

IN THE SUPREME COURT OF THE STATE OF NEVADA

COREY THOMAS BARNETT,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Docket No. 71132

Appeal from a Judgment of Conviction
Following a Jury Trial and Verdict
Eighth Judicial District Court, Clark County
The Honorable Douglas Smith, District Judge
Case No. C-16-312887-1

**APPELLANT'S APPENDIX
VOL. 2 OF 2**

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CHRONOLOGICAL INDEX

Description	Vol.	Pages	Date
Indictment	1	1-3	2/24/2016
Amended Indictment	1	4-5	4/7/2016
Transcript: Jury Trial Day 1	1	6-217	4/11/2016
Transcript: Jury Trial Day 2	2	1-128	4/12/2016
Verdict (Possession of a Controlled Substance)	2	129	4/12/2016
Verdict (Possession of a Firearm)	2	130	4/12/2016
Transcript: Sentencing	2	131-44	6/15/2016
Judgment of Conviction	2	145-46	7/21/2016
Notice of Appeal	2	147-48	8/19/2016

ALPHABETICAL INDEX

Description	Vol.	Pages	Date
Amended Indictment	1	4-5	4/7/2016
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Judgment of Conviction	2	145-46	7/21/2016
Notice of Appeal	2	147-48	8/19/2016
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Transcript: Jury Trial Day 2	2	1-128	4/12/2016
Transcript: Sentencing	2	131-44	6/15/2016
Verdict (Possession of a Controlled Substance)	2	129	4/12/2016
Verdict (Possession of a Firearm)	2	130	4/12/2016

CERTIFICATE OF SERVICE

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AFFIRMATION

Pursuant to NRS 239B.030, this document contains no social security numbers.

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4-26-17

Date


CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

COREY THOMAS BARNETT,

Defendant.

CASE NO. C312887

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE

TUESDAY, APRIL 12, 2016

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 2
VOLUME II

APPEARANCES:

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COLLEEN BAHARAV, ESQ.
MICHAEL GILES, ESQ.
Deputy District Attorneys

For the Defendant:

BEN NADIG, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

Volume II - Page 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF WITNESSES

PAGE

FOR THE STATE:

CHRISTOPHER DEANG

Direct Examination by Attorney Giles	10
Voir Dire Examination by Attorney Nadig	36
Direct Examination Continued by Attorney Giles	36
Cross-Examination by Attorney Nadig	46
Redirect Examination by Attorney Giles	62
Recross Examination by Attorney Nadig	70
Jury Questions by the Court	74
Further Redirect Examination by Attorney Giles	74
Further Recross Examination by Attorney Nadig	74
Jury Questions by the Court	75
Further Recross Examination by Attorney Nadig	75
Jury Questions by the Court	76
Further Redirect Examination by Attorney Giles	76
Jury Questions by the Court	77
Further Redirect Examination by Attorney Giles	77
Further Recross Examination by Attorney Nadig	77
Jury Questions by the Court	78
Further Redirect Examination by Attorney Giles	78
Further Recross Examination by Attorney Nadig	79

REBEKAH ALTIZER

Direct Examination by Attorney Baharav	80
Cross-Examination by Attorney Nadig	99
Redirect Examination by Attorney Baharav	101

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS

PAGE

FOR THE STATE:

13	Evidence Bag	31
13A	Narcotics	37
13B	NIK Receipt	37
14	Photograph - Vehicle	67
15	Judgment of Conviction	117

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Tuesday, April 12, 2016 at 10:18 a.m.

[Outside the presence of the jury]

THE COURT: We are -- print -- it's rolling.

MR. NADIG: Okay. Your Honor, last night after Mr. Barnett went back to CCDC, the State presented an -- another offer. They said if he pled to the prohibited person and possession charge, they would retain the right to argue. It would not be contingent on any of his other cases. They would dismiss the PCS case. Mr. Barnett asked for the Shannon West program and he said he would stipulate to whatever habitual treatment should he mess up. The State rejected that, so based upon that Mr. Barnett would like to go forward, Your Honor.

THE COURT: Okay. Let's see the jury instructions. Do we have them?

MS. BAHARAV: Yes.

[Colloquy between counsel]

MS. BAHARAV: May I approach?

THE COURT: Yeah. What are those two?

MS. BAHARAV: The -- I put --

THE COURT: Or those three or four or five or six.

MS. BAHARAV: So the -- the one that was up was the implicit biases one, so I'm putting that back now because he agreed where it goes, and then these are the ex-felon in possession instructions.

THE COURT: Okay, so we don't want to give those right now.

MS. BAHARAV: No. We don't.

THE COURT: All right. All right, are you ready?

MR. NADIG: Yes, Your Honor.

1 MS. BAHARAV: Yes, sir.

2 THE COURT: All right, jury instruction number 1 is the -- is the introduction
3 and it's number 1. Number 2, if in these instructions. Number 3, an indictment is a
4 formal method. Number 4, except as other authorized by law. Number 5, you are
5 instructed that methamphetamine is a controlled substance. Number 6, the law
6 recognizes two types of possession. Number 7, the Defendant's knowledge that the
7 substance. Number 8, constitute the crime charged. Number 9, Defendant is
8 presumed innocent. Number 10, you're here to determine the guilt or innocence of
9 the Defendant. Number 11, the evidence which you are to consider. Number 12, do
10 not decide the case on implicit bias. Number 13, credibility or believability. Number
11 14, the -- the witness has special knowledge.

12 And you -- are you going -- have you decided whether you're testifying
13 or not?

14 MR. NADIG: He's -- I've spoken with my client about his Fifth Amendment
15 rights, Your Honor. He is declining to testify at this point.

16 THE COURT: Is that right?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. So 15 will be it is a constitutional right of a defendant in
19 a criminal trial he may not be compelled to testify. Sixteen, although you are
20 consider. Seventeen, in your deliberation. Eighteen, when you retire, select one of
21 your members. Nineteen, the playback. Twenty is now you'll listen to arguments of
22 counsel.

23 The State is familiar with jury instructions 1 through 20?

24 MS. BAHARAV: Yes, Your Honor.

25 THE COURT: Do you have any objection to the Court giving those

1 instructions?

2 MS. BAHARAV: No, Your Honor.

3 THE COURT: Do you have any others to propose?

4 MS. BAHARAV: Just the ex-felon in possession, Your Honor.

5 THE COURT: That's separate. We'll have to do that separately.

6 MS. BAHARAV: Yes, Your Honor. So no, Your Honor.

7 THE COURT: You're familiar with the verdict form?

8 MS. BAHARAV: Yes, Your Honor.

9 THE COURT: And you're satisfied with the verdict form?

10 MS. BAHARAV: Yes, Your Honor.

11 THE COURT: Defense, you're familiar with jury instructions 1 through 20?

12 MR. NADIG: Yes, Your Honor.

13 THE COURT: Satisfied with them?

14 MR. NADIG: I am, Your Honor.

15 THE COURT: Do you have any more to propose?

16 MR. NADIG: No, Your Honor.

17 THE COURT: And you've reviewed the verdict form?

18 MR. NADIG: I have, Your Honor.

19 THE COURT: Satisfied with that?

20 MR. NADIG: I am.

21 THE COURT: All right. Now let's look at the proposed firearm by an ex-felon.

22 We'll just adapt the first set with that and then add these?

23 MS. BAHARAV: Yes, Your Honor.

24 MR. NADIG: Yes, Your Honor.

25 THE COURT: Okay. So an indictment is but a formal method will be 21.

1 Twenty-two, a person who is convicted of a felony.

2 MS. BAHARAV: If we're adopting the first set, then we probably don't need

3 this one again.

4 MR. NADIG: Which one?

5 MS. BAHARAV: The -- the possession instruction. Well unless you're -- I

6 would like it read again to them.

7 THE COURT: I'll read them.

8 MR. NADIG: I -- yeah, I think you need to.

9 MS. BAHARAV: Yes.

10 THE COURT: Twenty-three, the law recognizes two times a possession.

11 Twenty-four, evidence that the Defendant committed the offenses.

12 And the -- the State, you're familiar with jury instructions 21 through 24?

13 MS. BAHARAV: Yes, Your Honor.

14 THE COURT: On possession of a firearm.

15 MS. BAHARAV: Yes, Your Honor.

16 THE COURT: Which will not be given until after this first case, the possession

17 is -- you're satisfied with those jury instructions?

18 MS. BAHARAV: Yes, Your Honor.

19 THE COURT: Do you have any others to propose?

20 MS. BAHARAV: No, Your Honor.

21 THE COURT: And you're familiar with the -- the verdict form?

22 MS. BAHARAV: Yes, Your Honor.

23 THE COURT: Except for I don't have a verdict form.

24 MS. BAHARAV: Oh, may I approach?

25 THE COURT: Yes. Oh no, I do have it.

Volume II - Page 7

1 MS. BAHARAV: Oh.

2 THE COURT: Somehow it got slipped on top. You satisfied with the verdict
3 form?

4 MS. BAHARAV: Yes, Your Honor.

5 THE COURT: All right. Defense is familiar with 21 through 24?

6 MR. NADIG: Yes, Your Honor.

7 THE COURT: Satisfied with them?

8 MR. NADIG: Yes, Your Honor.

9 THE COURT: Do you have any others to propose?

10 MR. NADIG: No, Your Honor.

11 THE COURT: And the verdict form you reviewed it?

12 MR. NADIG: I have, Your Honor.

13 THE COURT: Are you satisfied with that?

14 MR. NADIG: I am, Your Honor.

15 THE COURT: All right.

16 Tom, get Alan in here for me.

17 Do you see any -- any concern that that be given -- that introduction be
18 given to them?

19 MS. BAHARAV: The --

20 THE COURT: Says --

21 MS. BAHARAV: Oh yes --

22 THE COURT: -- possession of firearm by prohibited person instructions.

23 MS. BAHARAV: I don't, but if counsel has a problem with it, you can take it
24 off.

25 MR. NADIG: Which one?

Volume II - Page 8

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1 THE COURT: This --
2 MS. BAHARAV: The title page.
3 THE COURT: The title page.
4 MR. NADIG: If you feel -- I -- I don't feel --
5 THE COURT: I don't know.
6 MR. NADIG: -- it's necessary.
7 MS. BAHARAV: Yeah, you can take it off.
8 THE COURT: I'll take it off.
9 MS. BAHARAV: That's fine.
10 THE COURT: Where is he?
11 THE MARSHAL: He was pushing his chair out to walk here when I left.
12 THE COURT: Go get your handcuffs out and go get him.
13 THE MARSHAL: Here he is.
14 [Colloquy between the Court and Law Clerk]
15 [Recess taken at 10:28 a.m.]
16 [Proceedings resumed at 10:34 a.m.]
17 THE MARSHAL: All rise, please.
18 [Jury in at 10:34 a.m.]
19 THE MARSHAL: And be seated.
20 THE COURT: Stipulate to the presence of the jury?
21 MS. BAHARAV: Yes, Your Honor.
22 MR. NADIG: Yes, Your Honor.
23 THE COURT: All right. Morning, ladies and gentlemen. Thank you for being
24 prompt. We even got a defense attorney here on time. Not you. Her.
25 Call your next witness.

Volume II - Page 9

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1 MR. GILES: Thank you, Your Honor. The State calls Officer Deang.

2 THE MARSHAL: Officer Deang.

3 MR. GILES: May I approach the Clerk, Your Honor?

4 THE MARSHAL: Right through here. Come around here, please. Okay,
5 raise your right hand and remain standing until she swears you in.

6 CHRISTOPHER DEANG

7 [having been called as a witness and being first duly sworn, testified as follows:]

8 THE CLERK: Okay, once you're seated please state and spell your full name
9 for the record.

10 THE WITNESS: My name's Christopher Deang, C-h-r-i-s-t-o-p-h-e-r, last
11 name Deang, D-e-a-n-g.

12 THE COURT: Go ahead.

13 MR. GILES: Thank you, Your Honor.

14 DIRECT EXAMINATION OF CHRISTOPHER DEANG

15 BY MR. GILES:

16 Q Officer Deang, how are you employed?

17 A I'm a police officer with the Las Vegas Metropolitan Police Department.

18 Q And how long have you been so employed?

19 A Nine years.

20 Q What is your current job assignment?

21 A I'm a patrol officer.

22 Q Would you walk us through the process of becoming a police officer
23 with the Las Vegas Metropolitan Police Department?

24 A We -- we go through a six-month academy and within the academy we
25 go through criminal training, scenario training as it relates to like scenarios you

Volume II - Page 10

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1 would accompis (sic) like on the street, firearms training, report writing, drug
2 recognition and identification training.

3 Q And after the academy do you have any additional ongoing training?

4 A Yes.

5 Q What is that like?

6 A You can -- you can go through better interviews courses, narcotics
7 classes to identify different narcotics. We also do testings. We take certain classes
8 to test narcotics and identify those items you find on the street during calls or stops.

9 Q And have you taken any additional training in narcotics?

10 A Yes.

11 Q And what kind of training have you taken?

12 A It's -- it's NIK test training. It's to identify certain narcotics that we find
13 on streets by using these test.

14 Q And are you certified to conduct those tests?

15 A Yes.

16 Q When were you first certified to do that?

17 A In June of 2007.

18 Q On September 25th of 2015, were you working that day?

19 A Yes.

20 Q Would you describe what your assignment that day was?

21 A As -- I was a patrol officer that day.

22 Q And what area of town were you working at?

23 A South Central Area Command which is going to be pretty much from
24 Sunset south to St. Rose and eastern to the 15.

25 Q In the morning hours of September 25th did you receive a call for

1 service?

2 A Yes.

3 Q How do calls for service generally come in?

4 A People call -- people who call 911 or 311 we get dispatched those calls.

5 Q And does that come to you over radio or some other communication?

6 A Yes. Gets dispatched over the radio.

7 Q Okay, and on that morning were you dispatched to Lincoln Valley
8 Road?

9 A Yes.

10 Q Describe the nature of that dispatch call.

11 A We were dispatched to the Lincoln Valley Road reference a suspicious
12 vehicle that was parked in the neighborhood. The caller stated there were some
13 people sleeping inside the vehicle inside a van across the street from their home
14 and they weren't familiar with the -- with the van or the people.

15 Q Were you the primary officer on that call?

16 A No, I wasn't.

17 Q Who was the primary officer on that call?

18 A Officer Fernandez.

19 Q And was he there when you arrived?

20 A Yes.

21 Q Okay. And I'm showing you what's been admitted as State Exhibit 2.

22 Do you recognize that?

23 A Yes. That is a picture of the street.

24 Q Had you ever been in that neighborhood prior to September 25th?

25 A I have.

Volume II - Page 12

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1 Q Is that generally inside your patrol area?

2 A Yes.

3 Q Can you identify Lincoln Valley Road on that map? If you touch the
4 screen in front of you, it'll leave a mark.

5 A Oh, okay. Oh, well -- yeah, that's -- that's it.

6 Q Maybe a little bigger circle.

7 A Okay.

8 Q Okay. What way would you have come into that neighborhood?

9 A I would come in -- you can -- you can come from two different ways,
10 because I'm familiar with the area. You can enter it off of Windmill or you can enter
11 it through -- from Wigwam and go through side streets which are through the
12 neighborhood.

13 Q Okay. However, is there more than one way to get off Lincoln Valley
14 Road?

15 A There -- there's only one exit. It's a small neighborhood.

16 Q Okay. And is it a boxed-in neighborhood?

17 A Yes.

18 Q Okay. Would you describe what you observed when you arrived?

19 A When Officer -- Officer Fernandez was first to arrive at the scene and I
20 was there to back him, he was -- he was speaking -- he -- he already pretty much
21 spoke to the female. He was conducting a records check I spoke to him. He -- he
22 told me that the female had warrants and we were going to talk to both subjects.

23 Q Okay, let's talk about that records check. Is -- is that a procedural thing
24 that you do?

25 A Yes.

Volume II - Page 13

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1 Q How would you conduct a records check on somebody?

2 A We identify the person either with a -- a name, driver's license. We try
3 to confirm all the information with information they can corroborate with, whether it
4 be their driver's license number, date of birth, social security, address to confirm
5 that, and then we go back and we run that information to verify them.

6 Q And what kinds of information could -- could come up in the background
7 check? Think you mentioned warrants. How do those show up?

8 A Yeah, if we -- if I run like a name, date of birth, social security, it'll -- it'll
9 identify that specific person as popping up with a criminal warrant.

10 Q And does the -- the type of offense that warrant's attached to show up
11 as well?

12 A Yes.

13 Q Are there different levels of warrant?

14 A Yes.

15 Q Do you know -- first of all, what was the young lady's name? Are you
16 aware of that?

17 A Ashley Allen.

18 Q Okay. Do you know what kind of warrant Ms. Allen had?

19 A I don't recall off the top my head, but I -- I believe it was a
20 misdemeanor.

21 Q Okay. So let's go back. You said that you had arrived, you talked to
22 Officer Fernandez briefly about what he had done to that point. Where were you
23 parked in relation to the vehicle?

24 A I was parked behind Officer Fernandez.

25 Q Okay. So I'm going to show you what has previously been admitted as

1 State's Exhibit 8. Do you recognize that?

2 A Yes.

3 Q And how do you recognize that?

4 A That was the vehicle we're out -- we were out on and Officer
5 Fernandez's vehicle is right behind it.

6 Q And so you were parked behind Officer Fernandez's vehicle?

7 A Correct.

8 Q Okay. Was anyone still in the vehicle at the point when you arrived?

9 A Yes.

10 Q Who was still in the vehicle?

11 A There were two people. It was Ashley Allen and then -- and then Corey
12 Barnett.

13 Q Okay, and do you -- did you recognize Corey Barnett?

14 A Yes.

15 Q Do you see Corey Barnett here today?

16 A Yes.

17 Q Can you point at him and identify something he's wearing?

18 A Sitting down over there (indicating) wearing a gray shirt.

19 THE COURT: Record reflect he's identified the Defendant.

20 MR. GILES: Thank you, Your Honor.

21 BY MR. GILES:

22 Q So what happened at that point?

23 A After I talked to Officer Fernandez, we decided take the subjects out.

24 Officer Fernandez wanted talk to the -- to Allen reference her warrant and then I was
25 going to speak to Corey.

1 Q Is there any specific reason that you would remove them from the
2 vehicle?

3 A For safety reasons. When we're -- and especially with someone who
4 has warrant, we don't know if they have any type of weapons on them. Normally, if
5 you tell someone inside a vehicle that they have, you know, a warrant, they can
6 either reach for a weapon for -- a lot of it's for officer safety though.

7 Q Okay. So you got them out of the vehicle.

8 A Yes.

9 Q What side of the vehicle were you on?

10 A I was on the passenger side.

11 Q And so you were interacting with which person?

12 A With Corey.

13 Q Okay. Would you describe getting them out of the vehicle and what
14 happened next?

15 A Yeah, we -- we normally take out one person at a time. Officer
16 Fernandez took Allen out and after Allen was out I took out Corey.

17 Q And when you remove somebody from a vehicle is there a procedure
18 on -- on where you take them or how you interact with them at that point?

19 A Yes. We -- we conduct business in front of our patrol vehicle.

20 Q Okay. So did you walk them back to the patrol vehicle?

21 A Yes.

22 Q Where -- would you describe kind of in detail where at the patrol vehicle
23 they would have been standing?

24 A Normally since Allen was taken out of the -- from the driver side, she
25 would go in the front driver side and -- of the patrol vehicle and I would take the

1 passenger to the front passenger side of the patrol vehicle.

2 Q And what -- who was conducting the investigation at that point?

3 A Officer Fernandez.

4 Q How would you describe your role in that process?

5 A I was a backup officer, cover officer. Since there's two subjects, for
6 safety reasons I'm watching both subjects and to make sure nothing's going to
7 happen and then also to just make everything safe for the investigation.

8 Q Were you close enough to hear the conversation between Officer
9 Fernandez and either Miss. Allen or Mr. Barnett?

10 A Yes.

11 Q Who was he speaking to at that point?

12 A Allen.

13 Q At some point did -- did you hear something that caused you to look into
14 the vehicle?

15 A Yes.

16 Q What did you hear?

17 A That there -- Officer Fernandez asked if there was anything illegal in the
18 vehicle. She said there might be a pipe in the vehicle.

19 Q Okay, and by pipe what did you take that to mean?

20 A Like a -- a smoking pipe, a methamphetamine pipe.

21 Q Okay. So for illegal drugs, not one that you would see in a --

22 A Like a tobacco pipe, yes.

23 Q -- you know, an old English novel or something?

24 A Yes.

25 Q Okay. So what did you do at that point?

Volume II - Page 17

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1 A I walked back to the vehicle on the passenger side to see if I can see
2 anything in plain view of which she spoke of.

3 Q And when you say plain view, would you describe what plain view
4 means?

5 A Plain view is pretty much me or any other person walking to the side the
6 vehicle if -- if you could see in it, anything that is in open view from looking on the
7 outside is -- is what you can see.

8 Q In this picture the driver's door is closed but the window is down. Can
9 you describe what the passenger side looked like?

10 A Yes, the passenger side door or the -- the window was also down.
11 Door was slightly open.

12 Q And the door was slightly open?

13 A Yes.

14 Q Okay. Where were you standing or where were you positioned when
15 you looked into the vehicle?

16 A I was in the passenger side door.

17 Q On the outside or the inside?

18 A On the outside.

19 Q Okay. So you were outside the vehicle looking in. Would you describe
20 for the ladies and gentlemen of the jury what you observed?

21 A I saw a firearm underneath the driver seat.

22 Q Did you have to move anything or manipulate anything to see that
23 firearm?

24 A No.

25 Q Was it immediately identifiable to you as a firearm?

1 A Yes.

2 Q And what did it look like?

3 A The -- the -- it was -- it was a handgun. The frame, which is the handle
4 you would grip, was silver with a black -- black grip.

5 Q Okay, and I'm showing you what's previously been marked as State's
6 Exhibit 10. Do you recognize that?

7 A Yes.

8 Q And is that the firearm you saw?

9 A Yes.

10 Q Where was it located when you saw it?

11 A It was -- it was flush with the driver seat, so I mean you -- right where
12 the driver seat is -- the end of it where your legs would go under, it was pretty much
13 flush with that.

14 Q Okay, would it be fair to say it was slid under the seat?

15 A Yes.

16 Q Okay. The vehicle, how -- how high are the seats off the floorboards?

17 A In a van they're -- they're higher than a normal like passenger vehicle.
18 I want to say maybe -- maybe three, four inches.

19 Q Okay.

20 A They're pretty tall.

21 Q So high enough you were able to look under them?

22 A Yes.

23 Q Okay. And is that all you saw when you first looked in the vehicle?

24 A Yes.

25 Q Did you see a smoking pipe anywhere near there?

Volume II - Page 19

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1 A No.

2 Q Now, I believe you said when you approached the vehicle there were
3 two people in the car. Do you know where each of them was seated?

4 A Yes.

5 Q Who was in the driver seat?

6 A Allen.

7 Q And Mr. Barnett was where?

8 A On the passenger side.

9 Q Okay. Is there anything in the vehicle that would keep a person on the
10 passenger side from reaching the driver side of the vehicle?

11 A I'm sorry, can you say again?

12 Q Is there anything, a divider or anything in that particular vehicle that
13 would keep a person in the passenger seat from reaching an item on the driver side
14 of the vehicle?

15 A Oh, no, no, it's -- it's pretty open.

16 Q And would somebody on the driver side be able to reach the passenger
17 side?

18 A Yes.

19 Q Okay. So after you saw this firearm what did you do?

20 A We immediately placed them in handcuffs.

21 Q Okay.

22 A Both subjects.

23 Q And at that point did you -- did you observe any searches of either Allen
24 or Barnett?

25 A At -- at the time we were just -- we were -- we were now conducting a

Volume II - Page 20

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1 further investigation.

2 Q Okay. At some point was Corey Barnett searched?

3 A Yes.

4 Q Did you observe that?

5 A Yes.

6 Q Okay, who conducted the search?

7 A Officer Fernandez.

8 Q And so you were still in your capacity as a cover officer?

9 A Yes.

10 Q Were you able to see Mr. Barnett's person when the search was being
11 conducted?

12 A Yes.

13 Q Did you observe anything that was found on Mr. Barnett?

14 A Yes.

15 Q What did you see?

16 A There were -- it was drugs that was recovered from his right front coin
17 pocket.

18 Q Okay. And did you ultimately take possession of those drugs?

19 A Yes.

20 Q Okay. We're going to come back to that in a second. Let me back up
21 to the silver firearm. At some point did you go into the vehicle?

22 A Yes.

23 Q Was the -- why -- why would you go into the vehicle at that point?

24 A The -- conduct an inventory search of the vehicle.

25 Q Under what circumstances would you conduct an inventory search of a

1 vehicle?

2 A If the subjects are arrested and we're going to tow the vehicle.

3 Q So had you concluded you were going to tow the vehicle at that point?

4 A Yes.

5 Q Yeah. So at some point was this firearm taken out from under the
6 seat?

7 A Yes.

8 Q Do you remember what kind of firearm it is?

9 A Yes.

10 Q What -- what type of firearm was it?

11 A It's a Smith & Wesson .22 caliber handgun.

12 Q And I'm going to show you what's been marked as State's Exhibit 11.

13 It's a little closer photo. Is that a fair and accurate representation of the information
14 you took off this firearm?

15 A Yes.

16 Q And did you impound this firearm?

17 A Yes.

18 Q And was it put into the evidence vault --

19 A Yes.

20 Q -- with the other evidence?

21 A Yeah.

22 Q Okay. While you were doing the inventory search of the vehicle, did
23 you find any other firearms?

24 A It wasn't a real firearm, it was a fake Airsoft gun --

25 Q Okay.

Volume II - Page 22

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A -- but it replicated a real firearm.

2 Q Okay, I'm showing you what's been previously marked as State's

3 Exhibit 12. Is this the Airsoft gun you were talking about?

4 A Yes.

5 Q What is that made out of?

6 A Metal.

7 Q And did you touch this firearm?

8 A Yes.

9 Q Did you pick it up?

10 A Yes.

11 Q Describe how it felt in your hand.

12 A When I initially saw it, I -- I thought it was a real handgun. So I -- I
13 picked it up, I moved it, I was trying to unload it and that's when I actually realized it
14 was an Airsoft gun. It didn't have the same functionality, but it had the weight --
15 looked exactly like one until you -- you take out the magazine and nothing happens.

16 Q So let's talk a little bit about semiautomatic firearms. You carry a
17 firearm in your daily job, right?

18 A Yes.

19 Q Have you had any additional training in firearms?

20 A Yes.

21 Q Firearms recognition?

22 A Yes.

23 Q Okay. When you discover a firearm or a purported firearm in this case,
24 what steps do you follow before impounding it?

25 A We -- when we impound them, we unload them. We make sure they're

1 safe. We rack the slide back, we put a -- a zip tie inside of the -- the magazine
2 which -- and through the slide to secure it to keep it from -- from anything going
3 inside there or -- or --

4 Q Okay.

5 A -- it could go off.

6 Q And I believe you said you tried to take the magazine out of this
7 particular firearm that's when you realized it was not a real firearm?

8 A Yes.

9 Q Would you circle on the image there where the magazine would be for
10 anybody who's not familiar with firearms?

11 A (Witness complies.)

12 Q Okay, so you said this is a semiautomatic firearm?

13 A Yes.

14 Q And the magazine would be inside the gripping area?

15 A Yes.

16 Q Okay. Now you also said you pulled the slide back. Would you circle
17 the slide on that firearm?

18 A (Witness complies.)

19 Q Okay. Do you carry a semiautomatic firearm yourself?

20 A Yes.

21 Q Okay. Would you describe the operation of a slide when a firearm is
22 either manipulated by hand or fired?

23 A When you -- when you pull the trigger, the firing pin hits the primer
24 which forces the gas to expand eject the round. The slide from the powder burning
25 racks the slide back. So it shoots the slide backwards, ejects that round and the

1 projectile leaves the barrel.

2 Q So that moves back and forth?

3 A Correct.

4 Q And when you pulled on that and tried to remove the magazine, that's
5 when you realized this was not a real firearm?

6 A Correct.

7 Q Prior to that were you operating under the assumption there were two
8 actual live firearms in the vehicle?

9 A Yes.

10 MR. GILES: Court's brief indulgence.

11 BY MR. GILES:

12 Q Okay, so let's go back to the drugs.

13 MR. GILES: May I approach the Clerk, Your Honor?

14 THE COURT: Yes.

15 [Colloquy between counsel]

16 BY MR. GILES:

17 Q Before we do that, let me back up so I don't forget to come back to it.
18 We talked in great detail about the Airsoft firearm. What -- what kind of -- we keep
19 saying it's not a real firearm. When you say Airsoft firearm, what does that mean?

20 A Airsoft is it's -- it's actually a sport people play. It -- it shoots pellets,
21 plastic pellets.

22 Q Okay. So it's really a BB gun?

23 A Yes.

24 Q But in all other respects it operates as a firearm?

25 A Yes.

Volume II - Page 25

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q So let's talk about the other one. Believe you said this was a .22 caliber
2 Smith & Wesson, correct?

3 A Yes.

4 Q Did you also go through the process of unloading this one?

5 A Yes.

6 Q And how do you know that's a real firearm as compared to the Airsoft?

7 A Oh. Well, first thing we do is we take out the magazine. I take out the
8 magazine. And the actual magazine came out and there was rounds in it. Then you
9 rack the slide back, lock the slide back and there's a barrel and there was -- it's -- it's
10 a real firearm.

11 Q Did this firearm have a serial number on it?

12 A Yes.

13 Q Did it have markings that a regular person would read and understand it
14 to be a real firearm?

15 A Yes.

16 Q In fact, I believe in that closer photograph it tells us the caliber on there,
17 doesn't it?

18 A Yes.

19 Q Okay. Do you have knowledge was any effort made to determine who
20 the registered owner of this firearm is?

21 A We conducted a records check. It -- it did return back to somebody, but
22 we weren't able to get in contact with the -- the owner was from the '90s and there
23 was no current -- current information about that person.

24 Q Okay. However, was the firearm registered to Miss. Ashley Allen?

25 A No.

1 Q Was it registered to Mr. Corey Barnett?

2 A No.

3 Q Do you remember the serial number that firearm?

4 A I'd have to look in my report. I don't recall off top my head.

5 Q If you were to look at your impound property report, would that refresh
6 your recollection?

7 A Yes.

8 MR. GILES: May I approach, Your Honor?

9 THE COURT: Yes.

10 MR. NADIG: I got it.

11 BY MR. GILES:

12 Q Okay. Do me a favor and just look over that and then look up at me
13 when you --

14 A (Witness complies.)

15 Q Has that refreshed your recollection?

16 A Yes.

17 Q Okay. What was the serial number of this particular gun?

18 A Union Baker Frank 3139.

19 Q So Union Baker Frank, U-B --

20 A Oh, U -- yeah, UBF3139, sorry.

21 Q Okay, thank you. And that came back to a specific individual but
22 nothing else?

23 A Correct.

24 Q And it was neither Miss. Allen or Mr. Barnett?

25 A Correct.

Volume II - Page 27

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. GILES: Court's brief indulgence.

2 [Colloquy between counsel]

3 MR. GILES: And for the record, Your Honor, yesterday before we started, Mr.
4 Nadig, Ms. Baharav and myself with your clerk had Officer Deang open one of the
5 evidence packages. We're going to go through the process now.

6 THE COURT: Okay.

7 MR. GILES: May I approach?

8 THE COURT: Yeah.

9 BY MR. GILES:

10 Q Officer Deang, would you look at that and tell me if you recognize it?

11 A Yes, it's an evidence package.

12 Q Okay. And do you have rubber gloves with you today?

13 A I -- I don't. I'm sorry.

14 Q Let me get you a pair --

15 A Okay.

16 Q -- since we're going to have you pull stuff out of there. While you're
17 putting those on, you -- you said it's an evidence package. Is that -- is that a
18 standard evidence package used in the Las Vegas Metropolitan Police Department?

19 A Yes.

20 Q And let's back up a little bit. Earlier you talked about report writing.
21 How do you know that that evidence package would relate to any specific case?

22 A There's an event number.

23 Q What is an event number?

24 A Event number is -- an event is generated when we do -- pretty much do
25 anything; we do a person stop, we go to a call for service. It identifies a certain

Volume II - Page 28

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 incident that happened.

2 Q And can -- by looking at the event number, can we determine a date?

3 A Yes.

4 Q How do we do that?

5 A The first part of the event has year, month and day signifying the -- the
6 date the incident happened.

7 Q Okay, and then the second half is simply an identifier for that specific
8 incident?

9 A Yes.

10 Q Okay. And does that number -- that last four number ever change in
11 relation to this case?

12 A No. Same throughout the -- every piece paperwork, every piece
13 property.

14 Q Okay, so if you were to go do something later on in the case with a
15 piece of evidence, that number would stay the same?

16 A Yes.

17 Q Okay. So would you look at that and tell me do you see an event
18 number on there that correlates to this case?

19 A Yes.

20 Q And on the front of that is -- describe that white piece of paper, what the
21 purpose of that is.

22 A It's a tag identifying the subject who was in possession of the property,
23 the charges, the location of the recovery, also the -- a description of the items are in
24 there, year, month, day, time and then the event number.

25 Q And does that look the same as when you placed evidence into that

1 bag?

2 A Yes.

3 Q What is the event number for this case?

4 A It's going to be 150925-0889.

5 Q So September 25th of 2015 --

6 A Yes.

7 Q -- and the 889th event of the day?

8 A Yes.

9 Q Okay. Describe the red items that are on that bag. What are those
10 about?

11 A Oh, it's an evidence seal. When we -- when we package the items and
12 pretty much seal it for forever until we -- we mark -- we put the tape on there to seal
13 it.

14 Q What would be the purpose of that?

15 A To seal it and for -- for evidentiary value, chain of custody.

16 Q Can you tell anything about who has handled that package based upon
17 either the tape or the item on the front?

18 A Yes. We have to write our -- our -- our initials and P number, which is
19 our -- our personnel number, on the item saying who sealed it last and the date.

20 Q And yesterday when we opened that did you look at the package before
21 you opened it?

22 A Yes.

23 Q Was it sealed at that time?

24 A Yes.

25 Q Did you yourself open that package?

Volume II - Page 30

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1	A	Yes.
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2 MR. GILES: And Your Honor, this time I move for admission of State's
3 Proposed 13.

4 MS. BAHARAV: And contents.

5 MR. GILES: And contents. Or we can --

6 THE COURT: Any objection?

7 MR. NADIG: Well, he's testified that he's the only person that's touched it so
8 far, correct?

9 THE COURT: Yes. That's the bag. Thirteen is the bag.

10 MR. NADIG: Okay. As to the bag --

11 MR. GILES: Thirteen is the bag.

12 MR. NADIG: Okay, as to the bag, at this point I have no objection. As to the
13 contents --

14 THE COURT: All right, 13 --

15 MR. NADIG: -- of the bag, I think there's still a foundation that needs to be
16 laid, Your Honor.

17 THE COURT: Thirteen -- I don't even know what's in it. He hasn't pulled it
18 out so --

19 MR. GILES: Right. So 13 is the bag.

20 MR. NADIG: No objection to the bag.

21 THE COURT: Okay, 13 is admitted.

22 [State's Exhibit 13 admitted]

23 MR. GILES: Thank you.

24 BY MR. GILES:

25 Q Officer, would you look inside that bag? You see any items inside the

1 bag?

2 A Yes.

3 Q Do you recognize those items just looking at them?

4 A Yes.

5 Q And what does it appear to be?

6 A It has my NIK tech sheet which is pretty much the receipt and then also
7 narcotics.

8 Q Go ahead and pull those items out and set them there.

9 A (Witness complies.)

10 Q Okay. In looking --

11 THE COURT: Describe what you -- what you pulled out.

12 THE WITNESS: Oh. I'm pulling out a bag and inside of it has narcotics in
13 there, has drugs. It's inside of a larger bag. And also receipt --

14 THE COURT: That'll be 13A.

15 MR. GILES: Thank you, Your Honor.

16 THE WITNESS: And a receipt for my -- my NIK test which is just the -- the
17 test that I did to identify the drugs as what it was.

18 THE COURT: That'll be 13B.

19 BY MR. GILES:

20 Q And do -- how many bags of white substance are in that bigger bag?

21 THE COURT: 13A.

22 A Two.

23 Q Inside 13A.

24 A Two.

25 Q Do they resemble what you observed Officer Fernandez take out of the

1 coin pocket of the Defendant?

2 A Yes.

3 MR. GILES: Okay. And I would move for admission of 13A and 13B.

4 MR. NADIG: I still think it lacks foundation so as this point I'm going to object.

5 MS. BAHARAV: Can we approach?

6 THE COURT: Yes.

7 [Bench conference begins at 11:02 a.m.]

8 MS. BAHARAV: Okay. The issue he has is that our narcotics analyst had to
9 change one of the bags because it had burnt ends and she went through it. This --
10 the other bag is the same, but there's one bag in there that's a little bit different so
11 this officer won't know why that bag's different. He did, however, testify that these
12 were the narcotics that they impounded, then they are substantially similar to the
13 way that he saw them, so --

14 MR. NADIG: But he -- and he told us that that additionally -- there's no
15 testimony as to anybody else opening the bag at that point in time so there's no
16 (indiscernible) --

17 THE COURT: Well, okay, now show me what it is that is different?

18 MS. BAHARAV: So the little bag in there, there's two bags, the one that --

19 THE COURT: 13A.

20 MS. BAHARAV: 13A, yes. In 13A there's two separate baggies.

21 THE COURT: Okay.

22 MS. BAHARAV: The one that's all rolled up, that's the way that it was before.
23 The one that's in like a nicer bag, that's how the lab analyst had to put it back in
24 there because --

25 THE COURT: Oh.

1 MS. BAHARAV: -- she ruined the bag. I think if you would like counsel can
2 ask is there another seal in there, does it appear like the evidence was removed --
3 THE COURT: Yeah.
4 MS. BAHARAV: -- and tested --
5 MR. NADIG: I think --
6 MS. BAHARAV: -- and stuff like that.
7 MR. NADIG: -- I think Mr. Giles can do that. Seeing as how this is his first
8 trial on this side, I'm kind of being a little harder than I --
9 MS. BAHARAV: And you should. I'm not -- we're not giving you a hard time
10 about that but --
11 THE COURT: All right.
12 MS. BAHARAV: So if he --
13 THE COURT: Yeah, he can -- he can clarify that.
14 MS. BAHARAV: Okay.
15 MR. GILES: How can he do that?
16 MS. BAHARAV: And then --
17 THE COURT: It's actually admissible, but I'll allow some more foundation.
18 MS. BAHARAV: And then as long as he can say does it appear that one of
19 those bags is a little bit different and then you don't --
20 THE COURT: Because that's the one she tested in the --
21 MS. BAHARAV: Yeah.
22 THE COURT: Okay.
23 MS. BAHARAV: Then that -- should that be okay then?
24 THE COURT: That always alters it.
25 MR. NADIG: Yeah.

Volume II - Page 34

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Yeah.

2 THE COURT: All right.

3 MS. BAHARAV: Okay, thanks.

4 [Bench conference ends at 11:03 a.m.]

5 BY MR. GILES:

6 Q Okay, Officer Deang --

7 A Yes.

8 Q -- on the outside of the evidence bag --

9 A Yes.

10 Q -- does it appear that anybody else opened that after you put it into
11 evidence?

12 MR. NADIG: And Your Honor, for the record, that's --

13 MS. BAHARAV: Thirteen.

14 MR. NADIG: -- 13?

15 MR. GILES: Thirteen.

16 THE COURT: Thirteen.

17 MR. GILES: Thirteen.

18 THE WITNESS: Yes.

19 BY MR. GILES:

20 Q Would you look at that and -- and tell me who else may have opened
21 and resealed that package?

22 A The lab technician.

23 Q Okay. And is that pretty standard?

24 A Yes.

25 Q And you weren't there when the lab technician opened it, correct?

Volume II - Page 35

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Correct.

2 Q Okay. Are both of the packages in -- in 13A the same as when you put
3 them in the evidence bag?

4 A It's -- there's a -- there's a different bag. Yeah, but the same contents
5 are inside that larger bag.

6 Q Okay. And you have no reason to doubt that it's the same drugs you
7 observed taken off of --

8 A Yes.

9 Q -- Mr. Barnett, correct?

10 A Correct

11 Q And put into that package and sent to the lab for testing?

12 A Correct.

13 MR. GILES: Move for admission?

14 MR. NADIG: Your Honor, there's -- can I ask one question?

15 THE COURT: Sure.

16 VOIR DIRE EXAMINATION

17 BY MR. NADIG:

18 Q How do you know that it was a lab technician that opened that bag?

19 A It has her P number on it.

20 Q Okay, and what is --

21 A It has a different -- different color seal.

22 Q What is a P number?

23 A A personnel number.

24 Q Okay.

25 DIRECT EXAMINATION CONTINUED

Volume II - Page 36

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 BY MR. GILES:

2 Q And every officer has --

3 THE COURT: Over the --

4 Q -- a P number, correct?

5 THE COURT: Over the objection --

6 A Correct.

7 THE COURT: -- of the defense it'll be admitted.

8 [State's Exhibit 13A admitted]

9 MR. GILES: Thank you, Your Honor.

10 BY MR. GILES:

11 Q And so that's one of the ways in addition to event number you track by
12 P number so you know who did what?

13 A Yeah, who -- identify who handled the property, who was (indiscernible)
14 anything.

15 Q Okay. Would you open 13B, the NIK test receipt there? Does that
16 appear to be the same document you filled out on September 25th?

17 A Yes.

18 Q Okay, let's talk a little bit about NIK testing because --

19 THE COURT: Any objection to its admission?

20 MR. NADIG: No. No.

21 THE COURT: It'll be admitted.

22 [State's Exhibit 13B admitted]

23 MR. GILES: Thank you, Your Honor.

24 BY MR. GILES:

25 Q Let's talk a little bit about NIK testing. What is NIK testing?

1 A It's a test to identify whether drugs are real or not.

2 Q I believe you previously testified you were certified to do NIK testing in
3 June of '07?

4 A Yes.

5 Q Okay. And did you conduct the NIK test in this case?

6 A Yes.

7 Q Would you walk the ladies and gentlemen of the jury through how you
8 would go about determining that a substance was in fact at least presumptively a
9 narcotic?

10 A Well, if we find a narcotic, we -- we test it. When I have it, we have a
11 scale and we weigh it. We weigh it by its gross weight by leaving it inside the
12 package and in this case it was 4.1 grams gross so is the -- the item itself, the
13 narcotic, and then the baggies that it was in is -- which is the total weight.

14 From there there's a -- a test. It's a small little vial. We take a piece --
15 just a very, very small piece which we have little -- small little spoons or sticks at the
16 station that are -- that are clean and we take just a little sample and we put inside of
17 that -- that vial, the test package. And then there's other vials in there that contain
18 like a -- a chemical. The instructions are actually on the sheet on how to do it, so we
19 pretty much break those vials according to the list and then it -- it changes colors.
20 So if -- if the -- if the narcotic is positive, it'll -- it changes to a certain color and this
21 color is brown for the first test. There's two tests for methamphetamine.

22 Q And what is the second test?

23 A It's -- it's another test just to pretty much set the foundation that it is
24 meth and then it -- that color turns blue.

25 Q Okay. And did you conduct both of those tests on the 13A?

Volume II - Page 38

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes.

2 Q And you said you -- you did that at the station?

3 A Yes.

4 Q Not out in the field by the van?

5 A Correct.

6 Q Okay. And at the conclusion of that test, what does the results tell you?

7 A It's positive.

8 Q Positive for?

9 A Methamphetamine.

10 Q Okay. Do you fill out any other forms --

11 A Yes.

12 Q -- in addition to that one?

13 A Yes, I do.

14 Q Now, you said it was 4.1 grams gross weight.

15 A Yes.

16 Q What is -- when you weigh -- weighed 13B, did you take the drugs out

17 of the packaging?

18 A No, we left them in the packaging.

19 Q And the scale you used is -- what kind of scale is it?

20 A It's a electronic scale at our substation.

21 Q Okay. And that's provided to you by LVMPD?

22 A Yes.

23 Q Okay. So you weighed it in the packaging?

24 A Yes.

25 Q Would it be a surprise if it weighed less when it was just the drugs?

Volume II - Page 39

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes. It would. The bag --

2 Q You would expect it to weigh less?

3 A Yeah. I would expect it to.

4 Q Okay. And you're not really concerned with the net weight at that point?

5 A No, we just -- we weigh it in the bag. We don't want to -- we don't want
6 to spill anything, we don't want to contaminate anything else, so we just take a little
7 bit out, test it and leave it in its packaging.

8 Q So -- back you up to the van. What was your specific responsibility
9 after the search and after Mr. Barnett was placed under arrest? Did you have any
10 ongoing responsibility at the scene?

11 A Yes, we were impounding the vehicle so I was in charge of conducting
12 an inventory for the vehicle for the tow so we can document the items that are inside
13 the vehicle and -- and tow the vehicle.

14 Q Okay.

15 MR. GILES: And may I approach --

16 THE COURT: Uh-huh.

17 MR. GILES: -- take this back and give it to your clerk, Your Honor?

18 BY MR. GILES:

19 Q Would you go ahead and fold that up and put it back in the envelope?

20 A (Witness complies.)

21 Q Okay. Now as you were searching the vehicle, did you find anything
22 else that you impounded?

23 A Yes.

24 Q What sorts of things did you find?

25 A Found a narcotics kit inside of the vehicle.

1 Q What's a narcotics kit?

2 A A narcotics kit could be a range of things. It could be spoons -- just
3 paraphernalia pretty much that people use for drugs. It could be spoons, it could be
4 needles, it could be -- it could be the cotton they use to filter the -- certain narcotics
5 with, it could be pipes for smoking different types of drugs.

6 Q And you -- did you have some reason to believe there might be a
7 narcotics kit or a pipe in the vehicle?

8 A Yes.

9 Q Okay. And did you impound that -- you -- I said you did impound that,
10 correct?

11 A Yes.

12 Q Okay. Now, on the impound sheet, why do you write a separate report
13 for the items that are impounded?

14 A To -- pretty much for chain of custody and for evidence to identify the
15 items that we took in as evidence and to document what we have.

16 Q At some point did you become aware that there might have been an
17 error in the impound sheet in this case?

18 A Yes.

19 Q What was that error?

20 A I -- on -- on the -- the packaging I wrote -- no, it was -- it was the --
21 wasn't packaging, it was the -- the property report I wrote marijuana instead of
22 methamphetamine. We're just -- I'm kind of in cruise control just trying to get
23 paperwork done. They're kind of similar long words, marijuana, methamphetamine,
24 so I -- I accidentally wrote marijuana.

25 Q When you became aware of that, did you do anything?

Volume II - Page 41

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes. I went back down to the evidence vault, fixed the -- fixed the error
2 and made sure that the item was -- I opened package and make sure it was
3 methamphetamine just to be sure it was and -- and it wasn't marijuana.

4 Q And you know what marijuana looks like, right?

5 A Correct.

6 Q This wasn't green leafy?

7 A No.

8 Q The baggie you just opened isn't green and leafy?

9 A No.

10 Q Does it say methamphetamine on the evidence package?

11 A Yes.

12 Q And the report says methamphetamine, correct?

13 A Yes.

14 Q So before the vehicle was impounded -- let me -- let me ask you this:
15 Was -- did you have any familiarity at all with Mr. Barnett?

16 A Yes.

17 Q How did you know Mr. Barnett?

18 A I've -- the week prior we've responded or we -- in a similar
19 neighborhood under the same circumstances; vehicle was parked in front of a
20 home. At that time, Corey was the driver and then Allen was in -- she was
21 passenger, she was in back of the van.

22 Q And did you talk to him on that day?

23 A Yes.

24 Q And how would you describe the nature of that interaction?

25 A It was -- it was casual conversation. Pretty much I'm seeing whether or

1 not he lived in the area, who the vehicle belonged to, also identifying him and the --
2 and the person, which was Allen, inside the vehicle.

3 Q And did -- did you learn who the vehicle belonged to?

4 A Yes.

5 Q Who was that?

6 A His mother.

7 Q And what did he say about his use of that vehicle?

8 A He uses the vehicle pretty much all the time exclusively and -- but the --
9 the vehicle's registered his mom though.

10 Q Okay. So on the 25th after the arrest and you've done an inventory
11 search of the van, what other kinds of things did you find in the van?

12 A Bunch of bags, clothing, food to even hygiene gear.

13 Q What kind of clothing?

14 A Male clothing. And -- and female clothing too from a female.

15 Q Be safe to say it looked like somebody might be living out of the van?

16 A Yes.

17 Q Okay. Now, when you arrived, believe you previously testified that Mr.
18 Barnett and Miss. Allen were still in the vehicle, correct?

19 A Yes.

20 Q All right. At any point did you see Mr. Barnett change his clothes?

21 A No.

22 Q Did you see him holding any additional clothes?

23 A No.

24 Q Were you able to observe him closely?

25 A Yes.

1 Q Did the clothing he was wearing appear to fit?
2 A Yes.
3 Q Were the pants he was wearing, did they appear to be men's pants?
4 A Yes.
5 Q And did they appear to be appropriately sized for him?
6 A Yes.
7 Q The vehicle. Do you know what happened the vehicle?
8 A Yes, we impounded the vehicle.
9 Q And is it still in impound?
10 A I believe the registered owner took -- took it out of impound.
11 Q And I believe you said the registered owner was?
12 A Corey's mother.
13 Q Okay. Were you able to determine his home address during the arrest?
14 A Yes.
15 Q Do you remember what that address was?
16 A I remember the street. I don't remember the numbers off top my head,
17 but the street is Summersweet.
18 Q Okay. And do you remember the registered address of the vehicle?
19 A Yes.
20 Q And what was that?
21 A I don't -- I don't remember the number. It's Summersweet.
22 Q Okay.
23 A I'd have to look in my report.
24 Q Was there any reason during your investigation believe that the vehicle
25 wasn't registered to his mother?

Volume II - Page 44

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A No.

2 Q Okay.

3 MR. GILES: May I approach, Your Honor?

4 THE COURT: Yes.

5 BY MR. GILES:

6 Q If I was to show you the impound sheet, would that refresh your
7 recollection as to the specific address?

8 A Yes.

9 Q Look at that and look up at me when you're done.

10 A Okay.

11 Q Okay. Did that help you refresh your recollection?

12 A Yes.

13 Q What address is the vehicle registered to?

14 A 9540 Summersweet.

15 Q And is that also Mr. Barnett's registered address?

16 A Yes.

17 Q Okay.

18 MR. GILES: Court's brief indulgence.

19 [Colloquy between counsel]

20 BY MR. GILES:

21 Q So Lincoln Valley. You said that's in Southeast Area Command?

22 A South Central Area Command.

23 Q South Central Area Command.

24 A Yes.

25 Q Is that Las Vegas or Henderson?

Volume II - Page 45

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Las Vegas.

2 Q Okay. Would you work in Henderson?

3 A No.

4 Q Okay.

5 A I mean it's Clark County. I can -- I can go police there too but yeah.

6 Q Okay. So but Lincoln Valley Road is in Las Vegas, Nevada, Clark
7 County?

8 A Yes.

9 Q Okay. And the vehicle that you saw Mr. Barnett driving the week
10 previously, was it the same vehicle you saw on September 25th?

11 A Yes.

12 Q And this incident happened on September 25th, 2015?

13 A Yes.

14 MR. GILES: Brief indulgence. Nothing further. We'll pass the witness.

15 THE COURT: Cross.

16 MR. NADIG: Thanks, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. NADIG:

19 Q Morning, Officer, how you doing?

20 A Hello.

21 Q You doing all right?

22 A Yeah.

23 Q Okay. So you had met Corey prior to this date?

24 A Yes.

25 Q Okay, and -- and there was a traffic stop same car?

Volume II - Page 46

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes.

2 Q Same people in the car?

3 A Yes.

4 Q Just different location?

5 A Correct

6 Q Miss. -- Miss. -- can't speak. Miss. Allen was in the back?

7 A Yes.

8 Q And Mr. Barnett was in the driver seat?

9 A Yes.

10 Q At that -- when you stopped them that time, you said it was pretty much

11 the same type of call, you know, it appeared people were living out of their car and

12 you were just, for lack of a better term, checking on them, correct?

13 A Correct.

14 Q Okay. Now usually in a situation like that when you encounter people

15 and you stop them, at that point in time what -- what is your procedure like for the --

16 not for the September 25th, but for the earlier stop, what did you do at that point?

17 A The -- the stop before this incident?

18 Q Correct.

19 A Yeah, I -- I spoke to him. You know, pretty much had a casual

20 conversation with him, identified him, what he was doing there --

21 Q Did you run them in the system?

22 A Yes.

23 Q Okay, at that point did Miss. Allen -- did Miss. Allen have a warrant?

24 A I don't recall off top my head.

25 Q Okay. But to -- if she did, would you have -- would that be something

Volume II - Page 47

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 you talk to her about?

2 A Correct.

3 Q Okay. But you don't recall talking to her about that at that occasion?

4 A I -- yeah, I don't remember.

5 Q Okay. And there was nothing -- both were cooperative with you?

6 A Yes.

7 Q Not combative?

8 A No.

9 Q Okay. Answered your questions?

10 A Yes.

11 Q Okay. And at that point in time you didn't believe anything was going

12 wrong, correct -- incorrect -- can't even speak. At that point in time you didn't think

13 anything was out of sorts so you just had them move on?

14 A Correct.

15 Q Okay. And they did?

16 A Yes.

17 Q Okay. Now, September 25th Officer Fernandez stops them, correct?

18 A Correct.

19 Q And you're the second officer on scene.

20 A Yes.

21 Q And the reason you were called was why?

22 A I was backing. I was -- I was the second officer, I was backing Officer

23 Fernandez on the stop.

24 Q Okay. And that was because there were two people in the car?

25 A Yeah. And nature of calls we -- we back each other, we go two per call

Volume II - Page 48

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 for safety reasons.

2 Q Okay. What -- if you recall, what did Officer Fernandez -- what
3 information did you have prior to -- prior to arriving on scene?

4 A I had the vehicle information, the location -- I was -- I -- I automatically --
5 based on the vehicle description, I automatically knew what we were getting into just
6 because the plate, I remembered the plate from the -- the last vehicle. Also when
7 another officer, another person is running information and like we get a wanted hit,
8 our dispatcher sees that too and then --

9 Q So they relay that information to you?

10 A Correct.

11 Q Okay, and that's what happened in this case, you heard Miss. Allen had
12 a warrant?

13 A Correct.

14 Q Okay. And that was different from -- or you don't know if it was different
15 from the prior stop, correct?

16 A Correct.

17 Q Okay. So you arrive on scene. And at this point does Officer
18 Fernandez come to you or is he at the car already?

19 A He's already in the car.

20 Q Okay, and at that point in time do you walk up on the passenger side?

21 A I'm talking to Officer Fernandez.

22 Q Okay. So you pull up behind his cruiser?

23 A Correct.

24 Q Exit your vehicle?

25 A Correct.

Volume II - Page 49

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Walk up to Officer Fernandez, correct?

2 A Correct.

3 Q Okay, and he is standing where?

4 A He's actually in the vehicle.

5 Q In his car?

6 A Officer Fernandez?

7 Q Yes.

8 A Yeah, yeah.

9 Q Okay, so Officer Fernandez is in his car.

10 A Yes.

11 Q Okay. So you approach, he relays information to you, have person and

12 warrant, just need backup.

13 A Correct.

14 Q Okay. So at that point in time you both approach the car?

15 A Yes.

16 Q Okay, and Officer Fernandez goes on the driver side?

17 A Correct.

18 Q And you go on the passenger side.

19 A Yes.

20 Q Okay. Now, when you stand at the passenger side relative to the door,

21 where are you standing? Are you standing directly in Mr. Barnett's line of sight or

22 are you standing behind him?

23 A Behind him.

24 Q Okay. And does Mr. Barnett roll his window down for you?

25 A I don't recall if it was already -- I -- I want to say it was -- I -- I don't recall

Volume II - Page 50

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 if it was up or down at the time, but he was able to hear me, see me.

2 Q Okay, so he heard you and did you ask him to open the door, roll down
3 the window?

4 A Yeah. Yeah. I -- I eventually asked him to come out.

5 Q Okay. So he didn't roll down the window to your knowledge?

6 A The window was open.

7 Q Oh, the window was open already.

8 A Yeah.

9 Q Okay, so the window was open and then when you looked in the car
10 that is when you initially saw the weapon, correct?

11 A After we brought him back and I went back to the vehicle, yes.

12 Q Okay, so you had already had them exit the vehicle before you had
13 seen the weapon?

14 A Correct.

15 Q Okay, and what was the basis for having them exit the vehicle?

16 A We were -- Officer Fernandez was talking to Allen. She had warrant.
17 So we were talking to her back in the car. We're taking Corey out of the car too so
18 we could speak to him for safety reasons too. And then she mentioned to Officer
19 Fernandez that there was pipe in the vehicle.

20 Q Okay. So --

21 A That's when I went back.

22 Q -- she represented that there was a meth pipe in the vehicle, correct?

23 A Correct.

24 Q Okay. So -- and at this point in time are either Miss. Allison (sic) or Mr.
25 Barnett in cuffs?

1 A No, not the time.

2 Q Okay. And are they standing directly in front of Officer Fernandez's

3 cruiser?

4 A Correct.

5 Q Okay, is Miss. Allen on one side of the cruiser and Mr. Barnett on the

6 other?

7 A Yes.

8 Q Okay. And are you standing with Mr. Barnett or Mr. Allen or -- Miss.

9 Allen? How -- where are you standing?

10 A Yeah. I'm -- I'm -- I'm directly behind them.

11 Q Okay.

12 A Yeah.

13 Q So that would be in front of the cruiser but directly behind them?

14 A Yes.

15 Q Okay. And you were in between the van or the SUV whatever it is --

16 A Yeah.

17 Q -- because I still can't figure it out, and the cruiser, correct?

18 A Yes.

19 Q Okay. So Miss. Allen represents that there's a pipe in the car, correct?

20 A Correct.

21 Q Okay. Now, when you spoke with Miss. Allen and Mr. Barnett did you

22 that -- in the previous to September 25th in that previous stop, did you ask them if

23 they had anything illegal in the car?

24 A Yes.

25 Q Okay, and what was their response?

Volume II - Page 52

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A No.

2 Q Okay, and you felt just based on nature of the conversation you didn't
3 have anything to --

4 A Correct.

5 Q -- worry about? Okay. Now one of the things we talked about your
6 training and you're -- you're trained on NIK testing, correct?

7 A Yes.

8 Q Okay. Are you also trained on identifying people who are under the
9 influence of drugs?

10 A I -- I deal with people a lot, but I'm not a drug recognition expert.

11 Q I'm not asking if --

12 A Oh, okay.

13 Q -- you're a DRE. All I'm asking is based on your training and
14 experience, are you able to at least determine of somebody's under the influence,
15 not confirm it but just say --

16 A Yes.

17 Q -- to your opinion?

18 A Yes.

19 Q Okay. At the previous stop it would appear that you didn't believe
20 anybody was under the influence. Fair to say?

21 A Correct.

22 Q Okay. Now at this stop while you were not the primary, you were the
23 responding officer --

24 A Yes.

25 Q -- did either of them appear to be under the influence to you?

1 A No.

2 Q Okay. And what are some of the indicia of being under the influence of
3 methamphetamine?

4 A If you -- if you have a person close their eyes, their eyes flutter. If
5 they're on any type of opiate or anything that's going to pretty much speed them up,
6 they -- they just close their eyes, their eyes are going to flutter. It's involuntary
7 movement. Also their pupils are going to be either dilated or constricted. Their
8 mannerisms, they're either erratic or all -- all over the place, sweating or they can't
9 stop moving around, they're fidgety or they're sweating -- yeah, sweating.

10 Q And chatty?

11 A I'm sorry?

12 Q Very talkative?

13 A Yeah.

14 Q Okay, and you didn't experience that here?

15 A Correct.

16 Q And just is -- when you say fluttering in the eyes, is it the eyelids
17 fluttering or the eye underneath the eyelid that is fluttering?

18 A It's the eyelids that are fluttering.

19 Q Okay. And you didn't see that indicia here?

20 A Correct.

21 Q Okay, out of either -- either individual?

22 A Correct.

23 Q Okay. You go -- once you hear there's a pipe, you go to search the car,
24 correct?

25 A I didn't search it, I just -- from the outside I looked inside.

Volume II - Page 54

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Okay, but it was based on those representations.

2 A Correct.

3 Q Okay, so you go up to the car, you look, you see the gun, correct?

4 A Yes.

5 Q Okay. Now, the gun you saw -- the first gun you saw and I'll call the

6 Airsoft a gun but the -- the gun you saw was on the driver side, correct?

7 A Correct.

8 Q And to your knowledge that was where Miss. Allen had came out of,

9 correct?

10 A Yes.

11 Q Okay. Now, this photo, the gun appears to be on the floorboard of the

12 -- I'm going to assume driver seat, yes?

13 A Correct.

14 Q Okay. Was this where the gun was when you initially saw it?

15 A It was -- it was tucked -- it was pretty much -- it was tucked underneath

16 the seat or right pretty much flush with the seat.

17 Q Okay.

18 A But yeah, we -- we pulled it out to -- for the photo.

19 Q So you -- so you guys pulled it out?

20 A Correct.

21 Q Okay. Now typically is that something you would do?

22 A Yes.

23 Q Okay, you wouldn't wait for a CSA to come and photograph it before

24 pulling it out?

25 A No. Well, we can pull it out, but we pulled it out to get serial number to

1 run it.

2 Q Okay, and that's the only thing. Now, one of the questions Mr. Giles
3 asked you was whether the gun was registered to Miss. Allen or Mr. Barnett,
4 correct?

5 A Correct.

6 Q Okay. Do guns have to be registered nowadays?

7 A Now -- they just changed the law, but nowadays you don't have to
8 register them.

9 Q Okay, as of September 25th, 2015, did they have to register the gun?

10 A You -- yes, you did, in Clark County.

11 Q To your knowledge, the gun wasn't registered to either party?

12 A Correct.

13 Q Okay, but you didn't determine that the gun was stolen in any way,
14 shape or form, correct?

15 A Correct.

16 Q Okay, so they weren't charged with anything like that?

17 A Correct.

18 Q Okay. Now, once you determined the gun was there, at this point in
19 time you let Officer Fernandez know and both Mr. Barnett and Miss. Allen are put in
20 cuffs, correct?

21 A Correct.

22 Q Okay. Now, Mr. Giles asked you a question about whether person
23 seated in the passenger seat could reach over and grab the gun, right?

24 A Correct.

25 Q Okay. Now, where the gun was it was kind of tucked in but flush with

1 the seat, correct?

2 A Yes.

3 Q Okay, so if you were the driver -- and these are higher seats, correct?

4 A Yes.

5 Q Okay. So theoretically you would have to reach down if you were the
6 driver to get it, correct?

7 A Yeah.

8 Q Okay. Now, if you're in Mr. Barnett's seat, there's a center console as
9 well, correct?

10 A Yes.

11 Q Okay, now is this one of those center consoles that goes straight up to
12 the front of the car or is this where there's a space between essentially the radio and
13 the console?

14 A Yeah. I would have to look at it. I -- I can't recall off top my head what
15 it looks like.

16 Q Okay, but you -- you don't have a picture or you didn't take any pictures
17 of that?

18 A I -- I don't believe so.

19 Q Okay. So you don't recall what type of console it was.

20 A Correct.

21 Q Okay. But a person seated on the passenger seat would have had to
22 reach over, correct? Reach over to the other side?

23 A Yes.

24 Q Okay. They would have to then go down between the -- the driver's
25 legs, correct?

Volume II - Page 57

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Correct.

2 Q In order to reach down and grab that gun.

3 A Yeah, you can go -- yeah. Yes.

4 Q It -- it would take a fair amount of effort to get the gun from that side is

5 what I'm saying.

6 A Yeah.

7 Q Okay. But during this entire stop nobody attempted to get a gun.

8 A No.

9 Q Okay, nobody -- they were both cooperative during this entire time.

10 A Yes.

11 Q And the gun was found on Miss. Allen's side.

12 A Correct.

13 Q Okay. Now, you took photos of the gun, you took photos of the Airsoft

14 gun, correct?

15 A Yes.

16 Q You didn't take photos of any of the clothes?

17 A No.

18 Q Correct? You didn't take photos of -- I believe on your impound sheet

19 we see that there was a drug kit and some syringes.

20 A Yes.

21 Q Is that fair to say?

22 A Yes.

23 Q You impounded those, correct?

24 A Yes.

25 Q Okay, and so presumably you filled out, you know, the sheet, you know,

Volume II - Page 58

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 saying this is what it is, put it in evidence --

2 A Yes.

3 Q -- just like you would do with this here, correct?

4 A Yes.

5 Q All right. Did you do that with the drug --

6 A Yes.

7 Q Did you do that with the syringes?

8 A Yes.

9 Q Okay. You photographed the gun. You photographed the Airsoft gun.
10 Did you photograph the syringes?

11 A No.

12 Q Did you photograph the drug kit?

13 A No.

14 Q Do you recall where in the car you found the syringes?

15 A I don't recall off top my head where -- where we found --

16 Q Did you recall where you found the drug kit?

17 A I don't -- I don't remember.

18 Q Okay. Could it have been on the driver side door?

19 A I don't -- I don't remember. I mean it can be --

20 Q Genuinely no idea --

21 A -- it can be anywhere inside the vehicle where we found it.

22 Q Okay. Do you recall if it was on the passenger side?

23 MR. GILES: Objection; asked and answered. He says he has no idea where
24 he found it.

25 THE COURT: Calling for speculation as well.

1 MR. NADIG: Okay.

2 BY MR. NADIG:

3 Q So no idea where those things were located, correct?

4 A Yes.

5 Q And no photographs of those?

6 A Correct.

7 Q Okay. Now, possession of a hypodermic device is a misdemeanor, is it
8 not?

9 A It's not illegal anymore.

10 Q Okay. Possession of a drug kit would be illegal, correct?

11 A Yes.

12 Q That would be possession of drug paraphernalia which is a
13 misdemeanor as well, correct?

14 A Correct.

15 Q Okay. Now ultimately one person was arrested, correct?

16 A Yes.

17 Q Who was that person?

18 A Corey Barnett.

19 Q Okay. So Miss. Allen was not arrested?

20 A Correct.

21 Q Okay. There was a drug kit that was found?

22 A Yes.

23 Q And she admitted that there was a speed pipe?

24 A Yes.

25 Q Okay. But she was not arrested?

Volume II - Page 60

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Correct.

2 Q Okay. And she had a warrant.

3 A Correct.

4 Q Okay. And she was on the driver side of the car?

5 A Yes.

6 Q Okay, but Mr. Barnett was arrested.

7 A Correct.

8 Q And I apologize for my cough. It's allergies I think, I hope. And to your
9 knowledge neither person appeared to be under the influence -- I know I asked that,
10 but I just want to -- for my own recollection.

11 A Yes.

12 Q Okay. And both were cooperative?

13 A Yes.

14 Q Okay. One thing I do want to -- when you unloaded the weapon, the
15 firearm, not the Airsoft, when you unloaded that weapon, were there rounds in the
16 chamber or rounds in the clip?

17 A Yes.

18 Q Okay. What type of rounds were those?

19 A There were dummy rounds.

20 Q What does that mean?

21 A They're -- they're practice training rounds. They're not real rounds.

22 Q So it's like blanks, for lack of better term?

23 A No, blanks would have a primer. These are just plastic dummy rounds.

24 Q Okay, so they -- they theoretically would not fire out of the weapon?

25 A Correct.

Volume II - Page 61

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: Okay. Nothing further.

2 REDIRECT EXAMINATION

3 BY MR. GILES:

4 Q Would the fact that they were training rounds change the nature of the
5 firearm?

6 A No.

7 Q It didn't stop being a gun just because the rounds wouldn't go off?

8 A Correct.

9 Q And as a patrol officer, do you have discretion in who to charge?

10 A Yes.

11 Q And if a person has a narcotics kit and that's the only thing you find, do
12 you have to arrest them?

13 A No.

14 Q And I believe you said that Ashley's warrant was a misdemeanor
15 warrant?

16 A Correct.

17 Q Do you always arrest on misdemeanor warrants?

18 A No.

19 Q Typically if somebody has a misdemeanor warrant you're not super
20 concerned about, what do you tell them?

21 A Pretty much I just give them the information how they should fix it. I --
22 I'm very reasonable. Everybody has money issues. Sometimes people just don't
23 have the money right away and it's something they just need -- you take them to jail
24 they can't go to work to -- to make money to pay off their ticket so I always pretty
25 much let people go, just let them, you know hey, get this taken care of and, you

Volume II - Page 62

1 know, when you can.

2 Q And other than the fact that she was sitting in the driver seat, is there
3 any reason to believe that she was in control of the vehicle?

4 A Yeah, she was just -- yeah. Yes.

5 Q I mean she -- she was physically behind the steering wheel --

6 A Yes. Yes.

7 Q -- right? But Mr. Barnett was in the car?

8 A Yes.

9 Q And you've already testified that the car was actually his?

10 A Yes.

11 MR. NADIG: Objection; misstates the evidence.

12 BY MR. GILES:

13 Q I believe you testified that --

14 THE COURT: Overruled. Overruled.

15 MR. GILES: Thank you, Your Honor.

16 BY MR. GILES:

17 Q So let's talk about the gun photo. Mr. Nadig pointed out that the firearm
18 wasn't taken -- the photo wasn't taken in the same location you saw the firearm,
19 correct?

20 A Yes.

21 Q Okay. You pulled it out for what reason?

22 A To get the serial number to run the -- run the firearm.

23 Q Okay. And was CSA ever called on this case?

24 A No.

25 Q And in your experience, nine years as a patrol officer, does CSA come

1 to every event?

2 A No.

3 Q Do they come to most events?

4 A No.

5 Q Would you need crime scene analyst to come out on something like
6 this?

7 A No.

8 Q Was there any question in your mind who was inside the vehicle when
9 you arrived?

10 A No.

11 Q Was there any question in your mind that that was a firearm?

12 A No, that -- that was -- it was a firearm.

13 Q Okay. And you wouldn't have CSA come out and take fingerprints for
14 example?

15 A Correct.

16 Q Because you knew who was there, correct?

17 A Correct.

18 Q All right. Mr. Nadig talked to you about indicia of impairment. Were you
19 actually looking for indicia of impairment?

20 A No.

21 Q Under what circumstances would you normally be most worried about
22 indicia of impairment?

23 A If they were in a -- in a DUI stop if -- if they're -- if they're involved in
24 some type of accident, if they're in commission of a crime that involved something
25 with them being impaired, like -- a firearm, for example. You can't be under the

Volume II - Page 64

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 influence and be in possession of a firearm or if you're driving a vehicle.

2 Q And are there various levels of impairment?

3 A Yes.

4 Q It's possible be a little impaired versus a lot impaired?

5 A Yes.

6 Q So if either Mr. Barnett or Miss. Allen had been heavily impaired, is that

7 the sort of thing you would have probably noticed?

8 A Yes.

9 Q But again, you weren't looking for it, were you?

10 A Correct.

11 Q Okay. Now, Mr. Nadig pointed out that it was actually Ashley Allen who

12 said there might be a drug pipe in the car; is that correct?

13 A Yes.

14 Q All right. Was she searched as well?

15 A Yes.

16 Q Were any drugs found on her person?

17 A No.

18 Q Anything illegal found on her person?

19 A No.

20 Q And what was it that you heard her say was in the vehicle?

21 A A pipe.

22 Q Did she ever say there was a gun?

23 A No.

24 Q Was the question -- what was the question that was posed to her that

25 led her to say there's a pipe?

Volume II - Page 65

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Officer Fernandez asked if there was anything illegal in the vehicle.
2 Guns, drugs or knives, that's (indiscernible) normally say.

3 Q Is that a typical question?

4 A Yes.

5 Q Kind of get into the rote of asking that question?

6 A Yes.

7 Q All right. And she never said gun, did she?

8 A Correct.

9 Q Now, let's talk about the ability to access either the Airsoft gun or the
10 real firearm. Mr. Nadig asked was there anything in between that goes all the way
11 to the dash that would prevent somebody from going over there.

12 A Correct.

13 Q And I want to be real clear --

14 MS. BAHARAV: It's right here.

15 Q -- do -- do you remember that or not?

16 MR. GILES: May I approach clerk, Your Honor?

17 THE COURT: Yes.

18 MR. GILES: Let me have that marked --

19 BY MR. GILES:

20 Q So in looking in the vehicle, exercising your professional opinion, was
21 there anything that would have kept the passenger of that vehicle, regardless of how
22 much machinations it took, from getting to that firearm?

23 A No. Yeah, anybody can -- whether be anybody they can reach across
24 and get anything from that side. Whether it be in between the legs or if the person
25 moved their legs to the side, the driver or passenger would have reasonable access

1 to either side.

2 MR. GILES: May I approach, Your Honor?

3 THE COURT: Yes.

4 BY MR. GILES:

5 Q I'm showing you what's been marked as State's Proposed 14. Would
6 you look at that briefly?

7 A Yes.

8 Q Do you recognize what's in that photograph?

9 A Yes.

10 Q Is that -- what is that?

11 A Oh, it's -- it's a photograph of the scene of the -- of the vehicle and our
12 patrol vehicle.

13 Q Okay, does it fairly and accurately represent that vehicle from that
14 angle?

15 A Yes.

16 MR. GILES: And we've shown to the defense, Your Honor. May -- I move for
17 admission of State's 14.

18 MR. NADIG: No objection, Your Honor.

19 THE COURT: Be admitted.

20 [State's Exhibit 14 admitted]

21 MR. GILES: May I publish?

22 THE COURT: Yes.

23 BY MR. GILES:

24 Q Okay. So this is the passenger side of the -- from the front passenger
25 corner, correct?

1 A Yes.

2 Q All right. And that is the way it looked when you were there?

3 A Correct.

4 Q There's nothing in that photo to indicate that there was any kind of an
5 impediment between the passenger side and the driver side, is there?

6 A Correct.

7 Q Mr. Nadig asked about the week prior when you talked to Mr. Barnett
8 and he was in that vehicle.

9 A Yes.

10 Q Said it was consensual. Describe what a consensual interaction is.

11 A The person's not detained, they're free to leave. We're just basically
12 conducting like -- a casual conversation see what the person was doing in the area
13 or -- or where they're going.

14 Q Is there a term for that in law enforcement?

15 A Yes.

16 Q What is it called?

17 A Consensual stop.

18 Q Okay. And on a consensual stop you -- as an officer, would you have
19 made your mind up about it before it started?

20 A No, I mean you don't know what you're walking into on a -- on a
21 consensual stop.

22 Q Okay. In a normal day, how many times do you talk to people that you
23 don't arrest?

24 A Oh, all the time. All day.

25 Q Okay. And in your nine years, has there ever been a time when you

Volume II - Page 68

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 didn't run people in the system?

2 A No, I -- I -- I conduct record checks pretty much all the time.

3 Q Okay. Is that system infallible?

4 A Can -- say again?

5 Q Is it possible for there to be errors in that system?

6 A Oh, no.

7 Q Could it be possible that Miss. Allen had a warrant the week before and
8 you just didn't see it?

9 A Correct.

10 Q Okay. And if she had had a warrant the week before, is there any
11 reason to believe you would have handled it differently than it was handled on the
12 25th?

13 A No, we would still -- if misdemeanor warrant, I would still talk to her the
14 same way just get taken care of.

15 Q Okay. Is the fact that you were notified on the 25th as you rolled up as
16 the cover officer, backup officer for Officer Fernandez, was the fact that Miss. Allen
17 had a warrant, did that elevate the contact a little bit?

18 A Yeah. It always does. It's -- it's -- a lot of it's for safety regardless
19 because every situation's different. It's different time, different -- different day. So --

20 Q Could that -- could that be the difference between the week before stop
21 or consensual contact and the 25th --

22 A Correct.

23 Q -- when Mr. Barnett wound up arrested?

24 A Yes.

25 Q Okay.

Volume II - Page 69

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. GILES: Court's brief indulgence. Nothing further.

2 MR. NADIG: If I may?

3 THE COURT: Yes.

4 MR. NADIG: Thank you.

5 RECROSS EXAMINATION

6 BY MR. NADIG:

7 Q I'm going to try and be quick I promise.

8 A All right.

9 Q I forgot to mention the clothes in the car. The clothes that Mr. Barnett
10 was wearing, do you recall what he was wearing?

11 A I don't recall off -- blue jeans.

12 Q What were they like? You know --

13 A Casual clothes.

14 Q -- nowadays people wear the skinny jeans. I mean I can't fit in them,
15 but, you know, was he wearing skinny jeans or?

16 A No.

17 Q Okay. People also wear really baggy jeans. Do you recall if they were
18 really baggy?

19 A Not overly baggy, they just seemed like jeans that would fit him, just kind
20 of normal jeans.

21 Q Okay, just regular jeans.

22 A Correct.

23 Q Okay, do you recall what Miss. Allen was wearing on that day?

24 A I would have to -- I -- I don't remember off top my head.

25 Q Okay, so you don't remember she was wearing jeans or leggings --

Volume II - Page 70

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A It was -- it was casual clothing.

2 Q Casual clothing of some kind. So like --

3 A Tight -- it was tight fitting clothing, casual clothing. I just don't

4 remember the color or like --

5 Q You just remember it was tight?

6 A Correct.

7 Q Okay. Now, when you guys were back discussing the matter in front of

8 Mr. Fernandez's -- Mister -- Officer Fernandez's cruiser, Mr. Barnett and Miss. Allen

9 were in the car, correct?

10 A Correct.

11 Q Okay. Now, did either of you have eyes on them while discussing the

12 matter?

13 A Yeah, we always keep constant visual contact with the -- with people --

14 Q Okay.

15 A -- with subjects that we --

16 Q Could you tell -- because it appeared the windows were tinted. I don't

17 know how darkly. Do you recall how darkly they were tinted?

18 A They were -- they're not dark.

19 Q Okay.

20 A Yeah.

21 Q So it's not like the limo tint or anything like that?

22 A Correct.

23 Q Did they appear talking to each other while they were in the car?

24 A I -- I wasn't there initially for -- Officer Fernandez --

25 Q But when you were talking to Officer Fernandez and they were in the

Volume II - Page 71

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 car --

2 A Oh, yeah.

3 Q -- did they appear to be talking to --

4 A Yes.

5 Q Could you see their hands moving at all?

6 A No.

7 Q Based on all of the things inside the vehicle, could you see their hands
8 at all?

9 A Oh, no.

10 Q Okay. Additionally, Mr. Giles showed you a photo of this -- another
11 photo of the car which is State's 14. Now in State's 14 you can't really see the
12 console at all, correct?

13 A Correct.

14 Q But you know there's a console there?

15 A Correct.

16 Q Okay, and that was just based on your memory of what you saw on the
17 day in question?

18 A Correct.

19 Q Okay. Now, additionally, Mr. Giles brought up a number of comments
20 about where the gun was and things of that nature. You don't have any idea as to
21 how the gun got in the car, correct?

22 A Correct.

23 Q Okay, you have no idea who put the gun in the car?

24 A Correct.

25 Q Okay, you have no idea how long it was in the car?

Volume II - Page 72

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Correct.

2 Q Okay, it's just when you arrived it was in the car, correct?

3 A Correct.

4 Q And it was on the driver side?

5 A Correct.

6 Q And that was where Miss. Allen was sitting?

7 A Correct.

8 Q Okay. Additionally, Mr. Giles brought up the fact that you do have a lot

9 of discretion, correct?

10 A Correct.

11 Q Okay, you can choose to -- and this is for misdemeanors, correct? For

12 felonies that discretion goes out the window.

13 A Correct.

14 Q But for a misdemeanor, you have the discretion where -- whether to

15 charge somebody or not, correct?

16 A Yes.

17 Q Okay, and even with Miss. Allen's admission even with her warrant you

18 decided not to charge her?

19 A Correct.

20 MR. NADIG: Nothing further.

21 MR. GILES: We have nothing further, Your Honor.

22 THE COURT: Jury have any questions this officer? Write your name down.

23 [Colloquy between the Marshal and Jury]

24 THE COURT: I'll have the attorneys in the back hall.

25 [Court and counsel exit courtroom at 11:43 a.m.]

Volume II - Page 73

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

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[Courtroom at ease]

[Court and counsel enter courtroom at 11:45 p.m.]

THE COURT: How do you know what photos to take? Is there a photo taking procedure?

THE WITNESS: We normally take photos of the evidence, kind of overalls of the -- of the scene, but we -- we normally take photos related directly to the evidence.

THE COURT: Okay. State?

FURTHER REDIRECT EXAMINATION

BY MR. GILES:

Q Is that -- when you say of the evidence, is that of the things you think are going to be important?

A Correct, evidentiary value.

Q Okay.

THE COURT: Defense?

FURTHER RECROSS EXAMINATION

BY MR. NADIG:

Q So you didn't believe that the drug kit was of evidentiary value?

A It was -- we impounded it. We -- it's still evidence, it's just we -- we -- yeah, we didn't take pictures of the --

Q Okay, and then the same thing with the hypo devices, you didn't think those were worthy of a photograph?

A They were -- they were of evidentiary value, but we impounded -- we didn't take the photos.

Q And it's a judgment call on your part?

1 A Correct.

2 Q Okay. Who took the photos?

3 A Another officer, Officer Fryman (phonetic).

4 Q Okay.

5 THE COURT: When you did inventory the vehicle, did you find the pipe
6 referred to by Ashley Allen?

7 THE WITNESS: I don't recall off top my head. I would have to look narcotics
8 kit. We impounded everything and -- because if they're hypo devices we have to put
9 it in a special container, so I would have to look inside that -- that -- the kit.

10 THE COURT: State.

11 MR. GILES: Nothing, Your Honor.

12 THE COURT: Defense.

13 MR. NADIG: If I may, Your Honor?

14 THE COURT: Yeah.

15 [Colloquy between counsel]

16 FURTHER RECROSS EXAMINATION

17 BY MR. NADIG:

18 Q Would looking at your impound report refresh your recollection as to
19 whether you impounded the pipe or not?

20 A Cor- --

21 MR. NADIG: May I approach?

22 THE COURT: Yeah.

23 THE WITNESS: No.

24 BY MR. NADIG:

25 Q Okay. So does reviewing that refresh your recollection?

Volume II - Page 75

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes.

2 Q Okay. Did you ever find a pipe?

3 A No, the pipe -- yeah, the pipe's not in the narco kit.

4 Q Okay.

5 A Wasn't found.

6 MR. NADIG: Nothing further.

7 THE COURT: What was Mr. Barrett's (sic) reaction when the drugs were
8 found?

9 THE WITNESS: I -- I don't -- I -- I guess just kind of like -- I'm trying to think of
10 away to describe the reactions, kind of like we found drugs. It's nothing overly --
11 overly exciting, like they don't pretty much say anything just kind of like you -- you
12 found something on me.

13 THE COURT: Okay. State?

14 FURTHER REDIRECT EXAMINATION

15 BY MR. GILES:

16 Q Would a good definition be resigned?

17 MR. NADIG: Objection; calls for speculation.

18 THE COURT: Sustained.

19 THE WITNESS: Yes.

20 MR. GILES: Okay, hold a minute.

21 THE COURT: Strike that.

22 MR. NADIG: Move to strike, Your Honor.

23 MR. GILES: Can't answer the question, the Judge sustained --

24 THE WITNESS: Oh.

25 MR. GILES: -- the objection.

Volume II - Page 76

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE WITNESS: Oh.

2 MR. GILES: So let me rephrase that.

3 THE WITNESS: Okay.

4 BY MR. GILES:

5 Q When the drugs were found, did Mr. Barnett's head move up or down?

6 A I don't -- I don't recall off top my head.

7 Q Safe to say you just weren't looking for that, you didn't see anything --

8 A Correct.

9 MR. GILES: Nothing further.

10 THE COURT: Defense.

11 MR. NADIG: Nothing further, Your Honor.

12 THE COURT: Okay. When asked for his ID, where was it?

13 THE WITNESS: He -- he verbally identified himself.

14 THE COURT: State?

15 FURTHER REDIRECT EXAMINATION

16 BY MR. GILES:

17 Q Let me clarify. On which incident did he verbally identify himself, Officer
18 Deang?

19 A In this incident, the September incident.

20 Q Okay. So to you he verbally identified himself?

21 A Correct.

22 Q Okay. And you do not recall receiving a plastic ID?

23 A Correct.

24 MR. GILES: Nothing further.

25 FURTHER RECROSS EXAMINATION

Volume II - Page 77

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 BY MR. NADIG:

2 Q Do you recall could Officer Fernandez have received his ID?

3 A I -- I don't -- I don't know if he did or not, I don't remember.

4 Q Because you were the second on the scene, correct?

5 A Correct.

6 Q So any preliminary questions, identification, things of that nature
7 presumably would have been performed by Officer Fernandez?

8 A Yes.

9 Q Okay. So but to you, you didn't see a physical driver's license or ID
10 card?

11 A Correct.

12 Q Okay.

13 THE COURT: What else was in his pockets other than the allege drugs?

14 THE WITNESS: I -- I don't know. I didn't conduct a full search, Officer
15 Fernandez did. I was -- I was just there within the area.

16 THE COURT: State?

17 FURTHER REDIRECT EXAMINATION

18 BY MR. GILES:

19 Q Anything else -- the defense asked you to look over the property report,
20 correct?

21 A Yes.

22 Q Anything that was taken out of Mr. Barnett's pockets would have gone
23 into this report, wouldn't it?

24 A Anything illegal that was impounded as -- as evidence. His personal
25 effects would have been with his personal property at jail.

Volume II - Page 78

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q And did you book Mr. Barnett into jail?

2 A No.

3 Q Okay. That was Officer Fernandez?

4 A Yes.

5 Q Thank you.

6 FURTHER RECROSS EXAMINATION

7 BY MR. NADIG:

8 Q You did the impound for this entire event, correct?

9 A Yes, for the vehicle and then the evidence.

10 Q Okay, so -- and to your knowledge you were not the person who
11 removed the drugs from Mr. Barnett's pocket?

12 A It was Officer Fernandez.

13 Q Okay, was Officer -- were you -- and you were present at that time?

14 A Correct.

15 Q Okay. Did you -- and you didn't see if Officer Fernandez removed
16 anything else from his pocket?

17 A I -- I don't recall off top my head.

18 Q So potentially you could have, you just don't remember?

19 A Correct.

20 Q Okay. And to your knowledge the only things that were booked into
21 evidence were drug kit, yes?

22 A Yes.

23 Q Hypos?

24 A Yes.

25 Q Methamphetamine?

Volume II - Page 79

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes.

2 Q And the gun?

3 A Yes.

4 [Colloquy between counsel]

5 BY MR. NADIG:

6 Q And the Airsoft gun?

7 A Correct.

8 Q Okay.

9 MR. NADIG: Nothing further, Your Honor.

10 THE COURT: Okay. Thank you, Officer. You can go.

11 THE WITNESS: Thank you.

12 THE COURT: You guys need a break? See no hands.

13 Call your next witness.

14 MS. BAHARAV: State calls Rebekah Altizer.

15 THE MARSHAL: Rebekah. Right through here. Come on up here, please.

16 Remain standing, raise your right hand till she swears you in, please.

17 REBEKAH ALTIZER

18 [having been called as a witness and being first duly sworn, testified as follows:]

19 THE CLERK: Okay, once you're seated please state and spell your full name
20 for the record.

21 THE WITNESS: My name is Rebekah Altizer, R-e-b-e-k-a-h A-l-t-i-z-e-r.

22 MS. BAHARAV: May I proceed?

23 THE COURT: Yeah.

24 DIRECT EXAMINATION OF REBEKAH ALTIZER

25 BY MS. BAHARAV:

Volume II - Page 80

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Ms. Altizer, what do you do for a living?

2 A I'm a forensic scientist employed with the Las Vegas Metropolitan
3 Police Department Forensic Laboratory.

4 Q How long have you worked for the Las Vegas Metropolitan Police
5 Department?

6 A Almost three years.

7 Q And were you always a forensic scientist with the Las Vegas
8 Metropolitan Police Department?

9 A I started out as a trainee. I underwent a training program and then
10 progressed to a forensic scientist.

11 Q How long have you worked for Metro?

12 A About three years.

13 Q And how long were you a trainee with Metro?

14 A About 18 months.

15 Q What's the process of being a trainee?

16 A You need to undergo training that includes reading different material,
17 performing practical tasks, learning about instrumentation and then finally
18 completing a competency test.

19 Q So just so we're clear, Metro doesn't just hire people off -- off the street
20 and then put them into a lab and get -- let them handle evidence by themselves; is
21 that correct?

22 A Correct.

23 Q Are you being supervised while you're a trainee?

24 A Yes.

25 Q And you said things about instrumentation. Are those the -- the items

1 that are used by the -- the lab to determine in this case I -- I guess narcotics?

2 A Yes.

3 Q And those are machines that are available to you?

4 A Correct.

5 Q You said there's also practical application. Can you explain what that is
6 to the jury?

7 A Practical application just learning about extractions, like with certain
8 different classes of drugs how to perform the analysis.

9 Q And just so we're clear, are you assigned to a specific division of the
10 lab?

11 A Yes, I work in the chemistry detail in the controlled substances unit.

12 Q So if we're talking about extractions, we're talking about extracting
13 narcotics?

14 A For the most part, yes.

15 Q With regards to extractions and -- and being a trainee, were you under
16 the supervision of individuals when you went through that process?

17 A I was.

18 Q And how many, I guess, cases did you work on as a trainee before you
19 were able to be promoted out of that program?

20 A After passing the competency test, I had to undergo a period of
21 supervised casework where I was supervised on each case and then those cases
22 were reviewed, and I'd say there were about 55 cases before I could work on cases
23 by myself.

24 Q So 55 cases after you pass some tests and then now you can work by
25 yourself?

1 A Correct.

2 Q How long have you been employed as a forensic scientist?

3 A A little -- almost a year and a half.

4 Q During that time about how many cases would you say that you've --
5 you've worked on, on your own?

6 A A couple hundred.

7 Q And is it fair to say that there's still a -- a mechanism in place to review
8 the work that you've done?

9 A Yes.

10 Q And is that a scientific process that's employed by the entire lab?

11 A Yes.

12 Q Can you explain to the jury what other safeguards are in place for
13 review of -- of work that is still completed?

14 A After cases are completed, all of our cases in the controlled substances
15 unit will undergo an administrative review and then certain cases that we do per
16 month will also undergo a technical review.

17 Q Is it -- what is an administrative review?

18 A An administrative review is just a review to make sure that all of the
19 clerical information put out on our reports and in our case file is correct, so mostly
20 crossing your T's and dotting your I's.

21 Q And the technical review?

22 A The technical review is done by a senior analyst to ensure that the data
23 I've collected and I've received for my analysis supports my conclusion.

24 Q How -- you've indicated you've worked for Metro for three years. Did
25 you come right out of high school and go into that job?

Volume II - Page 83

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A No, I have a -- a chemistry degree in -- a bachelor's degree in chemistry
2 and a master's degree in forensic science both from the University of Colorado at
3 Colorado Springs.

4 Q Once you finished your master's degree, did you have another job
5 before you came to work for Metro?

6 A Not that applied to forensic science.

7 Q Were you working in a laboratory or something like that?

8 A I did work at a hospital lab, yes.

9 Q And in regards to your work with the Las Vegas Metropolitan Police
10 Department, are you required to undergo continuing education?

11 A Each year we try to attend training and read online seminars and stuff
12 to keep up with the latest science.

13 Q And is that something that's required by your lab to do?

14 A As budget allows, yes.

15 Q Okay. Obviously there's a cost for training, correct?

16 A Correct.

17 Q But you're responsible for making sure that you're staying up to date in
18 the field?

19 A Yes.

20 Q Do you have to -- do you have to do continuing testing to make sure
21 that you're up to date in the field?

22 A Yes. Each year we're also given a proficiency test by an outside
23 agency to ensure that we -- we're still competent in our -- in our area.

24 Q And are you all up to date on all of your testing?

25 A I am.

Volume II - Page 84

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q All right. So we already talked about your training and experience. I
2 want to focus your attention now a little bit on the lab itself, okay?

3 A Okay.

4 Q You've been there now for three years. Is it fair to say that you're
5 familiar with the policies and -- and the procedures in place at the Las Vegas
6 Metropolitan Police Department?

7 A Yes.

8 Q And specifically within the lab?

9 A Correct.

10 Q So we've already talked a little bit about a technical review and an
11 administrative review, but when you're assigned a case specifically, can you tell the
12 ladies and gentlemen of the jury what the process is for that?

13 A When I'm assigned a case, I will call up evidence from the main
14 evidence vault. It's transferred to the evidence vault at our forensic lab. It's there
15 that I will pick up the evidence and it will be put into my custody. I will then take the
16 evidence back to my workstation. I check that all of the labels and seals are intact
17 to ensure that I have chain of custody. I will then open up the evidence and take an
18 inventory of what's inside, and as long as everything is accounted for and is correct,
19 I will begin my analysis.

20 Q So if something on a piece of evidence that you receive kind of raises a
21 red flag, you would -- would you continue to look into that evidence?

22 A Depending on what it was I would definitely notify my manager and if it
23 was significant, then we may re-package the evidence and send it back to the vault.
24 Again it just depends on the situation.

25 Q Is it fair to say that the lab is responsible for assisting other agencies in

1 conducting forensic testing as well?

2 A Yes.

3 Q And you're responsible for maintaining the integrity of the evidence?

4 A Correct.

5 Q And if there's an issue with integrity, the science could be impacted; is
6 that correct?

7 A Yes.

8 Q So when you're looking into evidence you want to make sure that the
9 science is all in place and it's a fair package and that you can look into it?

10 A Yes.

11 Q Did you do that procedure in this case?

12 A I did.

13 Q Now, when you walked in I handed you some gloves. Do you have
14 those?

15 A I do.

16 Q Okay.

17 MS. BAHARAV: I'm going to approach now if I can, Your Honor --

18 THE COURT: Yeah.

19 MS. BAHARAV: -- with State's Admitted Exhibit 13, 13A and 13B? No. Yes.

20 UNIDENTIFIED SPEAKER: Yes.

21 MS. BAHARAV: May I approach?

22 THE COURT: Yes.

23 MS. BAHARAV: Defense?

24 MR. NADIG: No objection.

25 MS. BAHARAV: Thanks.

1 BY MS. BAHARAV:

2 Q So, ma'am, I'm now handing you State's Exhibit 13. It's already been
3 admitted. I'm actually going to stand over here if that's okay so you can kind of hold
4 that up.

5 A Sure.

6 Q Okay. So we're now looking at State's Exhibit 13; is that correct?

7 A Correct.

8 Q On the back.

9 A Oh. Yes.

10 Q Okay. Looking at this exhibit right now, does it appear -- appear to be
11 the same or similar packaging that you reviewed in -- in this case?

12 A Yes, it does.

13 Q And does it appear to still be intact?

14 THE MARSHAL: Excuse me. Little closer.

15 A Does -- sorry, what does appear to --

16 Q It's open, right?

17 A Yes.

18 Q Was it open after you reviewed this case? You -- I'm sorry, when you --
19 once you're done with all your testing you have to close the packaging, correct?

20 A Correct.

21 Q And ultimately this package appears to be opened.

22 A Correct.

23 Q So aside from the opening, does it appear to be a fair and accurate --
24 does it appear to be the exact evidence, actually, that you reviewed in this case?

25 A Yes, it does.

Volume II - Page 87

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q And is there a -- I'm going to go back over here now, but I'm going to
2 ask that you hold that up, okay?

3 A Okay.

4 Q There appears to be two colors of tape on that particular item. Can you
5 explain to the ladies and gentlemen of the jury what that tape is exactly?

6 A So the color of the red tape is what the officer or whoever impounds the
7 evidence uses and on the color of the blue tape is the tape that I use to seal up the
8 evidence when I'm done with my analysis.

9 Q All right. And so there's both on this, correct?

10 A Correct.

11 Q Now if you turn that item over, are there P numbers associated with
12 both of those pieces of tape?

13 A Yes.

14 Q And a P number for the record is a person's personnel number; is that
15 correct?

16 A Yes, our employee number.

17 Q And it's assigned uniquely to you?

18 A Yes.

19 Q Nobody else has your event number?

20 A No.

21 Q Now with regard to the red tape, does there appear to be a P number
22 associated with the red tape?

23 A Yes.

24 Q And what is that?

25 A C -- well, the P number is 9876.

Volume II - Page 88

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Okay, and there's a C and then there's another initial at the end?
2 A Yeah, D.
3 Q Okay. You don't know Officer Deang, do you?
4 A I do not.
5 Q And you wouldn't know his P number?
6 A No.
7 Q Would his information be on the top of that package?
8 A Yes, he has his, again, initials and P number and his signature on the
9 evidence label.
10 Q Now you -- you looked at the bottom with regards to that tape; is that
11 correct?
12 A Yes.
13 Q There also appears to be red tape on top. Do you see that?
14 A I do.
15 Q Is there a P number associated with the red tape on top?
16 A There is.
17 Q And what is it?
18 A 9876.
19 Q The same P number?
20 A Yes.
21 Q So is it fair to say if there's two red tapes and the same P number, that
22 that person went into that package more than one time?
23 A Yes.
24 Q Now on the front of that package is there an indication of who's been
25 inside of that package?

Volume II - Page 89

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes.

2 Q And what does it say?

3 A It looks like Officer Deang was in it on March 4th of 2016, and then I
4 was in it on March 9th.

5 Q Okay. When you went into it on March 9th, did the package appear to
6 be intact to you?

7 A Yes, it did.

8 Q Did the top of the package appear to match the item that you were
9 supposed to be testing?

10 A It did.

11 Q Is there an indication of what type of purported narcotic it is supposed
12 to be?

13 A The item description is 4.1 grams gross ODV positive meth.

14 Q And when you opened the packaging did it appear to contain a
15 substance that appeared to be methamphetamine?

16 A Yes, it did.

17 Q Anywhere in that package did you find any marijuana?

18 A I did not.

19 Q All right. Now I'm actually going to ask that you open that package on
20 the side where it's already been opened and remove the contents, please.

21 A Okay.

22 Q We've now removed the contents and I want to direct your attention
23 specifically to the pink paper in front of you. That's been admitted as State's Exhibit
24 13B.

25 A Yes.

Volume II - Page 90

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Do you review this item, the NIK test as it was called, prior to
2 conducting your analysis?

3 A I do look at it. I ensure that, again, all of the administrative information
4 is filled out correctly and that the officer performed the ODV field test correctly.

5 Q Why do you do that?

6 A It's just part of our procedure when these ODV field test checklists are
7 performed.

8 Q And you said administrative items. What are you -- what are you talking
9 about specifically when you say that?

10 A The event number, the package number, item number, his P number
11 and then the subject.

12 Q Do you compare the administrative items on the -- the NIK test as it was
13 called with the package itself?

14 A Yes, I do.

15 Q And when you did that in this case, did they appear to match?

16 A They did.

17 Q What was the event number that you were operating under?

18 A Referring to the ODV checklist, it was 150925-0889.

19 Q Is that the same number on item 13?

20 A It is.

21 Q With regards to the item that's listed on that NIK test, did it appear to be
22 4.1 grams of -- of methamphetamine?

23 A Yes, it did.

24 Q And did that match the package to Number 13?

25 A It did.

1 Q And did that match your visual check of 13A?

2 A Yes, it did.

3 Q Now I want you to put down 13B and let's take a look at 13A which is
4 the narcotics themselves. So in -- in regards to the narcotics, is this how they
5 appeared to you when you pulled them out of the package?

6 A There was one plastic bag that was knotted. In order to do my analysis,
7 I undid the knot and I have placed a tape flag on it. And then there was another
8 package that was in a plastic bag and the ends were kind of burned or seared
9 together and I had to cut open that package and I repackaged it into a laboratory
10 plastic bag.

11 Q Okay, can you hold that item up and show the jury exactly which item
12 you had to put the tape on?

13 A This one was the knotted plastic bag and I've just placed a tape seal to
14 hold in the contents. And then this bag was seared together and I've repackaged it
15 into a laboratory plastic bag.

16 Q Now the items that you're holding in your hand, do those appear to be
17 the exact narcotics that you reviewed in this case?

18 A They do.

19 Q And do they appear to be the exact narcotics you put back into the bag
20 after your review?

21 A Yes.

22 Q So we've now talked a little bit about you getting assigned the case by
23 your manager, calling up the evidence, having it brought to you. Once you received
24 the evidence, can you tell the ladies and gentlemen of the jury what you did exactly?

25 A So I start my analysis by taking a net weight. That would be a weight

Volume II - Page 92

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 without any of the plastic package. So I took each individual item a weight
2 separately. I then performed a presumptive test, a color test, which gives me an
3 indication as to what this sample could be. I then performed an extraction and
4 analyzed it using our gas chromatograph mass spectrometer or GCMS for short.
5 Based on all of that data and results, I made my conclusion about what the sample
6 was.

7 Q So with regards to the -- the items themselves, if we're talking about
8 gross weight versus net weight, does gross weight usually include the packaging?

9 A Yes, it does.

10 Q And at the lab are you trying to get an actual analysis as to what that --
11 that really is?

12 A At the lab we're more concerned with the net weight just -- just the
13 weight of the sample of the evidence.

14 Q So at this point you've removed any packaging and you've now got an
15 actual sample size of what that item is?

16 A Correct.

17 Q And I say sample size, but it's the actual size of the item, correct?

18 A Yes.

19 Q So in this case did you -- were you able to make a determination as to
20 how much that -- that item weighed?

21 A I was.

22 Q And what -- how much did it weigh?

23 A Collectively the two items weighed 2.405 grams, plus or minus 0.006
24 grams.

25 Q So when you say plus or minus 0.006 grams, is that something that we

1 need to be concerned about with -- regarding weight?

2 A With the plus or minus .006 grams, it's an uncertainty of measurement.
3 Basically each balance that we use in the laboratory we have determined a range of
4 certainty and that's just associated with the weight so it's --

5 Q So is it like an average of -- of all of the scales that you might have in
6 the lab that that 00.0 -- wait, .006 is the uncertainty that could happen?

7 A It's not an average of all the balances. Each uncertainty of
8 measurement is calculated for each specific balance. It kind of takes into account
9 conditions like humidity, air drafts, where a weight is placed on the balance, as well
10 as other factors like the -- the external vendor's calibration that they do once a year.
11 And so for this particular balance that I used in this case, the actual uncertainty of
12 measurement is plus or minus 0.003 grams. I have to double that because I took
13 two weights.

14 Q Okay. So if we're talking by .006, is that a large amount?

15 A It's not.

16 Q Can you give an explanation as to how big that really is?

17 A So let's say that a sugar packet that you have at the restaurant weighs
18 about one gram. The .006 grams would be six individual sugar crystals.

19 Q So when your weight is 2.05 grams plus or minus this .006, it could be
20 plus point -- those six sugar crystals, or in this case methamphetamine, or minus six
21 crystals of methamphetamine?

22 A Correct.

23 Q So it's a small amount?

24 A It's a small amount.

25 Q Now, I -- I said methamphetamine and is that because the -- the peek --

1 pink piece of paper you have says it's probably methamphetamine?

2 A So the pink piece of paper does indicate what the officer suspects that
3 it is. However, I don't conclude anything about the sample until I receive my results
4 back and then I make my conclusion.

5 Q Is it fair to say if that item of paper said it was a green leafy substance,
6 for instance marijuana, but you did a test and it wasn't marijuana, that you're not just
7 going to go off what the officer said, right?

8 A No.

9 Q Okay. To be fair, this is not a green leafy substance?

10 A No, this is not a green leafy substance.

11 Q So once you've conducted the weight, you said you did a color
12 presumptive test. Is that similar to the -- the NIK test that you have in front of you?

13 A They are similar to the test that the officers use, yes.

14 Q Okay, can you explain what that test does exactly?

15 A So the test what we use in house we prepare reagents in house using
16 chemicals --

17 Q You can put the bag down, I'm sorry.

18 A Okay.

19 Q Sorry.

20 A And so a color test is just we take a little bit of sample, add our color
21 reagent and observe for any color change. Certain colors will indicate what a
22 sample could be.

23 Q Did you receive a results regarding that color test in this case?

24 A I did. I performed two color tests. The first one was a Marquis color
25 test and I received an orange to brown color. The second color test is a sodium

1 nitroprusside test and I received a blue color.

2 Q And what are those colors indicative of?

3 A To me, in that series, the orange to brown and the blue would indicate
4 that the sample could possibly contain methamphetamine.

5 Q So knowing that you have a color presumptive test, are you done with
6 your testing?

7 A No, I also perform the confirmatory test using the GCMS instrument.

8 Q And you said instrument, so are we talking about a machine?

9 A Machine -- yes.

10 Q Well we can use your terminology, but I just want to make sure that
11 we're -- we're understanding the same thing. So you have an instrument at the lab
12 that you use. I'm not going to be able to say the word so I'm just going to say
13 GCMS. Can you explain how this GCMS works?

14 A So GCMS I will take a little bit of the sample, I dissolve it in a solvent.
15 In this case I did a base extraction. It kind of -- it dissolves the -- the sample from
16 being a solid into a liquid. The liquid will then be drawn up a little bit and injected
17 onto the GC portion. The GC portion just separates components of a mixture and
18 then the mass spectrometer will detect those components that are within the
19 mixture.

20 Q And this is a -- a machine that -- is it calibrated regularly?

21 A There are performance checks done, yes.

22 Q Okay . And there -- are you aware of whether or not this machine was
23 up to date on those testings?

24 A Yes, it was.

25 Q So on -- do you recall what date you actually conducted the tests in this

1 case?

2 A I believe it was March 8th.

3 Q Okay. And would that information be on your report?

4 A If I may refer to my report?

5 Q Yeah, I can provide you with a copy, hold on.

6 MS. BAHARAV: May I approach?

7 THE COURT: Yes.

8 BY MS. BAHARAV:

9 Q Now all I see on here is a distribution date. Is it possible that the
10 information is not actually included on there?

11 A Yes, on the report it doesn't appear that the day that I started my
12 analysis is on there.

13 Q Okay. But is it fair to say that this is a copy of your report?

14 A Yes, it is.

15 Q It's a fair and accurate copy of your report?

16 A Yes.

17 Q It's the report that you generated in this case?

18 A Yes, it is.

19 Q All right. And there is a distribution date of March 16th, 2016?

20 A Correct.

21 Q So that would mean obviously that -- and you can hold onto this. That
22 would mean obviously that you would have to conduct that testing prior to that date?

23 A Correct.

24 Q So with regards to this GCMS, did you ultimately obtain a result?

25 A I did.

1 Q And what was the result you received?

2 A The data that I received back indicated that the sample was
3 methamphetamine.

4 Q Are you done once you do the GCMS testing?

5 A For me once I do a presumptive test and a confirmatory test, I look at
6 the data collectively and then make my conclusion, so yes, after that test I was
7 done.

8 Q Was there also another indicia from the GCMS that would lead you to
9 believe that this was methamphetamine?

10 A Yes. Also from the GC data there's a -- the GC will provide a retention
11 time. This is basically the time it takes from the time the sample is injected onto the
12 GC to the time it reaches the mass spectrometer. The retention time can be also
13 another indication of what the sample contains.

14 Q Did you review the retention time in this case?

15 A I did.

16 Q And was the retention time in line with methamphetamine?

17 A It was.

18 Q So based upon all three of these indicators, you were able to come to a
19 conclusion?

20 A Yes.

21 Q And your conclusion was?

22 A That the sample was methamphetamine.

23 Q Once you have come to a conclusion regarding the sample, what's your
24 process?

25 A So once all of my tests are done and my data's uploaded, I will then

1 take the evidence, seal it back up and return it to our evidence vault. The case file
2 was then -- underwent technical review and then administrative review and then the
3 report was released.

4 Q And do you seal it back up with that blue tape?

5 A I do.

6 Q And you -- there's blue tape on State's Exhibit 13?

7 A Yes, there is.

8 Q Now I want you to put the gloves back on if you can, because we're
9 going to put those items back into State's Exhibit 13 if possible. And while you're
10 doing that, are you -- you know, through your training and experience and obviously
11 your education, are you aware of whether or not methamphetamine is a controlled
12 substance?

13 A In the state of Nevada, yes, it's a controlled substance.

14 Q Thank you. Want to go ahead and place those back in there?

15 MS. BAHARAV: And I don't have any additional questions for this witness,
16 Your Honor.

17 THE COURT: Cross?

18 MR. NADIG: Briefly.

19 CROSS-EXAMINATION

20 BY MR. NADIG:

21 Q Good afternoon.

22 A Hi.

23 Q Keep on doing it. So your -- your sole job in this -- your job is much
24 larger, but as to this event, your job is simply to test the drugs, correct?

25 A Correct.

1 Q Okay, there's no investigation you do?

2 A No.

3 Q Okay, it's not like CSI on TV?

4 A No.

5 Q You don't have all those pretty little gadgets either?

6 A No.

7 Q And so it's simply you just get the drugs and test them, right?

8 A Correct.

9 Q Okay. You wouldn't test -- for instance, if there was DNA on the

10 baggies, you wouldn't test that, would you?

11 A I would not. If it was requested in the case, then I would know that prior

12 to beginning my analysis and --

13 Q Why would that be important?

14 A Why there was --

15 Q Why would it be important for you to know that prior to your analysis?

16 A At the lab we try to preserve the integrity of the evidence so if DNA was

17 requested on these packages, they would probably need to do their analysis first.

18 Q Okay, and they -- to your knowledge it wasn't requested in this case?

19 A No.

20 Q Okay, and simply all you do is you test the -- the presumed

21 methamphetamine, correct?

22 A Correct.

23 Q Okay, and then based upon your test you confirm if it is or is not

24 methamphetamine?

25 A Correct.

Volume II - Page 100

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Okay, and to your knowledge there was no DNA requested in this test?

2 A Not for this item, no.

3 Q And if there was, it would be listed on that evidence sheet, correct?

4 A Correct.

5 Q Okay.

6 MR. NADIG: Nothing further, Your Honor.

7 MS. BAHARAV: May I ask one question?

8 THE COURT: Uh-huh.

9 MS. BAHARAV: Well it's -- maybe it's two parts.

10 THE COURT: Nope, you can only ask one.

11 MS. BAHARAV: Then I'll ask a --

12 THE COURT: I'm kidding.

13 MS. BAHARAV: -- really long question.

14 REDIRECT EXAMINATION

15 BY MS. BAHARAV:

16 Q Ms. Altizer, is it fair to say that you didn't respond to the scene in this
17 case?

18 A I did not.

19 Q So you would have no way of knowing if these narcotics were found in
20 the Defendant's pocket?

21 A I would not know that.

22 Q Okay. Thank you.

23 THE COURT: Any further?

24 MR. NADIG: No, Your Honor.

25 THE COURT: Jury have any questions this witness?

Volume II - Page 101

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Seeing no hands. You're free to go, ma'am.

2 MS. BAHARAV: State does not have any additional witnesses so we'll be
3 resting at this time.

4 THE COURT: All right. State's rest their case in chief. Do you have any
5 witnesses to call?

6 MR. NADIG: I do not, Your Honor. So the defense would rest.

7 THE COURT: All right, let's take a five-minute recess and then we'll have
8 closing arguments. I'll read the jury instructions to you.

9 MS. BAHARAV: Thank you.

10 THE COURT: So during -- during this recess, you're admonished not to talk
11 or discuss the -- among yourselves or with anyone else on any subject connected
12 with the trial, or read or watch or listen any report of or commentary on the trial or
13 any person connected with this trial by any medium of information, including without
14 limitation newspapers, television, radio or the internet, or form or express an opinion
15 on any subject connected with the trial till the case finally submitted to you. Take
16 five minutes, please.

17 THE MARSHAL: Folks, leave your notebooks on your chairs. Come on out.

18 [Jury out at 12:17 p.m.]

19 THE COURT: All right, do we need the -- the computers, are you just going to
20 argue or what?

21 MR. NADIG: I believe that Ms. Baharav said she has a PowerPoint.

22 MR. GILES: Yes.

23 THE COURT: Okay.

24 MR. GILES: We have a PowerPoint for closing, Your Honor.

25 THE COURT: All right. Five minutes.

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[Recess taken at 12:18 p.m.]

[Proceedings resumed at 12:27 p.m.]

THE MARSHAL: All rise, please.

[Jury in at 12:28 p.m.]

THE MARSHAL: And be seated.

THE COURT: All right, stipulate to the presence of the jury?

MS. BAHARAV: Yes, Your Honor.

MR. NADIG: Yes, Your Honor.

THE COURT: All right. Ladies and gentlemen, I'll now read to you the jury instructions. You have them in front of you, you can make notes on them. You'll take them back in the jury room with you.

[The Court read the instructions to the jury]

THE COURT: All right. You'll be -- you can take those with you when you go back. You will be given these instructions in a blue folder and then there'll be a verdict form that your foreperson can take, just check off the boxes that they wish to check off. Tom will bring all the evidence back that you can have.

Ready?

MS. BAHARAV: Yes, sir, may I --

THE COURT: Go ahead.

MS. BAHARAV: -- proceed?

THE COURT: Yes.

MS. BAHARAV: All right.

CLOSING ARGUMENT BY THE STATE

BY MS. BAHARAV:

Ladies and gentlemen of the jury, sometimes a case really is about

1 having drugs in your pocket. Sometimes that's what happens. But in Nevada,
2 having drugs in your pocket is a crime.

3 On September 25th, 2015, located at 8274 Lincoln Valley Street here in
4 Las Vegas, Clark County, Nevada, Officers Fernandez and Deang came into
5 contact with the Defendant. He was sleeping in a vehicle that they knew that
6 belonged to him. His girlfriend was in the driver seat. They pulled them out of the
7 car because she had a warrant. Ultimately they conducted a search upon seeing
8 firearms in the vehicle. And they found drugs in the Defendant's pocket.

9 It's that simple. He was wearing pants that fit him. He appeared to be
10 wearing male pants. Didn't appear to have put anything into his pocket right before
11 then, but even if he had it wouldn't matter, because sometimes it's just as simple as
12 having drugs in your pocket.

13 They approached the Pontiac. They found the firearm on the
14 floorboard. They found the Airsoft gun on the other floorboard. Both of them had
15 access to both of these weapons. They pulled them out of the vehicle. It is what it
16 is.

17 In Nevada, the State has a couple of things that we must prove. We
18 have obviously a burden beyond a reasonable doubt and I'll show you instruction
19 nine which deals with reasonable doubt. But the State must demonstrate in every
20 case that a crime was committed and that the defendant committed the crime.

21 Obviously, narcotics is a crime. We're going to talk about that in a
22 minute, but the question really is who committed the crime. And that's instruction
23 10. I want you to focus on that when you're talking with each other in the back.

24 A lot of things were brought up about Ashley Allen. Ashley Allen was in
25 the driver seat. Ashley Allen said that there might be a pipe in the vehicle, although

Volume II - Page 104

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 a pipe wasn't found. Ashley Allen was the one talking to the officers. But Ashley
2 Allen's not on trial. And instruction 10 deals with exactly this scenario. If Ashley
3 Allen's not on trial, even if she could have been convicted of a misdemeanor, even if
4 she had a pipe, even if she had a warrant, it doesn't matter because instruction 10
5 says you're here to determine the guilt or innocence of this defendant from the
6 evidence in this case. You're not called upon to return a verdict as to the guilt or
7 innocence of any other person. So even if you believe that she should have been
8 arrested, even if you believe that she should have been cited or arrested for
9 possessing that narcotics kit, you have to focus on him and whether or not the
10 evidence in this case shows that this defendant is guilty beyond a reasonable doubt.

11 And ladies and gentlemen, we submit to you that the Defendant is guilty
12 of possession of controlled substance. Like we said, sometimes case is just as easy
13 as having drugs in your pocket. But we still want to talk about possession of
14 controlled substance and that's demonstrated in instruction number 4 which you'll
15 have before you as well.

16 Instruction number 4 provides the elements of the crime. Except as
17 authorized by law, there's no allegation here that this is medical methamphetamine,
18 it is unlawful for any person to knowingly or intentionally possess a controlled
19 substance. We don't have to show a specific quantity. We just have to show that it
20 was -- that it was a controlled substance, that he unlawfully had dominion and
21 control over the controlled substance, that he had knowledge of its presence, and
22 that he had knowledge of its nature as a controlled substance.

23 Instruction number 8 I believe or 7 deals with whether or not the
24 Defendant had possession of the controlled substance and you can base that upon
25 your recollection of all the facts. You can look at everything in this case and

1 determine whether or not this defendant had possession of that controlled
2 substance and whether or not he knew that it was a controlled substance.

3 Obviously, methamphetamine is a controlled substance. The analyst
4 told you that here today probably about a half an hour ago. So we already know
5 that it's a controlled substance. The question then becomes did the Defendant have
6 possession of it.

7 Instruction number 6 is going to be important. Instruction number 6
8 deals with possession. In Nevada, the law of possession. In this case it's obvious
9 that the Defendant had the drugs in his pocket, but the law doesn't just recognize
10 actual possession which we submit to you that would be an example of. It also
11 recognizes constructive possession. A person who knowingly and has direct
12 physical control over a thing at any given time is in actual possession of it. If a
13 person has drugs in their pocket, they actually possess those drugs.

14 But even if you find that she gave him the narcotics, even if that is
15 something that you find to be reasonable, instruction number 6 has to deal with that.
16 It recognizes that possession may be sole or joint. If one person alone has actual or
17 constructive possession of a thing, possession is sole.

18 We would submit to you that he had sole possession of those narcotics.
19 They were in his pocket when he was placed into handcuffs. But even if you find
20 that Ashley Allen handed him those drugs, he can still be found guilty of possession
21 of controlled substance because at that point possession is joint.

22 That's it, ladies and gentlemen. That's -- that's really what it is.

23 Instruction number 9 I want you to pay close attention to and I want you
24 to -- to think of a few things when opposing counsel gets up here to talk to you.

25 Ladies and gentlemen, instruction number 9 is reasonable doubt and a

1 reasonable doubt is one based upon reason. You're all smart people, you all have
2 common sense and you must bring your everyday common sense and judgment as
3 rational people to the jury room.

4 Reasonable doubt is such -- is that you must feel an abiding conviction
5 of the truth of the charge and if you do not, then there -- or if you do, sorry, there's a
6 reasonable doubt. They don't allow us to question this. I'm going to ask that you
7 read instruction number 9, but I want you to know that you must also be focusing on
8 whether or not it's actual doubt, not mere possibility or speculation.

9 And these are some things I want you to keep in mind, this last
10 sentence that I have highlighted for you. Is it reasonable to believe that Ashley Allen
11 -- that those were her drugs? Is it reasonable to believe that the Defendant was
12 wearing Ashley Allen's pants? Is it reasonable to believe that even though he's the
13 only person that had narcotics on him, that they're Ashley Allen's narcotics? Is it
14 reasonable to believe that if -- even if Ashley Allen handed him those drugs, he had
15 no idea that that was methamphetamine and he put them in his pocket anyway? Is
16 that reasonable?

17 And we submit to you, ladies and gentlemen, that it's not. This is a
18 case, ladies and gentlemen, about finding drugs in the Defendant's pocket in pants
19 that appeared to be male pants, in pants that he was wearing, in pants that he
20 appeared to be wearing when officers arrived.

21 Ladies and gentlemen, we have demonstrated to you that the
22 Defendant is guilty of possession of controlled substance and we ask that you find
23 him guilty. Thank you.

24 THE COURT: Go ahead.

25 MR. NADIG: I got it, I'm loud.

1 Thank you, Your Honor.

2 CLOSING ARGUMENT BY THE DEFENSE

3 BY MR. NADIG:

4 Good afternoon, ladies and gentlemen. This is the time that I talk about
5 before you -- those of you who have kids, this is the time where the kids are fighting.
6 Okay, and it's your job to decide what they're saying.

7 Now Ms. Baharav got up and if you listened one of the questions I
8 asked you during jury selection was are you going to believe them more than me
9 because I am a defense attorney. Okay, and all of you said that no, you would hold
10 each argument equally. But what Ms. Baharav did is she focused on reasonable
11 doubt and what she said was reasonable doubt, reasonable doubt and what the
12 defense is arguing is not reasonable doubt. Well, I haven't argued anything. Okay.

13 So am I going to argue reasonable doubt? No. What I'm going to
14 argue is the evidence that you have before you, the testimony you have before you.
15 That's what I'm going to talk about. Let's talk about that and additional to that, Ms.
16 Baharav brought up the fact that Ashley is not on trial. Okay, one of the reasons
17 Ashley's not on trial is because the officers didn't charge her with any crimes.

18 An additional reason is -- is Mr. Barnett was charged with a crime. But
19 did Ashley play a role in this? What occurred? What do we know? We know
20 Ashley had a warrant. We know that Ashley said she had a pipe, it's a
21 misdemeanor. We know she had previous contact with the police and they didn't
22 know she had a warrant then, but now she has a warrant and she's been stopped.

23 The State would like you to believe that I'm suggesting that she handed
24 him the drugs in the car. I'm not necessarily saying that, but if you have a warrant
25 for your arrest, where you going to stash the drugs? Are you -- and you live in your

Volume II - Page 108

1 car. Are you going to stash the drugs on you? No. You're going to think oh, Corey
2 doesn't have a warrant. So I'll put them on Corey's clothes. That's one option, but
3 that's what the evidence suggests.

4 What I want you to do is look at instruction number 3, and I promise it'll
5 be the only instruction I have you guys look at. If you look at number 3, there's the --
6 on line 8, it says knowingly or intentionally possess a controlled substance. We
7 don't know if Corey intentionally or knowingly possessed a controlled substance.
8 We know a controlled substance was found on him, but we don't know if he knew it
9 was there.

10 We don't know if Miss. Allen put the drugs on him because she was in a
11 warrant and she wanted to avoid going in warrant. We know that she (sic) let her
12 go. We know that Corey did have the drugs in the coin part of his pocket. Okay.
13 But we don't know how they got there. We don't know if he was aware of them
14 being there.

15 We also don't know was there any DNA on the bag? We don't know,
16 they didn't test it for DNA so was he aware that it was there? That is what this case
17 turns on. The drugs were in his pocket, but was he aware of it?

18 He did not admit to methamphetamine use. Miss. Allen admitted that
19 she's a speed addict. She also was in warrant. So was he even aware of it? We
20 don't know. And based upon that lack of knowledge, I would ask you to find Mr.
21 Barnett not guilty beyond a reasonable doubt. Thank you.

22 THE COURT: Go ahead.

23 REBUTTAL ARGUMENT BY THE STATE

24 BY MR. GILES:

25 Mr. Nadig just told you what we don't know. So let's talk about what we

1 do know. We do know the van is registered to Corey Barnett's mother. We do know
2 he told Officer Deang the week before it's his car that he uses almost exclusively.
3 We do know he was driving the vehicle the week before that.

4 Was Ashley Allen in the car? Yes, she was. Apparently they were
5 together for some period of time.

6 We also know that there were lots of bags in the car, men's clothes,
7 women's clothes. They're living out of the car. And there was a narco kit. There
8 was a narco kit in the car; needles, tweezers, some other items. It was in evidence.
9 It is still in evidence. It was not charged. Possession of narcotic paraphernalia was
10 not charged. Officer Deang and Officer Fernandez both told you when it comes to
11 misdemeanors they have a lot of discretion.

12 What's important? Take those items off the street or charge the person.
13 They get to make that call. They chose not to charge Ashley. That's not relevant,
14 because as Ms. Baharav told you, this case -- sometimes it really is as simple as
15 there's drugs in his pocket.

16 Now, Mr. Nadig just asked you to believe that Ashley put those drugs
17 on him somehow. Handed them to him, put them in his pocket without his
18 knowledge and he didn't know they were drugs. They're together. If she's a speed
19 addict, he knows she's a speed addict. They're together.

20 She says there is a pipe in the car. No pipe ever found. Not that we
21 know of. Found items in his car. A narco kit. Found 2.405 grams or less of
22 methamphetamine. Forensic scientist told you it tested as methamphetamine.
23 Came out of his pocket. No question he was in possession of a controlled
24 substance.

25 I'd like to finish by asking you to pay attention to a few of the same jury

Volume II - Page 110

1 instructions Ms. Baharav brought up. This is instruction 4. There are three
2 requirements:

3 That the person unlawfully had dominion and control over the
4 substance, wouldn't have matter if it was in the car or in his pocket where it was
5 because it was his car. He had dominion and control.

6 That he had knowledge of its presence. Again, use your common
7 sense. We'll talk about that in a second. It's in his coin pocket in his pants. I know
8 at the beginning Mr. Nadig asked somebody a question, you ever put somebody's
9 coat on and stuck your hand in there -- this isn't a coat thrown on a bed at a party on
10 New Year's Eve where you get confused about what's in the pocket or whose coat it
11 is. These are Mr. Barnett's pants that he was wearing the whole time the officers
12 were in contact with him.

13 And finally, that he had knowledge of its nature as controlled substance.
14 You get to take all of the facts presented to you, the way they were packaged,
15 where they were located, the other items in his car. He knew they were drugs. He
16 had dominion and control.

17 Again there's two kinds of possession. And we don't even need to get
18 to constructive possession in this case because he had actual physical possession.
19 Those drugs came out of his pocket during a search. They weren't found under the
20 floorboards of the car in the back seat in a box. They were found in his pocket. He
21 had them.

22 And whether or not Miss. Allen was charged with a crime, that's
23 instruction number 10. She's not sitting here on trial today. Corey Barnett is on trial
24 for the drugs that were found in his pocket. Not Ashley Allen for the misdemeanor
25 warrant that she may have had at that time that the officers both told you we have

1 discretion on it, we chose not to arrest her, we let her go.

2 Instruction 11 is very important. Instruction 11 tells you there's two
3 kinds of evidence. Judge described it with a snowfall outside. You walk outside,
4 suddenly there's snow all over the place, there wasn't snow when you walked in, in
5 the morning, it's snowed. You didn't see it snow. You can't point to when it snowed.
6 But the snow didn't just magically appear.

7 In this case, the actual physical possession, officers saw that. They
8 found the drugs in Corey Barnett's pocket. Whether or not he was in the passenger
9 seat or the driver seat, whether or not there was other clothes, whether or not
10 Ashley had a pipe or was a speed addict, you can take those things into account.
11 Not only because that is the evidence before you, but because that's what he would
12 have known. Remember he was with her a week prior. He was with her on
13 September 25th. He would have known -- even if, as Mr. Nadig says -- suggests,
14 she handed him those drugs or put those drugs on him, he would have known about
15 those drugs and he was in possession of those drugs.

16 And finally, when you go back, I want you to take your common sense.
17 That's instruction 16 and this one's really important. We don't ask you when you
18 come in here as jurors to take everything you know or everything you've
19 experienced in life and throw it over your shoulder. That's why you're here because
20 you look at the evidence that gets presented. You take that knowledge, that
21 evidence in the back and you reach a conclusion. I'm going to ask you to use your
22 common sense.

23 What does common sense tell you? That Corey Barnett had two and a
24 half grams of methamphetamine in his pocket, he knew it was methamphetamine
25 and he knew it was there, or a female in his car who's a speed addict that he never

1 knew about managed to slip those drugs into his pocket because she had a
2 misdemeanor traffic warrant. I'm going to ask you to find Corey Barnett guilty of
3 possession of a controlled substance, methamphetamine. Thank you.

4 THE COURT: Swear the officers in.

5 [The Clerk swore in the officers to take charge of the jury during deliberations]

6 THE COURT: Susanne, keep them in the kitchen.

7 UNIDENTIFIED SPEAKER: Okay.

8 THE COURT: The alternatives are 13 and 14. If you'll pick up your -- your
9 property and take them with Susanne. Thirteen and 14.

10 THE MARSHAL: Okay.

11 THE COURT: You can go right now.

12 THE MARSHAL: Grab all your personal possessions. Take all your paper,
13 your notebooks, pens, everything, go with her.

14 [Alternate jurors out at 12:57 p.m.]

15 THE COURT: Okay, the rest of you will follow Tom. Pick up your personal
16 property. We have lunch, too. I had it delivered though, but it's been about 20
17 minutes ago so -- hope you guys enjoy pizza.

18 THE MARSHAL: Come this way.

19 [The jury retired to deliberate at 12:58 p.m.]

20 THE COURT: All right. We're going to feed them lunch. I don't think they'll
21 take a long lunch, so just stay around here.

22 MS. BAHARAV: We don't anticipate bringing the officers back for the second
23 phase so we'll just be admitting the JOC and arguing.

24 THE COURT: Okay.

25 Can you keep him up here for a while or do you guys have to go back?

Volume II - Page 113

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE CORRECTIONS OFFICER: Downstairs.

2 THE COURT: Okay.

3 THE CORRECTIONS OFFICER: Just -- we'll get him down there.

4 THE COURT: I -- I don't tell you how to run things -- I don't think it'll be long.

5 THE CORRECTIONS OFFICER: Okay. No, we'll be ready, we'll be ready.

6 [Recess taken at 12:59 p.m.]

7 [Proceedings resumed at 1:57 p.m.]

8 THE MARSHAL: All rise, please.

9 [Jury in at 1:58 p.m.]

10 THE COURT: Counsel approach the bench, both of you.

11 Nadig, come on.

12 [Bench conference begins at 1:58 p.m.]

13 THE COURT: Is he going to take the stand in this? Do I have to -- huh?

14 MR. NADIG: No.

15 THE COURT: We need to make a record that afterwards that we talked
16 about it.

17 [Bench conference ends at 1:58 p.m.]

18 THE COURT: All right. The record reflect the presence of the Defendant, his
19 attorney, the Deputy District Attorneys for the State and all 12 members of the jury.

20 Who is the jury foreperson?

21 JUROR NUMBER 3: I am, Your Honor.

22 THE COURT: Have you reached a verdict?

23 JUROR NUMBER 3: Yes, we have.

24 THE COURT: Is it unanimous?

25 JUROR NUMBER 3: Yes.

Volume II - Page 114

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Hand it to the Bailiff, please -- Marshal. I'm old school.

2 Clerk will now read the verdict into the record and poll the jury.

3 THE CLERK: District Court, Clark County, Nevada. The State of Nevada,
4 Plaintiff, versus Corey Thomas Barnett, Defendant. Case Number C312887.
5 Department Number VIII. Verdict. We the jury in the above-entitled case find the
6 Defendant, Corey Thomas Barnett, as follows: Count one, possession of control
7 substance. Guilty of possession of controlled substance. Dated this 12th day of
8 April 2016, Antonia Killebrew.

9 Ladies and gentlemen of the jury, is this your verdict as read?

10 THE JURY: Yes.

11 THE CLERK: So say you one so say you all?

12 THE JURY: Yes.

13 THE COURT: Poll them. Poll them please.

14 THE CLERK: Juror Number 1, is this your verdict as read?

15 JUROR NUMBER 1: Yes.

16 THE CLERK: Juror Number 2, is this your verdict as read?

17 JUROR NUMBER 2: Yes.

18 THE CLERK: Juror Number 3, is this your verdict as read?

19 JUROR NUMBER 3: Yes.

20 THE CLERK: Juror Number 4, is this your verdict as read?

21 JUROR NUMBER 4: Yes.

22 THE CLERK: Juror Number 5, is this your verdict as read?

23 JUROR NUMBER 5: Yes.

24 THE CLERK: Juror Number 6, is this your verdict as read?

25 JUROR NUMBER 6: Yes.

Volume II - Page 115

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE CLERK: Juror Number 7, is this your verdict as read?

2 JUROR NUMBER 7: Yes.

3 THE CLERK: Juror Number 8, is this your verdict as read?

4 JUROR NUMBER 8: Yes.

5 THE CLERK: Juror Number 9, is this your verdict as read?

6 JUROR NUMBER 9: Yes.

7 THE CLERK: Juror Number 10, is this your verdict as read?

8 JUROR NUMBER 10: Yes.

9 THE CLERK: Juror Number 11, is this your verdict as read?

10 JUROR NUMBER 11: Yes.

11 THE CLERK: And Juror Number 12, is this your verdict as read?

12 JUROR NUMBER 12: Yes.

13 THE COURT: Okay, ladies and gentlemen, there were -- there were certain
14 charges that could not be presented to you in -- in the other phase and the State will
15 address that. We have new jury instructions to give you. There will be no more
16 witnesses called, just argument from the -- both sides.

17 MS. BAHARAV: Your Honor, may we have the clerk read the amended
18 indictment as well?

19 THE COURT: Yes.

20 MS. BAHARAV: Thank you.

21 THE COURT: Do I have a stipulation from both parties that I don't have to
22 read it if she's just going to read it and then I'm not going to read 21?

23 MS. BAHARAV: Yes, that's fine.

24 MR. NADIG: If it's read once, that's enough for me, Your Honor.

25 MS. BAHARAV: We just ask that you read the lines 16 through 18 on

1 instruction 21.

2 THE COURT: I'll just read it. It's all right.

3 [The Clerk read the amended indictment aloud]

4 MS. BAHARAV: And Your Honor, the State does have to present a piece of
5 evidence if we may.

6 THE COURT: Okay.

7 MS. BAHARAV: May I approach your clerk?

8 THE COURT: Yes.

9 MS. BAHARAV: Thank you. We're waiving our opening. I don't know if Mr.
10 Nadig wants to make an opening.

11 THE COURT: You want to make an opening statement?

12 MR. NADIG: No, I'll just argue, Your Honor.

13 MS. BAHARAV: Thank you, Your Honor.

14 THE COURT: Go ahead.

15 MS. BAHARAV: The State has marked as Proposed Exhibit 15 a judgment of
16 conviction certified from the clerk of court here in the Eighth Judicial District in Case
17 C273458, the judgment of conviction being for attempt possession of controlled
18 substance. The Defendant was adjudicated guilty under the felony of that statute
19 and this occurred on August 19th, 2011. We move to admit the certified judgment of
20 conviction at this time.

21 MR. NADIG: No objection, Your Honor.

22 THE COURT: All right. It'll be --

23 MR. NADIG: It's a self-authenticating document.

24 THE COURT: It'll be admitted.

25 [State's Exhibit 15 admitted]

Volume II - Page 117

1 MS. BAHARAV: Thank you. And with the admission of this document and
2 the testimony already presented, the State would rest.

3 THE COURT: Do you have any --

4 [Colloquy between counsel and the Defendant]

5 THE COURT: I'm wait -- we're -- yeah. They've rested their case.

6 MR. NADIG: Oh, okay. Defense rests as well, Your Honor.

7 THE COURT: Let me -- we'll adopt the jury instructions -- I'm not going to
8 read all 20 jury instructions again, but I do have three or four to read to you.

9 [The Court read the other instructions to the jury]

10 THE COURT: And you'll -- you have those jury instructions as well as the
11 verdict form.

12 Argument

13 MS. BAHARAV: Thank you.

14 CLOSING ARGUMENT BY THE STATE

15 BY MS. BAHARAV:

16 Ladies and gentlemen, in the first phase of our trial there was a lot of
17 testimony regarding the firearm that was brought -- that was found by the officers in
18 the vehicle. The firearm, while located under the driver seat, also had an Airsoft gun
19 located underneath the passenger seat. But the evidence that was really helpful
20 and telling with regards to the Defendant's possession of that firearm was the
21 evidence from Officer Fernandez when he was questioning Miss. Allen with regards
22 to that firearm. Miss. Allen became angry, upset, looked at the Defendant and said,
23 you're really going to let me go down for this, really?

24 Now aside from that statement, we also have testimony that the car
25 itself belonged to the Defendant, it was ultimately released to his mother, that it's

Volume II - Page 118

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 probable that they were living out of that vehicle. So I ask you, ladies and
2 gentlemen, it is most likely that the Defendant knew that that firearm was in the
3 vehicle. It is actually beyond a reasonable doubt likely that the Defendant knew that
4 that firearm was in that vehicle and the Defendant is a person prohibited from
5 possessing firearms within that vehicle. We ask that you find him guilty of the
6 charge of possession of firearm -- ownership or possession of firearm by prohibited
7 person because as you recall, possession may be joint, it may be constructive, it
8 may be actual, but if any of those three things are present, the Defendant has
9 possessed that firearm. And we submit to you even if Ashley Allen possessed it too,
10 this Defendant is guilty. Thank you.

11 THE COURT: Go ahead.

12 MR. NADIG: Thank you.

13 CLOSING ARGUMENT BY THE DEFENSE

14 BY MR. NADIG:

15 Ladies and gentlemen, in the earlier case we had a situation where
16 there was something in his pocket. Okay? But here we have something where a
17 situation -- there is a weapon found and it's in the driver seat. Miss. Allen is in the
18 driver seat. Mr. Barnett is not in the driver seat. The State and the officers couldn't
19 tell you how long the weapon was in there, where it came from, who it belonged to --
20 they can't tell you anything, but they simply want to say because it was in the vehicle
21 you have to attribute it to Corey Barnett. That is not true.

22 It's with Miss. Allen on her side of the car. He was on the other side of
23 the car. They would have you believe because he can reach down and then kind of
24 grab it that that would be constructive possession. We don't know, A, if Corey knew
25 about it. We don't know if it was his gun. No DNA, there's no prints, there's no

Volume II - Page 119

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 nothing. Okay? The only thing we know is it was found in Miss. Allen's possession
2 and for those reasons I would ask you to find Mr. Barnett not guilty.

3 REBUTTAL ARGUMENT BY THE STATE

4 BY MR. GILES:

5 Ladies and gentlemen, first I'd like to thank you for taking the time and
6 working with us. Get you out of here really quick, but I know on behalf Ms. Baharav
7 and myself, this doesn't work without you, so we appreciate you being here.

8 Again, let's talk about the things we do know. We do know that this is
9 Corey Barnett's vehicle. He was in it in the driver seat a week before. The officers
10 saw no reason to look in the car that day, but we know he drives that car. He told
11 the officer it's my car, it's primarily my car. And he was living out of the car,
12 essentially. Bags of clothes, his and hers.

13 This isn't a coin. This isn't cap to a pen that slid under the seat. This is
14 a firearm that was under the seat where it could be observed by casual observation
15 from the outside. Not only that, there was a fake firearm on the other side of the
16 vehicle. You can use your common sense on this one, too.

17 We're not asking you to reach a conclusion that is disproportionate or
18 out of joint with the facts. Facts are Corey Barnett drove this vehicle, Corey Barnett
19 was in this vehicle, he's a convicted felon who has given up his right to possess
20 firearms by law and there was a firearm, very large firearm that was in that vehicle
21 within easy reach of either the driver or the passenger. That is constructive
22 possession.

23 We don't have to prove when the firearm went into the car, just that it
24 was there. Corey Barnett was in the vehicle, the firearm was in the vehicle under
25 circumstances that a reasonable person could conclude he knew that firearm was

1 there, he knew he was prohibited, and for that reason we ask you to find Corey
2 Barnett guilty of possession of a firearm by prohibited person. Thank you.

3 THE COURT: All right.

4 MS. BAHARAV: Do you need to swear them in again?

5 THE COURT: Pardon?

6 MS. BAHARAV: Do you need to swear them in again?

7 THE COURT: We will just for -- swear them in. I think we're okay but --
8 [The Clerk swore in the Marshal to take charge of the jury during deliberations]

9 THE COURT: Okay. You'll go with Tom.

10 THE MARSHAL: Okay folks, bring all your property, papers, pens,
11 notebooks.

12 [The jury retired to further deliberate at 2:12 p.m.]

13 THE COURT: Okay, jury's gone. Please don't go far.

14 [Recess taken at 2:13 p.m.]

15 [Proceedings resumed at 2:20 p.m.]

16 [Outside the presence of the jury]

17 THE COURT: Given instruction 22, if we find he was in possession of a
18 device used to mark clothing or a device from which a metallic projectile -- is that a
19 basis for a finding of guilty as instruction 21 only states and use -- something to the
20 Smith & Wesson .22?

21 MR. NADIG: Can I read that? Because I can't even make sense what you
22 just said.

23 THE COURT: I can't -- I can't either and it's signed by the jury foreperson
24 who is the --

25 MS. BAHARAV: Lawyer.

Volume II - Page 121

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: -- lawyer.
2 MR. GILES: Overthinking firearm. This is designed --
3 MS. BAHARAV: Yeah.
4 MR. GILES: -- to say there's other things --
5 THE COURT: Actually --
6 MR. GILES: -- besides real firearms.
7 MS. BAHARAV: Yeah.
8 MR. GILES: Technically yes.
9 THE COURT: I think technically that a projectile is -- is a gun --
10 MR. GILES: Yeah.
11 MS. BAHARAV: It is.
12 THE COURT: -- and -- and the reason they changed the statute recently --
13 well it's been 10 years. About the paintball is -- I had a kid that I spoke at his Eagle
14 Court of Honor --
15 MS. BAHARAV: Uh-huh.
16 THE COURT: -- and a week later he's picked up on the street shooting --
17 shooting paintballs at pedestrians.
18 MS. BAHARAV: Ah, no.
19 THE COURT: And it went into a store so firing into an occupied structure.
20 MS. BAHARAV: So -- okay, so the issue --
21 MR. NADIG: I think I know what she's saying, but I'm not --
22 MS. BAHARAV: -- the issue she's having is like whether or not --
23 MR. NADIG: Because I think the dot dot dot might mean the rest of that jury
24 instruction but --
25 MS. BAHARAV: Yes, it does. On a device from which -- yeah, okay.

Volume II - Page 122

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: That would be an assumption.

2 MS. BAHARAV: Is that a basis for -- oh I see what you're saying. I -- is that a
3 basis for finding guilty as instruction one -- 21 only states and references the Smith
4 & Wesson? So the instruction -- ah. So their issue is they want to know whether or
5 not if he -- if he -- since he's not charged with the firearm under his -- under his seat,
6 if they can find him guilty on instruction 21 because instruction 22 says that that's
7 also a firearm, and that's uncharged conduct. So I would direct them back to
8 instruction 21 and -- and then you can also direct them to the possession instruction
9 2 if you like.

10 MR. GILES: Yeah. Yeah, because that's what they're -- they're asking about
11 the -- the Airsoft gun, can they just reach out and find --

12 THE COURT: That's actually a firearm.

13 MR. GILES: It is, but we didn't charge --

14 MS. BAHARAV: It is, but we didn't charge it.

15 THE COURT: I mean even the paintball gun is -- is a firearm.

16 MR. NADIG: Uncharged --

17 THE COURT: Yeah.

18 MS. BAHARAV: Yeah, it's uncharged so instruction 21 and the possession
19 instruction.

20 THE COURT: I'm just going to write a -- a thing back saying the Court refer
21 you to jury instructions 21 and the possession or --

22 MR. NADIG: Twenty-two and --

23 MR. GILES: Twenty-one and --

24 MS. BAHARAV: I think it's --

25 THE COURT: Court is not at liberty to supplement --

1 MR. NADIG: Supplement.

2 THE COURT: -- the evidence.

3 MS. BAHARAV: Yeah.

4 MR. GILES: Yeah, 21 says that the .22 is a firearm.

5 MR. NADIG: Twenty-one and 22.

6 MS. BAHARAV: Twenty-one and 23 and --

7 THE COURT: Twenty-one and 23?

8 MS. BAHARAV: Yeah, 21 and 23.

9 [Recess taken at 2:23 p.m.]

10 [Proceedings resumed at 2:35 p.m.]

11 THE MARSHAL: All rise, please.

12 [Jury in at 2:36 p.m.]

13 THE MARSHAL: And be seated.

14 THE COURT: The record reflect the presence of the Defendant, his attorney,
15 the Deputy District Attorneys for the State and all 12 members of the jury. Has the
16 jury reached a verdict?

17 MS. KILLEBREW: Yes, Your Honor.

18 THE COURT: Unanimous?

19 MS. KILLEBREW: Yes, Your Honor.

20 THE COURT: Hand it to Marshal, please.

21 Clerk will now read the verdict out loud and inquire -- poll the jury.

22 THE CLERK: District Court Clark County, Nevada. The State of Nevada,

23 Plaintiff, versus Corey Thomas Barnett, Defendant. Case Number C312887.

24 Department Number VIII. Verdict. We the jury in the above-entitled case find the

25 Defendant, Corey Thomas Barnett, as follows: Count two, ownership or possession

Volume II - Page 124

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 of firearm by prohibited person. Guilty of ownership or possession of firearm by
2 prohibited person. Dated this 12th day of April 2016, Antonia Buzunis-Killebrew.

3 Ladies and gentlemen of the jury, is this your verdict as read?

4 THE JURY: Yes.

5 THE CLERK: So say you one so say you all?

6 THE JURY: Yes.

7 THE CLERK: And poll?

8 THE COURT: Please.

9 THE CLERK: Juror Number 1, is this your verdict as read?

10 JUROR NUMBER 1: Yes.

11 THE CLERK: Juror Number 2, is this your verdict as read?

12 JUROR NUMBER 2: Yes.

13 THE CLERK: Juror Number 3, is this your verdict as read?

14 JUROR NUMBER 3: Yes.

15 THE CLERK: Juror Number 4, is this your verdict as read?

16 JUROR NUMBER : Yes.

17 THE CLERK: Juror Number 5, is this your verdict as read?

18 JUROR NUMBER 5: Yes.

19 THE CLERK: Juror Number 6, is this your verdict as read?

20 JUROR NUMBER 6: Yes.

21 THE CLERK: Juror Number 7, is this your verdict as read?

22 JUROR NUMBER 7: Yes.

23 THE CLERK: Juror Number 8, is this your verdict as read?

24 JUROR NUMBER 8: Yes.

25 THE COURT: The Clerk --

Volume II - Page 125

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE CLERK: Juror Number 9, is this your verdict --

2 THE COURT: Oh.

3 THE CLERK: -- as read?

4 JUROR NUMBER 9: Yes.

5 THE CLERK: Juror Number 10, is this your verdict as read?

6 JUROR NUMBER 10: Yes.

7 THE CLERK: Juror Number 11, is this your verdict as read?

8 JUROR NUMBER 11: Yes.

9 THE CLERK: Juror Number 12, is this your verdict as read?

10 JUROR NUMBER 12: Yes.

11 THE COURT: The Clerk will now record the verdict in the minutes of the
12 court.

13 Ladies and gentlemen, as you know, the right to jury -- trial by jury is
14 one of our basic fundamental constitutional guarantees. I firmly believe in that right
15 and that is the right of every person accused of a crime to be judged by fair and
16 impartial jury. But to have a fair and impartial jury you have to have jurors that are
17 willing to sit and I firmly believe that this is an important part of our life here in the
18 United States and it's your opportunity to participate in the judicial process. Most
19 people don't want to become involved. That's why I'm so pleased that 12 men and
20 women have been so willing to give their valuable time. You've been most attentive
21 and most conscientious. On behalf of counsel, the parties, the Eighth Judicial
22 District Court, I wish to thank you for your careful deliberation in the case.

23 The question now may arise as to whether you can talk to other
24 persons regarding the matter. I advise you that you may if you wish talk to other
25 persons and discuss your deliberation which you gave in the case. You are not

Volume II - Page 126

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 required to do so, however, and if any person persists in discussing this case as you
2 have -- after you have indicated you do not wish to talk to them or raises an
3 objection as to your result or has -- or as how you deliberated, you report that fact
4 directly to me and I'll take care of it.

5 Jury is now excused with the thanks of the Court and counsel.

6 THE MARSHAL: Right this way, please. Bring all your property with you
7 again.

8 [Jury excused at 2:39 p.m.]

9 THE COURT: All right. Defendant is remanded without bail. Sentencing will
10 be set for --

11 THE CLERK: June 6th, 8 a.m.

12 MS. BAHARAV: And Your Honor, he has a presentence investigation report
13 from a case before Your Honor on Monday, but he did fail to appear for that report.
14 So are you ordering that a new report be created so he has the ability to inform P&P
15 of everything that he would need to inform them of?

16 MR. NADIG: I would request that, Your Honor.

17 MS. BAHARAV: Okay.

18 THE COURT: Well, we have a revocation on Monday.

19 MS. BAHARAV: It's a motion to withdraw guilty plea with a PSI, but the PSI's
20 a fail to appear PSI so --

21 THE COURT: Oh, that's what it is? Okay.

22 MS. BAHARAV: Yeah, so I -- it's my understanding and the State would
23 agree that we could have a new PSI so the Defendant can talk to P&P --

24 THE COURT: All right.

25 MS. BAHARAV: Okay. Thank you.

1 THE COURT: Is that what you want?
2 MR. NADIG: Please.
3 THE COURT: All right.
4 MS. BAHARAV: Thank you.
5 THE COURT: So we'll set it down for sentencing for --
6 MR. NADIG: June 6th.
7 MS. BAHARAV: Eight a.m.
8 THE COURT: June 6, 8 a.m.
9 MR. NADIG: Yes.
10 THE COURT: Oh, we already did it. Okay.
11 MS. BAHARAV: Thank you.
12 THE COURT: It made me nervous when Wolfson walked in.
13 MS. BAHARAV: Oh hey, how are you?
14 THE COURT: We're done.

15 [Proceedings concluded at 2:41 p.m.]

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

18
19 
20 Tracy A. Gegenheimer, CER-282, CET-282
21 Court Recorder/Transcriber
22
23
24
25

1 VER

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

APR 12 2016

7 THE STATE OF NEVADA,
8 Plaintiff,

BY, Keri Cromer
KERI CROMER, DEPUTY

1:58 PM

9 -vs-

CASE NO: C-16-312887-1

10 COREY THOMAS BARNETT, aka Corry
11 Thomas Barnett,

DEPT NO: VIII

12 Defendant.

13 VERDICT

14 We, the jury in the above entitled case, find the Defendant COREY THOMAS
15 BARNETT, aka Corry Thomas Barnett, as follows:

16 COUNT 1 – POSSESSION OF CONTROLLED SUBSTANCE

17 (Please check the appropriate box, select only one)

18 ☒ Guilty of POSSESSION OF CONTROLLED SUBSTANCE

19 ☐ Not Guilty

20 DATED this 12th day of April, 2016

21
22 A. Kullback
23 FOREPERSON
24
25

26 C-16-312887-1
27 VER
Verdict
4539064



1
2 VER

3 FILED IN OPEN COURT
4 STEVEN D. GRIERSON
5 CLERK OF THE COURT

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

APR 12 2016

8 BY, Keri Cromer
9 KERI CROMER, DEPUTY

2:35pm

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -VS-

13 COREY THOMAS BARNETT, aka
14 Corry Thomas Barnett,

15 Defendant

Case No: C-16-312887-1
Dept No: VIII

16 VERDICT

17 We, the jury in the above entitled case, find the Defendant COREY THOMAS
18 BARNETT, aka Corry Thomas Barnett, as follows:

19 COUNT 2 – OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

20 (please check the appropriate box, select only one)

21 ☒ Guilty of OWNERSHIP OR POSSESSION OF FIREARM BY
22 PROHIBITED PERSON

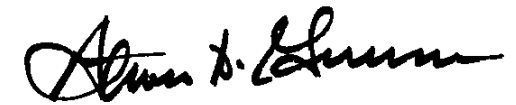
23 ☐ Not Guilty

24 DATED this 12th day of April, 2016

25 A. Killbuck
26 FOREPERSON

27 C-16-312887-1
28 VER
Verdict
4539065





CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

COREY THOMAS BARNETT
AKA CORRY THOMAS BARNETT,

Defendant.

CASE NOS. C306032
C312887

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
WEDNESDAY, JUNE 15, 2016

TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S MOTION TO DISMISS COUNSEL AND
APPOINTMENT OF ALTERNATE COUNSEL (C306032)
DEFENDANT'S PRO SE MOTION TO DISMISS COUNSEL
AND APPOINTMENT OF ALTERNATIVE COUNSEL (C312887)

APPEARANCES:

For the State:

COLLEEN BAHARAV, ESQ.
Deputy District Attorney

For the Defendant:

ROCHELLE T. NGUYEN, ESQ.
BENJAMIN J. NADIG, ESQ.

RECORDED BY: SARA RICHARDSON, COURT RECORDER

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WEDNESDAY, JUNE 15, 2016 AT 8:40 A.M.

THE COURT: C306032, Corey Barnett. I've got two cases.

Where is Nadig?

MR. NADIG: Right here.

MS. NGUYEN: Right here.

THE COURT: Oh, sorry.

This is time set for rendition of sentence. We'll start with the top,
Ms. Nguyen's case first.

MS. NGUYEN: Thank you, Your Honor.

THE COURT: Any cause or reason why sentencing should not proceed?

MS. NGUYEN: No, Your Honor, did you receive the sentencing
memorandum?

THE COURT: I did.

MS. NGUYEN: Thank you.

THE COURT: You filed a sentencing memorandum, I've read it.

State -- it's my understanding, they have a right to argue but no habitual
criminal.

MS. BAHARAV: That's correct, Your Honor. Even though the Defendant
failed to appear at his Presentence Investigation Report, the State is --

THE COURT: Before we do that, let me make a record.

He had filed a motion for appointment of counsel. Let's see if I have
that paperwork here. A letter -- he sent a letter to the Court, he wanted -- and he
didn't put in the letter any conflict, but he said he felt more comfortable with an
African-American attorney and he wanted me to appoint an African-American

1 attorney. He already had -- Ms. Nguyen, you're the second attorney already on this
2 case. And he has two cases and he wants -- in both cases, he wants an African-
3 American.

4 And then I believe it was May 17th, he sent me another letter and
5 realized that it sounded racial, that first letter. In fact, he says that in the letter. I'm
6 going to file the letters with this sentencing.

7 And he said that sound -- I'm not getting a fair representation, I need an
8 African-American attorney. And then -- and then he files two motions for ineffective
9 assistance asking for an African-American attorney.

10 I reviewed this with my chief judge. I reviewed this with Drew
11 Christensen. Drew Christensen said no, we're not starting that process. And it
12 appears to me that his motion is racially motivated. It isn't the ineffective assistance
13 but he -- it looks like it progressed with the letters and he realized that he had to say
14 ineffective assistance so that he could alter who is handling the sentencings.

15 And so that -- based upon that, in an abundance of caution, the Court
16 has denied the motion to dismiss counsel and appoint alternate counsel based on
17 that chain of letters and motions.

18 MS. NGUYEN: And, Your Honor, for the record, I did speak with Mr. Barnett
19 about those motions. It was his intention to withdraw those motions that had
20 previously and letters that had previously been given to the Court. He's willing to
21 say that on the record.

22 THE COURT: Is that right, Mr. Barnett?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right.

25 MS. NGUYEN: So we are prepared.

1 THE COURT: Now let me hear from the State. Sorry.

2 MS. BAHARAV: Oh. Thank you.

3 Your Honor, although the Defendant failed to appear for his
4 Presentence Investigation Report, the State is not -- still not seeking habitual
5 criminal treatment in Case C306032. But the State is going to ask that the Court
6 impose an underlying -- an actual sentence of 28 to 72 months, the maximum
7 sentence allowed under conspiracy to commit robbery.

8 The Court has had the opportunity to look at Ms. Nguyen's letter and it's
9 well taken, maybe he didn't have the opportunity to go to regimental discipline at
10 first. But we can't look at that prior history in a vacuum and not look at what he's
11 been doing since he picked up this conspiracy to commit robbery in March of 2015.

12 September of 2015, the Court heard the trial that related to these
13 charges. He had a gun in a car as well as narcotics. So now we've got a guy who's
14 out pending sentencing, failed to go get his PSI done, but out pending sentencing,
15 and here he is again holding a firearm and narcotics. He knows he's not supposed
16 to have guns, he's got three prior felonies, but he gets out on that case and
17 ultimately decides on November 5th, 2015 to commit a robbery of two people he's
18 known since high school.

19 So he goes into the house with those two people, he knows that they
20 have firearms, they've shown him the firearms before, he breaks into their safe.
21 Based upon the fact that our victim in that case had the key to the safe in his wallet
22 which the Defendant took, takes four different firearms from that location, initially
23 tried to play it off like maybe he was getting robbed, too, but ultimately was the
24 person that allowed the other two individuals with firearms to come into that
25 particular residence.

1 So we've got a guy in March who's now conspiring to rob somebody,
2 and a guy in November doing the exact same thing. He's not learning from any
3 mistakes. I don't care if it's a drug-induced situation that's making him go out there
4 and get more firearms that he knows he's not supposed to have. But he's getting
5 more and more dangerous because now he's robbing people that he knows. It's not
6 a crime that they won't be able to prove, they can point him out, they've known him
7 since high school.

8 It's not a situation that the State can't win, the State has 13 felony
9 charges in that particular case. This guy's a danger to the community, Your Honor,
10 and the State submits that on the case involving the conspiracy to commit robbery,
11 he deserves the maximum sentence which is 28 to 72.

12 He has 194 days credit in that case.

13 THE COURT: Before your attorney has an opportunity to speak, what have
14 you got to say, Mr. Barnett?

15 THE DEFENDANT: Um --

16 MS. NGUYEN: Your Honor, he does have some prepared words here. So I
17 know he wants to say --

18 THE DEFENDANT: Yeah.

19 THE COURT: Read into the mic.

20 THE DEFENDANT: I want to begin by expressing to you exactly how much
21 being able to gain sobriety has meant to me. I've used this time to my benefit. I've
22 been able to fully analyze my prior poor choices, behaviors and mistakes, if you will,
23 and how I tried to justify them while under the influence and even justifying my drug
24 influence at that -- when in actuality, the only thing that manifested in my drug-
25 induced lifestyle was negligence of my legal affairs and most importantly, I've

1 neglected my responsibility as being productive as well loyal to myself.

2 I believe that with sufficient stipulations, I can prove myself salvageable.
3 I also believe that with a change of environment outside of a 24-hour city, I can
4 adapt and adjust to a slower, more beneficial pace and lifestyle necessary for myself
5 such as drug treatment, furthering my education, and employment. With the proper
6 tools, I believe I can redeem myself and prove myself successful and trustworthy.

7 THE COURT: Thank you. Counsel.

8 MS. NGUYEN: Your Honor, I understand just looking at the Court and
9 knowing how this Court works. You're probably not inclined to give him probation.
10 I did make that request because I know that it is something that's important to
11 Corey. I think more important is the information that was contained in that as
12 mitigation in not only this sentence but possibly a sentence that he will have just
13 after me with Mr. Nadig.

14 As you can tell, he has a long history with drugs, drug abuse and I think
15 that's indicative in not only this case, his past criminal history, Mr. Nadig's case, and
16 potentially the case that he is awaiting a trial on in September. I would ask the
17 Court to take those things into consideration.

18 I know in talking to Mr. Barnett, he's kind of been all over the place as
19 indicated by the various motions and things. And I think until recently, he hasn't had
20 that clarity. You could see today sometimes people will come in here and they're
21 easily set off by statements made by the District Attorney and they spend their
22 opportunity to speak with the Judge to sit there and justify their behavior and their
23 actions and their past and try to fight that out with the Court and react to it. I think it
24 says a lot to his maturity and the sobriety that he's gained over the last couple of
25 months being in custody that he's spent his time talking to you about his future. He

1 understands that he's potentially looking at prison time today and a lot of that prison
2 time.

3 I would ask the Court to take into consideration some of the family,
4 medical, drug-induced history that I indicated in the PS -- or my sentencing
5 memorandum into account here in his sentence. And also possibly, if you are
6 inclined to sentence him to prison, recommend that he be eligible for treatment while
7 in the prison facility.

8 While it's easy to say that he's going to remain sober because his lack
9 of opportunity to use is more difficult, I think gaining those skills so that when he
10 does get of custody, because eventually he will get out of custody, he's young
11 enough that he will have a life in front of him at some point, that he has the skills to
12 stay clean, stay sober. And take advantage of any program that he might have
13 available to him in the prison so when he comes out, he can maintain that promise
14 and that statement that he's made to himself and that he told the Court about being
15 a productive member of society.

16 With that, I'd submit.

17 THE COURT: Thanks. The problem is Mr. Barnett has to live with the
18 consequences of his action. As pointed out, he's been convicted of three prior
19 felony convictions, been to prison three times. He violated probation and was
20 revoked. He's violated parole and was revoked.

21 Based upon the nature of this crime and the facts surrounding this
22 crime, you are adjudged guilty of conspiracy --

23 THE DEFENDANT: Your Honor, can I address the probation violation?

24 THE COURT: No. No, you're done. Thanks.

25 Conspiracy to commit robbery, a felony. Together with \$25

1 administrative assistant fee, a \$3 DNA assessment, the \$150 was taken in 2011, a
2 \$250 indigent defense fee, you're sentenced to 28 to 72 months in Nevada
3 Department of Corrections.

4 Credit for time served 194 days.

5 Mr. Nadig, we now are on C312887 and I will adopt the same
6 comments about the pro se motions that were filed by Mr. Barnett about dismissing
7 counsel and appointment of alternate counsel. And we're going to file those letters.
8 They were here and we're going to file them in A and a copy of them will be
9 attached to B as well, marked as Court's exhibits.

10 All right. Does State wish to be heard in C312887?

11 MS. BAHARAV: The State's already addressed many of the concerns the
12 State has about the Defendant's prior history, but in this case, we did actually file a
13 notice to seek habitual criminal treatment. And today the State's going to ask the
14 Court to adjudicate the Defendant on Count 2 under the small habitual criminal
15 treatment.

16 THE COURT: Have you filed those?

17 MS. BAHARAV: No, I wanted to inform the Court what I had in front of me.

18 THE COURT: Show them to Mr. Nadig.

19 MR. NADIG: And I've seen them, for the record, but Your Honor, but I will
20 look at them again.

21 MS. BAHARAV: And just for the record, Your Honor, they're judgments of
22 convictions --

23 MR. NADIG: May I approach?

24 THE COURT: Yeah.

25 MS. BAHARAV: Oh, thanks.

1 They're Judgments of Conviction in Case C233068 for placing graffiti
2 on or otherwise defacing property. C237756 for conspiracy to commit robbery. As
3 well as C273458 for attempt possession of controlled substance.

4 It's my understanding the Defendant was convicted of all of these
5 crimes in the graffiti and the conspiracy robbery in 2007 and the attempt possession
6 of controlled substance was in 2011. And those are Judgments of Conviction from
7 the Eighth Judicial District Court.

8 THE COURT: It appears that they are certified copies of conviction and they
9 meet the statute under the habitual criminal --

10 MS. BAHARAV: 207.010.

11 THE COURT: Right. And --

12 MS. BAHARAV: You'll file those with the clerk?

13 THE COURT: I'm going to file them with the clerk but I want to talk to -- I want
14 Mr. Nadig to talk -- I guess you should address the habitual before we go through
15 the sentencing.

16 MR. NADIG: If you'd like, Your Honor. If you look at --

17 THE COURT: I think so. I think the --

18 MR. NADIG: Okay. It's up to Your Honor. I've reviewed those, Your Honor.

19 With the exception of the conspiracy to commit robbery, which I believe
20 was Ms. Nguyen's case, if you look at the other two charges, they're drug --

21 MS. BAHARAV: Oh, no, that's from before.

22 MR. NADIG: Oh, was it?

23 MS. BAHARAV: Yeah.

24 MR. NADIG: Okay. So that's earlier in 2007. I apologize.

25 Mr. Barnett clearly has a drug problem, Your Honor. He is an individual

1 who for whatever reason can't get away from drugs. And while they are certified
2 copies of convictions, what they show is they show a history of an underlying
3 condition and that underlying condition is drug use. The two charges are nonviolent,
4 the conspiracy to commit robbery. I don't know the facts of that case so I can't
5 address if that was a violent crime or not. Usually based on the charge, it's a violent
6 crime. But Mr. Barnett is a person who makes incredibly bad choices and he hasn't
7 learned. And I understand that's why you sentenced him.

8 THE COURT: Well, I want him to speak now. If you've talked --

9 MR. NADIG: Yeah.

10 THE COURT: -- talked enough about this certified -- you have seen them?

11 MR. NADIG: I have.

12 THE COURT: All right. Mr. Barnett, do you have anything to say about
13 C312887?

14 THE DEFENDANT: Um --

15 THE COURT: Possession of controlled substance and possession of firearm
16 by a prohibited person.

17 THE DEFENDANT: I mean, I guess I just want to address the letter I read to
18 you again as just I feel if I'm able to address this drug issue, I shouldn't -- I shouldn't
19 be too much of an issue as I have been in the past or in the future. That's pretty
20 much it.

21 THE COURT: All right. Thanks.

22 Counsel.

23 MR. NADIG: Well, I think Ms. Baharav -- do you want her to make her
24 sentencing argument?

25 THE COURT: Yeah.

1 MS. BAHARAV: It's okay. Thanks, Your Honor.

2 Your Honor, the reason the State's seeking small habitual criminal
3 treatment is now the Court's adjudicated him even have a fourth felony which is
4 conspiracy felony robbery. And as I noted before, he's now going to the point where
5 he's robbing his friends of their own firearms.

6 So a person who's out there stealing firearms repeatedly, possessing
7 firearms while on probation is a public safety risk. And as the Court already noted,
8 he does have a parole violation which indicates that even once he has the
9 opportunity to be clean in custody for a period of time, he comes out and goes right
10 back to the same stuff.

11 I'm actually going to ask that the Court only adjudicate under the small
12 habitual criminal treatment.

13 THE COURT: That's all I was considering.

14 MS. BAHARAV: Okay. Well, that's all I'm requesting anyway. But I'm asking
15 for that only on Count 2.

16 Count 1, as the Court's well aware, was possession of controlled
17 substance. It was originally charged as trafficking in controlled substance. But once
18 the weight came back, it was well under the four grams. So for that, the State's only
19 requesting 12 to 30 months in the Nevada Department of Corrections. And we have
20 no opposition to concurrent with Count 2. But as with regards to Count 2, the
21 State's going to request that the Court impose the sentence of 8 to 20 years in the
22 Nevada Department of Corrections. We're going to ask that this case run
23 consecutive to C306032 to provide the state of Nevada and the citizens of the state
24 of Nevada with a longer period of time while the Defendant's out of -- away. And he
25 has 167 days credit for time served.

1 THE COURT: Now that she has spoken, is there anything you want to say?

2 THE DEFENDANT: If I could address the probation violation and the parole
3 violation?

4 THE COURT: Sure.

5 THE DEFENDANT: Probation violation, I was never even out of custody, I
6 never gained a probation officer.

7 And the parole violation, I understand I got violated but it was a -- it was
8 a case where I -- I -- I reached out to my parole officer, I stated that I wasn't working
9 at the time. She told me that once I found employment -- or I'd be on a curfew or
10 whatnot, House Arrest or curfew until I received employment and that I would have
11 to bring proof of employment. I brought proof of employment. I ended up getting
12 later pulled over and violated for -- in the computer it showed that I wasn't off House
13 Arrest. But I did get proof of employment. I wasn't under the influence. And that's
14 what I got violated for.

15 Those are the two things I wanted to address.

16 THE COURT: All right. Thank you. Mr. Nadig.

17 MR. NADIG: Your Honor, I know this Court's posture. Here's the thing.
18 When all's said and done, the question is is Mr. Barnett a redeemable human
19 being? And I would argue to you that he is. He understands the nature of his
20 actions. Clearly he did not understand them prior to this process. In going through
21 the trial, in going through the case that Ms. Nguyen took over from Mr. Nelson,
22 Mr. Barnett has realized that he is, for lack of a better term, a mess. He's a person
23 that couldn't stay clean, couldn't stay out of trouble, and it led him to the position
24 he's in now. Obviously with Ms. Baharav recommending or requesting a 12 to 36 on
25 the first case, I would not oppose that.

1 MS. BAHARAV: 30, 12 to 30.

2 MR. NADIG: 12 to 30, sorry.

3 As to the second case, I know this Court is looking at the small habitual
4 and I think the small habitual is fair. I would ask not for the 8 to 20, I would ask for
5 the 5 to 12 ½. Your Honor will do whatever you think is appropriate but I truly
6 believe that Mr. Barnett is a redeemable human being and he can learn with the
7 time he has in prison how to become a productive member of society.

8 He's committed most of these crimes while he was young. He's 28
9 years old now and I'm hoping by the time he gets out in his mid-30s or late 30s that
10 he will be able to be a productive member of society. He appears to be going in the
11 right direction but only time will tell, Your Honor.

12 And I'll submit it on that.

13 THE COURT: Thank you. And technically I could find you -- there's enough
14 evidence here to find you as a large habitual. But as I told -- told you that I was only
15 considering the small habitual and the State even argued for the small habitual.

16 Based upon the evidence and the argument, you are found to be a
17 habitual criminal under the small habitual statute NRS 207.010(a).

18 As to possession to controlled substance, Count 1, you're found guilty.

19 Together with the \$25 administrative assessment fee, a \$3 DNA
20 assessment, again, the \$150 was taken in '11, \$250 indigent defense fee. You're
21 sentenced on Count 1 to 12 to 30 months.

22 On Count 2 as a small habitual, you are sentenced to 96 to 240 months
23 concurrent to Count 1.

24 This case will be consecutive to C306032 with credit for time served of
25 167 days.

And, again, we are filing with both cases the letters that Mister -- and the motions that Mr. Barnett has filed with the Court. Thank you.

MS. BAHARAV: Thank you.

THE COURT: Oh, and --

THE CLERK: Did you give credit for the first case?

THE COURT: Yeah. 194 days.

He only pled on your case on C306032 one count, the other two counts have to be dismissed. The --

MS. BAHARAV: Oh, yes. Thank you, Your Honor.

THE COURT: -- burglary and robbery.

MS. BAHARAV: Thank you.

THE COURT: Thank you.

And, yes, there was credit on that C306032 of 194 days.

MS. BAHARAV: Yes. Thank you.

[Proceeding concluded at 9:01 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case.

Jill Jacoby
Jill Jacoby
Court Recorder


CLERK OF THE COURT

JOC

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

COREY THOMAS BARNETT
aka Corry Thomas Barnett
#1981260

Defendant.

CASE NO. C312887-1

DEPT. NO. VIII

JUDGMENT OF CONVICTION
(JURY TRIAL)

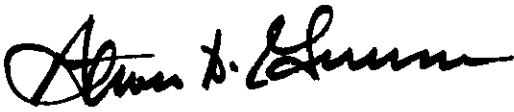
The Defendant previously entered a plea of not guilty to the crimes of
COUNT 1 – POSSESSION OF CONTROLLED SUBSTANCE (Category E Felony) in
violation of NRS 453.336, COUNT 2 – OWNERSHIP OR POSSESSION OF FIREARM
BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360; and the
matter having been tried before a jury and the Defendant having been found guilty of
said crimes; thereafter, on the 15th day of June, 2016, the Defendant was present in
court for sentencing with his counsel BENJAMIN NADIG, ESQ., and good cause
appearing,

//

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses, and guilty
2 under the SMALL HABITUAL Criminal Statute as to COUNT 2, in addition to the \$25.00
3 Administrative Assessment Fee, and a \$250.00 Indigent Defense Civil Assessment
4 Fee, plus a \$3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada
5 Department of Corrections (NDC) as follows: AS TO COUNT 1 - TO A MAXIMUM of
6 THIRTY (30) MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS;
7 AS TO COUNT 2 - TO A MAXIMUM of TWO HUNDRED FORTY (240) MONTHS
8 with a MINIMUM parole eligibility of NINETY-SIX (96) MONTHS, Count 2 to run
9 CONCURRENT with Count 1, sentence to run CONSECUTIVE to case C306032; with
10 ONE HUNDRED SIXTY-SEVEN (167) DAYS credit for time served. DNA Analysis Fee
11 is WAIVED.
12
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15 DATED this 21 day of June, 2016.

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19 DOUG SMITH
20 DISTRICT COURT JUDGE smj
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CLERK OF THE COURT

1 **NOASC**
2 BEN NADIG
3 Nevada State Bar No. 9876
4 **LAW OFFICE OF BENJAMIN NADIG, CHTD.**
5 324 South Third Street, Suite 200
6 Las Vegas, NV 89101
7 P: (702) 545-7592
8 F: (702) 382-6903

9 Attorney for Corey Thomas Barnett

10 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 THE STATE OF NEVADA,

13 Plaintiff,

14 *vs.*

15 COREY THOMAS BARNETT, #1981260,

16 Defendant.

Case No. C-16-312887-1
Dep't No. XXI

17 **NOTICE OF APPEAL**

18 Notice is hereby given that Corey Thomas Barnett, defendant in the above-entitled
19 action, appeals to the Supreme Court of Nevada from the Judgment of Conviction filed July
20 21, 2016.

21 DATED this 18 of August, 2016.

22 /s/ Ben Nadig

23 BEN NADIG
24 Nevada State Bar No. 9876
25 **LAW OFFICE OF BENJAMIN NADIG, CHTD.**
26 324 South Third Street, Suite 200
27 Las Vegas, NV 89101
28 Attorney for Corey Thomas Barnett

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CERTIFICATE OF SERVICE

I hereby certify that I am a person competent to serve papers, that I am not a party to the above-entitled action, and that on August 18, 2016, I served the foregoing document on:

Steven B. Wolfson, Esq.	200 Lewis Avenue
Steven S. Owens, Esq.	Las Vegas, NV 89155
Clark County District Attorney's Office	Via fax: (702) 477-2957

/s/ Ashton Lindsay
AN EMPLOYEE OF THE
LAW OFFICE OF BENJAMIN NADIG, CHTD.

AFFIRMATION

Pursuant to NRS 239B.030,

I affirm that this document contains no social security numbers.

<u>/s/ Ben Nadig</u>	<u>08-18-16</u>
Ben Nadig, Esq.	Date

IN THE SUPREME COURT OF THE STATE OF NEVADA

COREY THOMAS BARNETT,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Docket No. 71132

Appeal from a Judgment of Conviction
Following a Jury Trial and Verdict
Eighth Judicial District Court, Clark County
The Honorable Douglas Smith, District Judge
Case No. C-16-312887-1

**APPELLANT'S APPENDIX
VOL. 1 OF 2**

BEN NADIG
Nevada Bar No. 9876
LAW OFFICE OF BENJAMIN NADIG, CHTD.
324 S. 3rd St. #200
Las Vegas, NV 89101
(702) 545-7592

Counsel for Appellant

Electronically Filed
Apr 27 2017 08:33 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

CHRONOLOGICAL INDEX

Description	Vol.	Pages	Date
Indictment	1	1-3	2/24/2016
Amended Indictment	1	4-5	4/7/2016
Transcript: Jury Trial Day 1	1	6-217	4/11/2016
Transcript: Jury Trial Day 2	2	1-128	4/12/2016
Verdict (Possession of a Controlled Substance)	2	129	4/12/2016
Verdict (Possession of a Firearm)	2	130	4/12/2016
Transcript: Sentencing	2	131-44	6/15/2016
Judgment of Conviction	2	145-46	7/21/2016
Notice of Appeal	2	147-48	8/19/2016

ALPHABETICAL INDEX

Description	Vol.	Pages	Date
Amended Indictment	1	4-5	4/7/2016
Indictment	1	1-3	2/24/2016
Judgment of Conviction	2	145-46	7/21/2016
Notice of Appeal	2	147-48	8/19/2016
Transcript: Jury Trial Day 1	1	6-217	4/11/2016
Transcript: Jury Trial Day 2	2	1-128	4/12/2016
Transcript: Sentencing	2	131-44	6/15/2016
Verdict (Possession of a Controlled Substance)	2	129	4/12/2016
Verdict (Possession of a Firearm)	2	130	4/12/2016

CERTIFICATE OF SERVICE

I hereby certify that on the 26 of April, 2017, I served this document on the following:

Name

Address

Steven B. Wolfson, Esq.
Steven S. Owens, Esq.
Clark County District Attorney's Office

Via eFlex
200 Lewis Ave.
Las Vegas, NV 89155

Adam Laxalt, Esq.
Nevada Attorney General's Office

Via eFlex
100 N. Carson St.
Carson City, NV 89701

/s/ Ben Nadig

BEN NADIG

Nevada Bar No. 9876

LAW OFFICE OF BENJAMIN NADIG, CHTD.

324 S. 3rd St. #200

Las Vegas, NV 89101

(702) 545-7592

Attorney for Appellant

AFFIRMATION

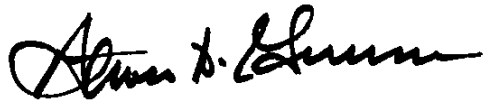
Pursuant to NRS 239B.030, this document contains no social security numbers.

/s/ Ben Nadig

Ben Nadig

4-26-17

Date



CLERK OF THE COURT

1 **IND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL GILES
6 Deputy District Attorney
7 Nevada Bar #010051
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 COREY THOMAS BARNETT, aka,
13 Corry Thomas Barnett, #1981260

14 Defendant.

CASE NO: C-16-312887-1

DEPT NO: XXI

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, COREY THOMAS BARNETT, aka, Corry Thomas
18 Barnett, accused by the Clark County Grand Jury of the crimes of TRAFFICKING IN
19 CONTROLLED SUBSTANCE (Category B Felony - NRS 453.3385.1 - NOC 51156) and
20 OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B
21 Felony - NRS 202.360 - NOC 51460), committed at and within the County of Clark, State of
22 Nevada, on or about the 25th day of September, 2015, as follows:

23 COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

24 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
25 actually or constructively, 4 grams or more, but less than 14 grams, to-wit: approximately 4.1
26 grams of Methamphetamine, or any mixture of substance consisting of approximately 4.1
27 grams containing the controlled substance Methamphetamine.

28 ///


1 COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

2 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
3 his custody or control, a firearm, to-wit: a Smith and Wesson .22 caliber firearm bearing Serial
4 No. UBF3139, the defendant being a convicted felon, having in 2011, been convicted of
5 Attempted Possession of a Controlled Substance, in Case No. C273458, in the Eighth Judicial
6 District Court, Clark County, a felony under the laws of the State of Nevada.

7 DATED this 23rd day of February, 2016.

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10
11 BY


12 MICHAEL GILES
13 Deputy District Attorney
14 Nevada Bar #010051

15
16 ENDORSEMENT: A True Bill

17 
18 Foreperson, Clark County Grand Jury
19

1 Names of Witnesses and testifying before the Grand Jury:

2 DEANG, CHRISTOPHER, LVMPD# 9876

3 FERNANDEZ, JUAN, LVMPD# 9843

4
5 Additional Witnesses known to the District Attorney at time of filing the Indictment:

6 ALLEN, ASHLEY, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

7 CUSTODIAN OF RECORDS, CCDC

8 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

9 CUSTODIAN OF RECORDS, LVMPD RECORDS

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28 LVMPD EV# 1509250889
(TK12)

ORIGINAL

1 **AIND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 COLLEEN BAHARAV
6 Deputy District Attorney
7 Nevada Bar #11777
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

APR 07 2016

BY, Denise Husted
DENISE HUSTED, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

CASE NO: C-16-312887-1

11 -vs-

DEPT NO: XXI

12 COREY THOMAS BARNETT, aka,
13 Corry Thomas Barnett, #1981260
14 Defendant.

AMENDED
INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, COREY THOMAS BARNETT, aka, Corry Thomas
18 Barnett, accused by the Clark County Grand Jury of the crimes of **POSSESSION OF**
19 **CONTROLLED SUBSTANCE (Category E Felony - NRS 453.336 - NOC 51127) and**
20 **OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON**
21 **(Category B Felony - NRS 202.360 - NOC 51460)**, committed at and within the County of
22 Clark, State of Nevada, on or about the 25th day of September, 2015, as follows:

23 COUNT 1 - POSSESSION OF CONTROLLED SUBSTANCE

24 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
25 controlled substance, to-wit: Methamphetamine.

26 COUNT 2 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

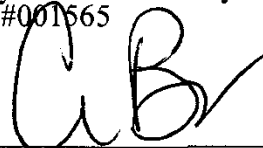
27 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
28 his custody or control, a firearm, to-wit: a Smith and Wesson .22 caliber firearm bearing Serial

1 No. UBF3139, the defendant being a convicted felon, having in 2011, been convicted of
2 Attempted Possession of a Controlled Substance, in Case No. C273458, in the Eighth Judicial
3 District Court, Clark County, a felony under the laws of the State of Nevada.

4 DATED this 18th day of March, 2016.

5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY


9 COLLEEN BAHARAV
10 Deputy District Attorney
11 Nevada Bar #11777

12 Names of Witnesses and testifying before the Grand Jury:

13 DEANG, CHRISTOPHER, LVMPD# 9876

14 FERNANDEZ, JUAN, LVMPD# 9843

15
16 Additional Witnesses known to the District Attorney at time of filing the Indictment:

17 ALLEN, ASHLEY, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

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27 15AGJ120X/15F14463X/mlb/L-2
28 LVMPD EV# 1509250889
(TK12)


CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

COREY THOMAS BARNETT,

Defendant.

CASE NO. C312887
DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE

MONDAY, APRIL 11, 2016

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 1
VOLUME I

APPEARANCES:

For the State: COLLEEN BAHARAV, ESQ.
MICHAEL GILES, ESQ.
Deputy District Attorneys

For the Defendant: BEN NADIG, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

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INDEX OF WITNESSES

PAGE

FOR THE STATE:

JUAN FERNANDEZ	
Direct Examination by Attorney Giles	176
Cross-Examination by Attorney Nadig	199
Redirect Examination by Attorney Giles	205
Recross Examination by Attorney Nadig	206
Jury Questions by the Court	207
Further Recross Examination by Attorney Nadig	207
Jury Questions by the Court	209
Further Redirect Examination by Attorney Giles	209
Further Recross Examination by Attorney Nadig	210

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS

PAGE

FOR THE STATE:

1	911 Call	179
2	Photograph	180
3	Photograph	180
4	Photograph	180
5	Photograph	180
6	Photograph	180
7	Photograph	180
8	Photograph	180
9	Photograph	180
10	Photograph	188
11	Photograph	188
12	Photograph	189

1
2
3
4
5
6
7
8
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Monday, April 11, 2016 at 10:46 a.m.

[Outside the presence of the prospective jury]

THE COURT: All right, this is case -- I have no idea. It's coming -- maybe it's not. It's not.

What's the case? The trial?

THE CLERK: 312887?

MR. NADIG: It is 312887.

THE COURT: All right. I need that. I need that stuff.

And the -- the sentencing is continued until Monday from -- from today. That's C306032, Corey Barnett. We'll -- we'll have a -- a sentencing on Monday and his motion to withdraw -- plea will be on Monday. All right.

THE DEFENDANT: Your Honor, may I have a -- may I address the Court?

THE COURT: Well you have attorney. Talk to your attorney first.

MR. NADIG: Your Honor, he has a motion in limine regarding addressing past convictions. I have told him that unless he takes the stand, they're not allowed to bring up his past convictions.

THE COURT: I'll just read that to him right now.

MS. BAHARAV: Except, of course, for the ex-felon in possession charge which we would be allowed to admit a JOC --

THE COURT: We'll -- we'll do a bifurcation of the trial. We'll do the -- the first trial and then we'll go into the -- that.

MS. BAHARAV: Thank you.

THE DEFENDANT: Your Honor, I also want to admit a -- a motion to dismiss for violation of due process.

1 THE COURT: Well your -- you -- you want to what?

2 THE DEFENDANT: I want --

3 MR. NADIG: He wants -- he wants to file a motion to dismiss for violation of
4 due process, Your Honor.

5 THE COURT: All right. You can file a motion if you want to file.

6 MR. NADIG: Would you like me to approach the Clerk with the motions, Your
7 Honor?

8 THE COURT: Yeah.

9 All right. Mr. Barnett, under the Constitution of the United States and
10 under the Constitution of the State of Nevada --

11 Tom, go get the jury.

12 THE MARSHAL: Yes, Your Honor.

13 THE COURT: -- you cannot be compelled to testify in this case. Do you
14 understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You may at your own request give up that right and take the
17 witness stand and testify. If you do, you'll be subject to cross-examination by the
18 Deputy District Attorneys and anything you -- you say may -- be it on direct or
19 cross-examination will be the subject of fair comment when the Deputy District
20 Attorneys speak to the jury in their final argument. Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: If you choose not to testify, the Court will not permit the Deputy
23 District Attorneys to make any comments to the jury because you have not testified.
24 Do you understand that?

25 THE DEFENDANT: Yes, sir.

Volume I - Page 5

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: If you elect not to testify and if your attorney specifically
2 requests, the Court will give an instruction encompassing the following, quote: The
3 law does not compel a defendant in a criminal case to take the stand and testify and
4 no presumption may be raised and no inference of any kind may be drawn from the
5 failure of a defendant to testify, end quote. Do you -- do you have any questions
6 about your rights?

7 THE DEFENDANT: The only question I have about my rights is at this point
8 would I be able to exercise my *Faretta* rights?

9 THE COURT: We'll go through a *Faretta* canvas. You're further advised that
10 if you have a felony conviction and more than 10 years has not elapsed from the
11 date you've been convicted or discharged from prison, parole or probation,
12 whichever is the latter, and the defense has not sought to preclude that coming
13 before the jury and you elect to take the stand and testify, the Deputy District
14 Attorneys, in the presence of the jury, will be permitted ask you the following: One,
15 have you been convicted of a felony; two, what was felony; and three, when did it
16 happen? However no details may be gone into.

17 You want to --

18 THE DEFENDANT: So --

19 THE COURT: -- you want a *Faretta* canvas, do you?

20 THE DEFENDANT: Yes, and I have -- I have one quick question. That
21 motion in limine was --

22 THE COURT: Let me see the motions.

23 THE DEFENDANT: That motion in limine was to suppress all -- all prior drug
24 convictions. I have three specific in there --

25 THE COURT: Hold on, let me look at your motions.

Volume I - Page 6

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE DEFENDANT: Yes, sir.

2 [Pause]

3 THE COURT: All right. Is this the only motion he's filed?

4 MR. NADIG: I handed two, Your Honor.

5 THE CLERK: Two.

6 THE DEFENDANT: Two motions, Your Honor.

7 THE COURT: Oh, here's the second one. Sorry. All right, the motion to -- all
8 right, first let me give you the *Faretta* canvas.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: It's advisable that you don't represent yourself. You
11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: What's your educational background?

14 THE DEFENDANT: I graduated high school.

15 THE COURT: Have you ever studied law?

16 THE DEFENDANT: No I haven't, Your Honor.

17 THE COURT: Have you ever represented yourself in a criminal action?

18 THE DEFENDANT: No, sir.

19 THE COURT: Do you have any health problems?

20 THE DEFENDANT: No, sir.

21 THE COURT: Are you taking any medication?

22 THE DEFENDANT: No, sir.

23 THE COURT: Have you ever been treated for mental illness?

24 THE DEFENDANT: No.

25 THE COURT: Is anyone threatening you in a way to waive your right to an

Volume I - Page 7

1 attorney?

2 THE DEFENDANT: No, sir.

3 THE COURT: Do you understand that you have the right to be represented
4 by a licensed attorney at no cost to you, Mr. Nadig?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: What are the charges brought in this case?

7 THE DEFENDANT: I believe it is prohibited person possession of a firearm --

8 THE COURT: I can't hear you.

9 THE DEFENDANT: Prohibited person possession of a firearm --

10 THE COURT: Okay.

11 THE DEFENDANT: -- and trafficking.

12 THE COURT: And what?

13 THE DEFENDANT: Trafficking.

14 THE COURT: Trafficking in a controlled substance?

15 THE DEFENDANT: Yes --

16 MR. NADIG: It was, Your Honor. There's been an amended filed for
17 possession.

18 MS. BAHARAV: It's possession of controlled substance. The weight was --
19 was no longer four grams after testing. And we also have possession of --
20 ownership or possession of firearm by --

21 THE COURT: All right.

22 MS. BAHARAV: -- prohibited person.

23 THE DEFENDANT: Your Honor, I -- I have reason believe like -- I have a
24 suspicion of misconduct for the --

25 THE COURT: Okay.

Volume I - Page 8

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE DEFENDANT: -- the PCS --

2 THE COURT: I -- I didn't ask you.

3 THE DEFENDANT: Okay. That's fine.

4 THE COURT: What are the defenses to those two charges, possession and
5 possession with a firearm by an ex-felon?

6 MS. BAHARAV: Do you need us to leave for this part?

7 THE DEFENDANT: Say again.

8 THE COURT: Pardon?

9 MS. BAHARAV: Do you want us to leave for defense, Your Honor? I don't
10 know --

11 THE COURT: Yes.

12 MS. BAHARAV: Okay.

13 THE COURT: Yeah, just you guys can go.

14 [Deputy District Attorneys out at 10:54 a.m.]

15 THE DEFENDANT: Can you -- can you repeat the question, please?

16 THE COURT: What -- what are the defense -- possible defenses to those two
17 charges? Let's start with possession of controlled substance.

18 THE DEFENDANT: The offenses? The defenses?

19 MR. NADIG: The defenses.

20 THE COURT: Okay, possession of controlled substance, what's the defense?

21 THE DEFENDANT: I do not have that answer, Your Honor.

22 THE COURT: Pardon?

23 THE DEFENDANT: I do not have that answer.

24 THE COURT: How you going to defend yourself if you don't have the
25 answer?

1 THE DEFENDANT: I -- I still wish to represent myself.

2 THE COURT: What's the defense to possession of firearm by an ex-felon?

3 THE DEFENDANT: I do not have the answer to that one. I will admit that.

4 THE COURT: What are the possible penalties for possession of controlled
5 substance?

6 THE DEFENDANT: That I don't know, but for prohibited possession of
7 firearm believe it carries a 1 to 10 or 1 to 15.

8 THE COURT: Nah, I think -- I don't think it does. That's a little high.

9 MR. NADIG: Pretty sure it's 1 to 6.

10 THE COURT: Both of them are 1 to 6, aren't they?

11 MR. NADIG: I think it's 1 to 4 on the PCS.

12 THE COURT: All right. What -- what are the legal elements of each charge?

13 THE DEFENDANT: There's 12 of them as to each charge. Twelve
14 peremptory challenges.

15 THE COURT: You have no idea what you're doing. You still want to
16 represent yourself?

17 THE DEFENDANT: I -- I've studied the canvas and --

18 THE COURT: I just asked you what the legal elements for possession of
19 controlled substance and possession of firearm are and you said -- you answered
20 something different.

21 MR. NADIG: And Your Honor, for the record, I discussed with him yesterday
22 morning that there were less elements than 12 as related. Additionally that there
23 were not 12 peremptory challenges. Mr. Barnett disagreed with me.

24 THE COURT: Do you realize that if you're found guilty of these crimes, it may
25 result in an order of sentence be served consecutive, one after another? Do you

Volume I - Page 10

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 MR. NADIG: And Your Honor, for the record, the State has filed notice of
4 habitual treatment.

5 THE COURT: Are you currently on parole or probation?

6 THE DEFENDANT: No, sir.

7 THE COURT: How many prior convictions do you have, felonies?

8 THE DEFENDANT: I believe I have three.

9 THE COURT: Three?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay, if they get the large -- now I haven't seen anything.
12 We're just going through this canvas. If they get the large habitual criminal, what's
13 the sentence?

14 THE DEFENDANT: The large habitual criminal is 25 to life.

15 THE COURT: Life without.

16 THE DEFENDANT: That's fine.

17 THE COURT: Is that all right?

18 THE DEFENDANT: That's fine.

19 THE COURT: That's the maximum. It's 25 to life or 10 to 25 years. What's
20 the small habitual?

21 THE DEFENDANT: It is 5 to 25.

22 THE COURT: Who -- who decides whether they're consecutive or not?

23 THE DEFENDANT: Jury.

24 THE COURT: That would be the Judge, not the jury.

25 THE DEFENDANT: That's my mistake.

Volume I - Page 11

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Do you understand the offenses that you're -- that are included
2 within these -- the charge against you and that you might be convicted of lesser
3 charge? I don't know what lesser it would be.

4 MR. NADIG: I don't think there is a lesser for either.

5 THE COURT: I don't think there's a lesser for either of them. Well, maybe
6 possession of controlled substance not to be introduced interstate commerce, I
7 suppose.

8 Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you realize that if you represent yourself, you're on your
11 own? Do you understand that?

12 THE DEFENDANT: Yes, sir. Yes.

13 THE COURT: As the Judge, I can't tell you how you should try your case or
14 even advise you as how to try your case. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: I can't help you in any way. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You're pretty late in the game. There -- no continuance.
19 You're going to trial today. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you're prepared?

22 THE DEFENDANT: I am.

23 THE COURT: The State will be represented by two professional attorneys
24 who will have the advantage of skill and training and ability. You are unfamiliar with
25 the legal procedures may allow -- which may allow the prosecutor an advantage,

Volume I - Page 12

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 may take -- you may -- may -- may not make effective use of your legal rights and
2 you may make tactical decisions that produce unintended consequences. Do you
3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: It places you at a disadvantage, doesn't it?

6 THE DEFENDANT: One can say that.

7 THE COURT: Do you see how the effectiveness of a defense may well
8 diminish your dual role as attorney and you at the same time in front of the jury?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you understand that you'll not be entitled to special library
11 privileges?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you familiar with the Nevada evidence code and Nevada
14 case law.

15 THE DEFENDANT: Evidence code. Wouldn't it be criminal civil codes?

16 THE COURT: So the answer to that is no, you're not familiar.

17 THE DEFENDANT: Well then no.

18 THE COURT: You realize the Nevada evidence code and Nevada case law
19 govern what evidence is admissible and is -- which is inadmissible? You
20 understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: In representing yourself, you must abide by those rules. For
23 example, do you know what voir dire means?

24 THE DEFENDANT: Voir dire is what's going on today.

25 THE COURT: What is it?

1 THE DEFENDANT: It's jury selection.

2 THE COURT: Okay, it's -- what does it stand for? What does it mean?

3 THE DEFENDANT: I'm not sure exactly.

4 THE COURT: It means to speak the truth. Do you know how to conduct a
5 voir dire?

6 THE DEFENDANT: Not exactly, no.

7 THE COURT: Do you know what a peremptory challenge is?

8 THE DEFENDANT: It's -- yes. It's where the defendant or defense counsel
9 or even prosecution can challenge a juror.

10 THE COURT: Under what -- what basis?

11 THE DEFENDANT: Bases are whether a jury has been suffer a victim of -- or
12 has been a victim of the said crime against me or whether the juror is prejudice or
13 whether the juror is a relative to -- possibly to the victim.

14 THE COURT: Do you know what the grounds are for excusing a juror for
15 cause?

16 THE DEFENDANT: As many as the Court deems valid.

17 THE COURT: I didn't say how many. What it means for cause, to release
18 somebody for cause.

19 THE DEFENDANT: Just named --

20 THE COURT: Do you know what is the definition of hearsay?

21 THE DEFENDANT: Not exactly, no.

22 THE COURT: It's an out-of-court statement offered for the truth of the matter
23 asserted. Do you know what the --

24 MS. BAHARAV: Are you still talking about defenses or can we come back in
25 now?

1 THE COURT: Just -- just stay out. Let me just talk to him.

2 MS. BAHARAV: Yes, sir.

3 THE COURT: Do you know what the *Crawford* rule is?

4 THE DEFENDANT: No, sir.

5 THE COURT: How you going to make sure if you have a -- there's a violation
6 of the *Crawford* rule? How you going to effectuate how to deal with it?

7 THE DEFENDANT: I guess I won't.

8 THE COURT: Do you know what the best evidence rule is?

9 THE DEFENDANT: No, sir.

10 THE COURT: So far you don't know much. What differences are there
11 between an opening statement and a closing argument?

12 THE DEFENDANT: An opening statement cannot be -- within the statement
13 cannot state any facts or -- or -- or anything to sway the jury. The -- the closing can
14 give a -- an inquiry to how you want the -- the -- the -- the jury to look at the case.

15 THE COURT: Can you see that it would be advantageous to have this
16 attorney that has tried many cases help you?

17 THE DEFENDANT: No, because -- because I've requested documentation
18 that I -- I -- I will not get dealing with him.

19 THE COURT: I --

20 MR. NADIG: For the record, Your Honor, I provided everything he requested.
21 There's a yellow sheet that was attached to the motion to amend indictment. That is
22 the only thing that was not provided. I believe it was a setting slip for the court, but
23 beyond that he received everything.

24 THE COURT: All right.

25 MR. NADIG: He requested the minutes --

1 THE DEFENDANT: When I -- when I asked him for the minutes of -- of the
2 alleged preliminary hearing in front of the Grand Jury, he showed me a front page of
3 the register of actions and without -- without clicking on minutes, you do not see
4 what was said in the --

5 THE COURT: Okay. Okay, I -- I -- I just wanted to know if you -- you -- you
6 just --

7 THE DEFENDANT: If -- if you look at my motion for dismissal --

8 THE COURT: It's -- it's not to your advantage to represent yourself.

9 THE DEFENDANT: That's fine. If you take a look at my -- my motion --

10 THE COURT: You're going to do it anyway. You want to do it anyway.

11 MR. NADIG: Your Honor, before you rule, could I talk to him the back?

12 THE COURT: I'm not done. I'm not done.

13 MR. NADIG: Okay.

14 THE COURT: Do you know what constitutes proper impeachment?

15 THE DEFENDANT: No, I don't.

16 THE COURT: Do you know what character evidence is appropriate and when
17 it is not appropriate?

18 THE DEFENDANT: No, I don't.

19 THE COURT: Do you know when and how to make a proper objection?

20 THE DEFENDANT: If this would make this any quicker, I'll stick with him, but
21 I do want my motion to be reviewed, please.

22 THE COURT: I reviewed one. I'll -- I'll review they're -- they're rove
23 documents, but your motion to dismiss violation of due process --

24 THE DEFENDANT: If you -- if you --

25 THE COURT: -- talks about indictment in case --

Volume I - Page 16

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE DEFENDANT: If I could have Court's indulgence, I'd like to elaborate on
2 that.

3 THE COURT: No, you can't argue it. Your attorney could argue it if he wants
4 to. So do you want to represent yourself or do you want your attorney to represent
5 you?

6 MR. NADIG: Could I review the motion, Your Honor?

7 THE COURT: Yeah. I think it's stapled incorrectly, because it says for the
8 following reasons and then goes right into procedural background. And then I have
9 a motion in limine shield.

10 MR. NADIG: Your Honor, based on the -- you know, what's contained in this,
11 I think you would have to review it and make a decision based on Mr. Barnett's
12 argument.

13 THE COURT: Okay. His motion to -- in limine to shield? Two of them are
14 misdemeanors and one of them is a felony.

15 MR. NADIG: Is that your drug convictions?

16 THE DEFENDANT: Yes.

17 THE COURT: Well that's what it says.

18 MR. NADIG: Yeah.

19 THE COURT: He's -- he's filed a motion. One's 10M. They can't bring it up if
20 it's not a felony conviction. If they filed notice of habitual, you must have more that
21 you're not aware of.

22 MR. NADIG: Again, Your Honor, I have his priors. He's aware of his priors.
23 He knows what they are. I believe he just wanted his drug convictions not come up.

24 THE COURT: They can't bring the -- the misdemeanors up.

25 MR. NADIG: And they won't be bringing his drug convictions up unless he

1 testifies. That would be --

2 THE COURT: Well I -- as I read to him --

3 MR. NADIG: Yeah.

4 THE COURT: -- the only way your felonies come forward is if you decide to
5 testify. If you decide not to testify, they -- none of it can come in.

6 THE DEFENDANT: Thank you.

7 THE COURT: So the -- but the motion in limine to shield, the two
8 misdemeanors won't come in. That's A and C.

9 THE DEFENDANT: And you said any felony convictions won't come up
10 unless I decide to testify.

11 THE COURT: Unless you take the stand, no -- no felonies come up.

12 Mark that -- file that in open court.

13 And your motion to dismiss violation -- and you're -- you're angry
14 because you didn't get transcripts of a Grand Jury -- and additional discovery.

15 THE DEFENDANT: No, I -- I -- I sense misconduct --

16 THE COURT: That's what it says here: This case was brought before the
17 Grand Jury. Counsel refused to provide Defendant with transcripts of Grand Jury
18 and additional discovery. Also counsel failed to inform the Defendant of his right to
19 face the Grand Jury -- well, now bring them in. Get the -- the two attorneys in.

20 THE DEFENDANT: It also -- it also has misconduct in there. I know it says
21 misconduct.

22 THE COURT: Okay, first of all --

23 [Deputy District Attorneys in at 11:08 a.m.]

24 THE COURT: All right. We have a motion -- he may or may not stay with his
25 attorney.

Volume I - Page 18

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Okay.

2 THE COURT: He had a motion to shield. There were two misdemeanors he
3 said didn't want to come up and one possession with controlled subs (sic) with intent
4 to sell. And I've assured him that unless he takes the stand and testifies, no felonies
5 can come in.

6 MS. BAHARAV: Right. And actually he wasn't convicted of possession of
7 controlled substance with intent to sell --

8 MR. NADIG: It was -- it was attempt PCS.

9 MS. BAHARAV: Yes, Your Honor --

10 THE COURT: Oh.

11 MS. BAHARAV: -- and that's the underlying allegation in the ex-felon in
12 possession charge.

13 THE COURT: Okay. So none -- but none of the felonies can come in, none
14 of the drug cases can come in if you don't take the stand. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And then -- so I'm not -- not granting that motion. I just read to
17 you what the law is and the law is that it doesn't come before --

18 THE DEFENDANT: All right, thank you.

19 THE COURT: -- the jury.

20 Now the motion to dismiss -- it is respectfully requested This Honorable
21 Court to grant this motion to dismiss. In Justice Court 12, it was conveyed to
22 Defendant that if he accepts the notice to seek indictment for Case 312887,
23 prohibited person possession of firearm and trafficking, they would then be
24 dismissed in Justice Court. Defendant was under the impression he was going
25 before the Grand Jury and had no more dealings with Justice Court. However,

Volume I - Page 19

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Defendant was later informed by counsel that his case was brought before the
2 Grand Jury. Counsel refused to provide Defendant with transcripts of Grand Jury
3 and additional discovery. Also counsel failed to inform Defendant of his right to face
4 the Grand Jury. Therefore, Defendant respectfully requests This Honorable Court
5 dismiss this case -- violation of due process.

6 Reason I brought you guys back in I want you to address those issues.

7 MS. BAHARAV: Yes, Your Honor. This exact matter was actually brought up
8 before Judge Kephart I believe last week wherein the Defendant indicated that he
9 did not really want to testify at the Grand Jury, he just wanted to be there to observe
10 the entire proceedings. As the notice of intent to seek indictment indicates, the
11 Defendant is not entitled to be present at the Grand Jury unless he intends to testify,
12 which he'll then have to make a waiver of his -- of his right to remain silent. He
13 would be in the room, his attorney could sit next to him, but he could -- he would be
14 responsible for answering only the questions asked by the prosecution, as well as
15 any of the grand jurors that might have been present in the room that wanted to ask
16 questions. He would not be permitted to present any evidence that wasn't
17 exculpatory or that wasn't valid evidence, and so that information was explained to
18 him in District Court Department XIX.

19 With regards to this particular case, Your Honor, this case was
20 dismissed on February 9th, 2016 by Elana Graham from our office. It was
21 dismissed because witnesses failed to appear. *Marcum* was served at that
22 particular point in time.

23 THE DEFENDANT: And after that --

24 MS. BAHARAV: Then --

25 THE COURT: Quiet.

Volume I - Page 20

1 MS. BAHARAV: I'm not done, sir.

2 At that particular time *Marcum* was served. The State went to the
3 Grand Jury on February 23rd, 2016. We did not receive any information that the
4 Defendant wanted to testify at the Grand Jury and of course, he would not be
5 permitted to sit there and watch as the State presented evidence. As this Court's
6 aware, it's a secret proceeding and only those that are being questioned at the time
7 are -- are allowed to be present and observe the proceedings.

8 Once the indictment was returned, it came before Judge Adair and
9 that's the -- that's the status of the case as it is now, Your Honor.

10 THE COURT: All right. Anything you want to say?

11 MR. NADIG: Your Honor, for the record, I explained to him what *Marcum*
12 was. I explained to him that -- and -- and this was on the February 9th date. I
13 explained that they filed *Marcum* because notices didn't show up. They can indict
14 him. If they do, he can testify, but he doesn't want to testify. Okay.

15 Now, I believe Mr. Barnett disagrees with me; that he is confusing this
16 case with his other matter that is in Justice Court 12 that has not yet been
17 dismissed. That case was to be dismissed pursuant to his agreement to the
18 charges which I believe are in front of Your Honor and are subject of an evidentiary
19 hearing next week.

20 THE COURT: Okay.

21 MR. NADIG: So I believe that he is confusing --

22 THE COURT: That's one in front of Judge Goodman.

23 MR. NADIG: Okay.

24 MS. BAHARAV: No, there --

25 THE COURT: That has now come to me.

1 MS. BAHARAV: Yes, there was a drug case that was going to be dismissed
2 pursuant to negotiations. However, the Defendant's trying to withdraw his plea. So
3 there is an outlying drug case still in -- in Department --

4 MR. NADIG: Justice Court 12.

5 MS. BAHARAV: Yes.

6 THE COURT: All right.

7 MR. NADIG: And there's actually a status check on negotiations in --

8 THE COURT: All right.

9 MR. NADIG: -- that matter I believe on --

10 MS. BAHARAV: Wednesday.

11 MR. NADIG: -- Thursday of this week.

12 MS. BAHARAV: Yeah, Thursday.

13 THE COURT: He's -- he's very anxious to say something.

14 MR. NADIG: Yes, I understand that. I just needed to lay the record as to my
15 representations --

16 THE COURT: Do you want to go talk to him before I let him talk? Because
17 he could be talking himself into trouble.

18 MR. NADIG: I believe he may.

19 THE DEFENDANT: (Indiscernible) --

20 MR. NADIG: And --

21 THE COURT: Can they go into the -- the cell for a minute?

22 THE CORRECTIONS OFFICER: Uh-huh.

23 THE COURT: Unlock the door. How many do we got out there?

24 THE MARSHAL: Twenty-nine.

25 THE COURT: Okay.

Volume I - Page 22

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: Twenty-nine?

2 THE COURT: Let them talk for a minute.

3 MS. BAHARAV: Yes, Judge.

4 [Recess taken at 11:13 a.m.]

5 [Proceedings resumed at 12:41 p.m.]

6 [Outside the presence of the prospective jury]

7 THE COURT: All right, just have a seat. Tom will be here with the jury in a
8 second.

9 [Courtroom at ease]

10 THE COURT: I guess I should ask for the record. There have been attempts
11 at negotiating this case? Is that --

12 MS. BAHARAV: Yes, Your Honor.

13 THE DEFENDANT: I haven't heard --

14 THE COURT: And you don't want to accept the negotiation --

15 THE DEFENDANT: I haven't heard any negotiation.

16 MS. BAHARAV: The last negotiation was conveyed prior to the preliminary
17 hearing in the robbery case, and that offer, for the record, was for the Defendant to
18 plead guilty to one count of ownership or possession of firearm by prohibited person
19 in this case, C312887, as well as one count of robbery in case C312886. The State
20 would retain the full right to argue and Defendant would agree to forfeit any property
21 or money seized in both cases.

22 THE COURT: And you would take habitual criminal off the table?

23 MS. BAHARAV: Yes, Your Honor.

24 MR. NADIG: And that was relayed at the time of prelim. Additionally, I
25 believe did we not put it on the record again at the overflow calendar?

Volume I - Page 23

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Yes, sir, we did.

2 THE COURT: Okay. And you don't want a negotiation, sir?

3 THE DEFENDANT: No.

4 THE COURT: Mr. Barnett? Speak out, please.

5 THE DEFENDANT: No, sir, I don't.

6 THE COURT: All right. Thanks.

7 [Recess taken at 12:43 p.m.]

8 [Proceedings resumed at 1:02 p.m.]

9 THE COURT: Are you guys ready?

10 MS. BAHARAV: Yes, sir.

11 MR. NADIG: Yes.

12 THE COURT: Bring the jury in, Tom.

13 You have -- each have five --

14 THE MARSHAL: All rise, please.

15 THE COURT: -- four preempts, one for --

16 MR. NADIG: Alternate.

17 THE COURT: -- alternate.

18 THE MARSHAL: All rise, please.

19 THE COURT: Alternates will be 13 and 14.

20 [Prospective jury in at 1:04 p.m.]

21 THE MARSHAL: And be seated.

22 THE COURT: All right. This is Case Number -- it's coming to me just a

23 second -- C312887, State of Nevada versus Corey Barnett. The record will reflect

24 the presence of the State's attorneys, the Defendant and his attorney. Also present

25 are all officers of the court. Parties have announced ready.

Volume I - Page 24

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 You are in Department VIII of the Eighth Judicial District Court, State of
2 Nevada. My name is Doug Smith. I am the presiding judge. You've been
3 summonsed here today to serve as jurors in a criminal case and you'll hear a little bit
4 more about that in a minute.

5 I'll introduce my court staff. To my right is Keri Cromer. She's the Court
6 Clerk. She'll take down everything in court, swear people in, so speak up so that
7 she can hear. And Jill Jacoby is the Court Recorder. Tom Lemke is the Marshal.
8 And periodically a young man will come in and his name is Alan Miller.

9 Does anybody know the court personnel as I've introduced them?
10 Seeing no hands.

11 I have to read this because someone borrowed my other one. All right,
12 counsel -- well let me ask a couple quick questions before we introduce. Does
13 anyone here -- some of this sounds personal. We're not trying to get personal. It's
14 just that we're trying to find 14 people that are fair and impartial both to the State
15 and the Defendant.

16 Let me just tell you as the Defendant sits here, he's not guilty. He and
17 his attorney can sit there and read Cosmopolitan if they want to, if I permitted that.
18 They don't have to introduce evidence, they don't have to question anyone, they
19 don't have to do anything. Does anybody have a problem with that?

20 The State has the burden of proof beyond a reasonable doubt of each
21 element of the crime charged and they'll talk about that and I'll give you instructions
22 and I -- and I tell the -- all because I'm going to ask everybody questions. They're
23 going to start now and they're -- they may seem a little personal, but I -- I don't mean
24 to.

25 First of all, is there anyone here who is not a citizen of the United

1 States? Because you have to be a citizen the United States to sit as a juror. Seeing
2 no hands.

3 Is there anyone here is a convicted a felon and haven't had their civil
4 rights restored, if you'll raise your hand?

5 Okay, Tom.

6 Tell me your name and your badge number.

7 PROSPECTIVE JUROR NUMBER 257: David Nida, and my badge number
8 is 103884908.

9 THE COURT: All right.

10 PROSPECTIVE JUROR NUMBER 257: My badge number 00 -- 080257.

11 THE COURT: All right. I'm sorry, I have to ask you what felony you were
12 convicted of?

13 PROSPECTIVE JUROR NUMBER 257: Conspiracy to commit robbery.

14 THE COURT: How long ago?

15 PROSPECTIVE JUROR NUMBER 257: It's been about 15 years.

16 THE COURT: Here in Nevada?

17 PROSPECTIVE JUROR NUMBER 257: Yes, sir.

18 THE COURT: Prosecuted by our District Attorney?

19 PROSPECTIVE JUROR NUMBER 257: Yes, sir.

20 THE COURT: Have you had your civil rights restored?

21 PROSPECTIVE JUROR NUMBER 257: No.

22 THE COURT: Should work on that. You can get it restored and then you
23 can --

24 PROSPECTIVE JUROR NUMBER 257: I -- I didn't know that, I'm sorry.

25 THE COURT: -- then you can vote and other things. All right, you can't sit.

Volume I - Page 26

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 You'll have to go. If you'll go down talk to the jury commissioner, I'd appreciate it.

2 PROSPECTIVE JUROR NUMBER 257: Okay.

3 THE COURT: Okay? Thank you.

4 PROSPECTIVE JUROR NUMBER 257: Thank you.

5 THE COURT: I don't mean to ask embarrassing questions.

6 Counsel for the State will now introduce themselves and their
7 witnesses, explain the nature of the case and tell the jury the names the witness --
8 witnesses they believe may be called.

9 MS. BAHARAV: Yes, Your Honor.

10 Good afternoon, ladies and gentlemen. My name is Colleen Baharav
11 and I, along with Michael Giles, represent the State of Nevada in the State of
12 Nevada versus Corey Thomas Barnett. The State has alleged that on or about the
13 25th day of September 2015, here in the county of Clark, State of Nevada, the
14 Defendant committed the following crime: Possession of controlled substance in
15 that he did therein there willfully, unlawfully, feloniously and knowingly or
16 intentionally possess a controlled substance; to wit, methamphetamine.

17 To prove the case to you all, either today or -- or throughout today and
18 tomorrow, the State intends to call some of the following witnesses. Please listen up
19 to see if you recognize any of these names. Juan Fernandez is an officer with the
20 Las Vegas Metropolitan Police Department. Christopher Deang is also an officer
21 with the Las Vegas Metropolitan Police Department. Rebekah Altizer is a forensic
22 scientist with the Las Vegas Metropolitan Police Department and potentially Ashley
23 Allen (phonetic).

24 The Defendant has pled not guilty to this charge and that's where we
25 stand now. Thank you.

Volume I - Page 27

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Does anyone here know the DAs or any of the names of the
2 police or witnesses? Seeing no hands.

3 Mr. Nadig.

4 MR. NADIG: Good afternoon, ladies and gentlemen. My name is Ben Nadig.
5 My client's name is Corey Barnett. The State is here to prove that he possessed
6 methamphetamine. We believe there's a question as to whether he even knew he
7 had methamphetamine on his person and the only people I -- the only person we
8 may call is Mr. Corey Barnett.

9 THE COURT: Thank you.

10 Anyone know those witnesses? Or the attorneys? Thank you.

11 Now, the questioning of the jury will begin under oath. The Clerk -- if
12 you'll all stand, raise your right, either affirm or swear that you'll follow the rules.

13 [The prospective jury panel was sworn in by the Clerk]

14 THE COURT: Thank you. Be seated.

15 All right, now we will be asking questions bearing on your ability to sit
16 as a fair and impartial juror. The Court, the lawyers and all persons involved in the
17 case are deeply interested in having this matter tried by a jury composed of 14
18 open-minded people who are completely neutral and who have no bias or prejudice
19 towards or against either side. In order to accomplish this, it is necessary for me to
20 ask some questions. The attorneys, if they choose, will be given that opportunity as
21 well. Is not our desire to unnecessarily pry into your personal lives, although some
22 of the questions may at times seem quite personal. Our only objective is to
23 determine whether there's a reason why any of you cannot sit as a fair and impartial
24 juror in this case.

25 It is important that you know the significance full -- of full and complete

Volume I - Page 28

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 disclosure and honest answers. That's kind of what voir dire means is to tell the -- to
2 speak the truth. And that's what this is called, this is voir dire of the jury.

3 I caution you not to hide or withhold anything you might indicate a bias
4 or prejudice of any sort by any of you. Should you fail to answer truthfully or if you
5 hide or withhold anything touching upon your qualifications, that may tend to
6 contaminate your verdict and subject you to further inquiry even after you're
7 released as jurors. Your decision should be based upon all of the evidence
8 presented during the trial and not based upon any preconceived prejudice or bias.

9 I'm going to conduct a general examination of all of you. At some point
10 during the process of selecting the jury I may ask the attorneys to ask some
11 questions.

12 There are two types of challenges, for cause and preemptory
13 challenges. It's really not necessary to understand fully what they are, but challenge
14 for cause means that a juror has been excused because they -- their answers to
15 some of the voir dire questions indicate they would be difficult in giving a fair and
16 impartial hearing on the case. A preemptory challenge means that a juror can be
17 excused from duty without having to give a reason. Please don't be offended should
18 you be excused by either challenge procedure. They're simply a part of the
19 procedure designed to protect the rights of the parties under our system of
20 government.

21 Are any of the -- I -- I've asked if any of them were acquainted with the
22 attorneys. Is there anyone here that -- I believe some police officers are going to
23 testify -- that will believe the police officer just because they're a police officer?

24 You will? Tell me your name and your badge number.

25 PROSPECTIVE JUROR NUMBER 023: Gina Davis.

1 THE COURT: All right, Ms. Davis.

2 PROSPECTIVE JUROR NUMBER 023: Badge number 080023.

3 THE COURT: Okay. And you'll believe a police officer just because they're a
4 police officer?

5 PROSPECTIVE JUROR NUMBER 023: Yeah, I think they have severe
6 background checks and have an oath to the law. I believe them over a witness. I
7 have recent experience of a witness from a car accident April 1st completely
8 changing their story and lying, as well as the witness in their car. So I would
9 definitely believe a police officer --

10 THE COURT: Talk into the mic.

11 PROSPECTIVE JUROR NUMBER 023: I would definitely believe a police
12 officer over a witness.

13 THE COURT: Okay. What if during the examination you didn't think the
14 police officer was telling exactly what happened? You would still believe them just
15 because they wear a uniform?

16 PROSPECTIVE JUROR NUMBER 023: I -- I believe they -- over a witness?
17 Yes, because --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 023: -- of their background and what --
20 the schooling and the intensive background checks that go into a police officer
21 obtaining their job.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NUMBER 023: Yes.

24 THE COURT: All right. Thank you.

25 PROSPECTIVE JUROR NUMBER 023: And like I said, recent experience

1 just April 1st --

2 THE COURT: Right.

3 PROSPECTIVE JUROR NUMBER 023: -- from a car accident -- I have the
4 paperwork -- completely changing their story under oath with the insurance
5 company on the recording, so --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 023: -- I have a serious distrust for
8 witnesses as well.

9 THE COURT: Okay. Thank you.

10 PROSPECTIVE JUROR NUMBER 023: I'm just being honest.

11 THE COURT: No, I appreciate that.

12 Either party have a problem with me excusing her?

13 MS. BAHARAV: Not from the State.

14 MR. NADIG: No, Your Honor.

15 THE COURT: All right. You're excused. Thank you. Check in with jury
16 commissioner. Perhaps she can put you on a civil trial. Tell her that's what I said.
17 Hopefully it's not a construction defect. Those are six-month trials.

18 PROSPECTIVE JUROR NUMBER 023: Thank you.

19 THE COURT: Thank you.

20 Fill that spot.

21 THE CLERK: Okay. Next up we have badge 197, Jason Gunderson.

22 THE MARSHAL: Hey Jason, right up here, please.

23 UNIDENTIFIED SPEAKER: Tom. I'm sorry, but there was another witness
24 that answered yes to that question.

25 THE COURT: Yeah, I --

Volume I - Page 31

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE MARSHAL: I'll be right there, I'll be right there.
2 THE COURT: I'll take -- thank you though. I -- I manage my courtroom --
3 UNIDENTIFIED SPEAKER: Sorry, I didn't know if you saw the other hand.
4 THE COURT: -- pretty well.
5 THE MARSHAL: You're going to take the first chair. Sir.
6 THE COURT: We take care one at a time.
7 PROSPECTIVE JUROR NUMBER 197: Something on the chair.
8 THE MARSHAL: Oh.
9 THE COURT: No, just -- we fill the -- each spot.
10 PROSPECTIVE JUROR NUMBER 197: Yeah, I'm sorry, it was --
11 THE COURT: We don't move down. That's okay.
12 THE MARSHAL: Sorry.
13 THE COURT: That's okay, that's just --
14 THE MARSHAL: I'll take care of that --
15 THE COURT: -- the way we have to do it.
16 All right, and there was some more hands out here? Any on the left
17 side? Believe police officer just because they're police officer here on the right?
18 All right. Tell me your name and the last three numbers of your badge.
19 PROSPECTIVE JUROR NUMBER 532: Ella Brewer, 678 (sic).
20 THE COURT: All right, and you -- you believe a police officer just because
21 they wear a uniform?
22 PROSPECTIVE JUROR NUMBER 532: Yes, I have personal contact with
23 police officers as well --
24 THE COURT: How is that?
25 PROSPECTIVE JUROR NUMBER 532: Pardon me?

Volume I - Page 32

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: How is your personal contact with --
2 PROSPECTIVE JUROR NUMBER 532: Personal friends.
3 THE COURT: Okay .
4 PROSPECTIVE JUROR NUMBER 532: And I work within the Metropolitan
5 Police Department Sheriff's Office.
6 THE COURT: Okay, what do you do?
7 PROSPECTIVE JUROR NUMBER 532: I'm a -- a receptionist.
8 THE COURT: Okay.
9 PROSPECTIVE JUROR NUMBER 532: I volunteer for them and knowing like
10 the previous young lady said --
11 THE COURT: All right.
12 PROSPECTIVE JUROR NUMBER 532: -- I know exactly what these police
13 officers go through to become a police officer.
14 THE COURT: Okay. Thank you. You're excused.
15 PROSPECTIVE JUROR NUMBER 532: Thank you.
16 THE CLERK: Judge, can I get her badge number again? I don't have a six
17 seven --
18 MS. BAHARAV: It was -- it was 0532.
19 THE COURT: I didn't get her badge number, Tom.
20 THE MARSHAL: Five three two.
21 THE COURT: All right. Anyone else that has that opinion? Okay, seeing no
22 hands.
23 Is there anyone here who has been the victim of a crime before? Raise
24 your hand. Okay.
25 Tell me your name and last three numbers of your badge.

Volume I - Page 33

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 093: Nia Killebrew. Last three numbers
2 are eight two -- oh I'm sorry, 093.

3 THE COURT: Where -- what do you do for a living?

4 PROSPECTIVE JUROR NUMBER 093: I'm an attorney.

5 THE COURT: You just do civil.

6 PROSPECTIVE JUROR NUMBER 093: I just do civil.

7 THE COURT: Okay. And you're a victim of -- you got to tell me what crime it
8 is.

9 PROSPECTIVE JUROR NUMBER 093: When I was --

10 THE COURT: We sort of -- we sort of know each other.

11 PROSPECTIVE JUROR NUMBER 093: Yes. Yes. Had things stolen out of
12 my car.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 093: Things like that.

15 THE COURT: Can you listen -- here's what we want for -- for everybody. We
16 want people that will just listen to the evidence as presented in these four walls and
17 look at the exhibits and make a decision. That's all we're asking. Can you do that?

18 PROSPECTIVE JUROR NUMBER 093: Yes.

19 THE COURT: Okay. Pass that mic around, Tom. There's some more --
20 name and last three numbers of your badge.

21 PROSPECTIVE JUROR NUMBER 192: Denise Culley-Miller, 192. Just
22 break into an auto vehicle stereo stolen out of my driveway and a firearm.

23 THE COURT: Anything about that that would prejudice you against the State
24 or --

25 PROSPECTIVE JUROR NUMBER 192: Negative.

Volume I - Page 34

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: -- the Defendant? Okay.

2 PROSPECTIVE JUROR NUMBER 188: Name's Igor Vidovic, badge number
3 188. I've been robbed at gunpoint, car broken into a few times, home broken into,
4 electronics, things like that, motorcycle stolen and later on some of those parts were
5 found on Craigslist and pawn shops.

6 THE COURT: Okay. Is there anything about that experience -- first of all, did
7 you call the police?

8 PROSPECTIVE JUROR NUMBER 188: Yes.

9 THE COURT: They responded?

10 PROSPECTIVE JUROR NUMBER 188: Yes.

11 THE COURT: Generally satisfied how they handled things?

12 PROSPECTIVE JUROR NUMBER 188: Not the motorcycle.

13 THE COURT: Not the motorcycle.

14 PROSPECTIVE JUROR NUMBER 188: No. I found out -- I had serial
15 numbers for a lot of the parts aftermarket things I had that on my bike. I found that
16 stuff later on Craigslist for sale.

17 THE COURT: Would you hold that against the police in this case? There'll be
18 police officers testify.

19 PROSPECTIVE JUROR NUMBER 188: Probably not. I -- I did a lot of
20 background work and got as much evidence as I could, gave it to the detective in
21 charge and nothing ever came out of that. But --

22 THE COURT: No detective is testifying really.

23 MS. BAHARAV: Not that we know of.

24 THE COURT: Okay.

25 MS. BAHARAV: If possible, it might be --

1 THE COURT: We don't have any -- we just have uniforms, poor schlepping
2 cops that just go out there and work. Anyway, you -- you -- will you listen the
3 evidence and make a decision based on that, what you hear?

4 PROSPECTIVE JUROR NUMBER 188: Yes. I might be a little biased
5 because of the methamphetamine charge. Two of the guys who we found out stole
6 the stuff and took my motorcycle were dealing meth and were using it constantly.

7 THE COURT: Okay. But it wasn't the Defendant and he --

8 PROSPECTIVE JUROR NUMBER 188: Not him, no.

9 THE COURT: -- deserves to be considered innocent --

10 PROSPECTIVE JUROR NUMBER 188: Yes.

11 THE COURT: -- as he sits here today until the contrary is proven, if it is.

12 PROSPECTIVE JUROR NUMBER 188: Yes.

13 THE COURT: You can -- you can do that?

14 PROSPECTIVE JUROR NUMBER 188: Yes.

15 THE COURT: All right. Anyone else?

16 PROSPECTIVE JUROR NUMBER 204: Guy Belding, 204. I was in a car and
17 I had a gentleman come up to me and assault me, punch me through the windows
18 of the car, put couple black eyes on me and did a pretty good job on my face.

19 THE COURT: When was that?

20 PROSPECTIVE JUROR NUMBER 204: This is probably about 18 years ago.

21 THE COURT: Was it here in Las Vegas?

22 PROSPECTIVE JUROR NUMBER 204: Yes, it was.

23 THE COURT: Police called?

24 PROSPECTIVE JUROR NUMBER 204: Absolutely.

25 THE COURT: Were did they -- are you generally satisfied how they handled

1 things?

2 PROSPECTIVE JUROR NUMBER 204: Not really. They didn't really go after
3 much, they just took a report and said good luck.

4 THE COURT: Okay. Will you hold that against the Defendant?

5 PROSPECTIVE JUROR NUMBER 204: No.

6 THE COURT: Let me -- let me read this jury instruction to you that you'll
7 probably get at the end: Do not decide this case based on implicit biases -- and it's
8 something that someone talked about Black guys did this. As we discuss -- as we
9 discuss in jury selection, everyone, including the Judge, has feelings, assumptions,
10 perceptions, fears, stereotypes that could be determined as implicit bias that we
11 may not be aware of. These hidden thoughts can impact what we see and hear,
12 how we remember what we see and hear, and how we make important decisions.
13 Because you are making very important decision in this case, I strongly encourage
14 you to evaluate the evidence carefully and to resist jumping to conclusions based on
15 personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies,
16 stereotypes or biases. The law demands that you return a just verdict based solely
17 on the evidence, your individual evaluation of the evidence, your reason and
18 common sense and instructions. Our system of justice is counting on you to render
19 a fair decision based on the evidence and not on bias.

20 That's all we're asking so I appreciate your response. Will you be fair
21 and impartial?

22 PROSPECTIVE JUROR NUMBER 204: I will give it my best effort.

23 THE COURT: All right.

24 [Colloquy between the Court and Law Clerk]

25 PROSPECTIVE JUROR NUMBER 208: Debra Ann Chapa, number 208. I

1 was robbed in a parking lot I think about six --

2 THE COURT: I'm sorry, I didn't hear it?

3 PROSPECTIVE JUROR NUMBER 208: Debra Ann Chapa, number 208. I
4 was robbed in a parking lot. It was like five or six years ago.

5 THE COURT: Here in Las Vegas?

6 PROSPECTIVE JUROR NUMBER 208: Uh-huh.

7 THE COURT: Police called?

8 PROSPECTIVE JUROR NUMBER 208: Yes.

9 THE COURT: They respond?

10 PROSPECTIVE JUROR NUMBER 208: Yes.

11 THE COURT: Generally satisfied with how they handled it?

12 PROSPECTIVE JUROR NUMBER 208: Yes.

13 THE COURT: Will you hold that against the Defendant?

14 PROSPECTIVE JUROR NUMBER 208: No.

15 THE COURT: Or the State?

16 PROSPECTIVE JUROR NUMBER 208: No.

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

18 PROSPECTIVE JUROR NUMBER 208: Yes.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR NUMBER 210: Onalisa Shackelford, number 210.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 210: And the -- my house was robbed
23 several years ago. Police was called and they didn't respond for three hours and
24 the -- really no follow through, nothing ever happen.

25 THE COURT: You going to hold that against the State?

Volume I - Page 38

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 210: I don't trust police. I just -- I never
2 had a good experience with them.

3 THE COURT: Here in Las Vegas?

4 PROSPECTIVE JUROR NUMBER 210: Yes. I'm sorry. Yeah.

5 THE COURT: No. No, no, I just -- I mean if you get in trouble, who do you
6 call?

7 PROSPECTIVE JUROR NUMBER 210: I have to call them, but unfortunately
8 often time is -- I -- I just -- you know, then there was another car accident with
9 happen to my family member and the police showed up. It was -- he was -- I don't
10 know, it look like he was a friend of the other party. He was joking with them. It was
11 just complete --

12 THE COURT: All right.

13 PROSPECTIVE JUROR NUMBER 210: It was --

14 THE COURT: So you don't feel like you could be fair and impartial?

15 PROSPECTIVE JUROR NUMBER 210: I don't -- yeah. I'm sorry.

16 THE COURT: Either party have a problem with me excusing her?

17 MS. BAHARAV: State does not.

18 THE COURT: All right.

19 MR. NADIG: No, Your Honor.

20 THE COURT: Thanks. You're excused. Check in with jury commissioner.

21 [Colloquy between the Court and Law Clerk]

22 PROSPECTIVE JUROR NUMBER 421: Mary Bautista, badge number 421,
23 and I just suffered a breaking and entering we -- robbery of household goods and
24 vandalism of a car a couple of times both here and in Los Angeles.

25 THE COURT: Did you call the police?

Volume I - Page 39

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 421: Yes.

2 THE COURT: Did they respond?

3 PROSPECTIVE JUROR NUMBER 421: Yep. Good service.

4 THE COURT: You generally -- generally satisfied how they handled things?

5 PROSPECTIVE JUROR NUMBER 421: Yes.

6 THE COURT: You going to hold that against the Defendant or the State?

7 PROSPECTIVE JUROR NUMBER 421: No.

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

9 PROSPECTIVE JUROR NUMBER 421: Yes.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR NUMBER 457: My name is Carolyn Milliren and
12 badge number is 457. I had my car broken into. It's been a long time. It's probably
13 15 years ago. And some items were stolen out of it. Called the police. They filed
14 the report. Nothing was recovered, but everything was handled the way I would
15 expect it to be handled.

16 THE COURT: Okay. Generally satisfied with way the --

17 PROSPECTIVE JUROR NUMBER 457: Yes.

18 THE COURT: -- police handled things? You'll be fair and impartial?

19 PROSPECTIVE JUROR NUMBER 457: Yes.

20 THE COURT: All right. Thank you.

21 PROSPECTIVE JUROR NUMBER 440: My name's Evelyn Castillo, juror
22 number 440. We had vandalism and theft at our cabin. It was -- it didn't happen
23 here in Las Vegas, it was in California. Called the police, the sheriff department.
24 They handled it very well.

25 THE COURT: Okay. You won't hold that against the Defendant or the State?

Volume I - Page 40

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 440: No.
2 THE COURT: Okay. You'll be fair and impartial?
3 PROSPECTIVE JUROR NUMBER 440: Yes.
4 THE COURT: Thank you.
5 PROSPECTIVE JUROR NUMBER 438: My name's William Waldrop, badge
6 number 438. My home's been broken into twice and items stolen.
7 THE COURT: All right.
8 PROSPECTIVE JUROR NUMBER 438: I did call the police and they did
9 respond.
10 THE COURT: Generally satisfied with how they handled matters?
11 PROSPECTIVE JUROR NUMBER 438: Yes.
12 THE COURT: You'll be fair and impartial in this case?
13 PROSPECTIVE JUROR NUMBER 438: Yes.
14 THE COURT: You won't hold that against either party?
15 PROSPECTIVE JUROR NUMBER 438: No.
16 THE COURT: All right. Thank you.
17 PROSPECTIVE JUROR NUMBER 475: Jamie Fulmer, 475. We had a home
18 invasion but we were upstairs sleeping. By the time I got downstairs they were
19 already gone with the goods. Called the police. Generally satisfied.
20 THE COURT: All right. You'll be fair and impartial if you're selected?
21 PROSPECTIVE JUROR NUMBER 475: Yes.
22 THE COURT: Okay. And I don't mean to -- I'm sitting behind computer
23 screens --
24 PROSPECTIVE JUROR NUMBER 475: Right.
25 THE COURT: -- so I'm trying to see everyone. Thank you.

Volume I - Page 41

1 PROSPECTIVE JUROR NUMBER 471: Carolyn Hutcherson, badge 471.
2 Three separate incidences. One very long time ago when I was a teenager had my
3 home broken into. Been some domestic violence issues where I've had to call the
4 police and -- oh my goodness, it just escaped me. One other one.

5 THE COURT: Will you be -- you won't hold that against the State or the
6 Defendant, would you?

7 PROSPECTIVE JUROR NUMBER 471: No.

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

9 PROSPECTIVE JUROR NUMBER 471: I will.

10 THE COURT: Listen to the evidence, make a decision from what you see and
11 hear in the courtroom?

12 PROSPECTIVE JUROR NUMBER 471: Yes, sir.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR NUMBER 469: Name is Eric So, badge number
15 469. My home was broken into. Called the police. They did show up. Later on --
16 some of my electronics have GPS tracking on them. I gave them the information
17 and was told when I called it in that I would need to go to the location and try to
18 retrieve the items first, but besides that, everything else was okay but just that one
19 incident.

20 THE COURT: Generally happy with how they handled it?

21 PROSPECTIVE JUROR NUMBER 469: Yes.

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

23 PROSPECTIVE JUROR NUMBER 469: As best I can.

24 THE COURT: Won't hold that against either party in this case?

25 PROSPECTIVE JUROR NUMBER 469: No.

1 THE COURT: Okay, thank you.

2 PROSPECTIVE JUROR NUMBER 501: My name is Kristin Conte, my badge
3 is 501. My apartment was broken into. I was happy with how the police responded.
4 I won't hold anything against anyone and I will be fair and impartial.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR NUMBER 513: Dave Gutierrez, badge 513. Had
7 some equipment stolen from -- from me and I wasn't the one -- I didn't call the
8 police. It was a security guard that caught the guy and went to trial, you know, and
9 he was convicted.

10 THE COURT: Did you have to testify?

11 PROSPECTIVE JUROR NUMBER 513: I testified and he was convicted.

12 THE COURT: Here in Las Vegas?

13 PROSPECTIVE JUROR NUMBER 513: Yes.

14 THE COURT: How long ago?

15 PROSPECTIVE JUROR NUMBER 513: About 18 years ago.

16 THE COURT: Generally happy with the system?

17 PROSPECTIVE JUROR NUMBER 513: Yes.

18 THE COURT: You wouldn't hold that against the State or the Defendant?

19 PROSPECTIVE JUROR NUMBER 513: No.

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

21 PROSPECTIVE JUROR NUMBER 513: Yes.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR NUMBER 535: Andrew Sedgman, badge 535. I've
24 had my home and my car broken into multiple times. Did call the police. Generally
25 satisfied. Won't hold it against anyone.

1 THE COURT: Good. Thank you.

2 All right. Now the harder question is, is there anybody been accused of
3 a crime in here? If you have, raise your hand.

4 PROSPECTIVE JUROR NUMBER 535: Andrew Sedgman, badge 535. As a
5 teenager, I shot out my neighbor's window with a BB gun.

6 THE COURT: Police called?

7 PROSPECTIVE JUROR NUMBER 535: Yes.

8 THE COURT: Got in trouble?

9 PROSPECTIVE JUROR NUMBER 535: Yes.

10 THE COURT: You hold that against the police?

11 PROSPECTIVE JUROR NUMBER 535: No.

12 THE COURT: All right. You'll be fair and impartial?

13 PROSPECTIVE JUROR NUMBER 535: Yes.

14 THE COURT: All right. Thank you.

15 PROSPECTIVE JUROR NUMBER 192: Denise Culley-Miller, badge number
16 192. 1985, house arrest, accused of a lot of stuff, went to jail, all charges dropped.

17 THE COURT: Where?

18 PROSPECTIVE JUROR NUMBER 192: Las Vegas.

19 THE COURT: Did you have to go to court?

20 PROSPECTIVE JUROR NUMBER 192: No, I never had to appear.

21 THE COURT: Okay. Generally satisfied?

22 PROSPECTIVE JUROR NUMBER 192: I was very satisfied.

23 THE COURT: Okay. So you weren't -- you won't hold that against either
24 party in this?

25 PROSPECTIVE JUROR NUMBER 192: That's fact.

Volume I - Page 44

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: All right. Thank you.

2 PROSPECTIVE JUROR NUMBER 197: Jason Gunderson, 197. As a
3 teenager, I shined a laser pen in a diesel truck that was carrying some sort of
4 weapons and got pulled over and put in handcuffs for that, but I -- I don't -- they
5 never charged me with anything. So I don't know if that -- pertinent or not.

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

7 PROSPECTIVE JUROR NUMBER 197: Yes.

8 THE COURT: All right. The jury is the trier of the facts in this case. You'll
9 listen to the evidence, determine what the facts are. I am the trier of the law. I'll tell
10 you what the law is. It would be an abuse of your oath as a juror to make a decision
11 on anything other than what I tell you, even if you think the law is wrong. Is there
12 anybody got a problem with that raise your hand? Oh good.

13 THE MARSHAL: I got one hand just went up.

14 PROSPECTIVE JUROR NUMBER 461: My name's Jesus Rubio, badge
15 number 461. So does our decision impact his -- if he were to be found guilty, for
16 example, for his sentencing?

17 THE COURT: No. You can't even talk about it. I'll give you a jury instruction
18 on that. Sentencing is entirely up to the Court. You can't even talk about that in the
19 jury room if you're selected.

20 PROSPECTIVE JUROR NUMBER 461: So we can find him guilty for
21 something and if we don't agree with the sentencing possibilities, that's a problem --

22 THE COURT: You can come and watch the sentencing. I'm the trier that
23 determines what sentence occurs. Yeah. You as a jury can't even consider that.

24 PROSPECTIVE JUROR NUMBER 461: That's not fair.

25 THE COURT: That's the law.

1 PROSPECTIVE JUROR NUMBER 461: That's not fair though.
2 THE COURT: Yeah, no, then run for the legislature and change it.
3 PROSPECTIVE JUROR NUMBER 461: What's that?
4 THE COURT: Run for the legislature and change it. That's -- that's who
5 makes the law.
6 PROSPECTIVE JUROR NUMBER 461: Right.
7 THE COURT: Okay. All right, I think --
8 THE MARSHAL: I got another hand just went up.
9 THE COURT: Okay. That's fine.
10 PROSPECTIVE JUROR NUMBER 052: Backtrack to the last question. For
11 the last question before --
12 THE COURT: Okay.
13 PROSPECTIVE JUROR NUMBER 052: -- being accused of a crime, Eric Hill,
14 number 52.
15 THE COURT: Yes.
16 PROSPECTIVE JUROR NUMBER 052: When I was 17, we were at a house
17 party. Kids were having a party where their parents were out of town, did not know
18 and we took some stereo equipment and paid restitution for it.
19 THE COURT: Statute of limitations run on that?
20 PROSPECTIVE JUROR NUMBER 052: Long time ago.
21 THE COURT: Okay.
22 PROSPECTIVE JUROR NUMBER 052: But I just thought --
23 THE COURT: You'll be fair and impartial?
24 PROSPECTIVE JUROR NUMBER 052: Absolutely.
25 THE COURT: Appreciate that answer.

Volume I - Page 46

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 All right. Just stay right there, Thomas. I think that's all the general
2 questions I have.

3 MR. NADIG: Your Honor, is it okay if we take a short break right now?

4 THE COURT: Yeah.

5 MR. NADIG: Thank you.

6 THE COURT: All right. We'll take a five-minute recess. During the recess,
7 don't talk about what you've heard in here. Come back, sit in your exact spots,
8 please.

9 You got the mic?

10 THE MARSHAL: I got it right here.

11 THE COURT: Okay.

12 THE MARSHAL: Okay, folks, we got to go. Yes, you have --

13 THE COURT: Everybody has to go. We'll call bathroom breaks as we move
14 along.

15 [Recess taken at 1:36 p.m.]

16 [Proceedings resumed at 1:43 p.m.]

17 [Outside the presence of the prospective jury]

18 THE COURT: Do you guys have any other general questions you want
19 asked?

20 MS. BAHARAV: You asked them about whether or not they would believe a
21 cop just because they're a cop.

22 MR. NADIG: Yeah.

23 MS. BAHARAV: Can you ask whether or not they would not believe them just
24 because they're a cop?

25 THE COURT: I will.

1 MS. BAHARAV: Thank you.

2 MR. NADIG: Yeah, no, that's the standard -- and then you're going to go into
3 all the biographical stuff now?

4 THE COURT: Yeah.

5 MR. NADIG: Yeah. No.

6 THE MARSHAL: Okay, we ready for the jury then?

7 THE COURT: Yeah.

8 THE MARSHAL: Okay.

9 THE COURT: Nadig. Nadig. Ask him if he has any questions.

10 [Colloquy between counsel and the Defendant]

11 THE MARSHAL: All rise, please.

12 THE COURT: We'll make a record of that at the end.

13 MR. NADIG: Okay.

14 THE COURT: Next break.

15 [Prospective jury in at 1:45 p.m.]

16 THE MARSHAL: And be seated but I'm missing one.

17 MS. BAHARAV: There's another person coming.

18 UNIDENTIFIED SPEAKER: Sorry.

19 THE MARSHAL: That's all right.

20 THE COURT: All right. I have to ask one general -- other general question as
21 I read through my notes that I missed. Is there anyone here that would disbelieve a
22 police officer just because they're a police officer? Seeing no hands. All right.
23 Thank you.

24 Number 1. Tell me your name again?

25 PROSPECTIVE JUROR NUMBER 197: Jason Gunderson.

Volume I - Page 48

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: How long have you lived in Las Vegas?
2 PROSPECTIVE JUROR NUMBER 197: Since 1989 --
3 THE COURT: Are you married?
4 PROSPECTIVE JUROR NUMBER 197: Yes, I am.
5 THE COURT: Do you work?
6 PROSPECTIVE JUROR NUMBER 197: I do.
7 THE COURT: What do you do?
8 PROSPECTIVE JUROR NUMBER 197: I'm electrician.
9 THE COURT: Union?
10 PROSPECTIVE JUROR NUMBER 197: No, non-union.
11 THE COURT: Does your wife work?
12 PROSPECTIVE JUROR NUMBER 197: She's a stay-at-home mom. I
13 consider that working.
14 THE COURT: How old are you children?
15 PROSPECTIVE JUROR NUMBER 197: Eight --
16 THE COURT: Do you have a background in law or law enforcement?
17 PROSPECTIVE JUROR NUMBER 197: I do not.
18 THE COURT: Have you ever sat as a juror before?
19 PROSPECTIVE JUROR NUMBER 197: I have.
20 THE COURT: Where?
21 PROSPECTIVE JUROR NUMBER 197: Here in Clark County.
22 THE COURT: When?
23 PROSPECTIVE JUROR NUMBER 197: I would say probably four years ago.
24 THE COURT: Civil or criminal?
25 PROSPECTIVE JUROR NUMBER 197: Criminal.

Volume I - Page 49

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Without telling us verdict, were you able to reach a verdict?
2 PROSPECTIVE JUROR NUMBER 197: Yes.
3 THE COURT: Were you the jury foreperson?
4 PROSPECTIVE JUROR NUMBER 197: No, I was not.
5 THE COURT: What type of case was it?
6 PROSPECTIVE JUROR NUMBER 197: It was domestic violence.
7 THE COURT: Is there anything about that experience that would prejudice
8 you against the defense -- Defendant or the State?
9 PROSPECTIVE JUROR NUMBER 197: No.
10 THE COURT: You'll be fair and impartial?
11 PROSPECTIVE JUROR NUMBER 197: Yes.
12 THE COURT: Can you think of any reason you would not be fair and
13 impartial?
14 PROSPECTIVE JUROR NUMBER 197: No, I cannot.
15 THE COURT: Okay. If you'll pass that mic over?
16 PROSPECTIVE JUROR NUMBER 052: Eric Hill.
17 THE COURT: Okay, do you work?
18 PROSPECTIVE JUROR NUMBER 052: I'm driving for Uber and Lyft right
19 now.
20 THE COURT: Are you married?
21 PROSPECTIVE JUROR NUMBER 052: Yes.
22 THE COURT: Does your spouse work?
23 PROSPECTIVE JUROR NUMBER 052: Yes.
24 THE COURT: What does your spouse do?
25 PROSPECTIVE JUROR NUMBER 052: She's a dual rate dealer supervisor

Volume I - Page 50

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 at the Wynn.

2 THE COURT: Children?

3 PROSPECTIVE JUROR NUMBER 052: One with her, yes.

4 THE COURT: How old?

5 PROSPECTIVE JUROR NUMBER 052: Twelve.

6 THE COURT: I guess I should have asked you this, too. Do you have any
7 background in law or law enforcement?

8 PROSPECTIVE JUROR NUMBER 052: No, sir.

9 THE COURT: You have any background in law or law enforcement?

10 PROSPECTIVE JUROR NUMBER 197: You -- you did ask me that.

11 THE COURT: I did ask?

12 PROSPECTIVE JUROR NUMBER 197: Yeah.

13 THE COURT: That's -- I'm old. You ever sat as a juror before?

14 PROSPECTIVE JUROR NUMBER 052: Yes.

15 THE COURT: Where?

16 PROSPECTIVE JUROR NUMBER 052: Here in Las Vegas.

17 THE COURT: When?

18 PROSPECTIVE JUROR NUMBER 052: 2001. I just looked it up.

19 THE COURT: Crivil or -- crivil or ciminal?

20 PROSPECTIVE JUROR NUMBER 052: Yes, criminal.

21 THE COURT: Civil or criminal?

22 PROSPECTIVE JUROR NUMBER 052: Criminal.

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

24 PROSPECTIVE JUROR NUMBER 052: Yes.

25 THE COURT: Were you the jury foreperson?

Volume I - Page 51

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 052: No.

2 THE COURT: What type of case was it?

3 PROSPECTIVE JUROR NUMBER 052: Vehicular -- six -- six fatalities.

4 THE COURT: Is there anything about that experience that would prejudice
5 you against the State or the defense?

6 PROSPECTIVE JUROR NUMBER 052: No.

7 THE COURT: Is there anything -- can you think of anything that would -- any
8 reason you would not be fair and impartial to both parties in this case?

9 PROSPECTIVE JUROR NUMBER 052: No.

10 THE COURT: Pass that mic to -- all right. You work as a lawyer?

11 PROSPECTIVE JUROR NUMBER 093: Yes.

12 THE COURT: Children?

13 PROSPECTIVE JUROR NUMBER 093: Three.

14 THE COURT: Ages?

15 PROSPECTIVE JUROR NUMBER 093: Twenty-four, 21 and 13.

16 THE COURT: Any of them in law or law enforcement?

17 PROSPECTIVE JUROR NUMBER 093: No, my ex-husband was though.

18 THE COURT: Is there anything about that experience that would -- I mean
19 you may think that you may know a cop because once you're married to a cop, you
20 have a lot of friends that are -- are cops. That as an expert in an area in that you're
21 going to hear, you can't call them and ask them for -- for help or what's going on.

22 PROSPECTIVE JUROR NUMBER 093: Understand.

23 THE COURT: You understand that?

24 PROSPECTIVE JUROR NUMBER 093: Yes.

25 THE COURT: Can you think of any reason you would not be fair and

1 impartial?

2 PROSPECTIVE JUROR NUMBER 093: No.

3 THE COURT: You ever sat as a juror before?

4 PROSPECTIVE JUROR NUMBER 093: No.

5 THE COURT: You want to sit on this jury?

6 PROSPECTIVE JUROR NUMBER 093: If it works out that way.

7 THE COURT: All right. All right, if you pass that mic over.

8 PROSPECTIVE JUROR NUMBER 185: My name's Ernesto Velasco.

9 THE COURT: Do you work?

10 PROSPECTIVE JUROR NUMBER 185: Yes.

11 THE COURT: What do you do?

12 PROSPECTIVE JUROR NUMBER 185: Food runner at Delmonico

13 Steakhouse.

14 THE COURT: You married?

15 PROSPECTIVE JUROR NUMBER 185: Yes.

16 THE COURT: Spouse work?

17 PROSPECTIVE JUROR NUMBER 185: Yes.

18 THE COURT: What does your spouse do?

19 PROSPECTIVE JUROR NUMBER 185: Chipotle Mexican Grill.

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

21 PROSPECTIVE JUROR NUMBER 185: No.

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

23 PROSPECTIVE JUROR NUMBER 185: No.

24 THE COURT: And children?

25 PROSPECTIVE JUROR NUMBER 185: Yes.

Volume I - Page 53

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Ages?
2 PROSPECTIVE JUROR NUMBER 185: He's three year old.
3 THE COURT: Can you think of any reason you would not be fair and
4 impartial to both parties in this case?
5 PROSPECTIVE JUROR NUMBER 185: No.
6 THE COURT: Pass that mic over.
7 MR. NADIG: Did you ask about law enforcement?
8 THE COURT: I did.
9 MR. NADIG: Okay.
10 PROSPECTIVE JUROR NUMBER 186: Dale Gordon.
11 THE COURT: Do you work?
12 PROSPECTIVE JUROR NUMBER 186: No.
13 THE COURT: Retired?
14 PROSPECTIVE JUROR NUMBER 186: Long time.
15 THE COURT: From what?
16 PROSPECTIVE JUROR NUMBER 186: Electrical contractor.
17 THE COURT: You married?
18 PROSPECTIVE JUROR NUMBER 186: No.
19 THE COURT: Children?
20 PROSPECTIVE JUROR NUMBER 186: Five.
21 THE COURT: Ages?
22 PROSPECTIVE JUROR NUMBER 186: Oh, 49 to 39.
23 THE COURT: Any of them in law or law enforcement?
24 PROSPECTIVE JUROR NUMBER 186: Not on that end.
25 THE COURT: Have you -- have you any experience in law or law

Volume I - Page 54

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 enforcement?

2 PROSPECTIVE JUROR NUMBER 186: No, sir.

3 THE COURT: Ever sat as a juror before?

4 PROSPECTIVE JUROR NUMBER 186: No, I've never been called as a juror.

5 THE COURT: Are you -- can you think of any reason you would not be fair
6 and impartial to both parties in this case?

7 PROSPECTIVE JUROR NUMBER 186: No. I've had -- I've known my share
8 of cops and the honesty factor I've -- I've known my share of them. They're just like
9 the next man. They're no different so --

10 THE COURT: You'll listen to them and listen to all of the evidence --

11 PROSPECTIVE JUROR NUMBER 186: That's correct.

12 THE COURT: -- before you make a decision?

13 PROSPECTIVE JUROR NUMBER 186: That's correct.

14 THE COURT: Okay. Thank you. If you'll pass that mic over.

15 No, you. Yeah, you, ma'am.

16 PROSPECTIVE JUROR NUMBER 187: I --

17 THE COURT: Pardon?

18 PROSPECTIVE JUROR NUMBER 187: I didn't raise my hand.

19 THE COURT: No, I'm asking questions.

20 PROSPECTIVE JUROR NUMBER 187: Oh, I'm -- oh, I'm so sorry.

21 THE COURT: Tell me your name.

22 PROSPECTIVE JUROR NUMBER 187: Kelly Fernandez, badge number
23 187.

24 THE COURT: Do you work?

25 PROSPECTIVE JUROR NUMBER 187: I do.

Volume I - Page 55

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: What do you do?

2 PROSPECTIVE JUROR NUMBER 187: I'm the store manager here at
3 Macy's Fashion Show.

4 THE COURT: Are you married?

5 PROSPECTIVE JUROR NUMBER 187: Yes.

6 THE COURT: Spouse work?

7 PROSPECTIVE JUROR NUMBER 187: Retired.

8 THE COURT: From what?

9 PROSPECTIVE JUROR NUMBER 187: Was -- owned his own business,
10 mechanic.

11 THE COURT: Children?

12 PROSPECTIVE JUROR NUMBER 187: Yes.

13 THE COURT: Ages?

14 PROSPECTIVE JUROR NUMBER 187: Thirty and 24.

15 THE COURT: Either of them in law enforcement --

16 PROSPECTIVE JUROR NUMBER 187: No.

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

18 PROSPECTIVE JUROR NUMBER 187: Absolutely not.

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

20 PROSPECTIVE JUROR NUMBER 187: No, I have not.

21 THE COURT: Can you think of any reason you would not be fair and
22 impartial to both parties --

23 PROSPECTIVE JUROR NUMBER 187: No.

24 THE COURT: -- in this case? Okay. Thanks.

25 PROSPECTIVE JUROR NUMBER 187: Your turn.

Volume I - Page 56

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 188: Igor Vidovic.
2 THE COURT: Do you work?
3 PROSPECTIVE JUROR NUMBER 188: Yes, sir.
4 THE COURT: What do you do?
5 PROSPECTIVE JUROR NUMBER 188: Butler.
6 THE COURT: Where?
7 PROSPECTIVE JUROR NUMBER 188: MGM.
8 THE COURT: Have you -- are you married?
9 PROSPECTIVE JUROR NUMBER 188: Yes, sir.
10 THE COURT: Spouse work?
11 PROSPECTIVE JUROR NUMBER 188: Yes, she does.
12 THE COURT: What -- what does your spouse do?
13 PROSPECTIVE JUROR NUMBER 188: She's a paralegal.
14 THE COURT: For whom?
15 PROSPECTIVE JUROR NUMBER 188: What's the office? Can't think of it
16 now. It's the same building as -- God. I'm drawing a blank. Give me a second I'll --
17 I'll get to that.
18 THE COURT: All right.
19 PROSPECTIVE JUROR NUMBER 188: Office on Rancho and Charleston.
20 THE COURT: Do they do civil or criminal?
21 PROSPECTIVE JUROR NUMBER 188: She does insurance, she does
22 personal injury, she -- she does a little bit of everything --
23 THE COURT: Okay.
24 PROSPECTIVE JUROR NUMBER 188: -- and she did construction defect a
25 while back.

Volume I - Page 57

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: All you can tell your spouse is that you're picked -- selected for
2 a criminal jury and that's all.

3 PROSPECTIVE JUROR NUMBER 188: Okay.

4 THE COURT: Do you understand?

5 PROSPECTIVE JUROR NUMBER 188: (No audible response.)

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

7 PROSPECTIVE JUROR NUMBER 188: No, sir.

8 THE COURT: And have you ever sat as a juror before?

9 PROSPECTIVE JUROR NUMBER 188: No.

10 THE COURT: Can you think of any reason you would not be fair and
11 impartial to both parties in this case?

12 PROSPECTIVE JUROR NUMBER 188: I --

13 THE COURT: Other than what you've already told us.

14 PROSPECTIVE JUROR NUMBER 188: A few times in high school I did meth
15 myself and I find it hard to believe that you have it in possession without knowing.

16 THE COURT: You haven't heard any evidence in this case. Do you know if
17 you were sent back to decide the case right now, you'd have to find him not guilty
18 because as he sits here he is not guilty. Do you understand that?

19 PROSPECTIVE JUROR NUMBER 188: I understand.

20 THE COURT: Okay. We expect our jurors to come in with their common
21 everyday experiences. We know that. We don't try to eliminate that. We just want
22 unbiased people. That's why we ask these questions. Other than what you've told
23 us, is there any reason you cannot be fair and impartial?

24 PROSPECTIVE JUROR NUMBER 188: No, sir, that's it.

25 THE COURT: Tell me your name.

Volume I - Page 58

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 189: Jonathan Clayton.
2 THE COURT: Do you work?
3 PROSPECTIVE JUROR NUMBER 189: Yes.
4 THE COURT: What do you do?
5 PROSPECTIVE JUROR NUMBER 189: I'm a trooper for the highway patrol.
6 THE COURT: Are you married?
7 PROSPECTIVE JUROR NUMBER 189: No.
8 THE COURT: Ever sat as a juror before?
9 PROSPECTIVE JUROR NUMBER 189: No.
10 THE COURT: Can you be fair and impartial in this case?
11 PROSPECTIVE JUROR NUMBER 189: Yes.
12 THE COURT: You trust cops?
13 PROSPECTIVE JUROR NUMBER 189: Yes.
14 THE COURT: I -- I guess I shouldn't have asked that question. If you guys
15 get mad at me, I'm Jim Bixler. I can say that because he was my first judge.
16 You'll listen to all the evidence to make a decision?
17 PROSPECTIVE JUROR NUMBER 189: I will.
18 THE COURT: But mostly you don't do drug investigations? Mostly you do
19 traffic?
20 PROSPECTIVE JUROR NUMBER 189: Mainly traffic. Up north we did
21 drugs. I was stationed along I-80 --
22 THE COURT: Okay, you did interventions or --
23 PROSPECTIVE JUROR NUMBER 189: -- for a drug detail in Winnemucca.
24 THE COURT: All right. But you'll base your decision here on what you -- you
25 hear and see in this courtroom?

Volume I - Page 59

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 189: Yes.
2 THE COURT: All right. If you pass that mic over?
3 Tell me your name.
4 PROSPECTIVE JUROR NUMBER 190: Grecia Bermudez.
5 THE COURT: Do you work?
6 PROSPECTIVE JUROR NUMBER 190: Yes.
7 THE COURT: What do you do?
8 PROSPECTIVE JUROR NUMBER 190: I'm an insurance agent.
9 THE COURT: Are you married?
10 PROSPECTIVE JUROR NUMBER 190: Yes.
11 THE COURT: Spouse work?
12 PROSPECTIVE JUROR NUMBER 190: Yes.
13 THE COURT: What does your spouse do?
14 PROSPECTIVE JUROR NUMBER 190: He's a waiter.
15 THE COURT: Children?
16 PROSPECTIVE JUROR NUMBER 190: Yes, two.
17 THE COURT: Ages?
18 PROSPECTIVE JUROR NUMBER 190: Six and five months.
19 THE COURT: Have you any background in law or law enforcement?
20 PROSPECTIVE JUROR NUMBER 190: No.
21 THE COURT: Ever sat as a juror before?
22 PROSPECTIVE JUROR NUMBER 190: No.
23 THE COURT: Can you think of any reason you would not be fair and
24 impartial to both parties in this case?
25 PROSPECTIVE JUROR NUMBER 190: No.

Volume I - Page 60

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: All right. Pass that mic over.
2 PROSPECTIVE JUROR NUMBER 192: Denise Culley-Miller, badge number
3 192.
4 THE COURT: Do you work?
5 PROSPECTIVE JUROR NUMBER 192: Yes.
6 THE COURT: What do you do?
7 PROSPECTIVE JUROR NUMBER 192: I'm a plumbing dispatcher.
8 THE COURT: For whom?
9 PROSPECTIVE JUROR NUMBER 192: A. A. Cassaro Plumbing.
10 THE COURT: You married?
11 PROSPECTIVE JUROR NUMBER 192: Yes, sir --
12 THE COURT: Spouse --
13 PROSPECTIVE JUROR NUMBER 192: -- 24 years.
14 THE COURT: Spouse work?
15 PROSPECTIVE JUROR NUMBER 192: Yes, he's a business owner.
16 THE COURT: Kind of business?
17 PROSPECTIVE JUROR NUMBER 192: We do union labor for the
18 conventions.
19 THE COURT: Have you children?
20 PROSPECTIVE JUROR NUMBER 192: I have one son, 29.
21 THE COURT: In law or law enforcement?
22 PROSPECTIVE JUROR NUMBER 192: No, sir.
23 THE COURT: Do you have a background in law or law enforcement?
24 PROSPECTIVE JUROR NUMBER 192: No. I'm testing for PBX operator
25 right now. Applying in April.

Volume I - Page 61

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: With --
2 PROSPECTIVE JUROR NUMBER 192: LVMPD.
3 THE COURT: Have you ever sat as a juror before?
4 PROSPECTIVE JUROR NUMBER 192: No.
5 THE COURT: Can you think of any reason you would not be fair and
6 impartial to both parties in this case?
7 PROSPECTIVE JUROR NUMBER 192: Absolutely not.
8 THE COURT: All right. If you pass that mic down.
9 Tell me your name.
10 PROSPECTIVE JUROR NUMBER 193: Esther Arnell.
11 THE COURT: Do you work?
12 PROSPECTIVE JUROR NUMBER 193: I'm a stay-at-home mom.
13 THE COURT: Do you have any background in law or law enforcement?
14 PROSPECTIVE JUROR NUMBER 193: No.
15 THE COURT: Do -- you married?
16 PROSPECTIVE JUROR NUMBER 193: Yes.
17 THE COURT: Spouse work?
18 PROSPECTIVE JUROR NUMBER 193: Yes.
19 THE COURT: What does your spouse do?
20 PROSPECTIVE JUROR NUMBER 193: He's a chef.
21 THE COURT: Where?
22 PROSPECTIVE JUROR NUMBER 193: Smith's.
23 THE COURT: Have you ever sat a juror before?
24 PROSPECTIVE JUROR NUMBER 193: Yes.
25 THE COURT: Where?

Volume I - Page 62

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 193: Here. Well, this building.

2 THE COURT: When?

3 PROSPECTIVE JUROR NUMBER 193: Three years ago and three years
4 before that.

5 THE COURT: Civil or criminal?

6 PROSPECTIVE JUROR NUMBER 193: Criminal both.

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

8 PROSPECTIVE JUROR NUMBER 193: In the first trial we did not and in the
9 second we did.

10 THE COURT: What type of cases were they?

11 PROSPECTIVE JUROR NUMBER 193: The first one was a chop shop and
12 the second one was a shooting.

13 THE COURT: Can you think of any reason you would not be fair and
14 impartial to both parties in this case?

15 PROSPECTIVE JUROR NUMBER 193: No.

16 THE COURT: All right. Pass that -- tell me your name?

17 PROSPECTIVE JUROR NUMBER 194: Vonte Williams.

18 THE COURT: Do you work?

19 PROSPECTIVE JUROR NUMBER 194: Yes.

20 THE COURT: What do you do?

21 PROSPECTIVE JUROR NUMBER 194: I work with a payroll company.

22 THE COURT: What do you do?

23 PROSPECTIVE JUROR NUMBER 194: I work in their amendment
24 department so I amend tax returns.

25 THE COURT: Have you -- are you married?

Volume I - Page 63

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 194: No.
2 THE COURT: Do you have children?
3 PROSPECTIVE JUROR NUMBER 194: No.
4 THE COURT: Have you ever sat as a juror before?
5 PROSPECTIVE JUROR NUMBER 194: Yes.
6 THE COURT: Where?
7 PROSPECTIVE JUROR NUMBER 194: In California.
8 THE COURT: When?
9 PROSPECTIVE JUROR NUMBER 194: About three years ago.
10 THE COURT: Civil or criminal?
11 PROSPECTIVE JUROR NUMBER 194: Civil.
12 THE COURT: You understand civil you just tilt the scales one way and -- and
13 you win.
14 PROSPECTIVE JUROR NUMBER 194: Yes.
15 THE COURT: But in criminal it's -- it's unanimous. Do you understand that?
16 PROSPECTIVE JUROR NUMBER 194: Yes. I also sat through a criminal
17 case. I had a nephew that was murdered. So I sat through three criminal cases --
18 THE COURT: And so you came to court and -- and watched the
19 proceedings?
20 PROSPECTIVE JUROR NUMBER 194: Yes.
21 THE COURT: Was that here?
22 PROSPECTIVE JUROR NUMBER 194: No, in Los Angeles.
23 THE COURT: All right. Was there anything about that experience that would
24 prejudice you against the Defendant or the State?
25 PROSPECTIVE JUROR NUMBER 194: Not that experience, but I do also

Volume I - Page 64

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 have two sisters that are struggling with drug addiction. Actually have one sister
2 that's been in recovery for close to 20 years and I have one sister that has been a
3 drug addict for 20 years that will not go into recovery.

4 THE COURT: And you won't hold that against the Defendant or the State?

5 PROSPECTIVE JUROR NUMBER 194: I can't guarantee that I won't.

6 THE COURT: Okay. Do you have any questions?

7 MS. BAHARAV: For --

8 THE COURT: Mr. Nadig. Not you. You want to ask her about that or?

9 MR. NADIG: Briefly.

10 THE COURT: Okay.

11 MR. NADIG: Afternoon, Ms. Williams. How you doing?

12 PROSPECTIVE JUROR NUMBER 194: Good. How are you?

13 MR. NADIG: Good. Now, there's an allegation that there was
14 methamphetamine possessed by Mr. Barnett, but I don't believe there will be any
15 allegations of use by Mr. Barnett. Would that change your opinion in any way,
16 shape or form?

17 PROSPECTIVE JUROR NUMBER 194: No.

18 MR. NADIG: Okay, that would not -- just the actual presence of meth means
19 that you are going to have a bias against Mr. Barnett?

20 PROSPECTIVE JUROR NUMBER 194: Possibly because I've dealt with my
21 sister being on drugs for 20 years and she's went to jail with drugs in the car, not
22 necessarily doing it at the time, but I know she's a drug addict.

23 MR. NADIG: Okay, and that then is -- your interactions with your sister are
24 going to carry over on to Mr. Barnett?

25 PROSPECTIVE JUROR NUMBER 194: It could possibly, yes.

1 MR. NADIG: Okay.

2 THE COURT: Okay.

3 MR. NADIG: I'd ask to excuse, Your Honor.

4 THE COURT: We'll talk. Do you have any questions for her?

5 MS. BAHARAV: I don't -- I'm actually not objecting. She indicated she'd have

6 a hard time with both parties, so we're -- ask that she's excused as well.

7 THE COURT: Stipulated?

8 MR. NADIG: Yes, Your Honor.

9 THE COURT: All right. We'll excuse you. Maybe you can get on a jury -- civil

10 jury, short -- short trial. Thank you.

11 THE CLERK: Okay, next up we have badge 198, Olga Pinto.

12 THE COURT: All right, tell me your name.

13 PROSPECTIVE JUROR NUMBER 198: Olga Pinto.

14 THE COURT: Do you work?

15 PROSPECTIVE JUROR NUMBER 198: Yes.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR NUMBER 198: I work for Credit One Bank.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR NUMBER 198: Yes.

20 THE COURT: Spouse work?

21 PROSPECTIVE JUROR NUMBER 198: Yes.

22 THE COURT: What does your spouse do?

23 PROSPECTIVE JUROR NUMBER 198: He works at Sunset Station, he's a

24 waiter.

25 THE COURT: Have you children?

Volume I - Page 66

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 198: Yes, three.

2 THE COURT: Ages?

3 PROSPECTIVE JUROR NUMBER 198: Twenty-two, 17 and 11.

4 THE COURT: Any of them in law or law enforcement?

5 PROSPECTIVE JUROR NUMBER 198: No.

6 THE COURT: Above 11 of course. Do you have any background in law or
7 law enforcement?

8 PROSPECTIVE JUROR NUMBER 198: No, I don't.

9 THE COURT: Ever sat as a juror before?

10 PROSPECTIVE JUROR NUMBER 198: I was in California, but as soon as I
11 got in they took me out of the panels.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 198: So --

14 THE COURT: Can you think of any reason you would not be fair and
15 impartial to both parties in this case?

16 PROSPECTIVE JUROR NUMBER 198: No.

17 THE COURT: All right. If you'll pass that over to your left.

18 Tell me your name.

19 PROSPECTIVE JUROR NUMBER 195: Brian Morachis.

20 THE COURT: Do you work?

21 PROSPECTIVE JUROR NUMBER 195: Yes.

22 THE COURT: What do you do?

23 PROSPECTIVE JUROR NUMBER 195: I'm a regional manager for a
24 Japanese industrial electronics company.

25 THE COURT: Are you married?

Volume I - Page 67

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 195: No.
2 THE COURT: Do you have children?
3 PROSPECTIVE JUROR NUMBER 195: No.
4 THE COURT: Have you ever -- do you have a background in law or law
5 enforcement?
6 PROSPECTIVE JUROR NUMBER 195: No.
7 THE COURT: Ever sat as a juror before?
8 PROSPECTIVE JUROR NUMBER 195: No.
9 THE COURT: Can you be fair and impartial to both parties in this case?
10 PROSPECTIVE JUROR NUMBER 195: Yes.
11 THE COURT: Thank you. If you'll pass that mic over.
12 Tell me your name.
13 PROSPECTIVE JUROR NUMBER 196: Bryce Parker.
14 THE COURT: Do you work?
15 PROSPECTIVE JUROR NUMBER 196: Yes.
16 THE COURT: What do you do?
17 PROSPECTIVE JUROR NUMBER 196: I'm a sales trainer with Mattress
18 Firm.
19 THE COURT: Are you married?
20 PROSPECTIVE JUROR NUMBER 196: No.
21 THE COURT: Children?
22 PROSPECTIVE JUROR NUMBER 196: No.
23 THE COURT: Do you have any background in law or law enforcement?
24 PROSPECTIVE JUROR NUMBER 196: No.
25 THE COURT: Ever sat as a juror before?

Volume I - Page 68

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 196: No.

2 THE COURT: Can you think of any reason you would not be fair and
3 impartial to both parties in this case?

4 PROSPECTIVE JUROR NUMBER 196: No.

5 THE COURT: Okay. Pass for cause?

6 MS. BAHARAV: Can we question, Your Honor?

7 THE COURT: Yes.

8 MS. BAHARAV: Thank you.

9 [Colloquy between counsel]

10 MS. BAHARAV: Thank you, Your Honor.

11 THE COURT: Start with one and go down.

12 MS. BAHARAV: Yes, sir.

13 Hello, Mr. Gunderson.

14 PROSPECTIVE JUROR NUMBER 197: Hi.

15 MS. BAHARAV: You were asked a bunch of questions earlier by the Judge
16 and I just have a few follow-ups, and --

17 PROSPECTIVE JUROR NUMBER 197: Okay.

18 MS. BAHARAV: -- I hope everyone can pay attention so I don't have to
19 repeat the questions 12 times, but I will if you -- if you missed one.

20 Sir, did -- has anyone in your family ever been accused of a crime?

21 PROSPECTIVE JUROR NUMBER 197: No.

22 MS. BAHARAV: Anyone in your family ever been the victim of a crime?

23 PROSPECTIVE JUROR NUMBER 197: Yes.

24 MS. BAHARAV: And what crime were -- were they victim of, sir?

25 PROSPECTIVE JUROR NUMBER 197: My brother owns the company I work

Volume I - Page 69

1 for. We had our office broken into. They broke -- stole our safe and -- yeah.

2 MS. BAHARAV: Did the Las Vegas Metropolitan Police Department respond
3 to the scene?

4 PROSPECTIVE JUROR NUMBER 197: It was City of Henderson.

5 MS. BAHARAV: Okay, did Henderson respond to the scene?

6 PROSPECTIVE JUROR NUMBER 197: They did.

7 MS. BAHARAV: And when they responded to the scene, did they take
8 reports and all those kinds of things?

9 PROSPECTIVE JUROR NUMBER 197: Yeah.

10 MS. BAHARAV: Did they do any fingerprinting or anything?

11 PROSPECTIVE JUROR NUMBER 197: They did not.

12 MS. BAHARAV: And ultimately was there a resolution to that case?

13 PROSPECTIVE JUROR NUMBER 197: No, there was not.

14 MS. BAHARAV: It's still an open they don't know who did it?

15 PROSPECTIVE JUROR NUMBER 197: Yeah -- no, they didn't -- we actually
16 recovered the safe. It was dropped off at a local casino. We called the Henderson
17 Police Department. They were informed of it. They just -- they didn't want do
18 anything with it. I just don't think they -- I -- we didn't feel like there was adequate
19 follow-up at all, so --

20 MS. BAHARAV: Okay. Now knowing that Henderson was the -- was the
21 entity responsible for the inadequate follow-up, are you going to hold that against
22 the Las Vegas Metropolitan Police Department?

23 PROSPECTIVE JUROR NUMBER 197: No.

24 MS. BAHARAV: Anything about that experience that you'll hold against the
25 Las Vegas Metropolitan Police Department?

Volume I - Page 70

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 197: No.

2 MS. BAHARAV: So if I have two officers coming in here, hopefully in
3 uniforms, maybe in regular clothing, you're just going to treat them like any other
4 witness?

5 PROSPECTIVE JUROR NUMBER 197: Yes.

6 MS. BAHARAV: They're not automatically at a disadvantage?

7 PROSPECTIVE JUROR NUMBER 197: No, they're not.

8 MS. BAHARAV: Okay, great. You also indicated that you were never
9 charged with a crime, however you were ultimately put in handcuffs?

10 PROSPECTIVE JUROR NUMBER 197: I was.

11 MS. BAHARAV: You understand how sometimes there can be a
12 detention without an actual arrest?

13 PROSPECTIVE JUROR NUMBER 197: I do.

14 MS. BAHARAV: And ultimately they did let you go in that case.

15 PROSPECTIVE JUROR NUMBER 197: They did.

16 MS. BAHARAV: Great. If you want to pass it down to Mr. Hill now? Didn't
17 ask all the questions so maybe I'll just bring it up this way.

18 Mr. Hill, have you ever seen the show CSI?

19 PROSPECTIVE JUROR NUMBER 052: Long time ago but yeah.

20 MS. BAHARAV: You familiar with the premise of CSI?

21 PROSPECTIVE JUROR NUMBER 052: Yes.

22 MS. BAHARAV: Basically you've got some really good looking people going
23 out there and solving all the crimes. Right?

24 PROSPECTIVE JUROR NUMBER 052: Yeah, in the case I sat through 14,
25 15 years ago, there was a lot of that kind of evidence.

Volume I - Page 71

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: All right. Now knowing that in the case you sat through 15 or
2 so years ago there was a lot of that evidence, are you expecting that evidence in
3 every case?

4 PROSPECTIVE JUROR NUMBER 052: I really don't have any expectations
5 at all --

6 MS. BAHARAV: All right.

7 PROSPECTIVE JUROR NUMBER 052: -- this point.

8 MS. BAHARAV: You understand that sometimes the State of Nevada doesn't
9 have fingerprints?

10 PROSPECTIVE JUROR NUMBER 052: I -- like I said, I -- it didn't cross my
11 mind until you just said so, yes.

12 MS. BAHARAV: Okay, and also sometimes they wouldn't have DNA. Said it
13 didn't cross your mind, but you'd understand that as well?

14 PROSPECTIVE JUROR NUMBER 052: Right.

15 MS. BAHARAV: Is there anything about your -- your knowledge of that case
16 from 15 years ago and some of these CSI shows that would make you require the
17 State to have that evidence to convict somebody?

18 PROSPECTIVE JUROR NUMBER 052: No, I'd have to listen.

19 MS. BAHARAV: And if we present testimony and photographs and things,
20 you'll be able to make a decision based upon that evidence?

21 PROSPECTIVE JUROR NUMBER 052: I'll go by whatever you bring.

22 MS. BAHARAV: Great. And you understand, obviously since you've done
23 this before, that everyone's entitled to a trial if -- if they would like one? No matter
24 what the charge is?

25 PROSPECTIVE JUROR NUMBER 052: Absolutely.

Volume I - Page 72

1 MS. BAHARAV: And as Mr. Barnett stands there today, the Judge told you
2 that he's innocent? Right?

3 PROSPECTIVE JUROR NUMBER 052: Yes.

4 MS. BAHARAV: And he's innocent unless the State proves that he's guilty.

5 PROSPECTIVE JUROR NUMBER 052: Right.

6 MS. BAHARAV: Do you have any issues with finding the Defendant guilty if
7 the State proves all of the elements of the crime beyond a reasonable doubt?

8 PROSPECTIVE JUROR NUMBER 052: No.

9 MS. BAHARAV: And if we fail to prove any of those elements beyond a
10 reasonable doubt, do you have any issues whatsoever finding him not guilty?

11 PROSPECTIVE JUROR NUMBER 052: No.

12 MS. BAHARAV: Now with regards to narcotics, do you believe that the
13 government should not intervene in the possession of narcotics of -- of individuals?

14 PROSPECTIVE JUROR NUMBER 052: Clarify that, please. Should not
15 intervene?

16 MS. BAHARAV: Yes, do you think that people should be allowed to possess
17 narcotics and the government should just stay out of it?

18 PROSPECTIVE JUROR NUMBER 052: No.

19 MS. BAHARAV: Why not?

20 PROSPECTIVE JUROR NUMBER 052: There's -- first of all --

21 MS. BAHARAV: Let me rephrase I guess.

22 PROSPECTIVE JUROR NUMBER 052: First of all depends which ones
23 you're talking about, first of all. Second of all --

24 MS. BAHARAV: Sure.

25 PROSPECTIVE JUROR NUMBER 052: -- there's just too many bad things

Volume I - Page 73

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 that can happen.

2 MS. BAHARAV: And you understand if the legislature determines that
3 possessing narcotics is a crime, that ultimately that is a crime in the State of
4 Nevada?

5 PROSPECTIVE JUROR NUMBER 052: Yeah, depends on what state you're
6 in, absolutely.

7 MS. BAHARAV: And if the Judge instructs you that these are -- this is a crime
8 in the State of Nevada, you'll look at the evidence based upon that?

9 PROSPECTIVE JUROR NUMBER 052: Right.

10 MS. BAHARAV: All right. Thank you.

11 Ms. Killebrew?

12 PROSPECTIVE JUROR NUMBER 093: Yes.

13 MS. BAHARAV: How are you, ma'am?

14 PROSPECTIVE JUROR NUMBER 093: Good, thanks.

15 MS. BAHARAV: Now you've indicated you're a civil attorney?

16 PROSPECTIVE JUROR NUMBER 093: Yes.

17 MS. BAHARAV: And you understand obviously that the burden of proof is a
18 little bit different?

19 PROSPECTIVE JUROR NUMBER 093: Yes.

20 MS. BAHARAV: State has to prove all the elements beyond a reasonable
21 doubt?

22 PROSPECTIVE JUROR NUMBER 093: Right.

23 MS. BAHARAV: And the Judge will instruct you on the elements of
24 reasonable doubt.

25 PROSPECTIVE JUROR NUMBER 093: Yes.

Volume I - Page 74

1 MS. BAHARAV: Do you believe that you could follow the law as explained to
2 you by the Judge?

3 PROSPECTIVE JUROR NUMBER 093: Yes.

4 MS. BAHARAV: And even though you do have some of this other knowledge
5 of the law, you would be able to look at the elements presented by the Judge and
6 follow the law?

7 PROSPECTIVE JUROR NUMBER 093: Yes.

8 MS. BAHARAV: Now any of the questions I asked either Mr. Gunderson or
9 Mr. Hill that you'd like to answer?

10 PROSPECTIVE JUROR NUMBER 093: The only one was probably in
11 reference to being a victim of a crime.

12 MS. BAHARAV: Yes.

13 PROSPECTIVE JUROR NUMBER 093: And I referenced that earlier, so
14 nothing else.

15 MS. BAHARAV: Nothing else?

16 PROSPECTIVE JUROR NUMBER 093: No.

17 MS. BAHARAV: Okay, thank you, ma'am.

18 PROSPECTIVE JUROR NUMBER 093: Sure.

19 MS. BAHARAV: If you want to pass it down to Mr. Velasco?

20 How are you, sir?

21 PROSPECTIVE JUROR NUMBER 185: Doing good.

22 MS. BAHARAV: Mr. Velasco, you indicated earlier that you're a food server at
23 Delmonico's?

24 PROSPECTIVE JUROR NUMBER 185: Yes.

25 MS. BAHARAV: They have pretty delicious food there.

1 PROSPECTIVE JUROR NUMBER 185: I never tasted it.

2 MS. BAHARAV: What? Ah man.

3 PROSPECTIVE JUROR NUMBER 185: They don't let us --

4 MS. BAHARAV: Well, I don't get to taste it very often, but I've heard it's
5 amazing. You've heard some of the questions that I've asked some of the other
6 individuals. Specifically with regards to the CSI question, is there anything about all
7 the information I went over with Mr. Hill that kind of stands out to you that you'd want
8 to comment on?

9 PROSPECTIVE JUROR NUMBER 185: I never watch the show.

10 MS. BAHARAV: Never ever?

11 PROSPECTIVE JUROR NUMBER 185: No.

12 MS. BAHARAV: So you're not aware that these crime scene analysts are
13 running around in high heels?

14 PROSPECTIVE JUROR NUMBER 185: I never see that.

15 MS. BAHARAV: All right. Okay. Just checking. With regards to my question
16 about narcotics, do you believe that if the Judge instructs you that it's a crime to
17 possession narcotics that you could follow that law?

18 PROSPECTIVE JUROR NUMBER 185: Yes.

19 MS. BAHARAV: And whatever the instructions are given to you by the Court
20 that you'd put aside whatever personal feelings you have about that and -- and
21 follow what the Judge says?

22 PROSPECTIVE JUROR NUMBER 185: Yes.

23 MS. BAHARAV: Anything about what I just said that gives you a problem?

24 PROSPECTIVE JUROR NUMBER 185: No.

25 MS. BAHARAV: Do you want to be on the jury?

Volume I - Page 76

1 PROSPECTIVE JUROR NUMBER 185: Not really.

2 MS. BAHARAV: Why not?

3 PROSPECTIVE JUROR NUMBER 185: I rather be at work. I work for tips.

4 MS. BAHARAV: What's your normal schedule?

5 PROSPECTIVE JUROR NUMBER 185: I start at 4:30 and I don't get out till
6 like one.

7 MS. BAHARAV: If we're finishing approximately five today and we'll be done
8 by five tomorrow, assuming we go into tomorrow, would that be something that you
9 could be able to do --

10 PROSPECTIVE JUROR NUMBER 185: They -- they start you off as soon as
11 you get in there so if I go in at five, I'm still getting a cut. I don't get the full cut.

12 MS. BAHARAV: Okay. Is knowing that you're going to be missing out on
13 some of the money going to give you I guess trouble paying attention to what's
14 going on --

15 PROSPECTIVE JUROR NUMBER 185: Yeah, because I got a newborn on
16 the way and I need save up the money while she goes in labor.

17 MS. BAHARAV: Okay. So if you think if you sit here you'll have a hard time
18 paying attention because you'll be thinking about your baby?

19 PROSPECTIVE JUROR NUMBER 185: Yes.

20 MS. BAHARAV: All right. Thank you, sir, if you want to pass it down.

21 Mr. Gordon. How are you, sir?

22 PROSPECTIVE JUROR NUMBER 186: I'm old.

23 MS. BAHARAV: Seems to be a common theme that we're talking about --

24 PROSPECTIVE JUROR NUMBER 186: But other than that, I'm fine.

25 MS. BAHARAV: Great. You indicated earlier that you're an electrical

1 contractor?

2 PROSPECTIVE JUROR NUMBER 186: I retired many, many, many years
3 ago.

4 MS. BAHARAV: How long did you do that, sir?

5 PROSPECTIVE JUROR NUMBER 186: I retired when I was 31.

6 MS. BAHARAV: Well done. Jealous. Okay, so what have you been doing
7 since you -- retiring, travel?

8 PROSPECTIVE JUROR NUMBER 186: Fishing.

9 MS. BAHARAV: Also well done. I just -- I have nothing else to add to that.
10 That's amazing. You heard some of the questions I asked earlier. Specifically with
11 regards to narcotics, do you think that the government if -- if the government's
12 decided that something's a crime, especially if it's possession of narcotics, do you
13 think the government should stay out of it or do you agree that if they say it's a
14 crime, it's a crime?

15 PROSPECTIVE JUROR NUMBER 186: No, I think it's got to be stopped. I'd
16 turn in my own grandkids for doing drugs, so --

17 MS. BAHARAV: All right. Knowing that this is a narcotics case, however, are
18 you going to hold that personal view you have about turning them in against the
19 Defendant?

20 PROSPECTIVE JUROR NUMBER 186: Like I say, I'm -- I'm a hundred
21 percent anti-drug -- old timer.

22 MS. BAHARAV: All right. If the Judge instructs you on the elements of the
23 crimes and the State fails to meet their burden, you have any problem finding the
24 Defendant not guilty?

25 PROSPECTIVE JUROR NUMBER 186: No.

Volume I - Page 78

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: So you understand that the State must prove the charge
2 against the Defendant, right?

3 PROSPECTIVE JUROR NUMBER 186: Yeah, I've seen all the CSI's.

4 MS. BAHARAV: Great. All right, so now that I know that there's one of you
5 here, are you a person that will require the State to present fingerprint evidence?

6 PROSPECTIVE JUROR NUMBER 186: No.

7 MS. BAHARAV: What about DNA evidence?

8 PROSPECTIVE JUROR NUMBER 186: Not in this case.

9 MS. BAHARAV: Okay. You understand that if there's some witnesses up
10 there that testify that you can take what they have to say, as well as any
11 photographs we present, and make a decision just based on that?

12 PROSPECTIVE JUROR NUMBER 186: Photographs are good. People's
13 words I -- come and go. Like I said, I've known a lot of cops, a lot of good ones, a
14 lot of bad ones, so --

15 MS. BAHARAV: If the Judge instructs you that you have to use your
16 everyday common sense and judge the credibility of those witnesses, do you have
17 any problem doing that?

18 PROSPECTIVE JUROR NUMBER 186: I got here doing that.

19 MS. BAHARAV: Good job. If you think that they're telling the truth, will you
20 be able to convict the Defendant if we prove the elements of the crime?

21 PROSPECTIVE JUROR NUMBER 186: Without a doubt.

22 MS. BAHARAV: Thank you, sir. Anyone in your family ever been accused of
23 a crime?

24 PROSPECTIVE JUROR NUMBER 186: Yeah.

25 MS. BAHARAV: What kind of crime, sir?

1 PROSPECTIVE JUROR NUMBER 186: Well I got one son that's doing life.
2 Got multiple arrests for assault --

3 MS. BAHARAV: Various things?

4 PROSPECTIVE JUROR NUMBER 186: -- bar room assaults.

5 MS. BAHARAV: Knowing that you have a family member that -- were they
6 prosecuted by the Clark County District Attorney's Office?

7 PROSPECTIVE JUROR NUMBER 186: No.

8 MS. BAHARAV: Okay. Different state or different jurisdiction?

9 PROSPECTIVE JUROR NUMBER 186: Correct.

10 MS. BAHARAV: All right. Anything about the prosecution in that other
11 jurisdiction that you'll hold against Mr. Giles or I?

12 PROSPECTIVE JUROR NUMBER 186: Not a bit.

13 MS. BAHARAV: You don't recognize us, do you?

14 PROSPECTIVE JUROR NUMBER 186: Not a bit.

15 MS. BAHARAV: All right. Thank you, sir. Can pass the -- the microphone.

16 Ms. Fernandez, how are you, ma'am?

17 PROSPECTIVE JUROR NUMBER 187: I'm good.

18 MS. BAHARAV: Great. You indicated that you're a manager at Macy's at
19 Fashion Show?

20 PROSPECTIVE JUROR NUMBER 187: Correct.

21 MS. BAHARAV: As a manager at Macy's, have you come into contact the
22 Las Vegas Metropolitan Police Department before --

23 PROSPECTIVE JUROR NUMBER 187: On occasion, yes.

24 MS. BAHARAV: Anything about your contact with them, most probably for
25 shoplifting, that will color your ability to listen to the evidence?

Volume I - Page 80

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 187: No.

2 MS. BAHARAV: You understand that just like Mr. Gordon said that cops are
3 everyday people, too?

4 PROSPECTIVE JUROR NUMBER 187: Correct.

5 MS. BAHARAV: And you can listen to whatever evidence they present and
6 make a decision yourself?

7 PROSPECTIVE JUROR NUMBER 187: Correct.

8 MS. BAHARAV: You heard my question earlier about anyone in your family
9 accused of a crime. Have you had anyone in your family --

10 PROSPECTIVE JUROR NUMBER 187: No.

11 MS. BAHARAV: And what about anyone in your family the victim of a crime?

12 PROSPECTIVE JUROR NUMBER 187: No.

13 MS. BAHARAV: Do you watch CSI?

14 PROSPECTIVE JUROR NUMBER 187: I do.

15 MS. BAHARAV: Okay. Are you a person that believes that we must have
16 fingerprints and DNA in every case?

17 PROSPECTIVE JUROR NUMBER 187: No.

18 MS. BAHARAV: You understand how sometimes that's not possible?

19 PROSPECTIVE JUROR NUMBER 187: Correct.

20 MS. BAHARAV: Is that evidence that you would require of the State to
21 convict?

22 PROSPECTIVE JUROR NUMBER 187: No.

23 MS. BAHARAV: All right. You want to be on this jury?

24 PROSPECTIVE JUROR NUMBER 187: Sure.

25 MS. BAHARAV: Why?

1 PROSPECTIVE JUROR NUMBER 187: Haven't had -- haven't had an
2 opportunity to sit on one before. I mean it's -- it's our civil (sic) responsibility.

3 MS. BAHARAV: It -- indeed it is and without you we can't actually go forward
4 with any of the constitutional requirements, so we're thankful that you're here. If you
5 want to pass it over now, thank you, ma'am.

6 Mr. Vidovic?

7 PROSPECTIVE JUROR NUMBER 188: Yes.

8 MS. BAHARAV: Did I say that correctly?

9 PROSPECTIVE JUROR NUMBER 188: Vidovich (phonetic).

10 MS. BAHARAV: Vidovich. H. You said that you are a butler at the MGM.

11 PROSPECTIVE JUROR NUMBER 188: Yes.

12 MS. BAHARAV: So you probably come into contact with some crazy requests
13 sometimes?

14 PROSPECTIVE JUROR NUMBER 188: Very often.

15 MS. BAHARAV: You understand that -- you even talked a little bit about this
16 earlier, specifically with regards to my narcotics question. You understand that if the
17 State of Nevada has determined that this is a crime that if you're instructed that it's a
18 crime, would you have any problem finding the Defendant guilty if we prove it?

19 PROSPECTIVE JUROR NUMBER 188: No, facts won't lie.

20 MS. BAHARAV: Okay. And you understand too that as he stands right now
21 he's not guilty?

22 PROSPECTIVE JUROR NUMBER 188: I understand that.

23 MS. BAHARAV: If I were just to talk to you all, then rest my case and present
24 no evidence, he's still not guilty.

25 PROSPECTIVE JUROR NUMBER 188: I understand.

Volume I - Page 82

1 MS. BAHARAV: Okay. Any problem with that premise whatsoever?

2 PROSPECTIVE JUROR NUMBER 188: No, just in the past the times that like
3 everybody -- I don't know if everybody experienced it but high school, college you
4 experiment with drugs. Anytime you did it, you had possession, you knew what was
5 going on.

6 MS. BAHARAV: Well isn't it also possible that there's other explanations for
7 things as well?

8 PROSPECTIVE JUROR NUMBER 188: There is. In my personal experience
9 there wasn't, but there always is.

10 MS. BAHARAV: And so as you sit here right now you have no idea if there's
11 another explanation for what happened, right?

12 PROSPECTIVE JUROR NUMBER 188: No.

13 MS. BAHARAV: And ultimately it'll be the State's responsibility to provide the
14 evidence to you?

15 PROSPECTIVE JUROR NUMBER 188: Yes.

16 MS. BAHARAV: And if we present all of the evidence beyond a reasonable
17 doubt, will -- do you have any problem convicting the Defendant?

18 PROSPECTIVE JUROR NUMBER 188: No problem.

19 MS. BAHARAV: If we fail to present all of that evidence, do you have any
20 problem finding him not guilty?

21 PROSPECTIVE JUROR NUMBER 188: No.

22 MS. BAHARAV: With regards to the questions I had a little bit -- do you want
23 to be on the jury?

24 PROSPECTIVE JUROR NUMBER 188: Yes.

25 MS. BAHARAV: Why?

1 PROSPECTIVE JUROR NUMBER 188: It'll be fun. First time so it'll be a
2 good experience.

3 MS. BAHARAV: Do you like engaging in dialogue with other people?

4 PROSPECTIVE JUROR NUMBER 188: Yes.

5 MS. BAHARAV: And coming to a decision together as a group?

6 PROSPECTIVE JUROR NUMBER 188: Yes.

7 MS. BAHARAV: Have you seen the CSI show?

8 PROSPECTIVE JUROR NUMBER 188: On and off.

9 MS. BAHARAV: Anything about that show that you want to talk about right
10 now?

11 PROSPECTIVE JUROR NUMBER 188: No.

12 MS. BAHARAV: Not want -- not interested in high heels? The solving crime
13 within 30 minutes?

14 PROSPECTIVE JUROR NUMBER 188: Not at all.

15 MS. BAHARAV: All right, good. You want to pass it over now to Mr. Clayton.

16 Hi, sir, how are you?

17 PROSPECTIVE JUROR NUMBER 189: Good, how are you?

18 MS. BAHARAV: Good. So I know that you're a Nevada state trooper. Do Mr.
19 Giles or I look familiar to you?

20 PROSPECTIVE JUROR NUMBER 189: No.

21 MS. BAHARAV: All right. You've never testified for us before?

22 PROSPECTIVE JUROR NUMBER 189: No.

23 MS. BAHARAV: So as we stand here right now we're just basically neutral
24 people hanging out?

25 PROSPECTIVE JUROR NUMBER 189: Correct.

Volume I - Page 84

1 MS. BAHARAV: I understand that you are a trooper, but is there anything
2 about that job that won't allow you to listen to all of the evidence before you make a
3 decision?

4 PROSPECTIVE JUROR NUMBER 189: No, other than my past experience
5 with drug interdiction in the north part of the state.

6 MS. BAHARAV: And that's fair, and we're not asking you to put all of your
7 common sense at the door. What we're asking is that you remain fair and impartial
8 in the sense that you have to listen to all of the evidence that's presented before you
9 come to any conclusions. Can you do that?

10 PROSPECTIVE JUROR NUMBER 189: Yes.

11 MS. BAHARAV: And you understand that officers are just people as well?

12 PROSPECTIVE JUROR NUMBER 189: Yes.

13 MS. BAHARAV: Have any problem judging credibility of other officers
14 knowing that you yourself are one?

15 PROSPECTIVE JUROR NUMBER 189: No.

16 MS. BAHARAV: Okay, if you find that one of these officers is not telling the
17 truth, will you have any issues finding the Defendant not guilty?

18 PROSPECTIVE JUROR NUMBER 189: No.

19 MS. BAHARAV: And if the State fails to meet its burden, will you have any
20 issues finding the Defendant not guilty?

21 PROSPECTIVE JUROR NUMBER 189: No.

22 MS. BAHARAV: Now you, sir, are familiar with CSI; is that correct?

23 PROSPECTIVE JUROR NUMBER 189: Yeah, but I don't watch it.

24 MS. BAHARAV: But you actually have interactions with the real CSA's?

25 PROSPECTIVE JUROR NUMBER 189: I do. Yeah.

1 MS. BAHARAV: And you know sometimes they come to scene to assist in
2 the investigation, right?

3 PROSPECTIVE JUROR NUMBER 189: Yes. I work with Metro very closely
4 in Searchlight and Laughlin.

5 MS. BAHARAV: You know sometimes CSA's also do not come to scenes,
6 correct?

7 PROSPECTIVE JUROR NUMBER 189: Yes.

8 MS. BAHARAV: And you understand that sometimes they're not called out to
9 the scene because they're not necessary?

10 PROSPECTIVE JUROR NUMBER 189: Correct.

11 MS. BAHARAV: Now with regards to being on this jury, do you want to be on
12 the jury?

13 PROSPECTIVE JUROR NUMBER 189: Not particularly.

14 MS. BAHARAV: Why not?

15 PROSPECTIVE JUROR NUMBER 189: I spend enough time in court.

16 MS. BAHARAV: Okay. You don't like us? You don't want to visit?

17 PROSPECTIVE JUROR NUMBER 189: Not on this side of it.

18 MS. BAHARAV: All right. But if you are chosen to be a juror, will you be able
19 to sit there and pay attention to the evidence that's presented and come to a
20 conclusion?

21 PROSPECTIVE JUROR NUMBER 189: Yes.

22 MS. BAHARAV: Anything -- anyone in your family ever been accused of a
23 crime?

24 PROSPECTIVE JUROR NUMBER 189: Other than traffic, no.

25 MS. BAHARAV: Okay, and anyone in your family ever been the victim of a

1 crime?

2 PROSPECTIVE JUROR NUMBER 189: No.

3 MS. BAHARAV: All right. Thank you, sir. Pass it down.

4 Ms. Bermudez? Did I say that correctly?

5 PROSPECTIVE JUROR NUMBER 190: (No audible response.)

6 MS. BAHARAV: Great. Ma'am, you indicated that you work for an insurance
7 company?

8 PROSPECTIVE JUROR NUMBER 190: Uh-huh.

9 MS. BAHARAV: And usually you're at work probably now, right?

10 PROSPECTIVE JUROR NUMBER 190: Uh-huh.

11 MS. BAHARAV: Knowing that we'll hopefully be done either today or
12 tomorrow with evidence, do you have any issues kind of sitting here and listening to
13 all of the evidence that's being presented?

14 PROSPECTIVE JUROR NUMBER 190: No.

15 MS. BAHARAV: Any of the questions I asked previously to the other panel
16 members that you wanted to talk about?

17 PROSPECTIVE JUROR NUMBER 190: No.

18 MS. BAHARAV: Well now I got to pick on you then because you didn't pick
19 one of your own. Anyone in your family ever been accused of a crime?

20 PROSPECTIVE JUROR NUMBER 190: No.

21 MS. BAHARAV: Anyone in your family ever been the victim of a crime?

22 PROSPECTIVE JUROR NUMBER 190: Yes.

23 MS. BAHARAV: And what was that?

24 PROSPECTIVE JUROR NUMBER 190: Sexual assault.

25 MS. BAHARAV: Do you know if that case went to trial?

Volume I - Page 87

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 190: It did.
2 MS. BAHARAV: Were you paying attention to what was going on?
3 PROSPECTIVE JUROR NUMBER 190: No. It was in California.
4 MS. BAHARAV: Did you have contact with family members that were kind of
5 involved in that trial?
6 PROSPECTIVE JUROR NUMBER 190: Yeah.
7 MS. BAHARAV: Do you think that the trial -- that they were treated fairly, your
8 family members?
9 PROSPECTIVE JUROR NUMBER 190: Yeah.
10 MS. BAHARAV: And ultimately was that person convicted?
11 PROSPECTIVE JUROR NUMBER 190: Uh-huh.
12 MS. BAHARAV: Okay. Anything about that experience that you'll hold
13 against the State of Nevada?
14 PROSPECTIVE JUROR NUMBER 190: No.
15 MS. BAHARAV: And what about the --- Mr. Barnett? Anything you'll hold
16 against him?
17 PROSPECTIVE JUROR NUMBER 190: No.
18 MS. BAHARAV: Great.
19 THE MARSHAL: Put the mic up closer to your mouth.
20 PROSPECTIVE JUROR NUMBER 190: Oh.
21 THE MARSHAL: Thank you.
22 MS. BAHARAV: Yeah, sorry. We have to use our outside voices so she can
23 hear us. With regards to CSA, that show -- crime scene analyst show, have you
24 watched that before?
25 PROSPECTIVE JUROR NUMBER 190: Yeah.

Volume I - Page 88

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: All right. What's your favorite part of the show?
2 PROSPECTIVE JUROR NUMBER 190: All of it.
3 MS. BAHARAV: All of it?
4 PROSPECTIVE JUROR NUMBER 190: I'm a big fan.
5 MS. BAHARAV: Including the really good looking people running around in
6 shoes?
7 PROSPECTIVE JUROR NUMBER 190: Yeah.
8 MS. BAHARAV: Okay. You know that most of us that are involved in law
9 enforcement are not that good looking --
10 PROSPECTIVE JUROR NUMBER 190: Yeah.
11 MS. BAHARAV: -- and we don't run around in high heeled shoes trying to find
12 criminals?
13 PROSPECTIVE JUROR NUMBER 190: Yeah.
14 MS. BAHARAV: Right?
15 PROSPECTIVE JUROR NUMBER 190: Uh-huh.
16 MS. BAHARAV: And you understand that crime scene analysts are actually
17 just there to collect evidence, they're not actually there to solve the crime?
18 PROSPECTIVE JUROR NUMBER 190: Yeah.
19 MS. BAHARAV: Okay. Anything about your -- your appeal to that show or
20 you -- you like that show that you'll hold against the State of Nevada?
21 PROSPECTIVE JUROR NUMBER 190: No.
22 MS. BAHARAV: Will you require fingerprints or DNA or anything?
23 PROSPECTIVE JUROR NUMBER 190: In some cases.
24 MS. BAHARAV: Okay. But you'll listen to the evidence that's presented,
25 right?

Volume I - Page 89

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 190: Yeah.

2 MS. BAHARAV: And if we don't have those things but we have other
3 evidence and we're able to prove beyond a reasonable doubt, will you be able to
4 find the Defendant guilty?

5 PROSPECTIVE JUROR NUMBER 190: Yes.

6 MS. BAHARAV: Okay. Do you believe that if the government has decided
7 that -- that possessing narcotics is a crime that you'll be able to follow the law even if
8 you disagree with it?

9 PROSPECTIVE JUROR NUMBER 190: Yes.

10 MS. BAHARAV: Okay. Anything else you want to tell me?

11 PROSPECTIVE JUROR NUMBER 190: No.

12 MS. BAHARAV: Want to be on the jury?

13 PROSPECTIVE JUROR NUMBER 190: Sure.

14 MS. BAHARAV: All right. Great. Thanks. Pass it on down.

15 Ms. Culley-Miller? How are you?

16 PROSPECTIVE JUROR NUMBER 192: I'm good.

17 MS. BAHARAV: Good. You indicated you're testing for Metro in April?

18 PROSPECTIVE JUROR NUMBER 192: That's correct.

19 MS. BAHARAV: And you want to be a dispatcher.

20 PROSPECTIVE JUROR NUMBER 192: Yes.

21 MS. BAHARAV: Okay. So as a dispatcher you're somebody that's taking the
22 calls as they come in and then kind of dispatching the police officers out.

23 PROSPECTIVE JUROR NUMBER 192: That's correct.

24 MS. BAHARAV: Anything about your desire to be with the Las Vegas
25 Metropolitan Police Department that you'll hold against the Defendant here today?

Volume I - Page 90

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 192: Absolutely not.

2 MS. BAHARAV: And you're -- you're comfortable listening to officers who
3 work for the Las Vegas Metropolitan Police Department, correct?

4 PROSPECTIVE JUROR NUMBER 192: Yes.

5 MS. BAHARAV: And if they appear to you not to be telling the truth, do you
6 have any issues finding the Defendant not guilty?

7 PROSPECTIVE JUROR NUMBER 192: I have no issue at all.

8 MS. BAHARAV: Great. You've indicated also that in the -- in the 80's you'd
9 been accused of some things but they were all dropped?

10 PROSPECTIVE JUROR NUMBER 192: That is correct. Made national news.
11 Big arrest. Las Vegas. Family has been arrested for possession of marijuana.
12 Those charges were dropped and that was due to jury and for it being handled right.
13 It was failure to be able to produce enough evidence against my family and myself
14 to convict.

15 MS. BAHARAV: So you understand how the process can work then?

16 PROSPECTIVE JUROR NUMBER 192: Absolutely.

17 MS. BAHARAV: And you understand the important role that you'll all play in
18 whether or not the State meets its burden against the Defendant?

19 PROSPECTIVE JUROR NUMBER 192: That is correct.

20 MS. BAHARAV: And you have no issues whatsoever finding him guilty if we
21 do meet that burden?

22 PROSPECTIVE JUROR NUMBER 192: That is correct.

23 MS. BAHARAV: And just like what happened to your family, no issues
24 whatsoever finding him not guilty if we do not meet our burden.

25 PROSPECTIVE JUROR NUMBER 192: That is correct.

1 MS. BAHARAV: Now you've indicated that it had a little bit to do with
2 possession of marijuana. Are you a person that thinks that the government should
3 just kind of stay out of possession of narcotics?

4 PROSPECTIVE JUROR NUMBER 192: I think that the government needs to
5 control for narcotics. There are a lot of bad things that happen. There should be
6 regulations. I believe in regulations. Do I believe in medical marijuana? Yes, I do.
7 I believe that there are good things for that, but I've been on both sides of it and I --
8 just my opinion is that yes, things need to be regulated.

9 MS. BAHARAV: And you understand this is not a marijuana case?

10 PROSPECTIVE JUROR NUMBER 192: I understand that.

11 MS. BAHARAV: Okay. And if the Judge instructs you that it's a -- it's a
12 violation of Nevada law to possess narcotics, you have no issues whatsoever taking
13 that instruction and deliberating on that law?

14 PROSPECTIVE JUROR NUMBER 192: That is correct.

15 MS. BAHARAV: Great. Do you want be on the jury? I don't know if I asked
16 this --

17 PROSPECTIVE JUROR NUMBER 192: Yes.

18 MS. BAHARAV: Why?

19 PROSPECTIVE JUROR NUMBER 192: I'd like to fulfill my civil (sic) duty.

20 MS. BAHARAV: Great. Okay, thank you.

21 Ms. Arnell? Got it?

22 PROSPECTIVE JUROR NUMBER 193: Yes.

23 MS. BAHARAV: How are you, ma'am?

24 PROSPECTIVE JUROR NUMBER 193: Good, thanks.

25 MS. BAHARAV: Good. Now you've indicated you're a homemaker and you

1 have some -- some children?

2 PROSPECTIVE JUROR NUMBER 193: Two.

3 MS. BAHARAV: How old are they?

4 PROSPECTIVE JUROR NUMBER 193: Fifteen and 16.

5 MS. BAHARAV: Okay. So if you have to be here till five or so, they're okay
6 on their own for a little bit?

7 PROSPECTIVE JUROR NUMBER 193: Yeah.

8 MS. BAHARAV: All right. Hopefully not much past five, but just to make sure
9 that -- that it shouldn't be a problem --

10 PROSPECTIVE JUROR NUMBER 193: They have their dad.

11 MS. BAHARAV: Oh good, okay. Now with regards to the questions I've
12 already asked, do you watch the show CSI?

13 PROSPECTIVE JUROR NUMBER 193: I used to a long time ago till the one
14 guy left and then it got stupid.

15 MS. BAHARAV: Yeah, right? I know. It's okay. They -- they always leave.
16 But you understand that all the things I've been saying I don't need to reiterate --

17 PROSPECTIVE JUROR NUMBER 193: Right.

18 MS. BAHARAV: -- a million times. Anything about the stuff that we've been
19 talking about earlier that you kind of want to talk about in regards to the show CSI?

20 PROSPECTIVE JUROR NUMBER 193: No, I mean fact -- nonfiction is
21 nonfiction and fiction is fiction and anything on TV is fiction so I wouldn't expect real
22 police officers to do the same thing that fictional story written police officers do just
23 like I wouldn't expect real people to do the same things that book people do.

24 MS. BAHARAV: Right. So you have no issues whatsoever if the State
25 doesn't present DNA or fingerprint evidence?

Volume I - Page 93

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 193: Right.

2 MS. BAHARAV: All right. Now with regards to my question about narcotics,
3 you've heard me ask it various ways. Are you a person that believes the
4 government should just stay out of people possessing narcotics?

5 PROSPECTIVE JUROR NUMBER 193: The current law is that if you
6 possess some, it's a crime, so it doesn't matter what I think.

7 MS. BAHARAV: Okay. And even if you disagree with the law, you have no
8 issues following the law?

9 PROSPECTIVE JUROR NUMBER 193: The law is the law regardless of your
10 opinion and if you have an opinion that the law should be different, then you should
11 change the law.

12 MS. BAHARAV: Right, you should join the legislature, right, like --

13 PROSPECTIVE JUROR NUMBER 193: Right.

14 MS. BAHARAV: -- the Judge instructed earlier? So with regards to this case,
15 if Judge -- if the Judge instructs you on the law, you have no issues following it?

16 PROSPECTIVE JUROR NUMBER 193: Right.

17 MS. BAHARAV: And if the State meets its burden beyond a reasonable
18 doubt, no problems whatsoever?

19 PROSPECTIVE JUROR NUMBER 193: Right.

20 MS. BAHARAV: Great. You want to be on the jury?

21 PROSPECTIVE JUROR NUMBER 193: I don't know.

22 MS. BAHARAV: Why not?

23 PROSPECTIVE JUROR NUMBER 193: The ramps are really hard to get up
24 and down.

25 MS. BAHARAV: Uh-huh. Well I think --

1 PROSPECTIVE JUROR NUMBER 193: Really?

2 MS. BAHARAV: Oh, in terms of being in the -- in the box?

3 PROSPECTIVE JUROR NUMBER 193: No, I mean in terms of get -- coming
4 and leaving the courthouse.

5 MS. BAHARAV: They are very steep.

6 PROSPECTIVE JUROR NUMBER 193: So -- but I -- I've been on a jury
7 before. It was fine. It's part of my duty as a citizen. I have no problems with it. It's
8 just physically taxing with my current situation, but if I'm picked, then, you know,
9 maybe somebody -- I can have a helper get me up the ramps.

10 MS. BAHARAV: And I'm sure they'll make reasonable accommodations and
11 as soon as you let them know that that's a problem, I'm sure they'll help you out with
12 that.

13 PROSPECTIVE JUROR NUMBER 193: Right.

14 MS. BAHARAV: If they're able to do that, no issues sitting on a jury?

15 PROSPECTIVE JUROR NUMBER 193: None.

16 MS. BAHARAV: All right. Great. Okay, thank you. Can pass it over.

17 Okay. Ms. Pinto?

18 PROSPECTIVE JUROR NUMBER 198: Yes.

19 MS. BAHARAV: How are you, ma'am?

20 PROSPECTIVE JUROR NUMBER 198: Good and yourself?

21 MS. BAHARAV: Good, thank you. So you've heard me ask a whole bunch of
22 questions.

23 PROSPECTIVE JUROR NUMBER 198: Yes.

24 MS. BAHARAV: Any of those questions kind of stand out to you right now
25 that you want to answer?

1 PROSPECTIVE JUROR NUMBER 198: I just had a question. When you
2 said if any other family was, you know, because I have a cousin that was sentenced
3 for 25 years in prison.

4 MS. BAHARAV: Okay.

5 PROSPECTIVE JUROR NUMBER 198: So I don't know if it was immediate
6 family or just, you know, because it was a cousin that was --

7 MS. BAHARAV: Were you close with your cousin?

8 PROSPECTIVE JUROR NUMBER 198: Yes. We grew up together.

9 MS. BAHARAV: And do you know if that happened here Clark County --

10 PROSPECTIVE JUROR NUMBER 198: It was in California.

11 MS. BAHARAV: Okay. So you know that that's a completely separate --

12 PROSPECTIVE JUROR NUMBER 198: Yes.

13 MS. BAHARAV: -- jurisdiction, right?

14 PROSPECTIVE JUROR NUMBER 198: Yes.

15 MS. BAHARAV: And we -- I don't think Mr. Giles was practicing in California
16 so neither of us have had anything to do with your cousin's prosecution?

17 PROSPECTIVE JUROR NUMBER 198: No.

18 MS. BAHARAV: So knowing that we're not connected to that prosecution
19 whatsoever, you have no reason to believe that -- or you wouldn't hold it against us,
20 would you --

21 PROSPECTIVE JUROR NUMBER 198: No.

22 MS. BAHARAV: Okay. And you certainly wouldn't hold it against Mr. Barnett,
23 right?

24 PROSPECTIVE JUROR NUMBER 198: No, I won't.

25 MS. BAHARAV: What about the officers that testify, would -- do you have any

1 concerns about listening to the testimony of officers knowing that your cousin had
2 been convicted of a crime?

3 PROSPECTIVE JUROR NUMBER 198: No, that would be -- I'll be able to,
4 you know, listen to the evidence.

5 MS. BAHARAV: Okay.

6 PROSPECTIVE JUROR NUMBER 198: Yes.

7 MS. BAHARAV: And if they testify and you believe them, you have no
8 problem finding the Defendant guilty if we meet all of the elements beyond a
9 reasonable doubt --

10 PROSPECTIVE JUROR NUMBER 198: That is correct.

11 MS. BAHARAV: Great. Anyone in your family been the victim of a crime?

12 PROSPECTIVE JUROR NUMBER 198: No, just my cousin.

13 MS. BAHARAV: With the -- accused of a crime.

14 PROSPECTIVE JUROR NUMBER 198: Yes.

15 MS. BAHARAV: You've heard my questions about narcotics. Anything --
16 knowing that the government has decided that that's a crime, anything about that
17 that kind of stands out to you?

18 PROSPECTIVE JUROR NUMBER 198: No, I believe they do the right thing.
19 You know, that's for everybody's protection.

20 MS. BAHARAV: Okay. And if the Judge instructs you on the law, you have
21 no issues following it?

22 PROSPECTIVE JUROR NUMBER 198: No, I don't.

23 MS. BAHARAV: Do you want to be on the jury?

24 PROSPECTIVE JUROR NUMBER 198: Yeah, it looks like it -- it's exciting,
25 something -- experience something new.

Volume I - Page 97

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Okay.

2 PROSPECTIVE JUROR NUMBER 198: Like I said, I was in the panel before
3 but I got taken out in California.

4 MS. BAHARAV: Okay.

5 PROSPECTIVE JUROR NUMBER 198: But they don't tell you why they take
6 you out.

7 MS. BAHARAV: Okay. Did you always tell them that your cousin had been
8 the --

9 PROSPECTIVE JUROR NUMBER 198: This didn't happen -- it just
10 happened like couple years ago, but when I was a juror in California, that was like --
11 that was like 10 years ago.

12 MS. BAHARAV: Okay.

13 PROSPECTIVE JUROR NUMBER 198: Yeah.

14 MS. BAHARAV: Okay. Well, anything you want to tell us? You want -- if you
15 were sitting where Mr. Giles and I were sitting, would you like someone like yourself
16 on the panel?

17 PROSPECTIVE JUROR NUMBER 198: Sure.

18 MS. BAHARAV: Why?

19 PROSPECTIVE JUROR NUMBER 198: I don't know, I just like want to be
20 like -- it's interesting hearing all that stuff, you know what I mean?

21 MS. BAHARAV: Uh-huh. I do.

22 PROSPECTIVE JUROR NUMBER 198: Yeah.

23 MS. BAHARAV: If you were sitting where Mr. Barnett is sitting, would you like
24 someone like yourself on the panel?

25 PROSPECTIVE JUROR NUMBER 198: Yes.

Volume I - Page 98

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Why?

2 PROSPECTIVE JUROR NUMBER 198: Because I'm neutral. I just here --
3 here to do my civil rights and listen to everybody's, you know, opinion and what they
4 have done. I mean my -- because my cousin I think he was just -- you know, I think
5 he was convicted but he was -- I don't think they had enough evidence on him.

6 MS. BAHARAV: Got it.

7 PROSPECTIVE JUROR NUMBER 198: So --

8 MS. BAHARAV: So you understand that if the Judge instructs you on the law
9 regarding reasonable doubt, that you'll -- that it's the law --

10 PROSPECTIVE JUROR NUMBER 198: Yes.

11 MS. BAHARAV: -- regarding reasonable doubt --

12 PROSPECTIVE JUROR NUMBER 198: Yes.

13 MS. BAHARAV: -- and you must follow whatever the Judge says?

14 PROSPECTIVE JUROR NUMBER 198: Yes.

15 MS. BAHARAV: So are you somebody that's going to require, you know,
16 video proof of all of that stuff to find someone guilty?

17 PROSPECTIVE JUROR NUMBER 198: No.

18 MS. BAHARAV: So if there's some testimony that they found some things
19 and -- and that's why we're here, you'll be able to listen to that testimony --

20 PROSPECTIVE JUROR NUMBER 198: Yes.

21 MS. BAHARAV: Okay. All right. Anything else you want -- you want us --

22 PROSPECTIVE JUROR NUMBER 198: No, I think that's all.

23 MS. BAHARAV: Okay, great. If you want to pass it on down to -- how do you
24 say your name, sir?

25 PROSPECTIVE JUROR NUMBER 195: Morachis.

Volume I - Page 99

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Morachis. Normally I do this, you know, with the sounding it
2 out, but for whatever reason yours didn't make it on here. Now, sir, you've heard me
3 ask a bunch of questions. I'll start with these: Anyone in your familiar accused of a
4 crime?

5 PROSPECTIVE JUROR NUMBER 195: No.

6 MS. BAHARAV: Anyone in your family the victim of a crime?

7 PROSPECTIVE JUROR NUMBER 195: No.

8 MS. BAHARAV: Is there -- have you watched the show CSA?

9 PROSPECTIVE JUROR NUMBER 195: Yes.

10 MS. BAHARAV: Like the show?

11 PROSPECTIVE JUROR NUMBER 195: Haven't seen it in years.

12 MS. BAHARAV: Did you like it before?

13 PROSPECTIVE JUROR NUMBER 195: It was okay.

14 MS. BAHARAV: You understand now that we've talked to 10 other people
15 that that's fiction, right?

16 PROSPECTIVE JUROR NUMBER 195: Yes.

17 MS. BAHARAV: Are you a person that will require fingerprint and DNA
18 evidence in every case to convict?

19 PROSPECTIVE JUROR NUMBER 195: No.

20 MS. BAHARAV: What about narcotics? You've heard me ask this question a
21 few times. Do you think the government should kind of stay out of narcotics?

22 PROSPECTIVE JUROR NUMBER 195: No.

23 MS. BAHARAV: Why not?

24 PROSPECTIVE JUROR NUMBER 195: As I think many people have said,
25 the law is the law.

Volume I - Page 100

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: And if you're instructed that that's what the law is, you'll
2 follow it?

3 PROSPECTIVE JUROR NUMBER 195: Yes.

4 MS. BAHARAV: Now with regards to reasonable doubt, you understand as
5 we're all standing here, sitting over there that Mr. Barnett is not guilty?

6 PROSPECTIVE JUROR NUMBER 195: Yes.

7 MS. BAHARAV: Stand up, sit down, maybe do a little dance, still not guilty,
8 right?

9 PROSPECTIVE JUROR NUMBER 195: Yes.

10 MS. BAHARAV: You got to hear evidence to actually convict somebody.

11 PROSPECTIVE JUROR NUMBER 195: Yes.

12 MS. BAHARAV: If we are able to present enough evidence, do you have any
13 problem finding him guilty if it's --

14 PROSPECTIVE JUROR NUMBER 195: No.

15 MS. BAHARAV: Great. And if we don't present enough evidence, any
16 problem finding him not guilty?

17 PROSPECTIVE JUROR NUMBER 195: No.

18 MS. BAHARAV: Want to be a juror?

19 PROSPECTIVE JUROR NUMBER 195: Yes.

20 MS. BAHARAV: Why?

21 PROSPECTIVE JUROR NUMBER 195: Well I've been through this process
22 before so it's interesting to go through it and I get three days off work.

23 MS. BAHARAV: It's nice, yeah.

24 PROSPECTIVE JUROR NUMBER 195: I know, right?

25 MS. BAHARAV: Yeah, it's -- I -- I don't, I have to be here, but yeah, that's

1 great.

2 PROSPECTIVE JUROR NUMBER 195: Not for you, yeah.

3 MS. BAHARAV: Yeah. All right, sir, thank you. Want to pass it down?

4 Mr. Parker?

5 PROSPECTIVE JUROR NUMBER 196: Yep.

6 MS. BAHARAV: How are you, sir?

7 PROSPECTIVE JUROR NUMBER 196: Good.

8 MS. BAHARAV: So I've asked a lot of questions, I say it every time. Anyone

9 in your family ever been accused of a crime?

10 PROSPECTIVE JUROR NUMBER 196: No.

11 MS. BAHARAV: Anyone in your family ever been the victim of a crime?

12 PROSPECTIVE JUROR NUMBER 196: Yes.

13 MS. BAHARAV: What crime is that?

14 PROSPECTIVE JUROR NUMBER 196: My parents' house was vandalized

15 by a neighbor who was I guess schizophrenic and he threw a big jar of drugs

16 through -- of marijuana through their front -- front window and I had to come and

17 respond to it because they were all at work, but that's really it.

18 MS. BAHARAV: They didn't want to share his drugs, he was just trying to

19 vandalize --

20 PROSPECTIVE JUROR NUMBER 196: No, they were very serious about

21 getting them all out of the house and everything so --

22 MS. BAHARAV: Good plan.

23 PROSPECTIVE JUROR NUMBER 196: Yeah.

24 MS. BAHARAV: Good plan. Did the police respond to that location?

25 PROSPECTIVE JUROR NUMBER 196: Yes.

Volume I - Page 102

1 MS. BAHARAV: And were you happy with how they responded?
2 PROSPECTIVE JUROR NUMBER 196: Yep.
3 MS. BAHARAV: Did they appear to take your case seriously?
4 PROSPECTIVE JUROR NUMBER 196: Yes, very much.
5 MS. BAHARAV: And was that there in -- or was that here in Las Vegas or in
6 Henderson?
7 PROSPECTIVE JUROR NUMBER 196: Henderson.
8 MS. BAHARAV: Okay. So you know they're different jurisdictions, right?
9 PROSPECTIVE JUROR NUMBER 196: Yep.
10 MS. BAHARAV: And cops are just regular people like we've -- we've heard?
11 Right?
12 PROSPECTIVE JUROR NUMBER 196: Yes.
13 MS. BAHARAV: You have any issues listening to the cops that are presented
14 and coming to a conclusion based upon your recollection of what they said?
15 PROSPECTIVE JUROR NUMBER 196: No.
16 MS. BAHARAV: All right. With regards to CSA, anything you want to say
17 about that?
18 PROSPECTIVE JUROR NUMBER 196: No, I've seen the show --
19 MS. BAHARAV: Do you like the show?
20 PROSPECTIVE JUROR NUMBER 196: Yeah, it's all right.
21 MS. BAHARAV: Are you sad that that guy left, too?
22 PROSPECTIVE JUROR NUMBER 196: No.
23 MS. BAHARAV: All right.
24 PROSPECTIVE JUROR NUMBER 196: I think Mark Hamill's his name I
25 think.

Volume I - Page 103

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Yeah.

2 PROSPECTIVE JUROR NUMBER 196: Is the guy.

3 MS. BAHARAV: Well, he's in one of the other ones.

4 PROSPECTIVE JUROR NUMBER 196: Yeah.

5 MS. BAHARAV: It's all right. Just checking. You won't hold this -- you won't
6 require the State to have fingerprints and DNA in every case, will you?

7 PROSPECTIVE JUROR NUMBER 196: No.

8 MS. BAHARAV: If we don't have that evidence in this case, any issues
9 listening to the evidence that's presented?

10 PROSPECTIVE JUROR NUMBER 196: No.

11 MS. BAHARAV: And if there's enough evidence, any problem finding him
12 guilty?

13 PROSPECTIVE JUROR NUMBER 196: No.

14 MS. BAHARAV: And if we fail to meet our burden or just, you know, dance
15 around, any problem finding him not guilty?

16 PROSPECTIVE JUROR NUMBER 196: No, not at all.

17 MS. BAHARAV: All right. Do you want to be on the jury?

18 PROSPECTIVE JUROR NUMBER 196: Sure.

19 MS. BAHARAV: Why?

20 PROSPECTIVE JUROR NUMBER 196: Indifferent to it. I mean think it's part
21 of being an American is -- is being a part of this.

22 MS. BAHARAV: If you were sitting where Mr. Giles and I are sitting, would
23 you like someone like yourself on the jury?

24 PROSPECTIVE JUROR NUMBER 196: Yeah.

25 MS. BAHARAV: Why?

Volume I - Page 104

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 196: I'm impartial, here just to hear the
2 facts.

3 MS. BAHARAV: And what about Mr. Barnett, same?

4 PROSPECTIVE JUROR NUMBER 196: Same thing.

5 MS. BAHARAV: Okay. Thank you.

6 Your Honor, we'll -- Court's indulgence for a second.

7 [Colloquy between counsel]

8 MS. BAHARAV: Your Honor, the State passes for cause. Thank you.

9 THE COURT: Okay.

10 MR. NADIG: I'll be brief, Your Honor.

11 THE COURT: Okay.

12 MR. NADIG: Good afternoon, ladies and gentlemen. I'm going to ask
13 question to all 12 of you at once. And that is -- I always say I'm married -- actually I
14 believe -- yeah, both sides -- everybody's married.

15 MS. BAHARAV: Everybody's married.

16 MR. NADIG: The first person I would always kick off the jury would be my
17 wife. And the reason I would kick her off is because she has this idea that people
18 are guilty until proven innocent. Now, we all know what the state of the law is, it's
19 innocent until proven guilty, but one of the questions I ask all jurors just, you know,
20 honestly, do you truly believe that my client is innocent until proven guilty or are you
21 sitting there saying oh he's guilty as he sits here today. And that's a question for the
22 -- for all of you. Does anybody feel that I need to prove anything to prove my client's
23 innocence? Showing no hands I'll move on.

24 The second thing is a number of you guys have kids and let's start with
25 Mr. Gunderson. Okay, now, Mr. Gunderson, you -- you are married, correct?

Volume I - Page 105

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 197: Yes.

2 MR. NADIG: Okay, and I didn't write it down because I just missed it. Do you
3 have kids?

4 PROSPECTIVE JUROR NUMBER 197: I do.

5 MR. NADIG: How many?

6 PROSPECTIVE JUROR NUMBER 197: I have four.

7 MR. NADIG: Good for you. Do you often find that when your kids get in
8 trouble you have to sit there and you have to make a determination as to who is
9 telling the truth?

10 PROSPECTIVE JUROR NUMBER 197: Absolutely.

11 MR. NADIG: You get a story from one, you get a story from the other and it's
12 your job to sit there and kind of figure out what actually happened?

13 PROSPECTIVE JUROR NUMBER 197: Yes.

14 MR. NADIG: Okay. And you have no problem doing that, right?

15 PROSPECTIVE JUROR NUMBER 197: No.

16 MR. NADIG: Okay, so in this situation I guess the kids would be the State
17 and myself. Do you have any problem listening to both sides and forming an
18 opinion after we both talk?

19 PROSPECTIVE JUROR NUMBER 197: No, I do not.

20 MR. NADIG: Okay. Now this is another question for all of you guys, but I'll
21 start with you, Mr. Gunderson. One of the questions that Judge Smith asked was if
22 you are going to give law enforcement benefit simply for being law enforcement. Do
23 you remember that question?

24 PROSPECTIVE JUROR NUMBER 197: I do.

25 MR. NADIG: Okay. Now, the State being the State or the DA's in this

1 question, do you give them a benefit simply for being the State or when I get up and
2 speak are you thinking oh he's a defense attorney so he's got to be lying? Is that
3 something that crosses your head -- your mind?

4 PROSPECTIVE JUROR NUMBER 197: No, I don't think so.

5 MR. NADIG: You sure? You got a little smile there so --

6 PROSPECTIVE JUROR NUMBER 197: Yeah, I think you were trying to be
7 funny.

8 MR. NADIG: Well I was.

9 PROSPECTIVE JUROR NUMBER 197: Mission accomplished.

10 MR. NADIG: But just like with your kids, you have no problem sitting there
11 listening to both stories and then making a determination?

12 PROSPECTIVE JUROR NUMBER 197: I do not.

13 MR. NADIG: Okay. So let's pass it to Mr. Hill.

14 Mr. Hill, you're in luck. I don't think I have any questions for you so you
15 can pass it along.

16 PROSPECTIVE JUROR NUMBER 052: Nobody wants to ask me if I want to
17 be on the jury.

18 MS. BAHARAV: Oh, I --

19 MR. NADIG: Do you -- all right.

20 MS. BAHARAV: Yes.

21 MR. NADIG: Back to Mr. Hill. Mr. Hill, do you want to be on the jury?

22 PROSPECTIVE JUROR NUMBER 052: Yes.

23 MR. NADIG: And why do you want to be on the jury?

24 PROSPECTIVE JUROR NUMBER 052: Because this is America. We're
25 lucky we have this system. And I would want me here if I was --

Volume I - Page 107

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: Okay, and -- and that is --

2 PROSPECTIVE JUROR NUMBER 052: -- either side of it. And I don't want
3 to be an alternate. I want to be involved.

4 MR. NADIG: That would suggest you know that there's an alternate.
5 However, Mr. Hill --

6 PROSPECTIVE JUROR NUMBER 052: Thought we were done.

7 MR. NADIG: The question that Ms. Baharav asked and I actually love this
8 question too is would my client want you to be a juror?

9 PROSPECTIVE JUROR NUMBER 052: Absolutely.

10 MR. NADIG: Okay, so if you were sitting in that chair, would you want you to
11 be a juror?

12 PROSPECTIVE JUROR NUMBER 052: Yes.

13 MR. NADIG: Okay, and why?

14 PROSPECTIVE JUROR NUMBER 052: Because what I just said. I respect
15 the system. Also, you know, I was young and did a lot of crazy stuff when I was
16 young so I have experience on both sides of this stuff. So I think I'm very impartial.

17 MR. NADIG: Good. All right, let's pass it off --

18 PROSPECTIVE JUROR NUMBER 052: I would be impartial even if I didn't
19 have experience.

20 MR. NADIG: That's good to know.

21 Ms. Buzunis-Killebrew.

22 PROSPECTIVE JUROR NUMBER 093: Yes.

23 MR. NADIG: Do you hate us because you're here?

24 PROSPECTIVE JUROR NUMBER 093: Not at all.

25 MR. NADIG: All right. You're not -- we're not cutting into any billable hours or

1 anything --

2 PROSPECTIVE JUROR NUMBER 093: I don't do billable hours.

3 MR. NADIG: Oh. That's why I do criminal law. Do you have any -- any issue
4 -- if you were sitting in that chair, would you want yourself to be a juror?

5 PROSPECTIVE JUROR NUMBER 093: Yes.

6 MR. NADIG: Okay, and why?

7 PROSPECTIVE JUROR NUMBER 093: Because I have no preconceived
8 notions or conceptions about the evidence.

9 MR. NADIG: Okay. I'm done. Can I pass you onto Mr. Velasco?

10 All right, I know you don't want to be here. And I know Delmonico's has
11 great steaks. But if it's only two days, is that going to be too much of an issue for
12 you?

13 PROSPECTIVE JUROR NUMBER 185: Right now yeah because kind of
14 busy so that's when we make the real money.

15 MR. NADIG: But it's Monday, Tuesday. How many people are in
16 Delmonico's --

17 PROSPECTIVE JUROR NUMBER 185: We get conventions coming in.

18 MR. NADIG: Ah.

19 PROSPECTIVE JUROR NUMBER 185: So it picks up.

20 MR. NADIG: Okay. All right. So passing the mic on to Mr. Gordon.

21 Now, Mr. Gordon, it -- it definitely sounds like you have experience on
22 both sides of -- of this.

23 PROSPECTIVE JUROR NUMBER 186: Oh yes.

24 MR. NADIG: But it also sounds like part of this is very emotional for you.

25 PROSPECTIVE JUROR NUMBER 186: You get this old, you know, you run

1 into a few things.

2 MR. NADIG: You're not that old, you're only 68.

3 PROSPECTIVE JUROR NUMBER 186: Well, thank you very much.

4 MR. NADIG: There's an attorney practicing who I swear she's close to 80 so
5 yeah, you're not even close. But is sitting through a criminal trial going to bring up
6 any negative emotions for you based on your personal experiences?

7 PROSPECTIVE JUROR NUMBER 186: No, not emotions.

8 MR. NADIG: Okay. Now is -- if you were sitting in that chair, would you want
9 yourself as a juror?

10 PROSPECTIVE JUROR NUMBER 186: If I were in his chair?

11 MR. NADIG: Yeah.

12 PROSPECTIVE JUROR NUMBER 186: Probably not.

13 MR. NADIG: Okay. And why not?

14 PROSPECTIVE JUROR NUMBER 186: Probably -- it's a drug case and like I
15 said, I am so anti-drug it's -- I had a brother that -- that lied to me about being in it
16 and he was in it severely and like I said, I'd turn in my own grandkids.

17 MR. NADIG: Uh-huh. But at the same time if it's -- if the State fails to meet
18 their burden irrespective of what the crime is, are you going to have a problem
19 saying not guilty?

20 PROSPECTIVE JUROR NUMBER 186: No, I -- if they can't prove it, the
21 shadow of the doubt is innocence before guilt so --

22 MR. NADIG: Okay, and are you going to hold them to a lesser standard
23 simply based on the fact that it's a drug case? Are you going to give them more
24 credit because it's drug case?

25 PROSPECTIVE JUROR NUMBER 186: You know I might listen to them

Volume I - Page 110

1 more. Yeah -- got a bad spot in my heart for it.

2 MR. NADIG: Okay, and -- and so you feel potentially just based on your life
3 experience that you may not -- this may not be the best jury for you?

4 PROSPECTIVE JUROR NUMBER 186: Like I said, I wouldn't --

5 MR. NADIG: You wouldn't want yourself as a juror if you were sitting in that
6 chair.

7 PROSPECTIVE JUROR NUMBER 186: Correct, yeah.

8 MR. NADIG: Okay, which is fair and I thank you for being honest.

9 PROSPECTIVE JUROR NUMBER 186: Yeah.

10 MR. NADIG: All right. Can we pass to Ms. Fernandez?

11 You don't like people asking you questions, do you?

12 PROSPECTIVE JUROR NUMBER 187: I didn't say I didn't.

13 MR. NADIG: I just got that sense so I'm just -- all right. One of the things is in
14 -- in picking a jury, both sides, Ms. Baharav, Mr. Giles and myself, we're going to
15 want individuals to be on the jury and what -- what we mean by that is people who
16 stand by their own convictions. Okay, and so the question I would ask you, are you
17 a go along get along type of person or are you the type of person if you believe my
18 client is not guilty, you have no problem holding out if 11 other people say you're
19 crazy?

20 PROSPECTIVE JUROR NUMBER 187: I would hold out and let people think
21 I'm crazy.

22 MR. NADIG: Okay.

23 PROSPECTIVE JUROR NUMBER 187: Again, sit and listen to all the
24 evidence but no, I'm not a go along just to go along. I'll make my own decision and
25 stand by those convictions.

Volume I - Page 111

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: And I can hold you to that?

2 PROSPECTIVE JUROR NUMBER 187: Absolutely.

3 MR. NADIG: Okay. Can we pass the mic to Mr. Vidovic?

4 Igor, how you doing?

5 PROSPECTIVE JUROR NUMBER 188: I'm great. How are you?

6 MR. NADIG: Good. You ever put on a buddy's jacket?

7 PROSPECTIVE JUROR NUMBER 188: Yes.

8 MR. NADIG: You ever been cold and you throw on a jacket?

9 PROSPECTIVE JUROR NUMBER 188: Yes.

10 MR. NADIG: Okay. Have you ever reached in the pockets and said oh my
11 God, there's something there?

12 PROSPECTIVE JUROR NUMBER 188: No.

13 MR. NADIG: Okay. But potentially there could be?

14 PROSPECTIVE JUROR NUMBER 188: Very easily, yeah.

15 MR. NADIG: Okay, and the reason I asked that question is you said you
16 didn't know if he had it. So you understand why I ask that question and to be fair,
17 you haven't heard anything yet so you don't know exactly what's going on, right?

18 PROSPECTIVE JUROR NUMBER 188: Right.

19 MR. NADIG: Okay. So as my client sits here right now, you have no problem
20 finding him not guilty?

21 PROSPECTIVE JUROR NUMBER 188: None at all.

22 MR. NADIG: Okay. Now if the evidence comes out and the State fails to
23 meet their burden, are you going to have any problem?

24 PROSPECTIVE JUROR NUMBER 188: No. I look at the facts and then draw
25 my conclusions from there.

1 MR. NADIG: Perfect. All right. Can we pass the mic down to -- sorry,
2 Trooper, I don't have your name in front of me.

3 MS. BAHARAV: Clayton.

4 PROSPECTIVE JUROR NUMBER 189: Clayton.

5 MR. NADIG: Thank you, Trooper Clayton. Now, I have to be insane to keep
6 you on this jury, do I not?

7 PROSPECTIVE JUROR NUMBER 189: I would think so.

8 MR. NADIG: Okay, and that's because there are certain biases that you have
9 inherent in the line of work you do that might prejudice yourself against my client?

10 PROSPECTIVE JUROR NUMBER 189: Correct.

11 MR. NADIG: Okay. And as you sit here today, in your line of work you're --
12 you're thinking he's probably guilty of something?

13 PROSPECTIVE JUROR NUMBER 189: Yes.

14 MR. NADIG: Okay.

15 PROSPECTIVE JUROR NUMBER 189: Probably.

16 MR. NADIG: All right. And you don't believe you'll be able to set aside those
17 beliefs if you're picked as a juror?

18 PROSPECTIVE JUROR NUMBER 189: No.

19 MR. NADIG: Okay. Let's just pass the mic.

20 Ms. Bermudez. I have no questions for you.

21 But I do for Ms. Culley-Miller. My understanding is you're testing to be
22 a PBX 911 operator, correct?

23 PROSPECTIVE JUROR NUMBER 192: Yes.

24 MR. NADIG: Have you ever listened to those 911's by the way?

25 PROSPECTIVE JUROR NUMBER 192: Yes, I failed the 911 test.

Volume I - Page 113

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: Some of those ladies are mean, I'm just saying.

2 PROSPECTIVE JUROR NUMBER 192: I'm not mean.

3 MR. NADIG: Okay. But here's the thing. You're going to be working or
4 potentially working for Las Vegas Metropolitan Police Department, correct?

5 PROSPECTIVE JUROR NUMBER 192: If I pass the test.

6 MR. NADIG: Okay, if you pass the test. Would you, if you feel the State fails
7 to meet their burden, feel comfortable telling the people you're potentially working
8 with that yes, I was on a jury and I found somebody not guilty?

9 PROSPECTIVE JUROR NUMBER 192: I would have no problem with that at
10 all.

11 MR. NADIG: Okay, so --

12 PROSPECTIVE JUROR NUMBER 192: Facts are facts.

13 MR. NADIG: So the potential to be employed by the agency that you'll be
14 hearing from is not going to color your view of the testimony in any way, shape or
15 form?

16 PROSPECTIVE JUROR NUMBER 192: No.

17 MR. NADIG: No. Okay. Then let's pass the mic. Actually I'll grab it from you.

18 PROSPECTIVE JUROR NUMBER 192: For Esther.

19 MR. NADIG: Here you go, Esther.

20 PROSPECTIVE JUROR NUMBER 193: Thank you.

21 MR. NADIG: Now, Esther, in your situation you believe that there are certain
22 physical issues that would necessitate you not wanting to be on the jury. Fair to
23 say?

24 PROSPECTIVE JUROR NUMBER 193: It's just physically hard to go up and
25 down the ramp so if the case were to take several days, I would have to make some

Volume I - Page 114

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 sort of accommodation to get in and out of the courthouse. Once I'm in the
2 courthouse, I'm okay.

3 MR. NADIG: It's just --

4 PROSPECTIVE JUROR NUMBER 193: I'm slow but I'm okay.

5 MR. NADIG: Those ramps are quite long. I will -- I agree with you on that.

6 PROSPECTIVE JUROR NUMBER 193: They're long and they're steep and
7 I'm a little worried about trying to get out of them to go home this afternoon.

8 MR. NADIG: Yeah. I'm sure the Marshal would be more than happy to help
9 you get down. So just other than your physical issues you have no problem sitting
10 on this jury?

11 PROSPECTIVE JUROR NUMBER 193: Correct.

12 MR. NADIG: Okay. Then let me pass the mic back.

13 And you're Ms. Pinto, correct?

14 PROSPECTIVE JUROR NUMBER 198: Correct.

15 MR. NADIG: And you want to be on this jury, correct?

16 PROSPECTIVE JUROR NUMBER 198: Yes, I do.

17 MR. NADIG: And why do you want to be on this jury?

18 PROSPECTIVE JUROR NUMBER 198: It's interesting.

19 MR. NADIG: Okay, and why is it interesting?

20 PROSPECTIVE JUROR NUMBER 198: It's something new I wanted to
21 experience.

22 MR. NADIG: Okay, and you've never done it before?

23 PROSPECTIVE JUROR NUMBER 198: No, I have never done it before.

24 MR. NADIG: All right. Mr. Morachis?

25 PROSPECTIVE JUROR NUMBER 195: Yes. Yes.

Volume I - Page 115

1 MR. NADIG: So you're getting paid to be here?
2 PROSPECTIVE JUROR NUMBER 195: Yes.
3 MR. NADIG: So you have no problem being here?
4 PROSPECTIVE JUROR NUMBER 195: I have no problem being here.
5 MR. NADIG: Okay. You would actually like to be here, maybe?
6 PROSPECTIVE JUROR NUMBER 195: Absolutely.
7 MR. NADIG: Change of pace?
8 PROSPECTIVE JUROR NUMBER 195: Little bit.
9 MR. NADIG: Okay. Is there anything -- if you were sitting in my client's chair,
10 would you want yourself as a juror?
11 PROSPECTIVE JUROR NUMBER 195: I don't know.
12 MR. NADIG: Why?
13 PROSPECTIVE JUROR NUMBER 195: If -- if I was in the Defendant's chair
14 and my life depended on the decisions that are being made by the people that are
15 sitting around me, I'm wondering if this is the best way to go about it. If I'm sitting in
16 his chair, I would want the decisions that -- being made on his behalf to be made by
17 the most intelligent, most knowledgeable people about the law, having the law
18 applied in the context of which it's intended. Grabbing a group of people off the
19 street to do that doesn't seem maybe the best solution to that, I don't know.
20 MR. NADIG: I thought you were calling me dumb. I was like --
21 PROSPECTIVE JUROR NUMBER 195: No, no, no --
22 MR. NADIG: -- that's mean.
23 PROSPECTIVE JUROR NUMBER 195: No, no, not you.
24 MR. NADIG: Now, no, but what I'm asking is would you want you -- the other
25 people around you there's nothing you can do about --

Volume I - Page 116

1 PROSPECTIVE JUROR NUMBER 195: No, no, no, I'm not --
2 MR. NADIG: Okay.
3 PROSPECTIVE JUROR NUMBER 195: And this isn't --
4 MR. NADIG: But -- yeah. And I -- I hope you're not --
5 PROSPECTIVE JUROR NUMBER 195: I didn't -- I didn't mean that as an
6 insult. I'm sorry if I --
7 MR. NADIG: Because you're going to be in a closed room with them at some
8 point --
9 PROSPECTIVE JUROR NUMBER 195: Yeah -- yes, exactly.
10 MR. NADIG: But as to you, if you were sitting in Corey's chair, would you
11 want you, not everybody else, just you, would you want you --
12 PROSPECTIVE JUROR NUMBER 195: Yes.
13 MR. NADIG: -- as a juror?
14 PROSPECTIVE JUROR NUMBER 195: Yes.
15 MR. NADIG: And why?
16 PROSPECTIVE JUROR NUMBER 195: I -- I'm an impartial person. I can
17 look at the facts and make determinations upon those facts.
18 MR. NADIG: Okay. Did you have a wayward youth growing up?
19 PROSPECTIVE JUROR NUMBER 195: No.
20 MR. NADIG: Okay. Ever been in trouble?
21 PROSPECTIVE JUROR NUMBER 195: No.
22 MR. NADIG: Okay. And you still feel that you can be open-minded?
23 PROSPECTIVE JUROR NUMBER 195: Yes.
24 MR. NADIG: Okay. All right. So let's pass it on to Mr. Parker.
25 Bryce?

Volume I - Page 117

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 196: Yeah.

2 MR. NADIG: Would you like to be sitting -- if you were sitting in that chair,
3 would you like yourself as a juror?

4 PROSPECTIVE JUROR NUMBER 196: Yeah, be fine.

5 MR. NADIG: Okay. Well, would it be fine or would it be a good idea?

6 PROSPECTIVE JUROR NUMBER 196: Yeah. Be fine. It'd be a good idea, I
7 guess.

8 MR. NADIG: Okay, now, you don't have a wife and kids so my whole kid
9 analogy and learning the stories doesn't necessarily apply to you.

10 PROSPECTIVE JUROR NUMBER 196: Yeah.

11 MR. NADIG: But do you have a problem listening to what the State says and
12 then listening to what I say and holding judgment until you hear both sides?

13 PROSPECTIVE JUROR NUMBER 196: No. I don't have a problem with that.

14 MR. NADIG: Okay, and you don't think that Mr. Barnett will be biased in any
15 way, shape or form by that?

16 PROSPECTIVE JUROR NUMBER 196: No.

17 MR. NADIG: Okay. Can we approach, Your Honor?

18 THE COURT: Sure.

19 [Bench conference begins at 2:47 p.m.]

20 MS. BAHARAV: Got to be in the thing.

21 MR. NADIG: Yeah. I would think that Mr. Clayton should be excused for
22 cause.

23 THE COURT: He said he'd be fair and impartial.

24 MR. NADIG: But then he talked about how he had inherent biases that
25 would --

1 THE COURT: You guys have any problem with that?

2 MS. BAHARAV: Well, Your Honor, on principle I don't, but I think he was
3 responding to counsel's question saying I'd be crazy to keep you because you could
4 have inherent biases so I think that's (indiscernible) --

5 MR. NADIG: But I followed up with additional questions that would suggest
6 that he was biased (indiscernible) --

7 MS. BAHARAV: I'll submit it.

8 THE COURT: I'll kick him (indiscernible) --

9 MR. NADIG: Okay, and then --

10 THE COURT: I think that --

11 MR. NADIG: -- one more.

12 MS. BAHARAV: The drug guy? Mr. Gordon?

13 MR. NADIG: The 68-year-old guy.

14 MS. BAHARAV: Mr. Gordon, 186.

15 MR. NADIG: Yeah.

16 THE COURT: Which one?

17 MR. NADIG: One eighty-six, Mr. Gordon. He was the gentleman who said
18 that he was very anti-drugs and he said that he would be more inclined to believe
19 the State because of the nature of the charge.

20 MS. BAHARAV: I think the record that he made is sufficient to kick him, to be
21 honest.

22 THE COURT: I don't think that's enough. Think he said he would be fair and
23 impartial. But he's anti-drug. I mean if they weren't in his pocket and he didn't know
24 they're in his pocket he wouldn't find him guilty of it.

25 MR. NADIG: But at the same time he definitely said he would defer to the

Volume I - Page 119

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 State so I think that that raises an issue.

2 THE COURT: I'm not going to kick him. Clayton I will.

3 MR. NADIG: Okay.

4 MS. BAHARAV: Okay.

5 THE COURT: If you want to make a record of it too, can afterwards.

6 MR. NADIG: Yeah. We'll do that.

7 THE COURT: Okay.

8 MS. BAHARAV: Just for -- we have our witnesses on the way. So hopefully
9 they'll be here by 3:30.

10 THE COURT: Yeah, but what about opening statements?

11 MS. BAHARAV: This case we need take like 10 minutes.

12 MR. NADIG: Yeah.

13 MR. GILES: Opening statements are going to be --

14 MS. BAHARAV: Yeah.

15 MR. GILES: -- two minutes.

16 MR. NADIG: Yeah.

17 THE COURT: Okay.

18 MR. NADIG: Huh-uh. That's about it.

19 MS. BAHARAV: Yeah.

20 THE COURT: Okay.

21 MS. BAHARAV: Yeah. Thank you.

22 [Bench conference ends at 2:49 p.m.]

23 THE COURT: All right. We're going to thank and excuse Mr. Clayton. Thank
24 you for your time. You're free to go. If you'll check in with the jury commissioner on
25 maybe a civil jury. I don't know if we do that anymore but let's try.

Volume I - Page 120

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE CLERK: Okay, next up badge 199, Lilia Ramirez.
2 THE COURT: Tell me, Ms. Ramirez, do you work?
3 PROSPECTIVE JUROR NUMBER 199: Yes, I do.
4 THE COURT: What do you do?
5 PROSPECTIVE JUROR NUMBER 199: I'm a head custodian for Red Rock
6 Elementary, Clark County School District.
7 THE COURT: Are you married?
8 PROSPECTIVE JUROR NUMBER 199: No.
9 THE COURT: Do you have children?
10 PROSPECTIVE JUROR NUMBER 199: No.
11 THE COURT: Do you have a background in law or law enforcement?
12 PROSPECTIVE JUROR NUMBER 199: I was a campus manager, but other
13 than that -- and I worked with the school police before.
14 THE COURT: What did you do with school police?
15 PROSPECTIVE JUROR NUMBER 199: I worked with them as a campus
16 monitor.
17 THE COURT: Okay. Couldn't call them and ask them for help in this. Do you
18 understand that?
19 PROSPECTIVE JUROR NUMBER 199: Course not.
20 THE COURT: All right. You ever sat as a juror before?
21 PROSPECTIVE JUROR NUMBER 199: No, never.
22 THE COURT: Can you think of any reason you wouldn't be fair and impartial
23 to both parties in this case?
24 PROSPECTIVE JUROR NUMBER 199: No.
25 THE COURT: State, you have any questions?

Volume I - Page 121

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Yes.

2 Hi, ma'am, how are you?

3 PROSPECTIVE JUROR NUMBER 199: Good, how you doing?

4 MS. BAHARAV: Good. So you heard a lot of these questions, but has
5 anyone in your family ever been accused of a crime?

6 PROSPECTIVE JUROR NUMBER 199: No.

7 MS. BAHARAV: Anyone in your family ever been the victim of a crime?

8 PROSPECTIVE JUROR NUMBER 199: No.

9 MS. BAHARAV: Watch CSA or the CSI shows?

10 PROSPECTIVE JUROR NUMBER 199: No.

11 MS. BAHARAV: Okay. You heard my questions about narcotics. You
12 understand if the Judge instructs you that narcotics or possession of certain
13 narcotics are illegal here in Nevada that you would have to implement that law?

14 PROSPECTIVE JUROR NUMBER 199: Of course, yes.

15 MS. BAHARAV: And if the State met the burden of proof demonstrating all of
16 the elements of that crime beyond a reasonable doubt, would you have any problem
17 finding the Defendant guilty?

18 PROSPECTIVE JUROR NUMBER 199: No, no problem.

19 MS. BAHARAV: We fail to meet our burden, any problem finding him not
20 guilty?

21 PROSPECTIVE JUROR NUMBER 199: No problem.

22 MS. BAHARAV: Can you follow the law even if you disagree with it?

23 PROSPECTIVE JUROR NUMBER 199: Yes.

24 MS. BAHARAV: Do you want to be on the jury?

25 PROSPECTIVE JUROR NUMBER 199: Yes, of course.

Volume I - Page 122

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: Why?

2 PROSPECTIVE JUROR NUMBER 199: Will be my first time. Will be a good
3 experience.

4 MS. BAHARAV: It's interesting, right, having to discuss a case with a bunch
5 of other people?

6 PROSPECTIVE JUROR NUMBER 199: Yes.

7 MS. BAHARAV: If you were sitting where Mr. Giles and I were sitting, would
8 you like someone like yourself on the jury?

9 PROSPECTIVE JUROR NUMBER 199: Yes.

10 MS. BAHARAV: Why?

11 PROSPECTIVE JUROR NUMBER 199: Because I'm honest and -- and
12 truthful and -- and I will -- I will want to -- I mean, I don't know, I think -- yeah.

13 MS. BAHARAV: What about if you were where Mr. Barnett is sitting, would
14 you like someone like yourself on the jury?

15 PROSPECTIVE JUROR NUMBER 199: Yes.

16 MS. BAHARAV: Why?

17 PROSPECTIVE JUROR NUMBER 199: Because I'm honest and truthful and
18 I -- I would trust myself, yes.

19 MS. BAHARAV: Okay. Great.

20 Thanks, Your Honor. We'll pass for cause.

21 THE COURT: Go ahead.

22 MR. NADIG: Is there any reason why we wouldn't want you on the jury?

23 PROSPECTIVE JUROR NUMBER 199: I hope not.

24 MR. NADIG: Me too. But -- honestly, I'll -- I'll be quick, but as my client sits
25 there today, as Corey sits there today, you have no problem understanding he is not

1 guilty as of right now?

2 PROSPECTIVE JUROR NUMBER 199: I understand that, yes.

3 MR. NADIG: Okay, and you have no problem with that?

4 PROSPECTIVE JUROR NUMBER 199: No.

5 MR. NADIG: Okay, are there any issues with drugs that would lead you to
6 hold me to any burden or the State to a lesser burden? Meaning --

7 PROSPECTIVE JUROR NUMBER 199: No.

8 MR. NADIG: Okay. I'll pass for cause, Your Honor.

9 THE COURT: All right. Let me read some instructions if you all listen to
10 these, we're -- we're going to start our peremptory challenges now.

11 Ladies and gentlemen, you're admonished that no juror may declare to
12 a fellow juror any fact related to this case as his or her own knowledge and if any
13 juror discovers during the trial or after the jury has retired that they or another juror
14 has personal knowledge of any fact in controversy in this case, they'll disclose that
15 situation to myself in the absence of the other jurors. That means that if you learn
16 during the course of the trial that you were acquainted with the facts of this case or
17 the witnesses and you have not previously told me of that relationship, you must
18 declare that fact to me and you communicate that through the Marshal.

19 During the course of the trial, the attorneys for both sides and court
20 personnel other than the Marshal are not permitted to converse with members of the
21 jury. These individuals are not being antisocial. They are bound by ethics and the
22 law not to talk to you. To do so might contaminate your verdict.

23 You're admonished additionally that you're not to visit the scene of any
24 acts or occurrences made mention of during the trial unless specifically directed to
25 do so by the Court.

Volume I - Page 124

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 So if you talk to anybody in the courthouse, talk to people with blue
2 badges on because that would designate that they are a juror in another case and
3 you wouldn't be by mistake talking to a witness.

4 You should distinctly understand that the pleadings in this case have no
5 -- are not in any sense evidence of the allegation they contain. The State has
6 burden of proof proving each element of the crime charged beyond a reasonable
7 doubt. The purpose of the trial is to determine whether the State will meet that
8 burden.

9 Trial will proceed in the following manner -- we would thank and excuse
10 Ernesto Velasco-Felix? Thank you for your time. And Dale Gordon. Thank you for
11 your time. If you'll check in with the jury commissioner.

12 THE CLERK: Next up, 201, Crystal Hutchison, and 202, Rita Brodish.

13 THE COURT: Ms. Hutchison, do you work?

14 PROSPECTIVE JUROR NUMBER 201: Yes.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR NUMBER 201: I'm on call at Mandalay Bay and
17 MGM.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR NUMBER 201: Yes.

20 THE COURT: Spouse work?

21 PROSPECTIVE JUROR NUMBER 201: Yes.

22 THE COURT: What does your spouse do?

23 PROSPECTIVE JUROR NUMBER 201: He works at the Mirage. He's a
24 banquet manager.

25 THE COURT: Children?

Volume I - Page 125

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 201: Yes.
2 THE COURT: Ages?
3 PROSPECTIVE JUROR NUMBER 201: Twenty-two, 18, 17 and 11.
4 THE COURT: Either of them or any of them law or law related?
5 PROSPECTIVE JUROR NUMBER 201: My oldest daughter's husband's
6 going to law school. The Fall.
7 THE COURT: Where at?
8 PROSPECTIVE JUROR NUMBER 201: USC.
9 THE COURT: What she (sic) studying?
10 PROSPECTIVE JUROR NUMBER 201: They're -- they're just going to law
11 school. I don't know yet.
12 THE COURT: First year?
13 PROSPECTIVE JUROR NUMBER 201: Yes.
14 THE COURT: Everything -- they're making their mind mush.
15 PROSPECTIVE JUROR NUMBER 201: I'm excited for him. It's fun.
16 THE COURT: Do you have a background in law or law enforcement?
17 PROSPECTIVE JUROR NUMBER 201: No.
18 THE COURT: Have you ever sat as a juror before?
19 PROSPECTIVE JUROR NUMBER 201: Yes.
20 THE COURT: Where?
21 PROSPECTIVE JUROR NUMBER 201: Here.
22 THE COURT: When?
23 PROSPECTIVE JUROR NUMBER 201: Four or five years ago.
24 THE COURT: Civil or criminal?
25 PROSPECTIVE JUROR NUMBER 201: Criminal.

Volume I - Page 126

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: What type of case was it?

2 PROSPECTIVE JUROR NUMBER 201: It was a murder trial.

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

4 PROSPECTIVE JUROR NUMBER 201: Yes.

5 THE COURT: Were you the jury foreperson?

6 PROSPECTIVE JUROR NUMBER 201: No.

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

9 PROSPECTIVE JUROR NUMBER 201: No. I didn't like it but I was -- it was
10 hard. Really hard.

11 THE COURT: Can you think of any reason you would not be fair and
12 impartial to both parties in this case?

13 PROSPECTIVE JUROR NUMBER 201: No.

14 THE COURT: State.

15 MS. BAHARAV: Ma'am, you've indicated that that experience was really hard
16 on you. Was it hard to have to engage in the conversation with the other jurors?

17 PROSPECTIVE JUROR NUMBER 201: No, it was just -- I'm like having
18 anxiety right now. My heart's beating. It's just hard being in charge of somebody's
19 life, I guess. Freaks me out. I'm a little freaked out right now thinking about it --

20 MS. BAHARAV: And you understand that ultimately the Judge is -- is making
21 the decisions regarding punishment and things --

22 PROSPECTIVE JUROR NUMBER 201: Absolutely. I totally agree, but I still
23 have my feelings and it freaks me out and I have anxiety right now thinking about it,
24 so --

25 MS. BAHARAV: Do you think that the anxiety that you're feeling will cause

Volume I - Page 127

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 you not to be able to pay attention to the evidence that's being presented?

2 PROSPECTIVE JUROR NUMBER 201: It might. I'm not sure. I'm -- I'm
3 totally freaking out right now. I've got called to another trial before. I got in the panel
4 and it was a child molestation case so -- I started bawling so I just -- it freaks me out,
5 so --

6 MS. BAHARAV: Okay. Sitting there as a -- as a juror just makes you really
7 uncomfortable?

8 PROSPECTIVE JUROR NUMBER 201: Yes, absolutely.

9 MS. BAHARAV: Okay. Thank you, Your Honor. We'll pass her for cause.

10 MR. NADIG: I promise I'll be quick. So essentially there's some form -- sort
11 of trauma that you're undergoing right now just based on being in the box?

12 PROSPECTIVE JUROR NUMBER 201: It's just uncomfortable and again
13 you're in -- I know the Judge makes the decision but you're in charge of somebody --
14 you have to judge him. I don't like that, so -- for me.

15 MR. NADIG: Do you have any religious reason to object to that --

16 PROSPECTIVE JUROR NUMBER 201: No, no, no, absolutely not. It's just
17 me. I'm just freaking out, sorry.

18 MR. NADIG: Okay.

19 PROSPECTIVE JUROR NUMBER 201: Totally sorry.

20 MR. NADIG: And is sitting here for the next two days going to be a problem
21 for you? Are you going to be able to pay attention to what's going on?

22 PROSPECTIVE JUROR NUMBER 201: Yeah, I'm -- I'm going to try, yes.

23 MR. NADIG: Going to try, you going to be able to do --

24 PROSPECTIVE JUROR NUMBER 201: I'm going to try. I'm -- I'm -- I'm
25 being honest, I'm going to try, I'm -- you know.

1 MR. NADIG: But you don't know if you can?
2 PROSPECTIVE JUROR NUMBER 201: I'm -- I'm going to focus and get --
3 MR. NADIG: Okay.
4 PROSPECTIVE JUROR NUMBER 201: -- get through it.
5 MR. NADIG: And -- I'll pass for cause, Your Honor.
6 THE COURT: Thanks.
7 Tell me your name?
8 PROSPECTIVE JUROR NUMBER 202: Rita Brodish.
9 THE COURT: Do you work?
10 PROSPECTIVE JUROR NUMBER 202: Yes, I do for --
11 THE COURT: What --
12 PROSPECTIVE JUROR NUMBER 202: -- the Clark County School District.
13 THE COURT: What do you do?
14 PROSPECTIVE JUROR NUMBER 202: I'm a special education teaching
15 assistant.
16 THE COURT: Have you -- are you married?
17 PROSPECTIVE JUROR NUMBER 202: Yes, I am.
18 THE COURT: Spouse work?
19 PROSPECTIVE JUROR NUMBER 202: Yes, he's a salesman.
20 THE COURT: For what?
21 PROSPECTIVE JUROR NUMBER 202: Heavy duty truck parts and he also
22 sells real estate.
23 THE COURT: Have you children?
24 PROSPECTIVE JUROR NUMBER 202: Yes.
25 THE COURT: Ages?

1 PROSPECTIVE JUROR NUMBER 202: Thirty-two and 26.
2 THE COURT: Either of them in law enforcement?
3 PROSPECTIVE JUROR NUMBER 202: No.
4 THE COURT: Have you any background in law or law enforcement?
5 PROSPECTIVE JUROR NUMBER 202: No.
6 THE COURT: Ever sat as a juror before?
7 PROSPECTIVE JUROR NUMBER 202: Yes, I have about --
8 THE COURT: Where?
9 PROSPECTIVE JUROR NUMBER 202: -- 12 years ago here --
10 THE COURT: Here?
11 PROSPECTIVE JUROR NUMBER 202: -- and it was a car theft case --
12 THE COURT: Okay.
13 PROSPECTIVE JUROR NUMBER 202: -- and we did reach --
14 THE COURT: So it's criminal.
15 PROSPECTIVE JUROR NUMBER 202: -- a decision. Yes, criminal.
16 THE COURT: And you reached verdict. Were you the verdict -- jury
17 foreperson?
18 PROSPECTIVE JUROR NUMBER 202: No, I was not.
19 THE COURT: Is there anything about that experience that would prejudice
20 you against the Defendant or the State?
21 PROSPECTIVE JUROR NUMBER 202: None at all.
22 THE COURT: You'll be fair and impartial?
23 PROSPECTIVE JUROR NUMBER 202: Absolutely.
24 THE COURT: State?
25 MS. BAHARAV: Yes, sir.

Volume I - Page 130

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Ma'am, you've heard all my questions about CSI. Knowing that you've
2 done this a little bit before, was there any fingerprints or DNA evidence in that other
3 case?

4 PROSPECTIVE JUROR NUMBER 202: No.

5 MS. BAHARAV: Okay. And obviously you didn't need that evidence to make
6 a decision, right?

7 PROSPECTIVE JUROR NUMBER 202: Right.

8 MS. BAHARAV: Now with regards to this case, if we don't present fingerprints
9 or DNA, are -- are you going to automatically find the Defendant not guilty?

10 PROSPECTIVE JUROR NUMBER 202: No.

11 MS. BAHARAV: You'll listen to whatever's presented to you?

12 PROSPECTIVE JUROR NUMBER 202: Yes.

13 MS. BAHARAV: And make a decision? Yes?

14 PROSPECTIVE JUROR NUMBER 202: Yes, absolutely.

15 MS. BAHARAV: Would you like someone like yourself on this jury?

16 PROSPECTIVE JUROR NUMBER 202: Yes, I think I'm very fair. I found the
17 previous experience very interesting and would be happy to do it again.

18 MS. BAHARAV: Great. Anyone in your family ever been accused of a crime?

19 PROSPECTIVE JUROR NUMBER 202: No.

20 MS. BAHARAV: Anyone ever been the victim of a crime?

21 PROSPECTIVE JUROR NUMBER 202: No.

22 MS. BAHARAV: Awesome. Thanks. We'll pass for cause.

23 MR. NADIG: Afternoon, Ms. Brodish.

24 PROSPECTIVE JUROR NUMBER 202: Good afternoon.

25 MR. NADIG: What school do you work at?

Volume I - Page 131

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 202: I work at Newton Element School.

2 MR. NADIG: Okay. My wife works at Stuckey so I just like to make sure that
3 there's no --

4 PROSPECTIVE JUROR NUMBER 202: Okay.

5 MR. NADIG: If you were sitting where my client was sitting, would you want
6 yourself as a juror?

7 PROSPECTIVE JUROR NUMBER 202: Absolutely.

8 MR. NADIG: Why?

9 PROSPECTIVE JUROR NUMBER 202: I'm very fair. I look at the facts. I'm
10 not influenced at all. I have my own opinions and I pretty much stick to them.

11 MR. NADIG: And I'm guessing based on your life of work you're incredibly
12 patient as well.

13 PROSPECTIVE JUROR NUMBER 202: Very patient.

14 MR. NADIG: Okay.

15 PROSPECTIVE JUROR NUMBER 202: But don't go more than two days.
16 Not that patient.

17 MR. NADIG: I will be very surprised if it goes more than two days.

18 PROSPECTIVE JUROR NUMBER 202: Okay.

19 MR. NADIG: If it is, it's your fault.

20 PROSPECTIVE JUROR NUMBER 202: Okay.

21 MR. NADIG: I'll just -- I'll pass, Your Honor.

22 THE COURT: Thanks.

23 All right. While we'll follow -- we'll proceed in the following manner:
24 Parties will have the opportunity to make opening statements. What is said in
25 opening statement is not evidence. The statements simply serve the purpose of

1 introduction of the evidence which the party making the statement intends to
2 produce.

3 The State will -- will introduce evidence in support of the State's
4 information. This is called the State's case in chief.

5 After the State presents evidence, Defendant may, if they choose,
6 present evidence but is not obligated to do so. This would be this -- the Defendant's
7 case in chief.

8 If the Defendant presents evidence, the State may present rebuttal
9 evidence. If the State presents rebuttal evidence, the Defendant may present
10 surrebuttal evidence. That just means more evidence.

11 After evidence I will instruct you on the applicable law. You must not be
12 concerned with the wisdom of any rule of law stated in these instructions which I will
13 read to you. After the evidence, regardless of any of the -- any opinion you may
14 have as to what the law ought to be, it would be a violation of your oath to base a
15 verdict upon any other view of the law than that given to you by me.

16 After the instructions in the -- on the law are read to you, each party has
17 the opportunity to present closing arguments in support of their case. What is said
18 in closing arguments is not evidence, just as what is said in opening statements is
19 not evidence. The arguments are designed to present to you the contentions of the
20 party as to what the evidence has shown or what inferences may be drawn from the
21 evidence.

22 You'll be given the opportunity to ask written questions of any of the
23 witnesses called to testify. You're not encouraged to ask a large number of -- of
24 questions because that is primary responsibility the attorneys. Only a limited
25 number of questions may be posed by jurors and you will not be allowed to become

Volume I - Page 133

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 the third attorney or to advocate a certain position with your questions and they'll
2 happen like this: They'll be done with that witness, examining the witness and I'll
3 say -- turn to the jury and say does the jury have any questions of this witness.
4 You'll write your question down with your seat number, not with your badge number.
5 Give it to Tom -- raise your hand. Tom will come pick it up. And I'll take the
6 attorneys out in the back hall and we'll talk about them.

7 We would thank and excuse Denise Miller. Thank you for your time.
8 And Crystal Hutchison. Thank you for your time.

9 THE CLERK: Okay, next up badge 203, John Money.

10 And badge 204, Guy Belding.

11 THE COURT: Do you work?

12 PROSPECTIVE JUROR NUMBER 203: Yes, Your Honor, I do.

13 THE COURT: What do you do?

14 PROSPECTIVE JUROR NUMBER 203: I'm a registered nurse.

15 THE COURT: Where at?

16 PROSPECTIVE JUROR NUMBER 203: At Mountain Edge Hospital.

17 THE COURT: Are you married?

18 PROSPECTIVE JUROR NUMBER 203: Yes, I am.

19 THE COURT: Spouse work?

20 PROSPECTIVE JUROR NUMBER 203: No, she's disabled.

21 THE COURT: Okay, I'm sorry. Do you have any background in law or law
22 enforcement?

23 PROSPECTIVE JUROR NUMBER 203: No, sir.

24 THE COURT: Ever sat as a juror before?

25 PROSPECTIVE JUROR NUMBER 203: Yes, I have.

Volume I - Page 134

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Where?

2 PROSPECTIVE JUROR NUMBER 203: In Norfolk, Virginia.

3 THE COURT: When?

4 PROSPECTIVE JUROR NUMBER 203: About four thirty -- thirty-five years
5 ago.

6 THE COURT: Civil or criminal?

7 PROSPECTIVE JUROR NUMBER 203: It was civil.

8 THE COURT: You understand the difference is --

9 PROSPECTIVE JUROR NUMBER 203: Yes, sir.

10 THE COURT: -- your verdict has to be unanimous. There just six out of
11 eight. I mean just a slight tip of the scale of justice. That's all you need in a civil
12 case, but this has to be unanimous. You understand that?

13 PROSPECTIVE JUROR NUMBER 203: Yes, I do.

14 THE COURT: Can you think of any reason you would not be fair and
15 impartial in this case?

16 PROSPECTIVE JUROR NUMBER 203: In all honesty I do. I have -- I have
17 ex-wife who was a meth addict. Also, I have a current stepdaughter who's had
18 trouble with meth and I have had experience watching what they went through with
19 the problem and I don't know that I could be impartial to the prosecution.

20 THE COURT: Either party have a problem me kicking her -- kicking him?

21 MS. BAHARAV: No, Your Honor.

22 MR. NADIG: No, Your Honor.

23 THE COURT: Okay. You're excused. Thank you.

24 PROSPECTIVE JUROR NUMBER 203: Yes, sir.

25 THE COURT: Fill that spot, please.

1 THE CLERK: Okay, next up badge 206, Kenneth Kenny.
2 THE COURT: Do you work, Mr. Kenny?
3 PROSPECTIVE JUROR NUMBER 206: Yes, I do.
4 THE COURT: What do you do?
5 PROSPECTIVE JUROR NUMBER 206: I'm a treasurer at Southwest Gas
6 Corporation.
7 THE COURT: Are you married?
8 PROSPECTIVE JUROR NUMBER 206: Yes.
9 THE COURT: Spouse work?
10 PROSPECTIVE JUROR NUMBER 206: I'm sorry?
11 THE COURT: Does your spouse work?
12 PROSPECTIVE JUROR NUMBER 206: No, she does not.
13 THE COURT: Do you have children?
14 PROSPECTIVE JUROR NUMBER 206: Yes.
15 THE COURT: Ages?
16 PROSPECTIVE JUROR NUMBER 206: Twenty-three and 18.
17 THE COURT: Either of them in law or law enforcement?
18 PROSPECTIVE JUROR NUMBER 206: No.
19 THE COURT: Do you have a background in law or law enforcement?
20 PROSPECTIVE JUROR NUMBER 206: No, I do not.
21 THE COURT: Have you ever sat as a juror before?
22 PROSPECTIVE JUROR NUMBER 206: No.
23 THE COURT: Can you think of any reason you would not be fair and
24 impartial to both parties in this case?
25 PROSPECTIVE JUROR NUMBER 206: Yes.

Volume I - Page 136

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: What's that?

2 PROSPECTIVE JUROR NUMBER 206: I'm sorry?

3 THE COURT: Can you be fair?

4 PROSPECTIVE JUROR NUMBER 206: Yes.

5 THE COURT: Oh, okay.

6 State.

7 MS. BAHARAV: Sir, has anyone in your family ever been accused of a
8 crime?

9 PROSPECTIVE JUROR NUMBER 206: Can you speak up a little bit? I got a
10 little bit of a hearing impairment.

11 MS. BAHARAV: Sure. Has anyone in your family ever been accused of a
12 crime?

13 PROSPECTIVE JUROR NUMBER 206: No.

14 MS. BAHARAV: What about anyone in your family ever being the victim of a
15 crime?

16 PROSPECTIVE JUROR NUMBER 206: No.

17 MS. BAHARAV: You've heard my question about narcotics earlier.
18 Understanding that the Judge is going to instruct you that the possession of
19 narcotics are illegal, do you have any problem following the law in this case?

20 PROSPECTIVE JUROR NUMBER 206: No, I don't have any problem
21 following within the parameters of the law.

22 MS. BAHARAV: Great. And with regards to reasonable doubt, you
23 understand that the Defendant as he sits there right now is not guilty?

24 PROSPECTIVE JUROR NUMBER 206: Right, innocent until proven guilty.

25 MS. BAHARAV: Right, and we have to prove that.

Volume I - Page 137

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 206: That's correct.
2 MS. BAHARAV: Any issues holding us to our burden whatsoever?
3 PROSPECTIVE JUROR NUMBER 206: I'm sorry?
4 MS. BAHARAV: Do you have any issues holding us to our burden?
5 PROSPECTIVE JUROR NUMBER 206: No, I do not.
6 MS. BAHARAV: Would you like someone like yourself to be on the jury?
7 PROSPECTIVE JUROR NUMBER 206: Yes, I guess so.
8 MS. BAHARAV: Why?
9 PROSPECTIVE JUROR NUMBER 206: Because I'm impartial.
10 MS. BAHARAV: Okay. And you'll listen to all of the evidence that's
11 presented?
12 PROSPECTIVE JUROR NUMBER 206: I will listen to all the evidence,
13 correct.
14 MS. BAHARAV: Follow the law as the Judge instructs you?
15 PROSPECTIVE JUROR NUMBER 206: That is true.
16 MS. BAHARAV: Okay. We'll pass for cause, Your Honor.
17 PROSPECTIVE JUROR NUMBER 206: Thank you.
18 MR. NADIG: Good afternoon, Mr. Kenny, how you doing?
19 PROSPECTIVE JUROR NUMBER 206: I'm fine, how about yourself?
20 MR. NADIG: Little tired. Other than that I'm all right.
21 PROSPECTIVE JUROR NUMBER 206: I can see why you would be.
22 MR. NADIG: Now, would you want yourself sitting as a juror?
23 PROSPECTIVE JUROR NUMBER 206: Yes.
24 MR. NADIG: Okay, and why?
25 PROSPECTIVE JUROR NUMBER 206: Because I'm impartial.

Volume I - Page 138

1 MR. NADIG: Okay. Now, the State has the burden in this case and I think
2 we've kind of beat like a dead horse but do you have any problem holding them to
3 their burden?

4 PROSPECTIVE JUROR NUMBER 206: I'm sorry?

5 MR. NADIG: Do you have any problem holding the State to their burden?

6 PROSPECTIVE JUROR NUMBER 206: No, I do not.

7 MR. NADIG: Okay. Additionally, simply because a person gets up in uniform
8 and testifies, is that going to mean that their testimony holds greater weight?

9 PROSPECTIVE JUROR NUMBER 206: No.

10 MR. NADIG: Okay, so --

11 PROSPECTIVE JUROR NUMBER 206: No, they're still -- they're still an
12 individual.

13 MR. NADIG: And you -- you would treat them as such?

14 PROSPECTIVE JUROR NUMBER 206: Yes.

15 MR. NADIG: And you have no problem doing so?

16 PROSPECTIVE JUROR NUMBER 206: No.

17 MR. NADIG: Okay. Nothing further, Your Honor.

18 THE COURT: All right.

19 MR. NADIG: I'll pass.

20 THE COURT: You'll pass that mic.

21 Tell me your name again.

22 PROSPECTIVE JUROR NUMBER 204: Guy Belding.

23 THE COURT: You work?

24 PROSPECTIVE JUROR NUMBER 204: Yes, sir, I do.

25 THE COURT: What do you do?

1 PROSPECTIVE JUROR NUMBER 204: I'm a race and sports book worker at
2 the Rampart Casino.

3 THE COURT: Are you married?

4 PROSPECTIVE JUROR NUMBER 204: Yes, sir.

5 THE COURT: Spouse work?

6 PROSPECTIVE JUROR NUMBER 204: Yes, she does.

7 THE COURT: What does your spouse do?

8 PROSPECTIVE JUROR NUMBER 204: She's a branch administrator at
9 Penske Truck Leasing.

10 THE COURT: You ever sat as a juror before?

11 PROSPECTIVE JUROR NUMBER 204: Yes, I have.

12 THE COURT: Where?

13 PROSPECTIVE JUROR NUMBER 204: Here in Las Vegas.

14 THE COURT: When?

15 PROSPECTIVE JUROR NUMBER 204: '83, '84.

16 THE COURT: Civil or criminal?

17 PROSPECTIVE JUROR NUMBER 204: It was civil.

18 THE COURT: And as I've explained to the others, there's a difference
19 between civil and criminal. Criminal is unanimous. Civil is just --

20 PROSPECTIVE JUROR NUMBER 204: Shadow of a doubt versus a
21 preponderance of the evidence.

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

23 PROSPECTIVE JUROR NUMBER 204: I worked for ADT as an alarm runner
24 and did respond with Metro in the early 80's. Didn't do it long, but yes I did.

25 THE COURT: Okay. You'll be fair and impartial to both parties?

Volume I - Page 140

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 204: Yes, I will.

2 THE COURT: State?

3 MS. BAHARAV: Court's indulgence.

4 [Colloquy between counsel]

5 MS. BAHARAV: We'll pass for cause.

6 THE COURT: Defense?

7 MR. NADIG: Do you want to be here?

8 PROSPECTIVE JUROR NUMBER 204: Sure. Not -- not really thrilled about
9 it but, you know, yeah.

10 MR. NADIG: Nobody is. I promise. Now, race and sports book. Do you
11 work swing? What -- what shift do you work?

12 PROSPECTIVE JUROR NUMBER 204: Swing shift.

13 MR. NADIG: Okay. Is it going to be a problem with you because I'm
14 guessing you don't usually wake up early in the morning. Is it going to be a problem
15 for you paying attention at some point if say we started around 10:00 tomorrow?

16 PROSPECTIVE JUROR NUMBER 204: I will -- I'll get Starbucks. I'll be good
17 to go.

18 MR. NADIG: So and then, you know, the standard question: If you were
19 sitting in that chair, would you want yourself as a juror?

20 PROSPECTIVE JUROR NUMBER 204: Yes, I would.

21 MR. NADIG: Why?

22 PROSPECTIVE JUROR NUMBER 204: Because I -- I'm going to look at it
23 and -- they have to prove their case the same way you have to prove their case. I'm
24 going to give you an honest answer, whatever it is --

25 MR. NADIG: I don't have to prove anything. You understand that, right?

Volume I - Page 141

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 204: Yes, sir, I do.
2 MR. NADIG: I -- I could sit there and play videogames on my iPad --
3 PROSPECTIVE JUROR NUMBER 204: They've got to prove him guilty.
4 MR. NADIG: And you understand that?
5 PROSPECTIVE JUROR NUMBER 204: Absolutely, sir.
6 MR. NADIG: Perfect. And I don't play videogames on my iPad just for the
7 record.
8 THE COURT: Okay, hold on.
9 MS. BAHARAV: There's a --
10 THE COURT: Tom, there's a hand up.
11 THE MARSHAL: Oh, out there. I was looking for the sheet.
12 THE COURT: Got to give him that sheet.
13 Yeah.
14 PROSPECTIVE JUROR NUMBER 188: I'm sorry to butt in. I just
15 remembered tomorrow -- my wife is pregnant right now and it's little bit of a high risk
16 pregnancy. We have an important doctor's appointment tomorrow 8 a.m. So that's
17 going to be between 8 and 10. I don't know what time we plan to start here. I would
18 like to --
19 THE COURT: We're going to start at -- we'll start at 10.
20 PROSPECTIVE JUROR NUMBER 188: Okay. I would like to be here for
21 this, but if it like started early, I think I'm --
22 THE COURT: Ten.
23 PROSPECTIVE JUROR NUMBER 188: -- just going to be a hot mess.
24 THE COURT: Okay.
25 All right. I have the discretion -- again you can ask questions of the

Volume I - Page 142

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 witnesses and I'll take them out and read them. I have the discretion to preclude
2 individual jurors from asking an excessive number of questions.

3 Questions may be asked both lawyers -- after both lawyers have
4 finished questioning the witness only and only at that time. The State will call a
5 witness and conducts a direct examination. Defense then has the opportunity
6 conduct cross-examination. May go back and forth until I direct you to ask a
7 question if you should so desire.

8 You should write your question down with your juror number on a full --
9 you don't have to do it your juror number, your seat number. It's changed. After the
10 attorneys are finished, I will look to the jury again and see if there's a question
11 before I release the witness.

12 Any questions you pose must be factual in nature and designed to
13 clarify information already presented. All questions must be directed to the witness
14 and not to the lawyers or to myself as the Judge.

15 After you have indicated that you have a question, the Marshal will pick
16 up your question, give it to me and I'll consult with the attorneys to determine if your
17 question is legally proper. Only questions permissible under the rules of evidence
18 will be asked and jurors should not draw any inferences or conclusions if a question
19 they have submitted is not asked. If I determine that your question may not properly
20 be asked, I will -- or if I -- if I determine that your question may properly be asked, I'll
21 ask it of the witness and the attorneys will be allowed follow-up as necessary.

22 Until this case is submitted to you, you must not discuss it with anyone,
23 even with fellow jurors. After it is submitted to you, you must discuss it only in the
24 jury room.

25 We would thank and excuse Guy Belding. Thank you for your time.

Volume I - Page 143

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 And Jason Gunderson. Thank you for your time.

2 THE CLERK: Okay, next badge 207, Blanca Londona, and 208, Debra

3 Chapa.

4 THE COURT: All right, tell me your name.

5 PROSPECTIVE JUROR NUMBER 207: Blanca.

6 THE COURT: Do you work?

7 PROSPECTIVE JUROR NUMBER 207: Yes.

8 THE COURT: What do you do?

9 PROSPECTIVE JUROR NUMBER 207: Calvary Chapel Spring Valley

10 facilities, the apartment --

11 THE COURT: Are you married?

12 PROSPECTIVE JUROR NUMBER 207: No.

13 THE COURT: Do you have children?

14 PROSPECTIVE JUROR NUMBER 207: Five boys.

15 THE COURT: Ages?

16 PROSPECTIVE JUROR NUMBER 207: Twenty-six, 25, 24, 23 and 13 year

17 old.

18 THE COURT: Any of them in law or law enforcement?

19 PROSPECTIVE JUROR NUMBER 207: No.

20 THE COURT: Do you have any background in law or law enforcement?

21 PROSPECTIVE JUROR NUMBER 207: No.

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

23 PROSPECTIVE JUROR NUMBER 207: Yes.

24 THE COURT: Where?

25 PROSPECTIVE JUROR NUMBER 207: Here in Nevada.

Volume I - Page 144

1 THE COURT: When?

2 PROSPECTIVE JUROR NUMBER 207: Two years ago.

3 THE COURT: Civil or criminal?

4 PROSPECTIVE JUROR NUMBER 207: I don't know if it was --

5 THE COURT: What kind of case was it?

6 PROSPECTIVE JUROR NUMBER 207: It was sexual harassment.

7 THE COURT: Okay, that would be civil. And you only have to by a
8 preponderance of the evidence prove that, but here it has to be unanimous. You
9 understand that?

10 PROSPECTIVE JUROR NUMBER 207: Yes.

11 THE COURT: Okay, can you think of any reason you would not be fair and
12 impartial to both parties?

13 PROSPECTIVE JUROR NUMBER 207: No.

14 THE COURT: State?

15 MS. BAHARAV: Hi.

16 PROSPECTIVE JUROR NUMBER 207: Hi.

17 MS. BAHARAV: Did you hear my questions about the show CSI?

18 PROSPECTIVE JUROR NUMBER 207: Yes.

19 MS. BAHARAV: Do you watch that show?

20 PROSPECTIVE JUROR NUMBER 207: No.

21 MS. BAHARAV: Are you a person that will require fingerprints and DNA in a
22 case before you can find a person guilty?

23 PROSPECTIVE JUROR NUMBER 207: No.

24 MS. BAHARAV: You'll be able to listen to the evidence that's presented and
25 make a decision?

Volume I - Page 145

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 207: Yes.

2 MS. BAHARAV: Do you believe that if the Judge instructs you that the
3 possession of narcotics is a crime that you'll be able to follow the law even if you
4 disagree with it?

5 PROSPECTIVE JUROR NUMBER 207: Yes.

6 MS. BAHARAV: Any problems following the law that's instructed to you?

7 PROSPECTIVE JUROR NUMBER 207: No.

8 MS. BAHARAV: Do you want to be on the jury?

9 PROSPECTIVE JUROR NUMBER 207: Yes.

10 MS. BAHARAV: Why?

11 PROSPECTIVE JUROR NUMBER 207: I been to one and it was a great
12 opportunity for me to be part of my rights in the United States and I get to practice
13 my English and to listen and -- and to be part of someone's life.

14 MS. BAHARAV: How long have you been in the United States?

15 PROSPECTIVE JUROR NUMBER 207: Like 19 years.

16 MS. BAHARAV: Okay. So if we're, you know, having a conversation with the
17 witness, are you concerned at all that you'll have any issues understanding what
18 we're saying?

19 PROSPECTIVE JUROR NUMBER 207: Wait, I understand everything.

20 MS. BAHARAV: Okay. And if you don't, you don't have any problems writing
21 down any questions and providing it to Tom so that we can clarify?

22 PROSPECTIVE JUROR NUMBER 207: Yes.

23 MS. BAHARAV: Has anyone in your family ever been accused of a crime?

24 PROSPECTIVE JUROR NUMBER 207: No.

25 MS. BAHARAV: Has anyone in your family ever been the victim of a crime?

Volume I - Page 146

1 PROSPECTIVE JUROR NUMBER 207: No.

2 MS. BAHARAV: And if you were sitting where we're sitting, would you like
3 somebody like yourself on the jury panel?

4 PROSPECTIVE JUROR NUMBER 207: Yes.

5 MS. BAHARAV: And if you're sitting where Mr. Barnett is sitting, would you
6 like somebody like yourself on the panel?

7 PROSPECTIVE JUROR NUMBER 207: Yes.

8 MS. BAHARAV: And why is that?

9 PROSPECTIVE JUROR NUMBER 207: I'm partial.

10 MS. BAHARAV: Impartial?

11 PROSPECTIVE JUROR NUMBER 207: Impartial.

12 MS. BAHARAV: Okay. You'll listen to all the evidence?

13 PROSPECTIVE JUROR NUMBER 207: Yes.

14 MS. BAHARAV: Okay. We'll pass for cause, Your Honor.

15 THE COURT: We're going to take a five-minute recess. During the recess
16 don't talk about what we've talked about here in the court. See you. Truly take five
17 minutes.

18 [Prospective jury out at 3:18 p.m.]

19 THE COURT: Truly one of the attorneys will push that wheelchair, not my
20 Marshal.

21 MR. NADIG: I don't want to get busted for it.

22 MS. BAHARAV: I can't push her. I'll get in trouble.

23 MR. NADIG: We do need to make a record as to --

24 THE COURT: Oh yes.

25 MR. NADIG: -- juror number 186.

Volume I - Page 147

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Okay.

2 MR. NADIG: Are we ready? Is it on?

3 THE COURT: Yes.

4 MR. NADIG: Okay. Your Honor, for the record, I felt that Mr. Gordon should
5 be passed for cause or removed for cause. He stated that he would pay attention or
6 he would essentially hold the State to a lesser standard. I then went into a series of
7 additional questions. Ms. Baharav agreed with me that he should be removed for
8 cause. Your Honor overruled the both of us.

9 MS. BAHARAV: Based upon the record that he -- was made, the State
10 shared some concerns about his -- his comments regarding the ability to be fair and
11 impartial. That's why we agreed with counsel that perhaps he could be kicked. The
12 Court didn't see that that way and that's the Court's prerogative. The Court's been
13 doing this longer so -- he was ultimately challenged anyway at peremptory challenge
14 and so he's not on the panel any longer.

15 THE COURT: I believed he said he would be fair and impartial and he'd make
16 a fair decision, and so I did not grant that challenge for cause. As well -- let me see
17 if I can find that lady. We did have an African American lady. I think it was Vonte
18 Williams.

19 MS. BAHARAV: Yes.

20 THE COURT: That -- that you both stipulated to remove.

21 MS. BAHARAV: We did.

22 MR. NADIG: Yes, there is no *Batson* issue as to that --

23 THE COURT: No.

24 MR. NADIG: -- whatsoever, Your Honor.

25 THE COURT: All right.

1 MS. BAHARAV: Thank you. Anyone else? No. Okay.
2 [Recess taken at 3:20 p.m.]
3 [Proceedings resumed at 3:34 p.m.]
4 THE COURT: Are you guys ready?
5 MS. BAHARAV: Yes, Your Honor.
6 THE COURT: Bring them back in.
7 THE MARSHAL: All rise, please.
8 [Prospective jury in at 3:36 p.m.]
9 THE MARSHAL: And be seated.
10 THE COURT: All right. Who's got the mic? Okay. Tell me your name?
11 PROSPECTIVE JUROR NUMBER 208: Debra Ann Chapa.
12 THE COURT: Do you work?
13 PROSPECTIVE JUROR NUMBER 208: Yes.
14 THE COURT: What do you do?
15 PROSPECTIVE JUROR NUMBER 208: I'm an RN.
16 THE COURT: Where at?
17 PROSPECTIVE JUROR NUMBER 208: San Martin.
18 THE COURT: San Martin Hospital or San Martin, the island?
19 PROSPECTIVE JUROR NUMBER 208: No, San Martin the hospital.
20 THE COURT: Okay. Are you married?
21 PROSPECTIVE JUROR NUMBER 208: No, divorced.
22 THE COURT: Children?
23 PROSPECTIVE JUROR NUMBER 208: Yes.
24 THE COURT: Ages?
25 PROSPECTIVE JUROR NUMBER 208: Forty-two and 40.

Volume I - Page 149

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Either of them in law or law enforcement?
2 PROSPECTIVE JUROR NUMBER 208: No.
3 THE COURT: Do you have any background in law or law enforcement?
4 PROSPECTIVE JUROR NUMBER 208: No.
5 THE COURT: Ever sat as a juror before?
6 PROSPECTIVE JUROR NUMBER 208: Yes.
7 THE COURT: Where?
8 PROSPECTIVE JUROR NUMBER 208: Back in Michigan.
9 THE COURT: When?
10 PROSPECTIVE JUROR NUMBER 208: Probably 22, 23 years ago.
11 THE COURT: Civil or criminal?
12 PROSPECTIVE JUROR NUMBER 208: Criminal. We reached --
13 THE COURT: Without telling us if you reached a verdict, did you reach a
14 verdict?
15 PROSPECTIVE JUROR NUMBER 208: We did.
16 THE COURT: Were you the jury foreperson?
17 PROSPECTIVE JUROR NUMBER 208: No.
18 THE COURT: What kind of case was it?
19 PROSPECTIVE JUROR NUMBER 208: It was a theft.
20 THE COURT: Can you think of any reason you would not be fair and
21 impartial to both parties in this case?
22 PROSPECTIVE JUROR NUMBER 208: No.
23 THE COURT: State.
24 MS. BAHARAV: Thank you.
25 Ma'am, has anyone in your family ever been accused of a crime?

Volume I - Page 150

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 208: No.

2 MS. BAHARAV: Anyone in your family ever been the victim of a crime?

3 PROSPECTIVE JUROR NUMBER 208: Myself.

4 MS. BAHARAV: And I -- earlier I think you were -- you said you were robbed

5 at gunpoint?

6 PROSPECTIVE JUROR NUMBER 208: Not at gunpoint.

7 MS. BAHARAV: You were just robbed?

8 PROSPECTIVE JUROR NUMBER 208: I was just robbed, yes.

9 MS. BAHARAV: Still very scary, even if there's no gun --

10 PROSPECTIVE JUROR NUMBER 208: Yes it was.

11 MS. BAHARAV: Did they ever find the person that did that to you?

12 PROSPECTIVE JUROR NUMBER 208: No.

13 MS. BAHARAV: Did the police respond to the area?

14 PROSPECTIVE JUROR NUMBER 208: They did.

15 MS. BAHARAV: And were you happy with how they responded to your case?

16 PROSPECTIVE JUROR NUMBER 208: Yes.

17 MS. BAHARAV: Anything about that experience that you'll hold against the

18 State of Nevada?

19 PROSPECTIVE JUROR NUMBER 208: No.

20 MS. BAHARAV: Anything about that experience you'll hold against Mr.

21 Barnett?

22 PROSPECTIVE JUROR NUMBER 208: No.

23 MS. BAHARAV: Would you like a juror like yourself on the jury if you were

24 sitting where we're sitting?

25 PROSPECTIVE JUROR NUMBER 208: Yes, I think I can be impartial --

Volume I - Page 151

1 MS. BAHARAV: Okay.

2 PROSPECTIVE JUROR NUMBER 208: -- and fair.

3 MS. BAHARAV: And you can listen to all of the evidence?

4 PROSPECTIVE JUROR NUMBER 208: Yes.

5 MS. BAHARAV: And if the State presents all of its evidence and proves the
6 elements beyond a reasonable doubt, would you find the Defendant guilty?

7 PROSPECTIVE JUROR NUMBER 208: Yes.

8 MS. BAHARAV: And you understand that Mr. Barnett doesn't have to say
9 anything, right?

10 PROSPECTIVE JUROR NUMBER 208: Correct.

11 MS. BAHARAV: He doesn't have to cross-examine anybody, right?

12 PROSPECTIVE JUROR NUMBER 208: Correct.

13 MS. BAHARAV: He could just sit there and play videogames on his iPad?

14 PROSPECTIVE JUROR NUMBER 208: Yes.

15 MS. BAHARAV: And you -- if the State still failed to meet its burden, you
16 wouldn't hold any of that against Mr. Barnett, would you?

17 PROSPECTIVE JUROR NUMBER 208: No.

18 MS. BAHARAV: Did you hear my question earlier about narcotics and
19 following the law?

20 PROSPECTIVE JUROR NUMBER 208: Yes. It's a crime. You know,
21 narcotics are a crime and you have to go by the law.

22 MS. BAHARAV: Okay. So if the Judge gives you the instructions on the law,
23 you have no problems following that?

24 PROSPECTIVE JUROR NUMBER 208: No.

25 MS. BAHARAV: Okay. We'll pass for cause. Thanks, Your Honor.

Volume I - Page 152

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: Afternoon, Ms. Chapa, how you doing?
2 PROSPECTIVE JUROR NUMBER 208: Good.
3 MR. NADIG: Good. You heard my kids analogy?
4 PROSPECTIVE JUROR NUMBER 208: I did.
5 MR. NADIG: Okay. You think it's a fair assessment?
6 PROSPECTIVE JUROR NUMBER 208: Yes.
7 MR. NADIG: Okay. Do you think you have the ability do so in this case?
8 PROSPECTIVE JUROR NUMBER 208: Yes, I do.
9 MR. NADIG: Okay. Now, in certain situation the law is do not speed, but still
10 we speed, do we not?
11 PROSPECTIVE JUROR NUMBER 208: Correct.
12 MR. NADIG: But I'm not asking you to disregard the law. That's not what I'm
13 saying, but sometimes there are just different stories; fair to say?
14 PROSPECTIVE JUROR NUMBER 208: Correct.
15 MR. NADIG: Okay, and can you hold judgment until you hear both stories?
16 PROSPECTIVE JUROR NUMBER 208: Yes.
17 MR. NADIG: Okay, and --
18 PROSPECTIVE JUROR NUMBER 208: Yes.
19 MR. NADIG: -- do you have the ability to independently sit there, listen to
20 what an officer says and form your own opinion?
21 PROSPECTIVE JUROR NUMBER 208: Yes.
22 MR. NADIG: Then do you have no doubt you can do it?
23 PROSPECTIVE JUROR NUMBER 208: Yes.
24 MR. NADIG: Perfect.
25 PROSPECTIVE JUROR NUMBER 208: I have no doubt.

Volume I - Page 153

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. NADIG: All right. Nothing further.

2 THE COURT: Good.

3 If you cannot hear a witness, please raise your hand as an indication, or
4 if you have to have a bathroom break -- we've already done that because someone
5 raised their hand. Just let Tom know. I have a tendency not to watch the jury so --
6 we'll -- we'll try and take intermittent breaks as the Court sees fit, usually about
7 every 90 minutes or so. For the most part I have no objections to jurors bringing
8 drinks into the courtroom or snacks. Some people have a need to do that. If you
9 need to stand up, go ahead and stand up to stretch.

10 Your purpose as jurors is to find and determine the facts. Under our
11 system of criminal procedure, you're the sole judge of the facts. You determine the
12 facts from the testimony you hear and other evidence, including exhibits introduced
13 in court. It is up to you to determine the inferences which you feel may be properly
14 drawn from the evidence. It is especially important that you perform your duty of
15 determining the facts diligently and conscientiously, for ordinarily there is no means
16 of correcting an erroneous determination of facts by the jury.

17 The parties may sometimes present objections to some of the
18 testimony or other evidence.

19 We would thank and excuse Igor Vidovic. Thank you for your time.
20 Good luck with your wife.

21 PROSPECTIVE JUROR NUMBER 188: Thank you.

22 THE DEFENDANT: Okay, next up we have badge 371, Elena Martinez.

23 THE COURT: Do you work?

24 PROSPECTIVE JUROR NUMBER 371: Yes, I do.

25 THE COURT: What do you do?

Volume I - Page 154

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 371: I'm a registered dental assistant.

2 THE COURT: Where at?

3 PROSPECTIVE JUROR NUMBER 371: At Thunderbird Dental and Dental
4 Care International.

5 THE COURT: Are you married?

6 PROSPECTIVE JUROR NUMBER 371: Yes.

7 THE COURT: Spouse work?

8 PROSPECTIVE JUROR NUMBER 371: Yes.

9 THE COURT: What does your spouse do?

10 PROSPECTIVE JUROR NUMBER 371: He works at Hershey Masonry.

11 THE COURT: Have children?

12 PROSPECTIVE JUROR NUMBER 371: Yes, we have a four-year-old and a
13 two-year-old.

14 THE COURT: Neither of them are in law or law enforcement?

15 PROSPECTIVE JUROR NUMBER 371: No.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NUMBER 371: I mean they play cops and things
18 and stuff but --

19 THE COURT: Do you -- do you have any background in law or law
20 enforcement?

21 PROSPECTIVE JUROR NUMBER 371: No.

22 THE COURT: Ever sat as a juror before?

23 PROSPECTIVE JUROR NUMBER 371: No, first time.

24 THE COURT: Can you think of any reason you would not be fair and
25 impartial to both parties in this case?

Volume I - Page 155

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 371: No.

2 THE COURT: State.

3 MS. BAHARAV: Yes, Your Honor.

4 Anyone in your family ever been accused of a crime?

5 PROSPECTIVE JUROR NUMBER 371: Yes.

6 MS. BAHARAV: And what was that?

7 PROSPECTIVE JUROR NUMBER 371: My father was accused -- well he
8 had domestic violence charges against him. Also, lewdness with a minor 14. My
9 brother had sexual assault charges against him and assault with a deadly weapon.

10 MS. BAHARAV: Do you know if they were prosecuted by the Clark County
11 District Attorney's Office?

12 PROSPECTIVE JUROR NUMBER 371: They had a trial but everything was
13 dismissed.

14 MS. BAHARAV: Okay.

15 PROSPECTIVE JUROR NUMBER 371: My brother, he did -- he was a felon
16 though. He did get a felony from the assault with a deadly weapon.

17 MS. BAHARAV: Okay. And did you participate in any way in that trial like
18 paying attention, seeing what's going on?

19 PROSPECTIVE JUROR NUMBER 371: I was -- I was always in their
20 hearings. I'd be in the audience.

21 MS. BAHARAV: And do you think that your brother and your father were
22 treated fairly?

23 PROSPECTIVE JUROR NUMBER 371: I do.

24 MS. BAHARAV: Do you think they were treated fairly by the State of
25 Nevada?

1 PROSPECTIVE JUROR NUMBER 371: I do.

2 MS. BAHARAV: And do you think that they were treated fairly by the Las
3 Vegas Metropolitan Police Department?

4 PROSPECTIVE JUROR NUMBER 371: I do.

5 MS. BAHARAV: Anything about that experience that you'll hold against the
6 State of Nevada?

7 PROSPECTIVE JUROR NUMBER 371: No.

8 MS. BAHARAV: Anything about that experience you'll hold against the
9 Defendant?

10 PROSPECTIVE JUROR NUMBER 371: No.

11 MS. BAHARAV: Now, has anyone in your family been the victim of a crime?

12 PROSPECTIVE JUROR NUMBER 371: My mother.

13 MS. BAHARAV: With regards to your mother, did she prosecute any -- any of
14 those crimes that she was the victim of?

15 PROSPECTIVE JUROR NUMBER 371: Against my father which was the
16 domestic violence.

17 MS. BAHARAV: Okay, so she went forward with prosecution on that?

18 PROSPECTIVE JUROR NUMBER 371: Yes.

19 MS. BAHARAV: And do you think that the system treated her fairly?

20 PROSPECTIVE JUROR NUMBER 371: Yes.

21 MS. BAHARAV: Do you think there's anything whatsoever with regards to
22 that experience in your family that you'll hold against either side?

23 PROSPECTIVE JUROR NUMBER 371: No. There's probably cause and you
24 have to do -- you got to follow the rules which is the law.

25 MS. BAHARAV: Great. We're going to have some cops testifying. You'll be

Volume I - Page 157

1 able to listen to everything they have to say and make a decision based upon how
2 you feel they're testifying, correct?

3 PROSPECTIVE JUROR NUMBER 371: Correct.

4 MS. BAHARAV: If you feel like they're telling the truth, you'll be able to
5 believe that they're telling the truth?

6 PROSPECTIVE JUROR NUMBER 371: Yes.

7 MS. BAHARAV: And if you feel like they're lying, you'll have no problem
8 discarding whatever they said?

9 PROSPECTIVE JUROR NUMBER 371: Right.

10 MS. BAHARAV: Have you heard my question with regards to narcotics and it
11 being against the law here in Nevada?

12 PROSPECTIVE JUROR NUMBER 371: Correct.

13 MS. BAHARAV: Do you agree that if the Judge instructs you that something's
14 against the law, you'll be able to apply those instructions?

15 PROSPECTIVE JUROR NUMBER 371: Yeah.

16 MS. BAHARAV: And if you were sitting where we're sitting, would you like
17 someone like yourself on the jury panel?

18 PROSPECTIVE JUROR NUMBER 371: Yeah.

19 MS. BAHARAV: Why?

20 PROSPECTIVE JUROR NUMBER 371: Because I believe there's two sides
21 to every story and I'm the type of person that likes to know what happened with each
22 side and try to decide what's right from there.

23 MS. BAHARAV: You understand that the Defendant doesn't have to say
24 anything during this trial, right?

25 PROSPECTIVE JUROR NUMBER 371: I do.

Volume I - Page 158

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: And if he doesn't say anything, will you have any problem
2 convicting him if the State has enough evidence?

3 PROSPECTIVE JUROR NUMBER 371: (No audible response.)

4 MS. BAHARAV: No? So if the -- you're nodding no. If the State gets up
5 there and presents enough evidence and he just sits there, but the State proves it
6 beyond a reasonable doubt, even if you don't hear his side of the story, you have no
7 problem convicting him?

8 PROSPECTIVE JUROR NUMBER 371: I have no problem, because you
9 guys have proof. Facts are facts.

10 MS. BAHARAV: Okay. Great. We'll pass for cause, Your Honor.

11 MR. NADIG: Good afternoon.

12 PROSPECTIVE JUROR NUMBER 371: Hi.

13 MR. NADIG: And, you know, the other side of that coin is if they don't provide
14 all the evidence are you going to have any problem finding Mr. Barnett not guilty?

15 PROSPECTIVE JUROR NUMBER 371: No.

16 MR. NADIG: Okay, and as he sits here today you understand that he's not
17 guilty?

18 PROSPECTIVE JUROR NUMBER 371: Innocent until proven guilty. I
19 believe it.

20 MR. NADIG: Do you have any -- so you don't have any problem with that?

21 PROSPECTIVE JUROR NUMBER 371: I don't.

22 MR. NADIG: Okay. And would you give the officers any bonus points simply
23 for being officers and getting up there and testifying?

24 PROSPECTIVE JUROR NUMBER 371: No.

25 MR. NADIG: Okay.

Volume I - Page 159

1 PROSPECTIVE JUROR NUMBER 371: I wouldn't give them bonus points
2 just because they're officers. They're individuals.

3 MR. NADIG: And you would treat them all individually?

4 PROSPECTIVE JUROR NUMBER 371: Correct.

5 MR. NADIG: Okay. And final question: If you were sitting in Corey's chair,
6 would you want yourself as a juror?

7 PROSPECTIVE JUROR NUMBER 371: Sure.

8 MR. NADIG: Why?

9 PROSPECTIVE JUROR NUMBER 371: Because I believe that everybody is
10 entitled to their opinion and I -- like I told the District Attorney, both sides -- I like to
11 hear both sides of each story, even though I understand that you guys don't have to
12 prove anything to me, but I'll be -- I'll be comfortable with myself being up here.

13 MR. NADIG: Okay.

14 PROSPECTIVE JUROR NUMBER 371: I'm open-minded.

15 MR. NADIG: Good. Thank you.

16 PROSPECTIVE JUROR NUMBER 371: Uh-huh.

17 MR. NADIG: Pass for cause, Your Honor.

18 THE COURT: Okay. Counsel approach the bench before you start this.

19 [Bench conference begins at 3:46 p.m.]

20 THE COURT: Okay, this one is your alternate --

21 MR. NADIG: Yeah.

22 THE COURT: -- but you can use it anywhere you want (indiscernible) --

23 MS. BAHARAV: Okay.

24 MR. NADIG: Okay.

25 THE COURT: Okay.

1 MS. BAHARAV: Do we know who the alternates are going to be?

2 MR. NADIG: Yeah.

3 THE COURT: Fifteen, 14.

4 MS. BAHARAV: I'll look. Thanks.

5 [Bench conference ends at 3:47 p.m.]

6 [Pause]

7 THE COURT: We would thank and excuse Elena -- is it Nunez?

8 PROSPECTIVE JUROR NUMBER 371: Martinez?

9 THE COURT: Martinez. I couldn't -- I can't read the writing, sorry.

10 And Kelly Fernandez. Thank you for your time.

11 THE CLERK: Next, badge 597, Estella Carillo.

12 Okay, and next, 646, Camila Santiago.

13 THE COURT: All right, tell me your name.

14 PROSPECTIVE JUROR NUMBER 597: Estella Carillo.

15 THE COURT: Do you work?

16 PROSPECTIVE JUROR NUMBER 597: No, sir. I'm retired.

17 THE COURT: From what?

18 PROSPECTIVE JUROR NUMBER 597: I'm sorry?

19 THE COURT: What did you retire from?

20 PROSPECTIVE JUROR NUMBER 597: I used to work for the City of San

21 Antonio. I worked with the health department.

22 THE COURT: Are you married?

23 PROSPECTIVE JUROR NUMBER 597: I'm a widow.

24 THE COURT: I'm sorry. Do you have any background in law or law
25 enforcement?

1 PROSPECTIVE JUROR NUMBER 597: No, sir.

2 THE COURT: Have you ever sat as a juror before? Here or Texas.

3 PROSPECTIVE JUROR NUMBER 597: Well, they summonsed me to go, but
4 I was never chosen.

5 THE COURT: Never chosen?

6 PROSPECTIVE JUROR NUMBER 597: No.

7 THE COURT: Can you think of any reason you would not be fair and
8 impartial to both parties in this case?

9 PROSPECTIVE JUROR NUMBER 597: No, sir.

10 THE COURT: State?

11 MS. BAHARAV: Ma'am, do you have any children?

12 PROSPECTIVE JUROR NUMBER 597: I have three.

13 MS. BAHARAV: And what are their ages?

14 PROSPECTIVE JUROR NUMBER 597: Forty-six, 48 and 50.

15 MS. BAHARAV: Has anyone in your family ever been accused of a crime?

16 PROSPECTIVE JUROR NUMBER 597: No.

17 MS. BAHARAV: Has anyone in your family ever been the victim of a crime?

18 PROSPECTIVE JUROR NUMBER 597: No.

19 MS. BAHARAV: Had you heard my questions about the crime scene
20 investigation show?

21 PROSPECTIVE JUROR NUMBER 597: Yes, but I -- I have -- not familiar --
22 not familiar with it. I only saw it like maybe once or twice when they first started.

23 MS. BAHARAV: Are you a person that thinks that DNA and fingerprints
24 should be involved in every case?

25 PROSPECTIVE JUROR NUMBER 597: If it helps to prove their innocence, I

Volume I - Page 162

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 would think that that would be very crucial to have evidence like that.

2 MS. BAHARAV: Are you automatically going to require the State of Nevada
3 to present that evidence before you can convict somebody?

4 PROSPECTIVE JUROR NUMBER 597: Not necessarily, no.

5 MS. BAHARAV: You'll listen to the evidence that's presented?

6 PROSPECTIVE JUROR NUMBER 597: Yes. Yes.

7 MS. BAHARAV: And you understand sometimes DNA and fingerprints aren't
8 necessary?

9 PROSPECTIVE JUROR NUMBER 597: Right. Depending on what the case
10 is about.

11 MS. BAHARAV: Okay. And you understand that this is a possession of a
12 controlled substance case?

13 PROSPECTIVE JUROR NUMBER 597: Right.

14 MS. BAHARAV: You also understand that the Judge is going to instruct you
15 on the law, correct?

16 PROSPECTIVE JUROR NUMBER 597: Yes.

17 MS. BAHARAV: And you have any issues following the law that's presented
18 to you?

19 PROSPECTIVE JUROR NUMBER 597: No.

20 MS. BAHARAV: Do you believe that if the Judge instructs you that -- that
21 possessing narcotics is a crime that you'd be able to follow that law even if you
22 disagreed with it?

23 PROSPECTIVE JUROR NUMBER 597: Yes.

24 MS. BAHARAV: Okay. Even if you think that something would be better --
25 better suited to you, you have no problem following the law whatsoever?

Volume I - Page 163

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 597: No.

2 MS. BAHARAV: Would you like someone like yourself on the jury?

3 PROSPECTIVE JUROR NUMBER 597: I think so. I believe so.

4 MS. BAHARAV: Why?

5 PROSPECTIVE JUROR NUMBER 597: And I've never -- I've never been on

6 a jury. Maybe the experience might help me to be able to make a correct decision.

7 It would be my first time. I think I can be able to make a good decision --

8 MS. BAHARAV: And you understand --

9 PROSPECTIVE JUROR NUMBER 597: -- based on the evidence or

10 whatever they present.

11 MS. BAHARAV: Great. You understand that you'll be asked to engage in a

12 conversation with the other people on the panel, right?

13 PROSPECTIVE JUROR NUMBER 597: Yes.

14 MS. BAHARAV: And ultimately come to a decision about whether or not the

15 State met its burden?

16 PROSPECTIVE JUROR NUMBER 597: Yes.

17 MS. BAHARAV: And you understand that Mr. Barnett and his attorney don't

18 need to say anything during this trial, right?

19 PROSPECTIVE JUROR NUMBER 597: Right.

20 MS. BAHARAV: That the State has the burden of proof?

21 PROSPECTIVE JUROR NUMBER 597: Yes.

22 MS. BAHARAV: And if we present testimony and photographs to you, you

23 have no problem coming to a conclusion if we proved our case?

24 PROSPECTIVE JUROR NUMBER 597: Right.

25 MS. BAHARAV: If you were sitting where Mr. Barnett was sitting, would you

1 like someone like yourself on the jury panel?

2 PROSPECTIVE JUROR NUMBER 597: Yes.

3 MS. BAHARAV: Why?

4 PROSPECTIVE JUROR NUMBER 597: Because I -- I feel I can be partial
5 (sic) to -- to the evidence and be able to make a right decision based on whatever
6 evidence is presented.

7 MS. BAHARAV: If you're the only person that feels a certain way, are you
8 going to have any trouble standing up for yourself if you have to deliberate?

9 PROSPECTIVE JUROR NUMBER 597: If I'm the only one that --

10 MS. BAHARAV: That feels a certain way, are you going to have any trouble
11 standing up for yourself?

12 PROSPECTIVE JUROR NUMBER 597: No.

13 MS. BAHARAV: Okay. Great. We'll pass for cause, Your Honor.

14 MR. NADIG: No questions, Your Honor.

15 THE COURT: All right. Ladies and gentlemen, we have a jury --

16 MS. BAHARAV: Oh, Ms. Santiago.

17 MR. NADIG: We have one more, we have --

18 THE COURT: We do?

19 MR. NADIG: -- Camila Santiago.

20 THE COURT: Oh. Sorry. Tell me your name. I'm old. I forget.

21 PROSPECTIVE JUROR NUMBER 646: My name is Camila Santiago.

22 THE COURT: You work?

23 PROSPECTIVE JUROR NUMBER 646: Yes.

24 THE COURT: What do you do?

25 PROSPECTIVE JUROR NUMBER 646: I am a nanny.

Volume I - Page 165

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 THE COURT: Are you married?
2 PROSPECTIVE JUROR NUMBER 646: Yes.
3 THE COURT: Spouse work?
4 PROSPECTIVE JUROR NUMBER 646: Yes.
5 THE COURT: What does your spouse do?
6 PROSPECTIVE JUROR NUMBER 646: He sells life insurance.
7 THE COURT: Children?
8 PROSPECTIVE JUROR NUMBER 646: Expecting.
9 THE COURT: Ages?
10 PROSPECTIVE JUROR NUMBER 646: I am expecting.
11 THE COURT: Oh, you're expecting. I thought you said two.
12 PROSPECTIVE JUROR NUMBER 646: Yeah, I'm pregnant.
13 THE COURT: Sorry.
14 PROSPECTIVE JUROR NUMBER 646: First.
15 THE COURT: Remember Judge Bixler is the name to be mad at. Do you
16 have any background in law or law enforcement?
17 PROSPECTIVE JUROR NUMBER 646: No.
18 THE COURT: Ever sat as a juror before?
19 PROSPECTIVE JUROR NUMBER 646: No. First time.
20 THE COURT: Can you be fair and impartial to both parties in this case?
21 PROSPECTIVE JUROR NUMBER 646: Yes.
22 THE COURT: State.
23 MS. BAHARAV: You heard my questions about the CSI show. Is there
24 anything about those questions that you kind of want to talk about now?
25 PROSPECTIVE JUROR NUMBER 646: No --

Volume I - Page 166

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MS. BAHARAV: You understand that fingerprints and DNA aren't always
2 brought in a certain case?

3 PROSPECTIVE JUROR NUMBER 646: Not always and they're not always
4 necessary. I understand that.

5 MS. BAHARAV: And if evidence is presented, testimonial and photograph
6 evidence, you'd have no problem finding the Defendant guilty if we presented
7 enough evidence to you?

8 PROSPECTIVE JUROR NUMBER 646: No.

9 MS. BAHARAV: Similarly, if we did not present enough evidence, you'd have
10 no problem finding the Defendant not guilty?

11 PROSPECTIVE JUROR NUMBER 646: No.

12 MS. BAHARAV: You would be able to find him not guilty?

13 PROSPECTIVE JUROR NUMBER 646: I'm sorry. Got confused.

14 MS. BAHARAV: You'd be able to find him not guilty if we didn't present
15 enough evidence?

16 PROSPECTIVE JUROR NUMBER 646: Not -- I don't know.

17 MS. BAHARAV: If we didn't prove our case, do you have any problem finding
18 him not guilty?

19 PROSPECTIVE JUROR NUMBER 646: Yeah, if you guys cannot prove it,
20 then --

21 MS. BAHARAV: Then he's not guilty, right?

22 PROSPECTIVE JUROR NUMBER 646: Yeah, until -- until you can --

23 MS. BAHARAV: As he sits there right now --

24 PROSPECTIVE JUROR NUMBER 646: Yeah.

25 MS. BAHARAV: -- not guilty?

Volume I - Page 167

1 PROSPECTIVE JUROR NUMBER 646: Yeah.

2 MS. BAHARAV: Okay.

3 PROSPECTIVE JUROR NUMBER 646: Until you can prove.

4 MS. BAHARAV: Until what?

5 PROSPECTIVE JUROR NUMBER 646: Until you can prove, right?

6 MS. BAHARAV: Right.

7 PROSPECTIVE JUROR NUMBER 646: So yeah.

8 MS. BAHARAV: Would you like a juror like yourself on the jury panel if you
9 were in either of our shoes?

10 PROSPECTIVE JUROR NUMBER 646: Not at this exact moment because
11 I'm going through a lot --

12 MS. BAHARAV: Okay.

13 PROSPECTIVE JUROR NUMBER 646: -- right now, so I don't feel that I'm
14 focused enough to make a good decision about someone else's life.

15 MS. BAHARAV: How far along are you?

16 PROSPECTIVE JUROR NUMBER 646: I'm close to my third trimester.

17 MS. BAHARAV: Okay. Is the fact that you're expecting going to be a
18 distraction for you in listening to the case --

19 PROSPECTIVE JUROR NUMBER 646: Not necessarily that is because I
20 need to work and if I don't work, I don't make money. Simply I -- I just -- at this
21 moment I cannot afford to just lose two days of work.

22 MS. BAHARAV: Okay. And you had to take off today as well?

23 PROSPECTIVE JUROR NUMBER 646: Yeah.

24 MS. BAHARAV: And knowing that we should be finished tomorrow afternoon
25 at the latest, is that going to cause you a problem?

Volume I - Page 168

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 PROSPECTIVE JUROR NUMBER 646: Yeah, I'm -- I'm losing two days of
2 work, pretty much.

3 MS. BAHARAV: Did you ask to reschedule?

4 PROSPECTIVE JUROR NUMBER 646: Huh-uh.

5 MS. BAHARAV: No. Okay.

6 PROSPECTIVE JUROR NUMBER 646: No.

7 MS. BAHARAV: Your Honor, we'll pass for cause.

8 MR. NADIG: Good afternoon, Ms. Santiago, how are you?

9 PROSPECTIVE JUROR NUMBER 646: I'm fine.

10 MR. NADIG: All right. So you've said it's going to be hard for you to focus.

11 PROSPECTIVE JUROR NUMBER 646: Yes.

12 MR. NADIG: Okay, and that's not based on your pregnancy, it's based on
13 your financial situation.

14 PROSPECTIVE JUROR NUMBER 646: Yes, pretty much.

15 MR. NADIG: Okay. And essentially I'm guessing you're paid on a daily basis
16 as a nanny?

17 PROSPECTIVE JUROR NUMBER 646: Yes.

18 MR. NADIG: Okay. So every day you're not there financially is problematic?

19 PROSPECTIVE JUROR NUMBER 646: If I work, I'm fine, but if I don't work,
20 then we have a problem.

21 MR. NADIG: Okay, and additionally you're going to be out in a couple of
22 months --

23 PROSPECTIVE JUROR NUMBER 646: Exactly.

24 MR. NADIG: -- for an extended period of time so you're trying to build up your
25 money?

1 PROSPECTIVE JUROR NUMBER 646: Yes.

2 MR. NADIG: Okay.

3 PROSPECTIVE JUROR NUMBER 646: Correct

4 MR. NADIG: Now, is your financial situation going to affect your ability to pay
5 attention in this situation?

6 PROSPECTIVE JUROR NUMBER 646: Yes.

7 MR. NADIG: Why?

8 PROSPECTIVE JUROR NUMBER 646: Because I'm -- I'm missing days of
9 work and --

10 MR. NADIG: Okay, are you going to hold it against my client if you are
11 missing days of work?

12 PROSPECTIVE JUROR NUMBER 646: Not -- nothing like -- it's not his fault.
13 I don't know but I -- I don't see that way that it's his fault because I'm missing work.

14 MR. NADIG: Okay.

15 PROSPECTIVE JUROR NUMBER 646: But is just the circumstance like my
16 mind is --

17 MR. NADIG: But if you're in the back if you're deliberating are you -- and say
18 you're the only person holding out, would you continue to hold out or would your
19 financial situation impact your ability to deliberate, meaning --

20 PROSPECTIVE JUROR NUMBER 646: If I had to say, I -- I would -- I would
21 do my duties.

22 MR. NADIG: Okay. So you're not going to choose the quick and -- quickest
23 method that gets you out of deliberation, you will follow the law as --

24 PROSPECTIVE JUROR NUMBER 646: That's correct.

25 MR. NADIG: Okay, and you -- you don't have any problem doing that?

Volume I - Page 170

1 PROSPECTIVE JUROR NUMBER 646: No.

2 MR. NADIG: Okay. I'll pass for cause, Your Honor.

3 THE COURT: All right. Okay, we have a jury. Do they just go home?

4 THE MARSHAL: Yes.

5 THE COURT: Do they leave their badge?

6 THE MARSHAL: They leave their badge with me and they go home.

7 THE COURT: Okay. Thank you for your time. You didn't waste your time. I
8 believe in our system. I have a very strong feeling that this is the only way citizens
9 get to participate in the government truly and this is really the only way you get to
10 participate in the judicial branch. And I feel very strongly in that, that if good citizens
11 as yourselves don't participate, our system won't work and it does work. Thank you
12 so much. You guys are all free to go.

13 [Prospective jurors excused at 4:00 p.m.]

14 THE COURT: If you folks will stand and raise your right hand to be sworn in.
15 Sorry, I -- just raise your hand.

16 [The jury panel was sworn in by the Clerk]

17 THE COURT: Okay. Be seated.

18 All right. Let me read some of this other to you. The parties may
19 sometimes present objections to the evidence and the testimony. It's the duty of the
20 lawyer to object to what they don't believe should be presented and I may sustain
21 those objections. If I do, you're to disregard the evidence. I may even find it
22 necessary to scold an attorney, which I've done in the past. Please don't have any
23 ill feeling toward the Defendant or the State or the attorney. It's just my obligation.

24 Anything you've seen outside the courtroom is not evidence if it's
25 specific facts to this case. Again, you may see my staff or others out in the hall.

Volume I - Page 171

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Don't talk to them. When you get on the elevator, don't even -- if you're on the same
2 elevator, don't even ask them to push buttons, just reach around them. They're not
3 being antisocial, they're following my directive as not talk to you because to -- to
4 even say good morning may -- may be considered by some as influencing your
5 verdict.

6 You must not be influenced by any degree of personal feeling or
7 sympathy for or prejudice against the State or the Defendant. Both sides are
8 entitled to the same fair and impartial considerations.

9 Now, you can use -- there are two types of evidence, direct and
10 circumstantial. Direct evidence is what a person sees or hears or does.
11 Circumstantial evidence is proof of facts if proven -- proven evidence. And for
12 instance, if we came in today and -- and it is dry around the valley and we went out
13 tonight and there's three foot of snow all over the whole valley, you can assume that
14 it snowed. That's circumstantial evidence that it snowed.

15 If we're standing outside and it falls on us, then we -- we know it
16 snowed. That's direct evidence. You can give such weight to the evidence as you --
17 as you wish.

18 Just let me remind you don't talk to each other about the case until it's
19 finally submitted to you back in the jury room. Anyone else includes members of
20 your family or friends. You can tell them you're on a criminal case but that's all you
21 need to tell them.

22 Don't let anyone talk to you about the case or anything that has to do
23 with it. Don't read or watch news stories or articles or listen to any radio or television
24 reports about the case or anyone has anything do -- most important, which is
25 violated all the time, don't jump on the internet to do any personal research or Ask

Volume I - Page 172

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Jeeves. Please don't communicate or publish anything about this case on any
2 social media cites like Facebook, Instagram or the like.

3 State, are you ready? Oh wait.

4 MR. GILES: Yes, Your Honor.

5 THE COURT: We have to read the Information.

6 MS. BAHARAV: Yes.

7 [The Clerk read the Information aloud]

8 THE COURT: That would be Steven Wolfson.

9 THE CLERK: What did I say?

10 THE COURT: Griersent (phonetic).

11 THE CLERK: Oh. Steven Wolfson, Steven B. Wolfson --

12 THE COURT: Okay.

13 THE CLERK: -- Clark County District Attorney.

14 THE COURT: I still wanted to get back to him, but I was in trouble.

15 State.

16 MR. GILES: Thank you, Your Honor.

17 OPENING STATEMENT BY THE STATE

18 BY MR. GILES:

19 You've just heard on September 25th of last year, Corey Barnett
20 interacted with law enforcement. Day started pretty normal. Individual left their
21 house out on Lincoln Valley Road in the south valley, saw a vehicle that didn't look
22 right. Called in, said hey there's a vehicle that doesn't look right, can you send a
23 unit around?

24 You're going to hear from Officer Fernandez that he responded to the
25 8200 block of Lincoln Valley Road and saw a white Pontiac -- it's debatable whether

Volume I - Page 173

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 it's an SUV or a van, but it's a bigger vehicle. He pulled behind it. He walked up to
2 the window and there was a female, Ashley Allen, sitting in the driver seat and the
3 Defendant, Corey Barnett, was sitting reclined in the passenger seat.

4 Officer Fernandez will tell you that they appeared to have been waking
5 up from being asleep; that he asked Ms. Allen some questions, she provided him
6 with her ID. He went back to the car and he ran that ID. Happens all the time.

7 He noticed that she had an electronic warrant. It's a notification in the
8 system that says she may have an issue, we need to talk to her a little more.

9 Because there were two of them and one of him, he called for backup
10 and Officer Deang arrived shortly thereafter. They again walk up to the side of the
11 vehicle and you'll hear each of them tell you what they saw.

12 They ask the individuals to get out of the car, walk back to the front of
13 the patrol car. Again, pretty standard stuff.

14 And Officer Deang will tell you that he looked inside the vehicle from
15 outside the vehicle and he saw what was plainly obvious to him is a firearm on the
16 floor of the vehicle. At that point he placed the Defendant and Miss. Allen into
17 handcuffs to conduct an investigation. He also searched the Defendant.

18 Now, Officer Fernandez did that search and he's going to tell you that in
19 his coin pocket he found two little baggies of white crystalline substance. That's
20 what this case is about, possession of controlled substance. From inside Corey
21 Barnett's coin pocket, two small bags. You're going to see those bags.

22 You're going to hear Forensic Scientist Rebekah Altizer tell you that she
23 tested that white substance and it came back as methamphetamine. Going to ask
24 you to pay close attention to the timing, close attention to who could see what and
25 give each individual piece of evidence your attention.

Volume I - Page 174

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 At the end of the presentation of evidence after you've heard Officer
2 Fernandez, Officer Deang and Forensic Scientist Altizer testify, the State is going to
3 ask you to find Corey Barnett guilty of possession of a controlled substance,
4 methamphetamine.

5 THE COURT: Go ahead.

6 MR. NADIG: Thank you.

7 OPENING STATEMENT BY THE DEFENSE

8 BY MR. NADIG:

9 Good afternoon, ladies and gentlemen of the jury. The reason the
10 officers were called out, the evidence will show, is that there were individuals who
11 appeared to be sleeping in a car. When they arrived on the scene, you'll -- the
12 evidence will also show that it appeared that the individuals were living out of the
13 car. There were multiple bags in the car. There appeared to be clothes and things
14 of that nature.

15 During the course of the investigation, Mr. Barnett was placed in
16 handcuffs, Mr. Barnett was found to have something in his coin pocket. Now, there
17 is a question as to whether those were jeans that belonged to Mr. Barnett if he
18 simply pulled them out of the car, but the question is, is was he aware of it and I ask
19 you simply to listen to what the officers say, listen to the testimony and then make
20 your own decision.

21 THE COURT: Call your first witness, State.

22 MR. GILES: State calls Officer Fernandez.

23 MS. BAHARAV: May I approach your clerk and retrieve evidence? Thanks.

24 THE MARSHAL: Right through here, please. Raise your right hand and
25 remain standing until she swears you in.

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JUAN FERNANDEZ

[having been called as a witness and being first duly sworn, testified as follows:]

THE COURT: Please state your name, spell your first and last name for the record.

THE WITNESS: Juan Fernandez, J-u-a-n F-e-r-n-a-n-d-e-z.

THE COURT: You can be seated, thanks.

THE WITNESS: Thank you.

THE COURT: Go ahead.

DIRECT EXAMINATION OF JUAN FERNANDEZ

BY MR. GILES:

Q Officer Fernandez, how are you employed?

A I am employed with the Las Vegas Metro Police Department as a Detective.

Q And how long have you been working with Las Vegas Metropolitan Police Department?

A Little bit over nine years.

Q And when you started with the police department, did you attend an academy?

A Yes, I did.

Q In the course of the academy, did you learn all of the basic skills of a police officer?

A Yes, I did.

Q And when you first started working were you under the guidance of another officer?

A Yes, I was.

1 Q Was the process designed to teach you how to do your job?

2 A Yes.

3 Q Now, the Metropolitan Police Department has policies and procedures;
4 is that correct?

5 A Correct.

6 Q And there are policies and procedures for pretty much anything you
7 might have to do?

8 A Yes.

9 Q Is one of those things approaching vehicles?

10 A Yes.

11 Q And is one writing reports?

12 A Yes.

13 Q And is one how to handle evidence?

14 A Yes.

15 Q Would you, just because we're going to be talking about it all the time,
16 describe what an event number is?

17 A An event number is a number that's given to any incident where contact
18 is made with police to record an event and that number is recorded for that specific
19 event.

20 Q If we know what the event number is, can we tell what the date is from
21 the event number?

22 A Yes.

23 Q And how is the date listed that we could read the event number and
24 know the date?

25 A First two numbers are going to be the year. So an event number would

Volume I - Page 177

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 start off 16 since it's 2016. Then it would go into the month, so this month is April,
2 04. And then today's date is the 11th so next numbers would be 11 and then after
3 that each event -- throughout the whole department there's different events so they
4 would have different numbers in order from the time they received the call.

5 Q And so the last four numbers are kind of the chronological on that date?

6 A Correct.

7 Q Do those begin at midnight?

8 A Yes.

9 Q Is there any way to look at those four numbers and know when in the
10 day that happened?

11 A You could estimate. Some days you have more calls than others, but if
12 you -- if the numbers start at zero, you would think it's closer to midnight.

13 Q Okay. Let me ask you on September 25th of last year were you
14 working that day?

15 A Yes.

16 Q What capacity were you working in?

17 A I was working as a patrol officer that day.

18 Q And what part of town were you working in?

19 A It's called South Central which is near the airport. There's a sector B
20 and I am -- at that time I was at the South Central Area Command.

21 Q About 9:00 were you sent on a call to Lincoln Valley Road?

22 A Yes, I was.

23 Q And did that call -- did you get dispatched to that call over a radio or a
24 computer terminal of some kind?

25 A Yes.

Volume I - Page 178

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Do you know how that got to dispatch?

2 A A caller called in stating that there was a vehicle in the neighborhood
3 which did not belong.

4 Q Okay.

5 MR. GILES: And, Your Honor, we've stipulated to the admission of the 911
6 slash 311 call. I would move to admit it and publish it for the jury at this time.

7 MR. NADIG: That's correct statement, Your Honor.

8 THE COURT: All right. It'll be admitted and you can publish it.

9 [State's Exhibit 1 admitted]

10 MS. BAHARAV: And (indiscernible) exhibit what? 1A?

11 MR. GILES: Yes. This is Exhibit 1A.

12 MS. BAHARAV: Court's indulgence.

13 [911 call played]

14 BY MR. GILES:

15 Q So you proceeded out to Lincoln Valley Road to investigate that call. Is
16 that essentially what happened?

17 A Correct.

18 MR. GILES: May I approach, Your Honor?

19 THE COURT: Yes.

20 BY MR. GILES:

21 Q And I'm showing you some photographs. These are State's Proposed
22 2, 3, 4, 5, 6, 7, 8 and 9. I just want you to look at these real quick and then I'll ask
23 you some questions.

24 A (Witness complies.)

25 MR. GILES: And for the record, Your Honor, we've provided Mr. Nadig a list

Volume I - Page 179

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 of all our exhibits that have the images attached.

2 MR. NADIG: That's correct, Your Honor.

3 BY MR. GILES:

4 Q Okay, have you had a chance to look at those?

5 A Yes, I have.

6 Q Do you recognize those as the general area of Lincoln Valley Road?

7 A Yes, I do.

8 Q Do they fairly and accurately represent that area?

9 A Yes.

10 Q And did you see an image of a vehicle?

11 A Yes.

12 Q Does that fairly and accurately represent the vehicle you responded to
13 look at?

14 A Yes.

15 MR. GILES: This time I move for admission of State's 2 through 9, Your
16 Honor.

17 MR. NADIG: No objection, Your Honor.

18 THE COURT: Be admitted.

19 [State's Exhibits 2 through 9 admitted]

20 MR. GILES: Move to publish?

21 THE COURT: Yes.

22 BY MR. GILES:

23 Q Okay, Officer, first thing I'm going to do is put up a image here so we all
24 have an idea -- where's the zoom? Here's the zoom -- what we're looking at. Okay.
25 Now, you can touch the screen there in front of you or put a little mark on there. It's

1 kind of like Monday Night Football. Do you see Lincoln Valley Road in that image?

2 A I do.

3 Q Can you put a little mark on it?

4 THE COURT: Circle it.

5 BY MR. GILES:

6 Q Okay. Now, behind Lincoln Valley Road, is there a way out of that
7 subdivision going -- going out to -- to -- to what's the right on the photograph there?

8 A No.

9 Q In fact, is Lincoln Valley Road a cul-de-sac?

10 A Correct.

11 Q Okay. When you're driving in -- and this is State's Exhibit 3. When
12 you're driving in, is that no outlet sign something you see going through the main
13 entrance there?

14 A Yes.

15 Q This is State's Exhibit 4. And where -- which direction are we looking
16 there; do you recall?

17 A That's looking west.

18 Q Okay. And do you remember which side of the road the vehicle was
19 parked on?

20 A It was parked on the south side.

21 Q Okay. And drawing your attention to State's Exhibit 6, where -- can you
22 mark on that where it was -- it was parked?

23 A (Witness complies.)

24 Q Okay, so it was a little further back up on the side of that wall there?

25 A Correct.

Volume I - Page 181

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Okay. And which side of the vehicle was towards the wall?

2 A The vehicle was pointing southbound --

3 THE COURT: Change the color.

4 A -- if that's --

5 Q Okay. And I'm going to show you what's State's 7. It's a reverse
6 direction there. Is that a better angle on the wall where it was?

7 A Yes.

8 Q How far down there on that picture do you remember the vehicle being?

9 A This general area.

10 Q Okay. And how would you describe the vehicle as you approached it?

11 A It was parked facing south on the west side of the street.

12 Q And State's Exhibit 8. Is -- if -- is that the vehicle you walked up to?

13 A Yes, it was.

14 Q Okay. When you approached the vehicle, what did you see?

15 A When I approached the vehicle, I approached it from the driver side of
16 the vehicle.

17 Q Okay.

18 A I saw the plate which was on the call which confirmed that that was the
19 correct vehicle from that call.

20 Q And was there anybody in the vehicle?

21 A Yes, there was.

22 Q At about what time was it that you got there?

23 A I don't know the exact time. Somewhere around -- in the early hours
24 around eight, nine.

25 Q Okay. And who was in the driver side of the vehicle?

Volume I - Page 182

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A There was a female on the driver side of the vehicle. The windows
2 were up, but I could see that the female was sleeping. And on the passenger side
3 there was a Black male adult that appeared to be sleeping as well.

4 Q Okay. And do you see that male in the courtroom today?

5 A I do.

6 Q Can you point to him and describe an item of clothing he's wearing?

7 A He's sitting down (indicating) wearing a gray button-up shirt with a tie.

8 THE COURT: Record reflects he's identified the Defendant.

9 MR. GILES: Thank you, Your Honor.

10 BY MR. GILES:

11 Q And they were both asleep?

12 A Yes.

13 Q Okay, did you draw their attention in some way?

14 A Yes.

15 Q And how was that?

16 A I knocked on the window.

17 Q Okay. Did they immediately respond to that knock?

18 A Yes, the female woke up.

19 Q Okay. Did she -- what'd she do next?

20 A Rolled down the window and I spoke to the female, was trying to speak
21 to both subjects.

22 Q Okay. And did she identify herself?

23 A Yes, she did.

24 Q And how did she do that?

25 A She verbally identified herself.

Volume I - Page 183

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Okay. And did Mr. Barnett identify himself to you?

2 A Yes, he did.

3 Q How did he do that?

4 A He provided myself with some ID.

5 Q Okay. What did you do next once you had identified them?

6 A I spoke to them about why they were in the area, asked them why they
7 were in the area and mostly the female that was on the driver side, she said that
8 they were just sleeping and -- for a little bit. After I got their information, I ran back
9 to the car to conduct a records check.

10 Q And how do you conduct a records check from your vehicle?

11 A We have -- at that time we had Toughbooks which have a system to run
12 individuals through Localscope and Nevada DMV.

13 Q And in checking those databases what were you able to determine
14 about the vehicle?

15 A The vehicle was registered. It appeared to come back to that exact
16 model vehicle and it was registered to a female.

17 Q Do you remember that female's name?

18 A I do not recall the exact name, the female.

19 Q Okay. What -- what if anything else did you learn from your
20 investigation?

21 A The driver of the vehicle, through the records check, came back that
22 she had a traffic warrant.

23 Q Okay. Do you know if the vehicle -- well I'm skipping ahead. Let me
24 back up. What did you do once you found out she had a warrant?

25 A I asked for assistance for another vehicle as there was two people there

Volume I - Page 184

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 and Officer Deang responded to assist me.

2 Q Okay, and did -- was he there before your re-approached the van?

3 A Yes, he was.

4 Q Okay. What side of the van did you walk back up on when you
5 re-approached?

6 A When I re-approached, I went back to the driver side of the vehicle.

7 Q And what side did Officer Deang approach on?

8 A He approached from the passenger side of the vehicle.

9 Q Is that pretty standard procedure for law enforcement?

10 A Yes, it is.

11 Q Okay. What did you do when you got up to the door?

12 A I spoke to the female, advised her of that I wanted to talk to her as she
13 had a traffic warrant and asked her to step out of the vehicle.

14 Q Did she comply?

15 A Yes.

16 Q And did Mr. Barnett get out of the vehicle, too?

17 A Yes, he did.

18 Q And what did you do? Did you stay at the van?

19 A We approach to the front of our vehicle.

20 Q Is that your vehicle kind of in the back corner of the picture there?

21 A Yes, you can see it at the end.

22 Q And how did you position them at your vehicle?

23 A Made them face to the front windshield of the vehicle away from the
24 other vehicle.

25 Q At this point were either of them in restraints?

Volume I - Page 185

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A No.

2 Q At this point had you read anybody *Miranda* rights?

3 A No.

4 Q At this point what was -- what was the purpose of moving them back to
5 the car at that point?

6 A At this point after I find out that she has a warrant, I want to speak to
7 her about it, what is the issue with the warrant, so get her away from the vehicle as
8 -- from her vehicle and towards the front of our vehicle where we have more control
9 of the individual.

10 Q At some point was there a reason to become concerned and place
11 either Miss. Allen or Mr. Barnett into handcuffs?

12 A Yes.

13 Q What happened?

14 A Through my investigation and speaking with the female, I -- it's standard
15 procedure to see -- as we're speaking to them to ask if they have any weapons,
16 anything illegal, anything that could hurt us.

17 Q Okay, and where was Officer Deang when you were asking that
18 question?

19 A He was standing to the side. The responsibility for the other officer as
20 one person -- one officer is making contact with an individual, the other officer's
21 responsibility is to kind of maintain visual and scan the area. So he's within distance
22 where he could hear and observe. So I'm making the contact and speaking to the
23 individual and he's in -- looking at both individuals and scanning the area.

24 Q Was he far enough up towards the vehicle that he could see into the
25 van at that point?

Volume I - Page 186

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A He could possibly see the back of it, but he's closer to the front of my
2 vehicle as well, in between both vehicles.

3 Q At some point did you become aware of the possible presence of
4 firearms?

5 A Yes.

6 Q And what did you do when you discovered there might be firearms in
7 the area?

8 A Officer Deang told me -- advised me that he saw a gun there. So he
9 placed both individuals in handcuffs and into custody at that time.

10 Q And why would you do that?

11 A For officer safety at that time. There's a weapon there. We want to
12 make sure that nobody runs back to the vehicle, tries to use that firearm, and to
13 investigate to see what's going on.

14 Q And after -- now did both Miss. Allen and Mr. Barnett go into handcuffs?

15 A Yes.

16 Q And after they were in handcuffs, did you have an opportunity to walk
17 back up to the vehicle and look inside it yourself?

18 A Yes.

19 Q And did you see firearms?

20 A I -- I saw a firearm, yes.

21 MR. GILES: May I approach, Your Honor?

22 THE COURT: Yes.

23 BY MR. GILES:

24 Q Showing what's been marked as State's Proposed 10 and 11. Would
25 you look at those briefly?

1 A (Witness complies.)

2 Q Okay. Have you had a chance look at the photographs?

3 A Yes.

4 Q Do you recognize what is depicted in the photographs?

5 A Yes.

6 Q Is that a fair and accurate representation of the firearm that you saw in
7 the white van that day?

8 A Yes.

9 MR. GILES: And I move for admission of State's 10 and 11.

10 MR. NADIG: No objection, Your Honor.

11 THE COURT: They'll be admitted.

12 [State's Exhibits 10 and 11 admitted]

13 MR. GILES: May I publish?

14 THE COURT: Yes.

15 BY MR. GILES:

16 Q How would you describe that firearm?

17 A Semiautomatic firearm with a black handle, silver in color.

18 Q And I know it's kind of difficult from that picture, but where in the vehicle
19 did you see this?

20 A It was on the driver side floorboard.

21 Q Okay. And is that the only firearm that you yourself saw?

22 A At that time, yes.

23 Q Okay. At -- and when you say at that time, was there another firearm
24 that you saw later?

25 A There were -- there was a Airsoft gun that was later on throughout the

Volume I - Page 188

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 investigation discovered underneath the front passenger side of the vehicle.

2 Q And did you see that yourself?

3 A Yes.

4 MR. GILES: May I approach, Your Honor?

5 THE COURT: Yes.

6 BY MR. GILES:

7 Q This is State's Proposed 12. Would you look at that real quick?

8 A (Witness complies.)

9 Q Okay. Do you recognize what's in that photograph?

10 A Yes.

11 Q Is -- is it -- what -- is it a photograph of a purported firearm?

12 A Yes.

13 Q Does it fairly and accurately represent what you saw that day?

14 A Yes.

15 MR. GILES: Move to admit.

16 MR. NADIG: No objection.

17 THE COURT: Be admitted.

18 [State's Exhibit 12 admitted]

19 MR. GILES: Move to publish.

20 THE COURT: Publish.

21 BY MR. GILES:

22 Q Okay, now, you said this was an Airsoft firearm. Were you able to tell it
23 was an Airsoft firearm just by looking at it?

24 A No.

25 Q In fact, how did you come to learn it was an Airsoft firearm?

Volume I - Page 189

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A After the investigation you get a closer look at what appears to be a
2 firearm to try to obtain a serial number to conduct a records check which is standard
3 procedure. And at that time when you get a closer look you realize it's a Airsoft gun.

4 Q Does it -- in your training and experience you've seen a lot of firearms?

5 A Yes.

6 Q And you carry a firearm every day, correct?

7 A Correct.

8 Q From -- from a distance or even up close, does that appear to be a real
9 firearm?

10 A That appears to be a real firearm.

11 Q Is it made out of metal?

12 A Yes.

13 Q Did it have any real heft or weight to it?

14 A It had weight to it.

15 Q Okay. And you said that one was under the passenger seat?

16 A Correct.

17 Q And the other one, which you described as silver semiautomatic
18 firearm, that was under the driver seat?

19 A Yes.

20 Q Is there any kind of a barrier between the passenger seat and the driver
21 seat?

22 A There's a center console that might obstruct from a different angle, but
23 you could still see the driver side.

24 Q Would a person in the passenger seat be able to reach the firearm
25 under the driver seat?

Volume I - Page 190

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A Yes.

2 Q And would a person in the driver seat be able to reach the Airsoft gun
3 under the passenger seat?

4 A I would say yes.

5 Q And were they -- were either of them in a lockbox or some kind of a
6 container?

7 A No.

8 Q Let me go back to the vehicle real quick. At some point was the vehicle
9 impounded?

10 A Yes, it was.

11 Q Now, after Mr. Barnett was put into handcuffs, did you do anything at
12 that point?

13 A I read him his *Miranda* rights.

14 Q Okay. Was he ever searched?

15 A He was.

16 Q And did you find anything during the search of his person?

17 A I did.

18 Q Would you describe what you found?

19 A I found in the right pants coin pocket two baggies which appeared to
20 obtain (sic) a crystal-like substance and through my training and experience, it
21 appeared to be consistent with methamphetamine.

22 Q And at that point were you and Officer Deang the only officers on the
23 scene?

24 A At that point, yes.

25 Q And how did you divide up the responsibilities at the scene?

Volume I - Page 191

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

A At the scene, Officer Deang was going to be in charge of conducting the vehicle impound which includes doing paperwork and making sure that the vehicle is impounded by a tow company. His responsibility was also to test the narcotics and impound the property which was recovered at the scene.

Q And what did you do?

A I was doing the arrest paperwork and transporting the suspect to Clark County Detention Center.

Q And what charge did you arrest him for?

MS. BAHARAV: Court's indulgence.

[Colloquy between counsel]

BY MR. GILES:

Q Let me clarify the question. At that point was Mr. Barnett under arrest for possession of a controlled substance?

A Yes, he was.

Q And you took him down to the jail and booked him in on that charge?

A Yes.

Q And I believe you said Officer Deang stayed with the vehicle and was doing the impound on the vehicle?

A Correct.

Q Now, we haven't talked about Miss. Allen. Miss. Allen was in handcuffs too, correct?

A That is correct.

Q And did you read her *Miranda*?

A Yes, I did.

Q Did Miss. Allen -- without telling me any specifics that she was telling

1 you, did -- did Miss. Allen agree to speak with you?

2 A Yes, she did.

3 Q Were you trying to determine where the firearms came from?

4 A Yes.

5 Q Had you run the firearm in a database to see if it was registered to
6 anybody?

7 A Initially at that point, no.

8 Q Did you ultimately run it in a database?

9 A Yes.

10 Q Was it registered to Miss. Allen?

11 A No.

12 Q Was it registered to Mr. Barnett?

13 A No.

14 Q Okay. And in talking to Miss. Allen, did -- did she in general deny that
15 the firearm was hers?

16 MR. NADIG: I'm going to object as to hearsay, Your Honor.

17 THE COURT: Sustained.

18 BY MR. GILES:

19 Q Were you able to determine if Miss. Allen was the owner of the firearm?

20 MR. NADIG: I'm going to object as to asked and answered.

21 THE COURT: Overruled.

22 THE WITNESS: Yes, I was able to determine that it was not hers.

23 BY MR. GILES:

24 Q What was her demeanor when you were questioning her?

25 A I would say she was cooperative on speaking with me and at certain

1 times agitated.

2 Q Okay. Did she -- did she ever address anyone other than you while you
3 were questioning her?

4 A Yes.

5 Q And what did she say?

6 A Really? You're going to let me fall for this? Really? And she was --

7 MR. NADIG: I'm going to object to this as well as hearsay, Your Honor.

8 MR. GILES: Your Honor, it's an excited utterance.

9 MR. NADIG: Lacks foundation.

10 THE COURT: Lay foundation. I'll sustain the objection.

11 BY MR. GILES:

12 Q What was her demeanor at the time she said that?

13 A She was agitated and I would --

14 Q Would you describe her as upset?

15 MR. NADIG: Objection; leading.

16 THE COURT: Overruled.

17 BY MR. GILES:

18 Q And had you asked her --

19 MS. BAHARAV: He didn't answer the question.

20 BY MR. GILES:

21 Q Would you describe her as upset?

22 A Yes, upset.

23 Q And was she upset on the first time you asked her about the gun?

24 A She -- during the initial investigation leading to the questions, she
25 seemed kind of confused, started to explain more and then denying -- denial I would

1 say demeanor and then -- but still cooperative and then upset. So throughout the
2 investigation, depending on the questions, she had different mood changes or a
3 different demeanor.

4 Q And when she blurted that -- that statement out, was it directed at you?

5 MR. NADIG: Objection; calls for speculation.

6 THE COURT: Overruled.

7 THE WITNESS: No. She faced away from me as I'm speaking to her and
8 she yelled it out.

9 BY MR. GILES:

10 Q And who was she yelling it towards? Who did you believe she was
11 talking to?

12 MR. NADIG: Objection; calls for speculation.

13 MR. GILES: Your Honor, he observed it.

14 THE COURT: Overruled.

15 THE WITNESS: So she faced towards Mr. Barnett's direction and yelled it
16 out.

17 BY MR. GILES:

18 Q And again, what -- what was it she yelled?

19 A Really, you're going to fall -- let me fall for this, really?

20 Q And again, your conversation at that point was all about the firearm?

21 A That's correct.

22 Q So after that had happened, I don't think we ever asked what was her
23 warrant for specifically?

24 A It was a traffic violation.

25 Q And did you ultimately wind up arresting her on that traffic violation?

1 A I did not.

2 Q Do you have discretion to decide who to arrest on those kinds of
3 warrants?

4 A I do.

5 Q And did you -- and you said you ultimately wound up arresting Mr.
6 Barnett?

7 A Correct.

8 Q And transported him to Clark County Detention Center?

9 A That's correct.

10 MR. GILES: Court's indulgence.

11 [Colloquy between counsel]

12 BY MR. GILES:

13 Q Let me back you up slightly to when you approached the vehicle. When
14 you first walked up, was Miss. Allen wearing clothing?

15 A She was.

16 Q Was Mr. Barnett wearing clothing?

17 A Yes, he was.

18 Q And did you have to tell them to get dressed in order to get out of the
19 vehicle?

20 A No.

21 Q Did Mr. Barnett get in the back of the car and get different clothes out of
22 a bag?

23 A No.

24 Q Did the clothing he was wearing appear to fit him?

25 A Yes.

Volume I - Page 196

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q And you said you ran the vehicle to determine who the registered owner
2 was, correct?

3 A Correct.

4 Q And if I was to show you the ultimate impound logs, would that possibly
5 refresh your recollection?

6 A It would.

7 MR. GILES: May I approach, Your Honor?

8 THE COURT: Yes.

9 BY MR. GILES:

10 Q I'm just going to have you read these to yourself and then look at me
11 when you're done.

12 THE COURT: As he's reading this, counsel approach the bench.

13 [Bench conference begins at 4:39 p.m.]

14 THE COURT: Excuse the rest of your witnesses. We're not going to get
15 them done.

16 MS. BAHARAV: I will.

17 THE COURT: Okay.

18 MS. BAHARAV: You got to ask this. You really have to ask that question.
19 It's so stupid but you have to --

20 MR. NADIG: Can you also take the gun off the ELMO?

21 MS. BAHARAV: Yeah.

22 MR. GILES: You want me take the gun off the ELMO?

23 MS. BAHARAV: I'll tell -- I'll let them go.

24 MR. GILES: I'll do that for you. Just for you.

25 [Bench conference ends at 4:40 p.m.]

1 BY MR. GILES:

2 Q Have you had a chance to review those?

3 A Yes, I have.

4 Q What -- what does that appear to be? Did -- is this a -- a document that
5 would have been drafted when the vehicle was impounded?

6 A Yes.

7 Q Is it a document you're familiar with?

8 A Yes.

9 Q And it refreshed your recollection as to registered owner of the vehicle?

10 A Yes.

11 Q Who was the registered owner of this white van?

12 A Irene Barnett.

13 Q And do you remember the address it was registered to?

14 A Not the numbers, but it was Summersweet Court.

15 Q And do you remember what address was on Mr. Barnett's ID that he
16 gave you?

17 A Not the exact numbers but Summersweet Court.

18 Q Okay. Just so we're clear, when you searched Corey Barnett, you
19 found the drugs, the purported drugs that you believed was methamphetamine in
20 the coin pocket of the pants?

21 A Correct.

22 Q And the pants were on his person?

23 A That's correct.

24 Q And he didn't change into those clothes as he was getting out of the
25 car?

Volume I - Page 198

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

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A No.

MR. GILES: I have nothing further, Your Honor. Pass the witness.

THE COURT: Cross.

CROSS-EXAMINATION

BY MR. NADIG:

Q Good afternoon, Officer Fernandez. How you doing?

A Pretty good.

Q Good.

A Good afternoon.

Q Now, just to clarify, you're a Detective?

A That's correct.

Q Okay, were you a Detective in September of 2015?

A I was not.

Q Okay. So this is a recent promotion?

A Yes.

Q Okay. Congrats.

A Thank you.

Q So initially you receive a call, correct?

A That's correct.

Q And the correct -- the call is essentially suspiciously a couple people
are sleeping in the car?

A That's correct.

Q Okay. So you arrive there about eight or nine in the morning, right?

A Correct.

Q By yourself?

1 A That's correct.

2 Q Okay, and you approach the vehicle and you begin speaking with Miss.

3 Alice -- Miss. Allen, correct?

4 A That's correct.

5 Q Okay. Was she cooperative with you?

6 A She was.

7 Q Okay, now Mr. Barnett was in the car as well, correct?

8 A That's correct.

9 Q Was he cooperative with you?

10 A He was.

11 Q Okay, there was nothing that made you feel threatened in any way,
12 shape or form, correct?

13 A There's still a lot of unknown so I did not feel totally safe. So I'm not
14 sure how to answer that. I -- it's totally not safe when you're dealing with individuals
15 you don't know so --

16 Q And initially you're coming up and there's two people in a vehicle and
17 you're the person there so you are a bit uneasy, correct?

18 A Correct.

19 Q That's part of your training is to always be aware of your situation?

20 A That's correct.

21 Q Okay, but based upon their actions there was nothing to suggest to you
22 that anything illegal was going on, correct?

23 A I'm still investigating that as why they're in the area --

24 Q But they were cooperative with you, right?

25 A They were cooperative, correct?

Volume I - Page 200

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q Okay, and they weren't attempting to -- they weren't yelling at you,
2 anything of that nature?

3 A That's correct.

4 Q They were responding to your questions?

5 A That's correct.

6 Q Nobody attempted to get out of the vehicle and run?

7 A That's correct.

8 Q Okay. So they're cooperative with you and Mr. -- both Miss. Allen and
9 Mr. Barnett are cooperative with you. Did you look inside the vehicle when you were
10 speaking with them?

11 A Yes.

12 Q Okay, and this is prior to discovering any weapons or anything of that
13 nature. Did it appear that they were living in the vehicle when you initially arrived?

14 A I was not sure. It could have been -- they could have been moving.
15 There was luggage there, so that's part of my -- I mean they're there and she's
16 saying that -- she's sleeping so are they living in the vehicle, are they moving?
17 These are things that are going through my mind and I do not know the answer.

18 Q Okay, but there was definitely luggage in the vehicle, correct?

19 A Correct.

20 Q Okay, and they were sleeping and you woke them up, right?

21 A That's correct.

22 Q Okay, and they were cooperative with you initially, correct?

23 A Yes. Correct.

24 Q Okay. At some point you asked Miss. Allen if there was anything in the
25 vehicle, correct?

Volume I - Page 201

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A That's correct

2 Q Okay, and what did she tell you?

3 A She might have a pipe in the vehicle.

4 Q Okay, did she tell you what type of pipe she had in the vehicle?

5 A Smoking pipe.

6 Q Okay, for what?

7 A Smoking methamphetamine.

8 Q Okay, and she referred to it as speed, correct?

9 A Correct.

10 Q Okay, now Mr. Barnett didn't say anything like that, correct?

11 A That's correct.

12 Q Okay. But Miss. Allen represented that she smoked speed, correct?

13 A That's correct

14 Q Okay. Now, Mr. Giles talked about -- in your training at the academy,

15 one of the things you're trained to do is identify people who are under the influence,

16 correct?

17 A Correct.

18 Q Okay, and there are reasonable indicia that you would see that would

19 tell somebody -- tell you or suggest to you that somebody was on

20 methamphetamine, correct?

21 A Correct.

22 Q Okay, did you attempt to -- did you believe that either individuals were

23 under the influence when you were speaking to them?

24 A No. You try to observe like you said. It's not an exact science. Try to

25 pick up on signs. But due to the fact that they just woke up, it was a little difficult to

Volume I - Page 202

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 see some of those signs.

2 Q And typically when somebody's on methamphetamine they're not
3 usually sleeping, correct?

4 A That's -- that's correct.

5 Q Okay. And but when you approached the vehicle they woke up fairly
6 quickly when you knocked on the window, correct?

7 A Correct.

8 Q Okay. Whereas somebody under methamphetamine it would probably
9 take a while to wake them up if they were coming down from methamphetamine --

10 MR. GILES: Objection. That's a --

11 THE COURT: Sustained.

12 BY MR. NADIG:

13 Q They woke up right away, correct? Is that a yes?

14 A Yes.

15 Q Okay. And they cooperated with you?

16 A That's correct

17 Q Okay, and then at some -- and Miss. Allen admitted that she smoked
18 speed?

19 A Yes.

20 Q Okay. And at some point Officer Deang came to the scene, correct?

21 A That's correct

22 Q Okay. And Mr. Barnett was cooperative with you the entire time,
23 correct?

24 A Correct.

25 Q Okay. And he never attempted to fight you in any way, shape or form?

Volume I - Page 203

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A That's correct

2 Q Okay. He -- there were statements that Miss. Allen made, but Mr.
3 Barnett stayed silent the entire time, correct?

4 A He spoke a couple of things --

5 Q But --

6 A -- not quite totally the whole time.

7 Q But nothing to the effect of, you know, I -- you know, these are my
8 drugs or anything like that?

9 A That's correct.

10 Q Okay, and he was simply placed in the cuffs and then he stopped
11 speaking, correct?

12 A He stopped speaking.

13 Q Okay, and there were clothes in the car, correct?

14 A Correct.

15 Q And the call -- it said that it appeared somebody was changing outside
16 the car at about two in the morning, right?

17 A I don't remember that part of the call.

18 Q Okay, but was there something about a Black male being outside of the
19 car and changing his shirt?

20 A I don't remember that part of the call --

21 Q Okay, could it have been in there but you don't necessarily recall it?

22 A It could have been in there, yes.

23 Q Okay.

24 A Correct.

25 Q But there were definitely items of clothing in the car?

Volume I - Page 204

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A That's correct.

2 MR. NADIG: Okay. Nothing further.

3 MR. GILES: Very briefly, Your Honor?

4 THE COURT: Sure.

5 REDIRECT EXAMINATION

6 BY MR. GILES:

7 Q Miss. Allen was helpful, but she never said there was a firearm in the
8 car, did she?

9 A She did not.

10 Q Okay. And you didn't find any narcotics on her person, did you?

11 A I did not.

12 Q And in your training and experience, is it common to find multiple
13 people who are all drug addicts together?

14 MR. NADIG: Objection.

15 MR. GILES: I'll rephrase.

16 BY MR. GILES:

17 Q Drug users?

18 A Yes.

19 Q And again, the van belonged to Miss. Allen or Mr. Barnett?

20 MR. NADIG: Objection.

21 A It came back to Irene Barnett.

22 THE COURT: Well --

23 MR. GILES: Okay.

24 MR. NADIG: Withdraw my objection, Your Honor.

25 BY MR. GILES:

Volume I - Page 205

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 Q The vehicle was registered to Mr. Barnett's mother, correct?

2 A That's correct.

3 Q Okay. And he was wearing the clothing you found the drugs in when he
4 got out of the car?

5 A That's correct.

6 MR. GILES: Nothing further.

7 MR. NADIG: Thinking about it in my head, Your Honor.

8 THE COURT: Okay.

9 MR. NADIG: Takes a while.

10 RECROSS EXAMINATION

11 BY MR. NADIG:

12 Q The only person who admitted to smoking speed was Miss. Allen,
13 correct?

14 A That's correct.

15 Q And based on your training and experience, you did not believe either
16 of them to be under the influence at the time of the arrest?

17 A I could not determine that at that time.

18 Q Okay, and but you did not charge them for being under the influence of
19 a controlled substance, did you?

20 A I did not.

21 Q Okay, but you could if you believed they were under the influence of a
22 controlled substance, correct?

23 A I could, correct.

24 Q And but you did not?

25 A I did not.

1 MR. NADIG: Okay. Nothing further, Your Honor.

2 MR. GILES: We have nothing further, Your Honor.

3 THE COURT: Jury have any questions of this officer?

4 Seeing no hands, you're free to go, Officer.

5 THE MARSHAL: Oh, got a hand up.

6 THE COURT: Oh, you have a hand? Okay.

7 [Pause]

8 THE COURT: Was Miss. Allen arrested?

9 THE WITNESS: Miss. Allen was not arrested at that time.

10 THE COURT: Questions by the State.

11 MR. GILES: None.

12 THE COURT: Question by defense.

13 MR. NADIG: Court's indulgence, Your Honor.

14 FURTHER RECROSS EXAMINATION

15 BY MR. NADIG:

16 Q Did you ever find the pipe that Miss. Allen alleged to have put in the
17 car?

18 A I did not.

19 Q Okay, did anybody to your knowledge?

20 A Believe Officer Deang did.

21 Q Okay, so Officer Deang found the pipe that was associated with Miss.
22 Allen, correct ?

23 MR. GILES: Objection; misstates the answer.

24 MR. NADIG: Officer --

25 THE COURT: Sustained.

Volume I - Page 207

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 MR. GILES: He said he believes.

2 MR. NADIG: Oh.

3 MR. GILES: You stated as a fact.

4 BY MR. NADIG:

5 Q You believe that Officer Deang found the pipe that was associated with
6 Miss. Allen, correct?

7 A Correct.

8 Q Okay, however you did not arrest Miss. Allen for possession of
9 narcotics paraphernalia, correct?

10 A That is correct.

11 Q Okay. When you went back to your car -- when you went back to your
12 cruiser, do you know what Miss. Allen or Mr. Barnett were doing inside the car?

13 A They were sitting there. I know that.

14 Q Okay, but the windows appeared to be tinted, correct?

15 A Correct. Lightly tinted because I could still see inside and I could see
16 the luggage from the outside.

17 Q Okay. Did you see them talking to each other at all when you went
18 back to your car?

19 A I could not see physically -- I could not hear them talking. I'm not sure if
20 they were talking.

21 Q Okay, and at some point you're looking on your computer, correct?

22 A That's correct.

23 Q Okay, so you're looking at your screen, you're not necessarily noticing
24 what they're doing, correct?

25 A Part of our training is to keep aware as you're not going to focus just on

Volume I - Page 208

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 the screen, so you still have to focus on everything, including behind me that's not in
2 front of me, just be aware of your whole area. So as you're running, yes, you -- I do
3 have to look at the MDT at the -- at what I'm typing, but also looking at what a
4 potential threat could be --

5 Q So while you're typing --

6 MR. GILES: Your Honor, I'm going to object as this point. We're beyond the
7 scope of the question which was, was she arrested at the time. Mr. Nadig's entitled
8 to follow up on that --

9 THE COURT: All right.

10 MR. GILES: -- not on the investigation.

11 THE COURT: That's true.

12 MR. NADIG: All right. Nothing further then, Your Honor.

13 THE COURT: All right.

14 Were guns under the seat or on the floorboard?

15 THE WITNESS: The one on the passenger side of the seat was tucked in
16 under the seat. You could still see the butt of it. The one on the passenger side
17 was in between where you could see it in plain view without moving it. It's in
18 between the floorboard and between -- underneath the seat so -- it's in between.

19 THE COURT: Questions?

20 FURTHER REDIRECT EXAMINATION

21 BY MR. GILES:

22 Q So the -- the Airsoft gun that was under the passenger side, that was
23 further under the seat?

24 A That's correct.

25 Q And the silver firearm that was -- the real firearm was under the driver

1 seat and it was a little further out?

2 A That's correct.

3 Q Would you say they're both on the floorboard just under the seat on the
4 floorboards?

5 A Yes, I would.

6 Q And this is a van. Would you say the seats are close down to the
7 floorboard or a little higher up?

8 A They're a little bit higher up.

9 Q And so standing on the outside of the vehicle did you have any -- any
10 difficulty looking in and identifying the firearm as a firearm?

11 A No.

12 MR. GILES: Thank you. I have nothing further.

13 FURTHER RECROSS EXAMINATION

14 BY MR. NADIG:

15 Q The firearm that was found on Miss. Allen's side on the driver side,
16 okay, you stated that it was partially out from underneath the seat but underneath
17 the seat, correct?

18 A Correct.

19 Q Okay. Was it closer to the door or was it closer to the center console?

20 A I would say it was closer towards middle.

21 Q So it was in the middle but underneath, correct?

22 A Correct.

23 Q And Miss. Allen was sitting there, correct?

24 A That's correct.

25 Q Okay, and Mr. Barnett was sitting in the passenger seat, correct?

Volume I - Page 210

GAL FRIDAY REPORTING & TRANSCRIPTION
10180 W. Altadena Drive, Casa Grande, AZ 85194 (623) 293-0249

1 A That's correct.

2 MR. NADIG: Okay. Nothing further.

3 MR. GILES: No, Your Honor.

4 THE COURT: Jury have any -- oh, we already did that.

5 You're free to go, Officer.

6 Ladies and gentlemen, we're going to take our evening recess. During

7 the recess you're admonished not to talk or converse among yourselves or with

8 anyone else on any subject connected with this trial, or read or watch or listen to any

9 report of or commentary on the trial or any person connected with this trial by any

10 medium of information, including without limitation newspapers, television, radio, the

11 internet, or form or express an opinion on any subject connected with the trial until

12 the case finally submitted to you. Remember no -- no tweeting -- that's my son. No

13 Twitter, Instagram or social media. Thanks.

14 See you in the morning. I have a calendar in the morning. Be here at

15 10:30. Okay.

16 THE MARSHAL: Okay, folks, leave your notebooks and your pens on your

17 chairs, take all your property with you and let's go out in the hallway.

18 UNIDENTIFIED SPEAKER: Do we take the little tags?

19 THE MARSHAL: Yes, take the tag -- blue tags with you. I'll explain that to

20 you out in the hallway.

21 THE COURT: She asked about the pad.

22 UNIDENTIFIED SPEAKER: No.

23 THE MARSHAL: No, she said blue tag.

24 THE COURT: Oh.

25 UNIDENTIFIED SPEAKER: Take the tag?

1 THE MARSHAL: Take the blue tag with you. The only thing you're leaving
2 here is the notebook and a pen.

3 UNIDENTIFIED SPEAKER: Okay.

4 [Jury out at 4:56 p.m.]

5 THE COURT: Okay, the jury's out, doors are closed. 10:30 for them but
6 10:00 for you guys so we can settle jury instructions. So I need him here at 10.

7 THE CORRECTIONS OFFICER: Yes, sir.

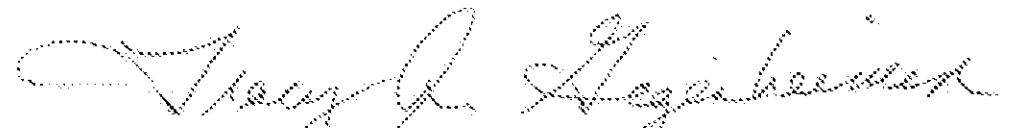
8 THE COURT: Okay.

9 MS. BAHARAV: Thank you.

10 THE COURT: See you guys tomorrow.

11 [Proceedings concluded at 4:56 p.m.]

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

14
15 

16 Tracy A. Gegenheimer, CER-282, CET-282
17 Court Recorder/Transcriber
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