

1 THE DEFENDANT: Yes.
 2 THE COURT: And if your lawyers ask, I will give an
 3 instruction that says the jury may not take into consideration, in
 4 any fashion, the fact that you have not testified; and, in fact,
 5 it cannot even be discussed in the jury room, the idea being that
 6 if one juror brings it up, another juror is going to say: Wait a
 7 minute. We can't talk about that.
 8 Do you understand that?
 9 THE DEFENDANT: Yes, Your Honor.
 10 THE COURT: Is that an instruction you like generally,
 11 Mr. Pike?
 12 MR. PIKE: Yes, Your Honor.
 13 There is one other question that I would ask that you ask
 14 during the canvass, that the defendant is aware of the fact that
 15 if he waives that right or if he does not invoke his right to not
 16 testify and if he does testify and if the matter is remanded for a
 17 second trial, then the testimony may be admitted whether he
 18 chooses to testify at a second trial or not.
 19 THE COURT: Do you understand that?
 20 THE DEFENDANT: Yes, Your Honor.
 21 THE COURT: It's no different than anything that you say.
 22 Anything that a defendant says at any time, as long as it's not
 23 coerced, can potentially be used against him, whether you say it
 24 to a cellmate, whether you say it to a police officer, whether you
 25 say it at a preliminary hearing or in trial.

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1 Do you understand that?
 2 THE DEFENDANT: Yes, Your Honor.
 3 THE COURT: Maybe, most importantly, if you have a felony
 4 conviction and less than ten years has elapsed from the date you
 5 were convicted, discharged, in prison, parole or probation,
 6 whichever is later, then if you do testify, the State can ask you:
 7 Have you been convicted of a felony; what was the felony; and when
 8 was it? But they can't ask you details.
 9 Do you understand that?
 10 THE DEFENDANT: Yes, Your Honor.
 11 THE COURT: But if you don't testify, they can't bring
 12 any of that up.
 13 Do you understand that?
 14 THE DEFENDANT: Yes.
 15 THE COURT: Whether you testify or not, they cannot bring
 16 up gross misdemeanors or misdemeanor convictions or arrests that
 17 didn't amount to a felony conviction. Fair enough?
 18 THE DEFENDANT: Yes.
 19 THE COURT: Okay. Understanding those rights, I want you
 20 to, as you go along, but particularly at the appropriate time,
 21 discuss with Mr. Pike and Mr. Patrick what is the best strategic
 22 thing to do and then make your decision.
 23 Now I'm going to assume when the time comes, if they call
 24 you to the stand, that is your decision. In other words, they can
 25 advise you all they want, but the ultimate decision is yours.

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1 So if Mr. Pike doesn't call you to the stand, I'm going
 2 to assume that's your decision. If he does call you to the stand,
 3 I'm going to assume that's your decision. But you give me the
 4 time out sign.
 5 So if he doesn't call you to the stand and you want to
 6 testify, you say: Judge, could I have just a minute to talk to my
 7 lawyer.
 8 I will be glad to do it. It won't make any big scene.
 9 You can just huddle. The ultimate decision is yours.
 10 So unless you do that, his decision is your decision.
 11 Fair enough?
 12 THE DEFENDANT: Yes.
 13 THE COURT: Okay. Now, Miss Weckerly, you wanted to
 14 excuse Miss Hammond. And I'm not sure to what end it --
 15 MS. WECKERLY: Probably not a big thing.
 16 THE COURT: You can make a record. Go ahead.
 17 You approached the bench with Mr. Pike and I said I've
 18 been following along and I knew some of the reasons why the State
 19 might rather have somebody else, particularly in a case of this
 20 nature when the penalty is going to be decided, but I just didn't
 21 see the basis to -- to overcome Batson.
 22 I understood the argument. I just didn't think it was
 23 one that was persuasive.
 24 But go ahead and put it on the record.
 25 MS. WECKERLY: Well, as the Court said, I'm not sure what

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1 our remedy is at this point, but Miss Hammond expressed several
 2 times -- I counted at least three times -- where she said she had
 3 very mixed feelings about the death penalty.
 4 She talked about growing up and hearing her parents
 5 discuss a mode of imposing the death penalty, the electric chair,
 6 and indicated that that was disturbing to her.
 7 And because of her equivocations about the death penalty
 8 and how she characterized it several times as mixed feelings about
 9 it, we were going to seek to -- I understand that won't rise to
 10 the level of a cause challenge, but the State felt that she could
 11 be excused on a peremptory challenge.
 12 And I would also note, for the record, we excused
 13 Mr. McCaslin, who also was equivocal about the death penalty as
 14 well. He is not of the same race as Miss Hammond. So, to me,
 15 that was a race neutral reason.
 16 And the State also was happy to keep Mr. Knox on the jury
 17 as well. He's also African American, but was not equivocal at all
 18 about his feelings about the death penalty.
 19 THE COURT: Well, you can excuse anybody you want for any
 20 reason and you can excuse them because they wear a red hat, as
 21 long as the other side doesn't have a legitimate legal basis to
 22 quarrel with that excuse.
 23 So I don't know what your reasons were for the others. I
 24 can see your reasoning; you know, she said that -- I mean, she was
 25 just -- you asked her if they talked about the death penalty and

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1 she said yeah, they talked about it and they talked about the
2 electric chair. I got the impression that there is a certain
3 feeling of inhumanity in that particular method of imposition of
4 death penalty. Although she's an educated woman, she's a second
5 grade teacher, and she is aware and she made it clear that she is
6 aware that nobody uses the electric chair anymore and that wasn't
7 the form of the death penalty in this state.

8 So it wasn't like that is potentially going to be a
9 reason why she won't do it. I just think it might come back to
10 bite you. And I believe that when Mr. Pike challenged at the
11 bench, there was a discussion that he was on the legal ground and
12 that's why I ruled that way.

13 Mr. Pike, anything to add?

14 MR. PIKE: No, Your Honor.

15 I think the way I interpreted it was exactly the fact of
16 the electric chair and the reference from another jury about the
17 green mile and in that there was a very bad scene about the
18 electric chair where the individual caught fire.

19 THE COURT: Let me say this: There is no doubt in my
20 mind that the race of the juror had nothing to do with the reason
21 that you might not want her.

22 I think she just isn't going to be a strong juror in
23 terms of the potential of the death penalty. But that isn't the
24 standard for me as a judge. It has to be can you articulate other
25 reasons that would overcome somebody who doesn't know you arguing

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1 that that was your -- why he did it.

2 Let me go back to your -- this Browning case, which I
3 have now.

4 Mr. Pike, I don't really think that applies to the
5 situation you were talking about.

6 In Browning, this wasn't really a big part of the
7 decision, but what happened was there was a juror who said: I'm
8 opposed to the death penalty on religious grounds. Okay?
9 Automatically, they're gone.

10 But they ask a couple more questions and the juror
11 finally said: Well, I could see some occasions where the death
12 penalty would be appropriate.

13 They battered back: How about -- well, it doesn't say.
14 It just says some circumstances. I suppose somebody said, well,
15 how about the Oklahoma City bombing and all. And then the juror
16 was all over the board over whether he even could impose the death
17 penalty.

18 And, finally, Judge Pavlikowski said: Well, okay. In
19 this kind of a situation, could you even impose the death penalty?
20 Is that possible?

21 And he said he couldn't; he said he couldn't. So Judge
22 Pavlowski said, well, if you can't, then you are not eligible.

23 And the Supreme Court said: Okay. Well, it was okay for
24 the judge to do that to try and ferret out that this was a
25 circumstance where he couldn't; and, hence, he was

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1 jurisdictionally precluded from being a juror.

2 It isn't what we as lawyers like to do. I like to do
3 what I like to do when I'm a lawyer. What you like to do when you
4 are a lawyer is sort of give them the facts of this case and
5 suppose you can say how about a case like this, tell me where you
6 stand. How would you feel about that?

7 I mean if you ferret out couldn't, that's different than
8 trying to kind of get a flavor for where they may go in a
9 particular case. So that's the reason we don't allow hypothetical
10 instances or hypotheticals. But Judge Pavlikowski had to decide
11 whether or not he was going to sua sponte eliminate this juror on
12 jurisdictional grounds.

13 So I don't think -- and they just said, okay, what he did
14 in this particular circumstance, given the fact that he was back
15 and forth, back and forth, was the reasonable way to make that
16 determination. I don't think they necessarily approved this as a
17 general proposition of law.

18 Anything else?

19 MS. WECKERLY: No, Your Honor.

20 I mean, I would judge that was a for cause challenge.

21 THE COURT: You don'ts. Just kidding.

22 MS. WECKERLY: I'll be here tomorrow.

23 THE COURT: Just kidding.

24 THE WITNESS: I know if I wait until tomorrow, it will be
25 better.

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1 MS. WECKERLY: It will.

2 THE COURT: And longer.

3 What else?

4 MS. WECKERLY: That's it.

5 MR. PIKE: Nothing by the defense, Your Honor.

6 THE COURT: Okay. We'll see you tomorrow.

7 MR. PIKE: Thank you very much.

8 THE COURT: Thanks. You guys are professionals as
9 always.

10 We'll try to get started on time.

11

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(Proceedings concluded.)

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ATTEST: Full, true and accurate transcript of proceedings.

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Renée Silvaggio
RENEE SILVAGGIO, C.C.R. 122

Official Court Reporter

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CASE NO. C228755

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DEPT. NO. VII

ORIGINAL

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DISTRICT COURT

E. J. H.
CLERK OF THE COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

Reporter's Transcript
of
Jury Trial

vs.

Volume 2-A

NORMAN KEITH FLOWERS,
aka NORMAN HAROLD
FLOWERS, III,
Defendant.

BEFORE THE HON. STEWART BELL, DISTRICT COURT JUDGE

THURSDAY, OCTOBER 16, 2008

9:30 A.M.

APPEARANCES:

For the State:

Pamela Weckerly, Esq.
Elissa Luzaich, Esq.
Deputies District Attorney

For the Defendant:

Randall Pike, Esq.
Clark Patrick, Esq.
Deputies Public Defender

Reported by: JoAnn Orduna, CCR No. 370

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2 DEPT. NO. VII

3

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5 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,)
8 Plaintiff,) Reporter's Transcript
9 vs.) of
10) Jury Trial
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20 For the State: Pamela Weckerly, Esq.
21 Elissa Luzaich, Esq.
22 Deputies District Attorney

23 For the Defendant: Randall Pike, Esq.
24 Clark Patrick, Esq.
25 Deputies Public Defender

25 Reported by: JoAnn Orduna, CCR No. 370

1 LAS VEGAS CLARK COUNTY, NV, THURS. OCT 16, 2008

2 9:30 A.M.

3 -o0o-

4 P R O C E E D I N G S

6 THE COURT: Okay. Let's go back on the
7 record in Case No. C228755, State of Nevada versus
8 Norman Flowers.

9 Let the record reflect the presence
10 of Mr. Flowers with his counsel, counsel for the
11 State. All ladies and gentlemen of the jury of the
12 jury are back in the box. Good morning, ladies and
13 gentlemen.

14 Everybody ready to proceed?

15 MS. WECKERLY: Yes, Your Honor.

16 MR. PIKE: Yes.

17 THE COURT: In this case under the rules,
18 you're allowed to hear not only evidence about the
19 crimes charged but about some other potential crimes
20 under limited circumstances.

21 And there's gonna be mention of
22 those crimes or at least a crime that is different
23 than the crime that you're here to decide.

24 And the rule says that every time
25 there's some evidence about that or in the abundance

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4
1 of caution, even if there's an argument about that,
2 then I need to remind you of the limited purpose for
3 which that can be considered. And I know Ms.
4 Weckerly is gonna talk about it in her opening.

5 So evidence of crimes, not the crime
6 before you, cannot be considered by you unless you
7 first find that that crime has been proven by plain,
8 clear and convincing evidence. And if you do, then
9 evidence that the defendant committed offenses other
10 than the one for which he is on trial, if believed,
11 may be considered not to prove that he's a person of
12 bad character or that he has a disposition to commit
13 crimes, but may be considered only for the limited
14 purpose of proving his identity, knowledge, intent,
15 motive or absence or misstated accident in the case
16 before you. And you can consider this evidence like
17 all other evidence.

18 Now, it sounds kind of like
19 gibberish, but I guarantee you after a couple of
20 times of me telling you this and you kind of see how
21 it plays in, then it will make sense to you.

22 Ms. Weckerly.

23 MS. WECKERLY: Good morning. In his play
24 The Merchant of Venice, William Shakespeare once
25 wrote, Murder cannot be hid long, the truth shall

1 come to light.

2 And in a more modern twist in this
3 particular case, the truth about murder came to
4 light as a result of science.

5 Sheila Quarles never made it to her
6 19th birthday. She was killed about three months
7 before she turned 19. Her death wasn't easy and it
8 wasn't quick. She was sexually assaulted at the
9 time she was killed. She was strangled probably
10 manually with someone's hands and it would have
11 taken several minutes for her to die. She was also
12 drowned in the course of her death.

13 What was unusual about her case is
14 that her murder likely would have gone unsolved but
15 for the science of DNA evidence.

16 In March of 2005, Sheila Quarles was
17 living with her mother. Her mother's name is Debra.
18 And Debra had a nickname for Sheila and her nickname
19 was Pooka. Debra and Sheila lived at 1001 North
20 Pecos in a very small modest apartment. It was a
21 one-bedroom apartment.

22 At the time, Sheila was working at a
23 Starbucks in the convention center and Debra her
24 mother was working at the family food store.

25 Sheila had older brothers who lived

1 in town but not at the apartment.

2 During this time period, Sheila was
3 of course just 18 years old and she had a lot of
4 different social contacts. She had friends, she was
5 well liked at her work. She was involved in a
6 sexual relationship with a young man by the name of
7 George Brass.

8 Brass was sort of a friend of the
9 family. Sheila's mother Debra knows George Brass's
10 mother, she also lives at the apartment complex.
11 George Brass was also friends with Sheila's older
12 brother, a young man by the name of Ralph.

13 And George Brass had family members
14 who were also living in the apartment complex. His
15 uncle lived there, his mom lived there as I said and
16 he had a sister living there as well.

17 Now, in addition to seeing George
18 Brass, Sheila also had a sexual relationship with a
19 woman by the name of Quince Toney.

20 Now, as you might imagine or you
21 might understand or it might be not surprising to
22 you, her relationship and the nature of her
23 relationship with Quince Toney wasn't as opened as
24 it was with George Brass. Her mother Debra knew
25 sort of of the relationship, but she didn't know the

1 exact nature of it and Sheila didn't share a lot
2 about that relationship with her friends.

3 Like every other 18 year old young
4 woman, Sheila had a cell phone and she talked on her
5 cell phone quite a bit. And her cell phone becomes
6 important in this case because it sort of provides a
7 time line of the last few hours of her life.

8 In the few days leading up to
9 Sheila's murder, she had a minor health issue. She
10 went to the doctors and she was treated for a
11 bladder type kidney infection. Her mom took her to
12 the doctors, she got some blood work done on her and
13 she was prescribed simple antibiotics for treatment
14 of that infection.

15 On the evening of March the 23rd,
16 2005, which is the night before she was murdered,
17 Sheila left her mom's apartment and actually spent
18 the night at Quince Toney's apartment, the young
19 woman she was involved with. And Ms. Toney lived
20 with her mother.

21 Sheila's mother Debra stayed back at
22 the Pecos apartment on the night of the 23rd. She
23 socialized with other neighbors at the apartment
24 complex. One man in particular by the name of
25 Robert Lewis spent time with Debra Quarles on the

1 night of the 23rd.

2 On the morning of the 24th of 2005,
3 Sheila comes back home. He friend Quince drops her
4 off at the Pecos apartment and her mom Debra is home
5 and sees Sheila arrive home at 6:00 in the morning.
6 Debra's getting ready for work but she sees her
7 daughter come home. Sheila's in good health, she's
8 in good spirits. Nothing unusual about when she
9 arrives home at 6:00 in the morning.

10 Sheila because she had this medical
11 issue was staying home from work that day. Her mom
12 Debra was going to work which meant that Sheila
13 would be in the apartment alone throughout the day
14 on the 24th of 2005.

15 Debra leaves for work and Sheila
16 with that cell phone is conversing with people
17 throughout the morning. She calls Quince Toney, the
18 young woman that she had spent the night with,
19 several times throughout day. Ms. Toney was at
20 work, but she works as a para transit bus driver so
21 she's driving elderly and disabled people all over
22 town.

23 And during the morning hours of
24 March the 24th of 2005, Ms. Toney speaks on the
25 phone several times with Sheila. At one point Ms.

1 Toney hears -- oops. At one point Ms. Toney hears
2 music playing in the background as she's talking to
3 Sheila. And that wasn't surprising to her because
4 Debra Quarles had recently purchased a new stereo
5 for the apartment. So Sheila's talking to her
6 friends Quince. She also talks to her mother
7 throughout the day a couple of times just checking
8 in with her.

9 The last person who has a
10 conversation with her or the last time Sheila
11 Quarles has a conversation is just a little bit
12 before noon on the 24th. The last time Sheila's
13 cell phone is used is at 1:35 in the afternoon. So
14 about an hour and a half later.

15 And what happens in that case is
16 Quince is called by Sheila's cell phone at 1:35, but
17 when Quince answers the phone, no one is on the
18 other side. And that's the last time that Sheila's
19 cell phone is used.

20 Debra got off at work at about 2:00
21 in the afternoon on the 24th of 2005. So that would
22 have been a little under a half hour after the last
23 time Sheila's cell phone is used.

24 And when Debra gets off work at 2
25 o'clock, she gives a friend a ride somewhere and

1 then she also stops at a grocery store to get some
2 groceries to take home to the Pecos apartment.
3 Debra arrives back at the Pecos apartment at a
4 little before 3:00 in the afternoon. So it takes
5 her just short of an hour after she's off work to
6 get back to the Pecos apartment.

7 And as she arrives at the Pecos
8 apartment, she's got some bags with her and she
9 honks the horn to get help carrying in her bags of
10 groceries. Sheila of course doesn't come out to
11 help her, but a neighbor by the name of Robert Lewis
12 comes down and helps Debra bring her bags into the
13 Pecos apartment.

14 Debra goes up to the door, the front
15 door of her apartment, and the door is closed but
16 it's not locked. And her friend Robert Lewis is
17 following behind her. As Debra walks into her
18 apartment, she notices something unusual, the stereo
19 that she had just bought the brand new stereo is
20 missing.

21 And as she is proceeding into the
22 apartment, she's calling out her daughter by her
23 nickname. She's calling out the name Pooka, but
24 she's getting no response.

25 And Debra will also tell you as

1 she's moving through the apartment, she has a sense
2 of moisture being in the air. She gets no response
3 and she goes inside the apartment further and
4 eventually gets to the bathroom area of the
5 apartment.

6 Once she's in the bathroom, the
7 shower curtain had been pulled shut. Debra pulls
8 the curtain back and finds her daughter submerged in
9 the bathtub with just a little bit of her face
10 outside of the water.

11 Debra falls backwards into Mr.
12 Lewis, she panics, she becomes hysterical and Robert
13 Lewis is actually the man that lists Sheila Quarles
14 out of the bathtub, and he and her mother put a
15 towel and a shirt over her.

16 Debra runs out of the apartment and
17 goes to a neighbor's house to call 911 to get
18 assistance for her daughter. She's so hysterical
19 that it's actually her neighbor who ends up making
20 the call. And then Debra leaves and goes to get
21 Sheila's brother Ralph who's at -- who lives near
22 by.

23 Paramedics arrive at the apartment
24 complex, but it's too late for them to render aid
25 and revive Sheila.

1 What was strange about Sheila's
2 appearance on the afternoon of her death was that
3 she had no apparent external injuries. There was no
4 gunshot wounds that was visible, there was no stab
5 wound that was visible.

6 There was stuff that was knocked
7 over in a very, very small bathroom so there was
8 speculation did she slip and fall and hit her head,
9 maybe she had a reaction to the medication she was
10 on, but that didn't really make sense either because
11 it was just simple antibiotics.

12 Underneath Sheila's body was her
13 clothing which was also a little bit unusual. Her
14 jeans were underneath her, a hair piece was
15 underneath her and her bra and undergarment was
16 underneath her. And those items were wet probably
17 from her getting pulled out of the bathtub and
18 laying on top of them.

19 In particular, her jeans looked
20 strange. Her underwear on her jeans were actually
21 pulled up but on the outside of her jeans. They
22 didn't appear as they would be if someone had taken
23 off their clothing by themselves and gotten into a
24 bathtub.

25 The next day Sheila's body was

1 autopsied and that gave quite a bit more clues about
2 what happened to her and what caused her death.

3 Externally there were two what we
4 would call superficial injuries to her body. She
5 had a bruise on her left abdomen and she had a
6 scrape on her knee.

7 Now certainly these injuries didn't
8 cause her death but they were contemporaneous with
9 her death, meaning they occurred at the same time as
10 her Beth death.

11 Her internal examination at autopsy
12 revealed quite a bit more about how she died. For
13 instance, she had two hemorrhages on her head on her
14 right scalp and she had several injuries to her neck
15 area. She had a hemorrhage on her esophagus. She
16 had a hemorrhage on the right side of her neck. She
17 had hemorrhages in the strap muscles near her neck.
18 She had a hemorrhage near the hyoid bone on her neck
19 and she had a hemorrhage on her larynx, all of which
20 are indicative of strangulation.

21 Her lungs at autopsy had fluid in
22 them which told the doctor that she had drowned and
23 had had water in her lungs before she had died.

24 One other very significant finding
25 at autopsy was that Sheila Quarles had lacerations,

1 multiple lacerations to her introitus which is
2 indicative of being a victim of a sexual assault and
3 those injuries were contemporaneous, meaning at the
4 same time as her death.

5 At autopsy, DNA samples were taken
6 from the vaginal vault of Sheila Quarles and those
7 were collected by crime scene analyst and eventually
8 were entered into a database.

9 Unlike TV, the entry of information
10 in databases in real life unfortunately doesn't
11 occur instantly and it's actually several months
12 before the data or the DNA evidence from Ms. Quarles
13 is actually put into the information database that
14 stores DNA.

15 So the police had this case where
16 they have a perfectly healthy 18 year old girl that
17 they now know was the victim of a sexual assault and
18 a murder at the time she died, but there was
19 certainly no obvious suspect available to the police
20 as they investigated the case.

21 They certainly considered the
22 possibility that Quince her lesbian girlfriend was a
23 potential suspect, but she had an alibi. She was at
24 work at the time that Ms. Quarles was killed.

25 They also even considered well maybe

1 her mother is a possible suspect and maybe she
2 didn't approve of their relationship with Quince,
3 but Ms. Quarles was also at work and had an alibi at
4 the time Sheila was killed. And the fact that there
5 was a missing stereo didn't really seem to fit with
6 a crime committed by her mother.

7 Remember, the mom's friend Robert
8 Lewis who helped take Sheila out of the bathtub,
9 well, he was considered a suspect as well. The
10 police collected a DNA sample from him and
11 ultimately compared it to the DNA collected from
12 Sheila Quarles vaginal vault taken at autopsy and he
13 was eliminated as a source of that DNA. So he was
14 eliminated as a suspect.

15 The police spent time talking to
16 Debra Quarles, Sheila's mother, about who might have
17 done this to her daughter. And really she was an 18
18 year old girl who went to work and she was well
19 liked. Ms. Debra Quarles couldn't identify anyone
20 who might have a grudge against her, any enemies and
21 she wasn't really able to provide them with a
22 suspect.

23 And to be fair at the time,
24 obviously it was a really emotional time for Debra
25 Quarles, but she and the police were unable to

1 really formulate who might be a suspect in the case
2 of Sheila Quarles murder.

3 So the case sort of goes cold for
4 the next several weeks. They know they have DNA
5 evidence and they know that she was sexually
6 assaulted at the time of her death. The analysis of
7 the semen collected from Sheila Quarles's vaginal
8 vault at the time of autopsy indicated that there
9 were two male sources of DNA in her at the time of
10 her death.

11 They contact Debra, did she know of
12 any boyfriends that Sheila had at the time. And,
13 you know, Sheila's like a lot of 18 year olds, maybe
14 isn't telling her mother everything she's doing, and
15 there really isn't a suspect identified by Debra.

16 They pull Sheila Quarles's cell
17 phone records to see who she was in phone contact
18 with. And on the day of the murder, she's in
19 contact with Quince and her mother Debra just as
20 they had indicated to the police.

21 So not much happens in the week
22 following the murder that's productive in terms of
23 identifying who is responsible for Sheila Quarles
24 murder.

25 But about six weeks later on May the

1 3rd of 2005, actually it's about five weeks later,
 2 the police learn about an event that gives them more
 3 information about the identity of the person who
 4 killed Sheila Quarles. It gives them information
 5 about the motive of Sheila Quarles's killer and it
 6 gives them information about the intent of Sheila
 7 Quarles's murderer and also it gives them
 8 information about the nature of the sexual assault
 9 that took place on Sheila Quarles.

10 On May the 3rd of 2005, a 45 year
 11 old woman by the name of Marilee Coote was working
 12 at the Andre Agassi school. She lived at 6650 East
 13 Russell which is obviously an apartment complex.

14 And on the 3rd of May, she didn't
 15 show up for work on time. And her co-workers were
 16 very concerned about that because she was a very
 17 responsible employee. So they called her apartment
 18 managers at the East Russell apartment and they
 19 asked them to do what's called a welfare check. Go
 20 knock on the door, make sure she's okay.

21 The manager of the apartment at that
 22 time is a young woman by the name of Monica Ramirez
 23 and she and another co-worker get the call to go do
 24 this welfare check on Marilee, and she and the other
 25 employee go up to Marilee's apartment. And they

1 have a master key. They knock on the door and get
 2 no response. And they have a master key that let's
 3 them into the apartment.

4 When they go inside Marilee's
 5 apartment, they find Marilee Coote laying on her
 6 living room floor completely naked, face up. They
 7 find her completely unresponsive and they call 911
 8 to get emergency responders to come to the scene.

9 Very similar to Sheila Quarles,
 10 Marilee Coote had no outward signs of injuries. She
 11 certainly didn't have a gunshot wound or a stab
 12 wound.

13 One very unusual thing though about
 14 the condition of Marilee Coote was that her inner
 15 thighs and her pubic hair had been burned. It was
 16 singed and there was incense on top of her, but she
 17 didn't have anything externally that told the police
 18 how she may have died.

19 A couple other odd things in Marilee
 20 Coote's apartment, when they looked into the
 21 bathroom of the master bedroom, they found several
 22 items of paper and personal property of Marilee
 23 Coote submerged in water. In her laundry room, they
 24 found ice cube trays, wallets and other items of
 25 personal property that had looked like they had gone

1 through a wash cycle at her apartment.

2 Marilee Coote was also autopsied the
 3 next day. And similar to Sheila Quarles, her neck
 4 internally, the damage indicated that she had been
 5 strangled. Also similar to Sheila Quarles, she had
 6 injuries to her vaginal area which was indicative of
 7 sexual assault.

8 Now one other piece of evidence that
 9 the crime scene analyst collected at Marilee Coote's
 10 apartment was a piece of carpet underneath which
 11 underneath where her legs would have been, the top
 12 of her legs where she had been laying on the carpet
 13 area of her living room. And of course they also
 14 collected vaginal swabs from the body of Marilee
 15 Coote at autopsy.

16 Through the, through investigation
 17 the police obtained a sample of the DNA of the
 18 defendant Norman Flowers. And from that sample of
 19 DNA, they're able to generate his particular genetic
 20 profile. So they learn what his genetic profile is,
 21 they compare that to the vaginal swabs that were
 22 collected from Marilee Coote and the carpet stain
 23 that was collected from her apartment and he is an
 24 exact match.

25 The frequency or how common his

1 genetic profile is in the population is rarer than
 2 one in 600 billion people. So scientifically or to
 3 a near scientific certainty, he was the source of
 4 the DNA inside of Marilee Coote and he is the source
 5 of the DNA of the carpet stain.

6 So how does that relate to Sheila
 7 Quarles' murder? Well, once they obtained the
 8 defendant's genetic profile, his profile was entered
 9 into that database that stores DNA. And once it was
 10 entered into that database, the database revealed
 11 that his profile was consistent with one of the male
 12 sources of DNA taken from Sheila Quarles at autopsy.

13 They go back to Debra Quarles and
 14 they talk to her and ask her well, do you know
 15 anyone by the name of Norman Flowers. And oddly
 16 enough she did. Debra Quarles, Sheila's mother, had
 17 actually dated Norman Flowers several months before
 18 Sheila's murdered and she also told the police about
 19 some interactions that she had with the defendant
 20 Mr. Flowers after her daughter's murder.

21 For instance, the defendant was very
 22 interested in helping Debra Quarles cope with the
 23 grief of the murder of her daughter. He
 24 specifically helped her find a psychologist and he
 25 would drive her to her appointments with a

1 psychologist where she was meeting with the doctor
2 obviously over the grief of losing her daughter.
3 And he always would ask Debra if -- for updates on
4 the case. Did she they ever find out who killed
5 your daughter, have they ever found out who killed
6 your baby.

7 So once the police had the DNA
8 identified or one of the sources of DNA identified
9 from Sheila Quarles's autopsy from her vaginal
10 swabs, they certainly had a question. Well, who is
11 the other source of the DNA, was there someone else
12 involved in this sexual assault and murder.

13 So the police sort of go back to
14 square one and they start looking at Sheila
15 Quarles's cell phone records and they start calling
16 her girlfriends who obviously are not the source of
17 the DNA, but they start questioning them who is
18 Sheila hanging around with, do you know any of her
19 friends.

20 And some of her girlfriends kind of
21 come clean at that point and say, well, Sheila was
22 actually sleeping with or sort of had a casual
23 sexual assault with George Brass, the young man who
24 the family knew.

25 So the police then go to George

1 Brass, they ask him did you have sexual contact with
2 Sheila Quarles on the morning that she was killed
3 and Mr. Brass says yes, I had sex with her the
4 morning of the 24th and then guess what I did after
5 that, I went to go work at Wal-Mart.

6 Obviously the police at that point
7 want to verify whether or not he was really at
8 Wal-Mart so they go to Wal-Mart and they pull his
9 employment records. And sure enough, George Brass
10 had checked into work at Wal-Mart at about noon on
11 the 24th of 2005 which is before the time of Sheila
12 Quarles's murder. So Brass had an alibi. He wasn't
13 involved in Ms. Quarles's murder.

14 By the end of this investigation,
15 the police were able to determine sort of hour for
16 hour the contact with various people that Sheila
17 Quarles had in the hours leading up to her death.

18 They were able to determine that the
19 sexual assault of her occurred at the same time or
20 contemporaneous with her murder. They were able to
21 find out that the perpetrator of her sexual assault
22 and murder committed a nearly identical crime five
23 weeks later where he sexually assaulted someone and
24 where he strangled someone. And they were able to
25 determine that in both cases a stereo and sort of

1 miscellaneous property was taken from both the
2 victims similar to each other. And of course they
3 were able to determine that the person responsible
4 for these two sexual assaults and murders was the
5 defendant Norman Flowers.

6 And after you hear the evidence in
7 this case, we will ask you to hold him accountable
8 for his conduct

9 THE COURT: Thanks. Mr. Pike.

10 MR. PIKE: Thank you, Your Honor. I'm
11 going to need the, the easel I guess from back
12 there.

13 THE COURT: Sure.

14 THE COURT: By the way, before you start
15 Mr. Pike, you know, I always tell you don't read,
16 watch or listen to any report on the case. In the
17 second row here is David Pierre. He's the
18 courthouse reporter for the R.J. So I'm guessing
19 tomorrow in the Nevada section they'll be an
20 article. So if you just set that section aside,
21 please, you can read the rest of the paper.

22 Go ahead, Mr. Pike.

23 MR. PIKE: Thank you. May it please the
24 court, ladies and gentlemen of the jury, madam
25 prosecutors, Mr. Patrick and Norman. As you've

1 heard in this case, a young woman died. And it's a
2 horrific thing. And she was found by her mother and
3 that was a horrific thing, too.

4 And in cases like this, emotion runs
5 really high and you'll feel that. The facts will
6 show that the emotions ran really high, the facts
7 will show that when Debra came home she screamed,
8 she was yelling, she was concerned. And that
9 emotion is something that will come in into this
10 trial and you'll feel. And we acknowledge it. We
11 acknowledge it right at this point in time, we'll
12 acknowledge it throughout the trial.

13 Emotion sometimes overclouds
14 reasoning. Emotion sometimes prevents a reasoned
15 investigation. And when you jump to a conclusion
16 because of emotion, that conclusion can be, and in
17 this case the facts will tell us what's wrong.

18 The court indicated that you have an
19 obligation in looking at both of the cases. You
20 have to determine number one whether that unproven,
21 just discharged pending case is proven by a clear
22 and convincing evidence and can only be used for
23 identity for motive.

24 Well, if that, if you find that it's
25 proven to that level, then you can consider it. It

1 isn't a full-blown trial. If you don't find that,
2 then you have to not consider it. But you all
3 agreed that you follow the law so that's what you're
4 going to have to do that with that.

5 The facts are gonna show that there
6 were actually four investigations. The first
7 investigation is at the scene. The police come out
8 to the scene, they've got a dead body, a young
9 woman, and they start an initial investigation. I
10 didn't do that.

11 They talk to the people that are
12 there. They talked with Robert Lewis, they talked
13 with Debra Quarles, they talked with Ebony Lewis who
14 is also related.

15 They go to an apartment complex that
16 was located at -- and it was kind of situated like
17 this.

18 For the intense of this, this
19 portion or for the argument, you'll see the
20 photographs, but please allow for my drawings, this
21 is the apartment where Pooka lived with her mother
22 Debra. This is -- we've got the Lewises living over
23 here. Ebony was visiting. They're related to
24 George Brass. George Brass and Robert Lewis are
25 related. Robert Lewis is here. Robert Lewis's

1 relationship with, with Debra Quarles her mother.

2 And so we've got the Lewises here,
3 the Lewises here and then up on the second story and
4 there's a gang, a gang way, kind of a connector that
5 goes across from one building to the next and stairs
6 going down, stairs going down there. We've got the
7 Sanchezes and Ms. Sena. And they were living there
8 and they have some windows right here. So they can
9 look down and see right through that area.

10 There was Alfonso Simms -- Alfonso
11 Sanchez, a cousin Jessie Nava and Natalia. Natalia
12 is interviewed up there. She was looking down.
13 We'll come to her later, but they just interview the
14 people at the scene.

15 At that point in time, Robert Lewis,
16 although he was related to, to George Brass, George
17 Brass, Jr., and George Brass, Sr., and have been
18 there, doesn't tell the police that George Brass was
19 around, had anything to do with it that day. Nor
20 does any other of George Brasses relations who are
21 all of the Lewises.

22 The second investigation with the
23 DNA -- and the DNA comes in as a minor component of
24 a combination DNA and that identifies or does not
25 exclude Norman Keith Flowers. He goes by the

1 nickname Keith.

2 The first investigation at the scene
3 the very brief. You'll see that. The facts are
4 going to show that.

5 The second investigation says okay,
6 well, it doesn't exclude him so that means he's our
7 target. And as the State indicated, the facts will
8 show that happened a couple months later.

9 Nothing happens for three years.
10 Then the police go back and they start making
11 telephone calls. Then based upon a further cousin
12 that's away that doesn't live here, then they get
13 the name of George Brass.

14 The facts are going to show
15 basically for three years George Brass remained
16 hidden from the police's view and hidden by his
17 family.

18 That third investigation then leads
19 to the fourth investigation. And that fourth
20 investigation says well, all right, if George Brass
21 admits to having sex with her, admits to coming
22 over, and admits to having sex with her on the floor
23 that, that morning or afternoon, because the alibis
24 that the State is indicating is not all it seems to
25 be. And the facts will show that it is not in fact

1 a true alibi. But it also shows giving an
2 opportunity well, who is George Brass's friends, who
3 did he associate, who was around there.

4 And when you get some photographs of
5 those people and let's go look and talk to the
6 witnesses, let's, let's start the investigation all
7 over again. Because it didn't start all over again.
8 It started and stopped with George Brass.

9 And the facts are going to show that
10 that basic investigation consisted of the detective
11 going over talking to George Brass for about 10
12 minutes before he turned on the recorder and saying
13 hey, you're not a suspect on this, but your DNA, we
14 think your DNA will match this, but we're not gonna
15 charge you with it. And so then he comes, as they
16 say, clean.

17 And the facts are going to show that
18 often it isn't just the first statement, the
19 statement that the police get. It's a second
20 statement when our investigators go out and talk
21 with him, when other people talk with him. When you
22 compare it against other people's witnesses that
23 you'll, that the truth starts to develop. And
24 that's, you can relate that to common sense. If
25 you've got two kids that are fighting, you want to

1 listen to both sides and you may want to go back and
2 ask additional questions after you find out more
3 information.

4 And the radio. Well, the radio is
5 the basis for the robbery, cell phone, the radio and
6 other personal property. And that investigation
7 goes on.

8 Did the police go in and investigate
9 and go to the pawn detail. Did they check the local
10 pawn shops. Did they go to EZ Pawn. Did they find
11 that Robert Lewis was a frequent individual that
12 would pawn items during that period of time or would
13 drop on. Basically sell items that he didn't intend
14 to get back and often that was women's jewelry.
15 Well, that never happened until the fourth
16 investigation.

17 The neighbors weren't reinterviewed.

18 Now, when you're surrounded by a
19 family and if you're afraid of that family and the
20 facts will show that there may well be reason to be
21 frightened of the Lewises, then, then the police are
22 coming into your apartment and subjecting you and
23 your children or your family or yourself to
24 problems, the first interview at the scene may not
25 be a very good interview. And so you go back. But

1 the police never did. And therein, as Shakespeare
2 would say, therein lies the road.

3 The investigation never continues.
4 So this murder most foul was never brought to light
5 of day and that's what this trial was all about.
6 Because it will.

7 Now, their theory, sexual assault,
8 there's no report filed, murder. They're
9 subscribing or attempting to bring in the motive or
10 the intent by bringing in the Coote case.

11 There is no individual motive that
12 the facts will demonstrate that Keith have towards
13 Pooka. In fact, he showed concern. He took her
14 mother for treatment. He showed concern about the
15 family. They subscribed that as a bad thing, but
16 George Brass who had sex with her that morning
17 didn't do anything except remain hidden. And that's
18 what the facts will show about George Brass.

19 And he remained hidden by Robert
20 Lewis, George Brass, Sr., who was there and he
21 remained on the outskirts. And basically the facts
22 will show that he showed no concern. He did nothing
23 for that family and never came back into.

24 The evidence shows that there was a
25 burglary, there was a robbery. Somebody went in and

1 stole that stereo. Somebody went in and stole those
2 items. The stereo was never found in Norman's
3 possession.

4 The physical evidence, the DNA,
5 you'll hear a lot about that and you're gonna learn
6 a lot. And that will be a very interesting part of
7 the trial. You're gonna learn about acid
8 phosphatase evidence, the amount of DNA that can
9 come in and the report from the CSI or the DNA
10 investigator Paulette that Norman Flowers cannot be
11 excluded as a possible minor contributor. Possible
12 minor contributor has, has impact by the way that is
13 investigated.

14 It shows there was a hot prowl
15 burglary or a robbery. The facts will show that
16 this case is consistent with somebody coming in
17 while she is getting into the tub or somebody came
18 in.

19 And then if, if they believe, if the
20 State believes that there was a sexual assault that
21 occurred in that premises at that time, there's ways
22 to investigate that. We'll talk about that in just
23 a minute. But that didn't happen in this case.

24 The room was disturbed, the radio
25 taken. This unknown fingerprints on these CDs.

1 Because there were a lot of CDs and they were taken.
2 Some latent prints of value remain. That's on the
3 report of Metro Officer Boyd. There were
4 unidentified fingerprints that do not relate to
5 Norman Keith Flowers. The wires were not tested for
6 any DNA to see if somebody went and yanked them out
7 and left any of their skin to determine that.

8 The light testing. If there was a
9 sexual assault that occurred, you notice that the
10 State in explaining or bringing in the Coote case
11 indicated that there was a stain on the carpet that
12 was tested, and that gave them some evidence.

13 In this case, George Brass in his
14 statement to the police and in subsequent statements
15 indicated that he went back into that apartment, the
16 Quarles' apartments and he had sex with Pooka on the
17 carpet, on the floor. There was never any testing
18 done like that, there was nothing done for the DNA
19 on that carpet to determine whether or not that
20 sexual contact had occurred in that apartment with
21 Keith or with anyone other than George Brass.

22 The follow-up investigation three
23 years later as I indicated, the police were given
24 access to the code by Quince Toney of Pooka's cell
25 phone. There was no report in relationship to that.

1 Where there any messages left on the phone. Who may
2 have been calling and left a message because we know
3 that there were other phone calls that were made
4 during that period of time.

5 Other items. Did they check the
6 pawn records, pawn detail, no, sir.

7 The stereo that was stolen was an
8 ITS 001. It was a stereo that had detachable
9 speakers. It is a three-part component. It was
10 never found in Norman's possession. The neighbors
11 were aware of the new stereo because it was new,
12 they were breaking it in, they were turning it up.
13 Actually there had been a number of people listening
14 to it the night before this happened.

15 And who saw it? Who saw it after
16 Sheila's death?

17 Now, these photographs were taken of
18 a search of Keith's apartment where he resided with
19 his sister. Well, as you can see from there,
20 there's his stereo. That's a detective. And they
21 went through. They searched his premises and
22 nothing came from that search that related to this
23 incident. No cell phone, no stereo, no property.
24 Clothing wasn't torn, was there evidence of signs,
25 signs of struggle in the apartment like this. Had

1 been a big fight? The facts don't support that.
2 The pictures don't support that. You'll have to
3 look and determine that.

4 And there was a lack, a certain lack
5 of time for the perpetrator to have done this. She
6 had an enhanced susceptibility to choking because
7 she also suffered from asthma.

8 Now, this is a picture of the
9 bathroom. You've already seen a picture in
10 relationship to that. The fact that her clothing,
11 her hair piece was off, I haven't worn a wig since
12 the '60s when I had to wear a short hair wig for
13 work because I had long hair back in the '60s, so I
14 don't know if a woman takes her hair piece like that
15 off when she is going to take a bath or not. I'd
16 assume so. That's your, that's where your common
17 sense comes in. And you talk with that in the jury
18 room when you're deliberating this.

19 It doesn't necessarily prove that
20 the motive of this crime was a sexual assault at
21 all. The DNA evidence cannot answer this question.
22 The presence of DNA alone does not mean sexual
23 assault. The presence and -- the presence and
24 otherwise, you have a sexual assault on George
25 Brass. With his DNA and with the DNA that they've

1 identified as -- and he admitted is his and that he
2 had sex with her within one to three hours or at or
3 around the time of her death does not mean robbery.
4 The DNA does not mean murder.

5 The DNA in this case doesn't even
6 show where the intercourse occurred because there's
7 no DNA on the floor or tested anywhere else to
8 determine. And it was just never collected.

9 The question to the physical
10 evidence can and you'll answer with this that
11 Quince -- I call her Quince. Maybe I should just
12 call her QT. Was not present. She was making phone
13 calls. The stereo was stolen, the ripped wires that
14 an unknown person or as yet unidentified person
15 handled the CDs.

16 Physical evidence established the
17 last person to be intimate with Sheila would be the
18 presence of the most DNA, presence of the active
19 spermatozoa, I guess spermodal, they still have the
20 tails and they move and the acid phosphatase. And
21 that's from the experts and you will hear about
22 that.

23 As I said, the investigation at the
24 scene, there were not lights that were used to
25 determine where there may have been DNA. The

1 failure to collect potential evidence was destroyed
2 by the manner in which it was not, it was not
3 investigated.

4 And as a result of that, the facts
5 will show that the experts in this case could not
6 reach decisions or important decisions in this.

7 The clothing that was collected was
8 just that DNA or the clothing that was there in the
9 bathroom. And why is that fact important? Well, if
10 they had gone in and collected the dirty clothing
11 the used clothing, then the DNA matches on the
12 panties from the day before, it may have been
13 embarrassing. They didn't take it. We don't know.

14 All we know is that apparent from
15 the physical evidence that we have that as I
16 indicated, that the clothing was not torn, there
17 wasn't any DNA under the fingerprints, the floor
18 wasn't processed. Let's see. I'm sorry. The DNA
19 evidence was done through a match through CODIS.

20 And the family members never told
21 them. Again, they kept him hidden. It's an ongoing
22 investigation.

23 The processed Gatorade bottle and
24 the compact disc, nuts, Slim Jim and except for a
25 relaxing bath, the facts will show this is just as

1 consistent with somebody coming to commit a
2 robbery, finding her in the tub and then reacting to
3 that. So I'm gonna go ahead and commit that robbery
4 and I'm gonna get those items, push her down into
5 the tub and choke her. That -- the facts are just
6 as consistent with that.

7 Now this is George Brass. He gave a
8 recorded statement on August 12th, 2008. As was
9 indicated, he gave that information. He said he
10 left her around noon. He said that Robert Lewis was
11 outside. So Robert Lewis who had spent the night
12 with Debra, who had hung around all day, who lived
13 here and had family here and in fact who had been,
14 had his swabs taken at the scene was outside, at
15 least according to George Brass, when he left. And
16 he saw Robert Lewis before and after he left the
17 apartment.

18 Importantly during the course of
19 that interview, he says that George Brass says I
20 left work without checking out. And amazingly
21 however, his records show that somebody checked in,
22 somebody checked out. We don't know that that's
23 him. We know according to his statement that he
24 didn't check out, but that time frame shows that
25 somebody did. So this whole issue of an alibi is

1 not an airtight, it's not secure and that's -- and
2 you're gonna have to look at that and make the
3 factual decisions based upon that.

4 Who's he related to? Robert Lewis,
5 son of George Brass, Sr., related to Ebony, related
6 to Bland. He said he had long-term relationship
7 with Sheila. He said it was for two years that he
8 had been having sex with her. For two years. His
9 mother didn't know about that. So is that true?
10 That's a fact also that you're gonna have to decide.

11 We talked about the carpet. We'd
12 get a better idea for the movements. The facts are
13 we can't recreate it because that was never taken.

14 Despite the identification of Brass,
15 the facts will show that they never re-evaluated the
16 neighborhood, there was never -- there was never a
17 follow-up to determine whether or not there were
18 witnesses that could determine or could testify that
19 Pooka was having consensual sexual relationships
20 with Keith.

21 But there were, there was in her
22 apartment a letter that she had written to an old
23 boyfriend Will. That letter was impounded. And
24 Will was in the Clark County jail at that time. He
25 wasn't interviewed by the police, but during the

1 time he was interviewed, and he will be brought in
2 and testify, that he had talked with her about that
3 and said that yes, she had a boyfriend by the name
4 of Keith. Will knew about him, but he was never
5 interviewed. The complete cycle never completed.
6 That's the picture of the letter that will be
7 brought in.

8 We've talked about the neighbors
9 before.

10 Afterwards, you see there's some
11 pictures. The police are going around and they're
12 talking to different individuals.

13 The facts are gonna show that while
14 the police were there conducting that investigation,
15 that George Brass came back to the apartment, didn't
16 volunteer, didn't go forward, didn't talk to the
17 police and give them any information about the facts
18 that he had been with her sexually whether
19 consensually or not. And another relative of his,
20 Mr. Culverson, came to the apartment.

21 Now, this is the time line from the
22 phone calls. And they say this was a Post-It, but I
23 didn't think it was gonna be this hard. I didn't
24 know it was gonna be large enough so I put it on
25 here. This is basically the same thing as that.

1 So we've got the time line. There
2 was a party from 9:00 to 10 p.m. That was verified
3 by Ebony. And Robert Lewis, Sr., -- or Robert Lewis
4 was there, George Brass, Sr., was there, other
5 people, that lasted from 9:00 to 10:00.

6 Now, in that same apartment complex,
7 there was a burglary that occurred between 1:00 and
8 2:00 a.m. There were witnesses to that burglary. A
9 Martha Valdez in particular saw the person that
10 committed that burglary. She was never
11 reinterviewed and was never shown any photographs
12 until the fourth stage of the investigation.

13 Sheila spent the night with Quince
14 Toney, Quince, I'm sorry, and she came home
15 according to the telephone conversations at 5:57.
16 She called her mom and said I'm on my way home.
17 That's what we can infer from those facts.

18 She's at home, she's got -- her mom
19 goes work, she has incoming phone calls. And if you
20 just see a time frame that was involved, then it
21 means it was a one minute and either nobody picked
22 up or it just went to the message. And those
23 messages were not preserved so we don't know who
24 called or what left.

25 We know she called her mother,

1 Sheila arrives home at 6:00. Debra had to be at
2 work at 7:00 and the calls start at about 7 o'clock
3 in the morning.

4 We also know from looking at the
5 records from the daycare where, where Keith drops
6 off his son, that he did not drop him off that day.
7 So he was available for if they wanted to meet.

8 Then we go forward in reference to
9 the time frame of that day based upon the framework
10 of the cell phone records. Got an incoming phone
11 call. She's talking to somebody at 8:25. 8:35.
12 She gets a bunch of phone calls from about 9:52, 54,
13 55. Debra was talking with her at that time and so
14 we bring in the individuals to show what the
15 conversation was and who was talking, what they were
16 talking about to con -- compare and confirm. So
17 that was her grandfather calling back because her
18 grandfather was gonna take her over to the doctor.

19 Now, around 11 o'clock, according to
20 George Brass, he, he comes over and he's informed,
21 he's told by Robert Lewis that Pooka is alone, he
22 goes in, sees her and says, he says that at that
23 point in time that they have consensual sex.

24 During that period of time, there's
25 some incoming phone calls. That means there's

1 conversations for four minutes, for 13 minutes that
2 are going on. And about 11:45, Debra indicates that
3 she talked with her and said that Pooka was
4 preparing lunch.

5 George Brass says he leaves sometime
6 during that, that period and Robert Lewis is outside
7 of the apartment.

8 Then Natalia comes home after 12:00
9 noon as opposed to the time when George Brass has
10 supposedly checked into work. She goes up to her
11 apartment which is upstairs, she's looking down the
12 stairs and she sees George Brass. She knows him by
13 the name of Chicken. That's his nickname, and
14 that's how a lot of people know him. She sees him
15 there with another individual by the name of Fowler
16 who is an acquaintance of George Brasses. And she
17 remembers it because he talks with her.

18 She also saw somebody in Sheila's
19 apartment after 12 o'clock. She describes a tall,
20 dark, really dark black man, skinny. Same person
21 she talked to about some weed earlier. She sees a
22 couple of guys around the apartments and one
23 knocking on the door. And that's in her statement
24 to the police on that day at that time.

25 After that, there's some incoming

1 phone calls. We know Quince is talking to her about
2 12:15. And at 12:35, there's a three minute
3 telephone call and the telephone number of 245-9401
4 is Quince Toney's conversation, talks about the
5 grandfather comments. And that fits in with the
6 information that is given by Debra during that
7 period of time.

8 At 1 o'clock Ebony who is across the
9 way leaves her door opened because her children are
10 outside there. And she didn't hear anything. At
11 that time it was when Natalia sees a really dark
12 black guy coming out of the apartment looking around
13 like he doesn't want to be seen. And that's in a
14 statement to the police and the follow-up statements
15 that she also gives.

16 Incoming calls, incoming calls. And
17 then this suspicious telephone call that the State
18 talked about where it's a call to Toney, she heard
19 music in the background, but no one ever talked.
20 And after that, the cell phone drops off. It's
21 gone.

22 At 2 o'clock Debra is, is off work.
23 She's on her way home, she's gonna stop and pick up
24 some groceries. And unfortunately the facts are
25 consistent with the facts or with an interpretation

1 that Pooka was getting ready to take a bath, she
2 knew that her mom was gonna come home from work with
3 groceries and left the door unlocked so she'd be
4 able to get in.

5 And that would have allowed an open
6 avenue for somebody to come in and commit this
7 hostile burglary.

8 And at 2:51, Debra comes home, finds
9 Sheila in the tub.

10 Now what happens is later that day
11 the police come and they arrest Natalia on a
12 completely unrelated offense upstairs.

13 And three days later, Natalia comes
14 back. She's released and she comes back to her
15 apartment. And during her interviews, in the fourth
16 course of the interviews, she is talking about who
17 was around.

18 She came back from town, she was
19 talking to Jessie Nava who is related to her, the
20 husband -- or her common law husband I guess you can
21 say that. And he has a stereo with the separate
22 speakers. And she questions him about that. He
23 told her he got that radio from the girl downstairs.
24 But the police have never come back, they didn't do
25 a lineup, they didn't come back. They talked with

1 him. Maybe they talked with her but didn't listen.
2 They didn't give her an opportunity to tell them
3 everything. But that's what she said.

4 So we get a picture of Jessie Nava
5 and we continue on with the investigation.

6 Well, then what happens is we go
7 back to Marcia Valdez. You saw the person that was
8 going around committing these burglaries, this
9 burglary this night, 1:00 to 2:00 a.m. that day.
10 What was he like. Jessie Nava, we have a photograph
11 of him. That's him, that's him.

12 We go back to the management, you go
13 to the management and ask them do you know this
14 person. Yes, he hung around here. He committed
15 burglaries, he stole things, he threatens people.
16 The manager calls him the devil.

17 The police aren't listening, they're
18 not investigating. They've made their mind up and
19 they made it up with the DNA and the emotional of --
20 emotionality of that other offense.

21 It's a mistake. Don't let it happen
22 to you. Who do we trust? The witness is not
23 related to Flowers, not related to Lewis and Brass.
24 The people don't have any sort of a dog in the
25 fight, the people that are doing what's right.

1 With that trail and with the
2 evidence that's presented, you're gonna have a
3 reason, conclusion and the result of that to find
4 him not guilty. Thank you very much.

5 THE COURT: Thanks. State, call your
6 first witness.

7 MS. LUZAICH: The State will call Dr.
8 Simms.

9 (Whereupon, Dr. Lary Simms was duly
10 sworn to tell the truth, the whole
11 truth and nothing but the truth.)

12 THE CLERK: Please state your full name,
13 spelling your first and last name for the record.

14 THE WITNESS: My first name is Lary
15 spelled L-a-r-y. My last name is Simms, spelled
16 S-i-m-m-s.

17 DIRECT EXAMINATION

18 BY MS. LUZAICH:

19 Q. Sir, how are you employed?

20 A. I'm a forensic pathologist at the Clark
21 County Coroners Office.

22 Q. What is a forensic pathologist?

23 A. Well, pathology is generally just the
24 study of disease. Forensic pathology is -- deals
25 with violent death. That would be homicide, suicide

1 and accident.

2 Q. How long have you been a forensic
3 pathologist?

4 A. I started doing forensic cases in '91 or
5 '92. I can't remember exactly. So it's 16, 16
6 years or so.

7 Q. Okay. Can you describe for the jury,
8 please, the training, education you have that
9 qualifies you to do what you do?

10 A. Well, I'm a licensed physician, been in
11 medicine 30 years. I went through pathology
12 residency training at Michigan State University, and
13 I went through specialized forensic training at the
14 Cook County Medical Examiners Office in Chicago.
15 And I'm board certified in anatomic pathology,
16 clinical pathology and forensic pathology.

17 Q. In the course of your employment with the
18 Clark County Medical Examiners Office, approximately
19 how many autopsies have you conducted and/or
20 participated in?

21 A. That I conducted, at this date probably
22 about 5,000.

23 Q. At the Clark County Medical Examiners
24 Office are there several different forensic
25 pathologists that work there at any given time?

1 A. Yes. The staff usually when I started, I
2 think there was three and then it usually is around
3 four or five.

4 Q. And are you familiar with the other
5 pathologists who are there and their work?

6 A. Yes.

7 Q. Have you testified as an expert in the
8 area of forensic pathology in the Eighth Judicial
9 District Court?

10 A. Yes.

11 Q. On how many occasions?

12 A. Several hundred at least.

13 Q. Okay. Are you familiar with a doctor by
14 the name of Dr. Ronald Knoblock?

15 A. Yes.

16 Q. Was he also employed as a forensic
17 pathologist at the Clark County Medical Examiners
18 Office?

19 A. Yes.

20 Q. Do you recall about when that was?

21 A. That would have been probably between
22 2002 and 2004. Right I think in that area or 2003
23 and 2005. One of those two, two year periods.

24 Q. It could have been 2005?

25 A. Yes, it could have been as late as 2005 I

1 thigh.

2 Q. And did you work with him when he worked
3 at the medical examiners office?

4 A. Yes.

5 Q. Do you know was Dr. Knoblock certified
6 and educated as you are?

7 A. Yes. As a matter of fact, we both went
8 to -- we both were trained at the Cook County
9 Medical Examiners Office in Chicago, and yes, he was
10 board certified.

11 Q. In fact, he would have had to have been
12 to become a Clark County medical examiner?

13 A. No, he doesn't have to be, but I know
14 that he was.

15 Q. Okay. And is it your understanding that
16 Dr. Knoblock performed an autopsy on a decedent
17 known as Sheila Quarles on March 25th of 2005?

18 A. Correct.

19 Q. Does Dr. Knoblock still work with the
20 Clark County Medical Examiners Office?

21 A. No.

22 Q. Has he left a couple of years ago in
23 fact?

24 A. Yes. Yeah, it had -- if this was done in
25 March of '05, he probably left just about three

50

1 months later.

2 Q. Do you know what he left to do?

3 A. He went to specialize training in haemato
4 pathology, blood pathology, and then he works at
5 Sunrise Hospital here in town.

6 Q. So he went to continue his education
7 doing other things?

8 A. Correct.

9 Q. And did you -- is it the practice of the
10 medical examiners at your office to prepare reports
11 right after conducting autopsies?

12 A. Yes.

13 Q. And when autopsies are conducted, are
14 photographs taken in conjunction with those
15 autopsies?

16 A. Yes.

17 Q. And in preparation for coming here today,
18 did you review the report prepared by Dr. Knoblock
19 regarding his autopsy of Sheila Quarles?

20 A. Yes.

21 Q. Did you also review photographs that were
22 taken during the autopsy of Sheila Quarles?

23 A. Yes.

24 Q. Did Dr. Knoblock perform an external
25 examination of Sheila Quarles first?

1 A. Yes.

2 Q. And did he find her to be a black female
3 approximately 18 years of age?

4 A. Yes.

5 Q. And in otherwise, other than the fact
6 that she had was deceased, in otherwise good health?

7 A. Yes. She didn't have any -- at the end
8 of the autopsy, he had not found any natural
9 disease, no.

10 Q. During the course of his conducting an
11 external examination, can you describe for us what
12 he founds?

13 A. He found a number of findings. Indicated
14 that she had been asphyxiated. He also found some
15 bruising on her abdomen, abrasion on her knee, and
16 he also found in the vaginal area some lacerations.

17 Q. You talked about -- well, let me go to
18 the vaginal area first. You talked about
19 lacerations in the vaginal area.

20 Can you please describe what you
21 mean by that?

22 A. There were tears in the lining of the
23 vagina right at the, at the opening.

24 Q. And is that consistent with anything in
25 your opinion?

52

1 A. Sexual assault.

2 Q. Why is that?

3 A. Well, those type of tears in that
4 particular way don't normally happen except in a
5 forcible kind of situation.

6 Q. And when you say that you saw -- were you
7 able to see in the photographs the lacerations?

8 A. Yes.

9 Q. And when you saw the lacerations in the
10 photographs, could you tell whether or not they were
11 inflicted before death or after death?

12 A. They did have some hemorrhages associated
13 with them. So that would indicated to me that it
14 was antemortem or prior to death.

15 Q. And when you say "antemortem or prior to
16 death," in your opinion would it have been
17 contemporaneous with death?

18 A. Yes. There, there -- if, if it would
19 have happened say an hour or so before, there would
20 be swelling and other changes with it. And these
21 particular lacerations didn't have any swelling.
22 They just have had some hemorrhage. So I would say
23 that it was very close to the time of death, yes.

24 Q. And did you say about how -- when
25 lacerations are inflicted, something inserted, is

1 that because something is inserted into the vagina
2 causing laceration?

3 A. Something that would be inserted, coupled
4 with the fact that the vagina was not relaxed.

5 Q. And when something is inserted and causes
6 the lacerations, how long there after does the
7 hemorrhage or bleeding occur? Is it immediate?

8 A. Yes.

9 Q. Okay. So something is inserted, a
10 laceration occurs and is bleeding, how long after
11 that would it be before swelling would occur?

12 A. Well, it can, it can occur within
13 minutes, but usually, usually it takes about 20 or
14 30 minutes for it to be easily visible.

15 Q. And in your opinion as a forensic
16 pathologist, 30 minutes to an hour later would you
17 most certainly have seen swelling?

18 A. Yes.

19 Q. So these lacerations occurred less than
20 an hour before her death?

21 A. Yes.

22 Q. In addition to vaginal injuries, you
23 mentioned injuries around the neck.

24 Can you describe that?

25 A. Well, she had signs of asphyxiation is

1 what I had actually referred to.

2 Q. Sorry. Bad choice of bad words on my
3 part. What signs of asphyxiation did you notice?

4 A. She had multiple petechia on the surfaces
5 of her eyes which are small punctate hemorrhages.
6 She also had some petechia on -- in her lip, on the
7 surface of the lip.

8 Q. You said petechia are small punctate
9 hemorrhages?

10 A. Yes.

11 Q. Did they look kind of like little red
12 dots?

13 A. Yes.

14 Q. And are petechia consistent with or
15 indicative of anything in your opinion?

16 A. Well, when they're in the eyes like that
17 or on the lip or even on the face also, that usually
18 indicates that the -- there was pressure applied to
19 the neck and the pressure caused the build-up of
20 blood in the veins and they burst. So that's,
21 that's the cause of petechia.

22 Q. When you say pressure applied to the
23 neck, what kind of pressure being applied to the
24 neck? Would that be indicative of strangulation?

25 A. Yes.

1 Q. In this particular case, can you tell
2 whether strangulation would be manual strangulation
3 or strangulation by means of something like
4 ligature?

5 A. There wasn't any ligature mark so it
6 would be more likely a manual strangulation or some
7 kind of compression to the neck. Whether it was
8 specifically with the hands or with the arms or with
9 the knees. Things like that.

10 Q. Okay. When you say there's no sign of
11 ligature, even if somebody had used some thing, you
12 know, a lace, a rope, something like that as a
13 ligature, would it have left marks on the neck?

14 A. Yes.

15 Q. Externally?

16 A. Yes.

17 Q. And there were no visible marks
18 externally on the neck?

19 A. No.

20 Q. As you viewed the photos and the report,
21 did you agree with Dr. Knoblock's external
22 evaluation of what was observed?

23 A. Yes.

24 Q. Did he also do an internal examination of
25 Sheila Quarles?

1 A. Yes.

2 Q. And can you describe what was found
3 during the internal examination of Sheila Quarles?

4 A. He found a number, a number of
5 hemorrhages in the front of the neck, in the
6 internal structures of the neck, and he also found
7 hemorrhages in the back of the neck, and he found a
8 couple of small hemorrhages on the right side
9 underneath the skin or the scalp.

10 Q. And I'm gonna go backwards. When you say
11 hemorrhages on the right side underneath the scalp,
12 what does that indicate to you?

13 A. Some kind of blunt force injury.

14 Q. When you say "some kind of blunt force
15 injury," something hit her head?

16 A. Or her head hit something.

17 Q. Okay. And based on what you observed,
18 can you tell was that also contemporaneous with her
19 death?

20 A. It looked fresh, yeah.

21 Q. When you say looked fresh, what causes
22 you to believe that?

23 A. Just the, by the photos that it appeared
24 to be a fresh hemorrhage. It wasn't a healing. One
25 that had, was undergoing changes of healing.

1 Q. And as things like that heal, they change
2 visibly?

3 A. Yeah. They change primarily in color.

4 Q. Okay. And then you had indicated that
5 there were hemorrhages to the front of the neck and
6 the back of the neck.

7 What was significant about those
8 hemorrhages?

9 A. Well, that would indicate traumatic
10 injury to the neck in the form of some kind of
11 compression, fairly significant compression to
12 cause, you know, hemorrhages actually in the soft
13 tissues and muscles of the neck.

14 Q. Can you say anything about the amount of
15 pressure that would have been required to cause the
16 injuries that you observed?

17 A. Well, it's pressure that's in, that's --
18 without going into actual quantitation as far as
19 pressure, it would be pressure that was meant to
20 cause injury or something significant to the neck.

21 Q. If someone were to put their arm around
22 the neck, so that the elbow or the inside of the
23 elbow were around the neck, would that cause the
24 injuries that were observed on Sheila Quarles?

25 A. The pattern of injuries was in a number

1 of different areas. So I would, I would say no,
2 that the pattern of injuries that she had was more
3 indicative of some kind of grip where there were
4 multiple points of pressure on the neck rather than
5 just one point like you're describing there.

6 Q. When you say "multiple points of
7 pressure," does that mean that hands were around the
8 neck, stopped and then moved and were around the
9 neck again so the position was moving? Is that what
10 that's consistent with?

11 A. That would be consistent with that, yes.

12 Q. The injuries that you just described to
13 the neck, inside the neck, were those also
14 contemporaneous with death?

15 A. Yes, they looked fresh.

16 Q. Do you know how long it takes to put your
17 hands around somebody's neck and strangle them into
18 unconsciousness?

19 A. Well, obviously common sense would tell
20 you it depends on where you compress the -- if you
21 compress the carotid arteries when do you that, it's
22 only gonna be about 10 or 15 seconds. If you're to
23 the side of the carotid arteries, you're not doing a
24 good job of it, then it might take a little bit
25 longer, but if it is a good grip right on the

1 carotid, it's only gonna be about 10, 15 seconds.

2 Q. When you say if it's not a good grip on
3 the carotid, it might take a little bit longer,
4 about how much longer?

5 A. It would be impossible for me to say. Of
6 course at the other extreme you never do get a good
7 grip so they never do go unconscious so.

8 Q. So the short is 10, 15 seconds. Then the
9 next logical question. How long would it take to
10 strangle someone to death?

11 A. After you are -- if you are successful at
12 cutting the blood supply off to the carotid
13 arteries, then they're gonna stop suffering brain
14 damage in a few minutes and they're gonna be dead in
15 a few minutes more. So it probably has an average
16 somewhere around four or five minutes. Maybe as
17 short as two minutes, maybe as long as eight or ten
18 minutes.

19 Q. Do you know how many hemorrhages or how
20 many different locations hemorrhages were found in
21 her neck?

22 A. Let me count. Somewhere in the over a
23 dozen range. It doesn't look like it's more than
24 20, but it would probably be somewhere in the 12 to
25 15 range.

1 Q. And you mentioned that -- oh, I'm sorry.
2 Was there anything else found significant pertaining
3 to Sheila's death?

4 A. She did have a frothy fluid in her
5 airways which was interpreted as -- which is a sign
6 of drowning.

7 Q. When you saw "frothy fluid in her
8 airways," on the way to the lungs or around the
9 lungs?

10 A. Correct. In the larger of the trachea
11 and the larger airways.

12 Q. And you mentioned that there were
13 photographs taken at the time of the autopsy. May I
14 approach the witness?

15 THE COURT: Sure.

16 BY MS. LUZAICH:

17 Q. Showing you what's been marked as State's
18 proposed 93 to 108 which have been shown to counsel.

19 MR. PIKE: That's correct.

20 BY MS. LUZAICH:

21 Q. Could you look at these photos and tell
22 me if you recognize them.

23 A. These are photographs of the decedent.

24 Q. And how can you tell specifically that
25 those are photographs of the decedent?

1 A. Well, a number of them have a unique
2 number on a tag at the end of the photo which is the
3 number 052427 which is the autopsy number assigned.

4 Q. Everybody that comes into the Clark
5 County Medical Examiners Office for autopsy is
6 assigned its own number?

7 A. A unique number, correct.

8 Q. And is that the number that's on the
9 autopsy report generated by Dr. Knoblock?

10 A. Yes.

11 Q. And it's also in the photograph before
12 you?

13 A. Yes.

14 Q. Would those photographs assist the jury
15 in seeing and understanding the injuries that Sheila
16 Quarles sustained at the time of her death?

17 A. Yes.

18 MR. PIKE: Objection. It calls for
19 speculation. It's not at issue. We're not
20 challenging the cause of death.

21 THE COURT: Well, it isn't speculation on
22 his part. He knows. He's testified many, many
23 times. And these would help you explain your
24 testimony?

25 THE WITNESS: Yes.

1 THE COURT: Objection overruled. They'll
2 be admitted.

3 MS. LUZAICH: Thank you.

4 MR. PIKE: Your Honor, there are some
5 that I have specific objections to.

6 THE COURT: Okay.

7 MR. PIKE: If we can approach the bench.

8 THE COURT: Sure.

9 (Whereupon, an off-the-record
10 discussion was had at the bench.)

11 THE COURT: Doctor, did you go through
12 all of the photos that were available and pick out a
13 minimum number that could demonstrate each of the
14 points you needed to make?

15 THE WITNESS: Yes, I did do that, sir.

16 THE COURT: Objection will be overruled.

17 MR. PIKE: Thank you very much, Your
18 Honor.

19 THE COURT: These photos are a little bit
20 gory, but we had the doctor pick out the minimum
21 number that can help explain and that's the way we
22 do it.

23 MS. LUZAICH: Permission to publish?

24 THE COURT: Yes.

25 BY MS. LUZAICH:

1 Q. And that --

2 THE COURT: When I say they're admitted,
3 what that means is that under the rules this is a
4 proper piece of evidence for you to consider. So
5 you may see them here, you may see them on the
6 screen, they might pass them around. But at the
7 very least, everything that is admitted is going
8 back with you to the jury room so you can peruse
9 them at your leisure. Go ahead.

10 BY MS. LUZAICH:

11 Q. Dr. Simms, showing you, I'm sorry about
12 that, State's Exhibit 93, and I'm pointing, is that
13 the tag that you mentioned that indicates the unique
14 number?

15 A. Yes.

16 Q. And you can't really see on that screen
17 right there, but for the record can you read the tag
18 number?

19 A. 0502427.

20 Q. Thank you.

21 A. I don't have any picture here just as
22 long as you know that.

23 Q. Oh, really?

24 A. No.

25 Q. Can you see that one?

1 A. I can see that one, yeah.

2 Q. Okay. Can I get there or no?

3 THE COURT: You can, yeah. I don't know.
4 We usually have a court recorder, but because of the
5 requirement of the daily transcript, we have a court
6 reporter who doesn't do courtroom machinery.

7 MS. LUZAICH: I understand. Oh, it
8 needed to be turned on? Thank you.

9 BY MS. LUZAICH:

10 Q. And I'm sorry, is this Sheila Quarles?

11 A. Yes.

12 Q. Okay.

13 A. Then the name, the name tag is this gray
14 tag.

15 Q. Thank you. Showing you State's Exhibit
16 94, what is -- whoops. Upside down. What is
17 depicted in State's 94?

18 A. There's an area of discoloration, faint
19 discoloration which turned out to be a bruise on her
20 the left part of her abdomen there it looks like.

21 Q. Okay. Showing you State's Exhibit 95.

22 A. This is the back of the right knee. It
23 has an abrasion, a linear abrasion there.

24 Q. Showing you State's Exhibit 99 -- and for
25 the record, I'm just showing the more pertinent

1 ones. Whoops. Sorry about that. Exhibit 99.

2 A. This is a little dark. It's actually
3 lighter there, but there are some pinpoint
4 hemorrhages about the size of a pin head in that
5 area there which are, which are petechia.

6 Q. And for the record, when you indicate
7 that those are, it's dark, is that the equipment
8 dark when the jury takes this and looks at it in
9 their hands, is it a lot easier to see on the actual
10 photograph?

11 A. Oh, definitely, yeah, the photo is a
12 pretty good photo.

13 Q. Showing you State's Exhibit 100, what is
14 that?

15 A. This is the eyelid. It's been pulled,
16 pulled back from the eye and, and flapped over. So
17 this is the under surface. And you can see all
18 these, all these little dots. You can count them
19 yourself. You know, there's a number of them there.
20 All those are petechia.

21 Q. The petechia are what you described as
22 being indicative of strangulation?

23 A. Yes.

24 Q. And if she had not been strangled and
25 there were no petechia present, would it just have

1 been white surface for the eye?

2 A. Right. The only thing you would see are
3 the, just the linear, so the blood vessels. You
4 wouldn't see the hemorrhages.

5 Q. Showing you State's Exhibit 102, and this
6 is somewhat gory, what does this depict?

7 A. This is the neck after the skin has been
8 peeled back from the neck and there are, there's a
9 hemorrhage over in this area and there's also
10 hemorrhages in this area here.

11 There is not any hemorrhages --
12 there are no hemorrhages in this area right over
13 that area. They're on the sides.

14 Q. At the sides of the neck?

15 A. Yes.

16 Q. And are those hemorrhages that you've
17 pointed out in this photograph consistent with where
18 finger marks could go?

19 A. Yes.

20 Q. And are they consistent with the size of
21 finger marks?

22 A. Well, they're, they're bigger than just a
23 finger mark, but with them being these discreet
24 hemorrhages, a manual pressure would be the most
25 likely scenario.

1 Q. Showing you State's Exhibit 103, again,
2 not very pleasant, what is depicted in this
3 photograph?

4 A. This is the tongue, this is the tongue
5 right here. It's been, all through here it's been
6 sectioned and there's a hemorrhage here.

7 Q. Showing you State's Exhibit 106, what
8 does that show?

9 A. Now, this is the back of the neck. We
10 were looking at the front of the neck previously.
11 This is the back of the neck. So this is the scalp
12 up here and there's -- so this is right in the back
13 of your neck here. This is a number of hemorrhages
14 right here and the muscles of the back of the neck.

15 Q. So multiple hemorrhages right there in
16 the back of the muscle?

17 A. Yeah, correct.

18 Q. Showing you State's Exhibit 108, am I
19 upside down or right side up?

20 A. That's okay. This is the trachea and
21 then it's splitting to go to each lung. And this
22 photograph was taken to show this frothy fluid that
23 was accumulating in that one area that it was
24 indicative of drowning.

25 Q. And then finally State's Exhibit 107.

1 A. This is a very close-up view and this is
2 the upper part of the vagina. The vagina's right
3 here and then this is the lower part of the opening
4 of the vagina. And there are a number of
5 lacerations that are longitudinal at the opening of
6 the vagina.

7 Q. And that was what you indicated was
8 indicative of sexual assault?

9 A. Yes.

10 Q. As Dr. Knoblock performed this autopsy,
11 did he form an opinion as to the cause of death of
12 Sheila Quarles?

13 A. Yes.

14 Q. What was that opinion?

15 A. Drowning.

16 Q. Did he find anything else to be a
17 contributing factor?

18 A. Yes.

19 Q. What was that?

20 A. Strangulation.

21 Q. Based on what you observed in the
22 photographs and the report, did you agree with his
23 opinion?

24 A. Yes.

25 Q. Did Dr. Knoblock form an opinion as to

1 the manner of death of Sheila Quables?

2 A. Yes.

3 Q. And what was that?

4 A. Homicide.

5 Q. And do you agree with that opinion?

6 A. Yes.

7 Q. While Dr. Knoblock was employed with the
8 Clark County Medical Examiners Office, did he also
9 have the opportunity to perform an autopsy on a
10 decedent known as Marilee Coote?

11 A. Yes.

12 Q. And was that autopsy performed on May 5th
13 of 2005? I'm sorry about that. May 4th of 2005?

14 A. Correct.

15 THE COURT: All right. Again, ladies and
16 gentlemen, if the evidence of crimes other than for
17 which the defendant is on trial today comes in, you
18 have to first determine before you can use it for
19 any purpose that it has been proven by clear and
20 convincing evidence and then it can only be used for
21 the purpose of showing identity, knowledge, intent,
22 motive, absence or mistake in this case and not bad
23 character or disposition to commit the crime.

24 MR. PIKE: Ongoing objection just for the
25 record.

1 THE COURT: That's fine. You're not
2 objecting to me instructing them, are you?

3 MR. PIKE: No.

4 THE COURT: All right. Go ahead.

5 MR. PIKE: Thank you.

6 BY MS. LUZAICH:

7 Q. Thank you. In preparation for coming to
8 court today, did you also review a report that Dr.
9 Knoblock generated reference the autopsy of Marilee
10 Coote?

11 A. Yes.

12 Q. Did you review the photographs that were
13 taken during the autopsy of Marilee Coote?

14 A. Yes.

15 Q. And did Dr. Knoblock find Marilee Coote
16 to be a 45 year old black female, approximately 191
17 pounds?

18 A. Correct.

19 Q. And did he perform an external
20 examination of Ms. Coote?

21 A. Yes.

22 Q. And what significant findings were there?

23 A. Well, he found a number of signs of
24 asphyxiation as, as similar to what you've seen
25 before. Additionally, she had some contusions on

1 her arms, one or actually just on her arms. And
2 then she also had some areas of superficial burning.
3 Thermal injury on her pubic hair and on the skin
4 around her genitals and buttocks.

5 Q. I'll go in the order in which you started
6 describing. You said there were signs of
7 asphyxiation.

8 Could you describe for us what signs
9 of asphyxiation were observed?

10 A. Well, externally there were again a
11 number of petechia hemorrhages on the surface of the
12 eyes. And he also noted that there was some
13 discolorations on the right side of her neck.

14 Q. And are the petechia hemorrhages and the
15 discolorations on the side of her neck also
16 indicative of strangulation like you mentioned
17 earlier?

18 A. Yes.

19 Q. You mentioned that there was contusions
20 to the arm.

21 Was that both arms?

22 A. Yes.

23 Q. And you mentioned superficial burning.
24 Can you describe what you mean by that?

25 A. Well, he described that her pubic hair

1 was singed. And then as I stated before, the skin
2 in the, around the genital area and on the buttocks
3 was damaged. Heat, heat had been applied to it,
4 caused the skin to discolor, desiccate.

5 Q. When you say the genital area and
6 buttocks, would that include the upper thighs as
7 well?

8 A. Yes.

9 Q. And when you say heat source, I mean
10 could it be hot water?

11 A. Well, I'm looking at the photos, no, it
12 didn't have, you know, water would have created an
13 irregular shape, you know, and this actually had
14 somewhat of a shape to it. It looks like it would
15 be more suggestive of some kind of hot surface that
16 was applied to the skin.

17 Q. Like an object, a hot object?

18 A. Correct.

19 Q. As opposed to something like water or as
20 opposed to a chemical?

21 A. Correct.

22 Q. Could you tell was the singeing or the
23 burning contemporaneous with death?

24 A. It didn't have any significant swelling
25 or, or changes that would occur, you know, in the,

1 you, know, tens of minutes and hours afterward. It
2 looked, so obviously I would say it was very near
3 death, yes.

4 Q. And can you tell whether it was
5 pre-mortem or post-mortem?

6 A. That's an excellent question. I don't
7 think he took any sections of it. And that would
8 have been about the only way that I could have, you
9 know, that it would have allowed me, you know, to be
10 able to make some comments about that.

11 Q. Okay. So you can't tell one way or
12 another?

13 A. No.

14 Q. In addition to the external
15 examination -- or I'm sorry. Were there other areas
16 that were viewed externally?

17 A. No, I think that was all the ones.

18 Q. Was there a small abrasion noted behind
19 the ear?

20 A. As I recall, there was. I just, I don't,
21 I didn't see it listed here, but as I recall, I
22 thought that there -- oh, actually, you're right.
23 It's under a different part of the autopsy. You are
24 correct. Behind the right ear there was a quarter
25 inch, very small abrasion.

1 Q. Okay. And then internally what if
2 anything did Dr. Knoblock observe?

3 A. There were superficial tears on the
4 opening of the vagina, there was a tear on the
5 opening of the anus, there were some hemorrhages
6 underneath her skin, on the top of her skull and on
7 the back of her skull and then there were a number
8 of hemorrhages in the neck.

9 Q. When you say superficial tears in the
10 vagina area, what do you mean by that?

11 A. From a, from a pathologic point of view,
12 that means just the -- it doesn't mean the tear was
13 deep, that it went all the way, you know, into the
14 deep sup -- underlying tissue. It was just in the
15 surface. The surface, you know, the skin and the,
16 and the -- most of your body surfaces are actually
17 in layers and so this was just the top layer.

18 Q. And when you say a "superficial tear,"
19 was there blood hemorrhage, anything noted?

20 A. He didn't describe it here, but when
21 looking at the pictures, there were areas of
22 hemorrhage that I could see.

23 Q. Does that mean that it was pre-mortem?

24 A. Correct.

25 Q. And what were those tears indicative of

1 to you?

2 A. The same, I would have the same
3 interpretation of those that I have with the other
4 case is that those are indicative of forced
5 intercourse consistent with sexual assault.

6 Q. You mentioned that there was a tear at
7 the opening of the anus.

8 Can you describe that?

9 A. It was a little under a half, half an
10 inch tear.

11 Q. And what would that be consistent with?

12 A. Anal penetration.

13 Q. By some object --

14 A. Correct.

15 Q. -- penetrated into the anus?

16 A. Correct.

17 Q. Was there hemorrhage there?

18 A. He didn't mention it, but again, when I
19 looked at the picture, it looked like to me there
20 was some areas of hemorrhage with it, yes.

21 Q. So would that indicate that it occurred
22 pre-mortem?

23 A. Correct.

24 Q. You mentioned that there were hemorrhages
25 at or about the skull.

1 Can you describe those for us?

2 A. There was one, a one inch hemorrhage on
3 the top of the skull and there was this some small
4 hemorrhages on the back.

5 Q. What is that indicative of?

6 A. Blunt trauma.

7 Q. And could you tell whether that -- well,
8 blunt trauma, her head hitting something or
9 something hitting her head?

10 A. Correct.

11 Q. And because there was more than one,
12 would that be more than one --

13 A. Correct.

14 Q. -- injury?

15 A. Blow or injury, yes.

16 Q. Blow. Thank you. The word wouldn't come
17 out. And could you tell was that contemporaneous
18 with her death?

19 A. Yes, it looks like it was a fresh
20 hemorrhage.

21 Q. You mentioned that there were hemorrhage
22 in the neck.

23 Could you describe what you saw?

24 A. There were hemorrhages on the front of
25 the neck, there was hemorrhages in the back of the

1 neck, and then there were also some internal
2 hemorrhages around some of the internal neck
3 structure.

4 Q. Do you know how many hemorrhages, how
5 many?

6 A. Minimum of 10, possibly a few more.

7 Q. What is that indicative of to you?

8 A. Same, same interpretation as previously,
9 indicates pressure put on the neck in a number of
10 different areas.

11 Q. And can you tell anything about the
12 amount of pressure?

13 A. Same interpretation. That when you get
14 those kinds of hemorrhages, that's pressure induced
15 to hurt, to do some, to have some kind of affect.

16 Q. Does that indicate the intent of the
17 individual who's inflicting the pressure?

18 A. I wouldn't, I wouldn't go to so far as to
19 be able to, you know, talk about somebody else's,
20 what was going on in their mind.

21 Q. That's a bad question then. Could it
22 have been an accident?

23 A. You mean just the hemorrhages of the neck
24 or the whole case?

25 Q. Well, all of the hemorrhages in the neck

1 combined.

2 A. I've never seen that number of
3 hemorrhages in any kind of, you know, accidental
4 death, no.

5 Q. I guess that was also a bad question.
6 Not accidental death. Could somebody accidentally
7 inflict that much pressure in that many different
8 locations?

9 A. I guess there would be a remote
10 possibility, but it would be beyond the normal,
11 normal behavior that I would be familiar with, you
12 know.

13 Q. Okay. Earlier you talked about it would
14 take a minimum of 10 seconds to strangle somebody
15 into unconsciousness.

16 What you observed in the neck of
17 Marilee Coote, would that have been taken more than
18 10 seconds to occur?

19 A. The hemorrhages.

20 Q. That many different hemorrhages in
21 different locations.

22 A. Oh, yeah, it would be hard to believe
23 that you could induce that many different
24 hemorrhages in 10 or 15 seconds. Yeah.

25 Q. And the hemorrhages that you observed in

1 the neck of Marilee Coote, would that also be
2 consistent with manual strangulation as opposed to
3 ligature?

4 A. Yes.

5 Q. And as opposed to just the arm around the
6 neck?

7 A. Yeah. It would be the same
8 interpretation. There are a number of different
9 areas and that it's -- I'm not saying that an armed
10 bar couldn't have been used. It could have been
11 used, but it wouldn't have been the only. There
12 would have to be other, some other types of
13 pressure in addition to that.

14 Q. What is an armed bar?

15 A. That's the one you described as where the
16 person's neck is in the, is in the crook of your
17 elbow. And you could also call it a choke hold if
18 you want to.

19 Q. May I approach the witness?

20 THE COURT: Yeah.

21 BY MS. LUZAICH:

22 Q. Showing you what's been marked as State's
23 proposed Exhibits 109 and through 122 which for the
24 record I went over with counsel before court this
25 morning.

1 MR. PIKE: That's correct, Your Honor.

2 BY MS. LUZAICH:

3 Q. Do you recognize those?

4 THE COURT: And do you represent that
5 before trial you went through the multitude of
6 pictures with Dr. Simms and he picked out no more
7 than what would be necessary to demonstrate his
8 point, correct?

9 MS. LUZAICH: Yes, sir.

10 THE COURT: Okay.

11 THE WITNESS: Yes, these are photographs
12 of the decedent.

13 BY MS. LUZAICH:

14 Q. Marilee Coote?

15 A. Yes.

16 Q. How can you tell?

17 A. Also they have a name tag, an autopsy
18 number tag in there that matches the number of the
19 autopsy.

20 Q. Thank you. Move them into evidence.

21 MR. PIKE: Your Honor, I'd ask that the
22 court review them and determine which, if all of
23 them, meet the probative prejudice.

24 THE COURT: Well, you've gone through
25 many more photos than this, I take it, and you

1 picked out the least number that could be able to
2 demonstrate the point that you're making with the
3 jury; is that right?

4 THE WITNESS: That is correct.

5 MS. LUZAICH: Okay. For the record,
6 there were over a hundred photographs taken from
7 each autopsy.

8 THE COURT: Okay. Understand. They'll
9 be admitted.

10 MS. LUZAICH: Thank you.

11 BY MS. LUZAICH:

12 Q. Dr. Simms, showing you State's Exhibit
13 109, is that Marilee Coote?

14 A. Yes.

15 Q. And can you just for the record read the
16 number on the tag into the record?

17 A. 053537.

18 Q. And that's the number that's on the
19 actual report that Dr. Knoblock generated?

20 A. Yes.

21 Q. Thank you. Showing you State's Exhibit
22 110, can you describe for us what that depicts?

23 A. This is an eye, one of the eyes. And of
24 course the cornea has gotten cloudy because of
25 death, but you can see a number of hemorrhages. And

1 there's also hemorrhage here and also a hemorrhage
2 here right at the edge of where the eyelid's being
3 held back.

4 Q. In this photograph you can see
5 hemorrhages that are quite large. Earlier when you
6 were discussing Sheila Quarles' eyes, they were
7 pinpoint dots.

8 Is there a difference between these
9 hemorrhages and those?

10 A. Well, obviously there is a difference as
11 far as size goes. As far as what they indicate, no.
12 Because in actual facts, some of the other photos
13 are some petechial hemorrhages in addition to these.

14 Q. For example, State's Exhibit 111?

15 A. So here you have combination of these
16 larger hemorrhages and multiple petechia is here.

17 Q. And in the other eye showing you State's
18 Exhibit 112?

19 A. And you can see again these hemorrhages
20 here and here and then you can see at least one
21 petechia there.

22 Q. Showing you State's Exhibit 113, what
23 does this depict?

24 A. This is the pubic area and you can see or
25 there is singeing of the pubic hair in this area and

1 there's also looks like some, some thermal injury
2 on some of the thigh, the surface, skin surface of
3 the thigh.

4 Q. When you say "thermal injury," would that
5 be the burning with the hot --

6 A. Yes.

7 Q. -- items?

8 A. Surface. Some type of hot surface.

9 Q. Thank you. Showing you State's Exhibit
10 114, what does that depict?

11 A. And here you can see the thermal injury
12 from what I consider a hot surface again because if
13 you look at that, it's just a chemical, any kind of
14 liquid or flame or something wouldn't cause those
15 fairly discreet burns. To me that's indicative of a
16 hot surface injury.

17 Q. And for the record, does this photograph
18 depict the buttocks and thighs as in --

19 A. Correct.

20 Q. -- if she's face down?

21 A. Yeah. The head is up this way and the
22 feet is down this way.

23 Q. Showing you State's Exhibit 115, what
24 does that depict?

25 A. This is the vagina and there's -- and

1 this is a fairly dark picture, but there's several
2 tears, small tears along with some purple
3 discoloration which indicates hemorrhage. There is
4 also some purple, purplish areas up here, but it
5 looks like the surface is intact.

6 Q. What does that mean?

7 A. I, I can't really say. You know, what I
8 would have done if I had been doing it, make some
9 small incisions to confirm whether it's hemorrhage
10 in these other areas or not, but there's definitely
11 tears and hemorrhages in the first areas that I
12 pointed to.

13 Q. And the first area that you pointed to
14 where the tear is, if you were to orient the vaginal
15 area by a clock, if she was laying on her back with
16 her legs spread, where on the clock would those
17 tears be?

18 A. Laying on her back, these, these tears
19 are on the, would be in the, somewhere in the 4, 5
20 and the 7, 8 clock.

21 Q. Okay. Thank you. Showing you State's
22 Exhibit 116, what does that depict?

23 A. This is the anus and there's a tear right
24 here. There's also an area of discoloration. It
25 looks a little hemorrhagic there to me also. So

1 there's at least, at least one of trauma,
2 possibly two.

3 Q. Okay. And the tear to the anus is
4 inflicted by something penetrating the anus, an
5 object?

6 A. Forcibly, uh-huh.

7 Q. And can you orient me like upside down or
8 right side up here?

9 A. Well, that's a good question. I believe
10 that this is, this is the, toward the back and that
11 this is toward the front. Oops. I believe. But I,
12 there's not enough, you know, anatomic detail for me
13 to tell which way is which.

14 Q. Okay. Showing you State's Exhibit 118,
15 what does that depict?

16 A. In this particular situation, the arm had
17 its skin dissected and there's a hemorrhage right
18 here.

19 Q. And when you say "right here," for the
20 record, where on the arm is that?

21 A. This would be the elbow and this is the
22 wrist. So it would be in the lower arm. About
23 mid-way in the lower arm.

24 Q. And on the top of the arm?

25 A. Yes.

1 Q. Showing you State's Exhibit 119, what
2 does that depict?

3 A. This is, this is the wrist here, and the
4 elbow's way, way up here. So this is a hemorrhage
5 near the wrist and it's on the, the underside of the
6 wrist. It's a fairly large hemorrhage.

7 Q. Could that be consistent with a defensive
8 wound?

9 A. Definitely.

10 Q. Showing you State's Exhibit 120, does
11 that go that way?

12 A. This, yes. This is the front of the neck
13 here and this, this scalp has been turned down and
14 this is, this is, this would be the forehead area
15 right in here. This is all the way on the top and
16 this is a hemorrhage that comes from the top of the
17 scalp.

18 Q. That's from the top of her head? For the
19 record, you're pointing to the top of your head?

20 A. Correct.

21 Q. And blunt force trauma would cause that
22 to occur?

23 A. Correct.

24 Q. Showing you State's Exhibit 121, what is
25 that?

1 A. These are the neck organs that have been
2 removed and there's a large hemorrhage here and
3 there's a hemorrhage here and there's a hemorrhage
4 here. This also looks like a small hemorrhage here.

5 Q. And can you point on the actual person on
6 yourself where that might be?

7 A. This is the thyroid gland and this is the
8 end of the tongue. So it would be, you know,
9 somewhere in the upper part of the neck like in the
10 front.

11 Q. In the front of the neck?

12 A. Correct.

13 Q. Okay. And then finally showing you
14 State's Exhibit 122, what does that depict?

15 A. This is the back of the neck that's on
16 the other side, and there's multiple hemorrhages in
17 those deep tissues.

18 Q. Thank you. As Dr. Knoblock performed
19 this autopsy, did he note other findings that were
20 significant just in her body, not maybe cause of
21 death but other significant findings?

22 A. Well, she did have some heart disease and
23 she had some benign tumors on her uterus.

24 Q. Would either one of those contribute to
25 cause of death?

1 A. Not, not directly, no.

2 Q. On that particular date?

3 A. No.

4 Q. Did -- oh, and I'm sorry. Did he perform
5 during the course of an autopsy is toxicology noted?

6 A. Yes.

7 Q. And was there anything noted pertaining
8 to Marilee Coote?

9 A. No. A toxicology screen was done. They
10 look for 50 or 60 different drugs and they were all
11 negative.

12 Q. Alcohol as well?

13 A. Correct.

14 Q. Did Dr. Knoblock form an opinion as to
15 the cause of death of Marilee Coote?

16 A. Yes.

17 Q. What was that?

18 A. Strangulation.

19 Q. And based on your review of the report
20 and all the photographs, do you agree with his
21 opinion?

22 A. Yes.

23 Q. Did Dr. Knoblock form an opinion as to
24 the manner of death of Marilee Coote?

25 A. Yes.

1 Q. And what was that?
 2 A. Homicide.
 3 Q. Based on your review of the report and
 4 photographs, do you agree with that?
 5 A. Yes.
 6 Q. And I'm so sorry. Can I take you for one
 7 second back to Sheila Quarles. Was a toxicology
 8 also done on Sheila Quarles?
 9 A. Yes.
 10 Q. And what was found?
 11 A. The same, the same profile was done on
 12 her and there was no alcohol or no drugs.
 13 MS. LUZAICH: Thank you. I pass the
 14 witness.
 15 THE COURT: Cross?
 16 CROSS-EXAMINATION
 17 BY MR. PIKE:
 18 Q. Dr. Simms, in going through and reviewing
 19 these two autopsies, you basically relied on the
 20 information that was provided from your experience
 21 and from the reports and photographs that were given
 22 to you and were kept in the normal course of records
 23 as part of all autopsies; is that correct?
 24 A. Correct, yes.
 25 Q. And during the course of going through

1 and in doing the protocol for, and always correct me
 2 if I use the wrong term, but if you're going to go
 3 through and do an autopsy, and if part of that
 4 autopsy there is an issue or you're going to
 5 determine whether or not there is any DNA present in
 6 the vagina or in the anus, then there are swabs that
 7 are inserted in that; is that correct?
 8 A. That is correct.
 9 Q. And what are those swabs made of?
 10 A. They're cotton-tipped swabs very similar
 11 to or they look very much like a Q-Tip.
 12 Q. And during the insertion of the anal
 13 swab, that may cause a nick, a tear?
 14 A. Yeah, I have seen, seen that happen
 15 before. Usually it can cause a small nick or tear.
 16 Q. And you've also have examined I assume a
 17 lot of bodies that involve an allegation of a sexual
 18 assault or a suspicion of a sexual assault?
 19 A. Yes.
 20 Q. And that's when you go and you look and
 21 examine the vagina and the external part and
 22 internal part to determine whether or not there is
 23 something consistent with a sexual assault?
 24 A. Correct.
 25 Q. And for purposes of our conversation, a

1 sexual assault means the penetration of the vagina?
 2 A. I think what I was talking about before
 3 is penetration to an unrelaxed vagina or a
 4 nonreceptive vagina and that's what causes the
 5 trauma.
 6 Q. Okay. And so unrelaxed, there may or may
 7 not be consent, you don't know, it just was not
 8 relaxed?
 9 A. Again, I think going back to what I said
 10 before, for me to talk about what was going on in
 11 somebody's mind would be probably, it would be, you
 12 know, not, not, not very -- you know, speculative
 13 basically.
 14 Q. So what you found was consistent with
 15 unrelaxed sex or the markings, correct?
 16 A. Are you talking just about the markings
 17 on the vagina?
 18 Q. Yes.
 19 A. I haven't, I was a general practitioner
 20 for 10 years before I went into pathology and I
 21 probably did about 3500 pelvic exams on women for
 22 different reasons and I, I've never seen, you know,
 23 injuries like that in anything but a sexual assault
 24 in my own personal experience.
 25 Q. Okay. And going through and determining

1 that, again, when you're talking about sexual
 2 assault, you're just talking about penetration and
 3 that could be with an object?
 4 A. Well, yes.
 5 Q. It could be with fingers, hands?
 6 A. It could, yes.
 7 Q. Okay. Fingernails may cause lacerations?
 8 A. That is correct.
 9 Q. And in fact, fingernails and the, that
 10 whatever may be located under those fingernails is
 11 often part of the protocol of what you have to
 12 preserve, so that it can be collected for forensic
 13 purposes?
 14 A. Well, I do -- I agree with what you're
 15 saying. As far as the actual protocol, usually the
 16 police process the body prior to the autopsy. So
 17 those samples and fingernail clippings and all hair
 18 with all the other things have been removed from the
 19 body by the time the autopsy is done. That's the
 20 way they do it here in Las Vegas.
 21 Q. So they actually come in, go over the
 22 body before you perform the autopsy, they check it
 23 for any arrant tears?
 24 A. As I understand it, that's, that's not --
 25 we're not involved in that because that's, that's

1 the police.

2 Q. And have you ever, with a number of
3 autopsies you've done, I'm sure you've seen the
4 police do that?

5 A. Oh, yes.

6 Q. Okay. And taking the fingernails, but it
7 is left to the doctor, you performing the autopsy,
8 to collect the DNA swabs from the vagina?

9 A. No, that's done also during that period
10 of time.

11 Q. Who does that?

12 A. Usually the police.

13 Q. And there's, there's no indication in the
14 report as to, that you reviewed as to who did
15 perform that or who collected that swab?

16 A. It's, it's frequently the case that the
17 report that we generate, we don't, you know, detail
18 all those different types of things.

19 So it's not uncommon it won't be in
20 the report, but I'm just talking about my experience
21 of working there as it usually it's, there's usually
22 an actual fact there's the people that are
23 processing the body, it's a combination of forensic
24 technicians who work at the corners office and the
25 police, they kind of work together.

1 So it may very well have been that
2 one of I know them inserted the swab to get that and
3 another one was clipping the nails or visa versa
4 kind of a thing.

5 Q. And you're unaware of the process that
6 they went through or who was involved in that, but
7 your interior results, your medical examination was
8 consistent with a sexual penetration?

9 THE COURT: As to Quarles?

10 BY MR. PIKE:

11 Q. As to Quarles. And I'm just talking
12 about Quarles. If, any questions about Ms. Coote,
13 I'll ask those specific questions, but this is as to
14 Sheila Quarles.

15 A. That's correct, yeah.

16 Q. Okay. Thanks. And in, in your
17 experience in performing autopsies and watching the
18 police go over the body for forensic evidence, have
19 you ever seen the CSAs or the police come in and
20 examine the body to determine whether or not they
21 could obtain fingerprints from the body?

22 A. Yes.

23 Q. Okay. And that process is done here in
24 Clark County?

25 A. Yes.

1 Q. When that process is done, is there any
2 sort of material spray or anything that's on the
3 body that would indicate to you that that was done?

4 A. Well, there's different ways that they
5 lift prints. Sometimes they, you know, they just
6 use ink, you know, and but then there are also
7 various chemicals.

8 We're getting into an area that I
9 don't have, I don't have detailed expertise, but
10 usually there would be some, I think the thrust of
11 your question is there usually is some residue that
12 you would say well, you know, this is, this is what
13 they did.

14 Q. And you did --

15 MS. LUZAICH: I'm sorry. I'm gonna
16 object to foundation. I'm wondering if they're
17 talking about the same thing.

18 I believe Mr. Pike is talking about
19 lifting prints off like the body, the abdomen as
20 opposed to the fingerprints of the --

21 THE WITNESS: No, that's what I
22 understood it to be.

23 THE COURT: -- Both of them.

24 MS. LUZAICH: Okay. I just wanted to be
25 sure.

1 THE COURT: Mr. Pike was asking him do
2 you see anything that would indicate to you that
3 prior to your involvement the police did anything to
4 see if there was a fingerprint on the body. That's
5 his question.

6 THE WITNESS: And the answer was no.

7 THE COURT: Okay. There you go.

8 BY MR. PIKE:

9 Q. And yet during the course of your
10 examination of Sheila Quarles' body, you found what
11 you indicated were a number of contact points where
12 if it was a manual strangulation that there would
13 have been contacts with the hand?

14 A. Yes, there were, as I detailed, you know,
15 10, 12 hemorrhages in there which would indicate
16 different contact points, correct.

17 Q. I'll, I'll -- I think you said a number
18 of different areas?

19 A. And they were in different areas,
20 correct.

21 Q. Do you similar to measuring bite marks or
22 something like that, can you by measuring the type,
23 types of marks on the body or on the neck identify
24 the approximate size of the hand of the individual
25 that is alleged to have committed a strangulation?

1 A. A reasonable question. The --
 2 sometimes -- let me -- in my experience, most of the
 3 time there's not a specific pattern that they do for
 4 them. But every once in awhile you will find a real
 5 solid pattern where you can see to make some
 6 measurements, but it won't allow you to talk about
 7 the person's hands because the fingers can be spread
 8 at different widths. So it would be -- even though
 9 you could say that this is a finger pattern, it
 10 wouldn't really allow you to extrapolate all the way
 11 to the sides of the person's hand. Anything that
 12 I've ever been involved with or ever read about it.
 13 Q. And the marks that you're talking about
 14 inside the vagina and the marks that are consistent
 15 with the sexual assault don't necessarily have to be
 16 associated with penal-to-vagina sex?
 17 A. Well, I think for --
 18 Q. Penetration?
 19 A. Well, you already, you already talked
 20 about that and I agreed at that particular point in
 21 time.
 22 Q. And so if DNA was present inside the
 23 vagina, that in and of itself does not indicate that
 24 that, the positive or that insertion of, of the
 25 semen was part of or contemporaneous with a sexual

1 assault?
 2 A. No. There's nothing unique about that,
 3 that finding. No, you'd have to put it in the
 4 context, but no, there wouldn't be anything unique
 5 that would associate it.
 6 Q. And in fact when you talk about the body
 7 cavity or the vault that we refer to the vagina,
 8 when human semen is placed inside the human vagina,
 9 it will stay there for a period of time?
 10 A. It can. It may or may not. It depends
 11 on the laxity of the vagina and whether the person
 12 gets up and walks around. So it -- and maybe I'm
 13 misunderstanding your question.
 14 Will there be traces of it that will
 15 stay there, in other words microscopic? Yeah,
 16 they'll definitely be microscopic traces that will
 17 be there for several days.
 18 Is that what you're asking?
 19 Q. Yeah, yeah. You've answered. And if
 20 there are two males that have sex with the same
 21 female over a period of time, what would you look at
 22 to determine or could you determine from the semen
 23 that is then removed from your autopsy as to who had
 24 sex with that female first?
 25 A. No. I don't see how scientifically you

1 can determine that, no.
 2 Q. Could you determine which spermatozoa is
 3 older based upon either the presence or nonpresence
 4 of the tail?
 5 A. Very interesting question.
 6 Q. Do you have an answer for me?
 7 A. I don't think -- no, I don't -- I think
 8 you got into an area that I, is scientifically
 9 reasonable, but I don't, I couldn't really talk
 10 about that. I've never even addressed that as an
 11 issue before.
 12 Q. Okay. And in fact, when you perform an
 13 autopsy and you're collecting the semen or the
 14 specimen from the vagina, often gravity and the
 15 semen being a viscous liquid will leak out from the
 16 vagina down towards whichever way the body is
 17 facing?
 18 A. Correct.
 19 Q. And just similar as it may leak out
 20 during the time of while an individual's living?
 21 A. Correct.
 22 MR. PIKE: I have no further questions.
 23 Thank you.
 24 THE COURT: Anything else, Ms. Luzaich?
 25 MS. LUZAICH: Just briefly.

1 REDIRECT EXAMINATION
 2 BY MS. LUZAICH:
 3 Q. Dr. Simms, when the swabs are collected
 4 at the time of autopsy, the forensic pathologist
 5 conducting the autopsy is not physically present; is
 6 that correct?
 7 A. As a general rule, no.
 8 Q. Okay. The police are present however
 9 during autopsies generally when there is a
 10 specific -- suspicious death. If there's a police
 11 investigation done, don't the police detective
 12 generally come to the autopsy?
 13 A. Generally.
 14 Q. Okay. Now, specifically, the tears that
 15 you observed in the vagina of Sheila Quarles, those
 16 did not appear to have been caused by the swabs that
 17 are taken for evidentiary purposes?
 18 A. No, no. These were, these were larger
 19 tears that I've never seen a swab cause these kinds
 20 of tears, no.
 21 Q. And in fact, the swabs that are
 22 collected, aren't those really long Q-Tips?
 23 A. Basically they are, yes.
 24 Q. Soft edged?
 25 A. Yes.

1 Q. Okay. And should a fingernail be
2 introduced into the vagina, it probably won't leave
3 sperm or semen behind, would it?

4 A. No, no, it wouldn't. Well, I guess
5 unless it had sperm or semen on it prior to it being
6 inserted.

7 Q. Now, if Sheila Quarles was submerged in
8 hot water, if her body, her whole body was submerged
9 in hot water after the sexual assault and after the
10 strangulation, would you be able to lift prints off
11 her body once she is taken out, covered in a bag and
12 brought down to the morgue?

13 MR. PIKE: Objection. Outside of his
14 area of expertise.

15 MS. LUZAICH: Well, he asked about
16 lifting prints.

17 MR. PIKE: I asked about whether or not
18 the information was there.

19 THE COURT: He'll tell us. I mean, as
20 you see him, if it's beyond his area of expertise,
21 he says so. And if he knows, he knows. So, doctor,
22 if you know, tell us. If you don't, tell us.

23 THE WITNESS: Well, the issue you brought
24 up was about residue from evidence and I do, I can
25 tell that, but the issue you're bringing up is a

1 completely reasonable issue that I'm not, I'm not
2 versed on. I would have, I would assume it would,
3 it would dissolve, but that --

4 MR. PIKE: Objection. Speculation.

5 THE COURT: Okay. That objection is
6 sustained.

7 THE WITNESS: I'm sorry. I went too far,
8 Your Honor. I should have stopped when I was ahead.

9 THE COURT: Okay.

10 BY MS. LUZAICH:

11 Q. If evidence had been left behind on her
12 body, would the submersion in hot water have taken
13 away that evidence or --

14 A. Can you restate the question?

15 Q. -- or at least corrupted it if some sort
16 of evidence were left behind on her body?

17 MR. PIKE: Objection. Calls for
18 speculation, nonspecific.

19 THE COURT: Do you know, doctor?

20 THE WITNESS: In that, if it was
21 biological evidence like semen or if it's even
22 nonbiological evidence like fibers, there's no doubt
23 that in my experience and a lot of other forensic
24 pathologists is that that would wash away, have a
25 significant impact on removing that evidence if the

1 answer -- if the question is would it remove all of
2 it for sure, I don't know that, but it definitely
3 could have, it would have a negative impact on that
4 being there, correct.

5 BY MS. LUZAICH:

6 Q. Okay. But submersion in hot water would
7 not affect the sperm or semen that is inside the
8 vaginal vault?

9 A. No. Usually the vagina closes, you know,
10 when it's non -- when it's fully relaxed and it, it,
11 it's -- there's gonna be semen that can come out,
12 but there's usually also residual semen in there
13 also, yeah.

14 Q. Mr. Pike asked you some questions about,
15 you know, can you tell anything about the hand marks
16 on the outside of the skin.

17 I mean, the injuries that you
18 discussed both in Sheila Quarles and Marilee Coote's
19 autopsies, all of those injuries were internal; is
20 that correct?

21 A. Yes. On -- in Ms. Quarles' case, she
22 didn't have any, any signs at all externally. In
23 Ms. Coote's case, there were some linear
24 discolorations on one side. So that was the only,
25 that was the only external findings. All the things

1 that we went over were internal findings.

2 Q. And would it be unusual in your opinion
3 for there not to be any external findings when
4 somebody is strangled with that force?

5 A. No, it can occur. As far as percentage
6 wise, usually you'll pick up a fingernail mark or
7 something, but there is a solid minority of patients
8 who are manually strangled that do not have external
9 findings.

10 Q. If somebody puts their fingers around the
11 neck long enough to, you know, strangle somebody,
12 how long -- do you know how long it might take
13 before there would be some external like bruise or
14 something along those lines?

15 A. Uh --

16 Q. To be visible externally?

17 A. Well, they would have to be alive for
18 some minutes in order to pump the blood out to cause
19 the bruise. So if they're killed, if they die
20 fairly rapidly, then you're not gonna see anything
21 no matter what.

22 Q. Does the color of the skin make a
23 difference?

24 A. If the person is very, very dark skinned,
25 very dark skin, then it does cause problems, but

1 anything short of that, it usually can pick up some,
2 some difference in coloration.

3 Q. If it occurs?

4 A. Yes.

5 Q. But it doesn't always occur?

6 A. No.

7 Q. And then I'm fin -- finally, the vaginal
8 injuries that you discussed in Sheila Quarles, you
9 talked about the lacerations and the fact that there
10 was no swelling, therefore you believed it was
11 within a half an hour of her death?

12 A. That would be a good ballpark figure,
13 correct.

14 Q. And then Marilyn Coote as well, you
15 mentioned the tears, no swelling, would that also be
16 within half an hour of her death?

17 A. Same interpretation, correct.

18 MS. LUZAICH: Thank you.

19 THE COURT: Anything else, Mr. Pike?

20 RE-CROSS-EXAMINATION

21 BY MR. PIKE:

22 Q. In reference to the question regarding
23 the water temperature, you don't know if the body
24 was found in hot water, warm water or cold water?

25 A. No. I just took the question as it was

1 asked.

2 MR. PIKE: No further questions.

3 THE COURT: Does the amount of pressure
4 on the throat, different amount of pressure account
5 for the difference in the petechia or the larger
6 hemorrhages or?

7 THE WITNESS: Excellent question. Yeah,
8 I would, I would -- my interpretation would be is
9 that Mrs. Coote who had larger hemorrhages, if you
10 notice those in there, I've seen that usually when
11 they just put up a stronger fight. There was more
12 violence to it.

13 THE COURT: Okay, thanks. Doc,
14 appreciate your time. Call your next witness.

15 MS. WECKERLY: Officer Cole.

16 THE COURT: Up here, officer.

17 (Whereupon, Officer Brian Cole was
18 duly sworn to tell the truth, the
19 whole truth and nothing but the
20 truth.)

21 THE CLERK: Thank you. Please be seated.

22 THE CLERK: Please state your full name,
23 spelling your first and last name for the record.

24 THE WITNESS: Brian David Cole.

25 B-r-i-a-n. Cole, C-o-l-e.

1 DIRECT EXAMINATION

2 BY MS. LUZAICH:

3 Q. Sir, how are you employed?

4 A. Las Vegas Metropolitan Police.

5 Q. What do you do for the Las Vegas
6 Metropolitan Police?

7 A. I am a police officer.

8 Q. All right. Do you work patrol?

9 A. Not right now.

10 Q. Okay. How long have you been with Metro?

11 A. Eight years.

12 Q. Specifically were you employed on March
13 24th of 2005 with Metro?

14 A. Yes, I was.

15 Q. And at that time were you working patrol?

16 A. Yes, I was.

17 Q. And in March of 2005 when you were
18 working patrol, were you wearing a uniform similar
19 to that you're wearing today in the court?

20 A. Yes, I was.

21 Q. And were you called to an apartment at
22 1001 Pecos?

23 A. Yes.

24 Q. Do you know about what time it was that
25 you were called there or sent there I should say?

1 A. Later in the hour of 2:00 in the
2 afternoon because it was close to end of shift.

3 Q. Okay. What shift were you working at the
4 time?

5 A. Day shift at that time.

6 Q. And day shift is when to when?

7 A. We usually leave secure at 3:30 in the
8 afternoon and start at 7:00 in the morning.

9 Q. Okay. Is it possible that you were
10 called out there around 10 to 3:00 in the afternoon?

11 A. Is sounds correct.

12 Q. Okay. When you went, were you alone or
13 with anybody?

14 A. There were several officers dispatched.
15 I was one of the first ones on scene, though.

16 Q. Okay. And when you were sent there, what
17 was the nature of the call?

18 A. It was more of an unknown situation where
19 there was a female down, unknown on injuries, and
20 not a lot of information coming from the PR at the
21 time.

22 Q. The PR being the person reporting the
23 call?

24 A. Yes.

25 Q. And did you go into apartment number 63?

1 A. Yes.
 2 Q. Is that an apartment that's downstairs?
 3 A. Yes, it is.
 4 Q. When you got there, who was in the area?
 5 A. I remember seeing a couple people
 6 outside, but nobody was at that apartment
 7 specifically.
 8 Q. Okay. Was the door opened when you got
 9 there?
 10 A. Partially opened. It was cracked.
 11 Q. Did you enter?
 12 A. Yes, we did.
 13 Q. And what did we -- did you, did you
 14 enter?
 15 A. Yes, I did.
 16 Q. What did you do?
 17 A. Went to the door, sounded off Metro
 18 police, anybody inside, sound off, so that we know
 19 if anybody was in there and then we made entry to
 20 the apartment and cleared it to make sure there was
 21 no occupants inside the apartment or anything going
 22 on that could be a danger to us or anybody else.
 23 Q. What did you see when you got inside?
 24 A. Once inside, saw a black female laying on
 25 the bathroom floor face up with her feet kind of

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1 still on top of the tub laying length wise next to
 2 the sink on the floor and she was naked and
 3 unresponsive at that time.
 4 Q. Was anything covering her at that time?
 5 A. I don't recall anything covering her.
 6 Q. Were there any other people in the
 7 bathroom area?
 8 A. Not when I made entry, no.
 9 Q. Now, the bathroom area, was it quite
 10 small?
 11 THE COURT: You mean any other people
 12 other than his fellow officers? Was that the
 13 question?
 14 MS. LUZAICH: Yes, sorry.
 15 THE WITNESS: Okay. The bathroom is very
 16 small, yes
 17 BY MS. LUZAICH:
 18 Q. When you say that she was unresponsive,
 19 how could you tell?
 20 A. We tried to say something to her to see
 21 if there was any kind of response. Looked at her
 22 and she was not moving. Didn't appear to be
 23 breathing just by looking at that time.
 24 Q. So when you saw that, what did you did
 25 do?

1 A. Medical was right behind us coming in and
 2 they took over at that point to see if there's
 3 anything they could do for her.
 4 Q. And were you present when medical was
 5 there?
 6 A. I backed out down the hallway because it
 7 was a small bathroom, but yes, I was still present.
 8 Q. And was medical able to do anything for
 9 her?
 10 A. No, they weren't.
 11 Q. Were you there when they left?
 12 A. Yes, I was.
 13 Q. And then what happened?
 14 A. That's when we secured the scene and made
 15 sure nobody else came in the apartment, called for
 16 homicide units to come out.
 17 Q. May I approach?
 18 THE COURT: Sure.
 19 BY MS. LUZAICH:
 20 Q. Showing you what's been marked as State's
 21 proposed Exhibit 38, do you recognize this?
 22 MR. PIKE: No objection to its admission.
 23 THE WITNESS: Yes, I do.
 24 BY MS. LUZAICH:
 25 Q. Thank you. Does that depict essentially

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1 how she looked when you arrived?
 2 A. Essentially other than I don't recall
 3 seeing the towels laying on top of her when I looked
 4 at her originally.
 5 Q. And is there also medical intervention --
 6 A. Yes.
 7 Q. -- obvious in the photo?
 8 A. Yes.
 9 MS. LUZAICH: Move it into evidence.
 10 THE COURT: It will be admitted.
 11 MS. LUZAICH: Thank you. May I publish?
 12 THE COURT: Yes. You can't publish
 13 anything that isn't into evidence.
 14 BY MS. LUZAICH:
 15 Q. Does this kind of depict how small the
 16 bathroom is?
 17 A. Yes.
 18 Q. And also the items that are around, were
 19 they as they are in the picture when you arrived
 20 other than maybe the item that's covering her?
 21 A. Yes, they were.
 22 Q. You said that you came out of the
 23 apartment and notified homicide.
 24 Is that the natural course of what
 25 occurs when things like this happen?

1 A. When we, when I first came outside,
 2 notified my sergeant, notified other units to help
 3 secure the perimeter and then homicide.
 4 Q. Okay. When you say other units to help
 5 secure the perimeter, what do you mean by that?
 6 A. Other patrol officers to come to the
 7 scene to make sure that nobody could get in or out
 8 of that apartment and to talk to anybody in the area
 9 that may or may not have seen anything.
 10 Q. And when you say secure the scene, is
 11 that because as of this time you don't know what the
 12 cause of her death is, whether it's accident or by
 13 means of injury?
 14 A. That is correct.
 15 Q. And it could be potentially a crime
 16 scene?
 17 A. That's why we preserve it.
 18 Q. So when you preserve a crime scene, do
 19 you put up tape so that nobody can enter?
 20 A. Sometimes we do. Not always.
 21 Q. Okay.
 22 A. In this case, it was a contained
 23 apartment so we didn't need to put crime scene tape
 24 right away.
 25 Q. Right at the door?

1 A. That's correct.
 2 Q. Did you or one of the officers with you
 3 at least remain at or near the door to make sure
 4 that nobody else entered other than law enforcement
 5 personnel?
 6 A. Yes. I was actually posted at the door,
 7 the front door.
 8 Q. Did there come a time when you needed a
 9 little more help?
 10 A. Yes. The family was obviously upset,
 11 distraught, and one of them, one of the relatives
 12 was trying to get into the apartment side window.
 13 So we had to have additional units detain family
 14 members to keep them out of the residence.
 15 Q. Did a lot more family members come to the
 16 residence as time went by?
 17 A. Yes, they did.
 18 Q. And were they exceptionally distraught?
 19 A. Yes.
 20 Q. And did you have more officers come to
 21 help, so that --
 22 A. Yes.
 23 Q. -- they remained calm?
 24 A. Yes, we did.
 25 Q. And did homicide arrive on the scene?

1 A. Yes, they did.
 2 Q. Did crime scene also arrive on the scene?
 3 A. Yes.
 4 Q. And did you remain to at least make sure
 5 that nobody else entered the scene that wasn't
 6 supposed to?
 7 A. I did.
 8 MS. LUZAICH: Thank you.
 9 THE COURT: Questions?
 10 CROSS-EXAMINATION
 11 BY MR. PIKE:
 12 Q. Did you take any written statements from
 13 anybody during that period or were you just securing
 14 the scene and preparing it for the investigation?
 15 A. Just securing the scene and preparing it
 16 for investigation. No statements at that time.
 17 Q. When he was trying -- the individual I
 18 assume, it was a he, was trying to get into the
 19 window?
 20 A. Yes.
 21 Q. Was the window unlocked?
 22 A. No, the window wasn't unlocked that I
 23 know of. I didn't go check the window, whether or
 24 not it was unlocked, but he didn't make entry
 25 through it. We stopped him as he was trying to get

1 to the window and open it.
 2 Q. Okay. And was that window into the
 3 living room, kitchen or bedroom I think you said?
 4 A. It would have been a back bedroom.
 5 Q. Back bedroom?
 6 A. Uh-huh.
 7 Q. And there was only one bedroom.
 8 A. Okay. That would be the one then.
 9 MR. PIKE: I don't have anything further.
 10 THE COURT: Thanks, officer. Appreciate
 11 your time. Do you have a 10 minute?
 12 MS. LUZAICH: I actually do have a short
 13 witness.
 14 THE COURT: Bring them on.
 15 MS. LUZAICH: Marquita Carr.
 16 THE COURT: Up here, Ms. Carr. Right
 17 around there, ma'am, and up here.
 18 THE CLERK: Please remain standing and
 19 raise your right hand.
 20 (Whereupon, Marquita Carr was duly
 21 sworn to tell the truth, the whole
 22 truth and nothing but the truth.)
 23 THE CLERK: Thank you. Please be seated.
 24 Please state your full name, spelling your first and
 25 last name for the record.

1 THE WITNESS: Marquita, M-a-r-q-u-i-t-a.

2 Last name Carr, C-a-r-r.

3 THE COURT: Go ahead.

4 DIRECT EXAMINATION

5 BY MS. LUZAICH:

6 Q. Thank you. Marquita, are you a little
7 nervous?

8 A. A little.

9 Q. That's okay. Deep breath. Marquita, do
10 you know a lady named Sheila Quarles?

11 A. Yes, I do.

12 Q. How did you know her?

13 A. She lived next door to my aunt. She's my
14 cousin's friend.

15 Q. Okay. When you say she lived next door
16 to your aunt, who is your aunt?

17 A. My aunt Jeannie.

18 Q. J-e-j-a-n-n-i-e?

19 A. Yes.

20 Q. What's your aunt Jeannie's last name?

21 A. Brass.

22 Q. B-r-a-s-s?

23 A. Uh-huh.

24 Q. And she's very good friends with your
25 cousin you said?

1 A. Yeah.

2 Q. What's your cousin's name?

3 A. Jasmine. Jasmine Brass.

4 Q. You said that they live across from each
5 other.

6 Do they live in the same apartment
7 complex?

8 A. They did live in the same apartment
9 complex.

10 Q. Okay. Let me ask you a better question.
11 On March 24th of 2005, did they live in the same
12 apartment complex?

13 A. Yes.

14 Q. And the apartment that your aunt lived
15 in, is that kind of like across the cement from the
16 apartment that Sheila lived in?

17 A. Across the little walkway.

18 Q. Walkway?

19 A. Yeah.

20 Q. Okay. Did you spend much time at your
21 aunt's apartment?

22 A. Yeah. We, we went -- I went over there a
23 lot, yeah.

24 Q. Periodically?

25 A. Yeah.

1 Q. Okay. Specifically on March 24th of
2 2005, were you at your aunt's apartment?

3 A. Yes, I was.

4 Q. Do you know about what time of day it was
5 that you got there?

6 A. No, I can't say. I might, I might have
7 been around there around noon.

8 Q. Okay. Probably not before noon?

9 A. Yeah.

10 Q. Maybe around noon?

11 A. Yeah.

12 Q. When you got there, what did you do?

13 A. I went over to my grandmother's house and
14 then I went downstairs to my aunt's house. They
15 live in the same apartments.

16 Q. Okay. So your grandmother lives
17 upstairs?

18 A. Different building.

19 Q. But a different building?

20 A. Uh-huh.

21 Q. Okay. Who lives with your grandmother?

22 A. My uncles.

23 Q. Your uncles. What are their names?

24 A. Robert, L.T., Egger.

25 Q. Robert, is that Robert Lewis?

1 A. Yeah.

2 Q. Okay. You went and visited your grandma?

3 A. Uh-huh.

4 Q. Was anybody there when you visited
5 grandma?

6 A. I can't honestly say. I don't, I don't
7 remember.

8 Q. Do you go visit your grandma a lot?

9 A. Yeah. There's always a house full.

10 Q. After you visited grandma, you went down
11 to your aunt's house?

12 A. Yeah.

13 Q. Or apartment?

14 A. Her apartment, right.

15 Q. When you got to your aunt's apartment, do
16 you remember who was there?

17 A. My -- her daughters, both of my cousins.

18 Well, not both of them. My cousin Ebony and I don't
19 remember who else was there.

20 Q. Okay. Ebony, is that Ebony Lewis?

21 A. Yes.

22 Q. And your cousin Ebony Lewis would be
23 Jeannie your aunt's daughter?

24 A. Right.

25 Q. And then Jasmine, is that Jasmine Lewis?

1. . . . A. She's Jasmine Brass.
 2 Q. Oops, I'm sorry. Brass. But Jasmine and
 3 Ebony are sisters, correct?
 4 A. Yes.
 5 Q. So when you went from grandma's to your
 6 aunts, you do not believe you saw Jasmine?
 7 A. No.
 8 Q. Okay. Did you and Ebony visit with each
 9 other?
 10 A. Yeah, pretty much.
 11 Q. Did something happen?
 12 A. While we were in the house?
 13 Q. Yes. Did you hear something?
 14 A. Not at the time, no. Maybe we sat there
 15 and hung out in the living room for a little while,
 16 talking what not.
 17 Q. While you were hanging out in the living
 18 room, tell me what --
 19 A. My uncle came through the front door.
 20 Q. I'm sorry. Who did?
 21 A. My uncle Robert came through the front
 22 door and he said that Pooka needed help. That's
 23 what we called her, Sheila. And he told us to come
 24 out and help us. I went over, across the pathway
 25 into the apartment. I heard her mom screaming and I

1 went over into the apartment, I went into the
 2 bathroom, she was lying on the floor, no clothes on,
 3 I asked to dial, to dial 911.
 4 Q. Okay. You know what, I'm gonna stop you
 5 for a second. When you and Ebony were visiting
 6 together on the couch in your aunt Jejannie's
 7 apartment, you said your uncle Robert came in
 8 talking about Pooka.
 9 Do you know Sheila Quarles as Pooka?
 10 A. Yes, I do.
 11 Q. And did you know her independent of the
 12 fact that she just lived next door?
 13 A. Yeah. A little bit, yeah.
 14 Q. Okay. Did you do her hair?
 15 A. Yeah, yeah.
 16 Q. Okay. So when uncle Robert indicated
 17 that there was a problem when Pooka, you went, you
 18 said you heard her mother.
 19 Who is her mother?
 20 A. Don't know her mom's name.
 21 Q. Can't remember?
 22 A. No.
 23 Q. But you know her by face and you knew
 24 it --
 25 A. Yeah.

1 Q. -- was her mother?
 2 A. Yeah.
 3 Q. Now, when you say she was upset, can you
 4 describe for me how upset she was?
 5 A. She was screaming, like very shaken up
 6 and she was, she was screaming for help. She was,
 7 you know, screaming my baby, something's wrong with
 8 my baby.
 9 Q. Okay. So you went into the apartment,
 10 the one that Pooka lived in?
 11 A. Right.
 12 Q. And you went into the bathroom and you
 13 saw her you said laying on the floor?
 14 A. Uh-huh.
 15 Q. I'm gonna show you a picture, and I'm not
 16 showing it to you to upset you, State's Exhibit 38,
 17 is that about how Sheila looked when you saw her,
 18 Pooka?
 19 A. Yes, ma'am.
 20 Q. Okay. Now, in State's Exhibit 38, there
 21 are some things covering her.
 22 When you went into the bathroom, was
 23 there anything covering Pooka?
 24 A. No.
 25 Q. Okay. Did you do anything?

1 A. I did touch her neck to see if she had a
 2 pulse. I put my ear close to her, her mouth to see
 3 if she was breathing and I put a mirror under her
 4 nose.
 5 Q. Okay. Besides that did you cover her at
 6 all?
 7 A. I think I did cover her.
 8 Q. Okay. Were there items laying on the
 9 floor that you used to cover her or at least near
 10 by? You didn't get up, go to another room and --
 11 A. No, no.
 12 Q. -- get something?
 13 A. I didn't get up and go to another room.
 14 I, I think I grabbed something that was there.
 15 Q. Okay. Now, when you went into the
 16 bathroom, there was some things that are laying on
 17 the floor around her.
 18 Were those things also on the floor
 19 whether you got there?
 20 A. I cannot recall.
 21 Q. Okay. Was it very closed in?
 22 A. Small bathroom, yeah.
 23 Q. Okay. How would you describe it as you
 24 saw it?
 25 A. It wasn't a total wreck but a little,

1. little messy. Bathroom's get dirty. You know, you
2 can tell somebody had been in it.

3 Q. A little messy, some things had been
4 knocked --

5 A. Yeah.

6 Q. -- over?

7 A. Yeah.

8 Q. You said that you touched her to see if
9 she was alive, put a mirror under her nose.

10 What caused you to do those things?

11 A. I was talking to emergency assistance.

12 Q. 911?

13 A. Yeah, 911.

14 Q. Somebody called 911?

15 A. Yeah.

16 Q. Do you know who it was who called 911?

17 A. I can't recall who called 911, no.

18 Q. It wasn't you?

19 A. No, it wasn't me.

20 Q. Did Ebony go into the apartment with you?

21 A. Yeah, she was behind me.

22 Q. Did Ebony have a phone with her?

23 A. I'm not sure.

24 Q. Somebody was on the phone with a 911

25 operator?

1 A. Yes, ma'am.

2 Q. And they were relating to you what to do?

3 A. Right.

4 Q. And did you do what you were told to do?

5 A. Pretty much, yeah.

6 Q. And what did you see when you did that?

7 A. Well, I put my ear close to her face to
8 see if I felt any warm air, and then I put the

9 mirror under her nose. It was a little fogged, but
10 not too much, and I didn't feel a pulse.

11 Q. And did you report back to the person
12 that was on the phone with 911, so that they could
13 tell the operator that?

14 A. I could have, yeah. It was a little
15 crazy.

16 Q. Was it upsetting?

17 A. Well, I mean of course, yeah.

18 Q. Okay. Did the police get there while you
19 were there or medical?

20 A. Not right away, no.

21 Q. Did they get there ultimately?

22 A. Yeah. They did get there, though, yeah.

23 Q. Did you leave the apartment when they got
24 there?

25 A. Yeah.

1 Q. So that they could do what they needed to
2 do?

3 A. Yeah.

4 Q. Later did you talk to the police about
5 what you saw, what you knew, what you did?

6 A. Yes, ma'am.

7 Q. Did you give a statement?

8 A. Yes.

9 MS. LUZAICH: Okay. Thank you.

10 THE COURT: Anything?

11 MR. PATRICK: Just briefly, judge.

12 CROSS-EXAMINATION

13 BY MR. PATRICK:

14 Q. Good morning, Ms. Carr.

15 A. Good morning.

16 Q. How are you? You said that Robert Lewis
17 is your uncle?

18 A. Yes, sir.

19 Q. Okay. Do you know George Brass?

20 A. Yes.

21 Q. Senior, junior, both?

22 A. Yes.

23 Q. You know both of them?

24 A. Yes, sir.

25 Q. Okay. Were you aware of that George

1 Brass, Jr., was dating Sheila?

2 A. No.

3 Q. No, okay. Now, when you went into the
4 bathroom and tried to check for a pulse and
5 breathing, was there -- did anybody else go into the
6 bathroom with you?

7 A. Not directly inside the bathroom, but my
8 cousin was behind me.

9 Q. Okay. Kind of in the doorway?

10 A. I was on my knees and she was over me,
11 yeah.

12 Q. And that would have been Ebony?

13 A. Yes.

14 Q. And you were, you were present when the
15 medical personnel arrived?

16 A. Yeah.

17 Q. Okay. And did you watch him go into the
18 bathroom to try and help Sheila?

19 A. No, I didn't.

20 Q. No. Do you remember how many medical
21 people you saw respond?

22 A. No.

23 MR. PATRICK: Okay. That's all I have,
24 judge.

25 THE COURT: Anything else?

1 MS. LUZAICH: Just br y.

2 REDIRECT-EXAMINATION

3 BY MS. LUZAICH:

4 Q. Is there a difference between dating
5 someone and having sex with someone?

6 A. Yeah. I would say so, yeah.

7 Q. Is it possible to have sex with somebody
8 without actually dating them?

9 A. Yes. Yes, ma'am.

10 Q. Your cousin George Brass, Jr., you've
11 heard him as Chicken, right?

12 A. (Positive nod of the head.)

13 Q. Did he have a girlfriend and a child?

14 A. Yeah.

15 Q. And did he stay with his girlfriend and
16 child periodically at that time?

17 A. Yeah.

18 Q. And when you would say stay with, does
19 that mean live with or just --

20 A. I wouldn't say live with.

21 Q. -- or just live with now and then?

22 A. Kind of an overnight sometime thing,
23 yeah.

24 Q. Is it possible -- well, do you know
25 whether or not Sheila and Chicken were sleeping

1 together or having sex?

2 A. No.

3 Q. You don't know?

4 A. Not that I know of, no.

5 MS. LUZAICH: Thank you.

6 THE COURT: Okay, thanks.

7 MR. PATRICK: Just one quick question.

8 RECROSS-EXAMINATION

9 BY MR. PATRICK:

10 Q. Are you familiar with slang terms that
11 are used on the street, some of them?

12 A. Pretty much.

13 Q. Okay. "Talking to," is that the same as
14 having sexual relationships with?

15 A. No. "Talking to" is just a crush.

16 Q. Just a crush?

17 A. Yeah.

18 MR. PATRICK: Okay, thank you.

19 THE COURT: Okay. Thanks for coming by.

20 THE WITNESS: Am I excused to go home?

21 THE COURT: You bet you are. Have a nice
22 day.

23 Okay. We'll take our lunch break at
24 this time.

25 During this break, don't talk or

1 converse among ourselves or with anyone else on any
2 subject connected with this trial.

3 Don't read, watch or listen to any
4 report of or commentary on the trial or any person
5 connected with this trial by any medium of
6 information, including, without limitation,
7 newspapers, television, internet and radio.

8 Don't form or express any opinion on
9 any subject connected with the trial until the case
10 is finally submitted to you.

11 We'll pick up at 1 o'clock. Have a
12 good lunch. Anything you need to know, you can ask
13 Officer Moon.

14 (Whereupon, the jury exited the
15 courtroom.)

16 The record will reflect the jury
17 exited.

18 Anything else?

19 MR. PIKE: No.

20 THE COURT: See you at 1:00.

21 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF THE
22 PROCEEDINGS.

23 *JoAnn Orduna*

24 JO ANN ORDUNA

25 CCR NO. 370

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IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 68140

Electronically Filed
Oct 05 2015 01:10 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

NORMAN KEITH FLOWERS

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Appeal from a Denial of Petition for Writ of Habeas Corpus (Post-Conviction)
Eighth Judicial District Court, Clark County
The Honorable Elizabeth Gonzalez, District Court Judge
District Court Case No. C228755

APPENDIX TO APPELLANT'S OPENING BRIEF

VOLUME II

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on October 5, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM PAUL LAXALT
Nevada Attorney General

STEVEN S. OWENS
Chief Deputy District Attorney

BY /s/ Rachael Stewart
An Employee of Oronoz & Ericsson LLC

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2008 SEP 29 P 2:26

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Attorneys for Defendant



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.

NORMAN FLOWERS,
Defendant.

CASE NO. C228755
DEPT. NO. VII

DATE OF HEARING: _____
TIME OF HEARING: _____

**MOTION TO RECONSIDER THE RULING ON DEFENDANT'S MOTION IN LIMINE TO
PRECLUDE EVIDENCE OF OTHER BAD ACTS**

COMES NOW, Defendant NORMAN KEITH FLOWERS, by and through his attorneys,
DAVID M. SCHIECK, Special Public Defender, RANDALL H. PIKE, Assistant Special Public
Defender, CLARK W. PATRICK, Deputy Special Public Defender, and hereby moves the
Court to reconsider it's previous ruling based upon information that was developed after the
hearing on the matter.

This motion is made and based upon the following Points and Authorities, and any
argument of counsel at the time of hearing of this motion.

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff; and

TO: DISTRICT ATTORNEY'S OFFICE, Plaintiff's attorneys:

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion

RECEIVED

SEP 29 2008

CLERK OF THE COURT

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

VOL-II

AA0243

1 on for hearing before the above-entitled Court on the 9th day of October, 2008 at
2 the hour of 8:30 a.m.

3 **POINTS AND AUTHORITIES**

4 **FACTUAL BACKGROUND**

5 After the Court issued it's ruling on the Defendant's motion in limine wherein the Court
6 determined that the matters involving Marilee Coote would be admissible, the State of Nevada
7 identified the source of the second DNA, a George Brass. Mr. Brass provided the attached
8 statement to Detective Sherwood.

9 This information, and the additional information from Mr. Brass about the length of his
10 relationship with Ms. Quarles directly contradicts the State's announced premiss at the time
11 of the hearing that Ms. Quarles was strictly involved with women. Mr. Brass's relationship was
12 not known to Ms. Quarles mother. It took over 3 years and additional investigation based in
13 part on the information provided at the arguments for the Detectives to confront Mr. Brass and
14 do the necessary DNA work. Mr. Brass was not in CODIS, due to his not yet being convicted
15 on the pending armed robbery charges. His co-defendant in that case recieved the death
16 penalty.

17 **ARGUMENT**

18 The Eighth Judicial District Rules of Court do not contain a provision that addresses a
19 Motion for Reconsideration in criminal matters. The civil section of the rules does provide
20 some guidance in the area however, stating in Rule 2.24 that

21 "(a) No motion once heard and disposed of may be renewed in the same cause,
22 nor may the same matters therein embraced be reheard, unless by leave of the
23 Court granted upon motion therefor, after notice of such motion to the adverse
24 parties....

25 (c) If a motion for rehearing is granted, the court may make a final disposition
26 of the cause without reargument or may reset it for reargument or resubmission
27 or may make such other orders as are deemed appropriate under the
28 circumstances of the particular case."

26 The Court has, the defense believes, appropriately denied the State's motion to
27 consolidate the offenses which allegedly occurred on March 24, 2005 and May 3, 2005.
28 Joinder is not proper as the events do not arise from the same transaction nor constitute a

1 common plan.

2 In the Coote matter, the defense believes that the State theory involves the presence
3 of and participation of a second individual, a co-conspirator or potential co-defendant. In the
4 case at bar, the now existent information regarding the long term heterosexual relationship
5 between Ms. Quarles and Mr. Brass. Mr. Brass does not know Mr. Flowers.

6 Mr. Brass states that it was Mr. Lewis, the same Lewis who was identified in the crime
7 stoppers report as being the probable murderer that told Mr. Brass that Sheila was home
8 alone, and saw him walk in the apartment with Sheila. Mr. Lewis, the subject of some testing,
9 refused to give a statement to police, but provided a buccal swab for DNA testing.

10 The Defense is left with a firm belief that had the above information been available
11 at the time of the ruling of the court, that the evidence of the Coote case would not be admitted
12 in the State's case in chief.

13 **EVIDENCE OF THE COOTE "OTHER BAD ACT" SHOULD NOT BE**
14 **ALLOWED DURING THE GUILT PHASE BASED UPON THE NEWLY DISCOVERED**
EVIDENCE.

15 As has been shown above, the evidence of the Coote crime is sufficiently different to
16 fall outside the certain specific exceptions of NRS 48.045.

17 Because this Court is familiar with all of the bad act evidence, and is now aware of the
18 allegations of Mr. Brass regarding his involvement as well as the timing, it is clear that the
19 Coote case is not (1) an incident relevant to the crime charged; and although (2) the act may
20 be subject to proof by clear and convincing evidence; nevertheless, given the new evidence,
21 (3) the probative value of the evidence is not substantially outweighed by the danger of unfair
22 prejudice. Tinch v. State, 113 Nev. 1170, 946 P.2d 1061 (1997). Accordingly, the State
23 should be precluded from introducing the evidence of the Coote case in the case in chief of
24 the case at bar.

25
26 ///

27 ///

28

1 **CONCLUSION**

2 NORMAN FLOWERS respectfully requests that this Court reconsider it's ruling and
3 preclude the State from introducing any evidence of the Coote case during the prosecution
4 of this case.

5 DATED this 29th day of September, 2008.

6 RESPECTFULLY SUBMITTED:

7 DAVID M. SCHIECK
8 SPECIAL PUBLIC DEFENDER

9 

10 RANDY H. PIKE
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12 330 South Third Street, 8th Floor
13 Las Vegas, NV 89155-2316
14 Attorneys for Defendant

1 **IND**
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3 Clark County District Attorney
4 Nevada Bar #002781
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6 Chief Deputy District Attorney
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10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
10/15/08 20
EDWARD A. FRIEDLAND
CLERK OF THE COURT
BY TIA EVERETT DEPUTY

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,)

11 Plaintiff,)

12 -vs-)

13 NORMAN KEITH FLOWERS, aka)
14 Norman Harold Flowers, III, #1179383)

15 Defendant.)
16)
17)

Case No. C228755
Dept. No. XIV

AMENDED
INDICTMENT

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss.

20 The Defendant(s) above named, NORMAN KEITH FLOWERS, aka, Norman Harold
21 Flowers, III, accused by the Clark County Grand Jury of the crimes of **BURGLARY**
22 **(Felony - NRS 205.060); MURDER (Felony - NRS 200.010, 200.030); SEXUAL**
23 **ASSAULT (Felony - NRS 200.364, 200.366) and ROBBERY (Felony - NRS 200.380),**
24 committed at and within the County of Clark, State of Nevada, on or about the 24th day of
25 March, 2005, as follows:

26 COUNT 1 - BURGLARY

27 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit
28 assault or battery and/or a felony, to-wit: murder and/or robbery and/or sexual assault, that

1
2 certain building occupied by SHEILA QUARLES, located at 1001 North Pecos #H-63, Las
3 Vegas, Clark County, Nevada.

4 COUNT 2 - MURDER

5 did then and there wilfully, unlawfully, feloniously, without authority of law, and
6 with malice aforethought, kill SHEILA QUARLES, a human being, by manual strangulation
7 and/or drowning, with his hands and/or an unknown object, said killing having been (1)
8 wilfull, deliberate and premeditated; and/or (2) committed during the perpetration or
9 attempted perpetration of sexual assault as set forth in Count 3 and 4 and/or burglary as set
10 forth in Count 1 and/or robbery as set forth in Count 4, said acts being incorporated herein
11 by this reference as though fully set forth.

12 COUNT 3 - SEXUAL ASSAULT

13 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
14 SHEILA QUARLES, a female person, to sexual penetration, to-wit: sexual intercourse, by
15 the said Defendant placing his penis and/or an unknown object into the genital opening of
16 the said SHEILA QUARLES, against her will.

17 COUNT 4 - ROBBERY

18 did then and there wilfully, unlawfully, and feloniously take personal property: to-wit:
19 a stereo and speakers, cell phone, and/or other personal property from the person of SHEILA
20 QUARLES or in her presence, by means of force or violence, or fear of injury to, and
21 without the consent and against the will of the said SHEILA QUARLES.

22 DATED this 15th day of October, 2008.

23
24 DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

25
26 BY Pamela Weckerly
27 PAMELA WECKERLY
28 Chief Deputy District Attorney
Nevada Bar #006163

Names of witnesses testifying before the Grand Jury:

SIMMS, DR. LARY	C.C.M.E.
TONEY, QUNISE, C/O CCDA, SVU, 301 E. CLARK PLACE, LVN 89101	
SHERWOOD, GEORGE,	LVMPD P#3676
TREMEL, DONALD	LVMPD P#2038
QUARLES, DEBRA	C/O CCDA, MUV, 301 E. CLARK PL. LVN
PAULETTE, KRISTINA	C/O CCDA, MVU, 301 E. CLARK PL. LVN

Additional witnesses known to the District Attorney at the time of filing this Indictment:

ADAMS, OFFICER	C.C.D.C.
ALBERT, BARBARA	LVMPD P#3108
ALBIETZ, D.	LVMPD P#4204
AYOTTE, RONALD	3110 PALMDALE LV NV
BAKER, SHANE	6650 E. RUSSELL #134 LV NV
BELL, BETTY	ADDRESS UNKNOWN
BEVILACQUA, A.	LVMPD P#6258
BOGUE, MERANDA	6650 E. RUSSELL LV NV
BRIAN, WAYNE	ADDRESS UNKNOWN
BUCZEK, J.	LVMPD P#3702
BURGESS, SHERRI LYNN	4624 LINDA AVE LV NV
CABRALES, A.	LVMPD P#2045
COOTE, CLATON	3200 MIDVALE DR #M-104 CORVALIS, OR
COURTRIGHT, JOHNATHAN	ADDRESS UNKNOWN
CRAW, MICHELINE	6650 E. RUSSELL LV NV
CURRY, JUANITA	6650 RUSSELL RD #102 LV NV
CURRY, SANDRA	ADDRESS UNKNOWN
CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD RECORDS

1	DELLACOURT, NINA	ADDRESS UNKNOWN
2	DUNLAP, GEORGE	C.C.D.C. INMATE
3	EBBERT, LINDA	UMC
4	ERDMAN, SHELLY	LVMPD P#7917
5	ESPLIN, CATHI JO	3110 PALMDALE LV NV
6	FIGUERA, C.	LVMPD P#3341
7	FRENCH, DET.	LVMPD P#375
8	GALLAGHER, E.	LVMPD P#5769
9	GONZALEZ, ANDY	ADDRESS UNKNOWN
10	GONZALEZ, LLOYD	1944 EVELYN AVE HND NV
11	GONZALEZ, PAULINE	216 VALLEY FORGE HND NV
12	GREEN, CHARITY	LVMPD P#7716
13	GROVER, B.	LVMPD P#4934
14	GUENTHER, EDWARD	LVMPD P#5891
15	HAGMEIER, WILLIAM	F.B.I.
16	HERNANDEZ, CESAR	6650 E. RUSSELL RD LV NV
17	HUGGINS, SHEILA	LVMPD P#3603
18	JACKSON, APRIL	6650 E. RUSSELL #144 LV NV
19	JARO, HELEN	ANDRE AGASSI COLLEGE PREP SCHOOL
20	JOHNSON, JAMES	ANDRE AGASSI COMPANY
21	KELLY, S.	LVMPD P#6836
22	KING, BARBARA	ADDRESS UNKNOWN
23	KNOBLOCK, RONALD	C.C.M.E.
24	LAMOUREUX, B.	LVMPD P#7716
25	LARSON, DEBRA	3110 PALMDALE AVE LV NV
26	LEEKE, OFFICER	C.C.D.C.
27	LUTZ, RICHARD	LVMPD P#1746
28	MANN, ANDREW	4481 LINDALE LV NV

1	MAUPIN, R.	LVMPD P#5923
2	MCGOWAN, BARBARA	9361 PARKDALE LV NV
3	MCGOWAN, CLAUD	9361 PARKDALE LV NV
4	MCGRAW, REANNA	ADDRESS UNKNOWN
5	MCKENNA, KATRINA	ADDRESS UNKNOWN
6	MCLAUGHLIN, RANDAL	LVMPD P#4170
7	MENDEZ, ANGELA	6650 E. RUSSELL LV NV
8	MENDEZ, VANESSA	6650 E. RUSSELL LV NV
9	MITCHELL, DENNIS	ANDRE AGASSI COMPANY
10	MOON, L.	C.C.M.E. #313
11	MOORE, KAREN	ADDRESS UNKNOWN
12	NELSON, WILLIAM	H.D.S.P. NDOC#48044
13	OSGOOD, ROGER	ADDRESS UNKNOWN
14	PARKER, MARCIA	6650 E. RUSSELL RD #242 LV NV
15	PAROLE OFFICER	NV DEPT P & P OFFICER FOR N. FLOWERS
16	PETERSON, DANIEL	LVMPD P#4034
17	PIRTLE, M.	LVMPD P#4017
18	RAGLAND, MAWUSI	6650 E. RUSSELL RD #302 LV NV
19	RAMIREZ, MONICA	6650 E. RUSSELL RD LV NV
20	REMBERT, RANZY	445 E. DESERT INN #5 LV NV
21	ROBERTS, OFFICER	LVMPD P#6644
22	ROBINSON, SHAWNTA	C.C.D.C. INMATE
23	ROWLAND, T.	LVMPD P#4178
24	RUTLE, M.	LVMPD P#4017
25	SHELLBERG, PETER	LVMPD P#5413
26	SILVAS, CONNIE	3125 W. WARM SPRINGS LV NV
27	SMINK, JEFF	LVMPD
28	SMITH. B.	LVMPD P##4712

1	SMYTH, REBECCA	3189 GREENDALE LV NV
2	SPOOR, MONTE	LVMPD P#3856
3	THOMAS, KENDRA	6650 E. RUSSELL #201 LV NV
4	TURNER, ALICIA	ANDRE AGASSI COLLEGE PREP SCHOOL
5	URENO, RANDY	4750 E SHARA AVE LV NV
6	VILLAGRANA, WILLIAM	LVMPD P#8426
7	WAHL, THOMAS	LVMPD P#5019
8	WILLIAMS, ELWOOD	ADDRESS UNKNOWN

9

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27 06AGJ103X/06F23792X/SVU
28 LVMPD EV# 050324-1801
MURDER; ROBB; BURG; S/A - F

1 CASE NO. C228755

2 DEPT. NO. VII

ORIGINAL

FILED

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3
4 DISTRICT COURT

Ed Hain
CLERK OF THE COURT

5 CLARK COUNTY, NEVADA

6
7 THE STATE OF NEVADA,
Plaintiff,

8) Reporter's Transcript
9 vs.) of
Proceedings

10) Volume 1-A
11 NORMAN KEITH FLOWERS,
aka NORMAN HAROLD
12 FLOWERS III,
Defendant.)

13

14 BEFORE THE HON. STEWART BELL, DISTRICT COURT JUDGE

15 WEDNESDAY, OCTOBER 15, 2008

16 9:30 A.M.

17

18 APPEARANCES:

19 For the State: Elissa Luzaich, Esq.
Pamela Weckerly, Esq.
20 Deputies District Attorney

For the Defendant: Randall Pike, Esq.
Clark Patrick, Esq.
Deputies Public Defender

24

25 Reported by: JoAnn Orduna, CCR No. 370

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1 CASE NO. C228755

2 DEPT. NO. VII

3

4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,)
8 Plaintiff,) Reporter's Transcript
9 vs.) of
10) Proceedings
11 NORMAN KEITH FLOWERS,) Volume 1-A
12 aka NORMAN HAROLD)
13 FLOWERS III,)
14 Defendant.)

15 BEFORE THE HON. STEWART BELL, DISTRICT COURT JUDGE

16 WEDNESDAY, OCTOBER 15, 2008

17 9:30 A.M.

18 APPEARANCES:

19 For the State: Elissa Luzaich, Esq.
20 Pamela Weckerly, Esq.
21 Deputies District Attorney

22 For the Defendant: Randall Pike, Esq.
23 Clark Patrick, Esq.
24 Deputies Public Defender

25 Reported by: JoAnn Orduna, CCR No. 370

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1 LAS VEGAS, CLARK COUNTY, NV, WEDS, OCT 15, 2008

2 9:30 A.M.

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4 P R O C E E D I N G S

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6 THE COURT: Okay. Let's go on the record
7 in Case No. C 228755, State of Nevada versus Norman
8 Flowers. Let the record reflect the presence of Mr.
9 Flowers with his counsel, Mr. Patrick, Mr. Pike,
10 Ms. Weckerly, Ms. Luzaich for the State.

11 We have a motion for reconsideration
12 prior to the jury coming in. Go ahead, Mr. Pike.

13 MR. PIKE: Thank you very much, Your
14 Honor. It kind of goes hand in glove with the
15 amended indictment that the State has filed in
16 reference to this case.

17 As we came in before the court the
18 last time, the DNA, the second DNA remained
19 unidentified. After our last hearing, it has since
20 become identified. It is identified with someone
21 who has no connection with my client.

22 THE COURT: Whose, the second DNA of
23 whom?

24 MR. PIKE: Okay. With the evidence --
25 the facts basically are the deceased who is pulled

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1 I N D E X

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1 out of the tub by Robert Lewis is during the course
2 of the autopsy --

3 THE COURT: When you say second, you mean
4 the second on this particular victim or second on
5 the next victim?

6 MR. PIKE: Second on this victim.

7 THE COURT: On this victim.

8 MR. PIKE: But there's a mixture of DNA
9 inside of her.

10 THE COURT: Right.

11 MR. PIKE: Their DNA expert indicated
12 that one came positive or identified and would not
13 exclude Mr. Flowers.

14 THE COURT: 99 percent.

15 MR. PIKE: 99 percent. The second one
16 was not specifically identified until after that
17 hearing when the detective went back out, started
18 making some phone calls, finds out that true to our
19 allegations during the time of the hearing she did
20 have another boyfriend and that was a George Brass.

21 George Brass was located at the
22 Clark County Detention Center. He was interviewed
23 by the detective where he admitted to having sex
24 with her that day.

25 In fact, according to his statement

1 to the detective, he had sex with her sometime
2 between 11 o'clock and noon and thereafter he went
3 to work at Wal-Mart.

4 And the State followed up with it,
5 obtained his, his time card or time records from
6 Wal-Mart. We received those, and I assume they're
7 gonna bring in both Mr. Brass as well as his
8 records.

9 THE COURT: And did the time records
10 indicate that somewhere around 1 o'clock he went to
11 work that day?

12 MS. WECKERLY: He worked that -- he was
13 reported into work at noon and he took his first
14 break at 4:00 according to the work card.

15 THE COURT: And the mother's call to the
16 victim was afternoon?

17 MS. WECKERLY: Before 3:00 in the
18 afternoon.

19 THE COURT: Okay. Go ahead.

20 MR. PIKE: The 911 call was at 2:51.
21 There was a call to her girlfriend, Ms. Toni, a
22 conversation that they had at 12:36. So the time of
23 death actually is sometime between 12:30 and 2:00 to
24 2:51.

25 THE COURT: Well, it would be after

1 12:36.

2 MR. PIKE: Right.

3 THE COURT: Because the mother said she
4 was good. So --

5 MR. PIKE: So now and basically --

6 THE COURT: The guy was at Wal-Mart at 1
7 o'clock. So pretty much that's an air-tight alibi
8 on his behalf.

9 MR. PIKE: Well, possible. Now, we go
10 in -- after he's identified, we go and speak with
11 him. He, he indicates that, to us that he did in
12 fact go to work, checked in. He, he left work and
13 came over during, after he received a call
14 indicating that the police were there and it
15 involved something involving the deceased. He tells
16 us he talked to the police. He was there.

17 We, we contact a Mr. Culverson who
18 also indicated that -- Mr. Culverson was there and
19 that he was and that he confirmed that Mr. Brass was
20 there in the afternoon during the time that the
21 police were investigating this and at the same time
22 that they were talking taking this swabbing from his
23 uncle who is Robert Lewis.

24 Robert Lewis was there when Mr.
25 Brass came over and Mr. Brass said that or told us

1 that it was he -- at told Mr. Brass, Robert Lewis
2 told George Brass that his girlfriend was alone so
3 he could go in and that they had consensual sex on
4 the floor and then he left. And when he left,
5 Robert Lewis was still outside of there.

6 There was a -- so some of the
7 theories upon which the court allowed this second
8 murder to come in that there was a confederate, that
9 there was some unidentified DNA that may have been
10 associated with him as a conspirator, as a
11 co-conspirator or the theories that have now been
12 abandoned have had to be abandoned that changes --

13 THE COURT: I'm sorry, but I wasn't very
14 clear on my thinking, but that wasn't the reasoning.

15 MR. PIKE: Well, if that's not the
16 reasoning, I'm supposing that's the reasoning or
17 interpreting the court's ruling.

18 But now, the evidence has come out
19 differentiates this other case even more and so I
20 think that we have to make a record prior to coming
21 in before the jury.

22 THE COURT: How does it differentiate?
23 You made a good point and I agree with you on what I
24 call the third homicide that it was distinct enough
25 and the prejudice outweighed the probative. But as

1 to the second homicide, it appeared that it was a
2 hundred percent clear that it was your client
3 involved, that the modus operandi was almost
4 identical. You go in, you go have forcible
5 intercourse and then you strangled them and that in
6 that case it's a hundred percent his sperm whereas
7 in this case it is very probable 99, but they didn't
8 have a complete strand or sample so they can't say a
9 hundred percent. So that sort of leaves a little
10 window opened.

11 And what is the relevance of the
12 fact that be this Brass person had consensual sex
13 with his girlfriend three hours earlier? I don't
14 even see what's relevant about that.

15 MR. PIKE: What's relevant about it is
16 that during the course of the examination of the
17 physical evidence that's associated with this, it
18 includes the fact that her panties which she put on
19 and then she removed prior to getting into the
20 bathtub because there's, there's no evidence to
21 indicate that some -- that she was forced into the
22 bathtub or forcibly undressed or anything like that.
23 The panties have the mixture of DNA in it. And the
24 DNA, the mixture could have occurred the day before,
25 the morning before. It, it -- there is no

1 indication that that my client e went into that
2 apartment. There's not fingerprints and there just
3 is the DNA inside of her.

4 Now, if we know the time of the
5 death that was associated with that within a two
6 hour time frame, then we know the family that's
7 around there and it's all the family around George
8 Brass and they're all keeping the information about
9 that relationship away from the police for three
10 years until the detective goes back out to get the
11 information and George Brass is there later that
12 afternoon having left work without checking out, but
13 it somehow shows that he did check out which attacks
14 the veracity of their records and does not make it
15 an air-tight alibi, then it creates an entire
16 another issue about this, this family.

17 This family was in apartments across
18 from his, or across from the deceased in the
19 apartment just looking on to that. And then there's
20 an independent witness who is looking down who
21 identifies Chicken which is George Brass's name as
22 being there later on in the afternoon during the
23 time that this happens. And the investigation is
24 never really fleshed out to -- and there is no
25 indication that the sexual contact between the

1 deceased and my client is in any way associated with
2 the burglary, with the robbery.

3 THE COURT: I think that's the State's
4 point. I mean, if the argument from the defense is
5 gonna be this may have been consensual, then you've
6 got another person on the same circumstance who is
7 likewise strangled, it's pretty unlikely. And
8 that's what NRS 45.045 goes to is to show his intent
9 at the time of this sexual interaction. You know,
10 that he was the one that raped and strangled her
11 because he raped and strangled this other woman. It
12 isn't like, you know, five guys have been visiting
13 there and which one did the strangulation.

14 MS. WECKERLY: I mean to me --

15 THE COURT: Plus it also goes to identity
16 because they don't have a hundred percent DNA on
17 this particular case.

18 MS. WECKERLY: Right. I mean, to -- it's
19 the State's position that now that prior or actually
20 it's subsequent event is even more relevant now.

21 THE COURT: Exactly. I think it is.

22 MS. WECKERLY: Because we've eliminated
23 the other source of the DNA. So that's just the
24 question of how did Mr. Flowers' DNA get there and
25 now it's highly probative as to intent, motive,

1 identity and l of consent on the part of the
2 victim when he had contact with her.

3 So I mean, I sort of see it as the
4 inverse the fact that this other DNA source has been
5 eliminated makes this subsequent crime even more
6 probative as to what happened between Mr. Flowers
7 and Ms. Quarles on the 24th.

8 THE COURT: Well, I don't see it as more
9 probative that she do it or less probative as Mr.
10 Pike does. I see it as the same. I mean, if the
11 argument from the defense would be that they may
12 have had consensual sex, this other crime really
13 goes to what is his intent is. And because this
14 isn't a hundred percent and the other one is,
15 they're almost identical circumstances, it also goes
16 to, to identity, who actually did have sex. I mean,
17 he can take the position that hey, well maybe it
18 wasn't me, but if you one percent of all the men in
19 the world, that could be a jillion men. But when
20 you have zero percent as in the next case and he has
21 an extra connection to both of these women.

22 All right. The motion's denied.
23 Same rules. The second, what I call the second
24 homicide will come in in the State's case in chief.
25 The third homicide will not.

1 If the defendant's convicted, they
2 can bring in the third one. Whatever worth it has
3 or nothing.

4 Anything else?

5 MR. PIKE: Nothing. Well, the State has
6 filed the amended indictment to withdraw certain
7 theories that they previously had on that. We've
8 gone through it. And as has been articulated during
9 this motion for rehearing, we have no objection.

10 THE COURT: Okay.

11 MS. WECKERLY: And can I just ask for one
12 clarification? With regard to the ruling on the
13 subsequent homicide, when I open, am I allowed to
14 explain how the course, like how this case was cold
15 until that second case came in so it explains sort
16 of the lag in the detectives getting George Brass's
17 DNA? Am I allowed to sort of explain how the
18 investigation played out because I think otherwise
19 the jury's gonna be saying well --

20 THE COURT: What's your position on that,
21 Mr. Pike?

22 MR. PIKE: Well, the -- as far as the
23 time frame, the facts are going to show what they're
24 going to show. And the fact that it was a cold case
25 for a time, a period of time until they obtained my

1 client's DNA and then it was col for an even longer
2 period of time until they found Mr. Brass, I think
3 factually they can go in with that.

4 If they are gonna bring in evidence
5 of this other crime during the opening arguments, I
6 think that there has to be a cautionary instruction.

7 THE COURT: Okay.

8 MR. PIKE: That's given prior to the jury
9 hearing the opening arguments.

10 THE COURT: I think you're probably
11 entitled to that cautionary instruction every time
12 it's gonna come up, before every witness and then
13 certainly in part of the jury instructions, but the
14 State's gonna open with, and that's just notice
15 objection from the defense, I will give cautionary
16 instruction before that that they're gonna talk
17 about another crime, they may hear some evidence
18 about that during the trial, but this is the only
19 thing they can consider it for.

20 MR. PIKE: That's correct. And also if
21 then because we brought this motion before and the
22 court has reconsidered it and ruled against us, if
23 we can have a continuing objection so I don't have
24 to raise an objection every time that it comes up.

25 THE COURT: Mr. Pike, I think you've made

1 an excellent record.

2 I have no doubt that Mr. Whipple has
3 made as comparable record in a case in front of
4 Judge Gonzalez who also found this case to be cross
5 admissible to her case. And yes, you can have the
6 continuing objection because I think you've made the
7 point for purposes of any appeal that will follow.

8 MR. PIKE: Thank you very much, Your
9 Honor.

10 THE COURT: Okay. In terms of picking
11 the jury, I'm guessing it's gonna take most of the
12 day. You know, if we get to, you know, 4:30 or
13 5:00, we're not gonna open until tomorrow.

14 If we can tell by noon that we're
15 gonna have a jury at 2 o'clock, will you be ready to
16 open, Ms. Weckerly?

17 MS. WECKERLY: I actually requested that
18 we can open tomorrow.

19 THE COURT: No.

20 MS. WECKERLY: I promise we'll be done on
21 Monday like I said.

22 THE COURT: Okay.

23 MR. PIKE: Thank you.

24 THE COURT: All right.

25 MR. PIKE: Because of the ruling, I guess

1 we'll probably ve to bring up some issues about
2 their willingness to give a death penalty if there's
3 evidence of a second homicide during the selection
4 of the jury and how that would impact them maybe.

5 THE COURT: Well, you know, you're not
6 allowed to ask them if there's ten, will you, if
7 there's one, will you. Basically they're an
8 eligible jury if they will consider all four
9 penalties; 50 years, life with, life without or
10 death.

11 And, you know, if you want to
12 explore a little bit, a little bit, you know, how
13 they're thinking, so that you can decide in terms of
14 using your preemptions, I'll give you a little bit
15 of leeway. This is a death case.

16 In other words, you know, you can
17 say, you know, would it make a great deal of
18 difference to you in determining the penalty if you
19 believe the defendant has had tools to one
20 (phonetic), I'll probably let you have that
21 question. But as long as they keep an open mind
22 there in the hunt, you can use those kinds of things
23 in making your choices.

24 MR. PATRICK: Judge --

25 THE COURT: And we're gonna go right

1 there first. I mean, as soon as we get them in and
2 talk to them for a second, that's the first thing
3 I'm gonna ask them in mass is look, ladies and
4 gentlemen, this is a capital case, it's a death
5 penalty case, the procedure is this, this is what
6 happens, you'll be called upon to do this. Is there
7 anybody that can't consider all four of those
8 penalties and they'll raise their hands and we'll
9 start, we'll identify them and what can you do and
10 what can't you do.

11 Mr. Patrick, Mr. Pike, if when we're
12 doing that, you know, I'm kind of ready to excuse
13 somebody if you want to, you know, ask a question,
14 just say can I ask a question, judge, you're
15 certainly free to.

16 MR. PATRICK: Judge, I think the issue
17 would be if they can keep the Coote murder separate
18 from this and understand that they're only
19 deliberating on Ms. Quarles' homicide. And that was
20 the, more the tact I would look at the jury and say,
21 you know, you may hear about this second homicide,
22 but you have to realize that you're only here for
23 this one.

24 THE COURT: I think that's fair. I think
25 that's fair. And if he gets convicted, they're

1 gonna hear about three homicides. You know, the
2 evidence is certainly stronger in the first two, but
3 that's all they're here to decide is what will be
4 the penalty on this case. If there are other things
5 they think he may have done, that's not for them,
6 that's for another jury. Ask them that. And if
7 they say no, I can't, then they may be ineligible.
8 Then if they say yes, I can, I understand, then
9 they're good. Okay.

10 (Whereupon, the jury entered the
11 courtroom.)

12 THE CLERK: The first 14 in the seat.
13 No. 1, Michael Murray.

14 THE JUROR: Yes.

15 THE COURT: She just has to make sure
16 you're in the right seat.

17 THE CLERK: Keitha Munerlyn.

18 THE JUROR: Present.

19 THE CLERK: Katherine Rice.

20 THE JUROR: Here.

21 THE CLERK: Lisa Eldridge.

22 THE JUROR: Yes.

23 THE CLERK: Wyatt Wulff.

24 THE JUROR: Here.

25 THE CLERK: Javier Mayoral.

1 THE JUROR: Here.

2 THE CLERK: Bayardo Guevara.

3 THE JUROR: Here.

4 THE CLERK: Vicki Ergina.

5 THE JUROR: Yes.

6 THE CLERK: Edward Morken.

7 THE JUROR: Yes.

8 THE CLERK: Ignacio Herrera.

9 THE JUROR: Here.

10 THE CLERK: Shanna Burley.

11 THE JUROR: Here.

12 THE CLERK: Ellen McKinney.

13 THE JUROR: Here.

14 THE CLERK: Miadora Nelson.

15 THE JUROR: Yes.

16 THE CLERK: Guy Stablein.

17 THE JUROR: Here.

18 THE COURT: Great. Just fill in

19 anywhere. Just make sure you move all the way over
20 so that -- we're gonna fill every seat. All the way
21 down to the end because we're gonna fill every seat.
22 There's some over there. There's a few more up
23 here, Chermaine. One there. There's a couple up
24 here. We've got another one up here, Chermaine. Up
25 here. Perfect.

1 right. Okay. Good morning,
2 ladies and gentlemen. This is the time set for the
3 trial in Case No. C228755, State of Nevada versus
4 Norman Flowers.

5 This is Mr. Flowers sitting at this
6 table here in the center in the light blue shirt
7 with his attorneys Mr. Randy Pike, Mr. Clark
8 Patrick. These are prosecutors for the State of
9 Nevada, Pamela Weckerly and Lisa Luzaich.

10 This is a criminal case. Mr.
11 Flowers is charged with several charges, but
12 basically it involves a sexual assault and a murder.

13 My name is Stu Bell. I'm the judge
14 that's been assigned to try this case. You've been
15 summoned here to act as potential jurors in this
16 case.

17 Let me introduce --

18 OFFICER MOON: I'm right here, boss.

19 THE COURT: This isn't the courtroom we
20 usually operate in. We usually operate next door.
21 And we're gonna operate next door starting tomorrow,
22 but it's a smaller courtroom and we can't get all
23 the potential jurors in so I don't know exactly
24 where everybody is.

25 There is our court reporter. She is

1 JoAnn Orduna. Her job is to make sure that
2 everything that is said and by whom is accurately
3 taken down. And the purpose of that of course is
4 that if one side or the other thinks that I didn't
5 do my job right and I didn't make sure that both
6 sides got a fair trial, they could appeal to the
7 Nevada Supreme Court and they would review a
8 transcript prepared from her notes to make their
9 decision.

10 I'm sorry. My regular clerk called
11 in with pneumonia today, but we have a very capable
12 back-up clerk, but I forgot your name. Tia. This
13 is Tia. She's our clerk. Hardest job in the
14 courtroom. She has to keep track of all the
15 evidence, swear the witnesses and keep minutes which
16 are the official record of the proceedings.

17 Mr. Ric Moon, he's our court
18 security officer. His job is the safety of the
19 persons and property in the courtroom, including
20 yourself. He's also the only person in the
21 proceedings that are allowed to talk to jurors or
22 potential jurors during the entire course of the
23 trial. The lawyers and I are not, nobody else is.
24 So if there's anything you need to know, where the
25 restroom is and can I do this, can I do that, where

1 do I eat, I need to tell the judge this, that or the
2 other, you do by telling Officer Moon and he'll know
3 how to take care of that.

4 At this time, does either side
5 desire to challenge the jury panel as a whole? Ms.
6 Weckerly.

7 MS. WECKERLY: No, Your Honor.

8 THE COURT: Mr. Pike.

9 MR. PIKE: No, Your Honor.

10 THE COURT: Ms. Weckerly, will you
11 introduce yourself and your co-counsel and give the
12 ladies and gentlemen of the jury a list of the names
13 of the witnesses you intend to call.

14 Ladies and gentlemen, listen
15 carefully to this list because I'm gonna ask you in
16 just a minute if you know any of these people.

17 Ms. Luzaich, okay.

18 MS. LUZAICH: Good morning, ladies and
19 gentlemen. My name is Lisa Luzaich. My co-counsel
20 Pam Weckerly and I represent the State of Nevada.
21 We are bringing charges in this case.

22 I'm gonna read you a list of
23 witnesses. And these are witnesses that you are not
24 only gonna hear from, but you are gonna hear about.
25 I promise that I will not call all of these

1 witnesses, but a lot of witnesses are relevant. If
2 you know them or about them even, even if you don't
3 hear from them, you might know something about the
4 case and that's why I'm gonna read everybody's name.

5 So in no particular order, you're
6 gonna hear about Sheila Quarles, the death of Sheila
7 Quarles and Marilyn Coote, the death of Marilyn
8 Coote.

9 Then as far as witnesses you could
10 hear from or about, again, in no particular order,
11 from the Clark County Medical Examiners Office, Dr.
12 Lary Simms, Dr. Ronald Snowblock.

13 From the Las Vegas Metropolitan
14 Police Department, and this is gonna be a lot of
15 names, David Horne, Detective Don Tremel, Detective
16 Al Cabrales, Sergeant, also Detective, Russell
17 Shoemaker, Officer -- or Sergeant Phillip Leeke,
18 Officer Candy Byrd, Officer Robert Schmidt,
19 Detective Martin Wildman, Detective Sheila Huggins
20 who has since retired. Detective George Sherwood,
21 Detective James Buczek, Detective Frederick French,
22 Monte Spoor, Detective Dan Long, Michael Pirtle,
23 Officer William Waite, Randall McLaughlin, Tracy
24 Roland, Donald Albietz, Michael Perkins, Officer
25 Blake Smith, Detective Mike Wallace, Fred Boyd, Sean

1 Fletcher, Pete Schellberg, Officer Victor Cebino,
2 Officer Jerry James, Officer Bret Whitmarsh,
3 Detective Eugene Gallagher, Detective Theodore Glog,
4 Edward Gunther, Mark Vaughn, Gerald Cahoon, Officer
5 Angelo Bevilacqua, Jeffrey Smink, Officer Dana
6 Adams, Officer Shannon Kelly, Brian -- Officer Brian
7 Holde, Charity Green, Shelly Ermand, Officer William
8 Dellagrana, Officer Edwardo Nava, Christina Paulette
9 who is actually from the DNA lab at Metro, and
10 Officer Steven Custer.

11 And then civilian witnesses, not law
12 enforcement related, Monica Ramirez, Caesar
13 Hernandez, Linda Ebbert who is a nurse, formerly
14 associated with UMC. Lloyd Gonzalez, James Johnson,
15 Dennis Mitchell, Micheline Craw, Dalton Coote, Helen
16 Jaro, Alicia Turner, Connie Silvas, Vanessa Mendez,
17 Angel Mendez, Katrina McKenna, Andy Gonzalez, Clad
18 McGowan and Barbara McGowan, Andrew Mann, Karen
19 Moore, Betty Bell, Brian Wayne, Ranzy Rembert, Debra
20 Larson, Cathi Jo Esplin, Rebecca Smith, Sherri Lynn
21 Burgess, Ronald Ayotte, Jonathan Courtright, Nina
22 Dellacourt, Barbara King, Reanna McGraw, Elwood
23 Williams, Roger Osgood, Debra Quarles, Ralph Fuller,
24 Qunise Toney, James McCardo is formerly of the Las
25 Vegas Metropolitan Police Department. Elizabeth

1 Tolhurst, Robert Lewis, William Kenzy, Marketa Carr,
2 Natalie Sena, Janey Brass, Ebony Lewis, Alia Fuller,
3 Agria Fuller and George Brass, Jr., and George
4 Brass, Sr. Thank you all.

5 THE COURT: Thanks. Mr. Pike, will you
6 introduce yourself and your co-counsel and your
7 client, please.

8 Mr. Patrick.

9 MR. PATRICK: Good morning. My name is
10 Clark Patrick. I'm from the Clark County Special
11 Public Defenders Office. Co-counsel Randall Pike
12 also with our office. Our client is Norman Flowers
13 and he's the one that you'll be hearing a lot about
14 over the next week.

15 We have basically the same list of
16 witnesses that Ms. Luzaich just read to you. So a
17 lot of names will be familiar. There's a few that
18 we have that she may not have read to you. So most
19 of these things will sound familiar. Pay attention
20 because there's a few that we've added. And again,
21 no real particular order. Mostly alphabetical order
22 on the list of witnesses that we may call.

23 And like Ms. Luzaich said, rest
24 assured we're not gonna call all these people, but
25 we will call at least a few of them.

1 Alia Fuller, Agria Fuller, Anthony
 2 Culverson, Veronica Segala, George Shero, Dr. Greg
 3 Kambiatian, Dr. Louis Mortellero, Elagio Martinez,
 4 Darryl Sanchez, Officer Adams from the Clark County
 5 Detention Center, Barbara Albert, Officer Albietz
 6 from Metro, Ricardo Argueta, Ronald Ayotte, Shane
 7 Baker, Betty Bell, Charles Bell, Officer Bevilacqua,
 8 Michelle Blackwell who is an investigator with our
 9 office. Miranda Board, George Brass, both junior
 10 and senior. Janey Brass, Wayne Brian, Officer
 11 Buczek from Metro, Sherri Lynn Burgess, Officer
 12 Carellas from Metro, Clayton Coote, Jonathan
 13 Courtright, Marquia Carr, Micheline Craw, Juanita
 14 Curry, Sandra Curry, the custodian of records from
 15 the Las Vegas Metropolitan communications, the
 16 custodian of records from Las Vegas Metropolitan
 17 Police Department, the custodian of records from the
 18 secret witness of Las Vegas Metropolitan Police
 19 Department, Nina Dellacourt, George Dunlap, Linda
 20 Ebbert, Shelly Erdman, Cathi Jo Esplin, Officer
 21 Figuera from Metro, Officer Fletcher, Timothy Flynn,
 22 Detective French from Metro, Juan Galliano who is
 23 another one of our investigators out of our office.
 24 Officer Gallagher from Metro, Andy Gonzalez, Lloyd
 25 Gonzalez, Pauline Gonzalez, Charity Green, Officer

1 Grover from Metro, Edward Gunther, William Hagmeier,
 2 Robert Harriper from the coroner's office. Cesar
 3 Hernandez, David Horne, Sheila Huggins, April
 4 Jackson, Helen Hero, James Johnson, Officer Kelly
 5 from Metro, Barbara King, William Kinzey, Ronald
 6 Knoblock who is a medical examiner with Clark
 7 County, Officer Lamoureux, Debra Larson, Officer
 8 Leeke from the Clark County Detention Center,
 9 Anthony Lewis, Ebony Lewis, Deandrew Lewis, Robert
 10 Lewis, Officer Long from Metro, Richard Lutz from
 11 Metro, Andrew Mann, Officer Mapin from Metro,
 12 Barbara McGowan, Claude McGowan, Reanna McGraw,
 13 Katrina McKenna, Randal McLaughlin, Angel Mendez,
 14 Vanessa Mendez, Dennis Mitchell, Mr. Moon from the
 15 Clark County Coroner's Office, Karen Moore, William
 16 Nelson, Roger Osgood, Christina Paulette, Marcia
 17 Parker, Joseph Perez who is also one of our
 18 investigators, he'll be in and out of the courtroom
 19 quite a bit because he's the investigator actually
 20 assigned to this case. You'll see him coming up to
 21 counsel table. He is one of our investigators.
 22 Daniel Peterson, Officer Pirtle,
 23 Darnel Pitts, Debra Quarles, Mawusi Ragland, Monica
 24 Ramirez, Ranzy Rembert, Officer Roberts from Metro,
 25 Shawnta Robertson, Cornelius Rogers, Maribel Rosalez

1 who is again one of the investigators from our
 2 office.

3 Officer Roland from Metro, Officer
 4 Renald from Metro, Peter Schellberg, Natallia Sena,
 5 George Sherwood, Connie Silvas, Lary Simms who is a
 6 medical examiner with the coroners office. Jeff
 7 Smink, Officer Smith from Metro, Rebecca Smith,
 8 Monte Spoor, Kendra Thomas, Elizabeth Holburst,
 9 Pollyanna Toney, Qunise Toney, Donald Tremel, Alicia
 10 Turner, Randy Arena, James Vicarro, Martha Valdez,
 11 William Villagrana, Thomas Wahl, Officer Wartman
 12 from Metro, Lynell Washington and Elwood Williams.
 13 Thank you.

14 THE COURT: Thanks. Before you get
 15 bowled over by that long list of names, ladies and
 16 gentlemen, let me assure you that when it gets down
 17 to it, they won't call anywhere near all those
 18 people.

19 In fact, although obviously this is
 20 a serious trial, you can tell that from the charges,
 21 in terms of length of the trial, it's not going to
 22 be much longer than our average trial. The average
 23 trial in the Eighth Judicial District Court is six
 24 days. If you take all the trials and divide the
 25 amount of days we're in trial, divide it out six

1 days. Sometimes you get a case that's only a couple
 2 days or three days long. We have one going, a CD,
 3 construction defect, case now that's in its eighth
 4 month.

5 This case is gonna last either seven
 6 or eight. I'm not sure. We're gonna start today.
 7 We could either be done next Thursday or next
 8 Friday. So it's going to be one, maybe two days
 9 longer than average.

10 And again, they aren't gonna call
 11 nearly all those people, but they do have an
 12 obligation to read those to you, so we can see if
 13 any of the potential jurors have an affiliation with
 14 any potential persons because we're not always sure
 15 exactly who we're gonna call as the trial develops.

16 The next thing that happens is we
 17 take a roll call of the jurors, so that we can have
 18 an accurate records of who's here. It's just like
 19 school. When your name is called, say here or
 20 present, please. It'll just take a minute or two.

21 Ms. Clerk.

22 THE CLERK: Michael Murray.

23 THE JUROR: Here.

24 THE CLERK: Keitha Munerlyn.

25 THE JUROR: Present.

1 THE CLERK: Katherine Rice.
 2 THE JUROR: Here.
 3 THE CLERK: Lisa Eldridge.
 4 THE JUROR: Here.
 5 THE CLERK: Wyatt Wulff.
 6 THE JUROR: Here.
 7 THE CLERK: Javier Mayoral.
 8 THE JUROR: Here.
 9 THE CLERK: Bayardo Guevara.
 10 THE JUROR: Here.
 11 THE COURT: Vicki Ergina.
 12 THE JUROR: Here.
 13 THE CLERK: Edward Morken.
 14 THE JUROR: Here.
 15 THE CLERK: Ignacio Herrera.
 16 THE JUROR: Here.
 17 THE CLERK: Shanna Burley.
 18 THE JUROR: Here.
 19 THE CLERK: Ellen McKinney.
 20 THE JUROR: Here.
 21 THE CLERK: Miadora Nelson.
 22 THE JUROR: Here.
 23 THE CLERK: Guy Stablein.
 24 THE JUROR: Here.
 25 THE CLERK: Zandra Bustamante.

1 THE JUROR: Here.
 2 THE CLERK: Karie Hoelzer.
 3 THE JUROR: Here.
 4 THE CLERK: Cathy Russo.
 5 THE JUROR: Here.
 6 THE CLERK: John Anderson.
 7 THE JUROR: Here.
 8 MR. CLERK: Todd Pierson.
 9 THE JUROR: Here.
 10 THE CLERK: Sue Noch.
 11 THE JUROR: Here.
 12 THE CLERK: Brian Herron.
 13 THE JUROR: Here.
 14 THE CLERK: Mark Mediate.
 15 THE JUROR: Mediate. Here.
 16 THE CLERK: James Knox.
 17 THE JUROR: Here.
 18 THE CLERK: Elizabeth Cox.
 19 THE JUROR: Here.
 20 THE CLERK: Loreli Calmy.
 21 THE JUROR: Here.
 22 THE CLERK: Sharon Hammond.
 23 THE JUROR: Here.
 24 THE CLERK: Vickie Nicholls.
 25 THE JUROR: Here.

1 THE CLERK: Randy Mauszycki.
 2 THE JUROR: Here.
 3 THE CLERK: Jeffrey Miller.
 4 THE JUROR: Here.
 5 THE CLERK: Robyn Carnaby.
 6 THE JUROR: Here.
 7 THE CLERK: Rita Asturi.
 8 THE JUROR: Here.
 9 THE CLERK: Steven Greenhalgh.
 10 THE JUROR: Here.
 11 THE CLERK: Yissa Renteria.
 12 THE JUROR: Here.
 13 THE CLERK: Craig Mccaslin.
 14 THE JUROR: Here.
 15 THE CLERK: Dino Mantini.
 16 THE JUROR: Here.
 17 THE CLERK: Niklos Novotny.
 18 THE JUROR: Here.
 19 THE CLERK: Barbara Helton.
 20 THE JUROR: Here.
 21 THE CLERK: Hwang Hur.
 22 THE JUROR: Here.
 23 THE CLERK: James Wojciak.
 24 THE JUROR: Here.
 25 THE CLERK: Sandra Clark.

1 THE JUROR: Here.
 2 THE CLERK: Felicia Leicht.
 3 THE JUROR: Here.
 4 THE CLERK: Bo Zarach.
 5 THE JUROR: Here.
 6 THE CLERK: Patricia Forsythe.
 7 THE JUROR: Here.
 8 THE CLERK: Cynthia Bell.
 9 THE JUROR: Here.
 10 THE CLERK: Dean Tomita.
 11 THE JUROR: Here.
 12 THE CLERK: Kimberlie Farmer.
 13 THE JUROR: Here.
 14 THE CLERK: Craig Lugo.
 15 THE JUROR: Present.
 16 THE CLERK: Richard Kriesel.
 17 THE JUROR: Here.
 18 THE CLERK: Lizette Alicea.
 19 THE JUROR: Here.
 20 THE CLERK: Susan Hescher.
 21 THE JUROR: Here.
 22 THE CLERK: Stephen Roy.
 23 THE JUROR: Here.
 24 THE CLERK: Henrietta Gage.
 25 THE JUROR: Present.

1 THE CLERK: Laquinta Smith.
 2 THE JUROR: Present.
 3 THE CLERK: Chito Rondael.
 4 THE JUROR: Here.
 5 THE CLERK: John Coe.
 6 THE JUROR: Here.
 7 THE CLERK: Christopher Barr.
 8 THE JUROR: Here.
 9 THE CLERK: Sean Logan.
 10 THE JUROR: Here.
 11 THE CLERK: Eric Coloma.
 12 THE JUROR: Here.
 13 THE CLERK: Jeremy Thiroit.
 14 THE JUROR: Here.
 15 THE CLERK: Stephen Zur -- or Stephanie
 16 Zurita.
 17 THE JUROR: Here.
 18 THE CLERK: Myrna Caroon.
 19 THE JUROR: Here.
 20 THE CLERK: Priscilla Prim.
 21 THE JUROR: Here.
 22 THE CLERK: Lourdes Gomez.
 23 THE JUROR: Here.
 24 THE CLERK: Dale Massey.
 25 THE JUROR: Here.

1 THE CLERK: Alan Phan.
 2 THE JUROR: Here.
 3 THE CLERK: Taren Kelly.
 4 THE JUROR: Here.
 5 THE CLERK: Loretta Cassin.
 6 THE JUROR: Here.
 7 THE CLERK: Saul Montoya.
 8 THE JUROR: Here.
 9 THE CLERK: Thida Peou.
 10 THE JUROR: Here.
 11 THE CLERK: Sharon Grover.
 12 THE JUROR: Here.
 13 THE CLERK: Michael Dealvarado.
 14 THE JUROR: Here.
 15 THE CLERK: Mark Motl.
 16 THE JUROR: Here.
 17 THE CLERK: Charles Sadahiro.
 18 THE JUROR: Here.
 19 THE CLERK: Mitchell Martin.
 20 THE JUROR: Here.
 21 THE CLERK: Stacey Grimes.
 22 THE JUROR: Here.
 23 THE CLERK: Robin Grady.
 24 THE JUROR: Here.
 25 THE CLERK: Maria Tovar.

1 THE CLERK: Here.
 2 THE CLERK: Chad Copening.
 3 THE JUROR: Here.
 4 THE CLERK: Norman Kahler.
 5 THE JUROR: Here.
 6 THE CLERK: Onelys Matos.
 7 THE JUROR: Here.
 8 THE CLERK: Jill Mehlinger.
 9 THE JUROR: Here.
 10 THE CLERK: Brenda Tanner.
 11 THE JUROR: Here.
 12 THE CLERK: Chadwick Pope.
 13 THE JUROR: Present.
 14 THE CLERK: Daniel Gausin.
 15 THE JUROR: Here.
 16 THE CLERK: Carolyn Greene.
 17 THE JUROR: Here.
 18 THE CLERK: Michelle Mackin.
 19 THE JUROR: Here.
 20 THE CLERK: Kele Mendell.
 21 THE JUROR: Here.
 22 THE CLERK: Matthew Hendricks.
 23 THE JUROR: Here.
 24 THE CLERK: Janice Siano.
 25 THE JUROR: Here.

1 THE CLERK: Dianna Lopez.
 2 THE JUROR: Here.
 3 THE CLERK: Vivian Furlow.
 4 THE JUROR: Yes.
 5 THE CLERK: Denise Wilcox.
 6 THE JUROR: Here.
 7 THE CLERK: Ricardo Bravo.
 8 THE JUROR: Here.
 9 THE CLERK: Karen Abrogast.
 10 THE JUROR: Here.
 11 THE CLERK: Susan Parks.
 12 THE JUROR: Here.
 13 THE CLERK: Lisa Caterbone.
 14 THE JUROR: Here.
 15 THE CLERK: Zacharich Williams.
 16 THE JUROR: Here.
 17 THE CLERK: Wayne Tustin.
 18 THE JUROR: Here.
 19 THE CLERK: Lubomir Naydenov.
 20 THE JUROR: Here.
 21 THE CLERK: John Moran.
 22 THE JUROR: Here.
 23 THE CLERK: And that completes the list.
 24 THE COURT: Okay. Anyone whose name was
 25 not called? Okay. The next thing that happens is

1 what we call the voir dire process. It's a process
2 where mostly the court, a little bit counsel ask
3 very nonpersonal, noninvasive questions of potential
4 jurors to make sure that the people that ultimately
5 sit in judgment could be fair to both the State and
6 to the defendant Mr. Flowers.

7 No doubt that all of you could be
8 fair and impartial and in the vast majority of cases
9 that you may be called to sit as a juror. We just
10 want to make sure that this isn't the exception to
11 the rule. And how could that be?

12 Well, it has nothing to do with
13 ability or intellect or citizenship or willingness
14 or anything like that, but it has to do with
15 potential experiences you may have had in your life
16 that might make it difficult for you to be
17 objective.

18 For example, maybe Mr. Pike is your
19 personal attorney, so it's difficult to be objective
20 in the case where your own lawyer is participating.
21 Maybe you live next door to Ms. Weckerly. Maybe
22 you've had a personal experience to someone close to
23 you so similar to this that it's just difficult to
24 come to the task with a clean slate. That sort of
25 thing. We need objective people that can listen to

1 the evidence and make an objective decision.

2 So the way the process goes is this:
3 I'll ask a bunch of questions to everybody, then
4 we'll ask the potential jurors that are in the box
5 some individual questions and then when we get to
6 the process, we call preemptory challenges and that
7 is that each side gets to ask to have potential
8 jurors excused for any reason or no reason. And it
9 usually is no reason. Usually it's just a feeling
10 in the gut on the part of the lawyer that I'm not
11 sure this person because of their experiences may
12 understand this case from the prospective that I'm
13 hoping that they'll understand the case from.

14 So if it comes to the point that one
15 of the lawyers asks that you be excused, please do
16 not take it personally because it is not. It's just
17 a matter of trying to make sure that both sides have
18 a matter of a comfort level when we start the case
19 that the jury is going to be fair and impartial and
20 that's the process.

21 As I said, the questions are not
22 personal and they're not invasive. On the other
23 hand, it is still very important that people answer
24 the questions truthfully. So to that end, the law
25 provides that the process is done under oath.

1 If you'll stand and raise your
2 right hand, the clerk will administer the oath.
3 (Whereupon, the oath was
4 administered to the potential jury.)

5 THE COURT: Okay. Have a seat. All
6 right. This first group of questions we're gonna
7 ask of everybody.

8 Let me tell you a little bit about
9 how this trial is gonna go at first. This voir dire
10 process is to get our jurors ultimately seated. It
11 will take the bulk of the day. And this is what
12 we're gonna do today, but we'll get it done today
13 and we'll fully start the trial tomorrow.

14 We will go sometime early next week
15 in what we call the guilt phase of the trial. That
16 is the trial, the portion of the trial where the
17 State has to prove, if they're going to, that the
18 defendant has committed the crimes charged beyond a
19 reasonable doubt.

20 If the jury comes back and finds the
21 defendant not guilty, the trial is over. However,
22 if the jury finds the defendant guilty of murder in
23 the first degree, then we move on to a second phase
24 called the penalty phase where the jury hears
25 further evidence. Not about what happened in this

1 instance, but about the good, bad and ugly of the
2 character of the defendant. Things about him that
3 might affect a decision in regard to penalty. They
4 deliberate again and decide what is the appropriate
5 penalty.

6 The whole thing, even if we have a
7 penalty, will be done either Thursday or Friday I
8 guarantee you. I've been doing this for a lot of
9 years. I can tell you I never miss in terms of time
10 estimate. So don't think somehow that's what he
11 says but you're gonna be here three weeks. You're
12 gonna be here from now until next Thursday or
13 Friday.

14 All right. This first set of
15 questions is for everybody and I'll ask them in
16 mass. If your answer is no, just sit there and do
17 nothing. If your answer is yes, raise your hand,
18 I'll call on you, stand, because we need your voice
19 to carry in this big room, give us your name first,
20 the last three digits of your badge number, so we
21 have a record as to whom we're talking, and then
22 we'll explore it a little bit.

23 Is there anybody in the prospective
24 jury panel who has been convicted of a felony?

25 Is there anybody in the prospective

1 jury panel who is not a citizen the United
2 States.
3 Is there anyone in the prospective
4 jury panel who has such sympathy, prejudice or bias
5 relating to age, religion, race, gender or national
6 origin that they could not be fair and impartial?

7 Is there anybody in the prospective
8 jury panel who is acquainted with the defendant Mr.
9 Norman Flowers?

10 Is there anybody in the prospective
11 jury panel acquainted with the defendant's counsel,
12 Mr. Randy Pike or Mr. Clark Patrick?

13 Yes, ma'am. Stand and give us your
14 name and last three digits of your badge number.

15 THE JUROR: 008. And I know Mr. Clark.

16 THE COURT: What's your name?

17 THE JUROR: Lisa Eldridge.

18 THE COURT: Okay. How do you know Mr.
19 Patrick?

20 THE JUROR: I know Mr. Patrick socially.

21 THE COURT: And is that a close
22 relationship or just sort of an acquaintanceship?

23 THE JUROR: It's a social relationship
24 but I do have another bias, sir.

25 THE COURT: Okay. Well, let me explore

1 this one about Mr. Patrick.

2 Do you believe that in a case where
3 he's one of the lawyers it would be difficult for
4 you to be objective because of your relationship
5 with him?

6 THE JUROR: It's kind of a double-edged
7 sword with my other objective, but to answer your
8 question, no.

9 THE COURT: Okay. I don't want you to be
10 too specific about the other thing, but you believe
11 that you have a bias in this case that would not
12 allow you to be objective to both sides?

13 THE JUROR: Correct.

14 THE COURT: All right. I'll just take
15 you at your word and excuse you.

16 THE JUROR: Thank you.

17 THE COURT: All right. You're excused.

18 What you need to do is just go back to the jury
19 commissioner's office where they came from. If they
20 have another trial starting, they'll send you out
21 with some other jurors on that trial. If they
22 don't, they'll send you home.

23 Somebody else that knows either Mr.
24 Pike or Mr. Patrick?

25 THE JUROR: No, sir. I have a -- my son

1 was murdered and I'm sort of biased on.

2 THE COURT: Okay. What's your name,
3 ma'am?

4 THE JUROR: Cathy Russo. 023.

5 THE COURT: You're excused.

6 THE JUROR: Thank you.

7 THE COURT: I mean, first of all, we need
8 people to be fair and impartial, but secondly, this
9 isn't designed to be a torture test. We don't want
10 somebody to just sit through this because of their
11 own personal relationships.

12 Okay. Anybody know either Ms.
13 Weckerly or Ms. Luzaich, the prosecutors?

14 THE JUROR: Is domestic violence
15 considered a felony or --

16 THE COURT: Not generally.

17 THE JUROR: Okay.

18 THE COURT: Anybody know either Ms.
19 Weckerly or Ms. Luzaich?

20 Anybody know David Roger, the
21 district attorney?

22 Anybody know any other members of
23 the district -- yes, sir.

24 THE JUROR: Yeah, I know her.

25 THE COURT: What's your name and your

1 number?

2 THE JUROR: Craig McCaslin, 061.

3 THE COURT: And who do you know?

4 THE JUROR: The lady right here.

5 THE COURT: Ms. Weckerly?

6 THE JUROR: Yes.

7 THE COURT: Okay. And is that
8 relationship such that it would be difficult for you
9 to be objective in a case where she's the
10 prosecutor?

11 THE JUROR: No. I'm just involved in
12 another case.

13 THE COURT: Are you a witness or --

14 THE JUROR: Witness.

15 THE COURT: Okay. Anybody know David
16 Roger, the district attorney?

17 Anybody know any other members of
18 the district attorney's office?

19 Anybody know any other members of
20 the special public defenders office?

21 Anybody know any of the witnesses
22 whose names were read to you earlier?

23 Okay. Ma'am, name and badge number.

24 THE JUROR: Susan Hescher, 135.

25 THE COURT: Okay. You've got to speak

1 up.
 2 THE JUROR: Susan Hescher, 135.
 3 THE COURT: Who do you know?
 4 THE JUROR: Steven Custer.
 5 THE COURT: Okay. And how do you know
 6 Officer Custer?
 7 THE JUROR: I work full-time with his
 8 wife and we're friends socially.
 9 THE COURT: Okay. Is that relationship
 10 such that you would be unable to objectively
 11 evaluate any testimony he gave or do you believe
 12 that you could listen to him and still decide
 13 whether you believed what he said or not?
 14 THE JUROR: I think I can be objective.
 15 THE COURT: Okay, thanks. Have a seat.
 16 Appreciate it. Anybody else? Okay. I guess over
 17 here, sir. Name and badge number?
 18 THE JUROR: Ricardo Bravo, 282.
 19 THE COURT: Okay.
 20 THE JUROR: My company built the website
 21 and is working with Metropolitan Police Department.
 22 THE COURT: Okay. Do you know any of
 23 those officers whose names were read?
 24 THE JUROR: About five of them sounded
 25 familiar because I was working on their bios.

1 THE COURT: But you haven't met them, you
 2 just were working on bios for them?
 3 THE JUROR: Well, I met three officers.
 4 Mr. Wallace sounded familiar and Mr. Holmes sounded
 5 familiar, because they were in a meeting.
 6 THE COURT: Is sounds to me that this is
 7 a pretty tangential relationship. Can you be fair
 8 and listen to the evidence and make a decision here?
 9 THE JUROR: Yes.
 10 THE COURT: Anybody else?
 11 THE JUROR: Yes.
 12 THE COURT: Stand and give us your name
 13 and badge number.
 14 THE JUROR: Henrietta Gage, 137. Dennis
 15 Mitchell, there was a Dennis Mitchell who was a
 16 prior employee of our company.
 17 THE COURT: What was the company?
 18 THE JUROR: Salvation Army.
 19 THE COURT: Ms. Luzaich, would that be
 20 the same Dennis Mitchell or do you know?
 21 MS. LUZAICH: I do not know.
 22 THE COURT: Okay. All right. Anything
 23 about -- if it turned out to be the same Dennis
 24 Mitchell that you know, could you evaluate his
 25 testimony objectively?

1 THE JUROR: Yes.
 2 THE COURT: Okay, thanks. Anybody else
 3 know any of the witnesses?
 4 Okay. As I said, this case is gonna
 5 last seven or eight days. That's one or two days
 6 longer than our average case. We will be done
 7 either next Thursday or Friday. I'll have a pretty
 8 good handle on that by about Monday. But it will be
 9 one of those two, I guarantee you.
 10 Is there anybody who has an event in
 11 the next seven or so days that they can't change,
 12 that would require them to come back and take their
 13 jury service at another time, i.e., a doctor's
 14 appointment of long standing that they can't change,
 15 a family vacation starting next Tuesday, going to
 16 Houston? Something like that.
 17 Anybody have an event that would
 18 preclude them from sitting? Sir, can we start with
 19 you, name and badge number.
 20 THE JUROR: Matthew Hendricks, 248.
 21 THE COURT: What's the event?
 22 THE JUROR: I just bought airplane
 23 tickets to Monterey on Monday.
 24 THE COURT: And what, you're leaving
 25 Monday?

1 THE JUROR: Yes, sir.
 2 THE COURT: Okay. When are you gonna be
 3 back?
 4 THE JUROR: Thursday.
 5 THE COURT: Okay. Why don't you go
 6 downstairs and see if you can come back and take
 7 your turn in a couple of weeks.
 8 THE JUROR: Thank you, sir.
 9 THE COURT: Okay. Yes, ma'am, name and
 10 badge number.
 11 THE JUROR: Katherine Rice, 007. And I
 12 just -- if it doesn't go over the 24th, I'm clear.
 13 THE COURT: It will be done by next
 14 Friday.
 15 THE JUROR: I don't know what date that's
 16 gonna be.
 17 MS. LUZAICH: That date is the 24th.
 18 THE COURT: We'll be done by the 24th.
 19 THE JUROR: I have a plane ticket to go
 20 to Colorado to help my son move.
 21 THE COURT: Is your plane ticket the
 22 25th?
 23 THE JUROR: It's the 24th. At 12:30 on
 24 the 24th.
 25 THE COURT: That's Friday, is that right?

1 MS. LUZAICH: Yes.

2 THE COURT: Well, I can't guarantee it's
3 gonna be done by 12:30 on Friday. I guarantee it
4 you'll be done by Friday night. I think it will be
5 done before that, but I understand --

6 THE JUROR: Would they be able to give me
7 an ex -- you know, let me like take a later flight
8 or something or the next day?

9 THE COURT: I can't speak for the
10 airlines.

11 THE JUROR: No.

12 THE COURT: So let's just be safe rather
13 than sorry. If you go back downstairs, they'll see
14 if they can find another case for you to work on a
15 couple weeks down the road.

16 THE JUROR: Okay.

17 THE COURT: Sir, name and badge number.

18 THE JUROR: Chad Copening, 227.

19 THE COURT: Uh-huh.

20 THE JUROR: I'm presently unemployed and
21 I have sole custody of a 17 year old daughter and I
22 have a job interview on Tuesday with Aliante
23 Station. I don't know if this case --

24 THE COURT: That really isn't an event
25 that I'm allowed to excuse you for. What time's

1 your job interview at?

2 THE JUROR: At 10 a.m.

3 THE COURT: Can you move it up to 8:00?

4 THE JUROR: I'm sorry?

5 THE COURT: Can you move it up to 8:00?

6 Because here's what we do: We start at 9:30 and we
7 go until 5:20, 5:30.

8 Why don't we start at 8 o'clock?

9 Because while I'm trying this particular case, each
10 judge in the courthouse is assigned about a thousand
11 cases to manage every morning between 8:00 and 9:30.
12 We hear pretrial and post trial motions and issues,
13 things that need decisions on, anywhere from 20 to
14 50 every morning. And so 9:30's the earliest we can
15 start. So sometimes if you can move that up to 8
16 o'clock, you'd be good.

17 THE JUROR: Yeah. I'm not quite sure
18 because of so many, you know, interviews that
19 they're doing. You know, they gave me a schedule.
20 I could not answer that question for you.

21 THE COURT: Okay. I wish I could help
22 you, but I can't. Have a seat. Yes, sir in the
23 back.

24 THE JUROR: Yeah. I'm under workman's
25 comp right now and under doctor medical care for

1 about the next four months. I have a series of
2 appointments coming up.

3 THE COURT: What's your name?

4 THE JUROR: Michael Dealvarado.

5 THE COURT: And your badge number?

6 THE JUROR: 196.

7 THE COURT: Go downstairs and tell them
8 to bring you back in five months. Take your turn
9 then.

10 Somebody over here, yes.

11 THE JUROR: Susan Hescher, 135. I have a
12 plane ticket for Friday afternoon.

13 THE COURT: I know I'll be done by
14 Friday. I guarantee you. 99 percent by Friday
15 afternoon, but --

16 THE JUROR: But I have to be at the
17 airport.

18 THE COURT: It's the same situation as
19 her. So go on downstairs and tell them to bring you
20 back after you get back. Over here.

21 MR. PIKE: What's the badge number?

22 THE COURT: Ms. Hescher.

23 THE CLERK: 135.

24 THE COURT: In the back, sir.

25 THE JUROR: Mark Mediate, badge number

1 029. I just have a seminar that was already paid
2 for for tomorrow all day for work.

3 THE COURT: Okay. If you want, if you
4 feel like you need to go and you want to go, I'll
5 bring you back some other time.

6 THE JUROR: Okay.

7 THE COURT: I can bring you back next
8 week if that will work. Yes, in the back.

9 THE JUROR: John Anderson, badge number
10 024. I was once involved in case very similar to
11 this and I don't really believe that I'm gonna be
12 able to maintain --

13 THE COURT: I'll take you at your word,
14 Mr. Anderson. You're excused. Tell them to put you
15 on a civil case when you go downstairs.

16 THE JUROR: Thank you.

17 THE COURT: Sir, in the back.

18 THE JUROR: Robin Grady, 212. This goes
19 to the bias thing. I have family members who were
20 essentially assaulted and murdered. I don't think I
21 can.

22 THE COURT: Okay. Go downstairs just
23 with that gentleman and ask them to put you on a
24 civil case. You can take your turn there. Over
25 here. Yup.

1 THE JUROR: Patricia F...the, 109. And
2 I'm presently enrolled in this semester. I have an
3 exam tomorrow and another exam next week Tuesday.

4 THE COURT: Okay. When's the semester
5 end?

6 THE JUROR: December 16.

7 THE COURT: Okay. Tell them to bring you
8 back -- well, when do you start in January again
9 then?

10 THE JUROR: (Positive nod of the head.)

11 THE COURT: Yeah, they could probably
12 bring you back the first week of January.

13 THE JUROR: That would be great.

14 THE COURT: Yes, sir.

15 THE JUROR: Steven Greenhalgh, 056. My
16 wife is incapacitated and I have to do everything
17 for her.

18 THE COURT: Is that gonna change? Is
19 that gonna improve hopefully?

20 THE JUROR: She has a bad back. I don't
21 think it's gonna improve. It hasn't improved in the
22 last three years.

23 THE COURT: Okay. Well, I'm sorry about
24 that, Mr. Greenhalgh. You go ahead and be with your
25 wife. Yup.

1 THE JUROR: Randy Mauszycki, 037. I'm
2 leaving tomorrow for a 20 year high school reunion
3 which I already paid for.

4 THE COURT: See you. Come back and see
5 us in about two months. Have a good time. Yup.

6 THE JUROR: Okay. Onelys Matos, 230.
7 I've got an appointment for next Wednesday.

8 THE COURT: You have what?

9 THE JUROR: Dental appointment.

10 THE COURT: For what, dental?

11 THE JUROR: Dental.

12 THE COURT: Can you change that? Usually
13 you can change a dental appointment fairly easily.

14 THE JUROR: No, I can't. Because I won't
15 do that. I'm out of my job on the first. So I
16 can't share one now. I have an appointment.

17 THE COURT: Okay. Tell them to bring you
18 back some other time. Yes, sir.

19 THE JUROR: Chito Rondael, 142. I have a
20 company sponsored seminar and I've been booked from
21 the 22nd to the 24th already on a plane ticket.

22 THE COURT: All right. Come back when
23 you're done. Just tell them to bring you back in a
24 couple of weeks.

25 Yes. Behind him. Yes.

1 THE JUROR: Lourdes Gomez, 180. Not
2 working every day is gonna create a --

3 THE COURT: Everybody works. That's just
4 the way it is. Everybody has to take a turn. I
5 mean, we've got one of our judges right now sitting
6 as a juror in another department. I've had a judge
7 here, I've had the mayor here. Everybody takes a
8 turn.

9 On average, citizens sit as a juror
10 twice in their life. They sit now and then 15 years
11 from now and that's pretty much your turn. But
12 that's the way it works. Yes, ma'am.

13 THE JUROR: Keitha Munerlyn, 005. I just
14 have a question.

15 THE COURT: Yes, ma'am.

16 THE JUROR: Are we here usually after 5
17 o'clock?

18 THE COURT: We usually try to knock off
19 around 5:15, 5:20, but it could be as early as 5:00
20 or as late as maybe as 5:45, because we try to find
21 a natural break point when we're done with a
22 witness, when it's convenient for everybody. But I
23 usually shoot for about 5:20, give or take 20
24 minutes.

25 THE JUROR: Okay. Thank you.

1 THE COURT: Okay. Anybody else? Okay.
2 Anybody in our prospective panel who is engaged in
3 law enforcement work?

4 Anybody in our prospective panel who
5 has a spouse or a child engaged in law enforcement
6 work? Back here.

7 THE JUROR: Loretta Cassin, 191. I'm
8 married to an ex-cop.

9 THE COURT: Okay. Does he work for
10 Metro?

11 THE JUROR: No.

12 THE COURT: Where'd he work?

13 THE JUROR: Chicago.

14 THE COURT: Okay. Anything about that
15 that would make it difficult for you to be
16 objective?

17 THE JUROR: Yes. Absolutely.

18 THE COURT: Okay. Thanks for your
19 honesty.

20 THE JUROR: Uh-huh.

21 THE COURT: Go downstairs, they'll put
22 you on a civil case. Tell them to put you on a
23 civil case.

24 Anybody else? Yes. Over here.

25 THE JUROR: My husband is -- sorry. Bo

1 Zarach, 107. My husband works for the City of
2 Henderson Police Department.

3 THE COURT: Is he a policeman or a
4 civilian?

5 THE JUROR: He's an animal control.

6 THE COURT: I'm sorry?

7 THE JUROR: He works for animal control.

8 THE COURT: Anything about that that
9 would make it difficult for you to be objective?

10 THE JUROR: No.

11 THE COURT: All right. This is a
12 criminal case. And in criminal cases there are a
13 number of important precepts. Maybe the most
14 important of which is the presumption of innocence.

15 And what that means is Mr. Flowers,
16 myself, yourself, anybody that's accused of a crime
17 is entitled to presumption of innocence, entitled to
18 be looked upon as innocent until they've had a
19 trial, the trial's been completed and a jury may
20 decide to the contrary.

21 I don't know what the evidence is
22 gonna be, you don't know what the evidence is gonna
23 be I'm sure. And so to that end, the law requires
24 that as Mr. Flowers sits here today, tomorrow and
25 throughout these proceedings, that we look at him as

1 innocent.

2 Is there anybody that cannot give
3 him that benefit to which we are all entitled as
4 citizens?

5 Okay. Anybody know anything about
6 this case before they came in here today?

7 Yes, ma'am. Name and badge number.

8 THE JUROR: Dianna Lopez, 264.

9 THE COURT: How about them Dodgers? Not
10 so good, huh?

11 THE JUROR: I'm just a big news buff and
12 I remember hearing about it.

13 THE COURT: Okay. There's nothing that
14 says if you've heard something about it that you
15 can't still be a juror. The one thing you have to
16 keep in mind is the news isn't always accurate. And
17 so if and to the extent you sat as a juror and then
18 you, you know, recalled something, you recognize
19 that that's news, sometimes it's right, sometimes
20 it's wrong, but the decision is made upon the
21 evidence that comes in in court.

22 THE JUROR: (Positive nod of the head.)

23 THE COURT: Well, you can't, you can't --
24 if you say well, gees, when I read about this, I
25 made up my mind and I don't think I could be fair,

1 I'll take your word.

2 THE JUROR: I don't think I can be fair.

3 THE COURT: Go down and have them put you
4 on a civil case.

5 THE JUROR: Thank you.

6 THE COURT: Okay. Anybody else? Anybody
7 know of any other reason they couldn't be fair?

8 Okay. Now let me ask the \$64,000 question. As I
9 said earlier, there is a potential that the jurors
10 on this case may actually decide penalty if the
11 defendant is convicted of first-degree murder. That
12 process takes a day, two days. I mean, it doesn't
13 too long. It's important obviously, very serious
14 case.

15 If it comes to that, the law
16 provides that there are four possible penalties.
17 The most serious penalty is death penalty of course,
18 there is life without parole, there is life with a
19 potential parole after 20 years and there is a 50
20 years term with potential parole after 20 years.

21 In order to be eligible to sit as a
22 juror in this case of that this nature, you have to
23 be willing and able to at least consider all four of
24 those punishments if push comes to shove. That
25 doesn't mean you need to know right now what you're

1 going to decide, but there are for example some
2 people whose religious beliefs preclude them from
3 participating in thinking about the death penalty or
4 other people who have sort off an eye for an eye
5 philosophy. If you're convicted of murder, the
6 death penalty is the only fair penalty.

7 Is there anybody here who couldn't
8 at least consider, fairly consider all four
9 punishments and deliberate with your fellow jurors
10 and come to a conclusion as to what would be fair in
11 this case, that is, assuming that Mr. Flowers were
12 to be found guilty and assuming we were to have a
13 penalty hearing?

14 We have no idea whether that's gonna
15 be the case, but we do have to make sure that the
16 jury that we sit in the guilt phase can fairly give
17 both sides a fair shot in the penalty phase.

18 Anybody that couldn't do that?
19 Start right here, sir. Stand up.

20 THE JUROR: Ricardo Bravo, 282. I'm
21 against the death penalty and life in prison.

22 THE COURT: You couldn't under any
23 circumstances impose the death penalty?

24 THE JUROR: No.

25 THE COURT: Okay. Go downstairs and have

1 them put you on a civil case.

2 Yes, ma'am. Stand and give us your
3 name and badge number.

4 THE JUROR: Susan Parks, 299. And I
5 cannot do the death penalty.

6 THE COURT: Okay. Go downstairs and have
7 them put you on a civil case.

8 Yes, ma'am.

9 THE JUROR: Sandra Clark, 096. I can't
10 do the death penalty.

11 THE COURT: Okay. Go downstairs and have
12 them put you on a civil case.

13 Yes, ma'am.

14 THE JUROR: Robyn Carnaby, 042. Same
15 reason.

16 THE COURT: Okay. Civil case. In the
17 back.

18 THE JUROR: Elizabeth Cox, 31. I'm
19 against the death penalty.

20 THE COURT: You're against the death
21 penalty?

22 THE JUROR: Yes.

23 THE COURT: Okay. Thanks. Civil case.
24 Over here.

25 THE JUROR: Ellen McKinney, 018. And I

1 can't do it. Against the death penalties.

2 THE COURT: Okay. Fair enough. Nothing
3 wrong with that. That's an honest belief, but the
4 State is entitled to have people who can if they
5 believe that that's the appropriate penalty.

6 Sir.

7 THE JUROR: Chadwick Pope, 236. I'm
8 against the death penalty, too.

9 THE COURT: Go down and have them put you
10 on a civil case.

11 THE JUROR: Thank you.

12 THE COURT: That isn't necessarily a good
13 draw for some of these people. Sometimes you can
14 have a case that's going eight months.

15 Yes, ma'am.

16 THE JUROR: Maria Tovar, 221. And I'm
17 against the death penalty.

18 THE COURT: They'll put you on a civil
19 case. Anyone else? Sir.

20 THE JUROR: I'm against the death
21 penalty. Carolyn Greene, 239.

22 THE COURT: Okay. Ms. Greene, appreciate
23 your honesty. Have them put you on a civil case.
24 Anybody else?

25 Everybody else here if it came to

1 that, if he were convicted and then you were to
2 listen to evidence would be able to give both sides
3 the benefit of considering all four punishments
4 before deciding on which one was appropriate in this
5 case; is that correct?

6 Okay. All right. Now, we go to
7 phase two of the voir dire process and that is where
8 we ask potential individual jurors a few individual
9 questions. Again, they are not gonna be very
10 personal, they're not gonna be very invasive
11 questions. And if the lawyers ask personal or
12 invasive questions, I'll stop them. But just some
13 general information so the lawyers have an idea of
14 to whom we're talking.

15 BY THE COURT:

16 Q. It's Mr. Murray. Mr. Murray, how long
17 have you lived in Clark County?

18 A. A little over three-and-a-half years.

19 Q. Where'd you come from, sir?

20 A. Kansas City.

21 Q. What line of work are you in?

22 A. Retail.

23 Q. Are you married?

24 A. Yes.

25 Q. And what line of work is your wife in?

1 A. She's retired also.

2 Q. Have you ever served as a juror before?

3 A. No.

4 Q. Have you either been charged with or the
5 victim of a serious offense that might affect your
6 ability to be objective?

7 And what we're looking for is the
8 idea that I've been charged with or I've been the
9 victim of something like this and it would be kind
10 of hard for me to see the other side of the coin so
11 to speak?

12 A. No.

13 Q. Do you know of any reason you couldn't be
14 fair and objective?

15 A. No.

16 Q. And you can assure me that if you sit as
17 a judge in the penalty phase you can consider all
18 four punishments, correct?

19 A. Yes.

20 THE COURT: State, any questions of Mr.
21 Murray?

22 MS. WECKERLY: Just briefly.

23 BY MS. WECKERLY:

24 Q. Good morning, sir.

25 A. Good morning.

1 Q. How are you? You said t you work in
2 retail? I didn't hear that.
3 A. I've worked in retail.
4 Q. Do you work for a company or for?
5 A. Company.
6 Q. And are you one of several employees?
7 A. Yeah. (Inaudible.)
8 THE COURT REPORTER: I didn't hear.
9 THE COURT: There was 60,000 he said.
10 BY MS. WECKERLY:
11 Q. That's quite a bit. Are you a supervisor
12 or do you work for other people?
13 A. I'm retired now.
14 Q. You're retired. When you were working,
15 were you a supervisor?
16 A. Supervisor.
17 Q. And how many people did you supervise?
18 A. It was about 10 years ago and 3,000 and
19 so. The last time was 10 years right at 300.
20 Q. So quite a few?
21 A. Yes.
22 Q. And was the judge just asked you, you
23 could consider the death penalty as a potential
24 punishment in the appropriate case?
25 A. Yes.

1 MS. WECKERLY: Thank you, sir. I'll pass
2 for cause.
3 THE COURT: Defense, questions for Mr.
4 Murray?
5 MR. PATRICK: Thank you, judge.
6 BY MR. PATRICK:
7 Q. Good morning, Mr. Murray.
8 A. Good morning.
9 Q. I studied under a very great trial lawyer
10 and he said the first thing you tell a jury when
11 you're talking to them is the worst thing about your
12 case.
13 Ms. Luzaich alluded to two murders
14 in this case. But Norman today in this these next
15 two weeks is only being tried for one of those.
16 Can you separate those two? You're
17 gonna hear about the second one and the judge is
18 gonna give you what's called a limiting instruction
19 on how you can use that. But can you keep that
20 separate and know that you're not finding him guilty
21 or innocent on that second case?
22 A. Yes.
23 Q. Okay. The judge also talked a little bit
24 about Norman's constitutional rights. As you look
25 at him right now, do you believe that he is not

1 guilty?
2 A. No opinion. I don't know.
3 Q. Well, as the judge said, our constitution
4 tells you that right now he is not guilty. So do
5 you agree with that?
6 A. Yes.
7 Q. And so if you were to go back and
8 deliberate this case right now, the only verdict you
9 could come back with would be?
10 A. Not guilty.
11 Q. And it's up to the State, they have the
12 full burden to prove their case beyond a reasonable
13 doubt to change your mind in that manner.
14 Do you agree that?
15 A. I agree.
16 Q. And if they, if they don't beyond a
17 reasonable doubt change your mind, then at that
18 point Mr., Mr. Flowers, Norman, is still not guilty.
19 A. Correct.
20 Q. Another thing that the judge didn't talk
21 about, but will come up, and it's another one of Mr.
22 Flowers' constitutional rights, is whether or not he
23 gets up and testifies. He has the right under the
24 fifth amendment not to testify.
25 If he does not testify in this case,

1 will that sway you drastically one way or the other
2 as to guilt or innocence?
3 A. No.
4 Q. And again, we talked about the State has
5 the full burden. We have no burden in this case.
6 We, Mr. Pike, myself could put on no witnesses,
7 could cross-examine no witnesses, and I promise you
8 we're not gonna do that, we have actually a lot to
9 say in this case, but if we did that and put on no
10 case whatsoever and the case did not meet that
11 burden beyond a reasonable doubt, Mr. Flowers would
12 still be not guilty.
13 Do you agree with that?
14 A. Right.
15 THE COURT: Anything else?
16 MR. PATRICK: That's all I have, judge.
17 BY THE COURT:
18 Q. Ms. Munerlyn, how long have you lived in
19 Clark County?
20 A. 9 years.
21 Q. What do you do for a living?
22 A. I'm an administrative assistant for
23 Community Initiatives.
24 Q. Are you married?
25 A. No.

1 Q. Have you ever served as a juror before?

2 A. No.

3 Q. Have you ever been charged with or the

4 victim of a serious offense which could affect your

5 objectivity in this case?

6 A. No.

7 Q. Have you ever hear anything about this

8 case before you came in here today?

9 A. No.

10 Q. Do you know of any reason you couldn't be

11 fair?

12 A. No.

13 Q. And if push came to shove and it came to

14 pass that you were to sit in judgment of Mr. Flowers

15 in regard to the penalty for having committed a

16 murder in the first degree, could you consider all

17 four of those penalties and deliberate with your

18 fellow jurors and come to the conclusion as to which

19 one of those four is appropriate in this particular

20 case?

21 A. Yes.

22 Q. Okay. State, questions of Ms. Munerlyn.

23 MS. LUZAICH: Thank you.

24 BY MS. LUZAICH:

25 Q. Good morning, ma'am.

1 A. Good morning.

2 Q. Are you married?

3 A. No.

4 Q. Do you have kids?

5 A. No.

6 Q. As an administrative assistant for

7 Community Initiatives, what do you do?

8 A. I basically do a lot of data entry. We

9 teach no use of drugs, we teach the positive action

10 and just basically anything else that they need me

11 to do.

12 Q. When you say we teach no drugs and

13 positive action, who is we?

14 A. We are me and my other co-workers and the

15 teachers, peers.

16 Q. I guess what kind of entity do you work

17 for?

18 A. Nonprofit organization. And we just

19 basically teach no use of drugs. That's it.

20 Positive action, how to show kids how to kind of

21 sway against using drugs, peer pressure. You name

22 it. We help them with their homework, whatever they

23 need.

24 Q. Go ahead. I'm sorry.

25 A. If we need to buy them anything, if

1 they're lacking somewhere, we'll pay for it.

2 Q. Do you personally participate in the

3 teaching aspects of it or are you more of an

4 administrator?

5 A. I do both.

6 Q. Okay. And you never sat on a jury

7 before?

8 A. No, I haven't.

9 Q. Do you know of anybody that's been

10 accused of any crimes like these?

11 A. My cousin, but not, not exactly that

12 crime. But I, he did something to where he robbed a

13 store and I think the girl went into a coma and he

14 got sentenced to like 12 years.

15 Q. Was that here in Clark County?

16 A. Yes.

17 Q. Are you close with your cousin?

18 A. We don't talk a lot, but no, I guess you

19 can say no, I guess we don't talk a lot or see each

20 other.

21 Q. Did you or any of your closer family

22 members talk with him or family members about him

23 going through the process?

24 A. Yeah, we did.

25 Q. Do you have an opinion as to whether you

1 believe he was treated fairly?

2 A. It's a half and half thing. I believe

3 that he shouldn't have done it and I believe that he

4 had to pay for his actions. I don't know exactly

5 what goes on in prison to make sure the sentence go

6 a little bit longer, but I believe that, you know,

7 he should have, have paid for it.

8 Q. Okay. Independent of, you know, sentence

9 or prison, did you have any feelings about whether

10 the police treated him fairly, unfairly?

11 A. I didn't really hear anything about the

12 police so I believe that he, that he was treated

13 fairly.

14 Q. How about the court system, like the

15 prosecutor, the attorneys, the judge?

16 A. I think, I think when it came down to his

17 probation, that part I kind of didn't like because I

18 was ready for him to get out. But other than that,

19 no.

20 Q. Any feelings that you have about what

21 happened to him or his case, will that have any

22 affect on how you review any of the witnesses or

23 what you hear in this particular case?

24 A. No.

25 Q. Is there anything about you that would

1 prohibit you or stop you from be able to sit in
 2 judgment of someone?

3 A. No.

4 Q. You hesitated.

5 A. I hesitated because I'm thinking about my
 6 cousin who been missing since 2003 and I don't know
 7 where she's at.

8 Q. How did she become missing?

9 A. Just doing things that she wasn't
 10 supposed to be doing and maybe someone kind of got
 11 her to a different lifestyle that maybe she was on
 12 drugs or can't comprehend that, you know, she has a
 13 family.

14 Q. Did the police get involved in trying to
 15 find her?

16 A. Yes.

17 Q. Did somebody report it?

18 A. Yes.

19 Q. What agency? Locally or elsewhere?

20 A. I believe her's was locally and also
 21 elsewhere in California.

22 Q. And did you feel that the police are
 23 trying to at least were or are trying to help find
 24 her?

25 A. I believe that they did do what they're

1 supposed to do, but because of the lack of funds
 2 that they kind of stopped at a certain point. I
 3 think they only allowed to do so much. If you want
 4 them to go forward, you have to put forth, you know,
 5 more money for them to go any further, but I think
 6 that they could have done a little bit more to stop
 7 looking at the money issue parts.

8 Q. Do you think that your feelings on that
 9 will have any affect on how you view the witnesses
 10 on this case?

11 A. No, because it was not their fault.

12 Q. Do you think that your concern about your
 13 cousin will have any impressions on how you view
 14 this case?

15 A. No.

16 Q. If you were at the end of the trial
 17 convinced beyond a reasonable doubt the defendant
 18 committed the crimes he's charged with, would you be
 19 able to say the word guilty?

20 A. Yes.

21 Q. And if you do sit as a juror in a penalty
 22 hearing in this case, would you be able to consider
 23 the death penalty if you believed it was an
 24 appropriate penalty?

25 A. Yes.

1 MS. L. ICH: Thank you. Pass for cause.

2 BY MR. PIKE:

3 Q. Thank you. I have a couple of questions
 4 which is stemming from the comments made by the
 5 prosecutor in your responses.

6 A. Uh-huh.

7 Q. You talked a little bit about -- and I'm
 8 gonna ask the questions kind of backwards. So
 9 forgive me.

10 Not that I anticipate that the jury
 11 would ever come back with a guilt, a finding of
 12 guilt in this case, but because there's a chance
 13 that you may have to make a decision on a
 14 sentencing, we do need to address that. It's kind
 15 of backwards.

16 So in this case then, you trust the
 17 fact that if you get to sit on this jury that you'll
 18 examine the evidence and that you'll corrob -- well,
 19 you'll deliberate with your other jurors and you'll
 20 come to a true and just decision? You trust that
 21 jury system to work?

22 A. Yes.

23 Q. Okay. And if there's some evidence of
 24 another charged crime but not a conviction, then you
 25 would trust another jury to fulfill their

1 responsibilities, do you trust the jury system?

2 A. Yes, I do.

3 Q. And in going to the extreme, if the jury
 4 and you get to sit on the jury, we'll just take it
 5 and you find that the jury decides that Mr. Flowers
 6 went into this house, he went into this house, this
 7 apartment and he had forceable sexual intercourse
 8 with the deceased and he stole a stereo and took
 9 that and left, and during the course of that he
 10 killed her and you have to make a decision as to
 11 what penalty would be appropriate for that, do you
 12 have a feeling that the death penalty would be the
 13 only --

14 THE COURT: Nope, nope. You can't ask
 15 them what they would do under a given hypothetical
 16 set of facts.

17 As long as she can consider all
 18 four, she's okay. I will give you a little leeway
 19 like I told Mr. Patrick earlier, but you can't give
 20 them a hypothesis and ask them.

21 BY MR. PIKE:

22 Q. Okay. So you'd consider all four
 23 penalties?

24 A. Yes.

25 Q. And sometimes we'll ask that during the

1 course of the trial because the t reporter's
2 writing it down. And so if we ask somebody to say
3 yes, it's not because we're wanting to interrupt
4 them or being rude or anything. It's just we have
5 an obligation to make sure that the record is clear.

6 A. Yes.

7 Q. You also asked or mentioned that you
8 would be more clear on what the penalties were or
9 what somebody could do to change their penalty.

10 A. Did I say that?

11 Q. Well, something like that. If they could
12 get out earlier or if we could change it or what --

13 THE COURT: I got the impression that she
14 didn't quite understand what was required for
15 parole, that she had a cousin who appeared before
16 the parole board and how's that decision made. And
17 I'm not sure that isn't relevance here today, but is
18 that what you were talking about?

19 THE JUROR: Right.

20 MR. PIKE: Well, in reference if I could
21 just have very little latitude.

22 THE COURT: Sure.

23 BY MR. PIKE:

24 Q. Of the four potential penalties, when the
25 judge says an individual or the sentence said

1 Redemption sort of thing.

2 Or a life sentence with a potential
3 parole after 20 years.

4 Those two are pretty much the same
5 unless you happen to be 18 or 19 when you were
6 convicted.

7 And then there's a sentence of life
8 without parole. And you'll be instructed that life
9 without parole means just that. If you get a
10 sentence of life without parole, you never get to go
11 before the parole board and it is not modifiable.
12 You will not get the death penalty, but you will
13 never get out of prison, period.

14 And then there's the death penalty.
15 And you'll be instructed that if that is the vote of
16 the jury, that you should assume that it would be
17 carried out. Fair enough? All right.

18 BY MR. PIKE:

19 Q. Have you ever visited a prison?

20 A. Yes.

21 Q. No further questions.

22 THE COURT: Miss Clerk, juror number
23 three, please.

24 THE CLERK: Juror number three will be
25 Zandra Bustamante.

1 somebody is not eligible for parole for 20 years,
2 they do not even go before the parole board until 20
3 calendar years have elapsed.

4 So you would understand then that
5 would be the penalty in this case, correct?

6 A. Yes.

7 Q. The judge --

8 A. Yeah.

9 THE COURT REPORTER: I can't hear.

10 THE JUROR: I'm sorry. I don't really
11 know the process of the probation and what's in all
12 that, but --

13 THE COURT: I'll just tell you one more
14 time, there's four potential penalties; the lowest
15 is a 50 year sentence with a potential parole after
16 20 years. So what that means is that after 20 full
17 years, 20 times 365 days, any person who got that
18 sentence would be eligible to go before the parole
19 board. That the parole board has no obligation to
20 parole anybody. They just decide whether or not
21 this person is totally rehabilitated and should get
22 a second chance at it or not or that they need to
23 serve out the whole of their sentence. Although
24 they go before the parole board in two or three
25 years and they take another look. It's Shawshank

1 BY THE COURT:

2 Q. Ms. Bustamante, come on up and take a
3 seat next to Ms. Munerlyn.

4 Ms. Bustamante, how long have you
5 lived in town?

6 A. Eight-and-a-half years.

7 Q. What do you do for a living?

8 A. I've an intake management representative
9 in a hospital.

10 Q. Okay. Are you married?

11 A. Yes.

12 Q. What's your husband do?

13 A. He works in the health care business.
14 He's an engineer.

15 Q. Okay. Have you ever served as a juror
16 before?

17 A. Yes. Civil case.

18 Q. Civil case?

19 A. (Positive nod of the head.)

20 Q. Without telling us what the verdict was,
21 were you able to deliberate with your fellow jurors
22 and reach a verdict?

23 A. Yes.

24 Q. One of the things you'll hear, and I can
25 he just tell you now is that civil cases and

1 criminal cases are different. A civil case is a
 2 suit between one citizens and another. It could be
 3 a citizen Joe Smith, it could be a corporate citizen
 4 Wal-Mart or McDonald's, and one citizen's suing
 5 another and it's always over money and the citizen
 6 doing the citizen saying the other citizen owes them
 7 money because they ran to the back of their car,
 8 they breached their lease. You know, they broke the
 9 contracts. Some reason. And the jury decides if
 10 they owe the money or not. And the standard of
 11 proof is preponderance of the evidence. More likely
 12 than not, 51 percent, tip the scales. That sort of
 13 thing. We use eight jurors and six out of eight can
 14 reach a verdict.

15 On the other hand in a criminal
 16 case, it is a case brought by the government against
 17 a citizen that says you have broke the rules by
 18 which we all agree to live so that we can live
 19 safely and happily and we believe that there is a
 20 consequence to that.

21 We use twelve jurors. The standard
 22 of proof is beyond a reasonable doubt and the jury
 23 verdict must be unanimous.

24 And of course the reason for the
 25 difference is historical. When this country was

1 started, people came over from Europe, they placed a
 2 high value on freedom. When you have a criminal
 3 case, whether it's a traffic ticket or a murder or
 4 somewhere in-between, there's always a potential
 5 loss of freedom. So that's why we have a higher
 6 standards.

7 Any problem with those concepts?

8 A. No.

9 Q. Do you know of any reason you couldn't be
 10 fair?

11 A. No.

12 Q. And if you were called upon to sit as a
 13 judgment in a penalty phase, could you consider all
 14 four of the punishments, at least give it
 15 consideration and discussion before deciding on the
 16 appropriate one in this case?

17 A. Yes.

18 Q. State, questions of Ms. Bustamante?

19 MS. WECKERLY: Yes, briefly.

20 BY MS. WECKERLY:

21 Q. Good morning.

22 A. Good morning.

23 Q. In your job do you have to have medical
 24 training or?

25 A. No.

1 Q. No. Is more of an administrative
 2 position?

3 A. Correct.

4 Q. And how long have you worked in that
 5 position?

6 A. At this particular location for a year.

7 Q. Prior to that, did you work in the same
 8 type of job?

9 A. Correct.

10 Q. Ma'am, you mentioned before that you were
 11 a juror in a civil case. I don't want to know what
 12 the verdict was, but did it, the case go to a
 13 verdict?

14 A. Yes.

15 Q. Were you the foreperson?

16 A. No.

17 Q. Okay. Besides that experience as being a
 18 civil juror, have you ever had any contact with the
 19 criminal justice system?

20 A. My brother about 21 years ago.

21 Q. What was that?

22 A. Back in Hawaii.

23 Q. And what was the nature of that case?

24 A. They did something wrong. I, I wasn't
 25 there. It was, I was never at the court. I was

1 young still so it was my parents that was involved,
 2 but it was more or less the family that was involved
 3 because he, you know, whatever he did, something
 4 wrong.

5 Q. Okay. So one of your brothers or maybe
 6 more than one brother had some negative contact with
 7 law enforcement?

8 A. Correct.

9 Q. It sounds like you were very young at the
 10 time?

11 A. Correct.

12 Q. You didn't have any participation in it?

13 A. Correct.

14 Q. And it sounds like maybe your parents
 15 were the ones going to court with your brothers?

16 A. Correct.

17 Q. I can't imagine that would have any
 18 affect on your ability to sit as a fair and
 19 impartial juror in this case?

20 A. No.

21 Q. I mean, maybe because you've had
 22 experience as a civil juror, maybe you have more
 23 insight with that experience, but is your general
 24 opinion that the court systems work effectively in
 25 this country?

1 A. Yes.

2 Q. Pretty positive experience before being a

3 juror?

4 A. Yes.

5 Q. The judge asked you if whether you could

6 consider the four potential punishments in this case

7 and I take it you can?

8 A. Yes.

9 Q. I don't want to know what it would be

10 specifically, but can you conceive in your mind of a

11 case where the death penalty would be an appropriate

12 punishment?

13 A. Would be inappropriate?

14 Q. Would be the correct punishment.

15 A. Yes.

16 Q. Okay. And I don't want to know what the

17 specifics are, but in your mind there are some cases

18 that warrant that as of now?

19 A. Yes.

20 Q. And if you found this case to be that

21 type of case, would you have any trouble at all

22 imposing that as a sentence?

23 A. No.

24 Q. Thank you.

25 A. You're welcome.

1 MS. WECKERLY: Pass for cause.

2 THE COURT: Defense.

3 BY MR. PATRICK:

4 Q. Good morning.

5 A. Good morning.

6 Q. On the other hand, there would be other

7 cases that the death penalty would not be warranted

8 then, correct?

9 A. Yes.

10 Q. And if you felt after hearing all the

11 evidence that that was not the case, you could vote

12 no for the death penalty?

13 A. Yes.

14 Q. Okay. And it's kind of hard because

15 we're talking about the end of a trial before we

16 even get the trial started, but to get into the

17 death penalty a little bit, the State will present

18 to you what's called aggravators or reasons why they

19 think the death penalty is appropriate.

20 After they're done, then we'll have

21 a chance to put on mitigators. Talk a little bit

22 about Norman and his life and why we feel the death

23 penalty is not warranted.

24 Would you be able to listen to all

25 that before you make your decision?

1 A. Yes.

2 Q. And would you be able to consider the

3 aggravators that the State will tell you about

4 equally with the mitigators that we're gonna tell

5 you about?

6 A. Yeah.

7 THE COURT: Well, equally is not -- you

8 can't say --

9 MR. PATRICK: I'm sorry.

10 THE COURT: You have to be willing to

11 consider everything and then do what's fair and

12 right under the law.

13 BY MR. PATRICK:

14 Q. Will you be able to do that?

15 A. Yes.

16 Q. And unfortunately Mr. Murray was the

17 person and he kind of got to be the ginny pig on the

18 whole thing, but when I was talking to Mr. Murray

19 about Mr. Norman's constitutional rights, did you

20 understand that conversation?

21 A. Yes, I did.

22 Q. And do you agree with all that?

23 A. Yes.

24 Q. And if you were sitting at that table

25 where Ms. Weckerly and Ms. Luzaich is or if you were

1 sitting at this table trying to pick a jury, would

2 you want to pick somebody like you to be on this

3 jury?

4 A. Yes.

5 Q. That's fine. That's all, judge.

6 THE COURT: Miss Clerk, number four.

7 THE CLERK: It will be Karie Hoelzer.

8 THE COURT: Come on up, Miss Hoelzer.

9 BY THE COURT:

10 Q. Good morning, Ms. Hoelzer. How long have

11 you lived in Clark County?

12 A. About three-and-a-half years.

13 Q. Where'd you come from?

14 A. California before that.

15 Q. What do you do for a living?

16 A. I'm an executive recruiter for a trade

17 show convention company.

18 Q. Okay. Are you married?

19 A. Yes, I am.

20 Q. What's your husband do?

21 A. He's a corporate executive chef.

22 Q. Have you ever served as a juror before?

23 A. No, I haven't.

24 Q. Either been charged with or victim of a

25 serious offense that could affect your ability to be

1 objective in this case?
 2 A. No.
 3 Q. Do you know of any reason you couldn't be
 4 fair and impartial?
 5 A. No.
 6 Q. If push came to shove and you were to sit
 7 in judgement in the penalty phase of this case,
 8 could you and would you consider each of the four
 9 potential penalties to determine with your fellow
 10 jurors which one was appropriate?
 11 A. Yes.
 12 THE COURT: Okay. State?
 13 MS. LUZAICH: Thank you.
 14 BY MS. LUZAICH:
 15 Q. Good morning, Ms. Hoelzer.
 16 A. Hi.
 17 Q. Do you have kids?
 18 A. I do.
 19 Q. How many?
 20 A. Three.
 21 Q. How old?
 22 A. 12, 10 and two.
 23 Q. Okay. So they're probably not going out
 24 partying and you're wondering where they are at
 25 night?

1 A. No.
 2 Q. Do you know anybody close to you that has
 3 ever been accused of any crimes like that?
 4 A. No.
 5 Q. Anybody that's ever been a victim of any
 6 crimes like that?
 7 A. No.
 8 Q. As an executive recruiter, are you the
 9 one who makes decisions on who to hire?
 10 A. I influence the decision.
 11 Q. Influence how?
 12 A. So I bring candidates forward that I
 13 believe are appropriate for the position and I'm
 14 involved in the, the deliberation of the company,
 15 make the decisions on who to hire or not.
 16 Ultimately it's the hiring manager's decision.
 17 Q. So you can say really like him, hire him,
 18 hated her, get rid of her; that type of thing?
 19 A. Yes.
 20 Q. And you don't have any problem saying
 21 that?
 22 A. No.
 23 Q. Can you conceive of certain situations
 24 where the death penalty could be an appropriate
 25 penalty without --

1 A. Yes.
 2 Q. Without telling me why?
 3 A. Yes.
 4 Q. And if you sit as a juror in this case
 5 and you listen to all the evidence, could you, if
 6 that was one of the appropriate times, vote for
 7 death?
 8 A. Yes.
 9 Q. Thank you. Pass for cause.
 10 THE COURT: Defense?
 11 MR. PIKE: Thank you.
 12 BY MR. PIKE:
 13 Q. In reference to the death penalty,
 14 without saying which or do you belong to any
 15 organization or religion or religious organization
 16 that has taken the penalty either for or against the
 17 death penalty?
 18 THE COURT: You mean position?
 19 MR. PIKE: Pardon?
 20 THE COURT: You mean taking a position
 21 for or against?
 22 MR. PIKE: Yes.
 23 THE COURT: Okay.
 24 THE JUROR: No.
 25 BY MR. PIKE:

1 Q. As you think about the death penalty,
 2 have you ever talked about it with your friends and
 3 family and had a conversation about whether the
 4 death penalty is appropriate or if it isn't, without
 5 saying, have you had those conversations with people
 6 you know?
 7 A. I would say not since probably high
 8 school.
 9 Q. Okay. And as you sit there and think
 10 about the fact that well, I'm gonna be hearing this
 11 case, if you hear about a case or if you hear about
 12 a verdict of guilty on a homicide case, do you have
 13 an immediate reaction that the death penalty is
 14 something that you immediately think would be
 15 appropriate or that life in prison would be
 16 appropriate?
 17 A. If I'm aware of the circumstances around
 18 it or?
 19 Q. If the circumstances or just a
 20 conviction?
 21 A. I don't have an immediate reaction.
 22 Q. So you don't have that well everybody
 23 should get the death penalty?
 24 A. No.
 25 Q. Or you wouldn't even look at that first,

1 you'd wait into until everything is in?
 2 A. Yes.
 3 Q. Okay. Thank you.
 4 BY THE COURT:
 5 Q. Mr. Wulff, long have you lived in Clark
 6 County?
 7 A. Eight years.
 8 Q. What do you do for a living?
 9 A. I'm an engineer for AT&T.
 10 Q. Are you married?
 11 A. No.
 12 Q. Have you ever served as juror before?
 13 A. No.
 14 Q. Charged with or victim of a serious
 15 offense that could affect your objectivity?
 16 A. Yes.
 17 Q. Could you consider all four penalties if
 18 that becomes the case, work with your fellow jurors
 19 to select the appropriate one amongst those?
 20 A. Yes.
 21 THE COURT: State, questions of Mr.
 22 Wulff?
 23 BY MS. WECKERLY:
 24 Q. Good morning, sir. Do you work in an
 25 office or do you work out in the field?

1 A. I do work in an office.
 2 Q. And is it like when you say you're an
 3 engineer, that can mean a lot of things to me. Can
 4 you be a little more specific?
 5 A. Well, I'm the one of three guys in the
 6 operations department for Las Vegas that control all
 7 of cell phone calls for AT&T service.
 8 Q. So all the cell phone calls in the
 9 Valley, you're one of the three that deals with
 10 those?
 11 A. Correct.
 12 Q. Okay. And the other two people, do they
 13 work for you or are you sort of a team?
 14 A. We are a team.
 15 Q. The three of you are a team?
 16 A. Uh-huh.
 17 Q. In that capacity, are you required to I
 18 guess keep track of a lot of details or organize a
 19 lot of data?
 20 A. It is very organized and very data.
 21 Q. You are organized?
 22 A. Yes.
 23 Q. Prior to coming here this morning, did
 24 you or have you ever had any thoughts or
 25 conversations about the death penalty as a

1 punishment?
 2 A. No.
 3 Q. No?
 4 A. (Negative nod of the head.)
 5 Q. Okay. You've had probably a little bit
 6 of time to think about it. And the judge asked you
 7 if you can consider the four possible punishments.
 8 As you sit here right now, without telling me what
 9 any specifics, can you conceive of a situation where
 10 you would think that would be the right punishment
 11 for someone?
 12 A. Yes.
 13 Q. And is it any different for you sort of
 14 thinking about it in the abstract like oh, I think
 15 that would be appropriate in this case or in that
 16 case, would that change or be different if you were
 17 actually a juror sitting on a case where you had to
 18 come back and announce that as your verdict?
 19 A. No.
 20 Q. Either way, you'd be okay with that?
 21 A. I would be okay with that.
 22 Q. Okay. Are you someone that's able to
 23 communicate your opinions in a group setting?
 24 A. Yes.
 25 Q. And I would imagine you would have to do

1 that with your two co-workers quite a bit?
 2 A. All the time.
 3 Q. Prior to coming here this morning, have
 4 you thought about whether or not you think the
 5 criminal justice system works, whether the right
 6 results are reached, that sort of thing?
 7 A. I've thought about it and it varies on a
 8 case to case basis that I've heard of.
 9 Q. Okay. And that's sort of my next
 10 question. Would your exposure short of be through
 11 the newspapers, you read about certain cases and
 12 know how they turned out?
 13 A. All through the newspapers.
 14 Q. Okay. No personal contacts?
 15 A. Correct.
 16 Q. And I think you said sometimes it works,
 17 sometimes you may not agree with the outcome?
 18 A. And that's just based on what I see on
 19 TV.
 20 Q. Exactly. Obviously in this case you have
 21 no trouble deciding this case based solely on what
 22 you hear in the courtroom?
 23 A. Yes.
 24 MS. WECKERLY: Thank you, sir. Pass for
 25 cause.

THE COURT: Defense?

1
2 BY MR. PATRICK:
3 Q. Good morning, Mr. Wulff?
4 A. Good morning.
5 Q. Being a detail, orientative person, when
6 we were talking earlier about the fact that Norman's
7 only on trial this week and next week for one case,
8 then we talked about you hear about a second case
9 that he's not even been to trial with, let alone
10 convicted on, the way you operate in your job, would
11 that help you keep those two cases separate?
12 A. Definitely, yes.
13 Q. And when it came time to reach a verdict,
14 you realize and you could keep them separated that
15 you're only reaching a verdicts on this case?
16 A. Yes.
17 Q. And no matter what, you know, if the
18 verdict comes back to where you have a, we have a
19 penalty phase, are there certain cases where you
20 would think that the death penalty would not be
21 appropriate?
22 A. Yes.
23 Q. And you'd be fair and open minded and
24 listen to all the evidence presented by both sides
25 before you made that determination?

1 A. Yes.
2 Q. Once you made that determination in your
3 own mind, are you like, are you the type of person
4 that's gonna stick by that?
5 A. Yes.
6 Q. Not so easily persuaded by the rest of
7 the jury panel?
8 A. No.
9 Q. Now, you've heard some of the questions
10 I've asked to the other jurors about the
11 constitution of that.
12 Are any of those questions that as I
13 were asking you thought to myself I hope he asks me
14 that question?
15 A. No.
16 Q. You believe that all of Norman's
17 constitutional rights as he sits rights now?
18 A. Yes.
19 Q. And in your opinion right now, he's not
20 guilty, he's innocent?
21 A. Correct.
22 Q. Now, and finally if you were sitting at
23 the prosecution table or you were sitting in our
24 table and you were the one who was charged with
25 picking a jury for either side, would you want to

1 pick somebody yourself to be on that jury?
2 A. Yes.
3 Q. Thank you. Pass, judge.
4 BY THE COURT:
5 Q. Mr. Mayoral, how long have you lived in
6 Clark County?
7 A. I've been here for 10 year.
8 Q. What do you do for a living?
9 A. I'm unemployed unfortunately.
10 Q. What's your general line of work?
11 A. I worked for an appliance delivery
12 company.
13 Q. Are you married?
14 A. No, sir.
15 Q. Have you ever served as a juror before?
16 A. No, sir.
17 Q. Charged with or victim of a serious
18 offense?
19 A. No, sir.
20 Q. Can you be fair?
21 A. Yes.
22 Q. Can you consider all four punishments?
23 A. Yes, sir.
24 THE COURT: State, questions of Mr.
25 Mayoral?

1 MS. LUZAICH: Thank you.
2 BY MS. LUZAICH:
3 Q. Sir, you indicated that you worked for an
4 appliance delivery company.
5 What other kind of things have you
6 done?
7 A. Well, I basically did that for quite a
8 while. For like about 17 years, appliance business.
9 Q. Oh, okay. Why is it that you're not
10 employed right now?
11 A. I was laid off.
12 Q. Times were tough?
13 A. Yeah.
14 Q. Okay. Do you have kids?
15 A. No, I don't.
16 Q. How long have you been not working?
17 A. I've been not working for about a month
18 and a half.
19 Q. Do you think that sitting here for the
20 next eight or so business days without the ability
21 to be looking for work is something that might cause
22 you concern?
23 A. Well, it's kind of tough to find a job
24 now, but I don't think so.
25 Q. Okay. So you would be able to focus all

1 your attention on this case --

2 A. Oh, yes.

3 Q. -- and what you hear on the witness

4 stand, you won't be preoccupied I guess with --

5 A. No, I won't.

6 Q. Sorry about talking on top. As you

7 worked for 17 years, were you with one company or

8 different companies?

9 A. I was with three companies.

10 Q. And were you the guy who would come and

11 deliver, did you work into a supervisory position?

12 A. Yes, I did, I was a delivery guy, then I

13 worked into dispatching and then I was moved up to

14 management.

15 Q. How long were you in management?

16 A. I was in management for like about I'd

17 say five months.

18 Q. Okay. About how many individuals did you

19 manage?

20 A. I managed about 60.

21 Q. During the course of that time, did you

22 get -- well, I guess would part of your job have

23 been to either hire or fire?

24 A. Yes.

25 Q. Would part of your job also have been to,

1 you know, punish somebody if they did somebody wrong

2 short of firing?

3 A. Yes.

4 Q. Did you have occasion to do that at all?

5 A. Occasionally. I mean, just, you know,

6 people coming in late, not doing their, you know,

7 duties.

8 Q. But you were able to do that?

9 A. Yes.

10 Q. Okay. And if you were selected as a

11 juror in this case, what you would do is go back in

12 the deliberation room after listening to all of the

13 evidence and discuss what you had heard, is that

14 something that you would be comfortable doing?

15 A. Yes.

16 Q. Sharing your views with others?

17 A. Yes.

18 Q. If it came to a point where 11 people

19 felt one way, it doesn't matter which way, but one

20 way and you felt a different way, how would you

21 handle that?

22 A. It would be kind of tough because I'd be,

23 you know, be the only one with a different opinion.

24 Q. Would you follow just because you were

25 the only one?

1 A. No, I wouldn't follow. I'd stay strong

2 with my word.

3 Q. Would you try and convince them of your

4 point of view?

5 A. Of course.

6 Q. Would you be opened to listening to what

7 they had to say?

8 A. Yes.

9 Q. And if they were able to point out maybe

10 you had missed something or misheard something, is

11 it possible that you could change your mind?

12 A. Yes, it's a possibility, yes.

13 Q. But if you were sure would you stick to

14 your guns?

15 A. Yes, I would.

16 Q. Okay. As you sit there, are there

17 situations that you could picture, without telling

18 me what, where you personally might consider oh, the

19 death penalty would be appropriate in that certain

20 situation?

21 A. No.

22 Q. No, you can't conceive of any situation

23 where the death penalty would be appropriate or not?

24 A. Well, I would have to, you know, see the,

25 what goes on, you know, and to keep that.

1 Q. Well, the judge asked you earlier if you

2 would be able to consider all four penalties that

3 are appropriate if there's a murder conviction,

4 right?

5 A. Right.

6 Q. And you indicated that you could consider

7 the death penalty as one of the options?

8 A. Yes.

9 Q. But as you sit here, you can't conceive

10 just in your mind of any set of facts where the

11 death penalty would be an appropriate penalty?

12 A. Yes.

13 Q. You can?

14 A. I can.

15 Q. Okay. Knowing what you know about

16 yourself, would you have a problem sitting in

17 judgment of someone?

18 A. Yes, I would.

19 Q. Why is that?

20 A. Cuz I, you know, I have different

21 opinions. Just depends on the person.

22 Q. As a juror, what you would have to do is

23 listen to all the evidence and decide whether the

24 State had proven beyond a reasonable doubt that the

25 defendant was guilty.

1 A. Uh huh.
 2 Q. Could you not make a determination
 3 whether or not somebody was guilty?
 4 A. Yes, I could.
 5 Q. Okay. And if you were convinced after
 6 all the evidence came in that the defendant had
 7 committed the crimes charged, would you be able to
 8 say the words guilty?
 9 A. Yes.
 10 THE COURT: Anything else?
 11 MS. LUZAICH: No. Thank you. I would
 12 pass for cause.
 13 THE COURT: Defense?
 14 BY MR. PIKE:
 15 Q. Actually in your job you have to kind of
 16 sit in judgment of people ever day, you had to say
 17 well that excuse is good, that one isn't and you had
 18 to fire people?
 19 A. Correct.
 20 Q. Is that correct?
 21 A. Yes.
 22 Q. And that's a tough thing to do.
 23 A. (Positive nod of the head.)
 24 Q. And you had to weigh all the information
 25 that you had and then look at the person and decide

1 what was the appropriate remedy for your business
 2 and you fulfilled your responsibilities there?
 3 A. Yes.
 4 Q. And similarly, you're here today because
 5 you got a summons. You have a responsibility to the
 6 community and part of that responsibility is to come
 7 in and do something unpleasant every once in awhile.
 8 And jury duty is one of those responsibilities and
 9 you're here to fulfill that responsibility.
 10 A. Yes.
 11 Q. And you took an oath and you believe that
 12 you can honor that oath?
 13 A. Yes.
 14 Q. And similar to firing somebody that would
 15 have, that may have very severe impact on their
 16 lives, you understand that if it ever reaches the
 17 point where you have to make a decision on the
 18 penalty that's going to affect Norman's life or his
 19 death, you have the skills from your management
 20 experience to come in and weigh those things and
 21 make that decision, you believe that you personally
 22 have those skills to do that?
 23 A. Yes.
 24 Q. And you'll listen carefully to what the
 25 State has to say and listen carefully to what the

1 defense has to --
 2 A. (Positive nod of the head.)
 3 Q. -- in making that decision?
 4 A. Yes, sir.
 5 Q. In deciding whether, whether or not --
 6 let's just, somebody should be executed, be killed
 7 through State's efforts, are there things that you
 8 would want to know about a defendant, about someone
 9 that you were going to make that life or death
 10 decision on, that you would want to know about that
 11 person before you made that?
 12 A. Yes.
 13 Q. What types of things would you want to
 14 know?
 15 THE COURT: Well, you can ask him if
 16 there are things, if you'd like to know a little bit
 17 about his background or history, but you can't ask
 18 him what's important. You're not giving him in
 19 essence a hypothetical in about what they were.
 20 BY MR. PIKE:
 21 Q. Would you want to know about things that
 22 happened to him?
 23 THE COURT: No. Just generally his
 24 background and what happened here in this crime.
 25 Otherwise, you know, we're getting into a

1 hypothetical situation.
 2 BY MR. PIKE:
 3 Q. Okay. Without getting into a
 4 hypothetical situation, you'd probably want to know
 5 as much as you could about the defendant?
 6 THE COURT: Fair question.
 7 THE WITNESS: Yes.
 8 BY MR. PIKE:
 9 Q. And while the defense never carries a
 10 burden of proof, would you expect to hear from us?
 11 A. Yes.
 12 Q. I have nothing further. Thank you very
 13 much.
 14 BY THE COURT:
 15 Q. Mr. Guevara, how long have you lived in
 16 Clark County?
 17 A. Eight years.
 18 Q. What do you do for a living?
 19 A. I work for a bank.
 20 Q. Are you married?
 21 A. No.
 22 Q. Have you ever everybody served as a juror
 23 before?
 24 A. No.
 25 Q. Have you ever been charged with or the

1 victim of a serious offense which could affect your
2 objectivity to be here?

3 A. No.

4 Q. Know of any reason you couldn't be fair?

5 A. No.

6 Q. If you were called upon to sit in a
7 penalty hearing, could you and would you consider
8 all four potential punishments before coming to an
9 agreement with your fellow jurors as to which would
10 be the most fair and appropriate in this case?

11 A. I could.

12 Q. Okay. State, questions of Mr. Guevara?

13 BY MS. WECKERLY:

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. You said you worked for a bank?

17 A. Yes.

18 Q. What do you do?

19 A. A bank teller.

20 Q. You're a --

21 THE COURT: Teller.

22 BY MS. WECKERLY:

23 Q. Okay. And how long have you done that?

24 A. Five years.

25 Q. Five years. Do you work downtown or

1 further out?

2 A. Close to the Summerlin area.

3 Q. Summerlin?

4 A. Yeah.

5 Q. Okay. Prior to working at the bank,
6 where did you work?

7 A. I used to work in retail.

8 Q. In retail?

9 A. Uh-huh.

10 Q. In order to work at your bank, did you
11 have to have training in order to get the job as the
12 teller?

13 A. That's right.

14 Q. Okay. How long did that training last?

15 A. For two weeks.

16 Q. Two weeks. And now that you're the
17 teller, do you work for someone else or do other
18 people report to you?

19 A. I work with someone else.

20 Q. Okay. Have you had in your experience,
21 maybe reading the newspaper, that kind of thing,
22 have you had opinions that you've held about whether
23 or not you think the criminal justice system works,
24 whether it's effective, that sort of thing?

25 A. No.

1 Q. Have you given it too much thought?

2 A. No.

3 Q. Now, you're sitting here as a prospective
4 juror in this case, do you have -- I sort of asked
5 this other gentleman, too, before you, but is it
6 different for you when you're sitting here as a
7 prospective juror considering potential punishments
8 like the death penalty as opposed to considering it
9 in the abstract, not as a juror?

10 Do you understand what I'm asking?

11 A. What's the difference? Yes.

12 Q. It's different?

13 A. Yes.

14 Q. How is it different for you?

15 A. Because you are basically the other
16 person involved.

17 Q. Uh-huh.

18 A. So it's deeper than looking at it from
19 the outside.

20 Q. Okay. A little bit, maybe a little bit
21 more serious or maybe feel more pressure?

22 A. More pressure, yes.

23 Q. Okay. Probably not comfortable talking
24 in a large group --

25 A. Yeah.

1 Q. -- about those sort of opinions? Have
2 you had discussions with either your friends or your
3 family about the death penalty before?

4 A. No.

5 Q. And is this the first time that you've
6 had to give it pretty serious thought?

7 A. Yes.

8 Q. Okay. Are you, are your feelings such
9 that sitting as a juror in this case where the death
10 penalty is a potential punishment, does that cause
11 you any concern one way or another about your
12 ability to sit as a juror in that type of case?

13 A. Yes.

14 Q. Can you explain that or tell us what you
15 mean by that?

16 A. Well, I personally don't believe in the
17 death penalty.

18 Q. Okay.

19 A. And I never mean to it before. I didn't
20 know, you know, that I was gonna be serving as a
21 juror trying to make a decision through sentencing
22 someone to life, death.

23 Q. Okay. And when you say that you don't
24 believe in the death penalty, is that based on a
25 religious view?

1 A. Religious, yes.
 2 Q. And I take it then you're a member of a
 3 religious group that opposes the death penalty?
 4 A. (Positive nod of the head.)
 5 Q. Is that a yes?
 6 A. Yes.
 7 Q. And you said you personally don't believe
 8 in the death penalty?
 9 A. Yes.
 10 Q. How long have you held that opinion?
 11 A. Since I belonged to the religious group.
 12 THE COURT: Well, if you don't believe in
 13 it, you probably not an appropriate juror under the
 14 law for this case. We don't have jurors sit in
 15 situations who don't believe in it and really either
 16 can't impose it or it would be, you know, difficult
 17 process for them to go through or on the other hand
 18 who say I'm an eye for an eye guy, if you kill
 19 somebody, the death penalty is the only appropriate
 20 verdict.
 21 We have to have people who can
 22 consider all four. So it sounds to me like a
 23 different case would be more appropriate for you,
 24 would you agree?
 25 THE JUROR: Yes, sir.

1 THE COURT: You're excused. Please go
 2 back to the jury commissioner and they'll see if
 3 they can find a different case for you. Thanks for
 4 your honesty, Mr. Guevara.
 5 MR. PIKE: Objection, Your Honor.
 6 THE COURT: What?
 7 MR. PIKE: Objection.
 8 THE CLERK: Todd Pierson.
 9 THE COURT: I understand your objection,
 10 but if he doesn't believe in the death penalty, he
 11 doesn't. Take Mr. Guevara's seat, Mr. Pierson.
 12 I just thought it would be sort of
 13 weird to beat that out earlier. It took him a
 14 little long.
 15 BY THE COURT:
 16 Q. Mr. Pierson, how long have you lived in
 17 Clark County?
 18 A. Five years.
 19 Q. What do you do for a living?
 20 A. Store manager.
 21 Q. Are you married?
 22 A. Yes.
 23 Q. What's your wife do?
 24 A. Real estate.
 25 Q. Have you ever served as a juror before?

1 A. No.
 2 Q. Charged with or victim of a serious
 3 offense that could in any way affect your ability
 4 here?
 5 A. Yes.
 6 Q. Can you be fair?
 7 A. Yes.
 8 Q. Can you consider and in the appropriate
 9 case impose any one of those four potential --
 10 A. Yes.
 11 THE COURT: State, questions of Mr.
 12 Pierson?
 13 MS. WECKERLY: Just briefly.
 14 BY MS. WECKERLY:
 15 Q. Good morning, sir.
 16 A. Good morning.
 17 Q. Where did you move from?
 18 A. Salt Lake City.
 19 Q. Okay. And you are a store manager?
 20 A. (Positive nod of the head.)
 21 Q. What type of store?
 22 A. Wal-Mart store.
 23 Q. As the manager are you in charge of the
 24 whole store or security for the store?
 25 A. No, the whole store.

1 Q. The whole store. So I would imagine you
 2 would have a lot of people reporting back to you?
 3 A. Yes.
 4 Q. As the manager, are you involved with
 5 disciplining employees or is that sort of a step
 6 beneath you?
 7 A. Involves all of it.
 8 Q. All of it?
 9 A. (Positive nod of the head.)
 10 Q. Are you ever called upon to kind of
 11 decide or mediate disputes between maybe two people
 12 that work for you?
 13 A. All the time.
 14 Q. All the time. Is that something that,
 15 I'm sure it's not enjoyable, but that you find easy
 16 to do, something you're capable of doing?
 17 A. Yes.
 18 Q. Is there anything about that process that
 19 you find difficult at all?
 20 A. No.
 21 Q. Okay. You said your wife works in real
 22 estate?
 23 A. (Positive nod of the head.)
 24 Q. Is that yes?
 25 A. Yes.

1 Q. Residential or commercial?
 2 A. Commercial.
 3 Q. Do you have children?
 4 A. Yes.
 5 Q. How old are they?
 6 A. 20, 17, 15, 8, 7.
 7 Q. The ones that are 20 -- well, 17's still
 8 in high school, yes?
 9 A. Yes.
 10 Q. The 20 year old, is that a son or
 11 daughter in school or?
 12 A. College.
 13 Q. College?
 14 A. Back in Illinois.
 15 Q. Okay. And then the little ones I assume
 16 are all still in school with you?
 17 A. Yup.
 18 Q. Okay. Sir, have you -- do you hold any
 19 opinions about whether the criminal justice system
 20 works, whether it's effective, that sort of thing?
 21 A. Nope.
 22 Q. Have you ever given it any thought?
 23 A. Of course all of us have given it
 24 thoughts. We've heard rumors. I guess fair.
 25 Q. I take it from your answer you don't have

1 any personal or first-hand experience?
 2 A. No, none.
 3 Q. Probably just from reading the paper,
 4 that kind of thing?
 5 A. Yes.
 6 Q. In your, in your frame of mind, are you
 7 someone who can make a decision about what may be an
 8 appropriate punishment in a first-degree murder
 9 case?
 10 A. Yes.
 11 Q. And are you able to communicate your
 12 opinion with your fellow jurors?
 13 A. Yes.
 14 Q. If you individually and then collectively
 15 as a jury panel decided that the death penalty was
 16 an appropriate punishment in this case, would you
 17 have any trouble at all reporting that back as your
 18 verdict?
 19 A. No.
 20 Q. Thank you, sir. Pass for cause.
 21 THE COURT: Defense?
 22 BY MR. PIKE:
 23 Q. Mr. Pierson, you moved out from Salt
 24 Lake?
 25 A. Yes.

1 Q. I've three grand kids there so I've
 2 done my share of commuting in time up in Utah.
 3 Utah has a long-term affiliation
 4 with the LDS church or the Mormon faith. And have
 5 you ever heard about or discussed the, that the
 6 doctrine of that church of blood atonement?
 7 A. No.
 8 Q. Okay. Are you affiliated or have you
 9 ever been a member of the LDS church?
 10 A. No.
 11 Q. So that wouldn't affect you and you don't
 12 have an opinion that there are some sins that
 13 require actually the letting of some of some of
 14 the -- of your own blood in order to atone for that
 15 sin?
 16 A. No.
 17 Q. And you don't believe that personally?
 18 A. No.
 19 Q. And as you, so as you're going through
 20 making the decision in this case, coming in, would
 21 you consider yourself a blank slate? So you'll
 22 listen to everything and then you'll decide if any
 23 of those four punishments are appropriate if you
 24 reach that stage?
 25 A. Yes.

1 Q. And you have -- as a blank slate, you
 2 don't have a feeling that the death penalty is most
 3 appropriate to begin with or life is most
 4 appropriate to begin with?
 5 A. No.
 6 Q. You're gonna listen to everything and
 7 then make a decision if you ever have to do that?
 8 A. Yes.
 9 Q. Has all of the discussions that we've had
 10 about the potential penalty, do you feel that that
 11 has prejudiced you in any way in being able to make
 12 a decision on the guilt or innocence phase?
 13 A. No.
 14 Q. Okay. So you will separate and you'll be
 15 a clean slate for just for that innocence phase in
 16 deciding whether the State has proved its case
 17 beyond a reasonable doubt or, or -- excuse me.
 18 Beyond a reasonable doubt and not?
 19 A. Yes.
 20 Q. And you won't think about the penalty at
 21 all during the time that you're doing that first
 22 part of the trial?
 23 A. No.
 24 MR. PIKE: Thank you, sir.
 25 THE COURT: Yes, ma'am.

1 THE JUROR: I would like to question.
 2 THE COURT: Pardon me?
 3 THE JUROR: I'm sorry. I'm sitting here
 4 and I can't, I can't do it.
 5 THE COURT: You can't do what?
 6 THE JUROR: I -- because I'm thinking
 7 about when I was younger and I was raped, I wasn't
 8 thinking about that when I first came in here and
 9 just sitting here, it's starting to come to me so
 10 I'd rather --
 11 THE COURT: Any objection to her being
 12 excused?
 13 MR. PIKE: No, Your Honor. Thank you.
 14 THE COURT: Okay, Ms. Munerlyn, thank you
 15 for your honesty. If you'll go down stairs, they'll
 16 put you on a civil case.
 17 THE CLERK: Sue Noch.
 18 THE COURT: Ms. Noch, come up and take
 19 her seat.
 20 BY THE COURT:
 21 Q. Good morning, Miss Noch. How long have
 22 you lived in Clark County?
 23 A. Five years.
 24 Q. What do you do for a living?
 25 A. Customer relations work.

1 Q. Are you married?
 2 A. No.
 3 Q. Have you ever served as a juror before?
 4 A. No.
 5 Q. Have you ever been charged with or the
 6 victim of a serious offense that could affect your
 7 objectivity?
 8 A. No.
 9 Q. Can you be fair?
 10 A. Yes.
 11 Q. If it came to a penalty phase, would you
 12 consider all four and decide which one, if any, is
 13 appropriate to this case?
 14 A. Yes.
 15 THE COURT: State, questions of Ms. Noch?
 16 MS. LUZAICH: Thank you.
 17 BY MS. LUZAICH:
 18 Q. As a customer relations person, what do
 19 you do on a daily basis?
 20 A. Talk with customers and hand jobs,
 21 coordinate jobs.
 22 Q. When you say talk to customers, do you
 23 try to bring in business or do you deal with people
 24 that come to you?
 25 A. Both.

1 Q. And when you manage jobs and things like
 2 that, does that mean you kind of supervise other
 3 people, tell them where to go and what to do and?
 4 A. Yes.
 5 Q. How many people do you supervise?
 6 A. Seven.
 7 Q. Do you have to deal with disputes, mostly
 8 employees at all?
 9 A. Yes.
 10 Q. How do you do that?
 11 A. I do, but it's usually --
 12 Q. To both sides?
 13 A. Absolutely.
 14 Q. Do you have to mediate disputes between
 15 like customers and employees?
 16 A. Yes.
 17 Q. Do you do that differently?
 18 A. No. Everybody's the same.
 19 Q. Okay. Not customer's always right?
 20 A. Well, I don't believe the customer's
 21 always right. (Negative nod of the head.)
 22 Q. Are you the kind of person who can
 23 communicate well with others and share your
 24 opinions?
 25 A. Yes.

1 Q. Are you strongly held in your opinions?
 2 A. Yes, I am.
 3 Q. Have you ever had conversations with
 4 friends and family about the death penalty?
 5 A. On occasion.
 6 Q. Recently, long time ago?
 7 A. No, long time ago.
 8 Q. As a juror in this case, what you'll do
 9 is go back, listen to all the evidence. Of course
 10 at first go back and deliberate. If 11 people feel
 11 one way and you feel a different way, regardless of
 12 which way, how would you deal with that?
 13 A. I would stand with what I believe.
 14 Q. Try and convince them of your point of
 15 view?
 16 A. I would stand on my belief and tell them
 17 everything, the reasons that I believe it. If they
 18 don't want to believe what they believe, but I
 19 certainly would be firm with what I believe.
 20 Q. Is it possible that you could change your
 21 mind if something was pointed out that maybe you
 22 missed or misheard or something like that?
 23 A. I have to believe what I hear. I mean, I
 24 have to believe in my soul that if I did miss
 25 something, then I would look at it and I may think

1 of it differently than that pers

2 Q. Okay. But you'd stick to your guns?

3 A. If I believe what I heard, yes.

4 Q. Okay. In your mind, are there certain
5 situations where you could conceive that the death
6 penalty would be an appropriate death penalty?

7 A. Yes.

8 Q. And if you are a juror in this case after
9 deliberating, if you were to make that decision,
10 would you be able to come back with a guilty?

11 A. Yes, I would.

12 MS. LUZAICH: Thank you. Pass for cause.

13 THE COURT: Defense, questions of Ms.

14 Noch?

15 MR. PATRICK: Thank you.

16 BY MR. PATRICK:

17 Q. Ms. Noch, I know you were sitting kind of
18 in the back here a little bit kind of thinking you
19 were out of the woods and wouldn't get picked for
20 this jury.

21 A. Not true.

22 Q. But I'm sure you were paying attention to
23 all the previous questions that we asked your fellow
24 prospective jurors.

25 And you'll, you believe that

1 Norman's constitutional rights, that he's not guilty
2 as he sits here before you today?

3 A. Yes, I do.

4 Q. And you feel that's a good system?

5 A. I believe it's a good system, yes.

6 Q. Now, you were talking about conversations
7 you had with friends and family I think you said
8 long about ago about the death penalty?

9 A. Yes.

10 Q. At that time did you have a strong
11 opinion at that time about how you felt about the
12 death penalty?

13 A. In that situation, yes.

14 Q. And as time has progressed, has that
15 attitude or your opinion changed any on that?

16 A. No.

17 Q. And there are circumstances that you
18 could find somebody may be guilty in the first phase
19 but still would feel that the death penalty would
20 not be the appropriate punishment?

21 A. Yes.

22 Q. And before you reach that decision, you'd
23 want to see all the evidence the State would lay out
24 and all the evidence that we would want to lay out?

25 A. Yes.

1 Q. And you can keep an open mind and wait
2 until all that was done before you make your
3 decision?

4 A. Yes.

5 Q. Now, and you were also talking a little
6 bit with Ms. Luzaich about your job and kind of
7 working out problems between clients and customers
8 and employees and employee versus employee.

9 And you said that the customer's not
10 always right. So to me that would mean that you
11 have the ability to listen to both sides before you
12 make a decision?

13 A. Yes.

14 Q. And in a situation like that between two
15 employees, you wouldn't make a decision just because
16 you happen to like one employee better than the
17 other even if the other one had the better position?

18 A. No.

19 Q. And you'd like listen to both their sides
20 and then make a fair and impartial decision?

21 A. Yes.

22 Q. And that's exactly what you can do over
23 the next week for Norman?

24 A. Yes.

25 Q. Now, there was also a little bit of talk

1 about when you make up an opinion or when you make a
2 decision you stick pretty firm to that decision.

3 Was that -- am I correct in that you
4 were talking with?

5 A. I, I'd stick firm to the decision if I
6 feel it's the right decision for what I believe,
7 yes.

8 Q. Okay. And if you're in the jury room and
9 the other 11 jurors have a different opinion, would
10 you be able to stick to yours because you thought it
11 was right?

12 A. Yes, I would.

13 Q. Okay. And you'd be able to have
14 meaningful conversations with the other 11 people
15 and either try to persuade them your way or listen
16 to them to have you come their way?

17 A. I would listen, yes.

18 Q. But you wouldn't just blindly follow them
19 just because the other 11 people were voting a
20 different way, you'd want to hear their reasons and
21 you'd want to make an informed, intelligent decision
22 on that?

23 A. I'd want to make an informed decision,
24 yes.

25 Q. And even if there were 11 other people,

1 you'd want to get your point across to see if you
2 can change their mind because you felt that was the
3 correct decision?

4 A. Yes, I would.

5 Q. As, you know, my favorite question I ask
6 everybody is if you were in either of our positions,
7 either the State's or mine, and it was your job to
8 pick a jury, somebody that you want to be fair and
9 impartial and listen to both sides and hold the
10 State to their task of beyond a reasonable doubt,
11 would you want to pick somebody like you to sit on
12 this jury?

13 A. Yes, I would.

14 Q. Thank you, judge. We'll pass.

15 BY THE COURT:

16 Q. Ms. Ergina, how long have you lived in
17 Clark County?

18 A. 14 years.

19 Q. What do you do for a living?

20 A. I'm a medical biller.

21 Q. Are you married?

22 A. Yes.

23 Q. What's your husband do?

24 A. He's a project manager for an alarm
25 place.

1 Q. Have you ever served as juror before?

2 A. No.

3 Q. Have you ever been charged with or victim
4 of a serious offense which would affect your ability
5 to be objective?

6 A. No.

7 Q. Can you be fair?

8 A. Yes.

9 Q. Can you consider all four punishments if
10 push comes to shove?

11 A. Yes.

12 THE COURT: State?

13 BY MS. WECKERLY:

14 Q. Good morning.

15 A. Good morning.

16 Q. Do you have to deal with members of the
17 public in your job?

18 A. No. I'm pretty much behind the scenes.
19 Sometimes I do come out.

20 THE COURT: Try to speak up so that --

21 THE JUROR: Sometimes I do come up when
22 they have questions about bills and I always used to
23 be an on-site trainer. Dealt with the department as
24 well.

25 BY MS. WECKERLY:

1 Q. Okay. Let me ask you whole a couple of
2 questions about that. On the occasions now where
3 you have to deal with the people that you're dealing
4 with the public, are you ever in a situation where
5 you're dealing with someone who's irate or pretty
6 upset?

7 A. Oh, yes.

8 Q. And how do you handle that kind of, sort
9 of confrontational setting?

10 A. Calm and always let them know that I'm
11 listening. I'm listening. That's the maintain
12 thing. And that I've got a handle it on it. I
13 think the minute that you let them know that you're
14 confused or you're not sure.

15 Q. Right.

16 A. If you don't have the answer, I know
17 where to get answer.

18 Q. Okay. And if they happen to be showing
19 you something and you, you see maybe that you've
20 made an error, are you someone that can acknowledge
21 that or does that make the situation even more
22 uncomfortable?

23 A. No, actually that's not my biggest
24 concern. I have no problem.

25 Q. Okay. And you mentioned before that you

1 worked as a trainer before?

2 A. Uh-huh.

3 Q. Is that a yes?

4 A. Yes.

5 Q. That's just for her. When you were
6 training people, was that -- I mean I kind of got
7 from what you were saying that is when they were
8 dealing with the public?

9 A. Right.

10 Q. And now, what are you doing if you're
11 not --

12 A. I recently changed to a medical biller
13 from location within the same health system.

14 Q. Okay. And in that, I mean in that line
15 of work, it's pretty specialized, right, the codes
16 and certain things?

17 A. Yes, yes.

18 Q. That you don't qualify and don't qualify?

19 A. Right.

20 Q. And then are you familiar with like
21 insurance policies and how things are covered?

22 A. Oh, yes.

23 Q. All those details?

24 A. Yes, very.

25 Q. Do you work by yourself now or do you

1 work in the team?

2 A. Right. Right now there's skeleton crews
3 so I'm by myself.

4 Q. I'm sure there's a lot of work?

5 A. Yes.

6 Q. Prior to coming here today, did you have
7 any opinions or being read in the newspaper about
8 certain cases about the criminal justice system?

9 A. Yes, I've seen different trials and yes,
10 I have opinions, but yes.

11 Q. Just from the news?

12 A. News, right.

13 Q. Without giving me specific cases, did you
14 ever look down, did you ever have like a really
15 strong reaction this was the right result, this one
16 wasn't, that kind of thing?

17 A. From what I had seen, yes, I had
18 opinions, yes.

19 Q. And do you think that anything about
20 you've seen would affect or somehow influences as
21 you sit right now as a prospective juror in this
22 case?

23 A. No, no. I do see things, but I have two
24 children and I don't teach them you never know what
25 happens behind closed doors. So until you know the

1 details, you can't make the decision.

2 Q. And of course if you're picked as a
3 juror, you'll see it all because you'll be sitting
4 here and making the decision based on the evidence?

5 A. Yes.

6 Q. How old are your kids?

7 A. I have a 16 year old and a 10 year old.

8 Q. So still very much school age?

9 A. Yes.

10 Q. Before you came in here this morning, had
11 you given a lot of thought to whether or not you
12 think the death penalty is an appropriate
13 punishment?

14 A. No. I actually had come to jury duty and
15 never made it into the court room.

16 Q. I don't know if you're feeling lucky or
17 unlucky right now. But as you sit here now, you've
18 obviously haven't had a whole day to think about it
19 or anything, but can you conceive of the death
20 penalty serving a purpose as to punishment in
21 society?

22 A. Yes.

23 Q. And can you think of a situation, without
24 telling me what it is, where that would be an
25 appropriate punishment?

1 A. Yes.

2 Q. And in that situation more than in the
3 abstract, could you sit as a juror and say I think
4 this is the appropriate penalty in a given case?

5 A. Yes.

6 Q. No problem personally announcing that
7 decision?

8 A. No.

9 Q. Okay. And you can be fair to both sides?

10 A. Yes.

11 MS. WECKERLY: Thank you very much. Pass
12 for cause.

13 THE COURT: Defense?

14 BY MR. PIKE:

15 Q. Hi?

16 A. Hi.

17 Q. I guess I'll move over here. We've
18 talked about a lot of things with all the
19 prospective jurors and I'll try and focus in on just
20 a couple of questions that I'd like you to think
21 about and then give me your beliefs and your
22 understanding.

23 Going to the issue about the point
24 of view, you said that sometimes you agreed,
25 sometimes you disagreed based upon what you saw.

1 Do you agree that twelve people can
2 sit in the same room, see the same thing or listen
3 to the same testimony but see it differently?

4 A. Oh, yes. Oh, yes.

5 Q. And the jury is a collective process made
6 up of twelve people that look at it, discuss it,
7 it's called the deliberations and then they arrive
8 at their individual decisions based upon their
9 conversations and we talked with some of the other
10 jurors about it.

11 When you've, when you've done that,
12 reach your belief, you continue to maintain that?

13 A. Yes.

14 Q. And you feel that if you're strong enough
15 that if you have a decision and you make a decision
16 and one or two or maybe all 11 people disagree with
17 you, that that would be your belief and you'd be
18 able to hold fast to that?

19 A. Oh, yes.

20 Q. Okay. And by the same token, if you have
21 that same belief and it's different than somebody
22 else's belief, will you be respect that belief that
23 the other juror has?

24 A. Yes.

25 Q. And you won't attempt to change them, you

1 may attempt to discuss it with t and bring things
2 to light, but you believe that they would be
3 entitled to that same sort of respect for their
4 decision that you'd expect?

5 A. Yes.

6 Q. And then in reference to making a
7 decision regarding whether or not a life in prison,
8 either with the hope that sometime there may be a
9 chance at parole as opposed to death in prison by
10 just your normal life expiring or execution, have
11 you ever been in a prison, have you ever gone
12 through a prison?

13 A. No.

14 Q. Would it be important for you in making
15 that decision to know how secure a prison is in the
16 State of Nevada?

17 A. Important to me?

18 Q. Yeah.

19 A. Before I make a decision on the case?

20 Q. Before you determine what the penalty is.
21 It would be important to you?

22 A. Like how it works, if people come in,
23 if --

24 Q. If it was a poor question. Let me
25 just -- no, no, it was a poor question on my part.

1 In making a decision whether or not to give somebody
2 the death penalty, I assume it would be important to
3 you to know whether or not that person could be
4 housed where he or she could not hurt anybody else
5 again?

6 A. Yes.

7 Q. And would that be important information
8 that you would expect me to bring experts to come in
9 and talk with you about what the prison system is
10 like here in the State of Nevada?

11 A. I haven't normally given thought to that
12 to be honest with you.

13 Q. Well, you've never sat on a death penalty
14 case before.

15 THE COURT: They don't know what to
16 expect. You can ask her if that would be --

17 BY MR. PIKE:

18 Q. So in making that decision as I'm
19 bringing it out to you, would it be important if I
20 could show you that a person that is housed at the
21 maximum security prison in the State of Nevada is
22 not a danger to anybody else?

23 A. I think they're gonna be -- if I decide
24 that they're to be locked away for life, yes, it is
25 important if it's gonna be secure for them not to

1 get out, yes.

2 Q. And what the, whether deprivations or
3 amenities of the prison may be, you'd want to know
4 how that person would be held, how they would be
5 treated for the rest of their lives?

6 A. The details, I mean, no. Because you're
7 in jail. You're locked away. What, you've done
8 something wrong.

9 Q. You expect prison is not going to be
10 pleasant?

11 A. No.

12 THE COURT: Okay. That's as far as
13 you're gonna go down that road.

14 MR. PIKE: Okay. The stop sign came up,
15 I'm done. Thank you very much.

16 BY THE COURT:

17 Q. Mr. Morken, how long have you lived in
18 Clark County?

19 A. For six plus years.

20 Q. What do you do for a living?

21 A. Retired pharmacist.

22 Q. Have you ever served as a juror before?

23 A. Yes.

24 Q. Are you married?

25 A. Yes.

1 Q. What line of work was your wife in?

2 A. She's a retired nurse.

3 Q. Have you ever been charged with or victim
4 of a serious offense that would affect your
5 objectivity?

6 A. No.

7 Q. Can you be fair?

8 A. Yes.

9 Q. Can you consider all four punishments?

10 A. Yes.

11 THE COURT: Okay, State. Questions of
12 Mr. Morken.

13 MS. LUZAICH: Thank you.

14 BY MS. LUZAICH:

15 Q. Good morning, sir.

16 A. Hi.

17 Q. As a pharmacist, did you have medical
18 training beyond pharmaceutical training?

19 A. CPR training if you're talking about
20 something like that.

21 Q. You mean you know the human body and
22 the --

23 A. Yeah.

24 Q. And the interaction between the drugs,
25 but that's about the extent of your training?

1 A. I had a avid of courses es.
 2 Q. And then you mentioned your wife was a
 3 retired nurse?
 4 A. Yeah.
 5 Q. Was that here or elsewhere that she
 6 worked?
 7 A. She worked in California for most of her
 8 career.
 9 Q. What did she do as a nurse?
 10 A. She's the head of quality management and
 11 quality control.
 12 Q. Did she ever work on the floor in the
 13 emergency room, things like that?
 14 A. Yeah. In her earlier career she did,
 15 yes.
 16 Q. Do you know if she ever did anything
 17 along the lines of sexual assault nurse?
 18 A. No.
 19 Q. Not anything like that?
 20 A. No.
 21 Q. Did she have any training in that?
 22 A. No, I don't think so.
 23 Q. If a nurse comes in here and talks to you
 24 as a juror about things that she knows, you're not
 25 gonna want to run home and ask your wife about it,

1 are you?
 2 A. No.
 3 Q. Because you're not allowed to do that.
 4 A. I probably know as much as she does.
 5 Q. Okay. Fair enough. Do you think that
 6 you would be a good juror in this case?
 7 A. Yes.
 8 Q. Why?
 9 A. I'm open minded and I could be unbiased.
 10 Q. Okay. Fair to both sides?
 11 A. Yes.
 12 Q. Listen to absolutely everything before
 13 you make up your mind?
 14 A. Yes.
 15 Q. Okay. Over the course of years, have you
 16 had occasion to with friends, family, whatever,
 17 converse about the death penalties?
 18 A. Not very often. I think in high school
 19 we talked about it in speech class.
 20 Q. Is that something that just never entered
 21 your life and therefore kind of --
 22 A. I believe, I believe in the death penalty
 23 if it's appropriate. Along with some proper
 24 guidelines.
 25 Q. So it is something that you could

1 consider?
 2 A. Yes.
 3 Q. Along with the other own penalties?
 4 A. Yes.
 5 Q. Would you consider yourself to be
 6 somebody who could sit in judgment of somebody else?
 7 A. Yes.
 8 Q. So if you listened to all the evidence
 9 and you work and were convinced beyond a reasonable
 10 doubt that the defendant committed the crimes beyond
 11 a reasonable doubt, would you able to say guilty?
 12 A. Yes.
 13 Q. Could you discuss with all your fellow
 14 jurors the appropriate sentencing, including all
 15 four penalties?
 16 A. Yes.
 17 Q. What might sway you amongst your juror,
 18 your fellow jurors?
 19 THE COURT: Well, I don't understand that
 20 question.
 21 BY MS. LUZAICH:
 22 Q. Well, when you're talking with the other
 23 jurors your own personal experience, is that gonna
 24 be something that you're gonna share or are you
 25 gonna stick to the evidence?

1 A. The evidence and the guidelines that the
 2 State sets down.
 3 Q. The judge is gonna read you the
 4 instructions and you will follow all the
 5 instructions?
 6 A. Yes.
 7 Q. Even if you don't believe in them?
 8 A. Well, I have to believe in the guidelines
 9 that the State tells me to follow.
 10 Q. Okay. If the judge reads to you an
 11 instruction that you don't agree with, what would
 12 you do?
 13 A. I have to follow the guidelines, you
 14 know.
 15 Q. Okay. You'd follow the instruction
 16 anyway?
 17 A. Right.
 18 Q. Write a letter to your legislature to try
 19 to get the law changed after the trial's over?
 20 A. You bet. Exactly.
 21 Q. Thanks, sir. I pass for cause.
 22 THE COURT: Defense?
 23 BY MR. PATRICK:
 24 Q. Mr. Morken, it sounds like you're a very
 25 analytical person.

1 A. I guess so.

2 Q. And well, talking about Ms. Luzaich just
3 asked you if the judge gave you an instruction under
4 the law and you didn't agree with it, and I believe
5 your answer was even if you didn't agree with it,
6 you'd follow it because that was the law that the
7 judge told you?

8 A. That's right.

9 THE COURT: You got the answer right, Mr.
10 Morken, because when you're sworn in, one of the
11 things that you're gonna agree to is that you'll
12 follow the law of the State and that's the way it
13 is.

14 THE WITNESS: That's the way it is.

15 BY MR. PATRICK:

16 Q. So using -- and I imagine as a
17 pharmacist, that's very analytical job as far as
18 knowing the drugs and the interactions with other
19 drugs, things like that, so you, you would be able
20 to again compartmentalize the case that we're
21 actually here to decide this week and another case
22 that you may hear about for limited purposes?

23 A. Yes.

24 Q. And if the judge tells you that that
25 other case is strictly for limited purposes, whether

1 or not you would agree with that, that's the law,
2 that you would follow that?

3 A. Yes.

4 Q. Now, you said that you would be fair if
5 another nurse came up and testified. The fact that
6 a nurse testified and your wife was a nurse, would
7 you give that nurse's testimony more weight just
8 because she was a nurse and no other reason?

9 A. No.

10 Q. So you'd still weigh what she has to say
11 and make your own determination how much weight to
12 give it?

13 A. Yes.

14 Q. I believe you said that you were for the
15 death penalty if it was appropriate?

16 A. That's right.

17 Q. Can you see a case where you might find
18 somebody guilty of first-degree murder where the
19 death penalty would not be appropriate?

20 A. Yes.

21 Q. And to make that determination, you'd
22 want to hear what the State has to say and what we'd
23 have to say about that?

24 A. Yes.

25 Q. And we've talked about this a little bit,

1 the State would give you the aggravators and we
2 would tell you a little bit about Norman and his
3 life and why we would feel the death penalty wasn't
4 appropriate?

5 A. Yes.

6 Q. And you could listen to all that?

7 A. Yes.

8 Q. And you'd keep an open mind through that
9 whole process?

10 A. Yes.

11 Q. And then only at the end make a decision?

12 A. Yes, exactly.

13 Q. Once you made that decision and several
14 or maybe all the other jurors have a different
15 opinion, come to a different conclusion, would you
16 be able to try and sway them your way?

17 A. As long as I let them know what I
18 thought, yes.

19 Q. But you wouldn't just follow them just
20 because you were the only one?

21 A. No.

22 Q. Very good. And we talked a little bit
23 about the system in general. You believe that the
24 State has the total burden in this case to prove
25 that Norman's guilty beyond a reasonable doubt?

1 A. Yes.

2 Q. And that myself or Mr. Pike can sit here
3 and not say a word the next week and they still have
4 that burden?

5 A. That's right.

6 Q. And if they didn't meet that burden, even
7 though Mr. Pike and I said not a word and you felt
8 they did not meet that burden, you'd be able to vote
9 not guilty?

10 A. That's right.

11 Q. Thank you. We'll pass, judge.

12 BY THE COURT:

13 Q. Mr. Herrera, how long have you lived in
14 Clark County?

15 A. 11 years.

16 Q. What do you do for a living?

17 A. Unemployed.

18 Q. What line of work generally are you in?

19 A. I was a caregiver.

20 Q. Okay. Are you married?

21 A. Yes, I am.

22 Q. What's your wife do?

23 A. She's unemployed also. She's a
24 psychologist.

25 Q. Have you ever served as a juror before?

1 A. No, I haven't.

2 Q. Charged with or victim of a serious

3 offense?

4 A. Yes.

5 Q. Can you be fair?

6 A. Yes.

7 Q. Could you consider all four punishments

8 and give each one due consideration in determining

9 which one would be appropriate if it comes to that?

10 A. Yes.

11 THE COURT: State, questions of Mr.

12 Herrera?

13 BY MS. WECKERLY:

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. I take it with your former employment you

17 do have medical training as a caregiver?

18 A. Yes, a little bit. Not too much. I used

19 to take care of a paraplegic, yes.

20 Q. Just people with that disability or did

21 you ever deal with --

22 A. Just one particular person, yes.

23 Q. Were you an in-home type caregiver?

24 A. Yes.

25 Q. Did you see the patient or the client

1 every day?

2 A. Every day, yes.

3 Q. So you were the one in charge?

4 A. Exactly.

5 Q. And were you affiliated with a hospital

6 or?

7 A. No.

8 Q. Just a family hired you --

9 A. Yes.

10 Q. -- as a caregiver?

11 A. (Positive nod of the head.)

12 Q. Did you ever have to take that person to

13 doctors' appointments?

14 A. Yes, I did.

15 Q. Pretty much whatever that person needed?

16 A. Yes.

17 Q. Okay. And your wife worked as a

18 psychologist?

19 A. Yes, she's a psychologist.

20 Q. She is a psychologist?

21 A. Yes.

22 Q. Did she have a private practice or did

23 she work for a school?

24 A. She worked for the State, but this is in

25 Mexico. My wife came into the country like about a

1 week and a half go through a visa so she hasn't

2 really been here that long.

3 Q. I see. Okay. And is her plan to start

4 her own practice here?

5 A. I believe so, yes.

6 Q. Okay. Dealing with maybe just private

7 clients, that kind of thing?

8 A. Yes.

9 Q. When -- I mean, have you and your wife

10 had discussions about whether or not you believe in

11 the death penalty as a punishment for a first-degree

12 murder?

13 A. Yes, we have.

14 Q. And do you guys have the same opinion?

15 A. Yes, yes. Pretty much we do.

16 Q. Okay. In the discussions that you've

17 had, were they based on cases that you read about in

18 the newspaper?

19 A. Yeah, pretty much.

20 Q. Any first-hand experience with the

21 criminal justice system?

22 A. No. Actually the person I used to take

23 care of, he was a -- got shot in the back. That's

24 why he was left paralyzed. I didn't really -- I

25 wasn't with him through the, through his case, but,

1 you know, I just saw him pretty much after. Well

2 after the whole ordeals was over, you know, and he

3 was trying to recover, yes.

4 Q. How old was he?

5 A. 53.

6 Q. And how old --

7 A. When I started working for him, yes.

8 Q. And did you start working for him just

9 shortly after he had been shot?

10 A. Exactly, yes.

11 Q. Okay. And how many or how long did you

12 work for him?

13 A. 10 years.

14 Q. Oh. So quite a bit of time?

15 A. Yeah, awhile.

16 Q. During the 10 years that you were working

17 with him, did his health fluctuate or did it

18 deteriorate?

19 A. It deteriorated, yes.

20 Q. So it was a pretty substantial declining

21 in his health?

22 A. Yeah, I guess when a situation like that

23 happens to, he was, he was 53 years old, he was, he

24 was pretty young. He looked young when the accident

25 happened. Well, when this incident happened to him.

1 After that, he, you know, he just started declining.
 2 Q. Did he ever talk to you about how it was
 3 that he was injured?
 4 A. Yes, he did.
 5 Q. And was it in Clark County?
 6 A. Yes, it was.
 7 Q. And it was a criminal case?
 8 A. Yes.
 9 Q. Do you know whether -- do you know what
 10 this person's feelings are about whether or not
 11 there was justice in this case?
 12 A. I think he believed he didn't get the
 13 justice he should have gotten, yeah.
 14 Q. And do you know why he felt that it was
 15 just not prosecuted correctly or the police didn't
 16 investigate it or?
 17 A. It might have not been prosecuted
 18 correctly.
 19 Q. Did he give you specifics or?
 20 A. Well, he just thought the years he gave
 21 the guy were not, you know, were not enough. He
 22 thought, you know, he deserved more years because
 23 what had happened to him. But beyond that, no, I
 24 didn't listen to the case so I wouldn't know.
 25 Q. Right. So but his feeling was I mean he

1 actually suffered a catastrophic injury?
 2 A. Yes.
 3 Q. He thought maybe the sentence the person
 4 who shot him wasn't enough?
 5 A. Exactly.
 6 Q. And your familiarity with the case is
 7 only through this individual you worked for?
 8 A. Exactly, yes.
 9 Q. You've never looked it up on the
 10 internet?
 11 A. No.
 12 Q. Anything about your contact with him or
 13 your conversations with him that would cause you to
 14 have bad feelings either about the police or the
 15 State of Nevada or even a defense attorney, that
 16 kind thing?
 17 A. No, no.
 18 Q. Okay. Totally separate incident?
 19 A. Exactly.
 20 Q. Okay. As you sit here as a prospective
 21 juror in a capital case, you've heard us talk to the
 22 other prospective jurors about their ability to
 23 impose the death penalty if they feel it's an
 24 appropriate punishment.
 25 In your frame of mind as you sit

1 here now, are you someone who could impose the death
 2 penalty as a punishment in the appropriate case?
 3 A. I think I could, yes. According to the
 4 facts, I could do that, make a decision, yes.
 5 Q. Yeah, it's sort of artificial we're
 6 asking you all this before you know anything about
 7 the case, but can you conceive of cases or maybe
 8 you've heard of cases where you think that was
 9 justice, that is the appropriate punishment for a
 10 case?
 11 A. Yes.
 12 Q. And of course the flip side of that is I
 13 would imagine you could conceive of cases where that
 14 wouldn't be the appropriate punishment?
 15 A. Yes.
 16 Q. Even in the case of a first-degree
 17 murder?
 18 A. Even in the case of a first-degree
 19 murder?
 20 Q. (Positive nod of the head.)
 21 A. I don't know. Okay. I'm sorry. Repeat
 22 that question for me again.
 23 Q. Sure. Okay. As Judge Bell explained, in
 24 the event of a guilty verdict --
 25 A. Yes.

1 Q. -- from the jury in a first-degree
 2 murder --
 3 A. Yes.
 4 Q. -- there's four possible punishments by
 5 statute.
 6 A. Uh-huh.
 7 Q. One of them is a sentence of what we call
 8 a term of years which is 20 to 50 years, eligibility
 9 for parole after 20 years, then 20 to life which is
 10 pretty similar and then life without the possibility
 11 of parole, meaning the person never gets out of
 12 prison.
 13 A. Yes.
 14 Q. And then the most serious punishment
 15 obviously is the death penalty.
 16 A. Yes.
 17 Q. Now, in the event that there is a
 18 conviction for first-degree murder, are you someone
 19 who can consider all four of those punishments?
 20 A. Yes, yes.
 21 Q. No problem doing that?
 22 A. Yes, yes.
 23 Q. And you can fair to both sides?
 24 A. Yes.
 25 Q. Do you believe that people should be held

1 accountable for their conduct?

2 A. Yes, I do.

3 Q. Thank you, sir. I'll pass for cause.

4 THE COURT: Defense?

5 MR. PIKE: Thank you.

6 BY MR. PIKE:

7 Q. Mr. Herrera, you had an opportunity I
8 guess to have a number of conversations with your
9 wife in getting her the visa and the necessary
10 things to get over here to the United States?

11 A. Yes.

12 Q. And that's good to have your family,
13 right --

14 A. Yes.

15 Q. -- in the same location? Now, Mexico
16 doesn't have the death penalty?

17 A. No, they don't.

18 Q. Have you and your wife talked about
19 whether having the death penalty is having a good
20 thing or a bad thing?

21 A. You know, a lot of things are happening
22 in Mexico right now and that's something that we
23 were speak about that I think Mexico should consider
24 the death penalty. Maybe it would discourage some
25 of the crimes that are going on right now because

1 there's a lot of, you know, there's a lot of things
2 going down.

3 Q. There's -- so you have a belief that --
4 well, let's talk a little bit about the death
5 penalty.

6 Do you believe that there is an
7 empirical difference between death in prison by just
8 living out your life and saying die in prison or
9 executing somebody where the State comes in and they
10 execute them before God does?

11 A. There's a difference, yeah.

12 Q. And you have a believe that the death
13 penalty is a deterrent? Am I stating that
14 correctly? Let me put a better question. Sometimes
15 I don't phrase them right.

16 You have a firm belief that the
17 death penalty is meaningful and should exist both in
18 Mexico and in the United States?

19 A. Yes.

20 Q. Do you believe it should be selectively
21 imposed?

22 A. Yes.

23 Q. From what you said to me, I took that to
24 believe that you believe that the death penalty has
25 a deterrent effect for crime.

1 correct in that assumption or
2 am I misreading that?

3 A. Well, maybe in a certain way, yes.

4 Q. Regardless whether or not that's true and
5 we could debate that, can you sit in this case and
6 make that decision just for this one defendant if he
7 is convicted?

8 A. Yes.

9 Q. And if deterrence is important to you,
10 would it be important in making that decision if you
11 knew the conditions of Nevada State Prison where
12 somebody would be housed for the rest of their life?

13 A. But we're talking about two different
14 countries though. Because here in the States,
15 you've got death penalty. In Mexico, you don't so.

16 Q. Well, in Mexico it's very different.

17 A. No, what you're telling me is if it would
18 be -- if I'm thinking it would be a deterrent if I
19 could apply that to here, I'd say no because the
20 United States has the death penalty and Mexico
21 doesn't.

22 Q. And Mexico has murders and the United
23 States has murders.

24 A. Yes, but --

25 Q. But Mexico will not even extradite

1 defendants into the United States if they're gonna
2 be subject to the death penalty.

3 A. That's correct, yes.

4 Q. And you understand that, yes?

5 A. Yes.

6 Q. So you have strong personal beliefs about
7 the desirability or necessity of a death penalty
8 that exists. Am I stating that correctly?

9 A. Yes.

10 Q. So based upon that, you believe that if
11 somebody is convicted of murder of the first degree
12 that your first choice would be the death penalty?

13 A. Oh, no.

14 Q. Okay. Would it be the last choice?

15 A. I, I can't answer that.

16 Q. And this is a tough question. It really
17 is, but --

18 THE COURT: Well, I think he said he
19 can't answer it. I think I read his position was it
20 wasn't either the first or the last. He'd just have
21 to look and see whether it was appropriate or not.

22 THE WITNESS: Yeah, that's correct.

23 BY MR. PIKE:

24 Q. Do you believe that you would have a
25 preference towards life or predisposition towards

1 life or towards death?

2 A. I think it depends on the case.

3 THE COURT: Okay. Thank you. No further
4 questions.

5 THE COURT: All right. It's lunch time.
6 We're doing just fine. We're gonna certainly be on
7 time today. We're gonna take a lunch break for an
8 hour. We'll pick back up at 1 o'clock.

9 The first 14 of which you, which
10 excludes you at this juncture, when you come back
11 you need to sit in the same seat you're in because
12 we keep track of people by the seat numbers.
13 Everybody else, you don't have to worry about it.
14 You can sit anywhere in the audience that you want.

15 Every time we break, including right
16 now, I have to tell you three things and these are
17 important rules.

18 One, During this break, don't talk
19 or converse among yourselves or with anyone else on
20 any subject connected with this trial.

21 Don't read, watch or listen to any
22 report of or commentary on the trial or any person
23 connected with this trial by any medium of
24 information, including, without limitation,
25 newspapers, television, internet and radio.

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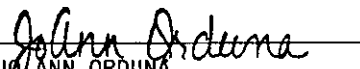
1 Don't form or express any opinion on
2 any subject connected with the trial until the case
3 is finally submitted to you.

4 In other words, fundamental
5 fairness, just keep an open mind and don't discuss
6 the case and just let the process take its course.

7 Okay. We'll see you at 1 o'clock
8 sharp and we'll pick right up here. And you're
9 doing fine in terms of time.

10 Anything you need to know, ask
11 Officer Moon.

12 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF THE
13 PROCEEDINGS.

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15 JO ANN ORDUNA
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(11)

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CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

NORMAN KEITH FLOWERS, aka NORMAN
HAROLD FLOWERS, III, #1179383,

Defendant.

Case No. C228755

Dept. No. VII

VOLUME I-B

Before the Honorable Stewart L. Bell

Wednesday, October 15, 2008, 1:00 a.m.

Reporter's Transcript
JURY VOIR DIRE

APPEARANCES:

For the State:

PAMELA WECKERLY, ESQ.
LISA LUZAICH, ESQ.
Deputies District Attorney

For the Defendant:

RANDALL PIKE, ESQ.
CLARK PATRICK, ESQ.
Deputies Public Defender

REPORTED BY: RENEE SILVAGGIO, C.C.R. No. 122

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OCT 16 2008

CLERK OF THE COURT

ACCUSCRIPTS (702) 391-0379

VOL II

AA0308

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
Plaintiff,)
vs.) Case No. C228755
NORMAN KEITH FLOWERS, aka NORMAN) Dept. No. VII
HAROLD FLOWERS, III, #1179383,)
Defendant.) VOLUME I-B

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CLARK PATRICK, ESQ.
Deputies Public Defender

REPORTED BY: RENEE SILVA OGIO, C.C.R. No. 122

ACCUSCRIPTS (702) 391-0379

1 What does it say?
2 First, they can't say, well, if he's only killed one
3 person or if they didn't rape them or if they didn't do this,
4 would you oppose the death penalty? You can't do that.
5 MR. PIKE: Well, in Browning, Judge Pavlikowski went into
6 specifically if you went into a jewelry store and robbed somebody
7 and stabbed somebody --
8 THE COURT: They can't prove it.
9 MR. PIKE: But the ruling in that case is it was improper
10 for them to do that.
11 THE COURT: It was proper for who to do that?
12 MR. PIKE: The State, the judge, asked those specific
13 questions.
14 THE COURT: And did it say the judge had to do that?
15 MR. PIKE: No, but it didn't -- it didn't ascribe error
16 to it.
17 THE COURT: Okay.
18 MR. PIKE: All right. Thank you.
19 MS. WECKERLY: My reading on Browning is different and
20 it's always discretionary with the Court as to what kind of
21 questions you are going to allow or not.
22 THE COURT: I'm certainly willing to allow the defense
23 some leeway and the State some leeway to say, look -- more than
24 just can you consider all four. I mean, you know, you are asking
25 them, as Mr. Patrick said, look, can you consider that we're just

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1 Las Vegas, Clark County, Nevada
2 Wednesday, October 15, 2008, 1:00 a.m.

4 PROCEEDINGS

6 * * * * *

8 (The following proceedings were had in open
9 court outside the presence of the jury panel:)

11 THE COURT: Back on the record in Case Number C228755,
12 State versus Norman Flowers.

13 Let the record reflect the presence of the defendant,
14 counsel for the defendant and counsel for the State.

15 Ready to go?

16 MR. PIKE: Yes, Your Honor.

17 For the record, if I could interpose a request for a new
18 jury.

19 THE COURT: New jury?

20 MR. PIKE: A new jury panel, yes.

21 The Court has made rulings in reference to my ability to
22 present hypothetical scenarios in my questioning of the jury and
23 under Browning versus State, I believe that I'm entitled to do
24 that.

25 THE COURT: I don't see Browning.

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1 here for one case, blah, blah, blah, but when you get down to sort
2 of saying, well, if they went in at nighttime versus the daytime,
3 would you do this and would you do that, you are kind of asking
4 them to prejudge the penalty case. I don't think that is allowed.
5 All right. Let's go.
6 THE MARSHAL: All right. I have them all out here.
7 THE COURT: Okay. This is a high tech place over here.
8 She just printed it out. They're going to deliver it to me in a
9 second.
10 I'll read it and if it looks like, Mr. Pike, that you are
11 entitled to a little more leeway, I will let you go back and ask
12 any of these people a few more questions.
13 MR. PIKE: Thank you.
14 And, also, in reference to my attempts to rehabilitate
15 the juror, I know my objection came late, but --
16 THE COURT: What are you talking about?
17 MR. PIKE: I'll just bring it up at the next break.
18 THE COURT: All right.
19
20 (The following proceedings were had in open court
21 in the presence of the prospective jury panel:)
22
23 THE COURT: Let's go back on the record in Case Number
24 C228755, State of Nevada versus Norman Flowers.
25 Let the record reflect the presence of counsel for the

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1 State, counsel for the defendant and the defendant.

2 All the members of the jury are back.

3

4 EXAMINATION

5 BY THE COURT:

6 Q Miss Burley, how long have you lived in Clark County?

7 A Eleven years.

8 Q What do you do for a living?

9 A I'm a checker.

10 Q And are you married?

11 A No.

12 Q Have you ever served as a juror before?

13 A No.

14 Q Have you ever been charged with or the victim of a
15 serious offense that could, in any way, affect your ability to be
16 an impartial juror here?

17 A No.

18 Q Do you know of any reason you couldn't be fair?

19 A No.

20 Q Could you consider all four potential penalties and
21 determine, if push came to shove, which was appropriate?

22 A Yes.

23 THE COURT: The State, questions of Miss Burley?

24 MS. LUZAICH: Thank you.

25 BY MS. LUZAICH:

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1 Q Good afternoon.

2 A Good afternoon.

3 Q You said that you are a checker. Where?

4 A Grocery store.

5 Q This court reporter is a little louder than the other
6 one.

7 How long have you been doing that?

8 A Five years.

9 Q Did you go to high school here?

10 A Yes, I did.

11 Q Graduated high school?

12 A No, I didn't.

13 Q GED, anything like that?

14 A (No audible response.)

15 Q Louder.

16 A Okay.

17 Q You've been a checker for five years at a grocery store.

18 Locally?

19 A Yes.

20 Q Any aspirations to do something different?

21 A I'm going to school right now.

22 Q What are you going to school for?

23 A I haven't picked a major yet.

24 Q Where are you going to school?

25 A CSN.

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1 Q What kinds of classes are you taking?

2 A This semester, I am taking psychology.

3 Q Psychology. Do you have an interest in psychology or

4 just that seems like an interesting course?

5 A It seems interesting.

6 Q Okay. Any political science, anything along those lines?

7 A Huh-uh.

8 Q Any theoretical, religious type classes?

9 A No. I just started.

10 Q Oh, this your first semester?

11 A Yes.

12 Q So you haven't done any required subjects like English
13 101, stuff like that?

14 A I took anthropology last year.

15 Q Okay. Have you ever had occasion among family or friends
16 to have discussions about the death penalty?

17 A Yes.

18 Q Heated discussions?

19 A No.

20 Q Well, you know, sometimes religion, death, things like
21 that can get very heated.

22 How do you feel about the death penalty? Do you believe
23 that it can be a deterrent?

24 A I believe in it if the circumstances are indicated.

25 Q What do you mean by that?

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1 A I believe that if something were severe enough to be
2 punished by that, then I believe in it.

3 Q Okay. So, in your mind, there are at least certain sets
4 of circumstances where the death penalty could be an appropriate
5 penalty?

6 A Yes.

7 Q Do you know anybody that has been the victim of any kind
8 of crime like this?

9 A Not like this.

10 Q Sexual assault, murder?

11 A No.

12 Q Nothing like that?

13 A No.

14 Q Do you know anybody that has been the victim of life?

15 A No.

16 Q Do you know anybody that has been accused of any crimes
17 like these?

18 A Not like these.

19 Q Do you know of anybody that has been accused of any
20 violent crimes?

21 A Not violent crimes.

22 Q Okay. Do you follow the news?

23 A I do.

24 Q Things that go on in the world, as well as locally?

25 A Uh-huh.

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1 Q Is that a yes?
 2 A Yes.
 3 Q And, remember, you also have to answer out loud. She has
 4 a yes button, a no button, but no uh-huh button.
 5 What about our criminal justice system, do you have an
 6 opinion about the criminal justice system?
 7 A Yes and no.
 8 I believe they do their jobs as -- most of the time, you
 9 know, they're just doing their jobs. Sometimes they can get on
 10 your nerves the way they act, but you just remember that they're
 11 just doing their jobs.
 12 Q Okay. When you say they, are you referring to any group
 13 in particular?
 14 A Law enforcement, I guess.
 15 Q Law enforcement being the police?
 16 A Yes.
 17 Q Do you have a bad experience with a police officer?
 18 A Personally?
 19 Q Yes.
 20 A No.
 21 Q Have you had a good experience with a police officer?
 22 A It's kind of in the middle, I guess. It's good and bad
 23 if you have to come in contact with them.
 24 Q Okay. What about the rest of the criminal justice
 25 system? If somebody gets arrested, ultimately, they wind up in a

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1 courtroom.
 2 Do you know anything about how that works?
 3 A Been in there many times. My ex is an ex-felon.
 4 Q Your ex, which would be an ex-boyfriend?
 5 A Uh-huh.
 6 Q Is an ex-felon?
 7 A Yeah.
 8 Q Were you with him at the time he went through the court
 9 process?
 10 A Yes, ma'am.
 11 Q Was that here or somewhere else?
 12 A Here.
 13 Q What was he charged with?
 14 A It was conspiracy to violate the Controlled Substance
 15 Act.
 16 Q So drugs?
 17 A Yes.
 18 Q Did you know that he was involved in drugs?
 19 A Yes.
 20 Q Were you involved in drugs?
 21 A Yes.
 22 Q Did you also get arrested?
 23 A No, not -- not in that case, no.
 24 Q Okay.
 25 A Not in any case actually.

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1 Q Okay. So when you say you were involved, did you use
 2 drugs at one time?
 3 A Yes.
 4 Q With him?
 5 A Yes.
 6 Q You do not any longer?
 7 A No.
 8 Q What caused you to stop?
 9 A Him going to prison.
 10 Q That's definitely an eye opener?
 11 A Yeah.
 12 Q When he got arrested, did he go through the whole court
 13 process?
 14 A He went through drug court; and then he went through
 15 probation and they -- he messed up in drug court, so he ended up
 16 having to do a year.
 17 Q So, as you were with him and he went through the process,
 18 did you feel that he was treated at least fairly?
 19 A Yes.
 20 Q So you wouldn't have any personal animosity towards the
 21 State of Nevada? Obviously, if he was prosecuted, somebody from
 22 the District Attorney's Office would have prosecuted him.
 23 A Yes.
 24 Q So you wouldn't hold that against us?
 25 A No.

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1 Q You wouldn't, subconsciously?
 2 A No.
 3 Q A judge would have sentenced him.
 4 You wouldn't hold that against our judge?
 5 A No.
 6 Q Do you think that your experience with the criminal
 7 justice system will have any impact on the way you view this case?
 8 A No.
 9 Q Do you think your experience with the criminal justice
 10 system made you a little, maybe, smarter, more observant?
 11 A Makes you understand things a little more, being through
 12 it yourself.
 13 Q Appreciate things a little more?
 14 A Evidently.
 15 Q Okay. I believe you are a little younger than most of
 16 the jurors that are here.
 17 Do you think that that may be an issue when you are back
 18 in the deliberation room, if you are selected in this case?
 19 A Possibly.
 20 Q Why?
 21 A I really don't have an answer to that. I just think it
 22 might.
 23 Q Do you think that while you are back in the deliberation
 24 room, you would at least be able to express your views to the
 25 others?

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1 A Definitely. And listen.
 2 f Q And listen?
 3 A Uh-huh.
 4 Q Then I'll give you the same question I gave a couple
 5 other jurors: If it's 11 people feel one way and you feel the
 6 other way, regardless of which way it is, what are you going to
 7 do?
 8 A I would express to them why I felt the way that I felt
 9 and then listen to their rebuttal, whatever they had to say back.
 10 Q Okay. If you felt strongly about your position, would
 11 you stick to your guns?
 12 A I would.
 13 Q If they were able to convince you that maybe you missed
 14 something, misheard something, would you be open to the
 15 possibility that you could change your mind?
 16 A Yes, I would.
 17 Q If it's Friday at five to five and you want to go home,
 18 are you going to change your mind just because it's Friday at five
 19 to five?
 20 A No.
 21 Q Okay. Would you be able to consider all four penalty
 22 options, if you got that far in the process?
 23 A Yes.
 24 Q How do you think that your age -- I mean, so far, you are
 25 doing fine.

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1 How do you think that being younger will affect it?
 2 A I feel that people that are older than me would have also
 3 more experience and wouldn't quite listen to my opinions.
 4 Q Because they would try to beat up on you?
 5 A Pretty much.
 6 Q Do you know what? Sometimes people don't listen to your
 7 opinions, not because you are younger, but just because they're
 8 stubborn.
 9 A Yeah.
 10 Q But would you do the best you could to get them to
 11 listen?
 12 A I would.
 13 Q How do you feel about sitting on a capital case?
 14 A It would be an experience.
 15 Q Are you up to it?
 16 A Yeah.
 17 Q Knowing what you know about yourself, can you sit in
 18 judgment of someone?
 19 A Yes.
 20 Q And if you were convinced, beyond a reasonable doubt,
 21 after all the evidence, that the defendant was guilty, you would
 22 be able to say guilty?
 23 A Yes.
 24 Q And if you absolutely believed that, based on what you
 25 heard, the death penalty was an appropriate penalty, would you be

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1 able to vote that way?
 2 A Yes.
 3 MS. LUZAICH: Thank you. Pass for cause.
 4 THE COURT: Defense.
 5 BY MR. PATRICK:
 6 Q Miss Burley, when you were talking about law enforcement
 7 getting on your nerves sometimes, you certainly weren't talking
 8 about defense attorneys, were you?
 9 A No.
 10 Q Now, you were talking a little bit about your
 11 ex-boyfriend going through some felony convictions?
 12 A Uh-huh.
 13 Q Did he ever go to a trial in any of those?
 14 A No.
 15 Q No? So he took plea bargains or deals on all of them?
 16 A (Nods head affirmatively.)
 17 Q Had he gone to trial, do you think he would have
 18 appreciated a jury that was fair and impartial?
 19 A Yes.
 20 Q Do you think he would have appreciated a jury that would
 21 listen to all the evidence before they made up their minds?
 22 A Yes.
 23 Q Do you think everybody has that right?
 24 A Yes.
 25 Q And do you think that Norman, in this case, over the next

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1 week, has that right?
 2 A Yes.
 3 Q And you would agree with me that right now, today, Norman
 4 is not guilty?
 5 A Yes.
 6 Q Now, we've talked a little bit about the fact that we're
 7 here this week on one homicide case that Norman has been accused
 8 of.
 9 We've talked about the fact that you are going to hear
 10 about a second case that Norman has been accused of, but that has
 11 not gone to trial.
 12 And so, at the, end of this whole week, no matter what
 13 you find on this case, he's still not guilty on that other case;
 14 would you agree with that?
 15 A Yes, I would.
 16 Q Are you going to be able to keep the two cases separate?
 17 The judge is going to give you a limiting instruction on
 18 what you can use the other case for, but you can keep them
 19 separate and the fact that you are only here on this one case?
 20 A Yes, I can.
 21 Q And when it comes time to determine whether or not he's
 22 guilty, it's just this one case?
 23 A Yes.
 24 Q And if, by some chance, the jury decides that he is
 25 guilty on this case and it goes to the penalty hearing, again, the

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1 penalty is only about this case?

2 f A Yes.

3 Q And you can keep that all separate and give him a fair
4 and impartial trial?

5 A Yes, I can.

6 Q Just slipped my mind right there. I had a good question.

7 You were asked at the beginning of the trial if you knew
8 any of the witnesses or anybody that is connected with this case
9 and you said no.

10 Since we've been here, over the last couple of hours, has
11 anything jogged your memory that you might remember somebody
12 associated with this case?

13 A No.

14 Q And before lunch, we talked about Norman's rights and
15 that he's not guilty at this point. And you agree with that?

16 A Yes.

17 Q Have you had a chance to take any American history
18 classes or classes that deal with our jurisprudence system?

19 A Not yet.

20 MR. PATRICK: That's all I have, Judge. We'll pass.

21 THE COURT: Mr. Herron, Juror Number 12.

22

23 EXAMINATION

24 BY THE COURT:

25 Q Mr. Herron, how long have you lived in town?

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1 A About 15 years.

2 Q What do you do for a living?

3 A Welder.

4 Q Are you married?

5 A Yes.

6 Q What's your wife do?

7 A Watches the kids.

8 Q Have you ever served as a juror before?

9 A No.

10 Q Have you ever been charged with or the victim of a
11 serious offense?

12 A No.

13 Q Can you be fair?

14 A Yeah.

15 Q Can you consider all four punishments, if it comes to
16 that?

17 A Sure.

18 THE COURT: The State have questions of Mr. Herron?

19

20 EXAMINATION

21 BY MS. WECKERLY:

22 Q Good afternoon, sir.

23 How old are your children?

24 A Geez, I got a one year old, three year old, eight year
25 old and a ten year old.

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1 Q Okay. So very young?

2 A Yeah.

3 Q And your wife stays at home with them?

4 A Yes.

5 Q Do you work for a specific company or are you sent out to
6 various jobs in your welding?

7 A I work for one company.

8 Q And what company is that?

9 A Absolute.

10 Q What type of structures are you welding?

11 A We just do all kinds of different metal work.

12 Q Like buildings or --

13 A No, we don't do structural.

14 Q Okay. What are you welding then?

15 A Sheet metal, casinos; it's all casino work.

16 Q And you've done that for how long?

17 A Fifteen years.

18 Q Okay. And did you have to -- are you self taught or did
19 you have to go through training to learn how to do that?

20 A I learned along the way.

21 Q Sort of on the job?

22 Is that yes?

23 A Yes.

24 Q Okay. Before you came into the courtroom today, had you
25 had a lot of thoughts about the criminal justice system, that you

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1 think it works, fair, unfair, anything like that?

2 A Always.

3 Q And what are your thoughts?

4 A Well, there is a lot of flaws in the justice system.

5 Q What do you consider to be flaws?

6 A Well, for example, guys like OJ, you know, he got off the
7 hook.

8 Q Once.

9 A Uh-huh. This type of thing happens all the time.

10 Q Do you ever see the flip side of that, where someone
11 maybe wasn't treated fairly by the criminal justice system?

12 A Not really.

13 Q Because you singled out that one case, do you think that
14 would at all affect your ability to serve as a fair juror in a
15 separate case?

16 A I've always been biased against authority.

17 Q Okay.

18 A I can't help it. I've never had a good experience with
19 Metro.

20 Q Okay.

21 A And I'm just nervous sitting in this courtroom.

22 THE COURT: You are doing fine, Mr. Herron.

23 BY MS. WECKERLY:

24 Q Mr. Herron, I appreciate your honesty.

25 A It has a lot to do with my opinions.

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1 Q Okay. There is no right or wrong answer.
 2 A Right.
 3 Q I appreciate you being honest, because -- you know, I
 4 don't want all the details, but because you haven't had a good
 5 experience at all with the Las Vegas Metropolitan Police
 6 Department, do you think your mind set is such that you -- you
 7 can't be fair to the State of Nevada in a case where police
 8 officers may be witnesses?
 9 A Can I say I don't know?
 10 Q Yeah, you can say you don't know.
 11 A It hasn't happened yet. I don't know.
 12 Q Right. And you mean it is sort of an unfair question
 13 because you don't know what the testimony is going to be?
 14 A Right.
 15 Q Or what they're going to be talking about and only you
 16 can answer this really.
 17 And you are sort of answering it before you know exactly
 18 what you are going to hear. But because you have those feelings,
 19 can you give us an assurance that you would treat police officer
 20 testimony the same as you would any other witness?
 21 A I would try.
 22 Q Okay. Can you be a little more convincing?
 23 A Not really.
 24 Q Not really?
 25 A I don't have a good taste in my mind for cops.

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1 Q Have you held that opinion for a long time?
 2 A Since I moved to Vegas.
 3 Q Where did you live before Las Vegas?
 4 A South Carolina.
 5 Q Did you have that opinion there or --
 6 A Not really. I never really had any dealings with the
 7 police at all down there.
 8 Q Okay. But your feelings with the police here have been
 9 negative?
 10 A Totally.
 11 Q Totally.
 12 And you think that -- I mean, we'll have several
 13 detectives testify and patrol officers.
 14 A Don't like them.
 15 Q Okay. And I mean, it doesn't seem to me like you have --
 16 like you are someone who is easily going to change your opinion?
 17 A Not really.
 18 Q Not after 15 years?
 19 A I told my kids not to trust the cops.
 20 Q Okay. And because of that, you think -- I mean, can you
 21 be fair in a case where there will be police witnesses?
 22 A Probably not.
 23 MS. WECKERLY: I challenge for cause, Your Honor.
 24 MR. PIKE: Brief questioning.
 25 ///

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1 BY MR. PIKE:
 2 Q So your experience has been that sometimes they jump to
 3 conclusions?
 4 A Yes.
 5 Q They don't complete investigations?
 6 A Absolutely.
 7 Q And if you found that an officer was testifying and maybe
 8 he may have jumped to a conclusion, but did a complete and
 9 thorough investigation, you would look at that and say: Okay.
 10 Well, this police officer did it right.
 11 And you would be able to take that testimony and accept
 12 it?
 13 Do you agree with that or do you feel that you
 14 so distrust their actions that you wouldn't even be able to reach
 15 that point?
 16 A I could agree with what you just said.
 17 Q Okay. And, particularly, on a death penalty case, you
 18 would expect to see that follow through investigation and hold the
 19 police to a complete and unbiased and thorough investigation
 20 before you believe them and before you could reach that decision,
 21 whether or not you could participate in coming back with a death
 22 penalty. But you could still, if the officers did all that, you
 23 could accept their testimony?
 24 A I believe that officers find a person guilty right off
 25 the bat and that's their goal.

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1 Q And if they're goal driven towards that and they don't
 2 prove it --
 3 A Their investigation will reflect that.
 4 Q And if it's lacking, then you would -- you wouldn't
 5 believe it, their testimony, right?
 6 A Right.
 7 Q But if it wasn't lacking, would you believe the
 8 testimony?
 9 A Probably.
 10 MR. PIKE: Okay. Contravene the challenge, Your Honor.
 11 THE COURT: All right. Well, it's certainly marginal,
 12 but I'm going to -- I'm going to allow him to stay and reject the
 13 objection for cause. I think he's said he can be fair. That's
 14 why we have peremptory challenges.
 15 Do you have anything else you want to ask?
 16 MR. PIKE: No.

EXAMINATION

19 BY THE COURT:
 20 Q Miss Nelson, how long have you lived in Clark County?
 21 A Twenty-five years.
 22 Q What do you do for a living?
 23 A Teacher.
 24 Q What do you teach?
 25 A Second grade.

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- 1 Q Are you married?
- 2 A Yes.
- 3 Q What does your husband do?
- 4 A He's an electronics technician.
- 5 Q Have you ever served as a juror before?
- 6 A No.
- 7 Q Have you been charged with or the victim of a serious
- 8 offense?
- 9 A No.
- 10 Q Can you be fair?
- 11 A Yes.
- 12 Q Can you consider all four penalties and -- look at the
- 13 facts of this case and decide amongst any of those four, if it
- 14 comes to that?
- 15 A Yes.
- 16 THE COURT: State, questions of Miss Nelson?
- 17 BY MS. LUZAICH:
- 18 Q Good afternoon, Miss Nelson.
- 19 How long have you been teaching second grade?
- 20 A I've been teaching for five years, but I've been teaching
- 21 second grade for two.
- 22 Q Would you consider yourself to be a fair and open minded
- 23 person?
- 24 A Yes.
- 25 Q Are you somebody who can listen to both sides of

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- 1 everything before making up your mind?
- 2 A Yes.
- 3 Q Now, dealing with second graders every day, I expect you
- 4 have to resolve quite a few disputes?
- 5 A Yes, I do.
- 6 Q How do you do that?
- 7 A I like to listen to both sides of the story before I make
- 8 a decision.
- 9 Q Okay. Second graders are not always very verbal or at
- 10 least they don't make very much sense all the time.
- 11 Do you look to other things besides what they tell you?
- 12 A It depends on the situation, whether it's severe, like if
- 13 it involves violence.
- 14 Q And then what do you do?
- 15 A Then, I would think I would take stronger action and
- 16 maybe involve other people like parents and administrators.
- 17 Q Okay. But you look to see if there is any maybe physical
- 18 evidence to support what the kids are telling you, right?
- 19 A Right.
- 20 Q As you were going through school to become a teacher, did
- 21 you take classes in things like political science?
- 22 A Yes.
- 23 Q History, things of that nature?
- 24 A Yes.
- 25 Q The death penalty, did you take any classes in school

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- 1 where you got to debate the death penalty?
- 2 A Not at school, but I have debated that at home.
- 3 Q At home?
- 4 A Yes.
- 5 Q With your husband?
- 6 A Yes.
- 7 Q Do you agree or disagree?
- 8 A I think it depends on the circumstances, but most of our
- 9 discussions center around whether it's an effective crime
- 10 deterrent.
- 11 Q What do you think?
- 12 A Well, you know, looking on the statistics, I don't really
- 13 think that it can be.
- 14 Q Well, do you think that statistics can be manipulated so
- 15 that the person proffering the statistics can kind of make them
- 16 say what they want it to?
- 17 A Yes, that's one thing.
- 18 Q So then, other than statistics, do you personally believe
- 19 that the death penalty could be an effective deterrent?
- 20 A I guess it's possible that it could be.
- 21 Q Okay. What about our criminal justice system; do you
- 22 think that it works?
- 23 A For the most part, yes.
- 24 Q What part do you think does not work?
- 25 A I think there are certain loopholes that people

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- 1 manipulate to work towards their advantage.
- 2 Q Okay. Do you know anybody that has been the victim of
- 3 any crimes like the ones we're talking about here?
- 4 A No.
- 5 Q Do you know anybody that's been accused of any crimes
- 6 like that?
- 7 A No.
- 8 Q Do you follow the news of what's going on locally?
- 9 A Not really locally; more nationally.
- 10 Q Sometimes you see criminal cases show up on the news.
- 11 Do you pay attention to any of that?
- 12 A A little bit.
- 13 Q Do you have any opinions, as you watch it sometimes, you
- 14 know, oh, I agree with that, disagree with that?
- 15 A As far as what the verdict was?
- 16 Q Uh-huh.
- 17 A Not usually, because, you know, you don't have enough
- 18 information to really make a judgment on what went on.
- 19 Q Right. Then the news only reports what the news wants to
- 20 report?
- 21 A Uh-huh.
- 22 Q Yes or no, out loud.
- 23 A Yes.
- 24 Q And if you were sitting on a jury, obviously, you are
- 25 going to hear all the facts?

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1 A Uh-huh.
 2 Q Yes?
 3 A Yes; yes.
 4 Q Do you think that knowing what you know about yourself,
 5 there is anything that would prevent you from being able to sit in
 6 judgment of somebody?
 7 A No, I don't think so.
 8 Q So if you sit as a juror in this case, if you were
 9 convinced -- after you heard all the evidence from that chair
 10 right there, if you were convinced beyond a reasonable doubt that
 11 the defendant committed the crimes he's charged with, would you be
 12 able to say guilty?
 13 A Yes, if it was proven beyond a reasonable doubt.
 14 Q And you know the judge is going to explain what that
 15 means?
 16 A Yes.
 17 Q What about penalty, assuming it got that far, would you
 18 be able to consider all four options?
 19 A Yes.
 20 Q You wouldn't just kind of push one off to the side and
 21 pretend it didn't exist?
 22 A No. I think I would look at all four, depending on the
 23 circumstances.
 24 Q Well, you would look at all four, period --
 25 A Yes.

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1 Q -- and then decide, depending on the circumstances?
 2 A Yes, that's what I mean.
 3 Q Okay. So do you think that, in your mind, there are some
 4 circumstances where you believe the death penalty could be an
 5 appropriate penalty?
 6 A Yes.
 7 Q And if you find that in this case, would you be able to
 8 report that?
 9 A Yes.
 10 MS. LUZAICH: Thank you. Pass for cause.
 11 THE COURT: Defense.
 12 BY MR. PATRICK:
 13 Q Miss Nelson, if, at the end of this week, the State
 14 hadn't proved beyond a reasonable doubt the case against Norman,
 15 would you be able to find not guilty?
 16 A Yes.
 17 Q And at the end, if there was a penalty phase, at the end
 18 of that penalty phase, if you felt that the death penalty was not
 19 the appropriate punishment, would you be able to vote against
 20 that?
 21 A Yes.
 22 Q But you would look at all four of the options?
 23 A Yes.
 24 Q A minute ago, you were talking about loopholes in the
 25 justice system, that people used that to their advantage.

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1 Were you talking about the State or the defense?
 2 A Not anyone in particular.
 3 Q Okay. Just loopholes that the whole system would use?
 4 A Yeah.
 5 Q Now, as a second grade teacher, you are charged with
 6 keeping order in your classroom?
 7 A Yes.
 8 Q And second graders being, what, seven years old or so, is
 9 that --
 10 A Yes.
 11 Q I mean, they're good most of the time, but sometimes they
 12 do stuff that would require some type of punishment?
 13 A Yes.
 14 Q And it's up to you, for the most part, to determine what
 15 the appropriate punishment is for the crime, so to speak?
 16 A Yes.
 17 Q And I would imagine you try to be as fair as you can when
 18 you are giving out these punishments?
 19 A Yes.
 20 Q And that if two kids did the same thing, you would give
 21 them the same punishment?
 22 A Yes.
 23 Q Even if you liked one of them, one of them was your star
 24 student versus one who was always in trouble, you would still want
 25 to be fair and give them the same punishments?

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1 A Yes.
 2 Q And you could do that no matter -- you know, just because
 3 you like one more, same is the same?
 4 A Yes.
 5 Q And they get the same punishment as ones you don't like
 6 as well?
 7 A Yes, that's correct.
 8 Q And could you take that and apply that to Norman's case
 9 in the next week?
 10 A I think I could.
 11 Q And, again, you understand that right this week, that
 12 we're only looking at one case that Norman has been accused of?
 13 A Yes.
 14 Q And even though you are going to hear about this other
 15 case, he hasn't gone to trial with that, and no matter what you
 16 hear at the end of that case, at the end of this case, he's still
 17 not guilty on that other case, do you agree with that?
 18 A Yes.
 19 Q And while you are going to hear it, you are going to keep
 20 that separate from what your charge is going to be during this
 21 next week on the case that we're here for?
 22 A I think I can.
 23 Q If you were sitting at either one of these tables and you
 24 had to pick a jury, either for the State or for a client of yours,
 25 would you want somebody like you on the jury?

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1 A Yes.
2 3 MR. PATRICK: Thank you. We'll pass for cause.

EXAMINATION

5 BY THE COURT:

6 Q How long have you lived in Clark County?
7 A Sixteen and a half years.
8 Q What do you do for living?
9 A Convenience store clerk.
10 Q I'm sorry. I didn't hear you.
11 A I'm a convenience store clerk.
12 Q Okay. Are you married?
13 A Yes, sir.
14 Q What does your wife do?
15 A She's a food server.
16 Q Have you ever served as a juror before?
17 A No.
18 Q Have you been charged with or the victim of a serious
19 offense?
20 A No, sir.
21 Q Can you be fair?
22 A Yes, sir.
23 Q Can you consider all four of those punishments?
24 A Yes, sir.
25 THE COURT: The State.

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1 And in that experience, did that help you for the purpose
2 your opinion about the death penalty or do you think your opinion
3 has evolved over time?
4 A I would say it evolved over time. It just kind of
5 started me thinking about it a little bit, but I didn't really
6 think that much.
7 Q Okay. Do you think the death penalty serves a purpose in
8 the criminal justice system?
9 A I think it's an effective tool, but not necessarily a
10 deterrent.
11 Q Can you explain to me what you mean by that?
12 A Well, it would be like a police officer's belt: If he
13 didn't have a gun, all he would have is handcuffs and a taser.
14 Q Uh-huh.
15 A He needs to have that maximum -- that limit.
16 Q Okay. No, I think I get what you are saying.
17 Let me ask you this: Say, like this young lady said
18 before, that it isn't a deterrent, and whatever the statistics
19 are, say it showed that, let's just assume that, do you think that
20 the death penalty could ever be simply an appropriate punishment,
21 the just punishment, for a given crime or a given individual?
22 A It depends on the crime.
23 Q But you could conceive of a situation where that might be
24 the case?
25 A Yes.

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1 BY MS. WECKERLY:
2 Q Good afternoon, sir.
3 Where did you move from?
4 A Texas.
5 Q What part of Texas?
6 A South Texas.
7 Q And you mentioned that your wife is a food server and you
8 work as a store clerk?
9 A Yes, ma'am.
10 Q Do you have children?
11 A Yes, ma'am. I have a two and a half year old daughter
12 and a three month old son.
13 Q Very young.
14 A Yes.
15 Q Prior to coming here as a juror, had you and your wife or
16 maybe you and some of your friends discussed the death penalty in
17 terms of --
18 A Not really seriously, just in a joking manner.
19 Q Okay.
20 A We discussed it in school, but never really on a private
21 level.
22 Q Kind of in the abstract in school, like --
23 A Well, no. US Government is required for seniors to -- we
24 had a mock trial.
25 Q I see.

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1 Q Okay. And in that situation, different than being in the
2 abstract, do you think that you could, as a juror, actually say
3 that that is the appropriate sentence for an individual?
4 A If it was warranted, yes.
5 Q Okay. If you were selected to be a juror in this case,
6 do you think you would have any difficulty expressing your opinion
7 with your fellow jurors?
8 A Of course not.
9 Q No problem with that?
10 A No.
11 Q Okay. How about if they disagree with you, how would you
12 handle that?
13 A Well, if I was firm in my conviction, if I was solid on
14 my answer, then I would debate my point.
15 Q Okay.
16 A Listen to their counter point, maybe I missed something,
17 maybe there is something I didn't hear. But if I'm completely
18 sure about something, I've heard all the facts, then I will keep
19 my opinion.
20 Q Okay. But I think you said you would be willing to at
21 least listen to their point of view and maybe -- maybe you missed
22 something, maybe you didn't, and kind of make a decision after
23 that?
24 A Yes; yes.
25 Q Yes. Okay.

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1 Do you have any concerns at all about your ability to
2 serve as a fair and impartial juror in this case?

3 A No.

4 Q You can be fair to both sides?

5 A Yes.

6 MS. WECKERLY: Thank you, sir.

7 Pass for cause.

8 THE COURT: Defense.

9 MR. PIKE: Thank you.

10 BY MR. PIKE:

11 Q You've probably guessed I'm going to bring up something
12 about Texas and the death penalty?

13 A I figured.

14 Q I'm glad I didn't disappoint.

15 Having come from Texas, do you feel that the death
16 penalty in Texas or the death penalty here in the United States is
17 over-used?

18 A In some places, yes; in some places, no.

19 It's like the example I gave you about the gun and the
20 gun belt, it's a tool, but you don't always need to use it. It's
21 just a tool to use.

22 Q And just as that tool -- when you talked about the gun
23 being a tool that's used when -- when that necessary force is
24 there, I guess if I'm reading your analogy correctly, you are
25 saying the officers need the tool sometimes and sometimes we need

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1 this as a society for the worst of the worst?

2 A Exactly. It's really just the bottom of the line kind of
3 thing.

4 Q Okay. And so you have to be able to look at each
5 individual case and decide whether or not that case is the worst
6 of the worst and that would be the case in which you would be able
7 to apply the death penalty?

8 A I guess it's pretty accurate, yes.

9 Q And if it didn't meet those qualifications, then one of
10 the other penalties may be more appropriate, and you would make
11 the decision based upon the facts of the case that's in front of
12 you?

13 A Exactly.

14 Q And your choice would be an independent evaluation of the
15 facts as you see them and whether or not the facts -- I won't say
16 reach that level, but went down to those depths of being the worst
17 of the worst?

18 A Yeah, I would say that would be accurate.

19 Q Okay. And taking that individual choice or that
20 individual decision and looking at that quantum of evidence
21 necessary to determine if it's the worst of the worst, are you
22 going to hold the witnesses that testify, the experts or the
23 police officers, to a standard where you expect them to do a
24 professional job?

25 A Yes. They're there because they know something they need

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1 to have shared.

2 Q Okay. And if they have -- if the evidence shows or
3 cross-examination shows that they haven't done a professional job
4 or they haven't done a complete job, then will you be able to look
5 at that testimony from someone who is an officer, say, or a DNA
6 expert, and say, you know, they didn't complete the task, so I'm
7 not going to consider their evidence or their testimony as that
8 reliable?

9 A Well, I wouldn't completely discard it. I mean, every
10 coin has two sides. I would just have to pay attention to the
11 facts of what they just said.

12 Q So looking at facts, if the facts show that, let's say, a
13 detective, for instance, just stopped an investigation here when
14 the investigation should have gone that far and reached a
15 different conclusion, you would accept those facts, look at those
16 facts and then you wouldn't have any other information to base --
17 or to give credit to the testimony of those facts?

18 THE COURT: I'm not sure anybody can understand that
19 question, Mr. Pike.

20 MR. PIKE: I'm not sure I can understand it.

21 THE COURT: I think, in his prior answer, he's given you
22 the answer that you need.

23 MR. PIKE: Okay.

24 THE COURT: He's going to look at the whole picture and
25 he's going to give each bit of testimony the credence it deserves,

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1 given the context in which it's given.

2 BY MR. PIKE:

3 Q Let me just try this analogy: If somebody is looking at
4 just part of a picture, they see things one way.

5 A Yes. I can say that, yes.

6 Q And if, through my cross-examination or through the case
7 that the defense presents, we show you a whole picture, just
8 because a detective may have seen part of a picture, you will look
9 at the whole picture; would you agree with that?

10 A Not necessarily, because I would have to call on myself
11 to make an assumption. It's like reading a book halfway through
12 and getting the ending.

13 Q Well, I'm going to show you the ending, and if I show you
14 the ending, you will accept that, even though the first chapter
15 may have led you to a completely different place?

16 A Yeah.

17 Q Using your analogy, you probably read a fair number of
18 books where you think something is going one way and then you get
19 to the closing chapters and it fits in and you say, oh, that's
20 what happened.

21 A Yeah, I could say it's a pretty good analogy.

22 Q And you would be able to do that?

23 A Yes.

24 Q Once you had to look at the entire case?

25 A Yes.

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1 MR. PIKE: Thank you. I think that was a better
2 question.
3 THE COURT: The State may exercise or waive the first of
4 its nine peremptory challenges.

5 MS. WECKERLY: Judge, the State will thank and excuse
6 juror in seat number 12, Mr. Herron.

7 THE COURT: Mr. Herron, you are excused. Please report
8 back to the jury commissioner. They will see if they can find
9 another case for you to work on.

10
11 (Juror excused.)

12
13 THE COURT: Miss Clerk.

14 THE CLERK: James Knox.

15 THE COURT: Mr. Knox, come on up; take Mr. Herron's seat.

16
17 EXAMINATION

18 BY THE COURT:

19 Q Mr. Knox, how long have you lived in town?

20 A Seven years.

21 Q What do you go for a living?

22 A I'm in the Air Force.

23 Q And are you married?

24 A No.

25 Q Have you ever served as a juror before?

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1 A No.

2 Q Have you been charged with or the victim of a serious
3 offense?

4 A No.

5 Q Can you be fair?

6 A Yes.

7 Q Can you consider all four of the potential punishments,
8 if it came to that, and pick which one would be appropriate?

9 A Yes.

10 THE COURT: The State, questions of Mr. Knox.

11 BY MS. LUZAICH:

12 Q Air Force, for how long?

13 A Thirteen years in November.

14 Q And you've achieved what rank?

15 A I'm a technical sergeant, E-6.

16 Q Would do you do on a daily basis?

17 A Administrative, that's what we like to call it. I'm in
18 flight records, so it's all that kind of work.

19 Q Push paper on a log?

20 A Yeah.

21 Q Do you supervise anybody?

22 A I have, but not in this office.

23 Q Where have you?

24 A Same building, just different office. It was when
25 scheduling -- that's when we were charge of the day schedule and I

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1 would supervise people then.

2 Q When you were supervising, how many did you supervise?

3 A It was one at a time. I only had one at a time.

4 Q So you didn't resolve disputes very much?

5 A No. Well, I did have some disputes, but I didn't --

6 Q Okay. What kind of issues?

7 A Well, one of the members -- we have government travel
8 cards and you aren't supposed to use them for personal use. He
9 used them for -- he had some company come to town. He went to a
10 bar downtown and he didn't have any money in his account, so he
11 used the government travel card, which is a no no, big trouble for
12 that.

13 Q And did you have the opportunity to do something about
14 that?

15 A Well, I took him to our leadership. Once he brought it
16 to me, I just, you know, take it forward from there.

17 Q Did what you had to do?

18 A Right.

19 Q Okay. Kind of like being a juror, you do what you have
20 to do; you listen to the facts; you go back, you deliberate and
21 talk about them?

22 A Right. Not that cut and dried, but that is correct.

23 Q Well, that's true.

24 During your time in the service, have you ever had the
25 occasion to sit on a court martial?

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1 A No.

2 Q Have you ever had the occasion to be a witness in
3 anything like that?

4 A No.

5 Q Did you spend any time in the military police, anything
6 like that?

7 A No.

8 Q So you've never had to investigate anything?

9 A No, ma'am.

10 Q Before you went into the service, what did you do?

11 A A couple things: Landscaping; worked at a grocery store
12 crushing cans, filling carts, but that's pretty much it.

13 Q A little of this, a little of that?

14 A Right.

15 Q Are you going to stay in the service as a career?

16 A I plan on it. If not, I'm going to go guard; that's
17 still service. So, yeah, pretty much.

18 Q Not married, no kids?

19 A No, I have two kids, one, 12 in October -- October 24th
20 and six year old.

21 Q Are they here in town?

22 A Yes.

23 Q Share custody?

24 A I have sole custody.

25 Q Oh, okay.

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1 Any feelings about the death penalty one way or another?
 2 A No. I think it's appropriate in some cases.
 3 Q Under certain circumstances?
 4 A Right.
 5 Q Have you ever discussed it with friends, family?
 6 A I have before, you know. Like we watch the Raymonds (ph)
 7 and it came up then. Yeah, we talk about it.
 8 Q Ever get heated?
 9 A No, never got heated.
 10 Q So it's not a passion for you one way or the other?
 11 A No.
 12 Q Okay. What about our criminal justice system, how do you
 13 feel that works?
 14 A I don't know too much about it to tell you the truth.
 15 Q Do you watch the news, see things that happen here?
 16 A Try to stay away from the news; it's too negative. I
 17 don't watch it.
 18 Q There is some good things in the news.
 19 A I'm sure, but it's like 80/20.
 20 Q Do you know anybody that's been through the criminal
 21 justice system?
 22 A Not anybody offhand.
 23 Q Do you know of anybody that has been the victim of any
 24 crimes that we're talking about here in court?
 25 A An old friend of mine was just murdered recently up in

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1 Oregon, the Portland area, but I don't know the case. It just
 2 happened like a couple months ago.
 3 Q How did you find out?
 4 A My mom, she told me.
 5 Q Do you know anything about the investigation, like was
 6 somebody bound over or --
 7 A I don't know, but, you know what, when I checked the web
 8 site the other day, they said they found somebody, but that's the
 9 only thing I know.
 10 Q Do you know what kind of background the circumstances
 11 were?
 12 A No, I have no idea.
 13 Q Something that surprised you then?
 14 A Well, it surprised me to a degree, only because I knew
 15 that individual and what kind of company he kept, so --
 16 Q So he was probably not just walking down the street and
 17 got shot for no reason?
 18 A Right; right.
 19 Q Okay. Do you think that you would be a good juror in
 20 this case?
 21 A Absolutely.
 22 Q Why is that?
 23 A Because I'm objective, overly objective, I think
 24 sometimes, from my people at work because they're like I'm telling
 25 you this and I'm like, well, you got to look at it this way as

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1 well. Yeah, I see both sides all the time. My ex-wife didn't
 2 like it.
 3 Q Okay. Are you somebody that can express your opinions
 4 easily amongst other people?
 5 A Yeah, absolutely. Yes.
 6 Q So back in the jury deliberation room, you wouldn't have
 7 any trouble discussing everything that goes on here in court?
 8 A No, no trouble whatsoever.
 9 Q Do you think that you would be able to consider all four
 10 penalties if it should get to that point?
 11 A Yes.
 12 Q And can you foresee certain circumstances wherein you
 13 could personally believe that the death penalty could be the
 14 appropriate punishment?
 15 A Yes.
 16 Q Do you think that the death penalty is a deterrent?
 17 A I think it can be. I'm only saying that because maybe
 18 somebody -- maybe they are going to take an action against
 19 someone, maybe they're thinking about doing some physical violence
 20 and then they think about what can happen to them, maybe it's a
 21 trigger, and say, oh, I -- and maybe that's a deterrent, it's a
 22 deterrent that way, yes. That's the only way I see it as a
 23 deterrent.
 24 Q Are you in favor of it, at least to some degree?
 25 A As what, the death penalty?

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1 Q The death penalty.
 2 A Yes.
 3 Q Why?
 4 A Because I think it's appropriate for some individuals out
 5 there.
 6 Q Certain people are meritorious of the death penalty?
 7 A For their actions, yeah.
 8 Q Certain actions are meritorious of the death penalty?
 9 A Yes.
 10 Q And, similarly, some are not?
 11 A Right, exactly.
 12 Q Is there anything about you that would prevent you from
 13 being able to sit in judgment of someone?
 14 A No.
 15 Q If you sit as a juror in this case and you hear all the
 16 evidence, if you are convinced, at the end of all the evidence,
 17 beyond a reasonable doubt, that the defendant committed the crimes
 18 he's charged with, would you be able to say guilty?
 19 A Yes.
 20 Q And if you sit on the jury and get to the penalty phase,
 21 if you did believe that the death penalty was appropriate under
 22 the circumstances, would you be able to vote for that?
 23 A If I did believe, yes.
 24 MS. LUZAICH: Thank you. Pass for cause.
 25 THE COURT: Defense.

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1 BY MR. PATRICK:
 2 Q Mr. Knox, you've been listening to us for about four
 3 hours now. I'm sure we've gotten you plenty bored, but I know
 4 you've been paying rapt attention to all the questions we've been
 5 asking the rest of the prospective jurors.
 6 A Yes.
 7 Q Of the questions asked by any of the four of us, was
 8 there any question that stuck in your mind where you said: I have
 9 an answer to that or I want to ask that question or anything like
 10 that?
 11 A No.
 12 Q Okay. Now, your friend that was killed in Oregon.
 13 A Right.
 14 Q At some point in your life, were you pretty close with
 15 this person?
 16 A Yeah, we were pretty close.
 17 Q Now, do you think that the person that's accused of
 18 killing him deserves a fair trial?
 19 A Absolutely.
 20 Q And a jury that listens to all the evidence before they
 21 make up their minds?
 22 A Yes.
 23 Q And do you think that Norman deserves any less?
 24 A No. He deserves the same.
 25 Q Now, you understand that, in Nevada at least, the only

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1 crime that you can commit that warrants the death penalty is first
 2 degree murder? Okay?
 3 A Yes.
 4 Q And like you told Miss Luzaich, you can see some
 5 instances where that crime of first degree murder warrants the
 6 death penalty?
 7 A Yes.
 8 Q Can you also think of instances where that crime of first
 9 degree murder does not warrant the death penalty?
 10 A Yes.
 11 Q And in order to make that decision, you would want to
 12 hear all the evidence presented by both sides?
 13 A Yes.
 14 Q And you could keep an open mind throughout the whole
 15 process until both sides have given you all the information that
 16 they have?
 17 A Yes.
 18 Q And at that point, you could go back to the jury room and
 19 make an honest and informed opinion on the facts of the case?
 20 A Yes.
 21 Q And do you think that that's a very important part about
 22 being an American citizen?
 23 A As far as jury duty?
 24 Q As far as the whole jurisprudence system?
 25 A Oh, yes, absolutely.

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1 Q And you are in the military, so I mean, you are the
 2 one -- you are the people that are protecting these rights for all
 3 of us?
 4 A Right.
 5 Q The fact that you know right now Norman sits in front of
 6 you an innocent man, that's because of you and the men like you
 7 over the last 200 years fighting and dying for those rights?
 8 Do you agree with that?
 9 A I agree.
 10 Q I think those are very important rights.
 11 Do you agree with that?
 12 A Yes, I do.
 13 Q And I think it's very important that we give everybody
 14 that honest, open minded fair trial, yes?
 15 A Yes.
 16 Q And that's something you could do for us?
 17 A Correct.
 18 Q Because if anybody -- I mean, I'm sure there are
 19 certainly other --
 20 THE COURT: Mr. Patrick, just ask a question. Don't make
 21 a speech.
 22 MR. PATRICK: Okay.
 23 BY MR. PATRICK:
 24 Q All right. So you could listen to all the evidence and
 25 you would only vote for the death penalty if that was something

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1 that was warranted in this particular case?
 2 A Correct.
 3 Q Never mind what's happened to your friend in Oregon?
 4 A Yes.
 5 Q And I think Miss Luzaich asked you, but if you had to
 6 pick a jury on either side, would you want somebody like you on
 7 that jury?
 8 A Yes.
 9 MR. PATRICK: Thank you, Judge. We'll pass.
 10 THE COURT: The defense may exercise or waive their first
 11 of nine peremptories.
 12 MR. PIKE: Thank you. We'd thank and excuse Juror Number
 13 13, Mr. Morken.
 14 THE COURT: Mr. Morken, you are excused. Please report
 15 back to the jury commissioner. They'll see if they can find
 16 another case for you to work on.
 17
 18 (Juror excused.)
 19
 20 THE COURT: Miss Clerk.
 21 THE CLERK: Loreli Calmy.
 22 THE COURT: Come on up, Miss Calmy.
 23
 24 EXAMINATION
 25 ///

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1 BY THE COURT:

2 Q Miss Calmy, how long have you lived in Clark County?

3 A Forty years.

4 Q What do you do for a living?

5 A I'm a bookkeeper in a local grocery store.

6 Q Are you married?

7 A No.

8 Q Have you ever served as a juror before?

9 A No.

10 Q Have you been charged with or the victim of a serious
11 offense that could affect your objectivity?

12 A No.

13 Q Can you be fair?

14 A Yes.

15 Q Can you consider all four of those punishments and impose
16 any one of those four, depending upon the facts of the case?

17 A Yes, sir.

18 THE COURT: The State, questions of Miss Calmy?

19 BY MS. WECKERLY:

20 Q Good afternoon.

21 How long have you worked as a bookkeeper?

22 A Twenty-four years.

23 Q And has it always been at the same --

24 A Same chain, yes.

25 Q -- same chain.

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1 You heard us ask other prospective jurors about their
2 feelings about the criminal justice system.

3 You've been in Las Vegas quite a number of years. I'm
4 sure you've seen the city grow and heard about a lot of cases.

5 Are there any cases -- you don't have to tell me which
6 ones in particular -- where you had an opinion about the verdict?

7 A Not that I can recall.

8 Q Okay. Do you recall reading anything about the criminal
9 justice system that struck you as fair or unfair?

10 A Not that I can recall.

11 Q Okay. And I think you told Judge Bell that you don't
12 have any firsthand experience at all with the court system?

13 A No.

14 Q Okay. In terms of this case, the judge asked you if you
15 would be willing to consider the four potential punishments in
16 this case in the event of a first degree murder conviction.

17 A Yeah.

18 Q And you would?

19 A Yes.

20 Q Have you given thought to whether or not you think the
21 death penalty should even be part of the criminal justice system?

22 A Absolutely.

23 Q Why do you have that opinion?

24 A I think if someone is convicted of a murder, they should
25 be -- their death penalty should be however they murdered their

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1 victim, an eye for an eye.

2 Q An eye for an eye. And Judge Bell kind of discussed that
3 a little bit this morning.

4 Are you someone who would automatically impose the death
5 penalty in any first degree murder case --

6 A No, not necessarily.

7 Q Okay. And kind of what we're looking for is, as he

8 explained, the trials like this are conducted in two parts. The

9 first part, you don't even think about the punishment; you just

10 decide: Did the State prove the case beyond a reasonable doubt?

11 If so, you vote guilty.

12 And in the event of a first degree murder conviction,

13 then you move on to what we call the penalty phase. And at that

14 time, you are given additional instructions; additional

15 information is likely going to be given to you and then you would

16 individually and collectively decide which one of the four

17 punishments would be appropriate.

18 Are you someone who can wait until you hear that

19 information that's presented in that penalty phase before making a

20 decision on what you think the punishment should be?

21 A I would hope so.

22 Q Okay. Well, as you --

23 A I have a short attention span. I tend to get distracted

24 easily.

25 Q Well, it's not going to go weeks, but are you -- as you

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1 sit here now -- I mean, are you saying -- you are not going to

2 automatically vote for one punishment over the other?

3 A Oh, no.

4 Q You can reserve judgment until you hear that information?

5 A Yes.

6 Q Is that yes?

7 A I'm sorry. Yes.

8 Q Okay. And you can follow the judge's instructions on

9 what the law is?

10 A Yes.

11 Q And if you think one punishment is appropriate versus

12 another one, I assume you could pick the one that you think is

13 appropriate?

14 A Yes.

15 Q And it's not necessarily -- you know, you don't know

16 anything about this case really right now.

17 A No.

18 Q Okay. So you haven't made a decision about what the

19 punishment should be?

20 A No.

21 MS. WECKERLY: Thank you. I'll pass for cause.

22 THE COURT: Defense.

23 BY MR. PIKE:

24 Q It sounds like you have strong opinions about the death

25 penalty.

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1 A Sometimes.
 2 Q Well, when you said that they should be executed in the
 3 same manner in which they killed somebody else, that's fairly
 4 strong.
 5 A If they're convicted of a crime, yes.
 6 Q And that's -- and that came really quick, so that's your
 7 first emotional gut feeling.
 8 A Yes.
 9 Q And so if you make a determination that there is guilt,
 10 then that's going to be your first initial gut feeling is to start
 11 with death and then work your way back up to the life penalty.
 12 Would you say that about yourself from what you have
 13 shared with us at this point? Is that a fair interpretation?
 14 A That's hard to say. It would just depend on the --
 15 Q But it came out fairly strong and it came out really
 16 quickly.
 17 So if somebody was sitting at our table, they would have
 18 hesitation in having you sit as a member of a jury in this case.
 19 Would you feel that way if you were being tried on a case
 20 and your responses had been what you gave today?
 21 A Ask that question again. I don't quite understand it.
 22 Q Okay. Knowing how quickly you responded, would you feel
 23 comfortable sitting at this table as a defendant with you sitting
 24 in a jury?
 25 A Probably not, no; probably not.

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1 Q Okay. And do you feel it would be more appropriate for
 2 you to sit in some sort of other case instead of a murder case,
 3 another criminal case or some other civil case?
 4 A That's possible.
 5 Q Okay. And that's because you have those quick, strong
 6 emotional feelings about the death penalty?
 7 A Yes.
 8 MR. PIKE: Challenge for cause.
 9 THE COURT: Well, Miss Calmy, can you tell me or assure
 10 me that if you sit as a juror and the defendant is convicted of
 11 murder in the first degree, you will consider each and every one
 12 of these penalties and, when push comes to shove, pick which one
 13 is appropriate?
 14 MS. CALMY: Yes.
 15 THE COURT: The challenge is denied.
 16 MR. PIKE: I just have one or two more questions.
 17 THE COURT: Go ahead.
 18 BY MR. PIKE:
 19 Q Would you agree with the statement that sometimes
 20 innocent people are charged with crimes?
 21 A Yes.
 22 Q Do you watch law and order type television shows?
 23 A No.
 24 Q Do you like CSI?
 25 A I read a lot of books, but I don't watch TV.

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1 Q Okay. Any crime novels?
 2 A Oh, yes.
 3 Q Okay. Who is your favorite author?
 4 A There is lots. I don't have a favorite.
 5 Q All right. I forgot the name of the character that is
 6 the female investigator, bail bond agent.
 7 Do you read any of those novels?
 8 A Stephanie.
 9 Q Yeah.
 10 A Janie VonVenges, (ph).
 11 Q There you go.
 12 A Yes.
 13 Q Do you read those?
 14 A Yes.
 15 Q Do you like those books?
 16 A Oh, yes.
 17 Q And do you find sometimes that in those books, you start
 18 in one direction of the first chapter and then you end up going
 19 somewhere completely different?
 20 A Oh, sure.
 21 Q And do you believe that trials can be like that?
 22 A Yes.
 23 Q The State may not be able to prove its case. If they
 24 don't prove their case, do you feel any obligation to come back
 25 with some sort of a verdict of guilty because, well, he's charged?

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1 A Yes.
 2 Q Okay. And so your pre-disposition at this point in time
 3 would be because he's charged, he's probably guilty?
 4 A Yes.
 5 Q Even though the Constitution says that he isn't?
 6 A Yes.
 7 Q It says he's innocent as he sits here today.
 8 That's your emotion. I'm not saying it's wrong.
 9 A I'm saying they should have some good evidence or he
 10 wouldn't be charged with this.
 11 Q Then you would be surprised to find out that he was bound
 12 over by slight or marginal --
 13 THE COURT: She don't know that.
 14 BY MR. PIKE:
 15 Q This is your first time sitting here?
 16 A Yes.
 17 Q And you don't know what it was that brought him in here
 18 and whether that evidence is meaningful at all?
 19 A No.
 20 Q But because he's here, you have that emotional feeling?
 21 A Yes.
 22 Q And so it's better for you not to be on this?
 23 A Probably.
 24 MR. PIKE: Again, challenge for cause.
 25 THE COURT: All right. You are excused, Miss Calmy.

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1 MS. CALMY: Thank you.
 2 THE COURT: Go back downstairs and see if they will put
 3 you on a civil case.

4
 5 (Juror excused.)

6
 7 THE COURT: Miss Clerk.

8 THE CLERK: Sharon Hammond.

9
 10 EXAMINATION

11 BY THE COURT:

12 Q Good afternoon, Miss Hammond.

13 How long have you lived in town?

14 A About four years.

15 Q Where did you come from?

16 A New York state.

17 Q What do you do for a living?

18 A Teacher.

19 Q What do you teach?

20 A Second grade.

21 Q And do you know Miss Nelson, second grade?

22 A No, no.

23 Q All right. Are you married?

24 A Yes.

25 Q What does your husband do?

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1 A He's a retired banker.

2 Q Have you ever served as a juror before?

3 A No.

4 Q Have you ever been charged with or the victim of a
 5 serious offense that could affect your ability to be objective?

6 A No.

7 Q Can you be fair?

8 A Yes.

9 Q Can you consider all four punishments?

10 A Yes.

11 THE COURT: The State, questions of Miss Hammond.

12 BY MS. LUZAICH:

13 Q Good afternoon, Miss Hammond.

14 A Good afternoon.

15 Q When you were in school learning to become a teacher,
 16 what did you major in?

17 A Elementary education.

18 Q Did you take any classes along the lines of political
 19 science, religion?

20 A Yes.

21 Q Theology?

22 A Yes.

23 Q Did the death penalty come up in any of those classes?

24 A Yes.

25 Q And during the course of that, did you have the ability

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1 or the time to debate it in class?

2 A Yes.

3 Q Did you get to choose sides or were you assigned a pro or
 4 a con?

5 A We were assigned a pro or a con.

6 Q And which side were you assigned?

7 A I had mixed emotions.

8 Q Then and now or just then or just now?

9 A Well, now, kind of mixed emotions, yes.

10 Q Okay. Why is that?

11 A Because I feel that everybody deserves a chance to prove
 12 that they're innocent, you know, their innocence. That's the way
 13 I feel about it.

14 And as a child growing up, when I grew up, they had the
 15 electric chair and I remember what all that is about, because my
 16 parents talked about it a lot.

17 I don't know. I just feel that everybody has the
 18 opportunity to prove whether or not they're guilty or innocent.
 19 And I don't always think that the electric chair is the best thing
 20 or the death penalty is the best thing. It depends on the
 21 evidence.

22 Q Okay. The evidence and the circumstances?

23 A Yes.

24 Q A whole bunch of different things, it would depend on?

25 A Yes.

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1 Q Okay.

2 A You said your parents talked about the electric chair.
 3 Why is that?

4 A I don't know. I grew up in that era when the electric
 5 chair was very popular.

6 Q Where did you grow up?

7 A Kansas City, Missouri.

8 Q Did your family know anybody that had --

9 A No.

10 Q No? Well, just so you know, there is no electric chair
 11 here?

12 A I know it's not here.

13 Q And you said your parents talked a lot about it.

14 Were your parents against it?

15 A My father was; my mother wasn't.

16 Q Did they argue about it?

17 A No, they didn't.

18 Q Did they just disagree about it nicely?

19 A They disagreed about it nicely.

20 Q And as you grew up, did your feelings change and evolve
 21 over time?

22 A They were mixed.

23 Q You said that everybody deserves the opportunity to prove
 24 that they're innocent?

25 A Yes.

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1 Q Now, you know that the defense has to prove absolutely
2 nothing; the only people that have to prove anything in this court
3 is the state of Nevada and that would be Miss Weckerly and myself,
4 right?

5 Technically, they could sit there and file their nails
6 and doodle the entire trial and if we did not convince you beyond
7 a reasonable doubt, you would have to find him not guilty, right?

8 A Right.

9 Q Do you still believe in your heart that people should
10 have to prove their innocence?

11 A That's a hard question to answer.

12 Q Unfortunately, that's what we're here for, to answer the
13 hard questions.

14 Do you think that simply because of that, if we do not
15 prove our case satisfactorily, you might feel compelled to find
16 him guilty of something?

17 A Well, as I said, I would look at all the evidence, both
18 sides.

19 Q Okay.

20 A Both sides.

21 Q And maybe I'm missing something, but I'm not quite sure I
22 understand how somebody proving their innocence affects your
23 opinion on the death penalty.

24 A I have mixed emotions about the death penalty, as I said.

25 Q Can you envision certain circumstances where it is an

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1 appropriate punishment, without telling me what, but I mean in
2 your mind?

3 A Yes.

4 Q Are there certain circumstances?

5 A Yes.

6 Q But not in every circumstance?

7 A Not in every circumstances.

8 I'll give you an example. I was growing up as a kid --
9 maybe you've heard of a book *In Cold Blood* by --

10 Q Truman Capote.

11 A Well, I lived in Missouri, so, naturally -- that never
12 happened in Kansas and that was a big thing back in that time.

13 Q Okay. Do you think that your mixed emotions about the
14 death penalty will cause you to view the evidence that you see or
15 testimony that you hear in any particular light?

16 A No. I think I can be fair.

17 It's something I have to do every day with the kids, be
18 fair.

19 BY MS. LUZAICH:

20 Q Right. Okay.

21 A As a second grade teacher, you get to resolve disputes
22 among your kids all the time.

23 Q How do you do that?

24 A Well, I listen to both sides of the story.

25 Q Do you also look to see if there is any physical evidence

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1 to support or contradict what they say?

2 A Yes.

3 Q Is that something that you will take into consideration
4 here?

5 A Yes.

6 Q You have to answer out loud for our lovely court
7 reporter.

8 A Yes.

9 Q What about the criminal justice system as a whole; do you
10 think that it's fair?

11 A On the whole, I think it's fair.

12 Q Is there anything in particular that you don't like about
13 the criminal justice system?

14 A No.

15 Q Do you know anybody that's been involved in it?

16 A No, I don't.

17 Q Do you know anybody that's been the victim of a crime
18 like this?

19 A No.

20 Q Accused of a crime like this?

21 A No.

22 Q Did you say you have kids? I'm sorry.

23 A I have one son.

24 Q How old is your son?

25 A He's 30.

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1 Q What does he do? Does he work?

2 A He lives in New York. He works with computers.

3 Q Okay. Educated as well?

4 A Yes.

5 Q And you mentioned that your husband is a banker?

6 A Retired banker.

7 Q What is he doing these days?

8 A He's retired.

9 Q Right. But he gets up in the morning and -- does he
10 golf?

11 A Well, he goes -- you know, he likes tennis. He also
12 likes kids.

13 Q Do you think you would be a good juror in this case?

14 A Yes, I think so.

15 Q Why is that?

16 A Because I have to teach.

17 MS. LUZAICH: Thank you. Pass for cause.

18 THE COURT: Defense, questions.

19 BY MR. PATRICK:

20 Q Miss Hammond, if you were going to go back to the jury
21 room right now and take a vote, what would you vote as far as
22 guilt or innocence?

23 A What would I vote?

24 Q Right now, if you had to go back and determine that?

25 A That's hard, without actually hearing all the evidence.

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1 Q Right. Now, if you were to vote, would you vote guilty
2 or not guilty?
3 A Not guilty.
4 Q Why did it take so long to determine that?
5 We've talked about this for four hours, about the
6 Constitution that states that Norman is not guilty right now.
7 You do not agree with that?
8 A No, I agree with that.
9 Q And you mentioned that Norman had to prove his innocence.
10 That's not the law that you are going to get in this case.
11 Can you put that aside and hold the State to their burden
12 of proving their case and Norman doesn't have to prove anything?
13 A Sure.
14 Q It took you a long time to answer that question when
15 Miss Luzaich asked you that.
16 Is that how you truly feel?
17 A Yes.
18 Q And you could wait until the end of all the evidence to
19 decide whether Norman is guilty or not?
20 A Yes.
21 Q Because that's what the judge is going to tell you;
22 that's what the Constitution tells us.
23 You can go with that?
24 A Sure.
25 Q And if it comes to a penalty phase, would you be able to

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1 wait until all the evidence is in before you decide the
2 appropriate penalty?
3 A Yes.
4 Q And would you be able to look at all four and give all
5 four the proper consideration before picking one?
6 A Yes.
7 Q Does the fact that you are going to hear about a crime
8 that Norman has been accused of, but is not on trial for this
9 week, is that going to change your mind?
10 A No.
11 Q And you can put it in its proper location when the judge
12 is going to tell you what you can use that for?
13 A Yes.
14 Q Now, you heard the questions I was asking Miss Nelson
15 about second grade and doling out punishments to her kids?
16 A Yes.
17 Q And I'm sure you do the same thing?
18 A Yes.
19 Q And do you give out different punishments for the same
20 incident to different kids just because you like one better?
21 A No, I don't.
22 Q So you are fair in that case and it goes to what they
23 did, not to who they are.
24 A Yes.
25 Q And can you give that same consideration to Norman in the

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1 next week?
2 A Yes.
3 Q And listen to all the evidence before you make a
4 decision?
5 A Yes.
6 Q And hold the State to their burden, that they have
7 everything to prove and we have nothing to prove?
8 A Yes.
9 MR. PATRICK: Thank you, Judge. We'll pass.
10 THE COURT: The State may exercise or waive their second
11 of nine peremptories.
12 MS. WECKERLY: Thank you, Judge.
13 The State will thank and excuse Badge Number 010, seat
14 number six, Mr. Mayoral.
15 THE COURT: Mr. Mayoral, you are excused. Please report
16 back to the jury commissioner. They'll see if they can find
17 another case for you to work on.
18
19 (Juror excused.)
20
21 THE COURT: Miss Clerk.
22 THE CLERK: Vickie Nicholls.
23 THE COURT: Come on up, Miss Nicholls.
24
25

EXAMINATION

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1 BY THE COURT:
2 Q Good afternoon, Miss Nicholls.
3 How long have you lived in town?
4 A I live in Mesquite.
5 Q How long have you lived in Clark County?
6 A Three and a half years.
7 Q Okay. And where did you come from?
8 A Utah.
9 Q What do you do for a living?
10 A Retired.
11 Q From what line of work generally?
12 A Automotive.
13 Q And are you married?
14 A Yes.
15 Q And what does your husband do?
16 A Automotive.
17 Q Have you ever served as a juror before?
18 A Yes, I have.
19 Q Civil or criminal case?
20 A Civil.
21 Q Without telling us what the verdict was, were you able to
22 deliberate with your fellow jurors and reach a verdict?
23 A Yes.
24 Q Is it going to be too much of a burden for you to travel
25 to and from Mesquite each day for the next seven, eight days?

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1 A I probably will just stay here.
 2 Q And you are okay with that?
 3 A Yeah.
 4 Q Okay. Do you know of any reason you couldn't be fair?
 5 A No.
 6 Q Can you consider all four of the potential penalties if
 7 it comes to that?
 8 A Yes.
 9 THE COURT: The State.
 10 BY MS. WECKERLY:
 11 Q Good afternoon, ma'am.
 12 When you served as a juror before, was that here in Clark
 13 County?
 14 A No, it was in Utah.
 15 Q In Utah.
 16 Well, when you were a juror in that case, did the jury
 17 deliberation process get heated at all? Without telling me what
 18 the verdict is.
 19 A No, no.
 20 Q Okay. Not a bad experience?
 21 A No, it wasn't.
 22 Q Okay. If you were selected to be a juror in this case,
 23 do you think that you would be able to share your opinion with
 24 your fellow jurors?
 25 A Yes.

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1 Q Is that yes?
 2 A Yes.
 3 Q Okay. We talked about, at length, the four potential
 4 punishments that are available to a jury in this case in the event
 5 of a first degree murder conviction.
 6 Are you someone who can consider all four possible
 7 punishments?
 8 A Yes.
 9 Q Do you think that the death penalty serves a purpose in
 10 the criminal justice system?
 11 A In certain cases, yes.
 12 Q Okay. And by that answer, I assume that you can envision
 13 in your mind a case where you think the death penalty may be an
 14 appropriate punishment?
 15 A Yeah.
 16 Q And if that were established in this case, do you think
 17 you would have any trouble announcing that as your verdict with
 18 your fellow jurors?
 19 A No.
 20 Q No problem?
 21 A No.
 22 Q You could be fair to both sides?
 23 A Yes.
 24 Q Do you believe that people should be held accountable for
 25 their actions?

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1 A Yes, I do.
 2 MS. WECKERLY: Thank you, ma'am. Pass for cause.
 3 THE COURT: The defense.
 4 BY MR. PIKE:
 5 Q In determining the cases in which the death penalty would
 6 be appropriate, would you agree that there is some cases that you
 7 may have brought forth the death penalty, but the jury didn't and
 8 there is cases in which you wouldn't have brought forth the death
 9 penalty, but a jury did?
 10 A That's correct.
 11 Q You've had an opportunity to listen to all the questions
 12 and some of them have been very pointed and very direct about the
 13 death penalty and personal feelings and strengths and weaknesses.
 14 Do you feel like you would be a strong juror?
 15 A Yes.
 16 Q Would you hold tight to your convictions and you would
 17 make a decision -- well, let me back up.
 18 In the guilt phase, you are collectively going to
 19 determine whether or not the State has proven its case beyond a
 20 reasonable doubt.
 21 And do you feel like you are a person that can discuss
 22 the case and discuss the facts and help bring a consensus to a
 23 jury?
 24 A Yes.
 25 Q Then, in the penalty phase, as an individual judgment in

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1 reference to the death penalty, do you feel that you would be
 2 strong in holding to your convictions?
 3 A Yes.
 4 Q Do you have strong feelings one way or the other about
 5 the death penalty? Do you agree with it strongly or do you
 6 disagree with it?
 7 A I agree with it where it needs to be.
 8 Q Okay. And when you say where it needs to be, does it --
 9 A In the case.
 10 Q Does it need to be there in every murder case or does it
 11 have to be in the worst of the worst?
 12 A Not in every murder case.
 13 Q Okay. And do you align yourself with any fraternal
 14 organization, religious affiliations that have an opinion
 15 different than yours about the death penalty?
 16 A No.
 17 Q As we're sitting here today and you've had a chance to
 18 hear that same question over and over again, would you be
 19 comfortable with your sitting at that table or this table for you
 20 to hear the case?
 21 A I think I would.
 22 MR. PIKE: Thank you very much. Pass for cause.
 23 THE COURT: The defense may exercise or waive their
 24 second of nine peremptories.
 25 MR. PIKE: Thank you, Your Honor.

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1 The State --
 2 THE COURT: Not the State, Mr. Pike.
 3 MR. PIKE: I'm sorry. You know, you start off as a
 4 prosecutor and it just stays with you for years and years and
 5 years.
 6 But the defense would thank and excuse Juror Number 22,
 7 Miss Hoelzer.
 8 THE COURT: Miss Hoelzer, you are excused. Please report
 9 back to the jury commissioner. They will see if they can find
 10 another case for you to work on.

11 (Juror excused.)

12 THE COURT: Miss Clerk.

13 THE CLERK: Jeffery Miller.

14 EXAMINATION

15 BY THE COURT:
 16 Q Good afternoon, Mr. Miller.
 17 How long have you lived in Clark County?
 18 A Eight years.
 19 Q Would do you do for a living?
 20 A I'm an aircraft mechanic.
 21 Q Are you married?
 22 A Yes.

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1 talking, Miss Weckerly and Mr. Pike, would you come up.
 2 Just go ahead; just go ahead.
 3 BY MS. LUZAICH:
 4 Q How long have you been a mechanic?
 5 A Thirty years.
 6 Q And are you the one who physically, you know, takes care
 7 of the planes every day or do you --
 8 A Yes, ma'am, I am. I release the aircraft, saying to the
 9 best of my knowledge, there is nothing that can cause the aircraft
 10 to crash, yes.
 11 Q Well, I have you to thank for my safe journey elsewhere?
 12 A Yes, ma'am.
 13 Q Okay. Do you follow the news much?
 14 A Yes, ma'am. I'm a news critic.
 15 Q So the criminal cases that are reported on the news all
 16 the time, do you follow some of those as well?
 17 A Yes, ma'am.
 18 Q And as they're reported back and forth, do you ever have
 19 any strong feelings one way or the other about what you hear?
 20 A Depending on the facts, yes, ma'am.
 21 Q Are there times that you may be disagree with what you've
 22 heard as far as verdicts?
 23 A Yes, ma'am.
 24 Q Times that you agree?
 25 A Yes, ma'am.

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1 Q What does your wife do?
 2 A She's a CPA.
 3 Q Have you ever served as a juror before?
 4 A No, sir.
 5 Q Have you ever been charged with or convicted of an
 6 offense that would affect your ability to be objective?
 7 A No, sir.
 8 Q Can you be fair?
 9 A Yes, sir.
 10 Q Can you consider all four of those punishments and could
 11 you, in an appropriate case, impose each and every one of those,
 12 depending upon the facts?

13 A Yes, sir.

14 THE COURT: The State, questions of Mr. Miller?

15 MS. LUZAICH: Thank you.

16 BY MS. LUZAICH:
 17 Q Mr. Miller, you are an aircraft mechanic for where or
 18 who?
 19 A Four different airlines, but, currently, I'm working
 20 again for Frontier.

21 Q And being an aircraft mechanic is obviously very
 22 technical.

23 Is that something where you have a lot of training?

24 A Yes, ma'am.

25 THE COURT: Excuse me. Miss Luzaich, while you are

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1 Q Okay. So what do you think of our criminal justice
 2 system as a whole?
 3 A I believe it's the best I've seen, since I've been out
 4 here and I've been to many countries.
 5 Q So it serves its purpose?
 6 A Yes, ma'am.
 7 Q And what about the death penalty, do you believe that it
 8 serves a purpose in our system?
 9 A I feel it's mostly appropriate in criminal murder cases.
 10 Q In certain circumstances?
 11 A Yes, ma'am.
 12 Q So there are situations in which you could envision that
 13 the death penalty could be an appropriate penalty?
 14 A Yes, ma'am.
 15 Q And is that something that you believe that you could
 16 return if the right circumstances come to light?
 17 A Based on the facts, yes, ma'am.
 18 Q Okay. Are you the kind of person that can go back in the
 19 deliberation room and talk amongst your fellow jurors and express
 20 your opinion?
 21 A Sure.
 22 Q Are you willing to listen to what everybody has to say?
 23 A Sure.
 24 Q Are you a little nervous?
 25 A No, ma'am.

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1 Q It's not much fun sitting there and answering questions?
 2 A I don't mind being in the hot seat.
 3 Q All right. Do you think that you would be a good juror?
 4 A I believe I can be, yes.
 5 Q Why?
 6 A Well, the fact that, first of all, my age and the
 7 experiences that I've had. I've raised children and I've served
 8 in the military and I've had people that work for me and I've
 9 worked for people. So I think I could be objective.
 10 Q You served in the military for how long?
 11 A Twenty years.
 12 Q What branch?
 13 A Navy.
 14 Q During your time in the military, did you ever have
 15 occasion to sit on a courts martial?
 16 A Yes, ma'am, I sure did.
 17 Q And how did that go?
 18 A Better than I expected.
 19 Q I guess the question more should have been: What was
 20 your role in it?
 21 A I was on the panel, like a jury.
 22 Q So you were kind of like a juror?
 23 A Yes, ma'am.
 24 Q Your options were obviously different than they are here?
 25 A Similar, but different, yes.

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1 Q What were the nature of the charges that brought you to
 2 the panel?
 3 A Murder charges.
 4 Q Oh, okay.
 5 I don't know a whole lot about the military and how they
 6 go about courts martial and things of that nature.
 7 A It's similar to a grand jury.
 8 Q Is it?
 9 A Initially, yes, ma'am.
 10 Q So whatever you learned there, any instructions on the
 11 law or any -- well, any instructions on the law, we would need you
 12 to kind of forget that and only apply the instructions that this
 13 Court reads you. Can you do that?
 14 A .Correct, yes, ma'am.
 15 Q Okay. Did you find that to be a positive experience?
 16 A I found it to be a positive -- well, I learned something,
 17 yes.
 18 Q Would did you learn?
 19 A Well, I learned that the military and the civilian have
 20 same parallels and some differences.
 21 Q Okay. You also mentioned that you raised kids.
 22 How many kids?
 23 A Three.
 24 Q Ages?
 25 A Oldest one is 30; the daughter is 22; and I've got a 17

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1 year old at home now.
 2 Q Still at home in school?
 3 A Yes, ma'am.
 4 Q And your older two, what do they do?
 5 A My oldest boy handles repossessions. He's a military
 6 veteran also. My daughter, she's a nurse. My youngest one is a
 7 junior in high school.
 8 Q Okay. You could be fair to both sides?
 9 A Yes, ma'am.
 10 Q Listen to absolutely everything before you make up your
 11 mind?
 12 A Yes. That's part of being a parent, listening to both
 13 sides.
 14 MS. LUZAICH: Thank you. Pass for cause.
 15 THE COURT: Questions?
 16 MR. PATRICK: Yes. Thank you.
 17 BY MR. PATRICK:
 18 Q Mr. Miller, when you sat on that court martial, what
 19 grade were you?
 20 A I was and E-6.
 21 Q And what grade was the defendant?
 22 A It was a commissioned officer.
 23 Q Now, you said that that turned out better than you
 24 expected.
 25 Would you explain that?

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1 A It's kind of tough to explain. Being in the military
 2 structure, they give more leniency to the -- to the officer's side
 3 than they do the enlisted side, in my opinion. That's my opinion,
 4 of course. I expected the individual to get something different
 5 than what he got.
 6 Q So you thought the penalty should have been harsher?
 7 A I felt he got the appropriate penalty. I didn't expect
 8 it, but I felt he got the appropriate penalty, yes.
 9 Q So the penalty you expected when you went in, you thought
 10 would have been less harsh or harsher?
 11 A Less harsh.
 12 Q Less harsh?
 13 A Yes.
 14 Q And that was because of the fact that he was an officer?
 15 A Yes, sir.
 16 Q And so you think that officers get better treatment than
 17 enlisted men on courts martial?
 18 A Depending on the charge, yes, sir.
 19 Q Okay. Do you think that's fair?
 20 A Being the system that it was in, it was fair, yes, sir.
 21 Q Well, do you -- I mean, in general, do you think it's
 22 fair that somebody should get different treatment just because of
 23 their status?
 24 A No, sir.
 25 Q So you would be able to treat Norman fairly?

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1 A Yes, sir.
 2 Q And his status wouldn't make any difference to you when
 3 you are deliberating, after you hear the evidence?
 4 A No, sir. Based on the facts, it would not be a problem.
 5 Q So you would keep an open mind and go by the facts, not
 6 by who he is?
 7 A That's correct.
 8 Q And the same thing, if it got to a penalty phase, you
 9 would be able to look at all four penalties equally before you
 10 made up your mind?
 11 A Depending on the circumstances, yes, sir.
 12 Q And we haven't talked about this for a minute, but the
 13 State will put on reasons why they think the death penalty is an
 14 appropriate penalty and we'll put on reasons why we think it's not
 15 the appropriate penalty.
 16 You would be able to listen to all of those?
 17 A Sure.
 18 Q And at the end of the day, if it came down to you thought
 19 the death penalty was not appropriate, you could vote that way?
 20 A Yes, sir.
 21 Q Do you see any homicides case of first degree murder that
 22 could not warrant a death penalty at the end?
 23 A Yes, sir.
 24 Q And if you had to pick a jury to try either you as a
 25 defendant or you as the State, would you want somebody like you on

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1 that jury?
 2 A I would hope so, yes, sir.
 3 MR. PATRICK: Thank you. We'll pass, Judge.
 4 THE COURT: The State may exercise or waive its third of
 5 nine.
 6 MS. WECKERLY: We'll waive it.
 7 THE COURT: The defense may exercise or waive its third
 8 of nine.
 9 MR. PIKE: We thank and excuse Juror Number 26, Miss
 10 Noch.
 11 THE COURT: Miss Noch, you are excused. Please report
 12 back to the jury commissioner. They'll see if they can find
 13 another case for you to work on.
 14
 15 (Juror excused.)
 16
 17 THE COURT: Miss Clerk.
 18 THE CLERK: Rita Asturi.
 19 THE COURT: Miss Asturi, come on up.

EXAMINATION

22 BY THE COURT:
 23 Q Miss Asturi, how long have you lived in Clark County?
 24 A Fourteen years.
 25 Q What do you do for a living?

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1 A I'm retired.
 2 Q From what line of work generally?
 3 A I worked in banking for 25 years and in the casino for
 4 12.
 5 Q Okay. Are you married?
 6 A No, sir.
 7 Q Have you ever served as a juror before?
 8 A No.
 9 Q Have you been charged with or a victim of a serious
 10 offense?
 11 A No.
 12 Q Can you be fair?
 13 A Yes.
 14 Q And you heard this a million times, but can you consider
 15 all four of the potential punishments and none of them are
 16 automatically excluded from your mind?
 17 A Yes.
 18 THE COURT: State, questions of Miss Asturi.
 19 MS. WECKERLY: Yes. Thank you.
 20 BY MS. WECKERLY
 21 Q What brought you out to Las Vegas?
 22 A The earthquake in '94.
 23 Q In Northridge?
 24 A Yes.
 25 Q So you decided California is not a good place to live?

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1 A Yeah.
 2 Q Okay. And then you worked in banking and in the casino?
 3 A I worked in banking and retired in California up to 25
 4 years and then I worked in a casino here.
 5 Q Was it similar type work in the casinos?
 6 A No, completely different.
 7 Q What did you do for casinos?
 8 A Store supervision.
 9 Q When you were a supervisor, how many people were you in
 10 charge of?
 11 A Forty.
 12 Q Forty. Okay.
 13 Did you ever have to discipline anybody?
 14 A Yes.
 15 Q How did you find that experience?
 16 A Sometimes it's difficult, but you have to do what you
 17 have to do.
 18 Q Okay. No trouble making a decision?
 19 A No, ma'am.
 20 Q Okay. And you can be fair to both sides in this case?
 21 A Yes.
 22 Q Do you have any concerns at all about your ability to sit
 23 as a fair and impartial juror in this particular case?
 24 A No.
 25 MS. WECKERLY: Thank you, ma'am.

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1 Pass for cause.
 2 THE COURT: Questions.
 3 MR. PIKE: Thank you.
 4 BY MR. PIKE:
 5 Q Do you watch any law and order, CSI, any shows like that
 6 on TV?
 7 A All of them.
 8 Q All of them?
 9 A Uh-huh.
 10 Q You like that?
 11 A Love them.
 12 Q Okay. You look at the world more like a CSI or more like
 13 a Perry Mason?
 14 A I think like a law and order.
 15 Q Okay. So in Law and Order, I know you have a lot of
 16 investigative work that's done and that's a lot of the plot is
 17 just the investigators.
 18 Is that the part that you like about it?
 19 A You have to make sure -- they don't win every case and
 20 you have to make sure that you get the party that is supposed to
 21 have done the job and not get innocent people.
 22 Q And so you would agree with some of the plots of that --
 23 that that show often has, that sometimes the officers may have a
 24 suspicion and they investigate it and it turns out to be wrong?
 25 A Yes.

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1 Q And sometimes they have to go back and reinterview
 2 witnesses again and again and again because they missed the
 3 details?
 4 A Correct.
 5 Q And unlike CSI, where a lot of it is made up, in Law and
 6 Order, you would probably bring that experience with you to this
 7 case and expect that the detectives did that complete work?
 8 A Right. They don't often, right.
 9 Q And if they don't do it, then the appropriate thing to do
 10 is hold them up to the standard of beyond a reasonable doubt?
 11 A Correct.
 12 Q And you agree with that?
 13 A Yes.
 14 Q And you would be able to do that in this case?
 15 A Yes.
 16 Q And do you have any strong feelings about the death
 17 penalty?
 18 A No.
 19 Q And you will listen carefully, make a decision, and you
 20 will be fair to both sides?
 21 A Yes.
 22 MR. PIKE: Thanks. Pass for cause.
 23 THE COURT: The State may exercise or waive its fourth.
 24 MS. WECKERLY: We'll waive.
 25 THE COURT: The defense may exercise or waive its fourth.

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1 MR. PIKE: Thank you. We'll thank and excuse Juror
 2 Number 15, Mr. Herrera.
 3 THE COURT: Mr. Herrera, you are excused. Please report
 4 back to the jury commissioner. They will see if they can find
 5 another case for you to work on.
 6
 7 (Juror excused.)
 8
 9 THE COURT: Miss Clerk.
 10 THE CLERK: Yissa Renteria.
 11 THE COURT: Come up, Miss Renteria.
 12 EXAMINATION
 13 BY THE COURT:
 14 Q Miss Renteria, how long have you lived in Clark County?
 15 A Seven years.
 16 Q Would do you do for a living?
 17 A Project manager for an architecture firm.
 18 Q Okay. Speak up. You have a nice soft voice, but she
 19 needs to hear you.
 20 Are you married?
 21 A No.
 22 Q Have you ever served as juror before?
 23 A No.
 24 Q Ever been charged with or the victim of a serious offense
 25 that could affect your objectivity?

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1 A No.
 2 Q Can you be fair?
 3 A Yes.
 4 Q All four of these penalties are potential that you could
 5 consider given the appropriate case?
 6 A Yes.
 7 THE COURT: The State, questions of Miss Renteria.
 8 MS. LUZAICH: Thank you.
 9 BY MS. LUZAICH:
 10 Q Do you know anybody that's been the victim of any crimes
 11 like these?
 12 A No.
 13 Q Do you know anybody that's been charged or accused of any
 14 crimes like these?
 15 A No.
 16 Q Do you think that people should be held accountable for
 17 their actions?
 18 A Yes.
 19 Q Do you have any strong feelings one way or another about
 20 the death penalty?
 21 A Stronger towards the death penalty than not.
 22 Q Do you think it serves a purpose in our system?
 23 A I do.
 24 Q Why is that?
 25 A Because I think certain crimes warrant that kind of

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1 punishment and I agree with the death penalty.
 2 Q Do you think that it is a deterrent?
 3 A I do and I don't, just because these crimes still exist.
 4 I mean, I don't feel like --
 5 Q People still kill even though there is a death penalty?
 6 A Right.
 7 Q Do you think that maybe the death penalty is appropriate
 8 simply as punishment because somebody did something bad?
 9 A Just because they did something bad?
 10 Q Well, not something bad, but just punishment -- you know,
 11 forget about deterrence or whatever, just strictly punishment?
 12 A Yes.
 13 Q So, in your mind, you can envision some set of
 14 circumstances where the death penalty could be an appropriate
 15 penalty?
 16 A Yes.
 17 Q So you will consider all four options if you get that
 18 far?
 19 A Yes.
 20 Q And you understand that that has absolutely nothing to do
 21 with your decision whether or not the crimes were actually
 22 committed?
 23 A Yes.
 24 Q As a project manager, what do you do on a daily basis?
 25 A I design buildings, educational buildings, and put them

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1 through -- into construction documents.
 2 Q So you are actually the artistic one?
 3 A Yes.
 4 Q Have you always been the one who designs? Have you ever
 5 been in an administrator/supervisor type position?
 6 A At the department or anywhere?
 7 Q Just anywhere?
 8 A Yes, I have.
 9 Q What else have you done?
 10 A Before working at the architectural firm, I worked in
 11 retail where I was kind of a supervisor.
 12 Q How many people did you supervise?
 13 A Not more than five.
 14 Q During the course of that supervisory period, were you
 15 ever in charge of hiring or firing?
 16 A No.
 17 Q Ever in charge of discipline?
 18 A It was more of assigning tasks.
 19 Q Are you somebody that can go back in the deliberation
 20 room and share your feelings and your opinions with the other
 21 jurors?
 22 A I think so.
 23 Q Will you listen to everything that everybody has to say?
 24 A Yes.
 25 Q Will you absolutely listen to everything all the

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1 witnesses have to say before making up your mind?
 2 A Yes.
 3 Q Is there anything about you that would prevent you from
 4 being able to sit in judgment of someone?
 5 A No.
 6 Q If you were convinced beyond a reasonable doubt that the
 7 defendant committed the crimes as charged, would you be able to
 8 say guilty?
 9 A Absolutely.
 10 Q Do you think you would be a good juror in this case?
 11 A I think so.
 12 Q Any reason that you could not?
 13 A Perhaps medical problems.
 14 Q What kind of medical problems?
 15 A I have gall stones; having a gall stone attack.
 16 Q Are you uncomfortable right now?
 17 A No. I do have a hydro scan this Friday, but I can
 18 reschedule. They come and go.
 19 THE COURT: Well, I mean, I will certainly accede to that
 20 and let you go and work on a different case.
 21 You know, only you know your medical condition. If your
 22 medical condition needs treatment and you should be on a different
 23 case, come back and see us in three weeks or four weeks or
 24 whenever you get that resolved. If you think you are okay, that
 25 will be fine with me, but you got decide.

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1 MS. RENTERIA: I think I will be fine for the next couple
 2 of weeks.
 3 MS. LUZAICH: And if you get really uncomfortable, you
 4 can raise your hand and we can take a break.
 5 THE COURT: Yeah, we can do that. We can take a short
 6 break if you need to. They probably told you downstairs that we
 7 use 12 people in a criminal jury.
 8 Now, we have 14 people sitting here. Why is that?
 9 Well, the law requires us to have 12 at the finish line.
 10 You have to have 12 people make the decision.
 11 If the case were only going to last a day -- and we
 12 seldom have those -- we just start with 12. But when we have at
 13 least two, three days, we have 13; and in a case of six, seven
 14 days, we have 14. We got this eight month trial and I probably
 15 started with 22 or 24. The idea is there is going to be a certain
 16 natural attrition, so we could lose people and still keep going,
 17 but we can't lose three or it's a do over. So we certainly don't
 18 want to start with somebody that we're looking to lose. But
 19 that's where we're at.
 20 If you think you are okay, you are okay with me. If you
 21 feel comfortable -- if you think it would be better for your
 22 condition or otherwise to come back, that's good with me too. So
 23 you decide.
 24 MS. RENTERIA: I would like to go on.
 25 MS. LUZAICH: Okay. Great. Thank you.

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1 Pass for cause.
 2 THE COURT: Defense.
 3 BY MR. PATRICK:
 4 Q Good afternoon. You said you were leaning strongly
 5 towards the death penalty.
 6 A Yes.
 7 Q Is there any murder case that you could think of that
 8 would not require you to come back with a death penalty?
 9 A Yes.
 10 Q And if this turns out to be such a case, would you have a
 11 problem voting against the death penalty?
 12 A I wouldn't have a problem with it, no.
 13 Q Is there anybody in your family, friends type circle
 14 that, depending upon which way you voted, either for or against
 15 the death penalty, that you feel that you would have to go and
 16 explain why you voted the way you did?
 17 A No.
 18 Q They would accept your decision as intelligently made and
 19 open minded?
 20 A Yes.
 21 Q Do you believe that, right now, as we sit here today,
 22 that Norman is not guilty?
 23 A Yes.
 24 Q You will hold the State to their burden of proof that he
 25 is guilty?

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1 A Yes.
 2 Q And if they do that and we go to the penalty phase, you
 3 will be able to listen to both the evidence they put on and the
 4 evidence that we put on before you make your decision as to what
 5 penalty you want to impose?
 6 A Yes.
 7 Q And if you go back to the jury room and there is 10 or 11
 8 other jurors that have a different opinion than yours, would you
 9 just follow along with them or would you try to make them see
 10 things your way?
 11 A I would not follow with them. I would definitely express
 12 my view points.
 13 Q And try to convince them to see things the way you see
 14 them?
 15 A If I truly believe it.
 16 Q And then you would be open to listen to what they would
 17 have to say the other way, no matter which way it is?
 18 A Yes.
 19 MR. PATRICK: That's fine. That's all I have, Judge.
 20 THE COURT: The State may exercise or waive their fifth.
 21 MS. WECKERLY: We'll waive, Your Honor.
 22 THE COURT: The defense may exercise or waive their
 23 fifth.
 24 MR. PIKE: We thank and excuse Juror Number 59, Miss
 25 Renteria.

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1 THE COURT: Miss Renteria, you are excused. Please
 2 report back to the jury commissioner. We'll see if they can find
 3 another case for you to work on.
 4 In fact, let's do this: Since you aren't feeling well,
 5 tell them to bring you back in a couple months and take care of
 6 your medical stuff now. We will appreciate your service then.
 7 Thank you.
 8 MS. RENTERIA: Thank you.
 9
 10 (Juror excused.)
 11
 12 THE COURT: Miss Clerk.
 13 THE CLERK: Craig McCaslin.
 14 THE COURT: Mr. McCaslin, come on up.
 15
 16
 17

EXAMINATION

19 BY THE COURT:
 20 Q Good afternoon.
 21 How long have you lived in Clark County?
 22 A Five years.
 23 Q Where did you come from?
 24 A California.
 25 Q Would do you do for a living?

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1 A Mailman.
 2 Q Are you married?
 3 A No.
 4 Q Have you ever served as a juror before?
 5 A In the military, but not civilian.
 6 Q Okay. Have you ever been charged with or the victim of a
 7 serious offense that could affect your objectivity?
 8 A No.
 9 Q And can you be fair if you are a juror in this case?
 10 A Yes.
 11 Q And can you consider all four punishments if push comes
 12 to shove?
 13 A Yes.
 14 THE COURT: The State, questions for Mr. McCaslin.
 15 MS. LUZAICH: Thank you.
 16 BY MS. LUZAICH:
 17 Q Sir, you indicated that you were a juror in the military?
 18 A Yes.
 19 Q How did that come about?
 20 A How did it come about? I was picked.
 21 Q Okay. Sorry.
 22 What branch of the military were you in?
 23 A Navy.
 24 Q For how long?
 25 A 20 years.

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1 Q And was it a court martial that you served on?
 2 A Yes, court martial.
 3 Q And you were selected, along with several other people,
 4 to sit, like these people are and you are sitting right now?
 5 A Yeah.
 6 Q What were the nature of the charges that brought you
 7 there?
 8 A Rape.
 9 Q And like I had mentioned earlier, I don't know a lot
 10 about how that works, but did you listen to evidence from
 11 witnesses, direct examination, cross-examination, then go back
 12 into the deliberation room and discuss it amongst your other
 13 jurors?
 14 A Yes.
 15 Q Okay. And did your case go all the way to the jury so
 16 that there were actually deliberations?
 17 A No, because during the thing, he admitted that he did
 18 this and they stopped it.
 19 Q Okay. So you didn't get to go all the way back and
 20 deliberate amongst the jurors?
 21 A No.
 22 Q Okay. Did you get as far as the court reading
 23 instructions to you?
 24 A Yes.
 25 Q Okay. So because I don't know what the law is in the

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1 military, anything that you had heard there, we need to ask you to
 2 forget about and only pay attention to the law that this Court
 3 reads to you.
 4 Can you do that?
 5 A Yes.
 6 Q What did you think of your experience sitting there
 7 listening to evidence? Was it a positive experience, negative
 8 experience?
 9 A Kind of scary because we know that the decision that you
 10 make is going to affect that person's life. So it's kind of
 11 scary.
 12 Q Okay. Was it something that you were uncomfortable
 13 participating in?
 14 A Well, yeah.
 15 Q Are you uncomfortable today as well?
 16 A Yeah, because what if I say I think he's guilty and it
 17 turns out he wasn't? I mean, I know I'm going to hear all the
 18 evidence and I'm going to make my decision on the evidence I hear,
 19 but, still, it's just like with the death penalty, all these
 20 people, you hear at a later date, they found new evidence and they
 21 already killed the person and found out he was innocent.
 22 Q Okay.
 23 A That's why it's scary, because you make a decision on
 24 evidence you hear and then later on down the line, more evidence
 25 might come out. That's why it's hard to do that process.

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1 Q Okay. Is that something that's going to cause you
 2 concern as you are sitting here, like what's going to happen in
 3 10, 15, 20 years?
 4 A Probably not, but --
 5 Q Okay.
 6 A -- I think about that. That's what I'm saying.
 7 Q Well, recognize also that if there is a verdict in any
 8 case, it's not just you making a decision.
 9 A Right.
 10 Q It's 12 people making the decision.
 11 A Right.
 12 Q And making it after being very well informed.
 13 I mean, you don't think we're just going to put one
 14 person in there and they're going to tell you three things and you
 15 are going to have to make your decision.
 16 A Right. But I always look at it like what if I was that
 17 person that was tried and they all the convicted me, but I was
 18 really innocent. And that's -- I don't know. I look at things
 19 the other way, I guess. I don't know.
 20 Q Okay. Do you think that that may inhibit your ability to
 21 look at this fairly?
 22 A No. I just find the whole process kind of scary because
 23 I think kind of that way.
 24 Q All right.
 25 A I don't know it's going to happen --

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1 Q Okay. Well, do you think that you would be a fair and
 2 open minded juror?
 3 A Yes.
 4 Q Fair to both sides?
 5 A Yes.
 6 Q Obviously, you would be fair to the defense.
 7 Will you be fair to the State as well?
 8 A Yes.
 9 Q You had mentioned that you thought you knew Miss
 10 Weckerly?
 11 A I'm currently involved in a case where I'm a witness and
 12 I'm pretty sure she was the public defender.
 13 Q Well, I'm quite sure she's not the public defender.
 14 A Oh, not the Public Defender, but the --
 15 Q The prosecutor?
 16 A The prosecutor.
 17 Q Was it somebody you know who was the victim or were you
 18 just a witness because you were there?
 19 A I intervened in an attempted murder case and I thought --
 20 I'm not only a witness, but I stopped the crime happening.
 21 Q Good for you.
 22 A Yeah.
 23 Q I bet you the victim appreciates that.
 24 Have you had to come to court and testify?
 25 A Yes, I have.

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1 Q At a preliminary hearing?
 2 A Yes.
 3 Q There was no jury there, right?
 4 A No jury.
 5 Q Just a judge?
 6 A But it's going to go to a jury trial.
 7 Q There is a trial pending?
 8 A Yes. So I will probably have to go back.
 9 Q Okay. Not many people have been through the process from
 10 that perspective, actually sat in a witness stand and been
 11 questioned, you know, direct examination and cross-examination.
 12 How was that?
 13 A Pretty scary.
 14 Q You were there, so you knew what happened, as you sat
 15 there on the witness stand and were questioned.
 16 Was that uncomfortable for you?
 17 A Yes, because the person that I stopped from murdering the
 18 other person was staring at me and it was kind of intimidating.
 19 Q And when you were asked questions -- I mean, was that
 20 also difficult for you?
 21 A Only because I was nervous, I think.
 22 The questions themselves -- I mean, I was telling what I
 23 did and what happened, so they were just facts that I was telling.
 24 Q Right.
 25 A But because I was nervous, it was hard.

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1 Q I guess that's my point. It's still nerve racking
 2 sitting up there?
 3 A On, yeah. You kind of stutter and it takes you time to
 4 get it out.
 5 Q Uh-huh, okay.
 6 Do you think since you actually participated in something
 7 like that, that this might not be the kind of case for you?
 8 A I don't know. Well, I don't know until you go through
 9 the process.
 10 Q Okay. Well, so far, what do you think of the criminal
 11 justice system?
 12 A Sometimes it works; sometimes it doesn't.
 13 Q Okay. What about the death penalty?
 14 A See, that's hard too, because if you -- if, 100 percent,
 15 you know the person committed the crime and he took somebody's
 16 life, then I think it's justified.
 17 But, like I said, there is times when they come back a
 18 few years later and find out he didn't do it. I don't know. I
 19 have a concern with that.
 20 Q Is your concern about that going to affect your opinion
 21 concerning the death penalty in this case?
 22 You know, there is no right or wrong answers here.
 23 A I understand.
 24 Q Only you know what is going on in your heart and your
 25 mind.

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1 A If I hear all the evidence and I'm a hundred percent sure
 2 that the crime was committed and that fits the crime, then I
 3 wouldn't have a problem with it.
 4 Q Do you think you could be 100 percent convinced?
 5 A If I hear all the evidence, yes.
 6 THE COURT: Okay. Let's wrap it up.
 7 MS. LUZAICH: Thank you. I'd pass for cause.
 8 THE COURT: Questions.
 9 MR. PIKE: Thank you.
 10 BY MR. PIKE:
 11 Q So you've gone through the experience of testifying in
 12 court and being interviewed by detectives and the whole
 13 investigative process?
 14 A Yes, I have.
 15 Q Okay. And you have some experience in doing that.
 16 When the detective was interviewing you, you tried to
 17 give him all of the information that you had, didn't you?
 18 A Yes.
 19 Q And you didn't try to hold back any information or keep
 20 anything secret, because you didn't have anything to hide.
 21 So if you found that a witness for the State had kept
 22 something hidden or not told the police about some of the
 23 information they had, would that cause you to be suspect of that
 24 individual's testimony?
 25 A Yes.

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1 Q And would you agree with me that sometimes people that
 2 are witnesses or involved in an investigative process may not
 3 always be truthful?
 4 A Yes.
 5 Q And there may be evidence that is lost because they had
 6 not said something?
 7 A Yes.
 8 Q And you are talking about cases coming back later where
 9 evidence comes forward at a later time and sometimes that may be
 10 one year, 12 years or 20 years later.
 11 A Yes.
 12 Q And if you find that, in fact, there has been evidence
 13 that has been withheld for a long period of time, from the police,
 14 would that affect your reliability or how you -- let me rephrase
 15 the question. I'm wandering again.
 16 If evidence has been withhold from the police and the
 17 person that withheld it is up there on the stand, then you've
 18 indicated their testimony is going to be suspect to you; is that
 19 correct?
 20 A Yes.
 21 Q And if you believe that there is something that is being
 22 withheld or hidden, then you don't have a hundred percent of the
 23 facts?
 24 A That's correct.
 25 Q And then you can't make that decision that you have

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1 talked about, being a hundred percent sure?
 2 A Yes.
 3 MR. PIKE: I don't have any further questions.
 4 THE COURT: State may exercise or waive their sixth.
 5 MS. NELSON: Judge, I need a rest room break.
 6 THE COURT: Okay. Anybody have any objection if she just
 7 runs out while we're doing the questioning?
 8 MS. WECKERLY: Your Honor, the State will thank and
 9 excuse Badge Number 061, seat number 10, Mr. McCaslin.
 10 THE COURT: Mr. McCaslin, you are excused. Please report
 11 back to the jury commissioner; see if they can find another case
 12 for you to work on.

13
 14 (Juror excused.)
 15

16 THE COURT: Miss Clerk.

17 THE CLERK: Dino Mantini.

18
 19
 20 EXAMINATION

21 BY THE COURT:

22 Q Good afternoon, Mr. Mantini.

23 How long have you lived in town?

24 A Twenty years.

25 Q What do you do for a living?

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1 A My daughter does. My son lives in LA.
 2 Q What do they do?
 3 A My daughter works and goes to school. My son is in
 4 school.
 5 Q You said that you work in the hospitality industry?
 6 A Correct.
 7 Q What do you do?
 8 A I'm associate director of meetings and special events.
 9 Q Okay. So when other companies come into town, you
 10 arrange their events for them?
 11 A Correct.
 12 Q Do you have a staff that works for you?
 13 A Correct, yes.
 14 Q Is your staff like a permanent staff or do you have some
 15 people that kind of subcontract with you?
 16 A We have a permanent staff and there is also on call
 17 people that report to us as well.
 18 Q Okay. In your position, do you ever have to discipline
 19 various staff members?
 20 A Yes.
 21 Q Is that something that you have to do on a regular basis?
 22 A Not every day, but, yes.
 23 Q Okay. I would assume you don't like doing it, but it's
 24 part of being in the job?
 25 A Being a supervisor, yes.

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1 A I'm in the hospitality industry. I work in meetings and
 2 special events.
 3 Q Are you married?
 4 A Yes.
 5 Q What does your wife do?
 6 A She works in the trade show industry.
 7 Q Have you ever served as a juror before?
 8 A Have not.
 9 Q Have you ever been charged with or the victim of a
 10 serious offense that could affect your objectivity?
 11 A No.
 12 Q Can you be fair?
 13 A Yes.
 14 Q And can you consider all four of those punishments if
 15 push comes to shove?

16 A Yes.

17 THE COURT: State, questions of Mr. Mantini.

18 BY MS. WECKERLY:

19 Q Good afternoon, sir.

20 A Good afternoon.

21 Q Do you and your wife have children?

22 A Two.

23 Q How old are they?

24 A I have a son 23 and my daughter is 20.

25 Q Do they live here locally?

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1 Q Okay. And we've asked every other juror about the four
 2 potential punishments in this case.
 3 Do you have any concern at all about your ability to
 4 consider the range of punishments in the event of a first degree
 5 murder conviction?
 6 A Well, again, as everyone mentioned, I think I would have
 7 to evaluate, based on the evidence, based on the discussions, in
 8 order to make that determination.
 9 Q But you don't have like a religious or philosophical
 10 reason why you couldn't consider the death penalty or any of the
 11 other punishments?
 12 A No. Actually, I feel, oftentimes, that you know the
 13 punishment doesn't fit the crime. I mean, people get off
 14 sometimes a little too easy.
 15 Q Okay. And you've heard -- I mean, I'm sure you've heard
 16 us talk about this sort of being a two step process.
 17 In the event that we get to a penalty hearing, I would
 18 assume you would want to hear all the information and the law
 19 Judge Bell gives you before making a decision.
 20 A Absolutely.
 21 Q You are not going to automatically pick one or the other
 22 based -- before you hear all the information?
 23 A No.
 24 MS. WECKERLY: Thank you, sir.
 25 Pass for cause.

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1 THE COURT: Defense.
 2 BY MR. PATRICK:
 3 Q Sir, could you kind of explain that statement that you
 4 think people get off too easy sometimes.
 5 A You know, there is -- again, after you evaluate all the
 6 evidence -- you hear about heinous crimes, that people that are on
 7 death row or get the death penalty, I think it fits that crime.
 8 Q So can you see any time on a first degree murder case
 9 when the death penalty would not be appropriate?
 10 A I don't know the law that well.
 11 THE COURT: That's fine.
 12 MR. MANTINI: Can you qualify the question?
 13 BY MR. PATRICK:
 14 Q Well, it's the very decision that you might have to make
 15 in a week.
 16 Is there any time that you would find a person guilty of
 17 first degree murder and not impose the death penalty on it?
 18 A I honestly don't understand that question. I'm sorry.
 19 THE COURT: Let me try to answer it.
 20 Here's the deal: The legislature and the governor in our
 21 state has said when somebody commits first degree murder, there is
 22 four possible penalties.
 23 MR. MANTINI: Okay.
 24 THE COURT: So what they obviously envision are some
 25 indications where the lightest penalty is appropriate and other

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1 cases where the most severe penalty is appropriate and others in
 2 between, even though they're all still within the ambit of first
 3 degree murder. Fair enough?
 4 MR. MANTINI: Yes.
 5 THE COURT: And what he's saying is: Do you agree with
 6 that, that there could be some that are on this end, some that are
 7 on this end, others that are in the middle? So when you analyze
 8 this case, you can decide whether it falls at one end or in the
 9 middle?
 10 MR. MANTINI: I would say yes; in most cases, yes.
 11 BY MR. PATRICK:
 12 Q In most cases. In what cases would you not be able to do
 13 that?
 14 MS. WECKERLY: I'm going to object to that question.
 15 THE COURT: Sustained.
 16 MR. MANTINI: I haven't heard the evidence --
 17 THE COURT: That's okay. We're not giving specific
 18 examples.
 19 BY MR. PATRICK:
 20 Q Okay. So it sounds to me like you are not really
 21 convinced that you could look at all four types of punishments, if
 22 this comes back a first degree murder case.
 23 A Not in this forum. If you are going to give me evidence
 24 and something to evaluate, I could make a better judgment. You
 25 are asking a hypothetical situation that, to me, doesn't make

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1 sense.
 2 Q Okay. So is there a first degree murder case where the
 3 person does not deserve to die?
 4 A Well, without seeing or hearing the evidence, I can't
 5 make that determination.
 6 THE COURT: Okay. Mr. Mantini, he's not saying is this
 7 the case.
 8 He's saying: Do you agree conceptually with the
 9 legislature that if there is a hundred first degree murder cases
 10 out there, some of them will deserve the death penalty, some of
 11 them deserve life without, some of them deserve life with, because
 12 there is different circumstances in every case and every case has
 13 to be evaluated on its own merits? Do you agree with that, as a
 14 general proposition?
 15 MR. MANTINI: Yes.
 16 THE COURT: All right.
 17 BY MR. PATRICK:
 18 Q Okay. Could you vote against the death penalty?
 19 A Could I vote against it?
 20 Q Could you?
 21 A Probably not.
 22 Q So no matter what --
 23 A Are you talking about in a jury?
 24 Q In a jury.
 25 A Yes, I could have. Yeah. I'm sorry. Yes, I could have.

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1 Q In a murder case?
 2 A Yes.
 3 Q If the situation warrants it, could you vote against the
 4 death penalty?
 5 A Yes.
 6 MR. PATRICK: Judge, I'm going to challenge for cause. I
 7 don't think he's being truthful with us.
 8 THE COURT: Will, he's being truthful. He's being as
 9 honest as he can. He's trying to share with you his thoughts and
 10 he said, yes, there is circumstances he can. The challenge for
 11 cause is denied.
 12 You want to exercise a peremptory challenge, that's
 13 certainly your right.
 14 The defense may exercise or waive their sixth peremptory
 15 challenge.
 16 MR. PIKE: Thank you. We'd thank and excuse Juror Number
 17 63, Mr. Mantini.
 18 THE COURT: Mr. Mantini, thank you for your time. Please
 19 report back to the jury commissioner and we'll see if they can
 20 assign you to another case.
 21
 22 (Juror excused.)
 23
 24 THE COURT: Who is next?
 25

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(Sidebar conference at bench, not reported.)

THE CLERK: Niklos Novotny.

THE COURT: Mr. Novotny, come on up.

EXAMINATION

BY THE COURT:

Q Mr. Novotny, how long have you lived in Clark County?

A My entire life, 32 years.

Q What do you do for a living?

A I'm an accounting manager.

Q Okay. And are you married?

A No.

Q Have you ever served as a juror before?

A No.

Q Have you ever been charged with or the victim of a serious offense that could somehow affect your objectivity?

A No.

Q Can you be fair?

A Yes.

Q Can you consider all four punishments?

A Yes, I will.

THE COURT: State, questions for Mr. Novotny?

Normally, we take a break now, but I think we're going to power through. We will be done in about a half hour.

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my brother, the accountant, does?

A That's what we do when we're accountants.

Q Bubble gum goes in your ledger?

A Not necessarily, no.

Q Okay. So what do you think of our criminal justice system?

A I believe in it. I believe it works.

Q It works at least for the most part?

A Yes.

Q Fairest one you are aware of?

A Yes.

Q What about the death penalty? Do you think it serves a purpose in the system?

A I don't believe it serves its purpose. I do believe it's necessary, yeah.

Q So it serves a purpose?

A Yes.

Q But maybe not its purpose?

A Maybe not a hundred percent of the time, but I think -- I guess you could say sometimes it does, sometimes it does not.

Q Okay. So it sounds to me like you don't believe that it really is a deterrent.

A Not necessarily. Just based on the history of the death penalty and how it's been used for years and when it's been executed.

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Everybody okay to go for about a half hour and be done?

I will let all these people go. Do you need a break or do you want to go for a half hour?

(Affirmative response.)

THE COURT: Go ahead, Miss Luzaich.

I don't know what they said, but I hope they said don't ask a lot of questions.

MS. WECKERLY: I'm a lawyer. I have to.

BY MS. WECKERLY:

Q I do believe, other than me, you are the only one that speaks as fast as the judge.

I missed it. Did you say you are an accounting manager?

A I am an accounting manager, yes.

Q So I need my taxes done, I go to you?

A No, not necessarily. No. I work for a car rental.

Q So you work for a rental car company and you do their books?

A I work in the industry, yes.

Q So you are quite a detail oriented kind of guy?

A Yes, sir.

Q Does that translate to the rest of your life as well?

A Oh, yes.

Q Do you keep track of every penny you've ever spent, like

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Q But you believe, it sounds like, that there could be circumstances where it is the appropriate penalty?

A Yes, I do believe that if -- I do believe that if it's necessary, it should be used, yes.

Q Okay. And is it something that you could vote to impose?

A Yes.

Q So you would consider all four penalty options if it were to get that far?

A Yes.

Q Okay. Do you think that people should be held accountable for their actions?

A Yes.

Q And do you think that this is a good way to do it, a jury of your peers, 12 people decide whether or not it's been proven?

A Yes.

Q Do you think that you are a fair and open minded person?

A Yeah, I believe I do.

Q Do you have common sense?

A Yes.

Q You wouldn't leave it outside just because there is a judge and a flag up here?

A No, absolutely not. I would not.

Q You would listen to absolutely everything you hear from the witness stand before making up your mind?

A Absolutely.

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1 Q And if you were the State of Nevada, would you want you
2 as a juror?

3 A Yes.

4 MS. WECKERLY: Pass for cause.

5 THE COURT: Questions.

6 MR. PIKE: Thanks.

7 BY MR. PIKE:

8 Q Okay. Mr. Novotny, you said that it is a good system and
9 one that works.

10 A Uh-huh.

11 Q For it to work, do you think that the -- all the parties
12 in it have to do their jobs? The prosecution has to do their job;
13 we have to do our job, which under the statutes is to show up?

14 A Right.

15 Q Okay. Presumption of innocence.

16 We don't have to ask any questions. There could be ten
17 witnesses came up there and we don't have to ask them a question.

18 A Correct.

19 Q However, you are going to expect me to do that, and
20 Mr. Patrick, because that's what we do, we ask questions.

21 A Correct.

22 Q And for it to work, will you hold the professionals that
23 are involved in this, the detectives and the investigators, to do
24 their job?

25 A Of course.

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1 Q And if they don't do their job and if you don't have the
2 evidence necessary, then you will do your job as a juror and find
3 Norman Keith Flowers not guilty?

4 A Yes.

5 Q On the other hand, if they haven't done their job, but
6 you still find that there is sufficient evidence for reasonable
7 doubt, but there were mistakes, there was sloppy work, there was
8 something like that, would you take that into consideration to
9 determine whether or not this is the case in which the death
10 penalty should be imposed?

11 THE COURT: No, you can't ask that question, because you
12 can't -- you cannot consider residual doubt in determining the
13 death penalty.

14 I'll sustain my own objection.

15 MR. PIKE: May I overrule it? I guess not.

16 THE COURT: No.

17 BY MR. PIKE:

18 Q So you will take your experience and your desire for
19 details to fill in the details and you will expect it to be done
20 in this case?

21 A Correct.

22 MR. PIKE: Nothing further.

23 THE COURT: State may exercise or waive it's seventh of
24 nine.

25 MS. WECKERLY: We'll waive it.

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1 THE COURT: The defense may exercise or waive their
2 seventh of nine.

3 MR. PIKE: Court's indulgence.

4 The defense would thank and excuse Juror Number 12.

5 THE COURT: What is the name?

6 MR. PIKE: Miss Ergina.

7 THE COURT: Miss Ergina, you are excused. Please report
8 back to the jury commissioner. We will see if they can find you
9 another case to work on.

10

11 (Juror excused.)

12

13 THE COURT: Miss Clerk.

14 THE CLERK: Barbara Helton.

15

16 EXAMINATION

17 BY THE COURT:

18 Q Good afternoon, Miss Helton.

19 How long have you lived in town?

20 A Six and a half years.

21 Q Speak up. You have a soft voice.

22 A Six and a half years.

23 Q Would do you do for a living?

24 A Retail.

25 Q Are you married?

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1 A Yes.

2 Q What does your husband do?

3 A Retired.

4 Q From what line of work generally?

5 A He just did a lot of different things.

6 Q Okay. Have you ever served as a juror before?

7 A No.

8 Q Have you ever been charged with or been the victim of a
9 serious offense that could affect your objectivity?

10 A No.

11 Q Any reason you couldn't be fair?

12 A No.

13 Q Could you impose all of the four penalties in the
14 appropriate case, not knowing, of course, where this falls along
15 the scope?

16 A I think I can.

17 THE COURT: State.

18 BY MS. WECKERLY:

19 Q Good afternoon. Where did you come here from?

20 A I moved here from Idaho.

21 Q And you've been out here about six years you said?

22 A Yes.

23 Q And can you tell us what business you work for? I know
24 you said you work for retail.

25 A I'm still in retail. I've been in retail.

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1 Q Okay.
 2 A Same company.
 3 Q Are you like a buyer or --
 4 A No. I'm in charge of departments.
 5 Q And you sat here with us for a few hours now?
 6 A Yes.
 7 Q Do you have any concerns about your ability to be a fair
 8 and impartial juror?
 9 A No. I believe I could be fair.
 10 Q Okay. Have you ever considered, in your life experience,
 11 whether or not you think the death penalty serves a purpose in our
 12 criminal justice system?
 13 A I try to have an open mind about everything. I believe
 14 there is times when it's appropriate.
 15 Q On the flip side of that, there is a case, I assume, even
 16 in a case of a first degree murder where it might not be?
 17 A Correct.
 18 Q And you can wait until you hear all the information
 19 before you make a decision?
 20 A Absolutely.
 21 MS. WECKERLY: Thank you, ma'am.
 22 Pass for cause, Your Honor.
 23 THE COURT: Questions?
 24 BY MR. PATRICK:
 25 Q Good afternoon, ma'am. How are you doing?

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1 A Fine.
 2 Q It's been a long day?
 3 A Yes.
 4 Q We're all tired. I promise I won't take any longer than
 5 a half an hour with this. Okay?
 6 THE COURT: I promise he won't take longer than five
 7 minutes.
 8 BY MR. PATRICK:
 9 Q You mentioned that you were in charge of some departments
 10 in the retail store?
 11 A Yes.
 12 Q And so then you would be in charge of the people in those
 13 departments?
 14 A People that were with me, yes.
 15 Q Is it part of your responsibilities to resolve disputes
 16 and hand out discipline?
 17 A Hire, fire.
 18 Q Okay. When you do that, when you are handing out
 19 discipline to two employees, you give the same discipline for the
 20 same infraction, rather than different disciplines just because of
 21 who they are?
 22 A It would be the same. I have two daughters, the same
 23 age, and everything has to be the same.
 24 Q So you want to listen to both sides of the story before
 25 you make your decision?

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1 A Yes.
 2 Q And you would do that for Norman this week?
 3 A Yes.
 4 Q We've asked several questions over and over and several
 5 new questions.
 6 Any of the questions you've heard today that you would
 7 like to address?
 8 A No, no.
 9 Q If you were sitting at either one of these tables and had
 10 to pick a jury, would you want you on the jury?
 11 A I would want me, yes.
 12 MR. PATRICK: Thank you. Judge, we'll pass.
 13 THE COURT: The State may exercise or waive its next to
 14 last.
 15 MS. WECKERLY: We'll waive, Your Honor.
 16 THE COURT: The defense may exercise or waive its next to
 17 last.
 18 MR. PIKE: We'll waive, Your Honor.
 19 THE COURT: The State may exercise or waive its last.
 20 MS. WECKERLY: Court's indulgence.
 21 We'll waive it, Your Honor.
 22 THE COURT: The defense may exercise or waive its last.
 23 MR. PIKE: Court's indulgence.
 24 MR. PATRICK: Court's indulgence.
 25 MR. PIKE: Waive.

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1 THE COURT: Okay. All right. Ladies and gentlemen,
 2 that's the process. That's how we get a jury that we make sure
 3 both sides are comfortable with. We have our jury.
 4 Obviously, it takes a lot of folks and, particularly, in
 5 capital cases, you never really know whether you are going to have
 6 five percent of the people or 25 percent of the people that have
 7 strong feelings one way or the other way on a penalty so we need
 8 to have quite a large group.
 9 For those of you in the audience that just were -- your
 10 number was towards the end of the line and we didn't pick you, you
 11 go back down to the jury room. I'm guessing they'll probably call
 12 it a day. They could mix you up with some other jurors to send
 13 you out, but I'm guessing they've probably filled everything
 14 today. And they don't make you come back tomorrow, so they'll
 15 probably let you go home, but they could put you on another trial.
 16 Go down there and tell them you were here and you've been
 17 excused and ask them what to do. Thanks very much for your
 18 patience. Appreciate your service today.
 19 Okay. Here's what we're going to do. It's getting --
 20 it's been a couple hours we were here. We're going to take a
 21 quick restroom break and then we're going to come back and I'm
 22 going to give you about 15 minutes worth of pointers about how
 23 we're going to do this and then we'll pick up tomorrow.
 24 The reason for that is one of my responsibilities is to
 25 time manage the case. They have to know exactly when to have the

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1 first witness here, when to have the second witness here.

2 So, in this case, I allowed one day for jury selection;
3 could have been done at 3:45, like it will be, or it could have
4 been like 6:45 tonight. But then, depending how slow it went, we
5 were going to go until that was done so they knew tomorrow they
6 would do their opening statements.

7 So we'll take a recess until about 3:25 and then come
8 back and we'll work for about 15 minutes, just giving you some
9 general overview of what to expect and what is to happen tomorrow,
10 and then we'll call it a day.

11 Don't talk about the case with each other or anybody
12 else. Please don't read, watch or listen to any report by TV,
13 Internet, radio or newspaper. And don't form or express an
14 opinion on the case until it's submitted to you.

15 Okay. We'll take a quick recess so you can run to the
16 restroom, come back, and I'll just give you a few pointers.

17
18 (Recess in proceedings.)

19
20 THE COURT: Let's go back on the record in Case Number
21 C228755, State of Nevada versus Norman Flowers.

22 Let the record reflect the presence of Mr. Flowers, with
23 his counsel, counsel for the State. All ladies and gentlemen of
24 the jury are back in the box.

25 Well, ladies and gentlemen, thanks for your

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1 pleas, you know, requests for attorney's fees, motions to dismiss,
2 writs, things that people need decisions on that lawyers come in
3 and argue. We do that between eight and 9:30 or so and then we
4 retool and start our jury trial at 9:30, go to noon, take a lunch
5 break, pick up at one, go two hours, take an afternoon restroom
6 break, go for a couple hours, go to about five or 5:30; find a
7 natural break, not before five, but not later than 5:45 or so.

8 The only exception would be if things are going a little
9 fast or if things are going a little slow, you know, things are
10 going well and we get to where we thought we would be and it's
11 only 4:45, so be it. That's fine. If things are going a little
12 slow, we might have to go through to 6:15. Because one of my
13 responsibilities is to time manage this case. We will be done
14 with this case either next Thursday or Friday -- I don't know
15 which -- and that's assuming the penalty hearing. If the
16 defendant is found not guilty, you will be done Monday or Tuesday.

17 But I have to plan the next trial, and the next trial I
18 got is starting a week from Monday.

19 So I guarantee you we will be done as I said. I've done
20 hundreds and hundreds of these over a lot of years. I've never
21 missed one on the time.

22 When you come in tomorrow, next to your seat, there will
23 be a clip board with a pad and a pen. We give you that because
24 you are entitled to take notes.

25 You can take those notes with you to the jury room, so

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1 participation.

2 Here's the way this is going to work: First of all, this
3 is not my courtroom. My courtroom is right next door.

4 We borrowed this courtroom today because we needed to
5 start with somewhere around a hundred people to get through the
6 process in a case like this and get down to the 14.

7 Our courtroom only holds about 40 or 50. On each floor,
8 there is one big courtroom like this and it's all on the north end
9 here, so whenever you have a case that's going to involve a lot of
10 people, you swap for the day or you swap for as long as it's going
11 to take to have all those people in.

12 Judge Johnson, whose courtroom this is, is going to swap
13 back with me for the rest of the time. So starting tomorrow and
14 for the duration, we'll be next door. That's 15-C and it is
15 opposite of this courtroom. Okay. The jury box, as you come in
16 the front door, is on this side.

17 So the way it works is just imagine we rotate this whole
18 thing 180 degrees. Mr. Murray, you will be in the back row, right
19 up here in the front corner; and the same thing, you will be in
20 the front row right up in the front corner. You guys will just
21 rotate the whole thing 180 degrees and those will be your seats.

22 And the reason you have to sit in the same seats is
23 that's how the clerk keeps track of everybody is by seat numbers.

24 We'll start at 9:30. We start at 9:30, because, as I
25 told you, every morning, I have 20 to 50 sentencings of people,

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1 you may want to write down something someone said or maybe a
2 question you want to ask a fellow juror. You will have those
3 available to you.

4 You will also have for your use a hard red badge that
5 identifies you as an actual juror in Department VII.

6 We have you take these off today, throw them away or do
7 whatever, but when you come in tomorrow, wear that when you are in
8 the building.

9 There are a number of reasons for that, but the most
10 important is if you are out to lunch or out on a break and people
11 see you are actually a juror in Department VII, as opposed to a
12 potential juror somewhere, you may have a witness or an
13 investigator who is working on this case, they will be sensitive
14 not to talk about the case outside, in your presence.

15 Which brings me to the next thing and that is this:
16 Whenever people make important decisions, it's always good to be
17 as informed as one can be. We always want to do that when we make
18 any kind of informed decisions we make in life.

19 That said, it is against the rules of the court for
20 anybody, as a juror, to do independent investigation. In other
21 words, it would be against the rules if, tonight or tomorrow
22 night, when you found out some facts, you try to go to the scene
23 and look at it or you got on the Internet and looked things up.
24 That would be against the rules.

25 And if a juror did that and it came to the Court's

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1 attention, it's a do over. It voids the trial and you have to do
2 everything over, which is very expensive and very unfair to
3 everybody else.

4 So that is generally a good proposition; it's not
5 allowable. Just come to court, pay attention, listen to the
6 witnesses, look at the evidence and make your decision, please.

7 Wear comfortable clothes. There is no real dress code;
8 just be comfortable because usually it amounts to a long day.

9 During the course of the trial, as I told you before,
10 nobody that participates in the trial is allowed to talk to jurors
11 one-on-one for obvious reasons. We don't want somebody to
12 misinterpret when the lawyer says good morning that we're trying
13 to curry favor with the jury.

14 So anything you think you need, in terms of interaction,
15 you do it through Officer Mullin.

16 This is a criminal trial. It is commenced by the filing
17 of a document called an Indictment or -- I think we now have an
18 amended Indictment.

19 An Indictment is the name that we give to a piece of
20 paper that contains charges. There is no evidence whatsoever of
21 the guilt of the defendant.

22 In fact, as you have heard time and time again this
23 morning, this defendant, today, tomorrow, the next day, throughout
24 the entire trial, is entitled to the presumption of innocence.
25 It's a constitutional right. We all enjoy it and it's part of the

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1 fundamentals that make the process work.

2 Just so you will have an idea of what the charges are,
3 the clerk is going to read to you the Indictment. You don't have
4 to worry about taking notes or remember it tomorrow or anything,
5 because when all the evidence is in, as I said, I'm going to give
6 you all the instructions on the law that apply to any spin you
7 might put on the facts of this case.

8 In every criminal trial, there is always a verbatim copy
9 of the Indictment, generally, so you can know what's going on.
10 The clerk will read it to you now.

11 Miss Clerk.

12 THE CLERK: District Court, Clark County, Nevada; State
13 of Nevada, Plaintiff, versus Norman Keith Flowers, Defendant; Case
14 Number C228755, Department VII.

15 Amended Indictment: State of Nevada, County of Clark;
16 the defendant above named, Norman Keith Flowers, accused by the
17 Clark County Grand Jury of the crimes of burglary, felony, NRS
18 205.060, murder, felony, NRS 200.010 and 200.030, sexual assault,
19 felony, NRS 200.364 and 200.366, and robbery, felony, NRS 200.380,
20 committed at and within the County of Clark, State of Nevada, on
21 or about the 24th day of March, 2005, as follows:

22 Count I, burglary, did then and there, willfully,
23 unlawfully and feloniously, enter with intent to commit assault or
24 battery and/or a felony, to wit, murder and/or robbery and/or
25 sexual assault that certain building occupied by Sheila Quarrels,

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1 located at 101 -- 1001 North Pecos, Number H-63, Las Vegas, Clark
2 County, Nevada;

3 Count II, murder, did, then and there, willfully,
4 unlawfully and feloniously, without authority of law and with
5 malice aforethought kill Sheila Quarles, a human being, by manual
6 strangulation and/or drowning with his hands and/or an unknown
7 object, said killing having been, one, willful, deliberate and
8 premeditated, and/or, two, committed during the perpetration or
9 attempted perpetration of sexual assault, as set forth in
10 Count III and IV, and/or burglary as set forth in Count I, and/or
11 robbery, as set forth in Count IV, said acts being incorporated
12 herein by the references that are fully set forth;

13 Count III, sexual assault, did, then and there,
14 willfully, unlawfully and feloniously, sexually assault Sheila
15 Quarles, a female person, to sexual penetration, to wit, sexual
16 intercourse by the said defendant placing his penis and/or an
17 unknown object into the genital opening of the said Sheila
18 Quarrels against her will;

19 Count IV, robbery, did, then and there, willfully,
20 unlawfully and feloniously take personal property, to wit, a
21 stereo and speakers, cell phone and/or other personal property
22 from the person of Sheila Quarrels, or in her presence, by means
23 of force or violence or fear of injury to and without the consent
24 and against the will of the said Sheila Quarles.

25 Dated this 15th day of October, 2008; signed David Roger,

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1 District Attorney; signed by Pamela Weckerly, chief deputy
2 District Attorney.

3 To which the defendant has entered pleas of not guilty.

4 THE COURT: Okay. Thanks.

5 All right. Now, I kind of told you the time schedule.

6 The way the trial goes procedurally is this:

7 The first thing you are going hear tomorrow is the
8 opening statement from the State.

9 An opening statement is not evidence. It is a framework
10 to hopefully help you understand the evidence.

11 I liken it to the picture on the outside of a jigsaw
12 puzzle box; pick up the jigsaw piece and look at it, it looks like
13 jibberish, but if you notice that it's mostly red and the only red
14 on the box is the upper right-hand corner, it kind of goes up
15 here. That's the idea.

16 You are going to hear evidence, a piece here, a bit
17 there, a drip and a drap, and so you are not saying, well, what
18 does that mean and you are left in a fog, the State kind of tries
19 to give you an outline of the big picture, so when you hear a
20 piece of evidence or see a piece of evidence, you kind of say,
21 okay, I see what they're thinking, that makes sense, and you can
22 pigeon hole it and it makes a little more sense to you.

23 Then the defense has three options: The defense can make
24 an opening statement as to what they believe the evidence will or
25 will not show; or they can wait until the State has put on all

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1 their witnesses to make an opening statement; or they can just
2 waive their opening statement. That's just a strategic decision
3 Mr. Pike and Mr. Patrick will have to make.

4 After we've heard the opening statement or statements,
5 then the State calls their witnesses.

6 As you've heard, many of the witnesses that one side or
7 the other may call are the same. My rule is we bring them on
8 once, so if this is a witness you want to use a little bit, I'll
9 let you go beyond direct a little bit to get your stuff in. I
10 don't want to bring them back two or three times, the same
11 witness.

12 So just by definition, because the State has the burden
13 of proof, the majority of the witnesses are going to come in in
14 the State's case. It may be that all the witnesses come in in the
15 State's case.

16 As you heard, the defense has no obligation to call
17 witnesses and the defendant has no obligation to testify.

18 The truth is, under our system, if Mr. Patrick and
19 Mr. Pike want to play gin for the next three days, that would be
20 their right. It is not what they are going to do, but they could.
21 And if you didn't believe the State had proven their case beyond a
22 reasonable doubt, the defendant would be entitled to a verdict of
23 not guilty.

24 After all the testimony is in, I'll give you the
25 instructions of law that applies to this case. It takes about 20

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1 minutes to read them. I've already got them tentatively worked
2 out based just upon the charges.

3 I say tentatively because I don't know what the evidence
4 is much more than you do. All I know is the charges. And so I
5 work on them as I go along and adjust them, so that when the time
6 gets there, we don't a big period while I get my work done. I
7 will have them ready so we can get to it.

8 Then you hear closing argument or final argument or
9 summation. It is the mirror image or the opposite of opening
10 statement. It is what each side believes the evidence did show
11 and when you apply it to the law, that I've already given you by
12 that time, how it sums up their position.

13 Because the State has the burden of proof, they go first
14 and last. So we'll hear from one member of the State, hear from
15 one member of the defense, and then from one member of the State
16 and then the case will be submitted to you.

17 As I told you, until the case is submitted to you, you
18 are not allowed to talk about it with each other or anybody else.

19 Why do we have such a rule?

20 Well, the theory behind that rule is when people talk
21 about things with each other, let's say, you tend to cement in
22 your mind ideas without having heard all the evidence. That's the
23 theory behind the rule.

24 The theory behind the rule of not talking about it to
25 your spouse or your next door neighbor is they don't know what's

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1 going on; they're not here; they don't see the witnesses. You may
2 take in information that you're really not allowed to take in.
3 You are allowed to take in only the information here in the
4 courtroom.

5 So until the trial is over and the decision is made, you
6 can say to your spouse I'm on a murder trial, sexual assault; it's
7 going to last until next Friday. I really am not allowed to tell
8 you any details, but when it's all done, the trial, I'll be glad
9 to discuss it with you and tell you how it went. That is it.

10 Please, please obey that rule. Again, if that rule is
11 violated, it's a do over, very expensive, very difficult.

12 Don't read, watch or listen to any report on TV, the
13 Internet, newspaper or radio.

14 Again, don't go out looking for any report because the
15 news doesn't always get it right. I haven't seen anybody in the
16 news in here today. If I see somebody, I will alert you. I'll
17 say, oh, the Review Journal guy or the Channel 3 guy was in here
18 today, so there may be something on, and, you know, avoid it.

19 I don't think -- you don't have to not read the paper,
20 you know, but if you see a headline you can tell is this case,
21 just put it aside; don't read it. After the trial is over,
22 sometimes it's interesting to read it and see if they saw the same
23 trial you did, because sometimes they do and sometimes they don't.

24 We will have in our courtroom -- it's backwards, but at
25 this end, which is still this end, there will be a pitcher with

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1 some water in it. You are certainly welcome to help yourself any
2 time. Even when things are going on, if you want to quietly go
3 get a glass of water or something, that's yours.

4 If you want to bring a bottle of water or a small soda or
5 something into the courtroom, just to keep your mouth from getting
6 dry, as long as you are subtle about it, that's perfectly fine.

7 If you can't see or hear something during the trial, say
8 Judge, I can't see or I can't hear, would they speak up. We'll be
9 glad to do that. We want to have you see and hear everything.

10 Finally, for the last three years, the Supreme Court has
11 allowed jurors to ask questions. Up until three years ago, jurors
12 didn't participate in the process except to make the decision,
13 which, of course, is the ultimate participation.

14 But they've allowed jurors to ask questions; and, in
15 theory, it's an experimental program. They're going to ask us,
16 the trial judges, at some time, how the program is going. They
17 haven't asked yet.

18 And the way the process goes is this: If you think that
19 there is a question that needs to be asked, that one of the
20 lawyers hasn't asked while a witness is still on the stand -- the
21 stand will actually be over here in our courtroom, because they
22 put the stand right in front of the jury so they can see and hear
23 the witnesses -- get Officer Moon's attention. You will have a
24 pad; just tear a full sheet of paper out of your pad, put your
25 juror number and the question. Forget those old numbers.

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1 Now, number two, Mr. Murray, and we go down through seven
 2 Mr. Pierson; and Miss Helton, you are eight and Mr. Stablein, you
 3 would be 14. So you figure out your number.
 4 So right here, Juror Number 8: What color is the cat?
 5 You give that to Officer Moon. He'll give it to me.
 6 Now, set that aside.
 7 Jury trials are conducted under rules and they are good
 8 rules. They are rules not designed to keep things from jurors,
 9 but designed to keep the playing field level, make sure both sides
 10 have a fair opportunity to have their position considered.
 11 My job is simply the enforcer of the rules. I'm the home
 12 plate umpire and you are the official scorekeepers as it were.
 13 I could care less what the verdict is. All I want is to
 14 make sure that the rules are fairly enforced and the playing field
 15 is staying level and I time manage the case and I meet my promise
 16 to you and accommodate the next case.
 17 So during the course of the trial, you may hear a lawyer
 18 say: Objection or I object, Your Honor.
 19 What they're saying, is, Judge, under the rules, you
 20 can't ask a question that way or that's not a fair piece of
 21 evidence and I rule.
 22 Back here, you give me a question. If it's an allowable
 23 question under the rules -- and we don't expect you to know the
 24 rules, of course -- I'll ask the question, deem the answer the
 25 same as if one of the lawyers asked the question.

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1 If it's not allowable under the rules, no big deal. I'll
 2 set it aside. Don't give it another thought.
 3 After the trial is all done and the verdict is in, I'll
 4 take any of these questions that were asked and I'll tell you what
 5 the rule is and I'll tell you why that rule really does keep the
 6 playing field level. Because, sometimes, there is some questions
 7 that make perfect sense and would be information that would
 8 seemingly make sense to a decision and yet there is a rule why
 9 that question can't be asked, because it does tend to keep the
 10 playing field on an uneven keel and that's not allowed.
 11 So I'll explain it to you. I've never had a juror not
 12 say: Oh, yeah, that makes sense. I understand why we have that
 13 rule. So that's kind of the way it works.
 14 Again, 9:30 to 12, one to three, 3:15 to 5:00.
 15 With that said, if at any time during that time, somebody
 16 needs a break, they need to use the restroom or whatever, just say
 17 Judge, can we have five minutes. You may have to call home or
 18 anything can happen. No big deal. You know, if you know that
 19 we're going to break at noon, you may not need a break at 11:45.
 20 But if at 11:15 -- this includes the lawyers, it includes
 21 everybody -- just say: Judge, five minute break. We'll take it.
 22 It won't elongate the trial at all.
 23 I that is pretty much it.
 24 One last thing: The elevators here are not good. I
 25 don't know what it is, a relatively new building, the elevators

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1 don't quite accommodate well, particularly in the morning.
 2 In the evening and when there is not so many lawyers and
 3 litigants coming in early, they're pretty good, but in the
 4 morning, you want to give yourself a little extra time because we
 5 can't start until every single one of us is here ready to go.
 6 So if somebody is holding us up, we're holding up a lot
 7 of folks. In the evening like now, you won't have any problem
 8 getting into the elevators.
 9 Okay. Last, but not least, as the clerk reminded me,
 10 your jury service is done under oath. It's a little different
 11 than the oath that we give you for the voir dire process.
 12 The voir dire process is basically you promise to tell
 13 the truth about these questions.
 14 The jury service oath is basically that you'll pay
 15 attention here in court and you will follow the law of the State
 16 of Nevada.
 17 So if you will stand and raise your right hand, we will
 18 give you the oath and we will let you go home.
 19
 20 (Jury panel sworn.)
 21
 22 THE COURT: Okay. Don't talk about the case with each
 23 other or anyone else. Don't read, watch or listen to any report
 24 about the case by any means of information; don't form or express
 25 any opinion on the case.

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1 Have a nice night. See you tomorrow at 9:30 sharp.
 2
 3 (The following proceedings were had in open
 4 court outside the presence of the jury panel:)
 5 THE COURT: The record should reflect the jury has
 6 exited. Let me admonish the defendant and I will make a record on
 7 a couple of things.
 8 Mr. Flowers, do you understand the under the Constitution
 9 of the United States and the Constitution of the State of Nevada,
 10 you cannot be compelled to testify? Do you understand that?
 11 THE DEFENDANT: Yes.
 12 THE COURT: Do you understand that if you want, you can
 13 give up that right and take the stand and testify, but if you do,
 14 you would be subject to cross-examination by the State. Anything
 15 that you say on direct or cross-examination would be subject to
 16 comment by any of the attorneys in final argument.
 17 THE DEFENDANT: Yes.
 18 THE COURT: Do you understand that?
 19 If you choose not to testify, I will not allow the
 20 District Attorney to make any comment about the fact that you have
 21 not testified.
 22 In other words, they can't say: Ladies and gentlemen,
 23 after all this evidence, what did he say? He said nothing. They
 24 can't do that. That's illegal.
 25 Do you understand that?

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