

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 JOSHUA C. SHUE,

) No. 67428

4 Appellant,

5 v.

) Electronically Filed
) Jul 20 2015 04:59 p.m.
) Tracie K. Lindeman
) Clerk of Supreme Court

6
7 THE STATE OF NEVADA,

8 Respondent.

9
10 **APPELLANT'S APPENDIX VOLUME III PAGES 457-639**

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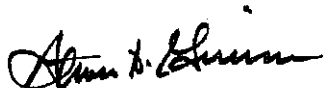
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CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA C. SHUE, aka
JOSHUA CALEB SHUE

Defendant.

CASE#: C288172

DEPT. XXI

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE
TUESDAY, APRIL 8, 2014

RECORDER'S TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S MOTION TO VACATE TRIAL DATE AND RESET

APPEARANCES:

For the State:

MARIA LAVELL, ESQ.
Chief Deputy District Attorney

For the Defendant:

TERRENCE M. JACKSON, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER

1 TUESDAY, APRIL 8, 2014 AT 9:36 A.M.

2
3 THE COURT: State versus Joshua Shue.

4 And Mr. Shue is out of custody. Are you asking us to waive his
5 presence for today?

6 MR. JACKSON: Waive his presence. He's at work today. He asked me to
7 ask the Court to waive his presence today. He has -- I have his consent to make
8 this motion. I've discussed it with him and the reasons for it.

9 THE COURT: And then -- I mean -- okay. Obviously the State's opposed it,
10 and we've gone round and round about whether there's been any promises or
11 tangible goods.

12 MR. JACKSON: Can I just address the Court on a couple of things?

13 THE COURT: Sure.

14 MR. JACKSON: I feel somewhat in a ethical bind. And I'm going to explain to
15 the Court what I would ask the Court to do it, and I don't know if the State opposes
16 this or not. The mother of the victim has called me on numerous occasions advising
17 me of several things concerning her daughter who is the alleged victim. And I -- you
18 know, dutifully note them. I've sent my investigator to talk to the mother. You know,
19 there's a conflict as to what's happening and what's not happening.

20 The latest and most serious matter is that her daughter apparently had
21 an incident, whether it was an attempt suicide or whether -- you know, I don't know
22 the full details because I haven't got the medical reports, but it's alleged that she
23 tried to commit suicide and was in the hospital. There are questions. And I have
24 not been able to verify them because I haven't spoken to the daughter, so I'm not
25 going to make allegations without full knowledge. But the mother is concerned that

1 the daughter either has been pressured or not pressured.

2 I would ask the Court -- because I'd like -- rather than me get involved
3 in making certain allegations or whatever, I think the daughter should have an
4 attorney appointed to represent her interests if there is substance to this. The
5 mother, I asked her to be present. I don't know if she's here right now, but she's
6 present. I have spoken to her on numerous occasions. My investigator has spoken
7 to her. I'm concerned that -- number one, if the daughter had her own counsel the
8 daughter -- and the daughter has the DA's Office and their victim witness and
9 whatever. But I get a different thing from the mother as to whether she's being
10 pressured or not pressured. I would ask the Court to consider appointing counsel
11 for the daughter. If there's nothing there, there's nothing there; we move on.

12 The other situation is we got a motion in limine filed by the State and
13 I'm going to need a little more time to respond to that. Not much more time, but I
14 just got it served on me Thursday. That's set for this --

15 THE COURT: April 10th, right?

16 MR. JACKSON: Yeah. I got it served on me Thursday the 3rd and that
17 doesn't give me enough time to respond.

18 THE COURT: It doesn't.

19 MR. JACKSON: Especially because there's conflicting allegations, whatever.

20 THE COURT: It doesn't give you enough time -- I mean, under the rules, so --

21 MR. JACKSON: And also it may -- you know, the factual issues are what, you
22 know, it would hinge on basically. And we may need to have testimony of people
23 under oath exactly what I'd bring out, because I'm not sure what I'd bring out at trial.

24 THE COURT: Well -- I mean, it's sort of unusual -- well, it's not sort of
25 unusual. It's extremely unusual to appoint an attorney for a victim or a purported

1 victim.

2 MR. JACKSON: I understand.

3 THE COURT: Now, this is just something that I'm -- a possibly. I'm not
4 endorsing this as a good idea. I'm saying it's one idea. And that would be, well,
5 maybe the better thing to do since there's allegations -- you've made allegations, the
6 State -- I think it was Ms. Bierly [phonetic], is that her name?

7 MS. LAVELL: Beverly.

8 THE COURT: Beverly, who was here before said, you know, as an officer of
9 the State none of this has happened; there haven't been any inducements; there
10 hasn't been any -- you know, I don't know -- we didn't really talk about pressure last
11 time. Last time the issue was -- the TV I think was one thing and she said, no,
12 there's the witness fee and that's it and there hasn't been anything else and, you
13 know --

14 MR. JACKSON: Maybe we should just --

15 THE COURT: I tend to believe that.

16 MR. JACKSON: -- get the victim in here.

17 THE COURT: So one possibility, since now there's all these allegations on
18 the record, I'm disinclined to appointment an attorney. I think that's an extreme
19 step. And at this point in time I don't really see, you know -- just the statements of
20 the mother to you, I believe that you are relaying those statements correctly;
21 however, that doesn't make them true. Meaning, it doesn't make the mother's
22 statements to you true. So maybe the better thing to do would be just to set this for
23 some kind of evidentiary hearing to direct the State only to contact the victim for the
24 purpose of telling her that there's going to be an evidentiary hearing; not to go over
25 the testimony or anything like that with her, and to bring her in and the Court will

1 question her. And that way, if it's me questioning her you can't say that the State is
2 trying to lead her or coerce her to answer the questions in a particular way. And I'm
3 not going to have you question her. I'll question her as to what the concerns are
4 that you've raised and then we'll see where we are from there, and then maybe
5 allow follow-up by the attorneys once the Court has asked the questions --
6 obviously, you'll both be here and your client -- once the Court has asked the
7 questions regarding this issue of gifts and inducements and things like that.

8 MR. JACKSON: Your Honor, I agree with that. I think maybe a sealed
9 evidentiary hearing. And I would --

10 THE COURT: Sealed from who?

11 MR. JACKSON: Sealed from everyone but the Defendant, the attorneys and
12 the victim.

13 THE COURT: What would the purpose of that be?

14 MR. JACKSON: Because then we can get more candor from all parties.

15 THE COURT: Well -- I mean, first of all --

16 MR. JACKSON: And we can go into matters the might be of -- you know, I
17 realize all the statutes dealing with open courtrooms and whatever, but this is to
18 protect -- maybe to get more candor from the alleged victim and to get into matters
19 that are of a sensitive nature.

20 THE COURT: Well, the whole case is of a sensitive nature.

21 MR. JACKSON: Okay. I understand.

22 THE COURT: Like every other -- Ms. Lavell, wait a minute. You'll get your
23 turn. You don't need to huff and puff and --

24 MR. JACKSON: No, no. I --

25 THE COURT: I mean -- look. Number one, all of these cases are of a

1 sensitive nature. All of these cases I'm sure are difficult for the victims and are very
2 difficult and embarrassing for them to talk about in a public forum. But the bottom
3 line is our courts are a public forum. Now I don't see this as a high profile case
4 where you're going to have a room full of people. But it is a public forum; it is an
5 open forum. And if anyone wants to come in and watch the proceedings then
6 they're welcome to come in and watch the proceedings. I don't see a circumstance
7 that makes this case unique that we're going to seal the proceedings.

8 MR. JACKSON: All right. I'll accept --

9 THE COURT: Because as you know that is --

10 MR. JACKSON: -- the Court's ruling on that.

11 THE COURT: -- is the exception rather than the rule. Now, obviously, just as
12 in any other case, if there are people here on either side who are trying to -- typically
13 the issue is with the defense, you know, where they are trying to intimidate a witness
14 or lead a witness or something like that -- the bailiff is watchful. That will be
15 immediately brought to my attention. And if I feel that they're somehow disrupting
16 the proceedings or polluting the proceedings then that person -- I'll make a record of
17 it and those people or person will be escorted from the courtroom. You know, that's
18 the way we do it. We don't just seal a courtroom and say, oh, no, the media and
19 any other interested parties can't come in, number one. Number two, the mother I'm
20 assuming would be a witness in this evidentiary hearing. So pursuant to the
21 exclusionary rule, she and other family members who might offer testimony are
22 going to be out in the hallway anyway.

23 MR. JACKSON: I think that's a fair ruling, Your Honor.

24 THE COURT: Okay.

25 MR. JACKSON: I have no problem with that. I'd like to set an evidentiary at

1 the Court's convenience concerning these matters.

2 THE COURT: Ms. Lavell, what's the State's position?

3 MS. LAVELL: Obviously, the State will submit it to Your Honor. I guess the
4 thing that's disturbing to the State is this is I think the fourth or fifth time counsel has
5 made accusations against the State, both in writing and orally in front of this Court.

6 THE COURT: Well, that's one reason I kind of want to cut to the chase on
7 this --

8 MS. LAVELL: I get that.

9 THE COURT: -- as opposed to re-litigating over and over what the mother is
10 telling Mr. Jackson and the State's steadfast contention that, no, we're paying a
11 witness fee and that's it, that let's just put these people under oath and let the Court
12 make findings. And then let's put this issue to bed so that it doesn't keep rearing its
13 head at the District Court level and then possibly -- ultimately at the appellate level.
14 That's my feeling.

15 MS. LAVELL: I understand. And I just want to make it clear that the mother
16 has defended the Defendant throughout this proceeding. And this is the individual
17 that is providing information to defense counsel.

18 THE COURT: Right. Exactly. So it's questionable.

19 MS. LAVELL: Exactly. So the State has absolutely no opposition to bringing
20 the victim in for the purposes of a hearing and allowing her to testify. She is an
21 adult. Obviously, we would oppose, as Your Honor's already ruled, to appointing
22 counsel for this adult at her mother's bequest.

23 I guess I would -- my question would be, Your Honor -- I'm not sure
24 when counsel received this motion in limine and Ms. Beverly was unavailable, so I
25 can't speak to that.

1 MR. JACKSON: I got the file stamped copy.

2 MS. LAVELL: But Your Honor's indicated -- Your Honor's indicated that he
3 needs more time to respond. However, the trial isn't set for a number of months.

4 THE COURT: Right. I wasn't addressing continuing the trial.

5 MS. LAVELL: Oh, okay.

6 THE COURT: All I'm saying is if he wasn't served with that until April 3rd --

7 MS. LAVELL: Do you when it was --

8 THE COURT: -- which was last Thursday --

9 MS. LAVELL: Do you know when it was filed?

10 THE COURT: -- and the hearing is for this Thursday, that would give him --
11 that would only be seven days, including two days of a weekend.

12 MS. LAVELL: Do you know when it was filed? Do you have -- I don't have a
13 file.

14 THE COURT: I don't know. I don't have a copy in front of me because it
15 wasn't on for today. I was just relying on Mr. Jackson's representations that it was --
16 he was served on April 3rd.

17 [Colloquy between the State and Defense Counsel]

18 THE COURT: Which wouldn't even give him seven -- I mean, he'd have to
19 get the copy to us the day before the hearing, so --

20 MS. LAVELL: Right. That's fine. And the State has no opposition obviously
21 to giving him the time.

22 THE COURT: All right. Here's what we're going to do. The Court's going to
23 consider the issue of the evidentiary hearing and basically would direct both sides
24 not to do any pre-trialing or anything like that and to avoid any potential
25 coerciveness or coaching. The Court would initially ask the questions it's concerned

1 with followed up by questioning from the attorneys or something like that.

2 The second thing is that on the motion in limine, Mr. Jackson, how
3 much more time do you need?

4 MR. JACKSON: You know, basically, I think what happens at the evidentiary
5 hearing will pretty much --

6 THE COURT: Well --

7 MR. JACKSON: -- take care of it. Give me -- give me like two weeks and I'll
8 have a copy of a response two weeks from today, whatever today's date is.

9 THE COURT: Well, that's the 22nd. So let's just keep the motion on for the
10 calendar call date of May 9th. Does that work? That way, State, if you choose to file
11 a reply you have enough time to file a reply brief. And calendar call date and the
12 trial date stand at this point.

13 MR. JACKSON: All right. Now, addressing the calendar call date. I believe,
14 and it's not for certain, but I think there is at least a 95 percent likelihood I'm going to
15 be in trial in a three or four week long trial starting the week before that --

16 THE COURT: Okay.

17 MR. JACKSON: -- that is -- a multi-defendant --

18 THE COURT: That's fine.

19 MR. JACKSON: -- kidnapping case.

20 THE COURT: Mr. Jackson, here's the deal.

21 MR. JACKSON: Okay.

22 THE COURT: As you know --

23 MR. JACKSON: I know.

24 THE COURT: -- we have a number of other trials that are in the stack.

25 MR. JACKSON: Right.

1 THE COURT: And the calendar call date is the time to sort all out; who's
2 available, who's not available. So I'm not inclined to move it right now.

3 MR. JACKSON: I understand.

4 THE COURT: I mean, obviously, I just ask that you extend the courtesy to the
5 State if you're in trial in another department to let them know. You know, if your trial
6 starts at 9 a.m. on that day and you can't be here then just send an email to my law
7 clerk and we'll make a note of that and that's fine.

8 MR. JACKSON: I will advise the Court and counsel appropriately, but this a
9 major kidnapping case that I'm 95 percent certain is going --

10 THE COURT: That's fine. Okay.

11 MR. JACKSON: -- Jose Sanchez [indiscernible].

12 THE COURT: I'm just saying I'm not going to vacate the calendar call date
13 today. If your trial goes then let Ms. Lavell or Ms. Beverly know and let the Court
14 know. I don't expect you to be in two places at one time, so we'll deal with that. But
15 I'm not going to put the cart before the horse and say, oh, yes, you're definitely
16 going to be in trial. I mean, we're still in the middle of April. This isn't until the end
17 of May. A lot of things can happen in that time. Your trial may deal. The Judge
18 may be hearing another trial. Some other defendant -- if there's more defendants
19 may have an issue and the case may vacate -- so the trial date may vacate. So I
20 don't know. I'm not willing at this point to say, oh, yes, you're going to be --

21 MR. JACKSON: Right.

22 THE COURT: -- otherwise occupied.

23 MR. JACKSON: When is the date for our evidentiary hearing?

24 THE COURT: I haven't set that yet.

25 MR. JACKSON: All right.

1 THE COURT: You will receive notification from chambers. Typically those
2 are heard on Mondays.

3 MS. LAVELL: Thank you.

4 THE COURT: Thank you.

5 MR. JACKSON: And my date for a response on the motion in limine is two
6 weeks from today?

7 THE COURT: Right. That would be the 22nd. Oh, and I'm sorry. That's the
8 29th. I'm not going to give you quite two weeks. I'm going to give you until April 23rd,
9 which I think is more than adequate.

10 MR. JACKSON: Okay. That's fine. I'm working on it right now.

11 THE COURT: All right. Thank you.

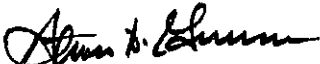
12 [Proceedings concluded at 9:50 a.m.]

13 * * * * *

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20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

23 
24 SANDRA PRUCHNIC
25 Court Transcriber

1 RTRAN


CLERK OF THE COURT

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

CASE#: C288172

DEPT. XXI

11 JOSHUA C. SHUE, aka
12 JOSHUA CALEB SHUE

13 Defendant.

14 BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE
15 MONDAY, MAY 19, 2014

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
17 **EVIDENTIARY HEARING**

18 APPEARANCES:

19 For the State:

MARIA LAVELL, ESQ.
Chief Deputy District Attorney
LEAH C. BEVERLY, ESQ.
Deputy District Attorney

22 For the Defendant:

TERRENCE M. JACKSON, ESQ.

24
25 RECORDED BY: JANIE OLSEN, COURT RECORDER

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HAZEL IRAL

Examination by the Court
Follow-up by Mr. Jackson
Examination by the Court
Follow-up by Mr. Jackson
Follow-up by Ms. Beverly

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1 MONDAY, MAY 19, 2014 AT 9:25 A.M.

2
3 THE COURT: All right. Good morning.

4 MS. BEVERLY: Good morning, Judge.

5 THE COURT: We have Mr. Shue present with Mr. Jackson. We have Ms.
6 Beverly for the State. This was the time set for the evidentiary hearing.

7 And, Mr. Jackson, my bailiff indicated there may be an issue this
8 morning with one of the witnesses.

9 MR. JACKSON: Yes. When I got into my office this morning I had an email
10 from my investigator that's been speaking to the witness and he advised me that --

11 THE COURT: Are the witnesses in the courtroom?

12 MR. JACKSON: Yeah, they're in the courtroom.

13 THE COURT: Why don't we just have them go --

14 MR. JACKSON: They can step out if they wish.

15 THE COURT: -- step out while we discuss them.

16 THE MARSHAL: Just have a seat outside for me.

17 THE COURT: And the bailiff will get -- the bailiff will get you when we're
18 ready for you; okay. We normally make the witnesses sit in the hall.

19 MR. JACKSON: Basically, the substance of the email was that although -- in
20 particular witness Anita Iral, who's the -- I think most critical witness. Although I've
21 spoken to her in English -- and she does speak English. She's been here in this
22 country for close to ten years, I believe. Her main language -- her language of birth
23 is Tagalog. Mr. Abbott, who's been working with me as investigator, believes that in
24 order for her testimony to be most fully understood or for her to most fully
25 understand cross-examination a Tagalog interpreter is in the best interest of the

1 Court and of Defendant. The reason for that is when she was interviewed by the
2 police they had a Tagalog interpreter about questions they asked her. And I think
3 it's only to be balanced that she should have that in order to make sure the nuances
4 and other things which may be difficult to get to without a -- the fine points of
5 language. She can understand basic things. I've spoken to her over several
6 months --

7 THE COURT: Now, let me ask you this. When she spoke to you -- I'm
8 assuming you don't speak Tagalog, she spoke to you in English; correct?

9 MR. JACKSON: Yes. Yes.

10 THE COURT: Okay. And you did not have an interpreter on the line or
11 anything like that. Is that true?

12 MR. JACKSON: Absolutely.

13 THE COURT: Okay. So everything that went into your affidavit was the basis
14 of your conversation with her in English; true?

15 MR. JACKSON: That is correct as well.

16 THE COURT: Okay. So if the point is to get to the bottom of the affidavit
17 then, you know, let's find out what she told you in English. Here's the thing. We did
18 check with the interpreter's office. Although it's a common language in our
19 community it's not like Spanish.

20 MR. JACKSON: I understand.

21 THE COURT: We don't have Tagalog interp -- although they're very
22 available, they're not sitting around available at a minute's notice. So my bailiff did
23 contact the interpreter's office, and since it was not ordered in advance there is no
24 Tagalog interpreter here today. Again, it's a common language in our community.
25 There's no problem getting one, but we need notice, number one.

1 Number two, something in what you said struck me, and that is Mr.
2 Abbott thinks she should have an interpreter. The right to an interpreter to me is an
3 individual right. And so, you know, I leave it up to the defendants and the witnesses.
4 If they feel they need an interpreter then we get them an interpreter. But it's really
5 not up to somebody else to make a determination that they ought to have an
6 interpreter. So, you know, if she feels she needs an interpreter then I'm going to
7 respect her wishes. But if she feels that she -- you know, they go to school with
8 English language textbooks in Manila. I don't know where she's from; if she's from a
9 remote area of the Philippines or she's from, you know, Manila. But it's not like she
10 just maybe has been speaking English for ten years, number one. If she feels
11 comfortable speaking in English then I'm going to respect that as well.

12 MR. JACKSON: I understand. And I think that's a reasonable solution by the
13 Court. And maybe one of the first questions I'll ask her, do you understand what I'm
14 saying, and are you comfortable answering the questions, and do you think you
15 need the services of an interpreter to fully understand. And if she -- you know, if
16 she's willing to answer the questions today without an interpreter I say let's go
17 forward, and I have no problem with that.

18 THE COURT: And is Ms. --

19 MR. JACKSON: I'd rather do it today and get it over with.

20 THE COURT: Is Anita Iral your only witness or is Hazel here as well?

21 MR. JACKSON: I have another person who may be used possibly if the State
22 seeks to rebut. I don't know if I'm going to use her in direct or not. So that's a --
23 person is a Frances Carreon who is also available. I haven't decided whether I'm --
24 depends on what I bring out from Anita, so --

25 THE COURT: Okay.

1 Ms. Beverly?

2 MS. BEVERLY: Judge, just a couple of things. First and foremost, it strikes
3 me as unusual that Mr. Jackson is saying Anita is the most important witness in this
4 case when everything in the affidavits is based on what Hazel told her. Hazel is
5 here. And the reason she is here is because I subpoenaed her because it was my
6 understanding that Your Honor wanted to ask Hazel some questions. So I didn't tell
7 her why she was here. I just told her Your Honor would like to ask her some
8 questions. I didn't subpoena her like as a State's witness or anything like that. I just
9 said, Hazel, Judge Adair would like to ask you some questions. She is here and
10 willing to answer whatever questions --

11 THE COURT: Okay.

12 MS. BEVERLY: -- anyone is going to ask her. So she's the most important
13 witness.

14 THE COURT: Right.

15 MR. JACKSON: All right.

16 THE COURT: I mean, I -- just to make it clear on the record, I want to find
17 out, because it's Mr. Jackson's affidavit, what Anita Irail told Mr. Jackson. And then I
18 want to find out, which obviously will be hearsay, where she got that information,
19 which obviously will be hearsay, but it's being admitted for the purpose of
20 understanding --

21 MR. JACKSON: Sure.

22 THE COURT: -- and making a complete record as to why we're here today
23 and what information Mr. Jackson had and where that came from. And then, you
24 know, to the extent it is hearsay information -- I mean, obviously if she witnessed
25 something directly she's a percipient witness. Then we're going to need to hear

1 from Hazel directly as to what was told to her or promised to her or what have you.

2 So that's how I would like to go forward. I mean, if you'd like to start
3 with Anita we can bring her in. I can ask her some questions regarding her, you
4 know, English competency, and how long she's lived here, and where she went to
5 school, and if she understands everything, you know, and go from there. Like I said,
6 to me, you know, if she -- it's not Mr. Abbott's belief. It's her belief. You know, and
7 for some people who, like I said, have been speaking English for years it actually
8 may be insulting to them that we assume they need an interpreter, so --

9 MS. BEVERLY: I just want to make a record that she testified at the grand
10 jury hearing and she testified in English. And during the grand jury there were some
11 issues with her trying to say, oh, I don't understand what you're saying. And I went
12 through the questions of like where do you work; how long have you been in this
13 country and then all of a sudden she was able to speak English. So I just want to
14 make a record that she testified at the grand jury in English.

15 MR. JACKSON: I'm disputing she testified in front of the grand jury, so --

16 THE COURT: Okay. Well, why don't we get started with her. If we find that
17 there's a language issue we can pass it to another day. I don't know when the
18 Court's going to be available because, obviously, I made this a special setting. And
19 then, you know, as long as we have enough notice there's not a problem. But we
20 can't be expected to provide an interpreter, you know, with ten minute's notice or
21 five minute's notice. Had we known on Friday we could've made the call to the
22 interpreter's office or last week at least, but -- you know, we --

23 MS. BEVERLY: Is there any way that if we do need to continue the hearing
24 that we could have Hazel testify because I don't want to keep bringing her back.

25 THE COURT: Absolutely.

1 MS. BEVERLY: Okay.

2 MR. JACKSON: I have no problem with that.

3 MS. BEVERLY: Thank you.

4 THE COURT: Absolutely. We'll do what we can do today.

5 MS. BEVERLY: Thank you.

6 THE COURT: Because now we're going to -- we have evidentiary hearings
7 set on other Mondays, so now we would have to squeeze this continuation in some
8 place, so I want to get as much done today as we can get done today.

9 MS. BEVERLY: And we do have a trial coming up June 2nd, so --

10 THE COURT: Right.

11 All right. I'm assuming the first witness will be Anita Iral.

12 MR. JACKSON: Yes.

13 THE MARSHAL: Remain standing. Raise your right hand and face that lady.

14 **ANITA IRAL**

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

16 THE COURT CLERK: Please be seated. And please state and spell your
17 name.

18 THE WITNESS: My name is Anita Iral.

19 THE COURT: Can you spell that for us?

20 THE WITNESS: A-N-I-T-A, I-R-A-L.

21 THE COURT: All right. Thank you.

22 **EXAMINATION BY THE COURT**

23 THE COURT: How long have you lived in the United States?

24 THE WITNESS: Ten years.

25 THE COURT: Okay. What do you do for a job?

1 THE WITNESS: Right now I'm working as a security. It's -- the company is
2 Unlimited -- Security Unlimited.

3 THE COURT: Okay. And what -- do they send you out to different
4 businesses?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Okay. And what kind of businesses do you perform security
7 work at?

8 THE WITNESS: Oh, sometimes I go to convention like Mandalay Bay or Las
9 Vegas South Mall --

10 THE COURT: Okay.

11 THE WITNESS: -- convention center.

12 THE COURT: Okay. And where are you from originally?

13 THE WITNESS: Philippines.

14 THE COURT: And were in the Philippines did you grow up? Were you living
15 in Manila?

16 THE WITNESS: Manila.

17 THE COURT: Manila; okay. So did you finish high school in Manila?

18 THE WITNESS: No.

19 THE COURT: How far did you go in school?

20 THE WITNESS: Fourth year, but I did not graduate.

21 THE COURT: Okay. I'm sorry. How far?

22 THE WITNESS: Fourth year. I think like -- 12 grades, but I don't graduate.

23 THE COURT: Okay. So you didn't get a high school diploma?

24 THE WITNESS: Not really.

25 THE COURT: Okay. And where did you learn to speak English? Was that in

1 the Philippines in school?

2 THE WITNESS: In the Philippines, but mostly we just speak Spanish
3 because of -- it's like similarities -- the Spanish language is similarities in the
4 Philippines.

5 THE COURT: Okay. So in school did they teach you in Spanish language or
6 English language or Tagalog language?

7 THE WITNESS: Everything.

8 THE COURT: Everything; okay. And your books -- your textbooks are written
9 in English often; right?

10 THE WITNESS: Yeah.

11 THE COURT: Okay. All right. We're going to -- obviously we are all
12 speaking English. We're going to ask you questions in English and if you don't
13 understand something you tell us. And if you feel like you can't go forward in
14 English or you want an interpreter then you tell me; okay?

15 THE WITNESS: Mm-hmm.

16 THE COURT: So I don't want you to guess about a question. If you don't
17 understand it you make sure you stop us and let us know; okay?

18 THE WITNESS: Yeah. I have a question.

19 THE COURT: Sure.

20 THE WITNESS: My auntie, she understands what I'm talking about. But I
21 don't if, you know, she is able to --

22 THE COURT: Translate. No, the rules are that we have to have a certified --

23 THE WITNESS: Yeah. Uh-huh. I know.

24 THE COURT: -- interpreter so we can make sure that the translation is
25 correct. If it's just a family member or something like that they might translate

1 something incorrectly, so --

2 THE WITNESS: I just -- yeah.

3 THE COURT: But if -- again, if you don't understand or you're not
4 comfortable going forward in English make sure you tell me; okay.

5 THE WITNESS: Mm-hmm.

6 THE COURT: Do you -- okay.

7 Did you have conversations with Mr. Jackson regarding your daughter
8 Hazel testifying in this case?

9 THE WITNESS: Yes.

10 THE COURT: Okay. And were those on the telephone or in person?

11 THE WITNESS: On the telephone. Sometimes I go to the office.

12 THE COURT: Okay. How many conversations did you have with Mr.
13 Jackson roughly? I know you may not remember exactly.

14 THE WITNESS: Not often.

15 THE COURT: Okay.

16 THE WITNESS: But if asking about question or about my daughter what she
17 did I tell -- I tell him, you know, what my daughter she did. Because the reason --
18 my daughter she take an overdose because she told me she already frustrated with
19 the prosecutor trying to force her to go to the court.

20 THE COURT: Okay. So did your daughter tell you this before she took the
21 overdose or after she took the overdose?

22 THE WITNESS: After. Because March 23 we have a good conversation and
23 then we ate at the Panda Express nearby her house and I got her phone. So she
24 told me she's fine but she's kinda sometimes stressed about the prosecutor or the
25 cops and she's worried about that. So -- yeah, my daughter she's really young, you

1 know, to -- she's not really mature; just 19 years old. It's easy to her that you give --
2 you give something with her. So she told me a lot of things.

3 THE COURT: Okay. Now, when your daughter took the overdose did she go
4 to the hospital or what happened?

5 THE WITNESS: Yeah, she go to the hospital and then -- Spring Valley
6 Hospital.

7 THE COURT: Mm-hmm.

8 THE WITNESS: They transfer her at the other hospital. Like I think that was
9 mental hospital, something like that, but I don't remember the kind of hospital.

10 THE COURT: Okay. And then you told Mr. Jackson about that -- about the
11 suicide attempt?

12 THE WITNESS: Yeah.

13 THE COURT: Okay. And I'm assuming when you and Mr. Jackson are
14 talking to one another you're speaking in English?

15 THE WITNESS: Yeah.

16 THE COURT: Okay. And then did you have a concern or a belief that your
17 daughter was getting some kind of financial benefit, or presents, or money, or
18 anything of that nature?

19 THE WITNESS: Mm-hmm.

20 THE COURT: Is that yes? You have to answer out loud.

21 THE WITNESS: I'm sorry. Yes.

22 THE COURT: Where did that come from?

23 THE WITNESS: She told me that's from government and then they gave her
24 because she said that she's a victim. And then I told her how much she pay the
25 condo and she said like 770 -- \$770. And then she pay only like I think the rest. But

1 the \$700 she said it's -- goes with the government, plus if she needs like allowance
2 she gives them allowance with her if she needs some money.

3 THE COURT: Okay. So your daughter told you --

4 THE WITNESS: Mm-hmm.

5 THE COURT: -- that she got \$700 from the government?

6 THE WITNESS: Mm-hmm.

7 THE COURT: You have to answer yes or no?

8 THE WITNESS: Oh, sorry. Yes.

9 THE COURT: Because do you see that lady there with the black and white --

10 THE WITNESS: Yes.

11 THE COURT: -- and the red hair, she has to make sure everything's
12 recorded. And if you nod your head or shake your head that's not being recorded,
13 so you have to answer yes or no.

14 THE WITNESS: I apologize.

15 THE COURT: That's okay. A lot of people do that.

16 So you're saying your daughter told you she got \$700 from the
17 government and then would get an allowance?

18 THE WITNESS: Mm-hmm.

19 THE COURT: You --

20 THE WITNESS: Yes.

21 THE COURT: That's what she told you?

22 THE WITNESS: Yes.

23 THE COURT: And you told that to Mr. Jackson?

24 THE WITNESS: Yes.

25 THE COURT: Okay. All right. That's kind of what I wanted to go over. When

1 did your daughter tell you all this?

2 THE WITNESS: She told me that -- that was this year. Maybe like three
3 months or two months. Because before she was hiding where she live at. And then
4 sometimes if I asking her where she lives at -- I know where she live at, but I never
5 been -- get in her apartment. And she doesn't invite me like mommy, just, you
6 know, have a seat, you know, something like that, but just only like on the front of
7 the apartment. And she doesn't want me to see her boyfriend -- that -- say or hi or
8 something, so that's the way she is.

9 THE COURT: Okay. So your -- let me see if I understand; okay. If I'm -- your
10 daughter moved to a new apartment or condo; correct?

11 THE WITNESS: Mm-hmm.

12 THE COURT: Is that yes?

13 THE WITNESS: Yes.

14 THE COURT: Okay. And she didn't want you to know where she was living?

15 THE WITNESS: No.

16 THE COURT: Okay. And then you said something like how can you afford
17 this new apartment?

18 THE WITNESS: Yes.

19 THE COURT: Is that what -- something like that?

20 THE WITNESS: Yes.

21 THE COURT: And then she said, oh, I got money from the government?

22 THE WITNESS: Yes.

23 THE COURT: Okay. And you believe -- and then you told Mr. Jackson that?

24 THE WITNESS: Yes.

25 THE COURT: Okay. And your daughter has a boyfriend, but she doesn't

1 want you to know the boyfriend or meet the boyfriend?

2 THE WITNESS: She doesn't want me to talk to the conversation about hows
3 her boyfriend or what you guys doing. But there's a time -- March 30 she was crying
4 with me and then she said her boyfriend pull her hair and ring her neck and tell her
5 to just get out in my apartment; I don't want to talk to you. And she was begging her
6 boyfriend that -- mommy, I want to talk to him, but he doesn't want to talk to me.
7 And then she said like, I need to talk to him, like that and I said, why don't you, you
8 know, just leave him alone. And then finally I didn't know like -- she said don't talk --
9 don't talk to him, mommy; I'm gonna be fine. She avoid me to talk to her boyfriend.
10 I don't know why she did that to me.

11 THE COURT: Okay. Do you know if your daughter has a job?

12 THE WITNESS: Yeah, she have a job. She have a part-time job.

13 THE COURT: Okay. All right. Thank you.

14 Mr. Jackson, do you have any questions for Ms. Iral?

15 MR. JACKSON: Just a few. Should I go up -- is here okay?

16 THE COURT: You can stay there. That's fine.

17 MR. JACKSON: All right.

18 THE COURT: We're not fancy.

19 **FOLLOW-UP BY THE DEFENSE**

20 BY MR. JACKSON:

21 Q Ms. Iral, did your daughter speak to you about any influence on her --
22 on this case from Detective Jaeger?

23 A Yes.

24 Q What did she tell you that Detective Jaeger said to her?

25 A Detective Jaeger would tell me?

1 Q Ryan Jaeger. What did --

2 A Well, she told me when she bring some cops in the house -- he told me
3 like if you're not communicate with us you're gonna lose your kids, you're gonna
4 deported, and then you're gonna put in -- you're gonna put in jail. So he was
5 arresting me in the house.

6 Q But is that what he said to you or that what he said to Hazel?

7 A We both they say that because he was -- kept Hazel on the corner and
8 then the other cops talked to me. And then my daughter told me like, mommy, I can
9 -- I can't do this. I said, well, we talk about that. My daughter and I we told -- we
10 talk about that -- we're not gonna -- we're not gonna go to the court anymore. We
11 drop the case. And then Mr. Gregory -- Mr. Ryan he doesn't want it.

12 Q Well, let me -- let me get this very clear. Do you remember when and
13 where Detective Jaeger spoke to you? Was it before the grand jury or was it after
14 the grand jury that Mr. -- Detective Jaeger spoke to you about either your obligations
15 to testify or your daughter's obligations to testify --

16 A Well --

17 Q -- and/or what she should say?

18 A That was before. They took already my kids. And then he wants me to
19 show up. How being cops how to harass me.

20 Q Well, did he tell her to say anything that wasn't true, if you know?

21 A No.

22 Q Now you understand that a detective has an obligation to try to get
23 witnesses to testify truthfully. You understand that?

24 A Yeah. I thought that was not true, but when I was -- but when I was --
25 see the kids that he talked to me and I believed that. And then I was scared to

1 testify with anything.

2 Q Now did Detective Jaeger do anything to your daughter in any way to
3 make her say anything that wasn't true that you believe?

4 A Yeah. Yes.

5 Q What would that be?

6 THE COURT: Well, wait a minute.

7 MR. JACKSON: All right. All right.

8 THE COURT: Did you ever witness -- were you ever present when Detective
9 Jaeger was speaking with your daughter Hazel?

10 THE WITNESS: Yes.

11 THE COURT: Okay. And Mr. Jackson wants to know did you ever overhear
12 Detective Jaeger telling your daughter, you know, that she had to testify or anything
13 about her testifying?

14 THE WITNESS: Yes.

15 THE COURT: Okay. Tell us what you heard Detective Jaeger say.

16 THE WITNESS: He said that my daughter -- it's gonna be same thing with
17 me, like I'm -- that she's gonna be in jail too if she's not gonna communicate with
18 Detective Ryan. And then it's the same thing that Detective Ryan told me, that I'm
19 gonna be in jail if I'm not gonna communicate with him. And I was still nervous until
20 now.

21 BY MR. JACKSON:

22 Q Did you post bail for Joshua Shue?

23 A No. How can I get that money.

24 Q All right.

25 A I don't have big money like that.

1 Q Did Detective Jaeger ever make a statement that you posted bail for
2 Joshua Shue?

3 A Yes. He say that to me and then he doesn't have proof that I bailed
4 him. He lied me and he's a liar.

5 Q All right. Did he make that statement in Family Court?

6 A I'm sorry?

7 Q Did Detective Jaeger testify in Family Court concerning your daughter's
8 -- whether or not your daughter should stay with you?

9 A Yes.

10 Q At a CPS hearing?

11 A [No audible response -- nodding in the affirmative.]

12 Q Now when's the last time you've seen your daughter Hazel?

13 A Today.

14 Q Do you have regular contact with her?

15 A No, we don't have time to talk. She doesn't talk to me. The last time I
16 talked to her that was I think three weeks ago, but today I see her outside. And
17 she's gone. I don't know where she go.

18 MR. JACKSON: Court's indulgence.

19 All right. I have no further questions.

20 THE COURT: Ms. Beverly, do you have any questions for this witness?

21 MS. BEVERLY: I do, Your Honor. Just briefly.

22 **FOLLOW-UP BY THE STATE**

23 BY MS. BEVERLY:

24 Q Ms. Iral, you said that you saw Hazel outside today?

25 A Yeah.

1 Q What did you say to her when you saw her?

2 A Nothing.

3 Q Okay. Have you ever told Hazel not to come to court to testify?

4 A No. She's the -- she's the one to tell me about that because she said
5 that you was -- push her to go to the court.

6 Q She said I pushed her to come to court?

7 A Yeah.

8 Q Okay. Do you want to come to court and testify in the trial?

9 A Yeah, that's why I'm here.

10 Q Okay. I'm saying -- you know there's going to be a jury trial in a couple
11 of weeks. Do you want to come to that jury trial and testify about what happened in
12 this case?

13 A Yes.

14 Q Okay. You testified at the grand jury; right?

15 A Yes.

16 Q And isn't it true that you said you actually didn't want to testify?

17 A No. My daughter she told me, mommy -- because I talked to her. I did
18 not tell her that I got the subpoena before. And then when I talked to her she told
19 me like, mommy, I'm going to the grand jury. I said, can I go, and she said, no, you
20 don't have to be there, mommy. It's fine. So when I get my subpoena I was
21 nervous that I need -- I need to -- I need to go.

22 Q Okay. When Mr. Jackson was asking you questions a few minutes ago
23 you had said that you and Hazel talked about dropping this case.

24 A Yeah, we talk about that many times. Like before we starting this -- this
25 case we talk about that and she's really nice. When you guys come to my --

1 Q Wait a minute.

2 A No. I mean, when you guys come --

3 Q Well, hold on. Hold on one second. I just want to know have you and
4 Hazel talked about dropping this case?

5 A Yeah.

6 Q Okay. Have you seen --

7 A Yes.

8 Q -- have you seen the videos in this case?

9 A Nobody wants to show me the video.

10 Q Okay. Did you know that videos were being recorded of your children?

11 A No.

12 Q Okay. Why would you and Hazel be talking about dropping this case?

13 A Because we talk about that before because we knows that this is --

14 we're final ready and then when -- when you and Detective Ryan [indiscernible] all
15 our life and then she make it worse why my daughter now she commit suicide.

16 Q Okay.

17 A Because what happened when I was talk to her on the phone at the
18 hospital I told her can we talk about why you did that and she told me, mommy, I
19 cannot do this -- I cannot talk to you about that. I said, why? Because she told me
20 it's really complicated. It might be somebody -- you know, she's going heard on the
21 phone what she's talking about when -- I really saw her in the hospital she told me
22 that she's really --

23 Q Okay. Okay. Hold on one second. Let me ask you this. What do you
24 think about these videos being taken of your children?

25 A I don't think so that this is -- somebody do this. I think my daughter

1 she's gonna do that because she have three camera and she loves all the camera
2 that she have.

3 Q So you think that Hazel actually took these videos of herself?

4 A Of course.

5 Q You don't think that Joshua did anything wrong; is that correct?

6 A Why I think about that. I left my kids with him before. Sometimes Hazel
7 she come over with Joshua's house --

8 Q Okay. Do you still live with Joshua?

9 A Why do I need to live with him? I'm not live with him.

10 Q Okay. Do you still --

11 A I live my auntie.

12 Q Do you still see him on a regular basis?

13 A No.

14 Q Okay. When was the last time you saw him?

15 A That was two years ago.

16 MS. BEVERLY: Okay. Nothing else.

17 THE COURT: Anything else Mr. Jackson based on those last questions from
18 the State?

19 MR. JACKSON: No questions at this time.

20 THE COURT: All right.

21 Ma'am, thank you for your testimony. I need you to follow the bailiff
22 back out.

23 THE WITNESS: Thank you. I appreciate that.

24 THE COURT: All right. Thanks.

25 THE WITNESS: It's nice to meet you.

1 THE COURT: Mr. Jackson, did you want to call your next witness?

2 MR. JACKSON: I might --

3 THE COURT: I have maybe two questions I'd like to ask Hazel.

4 MR. JACKSON: Let's put Hazel on. I might save the witness in rebuttal or I
5 may not use her at all. So it's --

6 THE COURT: Okay.

7 MR. JACKSON: -- it's not --

8 THE COURT: Bring Hazel in.

9 Ms. Lavell, are you one of the lawyers on this case?

10 MS. LAVELL: I am, Your Honor.

11 THE COURT: It's just right up here by me. Just follow the marshal, please.
12 And just face this lady right there and she'll administer the oath to you.

13 **HAZEL IRAL**

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

15 THE COURT CLERK: Thank you. Please be seated. And please state and
16 spell your name.

17 THE WITNESS: Hazel Iral, H-A-Z-E-L, I-R-A-L.

18 THE COURT CLERK: Thank you.

19 THE COURT: I just have a couple of questions for you and then the lawyers
20 can ask you questions; okay?

21 THE WITNESS: Okay.

22 **EXAMINATION BY THE COURT**

23 THE COURT: I have a question. Have you received or been given any
24 money from the District Attorney's Office, or Ms. Beverly, or Ms. Lavell?

25 THE WITNESS: No.

1 THE COURT: Okay. Have you been given any kind of gifts, or presents, or
2 anything like that?

3 THE WITNESS: No.

4 THE COURT: Okay. Have you received any money or gifts from the
5 detectives involved in this case or anyone from the police department?

6 THE WITNESS: No.

7 THE COURT: Okay. And was there ever a time that you contacted either Ms.
8 Beverly or Ms. Lavell and told them that you didn't want to testify, or you didn't want
9 to come to court, or anything like that?

10 THE WITNESS: No.

11 THE COURT: Okay. Thank you. I'm going to let the State follow-up if they
12 have anything.

13 MS. BEVERLY: I don't have anything, Your Honor.

14 THE COURT: Mr. Jackson, you may follow up with the witness.

15 **FOLLOW-UP BY THE DEFENSE**

16 BY MR. JACKSON:

17 Q You didn't get any funds from -- did you get funds from CPS for living
18 expenses?

19 A What do you mean by that?

20 Q Well, did they -- did they pay your rent? Did any agency of the
21 government of the State of Nevada or the County of Clark --

22 A Yes.

23 Q All right. And which government agency was paying your rent?

24 A Um, Step Up --

25 Q Family Serv --

1 A The Step Up Program.
2 THE COURT: Well, let her answer.
3 MR. JACKSON: All right.
4 THE COURT: It's called the Step Up Program?
5 THE WITNESS: Yeah. My caseworker's with me.
6 THE COURT: Oh, okay.
7 MR. JACKSON: Oh.
8 THE COURT: And for the record we have someone in the courtroom. And I
9 assumed she was a victim witness employee from --
10 MS. BEVERLY: No.
11 THE COURT: -- the District Attorney's Office. I saw she has like a county
12 type badge. And may we have your name for the record ma'am.
13 MS. MCCLURE: Yes. My name is Anna McClure. I'm a caseworker with the
14 Clark County Social Service Step Up Youth Program. We do aftercare for foster
15 youth 18 to 21.
16 THE COURT: Okay. Thank you.
17 MR. JACKSON: Could --
18 THE COURT: Are we going to want her as a witness?
19 MR. JACKSON: I think maybe she should set outside --
20 THE COURT: All right. I'm going to ask --
21 MR. JACKSON: -- just in case.
22 THE COURT: -- you to step out in case somebody wants to ask you
23 questions as a witness. There's something called the exclusionary rule which
24 means you can't listen to the testimony of the other witnesses; okay?
25 THE WITNESS: Okay.

EXAMINATION BY THE COURT

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THE COURT: And how did you get these funds through the Step Up Program?

THE WITNESS: Well, I was a foster child. So then I got out of the system. I terminated myself out of it.

THE COURT: Okay.

THE WITNESS: And then I couldn't afford to live by myself so I asked her if she -- if there's another program for that and then they told me there's the Step Up Program --

THE COURT: Okay.

THE WITNESS: -- for kids who got out of foster care.

THE COURT: Okay. So how old were when you terminated yourself from the foster program?

THE WITNESS: Eighteen.

THE COURT: Eighteen?

THE WITNESS: Mm-hmm.

THE COURT: Okay. And then did you talk to the gal who just left the courtroom or did you have another social worker with foster care that you talked to?

THE WITNESS: It's a different social worker when I was in foster care.

THE COURT: Okay. So you asked her are there any funds or any resources and she told you about the Step Up Program?

THE WITNESS: Mm-hmm. Yeah.

THE COURT: Okay. And then they paid your rent for a period of time?

THE WITNESS: Yes, till I'm 21.

THE COURT: Okay. And is that -- how much do you get a month from the

1 Step Up Program?

2 THE WITNESS: Seven hundred seventy-three, but the thing is there are
3 some conditions. I have to work 20 hours a week or go to school 20 hours a week.

4 THE COURT: Okay. And what are you doing now to be in compliance with
5 the --

6 THE WITNESS: I work.

7 THE COURT: You work. And what's your job?

8 THE WITNESS: Right now I've been like going through different jobs, so I'm
9 a receptionist right now.

10 THE COURT: Okay. All right. And so your understanding is that's something
11 that foster children can get sort of to transition them --

12 THE WITNESS: Mm-hmm.

13 THE COURT: -- from 18 --

14 THE WITNESS: Yes.

15 THE COURT: -- to 21 years old?

16 THE WITNESS: Yes.

17 THE COURT: Okay.

18 All right. Mr. Jackson, any other questions for Ms -- how do you say
19 your last name?

20 THE WITNESS: Iral.

21 THE COURT: Iral; okay.

22 THE WITNESS: Yeah.

23 MR. JACKSON: Just a few questions.

24 THE WITNESS: Yeah.

25 ///

FOLLOW UP BY THE DEFENSE

BY MR. JACKSON:

Q In this program, is it also a condition that you cooperate with any ongoing legal investigations?

A No, it's a whole separate thing. It doesn't involve anything with this case.

Q You don't have any requirement that you're to make regular contact with the Clark County District Attorney or the Metropolitan Police Department or any of those agencies in order to be eligible for the Step Up --

A No.

Q -- Program funds?

A No. I just have to work.

Q Okay. Now, when did you first get into the foster care program? Was that done by Family Court after this -- after the arrest of Mr. Shue?

A Well, it happened like right when I was 17, so when this case was ongoing. So basically it was just for safety issues. So I was in there with my brothers and then I got out myself. So once I got out of foster care the whole relations to this trial were gone. So it has nothing to do with anything else.

Q Now, did you have contact with the deputy district attorney prior to you getting into foster care? Did you have contact with the investigated office of the District Attorney's Office prior to you being put in foster care?

A Well, I talked to them, but the whole reason how I got into foster care was I told my counselor. So my counselor called the social services and that's when they took us.

Q Who was that counselor? Was it a different one than the one that was

1 here today?

2 A It's a counselor for school. I was still in high school.

3 THE COURT: So you told your school counselor --

4 THE WITNESS: Mm-hmm.

5 THE COURT: -- what was going on --

6 THE WITNESS: Yeah.

7 THE COURT: -- and then she reported it and --

8 THE WITNESS: She reported it and then they took us.

9 BY MR. JACKSON:

10 Q Who was your school counselor?

11 A I don't remember her name honestly.

12 Q Which school was that?

13 A Clark High School.

14 Q Okay.

15 THE COURT: And they just sit there in the big office right where --

16 THE WITNESS: Yeah. They have an office and then they --

17 THE COURT: Because I went to Clark High School.

18 THE WITNESS: Oh.

19 THE COURT: It's probably the same 40 years later.

20 THE WITNESS: Yeah.

21 THE COURT: And they just sit there in the office --

22 THE WITNESS: Yeah.

23 THE COURT: -- the school counselors? Okay.

24 Mr. Jackson, any other questions?

25 MR. JACKSON: They ever brought you into the principal's office, Your

1 Honor? No --

2 THE COURT: I take the Fifth Amendment on that, Mr. Jackson.

3 MR. JACKSON: I'll withdraw the question.

4 BY MR. JACKSON:

5 Q Now, have you been in regular contact with Detective Jaeger
6 concerning -- Ryan Jaeger concerning this case?

7 A I haven't spoke to him in a long time.

8 Q Have you ever told Detective Jaeger that you didn't want to testify or
9 proceed on this case?

10 A No. No.

11 Q Have you ever told your mother that, that you didn't want to proceed or
12 go forward on this case?

13 A I told her it was overwhelming for me, but I didn't say anything like I
14 don't want to go to court or anything like that.

15 Q Now you said it was overwhelming. Did the fear or the trouble
16 concerning this case in any way lead to the incident you had several months ago
17 where you ended up in the hospital?

18 A Well, it's because my mom -- like everything. Like my mom kept
19 bothering me about it. She said to not do it and everything. And it made me feel
20 bad because my mom was upset and I couldn't do anything about it because I
21 wanted to keep going.

22 Q Well, you were getting counseling regularly; is that correct?

23 A Yes.

24 Q And you didn't talk to your counselors how -- how my mom's bugging
25 me; she keeps harassing me. They weren't able to give you the relief you needed;

1 is that right?

2 THE COURT: I think we're getting beyond the scope --

3 MR. JACKSON: Well --

4 THE COURT: -- of the hearing, which is about -- well, we all know what it's
5 about. But I think what she told her counselor isn't relevant. Certainly it may -- it
6 may not be relevant at all, and it's certainly not relevant for purposes of this hearing,
7 so --

8 MR. JACKSON: Well, she just said that she's blaming it on her mom for what
9 she did. And I think I have a right to impeach her on that because it's relevant.

10 THE COURT: Well --

11 MR. JACKSON: It goes to her truth and veracity on other matters. And if it's
12 not true I got a right to impeach her.

13 THE COURT: Well --

14 MR. JACKSON: If she would've had a chance to speak to counselors, the
15 counselor would've said, no, that's not a good reason -- you know, try to take your
16 own life. And I think I got a right to, you know, ask her questions.

17 THE COURT: I don't find that that's relevant, Mr. Jackson. So you've noted
18 your objection --

19 MR. JACKSON: All right.

20 THE COURT: -- on the record. You've stated the reason you want to elicit
21 the testimony, but I don't think it's relevant, so the objection of Ms. Beverly is
22 sustained.

23 BY MR. JACKSON:

24 Q Have you been getting counseling since you got out of the hospital?

25 A No, 'cause I've been doing a lot better. I've been --

1 Q All right.

2 A -- been trying to work it out. I haven't talked to my -- I try not to talk to
3 my mom about it so that I'd feel a little better.

4 Q So you don't feel the need for counseling at this time?

5 A Not as of right now I don't.

6 Q And you're not stressed out about going to trial at all?

7 A Well, I'm a little stressed about it, but not a whole lot. Not like last time.

8 I just don't like the negativity and everything else around me.

9 Q How many times have you ever got police involved in issues between
10 you and your mom?

11 MS. BEVERLY: Objection; relevance.

12 THE COURT: Yeah, it's sustained.

13 MR. JACKSON: Well, it goes to her credibility directly.

14 THE COURT: I don't see how it goes to her credibility, and I don't think it's
15 relevant, so it's sustained on relevancy grounds.

16 MR. JACKSON: She's already stated that -- well, I'll --

17 BY MR. JACKSON:

18 Q No one has influenced you in this case to testify to anything untruthfully;
19 is that correct?

20 A No. Oh, wait. What -- I'm sorry. I don't understand the question.

21 Q Are you -- is anyone putting any pressure on you to testify untruthfully?

22 A I don't think so. No.

23 Q Well, is that a yes or a no?

24 A I don't understand the question.

25 THE COURT: Okay. I think the question is, has anyone put pressure on you

1 to get you to testify to something in this case that's not true? Has anyone told you,
2 hey, testify to this or that that isn't true?

3 THE WITNESS: I don't think so. No.

4 THE COURT: Okay. Has anyone told you what to say under oath in this
5 case?

6 THE WITNESS: No one has told me anything.

7 THE COURT: Okay.

8 MR. JACKSON: I have no further questions.

9 THE COURT: Ms. Beverly, do you have any questions?

10 MS. BEVERLY: Yes. Just briefly, Your Honor.

11 **FOLLOW UP BY THE STATE**

12 BY MS. BEVERLY:

13 Q Hazel, you testified at the grand jury about a year ago --

14 A Uh-huh.

15 Q -- do you remember that?

16 A Yes.

17 Q Okay. Do you remember at the grand jury that I had to show you a lot
18 of videos in this case?

19 A Yes. Yes.

20 Q Okay. Was that hard for you?

21 A A little bit. Yeah, it was seeing the videos and everything.

22 Q Is it hard for you knowing that in trial we're going to have to show these
23 videos again?

24 A Well, most likely I'm gonna get used to it because I've already seen the
25 videos, so --

1 Q Is that why this is kind of like overwhelming for you when you're talking
2 about this case being --

3 A It's just talking about it, hearing about it; yeah, it's a little bit stressful.

4 Q Okay. And Mr. Jackson and Judge Adair just asked you about pressure
5 being put on you to say things that aren't true. Have I ever told you to say
6 something that was not true?

7 A No. You always told me to tell the truth --

8 Q Okay.

9 A -- and what really happened and all that.

10 Q Okay. Have I ever bought you any gifts?

11 A No.

12 Q Okay. Have I ever given you any money?

13 A No.

14 Q Okay. Has your mom ever talked to you about testifying?

15 A Yes.

16 Q What does your mom say to you?

17 A She disagrees to it. She doesn't like the fact that I have to go through
18 this.

19 Q Okay. Has she ever told you not to come to court?

20 A She told me to stop it. She wants to. But I think she misunderstood me
21 when I tried to tell her my problem.

22 Q Okay. Has your mom ever told you that Joshua's innocent?

23 A She told me that I should forgive and forget. That's what she always
24 told me.

25 Q Okay. Do you know -- just only if you know. If you don't know it's okay.

1 A Okay. Okay.

2 Q Do you know whether your mom still has a relationship with Joshua?

3 A The only thing I know from like couple months ago what she told me
4 before I was in the hospital. She -- I don't know if she jokes around or whatever, but
5 she says she still tries to contact the family. I don't know if it's him per se, but it's
6 family.

7 Q Okay. Are your brothers still living with your mom?

8 A Yes.

9 MS. BEVERLY: Okay. Nothing else.

10 THE COURT: Anything else, Mr. Jackson?

11 MR. JACKSON: I have no questions.

12 THE COURT: All right. Thank you for being here. You are excused at this
13 time.

14 THE WITNESS: Okay. Thank you.

15 THE COURT: And if you could just follow the marshal out from the
16 courtroom.

17 And, Mr. Jackson, did you have any -- I'm sorry, any other witnesses?

18 MR. JACKSON: I have one witness that I think that I'm going to not call.

19 THE COURT: Okay.

20 Ms. Beverly, does the State have any other witnesses?

21 MS. BEVERLY: I do not, Your Honor.

22 THE COURT: All right. I'm ready to make my findings.

23 MS. BEVERLY: Thank you.

24 THE COURT: I think it's one of those situations where everyone was telling
25 the truth but it's what does it mean. Hazel was receiving money from the

1 government. Her mother was correct in that, but it's totally unrelated to this case.
2 It's completely unrelated to Ms. Beverly and Ms. Lavell. And, you know, use the
3 term right loosely, she has the right to get those funds as someone who has been in
4 the foster system. So I'm certainly not going to say well, she can't get the funds. I
5 mean, that's a separate and independent thing. It has nothing to do with her
6 testimony in this case and so she can't be penalized in some way for getting funds
7 that she's entitled to because she happens to be a victim and a witness in a criminal
8 prosecution. So I find that those funds are completely unrelated to this.

9 There's no evidence here of any kind of prosecutorial misconduct.
10 There's no evidence of any undue influence on the part of the District Attorney's
11 Office or the police department in trying to force Ms. Iral -- Hazel to testify. And
12 there's certainly been no evidence at all that there's been any improper coaching or
13 anything like that. So while the statement Anita Iral made to Mr. Jackson about
14 funds coming from the government is technically true, those funds are completely
15 unrelated to the prosecution. They didn't come from the District Attorney's Office.
16 It's a separate source that she's entitled to whether or not she's a victim; whether or
17 not she's a witness in this or any other case. So I don't see that there's any basis.

18 I'm glad we fleshed out the allegations because we were able to
19 dispense with them. I don't see anything improper or untoward that's gone on here.
20 I don't think that anything's been done to try to influence the testimony of the victim
21 in this case. So based on the testimony at the hearing and the Court's findings the
22 motion's denied.

23 So there are some CPS records in the back, which I think are
24 discoverable, so we'll get copies made of those and disseminated to both sides.

25 MS. BEVERLY: Your Honor, when we're talking about the motion are we

1 talking about -- because there's been -- we still have a pending motion in limine,
2 so --

3 THE COURT: Which is -- what is the pending motion in limine?

4 MS. BEVERLY: The pending motion in limine is regards to questions during
5 trial about -- I mean, there's been issues coming up with her cutting and issues
6 coming up with her alleged mental state. And I had filed a motion in limine to
7 preclude questioning about those issues as it's irrelevant and highly prejudicial. So I
8 think that motion is set for the calendar call date next week.

9 THE COURT: Okay. Well, I don't feel it's fair to make a ruling on that
10 because it's not set till the calendar call and I'm sure Mr. Jackson has filed an
11 opposition. And candidly, you know, I read everything before the -- the date that it's
12 set to be heard, so that's still pending. And I think those are the only pending issues
13 then; am I correct?

14 MS. BEVERLY: We had the motion to vacate trial date --

15 THE COURT: Right. I mean --

16 MS. BEVERLY: -- and reset and --

17 THE COURT: -- that's denied.

18 MS. BEVERLY: Okay.

19 THE COURT: Number one, even if she were having emotional issues, that's
20 not necessarily grounds for continuing the trial. I found the witness Hazel Iral to be
21 very poised and I think she articulated quite well why she made the suicide attempt.
22 And it seems like she's worked through a lot of those issues, so I don't see any
23 basis at this point to continue the trial. Now, obviously, if there's a change in
24 circumstances that would be revisited. But at this point in time, like I said, she
25 seems very poised. It seems like she's worked through a lot of those issues. By her

1 own testimony she's no longer seeking counseling. So, in my view, there's
2 absolutely no reason to continue the trial based on her suicide attempt.

3 MS. BEVERLY: Thank you.

4 MR. JACKSON: Can I just say one thing --

5 THE COURT: Sure.

6 MR. JACKSON: -- just for the record. I would like to renew my motion for an
7 independent psychological examination of Hazel Iral at this time. I realize the Court
8 has already ruled on that motion, but I think the circumstances have changed with
9 her attempted suicide. I also think that her statement that she's not getting
10 counseling is -- if not absurd, it's very strange with a young woman who's gone
11 through all this and she says, well, no, I'm not getting counseling. I just swallowed
12 some pills and had to go the hospital because of that. And I'm going through this
13 terrible dilemma of having to testify in court about this, and everybody tells me to do
14 it or not do it, or whatever, so I have to take pills and I'm blaming my mother for it.
15 You know, even if she's totally innocent and it's her mom that caused her to do it,
16 she still should probably be having a session or two with a psychologist. I think I got
17 a right to have an independent psychologist examine her, and I think I have a right
18 to get that information before I go to trial.

19 THE COURT: Well, first --

20 MR. JACKSON: And that's -- that's something that -- this is one of those
21 cases where the Supreme Court has said these are the kind of cases that we've
22 made this exception getting involved in witnesses' privacy and whatever. I don't
23 care if the Court, you know, looks at it first to see if there's something in there that's
24 necessary for me to properly confront and cross-examine.

25 The Court looked at her in the witness chair when she came in for ten

1 minutes today and the Court said, oh, she seemed like a very poised and very
2 smart, intelligent young woman.

3 THE COURT: I didn't say she seemed smart or intelligent.

4 MR. JACKSON: No, you said poised.

5 THE COURT: I said she seemed very poised here today --

6 MR. JACKSON: Yes.

7 THE COURT: -- in her testimony. She wasn't overly emotional. She, you
8 know --

9 MS. LAVELL: And articulate was I think the other word.

10 THE COURT: Okay. Thank you.

11 MR. JACKSON: All right. Well, I didn't phrase it exactly right. I didn't have
12 the transcript in front of me. But, Your Honor --

13 THE COURT: Nor did she say she's going through this terrible dilemma and
14 all of these --

15 MR. JACKSON: That was my --

16 THE COURT: -- different people are telling her which way to testify. She said
17 that she felt bad because her mother was upset about this. And, you know, if you
18 read between the lines --

19 MR. JACKSON: All right.

20 THE COURT: -- you know, she's -- she wants to please her mother.

21 MR. JACKSON: I --

22 THE COURT: And it's clear, if you read between the lines, her mother doesn't
23 want her to testify in this case and so she's torn between testifying and doing I think
24 -- sounds kind of like what she wants to do and honoring her mother's wishes.
25 That's what I -- I think the -- that's what I think is really going on here.

1 MR. JACKSON: It may be, but I still think I'm entitled to an independent
2 psychological examination. The State, you know, is going to put on this witness and
3 sell her to the jury as a witness who is poised and who is articulate. And my client is
4 going to be sitting here next to me and the jury's going to look at him like, you know,
5 he's the bad guy. I want to have what a neutral psychologist says about her. And
6 the Supreme Court has said in these kinds of cases that I should be entitled to that;
7 that I am urging the Court to reconsider its ruling.

8 THE COURT: Okay.

9 MR. JACKSON: And this is critical to our defense and I'll submit it with that.

10 THE COURT: Well, first of all, the fact that someone attempts suicide does
11 not mean that they're not a credible or honest person, number one. Number two, it
12 does not mean that they don't have the ability to accurately perceive events and
13 thereafter accurately recall what they have perceived. So I don't really know what
14 the point would be of this independent evaluation. I don't find anything in her
15 testimony to suggest that she wasn't being truthful about the cause of the suicide
16 attempt. So I'm not really sure why this case is different so that we take the extreme
17 measure of ordering an independent psychological examination. I don't see the
18 reason for it in this particular case. Like you said, just because she made a suicide
19 attempt does not suggest to me that she's being dishonest; that she's unable to
20 perceive; that she's delusional; that she's hallucinating, anything like that that goes
21 to her credibility as a witness. And so, you know, I just don't see it.

22 Ms. Beverly, what's the State's position?

23 MS. BEVERLY: Your Honor, first and foremost, we have already talked about
24 this motion. Your Honor already denied this motion. Mr. Jackson keeps saying the
25 Supreme -- this is the type of case the Supreme Court allows this in and that's just

1 simply inaccurate. What the Supreme Court has said over and over is that
2 psychological examinations there's a strict requirement -- a three step requirement
3 that we talked about last time that must be met in order for a victim to be subjected
4 to this. And those cases all involve sexual assaults of minors. And Mr. Jackson has
5 already filed motions saying no mention of any type of sexual assault in this case.
6 And the State agreed and said, sure, we won't in any way ask Detective Jaeger how
7 this investigation started. So this is simply not one of those cases.

8 Number two, this suicide attempt that we keep talking about happened
9 over a year and a half after this case was initially -- initially began, and the
10 computers were seized in this case, and the videos had already been made months
11 and months and months ago. So there's simply no relation to what she's feeling
12 now.

13 And finally, Your Honor, if she doesn't want to get counseling that's her
14 business. We as a society should not be telling her you should get counseling
15 because you tried to commit suicide. That's her individual choice. She has a right
16 to get counseling or not get counseling if she wants to. So there's simply no basis
17 for an independent psychological evaluation and we also submit on the arguments
18 we made at the --

19 THE COURT: All right.

20 MS. BEVERLY: -- prior time of the motion.

21 THE COURT: The motion's I guess re-denied. So we'll see you all back on
22 calendar call on the 29th.

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MS. BEVERLY: Thank you.

THE COURT: All right. Thank you.

[Proceedings concluded at 10:24 a.m.]

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

Sandra A Pruchnic
SANDRA PRUCHNIC
Court Transcriber


CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JOSHUA C. SHUE, aka
12 JOSHUA CALEB SHUE

13 Defendant.

CASE#: C288172

DEPT. XXI

14 BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE
15 THURSDAY, MAY 29, 2014

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
17 **CALENDAR CALL**
18 **STATE'S MOTION IN LIMINE**

19 APPEARANCES:

20 For the State:

TIERRA D. JONES, ESQ.
Deputy District Attorney

21
22 For the Defendant:

TERRENCE M. JACKSON, ESQ.

23
24
25 RECORDED BY: JANIE OLSEN, COURT RECORDER

1 THURSDAY, MAY 29, 2014 AT 9:32 A.M.

2
3 THE COURT: Do we need to wait for Ms. Beverly?

4 MS. JONES: No, Judge. I'm going to handle it.

5 THE COURT: Okay.

6 MS. JONES: She's not going to be here today.

7 THE COURT: State versus Joshua Shue, who is present out of custody.

8 This is on for the State's motion in limine and for calendar call. Let's
9 start with the calendar.

10 MS. JONES: State's ready, Judge.

11 MR. JACKSON: Well, I had filed a motion to continue. I would renew that we
12 want additional time to investigate. But if the Court denies that I'll be ready.

13 THE COURT: Okay.

14 MR. JACKSON: The same grounds that I raised before. We -- and some of
15 it's relayed in the motion in limine whether or not we can get into certain things at
16 the trial. We believe that some of that is crucial to our case, the credibility of the
17 victim. So I'm -- you know, wish to raise certain things at the trial concerning the
18 victim's credibility that I think are essential to the defense of the case and I'll
19 elaborate on those when the Court hears the motion.

20 MS. JONES: And, Judge, just for the record, our opposition is based on the
21 same opposition we've already had. You had an evidentiary hearing. You've
22 already ruled on these issues. The issues he wants to investigate are not relevant
23 to this case.

24 THE COURT: Right. How long do you -- would this case take to try from the
25 State's perspective? I mean, the State's --

1 MS. JONES: Three to four days.

2 THE COURT: Okay. And then is there a defense case in chief --

3 MR. JACKSON: I think we --

4 THE COURT: -- other than, obviously, possibly your client?

5 MR. JACKSON: We might have at most three or four witnesses, so maybe a
6 day, maybe half a day.

7 THE COURT: So it could take maybe six days to try?

8 MR. JACKSON: Maybe less. Maybe -- I'd say a week or less.

9 MS. JONES: We have four to five witnesses, Your Honor. Nobody out of
10 state.

11 THE COURT: Okay. All right. I'm going to, due to the Court's calendar, grant
12 Mr. Terry's motion to continue the trial.

13 And, Ms. Husted, Ms. Frascarelli --

14 THE JUDICIAL EXECUTIVE ASSISTANT: Do we want to --

15 THE COURT: How long are you asking for Mr. Jackson?

16 MR. JACKSON: At the Court's convenience. I have a murder trial set in
17 September, but I think it's going to be negotiated. But aside from that, I don't have
18 anything pending in the near future.

19 MS. JONES: And, Your Honor, the State's asking for the quickest setting
20 possible.

21 MR. JACKSON: So I'll leave it to the Court's discretion. Whatever the Court's
22 calendar would --

23 THE JUDICIAL EXECUTIVE ASSISTANT: How about October 6th?

24 MR. JACKSON: I think that will work.

25 MS. JONES: Is there anything we can do in August?

1 THE JUDICIAL EXECUTIVE ASSISTANT: You can try August 25th.

2 MR. JACKSON: That will work for me, I believe.

3 MS. JONES: That's fine, Your Honor.

4 THE COURT: Okay.

5 MR. JACKSON: I know I have -- my murder trial starts the first week in
6 September. That's the only -- or the -- I think it starts September 6th, if that doesn't
7 negotiate. So that's not as good a date as earlier in August. I'd prefer either early
8 August or the October date.

9 THE JUDICIAL EXECUTIVE ASSISTANT: August 11th?

10 MR. JACKSON: That's better for me.

11 MS. JONES: And the State cannot do August 11th.

12 THE JUDICIAL EXECUTIVE ASSISTANT: Okay.

13 MR. JACKSON: All right. Now we're going around in circles.

14 MS. JONES: That's --

15 THE COURT: All right.

16 THE JUDICIAL EXECUTIVE ASSISTANT: So we're going to stick with
17 August 25th then --

18 MS. JONES: Please.

19 THE JUDICIAL EXECUTIVE ASSISTANT: -- or later?

20 MR. JACKSON: August 25th is going to run into my murder case possibly.

21 That's the only --

22 THE COURT: Well, let's go with August 25th --

23 MR. JACKSON: All right.

24 THE COURT: -- for right now. And then if you're murder, you know -- it's not
25 a capital case, correct, Mr. Jackson?

1 MR. JACKSON: No. It's a case -- it's a 20-year-old case. It was reversed on
2 appeal and it is -- we're in -- trying to negotiate it. He spent 16 years in prison and
3 got his case reversed on appeal and it's --

4 MS. JONES: I think they can do that.

5 MR. JACKSON: I think we want to try it if it's --

6 THE COURT: What's that?

7 MS. JONES: I think that case might negotiate, Your Honor.

8 MR. JACKSON: We're trying to negotiate.

9 THE COURT: All right.

10 THE JUDICIAL EXECUTIVE ASSISTANT: Okay. Jury trial August 25th;
11 calendar call August 21st, both at 9:30.

12 MR. JACKSON: All right.

13 MS. JONES: And, Your Honor, are you passing the State's motion in limine
14 until then?

15 THE COURT: No, I'm going to rule on it right now.

16 MS. JONES: Okay.

17 THE COURT: All right. Mr. Jackson, what is it that you want to ask the --

18 MR. JACKSON: Well, I want --

19 THE COURT: -- victim witness about?

20 MR. JACKSON: -- to get into her -- her background because I think, number
21 one, there's a number of issues surrounding her -- her mental status that I think are
22 relevant to her actions both before and after. I think the issues surrounding what her
23 mental status were at the time the alleged pictures were taken. And I think is --

24 THE COURT: How's that relevant?

25 MR. JACKSON: How is it relevant? I think it's relevant to, number one,

1 whether or not --

2 THE COURT: I mean, it wouldn't matter if she was asleep --

3 MR. JACKSON: No, no --

4 THE COURT: -- and they took the pictures, you know. I mean --

5 MR. JACKSON: But some of them may have been taken by her. And the
6 issue is whether or not she took the pictures. And she'll be cross-examined about
7 this by the defense.

8 Now her credibility is going to be an issue. I think the cases I cited --
9 the case law I cited is that a defendant has a right to confront and cross-examine
10 witnesses on issues regarding credibility. It's a fundamental right under the Sixth
11 Amendment. Now I think her mental status and the fact that she's tried to commit
12 suicide; the fact that she has some serious issues regarding mental health; the fact
13 that she has had some other issues that I wish to explore, both with my investigation
14 and otherwise, will show that her -- her -- both her character and her veracity is in
15 doubt.

16 THE COURT: So that's your --

17 MR. JACKSON: If they're going to use her as a witness.

18 THE COURT: I'm sorry. That's your defense that she took pictures of herself?

19 MR. JACKSON: That may be a defense. That may be one of the defenses.

20 And I think we may be able to establish that through investigation, and through
21 testimony of other witnesses, and through the ability to establish her credibility is
22 flawed in some ways. Now I think we have a right to do that.

23 THE COURT: Well, you have a right, obviously, to cross-examine her. The
24 issue is you can't, you know, get into things that are irrelevant to what she's here to
25 testify about. I mean, if she's just here to say that's me and I was ten, and that's

1 corroborated through other means, or she's clearly, you know, whatever age by, you
2 know, how she looks on the imagine, then I think that's just an attempt to maybe
3 embarrass the witness, or to confuse the jury, or something like that --

4 MR. JACKSON: Well --

5 THE COURT: -- in which case I can exclude it.

6 Now, you know, if it's reasonably related to your defense -- I mean,
7 clearly, if she was making allegations of sexual conduct then that opens the door to
8 everything because then her credibility is directly at issue. She's just here saying,
9 yeah, that's me in this picture and, you know, that was my bathtub at, you know, my
10 mom's apartment, then -- and it's confirmed, then I think it becomes irrelevant.

11 MR. JACKSON: Well --

12 THE COURT: So --

13 MR. JACKSON: I'm sorry. I'll let the Court finish.

14 THE COURT: What I don't want to have happen is, you know, for you to say,
15 well, we're going to use this defense of that she took the pictures of herself to open
16 the door and cross-examine her. And then there'd be no evidence on the defense
17 side that she took the pictures of herself, which I would consider then a ruse.

18 So, you know, maybe we'll pass this over. You know, I can rule at the
19 time of trial too as you question her if the door becomes open. But, like I said, if
20 that's going to be the defense you're going to have to -- obviously, you don't have to
21 commit to your client testifying or not, but if there are other things that yes the
22 investigator found this out, or the film developing place will say that, or whatever you
23 might have, then you're going to have to bring that to the Court's attention and I may
24 say, okay, yes you have enough that you have a good faith belief that this is your
25 defense. And now you can get into things that on their face seem irrelevant, like her

1 subsequent suicide attempt --

2 MR. JACKSON: All right.

3 THE COURT: -- and subsequent treatment for depression that occurred not
4 at the time that this all went on but much later.

5 MR. JACKSON: Your Honor, what I'll do is prepare a trial brief --

6 THE COURT: Okay.

7 MR. JACKSON: -- and I'll list the --

8 THE COURT: And then, you know, also her state at the time of her testimony
9 could be relevant as well, so you can get into that. But what I don't want you is
10 mining into this whole --

11 MR. JACKSON: Right.

12 THE COURT: -- you know, suicide attempt and this and that. If it's not
13 relevant to her at the time of testimony, it's not relevant to her at the time of the
14 incidents.

15 MR. JACKSON: I understand --

16 THE COURT: Those are the two --

17 MR. JACKSON: -- the Court's concern.

18 THE COURT: -- critical time periods.

19 MR. JACKSON: I will prepare a trial brief --

20 THE COURT: Okay.

21 MR. JACKSON: -- and I will detail what investigation I hope will reveal. And I
22 will also cite the cases dealing with defense theory of the case instructions. I've
23 been working on instructions vigorously this week in my defense theory of the case,
24 but I will have a more detailed trial brief by the time we come up in August. That
25 gives me time to prepare --

1 THE COURT: That's fine.

2 MR. JACKSON: -- also to do further investigation to see if I can raise at least
3 the minimum amount of evidence necessary to support this. I understand --

4 THE COURT: Okay. I mean, if it's -- you know, if her veracity is at issue, you
5 know, at the time she's testifying or at the time she's perceiving the events then yes;
6 but, you know, if it's just this is me in the picture, then I think it may be really
7 irrelevant so, you know, we'll see.

8 MR. JACKSON: All right. Thank you, Your Honor.

9 MS. JONES: And, Judge, we don't believe it's relevant at all because this is a
10 possession case.

11 THE COURT: Right.

12 MS. JONES: Her veracity has nothing to do with that. Even if she took the
13 pictures herself that has nothing to do with -- the issue is whether or not he had it.
14 The issue is not whether or not who took the picture. And, Judge, that's --

15 THE COURT: Well, there's a few --

16 MS. JONES: -- absolutely not relevant.

17 THE COURT: -- different ways this is charged so, you know, Mr. Jackson --
18 just because it looks to me like it's charged alternatively --

19 MS. JONES: Right.

20 THE COURT: -- you know, Mr. Jackson's entitled to defend him on each and
21 every charge, even though there may be alternative charges where he, you know, is
22 facing just for possession. So, you know, the State can decide what they want to go
23 forward on if that's going to be the issue. But, like I said, just looking at the charges
24 it appears that there's different things that you've charged here and different things
25 -- different elements that Mr. Jackson has to defend on so --

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MR. JACKSON: Thank you, Your Honor.

THE COURT: All right.

MS. JONES: So, Judge, you're just going to rule on it at that time?

THE COURT: Well -- I mean, basically, I'm going to wait and listen to the evidence, and Mr. Jackson's going to prepare his trial brief and, you know, we'll see. But, like I said, you know, he has to have a good faith basis that this is relevant and we'll see what his investigator comes up with.

MS. JONES: Thank you, Judge.

THE COURT: All right.

MR. JACKSON: Thank you.

[Proceedings concluded at 9:42 a.m.]

* * * * *

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


SANDRA PRUCHNIC
Court Transcriber


CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JOSHUA C. SHUE, aka
12 JOSHUA CALEB SHUE

13 Defendant.

CASE#: C288172

DEPT. XXI

14 BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE
15 TUESDAY, AUGUST 19, 2014

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
17 **DEFENDANT'S MOTION TO DISMISS INDICTMENT BECAUSE OF VIOLATION**
18 **BASED ON INADEQUATE NOTICE**

19 APPEARANCES:

20 For the State:

LEAH C. BEVERLY, ESQ.
Deputy District Attorney

21
22 For the Defendant:

TERRENCE M. JACKSON, ESQ.

23
24
25 RECORDED BY: JANIE OLSEN, COURT RECORDER

1 TUESDAY, AUGUST 19, 2014 AT 9:26 A.M.

2
3 THE COURT: This is State versus Joshua Shue. And this is the Defendant's
4 motion to dismiss because of inadequate notice on the timing of the alleged
5 offenses. The State has filed an opposition which I have reviewed.

6 Mr. Jackson, do you have anything you would like to add to what's
7 already been provided to the Court?

8 MR. JACKSON: Just very briefly. The State, you know, ignores a couple of
9 things, and I'll be very succinct. The *Cunningham* case says that the Supreme
10 Court noted the State is not absolutely required to allege the exact date of the
11 offense as charged. The State should, however, whenever possible, allege the
12 exact date on which it believes a crime was committed or as closely thereto as
13 possible -- or as closely thereto as possible.

14 Now, that's a command from the Supreme Court to not just throw out
15 some dates that happened sometime in the previous two and a half years. It's if you
16 know what happened maybe in June, or maybe in the first part of the year, or maybe
17 it happened after school was out, or if you know what happened, you know,
18 sometime between February and July, you can put that in -- as to Count 42, or
19 Count 37, or whatever. The case also -- or the State also says, well, it doesn't
20 matter because they were all over -- or under age 18. But that's not exactly true
21 because some of the counts -- the B felony is if a witness is under age 16.

22 Now part of our defense theory is that the Defendant may possibly be
23 guilty of a lesser included offense on the B felony, which is mere possession of
24 visual images of someone under age 16. And I re-read the grand jury transcript half
25 a dozen times. And in reading the grand jury transcript of Hazel Iral, when she was

1 asked her age on various pictures and various videos she said, well, I was about 16,
2 or maybe 16, or whatever, but she doesn't say exactly when on these pictures. The
3 issue of age is going to be critical as to Hazel Iral at certain times and places as to
4 certain of the photos. So at least the State owes us in giving us notice so we can
5 defend these charges, defend very particular photos, when these alleged incidents
6 took place. If they don't know they can say we don't know. But if they know, or they
7 more closely than they do know, they should amend the Information and give us that
8 information.

9 You know, the case has been pending a long time. Just to give a
10 blanket statement like this, it happened sometime in the previous two and a half
11 years, I don't think is sufficient and I think the case law says they got to do more
12 than that. So I'd move to dismiss. It's a violation of due process. Due process
13 requires -- we're not playing a poker game where you keep your cards hidden when
14 you try to exploit the other player by using knowledge you have that they don't have.
15 That's what you do at a poker table, and you take tactical advantage of the other
16 side by hiding knowledge. In a court of law they're supposed to share the
17 knowledge they have that's relevant and important; they're not doing that.

18 THE COURT: All right. Thank you.

19 Ms. Beverly, do you wish to respond in addition to your written
20 opposition?

21 MS. BEVERLY: Just briefly, Judge.

22 First and foremost, I don't want to get too much into the jury instructions
23 even though we have that -- we filed. But there will --

24 THE COURT: Right. But obvious -- I mean, I don't know what she's going to
25 say, but obviously they have to prove the allegations, including the element of age

1 beyond a reasonable doubt --

2 MS. BEVERLY: Right.

3 THE COURT: -- as to each count where age is -- you know, whether it's 14 or
4 the person's 16. You know, if they don't prove a certain age then it's, you know,
5 either a not guilty, or it's a lesser crime, or what have you, according to the jury's
6 determination. So I would just add they have to prove the ages beyond a
7 reasonable doubt.

8 MS. BEVERLY: Absolutely, Your Honor. And just to be clear though,
9 possession -- the *Wilson* case has specifically said that possession of child
10 pornography is not a lesser included abuse of child in production. So -- I mean, we
11 can argue that at the time, but that's just -- the case law's clear on that.

12 Secondly, the charges relating to Hazel are use of minor in production.
13 There are no charges relating to Hazel for possession of child pornography victim
14 under 16. And the reason for that was because, again, in -- as you said, in the
15 grand jury transcript she said between the ages of 16 and 17. So she's not even
16 charged for those particular counts where age is an issue, other than being a minor
17 under the age 18 or under, so just to clarify that.

18 Secondly, Judge, the State is not trying to hide anything. The date
19 frame that is in the Indictment is the date frame that Mr. Shue was dating and/or
20 living with the Iral family, and the end date is the date where the police became
21 involved after the particular incident that occurred. So that's the date frame that we
22 have. That's the date frame we've pled. So, you know, given the case law, Your
23 Honor, there's -- the *Cunningham* case gave a year, two year date frame and the
24 Court said that was appropriate. So with that, Your Honor -- and just also -- I
25 believe I said this in my motion, but the charges in this case are the exact same

1 charges that was -- as was used in the *Wilson* case that approved the timeframe.
2 So with that, Your Honor, we will submit on the rest of our opposition.

3 THE COURT: Anything else, Mr. Jackson?

4 MR. JACKSON: I'll just submit it with my points and authorities. I still think it
5 violates due process --

6 THE COURT: Yeah.

7 MR. JACKSON: -- because it doesn't conform with adequate notice.

8 THE COURT: I think it conforms with adequate notice. I mean, honestly, the
9 State could've pled this more specifically. For example, Count 1, being
10 approximately 17 years of age. Well, she wasn't 17 for two years, so you're talking
11 about a particular, I guess, year timeframe. Because when you're talking about the
12 whole two years she would've been 16 to 17 years of age. So I think the pleading
13 could have been more specific. I mean, that's a count that just jumps out at you.
14 Some of these you may not know exactly. You know, the State's permitted -- while
15 they could've been more specific in individual counts, they're permitted, I think, to
16 plead it this way. I don't think it violates due process. I think it generally provides
17 adequate notice as to what you have to defend against and the time period you're
18 looking at.

19 I will just reiterate that they have to prove each thing beyond a
20 reasonable doubt -- each element beyond a reasonable doubt and that would
21 include the age. And so, you know, there has to be testimony that would cover all of
22 these counts. And if there's not then you can address it at the time of trial.

23 So the motion's denied and we still have a calendar call date set for
24 August 21st.

25 MS. BEVERLY: Yes.

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MR. JACKSON: Thank you, Your Honor.

THE COURT: Which will be this week -- Thursday.

MS. BEVERLY: Yes. Thank you.

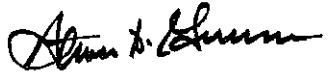
THE COURT: All right. We'll see you back.

[Proceedings concluded at 9:34 a.m.]

* * * * *

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

Sandra A Pruchnic
SANDRA PRUCHNIC
Court Transcriber


CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA C. SHUE, aka
JOSHUA CALEB SHUE

Defendant.

CASE#: C288172

DEPT. XXI

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE
THURSDAY, AUGUST 21, 2014

**RECORDER'S TRANSCRIPT OF PROCEEDINGS
CALENDAR CALL**

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
Deputy District Attorney

For the Defendant:

TERRENCE M. JACKSON, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER

1 THURSDAY, AUGUST 21, 2014 AT 9:30 A.M.

2
3 THE COURT: All right. State versus Joshua Shue, who's present out of
4 custody with Mr. Jackson.

5 This is the time set for calendar call. Are both sides ready to proceed?

6 MS. BEVERLY: We're ready, Judge, but I think that there's another trial --

7 THE COURT: I know there is.

8 MS. BEVERLY: -- that's in here. I know that you didn't want to send us to
9 overflow. I just -- my concern is, Judge, is that -- I'm ready to go forward now. I
10 understand if we can't. And I actually don't want to go to overflow, so I just -- I want
11 to get this done --

12 THE COURT: I don't want all the other judges to hate me, basically, by --

13 MS. BEVERLY: I agree.

14 THE COURT: -- you know, by sending something that is going to take seven
15 or eight days and then start hitting into their calendars and that sort of thing, so --

16 MS. BEVERLY: I do just want, Judge, to -- it's been going on for two years
17 and you know we've had a lot of issues in this case. And I would like my victim to --
18 you know, she's a young girl and I want her to be able to move on with her life. I
19 understand, you know --

20 THE COURT: Yeah.

21 MS. BEVERLY: -- we have scheduling issues, but --

22 THE COURT: Unfortunately, as you know, Ms. Beverly, it's not like there
23 aren't a number of other serious cases. We had another, you know, child -- well, it
24 was a -- totally different facts, but -- case involving a child victim that got moved.
25 We had this murder -- I mean, so it's not like there aren't a number of serious cases

1 in our jurisdiction, unfortunately.

2 Let me ask you this, how many days does the State anticipate for trial?

3 MS. BEVERLY: I'm only calling six witnesses. The longest part of the trial is
4 going to be playing snippets of the clips, which I don't anticipate taking -- I'm not
5 going to play every single clip the whole way through, but just snippets of it, so -- I
6 mean, I think it will be done in a week --

7 THE COURT: Okay.

8 MS. BEVERLY: -- for sure.

9 THE COURT: And then, Mr. Jackson, are you calling any -- other than,
10 obviously, we don't know about your client, but are you calling any witnesses?

11 MR. JACKSON: I think the defense case could be anywhere from zero to four
12 witnesses and they won't take more than a half an hour to, at most, an hour. If the
13 Defendant testifies, his testimony might be a little longer. But the defense case will
14 be very brief. If -- I -- the Defendant, which is to proceed as -- on the earliest
15 possible trial setting. The problem is, if we continue this matter, I have some major
16 trials coming up in federal court and another major trial in December in state court --

17 THE COURT: All right.

18 MR. JACKSON: -- a kidnap robbery case --

19 THE COURT: Ms. Beverly --

20 MR. JACKSON: -- and I rather to go to overflow --

21 THE COURT: Okay. Well, first of all --

22 MR. JACKSON: -- if it's available.

23 THE COURT: -- there may be people who've invoked that go to overflow
24 before you. I can't send --

25 MR. JACKSON: I know.

1 THE COURT: -- a million cases to overflow. Here's what I'm going to ask you
2 folks to do. I'm going to ask you folks to have a seat.

3 MR. JACKSON: Okay.

4 THE COURT: We'll see where you are in the stack.

5 Now, Ms. Beverly, is it your belief, understanding there may be a
6 defense case -- the Defendant may testify, that you could complete this case in a
7 week --

8 MS. BEVERLY: Oh, absolutely, Judge.

9 THE COURT: -- if it went to overflow?

10 MS. BEVERLY: The only long witness is going to be Hazel. Everybody else
11 is just kind of foundational stuff.

12 THE COURT: Okay. And then, Mr. Jackson, do you believe this case could
13 be completed in a week starting --

14 MR. JACKSON: I think --

15 THE COURT: -- starting on a Monday?

16 MR. JACKSON: I think it might three or four days.

17 THE COURT: Okay.

18 MR. JACKSON: I don't think it's going to take week.

19 THE COURT: All right. Have a seat and we'll see where you are on this
20 stack.

21 [Proceedings trailed at 9:33 a.m.]

22 [Proceedings resumed at 9:58 a.m.]

23 THE COURT: All right. I've concluded the calendar calls, so there's nobody
24 in custody that would take preference over Mr. Shue. I'm going to go ahead and
25 send this matter to overflow. I am going to communicate with Judge Villani --

1 MS. BEVERLY: Thank you.

2 THE COURT: -- and tell him that it absolutely has to be a judge who's
3 available all five days. I believe next -- at the end of next week it's Labor Day
4 holiday, so that may be difficult finding a judge who's available. So I am going to
5 send it -- again, I'm going to convey that to Judge Villani --

6 MS. BEVERLY: Thank you.

7 THE COURT: -- and then he can make sure that whoever takes it -- if
8 someone's available to take it understands that, you know, this isn't a two or three
9 day trial and accounts for that with the holiday and everything.

10 MS. BEVERLY: If we do get sent back, and there's not a courtroom available
11 in overflow, would it be possible when we come back to get a new date to get a firm
12 setting in here, if possible.

13 THE COURT: Yeah, we'll try to do that. But, you know, since it's -- I mean,
14 I'm not -- how old is this? It's only two years old?

15 MS. BEVERLY: It's from 2012.

16 THE COURT: Okay. All right. Well, let's -- hopefully there'll be a judge
17 available. Like I said, you know, there's the issue of the holiday. A lot of people will
18 probably take Friday off. And so I'll communicate all that to Judge Villani, who runs
19 the overflow program, and he can decide whether there's somebody available to
20 take it or not. And it will be up the other judges, as well as Judge Villani. If not,
21 you'll get sent back here.

22 MS. BEVERLY: Okay.

23 THE COURT: So the court clerk will give you the date for the overflow.

24 THE COURT CLERK: So that will be August 22nd at 8:45 a.m.

25 MS. BEVERLY: Thank you.

1 THE COURT CLERK: And this is one week, counsel? This is one week?
2 Gonna be one week?

3 MS. BEVERLY: Four -- I would say four to five days, just to be on the safe
4 side.

5 THE COURT CLERK: Five days?

6 MS. BEVERLY: I don't think --

7 THE COURT: Yeah, put five days --

8 MS. BEVERLY: -- it's going to go five days, but --

9 THE COURT: -- Phyllis because --

10 THE COURT CLERK: Okay.

11 MS. BEVERLY: Yeah, just in case. You never know.

12 THE COURT: I don't want somebody to take it and then it's five days --

13 MR. JACKSON: Department 17 tomorrow at 8:45.

14 THE COURT: -- and oh, I wasn't going to be here and blah, blah, blah.

15 THE COURT CLERK: Yes.

16 Any out of state?

17 MS. BEVERLY: No.

18 MR. JACKSON: No.

19 THE COURT: Not for either side? All right.

20 MS. BEVERLY: Thank you.

21 THE COURT: And there's no pending motions; correct? Everything's been
22 ruled on.

23 MR. JACKSON: I thought there was a motion dealing with individual voir dire.

24 MS. BEVERLY: Actually, Judge --

25 THE COURT: Well, I don't allow individual voir dire.

1 MR. JACKSON: Well, the overflow judge might, so that's -- will be --

2 MS. BEVERLY: Well --

3 MR. JACKSON: -- for them to decide.

4 THE COURT: Yeah. I mean, in terms of jury selection, it's going to be up to
5 that --

6 MR. JACKSON: Yeah.

7 THE COURT: -- whoever takes it how they do jury selection. You know, I'm
8 not aware of any judges who do individual voir dire automatically, but, you know, I
9 like to do it the old fashion way. Some of the judges like to do -- I don't know, the
10 Arizona method, or the Minnesota method, or whatever they're calling it. You know,
11 it's up to -- it's up to your judge in terms of the jury selection.

12 MS. BEVERLY: Actually, Judge, I think that motion was ruled on and you
13 denied it; however, I did file a motion in limine a while ago to prevent defense
14 counsel from going into the psychological state of the victim. And I don't think that
15 we had ruled on that because Your Honor asked Mr. Jackson to file a trial brief, so I
16 don't think that motion, which is certainly important to the State, has been cited. So
17 I don't know --

18 MR. JACKSON: Trial brief has been filed.

19 THE COURT: Right. There was a trial brief filed which, as you know, is
20 unusual in criminal cases. I have not read the trial brief because I just assumed it
21 was a trial brief. I know you attached some --

22 MR. JACKSON: Instructions and other things.

23 THE COURT: -- proposed instructions and everything like that.

24 Was that served on the State?

25 MR. JACKSON: It was.

1 THE COURT: Okay. All right. I just -- because a lot of times a trial brief in a
2 civil case they just give it. Before I looked at it I needed to make sure how it was
3 done and that, you know, it wasn't -- all right. Well --

4 MR. JACKSON: It was just on issues --

5 MS. BEVERLY: I just -- I --

6 MR. JACKSON: -- I thought might come up during the trial --

7 THE COURT: No, no. And that's fine.

8 MR. JACKSON: -- and to help all parties.

9 THE COURT: That's appropriate --

10 MR. JACKSON: All right.

11 THE COURT: -- as long as the State was served --

12 MR. JACKSON: Yeah, of course.

13 MS. BEVERLY: I don't --

14 THE COURT: And they can, of course, do a trial brief if they want to do. As
15 you know, it's not customary for criminal cases, but you did the extra work.

16 MS. BEVERLY: I just don't know if we should rule on that.

17 THE COURT: Well, I have to rule on it --

18 MS. BEVERLY: Yeah.

19 THE COURT: -- because I can't send it to overflow.

20 MR. JACKSON: You know, they haven't responded to it so, you know, maybe
21 they can --

22 THE COURT: Well, no, not the trial brief.

23 MR. JACKSON: Oh.

24 THE COURT: They -- she says there's a pending motion in limine.

25 When was that filed?

1 MS. BEVERLY: It was on calendar on May the 29th of 2014. That was the
2 day of the last calendar call. On that day Your Honor said that --

3 MR. JACKSON: Your Honor, can I interrupt a second. I believe --

4 THE COURT: No, you can't inter -- well, what do you --

5 MR. JACKSON: One of the --

6 THE COURT: Well, you already interrupted.

7 MR. JACKSON: A procedural matter.

8 THE COURT: So now interrupt.

9 MR. JACKSON: The procedural matter is --

10 THE COURT: Fully interrupt.

11 MR. JACKSON: I believe the minutes would show that you said you would
12 rule on that during the trial. Not now, before trial. So I think it's premature for the
13 State to be arguing this motion now. Whichever trial judge --

14 THE COURT: Okay. Here's what we're going to do. If it was something that
15 I said, yes, it's just going to be objections at the time of trial; then whoever gets it in
16 overflow. I think probably it's a little more complex than some of the other cases.
17 So we'll see if anyone's available to take it, and understanding that there may be
18 some issues and things like that. If nobody wants to take it then it will come back
19 here; all right? And the trial memo is not a pending motion.

20 MR. JACKSON: That's correct.

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THE COURT: All right.

MS. BEVERLY: Thank you.

[Proceedings concluded at 10:04 a.m.]

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

Sandra A Pruchnic
SANDRA PRUCHNIC
Court Transcriber


CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-13-288172-1
)	
vs.)	DEPT. XVII
)	
JOSHUA C. SHUE,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

FRIDAY, AUGUST 22, 2014

TRANSCRIPT OF PROCEEDINGS RE:

OVERFLOW

APPEARANCES:

For the State:	MARIA LAVELL, ESQ., Chief Deputy District Attorney
For the Defendant:	TERRENCE JACKSON, ESQ.,

RECORDED BY: MICHELLE L. RAMSEY, COURT RECORDER

1 LAS VEGAS, NEVADA; FRIDAY, AUGUST 22, 2014

2 [Proceeding commenced at 9:35 a.m.]

3
4 THE COURT: State versus Shue.

5 MS. LAVELL: Good morning, Your Honor, Maria Lavell for the
6 State.

7 THE COURT: All right. And I understand this case is not
8 negotiated; is that correct?

9 MS. LAVELL: That --

10 MR. JACKSON: Yes.

11 MS. LAVELL: -- that is correct.

12 MR. JACKSON: We are ready for trial.

13 THE COURT: All right. I will transfer this case to District
14 Court 30, Judge Weiss. We will start trial Monday at 10:30.
15 Please provide Judge Weiss with proposed jury instructions and any
16 special instructions with case citations.

17 MS. LAVELL: Yes, Your Honor.

18 THE COURT: All right.

19 MR. JACKSON: 10:30, okay.

20 THE COURT: Sir, make sure you stay in touch with your
21 attorney. You'll be going to a different courtroom on a Monday.

22 THE DEFENDANT: Which court was it again, sir?

23 THE COURT: Department 30.

24 THE DEFENDANT: Thirty. Yes, sir.

25 THE COURT: All right.

1 MR. JACKSON: Thank you.

2 THE COURT: Thank you.

3 MS. LAVELL: Thank you.

4 [Proceeding concluded at 9:37 a.m.]

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

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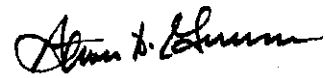
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Michelle Ramsey

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Michelle Ramsey
Court Recorder/Transcriber

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CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,
Plaintiff,

vs.

JOSHUA C. SHUE,
Defendant.

CASE NO. C288172-1
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, AUGUST 25, 2014

APPEARANCES:

For the State:

LEAH C. BEVERLY, ESQ.
MARIA LAVELL, ESQ.
Chief Deputy District Attorneys

For the Defendant:

TERRENCE M. JACKSON, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

KARR Reporting, Inc.

1 LAS VEGAS, CLARK COUNTY, NEVADA, AUGUST 25, 2014, 9:37 A.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 MS. BEVERLY: I just wanted to bring up a couple of
5 things before we start jury selection.

6 THE COURT: Okay. Are we on the record?

7 THE COURT RECORDER: Yes.

8 THE COURT: Yes, okay.

9 MS. BEVERLY: Thank you. Just to make sure we're all
10 on the same page here, there was this motion in limine that
11 Your Honor said we would kind of decide as we go along through
12 the trial.

13 THE COURT: Right.

14 MS. BEVERLY: However, there are certain issues that
15 have already been decided, and I just want to make sure that
16 we're on the same page. So during Mr. Jackson's questions --
17 I'm not saying that he would do this -- but during his
18 questioning I don't want to have to object. We already had an
19 evidentiary hearing on the issue of whether the state of
20 Nevada --

21 THE COURT: Correct.

22 MS. BEVERLY: -- or Detective Jaeger was providing
23 any type of financial assistance. I just don't want any
24 questions being asked of the jury of that nature.

25 THE COURT: Right. I think at this time there's no

1 good-faith basis to ask that question because she testified it
2 was through the foster program. It's not related to the
3 prosecution.

4 You've had ample time, Mr. Jackson, if you didn't
5 think that was true, to investigate it.

6 So I don't think that that's relevant that her rent
7 was being paid for through the foster program.

8 MR. JACKSON: Well --

9 MS. LAVELL: Your Honor, in addition -- oh, I'm
10 sorry.

11 MR. JACKSON: You know, I -- you know, I disagree,
12 and I'd like to make a record on that.

13 THE COURT: Okay.

14 MR. JACKSON: I, you know, think that the district
15 attorney has been, you know, criticized for, you know, the
16 money they've been giving to witnesses, and I have witnesses --

17 THE COURT: In other cases?

18 MR. JACKSON: Yes -- well --

19 THE COURT: Are you talking about the article that
20 was in the paper on -- I think it was Friday.

21 MR. JACKSON: Yes. Well, it's been -- it's been in
22 the paper for the last six months, and I have witnesses that
23 will establish that she's been getting money, and it's directly
24 connected. The CPS and the district attorney's office, you
25 know, are part of the same state apparatus.

1 THE COURT: Well, it wasn't through CPS. It was
2 through the foster program, and I think the testimony was that
3 it's something -- a program for foster children to transition
4 out of foster care so that they're not homeless basically, to
5 help them establish themselves once they age out of the foster
6 system. So that's completely -- you know, that's through
7 welfare, as I understand it, or even if it's not through
8 welfare, it's certainly not through law enforcement or the
9 district attorney's office.

10 Now, if it was a metro program or a law enforcement
11 program, then I think you'd have a better argument, but this is
12 a social-service program related to her status as a foster
13 child. That has nothing to do with the district attorney's
14 office or testifying or anything like that. So I don't think
15 it's related, and I think it's -- I don't think it's
16 prejudicial actually, but it's not probative either. It's not
17 relevant.

18 MR. JACKSON: All right. Well --

19 THE COURT: So I'm not allowing it on relevancy
20 grounds. I don't think it's prejudicial against the State
21 because, frankly, it makes the victim more sympathetic to me,
22 but, again, it's not probative of anything either. So it's not
23 relevant to me --

24 MS. BEVERLY: And also --

25 THE COURT: -- and for that reason I just think

1 it's --

2 MR. JACKSON: I won't get into it unless it goes to
3 appeal or postconviction, but it will be --

4 THE COURT: Yes. I mean, here's -- here's kind of
5 the thing on that, too, if I could just finish. You know, we
6 had an evidentiary hearing based on the fact that you came in
7 over and over again and said this person told you this, and
8 this person told you that. We put the victim herself under
9 oath, and it didn't pan out, number one. We put the mother
10 under oath, and nothing panned out there either.

11 And so at this point, you know, you had an
12 opportunity to put these witnesses up, who supposedly were
13 going to say that the district attorney's office was making
14 gifts or payments, and where were they? You know, they weren't
15 here. So I -- you know, we had a whole pretrial evidentiary
16 hearing on this.

17 As I said at the time, I'm glad we did because we got
18 to the bottom of it, and we can get rid of the innuendo and
19 what's happened in other cases and what the RJ is reporting
20 about and what happened in Dayvid Figler's case and all of
21 those other things, and we can focus on what happened in this
22 case, and like I said, you had an opportunity to call
23 witnesses, and the witnesses that were presented, it didn't pan
24 out.

25 I mean, the mother -- I don't remember her testimony

1 exactly, but the mother kind of said, Well, I know her rent's
2 being paid, but she didn't really know the source, and as it
3 turned out, it was the foster program or through the foster
4 program, and as I said, you've had ample time since that
5 hearing if you didn't think that was true to subpoena records
6 from the state of Nevada, meaning the Division of Welfare or
7 foster program. I'm not sure who administers that program
8 actually, and if that wasn't the case, that they were making
9 the payments, you could've -- you could've done that, but I
10 think we all left this room believing that that's how she was
11 getting that rent paid was -- was based on her status as a
12 foster, as an aging-out foster child.

13 MR. JACKSON: Well, you know, if I find it necessary,
14 I'll subpoena Mr. Wolfson and find out from Mr. Wolfson if it's
15 true or not.

16 THE COURT: Yes. You won't be doing that in front of
17 the jury.

18 MR. JACKSON: No, not in front of the jury, but I'll
19 subpoena his records and --

20 THE COURT: Yes. I mean, at this point Mr. Jackson,
21 A --

22 MR. JACKSON: -- interview Mr. Wolfson.

23 THE COURT: -- it's not relevant, and B, there is no
24 good-faith basis that you can have at this time -- in my
25 opinion -- to ask those questions, and so I'm not --

1 MR. JACKSON: I won't ask the questions unless I have
2 evidence that is --

3 THE COURT: Well, you better approach the bench first
4 and tell me what the evidence is.

5 MR. JACKSON: I will, and I will, you know --

6 THE COURT: Because we -- like I said, I gave you the
7 opportunity of an evidentiary hearing.

8 MR. JACKSON: I thank you for that.

9 THE COURT: I gave you the opportunity to call
10 witnesses --

11 MR. JACKSON: I thank you.

12 THE COURT: -- and, you know, all of this -- it's all
13 just innuendo, and it didn't pan out under oath.

14 MR. JACKSON: It wasn't all innuendo, Your Honor, and
15 I resent the statement from the Court that it was innuendo. I
16 put on evidence. Whether it was -- met the Court's belief that
17 it was evidence that was persuasive to the Court is another
18 thing.

19 THE COURT: Well, maybe I used --

20 MR. JACKSON: I resent that.

21 THE COURT: Maybe I used the wrong word --

22 MR. JACKSON: Thank you.

23 THE COURT: But the mother -- well, you know, the
24 record is what it is, and maybe I used the incorrect -- an
25 incorrect word, but the mother did not testify -- she testified

1 that somebody was paying the rent, as I understood it, and then
2 when, you know, it all came down to it, it was not the district
3 attorney's office paying rent.

4 I think there had been some talk about a big screen,
5 here just in argument. I don't remember any testimony at all
6 about a TV set under oath or a big screen or anything of that.
7 So I'm talking about what was said in argument and what was
8 said under oath, and it didn't mesh up, that basically what was
9 said under oath was pretty innocuous I thought, and that's all
10 I'm saying.

11 So maybe I used the wrong word, but, you know, the
12 fact that a witness may say something not under oath and, you
13 know, you can't then pull in from news stories and other
14 things, in my view, to suggest that there's something untoward
15 going on even though it may have gone on in other cases. You
16 know, we have to focus on this case, and I -- you know, I was
17 happy to have the hearing. I'm glad we had it, but in my
18 opinion, nothing panned out. So that's where we are there.

19 In terms of her mental health and everything,
20 basically what I said on that is, you know, put on your direct
21 examination. We'll probably take a break at that point.

22 Mr. Jackson, if you think the door is opened somehow
23 to some of this mental health stuff -- some of that was covered
24 in the evidentiary hearing, about the suicide attempts and
25 other things --

1 MS. BEVERLY: Yes.

2 THE COURT: -- then we'll make an argument -- you
3 know, we'll have argument, and I'll make a ruling at that time
4 if you can get into it or not get into it. A lot of the issue
5 is, well, some of the pictures and stuff like that. Her
6 credibility really isn't an issue here, and there's other
7 things that her credibility may be at issue. So I'm going to
8 see, A, is this relevant? Is it more probative -- if it is
9 relevant, is it more probative than prejudicial? And I'm going
10 to make a ruling after her direct examination on the mental
11 health aspect of this. So I think that's kind of where we are
12 on everything.

13 MS. BEVERLY: And because it hasn't been decided yet,
14 Judge, during jury selection, is there going to be limits on
15 whether -- I mean, because there's been issues about cutting
16 and then the attempt suicide that we also addressed at the
17 evidentiary hearing. I'm just concerned about during jury
18 selection being asked questions about, you know, suicide and
19 cutting when we haven't had a ruling on whether that's even
20 relevant to credibility or anything of that nature.

21 THE COURT: Were you going to ask anything about that
22 in jury selection?

23 MR. JACKSON: It might be a good question, but I
24 wasn't planning on asking it.

25 THE COURT: Okay.

1 MR. JACKSON: Now that the DA suggest it, maybe it's
2 a good question.

3 THE COURT: No. No. No. You weren't going to ask
4 it.

5 I mean, I think generally, you know, because
6 sometimes victims of sexual crimes have counseling, I often
7 follow up myself if somebody's been a victim or they know a
8 victim. Well, did they have counseling? You know, that kind
9 of thing is totally fine in the questioning, and, you know, if
10 they -- if they knew somebody who was a victim and that person
11 exhibited cutting behavior or something like that, certainly
12 Mr. Jackson can follow up, as can the State, and the Court
13 might as well if it's in response to one of my questions.
14 Well, what did they do about that? Did they go to counseling?
15 So that's completely appropriate if that kind of thing comes
16 up.

17 MR. JACKSON: Thank you, Judge.

18 THE COURT: All right. Why don't we all -- if anyone
19 needs to use the restroom or anything like that, let's do that
20 now before the jury comes up, and then as soon as they're here
21 we can get started.

22 And I just want to put one more thing on the record.
23 I explained the method we're going to use for jury selection to
24 both sides this morning in court.

25 Does the State understand the method we're going to

1 use for jury selection?

2 MS. LAVELL: Yes, Your Honor.

3 MS. BEVERLY: Yes, Judge.

4 THE COURT: And does that -- does the State have any
5 objection to using that method?

6 MS. BEVERLY: No.

7 THE COURT: Mr. Jackson, do you understand the method
8 we use for jury selection?

9 MR. JACKSON: Yes, Your Honor.

10 THE COURT: And does the defense have any objection
11 to that?

12 MR. JACKSON: No objection.

13 THE COURT: All right. Very good.

14 If anyone needs to use the restroom -- anything else
15 we need to discuss?

16 MR. JACKSON: Do we have the juror list?

17 THE COURT: We don't get that actually until right
18 before they come in.

19 MR. JACKSON: Okay.

20 THE COURT: And then Kenny will sit the first 14 in
21 the box, and then, you know, I do the general anybody have a
22 conflict with this many days and blah, blah, blah.

23 Now, how many days do we think? I'm going to say we
24 should end Thursday but Friday at the latest.

25 MR. JACKSON: That's probably right.

1 THE COURT: That's what I'm going to tell them.

2 MS. BEVERLY: I have a flight that leaves at 4 on
3 Friday. So I'd like to be done by Thursday as well.

4 MR. JACKSON: Your Honor, I have one request. I have
5 a -- somewhat of a medical problem, which my left leg bothers
6 me if I stand for long periods of time. Sometimes during the
7 questioning I may want to sit down if that's not a problem with
8 the Court. If I stand for long periods of time on my left
9 leg -- I had a blood clot in my leg, and it was resolved a few
10 years ago, but it still is painful when I stand for long
11 periods of time.

12 THE COURT: That's fine. Here's the deal. When you
13 question the witnesses, I don't require that you stand. So you
14 can sit during the witness questioning. If during your voir
15 dire you have a problem with standing, then just tell the jury,
16 you know, ladies and gentlemen, I'm going to sit down because I
17 have a medical issue with my leg, and --

18 MR. JACKSON: During -- if it's only a short time, I
19 can stand, but when I stand for, like, a couple hours, it
20 becomes very painful.

21 THE COURT: No, that's fine. You know, if there is
22 an issue, just tell the jury, I have this medical problem.

23 MR. JACKSON: All right.

24 THE COURT: Then ask me, you know -- so it will look
25 polite -- may I sit, and I'll say fine. Okay.

1 MS. BEVERLY: Thank you.

2 MR. JACKSON: Thank you.

3 (Proceedings recessed 9:49 a.m. to 10:00 a.m.)

4 (In the presence of the panel of prospective jurors.)

5 THE COURT: All right. Court is now in session.

6 This is the time for Case No. C288172, plaintiff, State of
7 Nevada versus Joshua Shue, defendant.

8 Let the record reflect the presence of the State
9 through the Deputy District Attorneys, Maria Lavell and Leah
10 Beverly, the presence of the defendant Joshua Shue, along with
11 his counsel Terry Jackson, the officers of the court and the
12 ladies and gentlemen of the prospective jury panel.

13 Good morning, ladies and gentlemen. You are in
14 Department 21 of the Eighth Judicial District Court for the
15 state of Nevada. My name is Valerie Adair, and I am the
16 presiding Judge. You have been summoned here today to serve as
17 jurors in a civil -- I'm sorry -- in a criminal jury trial.

18 In a moment, counsel for the State will introduce
19 themselves to you. They will tell you briefly the nature of
20 the State's case, and they will give you the names of any
21 witnesses which the State may be calling. Please listen very
22 carefully to the names of the witnesses as they are read to
23 you.

24 Ms. Beverly, Ms. Lavell.

25 MS. BEVERLY: Thank you, Your Honor.

1 Good morning. My name is Leah Beverly, and with me
2 is Maria Lavell, and we are the deputy district attorneys
3 assigned to prosecute this case. This case arises out of a
4 search warrant that was served on a computer in late 2012
5 belonging to the defendant Joshua Shue. When that computer was
6 searched, various videos and photos were found of children in
7 various states of nudity.

8 In our case in chief, we plan to call the following
9 witnesses: Hazel Iral, Brenda Vandering [phonetic], Sergeant
10 Spencer from Metro, Detective Vince Ramirez from Metro,
11 Detective Ryan Jaeger, also with Metro, Detective Chris Grivis
12 [phonetic] with Metro, Detective Prichard and Detective Jessica
13 Flink [phonetic].

14 THE COURT: All right. Thank you.

15 Ladies and gentlemen, an accused in a criminal case
16 is never required to call any witnesses or introduce any
17 evidence.

18 Mr. Jackson will now introduce himself to you along
19 with his client, and if there are any witnesses which may be
20 called by the defense, those names will be given to you at this
21 time.

22 Mr. Jackson.

23 MR. JACKSON: Thank you.

24 My name is Terry Jackson. My client Joshua Shue is
25 seated next to me. We ask for your attention during this voir

1 dire process because it's very important to my client Joshua
2 Shue that we get individuals that will consider this case
3 fairly and impartially, and we know that we have people here
4 that are here because they want to do justice for both sides.

5 We have no burden to present any witnesses, but we
6 may call among the following people: Kurt Iral, Anita Iral,
7 Franzkie Iral and possibly Frances Carreon.

8 There is the possibility the defendant may testify,
9 but he has no duty to testify. He is here present in court
10 today.

11 THE COURT: All right. Thank you, Mr. Jackson.

12 Ladies and gentlemen, in a moment, the clerk is going
13 to call the roll of the panel of prospective jurors. When your
14 name is called, please answer present or here.

15 Please be aware that everything that is said during
16 these proceedings is recorded. The lady seated there at the
17 end is Ms. Janie Olsen. Ms. Olsen is our official court
18 recorder. It is her job to make sure that everything that is
19 said is recorded and that an accurate transcript is prepared
20 thereafter. I tell you this because when you're speaking,
21 please make sure you speak up clearly so that we can accurately
22 record everything you may say.

23 Ms. Husted, would you please call the roll of jurors.

24 THE CLERK: Yes, Your Honor.

25 (Roll called of panel of prospective jurors.)

1 THE COURT: All right. Ladies and gentlemen, is
2 there anyone whose name was not called?

3 (No response.)

4 THE COURT: Ladies and gentlemen, the questioning of
5 the jury at the beginning of the case is done under oath. If
6 you would all please stand so that the clerk can administer the
7 oath to the prospective jurors.

8 (Panel of prospective jurors sworn.)

9 THE CLERK: Thank you.

10 THE COURT: Ladies and gentlemen, I'm going to
11 conduct a general examination of all of you; that's the ladies
12 and gentlemen seated in the jury box as well as those of you
13 seated in the audience. Following that I'll be asking more
14 specific questions of the ladies and gentlemen seated in the
15 jury box, which will be followed by questioning from the
16 attorneys.

17 If you wish to respond to any of my preliminary
18 questions in the affirmative, please raise your hand, and when
19 I call on you, please state your name and your badge number for
20 the record. Additionally, if you're one of the ladies and
21 gentlemen seated in the audience, please stand when I call on
22 you so that we can make sure that we hear you clearly.

23 We are about to commence examination of prospective
24 jurors in this case. During this process you will be asked
25 questions bearing on your ability to sit as fair and impartial

1 jurors. The Court, the lawyers, the defendant and everyone
2 involved in this case are all deeply interested in having this
3 matter tried by a jury composed of 14 open-minded people who
4 are completely neutral and who have no bias or prejudice toward
5 or against either side.

6 In order for us to accomplish this it is necessary
7 for me to ask you questions, as I've already said, and then the
8 attorneys, as I've also already said, will have the opportunity
9 to ask you questions. It is important that you know the
10 significance of full, complete and honest answers to all of the
11 questions we are about to ask you. I caution you not to try to
12 hide or withhold anything touching upon your qualifications to
13 serve as a juror in this case.

14 All right. Does anyone believe they may be
15 acquainted or know either of the deputy district attorneys,
16 either Ms. Lavell or Ms. Beverly?

17 (No response.)

18 THE COURT: All right. I see no one.

19 Does anyone believe they may know or recognize or be
20 acquainted with the defendant in this case, Mr. Joshua Shue?

21 Does anyone think they may know Mr. Shue?

22 (No response.)

23 THE COURT: All right. Does anyone believe they may
24 know or know of Mr. -- be acquainted with Mr. Shue's attorney
25 Mr. Terry Jackson?

1 Does anyone think they may know Mr. Jackson?

2 (No response.)

3 THE COURT: No one.

4 All right. Does anyone think they may know or have
5 heard of any of the witnesses who may be call -- who may be
6 called in this case, any of the witnesses whose names were read
7 either by Ms. Beverly or by Mr. Jackson?

8 Does anyone think they may know any of the witnesses?

9 (No response.)

10 THE COURT: Is there anyone who is not a United
11 States citizen?

12 (No response.)

13 THE COURT: Is there anyone who has previously been
14 convicted of a felony crime?

15 (No response.)

16 THE COURT: All right. No one.

17 This case is expected to last four to five days
18 including today, meaning we think we'll finish up Thursday, but
19 it could run into Friday at the latest. I know that may sound
20 like a long time for those of you who are being inconvenienced
21 by jury service. Please understand that that's not a long
22 trial in our jurisdiction. The average trial takes over a
23 week, and some of you who like to maybe follow some of the
24 high-profile trials on television know that those trials have
25 taken weeks, if not months to try.

1 We live in a community where many people work in the
2 service industry, the casino industry, the construction
3 industry and don't make their full wages or may not make their
4 tip income if they're serving as a juror. I simply cannot
5 excuse people because they won't be making their full wage or
6 they'll be missing work because if I did that, probably 80 or
7 more percent of you would get up and leave the room.

8 Having said that, is there anyone for whom serving as
9 a juror through Thursday of this week, possibly Friday at the
10 latest, is there anyone for whom that would constitute an
11 extreme or an undue hardship?

12 All right. We'll start with the gentleman in the
13 front row of the jury box.

14 Your name, sir? And you may remain seated because we
15 can hear you if you're in the jury box.

16 PROSPECTIVE JUROR NO. 127: Bob McDuffie, 127.

17 THE COURT: All right. And what is your hardship,
18 sir?

19 PROSPECTIVE JUROR NO. 127: I had an accident a month
20 ago and tore some tissue -- muscle tissue in my lower back, and
21 I'm in severe pain unless I take my meds. There's three meds I
22 take, and if I take them, I can't drive, or I don't think I
23 would be proper to serve here if I'm taking my meds.

24 THE COURT: Okay. And are you in pain right now?

25 PROSPECTIVE JUROR NO. 127: Yes, I am indeed.

1 THE COURT: Okay. And I don't mean to pry, but are
2 these narcotic-type medications?

3 PROSPECTIVE JUROR NO. 127: Yeah, one is a pain med.
4 One is for muscle spasms. The other one is for muscle relaxer.

5 THE COURT: Okay. All right. Thank you, sir.

6 And I think I saw -- yes, ma'am. Your name and badge
7 number.

8 PROSPECTIVE JUROR NO. 128: Yeah, my name Mo Fukuno.

9 THE COURT: And you may -- you may remain seated if
10 you're in the box.

11 In the audience, we'll need you to stand.

12 Yes.

13 PROSPECTIVE JUROR NO. 128: And I don't think my
14 English good enough to concern about a complicate case.

15 THE COURT: It sounds pretty good to me. Where are
16 you from?

17 PROSPECTIVE JUROR NO. 128: Vietnam.

18 THE COURT: All right. What do you do for a job?

19 PROSPECTIVE JUROR NO. 128: My job?

20 THE COURT: Yes.

21 PROSPECTIVE JUROR NO. 128: I'm retire now.

22 THE COURT: From what -- what type of a job did you
23 do?

24 PROSPECTIVE JUROR NO. 128: Oh, I work in the uniform
25 room for Palace Station.

1 THE COURT: At the Palace Station?

2 PROSPECTIVE JUROR NO. 128: Yeah.

3 THE COURT: Okay. And how long have you lived in the
4 United States?

5 PROSPECTIVE JUROR NO. 128: 38 years.

6 THE COURT: Okay. Thank you.

7 And I think I saw one other hand --

8 And we see more and more hands. Just because someone
9 raises their hand and has an excuse does not mean they're going
10 to be excused. So as people state their excuses, more and more
11 hands go up. I'm happy to listen to everyone's hardship. I
12 wish we had a room full of people excited about jury service,
13 wanting to be here.

14 I can tell you, having been a lawyer and a judge for
15 a combined 25 years, I've spoken to thousands of people who
16 have served as jurors, and I can tell you, with the exception
17 of maybe a couple of people, well over 99 percent of the people
18 who served are happy that they served, and they found it to be
19 an interesting and very rewarding experience.

20 Conversely, I can also tell you, on the front end of
21 things, on the front end of the trials, we have a lot of people
22 who maybe don't want to serve or for whom it's difficult. So
23 we try to excuse those people with genuine hardships, but
24 unfortunately I can't excuse all of you, but I am -- who may
25 have a conflict or difficulty I should say, but I am happy to

1 listen to all of your reasons, and then we'll go from there.

2 I saw another hand in the box. All right. The lady
3 in the orange type blouse.

4 PROSPECTIVE JUROR NO. 137: My name is Rumianka
5 Stoeva.

6 THE COURT: And your badge number, is it 137?

7 PROSPECTIVE JUROR NO. 137: Yes.

8 THE COURT: And what is your difficulty?

9 PROSPECTIVE JUROR NO. 137: I -- I cannot understand
10 English enough to be in jury.

11 THE COURT: Okay. Where are you from?

12 PROSPECTIVE JUROR NO. 137: Bulgaria.

13 THE COURT: What do you do for a job?

14 PROSPECTIVE JUROR NO. 137: Now I'm retired. I
15 worked as a office lady before.

16 THE COURT: By office lady, do you mean like
17 secretarial work?

18 PROSPECTIVE JUROR NO. 137: No. No. No. No, I
19 helped in the office but not secretary.

20 THE COURT: Like filing, or phone answering, or what
21 did you do?

22 PROSPECTIVE JUROR NO. 137: No. No. No, to clean in
23 office.

24 THE COURT: Okay. And what type of an office did you
25 work for? What type of a business, a cleaning business or --

1 PROSPECTIVE JUROR NO. 137: Cleaning business.

2 THE COURT: Okay. And how long have you been in the
3 United States?

4 PROSPECTIVE JUROR NO. 137: 12 years.

5 THE COURT: Okay. And I think the gentleman in the
6 black T-shirt raised his hand.

7 PROSPECTIVE JUROR NO. 141: Yes. Jose Vasquez, Badge
8 141. My girlfriend got into a car accident in June 19th. She
9 got her pelvis fractured. So I've got to take her three times
10 a week to pain management to -- I've got to drive her. So she
11 cannot drive herself, and then I've got to take my son to
12 school. He starts school today.

13 THE COURT: How old is your son?

14 PROSPECTIVE JUROR NO. 141: 6.

15 THE COURT: Okay. And who watches your son in the
16 afternoon?

17 PROSPECTIVE JUROR NO. 141: Well, she's home. She
18 can stay home, but she cannot -- she doesn't have a car. She
19 cannot drive at this time.

20 THE COURT: Okay. Is there another family member of
21 her family or your family that can drive her to and from the
22 appointments?

23 PROSPECTIVE JUROR NO. 141: There is, but my aunt had
24 colon cancer, and she just came out of the hospital, and
25 they've got to follow up with a doctor's appointment this week

1 because she -- she just got a surgery, and she's not feeling
2 well.

3 THE COURT: Okay. Do you work outside of the home?

4 PROSPECTIVE JUROR NO. 141: I work at -- yes, at a
5 casino.

6 THE COURT: What do you do?

7 PROSPECTIVE JUROR NO. 141: Banquet server.

8 THE COURT: Okay. Where do you work?

9 PROSPECTIVE JUROR NO. 141: Venetian.

10 THE COURT: And do you work swing shift, day, grave,
11 what?

12 PROSPECTIVE JUROR NO. 141: It varies. I'm usually
13 off Monday, Tuesday, and it just varies. You never know when
14 you -- you always check the schedule the day before.

15 THE COURT: Okay. Do you have a set shift that you
16 work?

17 PROSPECTIVE JUROR NO. 141: Usually it's day shift.

18 THE COURT: Day shift?

19 PROSPECTIVE JUROR NO. 141: Yeah.

20 THE COURT: Okay. Who drives your son in the -- and
21 picks your son up from school when you're at work?

22 PROSPECTIVE JUROR NO. 141: Usually on Wednesdays my
23 mom because she's off.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 141: But Monday and Tuesday I

1 do that.

2 THE COURT: Okay. And then Thursday and Friday, who
3 picks your son up?

4 PROSPECTIVE JUROR NO. 141: My ex-wife.

5 THE COURT: Okay. So you do have some family that
6 can help?

7 PROSPECTIVE JUROR NO. 141: I do, but the thing is,
8 especially with my aunt, it's complicated because she's not
9 fully recovered from the surgery.

10 THE COURT: Okay. And then I think at the end --
11 yes. Your name and badge number.

12 PROSPECTIVE JUROR NO. 144: Bill -- Bill Chaison,
13 144.

14 THE COURT: Yes.

15 PROSPECTIVE JUROR NO. 144: I've had two surgeries,
16 and both of them have complications. One was a defective
17 titanium prosthesis, and it resulted in metallosis, which
18 causes nerve damage, and I have -- I'm in a lot of pain
19 constantly. I'm a medical-marijuana user, and the other one is
20 my ankle, which also needs surgery.

21 THE COURT: Okay. Do you work outside of --

22 PROSPECTIVE JUROR NO. 144: I don't work.

23 THE COURT: Are you on disability?

24 PROSPECTIVE JUROR NO. 144: Yes.

25 THE COURT: Okay. All right. And I saw some hands

1 on this side of the room.

2 No, no hands. All right -- oh, okay.

3 The lady in the second row, please, with the glasses.

4 PROSPECTIVE JUROR NO. 160: Yes. Hi. I'm Chrisa
5 Vogiatzis, 18-160. I'm the only one who works in the

6 household, and I can't miss any work.

7 THE COURT: Okay. You're the only one that works in
8 your household, and where do you work?

9 PROSPECTIVE JUROR NO. 160: Riviera.

10 THE COURT: And what do you do there?

11 PROSPECTIVE JUROR NO. 160: 21 dealer.

12 THE COURT: You're a 21 dealer, okay. And who -- who
13 else is in your household?

14 PROSPECTIVE JUROR NO. 160: My son.

15 THE COURT: How old is he?

16 PROSPECTIVE JUROR NO. 160: He's 35.

17 THE COURT: But he doesn't have a job?

18 PROSPECTIVE JUROR NO. 160: No, for three years.

19 THE COURT: I'm sorry?

20 PROSPECTIVE JUROR NO. 160: For three years.

21 THE COURT: Okay. And what shift do you work at the
22 Riviera?

23 PROSPECTIVE JUROR NO. 160: At night. I worked all
24 night, and I'm here.

25 THE COURT: You work the graveyard or the swing?

1 PROSPECTIVE JUROR NO. 160: Swing, until 5 o'clock.
2 THE COURT: Swing, okay. What are your days off?
3 PROSPECTIVE JUROR NO. 160: Today only.
4 THE COURT: They have you at the Riviera working six
5 days a week?
6 PROSPECTIVE JUROR NO. 160: Just the last two
7 weeks -- two or three weeks because we had poker tournament,
8 and we had to work six days and 10-hour shifts.
9 THE COURT: Okay. But normally you would work five
10 days a week?
11 PROSPECTIVE JUROR NO. 160: Yeah.
12 THE COURT: And normally what are your days off?
13 PROSPECTIVE JUROR NO. 160: Sunday, Monday.
14 THE COURT: All right. Thank you. Have a seat.
15 And I -- the lady in the far corner.
16 PROSPECTIVE JUROR NO. 172: My name is Bobbi, and
17 I'm -- what am I -- 172.
18 THE COURT: And you are Bobbi Dragone?
19 PROSPECTIVE JUROR NO. 172: Bobbi Dragone.
20 THE COURT: Okay.
21 PROSPECTIVE JUROR NO. 172: So I don't know if this
22 is valid and whatever. If you want me to, I'll do it. But --
23 so I work. I'm a single parent, but I work full-time, and I go
24 to school at Nevada State College full-time, which actually
25 started today, and I take hybrid classes. So I'm just

1 concerned. Like, I'm worried about catching up on my
2 schoolwork, plus I get financial aid, and if I don't do my
3 time, I'll get wiped out from that. So that's my concern.

4 THE COURT: Okay. And where do you work?

5 PROSPECTIVE JUROR NO. 172: For Las Vegas Railway
6 Express.

7 THE COURT: Okay. Have a seat.

8 All right. And I think we have a couple of hands on
9 this side of the room.

10 The second row, in the blue T-shirt.

11 PROSPECTIVE JUROR NO. 207: Hi.

12 THE COURT: That's you, yes.

13 PROSPECTIVE JUROR NO. 207: I'm Sam Slavis, and 207.

14 THE COURT: All right.

15 PROSPECTIVE JUROR NO. 207: And I'm also a full-time
16 student at UNLV, and I work part-time, and I would honestly
17 like to be here. It does sound very intriguing, but I don't
18 think it's the best idea to skip the first week of school and
19 work.

20 THE COURT: Okay. So did -- I'm -- did UNLV start
21 this week, like --

22 PROSPECTIVE JUROR NO. 207: Today.

23 THE COURT: Oh, it starts today, like --

24 PROSPECTIVE JUROR NO. 207: I should be in class
25 right now.

1 THE COURT: Okay. All right. Have a seat.

2 And a couple of hands in the back row.

3 The lady in the print blouse.

4 PROSPECTIVE JUROR NO. 222: Bobbi Tibbits, 222. I
5 also am a full-time student at UNLV. I do premed. So my
6 schedule for class is very strict. I'd rather not miss school,
7 and I also work.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR NO. 222: Uh-huh.

10 THE COURT: And I saw another hand. Yes, sir.

11 PROSPECTIVE JUROR NO. 227: Your Honor, Paul Mayheu,
12 227.

13 THE COURT: Yes.

14 PROSPECTIVE JUROR NO. 227: It would be an honor to
15 serve on the jury. I would be willing to come back, just not
16 this week. My movers show up on Wednesday. Coupled with that,
17 the rental house that I'm currently in, the hot water heater
18 took a dump this past weekend, and the plumber is supposed to
19 show up today.

20 THE COURT: Isn't your landlord supposed to take care
21 of that?

22 PROSPECTIVE JUROR NO. 227: He's out of town, and we
23 have a -- he's got a home warranty on the home. So I just call
24 the home warranty, and they send out the plumber.

25 THE COURT: Okay. Thank you. Have a seat.

1 Anyone else?

2 (No response.)

3 THE COURT: All right. Ladies and gentlemen, from
4 time to time I'll confer with counsel either up here or in the
5 hallway. When I do that -- I know these chairs, particularly
6 the chairs in the jury box are very uncomfortable -- if you
7 want to stand up or stretch in place. If you need a water,
8 just get the bailiff's attention.

9 And, Counsel, I'll see you in the hallway if you'd
10 exit through that door, please.

11 (Pause in the proceedings.)

12 THE COURT: All right. At this time, Badge No. 127,
13 Mr. McDuffie, you are excused. The bailiff will direct you
14 from the courtroom.

15 Badge No. 128, Ms. Fukuno, you are excused. The
16 bailiff will direct you from the courtroom.

17 Badge No. 137, Ms. Stoeva, you are excused. The
18 bailiff will direct you from the courtroom.

19 Badge No. 141, Mr. Vasquez, I'm going to ask you to
20 have a seat in the audience, please.

21 Badge No. 144, Mr. Chaison, you are excused. The
22 bailiff will direct you from the courtroom.

23 Badge No. 172, Ms. Dragone, you are excused from
24 these proceedings due to the start of the school year; however,
25 you will be receiving another jury summons, and you will have

1 to take off from school at that time.

2 PROSPECTIVE JUROR NO. 172: Sure. Thank you.

3 THE COURT: Badge No. 207, Mr. Slavis, you are
4 excused from these proceedings because of the beginning of the
5 academic school year; however, you will be receiving a jury
6 summons for jury service at a future time, and being a UNLV
7 student will not be an excuse at that time. Okay. So you are
8 excused because of the start of the semester.

9 Badge No. 222, Ms. Tibbits, the same for you, because
10 of the start of the semester you are being excused from these
11 proceedings, but you will receive a summons for jury service at
12 a later date.

13 And Badge No. 227, Mr. Mayheu, you are excused from
14 these proceedings; however, you will be receiving a summons,
15 and you will be expected to serve at a later date. All right.
16 Thank you.

17 All right. Ms. Husted, would you please call up the
18 next prospective jurors to fill the empty chairs in the jury
19 box.

20 THE CLERK: Yes, Your Honor.

21 Badge 145, in Seat 2.

22 148 --

23 THE COURT: Sir, Mr. Sorrellis -- Sorrells, would you
24 please come on down and have that empty chair in the front row
25 of the jury box next to the gentleman in the blue uniform.

1 And then, Ms. Petkewich, if you'd have this chair
2 next to him in the middle there.

3 And the next one, Denise.

4 THE CLERK: Badge 149, in Seat 10.

5 THE COURT: That's Mr. Marano.

6 Mr. Marano, if you'd have --

7 Next one.

8 THE CLERK: Jo Finestead in Seat 12.

9 THE COURT: That's Badge 151.

10 THE CLERK: And Badge 152, Brandon Bombardi, in Seat
11 14.

12 PROSPECTIVE JUROR NO. 152: Bombarda.

13 THE CLERK: Bombarda. Sorry.

14 THE COURT: Good morning, Mr. Brown. What do you do
15 for a living, sir?

16 PROSPECTIVE JUROR NO. 126: I work in security.

17 THE COURT: And I'm assuming that's your security
18 guard uniform; is that correct?

19 PROSPECTIVE JUROR NO. 126: I just got off this
20 morning at 7.

21 THE COURT: Oh, no. So you work the graveyard shift?

22 PROSPECTIVE JUROR NO. 126: Uh-huh.

23 THE COURT: All right. Now, if you're selected as a
24 juror, we would do a letter if needed to your employer asking
25 that they excuse you because we don't expect you to stay up all

1 night and then pay attention, and obviously it's very important
2 to pay attention for jury service.

3 So how long have you been a security officer?

4 PROSPECTIVE JUROR NO. 126: About 10 years.

5 THE COURT: Okay. And where do you -- where do you
6 work right now?

7 PROSPECTIVE JUROR NO. 126: Valley Hospital.

8 THE COURT: Okay. Sorry actually an employee of
9 Valley Hospital?

10 PROSPECTIVE JUROR NO. 126: No. No, independent.

11 THE COURT: Independent security agency, and you're
12 placed at Valley Hospital?

13 PROSPECTIVE JUROR NO. 126: Right.

14 THE COURT: Okay. And how long has your assignment
15 been Valley Hospital?

16 PROSPECTIVE JUROR NO. 126: About seven months.

17 THE COURT: Okay. And what did you do -- where were
18 you assigned before that?

19 PROSPECTIVE JUROR NO. 126: Southwest Medical.

20 THE COURT: Okay. And prior to becoming a security
21 officer, what kind of work did you do?

22 PROSPECTIVE JUROR NO. 126: I was basically in dry
23 cleaning.

24 THE COURT: Okay. And as a security officer, do you
25 have much interaction with law enforcement officers, like Metro

1 or --

2 PROSPECTIVE JUROR NO. 126: Yeah, they're always
3 there.

4 THE COURT: Okay. What are your kind of duties, in a
5 nutshell, as a security officer?

6 PROSPECTIVE JUROR NO. 126: You know, like, if people
7 get out of line, we restrain them, escort people off property,
8 just work in the ER most of the time.

9 THE COURT: Okay. Now, do you ever have to, like,
10 fill out reports for the police?

11 PROSPECTIVE JUROR NO. 126: Yes. Uh-huh.

12 THE COURT: Okay. Have you ever had to come in and
13 testify as a witness in any kind of criminal prosecution as a
14 result of your job as a security officer?

15 PROSPECTIVE JUROR NO. 126: Never.

16 THE COURT: Okay. Now, you obviously work and
17 interact with Metro because it's Las Vegas. Have you had
18 assignments, like, in Henderson and Northtown where you're
19 interacting with Henderson PD or North Las Vegas PD more, or is
20 it mainly Metro?

21 PROSPECTIVE JUROR NO. 126: Metro.

22 THE COURT: Okay. Anything about the fact that
23 somebody is a police officer that would cause you to
24 automatically believe or disbelieve their testimony, or could
25 you keep an open mind and evaluate it like you would the

1 testimony of any other witness?

2 PROSPECTIVE JUROR NO. 126: Keep an open mind.

3 THE COURT: Okay. And are you married, sir?

4 PROSPECTIVE JUROR NO. 126: No.

5 THE COURT: Okay. Do you have any children?

6 PROSPECTIVE JUROR NO. 126: Two.

7 THE COURT: And boys, girls -- a boy or girl --

8 PROSPECTIVE JUROR NO. 126: Two girls, San Diego.

9 THE COURT: Two girls and they live in San Diego.

10 What are their ages?

11 PROSPECTIVE JUROR NO. 126: 39 and 40.

12 THE COURT: Okay. Do you have any grandchildren?

13 PROSPECTIVE JUROR NO. 126: Yeah, a few.

14 THE COURT: A few, okay. Well, either you have a lot

15 of grandchildren, or you're not close with your grandchildren.

16 PROSPECTIVE JUROR NO. 126: Like, three or four.

17 THE COURT: Okay. Are you very close with your

18 grandchildren? Do you get to spend much time with them or not

19 really?

20 PROSPECTIVE JUROR NO. 126: Not really.

21 THE COURT: Okay. Is that because your girls live in

22 San Diego?

23 PROSPECTIVE JUROR NO. 126: Right.

24 THE COURT: Okay. And let's see, Mr. Sorrells is it?

25 (No audible response.)

1 THE COURT: What do you do for a living, sir?
2 PROSPECTIVE JUROR NO. 145: Bellman.
3 THE COURT: Okay. Where do you work?
4 PROSPECTIVE JUROR NO. 145: Suncoast.
5 THE COURT: All right. And are you married?
6 PROSPECTIVE JUROR NO. 145: Yes.
7 THE COURT: What does your wife do?
8 PROSPECTIVE JUROR NO. 145: Cocktails.
9 THE COURT: Okay. And do you have any children?
10 PROSPECTIVE JUROR NO. 145: None..
11 THE COURT: None, okay.
12 And is it Ms. --
13 PROSPECTIVE JUROR NO. 148: Petkewich --
14 THE COURT: Petkevich?
15 PROSPECTIVE JUROR NO. 148: Petkewich.
16 THE COURT: Petkewich. Oh, okay.
17 PROSPECTIVE JUROR NO. 148: Say it fast.
18 THE COURT: What do you do for a living?
19 PROSPECTIVE JUROR NO. 148: I am a account manager
20 for an IT consulting and recruiting firm.
21 THE COURT: Okay. And how long have you been doing
22 that type of work?
23 PROSPECTIVE JUROR NO. 148: Oh, my gosh, for probably
24 two decades.
25 THE COURT: Okay. So as an account manager you

1 basically manage the client accounts; is that what you do?

2 PROSPECTIVE JUROR NO. 148: Yeah, I'm a salesperson,
3 bring in the business.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 148: Manage the process.

6 THE COURT: Okay. And are you married, or do you
7 have a significant other?

8 PROSPECTIVE JUROR NO. 148: I married, 11 years.

9 THE COURT: Okay. What does your husband do?

10 PROSPECTIVE JUROR NO. 148: Mortgage broker, banker.

11 THE COURT: Okay. And do you have any children.

12 PROSPECTIVE JUROR NO. 148: I do. 7-year-old boy,
13 almost-7-year-old daughter and an 8-year-old son.

14 THE COURT: Okay. And is it Mr. -- oh, I'm sorry.
15 It's Ms. Kuckelmann?

16 PROSPECTIVE JUROR NO. 129: Very good.

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

18 PROSPECTIVE JUROR NO. 129: I work for slot
19 manufacturers.

20 THE COURT: Okay. And what do you do for them?

21 PROSPECTIVE JUROR NO. 129: I am a compliance
22 engineer, and I work in all the labs that certify our products.

23 THE COURT: Okay. So what you do as a -- just in a
24 nutshell, what do you do as a compliance engineer?

25 PROSPECTIVE JUROR NO. 129: Install, upgrade computer

1 software that tracks everything that goes through the slots.
2 THE COURT: Okay. How long have you been doing that
3 type of work?
4 PROSPECTIVE JUROR NO. 129: 16 years.
5 THE COURT: 16 years. And are you married, or do you
6 have a significant other?
7 PROSPECTIVE JUROR NO. 129: Married nine years,
8 daughter is 33.
9 THE COURT: Okay. And what does your husband do?
10 PROSPECTIVE JUROR NO. 129: He's air force, retired.
11 THE COURT: Okay. What did he do in the air force?
12 PROSPECTIVE JUROR NO. 129: Security.
13 THE COURT: And you said you have a 33-year-old
14 daughter?
15 PROSPECTIVE JUROR NO. 129: Uh-huh. Yes, ma'am.
16 THE COURT: And what does she do?
17 PROSPECTIVE JUROR NO. 129: She works also for the
18 same company as a dispatcher.
19 THE COURT: Okay. Do you have any grandchildren?
20 PROSPECTIVE JUROR NO. 129: On my husband's side, not
21 on --
22 THE COURT: Okay. So kind of stepgrandchildren?
23 PROSPECTIVE JUROR NO. 129: Yeah.
24 THE COURT: Do you spend much time with them?
25 PROSPECTIVE JUROR NO. 129: No, one is a Washington,

1 and the other two are in Illinois.

2 THE COURT: And is it Mr. Thomas?

3 PROSPECTIVE JUROR NO. 130: Yes.

4 THE COURT: What you do for a living, sir?

5 PROSPECTIVE JUROR NO. 130: Convention porter.

6 THE COURT: You're what?

7 PROSPECTIVE JUROR NO. 130: A porter, a convention
8 porter.

9 THE COURT: A porter, okay. Where do you work?

10 PROSPECTIVE JUROR NO. 130: I work at Gateway.

11 THE COURT: Okay. And are you married, or do you
12 have a significant other?

13 PROSPECTIVE JUROR NO. 130: Yes.

14 THE COURT: And what does your wife do?

15 PROSPECTIVE JUROR NO. 130: Pantry worker.

16 THE COURT: A what? A pantry --

17 PROSPECTIVE JUROR NO. 130: A pantry worker.

18 THE COURT: Okay. Does she work in one of the
19 hotels?

20 PROSPECTIVE JUROR NO. 130: Yeah, Treasure Island.

21 THE COURT: Okay. And do you have any children?

22 PROSPECTIVE JUROR NO. 130: Three boys.

23 THE COURT: All right. Are they grown or still
24 living at home?

25 PROSPECTIVE JUROR NO. 130: Yes.

1 THE COURT: I guess they could be grown and still
2 living at home.

3 PROSPECTIVE JUROR NO. 130: Grown. Grown. One lives
4 at home still, but he's on his way out.

5 THE COURT: Does he know it yet?

6 PROSPECTIVE JUROR NO. 130: Yes, he's having a house
7 built.

8 THE COURT: Okay. And do you have any grandchildren?

9 PROSPECTIVE JUROR NO. 130: 11.

10 THE COURT: 11 grandchildren?

11 PROSPECTIVE JUROR NO. 130: Yeah.

12 THE COURT: I'm not going to ask you the ages of all
13 11. So can you give me the age of the youngest grandchild and
14 the age of the oldest grandchild.

15 PROSPECTIVE JUROR NO. 130: The oldest is 20 -- 20,
16 and the youngest is 3.

17 THE COURT: Okay. Do you get to spend a lot of time
18 or much time with your grandkids?

19 PROSPECTIVE JUROR NO. 130: A lot of time. They do
20 come over on Sundays most of the time.

21 THE COURT: And is it Mr. Oddo?

22 PROSPECTIVE JUROR NO. 132: Correct.

23 THE COURT: What do you do for a living, sir?

24 PROSPECTIVE JUROR NO. 132: I'm a union plumber pipe
25 fitter.

1 THE COURT: Okay. So do you work a lot of
2 construction-type jobs?

3 PROSPECTIVE JUROR NO. 132: Yes, I do.

4 THE COURT: Okay. And are you married, or do you
5 have a significant other?

6 PROSPECTIVE JUROR NO. 132: Yes, I'm married. I have
7 two daughters, 10 and 15.

8 THE COURT: All right. And what does your wife do
9 for work?

10 PROSPECTIVE JUROR NO. 132: My wife's retired.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 132: She's actually disabled.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 132: I didn't raise my hand.

15 THE COURT: From what type of work?

16 PROSPECTIVE JUROR NO. 132: Same field, she was in
17 the construction industry. She was a union electrician.

18 THE COURT: Okay. Was it a job-related injury?

19 PROSPECTIVE JUROR NO. 132: Yeah, she blew her back
20 out, and she has cages in her back.

21 THE COURT: All right. So she's on disability status
22 now?

23 PROSPECTIVE JUROR NO. 132: Yeah.

24 THE COURT: Okay. And is it Mr. Luecke? Luke?

25 PROSPECTIVE JUROR NO. 133: Yes.

1 THE COURT: How do you say your name?
2 PROSPECTIVE JUROR NO. 133: Luecke.
3 THE COURT: Luecke. I got it right the first time.
4 What do you do for a living, sir?
5 PROSPECTIVE JUROR NO. 133: Basically retired.
6 THE COURT: From what type of work?
7 PROSPECTIVE JUROR NO. 133: I farmed most of my life.
8 THE COURT: Okay. There's not a lot of farms around
9 here in Clark County. Where --
10 PROSPECTIVE JUROR NO. 133: Mainly in South Dakota.
11 THE COURT: Okay. And what -- what did you farm?
12 PROSPECTIVE JUROR NO. 133: I raised corn and beans.
13 THE COURT: Okay. And how long have you lived here
14 in Clark County?
15 PROSPECTIVE JUROR NO. 133: Six, seven years.
16 THE COURT: Okay. Moved here from South Dakota?
17 PROSPECTIVE JUROR NO. 133: Actually, from Illinois.
18 THE COURT: And what did you do there, farming?
19 PROSPECTIVE JUROR NO. 133: I worked for a farmer in
20 Illinois.
21 THE COURT: Okay. Are you married or --
22 PROSPECTIVE JUROR NO. 133: Married, 10 grandkids,
23 ages 1 year to 12.
24 THE COURT: Okay. And how many kids do have?
25 PROSPECTIVE JUROR NO. 133: Between my wife and I, we

1 have five.

2 THE COURT: Okay. And does your wife work out --
3 outside of the home?

4 PROSPECTIVE JUROR NO. 133: She's retired also.

5 THE COURT: And what type of work did she do?

6 PROSPECTIVE JUROR NO. 133: Just odd jobs basically.
7 She's been a housewife mostly.

8 THE COURT: Okay. All right.

9 And is it Mr. Villacreses?

10 PROSPECTIVE JUROR NO. 135: Yes.

11 THE COURT: What do you do for a living, sir?

12 PROSPECTIVE JUROR NO. 135: I work investigations at
13 the Luxor Hotel and Casino.

14 THE COURT: Okay. How long have you been doing that?

15 PROSPECTIVE JUROR NO. 135: Two years, and part of
16 that I was a field training officer.

17 THE COURT: Okay. So you train other investigators
18 at the Luxor?

19 PROSPECTIVE JUROR NO. 135: No, I trained other
20 officers prior to that. Right now I'm just an investigator.

21 THE COURT: Okay. All right. And before going to
22 work at the Luxor, what did you do?

23 PROSPECTIVE JUROR NO. 135: Most of my experience is
24 all in security.

25 THE COURT: Okay. In other casinos, or did you --

1 PROSPECTIVE JUROR NO. 135: No, before in California
2 for open malls, stuff like that.

3 THE COURT: Okay. All right. Now, do you have a lot
4 of opportunity as an officer at the Luxor to either interact
5 with Metro police or gaming control board agents or --

6 PROSPECTIVE JUROR NO. 135: Just about every day.

7 THE COURT: Okay. And do you have to fill out
8 reports and that kind of thing?

9 PROSPECTIVE JUROR NO. 135: Whenever a case is
10 assigned to me, yes.

11 THE COURT: Okay. What do you do as an investigator?
12 I'm assuming that's a little bit different than a security
13 officer.

14 PROSPECTIVE JUROR NO. 135: Yeah, we look into
15 internal, external cases, employee misconduct, stuff like that.

16 THE COURT: Okay. So you're mainly investigating for
17 civil-type cases?

18 PROSPECTIVE JUROR NO. 135: Yeah.

19 THE COURT: Okay. So, like, if somebody gets hurt on
20 property and there is a report, would you be the person maybe
21 that would investigate that?

22 PROSPECTIVE JUROR NO. 135: Right. I would look into
23 the file, and then I would pull surveillance, stuff like that.

24 THE COURT: Okay. And then the if there is an
25 allegation that an employee maybe stole or did something --

1 PROSPECTIVE JUROR NO. 135: Yep.

2 THE COURT: -- inappropriate, you might look into
3 that?

4 PROSPECTIVE JUROR NO. 135: Yep.

5 THE COURT: Okay. Do you ever have to testify, or do
6 you -- let me ask you this. Do you prepare reports in
7 connection with civil lawsuits?

8 PROSPECTIVE JUROR NO. 135: At times, yes.

9 THE COURT: Okay. And have you ever had to fill out
10 statements or anything like that for Metro or gaming control
11 board?

12 PROSPECTIVE JUROR NO. 135: Yes, I have.

13 THE COURT: Okay. Have you ever been a witness in
14 any kind of a criminal prosecution?

15 PROSPECTIVE JUROR NO. 135: I have been subpoenaed,
16 never actually been --

17 THE COURT: Okay. And what about in a civil case,
18 have you ever been a witness in a civil case involving a
19 lawsuit, I guess, brought against the Luxor or a Workmen's
20 Compensation kind of case?

21 PROSPECTIVE JUROR NO. 135: Not yet.

22 THE COURT: Nothing yet, okay. And are you married,
23 or do you have a significant other?

24 PROSPECTIVE JUROR NO. 135: Yes, I'm married.

25 THE COURT: What does she do?

1 PROSPECTIVE JUROR NO. 135: 12 years -- 12 years now,
2 and I've got two kids, a 7 and a 5 year old.
3 THE COURT: Okay. A 7 and a 5 year old --
4 PROSPECTIVE JUROR NO. 135: Yep.
5 THE COURT: -- and did you -- does your wife work
6 outside of the home?
7 PROSPECTIVE JUROR NO. 135: She babysits at home for
8 a friend of ours.
9 THE COURT: Okay.
10 PROSPECTIVE JUROR NO. 135: And on the weekends she
11 works at Centennial Hospital as a cashier.
12 THE COURT: And is it Ms. Shim?
13 PROSPECTIVE JUROR NO. 136: Yes.
14 THE COURT: What do you do for a living?
15 PROSPECTIVE JUROR NO. 136: I am -- I am IT audit
16 manager for a larger casino in town.
17 THE COURT: Are you an accountant?
18 PROSPECTIVE JUROR NO. 136: No, I am -- not really.
19 More like technical person.
20 THE COURT: More like what?
21 PROSPECTIVE JUROR NO. 136: IT technology audit is
22 what I do.
23 THE COURT: Okay. So you don't have a degree in
24 accounting or anything?
25 PROSPECTIVE JUROR NO. 136: I do have a degree in

1 accounting. It has been a while since I touched accounting
2 side of the house.

3 THE COURT: Okay. So it's more computer based --

4 PROSPECTIVE JUROR NO. 136: Yes.

5 THE COURT: -- what you're doing -- okay. Were you
6 ever a CPA or anything like that?

7 PROSPECTIVE JUROR NO. 136: No, I'm -- I am CISA.

8 THE COURT: You're what?

9 PROSPECTIVE JUROR NO. 136: CISA. C-I-S-A. It's a
10 CPA counterpart for people like us, IT auditors.

11 THE COURT: Okay. All right. And is it like the
12 CPA -- being a CPA? You have to sit for an exam and be
13 licensed and all of that sort of thing?

14 PROSPECTIVE JUROR NO. 136: Yes, you have to take a
15 test, pass it.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 136: You have to have the
18 experience that's required, yes.

19 THE COURT: I wasn't familiar with that. And are you
20 married?

21 PROSPECTIVE JUROR NO. 136: Yes.

22 THE COURT: What does your husband do?

23 PROSPECTIVE JUROR NO. 136: He's an IT manager.

24 THE COURT: Okay. Same property or different --

25 PROSPECTIVE JUROR NO. 136: No, different casino.

1 THE COURT: Okay. And I guess that would sort of
2 defeat the point of an audit if you both worked together.

3 PROSPECTIVE JUROR NO. 136: It's not allowed.

4 THE COURT: All right. And do you have any children?

5 PROSPECTIVE JUROR NO. 136: Yes, I have two, one 18,
6 one 19 year old.

7 THE COURT: Okay. No grandchildren yet?

8 PROSPECTIVE JUROR NO. 136: Not yet.

9 THE COURT: All right. Let's see. Is it Mr. Marano?

10 PROSPECTIVE JUROR NO. 149: Yes.

11 THE COURT: What you do for a living, sir?

12 PROSPECTIVE JUROR NO. 149: I manage a consulting
13 practice for a large engineering firm, pretty much focused on
14 pipeline safety and pipeline integrity. We do expert witness
15 litigation support and the like, as well as working for, you
16 know, utilities throughout -- throughout the world basically.

17 THE COURT: Okay. How long have you been doing that?

18 PROSPECTIVE JUROR NO. 149: 40 years.

19 THE COURT: Four years or 40?

20 PROSPECTIVE JUROR NO. 149: 40.

21 THE COURT: 40.

22 PROSPECTIVE JUROR NO. 149: 40 years total in the
23 industry.

24 THE COURT: All right. And let me ask you this.

25 What kind of training or education do you have that enables

1 you --

2 PROSPECTIVE JUROR NO. 149: I have a Master's degree
3 in Engineering and a registered professional engineer.

4 THE COURT: Okay. And so your firm provides expert
5 witness services. Do you yourself ever testify as an expert
6 witness?

7 PROSPECTIVE JUROR NO. 149: Yes, I have.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 149: And, you know, I've
10 both -- well, the couple that I've been involved with were
11 criminal actions. So we never got to testify, but we were
12 expert witness supporting, but I've been involved with -- you
13 know, at the state level with -- providing testimony to state
14 regulatory agencies.

15 THE COURT: Okay. And when you say criminal
16 prosecutions, can you tell me a little bit more about what kind
17 of cases --

18 PROSPECTIVE JUROR NO. 149: Well, the one that comes
19 to mind was about five, six years ago in the UK, up in
20 Scotland. There was an explosion, killed a family of four, and
21 we were -- the company was brought up on culpable corporate
22 homicide.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 149: So we were advising the
25 general counsel at that time.

1 THE COURT: Okay. So it wasn't an individual who was
2 being prosecuted; it was the corporation?

3 PROSPECTIVE JUROR NO. 149: It was corporate.

4 THE COURT: Okay. And then any other examples of
5 criminal cases where you've been involved as an expert or a
6 consultant?

7 PROSPECTIVE JUROR NO. 149: No.

8 THE COURT: Okay. And I'm assuming the majority of
9 your work involves civil litigation?

10 PROSPECTIVE JUROR NO. 149: Yeah, pretty much at the
11 regulatory level but not really state regulators --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 149: -- public utility
14 commissions and the like.

15 THE COURT: Okay. So you're -- are you advising the
16 regulators, or are you advising the companies that are
17 seeking -- are before the regulatory agencies or both?

18 PROSPECTIVE JUROR NO. 149: Both.

19 THE COURT: Okay. All right. And are you married,
20 or do you have a significant other?

21 PROSPECTIVE JUROR NO. 149: I'm married.

22 THE COURT: Okay. What does your wife do?

23 PROSPECTIVE JUROR NO. 149: She's retired now.

24 THE COURT: From what type of work?

25 PROSPECTIVE JUROR NO. 149: She was an office manager

1 at MGM corporate.

2 THE COURT: Okay. And do you have any children?

3 PROSPECTIVE JUROR NO. 149: I have two.

4 THE COURT: Grown or how old?

5 PROSPECTIVE JUROR NO. 149: Well, my daughter is 37.

6 Son is 35.

7 THE COURT: Okay. Do you have any grandchildren?

8 PROSPECTIVE JUROR NO. 149: Not yet, no.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 149: We are hoping.

11 THE COURT: Better hurry up.

12 And is it Ms. Finestead -- Finnestead?

13 PROSPECTIVE JUROR NO. 139: No, Zemla.

14 THE COURT: Oh, I'm sorry.

15 PROSPECTIVE JUROR NO. 139: 139.

16 THE COURT: Ms. Zemla, what do you do for a living?

17 PROSPECTIVE JUROR NO. 139: DMV technician.

18 THE COURT: Okay. And what does that involve? What

19 do you do?

20 PROSPECTIVE JUROR NO. 139: Helping the customers at

21 the window.

22 THE COURT: Okay. So you're one of the people

23 that --

24 PROSPECTIVE JUROR NO. 139: The technicians.

25 THE COURT: Okay. That people go up to to renew

1 their licenses --

2 PROSPECTIVE JUROR NO. 139: Renew licenses,
3 registration.

4 THE COURT: Okay. All right. And how long have you
5 been doing that?

6 PROSPECTIVE JUROR NO. 139: Just recently, three
7 months.

8 THE COURT: Okay. And what did you do before that?

9 PROSPECTIVE JUROR NO. 139: Auto finance.

10 THE COURT: Okay. And are you married, or do you
11 have a significant other?

12 PROSPECTIVE JUROR NO. 139: Married, 24 years.

13 THE COURT: What does your husband do?

14 PROSPECTIVE JUROR NO. 139: He's a limo driver, buyer
15 at Aria.

16 THE COURT: A limo driver and a buyer?

17 PROSPECTIVE JUROR NO. 139: Well, slash, buyer.
18 Yeah, he buys -- you know, he goes out and -- I don't know how
19 to describe it, but he -- for -- he buys for the butlers.

20 THE COURT: Okay. Okay. I see. I get it. And do
21 you have any children?

22 PROSPECTIVE JUROR NO. 139: Three. They're grown,
23 18, 22 and 23.

24 THE COURT: Any grandchildren?

25 PROSPECTIVE JUROR NO. 139: None.

1 THE COURT: None, okay.
2 And now we have Ms. -- is it Finestead?
3 PROSPECTIVE JUROR NO. 151: It's Finestead, Yes.
4 THE COURT: All right. What do you do for a living?
5 PROSPECTIVE JUROR NO. 151: I work in real estate.
6 I'm not licensed.
7 THE COURT: Are you a real estate agent?
8 PROSPECTIVE JUROR NO. 151: Yes, I am, but I do
9 mostly just the paperwork for the guy I work with.
10 THE COURT: Okay. And is that primarily residential
11 or commercial?
12 PROSPECTIVE JUROR NO. 151: Residential.
13 THE COURT: Residential, okay. And are you married,
14 or do you have a significant other?
15 PROSPECTIVE JUROR NO. 151: I'm married.
16 THE COURT: What does your husband do?
17 PROSPECTIVE JUROR NO. 151: He's retired.
18 THE COURT: From?
19 PROSPECTIVE JUROR NO. 151: Grocery store managers.
20 THE COURT: Okay. Any children?
21 PROSPECTIVE JUROR NO. 151: I have a daughter, and my
22 husband has a son and a daughter.
23 THE COURT: Okay. And how old is your daughter?
24 PROSPECTIVE JUROR NO. 151: My daughter is 34.
25 THE COURT: Okay. And your stepchildren, are they

1 grown?
2 PROSPECTIVE JUROR NO. 151: 36 and 39.
3 THE COURT: Any grandchildren?
4 PROSPECTIVE JUROR NO. 151: We have a 6 year old.
5 THE COURT: Okay. Do you spend much time with your
6 grandchild?
7 PROSPECTIVE JUROR NO. 151: We just saw him last
8 weekend.
9 THE COURT: Okay. And let's see. Is it Ms. Leblue?
10 PROSPECTIVE JUROR NO. 142: Yeah.
11 THE COURT: What do you do for a living?
12 PROSPECTIVE JUROR NO. 142: I do hair.
13 THE COURT: I'm sorry?
14 PROSPECTIVE JUROR NO. 142: Hairstylist.
15 THE COURT: Okay. And are you married, or do you
16 have a significant other?
17 PROSPECTIVE JUROR NO. 142: I'm not married.
18 THE COURT: You're married?
19 PROSPECTIVE JUROR NO. 142: No.
20 THE COURT: Neither. None of the above?
21 PROSPECTIVE JUROR NO. 142: I mean, I have a
22 boyfriend, but it's nothing serious.
23 THE COURT: Nothing too serious. Is it worth
24 reporting on? I'll just ask --
25 PROSPECTIVE JUROR NO. 142: Probably not.

1 THE COURT: What does he do for work?
2 PROSPECTIVE JUROR NO. 142: He's the manager at PT's.
3 THE COURT: Okay. And do you have any children?
4 PROSPECTIVE JUROR NO. 142: Nope.
5 THE COURT: All right. And then finally we've got
6 Mr. Bombarda; is that right?
7 PROSPECTIVE JUROR NO. 152: Yes.
8 THE COURT: What do you do for a living, sir?
9 PROSPECTIVE JUROR NO. 152: I work at the hospital
10 out at Nellis Air Force Base.
11 THE COURT: What do you do there?
12 PROSPECTIVE JUROR NO. 152: I do system
13 administration, computer networks, servers and all that.
14 THE COURT: Okay. So you're obviously a civilian
15 employee at --
16 PROSPECTIVE JUROR NO. 152: Contractor.
17 THE COURT: A contractor, okay. And are you married
18 or significant other?
19 PROSPECTIVE JUROR NO. 152: Yeah, married 13 years,
20 two kids, a 12-year-old son and an 8-year-old daughter.
21 THE COURT: And what does your wife do for work, if
22 anything?
23 PROSPECTIVE JUROR NO. 152: She works as a tax
24 accountant for Bally's Technology.
25 THE COURT: She's a tax accountant?

1 PROSPECTIVE JUROR NO. 152: Yeah.
2 THE COURT: Okay. At Bally's Games or Bally's Hotel?
3 PROSPECTIVE JUROR NO. 152: Technology.
4 THE COURT: The technology?
5 PROSPECTIVE JUROR NO. 152: Yeah.
6 THE COURT: Okay. All right. Now, of the 14 of you,
7 have any of you ever previously served as a juror? By show of
8 hands, any prior jury service?
9 All right. Only two -- or three, okay. We'll start
10 with the gentleman in the front row.
11 Mr. Thomas, how many times have you been a juror?
12 PROSPECTIVE JUROR NO. 130: Once.
13 THE COURT: One time?
14 PROSPECTIVE JUROR NO. 130: Yes.
15 THE COURT: And how long ago was that?
16 PROSPECTIVE JUROR NO. 130: About 20 years ago.
17 THE COURT: Here in Clark County?
18 PROSPECTIVE JUROR NO. 130: Yes.
19 THE COURT: Okay. Do you recall if it was a civil
20 case or a criminal case?
21 PROSPECTIVE JUROR NO. 130: Criminal.
22 THE COURT: Okay. Now, don't tell me what the
23 verdict was, but did the jury reach a verdict?
24 PROSPECTIVE JUROR NO. 130: Hung.
25 THE COURT: It hung, okay. And were you the

1 foreperson of the jury?

2 PROSPECTIVE JUROR NO. 130: Was I --

3 THE COURT: Were you the foreperson? Were you the
4 jury foreman?

5 PROSPECTIVE JUROR NO. 130: No, I wasn't the foreman.

6 No.

7 THE COURT: You weren't the foreman?

8 PROSPECTIVE JUROR NO. 130: No. No. No.

9 THE COURT: Okay. All right.

10 Ms. Finestead, I think you raised your hand.

11 PROSPECTIVE JUROR NO. 151: Yes.

12 THE COURT: How many times have you been a juror?

13 PROSPECTIVE JUROR NO. 151: One time.

14 THE COURT: Okay. Was that here in Clark County?

15 PROSPECTIVE JUROR NO. 151: No.

16 THE COURT: Where was it?

17 PROSPECTIVE JUROR NO. 151: It was back in Iowa.

18 THE COURT: All right. How long ago?

19 PROSPECTIVE JUROR NO. 151: About 25 years ago.

20 THE COURT: Okay. And was that a criminal case or a
21 civil case?

22 PROSPECTIVE JUROR NO. 151: Civil.

23 THE COURT: Don't tell me what the verdict was, but
24 did the jury reach a verdict?

25 PROSPECTIVE JUROR NO. 151: Yes.

1 THE COURT: Okay. And were you the foreperson of the
2 jury?
3 PROSPECTIVE JUROR NO. 151: No.
4 THE COURT: Okay. And I think you also raised your
5 hand, Ms. Zemla. How many times have you been a juror?
6 PROSPECTIVE JUROR NO. 139: Once.
7 THE COURT: Okay. Was that here in Clark County?
8 PROSPECTIVE JUROR NO. 139: No.
9 THE COURT: And where was it?
10 PROSPECTIVE JUROR NO. 139: Lancaster, California.
11 THE COURT: Okay. How long ago?
12 PROSPECTIVE JUROR NO. 139: It was in the '90s.
13 THE COURT: Was that a civil case or a criminal case?
14 PROSPECTIVE JUROR NO. 139: Civil.
15 THE COURT: Okay. Don't tell me what the verdict
16 was, but did the jury reach a verdict?
17 PROSPECTIVE JUROR NO. 139: No, we were --
18 THE COURT: Did you actually go in the back and
19 deliberate?
20 PROSPECTIVE JUROR NO. 139: No, it ended up being
21 dismissed. We didn't -- we listened to the case, and then it
22 ended up being dismissed.
23 THE COURT: Okay. So you listened to evidence, and
24 then the Judge told you, This case is dismissed or resolved or
25 whatever, and they sent you home?

1 PROSPECTIVE JUROR NO. 139: Correct.

2 THE COURT: Okay. How much of the trial did you sit
3 through?

4 PROSPECTIVE JUROR NO. 139: The whole thing.

5 THE COURT: The whole thing, and then before you go
6 in the back they say, Thanks, and send you away?

7 PROSPECTIVE JUROR NO. 139: Correct.

8 THE COURT: Okay. No one else with any prior jury
9 service?

10 (No response.)

11 THE COURT: All right. Have any of you ever been
12 arrested, charged or accused of a crime?

13 Any of you? Don't be shy.

14 All right. We have one shy one and one assertive
15 one. I'm going to start with Mr. Thomas.

16 You've been arrested or charged with a crime. Can
17 you tell me about that.

18 PROSPECTIVE JUROR NO. 130: About 25 years ago.

19 THE COURT: Okay. What happened?

20 PROSPECTIVE JUROR NO. 130: Some powder cocaine.

21 THE COURT: Okay. I'm guessing they said you had it?

22 PROSPECTIVE JUROR NO. 130: Yes.

23 THE COURT: Okay. Was that here in Clark County, or
24 where did that happen?

25 PROSPECTIVE JUROR NO. 130: Yes. Yes.

1 THE COURT: Here in Clark County, okay. Do you
2 recall the law enforcement agency that was involved? Was it,
3 like, Las Vegas Metro, Henderson Police --
4 PROSPECTIVE JUROR NO. 130: Metro.
5 THE COURT: Metro, okay. So you were arrested and
6 taken into custody?
7 PROSPECTIVE JUROR NO. 130: Yes.
8 THE COURT: Okay. And did you get -- have a lawyer?
9 PROSPECTIVE JUROR NO. 130: Yes.
10 THE COURT: Okay. Did you hire your lawyer, or was a
11 lawyer appointed for you? Do you remember?
12 PROSPECTIVE JUROR NO. 130: I hired one.
13 THE COURT: You hired a lawyer, okay. And did your
14 case go to trial, or did you resolve the case? What happened?
15 PROSPECTIVE JUROR NO. 130: Convicted for felony.
16 THE COURT: Oh, you were?
17 PROSPECTIVE JUROR NO. 130: Yeah.
18 THE COURT: Okay. In a trial, or was there a plea
19 bargain?
20 PROSPECTIVE JUROR NO. 130: Was it a trial?
21 THE COURT: Was there a jury trial in front of --
22 PROSPECTIVE JUROR NO. 130: It might've been a plea
23 bargain.
24 THE COURT: Okay. But now as you sit here today, do
25 you still have that felony conviction, or were your rights

1 restored, or what happened?

2 PROSPECTIVE JUROR NO. 130: No, I haven't closed it.
3 I didn't get it closed.

4 THE COURT: Okay. And what were you ultimately
5 convicted of?

6 PROSPECTIVE JUROR NO. 130: Possession.

7 THE COURT: Possession of a controlled substance?

8 PROSPECTIVE JUROR NO. 130: Yes.

9 THE COURT: Okay. And I don't mean to pry, but we
10 have to ask these questions.

11 PROSPECTIVE JUROR NO. 130: Yeah.

12 THE COURT: What happened? Did you get probation
13 or --

14 PROSPECTIVE JUROR NO. 130: Yeah, probation.

15 THE COURT: Okay. Do you have any feelings about how
16 your case was handled in the system, whether by the lawyers,
17 the prosecutors, your lawyer, the Judge, the police? What are
18 your feelings about how you were treated in the system?

19 PROSPECTIVE JUROR NO. 130: I don't even -- it was so
20 long ago I just --

21 THE COURT: You kind of put it away?

22 PROSPECTIVE JUROR NO. 130: -- wiped it away, yes.

23 THE COURT: Okay. And after that you didn't have any
24 other problems?

25 PROSPECTIVE JUROR NO. 130: No.

1 THE COURT: Okay. And I think, sir, in Chair 2, you
2 raised your hand?

3 PROSPECTIVE JUROR NO. 145: Yeah.

4 THE COURT: Can you tell me about your situation.

5 PROSPECTIVE JUROR NO. 145: It's been so long ago.
6 It was when I was 20 years old, but it was for disturbing the
7 peace.

8 THE COURT: Okay. Did they give you a citation, or
9 did they actually take you into custody?

10 PROSPECTIVE JUROR NO. 145: Well, yeah, they took me
11 into custody because it was more than just -- I think that's
12 what it ended up being pled down to, was disturbing the peace,
13 but I was arrested for a CCW.

14 THE COURT: Okay. Did that happen here in Clark
15 County?

16 PROSPECTIVE JUROR NO. 145: Yes.

17 THE COURT: Was it Metro or another agency?

18 PROSPECTIVE JUROR NO. 145: Yes.

19 THE COURT: Metro, okay. Did you get a lawyer to
20 represent you?

21 PROSPECTIVE JUROR NO. 145: Yeah.

22 THE COURT: Okay. And did you hire a lawyer? Did
23 you have a lawyer appointed for you, or what happened?

24 PROSPECTIVE JUROR NO. 145: Yeah, it was a friend of
25 the family. Yeah.

1 THE COURT: Okay. And it sounds like the case was
2 negotiated down to a disorderly conduct?

3 PROSPECTIVE JUROR NO. 145: It was like 25 years ago.
4 So I don't remember.

5 THE COURT: Okay. You didn't have a trial though,
6 like this?

7 PROSPECTIVE JUROR NO. 145: No.

8 THE COURT: Okay. Any feelings as you sit here today
9 about how you were treated in the system?

10 PROSPECTIVE JUROR NO. 145: Not at that time.

11 THE COURT: Okay. All right.

12 PROSPECTIVE JUROR NO. 145: But I've had incidents
13 with other police officers.

14 THE COURT: Okay. So those police officers, I mean,
15 do you think they were fair or unfair, or you don't have an
16 opinion?

17 PROSPECTIVE JUROR NO. 145: These Metro officers,
18 they're pretty rough. You know, they're not very kind.

19 THE COURT: Okay. So you feel like they were unkind
20 to you?

21 PROSPECTIVE JUROR NO. 145: On different occasions,
22 yes.

23 THE COURT: Okay. Like what else?

24 PROSPECTIVE JUROR NO. 145: Well, I wasn't arrested,
25 but a neighbor and I didn't get along. We were like oil and

1 water --

2 THE COURT: Right.

3 PROSPECTIVE JUROR NO. 145: -- living next to each
4 other.

5 THE COURT: You're no longer living next to this
6 neighbor?

7 PROSPECTIVE JUROR NO. 145: No.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 145: But they would always
10 call Metro on me.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 145: And then Metro would come
13 out and think they're big guys, tough guys, you know. They
14 handcuffed me, threatened to, you know -- you know, take me
15 downtown.

16 THE COURT: Okay. Did they ever take you downtown?

17 PROSPECTIVE JUROR NO. 145: No, but they, you know,
18 handcuffed me. They were rough.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 145: You know, pushing me on
21 their hood.

22 THE COURT: Oh, really, okay. Did you ever, like,
23 file a complaint or think about filing a complaint or go to
24 internal affairs or anything like that?

25 PROSPECTIVE JUROR NO. 145: I'm too busy for that.

1 THE COURT: Okay. Have you had any positive
2 experiences with police?

3 PROSPECTIVE JUROR NO. 145: Maybe once.

4 THE COURT: Okay. What was the -- what were the
5 circumstances there?

6 PROSPECTIVE JUROR NO. 145: Again, it was like 25
7 years ago. When I was young, I had a guy put a gun to my head,
8 and so, you know, it was good to see them there.

9 THE COURT: You were happy?

10 PROSPECTIVE JUROR NO. 145: Yeah.

11 THE COURT: Okay. They saved you from that
12 situation?

13 PROSPECTIVE JUROR NO. 145: Yeah.

14 THE COURT: Okay. Anyone else who's been arrested or
15 charged or accused of a crime?

16 (No response.)

17 THE COURT: All right. Let me expand that question
18 and ask if any of you have had anyone close to you that's been
19 arrested, charged or accused of a crime, like a member of your
20 immediate family, a very close friend, significant other --

21 Yes, Ms. Finestead.

22 PROSPECTIVE JUROR NO. 151: I had a nephew.

23 THE COURT: Okay. And can you tell me the situation,
24 or what happened with that nephew?

25 PROSPECTIVE JUROR NO. 151: He decided to outrun and

1 pass a fire truck.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 151: And he had been drinking,
4 and so of course he got into trouble over that.

5 THE COURT: Was that here in Clark County?

6 PROSPECTIVE JUROR NO. 151: No, back in Iowa.

7 THE COURT: Okay. Were you living in Iowa at the
8 time?

9 PROSPECTIVE JUROR NO. 151: Yes.

10 THE COURT: Okay. Was there an accident involved --

11 PROSPECTIVE JUROR NO. 151: No.

12 THE COURT: -- or anything like that?

13 PROSPECTIVE JUROR NO. 151: No.

14 THE COURT: Okay. Do you -- was he charged with
15 misdemeanor crimes or felony crimes? Do you remember?

16 PROSPECTIVE JUROR NO. 151: I'm not exactly sure, but
17 he was charged with a crime on that.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 151: And he also has another
20 crime that he vandalized some people's farm equipment.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 151: So he does have a felony
23 charge against him on that.

24 THE COURT: That's pending right now?

25 PROSPECTIVE JUROR NO. 151: No, it's all settled, but

1 he -- yeah.

2 THE COURT: Okay. Any feelings about how your nephew
3 was treated in the system? Any opinions there?

4 PROSPECTIVE JUROR NO. 151: The opinion I would have
5 is I felt the cops did what they needed to do. You know, he
6 did get into the trouble. So, you know, I feel everything was
7 justified as to what they had to do for what he did.

8 THE COURT: Anyone else who had someone close to them
9 that's been arrested, charged or accused of a crime?

10 Yes, ma'am.

11 PROSPECTIVE JUROR NO. 148: My dad. He's deceased
12 though. He -- I was so young, like 6, 7 years old though,
13 check fraud.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 148: We were poor, and he
16 wrote bad checks.

17 THE COURT: Okay. Was that here in town?

18 PROSPECTIVE JUROR NO. 148: No, California.

19 THE COURT: Okay. But you were a child at the time?

20 PROSPECTIVE JUROR NO. 148: Uh-huh.

21 THE COURT: Okay. Now, as an adult, did your father
22 have any problems, or had he already passed away?

23 PROSPECTIVE JUROR NO. 148: No --

24 THE COURT: I mean when you were an adult, obviously.

25 PROSPECTIVE JUROR NO. 148: Right. Right. Gosh, he

1 passed away when I was 20. So -- but, no.

2 THE COURT: Okay. Did your dad ever have to go to
3 jail or prison?

4 PROSPECTIVE JUROR NO. 148: I think that's the only
5 memory I have of it, is picking him up from jail.

6 THE COURT: Okay. All right. Anyone else?

7 (No response.)

8 THE COURT: All right. Have any of you ever been the
9 victim of a crime? Any of you yourselves been the victim of a
10 crime?

11 Yes, sir.

12 PROSPECTIVE JUROR NO. 132: Yeah, I mean, I've had my
13 car robbed a couple times.

14 THE COURT: Okay. Here in town?

15 PROSPECTIVE JUROR NO. 132: No, back -- back in the
16 Bronx.

17 THE COURT: Okay. And when you say robbed, was
18 anybody in the -- were you in the car or somebody else in the
19 car, or somebody was --

20 PROSPECTIVE JUROR NO. 132: No, nobody was in the
21 car. Actually I've had my car broken into here, too.

22 THE COURT: Okay. All right. Did you report all of
23 those incidents to the police?

24 PROSPECTIVE JUROR NO. 132: Yeah. Uh-huh.

25 THE COURT: Was anybody ever apprehended, either in

1 New York or here in town?

2 PROSPECTIVE JUROR NO. 132: No.

3 THE COURT: Nothing, okay. Let's talk about when you
4 had your car broken into here in Clark County. Just one time
5 or more than once?

6 PROSPECTIVE JUROR NO. 132: One time.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 132: In front of my house.

9 THE COURT: In front of your house. And you called
10 the police?

11 PROSPECTIVE JUROR NO. 132: Yep.

12 THE COURT: Okay. Was it Metro, Henderson, North Las
13 Vegas --

14 PROSPECTIVE JUROR NO. 132: Henderson.

15 THE COURT: Henderson. Did they come out, or did
16 they make you go to a substation?

17 PROSPECTIVE JUROR NO. 132: Yeah, they -- they come
18 out. They've actually been to my house a few times. We
19 actually have a 26-year-old boy, also from my wife. He's
20 gotten into trouble a few times.

21 THE COURT: Okay. On the car situation, what did
22 they do? Did they just take a report, or do they --

23 PROSPECTIVE JUROR NO. 132: That was it, yeah.

24 THE COURT: -- do any dusting for fingerprints --

25 PROSPECTIVE JUROR NO. 132: Yeah.

1 THE COURT: -- or take pictures, or what did they do?

2 PROSPECTIVE JUROR NO. 132: Yeah, took a report.

3 Yeah, I think they dusted. I can't quite remember. It was
4 quite a long time ago.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 132: I do have some -- I have
7 a -- I have a friend in Metro, and my brother-in-law is an
8 ex-police officer, retired also.

9 THE COURT: Okay. So on the car situation, they
10 never caught anybody?

11 PROSPECTIVE JUROR NO. 132: No.

12 THE COURT: Okay. And you said your brother-in-law
13 is a retired police officer?

14 PROSPECTIVE JUROR NO. 132: So, yeah, I've heard
15 many -- many a stories through him and a friend of mine that's
16 in Metro.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 132: So I have opinions both
19 ways about, you know, law enforcement, good and bad I'm sure,
20 but, you know.

21 THE COURT: Okay. So is it fair to say there's some
22 really good cops and some --

23 PROSPECTIVE JUROR NO. 132: Yeah.

24 THE COURT: -- average cops and some --

25 PROSPECTIVE JUROR NO. 132: Listening to a retired

1 police officer, yeah.

2 THE COURT: -- and some bad cops?

3 PROSPECTIVE JUROR NO. 132: Yeah.

4 THE COURT: Okay. Just like any other job?

5 PROSPECTIVE JUROR NO. 132: Sure.

6 THE COURT: Okay. Now, your brother-in-law, he was a
7 police officer in New York?

8 PROSPECTIVE JUROR NO. 132: Yes, 45th precinct.

9 THE COURT: Okay. Is he still working or retired?

10 PROSPECTIVE JUROR NO. 132: No, he retired, and he
11 lives out here now.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 132: He's the manager of
14 Target.

15 THE COURT: Okay. What type of -- when he was a
16 police officer in New York, did he ever work in the detective
17 bureau, or was he --

18 PROSPECTIVE JUROR NO. 132: No. No, he was a beat
19 cop, just street crimes.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 132: I mean, dealt with
22 detectives a lot I'm sure and the prosecutors.

23 THE COURT: Okay. And your friend at Metro, what
24 does he do with Metro?

25 PROSPECTIVE JUROR NO. 132: I haven't spoke to him in

1 a while, but it he was -- he was a regular beat -- you know,
2 patrol officer -- officer.

3 THE COURT: Okay. Was he ever a detective at Metro?
4 Do you know?

5 PROSPECTIVE JUROR NO. 132: Not that I know of.

6 THE COURT: Okay. So uniformed patrol out on the
7 streets?

8 PROSPECTIVE JUROR NO. 132: Uh-huh.

9 THE COURT: Okay. And it sounds like you have --
10 well, what you said -- good and bad opinions of police
11 officers?

12 PROSPECTIVE JUROR NO. 132: Yeah.

13 THE COURT: Now, if a police officer or a detective,
14 you know, were to testify in this case, could you listen to
15 their testimony with an open mind and evaluate it just like you
16 would the testimony of anybody else?

17 PROSPECTIVE JUROR NO. 132: I'm -- I'm having trouble
18 having an open mind with just the case in general because I
19 also coach 10-year-old girls in soccer. So you start talking
20 about child pornography, and, you know, I have two daughters,
21 and, you know, right away, kabam. In my head, it's -- you
22 know, it's not a good start, and I already got --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 132: I'm kind of, you know --
25 you know, I'm -- what's the word I'm looking for? I'm going to

1 need a lot of evidence to make me believe other than I already
2 have my opinion kind of deal. You know what I'm saying?

3 THE COURT: Okay. Well, and this comes up a lot of
4 times in these types of cases and in a few other types of
5 cases. We're not looking for a jury that says, Oh, you know,
6 we don't think this is a bad crime, or, We're, you know, in
7 favor of this crime, or anything like that. That's not what
8 we're looking for. It's fine to, you know, think -- have your
9 opinion about this type of crime.

10 PROSPECTIVE JUROR NO. 132: Sure.

11 THE COURT: That's not what a jury trial is about.
12 What a jury trial is about is the State, which has the burden
13 of proof in this case, presenting their evidence and proving
14 the defendant's guilt beyond a reasonable doubt, and if the
15 State doesn't prove the defendant's guilt beyond a reasonable
16 doubt, the defendant is entitled to a verdict of not guilty.
17 That's what a trial is about.

18 The accused does not have to present any evidence or
19 call any witnesses in our system of justice. So basically the
20 function of the jurors isn't to, you know, evaluate what they
21 think of, whether this -- you know, the type of a crime. What
22 their -- what their job is is to listen to the evidence, listen
23 to the instructions on the law, which the Court gives at the
24 conclusion of the trial, which tells you what the elements of
25 the crime -- what the elements are, tells you what the burden

1 of proof is, explains reasonable doubt, and then you apply the
2 facts to the law and determine whether the State has proven the
3 defendant's guilt beyond a reasonable doubt. That's what the
4 job of a juror is.

5 Is there anyone -- I'll just jump ahead. Is there
6 anyone of the 14 of you who feels that you would have a problem
7 doing that in this particular case?

8 All right. And why do you feel that you would have a
9 problem doing that?

10 PROSPECTIVE JUROR NO. 132: Just like I already
11 stated. I -- you know, I've kind of heard a bunch of stories
12 from my brother-in-law, and just right off the bat, you know,
13 hearing something like that with girls and kids involved, you
14 know, you kind of have an opinion right off the bat, you know.

15 THE COURT: And your --

16 PROSPECTIVE JUROR NO. 132: So it's -- just being
17 honest.

18 THE COURT: And your opinion is what, he must be
19 guilty? Or the State doesn't have to prove his guilt or --

20 PROSPECTIVE JUROR NO. 132: Probably. I'm probably
21 going to start that way, and, you know, then I'll have to be
22 worked the other way.

23 THE COURT: Okay. Anyone else share the view
24 expressed by Mr. Marano?

25 Yes, Mr. Thomas.

1 PROSPECTIVE JUROR NO. 130: Yeah, I don't like that.

2 THE COURT: And again, it's not about choosing people
3 who --

4 PROSPECTIVE JUROR NO. 130: I wouldn't like it at
5 all.

6 THE COURT: You know, no one supports, you know, most
7 of the crimes that are charged. We're not looking for a jury
8 that says, Oh, you know -- that's not what it's about, as I
9 said. You know, we're not looking for jurors who don't think
10 it is a crime, or, you know, that's -- because whatever. If
11 it's a murder, you're not going to get 14 people that are okay
12 with murder. That's not what this process is about.

13 We're looking for people who are fair and impartial,
14 who don't -- who aren't biased towards the State, aren't biased
15 towards the defense and will hold the State to their burden of
16 proving the defendant's guilt and listen openly to the
17 evidence, make sure the State has the evidence if they're going
18 to convict, and if the State doesn't have the evidence, doesn't
19 convince the jury beyond a reasonable doubt, then we need
20 people who will raise their hands and vote not guilty. That's
21 what we're looking for.

22 PROSPECTIVE JUROR NO. 132: Did you call -- did you
23 say Mr. Marano or Mr. Oddo? Were you talking about me?

24 THE COURT: Oh, I'm sorry. Did I --

25 PROSPECTIVE JUROR NO. 132: Yeah.

1 THE COURT: Mr. Oddo.
2 PROSPECTIVE JUROR NO. 132: Sorry.
3 THE COURT: I apologize.
4 PROSPECTIVE JUROR NO. 132: I wasn't sure.
5 THE COURT: I did misspeak.
6 So, Mr. Thomas, there's no right or wrong answer
7 here. It's not a math test. What are your concerns about
8 serving as a juror and fulfilling your role as a juror as I've
9 explained it?
10 PROSPECTIVE JUROR NO. 130: I might not be fair. I
11 might not be fair with this one. I mean --
12 THE COURT: Okay. Because?
13 PROSPECTIVE JUROR NO. 130: Because of kids involved.
14 You know, I've got 11 grandkids.
15 THE COURT: Okay.
16 PROSPECTIVE JUROR NO. 130: I wouldn't be fair. I
17 would say guilty.
18 THE COURT: Without hearing any evidence?
19 PROSPECTIVE JUROR NO. 130: Just what I heard.
20 THE COURT: You didn't hear any evidence.
21 You all understand that, right? This is just all
22 talk. Evidence is sworn testimony under oath coming from the
23 stand and exhibits that are admitted into evidence, and
24 everything else is just a lot of talk, which in our system does
25 not really mean anything.

1 All right. Well, thank you for your opinion.

2 Anyone else share that?

3 (No response.)

4 THE COURT: All right. We've talked about people who
5 have been arrested or charged with crimes, people who have been
6 victims of a crime. Do any of you have anyone that you're
7 close to -- again, a spouse, significant other, member of your
8 family, very close friend -- that has been the victim of a
9 crime?

10 Yes, sir.

11 PROSPECTIVE JUROR NO. 152: I guess a home break-in
12 last December.

13 THE COURT: Okay. Was that you or someone close to
14 you?

15 PROSPECTIVE JUROR NO. 152: Our house.

16 THE COURT: Okay. Was anyone home at the time?

17 PROSPECTIVE JUROR NO. 152: No.

18 THE COURT: Okay. And I'm assuming property was
19 stolen?

20 PROSPECTIVE JUROR NO. 152: Metro came out, yeah.

21 THE COURT: Okay. So Metro came out, and what did
22 they do as --

23 PROSPECTIVE JUROR NO. 152: They did the whole -- you
24 know, they called in -- I guess they're crime scene
25 investigation. They took pictures in the backyard, footprints.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 152: Powder, fingerprints,
3 photographs of, you know, the mess that was made.

4 THE COURT: Okay. And was anyone ever apprehended?

5 PROSPECTIVE JUROR NO. 152: No.

6 THE COURT: Okay. Any opinions as to the job Metro
7 did?

8 PROSPECTIVE JUROR NO. 152: No, I think they had did
9 a -- they did a professional job, you know. They did --

10 THE COURT: Okay. Does anyone else have anything in
11 their background or their family background?

12 (No response.)

13 THE COURT: All right. May I see counsel at the
14 bench, please.

15 (Conference at the bench not recorded.)

16 THE COURT: All right. The State may question the
17 panel of prospective jurors.

18 MS. LAVELL: Thank you, Your Honor.

19 And I'll apologize to all of you because my side will
20 be to you because I'll just be speaking to the people in the
21 box.

22 Is it still morning? Well, good morning.

23 PROSPECTIVE JURORS: Good morning.

24 MS. LAVELL: As Mr. Jackson actually said when he was
25 doing his introduction, the purpose of this portion of any

1 trial or pretrial is to try to get jurors that are fair and
2 impartial, and not every juror is suited for every sort of
3 criminal case, and we want jurors that are going to be fair,
4 both to the defense and to the State.

5 And does everybody agree that as the defendant sits
6 here right now in court he is not guilty? Does everybody agree
7 with that premise?

8 (No audible response.)

9 MS. LAVELL: Okay. Does anybody disagree?

10 (No response.)

11 MS. LAVELL: I show a negative response to that.

12 So it's the State's burden, which we take on
13 willingly, to prove that the individual sitting here committed
14 the crimes he's charged with beyond -- beyond any reasonable
15 doubt. Would you all agree to hold us to that burden?

16 (No audible response.)

17 MS. LAVELL: Okay. Everybody is acknowledging that
18 they will.

19 I want to just briefly -- and just really briefly
20 speak to Mr. Thomas and Mr. Oddo, and I'm going to start with
21 Mr. Oddo.

22 Do you think it's fair to say that for the most part
23 most -- most people are offended by the accusations -- for the
24 most part, if not everybody, the majority of people are
25 offended by the crimes themselves, the charges; would you

1 agree?

2 PROSPECTIVE JUROR NO. 132: Sure. Yeah.

3 MS. LAVELL: Okay. So you're not unique in that?

4 PROSPECTIVE JUROR NO. 132: No.

5 MS. LAVELL: Okay. And you indicated that as he sits
6 here right now that Mr. Shue is not guilty or innocent until we
7 prove otherwise?

8 PROSPECTIVE JUROR NO. 132: Yeah, but you -- reading
9 some of the evidence already, you said that police officers
10 broke in and busted him, right?

11 MS. LAVELL: Well, no, I don't know that that was
12 said. I think there was a computer that was taken.

13 PROSPECTIVE JUROR NO. 132: Okay.

14 MS. LAVELL: But here's the thing. As the Judge just
15 said, nothing that we're talking about now is evidence.
16 Evidence happens once you're impaneled, you're sworn in, and we
17 start calling witnesses to the stand. That's the information
18 we are asking you to listen to, all right?

19 PROSPECTIVE JUROR NO. 132: Correct.

20 MS. LAVELL: I think -- you know, it's reasonable to
21 say that I think, you know, those pictures are bad. I don't
22 like the idea. I don't like the subject matter --

23 MR. JACKSON: I'm going to object to the prosecution
24 characterizing whether the pictures are bad or good or
25 whatever. We haven't seen the pictures.

1 THE COURT: All right. That -- that's sustained.

2 PROSPECTIVE JUROR NO. 132: I understand -- sorry.

3 THE COURT: The question is more the allegation. You
4 may think the allegation is bad. Again, you may be offended by
5 the type of crime. I used the example of murder. You know,
6 most people are going to get on -- be -- say, Well, I'm opposed
7 to, you know, murder, or kidnapping or whatever the charge may
8 be. So that's not the -- that's not what we're looking for,
9 are people to say, Oh, we're okay with this charge.

10 Just to clarify that, we don't -- you know, we
11 haven't seen any evidence. We aren't talking about the
12 evidence at this point. We're just talking about the charges,
13 which is just an allegation made by the State. Again, the
14 charge is their allegation. It's not evidence of anything. It
15 doesn't prove anything. All right.

16 MS. LAVELL: Is it your sense that as he sits here
17 right now he's guilty unless proven otherwise?

18 PROSPECTIVE JUROR NO. 132: Yes, it's just -- just my
19 opinion, you know.

20 MS. LAVELL: That's fine. And I --

21 PROSPECTIVE JUROR NO. 132: Just like you said, you
22 know, everybody is allowed to be innocent before any evidence
23 is given. It's also my right to -- if I feel somebody has done
24 something wrong and I feel that way, then I do, and it's just
25 that.

1 MS. LAVELL: I appreciate your honesty. If you'll
2 pass that microphone over to Mr. Thomas.

3 I'm going to ask you the same question, kind of just
4 jump to the chase. Is it your opinion right now that as
5 Mr. Shue sits here he is guilty, and he needs to prove himself
6 innocent?

7 PROSPECTIVE JUROR NO. 130: From what I heard.

8 MS. LAVELL: Okay. So you're already going in here
9 without the State having presented --

10 PROSPECTIVE JUROR NO. 130: It's not going to happen.

11 MS. LAVELL: Okay. I appreciate your honesty. Thank
12 you.

13 Okay. I just have some general questions now. You
14 heard briefly what the charges are, and there are going to be
15 videos and photographs of children in various states of
16 undress, and some explicit sexual conduct in at least one
17 photo. Is there anybody here that is going to be so
18 uncomfortable with that that you will not be able to actually
19 look at the evidence?

20 (No response.)

21 MS. LAVELL: Okay. I see no hands. Does anybody
22 here have an opinion as to how a victim of a sex-based crime
23 should act or appear after it happens?

24 (No response.)

25 MS. LAVELL: Okay. I see a negative show of hands.

1 Would anybody here automatically disbelieve a victim
2 of a sex-based crime over an adult based solely on the victim's
3 age?

4 (No response.)

5 MS. LAVELL: Negative showing of hands.

6 PROSPECTIVE JUROR NO. 132: Say that again.

7 MS. LAVELL: Would anybody here disbelieve the
8 testimony of a --

9 PROSPECTIVE JUROR NO. 132: Child?

10 MS. LAVELL: -- child of a sex-based crime based
11 solely on the fact that it's a child?

12 PROSPECTIVE JUROR NO. 132: No, I wouldn't disbelieve
13 that.

14 MS. LAVELL: Okay. So nobody would disbelieve a
15 child solely because of the youth?

16 (No response.)

17 MS. LAVELL: Okay. Would everybody agree that it can
18 be embarrassing for a victim of these alleged crimes to
19 actually testify in front of a jury?

20 (No audible response.)

21 MS. LAVELL: And everybody is nodding their head in
22 the affirmative.

23 Would everybody agree that based on that
24 embarrassment, one may testify differently than if they were
25 testifying about something that's not embarrassing?

1 (No audible response.)

2 MS. LAVELL: Everybody is shaking their head yes.

3 Do you -- does everybody believe that it may -- it
4 can be difficult for a child to disclose sexual misconduct if
5 the perpetrator is a member of the family or dating a member of
6 the family?

7 PROSPECTIVE JUROR NO. 132: Sure.

8 MS. LAVELL: I'm seeing everybody nod their head yes.

9 Is there anything based in your backgrounds, based in
10 your religious beliefs, your spiritual beliefs that would
11 prevent you from judging another human being or sitting in
12 judgment of another human being?

13 (No response.)

14 MS. LAVELL: Okay. I don't see any hands.

15 Is there anything in your personal world that would
16 preclude you or prevent you from finding the defendant guilty
17 if in fact the State meets its burden of proving each and every
18 element beyond a reasonable doubt?

19 (No response.)

20 MS. LAVELL: We have a showing -- nobody is raising
21 their hands.

22 Has anyone here -- does everybody here have an
23 opinion -- and raise your hand if the answer is, yes, you have
24 an opinion -- of what a sexually explicit photo is?

25 (No audible response.)

1 MS. LAVELL: So I'm seeing a number of jurors raising
2 their hands indicating that they have at least an opinion of
3 what a sexually explicit photo is.

4 If some of the images that you're shown do not meet
5 what your opinion of a sexually explicit photo is, will you be
6 able to follow the law and apply the law to the photo and not
7 your personal opinion?

8 (No audible response.)

9 MS. LAVELL: I'm seeing everybody nodding their
10 heads.

11 Is everybody nodding their head, yes, you'd be able
12 to follow the law, that raised their hands that they have an
13 opinion?

14 (No audible response.)

15 MS. LAVELL: Okay. Thank you.

16 Court's indulgence.

17 May we approach, Your Honor?

18 THE COURT: Sure.

19 (Conference at the bench not recorded.)

20 THE COURT: All right. At this time we're going to
21 excuse Mr. Oddo and Mr. Thomas. Don't get happy because we are
22 sending you back downstairs. You're excused from these
23 proceedings. We are going to have the bailiff, Officer Hawkes,
24 direct you back downstairs to jury services for possible
25 reassignment to another department.

1 We have 32 District Court departments, some of which
2 are handling civil matters, and some are handling criminal
3 matters. So you both would certainly be eligible to serve as
4 jurors on a civil jury trial, which is simply a lawsuit between
5 two different private entities.

6 All right. Thank you both.

7 PROSPECTIVE JUROR NO. 132: Thank you.

8 THE COURT: All right. And, Ms. Husted, please call
9 up the next prospective jurors.

10 THE CLERK: Yes, Your Honor.

11 Badge 153, Joan Conforti.

12 And Badge 155, Gene Krupa.

13 THE COURT: All right. We'll start with you, Ms.
14 Conforti. What do you do for a living?

15 PROSPECTIVE JUROR NO. 153: Retired.

16 THE COURT: From what type of work?

17 PROSPECTIVE JUROR NO. 153: I used to work in a
18 doctor's office, scanning. When the country became paperless,
19 I was a scanner for the doctors.

20 THE COURT: Okay. Was that here in town?

21 PROSPECTIVE JUROR NO. 153: No, that was actually in
22 New York.

23 THE COURT: Okay. And how long have you been here in
24 Clark County?

25 PROSPECTIVE JUROR NO. 153: A little over two years.

1 THE COURT: Okay. And so you scanned -- when they
2 went from paper to digital files, you did all the scanning?

3 PROSPECTIVE JUROR NO. 153: Correct.

4 THE COURT: Okay. And are you married?

5 PROSPECTIVE JUROR NO. 153: Yes.

6 THE COURT: What does your husband do, or what does
7 he --

8 PROSPECTIVE JUROR NO. 153: He's also retired.

9 THE COURT: From what type of work?

10 PROSPECTIVE JUROR NO. 153: He did home improvement.

11 THE COURT: Okay. Back in New York?

12 PROSPECTIVE JUROR NO. 153: Yes.

13 THE COURT: Any children?

14 PROSPECTIVE JUROR NO. 153: Two boys. One is an
15 Oregon. One is in Las Vegas.

16 THE COURT: Okay. And they're both grown?

17 PROSPECTIVE JUROR NO. 153: Yes, 42 and 45.

18 THE COURT: And do you have any grandchildren?

19 PROSPECTIVE JUROR NO. 153: No, I do not.

20 THE COURT: Okay. And let's see. Mr. Krupa, it says
21 here you live in Laughlin; is that correct?

22 PROSPECTIVE JUROR NO. 155: Yes.

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 155: Yes, that is correct.

25 THE COURT: All right. So you had to get up bright

1 and early this morning and drive here?

2 PROSPECTIVE JUROR NO. 155: Actually, I drove in last
3 night so I wouldn't get stuck in any traffic.

4 THE COURT: All right. Now, for people who live in
5 the outlying areas, like Laughlin and Mesquite, we recognize
6 that's a long drive.

7 PROSPECTIVE JUROR NO. 155: And I was going to raise
8 the hand. It sounded so petty, but, yes.

9 THE COURT: Okay. We leave it up to you. We
10 actually can put you up here by the courthouse in a hotel if
11 you serve as a juror because it's the policy that everybody who
12 resides in Clark County should be able to serve as jurors, you
13 know, if they would like to. We recognize however that that
14 puts an additional stress on you beyond what the jurors who
15 live, you know, here in Las Vegas or Henderson or what have.

16 Would serving as a juror and having to come in from
17 Laughlin or stay here, would that be a hardship for you, or
18 would you like to still have the opportunity to serve as a
19 juror if you're chosen, if you're selected?

20 PROSPECTIVE JUROR NO. 155: The time of it doesn't
21 seem too bad, the three or four days.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 155: I was hoping it would
24 have been a one-day, two-day deal, but --

25 THE COURT: Yes, those aren't -- we don't have a lot

1 of those --

2 PROSPECTIVE JUROR NO. 155: I hate not to take an
3 opportunity to have an out, but at the same time it's --

4 THE COURT: Okay. Like I said, you know, we leave it
5 up to people who live in the, you know, real outlying areas,
6 but we do provide the opportunity to have a room because, like
7 I said, it's also -- it's, you know -- both sides have the
8 right to a jury, but then citizens also have the right to be
9 considered to serve on juries, and so we want to be mindful of
10 making that right available to people.

11 So would you like to be considered, or would you like
12 me to excuse you?

13 PROSPECTIVE JUROR NO. 155: Excuse me.

14 THE COURT: All right. Thank you, sir. The bailiff
15 will direct you from the courtroom.

16 And we'll call up the next prospective juror.

17 THE CLERK: Badge 158, Marina Valero.

18 PROSPECTIVE JUROR NO. 158: Valerio.

19 THE CLERK: Valerio. Sorry.

20 THE COURT: Good morning. What do you do for a
21 living, ma'am?

22 PROSPECTIVE JUROR NO. 158: I work for the state of
23 Nevada at the Desert Regional Center.

24 THE COURT: Okay. And what do you do for them?

25 PROSPECTIVE JUROR NO. 158: I'm quality assurance.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 158: We provide funding for
3 people with intellectual disabilities.

4 THE COURT: Okay. Is that just intellectual
5 disabilities or also people with mental health issues?

6 PROSPECTIVE JUROR NO. 158: There's some people --

7 THE COURT: Some overlap?

8 PROSPECTIVE JUROR NO. 158: Yes.

9 THE COURT: Okay. And are you married, or do you
10 have a significant other?

11 PROSPECTIVE JUROR NO. 158: No.

12 THE COURT: Okay. And any children?

13 PROSPECTIVE JUROR NO. 158: No.

14 THE COURT: All right. I'm going to ask the two --
15 two of you if either one of you has ever served as a juror
16 before?

17 PROSPECTIVE JUROR NO. 153: I was selected for a jury
18 in New York, but before it went to trial the courts called me
19 up and said it was settled out of court.

20 THE COURT: Okay. So you never actually heard
21 evidence --

22 PROSPECTIVE JUROR NO. 153: No.

23 THE COURT: -- or testimony or anything like that --
24 And what about you Ms. Valerio?

25 PROSPECTIVE JUROR NO. 158: No.

1 THE COURT: Nothing, okay.

2 And you heard me ask the other prospective jurors if
3 any of them had been accused of crimes or arrested or had
4 anything like that happen to anyone close to them. Anything
5 like that in either of your backgrounds or anyone close to you?

6 PROSPECTIVE JUROR NO. 153: No.

7 PROSPECTIVE JUROR NO. 158: No.

8 THE COURT: And what about the flip side of that,
9 have either one of you ever been the victim of a crime?

10 (No response.)

11 THE COURT: Nothing?

12 PROSPECTIVE JUROR NO. 158: No.

13 THE COURT: Okay. Has anyone close to you ever been
14 the victim of a crime that you can think of?

15 PROSPECTIVE JUROR NO. 153: No.

16 PROSPECTIVE JUROR NO. 158: No.

17 THE COURT: Okay. Doing quality assurance for Desert
18 Regional, are you a social worker, or have you ever been a
19 social worker?

20 PROSPECTIVE JUROR NO. 158: I work with many people
21 who are social workers. I have a degree but not in social
22 work.

23 THE COURT: Okay. So you don't have a Master's of
24 Social Work or anything like that?

25 PROSPECTIVE JUROR NO. 158: No.

1 THE COURT: Okay. And in quality assurance, do you
2 have any kind of interaction at all with law enforcement,
3 any -- you know, if like -- does it involve any type of, like,
4 report of abuse or misconduct by staff or anything like that
5 that you have to look into?

6 PROSPECTIVE JUROR NO. 158: Well, I'm a trained state
7 investigator, and sometimes I do investigations into abuse,
8 neglect and exploitation.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 158: And our -- as quality --
11 my department, if there's an allegation of abuse and neglect
12 with the providers that we provide funding for, they have to do
13 investigations, and I review about five or six investigations a
14 week.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 158: And that's --

17 THE COURT: So it's first investigated in-house, and
18 you would review that, and then do you refer that out to, like,
19 law enforcement?

20 PROSPECTIVE JUROR NO. 158: It depends if it -- yeah,
21 it depends on the level of abuse.

22 THE COURT: Okay. All right. And then what kind
23 of -- is it kind of on-the-job training, or what kind of, I
24 guess, training did you have to work in this investigative
25 capacity?

1 PROSPECTIVE JUROR NO. 158: It's -- we get certified
2 as a -- we go through training, a three-day training, and then
3 we're recertified every year or every two years as a --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 158: So I'm actually scheduled
6 for a training on Friday.

7 THE COURT: Okay. And then do you in your job have
8 much interaction with law enforcement?

9 PROSPECTIVE JUROR NO. 158: Not directly, no.

10 THE COURT: Okay. So it would be more just referring
11 the matter to law enforcement, as opposed to actually working
12 or --

13 PROSPECTIVE JUROR NO. 158: Yeah.

14 THE COURT: -- and meeting with law enforcement?

15 PROSPECTIVE JUROR NO. 158: Right.

16 THE COURT: Okay. All right. Have you ever had to
17 be a witness in any kind of a criminal case --

18 PROSPECTIVE JUROR NO. 158: No.

19 THE COURT: -- in connection with an allegation of
20 abuse or anything like that?

21 PROSPECTIVE JUROR NO. 158: No.

22 THE COURT: Okay. State, do have any follow-up for
23 these two additional prospective jurors?

24 MS. LAVELL: No, Your Honor. I pass for cause.

25 THE COURT: All right. Pass the panel for cause?

1 MS. LAVELL: Yes, Your Honor.

2 THE COURT: All right. Mr. Jackson, you may follow
3 up with the panel.

4 MR. JACKSON: Thank you, Your Honor.

5 Well, I'm going to address each of you all at once,
6 and there's a big elephant in the room, and that was addressed
7 by two jurors who were very candid expressing their very great
8 distaste about the crime the defendant is charged with, one of
9 which is child pornography. It wouldn't surprise me that all
10 of you have very strong feelings about that, and you've all
11 assured me that you will evaluate this case carefully. Is that
12 true?

13 PROSPECTIVE JUROR: Uh-huh.

14 MR. JACKSON: Now, the prosecutor has already made a
15 determination. They believe the evidence they're going to
16 present to you is child pornography. You understand that; is
17 that right?

18 (No audible response.)

19 MR. JACKSON: But they're not the ones that make the
20 decision in this case. You understand that as well; is that
21 correct?

22 (No audible response.)

23 MR. JACKSON: Each of you, each of you will have to
24 decide whether or not each piece of evidence they present is
25 child pornography based on the law the Judge gives you; do you

1 understand that?

2 (No audible response.)

3 MR. JACKSON: Can you each reach an opinion
4 individually?

5 (No audible response.)

6 MR. JACKSON: Now, whether you think the actual act
7 is improper or distasteful or even disgusting, you'll have to
8 evaluate the evidence the State presents without any
9 preconception; can you do that?

10 (No audible response.)

11 MR. JACKSON: Right now you don't know anything about
12 the case; is that correct?

13 (No audible response.)

14 MR. JACKSON: And when the prosecution gets up and
15 gives their opening statement, you understand that that's not
16 evidence?

17 (No audible response.)

18 MR. JACKSON: It's only until you see and hear the
19 evidence presented will you start forming your opinion; is that
20 correct?

21 (No audible response.)

22 MR. JACKSON: Can each of you promise me you won't
23 make a decision until all the evidence is presented, until you
24 get back in that jury room?

25 (No audible response.)

1 MR. JACKSON: Now, there are a number of you that
2 told the Court that you've had some contact with law
3 enforcement; is that correct, either as security personnel or
4 people that have worked in some kind of ancillary position
5 where you have contact with law enforcement through your jobs?

6 (No audible response.)

7 MR. JACKSON: Can you promise me that you will not
8 let that experience influence you in evaluating the testimony
9 of police officers, each of you that have done that?

10 (No audible response.)

11 MR. JACKSON: I think somebody said there are both
12 good cops and bad cops; is that right?

13 (No audible response.)

14 MR. JACKSON: Would each of you on the jury agree
15 that sometimes police officers are overzealous in their work?

16 (No audible response.)

17 MR. JACKSON: Is that fair? Would that be fair that
18 occasionally a police officer could make a mistake?

19 (No audible response.)

20 MR. JACKSON: You will not automatically accept the
21 testimony of a police officer as true; is that correct?

22 (No audible response.)

23 MR. JACKSON: And just because a child of 16 or 17
24 years of age comes in and testifies, you will not automatically
25 give that child greater sympathy or greater credibility just

1 because she's a child; is that correct?

2 (No audible response.)

3 MR. JACKSON: You'll listen carefully to what a child
4 witness might say and evaluate her testimony according to all
5 the facts that you've heard; is that right?

6 (No audible response.)

7 MR. JACKSON: Do you believe you can do that?

8 (No audible response.)

9 MR. JACKSON: Do you believe that children sometimes
10 lie?

11 (No audible response.)

12 MR. JACKSON: Or sometimes have a motive to make
13 false statements, even under oath?

14 (No audible response.)

15 MR. JACKSON: Mr. Shue, if he chooses to testify in
16 this case, will you give his testimony the weight it deserves,
17 which is the same as any other witness, after listening to him
18 testify, listening to the cross-examination, hearing the full
19 testimony and comparing it with all the other testimony?

20 (No audible response.)

21 MR. JACKSON: If however he chooses not to testify,
22 will you follow the Judge's instructions that he does not have
23 to testify under the Constitution?

24 (No audible response.)

25 MR. JACKSON: And you can't hold that against him if

1 he chooses not to; do you understand that?

2 (No audible response.)

3 MR. JACKSON: The fact -- if the defendant chooses
4 not to present any evidence, except through cross-examining the
5 State's witnesses, will you follow the Judge's instructions and
6 hold the State to its burden in this case?

7 (No audible response.)

8 MR. JACKSON: Now, sometimes during this trial I may
9 not be able to stand because I have a medical -- medical
10 condition. I had a blood clot in my leg a short time ago. So
11 it won't be out of disrespect to you or the Court -- and I've
12 explained that to the Court --

13 And, Your Honor, if --

14 THE COURT: That's fine.

15 MR. JACKSON: When I stand for long periods of time,
16 my left leg hurts. I want you to understand that I truly
17 respect the court system, the prosecutors and you ladies and
18 gentlemen of the jury.

19 Mr. Shue and I are going to ask for your full
20 attention during this trial. Every piece of evidence is
21 important, what the prosecutor presents, what evidence, if any,
22 we present during this trial. Can you give the defendant and
23 the State your full attention during this trial?

24 (No audible response.)

25 MR. JACKSON: I know each and every one of you

1 probably have other things in your life that you could probably
2 find more important to you at this exact time, but you all
3 realize the seriousness and the importance of your service
4 here; is that correct?

5 (No audible response.).

6 MR. JACKSON: And we thank you very much for being
7 here.

8 I have no other questions at this time.

9 THE COURT: All right. Thank you, Mr. Jackson. Pass
10 the panel for cause?

11 Mr. Jackson --

12 MR. JACKSON: Yes.

13 THE COURT: Pass for cause, all right. Thank you.
14 The State may exercise its challenge.

15 MS. LAVELL: Your Honor, the State thanks and excuses
16 Badge No. 0145, Mr. Glenn Sorrells.

17 THE COURT: Sir, thank you very much for being here
18 and your willingness to serve as a juror. You are excused at
19 this time.

20 And if the clerk would please call up the next
21 prospective juror.

22 THE CLERK: Yes, Your Honor.

23 Badge 163, Barbara White.

24 THE COURT: Ms. White, come on down, and please have
25 that empty chair there in the front row of the jury box.

1 Good morning, Ms. White. What you do for a living?
2 PROSPECTIVE JUROR NO. 163: I'm a retail manager.
3 THE COURT: Okay. For what type of a store?
4 PROSPECTIVE JUROR NO. 163: DSW Shoe Store.
5 THE COURT: Okay. And are you married, or do you
6 have a significant other?
7 PROSPECTIVE JUROR NO. 163: Married 35 years.
8 THE COURT: And what does your husband do?
9 PROSPECTIVE JUROR NO. 163: He's an investigator for
10 the Nevada State Contractors' Board.
11 THE COURT: Okay. How long has he been doing that?
12 PROSPECTIVE JUROR NO. 163: Eight years.
13 THE COURT: Okay. What did he do prior to that time?
14 PROSPECTIVE JUROR NO. 163: He was in upper
15 management at Dollywood in Tennessee.
16 THE COURT: Okay. Were you living in Tennessee at
17 the time?
18 PROSPECTIVE JUROR NO. 163: We were.
19 THE COURT: Okay. And as an investigator for the
20 State Contractors' Board, he looks into allegations of
21 contracting without a license and that kind of thing?
22 PROSPECTIVE JUROR NO. 163: Yes, and also subpar
23 workmanship and things.
24 THE COURT: Okay.
25 PROSPECTIVE JUROR NO. 163: So complaints as well.

1 THE COURT: Okay. So I am assuming that -- or does
2 he -- does he talk to you about his work very much?

3 PROSPECTIVE JUROR NO. 163: Not a lot, no.

4 THE COURT: Okay. But I'm assuming as part of his
5 work he has to put together criminal prosecutions against
6 unlicensed contractors?

7 PROSPECTIVE JUROR NO. 163: He does the investigating
8 at -- at the homeowner's house --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 163: -- to determine if they
11 have reason to establish a case or go to a hearing.

12 THE COURT: Okay. Do you know if he ever testifies
13 in, you know, Justice Court in criminal prosecutions against
14 unlicensed contractors?

15 PROSPECTIVE JUROR NO. 163: Not that I'm aware of.

16 THE COURT: Not that you're aware of?

17 PROSPECTIVE JUROR NO. 163: Yeah.

18 THE COURT: Okay. Would most of his work then be in
19 front of the licensing board?

20 PROSPECTIVE JUROR NO. 163: Yes.

21 THE COURT: Okay. So he's more concerned with when
22 people apply to get licenses or when there's to be discipline
23 on somebody for their license; is that right?

24 PROSPECTIVE JUROR NO. 163: Yes.

25 THE COURT: As opposed to criminal charges?

1 PROSPECTIVE JUROR NO. 163: Yes.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 163: And to see if the -- if
4 the contractors need to go back and actually redo something.

5 THE COURT: Okay. All right. More of a civil-type
6 dispute --

7 PROSPECTIVE JUROR NO. 163: Uh-huh.

8 THE COURT: -- between the homeowner and the
9 contractor?

10 PROSPECTIVE JUROR NO. 163: Yes.

11 THE COURT: Okay. And do you have any children?

12 PROSPECTIVE JUROR NO. 163: I have two, 33-year-old
13 daughter, 30-year-old son.

14 THE COURT: Any grandchildren?

15 PROSPECTIVE JUROR NO. 163: Three.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 163: 10-year-old granddaughter
18 and 8-year-old grandson and 8-month-old grandson.

19 THE COURT: Do they live in town?

20 PROSPECTIVE JUROR NO. 163: I live about a mile from
21 them, yes.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 163: And I see them two or
24 three times a week, and I moved here from Tennessee to do that.

25 THE COURT: To be with them, okay. So you're close

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 JOSHUA C. SHUE,

) No. 67428
)
)

4 Appellant,

5 v.
6)

7 THE STATE OF NEVADA,

8 Respondent.
9 _____)

10 **APPELLANT'S APPENDIX VOLUME III PAGES 457-639**

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17 **CERTIFICATE OF SERVICE**

18 I hereby certify that this document was filed electronically with the Nevada
19 Supreme Court on the 20 day of July, 2015. Electronic Service of the
20 foregoing document shall be made in accordance with the Master Service List as follows:

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23 I further certify that I served a copy of this document by mailing a true and
24 correct copy thereof, postage pre-paid, addressed to:

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