

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

2
3 LUIS PIMENTEL,)

No. 68710

4 Appellant,)

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Tracie K. Lindeman
Clerk of Supreme Court

5 v.)

6)

7 THE STATE OF NEVADA,)

8 Respondent.)

9)

10 **APPELLANT'S APPENDIX VOLUME VI PAGES 1251-1500**

11 PHILIP J. KOHN
12 Clark County Public Defender
13 309 South Third Street
14 Las Vegas, Nevada 89155-2610

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

15 Attorney for Appellant

ADAM LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

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1 I mean just trying to keep fights from breaking out.

2 MR. SLIFE: Okay. Did he -- did he have any special
3 training that you know of?

4 PROSPECTIVE JUROR NO. 388: Not that I'm aware of.
5 I mean besides he works out with all the guys. I mean he --
6 he's a big guy so I mean people were very intimidated by him.

7 MR. SLIFE: Sure. Maybe that prevented all the
8 fights then.

9 PROSPECTIVE JUROR NO. 388: Yeah.

10 MR. SLIFE: Do you know if he was the armed
11 security?

12 PROSPECTIVE JUROR NO. 388: No.

13 MR. SLIFE: Okay. And just -- just my last thing
14 for you would just be, you had -- you've had a lot of people
15 that you know in the military.

16 PROSPECTIVE JUROR NO. 388: Yes.

17 MR. SLIFE: Any thoughts on PTSD based on other
18 questions that we've already asked? Do --

19 PROSPECTIVE JUROR NO. 388: You know, I believe in
20 it but I believe people act in different ways with it. And
21 once again, I believe some people really do have it and some
22 people act like they have it or they want to get it or, you
23 know.

24 MR. SLIFE: Absolutely.

25 PROSPECTIVE JUROR NO. 388: Yeah.

1 MR. SLIFE: So if there's testimony about PTSD in
2 this trial you would be open to it.

3 PROSPECTIVE JUROR NO. 388: Yes.

4 MR. SLIFE: Okay. Thank you very much. I'll pass
5 for cause, Your Honor.

6 THE COURT: Thank you. And I need you to hand the
7 microphone to the Marshal and he'll take it down to Billie
8 McFadden. And Ms. McFadden, you're badge number 433.

9 PROSPECTIVE JUROR NO. 433: Yes.

10 THE COURT: All right. Tell us about yourself.

11 PROSPECTIVE JUROR NO. 433: I'm a single
12 quote/unquote mother of two dogs and I live with my elderly
13 uncle and help him with his house since my aunt passed away.
14 I was born and raised here and moved to Hawaii in my early 20s
15 to attend the University of Life and moved back four years ago
16 when my sisters and friends all started having kids. My whole
17 family's here in Las Vegas.

18 THE COURT: All right.

19 PROSPECTIVE JUROR NO. 433: I do a variety of things
20 for work; child care, care for elderly, massage therapy,
21 housecleaning, organizing, handyman work.

22 THE COURT: Okay. So you spent a couple decades in
23 Hawaii then?

24 PROSPECTIVE JUROR NO. 433: Twelve years.

25 THE COURT: Twelve years, okay. And what did you do

1 while you were there?

2 PROSPECTIVE JUROR NO. 433: I started out working at
3 resorts waitressing and ended up attending massage school and
4 then did massage therapy and surf lessons and --

5 THE COURT: So just kind of catering to people that
6 go to Hawaii on vacation?

7 PROSPECTIVE JUROR NO. 433: Yeah, yeah.

8 THE COURT: So did you -- when you say massage
9 therapy, did you work for any physical therapists or doctors?

10 PROSPECTIVE JUROR NO. 433: No, I was independent.

11 THE COURT: So someone would say I -- I'd like a
12 massage and you'd what, they'd come to you or would you go to
13 them?

14 PROSPECTIVE JUROR NO. 433: I would take my table to
15 their house or beach or a park.

16 THE COURT: So what brought you back to Las Vegas?

17 PROSPECTIVE JUROR NO. 433: All my sisters and
18 friends started having kids at the same time and I really
19 wanted to be a big part of their lives, not a distant part.

20 THE COURT: So you -- you mentioned some of the
21 things that you do to make a living. Are you doing all those
22 simultaneously?

23 PROSPECTIVE JUROR NO. 433: Yes.

24 THE COURT: So are you certified to be a massage
25 therapist here in Nevada? Do you have to have a license for

1 that?

2 PROSPECTIVE JUROR NO. 433: Yeah. I do it for
3 donation and I have a huge network of friends and family. So
4 I don't -- I don't market myself.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 433: That's physically
7 demanding so I cannot -- or I will not do it full time and
8 wreck my body.

9 THE COURT: Do you have any disabilities or anything
10 that you're concerned as far as -- or is it just in general
11 that you are concerned that being a massage therapist is hard
12 on your body?

13 PROSPECTIVE JUROR NO. 433: A rotator cuff problems
14 that come and go.

15 THE COURT: And what type of handyman work do you
16 do?

17 PROSPECTIVE JUROR NO. 433: My dad and my uncle both
18 do high end homes, remodels, repairs and hanging art, moving
19 furniture, things like that that I help out with and learn new
20 trades.

21 THE COURT: And you said you live with your elderly
22 uncle?

23 PROSPECTIVE JUROR NO. 433: Yes.

24 THE COURT: Okay. In his house?

25 PROSPECTIVE JUROR NO. 433: Yes.

1 THE COURT: Do you have to care for him? In other
2 words, you talked about elder care, is he one of your --

3 PROSPECTIVE JUROR NO. 433: Yeah, I have to make
4 sure he takes his vitamins -- no, he's -- he's fairly
5 self-sufficient. It's a -- since -- another part of the
6 reason I moved back here was my aunt, his partner had passed
7 away and I -- and so I moved back to help him with the house
8 and the bills and the timing was right for family.

9 THE COURT: And when was that that you moved back, I
10 can't remember?

11 PROSPECTIVE JUROR NO. 433: Four years ago.

12 THE COURT: Four years. And you moved in with them
13 at that time and you're still there?

14 PROSPECTIVE JUROR NO. 433: Uh-huh.

15 THE COURT: Okay. Any reason that you can think of
16 that you could not be fair and impartial in this case?

17 PROSPECTIVE JUROR NO. 433: No. I haven't heard the
18 death penalty mentioned, I'm --

19 THE COURT: It's because it's --

20 PROSPECTIVE JUROR NO. 433: -- strongly against --

21 THE COURT: -- it's not an option in this case so --

22 PROSPECTIVE JUROR NO. 433: Okay. I'd -- that would
23 be the only thing that I could think of.

24 THE COURT: Could you consider the other penalties,
25 each one of them?

1 PROSPECTIVE JUROR NO. 433: Yes, yeah.

2 THE COURT: Would the State like to inquire further?

3 MS. DIGIACOMO: Yes, thank you, Your Honor. All
4 right. Do you watch any of the CSI, law shows?

5 PROSPECTIVE JUROR NO. 433: No, I don't watch TV.

6 MS. DIGIACOMO: You don't watch any TV?

7 PROSPECTIVE JUROR NO. 433: No.

8 MS. DIGIACOMO: Do you read?

9 PROSPECTIVE JUROR NO. 433: I watch Ted Talks on my
10 phone.

11 MS. DIGIACOMO: What is it?

12 PROSPECTIVE JUROR NO. 433: Ted Talks.

13 Technology --

14 MS. DIGIACOMO: Oh, okay, Tech Talks, got you. I
15 thought you were saying Ted Talks. I'm like I don't know
16 that --

17 PROSPECTIVE JUROR NO. 433: It is Ted.

18 MS. DIGIACOMO: Oh, it is?

19 PROSPECTIVE JUROR NO. 433: Yeah, Technology
20 Education and Development.

21 MS. DIGIACOMO: Oh, okay. And -- all right. And
22 then anyone in your family been in the military?

23 PROSPECTIVE JUROR NO. 433: My brother-in-law was
24 for a short period.

25 MS. DIGIACOMO: Is that the one that's in Metro now?

1 PROSPECTIVE JUROR NO. 433: Yes.

2 MS. DIGIACOMO: Okay. And anyone else?

3 PROSPECTIVE JUROR NO. 433: My grandfather who I
4 didn't know --

5 MS. DIGIACOMO: Okay.

6 PROSPECTIVE JUROR NO. 433: -- he passed away when I
7 was young.

8 MS. DIGIACOMO: And other than what you already
9 talked about yesterday, have you been the victim of any crime;
10 car broken into, a house, a purse stolen?

11 PROSPECTIVE JUROR NO. 433: Just small things stolen
12 and -- from my car once, from my house once.

13 MS. DIGIACOMO: Did you -- did you report those?

14 PROSPECTIVE JUROR NO. 433: No.

15 MS. DIGIACOMO: Okay. So you can't -- you don't
16 have an opinion about the police and satisfied, dissatisfied?

17 PROSPECTIVE JUROR NO. 433: No.

18 MS. DIGIACOMO: Do you have any strong feelings one
19 way or the other about the police? Or had any good
20 encounters, bad encounters?

21 PROSPECTIVE JUROR NO. 433: I've had a good
22 encounter and a bad encounter so I think it's just person by
23 person. It just depends on the person.

24 MS. DIGIACOMO: Right. And so nothing about those
25 experiences that would keep you from being fair and impartial

1 in this case?

2 PROSPECTIVE JUROR NO. 433: No.

3 MS. DIGIACOMO: What about -- you said with regard
4 to penalties, as long as this is not a death penalty case, so
5 can you consider the other three? The term of years, life
6 with patrol and life without patrol and make a decision?

7 PROSPECTIVE JUROR NO. 433: Absolutely.

8 MS. DIGIACOMO: And do you have any opinions, strong
9 opinions one way or another for -- regarding drug use?

10 PROSPECTIVE JUROR NO. 433: No, I've seen both
11 sides. I've seen people that I love and care about who I know
12 were good people who did drugs and didn't do anything wrong
13 per se as far as criminal activity. And I've also seen drug
14 use destroy lives and cause people to make bad decisions. So
15 I don't have a strong opinion one way or another.

16 MS. DIGIACOMO: Okay. So you can keep an open mind
17 if you -- if you hear that here and judge the facts of this
18 case --

19 PROSPECTIVE JUROR NO. 433: Yeah.

20 MS. DIGIACOMO: -- on their own?

21 PROSPECTIVE JUROR NO. 433: Yes.

22 MS. DIGIACOMO: Okay. Thank you. Pass for cause.

23 THE COURT: Thank you. Defense?

24 MS. LEMCKE: You mentioned that -- that you've kind
25 of seen drug use go both ways. Tell me a little bit about

1 that.

2 PROSPECTIVE JUROR NO. 433: My aunt is diagnosed
3 with bipolar disorder and she in my teenage years, we caught
4 her stealing checks from my bank account and stealing from my
5 grandparents, her parents during drug use, periods of drug
6 use.

7 MS. LEMCKE: Can I ask a question? Do you know
8 which -- I'm sorry. Do you -- because I want you to continue
9 but do you know what she was using?

10 PROSPECTIVE JUROR NO. 433: I don't. I've heard
11 mention -- my parents didn't like to talk about those things
12 with us as kids --

13 MS. LEMCKE: Sure.

14 PROSPECTIVE JUROR NO. 433: -- I'm not sure why.
15 But I heard mention of methamphetamines at one point in my
16 adult life. So I don't know if it was during that time or
17 not. But when she became sober she paid everybody back.

18 MS. LEMCKE: Oh, really.

19 PROSPECTIVE JUROR NO. 433: Yeah, so I --

20 MS. LEMCKE: Has she been able to stay clean then
21 since she got sober?

22 PROSPECTIVE JUROR NO. 433: She's been off and on.

23 MS. LEMCKE: Okay.

24 PROSPECTIVE JUROR NO. 433: We believe she's finally
25 on the right medications for the last two years and -- for her

1 bipolar disorder and has been clean and sober.

2 MS. LEMCKE: Okay. Did you -- were you actually
3 around her -- if I take it correctly -- if I understand you
4 correctly, you've heard mostly from your parents about it or
5 did you actually see her?

6 PROSPECTIVE JUROR NO. 433: I would see her. I just
7 thought she was a little unique.

8 MS. LEMCKE: Okay. In what way?

9 PROSPECTIVE JUROR NO. 433: Weird, just very -- her
10 mannerisms were sometimes sporadic I guess. And -- yeah.

11 MS. LEMCKE: When you say -- tell me more about
12 sporadic. What do you mean her mannerisms being a little
13 sporadic?

14 PROSPECTIVE JUROR NO. 433: Or dramatic. She would
15 -- she would tell you stories and make them sound far more
16 dramatic than they needed to be.

17 MS. LEMCKE: So would she exaggerate a little bit?

18 PROSPECTIVE JUROR NO. 433: Oh, yeah, yeah.

19 MS. LEMCKE: Okay. So at that time like when she
20 was using she -- that probably -- she wasn't probably the most
21 credible reporter?

22 PROSPECTIVE JUROR NO. 433: Maybe not. I'm not
23 sure.

24 MS. LEMCKE: Okay. Was there anyone else -- all
25 right, because you mentioned that you had some good, some bad.

1 Would she be one who it kind of was difficult for her and led
2 to the stealing and that type of stuff and the exaggerated
3 stories, was that the more negative experience or was -- is --
4 was that --

5 PROSPECTIVE JUROR NO. 433: She was kind of both
6 sides. She was kind of neutral. In Hawaii there's -- there
7 were kids that I coached who turned into bad people using
8 drugs.

9 MS. LEMCKE: So you actually saw them like the
10 before and the after?

11 PROSPECTIVE JUROR NO. 433: I coached them when they
12 were great kids and then would see them a few years later
13 stealing from stores and cars and --

14 MS. LEMCKE: Do you know what kind of drugs they
15 were doing?

16 PROSPECTIVE JUROR NO. 433: I'm guessing
17 methamphetamines. I know there's a lot of heroin use there
18 too.

19 MS. LEMCKE: Okay. Did you actually -- the kids
20 that you saw, did you interact with them a lot even after they
21 started using or did that kind of begin the end of your
22 interactions with them?

23 PROSPECTIVE JUROR NO. 433: No, I didn't spend much
24 time afterwards, no.

25 MS. LEMCKE: Anything else that you've heard about

1 -- we've talked about, you know, post-traumatic stress
2 disorder and an accused rights in a criminal case, all these
3 different topics. Was there anything that we asked about or a
4 response that you heard that you thought, oh, I kind of have
5 an opinion I really strongly agree with this or disagree with
6 that, anything kind of pop out in your mind as being of
7 significance to you that you want to tell us about?

8 PROSPECTIVE JUROR NO. 433: I don't think so.

9 MS. LEMCKE: Okay. Do you think that, you know, if
10 you were seated where either the prosecution was seated or
11 where Mr. Pimentel and myself and Mr. Slife are seated, would
12 you want 12 people such as yourself on a jury?

13 PROSPECTIVE JUROR NO. 433: Yes.

14 MS. LEMCKE: Why is that?

15 PROSPECTIVE JUROR NO. 433: I tend to be very
16 pragmatic and neutral until I get more information, I like to
17 learn.

18 MS. LEMCKE: Okay.

19 PROSPECTIVE JUROR NO. 433: I don't form opinions
20 quickly or strongly or easily.

21 MS. LEMCKE: Okay. So you'd be willing to listen to
22 everything that you hear and try to make --

23 PROSPECTIVE JUROR NO. 433: Oh, yeah.

24 MS. LEMCKE: -- a decision based on --

25 PROSPECTIVE JUROR NO. 433: Oh, yeah.

1 MS. LEMCKE: Okay. The defendant's -- the burden of
2 proof, we talked about that and I haven't gotten back to that
3 a lot today, so let me move back to that just very briefly.
4 There is no defense burden of proof. You know, technically
5 all you're doing is sitting in judgment on whether or not the
6 prosecution has proven beyond a reasonable doubt each element
7 of the crimes they've charged with. Does that kind of make
8 sense?

9 PROSPECTIVE JUROR NO. 433: Yeah.

10 MS. LEMCKE: Okay. Yeah, because a lot of people
11 they do, they come into court and they think well, I'm judging
12 a person and you're really judging whether or not there's
13 proof beyond a reasonable doubt. Does that kind of --

14 PROSPECTIVE JUROR NO. 433: Right.

15 MS. LEMCKE: Okay. Do you have any strong feelings
16 about that one way or the other? Do you think that's a good
17 system that we have?

18 PROSPECTIVE JUROR NO. 433: I'm not sure.

19 MS. LEMCKE: Well, would it -- let me ask it this
20 way. Would it bother you -- we talked yesterday about Mr.
21 Slife and I, you know, in theory we could sit over there and
22 as Mr. Slife said, sleep through the whole trial and get up at
23 the end and argue, well, they haven't done it. Would that
24 bother you? You know, the idea that technically we don't have
25 to do anything?

1 PROSPECTIVE JUROR NO. 433: I guess so, yeah.

2 MS. LEMCKE: Would you expect us to do something?

3 PROSPECTIVE JUROR NO. 433: Yes.

4 MS. LEMCKE: But still you could judge the evidence
5 that you hear in front of you, whether it comes from the State
6 or the defense?

7 PROSPECTIVE JUROR NO. 433: Yes.

8 MS. LEMCKE: Okay. Court's indulgence. I have
9 nothing further. Thank you. I pass for cause.

10 THE COURT: Thank you. All right. If you'll hand
11 the microphone to Jennifer Neal, badge 405. Tell us about
12 yourself.

13 PROSPECTIVE JUROR NO. 405: I have lived in the
14 Clark County area since 2 -- since 1970.

15 THE COURT: I'm sorry, since when?

16 PROSPECTIVE JUROR NO. 405: 1970.

17 THE COURT: Oh, 1970.

18 PROSPECTIVE JUROR NO. 405: Yeah. I'm married, I
19 have two children, they're 12. I am a professional medical
20 credentialer, I'm currently not working however.

21 THE COURT: Are you married, single, divorced?

22 PROSPECTIVE JUROR NO. 405: Oh, I'm married.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 405: My husband has a degree
25 in accounting and he's worked in the traffic control and

1 asphalt field since he -- since we've been married.

2 THE COURT: Doing accounting or --

3 PROSPECTIVE JUROR NO. 405: Well, he's done both.

4 He had his own business that he ran -- you know, he ran the
5 business, the administrative and accounting end. And now he's
6 currently doing asphalt sales.

7 THE COURT: Okay. For a company that does that kind
8 of work here?

9 PROSPECTIVE JUROR NO. 405: Yes.

10 THE COURT: Okay. There are several. What company
11 does he work for?

12 PROSPECTIVE JUROR NO. 405: Ace Asphalt.

13 THE COURT: And tell me about your -- you said
14 you're currently unemployed?

15 PROSPECTIVE JUROR NO. 405: Yes.

16 THE COURT: But you did credentialing so would that
17 be for healthcare provider groups where you'd --

18 PROSPECTIVE JUROR NO. 405: Most recently it was for
19 healthcare provider group. I've worked for an insurance
20 company and a hospital as well. So I've done all aspects of
21 that. Mostly it entails making sure doctors are licensed and
22 have insurance.

23 THE COURT: So in that role would you consider some
24 of what you did to be investigative in nature?

25 PROSPECTIVE JUROR NO. 405: Yes, ma'am.

1 THE COURT: So you -- you'd be presented with what
2 to start off with?

3 PROSPECTIVE JUROR NO. 405: Basically when a -- when
4 a physician or an allied health provider provides their
5 information they give, you know, their Social security number,
6 their date of birth, where they went to school and all that.
7 It's my job to verify that they're telling me that that
8 information is accurate. Sometimes I have to dig a little bit
9 to find out do they have any malpractice cases or legal issues
10 that might interfere with their ability to perform their job.

11 THE COURT: Was there ever an instance where you
12 found that somebody had given you credentials that were false?

13 PROSPECTIVE JUROR NO. 405: Actually when -- when --
14 I actually lived in Reno briefly and I worked at an insurance
15 company there and I just found a person was posing as a
16 physician with fabricated credentials.

17 THE COURT: Okay. And was that person seeking to
18 get hospital privileges or what?

19 PROSPECTIVE JUROR NO. 405: They were actually
20 asking to be on the insurance network to be an insurance
21 provider.

22 THE COURT: And the person wasn't a doctor at all?

23 PROSPECTIVE JUROR NO. 405: No.

24 THE COURT: Okay. And what did you do with that
25 information?

1 PROSPECTIVE JUROR NO. 405: That I had, you know,
2 passed on to our management who then took it and provided it
3 -- notified the -- the state medical board and then they --
4 they did -- I don't know what they did with it. We didn't
5 really follow it that closely.

6 THE COURT: So in that role, did you ever have to
7 testify in any legal proceedings or hearings of any kind?

8 PROSPECTIVE JUROR NO. 405: No, ma'am.

9 THE COURT: Anything about this case that makes you
10 think that you could not be fair and impartial as a juror?

11 PROSPECTIVE JUROR NO. 405: No.

12 THE COURT: Would the State like to inquire further?

13 MS. DIGIACOMO: Yes, thank you. Okay. Do you watch
14 any of the law shows, CSIs?

15 PROSPECTIVE JUROR NO. 405: I don't actually
16 directly watch them. My husband, however, is an addict.

17 MS. DIGIACOMO: Your husband hasn't like warped your
18 mind so that you think what is on TV is going to be presented
19 in the courtroom, right?

20 PROSPECTIVE JUROR NO. 405: No.

21 MS. DIGIACOMO: Okay. So you don't have any
22 preconceived notions? Any expectations of how the State
23 should present the case or what should happen in court?

24 PROSPECTIVE JUROR NO. 405: No.

25 MS. DIGIACOMO: Okay. What about any military

1 service in your family or someone close to you?

2 PROSPECTIVE JUROR NO. 405: My -- my grandfather
3 served in World War II and I had an uncle who served in Korea.

4 MS. DIGIACOMO: Did you ever talk to them about
5 their experience?

6 PROSPECTIVE JUROR NO. 405: My grandfather liked to
7 tell stories. I don't know how many of them were actually
8 his.

9 MS. DIGIACOMO: Were they all good stories?

10 PROSPECTIVE JUROR NO. 405: Yeah, he like -- he was
11 with the Corps of Engineers so he built bridges and he's like
12 that.

13 MS. DIGIACOMO: Oh, okay. So it's not like he's
14 telling combat stories.

15 PROSPECTIVE JUROR NO. 405: No.

16 MS. DIGIACOMO: All right. And then, I'm sorry, you
17 said was it your uncle was in the Korean War?

18 PROSPECTIVE JUROR NO. 405: Yes.

19 MS. DIGIACOMO: Okay. And did you ever talk to him
20 about that?

21 PROSPECTIVE JUROR NO. 405: No. He only talked
22 about the -- the girl he had to leave behind.

23 MS. DIGIACOMO: Now, did you raise your hand that
24 you've been the victim of a crime?

25 PROSPECTIVE JUROR NO. 405: Yes, I did.

1 MS. DIGIACOMO: Okay. And what was that?

2 PROSPECTIVE JUROR NO. 405: My car was stolen out of
3 my driveway.

4 MS. DIGIACOMO: Here?

5 PROSPECTIVE JUROR NO. 405: Yes.

6 MS. DIGIACOMO: Did you call the police?

7 PROSPECTIVE JUROR NO. 405: Yes.

8 MS. DIGIACOMO: Did they ever find the car?

9 PROSPECTIVE JUROR NO. 405: They recovered the car
10 in a couple of hours.

11 MS. DIGIACOMO: Oh, really?

12 PROSPECTIVE JUROR NO. 405: Yes.

13 MS. DIGIACOMO: Did you have like a LoJack or
14 something on it?

15 PROSPECTIVE JUROR NO. 405: Well, it was -- it was
16 the last day of school and apparently some high school kids
17 decided to take it for a ride.

18 MS. DIGIACOMO: Oh, okay. So it was found close by?

19 PROSPECTIVE JUROR NO. 405: Yes.

20 MS. DIGIACOMO: Do you know was anyone ever caught?

21 PROSPECTIVE JUROR NO. 405: I don't think they
22 pursued it. They just decided it was kids and called it good.

23 MS. DIGIACOMO: Okay. So you never had to go to
24 court and testify? All right. Are you satisfied or
25 dissatisfied with the way it was handled?

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1 PROSPECTIVE JUROR NO. 405: I got the car back.
2 MS. DIGIACOMO: So you're happy with that. Any
3 other like particularly good or bad experiences with police?
4 PROSPECTIVE JUROR NO. 405: No.
5 MS. DIGIACOMO: What about drug use, any strong
6 opinions? Any particularly good/bad experiences with people
7 who have used drugs?
8 PROSPECTIVE JUROR NO. 405: Not my thing but, you
9 know, I've -- and I've never really been around it. My
10 husband has a cousin who has been through the legal system
11 because of her drug use. But I don't really -- I've never
12 really had anything to do with her so.
13 MS. DIGIACOMO: All right. So you didn't follow the
14 case?
15 PROSPECTIVE JUROR NO. 405: No.
16 MS. DIGIACOMO: Don't have an opinion on how she was
17 treated? Okay. What about the penalties in this case? If it
18 got to the point of a penalty hearing would you be able to
19 consider all three?
20 PROSPECTIVE JUROR NO. 405: Yes.
21 MS. DIGIACOMO: And would you be able to make a
22 decision?
23 PROSPECTIVE JUROR NO. 405: Yes.
24 MS. DIGIACOMO: I'll pass for the cause.
25 THE COURT: Defense.

UNCERTIFIED ROUGH DRAFT

1 MR. SLIFE: Thank you, Your Honor. And ma'am, my
2 wife is addicted to all those crime shows too so --

3 PROSPECTIVE JUROR NO. 405: We just watched 12
4 seasons of Law and Order in four weeks.

5 MR. SLIFE: Oh, back to back to back to back?

6 PROSPECTIVE JUROR NO. 405: Back to back.

7 MR. SLIFE: That's how -- that's how my wife does it
8 as well. So I share your pain. You said that you were on a
9 prior jury some time ago.

10 PROSPECTIVE JUROR NO. 405: Yes.

11 MR. SLIFE: Was that a decade? Was that --

12 PROSPECTIVE JUROR NO. 405: I would -- closer to
13 three.

14 MR. SLIFE: Okay. A long time ago.

15 PROSPECTIVE JUROR NO. 405: Yeah.

16 MR. SLIFE: Do you even remember what that was
17 about?

18 PROSPECTIVE JUROR NO. 405: It was a drug trial.

19 MR. SLIFE: Okay. Does that -- is that going to
20 have -- being a part of a -- and I believe that you told Her
21 Honor that -- that you guys came to a conclusion at the end.
22 Being a part of that, does that have anything to do with this
23 to you?

24 PROSPECTIVE JUROR NO. 405: No.

25 MR. SLIFE: Okay. It --

1 PROSPECTIVE JUROR NO. 405: Not at all.

2 MR. SLIFE: -- wouldn't affect anything?

3 PROSPECTIVE JUROR NO. 405: Huh-uh.

4 MR. SLIFE: And then I think that you had said
5 earlier on that you were Facebook friends with one of the
6 officers in this case?

7 PROSPECTIVE JUROR NO. 405: I'm Facebook friends
8 with the wife of --

9 MR. SLIFE: The wife of an officer, okay.

10 PROSPECTIVE JUROR NO. 405: Yes.

11 MR. SLIFE: Let me just ask you this question and
12 this would be for whoever else gets asked. If there was an
13 officer or a detective or a CSA, anybody that works for Metro
14 on the stand, versus someone who does not, would you give that
15 officer or the detective any extra credibility at all?

16 PROSPECTIVE JUROR NO. 405: No.

17 MR. SLIFE: Okay. As opposed to just someone who
18 doesn't have a badge and doesn't work for Metro?

19 PROSPECTIVE JUROR NO. 405: They're witnesses -- the
20 same as everyone else. They -- they look at things and they
21 have their own interpretation of what happens just like you
22 would or I would.

23 MR. SLIFE: Okay. So you would take -- despite
24 whatever -- and there may be some experts in this case as
25 well, would that hold true for them as well?

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1 PROSPECTIVE JUROR NO. 405: Yes.

2 MR. SLIFE: Okay. So you take everybody as an
3 individual?

4 PROSPECTIVE JUROR NO. 405: Yes.

5 MR. SLIFE: All right. Thank you very much. That's
6 all I have, ma'am. Pass for cause, Your Honor.

7 THE COURT: Thank you. And Michelle Benitez, badge
8 417, Benitez.

9 PROSPECTIVE JUROR NO. 417: Yes, Michelle Benitez,
10 417.

11 THE COURT: Benitez. Okay, thank you. Tell us
12 about yourself.

13 PROSPECTIVE JUROR NO. 417: I'm a native to Las
14 Vegas. I'm married with three children. My husband works for
15 Clark County in the automotive department. We have three
16 children; six, nine and 12. I work part time in the evening
17 doing nonmedical care for the elderly.

18 THE COURT: And you said -- you said what in medical
19 care?

20 PROSPECTIVE JUROR NO. 417: Nonmedical care.

21 THE COURT: Nonmedical care. So do you go to --

22 PROSPECTIVE JUROR NO. 417: I can do a range of
23 things. I go to the elderly's home and I can do a range from
24 showers to cooking the meal.

25 THE COURT: How often do you that? How many hours

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1 per week?

2 PROSPECTIVE JUROR NO. 417: I'm on call so I can
3 choose about how many hours a week I want to do. I'd say
4 about 10 hours a week.

5 THE COURT: Okay. And I'm sorry, did I interrupt
6 you?

7 PROSPECTIVE JUROR NO. 417: No, I was thinking,
8 sorry.

9 THE COURT: Okay. So you -- you do that and your
10 husband works full time --

11 PROSPECTIVE JUROR NO. 417: Yes.

12 THE COURT: -- for the automotive division, all
13 right. And have you ever worked outside the home besides this
14 part-time work you're describing?

15 PROSPECTIVE JUROR NO. 417: Yeah, I was a CNA for a
16 very long time and about three years ago I went back to school
17 for phlebotomy, just never found a job. Took this job and
18 I've been with this company about two years. And mainly I'm
19 in the home, we home school our children so that's mainly my
20 main job.

21 THE COURT: So the home schooling you do is for just
22 your kids or do you also --

23 PROSPECTIVE JUROR NO. 417: No, it's just for my
24 children.

25 THE COURT: Okay. So that's flexible for you, you

1 can do it anytime you want. That's the beauty of home
2 schooling, correct?

3 PROSPECTIVE JUROR NO. 417: Yeah, it is the beauty
4 of home schooling.

5 THE COURT: All right. And do you do that with them
6 year round or do you give them the summer --

7 PROSPECTIVE JUROR NO. 417: We do -- no -- well, we
8 kind of go into summer because we'll take a little bit more
9 time like at Christmas or a little bit more time at Easter and
10 it's hot anyways, it's not like you can go to the park at 10
11 o'clock in the afternoon. So we kind of school into summer.

12 THE COURT: Do you -- what resources do you have
13 available to you to do that kind of home schooling?

14 PROSPECTIVE JUROR NO. 417: There's Nevada Home
15 School Network, there's the Rise Resource. There are a bunch
16 of home schooling support groups. You can choose to do an
17 online charter school, you can choose to do the online
18 Connections Academy. There are many resources for Nevada to
19 do that.

20 THE COURT: So do you use any of those online
21 resources?

22 PROSPECTIVE JUROR NO. 417: No, I do my own
23 curriculum.

24 THE COURT: So you develop your own curriculum, it
25 has --

1 PROSPECTIVE JUROR NO. 417: Well, let me rephrase
2 that --

3 THE COURT: Yeah.

4 PROSPECTIVE JUROR NO. 417: -- I pick and choose.
5 Different people who have already written a curriculum and
6 say, oh, we like this for science or we like this for math.

7 THE COURT: Oh, I see. Okay. And what grades --
8 what grade level are your kids in?

9 PROSPECTIVE JUROR NO. 417: Kindergarten, third
10 grade and sixth grade.

11 THE COURT: Are you intending to home school them
12 all the way through high school?

13 PROSPECTIVE JUROR NO. 417: It depends. If any of
14 them would like to go to like a vocational school then I would
15 highly support that.

16 THE COURT: What about college, would you encourage
17 your kids --

18 PROSPECTIVE JUROR NO. 417: Yeah, because they ain't
19 living with me forever.

20 THE COURT: Pardon me?

21 PROSPECTIVE JUROR NO. 417: I said yes because
22 they're not living with me forever so.

23 THE COURT: Okay. So whatever would make them
24 successful as adults --

25 PROSPECTIVE JUROR NO. 417: Yes.

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1 THE COURT: -- that's what you're -- support? All
2 right. Anything about the case that makes you think you could
3 not be a fair and impartial juror in this matter?

4 PROSPECTIVE JUROR NO. 417: No.

5 THE COURT: Would like the State like to inquire
6 further?

7 MS. DIGIACOMO: Yes, thank you. All right. What
8 kind of shows do you watch? Do you watch the CSIs and law
9 shows?

10 PROSPECTIVE JUROR NO. 417: I -- I like the show
11 Psych. It's an unrealistic show about this guy who has
12 psychic powers that does detective work.

13 MS. DIGIACOMO: Okay, so --

14 PROSPECTIVE JUROR NO. 417: It's a comedy. It's
15 unrealistic, yeah.

16 MS. DIGIACOMO: Okay. So you're not expecting us
17 to --

18 PROSPECTIVE JUROR NO. 417: No.

19 MS. DIGIACOMO: -- have psychic powers in this
20 trial?

21 PROSPECTIVE JUROR NO. 417: No, no, no.

22 MS. DIGIACOMO: Okay. Perfect. Now you said too, I
23 think yesterday, that you've been the victim of a crime before
24 or someone close to you?

25 PROSPECTIVE JUROR NO. 417: Yeah, we grew up in

1 North Las Vegas so our home has been in a drive-by, cars have
2 been stolen. I -- when we first got married me and husband's
3 car were in hit and run, just various little things.

4 MS. DIGIACOMO: All right. Nothing that's been
5 overly traumatic for you?

6 PROSPECTIVE JUROR NO. 417: No.

7 MS. DIGIACOMO: All right. And is it like Mr.
8 Brown said that just kind of comes with the neighborhood?

9 PROSPECTIVE JUROR NO. 417: Yeah.

10 MS. DIGIACOMO: That's the way it kind of sounds
11 like you're saying --

12 PROSPECTIVE JUROR NO. 417: Yeah, yeah.

13 MS. DIGIACOMO: -- that's just the way it was. But
14 do you know were -- were the police involved in any of those
15 things?

16 PROSPECTIVE JUROR NO. 417: Yes, all of them.

17 MS. DIGIACOMO: All right. And do you have any
18 opinion, like are you satisfied or dissatisfied with the way
19 they handled it?

20 PROSPECTIVE JUROR NO. 417: I have no opinion about
21 it to be honest.

22 MS. DIGIACOMO: Okay. Now what about military
23 service, anyone in your family?

24 PROSPECTIVE JUROR NO. 417: My father was in the
25 military, in the Army. My grandfather served in the Navy and

1 my husband's father retired as a pilot I believe.

2 MS. DIGIACOMO: He was a pilot? And was he career?

3 PROSPECTIVE JUROR NO. 417: Yes.

4 MS. DIGIACOMO: Now, did you talk to any of them
5 about their service or what they did?

6 PROSPECTIVE JUROR NO. 417: My husband's father is
7 not allowed to speak about what he did in the military, he's
8 under government orders. So --

9 MS. DIGIACOMO: So you haven't talked to him.

10 PROSPECTIVE JUROR NO. 417: No. My father went in
11 at a very young age, this is when they could duck, you know,
12 fudge the paperwork. So I think he was like 16 or 17 when he
13 went in.

14 MS. DIGIACOMO: Oh, okay.

15 PROSPECTIVE JUROR NO. 417: And so he served a very
16 short time. He wasn't during the time of war but he never
17 actually saw combat.

18 MS. DIGIACOMO: Okay. And what about your
19 grandfather?

20 PROSPECTIVE JUROR NO. 417: He did sea combat in I
21 believe in the Korean War.

22 MS. DIGIACOMO: But you -- it sounds like you really
23 haven't talked to him much about it?

24 PROSPECTIVE JUROR NO. 417: No, he's passed away and
25 I've never really got to know too much.

1 MS. DIGIACOMO: All right. So now what about any
2 particular strong opinions or -- about drug use?

3 PROSPECTIVE JUROR NO. 417: Yeah, I do have a strong
4 opinion. I think it's heartbreaking and people don't know
5 their value and worth. And I think that's really sad.

6 MS. DIGIACOMO: So you find -- it's heartbreaking
7 not only for the person who's using the drugs but the people
8 around them?

9 PROSPECTIVE JUROR NO. 417: For the people around
10 them, especially the people that are using because they don't
11 know that they have value.

12 MS. DIGIACOMO: Nothing about that that would affect
13 your ability to be fair and impartial in this case if there
14 was drug use mentioned?

15 PROSPECTIVE JUROR NO. 417: I don't believe so.

16 MS. DIGIACOMO: And what about with regard to if --
17 if this jury found first degree murder then there would be a
18 penalty phase. Would you be able to consider all three
19 penalties?

20 PROSPECTIVE JUROR NO. 417: I would be able to
21 consider, I don't know about as far as giving an opinion
22 though. I don't believe it's anybody's job to judge and I
23 wouldn't want to have to judge another person and the rest of
24 their life.

25 MS. DIGIACOMO: All right. So is it -- what I'm

1 hearing from you, if you were on this jury you'd be okay
2 deciding the facts or whether the State's met its burden --

3 PROSPECTIVE JUROR NO. 417: Correct.

4 MS. DIGIACOMO: -- you'd be okay with that?

5 PROSPECTIVE JUROR NO. 417: Yes.

6 MS. DIGIACOMO: But you would have issues about
7 actually making a decision on the sentence that the person
8 could receive?

9 PROSPECTIVE JUROR NO. 417: Yes.

10 MS. DIGIACOMO: All right. Now only you can tell
11 us, you know, exactly what you're thinking so you're saying
12 that you would have an issue making that decision. Do you
13 think you could make it or you just --

14 PROSPECTIVE JUROR NO. 417: I mean if I had to, if I
15 was forced to I would, yes.

16 MS. DIGIACOMO: Well, if you were forced to. You
17 mean like if you were forced to sit on this jury?

18 PROSPECTIVE JUROR NO. 417: Yes.

19 MS. DIGIACOMO: Okay. So let's say that you were on
20 the jury, it came to penalty and you're back in the
21 deliberation room. Would you like say, nope, I'm out, I can't
22 do this. Or would you be able to talk with your jurors and
23 come to a decision?

24 PROSPECTIVE JUROR NO. 417: I'd be able to talk and
25 come to a decision. I wouldn't like it but --

1 MS. DIGIACOMO: And I understand ---

2 PROSPECTIVE JUROR NO. 417: -- because otherwise
3 then you'd have to start all over.

4 MS. DIGIACOMO: Well, you're right. And I
5 understand it's not an easy decision but do you believe that,
6 you know, it is a person's civic duty to sit on a jury when
7 called?

8 PROSPECTIVE JUROR NO. 417: Yeah, I believe that's
9 what our nation was founded on.

10 MS. DIGIACOMO: And if you were seated at either one
11 of these tables would you want a juror to be able to make a
12 decision in your case?

13 PROSPECTIVE JUROR NO. 417: Yes, I would.

14 MS. DIGIACOMO: All right. So I understand you
15 might have reservations about it but you could --

16 PROSPECTIVE JUROR NO. 417: Right.

17 MS. DIGIACOMO: -- do it?

18 PROSPECTIVE JUROR NO. 417: Yeah.

19 MS. DIGIACOMO: All right. I'll pass for cause.

20 THE COURT: Thank you. Defense.

21 MS. LEMCKE: Just a follow up just very briefly.

22 And you heard the three different types of punishment and,
23 again, I'm not conceding we're going to a penalty hearing by
24 any stretch of the imagination. I just have to make sure that
25 you can consider the three options that would be available,

1 which would be life without the possibility of parole, life
2 with the possibility of parole after 20 years and then a term
3 of 50 years with parole eligibility after 20. Could you
4 consider all three of those when you deliberate --

5 PROSPECTIVE JUROR NO. 417: Yes.

6 MS. LEMCKE: -- if you were to get to a penalty
7 phase?

8 PROSPECTIVE JUROR NO. 417: Yes.

9 MS. LEMCKE: Okay. And you've heard all the
10 questions now we've, you know, covered a whole bunch of
11 different topics. Was there anything that you heard, a
12 question asked or an answer given, that stood out in your mind
13 as being something that, hey, I'd like to weigh in on this or
14 have an opinion on this?

15 PROSPECTIVE JUROR NO. 417: No.

16 MS. LEMCKE: Okay. Is there anything that you --
17 that -- that we have -- that you should tell us about yourself
18 that we haven't asked that we should know that might impact
19 your ability to sit and fairly adjudicate this case?

20 PROSPECTIVE JUROR NO. 417: Nothing comes to mind.

21 MS. LEMCKE: Nothing, okay. Ms. DiGiacomo asked you
22 a couple questions about your thoughts on drug use. Do you
23 know anybody who has ever abused controlled substances?

24 PROSPECTIVE JUROR NO. 417: Yes.

25 MS. LEMCKE: Anyone close to you?

1 PROSPECTIVE JUROR NO. 417: Yes. I have a brother.

2 MS. LEMCKE: Okay. Do you mind if I ask what type
3 of controlled substances he was abusing?

4 PROSPECTIVE JUROR NO. 417: Prescription.

5 MS. LEMCKE: Okay. Was it only prescription or was
6 there ever any street drug use?

7 PROSPECTIVE JUROR NO. 417: I couldn't say.

8 MS. LEMCKE: Did it -- did you notice that it
9 changed his personality or did it not? Was it just in a
10 situation where he was abusing but it didn't take long --

11 PROSPECTIVE JUROR NO. 417: Well, he has -- he's
12 bipolar so he already has mental issues. So his personality
13 is never steady so I couldn't tell you if it was the drugs
14 that did that or if it was his mental condition.

15 MS. LEMCKE: Okay. Did he ever get treatment for
16 it?

17 PROSPECTIVE JUROR NO. 417: He's been in and out of
18 places, never stayed, never finished. He just, you know --

19 MS. LEMCKE: Were they more like psychiatric --

20 PROSPECTIVE JUROR NO. 417: He's been in the state
21 hospital, he's been in Monte Vista, he's been in the
22 California Rehabilitation thing down there so.

23 MS. LEMCKE: But so mostly for the bipolar issues
24 and not as much for the drug related issues or both?

25 PROSPECTIVE JUROR NO. 417: Correct.

1 MS. LEMCKE: Okay. I have nothing further, Your
2 Honor. I pass for cause.

3 THE COURT: Thank you. Okay. How's everybody
4 doing? Anybody need a break? Yep, okay. All right. We're
5 going to take a 10 minute --- well, actually we'll take a 15
6 minute so it'll put -- because we have a lot of people that
7 need to get into the restrooms so we're going to be in recess
8 until 10:35.

9 During this recess it is your duty not to converse
10 among yourselves or with anyone else on any subject connected
11 with this trial or to read, watch or listen to any report of
12 or commentary on the trial by any person connected with the
13 trial or by any medium of information including, without
14 limitation, newspaper, television, radio or Internet and you
15 are not to form or express an opinion on any subject connected
16 with this case until it's finally submitted to you. We'll be
17 in recess for 15 minutes.

18 (Prospective jury panel recessed at 10:20 a.m.)

19 THE COURT: All right. Thank you. The record will
20 reflect the venire has departed the courtroom. Are there any
21 matters outside the presence before we recess?

22 MS. LEMCKE: No, Your Honor.

23 MR. BATEMAN: No, Your Honor.

24 (Court recessed at 10:21 a.m. until 10:39 a.m.)

25 (In the presence of the prospective jury panel.)

1 THE COURT: All right. Thank you. Please be
2 seated. And the record will reflect that we have been
3 rejoined by all members of the venire panel and we've been
4 joined by Ms. Creasy [phonetic]; is that correct? Where is
5 she? Oh, okay. All right. And the record will reflect the
6 presence of the defendant with his counsel, the Deputies
7 District Attorney prosecuting the case, all officers of the
8 Court. Will counsel so stipulate?

9 MR. BATEMAN: Yes, Your Honor.

10 THE COURT: Defense stipulates too?

11 MS. LEMCKE: We would, Your Honor.

12 THE COURT: Thank you. All right. And we left off
13 with about to hand the microphone to Mr. Courson.

14 PROSPECTIVE JUROR NO. 439: Yes.

15 THE COURT: Tell us about yourself, sir.

16 PROSPECTIVE JUROR NO. 439: I've been in town for 35
17 years. I'm a dice dealer for 35 years, work at Mandalay Bay
18 for 16 years since they've opened. Divorced. I have a son 26
19 and that's basically it.

20 THE COURT: What does your son do?

21 PROSPECTIVE JUROR NO. 439: He works at the Forum
22 Shop at Mulberry, sells clothing.

23 THE COURT: So you've always been a dice dealer then
24 here?

25 PROSPECTIVE JUROR NO. 439: Yes.

1 THE COURT: And before Mandalay Bay opened on the
2 Strip as well, someplace else?

3 PROSPECTIVE JUROR NO. 439: Yes, the whole time.

4 THE COURT: All right. Ever been married?

5 PROSPECTIVE JUROR NO. 439: Yes.

6 THE COURT: How long ago was that?

7 PROSPECTIVE JUROR NO. 439: Until October of last
8 year.

9 THE COURT: Oh, okay. And so your ex-wife, what did
10 she do, if anything?

11 PROSPECTIVE JUROR NO. 439: She was a dealer too.

12 THE COURT: Same games?

13 PROSPECTIVE JUROR NO. 439: She dealt all the games
14 except dice.

15 THE COURT: And did you meet on the job?

16 PROSPECTIVE JUROR NO. 439: Yes.

17 THE COURT: Anything about you that we need to know
18 about that would bear upon your ability to be a fair and
19 impartial juror in this case?

20 PROSPECTIVE JUROR NO. 439: No.

21 THE COURT: Would the State like to inquire further?

22 MS. DIGIACOMO: The State would. Okay. Do you
23 watch the CSI, law shows?

24 PROSPECTIVE JUROR NO. 439: No, I'm sports.

25 MS. DIGIACOMO: Sports, okay. What are your teams?

1 PROSPECTIVE JUROR NO. 439: Hockey is the
2 Blackhawks; the Patriots, football.

3 MS. DIGIACOMO: Any military service --

4 PROSPECTIVE JUROR NO. 439: No.

5 MS. DIGIACOMO: -- for you or anyone in your family?

6 PROSPECTIVE JUROR NO. 439: No.

7 MS. DIGIACOMO: What about have you ever been the
8 victim of a crime, anyone close to you?

9 PROSPECTIVE JUROR NO. 439: No.

10 MS. DIGIACOMO: Any good or bad experiences with the
11 police?

12 PROSPECTIVE JUROR NO. 439: Actually I've been
13 lucky. I've been on warnings but let go.

14 MS. DIGIACOMO: Okay. And what about drug use, do
15 you have any strong opinions regarding people who use
16 substances?

17 PROSPECTIVE JUROR NO. 439: It comes to mind sad and
18 weak.

19 MS. DIGIACOMO: So you'd feel that they're weak --

20 PROSPECTIVE JUROR NO. 439: Yeah.

21 MS. DIGIACOMO: -- because they're using it --

22 PROSPECTIVE JUROR NO. 439: Yeah.

23 MS. DIGIACOMO: -- instead of dealing with their own
24 problems?

25 PROSPECTIVE JUROR NO. 439: Yeah, basically.

1 MS. DIGIACOMO: Would you hold it against somebody
2 if they used it?

3 PROSPECTIVE JUROR NO. 439: No, everyone's
4 different.

5 MS. DIGIACOMO: All right. So you feel like you
6 could be fair and impartial if you heard about drug use in
7 this case?

8 PROSPECTIVE JUROR NO. 439: Sure.

9 MS. DIGIACOMO: And what about if it got to a
10 penalty phase, could you consider all three penalties?

11 PROSPECTIVE JUROR NO. 439: Sure.

12 MS. DIGIACOMO: And make a decision?

13 PROSPECTIVE JUROR NO. 439: Absolutely.

14 MS. DIGIACOMO: I'll pass for cause.

15 THE COURT: Defense?

16 MR. SLIFE: Sir, any thoughts on -- any thoughts on
17 PTSD at all that we've asked questions about?

18 PROSPECTIVE JUROR NO. 439: I believe in it, sure.
19 I mean how could you possibly see a friend or a companion die
20 in front of you and not affect you.

21 MR. SLIFE: Sure. What about anything else we've
22 talked about? I think we're starting to get pretty
23 repetitive, that's just kind of the nature of it. What about,
24 you know, people not speaking to police, any thoughts on that?
25 We've asked a lot of different questions on that topic.

1 PROSPECTIVE JUROR NO. 439: It's their right so it's
2 up to them.

3 MR. SLIFE: Would you -- I mean if somebody didn't
4 speak to police and they wanted an attorney, would you see
5 that as a bad thing or would you see that as their right or
6 how would -- how would you see that?

7 PROSPECTIVE JUROR NO. 439: Personally, it -- it
8 wouldn't make a difference to me.

9 MR. SLIFE: Okay. Anything else you can think of?

10 PROSPECTIVE JUROR NO. 439: No, you're the one
11 that's asking the questions.

12 MR. SLIFE: They've just been asked so much. All
13 right. I thank you for your time, sir. Pass for cause, Your
14 Honor. Thank you.

15 THE COURT: Thank you. If you could hand the
16 microphone over. And this is Lori Vasquez?

17 PROSPECTIVE JUROR NO. 423: Yes.

18 THE COURT: Badge number 423; is that correct?

19 PROSPECTIVE JUROR NO. 423: Yes.

20 THE COURT: And tell us about yourself?

21 PROSPECTIVE JUROR NO. 423: I am -- I've been in Las
22 Vegas for 23 years. I've been married for 37 years and I have
23 -- I'm a mother and a grandmother. I have a daughter, 32 and
24 a son-in-law and a three-year-old granddaughter. So I am a
25 retired oral surgery assistant. I worked in California right

1 out of college as an oral surgery assistant for eight years
2 and then I was basically a housewife and mother and then I
3 went back to work when we moved here for 10 years again for an
4 oral surgeon. And my husband is a realtor, he's been one for
5 six years. Before that he was in construction and before that
6 steel fabricating. And I guess that's about it.

7 THE COURT: What about your daughter, does she work?

8 PROSPECTIVE JUROR NO. 423: No, she's also a
9 housewife and mother so we're both lucky enough to not have to
10 work and spend a lot of time together.

11 THE COURT: And your son-in-law, what does he do?

12 PROSPECTIVE JUROR NO. 423: My son-in-law is a
13 liaison. He helps companies that need accountants, like
14 doctors' offices. The doctors that are only in use for
15 lawyers who use the doctors for nonpayment cases. You know --
16 you know what I'm -- it's -- it's hard to explain. I can't
17 really -- and he also works at a pharmacy. And that's also
18 through liens is what I'm trying to get at.

19 THE COURT: Okay. All right. So he works with
20 doctors doing their accounting --

21 PROSPECTIVE JUROR NO. 423: A couple doctors -- a
22 couple doctors, they -- uh-huh.

23 THE COURT: -- a couple doctors concerning trying to
24 help them collect on liens?

25 PROSPECTIVE JUROR NO. 423: Yes, that's what his

1 company does.

2 THE COURT: Where they've treated patients on liens?

3 PROSPECTIVE JUROR NO. 423: Yes, uh-huh.

4 THE COURT: And then you said he works for -- at a
5 pharmacy?

6 PROSPECTIVE JUROR NO. 423: And also a pharmacy that
7 is also the same way. It's the ones they use for -- on liens
8 through the lawyers and --

9 THE COURT: Okay. So lawyers, plaintiffs' lawyers
10 send people to doctors to treat on liens --

11 PROSPECTIVE JUROR NO. 423: Yes.

12 THE COURT: -- directing their treatment. And then
13 if they don't -- if they don't win or they don't get paid in
14 the lawsuit, then is that when they're trying to collect the
15 liens?

16 PROSPECTIVE JUROR NO. 423: I think that's how it
17 works.

18 THE COURT: Is that what your --

19 PROSPECTIVE JUROR NO. 423: Yeah, he's always trying
20 to collect money for -- from the lawyers --

21 THE COURT: Oh, from the lawyers.

22 PROSPECTIVE JUROR NO. 423: -- that owe them money,
23 uh-huh.

24 THE COURT: I see. Okay. Does he have -- is he
25 involved in negotiating those as well?

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1 PROSPECTIVE JUROR NO. 423: I don't think so.

2 THE COURT: Okay. Any reason you think that you
3 could not be fair and impartial in a case such as this one?

4 PROSPECTIVE JUROR NO. 423: I think I'm -- I can be
5 fair. I think I'm a fair person. I try to look at all the
6 aspects.

7 THE COURT: All right. And you could make your
8 decision based upon the evidence that you hear here in the
9 courtroom and the laws I instruct you?

10 PROSPECTIVE JUROR NO. 423: I'm going to try if I'm
11 here. I'm sure they can be very confusing but --

12 THE COURT: All right. You mean you're -- you're
13 concerned about the instructions being confusing?

14 PROSPECTIVE JUROR NO. 423: And the law being
15 confusing, you know, but --

16 THE COURT: But we do our best in -- in --

17 PROSPECTIVE JUROR NO. 423: Yeah.

18 THE COURT: -- formulating the instructions so that
19 they are not confusing.

20 PROSPECTIVE JUROR NO. 423: Yeah, yeah, good.

21 THE COURT: And so that the -- the jury has the --
22 the law in front of them and they can consult those
23 instructions. So you will do your best to understand those --

24 PROSPECTIVE JUROR NO. 423: Absolutely.

25 THE COURT: -- and will you -- as part of that

1 endeavor, will you be willing to speak to your other jurors
2 and discuss it?

3 PROSPECTIVE JUROR NO. 423: Oh, yes, in
4 deliberation, yeah.

5 THE COURT: Obviously not before then.

6 PROSPECTIVE JUROR NO. 423: Not, not outside the
7 room.

8 THE COURT: All right. Would the State like to
9 inquire further?

10 MS. DIGIACOMO: Yes, thank you. All right. Do you
11 watch any of the law shows?

12 PROSPECTIVE JUROR NO. 423: I watch them all.

13 MS. DIGIACOMO: You do?

14 PROSPECTIVE JUROR NO. 423: I have no life I guess.
15 And reality shows.

16 MS. DIGIACOMO: All right. Do you -- based upon the
17 fact that you watch all those law shows and reality shows, do
18 you think you're coming in with any preconceived notions as to
19 what you expect the State to present as evidence and how'd you
20 expect the trial to go?

21 PROSPECTIVE JUROR NO. 423: No. I know it's a lot
22 slower and repetitive. I've watched real trials too
23 [indiscernible] TV so.

24 MS. DIGIACOMO: Like the ones that they show on
25 Court TV?

1 PROSPECTIVE JUROR NO. 423: Yes.

2 MS. DIGIACOMO: Do you -- so do you have an interest
3 in the -- the real life courtroom shows?

4 PROSPECTIVE JUROR NO. 423: Yeah -- well, yeah just
5 -- I don't understand a lot of it but still after all that,
6 but I still like it, yeah. I like court --

7 MS. DIGIACOMO: So how do you --

8 PROSPECTIVE JUROR NO. 423: -- movies and stuff like
9 that when they're --

10 MS. DIGIACOMO: How would you feel if you were
11 selected as -- to be a juror on this case?

12 PROSPECTIVE JUROR NO. 423: I think I could be fair
13 and I'm interested in learning and hearing and yeah.

14 MS. DIGIACOMO: You think you can keep an open mind
15 because that's really --

16 PROSPECTIVE JUROR NO. 423: Yes.

17 MS. DIGIACOMO: -- is the biggest part. Just keep
18 an open mind and judge the evidence and what's presented to
19 you.

20 PROSPECTIVE JUROR NO. 423: Yes.

21 MS. DIGIACOMO: All right. Now is there anyone in
22 your family that has military service?

23 PROSPECTIVE JUROR NO. 423: My dad was in the Army.
24 He just served his two years, it was after the Korean War. He
25 was stationed in Germany.

1 MS. DIGIACOMO: Okay. So it was after the war was
2 over?

3 PROSPECTIVE JUROR NO. 423: Yes, there was no war,
4 no combat.

5 MS. DIGIACOMO: And did you ever talk to him about
6 his experiences?

7 PROSPECTIVE JUROR NO. 423: Just a little bit, he
8 worked in the mail room.

9 MS. DIGIACOMO: Anyone else?

10 PROSPECTIVE JUROR NO. 423: No, just friends' kids.

11 MS. DIGIACOMO: All right. Now, have you or anyone
12 close to you ever been the victim of a crime?

13 PROSPECTIVE JUROR NO. 423: We've had our house
14 broken into here in Las Vegas, yeah.

15 MS. DIGIACOMO: Were the police called?

16 PROSPECTIVE JUROR NO. 423: Yes.

17 MS. DIGIACOMO: And did you ever get any of your
18 stuff back?

19 PROSPECTIVE JUROR NO. 423: No.

20 MS. DIGIACOMO: And how do you feel? Were you
21 satisfied or dissatisfied with the way the police handled it?

22 PROSPECTIVE JUROR NO. 423: I was -- I was fine. It
23 was a real nice police officer.

24 MS. DIGIACOMO: I'm sorry. Say that again.

25 PROSPECTIVE JUROR NO. 423: He was a real nice

1 police officer. He was an acquaintance of my daughter's
2 coworker at the time.

3 MS. DIGIACOMO: Okay. So even though you didn't get
4 your stuff back you're still okay with the way they
5 investigated it?

6 PROSPECTIVE JUROR NO. 423: Yeah, they did what they
7 could, uh-huh.

8 MS. DIGIACOMO: Okay. On the same -- along those
9 lines, I mean do you have any particular good experiences or
10 bad experiences with the police?

11 PROSPECTIVE JUROR NO. 423: Not really, no. I
12 understand that they're doing a job and sometimes they can
13 seem a little arrogant but I think that's the way they have to
14 be, it's scary. I wouldn't want to be one.

15 MS. DIGIACOMO: And you understand too that there's
16 also limited resources and they don't have --

17 PROSPECTIVE JUROR NO. 423: Exactly.

18 MS. DIGIACOMO: -- everything at their disposal.

19 PROSPECTIVE JUROR NO. 423: Right.

20 MS. DIGIACOMO: What about drug use, do you have any
21 strong opinions about drug use or --

22 PROSPECTIVE JUROR NO. 423: I really don't. I
23 understand it's a disease and I try to be partial to that.
24 You know, I understand that people -- yeah, I don't like them
25 at all, you know. I don't like to take drugs myself on a

1 prescription basis even --

2 MS. DIGIACOMO: Right.

3 PROSPECTIVE JUROR NO. 423: -- but I do understand
4 that -- it's sad that people get addicted and stuff.

5 MS. DIGIACOMO: Do you think you could keep an open
6 mind with regard to the evidence presented if you do hear that
7 somebody does do drugs?

8 PROSPECTIVE JUROR NO. 423: Yes, I can have an open
9 mind.

10 MS. DIGIACOMO: Well, what about with the penalty?
11 I know this is a little bit different situation, you're not
12 just called upon to make a decision about whether or not the
13 State's proven their case. But if first-degree murder is
14 selected, then there would be a penalty phase. Would you
15 consider all three penalties?

16 PROSPECTIVE JUROR NO. 423: Yes, I can.

17 MS. DIGIACOMO: And make a decision on that?

18 PROSPECTIVE JUROR NO. 423: Uh-huh.

19 MS. DIGIACOMO: Yes, for the record?

20 PROSPECTIVE JUROR NO. 423: Yes.

21 MS. DIGIACOMO: All right. I'll pass for cause.

22 THE COURT: Thank you. Defense.

23 MS. LEMCKE: Forgive me if you were asked, but did
24 -- did you -- were you asked if anybody that you know or close
25 to has had any issues with addiction?

1 PROSPECTIVE JUROR NO. 423: No, I wasn't asked but I
2 don't -- I can't -- no, I don't have anything.

3 MS. LEMCKE: Okay. I think when you were asked
4 earlier -- I need to swap that or I'm going to smack that
5 microphone all the time. Earlier yesterday you indicated that
6 you had served on a coroner's inquest jury?

7 PROSPECTIVE JUROR NO. 423: Uh-huh.

8 MS. LEMCKE: How long did that take?

9 PROSPECTIVE JUROR NO. 423: Just the afternoon.

10 MS. LEMCKE: So it was a pretty short presentation?

11 PROSPECTIVE JUROR NO. 423: Yeah, it was just the
12 day. I was here from the morning until night.

13 MS. LEMCKE: Okay. Did they actually do like
14 opening statements and closing arguments and all of that?

15 PROSPECTIVE JUROR NO. 423: Yes.

16 MS. LEMCKE: Did you -- you were given a set of
17 instructions then like from the court --

18 PROSPECTIVE JUROR NO. 423: Yes.

19 MS. LEMCKE: -- to make your decision?

20 PROSPECTIVE JUROR NO. 423: Yeah.

21 MS. LEMCKE: Did you enjoy that experience?

22 PROSPECTIVE JUROR NO. 423: Uh-huh.

23 MS. LEMCKE: Yeah?

24 PROSPECTIVE JUROR NO. 423: Yeah.

25 MS. LEMCKE: Okay. Was it -- was it -- well, I

1 don't want to ask you the details about it. Of -- we talked a
2 little bit about the burden of proof in a criminal case and
3 how -- it's going to be probably a little bit different than
4 what was in the coroner's inquest.

5 PROSPECTIVE JUROR NO. 423: Right, uh-huh.

6 MS. LEMCKE: In that the prosecutors have the burden
7 of proving guilt beyond a reasonable doubt and that's kind of
8 what you're called upon to look at. You know, whether or not
9 they've met their burden of proof.

10 PROSPECTIVE JUROR NO. 423: Yeah.

11 MS. LEMCKE: Do you like the idea that in our
12 country that that's kind of the system of justice that we
13 have?

14 PROSPECTIVE JUROR NO. 423: I didn't really know it
15 was like that until you brought it up the other day.

16 MS. LEMCKE: Okay. Which I think is common.

17 PROSPECTIVE JUROR NO. 423: I always thought it was
18 both sides and then -- I didn't know it was automatically here
19 and then you guys just could sit back if you wanted to. Yeah.

20 MS. LEMCKE: I assure you we won't. But it is kind
21 of odd when you think about it, right?

22 PROSPECTIVE JUROR NO. 423: Yeah, uh-huh.

23 MS. LEMCKE: That, you know, that really is kind of
24 a one-sided deal in a way, you know.

25 PROSPECTIVE JUROR NO. 423: Yeah.

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1 MS. LEMCKE: That really what you're doing is
2 determining whether or not they've proven their case beyond a
3 reasonable doubt.

4 PROSPECTIVE JUROR NO. 423: Yeah.

5 MS. LEMCKE: Would it bother you if -- again, we're
6 not, but would it bother you if Mr. Slife and I decided, uh,
7 they don't got it, we're just going to sit there and do
8 nothing and argue to you in closing?

9 PROSPECTIVE JUROR NO. 423: Yeah, it would bother
10 me.

11 MS. LEMCKE: Okay. Would you want to see us present
12 evidence to you?

13 PROSPECTIVE JUROR NO. 423: Absolutely.

14 MS. LEMCKE: Would you -- and I see fellow jurors
15 nodding. Would you -- would you hold it against us if we
16 didn't present -- let's say they called more witnesses because
17 they get to go first then we do. Would it bother you if they
18 called more witnesses than we did?

19 PROSPECTIVE JUROR NO. 423: NO.

20 MS. LEMCKE: Okay. What about kind of keeping in
21 line with that, the idea that an accused in a criminal case is
22 under no obligation to get up on the stand and swear to tell
23 you the truth and talk to you, would it bother you if someone
24 who's accused of a crime, even someone who's innocent, didn't
25 get up on the stand and talk to you?

1 PROSPECTIVE JUROR NO. 423: Well, I think the
2 lawyers tell the person yes -- do it or not do it. I think
3 it's up to the lawyers. Yeah, sometimes it bothers me. It's
4 like why aren't they standing up and screaming that they're
5 innocent, that bothers me. But I know that it can't be that
6 way.

7 MS. LEMCKE: Right. Well, can you think of any --
8 can you think of any reasons why someone who's innocent may
9 not want to get up on the stand to testify?

10 PROSPECTIVE JUROR NO. 423: I'm sure there's -- if
11 they -- if they're innocent but it could be twisted to where
12 they would automatically -- I mean if there was no witnesses
13 or something like that, then I can see where they would --
14 they need their lawyer to speak for them.

15 MS. LEMCKE: Okay. And you mentioned like, you
16 know, having your words twisted and I think some of your
17 fellow jurors yesterday kind of touched --

18 PROSPECTIVE JUROR NO. 423: Yeah.

19 MS. LEMCKE: -- on that idea. You know, even if
20 you're interrogated say by law enforcement, could you -- would
21 that be something that might make someone who -- an innocent
22 person even say, you know what, I'm not comfortable with this,
23 I'd like to have a lawyer present with me?

24 PROSPECTIVE JUROR NO. 423: Yeah.

25 MS. LEMCKE: Okay. Do you think that's reasonable

1 or do you think that if you're innocent you would always want
2 to talk to the police?

3 PROSPECTIVE JUROR NO. 423: No. I -- I can see
4 where you need a lawyer. This day and age there's so many
5 loopholes.

6 MS. LEMCKE: Right. We talked a little bit about
7 military service. Was it -- did you have any thoughts on
8 that? Some of the discussions that we had about Mr. Brown's
9 training a little bit, some other things, anything of any
10 significance to you where those discussions were concerned?

11 PROSPECTIVE JUROR NO. 423: Like the post-traumatic
12 stuff?

13 MS. LEMCKE: Uh-huh.

14 PROSPECTIVE JUROR NO. 423: Yeah, I think that's a
15 real deal and --

16 MS. LEMCKE: So you are -- you believe that there --
17 you know, that that diagnosis is a legitimate diagnosis --

18 PROSPECTIVE JUROR NO. 423: Absolutely.

19 MS. LEMCKE: -- for people who suffer?

20 PROSPECTIVE JUROR NO. 423: Uh-huh.

21 MS. LEMCKE: What makes you say that?

22 PROSPECTIVE JUROR NO. 423: Because I've just heard
23 stories from friends or, you know, seen it in movies and stuff
24 and I -- so I know it's real. I've had post-traumatic myself,
25 little panic attacks per se, and they've called it that. I

1 didn't see it but that's what they called it. And --

2 MS. LEMCKE: Did the -- I'm sorry. Go ahead.

3 PROSPECTIVE JUROR NO. 423: So I know it's real
4 because I've been there. Not -- I haven't been in the service
5 and seen somebody killed in front of me, but I know that it's
6 real. I know those panic attacks and stuff like that, flight
7 or fight is real.

8 MS. LEMCKE: Okay. When -- did your panic attacks,
9 did they -- was there something that they were attributable to
10 in particular? Like was there some trauma?

11 PROSPECTIVE JUROR NO. 423: Yeah, my husband and I
12 weren't getting along and stuff, we were going through some
13 troubles and everything so --

14 MS. LEMCKE: And that's what kind of brought it on?

15 PROSPECTIVE JUROR NO. 423: -- they -- they --
16 uh-huh.

17 MS. LEMCKE: Okay. When you said that you had some
18 friends who also had kind of shared those experiences, were
19 those friends who were -- had undergone some kind of trauma
20 that had -- had some experiences related to that?

21 PROSPECTIVE JUROR NO. 423: I don't know -- I don't
22 know any personal stories but I do know that like my
23 girlfriend's husband was in Vietnam and if she were to wake
24 him up out of his sleep or something he'd wake up, you know,
25 swing or -- it was scary. So I just know that they do have

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1 symptoms of -- from being in service and stuff, yeah.

2 MS. LEMCKE: Okay. Was that -- with your
3 girlfriend, was that an ongoing issue for them? I mean would
4 it happen with some regularity?

5 PROSPECTIVE JUROR NO. 423: I only heard it once so
6 I don't know if -- yeah, I'm sure it was -- like his
7 personality, she just couldn't wake him up out of a dead
8 sleep. You know, it would scare him.

9 MS. LEMCKE: Okay. Did she ever talk about him
10 having nightmares or anything like that?

11 PROSPECTIVE JUROR NO. 423: I think that was part of
12 that conversation, uh-huh.

13 MS. LEMCKE: Okay. Anything else that you've heard
14 that we've discussed in today and yesterday that causes you to
15 think, oh, I really wanted to weigh in on that. I agreed with
16 this or I disagree with that or any opinion that you have --

17 PROSPECTIVE JUROR NO. 423: I've heard so much that
18 it was kind of all answered --

19 MS. LEMCKE: Okay.

20 PROSPECTIVE JUROR NO. 423: -- as it went along. If
21 I thought of something the next person usually answered it.

22 MS. LEMCKE: Okay. Is there anything that we've
23 missed? I know that would be incredibly difficult to believe.
24 Is there anything that we might have missed about you that we
25 haven't learned that might -- that you have -- are thinking,

1 oh, maybe I, you know, wouldn't be fair for this reason or
2 another reason?

3 PROSPECTIVE JUROR NO. 423: No.

4 MS. LEMCKE: Okay. Your Honor, I pass for cause.

5 THE COURT: Okay. And this is Leticia Kiefaber?

6 PROSPECTIVE JUROR NO. 426: Yes.

7 THE COURT: Badge number 426?

8 PROSPECTIVE JUROR NO. 426: Yes.

9 THE COURT: Tell us about yourself.

10 PROSPECTIVE JUROR NO. 426: I'm a salesperson in a
11 retail store. And on December 7th, 2013, I lost my son.

12 THE COURT: Oh, I'm very sorry.

13 PROSPECTIVE JUROR NO. 426: Thank you. In an
14 accident.

15 THE COURT: In an automobile accident or --

16 PROSPECTIVE JUROR NO. 426: No. He was hit for a
17 car, he was on his bicycle.

18 THE COURT: I see. And he -- he was a young son?

19 PROSPECTIVE JUROR NO. 426: Nineteen years.

20 THE COURT: Nineteen years, that's pretty young.

21 All right. I'm very sorry to hear that. Okay. And do you
22 have any other children?

23 PROSPECTIVE JUROR NO. 426: No, he was my only son.

24 THE COURT: You only son. Okay. Are you married,
25 single?

1 PROSPECTIVE JUROR NO. 426: I'm divorced.

2 THE COURT: Divorced, okay. How long have you lived
3 here in Clark County?

4 PROSPECTIVE JUROR NO. 426: Twenty-three years.

5 THE COURT: Is -- where did you come from before you
6 moved here?

7 PROSPECTIVE JUROR NO. 426: Mexico.

8 THE COURT: And you came as a child to the United
9 States?

10 PROSPECTIVE JUROR NO. 426: No.

11 THE COURT: How old were you when you came?

12 PROSPECTIVE JUROR NO. 426: I was 28.

13 THE COURT: Okay. Well, you look very young.

14 PROSPECTIVE JUROR NO. 426: Thank you.

15 THE COURT: So did you go to school in Mexico?

16 PROSPECTIVE JUROR NO. 426: Yes, I did.

17 THE COURT: What -- how far did you go in school?

18 PROSPECTIVE JUROR NO. 426: I went like high school,
19 uh-huh.

20 THE COURT: No college while you were still in
21 Mexico?

22 PROSPECTIVE JUROR NO. 426: No, I was working.

23 THE COURT: Okay. What did you do there?

24 PROSPECTIVE JUROR NO. 426: In a bank, I work in a
25 bank.

1 THE COURT: Now, did you work in the bank until you
2 left to come to the United States?

3 PROSPECTIVE JUROR NO. 426: I came for vacation with
4 my aunt and I met my first husband, my son's dad, and then I
5 stay here.

6 THE COURT: And what other jobs have you done
7 besides the bank and the work in the video store?

8 PROSPECTIVE JUROR NO. 426: No, I don't work in the
9 video store. I work here in a retail store, like a
10 salesperson.

11 THE COURT: Okay. Well, yeah, that's what I meant.
12 Besides that job and the bank job, what other jobs have you
13 had?

14 PROSPECTIVE JUROR NO. 426: Here or in Mexico?

15 THE COURT: Either one.

16 PROSPECTIVE JUROR NO. 426: Here I work in a casino
17 here in downtown in the California Casino.

18 THE COURT: What did you do for the casinos?

19 PROSPECTIVE JUROR NO. 426: I worked like a bus
20 person.

21 THE COURT: And any other jobs in Mexico?

22 PROSPECTIVE JUROR NO. 426: No.

23 THE COURT: No? Okay. Is there any reason that you
24 feel you could not be fair and impartial in this case?

25 PROSPECTIVE JUROR NO. 426: Yes.

1 THE COURT: Okay. What's that?

2 PROSPECTIVE JUROR NO. 426: I have strong feelings
3 after lost my son about lawyers.

4 THE COURT: About lawyers?

5 PROSPECTIVE JUROR NO. 426: Yeah, how they treat me.

6 THE COURT: Okay. You felt --

7 PROSPECTIVE JUROR NO. 426: Yeah.

8 THE COURT: -- like you were treated badly by
9 lawyers?

10 PROSPECTIVE JUROR NO. 426: Yes.

11 THE COURT: Did you file a lawsuit of some kind?

12 PROSPECTIVE JUROR NO. 426: No.

13 THE COURT: No. All right. Did you make a claim
14 against the person who hit your son?

15 PROSPECTIVE JUROR NO. 426: Well, I was trying.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 426: A lot of people, they
18 come to me trying to represent me and they didn't do too much.
19 After read the police report they just send me a letter, they
20 don't want me.

21 THE COURT: I see.

22 PROSPECTIVE JUROR NO. 426: They don't want my case.

23 THE COURT: Okay. I see. But they approached you to
24 represent you? How did they find out about you?

25 PROSPECTIVE JUROR NO. 426: Funeral home.

1 THE COURT: For -- from --
2 PROSPECTIVE JUROR NO. 426: From the funeral home.
3 THE COURT: I see. So the funeral home gave your
4 name to lawyers?
5 PROSPECTIVE JUROR NO. 426: Exactly.
6 THE COURT: And what funeral home was that?
7 PROSPECTIVE JUROR NO. 426: Palm Cemetery.
8 THE COURT: Paul's? Palms.
9 PROSPECTIVE JUROR NO. 426: Palm Cemetery.
10 THE COURT: Palm Cemetery, okay. And what lawyers
11 were you given names for? Who -- what -- what lawyers were
12 you referred to by Palm?
13 PROSPECTIVE JUROR NO. 426: There were three.
14 THE COURT: Three?
15 PROSPECTIVE JUROR NO. 426: Three, yeah.
16 THE COURT: Who were they?
17 PROSPECTIVE JUROR NO. 426: I don't have their names
18 in my mind.
19 THE COURT: Okay. And did they call you or did you
20 call them?
21 PROSPECTIVE JUROR NO. 426: Their assistants, they
22 found me, for make appointment. They trying to convince me.
23 I didn't want to go because I wanted the police report first
24 before I take the other step.
25 THE COURT: Okay. And so you eventually did get the

1 police report?

2 PROSPECTIVE JUROR NO. 426: I got the police report.

3 THE COURT: Okay. And did you read it?

4 PROSPECTIVE JUROR NO. 426: I did.

5 THE COURT: And was there something in it that was
6 disturbing to you?

7 PROSPECTIVE JUROR NO. 426: Yes, of course.

8 THE COURT: Okay. But I mean you said after these
9 lawyers read the police report they didn't want to represent
10 you. Did they ever explain why? It's okay. We'll get you
11 some tissue.

12 PROSPECTIVE JUROR NO. 426: This is too hard for me.

13 THE COURT: All right. So let me ask you --

14 PROSPECTIVE JUROR NO. 426: It's only 15 months my
15 son left.

16 THE COURT: I understand. Okay. So let me ask you
17 this. Do you believe that this is going to affect your
18 ability to be fair and impartial because you just --

19 PROSPECTIVE JUROR NO. 426: Yes, it's --

20 THE COURT: -- lost your son?

21 PROSPECTIVE JUROR NO. 426: It's been affecting all
22 my life. My life change. My son passes in seven minutes.

23 THE COURT: Okay. All right. Counsel.

24 MR. BATEMAN: No objection.

25 MS. LEMCKE: No objection.

1 THE COURT: All right. Thank you very much. We're
2 very sorry and you're excused. Call the next in order.

3 THE CLERK: Badge 452, Charlie Serrano.

4 THE COURT: Okay. You'll need to go down to the
5 third floor and let the Jury Commissioner know you've been
6 excused. All right, Ms. Kiefaber?

7 Well, Mr. Serrano, welcome to the jury box. Before
8 I ask you to tell me about yourself I need to know, have you
9 ever served as a juror before?

10 PROSPECTIVE JUROR NO. 452: No.

11 THE COURT: Have you ever been in law enforcement?

12 PROSPECTIVE JUROR NO. 452: No.

13 THE COURT: Anyone in your family or closely
14 associated with you in law enforcement?

15 PROSPECTIVE JUROR NO. 452: My aunt was a
16 corrections officer but she's retired now.

17 THE COURT: How long has she been retired?

18 PROSPECTIVE JUROR NO. 452: A little under a year
19 and a half maybe.

20 THE COURT: Was she a corrections officer here in
21 Nevada?

22 PROSPECTIVE JUROR NO. 452: Yeah, in Nevada.

23 THE COURT: In Clark County?

24 PROSPECTIVE JUROR NO. 452: Uh-huh.

25 THE COURT: Okay. Did you ever talk to her about

1 her work?

2 PROSPECTIVE JUROR NO. 452: She's told me a couple
3 stories but other than that I haven't really asked her about
4 anything.

5 THE COURT: Okay. When she told you the stories,
6 did -- I'm sure they were interesting but did -- did they
7 influence your general opinions about the justice system or --

8 PROSPECTIVE JUROR NO. 452: Nothing pertaining to
9 the justice system, no.

10 THE COURT: No? Okay. And she's the only person in
11 law enforcement in your family or closely associated with you?

12 PROSPECTIVE JUROR NO. 452: Close association, yes.

13 THE COURT: You may have some acquaintances that are
14 involved?

15 PROSPECTIVE JUROR NO. 452: Friends, family, don't
16 really get into it with them.

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

19 PROSPECTIVE JUROR NO. 452: Other than my bike being
20 stolen when I was a kid, probably not, no.

21 THE COURT: And how long ago was that?

22 PROSPECTIVE JUROR NO. 452: I was probably a
23 freshman in high school so --

24 THE COURT: Was that here in Clark County?

25 PROSPECTIVE JUROR NO. 452: Yes.

1 THE COURT: Did you or your parents report it to the
2 police?

3 PROSPECTIVE JUROR NO. 452: It was actually my
4 neighbor who stole my bike from the school grounds and we were
5 able to -- we didn't really go further into it. Once he gave
6 the bike back we were fine.

7 THE COURT: Okay. So it wasn't reported to police,
8 you just were able to handle it, your parents with the
9 neighbors and --

10 PROSPECTIVE JUROR NO. 452: Oh, well we -- we did
11 call the police but we didn't really go further into it. Once
12 they gave the bike back the police were okay, we were okay.

13 THE COURT: But did that cause some bad feelings
14 between neighbors then?

15 PROSPECTIVE JUROR NO. 452: Not really, no.

16 THE COURT: Have you -- anyone in your family or
17 closely associated with you ever been the victim of what you
18 would consider to be a serious crime?

19 PROSPECTIVE JUROR NO. 452: I'm sure they have.
20 Like I said, I don't really keep in touch with a lot of my
21 family and friends.

22 THE COURT: So to your knowledge the answer then is
23 no?

24 PROSPECTIVE JUROR NO. 452: Yes.

25 THE COURT: Oh, okay. And have you ever been

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1 accused of a crime?

2 PROSPECTIVE JUROR NO. 452: No.

3 THE COURT: Or convicted of a crime?

4 PROSPECTIVE JUROR NO. 452: No.

5 THE COURT: Anyone in your family or closely
6 associated with you been accused or convicted of a crime?

7 PROSPECTIVE JUROR NO. 452: Yes. My father but I
8 was tiny at the time so.

9 THE COURT: He was convicted of a crime?

10 PROSPECTIVE JUROR NO. 452: Yes.

11 THE COURT: And what -- what was the upshot of that,
12 what happened?

13 PROSPECTIVE JUROR NO. 452: Well, I'm sure he
14 learned his lesson and he -- well, we did a lot better.

15 THE COURT: What was the crime?

16 PROSPECTIVE JUROR NO. 452: My mother and father
17 kind of got into it and he kind of went to jail for a few days
18 so --

19 THE COURT: Some kind of domestic violence thing?

20 PROSPECTIVE JUROR NO. 452: Yeah.

21 THE COURT: Okay. And that was quite some time ago?

22 PROSPECTIVE JUROR NO. 452: Yes.

23 THE COURT: Okay. Do you know what their -- were
24 you present when that happened?

25 PROSPECTIVE JUROR NO. 452: I might have been.

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1 Again, I was probably like a toddler.

2 THE COURT: Oh, okay. So you have no recollection
3 of it yourself.

4 PROSPECTIVE JUROR NO. 452: No.

5 THE COURT: It's just you've heard about the story?

6 PROSPECTIVE JUROR NO. 452: Yeah.

7 THE COURT: Anyone else in your family or close
8 associate of yours been convicted of a crime?

9 PROSPECTIVE JUROR NO. 452: No, not to my knowledge.

10 THE COURT: Have you ever either been associated
11 with someone closely or anyone in your family ever had drug
12 problems?

13 PROSPECTIVE JUROR NO. 452: I had a really close
14 friend who was convicted of being a drug dealer. We kind of
15 lost contact so --

16 THE COURT: So did you ever talk to him about that
17 at all?

18 PROSPECTIVE JUROR NO. 452: No.

19 THE COURT: Okay. So did you know whether he also,
20 as well as dealing drugs, did he use them?

21 PROSPECTIVE JUROR NO. 452: Like I said, we lost
22 contact so --

23 THE COURT: I see. And so was that -- you lost
24 contact before and then you just heard about this later?

25 PROSPECTIVE JUROR NO. 452: Uh-huh, yes.

1 THE COURT: Is that a yes?

2 PROSPECTIVE JUROR NO. 452: Sorry.

3 THE COURT: Okay. Do you have any moral or
4 religious beliefs that would make it difficult or impossible
5 for you to sit in judgment in a case like this, to sit on a
6 jury and make decisions?

7 PROSPECTIVE JUROR NO. 452: No.

8 THE COURT: Now you've heard us talk about the
9 presumptions -- presumption of innocence in our system of
10 justice and that means that the defendant is presumed to be
11 innocent unless and until the State proves beyond a reasonable
12 doubt otherwise. And so the State, the State's burden is to
13 do all the proving. A person in the United States does not
14 have to prove that they are innocent, the State has to prove
15 that they're guilty. You understand that?

16 PROSPECTIVE JUROR NO. 452: Yes.

17 THE COURT: Do you have any quarrel with that or
18 problem?

19 PROSPECTIVE JUROR NO. 452: No. That's our right in
20 this country of ours so --

21 THE COURT: Now, some people nonetheless still feel
22 like they would want to hear from someone that they just -- I
23 mean they can intellectually accept that that's the rule but
24 they just can't get past it. And if -- if somebody doesn't
25 present evidence or take the stand and testify, then they just

1 would -- would feel that that would be unacceptable to them.
2 Are you like that?

3 PROSPECTIVE JUROR NO. 452: No.

4 THE COURT: How do you feel about it?

5 PROSPECTIVE JUROR NO. 452: I'm impartial to it.
6 They're innocent until proven guilty.

7 THE COURT: And is there any reason that you can
8 think of that you could not be a fair and impartial juror in
9 this case?

10 PROSPECTIVE JUROR NO. 452: No.

11 THE COURT: Tell us about yourself.

12 PROSPECTIVE JUROR NO. 452: Well, I'm 20 years old,
13 born and raised here. I have a two-year-old son and -- well,
14 not at home at the moment but he's with his mother. I'm
15 divorced and I work at a bank.

16 THE COURT: Okay. What do you do at the bank?

17 PROSPECTIVE JUROR NO. 452: I'm a lead teller.

18 THE COURT: And do you live by yourself then?

19 PROSPECTIVE JUROR NO. 452: I live with my uncle.

20 THE COURT: What does he do?

21 PROSPECTIVE JUROR NO. 452: He's also at a bank and
22 he works at a casino part time.

23 THE COURT: How long have you worked for the bank?

24 PROSPECTIVE JUROR NO. 452: Two years now -- or no,
25 a year. Yeah, sorry.

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1 THE COURT: What's your educational background?

2 PROSPECTIVE JUROR NO. 452: I was attending college.
3 Kind of had to put it on hold for the child and whatnot.

4 THE COURT: What were you studying in college?

5 PROSPECTIVE JUROR NO. 452: Criminal justice.

6 THE COURT: You have an interest in criminal justice
7 so that you want to do something with that later as a career?

8 PROSPECTIVE JUROR NO. 452: Well, if I go back to
9 school I'm probably going to switch majors, go into banking or
10 business.

11 THE COURT: So you developed an interest in that
12 since you've worked for the bank?

13 PROSPECTIVE JUROR NO. 452: Yes.

14 THE COURT: Thank you. Would the State like to
15 inquire further?

16 MS. DIGIACOMO: Yes, thank you. All right. When
17 you were in college and doing criminal justice, what was your
18 interest at that time?

19 PROSPECTIVE JUROR NO. 452: Well, I just wanted to
20 join law enforcement but ---

21 MS. DIGIACOMO: You like the banking side better?

22 PROSPECTIVE JUROR NO. 452: Yeah.

23 MS. DIGIACOMO: Do you have -- other than your aunt,
24 do you have anyone else that's in law enforcement in your
25 family?

1 PROSPECTIVE JUROR NO. 452: I'm sure I do but --

2 MS. DIGIACOMO: No one you're close to. Okay. What
3 -- what about television shows, do you watch any of the law
4 shows?

5 PROSPECTIVE JUROR NO. 452: I like My Cousin Vinny
6 but other than that.

7 MS. DIGIACOMO: Okay. You understand what happened
8 in My Cousin Vinny is not what you're going to see in this
9 courtroom, right?

10 PROSPECTIVE JUROR NO. 452: No, I understand.

11 MS. DIGIACOMO: Okay. And what about any military
12 service, anyone close to you?

13 PROSPECTIVE JUROR NO. 452: Yes. I have a lot of
14 aunts, cousins, uncles that are in the military and --

15 MS. DIGIACOMO: Anyone that's like career military?

16 PROSPECTIVE JUROR NO. 452: Career part time.

17 MS. DIGIACOMO: Do you talk to them about what
18 they've done in the military?

19 PROSPECTIVE JUROR NO. 452: I probably have asked
20 them a couple questions but like nothing that really comes to
21 mind.

22 MS. DIGIACOMO: And what about any bad or good
23 experiences with the police?

24 PROSPECTIVE JUROR NO. 452: Nothing that comes to
25 mind, no.

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1 MS. DIGIACOMO: And in this case if you heard about
2 drug use, would you have any like strong opinions about drugs?

3 PROSPECTIVE JUROR NO. 452: Everybody -- it's their
4 life. They choose what they want to do with it.

5 MS. DIGIACOMO: What about if what they choose to do
6 affects somebody else's life?

7 PROSPECTIVE JUROR NO. 452: Then yeah, that's again
8 on them.

9 MS. DIGIACOMO: Okay. So nothing about that, if you
10 heard anything about drug use in the case it wouldn't affect
11 your ability to be fair and impartial here?

12 PROSPECTIVE JUROR NO. 452: No.

13 MS. DIGIACOMO: Now what about penalty? If this
14 went to a penalty phase, would you be able to consider all
15 three penalties?

16 PROSPECTIVE JUROR NO. 452: Yes.

17 MS. DIGIACOMO: And would you be able to make a
18 decision?

19 PROSPECTIVE JUROR NO. 452: Yes.

20 MS. DIGIACOMO: All right. How do you feel about
21 serving on the jury?

22 PROSPECTIVE JUROR NO. 452: A little nervous.

23 MS. DIGIACOMO: All right --

24 PROSPECTIVE JUROR NO. 452: A bunch of eyes on me.
25 I'm not really good in crowds so --

1 MS. DIGIACOMO: Well, when you -- so you're nervous
2 right now because you're the one speaking?

3 PROSPECTIVE JUROR NO. 452: Yeah. But over time I'm
4 going to get over it so --

5 MS. DIGIACOMO: All right. But, I mean, like if you
6 were selected to be on the jury, how do you feel about that?

7 PROSPECTIVE JUROR NO. 452: Like I said, I'm just a
8 little nervous when it comes to like, you know, being in front
9 of people.

10 MS. DIGIACOMO: Okay. Well, if --

11 PROSPECTIVE JUROR NO. 452: I'm a little shy.

12 MS. DIGIACOMO: -- is that -- would that apply if it
13 was the 12 of you back in a room, would you feel nervous?

14 PROSPECTIVE JUROR NO. 452: No.

15 MS. DIGIACOMO: All right. Would you feel
16 comfortable giving your opinions?

17 PROSPECTIVE JUROR NO. 452: Yes.

18 MS. DIGIACOMO: I'll pass for cause.

19 THE COURT: Thank you.

20 MR. SLIFE: Thank you, Your Honor. Just one, sir.
21 You had mentioned that you had some family in the military?

22 PROSPECTIVE JUROR NO. 452: Yes.

23 MR. SLIFE: What -- where did they serve? Was this
24 recent? Was this Afghanistan, Iraq or was that before?

25 PROSPECTIVE JUROR NO. 452: I've had family all

1 over, Afghanistan, Germany, Tokyo so --

2 MR. SLIFE: Okay. That's my only question. Thank
3 you very much, sir. Pass for cause, Your Honor.

4 THE COURT: Thank you. All right. Ladies and
5 gentlemen, the next part of our -- our selection process is
6 what's known as peremptory challenges and so each side get
7 eight peremptory challenges where they can just thank and
8 excuse you. And they'll do so by your seat number and your
9 name and they'll thank and excuse you. And if you're thanked
10 and excused you'll depart the courtroom and go down and let
11 the Jury Commissioner know that you've, you know, you were
12 excused by the Court. And then we'll call the next in order
13 to fill that empty seat. So it is the State's first
14 peremptory challenge.

15 MS. DIGIACOMO: Thank you, Your Honor. The State
16 would thank and excuse badge number 433, Ms. McFadden, seated
17 in juror seat number seven.

18 THE COURT: Thank you.

19 THE CLERK: Badge 455, Erin Malone.

20 THE COURT: Ms. Malone, we'll give you the
21 microphone. Have you ever served as a juror before, ma'am?

22 PROSPECTIVE JUROR NO. 455: Yes, I have.

23 THE COURT: Was that here in Clark County?

24 PROSPECTIVE JUROR NO. 455: No, that was in
25 Wisconsin.

1 THE COURT: How long ago was that?
2 PROSPECTIVE JUROR NO. 455: About four years ago.
3 THE COURT: Was it a criminal case or a civil case?
4 PROSPECTIVE JUROR NO. 455: It was a criminal case.
5 THE COURT: Without telling us what the verdict was,
6 did the jury reach a verdict?
7 PROSPECTIVE JUROR NO. 455: Yes.
8 THE COURT: Were you the foreperson of the jury?
9 PROSPECTIVE JUROR NO. 455: No, I was not.
10 THE COURT: Anything about that experience that
11 makes you think I don't ever want to be on a jury again?
12 PROSPECTIVE JUROR NO. 455: No.
13 THE COURT: Have you ever been in law enforcement?
14 PROSPECTIVE JUROR NO. 455: No, I have not.
15 THE COURT: Anyone in your family or closely
16 associated with you been in law enforcement?
17 PROSPECTIVE JUROR NO. 455: No.
18 THE COURT: Have you ever been the victim of a
19 crime?
20 PROSPECTIVE JUROR NO. 455: No.
21 THE COURT: Anyone in your family, closely
22 associated with you ever been the victim of a serious crime?
23 PROSPECTIVE JUROR NO. 455: No.
24 THE COURT: Do you, you know, have either you or
25 anyone in your family or closely associated with you been

1 involved in, you know, illicit drugs?

2 PROSPECTIVE JUROR NO. 455: No.

3 THE COURT: Anyone in your family or closely
4 associated with you or you yourself been accused or convicted
5 of a crime?

6 PROSPECTIVE JUROR NO. 455: No.

7 THE COURT: Do you have any religious or moral
8 beliefs that would make it difficult or impossible for you to
9 sit in judgment in this case?

10 PROSPECTIVE JUROR NO. 455: No.

11 THE COURT: Do you understand the presumption of
12 innocence?

13 PROSPECTIVE JUROR NO. 455: Yes.

14 THE COURT: And do you agree with that?

15 PROSPECTIVE JUROR NO. 455: Yes.

16 THE COURT: You understand that it is the State's
17 burden of proof to prove the case beyond a reasonable doubt?

18 PROSPECTIVE JUROR NO. 455: Yes.

19 THE COURT: So given that, would you feel that a
20 defendant would need to present evidence in order to -- to
21 convince you that he or she was not guilty?

22 PROSPECTIVE JUROR NO. 455: I would like to hear
23 both sides, but I understand that the prosecution has to prove
24 that the defendant is guilty.

25 THE COURT: And if the -- after you heard the

1 evidence you felt that the State had not proved its case,
2 would you have any difficulty returning a not guilty verdict?

3 PROSPECTIVE JUROR NO. 455: If I felt the State had
4 not proved its case, no, I would not.

5 THE COURT: All right. And by the same token, if
6 you felt that the State had proved their case beyond a
7 reasonable doubt, would you have any problem returning a
8 guilty verdict?

9 PROSPECTIVE JUROR NO. 455: No.

10 THE COURT: Would you be able to consider the
11 penalties if it went to a penalty phase, the three penalties
12 that we've talked about?

13 PROSPECTIVE JUROR NO. 455: Yes.

14 THE COURT: Any reason at all that you think you
15 could not be fair and impartial as a juror in this case?

16 PROSPECTIVE JUROR NO. 455: No.

17 THE COURT: Tell us about yourself.

18 PROSPECTIVE JUROR NO. 455: I recently, until April
19 19th, I worked at Ages of Las Vegas, that's a memory care
20 facility. I was a lead med tech so I passed out medication
21 and helped care for the people there that had dementia. I
22 have a daughter, she's 20, she lives in Wisconsin, she works
23 at a grocery store. I'm divorced and that's about it.

24 THE COURT: And you've been here fairly a short
25 time?

1 PROSPECTIVE JUROR NO. 455: Yes, I've been here two
2 years.

3 THE COURT: So what brought you to Las Vegas?

4 PROSPECTIVE JUROR NO. 455: My brother lives here,
5 he's been here for 16 years. He just adopted two children so
6 I came to be close to them and to help.

7 THE COURT: You said until recently you were
8 employed with the -- the facility and dispensing medications
9 to dementia patients. What caused you to leave that
10 employment?

11 PROSPECTIVE JUROR NO. 455: Actually, I had asked
12 for vacation to spend time with my daughter and that was
13 denied so I chose to leave.

14 THE COURT: Okay. And did you go on vacation to
15 then visit your daughter?

16 PROSPECTIVE JUROR NO. 455: She came here.

17 THE COURT: Okay. So are you looking for employment
18 now?

19 PROSPECTIVE JUROR NO. 455: I am. I actually got a
20 call yesterday so I just need to follow up on that.

21 THE COURT: What type of training or education do
22 you have to have to have done the job that you did?

23 PROSPECTIVE JUROR NO. 455: You have to be certified
24 as a medication technician.

25 THE COURT: And who certifies you in that?

1 PROSPECTIVE JUROR NO. 455: I went to a group that's
2 called ABBA and they just do med tech classes and they certify
3 you.

4 THE COURT: And is that the type of work you're
5 looking for now?

6 PROSPECTIVE JUROR NO. 455: No. Actually, I'm
7 looking to do something else. I have a Bachelor's of Science
8 so.

9 THE COURT: Okay. In what field?

10 PROSPECTIVE JUROR NO. 455: It's in American
11 studies, it's a general degree with a minor in sociology.

12 THE COURT: So what type of work are you looking to
13 do?

14 PROSPECTIVE JUROR NO. 455: Just anything, I'm
15 applying for all different kinds of jobs. I just want
16 something different.

17 THE COURT: But you have -- you said you got a call
18 and you have an interview. What was the --

19 PROSPECTIVE JUROR NO. 455: I actually have an
20 interview at the Tropicana, that's tomorrow. It's for a
21 service ambassador, just greeting customers that come in.

22 THE COURT: And before, what kinds of jobs have you
23 had?

24 PROSPECTIVE JUROR NO. 455: It's pretty much mostly
25 been in healthcare for the last 14 years. I've done home

1 healthcare, I've done healthcare in facilities. For the last
2 seven years I've worked in facilities strictly with people
3 with dementia.

4 THE COURT: And your brother, you said you're
5 helping him with these adopted children --

6 PROSPECTIVE JUROR NO. 455: Yes.

7 THE COURT: -- what does he do?

8 PROSPECTIVE JUROR NO. 455: He works for a company,
9 it's called Himalaya, they sell herbal supplements. He's the
10 education specialist.

11 THE COURT: Thank you. Would the State like to
12 inquire further?

13 MS. DIGIACOMO: Yes, thank you. Now, you said you
14 have an interview tomorrow?

15 PROSPECTIVE JUROR NO. 455: I do.

16 MS. DIGIACOMO: What time is that?

17 PROSPECTIVE JUROR NO. 455: Ten-thirty.

18 MS. DIGIACOMO: So it wouldn't affect your ability
19 to sit on the jury?

20 PROSPECTIVE JUROR NO. 455: I don't think so.

21 MS. DIGIACOMO: You said you have one daughter and
22 is 20 and lives in Wisconsin.

23 PROSPECTIVE JUROR NO. 455: Yes.

24 MS. DIGIACOMO: All right. And works as a -- in a
25 grocery store?

1 PROSPECTIVE JUROR NO. 455: Uh-huh, yes.

2 MS. DIGIACOMO: How -- and I'm sorry, and then you
3 said you were divorced. How long ago did -- was -- did that
4 happen?

5 PROSPECTIVE JUROR NO. 455: I've been divorced for
6 15 years.

7 MS. DIGIACOMO: Oh, okay, so a long time. Now do
8 you watch any of the law shows; the CSI, Law and Order?

9 PROSPECTIVE JUROR NO. 455: I watch Forensic Files.

10 MS. DIGIACOMO: Okay. So you like the real life
11 kind of stuff?

12 PROSPECTIVE JUROR NO. 455: Yeah, uh-huh.

13 MS. DIGIACOMO: All right. Now any -- anything
14 about that that you would have expectations about what should
15 happen in this trial, what the State should present as
16 evidence?

17 PROSPECTIVE JUROR NO. 455: No.

18 MS. DIGIACOMO: Anyone in your family have any
19 military service?

20 PROSPECTIVE JUROR NO. 455: My dad was in the Army.

21 MS. DIGIACOMO: And was he career or --

22 PROSPECTIVE JUROR NO. 455: No.

23 MS. DIGIACOMO: Did you ever talk to him about his
24 service?

25 PROSPECTIVE JUROR NO. 455: Just a little bit. He

1 just had a few stories. I don't think he was in there very
2 long. I think he -- he didn't see any combat. I think he was
3 building things.

4 MS. DIGIACOMO: Okay. And have you ever been -- I
5 think you said you've never been the victim of a crime --

6 PROSPECTIVE JUROR NO. 455: No.

7 MS. DIGIACOMO: -- no one close to you?

8 PROSPECTIVE JUROR NO. 455: No.

9 MS. DIGIACOMO: And do you have any strong opinions
10 about drug use?

11 PROSPECTIVE JUROR NO. 455: I don't.

12 MS. DIGIACOMO: So it wouldn't affect your ability
13 to be fair and impartial here if you heard somebody had used
14 drugs during the course of the trial?

15 PROSPECTIVE JUROR NO. 455: No, it wouldn't -- I
16 wouldn't judge that.

17 MS. DIGIACOMO: Any bad or good experiences with the
18 police?

19 PROSPECTIVE JUROR NO. 455: No experiences.

20 MS. DIGIACOMO: I'll pass for cause.

21 THE COURT: Thank you. Defense.

22 MS. LEMCKE: You indicated when Judge Ellsworth
23 asked you about the presumption of innocence and you
24 understand obviously that it's the State's burden in a
25 criminal case but you kind of indicated you at the same time

1 would like to see both sides give a presentation, which I
2 think is totally reasonable.

3 PROSPECTIVE JUROR NO. 455: Yes.

4 MS. LEMCKE: How would you feel if Mr. Slife and I
5 just did nothing, bumps on a log for the next two weeks and
6 got up and argue in summation?

7 PROSPECTIVE JUROR NO. 455: I guess I would just
8 have to make my decision based on what the prosecution
9 presented if you did nothing.

10 MS. LEMCKE: Okay. Would it -- would it bother you,
11 again, because prosecutors, they always go first so who we
12 call as witnesses or don't call kind of depends on who they
13 call or they don't call. Would it bother you if they called
14 more witnesses then we did?

15 PROSPECTIVE JUROR NO. 455: No.

16 MS. LEMCKE: Would you think that that necessarily
17 meant that they had a better case than we do?

18 PROSPECTIVE JUROR NO. 455: No.

19 MS. LEMCKE: Okay. What about -- we've talked a
20 little bit about the accused rights. You know, when they are
21 confronted by law enforcement and then when a criminal case is
22 brought against them and we talked a little bit about the
23 right to testify, the right not to testify. Do you have any
24 feelings about that? Like would it bother you one way or the
25 other if someone felt like they had to get up and tell their

1 side of the story or if someone felt like I don't want to? Do
2 you have any thoughts on that?

3 PROSPECTIVE JUROR NO. 455: No, I understand why
4 someone wouldn't.

5 MS. LEMCKE: Why? Can you give me some ideas like
6 why somebody might not want to talk to police or without a
7 lawyer or get up on the stand in a trial and talk?

8 PROSPECTIVE JUROR NO. 455: I think it's easy to
9 have your words, you know, twisted or taken in a way that you
10 don't mean them to be taken. In a serious case, yeah, I would
11 listen to what my lawyer said and do what they advised.

12 MS. LEMCKE: Even if you're innocent?

13 PROSPECTIVE JUROR NO. 455: Yes.

14 MS. LEMCKE: Okay. And you indicated that your dad
15 had served in the Army but for a short period of time.

16 PROSPECTIVE JUROR NO. 455: Yes.

17 MS. LEMCKE: Don't think he saw any combat that
18 you're aware of?

19 PROSPECTIVE JUROR NO. 455: No.

20 MS. LEMCKE: Do you have any other friends or close
21 associates that spent any time in the military?

22 PROSPECTIVE JUROR NO. 455: No.

23 MS. LEMCKE: Okay. And we talked a little bit about
24 -- a little bit about drug use and that type of thing. You
25 indicated that you didn't have any strong feelings one way or

1 the other, I think. Do you have -- have you had any
2 experiences with anybody who's had any addiction issues or?

3 PROSPECTIVE JUROR NO. 455: Yes. I had a friend a
4 few years ago that was addicted to crack.

5 MS. LEMCKE: Okay. Was this a close friend?

6 PROSPECTIVE JUROR NO. 455: Yes, it was a close
7 friend.

8 MS. LEMCKE: Did the -- did the addiction -- like
9 when your friend used, did it kind of change -- was it a girl
10 or a boy?

11 PROSPECTIVE JUROR NO. 455: It was man.

12 MS. LEMCKE: Man, okay. Did it -- did you notice
13 changes in the personality?

14 PROSPECTIVE JUROR NO. 455: Yes.

15 MS. LEMCKE: Bad, negative changes I would assume
16 or?

17 PROSPECTIVE JUROR NO. 455: Yes.

18 MS. LEMCKE: And can you tell me a little bit about
19 that?

20 PROSPECTIVE JUROR NO. 455: His personality changed.
21 He didn't become aggressive or anything but he was not the
22 same person. He was very, you know, unreliable, he would just
23 disappear for periods of time and nobody really knew what he
24 was doing.

25 MS. LEMCKE: When you say he was unreliable, like

1 kind of flaky unreliable or unreliable like you couldn't rely
2 on what he would tell you either?

3 PROSPECTIVE JUROR NO. 455: Yeah, yeah, he would
4 lie, yeah. You couldn't really believe what he was saying.

5 MS. LEMCKE: Okay. Would he lie on a pretty regular
6 basis?

7 PROSPECTIVE JUROR NO. 455: Uh-huh.

8 MS. LEMCKE: Did it seem like it was easier for him
9 to lie when -- when -- when he was under the throes of the
10 addiction and the substance abuse?

11 PROSPECTIVE JUROR NO. 455: I can't say. I mean --

12 MS. LEMCKE: You just noticed it was more
13 prevalent --

14 PROSPECTIVE JUROR NO. 455: Yes, yes.

15 MS. LEMCKE: -- and it happened more with him, okay.

16 PROSPECTIVE JUROR NO. 455: Yeah.

17 MS. LEMCKE: Okay. So you've heard all the stories
18 -- or all the stories, all the topics that we've discussed. I
19 could roll through them but I won't. Is there anything that
20 stood out in your mind as being something that you're like,
21 you know what, I really agree or disagree with one of my
22 fellow jurors or one of the questions was, you know, of
23 particular importance to me, anything like that that you can
24 think of?

25 PROSPECTIVE JUROR NO. 455: No.

1 MS. LEMCKE: If you were seated where Mr. Pimentel
2 and myself and Mr. Slife are seated or where the prosecutors
3 are seated, would you want 12 people such as yourself on the
4 jury?

5 PROSPECTIVE JUROR NO. 455: Yeah.

6 MS. LEMCKE: Tell me why.

7 PROSPECTIVE JUROR NO. 455: I can be fair. I don't
8 have any preconceived ideas about anything at this point so.

9 MS. LEMCKE: And one last question, I'm just
10 curious. How do you like Las Vegas?

11 PROSPECTIVE JUROR NO. 455: I really like it but the
12 summers are just way, way too hot. I could do without that.

13 MS. LEMCKE: I don't disagree. All right. Nothing
14 further, Your Honor.

15 THE COURT: Thank you. Defense, first peremptory
16 challenge.

17 MS. LEMCKE: Court's indulgence.

18 THE COURT: Counsel, I need a decision.

19 MS. LEMCKE: I know, sorry. Your Honor, can we
20 approach? I just have a question about -- I apologize.

21 THE COURT: That's all right.

22 (Off-record bench conference.)

23 MS. LEMCKE: Your Honor, the defense would thank and
24 excuse badge number 405, Ms. Neal.

25 THE CLERK: What chair and seat?

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1 THE COURT: What chair?
2 MS. LEMCKE: Oh, I'm sorry, it's --
3 MR. SLIFE: Chair -- chair number eight.
4 THE COURT: Thank you.
5 THE CLERK: Badge 458, Dawn Davis.
6 THE COURT: Hello, Ms. Davis.
7 PROSPECTIVE JUROR NO. 458: Hello.
8 THE COURT: How are you?
9 PROSPECTIVE JUROR NO. 458: Good. How are you?
10 THE COURT: Good. Thank you. Have you ever served
11 as a juror before?
12 PROSPECTIVE JUROR NO. 458: No.
13 THE COURT: Is that a no?
14 PROSPECTIVE JUROR NO. 458: No.
15 THE COURT: All right. There you go. And have you
16 ever been in law enforcement?
17 PROSPECTIVE JUROR NO. 458: No.
18 THE COURT: Anyone in your family or closely
19 associated with you in law enforcement?
20 PROSPECTIVE JUROR NO. 458: No.
21 THE COURT: Have you ever been the victim of a
22 crime?
23 PROSPECTIVE JUROR NO. 458: No.
24 THE COURT: Anyone in your family or closely
25 associated with you been the victim of what you consider to be

1 a serious crime?

2 PROSPECTIVE JUROR NO. 458: Nope.

3 THE COURT: Have you or anyone in your family or
4 closely associated with you ever been accused of or convicted
5 of a crime?

6 PROSPECTIVE JUROR NO. 458: No.

7 THE COURT: Do you have any religious or moral
8 beliefs that make it difficult for you to -- or impossible for
9 you to sit in judgment in a case like this?

10 PROSPECTIVE JUROR NO. 458: No.

11 THE COURT: Do you have any quarrel with the
12 presumption of innocence?

13 PROSPECTIVE JUROR NO. 458: No.

14 THE COURT: Okay. So you would be able to hold the
15 State to its burden of proof in this case?

16 PROSPECTIVE JUROR NO. 458: Uh-huh.

17 THE COURT: If the State proved the case to you
18 beyond a reasonable doubt, would you be able to return a
19 guilty verdict?

20 PROSPECTIVE JUROR NO. 458: Yes.

21 THE COURT: And if the reverse was true, if you
22 believe that they did not meet their burden of proof, would
23 you be able to return a verdict of not guilty?

24 PROSPECTIVE JUROR NO. 458: Yes.

25 THE COURT: Have you formed any opinions at all up

1 to this point in the case about the guilt or the innocence of
2 the defendant?

3 PROSPECTIVE JUROR NO. 458: No.

4 THE COURT: Is there any reason at all that you
5 think you could not be fair and impartial in this case?

6 PROSPECTIVE JUROR NO. 458: No.

7 THE COURT: Anyone in -- either yourself or anyone
8 in your family or closely associated with you ever been
9 involved in the addiction or usage of -- addiction to or usage
10 of illicit drugs?

11 PROSPECTIVE JUROR NO. 458: Yeah. I had two uncles
12 who did drugs.

13 THE COURT: And was that a long time ago, recently?

14 PROSPECTIVE JUROR NO. 458: Well, one of my uncle,
15 he passed away and we believe that's why because he did an
16 overdose. And my other uncle, he's clean now so it was a long
17 time ago, I was young.

18 THE COURT: So did you ever interact with your
19 uncles while they were using illicit drugs?

20 PROSPECTIVE JUROR NO. 458: I'm pretty sure I did,
21 but I didn't notice because I was -- I was a little girl so.

22 THE COURT: Tell us about yourself.

23 PROSPECTIVE JUROR NO. 458: I'm 27. I was born and
24 raised in Las Vegas. I don't have any kids yet, I'm pregnant
25 now, I will be due September 21st. And that's it.

1 THE COURT: Well, are you married, single, divorced?

2 PROSPECTIVE JUROR NO. 458: I'm single.

3 THE COURT: Okay. You have a significant other

4 or --

5 PROSPECTIVE JUROR NO. 458: Yes, I have a boyfriend.

6 THE COURT: Okay. And does -- do you live together?

7 PROSPECTIVE JUROR NO. 458: Yeah, we live together.

8 THE COURT: What does he do?

9 PROSPECTIVE JUROR NO. 458: He doesn't work, he has
10 sickle cell disease, so he's disabled, he's unable to work.

11 THE COURT: And how about yourself, do you work?

12 PROSPECTIVE JUROR NO. 458: Yes.

13 THE COURT: Okay. What do you do?

14 PROSPECTIVE JUROR NO. 458: I work for Clark County
15 School District.

16 THE COURT: Just a minute. I'm sorry, go ahead.

17 PROSPECTIVE JUROR NO. 458: I work for the Clark
18 County School District. I'm an office specialist II for the
19 transportation department.

20 THE COURT: And what does an office specialist II do
21 day to day?

22 PROSPECTIVE JUROR NO. 458: I just assist parents
23 and schools and students on bussing information.

24 THE COURT: Okay. And has that been the only job
25 you've held?

1 PROSPECTIVE JUROR NO. 458: Yeah. Out of high
2 school I started as a student worker so, yeah.

3 THE COURT: With the department of transportation?

4 PROSPECTIVE JUROR NO. 458: No, with the Clark
5 County School District. I was at a school before that.

6 THE COURT: And what -- when you were a student
7 worker at the school, what did you do?

8 PROSPECTIVE JUROR NO. 458: I was a library aid.

9 THE COURT: All right. Would the State like to
10 inquire further?

11 MS. DIGIACOMO: Yes, thank you. So you've been with
12 the Clark County School District since you graduated from high
13 school?

14 PROSPECTIVE JUROR NO. 458: Uh-huh.

15 MS. DIGIACOMO: So like over 10 years now?

16 PROSPECTIVE JUROR NO. 458: Yeah, I graduated in
17 2005.

18 MS. DIGIACOMO: Okay. So and you said -- I couldn't
19 hear, you kind of tapered off, you were -- when you were a
20 student worker you worked in the library?

21 PROSPECTIVE JUROR NO. 458: Uh-huh. I was a library
22 aid at an elementary school.

23 MS. DIGIACOMO: Oh, okay. And then from the library
24 aid, did you have another job before you became the office
25 specialist in transportation?

1 PROSPECTIVE JUROR NO. 458: No, I went straight
2 there.

3 MS. DIGIACOMO: Now, do you watch any of the law
4 shows, the CSIs?

5 PROSPECTIVE JUROR NO. 458: Yes, I do.

6 MS. DIGIACOMO: Okay. Do you think that they're all
7 real what you see on TV?

8 PROSPECTIVE JUROR NO. 458: No.

9 MS. DIGIACOMO: Do you have any expectations about
10 if you sat on this jury what you would expect the State to do
11 in presenting its case?

12 PROSPECTIVE JUROR NO. 458: No, I don't have any
13 expectations like that.

14 MS. DIGIACOMO: Okay. What about military service?

15 PROSPECTIVE JUROR NO. 458: I don't know anyone in
16 the military service.

17 MS. DIGIACOMO: All right. And you said you were
18 born and raised here?

19 PROSPECTIVE JUROR NO. 458: Uh-huh.

20 MS. DIGIACOMO: So is your family here as well?

21 PROSPECTIVE JUROR NO. 458: Yes.

22 MS. DIGIACOMO: Were the uncles that you talked
23 about before, did they also live in Las Vegas?

24 PROSPECTIVE JUROR NO. 458: Uh-huh.

25 MS. DIGIACOMO: All right. But you were pretty

1 young when they --

2 PROSPECTIVE JUROR NO. 458: Yes.

3 MS. DIGIACOMO: -- were going through their issues?

4 PROSPECTIVE JUROR NO. 458: Uh-huh.

5 MS. DIGIACOMO: Is that, I'm sorry, yes for the
6 record?

7 PROSPECTIVE JUROR NO. 458: Yes. Sorry.

8 MS. DIGIACOMO: Now, do you have any opinions,
9 strong opinions or not strong opinions about drug use?

10 PROSPECTIVE JUROR NO. 458: No, I don't have any
11 opinions.

12 MS. DIGIACOMO: Never known anyone else other than
13 your uncles to use it?

14 PROSPECTIVE JUROR NO. 458: Yeah, that I know of.

15 MS. DIGIACOMO: All right. So nothing about how you
16 feel about drugs would affect your ability to be fair and
17 impartial in this case?

18 PROSPECTIVE JUROR NO. 458: Yeah, nothing will
19 affect it.

20 MS. DIGIACOMO: All right. Now what about with the
21 police, have you had any particular good experiences, any
22 particular bad experiences with them?

23 PROSPECTIVE JUROR NO. 458: Nope. I only get pulled
24 over for traffic, that's it.

25 MS. DIGIACOMO: All right. Well, it could be a bad

1 experience.

2 PROSPECTIVE JUROR NO. 458: Yeah, nothing bad.

3 MS. DIGIACOMO: Okay. And the Judge I think did ask
4 you about penalty if this went to a penalty phase, you'd be
5 able to consider all three?

6 PROSPECTIVE JUROR NO. 458: Yes.

7 MS. DIGIACOMO: And would you be able to make a
8 decision?

9 PROSPECTIVE JUROR NO. 458: Yes.

10 MS. DIGIACOMO: And if you were selected to sit on
11 this jury, how do you feel about that if you were selected?

12 PROSPECTIVE JUROR NO. 458: I don't have any feeling
13 towards it. If I was selected then I would just do my duty
14 and, you know, listen to whatever the prosecution brings to
15 the table and that's it. And determine based off the case.

16 MS. DIGIACOMO: All right. And also speaking with
17 your fellow jurors?

18 PROSPECTIVE JUROR NO. 458: Uh-huh.

19 MS. DIGIACOMO: Yes?

20 PROSPECTIVE JUROR NO. 458: Yes.

21 MS. DIGIACOMO: Okay. I'll pass for cause.

22 THE COURT: Thank you. Defense.

23 MR. SLIFE: Ma'am, any thoughts on the presumption
24 of innocence that we've talked about over and over again --

25 PROSPECTIVE JUROR NO. 458: [indiscernible]

1 MR. SLIFE: -- that we don't have to present a
2 defense and all that?

3 PROSPECTIVE JUROR NO. 458: Yeah, I understand it.
4 Like everyone else, I would want to hear both sides but I
5 understand the law so.

6 MR. SLIFE: Okay. And that brings up a good point
7 and I don't know if we've touched on it. At the end you're
8 going to get some law. Are you going to be able to follow the
9 law even if maybe you disagree with it potentially?

10 PROSPECTIVE JUROR NO. 458: Yeah, I think so.

11 MR. SLIFE: Okay. What about -- what about our
12 question with regards to police, why people may not want to
13 speak to police without an attorney, that -- that whole thing.
14 Have you got any thoughts on that?

15 PROSPECTIVE JUROR NO. 458: No, I think it's up to
16 the person. It's their right so.

17 MR. SLIFE: Okay. You wouldn't necessarily think
18 they're guilty because they want -- because they want an
19 attorney?

20 PROSPECTIVE JUROR NO. 458: No.

21 MR. SLIFE: Okay. What about PTSD?

22 PROSPECTIVE JUROR NO. 458: I don't really know too
23 much about it so.

24 MR. SLIFE: Okay. So if we had people testifying
25 about it in court you would be open to what they may have to

1 offer?

2 PROSPECTIVE JUROR NO. 458: Yeah.

3 MR. SLIFE: Okay. Thank you very much.

4 PROSPECTIVE JUROR NO. 458: You're welcome.

5 MR. SLIFE: Thank you, Judge. Pass for cause.

6 THE COURT: Thank you. Mr. Weber? Mr. Weber, are

7 you with us?

8 PROSPECTIVE JUROR NO. 373: Yeah, I'm here.

9 THE COURT: Okay. Well, it looked like you were
10 sleeping. I know it's not really scintillating right now
11 but --

12 PROSPECTIVE JUROR NO. 373: I just wasn't sure why
13 you were calling my name.

14 THE COURT: Because you looked like you were going
15 to be falling out of your chair, that's why. I just wanted to
16 make sure you were with us. All right. Thank you.

17 It's the State's next peremptory challenge.

18 MS. DIGIACOMO: Thank you, Your Honor. The State
19 would thank and excuse Ms. Benitez, badge number 417 and seat
20 number nine.

21 THE COURT: Thank you.

22 THE CLERK: Badge 469, Shawna Sparks.

23 THE COURT: Hello, Ms. Sparks. Have you ever been a
24 juror before?

25 PROSPECTIVE JUROR NO. 469: No.

1 THE COURT: And have you ever been in law
2 enforcement?

3 PROSPECTIVE JUROR NO. 469: I've not been in law
4 enforcement but I have worked in corrections in Colorado.

5 THE COURT: Okay. How long ago was that?

6 PROSPECTIVE JUROR NO. 469: About 15 years ago.

7 THE COURT: Okay. And how long did you do that?

8 PROSPECTIVE JUROR NO. 469: About two years.

9 THE COURT: Were you a corrections officer?

10 PROSPECTIVE JUROR NO. 469: Yes, ma'am.

11 THE COURT: So two years isn't too long. Did you
12 like the job or not like the job?

13 PROSPECTIVE JUROR NO. 469: At the time it was okay.
14 You know, after leaving and hearing what had happened at that
15 particular facility I was glad I was gone.

16 THE COURT: Okay. Did -- was there a problem at the
17 facility you had been at --

18 PROSPECTIVE JUROR NO. 469: Uh-huh.

19 THE COURT: -- after you left?

20 PROSPECTIVE JUROR NO. 469: Yes.

21 THE COURT: What type of problem?

22 PROSPECTIVE JUROR NO. 469: There was a large riot.

23 THE COURT: Okay. And were corrections officers
24 hurt in that riot?

25 PROSPECTIVE JUROR NO. 469: What I heard, yes.

1 THE COURT: Anything about that experience as a
2 corrections officer that affects your ability to be fair and
3 impartial in a criminal case?

4 PROSPECTIVE JUROR NO. 469: I still think I'd be
5 fair. I don't have any major opinions on anything.

6 THE COURT: So you could listen to all the evidence
7 and make a decision based solely upon the evidence that's
8 presented in the -- in court and the law as I instruct you?

9 PROSPECTIVE JUROR NO. 469: Definitely.

10 THE COURT: Will you be able to follow the law even
11 if it's something you disagree with?

12 PROSPECTIVE JUROR NO. 469: Definitely.

13 THE COURT: Have you ever been the victim of a
14 crime?

15 PROSPECTIVE JUROR NO. 469: I've been burglarized
16 once when I first moved here to Vegas.

17 THE COURT: And how long ago was that?

18 PROSPECTIVE JUROR NO. 469: About 12 years ago.

19 THE COURT: Did you call the police?

20 PROSPECTIVE JUROR NO. 469: Yes.

21 THE COURT: And did they respond?

22 PROSPECTIVE JUROR NO. 469: Yes.

23 THE COURT: Did they ever apprehend the person?

24 PROSPECTIVE JUROR NO. 469: No, and none of the
25 property was found.

1 THE COURT: Did you feel that the police did
2 everything they could or were you dissatisfied?

3 PROSPECTIVE JUROR NO. 469: I mean they did what
4 they had -- what they could, I mean with what little bit of
5 information they had.

6 THE COURT: Okay. Did -- you didn't have any
7 suspects?

8 PROSPECTIVE JUROR NO. 469: No suspects.

9 THE COURT: Anyone in your family or closely
10 associated with you that have been the victim of what you
11 would consider to be a serious violent type crime?

12 PROSPECTIVE JUROR NO. 469: Not a violent crime. My
13 brother's in prison right now for sexual assault.

14 THE COURT: Okay. Well, generally, that's
15 considered a violent crime actually. So how long ago was that
16 that he was convicted?

17 PROSPECTIVE JUROR NO. 469: Oh, my goodness. His
18 first conviction was probably about 10 years ago.

19 THE COURT: You say his first conviction so what --
20 what all has he --

21 PROSPECTIVE JUROR NO. 469: He got paroled and then
22 violated his parole and got put back in --

23 THE COURT: I see --

24 PROSPECTIVE JUROR NO. 469: -- for the same thing.

25 THE COURT: Was that here in Nevada?

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1 PROSPECTIVE JUROR NO. 469: No, it was in Arkansas.

2 THE COURT: Did you feel that he's -- he was treated
3 fairly by the criminal justice, you know, system?

4 PROSPECTIVE JUROR NO. 469: Considering I wasn't
5 close to the case at all, I don't have any opinion on it.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 469: You know, there's no
8 major opinions.

9 THE COURT: Is there a big age difference between
10 you and your brother?

11 PROSPECTIVE JUROR NO. 469: No, we're only about a
12 year apart but we're not really close.

13 THE COURT: I see. Okay. So you never discussed it
14 with him, what was happening in his life or followed the case
15 against him or anything of that nature? All right. Do you
16 have any quarrel with the presumption of innocence?

17 PROSPECTIVE JUROR NO. 469: No, not at all.

18 THE COURT: Will you hold the State to its burden of
19 proof?

20 PROSPECTIVE JUROR NO. 469: Definitely.

21 THE COURT: Will you, if the State does prove its
22 case beyond a reasonable doubt, would you be able to return a
23 guilty verdict?

24 PROSPECTIVE JUROR NO. 469: Yes.

25 THE COURT: And if they don't, would you also be

1 able to return a not guilty verdict?

2 PROSPECTIVE JUROR NO. 469: Yes.

3 THE COURT: Tell us about yourself.

4 PROSPECTIVE JUROR NO. 469: I moved here to Vegas
5 about 12 years ago. I'm divorced for about 10 years. We
6 separated and that's one of the reasons why I moved here. My
7 current boyfriend's got two grown adult children. We have
8 four grandchildren and I am currently guardianship over one of
9 those children. And I am a driver for Checker Cab currently.

10 THE COURT: Have you -- since you've lived here have
11 you always been a cab driver?

12 PROSPECTIVE JUROR NO. 469: No. I started doing
13 call center work at various places and then I got hired on at
14 the Plaza doing PBX and then I went to Venetian in Palazzo and
15 did PBX there and room reservations prior.

16 THE COURT: So of all these different jobs that
17 you've had, which was your favorite?

18 PROSPECTIVE JUROR NO. 469: I enjoyed being in the
19 hotels doing PBX reservations, front desk, that type of stuff.

20 THE COURT: And how about -- how do you enjoy being
21 a cab driver?

22 PROSPECTIVE JUROR NO. 469: It's different. I mean
23 it's a new experience every day.

24 THE COURT: You said your -- you serve as a guardian
25 for one of your grandchildren?

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1 PROSPECTIVE JUROR NO. 469: Yes.

2 THE COURT: And do you have full custody of that
3 grandchild?

4 PROSPECTIVE JUROR NO. 469: I have full guardianship
5 over him, yes.

6 THE COURT: Okay. But do you have physical custody?

7 PROSPECTIVE JUROR NO. 469: Yes.

8 THE COURT: Okay. Why do you have that
9 guardianship?

10 PROSPECTIVE JUROR NO. 469: His mother couldn't care
11 for the two young children because they were only 11 months
12 apart so she gave up custody to myself.

13 THE COURT: Of just one child?

14 PROSPECTIVE JUROR NO. 469: Of just the one child,
15 yes.

16 THE COURT: And she has custody of the other child?

17 PROSPECTIVE JUROR NO. 469: Uh-huh.

18 THE COURT: Does she have any substance abuse
19 problems?

20 PROSPECTIVE JUROR NO. 469: We believe there is but
21 there's no proof.

22 THE COURT: Why do you think there is?

23 PROSPECTIVE JUROR NO. 469: Changes in attitudes.
24 I've got cousins that have been substance abusers and I see
25 the same tendencies in her as I did in my cousins.

1 THE COURT: Do you anticipate that you might have to
2 take custody or guardianship over the other child as well?

3 PROSPECTIVE JUROR NO. 469: Possibly, yes.

4 THE COURT: Any reason at all that you think you
5 could not be a fair and impartial juror in this case?

6 PROSPECTIVE JUROR NO. 469: No, not at all.

7 THE COURT: Thank you. Would the State like to
8 inquire further?

9 MS. DIGIACOMO: Thank you. Okay. When you were the
10 corrections officer in -- was it Colorado?

11 PROSPECTIVE JUROR NO. 469: Yes.

12 MS. DIGIACOMO: Why -- why did you leave after two
13 years?

14 PROSPECTIVE JUROR NO. 469: I had some surgery done
15 and they wanted me to report for work right afterwards and put
16 me in situations that I wasn't comfortable with so I decided
17 to leave.

18 MS. DIGIACOMO: Okay. So it's not that you didn't
19 like what you were doing at the time, it had to do with other
20 circumstances.

21 PROSPECTIVE JUROR NO. 469: Right, it had to do with
22 medical circumstances.

23 MS. DIGIACOMO: Okay. So did you live in Colorado
24 until you came here?

25 PROSPECTIVE JUROR NO. 469: Uh-huh.

1 MS. DIGIACOMO: Yes?
2 PROSPECTIVE JUROR NO. 469: Yes.
3 MS. DIGIACOMO: Okay. And do you watch any of the
4 CSI law shows? Okay. Do you have any expectations of what
5 you --
6 PROSPECTIVE JUROR NO. 469: Not at all.
7 MS. DIGIACOMO: -- expect us to do?
8 PROSPECTIVE JUROR NO. 469: No.
9 MS. DIGIACOMO: Okay. What about military service?
10 PROSPECTIVE JUROR NO. 469: No military service.
11 MS. DIGIACOMO: And other than when you -- that
12 burglary occurred, no other crimes close -- people close to
13 you victims?
14 PROSPECTIVE JUROR NO. 469: No.
15 MS. DIGIACOMO: Now, have you ever had any
16 particular good experience or bad experience with police?
17 PROSPECTIVE JUROR NO. 469: Not me personally, no..
18 MS. DIGIACOMO: But somebody else that you know?
19 PROSPECTIVE JUROR NO. 469: Yes.
20 MS. DIGIACOMO: Okay. Somebody close to you?
21 PROSPECTIVE JUROR NO. 469: Not somebody real close.
22 I have a high school friend that's had a bad experience back
23 in Colorado with the police right now.
24 MS. DIGIACOMO: Oh, going -- it's going on right
25 now?

1 PROSPECTIVE JUROR NO. 469: Yeah.

2 MS. DIGIACOMO: Is she talking to you about that?

3 PROSPECTIVE JUROR NO. 469: We've not discussed it
4 one on one, I just read stuff on Facebook about it.

5 MS. DIGIACOMO: Okay. Anything about that and her
6 experience right now that would affect your ability to be fair
7 and impartial here?

8 PROSPECTIVE JUROR NO. 469: No.

9 MS. DIGIACOMO: And with regard to, you know, you
10 know people who have done drugs and you may suspect it in --
11 in I guess your stepdaughter?

12 PROSPECTIVE JUROR NO. 469: Right.

13 MS. DIGIACOMO: Do you have any strong opinions one
14 way or another about drug use?

15 PROSPECTIVE JUROR NO. 469: I don't like it, you
16 know. I can see why some people get addicted to drugs and see
17 how it affects their lives.

18 MS. DIGIACOMO: Okay. So you can see both sides of
19 the equation?

20 PROSPECTIVE JUROR NO. 469: Right.

21 MS. DIGIACOMO: And with regard to the penalty, do
22 you have any issues if you were on this jury and you did have
23 to decide penalty?

24 PROSPECTIVE JUROR NO. 469: No, not at all.

25 MS. DIGIACOMO: Would knowing that you have to

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1 decide penalty if it gets to that point, would that affect
2 your decision in what we call the guilt phase, like deciding
3 what -- what --

4 PROSPECTIVE JUROR NO. 469: No, not at all.

5 MS. DIGIACOMO: All right. I'll pass for cause.

6 THE COURT: Defense.

7 MS. LEMCKE: You may have been answered this so
8 forgive me, but what did you do in corrections?

9 PROSPECTIVE JUROR NO. 469: I was a correctional
10 officer.

11 MS. LEMCKE: You actually were an officer?

12 PROSPECTIVE JUROR NO. 469: Yes.

13 MS. LEMCKE: Okay.

14 PROSPECTIVE JUROR NO. 469: In a private facility.

15 MS. LEMCKE: Okay.

16 PROSPECTIVE JUROR NO. 469: It wasn't a State-owned
17 facility.

18 MS. LEMCKE: Did the State contract with the
19 facility then to house inmates or?

20 PROSPECTIVE JUROR NO. 469: They had contracts for
21 not only Colorado offenders but also for other states.

22 MS. LEMCKE: Oh, so they were housing people from a
23 whole bunch of different areas.

24 PROSPECTIVE JUROR NO. 469: Right.

25 MS. LEMCKE: Okay. Did you ever have any bad

1 experiences with any of the other -- your fellow officers or
2 the inmates when you were there?

3 PROSPECTIVE JUROR NO. 469: No.

4 MS. LEMCKE: Okay. Okay. Did you have any special
5 training that you underwent to become a corrections officer?

6 PROSPECTIVE JUROR NO. 469: Yes.

7 MS. LEMCKE: Because you have to have a weapons
8 permit, right?

9 PROSPECTIVE JUROR NO. 469: Yes.

10 MS. LEMCKE: Or yeah, okay. What did that training
11 involve?

12 PROSPECTIVE JUROR NO. 469: We did combative
13 training, you know, we did the firearms training. You know,
14 more about the law and, you know, kind of how to deal with
15 people.

16 MS. LEMCKE: Okay.

17 PROSPECTIVE JUROR NO. 469: But nothing major.

18 MS. LEMCKE: With your combative training, would you
19 learn how to deal with situations if somebody was to be
20 physical with one of the officers?

21 PROSPECTIVE JUROR NO. 469: Right, like take-downs
22 and things like that --

23 MS. LEMCKE: Okay. And when you --

24 PROSPECTIVE JUROR NO. 469: -- control situations.

25 MS. LEMCKE: Okay. So like if -- if somebody got

1 confrontational or physically aggressive you knew how to
2 respond.

3 PROSPECTIVE JUROR NO. 469: Right.

4 MS. LEMCKE: When they -- when they trained you,
5 like were they training you so that you kind of automatically
6 knew what to do once you were confronted with a difficult
7 situation?

8 PROSPECTIVE JUROR NO. 469: They were attempting to,
9 yes. I don't think they -- I don't think any of us ever
10 really got to that point.

11 MS. LEMCKE: Okay. But that was their goal anyway?

12 PROSPECTIVE JUROR NO. 469: Right.

13 MS. LEMCKE: Okay. Did you -- so then when you were
14 trained in the use of a weapon like guns, were you a gun owner
15 before that time?

16 PROSPECTIVE JUROR NO. 469: [inaudible]

17 MS. LEMCKE: Are you a gun owner now?

18 PROSPECTIVE JUROR NO. 469: No.

19 MS. LEMCKE: No? Okay. Did you feel pretty
20 comfortable with a weapon at that point?

21 PROSPECTIVE JUROR NO. 469: In my job, yes; outside
22 of my job, you know, it's not something I really wanted to
23 take it into my home.

24 MS. LEMCKE: Okay. But you never had to use it at
25 your job? Okay. But you -- all the officers I assume were

1 armed; is that right?

2 PROSPECTIVE JUROR NO. 469: No.

3 MS. LEMCKE: Oh, they weren't?

4 PROSPECTIVE JUROR NO. 469: No.

5 MS. LEMCKE: Which one -- like how did they
6 distinguish between which ones would be -- carry a weapon and
7 which ones wouldn't?

8 PROSPECTIVE JUROR NO. 469: The only ones that
9 carried were outside personnel. So if we were on outside
10 duty, securing the perimeter, we had to carry. Or if we were
11 on medical transports.

12 MS. LEMCKE: Okay.

13 PROSPECTIVE JUROR NO. 469: But being inside the
14 facility at all, they didn't want us carrying so that the
15 inmates couldn't get ahold of it, for our safety.

16 MS. LEMCKE: Okay. So they were concerned -- so
17 inside they didn't want to run the risk that an inmate might
18 get ahold of a weapon. Had anything like that ever happened
19 before, to your knowledge or no?

20 PROSPECTIVE JUROR NO. 469: Not that I was aware of.

21 MS. LEMCKE: Did you do the duty when you did
22 perimeter duty, did -- like did you ever have to carry while
23 you were there at the facility?

24 PROSPECTIVE JUROR NO. 469: Uh-huh, yeah.

25 MS. LEMCKE: You mentioned also that you had some

1 cousins who had some issues with drug abuse?

2 PROSPECTIVE JUROR NO. 469: Yes.

3 MS. LEMCKE: And forgive me for prying but at this
4 point I feel like we've pried into everybody, so you will be
5 no exception, my friend. Tell me about that. What -- were
6 you -- were you closely associated with them at the time that
7 they started using substances?

8 PROSPECTIVE JUROR NO. 469: Probably not when they
9 started, probably afterwards.

10 MS. LEMCKE: Did you see changes in them?

11 PROSPECTIVE JUROR NO. 469: Definitely.

12 MS. LEMCKE: You -- you've heard a couple of your
13 fellow jurors, Ms. Malone and some others talk about, you
14 know, I noticed some issues with, you know, their behavior
15 and, you know, they were saying things that weren't true, that
16 type of thing. Did you have those similar experiences with
17 them once they started using?

18 PROSPECTIVE JUROR NO. 469: Definitely. There was a
19 lot of lies, a lot of distrust and you were worried about
20 their safety, their children's safety, things like that. You
21 didn't know what their next move was going to be.

22 MS. LEMCKE: Okay. Did -- do you know what
23 substances that they were abusing specifically, do you know?

24 PROSPECTIVE JUROR NO. 469: Methamphetamines, pain
25 killers that I'm aware of.

1 MS. LEMCKE: So some street drugs and some
2 prescription.

3 PROSPECTIVE JUROR NO. 469: Correct.

4 MS. LEMCKE: Did you notice any other changes in
5 like demeanor, like being more aggressive or anything like
6 that at all?

7 PROSPECTIVE JUROR NO. 469: I didn't notice them
8 being any more aggressive. They just became more free-willed
9 and didn't care what anybody else thought.

10 MS. LEMCKE: And there was the credibility issues
11 and that type of thing.

12 PROSPECTIVE JUROR NO. 469: Right.

13 MS. LEMCKE: Okay. We talked a little about the --
14 I think the Court did with you about the presumption of
15 innocence and like many of your fellow jurors you feel that --
16 like why can't we hear, you know, from everybody. Would it
17 bother you if Mr. Slife and I did like zero through the trial
18 or --

19 PROSPECTIVE JUROR NO. 469: It wouldn't bother me.
20 I mean I'd like to hear both sides but it wouldn't bother me.

21 MS. LEMCKE: Would you -- you would -- would you
22 hold it against either Mr. Slife or myself or more importantly
23 our client, Mr. Pimentel, if we chose to just let the State
24 put on their case and then get up to you and argue and say
25 they ain't got it?

1 PROSPECTIVE JUROR NO. 469: I mean that's the
2 State's job is to prove that they've got a case.

3 MS. LEMCKE: Okay. What about an accused and their
4 right to testify or their right not to testify, what do you
5 think about that?

6 PROSPECTIVE JUROR NO. 469: That's their right.

7 MS. LEMCKE: Would you -- would you feel better
8 about someone if they did testify or better about someone if
9 they chose not to testify or would it make no difference to
10 you whatsoever?

11 PROSPECTIVE JUROR NO. 469: No difference.

12 MS. LEMCKE: Okay. You indicated I think that you
13 had a friend and I just want to make sure I understand it
14 correctly. Your friend had some negative contact with law
15 enforcement that -- is that a yes?

16 PROSPECTIVE JUROR NO. 469: Yes.

17 MS. LEMCKE: I only ask that because the court
18 reporter has to pick it up. That without going into gory
19 detail, you said there's some ongoing issue. Is it their
20 litigation over it, is that --

21 PROSPECTIVE JUROR NO. 469: Yes.

22 MS. LEMCKE: Okay. Is she -- is she suing them or
23 was she accused of something?

24 PROSPECTIVE JUROR NO. 469: No. Her brother was
25 shot by a police officer.

1 MS. LEMCKE: Okay. And there's ongoing litigation
2 about that. Okay. Has there been like an inquest or a trial
3 or anything?

4 PROSPECTIVE JUROR NO. 469: They're in the process
5 of all that right now.

6 MS. LEMCKE: Nothing about that experience causes
7 you to think that you wouldn't be able to be fair and
8 impartial here?

9 PROSPECTIVE JUROR NO. 469: Nothing about it would
10 make me be fair and -- I mean because even that case, I still
11 don't know. You know, I have no opinions on either side of
12 it.

13 MS. LEMCKE: Okay. But I -- has -- your girlfriend,
14 you have some communications with her about what happened and
15 that type of thing.

16 PROSPECTIVE JUROR NO. 469: Right.

17 MS. LEMCKE: Okay. And I assume that they are not
18 happy with law enforcement.

19 PROSPECTIVE JUROR NO. 469: Right now they're very
20 -- well, they're not -- I can't say they're completely
21 unhappy, they're just unhappy with the circumstances.

22 MS. LEMCKE: Okay. That's fair. I've asked
23 everybody and I'll ask you if you were seated either where the
24 prosecutors are seated or where Mr. Pimentel is seated, would
25 you want 12 people such as yourself on this jury?

1 PROSPECTIVE JUROR NO. 469: Yes.

2 MS. LEMCKE: Tell me why.

3 PROSPECTIVE JUROR NO. 469: Because I think I've got
4 an open mind and I can make a fair judgment.

5 MS. LEMCKE: I have nothing further, Your Honor. I
6 would pass for cause.

7 THE COURT: Thank you. This is the defense's second
8 peremptory challenge and then we'll be recessing for lunch.

9 MR. SLIFE: Your Honor, at this time we're going to
10 waive.

11 THE COURT: All right. Thank you. Okay. All
12 right, ladies and gentlemen, we're going to take an hour for
13 lunch. And during this lunch recess until one o'clock it is
14 your duty not to converse among yourselves or with anyone else
15 on any subject connected with the trial or to read, watch or
16 listen to any report of or commentary on the trial by any
17 person connected with the trial or by any medium of
18 information including, without limitation, newspaper,
19 television, radio or Internet, and you are not to form or
20 express an opinion on any subject connected with this case
21 until it's finally submitted to you. We'll be in recess until
22 one.

23 (Prospective jury panel recessed at 12:03 p.m.)

24 THE COURT: Marshal, was there a problem with one of
25 our prospective jurors?

1 THE MARSHAL: No. It has to do --
2 THE COURT: Okay.
3 THE MARSHAL: -- with the juror that was late. She
4 said that her mother is in room 337 at Spring Valley Hospital
5 and she'd like to know if she can go back to the hospital.
6 THE COURT: Okay. So we've got -- what was her name
7 again?
8 THE CLERK: Creasy, badge 526.
9 THE COURT: All right. Badge 526 is the gal who was
10 late. She's here and she's indicating her mother's in the
11 hospital at Sunrise, did you say, Marshal?
12 THE MARSHAL: Spring Valley.
13 THE COURT: Spring Valley, gave a room number, wants
14 to know if she can leave to go back to the hospital. So --
15 MS. LEMCKE: Well, certainly if it's something
16 serious I would never object to that. I mean, did she
17 articulate what the nature of the --
18 THE MARSHAL: I didn't want to ask her unless
19 somebody wants me to ask her but --
20 THE COURT: We do have 50 more jurors --
21 MS. LEMCKE: Oh, right, yeah, yeah. I forgot.
22 Yeah.
23 THE COURT: All right.
24 MS. LEMCKE: Of course.
25 THE COURT: Okay. So -- all right. Well, just let

1 her know that she's been excused, Marshal, and she can check
2 out with the Jury Commissioner. Thank you. All right, we're
3 in recess until one.

4 (Court recessed at 12:06 p.m. until 1:07 p.m.)

5 (In the presence of the prospective jury panel.)

6 THE COURT: We are back on the record in the
7 continuation of State versus Luis Pimentel. The record will
8 reflect the presence of the defendant with his counsel, the
9 Deputies District Attorney prosecuting the case, all officers
10 of the Court and we've been rejoined by the remaining members
11 of the venire panel. Will counsel so stipulate?

12 MS. DIGIACOMO: Yes, Your Honor.

13 MR. SLIFE: Yes, Your Honor.

14 THE COURT: Thank you. It is the State's third
15 peremptory challenge.

16 MS. DIGIACOMO: Thank you, Your Honor. The State
17 would thank and excuse Ms. Correnti, badge number 376 and seat
18 number four.

19 THE COURT: Thank you.

20 THE CLERK: Badge 488, Jose Sanchez.

21 PROSPECTIVE JUROR NO. 488: My name is Jose Sanchez.

22 THE COURT: All right. Thank you.

23 PROSPECTIVE JUROR NO. 488: Badge number 0488.

24 THE COURT: All right. Mr. Sanchez, have you ever
25 been a juror before?

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1 PROSPECTIVE JUROR NO. 488: About 10, 11 years ago,
2 just for witness.

3 THE COURT: Okay. So you were not on the --

4 PROSPECTIVE JUROR NO. 488: But no --

5 THE COURT: -- jury?

6 PROSPECTIVE JUROR NO. 488: -- not on the jury, this
7 is the first time.

8 THE COURT: Okay. And you were a witness though in
9 a trial?

10 PROSPECTIVE JUROR NO. 488: I'm sorry?

11 THE COURT: Were you a witness in a trial?

12 PROSPECTIVE JUROR NO. 488: Yeah, that's what I
13 said. I did a witness about 11 years ago.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 488: But this day juror is
16 different.

17 THE COURT: Right, I understand that.

18 PROSPECTIVE JUROR NO. 488: Yeah, there's a
19 difference. This is my first time, you know.

20 THE COURT: Right. Do you have any difficulty
21 speaking and understanding English?

22 PROSPECTIVE JUROR NO. 488: Not much but, you know,
23 I can do my best.

24 THE COURT: Okay. All right. So you'll let me know
25 if you have any difficulty?

1 PROSPECTIVE JUROR NO. 488: Yeah, sometimes because,
2 you know, through [indiscernible] you know, maybe.

3 THE COURT: Okay. All right. So we'll -- we'll try
4 not to use legal terms too much. You know, all the lawyers
5 and I try not to so because there are many legal terms that a
6 lay jury doesn't understand --

7 PROSPECTIVE JUROR NO. 488: Yeah, that's right.

8 THE COURT: -- because it's not their profession.

9 PROSPECTIVE JUROR NO. 488: Yeah.

10 THE COURT: Okay. So have you ever been in law
11 enforcement before?

12 PROSPECTIVE JUROR NO. 488: No.

13 THE COURT: Are you ill at all today?

14 PROSPECTIVE JUROR NO. 488: Are you what?

15 THE COURT: Are you sick?

16 PROSPECTIVE JUROR NO. 488: No.

17 THE COURT: Okay. The Marshal indicated to me --

18 PROSPECTIVE JUROR NO. 488: Just a little bit my
19 stomach, you know.

20 THE COURT: Okay. Are you -- have you been sick to
21 your stomach today?

22 PROSPECTIVE JUROR NO. 488: No, not much, yeah.

23 THE COURT: All right. But we couldn't help but
24 notice that, you know, you've needed to leave before the break
25 so I -- I'm just trying to determine whether you're physically

1 able to sit as a juror. Do you think that you're physically
2 able to sit as a juror?

3 PROSPECTIVE JUROR NO. 488: I don't think so.

4 THE COURT: Okay. So you have some problems?

5 PROSPECTIVE JUROR NO. 488: With my stomach, yeah.

6 THE COURT: Okay. Would counsel want to inquire
7 further about his --

8 MR. BATEMAN: No, Your Honor, we'll submit it.

9 MS. LEMCKE: Submit it, Your Honor.

10 THE COURT: All right. Thank you very much, sir.
11 You're excused.

12 PROSPECTIVE JUROR NO. 488: Okay.

13 THE COURT: All right.

14 THE CLERK: Badge 491, Timothy Baxter.

15 THE COURT: Well, Mr. Baxter --

16 PROSPECTIVE JUROR NO. 491: Hello.

17 THE COURT: -- how are you?

18 PROSPECTIVE JUROR NO. 491: Good. How are you, Your
19 Honor.

20 THE COURT: Good. Thank you very much for asking.
21 Have you ever been a juror before?

22 PROSPECTIVE JUROR NO. 491: Yes.

23 THE COURT: How long ago was that?

24 PROSPECTIVE JUROR NO. 491: I think it was probably
25 in 2006, just trying to remember. But not in -- in a military

1 court, I was in a military court.

2 THE COURT: Okay. So it was a courts-martial then?

3 PROSPECTIVE JUROR NO. 491: Yes.

4 THE COURT: Okay. So obviously you -- you
5 understand that the -- the law in a military tribunal is
6 different than what it is in a court here.

7 PROSPECTIVE JUROR NO. 491: Yes, ma'am.

8 THE COURT: All right. And you'll be able to follow
9 the law as you're instructed here?

10 PROSPECTIVE JUROR NO. 491: Yes, ma'am.

11 THE COURT: And did the jury that you did serve on
12 reach a verdict?

13 PROSPECTIVE JUROR NO. 491: We did.

14 THE COURT: Okay. I don't know if they have a
15 foreperson in a jury in a courts-martial.

16 PROSPECTIVE JUROR NO. 491: This was a jury -- I
17 don't remember how many people, but it was officers and
18 enlisted. It was an enlisted man on trial.

19 THE COURT: And do they elect a -- do they choose a
20 foreperson to serve as the spokesperson for the jury?

21 PROSPECTIVE JUROR NO. 491: We did but it was kind
22 of like whoever was last drinking was -- it's a military
23 thing.

24 THE COURT: Okay. Because it's military, all right.
25 That makes sense. Have you ever been in law enforcement?

1 PROSPECTIVE JUROR NO. 491: Yes, sort of.

2 THE COURT: Okay. How is that?

3 PROSPECTIVE JUROR NO. 491: Well, I was -- when I
4 was in the Air Force I was an [indiscernible] security
5 policeman. So I wasn't full time, it wasn't my -- excuse me,
6 my job. But I did go to school and we did get trained and I
7 did some duties when they needed extra people we augmented the
8 security police.

9 THE COURT: What were your regular duties in the Air
10 Force?

11 PROSPECTIVE JUROR NO. 491: At that time I was in
12 supply logistics.

13 THE COURT: Did you change later?

14 PROSPECTIVE JUROR NO. 491: I did.

15 THE COURT: To what?

16 PROSPECTIVE JUROR NO. 491: Intelligence.

17 THE COURT: Did you have a full career? Did you
18 retire out of the military?

19 PROSPECTIVE JUROR NO. 491: I did, 22 years.

20 THE COURT: Well, thank you very much for your
21 service. That's a long time --

22 PROSPECTIVE JUROR NO. 491: Yes, ma'am.

23 THE COURT: -- and a big commitment. So when did
24 you retire?

25 PROSPECTIVE JUROR NO. 491: In 2008.

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1 THE COURT: And what are you doing now?

2 PROSPECTIVE JUROR NO. 491: I am an Air Force
3 contractor.

4 THE COURT: So did you take your skills that you
5 learned in the Air Force and then translate them to the
6 civilian side of it?

7 PROSPECTIVE JUROR NO. 491: I did almost
8 immediately.

9 THE COURT: Were you stationed here at Nellis before
10 you got out of the --

11 PROSPECTIVE JUROR NO. 491: Yes, ma'am, I was at
12 Creech Air Force base.

13 THE COURT: Okay. And were -- did you serve in
14 other locations as well?

15 PROSPECTIVE JUROR NO. 491: Yes, ma'am.

16 THE COURT: What -- what places were you stationed?

17 PROSPECTIVE JUROR NO. 491: I started in -- I was in
18 22 years so I started in Oklahoma, I went to Texas, went to
19 Florida, went back to Texas and then I came to Nevada and I
20 deployed to the Middle East like three times. And I spent a
21 year in Korea, I spent some time in Panama and in various DUIs
22 all over the place, temporary assignments.

23 THE COURT: All right. Okay. So the fact that you
24 did get some training with -- for your military police, you
25 know, augmentation duties, would that affect your ability to

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1 be fair and impartial in this case given the fact that we had
2 a lot of military -- not military but police officers who are
3 -- and employees of the police department who will be
4 testifying?

5 PROSPECTIVE JUROR NO. 491: Well, to be honest with
6 you I -- I would probably err on the side of the police. I
7 would trust them more than --

8 THE COURT: Okay. Well, we don't want you to -- to
9 err at -- at all.

10 PROSPECTIVE JUROR NO. 491: Well, I'm just saying I
11 might be biased towards favoring what the police said versus
12 someone else, but I'm just being honest.

13 THE COURT: All right. Well, we want you to be
14 honest, so thank you. So let me ask you this. Basically,
15 when witnesses take the stand and testify you have to make
16 your decision based upon a number of things, you know, how
17 they behave on the stand, what they say, whether they've said
18 anything or written anything prior that contradicts that. I
19 mean there are many things that you make your decision about,
20 you know, whether you believe that witness's testimony or you
21 don't believe that witness's testimony.

22 So the question is, would you analyze a police
23 officer's testimony in the same way you would every other
24 witness or would you say, well, you know, this person's a
25 police officer so basically I don't really care about the

1 rest, whatever that person says I'm going to believe.

2 PROSPECTIVE JUROR NO. 491: Well, I --- I would
3 listen to what they said. I would weigh what they say but
4 like I said, I might be a little biased towards the police.

5 THE COURT: When you say biased, usually a bias
6 means --- or a lot of times people interpret it to mean that
7 without any reason you're leaning one way or another about
8 anything.

9 PROSPECTIVE JUROR NO. 491: Yeah, that might be a
10 wrong term but that's not what I mean.

11 THE COURT: All right. So explain to you -- to me
12 what -- why would you tend to give more credibility to a
13 police officer's testimony?

14 PROSPECTIVE JUROR NO. 491: Well, they deal with a
15 lot of situations and they are trained for like crisis
16 management or emergency procedures and they're -- I like to
17 think that they're all professionals and, you know, I know
18 everybody's different but I just believe in the system and
19 they're really there to help people instead of, you know, do
20 bad work or anything like that.

21 THE COURT: So would it -- would then it be
22 dependent upon what they were testifying about?

23 PROSPECTIVE JUROR NO. 491: Yes.

24 THE COURT: So if it was something that any witness
25 could testify about then you might just weigh their testimony

1 in the same way you would any other witness?

2 PROSPECTIVE JUROR NO. 491: Yes.

3 THE COURT: Okay. All right. Have you ever been
4 the victim of a crime?

5 PROSPECTIVE JUROR NO. 491: No.

6 THE COURT: How about anyone in your family or
7 closely associated with you been the victim of what you
8 consider to be a serious crime?

9 PROSPECTIVE JUROR NO. 491: No, ma'am.

10 THE COURT: Have -- has anyone that you're closely
11 associated with or family ever been accused of or convicted of
12 a crime?

13 PROSPECTIVE JUROR NO. 491: No.

14 THE COURT: And I should say yourself as well?

15 PROSPECTIVE JUROR NO. 491: No.

16 THE COURT: Okay. Do you have any quarrel with the
17 presumption of innocence as part of our system of justice?

18 PROSPECTIVE JUROR NO. 491: I do not.

19 THE COURT: You believe in our system?

20 PROSPECTIVE JUROR NO. 491: I do.

21 THE COURT: Would you be able to if the State did
22 not prove its case beyond a reasonable doubt, would you be
23 able to return a verdict of not guilty?

24 PROSPECTIVE JUROR NO. 491: I would.

25 THE COURT: And if the State did prove their case

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1 beyond a reasonable doubt, would you be able to return a
2 verdict of guilty?

3 PROSPECTIVE JUROR NO. 491: I would.

4 THE COURT: Okay. Now, you've heard that there --
5 there could be, not necessarily will be, but there could be a
6 penalty hearing in this matter where the jury would decide
7 what the penalty would be if the jury finds the defendant
8 guilty of first degree murder. Would you be able to consider
9 all three penalties that are available?

10 PROSPECTIVE JUROR NO. 491: Yes.

11 THE COURT: So you haven't -- you're not -- there
12 are certain people that say, well, if someone's convicted of
13 murder, you know, they deserve the worst possible penalty and
14 I wouldn't consider anything else. Are you somebody like that
15 or would you --

16 PROSPECTIVE JUROR NO. 491: Sort of.

17 THE COURT: Pardon me?

18 PROSPECTIVE JUROR NO. 491: I mean I'm sort of like
19 that. I mean I do believe they deserve the worst possible
20 penalty.

21 THE COURT: All right. So the reason for a penalty
22 hearing if we have one is that the jury gets to decide and
23 like normally the Court decides say if somebody's convicted of
24 a burglary, for instance, then the judge would decide and the
25 judge would take into consideration all the information

1 available. And when a jury decides, then the parties, both
2 sides get to give you all the information available to make a
3 fully informed decision about what punishment is appropriate.
4 Would you listen to all of that information and take it into
5 consideration before deciding on a punishment?

6 PROSPECTIVE JUROR NO. 491: Yes.

7 THE COURT: So you wouldn't necessarily just say,
8 well, it's -- it's -- I don't care what they tell me, it's the
9 worst possible punishment?

10 PROSPECTIVE JUROR NO. 491: No, I wouldn't say that.

11 THE COURT: Okay. Do you have any religious or
12 moral beliefs that would make it difficult for you to sit on
13 this case?

14 PROSPECTIVE JUROR NO. 491: No.

15 THE COURT: Ever had anybody close to you or family
16 member who had a drug addiction?

17 PROSPECTIVE JUROR NO. 491: My nephew's -- I don't
18 what his status is now but he was on drugs so. But I don't
19 really talk to him so --

20 THE COURT: Okay. So you how was it that you knew
21 about it?

22 PROSPECTIVE JUROR NO. 491: From my sister.

23 THE COURT: Would that impact your ability to be
24 fair and impartial in this case at all if -- if drug use came
25 up at all in the trial?

1 PROSPECTIVE JUROR NO. 491: I don't think so.

2 THE COURT: Tell us about yourself.

3 PROSPECTIVE JUROR NO. 491: I'm married. Like I
4 said, I was in the service, retired for 22 years from the Air
5 Force. I've been married 30 years, we don't have any
6 children. That's about it. I started working like a month
7 after I retired for doing the same thing. We fly
8 [indiscernible] the predators and the reapers. Right now
9 we're -- I'm in a test unit that tests all the new equipment.

10 THE COURT: Does your wife work?

11 PROSPECTIVE JUROR NO. 491: She's retired. She was
12 a medical billing person and kind of a doctor's secretary.
13 She worked -- obviously we were moving all the time so she had
14 to kind of change jobs but usually medical field related with
15 secretary and billing type things, but she's retired now.

16 THE COURT: Thank you. Would the State like to
17 inquire further?

18 MS. DIGIACOMO: Thank you. All right. Now, do you
19 watch any of the CSI, law shows?

20 PROSPECTIVE JUROR NO. 491: No, I do not.

21 MS. DIGIACOMO: Okay. What kind of shows do you
22 watch?

23 PROSPECTIVE JUROR NO. 491: I like Discovery Channel
24 and I watch like the military channel, the History Channel.

25 MS. DIGIACOMO: Is there anyone else in your family

1 that served in the military?

2 PROSPECTIVE JUROR NO. 491: Oh, yeah. My dad is --
3 was retired military from the Air Force. But he was in the
4 Army in World War II, a D-Day veteran and he fought through
5 the Battle of the Bulge, all that stuff and occupation of
6 Germany, he was wounded twice and decorated. You know, he was
7 -- but he was in Korea too. And he retired in probably '66,
8 '67.

9 MS. DIGIACOMO: Now have you talked to him about all
10 of his experiences?

11 PROSPECTIVE JUROR NO. 491: Yeah. He didn't talk
12 about it until he's like older. I mean he's passed away now
13 but when he was older he started talking about his
14 experiences. To me, landing on D-Day was a big deal, you
15 know.

16 MS. DIGIACOMO: Oh, absolutely. And you said there
17 were other members of your family --

18 PROSPECTIVE JUROR NO. 491: My brother was in the
19 Navy at the end of the Vietnam.

20 MS. DIGIACOMO: So did he go over to Vietnam?

21 PROSPECTIVE JUROR NO. 491: He was over there
22 off-shore probably right at the end, '75ish, '74/'75.

23 MS. DIGIACOMO: Okay. Anyone else?

24 PROSPECTIVE JUROR NO. 491: I have uncles that were
25 in World War II. I have quite a few uncles that were --

1 everybody that I'm related to was in World War II. No, that's
2 about it.

3 MS. DIGIACOMO: Now did -- I know you said your dad
4 was retired. Did your brother and your uncles as well make it
5 a career?

6 PROSPECTIVE JUROR NO. 491: One uncle was a pilot
7 and he retired as a colonel from the Air Force. The other one
8 didn't stay in. And I think my one uncle was the only one
9 that made a career.

10 MS. DIGIACOMO: Okay. But not your brother?

11 PROSPECTIVE JUROR NO. 491: No.

12 MS. DIGIACOMO: Now, have you ever -- I -- I know
13 you were talking about your feelings about the police. Have
14 you ever had -- had really good experiences with the police or
15 really bad experiences with the police?

16 PROSPECTIVE JUROR NO. 491: I've had -- I haven't
17 had any bad, I've had some good experiences with the police.

18 MS. DIGIACOMO: Now, would that be military police
19 or regular police departments?

20 PROSPECTIVE JUROR NO. 491: Regular police
21 departments. I don't know about military police.

22 MS. DIGIACOMO: What?

23 PROSPECTIVE JUROR NO. 491: I'm not sure about
24 military police.

25 MS. DIGIACOMO: Oh, okay.

1 PROSPECTIVE JUROR NO. 491: They're a different --

2 MS. DIGIACOMO: All right. But you -- you did say
3 you worked as --

4 PROSPECTIVE JUROR NO. 491: I did. It was an
5 augmentee type thing. It wasn't my permanent job.

6 MS. DIGIACOMO: Right. So you'd fill in when --
7 when they needed extra help?

8 PROSPECTIVE JUROR NO. 491: Yes, ma'am.

9 MS. DIGIACOMO: So you didn't really investigate
10 cases, did you?

11 PROSPECTIVE JUROR NO. 491: No. We did go through
12 training, it was probably six weeks or so.

13 MS. DIGIACOMO: Yeah, you were trained but really
14 you didn't -- you didn't have a caseload, you --

15 PROSPECTIVE JUROR NO. 491: No, no.

16 MS. DIGIACOMO: -- didn't investigate crimes.

17 PROSPECTIVE JUROR NO. 491: No, ma'am.

18 MS. DIGIACOMO: Did you ever arrest anyone?

19 PROSPECTIVE JUROR NO. 491: Apprehend someone, yes.
20 Yes.

21 MS. DIGIACOMO: Anything about that experience that
22 you think it would affect your ability to sit and be fair and
23 impartial in this case?

24 PROSPECTIVE JUROR NO. 491: No.

25 MS. DIGIACOMO: Now, what about drug use, do you

1 have any strong feelings for or against?

2 PROSPECTIVE JUROR NO. 491: Well, I'm against but,
3 yeah, I understand how people can get addicted.

4 MS. DIGIACOMO: So you wouldn't hold it against
5 someone?

6 PROSPECTIVE JUROR NO. 491: I don't know. That's
7 hard to say.

8 MS. DIGIACOMO: Well, okay. So you could hold it
9 against someone?

10 PROSPECTIVE JUROR NO. 491: I could.

11 MS. DIGIACOMO: If you heard evidence in -- in this
12 case about it, would you automatically just tune out that
13 evidence or --

14 PROSPECTIVE JUROR NO. 491: No.

15 MS. DIGIACOMO: -- could you still keep an open
16 mind?

17 PROSPECTIVE JUROR NO. 491: I could.

18 MS. DIGIACOMO: Now, when you left the Air Force,
19 what was your rank?

20 PROSPECTIVE JUROR NO. 491: My rank? I was Master
21 Sergeant, E7.

22 MS. DIGIACOMO: I have nothing further. Pass for
23 cause.

24 THE COURT: Defense.

25 MR. SLIFE: Thank you, Your Honor. Good afternoon,

1 sir.

2 PROSPECTIVE JUROR NO. 491: Afternoon.

3 MR. SLIFE: All right. You have mentioned that you
4 -- you tend to maybe have a bias for police.

5 PROSPECTIVE JUROR NO. 491: Well, bias might have
6 been the wrong word.

7 MR. SLIFE: Yeah. And I -- I had asked that
8 question before if there was two witnesses on the stand; one
9 is an officer a detective and the other is not, would you tend
10 to give the officer a little more credibility?

11 PROSPECTIVE JUROR NO. 491: Yeah, I would say so.

12 MR. SLIFE: Okay. You know, because we all come in
13 to here with our biases and we're not asking you to leave
14 those at the door but what we are asking you to do is judge
15 everybody individually, though.

16 PROSPECTIVE JUROR NO. 491: I understand.

17 MR. SLIFE: But are you saying that you would
18 absolutely -- you would not be able to necessarily judge the
19 officer individually? They're always going to have a little
20 more credibility than another witness?

21 PROSPECTIVE JUROR NO. 491: I guess that's a good
22 way to put it. I would feel that way, I'm just being honest.

23 MR. SLIFE: Oh, no, and I appreciate that. I think
24 when I said in the beginning there's no bad answers so I do
25 appreciate that. What about as a -- as a 22 year old, as a 22

1 veteran, do you have any -- a 22 year old -- do you have any
2 thoughts on PTSD as someone who was in the military for 22
3 years?

4 PROSPECTIVE JUROR NO. 491: Well, having sat there
5 for a long time and listening to all the questions you guys --

6 MR. SLIFE: Sure.

7 PROSPECTIVE JUROR NO. 491: -- I -- it's running
8 around in my head. I did deploy three times to the Middle
9 East and I wasn't -- or at -- I was in this operation that
10 flew over Iraq and Afghanistan and we did do combat and we
11 were shooting weapons and we did kill people. I did see a lot
12 of things and, you know, any human being, it affects you. But
13 I can't really judge how it affects individual people. I've
14 seen a lot -- I have a lot of friends of course and
15 acquaintances that it just affects people differently. I mean
16 it affected me -- it will affect anybody, you know, different
17 ways.

18 MR. SLIFE: Sure. Do you believe that PTSD is a
19 real thing, though, that people can have?

20 PROSPECTIVE JUROR NO. 491: I think somebody else in
21 the jury said it too. Yes, I believe but I also believe
22 there's people that say they have it that probably don't.
23 Maybe have other mental issues. I mean the military is made
24 up of, you know, people, just everybody's different --

25 MR. SLIFE: Absolutely.

1 PROSPECTIVE JUROR NO. 491: -- from all walks of
2 life and all different -- and there is people that are a
3 little crazy anyway, you know. But then you put the stress of
4 combat or experiences they have under pressure so you never
5 know how people are going to react.

6 MR. SLIFE: That might have been Mr. Brown who also
7 said that --

8 PROSPECTIVE JUROR NO. 491: I'm with you.

9 MR. SLIFE: -- it's kind of like it's a real thing
10 but maybe some people overdo it.

11 PROSPECTIVE JUROR NO. 491: Yes. I -- I can't say
12 this for certain but I think there's people that are trying to
13 get like VA benefits or something out of the system. Because
14 if you have -- not like a golden ticket, but if you have some
15 kind of PTSD thing, you know, that's a big deal. I believe
16 it's true but I still think there's people that try to maybe
17 scam the system. You know, having been in combat and knowing
18 how it affected me. I mean I wasn't all perfectly fine, you
19 know, but I didn't get violent and do crazy things either.

20 MR. SLIFE: No, understood, understood. And if we
21 have an expert testify as to PTSD you'd be open to what they
22 have to say?

23 PROSPECTIVE JUROR NO. 491: Yes, sir.

24 MR. SLIFE: And you mentioned about the penalty. I
25 think the question is and Ms. Lemcke and everybody said it,

1 that if it were to go to a penalty phase, three different
2 things; life without -- life with the possibility after 20
3 years, 50 years with the possibility of parole after 20 years,
4 would you automatically, if it came back first degree, vote
5 for life without?

6 PROSPECTIVE JUROR NO. 491: No, I wouldn't do that
7 automatically.

8 MR. SLIFE: Okay. You'd be able to consider all
9 three?

10 PROSPECTIVE JUROR NO. 491: I would.

11 MR. SLIFE: Okay. And with regard to -- can you
12 think of a situation where deadly force could be justified?

13 PROSPECTIVE JUROR NO. 491: Yes, self-defense.

14 MR. SLIFE: Okay. What would -- what would you
15 factor into what that situation would be?

16 PROSPECTIVE JUROR NO. 491: If my life was
17 threatened or not even my life, either my wife or, you know,
18 my friend, somebody. If somebody's life was threatened then I
19 think deadly force would be --

20 MR. SLIFE: Would you see that as an easy decision?

21 PROSPECTIVE JUROR NO. 491: No.

22 MR. SLIFE: Okay.

23 PROSPECTIVE JUROR NO. 491: But I mean if that's --
24 it'd probably be last resort but, you know, it -- sometimes
25 instincts kick in.

1 MR. SLIFE: Instincts can take over. Let me just
2 ask you one -- let me go back to -- to when I was talking
3 about police officers and certainly you did some investigation
4 while you were in the Air Force in your role?

5 PROSPECTIVE JUROR NO. 491: Well, I did patrols --
6 excuse me, on base. And we did apprehend people who were
7 drunk or fighting or whatever, you know, and just took them to
8 the little police shop there. But I didn't really get
9 involved in, you know, the whole investigation part or
10 pressing -- or, you know, testifying. I mean I wrote my
11 statement of what happened, my report and that's about it.

12 MR. SLIFE: That's it.

13 PROSPECTIVE JUROR NO. 491: Yeah.

14 MR. SLIFE: I mean police officers obviously testify
15 about the information they have at the time, right? So if a
16 police officer didn't have certain information -- I mean their
17 opinion could be different obviously, right?

18 PROSPECTIVE JUROR NO. 491: Yes.

19 MR. SLIFE: I mean I guess my -- let me just ask you
20 again. But you -- but you still hold that you would give a
21 police officer a little more credibility starting out than --
22 than somebody who wasn't.

23 PROSPECTIVE JUROR NO. 491: I believe that's a true
24 statement.

25 MR. SLIFE: Okay. I appreciate your honesty, sir.

1 Thank you.

2 PROSPECTIVE JUROR NO. 491: Yes, sir.

3 MR. SLIFE: May I have the Court's indulgence, Your
4 Honor?

5 THE COURT: Yes.

6 MR. SLIFE: Thank you for the indulgence, Your
7 Honor. If I may, just have a few more questions. Court's
8 indulgence. All right. A few more questions, sir, thank you
9 for your indulgence. What about -- I'm asking you if there's
10 police on the stand versus somebody who's not, what about
11 somebody who works as a security officer as opposed to
12 somebody who's not a security officer, would you give that
13 same nod of credibility toward a security officer?

14 PROSPECTIVE JUROR NO. 491: I don't know. Yeah, a
15 security officer's kind of -- I mean someone's Metro or
16 highway patrol or sheriff, constable, deputy, whatever, I
17 mean, I know those people have a lot of training. I know
18 they're professionals and I'm sure there's bad ones in every
19 -- you know, but I would just -- I like the way you put it.
20 I'm not bias but what'd you say?

21 MR. SLIFE: Just kind of give --

22 PROSPECTIVE JUROR NO. 491: A little more
23 credibility --

24 MR. SLIFE: -- just starting out maybe.

25 PROSPECTIVE JUROR NO. 491: A little more

1 credibility, yeah.

2 MR. SLIFE: Okay. What about -- you know, and I
3 forgot to ask you about this. We're so repetitive up here
4 sometimes I -- about the presumption of innocence and about,
5 you know, somebody maybe not wanting to speak to police.
6 Let's start with the presumption of innocence and we've said a
7 lot about it. Do you have any thoughts?

8 PROSPECTIVE JUROR NO. 491: I totally believe in the
9 presumed innocent until proven guilty.

10 MR. SLIFE: Okay. And do you think that's fair that
11 if somebody accuses you of something you don't have to prove
12 your innocence, they have to prove what they're saying.

13 PROSPECTIVE JUROR NO. 491: I think it's fair.

14 MR. SLIFE: Okay. What about -- what about this
15 idea of we're allowed to have an attorney? What about the
16 idea of somebody not wanting to speak to an officer, do you
17 think that kind of smells weird?

18 PROSPECTIVE JUROR NO. 491: No. I think it's -- I
19 think it's right. I think, you know, the Miranda rights and
20 all that stuff, you know, I think people -- it's their right
21 to demand an attorney and not talk to police.

22 MR. SLIFE: Okay. So -- so you wouldn't necessarily
23 infer guilt --

24 PROSPECTIVE JUROR NO. 491: No.

25 MR. SLIFE: -- think that somebody's hiding

1 something because they would choose to have an attorney
2 present?

3 PROSPECTIVE JUROR NO. 491: Yes. I mean I would
4 talk but that's me.

5 MR. SLIFE: Understood. I -- and you might but
6 you're not going to hold it against somebody --

7 PROSPECTIVE JUROR NO. 491: I would not.

8 MR. SLIFE: Okay. Thank you very much, sir.

9 PROSPECTIVE JUROR NO. 491: There is one more thing.

10 MR. SLIFE: Yes, sir.

11 PROSPECTIVE JUROR NO. 491: You did ask about not
12 testifying -- the defendant not testifying?

13 MR. SLIFE: Correct.

14 PROSPECTIVE JUROR NO. 491: Now, I might have an
15 issue with that because if it was me and I knew I was innocent
16 I would want to tell my -- my story. But that's just the way
17 I feel.

18 MR. SLIFE: I think that's totally reasonable. But
19 I mean I think the thing is that's you. Could you understand
20 why somebody's who's not you may not want to -- I mean can you
21 think of a reason I mean if you weren't educated?

22 PROSPECTIVE JUROR NO. 491: Well, yeah, I think
23 maybe they -- they would feel that they would not go over good
24 or what they were saying would get through. Maybe they're
25 having -- maybe they have a hard time communicating their

1 feelings or their story. You know, just actually expressing
2 their thoughts and ideas.

3 MR. SLIFE: Well, and there's definitely a lot of
4 possibilities. I think the thing is I understand why you
5 would want to but you could understand why somebody else may
6 not want to and you won't hold it against them.

7 PROSPECTIVE JUROR NO. 491: I wouldn't hold it
8 against them.

9 MR. SLIFE: Okay. Thank you for your time, sir.

10 PROSPECTIVE JUROR NO. 491: Yes, sir.

11 MR. SLIFE: Your Honor, we'll pass for cause. Thank
12 you.

13 THE COURT: Thank you. It's defense's third
14 peremptory challenge.

15 MR. SLIFE: And Your Honor, we're -- we're fine with
16 everybody in the box. We'll waive again.

17 THE COURT: All right. Thank you. This is the
18 State's fourth peremptory challenge.

19 MS. DIGIACOMO: Thank you, Your Honor. The State
20 would thank and excuse Mr. Weber, number 373 in seat number
21 three.

22 THE COURT: Thank you. Who's next?

23 THE CLERK: Badge 498, Michael Achilli.

24 THE COURT: All right. Is it Michael Achilli?

25 PROSPECTIVE JUROR NO. 498: Achilli, correct.

1 THE COURT: Okay. And so, sir, have you ever served
2 on a jury before?

3 PROSPECTIVE JUROR NO. 498: I have not.

4 THE COURT: Have you ever been in law enforcement?

5 PROSPECTIVE JUROR NO. 498: No.

6 THE COURT: Anyone in your family or closely
7 associated with you been in law enforcement?

8 PROSPECTIVE JUROR NO. 498: Yes.

9 THE COURT: Ever been the victim of a crime?

10 PROSPECTIVE JUROR NO. 498: Nope.

11 THE COURT: Anyone in your family or closely
12 associated with you been the victim of what'd you consider to
13 be a serious crime?

14 PROSPECTIVE JUROR NO. 498: Well, I'll tell you it
15 was about a year ago I had a coworker who went missing and so
16 that's closely associated I would say yeah. We were kind of
17 dealing with that as an office for a couple of months.

18 THE COURT: Okay. Was he ever found?

19 PROSPECTIVE JUROR NO. 498: She, no.

20 THE COURT: She, okay. So still missing and the --
21 did the police come in and interview people at the office?

22 PROSPECTIVE JUROR NO. 498: Eventually, yes.

23 THE COURT: Did you feel that they were doing
24 everything they could to try and locate her?

25 PROSPECTIVE JUROR NO. 498: I feel like once the

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1 homicide detectives got involved, yes. Prior to that there
2 was a little -- a little bit of a lag time.

3 THE COURT: And so no resolution of that. Do you --
4 do you feel that the fact that that is something that remains
5 outstanding and whatnot would affect your ability to be fair
6 and impartial in this case?

7 PROSPECTIVE JUROR NO. 498: No.

8 THE COURT: Have you or anyone closely associated
9 with you or a family member ever been accused of a crime?

10 PROSPECTIVE JUROR NO. 498: No.

11 THE COURT: Or convicted of a crime?

12 PROSPECTIVE JUROR NO. 498: No.

13 THE COURT: Do you believe in the presumption of
14 innocence?

15 PROSPECTIVE JUROR NO. 498: I do.

16 THE COURT: Would you be able to follow the law as
17 the Court instructs you?

18 PROSPECTIVE JUROR NO. 498: I believe so.

19 THE COURT: So sometimes people, you know, they'll
20 get instructed on the law and they'll say, well, you know, I
21 just can't really go along with that and because I just don't
22 think it should be like that, but that's not an acceptable
23 thing. You have to be able to commit to following the law.
24 So would you be able to commit to following the law even
25 though you might disagree with some part of it?

1 PROSPECTIVE JUROR NO. 498: Oh, absolutely.

2 THE COURT: Would you hold the State to its burden
3 of proof to prove the case beyond a reasonable doubt?

4 PROSPECTIVE JUROR NO. 498: Yes.

5 THE COURT: And if they did that would you be able
6 to return a guilty verdict?

7 PROSPECTIVE JUROR NO. 498: Yes.

8 THE COURT: If they did not do that, if they didn't
9 prove the case beyond a reasonable doubt, would you be able to
10 return a verdict of not guilty?

11 PROSPECTIVE JUROR NO. 498: Yes.

12 THE COURT: Do you have any reason you can think of
13 that, you know, now that you've heard of the questions asked
14 and posed to the jurors, that you think would make it so that
15 you could not be a fair and impartial juror?

16 PROSPECTIVE JUROR NO. 498: No, not that I can think
17 of.

18 THE COURT: Tell us about yourself.

19 PROSPECTIVE JUROR NO. 498: Let's see. I'm married
20 10 years, we have two daughters, seven and four. I'm a
21 district manager with Farmers Insurance for just about seven
22 years. I've been with Farmers altogether about 10. Prior to
23 that I worked for another carrier in California with auto
24 claims, auto insurance claims. And that's -- so about 16
25 years in the insurance industry in both claims and -- and in

1 sales. Been in Clark County now for about seven and a half.

2 THE COURT: And what does your wife do?

3 PROSPECTIVE JUROR NO. 498: She takes care of the
4 household.

5 THE COURT: So now you said for some period of time
6 you were in claims?

7 PROSPECTIVE JUROR NO. 498: Yeah.

8 THE COURT: Okay. And so as part of claims were you
9 an adjuster?

10 PROSPECTIVE JUROR NO. 498: Yes.

11 THE COURT: So you would investigate claims. Were
12 there ever any times where you believed that a claim was a
13 false claim?

14 PROSPECTIVE JUROR NO. 498: Many times.

15 THE COURT: And what steps would you have to take as
16 part of your investigation?

17 PROSPECTIVE JUROR NO. 498: Collecting of evidence.
18 You know, whether it be police reports, statements of the
19 parties involved, estimates of the physical damage to the
20 vehicles, witnesses, kind of anything you could -- that would
21 be relevant to that -- that particular auto accident.

22 THE COURT: Was it all auto?

23 PROSPECTIVE JUROR NO. 498: All auto, yeah.

24 THE COURT: Accidents? And was it property or
25 personal injury?

1 PROSPECTIVE JUROR NO. 498: Both.

2 THE COURT: Both.

3 PROSPECTIVE JUROR NO. 498: Yes, we handled both.

4 THE COURT: And did you ever have interaction with
5 the police as part of your investigations?

6 PROSPECTIVE JUROR NO. 498: Through -- mainly
7 through just the reports. Every once in a while but not very
8 frequently.

9 THE COURT: Was there ever a time where you felt you
10 had a -- a bad experience or reading a police report and you
11 thought, well, those guys sure didn't do their job very well?

12 PROSPECTIVE JUROR NO. 498: Every once in a while
13 you would read something and the conclusions that were drawn
14 didn't seem to add up to the facts that -- that we saw.

15 THE COURT: So and did you see -- also do we need to
16 replace the mic? Okay.

17 PROSPECTIVE JUROR NO. 498: Is that better?

18 THE COURT: All right. So were there also times
19 where you read police reports that you thought were excellent?

20 PROSPECTIVE JUROR NO. 498: Oh, of course.

21 THE COURT: Okay. So kind of a mixed bag --

22 PROSPECTIVE JUROR NO. 498: Yeah.

23 THE COURT: -- and it just depends on the individual
24 officer who completes it?

25 PROSPECTIVE JUROR NO. 498: Like anything else,

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1 right.

2 THE COURT: Have you ever done anything other than
3 work in the insurance industry?

4 PROSPECTIVE JUROR NO. 498: Briefly after graduating
5 college sold -- worked for a carrier -- a company, I'm sorry,
6 that we made legal copies actually for attorneys in San
7 Fernando Valley so we would --- when a case was going to trial
8 they needed X number of copies we would go and take the
9 bankers boxes and make copies and return them on a deadline,
10 that kind of thing.

11 THE COURT: So did you go to college in the San
12 Fernando Valley?

13 PROSPECTIVE JUROR NO. 498: No, San Diego,
14 University of California in San Diego.

15 THE COURT: What was your degree in?

16 PROSPECTIVE JUROR NO. 498: Psychology.

17 THE COURT: And you say -- are you in the sales end
18 now ---

19 PROSPECTIVE JUROR NO. 498: Yes.

20 THE COURT: --- as a district manager.

21 PROSPECTIVE JUROR NO. 498: Yeah.

22 THE COURT: So you -- you oversee the agents then
23 who ---

24 PROSPECTIVE JUROR NO. 498: Yes.

25 THE COURT: -- sell the policies?

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1 PROSPECTIVE JUROR NO. 498: Uh-huh, correct.

2 THE COURT: What is your territory?

3 PROSPECTIVE JUROR NO. 498: All of Clark County.

4 There's -- it's not a geographical limitation.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 498: It's just really where
7 the agents are. So I have agents in Laughlin, Boulder City,
8 Henderson, Vegas.

9 THE COURT: But not outside of Clark County?

10 PROSPECTIVE JUROR NO. 493: No, nobody outside.

11 THE COURT: Thank you. Would the State like to
12 inquire further?

13 MS. DIGIACOMO: Yes, please. Okay. You got your
14 degree in psychology and you ended up in insurance?

15 PROSPECTIVE JUROR NO. 498: Go figure.

16 MS. DIGIACOMO: What -- did you -- how did that come
17 about? Did you just get the job in the insurance industry
18 first?

19 PROSPECTIVE JUROR NO. 498: I kind of like most
20 people get into insurance, we just kind of fall bass akwards
21 into it. Sorry.

22 MS. DIGIACOMO: Any regrets about that?

23 PROSPECTIVE JUROR NO. 498: Not at all, I love what
24 I do.

25 MS. DIGIACOMO: Okay. So you're fine not using that

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1 psychology degree?

2 PROSPECTIVE JUROR NO. 498: Oh, well, I think I use
3 my psychology degree in sales quite a bit so.

4 MS. DIGIACOMO: Trying to figure out what -- what
5 will I guess get the sale to go your way kind of thing?

6 PROSPECTIVE JUROR NO. 498: Motivations, things like
7 that, right.

8 MS. DIGIACOMO: Now, do you watch any of the CSI,
9 law shows?

10 PROSPECTIVE JUROR NO. 498: I used to more, not
11 recently probably in the last five, 10 years now.

12 MS. DIGIACOMO: Okay. Do -- well, do you have any
13 expectations about what you expect the State to present to you
14 and the way this trial should -- should go? You know, do you
15 have any preconceived notions of that before we even begin?

16 PROSPECTIVE JUROR NO. 498: Based on the last 24
17 hours I would say the bar's been set pretty high so -- no, I'm
18 kidding. Absolutely, we're -- I -- I understand completely
19 how it's going to go.

20 MS. DIGIACOMO: Okay. All right. Now, did -- did
21 you say that anyone in your family had had military service?

22 PROSPECTIVE JUROR NO. 498: I didn't. My father
23 served in the Army and my grandfather was in the -- well, I
24 guess it was the Army but Army Air Corps in the -- in World
25 War II.

1 MS. DIGIACOMO: Was your dad career or just --
2 PROSPECTIVE JUROR NO. 498: No, no, he --
3 MS. DIGIACOMO: -- when he was younger?
4 PROSPECTIVE JUROR NO. 498: -- just, yeah.
5 MS. DIGIACOMO: Did you ever talk to either of them
6 about their experiences?
7 PROSPECTIVE JUROR NO. 498: Yes.
8 MS. DIGIACOMO: And anything about that that gives
9 you opinions, anything that could affect your ability to be
10 fair and impartial here?
11 PROSPECTIVE JUROR NO. 498: No.
12 MS. DIGIACOMO: Now what about the victim of any
13 crime, anyone you know or close to you been the victim of any
14 kind of crime?
15 PROSPECTIVE JUROR NO. 498: Other than what we said
16 earlier about the -- the agent who went missing.
17 MS. DIGIACOMO: Other than that?
18 PROSPECTIVE JUROR NO. 498: No.
19 MS. DIGIACOMO: Now, with regard to the agent that
20 went missing, you said that once the homicide detectives got
21 on it then it seemed to -- the investigation seemed to roll a
22 little more. Do -- do you know, is the investigation still
23 open?
24 PROSPECTIVE JUROR NO. 498: It is, it is. It's not
25 going anywhere as far as I know.

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1 MS. DIGIACOMO: Do -- are you satisfied or
2 dissatisfied by the way -- with the way that that
3 investigation went?

4 PROSPECTIVE JUROR NO. 498: I would say I'm
5 disappointed. I don't know if satisfied or dissatisfied would
6 be --

7 MS. DIGIACOMO: Well, I guess -- I guess with the
8 way the police handled this situation. I understand you're
9 disappointed because --

10 PROSPECTIVE JUROR NO. 498: Yeah.

11 MS. DIGIACOMO: -- your friend's not back but --

12 PROSPECTIVE JUROR NO. 498: Right.

13 MS. DIGIACOMO: -- or do you have an opinion one way
14 or another with the way they handled it?

15 PROSPECTIVE JUROR NO. 498: Again, I said -- like I
16 said, I think when the initial -- when she initially went
17 missing there seemed to be a lack of concern about it. I even
18 called myself to say, hey, you know, this person's been
19 missing and they said, well, it sounds like she left. And
20 after about a month and a half homicide took over and in
21 talking with those detectives they had mentioned, you know, if
22 we had had this sooner we might have been able to --

23 MS. DIGIACOMO: Do more.

24 PROSPECTIVE JUROR NO. 498: -- to do more, right.

25 So -- and I don't know if that was normal protocol or not. I

1 mean this being my only experience ever dealing with something
2 like that.

3 MS. DIGIACOMO: Got you. Okay. Now with regard to
4 the drug use, do you have any opinions regarding people who
5 use illegal narcotics?

6 PROSPECTIVE JUROR NO. 498: Drugs are bad but other
7 than that.

8 MS. DIGIACOMO: Okay. But nothing you would -- I
9 mean you understand the flip side, why people might use?

10 PROSPECTIVE JUROR NO. 498: To say that I understand
11 why someone would use drugs, I --

12 MS. DIGIACOMO: I mean I understand --

13 PROSPECTIVE JUROR NO. 498: -- I don't but I know --
14 I understand that people do use drugs if that's what you're
15 asking.

16 MS. DIGIACOMO: But you can understand like some
17 people use it to like try and drown their sorrows or, you
18 know, there could be reasons for it? Or just simply some
19 people use it and then now they get addicted?

20 PROSPECTIVE JUROR NO. 498: Probably more along
21 those lines, right, for whatever reason. I've never spent a
22 lot of time investigating why someone started or continues to
23 use. I -- I think once you're addicted then it's not in your
24 control necessarily to whether to use or not use. As to why
25 they start using that's a --

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1 MS. DIGIACOMO: Okay. That's fair enough. And --
2 but nothing about I guess your opinion that would affect your
3 ability to be fair and impartial if drug use came up in this
4 trial?

5 PROSPECTIVE JUROR NO. 498: It -- I don't think so.
6 I mean it would depend on some other factors obviously. If
7 you're saying that if it were a drug case then, yeah, that
8 would be something -- in this case probably not though, right?

9 MS. DIGIACOMO: But I mean it's obviously a factor
10 to consider --

11 PROSPECTIVE JUROR NO. 498: Yeah.

12 MS. DIGIACOMO: -- but it wouldn't just the minute
13 you hear it you just shut down and go nope, I'm done.

14 PROSPECTIVE JUROR NO. 498: I wouldn't shut it down,
15 no. But it would certainly be one of the factors like you
16 said.

17 MS. DIGIACOMO: Okay. And again, with regard to the
18 penalties, you can consider all of them if we get to that
19 point?

20 PROSPECTIVE JUROR NO. 498: Yes.

21 MS. DIGIACOMO: All right. I'll pass for cause,
22 Your Honor.

23 THE COURT: Thank you. Defense.

24 MS. LEMCKE: Is it Mr. Achilli? Did I say that
25 right?

1 PROSPECTIVE JUROR NO. 498: It is.

2 MS. LEMCKE: Okay. And so this is interesting
3 because you have a psychology degree?

4 PROSPECTIVE JUROR NO. 498: Yes.

5 MS. LEMCKE: Okay. So we've asked everybody about
6 their own personal experiences or relating friends and
7 familiar experiences but now I want to hear from somebody who
8 actually is trained in the field.

9 PROSPECTIVE JUROR NO. 498: I don't know if I'm
10 trained but I have a degree.

11 MS. LEMCKE: All right, you have a degree. So if I
12 understand you correctly, did you -- you never used it or
13 practiced with it at all?

14 PROSPECTIVE JUROR NO. 498: No, huh-uh.

15 MS. LEMCKE: Did you ever consider going to graduate
16 school?

17 PROSPECTIVE JUROR NO. 498: Briefly, yeah, briefly
18 into, going into counseling. Kind of in those post-graduation
19 days where you're kind of trying to figure out what you want
20 to be when you grow up.

21 MS. LEMCKE: Right. Did you -- did you do any like
22 internships or any clinical work at all --

23 PROSPECTIVE JUROR NO. 498: No..

24 MS. LEMCKE: -- as part of your undergraduate
25 degree?

1 PROSPECTIVE JUROR NO. 498: No, huh-uh.

2 MS. LEMCKE: And you got that UCSD?

3 PROSPECTIVE JUROR NO. 498: Correct.

4 MS. LEMCKE: Okay. Did you grow up in the southern
5 California area?

6 PROSPECTIVE JUROR NO. 498: I did.

7 MS. LEMCKE: In San Diego or L.A.?

8 PROSPECTIVE JUROR NO. 498: Ventura County --

9 MS. LEMCKE: Okay.

10 PROSPECTIVE JUROR NO. 498: -- Thousand Oaks.

11 MS. LEMCKE: Okay. What -- was there any particular
12 area that you found interesting when you were studying -- when
13 you were getting your degree in psychology? Anything of any
14 particular interest to you?

15 PROSPECTIVE JUROR NO. 498: Oh, yeah, there were
16 several -- probably disjointed, not really connected to
17 things. Brain damage was one area that I found fascinating.
18 I took a drugs and addiction class, which I thought was
19 fascinating. Childhood development stuff so, you know,
20 disconnected things --

21 MS. LEMCKE: A lot.

22 PROSPECTIVE JUROR NO. 498: -- there wasn't one
23 particular field of psychology that really grabbed me and
24 said, oh, that's what you want to do.

25 MS. LEMCKE: Okay. When -- did you -- did you ever

1 think about in terms of if you had perused an advance degree
2 and gone on to practice in psychology, any area that you would
3 like particularly to practice in, like working with children
4 or people who are drug addicted, anything like that in
5 particular stand out to you?

6 PROSPECTIVE JUROR NO. 498: You know, no. I
7 probably would have avoided the addiction type thing just
8 because I know how frustrating that can be. I have some
9 friends who do in fact do that. In discussions with them
10 they're just like you want to pull your hair out.

11 MS. LEMCKE: Okay. When you say that you have some
12 friends that do that, you mean that have abused --

13 PROSPECTIVE JUROR NO. 498: No, no --

14 MS. LEMCKE: -- or that treat people?

15 PROSPECTIVE JUROR NO. 498: -- that actually
16 counsel, right.

17 MS. LEMCKE: Oh, okay. And they share those
18 experiences with you?

19 PROSPECTIVE JUROR NO. 498: Yeah, yeah.

20 MS. LEMCKE: Do they tell you that it's kind of
21 frustrating?

22 PROSPECTIVE JUROR NO. 498: Very frustrating.

23 MS. LEMCKE: Why -- what do they say about it?

24 PROSPECTIVE JUROR NO. 498: The recidivism rate is
25 just ridiculous, that you can't -- all the work that goes in

1 and then it's just the same guy's back in front of you in six
2 months.

3 MS. LEMCKE: Okay. Did they ever talk about the
4 particular drugs at issue or are they mostly street drugs or
5 do you know if they're dealing with prescription meds also or?

6 PROSPECTIVE JUROR NO. 498: You know, I don't know,
7 that's a good question. I don't know if there's a specific
8 type of drug. I think it's just all drugs.

9 MS. LEMCKE: And they never share with you, oh, my
10 gosh, this one is really the worst as opposed to another type
11 of narcotic?

12 PROSPECTIVE JUROR NO. 498: No, nothing specific
13 like that.

14 MS. LEMCKE: Okay. Okay. Do they ever talk about
15 the fact that sometimes these folks who are addicted are not
16 necessarily the most reliable reporters when it comes time to
17 go through their therapy and treatment?

18 PROSPECTIVE JUROR NO. 498: Absolutely.

19 MS. LEMCKE: Okay. Is that one of the
20 characteristics that maybe your friends share with you
21 regarding some of these folks who use?

22 PROSPECTIVE JUROR NO. 498: That they're unreliable?

23 MS. LEMCKE: Yeah, that --

24 PROSPECTIVE JUROR NO. 498: Yeah.

25 MS. LEMCKE: -- you know, that there's -- like

1 there's some credibility deficits there, problems maybe?

2 PROSPECTIVE JUROR NO. 498: Oh, yeah, that -- I
3 think that kind of goes without saying.

4 MS. LEMCKE: Yeah. What else -- was there anything
5 else in particular that they share other than just the
6 frustration of the recidivism? Anything else?

7 PROSPECTIVE JUROR NO. 498: That would pretty much
8 be it and that's kind of where if you -- as you think about a
9 career path, that would be one for me, just my personality
10 would not be able to deal with that very well. I probably
11 would get too frustrated very quickly and wash out of it so.

12 MS. LEMCKE: Right. It's like you can't -- you want
13 to see some reward for your efforts, kind of --

14 PROSPECTIVE JUROR NO. 498: Right. You do something
15 you want to get somewhere, right?

16 MS. LEMCKE: Right.

17 PROSPECTIVE JUROR NO. 498: Rather than just going
18 in a circle.

19 MS. LEMCKE: Right. Feel like you made a
20 difference.

21 PROSPECTIVE JUROR NO. 498: Yeah.

22 MS. LEMCKE: Okay. You also indicated that -- that
23 you had -- speaking of credibility issues, that you as an
24 adjuster would sometimes go out and kind of reconstruct claims
25 that were made.

1 PROSPECTIVE JUROR NO. 498: Uh-huh.

2 MS. LEMCKE: Did that involve interviewing
3 witnesses?

4 PROSPECTIVE JUROR NO. 498: Almost all the time,
5 yes.

6 MS. LEMCKE: Did you ever have witnesses that
7 refused to speak with you?

8 PROSPECTIVE JUROR NO. 498: Yes.

9 MS. LEMCKE: What did that make you -- how'd that
10 make you feel?

11 PROSPECTIVE JUROR NO. 498: The witness -- yeah,
12 depending on the -- on the circumstances but it would
13 frustrate you. And if it was a witness that would I guess
14 just irritate you because why would you give your name as a
15 witness if you weren't necessarily directly involved. If it
16 was one of the parties involved, that would -- that's where it
17 would get irritating for me just because, you know, you were
18 in the car, you know what happened, why aren't you sharing.
19 You know, and if you're, again, claiming that this was the
20 other guy's fault, tell me what -- tell me why it's his fault,
21 you know. And then a lot of times if they wouldn't for
22 whatever reason want to provide a statement kind of know,
23 okay, I've got one statement saying one thing, another blank,
24 going to go with the one that said something typically.

25 MS. LEMCKE: Okay. Which makes sense.

1 PROSPECTIVE JUROR NO. 498: Right.

2 MS. LEMCKE: So -- so you've dealt with people who
3 are both very forthcoming and then who say, huh-uh, I'm not
4 talking to you.

5 PROSPECTIVE JUROR NO. 498: Yes.

6 MS. LEMCKE: And so if I understand you correctly,
7 it can be frustrating for lack of a better word, a term when
8 somebody is like, nope, not talking to you. How about if
9 somebody decides, well, I'll talk to this side but I'm not
10 going to talk to your side?

11 PROSPECTIVE JUROR NO. 498: Even worse.

12 MS. LEMCKE: Why would that be worse?

13 PROSPECTIVE JUROR NO. 498: Because, again, we're
14 just trying to collect the information so we can do our job
15 and if you don't want to share it kind of looks like you're
16 trying to hide something. At least in claims that's what it'd
17 look like.

18 MS. LEMCKE: When -- when you talked about your
19 friend that went missing, I have to ask, was that here by any
20 chance?

21 PROSPECTIVE JUROR NO. 498: It was.

22 MS. LEMCKE: In Clark County?

23 PROSPECTIVE JUROR NO. 498: Yes.

24 MS. LEMCKE: And so when homicide detectives got
25 involved, do you recall which detectives it was that you

1 actually interacted with?

2 PROSPECTIVE JUROR NO. 498: I do.

3 MS. LEMCKE: And can you give me the names?

4 PROSPECTIVE JUROR NO. 498: Yeah, Detective Kaiser
5 [phonetic] and Detective Sanborn [phonetic].

6 MS. LEMCKE: Okay. Anyone else that you remember --
7 any other investigating detectives that stand out to you?

8 PROSPECTIVE JUROR NO. 498: Those are the only two
9 that I had contact with.

10 MS. LEMCKE: Okay. And those dealings that you had
11 with them were pretty good?

12 PROSPECTIVE JUROR NO. 498: Very good.

13 MS. LEMCKE: Okay.

14 PROSPECTIVE JUROR NO. 498: Very good.

15 MS. LEMCKE: And they -- I think if I understand
16 you, it seemed like they were kind of trying to move things
17 along maybe a little bit more than they were before?

18 PROSPECTIVE JUROR NO. 498: Yeah, and with -- in
19 talking with them they expressed their frustrations and the
20 fact that they weren't able to get to where they wanted to go.

21 MS. LEMCKE: Okay. Because they weren't called in
22 early on; is that right?

23 PROSPECTIVE JUROR NO. 498: Yeah, the evidence that
24 they were needing to prove what they think happened was lost
25 in that six-week window.

1 MS. LEMCKE: Interesting. Okay. Would you think if
2 you hear homicide detectives come in and testify in this
3 particular case, would you automatically give more deference
4 to their testimony than say somebody else?

5 PROSPECTIVE JUROR NO. 498: If you're saying
6 homicide detective says something and another non-detective
7 has an opinion that differs, I would probably go with the
8 detective. They're trained to do this stuff and they know
9 what they're doing. And in my experience -- and again, with
10 dealing with this case, they -- they kind of know -- the way
11 it was explained to me, they -- they have a really good idea
12 of what it is, it's now the proof part of it that they're
13 lacking.

14 MS. LEMCKE: Okay. Would you kind of -- would you
15 want them to --you know, detectives pursuing a case to kind of
16 investigate every avenue, interview every witness that might
17 have some information that's relevant?

18 PROSPECTIVE JUROR NO. 498: Of course.

19 MS. LEMCKE: Okay. Did -- in your friend's case do
20 you kind of feel like Detective Sanborn and was it Kizner
21 [phonetic]?

22 PROSPECTIVE JUROR NO. 498: Kaiser.

23 MS. LEMCKE: Kaiser, that they kind of did what they
24 could then?

25 PROSPECTIVE JUROR NO. 498: I believe so, yeah,

1 yeah.

2 MS. LEMCKE: What about judging the credibility of
3 other witnesses? You know, non -- and the reason I ask it is
4 because I feel like you've probably done a lot of this when
5 you're out in the field doing investigations and meeting with
6 people.

7 PROSPECTIVE JUROR NO. 498: Yeah.

8 MS. LEMCKE: Do you ever get a sense for, you know,
9 something's just not right with what this person's telling me?

10 PROSPECTIVE JUROR NO. 498: Oh, absolutely.

11 MS. LEMCKE: Okay. Does that happen with some
12 regularity?

13 PROSPECTIVE JUROR NO. 498: Pretty much within 10
14 minutes of talking to somebody you kind of know where you're
15 going with it. And again, in a claim, in an auto claim, it's
16 -- you know -- you know, to give you an example, like an
17 injury. You can kind of tell if the person's making it up --

18 MS. LEMCKE: Okay.

19 PROSPECTIVE JUROR NO. 498: -- or they're not. But
20 it's -- you can't really prove that they're not. Oh, you say
21 your neck is sore, prove it. You know, show me some X-ray or
22 something that says that you are actually sore. There's
23 nothing. You just have to take their word for it. But you
24 kind of read between the lines after a while. You get -- I
25 hate to say it, you get kind of cynical after a while of

1 hearing so many people where you see the scratch on the bumper
2 and they're claiming \$6,000 in --

3 MS. LEMCKE: Right.

4 PROSPECTIVE JUROR NO. 498: -- chiropractic bills.

5 MS. LEMCKE: So do you think you'd feel pretty
6 comfortable, you know, watching people come up to this witness
7 stand, you know, swear to tell the truth and assessing whether
8 or not they're, you know, giving you everything that you need
9 to know or being credible?

10 PROSPECTIVE JUROR NO. 498: Sure.

11 MS. LEMCKE: Okay. We talked also about the
12 presumption of innocence and the right of an accused in a
13 criminal case to testify and to not testify. How would you
14 feel as -- as someone who's -- about somebody's who's accused
15 of a crime as serious as murder, which is obviously why we're
16 here today, what if that person who's accused doesn't want to
17 get up on that stand and talk to you? Would you automatically
18 assume something bad?

19 PROSPECTIVE JUROR NO. 498: That's a -- that's a
20 question I've been kind of going back and forth with for the
21 last 24 hours and I have to say honestly it would -- it would
22 be suspect. It would be -- I'd be a little skeptical. Just
23 again, maybe -- I don't know, maybe it's going back to having
24 handled claims and being lied to so many times and just
25 wondering what's going on, trying to get to the bottom of it.

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1 It just kind of -- I think he said doesn't smell right. I
2 just -- I don't know. And I understand the strategy behind it
3 so I understand legally there's every -- there's no reason
4 that he needs to get up and testify and whatever else. But it
5 just -- I don't know, it's a tough one for me because I -- I
6 want to, as the Judge said, respect the law and go with it but
7 you can't change how you feel about something just for
8 whatever -- you know, it's hard to unfeel that.

9 MS. LEMCKE: Right. And that's why we go through
10 this process because we want to know truthfully, you know, how
11 you feel. You know, I mean I think everybody kind of -- when
12 they come in they want to say what they think is the right
13 thing and we don't want that from you. We want you to say,
14 hey, I walked in here and I don't care about the presumption
15 of innocence. I looked at this guy and I'm like must be
16 guilty of something. I mean we want to know when you feel
17 that way because that's part of who you are. And -- and it's
18 not unreasonable to have those feelings. We just want to go
19 through it and kind of see -- make sure that those feelings
20 are not so strong that they would impair your ability to
21 fairly judge the prosecutor's case or the defense case that
22 you'll hear.

23 How would you feel if -- if Mr. Slife and I -- well,
24 let me ask -- let me go back just a minute. You know, we
25 talked about the presumption of innocence and the burden of

1 proof and it's the prosecutors that carry that burden of
2 proof. You understand that?

3 PROSPECTIVE JUROR NO. 498: Yes.

4 MS. LEMCKE: And I think you kind of reacted almost
5 strongly when you're like I absolutely believe in that
6 presumption of innocence --

7 PROSPECTIVE JUROR NO. 498: Yes.

8 MS. LEMCKE: -- so you feel that that is a good
9 system that we have here.

10 PROSPECTIVE JUROR NO. 498: Yes.

11 MS. LEMCKE: How would you feel if Mr. Slife and I
12 -- and I assure you, I promise you I am not going to sit
13 quiet, but how would you feel if at the end -- we let the
14 prosecutors put on their witnesses, let them parade them up
15 there and we just did nothing through the trial and got up in
16 summation and said, we're done, they haven't met their burden.
17 Would you --

18 PROSPECTIVE JUROR NO. 498: How would I feel?

19 MS. LEMCKE: Yeah.

20 PROSPECTIVE JUROR NO. 498: That probably wouldn't
21 sit too well. Again, just going back to, like I said, if
22 you're -- if you're innocent you kind of want to stand up and
23 shout it from the rooftops, you know. And to sit there and
24 just passively listen, that would be hard for me to
25 understand.

1 MS. LEMCKE: Okay. Can you -- can you think of any
2 reasons why an innocent person, someone's who's wrongfully
3 accused or -- would maybe not want to get up on a stand and
4 testify?

5 PROSPECTIVE JUROR NO. 498: I can't but like I said,
6 the -- I understand there's a strategy that goes into why you
7 may or may not want to. But -- and I think, you know, he said
8 earlier you kind of -- your personality takes over and says,
9 no, I want --

10 MS. LEMCKE: Right, I would want to hear that.

11 PROSPECTIVE JUROR NO. 498: If we're talking about a
12 pack of gum, something like that, maybe I -- something like
13 murder, I would be very strongly -- if it was me I'd be
14 chomping at the bit to tell my side if I were innocent.

15 MS. LEMCKE: Okay. Would you -- when you're
16 instructed that the law says that, you know, you have -- you
17 can't draw any negative inferences from an accused's decision
18 not to testify and I'm not saying that's what's going to
19 happen but I want to make sure that, you know, everybody can
20 fairly sit and hear the case. You know, would you be able to
21 follow that instruction and not hold that against somebody?

22 PROSPECTIVE JUROR NO. 498: I believe so.

23 MS. LEMCKE: Okay.

24 PROSPECTIVE JUROR NO. 498: I believe so.

25 MS. LEMCKE: Okay. You know, we talked a little bit

1 about -- and I'm going to bring it full circle because I
2 actually meant to go this way and I got sidetracked with the
3 psychology thing. But when we talk about posttraumatic stress
4 disorder, yes or no? Do you think that that is a diagnosis
5 that is a valid diagnosis?

6 PROSPECTIVE JUROR NO. 498: I believe it's a thing
7 that exists but I also believe, and I think a couple other
8 folks have shared the same sentiments, that much like ADHD and
9 everything else, it's over diagnosed in our culture today.
10 And that's just an opinion. I don't have any scientific proof
11 that would validate that. But it does seem to me that it's
12 the flavor of the month, if you will, in terms of it's popular
13 now and everybody's got that just like five years ago
14 everybody had ADHD.

15 MS. LEMCKE: Okay.

16 PROSPECTIVE JUROR NO. 498: So I believe it exists,
17 I believe there is such a thing. I don't know if it's at the
18 same percentage that it's being diagnosed, though.

19 MS. LEMCKE: Okay. So if I understand you, you
20 definitely believe that there is such a thing because there's
21 some people like I said, who just think, ah, that's hooley. So
22 you're not somebody who doesn't think it actually exists, you
23 just think maybe it's over diagnosed or over -- people over
24 complain of it when they don't necessarily --

25 PROSPECTIVE JUROR NO. 498: The over diagnosis and

1 the over maybe statement of what it is.

2 MS. LEMCKE: Okay.

3 PROSPECTIVE JUROR NO. 498: You know.

4 MS. LEMCKE: Got you. For those who do have it, do
5 you think that it does affect their actions and their
6 reactions to things?

7 PROSPECTIVE JUROR NO. 498: I think that's part of
8 the diagnosis, right? So if you're diagnosed with it it's
9 usually in response to the behaviors that you've been
10 displaying. So it's not as though you walk in, take a blood
11 test and they say, you've got that so then you start behaving
12 that way. It's usually the other way around.

13 MS. LEMCKE: Right. You have -- you show, exhibit
14 the symptoms --

15 PROSPECTIVE JUROR NO. 498: Right.

16 MS. LEMCKE: -- and that's what leads to the
17 diagnosis.

18 PROSPECTIVE JUROR NO. 498: Right.

19 MS. LEMCKE: Okay. And then hopefully treatment,
20 right? Okay. Having sat through everything I -- you know, I
21 -- we've asked so many questions that I forget what you've
22 been asked and what you haven't so if I ask something twice
23 feel free to tell me if someone's already asked that. But
24 having listened to everything that we've gone through, is
25 there anything that you can think of that we should know that

1 would cause you to maybe not be able to fairly and impartially
2 adjudicate this matter?

3 PROSPECTIVE JUROR NO. 498: Not beyond what we've
4 already discussed, no.

5 MS. LEMCKE: Okay. If you were seated where the
6 prosecutors are seated or where Mr. Pimentel and myself and
7 Mr. Slife are seated, would you want 12 people like yourself
8 on the jury?

9 PROSPECTIVE JUROR NO. 498: Yes and no.

10 MS. LEMCKE: Why? Tell me.

11 PROSPECTIVE JUROR NO. 498: Yeah, I think I'm a
12 pretty level-headed guy and -- and kind of, you know, can hear
13 the stuff. But then going back to -- and I'm not saying this
14 is going to be your strategy, but you've been picking at it
15 quite a bit to not testify. I would wonder if someone -- you
16 know, again, I'm just -- I'm having those own doubts myself
17 about my ability to listen to that just anticipating what
18 would come. So I'm not sure. That's a tough question to
19 answer because you don't know.

20 MS. LEMCKE: Okay. If we -- if we did present
21 evidence and witnesses, and like I mentioned with some of your
22 fellow jurors, a lot of what we do is dependent on what the
23 prosecutors do because in a criminal case, as you're going to
24 find out if you don't already know, they get to go first.

25 PROSPECTIVE JUROR NO. 498: Yeah.

1 MS. LEMCKE: So the witnesses that -- that they call
2 kind of sometimes dictates what we call --

3 PROSPECTIVE JUROR NO. 498: Sure.

4 MS. LEMCKE: -- because we go second and who knows
5 who they're going to call and we sometimes do what they
6 haven't. Would it bother you if -- like would you hold it
7 against us if the prosecutors called more witnesses say then
8 we did?

9 PROSPECTIVE JUROR NO. 498: No, no if you -- if you
10 were able to present your side in fewer witnesses, that just
11 means you're more efficient.

12 MS. LEMCKE: Or maybe get out -- or -- I don't think
13 anyone's ever called me more efficient. Or what about like if
14 we are able to elicit some information that's relevant through
15 the witnesses that testify even if they testify in the
16 prosecution's case?

17 PROSPECTIVE JUROR NO. 498: Yeah, that's fine too.

18 MS. LEMCKE: Okay. So -- now, so that was maybe the
19 no part of why you might not want yourself on the jury. Give
20 me some of the yes part.

21 PROSPECTIVE JUROR NO. 498: As I said, I -- I think
22 I'm pretty level headed in general. I tend not to let the
23 knee jerk too fast and too much. I -- I can sit and absorb
24 and listen and then make a decision after that.

25 MS. LEMCKE: All right. Court's indulgence. We'll

1 -- we'll pass for cause, Your Honor.

2 THE COURT: I want to ask a follow-up question then
3 I'll give you both the opportunity to ask questions again.
4 Remember, I -- I asked you if you could follow the law as I
5 instruct you. Okay? So one of the things might be that I --
6 that I instruct you on is that a defendant has a right not to
7 testify and you may not hold that against a defendant who
8 chooses not to testify because it's their constitutional right
9 not to. And you may not discuss it or hold it against them in
10 any way. So that's the law that I might instruct you. And if
11 I instruct you that way will you be able to follow that
12 instruction or not?

13 PROSPECTIVE JUROR NO. 498: I believe so as you're
14 -- if you -- if what you're saying is in deliberation that I
15 would not use that as part of the discussion, obviously it
16 wouldn't have any bearing, right?

17 THE COURT: You can't -- you can't consider it. In
18 other words, you and you can't bring it up and discuss it with
19 your fellow jurors but you cannot consider it. Is that
20 something you'd be able to follow or not?

21 PROSPECTIVE JUROR NO. 498: I want to say yes but
22 it's hard to say that I couldn't consider something if it's an
23 opinion that you have. You just -- you feel a way, you feel a
24 way, right? So it's hard to say that I could -- I could not
25 voice the feeling and use it as part of the deliberation, but

1 to say that I could make myself not feel that would be hard to
2 promise. Does that -- I don't know if that makes sense or if
3 I'm answering the question that you asked.

4 THE COURT: Yeah, I think -- I think you do. Are
5 there follow-up questions by the State? Follow-up questions
6 from the defense?

7 MS. LEMCKE: Court's indulgence. Mr. Achilli, I
8 detect just a little bit of hesitation.

9 PROSPECTIVE JUROR NO. 498: Okay.

10 MS. LEMCKE: And I want to make sure that -- and the
11 unfortunate reality is that you -- we don't get instructed --
12 you guys -- the jury doesn't until the end of the case so you
13 don't know all the ins and outs of the instructions that
14 you're going to get. And so I think the concern that the
15 Court has, as would all the lawyers and parties to the matter,
16 is that, you know, ultimately you'd be able to follow the
17 instructions that you're given and, you know, be able to apply
18 the law as it's given to you. Do you feel comfortable that
19 you would be able to do that even when you get the
20 instructions say on the defendant's right to testify or not
21 testify and what inferences you can and can't draw from that?
22 Do you think you'd be comfortable -- I mean, do you think
23 you'd be able to follow that law once the Court instructs you
24 at the end of the case?

25 PROSPECTIVE JUROR NO. 498: I think so, I think I

1 can. I think, again, it's -- it's hard to in my mind separate
2 the two things, to divorce those two issues. Do you feel a
3 certain way if a guy says something on the stand, you know,
4 and you say well, that wasn't -- that shouldn't been said,
5 forget -- forget it. How do you forget it? You know, how do
6 you forget that you heard something? It's kind of -- you
7 can't unring a bell. But can you still operate, you know,
8 within the letter of the law with those feelings? I think I
9 can is what I'm saying.

10 MS. LEMCKE: Okay.

11 PROSPECTIVE JUROR NO. 498: I don't know if that
12 clears it up.

13 MS. LEMCKE: Yeah, it does. You know, so you're not
14 100 percent certain that you could but you -- you believe that
15 you think more likely than not that you could. Is that kind
16 of --

17 PROSPECTIVE JUROR NO. 498: Yeah, let's go with
18 that.

19 MS. LEMCKE: -- does that sound fair? Okay.
20 Court's indulgence. Can we approach?

21 THE COURT: Yes.

22 (Off-record bench conference.)

23 THE COURT: Mr. Bateman, I think your co-counsel
24 wants you.

25 MS. DIGIACOMO: Okay. I'm sorry to put you on the

1 hot seat.

2 PROSPECTIVE JUROR NO. 498: That's okay. I feel
3 like I've been on it for a while so I'm getting used to it.

4 MS. DIGIACOMO: Right. And -- and -- and you're
5 being very honest and we appreciate that --

6 PROSPECTIVE JUROR NO. 498: Yeah.

7 MS. DIGIACOMO: -- but the problem is you -- you're
8 saying I think I can and we -- you're the only one that knows
9 if you can or can't. We understand, you know, we don't want
10 you to leave everything, you know, at the door, but we need to
11 know, you know, if the Judge tells you this is what the law is
12 and this is what you have to consider, you can't consider, you
13 know, X over here, can you follow that?

14 PROSPECTIVE JUROR NO. 498: Yes, it's -- like I
15 said, it's -- but -- maybe this is the psychology part of it
16 coming out but everything that we hear and see comes through a
17 lens that we have, right? So if my lens is tainted by my
18 opinion then it -- that's what I'm trying to say. I can't --
19 how do you say that, oh, just turn that part off, I don't
20 know. That's -- it's impossible to not see it through that
21 lens.

22 MS. DIGIACOMO: Well, we're not asking you to leave
23 everything you know at the door. What we're asking you is,
24 you know, like if you believe, you know, like the example that
25 you think marijuana should be legal and you get seated on a

1 jury and it's a drug case involving marijuana. And the Judge
2 instructs you, it's illegal, you can't possess marijuana. I
3 guess what we're asking is, are you going to go with what your
4 personal opinion is or are you going to look at the facts
5 presented by the State and the instruction of the Court saying
6 it's illegal if they possess marijuana. You know, I mean are
7 you going to follow, well, the State proved he possessed
8 marijuana, the court says it's illegal I have to find him
9 guilty. I mean can you do that or are you going to be like
10 hey, I don't -- I -- I -- you know, I don't think marijuana
11 should be illegal, it's not guilty. I'm not going to follow
12 the law.

13 PROSPECTIVE JUROR NO. 498: I'm probably over
14 analyzing this I guess. It's just -- yes, I think I can
15 definitely follow what the law says. It's -- rather than --

16 MS. DIGIACOMO: Okay.

17 PROSPECTIVE JUROR NO. 498: -- rather than, you
18 know, when the horse is dead let's just get off. I don't want
19 to beat it to death.

20 MS. DIGIACOMO: All right. Well -- well -- let me
21 ask you one last question because apparently I'm not efficient
22 as to the other side --

23 PROSPECTIVE JUROR NO. 498: I'm sorry, I didn't mean
24 that.

25 MS. DIGIACOMO: But -- but -- let's say the State

1 presented their case --

2 PROSPECTIVE JUROR NO. 498: Yeah.

3 MS. DIGIACOMO: -- okay? And, you know, if the
4 defense thinks, you know what, the State did not prove it
5 beyond a reasonable doubt, we don't need, you know, to put our
6 witnesses on the stand or, you know, have my client testify.
7 I mean can you -- you know, in that case --

8 PROSPECTIVE JUROR NO. 498: Yeah, it's --

9 MS. DIGIACOMO: -- can you see why somebody wouldn't
10 want to testify or whatnot?

11 PROSPECTIVE JUROR NO. 498: Sure. Like I said, I
12 understand that there's a strategy that goes into when you
13 build a case and when they build a case and that's part of the
14 game. So I understand that part.

15 MS. DIGIACOMO: Right. So when you go back and
16 deliberate with your fellow -- fellow jurors if the Court has
17 instructed you, you know what, the defendant has a right not
18 to testify and you cannot discuss that in your
19 deliberations --

20 PROSPECTIVE JUROR NO. 498: Right.

21 MS. DIGIACOMO: -- can you follow that?

22 PROSPECTIVE JUROR NO. 498: Absolutely, especially
23 -- I won't -- we won't bring it up in deliberations at all.

24 MS. DIGIACOMO: Okay. Thank you.

25 THE COURT: Okay. It is the defense's fourth

1 peremptory challenge.

2 MS. LEMCKE: All right. The defense would thank and
3 excuse juror number, badge number 498, Mr. Achilli in seat
4 number three.

5 THE CLERK: Badge 505, Lori Matsko.

6 THE COURT: Hello, Ms. Matsko --

7 PROSPECTIVE JUROR NO. 505: Hello.

8 THE COURT: -- how are you?

9 PROSPECTIVE JUROR NO. 505: Good. How are you?

10 THE COURT: Good. Have you ever been a juror
11 before?

12 PROSPECTIVE JUROR NO. 505: No, I haven't.

13 THE COURT: Have you ever or has anyone in your
14 family or closely associated with you been in law enforcement?

15 PROSPECTIVE JUROR NO. 505: No.

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

18 PROSPECTIVE JUROR NO. 505: No.

19 THE COURT: Anyone in your family closely associated
20 with you been the victim of what you consider to be a serious
21 crime?

22 PROSPECTIVE JUROR NO. 505: No.

23 THE COURT: Have you or anyone in your family or
24 closely associated with you ever been accused of or convicted
25 of a crime?

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1 PROSPECTIVE JUROR NO. 505: No.

2 THE COURT: Do you have any religious or moral
3 beliefs that would make it difficult for you to sit in
4 judgment on a case such as this?

5 PROSPECTIVE JUROR NO. 505: No.

6 THE COURT: Would you be able to follow the law as I
7 instruct you?

8 PROSPECTIVE JUROR NO. 505: Yes.

9 THE COURT: Do you believe in the presumption of
10 innocence?

11 PROSPECTIVE JUROR NO. 505: Yes.

12 THE COURT: Do you have any -- you know, do you
13 think that -- I think I've asked this before and said, well,
14 some people say, yes, I mean they know that that's the right
15 answer, that there is a presumption of innocence but sometimes
16 people just can't -- you know, they still want the defense to
17 prove that they're not guilty and really it's always the
18 State's burden to do the proving. Okay? So they've got to
19 prove it and the defense doesn't have to put on any evidence.
20 If they don't prove it, you know, if every witness gets on the
21 stand and you just don't believe them and the defense did
22 nothing and you didn't believe any of them, then the State
23 wouldn't have proved their case. If they didn't prove their
24 case would you have any difficulty in finding the defendant
25 not guilty --

1 PROSPECTIVE JUROR NO. 505: No.

2 THE COURT: -- even if he didn't put on any kind of
3 evidence?

4 PROSPECTIVE JUROR NO. 505: No.

5 THE COURT: Okay. Is there any reason that you can
6 think of having been through, you know, almost two days of
7 jury selection, that you need to bring to our attention
8 because it would bear on your ability to be fair and impartial
9 in this case?

10 PROSPECTIVE JUROR NO. 505: I don't think so, no.

11 THE COURT: Tell us about yourself.

12 PROSPECTIVE JUROR NO. 505: I've lived in Las Vegas
13 for 38 years. I have a 20-year-old daughter, she's a -- she
14 lives with me, she's a full-time student. I am a -- as of
15 October 2013, I'm a caregiver for my fiancé who suffers from
16 combat injury, PTSD and TPI. And before that I worked for
17 Department of Homeland Security TSA for 10 years.

18 THE COURT: PTSD, I don't -- I'm not familiar with
19 TPI.

20 PROSPECTIVE JUROR NO. 505: TPI is a traumatic brain
21 injury.

22 THE COURT: Oh, okay. So your fiancé --

23 PROSPECTIVE JUROR NO. 505: Fiancé.

24 THE COURT: -- was in combat and suffered a
25 traumatic brain injury --

1 PROSPECTIVE JUROR NO. 505: Yes.

2 THE COURT: -- during combat. Is it considered a
3 mild, moderate or severe brain injury?

4 PROSPECTIVE JUROR NO. 505: I would say moderate.

5 THE COURT: In what ways does it affect his
6 cognitive thinking if -- if any?

7 PROSPECTIVE JUROR NO. 505: He has to be reminded to
8 take medicine and do stuff like that. He kind of forgets a
9 lot of appointments and stuff like that, I have to remind him.

10 THE COURT: Do you know what -- what the incident
11 was that resulted in the brain injury?

12 PROSPECTIVE JUROR NO. 505: I believe it was the --
13 he got hit with like three IEDs.

14 THE COURT: What was his job in the military?

15 PROSPECTIVE JUROR NO. 505: Field -- field
16 artillery.

17 THE COURT: So was he going, like traveling down a
18 road when an IED exploded and --

19 PROSPECTIVE JUROR NO. 505: Yeah.

20 THE COURT: Did he suffer -- you know, aside from
21 the concussive injury, did he suffer any open head trauma,
22 anything like that?

23 PROSPECTIVE JUROR NO. 505: No. He has a percentage
24 of hearing loss in one of his ears. And he's had two ankle
25 reconstruction surgeries. Wasn't due to combat but from just

1 wear and tear in the Army, jumping out of planes.

2 THE COURT: How long was he in the service?

3 PROSPECTIVE JUROR NO. 505: Nine month -- nine years
4 and nine months -- or nine years and 11 months, almost 10
5 years.

6 THE COURT: And when was he discharged?

7 PROSPECTIVE JUROR NO. 505: He got out in 2006 I
8 believe.

9 THE COURT: How does the PTSD manifest and what do
10 you observe?

11 PROSPECTIVE JUROR NO. 505: The major thing is
12 anger, a lot of anger, anxiety, nightmares.

13 THE COURT: And does he tell you what his nightmares
14 are about?

15 PROSPECTIVE JUROR NO. 505: Well, it wakes me up or
16 sometimes I'll get hit in the head or I hear screaming and
17 it's all talks of like war and yelling and -- pretty serious.

18 THE COURT: Do you know how many deployments he went
19 on?

20 PROSPECTIVE JUROR NO. 505: He served one tour in
21 Iraq for 15 months.

22 THE COURT: So when you say you're a caregiver, are
23 you -- are you being paid by the military to serve as his
24 caregiver or --

25 PROSPECTIVE JUROR NO. 505: I'm not employed to the

1 -- through the VA but it's compensation but I'm not employed.

2 THE COURT: Okay. But you're -- you're
3 compensated --

4 PROSPECTIVE JUROR NO. 505: Yes.

5 THE COURT: -- for this? I see. And you -- and you
6 left your other work to do this?

7 PROSPECTIVE JUROR NO. 505: Yes.

8 THE COURT: Do you think that that would impair your
9 ability to be fair and impartial in this case?

10 PROSPECTIVE JUROR NO. 505: No.

11 THE COURT: What does your daughter do? Oh, you
12 said she's a full-time student, but what is she studying,
13 that's what I meant to ask you.

14 PROSPECTIVE JUROR NO. 505: She thinks she wants to
15 be a veterinarian.

16 THE COURT: And so what -- is she -- what year of
17 school is she in?

18 PROSPECTIVE JUROR NO. 505: She's in her third.

19 THE COURT: Okay. So she has a major?

20 PROSPECTIVE JUROR NO. 505: Yes.

21 THE COURT: What's her major?

22 PROSPECTIVE JUROR NO. 505: Biology. Sorry.

23 THE COURT: So you're here and so your fiancé
24 doesn't require someone to be with him all the time?

25 PROSPECTIVE JUROR NO. 505: Not all the time but I

1 do take him to his appointments and -- because he doesn't
2 drive because he has anxiety. But if I were to serve I have
3 family that could help.

4 THE COURT: And so you'll be able to concentrate on
5 what you're doing and listening to the evidence in the trial
6 and not worrying about your fiancé at home then?

7 PROSPECTIVE JUROR NO. 505: Right.

8 THE COURT: Oh, okay, good. Thank you. Would the
9 State like to inquire further?

10 MS. DIGIACOMO: Yes. Thank you. With -- with
11 regard to, you know, talking about how the PTSD affected him,
12 I -- you kind of looked like you got a little teary-eyed. Is
13 it -- is it still hard to deal with? I'm sorry. It's okay.
14 Take a minute. I'm sorry.

15 PROSPECTIVE JUROR NO. 505: Some days.

16 MS. DIGIACOMO: Well, let me -- let me ask, how long
17 have you guys have been together? Were you with him before he
18 went? Was it while he was in the service or was this --

19 PROSPECTIVE JUROR NO. 505: No, we've only been --
20 we've been together five years.

21 MS. DIGIACOMO: Okay. And so you -- when you say
22 you're a caregiver, do you guys live together?

23 PROSPECTIVE JUROR NO. 505: Yes.

24 MS. DIGIACOMO: Does your daughter live with you as
25 well?

1 PROSPECTIVE JUROR NO. 505: Yes.

2 MS. DIGIACOMO: Does it seem like his symptoms and
3 what's happening to him is staying the same, getting worse,
4 getting better?

5 PROSPECTIVE JUROR NO. 505: Sometimes it's worse.
6 Sometimes an adjustment in medication. Sometimes after a
7 while it doesn't work, they have to adjust it or change it.

8 MS. DIGIACOMO: And does -- when -- when they're
9 having issues with the medication maybe there needs to be an
10 adjustment, does his behavior change?

11 PROSPECTIVE JUROR NO. 505: Yes.

12 MS. DIGIACOMO: It gets kind of worse and then they
13 adjust it and it gets better?

14 PROSPECTIVE JUROR NO. 505: Yeah, for the time
15 being.

16 MS. DIGIACOMO: In this case, if you were to hear
17 evidence about PTSD, et cetera, I mean I know your situations
18 difficult, would you be able to kind of set that aside and be
19 able to, you know, view the facts here with an open mind or do
20 you think you might be better suited for another trial that's
21 maybe not involving this issue?

22 PROSPECTIVE JUROR NO. 505: No, I think I'd be fine.
23 I think I have a good understanding of it.

24 MS. DIGIACOMO: True. What about law shows, do you
25 watch any of those?

1 PROSPECTIVE JUROR NO. 505: I watch Forensic Files a
2 little bit but not like Law and Order. I like the true crime.

3 MS. DIGIACOMO: True crime.

4 PROSPECTIVE JUROR NO. 505: Yeah.

5 MS. DIGIACOMO: Do you have any expectations about
6 what you would expect to see in the courtroom if you were
7 selected to be on the jury?

8 PROSPECTIVE JUROR NO. 505: I don't think so.

9 MS. DIGIACOMO: All right. So you're not going to,
10 you know, expect to see what you see on TV in the courtroom?

11 PROSPECTIVE JUROR NO. 505: No.

12 MS. DIGIACOMO: And you said no one in your family,
13 aside from your fiancé, was military or did you answer that
14 question?

15 PROSPECTIVE JUROR NO. 505: I answered it and nobody
16 was military.

17 MS. DIGIACOMO: You've never been the victim of any
18 crime?

19 PROSPECTIVE JUROR NO. 505: No.

20 MS. DIGIACOMO: No one close to you?

21 PROSPECTIVE JUROR NO. 505: No.

22 MS. DIGIACOMO: What about your experiences with the
23 police, any like really good experiences, really bad
24 experiences?

25 PROSPECTIVE JUROR NO. 505: I don't -- I really have

1 never had any experiences.

2 MS. DIGIACOMO: What about drug use?

3 PROSPECTIVE JUROR NO. 505: I don't agree with it.

4 MS. DIGIACOMO: Have you known anyone close to you
5 or, you know, in your circle to use or abuse drugs?

6 PROSPECTIVE JUROR NO. 505: Not really, no.

7 MS. DIGIACOMO: No? Okay. So you don't like it, I
8 get that, but do you have any strong opinions that would
9 affect your ability to -- if there was evidence in this case
10 about that to be fair and impartial?

11 PROSPECTIVE JUROR NO. 505: I mean everybody has,
12 you know, different issues or how they handle things
13 differently. Some people go to drugs, some do other things.

14 MS. DIGIACOMO: Just lastly, I guess with regard to
15 your fiancé, do you deal with like the VA hospital a lot --

16 PROSPECTIVE JUROR NO. 505: Yes.

17 MS. DIGIACOMO: -- in the medical? Did -- are you
18 -- I guess, do you see other veterans also who suffer from
19 PTSD?

20 PROSPECTIVE JUROR NO. 505: Yeah.

21 MS. DIGIACOMO: Okay. So does he like do like group
22 therapy or anything?

23 PROSPECTIVE JUROR NO. 505: Yeah, he has a weekly
24 group, sometimes two different classes going on in one week.
25 Right now it's just one class a week.

1 MS. DIGIACOMO: And you said, though, that -- that
2 if you were on the jury that he would be able to get rides
3 from other family members?

4 PROSPECTIVE JUROR NO. 505: Yes.

5 MS. DIGIACOMO: I'll pass for cause.

6 THE COURT: Thank you. Defense.

7 MS. LEMCKE: Ms. Matsko, I just want to ask you a
8 couple more questions. I know it's a difficult topic
9 obviously. You said that you were -- you were -- you kind of
10 got together with your fiancé after he got back from serving
11 or did you know him before?

12 PROSPECTIVE JUROR NO. 505: No, after.

13 MS. LEMCKE: Just after.

14 PROSPECTIVE JUROR NO. 505: Yeah.

15 MS. LEMCKE: Did -- have you ever had any
16 conversations with his family members or friends who knew him
17 from before versus after regarding any changes that they've
18 observed in him?

19 PROSPECTIVE JUROR NO. 505: I never really got a
20 chance to meet his family. His mom's deceased, his dad's
21 deceased and he doesn't talk to his other family members so.

22 MS. LEMCKE: Okay. So you don't know -- I mean you
23 certainly see the effects of his stress disorder now --

24 PROSPECTIVE JUROR NO. 505: Yeah.

25 MS. LEMCKE: -- but you really couldn't compare --

1 you know, you haven't heard any -- anybody recount how he's
2 different now from where -- how he was before maybe?

3 PROSPECTIVE JUROR NO. 505: Well, we have one friend
4 we visited -- we took a trip to Georgia that we ran into, I
5 had just met. And he said he was a lot better because of
6 course he's on medication now so --

7 MS. LEMCKE: Okay.

8 PROSPECTIVE JUROR NO. 505 -- that was --

9 MS. LEMCKE: So he noticed that some of the
10 treatment was helping maybe?

11 PROSPECTIVE JUROR NO. 505: Yes.

12 MS. LEMCKE: Okay. When you talked just briefly
13 about some of the symptoms and I think you said does he have
14 nightmares?

15 PROSPECTIVE JUROR NO. 505: Yes.

16 MS. LEMCKE: Do you mind if I ask what other
17 symptoms does he exhibit besides that?

18 PROSPECTIVE JUROR NO. 505: He has anger, just
19 depends what sets him off --

20 MS. LEMCKE: Right.

21 PROSPECTIVE JUROR NO. 505: -- anxiety, you know,
22 don't like to be in crowds, always has to sit with his, you
23 know -- he can't ever sit with his back facing anybody.

24 MS. LEMCKE: Okay. Like if somebody comes into a
25 room would that -- he would maybe want to know ahead of time,

1 something like that?

2 PROSPECTIVE JUROR NO. 505: Oh, yeah, he'd check him
3 out.

4 MS. LEMCKE: Okay. Do you ever see him kind of like
5 jump or react to things like if he hears a loud noise or sees
6 something that, you know, maybe calls him to harken back to
7 his combat experience that you can see visually kind of
8 disturbs him really quickly --

9 PROSPECTIVE JUROR NO. 505: Uh-huh, yes. Even if I
10 tap him I -- he always flinches, yeah.

11 MS. LEMCKE: Have you spent a lot of time with him
12 at the VA with his treatment? Is most of it through the VA I
13 guess I should ask?

14 PROSPECTIVE JUROR NO. 505: Yeah, it's all through
15 the VA.

16 MS. LEMCKE: Okay. How have -- have you been pretty
17 happy with the treatment that he's received there?

18 PROSPECTIVE JUROR NO. 505: Pretty much, yeah. The
19 classes help a lot.

20 MS. LEMCKE: Did they -- did they diagnose him right
21 after he was discharged or right after he separated?

22 PROSPECTIVE JUROR NO. 505: No. He had -- when he
23 lost his job when he came out here then he decided he needed
24 help.

25 MS. LEMCKE: Oh, so he just -- he recognized that

1 there's some issues and I need help with them?

2 PROSPECTIVE JUROR NO. 505: Yes. He was denying for
3 years until he lost his job and then he knew he had a problem.

4 MS. LEMCKE: Okay. And that's when he went in and
5 went to the VA and solicited help with it?

6 PROSPECTIVE JUROR NO. 505: Yes.

7 MS. LEMCKE: Did they actually diagnose him then
8 with PTSD or combat trauma, did they diagnose that?

9 PROSPECTIVE JUROR NO. 505: Oh yes, he's 100
10 percent.

11 MS. LEMCKE: Okay. So I assume, this is probably
12 going to seem like a ridiculous question but I'm going to ask
13 it anyway, so you've seen firsthand the effects so I assume
14 that you understand that there is such a thing.

15 PROSPECTIVE JUROR NO. 505: Oh yeah.

16 MS. LEMCKE: Okay. And it may not -- not everybody
17 that's been in combat may suffer from it but --

18 PROSPECTIVE JUROR NO. 505: Right.

19 MS. LEMCKE: -- some people do.

20 PROSPECTIVE JUROR NO. 505: Right.

21 MS. LEMCKE: Okay. We talked a lot about the
22 presumption of innocence, the fact that it's the prosecution's
23 burden of proving guilt beyond a reasonable doubt, that
24 technically the defense, if we chose not to, we don't have to
25 do anything in terms of a defense presentation. How's that

1 make you feel?

2 PROSPECTIVE JUROR NO. 505: I'm fine with that.

3 MS. LEMCKE: Do you like the fact that that's the
4 way our system is set up, you know, so that ultimately the
5 burden is really just on one party. That it's not both
6 parties present and then you make a call. It's really just
7 has this party shown what they need to show.

8 PROSPECTIVE JUROR NO. 505: I would -- well, I would
9 prefer both but if one, it's fine with me.

10 MS. LEMCKE: Okay. So if I understand you
11 correctly, you wouldn't hold it against Mr. Pimentel or Mr.
12 Slife or myself if for whatever reason we chose to sit there
13 throughout the entire trial like bumps on logs and do nothing
14 and just argue to you in summation, they haven't proven their
15 case beyond a reasonable doubt.

16 PROSPECTIVE JUROR NO. 505: No.

17 MS. LEMCKE: Okay. With respect to an accused's
18 right to get on the stand and testify or not testify, would it
19 bother you if someone who's accused of a crime, an innocent
20 person accused of a crime as serious as murder, as is the case
21 here, didn't get on the stand and talk to you, would that
22 bother you?

23 PROSPECTIVE JUROR NO. 505: Not at all.

24 MS. LEMCKE: Can you -- can you think of some
25 reasons why someone may not want to get on the stand and talk?

1 PROSPECTIVE JUROR NO. 505: Scared, not sure if
2 they're going to say the right thing.

3 MS. LEMCKE: Okay. What about same thing with
4 respect to talking to police in a police interrogation, could
5 you understand maybe why someone would want to have a lawyer
6 present?

7 PROSPECTIVE JUROR NO. 505: Yes.

8 MS. LEMCKE: What would be some reasons in your mind
9 that maybe you might want to have an attorney present?

10 PROSPECTIVE JUROR NO. 505: As a -- somebody else's
11 -- I mean, so you're doing the right thing, saying the right
12 thing. Somebody -- you've got -- somebody has your back.

13 MS. LEMCKE: Okay. Of all the things that we --
14 hang on, let me make sure I didn't -- oh, did we ask you about
15 the penalty? Did -- has anybody asked you -- the three
16 different forms of penalty? And again, I can't say this
17 enough, I am not conceding that we're going to a penalty
18 hearing, but I have to make sure that in the event that we do
19 that you can consider all three forms of punishment that would
20 be available to you as -- as a juror. Because again, there
21 will be a separate -- if there's a finding of first-degree
22 murder with use of a deadly weapon, there will be a whole
23 separate penalty hearing with opening statements, witnesses
24 and closing arguments, just like in the trial but usually much
25 shorter. Would you be able to consider life without the

1 possibility of parole, life with the possibility of parole
2 after 20 years has been served and the term of 50 years with
3 parole eligibility beginning after 20? Can you consider each
4 of those three forms?

5 PROSPECTIVE JUROR NO. 505: I believe so, yes.

6 MS. LEMCKE: If -- if you were seated where the
7 prosecutors are seated or where -- where Mr. Pimentel is
8 seated, would you want 12 people such as yourself hearing the
9 case?

10 PROSPECTIVE JUROR NO. 505: I believe so, yes.

11 MS. LEMCKE: I have nothing further, Your Honor.
12 Pass for cause.

13 THE COURT: Thank you. State's fifth peremptory
14 challenge.

15 MS. DIGIACOMO: Thank you. The State would thank
16 and excuse Ms. Matsko, badge number 505, seated in juror seat
17 number three.

18 THE COURT: Thank you, Ms. Matsko. Call the next in
19 order.

20 THE CLERK: Badge 506, Tina Baligad.

21 THE COURT: Is it -- is it Ms. Baligad, Baligad?

22 PROSPECTIVE JUROR NO. 506: Baligad.

23 THE COURT: Baligad. Okay. So have you ever been a
24 juror before?

25 PROSPECTIVE JUROR NO. 506: No.

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1 THE COURT: Have you or anyone in your family or
2 closely associated with you ever been in law enforcement?

3 PROSPECTIVE JUROR NO. 506: No.

4 THE COURT: Have you ever been the victim of a
5 crime?

6 PROSPECTIVE JUROR NO. 506: No.

7 THE COURT: Anyone in your family or closely
8 associated with you been the victim of what you consider to be
9 a serious crime?

10 PROSPECTIVE JUROR NO. 506: No.

11 THE COURT: Have you or anyone in your family or
12 closely associated with you ever been accused of or convicted
13 of a crime?

14 PROSPECTIVE JUROR NO. 506: No.

15 THE COURT: Do you have any religious or moral
16 beliefs that make it difficult for you or impossible for you
17 to sit in judgment on a criminal case like this?

18 PROSPECTIVE JUROR NO. 506: No.

19 THE COURT: Would you be able to follow the law as I
20 instruct you on the law?

21 PROSPECTIVE JUROR NO. 506: Yes.

22 THE COURT: And do you have any quarrel with the
23 presumption of innocence?

24 PROSPECTIVE JUROR NO. 506: No.

25 THE COURT: You've listened to the questions posed

1 of the other jurors, do you have any reason that you want to,
2 you know, tell us about that we haven't -- that I haven't
3 already inquired about as to whether or not you could be fair
4 and impartial?

5 PROSPECTIVE JUROR NO. 506: No, I don't.

6 THE COURT: Is there any reason you could not be
7 fair and impartial?

8 PROSPECTIVE JUROR NO. 506: No, I don't.

9 THE COURT: Okay. Do you have anyone in your family
10 or closely associated with you or you yourself ever been
11 involved in the use of or addiction to illicit drugs?

12 PROSPECTIVE JUROR NO. 506: I have not but I do know
13 some people.

14 THE COURT: Are these friends or family members?

15 PROSPECTIVE JUROR NO. 506: They are family members
16 of a friend.

17 THE COURT: And did you learn about this from your
18 friend?

19 PROSPECTIVE JUROR NO. 506: No, because I see them.

20 THE COURT: So you see these people and you've
21 determined -- have they confided in you that they use illegal
22 drugs?

23 PROSPECTIVE JUROR NO. 506: No, we just know.

24 THE COURT: How do you know?

25 PROSPECTIVE JUROR NO. 506: Just from their actions.

1 THE COURT: And have any of these people been
2 involved in criminal activity?

3 PROSPECTIVE JUROR NO. 506: I believe one of her
4 nephews, yes.

5 THE COURT: And how do you know that?

6 PROSPECTIVE JUROR NO. 506: Because I know he went
7 to jury -- court a few times.

8 THE COURT: I'm sorry?

9 PROSPECTIVE JUROR NO. 506: He went to court for a
10 few -- a few times.

11 THE COURT: Oh, okay. I see. And did you hear that
12 from your friend?

13 PROSPECTIVE JUROR NO. 506: Yeah.

14 THE COURT: Tell us about yourself.

15 PROSPECTIVE JUROR NO. 506: I am divorced and I have
16 two children and 12 grandchildren.

17 THE COURT: Okay. How old are your children?

18 PROSPECTIVE JUROR NO. 506: My children are 31 and
19 29.

20 THE COURT: So what do you do for a living?

21 PROSPECTIVE JUROR NO. 506: I work as accounts
22 receivable at United Nissan.

23 THE COURT: How long have you worked there?

24 PROSPECTIVE JUROR NO. 506: I've been at United
25 Nissan about two years.

1 THE COURT: Have you always done accounts receivable
2 for them?

3 PROSPECTIVE JUROR NO. 506: No, I've only been in
4 the accounts receivable office for about three months.

5 THE COURT: What did you do before?

6 PROSPECTIVE JUROR NO. 506: I worked at a hospital
7 in home -- I worked in a trauma hospital in Hawaii.

8 THE COURT: So how long have you been here in Clark
9 County?

10 PROSPECTIVE JUROR NO. 506: I've been back in Vegas
11 about two years, maybe three years.

12 THE COURT: And so you -- you were -- were you gone
13 for a while and you returned?

14 PROSPECTIVE JUROR NO. 506: Yes.

15 THE COURT: Okay. Tell us about that.

16 PROSPECTIVE JUROR NO. 506: I -- let's see, I lived
17 in Pennsylvania. My daughter got pregnant so I went back to
18 Hawaii. And then I couldn't stay there any longer so I came
19 back to Vegas.

20 THE COURT: Do you get island fever when you're
21 there?

22 PROSPECTIVE JUROR NO. 506: Yes.

23 THE COURT: Even paradise can seem kind of
24 constricting, huh?

25 PROSPECTIVE JUROR NO. 506: Uh-huh.

1 THE COURT: All right. So there's wide open spaces
2 in Las Vegas, that's for sure.

3 PROSPECTIVE JUROR NO. 506: Yes.

4 THE COURT: Besides the accounts receivable, what
5 other jobs have you done? You've said you worked in Hawaii
6 but --

7 PROSPECTIVE JUROR NO. 506: Most of my jobs have all
8 been office in regards to being in an office or management.
9 Over the last 10 years not so much because I was doing a
10 little bit of traveling. So I was traveling on -- just in the
11 United States.

12 THE COURT: Have -- have your jobs been clerical
13 support type jobs or --

14 PROSPECTIVE JUROR NO. 506: Yes.

15 THE COURT: -- you also been a supervisor?

16 PROSPECTIVE JUROR NO. 506: No, all clerical
17 support.

18 THE COURT: All right. Thank you. Would the State
19 like to inquire further?

20 MS. DIGIACOMO: Yes, please. I'm sorry, I heard you
21 had two kids but how many grandkids?

22 PROSPECTIVE JUROR NO. 506: Twelve.

23 MS. DIGIACOMO: It was 12. I did write that down
24 correctly. Wow. Are they all in Hawaii or are they --

25 PROSPECTIVE JUROR NO. 506: They're all in Hawaii.

1 MS. DIGIACOMO: Okay. So the job that you had at
2 the hospital in Hawaii, that would have been more like office
3 management?

4 PROSPECTIVE JUROR NO. 506: I was an administrative
5 secretary.

6 MS. DIGIACOMO: Okay. Now do you watch any of the
7 law shows?

8 PROSPECTIVE JUROR NO. 506: I don't watch Law and
9 Order but I do watch a lot of the investigation ones.

10 MS. DIGIACOMO: Okay. Do you have any preconceived
11 notions about what you think or what you're going to expect
12 the State to do during this trial?

13 PROSPECTIVE JUROR NO. 506: NO.

14 MS. DIGIACOMO: Okay. And you said no to military
15 service.

16 PROSPECTIVE JUROR NO. 506: No military service.
17 Not me, I mean my ex-husband was in military.

18 MS. DIGIACOMO: Your ex-husband was?

19 PROSPECTIVE JUROR NO. 506: He just did his three
20 years. My brother did his two years and I have a cousin that
21 did -- I think my cousin is actually full time.

22 MS. DIGIACOMO: Still?

23 PROSPECTIVE JUROR NO. 506: Yeah.

24 MS. DIGIACOMO: But that's the only one that's
25 career?

1 PROSPECTIVE JUROR NO. 506: Yeah.

2 MS. DIGIACOMO: Do you talk to them about -- at all
3 about their service?

4 PROSPECTIVE JUROR NO. 506: No.

5 MS. DIGIACOMO: Are they here or --

6 PROSPECTIVE JUROR NO. 506: No, they're all in
7 Hawaii.

8 MS. DIGIACOMO: Is everyone in Hawaii but you?

9 PROSPECTIVE JUROR NO. 506: Yes.

10 MS. DIGIACOMO: Okay. And how did you end up in
11 Vegas?

12 PROSPECTIVE JUROR NO. 506: I have a good friend
13 here.

14 MS. DIGIACOMO: Oh, okay. Is that the same friend
15 that you had talked about has family --

16 PROSPECTIVE JUROR NO. 506: Yes.

17 MS. DIGIACOMO: -- members that does --

18 PROSPECTIVE JUROR NO. 506: Her family members, yes.

19 MS. DIGIACOMO: So basically you -- you have this
20 opinion just because of their actions and then --

21 PROSPECTIVE JUROR NO. 506: Well, yeah and we just
22 see it and we found it in the -- when we have them stay with
23 us, a couple of the nephews stayed with us and we find it.
24 And of course we had asked them to leave.

25 MS. DIGIACOMO: What -- what did you find? What are

1 they doing?

2 PROSPECTIVE JUROR NO. 506: Oh, pipes and, I don't
3 know, just little bags and ---

4 MS. DIGIACOMO: Okay. So you're not sure what kind
5 of drugs, just that they're doing something.

6 PROSPECTIVE JUROR NO. 506: No, I don't.

7 MS. DIGIACOMO: Do you -- do you have any strong
8 opinions about people who use drugs?

9 PROSPECTIVE JUROR NO. 506: No, not really. I mean
10 it's a choice they make, right?

11 MS. DIGIACOMO: So nothing about, you know, what
12 you've seen or your experience would affect your ability to be
13 fair and impartial if you hear drug use in this case?

14 PROSPECTIVE JUROR NO. 506: No, I would be fair.

15 MS. DIGIACOMO: What about experiences with the
16 police, any like really positive or really negative?

17 PROSPECTIVE JUROR NO. 506: I've never really had
18 experience with the police.

19 MS. DIGIACOMO: Okay. Not even a traffic ticket?

20 PROSPECTIVE JUROR NO. 506: Not even a traffic
21 ticket.

22 MS. DIGIACOMO: And then with regard to the
23 penalties, if -- if this got to a penalty phase, would you be
24 able to consider all three penalties?

25 PROSPECTIVE JUROR NO. 506: Yes.

1 MS. DIGIACOMO: And make a decision?
2 PROSPECTIVE JUROR NO. 506: Uh-huh.
3 MS. DIGIACOMO: Yes, for the record?
4 PROSPECTIVE JUROR NO. 506: For the record.
5 MS. DIGIACOMO: All right. I'll pass for cause,
6 Your Honor.
7 THE COURT: Thank you. Defense.
8 MR. SLIFE: Thank you, Your Honor. Ma'am, what --
9 what -- what branch of service was your ex-husband in?
10 PROSPECTIVE JUROR NO. 506: Marines.
11 MR. SLIFE: Marines. Is that the same with your
12 brother and your cousin?
13 PROSPECTIVE JUROR NO. 506: My cousin is National
14 Guard and my brother-in-law was also National Guard.
15 MR. SLIFE: Okay. Do they get -- get in arguments
16 with the Marine?
17 PROSPECTIVE JUROR NO. 506: No, they didn't.
18 MR. SLIFE: Okay. We just heard -- just with regard
19 to PTSD, we just heard a lot from Ms. Matsko about her
20 personal experience with having to care for her fiancé and him
21 having nightmares and screaming and all these different
22 things. Do you have any views on that? We've asked all these
23 questions about PTSD, do you have any views on anything that
24 she may have said just a few moments ago?
25 PROSPECTIVE JUROR NO. 506: I know what -- it's --

1 it's something real and I -- I agree with a lot of people
2 here. There are some people who just takes advantage of it
3 so.

4 MR. SLIFE: Sure. And I guess like anything in
5 life, right?

6 PROSPECTIVE JUROR NO. 506: Correct.

7 MR. SLIFE: Anybody can -- somebody can try to take
8 advantage that really doesn't have something.

9 PROSPECTIVE JUROR NO. 506: Exactly.

10 MR. SLIFE: But you -- but you would agree that it
11 is something real.

12 PROSPECTIVE JUROR NO. 506: Yes.

13 MR. SLIFE: It can affect depending on the person.

14 PROSPECTIVE JUROR NO. 506: Yes.

15 MR. SLIFE: Anything about -- do you think deadly
16 force could be justified in a situation?

17 PROSPECTIVE JUROR NO. 506: As a defense, yes. If I
18 was threatened, yes.

19 MR. SLIFE: What -- what type of situation would you
20 think it would be justified in?

21 PROSPECTIVE JUROR NO. 506: If they are trying to
22 kill me.

23 MR. SLIFE: Understood, pretty self-explanatory.

24 And then any -- anything with regard to what we keep calling
25 the presumption of innocence that -- that's the State's making

1 the accusation, the State has to prove, any -- any thoughts on
2 that?

3 PROSPECTIVE JUROR NO. 506: No.

4 MR. SLIFE: Okay. You're -- you're -- you're
5 comfortable with that. You think that's -- you think that's
6 okay?

7 PROSPECTIVE JUROR NO. 506: If they prove him to be
8 guilty, yes.

9 MR. SLIFE: Okay. And it's their job to do that.
10 It's not our job to prove innocence.

11 PROSPECTIVE JUROR NO. 506: Yes.

12 MR. SLIFE: Okay. All right. Thank you very much,
13 ma'am. Pass for cause, Your Honor. Thank you.

14 THE COURT: Thank you. And it is the defense's
15 fifth peremptory challenge.

16 MR. SLIFE: Judge, again we're fine with everybody
17 in the box. We'll waive again.

18 THE COURT: All right. State's sixth peremptory
19 challenge.

20 MS. DIGIACOMO: Your Honor, the State would thank
21 and excuse Ms. Wickman, badge number 428, seated in seat
22 number one.

23 THE CLERK: I'm sorry, what seat?

24 MS. DIGIACOMO: One.

25 THE CLERK: One.

1 THE COURT: Thank you, Ms. Wickman. And call the
2 next in order.

3 THE CLERK: Badge 510, Scott Kaplan.

4 THE COURT: All right. How's everybody doing?
5 Anybody need a restroom break? All right. I see shows of
6 hands. All right. So we're going to take a 10-minute
7 restroom break. Ladies and gentlemen, during this recess it
8 is your duty not to converse among yourselves or with anyone
9 else on any subject connected with the trial or read, watch or
10 listen to any report of or commentary on the trial by any
11 person connected with the trial or by any medium of
12 information including, without limitation, newspaper,
13 television, radio or Internet and you are not to form or
14 express an opinion on any subject connected with this case
15 until it's finally submitted to you. We'll be in recess until
16 three.

17 (Prospective jury panel recessed at 2:50 p.m.)

18 THE COURT: All right. The record will reflect the
19 venire panel has cleared the courtroom. We'll be in recess
20 until three.

21 (Court recessed at 2:51 p.m. until 3:04 p.m.)

22 (In the presence of the prospective jury panel.)

23 THE COURT: All right. Mr. Kaplan, do you have the
24 microphone? Oh, you do. Okay. All right. Have you ever --
25 well, before we start I just want the record to reflect that

1 we are back within the presence of the remaining members of
2 the venire panel and the defendant is present with his
3 counsel, the Deputies District Attorney prosecuting the case
4 are present as are all officers of the Court.

5 Mr. Kaplan, have you ever served as a juror before?

6 PROSPECTIVE JUROR NO. 510: I have not.

7 THE COURT: Have you ever or anyone in your -- in
8 your family or closely associated with you been in law
9 enforcement?

10 PROSPECTIVE JUROR NO. 510: No.

11 THE COURT: Have you ever been the victim of a
12 crime?

13 PROSPECTIVE JUROR NO. 510: Yes.

14 THE COURT: What crime was that?

15 PROSPECTIVE JUROR NO. 510: House was broken into
16 with two armed men. They stole a bunch of money and left me
17 with a bullet in my chest.

18 THE COURT: Okay. That's pretty serious. So you
19 were obviously home at the time and --

20 PROSPECTIVE JUROR NO. 510: At my grandparents'
21 house.

22 THE COURT: At your grandparents' house. Was that
23 here in Clark County?

24 PROSPECTIVE JUROR NO. 510: Detroit, suburbs of
25 Detroit.

1 THE COURT: So did they -- were you aware that they
2 were breaking in when they broke in?

3 PROSPECTIVE JUROR NO. 510: We heard the door get
4 crashed in. Two guys armed came in and so at that point,
5 yeah, we knew we were getting robbed.

6 THE COURT: Okay. So how is it that you ended up
7 getting shot?

8 PROSPECTIVE JUROR NO. 510: They ordered us to the
9 ground and they were kicking my grandfather in the face,
10 pulling my grandmother around by the hair. Me and the guy
11 that was doing it made eye contact and before he left he just
12 shot me.

13 THE COURT: Okay. So did the police ever apprehend
14 these individuals?

15 PROSPECTIVE JUROR NO. 510: Yes. About two years
16 later they did find him and he's in jail for the rest of his
17 life for racketeering is what I was told. But I did pick him
18 out of a lineup.

19 THE COURT: All right. And so is he in prison for
20 the rest of his life because of your testimony or was it
21 unrelated?

22 PROSPECTIVE JUROR NO. 510: No, I believe his crime
23 against me was attempted murder, which would be 25 years, and
24 racketeering was life. And so they put him -- obviously that
25 particular crime could -- was longer than 25 years.

1 THE COURT: I see, okay. So that experience, pretty
2 traumatic event. How long ago was that?

3 PROSPECTIVE JUROR NO. 505: Ninety-five, day before
4 New Year's in '95.

5 THE COURT: That's something you'll -- you'll never
6 forget obviously.

7 PROSPECTIVE JUROR NO. 505: I do a good job
8 forgetting about it.

9 THE COURT: Okay. So the question is, can you put
10 that aside or will it impact your ability to be fair and
11 impartial in this case?

12 PROSPECTIVE JUROR NO. 505: I can definitely put it
13 to the -- to the side, absolutely.

14 THE COURT: Do you believe in the presumption of
15 innocence?

16 PROSPECTIVE JUROR NO. 505: Yes, I do.

17 THE COURT: And will you hold the State to its
18 burden of proof to prove the case beyond a reasonable doubt?

19 PROSPECTIVE JUROR NO. 505: Yes, I will.

20 THE COURT: Will you be able to follow the
21 instructions on the law as I give them to you?

22 PROSPECTIVE JUROR NO. 505: Yes, I will.

23 THE COURT: Do you have any religious or moral
24 beliefs that would make it difficult for you to sit in
25 judgment in this case?

1 PROSPECTIVE JUROR NO. 505: I do not.

2 THE COURT: Will you be able to consider, if the
3 case goes to a penalty hearing, would you be able to consider
4 all three penalties available?

5 PROSPECTIVE JUROR NO. 505: Yes, I will.

6 THE COURT: All right. Do you have -- do you know
7 of anyone or have any experience with people under the
8 influence or using illicit drugs?

9 PROSPECTIVE JUROR NO. 505: I do not personally know
10 anybody. I definitely have acquaintances over the years that
11 can't say were addicted but used marijuana heavily. But my
12 circle of friends now there's none. I've got a young family
13 so I don't want to be around that.

14 THE COURT: Have you ever been in the military?

15 PROSPECTIVE JUROR NO. 505: I have not.
16 Unfortunately, because of the bullet in my chest I was not
17 allowed in the military.

18 THE COURT: Does the bullet remain there?

19 PROSPECTIVE JUROR NO. 505: Yes.

20 THE COURT: Okay. So they couldn't -- it was in a
21 place where they could not --

22 PROSPECTIVE JUROR NO. 505: Right above the heart.

23 THE COURT: Okay. All right. Did you ever suffer
24 any --

25 PROSPECTIVE JUROR NO. 505: No.

1 THE COURT: -- consequences as far as the, you know,
2 the trauma from the -- the psychological trauma of the event
3 that occurred to you?

4 PROSPECTIVE JUROR NO. 505: No. I'm very
5 hard-headed so that stuff just, for whatever reason, didn't
6 bother me. I never had to see a counselor, didn't do
7 anything. I was able to just function normal.

8 THE COURT: All right. Tell us about yourself.

9 PROSPECTIVE JUROR NO. 505: I'm married, I've got
10 two kids, seven and nine, two boys, they keep me very busy.
11 I've been in here -- Las Vegas for about nine and a half
12 years. Right now I work as a financial recruiter for a
13 company. Back in Detroit I was a financial recruiter as well
14 for about two and a half years. The company allowed me to
15 move out here to Vegas to work for them. And that's a little
16 bit about me.

17 THE COURT: I don't -- I guess I don't understand
18 the job of financial recruiter.

19 PROSPECTIVE JUROR NO. 505: Financial recruiter, I'm
20 a head hunter for accounting and finance for here in Las
21 Vegas.

22 THE COURT: Okay, so you're a --

23 PROSPECTIVE JUROR NO. 505: So I help all the
24 different casinos, large companies, small companies find
25 accounting and finance individuals for their accounting and

1 finance departments.

2 THE COURT: Okay. So you're recruiting --

3 PROSPECTIVE JUROR NO. 505: I'm a head hunter for --

4 THE COURT: -- people to work in that -- that
5 particular area.

6 PROSPECTIVE JUROR NO. 505: Yep.

7 THE COURT: And so that's how they categorize it if
8 you were a recruiter for say healthcare they would say -- you
9 would say, a healthcare recruiter.

10 PROSPECTIVE JUROR NO. 505: Exactly.

11 THE COURT: I see. Okay. And does your wife work?

12 PROSPECTIVE JUROR NO. 505: My wife does work, she's
13 now as a teacher. She teaches math for sixth, seventh and
14 eighth grade at Somerset Academy.

15 THE COURT: All right. Any reason you think that
16 you could not be a fair and impartial juror in this case?

17 PROSPECTIVE JUROR NO. 505: I do not.

18 THE COURT: Would the State like to inquire further?

19 MS. DIGIACOMO: Yes, we do. So you worked doing the
20 same job in Detroit?

21 PROSPECTIVE JUROR NO. 505: Correct.

22 MS. DIGIACOMO: And then you said that they let you
23 come out here to do the same thing.

24 PROSPECTIVE JUROR NO. 505: Correct.

25 MS. DIGIACOMO: Did you want to come to Vegas?

1 PROSPECTIVE JUROR NO. 505: Absolutely.

2 MS. DIGIACOMO: Why?

3 PROSPECTIVE JUROR NO. 505: Detroit weather, cold.

4 MS. DIGIACOMO: Oh, okay. So it's not that you had
5 family or something here, it was the weather.

6 PROSPECTIVE JUROR NO. 505: Yeah, I have one aunt
7 here, which made it easier for the move for house reasons.
8 She had a rental house so we were able to rent it out to give
9 it a try. But, yeah, I wanted to move out here because me and
10 my wife got sick and tired of the cold weather. And we
11 actually do -- we're very -- one of the few out there that
12 prefer the summertime here. So love the summertime.

13 MS. DIGIACOMO: You like the heat?

14 PROSPECTIVE JUROR NO. 505: Love the heat.

15 MS. DIGIACOMO: No humidity.

16 PROSPECTIVE JUROR NO. 505: No humidity, no bugs, no
17 humidity.

18 MS. DIGIACOMO: Okay.

19 PROSPECTIVE JUROR NO. 505: The top of my head
20 doesn't like the summer but I do.

21 MS. DIGIACOMO: All right. Well, let me ask you.
22 Do you watch any of the law shows, the CSIs, Law and Order?

23 PROSPECTIVE JUROR NO. 505: I'm addicted to NCIS.

24 MS. DIGIACOMO: Okay, NCIS. Now, do you have any
25 preconceived notions, if you were to sit on this jury as to

1 what you would expect the State to present and how this trial
2 should go?

3 PROSPECTIVE JUROR NO. 505: Some of my clients here
4 in Las Vegas are reality shows and I know it's all made up.
5 So I know what's on TV is not real life.

6 MS. DIGIACOMO: Okay. So you're not going to hold
7 us to if this is not --

8 PROSPECTIVE JUROR NO. 505: Not going to hold --

9 MS. DIGIACOMO: -- as exciting as real life?

10 PROSPECTIVE JUROR NO. 505: Would be exciting if I
11 could see Agent Gibbs or Abby come but I know that's not how
12 it works.

13 MS. DIGIACOMO: I can tell you that's not going to
14 happen. So you still think you can be fair and impartial even
15 though --

16 PROSPECTIVE JUROR NO. 505: Absolutely.

17 MS. DIGIACOMO: All right. Now you said you
18 couldn't get into the military. Did you have any other family
19 members that were in the military?

20 PROSPECTIVE JUROR NO. 505: No family members, just
21 neighbors in my -- where I currently live a lot of families
22 are in military, some families are police officers but no
23 family members directly in the military.

24 MS. DIGIACOMO: All right. Now do the -- the
25 neighbors that live around you, you said some are military,

1 some are police officers. Do you talk to any of them about --

2 PROSPECTIVE JUROR NO. 505: Absolutely, every day.

3 MS. DIGIACOMO: -- their jobs?

4 PROSPECTIVE JUROR NO. 505: Uh-huh.

5 MS. DIGIACOMO: You talk to them every day.

6 PROSPECTIVE JUROR NO. 505: Yes -- I wouldn't say
7 every day but, yes, I do talk to them.

8 MS. DIGIACOMO: About their jobs?

9 PROSPECTIVE JUROR NO. 505: I can't say I talk to
10 them about your jobs but we talk, absolutely.

11 MS. DIGIACOMO: You talk more about like
12 neighborhood stuff --

13 PROSPECTIVE JUROR NO. 505: Life, kids --

14 MS. DIGIACOMO: -- family -- okay.

15 PROSPECTIVE JUROR NO. 505: -- we never sit -- and,
16 yes, sometimes they do bring up issues at jobs.

17 MS. DIGIACOMO: Is there, I guess, any experience
18 with the police that you've ever had that's been really
19 particularly negative, particularly positive?

20 PROSPECTIVE JUROR NO. 505: The situation with me,
21 it was -- yes, it was negative but the police handled it in a
22 very positive way so I don't have any issues with that.
23 Personally, the police have never done anything to me in a
24 negative way but I've definitely had friends that are
25 different -- been in different situations where the police

1 have handled things and done things maybe not in the right way
2 or not do something, which I would have expected them to do.
3 But nothing personally towards me.

4 MS. DIGIACOMO: Well, anything about what you
5 learned from other friends that would affect your ability to
6 be fair and impartial here if you saw police officers testify?

7 PROSPECTIVE JUROR NO. 505: No. All I can say is
8 police officers are human and people do make mistakes and so
9 obviously you're going to have to listen to everything before
10 you form an opinion.

11 MS. DIGIACOMO: All right. And then with regard to
12 -- you said you've known some -- you had some friends that
13 smoked a lot of marijuana. Do you have any strong feelings
14 one way or another about drug use or illegal narcotics?

15 PROSPECTIVE JUROR NO. 505: I think most drugs are
16 -- are horrible. I think some drugs, specifically marijuana,
17 are fine as long as it doesn't affect your daily life. As
18 long as you don't make it part of your daily life. And if
19 someone wants to do it, it's fine as long as it doesn't affect
20 me or my family. If it does then obviously your -- that's
21 where the issues come up.

22 MS. DIGIACOMO: So the friend's that you had were
23 they -- was it their daily life, the smoking, is that why
24 you --

25 PROSPECTIVE JUROR NO. 505: I wouldn't say it was

1 their daily life, no.

2 MS. DIGIACOMO: But is that -- was it their smoking
3 that you said you kind of separated yourself from them because
4 you've got a family now?

5 PROSPECTIVE JUROR NO. 505: Yeah, the stuff I was
6 talking about is probably later in the years, later in my
7 previous years. Where right now, yeah, I'm not -- I'm not
8 around anybody that really does it or if they do it they, you
9 know, don't share it with me. But yeah, I really don't think
10 -- I think eventually marijuana will be passed here so I don't
11 really think it affects people negatively like most of the
12 other drugs.

13 MS. DIGIACOMO: Okay. And if you heard testimony
14 about other drugs, not marijuana, during this case would it
15 affect your ability to be fair and impartial?

16 PROSPECTIVE JUROR NO. 505: No, as long as I hear
17 everything that I can make my own opinion.

18 MS. DIGIACOMO: All right. Now what about with
19 penalty? If this case did get to a penalty phase, would you
20 be able to consider all three?

21 PROSPECTIVE JUROR NO. 505: Absolutely.

22 MS. DIGIACOMO: And make a decision?

23 PROSPECTIVE JUROR NO. 505: Absolutely.

24 MS. DIGIACOMO: I'll pass for cause, Your Honor.

25 THE COURT: Defense.

1 MR. SLIFE: Thank you, Your Honor. Sir, forgive me
2 if you answered this but did you go through your educational
3 background?

4 PROSPECTIVE JUROR NO. 505: I did not. I do not
5 have an educational background.

6 MR. SLIFE: Okay. You had said that you had some
7 friends that maybe had some negative experiences --

8 PROSPECTIVE JUROR NO. 505: Yes.

9 MR. SLIFE: -- with police officers. Could you
10 describe that a little more?

11 PROSPECTIVE JUROR NO. 505: Do you really want me to
12 get into details? Does it matter?

13 MR. SLIFE: Well, I guess we don't need to get into
14 big details, but was -- was sort of -- were they not trusting
15 of police? What --

16 PROSPECTIVE JUROR NO. 505: Yes, not trusting of the
17 police.

18 MR. SLIFE: -- maybe -- maybe just in broad strokes.

19 PROSPECTIVE JUROR NO. 505: Yeah, not trusting of
20 police. Yeah, just not trusting of police.

21 MR. SLIFE: Okay. So you could understand why
22 someone maybe wouldn't want to speak to police --

23 PROSPECTIVE JUROR NO. 505: Absolutely.

24 MR. SLIFE: -- might want to have an attorney
25 present?

1 PROSPECTIVE JUROR NO. 505: Absolutely.

2 MR. SLIFE: What about -- I'm just going to keep
3 referring back to Ms. Matsko that was here that was speaking
4 about PTSD. Any thoughts on what she had said or all the
5 questions that we've asked about that?

6 PROSPECTIVE JUROR NO. 505: No thoughts. I've seen
7 people that claim they have PTSD with no, in my opinion,
8 symptoms maybe at that time. Then I've seen people that said
9 they have PTSD where I could tell that they seriously had
10 something wrong with them.

11 MR. SLIFE: Sure. Well, in your -- and you're a
12 good example it seems of someone who went through something
13 traumatic that was able to put it behind you.

14 PROSPECTIVE JUROR NO. 505: Absolutely.

15 MR. SLIFE: But certainly you could -- you could see
16 other people that may have been through something different
17 that --

18 PROSPECTIVE JUROR NO. 505: Absolutely.

19 MR. SLIFE: -- they're struggling with it.

20 PROSPECTIVE JUROR NO. 505: Unfortunately, I had an
21 acquaintance that didn't think he had anything wrong and then
22 something happened then he locked himself in his house with
23 all of his guns and the police had to come get him out because
24 he thought people were trying to kill him. So --

25 MR. SLIFE: Was this somebody that was in combat?

1 PROSPECTIVE JUROR NO. 505: Somebody who was in
2 combat, yeah.

3 MR. SLIFE: Do -- do you know, was it Iraq,
4 Afghanistan or before that?

5 PROSPECTIVE JUROR NO. 505: This was about four
6 years ago, I have no idea where he was. It was an
7 acquaintance, saw him once, twice and then found out this
8 situation happened. But he did get on proper medication and
9 now he is -- does have a family and he's fine.

10 MR. SLIFE: All right. So you -- so you believe
11 that he suffered from something based on what had happened
12 overseas?

13 PROSPECTIVE JUROR NO. 505: I can't say from
14 overseas but I know he suffered from something, he got the
15 right medication and now he's fine.

16 MR. SLIFE: Okay. Perfect. What about -- what
17 about the presumption of innocence we keep talking about?

18 PROSPECTIVE JUROR NO. 505: Well, unfortunately, I
19 -- I think you're guilty and you have to prove your innocence.
20 Unfortunately, I think that's how it is but I know the law is
21 your -- you're innocent until proven guilty but --

22 MR. SLIFE: Okay, well, let's explore that a little
23 more then. Because part of this is the Judge is going to give
24 you law at the end that's going to say -- I mean the Judge has
25 already said it, you're innocent until proven guilty. Why is

1 it that you think the reverse?

2 PROSPECTIVE JUROR NO. 505: You have to prove -- you
3 guys are here -- or you're here, [indiscernible] by your
4 client to prove that he's innocent to us and so that's my
5 opinion. Unfortunately, you're -- you're guilty and you have
6 to prove your innocence. I know by law it's you're innocent
7 until proven guilty but I think, to be honest, that's
8 typically how it is.

9 MR. SLIFE: Well, let me ask you this. If I accused
10 of something right now of hitting my car in the parking lot or
11 something, you know, hypothetically --

12 PROSPECTIVE JUROR NO. 505: Right.

13 MR. SLIFE: -- -- would that make it so?

14 PROSPECTIVE JUROR NO. 505: To -- if you asked -- if
15 you have -- if you have 10 people around us, five would
16 probably say I was guilty and five would probably say I need
17 proof. Again, I would have to prove my innocence to you.

18 MR. SLIFE: Would it be fair -- would it be fair to
19 you to have to do that?

20 PROSPECTIVE JUROR NO. 505: It would not be fair but
21 that's the way our world is.

22 MR. SLIFE: Well, do you understand the way that --
23 that's not the way our system is, though.

24 PROSPECTIVE JUROR NO. 505: Agree.

25 MR. SLIFE: Court's indulgence, Your Honor. All

1 right. I guess -- I guess I'm unclear as to whether -- is it
2 -- is it that -- is it that you would want someone to prove
3 their innocence or is that you understand the system is that
4 you don't have to prove your innocence?

5 PROSPECTIVE JUROR NO. 505: I understand the system
6 is but I think as human beings if someone says you did this,
7 most people would -- not most, some people would think it and
8 it's your job to basically prove you're innocent. But I do
9 understand what the law is.

10 MR. SLIFE: I mean --

11 PROSPECTIVE JUROR NO. 505: I guess -- basically I'm
12 telling you my personal opinion --

13 MR. SLIFE: Understood.

14 PROSPECTIVE JUROR NO. 505: -- but I understand what
15 the law is, you're innocent until proven guilty, understood.

16 MR. SLIFE: Understood. Are you going to be able to
17 follow that in the trial?

18 PROSPECTIVE JUROR NO. 505: Absolutely.

19 MR. SLIFE: I mean -- I mean for instance we start
20 out right here with the default being guilty and the
21 prosecution has to go all the way over to beyond a reasonable
22 doubt. So when you go back to deliberate even you start with
23 the default not guilty and then you determine whether they
24 went the distance. Are you comfortable with that as a
25 starting point or would you go back there as a starting point,

1 you know, guilty, then they work -- then they work backwards?

2 PROSPECTIVE JUROR NO. 505: I have no idea what you
3 just said. You danced around a bunch of different stuff but
4 all I'm telling you is I understand what's going on here and
5 you're going to have to prove that he did something and he
6 does not have to prove that he didn't do it, they just have to
7 prove he did it. So I understand how it works. But I think
8 in most cases you have to prove your innocence.

9 MR. SLIFE: All right. Court's indulgence, please,
10 Your Honor.

11 THE COURT: While you're discussing it I've got a
12 question.

13 PROSPECTIVE JUROR NO. 505: Yes.

14 THE COURT: So Mr. Kaplan, are you saying you're
15 going to require the defendant to prove that he's innocent?

16 PROSPECTIVE JUROR NO. 505: Not at all.

17 THE COURT: So you just think that some people do
18 that but you're not one of those?

19 PROSPECTIVE JUROR NO. 505: That's not even what I'm
20 saying, not even close to it. I just think as --

21 THE COURT: Now, we're trying to figure out what
22 you're saying so --

23 PROSPECTIVE JUROR NO. 505: Exactly, I can tell. I
24 can tell.

25 THE COURT: Yeah. Tell me what you're saying.

1 PROSPECTIVE JUROR NO. 505: I probably should not
2 even brought that up, my personal -- my personal thoughts. I
3 just think as -- as humans if someone says something most of
4 us believe it. And you have to try to prove that it did or
5 did not happen. But again, according to the law, I know
6 you're innocent until proven guilty. So --

7 THE COURT: Okay. So --

8 PROSPECTIVE JUROR NO. 505: -- sorry if you don't
9 understand me but --

10 THE COURT: We're just trying to get into your head
11 because --

12 PROSPECTIVE JUROR NO. 505: Good luck.

13 THE COURT: -- we can't. You're the only one that
14 can tell us. So in your head are you going to require the
15 defendant to prove his innocence?

16 PROSPECTIVE JUROR NO. 505: No.

17 MR. SLIFE: As I've said many times, thank you very
18 much for your honesty. There's not a bad question.

19 PROSPECTIVE JUROR NO. 505: Understood.

20 MR. SLIFE: Court's brief indulgence. All right.

21 THE COURT: Sure.

22 MR. SLIFE: Just -- just one last thing.

23 PROSPECTIVE JUROR NO. 505: Absolutely. I like
24 questions.

25 MR. SLIFE: It's kind of in the same vein. I -- I

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1 appreciate -- I appreciate your honesty. What about with
2 regard to, we've asked questions about if -- if somebody
3 testifies or doesn't testify and nobody has to testify, we
4 don't have to ask any questions, would you be okay with that
5 if that happened? Do you understand that we don't need to do
6 anything? I mean, you know --

7 PROSPECTIVE JUROR NO. 505: I understand what you're
8 saying. Yeah, and it's fine if you guys don't testify. I
9 know that's, again, your strategy. I just hope that they
10 don't have a good case because if they do I would expect that
11 you guys would testify but --

12 MR. SLIFE: Sure.

13 PROSPECTIVE JUROR NO. 505: -- I understand that you
14 do not have to and I would not hold that against anybody.

15 MR. SLIFE: Well, and I understand what you're
16 saying about the fact, you know, we're here for a reason but
17 the reason is is that an accusation has been made, right? And
18 so now is the time to get the whole story and figure out if
19 they can prove it.

20 PROSPECTIVE JUROR NO. 505: That's exactly what I'm
21 saying.

22 MR. SLIFE: So -- so you're -- you're comfortable
23 with that?

24 PROSPECTIVE JUROR NO. 505: Absolutely.

25 MR. SLIFE: All right. Thank you very much, sir.

1 And Judge, we'll pass for cause. Thank you.

2 THE COURT: Thank you. It is the sixth defense
3 peremptory challenge.

4 MR. SLIFE: And Judge, we'll -- we'll thank and
5 exclude -- excuse Mr. Kaplan, seat number one.

6 THE COURT: Thank you, Mr. Kaplan.

7 MR. SLIFE: Thank you, sir.

8 THE COURT: Call the next in order.

9 THE CLERK: Badge 533, Keshia Ricamona.

10 THE COURT: Hello, Ms. Ricamona. Have you ever
11 served as a juror before?

12 PROSPECTIVE JUROR NO. 533: I have not.

13 THE COURT: How old are you?

14 PROSPECTIVE JUROR NO. 533: I'm 23 years old.

15 THE COURT: Okay. So you haven't had very -- you
16 know, you haven't been old enough to have been in the pool for
17 very long so --

18 PROSPECTIVE JUROR NO. 533: No.

19 THE COURT: Okay. So have you ever been in law
20 enforcement?

21 PROSPECTIVE JUROR NO. 533: No.

22 THE COURT: And anyone in your family closely
23 associated with you have been in law enforcement?

24 PROSPECTIVE JUROR NO. 533: Yes.

25 THE COURT: Who's that?

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1 PROSPECTIVE JUROR NO. 533: My brother's
2 brother-in-law, I consider him like my brother as well. He's
3 correction for Metro I think. I believe so, yes.

4 THE COURT: So does he work in the jail?

5 PROSPECTIVE JUROR NO. 533: He does.

6 THE COURT: The Clark County Detention Center?

7 PROSPECTIVE JUROR NO. 533: Yes.

8 THE COURT: Okay. Do you ever talk to him about his
9 job?

10 PROSPECTIVE JUROR NO. 533: Not often, every now and
11 then.

12 THE COURT: As a -- a result of talking to him about
13 his job, even if it's not very often, have you formed any
14 opinions that might affect your ability to be fair and
15 impartial in this case?

16 PROSPECTIVE JUROR NO. 533: No.

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

19 PROSPECTIVE JUROR NO. 533: I have testified against
20 someone before.

21 THE COURT: Okay. Well, is that as a witness that
22 just saw something or because you were victimized by someone?

23 PROSPECTIVE JUROR NO. 533: I was molested by my
24 fifth grade teacher.

25 THE COURT: I'm sorry. You were molested by?

1 PROSPECTIVE JUROR NO. 533: My fifth grade teacher.

2 THE COURT: Okay. All right. So that was a while
3 ago but you remember going to court and testifying?

4 PROSPECTIVE JUROR NO. 533: Yes.

5 THE COURT: Okay. How old were you in fifth grade,
6 10?

7 PROSPECTIVE JUROR NO. 533: I think I was like 10,
8 yeah.

9 THE COURT: All right. And what -- was that a
10 traumatic event for you to have to go to court and testify?

11 PROSPECTIVE JUROR NO. 533: Only a little bit. I
12 mean seeing his face because it took a couple of years for it
13 to come to court.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 533: But the only time that
16 it really affected me is when I had to see him but that's it.

17 THE COURT: Okay. So obviously, this is not that
18 kind of a case but do you think that just having gone through
19 that would affect you in any way so that you could not be fair
20 and impartial in this case?

21 PROSPECTIVE JUROR NO. 533: No.

22 THE COURT: Did you feel that the investigation of
23 that matter and the justice system and how it worked was --
24 was fair and that it reached a proper result?

25 PROSPECTIVE JUROR NO. 533: No.

1 THE COURT: Okay. And tell me why you don't think
2 so.

3 PROSPECTIVE JUROR NO. 533: I testified when I was
4 really young so I was very nervous to be up there and I
5 couldn't really voice what had happened because it was very
6 embarrassing for me to say. So towards the end of the case
7 when they did come to a decision they had said that I lied.

8 THE COURT: Oh, okay. And so that I'm sure made you
9 feel very bad.

10 PROSPECTIVE JUROR NO. 533: Definitely.

11 THE COURT: Who told you that -- that they said that
12 they thought you lied? Who told you that?

13 PROSPECTIVE JUROR NO. 533: He had made a blog -- a
14 blog -- blog online --

15 THE COURT: I see.

16 PROSPECTIVE JUROR NO. 533: -- and he stated
17 everything basically on that website and he stated my name.

18 THE COURT: I see. So you feel then that the
19 justice system failed in that?

20 PROSPECTIVE JUROR NO. 533: No. I -- I think I --
21 it's mostly because I was young.

22 THE COURT: Have you or -- well, has anyone in your
23 family or closely associated with you been in military
24 service?

25 PROSPECTIVE JUROR NO. 533: Yes.

1 THE COURT: Who's that?

2 PROSPECTIVE JUROR NO. 533: My dad, my brother and
3 my stepdad, my aunt and her husband.

4 THE COURT: Okay. So lots of service, military
5 service --

6 PROSPECTIVE JUROR NO. 533: Yeah.

7 THE COURT: -- in your family. And what branch of
8 service?

9 PROSPECTIVE JUROR NO. 533: Mostly the Navy and the
10 Air Force.

11 THE COURT: Any of those serve in combat?

12 PROSPECTIVE JUROR NO. 533: My stepdad.

13 THE COURT: What -- what conflict did he serve in?

14 PROSPECTIVE JUROR NO. 533: He was in the Vietnam
15 War.

16 THE COURT: Did he ever -- does he ever talk about
17 that?

18 PROSPECTIVE JUROR NO. 533: Every now and then but I
19 don't really listen.

20 THE COURT: Well, we won't tell him that. Any
21 reason that you think -- can think of that you could not be a
22 fair and impartial juror in this case?

23 PROSPECTIVE JUROR NO. 533: No.

24 THE COURT: Do you -- you'll be able to follow the
25 law as I instruct you?

1 PROSPECTIVE JUROR NO. 533: Yes.

2 THE COURT: Tell us about yourself.

3 PROSPECTIVE JUROR NO. 533: I graduated school last
4 year and I have been working ever since. So I work as a CST
5 now, an FA at an orthopedic institute.

6 THE COURT: Tell us what those initials mean.

7 PROSPECTIVE JUROR NO. 533: Certified Surgical
8 Technologist First Assist.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 533: Yes.

11 THE COURT: And did you go to college for that?

12 PROSPECTIVE JUROR NO. 533: I did.

13 THE COURT: Okay. And what was your degree in?

14 PROSPECTIVE JUROR NO. 533: I didn't get a degree,
15 it was just a secondary -- like a tech school kind of. So it
16 wasn't really a degree. Kind of just worked for that title.

17 THE COURT: How long did you have to go to school to
18 get that?

19 PROSPECTIVE JUROR NO. 533: Almost two years.

20 THE COURT: And I can't recall, did you say you live
21 -- do you -- are you married, single, divorced?

22 PROSPECTIVE JUROR NO. 533: I have a partner.

23 THE COURT: Okay. And so this partner, what does he
24 or she do for a living?

25 PROSPECTIVE JUROR NO. 533: She works as a

1 controller at a security center, kind of like dispatch.

2 THE COURT: Oh, okay. At a -- now when you say a
3 security center --

4 PROSPECTIVE JUROR NO. 533: [indiscernible]

5 THE COURT: I'm sorry?

6 PROSPECTIVE JUROR NO. 533: [indiscernible]

7 THE COURT: Oh, okay. So like an alarm kind of --

8 PROSPECTIVE JUROR NO. 533: Yeah, they do like
9 private investigating, private security and then security for
10 other places as well.

11 THE COURT: Okay. And do you have other family that
12 lives here in town as well?

13 PROSPECTIVE JUROR NO. 533: My mom and my stepdad.

14 THE COURT: What do they do?

15 PROSPECTIVE JUROR NO. 533: My mom is nothing, she
16 stays at home and my stepdad provides for her. He is a broker
17 and a real estate agent.

18 THE COURT: Real estate broker?

19 PROSPECTIVE JUROR NO. 533: Yeah.

20 THE COURT: Would the State like to inquire further?

21 MS. DIGIACOMO: Thank you. All right. So you said
22 you were a certified surgical tech at Orthopedic Institute?

23 PROSPECTIVE JUROR NO. 533: Yes.

24 MS. DIGIACOMO: All right. And yesterday you had
25 mentioned concerns about if you had to sit on the jury what

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1 would happen at work because there's no one else to do your
2 job.

3 PROSPECTIVE JUROR NO. 533: Yes.

4 MS. DIGIACOMO: Have you been able to resolve that?

5 PROSPECTIVE JUROR NO. 533: We're kind of working
6 day by day.

7 MS. DIGIACOMO: So if you sat on this jury it would
8 get worked out so that the surgeries could still continue, et
9 cetera?

10 PROSPECTIVE JUROR NO. 533: He -- he -- he's
11 definitely going to continue with surgery. It's just he's
12 kind of frustrated.

13 MS. DIGIACOMO: I get that. Did -- do you watch any
14 of the CSI and law shows?

15 PROSPECTIVE JUROR NO. 533: I do not.

16 MS. DIGIACOMO: What kind of shows do you watch?

17 PROSPECTIVE JUROR NO. 533: Like the medical ones,
18 like Grey's Anatomy.

19 MS. DIGIACOMO: Oh, okay. What about the victim of
20 -- anyone close to you been the victim of any crime?

21 PROSPECTIVE JUROR NO. 533: No.

22 MS. DIGIACOMO: And what about drug use?

23 PROSPECTIVE JUROR NO. 533: A couple of my best
24 friends do do a couple -- some drugs, yeah.

25 MS. DIGIACOMO: What -- do you know what kind? Is

1 it marijuana or is it something --

2 PROSPECTIVE JUROR NO. 533: It's -- in my generation
3 a lot of them do the partying and they do the party drugs.

4 MS. DIGIACOMO: Ecstasy?

5 PROSPECTIVE JUROR NO. 533: A lot of that kind of
6 stuff, yeah.

7 MS. DIGIACOMO: Do -- I guess -- do you have any
8 opinions about that?

9 PROSPECTIVE JUROR NO. 533: I do not like it.

10 MS. DIGIACOMO: If you -- if you hear evidence in
11 the case that someone may have done drugs, would it affect
12 your ability to be fair and impartial?

13 PROSPECTIVE JUROR NO. 533: No.

14 MS. DIGIACOMO: Now what about penalty, if it got to
15 penalty, a penalty phase here, can you consider all three?

16 PROSPECTIVE JUROR NO. 533: Yes.

17 MS. DIGIACOMO: And can you make a decision?

18 PROSPECTIVE JUROR NO. 533: Yes.

19 MS. DIGIACOMO: All right. And I know you said
20 you're taking it day by day with your -- with your job. If --
21 if you were seated on this jury for the next two weeks or
22 more, would you be able to concentrate on the trial and give
23 us your full attention or would you be worried about work?

24 PROSPECTIVE JUROR NO. 533: I'd be slightly worried
25 about work, yes.

1 MS. DIGIACOMO: But would you -- would it prevent
2 you from paying attention and doing your job that you're --
3 would be required to do as a juror here?

4 PROSPECTIVE JUROR NO. 533: No.

5 MS. DIGIACOMO: I'll pass for cause.

6 THE COURT: Thank you. Defense.

7 MS. LEMCKE: Is it Ricamona? Did I say that --

8 PROSPECTIVE JUROR NO. 533: Ricamona, yes.

9 MS. LEMCKE: So you said you had some family members
10 that were in the military?

11 PROSPECTIVE JUROR NO. 533: Correct.

12 MS. LEMCKE: Tell me a little bit about that, what
13 branches and when?

14 PROSPECTIVE JUROR NO. 533: My dad retired in the
15 Navy, so we did quite a bit of traveling. Once we came here
16 to Nevada my brother joined and he's been career since, for
17 about 10 years now.

18 MS. LEMCKE: What branch is your brother in?

19 PROSPECTIVE JUROR NO. 533: Navy.

20 MS. LEMCKE: Okay. And he plans to make a career
21 out of it?

22 PROSPECTIVE JUROR NO. 533: Definitely.

23 MS. LEMCKE: Has he been deployed at all in these
24 most recent conflicts, Iraq, Afghanistan, anything like that?

25 PROSPECTIVE JUROR NO. 533: No, he's been very

1 fortunate. Although he's a corpsman and --

2 MS. LEMCKE: Oh, okay.

3 PROSPECTIVE JUROR NO. 533: -- he has not been
4 deployed yet.

5 MS. LEMCKE: Your dad -- I think you -- did you say
6 that your dad saw any combat when he served?

7 PROSPECTIVE JUROR NO. 533: My stepdad did.

8 MS. LEMCKE: Your stepdad did.

9 PROSPECTIVE JUROR NO. 533: Yes.

10 MS. LEMCKE: And you -- was he the one that you said
11 you -- he talks about it but you don't really listen that
12 much?

13 PROSPECTIVE JUROR NO. 533: Yeah.

14 MS. LEMCKE: Okay. Does he -- has he ever expressed
15 having any issues discussing his experiences?

16 PROSPECTIVE JUROR NO. 533: Yeah, he has PTSD.

17 MS. LEMCKE: He does?

18 PROSPECTIVE JUROR NO. 533: Yes, and it's only been
19 getting worse.

20 MS. LEMCKE: Interesting.

21 PROSPECTIVE JUROR NO. 533: Yeah.

22 MS. LEMCKE: What -- what makes you say it's only
23 been getting worse?

24 PROSPECTIVE JUROR NO. 533: He's -- he's getting
25 more like insecure, his anger's out of -- it's just very

1 embarrassing actually. We can't really take him out in public
2 because he's just very rude, he's very impatient, his anger is
3 insane.

4 MS. LEMCKE: Okay. What about, does he have like
5 nightmares, that type of thing?

6 PROSPECTIVE JUROR NO. 533: Yes.

7 MS. LEMCKE: He does?

8 PROSPECTIVE JUROR NO. 533: He does. Well, I don't
9 live with them so my mom does tell me stories that he does
10 wake up in the middle of the night scared, crying, screaming,
11 everything.

12 MS. LEMCKE: Really? Does she talk about any other
13 symptoms that he has? Like, you know, reacting to certain
14 stimulus, you know, somebody like -- I think one of the other
15 jurors said if someone taps him on the shoulder and he'll
16 jump. Or hear a loud noise and kind of react. Does he -- do
17 you ever observe or hear about him doing anything like that?

18 PROSPECTIVE JUROR NO. 533: Nothing specific but
19 there are times where he thinks he hears something at the door
20 and he kind of jumps to conclusion like someone's trying to
21 rob them, really it's not.

22 MS. LEMCKE: Okay. Does he -- is he aware -- like
23 is he able to say I have this issue or has he been diagnosed
24 and treated?

25 PROSPECTIVE JUROR NO. 533: He has been diagnosed

1 but he was always in denial. It was kind of my mom that
2 pushed him to, you know, hey, you've got to get looked -- got
3 to get checked out.

4 MS. LEMCKE: Did he to the VA for treatment?

5 PROSPECTIVE JUROR NO. 533: He did.

6 MS. LEMCKE: And did you find that that was -- I
7 mean you're saying he's getting worse. So I mean, has he
8 stayed with the VA in terms of his treatment or has he gone
9 elsewhere for it?

10 PROSPECTIVE JUROR NO. 533: He doesn't really do
11 much about it. He just recently started taking medication.

12 MS. LEMCKE: And has that helped a little bit --

13 PROSPECTIVE JUROR NO. 533: No.

14 MS. LEMCKE: -- or it hasn't? So after he got his
15 diagnosis then, did he just not follow up with his treatment?

16 PROSPECTIVE JUROR NO. 533: Not really.

17 MS. LEMCKE: Okay. And then it just kind of started
18 spiraling?

19 PROSPECTIVE JUROR NO. 533: Yes.

20 MS. LEMCKE: Were you -- did you -- did you -- were
21 you around him much before he had it versus after? Like could
22 you see that change?

23 PROSPECTIVE JUROR NO. 533: I've known him for --
24 for 11 years and he's just kind of been quiet. He was nicer
25 before but then over the years he just kept -- something weird

1 about him like throughout the whole time I've known him.

2 MS. LEMCKE: So you -- so there's always been
3 something different -- well, let me ask you this. So you've
4 known him since he served; is that right?

5 PROSPECTIVE JUROR NO. 533: No -- well, yeah. I
6 mean because he was in the Vietnam War and so he was only in
7 for I believe only three or four years but I guess that really
8 affected him.

9 MS. LEMCKE: And he saw combat in Vietnam?

10 PROSPECTIVE JUROR NO. 533: He did.

11 MS. LEMCKE: Okay. And you don't know specifically
12 like what type of combat?

13 PROSPECTIVE JUROR NO. 533: No.

14 MS. LEMCKE: Just that he saw combat?

15 PROSPECTIVE JUROR NO. 533: Yes.

16 MS. LEMCKE: Okay. Do you believe that PTSD is a
17 real thing? You know, we've heard people say, yeah, I think
18 it is, I think it's over diagnosed, I think it's over
19 exaggerated or no, it's not. What are your thoughts?

20 PROSPECTIVE JUROR NO. 533: I believe it's
21 something. I mean obviously my stepdad has it but I don't
22 think that everybody does have it. Like the others said, I
23 think some people do look for attention and -- and try to be
24 diagnosed for something that they're not.

25 MS. LEMCKE: Okay. So they may -- they may actively

1 seek that diagnosis --

2 PROSPECTIVE JUROR NO. 533: Yes.

3 MS. LEMCKE: -- even when they don't.

4 PROSPECTIVE JUROR NO. 533: Yes.

5 MS. LEMCKE: And then there's some people who just
6 legitimately --

7 PROSPECTIVE JUROR NO. 533: Definitely.

8 MS. LEMCKE: -- have it. Okay. And obviously, I
9 guess probably, you know, different -- like the gentleman who
10 was in the seat before you, Mr. Kaplan --

11 PROSPECTIVE JUROR NO. 533: Yes.

12 MS. LEMCKE: -- you know, didn't seem to have any
13 effects from, you know, a really serious violent crime. And
14 then we have people who might be affected by that --

15 PROSPECTIVE JUROR NO. 533: Yes.

16 MS. LEMCKE: -- certainly. Okay. We talked about
17 -- you've heard a ton about the presumption of innocence.
18 What are your thoughts as you sit and you listen to all these
19 questions and all this discussion about the prosecution's
20 burden of proof and the defense not having to do anything
21 technically and the right to testify and not to testify, what
22 went through your mind when you started hearing all this?

23 PROSPECTIVE JUROR NO. 533: I believe someone is
24 innocent until proven guilty, yes --

25 MS. LEMCKE: Okay.

1 PROSPECTIVE JUROR NO. 533: -- I do.

2 MS. LEMCKE: Okay. What about like Mr. Kaplan's
3 thoughts -- and I -- and I think it's really good that he was
4 as candid as he was with his opinions because that's what
5 we're looking for.

6 PROSPECTIVE JUROR NO. 533: Yes.

7 MS. LEMCKE: You know, again, I can't reiterate
8 enough that, you know, I know that there's like the
9 politically correct answers and then there's each of us and we
10 all walk in those doors with our own ideas and biases and
11 whatever and we just want to explore them and learn about you.
12 What -- what did you think when you heard him saying, you
13 know, well, I understand the system says this, that you don't
14 have to prove your -- your innocence but I feel like you
15 should.

16 PROSPECTIVE JUROR NO. 533: Yeah. I -- I understand
17 where he's coming from. I have a couple family members that
18 are very -- not necessarily close-minded but stuck to an
19 opinion that they do -- a lot of my family members do believe
20 that everyone's guilty and everyone's guilty and that's it.

21 MS. LEMCKE: Okay. Are -- and are you saying that
22 you're not necessarily of that same mindset?

23 PROSPECTIVE JUROR NO. 533: No.

24 MS. LEMCKE: Okay. And you kind of have a unique
25 perspective because you've actually had to come into court and

1 raise that --

2 PROSPECTIVE JUROR NO. 533: Yes.

3 MS. LEMCKE: -- hand and swear to tell the truth and
4 do it. Do you feel -- you know, having been through that
5 experience that you would feel comfortable assessing the
6 credibility of witnesses who might come into this trial and
7 testify?

8 PROSPECTIVE JUROR NO. 533: Definitely.

9 MS. LEMCKE: Okay. What would be some of the things
10 that you might look at as a juror, someone who's now in the
11 jury box as opposed to the witness stand?

12 PROSPECTIVE JUROR NO. 533: I'm not so sure. I
13 didn't even notice the panel when I was there.

14 MS. LEMCKE: Interesting, okay. But you -- you feel
15 comfortable kind of looking at each witness as they testify --

16 PROSPECTIVE JUROR NO. 533: Definitely.

17 MS. LEMCKE: -- and kind of assessing their
18 credibility. You indicated that you had a few friends that
19 use drugs I think kind of recreationally; is that right?

20 PROSPECTIVE JUROR NO. 533: Some of them are
21 dependent.

22 MS. LEMCKE: Oh, they are?

23 PROSPECTIVE JUROR NO. 533: Well, some of them are
24 dependent on marijuana. Some of them are dependent -- like
25 for example, I'm still young so I do go out and I do do the

1 young things. Some of them can't go out without doing a
2 certain thing.

3 MS. LEMCKE: Okay. Do any of them do you think
4 abuse the substances? Like I mean do they use it daily or
5 anything like that --

6 PROSPECTIVE JUROR NO. 533: Yes.

7 MS. LEMCKE: -- or is it more recreational? Oh,
8 some do?

9 PROSPECTIVE JUROR NO. 533: Yes.

10 MS. LEMCKE: Does anybody use any methamphetamine?

11 PROSPECTIVE JUROR NO. 533: No.

12 MS. LEMCKE: Okay.

13 PROSPECTIVE JUROR NO. 533: I think they've tried it
14 but have -- did not like it.

15 MS. LEMCKE: Okay. Have you ever had an experience
16 with somebody who is addicted to the extent that you see
17 noticeable changes in their personality?

18 PROSPECTIVE JUROR NO. 533: Not necessarily. I mean
19 marijuana slows them down but not really.

20 MS. LEMCKE: Okay. Do you believe that somebody has
21 the right to defend themselves when they're being attacked?

22 PROSPECTIVE JUROR NO. 533: Yes.

23 MS. LEMCKE: What makes you say that?

24 PROSPECTIVE JUROR NO. 533: I have -- I applied for
25 my CCW so I believe in that as well. I mean I won't use my

1 gun unless I really had to. If I used every other force that
2 I was able to I would definitely result to my gun.

3 MS. LEMCKE: Okay. Have you been a gun owner for a
4 long time?

5 PROSPECTIVE JUROR NO. 533: No, I'm a new gun owner
6 -- gun owner, yes.

7 MS. LEMCKE: Did you -- so you've actually gone
8 through the CCW process and --

9 PROSPECTIVE JUROR NO. 533: I have.

10 MS. LEMCKE: Do you have -- you have your permit
11 now?

12 PROSPECTIVE JUROR NO. 533: I'm still waiting on it.

13 MS. LEMCKE: Okay. Do you plan to carry it with you
14 or just like keep it at home?

15 PROSPECTIVE JUROR NO. 533: I plan to carry it if I
16 feel like I need to. It depends where I'm going.

17 MS. LEMCKE: Is there anything else about yourself
18 that you can think of since you've listened to all the
19 questions that have been asked that we should know that would
20 cause you to, you know, maybe be biased in favor or against
21 one side, anything like that?

22 PROSPECTIVE JUROR NO. 533: No.

23 MS. LEMCKE: If you were seated where either Mr.
24 Pimentel is seated or where the prosecutors are seated, would
25 you want 12 people such as yourself on the jury?

1 PROSPECTIVE JUROR NO. 533: Yes.

2 MS. LEMCKE: Tell me why.

3 PROSPECTIVE JUROR NO. 533: I look at both sides of
4 the story. I don't -- I don't really like to favor one. I
5 feel guilty when I do choose that I have to favor one. I
6 don't think that's right.

7 MS. LEMCKE: Did you -- did you indicate whether or
8 not you'd had -- did Ms. DiGiacomo ask you about law
9 enforcement contacts? It just dawned on me, I'm not sure that
10 I remember her asking those questions. Did -- have you had
11 any positive, negative contact with law enforcement?

12 PROSPECTIVE JUROR NO. 533: No.

13 MS. LEMCKE: None whatsoever?

14 PROSPECTIVE JUROR NO. 533: Pretty mutual.

15 MS. LEMCKE: Okay. Could you think of a reason why
16 somebody who might be accused of something as serious as
17 murder might want to have a lawyer present, you know, if they
18 were being interrogated by police?

19 PROSPECTIVE JUROR NO. 533: Yeah.

20 MS. LEMCKE: Why?

21 PROSPECTIVE JUROR NO. 533: I feel like in that kind
22 of situation you're very vulnerable so someone can tell you
23 and possibly make you say something that's not even correct.

24 MS. LEMCKE: The penalties, and you can consider all
25 three forms of penalties?

1 PROSPECTIVE JUROR NO. 533: Yes.

2 MS. LEMCKE: Again, I'm not conceding we're going to
3 a penalty hearing but if we -- if we did, you could consider
4 all three forms?

5 PROSPECTIVE JUROR NO. 533: Yes.

6 MS. LEMCKE: Okay. I have nothing further, Your
7 Honor. I pass for cause.

8 THE COURT: Thank you. All right. It is the
9 State's seventh peremptory challenge.

10 MS. DIGIACOMO: Thank you, Your Honor. The State
11 would thank and excuse Ms. Ricamona, badge number 533 in seat
12 number one.

13 THE COURT: Thank you. Call the next in order.

14 THE CLERK: Badge 541, Samantha Seegars.

15 THE COURT: All right. Ms. Seegars, welcome to seat
16 one, which is the hot seat today.

17 PROSPECTIVE JUROR NO. 541: Thank you, Your Honor.

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

19 PROSPECTIVE JUROR NO. 541: Yes, I have.

20 THE COURT: Where was that?

21 PROSPECTIVE JUROR NO. 541: In the other building
22 probably about seven years ago and, yes, I was the jury
23 foreman.

24 THE COURT: Okay. When you say the other building,
25 if it was only seven years ago, do you mean federal court?

1 PROSPECTIVE JUROR NO. 541: No, I mean the one down
2 the street that's kind of greenish color. I don't know what
3 the --

4 THE COURT: The old court --

5 PROSPECTIVE JUROR NO. 541: Yeah, yeah.

6 THE COURT: -- house?

7 PROSPECTIVE JUROR NO. 541: So what was that, like
8 seven, eight years ago? Something like that.

9 THE COURT: I think this courthouse has been here 10
10 years now.

11 PROSPECTIVE JUROR NO. 541: Oh, okay. I'm not good
12 with time I guess.

13 THE COURT: So was it a criminal case or a civil
14 case?

15 PROSPECTIVE JUROR NO. 541: It was criminal.

16 THE COURT: Criminal. And without telling us what
17 the verdict was, did the jury reach a verdict?

18 PROSPECTIVE JUROR NO. 541: Yes, we did, multiple
19 counts.

20 THE COURT: Anything about that experience that
21 makes you think I don't want to be on a jury again?

22 PROSPECTIVE JUROR NO. 541: No. Actually, I kind of
23 appreciate the process and being a part of it, a civil duty,
24 you know, do my part, that kind of thing.

25 THE COURT: And have you ever been involved in law

1 enforcement?

2 PROSPECTIVE JUROR NO. 541: No.

3 THE COURT: Anyone in your family closely associated
4 with you in law enforcement?

5 PROSPECTIVE JUROR NO. 541: No. No one in my family
6 but in my job I do have contact sometimes with law
7 enforcement.

8 THE COURT: Okay. Tell us about that, what's your
9 job?

10 PROSPECTIVE JUROR NO. 541: I do video production
11 for Cox Communications. Primarily I make television
12 commercials. I worked on some public service announcements
13 with various people in law enforcement. And I'm currently
14 working on a project with the Nevada Department of Public
15 Safety.

16 THE COURT: So there will be officers or maybe the
17 sheriff doing this public service announcement?

18 PROSPECTIVE JUROR NO. 541: Right, right. I did
19 something with the sheriff and some attorneys not too long
20 ago.

21 THE COURT: Anything about those contacts, though,
22 that make you think that you couldn't be fair and impartial --

23 PROSPECTIVE JUROR NO. 541: Not at all, not at all.
24 I could be fine with it.

25 THE COURT: Have you ever been the victim of a crime

1 yourself?

2 PROSPECTIVE JUROR NO. 541: I did have a pickup
3 truck that I -- I loved stolen and totally dismantled and
4 found much later, just the shell basically. But I -- I had an
5 okay experience with that.

6 THE COURT: Did -- in what way was it okay?

7 PROSPECTIVE JUROR NO. 541: Well, I had -- you know,
8 the police interaction. I've heard how you've asked other
9 people so I'm trying to kind of cut to the chase for you, so,
10 yeah. I know it's a long process but necessary.

11 THE COURT: All right. So they did -- did they find
12 the suspect to -- that --

13 PROSPECTIVE JUROR NO. 541: No, no one was ever
14 caught for it. They did recover the vehicle and, you know,
15 that was pretty much it. And there was a police report and
16 all that detailing. Someone else mentioned to you before, it
17 had nice rims and it was a beautiful truck and desirable and
18 so they took off with it.

19 THE COURT: All right. Anyone in your family or
20 closely associated with you been a victim of a serious crime?

21 PROSPECTIVE JUROR NO. 541: I -- I can only think of
22 something really, really far in the past. When I was a young
23 girl my sister actually was shot by her either boyfriend or
24 second husband at the time. Claiming that she did it to
25 herself but, you know, it's one of those deals where we pretty

1 much all felt like he did it. But there was no prosecution
2 there. And then also my sister's third husband was convicted
3 of extortion many, many years ago.

4 THE COURT: Okay. All right. So let's kind of back
5 up a little bit to --

6 PROSPECTIVE JUROR NO. 541: Sure.

7 THE COURT: -- the sister who gets shot and there's
8 no prosecution.

9 PROSPECTIVE JUROR NO. 541: No, no, she claimed to
10 do it to herself.

11 THE COURT: Oh.

12 PROSPECTIVE JUROR NO. 541: She said, oh, I did
13 it --

14 THE COURT: Oh, I --

15 PROSPECTIVE JUROR NO. 541: -- and protected him
16 basically, yeah. And she survived it.

17 THE COURT: And then that was the second husband.
18 And then the third husband --

19 PROSPECTIVE JUROR NO. 541: Yeah, the third -- the
20 third husband I don't know what he was going through but he
21 decided to try to extort some money from a local businessman.
22 This is all back in Tennessee where I grew up.

23 THE COURT: So she really knows how to pick them.

24 PROSPECTIVE JUROR NO. 541: Well, yeah, she's on
25 number four. Number three passed away, she's on four and he's

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No. 68710

vi.

Respondent.

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ADAM LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

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Employee, Clark County Public Defender's Office

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