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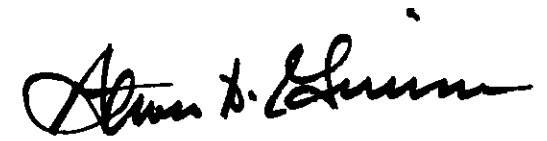
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CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

VS.

JOSHUA W. BACHARACH,

Defendant.

CASE NO. C299425

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE

MONDAY, NOVEMBER 2, 2015
TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 1
VOLUME I

APPEARANCES:

For the State:

JOHN FATTIG, ESQ.
MEGAN S. THOMSON, ESQ.
Chief Deputy District Attorneys

For the Defendant:

ROCHELLE T. NGUYEN, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

TRANSCRIBED BY: BRITTANY MANGELSON, INDEPENDENT TRANSCRIBER

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1 MONDAY, NOVEMBER 2, 2015 AT 9:44 A.M.

2
3 [Outside the presence of the prospective jury]

4 THE COURT: Okay. Bring them in, Tom.

5 THE MARSHAL: Bring them in.

6 THE COURT: Put 14 in the box.

7 [In the presence of the prospective jury]

8 THE MARSHAL: All rise, please.

9 THE COURT: Put 14 in the box.

10 THE MARSHAL: And be seated.

11 THE COURT: Good morning, ladies and gentlemen. This is Case Number
12 C299425, State of Nevada versus Joshua Bacharach. Mr. Bacharach is the
13 Defendant. The record will reflect the presence of the State's attorneys and the
14 Defendants -- the Defendant and his attorney. Also present are the officers of the
15 Court. Parties have announced ready to proceed. You're in Department VII of the
16 Eighth Judicial Court, State of Nevada. My name is Judge Smith and I am the
17 presiding judge. You've been summonsed today to serves as jurors in this criminal
18 case.

19 Let me introduce my staff. This is Tena Jolley. She's my court clerk.
20 She will keep track of what's going on in court, keep the court minutes, generally
21 keep managed what goes on in court. Court recorder is Jill Jacoby. She's recording
22 everything, so uh-huh and uh-uh doesn't get recorded. So if you'll yes and no,
23 please. And Tom Lemke is the marshal. You'll see -- my law clerk is Alan Miller.
24 Anybody know any of my staff or myself?

25 I have to read this because somebody took my other one and I'm just

1 not sure -- they borrowed it.

2 Counsel for the State will introduce themselves and tell a little bit about
3 the case -- oh, before we get started, I need to swear in the venire. If you'll all
4 stand. Swear or avow.

5 [The Clerk swears in the prospective jury]

6 THE COURT: Thanks. If you'll be seated.

7 All right. Now the State will introduce themselves, tell you a little bit
8 about the case. They tell me that it will be done by Wednesday. I try to get you out
9 of here early. Today may be a little bit later. It'll be closer to 5:00. So if the State
10 will introduce themselves.

11 MR. THOMSON: Thank you, Your Honor.

12 THE COURT: And they're going to read a list of witnesses that may or
13 may -- likely most of them won't be called, but if you'll listen. If you recognize the
14 name, I will ask you to identify that.

15 MR. THOMSON: I think it would be safer to assume Friday and then aim for
16 Wednesday.

17 My name is Megan Thomson; I'm here with Timothy Fattig. We
18 represent the State of Nevada in this case; State of Nevada versus Joshua
19 Bacharach. In this case the Defendant is charged with several crimes, to include
20 attempt murder with use of a deadly weapon, discharging a firearm from or within a
21 structure or vehicle, assault with deadly weapon, stop required on signal of a police
22 officer, resisting a police officer with a firearm, and possession of a firearm with
23 altered or obliterated serial number, for an incident that occurred on June 26th of
24 2014.

25 It begin as an attempt for a car stop at the corner of Walnut and -- I'm

1 sorry, Lake Mead. At that time, the Defendant is charged with having evaded the
2 attempt for a stop, shooting at the police officer, and ultimately hiding in a backyard.
3 The evidence will show that there were weapons found, associated to this. Thank
4 you.

5 Oh, oh. We have witnesses. The State will call some of, but not all of
6 the following witnesses. Officer -- and all the officers who are listed work for Metro:
7 Paul Ake, CSA Joel Albert, Officer Atwood, Officer Basner, Officer Bien, Officer
8 Briggs, who is a Sergeant. Officer -- or Detective Chris Bunting, Officer Bybee,
9 Marnie Carter, who is a latent print examiner for the Metropolitan Forensic Lab --
10 Metropolitan Police Department Forensic Lab.

11 Officer Cortes-Monroy, Officer Delatorrf, Detective Dosch, Bill Falkner
12 who was an investigator for the District Attorney's office. Officer Fasulo, Officer
13 Peter Ferranti, Officer Ferguson, Officer Garbutt, Detective Matt Gillis, Officer
14 Goltart, Norayma Gonzalez, Gloria Guillen, Thomas -- or Officer Thomas Hemsey,
15 Off -- or Detective Brett Hodson, Jamie Honaker, who is also an investigator for the
16 District Attorney's office.

17 Officer Jonathan Houghton, Officer Patrick Hughes, Officer Karl
18 Huysentruyt, Detective Jaeger, Officer Jesus Jimenez, Shayla Joseph, who is a
19 CSA with the Metro Police Department. Officer John Kelly, Officer Eric Kerns,
20 Officer Jemme -- Jesse Kommel-Bernstein. Anya Sanko Lester, who does work for
21 Metro as a firearms examiner and tool mark examiner.

22 Officer Mangione, Officer McGinnis, Officer McGuire, Officer McIntyre,
23 Officer Ryan McNabb, Officer Milewski, Officer Milton Miramontes, Officer Morgan,
24 Officer Nava, Eufrasia Nazaroff, Officer Cjean Nelson, Officer John Nelson, Officer
25 Sean Odonell, Maurine Palmer, Jose Quesada-Robles, who is the father of Ricardo

1 Quesada-Robles. Officer Patton, Officer Pazos, Officer Perez, that's Aaron Perez.
2 Officer Alan Peterson, Daniel Pond -- Officer Daniel Pond. Officer Harrison Porter,
3 Ricardo Quesada-Robles, Officer -- I'm sorry, not officer. Jose Quezada, Jerome
4 Revels, who is an investigator for the District Attorney's Office.

5 Jose Rodriguez. Officer Frank Rummery, Officer Curt Schelin, Officer
6 Nathaniel Schuler, Officer Shatraw, Officer Ryan Smith, Officer Eric Stafford, Officer
7 Joshua Sterns, Officer Adria Stout, Maria Tanango, Manuel Tarango, Marisala
8 Tarango, CSA Stephanie Thi, Detective Jeff Toschi, Detective Luis Turcaz, CSA
9 Brenda Vaandering, who is also with Metro, Officer Jeremy Vance, Beata Vida, who
10 is a DNA analyst for Metropolitan Police Department.

11 David Wagner, Marcia Wagner, Officer Scott Wildermuth, Amanda
12 Wright, who is a CSA with Metro, Officer -- excuse me, Wyche, and Officer Carlos
13 Zamora. Thank you.

14 THE COURT: Did you introduce Mr. Fattig?

15 MR. FATTIG: She did.

16 MR. THOMSON: I did.

17 MR. FATTIG: She did.

18 THE COURT: Sorry. All right. Is there anyone that knew any of those
19 names? Or believe they know any of those names? Okay. No one. No hands
20 shown. Okay.

21 Let me just say this. Under our system of government, the Defendant
22 has -- doesn't have to do anything, doesn't have to submit any evidence. In fact, the
23 Defendant's attorney and the Defendant could sit there and do nothing and if the
24 State doesn't prove beyond a reasonable doubt, you must find him not guilty, do you
25 understand -- doesn't anybody have a problem with that? Okay. Seeing no hands.

1 Also, there's going to be a lot of police officers testifying, it sounds like
2 to me. Does anyone here believe a person that's wearing a uniform always tells the
3 truth? Or will you listen to the evidence and look at the evidence, evaluate the
4 evidence with the other evidence to make a determination? Does everybody
5 understand that? That just because they're a cop doesn't mean necessarily they're
6 going to tell the truth. Does anybody have a problem with that? I mean, we expect
7 that they'll tell the truth, but they're human like everyone else. Is everybody okay
8 with that?

9 All right. Let's have Ms. Nguyen identify herself, introduce her client,
10 and any witnesses you may have.

11 MS. NGUYEN: Good morning everyone. My name is Rochelle Nguyen. I'm
12 proud her to stand her and represent Joshua Bacharach and thank you for your
13 service.

14 THE DEFENDANT: Thank you.

15 THE COURT: Does anybody know the Defendant or the attorney? Okay. No
16 hands.

17 We are about to commence the examination of prospective jurors in the
18 case. This is called voir dire. It's French for speak the truth. There isn't a right or
19 wrong answer. Just answer if it's -- if you're excused, you're excused. Please don't
20 take anything by that. We -- what we want are 14 -- and you'll -- well there's 14 but
21 there's two alternates. There's 12. And under our system of government -- which I
22 believe it's the best system in the world. It's not perfect, but it's the best we have. A
23 unanimous decision has to be made. Does anybody have a problem with that?
24 Seeing no hands.

25 The Court, the lawyers, and all persons involved in this case are equally

1 interested in having this matter tried by a jury composed of 14 open-minded people
2 who are completely neutral and have no bias or prejudice towards or against either
3 side. In order to accomplish this, it's necessary for me to ask some questions.

4 Maybe the attorneys will ask questions. We don't need to dwell into your personal
5 lives, but we may need to ask some questions that may seem personal and it's just
6 because we're trying to get an unbiased jury. That's all we're looking for.

7 So you're not biased towards the State or the Defendant. Because as
8 he sits there he's innocent. And if we retired right now and sent you all back to
9 decide you would have to go with not guilty because you haven't heard any
10 evidence. Even if they had read the indictment to you, the indictment is just the
11 pleading document, it is not evidence. What the attorneys say to you in the
12 questioning is not evidence because they were not there. They're the spokesperson
13 for each side. Does anybody have a problem with that? Seeing no hands.

14 Although some of the questioning, again, may at times seem quite
15 personal, our objective is to determine whether there is any reason why or -- why
16 any of you cannot sit as a fair and impartial juror in the case. It's important that you
17 know the significance of full, complete, and honest answers to all questions we're
18 about to ask you. Caution you not to try to hide or withhold anything which might
19 indicate a bias or prejudice of any sort, by any of you.

20 Should you fail to answer truthfully or if you hide or withhold something
21 touching upon your qualifications that fact may tend to contaminate your verdict and
22 subject you to further inquiry, even after you're discharged as jurors. Your decision
23 should be based upon all of the evidence presented during the trial and not based
24 upon preconceived prejudice or bias.

25 I'm going to conduct the general examination of all of you. And so it will

1 take a little bit of time. If you answer, raise your hand, you'll state your name, and
2 the last three numbers of your badge, please. Attorneys may ask you some
3 questions, but I hope I cover all of them.

4 There are two types of challenges. Challenges for cause, which may
5 indicate that you're biased and the attorneys want a new person sitting up there. Or
6 peremptory challenges, which means they don't have to give a reason, they just
7 may not like your shirt, they may not like the book you came in with, something
8 along those lines.

9 Okay. Now we're going to get into the personal questions. Is there
10 anyone here that's not a citizen of the United States? If you're not a citizen, you
11 cannot sit as a juror. Raise your hand, please, if you're not. All right.

12 If anyone here has been convicted of a felony and have not had your
13 civil rights restored, you cannot sit as a juror. Is there anyone that fits into that
14 category? See, that's kind of personal. All right. Seeing no hands.

15 Does anyone here know anything about the case, other than what has
16 been stated here in the court today? Now, one of the things that I'll read to you if
17 you're picked as a juror is don't do any research on your own. Don't call anybody.
18 You may think you know someone who is an expert in an area that happens to
19 appear in court. Don't call them and say hey, what really has transpired here. I
20 heard this in court, tell me what you think.

21 Please don't do that. That's a violation -- we want to keep this in these
22 four walls; what you see and hear in this courtroom. You'll come here with your
23 everyday common sense and experience, and that's okay. But we don't want a
24 biased jury. Let me read this. I was going to read it to you later. This is a new jury
25 instruction that I was going to ask later if I can find it. And it goes to bias. Now this

1 is the first time I've read this to a jury.

2 Do not decide the case based on implicit bias. As we are going to
3 discuss in jury selection, everyone has feelings, assumptions, perceptions, fears,
4 and stereotypes that is implied -- implicit bias that we may not be aware of. These
5 hidden thoughts can impact what we see and hear, how we remember what we see
6 and hear, and how we make important decisions. Because you're making a very
7 important decision in this case, I strongly encourage you to evaluate the evidence
8 carefully and to resist jumping to conclusions based upon personal likes or dislikes,
9 generalizations, gut feelings, prejudices, sympathy, stereotypes, or biases.

10 The law demands that you return a just verdict based solely on the
11 evidence, your individual evaluation of that evidence, your reasons and common
12 sense, and these instructions. Our system of justice is counting on you to render a
13 fair decision based on evidence, not on biases. Anybody have a problem with that?
14 Seeing no hands

15 You will be getting a written -- once you're seated in the jury box, you
16 will get a written set of instructions that I will read to you at the end of the trial and
17 you will have -- and the reason I'm talking to everybody, because everybody may be
18 up here at some point. That you'll have those jury instructions with you and you can
19 follow them as I'm reading them and you can make notes on them.

20 The case is -- I think will last probably until Wednesday. The State says
21 maybe until Friday. Is there anybody here that has a plane ticket that they're leaving
22 this week? Something that would take you out of here?

23 UNKNOWN PROSPECTIVE JUROR: My job.

24 THE COURT: We're going to get to that. I -- you get mad at me I'm Judge
25 Bixler. I don't -- we'll talk about jobs. Generally I don't take that into much

1 consideration. I've had doctors say oh, I'm very important I have a doctor with all of
2 these patients. Sorry. This is our system of government and that is this is your only
3 opportunity to participate in the judicial process. I believe in our system and I
4 believe that you have a right to participate. And you're going to listen to the
5 evidence, see you -- as a jury, you're the Triers of facts. You determine what facts
6 the State proves or don't prove.

7 You see, you may not hear from the Defendant. That's their choice
8 based upon advice from Counsel. And that's okay. That's what our system is built
9 on. But the jury makes that decision. I tell you what the law is. It'd be a violation of
10 your oath to base a verdict based on anything other than what you hear from me
11 and I instruct you. Is there anybody with a problem with that that won't follow my
12 directions?

13 Is there anyone here that believes they could not sit on a fair and
14 impartial jury in this case? Raise your hand. Okay.

15 PROSPECTIVE JUROR NUMBER 191: I'm a tad hormonal.

16 THE COURT: Pardon?

17 PROSPECTIVE JUROR NUMBER 191: I'm a tad hormonal I will admit. I'm
18 seven months pregnant.

19 THE COURT: Tell me your name.

20 PROSPECTIVE JUROR NUMBER 191: Robin Lloyd, 191.

21 THE COURT: Okay. And then tell me what you feel you're unable to serve
22 as.

23 PROSPECTIVE JUROR NUMBER 191: I just -- I'm a tad hormonal. I might
24 burst into tears or have him hung simply because he's a man. And I have to pee a
25 lot.

1 THE COURT: We'll take breaks.

2 PROSPECTIVE JUROR NUMBER 191: So I don't know --

3 THE COURT: We take breaks.

4 PROSPECTIVE JUROR NUMBER 191: Okay. And --

5 THE COURT: And I'll work around that.

6 PROSPECTIVE JUROR NUMBER 191: I was able to find a sitter for my two

7 kids today, but I don't have a sitter for one of my kids for tomorrow or the rest of the

8 week really. So.

9 THE COURT: Who normally watches your children?

10 PROSPECTIVE JUROR NUMBER 191: My mom's watching my children

11 today but she has to work the rest of the week. And then I could have my grandma

12 watch my three-year old, but she won't be able to handle my eight-year old. He has

13 behavioral problems and she's quite old.

14 THE COURT: Does either party want to take a position on this?

15 MR. FATTIG: I would submit it to the Court, Your Honor.

16 MS. NGUYEN: I would submit it, Your Honor.

17 THE COURT: All right. Go check with the Jury Commissioner. She might be

18 able to put you in a one-day trial.

19 PROSPECTIVE JUROR NUMBER 191: Okay. That would be fine.

20 THE COURT: Thanks.

21 PROSPECTIVE JUROR NUMBER 191: Thank you.

22 THE COURT: Go down to the third floor and talk to her.

23 PROSPECTIVE JUROR NUMBER 191: Thank you, sir.

24 THE COURT: Hand raised in the back?

25 PROSPECTIVE JUROR NUMBER 176: I got autism. I can't really read or

1 write. And like autism, I can't really focus. And I might not even know what's going
2 on like, like the cases. Like I might not even know what's going on. I got autism,
3 mental retardation.

4 THE COURT: You don't have to speak anymore. I'm going to release him.

5 Okay. You're released. And you don't even have to check in, just go
6 home.

7 MR. THOMSON: Can we have name and badge number, please.

8 THE COURT: Name and badge number?

9 PROSPECTIVE JUROR NUMBER 176: Cory Langdon, 176.

10 THE COURT: Okay. Thank you.

11 Anybody else have any input? Statement?

12 In any -- I must tell you that in any criminal trial, the members of the jury
13 sitting collectively are the judges of the case -- questions of fact. As presiding judge,
14 I am the judge of the law. It's my responsibility to be sure that I give the instructions
15 on the law that apply in a particular case. Again, it would be a violation of your duty
16 as jurors to render a verdict based upon what they believe -- what you believe that
17 the law ought to be, even if you didn't believe the law should be there.

18 All right. Let me ask -- before I start asking you individual questions; is
19 there anyone here that has been the victim of a crime? Okay. Just keep your
20 hands --

21 Okay. Your name and badge number?

22 PROSPECTIVE JUROR NUMBER 136: John Lowenstein, 136.

23 THE COURT: Okay. What crime were you the victim of?

24 PROSPECTIVE JUROR NUMBER 136: I've actually been burglarized. Also
25 I've been robbed at gun point.

1 THE COURT: When? About?

2 PROSPECTIVE JUROR NUMBER 136: That was about in 1987.

3 THE COURT: Here in Vegas?

4 PROSPECTIVE JUROR NUMBER 136: No.

5 THE COURT: Was there anything about that incident --

6 PROSPECTIVE JUROR NUMBER 136: And actually I've been attacked at
7 one of my jobs where I had a person come up and just assault me.

8 THE COURT: Where is that?

9 PROSPECTIVE JUROR NUMBER 136: That was actually at Papa John's at
10 Trop and Decatur.

11 THE COURT: Is there anything about those incidents that would prejudice
12 you against the Defendant or the State?

13 PROSPECTIVE JUROR NUMBER 136: Probably.

14 THE COURT: Okay. Against whom? Which one? The Defendant?

15 PROSPECTIVE JUROR NUMBER 136: I -- according to -- whatever the facts
16 of the case are will probably determine that. It might -- it could be against either side
17 depending on what the facts are.

18 THE COURT: Well yeah. I mean you haven't heard any of the facts yet. You
19 may not like the facts, but we haven't heard any yet. We're not asking you to like
20 facts, we're asking if you have any built-in biases. Is there anything about that --
21 well the incident at Papa John's, was that reported to the police?

22 PROSPECTIVE JUROR NUMBER 136: Yes.

23 THE COURT: Did the police come out?

24 PROSPECTIVE JUROR NUMBER 136: Yes.

25 THE COURT: Did they investigate?

1 PROSPECTIVE JUROR NUMBER 136: I don't believe so because the
2 individual like just basically assaulted me and ran away. The paramedics came out,
3 there was undercover policeman.

4 THE COURT: Was it an undercover policeman that attacked you or came
5 out?

6 PROSPECTIVE JUROR NUMBER 136: No, the undercover policeman just
7 happened to be in the parking lot and --

8 THE COURT: And did they --

9 PROSPECTIVE JUROR NUMBER 136: -- witnessed the guy running away
10 and came over -- a marked car came over, a couple paramedics came over.

11 THE COURT: Do you feel the police acted in a professional manner?

12 PROSPECTIVE JUROR NUMBER 136: I don't think there was any follow-up
13 with the case, if that's what you mean.

14 THE COURT: That wasn't answering my question. Listen to my question.
15 Did they act in a professional manner, do you believe?

16 PROSPECTIVE JUROR NUMBER 136: If handing somebody a piece of
17 paper with a number on it with no explicit instructions is professional, I'd have to say
18 professional, otherwise not.

19 THE COURT: Okay. So is there something about that that would
20 prejudice --because there are going to be cops that testify here -- prejudice you
21 against the police officers that testify in this courtroom? Are you going to be
22 prejudiced?

23 PROSPECTIVE JUROR NUMBER 136: I don't know. It's -- I shouldn't be,
24 but I might be. That's --

25 THE COURT: Okay. Well we got to be assured that you're not. So.

1 Do you have any questions you want to ask him?

2 MR. FATTIG: Sir, good morning to you. Mr. Lowenstein, right?

3 THE COURT: Just about this issue.

4 MR. FATTIG: Sure. About this issue.

5 It sounds like that you're -- you believe you may believe in bias, in favor
6 of the Defendant because of this -- you believe there was a lack of follow-up by the
7 Metropolitan Police Department in this incident, for you, the victim.

8 PROSPECTIVE JUROR NUMBER 136: If any of these officers indicate they
9 did something similar to my case, then I'd have to say yes.

10 MR. FATTIG: You believe that the police department should have done more
11 to investigate who attacked you?

12 PROSPECTIVE JUROR NUMBER 136: Absolutely.

13 MR. FATTIG: Did you give the police the description of who attacked you?

14 PROSPECTIVE JUROR NUMBER 136: Yes.

15 MR. FATTIG: Did you know that person at all before?

16 PROSPECTIVE JUROR NUMBER 136: I had seen him as a homeless
17 person. I've actually seen him stopped by the police as a homeless person before.
18 They indicated that they kind of knew who he was. Not exactly. And I had no idea if
19 there was any follow-up at all. They kept my contact information.

20 MR. FATTIG: That was my next question. You don't actually know what or
21 what they did not do, it sound like. But you know that there was never an arrest
22 because no one ever contacted you?

23 PROSPECTIVE JUROR NUMBER 136: Correct. I mean, I had seen this
24 individual over the next months probably on a constant basis, hanging around the
25 area.

1 MR. FATTIG: Did --

2 PROSPECTIVE JUROR NUMBER 136: I've seen him viciously attack cars
3 and yell at cars.

4 MR. FATTIG: Did you contact the police on those other occasions when you
5 saw this same man?

6 PROSPECTIVE JUROR NUMBER 136: I had no contact number for them
7 and no I didn't just for seeing him.

8 MR. FATTIG: How many years ago was this incident?

9 PROSPECTIVE JUROR NUMBER 136: A little over about two.

10 MR. FATTIG: The other incidents that you indicated you were a victim of, was
11 there anything about those that gives you problem with the police? Or is it just the
12 Papa John's, when you were attacked while working at Papa John's?

13 PROSPECTIVE JUROR NUMBER 136: As far as the police are concerned, I
14 think they did their job, A, B, C, D, but I think they -- I think -- definitely think they
15 could have done more in each case, if that's what you're asking.

16 MR. FATTIG: Sure. They could have done more on each of the times you
17 were victimized, you thought.

18 PROSPECTIVE JUROR NUMBER 136: Yes.

19 MR. FATTIG: Okay. Ultimately, if you're chosen as a juror, you're going to
20 have to assure the Court and both parties that you're going to be able to judge this
21 particular case on these facts, which unlikely will involve any of the officers you were
22 in contact with a couple years, but it could, in theory, because I'm guessing you
23 don't remember the names of the officers that you were talking to, correct?

24 PROSPECTIVE JUROR NUMBER 136: I didn't write that down.

25 MR. FATTIG: Okay. But ultimately if you're chosen a jury, you're going to

1 have to assure the Court that you can sit in judgment based upon what happens in
2 this case, not something that happened to you two years ago or back in 1987. Do
3 you think you'll be able to do that?

4 PROSPECTIVE JUROR NUMBER 136: Well everything we do in life
5 judges -- basically sits in the back of our mind. I mean, I would try. I mean, but --
6 whether it doesn't appear in the top of my mind and stuff I think about according to
7 what I hear, I can't guarantee that.

8 MR. FATTIG: As you sit here, it doesn't sound like you're able to assure the
9 Court that you would be able to judge this case only on the facts in this case and not
10 something that happened to you before.

11 PROSPECTIVE JUROR NUMBER 136: That's probably accurate.

12 THE COURT: I'm going to release him. Do you have any questions you want
13 to ask him?

14 MS. NGUYEN: No, I don't.

15 THE COURT: I'm going to release you and have you go down and be on a
16 civil jury. It may be six months. So. You're going to go down and be on a jury. Call
17 him down.

18 Fill that spot, please.

19 THE CLERK: Badge 0152, Martha Quirarte.

20 THE COURT: All right. Is there anyone here -- anybody else that's been
21 accused of a crime? I mean, a victim of a crime. I'm sorry. Now you know my next
22 question. Victim? Okay. I'm sorry.

23 PROSPECTIVE JUROR NUMBER 135: My name --

24 THE COURT: Tell me your name and the last three numbers of your badge.

25 PROSPECTIVE JUROR NUMBER 135: My name is Deborah Armstrong and

1 it's 135. October 4th, I think it was either the 3rd or the 4th, I was in the process of
2 opening a business and the business was burglarized at about 12:00. I received a
3 call from the police about 3:00 in the morning. There was damage to the property.
4 Some of the equipment was removed from the premise. The case is still open. I
5 have not heard back about the case.

6 THE COURT: You did call the police?

7 PROSPECTIVE JUROR NUMBER 135: Yes, the police came out.

8 THE COURT: And they responded?

9 PROSPECTIVE JUROR NUMBER 135: Yes. Police was out, CSI was out.
10 There were four suites within the building and all four were broken into.

11 THE COURT: Is there anything about that that would prejudice you against
12 the Defendant or the State of Nevada?

13 PROSPECTIVE JUROR NUMBER 135: I have to say no.

14 THE COURT: Thank you.

15 Your name? Do you need the microphone or --

16 THE MARSHAL: Yeah, he's getting it.

17 THE COURT: Too bad your roller skates didn't work anymore.

18 THE MARSHAL: They need oil.

19 PROSPECTIVE JUROR NUMBER 165: Yeah. Mike Hansen, Badge 165.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 165: Earlier this year, and I can't give you
22 a date, somebody attempted to steal our -- one of our cars out of our driveway.
23 Metro responded, they had a CSI and a -- I'm not sure technically what it was. I
24 don't think they were normal patrol officers. They came out, dusted the car for
25 prints, lifted a couple, stuff like that. And, you know, they said then that unless the

1 print happened to come back, there probably wasn't anything they'd find, which
2 seemed reasonable.

3 Also, over Labor Day my stepdaughter's business in what was fairly
4 clearly an attempt to put her out of business. There was a very substantial police
5 response to that and again, it's under investigation but I don't have any details
6 beyond that.

7 THE COURT: Is there anything -- and police were called?

8 PROSPECTIVE JUROR NUMBER 165: Yes, sir. They came out in some
9 force actually.

10 THE COURT: Is there anything about that would prejudice you against the
11 Defendant or the State?

12 PROSPECTIVE JUROR NUMBER 165: No, sir.

13 THE COURT: You can be fair and impartial?

14 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

15 THE COURT: Let me just say this. If you think maybe I should tell the Judge,
16 maybe not. Maybe that fits, maybe it doesn't. That's when you tell me. If it's -- if
17 there's a maybe there. I might tell you doesn't fit, but that's okay. This is just to
18 speak the truth, not --

19 PROSPECTIVE JUROR NUMBER 157: Okay. Name's -- name is Andrew
20 West, Badge Number 157. When I was a teenager my home was burglarized. It
21 was handled fairly well by the police, but of course the invasion of the property, but I
22 don't feel that would bias me, but I just wanted to let you know.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR NUMBER 166: Your Honor --

25 THE COURT: Name and last three.

1 PROSPECTIVE JUROR NUMBER 166: My name is Rhonda Holy Bear. My
2 badge number is 166 and I have been the victim of family crime, murder, involving
3 both my sister and my mother. And police interrogation of a four-year old that took
4 several, several hours.

5 THE COURT: When was that?

6 PROSPECTIVE JUROR NUMBER 166: About 20 years ago.

7 THE COURT: Where at?

8 PROSPECTIVE JUROR NUMBER 166: Chicago.

9 THE COURT: Is there anything about that incident that would prejudice you
10 against the Defendant or the State of Nevada, or police officers?

11 PROSPECTIVE JUROR NUMBER 166: I think I would have a hard time
12 remaining clear. Having clear thinking throughout the process.

13 THE COURT: Then maybe you should be on a civil jury. Do you either of you
14 have a problem with that?

15 PROSPECTIVE JUROR NUMBER 166: I would submit it, Your Honor.

16 MS. NGUYEN: I'd submit.

17 THE COURT: All right. Why don't you go down, check with the Jury
18 Commissioner?

19 PROSPECTIVE JUROR NUMBER 166: Dustin Krause, Juror Number 172.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 166: Last November I was involved in a
22 hit and run. And it's a criminal case that I actually have a subpoena to testify
23 tomorrow. So.

24 THE COURT: Where at?

25 PROSPECTIVE JUROR NUMBER 166: Here.

1 THE COURT: In Justice Court.

2 PROSPECTIVE JUROR NUMBER 166: Uh-huh.

3 THE COURT: What time?

4 PROSPECTIVE JUROR NUMBER 166: 10:00 a.m. And I did receive a

5 phone call from somebody that I recognized in that list that she made, but I don't

6 know the individual. He works for the DA. Jerome Revels.

7 THE COURT: It may or may not go. What's the pleasure? Subpoena, he's

8 got to appear tomorrow.

9 MS. NGUYEN: For your office.

10 MR. FATTIG: I guess we -- at this point we don't know if it's proceeding. We

11 can certainly look into it.

12 THE COURT: We'll look into that for you.

13 PROSPECTIVE JUROR NUMBER 166: Sure.

14 THE COURT: Okay. And you know the attorney's name was what? Or --

15 MR. FATTIG: I think he knew the investigator.

16 THE COURT: The investigator.

17 MR. FATTIG: Which is the investigator --

18 THE COURT: Okay.

19 MR. FATTIG: -- for the DUI too.

20 THE COURT: You know his name so check it at the break.

21 All right. Name and last three numbers.

22 PROSPECTIVE JUROR NUMBER 210: Christopher Clay, 210. About 20

23 years ago I had my car broken into and a lot of stuff stolen. This was down in San

24 Diego. And I was also -- at a job I worked at, I was maced during an altercation that

25 I was not actually part of. I was nearby and there was an altercation in our lobby

1 and somebody brought out some mace and I got hit by it. But those are the only
2 things that have happened.

3 THE COURT: Being hit with it ain't pleasant, is it?

4 PROSPECTIVE JUROR NUMBER 210: No, it's not.

5 THE COURT: Is there anything about that -- those two incidents that would
6 prejudice you against the State or the Defendant?

7 PROSPECTIVE JUROR NUMBER 210: No, sir.

8 THE COURT: Okay. You'll be fair and impartial?

9 PROSPECTIVE JUROR NUMBER 210: Yes, sir.

10 PROSPECTIVE JUROR NUMBER 206: Hi, my name is Andrew Wolff, Juror
11 Number 206. About two years ago I was at a McDonald's on Washington and
12 Rancho and I was held up at gunpoint. I was able to drop the money and hit the
13 gas, and get away.

14 THE COURT: Did you -- were the police called?

15 PROSPECTIVE JUROR NUMBER 206: No, because he ran and I ran. I
16 didn't --

17 THE COURT: Is there anything about that that prejudice you against the
18 Defendant or --

19 PROSPECTIVE JUROR NUMBER 206: I also have a grandfather who's a
20 retired detective.

21 THE COURT: Where?

22 PROSPECTIVE JUROR NUMBER 206: In New Jersey. That more than the
23 crime -- being victim of a crime might bias me.

24 THE COURT: Do you believe that -- you would believe police officers
25 testimony just because they're police officers?

1 PROSPECTIVE JUROR NUMBER 206: I would. I was raised to believe what
2 the police say.

3 MS. NGUYEN: We'd make a motion.

4 THE COURT: All right. I -- any objection by the State? I'm going to release
5 him too but --

6 MR. FATTIG: That's fine. I'd submit it.

7 THE COURT: Yeah. Go down and do -- you can probably do a civil. That
8 would probably be better. Just tell you when you get down there I said put you on a
9 civil jury.

10 PROSPECTIVE JUROR NUMBER 206: Civil jury.

11 THE COURT: Pass that mic down.

12 PROSPECTIVE JUROR NUMBER 201: Deanna Bishop, 201. 2006 I was hit
13 by a drunk driver here in Vegas, but --

14 THE COURT: [Indiscernible].

15 PROSPECTIVE JUROR NUMBER 201: I'm not biased or anything on it.

16 THE COURT: Were the police called?

17 PROSPECTIVE JUROR NUMBER 201: Oh yeah.

18 THE COURT: And did you end up testifying?

19 PROSPECTIVE JUROR NUMBER 201: I did.

20 THE COURT: Is there anything about that that would prejudice you?

21 PROSPECTIVE JUROR NUMBER 201: No. No, he's still locked up, so.

22 THE COURT: You'll be fair and impartial in this case?

23 PROSPECTIVE JUROR NUMBER 201: Yes.

24 PROSPECTIVE JUROR NUMBER 198: James White, Badge Number 198.

25 My home was burglarized June 3rd -- June 4th of '03 in Los Angeles, California.

1 THE COURT: Police called?

2 PROSPECTIVE JUROR NUMBER 198: Oh yes.

3 THE COURT: And they appeared and -- is there anything -- problem with --
4 did you testify in court?

5 PROSPECTIVE JUROR NUMBER 198: It never went to court. They never
6 found who did it.

7 THE COURT: Is there anything about that that would prejudice you against
8 the State or the Defendant?

9 PROSPECTIVE JUROR NUMBER 198: No.

10 THE COURT: Thank you.

11 All right. I have to ask. Is there anybody accused of a crime? Accused
12 or victim?

13 PROSPECTIVE JUROR NUMBER 146: Daniel Stango, Juror Number 146. I
14 have to be very honest. My cousin was a police commissioner north of New Jersey,
15 my uncle's are police officers, my cousins are police officers in New Jersey. I grew
16 up in a kind of cops and robbers neighborhood where you're either a police officer or
17 you were a mobster. So I was restaurant --

18 THE COURT: You didn't join the police department?

19 PROSPECTIVE JUROR NUMBER 146: No. I came out here. I've been out
20 here for 35 years. California and Nevada as a general manger, district director of a
21 restaurant chain for 20 years. I was stabbed on Halloween in 1988 in a robbery
22 attempt by a person dressed as a ninja. They finally caught him three weeks later.
23 He had killed three different people. It didn't kill me. My bartender saved my life.
24 I'm sorry. I just got over the flu. I've been in bed for six days. I'm a little -- yeah.
25 Yes, sir. I am.

1 But I just have to let the Court know that my grandmother was
2 murdered in 1980 in an old age development in North New Jersey also by a
3 maintenance workers that were hired by the city. So all that being said I just need to
4 let you know that.

5 THE COURT: That's wonderful. Could you set that -- will you listen to the
6 evidence and look at the exhibits that they present and make a decision --

7 PROSPECTIVE JUROR NUMBER 146: Absolutely.

8 THE COURT: Okay. And that's all we're asking to be fair and impartial.

9 PROSPECTIVE JUROR NUMBER 146: I know. But, you know, you don't
10 want to have a verdict ---

11 THE COURT: I don't want to hide anything.

12 PROSPECTIVE JUROR NUMBER 146: Right. You don't want to have a
13 verdict and then find out that my cousin --

14 THE COURT: Right.

15 PROSPECTIVE JUROR NUMBER 146: -- was a police commissioner.

16 THE COURT: You can't call any of your cousins or any other of the neighbors
17 and ask them anything about this case. You can tell people well, I've been selected
18 to be on a criminal jury. That's all you can tell them until I release you and then at
19 that point you can talk.

20 PROSPECTIVE JUROR NUMBER 146: I'm going home and going to sleep
21 after this. I don't talk to anybody.

22 THE COURT: Thank you.

23 MS. NGUYEN: Your Honor, could I just follow-up a question regarding --

24 THE COURT: Yes.

25 MS. NGUYEN: Mr. Stango, you indicated that you're kind of recovering or --

1 from the flu.

2 PROSPECTIVE JUROR NUMBER 146: Yes.

3 MS. NGUYEN: Are you taking any kind of medication that might cloud your
4 ability to --

5 PROSPECTIVE JUROR NUMBER 146: Actually --

6 MS. NGUYEN: -- concentrate or pay attention here today?

7 PROSPECTIVE JUROR NUMBER 146: Actually I'm very uncomfortable right
8 now because I stopped taking the medication because I have a rash over my entire
9 body. So I am not taking the medication anymore. I -- you know.

10 THE COURT: Motion?

11 MS. NGUYEN: I'd make a motion. I don't know if it's a motion or --

12 THE COURT: [Indiscernible].

13 MR. FATTIG: I would submit it, Your Honor.

14 THE COURT: All right. Why don't you go ahead and go home. Don't even
15 go down to the third floor.

16 PROSPECTIVE JUROR NUMBER 146: Are you sure about that?

17 THE COURT: Go. If anybody says anything, remember Judge Bixler.

18 THE CLERK: Juror 0153, Pamela Malloy. Seat Number 11.

19 THE COURT: Why don't you just stay right there? You'll sit there when you
20 come back in. We're going to take a short recess. At 10:30 I usually take a recess.
21 I've been doing this since 7:30 this morning.

22 So, let's take five minutes. Use the restroom. There's restrooms out in
23 the hall. Don't discuss anything with anybody about the case. Thank you.

24 Everybody needs to go.

25 [Outside the presence of the prospective jury]

1 THE COURT: All right. Let me read this to you while you -- we're taking this
2 break. Mr. Bacharach --

3 THE DEFENDANT: Yes, sir?

4 THE COURT: -- under the Constitution of the United States and under the
5 Constitution of the State of Nevada, you cannot be compelled to testify in this case,
6 do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You may, at your own request, give up that right and take the
9 stand and testify. If you do, you will be subject to cross-examination by the Deputy
10 District Attorneys and anything you may say, be it on direct or cross-examination will
11 be the subject of fair comment when the Deputy District Attorneys speak to the jury
12 in their final argument, do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: If you choose not to testify, the Court will not permit the Deputy
15 District Attorneys to make any comments to the jury because you have not testified,
16 do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: If you elect not to testify and if your attorney specifically
19 requests, the Court will give a jury instruction encompassing the following, quote: A
20 law does not compel a Defendant in a criminal case to take the stand and testify.
21 And no presumption may be raised and no inference of any kind may be drawn from
22 the failure of a Defendant to testify, end quote.

23 Do you have any questions about your rights?

24 THE DEFENDANT: No, sir.

25 THE COURT: You are further advised that if you have a felony conviction and

1 more than ten years have not elapsed from the date you have been convicted or
2 discharged from prison, parole, or probation, whichever is the latter, and Defense
3 has not sought to preclude that from coming before the jury and you elect to take the
4 stand and testify, the Deputy District Attorneys in the presence of the jury are
5 permitted to ask you the following: Have you been convicted of a felony, what was
6 the felony ,and when did it happen? However, no details may be gone into and you
7 should be discussing this with your attorney during the breaks and any other time.
8 Thanks.

9 THE DEFENDANT: Okay. Thank you.

10 THE COURT: And at a later time I will ask you what your decision is.

11 [Recess taken at 10:31 a.m.]

12 [Trial resumed at 10:36 a.m.]

13 [In the presence of the prospective jury]

14 THE MARSHAL: All rise, please.

15 And be seated.

16 THE COURT: All right. Guess we're still on victims. Anybody else a victim of
17 a crime? Accused of a crime?

18 Your name and your last three numbers of your badge.

19 PROSPECTIVE JUROR NUMBER 153: Pamela Malloy, Juror 153.

20 THE COURT: What you were accused of?

21 PROSPECTIVE JUROR NUMBER 153: Leaving the scene of an accident.

22 THE COURT: The police show up?

23 PROSPECTIVE JUROR NUMBER 153: I was actually --

24 THE COURT: You got arrested?

25 PROSPECTIVE JUROR NUMBER 153: I was arrested and it went to court

1 and I served two years' probation for it.

2 THE COURT: Is there anything about that that would prejudice you against
3 the State or the Defendant?

4 PROSPECTIVE JUROR NUMBER 153: Not at all.

5 THE COURT: Now were you convicted of a felony?

6 PROSPECTIVE JUROR NUMBER 153: I was arrested on a felony of hit and
7 run. It was reduced to leaving the scene of an accident, which is what my record
8 shows.

9 THE COURT: Where at?

10 PROSPECTIVE JUROR NUMBER 153: Here in Las Vegas.

11 THE COURT: How long ago was it?

12 PROSPECTIVE JUROR NUMBER 153: 2007.

13 THE COURT: You'll be fair and impartial in this case?

14 PROSPECTIVE JUROR NUMBER 153: Absolutely.

15 THE COURT: Listen to the evidence, look at the exhibits?

16 PROSPECTIVE JUROR NUMBER 153: Yes, sir.

17 THE COURT: Anyone else accused of a crime? Seeing no hands. Is there
18 anyone here who has close friends or family members who are defense attorneys
19 here in Nevada?

20 PROSPECTIVE JUROR NUMBER 165: Mike Hansen, 165.

21 THE COURT: Who is that?

22 PROSPECTIVE JUROR NUMBER 165: I have a son-in-law that practices
23 some criminal defense law, I have a son -- stepson that's a lawyer, my wife's a
24 paralegal, is -- was a narc -- undercover narcotics officer years ago, my dad was an
25 FBI agent, and I have a daughter-in-law who is an active police officer in another

1 jurisdiction.

2 THE COURT: What about in Nevada?

3 PROSPECTIVE JUROR NUMBER 165: She is in Nevada, my wife's in
4 Nevada, my dad's buried in Nevada, my son and son-in-law are in Nevada.

5 THE COURT: What about the first one that you said your --was it your son-in-
6 law?

7 PROSPECTIVE JUROR NUMBER 165: Yes, sir, he practices.

8 THE COURT: Where?

9 PROSPECTIVE JUROR NUMBER 165: He is here in Nevada. He does
10 some criminal law.

11 THE COURT: What's his name?

12 PROSPECTIVE JUROR NUMBER 165: Blaine Beckstead.

13 THE COURT: And you have one in New Mexico.

14 PROSPECTIVE JUROR NUMBER 165: There is another Beckstead. His
15 brother's in New Mexico, yes, sir.

16 THE COURT: His brother went to Mexico. He's a DA.

17 PROSPECTIVE JUROR NUMBER 165: Is he really? I don't know. The son-
18 in-law that's -- is the one that's here --

19 THE COURT: He used to be my law clerk.

20 PROSPECTIVE JUROR NUMBER 165: I know his brother's in New Mexico.

21 THE COURT: he used to be my law clerk. That's why I know him.

22 PROSPECTIVE JUROR NUMBER 165: Ah. Yes, sir.

23 THE COURT: You know you can call them for help.

24 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

25 THE COURT: You couldn't call anybody for -- are you prejudice because of

1 that association?

2 PROSPECTIVE JUROR NUMBER 165: No, sir. Just, you know, full
3 disclosure.

4 THE COURT: Appreciate that. Thank you.

5 How about that are district attorneys besides -- oh there's somebody
6 else over here. Sorry.

7 PROSPECTIVE JUROR NUMBER 199: Taylor Vold, Badge Number 199. I
8 am a law clerk for Benson Lee. He's a defense attorney here in town. Actually I
9 think I met have met you Judge Smith one time before.

10 THE COURT: I know Benson.

11 PROSPECTIVE JUROR NUMBER 199: Yeah. I couldn't see you with this
12 that was in front of me.

13 THE COURT: You can't ask him for help in this case.

14 PROSPECTIVE JUROR NUMBER 199: Sure.

15 THE COURT: Benson doesn't do criminal work, I don't think. Well, maybe he
16 does.

17 PROSPECTIVE JUROR NUMBER 199: It's -- yeah criminal and immigration
18 mostly.

19 THE COURT: If you have any question, you won't ask him. I know Benson.
20 Just all you can tell him is you're picked for a -- if you were selected -- if we get
21 down that far. We have to go through all these other people. But if you do, all you
22 can tell him is you were picked for a jury trial and it's criminal. You understand?

23 PROSPECTIVE JUROR NUMBER 199: Yes, Your Honor.

24 THE MARSHAL: Anyone else on this side?

25 THE COURT: All right. Did I ask about prosecutors or DA's? Anybody

1 associated with them? Besides Mr. Beckstead. Seeing no hands.

2 Is there anybody here that has a familiarity -- if I can pronounce it
3 correctly -- with hand guns? A familiarity. Do you use them? Do you shoot them?
4 Is there -- okay. We need to ask some questions about that or turn it over to the
5 State and Defense.

6 Is there anyone that's prejudice because a gun was used in this case?
7 Just because a gun was used? Seeing no hands. Oops, seeing two hands.

8 PROSPECTIVE JUROR NUMBER 135: Deborah Armstrong, 135. I happen
9 to live in a neighborhood that we have a lot of break-ins. It's off of one of the oldest
10 golf courses here and we average between seven and fourteen every month. Some
11 of them are --

12 THE COURT: A month?

13 PROSPECTIVE JUROR NUMBER 135: Yep, every month because of where
14 it's located. So it's a constant awareness that any one of my neighbors, even, you
15 know, I could be shot. There was one robbery maybe about six months where the
16 whole neighborhood was shut down. The police SWAT, along with dogs were in my
17 backyard searching for the individual. So I don't like guns and unfortunately in my
18 neighborhood, it's just a part of it. They just make assumptions because of where it
19 is that there will be a lot of things to be taken.

20 THE COURT: Questions by the State?

21 MR. THOMSON: Thank you, Your Honor.

22 THE COURT: Just about the gun issue.

23 MR. THOMSON: Yes.

24 Not liking guns and forming an opinion before you are -- the case is
25 submitted for deliberation, kind of a different thing. Will you be able to put aside

1 personal dislike of firearms and listen to the evidence and judge it based on just
2 what occurs in the courtroom?

3 PROSPECTIVE JUROR NUMBER 135: That's hard for me to say because
4 one of my neighbors definitely was broken into, held at gun point. There was
5 trauma with one of the kids in the house. There's also a judge that lives in the
6 neighborhood. His house is broken into constantly. And it's usually, you know, at
7 gunpoint unfortunately that they seem to have gravitated to the neighborhood that I
8 happen to be in.

9 MR. THOMSON: Okay. Am I correct in understanding that at any mention of
10 a firearm you'd be more inclined to find the Defendant guilty?

11 PROSPECTIVE JUROR NUMBER 135: Yeah, because I don't think they're
12 needed. No.

13 MR. THOMSON: Even if we don't prove that he was even there at the scene,
14 you'd be more likely to find him guilty because a gun was mentioned.

15 PROSPECTIVE JUROR NUMBER 135: Just because of where I live and it's
16 a constant in my neighborhood for some reason --

17 MR. THOMSON: You understand that nothing in this case happened -- just
18 based on the fact that you've said it's in a golf case, I can tell you nothing in this
19 case happened anywhere near your neighborhood.

20 PROSPECTIVE JUROR NUMBER 135: That's fine. But just the fact that on
21 a regular basis is something that I have to deal with, and usually it's guns that is a
22 result of -- because we have, not a neighborhood watch, but as soon as there's a
23 break-in the whole neighborhood gets a blast to make sure you're aware. The
24 police know my neighborhood very well. They're constantly there. We know them
25 by sight. They know us by sight. If someone comes into the neighborhood that

1 does not belong there a blast goes out. So it's just one of those things.

2 MR. THOMSON: You're going to hold the State to a lower burden if there's
3 mention of a firearm, is that fair? Is that what you're saying?

4 PROSPECTIVE JUROR NUMBER 135: If I know that there is definitely a
5 firearm used, I don't know what I will -- I don't know what I will think. I just know that
6 I don't like them and they're just used way to frequently where I live. So I have an
7 aversion for them, I have an aversion for people who choose to do that, I have an
8 aversion for people who choose to break in to someone else's house, or take
9 someone's property.

10 MR. THOMSON: If in the evidence you heard that there was a firearm used
11 by both the suspect and the officer, would that affect your ability to deliberate?

12 PROSPECTIVE JUROR NUMBER 135: I don't know. I don't know.

13 MR. THOMSON: I'll make a motion.

14 MS. NGUYEN: I'll submit.

15 THE COURT: That was -- that's an honest answer, but we need you to make
16 certain and so I'm going to excuse you. I appreciate your time and I want to know
17 what neighborhood so I stay out of it. Thank you so much. Just tell them if they
18 need you, put you on something, if not, thank you.

19 THE CLERK: Juror Number 154, Roy Steward. Take Seat Number 2,
20 please.

21 THE COURT: Okay. Your name and your last three numbers.

22 PROSPECTIVE JUROR NUMBER 152: Martha Quirarte, 152.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NUMBER 152: I just don't like guns. I wouldn't have
25 it. I wouldn't buy it or have it at my house.

1 THE COURT: So are you biased towards people that use guns?
2 PROSPECTIVE JUROR NUMBER 152: Yes.
3 THE COURT: What if the State can't prove that he used a gun, would you
4 acquit him?
5 PROSPECTIVE JUROR NUMBER 152: I really don't know.
6 THE COURT: Would you listen to the evidence at least and make a decision
7 from what you heard on the stand?
8 PROSPECTIVE JUROR NUMBER 152: I don't know.
9 THE COURT: Oh you need to be on a --
10 PROSPECTIVE JUROR NUMBER 152: Yeah, I don't know, sir.
11 THE COURT: -- civil jury. Either have a -- you want to ask some questions.
12 MR. FATTIG: I'll submit.
13 MS. NGUYEN: I'll submit.
14 THE COURT: All right. Go down and get it -- Tom will call down make sure
15 you're on a civil jury, not on a criminal jury.
16 THE CLERK: Juror Number 155, Dana Pfannkuchen.
17 PROSPECTIVE JUROR NUMBER 155: Pfannkuchen.
18 THE CLERK: Pfannkuchen?
19 PROSPECTIVE JUROR NUMBER 155: Yeah.
20 THE CLERK: You'll take Seat Number 3, please.
21 THE COURT: All right. There were a number of people that held their hands
22 up that they've used guns. Well that's kind of an odd thing to say. That raised their
23 hands. Is there anyone here -- else here that would either convict someone just
24 because it's alleged that they had a gun or acquit them because of the evidence?
25 I'm -- well let me ask -- that was a dumb question.

1 Is there anyone here that would automatically convict someone
2 because a gun was alleged used? You -- especially those that have guns? Seeing
3 no hands. Will you all listen to the evidence and weigh the evidence that you hear
4 from the stand or see the exhibits before you make a decision? Anybody that would
5 not do that, raise your hand? It is alleged that guns were used in this on our streets.

6 One of the things that I need to ask and then we'll go back to the gun
7 issue. The State is burdened with the responsibility of proving each element of the
8 crime against the Defendant beyond a reasonable doubt before he's convicted. Is
9 there anybody that is opposed to that? Is there anyone that couldn't -- could not find
10 him guilty if the State proved beyond a reasonable doubt all elements of the crimes?

11 Likewise, if the State cannot meet the burden and does not prove
12 beyond a reasonable doubt the elements, is there anyone who cannot acquit the
13 Defendant of the charges? Does everybody understand that question? That he's
14 innocent and if they don't meet the burden, he stays innocent? Is everybody okay
15 with that? Seeing no hands. Any questions about that? Of issue of guns?

16 MR. FATTIG: No.

17 THE COURT: Defense?

18 MS. NGUYEN: No.

19 THE COURT: Okay.

20 MR. FATTIG: I believe that there were some hands that were raised that -- I
21 believe the original question was that if --

22 THE COURT: That were familiar with guns.

23 MR. FATTIG: -- anyone owns guns, uses guns.

24 THE COURT: Yeah.

25 MR. FATTIG: So I don't if you were going to follow-up on that.

1 THE COURT: No, but you can later.

2 MR. FATTIG: Okay.

3 THE COURT: Does anyone have strong feelings for or against the use of
4 force by officers in the line of duty? This young lady up front.

5 PROSPECTIVE JUROR NUMBER 143: Thank you. Linda Andrews, I
6 believe it's 143. Your question, Your Honor, was does anyone have a discrepancy
7 with the use of officers using excessive force?

8 THE COURT: have strong feelings associated with it --

9 PROSPECTIVE JUROR NUMBER 143: Well in lieu --

10 THE COURT: -- either for or against -- in lieu of the his -- that's why I asked it
11 that way.

12 PROSPECTIVE JUROR NUMBER 143: Exactly. In lieu of what has
13 happened over the past few years with Black Lives Matter slogan and all of the
14 young men that have been killed or -- at the hands of police officers. My mother
15 was a deputy sheriff in Los Angeles County for 15 years and head of internal affairs
16 for the Department of Welfare Fraud Public Social Service. And so it does bother
17 me, you know, from what I see in the news and what you hear and the entire Black
18 Lives Matter slogan, all lives matter, but it just seems that here in the past eight to
19 ten years or so there's been, you know, Mike Brown's and so forth and -- so I mean
20 we can go back to Emmitt Till.

21 THE COURT: Ferguson.

22 PROSPECTIVE JUROR NUMBER 143: But yeah, I'm biased with excessive
23 force.

24 THE COURT: That's why I read that jury instruction I told you I hadn't read on
25 implicit bias.

1 PROSPECTIVE JUROR NUMBER 143: Exactly.

2 THE COURT: It's something that I feel strongly about and that we -- a lot of
3 people have implicit bias that they don't disclose. And I just want to make sure what
4 you as jurors do is listen to the evidence, make a decision from what you see and
5 hear here. Can you do that?

6 PROSPECTIVE JUROR NUMBER 143: I can.

7 THE COURT: Questions by the State for -- just on that?

8 MR. THOMSON: Briefly. Thank you.

9 When you say you have a bias against excessive force, I think we can
10 all agree that police officers have no -- well, they have certain duties that are
11 different than an average citizen but they don't have extra rights. Do you have any
12 bias against a use of force that you found to be an appropriate use of force by a
13 police officer?

14 PROSPECTIVE JUROR NUMBER 143: No.

15 MR. THOMSON: Okay. So you would --

16 PROSPECTIVE JUROR NUMBER 143: If it's appropriate --

17 MR. THOMSON: -- that they have the same rights in terms of self-defense
18 and defense of others?

19 PROSPECTIVE JUROR NUMBER 143: Oh, definitely so.

20 MR. THOMSON: And perhaps more responsibility?

21 PROSPECTIVE JUROR NUMBER 143: Exactly.

22 MR. THOMSON: Okay. Thank you.

23 PROSPECTIVE JUROR NUMBER 143: It's the crossing of the line that I
24 don't condone.

25 MR. THOMSON: Thank you.

1 PROSPECTIVE JUROR NUMBER 143: You're welcome.
2 THE COURT: Defense.
3 MS. NGUYEN: No follow-up.
4 THE COURT: All right. I'll go on. Tell me your name.
5 PROSPECTIVE JUROR NUMBER 134: Carol Burgeson, 134.
6 THE COURT: Do you work?
7 PROSPECTIVE JUROR NUMBER 134: Yes.
8 THE COURT: What do you do?
9 PROSPECTIVE JUROR NUMBER 134: Clark County Assessor's Office.
10 THE COURT: Are you married?
11 PROSPECTIVE JUROR NUMBER 134: Yes, 22 years.
12 THE COURT: Spouse work?
13 PROSPECTIVE JUROR NUMBER 134: Yes.
14 THE COURT: What's your spouse do?
15 PROSPECTIVE JUROR NUMBER 134: Clark County Assessor's Office. We
16 met there.
17 THE COURT: Have you any children?
18 PROSPECTIVE JUROR NUMBER 134: One daughter.
19 THE COURT: how old?
20 PROSPECTIVE JUROR NUMBER 134: 32.
21 THE COURT: She's in law or law enforcement?
22 PROSPECTIVE JUROR NUMBER 134: She -- no, she's not in law
23 enforcement.
24 THE COURT: Do you have a background in law enforcement?
25 PROSPECTIVE JUROR NUMBER 134: I do not.

1 THE COURT: Ever sat as a juror before?

2 PROSPECTIVE JUROR NUMBER 134: On the Grand Jury for federal.

3 THE COURT: It's a little different than what's here. All 12 of you have to

4 make the decision. Do you have a problem with that?

5 PROSPECTIVE JUROR NUMBER 134: I do not.

6 THE COURT: You'll be fair and impartial to both parties in this case?

7 PROSPECTIVE JUROR NUMBER 134: I will.

8 THE COURT: Do you have any further questions, State?

9 MR. FATTIG: Briefly, Your Honor.

10 Ma'am, at this point in the case you do not have the instruction but at

11 the end of the case, if you're chosen as a juror, Judge Smith will give you a set of

12 jury instruction which tells you what the law is regarding this case here in Nevada.

13 Do you have any problem following those instruction?

14 PROSPECTIVE JUROR NUMBER 134: I do not. I haven't seen them, but

15 I --

16 MR. FATTIG: Sure. Hypothetically, if you saw something in those instruction

17 that you disagreed with, what would you do at that point? Would you follow the law

18 as Judge Smith gives it to you or would you go your own way?

19 PROSPECTIVE JUROR NUMBER 134: Well I would assume that I would

20 follow the law as instructed.

21 MR. FATTIG: And you will ultimately take an oath to do that and you have no

22 problem following the law?

23 PROSPECTIVE JUROR NUMBER 134: I do not.

24 MR. FATTIG: If we prove our case beyond a reasonable doubt, will you be

25 able to find the Defendant guilty?

1 PROSPECTIVE JUROR NUMBER 134: If I -- throughout -- any reasonable
2 doubt. I have to listen to the evidence.

3 MR. FATTIG: Of course. And as part of the instruction, the Judge will tell you
4 what beyond a reasonable doubt means. But assuming we are able to prove our
5 case, is there anything that might prevent you from sitting in judgment of someone
6 and finding a verdict of guilty?

7 PROSPECTIVE JUROR NUMBER 134: No.

8 MR. FATTIG: Okay. Thank you. We will pass for cause, Your Honor.

9 MS. NGUYEN: I'd pass.

10 THE COURT: Pass for cause?

11 MS. NGUYEN: Yes.

12 THE COURT: All right. Pass that over. Tell me your name. Your name?

13 PROSPECTIVE JUROR NUMBER 154: Roy Steward, 154.

14 THE COURT: Do you work?

15 PROSPECTIVE JUROR NUMBER 154: Steward.

16 THE COURT: Do you work?

17 PROSPECTIVE JUROR NUMBER 154: Oh. I got a problem hearing big
18 time, but no, sir, I'm retired.

19 THE COURT: We have headsets if you need one.

20 PROSPECTIVE JUROR NUMBER 154: Yeah that might help.

21 THE COURT: Are you married?

22 PROSPECTIVE JUROR NUMBER 154: I am.

23 THE COURT: Does your spouse work?

24 PROSPECTIVE JUROR NUMBER 154: No, she's retired also.

25 THE COURT: What did she retire from?

1 PROSPECTIVE JUROR NUMBER 154: Hospital administration in Colorado.
2 THE COURT: What did you retire from? What did you do?
3 PROSPECTIVE JUROR NUMBER 154: I'm a construction and plumber. I
4 was a union plumber for 30 years.
5 THE COURT: Can you hear me now? You cannot?
6 MR. THOMSON: Judge, I think you have to be by a microphone.
7 THE COURT: Excuse me. I will go by one. Can you hear me now?
8 PROSPECTIVE JUROR NUMBER 154: I can hear you.
9 THE COURT: Okay. It's a good thing because she'd come after you if you
10 didn't. Do you have children?
11 PROSPECTIVE JUROR NUMBER 154: Yes, I have a son and one daughter.
12 THE COURT: Ages?
13 PROSPECTIVE JUROR NUMBER 154: 44, daughter and 29, son.
14 THE COURT: Either of them in law or law enforcement?
15 PROSPECTIVE JUROR NUMBER 154: No.
16 THE COURT: Do you have a background in law or law enforcement?
17 PROSPECTIVE JUROR NUMBER 154: No, I don't.
18 THE COURT: have you ever sat as a juror before?
19 PROSPECTIVE JUROR NUMBER 154: No.
20 THE COURT: Can you be fair and impartial to both parties in this case?
21 PROSPECTIVE JUROR NUMBER 154: No.
22 THE COURT: Why?
23 PROSPECTIVE JUROR NUMBER 154: Well what -- I --
24 THE COURT: Can you be fair in this case?
25 PROSPECTIVE JUROR NUMBER 154: Oh. Oh, yeah. Absolutely. Yeah.

1 THE COURT: Okay. You missed --

2 PROSPECTIVE JUROR NUMBER 154: They're working though.

3 THE COURT: All right. Questions by the State.

4 MR. THOMSON: Thank you, Your Honor.

5 Were you one of the individuals who raised their hand saying that you
6 have a firearm?

7 PROSPECTIVE JUROR NUMBER 154: No, I wasn't.

8 MR. THOMSON: If you get the instruction on the law in this case and you
9 disagreed with one of them, would you be able to follow the law or would you follow
10 what you believed it should be?

11 PROSPECTIVE JUROR NUMBER 154: I'd follow the law.

12 MR. THOMSON: And if we prove the case beyond a reasonable doubt using
13 only one witness, but you believe everything that that witness says and that witness
14 meets each of the elements of the crime, would you be able to find the Defendant
15 guilty?

16 PROSPECTIVE JUROR NUMBER 154: Yes.

17 MR. THOMSON: Pass for cause.

18 MS. NGUYEN: Mr. Steward, maybe it's true, do you have any social media
19 accounts?

20 PROSPECTIVE JUROR NUMBER 154: *Facebook* or you mean like --

21 MS. NGUYEN: Okay. Would it be a problem for you not to go on *Facebook*
22 and post anything during the trial if you were selected to be on the jury?

23 PROSPECTIVE JUROR NUMBER 154: No. No problem.

24 MS. NGUYEN: Nothing further.

25 THE COURT: And that will be an instruction. Yeah, you don't get on

1 Facebook, Twitter, Instagram, any of those things while we're in trial. Does anybody
2 have a problem with that? All right.

3 MS. NGUYEN: Oh.

4 MR. THOMSON: Wait, Judge --

5 THE COURT: You can get on --

6 MS. NGUYEN: We have a hand up.

7 MR. THOMSON: Judge.

8 MS. NGUYEN: We have a hand up.

9 THE COURT: You can get on it, you just can't get on it with -- about this stuff,
10 is that all right?

11 PROSPECTIVE JUROR NUMBER 137: I use it for work and that's why --

12 THE COURT: No, no. You can get on it, but you can't get on it about this
13 saying hey, I got this and this is what the evidence says and talk about it.

14 PROSPECTIVE JUROR NUMBER 137: Yeah. Obviously. Of course.

15 THE COURT: That's the only thing I ask. Is that all right?

16 PROSPECTIVE JUROR NUMBER 154: Yes.

17 THE COURT: All right. There's another -- oh, another question. Just keep
18 that mic for a second. You might want to answer this. Does anybody have a
19 problem with this statement: A Defendant, in a criminal trial, should not be required
20 to prove his innocence?

21 Does anybody have a problem with that? Because as he sits there
22 right now, he's innocent. No one has a problem with that? How about this
23 statement: A Defendant in a criminal trial should not be required to testify or tell a
24 story or present any evidence at all.

25 Does anybody have a problem with that? I know I asked you those two

1 questions before, but I just want to make sure. Okay.

2 If you'll pass that to that young lady.

3 PROSPECTIVE JUROR NUMBER 155: Dana Pfannkuchen, Juror 155.

4 THE COURT: And do you work?

5 PROSPECTIVE JUROR NUMBER 155: I do.

6 THE COURT: What do you do?

7 PROSPECTIVE JUROR NUMBER 155: I have my own day care out of my
8 house.

9 THE COURT: Who's working there now?

10 PROSPECTIVE JUROR NUMBER 155: Nobody.

11 THE COURT: They're alone?

12 PROSPECTIVE JUROR NUMBER 155: No. I told the parents that I had jury
13 duty, so, yeah.

14 THE COURT: Are you married?

15 PROSPECTIVE JUROR NUMBER 155: Yes.

16 THE COURT: Does your spouse work?

17 PROSPECTIVE JUROR NUMBER 155: Yes.

18 THE COURT: What does your spouse do?

19 PROSPECTIVE JUROR NUMBER 155: He works at the school district.

20 THE COURT: What does he do?

21 PROSPECTIVE JUROR NUMBER 155: He is a buyer. He works in the
22 mailing, graphics. Yeah.

23 THE COURT: Do you have children?

24 PROSPECTIVE JUROR NUMBER 155: No.

25 THE COURT: Can you be fair and impartial to both parties in this case?

1 PROSPECTIVE JUROR NUMBER 155: I believe I can, yes.

2 THE COURT: State.

3 MR. FATTIG: Good morning, ma'am. Are you willing to follow the law, even if

4 you personally disagreed with something?

5 PROSPECTIVE JUROR NUMBER 155: Yes.

6 MR. FATTIG: If we prove our case beyond a reasonable doubt, will you be

7 able to find the Defendant guilty?

8 PROSPECTIVE JUROR NUMBER 155: If you were able to prove, then yes.

9 MR. FATTIG: Are you a gun owner or --

10 PROSPECTIVE JUROR NUMBER 155: Yes.

11 MR. FATTIG: -- your husband?

12 PROSPECTIVE JUROR NUMBER 155: We do own a shot gun, yes.

13 MR. FATTIG: Is there anything about your ownership of guns that gives you

14 pause of sitting in this particular -- on a trial like this?

15 PROSPECTIVE JUROR NUMBER 155: I have mixed feelings about guns, to

16 be honest. Like I agree with them like if you're protecting yourself, but if you're just

17 going to go out there and shoot people, then I don't agree with that.

18 MR. FATTIG: No one agrees with that, right?

19 MS. NGUYEN: No.

20 MR. FATTIG: But for self-defense?

21 PROSPECTIVE JUROR NUMBER 155: Yes.

22 MR. FATTIG: Okay. Thank you.

23 We would pass for cause, Your Honor.

24 THE COURT: Defense, questions?

25 MS. NGUYEN: No.

1 PROSPECTIVE JUROR NUMBER 137: Alex White. Sorry. Alex White, 137.
2 THE COURT: Do you work?
3 PROSPECTIVE JUROR NUMBER 137: Yes.
4 THE COURT: What do you do?
5 PROSPECTIVE JUROR NUMBER 137: I'm self-employed.
6 THE COURT: Doing what?
7 PROSPECTIVE JUROR NUMBER 137: I'm a cameraman, film and TV.
8 THE COURT: What?
9 PROSPECTIVE JUROR NUMBER 137: I'm a cameraman. Camera
10 operator.
11 THE COURT: Oh are you?
12 PROSPECTIVE JUROR NUMBER 137: Yes, sir.
13 THE COURT: Which TV station?
14 PROSPECTIVE JUROR NUMBER 137: I freelance actually. I do more
15 commercial and feature film work.
16 THE COURT: Are you married?
17 PROSPECTIVE JUROR NUMBER 137: No, sir.
18 THE COURT: Can you be fair and impartial in this case?
19 PROSPECTIVE JUROR NUMBER 137: Yes.
20 THE COURT: You ever -- do you have a background in law or law
21 enforcement?
22 PROSPECTIVE JUROR NUMBER 137: Nope.
23 THE COURT: Military?
24 PROSPECTIVE JUROR NUMBER 137: Nope.
25 THE COURT: Do you own guns?

1 PROSPECTIVE JUROR NUMBER 137: Yes.

2 THE COURT: Is there anything about that that would prejudice you against
3 the State or the Defendant about guns?

4 PROSPECTIVE JUROR NUMBER 137: Until I hear the case I couldn't say
5 for sure.

6 THE COURT: I mean, you'll listen to all of the evidence --

7 PROSPECTIVE JUROR NUMBER 137: Of course. I'll listen impartially but
8 my beliefs and the right to gun ownership definitely extend to --

9 THE COURT: Right to defend.

10 PROSPECTIVE JUROR NUMBER 137: Yeah.

11 THE COURT: You believe in the Second Amendment.

12 PROSPECTIVE JUROR NUMBER 137: Of course.

13 THE COURT: Okay. Ever sat as a juror before?

14 PROSPECTIVE JUROR NUMBER 137: No.

15 THE COURT: And you'll be fair and impartial?

16 PROSPECTIVE JUROR NUMBER 137: Yes.

17 THE COURT: State.

18 MS. THOMSON: Thank you, Your Honor.

19 The firearms that you own, are they handguns or a variety?

20 PROSPECTIVE JUROR NUMBER 137: It's a variety.

21 MS. THOMSON: Do you go to the range with those firearms?

22 PROSPECTIVE JUROR NUMBER 137: Not frequently.

23 MS. THOMSON: Okay. Have you been to the range?

24 PROSPECTIVE JUROR NUMBER 137: Yes.

25 MS. THOMSON: If you are picked as a juror and there's instruction you

1 disagree with, will you be able to follow it?

2 PROSPECTIVE JUROR NUMBER 137: Just in regard to the law?

3 MS. THOMSON: Yes.

4 PROSPECTIVE JUROR NUMBER 137: I believe in my juror's rights. If
5 there's a law that I don't agree with jury nullification would be something I'd consider
6 depending on what -- the law that we're talking about.

7 MS. THOMSON: Okay. So despite the fact that you will have taken an oath
8 to follow the law, you would consider not doing so?

9 PROSPECTIVE JUROR NUMBER 137: If the law is something I don't agree
10 with, of course.

11 MS. THOMSON: I'll make a motion.

12 THE COURT: Do you have any --

13 MS. NGUYEN: Court's indulgence for a moment.

14 Can I just ask him a couple questions?

15 THE COURT: Yeah.

16 MS. NGUYEN: Mr. White, you had indicated that you work as a freelance like
17 cameraman, is that correct?

18 PROSPECTIVE JUROR NUMBER 137: Yes, ma'am.

19 MS. NGUYEN: And you had also indicated that you use social media in the
20 course of your business.

21 PROSPECTIVE JUROR NUMBER 137: Yes.

22 MS. NGUYEN: Can you explain that further?

23 PROSPECTIVE JUROR NUMBER 137: I post a lot of my work as a
24 photographer and a video man and that helps me get clients. And as a freelancer I
25 depend on clients for repeat business. Vegas is a very transitional town, so I have a

1 lot of once or twice a year clients and if I'm not able to keep up with them and
2 maintain contact with them, I lose that -- I lose work. And as a freelancer, losing
3 work is not how I am able to stay day-to-day living.

4 MS. NGUYEN: You had -- do -- is your business mostly in entertainment,
5 news? Is there any --

6 PROSPECTIVE JUROR NUMBER 137: It spans --

7 MS. NGUYEN: -- particular genre?

8 PROSPECTIVE JUROR NUMBER 137: -- every aspect of video production
9 from live shows to music videos, to films, to TV work, to news work. It's -- anything
10 with a camera, I'm involved with.

11 MS. NGUYEN: So you had indicated that you perhaps would not be able to
12 the follow the law. There are circumstances that you have in mind that you would
13 not be able to follow the law?

14 PROSPECTIVE JUROR NUMBER 137: There are circumstances, sure. I
15 just want to have the ability to maintain as a jury of rights to disagree with a law that
16 we don't believe in. That can be straining to gun laws, potentially. I don't know of
17 course, the case has to have -- be presented. But there are social rights issues, of
18 course, that I firmly believe in that laws are --

19 MS. NGUYEN: Okay. Did you say you have social rights -- did you say social
20 rights or social justice rights?

21 PROSPECTIVE JUROR NUMBER 137: Social rights. You know, just the
22 social aspects of our society that we are dealing with them quite often in the law
23 area.

24 MS. NGUYEN: Okay. Can you tell me of an example of what you mean by
25 that?

1 PROSPECTIVE JUROR NUMBER 137: I -- most recently I'd say marriage
2 equality, marijuana activism, as well -- as in the gun laws as well that we definitely
3 have an issue in this country with a lot of these things, social issues.

4 MS. NGUYEN: So without having been instructed on the law, you don't know
5 whether or not you would be able to -- you would enforce it or you would maintain
6 your own social principles?

7 PROSPECTIVE JUROR NUMBER 137: No, of course. I would need to see
8 and hear the laws in regards to the case in order to determine that.

9 MS. NGUYEN: Your Honor, can I follow up with the jury panel as well. I saw
10 a couple of people nodding. Is that --

11 I saw a couple people kind of nodding when he was talking about social
12 justice or certain laws that he might not -- disagree with. In light of this juror's
13 answer, does anyone have any opinions about that or have any similar opinions
14 regarding the law?

15 UNKNOWN PROSPECTIVE JUROR: I just have a question.

16 MS. NGUYEN: Okay.

17 THE COURT: Wait, wait.

18 UNKNOWN PROSPECTIVE JUROR: But I can wait until --

19 THE COURT: Let's -- we're going to do it in order.

20 UNKNOWN PROSPECTIVE JUROR: Yeah.

21 THE COURT: Let's go to this young lady again.

22 PROSPECTIVE JUROR NUMBER 143: Thank you, Your Honor. I don't
23 have -- I don't need the mic. I don't particularly -- I'm pretty loud. I'm the boss at my
24 job and home. Yeah sorry that -- we got to know each other on our five minute
25 break.

1 I believe that the law is the law. For example, this county clerk that
2 made a decision -- I heard what you just said about marijuana, about same-sex
3 marriage, and other issues -- social issues. It's really an oxymoron because it is a
4 social issue, but it's the law. It's a religious issue but it's the law. And ultimately, at
5 the end of the day, the law is going to prevail. And so just like this clerk that made
6 the decision not to go forward with giving this couple their license, at the end of the
7 day, despite the Pope coming and everybody else that couple was married.

8 So the law says that they have the right to union. So regardless -- my
9 son is an Army veteran, as is my husband. And the VA says that my son can smoke
10 marijuana, cannabis, as a stimulant to offset his PTSD. I don't condone it, but given
11 the fact that Colorado has put it into law, the government has stated that my son has
12 the right to smoke, via a, you know, medical marijuana card. So the issue, I think, is
13 can we make a partial or impartial decision based on the facts that's given by the
14 State in this Defendant's case?

15 Can you -- regardless of what your personal get your --

16 PROSPECTIVE JUROR NUMBER 137: I'm not sure why you're --

17 THE COURT: No wait, we don't need attacks.

18 PROSPECTIVE JUROR NUMBER 137: I'm not going to --

19 PROSPECTIVE JUROR NUMBER 143: Well I'm saying -- I'm generalizing.

20 THE COURT: Just generalize.

21 PROSPECTIVE JUROR NUMBER 143: I'm generalizing.

22 THE COURT: What's your belief? Do you believe -- can you follow the order
23 of the Court? When the Court says this is the law, will you follow it?

24 PROSPECTIVE JUROR NUMBER 143: Absolutely.

25 THE COURT: Again, if I tell you this is the law, can you follow it, sir?

1 PROSPECTIVE JUROR NUMBER 137: I can follow it.

2 THE COURT: No matter what you think the law ought to be, it would be a
3 violation of your oath to base a verdict on anything but what I tell you. Do you have
4 a problem with that in the sense that you won't follow it?

5 PROSPECTIVE JUROR NUMBER 137: No, I don't have a problem with that.
6 But I --

7 THE COURT: That's the question.

8 PROSPECTIVE JUROR NUMBER 137: That's a good question, but I do
9 believe in my rights to know that I might disagree with something.

10 THE COURT: you can disagree, but --

11 PROSPECTIVE JUROR NUMBER 137: Sure.

12 THE COURT: -- when I tell you the law is X, Y, and Z, you got to follow the
13 law X, Y, and Z. You can't say yeah, but I think --

14 PROSPECTIVE JUROR NUMBER 137: But does not -- do I not have an
15 option as a juror in the jury to have a --

16 THE COURT: You have the option to say they didn't meet their burden --

17 PROSPECTIVE JUROR NUMBER 137: Right.

18 THE COURT: -- on -- based on the law, X, Y, Z. They didn't prove X, they
19 didn't prove Y.

20 PROSPECTIVE JUROR NUMBER 137: I understand that. I'm just answering
21 the questions I was asked. So.

22 THE COURT: I know. I'm just trying to gather some information about that.
23 Do you have any more questions of this gentleman?

24 MS. NGUYEN: No, I think you clarified it actually.

25 THE COURT: Do you have children?

1 PROSPECTIVE JUROR NUMBER 137: No.

2 THE COURT: Can you be fair and impartial and follow the law that I tell you

3 what it is?

4 PROSPECTIVE JUROR NUMBER 137: To the best of my abilities.

5 THE COURT: I'm going to leave him.

6 All right. Pass that over. Tell me your name.

7 PROSPECTIVE JUROR NUMBER 138: Rebecca Troxell, 138.

8 THE COURT: Do you work?

9 PROSPECTIVE JUROR NUMBER 138: Yes.

10 THE COURT: What do you do?

11 PROSPECTIVE JUROR NUMBER 138: I work at a tour company.

12 THE COURT: What do you do over there?

13 PROSPECTIVE JUROR NUMBER 138: I'm a groups manager. We make

14 reservations for airplane and helicopters.

15 THE COURT: Are you married?

16 PROSPECTIVE JUROR NUMBER 138: Yes.

17 THE COURT: Spouse work?

18 PROSPECTIVE JUROR NUMBER 138: Yes.

19 THE COURT: What does your spouse do?

20 PROSPECTIVE JUROR NUMBER 138: He's a driver for the RTC.

21 THE COURT: You have children?

22 PROSPECTIVE JUROR NUMBER 138: Yes.

23 THE COURT: Ages?

24 PROSPECTIVE JUROR NUMBER 138: 23, 13, 12, 4, and 9.

25 THE COURT: 23 year old in law or law enforcement?

1 PROSPECTIVE JUROR NUMBER 138: No.

2

3 THE COURT: Do have a background in law or law enforcement?

4 PROSPECTIVE JUROR NUMBER 138: No.

5 THE COURT: Have you ever sat as a juror before?

6 PROSPECTIVE JUROR NUMBER 138: Yes.

7 THE COURT: Where?

8 PROSPECTIVE JUROR NUMBER 138: It was civil. It was here.

9 THE COURT: When? About?

10 PROSPECTIVE JUROR NUMBER 138: A few years ago.

11 THE COURT: Were you the jury foreperson?

12 PROSPECTIVE JUROR NUMBER 138: No.

13 THE COURT: Were you able to reach a verdict? Don't tell us what the
14 verdict was.

15 PROSPECTIVE JUROR NUMBER 138: Yes.

16 THE COURT: You understand the difference is, there's probably eight jurors
17 there, only six had to decide it. And once six got to decide it that ended the case.
18 But here it's unanimous, do you understand that?

19 PROSPECTIVE JUROR NUMBER 138: Yes.

20 THE COURT: In a criminal case, that's the difference.

21 PROSPECTIVE JUROR NUMBER 138: Yes.

22 THE COURT: Do you have a problem with that?

23 PROSPECTIVE JUROR NUMBER 138: No.

24 THE COURT: State.

25 MR. FATTIG: Morning, ma'am. Are you or your husband gun owners?

1 PROSPECTIVE JUROR NUMBER 138: No.

2 MR. FATTIG: If -- at the end of the case the Judge is going to give you a set
3 of instructions that tells you what the law is. Hypothetically, if you saw an instruction
4 that you disagreed with, what would you do in that situation?

5 PROSPECTIVE JUROR NUMBER 138: I'd still follow it. It's the law.

6 MR. FATTIG: And you'll be taking an oath to do that, and you have no
7 problem with that?

8 PROSPECTIVE JUROR NUMBER 138: No.

9 MR. FATTIG: If the State proves its case beyond a reasonable doubt, will you
10 be able to sit in judgment of the Defendant and find him guilty?

11 PROSPECTIVE JUROR NUMBER 138: Yes.

12 MR. FATTIG: Thank you.

13 I would submit, Your Honor.

14 THE COURT: Questions.

15 MS. NGUYEN: Did you say you had five children?

16 PROSPECTIVE JUROR NUMBER 138: One stepchild, yeah.

17 MS. NGUYEN: Okay. During the course of parenting, have you ever had to, I
18 guess, mediate disputes between your children?

19 PROSPECTIVE JUROR NUMBER 138: Oh yeah.

20 MS. NGUYEN: And are there certain things that you look at to determine
21 what child is maybe telling the truth and which one is maybe fibbing?

22 PROSPECTIVE JUROR NUMBER 138: Well I've got one that you can tell
23 when he's lying. So.

24 MS. NGUYEN: Okay. And what kind of things do you look at in determining
25 whether or not --

1 PROSPECTIVE JUROR NUMBER 138: He laughs.

2 MS. NGUYEN: Okay. Do you do that in the course of any of your

3 employment? Do you have to judge people's, I guess, credibility or believability in

4 the course of your job at all?

5 PROSPECTIVE JUROR NUMBER 138: No.

6 MS. NGUYEN: Okay. Mostly left at home?

7 PROSPECTIVE JUROR NUMBER 138: Yeah.

8 MS. NGUYEN: Nothing further.

9 THE COURT: Pass for cause?

10 MS. NGUYEN: Yes.

11 THE COURT: Pass that mic over. Tell me your name.

12 PROSPECTIVE JUROR NUMBER 139: Marie Lasko, 139.

13 THE COURT: Do you work?

14 PROSPECTIVE JUROR NUMBER 139: Yes.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR NUMBER 139: Banquet server.

17 THE COURT: Where?

18 PROSPECTIVE JUROR NUMBER 139: Mandalay Bay.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 139: I lost my husband three months ago.

21 THE COURT: I'm sorry.

22 PROSPECTIVE JUROR NUMBER 139: Sorry.

23 THE COURT: Do you have children?

24 PROSPECTIVE JUROR NUMBER 139: I had two. I lost my son six years

25 ago.

1 THE COURT: Sorry.

2 PROSPECTIVE JUROR NUMBER 139: I have a daughter who's 24.

3 THE COURT: Is she in law or law enforcement?

4 PROSPECTIVE JUROR NUMBER 139: No.

5 THE COURT: Do you have a background in law or law enforcement?

6 PROSPECTIVE JUROR NUMBER 139: No.

7 THE COURT: Have you ever sat as a juror before?

8 PROSPECTIVE JUROR NUMBER 139: No.

9 THE COURT: Get her some water Tom.

10 PROSPECTIVE JUROR NUMBER 139: Sorry.

11 THE COURT: You'll listen to the evidence to make a decision?

12 PROSPECTIVE JUROR NUMBER 139: Yes.

13 THE COURT: State.

14 MS. THOMSON: Thank you, Your Honor.

15 Were you one of our jurors who indicated that you have firearms?

16 PROSPECTIVE JUROR NUMBER 139: No.

17 MS. THOMSON: If you were picked as a juror and the Judge instructs on law

18 and it's -- there's something you don't agree with, will you be able to follow the law

19 and not what you're opinion of the law should be?

20 PROSPECTIVE JUROR NUMBER 139: Yes.

21 MS. THOMSON: And if we prove the case beyond a reasonable doubt using

22 only one witness and that witness testifies to every element of the offenses and you

23 believe the witness completely, would you be able to find the defendant guilty?

24 PROSPECTIVE JUROR NUMBER 139: Yes.

25 MS. THOMSON: I'll pass for cause. Thank you.

1 THE COURT: Likewise, if they can't prove it beyond a reasonable doubt,
2 could you find him innocent?

3 PROSPECTIVE JUROR NUMBER 139: Yes.

4 THE COURT: Questions?

5 MS. NGUYEN: Ms. Lasko, do you watch any television?

6 PROSPECTIVE JUROR NUMBER 139: Netflix.

7 MS. NGUYEN: Okay. Do you watch any of these crime scene shows or Las
8 and Order type shows?

9 PROSPECTIVE JUROR NUMBER 139: I watch all Law and Orders.

10 MS. NGUYEN: You watch all the Law and Orders?

11 PROSPECTIVE JUROR NUMBER 139: Yes.

12 MS. NGUYEN: Are you familiar with some of these shows and how they do
13 like forensic testing and things like that?

14 PROSPECTIVE JUROR NUMBER 139: Yes.

15 MS. NGUYEN: Okay. And do you believe that those are capabilities that our
16 police officers have the ability to conduct in these kind of cases?

17 PROSPECTIVE JUROR NUMBER 139: Yes.

18 MS. NGUYEN: Like in real cases?

19 PROSPECTIVE JUROR NUMBER 139: Yes.

20 MS. NGUYEN: Okay. And you understand that if there's like a circumstance
21 where they're sucking all the air out of a room to get like -- isolate particles that
22 perhaps that isn't a science that we're able to do here in real life, is that correct?

23 PROSPECTIVE JUROR NUMBER 139: Yes.

24 MS. NGUYEN: Okay. But you're familiar with terms like DNA?

25 PROSPECTIVE JUROR NUMBER 139: Uh-huh.

1 MS. NGUYEN: Or fingerprints?
2 PROSPECTIVE JUROR NUMBER 139: Yes.
3 MS. NGUYEN: Okay. And can I just ask a question of everyone?
4 Is there anyone else that watches any of these crime shows? Okay.
5 THE COURT: Okay. Can I just add something?
6 MS. NGUYEN: Yeah. Go ahead.
7 THE COURT: Crime cannot be solved in 20 minutes without commercials.
8 Okay.
9 MS. NGUYEN: I'm sorry. Can I get hands again? Raise them up high man.
10 Does anyone watch those shows and expect those same types of
11 investigations to be conducted here in our justice system?
12 THE COURT: No hands.
13 MS. NGUYEN: This isn't a reality for anyone out here? I ask believe it was
14 once.
15 THE COURT: Okay. That's all right.
16 MS. NGUYEN: Nothing further then.
17 THE COURT: All right. Pass for cause? Ms. Nguyen, pass for cause?
18 MS. NGUYEN: Yes.
19 THE COURT: Okay. Tell me your name.
20 PROSPECTIVE JUROR NUMBER 142: Yanisley Elias, 142.
21 THE COURT: Do you work?
22 PROSPECTIVE JUROR NUMBER 142: Yes.
23 THE COURT: What do you do?
24 PROSPECTIVE JUROR NUMBER 142: I'm on table games at the Bellagio
25 casino.

1 THE COURT: Are you married?

2 PROSPECTIVE JUROR NUMBER 142: Yes.

3 THE COURT: Does your spouse work?

4 PROSPECTIVE JUROR NUMBER 142: Yes.

5 THE COURT: What does your spouse do?

6 PROSPECTIVE JUROR NUMBER 142: He's a floor supervisor on the table

7 games.

8 THE COURT: Do you have children?

9 PROSPECTIVE JUROR NUMBER 142: Yes.

10 THE COURT: Ages?

11 PROSPECTIVE JUROR NUMBER 142: Eight months old.

12 THE COURT: I'm sorry.

13 PROSPECTIVE JUROR NUMBER 142: Yeah.

14 THE COURT: Not sorry that he's eight months, but --

15 Do you have a background in law or law enforcement?

16 PROSPECTIVE JUROR NUMBER 142: No.

17 THE COURT: Have you ever sat as a juror before?

18 PROSPECTIVE JUROR NUMBER 142: No.

19 THE COURT: Could you be fair to both parties in this case?

20 PROSPECTIVE JUROR NUMBER 142: Yes.

21 THE COURT: State.

22 MR. FATTIG: Ma'am, do you or your husband own any firearms?

23 PROSPECTIVE JUROR NUMBER 142: Yeah. My husband does own a lot

24 of arms.

25 MR. FATTIG: A lot of firearms. Okay. You certainly believe -- join in his

1 belief in terms of the Second Amendment?

2 PROSPECTIVE JUROR NUMBER 142: Yes.

3 MR. FATTIG: IS there anything about that, the ownership of firearms, the fact
4 that firearms will be involved in this case that gives you any pause on certing [sic] --
5 sitting as a juror?

6 PROSPECTIVE JUROR NUMBER 142: Well I believe that guns are for
7 protection. But I also believe when a criminal has a gun and enters to a property or
8 something is to use it. So.

9 MR. FATTIG: So you're able to follow the law?

10 PROSPECTIVE JUROR NUMBER 142: Yeah.

11 MR. FATTIG: If we prove our case beyond a reasonable doubt, will you be
12 able to sit in judgment of the Defendant and find him guilty?

13 PROSPECTIVE JUROR NUMBER 142: Yes.

14 MR. FATTIG: Thank you.

15 I pass for cause.

16 THE COURT: Likewise, if they can't prove the case, you'd find him innocent?

17 PROSPECTIVE JUROR NUMBER 142: Yes.

18 THE COURT: All right. Defendant?

19 MS. NGUYEN: Did you say you work in the Bellagio?

20 PROSPECTIVE JUROR NUMBER 142: Uh-huh.

21 MS. NGUYEN: Okay. Have you ever -- has there ever been any type of
22 crime or investigation that took place in the casino while you were working there?

23 PROSPECTIVE JUROR NUMBER 142: No. I'm always off when that
24 happens.

25 MS. NGUYEN: Okay.

1 PROSPECTIVE JUROR NUMBER 142: I miss all the action.
2 MS. NGUYEN: And you said you have an eight-month old?
3 PROSPECTIVE JUROR NUMBER 142: Yes.
4 MS. NGUYEN: Does he or she sleep?
5 PROSPECTIVE JUROR NUMBER 142: No. No. He's been teething with
6 fever and it's not a good time.
7 MS. NGUYEN: Do you think the lack of parental sleep would cause you any
8 problems in concentrating here today?
9 PROSPECTIVE JUROR NUMBER 142: Some days I'm pretty jacked up,
10 yeah.
11 MS. NGUYEN: Nothing further.
12 THE COURT: Pass for cause?
13 MS. NGUYEN: Yes.
14 THE COURT: All right. Tell me your name again.
15 PROSPECTIVE JUROR NUMBER 143: Okay. It's Linda Andrews, 143.
16 THE COURT: Do you work?
17 PROSPECTIVE JUROR NUMBER 143: Yes I do.
18 THE COURT: What do you do?
19 PROSPECTIVE JUROR NUMBER 143: I'm the director of a home health
20 company here in Vegas.
21 THE COURT: Are you married?
22 PROSPECTIVE JUROR NUMBER 143: Yes.
23 THE COURT: Does your spouse work?
24 PROSPECTIVE JUROR NUMBER 143: No.
25 THE COURT: Did your spouse work?

1 PROSPECTIVE JUROR NUMBER 143: He did.
2 THE COURT: He's retired.
3 PROSPECTIVE JUROR NUMBER 143: He's retired.
4 THE COURT: From what?
5 PROSPECTIVE JUROR NUMBER 143: From Saint Rose Hospital I.T.
6 director and military.
7 THE COURT: Have you any background in law or law enforcement?
8 PROSPECTIVE JUROR NUMBER 143: No.
9 THE COURT: Children?
10 PROSPECTIVE JUROR NUMBER 143: Yes.
11 THE COURT: Ages?
12 PROSPECTIVE JUROR NUMBER 143: 25 and 30.
13 THE COURT: Are either of them in law or law enforcement?
14 PROSPECTIVE JUROR NUMBER 143: No.
15 THE COURT: Have you ever sat as a juror before?
16 PROSPECTIVE JUROR NUMBER 143: No.
17 THE COURT: Could you be fair and impartial to both parties in this case?
18 PROSPECTIVE JUROR NUMBER 143: Yes.
19 THE COURT: State.
20 MS. THOMSON: Thank you, Your Honor.
21 Ms. Andrews, you have a strong personality.
22 PROSPECTIVE JUROR NUMBER 143: I do.
23 MS. THOMSON: If you're picked as a juror in this case and in deliberations
24 there is a split of opinion as to guilt or innocence or what a fact -- how it came out in
25 the evidence, would you be able to listen to the other side's position and evaluate

1 the stance you'd taken based on what they said?

2 PROSPECTIVE JUROR NUMBER 143: Yes.

3 MS. THOMSON: Okay. And would you be willing to change your opinion if
4 what they said made sense to you and it refreshed your recollection and changed
5 your mind?

6 PROSPECTIVE JUROR NUMBER 143: As long as the evidence proved
7 such.

8 MS. THOMSON: Okay. And if what the other side didn't make sense to you,
9 didn't conform with your recollection of the evidence, all that kind of stuff, would you
10 be willing to stand by your position?

11 PROSPECTIVE JUROR NUMBER 143: Maybe.

12 MS. THOMSON: Okay. Can you elaborate?

13 PROSPECTIVE JUROR NUMBER 143: It all depends on the evidence. The
14 evidence proves all things. And so I am fair and I would partial to the evidence.

15 MS. THOMSON: Okay. If say a fact comes out and everyone agrees that the
16 fact came out one way, but you think that that fact shows X and everyone else
17 thinks that that fact shows Y, will you be willing to stand by your position as to X,
18 even if you're the only person who thinks it shows X, even though everyone agrees
19 that that fact is what it is?

20 PROSPECTIVE JUROR NUMBER 143: Yes, I would.

21 MS. THOMSON: Okay. And you'd be willing to listen to their reasons for why
22 they think it's Y?

23 PROSPECTIVE JUROR NUMBER 143: I would listen, but I would still stand.

24 MS. THOMSON: Okay. And were you one of our gun owners? You can't get
25 rid of that that easily.

1 PROSPECTIVE JUROR NUMBER 143: Oh. Yes. We have lots of guns.
2 MS. THOMSON: Okay. Do you ever go to the range?
3 PROSPECTIVE JUROR NUMBER 143: I do. And I'm pretty good.
4 MS. THOMSON: Have you had to use any of those firearms outside the
5 range?
6 PROSPECTIVE JUROR NUMBER 143: No.
7 MS. THOMSON: And if we prove the case with only one witness and that
8 witness testifies to every element of the offenses and you believe that witness
9 beyond a reasonable doubt, would you be able to find the Defendant guilty?
10 PROSPECTIVE JUROR NUMBER 143: Yes.
11 MS. THOMSON: And if we don't prove the case, you'll find him not guilty?
12 PROSPECTIVE JUROR NUMBER 143: Yes.
13 MS. THOMSON: If there's -- actually, you know what we already covered that
14 with you. We're good. Pass for cause.
15 THE COURT: Thanks. Questions for the Defense?
16 MS. NGUYEN: No.
17 THE COURT: Pass for cause?
18 MS. NGUYEN: Yes, pass for cause.
19 THE COURT: Tell me your name.
20 PROSPECTIVE JUROR NUMBER 144: Yvette Steward.
21 THE COURT: Do you work?
22 PROSPECTIVE JUROR NUMBER 144: Yes.
23 THE COURT: What do you do?
24 PROSPECTIVE JUROR NUMBER 144: Consultant.
25 THE COURT: For what?

1 PROSPECTIVE JUROR NUMBER 144: Consult -- a global consulting firm.
2 THE COURT: What do you talk about?
3 PROSPECTIVE JUROR NUMBER 144: Currently health I.T.
4 THE COURT: Are you married?
5 PROSPECTIVE JUROR NUMBER 144: Divorced.
6 THE COURT: Sorry. Did your ex-husband work?
7 PROSPECTIVE JUROR NUMBER 144: Yes.
8 THE COURT: What did he do?
9 PROSPECTIVE JUROR NUMBER 144: Oh gosh. He owned his own
10 business, dog training.
11 THE COURT: Did you have children?
12 PROSPECTIVE JUROR NUMBER 144: I have a daughter.
13 THE COURT: Age?
14 PROSPECTIVE JUROR NUMBER 144: 29.
15 THE COURT: In law or law enforcement?
16 PROSPECTIVE JUROR NUMBER 144: No.
17 THE COURT: Do you have a background in law or law enforcement?
18 PROSPECTIVE JUROR NUMBER 144: I do. Paralegal.
19 THE COURT: Paralegal.
20 PROSPECTIVE JUROR NUMBER 144: Uh-huh.
21 THE COURT: Did you work in the paralegal industry?
22 PROSPECTIVE JUROR NUMBER 144: I was in -- yeah, for -- I worked for
23 attorneys in civil.
24 THE COURT: For whom?
25 PROSPECTIVE JUROR NUMBER 144: In California.

1 THE COURT: Only civil?

2 PROSPECTIVE JUROR NUMBER 144: Only civil.

3 THE COURT: Have you ever sat as a juror before?

4 PROSPECTIVE JUROR NUMBER 144: Yes.

5 THE COURT: Where?

6 PROSPECTIVE JUROR NUMBER 144: Ohio.

7 THE COURT: When?

8 PROSPECTIVE JUROR NUMBER 144: Oh, gosh. How old was my

9 daughter? Probably about 15, 20 years ago.

10 THE COURT: Civil or criminal case?

11 PROSPECTIVE JUROR NUMBER 144: Criminal.

12 THE COURT: Without telling us a verdict, were you able to reach a verdict?

13 PROSPECTIVE JUROR NUMBER 144: For one of the criminal -- it was two

14 criminal cases. One we reached a verdict. The second one we had a hung jury.

15 THE COURT: Were you the jury foreperson on either of them?

16 PROSPECTIVE JUROR NUMBER 144: The foreperson, yes.

17 THE COURT: What kind of cases were they?

18 PROSPECTIVE JUROR NUMBER 144: Aggravated murder. Aggravated

19 robbery.

20 THE COURT: Is there anything about those two cases that would impair your

21 ability to sit as a fair juror in this one?

22 PROSPECTIVE JUROR NUMBER 144: Not at all.

23 THE COURT: You'll be fair and impartial?

24 PROSPECTIVE JUROR NUMBER 144: Absolutely.

25 THE COURT: State.

1 MR. FATTIG: Good morning, ma'am.

2 PROSPECTIVE JUROR NUMBER 144: Good morning.

3 MR. FATTIG: Regarding your prior jury service, were they kind of close in
4 time, both in Ohio?

5 PROSPECTIVE JUROR NUMBER 144: Both in Ohio and it was a two-week
6 period. So one week was the first criminal, the aggravated murder. And the second
7 was aggravated robbery.

8 MR. FATTIG: Okay. So the -- so it was two different trials?

9 PROSPECTIVE JUROR NUMBER 144: Two different trials.

10 MR. FATTIG: Were they against two different Defendants?

11 PROSPECTIVE JUROR NUMBER 144: Yes.

12 MR. FATTIG: Okay.

13 PROSPECTIVE JUROR NUMBER 144: So I -- I just worked my full two
14 weeks I --

15 MR. FATTIG: Oh in Ohio they do it a little differently. They don't just --

16 PROSPECTIVE JUROR NUMBER 144: They must.

17 MR. FATTIG: -- kick you free after you do one?

18 PROSPECTIVE JUROR NUMBER 144: No, you go in -- back into the --

19 MR. FATTIG: You have to go for two weeks.

20 PROSPECTIVE JUROR NUMBER 144: -- rotation. Correct.

21 MR. FATTIG: Okay.

22 PROSPECTIVE JUROR NUMBER 144: Uh-huh.

23 MR. FATTIG: Was that generally a positive experience or negative, or in
24 between?

25 PROSPECTIVE JUROR NUMBER 144: I would say in between.

1 MR. FATTIG: Okay.

2 PROSPECTIVE JUROR NUMBER 144: It was in between.

3 MR. FATTIG: It sounded like you reached a verdict on one of the two cases

4 and --

5 PROSPECTIVE JUROR NUMBER 144: Yeah.

6 MR. FATTIG: -- you didn't on the other one.

7 PROSPECTIVE JUROR NUMBER 144: Yes.

8 MR. FATTIG: on the one that you didn't, was there a deliberation that

9 occurred and the 12 jurors just couldn't reach unanimity or what happened?

10 PROSPECTIVE JUROR NUMBER 144: That's correct.

11 MR. FATTIG: Okay.

12 PROSPECTIVE JUROR NUMBER 144: Couldn't.

13 MR. FATTIG: So some of the -- were you -- was there some frustration

14 regarding that process?

15 PROSPECTIVE JUROR NUMBER 144: Yes.

16 MR. FATTIG: Was that some of the negative feelings that you had regarding

17 your prior jury service? Did it stem out of that; the disagreement on that other

18 case -- on the second case?

19 PROSPECTIVE JUROR NUMBER 144: Yes.

20 MR. FATTIG: Okay.

21 PROSPECTIVE JUROR NUMBER 144: First one as well. Although we did

22 come to a -- you know, found a --

23 MR. FATTIG: What kind of frustrations or disappointments did you have

24 about the first one even though you reached a verdict?

25 PROSPECTIVE JUROR NUMBER 144: I guess it would be the differing

1 views. The way the -- each juror saw the evidence that was presented.

2 MR. FATTIG: Were you able to -- were you a foreperson in that particular jury
3 or both juries?

4 PROSPECTIVE JUROR NUMBER 144: Yes. I was the foreperson in that
5 particular jury where we came to a verdict.

6 MR. FATTIG: The one where you reached a verdict?

7 PROSPECTIVE JUROR NUMBER 144: Yes.

8 MR. FATTIG: So were you able to leave the discussion in terms of the
9 evidence and talk about different opinions; why people had different opinions?

10 PROSPECTIVE JUROR NUMBER 144: Yes. And where I also used a little
11 bit of strategy where it -- when we -- before we -- while we were working towards a
12 verdict everyone didn't agree, but it appeared that certain people would only listen to
13 a certain type in the room, so then that's where I would let go of my leadership and
14 let that other person who --

15 MR. FATTIG: Okay. They were more open-minded to other -- certain
16 individuals within the room.

17 PROSPECTIVE JUROR NUMBER 144: Yes.

18 MR. FATTIG: And so they seemed to be close-minded to other individuals, so
19 in order to --

20 PROSPECTIVE JUROR NUMBER 144: I --

21 MR. FATTIG: -- get them to be open-minded about the facts, other individuals
22 would attempt to convince them?

23 PROSPECTIVE JUROR NUMBER 144: Absolutely.

24 MR. FATTIG: Okay. Do you want to be a juror again?

25 PROSPECTIVE JUROR NUMBER 144: Not necessarily, but --

1 MR. FATTIG: Okay. But are you willing to?

2 PROSPECTIVE JUROR NUMBER 144: Yes. Uh-huh.

3 MR. FATTIG: Okay. Are you willing to follow the law here in Nevada --

4 PROSPECTIVE JUROR NUMBER 144: Yes.

5 MR. FATTIG: -- that may be a little different than it was in Ohio?

6 PROSPECTIVE JUROR NUMBER 144: Yes.

7 MR. FATTIG: Okay. Even if you personally disagreed, hypothetically, in

8 understanding, you don't know exactly what the law is at this point, but --

9 PROSPECTIVE JUROR NUMBER 144: I would follow it.

10 MR. FATTIG: You would follow it.

11 PROSPECTIVE JUROR NUMBER 144: Absolutely.

12 MR. FATTIG: If we prove our case beyond a reasonable doubt, is there

13 anything that might prevent you from finding the Defendant guilty?

14 PROSPECTIVE JUROR NUMBER 144: No.

15 MR. FATTIG: Okay. Do you own a gun?

16 PROSPECTIVE JUROR NUMBER 144: I do not own a gun.

17 MR. FATTIG: Thank you.

18 I would pass for cause, Your Honor.

19 THE COURT: Questions for Defense?

20 MS. NGUYEN: I pass for cause.

21 THE COURT: Okay. Tell me your -- pass that microphone over. Tell me

22 your name. No laughing.

23 PROSPECTIVE JUROR NUMBER 145: Elizabeth Ringer, 145.

24 THE COURT: Do you work?

25 PROSPECTIVE JUROR NUMBER 145: Yes.

1 THE COURT: What do you do?
2 PROSPECTIVE JUROR NUMBER 145: School teacher.
3 THE COURT: Where?
4 PROSPECTIVE JUROR NUMBER 145: Kindergarten, CCSD.
5 THE COURT: Have you -- are you married?
6 PROSPECTIVE JUROR NUMBER 145: No.
7 THE COURT: Do you have children?
8 PROSPECTIVE JUROR NUMBER 145: Yes.
9 THE COURT: Ages?
10 PROSPECTIVE JUROR NUMBER 145: 14.
11 THE COURT: Do you have a background in law or law enforcement?
12 PROSPECTIVE JUROR NUMBER 145: No.
13 THE COURT: Have you ever sat as a juror before?
14 PROSPECTIVE JUROR NUMBER 145: No.
15 THE COURT: You'll be fair to both parties in this case?
16 Don't hesitate. What's the hesitation?
17 PROSPECTIVE JUROR NUMBER 145: Yeah.
18 THE COURT: You'll listen to the --
19 PROSPECTIVE JUROR NUMBER 145: Yes, yes.
20 THE COURT: -- evidence?
21 PROSPECTIVE JUROR NUMBER 145: Yes.
22 THE COURT: Look at the exhibits and make a decision?
23 PROSPECTIVE JUROR NUMBER 145: Yes.
24 THE COURT: State.
25 MS. THOMSON: Thank you, Your Honor.

1 So can you tell us what you were thinking as you were hesitating?

2 PROSPECTIVE JUROR NUMBER 145: Well given -- I have to see the -- I
3 have to hear the circumstance. The -- see -- hear the circumstances, hear and see
4 the evidence. That's why I hesitated. Because I don't want to ever say I'm absolute
5 until I know exactly what's going on.

6 MS. THOMSON: Do you have any concerns about anything in your life,
7 causing you to not be able to judge the evidence fairly?

8 PROSPECTIVE JUROR NUMBER 145: Uh-uh. No.

9 MS. THOMSON: Do you own any firearms?

10 PROSPECTIVE JUROR NUMBER 145: In the past.

11 MS. THOMSON: Okay. When you owned those firearms, were they
12 handguns or rifles or --

13 PROSPECTIVE JUROR NUMBER 145: Handgun, rifle, assault weapons with
14 the -- yeah.

15 MS. THOMSON: When you owned them, did you take them to the range or
16 was it just ownership?

17 PROSPECTIVE JUROR NUMBER 145: My dad took us to the range.

18 MS. THOMSON: So you were younger? I mean, obviously --

19 PROSPECTIVE JUROR NUMBER 145: Yeah.

20 MS. THOMSON: -- you were younger because it's in the past. But like a
21 child?

22 PROSPECTIVE JUROR NUMBER 145: Ever since I was, yeah, very young.

23 MS. THOMSON: Part of your life sort of sounds like for most of it.

24 PROSPECTIVE JUROR NUMBER 145: Yeah. Absolutely.

25 MS. THOMSON: And anything about the gun ownership affect your ability to

1 sit as a juror here?

2 PROSPECTIVE JUROR NUMBER 145: No. I think I was -- I kind of
3 responded to something he said. I mean, the law is the law and sometimes I just
4 feel that we're a little uptight here in the U.S. about things. And I feel that we
5 wouldn't be in some -- have some of the problems that we had if we weren't as
6 uptight about ownership of weapons and things like that.

7 MS. THOMSON: Am I understanding what you're saying as we should be
8 more open to allowing more individuals own weapons?

9 PROSPECTIVE JUROR NUMBER 145: Well I think it should be tighter
10 security on it, but I don't think it should be -- I don't agree with the whole people
11 shouldn't own guns type of thing. I think it's our right to be able to protect ourselves.
12 I think people should know how to use one before they own one, absolutely.

13 MS. THOMSON: Okay. So you're agreeing with the Second Amendment --

14 PROSPECTIVE JUROR NUMBER 145: Yeah.

15 MS. THOMSON: -- but it's maybe have a little bit more oversight.

16 PROSPECTIVE JUROR NUMBER 145: Yeah, I think --

17 MS. THOMSON: Okay.

18 PROSPECTIVE JUROR NUMBER 145: Yeah. Because I kind of feel that
19 when you take -- it's like with kids, when you take things away from them they want
20 it more. So you take those rights -- some of those rights away or you have those
21 people out there fighting to take those rights away, then more people want to get
22 guns and more people get them where they shouldn't be getting them.

23 MS. THOMSON: If you are picked as a juror in this case and instructions
24 there's something you disagree with, don't think it should be that way, or you think
25 that it is different than you're being instructed that it is, will you be able to follow the

1 Judge's instruction?

2 PROSPECTIVE JUROR NUMBER 145: Just because I'm opinionated, I can
3 follow the directions.

4 MS. THOMSON: And if you describe yourself as opinionated, are you willing
5 to listen to other jurors' positions?

6 PROSPECTIVE JUROR NUMBER 145: Yeah, absolutely. That's what
7 makes me opinionated because I get all the information, so, yeah.

8 MS. THOMSON: And you'd be willing to change your opinion if you found
9 what they were telling you to be more reasonable than what you had initially stood
10 on?

11 PROSPECTIVE JUROR NUMBER 145: Yes.

12 MS. THOMSON: And willing to stand by your position if you don't find what
13 they --

14 PROSPECTIVE JUROR NUMBER 145: Absolutely.

15 MS. THOMSON: If we prove the case with only witness, that witness testified
16 to every element of the offenses and you believe that witness completely, would you
17 be able to find the Defendant guilty?

18 PROSPECTIVE JUROR NUMBER 145: If I believed him, yeah. Yes.

19 MS. THOMSON: Thank you.

20 I'll pass for cause.

21 MS. NGUYEN: You said you were a schoolteacher, is that correct?

22 PROSPECTIVE JUROR NUMBER 145: Yes.

23 MS. NGUYEN: Okay. Do you work for the Clark County School District?

24 PROSPECTIVE JUROR NUMBER 145: Yes, I do.

25 MS. NGUYEN: So these are your two in-service days you are missing?

1 PROSPECTIVE JUROR NUMBER 145: Yes.

2 MS. NGUYEN: Okay. If you were to go back into the jury deliberation room
3 and you had listened to the evidence that was presented by the State and you were
4 the only person that heard the evidence one way and the eleven others heard it
5 another way, would you be able to stand your ground?

6 PROSPECTIVE JUROR NUMBER 145: Absolutely.

7 MS. NGUYEN: Okay. Would you be able to stand up to people that were
8 perhaps -- tried to influence you other than just talking with you, but peer pressuring,
9 I guess?

10 PROSPECTIVE JUROR NUMBER 145: I don't get peer-pressured easily.

11 MS. NGUYEN: Nothing further then. Pass for cause.

12 THE COURT: Pass that mic. Tell me your name again.

13 PROSPECTIVE JUROR NUMBER 153: Pamela Malloy, 153.

14 THE COURT: Do you work?

15 PROSPECTIVE JUROR NUMBER 153: Yes.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR NUMBER 153: I'm the manager of training for a
18 domestic publishing company.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 153: Divorced 15 years ago.

21 THE COURT: DO you have children?

22 PROSPECTIVE JUROR NUMBER 153: Two sons.

23 THE COURT: Age?

24 PROSPECTIVE JUROR NUMBER 153: 25 and 21.

25 THE COURT: Either of them in law or law enforcement?

1 PROSPECTIVE JUROR NUMBER 153: No.

2 THE COURT: Do you have a background in law or law enforcement?

3 PROSPECTIVE JUROR NUMBER 153: No.

4 THE COURT: Have you ever sat as a juror before?

5 PROSPECTIVE JUROR NUMBER 153: No.

6 THE COURT: Can you be fair and impartial?

7 PROSPECTIVE JUROR NUMBER 153: Yes.

8 THE COURT: State.

9 MR. FATTIG: Ma'am, you had indicated that you were arrested about eight

10 years ago, correct? And you were prosecuted here in Clark County?

11 PROSPECTIVE JUROR NUMBER 153: Correct.

12 MR. FATTIG: Did you feel that you were treated fairly by the system in that

13 case?

14 PROSPECTIVE JUROR NUMBER 153: Yes.

15 MR. FATTIG: And it sounded like you were able to -- you were represented

16 by an attorney and you were able --

17 PROSPECTIVE JUROR NUMBER 153: Correct.

18 MR. FATTIG: -- to reach a negotiation with the State.

19 PROSPECTIVE JUROR NUMBER 153: Correct.

20 MR. FATTIG: And so you didn't have to go to trial, correct?

21 PROSPECTIVE JUROR NUMBER 153: Correct.

22 MR. FATTIG: And you were sentenced to probation.

23 PROSPECTIVE JUROR NUMBER 153: Correct.

24 MR. FATTIG: And you received a reduced result.

25 PROSPECTIVE JUROR NUMBER 153: Correct.

1 MR. FATTIG: So you have no particular ill will against either the police for
2 arresting you or the prosecution or the court system?

3 PROSPECTIVE JUROR NUMBER 153: That is correct.

4 MR. FATTIG: Are you a gun owner?

5 PROSPECTIVE JUROR NUMBER 153: No.

6 MR. FATTIG: If you -- upon getting the instructions in this case,
7 hypothetically, if you saw something you disagreed with, would you follow the law or
8 go your own way?

9 PROSPECTIVE JUROR NUMBER 153: Follow the law.

10 MR. FATTIG: IF we prove the case beyond a reasonable doubt, can you find
11 the Defendant guilty?

12 PROSPECTIVE JUROR NUMBER 153: Yes.

13 MR. FATTIG: Okay. Thank you.

14 I pass for cause.

15 THE COURT: Questions?

16 MS. NGUYEN: Court's indulgence, just for a moment.

17 May we approach, Your Honor?

18 THE COURT: Yes.

19 [Bench Conference Begins]

20 MS. NGUYEN: I just looked up her judgment of conviction. She has a felony.

21 MR. FATTIG: It didn't get reduced according to the paperwork there.

22 MS. NGUYEN: That's showing us nothing. Sorry.

23 Confession and judgment. Hold on one second. I know it's here.

24 MR. FATTIG: I just saw it.

25 THE COURT: Did you see it too?

1 MR. FATTIG: Yeah.

2 MS. THOMSON: Yeah.

3 MR. FATTIG: It didn't get reduced. It's a felony. I mean, we --

4 MS. THOMSON: We probably need to ask her if she's had her civil right
5 restored.

6 MR. FATTIG: Yeah.

7 THE COURT: I did.

8 MS. THOMSON: Well maybe outside the presence separately because it
9 sounded like maybe she thought it wasn't a felony.

10 MR. FATTIG: Yeah. She said it wasn't a felony. She said it was reduced.

11 MS. NGUYEN: She did. She had multiple --

12 MS. THOMSON: She did two years in probation.

13 MS. NGUYEN: -- [indiscernible] and had Mace Yampolsky as her attorney
14 but it started off as multiple felonies.

15 MR. FATTIG: Yeah. She's convicted of a felony.

16 THE COURT: [Indiscernible].

17 MR. FATTIG: Just kick her. Yeah.

18 THE COURT: Do it right now.

19 MS. NGUYEN: Okay.

20 MR. FATTIG: Okay.

21 MS. THOMSON: Thank you.

22 MR. FATTIG: That's fine.

23 [Bench Conference Concludes]

24 THE COURT: All right.

25 MS. NGUYEN: I'd make a motion.

1 THE COURT: Pass that mic.

2 PROSPECTIVE JUROR NUMBER 147: Elijah Teves, 147.

3 THE COURT: Do you work?

4 PROSPECTIVE JUROR NUMBER 147: Yes.

5 THE COURT: What do you do?

6 PROSPECTIVE JUROR NUMBER 147: I work at Bass Pro Shop.

7 THE COURT: What do you do there?

8 PROSPECTIVE JUROR NUMBER 147: I do special events and cashier.

9 THE COURT: They sell guns at Bass Pro Shop.

10 PROSPECTIVE JUROR NUMBER 147: Yeah.

11 THE COURT: You own guns?

12 PROSPECTIVE JUROR NUMBER 147: I don't own guns but I've used guns

13 all my life.

14 THE COURT: Do you have a problem with that?

15 PROSPECTIVE JUROR NUMBER 147: No.

16 THE COURT: If the State doesn't prove everything, can you find him

17 innocent?

18 PROSPECTIVE JUROR NUMBER 147: Yes.

19 THE COURT: If they prove all of the elements that they need to prove, can

20 you find him guilty?

21 PROSPECTIVE JUROR NUMBER 147: Yes.

22 THE COURT: Do you have a background in law or law enforcement?

23 PROSPECTIVE JUROR NUMBER 147: No.

24 THE COURT: Can you be fair and impartial to both parties in this case?

25 PROSPECTIVE JUROR NUMBER 147: Yes.

1 THE COURT: State.

2 MS. THOMSON: If we do that proving with just one witness, would you have
3 any hesitation in finding him guilty?

4 PROSPECTIVE JUROR NUMBER 147: No.

5 MS. THOMSON: And you said you've used guns all your life, was that like
6 target shooting?

7 PROSPECTIVE JUROR NUMBER 147: Yeah and hunting.

8 MS. THOMSON: Okay.

9 PROSPECTIVE JUROR NUMBER 147: Hunting and yeah. Yeah.

10 MS. THOMSON: Okay. If you're picked as a juror and the Judge instructs on
11 the law and there's something that you think is either incorrect or should not be the
12 way it's been instructed, will you be able to follow the law as instructed?

13 PROSPECTIVE JUROR NUMBER 147: Yes.

14 MS. THOMSON: And in your hunting and -- was it just hunting or was it
15 also --

16 PROSPECTIVE JUROR NUMBER 147: Range.

17 MS. THOMSON: -- like range?

18 PROSPECTIVE JUROR NUMBER 147: Also, yeah.

19 MS. THOMSON: Did you find that even when you were going to hit the
20 target, there were times that you just missed entirely?

21 PROSPECTIVE JUROR NUMBER 147: Yeah.

22 MS. THOMSON: I'll pass for cause. Thank you.

23 THE COURT: Okay. Questions?

24 MS. NGUYEN: No.

25 THE COURT: Pass for cause?

1 MS. NGUYEN: Yes.

2 THE COURT: All right. Tell me your name.

3 PROSPECTIVE JUROR NUMBER 150: Trevor Yanke and number is 150.

4 THE COURT: You have a question. I'm going to let you ask it in a minute,

5 but tell me do you work?

6 PROSPECTIVE JUROR NUMBER 150: Yes.

7 THE COURT: What do you do?

8 PROSPECTIVE JUROR NUMBER 150: Social media marketing.

9 THE COURT: Can you stay off of social media about this case?

10 PROSPECTIVE JUROR NUMBER 150: Oh yeah. I've got no reason to post

11 it.

12 THE COURT: Okay. Are you married?

13 PROSPECTIVE JUROR NUMBER 150: No.

14 THE COURT: Do you have a background in law or law enforcement?

15 PROSPECTIVE JUROR NUMBER 150: No.

16 THE COURT: Have you ever sat as a juror before?

17 PROSPECTIVE JUROR NUMBER 150: No.

18 THE COURT: You hesitated.

19 PROSPECTIVE JUROR NUMBER 150: I can explain. Have you ever heard

20 of trial by peers? It was a --

21 THE COURT: Yes.

22 PROSPECTIVE JUROR NUMBER 150: Yes. I was kind of an interim

23 member for about a year.

24 THE COURT: That was at schools.

25 PROSPECTIVE JUROR NUMBER 150: Yeah. So -- I mean, they said some

1 of the cases were real, some of the cases weren't and they wouldn't say which ones
2 were which, so I don't know if it was on a real case or not, but I have been on the
3 jury.

4 THE COURT: You had a question.

5 PROSPECTIVE JUROR NUMBER 150: It's no longer relevant.

6 THE COURT: Can you be fair and impartial to both parties in this case?

7 PROSPECTIVE JUROR NUMBER 150: Yes.

8 THE COURT: State.

9 MR. FATTIG: Sir, are you a gun owner?

10 PROSPECTIVE JUROR NUMBER 150: No. I do go to the shooting range
11 every once in a while.

12 MR. FATTIG: At the end of the case you're going to get a set of jury
13 instructions. Hypothetically, if you disagree with something, what would you do in
14 that situation?

15 PROSPECTIVE JUROR NUMBER 150: It would go to the law at that point.

16 MR. FATTIG: You'd follow the law?

17 PROSPECTIVE JUROR NUMBER 150: Yes.

18 MR. FATTIG: Follow your oath to do so?

19 PROSPECTIVE JUROR NUMBER 150: Yes.

20 MR. FATTIG: Okay. If we prove our case beyond a reasonable doubt, can
21 you find the Defendant guilty?

22 PROSPECTIVE JUROR NUMBER 150: Yes.

23 MR. FATTIG: Okay. Thank you.

24 We would pass for cause.

25 THE COURT: Pass?

1 MS. NGUYEN: I don't have anything.
2 THE COURT: Pass for cause?
3 MS. NGUYEN: Pass for cause.
4 THE COURT: All right. If you'll pass that mic over. Tell me your name.
5 PROSPECTIVE JUROR NUMBER 151: Malcolm Ahlo, 151.
6 THE COURT: Do you work?
7 PROSPECTIVE JUROR NUMBER 151: Yes.
8 THE COURT: What do you do?
9 PROSPECTIVE JUROR NUMBER 151: Southern Nevada Health District
10 health educator.
11 THE COURT: Are you married?
12 PROSPECTIVE JUROR NUMBER 151: No.
13 THE COURT: Do you have a background in law or law enforcement?
14 PROSPECTIVE JUROR NUMBER 151: No, I do not.
15 THE COURT: Have you ever sat as a juror before?
16 PROSPECTIVE JUROR NUMBER 151: No, I have not.
17 THE COURT: Could you be fair and impartial to both parties in this case?
18 PROSPECTIVE JUROR NUMBER 151: Yes.
19 THE COURT: Are you a gun owner?
20 PROSPECTIVE JUROR NUMBER 151: No.
21 THE COURT: State.
22 MS. THOMSON: Thank you, Your Honor.
23 If we prove the case beyond a reasonable doubt with just one witness
24 and you believe that witness entirely in any and all of the elements, would you be
25 able to find the Defendant guilty?

1 PROSPECTIVE JUROR NUMBER 151: Yes.

2 MS. THOMSON: Okay. And if instructions on the law were different than you
3 believe the law should be or is, would you be able to follow the instructions as
4 given?

5 PROSPECTIVE JUROR NUMBER 151: Yes.

6 MS. THOMSON: And you said you're not a gun owner.

7 Pass for cause. Thank you.

8 MS. NGUYEN: How long have you worked for the health district?

9 PROSPECTIVE JUROR NUMBER 151: Eleven years.

10 MS. NGUYEN: Okay. You said you're a health educator. What kind of --
11 what does that entail?

12 PROSPECTIVE JUROR NUMBER 151: Specifically tobacco control. So we
13 go into all the local high schools and help kids, prevent them from starting to smoke
14 cigarettes.

15 MS. NGUYEN: Okay.

16 PROSPECTIVE JUROR NUMBER 151: And electronic cigarettes.

17 MS. NGUYEN: How far did you go in school?

18 PROSPECTIVE JUROR NUMBER 151: Bachelor's.

19 MS. NGUYEN: Okay. Do you have a background in education or health?

20 PROSPECTIVE JUROR NUMBER 151: Education.

21 MS. NGUYEN: Okay.

22 PROSPECTIVE JUROR NUMBER 151: Yeah, health education.

23 MS. NGUYEN: Nothing further. I pass for cause.

24 THE COURT: All right. I'm going to read some of the instructions to you.

25 You will get a written set of instructions. If I can find my instructions here.

1 You are admonished that no juror may declare to a fellow juror any
2 facts relating to this case as their own knowledge and if any juror discovers, during
3 the trial or after the jury has retired, that they have --

4 THE COURT: Okay.

5 MS. THOMSON: Please.

6 THE COURT: I try not to do this because it impedes on the jury's time.

7 [Bench Conference Begins]

8 MS. THOMSON: Before we start perempting we think we should all -- we all
9 think we should Mallory and fill in, so we actually have a legitimate group of people
10 that we'd be picking from.

11 MR. FATTIG: Yeah.

12 MS. THOMSON: Please.

13 MR. FATTIG: Can we -- so we get 14 up there.

14 MS. NGUYEN: [Indiscernible].

15 THE COURT: [Indiscernible].

16 MR. FATTIG: I think you just release her.

17 MS. THOMSON: We can have Tom tell her it's a felony out in the hallway.

18 THE COURT: You're stipulating.

19 MS. NGUYEN: Yeah, that's fine. And then do we -- do you ask questions of
20 the like five that are out there?

21 THE COURT: No. We've passed the whole jury.

22 MS. NGUYEN: Okay. I just --

23 MR. FATTIG: Yeah.

24 THE COURT: [Indiscernible].

25 MR. FATTIG: So we'll fill them in.

1 THE COURT: We'll fill that spot and --
2 MS. NGUYEN: Okay. That's fine.
3 MR. FATTIG: And then you do your thing and then we'll do the strikes.
4 MS. NGUYEN: Okay.
5 MS. THOMSON: Okay. Thank you.
6 THE COURT: All right.
7 MR. FATTIG: Thank you.
8 [Bench Conference Concludes]
9 THE COURT: Ms. Malloy, we want to thank and excuse you. Thank you for
10 your time.
11 THE CLERK: Juror 156, Carson Riland. Seat 11.
12 THE COURT: Sir, do you work?
13 PROSPECTIVE JUROR NUMBER 156: I work for National Security
14 Technologies as a contractor for what was the Nevada Test Site.
15 THE COURT: Do you have a background in law or law enforcement?
16 PROSPECTIVE JUROR NUMBER 156: No, sir.
17 THE COURT: Are you married?
18 PROSPECTIVE JUROR NUMBER 156: Yes.
19 THE COURT: Does your spouse work?
20 PROSPECTIVE JUROR NUMBER 156: Yes. Clark County Public Works.
21 THE COURT: Did you -- have you ever sat as a juror before?
22 PROSPECTIVE JUROR NUMBER 156: Yes.
23 THE COURT: Where?
24 PROSPECTIVE JUROR NUMBER 156: Here.
25 THE COURT: When?

1 PROSPECTIVE JUROR NUMBER 156: About five or six years ago.
2 THE COURT: Civil or criminal?
3 PROSPECTIVE JUROR NUMBER 156: Criminal.
4 THE COURT: Without telling us a verdict, were you able to reach a verdict?
5 PROSPECTIVE JUROR NUMBER 156: There was a mistrial.
6 THE COURT: Is there any -- what kind of case was it?
7 PROSPECTIVE JUROR NUMBER 156: A spousal abuse case.
8 THE COURT: Is there anything about that that would impair your ability to be
9 fair and impartial both to the State and the Defendant?
10 PROSPECTIVE JUROR NUMBER 156: No.
11 THE COURT: State.
12 MR. FATTIG: Sir, good morning. Was the mistrial at a point in time when you
13 were in deliberation so you weren't --
14 PROSPECTIVE JUROR NUMBER 156: It's --
15 MR. FATTIG: -- able to reach a unanimous verdict?
16 PROSPECTIVE JUROR NUMBER 156: No, sir. It was during the initial
17 reading of charges. So I was on a juror for about ten minutes. Or jury.
18 MR. FATTIG: It was super quick.
19 PROSPECTIVE JUROR NUMBER 156: Yes.
20 MR. FATTIG: Okay. So you've been through this process, but not --
21 PROSPECTIVE JUROR NUMBER 156: Yes.
22 MR. FATTIG: -- much else.
23 Are you a gun owner?
24 PROSPECTIVE JUROR NUMBER 156: Yes.
25 MR. FATTIG: Anything about that gives you pause in terms of being fair in

1 this case to both sides?

2 PROSPECTIVE JUROR NUMBER 156: No, sir.

3 MR. FATTIG: If at the end of the case, hypothetically, if you saw an
4 instruction which is the law in Nevada and you disagree with that instruction, what
5 would you do? Would you follow the law or would you go your own way?

6 PROSPECTIVE JUROR NUMBER 156: I would follow the law.

7 MR. FATTIG: If we prove our case beyond a reasonable doubt, can you find
8 the Defendant guilty?

9 PROSPECTIVE JUROR NUMBER 156: Yes, sir.

10 MR. FATTIG: Thank you.

11 I would pass for cause.

12 THE COURT: All right.

13 MS. NGUYEN: Is there anything about that experience, during that ten
14 minutes that you were a juror, that gives you -- that you have problems with our
15 judicial system?

16 PROSPECTIVE JUROR NUMBER 156: No, ma'am.

17 MS. NGUYEN: Okay. And I'm sorry, I didn't get your employment.

18 PROSPECTIVE JUROR NUMBER 156: I work for National Security
19 Technologies. They're the contractor for what was the Nevada Test Site.

20 MS. NGUYEN: Okay. And what type of -- what do you do as a course of your
21 employment?

22 PROSPECTIVE JUROR NUMBER 156: I'm currently a manager, but our
23 group does radiological emergency response.

24 MS. NGUYEN: How far did you go in school?

25 PROSPECTIVE JUROR NUMBER 156: PhD.

1 MS. NGUYEN: Okay. And what's your PhD in?

2 PROSPECTIVE JUROR NUMBER 156: Nuclear engineering.

3 MS. NGUYEN: Okay. And how long have you worked with this particular --
4 with the --

5 PROSPECTIVE JUROR NUMBER 156: 19 years.

6 MS. NGUYEN: Nothing further. I'd pass for cause.

7 THE COURT: All right. Thanks.

8 Okay. Now I'll read you the instructions. During the course of this trial,
9 if you were -- become acquainted with the facts of the case or witnesses and you
10 have not previously told me of that relationship, you must declare that fact to me.
11 You communicate to the Court through the marshal, Tom.

12 During the course of the trial the attorneys for both sides and the court
13 personnel other than the marshal are not permitted to converse with members of the
14 jury. These individuals are not being anti-social, they are bound by ethics and the
15 law not to talk to you. To do so might contaminate your verdict. You're admonished
16 additionally that you are not to visit the scene of any of the acts or occurrences
17 made mention of during the trial, unless specifically directed to do so by the Court.

18 If you talk to people out in the hallway or when you come, only talk to
19 people with blue badges because that would designate them as jurors. And if you
20 talk to the jury you won't mess up the verdict. If you talk to somebody else, it might.
21 We don't have a W that we spray on people as they walk through.

22 We would thank and excuse Ms. White -- or Mr. White. Sorry. Thank
23 you for your time. And Mr. Steward. Thank you for your time.

24 THE CLERK: Badge 157, Andrew West, Seat Number 2, please.

25 And Lisa Cronin-Leavitt, Badge 160, Seat Number 4.

1 THE COURT: Tell me your name again. Yeah.
2 PROSPECTIVE JUROR NUMBER 157: Andrew West.
3 THE COURT: Do you work?
4 PROSPECTIVE JUROR NUMBER 157: Yes.
5 THE COURT: What do you do?
6 PROSPECTIVE JUROR NUMBER 157: I'm a schoolteacher.
7 THE COURT: Where?
8 PROSPECTIVE JUROR NUMBER 157: Clark County School District.
9 THE COURT: What grade?
10 PROSPECTIVE JUROR NUMBER 157: Eighth grade science.
11 THE COURT: Are you married?
12 PROSPECTIVE JUROR NUMBER 157: Yes.
13 THE COURT: Spouse work?
14 PROSPECTIVE JUROR NUMBER 157: No, she's a stay-at-home mom.
15 THE COURT: Have you ever -- do you have a background in law or law
16 enforcement?
17 PROSPECTIVE JUROR NUMBER 157: I do not, but my father did work
18 many years ago for the Bureau of Narcotics Enforcement in California.
19 THE COURT: Is there anything about that that would prejudice you against
20 the State or the Defendant?
21 PROSPECTIVE JUROR NUMBER 157: No.
22 THE COURT: Have you ever sat as a juror before?
23 PROSPECTIVE JUROR NUMBER 157: No.
24 THE COURT: Can you be fair to both parties?
25 PROSPECTIVE JUROR NUMBER 157: Yes.

1 THE COURT: State.

2 MS. THOMSON: Thank you, Your Honor.

3 If we proved the case with only one witness, a question I've asked
4 everybody that I've talked to, would you be able to find the Defendant guilty?

5 PROSPECTIVE JUROR NUMBER 157: Does it include -- is it only the
6 witness testimony and no other additional evidence?

7 MS. THOMSON: Just that witness, but you believe everything that they say
8 completely and their testimony covers every element of the offenses.

9 PROSPECTIVE JUROR NUMBER 157: Yes.

10 MS. THOMSON: And if in the instructions, if you're picked as a juror, there's
11 something you disagree with, whether it's that you don't think that is actually the law
12 or that it should not be the law, would you follow what the instructions are?

13 PROSPECTIVE JUROR NUMBER 157: Yes. Law is law.

14 MS. THOMSON: And are you a firearm owner?

15 PROSPECTIVE JUROR NUMBER 157: No.

16 MS. THOMSON: Okay. Ever used them?

17 PROSPECTIVE JUROR NUMBER 157: I have used them, but I don't -- I
18 have never owned one.

19 MS. THOMSON: Okay. And was that like at the range?

20 PROSPECTIVE JUROR NUMBER 157: Yes. Also with a friend who owns
21 firearms.

22 MS. THOMSON: Okay. Anything about that affect your ability to be fair and
23 impartial in this case?

24 PROSPECTIVE JUROR NUMBER 157: No.

25 MS. THOMSON: Thank you. I'll pass for cause.

1 THE COURT: Thanks. Pass that down to --
2 MS. NGUYEN: Oh.
3 THE COURT: Oh, I'm sorry.
4 MS. NGUYEN: Can I say --
5 THE COURT: Sometimes I forget.
6 MS. NGUYEN: I know. I don't know -- I'm not very forgettable, but --
7 THE COURT: Stop me.
8 MS. NGUYEN: You said you're an eighth grade science teacher, is that
9 correct?
10 PROSPECTIVE JUROR NUMBER 157: Yes.
11 MS. NGUYEN: Okay. How long have you been teaching eighth grade?
12 PROSPECTIVE JUROR NUMBER 157: I'm in my third year.
13 MS. NGUYEN: Okay. And have you always taught science?
14 PROSPECTIVE JUROR NUMBER 157: During my tenure with Clark County?
15 MS. NGUYEN: Yes.
16 PROSPECTIVE JUROR NUMBER 157: Yes.
17 MS. NGUYEN: Okay. Did you ever teach anything else?
18 PROSPECTIVE JUROR NUMBER 157: Prior to that I worked for ten years in
19 Yosemite National Park as an educator.
20 MS. NGUYEN: Is your background in education then?
21 PROSPECTIVE JUROR NUMBER 157: Yes, more or less.
22 MS. NGUYEN: Okay. And why science?
23 PROSPECTIVE JUROR NUMBER 157: I really like it.
24 MS. NGUYEN: Why eighth grade?
25 PROSPECTIVE JUROR NUMBER 157: I must admit I will be a little stressed

1 if that -- my classes are not going to be tended to by me.

2 MS. NGUYEN: Okay. You work for the Clark County School District. Are
3 you also having in-service days the --

4 PROSPECTIVE JUROR NUMBER 157: Yes.

5 MS. NGUYEN: -- next two days.

6 Nothing further.

7 THE COURT: Pass for cause?

8 MS. NGUYEN: Yes.

9 THE COURT: Okay. Now pass it down. Tell me your name.

10 PROSPECTIVE JUROR NUMBER 160: Lisa Cronin-Leavitt.

11 THE COURT: Have you -- do you work?

12 PROSPECTIVE JUROR NUMBER 160: Yes.

13 THE COURT: What do you do?

14 PROSPECTIVE JUROR NUMBER 160: I'm a graphic designer for a website.

15 THE COURT: Can you stay off the web for this?

16 PROSPECTIVE JUROR NUMBER 160: Yes.

17 THE COURT: Okay. Are you married?

18 PROSPECTIVE JUROR NUMBER 160: Yes.

19 THE COURT: Spouse work?

20 PROSPECTIVE JUROR NUMBER 160: Yes.

21 THE COURT: What does your spouse do?

22 PROSPECTIVE JUROR NUMBER 160: He works at Costco and is a full-time
23 student.

24 THE COURT: Do you have a background in law or law enforcement?

25 PROSPECTIVE JUROR NUMBER 160: No.

1 THE COURT: Have you ever sat as a juror before?

2 PROSPECTIVE JUROR NUMBER 160: No.

3 THE COURT: You'll listen to all evidence and view the exhibits and make a
4 decision from this Commissioner?

5 PROSPECTIVE JUROR NUMBER 160: Yes.

6 THE COURT: Fair and impartial?

7 PROSPECTIVE JUROR NUMBER 160: Yes.

8 THE COURT: State.

9 MR. FATTIG: Good morning, ma'am. What is your husband studying?

10 PROSPECTIVE JUROR NUMBER 160: He is pre-nursing.

11 MR. FATTIG: Are you or your husband a gun owner?

12 PROSPECTIVE JUROR NUMBER 160: Yes.

13 MR. FATTIG: And does anything about that give you pause in terms of being
14 able to be fair and impartial in this type of case?

15 PROSPECTIVE JUROR NUMBER 160: No.

16 MR. FATTIG: Are you willing to follow the law?

17 PROSPECTIVE JUROR NUMBER 160: Yes.

18 MR. FATTIG: Even if you personally disagree with something?

19 PROSPECTIVE JUROR NUMBER 160: Yes. Law is law.

20 MR. FATTIG: Are you able to sit in judgment of the Defendant and if we
21 prove our case beyond a reasonable doubt, are you able to come back into this
22 room and tell him he's guilty?

23 PROSPECTIVE JUROR NUMBER 160: Yes.

24 MR. FATTIG: Thank you.

25 We would pass for cause, Your Honor.

1 MS. NGUYEN: I'm sorry, I didn't hear. Do you have children?
2 PROSPECTIVE JUROR NUMBER 160: I do.
3 MS. NGUYEN: How old?
4 PROSPECTIVE JUROR NUMBER 160: Two months.
5 MS. NGUYEN: Oh, whoa. Are you getting any sleep?
6 PROSPECTIVE JUROR NUMBER 160: No.
7 MS. NGUYEN: Do you work from home then?
8 PROSPECTIVE JUROR NUMBER 160: I don't.
9 MS. NGUYEN: Okay. Do you have any childcare issues?
10 PROSPECTIVE JUROR NUMBER 160: No.
11 MS. NGUYEN: Okay. You heard us probably talk earlier and ask some
12 questions. If you were to go back and you were the only person that either felt the
13 State proved their case beyond a reasonable doubt or didn't prove that, would you
14 be able to stand your ground?
15 PROSPECTIVE JUROR NUMBER 160: Yes.
16 MS. NGUYEN: Would you be able to also listen to other people as they try to
17 convince you?
18 PROSPECTIVE JUROR NUMBER 160: Yes.
19 MS. NGUYEN: Okay. And ultimately, at the end of the day, if you didn't
20 agree with them, would you still be able to stand up against eleven of your peers?
21 PROSPECTIVE JUROR NUMBER 160: Yes.
22 MS. NGUYEN: Okay. Nothing further. I pass for cause.
23 THE COURT: Okay. Remember if you get on the elevator and you see one
24 of us in the elevator, even -- don't say good morning. Don't say would you push
25 Floor 16. Well that would be the wrong --

1 Please don't go to Floor 16, go to Floor -- but just reach around the
2 person and push it or look -- they're not being rude, but they're following my orders
3 not to talk to you. So make sure you don't talk to anybody you see in the court -- in
4 the courtroom.

5 I'm going to give you written instructions, but I'm trying to give you a
6 little bit of law as you sit and listen to this case. A criminal case commenced by and
7 indictment to which the Defendant has pled not guilty. You should distinctly
8 understand that the pleading in this case, as I mentioned earlier, is not, in any sense
9 evidence of the allegations it contains. The State has the burden of proving each
10 elements of the charges beyond a reasonable doubt to convict someone. The
11 purpose of the trial is to determine whether the State will meet their burden.

12 And we would thank and excuse Ms. Lasko. Thank you for your time.
13 And Ahlo. Malcolm Ahlo, thank you for your time.

14 THE CLERK: Okay. Badge 162, Joseph Young, Seat Number 6.

15 And Badge 165, Michael Hansen, Seat 14.

16 THE COURT: Tell me your name again.

17 PROSPECTIVE JUROR NUMBER 162: Joseph Young.

18 THE COURT: Do you work?

19 PROSPECTIVE JUROR NUMBER 162: Yes.

20 THE COURT: What do you do?

21 PROSPECTIVE JUROR NUMBER 162: I'm self-employed. Swimming pool
22 maintenance and repair.

23 THE COURT: Are you married?

24 PROSPECTIVE JUROR NUMBER 162: Yes.

25 THE COURT: Spouse work?

1 PROSPECTIVE JUROR NUMBER 162: She's retired
2 THE COURT: From what?
3 PROSPECTIVE JUROR NUMBER 162: Manager at Credit Card International
4 for Visa.
5 THE COURT: Have you any background in law or law enforcement?
6 PROSPECTIVE JUROR NUMBER 162: no.
7 THE COURT: Children?
8 PROSPECTIVE JUROR NUMBER 162: Yes.
9 THE COURT: Age?
10 PROSPECTIVE JUROR NUMBER 162: 44 and 35.
11 THE COURT: Either of them in law enforcement?
12 PROSPECTIVE JUROR NUMBER 162: No.
13 THE COURT: Do you have a background in law enforcement?
14 PROSPECTIVE JUROR NUMBER 162: No.
15 THE COURT: Have you ever sat as a juror before?
16 PROSPECTIVE JUROR NUMBER 162: No.
17 THE COURT: Could you be fair to both parties in this case?
18 PROSPECTIVE JUROR NUMBER 162: Yes.
19 THE COURT: State.
20 MS. THOMSON: Thank you, Your Honor.
21 Is there any question that we asked any of the other jurors that you've
22 thought, oh, I should answer that?
23 PROSPECTIVE JUROR NUMBER 162: I don't understand the question.
24 MS. THOMSON: Okay. When -- have you been listening as you were sitting
25 back there?

1 PROSPECTIVE JUROR NUMBER 162: Yeah, I've been listening.

2 MS. THOMSON: Okay. And was there anything that I or Mr. Fattig or Ms.
3 Nguyen has asked any of the other jurors that --

4 THE COURT: Or the Judge.

5 MS. THOMSON: Or the Judge. I assume he would have piped up if it was
6 you, Judge.

7 That you feel like you would have had an answer to.

8 PROSPECTIVE JUROR NUMBER 162: Well I would have answers, but.

9 MS. THOMSON: Anything that we should know about?

10 PROSPECTIVE JUROR NUMBER 162: Anything -- no, nothing unusual. No.

11 MS. THOMSON: Okay. And if you're picked as a juror and the Judge
12 instructs on the law, anything that you disagreed with, whether you don't think that is
13 the law or it shouldn't be the law, would you still follow what the Judge instructs?

14 PROSPECTIVE JUROR NUMBER 162: I would still follow the law, yes.

15 MS. THOMSON: And if we proved the case beyond a reasonable doubt with
16 just one witness, would you be able to convict?

17 PROSPECTIVE JUROR NUMBER 162: Yes.

18 MS. THOMSON: Pass for cause. Thank you.

19 PROSPECTIVE JUROR NUMBER 162: Okay.

20 MS. NGUYEN: You had heard some of the other jurors answer some
21 questions. Did you have any reactions to those answers?

22 PROSPECTIVE JUROR NUMBER 162: Yes.

23 MS. NGUYEN: Is there one that like stands out --

24 PROSPECTIVE JUROR NUMBER 162: Well no it was just the fact --

25 MS. NGUYEN: -- to you in particular?

1 PROSPECTIVE JUROR NUMBER 162: -- that some answers seemed like
2 they just wanted to get off the jury. So.

3 MS. NGUYEN: Fair enough, fair enough.

4 PROSPECTIVE JUROR NUMBER 162: Yeah. I mean, I'm self-employed
5 and being here is difficult because people expect maintenance on their pools and I
6 could suffer loss of accounts, but I'm here to do whatever's necessary. So.

7 MS. NGUYEN: Okay. You heard some people talk about certain like possible
8 like social justice issues or like Black Rights, you know, Matter movement. Are
9 there any of those -- do you have any opinions about any of those statements made
10 by the other jurors?

11 PROSPECTIVE JUROR NUMBER 162: No, not really.

12 MS. NGUYEN: Okay. The Judge had asked some questions about the -- do
13 you watch the news?

14 PROSPECTIVE JUROR NUMBER 162: Not often.

15 MS. NGUYEN: Do you read the internet at all?

16 PROSPECTIVE JUROR NUMBER 162: mostly sports and --

17 MS. NGUYEN: Okay.

18 PROSPECTIVE JUROR NUMBER 162: -- things of that nature. Not really
19 news of the day.

20 MS. NGUYEN: Okay. Have you -- are you familiar or have you read anything
21 about any like excessive use of force by police officers?

22 PROSPECTIVE JUROR NUMBER 162: Yes, I've heard of it, yes.

23 MS. NGUYEN: Okay. Do you have any opinions about that?

24 PROSPECTIVE JUROR NUMBER 162: I believe it exists.

25 MS. NGUYEN: Okay.

1 No further questions. I pass for cause.

2 THE COURT: Thanks. Pass that down to this young man. Again, tell me

3 your name.

4 PROSPECTIVE JUROR NUMBER 165: Mike Hansen.

5 THE COURT: And do you work?

6 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

7 THE COURT: What do you do?

8 PROSPECTIVE JUROR NUMBER 165: I'm a computer systems

9 administrator.

10 THE COURT: Are you married?

11 PROSPECTIVE JUROR NUMBER 165: yes, sir.

12 THE COURT: Does your spouse work?

13 PROSPECTIVE JUROR NUMBER 165: Yes, sir. She's a paralegal.

14 THE COURT: Where?

15 PROSPECTIVE JUROR NUMBER 165: Law offices of Patrick Driscoll at the

16 moment. But she's been a paralegal since probably after the second law was

17 passed.

18 THE COURT: You can't ask her for help, do you understand?

19 PROSPECTIVE JUROR NUMBER 165: Pardon me?

20 THE COURT: You could not ask her for help in this case if --

21 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

22 THE COURT: You'll be fair and impartial?

23 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

24 THE COURT: Have a background in law or law enforcement?

25 PROSPECTIVE JUROR NUMBER 165: I do not. I have family members

1 who --

2 THE COURT: Right.

3 PROSPECTIVE JUROR NUMBER 165: -- do and have.

4 THE COURT: We previously talked about. Have you ever sat as a juror
5 before?

6 PROSPECTIVE JUROR NUMBER 165: On a military court martial board.

7 THE COURT: When? About?

8 PROSPECTIVE JUROR NUMBER 165: Probably about 22, 23 years ago.

9 THE COURT: Do they have a jury foreperson done?

10 PROSPECTIVE JUROR NUMBER 165: The court martial board is the jury,
11 sir. The job -- the military judge is the referee but in the military system the -- in
12 some respects the court martial board sits where you are.

13 THE COURT: Were you able to reach a verdict?

14 PROSPECTIVE JUROR NUMBER 165: Yes, sir, we were.

15 THE COURT: Is there anything about that that would impair your ability to be
16 fair and impartial in this case?

17 PROSPECTIVE JUROR NUMBER 165: No, sir.

18 THE COURT: State.

19 MR. FATTIG: Sir, good morning. Your wife was a paralegal, correct? Or
20 has --

21 PROSPECTIVE JUROR NUMBER 165: She is one.

22 MR. FATTIG: -- been? She -- currently one.

23 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

24 MR. FATTIG: Was that for attorneys in the civil realm only?

25 PROSPECTIVE JUROR NUMBER 165: Over the course of her career I

1 cannot tell you honestly. She may have worked for some criminal attorneys. She
2 either worked around Oscar Goldman or in his firm or something like that and he's
3 not a few non-civil people.

4 MR. FATTIG: Sure. If we prove our case beyond a reasonable doubt, can
5 you find the Defendant guilty?

6 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

7 MR. FATTIG: Are you a gun owner?

8 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

9 MR. FATTIG: Anything about that gives you pause in terms of being fair in
10 this particular case?

11 PROSPECTIVE JUROR NUMBER 165: No, sir.

12 MR. FATTIG: If you disagreed with something that the Judge said in the
13 instructions, would you follow the instructions?

14 PROSPECTIVE JUROR NUMBER 165: I might ask for clarification to make
15 sure what I was understanding correctly, but beyond that, if -- what he says, goes.

16 MR. FATTIG: Thank you. We would pass for cause, Your Honor.

17 MS. NGUYEN: You have a lot of people that work in and around the legal
18 field. Have you picked up any legal knowledge through that experience?

19 PROSPECTIVE JUROR NUMBER 165: I think it's unavoidable.

20 MS. NGUYEN: So you're familiar with legal speak?

21 PROSPECTIVE JUROR NUMBER 165: To some extent.

22 MS. NGUYEN: Okay. And you said mostly in the -- your experiences with
23 criminal -- or civil -- the civil world, through your family?

24 PROSPECTIVE JUROR NUMBER 165: The two attorneys -- my son, which
25 is -- or who my wife currently works for does civil work of various sorts. My son-in-

1 law has done some criminal. He's also done personal injury and things like that. I
2 honestly don't know to the extent he does -- actually personally does criminal work.

3 MS. NGUYEN: Is there ever any experience where he's talked to you about
4 any criminal work that he has done or that your wife has been a part of?

5 PROSPECTIVE JUROR NUMBER 165: Not that I can recall. I suspect
6 there's been, you know, dinner table talk about some generic case. But, you know,
7 no names or dates or anything I could ever tie it --

8 MS. NGUYEN: Okay.

9 PROSPECTIVE JUROR NUMBER 165: -- to somebody.

10 MS. NGUYEN: And then I'm going to ask you the same question I asked the
11 gentleman behind you. Did you have any reaction to any of the statements made by
12 other jurors regarding any social issues or I think someone mentioned something
13 about jury nullification or not following the law?

14 PROSPECTIVE JUROR NUMBER 165: I disagree with a lot of some of the
15 more editorial comments that were made.

16 MS. NGUYEN: Okay. And are you familiar with any -- do you watch the
17 news?

18 PROSPECTIVE JUROR NUMBER 165: Generally, yes.

19 MS. NGUYEN: Okay. Are you familiar with cases involving excessive or
20 unjustified police force?

21 PROSPECTIVE JUROR NUMBER 165: I know there's some that have --
22 there have been allegations, there have been a few proven.

23 MS. NGUYEN: Okay. And do you have any opinions about that?

24 PROSPECTIVE JUROR NUMBER 165: Some of the allegations are bogus,
25 some of them are real.

1 MS. NGUYEN: Okay. And do you get that information and form those
2 opinions through what you've watched or seen on the internet or on TV?

3 PROSPECTIVE JUROR NUMBER 165: Primarily, yes.

4 MS. NGUYEN: Nothing further. I pass for cause.

5 THE COURT: Okay. The trial will proceed in the following order. The parties
6 have the opportunity to make an opening statement. What is said in opening
7 statement is not evidence. The statements simply serve the purpose of an
8 introduction to the evidence, which the party making the statement intends to prove.
9 The State will introduce evidence in support of the State's information. This is called
10 a State's case in chief.

11 After the State presents evidence, the Defendant may, if they choose,
12 present evidence, but is not obligated to do so. This is the Defendant's case in
13 chief. If the Defendant presents evidence, the State may present rebuttal evidence.
14 If the State presents rebuttal, there may be surrebuttal evidence.

15 We would thank and excuse Michael Hansen. Thank you for your time.
16 If you'll check in with the Jury Commissioner.

17 THE CLERK: Badge 168, James Fu. You'll be in Seat 14.

18 THE COURT: Sir, do you work?

19 PROSPECTIVE JUROR NUMBER 168: Excuse me?

20 THE COURT: Do you work?

21 PROSPECTIVE JUROR NUMBER 168: No. I'm retired.

22 THE COURT: From what?

23 PROSPECTIVE JUROR NUMBER 168: From mechanical engineer.

24 THE COURT: Are you married?

25 PROSPECTIVE JUROR NUMBER 168: Yes.

1 THE COURT: Does your spouse work?
2 PROSPECTIVE JUROR NUMBER 168: No, she retired too.
3 THE COURT: What does she do?
4 PROSPECTIVE JUROR NUMBER 168: Well she was a food technologist.
5 THE COURT: Do you have children?
6 PROSPECTIVE JUROR NUMBER 168: Two.
7 THE COURT: Ages?
8 PROSPECTIVE JUROR NUMBER 168: 35 and 31.
9 THE COURT: Are either of them in law or law enforcement?
10 PROSPECTIVE JUROR NUMBER 168: No.
11 THE COURT: Do you have a background in law or law enforcement?
12 PROSPECTIVE JUROR NUMBER 168: No.
13 THE COURT: Have you ever sat as a juror before?
14 PROSPECTIVE JUROR NUMBER 168: No.
15 THE COURT: Could you be fair to both parties in this case?
16 PROSPECTIVE JUROR NUMBER 168: Can you repeat that question one
17 more time?
18 THE COURT: Yeah. Can you be fair?
19 PROSPECTIVE JUROR NUMBER 168: Oh, yeah, sure.
20 THE COURT: You'll listen to the evidence, look at the exhibits, make a
21 decision?
22 PROSPECTIVE JUROR NUMBER 168: Yeah.
23 THE COURT: Okay. State.
24 MS. THOMSON: Thank you, Your Honor.
25 What does a food technologist do?

1 PROSPECTIVE JUROR NUMBER 168: Well, they -- she worked for food
2 company creating new recipes so they can produce -- mass produce.

3 MS. THOMSON: Okay. Do you own any firearms?

4 PROSPECTIVE JUROR NUMBER 168: No.

5 MS. THOMSON: And if you were picked as a juror, when the Judge
6 instructed on the law, there was something you didn't agree with, would you follow
7 what the instruction was or would you go off on your belief of what it should be?

8 PROSPECTIVE JUROR NUMBER 168: Well I certainly would not incriminate
9 myself. I would follow the law, but I wouldn't like it, if that happened.

10 MS. THOMSON: Okay. And if we proved the case with only one witness, but
11 you believed everything that that witness said, would you be able to find the
12 Defendant guilty?

13 PROSPECTIVE JUROR NUMBER 168: Depends on what he says and what
14 the evidence is showing.

15 MS. THOMSON: Okay. But if that witness testified to every element and you
16 completely believed that witness, you'd be able to find him guilty?

17 PROSPECTIVE JUROR NUMBER 168: Well if that's the case, yes.

18 MS. THOMSON: Okay. Is there anything about yourself that would not make
19 you a good juror, either from the State's perspective or the Defense perspective?

20 PROSPECTIVE JUROR NUMBER 168: I don't know at this point.

21 MS. THOMSON: Anything we should know about you that we haven't asked?

22 PROSPECTIVE JUROR NUMBER 168: Well, I don't know. I'm Christian so
23 I'm going to follow the Christian's, you know, teaching.

24 MS. THOMSON: And would -- is that something that would make you not
25 able to sit in judgment of another?

1 PROSPECTIVE JUROR NUMBER 168: Depends.

2 MS. THOMSON: What --

3 PROSPECTIVE JUROR NUMBER 168: I wouldn't say that definitely. Well,
4 unless, as I mentioned earlier, unless you have a concrete evidence. Otherwise I
5 wouldn't judge anybody else. Okay.

6 MS. THOMSON: You will be instructed that it's the State's burden to prove
7 the case beyond a reasonable doubt. Will you be able to follow that instruction or
8 would you hold us to a higher burden?

9 PROSPECTIVE JUROR NUMBER 168: Well I would follow the law, but as I
10 said, I wouldn't like it, okay? But I wouldn't incriminate myself, but I wouldn't like it.

11 MS. THOMSON: When you say you wouldn't incriminate yourself, can you
12 explain to me what you mean by that?

13 PROSPECTIVE JUROR NUMBER 168: That means basically I have to follow
14 the law, right? If I -- if you told me that's the law says and that against my will, you
15 know, I still have to follow the law, okay?

16 MS. THOMSON: Given that you will be making a decision about whether
17 we've proven facts, if those facts are true or untrue, and not a decision on
18 punishment, does that affect your ability to sit as a juror?

19 PROSPECTIVE JUROR NUMBER 168: I don't think that the punishment will
20 be the determining factor. Again, you know, the evidence is guilty or not guilty.
21 That's what I would go by.

22 MS. THOMSON: Do you want to be on this jury?

23 PROSPECTIVE JUROR NUMBER 168: Well, as a citizen that's my duty,
24 okay? But a personal, nah, probably not.

25 MS. THOMSON: Court's indulgence.

1 I'll pass for cause. Thank you.

2 MS. NGUYEN: Mr. Fu, would you want someone like yourself sitting on a jury
3 if you were sitting in my client's position?

4 PROSPECTIVE JUROR NUMBER 168: Well, first of all, I don't know the
5 crime situation completely yet. That's a good question. I don't know. To be honest,
6 I don't know.

7 MS. NGUYEN: Okay. Fair enough. If you were to go back right now, only
8 having heard what the State just told you a little bit about themselves in the
9 introduction, how would you find my client? Guilty or not guilty?

10 PROSPECTIVE JUROR NUMBER 168: I don't know at this point because I
11 don't know. I haven't -- well first I don't know the crime he involved in or being
12 accused. And secondly, I haven't seen any evidence, he's guilty or not guilty, right?
13 So I cannot --

14 MS. NGUYEN: So if you were to go right back now to deliberate, you
15 wouldn't be able to make a decision?

16 PROSPECTIVE JUROR NUMBER 168: You mean right now?

17 MS. NGUYEN: Yes.

18 PROSPECTIVE JUROR NUMBER 168: No, I cannot.

19 MS. NGUYEN: Your Honor, I'd move -- make a motion.

20 MS. THOMSON: We'll submit it, Your Honor.

21 THE COURT: All right. We'll excuse you. Check in with the Jury
22 Commissioner. We thank you for your time.

23 THE CLERK: Badge Number 169, Tobey Martinez. Seat 14, please.

24 THE COURT: Okay. Tell me your name.

25 PROSPECTIVE JUROR NUMBER 169: Tobey Martinez.

1 THE COURT: Do you work?
2 PROSPECTIVE JUROR NUMBER 169: Yes.
3 THE COURT: What do you do?
4 PROSPECTIVE JUROR NUMBER 169: I work at the Desert Willows Golf
5 Course as a server and doing -- catering parties.
6 THE COURT: Are you married?
7 PROSPECTIVE JUROR NUMBER 169: Yes.
8 THE COURT: Does your spouse work?
9 PROSPECTIVE JUROR NUMBER 169: No, he's in jail right now, waiting
10 sentencing.
11 THE COURT: What for?
12 PROSPECTIVE JUROR NUMBER 169: Went to court 12 days ago.
13 Attempted murder, that was not guilty. Use of -- stolen weapon, guilty. And
14 substantial bodily harm, guilty.
15 THE COURT: Does either party have a problem with me releasing her?
16 MR. FATTIG: No.
17 MS. NGUYEN: I'm fine.
18 THE COURT: All right. Why don't you go ahead and check in. Maybe you
19 can be a civil -- tell her I suggested civil. Thank you.
20 THE CLERK: Badge 170, Karina Arriaga.
21 THE COURT: Karina, do you work?
22 PROSPECTIVE JUROR NUMBER 170: Yes.
23 THE COURT: What do you do?
24 PROSPECTIVE JUROR NUMBER 170: I'm a bank teller.
25 THE COURT: Where?

1 PROSPECTIVE JUROR NUMBER 170: At Wells Fargo.

2 THE COURT: Are you married?

3 PROSPECTIVE JUROR NUMBER 170: No.

4 THE COURT: Have you ever -- do you have a background in law or law
5 enforcement?

6 PROSPECTIVE JUROR NUMBER 170: No.

7 THE COURT: You -- Have you ever sat as a juror before?

8 PROSPECTIVE JUROR NUMBER 170: No.

9 THE COURT: Can you think of any reason you would not be fair and
10 impartial to both parties in this case?

11 PROSPECTIVE JUROR NUMBER 170: I think it would be one of the
12 questions that he had brought up previously about whether or not the Defendant
13 would testify on his behalf. I think I would need to know -- I would need for him to
14 testify on his behalf to see what actually went on. Because I wouldn't want to just
15 listen to your guys' side and then not listen to his side. So I think that's the only
16 trouble that I would have.

17 THE COURT: Do you have a problem with the well-established rule that he
18 doesn't have to prove anything?

19 PROSPECTIVE JUROR NUMBER 170: Yes.

20 MS. NGUYEN: I'd move.

21 THE COURT: All right. Why don't you go check in with the Jury
22 Commissioner. Maybe you can get on a civil jury. All criminal cases the Defendant
23 has that right.

24 THE CLERK: Badge 171, Lena Sankovich, Seat Number 14.

25 THE COURT: Ms. Sankovich, do you work?

1 PROSPECTIVE JUROR NUMBER 171: Yes.

2 THE COURT: What do you do?

3 PROSPECTIVE JUROR NUMBER 171: I'm self-employed.

4 THE COURT: Doing what?

5 PROSPECTIVE JUROR NUMBER 171: I'm a behavior analyst.

6 THE COURT: So much I want to ask you.

7 Are you married?

8 PROSPECTIVE JUROR NUMBER 171: Yes, I am.

9 THE COURT: Does your spouse work?

10 PROSPECTIVE JUROR NUMBER 171: No, he does not.

11 THE COURT: Did he work?

12 PROSPECTIVE JUROR NUMBER 171: He did.

13 THE COURT: What did he do?

14 PROSPECTIVE JUROR NUMBER 171: He was in the car business.

15 THE COURT: Children?

16 PROSPECTIVE JUROR NUMBER 171: No.

17 THE COURT: Have you ever sat as a juror before?

18 PROSPECTIVE JUROR NUMBER 171: No, I haven't.

19 THE COURT: Background in law or law enforcement?

20 PROSPECTIVE JUROR NUMBER 171: No.

21 THE COURT: Can you be fair to both parties in this case?

22 PROSPECTIVE JUROR NUMBER 171: Yes.

23 THE COURT: State.

24 MS. THOMSON: I was talking when you answered the question of what your

25 employment was, will you repeat that for me?

1 PROSPECTIVE JUROR NUMBER 171: I'm self-employed. I'm a behavior
2 analyst.

3 MS. THOMSON: And what do you do?

4 PROSPECTIVE JUROR NUMBER 171: I work with children with autism.

5 MS. THOMSON: And so is that helping to find treatments, helping to --

6 PROSPECTIVE JUROR NUMBER 171: We treat --

7 MS. THOMSON: -- minimize effect?

8 PROSPECTIVE JUROR NUMBER 171: We treat kids with autism.

9 MS. THOMSON: Okay. Do you own any firearms?

10 PROSPECTIVE JUROR NUMBER 171: Yes, I do.

11 MS. THOMSON: And do you -- have you ever used any of them?

12 PROSPECTIVE JUROR NUMBER 171: Yes, I have.

13 MS. THOMSON: Just at the range or --

14 PROSPECTIVE JUROR NUMBER 171: Just at the range.

15 THE COURT: You need to speak into the mic a little.

16 PROSPECTIVE JUROR NUMBER 171: Oh, sorry.

17 MS. THOMSON: Anything about that affect your ability to be a fair and
18 impartial juror in this case?

19 PROSPECTIVE JUROR NUMBER 171: No.

20 MS. THOMSON: Okay. If you were picked as a juror and the Judge instructs
21 on the law and there's something you disagree with, whether you think that that isn't
22 the law or that it shouldn't be the law, would you be able to follow what the Judge
23 said rather than your beliefs?

24 PROSPECTIVE JUROR NUMBER 171: Yes, I would.

25 MS. THOMSON: And if we prove the case beyond a reasonable doubt using

1 just one witness, you believe everything that witness says and that witness meets
2 every element of the offenses, would you be able to find the Defendant guilty?

3 PROSPECTIVE JUROR NUMBER 171: Yes.

4 MS. THOMSON: Okay. You hesitated a little bit there.

5 PROSPECTIVE JUROR NUMBER 171: I did.

6 MS. THOMSON: Okay. Will you tell us about that?

7 PROSPECTIVE JUROR NUMBER 171: The just one witness part of it. But I
8 guess if I believed him and I heard all the evidence, I could.

9 MS. THOMSON: Thank you. I'll pass for cause.

10 MS. NGUYEN: If you heard just one witness and they didn't provide you with
11 all of the answers and you didn't feel the State had proven their case beyond a
12 reasonable doubt, would you be able to come back with a not guilty verdict?

13 PROSPECTIVE JUROR NUMBER 171: Sorry. Will you repeat that?

14 MS. NGUYEN: If the State only had one witness --

15 PROSPECTIVE JUROR NUMBER 171: Right.

16 MS. NGUYEN: -- and you felt that they didn't meet their burden of proving
17 beyond a reasonable doubt --

18 PROSPECTIVE JUROR NUMBER 171: Then I would not be bale --

19 MS. NGUYEN: -- would you be able to come back with a not guilty verdict?

20 PROSPECTIVE JUROR NUMBER 171: No.

21 MS. NGUYEN: You would not be able to?

22 PROSPECTIVE JUROR NUMBER 171: The not guilty verdict?

23 MS. NGUYEN: Yes.

24 PROSPECTIVE JUROR NUMBER 171: If they didn't prove their case --

25 MS. NGUYEN: Yes.

1 PROSPECTIVE JUROR NUMBER 171: -- with only witness --
2 MS. NGUYEN: Yes.
3 PROSPECTIVE JUROR NUMBER 171: -- I would be able to, yes.
4 MS. NGUYEN: Okay.
5 PROSPECTIVE JUROR NUMBER 171: Sorry.
6 MS. NGUYEN: If you went back right now to deliberate, how would you find
7 my client?
8 PROSPECTIVE JUROR NUMBER 171: I don't know. I haven't heard
9 anything, so I really couldn't come to a decision at this point.
10 MS. NGUYEN: Okay. So having heard no evidence and heard nothing you
11 wouldn't -- do you not believe in the presumption of innocence?
12 PROSPECTIVE JUROR NUMBER 171: I do believe in the presumption of
13 innocence.
14 MS. NGUYEN: So do you understand that as my client is sitting here, he's
15 innocent today?
16 PROSPECTIVE JUROR NUMBER 171: Yes.
17 MS. NGUYEN: Okay. And if you hadn't heard anything and the State didn't
18 prove anything, would -- he would still maintain that innocence. Do you agree with
19 that --
20 PROSPECTIVE JUROR NUMBER 171: Yes.
21 MS. NGUYEN: -- tenant of your justice system?
22 PROSPECTIVE JUROR NUMBER 171: Yes, I do.
23 MS. NGUYEN: Okay. So if you were to go back having heard no evidence,
24 would you have found him not guilty?
25 PROSPECTIVE JUROR NUMBER 171: Yes.

1 MS. NGUYEN: Thank you. You said you worked with children with autism.
2 Do you -- have you ever worked in the course of being a behavior analyst with
3 adults or any other --

4 PROSPECTIVE JUROR NUMBER 171: No, I haven't.

5 MS. NGUYEN: Have you always worked in that area with children and --

6 PROSPECTIVE JUROR NUMBER 171: Yes, I have.

7 MS. NGUYEN: -- specific with autism?

8 PROSPECTIVE JUROR NUMBER 171: With autism.

9 MS. NGUYEN: Okay. And I'm sorry, did you say that you are a gun owner or
10 that you have shot guns before?

11 PROSPECTIVE JUROR NUMBER 171: I'm a gun owner.

12 MS. NGUYEN: Okay. How long have you been a gun owner?

13 PROSPECTIVE JUROR NUMBER 171: Probably 15 years.

14 MS. NGUYEN: Do you shoot your gun on a regular basis?

15 PROSPECTIVE JUROR NUMBER 171: I don't.

16 MS. NGUYEN: Okay. How frequently would you say that you do?

17 PROSPECTIVE JUROR NUMBER 171: Every once in a while we go to the
18 range, but not very often.

19 MS. NGUYEN: I pass for cause.

20 THE COURT: All right.

21 After the rebuttal evidence is presented I will instruct you on the
22 applicable law. You must not be concerned with the wisdom of any rule of law
23 stated in these instructions or in the instructions which I will read to you after the
24 evidence. Regardless of any opinion you may have to as what the law ought to be,
25 it would be a violation of your oath to base a verdict upon any other view of the law

1 than that given to you by me.

2 After the instructions on the law are read to you, each party has the
3 opportunity to present closing argument in support of their case. What is said in
4 closing argument is not evidence, just as what is said in opening statements are not
5 evidence. The arguments are designed to present to you the contentions of the
6 parties as to what the evidence has shown and what the inferences may be drawn
7 from the evidence.

8 You will be given the opportunity to ask written questions of any of the
9 witnesses called to testify. You are not encouraged to ask a large number of
10 questions. That is the primary responsibility of the attorneys

11 We would thank and excuse Carson Riland. Thank you for your time.

12 THE CLERK: Badge 172, Dustin Krause, Seat Number 11.

13 THE COURT: Mr. Krause, do you work?

14 PROSPECTIVE JUROR NUMBER 172: I do.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR NUMBER 172: I'm in competition with this guy right
17 here. I have my own pool service business.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR NUMBER 172: No. Divorced.

20 THE COURT: Does your wife work? Ex-wife.

21 PROSPECTIVE JUROR NUMBER 172: She -- yeah, she works for Wells
22 Fargo.

23 THE COURT: Have you ever sat as a juror before?

24 PROSPECTIVE JUROR NUMBER 172: I have.

25 THE COURT: Where?

1 PROSPECTIVE JUROR NUMBER 172: Federal Grand Jury.
2 THE COURT: When?
3 PROSPECTIVE JUROR NUMBER 172: I believe like 2005.
4 THE COURT: This is a little different, it's unanimous. Do you understand
5 that?
6 PROSPECTIVE JUROR NUMBER 172: I do.
7 THE COURT: Okay. Do you have a background in law or law enforcement?
8 PROSPECTIVE JUROR NUMBER 172: No.
9 THE COURT: Can you think of any reason you wouldn't bot be fair and
10 impartial both to the State of Nevada and the Defendant?
11 PROSPECTIVE JUROR NUMBER 172: No.
12 THE COURT: State.
13 MR. FATTIG: Sir, you indicated that you were a victim of a crime recently,
14 correct?
15 PROSPECTIVE JUROR NUMBER 172: Correct.
16 MR. FATTIG: Is there anything about your experience so far regarding that
17 that gives you pause in terms of being a fair and impartial juror in this case?
18 PROSPECTIVE JUROR NUMBER 172: No.
19 MR. FATTIG: You believe the police have handled it appropriately as far as
20 you know at this point?
21 PROSPECTIVE JUROR NUMBER 172: Yes.
22 MR. FATTIG: If we prove our case beyond a reasonable doubt, can you find
23 the Defendant guilty?
24 PROSPECTIVE JUROR NUMBER 172: Yes.
25 MR. FATTIG: If you received the jury instructions and you disagreed with

1 some of the law or a particular law that Judge Smith told you about, hypothetically,
2 what would you do? Would you follow the law or go your own way?

3 PROSPECTIVE JUROR NUMBER 172: Follow the law.

4 MR. FATTIG: Thank you. We would pass for cause, Your Honor.

5 THE COURT: All right.

6 MS. NGUYEN: Dustin, you had mentioned you served on the Federal Grand
7 Jury. I know that our juror up here, Ms. Carol, she also was on a Federal. Did you
8 guys happen to be on the same Federal Grand Jury?

9 PROSPECTIVE JUROR NUMBER 172: I don't think so.

10 MS. NGUYEN: Okay. Do you know any of the other jurors that are in the
11 room?

12 PROSPECTIVE JUROR NUMBER 172: No.

13 MS. NGUYEN: Okay. And how long was your service on the Federal Grand
14 Jury?

15 PROSPECTIVE JUROR NUMBER 172: I started off as an alternate. I
16 believe approximately every Tuesday for six months.

17 MS. NGUYEN: Okay. And that was back in 2005?

18 PROSPECTIVE JUROR NUMBER 172: Around that neighborhood, yeah.

19 MS. NGUYEN: Okay. Do you work for a company that does it or are you
20 self-employed?

21 PROSPECTIVE JUROR NUMBER 172: Self-employed.

22 MS. NGUYEN: Okay. I pass for cause.

23 THE COURT: All right. You will be given the opportunity to ask questions.
24 It'll happen this way. They -- the attorneys will ask the questions. When they're
25 done I will turn to the jury and say does the jury have any questions of this witness.

1 And then you'll write your name and your seat number, not your badge number,
2 where your seat is. And remember to write legibly because I have to read it and I'm
3 not a schoolteacher, I don't -- I can't decipher some of the handwriting. You will not
4 be allowed to become the third attorney. So you can't advocate a certain position
5 with your questions. I have the discretion to preclude individual jurors from asking
6 an excessive number of questions and I have done so.

7 Questions may be asked, again, after both lawyers have finished
8 questioning the witnesses and only at that time. For example, the State calls a
9 witness and conducts a direct examination. The Defense can cross-examine even
10 though they don't want to present any evidence or they choose not to. They can ask
11 questions and cross-examine. The process may go back and forth a couple times
12 with direct and cross-examination.

13 We would thank and excuse Lisa Cronin-Leavitt. Thank you for your
14 time. If you'll check in with the Jury Commissioner.

15 THE CLERK: Badge 173, Joseph Gambino, Seat Number 4.

16 THE COURT: All right. Mr. Gambino, do you work?

17 PROSPECTIVE JUROR NUMBER 173: Yes, I do.

18 THE COURT: What do you do?

19 PROSPECTIVE JUROR NUMBER 173: Project manager for a landscape
20 construction company.

21 THE COURT: Are you married?

22 PROSPECTIVE JUROR NUMBER 173: Yes.

23 THE COURT: Does your spouse work?

24 PROSPECTIVE JUROR NUMBER 173: Yes.

25 THE COURT: What does your spouse do?

1 PROSPECTIVE JUROR NUMBER 173: Administrative, construction
2 company.

3 THE COURT: Do you have children?

4 PROSPECTIVE JUROR NUMBER 173: Yes.

5 THE COURT: Ages?

6 PROSPECTIVE JUROR NUMBER 173: 22.

7 THE COURT: Law or law enforcement?

8 PROSPECTIVE JUROR NUMBER 173: Myself, no. My father was a CO for
9 Metropolitan -- Las Vegas Metropolitan Department of 16.

10 THE COURT: What about your child?

11 PROSPECTIVE JUROR NUMBER 173: I'm sorry?

12 THE COURT: Your child?

13 PROSPECTIVE JUROR NUMBER 173: No.

14 THE COURT: Is there anything about your dad's employment that would
15 impair your ability to be fair and impartial to both parties in this case?

16 PROSPECTIVE JUROR NUMBER 173: No.

17 THE COURT: Have you ever sat as a juror before?

18 PROSPECTIVE JUROR NUMBER 173: No.

19 THE COURT: State.

20 MS. THOMSON: Thank you, Your Honor.

21 If you're picked as a juror and the Judge instructs on the law and
22 there's something you disagree with or think that it should be different, will you
23 follow what the Judge instructs and not what your belief about the law is?

24 PROSPECTIVE JUROR NUMBER 173: I would follow the law.

25 MS. THOMSON: And if we proved the case beyond a reasonable doubt with

1 just one witness, who meets every element of the offense and who you believe
2 completely, would you be able to find the Defendant guilty?

3 PROSPECTIVE JUROR NUMBER 173: Yes.

4 MS. THOMSON: Is there any question that any of the other jurors have been
5 asked that you would have an answer that we need to know about or should know
6 about?

7 PROSPECTIVE JUROR NUMBER 173: No.

8 MS. THOMSON: Would you be a good juror if -- would you want someone
9 like yourself as a juror failure you were at the State's table or the Defense table?

10 PROSPECTIVE JUROR NUMBER 173: Sure.

11 MS. THOMSON: Thank you. Pass for cause.

12 MS. NGUYEN: Did you -- there was some, I guess, statements made about
13 social justice, Black Lives Matter, jury nullification, not following the law. Did any of
14 those -- did you have any reaction to anything your fellow jurors have said?

15 PROSPECTIVE JUROR NUMBER 173: No. Law is the law.

16 MS. NGUYEN: Okay. And do you watch the news or read the new on the
17 internet or have any --

18 PROSPECTIVE JUROR NUMBER 173: Very little.

19 MS. NGUYEN: Okay. Are you familiar with any of those, I guess, social
20 justice, I guess --

21 PROSPECTIVE JUROR NUMBER 173: I'm aware of it.

22 MS. NGUYEN: -- advocates or movements? And do you have any opinions
23 about that?

24 PROSPECTIVE JUROR NUMBER 173: No, I do not.

25 MS. NGUYEN: Okay. With regard to excessive force or use of force by

1 police officers, do you have any opinions about any of those cases that have been in
2 the media?

3 PROSPECTIVE JUROR NUMBER 173: No opinions.

4 MS. NGUYEN: No opinions?

5 PROSPECTIVE JUROR NUMBER 173: No.

6 MS. NGUYEN: Okay. Are you familiar with any of them?

7 PROSPECTIVE JUROR NUMBER 173: Very little.

8 MS. NGUYEN: Okay. Do -- you said that you had -- was your father that
9 worked in -- as a correctional officer?

10 PROSPECTIVE JUROR NUMBER 173: Correct.

11 MS. NGUYEN: For 16 years?

12 PROSPECTIVE JUROR NUMBER 173: Yes.

13 MS. NGUYEN: Okay. And was that here locally, in Clark County?

14 PROSPECTIVE JUROR NUMBER 173: Yes.

15 MS. NGUYEN: Okay. Did he ever talk about his work?

16 PROSPECTIVE JUROR NUMBER 173: Yes.

17 MS. NGUYEN: Okay. Did you have any opinion based on his experiences
18 about, I guess, criminal Defendants?

19 PROSPECTIVE JUROR NUMBER 173: Opinions that wouldn't change my
20 law and my mind when it came to making a decision no what's right and, you know,
21 is right.

22 MS. NGUYEN: I understand that, but do you have any opinions about the
23 people that are incarcerated in the Clark County Detention Center?

24 PROSPECTIVE JUROR NUMBER 173: No.

25 MS. NGUYEN: I'm sorry, how far did you go in school?

1 PROSPECTIVE JUROR NUMBER 173: High School.

2 MS. NGUYEN: Okay. And you said you're a project manager.

3 PROSPECTIVE JUROR NUMBER 173: Correct.

4 MS. NGUYEN: And how long have you been doing that?

5 PROSPECTIVE JUROR NUMBER 173: 18 years.

6 MS. NGUYEN: And you said you had one child, is that correct?

7 PROSPECTIVE JUROR NUMBER 173: Correct.

8 MS. NGUYEN: And how old?

9 PROSPECTIVE JUROR NUMBER 173: 22.

10 MS. NGUYEN: Okay. Does that child live here locally?

11 PROSPECTIVE JUROR NUMBER 173: No.

12 MS. NGUYEN: Okay. Are you from Las Vegas?

13 PROSPECTIVE JUROR NUMBER 173: Yes I am.

14 MS. NGUYEN: Nothing further. I pass for cause.

15 THE COURT: All right. We have a jury. If you will all will go down and check

16 with the Jury Commissioner, we appreciate your time and I truly believe if good

17 citizens aren't willing to sit and do this -- and I've been called to jury duty, so I've

18 been down there and watched those videos. I didn't get called, but I would have. I

19 would have loved to have been on a jury.

20 I appreciate your time. If you'll check in with the Jury Commissioner,

21 she may just send you home. Thank you.

22 All right. I'm going to read to you some more of this law. Again,

23 questions may be asked after both lawyers have finished asking questions. Should

24 you desire to ask a question, you should write your question down with your juror

25 number on a full sheet of paper -- well you'll have a little notebook. On that

1 notebook put your name and your seat number and ask the question.

2 Just raise your hand and let me know. I move pretty fast, so if you have
3 a question, even though you don't have write -- written down, make sure you get
4 that hand up because I pass people up and I'm sorry.

5 Any questions that you pose must be factual in nature and designed to
6 clarify information already presented. All questions must be directed to the witness
7 and not to the lawyers or myself. After you have indicated you have a question, the
8 marshal will pick up your question, give it to me, and then I'll go out in the hall and
9 talk to the attorneys about it, to see if it is maybe going to be answered by a later
10 witness or if it's an improper question and may not be asked.

11 Only questions permissible under the rules of evidence will be asked
12 and jurors should not draw any inference or conclusions if a question is asked or is
13 not asked. If I determine that your question may be properly asked, I will ask of it of
14 the witness attorneys will be allowed follow-up as necessary.

15 Until the case is submitted to you, please don't discuss it with anyone,
16 even with your fellow jurors, until after it is submitted to you. You must discuss it
17 only in the jury room with your fellow jurors. It is important that you keep an open
18 mind and not decide any issue in the case until the entire case has been submitted
19 to you under instructions from me. If you need -- cannot hear a witness, please
20 raise your hand as an indication.

21 Also, if you need to use the restroom or if you feel ill, please also raise
22 your hand as an indication that -- and we will take intermittent breaks as the Court
23 sees fit. Usually about every 90 minutes or so. Most important I have no obviously
24 to jurors bringing drinks or snacks into the courtroom. Some people have low blood
25 sugar and need that.

1 Your purpose as jurors is to find and determine the facts. Under our
2 system of criminal procedure you are the sole judge of the facts. You determine the
3 facts from the testimony you hear and other evidence, including exhibits introduced
4 in court. It is up to you to determine the inferences that you feel may properly drawn
5 from the evidence. It is especially important that you perform your duty and
6 determine the facts diligently and conscientiously for ordinarily there is no means of
7 correcting an erroneous determination of facts.

8 The parties may sometimes present objections to some of the
9 testimony or other evidence. It is the duty of a lawyer to object to evidence which
10 they believe may not be properly offered and you should not be prejudiced in any
11 way against the lawyer who makes objections on behalf of the party they represent.
12 At times I may sustain the objection or direct that you disregard certain testimony or
13 exhibits. You must not consider any evidence to which an objection has been
14 sustained or which I have instructed you to disregard.

15 Anything you may have seen or heard outside the courtroom is not
16 evidence and must also be disregarded. Remember statements, arguments, and
17 opinions of Counsel are not evidence in the case. However, if the attorneys
18 stipulate to the evidence of a fact, you must accept the stipulation as evidence and
19 regard the fact as proven. You must not speculate to be true any insinuations
20 suggested by a question asked of a witness. A question is not evidence and may be
21 considered only as it supplies meaning to the answer.

22 You must not be influenced in any degree by any personal feeling of
23 sympathy or prejudice against the State or the Defendant. Both sides are entitled to
24 the same fair and impartial considerations.

25 In considering the weight and value of the testimony of any witness you

1 may take into consideration the appearance, attitude, and behavior of the witness,
2 the interest of the witness in the outcome of the case, if any, the relationship of the
3 witness to the Defendant or the State, the inclination of the witness to speak
4 truthfully or not, and the probability or the improbability of the witness' statements
5 and all of the facts and circumstances in evidence. Thus you may give the
6 testimony of any witness just such weight and value as you believe the testimony of
7 the witness is entitled to receive.

8 There are two kinds of evidence, direct and circumstantial. Direct
9 evidence is testimony by a witness about what that witness personally saw, or
10 heard, or did. Circumstantial evidence is testimony or exhibits which are prove of a
11 particular fact from which if proven you may infer the existence of a second fact.

12 For instance, we came in today, there was no snow on the ground and
13 if we went out tonight and there's three feet of snow across the valley, you didn't see
14 it snowed, but you can infer that it snowed. That's circumstantial evidence. But as
15 we're coming in, if it's snowing and we have -- snowflakes fall on us, we have
16 personal proof that it was snowing.

17 So you can use -- you can -- may consider both direct and
18 circumstantial evidence in deciding this case. The law permits you to give equal
19 weight to both. But it is for you to decide how much weight to give any evidence.
20 No statement, ruling, remark, or comment which I make during the course of the trial
21 is intended to indicate my opinion as to how you should decide the case or to
22 influence you in any way in your determination of the facts.

23 At times I may even ask questions of witnesses. If I do so it's the
24 purpose -- for the purpose of bringing out matters which I feel should be brought out
25 and not in any way indicate my opinion about the facts or to indicate the weight I feel

1 should be given to the testimony of witnesses. I may also find it necessary to
2 admonish the lawyers and if I do you should not show prejudice against a lawyer or
3 their client because I have found it necessary to admonish the lawyer.

4 Until this case is submitted to you, you must not discuss it with anyone,
5 even with your fellow jurors. After it is submitted to you, you must discuss it only in
6 the jury room with your fellow jurors. It is important that you keep an open mind and
7 not decide any issue until the case on -- in the case until the entire case has been
8 submitted to you under instructions from me.

9 If you can't hear a witness, please raise your hand as an indication.
10 Also, if you need to go to the restroom, again, if you feel ill just let me know.

11 I may, during the trial, take notes of witnesses' testimony. You are not
12 to make any inference from that fact. I am required to be prepared for legal
13 arguments of Counsel during the trial. For that reason I may take lots of notes or I
14 may be making my grocery list. If you think, aw, he's writing this down, this must be
15 important. Don't do that. Just listen to the evidence and you guys make the
16 decision.

17 Again, let me remind you that until the case is submitted to you, do not
18 talk to each other or anyone else about it or anyone who has anything to do with it
19 until the end of the case when you go to the jury room to decide your verdict.
20 Anyone else includes members of your family and your friends. You may tell them
21 that you are a juror in a criminal case, but don't tell them anything else about it until
22 you have been discharged as jurors by myself.

23 Do not let anyone talk to you about the case, or about anyone who has
24 anything to do with it. If someone should try to talk to you, please report that to me
25 through the marshal. Don't read any stories or articles or listen to any radio or

1 television reports about the case or anyone who has anything to do with it.

2 Do not jump on the information highway and try to *AskJeeves* or
3 anybody or anything about this case. Don't do any personal research. Please don't
4 communicate or publish anything about this case on any social media sites, like
5 *Facebook* or *Instagram*, or *Twitter*.

6 Go to lunch. Tom will tell you -- if you'll meet just out there, Tom will tell
7 about lunch sites and we'll see you back here at 1:30.

8 [Outside the presence of the prospective jury]

9 THE COURT: Jury's out. Okay. See you guys back at 1:30.

10 MR. FATTIG: Judge?

11 THE COURT: What?

12 MR. FATTIG: Regarding Mr. Krause, I got an update. He has the subpoena
13 for tomorrow.

14 THE COURT: Oh.

15 MR. FATTIG: He's on a jury trial. He's a victim in a jury trial in Department
16 IX, but it sounds like it's going to be a short trial. And he's supposed to report at
17 some point tomorrow. So I'm guessing at some point we're going to need to take a
18 break --

19 THE COURT: Oh, I forgot about that.

20 MR. FATTIG: -- so him can go -- so he can go testify.

21 THE COURT: All right.

22 MR. FATTIG: I don't know how long it's going to be. We'll talk to the DA. It's
23 Eric Bauman is the DA.

24 THE COURT: All right. We'll work --

25 MR. FATTIG: But I've been in touch with --

1 THE COURT: -- around that.
2 MR. FATTIG: -- the investigator.
3 THE COURT: All right.
4 MR. FATTIG: So just as a heads up.
5 THE COURT: Thanks. I think we're ready. Make sure you get back early
6 enough to test your --
7 MR. FATTIG: Yes.
8 MS. THOMSON: Yes.
9 MR. FATTIG: We will test it, make sure everything's operating.
10 [Recess taken at 12:36 p.m.]
11 [Trial resumed at 1:36 p.m.]
12 [Outside the presence of the prospective jury]
13 MS. NGUYEN: Do we need -- they filed an amended --
14 MR. FATTIG: We had -- we didn't --
15 THE COURT: Yeah.
16 MR. FATTIG: -- make a record about it.
17 THE COURT: Yeah, we can make --
18 MS. NGUYEN: Yeah.
19 THE COURT: -- a record right --
20 MS. NGUYEN: We didn't want to do right now?
21 THE COURT: Before Tom comes in.
22 MR. FATTIG: Yeah, we can do it right now.
23 THE COURT: Go ahead.
24 MR. FATTIG: WE -- Your Honor, this morning we filed an amended
25 indictment. We're just -- the only in -- amended nature to the document was in

1 Count 12, which is the felony evading count. We clarified that the streets regarding
2 the evading were between Walnut and Dolly on Carey. Basically added Walnut.
3 That's been part of the discovery all along, so there's no obvious prejudice to the
4 Defense. They've known exactly the pursuit in terms of where it started and where it
5 ended all along. But that was just a clarification.

6 MS. NGUYEN: I'll submit to it to the Court.

7 THE COURT: Okay. You've reviewed this well what's could be read to the
8 jury?

9 MS. NGUYEN: Your Honor, they have a witness that we don't want her to
10 cause a mistrial. And they were hope -- I think you -- do you want the Judge to
11 admonish her or --

12 MS. THOMSON: Yeah.

13 MS. NGUYEN: -- what did you --

14 MR. FATTIG: Yes. Go ahead. Do you want to make a brief record about it,
15 Megan?

16 MS. THOMSON: Yes.

17 MR. FATTIG: So at least he knows.

18 MS. THOMSON: First of all, we'll have you answer, did you review the
19 amended?

20 MS. NGUYEN: Yes, yes.

21 THE COURT: Did you review their --

22 MS. NGUYEN: Yes.

23 THE COURT: -- amended --

24 MS. NGUYEN: Yes, I did.

25 THE COURT: No. Did you review this, the one that's going to be read and

1 make sure everything is marked off correctly?

2 MS. THOMSON: I did the marking.

3 THE COURT: Okay.

4 MS. THOMSON: We have a witness, Eufrasia Nazaroff. She is the mother of
5 the Defendant's children. She obviously has knowledge about all kinds of things
6 that she's not allowed to talk about. She declined to come meet with us for pretrial,
7 so we have not had that conversation with her about all the things she can't talk
8 about. And because I expect that she probably won't be what I would call
9 cooperative, I'd ask that the Court admonish her because my admonishing her is
10 going to not have as much effect.

11 MS. NGUYEN: I would say --

12 MS. THOMSON: Please.

13 MS. NGUYEN: -- mostly my concerns are that have to do with actually my
14 client's rights. I don't know what she would have to say. She has -- she hasn't been
15 in contact with me and I know my investigators attempted to contact her as well. But
16 I know that there's references at some point to Little Locos gang. I just want her to
17 be admonished not to make reference to that, him being on probation, parole --

18 THE COURT: Right. What --

19 MS. NGUYEN: -- prior convicted felon, his moniker. I think there were
20 admissions -- references to drugs or weed.

21 THE COURT: What do you have her coming in for?

22 MS. THOMSON: It is her car that he is driving on the night of the incident.
23 She'll identify the vehicle, she will indicate that he was wearing the bullet-proof vest
24 when he came to pick up the car from her. She will indicate that he had -- she had
25 seen him with the firearms that were ultimately recovered in this case previously;

1 that those were not firearms that she had in the vehicle and did not allow in her
2 house.

3 THE COURT: Is she the first witness?

4 MR. FATTIG: No, not the first witness.

5 MS. THOMSON: But since we're on break it made sense to admonish her
6 now, instead of having to --

7 THE COURT: Okay.

8 MS. THOMSON: -- take a break before she testifies.

9 THE COURT: You want to have her come in?

10 MS. THOMSON: That would make sense to me.

11 THE COURT: Have her come in, Tom, first.

12 MR. FATTIG: And those are the statements she gave Metro. We don't know
13 exactly what she's going to say because she wouldn't pretrial with us.

14 THE COURT: Oh that was the lady that walked in.

15 I need you to come up and be sworn in.

16 **EUFRASIA NAZAROFF**

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

18 THE COURT: State your name and spell your first and last name for the
19 record.

20 THE WITNESS: Eufrasia Nazarovff, E-U-F-R-A-S-I-A, N-A-Z-A-R-O-F-F.

21 **EXAMINATION BY THE COURT**

22 BY THE COURT:

23 Q You're going to be called to testify today about the incident. You
24 weren't there for the incident.

25 A No.

1 Q You're not to talk about any gang affiliation, any moniker, or nickname.
2 They're going to lead you through along, you wouldn't come in pretrial with them and
3 so they couldn't tell you all this stuff. But I can tell you I've had people violate my
4 order and if you do you'll go to jail today and I'll have to get somebody to come get
5 your child.

6 A Okay.

7 Q So you're to answer their questions.

8 A Okay.

9 Q You're not say anything -- well, it's my understanding you're going to
10 testify that the car was yours.

11 A Yes.

12 Q That you saw Mr. Bacharach come get the car, he had a bullet-proof
13 vest on, and you seen him --

14 A No. He didn't have no bullet vest -- bullet -- he didn't have no bullet
15 vest on.

16 Q Did you tell somebody that he did?

17 A No. I said I -- he came and got my car, he had my keys. He did. But
18 he never had a bullet vest on.

19 MS. THOMSON: That's fine.

20 THE COURT: All right.

21 MR. FATTIG: And --

22 MS. THOMSON: We've got the statement, so.

23 THE COURT: We're going to have them lead her through. But if she blurts it
24 out, I got no alternative but to put you in custody, you understand?

25 THE WITNESS: What are you talking about?

1 THE COURT: If you blurt out something about trying to get him off, say
2 something you're not supposed to say --

3 THE WITNESS: No.

4 THE COURT: Tell them --

5 MR. FATTIG: In other words, about gang affiliation.

6 THE COURT: Gang affiliation --

7 MS. NGUYEN: I --

8 MR. FATTIG: Or drug use.

9 THE COURT: Drug use.

10 MS. NGUYEN: Probation.

11 MR. FATTIG: Drug possession.

12 MS. NGUYEN: Parole.

13 THE COURT: Smoke and dope or anything.

14 MR. FATTIG: Or the Defendant was on probation or supervision.

15 THE COURT: Or parole or probation. You're not to say that. She's going to
16 lead you through a lot of that stuff to keep you away from it. But don't blurt anything
17 out, you understand?

18 THE WITNESS: Okay.

19 THE COURT: Okay. Anything else, State?

20 MS. THOMSON: No, Your Honor.

21 MR. FATTIG: No.

22 THE COURT: Okay. Thank you. You'll be called in just a few minutes.

23 All right. Are you guys ready for the jury, State?

24 MS. THOMSON: Yes, Your Honor.

25 THE COURT: Defense ready for the jury?

1 MS. NGUYEN: Yeah.

2 THE COURT: All right. Bring them in.

3 [In the presence of the prospective jury]

4 THE MARSHAL: All rise, please.

5 And be seated.

6 THE COURT: Stipulate to the presence of the jury.

7 MS. NGUYEN: Yes, Your Honor.

8 MR. FATTIG: Yes.

9 THE COURT: All right. Thanks for being prompt. If you'll stand and raise
10 your right hand to be sworn in as a jury.

11 [The Clerk swears in the jury]

12 THE COURT: Thanks. The Clerk will now read the indictment to the jury.

13 [The Clerk read the Indictment aloud]

14 THE COURT: Thank you. State ready?

15 MR. FATTIG: Yes.

16 THE COURT: All right. Go ahead.

17 **OPENING STATEMENT BY THE STATE**

18 BY MR. FATTIG:

19 Counsel, Your Honor, Ladies and Gentleman of the Jury, the events
20 began for Officer Ryan McNabb on June 26th of last year at approximately 10:45 in
21 the evening near the area of Walnut and Lake Mead. Officer McNabb was in a
22 uniform, marked patrol car protecting our community that evening. At the corner of
23 Walnut and Lake Mead Officer McNabb, this is how he's dressed, his uniform. He's
24 attending to a car on the northwest corner of Walnut and Lake Mead. It's an
25 abandoned car, appears to have some sort of operating difficulty. He's out there

1 just inspecting what's going on.

2 Then he sees a maroon Dodge Intrepid. The vehicle is on Lake Mead,
3 at a stop light, stopped, heading north through the intersection at Walnut. When he
4 first sees it it's stopped at the stop sign -- or the stop light. And he notices that the
5 Dodge Intrepid has four headlights on or in other words, the high beams are on.
6 And this is a populated area with other cars and people in the area, so Officer
7 McNabb notes that it's a traffic infraction. So as the vehicle continues with the high
8 beams on, proceeds north through the intersection, Officer McNabb, observing this,
9 pulls a U-turn behind the Dodge Intrepid.

10 Officer McNabb's intent is to stop the Intrepid. The map on the screen
11 shows generally where we're talking about. The white vehicle that Officer McNabb
12 was at was in this area on Lake Mead and Walnut. Officer McNabb pulled a U-turn
13 behind the Dodge Intrepid as it went northbound towards Judson. Judson runs
14 here. As he did that the Dodge Intrepid didn't stop when Officer McNabb put on his
15 lights. The Dodge Intrepid continued northbound and Officer McNabb noted that
16 there was one occupant inside and the vehicle continued to in fact speed up as it
17 head towards Carey. Carey is the street that runs east west along the top of this
18 particular diagram.

19 As it drove northbound up Judson towards Carey, Officer McNabb
20 observed that the lone occupant and driver of the Dodge Intrepid took out a firearm
21 and fired it into the air and then sped up. Officer McNabb with lights on obviously
22 realized this wasn't going to be just another traffic stop. This wasn't going to be just
23 another night as a patrolman in Las Vegas. On the corner of Carey and Walnut
24 there's a stop sign. In this area here you will see and you will hear testimony about
25 the Dodge Intrepid going through the stop sign. It then takes a right or heads

1 eastbound on Carey. Patrol Officer McNabb continues to follow the vehicle.

2 He goes around the corner. When he goes around the corner, a
3 gunshot rings out. Officer McNabb -- it's the summertime. As a patrol officer he's
4 going to tell you he was trained to have your windows down for a better feel --
5 observe -- be able to observe your surroundings. And Officer McNabb is expected
6 to testify for you that when he -- that second shot occurred coming from the Dodge
7 Intrepid who he was following. That bullet whizzed past his left ear, thankfully
8 missing Officer McNabb and the patrol vehicle.

9 He continued following it and the Dodge Intrepid sped up as it
10 proceeded eastbound on Carey and boom, there was another gunshot, third
11 gunshot, again towards Officer McNabb in his patrol car. The speeds at this point of
12 the Dodge Intrepid are going upwards of 80 miles an hour as it heads down Carey
13 towards Lamb Boulevard, normally a quite busy area, Lamb and Carey. Perhaps a
14 little less busy this time of night. He proceeds to follow this vehicle that's shooting at
15 him and he notices that as they approach Lamb there is a solid red light.

16 The Dodge Intrepid flies through that intersection; doesn't stop, doesn't
17 slow down. He approaches the red light, puts on his sirens at this point, as his
18 light's going, has to slow down in order for traffic to be safe for him to go through this
19 red light at Carey and Lamb safely. And that's what he does. So he loses a little bit
20 of distance on the Dodge Intrepid as it proceeds past Lamb on Carey, down this
21 way. As that's occurring he hears two more gunshots, back down the street towards
22 where he's at.

23 He continues following the Dodge Intrepid trying to catch up and he
24 notes that at a certain point in time as they reach the area of Carey and Dolly, east
25 of Lamb, he notes that the vehicle he's been pursuing, this person shooting at him

1 has -- something's happened; that vehicle has stopped on the side. He notes it kind
2 of goes up on the curb, it pulls into that intersection. You're going to hear that he
3 ended up in that intersection. The Dodge Intrepid pulled over to this section on the
4 left side of this particular photo. Officer McNabb ended up pulling up where you see
5 the patrol car on the right side.

6 Officer McNabb, as he approached, saw the occupant of that Dodge
7 Intrepid get out of the vehicle, go to the rear of the vehicle, hold a gun towards the
8 side, pointed at Officer McNabb. As Officer McNabb pulled up, the same man, the
9 lone occupant of that vehicle fired one shot at Officer McNabb. Officer McNabb
10 proceeded to see that individual go from the side of that red Dodge -- maroon
11 Dodge Intrepid, go towards the corner behind where the street lamp is. That's the
12 corner of Dolly and Carey.

13 This was Officer McNabb's viewpoint as he got out of the driver's seat
14 with his handgun, aimed towards that corner and began firing at the person who had
15 fired at least six shots at him by this point -- by the time Officer McNabb fires once.
16 You're going to hear that Officer McNabb fired a number of times and as he did so,
17 the individual took off southbound on that street.

18 Officer McNabb then began following on foot at this point.

19 JUROR NUMBER 3: Can I ask a question?

20 THE COURT: No. No questions --

21 JUROR NUMBER 3: Oh, okay.

22 THE COURT: -- until I ask you --

23 JUROR NUMBER 3: Okay.

24 THE COURT: -- okay?

25 BY MR. FATTIG:

1 He began following on foot at this point. Officer McNabb ran to the
2 corner and this was the viewpoint he had as he saw the individual down a block
3 away on the next street down, which is called El Tovar. Officer McNabb fired again
4 from this location and you'll hear about that. This is an aerial that you will hear was
5 taken the very next morning when the vehicles were still in the same position.
6 Officer McNabb's vehicle is here on Carey. There's a Dodge maroon Intrepid right
7 here. And here's the next street, El Tovar, the next block down.

8 This was the viewpoint as Officer McNabb pursued the gunman down
9 to El Tovar. He got to the street and he looked down the street. This is obviously
10 taken after crime scene analysts and police had been out there and marked off the
11 scene. But this is the viewpoint he had. And to the right, on the north side of El
12 Tovar, the second home in, was 4586 El Tovar, a little green house.

13 The testimony is going to be that Officer McNabb has obviously
14 summoned other officers to his aid. As soon as this Dodge Intrepid refused to stop,
15 started shooting initially in the air, and then at him, he is obviously radioing for help.
16 So Officer McNabb is by himself initially on that street, on foot, chasing the gunman.
17 At a certain point in time, it seemed like forever to Officer McNabb, but it was fairly
18 quick, other units begin arriving on El Tovar.

19 One of the units is a K9 Unit that has a specially trained dog. Other
20 units were patrol officers. Within minutes you're going to see that the K9 officer kind
21 of took over. He had Officer McNabb whose adrenaline was obviously rushing at
22 this point step back. He had the dog and a female occupant of this home came out
23 and said there's a man who I don't know in my backyard. Officer Ernie Morgan,
24 who's the K9 Officer will tell you that he and other officers then went into this home,
25 go in the backyard to get this man.

1 Officer Morgan will tell you that he had his dog, his dog came into the
2 backyard with him and other officers; that when they peeked around the corner they
3 saw a man lying on his stomach on the side of the yard as they came outside. They
4 didn't see the man's hands, they yelled at him show me your hands. They yelled
5 commands. They obviously knew that this was an armed man that had been
6 shooting at a police officer. The man didn't comply with multiple demands.

7 Officer Morgan released his specially trained K9 and the K9 bit that
8 man. And that man was Joshua Bacharach. You're going to hear that that man was
9 taken into custody and he was brought outside, outside the green home to the front.
10 He was brought in the front where Officer McNabb was and Officer McNabb saw
11 him and said yes, that's the man. That's the man that was shooting at me.

12 In front of the green home there is a white truck just to the east. As
13 officers are doing what they need to do, an officer notices under the front of this
14 white truck is some evidence. And when they looked under there they saw two
15 things. They saw a handgun and they saw a white bullet-proof vest. They
16 confiscated that gun. You're going to find out that it's a .45 caliber. You're going to
17 find out that it's a semi-automatic. Many of you are familiar with firearms, some of
18 you aren't.

19 Semi-automatics, when they are discharged, leave behind evidence.
20 They leave behind cartridge casings. And they mark cartridge casings with tool
21 marks, with indentations that are unique to different guns. And so when they
22 collected this particular firearm, they also went around and scoured the crime
23 scenes. And we're talking about that streets where this pursuit occurred, as well as
24 the immediate area of Dolly, Carey, El Tovar.

25 And you're going to hear that the police were able -- these are small

1 little cartridge casings, but they were still able to find three of them. And you're
2 going to hear that one of them was located in front of this church on the northbound
3 lanes of Walnut. A second was located on East Carey, approximately in this
4 location on the eastbound lanes of Carey. And there was a third located on the
5 north side of the street by the gutter just past Gateway on Carey. When they
6 compared those casings to the gun that they found, it matched. That gun fired those
7 casings.

8 Ladies and gentlemen, you're going to hear that evidence and you're
9 going to hear additional evidence. And when you do that, at the end of the case,
10 you're going to be given the instructions from Judge Smith which tells you what the
11 law is. And then after you have the -- a chance to look at the law and you've heard
12 all of the evidence -- and the evidence is going to be what you hear from the
13 witnesses on the stand, it's going to be any exhibits that you hear, see in the
14 photographs, hear in 9-1-1 calls or videos, any stipulations of the party.

15 When you consider the evidence, weigh it against the law that you're
16 given, we're going to ask you at that point -- we believe we're going to prove beyond
17 a reasonable doubt that Joshua Bacharach did several things; that he attempted to
18 murder Ryan McNabb by shooting at him a number of times, that he discharged a
19 firearm outside of a vehicle five different times, that he committed assault with a
20 deadly weapon five different times against Officer McNabb, that he was in
21 possession of a firearm with an obliterated serial number, that he evaded Officer
22 McNabb to the extent that it was a felony by putting other people's lives and/or
23 property in danger when he sped down Carey, and that he resisted Officer McNabb
24 once he got out of the car.

25 Officer McNabb had a duty to arrest him at the point, had the right to do

1 so, and Joshua Bacharach resisted with a firearm against him to delay and obstruct
2 him. Based upon that evidence, we're going to ask that you find him guilty of all of
3 those counts. Thank you.

4 **OPENING STATEMENT BY THE DEFENSE**

5 BY MS. NGUYEN:

6 Good afternoon, everyone. I think this whole process is made to make
7 everyone feel kind of uncomfortable and it starts with jury selection. We ask
8 everyone to publicly speak, which a lot of people that's not -- doesn't come naturally
9 to them. We ask you to speak in front of strangers. We ask you personal questions
10 about your family, and your spouse, and your ex-spouse, and your children, and
11 what you do for a living, and how far you went into school. We talk to you about
12 politics. We talk to you about social issues. We talk to you about pretty much
13 everything. So we appreciate the information that you provide, but I do know that it
14 makes every feel uncomfortable.

15 I know during jury selection one of the big topics that not only the Judge
16 hit on, but the District Attorney asked you and I asked you some questions as well,
17 and that was about the presumption of innocence. The Judge told you from the
18 beginning that the opening statements, they're not evidence. And even as my client
19 sits there today, sits there right now, after only having heard from myself here for a
20 limited period and Mr. Fattig speak for the State, he is still innocent. They still have
21 to prove everything that they just outlined to you.

22 I think of opening statements kind of like a movie trailer or an
23 advertisement that you would see on TV. And just like a movie trailer and just like
24 an advertisement, we've all seen that movie trailer and then we're like yeah, I'm
25 going to go see that, I'm going to see that. I'm going to see that Nicholas Cage

1 movie and I'm not going to be tricked into thinking it's a bad movie. And then you go
2 and see it and guess what, it's a bad movie. Or you see a trailer for a movie and
3 you go see the movie and it has nothing to do with what the trailer advertised for
4 you.

5 Likewise, hopefully I'm not the only one that's been suckered into
6 purchasing something that they saw advertised as *Seen on TV*, only to find out that
7 it is not as wonderful or easy to use as it was portrayed. And that's the way opening
8 statements are and that's what I would want you to like pay attention when you hear
9 the evidence presented. This was just a trailer and the actual movie that you're
10 about to see, that's what you're going to hear, and that's what you're going to listen
11 to, and that's what you're going to evaluate.

12 And you're going to hear that testimony, you're going to see some
13 videos, you're going to see some photographs, you're going to hear testimony from
14 various police officers or witnesses. And you'll be able to see that, use your
15 common sense, and determine what it is that you saw. What it is that you saw and
16 what you think a reasonable person in that circumstance would see themselves.

17 I think at the end of the day, I want you to pay attention to the testimony
18 that's presented, their perspective, any testimony that's not presented. Forensic
19 data that's presented and that that is not presented to you because I think that's
20 very important in determining whether the State has proved their case beyond a
21 reasonable doubt.

22 And at the end of the testimony and at the end of the presentation of
23 the State's case, I believe that you will find that they have not met that burden. They
24 have not established every single element of the crimes that they are charging and
25 that they are seeking to conviction on against my client, Joshua. And you will come

1 back with not guilty verdicts. Thanks.

2 THE COURT: Thanks. Call your first witness, State.

3 MR. FATTIG: Maurine Palmer.

4 **MAURINE PALMER**

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

6 THE CLERK: Thank you. Please be seated. State your full name, spelling
7 your first and last name for the record, please.

8 THE WITNESS: Maurine Palmer. M-A-U-R-I-N-E, P-A-L-M-E-R.

9 JUROR NUMBER 8: Excuse me, Your Honor. I know her.

10 THE COURT: Okay. Just write it down.

11 JUROR NUMBER 8: Okay. Sorry.

12 THE COURT: If you need to communicate, we'll communicate at a break.
13 Just -- the jury has a couple times spoken out. Just write it down and we'll --

14 **DIRECT EXAMINATION**

15 BY MR. FATTIG:

16 Q Ma'am, back on June 26th of 2014, did you live at 2409 North Walnut?

17 A Yes, sir.

18 Q And that's here in Las Vegas, Clark County, Nevada?

19 A Yes, it is.

20 MR. FATTIG: May I approach the witness, Your Honor?

21 THE COURT: Yes.

22 BY MR. FATTIG:

23 Q Ma'am, I'm going to show what's been marked as State's Proposed
24 Exhibit Number 5, which is an aerial photograph, do you agree?

25 A Yes.

1 Q Do you recognize what's shown in this photograph?

2 A Yes.

3 Q What is shown here?

4 A There's the neighborhood and the church across the street, my house,
5 apartments across the street, and my friend's house.

6 Q Okay.

7 A Yeah.

8 Q So this shows your neighborhood?

9 A Yes.

10 Q Is that a fair and accurate copy from the air of your neighborhood?

11 A Yes, it is.

12 MR. FATTIG: Okay. Move to admit --

13 MS. NGUYEN: No objection.

14 MR. FATTIG: -- Proposed 5.

15 MS. NGUYEN: No objection.

16 THE COURT: It'll be admitted.

17 **[STATE'S EXHIBIT 5 ADMITTED]**

18 BY MR. FATTIG:

19 Q Ma'am, if you -- the screen in front of you is kind of like a telestrator, like
20 John Madden used to have on Monday Night Football.

21 A Okay.

22 Q So if you could do me a favor and point out on the telestrator there on
23 your screen your residence as of June 26th of 2014.

24 A Okay. Right here.

25 Q Okay. So you --

1 A A little farther.

2 Q So you're the first house north of Carey on Walnut.

3 A Correct.

4 Q And that would be the west side, correct?

5 A Yes.

6 Q Okay. And just to the south on the other side of Carey, also on Walnut,

7 what is this over here?

8 A That's the LDS Church.

9 Q Directing your attention to that evening on June 26th, was there a point

10 in time when you arrived home?

11 A Yes.

12 Q And when you arrive home, is -- do you go into your garage?

13 A Yes.

14 Q And is your garage just in front of the driveway here on this portion of

15 Grand -- of State's Exhibit 5?

16 A Yes it is. Uh-huh.

17 Q On that particular evening were you in your garage when something

18 unusual happened?

19 A Yes.

20 Q About what time of the evening of you believe that was?

21 A It was approximately 10:45. I had just come home from work.

22 Q And when did you get off of work normally?

23 A Usually between 10:00 and 10:30. And I -- 10:#0 that night.

24 Q Okay. You got off at 10:30.

25 A Yes.

1 Q You got home about 10:45.

2 A Uh-huh.

3 Q You were in your garage.

4 A Right.

5 Q Okay. What did you hear or see?

6 A I heard some what sounded like arguing. It was in Spanish. And I

7 heard it -- I was inside the garage. I didn't look out or anything to see, but I heard

8 what sounded like arguing.

9 Q Loud voices.

10 A Uh-huh.

11 Q In Spanish.

12 A Yes. Uh-huh.

13 Q Okay. Then what?

14 A Then I heard a pop, which I thought maybe was firework's because

15 being close -- getting close to the 4th of July I thought maybe it was a firework,

16 but --

17 Q Can you describe the pop? Was it loud?

18 A It was just like, yeah, real loud. Pop. You know, real pop.

19 Q Okay.

20 A And then a few seconds later I heard another one. And I thought okay,

21 that's probably not fireworks.

22 Q What did you think it was?

23 A Then I thought then it might be a gunshot.

24 Q Okay.

25 A Yeah.

1 Q Could you tell generally where those gunshots were coming from?
2 A It sounded like it was coming to the right of me, which would be on
3 Carey.
4 Q Okay.
5 A Or in that area there.
6 Q To the right of you is south --
7 A This would be south.
8 Q -- of the house.
9 A Yes. Correct. Uh-huh.
10 Q Okay. So either on Carey or near there.
11 A Near there. Uh-huh.
12 Q Okay. So you heard -- was the second equally as loud as the first?
13 A Yes it was.
14 Q And then what?
15 A And then I was -- I finished putting my things away and I heard -- a few
16 seconds later I heard a car -- it sounded like it sped off and I looked out from where I
17 could see inside my garage and I saw taillights going down -- east down Carey.
18 Q Okay. When you see -- when you say it sped off, there -- did it sound
19 like a car was fast --
20 A Yes.
21 Q -- on Carey?
22 A Yes.
23 Q Okay. And so you were looking out towards this direction --
24 A Correct.
25 Q -- down Carey? And you saw just taillights, you didn't notice any other

1 lights?

2 A Right.

3 Q Okay. And then what happened?

4 A Well then I heard another shot or whatever it was, pop, it was softer.

5 So it sounded like it might have been down the street farther.

6 Q Okay. Did it sound like it was farther down Carey?

7 A Yes, down Carey.

8 Q So that would be East Carey.

9 A Correct.

10 Q And you said it was softer.

11 A Yes.

12 Q Were you able to sort of estimate about how far Carey you think you
13 heard that?

14 A I would estimate it was probably my -- my sister lives down Carey and
15 so I was estimating it was probably like down the area of her house.

16 Q And what address is that?

17 A It's 4080 East Carey.

18 Q 4080?

19 A Uh-huh.

20 Q So you believed it was in that area?

21 A In that area. That's --

22 Q Okay.

23 A -- my estimate.

24 Q So the next street down from Walnut is, what, is that Gateway?

25 A Yes.

1 Q Okay. So was it maybe perhaps past Gateway?

2 A Past Gateway.

3 Q Okay. What's the next street after Gateway? Remember?

4 A I -- Moonlight I believe is in there.

5 Q Okay.

6 A And then Lincoln.

7 Q You take --

8 A Or -- Lincoln.

9 Q Okay. Lincoln is one of those streets.

10 A Yeah.

11 Q And then it's a little bit 'til -- before you hit Lamb, correct?

12 A Yes. Uh-huh.

13 Q Okay. Now -- so you heard three different pops, two of which were loud

14 and the third was quieter.

15 A Yes.

16 Q After that happened, what did you do?

17 A Well I closed the garage door and I went in the house because I

18 assumed then that it was shots being fired.

19 Q Okay.

20 A And

21 Q And then what happened?

22 A And then I went in and then I was telling my uncle who lives with me

23 what was going on and then I started hearing sirens. So I kind of looked out, then I

24 debated whether or not I should go out. I saw the police out there and they were

25 cordoning off the street.

1 Q When you say out there, where?
2 A Out --
3 Q In front of your home and --
4 A In front of the house -- well, in the intersection there.
5 Q Okay.
6 A They cordoned off the intersection.
7 Q At Carey and Walnut area.
8 A Carey and Walnut area.
9 Q Okay.
10 A And so I debated on whether or not I should go out, if anything I had to
11 say would be of any use. And so I finally decided to go out and talk to the officer.
12 Q Did it appear that the police arrived in that area fairly quickly --
13 A Yes.
14 Q -- after you went inside and talked to your relative?
15 A Yes.
16 Q Okay. And so when you went outside you told the officer what you had
17 heard?
18 A Yes.
19 Q And what you had saw?
20 A Yes.
21 Q And then what did they do? Did they give you a statement to fill out?
22 A He gave me the statement.
23 Q And did you in fact fill out a statement?
24 A Yes, I did.
25 Q And that statement was done within -- do you remember about what

1 time that was?

2 A It was probably around 11:15.

3 Q Okay.

4 A 11 -- somewhere --

5 Q About --

6 A 11:20.

7 Q About a half hour after the events.

8 A Yeah, within a half hour after the events.

9 Q So they were very fresh in your mind --

10 A Yes.

11 Q -- when you wrote them down.

12 A Uh-huh. Yes.

13 Q Okay.

14 MR. FATTIG: I have no other questions of this witness.

15 THE COURT: Cross.

16 **CROSS-EXAMINATION**

17 BY MS. NGUYEN:

18 Q Ms. Palmer, you said initially you heard Spanish or loud talking.

19 A Uh-huh.

20 Q Was that unrelated? Was that a neighbor? Or did you ever
21 determine --

22 A I really couldn't --

23 Q -- what that was?

24 A -- tell you if it was related to what I -- you know, everything else I heard
25 or not. I couldn't tell.

1 Q Okay. Did you ever see any people?

2 A No.

3 Q Okay. And that road that is right out front where you saw the car
4 whizzing past, did you hear it like come from a stop and then start going or was it
5 moving fast all along?

6 A It sounded like it was started up and it was revving its engine and just
7 zooming along. It was like when an engine starts up and goes.

8 Q Okay.

9 A Yeah.

10 Q So it felt like it was --

11 A That's what it --

12 Q -- from a stop to a start.

13 A From somewhere in the -- yeah, in that area.

14 Q Okay. But you never saw the vehicle start I guess I should say?

15 A No. I just saw the taillights as it was going.

16 Q Okay. Were you able to get a license plate or anything?

17 A No. Uh-uh.

18 Q Was the car moving too fast at that point

19 A Yes, it was.

20 Q Okay. So you weren't able to see inside the vehicle?

21 A No.

22 Q Or you didn't see the make and model of the vehicle?

23 A No.

24 Q And this is kind of a big road here. Were there other cars on that road
25 as well?

1 A At that time there weren't any.

2 Q Okay. But you were able to see the taillights and then you said that
3 you -- did you see any police cars at that point?

4 A At that point, no.

5 Q Okay. So you heard the two loud pop noises and then you heard one
6 that was seemed like it was more in the distance?

7 A Yes.

8 Q Okay. And it kind of came from that general direction but you didn't see
9 any flashes of light or anything --

10 A Correct.

11 Q -- from that particular vehicle that you saw speed away?

12 A Right.

13 Q And then you went back into your house and then that's when you
14 heard the police cars?

15 A Yes. Uh-huh.

16 Q Okay. And that's when you exited your vehicle? Or exited your home?

17 A Yes. That's when I went out of the front door then.

18 Q Was this -- I know it was within a half an hour that you probably made
19 your statement to the police officers --

20 A Uh-huh.

21 Q -- when you decided to exit, but do you recall how much time it was
22 between the time that the officers came to the area -- you heard the sirens and you
23 saw the police officers there?

24 A It was just a matter of few minutes; five to ten minutes at the max.

25 Q Okay.

1 A Yeah. I don't think it was even that long because --

2 Q But when you saw the --

3 A -- I debated for a while before I went out.

4 Q And how long did you watch the car that sped away that you saw the
5 taillights go?

6 A Well he was out of sight within just a few seconds. And you know when
7 I heard that and then -- when I heard the shots and then heard the -- saw the car
8 sped off, I decided something was going on and so I was going to go inside and
9 that's when I heard the third one.

10 Q Okay. So immediately when you heard and you saw the car speeding
11 off, you didn't see any police cars at that point --

12 A No, not at that point.

13 Q -- in pursuit of that car?

14 A Right.

15 Q Okay.

16 MS. NGUYEN: No further questions.

17 MR. FATTIG: Nothing further.

18 THE COURT: The jury have any questions of this witness?

19 Ma'am, thank you, you're free to go.

20 THE WITNESS: Thank you.

21 THE COURT: Call your next witness, State.

22 MS. NGUYEN: Objection. Not objection. May we approach?

23 [Bench Conference Begins]

24 MS. NGUYEN: I believe Juror Number 8 said that she was familiar with the
25 witness.

1 THE COURT: She knew her from Walgreens or somewhere. We'll go
2 through with this and then we'll talk it over.

3 MS. NGUYEN: Okay.

4 THE COURT: We have the [indiscernible].

5 MS. NGUYEN: Okay.

6 MR. FATTIG: Okay.

7 THE COURT: But we'll -- when we take our break we'll have her stay.

8 MS. THOMSON: Okay.

9 MR. FATTIG: Okay.

10 MS. NGUYEN: Okay.

11 THE COURT: Thank you.

12 [Bench Conference Concludes]

13 THE COURT: Call them, Tom.

14 MR. FATTIG: Norayma Gonzalez.

15 **NORAYMA GONZALEZ**

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

17 THE CLERK: Thank you. Please be seated. State your full name, spelling
18 your first and last name for the record, please.

19 THE WITNESS: Norayma Gonzalez. N-O --

20 THE COURT: Scoot closer to the mic, please.

21 THE WITNESS: N-O-R-A-Y-M-A. Last name is Gonzalez, G-O-N-Z-A-L-E-Z.

22 **DIRECT EXAMINATION**

23 BY MR. FATTIG:

24 Q Good afternoon, ma'am.

25 A Good afternoon.

1 Q Directing your attention to June 26th of 2014, did you reside on Dolly
2 Lane here in Las Vegas, Clark County, Nevada?

3 A Yes, I did.

4 Q And was there an occasion -- an event that occurred that particular
5 evening that caused you to call 9-1-1?

6 A Yes.

7 Q I'm going to show you a couple of photographs.

8 MR. FATTIG: May I approach the witness?

9 THE COURT: Yes.

10 MS. NGUYEN: And Your Honor, I'd stipulate to the admittance of those
11 maps.

12 MR. FATTIG: For the record --

13 THE COURT: All right.

14 MR. FATTIG: -- they are Exhibits 12, 13, and 15; aerial maps.

15 THE COURT: All right. They'll be admitted by stipulation.

16 **[STATE'S EXHIBIT 12, 13, and 15 ADMITTED]**

17 BY MR. FATTIG:

18 Q Let me show you these maps. State's Exhibit 12, do you recognize that
19 aerial map?

20 A Yes, I do.

21 Q And how do you recognize it? What does it show?

22 A It shows the vacant lot right over here which is on Dolly Lane, the
23 corner of Dolly Lane and Carey Avenue.

24 Q Okay. And this is right near where you were leaving as of June 26th of
25 2014?

1 A That is correct. I was living in the second -- in the second apartment
2 complex that was there.

3 Q Okay.

4 A That is there.

5 Q And State's Exhibit 13. Is this just a different viewpoint of the same
6 area?

7 A Yes, it is.

8 Q Okay. And 15 is kind of another viewpoint of the same local area?

9 A Yes.

10 Q And the street to the north and to the immediate west of where you
11 resided, is that El Tovar Lane?

12 A Yes, it is.

13 Q I'm going to put those on the ELMO and you'll be able to look to your
14 screen to the right to see. This is State's Exhibit Number 12 for the record. The
15 screen there in front of your right acts as a telestrator. So if you touch an area it will
16 mark on the screen for the jurors. Can you indicate where you -- your residence
17 was as of June 26th, if you see it in that particular -- on that screen?

18 A Right over here.

19 Q Can you mark that with your finger?

20 THE COURT: Circle it.

21 BY MR. FATTIG:

22 A [No audible response - marking on monitor].

23 Q So the bottom left corner that appears to be an apartment building,
24 correct?

25 A That's correct.

1 Q And you lived in that apartment as of June 26th?
2 A Yes, I did.
3 Q Okay. Were you on the first floor or the second floor?
4 A I was on the first floor.
5 Q And were on this side towards Dolly or the other side more inside?
6 A I was on the outside towards Dolly.
7 Q Towards Dolly. So this corner, on the first floor?
8 A Yes.
9 Q Okay. And I'm going to show Grand -- State's Exhibit 13, which is the
10 same area, you would agree with me, except from a different viewpoint, correct?
11 A Yes.
12 Q Okay. And is this the building where you were living in?
13 A Yes, it is.
14 Q Okay. And the unit that you stayed in, is that --
15 THE COURT: It's kind of out of the picture.
16 MR. FATTIG: Oh, I'm -- I apologize. Thank you.
17 BY MR. FATTIG:
18 Q Okay. Do you see your apartment and the patio area there on that
19 screen?
20 A Yeah. Yes, I do.
21 Q Okay. Can you mark on -- with your finger on the screen where that is?
22 A It's in the bottom I can't --
23 Q Okay. It's right in this area?
24 A Yes.
25 Q Okay. So do you remember about what time it was that the event

1 began for you?

2 A About 10:30.

3 Q Okay. Sometime before 11:00 p.m. that evening?

4 A Yes.

5 Q Okay. And what were you doing?

6 A I was barely putting in all my kids and my next door neighbor kids
7 because they were outside playing in the parking lot.

8 Q Okay.

9 A And I had barely put them inside the house and I went towards my patio
10 to turn on a cigarette -- to smoke a cigarette.

11 Q And then what happened?

12 A I heard a loud crash.

13 Q All right. Where was the crash coming from?

14 A From Carey Avenue.

15 Q Okay. And that's north of where your apartment was?

16 A Yes.

17 Q Okay. And what did you do after you heard the loud crash?

18 A I opened up the gate and I went running towards the street over on
19 Dolly, at the sidewalk.

20 Q Okay.

21 A And --

22 Q So are you talking about the parking lot area over here, just to the west
23 of your apartment building?

24 A Yes.

25 Q Okay. When you went out there, did you see anything?

1 A Yes, I did.

2 Q What did you see?

3 A I saw a gentleman about right in the middle -- can I go ahead and circle

4 it?

5 Q Yes, please do.

6 A About --

7 Q Where you first saw him.

8 THE COURT: With an X.

9 BY MR. FATTIG:

10 A About right here.

11 Q Okay.

12 A Running towards El Tovar.

13 Q Okay.

14 A And --

15 Q Was he -- where was he in terms of the street? Was he on a sidewalk?

16 Was he in the street?

17 A He was on the sidewalk on that side.

18 Q Okay. And when you say that side that would be the west side of

19 Dolly?

20 A Yes.

21 Q Okay. And you said he was running towards El Tovar?

22 A Yes. He was running down --

23 Q So --

24 A -- Dolly. So he was running --

25 Q Towards this way.

1 A Yes.

2 Q So sort of towards where you were?

3 A Yes, I was right there. Actually I'm where -- how it is right now, where

4 the police car is at, I was standing -- that's where exactly where I was standing at

5 when I saw it.

6 Q Okay. And are you talking about which car? This one?

7 A This one right here. This one right here.

8 Q Okay. The far one?

9 A Yes.

10 Q Here?

11 A Yes.

12 Q Okay. How many people did you see, just the one man?

13 A Just one man, yes.

14 Q And you could tell it was a man?

15 A Yes.

16 Q Okay. Can you describe what he looked like at all?

17 A It was very dark, but I did distinguish that he did -- which I thought was

18 a white shirt on.

19 Q Okay. And you saw him running on that side of the sidewalk?

20 A Correct.

21 Q And then what happened? Did you continue watching him?

22 A I did. He was running and he turned to El Tovar. When he turned to El

23 Tovar I saw when he pulled out his hand had a gun in his hand and started shooting.

24 I heard, I don't remember if it was two or three gunshots when -- that I heard.

25 Q Yeah. And when you --

1 A But I did not --

2 Q When you say he ran towards El Tovar, was he on the corner of El
3 Tovar and Dolly, in that area?

4 A Yes.

5 Q Okay.

6 A He was right at the corner when he pulled out the gun.

7 Q And where was he aiming the gun?

8 A He was aiming it towards -- down towards Carey. I mean, towards
9 Dolly, going towards Carey.

10 Q Okay.

11 A That --

12 Q Towards Carey, bring this direction, this is Carey?

13 A Yes.

14 Q And I've done it again in terms of -- so Carey is here, correct?

15 A Yes.

16 Q So he was aiming the gun this way?

17 A Yes.

18 Q Can you describe what the gun looked like? Was it a handgun or was it
19 like a long gun?

20 A It was a handgun.

21 Q And remember hearing two or three shots.

22 A Correct.

23 Q Okay. Then what happened?

24 A I did not see who he was aiming at when I heard the -- when I saw the
25 gun and he -- and I heard the gunshots, I ran back inside my -- where my apartment

1 is at.

2 Q Okay.

3 A And when I turned around I saw him getting in front of the white truck.
4 Now he's in -- he turned into El Tovar and got right in front of the white truck that
5 is -- that -- it's right there on the picture actually.

6 Q Let's see. So you see the white truck in this particular photograph on El
7 Tovar?

8 A Yes, I do.

9 Q Can you point to it and mark it on the screen?

10 A [No audible response - marking on monitor].

11 Q Right there. Okay. He was in -- and that's sort of in front of the little
12 green house?

13 A Yes.

14 Q Okay. He was in front of that truck?

15 A Yes, he was right in front of -- he got right in front of the white truck.

16 Q And when you say he, was it the same man that you saw with the gun,
17 shooting?

18 A Correct.

19 Q The white shirt?

20 A The white shirt man, yes.

21 Q Okay. And what was he doing in front of that white truck?

22 A He went into the white truck and he started getting down -- ducking
23 down. By this time I was on my 9-1-1 call and I was telling the dispatcher that he
24 was right in front of the white truck, that he had just gotten down, and that he was
25 right there on the street.

1 Q He was bending in front of the truck?

2 A Yes, he was bending down, kind of like hiding.

3 Q When you say got in, you don't mean he got into the truck?

4 A No, he didn't get in the truck, no.

5 Q He was leaning down in front of the truck.

6 A In front of the truck, correct.

7 Q And about that time is when you called 9-1-1.

8 A Yes.

9 Q You had occasion to listen to that 9-1-1 call a little while ago in my

10 office, correct?

11 A Correct.

12 Q Was that a fair and accurate copy of the 9-1-1 call that you placed to

13 Metro that evening?

14 A It is.

15 Q I'm going to play State's Proposed 184 at this point.

16 MS. NGUYEN: And Your Honor, I would just that it's redundant and it's

17 bolstering. She's testified today.

18 THE COURT: Overruled. I'm going to allow it to come in.

19 **[STATE'S EXHIBIT 184 ADMITTED]**

20 [9-1-1 Call Playing]

21 BY MR. FATTIG:

22 Q So it sounded like while you were on the phone with 9-1-1 that officers

23 were arriving at that point.

24 A Correct.

25 Q You saw the patrol cars on El Tovar?

1 A Yes.

2 Q Okay. And at that time that you made that call you weren't quite sure
3 what the name of the street was?

4 A Correct.

5 Q But now you've had the chance since this happened to go look at the
6 street and it is El Tovar?

7 A That's right.

8 Q Okay. Now going back to the man, you said he was ducked down
9 behind -- in front of the white truck.

10 A Correct.

11 Q What else, if anything, did you see him do while he was in that area?

12 A Like I said, he went right up front of the truck. That's when he did some
13 more -- he fired again his gun towards -- at this time then I could tell it was an officer
14 that he was shooting at.

15 Q Okay. Now --

16 A And --

17 Q Now where was he pointing the gun at this time, if you could tell?

18 A He was pointing the gun towards Dolly Lane from El Tovar.

19 Q Okay. Back where he had run from?

20 A Correct.

21 Q And you said towards an officer. Did you see an officer in the area at
22 that time?

23 A Yes, I did.

24 Q Where was the officer?

25 A The officer was standing like right at the corner of care -- of Dolly Lane

1 and El Tovar. Right at the corner of the house.

2 Q And you believed you heard shots at that point?

3 A Yes, I did.

4 Q Okay. Now what happened after that? Did the man stay in front of the
5 white truck?

6 A No, he ducked down and took off the white shirt, which I thought
7 was -- the white shirt and took off running in to El Tovar, towards the other houses.

8 Q Okay. So would that be west down El Tovar?

9 A Yes.

10 Q Okay. Rather than east towards Dolly, right?

11 A Right.

12 Q And you obviously called 9-1-1, correct, and we just heard that?

13 A Correct.

14 Q Did you see that same man in the white shirt later that evening?

15 A Yes, I did.

16 Q About how much later?

17 A It was very quick. It happened within 20, 25 minutes, maybe.

18 Q Okay. About 20 to 25 minutes later.

19 A Right. After my 9-1-1 call they had him already arrested under custody.

20 Q Okay.

21 A And I could tell it was the same gentleman because of the same body
22 complex that I -- which I saw that was far, you know, from where I was standing at.

23 Q Okay. So where did you -- you said they had him in custody. What did
24 you see exactly?

25 A That they had the gentleman arrested.

1 Q He was in handcuffs?

2 A He was in handcuffs.

3 Q Okay. And there was a bunch of police officers around?

4 A Correct.

5 Q And you looked at the same man and when you -- you indicated the

6 same body complex and you made the indication with your hands, both hands along

7 your body, correct?

8 A Correct.

9 Q Do you mean the same type of build?

10 A The same building -- I mean, the same build of, you know, the whole

11 body from the head and everything. It was very dark. I couldn't take a look at the

12 face or recognize the face or anything like that, but it was the same body complex

13 that there was.

14 Q The same height?

15 A The same height, the same --

16 Q Same type --

17 A -- structure.

18 Q Same structure, same build, et cetera.

19 A Right. Except for the difference that he didn't have the white shirt on.

20 Q Okay. The next time you saw him in handcuffs.

21 A Correct.

22 Q Okay. So you believed it was the same man that you saw with the gun

23 and the white shirt?

24 A Correct.

25 Q And when you saw him the second time, where was he?

1 A He was in custody about right -- maybe right there. Oh God.
2 Q Okay.
3 A Right there where it's pointing.
4 Q Oh. Okay. Let's try it now.
5 A About right here.
6 Q Okay.
7 A I mean, right in the middle of the street.
8 Q Out on Dolly Lane.
9 A Yes.
10 Q And were you back at your apartment by the patio area at that point?
11 A No, I was talking to an officer right on the sidewalk of Dolly.
12 Q Okay. You saw him at a bit of a distance --
13 A Correct.
14 Q -- that next time.
15 A Uh-huh.
16 Q But how sure were you that it was the same man that you saw in the
17 white shirt with the gun?
18 A Oh, I was certain that it was him because I even told the officer, I said
19 oh, you guys got him, that's him.
20 MR. FATTIG: I have no other questions at this time.
21 MS. NGUYEN: Oh, I hate this thing.
22 **CROSS-EXAMINATION**
23 BY MS. NGUYEN:
24 Q Ms. Gonzalez, when you're looking at this, this is the apartment
25 complex that you were at, is that correct?

1 A That is correct.

2 Q Okay. And this was in the middle of night or this is around 10:30 at
3 night, is that correct?

4 A Correct.

5 Q And so this area is dark except for like this traffic light here and this
6 traffic light here, is that correct?

7 A That is correct.

8 Q Okay. Your apartment complex, it doesn't appear it's -- has it's own like
9 street light, is that correct?

10 A That is correct.

11 Q Okay. So it's pretty dark in here as well?

12 A Regardless of the light that's outside, yes.

13 Q Okay. And you were in this patio area. To get out of this patio is there
14 like a, I don't know, a gate or is it just open?

15 A There is a gate.

16 Q Okay. And you said you heard a crash.

17 A Correct.

18 Q Could you tell what direction that crash noise came from? Did it come
19 from up here, down here, over here?

20 A It come from down here, from --

21 Q Down here?

22 A Yes, from Carey.

23 Q Okay. And you were out smoking a cigarette.

24 A Yes.

25 Q Okay. You said that you had just had -- you were -- were you watching

1 some kids in the neighborhood or --

2 A I was watching my kids. They were outside playing.

3 Q Okay. And how old are your kids?

4 A At the current time they were 13, 11, and 7.

5 Q Okay. Was everyone playing, was there music, or is it just --

6 A No. It was quiet. They were all outside playing.

7 Q Okay. But you had had them -- had you gone inside too?

8 A No. I never went inside my house.

9 Q When you made the 9-1-1 call, where were you making that call from?

10 A I was making it from the middle -- from --

11 Q Can you point on the -- I think this is State's Exhibit 13. Okay. There
12 we go.

13 THE COURT: I think you need to bring it down.

14 MS. NGUYEN: Down.

15 THE COURT: [Indiscernible].

16 BY MS. NGUYEN:

17 A There you go. I was right there where that cop car is at.

18 THE COURT: Draw it on there.

19 BY MS. NGUYEN:

20 Q Yeah, can you please --

21 A [No audible response - marking on monitor].

22 Q So you were right --

23 A About right there. Yes.

24 Q Okay. And did you stay outside the entire time?

25 A No. When I heard the crash I ran towards right there so I can see --

1 have a clear --

2 Q You ran to this area right here.

3 A Yes, I ran towards that area right on -- you know, standing on Dolly
4 Lane, the sidewalk -- my sidewalk. And that's when I saw the gentleman --

5 Q And we're at this area, I think you pointed out.

6 A Right there, yes. I saw him right there. I was still standing right there
7 when he turned into El Tovar.

8 Q So he came down here.

9 A When he turned into El Tovar, that's when I saw him pulling out the
10 handgun.

11 Q Okay.

12 A And he started shooting.

13 Q So was he on El Tovar or was he on Dolly?

14 A When he started shooting he was on Dolly, turning into El Tovar.

15 Q Okay. So on this corner here?

16 A Like by the corner, uh-huh.

17 Q IS this correct?

18 A Yes. When I saw him shooting --

19 Q And you were standing right here?

20 A Yes.

21 Q Okay. Were there any other cars here in this area at that time?

22 A Gosh, I don't remember. I don't -- you know what, no, not at the corner
23 because the top apartment was vacant. And those are the two parking --

24 Q Were you alone smoking your cigarette out here?

25 A Yes, I was.

1 Q Okay. Was there anyone else in the apartment complex that was
2 outside of their --

3 A No.

4 Q Okay. And did you know any of your neighbors? Did you see anyone
5 in these top like apartment complex?

6 A Not at the apartment --

7 Q Apartments here?

8 A -- complex, but yes, the -- my neighbor, the one that lives on that
9 corn -- on this house right here, which I'll mark --

10 Q You saw this neighbor?

11 A Yes. They were outside.

12 Q Okay. You didn't see anyone get out of this vehicle down here though.

13 A No.

14 Q The first time you saw someone they were running down this -- at about
15 this location --

16 A Correct.

17 Q -- is that correct?

18 A Yes.

19 Q Okay. And you said initially you saw a person with their arm out like
20 this, is that correct?

21 A I saw when he pulled out his gun.

22 Q Okay. And that was near this corner here. And at first you just didn't
23 know what he was shooting at. That's what you testified to?

24 A Yeah. I didn't see who he was shooting at, correct.

25 Q When you first heard those shots, did you just stay out in this area or

1 did you --

2 A No. I ran back inside.

3 Q Okay. So you ran back inside --

4 A I ran back inside --

5 Q -- as soon as you heard his shots.

6 A Correct.

7 Q And then you testified that this individual came by and was hiding -- is
8 this the truck?

9 A Yes.

10 Q Okay. I'm going to attempt to zoom in here.

11 This is the truck that you referred to --

12 A Correct.

13 Q -- is that correct?

14 A Yes.

15 Q Is this the same truck?

16 A Yes.

17 Q Okay. It hadn't been moved or anything?

18 A No.

19 Q Okay. And you said -- you also said that you saw someone hide behind
20 this area.

21 A Right in front of the truck, yes.

22 Q Right in the front part of the truck.

23 A Correct.

24 Q Not the back part of the truck --

25 A No.

1 Q -- the front part of the truck.
2 A Correct.
3 Q And you were still over here in this area?
4 A Yes. I was right at the entrance of my -- of the gate.
5 Q Okay. So you were over here?
6 A Uh-huh.
7 Q Okay. So at that point you're --
8 THE COURT: Wait. Is that a yes?
9 THE WITNESS: I'm sorry.
10 THE COURT: You said uh-huh.
11 THE WITNESS: Oh, yes.
12 THE COURT: IS that a yes?
13 THE WITNESS: Yes.
14 BY MS. NGUYEN:
15 Q Okay. So you heard the gunshots and then at that point you started
16 walking back towards your gate?
17 A Correct.
18 Q Okay. So when you said that you saw someone hiding or ducking
19 behind this truck over here that is something that you viewed from your patio.
20 A Not from my patio. IT was outside of the gate.
21 Q Okay. Outside of the gate.
22 A Correct.
23 Q Okay. When the person was ducking behind this truck, could you see
24 them?
25 A Yes.

1 Q Okay.

2 A Because I have a clear view from where I was standing at right in
3 front -- it's like sitting here diagonal-wise from the courthouse.

4 Q Okay.

5 A It's right at the corner.

6 Q Okay. And then did you continue to make your 9-1-1 call from the
7 gate?

8 A Yes.

9 Q Did you ever come back into the street?

10 A I did after they already had him in custody.

11 Q Okay. And did you come out or did they come and get you?

12 A No, I came out.

13 Q Okay. So you came out and at that point did you speak with an officer
14 or did you -- how did you identify yourself?

15 A No. I was right there at the corner, right at the sidewalk right there and
16 that's when they came out when -- with the gentleman in custody which I knew it
17 was the same person that had a -- fired the gunshot and I told them -- and I told the
18 officer that was right there. I said oh good -- I said -- I told them, I said, they got him.

19 Q But you were never able to see the person's face.

20 A No.

21 Q Is that correct?

22 A That is correct.

23 Q And the person that you identified wasn't wearing the white shirt.

24 A That's correct.

25 Q Did you ever --

1 A But had the same body complex.

2 Q Okay. Did you ever -- did you see the officer that -- when he was
3 shooting?

4 A I saw the officer. I did not see him shooting.

5 Q Okay. Did you hear the gunshots?

6 A I did hear gunshots.

7 Q Okay. Do you remember how many gunshots you heard?

8 A It was roughly about five gunshots that I heard. I'm not quite certain
9 though.

10 Q And when you heard those gunshots you were standing here by the
11 gate still?

12 A Yes.

13 Q Okay. And could you tell where the gunshots were coming from?

14 A They were coming from right there -- from the corner of Dolly and El
15 Tovar.

16 Q So over here or over here?

17 A No. Over here.

18 MS. NGUYEN: No further questions.

19 **REDIRECT EXAMINATION**

20 BY MR. FATTIG:

21 Q Ma'am, just real briefly. When the -- when you saw the man with the
22 white shirt and he ran down to the corner you indicated that he turned and pointed
23 the gun back north towards, correct?

24 A That is correct.

25 Q How did he do that? Was it one arm? Two arms?

1 A It was one arm.

2 Q Okay. And when he was -- you saw him by the truck you saw him also
3 point the gun?

4 A Correct.

5 Q And was he pointing in the same way with one arm?

6 A Yes. He was ducking from the side of the truck like this and pointing
7 the gun and firing.

8 Q And that was back towards Dolly --

9 A Correct.

10 Q -- at that point?

11 A Yes.

12 Q Okay.

13 MR. FATTIG: Court's indulgence.

14 BY MR. FATTIG:

15 Q Do you remember -- when you saw him ducking behind the truck -- the
16 front of the truck, was it in the street side of the truck or the sidewalk side of the
17 truck?

18 A It was in the street side of the truck.

19 Q Okay. So this side of the truck --

20 A I can't see.

21 Q I'm sorry. I got to get better at that. Looking at Grand Jury Exhibit 13.
22 You're saying this -- the street side --

23 THE COURT: Not Grand Jury.

24 MS. NGUYEN: Not Grand Jury.

25 MR. FATTIG: Sorry. I apologize. State's Exhibit 13.

1 BY MR. FATTIG:

2 Q The street side of the front of the white truck, correct?

3 A Correct.

4 Q Okay.

5 MR. FATTIG: I have no other questions.

6 THE COURT: Defendant.

7 MS. NGUYEN: Nothing further.

8 THE COURT: Jury have any questions of this witness? Okay. Write your
9 name and your seat number. I think you're 10.

10 All right. Approach the bench.

11 [Bench Conference Begins]

12 THE COURT: She doesn't know the directions --

13 MR. FATTIG: She doesn't know, no.

14 THE COURT: So she would have to know it. If she knows, ask her to clarify.

15 MR. FATTIG: Yeah, I doubt she does.

16 MS. NGUYEN: I don't have a problem with you leading and ask questions --

17 THE COURT: You can back off and show where --

18 MS. NGUYEN: -- to get the answers.

19 THE COURT: -- Carey is.

20 MR. FATTIG: Okay. Carey's north.

21 THE COURT: I think you should do that back way down.

22 MS. NGUYEN: I don't care if you lead just to clarify.

23 MR. FATTIG: Okay.

24 THE COURT: Just back down and --

25 MR. FATTIG: Okay.

1 [Bench Conference Concludes]

2 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

3 BY THE COURT:

4 Q Oh can you please give the street direction and if you can't we're going
5 to show you some more pictures.

6 MS. NGUYEN: Your Honor, I can make this a lot easier. I'd stipulate if you
7 want to put what the street directions are on the map.

8 THE COURT: Well we can't write on it, but.

9 **FOLLOW-UP EXAMINATION**

10 BY MR. FATTIG:

11 Q And for the record, I'm showing State's Exhibit 13. And ma'am, your
12 residence is south of Carey, correct?

13 A Yes.

14 Q So this is north of your location and Carey runs east west, correct?

15 A Correct.

16 Q And Dolly runs north south, correct?

17 A Correct.

18 Q And El Tovar is over here running east west.

19 A Correct.

20 MR. FATTIG: Hopefully that clarifies.

21 THE COURT: Anything further by the State?

22 MR. FATTIG: No.

23 MS. NGUYEN: No.

24 THE COURT: You're free to go. Thank you.

25 THE WITNESS: Thank you.

1 THE COURT: Do you guys need a break or you want your next witness?
2 Next witness, please.

3 MS. THOMSON: The State calls Jose Quezada Robles.
4 [Ricardo Pico was sworn by the Clerk to interpret
5 English into Spanish and Spanish into English.]

6 **JOSE QUEZADA CHAVEZ**

7 [having been called as a witness and being first duly sworn, testified through
8 the interpreter as follows:]

9 THE CLERK: Thank you. Please be seated. State your full name, spelling
10 your first and last name for the record, please.

11 THE WITNESS: My name is Jose Quezada Chavez.

12 THE CLERK: Spell it.

13 THE WITNESS: J-O-S-E, Q-U-E-Z-A-D-A, C-H-A-V, as in Victor, E-Z.

14 MS. THOMSON: May I proceed?

15 THE COURT: Yes.

16 MS. THOMSON: Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 BY MS. THOMSON:

19 Q Good afternoon, sir.

20 A Good afternoon.

21 Q I'm going to direct your attention back to June 26th of 2014. At that time
22 were you living at 4595 El Tovar?

23 A Correct.

24 Q And showing you what's been marked as State's Exhibit 13 up on the
25 map. Do you see your house on the exhibit?

1 A Yes, correct.

2 Q And if you can mark on the screen where that is.

3 A [No audible response - marking on monitor].

4 Q Okay. So your house is the corner house at the corner of El Tovar and

5 Dolly?

6 A Correct.

7 Q And the main street in the front of State's Exhibit 13, is that Carey?

8 A Correct.

9 Q And in the evening hours of June 26th of 2014, did you have your family

10 at home with you?

11 A Yes, correct.

12 Q And who was in the home?

13 A Me and my two sons.

14 Q Your two children, what are their names?

15 A Ricardo and Alanda [phonetic].

16 Q Okay. And so Alanda, how old is she?

17 A Ten years old.

18 Q Okay. That's now, correct?

19 A Now.

20 Q And how old is Ricardo now?

21 A Ricardo is 12 years old.

22 Q And as you were at home that night, what were you doing when your

23 children came into your room?

24 A I was watching TV.

25 Q Okay.

1 MS. THOMSON: And may I approach?

2 THE COURT: Yes.

3 BY MS. THOMSON:

4 Q Showing you these three photographs. Do you recognize what's
5 depicted in each of the three?

6 A Yes, I recognize it.

7 Q And they are State's Proposed Exhibits 117, 119, and 121. Are they
8 each accurate depictions of what they represent themselves to be?

9 A Yes, correct.

10 MS. THOMSON: I'd move for admission.

11 MS. NGUYEN: No objection.

12 THE COURT: Okay. They'll be admitted.

13 **[STATE'S EXHIBITS 117, 119, AND 121 ADMITTED]**

14 MS. THOMSON: Permission to publish.

15 THE COURT: Yes.

16 BY MS. THOMSON:

17 Q Showing you State's Exhibit 117. Is that your home?

18 A Yes.

19 Q Okay. And in this photograph we can see parts of two windows. The
20 window on the left, what room is behind that?

21 A That's a living room.

22 Q Okay. And is the kitchen behind the living room?

23 A Yes.

24 Q And the window that we see part of on the right, what is that room?

25 A That's a room.

1 Q Okay. Like a bedroom.

2 A It's a bedroom.

3 Q Whose bedroom was that?

4 A Back then it was empty.

5 Q On that night, as you were laying in bed, did something catch your
6 attention?

7 A Yes, gunshots.

8 Q And from where did the gunshots come, did you hear?

9 A From Karen and Dory -- Dory? Dolly.

10 Q Is that Karen or Carey?

11 A Carey.

12 Q And how many did you hear?

13 A Two to three.

14 Q When you heard those, what did you do?

15 A Well my children came to where I was?

16 Q And when they came in the room, what did you do?

17 A They told me that they heard some gunshots.

18 Q When they came into your room telling you that, what did you do?

19 A Well I got out of bed and I opened the window.

20 Q And when you did so, could you see outside?

21 A I didn't really see much because it was dark.

22 Q When you said you opened the window, but did you actually open the
23 physical glass part of the window or just the curtains?

24 A No, the curtains.

25 Q Okay. And showing you what's been marked as State's Exhibit 119. Is

1 this basically what you saw when you looked out the window?

2 A Yes.

3 Q And obviously it's a little different having a picture versus humanized, is
4 that fair?

5 A Yes.

6 Q When you looked out the window, was your son with you?

7 A Yes, us three.

8 Q And did you see anything of note when you looked out the window?

9 A I saw a person shooting forward.

10 Q Okay. When you say shooting forward, let me ask, can you mark in this
11 picture where that person was standing when you saw him when you looked out the
12 window initially?

13 A Where there was a white truck over by this side.

14 Q So is where the man was standing visible on this picture?

15 THE COURT: If he touches the screen, he can circle.

16 BY MS. THOMSON:

17 Q He was towards this side.

18 THE COURT: Okay. You got to touch the screen and circle it.

19 MS. THOMSON: And Judge, may I approach. I think he's saying that it's not
20 on the photograph.

21 THE COURT: It's okay. Yes.

22 MS. THOMSON: Thank you.

23 BY MS. THOMSON:

24 Q Showing you what's been marked as State's Exhibit 99, 100, and 101.
25 Is this the area that you observed the individual?

1 A Yes.

2 Q And do these photographs look like it looked that night?

3 A Yes.

4 MS. THOMSON: Move for admission of 99 through 101.

5 THE COURT: Yes, admitted. Any objection?

6 MS. NGUYEN: No objection.

7 THE COURT: Admitted.

8 **[STATE'S EXHIBITS 99 THROUGH 101 ADMITTED]**

9 MS. THOMSON: Permission to publish.

10 THE COURT: Yes.

11 BY MS. THOMSON:

12 Q So you indicated that the individual was by a white truck more to the left
13 of this photograph, is that correct?

14 A Yes, more to this side.

15 Q And showing you what's been marked as State's Exhibit 99. Is that the
16 white truck?

17 A Yes.

18 Q Can you mark on this photograph where the individual was when you
19 first saw him?

20 A He was walking this way and he stopped here.

21 Q So he stopped by the engine of the white truck?

22 A Yes.

23 Q And when you saw him, can you describe how he appeared?

24 A Well it was dark and all I could see was like a shadow.

25 Q Okay. Were you able to tell what color shirt he was wearing?

1 A White.

2 Q And could you tell anything about his hair?

3 A Well he had long hair combed to the back.

4 Q When he stopped in front of the white truck, did you see what he did
5 there?

6 A He shot from here to here.

7 Q So back towards Dolly?

8 A Yes.

9 Q And how was he shooting?

10 A He was doing this in front of the truck.

11 Q What you've demonstrated is your right hand pointed out and left arm
12 sort of supporting at the elbow?

13 A Yes, something like this.

14 Q Was that still in front of the engine of the truck?

15 A Yes.

16 Q And was he on the sidewalk side or on the street side?

17 A In front of the truck. I don't know if he was on the sidewalk or on the
18 street.

19 Q Could you estimate looking at State's Exhibit 101 where you saw his
20 body as he was pointing back towards Dolly with the gun?

21 A Here.

22 Q And were you able to see the gun enough to be able to describe it?

23 A I didn't see it all that well.

24 Q Could you tell if it was a handgun or a rifle?

25 A It was a short one.

1 Q And you said that you saw him firing back towards Dolly, correct?

2 A Yes.

3 Q Were you also able to hear that?

4 A Yes.

5 Q And how many shots did you hear fired at that time?

6 A I remember two or three.

7 Q And as he was doing that, were you able to see if there was anyone at

8 the corner of El Tovar and Dolly?

9 A An officer.

10 Q Showing you again what's been marked as State's Exhibit 119. Will

11 you mark on that photograph where you saw the officer?

12 A Right here.

13 Q And when you saw the officer at that corner as he's shooting back at

14 the corner, what, if anything, did you see the officer do?

15 A He went back like so.

16 Q Did you see where the officer's hands were?

17 A He had them like this.

18 Q And what you've shown us is your left hand across, basically meeting

19 your breastbone in the middle of your chest?

20 A Yes.

21 Q And what did you think when you saw that?

22 A I thought that he got shot.

23 Q When you heard the shots and saw the officer, what, if anything, did

24 you do or tell your children to do?

25 A To hit the floor and get out of that room.

1 Q And did you stay at the window or did you also go to the floor?

2 A Yes, us three, we hit the floor.

3 Q Fair to say you weren't able to see anything out of the window after you

4 got on the floor?

5 A No, I did not.

6 Q Do you know where the man in the white shirt went after he was at the

7 front of the truck?

8 A I didn't see anything else.

9 Q Are you aware whether or not police arrived out there?

10 A Well at that time it was just that one officer.

11 Q Did more come later?

12 A Yes.

13 Q And about how long after you got on the ground with your children did

14 other officers arrived, if you know?

15 A Two, three minutes.

16 Q After the other officers arrived, did you ever see the individual that you

17 had seen at the front of the white truck again?

18 A Yes when I went out to the street.

19 Q And on what street was it that you saw that individual again?

20 A Dolly and Carey.

21 Q Showing what's been marked as State's Exhibit 15. Zooming in a little

22 bit with your house in the bottom left-hand corner. Can you mark for us

23 approximately where that individual was when you saw him again?

24 A Here. That's where the police had him.

25 Q So fair to say he was in police custody at that time?

1 A Yes. I don't remember but he was already detained but that -- this is
2 where he -- they had him.

3 Q And was that the same individual you had seen in front of the white
4 truck?

5 A Yes.

6 Q Did you speak with police that night or a different time?

7 A The police came to talk to us and we were around this area.

8 Q And you just said this area. I wasn't looking up. I'm sorry.

9 A Here.

10 Q You're marking on Dolly just sort of behind your home.

11 A Yes.

12 Q And did they come back the next day or did they have all their
13 conversations with you that night?

14 A Next day around 5:00 a.m. they came back.

15 Q At that time did they take statements from you and take photographs
16 from inside your house?

17 A Yes.

18 Q And showing you what's been marked as State's Exhibit 121. Is that a
19 photo from your living room window?

20 A Yes.

21 Q And it was similar darkness as to when you had been looking out the
22 window, is that fair to say?

23 A Yes, yes.

24 MS. THOMSON: Court's indulgence.

25 Pass the witness.

1 **CROSS-EXAMINATION**

2 BY MS. NGUYEN:

3 Q This picture taken here, is this taken from the outside or the inside of
4 your home?

5 A Inside my home.

6 Q Okay. So there was someone that came into your home and took a
7 picture from the outside, is that correct?

8 A Yes from the inside to the outside.

9 Q Okay. And is this taken from -- we had looked at a picture -- got taken
10 from this room?

11 A Yes took a picture from this room and --

12 THE COURT: Mark the windows.

13 BY MS. NGUYEN:

14 A [No audible response - marking on monitor].

15 Q Okay. And did they take a picture from another room?

16 A Yes from my room that's -- this one.

17 Q And when you are looking out of the window of your house, is -- are you
18 able to see the truck from this angle?

19 A Yes, this one.

20 Q Okay. And so you had said earlier that this room, no one was in this
21 room, is that correct?

22 A No, my two children were here in the kitchen. In this room.

23 Q What window were you looking out of?

24 A Another window that's to this side.

25 Q Can you point to what side?

1 A My room is this direction.

2 Q Okay. So you weren't looking out of this window.

3 A No.

4 Q There's another window that's --

5 A Different window.

6 Q -- I guess down this way?

7 A Yes.

8 Q Okay.

9 A Down that way.

10 Q Now we looked at this picture several times. Was this taken out of --

11 what vantage point is this picture taken from?

12 A Well from in front of my house.

13 Q Okay. And this truck is not the truck that you originally identified. You

14 said the truck that you saw the individual was over here further, is that correct?

15 A Yes.

16 Q Not in this picture.

17 A Okay.

18 Q So when you saw the individual you had indicated that they were

19 standing right here?

20 A Right there.

21 Q And you said on the front picture of the vehicle that they were standing

22 closer to the sidewalk, is that correct?

23 A Yes.

24 Q Okay. So I think the State showed you this picture and she said was it

25 closer to the street or closer to the sidewalk and you indicated the sidewalk, is that

1 correct?

2 A Correct.

3 Q And you said it was dark out?

4 A Dark.

5 Q And you indicated that you couldn't see the person's face, you could
6 only see shadows?

7 A Shadow.

8 Q Okay. When you first went out to look outside it's because you heard
9 like what you thought was like gunshots, is that correct?

10 A Yes, correct.

11 Q Could you tell anything about where those gunshots were or how many
12 there were?

13 A Two to three.

14 Q And when you heard those shots you went to the window.

15 A Yes.

16 Q You pulled back -- were they curtains or were they blinds?

17 A Curtains.

18 Q Did you have lights on in your house?

19 A Lights were off inside my bedroom. The only thing that was on was the
20 TV. The kitchen, we had lights on the kitchen.

21 Q Okay. So the kitchen is -- but you weren't in the kitchen, is that correct?

22 A No, I was not.

23 Q You were in your bedroom.

24 A Yes and --

25 Q The only --

1 A But my children were in the kitchen.

2 Q So the only light was the television in your room?

3 A Well maybe you couldn't see from the outside the lighting because the
4 curtains were drawn.

5 Q When you opened the curtains did you open them all the way?

6 A Well I opened the curtains like this. My bedroom -- from my bedroom.

7 Q Okay. And approximately how big is that window in your bedroom you
8 were looking out.

9 A From here to here.

10 Q Did you open it the complete way -- all the way open?

11 A Not all of them. Just like this.

12 Q Okay. So about your arm's width. Is that about right?

13 A Yes.

14 Q And you said you were at the window and your two sons were both at
15 the window?

16 A Yes, right beside me, you know, peeping out.

17 Q Okay. And then you had indicated that you saw an individual -- when
18 you heard the shots, what was the first thing that you saw when you opened those
19 curtains and you looked out?

20 A I saw a person walking from here and he stopped here. And he shot in
21 this direction.

22 Q So the initial shots that brought you to the window, you didn't witness
23 those?

24 A Well I saw a man shooting like so.

25 Q No I meant the first -- when you heard the shots inside your home, you

1 didn't witness those shots.

2 A No, I did not.

3 Q When you opened the curtains you saw someone walking from here to
4 over here, is that correct?

5 A Correct.

6 Q And you said over here closer to the sidewalk you saw someone shoot.

7 A Correct.

8 Q And is that when you ducked down to the floor with your kids?

9 A Correct.

10 Q And then at that point were you -- could you see anything at that point
11 or were you on the ground?

12 A I was on the ground.

13 Q Okay. So the window was up high, it's not like a floor to ceiling window
14 or anything or a sliding glass door?

15 A No, from here.

16 Q Okay. So after you saw the two shots fired that was the last that you
17 witnessed of this, is that correct?

18 A I did not see anything else.

19 Q When you later went down the street, did you walk down the street or
20 did police officers come to get you?

21 A No, we went outside through the backyard.

22 Q You went to your backyard?

23 A Yes, my backyard. We crossed the kitchen and we went to the
24 backyard.

25 Q And who -- was it an officer that escorted you to identify a person?

1 A No, they just said that he was arrested.
2 Q Okay. So they told you they had arrested a suspect?
3 A Yes, they said that they didn't catch him themselves that it was a dog
4 that did it. And the dog had bit him and they were going to take him to the hospital.
5 Q Okay. And then did you ever see him after at any point?
6 A No, just at that time when he was being arrested.
7 Q Okay. So you saw this individual being arrested?
8 A Yes, from afar. But there was lots of officers, I couldn't really tell that
9 well.
10 Q But the officers told you that that was the person who was the suspect?
11 A Yes, the one they found there.
12 MS. NGUYEN: Nothing further.

13 **REDIRECT EXAMINATION**

14 BY MS. THOMSON:

15 Q The person that you saw on Dolly from your backyard, did you
16 recognize that individual?

17 A Yes, because of the white shirt.

18 Q And was that apart from what officer's said?

19 A Yes, but that's what they said.

20 Q Not taking into account what they said, based solely on your own
21 observations, did you recognize that individual?

22 A Not all that well. I just saw a shadow figure.

23 MS. THOMSON: Move for admission of State's Proposed Exhibit 98.

24 MS. NGUYEN: No objection.

25 THE COURT: It'll be admitted.

1 **[STATE'S EXHIBIT 98 ADMITTED]**

2 MS. THOMSON: Permission to publish?

3 THE COURT: Yes.

4 BY MS. THOMSON:

5 Q Showing you what's been marked as State's Exhibit 98. Is that your
6 house on the corner of El Tovar and Dolly?

7 A Yes.

8 Q And are you able to see your bedroom window in this photograph?

9 A This one.

10 Q So the one on the far right of the home?

11 A Yes, the last one.

12 Q And that's where you were when your children came in?

13 A Yes.

14 MS. THOMSON: Pass the witness.

15 MS. NGUYEN: Just a couple follow-up.

16 THE COURT: Okay.

17 **RECROSS-EXAMINATION**

18 BY MS. NGUYEN:

19 Q It was dark and you said that you couldn't identify the person that was
20 in handcuffs.

21 A No.

22 Q Because you never saw that person's face, correct?

23 A No.

24 Q But you were told by officers that that was the suspect?

25 A Yes, that he was arrested.

1 Q And you also indicated that that person that was in handcuffs was
2 wearing a white shirt, is that correct?

3 A Yes.

4 MS. NGUYEN: Nothing further.

5 THE COURT: State?

6 MS. THOMSON: Nothing further.

7 THE COURT: The jury have any questions of this witness? Okay.

8 **EXAMINATION BY THE COURT [JURY QUESTIONS]**

9 BY THE COURT:

10 Q What color shirt did the man have after the arrest?

11 A White.

12 THE COURT: State?

13 MS. THOMSON: No follow-up.

14 THE COURT: Defense?

15 MS. NGUYEN: Nothing.

16 BY THE COURT:

17 Q What type of TV show were you watching?

18 A A show. I don't remember what show.

19 THE COURT: State?

20 MS. THOMSON: I have no follow-up.

21 THE COURT: Defense?

22 MS. NGUYEN: What -- what -- just a couple questions.

23 **FOLLOW-UP EXAMINATION**

24 BY MS. NGUYEN:

25 Q I think you had indicated that you were sleeping?

1 A No.

2 Q Okay. So you were -- you were just in your bedroom watching the
3 television programs?

4 A Yes.

5 Q Okay.

6 MS. NGUYEN: Nothing further.

7 THE COURT: Thank you. You're free to go.

8 THE WITNESS: Thank you. Thank you very much.

9 THE COURT: We're going to take a five-minute recess.

10 During the recess you're admonished not to talk or converse among
11 yourselves or with anyone else on any subject connected with this trial. Or read or
12 watch or listen to any -- you can go.

13 Or read or watch or listen to any report of or commentary on the trial or
14 any person connected to this trial by any medium of information including, without
15 limitation, newspapers, television, the radio, or the internet. Or form or express an
16 opinion on any subject connected with the trial until the case is finally submitted to
17 you. Remember no *Twitter*, *Instagram*, or social media.

18 Everybody but Ms. Andrews go. I need you to stay just a second.

19 [Outside the presence of the jury, minus Juror Number 8]

20 THE COURT: The jury is out. Ms. Andrews, you had mentioned that you
21 recognized the -- I think it was the first witness, Maurine Palmer from Walgreens on
22 Lake Mead.

23 JUROR NUMBER 8: Yes.

24 THE COURT: Do you have a personal relationship with here?

25 JUROR NUMBER 8: Not at all.

1 THE COURT: You just recognized her from the store?

2 JUROR NUMBER 8: I just -- yes.

3 THE COURT: Do you feel any bias towards the State or the Defendant for
4 calling her as a witness?

5 JUROR NUMBER 8: Not at all.

6 THE COURT: Do you feel like you can render a fair decision absenting your
7 relationship with Ms. Palmer?

8 JUROR NUMBER 8: Yes.

9 THE COURT: You won't go into Walmart -- or Walgreens until this trial is
10 over, is that fair?

11 JUROR NUMBER 8: That's fair.

12 THE COURT: All right. State, did you have any questions?

13 MR. FATTIG: So you don't know her, she's just an employee at the drug
14 store.

15 JUROR NUMBER 8: She's an employee at the drugstore. I market the
16 hospital near the drugstore and so when I'm at the hospital they have certain
17 products that I use and so I just go there maybe once a month, but she's always in
18 the cosmetic, you know, section.

19 THE COURT: Okay.

20 JUROR NUMBER 8: But I don't -- I just know her from the store.

21 THE COURT: Do you have any questions?

22 MS. NGUYEN: No.

23 THE COURT: All right. Thank you. Just don't tell the other jurors what we
24 talked about and just keep that to yourself, please.

25 JUROR NUMBER 8: Okay. Thank you.

1 THE COURT: You can go to use the restroom.
2 JUROR NUMBER 8: Thank you.
3 THE COURT: Thanks for speaking up though.
4 JUROR NUMBER 8: You're welcome.
5 [Outside the presence of the jury]
6 MS. NGUYEN: Why is it so cold in here?
7 THE COURT: Well some of us like it -- when we're wearing a black dress, we
8 enjoy it being cooler.
9 MS. NGUYEN: You'd enjoy my house.
10 THE COURT: All right. Take five minutes, use the restrooms, get the
11 Defendant in if he needs to use the restroom.
12 How many more witnesses you got?
13 MR. FATTIG: We have --
14 MS. THOMSON: Four.
15 MR. FATTIG: -- four.
16 THE COURT: All right.
17 [Recess taken at 3:31 p.m.]
18 [Trial resumed at 3:41 p.m.]
19 [Outside the presence of the jury]
20 THE COURT: All right. Bring the jury in.
21 [In the presence of the jury]
22 THE MARSHAL: All rise, please.
23 And be seated.
24 THE COURT: Stipulate to the presence of the jury.
25 MS. THOMSON: Yes, Your Honor.

1 MS. NGUYEN: Yes, Your Honor.

2 THE COURT: Call your next witness, State.

3 MS. THOMSON: The State calls Eufrasia Nazaroff.

4 And while she's coming in I'd move for admission of State's Proposed

5 Exhibits 107 --

6 MS. NGUYEN: Your Honor, we stipulate to the exhibit --

7 THE COURT: Well --

8 MS. NGUYEN: -- to the admission of --

9 THE COURT: You better look at them.

10 MS. THOMSON: 10 --

11 MS. NGUYEN: I've seen them.

12 MS. THOMSON: 107, 125, 126 through 128, 133, 136, 137, 141, 153, 120,

13 and 118.

14 MS. NGUYEN: That's correct, Your Honor.

15 THE COURT: They'll be admitted.

16 **[STATE'S EXHIBITS 107, 118, 120, 125 to 128, 133,**

17 **136 to 137, 141, and 153 ADMITTED]**

18 THE COURT: Yes. Swear her in.

19 **EUFRASIA NAZAROFF**

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

21 THE CLERK: Thank you.

22 THE WITNESS: You're welcome.

23 THE CLERK: State your full name, spelling your first and last name for the

24 record, please.

25 THE WITNESS: Eufrasia, E-U-F-R-A-S-I-A. Nazaroff, N-A-Z-A-R-O-F-F.

1 THE COURT: Go ahead.

2 MS. THOMSON: Thank you, Your Honor.

3 **DIRECT EXAMINATION**

4 BY MS. THOMSON:

5 Q Good afternoon, ma'am, I'm going to direct your attention back to June
6 of 2014. At that time was your phone number 702-502-2369?

7 A Yes.

8 Q Okay. And at that time you owned a maroon Dodge Intrepid, is that fair
9 to say?

10 A Yes.

11 Q Okay. Showing you what's been marked as Grand Jury Exhibit 150 --
12 or I'm -- State's Exhibit 153. Is that the DMV registration associated to that vehicle?

13 A Yes.

14 Q Okay. And that has your name on it?

15 A Yes.

16 Q Okay. And showing you what's been marked as State's Exhibit 126. Is
17 that your vehicle?

18 A Yes.

19 Q Okay. And the last time you saw it, it did not have those orange
20 stickers on it, is that fair?

21 A No.

22 Q That was a bad question. Did it have the orange stickers the last time
23 you saw it?

24 A No. The last time I saw it, no.

25 Q State's Exhibit 125. That's the other side of your vehicle?

1 A No. Yeah, that's my vehicle, yeah. But no, they -- okay.

2 Q And the orange stickers weren't on it.

3 A No.

4 Q Okay.

5 THE COURT: Wait, that's -- those are two odd questions. Last time you saw
6 it or --

7 BY MS. THOMSON:

8 Q On June 26th the orange stickers weren't on it?

9 A No.

10 Q Have you gotten that vehicle back?

11 A No.

12 Q Do you know anyone present in the courtroom today?

13 A Yes.

14 Q Will you please point to the individual and describe something they're
15 wearing today?

16 A What he's wearing today?

17 Q Yes, please.

18 A A green top. A green suit.

19 THE COURT: The record will reflect she's identified the Defendant.

20 MS. THOMSON: Thank you, Your Honor.

21 BY MS. THOMSON:

22 Q And how is it that you know him?

23 A He's my kids' father.

24 Q Okay. How many children do you have together?

25 A We have three and he took care of my other two since they were

1 babies.

2 Q And how long were you together?

3 A Eight years.

4 Q Okay. But you knew each other for nine, is that fair?

5 A Yeah, nine years.

6 Q Okay. And just before June 26th -- or a short time before June 26th
7 would it be fair to say that you had broken up?

8 A Yeah.

9 Q And I'm talking about 2014, not 2015, obviously.

10 A Yes.

11 Q Okay. At that time just a few days before June 26th of 2014, did he
12 come to stay with you?

13 A Yes.

14 Q Okay. And you indicated you have three kids with him and two others.
15 Were they all in the home at that time?

16 A I was pregnant with my last child, Jillian. And then the other two --
17 other four, yeah, they were with me.

18 Q And what were -- or what are their ages now?

19 A Ten, nine, six, two, and one.

20 Q Did you, with the little kids around, allow firearms in the house?

21 A No.

22 Q And fair to say you didn't own any firearms?

23 A No. I don't like firearms.

24 Q Okay. On the evening of June 26th, did he come to your house at about
25 8:30?

1 A To tell you the truth I don't know what time he came to my house.
2 Q But he did come to your house?
3 A Yeah.
4 Q And was that to borrow your car?
5 A He came for a while and then after yeah, he asked to use my car.
6 Q Okay. And you allowed him to use it?
7 A Yeah. Because he didn't have gas in his truck.
8 Q And did you call him after he left with your vehicle?
9 A I called him like around 11:00, 12:00, I think it was.
10 Q Do you remember telling police that you called him between 8:45 and
11 8:50 to remind him that you -- he needed to bring the car back to you?
12 A No, I think because -- I think it was around like 10:00 or 11:00,
13 somewhere around there. I'm not quite sure. Around -- somewhere around that
14 time to tell you the truth because the phone was --
15 THE COURT: Listen to her question --
16 THE WITNESS: Okay.
17 THE COURT: -- and answer to what she asked.
18 THE WITNESS: Okay.
19 BY MS. THOMSON:
20 Q So you don't remember.
21 A I don't remember --
22 Q Okay.
23 A -- to tell you the truth.
24 Q When you called, did you talk to him or did you leave a message?
25 A I left a message.

1 Q Okay. And when he came to your home, you said he was there for a
2 little while?

3 A Yeah.

4 Q Do you recall what he was wearing?

5 A To tell you the truth I don't remember what he was wearing. He had
6 took a shower, but I don't remember what he was wearing.

7 Q Okay. When he left your home, do you remember what he was
8 wearing?

9 A Yeah, a yellow shirt.

10 Q And is that like a yield yellow or a highlighter yellow or do you
11 remember?

12 A A bumblebee.

13 Q Okay. And you said you don't own any guns. Did you ever see him
14 with any guns?

15 A I mean, a long, long, long time ago. Like a long time ago when we first
16 met. But no.

17 Q Do you remember telling police that before he came back to stay at
18 your house he was trying to put them somewhere and you said that you -- they
19 could not be in your home?

20 A No, I said I would never -- I hope I would never see any of those in my
21 house.

22 Q The guns that you described seeing him with, did you describe those for
23 the police?

24 A No, she the police had shown me on his *Facebook* because -- I mean,
25 they can get into *Facebooks*, you know, and that's what the police was showing me,

1 the gang unit. So.

2 MS. NGUYEN: Objection, Your Honor. May we approach?

3 THE WITNESS: Sorry about that.

4 THE COURT: Yeah.

5 [Bench Conference Begins]

6 MS. NGUYEN: Your Honor, I'd move –

7 MS. THOMSON: Unwanted claim.

8 MS. NGUYEN: -- for a mistrial.

9 MS. THOMSON: And actually, he wasn't even a gang unit detective, so. It
10 was a firearms detective who talked to her.

11 MR. FATTIG: She --

12 THE COURT: I'm sorry. I was putting my calendar for tomorrow together. So
13 what was the question?

14 MS. NGUYEN: She said that gang unit detectives came over and were on
15 her *Facebook* pictures -- guns.

16 MS. THOMSON: And it's an unsolicited statement. It's not –

17 THE COURT: I know. I'm going to let you make the motion outside the
18 presence of the jury.

19 MS. NGUYEN: Okay.

20 THE COURT: I'm not going to grant it. We can make the motion.

21 MS. NGUYEN: Okay.

22 THE COURT: It's the proper thing to do.

23 MS. THOMSON: Of course.

24 MS. NGUYEN: Yeah.

25 [Bench Conference Concludes]

1 BY MS. THOMSON:

2 Q You, in talking to police described one of the guns that you had seen as
3 being long with a scope on it, is that correct?

4 A Yeah.

5 Q And then you also described two other guns that he had sent a picture
6 to you of, bring a black and a silver gun?

7 A No, those were on his *Facebook*.

8 Q Okay.

9 MS. THOMSON: May I approach?

10 THE COURT: Yes.

11 BY MS. THOMSON:

12 Q I'm going to show you a page out of the statement that you gave to
13 police. Read quietly to yourself. I'm just going to have you start on that line.

14 MS. NGUYEN: Megan, what page was that on?

15 MS. THOMSON: Five.

16 BY MS. THOMSON:

17 A Yeah, on his *Facebook*.

18 Q Okay. And you agree that you said yeah, he sent the picture to your
19 phone?

20 A No, he never sent a picture to my phone. It's on *Facebook*. Those are
21 on *Facebook*. They showed me pictures of them on *Facebook*.

22 Q Do you agree that you told the police that he sent the picture to your
23 phone?

24 A No, I don't because I didn't say yeah.

25 Q Okay. You didn't say yeah, he sent it to my phone?

1 A No.

2 Q And that was not in response to -- or was -- did they ask you specifically
3 about a .45 and a .22?

4 A Yeah, because they showed it to me on their phone from their
5 *Facebook* -- from his *Facebook*.

6 Q And you said when he was leaving your house he was wearing the
7 bumblebee yellow shirt, correct?

8 A Yes.

9 Q Did he have anything on over that?

10 A No.

11 Q Okay. Do you remember them asking if you saw him wearing a ballistic
12 or bullet-proof vest?

13 A No. They just came to my house and I was getting ready for work at
14 the time. So --

15 Q Do you remember telling them that you saw the bullet-proof the night
16 before the statement or the night of the 26th?

17 A No.

18 Q Okay. Do you remember telling them that they, being the police, had
19 probably seen the same bullet-proof vest?

20 A No.

21 Q Okay. And do you remember telling the police that he left your house
22 with it on?

23 A No.

24 Q Do you remember telling the police that when he left the house he had
25 it on over his clothing?

1 A No.

2 Q Okay.

3 MS. THOMSON: Court's indulgence.

4 BY MS. THOMSON:

5 Q Now at that time, being June 26th, 2014, the only vehicle that you
6 personally owned was that maroon Intrepid, correct?

7 A Yes.

8 Q And that's the one that he left in?

9 A Yes.

10 MS. THOMSON: Pass the witness.

11 THE COURT: Cross?

12 **CROSS-EXAMINATION**

13 BY MS. NGUYEN:

14 Q So Joshua never sent you pictures on your phone --

15 A No.

16 Q -- of any weapons?

17 A No.

18 Q Okay. And you never saw any weapons inside your home?

19 A No.

20 Q And you never saw Joshua with any weapons?

21 A No.

22 Q Okay. This Dodge Intrepid that we saw the pictures of that was your
23 only vehicle --

24 A Yes.

25 Q -- is that correct?

1 A Yes.

2 Q Okay. Did anyone else have -- did anyone -- did you ever let anyone
3 else use that vehicle?

4 A No.

5 Q Were there times where Joshua had access to the vehicle?

6 A No.

7 Q Okay. He never had access to the vehicle?

8 A Nope.

9 Q Okay. Unless you gave it to him?

10 A Unless I gave it to him.

11 Q Okay. Were you aware of him giving the vehicle to anyone else?

12 A No.

13 Q There were times where you weren't with him and he had your vehicle,
14 is that correct?

15 A Yeah.

16 Q Okay. And Joshua had other friends, other than you?

17 A Yes, he did.

18 Q Okay. And you said that you never saw Joshua with a bullet-proof
19 vest --

20 A No.

21 Q -- is that correct?

22 A No.

23 Q Okay. You never saw pictures of him with a bullet-proof vest on?

24 A No.

25 Q Never saw *Facebook* pictures of a bullet-proof vest?

1 A No.

2 Q And in fact the only guns that you saw you indicated that an officer had

3 showed you those pictures?

4 A Yes.

5 Q Okay. On their phone?

6 A Yes.

7 Q Okay. And they weren't on your phone.

8 A No.

9 Q Do you use *Facebook*?

10 A Yes.

11 Q Do you use it regularly?

12 A Yes.

13 MS. NGUYEN: Nothing further.

14 **REDIRECT EXAMINATION**

15 BY MS. THOMSON:

16 Q Did you ever keep any firearms in your car?

17 A No.

18 MS. THOMSON: I have no further questions.

19 MS. NGUYEN: Nothing.

20 THE COURT: Does the jury have any questions of this witness? Seeing no

21 hands. You're free to go, ma'am.

22 Call your next witness, State.

23 MS. THOMSON: The State calls Ricardo Robles.

24 **RICARDO QUESADA**

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

1 THE CLERK: Thank you. Please be seated.

2 MS. NGUYEN: And Your Honor --

3 THE CLERK: State your full name --

4 MS. NGUYEN: Oh, I'm sorry.

5 THE CLERK: -- spelling your first and last name for the record, please.

6 THE WITNESS: My name is Ricardo Quesada. R-I-C-A-R-D-O,

7 Q-U-E-S-A-D-A.

8 MS. NGUYEN: And Your Honor, for the record, we didn't have any objection

9 to his father sitting in here while he testified.

10 THE COURT: That's fine.

11 MS. NGUYEN: I think they were going to get him.

12 THE COURT: How old are you?

13 THE WITNESS: 13.

14 THE COURT: You understand telling the truth, what that means?

15 THE WITNESS: Yes.

16 THE COURT: Go ahead.

17 MS. THOMSON: Thank you, Your Honor.

18 **DIRECT EXAMINATION**

19 BY MS. THOMSON:

20 Q Good afternoon. I want to talk to you about June 26th of 2014. AT that

21 time were you living with your father and sister at 4995 El Tovar?

22 A Yes.

23 Q And showing you State's Exhibit 98, is that your home on the corner?

24 A Yes.

25 Q Okay. And that's on the corner of Dolly and El Tovar, correct?

1 A Yes.

2 Q And in that house -- okay, let me just zoom in here. Can you explain for
3 us what room are behind each of the windows?

4 A My parent's room is all the way at the end.

5 Q If you touch the screen, sorry, it'll make a mark. Go ahead and make a
6 line underneath or circle around the window.

7 A My parent's room is right here and this was a room that was abandoned
8 at that time or we just -- no one really was there in this one. And this right here is
9 the living room. That's where I was in the kitchen at that time.

10 Q And is the kitchen sort of towards the back of the house from the living
11 room?

12 A Yes.

13 Q And while you were in the kitchen, was your sister with you?

14 A Yes.

15 Q While you were in the kitchen did something catch your attention?

16 A Yes, three shots. At first I thought they were fireworks, but they didn't
17 sound like fireworks. So it sounded kind of like gunshots to me.

18 Q When you heard those, what did you do?

19 A My sister, she was in the living room, sitting on the sofa watching TV,
20 but when she heard that she wanted to go to the window, but I told her to get down
21 and so we went to our parent's room. And my dad was on the bed and then when
22 we went to my dad's room, we looked out the window and then we saw a person
23 running in the sidewalk and --

24 Q When -- sorry. Go ahead.

25 A And when he got -- when he stopped he went in front of a truck and he

1 pointed something that looked like a gun back.

2 Q When you saw the person running, and I'm showing you State's Exhibit
3 99, did you see them along any area that we can see in this photograph?

4 A I saw him running this way.

5 Q So is that on El Tovar away from Dolly?

6 A Yes.

7 Q Okay. And did you see if he stopped anywhere?

8 A He stopped right around here and he turned around and went in front of
9 the truck where the hood is and then he pointed a gun backwards.

10 Q And showing you what's been marked as State's Exhibit 101. Can you
11 mark on this photograph where, generally, he was standing by the truck when he
12 pointed the gun?

13 A Right here, pointing backwards -- the gun, backwards.

14 Q So back towards Dolly?

15 A Yes.

16 Q And when you saw him pointing back towards Dolly, what did you do?

17 A That's -- when he pointed the gun my Dad told me to get down because
18 he didn't want nothing to happen because he thought he was going to start shooting
19 again.

20 Q And did you get down?

21 A Yes, we left the window.

22 Q The man that you saw pointing the gun, was he using one hand or two
23 hands?

24 A Two hands.

25 Q And do you recall what he was wearing?

1 A I really can't remember, but I was pretty sure he was wearing a white.

2 Q While you were at the window, did you see him move from the front of
3 that truck?

4 A When my dad told us to get down, that's when he turned around and
5 started running again.

6 Q And he is the man who was by the truck?

7 A Yes.

8 Q Okay. Showing you State's Exhibit 99. In what direction did he start
9 running just before you got down?

10 A This way.

11 Q Okay. So further along El Tovar?

12 A Yes.

13 Q Was he running -- as you got down, was he running away from the front
14 of the truck or was behind the truck, by the rear?

15 A He was starting to run again. Yeah.

16 Q So he started moving from this area, that direction?

17 A Yes.

18 Q Okay. And that direction is to the left of the photograph?

19 A Yes.

20 Q Okay. After you got down, do you know if police came to the
21 neighborhood?

22 A Yeah, there was a ton of police officers outside.

23 Q And did you see any of your neighbors come outside?

24 A No, I didn't see them come outside.

25 Q Do you recall the description of the individual who was in front of the

1 white truck?

2 A He was -- he had long hair. I remember he had long hair and I
3 remember he was wearing a white jacket.

4 Q And that night, after you got down on the floor, did you ever see that
5 individual again?

6 A No.

7 Q On that evening, were the street lights working?

8 A Yes.

9 MS. THOMSON: Court's indulgence.

10 BY MS. THOMSON:

11 Q At some point after you got down on the floor in your dad's room you
12 obviously got back up and were moving around the house.

13 A Yes.

14 Q Okay. Did you at any time go into your backyard with your father?

15 A Yes, I did.

16 Q And when you were in the backyard, did you see police around?

17 A A lot of police officers outside, yes.

18 Q And during that time, did you see the person who had been in front of
19 the truck anywhere around?

20 A Yes, I saw him getting arrested far -- well, kind of far away, yeah. And I
21 saw a police officer handcuffing him and putting him in a car.

22 Q And how did you know that it was the same individual?

23 A Because I remember he had the exact same hair that I saw at first.

24 Q Okay. Showing you an overhead picture, State's Exhibit 15. That's
25 your house down in sort of the bottom left corner, El Tovar, Dolly, and Carey.

1 A Yes.

2 Q Can you mark on the photograph, in the general area, where you saw
3 him with the police?

4 A Right here.

5 Q Up towards the corner of Carey and Dolly?

6 A Yes.

7 Q And you said you recognized his hair, is that correct?

8 A Yes.

9 MS. THOMSON: Pass the witness.

10 **CROSS-EXAMINATION**

11 BY MS. NGUYEN:

12 Q When you heard the first shots, did you go get your dad right away?

13 A I told my sister to get down first and then that's when we went to my
14 dad.

15 Q Had you ever heard a noise like that before?

16 A No, not really.

17 Q Okay. Did you know what it was?

18 A At first, like I said, I thought they were fireworks, but then as I heard the
19 second and the third shot, I knew that they didn't sound like that.

20 Q Okay. And when you heard -- you heard those, you didn't see anyone
21 shooting at that time?

22 A No.

23 Q And then you said it was dark outside?

24 A Yes.

25 Q And you were inside your house?

1 A Uh-huh.

2 Q And you were looking through a window?

3 A Yes. Sorry.

4 Q You were looking through a window?

5 A Yes.

6 Q And you were there with your dad and your sister?

7 A Yes.

8 Q Okay. Who was holding the curtains back or did you just move them

9 over?

10 A The curtains were open when I went to my dad's room.

11 Q Okay. And was it dark inside your house?

12 A Yes, my dad's room was dark when I looked out the window.

13 Q Okay. Were there any lights on in his room?

14 A The TV.

15 Q The TV. Do you remember what he was watching?

16 A No, I really don't remember.

17 Q Was he sleeping and did you wake him up or did -- was he awake?

18 A He was awake watching TV.

19 Q Hold on one second. There's a pile of pictures here. I got to find it.

20 When you said you saw a person and you thought they were wearing

21 all white, is that correct?

22 A Yes.

23 Q Okay. Like white shorts or white pants?

24 A Pants, I believe.

25 Q And a white shirt?

1 A Yes.

2 Q And you thought like a white jacket?

3 A Yes.

4 Q Okay. But you couldn't see the person's face?

5 A No.

6 Q Okay. You said you saw some long hair?

7 A Yes.

8 Q Okay. But you couldn't get a description about what he -- he or she

9 looked like --

10 A No.

11 Q -- is that right? Okay. Have you ever seen guns before?

12 A Yes, I have.

13 Q Okay. On TV or in person?

14 A In person.

15 Q Okay. And could you see a gun?

16 A When he was pointing the gun backwards, yeah, I could see a

17 handgun.

18 Q Okay. Could you see anything about it, like a color or anything?

19 A The gun, it just looked black.

20 Q And did you ever see any police officers?

21 A When he pointed the gun backwards I didn't see any police officers.

22 And when we left the window and we went outside, that's when a lot of police

23 officers came.

24 Q Okay. Did you ever hear anyone shooting at -- towards the person --

25 A No.

1 Q -- or the truck?

2 A I -- no, I didn't.

3 Q Okay. So you didn't hear any other gunshots --

4 A No, only --

5 Q -- other than the two I think you said you heard then?

6 A Three.

7 Q Three?

8 A Uh-huh. Yes.

9 Q But you didn't hear any other gunshots?

10 A No.

11 Q When you went into your backyard of your house, you said that you

12 looked down the street and you could see someone being arrested?

13 A Yes.

14 Q Okay. And was that quite a ways down the street?

15 A It was kind of far, but enough -- because there was a light pointing

16 when he was getting arrested.

17 Q Okay. So you saw an individual getting arrested that had long hair too?

18 A Yes.

19 Q Okay. And what was that person wearing?

20 A I think I told the officer because an officer came up to me and he told

21 me what I have seen -- what I saw and he said --

22 THE COURT: Told you or he asked you?

23 BY MS. NGUYEN:

24 A Yes, the officer asked me what did I see and if it was the same

25 individual who was arrested -- was getting arrested and I told him yes.

1 Q Okay. So an officer said, is that person down there getting arrested the
2 same person you saw?

3 A Yes.

4 Q Okay. And that was still from down the street?

5 A Yes.

6 Q You couldn't see the person's face, is that correct?

7 A No, I -- no.

8 Q And the person was in handcuffs at that time?

9 A Yes.

10 Q Okay. Were they still wearing the white pants and white shirt?

11 A Yes.

12 MS. NGUYEN: Nothing further.

13 MS. THOMSON: I have no follow-up.

14 THE COURT: The jury have any questions of this witness? You're free to go.
15 Thank you.

16 Call your next witness, State.

17 MR. FATTIG: Marcia Wagner.

18 **MARCIA WAGNER**

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

20 THE CLERK: Thank you. Please be seated. State your full name, spelling
21 your first and last name for the record, please.

22 THE WITNESS: Marcia Wagner.

23 THE CLERK: Spell it.

24 THE WITNESS: Oh, I'm sorry. M-A-R-C-I-A, W-A-G-N-E-R.

25 THE COURT: Speak into the mic. They're going to ask you questions.

1 THE WITNESS: So you hear me better.

2 THE COURT: Go ahead.

3 **DIRECT EXAMINATION**

4 BY MR. FATTIG:

5 Q Ma'am, back on June 26th of 2014, were you living at 4585 East

6 Carey --

7 A Yes.

8 Q -- here in Las Vegas, Clark County, Nevada?

9 A Yes.

10 Q And is that just two houses away from the intersection of Dolly and

11 Carey?

12 A Yes, it is.

13 Q That particular evening, was there something that you heard and/or saw
14 that was a bit unusual?

15 A Well first my husband saw something in the camera which was a police
16 officer in front of our house --

17 Q When you say a camera, what camera are you talking about?

18 A We have surveillance cameras around the house. So he was at the
19 computer and I think I was in the kitchen, but I'm not really sure. And --

20 Q Do you remember what -- about what time in the evening this was?

21 A 11:00.

22 Q Okay. P.M., correct?

23 A Yes

24 Q Okay.

25 A It was nighttime.

1 Q And your husband said something about seeing something in the
2 surveillance system?

3 A He said I wonder what's going on because he could see in the -- from
4 the camera that the policeman stopped in front of the house --

5 Q Okay.

6 A -- which was upper Carey. Carey is two levels. The house is on one
7 level and he was on the upper level, but in front of our house --

8 Q Yes.

9 A -- with all the lights flashing.

10 Q Okay. Let me stop you there.

11 [Colloquy between Counsel]

12 BY MR. FATTIG:

13 Q I'm going to show you State's Exhibit Number 13, which is an aerial
14 photograph. Do you recognize this street here --

15 A Yes.

16 Q -- running across as Carey?

17 A Yes.

18 Q And this would be Dolly.

19 A Yes.

20 Q Can you point out which house is yours? Or was yours as of June of
21 '14?

22 A It would be this one.

23 Q Circle it --

24 THE COURT: Circle it. Touch the screen.

25 BY MR. FATTIG:

1 Q If you touch the screen, it will show up.

2 A Oh.

3 Q It's like a telestrator.

4 A [No audible response - marking on monitor].

5 Q Right there. Okay. You're the second house on the south side of the

6 street.

7 A Correct.

8 Q Okay. What -- so when you're talking about there's a street and then

9 there's Carey, correct? Are you talking about this street is a little lower than this

10 street?

11 A Exactly.

12 Q Okay. All right. So -- and this is the front of your house -- the front

13 door. And you have cameras on the front of your house?

14 A Yes, we do.

15 Q Okay. So your husband indicated that he saw something. Did you

16 come over to where your husband was? Did you look at the camera system?

17 A Well actually I did. We both saw the -- in the projector we saw that the

18 policeman had stopped. But he went to the front door, I walked behind him, and

19 when he opened the door that's when we both heard gunfire.

20 Q Okay. How many gunshots did you think you hear -- heard?

21 A Four or five, it sounded like to me that were very light. And then four or

22 five that were very loud.

23 Q Okay. So the first volley of shots that you hear were softer or lighter

24 than the second volley?

25 A Exactly.

1 Q Could you tell where it generally the first shots were coming from?

2 A I don't know where they were coming from, other than the right side of

3 the -- where the car was because it was --

4 Q Okay.

5 A -- centering right in there.

6 Q So did you see the police car in approximately this position on State's

7 Exhibit --

8 A Correct.

9 Q -- 13? Is that correct?

10 A That's correct.

11 Q Okay. So you indicated that the shots were coming to the right of that

12 area?

13 A Yes. From -- like from Dolly.

14 Q From near Dolly, okay. And your -- and my question went to the softer

15 shots, the first set of shots.

16 A Exactly.

17 Q Okay. Now the louder set of shots, was -- did that happen pretty

18 quickly right after the first?

19 A Pretty quickly.

20 Q Okay. Could you tell where those were coming from?

21 A That sounded like maybe from the car or from somebody near the car.

22 Q Okay. When you say the car, which car are talking about?

23 A The police officer's car.

24 Q Okay. And that's closer to the front of your home.

25 A Correct.

1 Q Okay. Now, you indicated that your husband opened the door. Would
2 that be the front door of your home or are there different doors?

3 A The front door.

4 Q How many doors do you have? Do you have a security door?

5 A I have a security door. He didn't open that --

6 Q Okay.

7 A -- because when we heard the shooting I told him to shut the door.

8 Q So is it fair to say there's an interior door that's like a metal door.

9 A Exactly.

10 Q And then outside of that is a security door?

11 A A security door, yes.

12 Q Can you describe what the security door looks like?

13 A Well the security door is like a metal screen where we can see out
14 clearly, but you can't see in at night.

15 Q Okay. So your husband was standing in that doorway able to view out
16 the security door?

17 A Absolutely,

18 Q And did you actually get to look out the security door? You said you
19 went up to the door behind him. Did you see anything?

20 A And then when I heard the shooting and he told me, go call 9-1-1, I
21 turned around and went to the phone.

22 Q Okay. And that's when you called 9-1-1.

23 A Yes.

24 Q You came to my office a week or so ago, correct?

25 A Yes.

1 Q And you listened to a 9-1-1 call?

2 A Yes.

3 Q Was that a fair and accurate copy of the 9-1-1 call that you play --

4 A Yes.

5 Q That you made on June 26th of 2014?

6 A Yes, it was.

7 MR. FATTIG: We would move to admit State's 185.

8 MS. NGUYEN: Your Honor, I'd make the same objection that it's redundant
9 and bolstering.

10 THE COURT: Overruled. Let it be admitted.

11 **[STATE'S EXHIBIT 185 ADMITTED]**

12 MR. FATTIG: Ask that you listen to it.

13 [9-1-1 Call Played]

14 BY MR. FATTIG:

15 Q That's the call you made that night, ma'am?

16 A Yes.

17 Q Now in the call you describe a boy or a young man in lighter clothing,
18 lighter pants?

19 A I realize it was a police officer now.

20 Q Okay.

21 A It was tan clothes.

22 Q Okay. You had the chance to view the surveillance video as well?

23 A I did.

24 Q Okay. Now can you describe where you saw the police officer moving?

25 A Well from when I saw him, whoever it was, at the time I didn't know it

1 was a policeman, was running from like from the car towards Dolly.

2 Q Okay. So on State's Exhibit 13, he's moving from here towards Dolly?

3 A Correct.

4 Q To the east.

5 A Now I don't know how far he went because I can't -- my camera doesn't
6 go that far.

7 Q Yes. Okay. So you were at the door and you heard -- excuse me.
8 Before the door you heard two sets of shots, correct?

9 A No. When we were at the door when we heard the shots.

10 Q You were at the door when you heard the shots.

11 A Yeah.

12 Q One coming more closer to Dolly and one coming by the car.

13 A Exactly.

14 Q Okay. When did you see the police officer moving? The young man in
15 the lighter pants? Was that --

16 A It kind --

17 Q -- after the second volley of shots?

18 A It could have possibly been with the second shots because I didn't
19 know if he was running because he had shot somebody and he was running,
20 shooting. I didn't know what he was doing. And I obvi -- I guess he was running,
21 shooting.

22 Q Okay. Did you ever see anyone else out there?

23 A No.

24 Q Just the person who you believe was the police officer?

25 A Exactly.

1 Q Is it fair to say the police got there fairly quickly after you called 9-1-1?

2 A Yes.

3 Q They were arriving.

4 A Yes.

5 Q And they cordoned off the area?

6 A They did.

7 MR. FATTIG: Court's indulgence

8 I have no other questions at this time.

9 THE COURT: Cross.

10 **CROSS-EXAMINATION**

11 BY MS. NGUYEN:

12 Q SO the only individual that you saw from your doorway was the person
13 that you later realized was the police officer, is that correct?

14 A That's correct.

15 Q Okay. And you heard shots. Did you see that same police officer
16 actually shooting?

17 A No, I couldn't tell. No.

18 Q Okay. Could you not tell because you didn't have a vantage point
19 or -- from where you were in your home or could you not see that far from where it
20 was?

21 A I could see him running. I didn't -- couldn't tell he was a police officer
22 and I -- no, I couldn't see anything in his hand.

23 Q Okay. But you heard the shots?

24 A Yes, we did.

25 Q Did you hear any -- did you see any flashes from his muzzle when he

1 was shooting?

2 A Not that I remember, no. I was behind my husband too. So he may
3 have seen that. I didn't.

4 Q Okay. So it's fair to say that you were obviously scared?

5 A Yes, I was.

6 Q And you were hiding kind of behind your husband?

7 A I was.

8 Q And you were behind that security door as well.

9 A Correct.

10 Q Okay. When you were calling 9-1-1, were -- was the door shut at that
11 time or did you leave it open?

12 A I'm not sure because I was in the kitchen and I really wasn't watching
13 him. I know I told him to shut the door. So he could have shut it.

14 Q Okay. And you said this is your house, is that correct? Or is this your
15 house?

16 A The second one on the street. This one --

17 Q This one right here?

18 A -- is my house.

19 Q Okay. And this is the door that you were looking out?

20 A Correct.

21 Q Okay. From inside your house behind that security door, how far could
22 you see out in any direction here?

23 A At nighttime I can clearly see the house across the street.

24 Q Okay. Can you kind of mark with your finger kind of where the --

25 A Well I can see --

1 Q -- your viewpoint would be?

2 A I can see this, I can see here, and I can see this driveway.

3 Q Okay. Can you see over to here?

4 A No.

5 Q Okay. Can you see past this van that's right here on the street?

6 A No, I cannot.

7 Q So you can see this car right in front of you?

8 A Correct.

9 Q The police officer that was right in front of you.

10 MS. NGUYEN: Nothing further.

11 MR. FATTIG: Nothing further.

12 THE COURT: The jury have any questions of this witness? Okay. Write it

13 down.

14 You guys can approach the bench.

15 [Bench Conference Begins]

16 MS. NGUYEN: Your Honor, I'd also -- in addition to my objection for

17 redundancy and bolstering, I would say that --

18 THE COURT: Yeah. I will -- what do you want?

19 MS. NGUYEN: I know. I think the 9-1-1 call was also prejudicial. There's

20 references to in light of the other incidents that occurred.

21 THE COURT: All right.

22 MS. NGUYEN: Okay.

23 MS. THOMSON: I don't know that she can answer it, and --

24 MR. FATTIG: Did Defendant have employment? If not, when his last what

25 she may have?

1 [Bench Conference Concludes]

2 THE COURT: Thank you, ma'am, you're free to go.

3 THE WITNESS: Thank you.

4 THE COURT: Call your next witness, State.

5 MR. FATTIG: David Wagner.

6 THE COURT: Remember, direct your questions to the witness that's there. If
7 your question is not read or it is read don't give any undue influence. Another
8 witness will answer it. We may ask it then.

9 **DAVID WAGNER**

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

11 THE CLERK: Thank you. Please be seated.

12 THE COURT: Is that a yes?

13 THE WITNESS: Yes.

14 THE CLERK: Please state your name, spelling your first and last name for
15 the record.

16 THE WITNESS: David Wagner. D-A-V-I-D, W-A-G-N-E-R.

17 **DIRECT EXAMINATION**

18 BY MR. FATTIG:

19 Q Sir, back on June 26th of 2014, were you living at 4585 East Carey here
20 in Las Vegas?

21 A Yes, I was.

22 Q I'm showing you what has already been admitted as State's Exhibit 13.
23 Do you recognize that aerial of being your neighborhood?

24 A Yes, that's --

25 Q Do you see your house in that picture?

1 A Yes. I'm the second house from the corner.

2 THE COURT: Circle it, please.

3 BY MR. FATTIG:

4 Q Can you circle it?

5 A [No audible response - marking on monitor].

6 Q South side of the street, second house from Dolly, is that correct?

7 A Yes.

8 Q I'm going to show you a couple other photos. These have been
9 admitted via stipulation of the parties. State's Exhibits 122, 123, and 124.

10 MS. NGUYEN: That's correct, Your Honor.

11 THE COURT: They'll be admitted.

12 **[STATE'S EXHIBIT 122 to 124 ADMITTED]**

13 BY MR. FATTIG:

14 Q 122, sir, is that the front of your house?

15 A Yes, it is.

16 Q Okay. 123, what are we looking at there?

17 A You're looking at a camera that's facing east.

18 Q Okay. Is that towards the front and towards the east on Carey?

19 A Yes.

20 Q In other words, the front of your house --

21 A It's on the front of the house but it's on the west side of the house,
22 facing east.

23 Q Okay. But still on Carey.

24 A Yes.

25 Q Facing towards Carey to the north --

1 A Yes.

2 Q -- and east. Okay. And State's Exhibit 124, you recognize that?

3 A That's the other camera facing west on Carey.

4 Q Okay. So fair to say that you have a surveillance system on the front of

5 your home with two cameras that kind of point --

6 A Crisscross.

7 Q -- across or --

8 A They crisscross.

9 Q Crisscross, okay. And that system was working the evening of June

10 26th of 2014?

11 A Yes.

12 Q Towards the evening hours, did something unusual happen while you

13 were at home?

14 A Well I heard a siren at one point and I turned to my monitor to check my

15 monitor because we noticed that all -- emergency vehicles that go by as to which

16 one it is; whether it's a police, fire, or rescue.

17 Q And where were you when you heard that?

18 A I was sitting at my computer.

19 Q Okay.

20 A My monitors to the right and --

21 Q And when you say monitors, is that the monitors for your surveillance

22 system?

23 A Yes.

24 Q Okay. So you are sitting right next to it when you hear the sirens?

25 A Yes.

1 Q And did that cause you to look at the surveillance system?

2 A Yes.

3 Q And it has a live picture of the front of your home on Carey?

4 A No, it has everything in front of the home because it doesn't have a
5 picture of the home itself.

6 Q No, I mean the area in front of your home --

7 A Yes.

8 Q -- on Carey.

9 A Yes.

10 Q It has a live picture for you to observe.

11 A Yes.

12 Q Okay. And it's also recording it.

13 A Yes.

14 Q And you heard a siren, you looked at the system, and did you see
15 anything?

16 A No. The siren -- we heard the siren coming and then the siren stopped
17 and I continued to watch it because the siren had stopped at that point. I noticed a
18 vehicle went by and then a police officer -- a police car came into vision at that point.
19 And he slowed down to almost a stop like he was going to stop in front of my
20 neighbor's house and then proceeded to the front of my house.

21 By that time I had already got up from where I was sitting, walked
22 across the room, opened my door, and started to open my second door, which is a
23 security screen when the police car properly came to a stop, his door popped open,
24 and then gunfire erupted at that point.

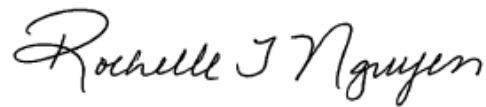
25 Q When you say the door popped open, the door of what?

CERTIFICATE OF ELECTRONIC TRANSMISSION

The undersigned hereby declares that on June 08, 2016, an electronic copy of the foregoing APPELLANT'S FAST TRACK APPENDIX VOLUME II was sent via the master transmission list with the Nevada Supreme Court to the following:

STEPHEN B. WOLFSON
Clark County District Attorney

ADAM PAUL LAXALT
Nevada Attorney General

A handwritten signature in black ink that reads "Rochelle T. Nguyen". The signature is written in a cursive, flowing style.

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