

1 They're beating me up here. I want to get through with this.  
2 We still -- how many preempts, four? Well, approach the bench  
3 a minute.

4 (Off-record bench conference)

5 THE COURT: Mr. Santos, report back to the jury  
6 commissioner. Clerk, call another prospective juror.

7 THE CLERK: Aaron Koyasu.

8 THE COURT: Oh, yeah. There's no objections to  
9 that; is there, State?

10 MR. LALLI: No, Your Honor.

11 MS. MERCER: No, Your Honor.

12 THE COURT: Mr. O'Keefe?

13 MR. O'KEEFE: No objection, Your Honor.

14 THE COURT: All right. How long you been in this  
15 area, sir?

16 PROSPECTIVE JUROR NO. 034: 14 years.

17 THE COURT: And what do you do for a living?

18 PROSPECTIVE JUROR NO. 034: Entertainment  
19 professional.

20 THE COURT: All right. Are you married?

21 PROSPECTIVE JUROR NO. 034: Negative.

22 THE COURT: Children?

23 PROSPECTIVE JUROR NO. 034: Negative.

24 THE COURT: Have you ever been in the military?

25 PROSPECTIVE JUROR NO. 034: No.

ROUGH DRAFT TRANSCRIPT

004550

1 THE COURT: Are you acquainted with anybody in law  
2 enforcement?

3 PROSPECTIVE JUROR NO. 034: A couple friends, but  
4 just --

5 THE COURT: Again, you understand you're not to give  
6 greater weight --

7 PROSPECTIVE JUROR NO. 034: Understood.

8 THE COURT: -- or lesser weight to a police  
9 officer's testimony simply because they're a police officer.  
10 You give it the weight you deem necessary.

11 PROSPECTIVE JUROR NO. 034: Yes.

12 THE COURT: Have you or anyone closely associated  
13 with you ever been the victim of a crime?

14 PROSPECTIVE JUROR NO. 034: No. Nothing serious.

15 THE COURT: Or arrested for a crime?

16 PROSPECTIVE JUROR NO. 034: Contempt of court.

17 THE COURT: What?

18 PROSPECTIVE JUROR NO. 034: Contempt of court.

19 THE COURT: You, yourself?

20 PROSPECTIVE JUROR NO. 034: Speeding. Yeah, just  
21 speeding tickets.

22 THE COURT: Oh, you didn't show up for a speeding  
23 ticket?

24 PROSPECTIVE JUROR NO. 034: Yeah.

25 THE COURT: And then got contempt of court, and had

ROUGH DRAFT TRANSCRIPT

004551

1 to appear, and --

2 PROSPECTIVE JUROR NO. 034: Yeah.

3 THE COURT: -- it was -- that's not going to affect  
4 your deliberation, is it?

5 PROSPECTIVE JUROR NO. 034: No.

6 THE COURT: You don't harbor any animosity towards  
7 the police or the Court, do you?

8 PROSPECTIVE JUROR NO. 034: I'm a fan of you.

9 THE COURT: Thank you. Have you ever served on a  
10 jury before?

11 PROSPECTIVE JUROR NO. 034: No.

12 THE COURT: Could you be fair in this case?

13 PROSPECTIVE JUROR NO. 034: I'll try to be.

14 THE COURT: All right. State?

15 MR. LALLI: Mr. Koyasu, you're -- you said you were  
16 an entertainment specialist?

17 PROSPECTIVE JUROR NO. 034: Specialist;  
18 professional.

19 MR. LALLI: What do you do? What's a day in your  
20 life?

21 PROSPECTIVE JUROR NO. 034: Like audio-video  
22 consulting technician.

23 MR. LALLI: For whom?

24 PROSPECTIVE JUROR NO. 034: My 10-99 income is with  
25 Wynn as a deejay.

ROUGH DRAFT TRANSCRIPT

004552

1 MR. LALLI: Wynn?  
2 PROSPECTIVE JUROR NO. 034: Yeah.  
3 MR. LALLI: Wynn Resort?  
4 PROSPECTIVE JUROR NO. 034: Wynn Resorts.  
5 MR. LALLI: As a deejay?  
6 PROSPECTIVE JUROR NO. 034: Yeah. My W-9 stuff is  
7 Hard Rock Hotel.  
8 MR. LALLI: So, do you work in the clubs? Or --  
9 PROSPECTIVE JUROR NO. 034: Yeah. Well, I work as a  
10 nightclub technician for the Hard Rock.  
11 MR. LALLI: I don't want to repeat myself a lot.  
12 Any reason that you think you cannot be fair to both sides, or  
13 to be a juror in this case?  
14 PROSPECTIVE JUROR NO. 034: I'm sure I'll be fair.  
15 It's listening to what has gone on before me. It's -- you  
16 start to form certain opinions.  
17 MR. LALLI: All right. Have you ever heard of the  
18 presumption of innocence?  
19 PROSPECTIVE JUROR NO. 034: Yeah.  
20 MR. LALLI: As a practical matter, what it means is,  
21 as Mr. O'Keefe sits over there, you've got to presume that  
22 he's innocent.  
23 PROSPECTIVE JUROR NO. 034: Yes.  
24 MR. LALLI: Can you do that?  
25 PROSPECTIVE JUROR NO. 034: I'll try.

ROUGH DRAFT TRANSCRIPT

004553



1 MR. LALLI: The presumption, it not only applies to  
2 this theory, but also applies to the trial as well. You must  
3 presume that he's innocent through the trial, up until the  
4 point when you as a juror begin your deliberations. And then,  
5 you start at that point presuming that he's innocent, and then  
6 you start to talk about the evidence with other jurors. Can  
7 you do that?

8 PROSPECTIVE JUROR NO. 034: I'll be as objective as  
9 possible.

10 MR. LALLI: The reason for that is because, you  
11 know, you might hear the State's case. And at the end of the  
12 State's case, if you think, wow, the guy's guilty; if  
13 defendants have absolutely no right to present evidence, but  
14 they may present evidence and you're -- wow, that really  
15 changes it. And so, the law says, just keep an open mind  
16 until the very end. So, do you think you can do that?

17 PROSPECTIVE JUROR NO. 034: I think so.

18 MR. LALLI: Okay. Do you have any strong opinions  
19 or beliefs about domestic violence in our community?

20 PROSPECTIVE JUROR NO. 034: It's a problem.

21 MR. LALLI: Why?

22 PROSPECTIVE JUROR NO. 034: Because everybody's  
23 going to argue about something. Especially now, because  
24 money's tight, people drink more to escape their problems, and  
25 they don't want to deal with the reality. They take it out on

ROUGH DRAFT TRANSCRIPT

004554

1 each other. That's fairly easy to do. I see it all the time.

2 MR. LALLI: Where?

3 PROSPECTIVE JUROR NO. 034: Just at work, you know.  
4 People gamble. They gamble away their rent money, or whatnot.  
5 And of the sudden, it's like, why did you do that? And then,  
6 it just escalates from there. Or they'll drink and gamble.  
7 That's the worst.

8 MR. LALLI: Some people believe that domestic  
9 violence is a private matter. It's a matter between a husband  
10 and a wife, and it happens at the home, and it ought to be  
11 addressed at the home. What do you think about that?

12 PROSPECTIVE JUROR NO. 034: If it's -- it could be  
13 like a heated discussion, and it will be fine. But I think  
14 once it kind of like gets heard past the walls, and it starts  
15 being a community disruption, then yeah, something definitely  
16 has to be done about it.

17 MR. LALLI: What if it's a push?

18 PROSPECTIVE JUROR NO. 034: Well, then, if it's  
19 become physical, then I think obviously, it's overstepped the  
20 bounds.

21 MR. LALLI: So --

22 PROSPECTIVE JUROR NO. 034: I mean, it's against the  
23 law to physically push somebody.

24 MR. LALLI: So, you don't have a -- if I understand  
25 what you're saying, you don't have a problem with the idea

ROUGH DRAFT TRANSCRIPT

004555

1 that, sometimes, law enforcement, the courts, prosecutors, get  
2 involved in situations involving domestic violence, even  
3 though it occurs within the home?

4 PROSPECTIVE JUROR NO. 034: Well, if it comes to  
5 that point, then someone has to do their job.

6 MR. LALLI: All right.

7 PROSPECTIVE JUROR NO. 034: And that's when the  
8 legal system gets involved.

9 MR. LALLI: And are you okay with that?

10 PROSPECTIVE JUROR NO. 034: It's the way we live our  
11 lives. I mean, that's the law.

12 MR. LALLI: That's how a society ought to operate;  
13 is that what I'm hearing from you?

14 PROSPECTIVE JUROR NO. 034: Yeah. I mean, we as  
15 citizens have to operate within certain boundaries of --

16 MR. LALLI: Okay.

17 PROSPECTIVE JUROR NO. 034: -- of law. Yeah.

18 MR. LALLI: What about mental illness? Have you had  
19 any personal or direct experience with people who suffer from  
20 mental illness?

21 PROSPECTIVE JUROR NO. 034: Yeah, myself.  
22 Depression.

23 MR. LALLI: Do you -- have you ever seen a mental  
24 health professional for that?

25 PROSPECTIVE JUROR NO. 034: I went to a psychiatrist

ROUGH DRAFT TRANSCRIPT

004556

1 a couple times.

2 MR. LALLI: And were you able to get the sickness  
3 under control?

4 PROSPECTIVE JUROR NO. 034: It's more about just  
5 being able to talk to somebody I think, through a difficult  
6 time.

7 MR. LALLI: Have you -- and again, I apologize for  
8 asking, and kind of digging into your personal life. Have you  
9 ever -- has medication ever helped you deal with your  
10 depression?

11 PROSPECTIVE JUROR NO. 034: I tried, but it didn't  
12 really make much of a difference. It's more about having  
13 contact with a sympathetic, you know, listener. And then --

14 MR. LALLI: That helped you out?

15 PROSPECTIVE JUROR NO. 034: Yeah.

16 MR. LALLI: Okay.

17 PROSPECTIVE JUROR NO. 034: I mean, everybody has  
18 different ways of coping with their problems, obviously.

19 MR. LALLI: Do you believe that there's a stigma  
20 attached to people who suffer from depression?

21 PROSPECTIVE JUROR NO. 034: Of course.

22 MR. LALLI: Do you think that those who have a  
23 mental illness, like any other illness, I mean, they tend to  
24 be more vulnerable at times? Especially when they're --

25 PROSPECTIVE JUROR NO. 034: Yeah.

ROUGH DRAFT TRANSCRIPT

004557

1 MR. LALLI: -- in a depressive episode if they're  
2 bipolar, somebody who's suffering from the effects of bipolar?

3 PROSPECTIVE JUROR NO. 034: Of course, because  
4 they're not going to be able to tell right from wrong.

5 MR. LALLI: You are going -- you may hear evidence  
6 in this case related to mental illness. Do you think that  
7 that will affect your ability to be fair and impartial in the  
8 case? If you learned, for example, that the victim in the  
9 case suffered from mental illness, is that going to make you  
10 unfair, or to treat Mr. O'Keefe unfairly in any way?

11 PROSPECTIVE JUROR NO. 034: I guess for me, it would  
12 be why -- why did that person not have somebody help them, or  
13 why id that person cannot help themselves (sic).

14 MR. LALLI: Okay. So, mental illness in and of  
15 itself, not going to affect you in this case, if I understand  
16 correctly?

17 PROSPECTIVE JUROR NO. 034: I believe not.

18 MR. LALLI: Okay. Do you believe in holding people  
19 accountable for their actions?

20 PROSPECTIVE JUROR NO. 034: Of course.

21 MR. LALLI: If we prove to you beyond a reasonable  
22 doubt that Mr. O'Keefe is guilty of murder of the second  
23 degree, will you convict him?

24 PROSPECTIVE JUROR NO. 034: Beyond a reasonable --  
25 yeah.

ROUGH DRAFT TRANSCRIPT

004558

1 MR. LALLI: Yes, you will?

2 PROSPECTIVE JUROR NO. 034: Yes, I would.

3 MR. LALLI: All right. Thank you, sir. Your Honor,  
4 we'll pass for cause.

5 THE COURT: All right. Mr. O'Keefe?

6 MR. O'KEEFE: Yes, Your Honor. Just a few  
7 questions, if I may. It's Mr. Koyasu?

8 PROSPECTIVE JUROR NO. 034: Koyasu.

9 MR. O'KEEFE: Yes, sir. May I call you Aaron?

10 PROSPECTIVE JUROR NO. 034: Sure.

11 MR. O'KEEFE: Okay. Easier. I'm very -- a couple  
12 things that maybe -- when Mr. Lalli was talking to you, sir,  
13 you said that you suffer from depression still, or --

14 PROSPECTIVE JUROR NO. 034: No, not still.

15 MR. O'KEEFE: Okay. And you were on medication, or  
16 you -- when you --

17 PROSPECTIVE JUROR NO. 034: Yeah. I was just -- I  
18 forgot what it was. It was like 2003. No, 2001.

19 MR. O'KEEFE: And you felt the medication basically  
20 -- for you --

21 PROSPECTIVE JUROR NO. 034: In my case, it didn't --  
22 I didn't feel any different.

23 MR. O'KEEFE: Do you feel though, in the opposite --  
24 or conversely -- in the reverse, that some people definitely  
25 need it?

. ROUGH DRAFT TRANSCRIPT

004559

1 PROSPECTIVE JUROR NO. 034: It may work.

2 Personally, I have no experience in it working for me.

3 MR. O'KEEFE: Do you know anybody that is on any  
4 medication?

5 PROSPECTIVE JUROR NO. 034: No.

6 MR. O'KEEFE: Have you ever got drunk, extremely?

7 PROSPECTIVE JUROR NO. 034: Several -- yeah, several  
8 times.

9 MR. O'KEEFE: Would you agree that it affects your  
10 motor skills?

11 PROSPECTIVE JUROR NO. 034: Of course.

12 MR. O'KEEFE: Would you be fast, and have the same  
13 amount of agility and speed, and --

14 PROSPECTIVE JUROR NO. 034: No.

15 MR. O'KEEFE: That's a no, you wouldn't?

16 PROSPECTIVE JUROR NO. 034: If you're drunk, yeah,  
17 If you're impaired, no, of course you're not going to be --

18 MR. O'KEEFE: And extremely?

19 PROSPECTIVE JUROR NO. 034: Well, if you're  
20 extremely, you probably would be like passed out on the floor.

21 MR. O'KEEFE: And you would agree your motor skills  
22 would not be what they normally would be?

23 PROSPECTIVE JUROR NO. 034: Of course not.

24 MR. O'KEEFE: Do you know anybody that's ever  
25 suffered PTSD?

ROUGH DRAFT TRANSCRIPT

004560

1 PROSPECTIVE JUROR NO. 034: No, I have not.

2 MR. O'KEEFE: Would you agree that any traumatic  
3 event could constitute PTSD?

4 PROSPECTIVE JUROR NO. 034: I have no experience  
5 with it. I have -- I don't know anybody, so I cannot say that  
6 it will. I mean, I can only form my opinion from what I read  
7 in the news, from what happens to our veterans.

8 MR. O'KEEFE: Would you agree then with me that it  
9 wouldn't have to be a wartime situation?

10 PROSPECTIVE JUROR NO. 034: I can't agree with you  
11 on that, because I don't know enough about it.

12 MR. O'KEEFE: Okay. I want to just make sure I  
13 completely understand you, just so I'm getting people that  
14 think like me, and understand my thinking pattern. Any  
15 traumatic event -- super traumatic, could be construed -- or  
16 constitute PTSD. That's what I'm saying. Do you agree with  
17 that? Do you agree with that?

18 PROSPECTIVE JUROR NO. 034: I can't agree with it  
19 because I have no opinion of it.

20 MR. O'KEEFE: You stated earlier -- you were very  
21 forthright, that you've already sort of formed some certain  
22 opinions, I think I heard you say.

23 PROSPECTIVE JUROR NO. 034: Yes.

24 MR. O'KEEFE: Can I -- can you be totally honest  
25 with me; is that negative opinions, or neutral, or positive?

ROUGH DRAFT TRANSCRIPT

004561



1 PROSPECTIVE JUROR NO. 034: I'd say maybe negative.  
2 I'm sorry, negative.

3 MR. O'KEEFE: Okay. And I'm asking you. I'm asking  
4 to be totally forthright with me. And you're doing that  
5 without any evidence, just from what you've heard?

6 PROSPECTIVE JUROR NO. 034: Just from what I've  
7 heard. Just from what the -- how the questions are formed.

8 MR. O'KEEFE: May I beg the Court's indulgence one  
9 second?

10 (Pause in the proceedings)

11 MR. O'KEEFE: Yes, Your Honor. If I may, can I  
12 challenge for cause, Your Honor?

13 THE COURT: Mr. Lalli?

14 MR. LALLI: Sir, we talked just a little bit about  
15 the peremptory -- or the presumption of innocence?

16 PROSPECTIVE JUROR NO. 034: Yes.

17 MR. LALLI: And Mr. O'Keefe just asked you about  
18 negative feelings, or feelings that you may have, --

19 PROSPECTIVE JUROR NO. 034: Yes.

20 MR. LALLI: -- opinions you may have formed in this  
21 trial, negative to him. Do you think you are of the state of  
22 mind that you could follow Judge Bonaventure's instruction to  
23 provide Mr. O'Keefe with a presumption of innocence.

24 PROSPECTIVE JUROR NO. 034: I could try. It's just  
25 -- what I've been through this whole day, it's -- it hasn't

ROUGH DRAFT TRANSCRIPT

004562

1 been a pleasant experience.

2 MR. LALLI: Well, in what sense?

3 PROSPECTIVE JUROR NO. 034: In the sense where it's  
4 -- it seems like the questioning is a little baited, to try  
5 and -- I mean, I can understand how the -- how the process  
6 works, what -- how you guys are trying to get jurors to be --  
7 I won't say biased. But I feel that some of the questioning  
8 is like kind of a waste of time, and it could be maybe less  
9 prying, but you still could get the same result.

10 MR. LALLI: Okay. Let me ask you this. If you were  
11 to vote right now, Mr. O'Keefe, guilty or not guilty, how  
12 would you vote?

13 PROSPECTIVE JUROR NO. 034: I might be biased to be  
14 negative about it.

15 MR. LALLI: Well, the question is -- you haven't  
16 heard any evidence.

17 PROSPECTIVE JUROR NO. 034: No.

18 MR. LALLI: So, as you sit here right now, if you  
19 had to vote --

20 PROSPECTIVE JUROR NO. 034: No. But based on the  
21 questioning that the two sides are asking jurors -- potential  
22 jurors, I have already formed this about what's going to be  
23 presented.

24 MR. LALLI: What have you formed?

25 PROSPECTIVE JUROR NO. 034: That -- I don't know if

ROUGH DRAFT TRANSCRIPT

004563

1 I want to go on record about what I want to --

2 MR. LALLI: Well, that's why we're here, to  
3 determine whether you can be fair to both sides. And if  
4 you've already formed an opinion about one side or the other  
5 -- and it's -- people do that. It's okay. The important  
6 thing is, we have to know, and Judge Bonaventure has to know.

7 PROSPECTIVE JUROR NO. 034: Of course. But if I say  
8 that, then these people are going to get the same seat of --

9 MR. LALLI: Oh, they -- you're concerned about maybe  
10 affecting the other jurors?

11 PROSPECTIVE JUROR NO. 034: Yeah.

12 MR. LALLI: If you -- so, for instance, if you  
13 think, I think the guy's guilty, other people might -- or if  
14 you might say, hey, the State --

15 PROSPECTIVE JUROR NO. 034: Well, if you're asking  
16 me why I think it would be that --

17 MR. LALLI: Well, no, no, no. I don't want to know  
18 why. But do you -- I mean, if -- are you leaning -- if you  
19 had to vote right now, are you saying Mr. O'Keefe's probably  
20 guilty?

21 PROSPECTIVE JUROR NO. 034: I would feel that he is,  
22 yes.

23 MR. LALLI: And so, you don't think you could be  
24 fair and --

25 PROSPECTIVE JUROR NO. 034: I would try. I mean, it

ROUGH DRAFT TRANSCRIPT

004564

1 sounds like it's going to be an interesting case.

2 MR. LALLI: Your Honor, I'm just going to submit it  
3 at this point. I'm not sure what else to ask.

4 THE COURT: I don't either, Mr. Lalli. We're really  
5 not here to entertain you, sir. You understand that?

6 PROSPECTIVE JUROR NO. 034: No, I understand what  
7 you're saying.

8 THE COURT: We're not here to entertain you. This  
9 is a very serious matter, and it's not something to be taken  
10 lightly. I'm going to grant the cause. You'll be assigned  
11 another jury trial. Go back to the jury commissioner.

12 PROSPECTIVE JUROR NO. 034: Okay. I'm sorry.

13 THE COURT: Clerk, call another prospective juror?

14 THE CLERK: Jill Murphy.

15 THE COURT: How long you been in this area, ma'am?

16 PROSPECTIVE JUROR NO. 035: Since 1992.

17 THE COURT: And what do you do for a living?

18 PROSPECTIVE JUROR NO. 035: I'm a second grade  
19 school teacher.

20 THE COURT: Are you married?

21 PROSPECTIVE JUROR NO. 035: No.

22 THE COURT: Children?

23 PROSPECTIVE JUROR NO. 035: Four of them.

24 THE COURT: Any old enough to work? Probably not,  
25 huh?

ROUGH DRAFT TRANSCRIPT

004565

1 PROSPECTIVE JUROR NO. 035: No.

2 THE COURT: All right. Have you ever been in the  
3 military?

4 PROSPECTIVE JUROR NO. 035: No.

5 THE COURT: Are you acquainted with anybody in law  
6 enforcement?

7 PROSPECTIVE JUROR NO. 035: Yes.

8 THE COURT: Who's that?

9 PROSPECTIVE JUROR NO. 035: An ex-boyfriend.

10 THE COURT: And in the follow up question, you  
11 understand you're not to give greater weight or lesser weight  
12 to a police officer's testimony simply because they're a  
13 police officer. You give it the weight you deem necessary;  
14 you understand that?

15 PROSPECTIVE JUROR NO. 035: I understand.

16 THE COURT: Have you or anyone closely associated  
17 with you ever been the victim of a crime?

18 PROSPECTIVE JUROR NO. 035: Yes, sir.

19 THE COURT: What was that?

20 PROSPECTIVE JUROR NO. 035: Several. Arson,  
21 robbery, domestic violence.

22 THE COURT: What came first?

23 PROSPECTIVE JUROR NO. 035: Domestic violence, and  
24 then the arson, and then the robbery.

25 THE COURT: But this all was related?

ROUGH DRAFT TRANSCRIPT

004566

1 PROSPECTIVE JUROR NO. 035: No, sir.  
2 THE COURT: All separate incidences?  
3 PROSPECTIVE JUROR NO. 035: Yes.  
4 THE COURT: How long ago was the domestic violence?  
5 PROSPECTIVE JUROR NO. 035: '07.  
6 THE COURT: And who was the perpetrator?  
7 PROSPECTIVE JUROR NO. 035: My boyfriend.  
8 THE COURT: The police officer?  
9 PROSPECTIVE JUROR NO. 035: No.  
10 THE COURT: Another boyfriend?  
11 PROSPECTIVE JUROR NO. 035: Different guy.  
12 THE COURT: What were the results of that?  
13 PROSPECTIVE JUROR NO. 035: He was taken to jail.  
14 THE COURT: All right. And was he convicted?  
15 PROSPECTIVE JUROR NO. 035: Yes.  
16 THE COURT: All right. Is that going to affect your  
17 deliberation here?  
18 PROSPECTIVE JUROR NO. 035: No, sir.  
19 THE COURT: The arson. Who -- what was the -- who  
20 was the perpetrator on that?  
21 PROSPECTIVE JUROR NO. 035: A boyfriend.  
22 THE COURT: Another -- not the --  
23 PROSPECTIVE JUROR NO. 035: Different one, too.  
24 THE COURT: -- police officer, not the batterer, but  
25 another one?

ROUGH DRAFT TRANSCRIPT

004567

1 PROSPECTIVE JUROR NO. 035: Yes.  
2 THE COURT: He tried to burn what?  
3 PROSPECTIVE JUROR NO. 035: My home.  
4 THE COURT: Your house?  
5 PROSPECTIVE JUROR NO. 035: Yes.  
6 THE COURT: He was brought to court?  
7 PROSPECTIVE JUROR NO. 035: Yes.  
8 THE COURT: Was he convicted?  
9 PROSPECTIVE JUROR NO. 035: Yes, sir.  
10 THE COURT: Is that going to affect your  
11 deliberation here?  
12 PROSPECTIVE JUROR NO. 035: No, sir.  
13 THE COURT: The third one was what?  
14 PROSPECTIVE JUROR NO. 035: My car was stolen out of  
15 my garage; a robbery.  
16 THE COURT: Don't tell me it was another boyfriend.  
17 PROSPECTIVE JUROR NO. 035: No. It was a girl, but  
18 I didn't know her.  
19 THE COURT: Did they catch the individual?  
20 PROSPECTIVE JUROR NO. 035: Yes, they did.  
21 THE COURT: All right. Well, those three  
22 incidences, is that going to affect your deliberation and  
23 serving here, and being fair and impartial both to the State  
24 and to the defendant?  
25 PROSPECTIVE JUROR NO. 035: No, sir.

ROUGH DRAFT TRANSCRIPT

004568

1 THE COURT: All right. You could set that aside,  
2 judge this case solely by what you hear on the witness stand?

3 PROSPECTIVE JUROR NO. 035: Absolutely.

4 THE COURT: Thank you. Has anyone closely -- other  
5 than the boyfriend, ever been arrested before?

6 PROSPECTIVE JUROR NO. 035: Yes, I have.

7 THE COURT: You've been arrested?

8 PROSPECTIVE JUROR NO. 035: Yes, sir.

9 THE COURT: What for?

10 PROSPECTIVE JUROR NO. 035: Domestic violence.

11 THE COURT: And who was the victim in that?

12 PROSPECTIVE JUROR NO. 035: My boyfriend that was  
13 arrested for domestic violence --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 035: -- on a different  
16 occasion.

17 THE COURT: It was a different occasion?

18 PROSPECTIVE JUROR NO. 035: Yes.

19 THE COURT: So, was this before or after --

20 PROSPECTIVE JUROR NO. 035: This was before.

21 THE COURT: So, you were arrested for domestic  
22 violence, and what were the results of that?

23 PROSPECTIVE JUROR NO. 035: The charges were dropped  
24 by the district attorney.

25 THE COURT: Okay. Is that going to affect your

ROUGH DRAFT TRANSCRIPT

004569



1 deliberation in this case?

2 PROSPECTIVE JUROR NO. 035: No, sir.

3 THE COURT: All right. I'm sorry to go through all  
4 of this. But you know, it's important. As we said, it's a  
5 very serious matter here. So, you're all right to sit here?  
6 You could set aside what happened to you, your boyfriend, and  
7 judge this case solely by what you hear on the witness stand?

8 PROSPECTIVE JUROR NO. 035: yes.

9 THE COURT: Have you ever served on a jury before?

10 PROSPECTIVE JUROR NO. 035: No.

11 THE COURT: Thank you very much.

12 PROSPECTIVE JUROR NO. 035: You're welcome.

13 THE COURT: State, questions; pass for cause?

14 MS. MERCER: How long were you in that relationship  
15 with the boyfriend that was convicted of domestic violence?

16 PROSPECTIVE JUROR NO. 035: On and off for about  
17 three years.

18 MS. MERCER: And was it just one episode, or --

19 PROSPECTIVE JUROR NO. 035: It was just the one  
20 episode.

21 MS. MERCER: Do you know whether he was prosecuted  
22 in the county, or the city?

23 PROSPECTIVE JUROR NO. 035: He was prosecuted in  
24 Henderson.

25 MS. MERCER: Okay. So, City of Henderson?

ROUGH DRAFT TRANSCRIPT

004570

1 PROSPECTIVE JUROR NO. 035: Yes.  
2 MS. MERCER: And do you feel that he was treated  
3 fairly?  
4 PROSPECTIVE JUROR NO. 035: Yes.  
5 MS. MERCER: Were you cooperative in the prosecution  
6 of that case?  
7 PROSPECTIVE JUROR NO. 035: No.  
8 MS. MERCER: You were not? Why?  
9 PROSPECTIVE JUROR NO. 035: I just felt bad for him.  
10 MS. MERCER: So, did you not go to court? Did you  
11 avoid service of the subpoena? What happened?  
12 PROSPECTIVE JUROR NO. 035: No, I went to court.  
13 And -- but I had asked the district attorney out there if they  
14 wouldn't press charges.  
15 MS. MERCER: Okay. So --  
16 PROSPECTIVE JUROR NO. 035: And they explained that  
17 they have to. And so, that was that. It was --  
18 MS. MERCER: Do you feel that that's the way it  
19 should be?  
20 PROSPECTIVE JUROR NO. 035: Yes, I do.  
21 MS. MERCER: Because sometimes, victims don't know  
22 what's best for them?  
23 PROSPECTIVE JUROR NO. 035: Right.  
24 MS. MERCER: You indicated that you were also  
25 arrested for domestic violence?

ROUGH DRAFT TRANSCRIPT

004571

1 PROSPECTIVE JUROR NO. 035: Yes.  
2 MS. MERCER: Against that same boyfriend?  
3 PROSPECTIVE JUROR NO. 035: Different guy.  
4 MS. MERCER: Different guy?  
5 PROSPECTIVE JUROR NO. 035: Yes.  
6 MS. MERCER: And how long ago was that?  
7 PROSPECTIVE JUROR NO. 035: That was in '05.  
8 MS. MERCER: 2005? And you said the charges were  
9 not approved?  
10 PROSPECTIVE JUROR NO. 035: They were dropped.  
11 MS. MERCER: Was the case ever actually filed; do  
12 you know?  
13 PROSPECTIVE JUROR NO. 035: No.  
14 MS. MERCER: And was that here in the county, or was  
15 that in the city as well?  
16 PROSPECTIVE JUROR NO. 035: I guess City of Las  
17 Vegas.  
18 MS. MERCER: Okay. And I take it you were satisfied  
19 with that?  
20 PROSPECTIVE JUROR NO. 035: Absolutely.  
21 MS. MERCER: Who reported that incident to the  
22 police?  
23 PROSPECTIVE JUROR NO. 035: I was the caller.  
24 MS. MERCER: Okay. So, not an outside party?  
25 PROSPECTIVE JUROR NO. 035: No.

ROUGH DRAFT TRANSCRIPT

004572

1 MS. MERCER: Now, I got confused. Was it the same  
2 boyfriend that tried to burn your house down that was charged  
3 with a DV?

4 PROSPECTIVE JUROR NO. 035: Yes. Well, okay, no.  
5 He was charged in arson. The domestic violence where I was  
6 taken to jail was him. The guy that was DV who I called was a  
7 different guy.

8 MS. MERCER: You really confused me. Okay.

9 PROSPECTIVE JUROR NO. 035: Sorry.

10 MS. MERCER: But it wasn't the same guy that was  
11 charged with battery?

12 PROSPECTIVE JUROR NO. 035: No.

13 MS. MERCER: Okay. And how long ago was the arson  
14 incident?

15 PROSPECTIVE JUROR NO. 035: That was in '05.

16 MS. MERCER: And you said that he was charged?

17 PROSPECTIVE JUROR NO. 035: Yes.

18 MS. MERCER: Did you have to testify?

19 PROSPECTIVE JUROR NO. 035: No.

20 MS. MERCER: Do you know whether he was convicted?

21 PROSPECTIVE JUROR NO. 035: I think he just copped a  
22 deal or something.

23 MS. MERCER: Okay. And do you know what happened at  
24 sentencing? Did he -- in other words, did he get jail time;  
25 did he get probation?

ROUGH DRAFT TRANSCRIPT

004573

1 PROSPECTIVE JUROR NO. 035: He got I think three  
2 years of probation, or something of that sort.

3 MS. MERCER: And were you satisfied with that  
4 result?

5 PROSPECTIVE JUROR NO. 035: No.

6 MS. MERCER: No?

7 PROSPECTIVE JUROR NO. 035: No.

8 MS. MERCER: Do you think you would hold it against  
9 us?

10 PROSPECTIVE JUROR NO. 035: No.

11 MS. MERCER: No? Okay. And then, you indicated  
12 that your car was stolen?

13 PROSPECTIVE JUROR NO. 035: Yes.

14 MS. MERCER: And when did that occur?

15 PROSPECTIVE JUROR NO. 035: That was in '07 or '08.

16 MS. MERCER: And did you know the individual that  
17 stole your car?

18 PROSPECTIVE JUROR NO. 035: No.

19 MS. MERCER: No? Was she caught?

20 PROSPECTIVE JUROR NO. 035: Yes.

21 MS. MERCER: Was she prosecuted?

22 PROSPECTIVE JUROR NO. 035: I don't know.

23 MS. MERCER: You never heard anything more about it?

24 PROSPECTIVE JUROR NO. 035: Hum-um. I got my car  
25 back, and that was it.

ROUGH DRAFT TRANSCRIPT

004574

1 MS. MERCER: Okay. Is there anything that we  
2 haven't asked you about that would keep you from being fair  
3 and impartial in this case?

4 PROSPECTIVE JUROR NO. 035: I have a father, and a  
5 brother, and a cousin, and a friend who is an attorney. I  
6 don't know if that will make -- it doesn't make me partial  
7 though.

8 MS. MERCER: What kind of attorneys are they?

9 PROSPECTIVE JUROR NO. 035: Personal injury.

10 MS. MERCER: And do they practice here locally, or  
11 out of state?

12 PROSPECTIVE JUROR NO. 035: Here in town.

13 MS. MERCER: Do you discuss their work with them  
14 quite a bit, or no?

15 PROSPECTIVE JUROR NO. 035: No. I mean, on occasion  
16 we do, but --

17 MS. MERCER: It's not something you're really  
18 involved in --

19 PROSPECTIVE JUROR NO. 035: No.

20 MS. MERCER: -- or care about?

21 PROSPECTIVE JUROR NO. 035: Well, I care about it.  
22 I'm going to take my LSAT's in October.

23 MS. MERCER: Okay. No further questions, Your  
24 Honor.

25 THE COURT: Pass for cause?

ROUGH DRAFT TRANSCRIPT

004575

1 MR. O'KEEFE: Yes, Your Honor.

2 THE COURT: Pass for cause, State?

3 MS. MERCER: Yes.

4 THE COURT: All right. Mr. O'Keefe, questions; pass  
5 for cause?

6 MR. O'KEEFE: Yes, Your Honor, just a few. I'll be  
7 real brief. Ms. Murphy?

8 PROSPECTIVE JUROR NO. 035: Yes.

9 MR. O'KEEFE: That was in Henderson, you said, when  
10 the DA dropped the charges?

11 PROSPECTIVE JUROR NO. 035: The district attorney  
12 here in the City of Las Vegas dropped the charges on me.

13 MR. O'KEEFE: They dropped the charges on you?

14 PROSPECTIVE JUROR NO. 035: Yes.

15 MR. O'KEEFE: Okay. No further questions  
16 [inaudible].

17 THE COURT: Pass for cause? Pass for cause?

18 MR. O'KEEFE: Pass for cause, Your Honor.

19 THE COURT: That concludes the initial selection of  
20 the 12. We have in the law, ladies and gentlemen, what we  
21 call peremptory challenges. Each side has a certain number of  
22 peremptory challenges. They can either exercise their  
23 peremptory challenge, or waive their peremptory challenge. A  
24 waiver of one peremptory challenge is not a waiver of all of  
25 them. So, you could -- with that understanding, we'll start

ROUGH DRAFT TRANSCRIPT

004576

1 with that.

2 The State can exercise it's first peremptory  
3 challenge, if it sees fit.

4 MR. LALLI: Your Honor, the State would thank and  
5 excuse Juror number 2, seated in seat number 2, Ms. Collins.

6 THE COURT: All right. Ms. Collins, report back to  
7 the jury commissioner. Clerk, call another prospective juror.

8 THE CLERK: Michael Ferraro.

9 THE COURT: Yeah. Take that same seat over there,  
10 sir. How long have you been in this area?

11 PROSPECTIVE JUROR NO. 036: I've lived here since I  
12 was 2.

13 THE COURT: All right. What do you do for a living?

14 PROSPECTIVE JUROR NO. 036: Software developer.

15 THE COURT: Okay. Are you married?

16 PROSPECTIVE JUROR NO. 036: Single.

17 THE COURT: Children?

18 PROSPECTIVE JUROR NO. 036: No.

19 THE COURT: Have you ever been in the military?

20 PROSPECTIVE JUROR NO. 036: No.

21 THE COURT: Are you acquainted with anybody in law  
22 enforcement?

23 PROSPECTIVE JUROR NO. 036: I'm not, no.

24 THE COURT: Have you, or anyone closely associated  
25 with you ever been a victim of a crime?

ROUGH DRAFT TRANSCRIPT

004577



1 PROSPECTIVE JUROR NO. 036: Yes.

2 THE COURT: What was that?

3 PROSPECTIVE JUROR NO. 036: I've been a victim of  
4 domestic violence. My girlfriend -- my ex-girlfriend hit me,  
5 basically.

6 THE COURT: How long ago was that?

7 PROSPECTIVE JUROR NO. 036: 2007.

8 THE COURT: And what were the results of that?

9 PROSPECTIVE JUROR NO. 036: The police came,  
10 arrested her, and brought her to court, and arrested her. And  
11 I never pressed charges, so I don't know what happened after  
12 that.

13 THE COURT: You don't know if she was convicted or  
14 not?

15 PROSPECTIVE JUROR NO. 036: I don't know. I mean, I  
16 had --

17 THE COURT: You just never found out?

18 PROSPECTIVE JUROR NO. 036: I'm sorry?

19 THE COURT: You never found out what the results  
20 were?

21 PROSPECTIVE JUROR NO. 036: No. I was -- I never  
22 pressed charges. The police came, they arrested her, and they  
23 brought her in. And myself and my roommate at the time came  
24 into the court to see if we needed to be witnesses, but we  
25 didn't have to, so we were excused. And --

ROUGH DRAFT TRANSCRIPT

004578

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 036: -- that was that, so.

3 THE COURT: All right. Is that going to affect your  
4 deliberation here?

5 PROSPECTIVE JUROR NO. 036: No. I am kind of  
6 sensitive about domestic violence, but it shouldn't affect my  
7 deliberation here.

8 THE COURT: All right. Good. Thank you. Have you  
9 or anyone closely associated with you, other than your  
10 ex-girlfriend, been arrested for a crime?

11 PROSPECTIVE JUROR NO. 036: No.

12 THE COURT: You ever serve on a jury?

13 PROSPECTIVE JUROR NO. 036: No.

14 THE COURT: You could listen to my instructions, and  
15 follow my instructions?

16 PROSPECTIVE JUROR NO. 036: Yes, sir.

17 THE COURT: So, you think you could be fair and  
18 impartial in this case?

19 PROSPECTIVE JUROR NO. 036: Yes.

20 THE COURT: All right. State?

21 MR. LALLI: Thank you. Mr. Ferraro, is there any --  
22 is there any issue we haven't talked about with respect to why  
23 you might not be able to be a juror in this case? So, your  
24 ability to judge people -- I know you talked a little bit  
25 about domestic violence, and I have a few --

ROUGH DRAFT TRANSCRIPT

004579

1 PROSPECTIVE JUROR NO. 036: Right.

2 MR. LALLI: -- follow up questions on that.

3 PROSPECTIVE JUROR NO. 036: Sure. I'm just -- I'm  
4 kind of sensitive about the domestic violence thing. I don't  
5 believe that people need to respond physically when it comes  
6 to like arguments, and stuff like that.

7 MR. LALLI: You're against it?

8 PROSPECTIVE JUROR NO. 036: Yeah.

9 MR. LALLI: I mean, you're against --

10 PROSPECTIVE JUROR NO. 036: I'm against it.

11 THE COURT: -- violence?

12 PROSPECTIVE JUROR NO. 036: Yeah.

13 MR. LALLI: You think you're probably --

14 PROSPECTIVE JUROR NO. 036: Since -- yeah, it  
15 happened to me, so I'm pretty much -- I'm against it. I don't  
16 think there's a reason -- nothing that you can do verbally  
17 that justifies physical response --

18 MR. LALLI: All right.

19 PROSPECTIVE JUROR NO. 036: -- in my opinion.

20 MR. LALLI: Do you -- understanding that you have  
21 that opinion, you have a personal experience with it, I think  
22 probably a lot of people share your opinion about that. Can  
23 you be fair to Mr. O'Keefe?

24 PROSPECTIVE JUROR NO. 036: It depends on what's  
25 been done, I guess; depending on the evidence.

ROUGH DRAFT TRANSCRIPT

004580

1 MR. LALLI: Sure. You're going to hear evidence.

2 PROSPECTIVE JUROR NO. 036: Sure.

3 MR. LALLI: But I'm saying, can you -- can you be  
4 fair to him? The evidence might say, Mr. O'Keefe, you're  
5 guilty. And then --

6 PROSPECTIVE JUROR NO. 036: Sure. I understand.

7 MR. LALLI: -- you know, your obligation is to  
8 convict him. But absent what the evidence might be --

9 PROSPECTIVE JUROR NO. 036: Right.

10 MR. LALLI: -- can you -- as you sit here right now,  
11 can you be fair to Mr. O'Keefe?

12 PROSPECTIVE JUROR NO. 036: I think it's hard for me  
13 to be fair, because I'm sensitive, like I said, to domestic  
14 violence. And I just have a strong belief that, you know, you  
15 -- there's no right to be physical when you're arguing. End  
16 of story.

17 MR. LALLI: Everybody -- I think a lot of us agree  
18 with you -- most of us agree with you.

19 PROSPECTIVE JUROR NO. 036: Right. So --

20 MR. LALLI: However, the -- I'm sorry.

21 PROSPECTIVE JUROR NO. 036: No, no. Sorry. Go  
22 ahead.

23 MR. LALLI: The reason we're here is because the  
24 State has made an allegation.

25 PROSPECTIVE JUROR NO. 036: Right.

ROUGH DRAFT TRANSCRIPT

004581

1 MR. LALLI: Mr. O'Keefe says, I didn't do it. And  
2 so, now, it's a jury's responsibility to determine whether the  
3 State can prove Mr. O'Keefe's guilt beyond a reasonable doubt.  
4 Obviously, if you choose to convict Mr. O'Keefe, yeah, nobody  
5 likes somebody who's committed a murder. But as of right now,  
6 he's presumed innocent.

7 PROSPECTIVE JUROR NO. 036: Okay.

8 MR. LALLI: Do you follow me on that?

9 PROSPECTIVE JUROR NO. 036: Sure.

10 MR. LALLI: Can you -- is your own experience with  
11 domestic violence such that you can't presume Mr. O'Keefe  
12 innocent? Do you understand?

13 PROSPECTIVE JUROR NO. 036: Yeah. Well, yeah. I  
14 mean, the thing is, we're here to try to find out if he's  
15 guilty or innocent.

16 MR. LALLI: Correct.

17 PROSPECTIVE JUROR NO. 036: So, if he didn't do it,  
18 then I don't have a problem with it. I'm -- you know, I'm  
19 okay with that. And if he did do it, then obviously, I would  
20 have a problem with that. So, I guess, you know, I'm  
21 impartial either way. So, like, I would be fair.

22 MR. LALLI: All right.

23 PROSPECTIVE JUROR NO. 036: Yeah.

24 MR. LALLI: So, as you sit here now, you can say,  
25 hey, State, prove the case, I --

ROUGH DRAFT TRANSCRIPT

004582

1 PROSPECTIVE JUROR NO. 036: Sure.  
2 MR. LALLI: -- want to see the evidence?  
3 PROSPECTIVE JUROR NO. 036: Absolutely.  
4 MR. LALLI: And if we don't bring the evidence, you  
5 understand it's your responsibility -- it's your legal, moral,  
6 ethical responsibility to find him not guilty if we don't  
7 prove it?  
8 PROSPECTIVE JUROR NO. 036: Absolutely.  
9 MR. LALLI: Okay. And are you of the mind set to do  
10 that?  
11 PROSPECTIVE JUROR NO. 036: Yes.  
12 MR. LALLI: Okay. You do IT work?  
13 PROSPECTIVE JUROR NO. 036: I'm a software  
14 developer.  
15 MR. LALLI: Okay. For whom?  
16 PROSPECTIVE JUROR NO. 036: American West Homes.  
17 MR. LALLI: Are they -- did they just file Chapter  
18 11?  
19 PROSPECTIVE JUROR NO. 036: Yeah, they did,  
20 actually. They're -- it's a different company. It's  
21 development management, or something like that.  
22 MR. LALLI: All right.  
23 PROSPECTIVE JUROR NO. 036: It's just for -- the  
24 stability of the company is completely fine. It was just for  
25 other reasons.

ROUGH DRAFT TRANSCRIPT

004583

1 MR. LALLI: Understood. Understood.

2 PROSPECTIVE JUROR NO. 036: So, what sort of -- what  
3 sort of educational background do you have that allows you to  
4 be a software developer?

5 PROSPECTIVE JUROR NO. 036: Basically just my  
6 experience. I don't have -- I graduated from high school, and  
7 that was pretty much it. No college degree, or anything like  
8 that. I've been programming for about 15 years. My father  
9 started a business, in which I just caught on with the  
10 computers pretty quickly. And I just had a strong passion for  
11 it, so I got books, and just practiced, and made it my --

12 MR. LALLI: Kind of like Steve Jobs? Kind of  
13 self-made --

14 PROSPECTIVE JUROR NO. 036: Sure.

15 MR. LALLI: -- kind of guy?

16 PROSPECTIVE JUROR NO. 036: Sure, sure.

17 MR. LALLI: And one day, you're going to be as  
18 successful as Steve Jobs was?

19 PROSPECTIVE JUROR NO. 036: I hope so.

20 MR. LALLI: Do you have any experience or history of  
21 dealing with individuals who suffer from mental illness?

22 PROSPECTIVE JUROR NO. 036: I have no experience,  
23 nor do I know anyone that has experienced that.

24 MR. LALLI: Sir, if we prove to you beyond a  
25 reasonable doubt that Mr. O'Keefe is guilty of murder of the

ROUGH DRAFT TRANSCRIPT

004584

1 second degree, will you convict him?

2 PROSPECTIVE JUROR NO. 036: Yes.

3 MR. LALLI: All right. Thank you. Your Honor,  
4 we'll pass for cause.

5 THE COURT: All right. Mr. O'Keefe, questions; pass  
6 for cause?

7 MR. O'KEEFE: I have no questions, Your Honor.

8 THE COURT: Pardon?

9 MR. O'KEEFE: I have no questions.

10 THE COURT: Thank you.

11 MR. O'KEEFE: Pass for cause.

12 THE COURT: Pass for cause. Thank you, Mr. O'Keefe.  
13 The defense can exercise it's first peremptory challenge, if  
14 it sees fit.

15 MR. O'KEEFE: Yes, Your Honor. I'd like to thank  
16 and excuse Juror number 3, Megan Stutz.

17 THE COURT: Thank you, Mr. O'Keefe. Ms. Stutz,  
18 please report back to the clerk -- excuse me, the jury  
19 commissioner. The clerk will call another prospective juror.

20 THE CLERK: James Simeon.

21 THE COURT: James Simeon?

22 PROSPECTIVE JUROR NO. 037: Yes.

23 THE COURT: Mr. Simeon, have that seat there, okay?  
24 How long you been in this area?

25 PROSPECTIVE JUROR NO. 037: 15 years, sir.

ROUGH DRAFT TRANSCRIPT

004585



1 THE COURT: What do you do for a living?  
2 PROSPECTIVE JUROR NO. 037: Blackjack dealer.  
3 THE COURT: Blackjack dealer. Where?  
4 PROSPECTIVE JUROR NO. 037: At the Treasure Island.  
5 THE COURT: Okay. Are you married?  
6 PROSPECTIVE JUROR NO. 037: Yes.  
7 THE COURT: What does your wife do?  
8 PROSPECTIVE JUROR NO. 037: She's a secretary for  
9 Nevada Title.  
10 THE COURT: Do you have any children?  
11 PROSPECTIVE JUROR NO. 037: Two. Too young to work.  
12 THE COURT: Any old enough to work?  
13 PROSPECTIVE JUROR NO. 037: No, sir.  
14 THE COURT: Okay. Have you ever been in the  
15 military?  
16 PROSPECTIVE JUROR NO. 037: Yes.  
17 THE COURT: What branch, what year, what did you do?  
18 PROSPECTIVE JUROR NO. 037: Air Force. I was a  
19 maintenance mechanic in transportation.  
20 THE COURT: All right. Nothing with military police  
21 or court marshaling?  
22 PROSPECTIVE JUROR NO. 037: No. .  
23 THE COURT: Have -- are you acquainted with anybody  
24 in law enforcement?  
25 PROSPECTIVE JUROR NO. 037: Yes. My uncle is a

ROUGH DRAFT TRANSCRIPT

004586

1 police officer in Texas.

2 THE COURT: In Texas? Again, that's not going to  
3 affect your deliberation, is it?

4 PROSPECTIVE JUROR NO. 037: No.

5 THE COURT: And you understand you're not to give  
6 greater weight, or lesser weight to a police officer's  
7 testimony simply because they're a police officer. You give  
8 it the weight you deem appropriate; do you understand that?

9 PROSPECTIVE JUROR NO. 037: Yes.

10 THE COURT: All right. Have you or anyone close to  
11 you ever been a victim of a crime?

12 PROSPECTIVE JUROR NO. 037: No.

13 THE COURT: Arrested for a crime?

14 PROSPECTIVE JUROR NO. 037: No.

15 THE COURT: You ever served on a jury?

16 PROSPECTIVE JUROR NO. 037: No.

17 THE COURT: Could you be fair and impartial in this  
18 case?

19 PROSPECTIVE JUROR NO. 037: Yes.

20 THE COURT: All right. State, questions; pass for  
21 cause?

22 MS. MERCER: I'm sorry, sir. I missed -- how long  
23 were you in the military?

24 PROSPECTIVE JUROR NO. 037: Only four years.

25 MS. MERCER: Four years? Do you have any experience

ROUGH DRAFT TRANSCRIPT

004587

1 with domestic violence?

2 PROSPECTIVE JUROR NO. 037: No.

3 MS. MERCER: Never witnessed it; don't have any --

4 PROSPECTIVE JUROR NO. 037: Never witnessed.

5 MS. MERCER: -- friends that have been victims?

6 PROSPECTIVE JUROR NO. 037: No.

7 MS. MERCER: Okay. Do you have any strong feelings  
8 about it one way or another that would impact your ability to  
9 be fair and impartial in this case?

10 PROSPECTIVE JUROR NO. 037: No, not at all.

11 MS. MERCER: Okay. And the uncle that's a police  
12 officer in Texas, are you -- is that an uncle you're extremely  
13 close to, or?

14 PROSPECTIVE JUROR NO. 037: Yes.

15 MS. MERCER: Okay. But that wouldn't keep you from  
16 being fair and impartial here?

17 PROSPECTIVE JUROR NO. 037: No.

18 MS. MERCER: Pass for cause, Your Honor.

19 THE COURT: All right. Mr. O'Keefe, questions; pass  
20 for cause?

21 MR. O'KEEFE: I'll pass for cause.

22 THE COURT: Thank you, Mr. O'Keefe. The State can  
23 exercise it's next peremptory challenge, if it sees fit.

24 MR. LALLI: Can I get the Court's indulgence?

25 THE COURT: Sure.

ROUGH DRAFT TRANSCRIPT

004588

1 (Pause in the proceedings)

2 MR. LALLI: Your Honor, the State would thank and  
3 excuse Juror number 6 in seat number 6, Mr. Andrade.

4 THE COURT: All right. Mr. Andrade, please report  
5 back to the jury commissioner. The clerk will call another  
6 prospective juror.

7 THE CLERK: Dawson Derfelt.

8 THE COURT: All right. Take that seat over there,  
9 sir. No, over there. How long you been in this area, sir?

10 PROSPECTIVE JUROR NO. 039: 18 years, sir.

11 THE COURT: Are you working?

12 PROSPECTIVE JUROR NO. 039: I'm retired.

13 THE COURT: What did you do when you worked?

14 PROSPECTIVE JUROR NO. 039: Very little. No. I  
15 worked for the telephone company in California.

16 THE COURT: Okay. Long time?

17 PROSPECTIVE JUROR NO. 039: 45 years.

18 THE COURT: And you retired, you came -- and you've  
19 been here how long?

20 PROSPECTIVE JUROR NO. 039: 18.

21 THE COURT: Okay. Are you married?

22 PROSPECTIVE JUROR NO. 039: Yes.

23 THE COURT: Is your wife retired, too?

24 PROSPECTIVE JUROR NO. 039: Yes.

25 THE COURT: What did she do when she worked?

ROUGH DRAFT TRANSCRIPT

004589

1 PROSPECTIVE JUROR NO. 039: Nothing.  
2 THE COURT: She was a house --  
3 PROSPECTIVE JUROR NO. 039: She was a housewife --  
4 THE COURT: All right.  
5 PROSPECTIVE JUROR NO. 039: -- for 25 years. Or  
6 actually, for 54 years.  
7 THE COURT: Wow. Great. Children?  
8 PROSPECTIVE JUROR NO. 039: Three.  
9 THE COURT: What do they do for a living?  
10 PROSPECTIVE JUROR NO. 039: The oldest one is a  
11 controller in Connecticut for a company. They -- the middle  
12 one is in Montana. She is -- works for the military. And the  
13 youngest one is a chemical physicist.  
14 THE COURT: Okay. Hard for you to say, huh,  
15 physicist?  
16 PROSPECTIVE JUROR NO. 039: Yeah, absolutely. Hard  
17 for her to say.  
18 THE COURT: Have you ever been in the military?  
19 PROSPECTIVE JUROR NO. 039: Yes.  
20 THE COURT: What branch, what year, and what did you  
21 do?  
22 PROSPECTIVE JUROR NO. 039: California, National  
23 Guard, and in 1958 and '59.  
24 THE COURT: Okay. What did you do there?  
25 PROSPECTIVE JUROR NO. 039: I was a quick typist.

ROUGH DRAFT TRANSCRIPT

004590

1 THE COURT: All right. Nothing to do with military  
2 police or court marshaling?

3 PROSPECTIVE JUROR NO. 039: Oh, no.

4 THE COURT: No. Are you acquainted with anybody in  
5 law enforcement?

6 PROSPECTIVE JUROR NO. 039: No, I'm not.

7 THE COURT: Have you or anyone closely associated  
8 with you ever been a victim of a crime?

9 PROSPECTIVE JUROR NO. 039: No.

10 THE COURT: Have you or anyone closely associated  
11 with you ever been arrested for a crime?

12 PROSPECTIVE JUROR NO. 039: No.

13 THE COURT: Have you ever served on a jury before?

14 PROSPECTIVE JUROR NO. 039: Yes.

15 THE COURT: How many times?

16 PROSPECTIVE JUROR NO. 039: Once.

17 THE COURT: Where? In --

18 PROSPECTIVE JUROR NO. 039: In California.

19 THE COURT: Was it a criminal, or civil case?

20 PROSPECTIVE JUROR NO. 039: A criminal case.

21 THE COURT: And you were picked as a juror?

22 PROSPECTIVE JUROR NO. 039: Yes.

23 THE COURT: Were you foreman?

24 PROSPECTIVE JUROR NO. 039: Yes.

25 THE COURT: Without telling us what the verdict was,

ROUGH DRAFT TRANSCRIPT

004591

1 did you reach a verdict?

2 PROSPECTIVE JUROR NO. 039: Yes.

3 THE COURT: Could you be fair in this case? You  
4 heard a lot of questions from -- well, whenever we started:  
5 10:00 o'clock, on. Could you be fair in this case?

6 PROSPECTIVE JUROR NO. 039: Yes, I think so.

7 THE COURT: Judge the case solely by what you hear  
8 on the witness stand, the facts, apply my law, go and  
9 deliberate; you could do that?

10 PROSPECTIVE JUROR NO. 039: Yes, sir.

11 THE COURT: All right. State?

12 MR. LALLI: Thank you, Your Honor. Mr. Derfelt,  
13 what specifically did you do for the telephone company?

14 PROSPECTIVE JUROR NO. 039: I was a -- when I  
15 retired, I was a district manager in California.

16 MR. LALLI: So, how many folks did you supervise?

17 PROSPECTIVE JUROR NO. 039: Probably 55 or 60, and  
18 installers, repairmen, clerical, cashiers.

19 MR. LALLI: And what type of -- how did you come up  
20 in the company? Were you technician? Were you --

21 PROSPECTIVE JUROR NO. 039: No.

22 MR. LALLI: -- [inaudible] accounting, or --

23 PROSPECTIVE JUROR NO. 039: Job of accounting. It  
24 was internal auditor, and then went into operations as  
25 second-level management, and then, up from there.

ROUGH DRAFT TRANSCRIPT

004592

1 MR. LALLI: Can you tell me about your educational  
2 background?

3 PROSPECTIVE JUROR NO. 039: I'm a college graduate.

4 MR. LALLI: And a degree in accounting?

5 PROSPECTIVE JUROR NO. 039: No, it was in business  
6 administration.

7 MR. LALLI: And was that in Southern California?

8 PROSPECTIVE JUROR NO. 039: Yes, USC.

9 MR. LALLI: All right. I don't know why I thought  
10 you -- you just had that Southern California look to you.

11 PROSPECTIVE JUROR NO. 039: Absolutely. No, that's  
12 an Arizonian look. No, I'm sorry, Nevada look. Where am I?

13 MR. LALLI: Did you -- you spent most of your life  
14 in California?

15 PROSPECTIVE JUROR NO. 039: Pretty much so.

16 MR. LALLI: Why did you come to Nevada?

17 PROSPECTIVE JUROR NO. 039: You don't really want me  
18 to tell you how the California tax laws, do you (sic)?

19 MR. LALLI: All right. No, I've heard enough. The  
20 case in which you were a foreperson -- again, without telling  
21 us what the jury's verdict was, do you remember the charge in  
22 that criminal case?

23 PROSPECTIVE JUROR NO. 039: I think it was a drug  
24 charge.

25 MR. LALLI: Was that prosecuted in Los Angeles

ROUGH DRAFT TRANSCRIPT

004593



1 County?

2 PROSPECTIVE JUROR NO. 039: No, in San Bernardino  
3 County.

4 MR. LALLI: San Bernardino County. Is there  
5 anything about the nature of this charge, the fact that it's a  
6 murder case, that causes you any concern about being a juror  
7 here?

8 PROSPECTIVE JUROR NO. 039: No, sir.

9 MR. LALLI: You understand that, if there is a  
10 guilty verdict, it would be Judge Bonaventure who would impose  
11 sentence?

12 PROSPECTIVE JUROR NO. 039: Yes, sir.

13 MR. LALLI: So, you wouldn't be concerned with  
14 penalty. It's not a death penalty case, for example.

15 PROSPECTIVE JUROR NO. 039: No.

16 MR. LALLI: Anything about that that would cause you  
17 any concern?

18 PROSPECTIVE JUROR NO. 039: Absolutely not.

19 MR. LALLI: Okay. Do you have strong feelings about  
20 domestic violence?

21 PROSPECTIVE JUROR NO. 039: No.

22 MR. LALLI: Do you believe that it is a community  
23 concern, or that the community needs to be involved in  
24 addressing domestic violence?

25 PROSPECTIVE JUROR NO. 039: Only when it becomes

ROUGH DRAFT TRANSCRIPT

004594

1 violent. Arguments in the home, the government should stay  
2 out of it.

3 MR. LALLI: At what point do you draw the line?

4 PROSPECTIVE JUROR NO. 039: Physical.

5 MR. LALLI: A push?

6 PROSPECTIVE JUROR NO. 039: Push.

7 MR. LALLI: Have we now crossed the line?

8 PROSPECTIVE JUROR NO. 039: Bruise.

9 MR. LALLI: I'm sorry?

10 PROSPECTIVE JUROR NO. 039: Bruise, push, stitches,  
11 you know.

12 MR. LALLI: At that point, you think that it's okay  
13 that government's involved; the government should be involved?  
14 Where do you come down on that?

15 PROSPECTIVE JUROR NO. 039: They should be involved  
16 if it gets violent.

17 MR. LALLI: What are some of the things that you  
18 think police officers ought to be concerned about looking at  
19 when they respond to a domestic violence call when they have a  
20 he said, she said situation? How do they figure out what  
21 happened?

22 PROSPECTIVE JUROR NO. 039: I guess they'd have to  
23 look at the physical evidence.

24 MR. LALLI: All right. Such as?

25 PROSPECTIVE JUROR NO. 039: Bruises, surroundings,

ROUGH DRAFT TRANSCRIPT

004595

1 broken dishes, broken heads; you know, whatever.

2 MR. LALLI: Okay. Do you have any experience with  
3 people who suffer from mental illness?

4 PROSPECTIVE JUROR NO. 039: No, sir.

5 MR. LALLI: All right. I take it from all of your  
6 answers, you can be fair and impartial to both the State and  
7 to Mr. O'Keefe?

8 PROSPECTIVE JUROR NO. 039: I think so. Yes, sir.

9 MR. LALLI: Okay. If we prove to you beyond a  
10 reasonable doubt that he's guilty, will you convict him?

11 PROSPECTIVE JUROR NO. 039: Yes, sir.

12 MR. LALLI: All right. Thank you.

13 THE COURT: Pass for cause?

14 MR. LALLI: Yes, Your Honor.

15 THE COURT: All right. Mr. O'Keefe, questions; pass  
16 for cause.

17 MR. O'KEEFE: Yes. Pass for cause. Just a couple  
18 questions, Your Honor. Just --

19 THE COURT: Yeah, that's fine.

20 MR. O'KEEFE: -- a couple.

21 THE COURT: Absolutely.

22 MR. O'KEEFE: Good morning, sir. Or good  
23 afternoon --

24 PROSPECTIVE JUROR NO. 039: Hi.

25 MR. O'KEEFE: -- good evening. It's been such a

ROUGH DRAFT TRANSCRIPT

004596

1 long day. Did you say you served in the military?

2 PROSPECTIVE JUROR NO. 039: Yes.

3 MR. O'KEEFE: What branch, sir?

4 PROSPECTIVE JUROR NO. 039: It was the Army.

5 MR. O'KEEFE: The Army?

6 PROSPECTIVE JUROR NO. 039: California National  
7 Guard.

8 MR. O'KEEFE: Okay. Okay, great. Just a couple  
9 questions. I promise I'll make it quick and short. Do you  
10 believe a woman can just as easily attack and be an aggressor  
11 nowadays, if evidence supports it?

12 PROSPECTIVE JUROR NO. 039: Repeat that question.

13 MR. O'KEEFE: Okay. Do you believe a woman --

14 PROSPECTIVE JUROR NO. 039: A woman.

15 MR. O'KEEFE: -- a woman, female, can just as easily  
16 be an aggressor and attacker as a man?

17 PROSPECTIVE JUROR NO. 039: Absolutely.

18 MR. O'KEEFE: Do you believe you have a right to try  
19 to ward yourself off -- defend yourself?

20 PROSPECTIVE JUROR NO. 039: Absolutely.

21 MR. O'KEEFE: I don't mean to bring this out on the  
22 record or anything. But being wise, and an older gentleman,  
23 mature; being in the military, I'm sure you've got drunk quite  
24 a few times in those days, and you've become extremely drunk?  
25 Forgive me for, you know, asking it like that. But have you

ROUGH DRAFT TRANSCRIPT

004597

1 at times become extremely drunk, gone out and partied? And  
2 same thing I asked the previous juror. Have you been  
3 extremely drunk before, got intoxicated?

4 PROSPECTIVE JUROR NO. 039: Extremely is kind of a  
5 relative term. Yes, I have been intoxicated.

6 MR. O'KEEFE: Okay.

7 PROSPECTIVE JUROR NO. 039: I have been inebriated.

8 MR. O'KEEFE: Okay.

9 PROSPECTIVE JUROR NO. 039: But whether extreme or  
10 not, that's in the eyes of the beholder, I suppose.

11 MR. O'KEEFE: Okay. And very well stated, sir. So,  
12 then, you believe test results also can show and determine --  
13 perfect; that someone was maybe just a little bit drunk, a  
14 lot, or extremely, like test results?

15 PROSPECTIVE JUROR NO. 039: Yes, I think so.

16 MR. O'KEEFE: So then, test results would be  
17 pertinent, --

18 PROSPECTIVE JUROR NO. 039: Pertinent, yeah.

19 THE COURT: -- necessary, relevant as evidence,  
20 correct?

21 PROSPECTIVE JUROR NO. 039: It would be pertinent,  
22 yeah.

23 MR. O'KEEFE: No further questions, Your Honor.  
24 Pass for --

25 THE COURT: Pass for cause?

ROUGH DRAFT TRANSCRIPT

004598

1 MR. O'KEEFE: -- cause. Pass for cause.

2 THE COURT: All right. Thank you, Mr. O'Keefe. The  
3 defense could exercise it's second peremptory challenge, if it  
4 sees fit.

5 MR. O'KEEFE: Yes, Your Honor. I'd like to thank  
6 and excuse Juror number 30, Leslie Riell.

7 PROSPECTIVE JUROR NO. 030: What?

8 THE COURT: All right. That's number 9, right? Is  
9 that correct? You're excused.

10 THE CLERK: The badge number's --

11 THE COURT: Please report back to JS. Juror number  
12 9, Leslie Riell, you're excused, ma'am. Thank you. Clerk,  
13 call another prospective juror.

14 THE CLERK: Jason Ansuini.

15 THE COURT: How long you been in this area, sir?

16 PROSPECTIVE JUROR NO. 040: Just about six years.

17 THE COURT: And what do you do for a living?

18 PROSPECTIVE JUROR NO. 040: Director of financial  
19 planning at Mandalay Bay.

20 THE COURT: All right. Are you married, sir?

21 PROSPECTIVE JUROR NO. 040: No.

22 THE COURT: Children?

23 PROSPECTIVE JUROR NO. 040: No.

24 THE COURT: Have you ever been in the military?

25 PROSPECTIVE JUROR NO. 040: No.

ROUGH DRAFT TRANSCRIPT

004599

1 PROSPECTIVE JUROR NO. 029: Because I didn't have  
2 the proper counsel, and it was my first time, and I was just  
3 scared. I didn't know what to do. So, instead of saying  
4 guilty when I wasn't, just no contest.

5 MR. LALLI: Understood. And so, she found you  
6 guilty based upon your plea, and ordered that you go to  
7 counseling, and do some things like that?

8 PROSPECTIVE JUROR NO. 029: Um-hum. And then she  
9 lowered it down to domestic battery.

10 MR. LALLI: All right. What were you charged with  
11 before if it wasn't domestic battery to begin with?

12 PROSPECTIVE JUROR NO. 029: Domestic violence.

13 MR. LALLI: All right. Okay. Now, did that whole  
14 thing leave a bad taste in your mouth?

15 PROSPECTIVE JUROR NO. 029: Yes.

16 MR. LALLI: And this -- although the charge here in  
17 second degree murder, you're going to hear that this occurred  
18 in the context of a -- it's a domestic situation. Do you  
19 think that -- it's boyfriend, girlfriend situation. Do you  
20 think that, based upon your own experience, which you've told  
21 us you have a bad taste in your mouth over it, and I  
22 understand -- I can understand why. Do you think maybe this  
23 is the case for you to be in?

24 PROSPECTIVE JUROR NO. 029: Oh, well probably not.  
25 But the thing is, like I said, I just got out of work. So, I

ROUGH DRAFT TRANSCRIPT

004500

1 was sober. She wasn't. So, I don't know the case of what was  
2 going on with their situation. But when somebody does get  
3 inebriated and has a problem in their mind; take it out on  
4 somebody else, exaggerates. I don't know. So, you know.

5 MR. LALLI: Well, let me --

6 PROSPECTIVE JUROR NO. 029: There's a lot of factors  
7 in it.

8 MR. LALLI: Understood. Let me focus on the  
9 "probably not," when I asked you if you thought that this was  
10 not a good case for you. Are you going to be thinking about  
11 what happened in your situation, as opposed to focusing on the  
12 evidence here? I mean, are you going to be thinking, wow --

13 PROSPECTIVE JUROR NO. 029: Yes.

14 MR. LALLI: -- I was kind of railroaded by the  
15 system? That's what it sounds like.

16 PROSPECTIVE JUROR NO. 029: Yes.

17 MR. LALLI: And you're going to come off as -- and  
18 I'm not trying to put words in your mouth, but I want to see  
19 if I can understand where you're coming from. I don't think I  
20 was treated fairly by the State, by the police, by the judge,  
21 by the system. I don't think the system treated me fairly,  
22 and so I'm not going to be fair to the State. Not because I  
23 don't want to; just because I've got this bias about me, based  
24 upon my own experience. Do you see what I'm saying?

25 PROSPECTIVE JUROR NO. 029: Yes, sir.

ROUGH DRAFT TRANSCRIPT

004501



1 MR. LALLI: Is that you?

2 PROSPECTIVE JUROR NO. 029: Yes.

3 MR. LALLI: Okay. So, you don't think you can be  
4 fair, and maybe a different type of case is better for you?

5 PROSPECTIVE JUROR NO. 029: Yes.

6 MR. LALLI: All right. Your Honor, I'd challenge  
7 for cause.

8 THE COURT: Mr. O'Keefe, any objection?

9 MR. O'KEEFE: No, Your Honor.

10 THE COURT: Okay. Thank you, Mr. O'Keefe. All  
11 right, sir. As I said, they'll reassign you to another case.  
12 Thank you so much. Please report back to the jury  
13 commissioner now, all right?

14 PROSPECTIVE JUROR NO. 029: Yes, sir.

15 THE COURT: Clerk, call another prospective juror in  
16 seat number 9.

17 THE CLERK: Leslie Riell.

18 THE COURT: Touch that seat, ma'am. Ma'am, will you  
19 touch that seat? Is it hot? We got a hot seat here. I don't  
20 understand this. You all right?

21 PROSPECTIVE JUROR NO. 030: I'm fine.

22 THE COURT: Everything's good?

23 PROSPECTIVE JUROR NO. 030: Yeah.

24 THE COURT: All right. You got a good attitude?

25 PROSPECTIVE JUROR NO. 030: Good.

ROUGH DRAFT TRANSCRIPT

004502

1 THE COURT: And you've been in Las Vegas in this  
2 area how long?

3 PROSPECTIVE JUROR NO. 030: 28 years.

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

5 PROSPECTIVE JUROR NO. 030: I'm a Christian school  
6 teacher.

7 THE COURT: A Christian school teacher?

8 PROSPECTIVE JUROR NO. 030: Yes.

9 THE COURT: As opposed to a heathen school teacher?

10 PROSPECTIVE JUROR NO. 030: Yes. No. No. I work  
11 at Calgary Christian Elementary School.

12 THE COURT: Oh, okay. So, you work for a -- you're  
13 a Christian school teacher?

14 PROSPECTIVE JUROR NO. 030: Yes.

15 THE COURT: All right. Are you married?

16 PROSPECTIVE JUROR NO. 030: Yes.

17 THE COURT: What does your husband do?

18 PROSPECTIVE JUROR NO. 030: He works at the Nevada  
19 Test Site.

20 THE COURT: And if you tell me what he did, you'll  
21 have to kill me, right?

22 PROSPECTIVE JUROR NO. 030: Exactly.

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 030: Yes.

25 THE COURT: Do you have any children?

ROUGH DRAFT TRANSCRIPT

004503

1 PROSPECTIVE JUROR NO. 030: Two.

2 THE COURT: What do they do for a living?

3 PROSPECTIVE JUROR NO. 030: My son -- they're twins,  
4 and they're going to college. My son has a job at UNLV's gym,  
5 and my daughter's working in the computer lab at her school.  
6 She is currently home from Missouri right now.

7 THE COURT: All right. Have you ever been in the  
8 military?

9 PROSPECTIVE JUROR NO. 030: No.

10 THE COURT: Are you acquainted with anybody in law  
11 enforcement?

12 PROSPECTIVE JUROR NO. 030: I have some friends.

13 THE COURT: Here in town?

14 PROSPECTIVE JUROR NO. 030: Yes.

15 THE COURT: Who are they, and --

16 PROSPECTIVE JUROR NO. 030: Tony Lorenzo (phonetic),  
17 and different student parents.

18 THE COURT: And they're -- so, student parents?  
19 Again, the follow up question, you understand you're not to  
20 give greater weight or lesser weight to a police officer's  
21 testimony. You give it the weight you deem appropriate. Do  
22 you understand that?

23 PROSPECTIVE JUROR NO. 030: I understand.

24 THE COURT: Have you or anyone closely associated  
25 with you ever been the victim of a crime?

ROUGH DRAFT TRANSCRIPT

004504

1 PROSPECTIVE JUROR NO. 030: No.

2 THE COURT: Have you or anyone closely associated  
3 ever been arrested for a crime?

4 PROSPECTIVE JUROR NO. 030: My father was.

5 THE COURT: How long ago was that?

6 PROSPECTIVE JUROR NO. 030: About ten years ago.

7 THE COURT: Here in town?

8 PROSPECTIVE JUROR NO. 030: In California.

9 THE COURT: What was he arrested for?

10 PROSPECTIVE JUROR NO. 030: He decided he didn't  
11 want to take a seatbelt ticket, and took the police on a wild  
12 goose chase to his home. He lived out in the --

13 THE COURT: All right. So --

14 PROSPECTIVE JUROR NO. 030: -- country.

15 THE COURT: It was something to do with a police  
16 chase, that type --

17 PROSPECTIVE JUROR NO. 030: Well, he got on his  
18 tractor, and came back at the officers. And not very smart,  
19 but --

20 THE COURT: Did he injure anybody?

21 PROSPECTIVE JUROR NO. 030: No, he didn't, but they  
22 shot him and arrested him.

23 THE COURT: Did he recover from the shooting?

24 PROSPECTIVE JUROR NO. 030: Yes.

25 THE COURT: Did he do any jail time or anything?

ROUGH DRAFT TRANSCRIPT

004505

1 PROSPECTIVE JUROR NO. 030: Over the weekend.

2 THE COURT: Okay. And that was ten years ago?

3 PROSPECTIVE JUROR NO. 030: Yes.

4 THE COURT: All right. That's not going to affect  
5 your deliberation if you're picked --

6 PROSPECTIVE JUROR NO. 030: No.

7 THE COURT: -- as a juror here? You don't hold any  
8 animosity towards the police, do you?

9 PROSPECTIVE JUROR NO. 030: No.

10 THE COURT: Have you ever served on a jury before?

11 PROSPECTIVE JUROR NO. 030: No.

12 THE COURT: Do you think you could be fair and  
13 impartial in this case if you're picked as a juror?

14 PROSPECTIVE JUROR NO. 030: Yes.

15 THE COURT: Thank you very much, ma'am. State,  
16 questions --

17 MS. MERCER: Thank you.

18 THE COURT: -- pass for cause?

19 MS. MERCER: Before I get too far into my  
20 questioning, is there anything that we should know about now  
21 that would cause you to be unable to serve as a juror in this  
22 case?

23 PROSPECTIVE JUROR NO. 030: Well, I understand the  
24 previous juror's issues about being the judge, but I don't  
25 hold that.

ROUGH DRAFT TRANSCRIPT

004506

1 MS. MERCER: Okay.

2 PROSPECTIVE JUROR NO. 030: Okay.

3 MS. MERCER: So, you can sit in judgment of another  
4 person?

5 PROSPECTIVE JUROR NO. 030: Yes.

6 MS. MERCER: Okay. And you indicated that you're a  
7 school teacher. What grade do you teach?

8 PROSPECTIVE JUROR NO. 030: Fourth.

9 MS. MERCER: Fourth grade?

10 PROSPECTIVE JUROR NO. 030: Yes.

11 MS. MERCER: Have you ever had any incidents where  
12 your students have reported domestic violence at the home?

13 PROSPECTIVE JUROR NO. 030: Yes.

14 MS. MERCER: How many times has that occurred?

15 PROSPECTIVE JUROR NO. 030: Once.

16 MS. MERCER: And was it serious enough that you  
17 called law enforcement? How did you deal with the situation?  
18 Let me put it that way.

19 PROSPECTIVE JUROR NO. 030: I went to my principal,  
20 talked to her about it, and we have to call Child Protective  
21 Services.

22 MS. MERCER: Okay.

23 PROSPECTIVE JUROR NO. 030: It was more of a sexual  
24 abuse.

25 MS. MERCER: Okay. So, not really -- was it against

ROUGH DRAFT TRANSCRIPT

004507

1 the child?

2 PROSPECTIVE JUROR NO. 030: Yes.

3 MS. MERCER: Okay. Have you ever witnessed a  
4 domestic battery incident?

5 PROSPECTIVE JUROR NO. 030: Yes.

6 MS. MERCER: Where?

7 PROSPECTIVE JUROR NO. 030: My father.

8 MR. O'KEEFE: Your Honor, may we approach the bench?  
9 It's urgent, Your Honor. One last time.

10 THE COURT: Well, you have a continuing objection.  
11 I could say that for the record.

12 MR. O'KEEFE: Thank you, Your Honor. I just want --

13 THE COURT: Yeah.

14 MR. O'KEEFE: -- to ensure that.

15 THE COURT: Absolutely. You have a --

16 MR. O'KEEFE: Forgive me, Your Honor. I just want  
17 to ensure.

18 THE COURT: No, no, no. That's why -- you have a  
19 continuing objection to what we discussed outside the presence  
20 of the jury, as continuing, and we'll make a record down --  
21 you know, after a while. All right?

22 MR. O'KEEFE: Thank you, Your Honor.

23 THE COURT: But the record will show that Mr.  
24 O'Keefe has a continuing objection regarding that issue, all  
25 right? Proceed.

ROUGH DRAFT TRANSCRIPT

004508

1 MS. MERCER: Thank you, Your Honor.  
2 MR. O'KEEFE: Thank you, Your Honor.  
3 MS. MERCER: I'm sorry. The incident you witnessed,  
4 who was it between?  
5 PROSPECTIVE JUROR NO. 030: My parents.  
6 MS. MERCER: Your parents?  
7 PROSPECTIVE JUROR NO. 030: Yes.  
8 MS. MERCER: Was it an ongoing issue in your  
9 household?  
10 PROSPECTIVE JUROR NO. 030: Whenever my father was  
11 upset.  
12 MS. MERCER: Whenever he was upset?  
13 PROSPECTIVE JUROR NO. 030: Yes.  
14 MS. MERCER: What kinds of things would set him off?  
15 PROSPECTIVE JUROR NO. 030: Work, mostly. He was  
16 self-employed. And if things didn't go well, he would come  
17 home, and dump his day on my mom. And if she didn't react the  
18 way he wanted, he would take it out on her physically.  
19 MS. MERCER: Did your parents -- are they still  
20 married now?  
21 PROSPECTIVE JUROR NO. 030: My dad's deceased. And  
22 yeah, they were until he died. Yes.  
23 MS. MERCER: Until he died?  
24 PROSPECTIVE JUROR NO. 030: Yeah.  
25 MS. MERCER: Do you know why your mother stayed in

ROUGH DRAFT TRANSCRIPT

004509



1 the relationship?

2 PROSPECTIVE JUROR NO. 030: Because she had promised  
3 God in her wedding vows, and she was going to be true to them.

4 MS. MERCER: Okay. So, for religious reasons?

5 PROSPECTIVE JUROR NO. 030: Religious reasons, yes.

6 MS. MERCER: Was it physical abuse or emotional  
7 abuse?

8 PROSPECTIVE JUROR NO. 030: Both.

9 MS. MERCER: Both? And was there anything about  
10 your growing up in that environment that would cause you to be  
11 unfair to either side in this case?

12 PROSPECTIVE JUROR NO. 030: I don't think so. It  
13 was a long time ago, and I believe that I can be unbiased and  
14 fair.

15 MS. MERCER: Okay. So, you understand that Mr.  
16 O'Keefe is not your father?

17 PROSPECTIVE JUROR NO. 030: Oh, definitely.

18 THE COURT: And he's --

19 PROSPECTIVE JUROR NO. 030: Yes.

20 MS. MERCER: It's a completely different --

21 PROSPECTIVE JUROR NO. 030: Yes.

22 MS. MERCER: -- set of circumstances?

23 PROSPECTIVE JUROR NO. 030: Yes.

24 MS. MERCER: And you'll hold off on judgment until  
25 you've heard all the evidence in the case?

ROUGH DRAFT TRANSCRIPT

004510

1 PROSPECTIVE JUROR NO. 030: Yes.

2 MS. MERCER: Pass for cause, Your Honor.

3 THE COURT: All right. Mr. O'Keefe, questions: pass  
4 for cause?

5 MR. O'KEEFE: Yes, Your Honor. Thank you. Just a  
6 few, Your Honor. I promise. Hello, ma'am. I'm just going to  
7 have a couple questions for you. Do you have any attorneys in  
8 your family, or know any in town?

9 PROSPECTIVE JUROR NO. 030: Not in my family, but  
10 I've had former parents of students --

11 MR. O'KEEFE: Okay.

12 PROSPECTIVE JUROR NO. 030: -- that were attorneys.

13 MR. O'KEEFE: Okay. Tried to kind of phrase this in  
14 my mind as I was sitting there. Do you think that -- again,  
15 in searching someone that would see it like I see it, think  
16 like I think, would you feel yourself that someone who was  
17 extremely intoxicated, and was in a alleged situation, would  
18 be very loud if they said there was a lot of yelling, and  
19 shouting, and screaming, and -- you know, strike that. Hold  
20 that -- let me get this right.

21 Do you feel it would be almost impossible for an  
22 argument or fight to go -- about a -- voices, talking,  
23 shouting, when a window is wide open? There will be evidence  
24 that people, right through a wall, heard nothing, except some  
25 pounding; an anger fit, possibly.

ROUGH DRAFT TRANSCRIPT

004511

1 MR. LALLI: Your Honor, I'm sorry. I'd just  
2 interpose an objection. It's an inappropriate hypothetical;  
3 deals with evidence directly from the case.

4 THE COURT: Yeah, I think it should be more general.  
5 You can't get into the facts of the case, because we have no  
6 evidence yet, Mr. O'Keefe.

7 MR. O'KEEFE: Yes. I --

8 THE COURT: But maybe just in general, a general  
9 question. [Inaudible]. Maybe -- but you're getting to many  
10 -- too much fact already in it.

11 MR. O'KEEFE: I apologize, Your Honor.

12 THE COURT: But no, there's no apology necessary.  
13 It's just, I have to sustain the objection. All right?

14 MR. O'KEEFE: Yes, sir. Do you think that because  
15 someone has died, that it has to be a crime? Or that there  
16 could possibly be circumstances that could make it other  
17 [inaudible]?

18 PROSPECTIVE JUROR NO. 030: The cause of death and  
19 the circumstances would determine if it's a crime or not.

20 MR. O'KEEFE: Exactly the point. [Inaudible] --

21 PROSPECTIVE JUROR NO. 030: In my opinion.

22 MR. O'KEEFE: Let me rephrase it. I apologize.  
23 Just because there's a dead person doesn't make it a crime, in  
24 your eyes?

25 PROSPECTIVE JUROR NO. 030: I can't answer that,

ROUGH DRAFT TRANSCRIPT

004512

1 because I would have to know what the circumstances were.

2 MR. O'KEEFE: And the facts?

3 PROSPECTIVE JUROR NO. 030: And the facts.

4 MR. O'KEEFE: Real facts, all evidence possible to  
5 lead to that determination, correct?

6 PROSPECTIVE JUROR NO. 030: That would be the best  
7 course of action, yes.

8 MR. O'KEEFE: And who is the best -- or person  
9 responsible on an alleged crime or call, to do that? Would  
10 you agree it would be the police that are investigating an  
11 alleged crime, to preserve and save -- collect all evidence  
12 possible, so a determination -- that you just stated you would  
13 need the facts and the evidence to make a proper  
14 determination; would you agree with that?

15 PROSPECTIVE JUROR NO. 030: Yes.

16 MR. O'KEEFE: Do you have anybody in the family that  
17 works in the Union, ma'am?

18 PROSPECTIVE JUROR NO. 030: No.

19 MR. O'KEEFE: How do you feel about people that  
20 admit that they have a problem with drinking, and are enrolled  
21 in NA or AA? Would you be biased against anyone that admits  
22 to -- they have a problem?

23 PROSPECTIVE JUROR NO. 030: No.

24 MR. O'KEEFE: To you, there will be some pictures  
25 that I have -- has to be seen. And I have to view them, and

ROUGH DRAFT TRANSCRIPT

004513

1 look at them. Believe me, I don't want to either. And  
2 they're not terrible, terrible. But would you be biased  
3 against me because I have to do my job, and look, and present  
4 some pictures, and put them up, and explain what I can  
5 explain?

6 PROSPECTIVE JUROR NO. 030: I would not be biased  
7 against you. But I do need to let the Court know that I am  
8 extremely squeamish, and can pass out looking at blood and  
9 that kind of stuff.

10 MR. O'KEEFE: Okay. So, right there with that  
11 comment -- which that's going to be the Judge's job later.  
12 You're admitting yourself, blood and all that would be a  
13 tragic situation? You would kind of freak out, wouldn't you?

14 PROSPECTIVE JUROR NO. 030: Not freak out; become to  
15 the point where I could pass out. I've been accused of being  
16 too sympathetic by a first-aid teacher way back in my junior  
17 college days.

18 MR. O'KEEFE: So, again, clearly -- I just want to  
19 make sure. I have to present some photos. I have to do what  
20 I have to do. I don't want to look at them, and I don't want  
21 to mislead you that they're grotesque, and all that. But for  
22 all jurors possible, and for you, would you be biased,  
23 because, you know, I'm able to put them up? And I have to  
24 move along. I have to present what I have, so, you know, a  
25 determination can be made in this case.

ROUGH DRAFT TRANSCRIPT

004514

1 PROSPECTIVE JUROR NO. 030: I wouldn't be biased.  
2 I'm not --  
3 MR. O'KEEFE: Do you understand --  
4 PROSPECTIVE JUROR NO. 030: -- particularly sure I  
5 could tolerate it, --  
6 MR. O'KEEFE: But you would not --  
7 PROSPECTIVE JUROR NO. 030: -- physically.  
8 MR. O'KEEFE: You would not hold it against me? You  
9 understand I'm doing what I have to do?  
10 PROSPECTIVE JUROR NO. 030: No. I understand.  
11 MR. O'KEEFE: Do you feel in yourself also that  
12 mental health issues -- again, just to clarify; do you feel  
13 that they're relevant?  
14 PROSPECTIVE JUROR NO. 030: Yes.  
15 MR. O'KEEFE: Do you think someone who's in anger  
16 management classes currently, that that's relevant?  
17 PROSPECTIVE JUROR NO. 030: It's relevant that  
18 they're trying to get help. They recognize there's a problem,  
19 or they've been forced to recognize there's a problem.  
20 MR. O'KEEFE: If someone was predetermined to have a  
21 shortened expectancy of life because of any medical  
22 conditions, do you think that should be considered in a case  
23 such as this?  
24 PROSPECTIVE JUROR NO. 030: It would depend on what  
25 the medical condition was.

ROUGH DRAFT TRANSCRIPT

004515

1 MR. O'KEEFE: Let's say exactly what it -- chronic  
2 cirrhosis of the liver. Hepatitis C. A host of mental  
3 problems.

4 PROSPECTIVE JUROR NO. 030: Could you rephrase the  
5 question, please?

6 MR. O'KEEFE: Again, with the charge, I'm being  
7 charged with murder. I guess you could just simply say, why  
8 would I murder someone if someone was going to die?

9 MR. LALLI: I'm sorry, Your Honor. I have to  
10 interpose an objection. It's an inappropriate argument --

11 THE COURT: I agree, Mr. --

12 MR. LALLI: -- or inappropriate question. It's an  
13 argument. It's prohibited by the district court rules.

14 THE COURT: Yeah. This has nothing to do with the  
15 qualifications of the juror. That's -- I don't know if it's  
16 [inaudible] defense, or whatever it is. I have no idea. But  
17 I'm going to sustain the objection. Move on to another  
18 question.

19 MR. O'KEEFE: Do you have a computer?

20 PROSPECTIVE JUROR NO. 030: Yes.

21 MR. O'KEEFE: Do you use it a lot, ma'am?

22 PROSPECTIVE JUROR NO. 030: Every day.

23 MR. O'KEEFE: No further questions, Your Honor.  
24 I'll pass for cause.

25 THE COURT: Thank you.

ROUGH DRAFT TRANSCRIPT

004516

1 MR. O'KEEFE: Thank you.

2 THE COURT: Marc Humphries, is it? How long have  
3 you been in this area, sir?

4 PROSPECTIVE JUROR NO. 012: Approximately 20 years.

5 THE COURT: And what do you do for a living?

6 PROSPECTIVE JUROR NO. 012: I'm the Clark County  
7 Juvenile Detention manager.

8 THE COURT: Okay. Are you a peace officer? I'm  
9 not --

10 PROSPECTIVE JUROR NO. 012: Correct.

11 THE COURT: How long you been doing that?

12 PROSPECTIVE JUROR NO. 012: Approximately 15 years.

13 THE COURT: So, you work in a juvenile division,  
14 though?

15 PROSPECTIVE JUROR NO. 012: Correct.

16 THE COURT: What's the name of the --

17 PROSPECTIVE JUROR NO. 012: Juvenile Detention.

18 THE COURT: Juvenile -- on Bonanza there?

19 PROSPECTIVE JUROR NO. 012: Yes, sir.

20 THE COURT: All right. And what are your duties?

21 PROSPECTIVE JUROR NO. 012: Pardon me?

22 THE COURT: What are your duties?

23 PROSPECTIVE JUROR NO. 012: Oh. I oversee the  
24 operations; fiscal, safety and security. I have approximately  
25 188 staff underneath my direction.

ROUGH DRAFT TRANSCRIPT

004517



1 THE COURT: The fact that you have that job and your  
2 position, is that going to affect your deliberation here?

3 PROSPECTIVE JUROR NO. 012: No. I like to think I'm  
4 an objective individual.

5 THE COURT: Okay. Are you married?

6 PROSPECTIVE JUROR NO. 012: Yes.

7 THE COURT: Does your wife work?

8 PROSPECTIVE JUROR NO. 012: No, she's retired.

9 THE COURT: What did she do when she worked?

10 PROSPECTIVE JUROR NO. 012: Juvenile probation  
11 officer.

12 THE COURT: Children?

13 PROSPECTIVE JUROR NO. 012: Two.

14 THE COURT: What do they do?

15 PROSPECTIVE JUROR NO. 012: One unemployed, just  
16 going to school. And the other one works at Gold's Gym.

17 THE COURT: Have you ever been in the military?

18 PROSPECTIVE JUROR NO. 012: No.

19 THE COURT: Are you acquainted -- of course you're  
20 acquainted with people in law enforcement, because you are in  
21 law enforcement; is that right?

22 PROSPECTIVE JUROR NO. 012: I'm sorry?

23 THE COURT: Of course you're acquainted with people  
24 in law enforcement, because you're in law enforcement?

25 PROSPECTIVE JUROR NO. 012: Yes, Your Honor.

ROUGH DRAFT TRANSCRIPT

004518

1 THE COURT: The fact that you have friends,  
2 coworkers, is that going to affect your deliberation -- that  
3 are law enforcement?

4 PROSPECTIVE JUROR NO. 012: Again, I'd like to think  
5 I'm an objective individual.

6 THE COURT: And you understand the law, that you're  
7 not to give greater weight or lesser weight to a police  
8 officer's testimony; you give it whatever weight you deem  
9 appropriate in a particular circumstance?

10 PROSPECTIVE JUROR NO. 012: Yes.

11 THE COURT: You understand that? Have you ever been  
12 the victim of a crime?

13 PROSPECTIVE JUROR NO. 012: Yeah.

14 THE COURT: What was that?

15 PROSPECTIVE JUROR NO. 012: Yeah. It was vandalism  
16 of a car years ago. Nothing that would have any --

17 THE COURT: Nothing -- affect on your --

18 PROSPECTIVE JUROR NO. 012: -- relevance or bearing.  
19 No.

20 THE COURT: Have you ever -- you or anyone closely  
21 associated with you ever been arrested for a crime?

22 PROSPECTIVE JUROR NO. 012: No.

23 THE COURT: You ever served on a jury.

24 PROSPECTIVE JUROR NO. 012: No, I have not.

25 THE COURT: Do you think you could be fair in this

ROUGH DRAFT TRANSCRIPT

004519

1 case?

2 PROSPECTIVE JUROR NO. 012: Yes.

3 THE COURT: All right. Questions; pass for cause?

4 MR. LALLI: Thank you, Your Honor. Mr. Humphries, I  
5 would like to ask if there is anything that His Honor hasn't  
6 specifically asked you that you think is important for us to  
7 know about your ability to be a fair juror in this case?

8 PROSPECTIVE JUROR NO. 012: No. Just simply --  
9 well, I -- prior to my law enforcement background, I did work  
10 -- I'm a licensed drug and alcohol counselor for the State of  
11 Nevada. So, I worked at West Care for a number of years.  
12 That's how I broke into the field.

13 And so, I did drug and alcohol treatment, and  
14 handled some cases that -- within the scope of drug and  
15 alcohol -- drugs and alcohol, that there was domestic violence  
16 that occurred. And so, sometimes, I would oversee or manage  
17 those cases. And I mean, that's kind of like a --

18 MR. LALLI: Do you think based upon -- I'm sorry. I  
19 didn't mean to interrupt you.

20 PROSPECTIVE JUROR NO. 012: I'm sorry.

21 MR. LALLI: No, no, no. But based upon that  
22 background, do you think you are not qualified to be a juror I  
23 this case?

24 PROSPECTIVE JUROR NO. 012: No, no.

25 MR. LALLI: You can still -- and the hallmark here

ROUGH DRAFT TRANSCRIPT

004520

1 is really whether you can be fair to both the State and the  
2 defense. Sounds like you can probably do that?

3 PROSPECTIVE JUROR NO. 012: Yes.

4 MR. LALLI: Okay. As -- in your capacity as  
5 director, whatever your specific title is over at juvenile  
6 detention, do you have a lot of contacts with members of law  
7 enforcement, or are you more of an administrator? Obviously,  
8 your staff is law enforcement. But outside law enforcement  
9 agencies, such as Las Vegas Metro, North Las Vegas, that sort  
10 of thing?

11 PROSPECTIVE JUROR NO. 012: Yeah. From time to  
12 time, more administrative type meetings with captains, or  
13 sometimes the undersheriff. And --

14 MR. LALLI: Understood.

15 PROSPECTIVE JUROR NO. 012: And even prior to  
16 detention manager, I was chief of youth parole. So, I would  
17 be involved in meetings with the sheriff.

18 MR. LALLI: I take it you don't -- you don't hang  
19 out in booking, and chat with the officers who are arresting  
20 juveniles?

21 PROSPECTIVE JUROR NO. 012: Well, I do like to think  
22 that I'm a hands-on manager. But yeah -- but, no, I --

23 MR. LALLI: I -- understanding that. But --

24 PROSPECTIVE JUROR NO. 012: I mean, typically, yeah,  
25 that's a function. I mean, I am on campus and walking my

ROUGH DRAFT TRANSCRIPT

004521

1 hallways. But overall, there are other functions, and duties,  
2 and meetings that we participate in that are more -- you know,  
3 that -- where we out-source to. You know, again, Community  
4 Resources, and Las Vegas Metropolitan Police, North Las Vegas;  
5 we certainly meet with them regularly.

6 MR. LALLI: Ms. Mercer read out a list of witnesses.  
7 Several of those are Las Vegas Metropolitan Police officers.  
8 Did you recognize any of those names?

9 PROSPECTIVE JUROR NO. 012: No.

10 MR. LALLI: Mr. O'Keefe indicated a number of  
11 witnesses. I believe one of those is a counselor. Did you  
12 recognize any of those names at all?

13 PROSPECTIVE JUROR NO. 012: No.

14 MR. LALLI: You started to tell us your background  
15 in terms of how you got to your current position. What's your  
16 educational background?

17 PROSPECTIVE JUROR NO. 012: I have a bachelor's in  
18 sociology. And West Care was fortunate enough in the early  
19 90's to provide me with employment, and that's where I started  
20 out. And then, of course, had moved along, and worked a stint  
21 with Child Protective Services.

22 MR. LALLI: Are you post-certified?

23 PROSPECTIVE JUROR NO. 012: Yes.

24 MR. LALLI: Do you need that technically for your  
25 position, or did you acquire that in your journey to your

ROUGH DRAFT TRANSCRIPT

004522

1 current position?

2 PROSPECTIVE JUROR NO. 012: I acquired it in my  
3 journey, and I just maintain it. I'm a cat 2 -- category 2.

4 MR. LALLI: Your Honor, I don't have any additional  
5 questions. We would pass for cause.

6 THE COURT: All right. Mr. O'Keefe, questions; pass  
7 for cause?

8 MR. O'KEEFE: Just a couple questions, Your Honor.  
9 It's Mr. Humphries, right?

10 PROSPECTIVE JUROR NO. 012: Yes, sir.

11 MR. O'KEEFE: I'm sorry, Mr. Humphries. I'm very  
12 tired, and my hearing is not the greatest, and my eyesight.  
13 Did I hear you -- were you an ex-veteran?

14 PROSPECTIVE JUROR NO. 012: No.

15 MR. O'KEEFE: Okay. And you said you're a police  
16 officer; you work in a school? I'm sorry.

17 PROSPECTIVE JUROR NO. 012: I'm in -- I'm a peace  
18 officer, yes.

19 MR. O'KEEFE: A peace officer.

20 PROSPECTIVE JUROR NO. 012: Yeah. I manage the  
21 juvenile detention facility.

22 MR. O'KEEFE: Juvenile detention?

23 PROSPECTIVE JUROR NO. 012: So.

24 MR. O'KEEFE: Is anybody in your family an attorney?

25 PROSPECTIVE JUROR NO. 012: No, no, no.

ROUGH DRAFT TRANSCRIPT

004523

1 MR. O'KEEFE: Do you have any friends that are  
2 attorneys in Las Vegas?

3 PROSPECTIVE JUROR NO. 012: Yes, yes.

4 MR. O'KEEFE: And that's who? Or --

5 PROSPECTIVE JUROR NO. 012: Chris Rassmussen. I  
6 mean, that's probably the -- someone I would consider to be a  
7 friend, yes.

8 MR. O'KEEFE: Okay.

9 PROSPECTIVE JUROR NO. 012: And various colleagues  
10 in the field.

11 MR. O'KEEFE: [Inaudible]. Okay. You would  
12 probably be in a good position then to -- this would probably  
13 be a good question for you, Mr. Humphries. Because being a  
14 peace officer, correct, do you believe that all evidence  
15 possibly is -- obvious evidence, that you should absolutely,  
16 obviously collect?

17 Do you think that should be done? Do you think it's  
18 part of the duty, or a job to the community, being a peace  
19 officer, if an alleged crime has supposedly happened?

20 PROSPECTIVE JUROR NO. 012: Sure. If an alleged  
21 crime has happened, it's vital to secure that scene -- that  
22 crime scene.

23 MR. O'KEEFE: And the evidence should be turned  
24 over, and properly presented, and any pretrial hearings or  
25 whatever --

ROUGH DRAFT TRANSCRIPT

004524

1 PROSPECTIVE JUROR NO. 012: There's --

2 MR. O'KEEFE: -- made available for you to decide?

3 PROSPECTIVE JUROR NO. 012: There is a chain of  
4 evidence that occurs, and --

5 MR. O'KEEFE: And if it's agreed or approved by the  
6 Honor (sic), and it's relevant evidence, it should be heard by  
7 the jury, right?

8 PROSPECTIVE JUROR NO. 012: Correct.

9 MR. O'KEEFE: Okay. Thank you. No further  
10 questions.

11 THE COURT: Pass for cause? Do you pass for cause?

12 MR. O'KEEFE: Yes, Your Honor.

13 THE COURT: Thank you.

14 MR. O'KEEFE: I'm sorry, Your Honor.

15 THE COURT: No, that's fine. That's fine.

16 MR. O'KEEFE: I apologize.

17 THE COURT: David Patton?

18 PROSPECTIVE JUROR NO. 013: Yes, sir.

19 THE COURT: How long you been in this area, sir?

20 PROSPECTIVE JUROR NO. 013: 12 and-a-half years.

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

22 PROSPECTIVE JUROR NO. 013: I'm sorry?

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

24 PROSPECTIVE JUROR NO. 013: I'm retired.

25 THE COURT: What did you do when you worked?

ROUGH DRAFT TRANSCRIPT

004525



1 PROSPECTIVE JUROR NO. 013: I worked for Xerox  
2 Corporation for 27 and-a-half years.

3 THE COURT: Get that a little farther from your  
4 mouth. It's making a noise. That's good.

5 PROSPECTIVE JUROR NO. 013: Okay.

6 THE COURT: Maybe try that. All right?

7 PROSPECTIVE JUROR NO. 013: Retired from Xerox --

8 THE COURT: All right, and you're retired now. Are  
9 you married?

10 PROSPECTIVE JUROR NO. 013: Yes, sir.

11 THE COURT: Does your wife work, or is she retired?

12 PROSPECTIVE JUROR NO. 013: She's retired also.

13 THE COURT: What did she do?

14 PROSPECTIVE JUROR NO. 013: State of California  
15 unemployment department.

16 THE COURT: All right. Children?

17 PROSPECTIVE JUROR NO. 013: She has two; I have two.

18 THE COURT: What do they do for a living? Just give  
19 me the general --

20 PROSPECTIVE JUROR NO. 013: Her one son, which is  
21 the twin to this one, he works in the canopy industry for  
22 construction, scaffolding. Her other son is a bank vice  
23 president of some company I don't remember. My son is an IT  
24 specialist in the State of California. And my daughter is a  
25 fifth grade teacher in [inaudible].

ROUGH DRAFT TRANSCRIPT

004526

1 THE COURT: All right, good. Good family. Have you  
2 ever been in the military?

3 PROSPECTIVE JUROR NO. 013: Four and-a-half years in  
4 the US Navy.

5 THE COURT: What did you do in the US Navy?

6 PROSPECTIVE JUROR NO. 013: Electronics technician.

7 THE COURT: Nothing to do with military police, to  
8 court marshaling or anything?

9 PROSPECTIVE JUROR NO. 013: No.

10 THE COURT: Have you or anyone closely associated  
11 with you ever been the victim of a crime?

12 PROSPECTIVE JUROR NO. 013: My wife's youngest son's  
13 Avalanche was ripped off in the district when they were  
14 visiting.

15 THE COURT: Did they ever catch the individual?

16 PROSPECTIVE JUROR NO. 013: No. They got the car  
17 back, but they didn't catch the individual.

18 THE COURT: But that's not going to affect your  
19 deliberation, is it?

20 PROSPECTIVE JUROR NO. 013: No.

21 THE COURT: Have you or anyone closely associated  
22 with you ever been arrested for a crime?

23 PROSPECTIVE JUROR NO. 013: No.

24 THE COURT: Have you ever served on a jury before?

25 PROSPECTIVE JUROR NO. 013: Yes, sir.

ROUGH DRAFT TRANSCRIPT

004527

1 THE COURT: How many times?  
2 PROSPECTIVE JUROR NO. 013: Four.  
3 THE COURT: Where?  
4 PROSPECTIVE JUROR NO. 013: California.  
5 THE COURT: All right. I'm just going to go real  
6 quick. The first one, criminal or civil?  
7 PROSPECTIVE JUROR NO. 013: Criminal.  
8 THE COURT: You were picked --  
9 PROSPECTIVE JUROR NO. 013: All of them.  
10 THE COURT: All criminal. You were picked as a  
11 juror?  
12 PROSPECTIVE JUROR NO. 013: Yes, sir.  
13 THE COURT: You deliberated the case?  
14 PROSPECTIVE JUROR NO. 013: Yes, sir.  
15 THE COURT: Were you picked as foreman in any one?  
16 PROSPECTIVE JUROR NO. 013: No.  
17 THE COURT: And without telling me what the verdicts  
18 were, did the jury reach a verdict in each of those four --  
19 PROSPECTIVE JUROR NO. 013: Three of the four.  
20 THE COURT: All right.  
21 PROSPECTIVE JUROR NO. 013: During deliberations --  
22 THE COURT: Well --  
23 PROSPECTIVE JUROR NO. 013: -- on the fourth, they  
24 settled.  
25 THE COURT: All right. All right, sir. You think

ROUGH DRAFT TRANSCRIPT

004528

1 you could be fair in this case?

2 PROSPECTIVE JUROR NO. 013: Yes, sir.

3 THE COURT: All right. Thank you. State,  
4 questions; pass for cause?

5 MS. MERCER: Court's indulgence. Is there anything  
6 that we should know about you that would keep you from being  
7 fair and impartial on this case?

8 PROSPECTIVE JUROR NO. 013: No.

9 MS. MERCER: Have you ever witnessed an incident of  
10 domestic violence?

11 PROSPECTIVE JUROR NO. 013: No, I have not.

12 MS. MERCER: DO you know anybody that's ever been  
13 the victim of domestic violence?

14 PROSPECTIVE JUROR NO. 013: Yes, my aunt.

15 MS. MERCER: Your aunt? Was it some -- was it over  
16 the course of a long period of time, or just a one time --

17 PROSPECTIVE JUROR NO. 013: No. Well, it was over a  
18 period of time. However, I was on my way over seas, so she  
19 was beat to death by one of her boyfriends.

20 MS. MERCER: Oh, so she was actually murdered?

21 PROSPECTIVE JUROR NO. 013: Yeah.

22 MS. MERCER: I take it that was a long time ago,  
23 though?

24 PROSPECTIVE JUROR NO. 013: Quite a few year ago.  
25 Late 60's.

ROUGH DRAFT TRANSCRIPT

004529

1 MS. MERCER: And there's nothing about that  
2 experience that's going to keep you from being fair and  
3 impartial here?

4 PROSPECTIVE JUROR NO. 013: No.

5 MS. MERCER: Pass for cause, Your Honor.

6 THE COURT: All right. Mr. O'Keefe, questions; pass  
7 for cause?

8 MR. O'KEEFE: No questions for this witness.

9 THE COURT: Pass for cause?

10 MR. O'KEEFE: Pass for cause.

11 THE COURT: All right. Brian Leming, is it?

12 PROSPECTIVE JUROR NO. 014: Yes, sir.

13 THE COURT: How long you been in this area?

14 PROSPECTIVE JUROR NO. 014: 48 years.

15 THE COURT: And what do you do for a living, sir?

16 PROSPECTIVE JUROR NO. 014: Sign installer.

17 THE COURT: A what?

18 PROSPECTIVE JUROR NO. 014: Sign installer.

19 THE COURT: All right. Are you married?

20 PROSPECTIVE JUROR NO. 014: Yes.

21 THE COURT: What does your wife do, if she works?

22 PROSPECTIVE JUROR NO. 014: Unemployed.

23 THE COURT: Children?

24 PROSPECTIVE JUROR NO. 014: No children.

25 THE COURT: All right. Have you ever been in the

ROUGH DRAFT TRANSCRIPT

004530

1 military?

2 PROSPECTIVE JUROR NO. 014: Two weeks.

3 THE COURT: Two weeks?

4 PROSPECTIVE JUROR NO. 014: I got arthritis.

5 THE COURT: Okay. So, it was a medical --

6 PROSPECTIVE JUROR NO. 014: Medical discharge.

7 THE COURT: All right. Have -- are you acquainted  
8 with anybody in law enforcement?

9 PROSPECTIVE JUROR NO. 014: Numerous.

10 THE COURT: And why is that?

11 PROSPECTIVE JUROR NO. 014: Just -- they're buddies,  
12 friends.

13 THE COURT: Neighbors, friends?

14 PROSPECTIVE JUROR NO. 014: I have a nephew that's a  
15 Las Vegas Metropolitan Police Department, the sheriff of Ely  
16 County -- or Ely. Numerous Las Vegas Metropolitan Police  
17 Department --

18 THE COURT: All right. Again, the follow up  
19 question. The fact that you know -- or relatives -- police --  
20 in law enforcement, you understand you're not to give greater  
21 weight or lesser weight to a police officer's testimony simply  
22 because they're a police officer. You give it the weight you  
23 deem appropriate; you understand that?

24 PROSPECTIVE JUROR NO. 014: I understand.

25 THE COURT: Have you or anyone closely associated

ROUGH DRAFT TRANSCRIPT

004531

1 with you ever been the victim of a crime?  
2 PROSPECTIVE JUROR NO. 014: Yes.  
3 THE COURT: Who was that?  
4 PROSPECTIVE JUROR NO. 014: It was -- Alexander  
5 Chacon. He --  
6 THE COURT: What?  
7 PROSPECTIVE JUROR NO. 014: Alexander Chacon. He  
8 murdered a guy. He was dismissed. It was self-defense.  
9 THE COURT: I'm still not getting you. I don't know  
10 Alexander Chacon. I mean, I --  
11 PROSPECTIVE JUROR NO. 014: Well, it was a buddy of  
12 mine. A coworker.  
13 THE COURT: Oh, okay. So, there was a coworker of  
14 yours that was charged with a crime?  
15 PROSPECTIVE JUROR NO. 014: Yes.  
16 THE COURT: What was the crime?  
17 PROSPECTIVE JUROR NO. 014: Murder.  
18 THE COURT: Was that here in Las Vegas?  
19 PROSPECTIVE JUROR NO. 014: Yes.  
20 THE COURT: And how long ago?  
21 PROSPECTIVE JUROR NO. 014: Three years.  
22 THE COURT: And he was -- he went to trial?  
23 PROSPECTIVE JUROR NO. 014: He went to trial, and it  
24 was dismissed for --  
25 THE COURT: For whatever reason --

ROUGH DRAFT TRANSCRIPT

004532

1 PROSPECTIVE JUROR NO. 014: Yeah.  
2 THE COURT: -- he didn't get convicted or whatever?  
3 PROSPECTIVE JUROR NO. 014: He didn't get convicted.  
4 THE COURT: All right. And that's not going to  
5 affect your deliberation here, is it?  
6 PROSPECTIVE JUROR NO. 014: No.  
7 THE COURT: Okay. You ever serve on a jury before?  
8 PROSPECTIVE JUROR NO. 014: No, sir.  
9 THE COURT: Could you be fair in this case?  
10 PROSPECTIVE JUROR NO. 014: I don't know. I've been  
11 arrested for domestic violence.  
12 THE COURT: Okay. Okay. I guess I forgot to say,  
13 you or anyone closely associated been arrested for anything?  
14 PROSPECTIVE JUROR NO. 014: Me and my wife.  
15 THE COURT: All right. How long ago was that?  
16 PROSPECTIVE JUROR NO. 014: '91.  
17 THE COURT: That was a long time ago. So, you --  
18 there was some sort of a dispute, and the police showed up; is  
19 that correct?  
20 PROSPECTIVE JUROR NO. 014: Yes, sir.  
21 THE COURT: And the police arrested both of you?  
22 PROSPECTIVE JUROR NO. 014: Yes, sir.  
23 THE COURT: And you both went to --  
24 PROSPECTIVE JUROR NO. 014: Henderson.  
25 THE COURT: -- Clark County Detention Center?

ROUGH DRAFT TRANSCRIPT

004533



1 PROSPECTIVE JUROR NO. 014: Henderson.

2 THE COURT: Henderson? Did you stay overnight?

3 PROSPECTIVE JUROR NO. 014: Yes.

4 THE COURT: And what were the results of that?

5 PROSPECTIVE JUROR NO. 014: Just paid a fine. Lost  
6 my gun rights.

7 THE COURT: Okay. And what about your wife?

8 PROSPECTIVE JUROR NO. 014: Same thing.

9 THE COURT: Okay. Well, is that going to affect  
10 your deliberation in this particular case?

11 PROSPECTIVE JUROR NO. 014: No.

12 THE COURT: Okay. You could be fair and impartial,  
13 both to the State and to the defense?

14 PROSPECTIVE JUROR NO. 014: It's the hardship of --  
15 if it goes to -- or five days is going to kill me work-wise.

16 THE COURT: Mr. Lalli, are you next?

17 MR. LALLI: Yes, Your Honor. Thank you. As an  
18 installer, do you work for YESCO, or?

19 PROSPECTIVE JUROR NO. 014: Federal. Federal Heath.

20 MR. LALLI: Oh, okay.

21 PROSPECTIVE JUROR NO. 014: YESCO is competition.

22 MR. LALLI: Yes Co is the competition?

23 PROSPECTIVE JUROR NO. 014: Yes, they are.

24 MR. LALLI: I meant nothing by it. With respect to  
25 your job, Judge Bonaventure, as most of the judges in the

ROUGH DRAFT TRANSCRIPT

004534

1 courthouse, feel very strongly about a person's responsibility  
2 to be a juror. What sort of an impact will being out of work  
3 for the week have on you?

4 PROSPECTIVE JUROR NO. 014: Financial problems. I'm  
5 already in financial trouble.

6 MR. LALLI: Is it something that is going to  
7 preoccupy your ability to kind of pay attention to what  
8 happens in court? Not that you're not going to be able to --

9 PROSPECTIVE JUROR NO. 014: Yes, it will. It will.

10 MR. LALLI: But is it going to be such a distraction  
11 that you're going to be concerned about what's going on at  
12 home, as opposed to what's going on here?

13 PROSPECTIVE JUROR NO. 014: Yes.

14 MR. LALLI: You -- with respect to your domestic  
15 violence issue that occurred in '91, when Judge Bonaventure  
16 asked you if that would affect your ability to be fair here,  
17 you kind of said, uh, nom, and I heard kind of a stutter up  
18 front. Can you -- what was --

19 PROSPECTIVE JUROR NO. 014: Well, neither one of us  
20 pressed charges on each other. The State did.

21 MR. LALLI: Do you have a problem --

22 PROSPECTIVE JUROR NO. 014: We never went to -- we  
23 never went to trial. But I was presumed guilty because I paid  
24 a fine, and that doesn't sit right with me.

25 MR. LALLI: Leaves a bad taste in your mouth?

ROUGH DRAFT TRANSCRIPT

004535

1 PROSPECTIVE JUROR NO. 014: It leaves a real bad  
2 taste in my mouth.

3 MR. LALLI: Do you think the State should not be  
4 allowed to prosecute people under those circumstances?

5 PROSPECTIVE JUROR NO. 014: Yes.

6 MR. LALLI: Knowing that -- I mean, is that another  
7 reason you could point to why you don't think that this might  
8 not be the correct trial for you?

9 PROSPECTIVE JUROR NO. 014: It could possibly, yes.

10 MR. LALLI: Your Honor, I'm going to challenge for  
11 cause.

12 THE COURT: Mr. O'Keefe, what is your -- any  
13 objection?

14 MR. O'KEEFE: No objection, Your Honor.

15 THE COURT: All right. All right. Report back to  
16 the jury commissioner. The clerk will call another  
17 prospective juror.

18 THE CLERK: Kurt Darby.

19 THE COURT: Kurt Darby, please. How long have you  
20 been in this area, Mr. Darby?

21 PROSPECTIVE JUROR NO. 032: About 16 years.

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

23 PROSPECTIVE JUROR NO. 032: I'm a hod carrier.

24 THE COURT: A what?

25 PROSPECTIVE JUROR NO. 032: Hod carrier. Masonry.

ROUGH DRAFT TRANSCRIPT

004536

1 THE COURT: Oh, masonry. All right. I thought you  
2 said hog, but it's hod.  
3 PROSPECTIVE JUROR NO. 032: Right.  
4 THE COURT: Hod?  
5 PROSPECTIVE JUROR NO. 032: Hod. H --  
6 THE COURT: H-o-d?  
7 PROSPECTIVE JUROR NO. 032: H-o-d.  
8 THE COURT: All right. Are you married?  
9 PROSPECTIVE JUROR NO. 032: Yes, I am.  
10 THE COURT: What does your wife do, if she works?  
11 PROSPECTIVE JUROR NO. 032: She is -- works for a  
12 catering company, Soirees.  
13 THE COURT: Okay. Do you have any children?  
14 PROSPECTIVE JUROR NO. 032: Yes, two.  
15 THE COURT: Do any of them work?  
16 PROSPECTIVE JUROR NO. 032: One works at a  
17 restaurant, and the other one is an at-home mom.  
18 THE COURT: Okay. Have you ever been in the  
19 military?  
20 PROSPECTIVE JUROR NO. 032: No, I haven't.  
21 THE COURT: Are you acquainted with anybody in law  
22 enforcement?  
23 PROSPECTIVE JUROR NO. 032: No, I'm not. Have you  
24 or anyone closely associated with you ever been the victim of  
25 a crime?

ROUGH DRAFT TRANSCRIPT

004537

1 PROSPECTIVE JUROR NO. 032: Yes, I have been.

2 THE COURT: What was that?

3 PROSPECTIVE JUROR NO. 032: It was forgery here in  
4 Las Vegas.

5 THE COURT: You were the victim of forgery?

6 PROSPECTIVE JUROR NO. 032: No, no, no. I was  
7 convicted of it.

8 THE COURT: Okay. That's different, being a victim,  
9 rather than being the defendant.

10 PROSPECTIVE JUROR NO. 032: Yeah. Well, actually, I  
11 was -- I was kind of a victim of it, because I --

12 THE COURT: You were victim of circumstances?

13 PROSPECTIVE JUROR NO. 032: Well, I didn't -- I  
14 didn't forge anything --

15 THE COURT: All right. Well, just tell me, when was  
16 that? How long ago?

17 PROSPECTIVE JUROR NO. 032: It was about 7, 8 years  
18 ago?

19 THE COURT: And it was here in Las Vegas?

20 PROSPECTIVE JUROR NO. 032: Yes, it was.

21 THE COURT: And you were arrested for that?

22 PROSPECTIVE JUROR NO. 032: I was arrested for it.

23 THE COURT: Did you go to court?

24 PROSPECTIVE JUROR NO. 032: I went to court.

25 THE COURT: What were the results of that court?

ROUGH DRAFT TRANSCRIPT

004538

1 PROSPECTIVE JUROR NO. 032: They put me on probation  
2 for three years, and --

3 THE COURT: How many?

4 PROSPECTIVE JUROR NO. 032: Probation for three  
5 years.

6 THE COURT: Was it a felon (sic)?

7 PROSPECTIVE JUROR NO. 032: Yes, it was a felony.

8 THE MARSHAL: You guys got to quit talking. She's  
9 recording.

10 THE COURT: All right. Well, I mean, the fact that  
11 you're a convicted felon, I don't even know if you can serve.  
12 I'm not sure.

13 MR. LALLI: I don't think he can, Your Honor.

14 THE COURT: I don't know. Mr. O'Keefe, the fact  
15 that he's a convicted felon, it's my understanding he can't  
16 serve. Any reason why we shouldn't excuse him?

17 MR. LALLI: Not that I can pick up, Your Honor.

18 MR. O'KEEFE: No, Your Honor.

19 THE COURT: All right. Go report back to the jury  
20 commissioner. Clerk, call another prospective juror.

21 THE CLERK: Robert Santos.

22 THE COURT: And how long have you been in this area,  
23 sir?

24 PROSPECTIVE JUROR NO. 033: 12 years.

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

ROUGH DRAFT TRANSCRIPT

004539

1 PROSPECTIVE JUROR NO. 033: IT.  
2 THE COURT: IT? What is that? Just --  
3 PROSPECTIVE JUROR NO. 033: Computer work.  
4 THE COURT: Computer work?  
5 PROSPECTIVE JUROR NO. 033: Yeah.  
6 THE COURT: That's how much I know about computers,  
7 right? Are you married?  
8 PROSPECTIVE JUROR NO. 033: Yes.  
9 THE COURT: What does your wife do?  
10 PROSPECTIVE JUROR NO. 033: She doesn't work.  
11 THE COURT: Okay. Children?  
12 PROSPECTIVE JUROR NO. 033: She lost her job.  
13 THE COURT: Okay. You got any children?  
14 PROSPECTIVE JUROR NO. 033: Two.  
15 THE COURT: Too young to work?  
16 PROSPECTIVE JUROR NO. 033: One's young, and one is  
17 22.  
18 THE COURT: Does the 22 year-old work?  
19 PROSPECTIVE JUROR NO. 033: No, he's still in  
20 school.  
21 THE COURT: Okay. Have you ever been in the  
22 military?  
23 PROSPECTIVE JUROR NO. 033: No.  
24 THE COURT: Are you acquainted with anybody in law  
25 enforcement?

ROUGH DRAFT TRANSCRIPT

004540

1 PROSPECTIVE JUROR NO. 033: No.

2 THE COURT: Have you or anyone closely associated  
3 with you ever been the victim of a crime?

4 PROSPECTIVE JUROR NO. 033: No, just the vandalism  
5 of vehicles. That's about it.

6 THE COURT: Did they catch the individual?

7 PROSPECTIVE JUROR NO. 033: No.

8 THE COURT: That's not going to affect your  
9 deliberation?

10 PROSPECTIVE JUROR NO. 033: No, not at all.

11 THE COURT: What about you or anyone closely  
12 associated ever been arrested for a crime?

13 PROSPECTIVE JUROR NO. 033: No.

14 THE COURT: You ever served on a jury?

15 PROSPECTIVE JUROR NO. 033: Yes.

16 THE COURT: How many times?

17 PROSPECTIVE JUROR NO. 033: Once. I think it was  
18 last year.

19 THE COURT: Was it a criminal or civil case?

20 PROSPECTIVE JUROR NO. 033: Criminal.

21 THE COURT: And you were picked as a juror?

22 PROSPECTIVE JUROR NO. 033: Yes.

23 THE COURT: You deliberated the case?

24 PROSPECTIVE JUROR NO. 033: Yes.

25 THE COURT: Were you picked as foreman?

ROUGH DRAFT TRANSCRIPT

004541



1 PROSPECTIVE JUROR NO. 033: No.

2 THE COURT: Without telling me what the verdict was,  
3 did you reach a verdict?

4 PROSPECTIVE JUROR NO. 033: Yes.

5 THE COURT: All right. Could you be fair in this  
6 case if you're --

7 PROSPECTIVE JUROR NO. 033: Yes.

8 THE COURT: -- selected as a juror?

9 PROSPECTIVE JUROR NO. 033: Uh-huh.

10 THE COURT: Yes?

11 PROSPECTIVE JUROR NO. 033: Yes.

12 THE COURT: All right. Questions; pass for cause?

13 MS. MERCER: Thank you, Your Honor. Where do you  
14 work as an IT person?

15 PROSPECTIVE JUROR NO. 033: As an IT person?

16 MS. MERCER: Yeah.

17 PROSPECTIVE JUROR NO. 033: For Alternative Offices  
18 here in Vegas.

19 MS. MERCER: Oh, okay. So, you service several  
20 companies?

21 PROSPECTIVE JUROR NO. 033: Yes.

22 MS. MERCER: Okay. And you said that your wife lost  
23 her job?

24 PROSPECTIVE JUROR NO. 033: Yeah, about a year  
25 and-a-half ago.

ROUGH DRAFT TRANSCRIPT

004542

1 MS. MERCER: What did she do before she lost her  
2 job?

3 PROSPECTIVE JUROR NO. 033: She was in accounting,  
4 doing accounting work.

5 MS. MERCER: Accounting work?

6 PROSPECTIVE JUROR NO. 033: Yeah.

7 MS. MERCER: At what kind of business?

8 PROSPECTIVE JUROR NO. 033: Medical -- anywhere,  
9 really. She had like three of them in a row.

10 MS. MERCER: Okay.

11 PROSPECTIVE JUROR NO. 033: The last one was at a  
12 HOA.

13 MS. MERCER: Okay. And what is your 22 year-old  
14 child studying in school?

15 PROSPECTIVE JUROR NO. 033: He's leaning to be a  
16 graphic artist.

17 MS. MERCER: And you indicated that you don't know  
18 anyone that's been the victim of a crime?

19 PROSPECTIVE JUROR NO. 033: Well, I got a bunch of  
20 cousins that were involved in crimes, and ended up getting  
21 deported.

22 MS. MERCER: Okay. So, they were convicted of  
23 crimes?

24 PROSPECTIVE JUROR NO. 033: Yes. Good old three  
25 strikes.

ROUGH DRAFT TRANSCRIPT

004543

1 MS. MERCER: Is there anything about those  
2 experience that would cause you to be --

3 PROSPECTIVE JUROR NO. 033: Not at all.

4 MS. MERCER: -- biased in this case?

5 PROSPECTIVE JUROR NO. 033: Not at all, no.

6 MS. MERCER: Do you think they were treated fairly?

7 PROSPECTIVE JUROR NO. 033: Yeah.

8 MS. MERCER: Have you ever been acquainted with  
9 anyone that's been a victim of domestic violence?

10 PROSPECTIVE JUROR NO. 033: No.

11 MS. MERCER: Have you ever witnessed an incident of  
12 domestic violence?

13 PROSPECTIVE JUROR NO. 033: Not at all.

14 MS. MERCER: If you did --

15 PROSPECTIVE JUROR NO. 033: Oh, yes. Wait, I take  
16 that back. My cousin.

17 MS. MERCER: Your cousin?

18 PROSPECTIVE JUROR NO. 033: Yes.

19 MS. MERCER: Male or female?

20 PROSPECTIVE JUROR NO. 033: He's male.

21 MS. MERCER: Okay. So, his girlfriend --

22 PROSPECTIVE JUROR NO. 033: Yes.

23 MS. MERCER: -- attacked him?

24 PROSPECTIVE JUROR NO. 033: Yeah. Actually, he  
25 attacked her.

ROUGH DRAFT TRANSCRIPT

004544

1 MS. MERCER: Oh, he attacked her?  
2 PROSPECTIVE JUROR NO. 033: Yes.  
3 MS. MERCER: And what did you do?  
4 PROSPECTIVE JUROR NO. 033: It just happened so  
5 fast. I had to pull them apart, basically.  
6 MS. MERCER: Were the police called out?  
7 PROSPECTIVE JUROR NO. 033: No, they weren't.  
8 MS. MERCER: Where did that occur?  
9 PROSPECTIVE JUROR NO. 033: The incident actually  
10 cooled off after a while. After that, never happened.  
11 MS. MERCER: That you're aware of?  
12 PROSPECTIVE JUROR NO. 033: Yeah.  
13 MS. MERCER: Was that here in Las Vegas?  
14 PROSPECTIVE JUROR NO. 033: It was a long time ago  
15 in San Bruno, California, actually.  
16 MS. MERCER: Okay.  
17 PROSPECTIVE JUROR NO. 033: Yeah.  
18 MS. MERCER: Why were the police not called?  
19 PROSPECTIVE JUROR NO. 033: The situation cooled  
20 down, basically. And never heard of any other incidents after  
21 that.  
22 MS. MERCER: You felt like it was under control.  
23 PROSPECTIVE JUROR NO. 033: I think it was an  
24 isolated incident. And it was both of them, actually.  
25 MS. MERCER: Had they been drinking, or?

ROUGH DRAFT TRANSCRIPT

004545

1 PROSPECTIVE JUROR NO. 033: Yeah.

2 MS. MERCER: Alcohol was involved?

3 PROSPECTIVE JUROR NO. 033: Yes.

4 MS. MERCER: Do you think that alcohol abuse or  
5 substance abuse can excuse acts of domestic violence?

6 PROSPECTIVE JUROR NO. 033: That's hard to say.

7 MS. MERCER: Well, let me rephrase it this way. Do  
8 you think that just because someone's under the influence of  
9 alcohol or some sort of controlled substance, they shouldn't  
10 be held accountable for their actions when they abuse someone?

11 PROSPECTIVE JUROR NO. 033: That's a hard question,  
12 really. I'm having a tough time answering that. Only because  
13 of the experience in the past as a kid.

14 MS. MERCER: And what experience would that be?

15 PROSPECTIVE JUROR NO. 033: You know, we all went  
16 through that. Well, I can't say that to everybody. But as  
17 far as drinking, drugs -- I mean, there's people that I feel  
18 do that stuff; it doesn't affect them at all. Do you see what  
19 I'm getting at here? Or am I confusing you?

20 MS. MERCER: You confused me.

21 PROSPECTIVE JUROR NO. 033: I think it does play a  
22 big part in it, too.

23 MS. MERCER: Okay.

24 PROSPECTIVE JUROR NO. 033: That's my opinion.

25 MS. MERCER: Do you think they should face criminal

ROUGH DRAFT TRANSCRIPT

004546

1 charges?

2 PROSPECTIVE JUROR NO. 033: In my opinion, I think  
3 it depends.

4 MS. MERCER: It depends?

5 PROSPECTIVE JUROR NO. 033: Yeah.

6 MS. MERCER: On what?

7 PROSPECTIVE JUROR NO. 033: The situation and the  
8 evidence.

9 MS. MERCER: Okay. The incident with your cousin,  
10 was that the only incident that you've --

11 PROSPECTIVE JUROR NO. 033: Yeah.

12 MS. MERCER: -- ever witnessed?

13 PROSPECTIVE JUROR NO. 033: That was the only one I  
14 ever witnessed. Again, that wasn't even -- I think it was  
15 just a heated thing, just that one time.

16 MS. MERCER: Okay.

17 PROSPECTIVE JUROR NO. 033: Because after that, it  
18 never happened again.

19 MS. MERCER: And how long ago was that?

20 PROSPECTIVE JUROR NO. 033: They stayed together for  
21 the next three years with no other incidents, and ended up  
22 breaking up after that.

23 MS. MERCER: The next three years; is that what you  
24 said?

25 PROSPECTIVE JUROR NO. 033: Um-hum.

ROUGH DRAFT TRANSCRIPT

004547

1 MS. MERCER: Okay. No further questions, Your  
2 Honor.

3 THE COURT: Pass for cause?

4 MS. MERCER: Yes.

5 THE COURT: All right. Questions; pass for cause?

6 MR. O'KEEFE: Yes, Your Honor, just a couple. Thank  
7 you.

8 PROSPECTIVE JUROR NO. 033: Your Honor, can I say  
9 something?

10 THE COURT: Sure.

11 PROSPECTIVE JUROR NO. 033: Before we continue this,  
12 I have no problem being in the jury. But just like the other  
13 guy, I am financially strapped. That's my only problem with  
14 this.

15 THE COURT: Well, you know, ask him questions about  
16 it. I don't like excusing people because of financial --

17 PROSPECTIVE JUROR NO. 033: Yeah.

18 THE COURT: We'd never get a jury; you understand  
19 that? We would never get a jury.

20 PROSPECTIVE JUROR NO. 033: Totally understand.

21 THE COURT: And we've got tons of jury trials going  
22 on every week. Maybe 30 jury trials.

23 PROSPECTIVE JUROR NO. 033: Um-hum.

24 THE COURT: If we do that, we never get a jury. But  
25 if you want to ask him any questions --

ROUGH DRAFT TRANSCRIPT

004548

1 MS. MERCER: Is there something unique about what's  
2 going on in your life right now that causes a severe burden  
3 financially?

4 PROSPECTIVE JUROR NO. 033: Well, the severe burden  
5 is basically the financial, because I'm the only one working,  
6 and the company doesn't pay. They already told me they don't  
7 pay for us being at jury duty. And not only that, mom's died  
8 a couple weeks ago, so that's still fresh in my mind. But --

9 MS. MERCER: I'm sorry, your mother passed a couple  
10 weeks ago?

11 PROSPECTIVE JUROR NO. 033: Yes. A couple weeks  
12 ago.

13 MS. MERCER: So, is that you feel that if you're  
14 selected for jury duty, you might not pay attention to the  
15 evidence that's presented?

16 PROSPECTIVE JUROR NO. 033: Maybe a month -- in two  
17 months from now, I'll be fine. But at this point in time -- I  
18 guess I could sit with it. I mean, the only thing that really  
19 bugs me right now, Your Honor, is the financial burden.  
20 That's it, really. I can handle the --

21 THE COURT: What did your mother die of? Of natural  
22 causes?

23 PROSPECTIVE JUROR NO. 033: Heart attack.  
24 Respiratory problems.

25 THE COURT: Well, you know, I'm getting tired.

ROUGH DRAFT TRANSCRIPT

004549



1 THE COURT: Or hold that against the defendant?  
2 PROSPECTIVE JUROR NO. 008: No.  
3 THE COURT: Have you or anyone closely associated  
4 with you ever been arrested for a crime?  
5 PROSPECTIVE JUROR NO. 008: No.  
6 THE COURT: Have you ever served on a jury before?  
7 PROSPECTIVE JUROR NO. 008: Yes.  
8 THE COURT: How many times?  
9 PROSPECTIVE JUROR NO. 008: Once in Superior Court  
10 in San Diego.  
11 THE COURT: Okay. And it was a jury trial?  
12 PROSPECTIVE JUROR NO. 008: Yes.  
13 THE COURT: Were you picked as a juror?  
14 PROSPECTIVE JUROR NO. 008: Yes.  
15 THE COURT: Were you picked as foreperson?  
16 PROSPECTIVE JUROR NO. 008: I beg your pardon?  
17 THE COURT: Were you picked as foreperson? Foreman?  
18 You know, the foreman of the jury. Everybody --  
19 PROSPECTIVE JUROR NO. 008: No.  
20 THE COURT: Every jury has to have a foreman or  
21 foreperson.  
22 PROSPECTIVE JUROR NO. 008: No. I was one of the --  
23 THE COURT: You've got to be politically correct  
24 now. Foreperson.  
25 PROSPECTIVE JUROR NO. 008: I was just one of the

ROUGH DRAFT TRANSCRIPT

004450

1 jurors.

2 THE COURT: Okay. All right. And did you  
3 deliberate the case?

4 PROSPECTIVE JUROR NO. 008: Yes.

5 THE COURT: Without telling me what the verdict was,  
6 did you reach a verdict? Without telling me what the verdict  
7 was.

8 PROSPECTIVE JUROR NO. 008: Yes.

9 THE COURT: You reached a verdict? Was it a  
10 criminal or civil case?

11 PROSPECTIVE JUROR NO. 008: I'm trying to remember.  
12 It was --

13 THE COURT: Somebody was charged with a crime, or  
14 somebody wanted money; do you know?

15 PROSPECTIVE JUROR NO. 008: Charged with a crime.

16 THE COURT: All right. Do you remember the charge?

17 PROSPECTIVE JUROR NO. 008: I do not.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 008: It was many, many years  
20 ago.

21 THE COURT: Yeah, absolutely. All right. That's  
22 good. That's -- so, you know a little about it. The judge  
23 will instruct you. You'll follow my instructions?

24 PROSPECTIVE JUROR NO. 008: Yes, sir.

25 THE COURT: And you'll -- again, different burden of

ROUGH DRAFT TRANSCRIPT

004451

1 proof in a criminal case. It's beyond a reasonable doubt. IN  
2 a civil case, it's a preponderance of the evidence. But I'll  
3 instruct you that, you understand? And you could be fair in  
4 this case?

5 PROSPECTIVE JUROR NO. 008: Yes.

6 THE COURT: Thank you. State, questions; pass for  
7 cause?

8 MS. MERCER: Thank you, Your Honor. Good afternoon.

9 PROSPECTIVE JUROR NO. 008: Hello.

10 MS. MERCER: Have you ever witnessed an incident of  
11 domestic violence?

12 PROSPECTIVE JUROR NO. 008: Yes.

13 MS. MERCER: And when was that?

14 PROSPECTIVE JUROR NO. 008: It was in 1976 in  
15 another country.

16 MS. MERCER: In another country? When you witnessed  
17 the incident, what did you do, if anything?

18 PROSPECTIVE JUROR NO. 008: There wasn't anything I  
19 could do. In that particular environment in that country,  
20 women don't have the right to fight back.

21 MS. MERCER: Okay. What country would that have  
22 been?

23 PROSPECTIVE JUROR NO. 008: It was in Morocco.

24 MS. MERCER: Okay. And what exactly did you  
25 witness, if you don't mind my asking?

ROUGH DRAFT TRANSCRIPT

004452

1 PROSPECTIVE JUROR NO. 008: There were two  
2 incidences, actually. One was, a man threw his motorcycle  
3 helmet at like -- as hard as he possibly could at a woman.  
4 And the other one was out in the street, and there were people  
5 all gathered around. And I was shocked.

6 MS. MERCER: The incident in the street, what was  
7 it? What was he doing to her?

8 PROSPECTIVE JUROR NO. 008: Beating her up.

9 MS. MERCER: With his fists?

10 PROSPECTIVE JUROR NO. 008: Yeah.

11 MS. MERCER: And nobody intervened?

12 PROSPECTIVE JUROR NO. 008: No.

13 MS. MERCER: If you were to witness an incident  
14 here, would you contact the police?

15 PROSPECTIVE JUROR NO. 008: Absolutely.

16 MS. MERCER: And why?

17 PROSPECTIVE JUROR NO. 008: Because we have  
18 protection. And I think that -- I think everybody deserves  
19 that.

20 MS. MERCER: Do you have any strong feelings about  
21 domestic violence that would interfere with your ability to  
22 sit in this case?

23 PROSPECTIVE JUROR NO. 008: I don't think so.

24 MS. MERCER: Can you -- if a victim stays in a  
25 relationship after having been physically abused, do you see

ROUGH DRAFT TRANSCRIPT

004453

1 her as being at fault if it should happen again in the future?  
2 In other words, do you lay any blame on her?

3 PROSPECTIVE JUROR NO. 008: I don't know if I lay  
4 blame so much. I mean, I think that she has a choice, and I  
5 don't know that the victim always sees that they have a  
6 choice.

7 MS. MERCER: With regards to that, what -- can you  
8 elaborate on that for me?

9 PROSPECTIVE JUROR NO. 008: There was a neighborhood  
10 family, that the wife was in a psychologically abusive  
11 relationship, and came --

12 MS. MERCER: A neighbor of yours?

13 PROSPECTIVE JUROR NO. 008: -- and came to me.

14 MS. MERCER: Okay. And when was this?

15 PROSPECTIVE JUROR NO. 008: Gosh. It was many, many  
16 years ago.

17 MS. MERCER: Was it in San Diego?

18 PROSPECTIVE JUROR NO. 008: I'm saying ten years --  
19 no, it was here in Las Vegas.

20 MS. MERCER: Las Vegas? And when she came to you, I  
21 think she confided in you as to what was occurring?

22 PROSPECTIVE JUROR NO. 008: Yeah.

23 MS. MERCER: And had the couple been together for a  
24 long time?

25 PROSPECTIVE JUROR NO. 008: Yes.

ROUGH DRAFT TRANSCRIPT

004454

1 MS. MERCER: Was it an ongoing problem?

2 PROSPECTIVE JUROR NO. 008: Yes.

3 MS. MERCER: Okay. So, you can understand why a  
4 victim would stay in a relationship that is abusive, whether  
5 verbally or physically?

6 PROSPECTIVE JUROR NO. 008: Yes.

7 MS. MERCER: And what would some of those reasons  
8 be?

9 PROSPECTIVE JUROR NO. 008: Children.

10 MS. MERCER: In her case, it was the children?

11 PROSPECTIVE JUROR NO. 008: Yes.

12 MS. MERCER: That's why she didn't leave him?

13 PROSPECTIVE JUROR NO. 008: Yes. And lack of any  
14 financial means to support herself.

15 MS. MERCER: So, she was economically dependant on  
16 him as well?

17 PROSPECTIVE JUROR NO. 008: Yes.

18 MS. MERCER: Do you know whether she ever did leave  
19 him?

20 PROSPECTIVE JUROR NO. 008: She did leave.

21 MS. MERCER: And when was that?

22 PROSPECTIVE JUROR NO. 008: What year?

23 MS. MERCER: Well, how far into the relationship?

24 PROSPECTIVE JUROR NO. 008: Oh, gosh. They had five  
25 kids.

ROUGH DRAFT TRANSCRIPT

004455

1 MS. MERCER: Oh, wow. So, a long time?

2 PROSPECTIVE JUROR NO. 008: The littlest was in  
3 diapers, and the oldest was about 12.

4 MS. MERCER: Okay. Were you still neighbors at the  
5 time?

6 PROSPECTIVE JUROR NO. 008: Yes.

7 MS. MERCER: And I take it she told you about it?

8 PROSPECTIVE JUROR NO. 008: Not in great, great  
9 detail, but enough to where I got a picture of -- and I -- the  
10 children had shared with me. I mean, I -- they didn't share  
11 with me details, so much as you can kind of witness the fear  
12 of what they're involved with.

13 MS. MERCER: Okay. But there's nothing about that  
14 experience that would make you be biased in this case?

15 PROSPECTIVE JUROR NO. 008: I don't think so.

16 MS. MERCER: Is there anything that the Judge hasn't  
17 asked you, or that I haven't asked you that you think might  
18 affect your ability to be fair and impartial in this case,  
19 that we should know about?

20 PROSPECTIVE JUROR NO. 008: No.

21 MS. MERCER: No? Thank you. Pass for cause, Your  
22 Honor.

23 THE COURT: All right. Mr. O'Keefe, questions; pass  
24 for cause?

25 MR. O'KEEFE: Yes, a few questions, Your Honor,

ROUGH DRAFT TRANSCRIPT

004456

1 briefly. And it's Ms. Hulbert?

2 PROSPECTIVE JUROR NO. 008: Hulbert.

3 MR. O'KEEFE: Hulbert, ma'am. Hulbert. I  
4 apologize. Pamela. I just want to make -- I heard about your  
5 friend you said had a -- I'm very tired, I apologize. She had  
6 a domestic violence -- that was a DV situation? Was she the  
7 aggressor?

8 PROSPECTIVE JUROR NO. 008: No.

9 MR. O'KEEFE: And was it the only one -- that was  
10 the only event?

11 PROSPECTIVE JUROR NO. 008: That --

12 MR. O'KEEFE: Was that the only situation, the only  
13 call made? Or is there -- the one instance, is what I'm  
14 saying?

15 PROSPECTIVE JUROR NO. 008: No, I think it was  
16 ongoing.

17 MR. O'KEEFE: It was ongoing. Okay, I wanted to be  
18 clear on that. Do you have a computer?

19 PROSPECTIVE JUROR NO. 008: I do.

20 MR. O'KEEFE: Do you use it a lot?

21 PROSPECTIVE JUROR NO. 008: Well, I use computers  
22 all day long. So, when I get home, I'm kind of tired, and  
23 don't feel like it so much. But I do use them.

24 MR. O'KEEFE: Do you have anybody in your family, or  
25 close to you that's an attorney, or works for a law firm, or

ROUGH DRAFT TRANSCRIPT

004457



1 anything like that?

2 PROSPECTIVE JUROR NO. 008: My cousins are married  
3 to divorce attorneys. One's married to a divorce attorney in  
4 LA.

5 MR. O'KEEFE: Okay. That's not weird though.  
6 That's -- [inaudible]. I apologize. Bear with me just one  
7 second --

8 PROSPECTIVE JUROR NO. 008: Sure.

9 MR. O'KEEFE: -- please. And you didn't have  
10 anybody that served in the military?

11 PROSPECTIVE JUROR NO. 008: No.

12 MR. O'KEEFE: And of course, you do feel extremely  
13 that collecting all evidence by police should be done, without  
14 a doubt, and you know, let it be presented, and let the jury  
15 decide, or the judge, or whoever it may be, too? Not to be  
16 like, well, I'll just present this, and I'll kind of forget to  
17 get this, or say I didn't know, or -- you do extremely feel  
18 it's important to collect all evidence for the purpose of  
19 determining if a crime truly happened, correct?

20 PROSPECTIVE JUROR NO. 008: Correct.

21 MR. O'KEEFE: You also would extremely feel that  
22 someone's mental, medical condition would be kind of  
23 imperative of possibly leading to what happened?

24 PROSPECTIVE JUROR NO. 008: I think it's relevant.

25 MR. O'KEEFE: Do you think very relevant, a little

ROUGH DRAFT TRANSCRIPT

004458

1 bit?

2 PROSPECTIVE JUROR NO. 008: I think -- I think it's  
3 -- if it's evidence, it's as important as any other evidence.

4 MR. O'KEEFE: Right. And I guess -- I apologize.  
5 And what I'm trying to get at is, of course -- to me -- or I  
6 guess I'm looking for jurors for the purpose that think like  
7 me. I think it's extremely, extremely needed to know  
8 information. It's the whole -- you know, let the facts -- let  
9 it be as it is. You know, present the evidence.

10 And I think -- and I'm just making sure that maybe I  
11 understand correctly. You feel that -- you do feel it's kind  
12 of important to know? It should be shown?

13 PROSPECTIVE JUROR NO. 008: Yes.

14 MR. O'KEEFE: What's to hide, right? Let it all be  
15 out. Do you feel police can lie?

16 PROSPECTIVE JUROR NO. 008: I certainly think some  
17 people are capable of lying.

18 MR. O'KEEFE: Including police, or?

19 PROSPECTIVE JUROR NO. 008: Including police.

20 THE COURT: Go ahead and keep your voice up, ma'am,  
21 all right? Speak into --

22 PROSPECTIVE JUROR NO. 008: I'm sorry.

23 THE COURT: -- that microphone.

24 PROSPECTIVE JUROR NO. 008: Including police.

25 MR. O'KEEFE: Okay. I'm trying to be careful on how

ROUGH DRAFT TRANSCRIPT

004459

1 I phrase this. Do you think the community, since the State  
2 has brought it up and asked on this long, has a duty to be a  
3 little more careful when they make a call, and should be a  
4 little more sure of what they're saying?

5 Or do you think they should just turn -- excuse me,  
6 Your Honor. I hope I don't step any lines here; automatically  
7 turn circumstantial evidence into supposedly direct evidence,  
8 like they seen something? Am I losing you?

9 PROSPECTIVE JUROR NO. 008: Are you saying that when  
10 someone calls in something, and the way that they describe it  
11 should be taken as evidence?

12 MR. O'KEEFE: Should they be more careful in what  
13 they allege on the so-called call? Since it was brought up  
14 that the community gets involved, they make calls to police,  
15 so on, so on. Okay. Do you think -- would you just make a  
16 call, and just allege things that you never even seen and  
17 didn't know? That's pretty serious.

18 PROSPECTIVE JUROR NO. 008: I think --

19 MR. O'KEEFE: Do you agree?

20 PROSPECTIVE JUROR NO. 008: I think people should be  
21 careful. I don't know that everyone is careful.

22 MR. O'KEEFE: Very well said. Very well said.  
23 Exactly what I was looking for. Very well. I'll pass for  
24 cause.

25 THE COURT: Thank you. Mark -- is it Hagl or Hagl;

ROUGH DRAFT TRANSCRIPT

C04460

1 What is it?  
2 PROSPECTIVE JUROR NO. 011: Hagl.  
3 THE COURT: What is it?  
4 PROSPECTIVE JUROR NO. 011: Hagl. You can say  
5 anything.  
6 THE COURT: All right. All right, sir. How long  
7 have you been in Las Vegas?  
8 PROSPECTIVE JUROR NO. 011: 15 years. Oh. 15  
9 years.  
10 THE COURT: All right. What do you do for a living?  
11 PROSPECTIVE JUROR NO. 011: Just pump fuel for a cab  
12 company.  
13 THE COURT: All right. Are you married?  
14 PROSPECTIVE JUROR NO. 011: No.  
15 THE COURT: Children?  
16 PROSPECTIVE JUROR NO. 011: No.  
17 THE COURT: You ever been in the military?  
18 PROSPECTIVE JUROR NO. 011: Never.  
19 THE COURT: Are you acquainted with anybody in law  
20 enforcement?  
21 PROSPECTIVE JUROR NO. 011: No, I don't have any  
22 friends in town here. Just -- it's only me here.  
23 THE COURT: Just you?  
24 PROSPECTIVE JUROR NO. 011: Yeah.  
25 THE COURT: How long have you been here?

ROUGH DRAFT TRANSCRIPT

004461

1 PROSPECTIVE JUROR NO. 011: I moved here to get away  
2 from San Diego, because people in San Diego messed with me a  
3 lot, so I got out of there.

4 THE COURT: How long have you been here?

5 PROSPECTIVE JUROR NO. 011: People beat my truck up,  
6 and a lot of bad stuff. So, yeah. Yeah. A lot of vandalism;  
7 my first truck.

8 THE COURT: Have you ever been a victim of a crime?

9 PROSPECTIVE JUROR NO. 011: Oh, yes. I've been --  
10 well, in San Diego, I had my jaw dislocated by some big guy  
11 that snuck up behind me, and bam, you know, hit me;  
12 \*dislocated my jaw. And here in town, I was knifed by some  
13 guys in my laundry room, and some guy knifed me.

14 THE COURT: All right. Did they ever catch the  
15 individuals?

16 PROSPECTIVE JUROR NO. 011: I don't know. I have no  
17 idea.

18 THE COURT: But you reported it to the police?

19 PROSPECTIVE JUROR NO. 011: Yes, some police were  
20 there. The ambulance came and got me and all that.

21 THE COURT: Yeah. That's a shame. I'm sorry to  
22 hear that. But is that going to affect your deliberation in  
23 this case?

24 PROSPECTIVE JUROR NO. 011: I don't know, it might.  
25 I just -- I don't know. I really would have -- I have -- I

ROUGH DRAFT TRANSCRIPT

004462

1 have kind of a hate towards people right now.

2 THE COURT: Hate of --

3 PROSPECTIVE JUROR NO. 011: That's just the way I  
4 am. A well-earned hate. Yeah. After my dad died, my mom and  
5 my brother treated me like shit, and they've done a lot of  
6 mean things to me. So, I have a lot of pinned-up hate in me.  
7 And I moved away from there to be away from them.

8 THE COURT: Yeah, I know what you mean. Life's  
9 tough.

10 PROSPECTIVE JUROR NO. 011: Yeah.

11 THE COURT: Any objection we -- perhaps maybe he  
12 gets --

13 MR. LALLI: No, Your Honor.

14 THE COURT: He's been in a lot of experiences, and  
15 he's new to the town, and he hates people. And maybe in  
16 another jury --

17 MR. LALLI: Understood. Yes.

18 THE COURT: -- or maybe in no jury.

19 MR. LALLI: No objection on behalf of the State.

20 THE COURT: Any objection? Do you have any  
21 objection?

22 MR. O'KEEFE: No objection, Your Honor.

23 THE COURT: All right, sir. Well, you know, I hope  
24 you get your life straightened out, and I'm sorry all of that  
25 --

ROUGH DRAFT TRANSCRIPT

004463

1 PROSPECTIVE JUROR NO. 011: No.

2 THE COURT: -- happened to you. Thanks for being  
3 honest --

4 PROSPECTIVE JUROR NO. 011: No, I'm trying to move  
5 out of the state. I'm trying to move up north in another  
6 couple of years to get away from all of it. I am sick of it.

7 THE COURT: Good. Go with that guy, Stevie Nicks,  
8 or something. Maybe he [inaudible] --

9 PROSPECTIVE JUROR NO. 011: Yeah, I'd like that.

10 THE COURT: That would be good, right?

11 PROSPECTIVE JUROR NO. 011: I love [inaudible].

12 THE COURT: Yeah, that's --

13 PROSPECTIVE JUROR NO. 011: Yeah, they're a great  
14 band.

15 (Pause in the proceedings)

16 THE COURT: Well, I'm sorry you have that attitude.  
17 And I hope that you get -- it changes a little. Because you  
18 seem like a nice guy, and I --

19 PROSPECTIVE JUROR NO. 011: Yeah.

20 THE COURT: -- people that hate -- I hope it works  
21 out for you.

22 PROSPECTIVE JUROR NO. 011: Yeah.

23 THE COURT: But thank you. You're excused. Tell  
24 the jury commissioner --

25 PROSPECTIVE JUROR NO. 011: Okay, thank you.

ROUGH DRAFT TRANSCRIPT

004464

1 THE COURT: -- I excused you, all right?

2 PROSPECTIVE JUROR NO. 011: Okay, thank you. I'm  
3 going to miss you, Your Honor.

4 THE COURT: Thank you so much, Mark.

5 PROSPECTIVE JUROR NO. 011: Okay.

6 THE COURT: All right. Clerk, call another  
7 prospective juror.

8 THE CLERK: Polly Thom-Frazier.

9 THE COURT: Got a hyphenated name, huh?

10 PROSPECTIVE JUROR NO. 025: Yeah. Nevada Power  
11 Company hyphenates my name. I don't know why they do that,  
12 but.

13 THE COURT: Okay. How long you been in this area?

14 PROSPECTIVE JUROR NO. 025: 12 years.

15 THE COURT: Do you hate anybody, or what?

16 PROSPECTIVE JUROR NO. 025: I'm sorry.

17 THE COURT: Are you married?

18 PROSPECTIVE JUROR NO. 025: I am.

19 THE COURT: And what do you do for a living?

20 PROSPECTIVE JUROR NO. 025: I don't hate anybody,

21 no.

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

23 PROSPECTIVE JUROR NO. 025: I'm a hairdresser.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 025: Um-hum.

ROUGH DRAFT TRANSCRIPT

004465



1 THE COURT: [Inaudible].  
2 PROSPECTIVE JUROR NO. 025: Do you need a card?  
3 THE COURT: I need something, yeah.  
4 PROSPECTIVE JUROR NO. 025: Sure.  
5 THE COURT: I need something.  
6 PROSPECTIVE JUROR NO. 025: I'll leave it for you,  
7 sure.  
8 THE COURT: I go to this -- I don't know, Great  
9 Clips or Super Cuts.  
10 PROSPECTIVE JUROR NO. 025: Oh, no.  
11 THE COURT: They're terrible. I've got to go an  
12 expensive \$10 haircut I got to get next time. It was only 3  
13 bucks.  
14 PROSPECTIVE JUROR NO. 025: I charge more than that,  
15 so.  
16 THE COURT: So, you're a hairdresser.  
17 PROSPECTIVE JUROR NO. 025: Yes.  
18 THE COURT: You're married.  
19 PROSPECTIVE JUROR NO. 025: Yes.  
20 THE COURT: What does your husband do?  
21 PROSPECTIVE JUROR NO. 025: My husband is currently  
22 unemployed.  
23 THE COURT: Okay. What does he do when he works  
24 then?  
25 PROSPECTIVE JUROR NO. 025: He was a financial

ROUGH DRAFT TRANSCRIPT

004466

1 advisor for a credit card company, and his job got --  
2 THE COURT: Yeah.  
3 PROSPECTIVE JUROR NO. 025: -- outsourced.  
4 THE COURT: Right.  
5 PROSPECTIVE JUROR NO. 025: Yeah.  
6 THE COURT: Do you have any children?  
7 PROSPECTIVE JUROR NO. 025: We do.  
8 THE COURT: Too young to work, right?  
9 PROSPECTIVE JUROR NO. 025: 17 months.  
10 THE COURT: That's really too young.  
11 PROSPECTIVE JUROR NO. 025: So, I'm the --  
12 THE COURT: Have you ever been in the --  
13 PROSPECTIVE JUROR NO. 025: -- sole provider right  
14 now. I'm sorry?  
15 THE COURT: What?  
16 PROSPECTIVE JUROR NO. 025: I said, I'm the sole  
17 provider right now. Yeah.  
18 THE COURT: Oh, sure. I miss my dog, too. But I'm  
19 here. I got to be here.  
20 PROSPECTIVE JUROR NO. 025: I know. I'm here, too.  
21 So, you got to do what you got to do.  
22 THE COURT: Have you ever been in the military?  
23 PROSPECTIVE JUROR NO. 025: I have not.  
24 THE COURT: Are you acquainted with anybody in law  
25 enforcement?

ROUGH DRAFT TRANSCRIPT

004467

1 PROSPECTIVE JUROR NO. 025: I have an uncle in  
2 Wisconsin that's a police officer.

3 THE COURT: Again, there's a follow up question.  
4 You're not to give greater weight or lesser weight to a police  
5 officer's testimony simply because they're a police officer.  
6 You give it the weight you deem necessary. You understand  
7 that?

8 PROSPECTIVE JUROR NO. 025: I do understand, yes.

9 THE COURT: And have you or anyone closely  
10 associated with you ever been a victim of a crime?

11 PROSPECTIVE JUROR NO. 025: I've had my car stolen.

12 THE COURT: Yeah. Here in town?

13 PROSPECTIVE JUROR NO. 025: Yes.

14 THE COURT: Did they ever catch the individual?

15 PROSPECTIVE JUROR NO. 025: No.

16 THE COURT: All right. That's not going to affect  
17 your deliberation?

18 PROSPECTIVE JUROR NO. 025: No.

19 THE COURT: You don't hold any animosity towards the  
20 police?

21 PROSPECTIVE JUROR NO. 025: No.

22 THE COURT: And you don't certainly hold that  
23 against the defendant?

24 PROSPECTIVE JUROR NO. 025: No.

25 THE COURT: Have you or anyone closely associated

ROUGH DRAFT TRANSCRIPT

004468

1 ever been arrested for a crime?

2 PROSPECTIVE JUROR NO. 025: My father.

3 THE COURT: What was he arrested for?

4 PROSPECTIVE JUROR NO. 025: A DUI.

5 THE COURT: How long ago was that?

6 PROSPECTIVE JUROR NO. 025: Just recently. He's had  
7 six. He was in jail for a while.

8 THE COURT: In town here?

9 PROSPECTIVE JUROR NO. 025: No, back in Wisconsin.

10 THE COURT: All right. Was it a misdemeanor DUI?

11 Do you know the results of it? Was anybody hurt in --

12 PROSPECTIVE JUROR NO. 025: He -- no, thank God,  
13 nobody's been hurt. But he is now two years sober.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 025: So, I'm thankful for  
16 that.

17 THE COURT: What were the results of that? Did he  
18 just go to court, and get some --

19 PROSPECTIVE JUROR NO. 025: He went to court, went  
20 to jail --

21 THE COURT: Yeah.

22 PROSPECTIVE JUROR NO. 025: -- for about a year  
23 and-a-half.

24 THE COURT: Oh.

25 PROSPECTIVE JUROR NO. 025: And that's what I think

ROUGH DRAFT TRANSCRIPT

004469

1 finally woke him up, so.

2 THE COURT: All right. Do you think he was treated  
3 fairly?

4 PROSPECTIVE JUROR NO. 025: I do. Um-hum.

5 THE COURT: All right. So, there's no animosity  
6 towards the police, a district attorney, a prosecutor?

7 PROSPECTIVE JUROR NO. 025: No.

8 THE COURT: Have you ever served on a jury?

9 PROSPECTIVE JUROR NO. 025: I've never served on a  
10 jury?

11 THE COURT: Could you be fair in this case?

12 PROSPECTIVE JUROR NO. 025: I think so.

13 THE COURT: All right. Thank you. Questions; pass  
14 for cause, Mr. Lalli?

15 MR. LALLI: Thank you, Your Honor. So, I take it,  
16 based upon your Nevada Power comment, there's -- do you prefer  
17 Thom, or Frazier?

18 PROSPECTIVE JUROR NO. 025: Frazier.

19 MR. LALLI: Okay.

20 PROSPECTIVE JUROR NO. 025: Yeah.

21 MR. LALLI: Ms. Frazier, how long have you been a  
22 beautician?

23 PROSPECTIVE JUROR NO. 025: 20 years.

24 MR. LALLI: I'm sorry?

25 PROSPECTIVE JUROR NO. 025: 20 years.

ROUGH DRAFT TRANSCRIPT

004470

1 MR. LALLI: 20 years.

2 PROSPECTIVE JUROR NO. 025: Um-hum.

3 MR. LALLI: Do you kind of do a role as beautician  
4 and counselor at times?

5 PROSPECTIVE JUROR NO. 025: Yes, sir.

6 MR. LALLI: A lot of people say things in the chair?

7 PROSPECTIVE JUROR NO. 025: A lot. Uh-huh.

8 MR. LALLI: Do you have clients who talk about  
9 things such as domestic violence?

10 PROSPECTIVE JUROR NO. 025: Yes. Um-hum.

11 MR. LALLI: Can you give us some sense of your  
12 experience with that, either maybe it's just what your clients  
13 -- I'd also like to know if you have any personal experience  
14 with it, outside of just [inaudible]?

15 PROSPECTIVE JUROR NO. 025: I don't have any  
16 personal experience, really, with domestic violence, other  
17 than through my clients. I have had a few come through my  
18 chair that have been in abusive relationships where they're  
19 being mentally or physically abusive. And they tell me about  
20 things, you know, that happen to them. And I never, I guess,  
21 feel like it's -- unless I feel like they're in real danger,  
22 or if they come to me, and I feel like they're in danger,  
23 would I call somebody. But I have never felt that way.

24 MR. LALLI: And --

25 PROSPECTIVE JUROR NO. 025: But I have --

ROUGH DRAFT TRANSCRIPT

004471

1 MR. LALLI: I'm sorry.

2 PROSPECTIVE JUROR NO. 025: -- heard some stories.

3 MR. LALLI: Do you do hair only, or do you also do  
4 makeup?

5 PROSPECTIVE JUROR NO. 025: Hair only. Um-hum.

6 MR. LALLI: What are your thoughts on domestic  
7 violence in our community, or any community, for that matter?

8 PROSPECTIVE JUROR NO. 025: I --

9 MR. LALLI: What do you think? I mean, it's a  
10 serious problem, or it's isolated, or our community is  
11 addressing it well? Do you have any feelings on that?

12 PROSPECTIVE JUROR NO. 025: I guess I feel like it's  
13 probably isolated. I don't really feel like -- you know. If  
14 I'd measure it from my clients, I don't feel like I have a lot  
15 of clients that go through stuff like that. I think that  
16 everybody at some point in their life probably gets in a big  
17 fight with somebody, or something like that. But you know, I  
18 don't think it's serious problem, around me, anyway.

19 MR. LALLI: Understood.

20 PROSPECTIVE JUROR NO. 025: Yeah.

21 MR. LALLI: Do you think -- some people think that  
22 what happens in a home ought to stay in a home. Something --  
23 animosity or fighting between a husband and a wife, or  
24 roommates, you know, that occurs in the home, it ought to stay  
25 in the home. Do you believe that, or do you think there are

ROUGH DRAFT TRANSCRIPT

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1 times when the police need to get involved, or prosecutors  
2 have to get involved?

3 PROSPECTIVE JUROR NO. 025: I do believe there's  
4 times police need to get involved. I mean, there are some  
5 people that just aren't equipped to protect themselves. So, I  
6 do believe that, yes.

7 MR. LALLI: Do you also believe there are times when  
8 they shouldn't get involved?

9 PROSPECTIVE JUROR NO. 025: I guess maybe it would  
10 depend on the severity of it.

11 MR. LALLI: All right. So, and I'm not trying to  
12 put words in your mouth, and I certainly don't want to  
13 cross-examine you. So, don't take it that way. But do you  
14 think for example that, well, if it's only a push, it's okay?  
15 Or --

16 PROSPECTIVE JUROR NO. 025: I don't think it's okay  
17 --

18 MR. LALLI: All right.

19 PROSPECTIVE JUROR NO. 025: -- at all. But if it's  
20 only like a push, I think something -- if -- hopefully the  
21 person could handle that themselves, and leave the situation.  
22 I mean, but if they feel like they can't leave the situation,  
23 or if some -- if you -- if I personally knew that a client of  
24 mine isn't able to leave a really bad situation, I would  
25 probably call the police and ask them to help her --

ROUGH DRAFT TRANSCRIPT

004473



1 MR. LALLI: You would want that person --

2 PROSPECTIVE JUROR NO. 025: -- or him.

3 MR. LALLI: -- to get help?

4 PROSPECTIVE JUROR NO. 025: Yes, absolutely. Yeah.  
5 Nobody should be in a situation like that.

6 MR. LALLI: Have you ever seen clients who maybe  
7 have a black eye, or maybe bruising on the body --

8 PROSPECTIVE JUROR NO. 025: No.

9 MR. LALLI: -- from domestic violence?

10 PROSPECTIVE JUROR NO. 025: I have not seen that.

11 MR. LALLI: A lot of times, domestic violence cases  
12 are he said/she said kind of situations. How do you think, if  
13 the police are called out -- maybe the neighbors call the  
14 police, they come out. How do you think the police ought to  
15 decide who's telling the truth here? Did it happen; didn't it  
16 happen? What would you want to do if you were a police  
17 officer?

18 PROSPECTIVE JUROR NO. 025: That's probably why I'm  
19 not a police officer. You know, I guess I would just -- if I  
20 were, I'd try to assess the situation as best as I could to my  
21 training, and decide. I mean, I've even heard on the news  
22 that they are trained to know if you're texting and driving.  
23 So, I'm sure they're trained to realize who's telling the  
24 truth, and who's not --

25 MR. LALLI: Would you be --

ROUGH DRAFT TRANSCRIPT

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1 PROSPECTIVE JUROR NO. 025: -- in situations like  
2 that. I'm sorry.

3 MR. LALLI: Would you be influenced by physical  
4 evidence; maybe bruising on a person's body, on one person or  
5 the other?

6 PROSPECTIVE JUROR NO. 025: Yeah, that would freak  
7 me out.

8 MR. LALLI: Evidence of fresh injury would be  
9 important to you?

10 PROSPECTIVE JUROR NO. 025: Yes.

11 MR. LALLI: What if you knew that a person had a  
12 history of domestic violence; is that important?

13 PROSPECTIVE JUROR NO. 025: Yes, I think so. I  
14 don't know if it's relevant. I have a cousin, who was --  
15 three years ago, she was stabbed in her apartment when she was  
16 in college. And it's -- the case has not been solved to this  
17 day. I don't know if that's --

18 MR. LALLI: You had a cousin who was stabbed?

19 PROSPECTIVE JUROR NO. 025: Yes. She was killed.

20 MR. LALLI: Oh, she was murdered?

21 PROSPECTIVE JUROR NO. 025: Yes. She was 21  
22 years-old.

23 MR. O'KEEFE: Objection, Your Honor.

24 THE COURT: What's the objection?

25 MR. O'KEEFE: I honestly feel he's trying to beat

ROUGH DRAFT TRANSCRIPT

004475

1 down again the negative inference, Your Honor, that there was  
2 an allegation of a battery domestic violence going on. It's  
3 just getting too much --

4 THE COURT: Well --

5 MR. O'KEEFE: Forgive me, Your Honor, for stepping  
6 --

7 THE COURT: That's fine.

8 MR. O'KEEFE: But this is -- he's given an  
9 assumption to the jury. He's --

10 THE COURT: All right. I -- we've already ruled on  
11 that. I'm going to deny, but we'll make a record on it at a  
12 later time. All right?

13 MR. O'KEEFE: It's getting way too close. Thank  
14 you, Your Honor.

15 THE COURT: Go ahead. Proceed.

16 MR. LALLI: With respect to your cousin who was  
17 stabbed, was that here in Las Vegas?

18 PROSPECTIVE JUROR NO. 025: No.

19 MR. LALLI: Where was it?

20 PROSPECTIVE JUROR NO. 025: It was Madison,  
21 Wisconsin.

22 MR. LALLI: You've made several references to  
23 Wisconsin. Is that where your --

24 PROSPECTIVE JUROR NO. 025: That's where I'm from.

25 MR. LALLI: -- family is at?

ROUGH DRAFT TRANSCRIPT

004476

1 PROSPECTIVE JUROR NO. 025: Yes, yes.  
2 MR. LALLI: Are they all from Madison?  
3 PROSPECTIVE JUROR NO. 025: No. We're from  
4 Marshfield.  
5 MR. LALLI: Where?  
6 PROSPECTIVE JUROR NO. 025: It's central Wisconsin.  
7 Marshfield.  
8 MR. LALLI: Oh, Marshfield.  
9 PROSPECTIVE JUROR NO. 025: She went to college in  
10 Madison. Um-hum.  
11 MR. LALLI: Okay. And was she murdered as a college  
12 student?  
13 PROSPECTIVE JUROR NO. 025: Yes.  
14 MR. LALLI: On the -- so it's University of  
15 Wisconsin student?  
16 PROSPECTIVE JUROR NO. 025: Yes.  
17 MR. LALLI: And did you say -- did I hear you say it  
18 was about three years ago?  
19 PROSPECTIVE JUROR NO. 025: About three years ago,  
20 yes. Yeah, it was all over the news.  
21 MR. LALLI: How -- were you very close to your  
22 cousin?  
23 PROSPECTIVE JUROR NO. 025: I babysat her for --  
24 when I lived there. So, yes. And -- yeah, yeah.  
25 MR. LALLI: Did --

ROUGH DRAFT TRANSCRIPT

004477

1 PROSPECTIVE JUROR NO. 025: We were in touch. I  
2 wouldn't say she was like a sister, but we were definitely in  
3 touch.

4 MR. LALLI: Understood. Understood. Did you go  
5 back -- was there some sort of a funeral service or something?

6 PROSPECTIVE JUROR NO. 025: Yeah, I wasn't able to  
7 go back for the funeral. But there was a -- there's been a  
8 couple of like walks for her, and -- to raise money to try to  
9 find the person who did this.

10 MR. LALLI: And was it a total sort of a stranger  
11 situation, as opposed to someone who knew her? Or they just  
12 --

13 PROSPECTIVE JUROR NO. 025: They have no idea.

14 MR. LALLI: Absolutely no lead at all?

15 PROSPECTIVE JUROR NO. 025: Absolutely no idea.

16 MR. LALLI: Now, I asked a lot of people, you know,  
17 what went through your mind when you learned that you could  
18 potentially be a juror on a murder case. So, let me ask you  
19 that.

20 PROSPECTIVE JUROR NO. 025: She went through my  
21 mind.

22 MR. LALLI: I'm sorry?

23 PROSPECTIVE JUROR NO. 025: She went through my mind  
24 immediately.

25 MR. LALLI: And --

ROUGH DRAFT TRANSCRIPT

004478

1 PROSPECTIVE JUROR NO. 025: And it was -- it scared  
2 me a little --

3 MR. LALLI: Okay.

4 PROSPECTIVE JUROR NO. 025: -- to be honest. Yeah.

5 MR. LALLI: And what you need to convey to us as  
6 best you can is your ability to be fair. This is a murder  
7 charge. There is a woman who was killed. We are alleging  
8 that Mr. O'Keefe is responsible for that. Do you think --  
9 knowing that your cousin was murdered, do you think you can be  
10 fair to Mr. O'Keefe?

11 PROSPECTIVE JUROR NO. 025: I guess I can't really  
12 say yes all the way, because I obviously don't know all the  
13 evidence and things. But I think that that will be on my  
14 mind.

15 MR. LALLI: And let me give you an example of how it  
16 could manifest itself. Ms. Mercer and I, we're the  
17 prosecutors. It's our responsibility to prove his guilt  
18 beyond a reasonable doubt. That's the evidentiary burden.  
19 And Judge Bonaventure's going to tell you what beyond a  
20 reasonable doubt means.

21 Let's assume that we present the evidence to you.  
22 And at the conclusion of that, you think, you know, he's  
23 probably guilty. I think I've got some -- a little bit of  
24 reasonable doubt. But this is a murder charge. I know that  
25 this woman probably had family members who loved her. I loved

ROUGH DRAFT TRANSCRIPT

004479

1 my cousin. You know, that crime wasn't solved, but by God,  
2 this one is going to be solved.

3 Do you think that there is a realistic concern that  
4 maybe you won't hold us to our legal burden? Do you  
5 understand what I'm saying?

6 PROSPECTIVE JUROR NO. 025: Yeah, I do. I think I  
7 would hold you to that.

8 MR. LALLI: Okay.

9 PROSPECTIVE JUROR NO. 025: I do. Yeah.

10 MR. LALLI: So, obviously, it's not easy for anyone  
11 to participate in a murder case. There are always things,  
12 better things that we would rather be doing. But in spite of  
13 the experience that you've told us about, and I appreciate  
14 that, do you think you can be fair to us; to Mr. O'Keefe?

15 PROSPECTIVE JUROR NO. 025: No. After what you  
16 said, I kind of think that I could be fair. I think maybe  
17 because of my experience, I would want the right person to be  
18 in jail, not the wrong person. So, you know --

19 MR. LALLI: You think that maybe your -- the concern  
20 is against the prosecution? Like, well, maybe it's -- they've  
21 convinced me beyond a reasonable doubt, but I want it to a  
22 certainty?

23 PROSPECTIVE JUROR NO. 025: No.

24 MR. LALLI: Do you see what I'm saying?

25 PROSPECTIVE JUROR NO. 025: Just beyond a -- if

ROUGH DRAFT TRANSCRIPT

004480

1 there's a -- if it's beyond a reasonable doubt, I --

2 MR. LALLI: Okay. Well, then, explain to me why --  
3 because you said you might have some concern about your  
4 ability to be fair in this case.

5 PROSPECTIVE JUROR NO. 025: Yeah. It's a little  
6 scary. I think -- to me, I think if I see things that I  
7 wasn't ready for, or anything --

8 MR. LALLI: Such as?

9 PROSPECTIVE JUROR NO. 025: Pictures, or anything  
10 like that, I think it might -- I'm afraid it might drum up  
11 some emotions for me, and I'm not sure I'm ready for all of  
12 that.

13 MR. LALLI: If you're a juror, you're going to see  
14 pictures.

15 PROSPECTIVE JUROR NO. 025: Okay.

16 MR. LALLI: Pictures that are unpleasant. Pictures  
17 that, you know, I'd rather not show you. But --

18 PROSPECTIVE JUROR NO. 025: Of course.

19 MR. LALLI: -- that's the fact of the matter, is  
20 you're going to see some of those.

21 PROSPECTIVE JUROR NO. 025: Okay.

22 MR. LALLI: Are you -- and you're the only one who  
23 can tell us this.

24 PROSPECTIVE JUROR NO. 025: Um-hum.

25 MR. LALLI: You're the only one who knows what's

ROUGH DRAFT TRANSCRIPT

004481



1 going on up here. Is this just not the right case for you?  
2 Are you saying, you know what, I understand it's my civic duty  
3 to be a juror, and I want to fulfill my obligations, but give  
4 me a robbery case, or give me a possession of stolen vehicle  
5 case, or a fraud case? Are you telling us that that is the  
6 better case for you because of your personal experience?

7 PROSPECTIVE JUROR NO. 025: That might be a  
8 possibility.

9 MR. LALLI: Maybe -- well --

10 PROSPECTIVE JUROR NO. 025: Yeah. Yes.

11 MR. LALLI: -- don't hold back.

12 PROSPECTIVE JUROR NO. 025: Mostly yes.

13 MR. LALLI: Tell us --

14 PROSPECTIVE JUROR NO. 025: I'll say yes. Yes.

15 Because I think I -- yeah. That might be better suited for  
16 me, maybe.

17 MR. LALLI: Okay. All right. Your Honor, at this  
18 point, based upon the answers we received, I'm going to  
19 challenge for cause. Although there are some other areas I'd  
20 want to go into, but I'm not going to do that, just because I  
21 think --

22 THE COURT: You've had enough time. I mean, you  
23 went through a lot of questions --

24 MR. LALLI: I did.

25 THE COURT: -- Mr. Lalli. We could have [inaudible]

ROUGH DRAFT TRANSCRIPT

004482

1 this quicker. But Mr. O'Keefe, there's a challenge for cause.

2 MR. O'KEEFE: Based on that, Your Honor, I'll go  
3 ahead and pass. And just --

4 THE COURT: Well, what do you mean? You have no  
5 objection for --

6 MR. O'KEEFE: I have no objection. I -- right.  
7 Correct, Your Honor. I have no objections, and I'll --

8 THE COURT: All right. Well, I'm really not sure.  
9 Because you wish-wash; you're here and there. I don't know  
10 what you --

11 PROSPECTIVE JUROR NO. 025: I'm sorry.

12 THE COURT: I wish you would have said it 20 minutes  
13 ago.

14 PROSPECTIVE JUROR NO. 025: Sorry.

15 THE COURT: Report back to the jury commissioner.  
16 Thank you. Clerk, call another prospective juror.

17 THE CLERK: Marisol Sanchez.

18 THE COURT: Ms. Sanchez, how long you been in Las  
19 Vegas?

20 PROSPECTIVE JUROR NO. 028: Three years.

21 THE COURT: Where did you come from?

22 PROSPECTIVE JUROR NO. 028: Arizona.

23 THE COURT: And what did you do in Arizona?

24 PROSPECTIVE JUROR NO. 028: I was a student. High  
25 school.

ROUGH DRAFT TRANSCRIPT

004483

1 THE COURT: Okay. And what do you do for a living?  
2 PROSPECTIVE JUROR NO. 028: Currently, I'm doing an  
3 externship for my school.  
4 THE COURT: All right. Why type of externship?  
5 PROSPECTIVE JUROR NO. 028: Medical assistant.  
6 THE COURT: Okay. Good. Are you married?  
7 PROSPECTIVE JUROR NO. 028: Yes.  
8 THE COURT: What does your husband do?  
9 PROSPECTIVE JUROR NO. 028: He is a cook at Red  
10 Lobster?  
11 THE COURT: Children?  
12 PROSPECTIVE JUROR NO. 028: Yes.  
13 THE COURT: Too young to work?  
14 PROSPECTIVE JUROR NO. 028: A two year-old.  
15 THE COURT: Have you ever been in the military?  
16 PROSPECTIVE JUROR NO. 028: No.  
17 THE COURT: Are you acquainted with anybody in law  
18 enforcement?  
19 PROSPECTIVE JUROR NO. 028: No.  
20 THE COURT: Have you or anyone closely associated  
21 with you ever been the victim of a crime?  
22 PROSPECTIVE JUROR NO. 028: Yes.  
23 THE COURT: What was that?  
24 PROSPECTIVE JUROR NO. 028: My father got shot.  
25 THE COURT: Where?

ROUGH DRAFT TRANSCRIPT

004484

1 PROSPECTIVE JUROR NO. 028: In California.

2 THE COURT: Who shot him?

3 PROSPECTIVE JUROR NO. 028: Some gangster.

4 THE COURT: Okay. So, it was like a gang related  
5 type thing, or?

6 PROSPECTIVE JUROR NO. 028: Well, my father wasn't  
7 related to --

8 THE COURT: No, I didn't -- but some gang --

9 PROSPECTIVE JUROR NO. 028: -- gangs or anything,  
10 but --

11 THE COURT: You think some gang member?

12 PROSPECTIVE JUROR NO. 028: Yeah. We don't know  
13 why.

14 THE COURT: Did they catch the individual?

15 PROSPECTIVE JUROR NO. 028: I believe they did, but  
16 my mother didn't really pinpoint at him. So, I don't know  
17 what happened to him.

18 THE COURT: How long ago was that?

19 PROSPECTIVE JUROR NO. 028: Like 10, 11 years ago.

20 THE COURT: Oh, so you were a kid then?

21 PROSPECTIVE JUROR NO. 028: Yeah.

22 THE COURT: All right.

23 PROSPECTIVE JUROR NO. 028: That's not going to  
24 affect your deliberation here, is it?

25 PROSPECTIVE JUROR NO. 028: No.

ROUGH DRAFT TRANSCRIPT

004485

1 THE COURT: Have you or anyone closely associated  
2 with you ever been arrested for a crime?

3 PROSPECTIVE JUROR NO. 028: I don't think so.

4 THE COURT: You ever serve on a jury before?

5 PROSPECTIVE JUROR NO. 028: No.

6 THE COURT: Could you be fair in this case?

7 PROSPECTIVE JUROR NO. 028: Yes.

8 THE COURT: No problem?

9 PROSPECTIVE JUROR NO. 028: No.

10 THE COURT: All right. State, questions; pass for  
11 cause?

12 MS. MERCER: Thank you, Your Honor. Have you ever  
13 witnessed any incidents of domestic violence?

14 PROSPECTIVE JUROR NO. 028: Yes.

15 MS. MERCER: Against whom?

16 PROSPECTIVE JUROR NO. 028: It was kind of mutual.  
17 They were both being violent to each other.

18 MS. MERCER: Were they strangers, or were they your  
19 friends?

20 PROSPECTIVE JUROR NO. 028: It was my sister.

21 MS. MERCER: Your sister?

22 PROSPECTIVE JUROR NO. 028: Um-hum.

23 MS. MERCER: Your sister and her boyfriend, or your  
24 sister and her husband?

25 PROSPECTIVE JUROR NO. 028: Her husband.

ROUGH DRAFT TRANSCRIPT

004486

1 MS. MERCER: Okay. And when you say mutual, they  
2 were both being physically abusive?

3 PROSPECTIVE JUROR NO. 028: Yes.

4 MS. MERCER: Was that a one time incident, or have  
5 you seen it --

6 PROSPECTIVE JUROR NO. 028: It was -- with them, it  
7 was multiple times. I've never seen it on anybody else. It  
8 was just them.

9 MS. MERCER: Are they still together?

10 PROSPECTIVE JUROR NO. 028: No.

11 MS. MERCER: Who typically initiated the physical  
12 abuse?

13 PROSPECTIVE JUROR NO. 028: Well, I'm not really  
14 sure. I was kind of young. But they usually said it was my  
15 ex in-law -- my ex-brother-in-law.

16 MS. MERCER: Your ex-brother-in-law?

17 PROSPECTIVE JUROR NO. 028: And she just wouldn't  
18 take it, and lash out, too.

19 MS. MERCER: Do you know how long they were  
20 together?

21 PROSPECTIVE JUROR NO. 028: They were together like  
22 6, 7 years.

23 MS. MERCER: Did they have children together?

24 PROSPECTIVE JUROR NO. 028: Yes, they do.

25 MS. MERCER: Is that why she stayed for so long?

ROUGH DRAFT TRANSCRIPT

004487

1 PROSPECTIVE JUROR NO. 028: I think she just wanted  
2 to work it out, because they had just recently gotten married  
3 through church.

4 MS. MERCER: Okay. So, her religion kept her in the  
5 relationship?

6 PROSPECTIVE JUROR NO. 028: It was more like the  
7 family. We all brought it into church, type of thing.

8 MS. MERCER: And she thought things would get  
9 better?

10 PROSPECTIVE JUROR NO. 028: Yeah, because we would  
11 always talk about it, trying to help them out, trying to see  
12 if there was a way to make it stop, or what would happen.

13 MS. MERCER: Okay. Was there anything about that  
14 experience that would cause you to be biased against either  
15 side in this case?

16 PROSPECTIVE JUROR NO. 028: I'm not sure if it  
17 caused me to be biased or not. I mean, it is a personal  
18 experience, and I don't know what the situation is.

19 MS. MERCER: Okay. Well, what causes you to  
20 hesitate?

21 PROSPECTIVE JUROR NO. 028: Well, the fact that it  
22 happened to my sister, and that it was both of them hurting  
23 each other. And they did have kids, and I was involved, even  
24 though I was young. So, that's what really causes me to  
25 hesitate.

ROUGH DRAFT TRANSCRIPT

004488

1 MS. MERCER: Okay. Well, you understand this is a  
2 completely separate case?

3 PROSPECTIVE JUROR NO. 028: Um-hum.

4 MS. MERCER: And do you understand that -- well,  
5 could you hold off on reaching any judgment until you've heard  
6 all the evidence in this case?

7 PROSPECTIVE JUROR NO. 028: Yes.

8 MS. MERCER: And you can be fair and impartial to  
9 the defendant?

10 PROSPECTIVE JUROR NO. 028: Yes.

11 MS. MERCER: You won't say, oh, he's guilty, because  
12 my brother in-law was guilty, right?

13 PROSPECTIVE JUROR NO. 028: No.

14 MS. MERCER: Okay. And you're doing an externship  
15 for --

16 PROSPECTIVE JUROR NO. 028: For a medical assistant.

17 MS. MERCER: -- to become a medical assistant?

18 PROSPECTIVE JUROR NO. 028: Yes.

19 MS. MERCER: And you said you're three years into  
20 your schooling?

21 PROSPECTIVE JUROR NO. 028: It's a nine-month  
22 course.

23 MS. MERCER: Okay.

24 PROSPECTIVE JUROR NO. 028: So, I need to complete  
25 it in order to get a job, and that's why I'm doing my

ROUGH DRAFT TRANSCRIPT

004489



1 externship hours.

2 MS. MERCER: And where are you doing the externship?

3 PROSPECTIVE JUROR NO. 028: I'm doing them over at  
4 Shadow Lane and Alta in the medical office. It's internal  
5 medicine.

6 MS. MERCER: Internal medicine?

7 PROSPECTIVE JUROR NO. 028: Um-hum.

8 MS. MERCER: And how long have you been doing the  
9 externship?

10 PROSPECTIVE JUROR NO. 028: For two weeks. It's  
11 only like a five-week thing.

12 MS. MERCER: Other than your sister and brother, do  
13 you have any other experience -- or ex-brother-in-law; do you  
14 have any experiences with domestic violence?

15 PROSPECTIVE JUROR NO. 028: Not that I can remember.

16 MS. MERCER: Okay. You've never heard neighbors  
17 getting rowdy, or anything like that?

18 PROSPECTIVE JUROR NO. 028: One time, I heard some  
19 lady crying down the street, but I couldn't see anything. So,  
20 I didn't know if it was just, you know, really far, or what  
21 was going on. But it was really late at night, so.

22 MS. MERCER: Were you able to tell where the noise  
23 was coming from?

24 PROSPECTIVE JUROR NO. 028: Yeah. I could tell it  
25 was coming down from a certain street. And I went outside to

ROUGH DRAFT TRANSCRIPT

004490

1 see if I could see something, but I couldn't see anything.

2 MS. MERCER: Okay. And did you -- I take it you  
3 didn't contact the police then?

4 PROSPECTIVE JUROR NO. 028: No.

5 MS. MERCER: And that's because you didn't know what  
6 was going on?

7 PROSPECTIVE JUROR NO. 028: Yeah. I couldn't really  
8 see. They were just having like some kind of party. Because  
9 I could just hear kind of screaming, like a lady screaming.  
10 But I didn't know if it was like a party, or if somebody was  
11 arguing, or what was going on.

12 MS. MERCER: If you had a situation where you had  
13 some neighbors that were -- that were being rowdy, being loud  
14 with one another, but you couldn't really tell what was going  
15 on, would you contact the police?

16 PROSPECTIVE JUROR NO. 028: It depends on how loud  
17 they would be.

18 MS. MERCER: Well, would you be concerned that one  
19 of them might be being hurt?

20 PROSPECTIVE JUROR NO. 028: Yes.

21 MS. MERCER: Would you wait until you knew for  
22 certain that someone had been hurt to contact the police?

23 PROSPECTIVE JUROR NO. 028: No. If I could tell  
24 that somebody was getting hurt, I would probably call the  
25 police immediately.

ROUGH DRAFT TRANSCRIPT

004491

1 MS. MERCER: Okay. And why?

2 PROSPECTIVE JUROR NO. 028: Because maybe that  
3 person can't get to a phone. The other person that's hurting  
4 them can't -- won't let them get to the phone, and they might  
5 need help. They could even die from it. And I mean, I  
6 couldn't live knowing that I didn't help somebody.

7 MS. MERCER: Okay. And I think that's it. Are  
8 there any other questions that we haven't asked you that -- or  
9 any other things that we haven't asked you about that you  
10 think might come into play with your ability to be fair and  
11 impartial in this case?

12 PROSPECTIVE JUROR NO. 028: The only thing I could  
13 think of would be just like the religion thing, and  
14 [inaudible].

15 MS. MERCER: When you say religion, is that because  
16 you think that, because of your religious beliefs, you might  
17 hesitate in your ability to judge another person?

18 PROSPECTIVE JUROR NO. 028: Yes. Simply because I  
19 grew up being taught that you can't really judge someone, even  
20 when you have evidence, because only God judges the person.  
21 So, that's like the only thing that has me hesitating.

22 MS. MERCER: So, if you believed that the State had  
23 met it's burden in proving the allegation in this case beyond  
24 a reasonable doubt, you might not be able to return a verdict  
25 of guilt?

ROUGH DRAFT TRANSCRIPT

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1 PROSPECTIVE JUROR NO. 028: I don't think I really  
2 could.

3 MS. MERCER: Because of your religious beliefs?

4 PROSPECTIVE JUROR NO. 028: Yes.

5 MS. MERCER: Your Honor, at this time, I would  
6 challenge for cause.

7 THE COURT: Mr. O'Keefe?

8 MR. O'KEEFE: No objection, Your Honor.

9 THE COURT: Wish we would have had that the first or  
10 second question. But we're just running out of time here.  
11 You should have said that in the beginning. So, they'll give  
12 you another trial. Go report back to the jury commissioner.  
13 I need a ten-minute recess, all right? Ten minutes.

14 (Court recessed at 2:52 p.m. until 3:07 p.m.)

15 (Within the presence of the prospective jury panel)

16 (Pause in the proceedings)

17 THE MARSHAL: Please remain seated and come to  
18 order. We're back in session.

19 THE COURT: All right. The clerk will call another  
20 prospective juror.

21 THE CLERK: Francisco Aragon.

22 THE COURT: Mr. Aragon, how long have you been in  
23 this area?

24 PROSPECTIVE JUROR NO. 029: 40 years.

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

ROUGH DRAFT TRANSCRIPT

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1 PROSPECTIVE JUROR NO. 029: Right now, currently  
2 unemployed. I was working at a convenience store. And also,  
3 mostly -- most of my career has been with the culinary --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 029: -- food district.

6 THE COURT: Are you married?

7 PROSPECTIVE JUROR NO. 029: Single.

8 THE COURT: Children?

9 PROSPECTIVE JUROR NO. 029: No.

10 THE COURT: Have you ever been in the military?

11 PROSPECTIVE JUROR NO. 029: No.

12 THE COURT: Are you acquainted with anybody in law  
13 enforcement?

14 PROSPECTIVE JUROR NO. 029: No.

15 THE COURT: Have you or anyone closely associated  
16 with you ever been the victim of a crime?

17 PROSPECTIVE JUROR NO. 029: Yes. Back in '98, I was  
18 assaulted. Just this past December, held at gunpoint at the  
19 store where I was working.

20 THE COURT: Yeah. I can imagine, these convenience  
21 stores. Did they catch the individual?

22 PROSPECTIVE JUROR NO. 029: Yes. The first two,  
23 did. The second one, on February 2nd, they didn't find him.  
24 They stole money and alcohol, whatever. Aside from that  
25 point, right now, I have a DUI case with Kephart, which I'm

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1 paying restitution.

2 THE COURT: Um-hum.

3 PROSPECTIVE JUROR NO. 029: Also, I have another  
4 case with domestic violence through Melissa Kephart  
5 (phonetic). So, through the State of Nevada, you know, I  
6 still have that -- I'm going through anger management classes.  
7 Almost done with that. And I think it would be a good thing  
8 not to waste the Court's time, and so I can go ahead and  
9 continue with what I have to do with -- and you know.

10 THE COURT: You're not wasting my time. I mean, the  
11 matter is, if you're qualified to be a juror in this  
12 particular case. If you're not, then you're going to be  
13 assigned another case.

14 PROSPECTIVE JUROR NO. 029: Well, that's --

15 THE COURT: It's not that because you have to do  
16 things -- that's not going to cut. Do you understand?

17 PROSPECTIVE JUROR NO. 029: Um-hum. Okay.

18 THE COURT: It just depends upon whether or not you  
19 are qualified to be a juror in this particular case.

20 PROSPECTIVE JUROR NO. 029: True.

21 THE COURT: That's all we need to be -- concern  
22 ourselves.

23 PROSPECTIVE JUROR NO. 029: Yes, sir.

24 THE COURT: The fact that you need to pay  
25 restitution, or you have this, is neither here, nor there to

ROUGH DRAFT TRANSCRIPT

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1 me, okay?

2 PROSPECTIVE JUROR NO. 029: Yes, sir.

3 THE COURT: But I appreciate your trying to save  
4 time. But the main question is, you've been the victim of  
5 crimes when you're at convenience stores; is that correct?

6 PROSPECTIVE JUROR NO. 029: Yes.

7 THE COURT: And is that going to affect your  
8 deliberation in this particular case?

9 PROSPECTIVE JUROR NO. 029: Probably not. But there  
10 was also another time back in 2010. I was attacked by four  
11 guys, thrown in the middle of the street, almost to get run  
12 over by a truck. So, you know, that's -- you know.

13 THE COURT: What does that have to do with this  
14 case?

15 PROSPECTIVE JUROR NO. 029: Nothing at all.

16 THE COURT: Nothing.

17 PROSPECTIVE JUROR NO. 029: Nothing at all with this  
18 case. No.

19 THE COURT: But I am concerned with -- that you were  
20 arrested -- or you were arrested; is that correct, for DUI?

21 PROSPECTIVE JUROR NO. 029: For DUI, yes.

22 THE COURT: And you have a pending case?

23 PROSPECTIVE JUROR NO. 029: Um-hum.

24 THE COURT: And then, you were arrested for domestic  
25 violence?

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1 PROSPECTIVE JUROR NO. 029: Yes. But I was the --  
2 the State of Nevada went to my work about four days later,  
3 gave me the papers, because it wasn't my roommate against me.  
4 It was the State of Nevada against me, and in the statement  
5 were false allegations.

6 THE COURT: Well, you think you could be fair in  
7 this particular case --

8 PROSPECTIVE JUROR NO. 029: If I'm qualified --

9 THE COURT: -- given the fact that you've had that  
10 experience?

11 PROSPECTIVE JUROR NO. 029: If I'm qualified to be a  
12 juror for this case, yes.

13 THE COURT: Pardon?

14 PROSPECTIVE JUROR NO. 029: If I'm qualified to be a  
15 juror for this case, yes.

16 THE COURT: You ever serve on a jury before?

17 PROSPECTIVE JUROR NO. 029: No, sir.

18 THE COURT: All right. State?

19 MR. LALLI: Thank you. Mr. Aragon, I appreciate you  
20 bringing those things to our attention. I'm sure it's  
21 difficult to talk about at times. But let me start with the  
22 domestic violence issue first, if we could, okay? And you  
23 know, I apologize for asking you these questions, but kind of  
24 what you hit on; we're trying to find people that are  
25 qualified to sit in this case. That's the only reason I'm

ROUGH DRAFT TRANSCRIPT

004497



1 asking you, okay? Were you actually arrested for domestic  
2 violence?

3 PROSPECTIVE JUROR NO. 029: No.

4 MR. LALLI: Then, why is it that you're going to  
5 anger management related to that?

6 PROSPECTIVE JUROR NO. 029: Because I was nervous.  
7 I didn't know what -- you know. Because when they showed up  
8 with the papers at my work, saying that I'm being, you know,  
9 convicted of domestic violence, when my ex-girlfriend --  
10 because we were separated at the time; she invited me, after I  
11 got out of work, to come spend some time with her.

12 She got upset. She hit the second story living room  
13 window. And when she hit it, she cut herself. I grabbed my  
14 backpack, and ran out. I didn't stay there. I didn't see if  
15 she was all right, which is my fault. But I had just gotten  
16 out of work, and she was a little bit inebriated. And I  
17 didn't want to make it look like, you know, I did it, or  
18 nothing like that, because I had just gotten out of work.

19 MR. LALLI: Understood.

20 PROSPECTIVE JUROR NO. 029: And the statements that  
21 I threw her out of the second story window, which is not true,  
22 or else it would be in the hospital records, and she would  
23 have been really hurt, lacerations. And she said that her two  
24 children were at the apartment at the time, which was not  
25 true.

ROUGH DRAFT TRANSCRIPT

004498

1 MR. LALLI: So, when you say they came to your work  
2 with papers, was that a summons into court? Did you actually  
3 come to court?

4 PROSPECTIVE JUROR NO. 029: Yeah.

5 MR. LALLI: And you said Judge -- was that Judge  
6 William Kephart?

7 PROSPECTIVE JUROR NO. 029: No, the Kephart was for  
8 the DUI. Saragosa -- Melissa Saragosa was for the domestic  
9 violence.

10 MR. LALLI: All right. So, you actually came to the  
11 -- Judge Saragosa runs the domestic violence court.

12 PROSPECTIVE JUROR NO. 029: Yes.

13 MR. LALLI: So, you came in. Did you enter a plea  
14 of guilty? Or did you enter into some --

15 PROSPECTIVE JUROR NO. 029: No contendre.

16 MR. LALLI: I'm sorry?

17 PROSPECTIVE JUROR NO. 029: No contendre.

18 MR. LALLI: You plead no contest to domestic  
19 battery?

20 PROSPECTIVE JUROR NO. 029: Right.

21 MR. LALLI: And as a result --

22 PROSPECTIVE JUROR NO. 029: Because I didn't do  
23 anything.

24 MR. LALLI: Understood. You plead guilty -- or you  
25 plead nolo. Why, if you were not guilty? It's easier?

ROUGH DRAFT TRANSCRIPT

604499

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

2  
3       **BRIAN K. O'KEEFE,**  
4                                   Appellant,  
5       vs.  
6       **THE STATE OF NEVADA**  
7                                   Respondent.

**Supreme Court No.:**  
                                  District Court Case No.: 08C250630  
                                  Electronically Filed  
                                  Dec 01 2015 10:59 a.m.  
                                  Tracie K. Lindeman  
                                  Clerk of Supreme Court

8                                   **APPELLANT'S APPENDIX – VOLUME XXIII – PAGES 4400-4599**

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14	Order Denying Defendant's Pro Per Motion for Leave to File Supplemental Petition Addressing all Claims in the First Instance Required by Statute for Judicial Economy with Affidavit filed on 07/15/15	5464-5466
15	Order Denying Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence filed on 03/25/14	4852-4854
16	Order Denying Defendant's Pro Per Motion to Withdraw Counsel for Conflict and Failure to Present Claims When I.A.C. Claims Must be Raised Per Statute in the First Petition Pursuant to Chapter 34 filed on 07/15/15	5461-5463
17	Order Denying Matthew D. Carling's Motion to Withdraw as Attorney of Record for Defendant filed on 11/19/15	5574-5575
18	Order Denying Motion to Disqualify filed on 10/06/14	5037-5040
19	Order filed on 01/30/09	0149
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2	Order Granting and Denying in Part Defendant's Ex-Parte Motion for Production of Documents (Specific) Papers, Pleadings, and Tangible Property of Defendant filed on 02/28/14	4818-4820
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8	Order Granting, in Part, and Denying, in Part, Motion by Defendant O'Keefe for Discovery filed on 08/23/10	1394-1395
9	Order Granting, in Part, and Denying, in Part, Motion by Defendant O'Keefe to Preclude the State from Introducing at Trial Other Act or Character Evidence and Other Evidence Which is Unfairly Prejudicial or Would Violate his Constitutional Rights filed on 09/09/10	1427-1429
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14	Petition for a Writ of Mandamus or in the Alternative Writ of Coram Nobis filed on 12/06/13	4663-4694
15	Petition for Writ of Habeas Corpus or in the Alternative Motion to Preclude Prosecution from Seeking First Degree Murder Conviction Based Upon the Failure to Collect Evidence filed on 01/26/09	0125-0133
16	Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive 1 Based On Subject-Matter of Amended Information Vested in Ninth Circuit by notice of Appeal Then "COA" Granted on a Double Jeopardy Violation with No Remand Issued Since filed on 09/15/14	4940-4949
17	Petitioner's Supplement with Exhibit of Oral Argument Scheduled by the Ninth Circuit Court of Appeals for November 17, 2014, Courtroom #1 filed on 10/01/14	4984-4988
18	Pro Se "Reply to State's Opposition to Defendant's Pro Se Motion to Modify and/or Correct Illegal Sentence filed on 03/04/14	4821-4832
19	ProSe "Reply" to State's Opposition to Defendant's (Ex-Parte) "Motion for Reimbursement of Incidental Costs Subsequent the Courts Declaring Defendant Indigent and Granting Forma Pauperis" filed on 02/24/14	4792-4799
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21	Receipt of Copy filed on 01/12/11	2812
22	Receipt of Copy filed on 01/12/11	2813
23	Receipt of Copy filed on 01/18/11	2876
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25	Receipt of Copy filed on 01/30/09	0146
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16	Reply to State's Response to Defendant's Pro Per Post-Conviction Petition for Habeas Corpus filed on 06/16/15	5423-5432
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23	Return to Writ of Habeas Corpus filed on 01/29/09	0135-0145
24	Second Amended Information filed on 08/19/10	1326-1328
25	State's Opposition to Defendant's (Ex-Parte) "Motion for Reimbursement of Incidental Costs Subsequent the Courts Declaring Defendant Indigent and Granting Forma Pauperis" filed on 02/07/14	4768-4791
26	State's Opposition to Defendant's Motion for a Reasonable Bail filed on 09/27/10	1452-1461
27	State's Opposition to Defendant's Motion for Judicial Notice - The State's Failure to File and Serve the Response in Opposition filed on 03/10/14	4834-4839
28	State's Opposition to Defendant's Motion to Dismiss filed on 03/21/12	3407-3411
29	State's Opposition to Defendant's Motion to Preclude the State from Introducing at Trial Improper Evidence and Argument filed on 01/12/11	2814-2871
30	State's Opposition to Defendant's Motion to Seal Records filed on 04/05/12	3431-3433
31	State's Opposition to Defendant's Motion to Suppress his Statements to Police, or, Alternatively, to Preclude the State from Introducing Portions of his Interrogation filed on 08/17/10	1306-1319
32	State's Opposition to Defendant's Motion to Withdraw Counsel for Conflict and Failure to Present Claims When I.A.C. Claims Must be	

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2	State's Opposition to Defendant's Pro Per Motion for Leave of Court to File Motion. . Rule 2.4 filed on 09/12/14	4935-4939
3	State's Opposition to Defendant's Pro Per Motion to Chief Judge to Reassign Case to Jurist of Reason Based on Pending Suit Against Judge Michael Villani for Proceeding in Clear "Want of Jurisdiction" Thereby Losing Immunity, Absolutely filed on 09/12/14	4930-4934
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11	State's Response and Motion to Dismiss to Defendant's Pro Per Petition for Writ of Habeas Corpus Pursuant to NRS 34.360 Exclusive based on Subject-Matter of Amended Information Vested in Ninth Circuit by Notice of Appeal Then "COA" Granted on a Double Jeopardy Violation with No Remand Issued Since (Post Conviction), Amended Petition and Accompany Exhibits, Opposition to Request for Evidentiary Hearing, and Opposition to Pro Per Motion to Appoint Counsel filed on 10/10/14	5041-5050
12	State's Response to Defendant's Motion to Preclude the State from Introducing at Trial Other Bad Acts or Character Evidence and Other Evidence that is Unfairly Prejudicial or Would Violate his Constitutional Rights filed on 08/16/10	1268-1276
13	State's Response to Defendant's Petition for a Writ of Mandamus or in the Alternative Writ of Coram and Response to Motion to Appoint Counsel filed on 12/31/13	4708-4713
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5	Habeas Corpus," and "Supplement with Notice Pursuant NRS 47.150(2);	
6	NRS 47.140(1), that the United States Supreme Court has Docketed (#14-	
7	10093) the Pretrial Habeas Corpus Matter Pursuant 28 USC 2241(c)(3)	
8	from the Mooting of Petitioner's Section 2241 Based on a Subsequent	
9	Judgment Obtained in Want of Jurisdiction While Appeal Pending" filed	
10	on 07/09/15	5455-5458
11	State's Response to Defendant's Reply in Support of Supplemental Post-	
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20	Conviction) filed on 07/13/15	5459-5460
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1 THE COURT: Okay. Have -- are you -- have you ever  
2 been in the military?

3 PROSPECTIVE JUROR NO. 005: No.

4 THE COURT: Are you acquainted with anybody in law  
5 enforcement?

6 PROSPECTIVE JUROR NO. 005: Not in Nevada, no.

7 THE COURT: In some other state?

8 PROSPECTIVE JUROR NO. 005: Yeah. My aunt and uncle  
9 are New York City cops.

10 THE COURT: Still are, or retired?

11 PROSPECTIVE JUROR NO. 005: One retired, one active.

12 THE COURT: All right. That same follow up  
13 question. It's all right to be acquainted with, or a relative  
14 of a police officer; it's fine. But you just understand, the  
15 law is, you're not to give greater weight or lesser weight to  
16 a police officer's testimony simply because they're a police  
17 officer. You give it the weight you deem appropriate; do you  
18 understand that?

19 PROSPECTIVE JUROR NO. 005: Yes.

20 THE COURT: And you'll follow that?

21 PROSPECTIVE JUROR NO. 005: Yes.

22 THE COURT: Have you or anyone closely associated  
23 with you ever been a victim of a crime?

24 PROSPECTIVE JUROR NO. 005: Yes.

25 THE COURT: What was that?

ROUGH DRAFT TRANSCRIPT

004400



1 PROSPECTIVE JUROR NO. 005: Well, I've had items  
2 stolen from my yard, and I've been mugged here in Nevada, in  
3 Las Vegas.

4 THE COURT: Mugged, meaning like somebody --

5 PROSPECTIVE JUROR NO. 005: Like --

6 THE COURT: -- took your purse or something?

7 PROSPECTIVE JUROR NO. 005: Yeah, like knocked over  
8 the head, pushed over, robbed.

9 THE COURT: That's pretty serious. Did they ever  
10 catch the individuals? Did you report it?

11 PROSPECTIVE JUROR NO. 005: I think they did, but I  
12 don't think -- no. I think they recovered my purse, but the  
13 guy got away.

14 THE COURT: I'm sorry to hear that. But that's not  
15 going to affect your deliberation here, is it?

16 PROSPECTIVE JUROR NO. 005: No.

17 THE COURT: You don't hold that against the police  
18 for not finding --

19 PROSPECTIVE JUROR NO. 005: No.

20 THE COURT: -- the individuals, right? You don't  
21 hold it against the defendant?

22 PROSPECTIVE JUROR NO. 005: No.

23 THE COURT: Have you or anyone closely associated  
24 with you ever been arrested for a crime?

25 PROSPECTIVE JUROR NO. 005: No.

ROUGH DRAFT TRANSCRIPT

004401

1 THE COURT: You ever serve on a jury before?

2 PROSPECTIVE JUROR NO. 005: No.

3 THE COURT: You could be fair in this case?

4 PROSPECTIVE JUROR NO. 005: I could try, yes.

5 THE COURT: All right. Well, I mean, you could be  
6 fair, right?

7 PROSPECTIVE JUROR NO. 005: I will try.

8 THE COURT: Well, I don't like "try." It's a little  
9 hesitant. Why are you hesitant?

10 PROSPECTIVE JUROR NO. 005: Well, I --

11 THE COURT: Why can't you say, sure, Judge, I could  
12 be fair and impartial?

13 PROSPECTIVE JUROR NO. 005: Well, because my sister  
14 has a mental disorder, and she's an alcoholic.

15 THE COURT: Your sister?

16 PROSPECTIVE JUROR NO. 005: My sister, yeah.

17 THE COURT: She's an alcoholic?

18 PROSPECTIVE JUROR NO. 005: She's an alcoholic, and  
19 she's also bipolar.

20 THE COURT: Okay. And these are questions that were  
21 brought up prior?

22 PROSPECTIVE JUROR NO. 005: Yes.

23 THE COURT: And you think that would affect your  
24 deliberation in this case?

25 PROSPECTIVE JUROR NO. 005: At this point, I want to

ROUGH DRAFT TRANSCRIPT

004402

1 say no. But I -- I'm not sure.

2 THE COURT: All right. Mr. Lalli, you want to -- or  
3 Mr. --

4 MS. MERCER: Ma'am, what is it about your sister's  
5 mental health history and --

6 PROSPECTIVE JUROR NO. 005: Well, because she's been  
7 institutionalized a few times, she's been arrested a few  
8 times. And I know -- I'm away from her now, because she still  
9 lives in New York, but her and her boyfriend have a lot of  
10 domestic disputes. Even though I'm not there, you know, I  
11 hear a lot.

12 MS. MERCER: Okay. So, she's been arrested before?

13 PROSPECTIVE JUROR NO. 005: Yeah.

14 MS. MERCER: What types of crimes has she been  
15 arrested for?

16 PROSPECTIVE JUROR NO. 005: Domestic violence.

17 MS. MERCER: That's it?

18 PROSPECTIVE JUROR NO. 005: And she has other -- a  
19 lot of -- she probably has a long list.

20 MS. MERCER: How long has she been in a relationship  
21 with the man --

22 PROSPECTIVE JUROR NO. 005: With him, about 20  
23 years.

24 MS. MERCER: And does he also have a history of --

25 PROSPECTIVE JUROR NO. 005: He's alcoholic, but he's

ROUGH DRAFT TRANSCRIPT

0044^3

1 not bipolar, no.

2 MS. MERCER: Does he have domestic violence arrests  
3 as well?

4 PROSPECTIVE JUROR NO. 005: No.

5 MS. MERCER: Just your sister? So, is it safe to  
6 say that you believe your sister is the aggressor in that  
7 relationship?

8 PROSPECTIVE JUROR NO. 005: Yes.

9 MS. MERCER: Is there anything about your experience  
10 with domestic violence that would prevent you from being fair  
11 and impartial in this case?

12 PROSPECTIVE JUROR NO. 005: I would say no. But  
13 yet, in the back of my mind, it's there, because I always  
14 defend my sister no matter what.

15 MS. MERCER: Can you explain that to me?

16 PROSPECTIVE JUROR NO. 005: Even though she is the  
17 aggressor, you know, I know she has mental problems. And if  
18 she doesn't take her medication, and if she drinks while  
19 taking her medication, she just gets wacko. And I try to  
20 understand that. You know, she needs to take her meds, and --

21 MS. MERCER: And when she lashes out at her  
22 boyfriend, how does her boyfriend respond, if you know?

23 PROSPECTIVE JUROR NO. 005: Well, he tries to  
24 restrain her, but he doesn't get physical with her. And --

25 MS. MERCER: He doesn't lash out back?

ROUGH DRAFT TRANSCRIPT

004404

1 PROSPECTIVE JUROR NO. 005: No.

2 MS. MERCER: Does she have a history of going on and  
3 off of her medication?

4 PROSPECTIVE JUROR NO. 005: Yes.

5 MS. MERCER: And when she's off her medication, does  
6 that tend to be when she's --

7 PROSPECTIVE JUROR NO. 005: Oh, yeah.

8 MS. MERCER: -- the most aggressive?

9 PROSPECTIVE JUROR NO. 005: Yes. Most definitely.

10 MS. MERCER: Does she have any other history of  
11 mental illnesses? Just bipolar disorder?

12 PROSPECTIVE JUROR NO. 005: I'm not sure what the  
13 actual diagnosis is. I don't know if she has depression on  
14 top of it, or --

15 MS. MERCER: Okay.

16 PROSPECTIVE JUROR NO. 005: -- I'm not sure.

17 MS. MERCER: Do you know whether she's ever been  
18 convicted of a domestic violence offense?

19 PROSPECTIVE JUROR NO. 005: That I couldn't answer.  
20 I don't know.

21 MS. MERCER: Have you ever followed closely any of  
22 her domestic violence cases?

23 PROSPECTIVE JUROR NO. 005: Not closely, no.  
24 Because like I said, I'm out here 16, 17 years. So, I haven't  
25 really been close. But my son spends a lot of time staying

ROUGH DRAFT TRANSCRIPT

004405

1 with her in New York, so I hear mostly secondhand.

2 MS. MERCER: Okay. Do you know how the criminal  
3 justice system has dealt with her domestic violence incidents?

4 THE COURT: Well, you know --

5 PROSPECTIVE JUROR NO. 005: No.

6 THE COURT: Just a minute.

7 PROSPECTIVE JUROR NO. 005: No.

8 THE COURT: You know, the time constraint. I mean,  
9 I just want to be sure she could be -- and I mean, you can go  
10 on and on in different questions.

11 PROSPECTIVE JUROR NO. 005: Yeah, yeah.

12 THE COURT: If she's going to be excused, she's  
13 going to be excused. Because -- so, I'd like to really just  
14 delve into, it's going to be in the back of my mind, but could  
15 she set that aside and be fair in this -- I don't want to go  
16 on and on unless she --

17 PROSPECTIVE JUROR NO. 005: Yeah, I --

18 THE COURT: -- unless she says that.

19 PROSPECTIVE JUROR NO. 005: It's hard for me to  
20 answer that directly yes or no.

21 MS. MERCER: So, you can't guarantee us that you  
22 will be fair and impartial in this case?

23 PROSPECTIVE JUROR NO. 005: I could try. I mean, I  
24 can't say yes or no. I'm just like in the middle.

25 MS. MERCER: Well, do you think you would be more

ROUGH DRAFT TRANSCRIPT

004406

1 sympathetic to one side? Is that your issue?

2 PROSPECTIVE JUROR NO. 005: Probably.

3 MS. MERCER: Which side?

4 PROSPECTIVE JUROR NO. 005: The mental disorder  
5 side.

6 MS. MERCER: Court's indulgence, Your Honor. Your  
7 Honor, at this time, I would challenge her for cause.

8 THE COURT: Mr. O'Keefe, it's the type of case where  
9 she's really going to have that in her mind, and she might not  
10 be impartial if she's with the -- do you object to the  
11 challenge for cause, or not?

12 MR. O'KEEFE: No, Your Honor.

13 THE COURT: All right. Thank you, Mr. O'Keefe. I  
14 think it's better. It's a little too close maybe, I don't  
15 know. So, we appreciate your honesty. So, you report back to  
16 the jury -- because they've got a lot of trials going.  
17 They'll get you --

18 PROSPECTIVE JUROR NO. 005: Okay.

19 THE COURT: -- in another -- maybe a car accident --

20 PROSPECTIVE JUROR NO. 005: [Inaudible].

21 THE COURT: -- a medical malpractice, or something  
22 case, where you don't have any --

23 PROSPECTIVE JUROR NO. 005: Not in my heart.

24 THE COURT: Huh?

25 PROSPECTIVE JUROR NO. 005: Not in my heart.

ROUGH DRAFT TRANSCRIPT

004407

1 THE COURT: Yeah. Thank you. But another jury  
2 trial, you'll be a great juror. Thank you very much. Report  
3 back to the jury commissioner for reassignment. The clerk  
4 will call another prospective --

5 PROSPECTIVE JUROR NO. 005: Thank you.

6 THE COURT: -- juror, please.

7 THE CLERK: John Taggart.

8 MR. O'KEEFE: Thank you. Thank you for your time.

9 THE COURT: All right. How long have you been in  
10 town, sir?

11 PROSPECTIVE JUROR NO. 019: 17 years.

12 THE COURT: And what do you do for a living?

13 PROSPECTIVE JUROR NO. 019: I'm embarrassed to say  
14 that I tune guitars --

15 THE COURT: You tune guitars?

16 PROSPECTIVE JUROR NO. 019: -- for the rich and  
17 famous.

18 THE COURT: Huh? Well, that's not -- I don't know  
19 why you're embarrassed. That's great. Do you tune Santana's  
20 guitar?

21 PROSPECTIVE JUROR NO. 019: Right now, I'm working  
22 with Stevie Nicks.

23 THE COURT: Wow, that's pretty good. That's good.  
24 I'm impressed. I'm not -- I'm impressed. Are you married?

25 PROSPECTIVE JUROR NO. 019: Yes, sir.

ROUGH DRAFT TRANSCRIPT

004408



1 THE COURT: What does your wife do? Tune pianos, or  
2 what? What does she do?

3 PROSPECTIVE JUROR NO. 019: She's a -- well, she  
4 used to be a singer, but she's a school teacher now.

5 THE COURT: What grade?

6 PROSPECTIVE JUROR NO. 019: In grammar school, K  
7 through 5.

8 THE COURT: Do you have any kids?

9 PROSPECTIVE JUROR NO. 019: I have a ten year-old.

10 THE COURT: All right. You ever been in the  
11 military?

12 PROSPECTIVE JUROR NO. 019: No, sir.

13 THE COURT: Are you acquainted with anybody in law  
14 enforcement?

15 PROSPECTIVE JUROR NO. 019: Yes, sir.

16 THE COURT: Who's that?

17 PROSPECTIVE JUROR NO. 019: My nephew. He's a -- I  
18 don't know exactly what his title is, but I know he works with  
19 a federal judge. He used to be a San Diego Police officer.

20 THE COURT: He works for a federal judge now?

21 PROSPECTIVE JUROR NO. 019: Yeah. Soon to be  
22 retired.

23 THE COURT: Maybe he's a marshal or something?

24 PROSPECTIVE JUROR NO. 019: I don't believe he's a  
25 marshal, no.

ROUGH DRAFT TRANSCRIPT

004409

1 THE COURT: Okay. Well, in any event, do you  
2 understand you're not to give greater weight or lesser weight  
3 to a police officer's testimony simply because they're a  
4 police officer; you understand that?

5 PROSPECTIVE JUROR NO. 019: Yes, sir.

6 THE COURT: And the fact that your nephew works for  
7 a federal judge -- who's the federal judge, by the way?

8 PROSPECTIVE JUROR NO. 019: I do not know.

9 THE COURT: It's here in Las Vegas?

10 PROSPECTIVE JUROR NO. 019: It's in San Diego.

11 THE COURT: Oh, okay. And that's not going to  
12 affect your deliberation?

13 PROSPECTIVE JUROR NO. 019: No.

14 THE COURT: Have you ever been in the military?

15 PROSPECTIVE JUROR NO. 019: No, sir.

16 THE COURT: Have you or anyone closely associated  
17 with you ever been the victim of a crime?

18 PROSPECTIVE JUROR NO. 019: Unfortunately, yes.

19 THE COURT: What's that?

20 PROSPECTIVE JUROR NO. 019: In 1982, my landlady's  
21 son was stabbed on our front lawn, and died.

22 THE COURT: All right. So -- but you weren't the  
23 victim of that?

24 PROSPECTIVE JUROR NO. 019: No, sir.

25 THE COURT: And you weren't arrested for that?

ROUGH DRAFT TRANSCRIPT

004410

1 PROSPECTIVE JUROR NO. 019: No, sir.

2 THE COURT: It's just something that you -- did you  
3 observe that, or you just seen it afterwards when they were  
4 investigating?

5 PROSPECTIVE JUROR NO. 019: It was -- I arrived  
6 after the fact.

7 THE COURT: Okay. All right. Well, then, again,  
8 you weren't the victim of that. But it was a -- very tragic  
9 thing, your landlord's son; is that correct?

10 PROSPECTIVE JUROR NO. 019: Yes.

11 THE COURT: Ex-landlord? That's not going to affect  
12 your deliberation in this case, is it?

13 PROSPECTIVE JUROR NO. 019: No, sir.

14 THE COURT: And you or anyone closely associated  
15 with you ever been arrested for a crime?

16 PROSPECTIVE JUROR NO. 019: No, sir.

17 THE COURT: Have you ever served on a jury before?

18 PROSPECTIVE JUROR NO. 019: No, sir.

19 THE COURT: Have you ever served on a jury in the  
20 past?

21 PROSPECTIVE JUROR NO. 019: No.

22 THE COURT: You're going to be able to follow my  
23 instructions of law?

24 PROSPECTIVE JUROR NO. 019: Yes, sir.

25 THE COURT: Could you promise me you'll be fair and

ROUGH DRAFT TRANSCRIPT

004411

1 impartial in this case?

2 PROSPECTIVE JUROR NO. 019: Yes.

3 THE COURT: Thank you. Questions; pass for --

4 PROSPECTIVE JUROR NO. 019: Your Honor?

5 THE COURT: Yes.

6 PROSPECTIVE JUROR NO. 019: I only have one little

7 problem. I'm leaving town Saturday.

8 THE COURT: Where are you going?

9 PROSPECTIVE JUROR NO. 019: On the road.

10 THE COURT: On the road again with Willie?

11 PROSPECTIVE JUROR NO. 019: With Stevie. Bad

12 timing.

13 THE COURT: I mean, do you have like prepaid -- you

14 get on a bus or something; is that what you do?

15 PROSPECTIVE JUROR NO. 019: Yes, I have my --

16 THE COURT: I don't know what you rock people do.

17 You get on a bus?

18 PROSPECTIVE JUROR NO. 019: Yes, sir.

19 THE COURT: And you go tour all the --

20 PROSPECTIVE JUROR NO. 019: We're -- well, I'm

21 leaving to rehearse at Sony Studios. And then, we're flying

22 to New York to jump on a bus. But --

23 THE COURT: You know, I'm very particular about jury

24 service. I always say, there's only two times you can serve

25 your country. One in time of war in the field of battle, and

ROUGH DRAFT TRANSCRIPT

004412

1 the other is jury service. But for juries, we can't do  
2 anything. You understand that?

3 PROSPECTIVE JUROR NO. 019: Yes, sir.

4 THE COURT: So, I'm very particular about that. And  
5 sometime, in this particular case, a juror is ill equipped, or  
6 you know, because of their experience, they can't serve. So,  
7 I assign -- we assign them to another court.

8 But, same token. I understand some excuses,  
9 disability, you can't sit here, or maybe a pre -- a trip like  
10 that that's, you know, going to cost a lot of money, you're  
11 scheduled to go, and -- so, I don't want to -- you know. I  
12 think we might be finished by Thursday, Friday. But it might  
13 not. I can't promise that at this -- I can promise when we  
14 get closer to it, I could give you a better schedule.

15 But listen, I don't want to prevent you from doing  
16 that, because you do have to go to New York, you probably have  
17 prepaid trips. Any objection we excuse him at this time?  
18 We'll get him next time real good, all right, Mr. Lalli?

19 MR. LALLI: Right. We have no objection, Your  
20 Honor.

21 THE COURT: Mr. O'Keefe, is there any objections to  
22 that?

23 MR. O'KEEFE: Yes and no. But ultimately, no, Your  
24 Honor.

25 THE COURT: So, you have no objections to me

ROUGH DRAFT TRANSCRIPT

004413

1 excusing him?

2 MR. O'KEEFE: No, Your Honor. I understand.

3 THE COURT: All right. Thank you, Mr. --

4 MR. O'KEEFE: Thank you, Your Honor.

5 THE COURT: All right. Go take care of your  
6 business, and we'll get you next time.

7 PROSPECTIVE JUROR NO. 019: Thank you, sir.

8 THE COURT: Just go back to the jury commissioner,  
9 tell them I excused you because of this prepaid trip you've  
10 got.

11 PROSPECTIVE JUROR NO. 019: Sir, I did want to let  
12 you know that I did bring my flight itinerary, just to -- if  
13 there was any questions.

14 THE COURT: You know, you got a nice honest face. I  
15 trust you, all right?

16 (Pause in the proceedings)

17 THE COURT: Thank you, sir. Clerk, call another  
18 prospective juror.

19 THE CLERK: Linda Bellew.

20 THE COURT: Linda?

21 MR. O'KEEFE: Thank you for your time.

22 PROSPECTIVE JUROR NO. 021: Thank you.

23 MR. LALLI: Your Honor, can we approach? I'm sorry.

24 THE COURT: Yes.

25 MR. LALLI: Just very quickly.

ROUGH DRAFT TRANSCRIPT

004414

(Off-record bench conference)

THE COURT: All right. What do we got, Linda Bellew -- Bellew, is it?

PROSPECTIVE JUROR NO. 021: Bellew.

THE COURT: Like Cat Ballou?

PROSPECTIVE JUROR NO. 021: No, not -- no.

THE COURT: No? How long have you been in Las Vegas?

PROSPECTIVE JUROR NO. 021: 21 years.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR NO. 021: I'm a school aid for the Clark County School District.

THE COURT: All right. Are you married?

PROSPECTIVE JUROR NO. 021: No.

THE COURT: Children?

PROSPECTIVE JUROR NO. 021: Yes.

THE COURT: Any old enough to work?

PROSPECTIVE JUROR NO. 021: Excuse me?

THE COURT: Are any of your children old enough to work?

PROSPECTIVE JUROR NO. 021: Yes.

THE COURT: What do they do?

PROSPECTIVE JUROR NO. 021: Well, he's not currently working. He moved back to Phoenix with his dad.

THE COURT: What type of work was he in? I just --

ROUGH DRAFT TRANSCRIPT

004415

1 PROSPECTIVE JUROR NO. 021: What type would he like  
2 to do?

3 THE COURT: No. Has he ever had a job before?

4 PROSPECTIVE JUROR NO. 021: No.

5 THE COURT: Oh, okay. All right. All right. Have  
6 you ever been in the military.

7 PROSPECTIVE JUROR NO. 021: No.

8 THE COURT: Are you acquainted with anybody in law  
9 enforcement?

10 PROSPECTIVE JUROR NO. 021: No.

11 THE COURT: Have you or anyone closely associated  
12 with you ever been a victim of a crime?

13 PROSPECTIVE JUROR NO. 021: Yes.

14 THE COURT: What was that?

15 PROSPECTIVE JUROR NO. 021: Fraud.

16 THE COURT: Fraud? Somebody --

17 PROSPECTIVE JUROR NO. 021: Me.

18 THE COURT: Somebody defrauded you or something?

19 PROSPECTIVE JUROR NO. 021: Yes.

20 THE COURT: Was it like a check, or --

21 PROSPECTIVE JUROR NO. 021: No.

22 THE COURT: -- to provide --

23 PROSPECTIVE JUROR NO. 021: They took my trust fund.

24 THE COURT: Who was it; somebody you knew?

25 PROSPECTIVE JUROR NO. 021: Yes.

ROUGH DRAFT TRANSCRIPT

004416



1 THE COURT: Was it a relative, a friend, or?

2 PROSPECTIVE JUROR NO. 021: No.

3 THE COURT: Okay. Did they -- what were the results  
4 of that? Was he arrested?

5 PROSPECTIVE JUROR NO. 021: It's ongoing.

6 THE COURT: Okay. Was that here in Nevada here?

7 PROSPECTIVE JUROR NO. 021: Yes, it is.

8 THE COURT: And he was -- is there a charge filed  
9 against him?

10 PROSPECTIVE JUROR NO. 021: Yes.

11 THE COURT: Okay. All right. That's not going to  
12 affect your deliberation here, is it?

13 PROSPECTIVE JUROR NO. 021: No.

14 THE COURT: Have you or anyone closely associated  
15 with you, other than what you said, ever been arrested for a  
16 crime?

17 PROSPECTIVE JUROR NO. 021: No.

18 THE COURT: Have you ever served on a jury before?

19 PROSPECTIVE JUROR NO. 021: No.

20 THE COURT: Could you be fair in this case?

21 PROSPECTIVE JUROR NO. 021: Yes.

22 THE COURT: Thank you very much.

23 PROSPECTIVE JUROR NO. 021: You're welcome.

24 THE COURT: State, please, questions; pass for  
25 cause?

ROUGH DRAFT TRANSCRIPT

004417

1 MR. LALLI: Thank you, Your Honor. Ms. Bellew, when  
2 your son was here in Las Vegas, did he live with you?

3 PROSPECTIVE JUROR NO. 021: Yes.

4 MR. LALLI: How old is he?

5 PROSPECTIVE JUROR NO. 021: 19.

6 MR. LALLI: Did he finish high school?

7 PROSPECTIVE JUROR NO. 021: Yes.

8 MR. LALLI: Has he attended any college at all?

9 PROSPECTIVE JUROR NO. 021: No.

10 MR. LALLI: All right. What kind of -- is he -- is  
11 he looking for work, or does he have any interest? Is he  
12 planning on going to school?

13 PROSPECTIVE JUROR NO. 021: At this time, I don't  
14 know.

15 MR. LALLI: Okay. Now, your -- I take it it's an  
16 ex-husband who lives in Phoenix?

17 PROSPECTIVE JUROR NO. 021: Yes.

18 MR. LALLI: What does he do?

19 PROSPECTIVE JUROR NO. 021: He's a project manager  
20 for a construction firm.

21 MR. LALLI: Were you married to him at one point?

22 PROSPECTIVE JUROR NO. 021: Yes.

23 MR. LALLI: Were there -- and again, I apologize for  
24 prying. But were there domestic violence issues in your  
25 relationship?

ROUGH DRAFT TRANSCRIPT

44'8

1 PROSPECTIVE JUROR NO. 021: No.

2 MR. LALLI: Do you know anyone who has suffered the  
3 effects of domestic violence?

4 PROSPECTIVE JUROR NO. 021: No.

5 MR. LALLI: What do you think about domestic  
6 violence as a societal problem? Do you think it's something  
7 that's private between a man and a woman, or two co-habitants;  
8 or do you believe that the community has an interest -- an  
9 obligation to intervene?

10 PROSPECTIVE JUROR NO. 021: I think the community  
11 should have a say in --

12 MR. LALLI: Why do you think that?

13 PROSPECTIVE JUROR NO. 021: Because sometimes, the  
14 women, you know, or the man, won't ask for help. You know,  
15 it's -- they think it should be personal. But I -- if you see  
16 domestic violence, I believe you should say something.

17 MR. LALLI: All right. Have you ever been in a  
18 situation where you've had to say something; where you've had  
19 to sound the alarm that there's a problem?

20 PROSPECTIVE JUROR NO. 021: No.

21 MR. LALLI: Do you think that would be difficult to  
22 do?

23 PROSPECTIVE JUROR NO. 021: Yes and no.

24 MR. LALLI: Okay. Can you explain that?

25 PROSPECTIVE JUROR NO. 021: If it was a stranger,

ROUGH DRAFT TRANSCRIPT

004419

1 maybe. If it was a friend, I would be more apt to say, you  
2 need to get help.

3 MR. LALLI: Okay. I don't know if you've ever seen  
4 the show -- is it called, What Would You Do, or something like  
5 that, where they create these scenarios, and you -- if you  
6 were in that situation, what do you think you would do? If  
7 you were walking down the street and you saw domestic  
8 violence, do you think you would have the courage to either  
9 stop it, or say something, or call the police?

10 PROSPECTIVE JUROR NO. 021: I would probably call  
11 the police.

12 MR. LALLI: Okay. Do you think that substance  
13 abuse, be it alcohol or drugs, often is part of the domestic  
14 violence equation?

15 PROSPECTIVE JUROR NO. 021: Could be.

16 MR. LALLI: Do you think that a person ought to be  
17 -- a person's conduct ought to be excused because they might  
18 have been under the influence at the time that a crime was  
19 committed?

20 PROSPECTIVE JUROR NO. 021: No.

21 MR. LALLI: How do you think that a society ought to  
22 deal with that? Say I commit a crime and I'm under the  
23 influence. Do you think that's just too bad for me? Do you  
24 think that, you know, maybe I'm deserved something by the  
25 criminal justice system?

ROUGH DRAFT TRANSCRIPT

004420

1 PROSPECTIVE JUROR NO. 021: No.

2 MR. LALLI: That's just too bad for me? And for the  
3 record, you're nodding your head in agreement. Okay. What  
4 about mental illness? Do you know anybody who suffers from  
5 mental illness?

6 PROSPECTIVE JUROR NO. 021: Yes.

7 MR. LALLI: Without naming the person, what's your  
8 relationship with them?

9 PROSPECTIVE JUROR NO. 021: Family member.

10 MR. LALLI: Okay. Does this person -- has this  
11 person ever -- what sort of illness does this person suffer  
12 from?

13 PROSPECTIVE JUROR NO. 021: Depression.

14 MR. LALLI: Has the person ever been seen by a  
15 mental health professional?

16 PROSPECTIVE JUROR NO. 021: No, just a regular  
17 doctor.

18 MR. LALLI: Just a doctor? Were there prescriptions  
19 given?

20 PROSPECTIVE JUROR NO. 021: Yes.

21 MR. LALLI: And did the prescriptions seem to do the  
22 trick?

23 PROSPECTIVE JUROR NO. 021: Yes.

24 MR. LALLI: Can you tell us how the depression  
25 manifested itself? What signs did you see? Were you able to

ROUGH DRAFT TRANSCRIPT

004421

1 recognize a mental illness in them?

2 PROSPECTIVE JUROR NO. 021: No, I wasn't living with  
3 the person at the time.

4 MR. LALLI: Okay. Do you know what any of the  
5 symptoms were?

6 PROSPECTIVE JUROR NO. 021: Well, it was caused by a  
7 death in the family.

8 MR. LALLI: But was it -- mental illness manifests  
9 itself in different ways. Sometimes, people get suicidal.  
10 Sometimes, they just, you know, close up, roll up into a ball,  
11 and aren't heard from again. Sometimes, they engage in  
12 cutting; different activities. Do you know, in the situation  
13 --

14 PROSPECTIVE JUROR NO. 021: I just basically think  
15 it was -- she just wanted to hide out.

16 MR. LALLI: All right. Do you -- you know, for  
17 years and years in this country, we've looked at people who  
18 suffer from mental illness as -- the problem kind of lies with  
19 them; that they're social outcasts, that there's some sort of  
20 negative stigma attached to that.

21 What are your thoughts on that? Do you see mental  
22 illness more as a true illness, and because of that, the  
23 person perhaps may be more vulnerable? Or do you see somebody  
24 who suffers mental illness as just kind of a burden, almost,  
25 on society?

ROUGH DRAFT TRANSCRIPT

004422

1 PROSPECTIVE JUROR NO. 021: It goes both ways.

2 MR. LALLI: Can you explain that? How do you see it  
3 both ways? In what ways are they a burden, for example?

4 PROSPECTIVE JUROR NO. 021: I just think medically,  
5 you know, the society now, it won't recognize it. And I feel  
6 that society needs to be more aware of mental illness.

7 MR. LALLI: Do you think you're more sensitive to it  
8 because of the experience that you've had?

9 PROSPECTIVE JUROR NO. 021: Yes.

10 MR. LALLI: In what ways do you think that a person  
11 such as your family members, in what ways do you think that  
12 they're more vulnerable to different scenarios?

13 PROSPECTIVE JUROR NO. 021: They just don't  
14 participate in their daily life the way they should.

15 MR. LALLI: Okay. So, they're more likely maybe to  
16 not tend to their financial obligations, for example?

17 PROSPECTIVE JUROR NO. 021: Correct.

18 MR. LALLI: Or, you know, maybe they're easier to  
19 take advantage of, for example?

20 PROSPECTIVE JUROR NO. 021: True.

21 MR. LALLI: All right. You are a teaching -- oh,  
22 no. You're an aid in a grade school? Is that yes?

23 PROSPECTIVE JUROR NO. 021: Yes.

24 MR. LALLI: How long have you done that?

25 PROSPECTIVE JUROR NO. 021: Seven years.

ROUGH DRAFT TRANSCRIPT

004423

1 MR. LALLI: And what level of kids do you work with?

2 PROSPECTIVE JUROR NO. 021: K through 5.

3 MR. LALLI: All of them? So, do you go from  
4 classroom to classroom?

5 PROSPECTIVE JUROR NO. 021: No. I'm just general --  
6 if they need me to fix something or do copies, I do it for the  
7 whole school.

8 MR. LALLI: All right. Okay. And what school do  
9 you work for?

10 PROSPECTIVE JUROR NO. 021: Lewis Elementary.

11 MR. LALLI: All right. So, you -- first day of  
12 summer vacation, and lucky you, you've got this jury duty?

13 PROSPECTIVE JUROR NO. 021: Yes. Yes.

14 MR. LALLI: Timing is everything, right?

15 PROSPECTIVE JUROR NO. 021: True.

16 MR. LALLI: Do you think you can be a fair juror?

17 PROSPECTIVE JUROR NO. 021: Yes.

18 MR. LALLI: Do you believe that people should be  
19 held accountable for their actions?

20 PROSPECTIVE JUROR NO. 021: Yes.

21 MR. LALLI: If we prove to you that Mr. O'Keefe is  
22 guilty of second degree murder, will you convict him?

23 PROSPECTIVE JUROR NO. 021: Yes.

24 MR. LALLI: All right. Thank you, ma'am. Your  
25 Honor, we'll pass --

ROUGH DRAFT TRANSCRIPT

004424



1 PROSPECTIVE JUROR NO. 021: You're welcome.

2 MR. LALLI: -- for cause.

3 THE COURT: All right. Thank you. Mr. O'Keefe,  
4 questions; pass for cause?

5 MR. O'KEEFE: Yes, Your Honor. Thank you. Ma'am,  
6 you touched on something that Mr. Lalli brought up through his  
7 questioning, that -- about society should kind of get  
8 involved, and you said, make a call possibly, if a situation  
9 is in progress.

10 However, do you think that sometimes -- now,  
11 understand, I'm trying to find some people who think like me.  
12 Trying -- that's the purpose of this whole voir dire. That  
13 neighbors may call sometimes and create situations, statements  
14 -- and miss facts? And because you stated -- he opened up the  
15 questioning on this, that society should get involved, and  
16 they should make a phone call to the police.

17 But what happens when they're basing it on facts  
18 that were circumstantial? I didn't know, they were just -- do  
19 you feel that you can see the difference, and that, at the  
20 same time, conversely to what he stated, that if the evidence  
21 doesn't prove it, can you hold fast and not let your jury of  
22 peers sway you to go their way?

23 Basically what I'm getting -- just cutting straight  
24 to the point. If you felt the evidence didn't support beyond  
25 a reasonable doubt, could you hold to that?

ROUGH DRAFT TRANSCRIPT

004425

1 PROSPECTIVE JUROR NO. 021: Yes.

2 MR. O'KEEFE: Without a doubt?

3 PROSPECTIVE JUROR NO. 021: Yes.

4 MR. O'KEEFE: And are you possibly biased to me by  
5 any ways because I'm trying to do my own show, and because --

6 PROSPECTIVE JUROR NO. 021: Maybe.

7 MR. O'KEEFE: Okay. And I appreciate that. I  
8 noticed something. Okay. No further questions.

9 THE COURT: Pass for cause?

10 MR. O'KEEFE: Yes, pass for cause.

11 THE COURT: Thank you.

12 MR. O'KEEFE: Thank you.

13 THE COURT: All right. Jorge Andrade, is it?

14 PROSPECTIVE JUROR NO. 006: Yeah, that's me.

15 THE COURT: How long you been in Las Vegas?

16 PROSPECTIVE JUROR NO. 006: 16 years.

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

18 PROSPECTIVE JUROR NO. 006: Kitchen worker.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NO. 006: No.

21 THE COURT: Children?

22 PROSPECTIVE JUROR NO. 006: No.

23 THE COURT: Have you ever been in the military?

24 PROSPECTIVE JUROR NO. 006: No.

25 THE COURT: Are you acquainted with anybody in law

ROUGH DRAFT TRANSCRIPT

004426

1 enforcement?  
2 PROSPECTIVE JUROR NO. 006: No.  
3 THE COURT: Have you or anyone closely associated  
4 with you ever been a victim of a crime?  
5 PROSPECTIVE JUROR NO. 006: No.  
6 THE COURT: Arrested for a crime?  
7 PROSPECTIVE JUROR NO. 006: No.  
8 THE COURT: Have you ever served on a jury?  
9 PROSPECTIVE JUROR NO. 006: No.  
10 THE COURT: Do you think you could be fair in this  
11 case?  
12 PROSPECTIVE JUROR NO. 006: Yes.  
13 THE COURT: Thank you. Questions; pass for cause,  
14 State?  
15 MS. MERCER: You indicated you're a kitchen worker?  
16 Is that what you --  
17 PROSPECTIVE JUROR NO. 006: I'm sorry?  
18 MS. MERCER: Did you say that you're a kitchen  
19 worker?  
20 PROSPECTIVE JUROR NO. 006: Yes.  
21 MS. MERCER: Where?  
22 PROSPECTIVE JUROR NO. 006: Sam's Town.  
23 MS. MERCER: Sam's Town? Have you ever -- how long  
24 have you worked at Sam's Town?  
25 PROSPECTIVE JUROR NO. 006: Six years.

ROUGH DRAFT TRANSCRIPT

004427

1 MS. MERCER: Have you ever witnessed an incident of  
2 domestic violence?

3 PROSPECTIVE JUROR NO. 006: No.

4 MS. MERCER: If you did witness an incident, would  
5 you report it to the police?

6 PROSPECTIVE JUROR NO. 006: Yes.

7 MS. MERCER: Do you have any strong feelings about  
8 domestic violence that would interfere with your ability to  
9 sit in this case?

10 PROSPECTIVE JUROR NO. 006: No.

11 MS. MERCER: Have you had anybody close to you  
12 that's been a victim of domestic violence; a sister, mother?

13 PROSPECTIVE JUROR NO. 006: No.

14 MS. MERCER: Do you ever think that it's okay to use  
15 physical violence to solve a verbal dispute?

16 PROSPECTIVE JUROR NO. 006: No.

17 MS. MERCER: Do you think that there could be a  
18 circumstance where a person might say something that would  
19 warrant some sort of physical conduct on the part of the other  
20 person? In other words, do you think that there's certain  
21 things that could be said, that are so offensive that a person  
22 would be justified in using physical force?

23 PROSPECTIVE JUROR NO. 006: No.

24 MS. MERCER: Do you think that domestic violence is  
25 an issue that should be dealt with within the home?

ROUGH DRAFT TRANSCRIPT

004428

1 PROSPECTIVE JUROR NO. 006: Could you repeat the  
2 question? I'm sorry.

3 MS. MERCER: Sure. Do you think that domestic  
4 violence is a personal issue that should be dealt with in the  
5 family?

6 PROSPECTIVE JUROR NO. 006: No.

7 MS. MERCER: So, you're okay with criminal  
8 prosecution of domestic violence cases, even when a victim  
9 doesn't want to cooperate, for example?

10 PROSPECTIVE JUROR NO. 006: If you don't mind, could  
11 you repeat the question?

12 MS. MERCER: Sure.

13 PROSPECTIVE JUROR NO. 006: I just have trouble --

14 MS. MERCER: Say there's a domestic violence  
15 incident, and the victim later -- she reports it to the  
16 police; later decides she doesn't want to prosecute. Are you  
17 okay with the fact that the criminal justice system would  
18 still proceed on that case, regardless of her wishes?

19 PROSPECTIVE JUROR NO. 006: No.

20 MS. MERCER: Why?

21 PROSPECTIVE JUROR NO. 006: I don't know. It's -- I  
22 just have trouble understanding.

23 MS. MERCER: You're not understanding my question?

24 PROSPECTIVE JUROR NO. 006: No.

25 MS. MERCER: Say a victim calls the police.

ROUGH DRAFT TRANSCRIPT

004429

1 PROSPECTIVE JUROR NO. 006: Okay.

2 MS. MERCER: They come out.

3 PROSPECTIVE JUROR NO. 006: Right.

4 MS. MERCER: She tells them, my boyfriend just  
5 battered me, and he's arrested. Then, he's later charged.  
6 Sometime in the future, there's a court date. She doesn't  
7 want to prosecute any longer, because they're back together.

8 PROSPECTIVE JUROR NO. 006: Um-hum.

9 MS. MERCER: Are you okay with the State still  
10 proceeding in that case, even though she doesn't want to?

11 PROSPECTIVE JUROR NO. 006: Yeah.

12 MS. MERCER: Okay. And why is that?

13 PROSPECTIVE JUROR NO. 006: I don't know. Sorry.

14 MS. MERCER: Do you feel a batterer should be held  
15 accountable?

16 PROSPECTIVE JUROR NO. 006: A what? I'm sorry.

17 MS. MERCER: Do you feel that the person that was  
18 abusive should be held accountable criminally?

19 PROSPECTIVE JUROR NO. 006: Yeah, I guess. I don't  
20 know. I just -- I don't know.

21 MS. MERCER: Is there anything that we -- that the  
22 Judge hasn't asked you, or that I haven't asked you, that  
23 might affect your ability to be fair and impartial in this  
24 case?

25 PROSPECTIVE JUROR NO. 006: No.

ROUGH DRAFT TRANSCRIPT

004430

1 MS. MERCER: No prior experiences with the criminal  
2 justice system or anything?

3 PROSPECTIVE JUROR NO. 006: No.

4 MS. MERCER: Pass for cause, Your Honor.

5 THE COURT: All right. Mr. O'KEefe, questions: pass  
6 for cause?

7 MR. O'KEEFE: No questions for this juror, Your  
8 Honor.

9 THE COURT: Pass for cause?

10 MR. O'KEEFE: Yes, sir.

11 THE COURT: Thank you. All right. We have Thomas

12 --

13 PROSPECTIVE JUROR NO. 007: Roche.

14 THE COURT: Roche?

15 PROSPECTIVE JUROR NO. 007: Yeah.

16 THE COURT: How long you been in this area, sir?

17 PROSPECTIVE JUROR NO. 007: 32 years.

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

19 PROSPECTIVE JUROR NO. 007: I'm a electronics  
20 technician.

21 THE COURT: So, you're still working as an  
22 electronics technician?

23 PROSPECTIVE JUROR NO. 007: Yes. Yes, I am.

24 THE COURT: All right. Are you married?

25 PROSPECTIVE JUROR NO. 007: Yes, I am.

ROUGH DRAFT TRANSCRIPT

004431

1 THE COURT: Does your wife work?

2 PROSPECTIVE JUROR NO. 007: She retired.

3 THE COURT: What did she do when she --

4 PROSPECTIVE JUROR NO. 007: She was elementary  
5 school librarian.

6 THE COURT: Oh, okay. Do you have any children?

7 PROSPECTIVE JUROR NO. 007: No.

8 THE COURT: Have you ever been in the military?

9 PROSPECTIVE JUROR NO. 007: No.

10 THE COURT: Are you acquainted with anybody in law  
11 enforcement?

12 PROSPECTIVE JUROR NO. 007: No.

13 THE COURT: Have you or anyone closely associated  
14 with you ever been the victim of a crime?

15 PROSPECTIVE JUROR NO. 007: Yes, I was. My vehicle  
16 was broken into back in 2009.

17 THE COURT: Did they ever catch the individual?

18 PROSPECTIVE JUROR NO. 007: Yes, they did. I just  
19 got the merchandise back last week, what was left of it.

20 THE COURT: Wow, 2009.

21 PROSPECTIVE JUROR NO. 007: Yeah. I got my AAA --  
22 AAA card back.

23 THE COURT: Did you ever have to appear in court or  
24 anything?

25 PROSPECTIVE JUROR NO. 007: No. No, they just

ROUGH DRAFT TRANSCRIPT

004432



1 called me down, and told me they had the -- they had something  
2 with my identification on it --

3 THE COURT: All right.

4 PROSPECTIVE JUROR NO. 007: -- and that's the way it  
5 was.

6 THE COURT: From 2009 until now. But anyway, that's  
7 not going to affect your deliberation, is it?

8 PROSPECTIVE JUROR NO. 007: No. No.

9 THE COURT: All right. Anything else regarding  
10 victim?

11 PROSPECTIVE JUROR NO. 007: No.

12 THE COURT: Have you or anyone closely associated  
13 with you ever been arrested for a crime?

14 PROSPECTIVE JUROR NO. 007: No.

15 THE COURT: You ever serve on a jury before?

16 PROSPECTIVE JUROR NO. 007: No.

17 THE COURT: Would you be able to follow my  
18 instructions of law?

19 PROSPECTIVE JUROR NO. 007: Yes.

20 THE COURT: Even though you might disagree with what  
21 the law ought to be, even though you might think the law ought  
22 to be something else, you're going to follow my instructions?

23 PROSPECTIVE JUROR NO. 007: Yes.

24 THE COURT: And you're going to be fair and  
25 impartial, both to the State of Nevada and to the defendant?

ROUGH DRAFT TRANSCRIPT

004423

1 PROSPECTIVE JUROR NO. 007: Yes.

2 THE COURT: And you understand, as I indicated, some  
3 principles of law that the -- that, under our system, certain  
4 principles of law apply in every criminal trial. And charging  
5 document -- if you're picked as a juror, you'll be read the  
6 information, and it's called a charging document. It was  
7 filed in this case, and it's a mere accusation and not  
8 evidence. You understand that?

9 PROSPECTIVE JUROR NO. 007: Yes.

10 THE COURT: And you understand, the defendant sits  
11 here cloaked with a presumption of innocence?

12 PROSPECTIVE JUROR NO. 007: Yes.

13 THE COURT: And he doesn't have any burden to prove  
14 anything. You understand that?

15 PROSPECTIVE JUROR NO. 007: Yes.

16 THE COURT: It's really incumbent upon the State to  
17 prove that the defendant is guilty beyond a reasonable doubt.  
18 You understand?

19 PROSPECTIVE JUROR NO. 007: Yes.

20 THE COURT: And you believe in these basic precepts  
21 of American justice?

22 PROSPECTIVE JUROR NO. 007: Yes, sir.

23 THE COURT: It's every 50 state. And you could be  
24 fair in this case?

25 PROSPECTIVE JUROR NO. 007: Yes.

ROUGH DRAFT TRANSCRIPT

004434

1 THE COURT: All right. Thank you very much, sir.  
2 State -- Mr. Lalli, questions; pass for cause?

3 MR. LALLI: Thank you, Your Honor. Is it Mr. Roche?

4 PROSPECTIVE JUROR NO. 007: Roche, yes.

5 MR. LALLI: Okay. What -- can you give us a little  
6 more information about what you do as an electronics  
7 technician?

8 PROSPECTIVE JUROR NO. 007: I work mostly on office  
9 equipment for a company called JT3.

10 MR. LALLI: JT3?

11 PROSPECTIVE JUROR NO. 007: Yes. Work on copiers,  
12 scanners. I was with Xerox for 33 years, and retired, and  
13 then got hired immediately by JT3.

14 MR. LALLI: They hired you when? I'm sorry.

15 PROSPECTIVE JUROR NO. 007: In 2006.

16 MR. LALLI: You're still doing that?

17 PROSPECTIVE JUROR NO. 007: Yes.

18 MR. LALLI: Where did you live prior to coming to  
19 Las Vegas?

20 PROSPECTIVE JUROR NO. 007: New Jersey.

21 MR. LALLI: When you worked for Xerox, I take it --  
22 is that when they put you through school, or they taught you  
23 how to service [inaudible]?

24 PROSPECTIVE JUROR NO. 007: Right. I went to a  
25 couple of years of electronic school before I got hired, and

ROUGH DRAFT TRANSCRIPT

004435

1 then they hired me.

2 MR. LALLI: Was that something you did -- do you  
3 need a -- did you need a college degree for that, a high  
4 school degree? Or what sort of --

5 PROSPECTIVE JUROR NO. 007: It was an associate  
6 degree.

7 MR. LALLI: Is that something you did back in New  
8 Jersey?

9 PROSPECTIVE JUROR NO. 007: Yes.

10 MR. LALLI: And what specifically was your degree  
11 in?

12 PROSPECTIVE JUROR NO. 007: Computer technology.

13 MR. LALLI: Why did you move to Las Vegas?

14 PROSPECTIVE JUROR NO. 007: My wife wanted to go  
15 someplace where the weather was better.

16 MR. LALLI: Okay. We get a lot of people -- or we  
17 used to get a lot of people for that. Why did it take so long  
18 for you to get your property back in your stolen vehicle case?

19 PROSPECTIVE JUROR NO. 007: Well, I don't know. She  
20 said -- the person I spoke to said they caught the people back  
21 in 2010. And I didn't really get an explanation as to why it  
22 took this long to get it back. I knew it was a big -- I guess  
23 a big ring that was working Las Vegas. So, they had a small  
24 warehouse full of stuff, so.

25 MR. LALLI: Was the case just pending, and maybe it

ROUGH DRAFT TRANSCRIPT

004436

1 was evidence; they might have needed it for court, and so  
2 until that resolved, you couldn't get your property?

3 PROSPECTIVE JUROR NO. 007: That could have been.  
4 Yeah. I don't have all the details.

5 MR. LALLI: All right. Do you have any personal  
6 interaction with members of law enforcement, other than the  
7 return of your property?

8 PROSPECTIVE JUROR NO. 007: I have --

9 MR. LALLI: So, did you talk to cops --

10 PROSPECTIVE JUROR NO. 007: Oh, no.

11 MR. LALLI: -- who might have filled out a police  
12 report, or --

13 PROSPECTIVE JUROR NO. 007: I filled out a police  
14 report. And then, I think I got two phone calls over the last  
15 few years, just asking me if I'd be available, if I could come  
16 to court if I had to. I told them I wasn't really a witness.  
17 I didn't see it get broken into. But they did ask that. And  
18 then, the next call was just telling me that the material --  
19 that my identification was found, so.

20 MR. LALLI: All right. And those calls, was the  
21 case being handled by the district attorney's office, to your  
22 knowledge?

23 PROSPECTIVE JUROR NO. 007: I'm not --

24 MR. LALLI: Did you get called by an investigator  
25 with --

ROUGH DRAFT TRANSCRIPT

004437

1 PROSPECTIVE JUROR NO. 007: You know, I don't -- I  
2 can't remember. Because it was a couple years ago, I can't  
3 remember who called.

4 MR. LALLI: Okay. What went through your mind when  
5 you learned that you could potentially be a juror on a murder  
6 case?

7 PROSPECTIVE JUROR NO. 007: Just that it was more  
8 serious than I thought it would be. You know.

9 MR. LALLI: Do you think you can be fair to the  
10 State and to the defense?

11 PROSPECTIVE JUROR NO. 007: Yes.

12 MR. LALLI: What do you think about Mr. O'Keefe  
13 representing himself?

14 PROSPECTIVE JUROR NO. 007: I was surprised.

15 MR. LALLI: Oh.

16 PROSPECTIVE JUROR NO. 007: No.

17 MR. LALLI: Please continue.

18 PROSPECTIVE JUROR NO. 007: I was just going to say,  
19 I was surprised. But when he explained it, it was acceptable  
20 to me. It's just not what I expected.

21 MR. LALLI: Do you understand we all have the  
22 constitutional right to represent our self, if that's the --

23 PROSPECTIVE JUROR NO. 007: Yes.

24 MR. LALLI: -- decision we make? Do you see that  
25 affecting your duties as a juror in any way?

ROUGH DRAFT TRANSCRIPT

004438

1 PROSPECTIVE JUROR NO. 007: No.

2 MR. LALLI: You don't feel sorry for him because he  
3 doesn't have a lawyer?

4 PROSPECTIVE JUROR NO. 007: No.

5 MR. LALLI: What about domestic violence? Do you  
6 have any thoughts, any profound thoughts, or maybe not so  
7 profound, about domestic violence?

8 PROSPECTIVE JUROR NO. 007: No. I've been a victim  
9 of it. So --

10 MR. LALLI: Can you tell us a little bit about it?

11 PROSPECTIVE JUROR NO. 007: Yeah. My wife had a  
12 problem with alcohol. She's been sober now for like 12 years.  
13 But going back to the mid to late 90's, it was pretty severe.

14 MR. LALLI: Did -- were the police ever called to  
15 intervene?

16 PROSPECTIVE JUROR NO. 007: Yes. Her parents, my  
17 in-laws, called the police to come out to the house.

18 MR. LALLI: And that was here in Las Vegas.

19 PROSPECTIVE JUROR NO. 007: Yes.

20 MR. LALLI: Did -- was this on more than one  
21 occasion that the police responded?

22 PROSPECTIVE JUROR NO. 007: No, just once.

23 MR. LALLI: How did the police become aware? You  
24 said -- you mentioned something about family. Did somebody in  
25 your family call the police?

ROUGH DRAFT TRANSCRIPT

004439

1 PROSPECTIVE JUROR NO. 007: My mother in-law.

2 MR. LALLI: So, your wife's mother?

3 PROSPECTIVE JUROR NO. 007: Yes, called the police.

4 MR. LALLI: How did she become aware that there was  
5 a problem?

6 PROSPECTIVE JUROR NO. 007: I called her because my  
7 wife was out of control, and basically smashing things, and  
8 screaming. So, I called her. She came over and made an  
9 assessment of the situation, and said, we need to get the  
10 police. So, you know, we did.

11 MR. LALLI: There are -- well, there are laws and  
12 policies in place that require the police to make an arrest if  
13 they believe that a crime has occurred. Was your wife  
14 arrested?

15 PROSPECTIVE JUROR NO. 007: This is going back a few  
16 years, like I said. They took her to jail overnight, and she  
17 was released the next day on bail.

18 MR. LALLI: What -- and well, what came of it? Did  
19 she -- I take it she came to court; there was a court process  
20 involved?

21 PROSPECTIVE JUROR NO. 007: Yeah, I'm trying to  
22 remember. Yeah, she did have to go to court.

23 MR. LALLI: Was that in -- and I don't know if  
24 you're going to know this. Was it justice court -- Las Vegas  
25 Justice Court? Was it --

ROUGH DRAFT TRANSCRIPT

004440



1 PROSPECTIVE JUROR NO. 007: Yeah.

2 MR. LALLI: -- municipal court, or do you know? Did  
3 you ever go to court with her?

4 PROSPECTIVE JUROR NO. 007: No, I didn't. No. I  
5 let her take care of that, so.

6 MR. LALLI: What ultimately happened with that case?

7 PROSPECTIVE JUROR NO. 007: It actually turned out  
8 to be a good thing. She wound up getting treatment as a  
9 result of that. And like I said, she's been sober now for 12  
10 years -- a little over 12 years.

11 MR. LALLI: Was that arrest -- was that the event  
12 that kind of got through to her, and made her realize, wow, I  
13 need to make a change in my life?

14 PROSPECTIVE JUROR NO. 007: Yes, it was.

15 MR. LALLI: I don't think it's any -- should not be  
16 a surprise to you. You're going to hear about domestic  
17 violence in this case. How do you believe you're suited to be  
18 a juror on a trial like this?

19 PROSPECTIVE JUROR NO. 007: I don't know. I do  
20 think I can be impartial, but I do have firsthand experience  
21 in it. So, I'm not biased either way, but I can see both  
22 sides of any issue I think on that.

23 MR. LALLI: All right. So, you think perhaps your  
24 experience -- you might even be a better juror then, than  
25 somebody who doesn't have experience?

ROUGH DRAFT TRANSCRIPT

004441

1 PROSPECTIVE JUROR NO. 007: I would say so, although  
2 I wish I wasn't.

3 MR. LALLI: No, I understand. And I know how  
4 difficult it is to talk about things that are painful to us,  
5 and I appreciate you doing that. So, the system worked with  
6 respect to you and your wife?

7 PROSPECTIVE JUROR NO. 007: Yes.

8 MR. LALLI: Do you think she was treated fairly?

9 PROSPECTIVE JUROR NO. 007: Yes. Yeah, very fairly.

10 MR. LALLI: Do you think the police when they  
11 responded -- do you think they were -- they acted appropriate  
12 with her?

13 PROSPECTIVE JUROR NO. 007: They were very  
14 professional. I was amazed at how well they handled the  
15 situation.

16 MR. LALLI: Do you know anyone who suffers from  
17 mental illness?

18 PROSPECTIVE JUROR NO. 007: No.

19 MR. LALLI: Do you think -- or you described how  
20 your wife had a drinking problem at the time that these events  
21 occurred. How do you think that ought to be factored into how  
22 the system treats her -- or treated her? I mean, do you think  
23 that ought to mitigate her criminal responsibility? I mean --

24 PROSPECTIVE JUROR NO. 007: No. No. I believe  
25 you're responsible --

ROUGH DRAFT TRANSCRIPT

004442

1 MR. LALLI: Do you think she just needs help for  
2 that, or?

3 PROSPECTIVE JUROR NO. 007: No. I believe you're  
4 responsible for your actions. You know. That was a reason  
5 for what happened, but not an excuse. I mean, she was  
6 responsible, so.

7 MR. LALLI: Understood. And I like how you put  
8 that, and I understand where you're coming from. If we  
9 convince you beyond a reasonable doubt that Mr. O'Keefe is  
10 guilty of murder of the second degree, will you convict him?

11 PROSPECTIVE JUROR NO. 007: Yes.

12 MR. LALLI: Thank you, sir. Your Honor, we'll pass  
13 for cause.

14 THE COURT: All right. Mr. O'Keefe, questions; pass  
15 for cause?

16 MR. O'KEEFE: Yes, Your Honor. It's Mr. Thomas  
17 Roche?

18 PROSPECTIVE JUROR NO. 007: Yes.

19 MR. O'KEEFE: Thomas, on this event that you had,  
20 sir, back years ago when your wife [inaudible], sir?

21 PROSPECTIVE JUROR NO. 007: Yes.

22 MR. O'KEEFE: You said that was the last time.  
23 There was no other instances, correct?

24 PROSPECTIVE JUROR NO. 007: No. That was it.

25 MR. O'KEEFE: Do you feel the police took accurate

ROUGH DRAFT TRANSCRIPT

004443

1 notes, and evidence, and made correct statements in that case?

2 PROSPECTIVE JUROR NO. 007: You know, at the time,  
3 it's so emotional, I couldn't really analyze everything the  
4 police did. I know they handled my wife as well as could be  
5 expected. I was impressed with what they did there. But as  
6 far as professionally what they did on the scene and  
7 everything, I can't really say.

8 MR. O'KEEFE: Okay. But however, you do agree that  
9 the police absolutely on a call should take any evidence,  
10 clearly, that's obvious to them?

11 PROSPECTIVE JUROR NO. 007: Yes.

12 MR. O'KEEFE: You agree?

13 PROSPECTIVE JUROR NO. 007: Yes, I do.

14 MR. O'KEEFE: And do you think it should absolutely,  
15 if I trial were to proceed, such as this, it should be  
16 presented?

17 PROSPECTIVE JUROR NO. 007: Yeah.

18 MR. O'KEEFE: Not possibly hidden, swept under a  
19 carpet?

20 PROSPECTIVE JUROR NO. 007: No, it should all be  
21 presented.

22 MR. O'KEEFE: And -- okay. Do you think the police  
23 are capable of lying?

24 PROSPECTIVE JUROR NO. 007: It depends on the  
25 individual. I guess anybody's capable of lying, so.

ROUGH DRAFT TRANSCRIPT

004444

1 MR. O'KEEFE: Good point. Okay. But I'm speaking  
2 about police. Do you think most police, very few police,  
3 some?

4 PROSPECTIVE JUROR NO. 007: I would say very few,  
5 myself.

6 MR. O'KEEFE: But you are capable of seeing that,  
7 when a situation is presented, clearly, that a lie has  
8 probably been told, more than likely?

9 PROSPECTIVE JUROR NO. 007: Yes.

10 MR. O'KEEFE: You're smart enough in your own mind  
11 to make your own assessment, as all of you will, of what's  
12 presented fairly?

13 PROSPECTIVE JUROR NO. 007: Right. Yes.

14 MR. O'KEEFE: Okay. When Mr. Lalli asked you for  
15 the State if you would be biased against me for running my own  
16 trial, you said you could understand the way I explained it.  
17 Could you explain yourself more on that?

18 PROSPECTIVE JUROR NO. 007: Well, I think mainly  
19 because it was brought to the forefront that you are  
20 representing yourself, as opposed to just representing  
21 yourself without bringing that up as a possible issue. I just  
22 felt more comfortable with that once it was explained that  
23 that's what you were doing.

24 MR. O'KEEFE: And you think it's better off  
25 sometimes in a serious, serious allegation such as this, that

ROUGH DRAFT TRANSCRIPT

004445

1 sometimes, you got no choice. You're better off because you  
2 know the facts, and you know the story, and no one's better  
3 than you to tell that story?

4 PROSPECTIVE JUROR NO. 007: Yeah, I can see that as  
5 a reason to represent yourself.

6 MR. O'KEEFE: Hypothetical situation. I'm glad to  
7 hear that your wife is in AA, apparently?

8 PROSPECTIVE JUROR NO. 007: Yes.

9 MR. O'KEEFE: Good for her. [Inaudible].  
10 Hypothetically, again, let's say if the police would have come  
11 back out to your place if there had been another alleged  
12 battery domestic violence, sir, do you think the police would  
13 all the sudden kind of be biased, you know? They see -- you  
14 know, hey, she did it once, she's guilty again, automatically?

15 PROSPECTIVE JUROR NO. 007: I guess that would  
16 depend. I wouldn't think that would happen, and it would  
17 depend on whether the same police officers came out. I  
18 couldn't read their mind. I couldn't be sure of what they  
19 would be thinking, but --

20 MR. O'KEEFE: Well, would you agree with me that  
21 it's very quite possible, nowadays, a lot of assumptions are  
22 made on just -- you know, they just decide things on their  
23 own? A routine's done on a daily basis. It gets old, and  
24 they just, you know, kind of like, forget their true title as  
25 peace officer --

ROUGH DRAFT TRANSCRIPT

004446

1 PROSPECTIVE JUROR NO. 007: No.

2 MR. O'KEEFE: -- [inaudible] protect you. Still,  
3 it's possible?

4 PROSPECTIVE JUROR NO. 007: It's possible.

5 MR. O'KEEFE: Okay. Have you ever served in the  
6 military? I'm sorry.

7 PROSPECTIVE JUROR NO. 007: Okay.

8 MR. O'KEEFE: No? You haven't. And in a case such  
9 as this, the allegation, as you know, it's very, very serious;  
10 a tragedy for many people. Many families have been affected.

11 Do you feel someone's mental health issue, medical  
12 issue, is relevant in a case? Cutting issues, depression  
13 issues; do you think that's relevant in a case being  
14 investigated to be presented to be heard?

15 PROSPECTIVE JUROR NO. 007: Well, it would be part  
16 of the evidence, so I would imagine it would be if it's  
17 relevant to know, but.

18 MR. O'KEEFE: Do you feel if it's a little bit  
19 relevant? A lot relevant?

20 PROSPECTIVE JUROR NO. 007: No.

21 MR. O'KEEFE: I'm not getting a clear --

22 PROSPECTIVE JUROR NO. 007: No, I believe it's  
23 relevant.

24 MR. O'KEEFE: No further questions. Pass for cause,  
25 Your Honor.

ROUGH DRAFT TRANSCRIPT

004447

1 THE COURT: All right. Thank you. Pamela Hulbert?

2 PROSPECTIVE JUROR NO. 008: Hulbert.

3 THE COURT: How long you been in Las Vegas?

4 PROSPECTIVE JUROR NO. 008: 19 years.

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

6 PROSPECTIVE JUROR NO. 008: I'm a healthcare  
7 recruiter.

8 THE COURT: Are you married?

9 PROSPECTIVE JUROR NO. 008: Yes.

10 THE COURT: What does your husband do?

11 PROSPECTIVE JUROR NO. 008: He's an architect.

12 THE COURT: Children?

13 PROSPECTIVE JUROR NO. 008: Two.

14 THE COURT: Any old enough to work?

15 PROSPECTIVE JUROR NO. 008: Yes.

16 THE COURT: What do they do?

17 PROSPECTIVE JUROR NO. 008: My eldest son just  
18 graduated UNR. He's an IT tech guy. And the other one is  
19 kind of figuring it out. Wants to go into film, and is taking  
20 classes, and just moved back home.

21 THE COURT: Okay. All right. Have you ever been in  
22 the military?

23 PROSPECTIVE JUROR NO. 008: No.

24 THE COURT: Are you acquainted with anybody in law  
25 enforcement?

ROUGH DRAFT TRANSCRIPT

004448



1 PROSPECTIVE JUROR NO. 008: No.

2 THE COURT: Have you or anyone closely associated  
3 with you ever been the victim of a crime?

4 PROSPECTIVE JUROR NO. 008: Yes.

5 THE COURT: What's that?

6 PROSPECTIVE JUROR NO. 008: I was mugged in San  
7 Diego. That's my hometown.

8 THE COURT: Somebody took your purse or something?

9 PROSPECTIVE JUROR NO. 008: It was late at night.  
10 Tried to drag me out of a car, and stole my purse.

11 THE COURT: I'm sorry. Did they catch the  
12 individual?

13 PROSPECTIVE JUROR NO. 008: Not that I'm aware of.

14 THE COURT: So, you never heard anything more about  
15 it?

16 PROSPECTIVE JUROR NO. 008: Never heard anything.

17 THE COURT: You reported it to the police, but you  
18 never heard anything more?

19 PROSPECTIVE JUROR NO. 008: Never heard anything.

20 THE COURT: I'm sorry to hear that, but that's not  
21 going to affect your deliberation here?

22 PROSPECTIVE JUROR NO. 008: No.

23 THE COURT: You don't hold that against the police  
24 for not catching anybody?

25 PROSPECTIVE JUROR NO. 008: No.

ROUGH DRAFT TRANSCRIPT

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