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Respondent.

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**Case No. 70424**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 22, 2016**

C-14-302450-1      State of Nevada  
                                 vs  
                                 John Morgan

February 22, 2016      8:30 AM      Jury Trial

HEARD BY: Johnson, Susan

COURTROOM: RJC Courtroom 15D

COURT CLERK: Melissa Murphy

RECORDER: Norma Ramirez

**PARTIES**      Craggs, Genevieve C.  
**PRESENT:**      Graham, Elana L.  
                         Heshmati, Arlene  
                         Hojjat, Nadia  
                         Morgan, John Demon

Deputy District Attorney  
Deputy District Attorney  
Deputy Public Defender  
Deputy Public Defender  
Defendant

**JOURNAL ENTRIES**

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Ms. Hojjat summarized a procedural overview of the case and noted the Deft will concede to identity at the start of trial. Mr. Graham added to the procedural overview of the case and noted the witness regarding the documents dropped at the scene is going to state they were documents with the Deft's name on it. Court advised it would like the parties to have a written stipulation regarding the piece of evidence. Court gave instructions regarding the Jury selection process. Blind Alternate selected (Seat # 13). Ms. Hojjat requested to pass 23 Jurors for cause. COURT ORDERED, request DENIED. Colloquy regarding potential Juror questions, scheduling and State's exhibits. Ms. Hojjat placed her objections with respects to State's Exhibits 1 and 8; however stipulated to foundation and authentication. Ms. Graham noted the photographs were relevant to the case and not prejudicial. Court advised it didn't see a problem with the photographs so as long as there weren't any authentication issues; however counsel can lodge their objections during trial.

PROSPECTIVE JURY PANEL PRESENT: Introduction by the Court and counsel. CONFERENCE AT BENCH. Prospective Jury panel sworn. Voir dire of panel.

PRINT DATE: 02/29/2016

Page 1 of 2

Minutes Date: February 22, 2016

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Ms. Hojjat placed her objections on the record with respects to challenges made at the bench and requested a new Jury panel. COURT stated FINDINGS and FURTHER ORDERED, request for new panel DENIED. Colloquy regarding challenges for cause.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued.

OUTSIDE THE PRESENCE OF JURY PANEL: Renewed motion by Ms. Hojjat requesting a hearing with the Jury commissioner on how the panel was put together. Opposition by Ms. Graham. COURT FURTHER ORDERED, oral Motion DENIED. Continued arguments regarding the method and resources of how the Jury is selected by the Commissioner. Court advised the Jury is not asked about race, creed or national origin and therefore will inquire whether the Jury Commissioner is available at 4:45 p.m. to testify.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCES AT BENCH.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JYURY PANEL: Court advised Jury Commissioner Witt would be available to come in at 4:30 p.m. Ms. Hojjat placed her Batson challenge on the record made at the bench conference in which the court denied. Further argued the Deft's right to Voir dire had been restricted. Ms. Graham placed her opposition on the record and noted objections were properly sustained by the Court. COURT SO NOTED.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. CONFERENCES AT BENCH. Twelve Jurors and one Alternate selected and sworn. Jury list FILED IN OPEN COURT. Court instructed the Jury regarding trial procedures and parameter. Clerk read the Information and stated Deft's plea thereto. Court admonished the Jury for evening recess and FURTHER ORDERED, Trial CONTINUED at the given time.

OUTSIDE THE PRESENCE OF THE JURY: Mariah Witt SWORN and TESTIFIED. Following arguments by counsel, COURT stated FINDINGS and ADDITIONALLY ORDERED, Motion to Disqualify panel DENIED.

CUSTODY

CONTINUED TO: 02/23/16 1:00 PM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 23, 2016**

C-14-302450-1      State of Nevada  
                                 vs  
                                 John Morgan

**February 23, 2016      1:00 PM      Jury Trial**

**HEARD BY:** Johnson, Susan**COURTROOM:** RJC Courtroom 15D**COURT CLERK:** Melissa Murphy**RECORDER:** Norma Ramirez

<b>PARTIES</b>	Craggs, Genevieve C.	Deputy District Attorney
<b>PRESENT:</b>	Graham, Elana L.	Deputy District Attorney
	Heshmati, Arlene	Deputy Public Defender
	Hojjat, Nadia	Deputy Public Defender
	Morgan, John Demon	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

**JURY PRESENT:** Parties stipulated to State's Exhibits on the record. Testimony and exhibits presented (see worksheet). **CONFERENCES AT BENCH.**

**OUTSIDE THE PRESENCE OF THE JURY:** Ms. Hojjat moved for a mistrial without prejudice based upon the testimony given by Officer Law as to other bad acts. Opposition by Ms. Craggs. COURT stated **FINDINGS and ORDERED**, Motion for Mistrial **DENIED**. Ms. Graham requested to file an Amended Information to flip the order of the counts and to update the department number. Ms. Hojjat noted she had no objection to the department change; however argued switching the counts would be prejudicial to the Deft. COURT advised it didn't see it being prejudicial. Amended Information **FILED IN OPEN COURT.**

**JURY PRESENT:** Testimony presented (see worksheet). Magdalena Becerra, Spanish Interpreter present. **CONFERENCES AT BENCH.** Juror question asked by the Court, marked and admitted.

**PRINT DATE:** 02/29/2016

Page 1 of 2

**Minutes Date:** February 23, 2016



OUTSIDE THE PRESENCE OF THE JURY: Discussions regarding objections made at the bench conference regarding testimony of Maria Verduzco, perception of the officers as to what the charges were, and the 911 call by Mr. Gonzales. Court advised motions for mistrial regarding alleged 911 call and allegation on resisting arrest were denied at the bench. Further advised the Deft of his right not to testify under the constitution. Ms. Hojjat requested for the State's opening power point presentation be printed and admitted as a courts exhibit. Ms. Graham stated no opposition. COURT SO ORDERED. Ms. Graham requested to have the State's investigator testify about his efforts in obtaining a witness. Objection by Ms. Hojjat. Court advised the investigator will be allowed to testify. Colloquy regarding scheduling, witnesses remaining and preparation of Jury instructions.

JURY PRESENT: Testimony continued (see worksheet). CONFERENCES AT BENCH. COURT admonished the Jury for evening recess and ORDERED, Trial CONTINUED at the given time.

OUTSIDE THE PRESENCE OF THE JURY: Ms. Hojjat moved for mistrial regarding efforts to obtain witness Rubi Cruz and information that was not provided by the State. Opposition by Ms. Graham. COURT stated FINDINGS and ORDERED, Request for Mistrial DENIED. Ms. Hojjat requested Deft's investigator be allowed to testify. COURT SO NOTED. Further colloquy regarding Jury Instructions.

CUSTODY

CONTINUED TO: 02/24/16 9:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 24, 2016**

C-14-302450-1      State of Nevada  
                                 vs  
                                 John Morgan

**February 24, 2016      9:30 AM      Jury Trial**

**HEARD BY:** Johnson, Susan

**COURTROOM:** RJC Courtroom 15D

**COURT CLERK:** Melissa Murphy

**RECORDER:** Norma Ramirez

<b>PARTIES</b>	Craggs, Genevieve C.	Deputy District Attorney
<b>PRESENT:</b>	Graham, Elana L.	Deputy District Attorney
	Heshmati, Arlene	Deputy Public Defender
	Hojjat, Nadia	Deputy Public Defender
	Morgan, John Demon	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

Defense Proposed Jury Instruction FILED IN OPEN COURT.

OUTSIDE THE PRESENCE OF THE JURY: Jury instruction and Verdict form, argued and settled on the record.

JURY PRESENT: Exhibits presented (see worksheet). State and Defense rested. Court instructed the Jury on the law. CONFERENCES AT BENCH. Jury Instructions FILED IN OPEN COURT. Parties stipulated to the documents that fell out of the Deft's bag containing his name on it. Closing arguments by Ms. Craggs and Ms. Hojjat.

OUTSIDE THE PRESENCE OF THE JURY: Following argument by Ms. Hojjat, COURT stated FINDINGS and ORDERED, oral Motion for Mistrial DENIED.

JURY PRESENT: Rebuttal argument by Ms. Graham. CONFERENCES AT BENCH. Court thanked

PRINT DATE: 02/29/2016

Page 1 of 2

Minutes Date: February 24, 2016

and admonished Alternate Juror. Amended Jury List FILED IN OPEN COURT. At the hour of 12:17 p.m. the Jury retired to deliberate. At the hour of 2:50 p.m. the Jury returned with a written Verdict FILED IN OPEN COURT. JURY FOUND Deft GUILTY OF COUNT 1 - ROBBERY and of COUNT 2 - BATTERY. Jury polled, thanked and excused.

OUTSIDE THE PRESENCE OF THE JURY: Ms. Graham requested the Deft be remanded without bail or have Deft s bail increased. Opposition by Ms. Hojjat. COURT ORDERED, State's Request DENIED; Deft s bail to REMAIN at \$50,000.00. COURT FURTHER ORDERED, matter REFERRED to the Division of Parole and Probation and SET for Sentencing.

CUSTODY

04/14/16 9:00 AM - SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 14, 2016**

C-14-302450-1      State of Nevada  
                                 vs  
                                 John Morgan

**April 14, 2016      9:00 AM      Sentencing**

**HEARD BY:** Johnson, Susan

**COURTROOM:** RJC Courtroom 15D

**COURT CLERK:** Melissa Murphy  
                         Olivia Black/ob

**RECORDER:** Norma Ramirez

**PARTIES**

<b>PRESENT:</b>	Campbell, Cara L.	Deputy District Attorney
	Heshmati, Arlene	Deputy Public Defender
	Hojjat, Nadia	Deputy Public Defender
	Morgan, John Demon	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

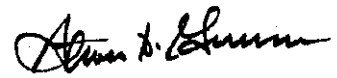
- Arguments by counsel and statement by Defendant. DEFT MORGAN ADJUDGED GUILTY of COUNT 1 - ROBBERY (F) and COUNT 2 - BATTERY (M). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$3.00 DNA Administrative Assessment fee, \$150.00 DNA Analysis fee including testing to determine genetic markers, and a \$250.00 Indigent Defense Civil Assessment fee; Deft. SENTENCED on COUNT 1 - to a MINIMUM of TWENTY-SIX (26) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC), and on COUNT 2 -SIX (6) MONTHS in the Clark County Detention Center, COUNT 2 CONCURRENT WITH COUNT 1, with FIVE HUNDRED THIRTY-THREE (533) DAYS credit for time served.

NDC

PRINT DATE: 04/15/2016

Page 1 of 1

Minutes Date: April 14, 2016



CLERK OF THE COURT

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DISTRICT COURT

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CLARK COUNTY, NEVADA

7

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THE STATE OF NEVADA,

) CASE NO. C-14-302450-1

9

Plaintiff,

) DEPT. XXII

10

vs.

) (ARRAIGNMENT HELD IN DEPT. LLA)

11

JOHN DEMON MORGAN, aka,

12

John Morgan,

13

Defendant.

14

BEFORE THE HONORABLE MELISA DE LA GARZA, HEARING MASTER

15

MONDAY, DECEMBER 01, 2014

16

**RECORDER'S TRANSCRIPT OF HEARING RE:  
INITIAL ARRAIGNMENT**

17

18

19

**APPEARANCES:**

20

For the State:

JAMES J. MILLER, ESQ.,  
Chief Deputy District Attorney

21

22

For the Defendant:

NADIA HOJJAT, ESQ.,  
Deputy Public Defender

23

24

25

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

-1-

**ROUGH DRAFT TRANSCRIPT**

1 MONDAY, DECEMBER 01, 2014

2 \* \* \* \* \*

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

4  
5 THE COURT: State of Nevada versus John Morgan,  
6 C302450. John Morgan?

7 THE CORRECTIONS OFFICER: He was removed from the  
8 courtroom for spitting.

9 THE COURT: All right. We'll pass him one week.

10 THE CLERK: December 8<sup>th</sup> at 9:30.

11 MS. HOJJAT: You know what, your Honor, actually --

12 THE COURT: What? You're not going to be here on  
13 the 8<sup>th</sup>?

14 MS. HOJJAT: Can I do a DC 7 referral on that  
15 defendant?

16 THE COURT: Yeah. Okay. We'll pass him to 7.

17 THE CLERK: You need to fill out the --

18 MS. HOJJAT: Thank you.

19 MR. MILLER: What are we doing?

20 MS. HOJJAT: A DC --

21 THE COURT: We're going to put him to competency.

22 MS. HOJJAT: Yeah.

23 THE COURT: He spit on the -- he was spitting back  
24 there. They had to take him out, and apparently Ms. Hojjat  
25 has maybe had some other issues with him. So DC 7 for a

1 competency issue.

2 THE CLERK: December 26<sup>th</sup>, 9:00 a.m., Department 7.

3 THE COURT: Is that Judge going to be there on  
4 the 26<sup>th</sup>? She's really sitting that day?

5 MR. MILLER: She's not going to be here this week.

6 THE COURT: Oh, okay. All right. It's Friday after  
7 Christmas.

8 MR. MILLER: Probably not.

9 THE COURT: Okay. They give us the dates. We just  
10 have to set them.

11 (Whereupon, the proceedings concluded.)

12 \* \* \* \* \*

13 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of  
14 Appellate Procedure, I certify that this is a rough draft  
15 transcript, expeditiously prepared, not proofread, corrected,  
or certified to be an accurate transcript.

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Kiara Schmidt, Court Recorder/Transcriber

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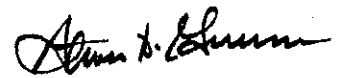
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CLERK OF THE COURT

1 RTRAN

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5 STATE OF NEVADA,

6 Plaintiff,

CASE NO. C14-302450-1

7 vs.

DEPT. VII

8  
9 JOHN MORGAN,

10 Defendant.  
11

12  
13 HEARD BY THE HONORABLE JOSEPH BONAVENTURE, SENIOR JUDGE  
14 FRIDAY, DECEMBER 26, 2014

15 **RECORDER'S TRANSCRIPT OF**  
16 **FURTHER PROCEEDINGS: COMPETENCY**

17 APPEARANCES:

18 For the State:

BARTER PACE, ESQ.  
Chief Deputy District Attorney

19  
20  
21 For the Defendant:

BELINDA HARRIS, ESQ.  
Deputy Public Defender

22  
23  
24  
25 RECORDED BY: RENEE VINCENT, COURT RECORDER



1  
2 Friday, December 26, 2014 -- 9:15 a.m.

3  
4 THE COURT: Page 23, John Morgan.

5 THE DEFENDANT: John Morgan here.

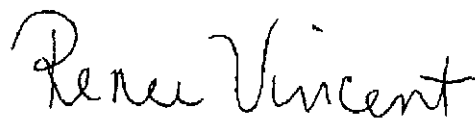
6 MS. HARRIS: Judge, there was split evaluations in the report, one  
7 competent, one incompetent. We need a third report.

8 THE COURT: All right. We'll continue proceedings for a third  
9 evaluation.

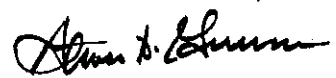
10 THE CLERK: January 16, 9:00 a.m.

11 [Proceedings concluded at 9:15 a.m.]  
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18 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
19 audio-visual recording of the proceeding in the above entitled case to the  
20 best of my ability.

21 

22 Renee Vincent, Court Recorder/Transcriber  
23  
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CLERK OF THE COURT

1 RTRAN

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5 STATE OF NEVADA,

6 Plaintiff,

7 vs.

CASE NO. C14-302450-1

DEPT. VII

8  
9 JOHN MORGAN,

10 Defendant.  
11

12  
13 HEARD BY THE HONORABLE JOSEPH BONAVENTURE, SENIOR JUDGE  
14 FRIDAY, JANUARY 16, 2015

15 **RECORDER'S TRANSCRIPT OF**  
16 **FURTHER PROCEEDINGS: COMPETENCY**

17 **APPEARANCES:**

18  
19 For the State:

BARTER PACE, ESQ.  
Chief Deputy District Attorney

20  
21 For the Defendant:

CLAUDIA ROMNEY, ESQ.  
Deputy Public Defender

22  
23  
24  
25 RECORDED BY: RENEE VINCENT, COURT RECORDER

1 Friday, January 16, 2015 -- 9:24 a.m.

2  
3 THE COURT: Page 29, John Morgan.

4 THE DEFENDANT: John Morgan right here.

5 THE COURT: Okay.

6 MS. ROMNEY: Your Honor, this case we are requesting that a  
7 challenge hearing be February 6, if possible.

8 THE COURT: Any objection?

9 MR. PACE: Court's indulgence.

10 THE DEFENDANT: My court date is February

11 MR. PACE: Challenge hearing on -- I'm sorry, that sounds fine.  
12 Challenge hearing with the State?

13 MS. ROMNEY: February 6.

14 THE COURT: 6th. All right.

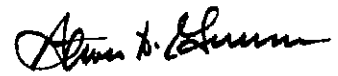
15 THE CLERK: February 6, 10:00 a.m.

16 [Proceedings concluded at 9:24 a.m.]

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

23 

24 Renee Vincent, Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5 STATE OF NEVADA,

6 Plaintiff,

CASE NO. C14-302450-1

7 vs.

8 DEPT. VII

9 JOHN MORGAN,

10 Defendant.  
11

12  
13 HEARD BY THE HONORABLE JOSEPH BONAVENTURE, SENIOR JUDGE  
14 FRIDAY, FEBRUARY 6, 2015

15 **RECORDER'S TRANSCRIPT OF**  
16 **FURTHER PROCEEDINGS: COMPETENCY**  
17 **CHALLENGE HEARING**

18  
19 **APPEARANCES:**

20 For the State:

BARTER PACE, ESQ.  
Chief Deputy District Attorney

21  
22 For the Defendant:

NADIA HOJJAT, ESQ.  
Deputy Public Defender

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25 RECORDED BY: RENEE VINCENT, COURT RECORDER

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**I N D E X**

**PAGE**

**WITNESS: DR. DODGE SLAGLE**

Direct Examination by Ms. Hojjat	5
Cross-Examination by Mr. Pace	15
Redirect Examination by Ms. Hojjat	25

1 Friday, February 6, 2015 -- 10:17 a.m.

2  
3 MS. HOJJAT: Nadia Hojjat, Number 12401. I'm a Public Defender on  
4 behalf of Mr. Morgan, who is being brought in. He's in custody.

5 CORRECTIONS OFFICER: Come on.

6 THE MARSHAL: Morgan.

7 CORRECTIONS OFFICER: Go sit right there.

8 [Pause]

9 THE COURT: All right. This is on as to a challenge hearing. Is it --  
10 what's the situation on this?

11 MS. HOJJAT: Yes, Your Honor, we're ready to proceed with the  
12 hearing.

13 THE COURT: I mean, we do have -- the third evaluation came back  
14 competent. Is that right, Mr. Pace?

15 MR. PACE: That is correct.

16 THE COURT: Dr. Kapel?

17 MR. PACE: Correct.

18 MS. HOJJAT: Yes.

19 THE COURT: And Dr. Colosimo also considers him competent, but  
20 Dr. Slagle says otherwise.

21 MS. HOJJAT: Yes, Your Honor.

22 THE COURT: But we had that third -- that third report, and he was  
23 considered competent. What do you want to do, State? Is it your appraisal  
24 or --

25 MR. PACE: It's her motion --

1 THE COURT: All right. All right.

2 MR. PACE: -- for a finding of incompetence.

3 MS. HOJJAT: Your Honor, I have a witness that I'm prepared to call  
4 today.

5 THE COURT: Who is it?

6 MS. HOJJAT: Your Honor, the Defense would call Dr. Dodge Slagle.

7 THE COURT: Please remain up over there, sir, raise your right hand  
8 and be sworn by the Clerk.

9 **DR. DODGE SLAGLE**

10 called as a witness, testified as follows:

11 THE CLERK: Thank you. Please state your first and last name and  
12 spell it for the record.

13 THE WITNESS: First name Dodge, D-O-D-G-E. The last name's  
14 Slagle, S-L-A-G-L-E.

15 MR. PACE: Your Honor, just one quick note. I didn't realize, I thought  
16 we were doing a challenge based upon reports. That's what I've been  
17 previously told, so I did not prepare to call any witnesses. So I may need to  
18 request a continuance at the conclusion of today's hearing for witnesses.

19 THE COURT: Oh, I don't want to have to bifurcate it. I mean, who  
20 told you that there was going to be no witnesses? Did she tell you, the  
21 attorney?

22 MR. PACE: No, it was the -- it was actually -- because she wasn't here  
23 last time we status checked it for her presence, I was instructed that it would  
24 just be a challenge on the paperwork, but --

25 MS. HOJJAT: No, Your Honor.

1 MR. PACE: -- it may have been a miscommunication.

2 MS. HOJJAT: I'm sorry, Your Honor, but the minutes clearly reflect  
3 that it's a challenge hearing set today. That's why it was set at 10:00 o'clock  
4 rather than --

5 THE COURT: And I'm not going to be here next time, so I mean --

6 MS. HOJJAT: I understand.

7 THE COURT: -- that's the problem. I don't want to hear one witness  
8 and then -- and I agree with you, you might have to call witnesses. I mean,  
9 that's -- you don't have them here, so -- I mean, one judge should hear all the  
10 witnesses. The other judge is not going to have the -- you know, the ability  
11 to --

12 MR. PACE: No. I'm just going to suggest to go forward at this time.

13 THE COURT: Well, I don't know what you want to do, but go ahead.

14 MR. PACE: No, let's go forward.

15 THE COURT: I'd be glad to -- whatever you want to do.

16 MS. HOJJAT: So we're just going forward with the hearing today?

17 MR. PACE: We're going forward with the hearing.

18 MS. HOJJAT: Thank you.

19 **DIRECT EXAMINATION**

20 **BY MS. HOJJAT:**

21 Q Good morning, Dr. Slagle.

22 A Good morning.

23 Q How are you doing today?

24 A Fine.

25 Q How are you employed or what do you do?



1           A       Yeah. I'm a psychiatrist. I'm primarily in private practice. I'm  
2 also a salaried professor at Touro University, College of Osteopathic Medicine,  
3 and I'm a medical director of a psychiatric unit at Desert Springs Hospital. So  
4 I'm employed at all those places.

5           Q       Wow. And I'm assuming you've had extensive schooling to  
6 have the degrees that you have?

7           A       I have completed osteopathic medical school. I've completed a  
8 psychiatric residency, undergraduate degree as well, majoring in psychology  
9 at --

10          Q       Okay. Where did you --

11          MR. PACE: I'd stipulate to all the doctor's credentials. He's been  
12 practicing here quite some time, and I saw him yesterday --

13          THE COURT: I think he's qualified to testify. All right?

14          MS. HOJJAT: Thank you.

15          BY MS. HOJJAT:

16          Q       And do you perform competency evaluations on behalf of the  
17 court of defendants in the criminal justice system in Clark County?

18          A       I do. I think I've been doing competency evaluations about 20  
19 years for the courts now.

20          Q       Okay. Did you have an occasion to interview the Defendant in  
21 this case, John Morgan?

22          A       I interviewed John Morgan on December 8th, 2014.

23          Q       And when you interviewed Mr. Morgan, did you observe  
24 anything that you found interesting or that caused you concern as to his  
25 competency?

1           A       I did.

2           Q       Can you please tell us about that.

3           A       Yeah, he -- there were a couple things that were concerning to  
4 me. Although Mr. Morgan, I think, understood some of the factual information  
5 about what was before him, he engaged some usual behaviors and seemed to  
6 have some significant thought disorganization that was interfering with some  
7 of his answers, even though he genuinely was trying to cooperate with me  
8 and, you know, interacted in a way that suggested he wanted to be  
9 competent and wanted to be normal.

10                   Some of those things would include -- you know, he told me  
11 that he felt as though something had contaminated him; that he had some kind  
12 of toxin in his body. And during the interview with me, he would have spit in  
13 his hand and then sort of fling it or drop it onto the floor. He did that multiple  
14 times during the interview with me. And, again, when I asked him about that,  
15 he said he just had this toxic something inside of him that he just had to get  
16 out. My sense was he understood that that wasn't exactly a socially  
17 appropriate thing to be doing when you're being interviewed by a doctor, but  
18 he just felt compelled that he had to do that.

19                   Additionally, to some -- many of my questions, he gave me -- he  
20 would contemplate the answer for a few moments, sometimes minutes, and  
21 then give me answer, and then several minutes later come back to that and  
22 say, I have to change my answer. I think I -- I gave you the wrong answer  
23 when I did that.

24                   You know, that to me suggested either thought disorganization  
25 or maybe that he was having a bit of trouble discerning what was real and

1 what was not real in his own memory. So I had a lot of concern that he  
2 would be able to give a reasonable history of things.

3 The things he had trouble answering were things like, Have you  
4 been in a psychiatric hospital? I think even things like, Are you married? Have  
5 you been married? Those kinds of questions that usually are not controversial,  
6 not something that someone is conflicted about. These were more, you know,  
7 I'm just not sure what the reality of my history really is here. So these things  
8 in particular, I think, you know, gave me enough concern that I rendered a  
9 finding that he was not competent.

10 Q So when you're saying he had difficulty with these questions,  
11 they were questions that you would expect a normal,  
12 competent person to be able to give an answer on and give the correct answer  
13 on the first time?

14 A Yes. That's correct.

15 Q Simple things like -- I believe you gave the example of, Have  
16 you ever been psychiatrically committed, correct?

17 A Or -- or just admitted to a hospital, yes, a simple question. Yes.

18 Q Or admitted to a hospital.

19 A Yes.

20 Q Most people can say whether or not they've been admitted to a  
21 hospital once before?

22 A Yes.

23 Q He could give that answer and then stick by that answer?

24 A Well, he gave me answer --

25 Q Okay.

1 A -- then decided he gave me the wrong answer.

2 Q Okay.

3 A And that happened several times. It wasn't just a one time.

4 Q Okay. And you had concerns that he was having some  
5 difficulty telling apart, maybe, delusions from reality?

6 A That would be an explanation for that kind of behavior, yes.

7 Q Okay. And I want to go back to -- you talked about the fact  
8 that he would spit in this hands and then put it on the floor.

9 A Yes.

10 Q You said that that appeared to be compulsion?

11 A You know, again, even though he seemed to have the sense of  
12 that socially --

13 MR. PACE: Objection. I don't think he said that. I don't think he --

14 THE COURT: Said what?

15 MR. PACE: -- said it was a compulsion

16 THE COURT: All right. Maybe rephrase it. Ask him if he said that.

17 BY MS. HOJJAT:

18 Q I'm sorry, am I misremembering you? Did you say he seemed to  
19 have some sort of compulsion to do that? Am I remembering that wrong?

20 A That's -- I don't exactly remember what I said, but it was close  
21 to that, so --

22 Q Okay.

23 A I don't object to the way you're -- you're paraphrasing me, so --

24 Q Okay. So I guess if you could expand a little bit on -- on --

25 A You know, what I said was, you know, in between answers, on

1 multiple occasions during the interview with me, he would look to the side,  
2 spit or drool into his hand and then kind of fling it or drop it onto the floor from  
3 his hand.

4 Q Right.

5 A And then sort of covered it up with his feet, actually, and gave  
6 me the impression he understood, I really shouldn't be doing this. And so  
7 when I asked him about it, he said, I have a toxin in me, and I have to get rid  
8 of it doing this. That's the compulsive part. I just have to do this, even  
9 though -- again, there was sense he was trying to conceal it from me as best  
10 he could, even though it was obvious what he was doing.

11 Q Okay.

12 A And -- that's not a usual behavior in an interview with a doctor.

13 Q And I want to follow up with you on that a little bit. Obviously,  
14 the nature of the interview that you had with him is somewhat limited due to  
15 the courts retaining you to interview him for somewhere between 40 minutes  
16 and an hour.

17 A Yes.

18 Q Would it affect your opinion, either positively or either make it  
19 stronger or weaker, to hear that he was engaging in similar behaviors in the  
20 courtroom?

21 MR. PACE: Objection. That's speculation.

22 MS. HOJJAT: Your Honor, he's been qualified as an expert.

23 THE COURT: Well, I don't know -- he doesn't know what happened in  
24 the courtroom. I don't know what happened in the courtroom. What do you  
25 mean?

1 MS. HOJJAT: Your Honor, he's been qualified as an expert --

2 THE COURT: Are there some facts that I don't know about?

3 MS. HOJJAT: I can provide a hypothetical to him because he's an  
4 expert, and I can provide facts to the Court.

5 THE COURT: So it's a hypothetical.

6 MS. HOJJAT: It's a hypothetical.

7 THE COURT: All right. Go ahead.

8 MR. PACE: Then you probably just need to rephrase it.

9 BY MS. HOJJAT:

10 Q Would it affect your opinion if you were to hear that he was  
11 engaging in similar type of behavior in the courtroom?

12 A If I understood that he was engaging in behavior similar, that  
13 spitting behavior, while he was in court, knowing how inappropriate that was,  
14 it would give me concern about his competence to stand trial. That wouldn't  
15 be enough in and onto itself, but it would be one piece of information that  
16 would be troubling to me regarding his competence.

17 Q Right. And some of the factors of competence is ability to  
18 behave in the courtroom, correct?

19 A Yes.

20 Q Okay. And if -- would it affect your opinion to hear that he was  
21 actually removed from a courtroom by marshals for spitting in Lower Level?

22 A It would affect my opinion. That would be something that  
23 would support my finding that he was not competent.

24 Q Okay. And I want to go back a little bit and talk to you about  
25 the -- the inability to necessarily remember the correct answer or figure out the

1 correct answer to a simple question. Being able to accurately convey facts  
2 and testify is also one of the prongs of competency, correct?

3 A Yes.

4 Q Okay. So if he's unable to recall simple facts, would that lead  
5 you to have concern about his ability to testify or provide relevant testimony?

6 A Yes, although I'm not sure in his case it's a matter of recall or a  
7 matter of organization. I mean, I had some -- I might just struggle over the  
8 working a little bit.

9 Q Uh-huh.

10 A I mean, my -- my interpretation of what was occurring with him  
11 was more an organizational problem than a recall, although they're connected.  
12 I mean, you know, his ability to put things in sequence and in correct order  
13 and to put the facts together in an organized way that reflects the appropriate  
14 history, I think is what I was really afraid he could not do.

15 Q Okay. One of the prongs of competency is ability to understand  
16 legal procedure and the nature and purpose of court proceedings. Would it  
17 affect your opinion to hear that after I had explained to him the process and  
18 the concept of entering a plea of not guilty in order to dispute charges and the  
19 idea of, if you want to maintain your innocence, you need to enter a plea of  
20 not guilty, if he kept refusing to enter a plea of not guilty because he was  
21 adamant that he was innocent and didn't understand why he would need to  
22 enter a plea of not guilty?

23 A Yeah. Of course I'd want to ask him about that --

24 Q Okay.

25 A -- and fully understand that. But, sure, if I -- you know, knowing

1 from his counsel that he was claiming to be innocent and yet, for whatever  
2 reason, would be unwilling to plead not guilty to this charge against him, that  
3 would be kind of potentially irrational and difficult to explain otherwise.

4 MS. HOJJAT: Okay. Court's indulgence.

5 BY MS. HOJJAT:

6 Q And you did ultimately form a conclusion after interviewing Mr.  
7 Morgan, correct?

8 A Yeah. Based on my interview, I came to a conclusion that he  
9 was not competent, you know, if he had some factual knowledge about  
10 things, but my opinion was that the degree of thought disorganization that I  
11 sensed he had would render him unable to cooperate with you.

12 Since then, you and I have had some conversations about, you  
13 know, the things that have gone on in your attempting to help him, that it  
14 probably solidified in my mind the opinion that I gave you, again, this inability  
15 that he's had to -- to -- you know, you told me that he's been unwilling to  
16 plead not guilty even though he's claiming to be innocent and this, somewhat  
17 irrationally, expecting that the charges will just go away because of his  
18 innocence and not really understanding the court procedure, though he can  
19 define what the officers of the court do and some basic stuff like that.

20 Q I want to talk to you about that a little bit. So an individual can  
21 sometimes understand in theory the idea of pleading guilty, pleading not guilty,  
22 proceeding to trial and then not necessarily be able to apply those concepts to  
23 their own situation, correct?

24 A Right. It's --

25 Q And -- sorry. Go on.



1           A       It's difficult sometimes. A person can have a factual  
2 understanding of something, but not a rational understanding of something.

3           Q       And if you were to hear -- and you and I did discuss this. When  
4 you heard that he was not understanding that in order to maintain innocence,  
5 he needed to plead not guilty and go to trial, would that maybe lead you to  
6 believe something along those lines was going on?

7           A       Yeah. Again, ideally, I would want to have more information  
8 about that, but just on the surface, that seems to not make good sense. How  
9 could someone who believes they're innocent be unwilling to render a plea of  
10 not guilty in a courtroom.

11          Q       And then going back to -- you did -- you did have a final  
12 conclusion about Mr. Morgan's competence. What did you find?

13          A       Based on -- you know, my conclusion in my report was based  
14 solely on my interview with him on December 8th, you know, and my opinion  
15 was that he was not competent, although I qualified that and said the degree  
16 of his lack of competence wasn't large, again partly because he has some  
17 factual understanding of things.

18          Q       Okay. So not large meaning that he could be restored to  
19 competency with proper treatment?

20          A       I would expect that, yes.

21          Q       And I want to talk to you just a little bit about competency  
22 because the Court mentioned some doctors have found him competent.  
23 Competency is waxing and waning, correct?

24          A       In -- in someone with a psychiatric illness, often it can wax and  
25 wane. If someone has schizophrenia or bipolar disorder, that condition can,

1 you know, get better and worse, especially if there's treatment involved, but  
2 even if there's not treatment involved, like other medical problems. You know  
3 they -- you have them, but they can be more severe at some times in the  
4 course of the condition and less severe at other times in the condition. That's  
5 true for many psychiatric illnesses as well.

6 Q So, for example, Mr. Morgan could be in court engaging in the  
7 spitting, and when he's interviewing with you engaging in that same conduct,  
8 but possibly not engaging in that conduct when he was interviewed by, say,  
9 Dr. Colosimo. Just because he does it once, doesn't mean he's always going  
10 to be doing it?

11 A That would be correct. His condition could get a little better or  
12 a little worse and then do the reverse again later on. If it had gotten a little  
13 better or it could get a little worse again. We'd like to think that someone  
14 who's receiving treatment, you know, would be on the upswing and then tend  
15 to be heading toward getting better rather than worse, but --

16 Q Right.

17 A -- without treatment, certainly, the condition is going to flow at  
18 its own pace.

19 Q And is it fair to say that sometimes legal stressors can actually  
20 agitate a condition and people can become -- head more toward incompetence,  
21 say, when they're in court, when they're actually facing the legal process, as  
22 opposed to they've been sitting in jail for three months and haven't really had  
23 to face a judge --

24 A I think --

25 Q -- face a district attorney, face a defense attorney?

A I think sitting in a courtroom as a defendant has to be very high on the list of things that would be stressful, especially if you're facing a serious charge.

Q        Okay. So if you were the first doctor to interview him directly after court, or soon after court, and you observed these behaviors and then the longer he was sitting and the longer he didn't have a court date, his behavior may be improved, that wouldn't necessarily be surprising because he's further removed from that stressor?

A That's correct.

MS. HOJJAT: I'll pass the witness, Your Honor.

THE COURT: Any cross?

MR. PACE: Thank you.

### CROSS-EXAMINATION

BY MR. PACE:

Q Doctor, I'm Bart Pace from the District Attorney's Office. I don't think we've actually met, but I'm sure we'll meet many times.

A Uh-huh.

Q Let me just start with -- she was talking about his courtroom demeanor. Do you see anything in Mr. Morgan's courtroom demeanor today that's inappropriate?

A. I have not been paying careful attention, but just on looking right now, I don't see anything inappropriate at the moment. That's correct.

MR. PACE: Okay. For the record, the Defendant's been maintaining the demeanor he's showing right now the whole proceedings, and this is obviously a proceeding directly against him and, therefore, is demonstrating

1 competent courtroom demeanor at this time.

2 MS. HOJJAT: Well, I would just slightly object to that because I did  
3 observe something, but I can put it on the record later if the Court wants.

4 MR. PACE: Yeah.

5 THE COURT: Okay.

6 BY MR. PACE:

7 Q Let me just ask you a couple of things. First of all, this issue of  
8 drooling and spitting -- you referred to it as drooling in your report. Can people  
9 form based on bad information, incorrect self-diagnosis of medical conditions  
10 and just be wrong and still be competent?

11 A It would depend on the scenario. Again, if we're talking about  
12 more of a medical scenario, as long as that individual understood the medical  
13 facts, you know, and disagree with them, they might still be competent, you  
14 know. If someone presented a medical fact to them to the contrary in their  
15 opinion and they just dismissed them as not being real or gave some paranoid  
16 explanation about why that couldn't be true, they probably would not be  
17 competent.

18 Q So you're saying if I have bad information about a medical  
19 condition and I act what I think is best based on the bad information I have,  
20 that's a sign of incompetency?

21 A That wasn't exactly what I was saying.

22 Q Okay.

23 A I'm saying if -- let's say I'm a doctor and I go in and tell a  
24 patient you have -- based on these lab tests here, they are, based on the  
25 information medically I have about you, you are suffering from diabetes. And

1 that patient says, well, you know, you've got the wrong blood. That blood  
2 must be from somebody else. There was an imposter that came in and drew  
3 blood from me, and I don't believe what they did with the blood. So I don't  
4 believe in any of your results, and so it couldn't possibly be true that I have  
5 diabetes, even though I have all the symptoms of diabetes, you know. So that  
6 person's belief wouldn't be rational and probably would not be competent in  
7 that situation --

8 Q So do you --

9 A -- even though they're entitled to their beliefs. Contrary to  
10 that --

11 Q No, I understand where you're going now.

12 A Uh-huh.

13 Q So are you aware that Mr. Morgan's consulted with a doctor  
14 about his belief that he's received some sort of contamination?

15 A I'm not aware of that.

16 Q Okay. Next question is, have you had a chance to read the  
17 reports of Drs. Colosimo and Kapel?

18 A I have not.

19 Q Do you -- would there -- you indicated that one of the  
20 explanations for the Defendant's stopping you and saying, what I told you  
21 earlier is not correct, this is what's correct, you indicated that that might be an  
22 evidence of a thought disorder, which might be an evidence of incompetency.  
23 Are there any other explanations for him changing his -- his statement of what  
24 his medical and psychiatric history for you? Are there any other explanations  
25 for that change?

1           A       He could be being evasive or having some paranoid delusion  
2 about what's going on between he and I. I mean, I suppose there's many  
3 other explanations. Those that I proposed seem the most likely to me, but in  
4 fairness, there could be a multitude of explanations for why he did that.

5           Q       Dr. Colosimo specifically found he has a personality disorder.  
6 Isn't it common amongst personality disorders to lie?

7           A       It would be prominent for antisocial personality disorder. For the  
8 majority of personality disorders, that is not a characteristic feature. I don't  
9 know what kind of personality disorder --

10          Q       NOS.

11          A       Okay.

12          Q       So it's possible that --

13          A       It's possible with someone with a personality disorder could lie.

14          Q       Okay. And if somebody changed -- if somebody had a theory of  
15 how to interact with the doctor as to what was in their best interest and then  
16 they changed that theory halfway through the conversation, you know,  
17 because we all change our minds, isn't it possible then that his memory would  
18 change as well as to what he was going to tell the doctor about his memory?

19          MS. HOJJAT: I'm sorry, I'm going to object to that one just because I  
20 think -- maybe I'm misunderstanding the question, but did you just ask if it's  
21 possible if his memory changes?

22          MR. PACE: No. My question is --

23          THE COURT: Did you understand the question?

24          MR. PACE: I'll rephrase it if it's --

25          THE COURT: No --

1 THE WITNESS: May I just say what I think your question was, and  
2 then I'll try to answer what I think it was?

3 BY MR. PACE:

4 Q Let me rephrase it --

5 A Okay.

6 Q -- since more than one person obviously had problems with the  
7 question. If I go into a doctor's interview and I have a theory as to what's in  
8 my best interest by entering that doctor's interview, and sometime during that  
9 doctor's interview, I feel like maybe my original theory was a bad idea, and I  
10 have a propensity to lie, wouldn't that be a possible reason for somebody  
11 changing their history to their -- described history with you in the interview?

12 A It would. It would be a very unsophisticated strategy because it  
13 would -- typically, I think it would be rather obvious if that what was occurring  
14 when someone was doing that. So if someone was really bad at manipulating  
15 information and lying, that might be a strategy that they would use. It has not  
16 been one that I've seen often, again, because I think, you know, it would be  
17 quite obvious what's occurring in that setting.

18 Q Okay. And if Doctor -- Drs. Colosimo and Dr. Kapel, neither of  
19 them saw either thought disorder or delusion, any evidence of thought disorder  
20 or delusion on the part of the Defendant, wouldn't that lend credence to the  
21 concept that maybe he lied to you -- for whatever reason, lied to you in the  
22 interview and changed his story later because he thought it was in his best  
23 interest to change his story?

24 MS. HOJJAT: I'm going to object just because that's not -- I mean, I  
25 know it's a hypothetical, but that's not an accurate statement. Dr. Kapel

1 found -- Court's indulgence. One of the doctors found psychosis. Dr.  
2 Colosimo found psychotic features.

3 THE COURT: What?

4 MS. HOJJAT: Psychotic features, which include delusion. So it's not  
5 an accurate --

6 THE COURT: Okay. That is a hypothetical.

7 MR. PACE: Do you have a page number?

8 MS. HOJJAT: Yeah, page 4.

9 MR. PACE: Colosimo?

10 MS. HOJJAT: Yeah.

11 MR. PACE: Do you have a direction to paragraphs so we can move to  
12 that?

13 MS. HOJJAT: It's under the diagnosis, AXIS I, probable mood disorder  
14 with psychotic features.

15 MR. PACE: Okay. I will restate my question.

16 BY MR. PACE:

17 Q Without describing a single evidence of psychotic features in his  
18 report, wouldn't that lend credence to the possibility that the Defendant was  
19 just lying to you and then changed his mind?

20 MS. HOJJAT: And, Judge, I'm going to object because it's -- it's not  
21 an accurate representation of what Dr. Colosimo found here.

22 THE COURT: Overruled. Go ahead. You can answer the question.

23 THE WITNESS: Thank you, Your Honor. So I -- realize I have not read  
24 that report, so I don't exactly know what was said there and how those  
25 findings come together, but I think your question is if -- in that I found some



1 evidence of psychosis and another evaluator didn't find evidence of psychosis,  
2 you know, is a possible explanation for that that he was malingering or lying to  
3 me as far as the evaluation that I did? Anything's possible.

4           Again, as I said earlier, my interpretation was he was working  
5 very hard to be cooperative with me and trying very hard to, you know, give  
6 me appropriate information, so I didn't -- you know, again, having done this a  
7 long time, I didn't have the sense that that was occurring, but I suppose it's a  
8 possible explanation.

9           Q       And if his self-reports about medical and psychiatric history  
10 were consistent with what he eventually told you on his second revelation,  
11 would that be consistent with the fact that he might have told you a lie the  
12 first time?

13           A       I'm not sure I understood the question. So if the second answer  
14 that he gave me was actually the correct answer, would that -- would that be  
15 evidence that he was lying to me the first time he answered those questions?

16           Q       Yes.

17           A       The curious thing about -- I can't imagine a context in which  
18 lying about the basic questions I was asking him would him serve him in any  
19 way. So the fact that he would even be doing that would strike me as quite  
20 odd and perhaps evidence of a thought disorder.

21                    You know, again, they were really basic questions that really  
22 would have very little to do with -- with -- you know, whether he was guilty or  
23 innocent or perhaps even mentally ill. I suppose you could argue that being  
24 admitted to a psychiatric hospital might be some evidence of a mental illness,  
25 but I don't know that I could interpret it that way.

1           Q       Understand. Let's talk about -- you're going now to motivation.  
2 Let's talk about that. Are there other reasons other than psychotic that would  
3 cause a defendant to be uncooperative with his counsel, to not follow the  
4 advice of his counsel?

5           A       Yes.

6           Q       Such as?

7           A       Such as the defendant doesn't agree with the direction that  
8 counsel's trying to go. Such as counsel [sic] is suffering from an intellectual  
9 problem rather than a psychotic problem, you know, an intellectual disability or  
10 dementia or, you know, some process like that. I suppose there's other  
11 reasons as well that don't initially come to the forefront of my mind.

12          Q       If -- are some of the personality disorders, do they tend to be --  
13 what's the proper term for this? Do they tend to be uncooperative?

14          A       There are many diagnosable personality disorders. There are a  
15 couple -- you know, there's really three clusters that we put them in, Cluster  
16 A, Cluster B and Cluster C. I don't know that being uncooperative would be  
17 characteristic of two of the three clusters.

18                   In Cluster B there would be antisocial personality disorder and  
19 borderline personality disorder and narcissistic personality disorder, and some  
20 manipulation might be consistent with one of those personality disorders. The  
21 rest, not really.

22          Q       Okay. And, finally, what if he just doesn't like counsel, if he  
23 disagrees that counsel's the best counsel for him?

24          A       I think that happens all the time, and I don't know that renders  
25 you incompetent, you know. As long as you understand what the counselor is

1 trying to get you to understand, you know -- if you can understand why you  
2 need to plead not guilty as an example of that and then maybe decide that you  
3 want to do something else, you may be very competent. The issue is can  
4 you -- do you understand what the attorney is trying to tell you about the  
5 situation that you're in. If you're not capable of understanding what the  
6 attorney is telling you -- so it's not a matter of agreeing; it really a matter of  
7 comprehending what's going on between you and the attorney.

8 Q So you're saying personalities not meshing -- wouldn't resulting  
9 in a lack of cooperation, which you can see --

10 A Typically, someone with a personality disorder would be able to  
11 understand what their attorney was presenting to them. They might not agree  
12 with it or they might try to be manipulative in some way in dealing with it, but  
13 they would -- you know, they would still have the capacity to understand and  
14 give reasonable answers about what's going on in the process before them.  
15 That would not cross thought disorganization.

16 Q I wasn't talking about thought disorganization specifically; I was  
17 talking about cooperation.

18 A People with personality disorders may be uncooperative, at least  
19 a couple of them.

20 Q Yeah.

21 A Again, for the most part, you know, personality disorders are a  
22 very broad basket, so there's a couple of kinds where that might be  
23 characteristic.

24 Q And what if that dislike for counsel went to the extent of  
25 prejudice against counsel, would that also increase the lack of cooperation?

1 A That could be a reason to be uncooperative, yes.

2 MR. PACE: I really have no further questions. Thank you, Doctor.

3 MS. HOJJAT: Brief redirect, Your Honor?

4 THE COURT: Yeah.

5 MS. HOJJAT: Again, Doctor --

6 THE COURT: Well, I'm looking at a report by Dr. Kapel. What was  
7 noted is that, he's very unhappy with this representations and would likely be  
8 difficult to work with, end quote.

9 MS. HOJJAT: Yes.

10 THE COURT: The doctor says that he's unhappy with his  
11 representation. Would that affect his decision, his opinion?

12 THE WITNESS: I don't think it would.

13 THE COURT: All right. Go ahead.

14 **REDIRECT EXAMINATION**

15 **BY MS. HOJJAT:**

16 Q And briefly, Doctor, you didn't find him incompetent based on  
17 his -- any sort of unwillingness to work with me? That's not what your  
18 opinion was based on, correct?

19 A I did not have a sense that he had any delusional or psychotic  
20 ideas about the relationship with you during the time I interviewed him, that's  
21 correct.

22 Q And it had nothing to do, if I tell you nothing about our  
23 interactions during the time of your interview, correct?

24 A Correct.

25 Q You found him incompetent based on the fact that you believe

1 there was a thought disorder going on?

2 A Yeah. I found him incompetent based on the interaction he had  
3 with me and his ability to provide information to me and work through the  
4 process of an interview.

5 Q Right.

6 A The degree of disorganization that he had in the interview with  
7 me led me to believe it would be difficult for him to work in real time with an  
8 attorney trying to help him in the a court process.

9 Q Right. And Mr. Pace talked a lot about maybe he's lying, this,  
10 that and the other. When you got to questions like, do you know what a  
11 district attorney does, he wasn't lying to you; he was giving answers to the  
12 best of his ability, correct?

13 A Correct. My sense is he was trying to look good.

14 Q Okay.

15 A That he was -- that he wants to be competent, you know, and  
16 wants to look like he's very qualified and ready to go.

17 Q And, in fact, you found no signs of malingering, correct?

18 A I didn't see any signs of malingering.

19 Q And would it lend credence to your opinion if all three doctors  
20 found no signs of malingering?

21 A Yes.

22 Q Okay. And Mr. Pace talked about nobody other than you  
23 observing anything -- any sort of delusions of psychotic features, but, in fact,  
24 Dr. Colosimo did as well, so would it lend credence to your theory if two of  
25 three doctors found signs of delusions of psychotic features?

1           A       Yes.

2           Q       And, again, whether or not he's competent for you in deciding  
3 apart from whether or not he's cooperating with me in court, it's based on his  
4 abilities as you observed him that you found him incompetent, correct?

5           A       Well, information about how he worked with you would be  
6 relevant to whether he's competent or not. At the time I rendered this  
7 opinion, I didn't have any information about that, so --

8           Q       Right.

9           A       If that's what your question was.

10          Q       I guess what I'm trying to clarify is, the things you observed are  
11 in no way discredited by learning that he told Dr. Kapel he doesn't like me?  
12 The things you observed are still the things you observed?

13          A       That's correct. And I don't know why he doesn't like you. I  
14 mean, is it possible that's based on some kind of delusional belief? Sure. You  
15 know. I don't know, but that wouldn't really change my opinion.

16          Q       Well, I mean, he really firmly believes I'm Mexican, even though  
17 I'm not Mexican. I'm not sure if that's a delusion or what that is. Could that  
18 possibly be a delusion in and of itself?

19          A       I don't know if that would be a delusion, but there could be  
20 some delusional content about people of Mexican heritage that would impact  
21 him.

22               MS. HOJJAT: Okay. I'll pass the witness, Your Honor.

23               THE COURT: Anything else?

24               MR. PACE: No, I have nothing else.

25               THE COURT: All right. Thank you, Doctor.

1 THE WITNESS: Thank you, sir.

2 THE COURT: Anything else?

3 MS. HOJJAT: No, Your Honor.

4 THE COURT: Anything else, Mister --

5 MR. PACE: No, no further questions. Just -- I think it's time for  
6 argument.

7 THE COURT: Yeah. Go on.

8 MS. HOJJAT: Your Honor, at this point I would ask the Court to either  
9 find him incompetent and send him to Lake's Crossing or send him to Lake's  
10 Crossing under the portion of the statute that allows him to be sent for  
11 observation.

12 I mean, at this point, Your Honor, we have an individual who I  
13 can make representations to the Court will not enter a plea because he  
14 believes he didn't do this. I mean, that -- and that's not me and him having  
15 issues because me and him aren't actually having issues.

16 THE COURT: I've got a lot of clients say they don't want to enter a  
17 plea, and the Court enters a plea for them. I mean, I've had that in my  
18 experience many times.

19 MS. HOJJAT: But Your Honor --

20 THE COURT: They don't want to enter a plea. They just stand silent.  
21 They don't want to enter a plea.

22 MS. HOJJAT: But --

23 THE COURT: I say fine, I'll plead not guilty for you and set a trial  
24 date.

25 MS. HOJJAT: There's a difference, Your Honor, though, between

1 somebody who's being stubborn and difficult and between somebody who  
2 genuinely doesn't understand.

3 THE COURT: Uh-huh.

4 MS. HOJJAT: I don't understand, I didn't do this, why isn't it just  
5 going away? One is somebody being difficult and unpleasant, and one is  
6 somebody who's having problems understanding legal procedure, and that's  
7 what I was talking to Dr. Slagle about. And Dr. Slagle, what he was observing  
8 was totally separate and apart from what I was observing. Dr. Slagle had no  
9 idea that he was refusing to enter a plea when he found him incompetent.

10 What he's finding is his behavior that's not appropriate in a  
11 courtroom. He's already been removed from one courtroom for this type of  
12 behavior. He seems to have this compulsion that he thinks he's been  
13 contaminated or something of that nature, so he's going to be behaving -- he's  
14 demonstrating behavior in court that's going to get him removed during trial in  
15 front -- in front of a jury.

16 He's not understanding why he needs to go to trial if he  
17 maintains he's innocent. He can understand the abstract concept. He can  
18 answer questions. He's not malingering. He's not refusing to work with me.  
19 We put on a preliminary hearing in Justice Court. It was just fine. There were  
20 no -- there was no -- you know, counsel keeps referencing antisocial  
21 personality, people who just want to lie, people who just want to be difficult.  
22 He wasn't being difficult. That's not what was happening here. He genuinely  
23 didn't understand why things weren't going away because he didn't do it.  
24 And that does go to a thought disorder, and that does go to competence.

25 I need him to understand the process. The doctors -- Dr. Slagle



1 said, and I agree, I think he's actually going to be returned to competency. I  
2 think once we get him on medication, probably pretty quickly he's going to be  
3 returned to competency, but I need him to be competent for us to go to trial.  
4 He's entering a plea of not guilty. I need him to just go to Lake's Crossing,  
5 receive treatment, be observed, be fixed, and then he comes back, and we can  
6 go to trial. Nobody here's saying he's going to be incompetent without  
7 probability.

8 THE COURT: And probably just send him there for restoration, a little  
9 extra assessment or --

10 MR. PACE: Well, we haven't -- we don't have the statutory threshold  
11 presenting him to restoration. We can't send him under 425. We don't have  
12 statutory of two doctors.

13 THE COURT: Right.

14 MR. PACE: The best that can be done is sending him under 415. I just  
15 think that he's -- he's acting totally reasonable today. She says she got  
16 through a prelim hearing with him, and everything went just fine. He looks like  
17 he's -- he's ready to go. I'm not saying he doesn't have a mental illness. We  
18 have tons of defendants with mental illnesses. We have tons of defendants  
19 who refuse to enter pleas, for constitutional reasons, for stubborn reasons,  
20 whatever.

21 I just think that Dr. Kapel hit the nail on the head with him; I  
22 think he's just disagreeing with counsel, and it's making him stubborn and  
23 obstinate as a result. He would probably be wise to listen to his counsel and  
24 take her advice more closely. And like Dr. Kapel said, he's going to be difficult  
25 to work with, but he's not -- he's not -- he's not got a psychotic feature that

1 interferes with his ability to assist counsel.

2 MS. HOJJAT: And if I could just briefly respond.

3 THE COURT: Are you finished or --

4 MR. PACE: I'm finished.

5 THE COURT: Okay. Go ahead.

6 MS. HOJJAT: Very briefly. I'm sorry. First off, two of three doctors  
7 found psychotic features. Second off, Mr. Pace had made the record earlier  
8 that he behaved just fine in court today. Actually, after Dr. Slagle was called  
9 as a witness, Dr. Slagle went up there, and the Clerk tried to swear Dr. Slagle  
10 in. When Dr. Slagle [sic] said, raise your right hand to be sworn in, he raised  
11 his right hand to be sworn in. So he doesn't even understand the calling of  
12 the witness, who's the person who's supposed to be raising their right hand to  
13 be sworn in.

14 And I'd ask that the JAVS be preserved on that, if that was  
15 preserved, because I saw it. I saw him raise his right hand. He was confused  
16 about who was the witness then, despite the fact that I clearly called Dr.  
17 Slagle, and Dr. Slagle clearly walked up there.

18 We've got two of three doctors finding a psychotic disorder, a  
19 man who doesn't understand a plea of not guilty, a man who doesn't  
20 understand who the witness is in the courtroom here today. If it's got to be  
21 under 415, then it's got to be under 415, but I'm asking Your Honor to send  
22 him to Lake's so we can fix him.

23 MR. PACE: I thought it was going to be brief.

24 THE COURT: What?

25 MR. PACE: I thought it was going to be brief.

1 THE COURT: Well, that's all right. I mean, it's an important issue, I  
2 mean, and I understand. But we have two -- Dr. Colosimo, he finds that he  
3 presented basic criteria to be considered competent to proceed. Dr. Kapel was  
4 the third evaluation. He finds that the Defendant meets the criteria to be  
5 considered competent to proceed. They have the -- they feel he understands  
6 the nature of the criminal charges against him, the nature or the purpose of  
7 the court proceedings. They think he could aid and assist the person -- the  
8 counsel in the defense.

9 Other than he don't want to plead not guilty, you know, that's  
10 something that -- I don't know why, but I think he -- I find that he meets --  
11 he's competent to proceed -- competent to proceed under NRS -- what is it --  
12 178.420?

13 MR. PACE: Correct.

14 THE COURT: And we're going to send him back -- send him back to  
15 the department.

16 THE CLERK: February 12th, 9:00 a.m., District Court 3.

17 THE COURT: Thank you so much.

18 [Proceedings concluded at 10:58 a.m.]  
19  
20

21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio-visual recording of the proceeding in the above entitled case to the  
23 best of my ability.

24 

25 Renee Vincent, Court Recorder/Transcriber

  
CLERK OF THE COURT

1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 JOHN DEMON MORGAN,

9 Defendant.

CASE NO. C302450

DEPT. NO. III

10  
11 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
12 DISTRICT COURT JUDGE

13 THURSDAY, FEBRUARY 12, 2015

14 **ROUGH DRAFT**  
15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**  
16 **FURTHER PROCEEDINGS: RETURN FROM COMPETENCY**  
17  
18  
19

20 APPEARANCES:

21 For the State:

HILARY L. HEAP  
Deputy District Attorney

22  
23 For the Defendant:

NADIA HOJJAT  
Deputy Public Defender

24 RECORDED BY: SARA RICHARDSON, COURT RECORDER  
25

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 12, 2015, 9:27 A.M.

2 \* \* \* \* \*

3 MS. HOJJAT: Your Honor, if we can call John Morgan on page 6 of your  
4 calendar.

5 THE COURT: 302450, Mr. Morgan is present in custody, return from  
6 competency court, we need to get him arraigned.

7 MS. HOJJAT: Yes, Your Honor. And just -- just briefly to provide Your Honor  
8 with a little bit of history and what's going on in this case, we did put on a preliminary  
9 hearing. At the preliminary hearing at a certain point there were some concerns with  
10 the Court, I approached the bench, I let the bench know at that time that I thought he  
11 was just barely competent, but competent. We got to lower level, at lower level he  
12 was refusing to enter a plea of not guilty.

13 THE COURT: Okay.

14 MS. HOJJAT: He seemed confused by the process. I kept trying to explain  
15 the process to him. He didn't understand that that was where he needed to enter a  
16 plea of not guilty and invoke his right to a speedy trial.

17 THE COURT: Okay.

18 MS. HOJJAT: And he didn't believe me. At that point I did feel he wasn't  
19 competent. I sent him to competency court. It was a split evaluation at first. One  
20 doctor found him competent, one doctor found him incompetent. We had a third  
21 come back. I still felt he was incompetent, so I did request a challenge hearing. We  
22 had that challenge hearing last Friday in front of Judge Bonaventure who's sitting in  
23 for Judge Bell. I was the only one to call a witness. None of the doctors who felt he  
24 was competent or opined that he was competent showed up to the hearing, only my  
25 doctor showed up.

1 THE COURT: Okay.

2 MS. HOJJAT: During the hearing I still maintained that I don't think he's  
3 competent. I've got concerns about his understanding of what's going on. I've tried  
4 explaining things. He doesn't believe me. I don't think he's being difficult, I just  
5 genuinely believe he doesn't understand the process. The doctor opined and I  
6 agree, we don't think he's incompetent without probability, we just think he needs  
7 medication to be returned to competency. At the end of the hearing,  
8 Judge Bonaventure just basically read off the statements of the other two doctors  
9 who didn't show up to the hearing and said, well, because they found him  
10 competent, I'm not going to send him to Lake's Crossing for observation or  
11 medication.

12 THE COURT: Okay.

13 MS. HOJJAT: So at this point in speaking to him today, I've advised him he  
14 needs to plead not guilty, I'm advising him he needs to invoke his right to a speedy  
15 trial. He's still refusing to do so because he believes he's already done so and he  
16 believes that somehow the whole process starts over if he says those things today.  
17 So that's my record at this point. He's back here over defense objection. My  
18 position is still that I don't think he's competent and that he can't aid and assist and  
19 he doesn't understand the process. And I think he wanted to address the Court  
20 about some stuff.

21 THE COURT: All right, so based upon the findings last week by competency  
22 court, I'm going to find him competent. If there's some substantial change, I mean, I  
23 get that you believe he's incompetent, but it's based on the same thing that's been  
24 there, it's -- through the evaluations it sounds like. There hasn't been any material  
25 change --

1 MS. HOJJAT: No.

2 THE COURT: Okay.

3 MS. HOJJAT: There's been no material change.

4 THE COURT: All right.

5 MS. HOJJAT: My position --

6 THE COURT: If there's any change, then by all means you can go back to  
7 competency court.

8 MS. HOJJAT: Yes, Your Honor.

9 THE COURT: But we'll -- we'll go ahead -- I'm going to go ahead and go  
10 along with their finding right now that he was competent.

11 Okay, Mr. Morgan, things kind of do start over in District Court, okay?

12 THE DEFENDANT: How are you doing, sir?

13 THE COURT: I'm doing very well. We have different levels of courts, and so  
14 every time you get to a different level of court we've kind of got to start that -- that  
15 part of the court process. So in this court, once you get here, you have to enter a  
16 not guilty plea, or I'll enter it for you, and then we set your trial date, okay?

17 THE DEFENDANT: You mind if I could say a few things?

18 THE COURT: Very, very briefly.

19 THE DEFENDANT: Oh, yeah, very briefly. Sir, you know what, I didn't, like, I  
20 didn't like enter, like, a, like, refuse to enter a plea of, like, not guilty or whatever.

21 THE COURT: Okay.

22 THE DEFENDANT: I did not go against the peace in the state of -- and the  
23 dignity of Nevada, so I was just letting the public defender, I was letting -- I was  
24 letting her know, I don't want to say the public defender, I was letting Ms. Nadia --  
25 Nadia know that -- that I wasn't agreeing with the charges.

1 THE COURT: Okay.

2 THE DEFENDANT: But I was agreeing to, like, maybe, like, to resolve the  
3 matter or whatever, you know.

4 THE COURT: Well --

5 THE DEFENDANT: Just be -- because I --

6 THE COURT: -- here's what'll happen, she's going to talk to the State, and  
7 they're going to see if they can resolve the charges in some fashion, okay?

8 THE DEFENDANT: I see.

9 THE COURT: But when you -- when you don't agree with the charges, that's  
10 what a not guilty plea is.

11 THE DEFENDANT: Exactly, so I was -- I would enter not guilty then, like, you  
12 know, to go -- to go forward with the trial or whatever, you know.

13 THE COURT: Okay.

14 THE DEFENDANT: So, like, you know, by me -- by my individual self, like,  
15 working or whatever --

16 THE COURT: Right.

17 THE DEFENDANT: -- and being no -- having a productive life or whatever.

18 THE COURT: Okay.

19 THE DEFENDANT: So I was just letting Ms. Nadia know that, hey, look, you  
20 know, these charges, I'm really not agreeing with these charges.

21 THE COURT: All right.

22 THE DEFENDANT: And I know it's -- it's a tape, I know it's a video recording  
23 of the incident or whatever, what happened, I don't even want to really -- I don't  
24 even want to say a incident because it wasn't -- it wasn't a incident at all.

25 THE COURT: Well, I don't want you to talk about the case at all.



1 THE DEFENDANT: Exactly, right.  
2 THE COURT: Okay? I don't want you to talk about the facts, but --  
3 THE DEFENDANT: All right, I was just -- I was just --  
4 THE COURT: So hold on. So I get that you and your attorney, you've had  
5 the chance to talk about the two charges, correct?  
6 THE DEFENDANT: Right. I don't agree with them.  
7 THE COURT: Hold on. Hold on.  
8 THE DEFENDANT: Right.  
9 THE COURT: And you've told her you don't agree with these charges.  
10 THE DEFENDANT: I don't agree with none of the charges.  
11 THE COURT: So with regard --  
12 THE DEFENDANT: I know it's a tape recording of it.  
13 THE COURT: Hold on, hold on, stay with me.  
14 THE DEFENDANT: Okay.  
15 THE COURT: So with the first charge, battery with intent to commit a crime,  
16 you don't agree with that charge, correct?  
17 THE DEFENDANT: Well, you know what --  
18 THE COURT: You do not agree with that --  
19 THE DEFENDANT: I don't agree that, but I --  
20 THE COURT: Okay. So you're -- hold on. Hold on.  
21 THE DEFENDANT: Okay.  
22 THE COURT: One step at a time. So you're pleading not guilty?  
23 THE DEFENDANT: I'm pleading not guilty, yeah.  
24 THE COURT: Okay. The second charge is robbery, you do not agree with  
25 that?

1 THE DEFENDANT: I don't agree with none of that.

2 THE COURT: So you're pleading not guilty?

3 THE DEFENDANT: Not guilty for that.

4 THE COURT: All right. And I'm assuming you want to have your trial, if it has

5 to go to trial, as quick as you can?

6 THE DEFENDANT: Right. Exactly.

7 THE COURT: Right.

8 THE DEFENDANT: And by the State -- by the D.A. not being -- by not -- by

9 not being available, I was maybe seeking to see if I could maybe get, like, a O.R. to

10 get released because I've been sitting in the jail for 90 days.

11 THE COURT: All right, well, that's a -- hold on -- that's our next step. So, first

12 off, based upon the not guilty pleas and the desire to have the trial as quick as we

13 can, we're going to set it on an in-custody setting, so the trial date's going to be --

14 THE CLERK: It's going to be seven days outside the 60 days which is

15 April 20<sup>th</sup> at 10:00 a.m. for trial.

16 THE COURT: And calendar call?

17 THE CLERK: And calendar call is April 16<sup>th</sup> at 9:00 a.m.

18 THE COURT: All right. So what your attorney will do, she'll talk to the State

19 and if she needs to, she'll file a motion regarding to release you on O.R. or, you

20 know, reduce bail, anything like that, okay?

21 THE DEFENDANT: Is there any type of way that that could happen today?

22 THE COURT: No, because I ask that it be in writing because I don't know

23 anything about you now.

24 THE DEFENDANT: All right. You have to put the motion up in writing, right?

25 THE COURT: Yeah.

1 THE DEFENDANT: Okay.

2 THE COURT: Yeah.

3 THE DEFENDANT: You know what, I really -- I still don't agree with  
4 Ms. Nadia, like, as far as her thinking I'm not competent enough to, like, with the trial  
5 or whatever, so, like, you know, it's some issues right there. So I'm, like, I'm really  
6 looking forward to maybe, if it's still going to be some disagreement right there, then  
7 maybe -- maybe I can address the Court, like, maybe my individual self and then  
8 maybe, like, you know, address the Court for the trial or whatever or --

9 THE COURT: What, are you saying you want to represent yourself?

10 THE DEFENDANT: I would like to defend my individual self, yes. I would like  
11 to defend myself, yes.

12 THE COURT: Well, if you want to do that then you can file a motion to me  
13 saying that you want to dismiss your attorney and the reasons why.

14 THE DEFENDANT: Okay.

15 THE COURT: And that you want to represent yourself and the reasons why  
16 and then I'll have to have a conversation with you to see if you're capable of doing  
17 that, okay?

18 THE DEFENDANT: Okay. And --

19 THE COURT: So we'll take that up if and when that gets filed, all right?

20 THE DEFENDANT: All right. And then I just had one more brief -- just one  
21 more brief concern or whatever.

22 THE COURT: Okay.

23 THE DEFENDANT: You know, I know -- just about that same req -- I know  
24 you don't want me to talk about the -- the case or whatever --

25 THE COURT: Right.

1 THE DEFENDANT: -- in front of the courtroom or whatever, so I was thinking  
2 maybe, like, you know, because I would like -- I don't know if I have to put a motion  
3 in for the -- to get the tape recording or how to get the tape recording --

4 THE COURT: Well, your attorney has all the discovery.

5 THE DEFENDANT: I know it wasn't a incident, you know.

6 THE COURT: There's not --

7 THE DEFENDANT: I don't agree with it, right.

8 THE COURT: There's -- they can discuss that with you, their investigators  
9 can come meet with you and go over the discovery, but it's not really wise to just  
10 leave it in the jail with you, to begin with, you can't watch the video in the jail  
11 anyway. But I'll make sure that her investigator meets with you to discuss the  
12 discovery, all the evidence they have, okay?

13 THE DEFENDANT: All right. Okay.

14 THE COURT: All right. And has there been a transcript filed?

15 MS. HOJJAT: Your Honor, I believe the transcript has been filed.

16 THE COURT: Okay. So you have 21 days from today for any writs.

17 MS. HOJJAT: Thank you, Your Honor.

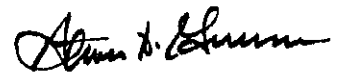
18 THE COURT: Thank you.

19 PROCEEDING CONCLUDED AT 9:35 A.M.

20 \* \* \* \* \*

21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I  
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
proofread, corrected, or certified to be an accurate transcript.

23   
24 SARA RICHARDSON  
25 Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

CASE NO. C302450

6 Plaintiff,

7 vs.

DEPT. NO. III

8 JOHN DEMON MORGAN,

9 Defendant.

10  
11 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
12 DISTRICT COURT JUDGE

13 THURSDAY, APRIL 16, 2015

14 **ROUGH DRAFT**  
15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**  
16 **CALENDAR CALL AND DEFENDANT'S MOTION FOR DISCOVERY**

17  
18  
19  
20 APPEARANCES:

21 For the State:

HILARY L. HEAP  
Deputy District Attorney

22  
23 For the Defendant:

NADIA HOJJAT  
Deputy Public Defender

24 RECORDED BY: SARA RICHARDSON, COURT RECORDER  
25

1 LAS VEGAS, NEVADA, THURSDAY, APRIL 16, 2015, 9:44 A.M.

2 \* \* \* \* \*

3 MS. HEAP: Your Honor could you call page 7, please?

4 THE COURT: Which one, Hilary?

5 MS. HEAP: Page 7, John Morgan

6 THE COURT: Morgan, bottom of the page. Bottom of page 7, case  
7 C302450, State of Nevada versus John Morgan.

8 All right. Mr. Morgan's present in custody with Ms. Hojjat. This is on for  
9 calendar call. There was a discovery motion as well and Ms. Hojjat got ahead of us  
10 ahead of time, thank you very much by the way, to let us know that you were going  
11 to request another competency evaluation, correct?

12 MS. HOJJAT: Yes, Your Honor. And ---

13 THE COURT: Did you fill out the sheet?

14 MS. HOJJAT: I did fill out the sheet, if I can approach?

15 THE COURT: Yeah. Have you all talked about that, Hilary?

16 MS. HEAP: Yes, Your Honor.

17 THE COURT: Okay.

18 MS. HOJJAT: And I have discussed it with Ms. Heap, I visited him on  
19 Monday at the jail and there was some new things that caused concern for me. I  
20 can vaguely put them on the record. I did write up a declaration that's more specific  
21 but it does contain attorney-client privilege, so I would ask that to be reviewed in  
22 camera if the Court wanted to review that and then filed under a seal.

23 THE COURT: Why not -- it's not really relevant to me as much as it is to  
24 Judge Togliatti.

25 MS. HOJJAT: Okay.

THE COURT: As she evaluates the competency issue.

1           So Mr. -- Mr. Morgan, I understand as well that you may have  
2 expressed to Ms. Hojjat a desire to potentially represent yourself, correct?

3           THE DEFENDANT: Yeah. Yes, Judge Douglas Herndon, I would like to  
4 defend myself. I don't believe that Ms. Hojjat is, like, properly defending me or even  
5 wants to defend me at all because I know we had this concern the last time that I  
6 was in the court --

7           THE COURT: Right.

8           THE DEFENDANT: -- like, did I want to defend myself and everything, she  
9 keep bringing issues up against me that I have no, like, idea or even, like, any type  
10 of basis of what she's coming off for because I'm in complete understanding of  
11 everything what's going on.

12          THE COURT: Well, here's the thing, remember what we talked about before,  
13 a lot of times your attorney's job is to maybe tell you the things you don't want to  
14 hear, but nonetheless, it's their opinion about your case, and so they've got to give  
15 you an honest opinion about evidence in the case, about the wisdom of going to trial  
16 or maybe not going to trial, but here's the thing, before I could allow you to represent  
17 yourself, I kind of would need to go through a series of questions with you and find  
18 out a little bit about your background. But I cannot do that if there is any issue kind  
19 of hanging out there about competency. So I'm going to -- I'm going to send your  
20 matter back to the competency court and let them make a determination on that and  
21 when we come back, assuming that you're found competent, then we can have a  
22 discussion about representing yourself, okay?

23          THE DEFENDANT: I mean, like, is it, like, I kind of like been waiting to go to  
24 trial or whatever because we went through competency court already, you know.

25          THE COURT: I know. I know.

1 THE DEFENDANT: So I don't like -- been kind of like, just like, want to kind of  
2 like get this over with, you know.

3 THE COURT: No, I get you. I mean, everybody wants to get it over with. I  
4 understand that completely, particularly when you're in custody. But on the other  
5 hand, your attorney has not just kind of a moral obligation, but an ethical and a legal  
6 obligation if she thinks there's any issue related to competency to make sure that we  
7 take that up at the time of trial. And -- and it's kind of one of those things that can  
8 change. So even though you went before, it's not unusual for defendants to go back  
9 sometimes two or three times with regard to competency issues before we get a  
10 matter to trial, okay?

11 So I'll ask them to set it in competency court as quickly as they can,  
12 which is going to be?

13 THE CLERK: May 15<sup>th</sup> at 9:00 a.m., Department 9.

14 THE COURT: And then as soon as that determination is made, we'll get you  
15 back here as quickly as we can --

16 THE DEFENDANT: Is there any type of way, like, because -- is it going to  
17 competency court because I'm trying to defend myself or is it that she just got a  
18 issue with me overall like --

19 THE COURT: No, no, no, no, it has nothing to do with her having any issue  
20 with you. Ms. Hojjat doesn't have any issue with you at all. There are certain  
21 things, and I don't to put them all on the record because a lot of it is things that  
22 they're allowed to bring up to the Court that don't have to be told to the State, but  
23 that -- that impact people's ability to understand the nature of proceedings, to  
24 understand the nature of the process, to be able to help them in their defense,  
25 things like that. It isn't like I don't like Mr. Morgan so I want to send him to



1 competency court, that's not it at all, okay?

2 THE DEFENDANT: Isn't it any type of way that I could get, like, an O.R. or  
3 something like that?

4 THE COURT: Not at this time. You can raise that in front of Judge Togliatti  
5 after the competency evaluations are completed, or we can talk about it when you  
6 come back here, okay?

7 THE DEFENDANT: You say in front of Judge --

8 THE COURT: Togliatti, she's the one that runs our competency court.

9 THE DEFENDANT: So, they'll be able to release me from jail?

10 THE COURT: Well, once the competency evaluations are done and she can  
11 make some determination on that, you can ask her about that. She will probably  
12 kind of defer it until it comes back to my court. But you can ask her about it, okay?

13 Okay. So that's going to be May 15<sup>th</sup> at 9 --

14 THE CLERK: 9:00 a.m.

15 THE COURT: 9:00 a.m. in District Court, Department Number 9.

16 MS. HEAP: Thank you.

17 MS. HOJJAT: Thank you very much, Your Honor.


18 THE COURT: And the trial date'll be vacated.

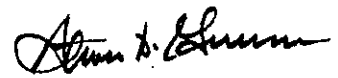
19 MS. HOJJAT: Thank you, Your Honor.

20 PROCEEDING CONCLUDED AT 9:49 A.M.

21 \* \* \* \* \*

22 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I  
23 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
proofread, corrected, or certified to be an accurate transcript.

24   
25 SARA RICHARDSON  
Court Recorder/Transcriber

  
CLERK OF THE COURT

1 **RTRAN**

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5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7  
8 **THE STATE OF NEVADA,**

9 **Plaintiff,**

10 **vs.**

11 **JOHN DEMON MORGAN,**

12 **Defendant.**

} **CASE NO. C-14-302450-1**

} **DEPT. IX**

13  
14 **BEFORE THE HONORABLE JENNIFER P. TOGLIATTI,**

15 **DISTRICT COURT JUDGE**

16 **FRIDAY, MAY 15, 2015**

17 **ROUGH DRAFT TRANSCRIPT**

18 **RECORDER'S TRANSCRIPT RE:**

19 **FURTHER PROCEEDINGS: COMPETENCY**

20 **APPEARANCES:**

21 **For the State:**

**BARTER PACE, ESQ.**  
**Deputy District Attorney**

22 **For the Defendant:**

**CLAUDIA ROMNEY, ESQ.**  
**Deputy Public Defender**

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25 **RECORDED BY: YVETTE SISON, COURT RECORDER**  
**ROUGH DRAFT TRANSCRIPT**

1 Las Vegas, Nevada, Friday, May 15, 2015 at 9:22 a.m.

2  
3 THE COURT: John Morgan, C302450-1. He's present in custody. Drs.  
4 Chambers and Lenkeit find he is incompetent to proceed with adjudication.

5 THE DEFENDANT: Yep.

6 MS. ROMNEY: Your Honor, we are not gonna challenge that finding and ask  
7 that you send him to Lakes Crossing under 178.425.

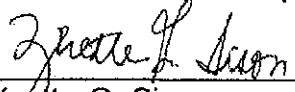
8 THE COURT: State's position?

9 MR. PACE: No challenge.

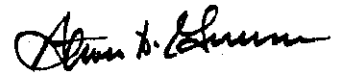
10 THE COURT: All right. The Defendant is remanded into custody for further  
11 treatment and restoration by Lakes Crossing to competency pursuant to NRS  
12 178.425, and he's ordered transported for that purpose. Thank you.

13 [Proceedings concluded at 9:23 a.m.]  
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19 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate Procedure, I  
20 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
21 proofread, corrected, or certified to be an accurate transcript.

22   
23 Yvette G. Sison  
24 Court Recorder/Transcriber  
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ROUGH DRAFT TRANSCRIPT



CLERK OF THE COURT

1 RTRAN

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DISTRICT COURT  
CLARK COUNTY, NEVADA

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8 STATE OF NEVADA,

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Plaintiff,

CASE NO. C-14-302450-1

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vs.

DEPT. IX

11

JOHN MORGAN,

12

Defendant.

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***BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE***

14

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***RECORDER'S TRANSCRIPT RE:  
FRIDAY, JULY 31, 2015  
DEFENDANT'S MOTION TO DISMISS***

16

17 **APPEARANCES:**

18

For the State:

BARTER PACE, ESQ.  
Deputy District Attorney

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For the Defendant:

CHRISTY L. CRAIG, ESQ.  
Deputy Public Defender

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RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Friday, July 31, 2015 at 1:46 p.m.

2  
3 THE COURT: Mistie Peterson, 298115; John Morgan, 302450; Jason  
4 Tresvan, 304969; Sanchez-Perez, Cristina 305157; Ferguson, Christopher 305237;  
5 305320, Codi Strong; David Geer, 305391; Alfred Porter, 305416; Gabriel  
6 Bertangna, 305580; Dennis Martin, 305595; Mauricio Chavez-Vargas, 305637;  
7 Donald Ray Thomas, 305640; Rodrecka Wilkerson, who was just – was she not –

8 MS. CRAIG: Ms. Black.

9 MS. HARRIS: She's on 8/6.

10 THE COURT: She's what?

11 MS. HARRIS: 8/6.

12 THE COURT: Oh, she's on 8/6, that's right. Michael Page, 305782; Latonya  
13 Studt, 305788 who's also on 8/6's flight. Angela Scott, 305880, Desire Mimms who  
14 is 305887; Kattawna Williamson, 305900; Eric Doebo, 305919; Jared MacDonald,  
15 306006; Locell Rush, 306109; Glen Foglietti, C306285; Ricky Apodaca 306294;  
16 Gene Jones, 306353; Anthony Raymond 306355; Brandon Alarcon 306398; Peter  
17 Kemp, 306482; Jesus Olvera, 306486; Sebastian Azcarate, C306579; Rigoberto  
18 Hernandez, C306814; Zayquan Jones, 306927; and Stephen Thomas, 307327.  
19 Counsel can you state your appearances for the record.

20 MS. CRAIG: Christy Craig from the Clark County Public Defender's Office on  
21 behalf of all the Defendants that you just named.

22 MR. PACE: Bart Pace on behalf of the State, Your Honor.

23 THE COURT: Okay. So, the record should reflect that I've had numerous,  
24 albeit, brief conversations with Ms. Craig and Mr. Lalli and Mr. Pace of the District  
25 Attorney Office regarding the Court's view of the propriety of me presiding over

1 motions to dismiss as pled because there are substantive motions related to alleged  
2 constitutional violations, and I directed you or I believe we discussed administrative  
3 order 07-7, which gives me the authority pursuant to the appointment of our Chief  
4 Judge, Judge Barker, to hear competency cases.

5           There are several paragraphs in that administrative order that I think  
6 are relevant to this circumstance. The third paragraph which says that NRS 3.0261  
7 requires the Chief Judge to ensure the procedures which govern the consideration  
8 and disposition of cases and other proceedings within the jurisdiction of the District  
9 Court are applied as uniformly as practicable.

10           The fifth paragraph on page one; whereas, EDCR 1.30 b5 allows the  
11 Chief Judge to "make regular and special assignments of all judges."

12           The subsequent paragraph which references 1.30 b15 which authorizes  
13 the Chief Judge to reassign cases from a department to another department as  
14 convenience or necessity requires.

15           The second full paragraph on page 2 states that 1.60 EDCR, declares  
16 the Chief Judge shall have the authority to sign and reassign all cases pending in  
17 the district; references to a November 16, 2005 criminal judges agreement and a  
18 September 19, 2007, all District Court Criminal Judges reconfirming that agreement.

19           The last paragraph of page 2 that references the jurisdiction or the task  
20 of the competency judge that anytime during the proceedings when the competency  
21 is called into question, the Court shall order the Specialty Courts Division of the  
22 Clark County Courts to appoint the required psychiatrist or psychologist to complete  
23 the reports and coordinate the return of the reports to the judicial department  
24 assigned to all competency matters.

25           And, finally, it is further ordered that any challenges to the competency

1 and its process whether made in Justice Court or District Court shall be transferred  
2 to District Court, Department 5, for consideration and ruling.

3 So, I've told both parties that in light of the circumstances here which  
4 came to my attention while I was out of the jurisdiction, Judge Barker, who is the  
5 Chief Judge, understands the nature of these motions and has considered the  
6 administrative order in his appointment to me and basically told me that this is not  
7 for you to decide.

8 We have Eighth Judicial District Court rules which require a track and  
9 team system, and that he basically gave me my marching orders that these  
10 constitutional allegations and motions to dismiss should be returned to the  
11 originating departments because I am – and as I understood it, when he gave me  
12 the assignment or asked me to take it, confined to matters of the Dusky standard,  
13 the evaluations, considering the Dusky standard, and challenges associated thereto.  
14 And there have been other circumstances where other issues have come up that  
15 relate to the case or substantive ruling, and I have not entertained them. I've sent  
16 them back to the department if it does not relate to; are you competent or not  
17 competent.

18 So I told you that that was the inclination of the Chief; that was his  
19 position, and he – I'm only here because I'm appointed by him, and I believe you  
20 had an opportunity now to hear it from the horse's mouth –

21 MS. CRAIG: Yes.

22 THE COURT: -- briefly before we came into the courtroom, and so if there's  
23 any record you want to make at this point, please feel free, but I do not have the  
24 authority under the Chief Judge's assignment to hear all motions to dismiss in every  
25 single competency case. I am to determine competency under the Dusky standard

1 and that's it.

2 MS. CRAIG: May I? Respectfully, we disagree. While we believe that these  
3 are some substana [phonetics] motions, they are not substana [phonetics] to the  
4 underlying criminal case. They reference and are completely and totally about  
5 competency issues that are squarely in this Court because that's the Court that's  
6 supposed to hear competency issues.

7 I would point out that in Ferguson, the Nevada Supreme Court said that  
8 the Chief Judge has the authority to assign or reassign cases, and then unless  
9 objected to by one of the Judge's concern, criminal cases, writs, or motions may be  
10 consolidated or reassigned to any criminal department for trial and resolution.

11 For purposes of competency, all the cases are brought to this particular  
12 courtroom. If this was a motion to dismiss based on something that was individual  
13 to each criminal case that had to do with legal issues regarding the crime that's  
14 alleged, that sort of thing, then they would be appropriately in the other departments.

15 Because this issue is squarely about competency, the competency  
16 process, and the violations as a result of a failed competency process, I think the  
17 motions are properly in front of Your Honor, and I think that you should decide them.

18 MR. PACE: We understand the Court's ruling.

19 THE COURT: Okay. So, your objection to the reassignment of these cases  
20 to the originating departments pursuant to the track and team assignment model  
21 from the Eighth Judicial Court Rules approved by the Supreme Court, are noted.

22 Starting with the first case, Mistie Peterson, we are able to return that  
23 back to Department 20, I mean, excuse me, yeah Department 20 on –

24 THE CLERK: August 6<sup>th</sup> at 9 a.m.

25 THE COURT: Regarding 302450, John Morgan, we'll return that to District



1 Court 3 for hearing – and we'll place the motion to dismiss on calendar for –

2 THE CLERK: August 6<sup>th</sup> at 9 a.m.

3 THE COURT: Now, the rest of the cases are Justice Court cases, and we are  
4 prepared at this point to – to perhaps go through and – it might take just a minute  
5 between me and my clerk to give you some dates just off the top. First four pages  
6 already have Justice Court 4 cases so, I could go through here – oh I'm sorry, here  
7 we go.

8 MR. PACE: Did the Court mention the courtroom for Morgan? John Morgan?

9 THE COURT: Morgan was Department 3, Herndon.

10 MR. PACE: Thank you.

11 THE COURT: Okay, there's four cases for Justice Court 4; that would be  
12 Jason Tresvan, Codi Strong on page 6; page 26, Brandon Alarcon, and Peter Kemp,  
13 page 27. There's four cases. I can give you the following date for Justice Court 4.  
14 His schedule was the 6<sup>th</sup>, the 10<sup>th</sup>, or the 11<sup>th</sup>.

15 THE CLERK: August 10<sup>th</sup> at 8:30 a.m.

16 THE COURT: All right. Then we have – okay, we have five cases in Justice  
17 Court 14. Okay, those will be on the 10<sup>th</sup> at 7:30 in the morning. So, Cristina  
18 Sanchez-Perez on page 4 will be on August 10<sup>th</sup> at 7:30 in the morning. Page 7,  
19 David Geer, C305391, will be August 10<sup>th</sup> at 7:30 in the morning. Page 9, Gabriel  
20 Bertangna will be August 10<sup>th</sup> at 7:30 in the morning in Justice Court 14.

21 Page 15, Latonya Studt will be August 10<sup>th</sup>, 7:30 in the morning. Now  
22 here's the thing, I believe that Ms. Studt is on the 8/6 flight, and I'm going to, unless  
23 you have an objection, order her appearance waived so that she remains on that  
24 flight. In the event that your motion is not entertained, then she would have her  
25 place in Lakes Crossing.

1 MS. CRAIG: I would appreciate that for all the people as the rolling dates  
2 come up and they are transported.

3 THE COURT: Okay. So, the record will reflect that – Christina, we don't take  
4 them off the list and they go. Sandy, we don't take them off the list and they go.

5 SANDY: Yes ma'am.

6 THE COURT: And then if there's a judge that says; no, I want them here. We  
7 have to talk, that judge and I have to talk.

8 SANDY: Got it, Your Honor.

9 THE COURT: Okay. Thank you so much. You can get out of the crossfire  
10 and just send them to me. Okay, so that doesn't just apply to that one Defendant.  
11 We're talking every Defendant; always makes the flight and we'll see how, you  
12 know, pans out.

13 Page 28, Jesus Olvera, August 10<sup>th</sup> at 7:30, Justice Court 14.

14 THE COURT: Next, we have Justice Court 3, how many?

15 THE CLERK: Four.

16 THE COURT: Okay. Justice Court 3, Christopher Ferguson –

17 THE CLERK: August 11<sup>th</sup> at 8 a.m.

18 THE COURT: August 11<sup>th</sup> at 8 a.m.

19 MR. PACE: And that's JC 3 did you say?

20 THE COURT: JC 3. Page 14, Michael Page, Justice Court 3, August 11<sup>th</sup> at  
21 8 a.m.

22 Justice Court 3, William – I mean on page 18, Kattawna Williamson will  
23 be August 11<sup>th</sup> at 8 a.m.

24 Page 30, Rigoberto Hernandez, Justice Court 3, August 11<sup>th</sup> at 8 a.m.

25 [Colloquy – The Court and the clerk]

1 THE COURT: Okay, Justice Court 1 cases, Alfred Porter, August 11<sup>th</sup> at 7:30;  
2 that's page 8. Page 23, Ricky Apodaca, August 11<sup>th</sup> at 7:30; and page 31, Zayquan  
3 Jones, Justice Court 1, August 11<sup>th</sup> at 7:30.

4 Okay, JC 10, August 6<sup>th</sup> – page 16, Angela Scott, 305880, we're going  
5 to give you August 6 at 7:30. So, you'll have an hour and a half before you have to  
6 get District Court for one case. There's one more JC 10 case; the last page, 32,  
7 Stephen Thomas, August 6<sup>th</sup>, 7:30.

8 [Colloquy – The Court and the clerk]

9 THE COURT: Okay. Dennis Martin, page 10, Henderson Justice Court 3,  
10 August 18<sup>th</sup> at –

11 THE CLERK: At 9 a.m.

12 THE COURT: At 9 a.m. Also, page 13, Rodrecka Wilkerson, C305653-1,  
13 Henderson Justice Court 3, August 18<sup>th</sup> at 9 a.m.

14 Okay. JC 12, one case – how many appearances do you have on the  
15 10<sup>th</sup>?

16 MS. HARRIS: On the 10<sup>th</sup> Judge?

17 THE COURT: Uhuh.

18 MS. CRAIG: Two.

19 MS. HARRIS: No way.

20 MR. PACE: Two courts.

21 MS. CRAIG: They're all in the same place honey.

22 THE COURT: Two courts?

23 THE CLERK: They're 4 and 14.

24 THE COURT: So, would you like to add one case in Department 12 or would  
25 you like me to move it to the 19<sup>th</sup>?

1 MS. CRAIG: Sure. I don't see why not.

2 THE COURT: Okay then I will -- page 11, Mauricio Chavez-Vargas will be  
3 August 10<sup>th</sup> at 7:30 in Department -- Justice Court 12. How many North Las Vegas  
4 2?

5 THE CLERK: There's two of them.

6 THE COURT: Okay. And can we do the 19<sup>th</sup> of August, or did I already do it?  
7 Did I give you any for the 19<sup>th</sup> yet? Okay. Okay, North Las Vegas 2, page 12,  
8 C305640, North Las Vegas 2, August 19<sup>th</sup> at --

9 THE CLERK: At 8:30 a.m.

10 MR. PACE: And that's for who?

11 THE COURT: That is for Donald Thomas, North Las Vegas 2. Also page 21,  
12 Locell Rush. Locell Rush, C306109, will be North Las Vegas 2, August 19<sup>th</sup> at 8:30.  
13 Okay, how many for Justice Court 11?

14 THE CLERK: I have two.

15 THE COURT: Okay, any reason I can't do August 20<sup>th</sup>?

16 THE CLERK: No.

17 THE COURT: August 20<sup>th</sup> will be Justice Court 11, Desire Mimms, although I  
18 have some recollection from the competency meeting that something may be  
19 happening with her case; maybe it's being diverted or something, no?

20 MS. HARRIS: Later, and it's extremely later in the month; but she was  
21 incompetent due to decompensation.

22 THE COURT: Okay. Well, assuming that nothing gets resolved with Ms.  
23 Mimms, then that case would go forward for argument on the motion to dismiss in  
24 Justice Court 11 on August 20<sup>th</sup> at 7:30.

25 Okay, you also have two more cases for that day in Justice Court 11 --

1 THE CLERK: There's two total.

2 THE COURT: Oh, there's two total. One more case for Justice Court 11, and  
3 that's page 25, Anthony Raymond, C306355-1, that's August 20<sup>th</sup> at 7:30.

4 So, I also have Justice Court 2 I was inclined to give you, August 20<sup>th</sup>,  
5 and that person doesn't -- that judge doesn't start 'til 8 in the morning, and that's only  
6 --

7 THE CLERK: There's three.

8 THE COURT: -- three cases, so you'd have 5 cases in two departments, 7:30  
9 and 8 o'clock. Is that acceptable?

10 MS. CRAIG: Fine with me.

11 THE COURT: All right. Justice Court 2, Eric Doebo, page 19, C305919-1,  
12 will be Justice Court 2 at 8 o'clock on August 20<sup>th</sup>.

13 Next page, page 20, Jared MacDonald, Justice Court 2, August 20<sup>th</sup> at  
14 8 o'clock, C306006-1; and page 22, Glen Foglietti, Justice Court 2, August 20<sup>th</sup> at 8  
15 o'clock, C306285; that leaves one North Las Vegas 1 case, and one Henderson 1  
16 case. Would you like to take a break for that week and go to the following week or  
17 would you like to -- I don't even think Henderson is available or North Las Vegas on  
18 Friday, so I'd have to go to the following week.

19 MS. CRAIG: That's fine. The following week.

20 THE COURT: All right. August 31<sup>st</sup> for North Las Vegas 1, is that possible?

21 THE CLERK: Yes.

22 THE COURT: August 31<sup>st</sup> for North Las Vegas 1 on page 24, Gene Roy  
23 Jones and that's at --

24 THE CLERK: At 8:30 a.m.

25 THE COURT: -- 8:30. September 1<sup>st</sup> for the what I believe to be, youngest

1 case on the calendar, so it seems fair, Sebastian Azcarate will be Henderson  
2 Justice Court 1, is September 1<sup>st</sup> doable?

3 THE CLERK: I can do 9/3 at 9 a.m.

4 THE COURT: Apparently, can't do that one until 9/3 at 9 a.m.

5 MS. CRAIG: Okay.

6 THE COURT: So, I believe that I have now assigned all 31 cases. What we  
7 will do is we will electronically – we will email you a copy of the mark-up –

8 MS. CRAIG: Okay.

9 THE COURT: -- so when you have all the dates on each page for your  
10 convenience, and as they come in, what I was thinking is if you – I'm not gonna  
11 remember this – I mean, I'm not gonna remember all the dates, I think it would be to  
12 the benefit of Ms. Craig and Mr. Lalli if I'm trying to keep the departments together  
13 until the date comes, and so – I don't know, maybe bring the mark-up in every day,  
14 you know, have a copy here for me so that when I'm sitting here giving out dates, if  
15 it's filed – like the new cases today, you're going to be filing them when?

16 MS. CRAIG: When 14 days goes by or as soon as I get the – the email  
17 knowing that the order has been filed, so 14 days after the is filed. September 1<sup>st</sup>,  
18 that goes down to seven days.

19 THE COURT: Clearly, some of these departments I'm going to be able to  
20 keep giving cases to –

21 MS. CRAIG: Correct.

22 THE COURT: -- so, I'll need a copy of the mark-up just to – sitting here for  
23 Fridays.

24 THE CLERK: Sure.

25 THE COURT: Okay. Okay, you have a lot of running around to do.

1 MS. CRAIG: Yes.

2 THE COURT: You don't, but you do. Thank you.

3 MS. CRAIG: Appreciate it.

4 MR. PACE: Thank you, Your Honor.

5 THE COURT: Oh, and by the way, you did agree to have your client's  
6 appearances waived for the purposes of this hearing?

7 MS. CRAIG: I do.

8 THE COURT: Okay. Thank you.

9 MS. CRAIG: You bet.

10 [Proceedings concluded at 2:10 p.m.]

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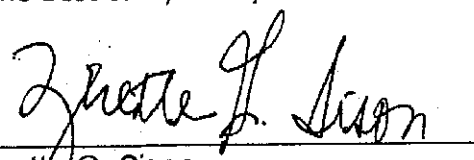
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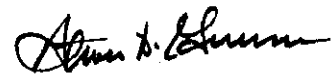
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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Yvette G. Sison  
Court Recorder/Transcriber





CLERK OF THE COURT

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5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**  
7

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9 **THE STATE OF NEVADA,**

10 **Plaintiff,**

11 **vs.**

12 **JOHN MORGAN,**

13 **Defendant.**

)  
)  
) **CASE NO. C-14-302450-1**  
)  
) **DEPT. III**  
)  
)  
)

14 **BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE**

15 **THURSDAY, AUGUST 6, 2015**

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**  
17 **MOTION TO DISMISS**

18 **APPEARANCES:**

19 **For the State:**

**CHRISTOPHER J. LALLI, ESQ.**  
**Assistant District Attorney - Criminal**

21 **For the Defendant:**

**CHRISTY L. CRAIG-ROHAN, ESQ.**  
**Deputy Public Defender**

23 **Also present:**

**SUSANNE M. SLIWA, ESQ.**  
**Senior Deputy Attorney General**

25 **RECORDED BY: SARA RICHARDSON, COURT RECORDER**

1  
2 THURSDAY, AUGUST 6, 2015, AT 9:01 A.M.  
3

4 THE COURT: All right, bottom of page 2. C302450, State of Nevada versus  
5 John Morgan. Record should reflect the presence of Counsel for Mr. Morgan. Good  
6 morning, Mr. Lalli.

7 MR. LALLI: Good morning, Your Honor.

8 THE COURT: Ms. Craig.

9 MS. CRAIG: Good morning.

10 THE COURT: First --

11 THE DEFENDANT: John Morgan, Your Honor.

12 THE COURT: Good morning. How are you, Mr. Morgan?

13 THE DEFENDANT: I'm doing great. How you doing?

14 THE COURT: I'm doing well.

15 THE DEFENDANT: Good morning.

16 THE COURT: This is time set motion to dismiss. I'm intimately familiar with  
17 these issues. This is Judge Herndon's calendar. He's out for reasons that are not  
18 relevant for our purposes today but he'll be back next week. I'm willing to rule on it,  
19 take it from my perspective. But if you'd like Judge Herndon to weigh-in on these, I  
20 understand that as well. Either side want to wait for Judge Herndon?

21 MR. LALLI: No, we're happy to have Your Honor hear the matter.

22 THE COURT: All right. Ms. Craig --

23 MS. CRAIG: And that's the royal we, so I'm good, too.

24 THE COURT: All right. Ms. Craig, you have the floor. This is your motion.

25 MS. CRAIG: Well, Your Honor, I point out a couple of things. I know you've

1 read the original motion to dismiss that I filed. I would direct the Court's attention to  
2 the Competency Court's order which is inside the packet.

3 The Competency Court's order dated May 21<sup>st</sup> of 2015 orders Mr.  
4 Morgan to go to Lake's Crossings and they order it -- she orders it forthwith and that,  
5 of course, has been the subject of a federal lawsuit. I've included the papers in my  
6 pleadings. Forthwith has been defined as seven days. We agreed with the AG's  
7 Office in a federal consent decree that we would give them a plan over a year and  
8 right now we've agreed to wait 14 days in order to get someone to Lake's Crossings  
9 when they've been ordered. We've agreed that the definition of forthwith from now -  
10 - from that time of the consent decree until September 1<sup>st</sup> is 14 days-ish and on  
11 September 1<sup>st</sup> it goes back down to the defined seven days.

12 Mr. Morgan has already been waiting in custody for 100-and-some  
13 days. It'll be 118 days by the time he actually gets on the plane. That's well beyond  
14 the limit. It's a -- the State's already acknowledged that they're violating his due  
15 process rights and, in addition, they're violating Competency Court's order.

16 THE COURT: They're violating a statutory --

17 MS. CRAIG: They're --

18 THE COURT: They're violating Nevada statute by not complying with that  
19 time limit. Yes or no?

20 MS. CRAIG: Not only that, but they're violating Competency Court's order  
21 which says forthwith. It's a clear violation. There's no question there's a violation.  
22 What we're here today about is what's the remedy.

23 THE COURT: What's the remedy?

24 MS. CRAIG: And the remedy cannot be that he just sits around and waits  
25 until the State gets it right.

1           The Ninth Circuit has said that the State's defense can't be: We don't  
2 have facilities, we don't have places, we're really crowded. That's just not a viable  
3 defense. They're going to have to answer in the Federal Court about why they  
4 haven't met the consent decree agreement.

5           But right now we're here today because that man's rights are being  
6 violated. He deserves to have been treated at Lake's. He's already been in custody  
7 for a substantial amount of time. The remedy must be that he -- the charges are  
8 dismissed and he's released from custody.

9           The State having not done their job and not having appropriate facilities  
10 should not be his burden and that's where it is right now. The State of Nevada  
11 hasn't put the money that they need and hasn't done the work that they need to do  
12 probably over the last 20 years. It's all caught up to them today. But the person  
13 who's bearing the brunt of that decision is Mr. Morgan and it's not fair; it's not right.  
14 It's a clear violation. He's entitled to a remedy and the remedy should be that the  
15 charges are dismissed and he's released from custody.

16           And I'll add, just as an aside, that because this is a violation of  
17 Competency Court's order, I don't think it should be in District Court III.

18           THE COURT: Well, you say that in --

19           MS. CRAIG: I think it promptly --

20           THE COURT: -- your supplemental but by arguing this, you're tacitly agreeing  
21 that jurisdiction -- well, you --

22           MS. CRAIG: I can argue two things. I'm not tacitly agreeing. You guys put  
23 us here. I'm still objecting to the decision that Competency Court made. I don't  
24 think it's appropriate. It's clearly her order that's being violated. It's not substantive  
25 as to -- substantive as to his underlying legal matter. I don't think it should be here.

1 But now that it's here, against my wishes, he deserves a remedy and the remedy  
2 should be that the charges are dismissed and he's released from custody today.

3 THE COURT: Could I have State -- Counsel for the State of Nevada to state  
4 appearance for the record, please?

5 MS. SLIWA: Yes, Your Honor, good morning; Susan Sliwa, Attorney  
6 General's Office. I represent the State Division of -- from the State Bureau of Public  
7 and Behavioral Health.

8 THE COURT: All right.

9 MS. SLIWA: That includes Lake's Crossing Center.

10 THE COURT: What is the State of Nevada's position from the AG's or from  
11 your perspective?

12 MS. SLIWA: From -- well, Your Honor, from our perspective the state  
13 agencies are not a party to this criminal matter. There is a federal lawsuit that is --  
14 that was filed by Ms. Craig's office along with another attorney. There is a consent  
15 decree that was entered into in that case.

16 THE COURT: Right. So you agree with Ms. Craig. A consent decree was  
17 entered --

18 MS. SLIWA: Yes.

19 THE COURT: -- and you're in violation of the consent decree. You even  
20 briefed me on that. You do.

21 MS. SLIWA: Understood. We --

22 THE COURT: Okay.

23 MS. SLIWA: And I can tell you that we are making efforts to make --

24 THE COURT: And I read that --

25 MS. SLIWA: -- to make what needs to happen, happen. How --

1 THE COURT: We've got a schedule, we've got a -- there's a plan.

2 MS. SLIWA: Yes.

3 THE COURT: There's a new building. So the issues that are in play as a  
4 function of this motion to dismiss are being potentially remedied to some degree but  
5 way, way outside the four corners of the timeframe that's required by statute and  
6 under the consent decree.

7 MR. LALLI: May I be heard, Your Honor?

8 THE COURT: You get to go next, but I just want to make sure I understand  
9 her position.

10 You're admitting everything that Ms. Craig says in terms of the  
11 timeframes. You're not meeting that agreement and that basic responsibility.

12 MS. SLIWA: Well, technically that is correct, Your Honor. The remedy for a  
13 due process violation is the process itself and that is what we are working toward.

14 THE COURT: That's what he's going to tell me in a few minutes, I think.

15 MS. SLIWA: Fair enough. And that --

16 THE COURT: And that's where you stand. You didn't -- the remedy should  
17 not be dismissal.

18 MS. SLIWA: Correct.

19 THE COURT: Even though you are not in compliance with what you've  
20 agreed to do --

21 MS. SLIWA: Correct.

22 THE COURT: -- and Nevada law.

23 All right. Mr. Lalli.

24 MR. LALLI: Thank you, Your Honor.

25 There's three things that I would like to comment on. One is the motion

1 must be denied because dismissal is not the appropriate remedy as the Court has  
2 alluded to. Number two, discussion of the consent decree really has no place in this  
3 court. The appropriate discussion is over in Federal Court and I'll explain why. And  
4 finally, I do want to discuss the efforts of all of the justice partners here to address  
5 the challenges that the Lake's Crossing Center is facing. So I do want to address  
6 those.

7 But let's start with the immediate issue and that is that the Defendant in  
8 this case, and in 38 other cases, has filed a motion to dismiss. That is the remedy  
9 they are seeking, dismissal. And the legal authority for that, the only authority they  
10 cite is the Ninth Circuit Case, Oregon Advocacy Center versus Mink.

11 Now, that is a case, as I said, from the Ninth Circuit. The underlying  
12 facts are that a lawsuit was brought in the state of Oregon based upon a number of  
13 defendants who were being treated to competency and it was based upon delays  
14 that were occurring there. And the defendants believed that the delays in getting to  
15 the Oregon State Hospital were unreasonable and they alleged due process  
16 violations, not unlike what's happening here.

17 There was a waiting list that developed as a result of delays in getting  
18 to the hospital. There was eventually an injunction issued by the district court and  
19 the injunction ordered that all of those defendants be transported to the Oregon  
20 State Hospital in seven days. And that was the ultimate relief issued in the lower  
21 court and that action was appealed to the Ninth Circuit.

22 What's important is that there was no discussion regarding dismissal.  
23 There was not a request for dismissal and a dismissal of the cases was not granted  
24 at the lower court level.

25 The Ninth Circuit considered the matter in Mink and they in fact agreed

1 that there was a due process violation because of the delays. However, what is  
2 critical in the Mink case is the relief that was granted. And at the end of the case  
3 what the Ninth Circuit says is: We conclude that the Oregon State Hospital's  
4 significant ongoing violations of substantive and procedural due process are  
5 sufficient to support the district court's injunction. We uphold the district court's  
6 injunction requesting the Oregon State Hospital to admit mentally incapacitated  
7 criminal defendants within seven days of a judicial finding of incapacitation. That's  
8 what happened in Mink and that's the only authority that they cite to the Court.

9 So if we apply Mink here, the appropriate remedy would be for this  
10 Court to order this Defendant within seven days to the Lake's Crossing Center,  
11 period.

12 THE COURT: But that's a paper tiger. That's an empty order because --

13 MR. LALLI: Well, that's -- that is the authority that they've cited to the Court.  
14 They haven't cited any authority to support the remedy of dismissal and that's what  
15 they're asking for.

16 THE COURT: I know.

17 MR. LALLI: That's an extreme remedy. It's their burden to do that, not ours.  
18 And so if they lack the legal authority for the relief sought, the Court has no option  
19 but to deny the motion. The Court has no option but to deny the motion just based  
20 upon their failure to cite the legal authority, the appropriate legal authority.

21 I want to talk about the consent decree. So the Court has that before  
22 Your Honor. And just by way of a little background, the consent decree developed  
23 out of a civil action filed in Federal District Court here in Nevada. And, again, it was  
24 for injunctive relief and declaratory relief pursuant to 42 USC 1983. It was not to  
25 have the Federal Court enjoin any prosecution here in State Court. And specifically



1 what is quite telling is that it was brought by three plaintiffs, Burnside, Pugh and  
2 Duran, against three state officers in their official capacity. It was brought against  
3 Richard Whitley in his official capacity as the Administrator of the Nevada Division of  
4 Mental and Developmental Services. It was brought against Director -- I'm sorry, Dr.  
5 Elizabeth Neighbors, who is the Director of the Lake's Crossing Center for the  
6 Mentally Disordered Offender, and the third defendant was Michael Wilden, the  
7 Director of the Nevada Department of Health and Human Resources. And  
8 importantly, the consent decree is only binding upon those three individuals and that  
9 is spelled out in the consent decree in paragraph 17 which can be found on page 9.

10 Paragraph 17: "This Consent Decree shall be binding  
11 upon Defendants, the Nevada Division of Public and  
12 Behavioral Health, Lake's Crossing Center for the Mentally  
13 Disordered Offender, and the Nevada Department of  
14 Health and Human Services. "

15 That's who's bound by the consent decree. It does not bind the State  
16 of Nevada in our sovereign ability and our sovereign right to bring criminal  
17 prosecutions. It does not bind us. It does not bind Clark County or it does not bind  
18 any subdivision or any lower division, subpart of Clark County. We are not  
19 signatories to the consent decree and we are not bound by it, period. It has no  
20 place to be discussed in any of these proceedings, period end.

21 Now, there are provisions in the consent decree to effectuate its  
22 enforcement. If the Court were to look at page -- paragraphs 11 through 15 of the  
23 consent decree, particularly in paragraph 13. There is a provision to go back to  
24 Federal Court and for the plaintiff to say, hey, defendants, you're not in compliance.  
25 They can seek contempt.

1 THE COURT: Aren't you doing that, Ms. Craig?

2 MS. CRAIG: Yes.

3 THE COURT: That's what I thought.

4 MR. LALLI: And that's done in Federal Court.

5 THE COURT: Right.

6 MR. LALLI: They can seek contempt or any other remedy they deem  
7 appropriate in Federal Court. That is their remedy under the consent decree.  
8 Again, the consent decree does not bind or present authority that dismissal of our  
9 criminal cases in State Court is an appropriate remedy.

10 Now, having said all of that, and it is our absolute position that these  
11 case -- that this motion must -- the Court has no option but to dismiss the instant  
12 motion, deny the instant motion.

13 I don't want to leave this Court or anybody else with the impression  
14 that we don't care about the challenges that the Lake's Crossing Center and that  
15 incompetent defendants are facing as they await for treatment to competency. I  
16 don't want to leave that impression with anybody. And I think that the efforts of the  
17 justice community are certainly of note.

18 A lawsuit was brought ten years ago. And to address the number of  
19 beds that were available to the State, the Lake's Crossing Center opened an annex  
20 and enlarged the number of beds that were available for treatment, bringing the  
21 total number of beds up to around 81. And those beds have continued to be of  
22 service to incompetent individuals since that time.

23 As a result of the instant litigation in Federal Court, the Lake's Crossing  
24 Center and the State of Nevada opened here in Southern Nevada the Rapid  
25 Stabilization Unit, or the C-pod, over in the Rawson-Neal Center here in Southern

1 Nevada. As of today, I am informed there are 15 additional beds in Rawson-Neal  
2 for treatment of mentally ill defendants for restorative purposes.

3 THE COURT: Is that going to move this process along?

4 MR. LALLI: It's 15 additional beds. It can't help but move the process along.

5 THE COURT: Well, Ms. Craig will have her opinion in a second.

6 MR. LALLI: Sure. But the point of it is, Your Honor, go back 120 days ago,  
7 six months ago. Those are 15 beds that were not available that are available  
8 today. So to leave the impression that the State is merely ignoring the situation,  
9 that the justice community is ignoring --

10 THE COURT: I don't think Ms. Craig is saying -- based upon the brief I read,  
11 Ms. Craig is putting it solidly on the State.

12 MR. LALLI: Well --

13 THE COURT: She's not putting the County's efforts --

14 MR. LALLI: Well, I --

15 THE COURT: -- challenging --

16 MR. LALLI: Well, County is the one who's going pay the ultimate price if our  
17 cases are dismissed and this community is going to pay the price if these  
18 defendants are released out into the community.

19 In addition to the Rapid Stabilization Unit, there are currently weekly  
20 assessments occurring at the Lake's Crossing Center to determine whether the  
21 inmates, the patients, are capable of being in a double-bunk solution to where they  
22 can double-up the inmates there. I am informed that as of today, there are ten such  
23 inmates who are in a double-bunk situation which effectively brings on line five  
24 additional beds, because you've got two inmates per bed essentially. So that's  
25 effectively five additional beds.

1 And then, of course, you have the opening of Stein Hospital which has  
2 gone slower than everybody has hoped. But I do want to inform the Court that that  
3 is still on track to happen sometime in October. Sure it would be --

4 THE COURT: I thought it was November.

5 MR. LALLI: It's going to be turned over to the State in October and perhaps  
6 occupancy sometime the end of October, latest the beginning of November;  
7 sometime in that area. Would I like it to be sooner? Of course I would like it to be  
8 sooner. But we're not talking about a year from now. We're not talking about two  
9 years from now. We're talking about right around the corner.

10 Now, as if that didn't demonstrate efforts to address the situation -- and  
11 I know that the Court perhaps is aware of this. Last week we re-established the  
12 Lake's Crossing Task Force and we had our first meeting. And all of the justice  
13 partners participated in that, the jail, the Clark County Public Defender's Office, the  
14 District Attorney, the Attorney General, members from the Lake's Crossing Center.  
15 And the whole goal of the task force is to address the wait list and try to truncate  
16 that.

17 Can people be removed from the wait list for whatever reason? Maybe  
18 when people were booked into the Clark County Detention Center, they were  
19 suffering from a drug-induced psychosis and after they've had the opportunity to dry  
20 out for a while, the psychosis goes away. They are restored to competency. They  
21 can be re-evaluated and removed from the list.

22 Perhaps when somebody was arrested, because they have not had  
23 the structure of the environment at the jail, they've not taken their meds for a time,  
24 they get into the Clark County Detention Center, a more structured environment  
25 where meds are available to them. They begin to take their meds for a time and all

1 of a sudden, they're restored to competence just by virtue of staying there and  
2 those individuals can be removed from the list.

3 And then you have a whole segment of folks at the detention center  
4 who simply do not want to at first run through -- participate in the evaluation  
5 process. And after they've been there for a while, they decide that they do and they  
6 are amenable to re-evaluation.

7 And for all those reasons what we've found is when we re-evaluate  
8 people, they can be removed from the wait list and the wait list is truncated. And  
9 this one of the things that the task force looks at.

10 The task force also looks at problem defendants. If someone just --  
11 quite frankly, never going to be restored and they're on the wait list. Is someone  
12 because of a medical issue never going to be medically cleared to go to the Lake's  
13 Crossing Center, and will that cause us to want to negotiate or do something with  
14 their case to get them removed from the wait list? Or are there people eligible for  
15 misdemeanor diversion, which is another way to get them off the list. These are all  
16 things that the task force does.

17 And what I want to report to the Court is that after just one task force  
18 meeting, just one, 11 defendants were sent to misdemeanor diversion. Eleven  
19 defendants were sent to misdemeanor diversion and seven defendants were  
20 identified for re-evaluation. That doesn't mean that they will all be evaluated and  
21 found to be competent. I don't want to suggest that, but I do want to suggest that  
22 by putting all of the justice partners together and working on the problem seven  
23 defendants were identified for re-evaluation and can be potentially removed from  
24 the list after just one task force meeting. And I don't think there's a desire by  
25 anybody involved to disband the task force anytime soon.

1           One other point. I did mention that Stein was coming on line. I don't  
2 think I articulated for the record the number of beds. That's 46. Forty-six additional  
3 beds when Stein opens up.

4           So the remedy that is being sought, simply not appropriate. If they  
5 want that remedy, they can bring that motion. They've chosen not to. The consent  
6 decree is something for Federal Court not State Court. And we, as a justice  
7 community, are doing everything conceivable to address the wait list at the Lake's  
8 Crossing Center. For all of those reasons, we would urge the Court to deny the  
9 motion to dismiss.

10          THE COURT: Ms. Craig, does Mr. Lalli's argument that the State is not  
11 consciously indifferent to this issue, does that persuade you in any respect with  
12 regard to your motion?

13          MS. CRAIG: Well, he said the ultimate price, if you grant this motion, will be  
14 paid by the State. His suggestion is that the ultimate price should be on the back of  
15 Mr. Morgan and every other person who's waiting through no fault of their own to  
16 get treated to competency. It's just not fair.

17          With regard to -- I mean, I get it. It isn't the DA's fault that this back-up  
18 occurred. It isn't the jail's fault. It isn't the County's fault. They're not the players.  
19 The parties that are responsible are the parties that were -- that we sued in the  
20 federal lawsuit. They're the ones who bear the responsibility for making this facility  
21 available. And I agree, Stein when it's opened -- they don't even get the money to  
22 hire people until October. That's when the Legislature gave them the money. So  
23 when Stein is opened, when they have it staffed, when everybody's trained, that's  
24 going to be the ultimate long-term solution. There's no question about that. We're  
25 talking about the people right now.

1           Mr. Lalli is suggesting: Hold your breath; just wait. It'll all get better  
2 later, Mr. Morgan. I'm sorry you had to wait 118 days and I'm sorry that Mr. Jones  
3 who got ordered to Lake's July 17<sup>th</sup> won't go until December. Really, too bad; so  
4 sad. That's just the price you pay for being here in Clark County. It isn't fair. It isn't  
5 right. Common sense says they deserve a remedy.

6           With regard to the task force meeting, I'm thrilled that they did it in July.  
7 They -- he organized it because nobody else could get the parties to participate.  
8 The task force meetings had disappeared more than two and a half years ago.  
9 With all due respect, the DA's Office wasn't screaming to have the task force  
10 meetings restarted. I couldn't even get people to respond to my e-mails  
11 sometimes. They didn't have the meetings until I filed these motions and that's  
12 when Mr. Lalli said: What the heck is going on? That's when Mr. Lalli e-mailed  
13 everybody and said we need to restart these meetings. The meetings are  
14 appropriate. They really do solve problems and that's evident by the fact that we  
15 were able to make some things happen for some people.

16           What it does not change is that the wait list exists. It exists because  
17 the State hasn't met their burden. We're going back to Federal Court and they're  
18 going to have to respond. I don't know what the federal judge will do --

19           THE COURT: I think he was practicing for Federal Court when he was  
20 outlining what the State --

21           MS. CRAIG: But the reason --

22           THE COURT: -- the efforts the State has recently made.

23           MS. CRAIG: I mean the reason why we brought these lawsuits is 'cause we  
24 can't go to -- I mean, they weren't -- the District Court is not a party to the lawsuit.  
25 The only remedy Mr. Morgan has is to come to his judge and say: My rights are

1 being violated. There's no end in sight for me.

2 THE COURT: Well, that's not fair. There is an end.

3 MS. CRAIG: Well, the end is just wait until your turn.

4 THE COURT: Right.

5 MS. CRAIG: Well, that isn't fair and isn't right and it's a violation of his due  
6 process rights.

7 And let's not even talk about how it impacts his ability to even get a fair  
8 trial later. I mean 118 days of just waiting means we're not able to have a rational  
9 discussion with him.

10 THE COURT: Wouldn't the rational decision then be at a point when Mr.  
11 Morgan is deemed competent, if that in fact occurs, that the action continues? That  
12 you, as Counsel, convince Judge Herndon, or whoever might be presiding on the  
13 effort, that that delay might have substantively -- more like a Barker versus Wingo,  
14 pre-arraignment delay prejudice component. That witnesses were lost, that his  
15 ability to defend himself under the primary action --

16 MS. CRAIG: Well, it's kind of hard --

17 THE COURT: -- was affected by the delay.

18 MS. CRAIG: It's hard to prove a negative and certainly we can do that, too.  
19 We're not precluded from doing both. This delay is solely in the hands of people  
20 outside Mr. Morgan's ability to control. It's solely in the hands of the government.

21 THE COURT: True.

22 MS. CRAIG: And they have a duty and a responsibility. There's no question  
23 that they have violated that duty and responsibility. The question now is what is the  
24 remedy for Mr. Morgan and everybody else? Are they just supposed to suck it  
25 up and bear the burden? And that can't possibly be the answer.



1 I get that the State, the DA, is now involved and willing to participate  
2 and is moving things along. I think that's fabulous. Do I think Stein is going to be a  
3 huge help? I think it's going to be the answer. And, frankly, I'm thrilled that as a  
4 result of our lawsuit the State has agreed to finally open a facility in Southern  
5 Nevada. It's been needed for probably longer than a decade. It doesn't change  
6 Mr. Morgan's predicament and it's -- he deserves a remedy. The Court cannot say  
7 to him: Too bad, I'm so sorry your rights are being violated; come see me later. It's  
8 just not right. It's just not fair. Common sense says if there's a violation, there's a  
9 remedy and the remedy is clear, dismiss the charges. He should not be the person  
10 who's paying the ultimate price for the State's failure.

11 THE COURT: All right. Anything else?

12 MR. LALLI: I would just note --

13 THE COURT: Actually, it's her motion.

14 MS. CRAIG: That's right.

15 THE COURT: So she gets the last word.

16 MS. CRAIG: Kind of cool.

17 MR. LALLI: Very well, we'll submit it.

18 THE COURT: So now it's my turn.

19 On May 15<sup>th</sup>, 2015, District Court and I and the Competency Court  
20 assigned through the Administrative Order signed by Judge Hardcastle years ago  
21 reviewed evaluations by two doctors, as they must, and found Mr. Morgan  
22 incompetent. They also deemed him a danger to himself and to society and that  
23 commitment was required through this process for determination of his ability to  
24 proceed in the action, to receive treatment to restore competency.

25 The order issued by the judge based upon that decision gave a

1 specific timeframe within which Mr. Morgan would need to receive -- be transported  
2 to begin that restorative process or that evaluation. All agree that that timeframe  
3 has not been met.

4           There have been -- and the minutes should reflect there have been  
5 efforts in Federal Court that have been discussed here, whether they're -- I'm  
6 frankly considering the totality of the information here. There's been efforts in  
7 Federal Court to address these problems, these ongoing problems that have been  
8 ongoing for years. And there's now -- there is now a roadmap outlined based upon  
9 renewed urgency because Ms. Craig is actively prosecuting these motions and  
10 attempting or protecting her clients' due process rights.

11           But I have to balance the two issues. I have to balance the two  
12 interests, the interest in the community, the interest of Mr. Morgan. And I can't get  
13 to a point where the remedy of dismissal is the appropriate remedy, even with the  
14 violations that have been outlined. I think the remedy is to comply with the order.  
15 Although, I said earlier it's kind of a -- my phrase was paper tiger. Order the State  
16 to comply with the order and transport Mr. Morgan so he can ultimately receive the  
17 treatment that he is due and that that be a prompt restorative treatment.

18           But in terms of a remedy, the dismissal of the primary action, I simply  
19 can't get there because that is just too extreme. So I'm denying the motion to  
20 dismiss.

21           When is your effort in Federal Court moving forward, your -- on the  
22 consent decree?

23           MS. SLIWA: Nothing is set.

24           MS. CRAIG: This week.

25           THE COURT: Okay. Well, I'll be interested to see how the federal judge

1 weighs in on that effort. But my primary focus here is balancing the interest of the  
2 community, the protection of the community and Mr. Morgan's substantive rights  
3 and I do not believe that the dismissal of the underlying primary action is the  
4 appropriate remedy. It's too extreme and so the action --

5 MS. CRAIG: So what is the remedy?

6 THE COURT: The remedy is to compel the State to meet their statutory  
7 requirements and obligations.

8 MS. CRAIG: So are you going to -- if I propose an order or present an order  
9 saying that he must be transported within seven days from today --

10 THE COURT: That would be actually consistent with what the argument was  
11 and that would be my order.

12 MS. CRAIG: And then if they don't, I can come back to this Court and ask for  
13 another remedy? All right. I'll propose -- I'll present an order.

14 THE COURT: Thank you very much.

15 MS. SLIWA: Well -- and, Your Honor, the -- according to the consent decree,  
16 I think we're still talking about a 14-day timeframe.

17 MS. CRAIG: Well, it's been way past 14 days. It's getting close to 118 days.

18 MS. SLIWA: I understand that.

19 MS. CRAIG: Okay.

20 THE COURT: I am encouraged that finally the bureaucracy, the state  
21 bureaucracy is moving forward productively in an effort to address the problems.  
22 It's been long -- it's been years, years in coming.

23 MS. CRAIG: Well, the first lawsuit was in 2005, so that's how long it's been.

24 THE COURT: I know.

25 MS. CRAIG: Okay. All right.

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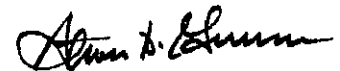
THE COURT: All right.  
MS. CRAIG: I'll prepare --  
THE COURT: That's my decision.  
MS. CRAIG: -- an order.  
THE COURT: Thank you very much.  
MR. LALLI: Thank you, Your Honor.

[Proceedings concluded at 9:33 a.m.]

\*\*\*\*\*

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

  
\_\_\_\_\_  
Cheryl Carpenter,  
Court Recorder



CLERK OF THE COURT

1 **RTRAN**

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5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7  
8 **THE STATE OF NEVADA,**

9 **Plaintiff,**

10 **vs.**

11 **JOHN DEMON MORGAN,**

12 **Defendant.**

} **CASE NO. C-14-302450-1**

} **DEPT. IX**

13  
14 **BEFORE THE HONORABLE JENNIFER P. TOGLIATTI,**  
15 **DISTRICT COURT JUDGE**

16 **FRIDAY, DECEMBER 11, 2015**

17 **ROUGH DRAFT TRANSCRIPT**

18 **RECORDER'S TRANSCRIPT RE:**

19 **FURTHER PROCEEDINGS: COMPETENCY-RETURN FROM LAKES**  
20 **CROSSING**

21 **APPEARANCES:**

22 **For the State:**

**BARTER PACE, ESQ.**  
**Deputy District Attorney**

23 **For the Defendant:**

**CLAUDIA ROMNEY, ESQ.**  
**Deputy Public Defender**

24 **RECORDED BY: YVETTE SISON, COURT RECORDER**

25 **ROUGH DRAFT TRANSCRIPT**

1 Las Vegas, Nevada, Friday, December 11, 2015 at 9:59 a.m.

2  
3 THE COURT: John Morgan, C302450-1. This is a Lakes return that didn't  
4 happen.

5 MS. ROMNEY: It did not. Although we don't anticipate, just based on the  
6 reports, we don't anticipate a challenge.

7 THE COURT: Right because I don't know when – physically be present, I  
8 can't really give him a court date, so how about I pass it to next week; and even if  
9 he's not here by then, I'll give the court date, because I can't imagine they won't be  
10 able to get him here between now and –

11 MS. ROMNEY: Sure.

12 THE COURT: Does that make sense?

13 MS. ROMNEY: Yep.

14 THE COURT: Okay. So, Mr. Morgan's matter will be on one week from  
15 today.

16 THE CLERK: December 18<sup>th</sup> at 9 a.m.

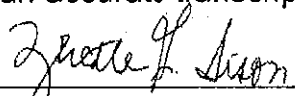
17 THE COURT: Can you make a note; they're not making a challenge. Thank  
18 you.

19 [Proceedings concluded at 10:00 a.m.]  
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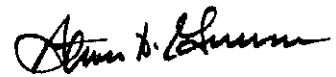
ROUGH DRAFT TRANSCRIPT

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ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

ROUGH DRAFT TRANSCRIPT



CLERK OF THE COURT

1 RTRAN

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DISTRICT COURT  
CLARK COUNTY, NEVADA

7

8

THE STATE OF NEVADA,

9

Plaintiff,

10

vs.

CASE NO. C-14-302450-1

11

JOHN DEMON MORGAN,

12

Defendant.

13

14

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI,

15

DISTRICT COURT JUDGE

16

FRIDAY, DECEMBER 18, 2015

17

ROUGH DRAFT TRANSCRIPT

18

RECORDER'S TRANSCRIPT RE:

FURTHER PROCEEDINGS: COMPETENCY-RETURN FROM LAKES  
CROSSING

19

20

APPEARANCES:

21

For the State:

BARTER PACE, ESQ.  
Deputy District Attorney

22

23

For the Defendant:

CLAUDIA ROMNEY, ESQ.  
Deputy Public Defender

24

25

RECORDED BY: YVETTE SISON, COURT RECORDER  
ROUGH DRAFT TRANSCRIPT



1 Las Vegas, Nevada, Friday, December 18, 2015 at 9:21 a.m.

2  
3 THE COURT: John Morgan, C302450-1; he's present in custody. Drs.  
4 Henson, Fletcher, and Wright find the Defendant meets the criteria to be competent  
5 to proceed. What's your position?

6 MS. ROMNEY: There's no challenge.

7 THE COURT: Mr. Morgan, I find you competent under NRS 178.420. You're  
8 going back to District Court III on –

9 THE CLERK: January 7<sup>th</sup> at 9 a.m.

10 THE COURT: Okay?

11 THE DEFENDANT: Okay.

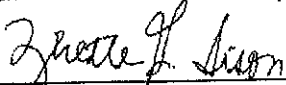
12 THE COURT: And that Judge is going to handle everything to do with your  
13 case.

14 THE DEFENDANT: All right.

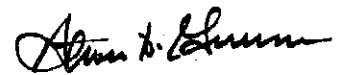
15 THE COURT: Thank you.

16 [Proceedings concluded at 9:21 a.m.]  
17  
18

19 ATTEST: Pursuant to Ryle 3C (d) of the Nevada Rules of Appellate Procedure, I  
20 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
21 proofread, corrected, or certified to be an accurate transcript.

22   
Yvette G. Sison  
23 Court Recorder/Transcriber  
24  
25

ROUGH DRAFT TRANSCRIPT



CLERK OF THE COURT

1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 JOHN DEMON MORGAN,

9 Defendant.

CASE NO. C302450

DEPT. NO. III

10  
11 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
12 DISTRICT COURT JUDGE

13 THURSDAY, JANUARY 7, 2016

14 **ROUGH DRAFT**  
15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**  
16 **FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT AND**  
17 **DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE**

18  
19  
20 APPEARANCES:

21 For the State:

ELANA L. GRAHAM  
TIERRA D. JONES  
Deputies District Attorney

22  
23 For the Defendant:

NADIA HOJJAT  
Deputy Public Defender

24  
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, JANUARY 7, 2016, 10:22 A.M.

2 \* \* \* \* \*

3 THE COURT: 302450, he is present? Yes. This is on, Mr. Morgan's return  
4 from District Court Department 9, and there's also a motion for O.R. release.

5 MS. HOJJAT: Yes, Your Honor, and I had also filed a motion for discovery  
6 prior to him being sent to Lake's Crossing. I did e-mail the Court last week to let you  
7 guys know that I was going to ask that we also hear the motion for discovery.

8 THE COURT: The only thing is I don't think there -- we ever had an  
9 opposition filed. It got filed and then he went to competency -- unless I missed it.

10 MS. JONES: We did not, Your Honor. We would be asking for time to file an  
11 opposition now that he's back.

12 THE COURT: All right.

13 MS. HOJJAT: I mean, that's kind of the reason I let everybody know in  
14 advance.

15 THE COURT: Well, all right, we'll pass that over for a couple of weeks. So  
16 that date's going to be --

17 THE CLERK: January 21<sup>st</sup> at 9:00 a.m.

18 THE COURT: -- for the discovery motion. Okay. And then the motion for  
19 O.R.?

20 MS. HOJJAT: And, Your Honor, again, I'm not going to rehash what I  
21 discussed in the motion. The only thing I will address from the opposition is they  
22 ask for the Court not to do a bail reduction. When I was looking it up, I was showing  
23 that it was a no-bail hold. I didn't see a bail setting at this time. And I believe I put  
24 that in the motion as well, it was 20,000 before he went to Lake's, he came back  
25 from Lake's and now --

1 THE COURT: Yeah, I don't know, is there some -- does -- does a transfer to  
2 competency court automatically result in a no-bail hold?

3 MS. HOJJAT: My understanding is once the order is that they're going up to  
4 Lake's, they turn it into a no-bail hold because they don't want somebody to bail out  
5 and then the bed at Lake's becomes available and --

6 THE COURT: Okay.

7 MS. HOJJAT: -- the person is gone in the wind. And so during that time  
8 period when they're awaiting transfer, it's supposed to become a no-bail hold, but  
9 they're supposed to have the bail reinstated when they return from Lake's Crossing.

10 THE COURT: Okay.

11 MS. HOJJAT: The bail here, as far as I'm showing, it was never reinstated.  
12 So, at least when I was looking it up.

13 THE COURT: Odyssey is saying again that it's 20,000, but you're saying that  
14 the jail --

15 MS. HOJJAT: Oh.

16 THE COURT: -- shows it was no bail?

17 MS. HOJJAT: Jail is showing it as zeros.

18 THE COURT: All right.

19 MS. HOJJAT: So, at the very least, if nothing else happens today, I would  
20 ask that we send something over to the jail to clarify with them that it should be a  
21 \$20,000 bail.

22 THE COURT: All right.

23 MS. HOJJAT: Other than that, I'll just submit it on my motion. I will say that I  
24 don't have access to N.C.I.C. and because the pretrial services sheet was showing  
25 some errors, I was kind of trying to piece together what his criminal history was, the

1 opposition didn't really provide much light. They do have access to N.C.I.C., but  
2 they were kind of -- it was little bit circular in terms of what that record actually is.  
3 My understanding is it's what I laid out, it's the -- the four misdemeanors, one gross  
4 misdemeanor, one felony.

5 THE COURT: Okay. Ms. Graham.

6 MS. GRAHAM: I guess I can shed some light on -- or try to not be so circular.  
7 I actually received the convictions and I guess Minnesota also sends the actual  
8 reports, which I didn't get into the facts and circumstances. But he has a 2007  
9 Minnesota D.V. conviction; 2006 Minnesota misdemeanor D.V. conviction; a 2006  
10 Minnesota misdemeanor violation of order for protection, that was against the  
11 mother of his child who was the victim of the previous two misdemeanor D.V.s that I  
12 mentioned. He has a 2001 misdemeanor assault conviction. He has a 2005  
13 misdemeanor battery, domestic violence assault involving, again, the mother of his  
14 child. And he has a felony conviction for Minnesota, 2006. I went into the facts of  
15 that case for which the defendant had a -- or the defendant's baby's mother had a  
16 T.P.O. order of protection against him, he did what he did there at the nail salon. So  
17 regarding his criminal history, I think that's abundantly clear. I think he's violent, and  
18 I think that it's significant that all of his crimes of violence involve women as the  
19 victim.

20 Counsel here had an opportunity to review the surveillance which is not,  
21 like, a mere shove in the chest, he struck this gal who's quite small, with such force  
22 that it actually pushed her back on to the ground. He doesn't have any contacts  
23 here. The little time that he appears to spend here, the only real record of that is the  
24 fact that he was -- picked up a misdemeanor battery-D.V. The conviction is -- the  
25 likelihood of conviction is great. It's a violent crime.

1 I don't think that his competency issues if -- whether they're -- I mean,  
2 I'm not going to get into the validity of them or not, is a proper basis for considering  
3 an O.R. because it's not part of the statute. So I would ask that Your Honor at least  
4 keep the bail where it is. I was going to suggest an increase in bail. But I won't do  
5 that because that's not my motion.

6 MS. HOJJAT: And if I may --

7 THE COURT: Well, that's what I was going to ask, I mean, you were arguing  
8 in your motion for a no-bail hold. So, and I thought it was no bail. So I had, you  
9 know, in my mind, as I was reading everything I was trying to decide what I thought  
10 was an appropriate bail.

11 MS. GRAHAM: Right. And I didn't realize that --

12 THE COURT: So to the extent --

13 MS. GRAHAM: -- it was no bail.

14 THE COURT: -- bail is -- to the extent bail is set at 20,000, are you asking to  
15 increase or are you --

16 MS. GRAHAM: I would ask for 40,000 bail setting.

17 THE COURT: All right.

18 MS. HOJJAT: And --

19 THE COURT: And you're asking from the belief that it was no bail --

20 MS. HOJJAT: Yes.

21 THE COURT: -- to reduce it back down to 20?

22 MS. HOJJAT: I was asking -- yes. To clarify, Your Honor, my client asked  
23 me to file a motion for an O.R.

24 THE COURT: Right.

25 MS. HOJJAT: So I filed a motion for an O.R., and I ask that in the alternative,

1 the Court was not inclined to grant the O.R. that it go back to what it was at prior to  
2 his transportation to Lake's Crossing, that he not be penalized for having been found  
3 incompetent and transported to Lake's Crossing.

4 Just briefly, to reply, what I'm hearing is all of his convictions are prior to  
5 2007. I haven't heard of a single conviction. And they're kind of clustered together,  
6 2006, 2007. What it sounds like, and this is why I think the competency issue is  
7 important and why I think his state -- status today is important, when he goes off of  
8 his medications there's some issues.

9 THE COURT: Sure.

10 MS. HOJJAT: But when he's on his medications he is able to stay out of  
11 trouble, from 2007 to 2014 is a seven-year period of time that he was out of trouble.  
12 2014 -- I can tell the Court, I had serious concerns about his competency, I sent him  
13 to competent -- for a competency referral twice. He did eventually end up being  
14 found incompetent. When he was transported to Lake's Crossing they did return a  
15 report saying they've placed him on medications and stabilized him on his  
16 medications. Talking to him here in court today and over the phone prior to court  
17 today, it's a world of difference. And we often see that with individuals who have  
18 mental health issues particularly things like schizophrenia, they're on their  
19 medications, they're perfectly fine. They are functional members of society.

20 THE COURT: No, I get it.

21 MS. HOJJAT: And so that's why I wanted to make the Court aware of that  
22 because it does make a difference. We can't just say because when you're off your  
23 medications you're violent, we're going to hold you in custody forever. I would  
24 suggest he's on his medications now, he's stabilized. Obviously, if the Court were to  
25 consider O.R.ing him or reinstating the bail to 20,000, which is what I ask in the

1 alternative, and order that he stay on his medications, that he receive the  
2 counseling, and my office can facilitate that through a social worker. But I think it  
3 matters that he's medicated and stabilized. And I'll submit it with that.

4 THE COURT: Well, look, I think it's certainly relevant as well. But if the -- if  
5 the issue is medicated versus unmedicated, and that's the explanation for a lot of  
6 the criminal conduct, then obviously, admittedly, unmedicated is not just stealing  
7 candy bars, it's crimes of violence, which is incredibly concerning to the Court  
8 because you can't just say I'm going to release somebody and take their word that  
9 they're going to keep taking their medications. I would love for that to be the case.  
10 But here's the thing, I was proceeding off the belief that there was a no-bail hold. So  
11 I thought it was appropriate to set a bail amount and I had reviewed everything that I  
12 could in terms of the SCOPE and the pleadings that you all gave and what I had  
13 come up with was a belief that \$50,000 bail would be appropriate. So regardless of  
14 where it should have been set before or after or no bail or 20, I'm going to order bail  
15 be set in the amount of \$50,000.

16 MS. GRAHAM: Do we have a trial date?

17 THE COURT: All right. And we need to -- yes, we're going to reset the trial  
18 date, and we'll set it on an in-custody setting.

19 THE CLERK: Jury trial will be February 29<sup>th</sup> at 9:00 a.m.; calendar call,  
20 February 25<sup>th</sup> at 10:00 -- or 9:00 a.m., I'm sorry.

21 MS. HOJJAT: I'm sorry, Madam Clerk, is there any way to get the following  
22 week? I'm out of the jurisdiction on the 29<sup>th</sup>.

23 THE COURT: What do we have on the 7<sup>th</sup>?

24 MS. HOJJAT: Or the week before, either one.

25 [Colloquy between the Court and the Clerk]



1 MS. HOJJAT: And this a -- this would be a three-day trial, overflow eligible.

2 THE COURT: Well, all right. So we can set it for either one, the 22<sup>nd</sup> or  
3 the 7<sup>th</sup>; are either of those dates better or worse, ladies?

4 MS. HOJJAT: Probably the 7<sup>th</sup> would be better because I'm going to be out of  
5 the jurisdiction.

6 MS. GRAHAM: That's fine.

7 THE COURT: Okay. Is that good with you, Ms. Graham?

8 MS. GRAHAM: That's fine.

9 THE COURT: March 7<sup>th</sup> at 10:00 a.m. for trial.

10 MS. GRAHAM: Oh, I'm sorry, I thought we were talking about February still,  
11 I'm actually out of town on the 9<sup>th</sup>, March 9<sup>th</sup>.

12 MS. HOJJAT: Week before works fine for me, we can do that one.

13 THE COURT: What's that?

14 MS. HOJJAT: The week before the 29<sup>th</sup> works well for me as well, we can do  
15 that one.

16 THE COURT: Okay. February 22<sup>nd</sup>, 10:00 a.m. for trial; February 18<sup>th</sup>,  
17 9:00 a.m. for calendar call.

18 MS. GRAHAM: Thank you, Your Honor.

19 MS. HOJJAT: Thank you, Your Honor.

20 THE COURT: Thanks, guys.

21 [Matter recalled at 10:35 a.m.]

22 THE COURT: Ms. Graham's gone, but Ms. Jones is here on behalf of the  
23 State.

24 MS. HOJJAT: Your Honor, prior to my sending him for the competency  
25 evaluation, the last day he was in court he had asked the Court for a *Faretta*

1 canvass. And it was kind of left at we'll deal with that when he comes back from  
2 competency court. I just want the record to be clear, I want the Court to inquire of  
3 him now whether he wants me or to do a *Faretta* canvass. My understanding is he  
4 wants me now, but I just --

5 THE COURT: Okay.

6 MS. HOJJAT: -- want the record to be clear on that.

7 THE COURT: Mr. Morgan, is that correct, do you want to proceed on with  
8 your attorney?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. Then we will do that and we'll see you back on  
11 January 21<sup>st</sup> on the discovery motion.

12 MS. HOJJAT: Thank you very much, Your Honor.

13 THE COURT: Thank you.

14 PROCEEDING CONCLUDED AT 10:36 A.M.

15 \* \* \* \* \*

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19


20 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I  
21 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
proofread, corrected, or certified to be an accurate transcript.

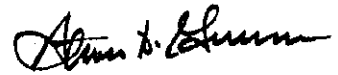
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SARA RICHARDSON  
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 JOHN DEMON MORGAN,

9 Defendant.

CASE NO. C302450

DEPT. NO. III

10  
11 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
12 DISTRICT COURT JUDGE

13 THURSDAY, JANUARY 21, 2016

14 **ROUGH DRAFT**  
15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**  
16 **MOTION FOR DISCOVERY**

17  
18  
19  
20 APPEARANCES:

21 For the State:

ELANA L. GRAHAM  
Deputy District Attorney

22  
23 For the Defendant:

NADIA HOJJAT  
Deputy Public Defender

24  
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, JANUARY 21, 2016, 11:25 A.M.

2 \* \* \* \* \*

3 THE COURT: Mr. Morgan, 302450. Did you ever file an opposition?

4 MS. GRAHAM: Your Honor, I just was able to prepare one, I apologize, it was  
5 late. I realized last night after I got out of trial that it was on.

6 THE COURT: Okay.

7 MS. GRAHAM: And actually I had prepared, I guess, it was on a long time  
8 ago, the discovery motion.

9 THE COURT: It was.

10 MS. GRAHAM: So I was able to get one prepared.

11 THE COURT: All right. I was just asking because I didn't have one and I  
12 didn't know if one had been done or not. All right. There's only about 11 things  
13 listed on here, so let's just go through them. Probably quicker to do that than  
14 stopping to read -- read the opposition.

15 Benefits to witnesses, any benefits that have been paid or given to  
16 witnesses by --

17 MS. GRAHAM: Just the statutory fee for appearing.

18 MS. HOJJAT: And, Your Honor, on that one we are requesting actual  
19 documentation of whatever has been handed over because a lot of times we get told  
20 that in court and we never get the documents to actually be able to cross-examine a  
21 witness on it so we do want the documents.

22 THE COURT: What do you mean in regard to Verduzco's medical bills  
23 though?

24 MS. HOJJAT: If -- if there were was any sort of, I mean, it sounds like the  
25 State's making representations that it didn't happen.

1 THE COURT: Okay.

2 MS. HOJJAT: But we have been informed that sometimes Victim Witness,  
3 the program, Victim Witness Advocates, they will pay victims' medical bills.

4 MS. GRAHAM: That's Victims of Crime.

5 MS. HOJJAT: And then they request restitution in the P.S.I.

6 THE COURT: Out of, like, the Victims of Crime fund?

7 MS. HOJJAT: Yeah, that.

8 MS. GRAHAM: That would be the Victims of Crime which --

9 MS. HOJJAT: Yeah.

10 MS. GRAHAM: -- is not --

11 MS. HOJJAT: Exactly.

12 MS. GRAHAM: -- the -- that's a separate entity.

13 THE COURT: Okay. So, yes, if there's any documentary items related to  
14 what fees were paid to the witnesses, give them copies of that as well.

15 Notes of interviews of witnesses, audio-video body camera footage,  
16 specifically Verduzco, Cruz, Gonzales. Is there any audio-video body camera stuff?

17 MS. GRAHAM: No.

18 THE COURT: Okay. Notes to the extent they aren't destroyed, then I will  
19 order those to be disclosed. As I always say, it's usually my experience that the  
20 notes get destroyed once the reports are generated. But if there's any available,  
21 those are discoverable.

22 MS. HOJJAT: Thank you. And just for the record, I know the District Attorney  
23 is making representation that there are no -- none of these things, but if they exist,  
24 they are granted?

25 THE COURT: Yes.

1 MS. HOJJAT: Thank you.

2 THE COURT: Yeah, if somebody were to figure out later on that there was  
3 actually body camera of the incident, then that's discoverable.

4 MS. HOJJAT: Thank you.

5 THE COURT: Criminal histories, that I always say, look, you don't have to --  
6 generally speaking, I think everybody SCOPes everybody, there's not an obligation  
7 to N.C.I.C. everybody unless there's some reason to do that. If there is something  
8 that's potentially exculpatory in an N.C.I.C., you need to go ahead and show it to  
9 them. Likewise, anything else related to criminal history is under *Brady* that's -- or is  
10 potentially exculpatory, that needs to be disclosed as well.

11 MS. HOJJAT: Thank you.

12 MS. GRAHAM: Yes, Your Honor.

13 THE COURT: Four, notes and statements by defendant. Is that just kind of  
14 the generic, if my client made any statements to anybody that aren't memorialized  
15 somewhere we want to know about it?

16 MS. HOJJAT: Yes. Basically if they discover during pretrial that a cop says,  
17 oh, and by the way, he confessed everything to me in the car ride to the police  
18 station, I'd like to know about it.

19 THE COURT: That'd be nice to know.

20 MS. GRAHAM: If I sought -- if I would seek that -- to introduce that statement  
21 I would let them know.

22 THE COURT: All right. If there are any, well, if there's any statements that  
23 the defendant made that aren't memorialized somewhere that you become aware of,  
24 let them know.

25 MS. HOJJAT: Thank you.

1 MS. GRAHAM: And, also --

2 THE COURT: Yes.

3 MS. GRAHAM: -- the best resource for that probably as well would be the  
4 defendant.

5 THE COURT: Well, it's --

6 MS. GRAHAM: But I will do my due diligence in that regard.

7 THE COURT: I don't disagree with you.

8 Okay. Inconsistent statements of witnesses, that's, I think, basically  
9 covered by the obligation to present anything that's potentially exculpatory that  
10 arises, whether it's already known about or becomes known as we get up to trial.  
11 So that's discoverable.

12 Witness contact list, anything to add on that one?

13 MS. HOJJAT: I'm sorry, Your Honor, did we skip number 5, the chain of  
14 custody?

15 THE COURT: Oh, we did skip number 5, I'm sorry. Chain of custody reports,  
16 Ms. Graham.

17 MS. GRAHAM: I don't know what the chain of custody -- is that like the  
18 evidence log on impounded evidence?

19 MS. HOJJAT: Yes, any -- any documentation, what we've often found is if  
20 something wasn't impounded or something's gone missing, they'll create a report  
21 and in addition to that, there is documentation on the packaging of exactly who's  
22 touched it and exactly who it's gone through.

23 THE COURT: Well, I mean, there's a difference between I think what I would  
24 think of at least as a chain of custody report and are you asking to get, like, a picture  
25 copy of the outside of the evidence bag?

1 MS. HOJJAT: Yes, in addition to any reports that may have been generated  
2 about -- a lot of times when C.S.A. impounds something they'll create a report: We  
3 impounded this, we showed up, this is what we saw, this is what we impounded.

4 THE COURT: Okay.

5 MS. HOJJAT: I'm requesting copies of all of that. If there's any sort of report  
6 about, you know, I once had a case where something was impounded and then it  
7 wasn't in the evidence vault, they created a report saying we did impound this, we're  
8 now checking the evidence vault, it's gone missing, we're documenting the fact that  
9 it's gone missing.

10 THE COURT: So any evidence reports --

11 MS. HOJJAT: Yes.

12 MS. GRAHAM: Well --

13 THE COURT: -- that are generated by -- by -- when are officers are listing  
14 everything they've booked into evidence --

15 MS. GRAHAM: Like a property report?

16 THE COURT: --- or the C.S.A. Property reports, yeah.

17 MS. GRAHAM: The property reports, I think counsel has.

18 THE COURT: But also I know what Nadia's talking about with regard to  
19 C.S.A.s, if they generate reports because they're checked something out of the  
20 vault, they've tested it, they've put it back into the vault, that kind of thing.

21 MS. GRAHAM: Okay. There's no C.S.A. in this case.

22 THE COURT: Okay, well, there you go. But in terms --

23 MS. GRAHAM: I just want to --

24 THE COURT: -- of getting copies of the stickers that are on the outside of  
25 evidence envelopes, I mean, that's just, you need to set up a time at the vault --



1 MS. HOJJAT: Right.

2 THE COURT: -- to view the evidence.

3 MS. HOJJAT: And that's -- we actually did go to the evidence vault.

4 THE COURT: Okay.

5 MS. HOJJAT: I can't remember right now if we took a picture, but just -- just  
6 to make sure there's nobody going to stop us from requesting to take the picture.

7 THE COURT: Okay.

8 MS. HOJJAT: The Court saying it's granted would be helpful.

9 THE COURT: Yeah.

10 MS. HOJJAT: Thank you.

11 THE COURT: Okay. Now, back to number 7 --

12 MS. HOJJAT: Yes.

13 THE COURT: -- the witness contact list.

14 MS. GRAHAM: The other thing, I guess, on that is when the defendant fled  
15 from the store, some paperwork dropped out of his backpack, and that was from  
16 C.C.D.C. paperwork.

17 THE COURT: Okay.

18 MS. GRAHAM: So I don't know if -- I don't know whether that was impounded  
19 or not, so I'll find out if that C.C.D.C. paperwork was impounded and let -- let  
20 counsel know.

21 THE COURT: Whether it -- you don't know if it went in the trash, went into  
22 evidence, or went into his property at the jail?

23 MS. GRAHAM: I think it went into his property at the jail.

24 THE COURT: Okay.

25 MS. GRAHAM: But later was possibly impounded, but I haven't been to the

1 evidence vault, so I don't know if that was in there or not.

2 MS. HOJJAT: I was at the evidence vault before he went to Lake's Crossing,  
3 so it's been a while, my memory isn't the sharpest.

4 THE COURT: Okay.

5 MS. HOJJAT: But what I'm recalling is there was some court documentation  
6 in the backpack when we viewed the evidence vault, but there wasn't C.C.D.C.  
7 paperwork that I'm remembering.

8 THE COURT: Okay.

9 MS. GRAHAM: I'll find out about where that document is.

10 THE COURT: Okay. Witness contact list. Anything else on that?

11 MS. HOJJAT: We just ask that it be granted.

12 THE COURT: Okay. Well, I mean, are you asking, like, other than their  
13 obligation to produce it under statute or --

14 MS. HOJJAT: No, no, I'm just requesting that they produce what they're  
15 required to produce under statute.

16 THE COURT: Okay. All right. Yeah, that'll -- that'll be granted, I mean, the  
17 statute is what it is. I always tell people that the earlier those things get filed the  
18 easier it is for people to get ready for trial. But I can't hold either side to anything  
19 other than what's in the statute.

20 Books, documents, photos, et cetera, it sounds like you've reviewed the  
21 backpack contents, paperwork, right?

22 MS. HOJJAT: Yes. Yes. And I had filed this before the evidence vault --

23 THE COURT: Okay.

24 MS. HOJJAT: -- review happened, because this is very -- I filed this a long  
25 time ago.

1 THE COURT: Got it.  
2 MS. HOJJAT: Yes.  
3 THE COURT: Photos? Were there photos that were --  
4 MS. GRAHAM: I don't believe photos were taken.  
5 MS. HOJJAT: I haven't received any photographs.  
6 THE COURT: Okay.  
7 MS. HOJJAT: So if -- to the extent they exist, I would request them.  
8 THE COURT: Okay.  
9 MS. HOJJAT: And then I haven't received A.M.R. reports either.  
10 THE COURT: All right.  
11 MS. HOJJAT: But I do know that A.M.R. responded because it was listed in  
12 the police report.  
13 MS. GRAHAM: But I -- I'm not requesting medical records, there's no  
14 substantial bodily harm --  
15 THE COURT: Okay.  
16 MS. GRAHAM: -- claim, so.  
17 THE COURT: So, you all can subpoena A.M.R. directly and/or get a court  
18 order.  
19 MS. HOJJAT: Okay.  
20 THE COURT: A.M.R. isn't really something that necessarily the State's  
21 always going to have or has any different access than you have access to. But I'm  
22 happy to sign a court order to get that.  
23 Then photos, yeah, if there happen to be any that anybody discovers or  
24 learns about, then go ahead and produce those for the defense as well.  
25 MS. GRAHAM: Well, and I guess, an inquiry I would make is why this victim's

1 private information for A.M.R., if she was treated, would be relevant to this case.

2 THE COURT: Well, I don't know without seeing the reports. But generally, if  
3 there's an A.M.R. report or if fire and medical responds to some type of event and  
4 produces a report, I mean, that's a little different than saying I want to get  
5 somebody's past medical history to just fish around in it.

6 MS. GRAHAM: Okay.

7 THE COURT: That would lead me to think that if A.M.R. responded, there  
8 was something related to the event that they were responding to.

9 MS. HOJJAT: I mean, realistically, Your Honor, the reason I want the reports  
10 is because oftentimes what happens in these cases is there's no substantial bodily  
11 harm charged, but suddenly you've got a victim up there going on and on about all  
12 the injuries they received. I -- I would frankly say --

13 THE COURT: Have you ever sat through any of my personal injury trials?

14 MS. HOJJAT: I have not, but I'm sure it's --

15 THE COURT: Come watch some time.

16 MS. HOJJAT: -- wonderful. Frankly, my objection at that point would always  
17 be to relevance. I don't think it's relevant because substantial bodily harm isn't  
18 alleged, but if the witness was allowed to testify about it, my position would be that  
19 I'm allowed to cross about what injuries they actually -- what doctors noted they had.

20 THE COURT: Okay.

21 MS. HOJJAT: And that would be why we'd want -- I mean, if the State's  
22 willing to say they're not going to have their victim testify to any injuries at all then I  
23 don't need the records.

24 MS. GRAHAM: The only thing I would ask, it's on video, so I would tell her, I  
25 would ask her, What's happening on the video right now?

1 THE COURT: Okay. Well, look, I think it's appropriate from a cautionary  
2 standpoint --

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

4 THE COURT: -- if there were A.M.R. reports that you guys have them. So  
5 why don't you go ahead and prepare a court order and I'll sign it.

6 MS. HOJJAT: Thank you, Your Honor. So for the record, number 8 is  
7 granted except for the A.M.R. records?

8 THE COURT: Yes.

9 MS. HOJJAT: Thank you.

10 THE COURT: Number 9, electronic communications, 3-1-1, 9-1-1, et cetera.

11 MS. GRAHAM: That's been provided.

12 THE COURT: Okay. Video from the store?

13 MS. GRAHAM: That was provided at the preliminary hearing.

14 THE COURT: All right. And there is no other video that you're aware of, I  
15 take it?

16 MS. GRAHAM: Correct.

17 THE COURT: Okay. If there is any other surrounding areas that had video  
18 that's discovered, then make sure you let them know about that as well.

19 Documents pertaining to the identification of the defendant. I'm not  
20 really sure what we're getting at there.

21 MS. HOJJAT: I haven't received anything at this point, usually when they do  
22 a one-on-one show-up there's the statement that they read them, This may or may  
23 not be the person, they have them sign it, things of that nature. I haven't gotten any  
24 of that.

25 THE COURT: Okay.

1 MS. GRAHAM: There's --

2 MS. HOJJAT: So if it exists, I'd like a copy of it. Just basically, the

3 admonition that they read them, they'll often have a copy of it, and they'll have them

4 sign the admonition before they show up.

5 THE COURT: I've never seen that.

6 MS. HOJJAT: Oh, yeah.

7 THE COURT: I know what you're talking about they talk to them about.

8 MS. HOJJAT: Right.

9 THE COURT: I don't know that I've ever in a case had a form though that

10 they did.

11 MS. HOJJAT: I've had cases where --

12 THE COURT: I'm not saying it's that they shouldn't have it --

13 MS. HOJJAT: Yeah.

14 THE COURT: -- and that they maybe don't have it.

15 MS. HOJJAT: I've had cases where both for six-packs and one-on-one

16 show-ups they have an admonition and they have them sign and date that the

17 admonition was read to them before they do the identification.

18 THE COURT: Okay. Are you aware of whether that they have that here?

19 MS. GRAHAM: No, I don't believe one --

20 THE COURT: Okay.

21 MS. GRAHAM: -- of those exists.

22 THE COURT: Make an inquiry as to whether there was an identification form,

23 if you would.

24 MS. GRAHAM: Yes.

25 THE COURT: If there is one go ahead and provide that.

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Okay.

MS. HOJJAT: Thank you. So just for the record, it looks like everything was granted but for under number --

THE COURT: Don't make me go backwards now. Everything was granted --

MS. HOJJAT: All right.

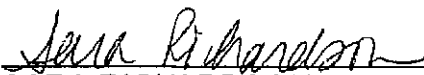
THE COURT: -- exactly as I just laid it out.

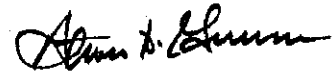
MS. HOJJAT: Thank you, Judge.

PROCEEDING CONCLUDED AT 11:36 A.M.

\*\*\*\*\*

ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
SARA RICHARDSON  
Court Recorder/Transcriber



CLERK OF THE COURT

1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 JOHN DEMON MORGAN,

9 Defendant.

CASE NO. C302450

DEPT. NO. III

10  
11 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
12 DISTRICT COURT JUDGE

13 THURSDAY, FEBRUARY 18, 2016

14 **ROUGH DRAFT**

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**

16 **CALENDAR CALL; DEFENDANT'S MOTION FOR DISMISSAL OR, IN THE**  
17 **ALTERNATIVE, A BILL OF PARTICULARS; DEFENDANT'S MOTION TO**  
18 **COMPEL COUNTS 1 AND 2 TO BE PLED IN THE ALTERNATIVE; AND**  
19 **DEFENDANT'S MOTION IN LIMINE**

20 **APPEARANCES:**

21 For the State:

ELANA L. GRAHAM  
Deputy District Attorney

22  
23 For the Defendant:

NADIA HOJJAT  
Deputy Public Defender

24  
25 RECORDED BY: SARA RICHARDSON, COURT RECORDER



1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 18, 2016, 10:15 A.M.

2 \* \* \* \* \*

3 MS. HOJJAT: John Morgan on page 4.

4 THE COURT: John Morgan, 302450, present in custody. This is on for  
5 calendar call. There's also three motions that were filed.

6 MS. HOJJAT: Yes, Your Honor.

7 THE COURT: In regard to the motions, is there anything -- I've just got to ask  
8 if there's anything to add to the pleadings because I've got a trial starting at 10:30,  
9 so we've got to pick up our pace.

10 MS. GRAHAM: I just have these photos that I gave -- can I approach?

11 THE COURT: The what, I'm sorry?

12 MS. GRAHAM: Photos of the documents that the defendant dropped out of  
13 his bag that were subject to the motion in limine.

14 THE COURT: Oh, yeah.

15 MS. HOJJAT: Your Honor, I can submit it on the motion to compel counts 1  
16 and 2 to be pled in the alternative.

17 THE COURT: Okay.

18 MS. HOJJAT: I have very brief that I wanted to add about the bill of  
19 particulars.

20 THE COURT: Okay.

21 MS. HOJJAT: And then a little bit of argument on the motion in limine but not  
22 too much.

23 THE COURT: All right. You can go ahead.

24 MS. HOJJAT: All right, so --

25 THE COURT: Go ahead and do them all and then I'll let Ms. Graham

1 respond.

2 MS. HOJJAT: Okay. On the motion in limine, I just -- the only thing I want to  
3 add is, Your Honor, the whole thing's on video and it's really clear video, identity's  
4 not an issue in dispute in this case, and we're going to be conceding identity in our  
5 opening.

6 THE COURT: Okay.

7 MS. HOJJAT: So this idea that we need to bring in this information about this  
8 other crime, these documents, in order to prove identity, it's substantially more  
9 prejudicial than probative because we will be conceding identity in opening. There's  
10 really no way to get around identity in this case. Nobody's tried to say it wasn't him.  
11 The dispute is going to be whether the elements of robbery and battery with intent to  
12 commit a crime have been met.

13 THE COURT: Okay.

14 MS. HOJJAT: And so our position would be that these documents should be  
15 kept out because they would prejudice Mr. Morgan substantially and they wouldn't  
16 provide any insight into anything that's in dispute in the trial.

17 THE COURT: Okay. Bill of particulars.

18 MS. HOJJAT: Bill particulars, the only thing that I wanted to clarify because I  
19 wasn't sure if I was clear in my motion, what we're asking is that the State, it's the  
20 second part, the -- basically, what are they alleging is the use of force or fear to  
21 obtain or retain possession of the property. We just believe that they need to be  
22 specific about what they're claiming the use of force is. Obviously, common sense  
23 in this case, I suspect I know, but the point is they don't get to get halfway through  
24 trial and change their theory of this case and that's why we have pleadings, and  
25 without any specificity there, they can get halfway through trial and change their

1 pleadings. And so the point is just we want a little bit of specificity so that everybody  
2 walks into the trial knowing what they're alleging and what we're defending against.

3 THE COURT: Okay. And then you're submitting it on the motion to compel,  
4 right?

5 MS. HOJJAT: That's correct, Your Honor.

6 THE COURT: All right. Ms. Graham.

7 MS. GRAHAM: Your Honor, identity is going to be an issue in this case. The  
8 video shows that a crime was committed, but it doesn't necessarily show who  
9 committed it. A show-up was conducted, two show-ups. One person said, I'm not  
10 sure that's the guy. Another person said that it was the guy. It sounds like maybe  
11 they're -- counsel is going to concede that, but that doesn't mean that the jury needs  
12 to accept it without proof.

13 THE COURT: Well, let's assume, I mean, there's certain things that I think  
14 the defense can concede and stipulate to and eliminate the need for certain things  
15 to be admitted like, you know, ex-felon in possession of a firearm charge --

16 MS. GRAHAM: Right.

17 THE COURT: -- the defense can stipulate to ex-felon status without the need  
18 sometimes, maybe sometimes not. But in this particular case, even if they say, well,  
19 we're going to stipulate to identity and you still feel it's an issue, why do we have to  
20 introduce documents as opposed to just being allowed to have officers testify that  
21 we found paperwork in his backpack, it identified him, it had his name on it?

22 MS. GRAHAM: Well, I mean, to be quite frank with you, an officer's testimony  
23 is not going to be believed by many as it would a piece of paper that was impounded  
24 that was seen on surveillance being dropped. It's best evidence rule. Why would  
25 we -- I mean, I understand why you would want to avoid some things in this case,

1 but there's -- the proof couldn't be any clearer than the black-and-white paper.

2 THE COURT: No, I -- look, I don't dis --

3 MS. GRAHAM: So that's my concern. That's my concern, just to answer the  
4 Court's question regarding that.

5 THE COURT: Okay. All right, what about on the motion to compel? Motion  
6 to compel and the bill of particulars.

7 MS. GRAHAM: The counts 1 and 2 to be pled in the alternative, I'll submit on  
8 my opposition.

9 THE COURT: Okay.

10 MS. GRAHAM: The bill of particulars, I think based on the case law and  
11 what's required for somebody to be able to understand what they're charged with,  
12 it's exactly what is alleged in the information. I spelled it out on page 2, lines 23  
13 through 26, it's all of that conduct that is alleged, is what the State's theory is.

14 THE COURT: Okay. All right, Nadia, anything further?

15 MS. HOJJAT: Yes, just briefly on the motion in limine, Your Honor, this is a  
16 bad act, they're trying to get in a bad act. There's been no *Petrocelli* hearing, this  
17 case was actually dismissed, he never even ended up being adjudicated on it.  
18 Identity, I mean, when we're looking at bad act analysis, identity only becomes an  
19 issue if we raise it as an issue. Again, it turns into, I mean, this is muddying the  
20 record.

21 THE COURT: Well, I disagree with that. I mean, identity is always an issue.  
22 Identity, I mean, read the case law, identity is an issue when somebody pleads not  
23 guilty. As of that moment, they have the obligation to prove identity. It doesn't -- it's  
24 not that they have to wait for your questioning for that, you know, element to kick in  
25 for them. But I also agree that, you know, when somebody's stipulating to it, and I'm

1 assuming that would mean that you would stipulate that there was paperwork found  
2 that had his name on it and it was his paperwork.

3 MS. HOJJAT: And, Your Honor, not only will I do that, the other thing I  
4 wanted to raise with the Court, his resumes were also found in his backpack. If we  
5 want to just have a witness testify that paperwork was found with his name on it and  
6 then when we open the backpack, pull out the resumes with his name on it, I'm fine  
7 with that.

8 THE COURT: Okay.

9 MS. HOJJAT: I'm just trying to keep the bad information that would prejudice  
10 Mr. Morgan out. I'm not trying to fight an identity battle here. I'm going to concede it  
11 in opening, and I'm going to stipulate.

12 THE COURT: Well, look, if there's any other paperwork that's  
13 non-court-related that identifies him, that's still open to the State to use.

14 MS. GRAHAM: Right, but --

15 THE COURT: With regard to the paperwork that was court-related, I do think,  
16 look, even though it's just dealing with a bunch of traffic issues it looks like, there's  
17 still, I mean, in light of the fact that the defense is willing to stipulate that there was  
18 paperwork found with his name on it, I think that cures any concern about somebody  
19 believing the police officer because they're going to be told that a stipulation they  
20 have to accept is proven, so.

21 MS. GRAHAM: Okay, that's fine. And just so Your Honor knows, he didn't  
22 drop his resume. His resume was later in the jail is where it was, so. Just so that  
23 the facts are clear there.

24 THE COURT: All right. And as for the motion to compel, look, I think there  
25 are certain crimes that, yeah, you do make a declaration before trial about, look,

1 yeah, these are pled in the alternative, sexual assault, lewdness with a minor, same  
2 conduct, things like that. A battery with intent to commit a crime and a robbery, I  
3 think can exist separately. I'm not saying that they necessarily do here. It may be  
4 that you don't adjudicate on both of them if he gets convicted on both of them. But I  
5 don't think the nature of the facts here and these two charges, I believe they have to  
6 declare they're, you know, necessarily pled in the alternative. So that's going to --  
7 that's going to be denied.

8 And I'm also going to deny the motion to dismiss or for the bill of  
9 particulars. I think under Nevada law the pleadings in this case are sufficient under  
10 Nevada law to put on notice of what it is that's being defended against.

11 All right, what about calendar call?

12 MS. HOJJAT: Your Honor, we're announcing ready.

13 THE COURT: Okay. State?

14 MS. GRAHAM: State's ready too, five to seven witnesses. The State  
15 believes it can put its case on and conduct its jury selection in two days, two and a  
16 half days.

17 THE COURT: You hear that, Gus? I think that was directed at you.

18 All right, I'm going to send you -- send you to overflow. You'll appear in  
19 front of Judge Barker tomorrow morning at 8:30.

20 In courtroom 10C?

21 THE CLERK: Yes.

22 THE COURT: 10C.

23 MS. GRAHAM: Thank you, Your Honor.

24 THE COURT: All right. And, Ms. Graham, is this your case?

25 MS. GRAHAM: Yes, Your Honor.

1 THE COURT: All right, so assuming we finish our trial today, you could start  
2 this on Monday, right?

3 MS. GRAHAM: Yes, Your Honor.

4 THE COURT: All right. That was also directed at you, Gus.

5 PROCEEDING CONCLUDED AT 10:23 A.M.

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20 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I  
21 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
proofread, corrected, or certified to be an accurate transcript.

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24

25

  
SARA RICHARDSON  
Court Recorder/Transcriber

  
CLERK OF THE COURT

1 RTRAN

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 JOHN DEMON MORGAN,

11 Defendant.  
12  
13

CASE NO. C-15-302450-1

DEPT. XVIII

**ROUGH DRAFT**

**TRANSCRIPT OF PROCEEDINGS**

14 BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE  
15 FRIDAY, FEBRUARY 19, 2016  
16

**OVERFLOW**

17  
18 APPEARANCES:  
19

20 For the State:

ELANA L. GRAHAM, ESQ.  
Deputy District Attorney

21  
22 For the Defendant:

NADIA HOJJAT, ESQ.  
Deputy Public Defender

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24  
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER



1 LAS VEGAS, NEVADA, FRIDAY, FEBRUARY 19, 2016, at 8:34 A.M.

2

3 THE COURT: All right, page 1: C302450, State of Nevada versus John  
4 Morgan. Mr. Morgan.

5 MS. GRAHAM: Good morning, Your Honor.

6 MS. NOJJAT: Good morning, Your Honor.

7 THE COURT: Good morning, Mr. Morgan. We have Ms. Graham on behalf of  
8 the State, Ms. Hojjat on behalf of the Public Defender's Office. Per my notes,  
9 Department 3 originating, 2 to 3 days to try, 5 to 7 witnesses; does that remain an  
10 accurate reflection of trial time, --

11 MS. GRAHAM: Yes, Your Honor.

12 THE COURT: -- Counsel?

13 MS. NOJJAT: Yes, Your Honor.

14 THE COURT: All right. I have you tracked to 22, Judge Susan Johnson.  
15 She's working out of 15D, Monday, 8:30; all right?

16 MS. GRAHAM: B as in boy, Your Honor?

17 THE COURT: What's that?

18 MS. GRAHAM: 15B?

19 THE COURT: D as in dog, David.

20 MS. GRAHAM: Thank you.

21 MS. NOJJAT: Thank you, Your Honor.

22 Your Honor, there was --

23 THE COURT: All right, Mr. Morgan, do you understand -- do you have any  
24 questions about what just happened?

25 THE DEFENDANT: I don't have any questions.

1 THE COURT: All right, good enough.

2 Thank you.

3 MS. NOJJAT: Your Honor, there was one issue. I was going to ask the Court  
4 for a court order. They started shaving his head -- if you can just turn your head for  
5 the judge to see, Mr. Morgan -- they started shaving his head and didn't finish and  
6 obviously he can't go to trial like this.

7 THE COURT: Obviously he needs -- they need to clean that up.

8 MS. NOJJAT: So I would ask -- I'm going to send an order to chambers to  
9 send to the jail to just -- that they --

10 THE COURT: Just as long as you --

11 MS. NOJJAT: -- need to finish.

12 THE COURT: -- coordinate with Post 10 so they're all good. Send an order  
13 either to me or Johnson and we've got to get Mr. Morgan presentable for trial.

14 MS. NOJJAT: Perfect.

15 Thank you, Your Honor.

16 THE COURT: All right, very good.

17 MS. NOJJAT: I appreciate it.

18 [Proceedings concluded at 8:35 a.m.]

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19 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I  
20 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
21 proofread, corrected, or certified to be an accurate transcript.

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CYNTHIA GEORGILAS  
Court Recorder/Transcriber  
Eighth Judicial District Court Dept. XVIII

  
CLERK OF THE COURT

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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,  
  
vs.  
  
JOHN DEMON MORGAN,  
  
Defendant.

CASE#: C302450  
  
DEPT. XXII

BEFORE THE HONORABLE SUSAN JOHNSON, DISTRICT COURT JUDGE  
MONDAY, FEBRUARY 22, 2016

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS  
JURY TRIAL - DAY 1**

APPEARANCES:  
For the State:

GENEVIEVE C. CRAGGS, ESQ.  
ELANA L. GRAHAM, ESQ.  
Deputy District Attorneys

For the Defendant:

ARLENE HESHMATI, ESQ.  
NADIA HOJJAT, ESQ.  
Deputy Public Defenders

ALSO PRESENT:

MARIAH WITT  
Jury Commissioner

RECORDED BY: NORMA RAMIREZ, COURT RECORDER

1 MONDAY, FEBRUARY 22, 2016 AT 8:44 A.M.

2  
3 [Outside the presence of the prospective jury panel]

4 THE COURT: This is the time set for State of Nevada versus John -- is it  
5 Demon or --

6 THE DEFENDANT: Demon.

7 MS. HOJJAT: Demon.

8 THE COURT: Demon Morgan. Thank you. Case number C302450-1.

9 And would counsel please identify themselves for the record.

10 MS. GRAHAM: My name is Elana Graham and this is Genevieve Craggs for  
11 the State.

12 MS. HOJJAT: And Nadia Hojjat and Arlene Heshmati on behalf of Mr.  
13 Morgan who's present in custody but dressed out.

14 THE COURT: Okay. I see that.

15 Okay. You may be seated. Okay. Counsel, before we bring the jury is  
16 there anything that we need to discuss?

17 MS. HOJJAT: I don't think there's anything we need to discuss. But just  
18 because this case has come to Your Honor out of overflow I did want to give a quick  
19 procedural and factual history if the Court would like just in terms of what motion  
20 work has been done and things like that; what's been litigated.

21 THE COURT: Okay. Perfect. Go ahead.

22 MS. HOJJAT: Your Honor, basically Mr. Morgan is charged with one count of  
23 robbery, one count of battery with intent to commit a crime. He -- the allegations  
24 here are that he entered an ampm, took a bowl of soup and a bag of peanuts,  
25 concealed them; was at the cash register paying for some items when he was

1 approached by the manager of the ampm. The allegation is that he punched her  
2 and then fled the scene. He did allegedly leave behind some court documents -- he  
3 dropped some court documents that had his name on them.

4 In terms of litigation that's been done in this case at this point, we did  
5 file a discovery motion that was granted in part, denied in part. We did file a motion  
6 to exclude the court documents that had Mr. Morgan's name on them. We filed it as  
7 a motion in limine; that was heard by Judge Herndon, which is the originating  
8 department. Judge Herndon ruled that any other documents that were on Mr.  
9 Morgan's person can be introduced but no court documents. And he had multiple  
10 court documents. There were some for jaywalking I believe; one for false statement  
11 to a police officer. He ruled that none of those could be introduced to the jury. But  
12 Mr. Morgan had some resumes that had his name on them. He ruled those could  
13 be presented instead to the jury in terms of documents for identification purposes  
14 showing the tie to Mr. Morgan.

15 Other than that we filed a motion for specificity as to Count 2, the  
16 robbery, because we felt it wasn't specifically pled. That was denied. And I believe  
17 that's it in terms of the procedural and factual history?

18 THE COURT: Do you agree?

19 MS. GRAHAM: I would just add that counsel -- in the discussion regarding  
20 the documents that he dropped at the scene, there were only three documents that  
21 he dropped at the scene which were CCDC papers in part that counsel said that  
22 there would be a stipulation or that they're conceding identity in this case.

23 MS. HOJJAT: That's correct. We will be conceding identity in opening and  
24 we'll do a stipulation if --

25 MS. GRAHAM: And so the witness who is going to testify about the

1 documents is merely going to state they were documents with his name on it. He's  
2 not going to describe what the documents were and we're not admitting them into  
3 evidence.

4 THE COURT: Okay.

5 MS. GRAHAM: And that would be pretty much the factual basis.

6 THE COURT: Okay. Are you going to put that stipulation in writing or are you  
7 just going to do it orally?

8 MS. GRAHAM: I don't think it will be necessary based on how the case is  
9 going to proceed, but I think if that's necessary we can include it in a jury instruction.

10 THE COURT: Okay. Well, I kind of hate to have it as a jury instruction.

11 MS. GRAHAM: Okay.

12 MS. HOJJAT: I mean, we --

13 THE COURT: I think it'd just be clearer -- I mean, I like a clear record.

14 MS. GRAHAM: Sure.

15 THE COURT: It would be great just to have a written stipulation between you.  
16 Because whenever it's an instruction then -- I mean, this is a piece of evidence and I  
17 hate to have a jury instruction on a piece of evidence. Obviously we'll have an  
18 instruction on if the parties stipulate you may take that fact as proved.

19 MS. GRAHAM: No problem.

20 THE COURT: So --

21 MS. HOJJAT: Yeah. Yeah.

22 THE COURT: Okay.

23 MS. HOJJAT: And we will be conceding very clearly in opening that it's Mr.  
24 Morgan. Like we're not going to leave anything -- any doubt as to that in our  
25 opening.

1 THE COURT: Okay. All right.

2 Anything else that we need to discuss? I will discuss how we pick a  
3 jury while we're waiting for the jury to come up. We're going to use the time that  
4 way.

5 MS. GRAHAM: Okay. Great.

6 MS. HOJJAT: Perfect.

7 MS. GRAHAM: I was just going to ask about that.

8 MS. HOJJAT: Yeah, that's it.

9 THE COURT: Okay. Anything else?

10 MS. HOJJAT: No. Thank you, Your Honor.

11 THE COURT: Why don't we go get that jury.

12 Okay. The way I pick a jury it's -- actually you'll find that it goes fairly  
13 quickly. We put everybody in the back seats to start; okay. I will introduce my staff.  
14 I will ask you guys to introduce yourselves, introduce -- I don't want any reference to  
15 PDs or anything like that; just defense lawyers. I will -- first we'll start with the State.  
16 Introduce the attorneys. We will have you introduce all the witnesses you intend to  
17 call and then a very brief statement as to what the case is about from your point of  
18 view. When I say brief statement I'm talking about basically a sentence. Then we'll  
19 have the defense get up. You guys get to introduce yourselves, introduce your  
20 client. Identify all the witnesses you intend to call and then a brief statement as to  
21 what the case is about from your point of view.

22 Then I will -- we will start asking the jury the basic 20 questions. The  
23 basic 20 questions encompass, you know, do you know anybody who works at the  
24 District Attorney's Office; do you know the defense attorneys here; do you know the  
25 Defendant; do you know any of the witnesses that the parties intend to call. You

1 know, those -- have you ever served as a juror before, those kinds of questions.  
2 They're very basic. Of course you know what the hot button question is going to be.  
3 Is there any other reason why you cannot serve? That's when we get the flurry of  
4 hands that get up and say there's no way I can serve, you know, in this two day trial  
5 or three day trial. I will be identifying that it is a two day trial -- well, three day trial  
6 just in case. And tell them what the basic schedule is; what the basic rules are, you  
7 know, in terms of scheduling. But the hot button question will be why you cannot  
8 serve. I just listen to what they have to say and then I make them sit down.

9           There is one -- in very rare cases do I not have a juror get up and say I  
10 don't speak English or understand English well. In that case I say well, that's okay.  
11 You know, of course I usually follow it up, how long have you lived in Clark County,  
12 that's when they say 27 years, and then I just say that's okay, if you don't  
13 understand we will put an interpreter in the box with you if you are chosen. You  
14 guys can make that determination whether or like that or not, but when you come  
15 here after my 20 questions then you guys get to -- we get to discuss who should be  
16 let go for cause; okay. Then I will excuse those folks for cause; then we'll start  
17 putting people into the box. We will be putting 13 into the box; obviously 12 jurors  
18 and then one alternate; okay. Do you want that alternate blind?

19           MS. HOJJAT: No, Your Honor.

20           MS. GRAHAM: It doesn't matter to the State.

21           MS. HOJJAT: I'm sorry. Does the Court mean blind to us or blind to the  
22 alternate?

23           THE COURT: Blind to the alternate.

24           MS. HOJJAT: Yes.

25           THE COURT: Okay. You like that?



1 MS. HOJJAT: Yes, please.

2 MS. GRAHAM: The State would prefer blind to the alternate.

3 MS. HOJJAT: Yes, please.

4 THE COURT: Okay. All right. I'm going to let the defense pick your favorite  
5 number between one and 13.

6 MS. HOJJAT: Thirteen, Your Honor.

7 THE COURT: At the last trial they did that too.

8 Okay. All right. So juror number 13 will be the alternate; okay. So  
9 think about that when you're picking the jury. And you get four, four, one, one; okay.  
10 Four peremptories on each side, one for the alternate; okay.

11 This is where we're going to be seating them. Juror number 1 is going  
12 to be in that back seat closest to the door. So it will be one, two, three, four, five,  
13 six, seven. Number 8 is going to be seated between one and two. So it will be  
14 eight, nine, ten, 11, 12, 13. I try and move them as close to the door because those  
15 jurors that are on those back seats have a tendency to look and see what's going on  
16 the prosecution's table so you might want to turn your screen a little bit so they can't  
17 see what's going on.

18 We will allow muffs to amplify sound if we have somebody who's  
19 hearing impaired. And I do tell them to take off the muffs, but be cognizant that  
20 whenever you're at your tables and you got those microphones going they may be  
21 able to hear if they didn't take it off. There's been a time -- at least one time that I  
22 can recall where we had somebody in the back that didn't take it off and they heard  
23 what was going on and I had to excuse him immediately.

24 Okay. Let's see. Then once they are seated that's when the prosecute  
25 -- the State gets up and they ask whatever questions they want to ask; okay. They

1 will sit down; then the defense asks whatever questions they want. You guys can  
2 stand at the podium, you can mic up and walk around the well, have the podium  
3 there, I don't care it's your show; all right. Once the defense sits down that's when  
4 you come back up here; I will ask if you pass them for cause; okay. Let's assume  
5 that there's a juror that somebody's uptight about and I decide to let them go for  
6 cause. Let's assume it's juror number 3; okay. Then I go ahead and let juror  
7 number 3 go. We do not do the musical chair thing. We just take somebody from  
8 the back, the next one in line, and they sit in juror number 3 spot. So you know that  
9 juror number 13 is going to be the alternate no matter what unless you excuse him;  
10 okay.

11               So -- all right. Let's say next round -- by the way, I'm going to suggest  
12 you ask the questions in mass, okay, just because it does make it quicker. Like you  
13 may ask them have you ever been inside the 7-Eleven store in question; okay.  
14 Then you may have a few hands go up. It's just -- it's a lot better than saying juror  
15 number 1 have you been in this 7-Eleven before? Juror number 2 have you? You  
16 know what I mean?

17           MS. GRAHAM: Yes.

18           THE COURT: So it just makes it a lot quicker so you can focus on those  
19 particular prospective jurors.

20               All right. So once you ask them in mass then I envision the second  
21 round you're going to be focusing on that one juror that wasn't here, you know, that  
22 was seated in the back. If you forgot a question in mass before you can still ask it.  
23 I'm not going to restrict you, okay, so go ahead and ask your questions. Maybe  
24 something prompts something; I don't care. You can still ask in mass in each round.

25               Okay. Let's assume second round, we come on up, you guys are okay,

1 pass the entire panel for cause; then I'm going to ask the prosecution for their  
2 peremptory. You tell me what it is, we'll keep track, and then I am the one to  
3 excuse. So I'm either the bad guy or the good guy depending on your point of view;  
4 okay. So then I will excuse -- let's say you perempt juror number 5. Juror number 5  
5 leaves; we put somebody in the five spot, okay, and then we'll do it again  
6 prosecution and defense ask questions. Then let's say you pass juror number 5 for  
7 cause, then I'm going to ask you, you know -- or I should say the panel. Like if you  
8 ask more in mass questions and something comes up that you think they need to be  
9 let go for cause then we can talk about it. But let's -- the next perempt will be the  
10 defense. And then we just go back and forth. Let's say that you want to waive.  
11 That doesn't mean that you get another one on the backend. It means -- like let's  
12 say that the prosecution waives number three, then I'm going to ask the defense,  
13 okay, excuse your number three challenge. Then the next one you have is four and  
14 that will be your last one. Does that make sense?

15 MS. GRAHAM: Yes.

16 THE COURT: Okay. Any questions about how I pick a jury?

17 MS. HOJJAT: I don't have a question. I did just want to briefly make a  
18 record. I'm sorry.

19 THE COURT: Okay.

20 MS. HOJJAT: And I know it's a method of jury selection that multiple courts  
21 use. We do always as the defense just ask that the full -- in this case it will be 23.  
22 Twenty three people be passed for cause before we are forced to start exercising  
23 peremptory challenges.

24 THE COURT: What?

25 MS. HOJJAT: It's --

1 THE COURT: Twenty-three passed for cause?

2 MS. HOJJAT: Because we're going to be exercising five each essentially, so  
3 that would be ten taken out, so 13 plus ten essentially, 23. The reason we request  
4 that is because basically we're exercising our peremptory challenges blind as to who  
5 the next person would be coming into the seat. Peremptory challenges are not  
6 constitutional. They are statutory; however, the point is we should be exercising  
7 them on the four worst jurors, plus one for the alternate. Essentially what ends up  
8 happening in this situation is we could -- we could end up exercising a peremptory  
9 challenge on somebody who's actually -- somebody worse comes into the box.  
10 Essentially we could be harming our client in this method.

11 THE COURT: Well, that's why you should be paying attention on those 20  
12 questions that I ask.

13 MS. HOJJAT: Right. And I understand the Court's -- it's the Court's  
14 discretion. I just wanted to make a record. I do have a case, it's unpublished, it's  
15 not binding authority by any means, but I do think that the Court can always take it  
16 into consideration. People don't normally challenge it. It was challenged once in a  
17 civil case and the Court did find that it's error to make us -- to make either party  
18 exercise a peremptory challenge without knowing who the next person coming up  
19 was, but they found it to be harmless error in that case. I do have the case. I just  
20 wanted to make a record.

21 THE COURT: Okay. Well, you'll know some basic information about the  
22 juror.

23 MS. HOJJAT: Right. But we haven't had the chance to dig into the questions  
24 that we would be asking and things of that nature. Just for the record, the case -- I  
25 did bring a copy for everybody. The case is *[indiscernible] versus Sunrise Hospital*

1 *and Medical Center.* It's an unpublished decision, so again I'm not suggesting that  
2 it's binding on this Court by any means.

3 THE COURT: Okay.

4 MS. HOJJAT: I just wanted to make my record. And if the Court would like a  
5 copy of the case I have brought --

6 THE COURT: I don't need a copy of it. Your request is denied.

7 MS. HOJJAT: Thank you.

8 THE COURT: Okay.

9 MS. GRAHAM: I have just a question. If Your Honor can -- and if you don't  
10 want to do it that's fine. In your general questions if you don't mind asking if  
11 anybody's ever worked as a clerk at a convenience store. And you don't have to  
12 ask that. If you don't want to ask that I can ask everybody and --

13 THE COURT: Yeah, I -- of -- and I don't have a problem if you ask if -- has  
14 anybody had a relative or good friend --

15 MS. GRAHAM: Sure.

16 THE COURT: -- work as one. You know, you can ask those kinds of  
17 questions sure. I usually leave the specifics to the lawyers --

18 MS. GRAHAM: Okay. Thank you.

19 THE COURT: -- as opposed to me asking them.

20 MS. GRAHAM: No problem.

21 MS. HOJJAT: Does Your Honor ask if they've been victims of crime?

22 THE COURT: No.

23 MS. HOJJAT: Okay.

24 THE COURT: In fact, my typical questions, again, have you ever served as a  
25 juror. Of course I'm going to ask the two -- are you a US citizen; have you been

1 convicted of a felony; have you ever been a party to a lawsuit before; have you --  
2 although I do exclude divorces because boy there was one panel half of them were  
3 divorced and they wanted to talk about their divorce, so -- okay. So I do exclude  
4 those unless you guys really think that's important. I do ask if they were a witness to  
5 a lawsuit before; okay. Usually those prompt those kinds of responses, well, I was a  
6 victim and I testified at a court, you know, those kinds of things; okay. And party of  
7 a lawsuit, that usually prompts that -- in fact that has also prompted I was a victim to  
8 a lawsuit or that I was accused, you know, in a case, so -- I mean, I do ask those  
9 questions.

10 MS. GRAHAM: Would Your Honor consider --

11 I don't know if you would like that too?

12 MS. HOJJAT: Yeah.

13 MS. GRAHAM: If Your Honor would consider asking if they have ever been a  
14 victim of a crime or accused of a crime?

15 THE COURT: Okay. I'll go ahead and ask that.

16 MS. GRAHAM: That would be great. We would both, I think, like that.

17 THE COURT: Okay. I'll ask it.

18 MS. GRAHAM: Okay. And I think it would be faster if you did it than if we did  
19 it.

20 THE COURT: Okay.

21 MS. GRAHAM: Usually it's that and if they were particularly dissatisfied with  
22 police, but I can follow up based on their --

23 THE COURT: I think that's a question for you to ask.

24 MS. GRAHAM: That's totally fine.

25 THE COURT: Okay.

1 MS. GRAHAM: Thank you.

2 THE COURT: By the way, area you able to hear them okay? Her  
3 microphone's not quite --

4 MS. GRAHAM: Well, I'll turn it on. I'm sorry.

5 THE COURT: No, it's not you. The big mic.

6 MS. GRAHAM: Oh, this mic.

7 THE COURT: Yeah. Make sure that the big mic is closer to you.

8 MS. GRAHAM: Okay. Will do. Thank you.

9 THE COURT: I had a case -- I'm very sensitive to that because there was a  
10 case that I needed to review before, you know, preparation for a hearing and man I  
11 could barely hear anybody. We had people who were soft-spoken, and then they  
12 weren't by a mic, and I really have an appreciation for what our court staff goes  
13 through.

14 MS. GRAHAM: Mm-hmm.

15 THE COURT: So you'll probably see me doing this to her to make sure she  
16 can hear okay because she doesn't want to interrupt the proceedings saying, hey,  
17 speak up, you know. And I do tell the jurors to use their mom and dad voices. And  
18 if they don't -- never been a parent then I ask them to use their coach voice because  
19 sometimes I'll say have you ever been a coach? Yeah. Well, use your coach voice  
20 so that we can hear you. And so -- I know it's going to sound distracting, but it does  
21 make a better record when we do say could you put that microphone closer up to  
22 your mouth, that kind of thing.

23 MS. GRAHAM: No problem.

24 THE COURT: Okay. Any other questions about how I pick a jury?

25 MS. GRAHAM: Not from the State.

1 THE COURT: Okay.

2 MS. HOJJAT: Not from the defense, Your Honor.

3 THE COURT: Okay. You'll -- it actually goes pretty fast after you see how it  
4 goes.

5 THE COURT RECORDER: Should I go off the record?

6 THE COURT: We can go off the record.

7 [Off the record at 9:02 a.m.]

8 [Proceedings resumed at 9:20 a.m.]

9 [Outside the presence of the prospective jury panel]

10 THE COURT: We are on the record, counsel. And we -- you've just given me  
11 the State's exhibits. And it is my understanding the defense is going to stipulate to  
12 the admission of all except one and eight.

13 MS. HOJJAT: That's correct, Your Honor. Photograph number 1 and  
14 photograph number 8 we are objecting to. We don't have a problem with the rest of  
15 the photographs, but two photographs -- well, first of all let me back up. Substantial  
16 bodily harm isn't charged in this case. Actually -- really technically none of the  
17 injuries are relevant to the case. She's only charge -- he's only charged with  
18 robbery and battery with intent to commit robbery, so any of the victim's injuries  
19 would not be terribly relevant. Those two pictures particularly our position is they're  
20 more prejudicial -- they're substantially more prejudicial than probative because they  
21 don't go to any element and they show the victim crying in both of them and it's just  
22 going to prejudice the jury. There's no probative value to this case to the elements  
23 here. The elements here are for them to show a taking and to show force. There is  
24 a video surveillance in this case. The video surveillance will show a battery. We'll  
25 actually be conceding a battery in opening as well. But showing her crying to the



1 jury it's just prejudicial. It doesn't provide any insight to whether or not a robbery  
2 happened here.

3 MS. GRAHAM: Your Honor, they're absolutely relevant. One, the injuries are  
4 relevant to show a battery occurred and a robbery occurred. The fact that those  
5 pictures are taken of the victim immediately after she was robbed are relevant. One  
6 of the elements of robbery is threat of force, as well as fear; that the victim was in  
7 fear. I don't think anything could capture that quite more than how she appeared  
8 immediately after the crime. So they're absolutely relevant. They're not overly  
9 prejudicial. It's of the victim immediately after -- where we have to show fear, threat  
10 of force. And for those reasons they're absolutely relevant and they should come in.

11 MS. HOJJAT: And, Your Honor, just to summarize what the evidence is going  
12 to be. The video is going to show her being hit. She's going to get up and testify  
13 that she was scared. The other photographs encompass every single injury that's  
14 shown in one and eight. There's no injury in one or eight that is not encompassed in  
15 the other photographs. We're just asking that the jury not be shown photographs of  
16 her crying that can't be presented with other evidence, which there is plenty of other  
17 evidence that shows anything that would be proven by one or eight.

18 THE COURT: Okay. Counsel, I don't see a problem with these photographs  
19 as long as there's not an authentication issue, which I assume there's not because  
20 they were taken the same time as the other photos; right?

21 MS. HOJJAT: That's correct.

22 THE COURT: Okay. Because I -- I mean, what's the difference. She might  
23 get up and say that she was crying. I assume she might be getting up on the stand,  
24 so what would be the difference?

25 MS. HOJJAT: I mean, our position is it's just -- it's substantially more

1 prejudicial than probative at this point. There's no probative value to her crying.

2 THE COURT: Okay. Counsel, I see no reason -- I mean, you can go ahead  
3 -- during the trial go ahead and lodge your objection, but I don't see a problem with  
4 them. Do you want me to go ahead and make the ruling now?

5 MS. HOJJAT: I mean, we just wanted to raise it as a housekeeping matter. I  
6 thought it might be more efficient --

7 THE COURT: Okay.

8 MS. HOJJAT: -- than doing it during the trial.

9 THE COURT: Okay. I don't see a problem with these. I mean, I would -- if  
10 you were to lodge your objection later depending on what the witness says or  
11 whatever; I just don't see them as any different than the others. And -- well, she's  
12 crying. I mean, what's the difference of her getting up and saying yes, he hit me and  
13 I started to cry. You know, I don't know the difference, so -- okay?

14 MS. HOJJAT: Okay. Thank you.

15 THE COURT: So you know what my position is.

16 MS. HOJJAT: Thank you.

17 THE COURT: Okay. We see that Officer Black is here.

18 MS. GRAHAM: So, Your Honor, I guess -- can we put the stipulation on now  
19 that they're admitted, besides those two --

20 THE COURT: Well --

21 MS. GRAHAM: -- before evidence?

22 THE COURT: -- what we're going to do is when the jury is picked --

23 MS. GRAHAM: Great.

24 THE COURT: In fact, hopefully both Ms. Murphy and I will remember, but  
25 once they're picked, before you start your opening, that's when I'd like to have

1 somebody either say Your Honor, we've stipulated to the admission of all exhibits,  
2 except Exhibits 1 -- State's 1 and 8. And then I'll ask you, and you'll say yep, yep,  
3 yep, and then I can go ahead and say that they're admitted. And then you can  
4 make a decision now, or later, while we're working on these whether you want to  
5 worry about one and eight. If you want to still lodge your objection I'll force them to  
6 go ahead and lay the foundation for it; okay?

7 MS. GRAHAM: Great. I'll do that then before we start.

8 MS. HOJJAT: I mean, I guess to expedite things. My objection is not to  
9 foundation. I'm not going to object to foundation. My objection is solely that it's  
10 more prejudicial than probative and that it's not relevant.

11 THE COURT: Okay.

12 MS. HOJJAT: So I'll stipulate to foundation. I don't want to force them to lay  
13 foundation for photographs or anything like that.

14 THE COURT: Well --

15 MS. HOJJAT: I am solely object -- if I can just reserve my objection now to --

16 THE COURT: Well, maybe the way we can handle it would be when you  
17 guys put that stipulation on the record concerning everything except one and eight,  
18 you can say, Your Honor, the only objections we got to Exhibits 1 and 8 are that  
19 they're not relevant, or even if they were considered relevant they're more -- they're  
20 substantially prejudicial. You can go through that and I can say -- I could just say,  
21 counsel, I've looked at those photographs and I'm going to go ahead and allow the  
22 admission of them. And then you've got your record and then we -- then everybody  
23 can use the exhibits.

24 MS. HOJJAT: Perfect. And for the record, we don't have to do that in front of  
25 the jury; right? I mean, we can just -- once the case has started.

1 THE COURT: Well, I was going to have them go ahead and hear the  
2 stipulations because they've got to hear what's stipulated in --

3 MS. HOJJAT: Okay.

4 THE COURT: -- before you guys do your opening.

5 MS. HOJJAT: I'll just stipulate to foundation on everything, how about that?

6 THE COURT: Okay. Well, you could say --

7 MS. HOJJAT: I'll just do that. Yeah.

8 THE COURT: -- you stipulate to foundation --

9 MS. HOJJAT: Yeah.

10 THE COURT: -- but you object -- you want to reserve your objection.

11 MS. HOJJAT: Yes.

12 THE COURT: You don't want to say I stipulate to the admission.

13 MS. HOJJAT: No -- yes -- no, I won't be stipulating to the admission. I'll just  
14 stipulate to foundation and reserve my objections as previously noted.

15 THE COURT: Okay. By the way, one thing we are starting to do -- just be  
16 careful, and I'm probably just -- wait, wait, wait. We got to -- we can't speak over  
17 each other. My court recorder is very good, but she's never mastered the art of  
18 taking down two people at the same time. Okay.

19 Anyway, why don't you look over this -- your jury sheets and see if  
20 there's anything that you got a problem with.

21 MS. GRAHAM: State's good.

22 THE MARSHAL: Your Honor, I'll be right back.

23 THE COURT: Okay.

24 Okay. Tell me whenever you're ready.

25 MS. HOJJAT: Defense is ready, Your Honor.

1 THE COURT: Okay.

2 MS. GRAHAM: State's ready.

3 THE COURT: All right. Let's bring those jurors in.

4 [In the presence of the prospective jury panel]

5 THE COURT: You all may be seated.

6 Good morning. The case that we're about to call is State of Nevada  
7 versus John Demon Morgan, case number C302450-1, and this is the time set for  
8 trial.

9 Ladies and gentlemen, good morning. My name is Susan Johnson and  
10 I am the district court judge here in Department 22. This is the courtroom that I  
11 typically occupy in this courthouse. Before we get started for trial, which by the way,  
12 from a scheduling standpoint the attorneys are telling me that it is anticipated to go  
13 at most three days. And this is what the schedule would be. Today of course we go  
14 from now until we end at five. We would be getting a lunch hour of courses. There  
15 will be bathroom breaks as well and I'll get into that schedule in just a moment. We  
16 would start tomorrow at one o'clock. Why? Because I have such a heavy motion  
17 calendar we're lucky if we get 15 minutes between finishing our motion and starting  
18 trial. Wednesday -- if the case goes into Wednesday, and there's a good chance  
19 that it won't, we would start at two o'clock. And the attorneys are letting me know  
20 that it is anticipated that we'd be done certainly by Wednesday afternoon.

21 Now understand this is an estimate, things happen, and if we go over a  
22 little bit please understand we're doing the best we can. And I will be asking for your  
23 cooperation in a lot of ways to make sure we make that schedule. One of the things  
24 I will ask is you are all like brides, so make sure you are on time whenever we take a  
25 break. For example, don't go out and go, you know, 30 minutes away to go get

1 lunch or something. So make sure that you are on time. Also I will be having  
2 regular bathroom breaks. I anticipate that we will probably take one around 11 or  
3 so. Please time them because every time somebody needs to take a bathroom  
4 break we would literally have to clear the courtroom. We can't just say okay, go out  
5 for a little bit and come right back because every one of you need to hear everything  
6 that is said; okay. So if we can time things -- I will try and make sure that we are  
7 taking breaks every hour and a half because I do realize that we all need to stand up  
8 and walk around a little bit and take a break; okay. We will also take lunch from  
9 about noon until 1:15. And then of course we will take our break -- I'll see how we're  
10 going. It'd be about 3:15 or so that we would take a break for bathroom; okay.

11           Before we get started I'd like to introduce my staff. The lady who is  
12 directly to my right is Melissa Murphy. She is the court clerk and she's taking care  
13 of exhibits. She takes care of the minutes of what's going on in the courtroom. And  
14 as I would say, generally keeps me straight, okay, as far as making sure that I do  
15 what I need to do. She does a very good job of it by the way.

16           The lady next to her is a court -- is our court recorder, Norma Ramirez.  
17 And you see her typing. She is literally taking down every word that is said, so you  
18 might want to keep it clean; okay. Also she would ask -- because we are recording  
19 everything -- everything is videotaped. Please make sure that when you respond --  
20 we're going to be passing around a microphone and I'm going to explain that in a  
21 moment. But I'm going to ask that you speak up. Do not talk over either me or the  
22 lawyers when we're asking you a question. That is let us get our question out and  
23 then you go ahead and respond. And if I or the lawyers interrupt you we are going  
24 to take step back. Also don't talk really, really fast; that is tone it down from the  
25 78 rmp down to a 33  $\frac{1}{3}$  rpm. Those of you who are over 40 will understand exactly

1 what I'm talking about; okay. So try and just understand. If you are going a little fast  
2 I know I'm going to get an indication from my court record and I'm going to ask that  
3 you repeat it, which as you can imagine will take a little bit of time, so -- also, when  
4 you respond use your mom and dad voices, if you know what I mean. If you've  
5 never been a parent then use your coach voice, if you know what I mean, okay,  
6 when you respond.

7 All right. The gentleman in the back with that uniform on -- we always  
8 love a guy in a uniform; right? Well, that is Officer Nate Black. And he's the one  
9 you're going to have the most interaction with. If you've got a question about  
10 procedure he could probably answer those questions. If there's a question that you  
11 have that he cannot answer, he will get back to you because he's going to have to  
12 report to me about that. He can answer basic questions about where you should be;  
13 where are some decent places to eat around -- close to the courthouse. He would  
14 be the one to talk to about parking. If you've got a concern about needing a letter  
15 for your employer he would be the one to ask about those kinds of things; okay.

16 Now I have introduced us and the staff. At this point I'd like the lawyers  
17 to introduce themselves, so I'm going to start with the State. I need you to introduce  
18 yourselves, and make sure that microphone is close to you; identify all the witnesses  
19 you intend to call and then a very short statement as to what the case is about from  
20 the State's point of view.

21 MS. CRAGGS: Yes, Your Honor.

22 Good morning. My name is Genevieve Craggs and this Elana Graham.  
23 We are both deputies at the District Attorney's Office, so we represent the People of  
24 the State of Nevada. We are the prosecutors in this case.

25 In this case the Defendant is charged with one count of robbery and

1 one count of battery with intent to commit a crime. This arises out of events that  
2 occurred on October 30<sup>th</sup> of 2014 at 4605 East Flamingo Road here in Clark Count,  
3 Nevada.

4 Please listen carefully as I read this list of names, as these are  
5 witnesses that we may be calling in our case in chief. Rubi Cruz, Ed Dougherty,  
6 Mario Gonzales, Officer Cesar Ibarra, Sergeant Landon Law, Michael Moody,  
7 Officer Nathan Rivera, Officer John Squeo, and Mario -- Maria Verduzco. Thank  
8 you.

9 THE COURT: Okay. At this time I'd like to invite the defense lawyers to  
10 introduce themselves, their client; identify all the witnesses they intend to call and  
11 then a very brief statement as to what the case is about from their point of view.

12 Counsel.

13 MS. HOJJAT: Thank you, Your Honor.

14 Good morning, ladies and gentlemen. My name is Nadia Hojjat,  
15 together my co-counsel Arlene Hesmati. We have the privilege and the pleasure of  
16 representing Mr. John Morgan. Mr. Morgan has pled not guilty to the charges  
17 against him.

18 You will hear during this trial, and we will submit to you, that while Mr.  
19 Morgan did commit a battery, and he will take responsibility for that, he is not --

20 THE COURT: Can you hear?

21 THE COURT RECORDER: I can't.

22 THE COURT: Is your microphone on, counsel?

23 MS. HOJJAT: It is on.

24 THE COURT: Why don't you pull that up because I can barely hear you and  
25 I'm sorry to interrupt you. Go ahead and --



1 MS. HOJJAT: I'm sorry. Could you all hear me or would you like me to start  
2 over. Sorry about that.

3 We will submit to you, ladies and gentlemen, that while Mr. Morgan is  
4 guilty of a battery, and he has taken responsibility for battery, you will see during the  
5 course of this trial that he did not commit a robbery; that he did not commit battery  
6 with the intent to commit robbery. Thank you.

7 THE COURT: Okay. Ladies and gentlemen, we're about to begin the voir  
8 dire examination of the jury. At this point the court clerk is going to take a roll of the  
9 prospective jury panel and then I will have you take an oath; all right?

10 MS. HOJJAT: And, Your Honor, I'm sorry. Could we approach briefly?

11 THE COURT: Okay. Sure. Turn off the microphones.

12 [Bench conference -- not transcribed]

13 THE COURT: Okay. Ms. Murphy.

14 When your name is called would you please use your mom and dad  
15 voices and say either present or here.

16 [The clerk calls roll of the prospective jury panel]

17 THE COURT: Is there anyone whose name was not called?

18 All right. If you would all please stand and raise your right hand.

19 [The prospective jury panel was sworn in by the clerk]

20 THE COURT: Okay. You all may be seated.

21 Okay. Ladies and gentlemen, we're about to begin what we call the  
22 voir dire examination of all of you. The term voir dire means loosely translated to tell  
23 the truth. During this process you will be asked questions bearing upon our ability to  
24 sit as fair and impartial jurors. The Court, the lawyers, and all persons involved in  
25 this case are deeply interested in having this matter tried by a jury composed of 12

1 open-minded people who are completely neutral and who have no bias or prejudice  
2 towards or against either side.

3 Now you will note though that we are actually going to be sitting 13  
4 people in the jury box. One of those folks are going to be the alternate juror. That  
5 alternate juror will be blind, meaning we know who that person is, but no one will  
6 know who that is; okay. Assuming that we actually go through the trial and send the  
7 12 back with the alternate out there, that alternate will not be deliberating. That  
8 alternate is there in case somebody get sick or something happens to one of the  
9 regular jurors either during deliberation or, you know, during the trial something  
10 happens with that juror; okay.

11 In order to accomplish the desired result of having 12 open-minded  
12 people it is necessary for me to ask you some questions. The lawyers, if they  
13 choose, will also be given this opportunity. It is not our desire to unnecessarily pry  
14 into your personal lives. Although some of the questioning may at times seem  
15 somewhat or even intensely personal, our only objective is to determine whether  
16 there is any reason why any of you cannot sit as fair and impartial jurors in this case.

17 Wide discretion is vested in the trial judge as to the method of  
18 examination of jurors. Thus, from time to time I may entertain objections or  
19 intervene if I or any of the lawyers feel there is a problem with the way the  
20 examination is being conducted.

21 The following areas of inquiry are not properly within the scope of your  
22 voir dire examination by counsel. One, questions already asked and answered by  
23 the Court and other counsel. Two, questions touching upon anticipated instructions  
24 on the law. Three, questions touching upon the verdict a juror would return when  
25 based upon hypothetical facts. Four, questions that are in substance arguments of

1 the case.

2 Ladies and gentlemen, it is important that you know the significance of  
3 full, complete and honest answers to all the questions we're about to ask you. I  
4 caution you not to try to hide or withhold anything which might indicate bias or  
5 prejudice of any sort by any of you. Should you fail to answer truthfully, or if you  
6 hide or withhold anything touching upon your qualifications, that fact may tend to  
7 contaminate your verdict and subject you to further inquiry, even after you're  
8 discharged as jurors.

9 Your decision should be based upon all the evidence presented during  
10 the trial and not based upon preconceived prejudice or bias. Prejudice is a  
11 predisposition against something or someone and bias is a predisposition in favor of  
12 something or someone.

13 I'm going to conduct a general voir dire examination of all of you. Now  
14 this is the way we're going to do it. You see Officer Black back there and he's got a  
15 microphone. And you're going to almost feel that we are in the Jerry Springer show  
16 but we're not; okay. What I need you to do is -- I'm going to ask a question of all of  
17 you and if you want to answer in the affirmative please raise your hand, and don't  
18 raise it here, raise it up high so we can see it. And then I need you to -- we'll direct  
19 you and then we'll ask you put that microphone as close to your mouth without  
20 eating it, and state your name and your badge number and then you respond to the  
21 question. And the badge number is just the last three numbers; okay.

22 All right, first question. Has anyone here been convicted of a felony?  
23 Okay, sir.

24 PROSPECTIVE JUROR #049: My name is Kevin Johnson, badge number  
25 049. And I have been convicted of a felony back in 2001, 2002.

1 THE COURT: Okay, 2001, 2002?  
2 PROSPECTIVE JUROR #049: I believe it was 2002 that I --  
3 THE COURT: All right.  
4 PROSPECTIVE JUROR #049: -- was actually convicted.  
5 THE COURT: Okay. And did you serve -- what was the crime by the way?  
6 PROSPECTIVE JUROR #049: Discharging a firearm from motor vehicle and  
7 battery with the use of a deadly weapon.  
8 THE COURT: Okay. And you actually were convicted of a felony?  
9 PROSPECTIVE JUROR #049: Yes.  
10 THE COURT: Okay. I take it you served?  
11 PROSPECTIVE JUROR #049: I did prison time and did parole.  
12 THE COURT: Okay. How much time did you serve, sir?  
13 PROSPECTIVE JUROR #049: Three years.  
14 THE COURT: And so your term ended in 2005?  
15 PROSPECTIVE JUROR #049: I was released at the end of 2004. I started  
16 parole and then I believe I did three or four years of parole.  
17 THE COURT: Okay. When were you discharged from parole?  
18 PROSPECTIVE JUROR #049: Hmm. I'm not exactly sure. I want to say  
19 2000 -- the end of 2008, maybe the beginning of 2009.  
20 THE COURT: Okay. Were you discharged honorably?  
21 PROSPECTIVE JUROR #049: No, dishonorable discharge.  
22 THE COURT: Okay. Thank you very much, sir.  
23 PROSPECTIVE JUROR #049: All right.  
24 THE COURT: Anyone else?  
25 THE MARSHAL: Anyone else over here? Anybody over here? No.

1 THE COURT: Okay. Is there anyone who is not a United States citizen?  
2 THE MARSHAL: Anybody here?  
3 THE COURT: Okay. Is there anyone who is acquainted with the two lawyers  
4 representing the State?  
5 THE MARSHAL: Anybody over here?  
6 THE COURT: Yes, ma'am. I need you to stand; state your badge number  
7 and your name.  
8 PROSPECTIVE JUROR #005: Clementine Wilson, badge number 0005.  
9 THE COURT: Put that microphone close to your mouth, ma'am. We can't  
10 hear you.  
11 PROSPECTIVE JUROR #005: Clementine Wilson, badge number 005. I had  
12 the pleasure of knowing Ms. --  
13 THE COURT: Okay. I can't have you putting it here or up here.  
14 PROSPECTIVE JUROR #005: I've had the pleasure of knowing Ms. Elana  
15 Graham. I worked under supervision with her mother at the Nevada Senior  
16 Program. I did on-the-job training there with AARP; yeah.  
17 THE COURT: When did that happen?  
18 PROSPECTIVE JUROR #005: Back in May of last year.  
19 THE COURT: Okay. Have you seen Ms. Graham since May of last year?  
20 PROSPECTIVE JUROR #005: No, I haven't, except for just like  
21 corresponding back and forth after I left the firm.  
22 THE COURT: Okay. Is there anything about that relationship that would  
23 cause you difficulty being fair to both sides?  
24 PROSPECTIVE JUROR #005: No, it would not.  
25 THE COURT: Okay. You could be fair to the Defendant?

1 PROSPECTIVE JUROR #005: Sure.

2 THE COURT: Okay. Thank you.

3 PROSPECTIVE JUROR #005: Mm-hmm.

4 THE MARSHAL: Anybody else on this side?

5 THE COURT: Okay. Is there anyone who knows anyone who works at the  
6 Clark County District Attorney's Office?

7 Yes, sir.

8 PROSPECTIVE JUROR #060: My name is Danny Jackson, juror number  
9 060. I know an officer that works at the District Attorney's Office.

10 THE COURT: An officer?

11 PROSPECTIVE JUROR #060: Yes.

12 THE COURT: Is he an investigator or what?

13 PROSPECTIVE JUROR #060: No, he's just an officer at the security  
14 entrance to the District Attorney's Office.

15 THE COURT: What's his name?

16 PROSPECTIVE JUROR #060: Art Lindsey [phonetic].

17 THE COURT: Okay. How well do you know Mr. Lindsey?

18 PROSPECTIVE JUROR #060: We've been friends for five years.

19 THE COURT: Okay. And what's -- I mean, when you say you're friends, do  
20 you see -- or like are -- you see each all the time, do you go to lunch together. Tell  
21 me a little bit about your relationship.

22 PROSPECTIVE JUROR #060: No, we met at church and we became good  
23 friends at church. And then he moved and I don't see him on a regular friend basis,  
24 but when I go down there to do anything related to my child support cases at the  
25 District Attorney's Office I sometimes see him there.

1 THE COURT: So he's an officer that stands by the Clark County District  
2 Attorney's Office, family court's division?

3 PROSPECTIVE JUROR #060: Yes.

4 THE COURT: Okay. All right. When was the last time you saw him?

5 PROSPECTIVE JUROR #060: A few weeks ago at church.

6 THE COURT: Okay. Is there anything about that relationship that would  
7 cause you difficulty sitting as a juror in this case? That is, could you be fair to both  
8 sides?

9 PROSPECTIVE JUROR #060: Absolutely.

10 THE COURT: You could be fair to the Defendant?

11 PROSPECTIVE JUROR #060: Yes.

12 THE COURT: Okay. Thank you.

13 Anyone else?

14 THE MARSHAL: Anybody else on this side? No. Anybody over here?

15 THE COURT: Okay. Is there anyone who knows the two defense lawyers  
16 who are sitted -- seated over here?

17 Anyone know the Defendant, Mr. Morgan?

18 Anyone know the -- any of the witnesses whose names were previously  
19 mentioned?

20 Okay. Are there any of you who believe that you may have heard or  
21 read about this case before coming here today?

22 Does anyone know anything about this case other than what has been  
23 stated in the courtroom today?

24 Is there anyone who has such a sympathy, prejudice or bias related to  
25 age, religion, race, gender or national origin that they feel would affect their ability to

1 be open-minded, fair and impartial jurors?

2 Is there -- are there any of you who believe that for any other reason  
3 you'd be unable to serve in this particular case? Okay, I see some hands over here.

4 THE MARSHAL: Anybody over here? We'll start here.

5 PROSPECTIVE JUROR #075: I'm Dennis Eichel, badge number 75. Just  
6 want to bring to your attention that I have a problem with my short-term memory.  
7 And it probably comes from age. Also in 1999 I had an industrial accident where I  
8 had injury to my brain. So it gives me trouble with reasoning -- reasoning through  
9 things and just general short-term memory.

10 THE COURT: Okay. Are you telling me that perhaps like if there's evidence  
11 taken today that you may not remember it by Wednesday if that's when the jury is  
12 deliberating?

13 PROSPECTIVE JUROR #075: Possibly, yes.

14 THE COURT: Okay. You say possibly. Is there a good probability, a  
15 certainty of that?

16 PROSPECTIVE JUROR #075: A good probability.

17 THE COURT: Okay. Thank you very much for sharing.

18 Anybody else on this side?

19 THE MARSHAL: Anybody else over here?

20 THE COURT: Okay, I see a hand in the front row.

21 THE MARSHAL: Anybody in the front row?

22 THE COURT: Nate. Nate. Nate, front row here.

23 I'm sorry. I want to take one side at a time.

24 Yes, ma'am.

25 PROSPECTIVE JUROR #053: Hi. My name is Quinnecia Meadows and I'm



1 Juror 053. Though it's an honor to be in here, it's my very first time as I shared with  
2 the deputy, I have a brother that was convicted five years ago of battery and  
3 burglary. And I knew what took place, but he was being charged with charges that  
4 were closely related to what happened based on a witness statement and the actual  
5 victim. So just in all honesty, it's a little more personal because it's kinda hard to do  
6 stuff like this when you don't really know whose witness statements to trust or who  
7 to listen to when it comes to things like that. And it is still on his criminal record. It  
8 was a felony and he did serve jail time as well, so --

9 THE COURT: How long did that happen -- how long ago?

10 PROSPECTIVE JUROR #053: It was in -- I'm sorry. It's a little -- just a little  
11 bit -- just -- and too, I just wanted to --

12 THE COURT: Hold on a second. We'll get you a Kleenex; okay.

13 PROSPECTIVE JUROR #053: I just wanted to share with you as well, just  
14 because of my current circumstances it would be hard for me to fairly make a  
15 judgment as a result of the race of the young man as well.

16 THE COURT: Okay. When did this occur involving your brother?

17 PROSPECTIVE JUROR #053: It was in 2007 -- 2006 or 2007. It was actually  
18 in the State of Florida. My brother had a domestic situation with a girl he lived with  
19 and she locked him out. So he tried to enter into the apartment and that's the  
20 burglary charge that he received. And then battery was the gentleman that was in  
21 there with his girlfriend. And their witness statements say that he assaulted the  
22 gentleman and he did not.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR #053: So that's what I mean by charges that are not  
25 necessarily, you know, completely descriptive of what the person was doing, but

1 they're the closest charges to what took place. And the only two witnesses were the  
2 victim and her -- her new mate, so I kinda feel like the odds were against my brother  
3 at that point.

4 THE COURT: Okay. So you're telling me that you -- given what you're telling  
5 me, you're telling me you -- sitting here today that you could not be fair to either one  
6 or the other side?

7 PROSPECTIVE JUROR #053: No, I'm telling you that I could attempt my  
8 best to be very fair as a -- listening to the district attorneys, but it would be a little bit  
9 difficult for me just considering, you know, where was he, what was happening,  
10 things of that nature. So it would be harder for me just because it is charges that  
11 are familiar with a situation that I had to walk through with my older brother. So I  
12 can attempt to. It wouldn't be me being unfair to one side, but me more or less  
13 being biased to the other one.

14 THE COURT: Okay. Let me ask it this way. Both parties are right now at the  
15 start line.

16 PROSPECTIVE JUROR #053: Mm-hmm.

17 THE COURT: In your view is one ahead of the -- ahead of the start than the  
18 other?

19 PROSPECTIVE JUROR #053: Yes.

20 THE COURT: Which side?

21 PROSPECTIVE JUROR #053: Which one is ahead of the start?

22 THE COURT: Yes.

23 PROSPECTIVE JUROR #053: The district attorney.

24 THE COURT: They're ahead?

25 PROSPECTIVE JUROR #053: Yes. Either that or he's behind.

1 THE COURT: In your mind?

2 PROSPECTIVE JUROR #053: Yes.

3 THE COURT: In your mind, sitting here today, start line you're telling me that  
4 the district attorney is ahead of the defense?

5 PROSPECTIVE JUROR #053: Absolutely.

6 THE COURT: Okay. Thank you.

7 THE MARSHAL: Anybody else over here? Front row, anyone?

8 THE COURT: I need you to state your name and your badge number.

9 PROSPECTIVE JUROR #005: Clementine Wilson, 005. I know it might  
10 seem redundant, but as we speak, I should be getting X-rays now because I put it  
11 off for a knee. And hopefully it's not gonna be running into a knee placement. So  
12 I'm just barely here, you know, walking today because of a knee injury that I need to  
13 take care of, so --

14 THE COURT: When's your appointment?

15 PROSPECTIVE JUROR #005: Well, I had to put it off last week because I  
16 was -- had came down with the flu, but I do have documents in my bag stating that I  
17 should be out at Southwest Medical getting -- having an examine for this knee that's  
18 been bothering me for a while 'cause I kinda fell and it's like pulling in the back and  
19 I'm in pain but I'm here.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR #005: Yeah.

22 THE COURT: Well I will tell you that we will not be starting until one  
23 tomorrow.

24 PROSPECTIVE JUROR #005: Uh-huh.

25 THE COURT: And if you go into Wednesday we will not be starting until two

1 tomorrow. So you could arrange your X-rays either tomorrow morning or --

2 PROSPECTIVE JUROR #005: Well, it's not that then. Also --

3 THE COURT: Wait, wait, wait. Ma'am, now you're interrupting me; okay. I  
4 told you early on rules of the game because I got a court recorder here; she can't  
5 take us both down at the same time. But you could take your X-rays either  
6 tomorrow morning or Wednesday morning. Is there a problem?

7 PROSPECTIVE JUROR #005: Well, I do work in -- I work with substance  
8 abuse and individuals with disabilities that have brain and neurology disorders and I  
9 work at night, so once I leave there I would have to go. But it's just I couldn't get it  
10 taken care of today. I was thinking that I was gonna get it taken care of the week of  
11 -- I will leave the jury duty. But like I said, once I don't know how long the process  
12 would take today because I would have to go tomorrow to get it X-rayed because  
13 coming down with the flu kinda like threw me back, you know. I haven't, you know,  
14 taken care of that issue.

15 THE COURT: Okay. Thank you.

16 PROSPECTIVE JUROR #005: Mm-hmm.

17 PROSPECTIVE JUROR #009: Shaeann Clements, 009. I have -- I'm  
18 disabled. I don't know when I will be able to get up and out of bed. Today was a  
19 good day, but I have lupus, so there are times where I could be extremely fatigued  
20 or just a little -- I guess the name we call it is a lupus fog where it kinda impairs our -  
21 - our mind to I guess intake information and just focus. And also I have arthritis and  
22 there's plenty of other things that go along with lupus, but I just don't know when I'm  
23 gonna be able to get out of beds some days.

24 THE COURT: Okay. Do you work?

25 PROSPECTIVE JUROR #009: No, I don't.

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

2 THE MARSHAL: Anybody else over here?

3 PROSPECTIVE JUROR #014: My name is Jerry Goll and I'm juror 14. I had  
4 witnessed a battery with my girlfriend back in --

5 THE COURT: Put that microphone up a little closer, sir.

6 PROSPECTIVE JUROR #014: I had witnessed a battery with a black man  
7 beating a white woman, and it was my girlfriend, and it was back in 1976, but I am  
8 very -- I'd have to say I'm pretty prejudice about anything that happens like that.

9 THE COURT: Okay. So you're telling me that at the start line right now the  
10 Defendant is behind?

11 PROSPECTIVE JUROR #014: Oh, way behind.

12 THE COURT: Okay. Thank you very much for sharing, sir.

13 THE MARSHAL: All right. Anybody else in this row? Could you hand to the  
14 lady behind you, please.

15 PROSPECTIVE JUROR #026: My name is Barbara Curry, badge number  
16 026. If this goes into Wednesday it becomes a financial hardship for me. I  
17 purposely rescheduled -- my days off are Monday, Tuesday, hoping I could get a  
18 one or two day to serve my -- you know, my obligation, but if I don't work I don't get  
19 paid.

20 THE COURT: Okay. Ma'am, I will tell you this. Don't get me wrong, I  
21 sympathize. But if I send you back downstairs, which I would have to do if I excuse  
22 you from this trial, you may be caught in a different trial which may be longer. And  
23 as you probably can see, this courtroom is situated a little differently than most. I  
24 typically hear construction defect cases which can last months. Luckily there's no --  
25 as far as I know there's no construction defect case starting today. But I view jury

1 service as the only civil service that we owe to our country. And what do you  
2 typically work by the way?

3 PROSPECTIVE JUROR #026: I'm a dental hygienist, so I've got pre-booked  
4 schedule from 8 to 5 Wednesday, Thursday, Friday.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR #026: That's why I rescheduled it. I was originally  
7 scheduled on a Wednesday, so --

8 THE COURT: Okay. Well, I can tell you this. We are going to end every day  
9 by five, so you may only be losing maybe three hours if we end up going into  
10 Wednesday.

11 PROSPECTIVE JUROR #026: Okay.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR #026: I just wanted to let you know.

14 THE COURT: Okay. No, I do appreciate you sharing, but I do view -- this is  
15 the only civil service that we owe to our country. Obviously a constitutional right we  
16 all have is to have a jury of our peers. Well, of course, what does that mean? We  
17 have to have peers serve as our jury. And we are only talking two and a half --  
18 actually two days because tomorrow will be a half day and then Wednesday, if we  
19 go there, will only be three hours.

20 PROSPECTIVE JUROR #026: Okay.

21 THE COURT: Okay?

22 PROSPECTIVE JUROR #026: Mm-hmm.

23 THE COURT: All right. Thank you though for sharing.

24 Yes, sir.

25 PROSPECTIVE JUROR #019: Ron Pettis, juror 19. I have a doctor's

1 appointment set for four o'clock today for a growth on my arm that's very painful. I  
2 don't know if that's gonna -- if I'm gonna be able to make that or not.

3 THE COURT: Can you make it tomorrow morning? And if you need some  
4 assistance I could probably call the doctor.

5 PROSPECTIVE JUROR #019: Well, it's not a fact of calling the doctor. It's a  
6 fact that it's very painful and I've had the appointment set for like four days. I had to  
7 wait.

8 THE COURT: Okay. Sir, I might need you to reschedule that, but I will tell  
9 you this. I will be happy to call the doctor's office to see if we can't get you in first  
10 thing in the morning; okay?

11 PROSPECTIVE JUROR #019: Okay.

12 THE COURT: All right. Thank you.

13 THE MARSHAL: Anybody else in this row?

14 PROSPECTIVE JUROR #018: Good morning. Marie Thompson, 18.  
15 Caucus volunteer. I have to be at my site at three o'clock tomorrow.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR #018: And the other thing is if I do stay I need a  
18 footstool for my leg so I could have it up above. I can't have it sitting down.

19 THE MARSHAL: [Indiscernible.]

20 PROSPECTIVE JUROR #018: Okay. So those two things.

21 THE COURT: All right. Thank you very much for sharing, ma'am.

22 THE MARSHAL: Anybody else in this row? Anybody in this row?

23 THE COURT: Okay. Is there anyone who may not be able to follow all the  
24 instructions of the Court on the law of this case, even if the instructions differ from  
25 their personal beliefs as to what the law ought to be?

1 THE MARSHAL: Anybody?

2 THE COURT: Okay.

3 THE MARSHAL: Anybody?

4 THE COURT: As a follow up to my previous question, I must tell you that in  
5 any criminal trial there are actually 12 judges. The members of the jury sitting  
6 collectively are the judges of the questions of fact in this case. As the presiding  
7 judge I am the judge of the questions of law and it is my responsibility to be sure that  
8 I give instructions on the law that apply in a particular case. It would be a violation  
9 of a juror's duty if he or she tried to render a judgment based upon what he or she  
10 believed the law to be if that differed my instructions. With that in mind, is there  
11 anyone who feels that they cannot be fact finders and follow my instructions on the  
12 applicable law in this case?

13 Is there any reason why you couldn't be a completely fair and impartial  
14 juror if selected to serve in this case other than what you've told me?

15 THE MARSHAL: Anybody here? No. Anybody on this side?

16 THE COURT: Yes, sir.

17 PROSPECTIVE JUROR #002: Nicholas Xanthopoulos, badge number 2. I  
18 don't think it will have any affect, but in full disclosure I did represent, on a voluntary  
19 basis, public defender in the state of Minnesota for about a month.

20 THE COURT: Okay. When was that?

21 PROSPECTIVE JUROR #002: Fall of 2014.

22 THE COURT: Okay. Is there -- you say it won't impact your ability. So -- just  
23 so I got my question out. Is there anything about that experience that would cause  
24 you difficulty sitting as a juror in this case?

25 PROSPECTIVE JUROR #002: No, I just wanted to have full disclosure.



1 THE COURT: Okay. Thank you.

2 THE MARSHAL: Thank you.

3 Anybody else?

4 PROSPECTIVE JUROR #032: My name is Concepcion Garcia Holmes and  
5 my number is 032. In my -- I just want to let you know that English is my second  
6 language. And I don't want to be unfair if I don't understand some kind of words that  
7 are gonna be difficult for me. And I understand and I comprehend a lot, but I don't  
8 want to be unfair if I don't understand something that is gonna be important.

9 THE COURT: How long have you lived in Clark County, ma'am?

10 PROSPECTIVE JUROR #032: Since 2006.

11 THE COURT: Okay. For about ten years?

12 PROSPECTIVE JUROR #032: Yes.

13 THE COURT: Okay. Well, let me tell you this. That if by chance you are  
14 selected as a juror and you have difficulty understanding I would be happy to get an  
15 interpreter in the box with you and interpreting what's going on; okay?

16 PROSPECTIVE JUROR #032: Okay.

17 THE COURT: All right. Thank you.

18 Okay. Ladies and gentlemen, under our system of -- under our system  
19 certain principles of law apply in every criminal case and they are: One, that the  
20 charging document filed in this case is a mere accusation and it is not evidence of  
21 guilty. Two, the Defendant is presumed innocent. And three, the State must prove  
22 the Defendant is guilty beyond a reasonable doubt. Does anyone not understand or  
23 believe in these basic precepts of American justice?

24 Okay. Is there anyone on this panel that is engaged in law  
25 enforcement?

1 Yes, sir.

2 PROSPECTIVE JUROR #066: Gregory Thompson, badge number 66. I am  
3 retired now, but I was an officer in the Air Force for 22 years.

4 THE COURT: Okay. Where did you serve, sir?

5 PROSPECTIVE JUROR #066: Beale Air Force Base, California. I TDY'd  
6 Nellis; numerous places around the world.

7 THE COURT: I know that was probably a very big open-ended question. So  
8 did -- how did you end up here in Las Vegas after your retirement?

9 PROSPECTIVE JUROR #066: I compromised with my wife.

10 THE COURT: Okay. So did you end your career in California?

11 PROSPECTIVE JUROR #066: Yes, I did.

12 THE COURT: Okay. And what city in -- in California?

13 PROSPECTIVE JUROR #066: It was Beale Air Force Base near Marysville,  
14 California; north of Sacramento.

15 THE COURT: Okay. I know where that is.

16 All right. And when did you retire, sir?

17 PROSPECTIVE JUROR #066: 2006.

18 THE COURT: Okay. Is there anything about your experience in your 22 year  
19 career that would cause you difficulty sitting as a juror in this case?

20 PROSPECTIVE JUROR #066: I don't believe so; no.

21 THE COURT: You could be fair to the State and to the Defendant?

22 PROSPECTIVE JUROR #066: Yes.

23 THE COURT: All right. Thank you very much.

24 Is there anyone else?

25 THE MARSHAL: Yes.

1 THE COURT: Yes, sir.

2 PROSPECTIVE JUROR #004: Clay Werts, badge 4. In the 70s I was a Los  
3 Angeles police officer.

4 THE COURT: How long did you serve?

5 PROSPECTIVE JUROR #004: My police experience was about two years.

6 THE COURT: Okay. Is there anything about that experience that would  
7 cause you difficulty sitting as a juror in this case?

8 PROSPECTIVE JUROR #004: No.

9 THE COURT: Okay. Thank you.

10 THE MARSHAL: All right. Thank you.

11 Anybody else?

12 THE COURT: Does anyone have a spouse or a relative who's involved in law  
13 enforcement or has been? Okay. I see some hands.

14 Yes, sir.

15 PROSPECTIVE JUROR #065: Yes, I have a cousin -- oh. Chris Drury, my  
16 badge number is 65. I have a cousin who just joined the metropolitan police  
17 department in town, so --

18 THE COURT: Las Vegas Metropolitan --

19 PROSPECTIVE JUROR #065: Yes.

20 THE COURT: Okay. You say they just joined?

21 PROSPECTIVE JUROR #065: Yes, just graduated the academy last year,  
22 so --

23 THE COURT: Okay. Do you -- are you close to your cousin?

24 PROSPECTIVE JUROR #065: Yes, we grew up together.

25 THE COURT: Okay. How often do you see your cousin?

1 PROSPECTIVE JUROR #065: Lately it's been less than once a month, so it's  
2 pretty infrequently lately, but, you know --

3 THE COURT: Okay. Do you and your cousin, when you get together, do you  
4 talk about what he does?

5 PROSPECTIVE JUROR #065: Not really. We haven't yet, so --

6 THE COURT: Okay. Is there anything about your relationship with your  
7 cousin that would cause you difficulty sitting as a juror in this case? And I guess  
8 what I'm asking is can you be fair to both the State and to the Defendant?

9 PROSPECTIVE JUROR #065: I do -- I believe so, yes.

10 THE COURT: All right. Thank you very much for sharing.

11 PROSPECTIVE JUROR #065: You're welcome.

12 THE COURT: Anyone else on this side? Okay, I see a hand up.

13 PROSPECTIVE JUROR #076: Lincoln Feller, badge 76. I have two  
14 nephews; one used to be a police officer -- or sheriff up in Tehachapi, who has  
15 moved to Florida, and another who was a detective for Pasadena Police Department  
16 who has moved on to be a detective up in Washington.

17 THE COURT: Okay. I was going to say now the nephew that lived in  
18 Tehachapi, is he -- he now a police officer in Florida?

19 PROSPECTIVE JUROR #076: No.

20 THE COURT: When did he leave Tehachapi?

21 PROSPECTIVE JUROR #076: I would say about a year.

22 THE COURT: About a year ago?

23 PROSPECTIVE JUROR #076: Yes.

24 THE COURT: How often do you talk to you nephew that lives now in Florida?

25 PROSPECTIVE JUROR #076: Not very often. I haven't talked to him since

1 he's left.

2 THE COURT: Okay. So over a year ago?

3 PROSPECTIVE JUROR #076: Yes.

4 THE COURT: Okay. The nephew that now lives in Washington state and  
5 was an -- investigator or detective in Pasadena, is that --

6 PROSPECTIVE JUROR #076: A detective.

7 THE COURT: In Pasadena?

8 PROSPECTIVE JUROR #076: Yes.

9 THE COURT: Okay. And is he now a detective in Washington you said?

10 PROSPECTIVE JUROR #076: I believe so.

11 THE COURT: And how often do you see and talk to that nephew?

12 PROSPECTIVE JUROR #076: Same as the other; very rarely. They're  
13 brothers.

14 THE COURT: Okay. Is there anything about that -- your relationship with  
15 your nephews that would cause you difficulty sitting as a juror in this case?

16 PROSPECTIVE JUROR #076: No.

17 THE COURT: You could be fair to both sides?

18 PROSPECTIVE JUROR #076: Sure.

19 THE COURT: Do you -- when you talk to your nephews, which I understand  
20 is fairly rarely, do you talk about law enforcement?

21 PROSPECTIVE JUROR #076: No.

22 THE COURT: You don't talk about what they do?

23 PROSPECTIVE JUROR #076: Not really.

24 THE COURT: Okay. Thank you.

25 All right. Anybody else on this side?

1 THE MARSHAL: Anybody else over here? No?

2 THE COURT: Let's go over here front row.

3 Yes, ma'am.

4 PROSPECTIVE JUROR #010: Ashley Hernandez, juror number 010. My  
5 uncle, Jeffrey Bangle, is a metropolitan police officer.

6 THE COURT: Okay. How long has he been a police officer?

7 PROSPECTIVE JUROR #010: Roughly 15 years.

8 THE COURT: Okay. What detail does he serve in?

9 PROSPECTIVE JUROR #010: I don't know. We have been estranged for  
10 the last eight years.

11 THE COURT: So would it be fair that you haven't talked to your uncle in eight  
12 years?

13 PROSPECTIVE JUROR #010: That is correct.

14 THE COURT: Okay. Is there anything about that relationship that would you  
15 difficulty sitting as a juror in this case?

16 PROSPECTIVE JUROR #010: No.

17 THE COURT: Okay. You could be fair to the State and to the Defendant?

18 PROSPECTIVE JUROR #010: That's correct.

19 THE COURT: All right. Thank you very much for sharing.

20 THE MARSHAL: Anybody else in the front row?

21 PROSPECTIVE JUROR #016: My name is Alfonso Palma, 0 --

22 THE COURT: Make sure that's microphone's up there.

23 PROSPECTIVE JUROR #016: I'm sorry. Sorry, Your Honor.

24 Alfonso Palma, 016. I have a brother who's a retired police detective,  
25 and I had two uncles who were policemen.

1 THE COURT: Okay. Let's talk about the brother. Where did he serve?  
2 PROSPECTIVE JUROR #016: Well, he's retired now, but he served in New  
3 York City.  
4 THE COURT: Okay. And when did he retire?  
5 PROSPECTIVE JUROR #016: 2001.  
6 THE COURT: Are you close to your brother?  
7 PROSPECTIVE JUROR #016: Very close.  
8 THE COURT: How often do you talk to him?  
9 PROSPECTIVE JUROR #016: Three times a month.  
10 THE COURT: Do you talk to your brother about his experiences as a police  
11 officer?  
12 PROSPECTIVE JUROR #016: Not now because he had a major stroke, so  
13 his memory's gone, but prior to that, yes.  
14 THE COURT: Okay. Now your two uncles are retired as well?  
15 PROSPECTIVE JUROR #016: Oh, they're passed away.  
16 THE COURT: Okay. Where did they serve?  
17 PROSPECTIVE JUROR #016: New York City.  
18 THE COURT: And generally when did they pass?  
19 PROSPECTIVE JUROR #016: The 60s -- 19 --  
20 THE COURT: Oh, long time ago.  
21 PROSPECTIVE JUROR #016: Yes.  
22 THE COURT: All right. So I take it you didn't speak to them too much about  
23 their law enforcement experience?  
24 PROSPECTIVE JUROR #016: Yes and no.  
25 THE COURT: Okay, tell me about it.

1 PROSPECTIVE JUROR #016: Well, I -- in the 60 -- I'm 66 -- I'll be 66 real  
2 soon.

3 THE COURT: Okay, make sure that's microphone's close.

4 PROSPECTIVE JUROR #016: I will be 66 real soon, so in the 60s I was a  
5 teenager. And when I spoke to them there was all the 1960s going on with -- you  
6 know, the war and everything else. They were -- they were on side; I was on the  
7 other, so we had a lot of long conversations.

8 THE COURT: Oh, were you hippy and they were the police officers?

9 PROSPECTIVE JUROR #016: More or less; yes.

10 THE COURT: Okay. Got it. Okay. I come from that era as well; okay.

11 PROSPECTIVE JUROR #016: Okay.

12 THE COURT: Although I -- I don't know -- I was a little young to be a hippy.  
13 But in any event, is there anything about those experiences that would cause you  
14 difficulty sitting as a juror in this case?

15 PROSPECTIVE JUROR #016: No, I don't believe so.

16 THE COURT: Okay. You could be fair to the State and to the Defendant?

17 PROSPECTIVE JUROR #016: Yes.

18 THE COURT: All right. Thank you very much for sharing, sir.

19 THE MARSHAL: Anybody else in this row.

20 THE COURT: Yes, ma'am.

21 PROSPECTIVE JUROR #021: Shannon Coleman, 21. My dad was a police  
22 officer -- [Indiscernible].

23 THE COURT: Hold on. She's getting rid of her purse.

24 PROSPECTIVE JUROR #021: For 20 years and then he was a probation  
25 officer for ten.



1 THE COURT: Was that here in Las Vegas?

2 PROSPECTIVE JUROR #021: No, Sierra Vista, Arizona.

3 THE COURT: Okay. So your dad served for what, 40 years?

4 PROSPECTIVE JUROR #021: Twenty.

5 THE COURT: Twenty with the police department and how long as a  
6 probation officer?

7 PROSPECTIVE JUROR #021: Ten.

8 THE COURT: So total of 30 years in service?

9 PROSPECTIVE JUROR #021: Yes.

10 THE COURT: All right. How often do you see your dad or talk to your dad?

11 PROSPECTIVE JUROR #021: I talk to him every week. I see him every two  
12 months.

13 THE COURT: All right. Do you and your dad talk about his law enforcement  
14 experience?

15 PROSPECTIVE JUROR #021: Yes, they're my favorite stories.

16 THE COURT: Okay. Is there anything about that relationship that would  
17 cause you difficulty sitting as a juror in this case?

18 PROSPECTIVE JUROR #021: No.

19 THE COURT: You could be fair to the State and to the Defendant?

20 PROSPECTIVE JUROR #021: Yes.

21 THE COURT: Okay. Thank you.

22 Anyone else?

23 THE MARSHAL: Anyone else in this row? Anybody over here?

24 THE COURT: Okay. Has anyone ever served as a juror before? Oh, I like to  
25 see this. This is so cool.

1 THE MARSHAL: Jurors in the front row?  
2 THE COURT: Yes, sir.  
3 PROSPECTIVE JUROR #076: Lincoln Feller, 76.  
4 THE COURT: How many times have you served as a juror, sir?  
5 PROSPECTIVE JUROR #076: Once.  
6 THE COURT: Where was that; here in Clark County?  
7 PROSPECTIVE JUROR #076: Riverside County, California.  
8 THE COURT: And when was that?  
9 PROSPECTIVE JUROR #076: Probably 15 years ago.  
10 THE COURT: All right. What kind of a case was -- was it a civil case or a  
11 criminal case?  
12 PROSPECTIVE JUROR #076: Criminal.  
13 THE COURT: All right. And you know what I'm talking about the difference.  
14 Civil that you're usually seeking money if you're a plaintiff. If you're the -- if it's a  
15 criminal matter the State is seeking criminal sanctions?  
16 PROSPECTIVE JUROR #076: Yes.  
17 THE COURT: Okay. So 15 years ago. And what kind of a criminal case?  
18 PROSPECTIVE JUROR #076: It was drunk driving.  
19 THE COURT: All right. Without telling me what -- well, first of all, did the jury  
20 actually go into the deliberation room and deliberate?  
21 PROSPECTIVE JUROR #076: Yes.  
22 THE COURT: Okay. Without telling me what it was, did the jury reach a  
23 verdict?  
24 PROSPECTIVE JUROR #076: Yes.  
25 THE COURT: Were you the jury foreman?

1 PROSPECTIVE JUROR #076: No.

2 THE COURT: All right. Is there anything about that experience that would  
3 cause you difficulty sitting as a juror in this case?

4 PROSPECTIVE JUROR #076: No.

5 THE COURT: All right. Thank you very much.

6 THE MARSHAL: All right. Anybody else over on this side? Front row; no.  
7 Sir.

8 PROSPECTIVE JUROR #075: Dennis Eichel, juror 75. I served on a jury in  
9 the state of California, Los Angeles County in the early 90s -- '91, '92.

10 THE COURT: Okay. What kind of a case?

11 PROSPECTIVE JUROR #075: Murder.

12 THE COURT: All right. Did the jury actually go into the deliberation room and  
13 render a verdict?

14 PROSPECTIVE JUROR #075: Yes.

15 THE COURT: Without -- okay. Were you selected as a jury foreperson?

16 PROSPECTIVE JUROR #075: No.

17 THE COURT: Is there anything about that experience that would cause you  
18 difficulty sitting as a juror in this case? I mean other than what you've already told  
19 me.

20 PROSPECTIVE JUROR #075: No.

21 THE COURT: Okay. Is that the only time you've done jury service, sir?

22 PROSPECTIVE JUROR #075: You know it's not very seldom.

23 THE COURT: Okay. Thank you, sir.

24 THE MARSHAL: Anybody else over on this side? Front row?

25 THE COURT: Yes, ma'am.

1 PROSPECTIVE JUROR #005: Clementine Wilson, 005. I've served once  
2 here and three times in San Diego, California.

3 THE COURT: Okay. The time here when did that happen?

4 PROSPECTIVE JUROR #005: When I first got here. Probably back in 2000  
5 -- probably like 9 or 10; yeah.

6 THE COURT: 2010?

7 PROSPECTIVE JUROR #005: I think it was like between 9 or 10; yeah.

8 THE COURT: So about five, six years ago?

9 PROSPECTIVE JUROR #005: Yes.

10 THE COURT: Okay. That was here in this courthouse; correct?

11 PROSPECTIVE JUROR #005: It was here, yeah, in Nevada.

12 THE COURT: Okay. No, but I'm talking about this particular courthouse?

13 PROSPECTIVE JUROR #005: Yes. Yes. Yes.

14 THE COURT: What kind of case was it?

15 PROSPECTIVE JUROR #005: It was a civil.

16 THE COURT: All right. Could you elaborate; was it a contract --

17 PROSPECTIVE JUROR #005: It was a litigation between two companies. It  
18 was money thing.

19 THE COURT: Okay. I need that microphone close to you.

20 PROSPECTIVE JUROR #005: It was a money dispute with two companies  
21 that was going after it. Sort of like a golf course thing -- whatever resort -- country  
22 club thing; yeah.

23 THE COURT: Okay. Did the jury actually go into the deliberation room and  
24 deliberate?

25 PROSPECTIVE JUROR #005: We did. We were sequestered. We had to

1 go out to the country club and review all [indiscernible]. And they kept the jury, you  
2 know, until they finally made a decision. Yes. Yes.

3 THE COURT: Okay. Without telling me what it was, the jury did reach a  
4 verdict?

5 PROSPECTIVE JUROR #005: Yes, they did.

6 THE COURT: Were you the jury foreperson?

7 PROSPECTIVE JUROR #005: No, I was not on that one.

8 THE COURT: Okay. Let's talk about the three times in San Diego. What  
9 kind of cases were -- did you sit on the jury for in San Diego?

10 PROSPECTIVE JUROR #005: It was -- one was a civil and two was murder.

11 THE COURT: So you sat on two murder trials?

12 PROSPECTIVE JUROR #005: And one civil; yes.

13 THE COURT: What was the civil case?

14 PROSPECTIVE JUROR #005: It was -- it was a money dispute. It was  
15 another one. It was a money dispute and the other one was -- it was two murders;  
16 yeah.

17 THE COURT: Okay. The money dispute case, when did that occur?

18 PROSPECTIVE JUROR #005: It was back in -- I lived there for 22 years, so I  
19 -- I can't just remember quite the times back in San Diego.

20 THE COURT: Would it be fair to say it was before 2009?

21 PROSPECTIVE JUROR #005: In 2009 I was here.

22 THE COURT: That's my point. So you -- your jury service in San Diego on all  
23 these three cases were prior to 2009?

24 PROSPECTIVE JUROR #005: No, no, no. That was from the time that I --  
25 'cause I lived in San Diego for 22 years and only lived here for eight and half years.

1 And I didn't move here until 2009, so the two murder cases were, and the civil was  
2 in San Diego, and the other trial that I was on here was a civil. So in all I served like  
3 four duties, but only three in San Diego and one here.

4 THE COURT: Okay. I probably was not very artful --

5 PROSPECTIVE JUROR #005: Yeah.

6 THE COURT: -- with my question. Okay, before 2009 you lived in San Diego

7 --

8 PROSPECTIVE JUROR #005: Yes.

9 THE COURT: -- for 22 years.

10 PROSPECTIVE JUROR #005: Yes.

11 THE COURT: Okay. So would it be fair to say that from 1987 to 2009 you  
12 lived in San Diego?

13 PROSPECTIVE JUROR #005: No, I didn't move here until 2007.

14 THE COURT: Okay. So you moved here in 2007?

15 PROSPECTIVE JUROR #005: Correct.

16 THE COURT: So would it be fair to say that from 1985 to 2007 you lived in  
17 San Diego?

18 PROSPECTIVE JUROR #005: Yes, when I moved to Alabama to San Diego,  
19 and I was on three trials in San Diego up until that time and only one trial here in  
20 Nevada.

21 THE COURT: Okay. When did you serve on the civil case in San Diego?

22 PROSPECTIVE JUROR #005: That was -- like I said, I can't just remember  
23 that particular date, but it had to be between -- probably like 2000 or so. Yeah.

24 THE COURT: Okay. Did the jury actually go into the deliberation room and  
25 reach a verdict on the civil case in San Diego?

1 PROSPECTIVE JUROR #005: Well, yes they did. It was the murder one that  
2 was really difficult.

3 THE COURT: Okay. Wait, wait, wait. We'll talk about the murder one in a  
4 minute. So the civil case they reached a verdict?

5 PROSPECTIVE JUROR #005: Yes, they did.

6 THE COURT: Okay. Were you selected as the jury foreperson in that case?

7 PROSPECTIVE JUROR #005: No, I was not.

8 THE COURT: Okay. Let's talk about the first murder case. When did you sit  
9 on the jury for that?

10 PROSPECTIVE JUROR #005: That was back in the middle of 2000.

11 THE COURT: Right.

12 PROSPECTIVE JUROR #005: Like I said, probably like 2005, something like  
13 that.

14 THE COURT: 2005?

15 PROSPECTIVE JUROR #005: [No audible response.]

16 THE COURT: Is that yes?

17 PROSPECTIVE JUROR #005: Yes.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR #005: And then was the other murder trial --

20 THE COURT: Okay. Let's talk about this -- the 2005 murder case.

21 PROSPECTIVE JUROR #005: Mm-hmm.

22 THE COURT: Did the jury actually go into the jury deliberation room and  
23 reach a verdict?

24 PROSPECTIVE JUROR #005: Yes, we did except for --

25 THE COURT: Wait, wait, wait. I don't need to know anything more than that;

1 okay. And so they reached a verdict. Were you selected as the jury foreperson on  
2 that case?

3 PROSPECTIVE JUROR #005: No, I was not.

4 THE COURT: Okay. Let's talk about the second murder case. When did that  
5 occur?

6 PROSPECTIVE JUROR #005: That was like -- probably like --

7 THE COURT: Need the microphone close to your mouth, ma'am.

8 PROSPECTIVE JUROR #005: I'm just trying to just hold my head down and  
9 just trying just -- just think of the year, you know, back in -- that was probably like in  
10 the middle of 2000. I would say in 2003 or so.

11 THE COURT: 2003 or so. You need to keep that microphone close to your  
12 mouth, ma'am.

13 PROSPECTIVE JUROR #005: 2003; yeah.

14 THE COURT: Put the microphone close to your mouth, please.

15 PROSPECTIVE JUROR #005: 2003.

16 THE COURT: Thank you.

17 All right. Did the jury actually go into the jury deliberation room on that  
18 second murder case and reach a verdict?

19 PROSPECTIVE JUROR #005: Yes, they did.

20 THE COURT: Put that microphone close to your mouth.

21 PROSPECTIVE JUROR #005: Yes, they did.

22 THE COURT: Okay. Were you selected as the jury foreperson in that case?

23 PROSPECTIVE JUROR #005: You keep foreperson. Like the person that's  
24 over the other jurors?

25 THE COURT: Right.



1 PROSPECTIVE JUROR #005: No, I was just part of the jury team where we  
2 were deliberating.

3 THE COURT: Okay. Is there anything about those four experiences that  
4 would cause you difficulty sitting as a juror in this case?

5 PROSPECTIVE JUROR #005: No, it would not.

6 THE COURT: All right. Thank you very much.

7 THE MARSHAL: Who else in the front row?

8 THE COURT: Yes, sir.

9 PROSPECTIVE JUROR #014: Jerry Goll, badge 14. In California in 2010 --  
10 right around 2010. It was a -- we decided a monetary award for --

11 THE COURT: Oh, wait. I can't -- I don't want to know what the verdict was.  
12 Okay. So it was a civil case?

13 PROSPECTIVE JUROR #014: It was a civil case, yes, for a hit and run.

14 THE COURT: Okay. And you say California; where in California.

15 PROSPECTIVE JUROR #014: In Redding, California. I can't tell you the  
16 county right off.

17 THE COURT: Okay. Redding?

18 THE MARSHAL: Redding, California is in Shasta.

19 PROSPECTIVE JUROR #014: Yes, Redding, Cali -- Shasta. Yeah, Shasta.

20 THE COURT: Okay. Put that microphone close to your mouth, sir. I can't  
21 hear you.

22 PROSPECTIVE JUROR #014: Okay. I'm sorry. Shasta County.

23 THE COURT: Okay. So Redding, that's north of Sacramento; right?

24 PROSPECTIVE JUROR #014: Yes, it is northwest.

25 THE COURT: Fair enough.

1           Okay. So the jury actually went into the deliberation room and reached  
2 a verdict?

3           PROSPECTIVE JUROR #014: Yes.

4           THE COURT: Were you selected as the jury foreperson?

5           PROSPECTIVE JUROR #014: No.

6           THE COURT: All right. Is there anything about that experience that would  
7 cause you difficulty sitting as a juror in this case?

8           PROSPECTIVE JUROR #014: No.

9           THE COURT: Thank you.

10          PROSPECTIVE JUROR #014: I also was in Illinois, and I couldn't tell you the  
11 date on this one, it was before California. It was about probably 1990, somewhere  
12 around there, where I was on a jury for hit -- no, it wasn't -- what was that for now?  
13 It was for -- it was for another hit and run; yeah.

14          THE COURT: Okay. Was it a civil case or a criminal case?

15          PROSPECTIVE JUROR #014: It was criminal that one.

16          THE COURT: Okay. The one in Redding, California, was -- you say -- you  
17 used the term monetary, so I assume that was a civil case?

18          PROSPECTIVE JUROR #014: Right.

19          THE COURT: Okay. Now let's talk about the criminal case in Illinois. Did the  
20 jury actually go into the jury room and reach a verdict?

21          PROSPECTIVE JUROR #014: Yes, we did.

22          THE COURT: Were you selected as the jury foreperson in that case?

23          PROSPECTIVE JUROR #014: No, I wasn't.

24          THE MARSHAL: You got to wait for her to finish.

25          PROSPECTIVE JUROR #014: Oh, I'm sorry. Excuse me.

1 THE COURT: That's okay. I know that what we do in our normal English  
2 language is interrupt each other, but we can't do it now; all right. So --

3 PROSPECTIVE JUROR #014: I apologize.

4 THE COURT: We just need to slow down.

5 Okay. Have you served as a juror in any other case?

6 PROSPECTIVE JUROR #014: No.

7 THE COURT: Is there anything about those two experiences that would  
8 cause you difficulty sitting as a juror in this case?

9 PROSPECTIVE JUROR #014: No.

10 THE COURT: All right. Thank you so much for sharing. If you'd give the  
11 microphone to the gentleman next to you.

12 Yes, sir.

13 PROSPECTIVE JUROR #015: William Townsend, juror number 015. I  
14 served on a civil trial in Washington County, Pennsylvania in 1990. We did  
15 deliberate. I was not a foreman.

16 THE COURT: Is there any -- is that the only time you've ever served?

17 PROSPECTIVE JUROR #015: Yes.

18 THE COURT: Is there anything about that experience that would cause you  
19 difficulty sitting as a juror in this case?

20 PROSPECTIVE JUROR #015: No.

21 THE COURT: All right. Thank you so much.

22 THE MARSHAL: Anybody in this row?

23 THE COURT: Yes, ma'am.

24 PROSPECTIVE JUROR #018: Marie Thompson, juror badge 18. I've been  
25 on two juries; one civil, one criminal. The criminal case was in the late '80s and it

1 was a harrowing experience because it took a whole extra day for the jury to  
2 deliberate and come up with a -- it was terrible.

3 THE COURT: Okay. Did the jury reach a verdict?

4 PROSPECTIVE JUROR #018: Yes, we did.

5 THE COURT: Was that here in Clark County?

6 PROSPECTIVE JUROR #018: No, that was in downtown LA.

7 THE COURT: Okay. What kind -- it was what kind of case?

8 PROSPECTIVE JUROR #018: It was a criminal case. A guy stuck a gun in a  
9 girl's window -- car window.

10 THE COURT: Okay. Do you know what the charge was?

11 PROSPECTIVE JUROR #018: I don't remember what the charges were. I  
12 just remember that it was really hard to reach a verdict and we spent a whole -- a  
13 whole another 12 hours deliberating.

14 THE COURT: Okay. Without telling me what it was, did the jury reach a  
15 verdict?

16 PROSPECTIVE JUROR #018: Yes.

17 THE COURT: Okay. The second case you were talking about.

18 PROSPECTIVE JUROR #018: Twenty-two days downtown LA, civil court,  
19 Princess Diana's Foundation versus Franklin Mint. No jury.

20 THE COURT: Okay. Was -- no jury?

21 PROSPECTIVE JUROR #018: I mean, the jury -- we didn't go to  
22 deliberations.

23 THE COURT: You did not deliberate. The case --

24 PROSPECTIVE JUROR #018: After 22 days the judge threw it out.

25 THE COURT: Okay. Was it a mistrial?

1 PROSPECTIVE JUROR #018: No jurisdiction.

2 THE COURT: Okay. Is there anything -- have you served as a juror in any  
3 other case?

4 PROSPECTIVE JUROR #018: No, that's enough.

5 THE COURT: All right. Is there anything about those two experiences that  
6 would cause you difficulty sitting as a juror in this case?

7 PROSPECTIVE JUROR #018: Define difficult.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR #018: Yes, I say that there is.

10 THE COURT: And why would it be difficult for you?

11 PROSPECTIVE JUROR #018: Uh --

12 THE COURT: I can tell you this. It's not going to be a 22 day case.

13 PROSPECTIVE JUROR #018: I know. I know. I know, but jury deliberations  
14 are -- haven't been the best experience for me.

15 THE COURT: All right. Thank you.

16 Yes, sir.

17 PROSPECTIVE JUROR #016: Alfonso Palma, badge number 016. I served  
18 on a case here in this building about ten years ago. It was a criminal case.

19 THE COURT: Okay. You must have been here right when the building  
20 opened.

21 PROSPECTIVE JUROR #016: I don't know about that.

22 THE COURT: Okay. It open -- just for your -- it opened in about October  
23 2005.

24 PROSPECTIVE JUROR #016: All right. So my dates are off. But I did serve  
25 here and it was a criminal case.

1 THE COURT: Okay. What kind of criminal case?  
2 PROSPECTIVE JUROR #016: It was an armed robbery.  
3 THE COURT: All right. Without -- did the jury go into the deliberation room  
4 and actually reach a verdict?  
5 PROSPECTIVE JUROR #016: Yes.  
6 THE COURT: Were you selected as the jury foreperson?  
7 PROSPECTIVE JUROR #016: No.  
8 THE COURT: Is there anything about that experience that would cause you  
9 difficulty sitting as a juror in this case?  
10 PROSPECTIVE JUROR #016: I don't think so, Your Honor.  
11 THE COURT: Okay. Thank you.  
12 Anybody else?  
13 PROSPECTIVE JUROR #040: Nancy Pozdol, number 040. I was in a  
14 federal case around 2000. It was like six and a half weeks; it was criminal. It was a  
15 Shell company case with two -- we were going -- they were going against two  
16 different individuals in the case.  
17 THE COURT: Okay. Was it here in Clark County?  
18 PROSPECTIVE JUROR #040: Yes.  
19 THE COURT: So was it in the building --  
20 PROSPECTIVE JUROR #040: Yes, across the way.  
21 THE COURT: -- across the way?  
22 Okay. You're interrupting me now. Okay. So let me ask the question  
23 again. Was -- did the trial take place in the courthouse which is about two blocks  
24 east of here?  
25 PROSPECTIVE JUROR #040: Yes, it was.

1 THE COURT: And it was six and half weeks?

2 PROSPECTIVE JUROR #040: Yes, it was.

3 THE COURT: Well, they take longer than we do here over at the state court.

4 PROSPECTIVE JUROR #040: It was against two people, so they had to  
5 separate what was for one person and for the other and it was -- 'cause they weren't  
6 both charged on all the same levels.

7 THE COURT: Okay. Did the jury actually deliberate and reach a verdict?

8 PROSPECTIVE JUROR #040: Yes.

9 THE COURT: Is there -- were you selected as a jury foreperson?

10 PROSPECTIVE JUROR #040: No.

11 THE COURT: Is there anything about that experience that would cause you  
12 difficulty sitting as a juror in this case?

13 PROSPECTIVE JUROR #040: No.

14 THE COURT: Is this the only time you served as a juror?

15 PROSPECTIVE JUROR #040: Yes.

16 THE COURT: Well, six and a half weeks is enough, but I just wanted to make  
17 sure you -- there's no other juries out there; okay. Thank you so much, ma'am.

18 PROSPECTIVE JUROR #040: You're welcome.

19 THE COURT: Yes, ma'am.

20 PROSPECTIVE JUROR #042: Melissa Tinling, badge number 042. I served  
21 in Clark County in about 2003. It was criminal case; we did deliberate; we did reach  
22 a verdict.

23 THE COURT: Okay. So it occurred in the hold courthouse?

24 PROSPECTIVE JUROR #042: Yes.

25 THE COURT: Okay. Is there anything about that experience that would

1 cause you difficulty sitting as a juror in this case?

2 PROSPECTIVE JUROR #042: No.

3 THE COURT: Is that the only time you served as a juror?

4 PROSPECTIVE JUROR #042: Yes, ma'am.

5 THE COURT: All right. Thank you.

6 Yes, ma'am.

7 PROSPECTIVE JUROR #044: Hi. Angela Moore, number 44. I was --

8 approximately 20 years ago, criminal, here in Las Vegas. Yes, we deliberated; yes,  
9 we reached a verdict.

10 THE COURT: And again, that happened in the old courthouse?

11 PROSPECTIVE JUROR #044: Yes, ma'am.

12 THE COURT: Okay. Which is now the downtown arena thing; right?

13 PROSPECTIVE JUROR #044: Yep, it was a long time ago.

14 THE COURT: Okay. Is that the only time you've ever served as a juror?

15 PROSPECTIVE JUROR #044: Yes.

16 THE COURT: Is there anything about that experience that would cause you  
17 difficulty sitting as a juror in this case?

18 PROSPECTIVE JUROR #044: No, ma'am.

19 THE COURT: All right. Thank you.

20 THE MARSHAL: Anybody else down here? No? All right.

21 THE COURT: Okay. Has anyone ever been a party to a lawsuit before?

22 Okay, we got some hands.

23 PROSPECTIVE JUROR #053: Quinnecia Meadows, juror 053. Two lawsuits  
24 actually. One began in -- I believe 2009 -- the end of 2009. It was me and my ex-  
25 husband against another company that he was employed by. It was wrongful



1 termination but personal injury as well. And we ended up coming to an amount, or a  
2 settlement, after the case was on -- went to trial.

3 THE COURT: When did that occur?

4 PROSPECTIVE JUROR #053: When did it go to trial?

5 THE COURT: No, when -- yeah -- well, when did the incident occur? I just  
6 want a timeframe.

7 PROSPECTIVE JUROR #053: He was employed for one year between 2008  
8 and 2009. And then at the end of 2009 the case was already in court and we were  
9 in court for two years.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR #053: So it settled in 2012.

12 THE COURT: Okay. So when you say we were in court that was -- you were  
13 not physically in the courthouse for two years?

14 PROSPECTIVE JUROR #053: No, no. It -- we had dates obviously that we  
15 kept going back after it couldn't be settled in mediation.

16 THE COURT: Okay. So a complaint was filed -- a civil complaint and then it  
17 was resolved about two years later?

18 PROSPECTIVE JUROR #053: That's correct.

19 THE COURT: Okay. Is that here in Clark County?

20 PROSPECTIVE JUROR #053: No, that was in Riverside County in California.

21 THE COURT: Fair enough. And you said there was a second lawsuit.

22 PROSPECTIVE JUROR #053: Yes. Same in Riverside County, but this time  
23 it was me and my employer and that was in 2013. And it was settled in mediation in  
24 2014.

25 THE COURT: Okay. Is there anything about those experiences that would

1 cause you -- sitting as a juror in this case?

2 PROSPECTIVE JUROR #053: No.

3 THE COURT: Okay. Thank you very much.

4 PROSPECTIVE JUROR #053: Thank you.

5 THE MARSHAL: Anybody else in this front row?

6 THE COURT: By the way, when I say have you ever been a party to a lawsuit  
7 before, let's not include divorces. We'll be here all day.

8 PROSPECTIVE JUROR #070: Catherine Crockett, 070. It was a small  
9 claims court. It was in 1990.

10 THE COURT: Was that here in Clark County?

11 PROSPECTIVE JUROR #070: Yes.

12 THE COURT: At the old courthouse?

13 PROSPECTIVE JUROR #070: Yes.

14 THE COURT: Okay. Were you the plaintiff or the defendant?

15 PROSPECTIVE JUROR #070: The plaintiff.

16 THE COURT: Is there anything about that experience that would cause you  
17 difficulty sitting as a juror here?

18 PROSPECTIVE JUROR #070: No.

19 THE COURT: Thank you. By the way, are you related to Judge Crockett?

20 PROSPECTIVE JUROR #070: No.

21 THE COURT: All right. Thank you.

22 THE MARSHAL: Anybody else over here? Anybody in the front row?

23 PROSPECTIVE JUROR #002: Nicholas Xanthopoulos, badge number 2.

24 Petition in the U.S. Court of Federal Claims.

25 THE COURT: Okay, say that again.

1 PROSPECTIVE JUROR #002: Petition in the U.S. Court of Federal Claims.  
2 THE COURT: Okay. How long ago?  
3 PROSPECTIVE JUROR #002: That it began or end?  
4 THE COURT: Well, tell me both.  
5 PROSPECTIVE JUROR #002: Ended last year; began the year before.  
6 THE COURT: Okay. I'm sorry. I didn't quite get that. Give me years.  
7 PROSPECTIVE JUROR #002: Ended 2015; began 2014.  
8 THE COURT: Got it. All right. And you were petitioning for what?  
9 PROSPECTIVE JUROR #002: It was a petition against the Department of  
10 Health and Human Services under a vaccine claim.  
11 THE COURT: Okay. And you were the petitioner?  
12 PROSPECTIVE JUROR #002: Yes.  
13 THE COURT: Is there anything about that -- it did resolve you said in --  
14 PROSPECTIVE JUROR #002: Yes.  
15 THE COURT: Okay. Is there anything about that experience that would  
16 cause you difficulty sitting as a juror in this case?  
17 PROSPECTIVE JUROR #002: No.  
18 THE COURT: All right. Thank you.  
19 THE MARSHAL: Anybody else in the front row? Second row?  
20 PROSPECTIVE JUROR #018: Sorry, Your Honor.  
21 I worked for State Farm Insurance for 35 year --  
22 THE COURT RECORDER: Juror number.  
23 PROSPECTIVE JUROR #018: Oh. Marie Thompson, 18.  
24 THE COURT: Okay. Go --  
25 PROSPECTIVE JUROR #018: Start over? I worked for State Farm

1 Insurance for 35 years, but I was involved in a bad-faith lawsuit where they named  
2 me personally. I did get out of it eventually, but because of California law, but that  
3 was not a good experience. An eviction where I was the landlord. And then one  
4 traffic accident where I was in small claims court and the person inflated the  
5 damages a lot and the judge still gave it to him, so --

6 THE COURT: When did the small claims action occur?

7 PROSPECTIVE JUROR #018: That was probably around -- just around 2000  
8 probably.

9 THE COURT: Okay. And that was in California?

10 PROSPECTIVE JUROR #018: Yes.

11 THE COURT: Okay. And I take it that you were the Defendant --

12 PROSPECTIVE JUROR #018: Yes.

13 THE COURT: -- in that case?

14 PROSPECTIVE JUROR #018: Yes.

15 THE COURT: Okay. Let's talk about when you were sued for bad faith as an  
16 agent for State Farm.

17 PROSPECTIVE JUROR #018: Yeah. Uh-huh.

18 THE COURT: When did that occur?

19 PROSPECTIVE JUROR #018: Gosh, probably -- probably in the late '90s.

20 THE COURT: Okay. And you were dismissed out?

21 PROSPECTIVE JUROR #018: Yes.

22 THE COURT: And just so we're clear, you were a defendant in that case?

23 PROSPECTIVE JUROR #018: Yes.

24 THE COURT: All right. And I didn't catch the second one.

25 PROSPECTIVE JUROR #018: Tenant eviction. I was a landlord.

1 THE COURT: All right. Was that also in small claims court?

2 PROSPECTIVE JUROR #018: Yes.

3 THE COURT: All right. And how did that resolve?

4 PROSPECTIVE JUROR #018: Judgment, but never any collection.

5 THE COURT: Okay. Is there anything about those experiences that would  
6 cause you difficulty sitting as a juror in this case?

7 PROSPECTIVE JUROR #018: I don't know. I can't say.

8 THE COURT: What would cause you difficulty?

9 PROSPECTIVE JUROR #018: Sometimes the outcomes of the jury -- the  
10 justice system aren't exactly fair.

11 THE COURT: Okay. But are you telling me that you can't be fair to either the  
12 State or the Defendant given your experience as a party in those actions?

13 PROSPECTIVE JUROR #018: Well, not knowing all the facts I don't know.

14 THE COURT: Okay. Thank you.

15 Yes, sir.

16 PROSPECTIVE JUROR #024: Timothy Olsen, badge number 024. And in  
17 2004 I was the defendant in an eviction case.

18 THE COURT: Okay. And was that here in Clark County?

19 PROSPECTIVE JUROR #024: No, it was in Los Angeles.

20 THE COURT: Okay. Is there anything about that experience that would  
21 cause you difficulty sitting as a juror in this case?

22 PROSPECTIVE JUROR #024: No.

23 THE COURT: Okay. Thank you.

24 THE MARSHAL: Anybody else in this row? Anybody in this row?

25 THE COURT: Yes, sir.

1 PROSPECTIVE JUROR #028: Bruce Graff, badge number 028. And roughly  
2 three years ago I was named as a defendant, along with three other coworkers and  
3 the corporation I worked for, in a civil case which was involved with a industrial  
4 accident. Case never went to a -- to a trial. It was settled out of court.

5 THE COURT: Okay. Was that here in Clark County?

6 PROSPECTIVE JUROR #028: Yes.

7 THE COURT: Is there anything about that experience that would cause you  
8 difficulty sitting as a juror in this case?

9 PROSPECTIVE JUROR #028: No.

10 THE COURT: Okay. Thank you.

11 THE MARSHAL: Anybody in this row? Anybody back here?

12 THE COURT: Okay. Ladies and gentlemen, is there anyone here who has  
13 been accused of committing a crime other than what you've already told me?

14 THE MARSHAL: Front row? Anybody front row here?

15 Counting speeding tickets?

16 THE COURT: No. Oh, gosh, we'd be here all day.

17 THE MARSHAL: Anybody here? Here? Anybody?

18 THE COURT: Okay. Is there anyone who's been a victim of a crime?

19 Okay. Have you already talked about that, ma'am.

20 PROSPECTIVE JUROR #053: No.

21 THE COURT: Okay. Yes, ma'am.

22 PROSPECTIVE JUROR #053: I'm sorry. This is my millionth time. My name  
23 is Quinnecia Meadows, I'm juror 053. I was a victim of -- no, I'm okay. I was a  
24 victim of domestic situation; assault on a pregnant victim. And I actually left out of  
25 the city because when I tried to drop the charges the State picked him up.

1 THE COURT: Okay. Was that here --

2 PROSPECTIVE JUROR #053: So they wanted to --

3 THE COURT: I'm sorry.

4 PROSPECTIVE JUROR #053: No, that -- I'm sorry. That was in Florida -- in  
5 Tallahassee. I believe it's Leon County.

6 THE COURT: Okay. When was that?

7 PROSPECTIVE JUROR #053: That was back in 2006.

8 THE COURT: Okay. So you say you left the county but -- and didn't press  
9 charges but the State did?

10 PROSPECTIVE JUROR #053: Yes.

11 THE COURT: Is -- are -- do you have a problem with that?

12 PROSPECTIVE JUROR #053: That the State picked him up?

13 THE COURT: Yes.

14 PROSPECTIVE JUROR #053: No. I actually -- because of the person that  
15 the situation was with I didn't want to press charges, so I was forced to -- or I was  
16 told that I needed to go through a process of dropping the charges, but it wasn't  
17 something that was easily done. I had to go through a counseling that they felt like I  
18 needed because I was not in the right frame of mind I guess, but that wasn't the  
19 truth. I just didn't want to go to court and I also didn't want to cause harm to my  
20 child's father or put him in jail for what I was told was a third degree felony.

21 THE COURT: Okay. So this charge was against your child's father?

22 PROSPECTIVE JUROR #053: That is correct.

23 THE COURT: Okay. I don't -- you may have already answered this. When  
24 did this occur?

25 PROSPECTIVE JUROR #053: In 2006.

1 THE COURT: Okay. Is there anything about that experience that would  
2 cause you difficulty sitting as a juror here?

3 PROSPECTIVE JUROR #053: Kinda on both sides. I mean, obviously on  
4 one end a person is responsible for their actions. But on the other end, depending  
5 on what you feel about the individual, it's kinda hard to make that determination,  
6 especially when it's their life. So, I mean, it's always gonna be something that's an  
7 arrest record, and always something a part of his past, but he wasn't convicted I  
8 believe because I didn't show up as the witness for the trial. He was not convicted,  
9 but he still did -- like just a little bit of time in holding. But again, that person is kinda  
10 scared from this point as a result of that being the first and last time he went to jail.

11 THE COURT: Okay. Thank you.

12 THE MARSHAL: Anybody else? Yes, here you go.

13 PROSPECTIVE JUROR #064: Ava Peterson, badge number 64. In October  
14 of '14 I was robbed at gunpoint by two men, along with two other coworkers.

15 THE COURT: Okay. I didn't hear that last part. You're very soft spoken.

16 PROSPECTIVE JUROR #064: I was robbed at gunpoint by two men, along  
17 with two -- along with two coworkers. I was robbed at work.

18 THE COURT: Was that here in Clark County?

19 PROSPECTIVE JUROR #064: Yes.

20 THE COURT: When did this occur?

21 PROSPECTIVE JUROR #064: October of '14.

22 THE COURT: Of what year?

23 PROSPECTIVE JUROR #064: '14.

24 THE COURT: Oh, October 2014?

25 PROSPECTIVE JUROR #064: Yes.



1 THE COURT: Not October the 14<sup>th</sup>?  
2 PROSPECTIVE JUROR #064: No, about a year and a half ago.  
3 THE COURT: Okay. What happened to that case?  
4 PROSPECTIVE JUROR #064: Nothing. No one was caught.  
5 THE COURT: No one was caught? So it's still an open case?  
6 PROSPECTIVE JUROR #064: I guess.  
7 THE COURT: Have you dealt with the DA's Office here about that?  
8 PROSPECTIVE JUROR #064: I have not done -- no.  
9 THE COURT: Okay. They haven't contact -- you've been dealing with the  
10 police?  
11 PROSPECTIVE JUROR #064: We did, but nothing ever happened.  
12 THE COURT: Okay. Is there anything about that experience that would  
13 cause you difficulty sitting as a juror in this case?  
14 PROSPECTIVE JUROR #064: I don't think so.  
15 THE COURT: Okay. Thank you.  
16 THE MARSHAL: Anybody else front row? Anybody back here? Front row  
17 here.  
18 PROSPECTIVE JUROR #002: Nicholas Xanthopoulos, badge number 2. In  
19 2004 I was robbed at knifepoint in Chile.  
20 THE COURT: Okay. What happened to that case?  
21 PROSPECTIVE JUROR #002: Never brought. I did not complain to the  
22 police because I didn't want to go through that process in Chile.  
23 THE COURT: Okay. Is there anything about that experience that would  
24 cause you difficulty sitting as a juror in this case?  
25 PROSPECTIVE JUROR #002: No.

1 THE COURT: All right. Thank you.

2 Where in Chile by the way?

3 PROSPECTIVE JUROR #002: Vina del Mar Valparaiso.

4 THE COURT: Okay. Thank you.

5 THE MARSHAL: Anybody else in the front row?

6 PROSPECTIVE JUROR #008: Sean Larscheidt, badge 8. I guess two  
7 different times I've had my car broken into. One time a stereo got stolen, and  
8 another time just miscellaneous stuff I had in the car.

9 THE COURT: Okay. Where and when?

10 PROSPECTIVE JUROR #008: Both of them were in the Milwaukee area --  
11 Wisconsin, a long time ago now. I have to guess at the dates a little bit. Probably --  
12 probably about 2000 -- I'm sorry, 1986 and probably right around 19 -- early 1990s.

13 THE COURT: Was anyone charged in those cases?

14 PROSPECTIVE JUROR #008: No, nobody was ever found.

15 THE COURT: Okay. Is there anything about those experiences that would  
16 cause you difficulty sitting as a juror in this case?

17 PROSPECTIVE JUROR #008: No.

18 THE COURT: Okay. Thank you.

19 PROSPECTIVE JUROR #008: All right.

20 THE COURT: Yes, ma'am.

21 PROSPECTIVE JUROR #009: I wanna --

22 THE MARSHAL: Name and badge number.

23 THE COURT: Badge number.

24 PROSPECTIVE JUROR #009: Oh, I'm sorry. Shaeann Clements, 009. I  
25 wanna say back in 2011 -- yeah, fall of 2011 I was in a hit and run, but it was a one

1 car accident, it was with a friend, and we didn't call the police and -- but it ended  
2 with me getting a settlement and they never my -- the friend of mine, so, yeah.

3 THE COURT: They never found the friend of yours?

4 PROSPECTIVE JUROR #009: Insurance and whatnot couldn't find him. I  
5 mean, I knew where he was physically, but there was nothing that anyone else  
6 could really do about it. I wasn't -- it was a confusing thing.

7 THE COURT: So I take it that the one who did the hit and run, the defendant  
8 -- or the one who did the hit and run, they -- either you or somebody found out his  
9 identity? You knew who he was?

10 PROSPECTIVE JUROR #009: I knew who he was because I was the  
11 passenger in his car and he was taking me home. But -- yeah, it was just an  
12 accident that had happened, but because of the insurance and stuff he never gave  
13 any information.

14 THE COURT: Okay. Let me make sure I totally understand this.

15 PROSPECTIVE JUROR #009: Okay.

16 THE COURT: There was a hit and run car accident. You were in the car that  
17 actually did the hitting and running?

18 PROSPECTIVE JUROR #009: Yeah, we hit a curb pretty much. It -- but it  
19 caused me to have my foot shattered and whatnot, and so there's a lot of medical  
20 stuff to go with that.

21 THE COURT: Did the car that you were in hit another car or hit a --

22 PROSPECTIVE JUROR #009: No.

23 THE COURT: -- something? Okay.

24 PROSPECTIVE JUROR #009: Well, the curb; that's it. Like nothing specific.  
25 It's just -- it was low enough that when it hit the curb it just hit and the air bags came

1 out. It was a one car accident.

2 THE COURT: Oh, I understand now. All right. And you were injured in the  
3 accident?

4 PROSPECTIVE JUROR #009: Yes.

5 THE COURT: And you filed a claim with -- I guess the driver's insurance  
6 carrier?

7 PROSPECTIVE JUROR #009: The one that I was under as a passenger;  
8 yes.

9 THE COURT: Okay. And there was a resolution of some sort?

10 PROSPECTIVE JUROR #009: They never found him, or really got any  
11 information about him, but it came to a settlement through the insurances for me.

12 THE COURT: Okay. And that occurred here in Clark County?

13 PROSPECTIVE JUROR #009: Yes.

14 THE COURT: Okay. Is there anything about that experience that would  
15 cause you difficulty sitting as a juror in this case?

16 PROSPECTIVE JUROR #009: No, ma'am.

17 THE COURT: Okay. Thank you.

18 THE MARSHAL: Anybody else in this front row? Anybody in the second  
19 row?

20 THE COURT: Okay, I saw a hand up.

21 PROSPECTIVE JUROR #018: Marie Thompson, 18. In 1981 a guy broke  
22 into my apartment and hit me over the head with a lead pipe about five times. It's  
23 just lucky that I was hardheaded; it didn't knock me out or anything. But he was  
24 never caught; never found, so he got away with it.

25 THE COURT: Okay. Was that here in Clark County?

1 PROSPECTIVE JUROR #018: No, it was in California.

2 THE COURT: Where in California?

3 PROSPECTIVE JUROR #018: South Coast Plaza, Costa Mesa.

4 THE COURT: Okay. Is there anything about that experience that would  
5 cause you difficulty sitting as a juror in this case?

6 PROSPECTIVE JUROR #018: Probably not.

7 THE COURT: Okay. Thank you.

8 THE MARSHAL: Anybody else in this row?

9 THE COURT: Yes, sir.

10 PROSPECTIVE JUROR #019: Ron Pettis, badge 19. In 2011 my oldest son  
11 was found murdered here in Las Vegas.

12 THE COURT: I am sorry to hear that, sir. Did they -- did the authorities catch  
13 the individual?

14 PROSPECTIVE JUROR #019: No, they know who he was. He was an illegal  
15 immigrant drug dealer and he fled to Mexico.

16 THE COURT: So I take it he's never been charged?

17 PROSPECTIVE JUROR #019: He's been charged, but he's never been  
18 apprehended.

19 THE COURT: Okay. So there's been no trial or anything?

20 PROSPECTIVE JUROR #019: No.

21 THE COURT: Okay. Is there anything -- anything about that experience that  
22 would cause you difficulty sitting as a juror in this case?

23 PROSPECTIVE JUROR #019: That's kinda hard to tell. I'm guessing it  
24 wouldn't, but --

25 THE COURT: Okay. Well, I guess what I'm asking is -- both sides -- can you

1 be fair to the State and to the Defendant in this case?

2 PROSPECTIVE JUROR #019: I'm sure I can, depending on the evidence.

3 THE COURT: Okay. Thank you.

4 THE MARSHAL: And it's red, Norma.

5 THE COURT: When the microphone has a red light that means there's no  
6 battery power so we'll be right back.

7 [Pause in proceedings]

8 THE COURT: Yes, ma'am.

9 PROSPECTIVE JUROR #022: Aileen Sung, number 22. I was a victim of a  
10 criminal case.

11 THE COURT: What kind of a case?

12 PROSPECTIVE JUROR #022: It was sexual assault.

13 THE COURT: Okay. And when did that occur?

14 PROSPECTIVE JUROR #022: 1993.

15 THE COURT: Was that here -- and was that here in Clark County?

16 PROSPECTIVE JUROR #022: No, it was in Montebello, California.

17 THE COURT: Montebello, California?

18 PROSPECTIVE JUROR #022: Yes.

19 THE COURT: Is that right?

20 PROSPECTIVE JUROR #022: Yes.

21 THE COURT: Okay. Was the -- was the perpetrator caught?

22 PROSPECTIVE JUROR #022: Yes.

23 THE COURT: Was there a trial?

24 PROSPECTIVE JUROR #022: Yes.

25 THE COURT: Okay. What happened?

1 PROSPECTIVE JUROR #022: At the last minute before I had to go into  
2 testify he pled guilty.

3 THE COURT: Okay. Is there anything about that case that would cause you  
4 difficulty sitting as a juror in this case?

5 PROSPECTIVE JUROR #022: I don't think so.

6 THE COURT: All right. Any other times that you've been a victim?

7 PROSPECTIVE JUROR #022: No.

8 THE COURT: All right. Thank you.

9 THE MARSHAL: Anybody else over here?

10 PROSPECTIVE JUROR #026: Barbara Curry, badge 26. December 31<sup>st</sup>,  
11 2004 my house was broken into and pretty much completely cleaned out; car,  
12 contents, toaster. I mean, you name it. I was on a cruise at the time and I believe it  
13 happened through the car service that took me to the airport to take me on the  
14 cruise. Metro didn't do anything about it until I got home. And after I got home they  
15 still wouldn't do anything about it because I was told it was not enough monetary  
16 issue. It was \$48,000 and that wasn't enough to do an investigation on it or  
17 fingerprints.

18 THE COURT: Okay. Did -- I take it that the culprits were never identified or  
19 charged?

20 PROSPECTIVE JUROR #026: Correct. And I asked that, you know, they  
21 investigate through the car service driver because that's the timeframe that it  
22 happened. It happened before I ever took off in the airplane. And I was told I watch  
23 too much TV, so Metro doesn't have a lot of --

24 THE COURT: Well, give --

25 PROSPECTIVE JUROR #026: -- go power in my book.

1 THE COURT: Given that experience can you be -- can you be fair to both the  
2 State and the --

3 PROSPECTIVE JUROR #026: Yes.

4 THE COURT: -- Defendant --

5 PROSPECTIVE JUROR #026: Yes.

6 THE COURT: -- in this case?

7 PROSPECTIVE JUROR #026: Yes.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR #026: That's just for everybody else. Don't ever tell  
10 anybody where you're going because they'll -- if you're going to the airport, you're  
11 going to the airport; you're not coming home.

12 THE MARSHAL: Good advice.

13 PROSPECTIVE JUROR #026: Yes.

14 THE MARSHAL: Anybody else back here?

15 THE COURT: Yes, sir.

16 PROSPECTIVE JUROR #031: Son Neal, juror number 31. Back in about  
17 1995 I was a victim of a robbery at gunpoint and battery. And the circumstances  
18 were I was working for Anderson Dairy at the time. I was behind a store picking up  
19 empty crates and four individuals walked up. I was inside the truck at the time; I  
20 couldn't get out, and they -- they got me at gunpoint, pulled me out and started to  
21 beat me. And so -- they robbed me. I was able to get away from them at that point  
22 and run away to the front of the store to try to get some help, and at that point they  
23 ran away. So they were never apprehended and that's what happened to me, so --

24 THE COURT: Okay. I take it that happened here in Clark County?

25 PROSPECTIVE JUROR #031: Yes, Your Honor.



1 THE COURT: Okay. Is there anything about that experience that would  
2 cause you difficulty sitting as a juror in this case?

3 PROSPECTIVE JUROR #031: I don't believe so. It happened a long time  
4 ago. And, you know, I'm in the military so we have a lot of friends for support there.

5 THE COURT: All right. Thank you.

6 THE MARSHAL: Anybody else in this row?

7 PROSPECTIVE JUROR #032: My name is Concepcion Garcia Holmes and  
8 I'm 032. And I was a victim of domestic violence and sexual abuse of my two little  
9 girls in 2001.

10 THE COURT: Was that here in Clark County?

11 PROSPECTIVE JUROR #032: No, it was in Hawthorne, California.

12 THE COURT: Hawthorne, California?

13 PROSPECTIVE JUROR #032: Yes.

14 THE COURT: Okay. Was the culprit ever caught?

15 PROSPECTIVE JUROR #032: Yes, he just get out from jail two years ago  
16 and he's -- I think he's in probation for five years, something like that.

17 THE COURT: Okay. So he actually served in prison?

18 PROSPECTIVE JUROR #032: Yes.

19 THE COURT: All right. And he -- he -- as far as you know he's on parole?

20 PROSPECTIVE JUROR #032: That's what I know. But I really don't have  
21 contact with him and -- but I -- I know for his family. And that's why I move to here  
22 because I'm really scared and afraid because he's very violent. And I just want to  
23 let you know that any kind of crime I very -- I get very -- like very sensitive.

24 THE COURT: I'm sorry. I didn't hear that last part.

25 PROSPECTIVE JUROR #032: I get like scared or sensitive like any kind of

1 crime because I'm afraid that he's gonna come and kill me or something like that.

2 THE COURT: Okay. Well, given that experience can you be fair to both  
3 sides in this case?

4 PROSPECTIVE JUROR #032: Well, I can think that I can be fair.

5 THE COURT: Okay. So both parties -- you could be fair to both sides?

6 PROSPECTIVE JUROR #032: Yes.

7 THE COURT: Okay. Thank you.

8 PROSPECTIVE JUROR #032: Mm-hmm.

9 THE MARSHAL: All right. Anybody else over here?

10 PROSPECTIVE JUROR #040: Nancy Pozdol, number 40. It happened at my  
11 house. It wasn't really about me. It was about my daughter who lives with me with  
12 her son. Three people came with a sawed-off shotgun, and latex gloves, and rope,  
13 and changed license plates trying to get into the house. Fortunately enough a  
14 neighbor saw it and called and the police got 'em before they got into the house.  
15 They were arrested. One of them went to prison and two of 'em went to jail. One  
16 for 90 -- the two that went to jail were for 90 days or something like that.

17 THE COURT: Was that here in Clark County?

18 PROSPECTIVE JUROR #040: Yes.

19 THE COURT: And when did that occur?

20 PROSPECTIVE JUROR #040: About five years ago.

21 THE COURT: Is there anything about that experience that would cause you  
22 difficulty sitting as a juror in this case?

23 PROSPECTIVE JUROR #040: No.

24 THE COURT: Okay. Fair enough. Thank you.

25 THE MARSHAL: Anybody else back here? Anybody?

1 THE COURT: Okay, next question. Has anybody been a witness to a lawsuit  
2 before? I mean, other than what you've told me.

3 Yes, sir.

4 PROSPECTIVE JUROR #066: Greg Thompson, 66. I was witness to a multi-  
5 million dollar lawsuit concerning a tic versus another individual. My wife was  
6 involved in that one.

7 THE COURT: Okay. I didn't -- a tic?

8 PROSPECTIVE JUROR #066: Tenants in common.

9 THE COURT: Oh.

10 PROSPECTIVE JUROR #066: It was an investment group.

11 THE COURT: Oh, okay. All right. And you were a witness?

12 PROSPECTIVE JUROR #066: I was not a witness, but I was involved in the  
13 situation, saw what was happening. Yeah, it -- there was -- it ended up not going to  
14 jury; no one was selected. It ended up with a --

15 THE COURT: Resolution --

16 PROSPECTIVE JUROR #066: Yes.

17 THE COURT: -- settlement?

18 PROSPECTIVE JUROR #066: Settlement. Thank you.

19 THE COURT: Okay. Did you testify in a deposition?

20 PROSPECTIVE JUROR #066: No.

21 THE COURT: Okay. And I take it since there was a resolution during the  
22 time that the jury was being picked, or had been picked, you didn't testify at the trial?

23 PROSPECTIVE JUROR #066: Correct.

24 THE COURT: Where did that occur?

25 PROSPECTIVE JUROR #066: At the federal building here.

1 THE COURT: Oh, two blocks down?

2 PROSPECTIVE JUROR #066: Yes.

3 THE COURT: How long ago?

4 PROSPECTIVE JUROR #066: Four years ago.

5 THE COURT: Okay. Is there anything about that experience that would  
6 cause you difficulty sitting as a juror in this case?

7 PROSPECTIVE JUROR #066: No.

8 THE COURT: All right. Fair enough. Thank you.

9 Anyone else been a witness to a lawsuit before other than what you've  
10 told me?

11 PROSPECTIVE JUROR #053: It wasn't --

12 THE COURT: Yes, ma'am.

13 PROSPECTIVE JUROR #053: I'm sorry. My name is Quinnecia Meadows,  
14 053. I mean, it wasn't a lawsuit. It was charges against the same brother for  
15 assault with a deadly weapon. I was a witness when he went to trial, but he was -- I  
16 don't know if it was thrown out, or dismissed, or what the terms are, but he wasn't  
17 convicted of that felony.

18 THE COURT: Okay. Is there anything about that experience that would  
19 cause you difficulty sitting as a juror in this case?

20 PROSPECTIVE JUROR #053: Yeah, just to be quite honest; just again,  
21 because it was my brother. The charges, they actually -- me and my mom were the  
22 witnesses because it was -- like the situation was with my mom, so my brother  
23 against my mom and the State picked up the charges to prosecute him.

24 THE COURT: Okay. Was that also in Florida?

25 PROSPECTIVE JUROR #053: That certainly was. That was in 2003.

1 THE COURT: All right. Fair enough. Thank you.

2 THE MARSHAL: Anybody else in the front row? This row, anybody?

3 Anybody over here? Here? Here?

4 THE COURT: Yes, ma'am.

5 PROSPECTIVE JUROR #044: Hi. Angela Moore, number 44. I was 16 and  
6 there was a car crash, and it went to court, and I was a witness.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR #044: It was here in Las Vegas a long time ago; like  
9 '82, '83.

10 THE COURT: Then it was at the old courthouse?

11 PROSPECTIVE JUROR #044: Yes.

12 THE COURT: Okay. Is there anything about that experience that would  
13 cause you difficulty sitting as a juror in this case?

14 PROSPECTIVE JUROR #044: Not at all.

15 THE COURT: All right. Thank you.

16 THE MARSHAL: Anybody else?

17 THE COURT: Okay. Other than what you've already told me, if you were a  
18 party to this case would you be comfortable with 12 jurors just like you?

19 Okay. Ladies and gentlemen, at this time I'm going to go ahead and  
20 excuse you for a break. During this period of time you are admonished not to talk or  
21 converse among yourselves or with anyone else on any subject related to the trial,  
22 or read, watch or listen to any report of or commentary on the trial by any medium of  
23 information, including without limitation newspapers, television, the internet and  
24 radio, or form or express any opinion on any subject related to the trial until the case  
25 is finally submitted to you. We'll see you back in about 15 minutes.

1 THE MARSHAL: Okay, guys, remember where you're seated because you're  
2 going to come back to these seats.

3 [Outside the presence of the prospective jury panel]

4 THE COURT: Okay. Let the record reflect that the jury has left the  
5 courtroom.

6 MS. HOJJAT: We have a couple jurors, Your Honor.

7 THE COURT: Oh, I'm so sorry. I thought they're --

8 UNIDENTIFIED PROSPECTIVE JUROR: So sorry.

9 THE MARSHAL: That's it.

10 THE COURT: Okay. Now let the record reflect that the jury has left the  
11 courtroom. I'm sorry.

12 Sir, you're very tall. I did not see those two people back there.

13 All right. By the way, just as a reminder, just make sure you don't talk  
14 or whisper or talk to each other while the jury is going in and out of -- you didn't do it  
15 this time, but I just thought I better just say it so that we're all clear.

16 Go ahead and look over your lists and in about ten minutes we'll come  
17 back here and go through which ones should be let go for cause; okay?

18 MS. HOJJAT: And, Your Honor, the defense did just have a brief record to  
19 make. Would the Court like us to make it now or after the break?

20 THE COURT: Well, you can go ahead and do it now.

21 MS. HOJJAT: Thank you, Your Honor.

22 Just for the record, we did make an objection at the bench. I'm not sure  
23 how well those are always heard or conveyed. At the bench the defense did  
24 challenge the panel. In looking at the panel there's 45 individuals; we count three  
25 African Americans. So the representations we made at the bench are that Clark

1 County the fair cross-section of the community is about 12 percent African  
2 American, so having the panel -- the panel should be about 12 percent African  
3 American to be a fair cross-section of the community. In this case, three out of 45  
4 would be only six percent, so it is not a fair cross-section. We asked the Court -- we  
5 said that we're lodging an objection and we asked the Court for a hearing and the  
6 Court did deny that at the bench.

7 THE COURT: Okay, fair enough. And I might note, everything is recorded at  
8 the bench, but I appreciate what you've said because sometimes we're whispering  
9 and it comes across on the record as pss, pss, pss, pss, pss, pss. So if there is  
10 something that you want to make sure is clear on the record, do exactly what you  
11 just did, counsel, and just say, Your Honor, I just want to make sure things are clear  
12 on the record that we made this objection you just did. So if there anything else that  
13 we need to deal with?

14 MS. HOJJAT: There was one other matter, Your Honor.

15 At this point we are moving for a new panel. When talking to a couple  
16 of the jurors Your Honor started asking them about whether the defense and the  
17 State -- I believe Your Honor made some sort of reference to a race. And Your  
18 Honor had your hands next to each other and kind of indicating what -- kind of like  
19 GoCars, one moving forward, one moving back. Our position is that's not an  
20 accurate statement of the presumption of innocence and the burden of proof. This  
21 is not a race. The defense does not have any burden. We don't have to do  
22 anything. It's not a GoCar that we have to move or anything like that. And it kind of  
23 implies to the jurors that we have to prove something, they have to prove something,  
24 and it's kind of a who can get to the finish line first, or who can present more  
25 evidence, and that's not an accurate statement.

1 THE COURT: Okay. I think you may have misunderstood what I was doing,  
2 counsel. I wanted to make sure that both were at the same starting line whenever I  
3 talked about that, not that -- I wanted to make sure that it wasn't a situation where  
4 either the Defendant was ahead, meaning that they were going to rule for the  
5 Defendant no matter what before hearing the evidence or for the State no matter  
6 what. And if I was inartful on that I apologize, but that is certainly what my motive  
7 was is that everybody is on the same playing field right now. So I don't think that the  
8 Court did anything to imply that the Defendant had to prove anything. In fact I will  
9 be instructing the jury, in fact I did, that right now the Defendant is presumed  
10 innocent and that the State had to meet a burden beyond a reasonable doubt. So  
11 I've already instructed them on that, so -- but I appreciate your point, but I am  
12 denying your motion.

13 All right. Anything else?

14 MS. GRAHAM: Not from the State.

15 THE COURT: Okay. Let's go ahead and take a break. Be back here in  
16 about seven minutes; okay.

17 [Recess taken at 11:07 a.m.]

18 [Proceedings resumed at 11:15 a.m.]

19 [Outside the presence of the prospective jury panel]

20 THE COURT: Okay. Okay, counsel --

21 Are we on the record?

22 THE COURT RECORDER: Yes.

23 THE COURT: Okay. Let's go through very quickly who should be let go for  
24 cause. Let's see what we've got here. The first one I have on my list that I've got  
25 concerns about is Clementine Wilson. Knows Ms. Graham; she seems to have



1 problems with her knee injury. What's your thoughts?

2 MS. GRAHAM: I -- I would -- State would submit on that one.

3 THE COURT: Any problem letting her go for cause?

4 MS. HOJJAT: Defense will also submit it, Your Honor.

5 THE COURT: Okay. I'm going to let her go for cause.

6 Shaeann Clements, juror number 9, has lupus, arthritis, has issues  
7 sleeping. What's your thoughts?

8 MS. GRAHAM: State thinks we should let her go based on her saying she's  
9 not sure how she is day to day, so --

10 THE COURT: Okay. Would you agree?

11 MS. HOJJAT: I mean, she seems pretty capable from what I've seen. I don't  
12 know lupus, so I don't know how that works. It's a two day trial. She seems okay,  
13 but I'll submit it.

14 THE COURT: Okay. I'm going to go ahead and let her go.

15 Let's see. Mary [sic] Ann Thompson, the caucus volunteer. She's got  
16 -- it looks like more problems than Carter's got pills, excuse my French, but I think  
17 we need to let her go.

18 MS. GRAHAM: State would agree with that characterization.

19 THE COURT: Okay.

20 MS. HOJJAT: Yes, Your Honor, we also --

21 THE COURT: Okay.

22 MS. HOJJAT: -- would ask to let her go.

23 THE COURT: By the way, I'm going to go through what I think are -- I've got  
24 concerns about and then you guys can talk about. I'm going to leave this one up to  
25 you, but I'm inclined to leave her on, and that's juror number 32, Concepcion Garcia

1 Holmes. That's the one that has English as a second language. She was a victim  
2 of domestic violence in 2001. She said she could be fair to both. I'm inclined to  
3 leave her on.

4 MS. GRAHAM: The State would want her on at least for further questions.

5 MS. HOJJAT: Defense would be asking for her to be released just because  
6 she said that because of her experiences she's very sensitive to any kind of violent  
7 crime. And this is -- the allegations here are violent in nature. It is a robbery with  
8 battery and we are conceding a battery in this case.

9 THE COURT: Okay. Fair enough. I'm going to let her go for cause.

10 MS. GRAHAM: She was 032?

11 THE COURT: 032.

12 MS. GRAHAM: Thank you.

13 THE COURT: Okay. Kevin Johnson, juror number 49, convicted of a felony  
14 in 2002. And I gather he's still on probation -- I mean, parole, so I think we got to let  
15 him go.

16 MS. GRAHAM: Right. The State was going to move for cause. He's a  
17 convicted felon. That's one of the requirements, that and being a citizen.

18 MS. HOJJAT: And, Your Honor, my understanding was he said he got a  
19 dishonorable discharge from parole. But they can actually have their rights restored  
20 to them, so I would just ask that we ask the follow-up question of whether his rights  
21 have been restored because the right to vote and the right to serve on jury duty do  
22 get restored to felons at some point, so I would just ask for that follow-up question.  
23 If his rights haven't been restored then we agree he needs to be released.

24 MS. GRAHAM: Well, it doesn't sound like they've been restored, but that's  
25 fine.

1 THE COURT: Well, we could do the follow-up question. I don't have a  
2 problem with that.

3 MS. GRAHAM: Sure.

4 THE COURT: All right. We'll do a follow-up question on him.

5 All right. Quinnecia Meadows, juror number 53. I have real problems  
6 with her. She said it'd be difficult to be fair. Your thoughts?

7 MS. GRAHAM: The State would challenge for cause. I think in a number of  
8 different ways she indicated she could not be fair.

9 MS. HOJJAT: I mean, I would ask the Court for the ability to rehabilitate her,  
10 but I'll submit it with that.

11 THE COURT: If you want to rehabilitate I'll leave her on.

12 Okay. By the way, this is first round. It doesn't mean that once we get  
13 them into the box that they won't be -- that I will not excuse them for cause; all right?

14 MS. GRAHAM: Yes.

15 MS. HOJJAT: Thank you.

16 THE COURT: Dennis Eichel, juror number 75, problem with short-term  
17 memory. I'm concerned about him.

18 MS. GRAHAM: The State was going to make a motion to strike for cause.

19 MS. HOJJAT: We agree.

20 THE COURT: Okay. All right. Very quickly your thoughts?

21 MS. GRAHAM: The State was going -- may I, Your Honor?

22 THE COURT: Yes.

23 MS. GRAHAM: The State was going to strike for cause 014. He indicated --

24 THE COURT: What number?

25 MS. GRAHAM: 014.

1 THE COURT: 014.  
2 MS. GRAHAM: He indicated he could not be fair based on the race of the  
3 Defendant.  
4 MS. HOJJAT: We were going to make the same motion.  
5 THE COURT: You know what --  
6 MS. GRAHAM: I don't -- I don't think --  
7 THE COURT: -- I missed that one. Okay. Thank you.  
8 MS. GRAHAM: I think that -- just for the record, I think he's absolutely in the  
9 same boat as 053. I'm not even going to try to rehab him because it is what it is.  
10 THE COURT: Okay. 04, Clay Werts, okay, I'm going to let go for cause.  
11 MS. GRAHAM: It's 014.  
12 THE COURT: 01 -- oh.  
13 MS. GRAHAM: Right?  
14 THE COURT: Oh, okay.  
15 MS. HOJJAT: 014, it's Mr. Goll. Hold on.  
16 THE COURT: Got it. Jerry Goll.  
17 MS. HOJJAT: Jerry Goll; yes.  
18 THE COURT: Got it.  
19 MS. HOJJAT: He said the race of the Defendant.  
20 THE COURT: That's the one.  
21 MS. HOJJAT: Yeah.  
22 THE COURT: Okay. I missed that one, I apologize. Okay, let go of him.  
23 MS. HOJJAT: Yes.  
24 THE COURT: All right. Next one.  
25 MS. GRAHAM: That's all from the State.

1 THE COURT: Okay.

2 Defense.

3 MS. HOJJAT: Court's indulgence. I think that might be all we have. I just  
4 want to double check.

5 That's it. That's all we had too, Your Honor.

6 THE COURT: Okay. So the only thing I need to ask Mr. Johnson, juror  
7 number 49, is if his rights have been restored?

8 MS. HOJJAT: Yes, please, Your Honor.

9 THE COURT: Okay.

10 All right. Let' go ahead and bring the jury -- prospective jury panel in.

11 MS. GRAHAM: Your Honor, before we pass the panel for cause --

12 THE COURT: Well, you're not passing them for cause right now. I'm just  
13 excusing --

14 MS. GRAHAM: Right.

15 THE COURT: -- a few. You guys do not do that until -- I mean, I will excuse  
16 the ones that we just talked about. You have not waived your rights --

17 MS. GRAHAM: Oh, I understand.

18 THE COURT: -- on any of this. This is first round; okay?

19 MS. GRAHAM: Yes. And then once they're in there, later on today, for cause  
20 would I approach before I pass them?

21 THE COURT: Well -- no, no, no. You could just sit down.

22 MS. GRAHAM: Okay.

23 THE COURT: Defense goes up. You don't say the pass for cause thing.

24 MS. GRAHAM: Got it.

25 THE COURT: You just come on up here and then you do your challenges up

1 here, so don't use the term pass for cause. Again, I don't know -- want the jury to  
2 know why they're being let go. I just let them go.

3 MS. GRAHAM: Understood.

4 THE COURT: Okay. In fact, if you see somebody that you know -- a pretty  
5 good chance the defense is not going to be able to rehabilitate you might want to  
6 move on.

7 MS. GRAHAM: Absolutely.

8 THE COURT: Okay. Obviously though, if the defense is able to rehabilitate  
9 that's an issue, but we can talk about it up here.

10 MS. GRAHAM: Okay.

11 THE MARSHAL: Please rise for the jury.

12 [In the presence of the prospective jury panel]

13 THE COURT: Will counsel please stipulate to the presence of the prospective  
14 jury panel?

15 MS. GRAHAM: Yes, Your Honor.

16 MS. HOJJAT: Yes, Your Honor.

17 THE COURT: Okay. Officer Black, would you pass the microphone to juror  
18 number 49, Mr. Johnson.

19 Mr. Johnson, a question I have of you is has your rights been restored?

20 PROSPECTIVE JUROR #049: I'm not sure. I was assuming so when I was  
21 summoned for jury, but I'm not sure. I had attempted not long ago before the end of  
22 the year to contact an attorney to work on expunge -- you know, sealing my record  
23 and all of those things. And from what the clerk had informed me, she wasn't sure if  
24 I had reached the necessary time to, you know, do so. I'm not sure if it has been  
25 long enough. I'm not sure if it was from the time I was convicted, off of parole, you

1 know. Like they said, I would have to come down; they would counsel with me or  
2 whatnot and find out exactly what my felony conviction was and how many years I  
3 had to wait.

4 THE COURT: Okay. Fair enough. Thank you.

5 Counsel, please approach and turn off your microphones.

6 [Bench conference -- not transcribed]

7 THE COURT: Okay. Ladies and gentlemen, at this time I'm going to excuse  
8 a few of you. And when your name and your badge number is called I'm going to  
9 ask that you remain seated until I get through the end; otherwise, people are not  
10 going to be able to hear and I want you all to leave at the same time; okay. After  
11 those folks have left we're going to start filling the box with prospective jurors and  
12 then the attorneys will be permitted to ask questions of these prospective jurors.  
13 Those of you who remain in the back keep listening because you're going to be  
14 asked -- you may be pulled up into the box and you're going to be asked these  
15 same questions and it just goes a lot faster if you know about what's coming; okay.

16 All right. The following jurors are going to be excused. First one is juror  
17 number 5, Clementine Wilson; juror number 9, Shaeann Clements; juror number 14,  
18 Jerry Goll; juror number 18, Marie Ann Thompson; juror number 32, Concepcion  
19 Garcia Holmes; juror number 49, Kevin Johnson, and juror number 75, Dennis  
20 Eichel. I want to thank you all for coming and if you would just follow the directions  
21 of Officer Black.

22 Okay. All right. Now, ladies and gentlemen, this is what we're going to  
23 do. We're going to go ahead and put 13 folks in the box. We're going to start  
24 putting juror number 1 in that seat which is closest to the door in the back; okay. So  
25 it will be one, two, three, four, five, six, seven. Number 8 is going to be in that seat

1 up front in front of one and two. So it will be eight, nine, ten, 11, 12, 13; okay. So  
2 let's go ahead and get started.

3 THE COURT CLERK: Nicholas Xanthopoulos, seat number 1; Clay Werts,  
4 seat number 2; Sean Larscheidt, seat number 3; Ashley Hernandez, seat number 4;  
5 Evan Walsh, seat number 5; William Townsend, seat number 6; Alfonso Palma, seat  
6 number 7; Ronald Pettis, seat number 8; Shannon Coleman, seat number 9; Aileen  
7 Sung, seat number 10; Brisa Villarreal, seat number 11; Timothy Olsen, seat  
8 number 12; Aubrey Bayang, seat number 13.

9 THE COURT: Okay.

10 MS. GRAHAM: May I, Your Honor?

11 THE COURT: You may.

12 MS. GRAHAM: Thank you.

13 Can you hear me okay, Madam Reporter? Okay.

14 Good morning, ladies and gentlemen. The aim of jury selection of  
15 course is to get a fair jury for this case for of course both sides. The Defendant is  
16 entitled to a fair jury as are the People of the State of Nevada. So the questions that  
17 we ask they're not designed to be personal or we're not meaning to pry. We just  
18 want to make sure that both sides are getting a fair jury. I'm going to ask a few  
19 questions to the group as a whole and then I'll follow up with some individual  
20 questions.

21 Her Honor already asked whether we all believed in the presumption of  
22 innocence. Does everybody remember that question about the presumption of  
23 innocence? Okay, affirmative head nods.

24 There's also another right, and that is the Fifth Amendment right for  
25 somebody to not be compelled to testify, so an accused always has a right to not



1 testify. Does everybody believe in that right? Okay, affirmative head nods.

2           You'll be instructed by the Court to not hold it against the Defendant if  
3 he doesn't testify. I don't know what of course he will do, but can everybody follow  
4 that instruction that the Court would give in a case if the Defendant not testify?  
5 Okay, affirmative head nods.

6           Does anybody -- there was a little bit of discussion about a woman who  
7 had her house broken into; pretty much all of her possessions stolen from her, and it  
8 sounds like the police response was less than adequate. Does anybody share a  
9 similar experience with frustration with law enforcement or overall distrust of maybe  
10 law enforcement or prosecuting agencies? Anybody have a distrust about that?  
11 Okay.

12       THE COURT: Well, let's pass the microphone to him.

13           By the way, make sure you have the microphone before you talk; okay.

14       MS. GRAHAM: And, sir, you're juror number 019?

15       PROSPECTIVE JUROR #019: Correct, Ron Pettis.

16       MS. GRAHAM: Mr. Pettis?

17       PROSPECTIVE JUROR #019: Mm-hmm.

18       MS. GRAHAM: Okay. Can you tell me about that?

19       PROSPECTIVE JUROR #019: It's in relations to my --

20       MS. GRAHAM: Son.

21       PROSPECTIVE JUROR #019: -- the killer of my son.

22       MS. GRAHAM: Okay.

23       PROSPECTIVE JUROR #019: They - they know the guy's name. They knew  
24 exactly where he went. They even knew his address and telephone number but  
25 wouldn't bother trying to extradite him.

1 MS. GRAHAM: Okay. And again, as the Court indicated, I'm really sorry  
2 about what happened with your son. It's terrible.

3 So you feel that the police didn't really do all that they could in their  
4 power to get him back from Mexico to here?

5 PROSPECTIVE JUROR #019: To get him back. And he had a girlfriend that  
6 was there that actually handed him the gun and she's still free. They still have never  
7 charged her even though she gave a statement that she handed him the gun.

8 MS. GRAHAM: Okay. And so you also feel that they're not doing all they can  
9 regarding her involvement?

10 PROSPECTIVE JUROR #019: Correct.

11 MS. GRAHAM: Okay. Obviously that's a very frustrating experience.  
12 Frustrating probably is an understatement.

13 You will probably hear from some police officers in this trial. And  
14 obviously we are deputies with the District Attorney's Office. Is there anything about  
15 kind of the lack of police work in your son's case that you might hold against us in  
16 this case?

17 PROSPECTIVE JUROR #019: I don't think I can really give you an honest  
18 answer on that --

19 MS. GRAHAM: Okay.

20 PROSPECTIVE JUROR #019: -- because I think it would have to -- you  
21 know, if -- if it was something that I felt was similar --

22 MS. GRAHAM: Sure.

23 PROSPECTIVE JUROR #019: -- it possibly -- possibly could have some  
24 resentments there.

25 MS. GRAHAM: Understood. So obviously what happened with your son is

1 going to be different than what happened in this case. And I guess you would agree  
2 with me that there are some police officers who do great work and some who need  
3 improvement; you would agree with that?

4 PROSPECTIVE JUROR #019: Yes, absolutely.

5 MS. GRAHAM: I'm sorry. Did you say --

6 PROSPECTIVE JUROR #019: Absolutely.

7 MS. GRAHAM: Okay. Do you think that you could in this case, if you're a  
8 juror, base the police work in this case solely based on what's presented to you or  
9 would you kind of use an outside experience in your evaluation?

10 PROSPECTIVE JUROR #019: I could tell you I would try, but I --

11 MS. GRAHAM: Understood.

12 PROSPECTIVE JUROR #019: -- I can't -- you know, the emotion that's inside  
13 me, the pain and grief --

14 MS. GRAHAM: Of course.

15 PROSPECTIVE JUROR #019: -- it's hard to say what happens.

16 MS. GRAHAM: Of course.

17 And just for the panel as a whole, we all have common experiences --  
18 not common -- well, some can be common, but just life experiences that of course  
19 are going to shape how we think about things. We can't turn those off. The parties  
20 might just want to know about them so that we can evaluate all of you for fairness.

21 Sir, I appreciate that.

22 Anybody else in regard to a prosecuting agency or police work  
23 generally that anybody wants to share? Okay, negative response from the panel.

24 THE COURT: By the way, they may say that because there's no -- there's  
25 cameras in this courtroom, but it doesn't show on the jury, so you guys don't

1 respond, but it doesn't really show a good record, so you may see that happen by  
2 both sides; okay.

3 Go ahead, counsel.

4 MS. GRAHAM: Thank you, Your Honor.

5 Has anybody, as part of the panel, ever worked like as a clerk in a  
6 convenience store or gas station, wash -- car wash, anything like that? Okay, a  
7 couple hands. If you could pass the mic to juror number 004.

8 PROSPECTIVE JUROR #004: Clay Werts. I owned and operated three  
9 Baskin-Robbins stores for 26 years; dealt with lots of people.

10 MS. GRAHAM: Okay. Were they here in Clark County?

11 PROSPECTIVE JUROR #004: No, in Oregon.

12 MS. GRAHAM: In Oregon.

13 PROSPECTIVE JUROR #004: Mm-hmm.

14 MS. GRAHAM: Did you eat a lot of ice cream in that process?

15 PROSPECTIVE JUROR #004: I was hoping you wouldn't notice.

16 MS. GRAHAM: I haven't noticed. I mean, physically I haven't noticed, but I  
17 cannot help but ask, you know, with the ownership of the Baskin-Robbins. Are you  
18 still in the business?

19 PROSPECTIVE JUROR #004: No, I retired ten years ago and sold my three  
20 stores.

21 MS. GRAHAM: Okay, but you're in the business of eating ice cream?

22 PROSPECTIVE JUROR #004: Yes --

23 MS. GRAHAM: Okay.

24 PROSPECTIVE JUROR #004: -- very much so.

25 MS. GRAHAM: All right. Did you ever have an occasion to deal with

1 robberies at your stores?

2 PROSPECTIVE JUROR #004: Yes.

3 MS. GRAHAM: Were you ever personally a victim of that?

4 PROSPECTIVE JUROR #004: I was not in the store when they occurred.

5 MS. GRAHAM: Would it be fair to say you dealt with those issues  
6 afterwards?

7 PROSPECTIVE JUROR #004: Very much so.

8 MS. GRAHAM: With your employees?

9 PROSPECTIVE JUROR #004: Yes.

10 MS. GRAHAM: Okay. The allegation in this case involves a robbery at an  
11 ampm. Obviously it has nothing to do with Baskin-Robbins in Oregon or anything  
12 that you dealt with. Can you keep whatever experience your employees had in  
13 Oregon separate from what you're going to hear in this case?

14 PROSPECTIVE JUROR #004: Yes.

15 MS. GRAHAM: Okay. And obviously what we're going to ask -- both parties  
16 are going to ask of you is to simply base your verdict in this case on the evidence  
17 presented and the law that Her Honor is going to instruct all of you at the end, so  
18 those are the basis of my questions.

19 Thank you so much. If you could pass the mic down just a few to juror  
20 number 011.

21 PROSPECTIVE JUROR #011: Yes, 11.

22 MS. GRAHAM: Eleven. Sir, you indicated in the affirmative that you had  
23 some experience with that. Mr. Walsh?

24 PROSPECTIVE JUROR #011: Yes.

25 MS. GRAHAM: Can you tell us about that?

1 PROSPECTIVE JUROR #011: I worked at an ice cream store similar at the  
2 Fashion Show Mall.

3 MS. GRAHAM: Okay.

4 PROSPECTIVE JUROR #011: And I also worked at the front of a cupcake  
5 store here in Las Vegas.

6 MS. GRAHAM: Okay. Did you ever have any experience with a robbery --

7 PROSPECTIVE JUROR #011: Yeah.

8 MS. GRAHAM: -- or theft or anything like that?

9 PROSPECTIVE JUROR #011: Yes, at the Fashion Show Mall location.

10 MS. GRAHAM: Okay.

11 PROSPECTIVE JUROR #011: Someone had broken in and stole things from  
12 the safe in the back, but I wasn't present --

13 MS. GRAHAM: Okay, understood.

14 PROSPECTIVE JUROR #011: -- at the time of the robbery.

15 MS. GRAHAM: Understood. Do you know whether anybody was present?

16 PROSPECTIVE JUROR #011: Yes. There's only three people on staff, so it  
17 was my manager.

18 MS. GRAHAM: Your manager was present. Did you discuss the case much  
19 with him or her?

20 PROSPECTIVE JUROR #011: Yes, just 'cause we worked fairly closely with  
21 each other, so I heard most of the things that happened.

22 MS. GRAHAM: Sure. And the same question, just that that was separate  
23 from what occurred in this case you would agree?

24 PROSPECTIVE JUROR #011: Yes.

25 MS. GRAHAM: Anything about that case that would impart your kind of being

1 fair and impartial in this case?

2 PROSPECTIVE JUROR #011: Maybe only the fear factor from the person  
3 that was present during the situation just 'cause I know how scared they were --

4 MS. GRAHAM: Of course.

5 PROSPECTIVE JUROR #011: -- over the situation, but other than that I don't  
6 think so.

7 MS. GRAHAM: All right. And that's kind of like a common experience, or just  
8 an everyday experience; you can't turn it off.

9 PROSPECTIVE JUROR #011: Right.

10 MS. GRAHAM: But that you can keep it separate in the judgment of facts in  
11 this case?

12 PROSPECTIVE JUROR #011: Yes.

13 MS. GRAHAM: Okay. Thank you so much.

14 Anybody else experience as a clerk at a convenience store, car wash,  
15 anything like that? Okay, negative response.

16 And I'll just ask some brief questions to each of you individually. If you  
17 could pass the mic over, thank you, to juror number 2.

18 Sir, it seems everybody's doing a really good job pronouncing your  
19 name?

20 PROSPECTIVE JUROR #002: Yes.

21 MS. GRAHAM: Okay. Xanthopoulos?

22 PROSPECTIVE JUROR #002: Xanthopoulos.

23 MS. GRAHAM: Xanthopoulos; okay.

24 Can I ask how you're employed?

25 PROSPECTIVE JUROR #002: Where?

1 MS. GRAHAM: How.  
2 PROSPECTIVE JUROR #002: How?  
3 MS. GRAHAM: In what manner. What do you do?  
4 PROSPECTIVE JUROR #002: Staff attorney.  
5 MS. GRAHAM: For?  
6 PROSPECTIVE JUROR #002: Nevada Legal Services.  
7 MS. GRAHAM: Okay, with Barbara Buckley? Oh, that's --  
8 PROSPECTIVE JUROR #002: No, that's Legal Aid Society of Southern  
9 Nevada --  
10 MS. GRAHAM: Correct.  
11 PROSPECTIVE JUROR #002: -- I believe.  
12 MS. GRAHAM: Okay, they're separate.  
13 PROSPECTIVE JUROR #002: Yes.  
14 MS. GRAHAM: What kinds of things do you help people with?  
15 PROSPECTIVE JUROR #002: Exclusively federal income tax.  
16 MS. GRAHAM: Okay. So what might be a problem that somebody has with  
17 that?  
18 PROSPECTIVE JUROR #002: The IRS is about to garnish their income. The  
19 IRS is proposing a tax increase. No criminal tax law issues though.  
20 MS. GRAHAM: Understood. And you unfortunately were robbed at knifepoint  
21 in Chile?  
22 PROSPECTIVE JUROR #002: Correct.  
23 MS. GRAHAM: You indicated that you didn't report that just because -- is it  
24 fair to say just didn't want to be involved in the prosecution and everything like that?  
25 PROSPECTIVE JUROR #002: That's correct.



1 MS. GRAHAM: Okay. Do you feel in this case you could be fair and impartial  
2 to both sides?

3 PROSPECTIVE JUROR #002: I do.

4 MS. GRAHAM: Okay. Thank you so much. If you could pass the mic over to  
5 juror number 004, Mr. Werts.

6 Sir, fair to say you had limited experience as a police officer?

7 PROSPECTIVE JUROR #004: Correct.

8 MS. GRAHAM: But in the two years that you served for LAPD the '70s were  
9 kind of a wild time in LA?

10 PROSPECTIVE JUROR #004: Yes, they were.

11 MS. GRAHAM: All right. What brought you in and then out of the field?

12 PROSPECTIVE JUROR #004: I had family members that were in law  
13 enforcement. It was something I always wanted as a kid. And what took me out  
14 was the starting salary in 1971 for a police officer of \$791 a month.

15 MS. GRAHAM: Yeah.

16 PROSPECTIVE JUROR #004: And I was offered twice that in the food  
17 industry. And between money and some situations of moral and ethics that my  
18 religious standards just could not -- we just couldn't get a long together.

19 MS. GRAHAM: You and?

20 PROSPECTIVE JUROR #004: My religious standards and the things on the  
21 street that were happening and -- that I saw and had to be involved in.

22 MS. GRAHAM: Okay.

23 PROSPECTIVE JUROR #004: From drugs, to prostitution, to everything else.  
24 It was -- raising a family and being in that environment was very tough.

25 MS. GRAHAM: Okay. Are you kind of saying the things that you were

1 subjected to; observing on a daily basis was tough based on your religious beliefs?

2 PROSPECTIVE JUROR #004: Correct.

3 MS. GRAHAM: Okay. I just want to make sure I understand that properly.

4 And then you got into the food business?

5 PROSPECTIVE JUROR #004: Got into -- yes --

6 MS. GRAHAM: And --

7 PROSPECTIVE JUROR #004: -- food industry.

8 MS. GRAHAM: The industry. And had you worked exclusively in that?

9 PROSPECTIVE JUROR #004: After that experience, yes, I was in the food  
10 industry for all my working life. The last 26 years was with the ice cream stores.

11 MS. GRAHAM: And are you currently retired?

12 PROSPECTIVE JUROR #004: I am very.

13 MS. GRAHAM: How long have you resided in Clark County?

14 PROSPECTIVE JUROR #004: I think about eight or nine years.

15 MS. GRAHAM: From?

16 PROSPECTIVE JUROR #004: Hmm.

17 MS. GRAHAM: Where'd you move from?

18 PROSPECTIVE JUROR #004: Oh, from --

19 MS. GRAHAM: Just a -- I'm sorry.

20 PROSPECTIVE JUROR #004: From Oregon -- from Lake Oswego, Oregon.

21 MS. GRAHAM: Okay. It's beautiful up there.

22 And are you married, single, divorced?

23 PROSPECTIVE JUROR #004: Very married.

24 MS. GRAHAM: Any children?

25 PROSPECTIVE JUROR #004: I have five; four sons and a daughter.

1 MS. GRAHAM: Any grandchildren?  
2 PROSPECTIVE JUROR #004: Twenty-one.  
3 MS. GRAHAM: Twenty-one grandchildren?  
4 PROSPECTIVE JUROR #004: Yes.  
5 MS. GRAHAM: Wow. Any who live here locally?  
6 PROSPECTIVE JUROR #004: No.  
7 MS. GRAHAM: Your children who are grown, is it kind of a mixed bag, some  
8 work, some work out of the home?  
9 PROSPECTIVE JUROR #004: I have three of my family members work out  
10 of their home.  
11 MS. GRAHAM: Thank you.  
12 And, Your Honor, may I go back just one, please?  
13 THE COURT: Sure.  
14 MS. GRAHAM: Thank you.  
15 This is to juror number 2. I forgot to ask you, sir, if you're married,  
16 divorced, single.  
17 PROSPECTIVE JUROR #002: Single.  
18 MS. GRAHAM: And do you have any children?  
19 PROSPECTIVE JUROR #002: No.  
20 MS. GRAHAM: Thank you so much. And if you could pass it over to juror  
21 number 00 -- oh, sir, sorry, number 004.  
22 I know it may sound -- begin to sound redundant, but it is a purpose of  
23 jury selection, that you could be fair and impartial to both the Defendant in this case  
24 and the people of the state of the Nevada?  
25 PROSPECTIVE JUROR #004: Yes.

1 MS. GRAHAM: Thank you so much.

2 And juror number 008. Sir, how long have you been in Clark County?

3 PROSPECTIVE JUROR #008: Approximately nine years roughly.

4 MS. GRAHAM: And where did you move from previously?

5 PROSPECTIVE JUROR #008: Let's see. Before that I lived in Minneapolis.

6 I lived in several places so -- but Minneapolis was directly before.

7 MS. GRAHAM: Okay. And what brought you to Clark County?

8 PROSPECTIVE JUROR #008: Work.

9 MS. GRAHAM: And what do you do?

10 PROSPECTIVE JUROR #008: I work for a civil engineering company.

11 MS. GRAHAM: Okay.

12 PROSPECTIVE JUROR #008: CAD manager, if you're familiar with what that  
13 is.

14 MS. GRAHAM: Can you just tell me briefly.

15 PROSPECTIVE JUROR #008: Computer-aided drafting.

16 MS. GRAHAM: Okay.

17 PROSPECTIVE JUROR #008: So I put together all the drawings and the  
18 plans for the engineers. They tell me what they want in the drawings --

19 MS. GRAHAM: Okay.

20 PROSPECTIVE JUROR #008: -- and I put them together for them.

21 MS. GRAHAM: For things like roads, or bridges, or buildings?

22 PROSPECTIVE JUROR #008: Yes.

23 MS. GRAHAM: All of those?

24 PROSPECTIVE JUROR #008: Minus bridge -- minus the buildings --

25 MS. GRAHAM: Okay.

1 PROSPECTIVE JUROR #008: -- but interstate -- roads, bridges --  
2 MS. GRAHAM: Understood.  
3 PROSPECTIVE JUROR #008: -- trails.  
4 MS. GRAHAM: Understood.  
5 THE COURT: Okay. Ms. Graham, you're interrupting the jurors, so just an  
6 FYI.  
7 MS. GRAHAM: I apologize. Thank you.  
8 She's right. I mean, we interrupt people -- we interrupt all the time in  
9 our daily lives, so I apologize though for that.  
10 PROSPECTIVE JUROR #008: No worries.  
11 MS. GRAHAM: Okay. Thanks.  
12 And are you married, single, divorced?  
13 PROSPECTIVE JUROR #008: Married.  
14 MS. GRAHAM: Does your spouse work?  
15 PROSPECTIVE JUROR #008: No.  
16 MS. GRAHAM: No?  
17 PROSPECTIVE JUROR #008: No.  
18 MS. GRAHAM: Did she formally work?  
19 PROSPECTIVE JUROR #008: Well -- yeah, at one point.  
20 MS. GRAHAM: Some time ago?  
21 PROSPECTIVE JUROR #008: Yeah.  
22 MS. GRAHAM: Do you have any children?  
23 PROSPECTIVE JUROR #008: No.  
24 MS. GRAHAM: Okay. Sir, do you feel you can be fair and impartial?  
25 PROSPECTIVE JUROR #008: Mm-hmm.

1 MS. GRAHAM: And that's --  
2 THE COURT: Is that a yes?  
3 PROSPECTIVE JUROR #008: Yes.  
4 MS. GRAHAM: I didn't even have to ask you. They got on you.  
5 Okay. Thank you so much. If you could pass the mic over to 010.  
6 Ms. Hernandez?  
7 PROSPECTIVE JUROR #010: Yes.  
8 MS. GRAHAM: Have you been in Clark County long?  
9 PROSPECTIVE JUROR #010: My whole life.  
10 MS. GRAHAM: Okay. Do you work?  
11 PROSPECTIVE JUROR #010: Yes, I do.  
12 MS. GRAHAM: As?  
13 PROSPECTIVE JUROR #010: I'm a math teacher for the Clark County  
14 School District.  
15 MS. GRAHAM: What grade?  
16 PROSPECTIVE JUROR #010: Nine through 12<sup>th</sup>.  
17 MS. GRAHAM: What math do you teach?  
18 PROSPECTIVE JUROR #010: Currently Algebra II Honors.  
19 MS. GRAHAM: What high school?  
20 PROSPECTIVE JUROR #010: Basic Academy.  
21 MS. GRAHAM: Is that different from Basic?  
22 PROSPECTIVE JUROR #010: No, we changed our name. It's the same  
23 school.  
24 MS. GRAHAM: Oh, okay, got it. Fancy.  
25 PROSPECTIVE JUROR #010: I know.

1 MS. GRAHAM: Are you married?  
2 PROSPECTIVE JUROR #010: Yes, I am.  
3 MS. GRAHAM: Does your spouse work?  
4 PROSPECTIVE JUROR #010: Yes, he does.  
5 MS. GRAHAM: As?  
6 PROSPECTIVE JUROR #010: A phlebotomist.  
7 MS. GRAHAM: Do you have any children?  
8 PROSPECTIVE JUROR #010: Two.  
9 MS. GRAHAM: What are their ages?  
10 PROSPECTIVE JUROR #010: Four and seven.  
11 MS. GRAHAM: You indicated that your uncle has been a police officer for  
12 about 15 years.  
13 PROSPECTIVE JUROR #010: I believe that's correct.  
14 MS. GRAHAM: But that -- for about eight years you haven't been in a  
15 speaking relationship with him?  
16 PROSPECTIVE JUROR #010: That's right.  
17 MS. GRAHAM: Nothing based on his police work the fact that you guys are  
18 estranged?  
19 PROSPECTIVE JUROR #010: No.  
20 MS. GRAHAM: Okay. What kinds of hobbies do -- do you have?  
21 PROSPECTIVE JUROR #010: Running, yoga, exercise, cooking.  
22 MS. GRAHAM: Okay. And you feel that you could be fair and impartial?  
23 PROSPECTIVE JUROR #010: Yes, I do.  
24 MS. GRAHAM: Thank you so much. If you could pass it over to juror number  
25 011.

1 Sir, have you been in Clark County long?  
2 PROSPECTIVE JUROR #011: Yes, I was born and raised here.  
3 MS. GRAHAM: Where --  
4 PROSPECTIVE JUROR #011: I went to college in Oregon for two years, but  
5 that was the only time I was away.  
6 MS. GRAHAM: Okay. Where in Oregon?  
7 PROSPECTIVE JUROR #011: Corvallis, Oregon.  
8 MS. GRAHAM: That's --  
9 PROSPECTIVE JUROR #011: It's like --  
10 MS. GRAHAM: -- Oregon State?  
11 PROSPECTIVE JUROR #011: Yes, OSU.  
12 MS. GRAHAM: The Beavers.  
13 PROSPECTIVE JUROR #011: The Beavers.  
14 MS. GRAHAM: Okay.  
15 PROSPECTIVE JUROR #011: And there's a Baskin-Robbins there that I  
16 went to a lot.  
17 MS. GRAHAM: Nice.  
18 Is that your Baskin-Robbins?  
19 PROSPECTIVE JUROR #004: No.  
20 MS. GRAHAM: Okay.  
21 Sorry, I asked juror number 004 if that was his Baskin-Robbins; he said  
22 no. I'm going to get in trouble.  
23 Okay, 01 -- that wasn't the ice cream store you worked at though?  
24 PROSPECTIVE JUROR #011: No, it was not.  
25 MS. GRAHAM: Okay. Did you get a degree while you were there?



1 PROSPECTIVE JUROR #011: I went two years there and then I graduated  
2 from UNLV here; so two years there, two years here.

3 MS. GRAHAM: Okay. And what kind of degree?

4 PROSPECTIVE JUROR #011: I have a degree in communications and a  
5 minor in marketing.

6 MS. GRAHAM: And do you work?

7 PROSPECTIVE JUROR #011: Yes, I am the development director at a  
8 nonprofit here in Las Vegas.

9 MS. GRAHAM: What's the nonprofit?

10 PROSPECTIVE JUROR #011: It's AFAN, Aid for Aids of Nevada.

11 MS. GRAHAM: What do you guys do?

12 PROSPECTIVE JUROR #011: We provide client services to individuals who  
13 are infected or affected by HIV and AIDS.

14 MS. GRAHAM: Okay.

15 PROSPECTIVE JUROR #011: And we're the largest non -- or we're the  
16 largest nonprofit that provides services to those clients in Southern Nevada.

17 MS. GRAHAM: Okay. So probably all types of services?

18 PROSPECTIVE JUROR #011: Yes, from housing, bus transportation,  
19 emergency food packs, mental health specialists on staff, nutritionists.

20 MS. GRAHAM: Okay. How long have you been doing that type of work?

21 PROSPECTIVE JUROR #011: This is my second year there.

22 MS. GRAHAM: And previously did you work for another nonprofit?

23 PROSPECTIVE JUROR #011: No, previously I was working in PR.

24 MS. GRAHAM: PR for a different group?

25 PROSPECTIVE JUROR #011: Yes.

1 MS. GRAHAM: Are you married, single, divorced?  
2 PROSPECTIVE JUROR #011: I am engaged.  
3 MS. GRAHAM: Engaged to be married?  
4 PROSPECTIVE JUROR #011: Yes.  
5 MS. GRAHAM: Does your fiancée work?  
6 PROSPECTIVE JUROR #011: Yes.  
7 MS. GRAHAM: What does your fiancée work?  
8 PROSPECTIVE JUROR #011: He is the head of props for a Broadway show  
9 in New York.  
10 MS. GRAHAM: Oh, wow.  
11 PROSPECTIVE JUROR #011: I'm moving there.  
12 MS. GRAHAM: Oh, you are.  
13 PROSPECTIVE JUROR #011: Yes.  
14 MS. GRAHAM: What show?  
15 PROSPECTIVE JUROR #011: It is the new Cirque du Soleil Broadway  
16 production called Paramour.  
17 MS. GRAHAM: Cool. Have you seen it?  
18 PROSPECTIVE JUROR #011: It's not open yet. April is their previews.  
19 MS. GRAHAM: When you going to move?  
20 PROSPECTIVE JUROR #011: I am moving in April.  
21 MS. GRAHAM: Okay. Congratulations. That sounds like fun.  
22 Anything that the Court was talking to the panel about or that we've  
23 been talking about that you want to discuss in relation to being fair and impartial in  
24 this case?  
25 PROSPECTIVE JUROR #011: I probably didn't mention it earlier, but after

1 the defense had mentioned that the Defendant was pleading guilty to the assault  
2 side of things, it kinda just -- I don't want to assume that the robbery charge was  
3 added in there, but it's just -- it's hard for me to balance the difference between what  
4 was going on at that time.

5 MS. GRAHAM: Sure. And just so that you're clear, the Defendant has  
6 entered a plea of not guilty.

7 PROSPECTIVE JUROR #011: Oh, okay.

8 MS. GRAHAM: There's been no pleading guilty in this case.

9 PROSPECTIVE JUROR #011: Oh, I see. Okay.

10 MS. GRAHAM: The Court is going to read what's called an Information. And  
11 as the Court indicated, it's merely an allegation. And then at the end she'll say to  
12 which the Defendant has entered a plea of not guilty. And at that point -- and as we  
13 sit here today, he is innocent until proven guilty. So I understand that can be kind of  
14 confusing --

15 PROSPECTIVE JUROR #011: Yes.

16 MS. GRAHAM: -- hearing that.

17 PROSPECTIVE JUROR #011: Yes.

18 MS. GRAHAM: Does what I said clear that up at all?

19 PROSPECTIVE JUROR #011: Yes, a little bit.

20 MS. GRAHAM: Okay.

21 PROSPECTIVE JUROR #011: Just based on what I -- what we had heard  
22 earlier I just thought that that was the case, so yeah.

23 MS. GRAHAM: Okay.

24 PROSPECTIVE JUROR #011: So yes it clears it up, but yeah.

25 MS. GRAHAM: Thank you for sharing that with us though. I think both sides

1 would like to know something like that.

2 PROSPECTIVE JUROR #011: Okay.

3 MS. GRAHAM: Okay. Can you pass the mic over to 015, please?

4 I'm sorry. No children?

5 PROSPECTIVE JUROR #011: No children.

6 MS. GRAHAM: Yeah, maybe someday. Okay. Thanks.

7 Juror number 015?

8 PROSPECTIVE JUROR #015: Yes.

9 MS. GRAHAM: Sir, how long have you been in Clark County?

10 PROSPECTIVE JUROR #015: Six years.

11 MS. GRAHAM: Where did you move from?

12 PROSPECTIVE JUROR #015: Pasadena, California.

13 MS. GRAHAM: And what brought you here?

14 PROSPECTIVE JUROR #015: Health reasons.

15 MS. GRAHAM: Do you work?

16 PROSPECTIVE JUROR #015: No, I --

17 MS. GRAHAM: Did --

18 PROSPECTIVE JUROR #015: I serve on -- I serve on two boards, but I have

19 a disability that keeps me from working full-time.

20 MS. GRAHAM: Okay. May I ask the boards that you serve on?

21 PROSPECTIVE JUROR #015: Amati Foundation, which is a nonprofit

22 focused on providing violins and other stringed instruments to young kinds. And

23 Classic Wrestling Revolution, which is a professional wrestling organization.

24 MS. GRAHAM: What do you do with that board?

25 PROSPECTIVE JUROR #015: It was my idea for the company and so I kind

1 of sit back and tell 'em what I think, and where I think they should be going, and  
2 what they should be doing.

3 MS. GRAHAM: Okay. So would this wrestling group model themselves after  
4 what a lot of us are familiar with like WWF?

5 PROSPECTIVE JUROR #015: Yeah, like WWE and combined with UFC.

6 MS. GRAHAM: Okay.

7 PROSPECTIVE JUROR #015: Mm-hmm.

8 MS. GRAHAM: For entertainment?

9 PROSPECTIVE JUROR #015: Yes.

10 MS. GRAHAM: All right. And reference the foundation you serve on for  
11 violins, are you a musician?

12 PROSPECTIVE JUROR #015: I am a guitar player --

13 MS. GRAHAM: Okay.

14 PROSPECTIVE JUROR #015: -- but I wouldn't consider myself a musician. I  
15 don't have that kind of talent.

16 MS. GRAHAM: Okay. Well, nobody here -- just call yourself a musician.  
17 Nobody here would know.

18 So is that how you kind of became involved in the foundation with the  
19 violins in your music experience?

20 PROSPECTIVE JUROR #015: No, actually it was a happenstance. I was  
21 doing work in China and heard a group of young players. And when I came back to  
22 America I did some research and found that musical programs were being cut out of  
23 schools and I tried to do something to change it.

24 MS. GRAHAM: Okay. And previous to your disability did you work -- did you  
25 have a career previous to that?

1 PROSPECTIVE JUROR #015: Yes.  
2 MS. GRAHAM: What was that?  
3 PROSPECTIVE JUROR #015: Mostly in internet companies as co-founder of  
4 several rather large companies.  
5 MS. GRAHAM: Startups?  
6 PROSPECTIVE JUROR #015: Startups --  
7 MS. GRAHAM: You were on the ground floor?  
8 PROSPECTIVE JUROR #015: Yes.  
9 MS. GRAHAM: Married, single, divorced?  
10 PROSPECTIVE JUROR #015: Married.  
11 MS. GRAHAM: Does your spouse work?  
12 PROSPECTIVE JUROR #015: Yes.  
13 MS. GRAHAM: What does your spouse do?  
14 PROSPECTIVE JUROR #015: She's a chief financial officer.  
15 MS. GRAHAM: At what organization?  
16 PROSPECTIVE JUROR #015: A company called Stone Lock.  
17 MS. GRAHAM: Did she do your taxes already?  
18 PROSPECTIVE JUROR #015: Of course.  
19 MS. GRAHAM: All right. Do you have any children?  
20 PROSPECTIVE JUROR #015: Four.  
21 MS. GRAHAM: May I ask their ages?  
22 PROSPECTIVE JUROR #015: Six, 11, 14, 15.  
23 MS. GRAHAM: So obviously they're all in the house with you?  
24 PROSPECTIVE JUROR #015: Two are.  
25 MS. GRAHAM: Two are; okay.

1 PROSPECTIVE JUROR #015: The six and the 14 year old.  
2 MS. GRAHAM: Okay. Do you feel based on all the discussions we've been  
3 having, do you have anything to offer regarding your ability to be fair and impartial?  
4 PROSPECTIVE JUROR #015: I can be completely fair and impartial.  
5 MS. GRAHAM: Okay. Thank you so much.  
6 PROSPECTIVE JUROR #015: Mm-hmm.  
7 MS. GRAHAM: If you could just pass the mic over to 016.  
8 Mr. Palma?  
9 PROSPECTIVE JUROR #016: Yes.  
10 MS. GRAHAM: Sir, how long have you been in Clark County?  
11 PROSPECTIVE JUROR #016: This will be 43 years this year.  
12 THE COURT: Oh, you're very soft spoken.  
13 PROSPECTIVE JUROR #016: I'm sorry. Forty-three years this year.  
14 MS. GRAHAM: Okay. And is it fair to say you spent some time growing up in  
15 New York?  
16 PROSPECTIVE JUROR #016: Yes, I arrived here when I was 23.  
17 MS. GRAHAM: Okay. When you were growing up in New York was that in  
18 the city?  
19 PROSPECTIVE JUROR #016: Yes.  
20 MS. GRAHAM: What brought you out west?  
21 PROSPECTIVE JUROR #016: A job.  
22 MS. GRAHAM: What kind of job?  
23 PROSPECTIVE JUROR #016: A dealing job.  
24 MS. GRAHAM: Okay, in the casino?  
25 PROSPECTIVE JUROR #016: Yes. I've been a dealer for the last 43 years.

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**APPELLANT'S APPENDIX VOLUME II PAGES 251-500**

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## CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 7th day of July, 2016. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

HOWARD S. BROOKS  
SHARON G. DICKINSON

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

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BY \_\_\_\_\_  
Employee, Clark County Public Defender's Office