

15 MR. O'BRIEN: Thank you, Mr. Shubert,  
16 nothing further.

17 Pass for cause, Your Honor.

18 THE COURT: Very well. Counsel, will  
19 you approach?

20 MS. PANDUKHT: There is one other  
21 juror we haven't questioned yet.

22 THE COURT: There is?

23 MS. PANDUKHT: Yes, Ms. Shields.

24 THE COURT: I'm sorry. Ms. Pandukht  
25 or Mr. Kane?

1 MS. PANDUKHT: Yes, thank you.

2  
3 VOIR DIRE EXAMINATION

4 BY MS. PANDUKHT:

5 Q. Ms. Shields?

6 A. Yes.

7 Q. I read in your questionnaire that you  
8 do not believe in the death penalty?

9 A. No.

10 Q. And it is against your religious  
11 beliefs?

12 A. Absolutely.

13 Q. So are there any circumstances in  
14 which you would be able to consider the death  
15 penalty?

16 A. I could not.

17 MS. PANDUKHT: Judge, I have to  
18 challenge for cause?

19 THE COURT: Mr. O'Brien? Mr. Brooks?

20 MR. O'BRIEN: Thank you, Your Honor.

21 BY MR. O'BRIEN:

22 Q. Good morning.

23 A. Good morning.

24 Q. Before we've heard any facts, any  
25 evidence in this case, is there any situation

1 that you could envision, any crime that you  
2 have either heard of or you could imagine,  
3 that you might be able to consider, not  
4 necessarily impose, but consider the death  
5 penalty?

6 A. I couldn't consider the death penalty  
7 because I do not believe that an eye for an  
8 eye. I do not believe -- I believe thou shalt  
9 not kill. No one should kill. I could not  
10 sentence somebody -- I could not vote for the  
11 death penalty.

12 Q. So regardless of the circumstances?

13 A. Regardless.

14 Q. Be it Adolph Hitler on trial, no  
15 death penalty?

16 A. I don't feel that's my place. I feel  
17 that's God's hand, you know, not mine.

18 Q. And I understand it's a fine  
19 distinction, but I think it's an important  
20 distinction in that, of course, under the law  
21 you never have to vote for the death penalty.  
22 It's never mandated.

23 Could you consider the facts and  
24 circumstances, consider the possibility of the  
25 death penalty and make a decision based on the

1 evidence?

2 A. I've heard you ask that to other  
3 people, and I guess you mean -- I don't know  
4 what. I guess I don't know what you mean by  
5 could I consider. I still haven't been clear  
6 on that.

7 I could never vote for the death  
8 penalty. I could only vote against it.  
9 That's all I could tell you. I think that  
10 might answer your question.

11 Q. Now, you mentioned in your  
12 questionnaire that -- and correct me if I'm  
13 wrong, but I gather that you said that the  
14 death penalty was expensive. Do you remember  
15 writing that down?

16 A. You know, I have to say when I filled  
17 out that questionnaire, I was having a bad  
18 day, I was very upset. And I apologize. I  
19 don't even know what's on there. So, yes, I  
20 do believe that. I do believe it does cost  
21 the taxpayers more.

22 Q. Do you believe that --

23 A. That's what I have heard. I just  
24 remember learning that in school.

25 Q. Do you believe that because you think

1 the cost of appeals, and post conviction  
2 and relief --

3 A. Correct.

4 Q. -- ultimately costs us more money  
5 than incarceration?

6 A. Yes.

7 Q. You are a law-abiding citizen; right?

8 A. Yes.

9 Q. If the Judge says, Ms. Shields, you  
10 don't have to impose the death penalty, but  
11 the law says you have to consider it, would  
12 you be able to follow the law?

13 A. You know, I guess I have to say no.  
14 I don't want to say no, that I wouldn't follow  
15 the law. But, no, I couldn't vote for the  
16 death penalty.

17 MR. O'BRIEN: Okay. Thank you very  
18 much. We'll submit it to the court.

19 THE COURT: I'm going to excuse the  
20 juror for cause. You can return to the jury  
21 assembly area. We will call the next in  
22 order.

23 THE CLERK: Badge No. 116, Darrell  
24 Miller.

25 THE COURT: Good morning, Mr. Miller.

1 PROSPECTIVE JUROR: Good morning.

2 THE COURT: You have heard the  
3 questions our attorneys have asked the others.  
4 Anything we need to know about you?

5 PROSPECTIVE JUROR: No.

6 THE COURT: You are completely -- no.  
7 Other than you have had some instances with  
8 crime and a former jury, you've been real  
9 quiet. Nothing much you want to tell us.

10 Ms. Pandukht? Mr. Kane?

11

12 VOIR DIRE EXAMINATION

13 BY MS. PANDUKHT:

14 Q. Hello. I noticed that you had a  
15 couple of answers with regard to the death  
16 penalty that seemed a little bit different to  
17 me. And then I was wondering if maybe you did  
18 have an opportunity to actually sit in here  
19 the first two days?

20 A. Yes.

21 Q. Okay. So we're still part of that  
22 group. You had said the death penalty should  
23 be reserved for the most heinous of crimes and  
24 imposed rapidly, not 20 years later. But then  
25 on a later question when asked if you could



1 personally vote to impose the death penalty,  
2 you said, "I don't know."

3 Has sitting through the proceedings  
4 helped you kind of figure out where you stand  
5 on that issue?

6 A. I don't know because I think I would  
7 have to hear all of the evidence, all of the  
8 mitigating circumstances. And going back to  
9 my first answer, I think it's reserved for the  
10 most heinous of crimes, and I believe I would  
11 consider it and I don't know if I would  
12 actually vote yes.

13 Q. So is it more based on you need to  
14 know the facts and the basis for it rather  
15 than as just a general concept?

16 A. I think it's two different things.  
17 One, I would have to know all of the  
18 circumstances and the mitigating circumstances  
19 to even consider it, if I would consider it.  
20 Also, number two, I do have pretty strong  
21 religious belief against it, but I don't think  
22 that's going to preclude me from saying I  
23 won't consider it.

24 Q. And you didn't -- the next question  
25 after that was, you know, having an

1 organization that opposes the death penalty,  
2 you said you had religious beliefs. Is that  
3 something that would be in the back of your  
4 mind throughout listening to the evidence,  
5 whatever this organization is?

6 A. I don't think it's going to be in the  
7 back of my mind. I would listen to the  
8 evidence. I think when it comes time to  
9 deliberate, if this moves into the penalty  
10 phase, then it might be in the back of my  
11 mind, yes.

12 Q. Okay. So would you be able to give  
13 consideration to the death penalty?

14 A. I would consider it.

15 Q. Would you be able to vote for the  
16 death penalty?

17 A. I don't know.

18 Q. So you still don't know. No matter  
19 what the evidence is, you still don't know?

20 A. I don't know because I think we have  
21 no idea what the evidence really is.

22 Q. Okay. Let me ask you this: If for  
23 some reason evidence was presented that you  
24 did consider, in your words, heinous and that  
25 you did consider the death penalty was

1 warranted, so given all of that, would you  
2 then be able to vote to impose the death  
3 penalty?

4 A. I don't know.

5 Q. Okay. Was there anything about your  
6 son's arrest that caused you to be unhappy  
7 with either the police agencies or the  
8 prosecuting agencies?

9 A. No, I don't think so.

10 Q. So you thought he was treated fairly?

11 A. It was incomplete in the fact that it  
12 never went to trial, and it was a pleaded  
13 case. So I don't harbor any ill feelings  
14 about that.

15 Q. And you wouldn't hold that against  
16 the state in this case?

17 A. No.

18 Q. I also thought I remembered reading  
19 something about -- here it is. The statement  
20 if a prosecutor is taking someone to trial,  
21 then the person must be guilty. You said not  
22 true because evidence may not be complete and  
23 or tainted. Can you explain what you mean by  
24 that?

25 A. Ask the question again.

1 Q. You had said --

2 A. No, just read the question.

3 Q. Just the question? If a prosecutor  
4 has taken someone to trial, then the person  
5 must be guilty?

6 A. No, they're not.

7 Q. And I was actually more interested in  
8 your answer.

9 A. Okay. No, they're not guilty.

10 Q. What did you mean by the evidence  
11 may --

12 A. I think the evidence must be fairly  
13 strong if it ends up into a trial situation,  
14 but I don't believe that that has anything to  
15 do with innocence or guilt.

16 THE COURT: You don't believe it has  
17 anything to do with --

18 PROSPECTIVE JUROR: Innocence or  
19 guilt.

20 MS. PANDUKHT:

21 Q. And when you said the evidence may  
22 not be complete or tainted, what made you say  
23 that? What would make you think that?

24 A. I'm not sure.

25 MS. PANDUKHT: Okay. I'll pass for

1 cause. Thank you.

2 THE COURT: Mr. O'Brien? Mr. Brooks?

3 MR. O'BRIEN: Thank you, Your Honor.

4 BY MR. O'BRIEN:

5 Q. Good morning, Mr. Miller.

6 A. Good morning.

7 Q. Just coming back briefly to your  
8 son's problem, were you happy with the  
9 representation he got from his defense  
10 attorney?

11 A. No.

12 Q. Are you going to hold that against  
13 myself and Mr. Brooks?

14 A. No.

15 Q. That hasn't left a forever-tainted  
16 view of defense attorneys in general?

17 A. No.

18 MR. O'BRIEN: Okay. Thank you,  
19 Mr. Miller. Pass for cause.

20 THE COURT: Ladies and gentlemen, for  
21 those of you who have just come into the  
22 courtroom, there are a number of ways we make  
23 that jury hand-in-a-glove fit and it is a  
24 series of challenges. You may have heard the  
25 attorneys say a couple of times "I pass for

1 cause." That means they pass for-cause  
2 challenge. One of the types of challenges  
3 that can be made to prospective jurors is when  
4 they believe there is a reason or a cause that  
5 makes a juror unsuited to sit on a particular  
6 jury. The attorneys have to state the reason  
7 for a for-cause challenge, and I determine  
8 whether or not it should be granted. Those  
9 are unlimited because in fact we don't have  
10 want to have a juror that is carrying a bias  
11 or a prejudice or some trait or belief that  
12 would keep them from being fair and impartial.

13 Now, on the other hand, each of the  
14 attorneys, or each side of the case gets what  
15 are called peremptory challenges. Peremptory  
16 challenges are limited in nature; a certain  
17 number is assigned to each side; an equal  
18 number, by the way. But the attorneys don't  
19 have to give a reason. They can just say,  
20 well, you know, today's the day that I am not  
21 going to have people on my jury that have  
22 multi-colored hair, in which case I probably  
23 would be kicked for a peremptory challenge.

24 I don't today see anybody else with  
25 as multi-colored hair as I have. But they

1 don't have to state a reason. They can just  
2 decide this is the day I don't want  
3 multi-colored hair on the jury; they come up  
4 here and they tell me, and that person gets  
5 challenged.

6 Now, if you happen to fall into those  
7 categories, please don't feel bad and don't  
8 take it personally. It is these attorneys'  
9 ethical obligation to be sure they do their  
10 very best to pick a jury that is well suited  
11 for their particular client.

12 So if today is the day they decide  
13 they don't want multi-colored hair people on  
14 their jury, that will be the challenge.

15 Now, the good news is multi-colored  
16 hair people may fit in other juries quite  
17 nicely. So if I were to be kicked today, it  
18 doesn't matter because we've got lots of  
19 trials going on in this courthouse, and you'll  
20 fit into the next group of jurors.

21 With that in mind, Counsel, will you  
22 approach?

23 (Bench conference held off the record.)

24 THE COURT: I am going to thank and  
25 excuse Ms. Sannicolas and Mr. Miller. Thank

1 you both for your time and your attention. I  
2 hope to see you again on another jury  
3 selection process.

4 And, Ms. Clerk, if you would call the  
5 next in order.

6 THE CLERK: Badge No. 117, John  
7 Gregorio, seat 3.

8 PROSPECTIVE JUROR 117: Okay.

9 THE CLERK: And badge No. 118, Steven  
10 Kiger.

11 THE COURT: Welcome to both of you.  
12 You all have been here, you both have been  
13 here through this process, so you know what  
14 the attorneys have been asking the others,  
15 fair statement?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Anything you think they  
18 need to know about you?

19 PROSPECTIVE JUROR 118: No. I didn't  
20 state IT verbally, but I've got it on my  
21 questionnaire about --

22 MR. BROOKS: I apologize, Judge.  
23 This is 117; correct?

24 PROSPECTIVE JUROR 118: 118.

25 THE COURT: I'm sorry. Mr. Kiger,



1 118.

2 MS. PANDUKHT: Who are we starting  
3 with?

4 MR. BROOKS: I thought we had 115 and  
5 117.

6 THE COURT: We should, but --

7 THE CLERK: 115 is not present.

8 THE COURT: That means we did 117 and  
9 118; correct?

10 MR. BROOKS: In that case is the  
11 gentleman in the front row 118?

12 THE COURT: He is.

13 MR. BROOKS: Okay. Thank you.

14 THE COURT: Why don't you go ahead  
15 and tell us anything else you need to tell us.

16 PROSPECTIVE JUROR 118: My father was  
17 a psychiatrist who worked in the State of  
18 Utah. He ran the state hospital for 5 to  
19 10 years and he worked with prisoners and  
20 psychopaths.

21 THE COURT: Anything else?

22 PROSPECTIVE JUROR 118: That would be  
23 it.

24 THE COURT: You think that would  
25 affect your ability to be fair and impartial.