

IN THE SUPREME COURT OF THE STATE OF NEVADA

NORMAN DAVID BELCHER, JR.,
Appellant(s),

vs.

STATE OF NEVADA,
Respondent(s),

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Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-11-270562-1

Docket No: 72325

Death Penalty

RECORD ON APPEAL VOLUME 19

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I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 230
2	231 - 460
3	461 - 690
4	691 - 920
5	921 - 1150
6	1151 - 1380
7	1381 - 1610
8	1611 - 1840
9	1841 - 2070
10	2071 - 2300
11	2301 - 2530
12	2531 - 2760
13	2761 - 2990
14	2991 - 3220
15	3221 - 3450
16	3451 - 3680
17	3681 - 3910
18	3911 - 4140
19	4141 - 4370
20	4371 - 4600
21	4601 - 4830
22	4831 - 5060
23	5061 - 5290
24	5291 - 5520
25	5521 - 5750
26	5751 - 5980
27	5981 - 6210
28	6211 - 6440
29	6441 - 6670
30	6671 - 6900
31	6901 - 7130
32	7131 - 7360
33	7361 - 7590
34	7591 - 7820
35	7821 - 8050
36	8051 - 8280
37	8281 - 8510
38	8511 - 8740
39	8741 - 8970
40	8971 - 9200
41	9201 - 9430
42	9431 - 9660
43	9661 - 9890
44	9891 - 10059

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
6	04/06/2015	(SUPPLEMENTAL) NOTICE OF DEFENDANT'S WITNESSES AND/OR EXPERT WITNESSES	1303 - 1318
6	04/08/2015	(SUPPLEMENTAL) NOTICE OF DEFENDANT'S WITNESSES AND/OR EXPERT WITNESSES	1348 - 1354
7	05/18/2015	(SUPPLEMENTAL) NOTICE OF DEFENDANT'S WITNESSES AND/OR EXPERT WITNESSES (CONTINUED)	1600 - 1610
8	05/18/2015	(SUPPLEMENTAL) NOTICE OF DEFENDANT'S WITNESSES AND/OR EXPERT WITNESSES (CONTINUATION)	1611 - 1625
15	06/30/2016	AFFIDAVIT OF SERVICE	3223 - 3223
25	12/12/2016	AFFIDAVIT OF SERVICE	5658 - 5658
26	12/13/2016	AFFIDAVIT OF SERVICE	5826 - 5826
26	12/13/2016	AFFIDAVIT OF SERVICE	5827 - 5827
26	12/13/2016	AFFIDAVIT OF SERVICE	5828 - 5828
26	12/13/2016	AFFIDAVIT OF SERVICE	5829 - 5829
19	12/02/2016	AMENDED JURY LIST	4192 - 4192
8	08/28/2015	AMENDED PROOF OF SERVICE	1806 - 1807
26	12/13/2016	ANSWER TO ORDER TO SHOW CAUSE RE: CONTEMPT	5830 - 5842
28	02/06/2017	CASE APPEAL STATEMENT	6436 - 6437
6	04/06/2015	CERTIFICATE OF SERVICE	1289 - 1289
44	02/28/2017	CERTIFICATION OF COPY AND TRANSMITTAL OF RECORD	
28	02/06/2017	CLERK'S GREETING TO THE SHERIFF AND WARDEN	6433 - 6433
15	08/11/2016	COURT ORDER; ORDER FOR PRODUCTION AND RELEASE OF COPIES OF COURT DOCUMENTS FROM DISTRICT COURT, RECORDS SECTION, ATTN.: LAWANDA BROWN, SUPERVISOR OF RECORDS SECTION AT REGIONAL JUSTICE CENTER, 3RD FLOOR, RECORDS SECTION AT 200 LEWIS AVENUE, LAS VEGAS, NEVADA 89155	3288 - 3290

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
15	08/11/2016	COURT ORDER; ORDER FOR PRODUCTION AND RELEASE OF COPIES OF COURT DOCUMENTS FROM DISTRICT COURT, RECORDS SECTION, ATTN.: LAWANDA BROWN, SUPERVISOR OF RECORDS SECTION AT REGIONAL JUSTICE CENTER, 3RD FLOOR, RECORDS SECTION AT 200 LEWIS AVENUE, LAS VEGAS, NEVADA 89155	3291 - 3293
1	01/25/2011	CRIMINAL BINDOVER	1 - 37
29	02/21/2017	CRIMINAL ORDER TO STATISTICALLY CLOSE CASE	6452 - 6452
5	08/20/2014	DEFENDANT'S MOTION TO CONTINUE TRIAL	1062 - 1066
2	06/15/2012	DEFENDANT'S REQUEST FOR DISCOVERY AND FOR DISCLOSURE OF ALL EXCULPATORY EVIDENCE AND INCORPORATED STATEMENT OF AUTHORITY	349 - 367
44	02/28/2017	DISTRICT COURT MINUTES	9915 - 10059
42	02/28/2017	DOCUMENTARY EXHIBITS (UNFILED) SEALED (CONTINUED)	9471 - 9660
43	02/28/2017	DOCUMENTARY EXHIBITS (UNFILED) SEALED (CONTINUATION)	9661 - 9890
44	02/28/2017	DOCUMENTARY EXHIBITS (UNFILED) SEALED (CONTINUATION)	9891 - 9914
29	02/28/2017	DOCUMENTARY EXHIBITS - PART 1 (UNFILED) (CONTINUED)	6453 - 6670
30	02/28/2017	DOCUMENTARY EXHIBITS - PART 1 (UNFILED) (CONTINUATION)	6671 - 6900
31	02/28/2017	DOCUMENTARY EXHIBITS - PART 1 (UNFILED) (CONTINUATION)	6901 - 7130
32	02/28/2017	DOCUMENTARY EXHIBITS - PART 1 (UNFILED) (CONTINUATION)	7131 - 7360
33	02/28/2017	DOCUMENTARY EXHIBITS - PART 1 (UNFILED) (CONTINUATION)	7361 - 7453

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
33	02/28/2017	DOCUMENTARY EXHIBITS - PART 2 (UNFILED) (CONTINUED)	7454 - 7590
34	02/28/2017	DOCUMENTARY EXHIBITS - PART 2 (UNFILED) (CONTINUATION)	7591 - 7820
35	02/28/2017	DOCUMENTARY EXHIBITS - PART 2 (UNFILED) (CONTINUATION)	7821 - 8050
36	02/28/2017	DOCUMENTARY EXHIBITS - PART 2 (UNFILED) (CONTINUATION)	8051 - 8280
37	02/28/2017	DOCUMENTARY EXHIBITS - PART 2 (UNFILED) (CONTINUATION)	8281 - 8453
37	02/28/2017	DOCUMENTARY EXHIBITS - PART 3 (UNFILED) (CONTINUED)	8454 - 8510
38	02/28/2017	DOCUMENTARY EXHIBITS - PART 3 (UNFILED) (CONTINUATION)	8511 - 8740
39	02/28/2017	DOCUMENTARY EXHIBITS - PART 3 (UNFILED) (CONTINUATION)	8741 - 8970
40	02/28/2017	DOCUMENTARY EXHIBITS - PART 3 (UNFILED) (CONTINUATION)	8971 - 9200
41	02/28/2017	DOCUMENTARY EXHIBITS - PART 3 (UNFILED) (CONTINUATION)	9201 - 9430
42	02/28/2017	DOCUMENTARY EXHIBITS - PART 3 (UNFILED) (CONTINUATION)	9431 - 9470
9	10/20/2015	EMERGENCY MOTION FOR DENTAL CARE OUTSIDE OF THE CLARK COUNTY DETENTION CENTER	1960 - 2001
2	04/13/2012	ERRATA TO MOTION FOR DISCOVERY	297 - 314
6	04/06/2015	ERRATA TO MOTION TO CONTINUE CALENDAR CALL AND TRIAL DATE	1319 - 1323
16	11/28/2016	EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS	3623 - 3624

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
22	12/07/2016	FIFTH SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES	4839 - 4844
12	01/22/2016	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, GRANTING IN PART AND, DENYING IN PART, DEFENDANT'S MOTION TO SUPPRESS EVIDENCE AND FOR RETURN OF PROPERTY	2548 - 2553
16	11/21/2016	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, GRANTING IN PART AND, DENYING IN PART, DEFENDANT'S MOTION IN LIMINE TO EXCLUDE PRIOR ARRESTS, CONVICTIONS, AND UNRELATED BAD ACT EVIDENCE	3565 - 3566
16	11/21/2016	FOURTH SUPPLEMENTAL NOTICE OF WITNESSES AND/OR EXPERT WITNESSES	3559 - 3564
1	01/31/2011	INFORMATION	38 - 43
26	12/14/2016	INSTRUCTIONS TO THE JURY	5844 - 5902
27	12/15/2016	INSTRUCTIONS TO THE JURY	6002 - 6021
28	02/06/2017	JUDGMENT OF CONVICTION (JURY TRIAL)	6425 - 6427
19	12/02/2016	JURY LIST	4191 - 4191
1	02/09/2011	MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS	153 - 154
1	02/09/2011	MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS	155 - 156
1	02/09/2011	MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS	157 - 158
1	02/09/2011	MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS	159 - 160
1	02/22/2011	MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS	173 - 174
8	08/20/2015	MOTION FOR AN ORDER TO SHOW CAUSE	1770 - 1781

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
12	02/11/2016	MOTION FOR AN ORDER TO SHOW CAUSE	2568 - 2577
5	03/12/2015	MOTION FOR COURT ORDER FOR PRODUCTION AND RELEASE OF EVIDENCE FROM THE EVIDENCE VAULT AT THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT	1110 - 1118
1	07/14/2011	MOTION FOR DISCOVERY (CONTINUED)	223 - 230
2	07/14/2011	MOTION FOR DISCOVERY (CONTINUATION)	231 - 231
2	04/04/2012	MOTION FOR DISCOVERY	279 - 287
4	04/16/2013	MOTION FOR DISCOVERY AND FOR DISCLOSURE OF ALL EXCULPATORY EVIDENCE AND INCORPORATED STATEMENT OF AUTHORITY	716 - 736
5	03/26/2015	MOTION IN LIMINE FOR A JACKSON V. DENNO HEARING REGARDING VOLUNTARINESS OF DEFENDANT'S STATEMENT (CONTINUED)	1128 - 1150
6	03/26/2015	MOTION IN LIMINE FOR A JACKSON V. DENNO HEARING REGARDING VOLUNTARINESS OF DEFENDANT'S STATEMENT (CONTINUATION)	1151 - 1205
6	03/27/2015	MOTION IN LIMINE TO EXCLUDE PRIOR ARRESTS, CONVICTIONS, AND UNRELATED BAD ACT EVIDENCE	1206 - 1228
15	11/17/2016	MOTION IN LIMINE TO PRECLUDE ADMISSION OF JAIL HOUSE RECORDINGS AND/OR TRANSCRIPTS OF JAIL HOUSE RECORDINGS AND/OR LETTERS WRITTEN BY DEFENDANT TO PROSECUTOR	3381 - 3400
16	11/22/2016	MOTION IN LIMINE TO PRECLUDE CERTAIN EVIDENCE, INCLUDING; EVIDENCE OF GANG AFFILIATION, HEARSAY EVIDENCE OF POSTORINO TEXT MESSAGES, BRIDGET CHAPLIN LETTER, STAGED PHOTOGRAPH OF SOCKS, AND LETTERS WRITTEN TO PROSECUTOR	3567 - 3607
8	05/28/2015	MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE FOR DEFENDANT	1658 - 1661
8	08/14/2015	MOTION TO AUTHORIZE CLARK COUNTY DETENTION	1765 - 1769

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		CENTER TO PROVIDE DENTAL PROCEDURE FOR DEFENDANT	
15	11/18/2016	MOTION TO COMPEL TRIAL TESTIMONY OF ASHLEY RILEY (CONTINUED)	3401 - 3450
16	11/18/2016	MOTION TO COMPEL TRIAL TESTIMONY OF ASHLEY RILEY (CONTINUATION)	3451 - 3558
5	01/21/2015	MOTION TO CONTINUE CALENDAR CALL AND TRIAL DATE	1080 - 1083
6	03/31/2015	MOTION TO CONTINUE CALENDAR CALL AND TRIAL DATE	1243 - 1247
4	10/01/2013	MOTION TO CONTINUE TRIAL	888 - 891
11	01/20/2016	MOTION TO DECLARE DEATH PENALTY UNCONSTITUTIONAL PURSUANT TO THE CONSTITUTIONS OF THE UNITED STATES OF AMERICA AND CONSTITUTION OF THE STATE OF NEVADA (CONTINUED)	2307 - 2530
12	01/20/2016	MOTION TO DECLARE DEATH PENALTY UNCONSTITUTIONAL PURSUANT TO THE CONSTITUTIONS OF THE UNITED STATES OF AMERICA AND CONSTITUTION OF THE STATE OF NEVADA (CONTINUATION)	2531 - 2535
7	05/18/2015	MOTION TO DISMISS CHARGES FOR BRADY VIOLATIONS, ORDER TO SHOW CAUSE, AND/OR MOTION TO CONTINUE TRIAL	1543 - 1599
12	02/29/2016	MOTION TO DISMISS CHARGES, OR IN THE ALTERNATIVE, FOR MONITORED RETURN OF PRIVILEGED LEGAL MATERIALS, AND/OR OTHER NECESSARY JUDICIAL RELIEF	2583 - 2612
2	04/05/2012	MOTION TO DISMISS COUNSEL	288 - 296
3	09/24/2012	MOTION TO DISMISS COUNSEL	500 - 506
6	03/31/2015	MOTION TO DISMISS COUNSEL	1235 - 1241
14	05/24/2016	MOTION TO DISMISS COUNSEL	3040 - 3047
1	05/25/2011	MOTION TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATE COUNSEL	186 - 192

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
13	04/20/2016	MOTION TO DISMISS FOR BRADY VIOLATION AND THE SIXTH AMENDMENT RIGHT TO COMPULSORY PROCESS	2916 - 2955
6	03/31/2015	MOTION TO DISMISS PRIVATE INVESTIGATOR	1229 - 1234
2	12/02/2011	MOTION TO PLACE ON CALENDAR	257 - 258
8	08/14/2015	MOTION TO PLACE ON CALENDAR FOR STATUS CHECK ON TRIAL READINESS	1761 - 1764
16	11/28/2016	MOTION TO PRECLUDE INSTRUCTION AND ARGUMENT OF CONSPIRACY AND AIDING AND ABETTING AS THEORIES OF CRIMINAL LIABILITY AND MOTION TO STRIKE SUCH LANGUAGE FROM CHARGING INSTRUMENT	3627 - 3655
5	10/22/2013	MOTION TO QUASH SUBPOENA DUCES TECUM	940 - 947
14	06/21/2016	MOTION TO RECONSIDER ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	3054 - 3079
4	08/13/2013	MOTION TO STRIKE PRELIMINARY HEARING AND DISMISS CHARGES	764 - 830
7	05/05/2015	MOTION TO SUPPRESS EVIDENCE AND FOR RETURN OF PROPERTY	1419 - 1460
8	07/28/2015	MOTION TO SUPPRESS EVIDENCE AND FOR RETURN OF PROPERTY	1719 - 1760
2	07/11/2012	MOTION TO SUPPRESS IMPERMISSIBLY SUGGESTIVE PHOTOGRAPHIC IDENTIFICATION PROCEDURE	368 - 439
3	10/04/2012	MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	517 - 589
10	11/18/2015	MOTION TO SUPPRESS UNNECESSARILY SUGGESTIVE IDENTIFICATION OF DEFENDANT (EVIDENTIARY HEARING REQUESTED)	2099 - 2262
3	10/08/2012	MOTION TO WITHDRAW AS ATTORNEY OF RECORD	590 - 593
9	09/14/2015	MOTION TO WITHDRAW AS COUNSEL	1873 - 1877
25	12/12/2016	NOT FOUND AFFIDAVIT	5659 - 5659

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
28	02/06/2017	NOTICE OF APPEAL	6434 - 6435
6	03/31/2015	NOTICE OF CHANGE OF HEARING	1242 - 1242
6	04/06/2015	NOTICE OF DEFENDANT'S WITNESSES AND/OR EXPERT WITNESSES FOR PENALTY PHASE	1290 - 1302
5	11/20/2013	NOTICE OF ENTRY OF ORDER	1007 - 1012
14	05/19/2016	NOTICE OF ENTRY OF ORDER	3008 - 3014
8	07/22/2015	NOTICE OF ENTRY OF ORDER DENYING NORMAN BELCHER'S MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE FOR DEFENDANT	1713 - 1718
4	10/09/2013	NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATION (CONTINUED)	915 - 920
5	10/09/2013	NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATION (CONTINUATION)	921 - 930
5	08/15/2014	NOTICE OF EXPERT WITNESSES [NRS 174.234(2)]	1025 - 1061
1	02/10/2011	NOTICE OF INTENT TO SEEK DEATH PENALTY	164 - 172
12	03/24/2016	NOTICE OF SUBMISSION OF MATERIALS FOR IN CAMERA INSPECTION BY LAS VEGAS METROPOLITAN POLICE DEPARTMENT	2650 - 2652
9	11/05/2015	NOTICE OF SUBMISSION OF MATERIALS FOR IN CAMERA INSPECTION BY SPECIALLY APPEARING INTERESTED PARTY SHERIFF JOSEPH LOMBARDO OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT	2002 - 2004
3	09/28/2012	NOTICE OF WITNESS/EXPERT WITNESS	507 - 514
5	08/15/2014	NOTICE OF WITNESSES [NRS 174.234(1)(A)]	1020 - 1024
12	03/24/2016	OPPOSITION TO NORMAN BELCHER'S MOTION TO DISMISS CHARGES, OR IN THE ALTERNATIVE, FOR MONITORED RETURN OF PRIVILEGED LEGAL MATERIALS, AND/OR OTHER NECESSARY JUDICIAL RELIEF; DECLARATIONS OF	2653 - 2680

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		DST GUERRA, DST BAKER, AND DST HUERTA	
4	08/09/2013	ORDER	763 - 763
6	04/07/2015	ORDER	1324 - 1325
14	05/18/2016	ORDER	3002 - 3005
28	02/07/2017	ORDER APPOINTING COUNSEL	6438 - 6438
8	07/22/2015	ORDER DENYING DEFENDANT NORMAN BELCHER'S MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE FOR DEFENDANT	1710 - 1712
15	08/04/2016	ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	3286 - 3287
5	12/04/2013	ORDER DENYING DEFENDANT'S MOTION TO STRIKE PRELIMINARY HEARING TESTIMONY AND DISMISS CHARGES	1013 - 1018
3	10/03/2012	ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS IMPERMISSIBLY SUGGESTIVE PHOTOGRAPHIC IDENTIFICATION PROCEDURE	515 - 516
3	10/25/2012	ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS IMPERMISSIBLY SUGGESTIVE PHOTOGRAPHIC IDENTIFICATION PROCEDURE	607 - 608
12	03/28/2016	ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS OFFICER CAVARICCI'S IDENTIFICATION OF DEFENDANT	2706 - 2707
4	02/14/2013	ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	712 - 715
9	11/09/2015	ORDER DENYING MOTION TO SHOW CAUSE BUT GRANTING IN CAMERA REVIEW OF REQUESTED ITEMS	2009 - 2011
1	06/08/2011	ORDER FOR TRANSCRIPT	197 - 197
9	11/09/2015	ORDER GRANTING DEFENDANT BELCHER'S MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO	2005 - 2008

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		PROVIDE A DENTAL PROCEDURE TO DEFENDANT	
5	11/20/2013	ORDER GRANTING RELEASE OF RECORDS	1005 - 1006
28	02/06/2017	ORDER OF EXECUTION	6432 - 6432
16	11/28/2016	ORDER RELEASING MEDICAL RECORDS	3625 - 3626
17	11/30/2016	ORDER TO ALLOW A BARBER / HAIRCUT STYLIST TO ENTER CLARK COUNTY DETENTION CENTER AND CUT THE HAIR OF NORMAN BELCHER, INMATE #1076336	3769 - 3770
17	11/30/2016	ORDER TO ALLOW A BARBER / HAIRCUT STYLIST TO ENTER CLARK COUNTY DETENTION CENTER AND CUT THE HAIR OF NORMAN BELCHER, INMATE #1076336	3771 - 3772
21	12/06/2016	ORDER TO ALLOW LARRY SMITH, CELL PHONE DATA EXPERT, NV PILB LICENSEE, DEFENSE EXPERT TO ENTER CLARK COUNTY DETENTION CENTER AND CONDUCT A LEGAL CONTACT WITH NORMAN BELCHER.	4692 - 4693
16	11/29/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	3656 - 3656
16	11/29/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	3657 - 3657
17	11/29/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	3768 - 3768
18	12/01/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	3933 - 3933
19	12/02/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	4187 - 4187
19	12/02/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	4188 - 4188
19	12/02/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	4189 - 4189
19	12/02/2016	ORDER TO SHOW CAUSE RE: CONTEMPT	4190 - 4190
28	02/07/2017	ORDER TO STAY EXECUTION	6439 - 6440
28	01/17/2017	PRE-SENTENCE INVESTIGATION REPORT (UNFILED) CONFIDENTIAL	6414 - 6424
4	09/13/2013	RECEIPT OF COPY	884 - 884

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
5	12/31/2013	RECEIPT OF COPY	1019 - 1019
8	08/31/2015	REPLY TO SHERIFF JOSEPH LOMBARDO OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S OPPOSITION TO MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE TO THE DEFENDANT (CONTINUED)	1838 - 1840
9	08/31/2015	REPLY TO SHERIFF JOSEPH LOMBARDO OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S OPPOSITION TO MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE TO THE DEFENDANT (CONTINUATION)	1841 - 1844
9	10/08/2015	REPLY TO SPECIALLY APPEARING INTERESTED PARTY SHERIFF JOSEPH LOMBARDO OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S OPPOSITION TO NORMAN BELCHER'S MOTION FOR AN ORDER TO SHOW CAUSE	1955 - 1959
6	04/07/2015	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE FOR A JACKSON V. DENNO HEARING REGARDING VOLUNTARINESS OF DEFENDANT'S STATEMENT AND/OR MOTION TO RECONSIDER AND/OR OPEN MOTION TO SUPPRESS STATEMENT FOR VIOLATION OF MIRANDA	1326 - 1341
15	07/06/2016	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION RECONSIDER ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	3224 - 3269
12	02/12/2016	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DECLARE DEATH PENALTY UNCONSTITUTIONAL	2578 - 2582
14	05/11/2016	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS CHARGES FOR BRADY VIOLATION AND THE SIXTH AMENDMENT RIGHT TO COMPULSORY PROCESS	2992 - 3001
12	04/05/2016	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS CHARGES, OR IN THE ALTERNATIVE, FOR MONITORED RETURN OF PRIVILEGED LEGAL MATERIALS, AND/OR OTHER NECESSARY JUDICIAL RELIEF	2717 - 2760

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		(CONTINUED)	
13	04/05/2016	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS CHARGES, OR IN THE ALTERNATIVE, FOR MONITORED RETURN OF PRIVILEGED LEGAL MATERIALS, AND/OR OTHER NECESSARY JUDICIAL RELIEF (CONTINUATION)	2761 - 2874
4	09/12/2013	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE PRELIMINARY HEARING AND DISMISS CHARGES	841 - 883
9	09/22/2015	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS EVIDENCE AND RETURN OF PROPERTY	1878 - 1892
10	01/04/2016	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS OFFICER CAVARICCI'S IDENTIFICATION (EVIDENTIARY HEARING REQUESTED) (CONTINUED)	2285 - 2300
11	01/04/2016	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS OFFICER CAVARICCI'S IDENTIFICATION (EVIDENTIARY HEARING REQUESTED) (CONTINUATION)	2301 - 2306
3	10/31/2012	REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	609 - 613
3	07/30/2012	REPLY TO STATE'S OPPOSITION TO MOTION TO SUPPRESS IMPERMISSIBLY SUGGESTIVE PHOTOGRAPHIC IDENTIFICATION PROCEDURE	475 - 484
4	01/23/2013	REPLY TO STATE'S SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	702 - 711
26	12/14/2016	SECOND AMENDED JURY LIST	5843 - 5843
6	04/06/2015	SECOND SUPPLEMENTAL NOTICE OF WITNESSES/EXPERT WITNESSES	1272 - 1288
27	12/15/2016	SPECIAL JURY VERDICT	6022 - 6023
27	12/15/2016	SPECIAL JURY VERDICT	6027 - 6028
8	06/26/2015	SPECIALLY APPEARING INTERESTED PARTY NAPHCARE,	1679 - 1706

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		INC.'S SUBSTANTIVE JOINDER TO SHERIFF LOMBARDO'S OPPOSITION TO NORMAN BELCHER'S MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE TO DEFENDANT	
8	08/31/2015	SPECIALLY APPEARING INTERESTED PARTY NAPHCARE, INC.'S SUBSTANTIVE JOINDER TO SHERIFF LOMBARDO'S OPPOSITION TO NORMAN BELCHER'S [SECOND] "MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE TO DEFENDANT"	1808 - 1837
8	06/16/2015	SPECIALLY APPEARING INTERESTED PARTY SHERIFF JOSEPH LOMBARDO OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S OPPOSITION TO MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE TO DEFENDANT	1665 - 1678
8	08/28/2015	SPECIALLY APPEARING INTERESTED PARTY SHERIFF JOSEPH LOMBARDO OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S OPPOSITION TO MOTION TO AUTHORIZE CLARK COUNTY DETENTION CENTER TO PROVIDE DENTAL PROCEDURE TO DEFENDANT	1795 - 1805
9	09/22/2015	SPECIALLY APPEARING INTERESTED PARTY SHERIFF JOSEPH LOMBARDO OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S OPPOSITION TO NORMAN BELCHER'S MOTION FOR ORDER TO SHOW CAUSE	1893 - 1912
12	03/29/2016	STATE'S JOINDER TO METRO'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS CHARGES, OR IN THE ALTERNATIVE, FOR MONITORED RETURN OF PRIVILEGED LEGAL MATERIALS, AND/OR OTHER NECESSARY JUDICIAL RELIEF	2708 - 2716
4	04/23/2013	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY AND DISCLOSURE OF ALL EXCULPATORY EVIDENCE AND INCORPORATED STATEMENT OF AUTHORITY & STATE'S REQUEST FOR RECIPROCAL DISCOVERY	737 - 744
6	04/02/2015	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE FOR A JACKSON V. DENNO HEARING REGARDING VOLUNTARINESS OF DEFENDANT'S STATEMENT	1248 - 1252

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
6	04/03/2015	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO EXCLUDE PRIOR ARRESTS, CONVICTIONS, AND UNRELATED BAD ACT EVIDENCE AND IN THE ALTERNATIVE MOTION TO ADMIT EVIDENCE OF OTHER BAD ACTS PURSUANT TO NRS 48.035 AND THE DOCTRINE OF RES GESTAE	1253 - 1267
5	08/28/2014	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO CONTINUE TRIAL	1067 - 1069
5	01/28/2015	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO CONTINUE TRIAL	1084 - 1086
6	04/03/2015	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO CONTINUE TRIAL	1268 - 1271
12	02/08/2016	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DECLARE DEATH PENALTY UNCONSTITUTIONAL	2557 - 2567
13	04/27/2016	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS CHARGES FOR BRADY VIOLATION AND THE SIXTH AMENDMENT RIGHT TO COMPULSORY PROCESS (CONTINUED)	2956 - 2990
14	04/27/2016	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS CHARGES FOR BRADY VIOLATION AND THE SIXTH AMENDMENT RIGHT TO COMPULSORY PROCESS (CONTINUATION)	2991 - 2991
14	06/30/2016	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO RECONSIDER ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE (CONTINUED)	3080 - 3220
15	06/30/2016	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO RECONSIDER ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE (CONTINUATION)	3221 - 3222
4	08/22/2013	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE PRELIMINARY HEARING TESTIMONY AND DISMISS CHARGES	831 - 835
8	08/28/2015	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS EVIDENCE AND RETURN OF PROPERTY	1782 - 1794

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
10	12/04/2015	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS OFFICER CAVARICCI'S IDENTIFICATION OF DEFENDANT AND STATE'S OPPOSITION TO DEFENDANT'S REQUEST FOR HEARING	2263 - 2280
3	10/12/2012	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	594 - 599
2	07/19/2012	STATE'S OPPOSITION TO MOTION TO SUPPRESS IMPERMISSIBLY SUGGESTIVE PHOTOGRAPHIC IDENTIFICATION PROCEDURE (CONTINUED)	443 - 460
3	07/19/2012	STATE'S OPPOSITION TO MOTION TO SUPPRESS IMPERMISSIBLY SUGGESTIVE PHOTOGRAPHIC IDENTIFICATION PROCEDURE (CONTINUATION)	461 - 471
15	10/03/2016	STATE'S SECOND SUPPLEMENTAL NOTICE OF EXPERT WITNESSES [NRS 174.234(2)]	3328 - 3337
3	01/18/2013	STATE'S SUPPLEMENTAL OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS AND EVIDENCE	631 - 633
4	10/03/2013	SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO STRIKE PRELIMINARY HEARING AND DISMISS CHARGES	900 - 914
5	03/02/2015	SUPPLEMENTAL NOTICE OF DEFENDANT'S WITNESSES AND/OR EXPERT WITNESSES	1097 - 1109
6	04/08/2015	SUPPLEMENTAL NOTICE OF DEFENDANT'S WITNESSES AND/OR EXPERT WITNESSES FOR PENALTY PHASE	1342 - 1347
7	05/15/2015	SUPPLEMENTAL NOTICE OF EXPERT WITNESSES [NRS 174.234(2)]	1476 - 1542
15	09/19/2016	SUPPLEMENTAL NOTICE OF EXPERT WITNESSES [NRS 174.234(2)]	3308 - 3327
15	09/19/2016	SUPPLEMENTAL NOTICE OF WITNESSES [NRS 174.234(1)(A)]	3302 - 3307
15	11/01/2016	SUPPLEMENTAL NOTICE OF WITNESSES [NRS 174.234(1)(A)]	3341 - 3345
3	01/09/2013	SUPPLEMENTAL REPLY TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS EVIDENCE AND	623 - 630

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		STATEMENTS	
15	11/08/2016	THIRD SUPPLEMENTAL NOTICE OF WITNESSES/EXPERT WITNESSES	3346 - 3380
13	04/15/2016	TRANSCRIPT OF HEARING HELD ON APRIL 11, 2016	2903 - 2915
6	04/15/2015	TRANSCRIPT OF HEARING HELD ON APRIL 13, 2015	1358 - 1377
6	04/17/2015	TRANSCRIPT OF HEARING HELD ON APRIL 13, 2015 (SEALED) (CONTINUED)	1378 - 1380
7	04/17/2015	TRANSCRIPT OF HEARING HELD ON APRIL 13, 2015 (SEALED) (CONTINUATION)	1381 - 1418
2	04/16/2012	TRANSCRIPT OF HEARING HELD ON APRIL 16, 2012	315 - 318
2	04/23/2012	TRANSCRIPT OF HEARING HELD ON APRIL 23, 2012	319 - 321
2	04/25/2012	TRANSCRIPT OF HEARING HELD ON APRIL 23, 2012 (SEALED)	322 - 344
4	04/29/2013	TRANSCRIPT OF HEARING HELD ON APRIL 29, 2013	745 - 748
13	04/14/2016	TRANSCRIPT OF HEARING HELD ON APRIL 6, 2016	2875 - 2902
6	04/09/2015	TRANSCRIPT OF HEARING HELD ON APRIL 8, 2015	1355 - 1357
15	08/22/2016	TRANSCRIPT OF HEARING HELD ON AUGUST 10, 2016	3294 - 3301
3	08/20/2012	TRANSCRIPT OF HEARING HELD ON AUGUST 20, 2012	485 - 489
2	08/23/2011	TRANSCRIPT OF HEARING HELD ON AUGUST 22, 2011	242 - 245
3	08/28/2012	TRANSCRIPT OF HEARING HELD ON AUGUST 22, 2012	490 - 499
4	08/26/2013	TRANSCRIPT OF HEARING HELD ON AUGUST 26, 2013	836 - 838
4	08/08/2013	TRANSCRIPT OF HEARING HELD ON AUGUST 7, 2013	758 - 762
19	12/02/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 1, 2016 (CONTINUED)	4193 - 4370
20	12/02/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 1, 2016	4371 - 4426

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		(CONTINUATION)	
2	12/13/2011	TRANSCRIPT OF HEARING HELD ON DECEMBER 12, 2011	262 - 272
25	12/13/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 12, 2016 (CONTINUED)	5660 - 5750
26	12/13/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 12, 2016 (CONTINUATION)	5751 - 5825
28	12/20/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 13, 2016	6228 - 6413
26	12/15/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 14, 2016 (CONTINUED)	5906 - 5980
27	12/15/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 14, 2016 (CONTINUATION)	5981 - 6001
27	12/16/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 15, 2016 (CONTINUED)	6029 - 6210
28	12/16/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 15, 2016 (CONTINUATION)	6211 - 6227
20	12/05/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 2, 2016 (CONTINUED)	4427 - 4600
21	12/05/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 2, 2016 (CONTINUATION)	4601 - 4691
2	12/08/2011	TRANSCRIPT OF HEARING HELD ON DECEMBER 5, 2011	259 - 261
3	12/06/2012	TRANSCRIPT OF HEARING HELD ON DECEMBER 5, 2012	618 - 622
21	12/06/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 5, 2016 (CONTINUED)	4694 - 4830
22	12/06/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 5, 2016 (CONTINUATION)	4831 - 4838
22	12/07/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 6, 2016	4845 - 5028
22	12/08/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 7, 2016 (CONTINUED)	5029 - 5060

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
23	12/08/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 7, 2016 (CONTINUATION)	5061 - 5266
23	12/09/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 8, 2016 (CONTINUED)	5267 - 5290
24	12/09/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 8, 2016 (CONTINUATION)	5291 - 5438
24	12/12/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 9, 2016 (CONTINUED)	5439 - 5520
25	12/12/2016	TRANSCRIPT OF HEARING HELD ON DECEMBER 9, 2016 (CONTINUATION)	5521 - 5657
1	02/28/2011	TRANSCRIPT OF HEARING HELD ON FEBRUARY 1, 2011	178 - 180
12	02/04/2016	TRANSCRIPT OF HEARING HELD ON FEBRUARY 1, 2016	2554 - 2556
12	03/09/2016	TRANSCRIPT OF HEARING HELD ON FEBRUARY 18, 2016	2613 - 2638
5	02/02/2015	TRANSCRIPT OF HEARING HELD ON FEBRUARY 2, 2015	1087 - 1096
12	03/10/2016	TRANSCRIPT OF HEARING HELD ON FEBRUARY 22, 2016	2639 - 2645
1	02/23/2011	TRANSCRIPT OF HEARING HELD ON FEBRUARY 23, 2011	175 - 177
29	02/07/2017	TRANSCRIPT OF HEARING HELD ON FEBRUARY 6, 2017	6441 - 6451
1	02/10/2011	TRANSCRIPT OF HEARING HELD ON FEBRUARY 9, 2011	161 - 163
3	01/22/2013	TRANSCRIPT OF HEARING HELD ON JANUARY 17, 2013 (CONTINUED)	634 - 690
4	01/22/2013	TRANSCRIPT OF HEARING HELD ON JANUARY 17, 2013 (CONTINUATION)	691 - 701
1	02/04/2011	TRANSCRIPT OF HEARING HELD ON JANUARY 21, 2011	44 - 152
12	01/22/2016	TRANSCRIPT OF HEARING HELD ON JANUARY 6, 2016	2536 - 2547
2	01/09/2012	TRANSCRIPT OF HEARING HELD ON JANUARY 9, 2012	273 - 278
2	07/12/2012	TRANSCRIPT OF HEARING HELD ON JULY 11, 2012	440 - 442

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
15	07/19/2016	TRANSCRIPT OF HEARING HELD ON JULY 11, 2016	3270 - 3285
2	07/21/2011	TRANSCRIPT OF HEARING HELD ON JULY 18, 2011	232 - 241
3	07/25/2012	TRANSCRIPT OF HEARING HELD ON JULY 23, 2012	472 - 474
2	06/13/2012	TRANSCRIPT OF HEARING HELD ON JUNE 11, 2012	345 - 348
4	06/12/2013	TRANSCRIPT OF HEARING HELD ON JUNE 12, 2013	752 - 757
14	06/17/2016	TRANSCRIPT OF HEARING HELD ON JUNE 15, 2016	3048 - 3053
8	07/07/2015	TRANSCRIPT OF HEARING HELD ON JUNE 29, 2015	1707 - 1709
1	06/08/2011	TRANSCRIPT OF HEARING HELD ON JUNE 6, 2011	193 - 196
1	06/10/2011	TRANSCRIPT OF HEARING HELD ON JUNE 8, 2011	214 - 222
1	06/10/2011	TRANSCRIPT OF HEARING HELD ON JUNE 8, 2011 (SEALED)	198 - 213
8	06/10/2015	TRANSCRIPT OF HEARING HELD ON JUNE 8, 2015	1662 - 1664
12	03/25/2016	TRANSCRIPT OF HEARING HELD ON MARCH 17, 2016	2681 - 2705
12	03/24/2016	TRANSCRIPT OF HEARING HELD ON MARCH 17, 2016 (SEALED)	2646 - 2649
1	03/31/2011	TRANSCRIPT OF HEARING HELD ON MARCH 23, 2011	181 - 185
5	03/23/2015	TRANSCRIPT OF HEARING HELD ON MARCH 23, 2015	1119 - 1127
7	05/14/2015	TRANSCRIPT OF HEARING HELD ON MAY 11, 2015	1468 - 1475
8	05/26/2015	TRANSCRIPT OF HEARING HELD ON MAY 11, 2015 (SEALED)	1626 - 1653
14	05/24/2016	TRANSCRIPT OF HEARING HELD ON MAY 18, 2016	3015 - 3039
8	05/27/2015	TRANSCRIPT OF HEARING HELD ON MAY 27, 2015	1654 - 1657
14	05/19/2016	TRANSCRIPT OF HEARING HELD ON MAY 4, 2016	3006 - 3007
4	05/07/2013	TRANSCRIPT OF HEARING HELD ON MAY 6, 2013	749 - 751
7	05/07/2015	TRANSCRIPT OF HEARING HELD ON MAY 6, 2015	1461 - 1467

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
3	11/15/2012	TRANSCRIPT OF HEARING HELD ON NOVEMBER 14, 2012	614 - 617
16	11/22/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 21, 2016	3608 - 3622
16	11/29/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 28, 2016 (CONTINUED)	3658 - 3680
17	11/29/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 28, 2016 (CONTINUATION)	3681 - 3767
17	11/30/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 29, 2016 (CONTINUED)	3773 - 3910
18	11/30/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 29, 2016 (CONTINUATION)	3911 - 3932
18	12/01/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 30, 2016 (CONTINUED)	3934 - 4140
19	12/01/2016	TRANSCRIPT OF HEARING HELD ON NOVEMBER 30, 2016 (CONTINUATION)	4141 - 4186
5	11/12/2013	TRANSCRIPT OF HEARING HELD ON NOVEMBER 4, 2013	1000 - 1004
3	10/16/2012	TRANSCRIPT OF HEARING HELD ON OCTOBER 15, 2012	600 - 603
5	10/17/2013	TRANSCRIPT OF HEARING HELD ON OCTOBER 16, 2013	931 - 939
3	10/22/2012	TRANSCRIPT OF HEARING HELD ON OCTOBER 22, 2012	604 - 606
9	11/18/2015	TRANSCRIPT OF HEARING HELD ON OCTOBER 22, 2015 (CONTINUED)	2012 - 2070
10	11/18/2015	TRANSCRIPT OF HEARING HELD ON OCTOBER 22, 2015 (CONTINUATION)	2071 - 2098
2	10/25/2011	TRANSCRIPT OF HEARING HELD ON OCTOBER 24, 2011	252 - 256
5	11/05/2013	TRANSCRIPT OF HEARING HELD ON OCTOBER 24, 2013	951 - 999
5	10/29/2013	TRANSCRIPT OF HEARING HELD ON OCTOBER 28, 2013	948 - 950
9	10/06/2015	TRANSCRIPT OF HEARING HELD ON OCTOBER 5, 2015	1943 - 1954

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
10	01/04/2016	TRANSCRIPT OF HEARING HELD ON OCTOBER 5, 2015	2281 - 2284
4	09/11/2013	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 11, 2013	839 - 840
4	09/18/2013	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 18, 2013	885 - 887
9	09/11/2015	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 2, 2015	1845 - 1872
15	10/03/2016	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 21, 2016	3338 - 3340
4	10/03/2013	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 23, 2013	892 - 899
2	09/29/2011	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 26, 2011	246 - 251
9	10/02/2015	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 28, 2015	1937 - 1942
9	10/02/2015	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 28, 2015 (SEALED)	1913 - 1936
5	09/08/2014	TRANSCRIPT OF HEARING HELD ON SEPTEMBER 3, 2014	1070 - 1079
26	12/14/2016	VERDICT	5903 - 5905
27	12/15/2016	VERDICT	6026 - 6026
27	12/15/2016	VERDICT(S) SUBMITTED TO JURY BUT RETURNED UNSIGNED	6024 - 6025
28	02/06/2017	WARRANT OF EXECUTION	6428 - 6431

1 feelings about them that it would impact your ability to be
2 fair and impartial to either side in this case?

3 PROSPECTIVE JUROR NO. 063: I can be fair on either
4 side -- for either side.

5 MR. PESCI: Is there any reason why you could not
6 stand in judgment of another human being?

7 PROSPECTIVE JUROR NO. 063: There is no reason.

8 MR. PESCI: Thank you very much, ma'am.

9 Pass for cause, Your Honor.

10 THE COURT: Thank you.

11 Go ahead.

12 MR. DRASKOVICH: Ma'am, will you take into account
13 the evidence that will be presented through the course of this
14 trial?

15 PROSPECTIVE JUROR NO. 063: Absolutely.

16 MR. DRASKOVICH: And will you also take into account
17 or at least question why certain pieces of evidence may not be
18 presented?

19 PROSPECTIVE JUROR NO. 063: Yes.

20 MR. DRASKOVICH: If you have a person who comes in
21 and testifies and says I saw X, Y, and Z happen, but that
22 person was under the influence of drugs, would you take that
23 into account in evaluating their reliability?

24 PROSPECTIVE JUROR NO. 063: I believe so, yes.

25 MR. DRASKOVICH: Would you take into account the

1 circumstances surrounding what they claim that they saw?

2 PROSPECTIVE JUROR NO. 063: Absolutely.

3 MR. DRASKOVICH: If the State shows some evidence
4 that points, let's say, to the defendant, but it's not beyond
5 a reasonable doubt, it's not strong, would you have any
6 problem returning a verdict of not guilty?

7 PROSPECTIVE JUROR NO. 063: I would not have a
8 problem.

9 MR. DRASKOVICH: Even though the decedent was an
10 innocent 15 year old girl?

11 PROSPECTIVE JUROR NO. 063: Correct. If they can't
12 prove the case without a reasonable doubt, then I would have
13 no choice but to say not guilty.

14 MR. DRASKOVICH: And you'll follow the law as Her
15 Honor will discharge it to you?

16 PROSPECTIVE JUROR NO. 063: Absolutely.

17 MR. DRASKOVICH: Thank you.

18 I'll pass for cause.

19 THE COURT: Thank you.

20 And you're Mr. Hayner; correct?

21 PROSPECTIVE JUROR NO. 064: Yes, I am, ma'am.

22 THE COURT: How are you doing today/

23 PROSPECTIVE JUROR NO. 064: I'm fine, thank you.

24 THE COURT: Good. One of the things you mentioned
25 in your questionnaire is that you're friends with Dan who

1 works here in the courthouse?

2 PROSPECTIVE JUROR NO. 064: Yes, ma'am.

3 THE COURT: I believe you may be talking about Judge
4 Gonzalez's assistant, his last name is escaping me.

5 PROSPECTIVE JUROR NO. 064: His name is --

6 THE COURT: Kutinac.

7 PROSPECTIVE JUROR NO. 064: -- Dan Kutinac.

8 THE COURT: Kutinac. Yes.

9 PROSPECTIVE JUROR NO. 064: Yes. Yes, ma'am.

10 THE COURT: Okay. And is he a friend of yours?

11 PROSPECTIVE JUROR NO. 064: Yes, ma'am.

12 THE COURT: Okay. And the fact that he works in the
13 court or anything you may have discussed with him, would that
14 affect your ability to be fair and impartial as a juror in
15 this case?

16 PROSPECTIVE JUROR NO. 064: No, ma'am.

17 THE COURT: You mentioned somebody who works at the
18 county jail, also.

19 PROSPECTIVE JUROR NO. 064: Right. That's Terry
20 Trembly (phonetic). He's in the jail. I don't know exactly
21 what he does. I just know he works up there.

22 THE COURT: And what's your relationship with that
23 person?

24 PROSPECTIVE JUROR NO. 064: We're just friends. I
25 work with his girlfriend.

1 THE COURT: Okay. Anything about your relationship
2 with him and his work in the jail that would affect your
3 ability to be fair and impartial as a juror in this case?

4 PROSPECTIVE JUROR NO. 064: No, I don't believe so,
5 ma'am.

6 THE COURT: Okay. State.

7 MS. BLUTH: Thank you, Judge.

8 What did you do when you were in the Marine Corp?

9 PROSPECTIVE JUROR NO. 064: I was an equipment
10 engineer.

11 MS. BLUTH: Okay. And how long were you in the
12 military for?

13 PROSPECTIVE JUROR NO. 064: 20 years

14 MS. BLUTH: Did you see active combat?

15 PROSPECTIVE JUROR NO. 064: No, ma'am.

16 MS. BLUTH: Thank you for your service. About the
17 criminal justice system, you said you really don't have an
18 opinion good or bad. It's just --

19 PROSPECTIVE JUROR NO. 064: Good or bad. I've never
20 had to -- I've never been involved in the criminal justice
21 system, so I can't or have not been able to form an opinion.

22 MS. BLUTH: What about things that you see on the
23 news, though, about criminal cases, about law enforcement? Do
24 you have an opinion based on what you see in either printed
25 form or TV?

1 PROSPECTIVE JUROR NO. 064: You know, I -- you hear
2 it and you listen to it and it's hard to make an opinion, hard
3 to make a judgment on just what you see.

4 MS. BLUTH: Uh-huh.

5 PROSPECTIVE JUROR NO. 064: I mean, I don't. I like
6 to see both sides before I make -- before I make some kind of
7 a judgment.

8 MS. BLUTH: Okay. How do you feel about law
9 enforcement locally?

10 PROSPECTIVE JUROR NO. 064: I have no -- I have no
11 issues with it. I think they do what they have to do and they
12 do their job.

13 MS. BLUTH: While you've been sitting here has there
14 been a question where you thought I have a strong opinion
15 about that or I have an answer for that?

16 PROSPECTIVE JUROR NO. 064: No, ma'am. Nothing that
17 comes out.

18 MS. BLUTH: What about what we've been talking about
19 in regards to drugs?

20 PROSPECTIVE JUROR NO. 064: Well, I've experienced
21 drug use in my -- before I joined the Marine Corp.

22 MS. BLUTH: Okay.

23 PROSPECTIVE JUROR NO. 064: I don't like it. I made
24 a conscious choice to stop, all right. But I think that, you
25 know, it's a choice people make. You know, they choose to do

1 drugs or they choose not to do drugs. So, you know, it's just
2 a choice.

3 MS. BLUTH: This is probably a personal question,
4 and I'm sorry, I don't mean to get into your past, but when
5 you said that you did some drugs before you went into the
6 Marine Corp, was that -- were you just like a recreational
7 user, or did you consider yourself --

8 PROSPECTIVE JUROR NO. 064: Yeah, I think so.

9 MS. BLUTH: -- an addict?

10 PROSPECTIVE JUROR NO. 064: No, I was just a
11 recreational. But I felt that I was at a point in my life
12 where if I didn't make a change, that I may end up somewhere I
13 didn't want to go.

14 MS. BLUTH: Okay. In looking at your answers to --
15 your feelings in regards to punishment. You said that you can
16 consider all four?

17 PROSPECTIVE JUROR NO. 064: Yes.

18 MS. BLUTH: And has that changed at all since you've
19 been sitting here?

20 PROSPECTIVE JUROR NO. 064: No, ma'am.

21 MS. BLUTH: Okay. And Mr. Draskovich was just
22 talking about the law in regards to first degree murder. And
23 he was just saying about most people when they think about
24 first degree murder they think about premeditated, planned out
25 murder. If you are selected as a juror in this case you'll

1 learn that there's another avenue to get to first degree
2 murder pursuant to Nevada law referenced as the felony murder
3 rule. Would you be -- knowing now that there's different ways
4 to get to first degree murder, could you still consider all
5 four with that knowledge?

6 PROSPECTIVE JUROR NO. 064: Yes, I could.

7 MS. BLUTH: Okay. Can you be fair and impartial to
8 both sides?

9 PROSPECTIVE JUROR NO. 064: Yes.

10 MS. BLUTH: Okay. If you were sitting where Mr.
11 Belcher was sitting, would you feel comfortable with someone
12 like you sitting where you are?

13 PROSPECTIVE JUROR NO. 064: I believe so.

14 MS. BLUTH: Same question on behalf of the State?

15 PROSPECTIVE JUROR NO. 064: I believe so.

16 MS. BLUTH: If the State proves to you beyond a
17 reasonable doubt that the defendant committed these crimes,
18 will you come back in here and find him guilty of them?

19 PROSPECTIVE JUROR NO. 064: Yes.

20 MS. BLUTH: Okay. Thank you so much for your time.
21 Pass for cause.

22 THE COURT: Thank you.

23 MR. MODAFFERI: Thank you, Your Honor.

24 Good afternoon again, sir. Good to see you and
25 thank you for being here. Again, I want you to feel

1 comfortable with these questions.

2 PROSPECTIVE JUROR NO. 064: Okay.

3 MR. MODAFFERI: It's tough, you know, talking about
4 yourself. I don't like talking about myself. I'll talk to
5 you about you all day. You know, that was quite a life
6 change. You were at that point where you were using and then
7 you just said, oh, I don't want this to get out of control and
8 you joined the Marines?

9 PROSPECTIVE JUROR NO. 064: Yes, sir.

10 MR. MODAFFERI: That is -- that is harm reduction
11 right there. In my experience in the past, the jurors who are
12 Marines are both fiercely independent in some circumstances,
13 and they're going to make up their mind and they're going to
14 stick to it, or they're not going to see any gray area. Do
15 you consider yourself -- I mean, I want -- you talk. What do
16 you feel about yourself?

17 PROSPECTIVE JUROR NO. 064: I know what you're
18 saying. I've, you know, been in positions where I had to make
19 difficult decisions.

20 MR. MODAFFERI: Uh-huh.

21 PROSPECTIVE JUROR NO. 064: I try to base my
22 decisions on everything involved. I don't -- I try not to be
23 hasty.

24 MR. MODAFFERI: Right.

25 PROSPECTIVE JUROR NO. 064: You know, I can't say

1 what I -- the decisions that I've made are right, you know,
2 correct, but they were made, so you've got to live with it.
3 And I would take into consideration, you know, everything
4 before, you know, I made a decision because it's -- it's
5 pretty important on both sides -- on both sides. This
6 gentleman over here has got his life on the line, and then you
7 have over here someone's family is grieving, so ---

8 MR. MODAFFERI: Right.

9 PROSPECTIVE JUROR NO. 064: It's an important --
10 it's an important position I'm in, I could be in, so I take it
11 seriously.

12 MR. MODAFFERI: And I so appreciate the fact that
13 you're sitting there explaining the gravity of this. You
14 know, I sound like a broken record explaining this presumption
15 of innocence and the burden of proof but, you know, without it
16 our system doesn't work. When people walk into court and they
17 say, oh, I could look you in the eye and presume you innocent.
18 But when they're honestly saying, you know what, you're
19 guilty.

20 I mean, I've done this myself. I've done this
21 myself. I grew up on the East Coast, went to law school on
22 the East Coast. I used to have a lot of my Italian brethren
23 get arrested on the East Coast. And I would watch the evening
24 news when they're being pulled into federal court with their
25 overcoats on their head. And I was the first person, even

1 though I was studying law school, who presumed them guilty.
2 I'd go, oh, there go a bunch of Italians into federal court.
3 I'm Italian.

4 MR. PESCI: I object.

5 MR. MODAFFERI: Oh, I know you do.

6 THE COURT: All right.

7 MR. MODAFFERI: But you know what I'm saying?

8 PROSPECTIVE JUROR NO. 064: Yes, sir.

9 MR. MODAFFERI: It's kind of a natural reaction
10 sometimes.

11 PROSPECTIVE JUROR NO. 064: It could be, I guess.
12 It could be.

13 MR. MODAFFERI: Different mindset to honestly say,
14 wow, I'm going to presume you're innocent and stick to this
15 oath.

16 PROSPECTIVE JUROR NO. 064: I will.

17 MR. MODAFFERI: Pass for cause, Your Honor.

18 THE COURT: Thank you.

19 Mr. Sleeter, how are you today?

20 PROSPECTIVE JUROR NO. 164: I'm doing well.

21 THE COURT: Good. All right. I think the State
22 might have some questions for you.

23 MS. BLUTH: Thank you, Judge.

24 Hi. So tell me about your job.

25 PROSPECTIVE JUROR NO. 164: I do the big video

1 boards for Station Casinos.

2 MS. BLUTH: Okay. When you say big video boards,
3 like the --

4 PROSPECTIVE JUROR NO. 164: The outside marquis,
5 internal plasmas, you know, basically I'm the animator for 20
6 properties.

7 MS. BLUTH: Okay. All right. That makes sense. I
8 didn't understand. I didn't know exactly what an animator
9 did. Is that the work that you have always been in?

10 PROSPECTIVE JUROR NO. 164: I went to a university,
11 worked the score boards there, you know, came out here right
12 afterwards.

13 MS. BLUTH: Okay. When you were talking about
14 whether or not you had been a victim of a crime, you talked
15 about your car being vandalized and property being stolen.
16 You reported it to the police, but nothing was recovered, no
17 suspects were found; is that right?

18 PROSPECTIVE JUROR NO. 164: I reported it to the
19 Cannery security. They filed the report, but, you know,
20 basically they said handle it through my insurance.

21 MS. BLUTH: Okay.

22 PROSPECTIVE JUROR NO. 164: Because, you know, their
23 security sucks.

24 MS. BLUTH: So you didn't -- so law enforcement
25 didn't get involved?

1 PROSPECTIVE JUROR NO. 164: No, they did not.

2 MS. BLUTH: What are your feelings towards local law
3 enforcement?

4 PROSPECTIVE JUROR NO. 164: I have no issue with
5 them.

6 MS. BLUTH: And then you were a previous juror in
7 the late 2000s. Was that here in Las Vegas?

8 PROSPECTIVE JUROR NO. 164: Yes, it was.

9 MS. BLUTH: Okay. And your -- it was on an
10 accessory to murder charge?

11 PROSPECTIVE JUROR NO. 164: It was a very
12 complicated case. Last of like a series of five cases. After
13 this -- you know, the week here, I believe Mr. Pesci was one
14 of the prosecutors on that case.

15 MS. BLUTH: Do you remember the defendant's name?

16 PROSPECTIVE JUROR NO. 164: I remember one name out
17 of the series of trials and that was Kenneth Counts, but this
18 was the person that was involved with taking Kenneth Counts to
19 the place where the incident happened.

20 MS. BLUTH: Got it. Okay. If that was, in fact,
21 Mr. Pesci, is there anything that he did during that trial
22 that would affect you being fair and impartial?

23 PROSPECTIVE JUROR NO. 164: Not at all.

24 MS. BLUTH: Did he anger you?

25 PROSPECTIVE JUROR NO. 164: No. I didn't even

1 remember his name until -- I remember DiGiacomo's name, but --

2 MS. BLUTH: Oh.

3 PROSPECTIVE JUROR NO. 164: Mr. Pesci, you know, he
4 was kind of in the sidelines.

5 MS. BLUTH: Oh.

6 PROSPECTIVE JUROR NO. 164: Not that he was, but --

7 MS. BLUTH: No, if you know Mr. DiGiacomo, we all --
8 we all understand that. But was there anything about that
9 trial that would prevent you from being fair and impartial if
10 you were selected in this trial?

11 PROSPECTIVE JUROR NO. 164: No, it wouldn't.

12 MS. BLUTH: When you -- when you guys went back to
13 deliberate, were you the foreman?

14 PROSPECTIVE JUROR NO. 164: No, but I helped out the
15 foreman quite a bit.

16 MS. BLUTH: How so? What do you mean?

17 PROSPECTIVE JUROR NO. 164: When we would -- we
18 would tally, you know, to see where everybody was at by blind
19 ballot. I, you know, collected the ballots, marked them all
20 of, you know, helped -- you know, when he was directing, you
21 know, the conversation, you know, just kind of keeping a
22 little bit of order. You know, he directed the conversation.
23 I was kind of like, you know, just the assistant.

24 MS. BLUTH: Sure. Did -- when you guys went back
25 and spoke about it, was there a lot of -- was there a lot of

1 discussion, or did everybody kind of feel the same way?

2 PROSPECTIVE JUROR NO. 164: You know, we went
3 through and let everybody speak, you know, their piece on, you
4 know, what they thought the situation was. Deliberations
5 didn't take overly long, but, you know, we did go through each
6 of the accounts and make sure that everything was checked off.

7 MS. BLUTH: Okay. Overall you said, though, that you
8 were pleased with that experience.

9 PROSPECTIVE JUROR NO. 164: Yes.

10 MS. BLUTH: Okay. In regards to the four forms of
11 punishment, you stated that you agree with -- or that you can
12 consider all four and that the case that you were on before,
13 that was a possible sentence, you were open to it then and
14 you're open to it now, but you need to look at the facts?

15 PROSPECTIVE JUROR NO. 164: That is correct.

16 MS. BLUTH: Is there anything that has changed in
17 the weeks since you filled out this questionnaire?

18 PROSPECTIVE JUROR NO. 164: Nothing has changed.

19 MS. BLUTH: Since you've already served and been a
20 part of this process, and, you know, you probably know more
21 than the others sitting in here who haven't been a juror, is
22 that still something that you want to do or something that you
23 feel comfortable with?

24 PROSPECTIVE JUROR NO. 164: It is something that I
25 do feel comfortable with. You know, a lot of people look at

1 jury service and want to run the other directions. But it was
2 a very positive and informative experience for me.

3 MS. BLUTH: Okay. Thank you so much.

4 We'll pass for cause.

5 THE COURT: Thanks.

6 MR. DRASKOVICH: I just have a few questions for Mr.
7 Sleeter.

8 The State of Nevada, in your opinion, brings very
9 serious charges, capital murder charges, would you expect
10 there to be a thorough police investigation?

11 PROSPECTIVE JUROR NO. 164: I would always expect a
12 thorough police investigation.

13 MR. DRASKOVICH: And in the event you hear the facts
14 and circumstances of this case and ultimately end up in the
15 deliberation room, will you take that into account in reaching
16 your verdict?

17 PROSPECTIVE JUROR NO. 164: Yes.

18 MR. DRASKOVICH: Will you hold the State to their
19 standard?

20 PROSPECTIVE JUROR NO. 164: Absolutely.

21 MR. DRASKOVICH: In the other case that you had,
22 were there gruesome photos?

23 PROSPECTIVE JUROR NO. 164: Yes, there were.

24 MR. DRASKOVICH: And there will be gruesome photos
25 in this case. Would that in any way affect your --

1 PROSPECTIVE JUROR NO. 164: No, they will not.

2 MR. DRASKOVICH: -- duty? And you'll follow the law
3 as Her Honor discharges it to you?

4 PROSPECTIVE JUROR NO. 164: Yes.

5 MR. DRASKOVICH: I'll pass for cause. Thank you.

6 THE COURT: Thank you.

7 And Ms. Arellano.

8 PROSPECTIVE JUROR NO. 068: Yes.

9 THE COURT: How are you today?

10 PROSPECTIVE JUROR NO. 068: I'm good, thank you.

11 THE COURT: Good.

12 Okay. State.

13 MS. BLUTH: Hi.

14 PROSPECTIVE JUROR NO. 068: Hi.

15 MS. BLUTH: Since you have been sitting here you've
16 heard a lot of the questions. So is there anything that you
17 felt like you had a strong opinion about or thought I really
18 should probably answer that one?

19 PROSPECTIVE JUROR NO. 068: No.

20 MS. BLUTH: Was there anything that we didn't ask
21 you in the questionnaire that you thought we should know?

22 PROSPECTIVE JUROR NO. 068: No.

23 MS. BLUTH: What are your feelings about drugs?

24 PROSPECTIVE JUROR NO. 068: I'm very against it.

25 MS. BLUTH: Are you against it to the point where if

1 you heard testimony about it you would be prejudice or
2 judgmental against that person?

3 PROSPECTIVE JUROR NO. 068: No.

4 MS. BLUTH: Okay. You have a friend in California
5 who is -- are they a police officer or a public defender? I
6 couldn't --

7 PROSPECTIVE JUROR NO. 068: It's drug and gang unit.

8 MS. BLUTH: Okay. So a detective?

9 PROSPECTIVE JUROR NO. 068: Yes.

10 MS. BLUTH: Okay. Do you talk to him about his work
11 often?

12 PROSPECTIVE JUROR NO. 068: When I see him. He's in
13 California, where I'm here.

14 MS. BLUTH: Okay. How do you feel about law
15 enforcement here in Las Vegas?

16 PROSPECTIVE JUROR NO. 068: It's okay.

17 MS. BLUTH: Good and bad or --

18 PROSPECTIVE JUROR NO. 068: It's good and bad.

19 MS. BLUTH: Okay. Have you had any contacts with
20 law enforcement where you -- where you felt you weren't
21 treated the way you deserved to be treated?

22 PROSPECTIVE JUROR NO. 068: Yes.

23 MS. BLUTH: Okay. When was that?

24 PROSPECTIVE JUROR NO. 068: Oh, about four years
25 ago. I had a license plate and it said L.A. MOM. And they

1 pulled me over for why did it say L.A. I'm from L.A. So they
2 pulled me over for that.

3 MS. BLUTH: Oh.

4 PROSPECTIVE JUROR NO. 068: So I had to change it.

5 MS. BLUTH: You changed it?

6 PROSPECTIVE JUROR NO. 068: Yeah.

7 MS. BLUTH: Well, when you -- when he pulled you
8 over -- well, first of all, was it Highway Patrol or was it
9 Metro?

10 PROSPECTIVE JUROR NO. 068: It was in North Town.

11 MS. BLUTH: Okay. And so they asked you, you know,
12 why do you have that license plate. And then I assume your
13 answer was because I'm from L.A. and I'm a mom?

14 PROSPECTIVE JUROR NO. 068: Yeah.

15 MS. BLUTH: And did -- what was their reaction then?

16 PROSPECTIVE JUROR NO. 068: I had to change it
17 because it was like a gang symbolized it.

18 MS. BLUTH: Oh, they told you that you needed to
19 change it?

20 PROSPECTIVE JUROR NO. 068: Yes.

21 MS. BLUTH: Okay. Besides that, have you had other
22 issues where you felt --

23 PROSPECTIVE JUROR NO. 068: No.

24 MS. BLUTH: -- the same way? Okay. Do you think
25 that that was just, you know, maybe a bad apple amongst a

1 bunch of good apples or --

2 PROSPECTIVE JUROR NO. 068: Yes.

3 MS. BLUTH: Okay. Should the State be concerned
4 about you regarding your feelings --

5 PROSPECTIVE JUROR NO. 068: No.

6 MS. BLUTH: -- about law enforcement?

7 PROSPECTIVE JUROR NO. 068: No.

8 MS. BLUTH: Okay. When you were asked about your
9 questions regarding criminal justice system you said no
10 comment.

11 PROSPECTIVE JUROR NO. 068: I've never had to deal
12 with it, so I don't have any good or bad to say about it.

13 MS. BLUTH: Okay. It wasn't like no comment, I
14 don't want to talk about it?

15 PROSPECTIVE JUROR NO. 068: No.

16 MS. BLUTH: When you were asked the question about
17 if 11 jurors were one way and you were the other, you said I'd
18 probably cry.

19 PROSPECTIVE JUROR NO. 068: Because I would feel
20 like I wasn't doing something right or I didn't hear what --
21 I'd probably follow them. Okay.

22 MS. BLUTH: Okay.

23 PROSPECTIVE JUROR NO. 068: But would you -- would
24 you be able to voice, well, this is why I felt this way?

25 PROSPECTIVE JUROR NO. 068: Yes. Yes.

1 MS. BLUTH: Do you think you would just go with them
2 to just go with the flow, or do you feel comfortable standing
3 up for what you believe in?

4 PROSPECTIVE JUROR NO. 068: I'd probably go with
5 them.

6 MS. BLUTH: Yeah? Even if you --

7 PROSPECTIVE JUROR NO. 068: 11 out of 1.

8 MS. BLUTH: You don't want to -- you don't want to
9 rock the boat?

10 PROSPECTIVE JUROR NO. 068: No.

11 MS. BLUTH: If you felt strongly, though, would you
12 hold on to your convictions?

13 PROSPECTIVE JUROR NO. 068: Yes.

14 MS. BLUTH: In considering the -- in looking at the
15 four punishments, you said that you could consider all four.

16 PROSPECTIVE JUROR NO. 068: Yes.

17 MS. BLUTH: And you've heard everybody talk about it
18 over the last three days. Can you still consider all four?

19 PROSPECTIVE JUROR NO. 068: Yes.

20 MS. BLUTH: Okay. There was one question on page 32
21 -- or, excuse me, on page 6, but question 32. What do you
22 think about life in prison as a penalty for the deliberate
23 taking of another human life, and you just put yes. Did that
24 -- what did that yes mean, that you can consider it or that's
25 all --

1 PROSPECTIVE JUROR NO. 068: I can consider it.

2 MS. BLUTH: But you also checked that you can
3 consider the death penalty, as well?

4 PROSPECTIVE JUROR NO. 068: Yes.

5 MS. BLUTH: When you -- when your home was -- were
6 you home when your house was burglarized?

7 PROSPECTIVE JUROR NO. 068: No, my 16 year old
8 walked up from school and noticed that our windows were
9 broken. She went to the neighbors, called the police, and
10 they came. At the same time they were driving off with our
11 Suburban with all the TVs.

12 MS. BLUTH: They were driving off with your car?

13 PROSPECTIVE JUROR NO. 068: Yes.

14 MS. BLUTH: Oh, my gosh. Did police get there?

15 PROSPECTIVE JUROR NO. 068: Yes.

16 MS. BLUTH: Quickly?

17 PROSPECTIVE JUROR NO. 068: Not quickly, but -- they
18 were gone. Never were found.

19 MS. BLUTH: But your 6 year old was smart enough --

20 PROSPECTIVE JUROR NO. 068: 16. She was 16.

21 MS. BLUTH: 16.

22 PROSPECTIVE JUROR NO. 068: Yeah, she noticed the
23 windows were broken in and heard noises.

24 MS. BLUTH: Got it.

25 PROSPECTIVE JUROR NO. 068: So she left.

1 MS. BLUTH: Now, were you frustrated with police's
2 response to that?

3 PROSPECTIVE JUROR NO. 068: Yes.

4 MS. BLUTH: Were you frustrated not only with their
5 response time, but that they didn't catch anybody?

6 PROSPECTIVE JUROR NO. 068: Yes. And they told me
7 your daughter is find, just worry about her, nothing about
8 what was going on in the house.

9 MS. BLUTH: Okay. Would you hold that against the
10 officers in this case?

11 PROSPECTIVE JUROR NO. 068: No.

12 MS. BLUTH: Do you think that you would judge their
13 testimony or weight their testimony differently than other
14 people just because of the experiences you've had with them?

15 PROSPECTIVE JUROR NO. 068: No.

16 MS. BLUTH: Do you think you can be fair to both
17 sides?

18 PROSPECTIVE JUROR NO. 068: I would try.

19 MS. BLUTH: When you say you would try, the -- the
20 problem with people who say like I think or I can try is --

21 PROSPECTIVE JUROR NO. 068: I just think what if my
22 16 year old walked into that home and who knows what had
23 happened or could have happened.

24 MS. BLUTH: Yeah. And I think that's completely
25 understandable. The main -- the main issue is if you are

1 selected you have to be the trier of facts. You have to just
2 listen to the evidence.

3 PROSPECTIVE JUROR NO. 068: Yes.

4 MS. BLUTH: And it doesn't mean you have to leave
5 all your life experiences outside the walls of this courtroom,
6 but it does mean that you need to be able to be fair to both
7 side and you need to be able to look at the evidence and
8 evaluate it. Is that something that you can do?

9 PROSPECTIVE JUROR NO. 068: Yes.

10 MS. BLUTH: Okay. Thank you so much.

11 Pass for cause, Your Honor.

12 THE COURT: Thank you.

13 Counsel.

14 MR. MODAFFERI: Thank you, Your Honor.

15 Thank you so much again for being here. So the
16 police officer told you to change your plate?

17 PROSPECTIVE JUROR NO. 068: Yes.

18 MR. MODAFFERI: Because it --

19 PROSPECTIVE JUROR NO. 068: It had L.A. MOM on it.

20 MR. MODAFFERI: And you did? You took his advice?

21 PROSPECTIVE JUROR NO. 068: I did. Uh-huh. I just
22 got a regular Nevada one, no personalized.

23 MR. MODAFFERI: Like I was saying before to the
24 other jurors, the power of this defense is going to be that
25 we're going to call into question what happened and how the

1 case was investigated. Do you think you can listen to that
2 type of evidence dispassionately? Listen to it and give it
3 the amount of credibility or worth that you think it deserves?

4 PROSPECTIVE JUROR NO. 068: Yes, I would try it.

5 MR. MODAFFERI: Okay. Do you automatically believe
6 police officers when they --

7 PROSPECTIVE JUROR NO. 068: No.

8 MR. MODAFFERI: -- take the stand? Would you be
9 able to weight their testimony like any other witness --

10 PROSPECTIVE JUROR NO. 068: Yes.

11 MR. MODAFFERI: -- knowing that just because you're
12 a police officer you don't deserve a head start on a
13 credibility assessment.

14 PROSPECTIVE JUROR NO. 068: No.

15 MR. MODAFFERI: No. You're going to hear testimony
16 from, probably, if I anticipate it, from someone who lost
17 their child, and that person's testimony is going to be
18 hurtful to hear, I anticipate. And I'm looking at you and I
19 can see that you're in pain thinking about that experience
20 that occurred how long ago?

21 PROSPECTIVE JUROR NO. 068: This was nine years ago.

22 MR. MODAFFERI: You still recall it and it still
23 causes you pain?

24 PROSPECTIVE JUROR NO. 068: Yes.

25 MR. MODAFFERI: That's a yes?

1 PROSPECTIVE JUROR NO. 068: Yes.

2 MR. MODAFFERI: Yeah. So when you hear his
3 testimony, you're going to be thinking about that incident,
4 and I'm concerned that you're going to look at Mr. Belcher and
5 say, you know what, even if they haven't built the whole
6 structure that needs to be a case beyond a reasonable doubt,
7 I'm going to add a few building blocks in because of what I'm
8 thinking.

9 PROSPECTIVE JUROR NO. 068: No.

10 MR. MODAFFERI: That's not going to happen?

11 PROSPECTIVE JUROR NO. 068: No.

12 MR. MODAFFERI: You'll be able to pay attention to
13 the evidence?

14 PROSPECTIVE JUROR NO. 068: Yes.

15 MR. MODAFFERI: You know, if the police can't
16 investigate a case properly and give the DA the evidence
17 that's needed to prosecute it, you are not allowed to fill in
18 the gaps. Are you good with that principle?

19 PROSPECTIVE JUROR NO. 068: Yes.

20 MR. MODAFFERI: All right. Thank you so much.

21 Pass for cause.

22 THE COURT: Thank you.

23 Mr. Darden, how are you?

24 PROSPECTIVE JUROR NO. 070: I'm doing well, thank
25 you.

1 THE COURT: Okay. All right. The State has some
2 questions.

3 MS. BLUTH: Thank you. May I stand right here, Your
4 Honor? Is that okay?

5 THE COURT: You're probably going to want to come
6 around this side so you're picked up by a mic.

7 MS. BLUTH: Okay. How are you?

8 PROSPECTIVE JUROR NO. 070: I'm doing well. Thank
9 you.

10 MS. BLUTH: All right. I want to start off right
11 with going to penalty because I remember the concerns that you
12 expressed on the first day of trial. Have those changed at
13 all?

14 PROSPECTIVE JUROR NO. 070: No, they have not.

15 MS. BLUTH: Okay. And basically what those are, and
16 you said it multiple times in your questionnaire, is that you
17 do not believe in judging another human being.

18 PROSPECTIVE JUROR NO. 070: I don't believe in
19 judging the worth of their life to the end of it.

20 MS. BLUTH: And you even said like multiple times in
21 life I have been showing -- I have been shown grace when I
22 didn't deserve it.

23 PROSPECTIVE JUROR NO. 070: Correct.

24 MS. BLUTH: And you think that -- and that's a
25 principle that you believe in?

1 PROSPECTIVE JUROR NO. 070: Yes, it is.

2 MS. BLUTH: And so under no circumstances would you
3 ever vote for death?

4 PROSPECTIVE JUROR NO. 070: I would not.

5 MS. BLUTH: And there is no scenario that I can
6 present to you where you would ever find that appropriate?

7 PROSPECTIVE JUROR NO. 070: That's correct.

8 MS. BLUTH: In all situations you believe that
9 someone should be shown grace?

10 PROSPECTIVE JUROR NO. 070: Yes.

11 MS. BLUTH: Okay. I appreciate your honest and I
12 thank you.

13 The State would make a motion, Your Honor.

14 MR. DRASKOVICH: We submit it.

15 THE COURT: All right. Mr. Darden, I do appreciate
16 your patience these last few days. I am going to have to
17 excuse you at this time. We'll just leave that seat open for
18 right now and move on.

19 Let's see. All right. Mr. Norvell.

20 PROSPECTIVE JUROR NO. 081: Yes.

21 THE COURT: Okay. Good. How are you doing?

22 PROSPECTIVE JUROR NO. 081: I'm doing well. How
23 about you?

24 THE COURT: Good. Let me just take a quick look
25 here.

1 Okay. State, any questions for Mr. Norvell?

2 MR. PESCI: Yes. Long time running to get to you;
3 right?

4 PROSPECTIVE JUROR NO. 081: Yes.

5 MR. PESCI: But we're finally here to this -- this
6 back row. You were the victim of a robbery. Was that here in
7 Las Vegas?

8 PROSPECTIVE JUROR NO. 081: No, that was in
9 Jacksonville, Florida.

10 MR. PESCI: Okay. Same questions we're going to go
11 through that you've heard from the other people. Did the
12 police come?

13 PROSPECTIVE JUROR NO. 081: They did.

14 MR. PESCI: Was there a prosecution?

15 PROSPECTIVE JUROR NO. 081: No. No one was found.

16 MR. PESCI: Okay. You never testified?

17 PROSPECTIVE JUROR NO. 081: No.

18 MR. PESCI: All right. Did you feel that the police
19 and the prosecution let you down because no one was caught?

20 PROSPECTIVE JUROR NO. 081: No, they did the best
21 under their resources.

22 MR. PESCI: All right. No bad taste left in your
23 mouth towards --

24 PROSPECTIVE JUROR NO. 081: No.

25 MR. PESCI: -- the criminal justice system because

1 of that?

2 PROSPECTIVE JUROR NO. 081: No.

3 MR. PESCI: Okay. And then there's also the
4 question that if you or someone closely associated with you
5 has been charged with a crime, you indicated a DUI. Did that
6 happen here or somewhere else?

7 PROSPECTIVE JUROR NO. 081: No, that happened in
8 Missouri.

9 MR. PESCI: Missouri. Okay. And was there a
10 prosecution and a case that went to court?

11 PROSPECTIVE JUROR NO. 081: Yes.

12 MR. PESCI: Okay. And do you feel -- I don't want
13 to cut you off. You were about to talk.

14 PROSPECTIVE JUROR NO. 081: No.

15 MR. PESCI: Did you feel as if you were or whoever
16 it was was treated appropriately?

17 PROSPECTIVE JUROR NO. 081: I was treated
18 appropriately. I paid the consequences. I was wrong.

19 MR. PESCI: Okay. And in the context of your
20 service in the Navy, what did you do?

21 PROSPECTIVE JUROR NO. 081: I was electronic
22 [indiscernible].

23 MR. PESCI: And how long were you in the Navy for?

24 PROSPECTIVE JUROR NO. 081: Four years.

25 MR. PESCI: As far as penalty goes, you said here

1 that you could consider all four forms of punishment. Do you
2 remember that?

3 PROSPECTIVE JUROR NO. 081: I do.

4 MR. PESCI: But you did talk about not wanting to
5 pay for someone who has been convicted of a crime; is that
6 correct?

7 PROSPECTIVE JUROR NO. 081: I don't want to pay for
8 someone who is -- now, being here, I've got a different
9 understanding of your first degree murder, okay. I always
10 thought it was premeditated and everything. Now it comes to
11 light to me that during a felony it can also be first degree
12 murder.

13 MR. PESCI: Correct. It could be either/or.

14 PROSPECTIVE JUROR NO. 081: There could be different
15 circumstances on that, then, too.

16 MR. PESCI: Okay. So you're -- you're open to
17 considering all four forms of punishment?

18 PROSPECTIVE JUROR NO. 081: Yes, I am.

19 MR. PESCI: If I'm understanding correctly, you
20 think, though, when the sentence is imposed, that should
21 probably be carried out.

22 PROSPECTIVE JUROR NO. 081: It should be.

23 MR. PESCI: Okay. But that doesn't close you off to
24 the possibility of even a chance for probation or -- I'm
25 sorry, not probation, parole eventually?

1 PROSPECTIVE JUROR NO. 081: No, it doesn't.

2 MR. PESCI: And that you indicated that as far as
3 the death penalty it really all depends on the circumstances
4 of the case?

5 PROSPECTIVE JUROR NO. 081: Yeah, from what I've
6 learned, yes, it does. And I thought first degree murder was
7 all premeditated and, you know, planned out and everything,
8 but apparently it's not, so --

9 MR. PESCI: It can be. It can be.

10 PROSPECTIVE JUROR NO. 081: It can be, but it's not
11 leaning towards that towards this case, but -- from what I
12 presume anyway, so --

13 MR. PESCI: Okay. So in either scenarios, if it's
14 premeditated or if it's like a felony murder, you can
15 consider all four forms of punishment?

16 PROSPECTIVE JUROR NO. 081: I could.

17 MR. PESCI: Okay. And you think you can be fair to
18 both sides?

19 PROSPECTIVE JUROR NO. 081: I could.

20 MR. PESCI: And as far as the questions about
21 drugs, is there anything about your personal experience that
22 would foreclose you from listening to evidence about the --
23 the drugs?

24 PROSPECTIVE JUROR NO. 081: I don't believe so.
25 When I was in the VA hospital, I had a back injury and I

1 became addicted to pain killers.

2 MR. PESCI: Okay.

3 PROSPECTIVE JUROR NO. 081: So I probably lied a
4 little bit to the doctors just to get more until I finally got
5 help. But, you know, help is always there if you want to
6 reach out and get it, so --

7 MR. PESCI: All right. And you think you can be
8 fair to both sides?

9 PROSPECTIVE JUROR NO. 081: I believe I could.

10 MR. PESCI: Thank you very much, sir.

11 We'll pass for cause, Your Honor.

12 MR. MODAFFERI: Thank you.

13 Thank you, sir.

14 THE COURT: Thank you.

15 MR. MODAFFERI: May I approach, Judge, quickly about
16 questioning?

17 THE COURT: Come on up, counsel.

18 MR. MODAFFERI: Thank you.

19 (Bench conference)

20 MR. MODAFFERI: Gary Modafferi for the defense.

21 Judge, I'm kind of confused about this subject of felony
22 murder coming up because am I wrong, but in order to argue
23 felony murder it would have to skip over the necessity of
24 Byford's requirements that all three, willfulness,
25 deliberation, premeditation be found beyond a reasonable

1 doubt. Felony murder would involve the actions of another
2 person and aren't you -- I mean --

3 THE COURT: Huh?

4 MR. MODAFFERI: I'm still confused on how felony
5 murder in this case would be --

6 MS. BLUTH: Child abuse.

7 MR. MODAFFERI: -- child abuse.

8 MR. PESCI: Well, there's also the felony murder --

9 THE COURT: Or robbery or --

10 MR. PESCI: -- of robbery of Alexis.

11 MR. MODAFFERI: But --

12 MR. PESCI: During that robbery she dies.

13 THE COURT: So what's your -- I'm sorry. I'm not
14 sure what you're confused about.

15 MR. MODAFFERI: My concern is in this case it's
16 either he's a principal and killed them and he's guilty of
17 murder --

18 THE COURT: Uh-huh.

19 MR. MODAFFERI: -- or he's not.

20 THE COURT: Or he committed willful, deliberate --
21 but they can find first degree under either willful,
22 deliberate, premeditated, or on a felony murder. I don't
23 understand the question maybe.

24 MR. PESCI: He can be a principal without being the
25 shooter.

1 THE COURT: Well, and even if he is the shooter --
2 no. No, I --

3 MR. MODAFFERI: I guess we're just getting back to
4 our second --

5 THE COURT: It wouldn't have to be established that
6 it's premeditated murder if it was in the course of a robbery.
7 Like, you know, if they were in there robbing the place,
8 realized someone was there and shoot and it's not willful,
9 deliberate, premeditated, it would still be first degree
10 murder.

11 MR. MODAFFERI: Right. Okay. I understand that
12 circumstance.

13 MR. DRASKOVICH: Mr. Modafferi's point is that, I
14 guess, shooting into the closet somehow constituted child
15 abuse, therefore, it's a first degree murder.

16 MR. MODAFFERI: I'm just saying --

17 THE COURT: Oh, the child abuse theory?

18 MR. MODAFFERI: Yes.

19 MS. BLUTH: I thought he was talking about --

20 THE COURT: I mean, I'm not clear on the --

21 MR. MODAFFERI: I just --

22 THE COURT: -- child abuse theory, either.

23 MR. MODAFFERI: I don't understand that, yeah. That
24 child abuse -- I just -- Mr. --

25 MR. PESCI: Well, I haven't really discussed that

1 with him. I've talked about the felony murder.

2 MR. DRASKOVICH: Yeah.

3 MR. PESCI: I mean, I think it's dangerous to really
4 -- for us to get down this road.

5 MR. DRASKOVICH: I agree.

6 MR. PESCI: That's why I stood up and objected when
7 we kept talking about willful, deliberate, and premeditated.

8 MR. MODAFFERI: I'm not going to.

9 MR. DRASKOVICH: And I said if you commit a robbery
10 and someone is killed, you will --

11 MR. PESCI: And that was the follow up, yes.

12 MR. DRASKOVICH: I mean, that's [inaudible]. I
13 didn't call it a felony. I just said her death in the course
14 of the robbery.

15 MR. MODAFFERI: Okay. Thank you. I just want to --

16 THE COURT: Well, I mean --

17 MR. MODAFFERI: -- steer away from it, then. I just
18 -- I'm not -- I'm not sure. I know the Court has not yet
19 ruled on --

20 THE COURT: Yeah, sorry.

21 MR. MODAFFERI: -- the matter. And I'm not pressing
22 the Court to do that.

23 THE COURT: No, no, no. I know.

24 MR. MODAFFERI: I'm just -- I'm just --

25 THE COURT: I was just reminding myself to take it

1 with me when I leave.

2 MR. PESCI: Can I ask a question while we're up
3 here? I'm sorry. Did I cut you off?

4 MR. MODAFFERI: Yeah, no. No. Thank you.

5 MR. PESCI: Did we lose Mulhollan?

6 MS. BLUTH: Yeah, she was -- we cut her off
7 yesterday.

8 MR. PESCI: We didn't fill that spot?

9 THE COURT: Right now?

10 MR. PESCI: Yeah. 26, is that a hole?

11 MS. BLUTH: No, I've got -- it's a male.

12 THE COURT: 25 is now a hole.

13 MR. PESCI: Right. But 26 --

14 THE COURT: Is Norvell.

15 MR. DRASKOVICH: Is Norvell.

16 MR. MODAFFERI: Norvell.

17 MR. DRASKOVICH: That's where we're at right now.

18 MR. PESCI: I have Norvell as 27.

19 THE COURT: Do you have an old chart?

20 MR. PESCI: Yeah, I must because I have him as 27.

21 THE COURT: He replaced the chart when we figured
22 out who wasn't here on that first day.

23 MR. PESCI: My bad. Okay. Sorry.

24 MR. MODAFFERI: That's okay.

25 THE COURT: 26 is Norvell.

1 MS. BLUTH: I have one more question, Judge.

2 THE COURT: Uh-huh.

3 MS. BLUTH: The -- after Mr. Modafferi is done with
4 this juror, the next juror, I don't believe he speaks any
5 English. So I just didn't want him to have to come back
6 tomorrow --

7 THE COURT: Oh.

8 MS. BLUTH: -- and sit through it.

9 THE COURT: So ask him quickly.

10 MS. BLUTH: So I can probably get through it really
11 quickly.

12 THE COURT: Okay. Thank you.

13 MR. MODAFFERI: Yeah, that would be find.

14 THE COURT: I appreciate that.

15 MR. MODAFFERI: Good idea.

16 (End of bench conference)

17 THE COURT: All right. Mr. Modafferri, go ahead.

18 MR. MODAFFERI: Thank you.

19 Good afternoon and thank you for your time.

20 PROSPECTIVE JUROR NO. 081: Sure.

21 MR. MODAFFERI: Did you -- you were born in
22 Honolulu?

23 PROSPECTIVE JUROR NO. 081: I was.

24 MR. MODAFFERI: Were you living there for any
25 extended period of time or did you leave the island?

1 PROSPECTIVE JUROR NO. 081: I was living there for
2 eight years.

3 MR. MODAFFERI: Eight years as a youngster?

4 PROSPECTIVE JUROR NO. 081: Right.

5 MR. MODAFFERI: Okay.

6 PROSPECTIVE JUROR NO. 081: My dad was in the
7 service.

8 MR. MODAFFERI: Okay. And I see now you're retired.

9 PROSPECTIVE JUROR NO. 081: I am.

10 MR. MODAFFERI: Good. Good deal. Have you ever
11 served on a jury before?

12 PROSPECTIVE JUROR NO. 081: No, I haven't.

13 MR. MODAFFERI: This is your first time. How do you
14 so far view the experience?

15 PROSPECTIVE JUROR NO. 081: It's interesting.

16 MR. MODAFFERI: Okay. You know, we've talked a
17 little bit about the law and states of mind necessary for this
18 or that. I'm not going to get into any of that because the
19 Judge, at the end of the case, is going to give you the law.

20 PROSPECTIVE JUROR NO. 081: Right.

21 MR. MODAFFERI: My question simply is, you know,
22 will you be able to follow the law even if you don't think
23 it's right?

24 PROSPECTIVE JUROR NO. 081: Would I be able to
25 follow it even if I don't think it's right?

1 MR. MODAFFERI: Exactly. I mean, you know
2 sometimes --

3 PROSPECTIVE JUROR NO. 081: Of course.

4 MR. MODAFFERI: -- sometimes people come into the
5 jury box situation and say, you know what, if the defendant
6 was really not guilty he should get up there and tell us that
7 he's not guilty. But that's not the law.

8 PROSPECTIVE JUROR NO. 081: No, the law is they have
9 to prove the burden; right?

10 MR. MODAFFERI: And you're good with that?

11 PROSPECTIVE JUROR NO. 081: I'm good with that.

12 MR. MODAFFERI: And it's impossible to tell you
13 exactly what the law is because the law is still yet to be
14 given by the Judge --

15 PROSPECTIVE JUROR NO. 081: Right.

16 MR. MODAFFERI: -- and I'm not going -- I'm not
17 entitled to tell you what exactly the law is going to be given
18 to you. But whatever it is, it's got to be followed. And
19 that's -- you're good with that?

20 PROSPECTIVE JUROR NO. 081: I am good with that.

21 MR. MODAFFERI: Do you remember when the Judge came
22 in and she was talking about you are going -- there were two
23 judges in the courtroom who made some allusion to that, that
24 I'm going to be the judge of the law and you're going to be
25 the judge of the facts. That's your dominion. That's where

1 you rule. You determine who to believe, what to believe, what
2 was proven. Are you good with that?

3 PROSPECTIVE JUROR NO. 081: I am.

4 MR. MODAFFERI: Okay. Are you a person that can
5 evaluate testimony -- evaluate a person's story? Let's get it
6 out of the courtroom setting. Let's talk simply about a
7 person's story. When somebody tells you something, do you
8 think they're the kind of person that can say, oh, you know
9 what, you're full of it?

10 PROSPECTIVE JUROR NO. 081: I think I am, yeah. See
11 if they backtrack or see if they change their story or
12 whatever. I'm pretty good at that, so --

13 MR. MODAFFERI: Good. And you can bring common
14 sense and reasonable view of the world, your -- your life
15 experience in making that determination. You know, a lot of
16 times people come into court and they go, oh, you know what,
17 I'm scared about talking about these kind of things because
18 I'm in a new situation. But you shouldn't be scared. As the
19 judge of the fact, you know, you have to bring your life
20 experience, all of the things that you've done in your life --

21 PROSPECTIVE JUROR NO. 081: Sure.

22 MR. MODAFFERI: -- in determining what's true and
23 what's not true. You could do that?

24 PROSPECTIVE JUROR NO. 081: That's true.

25 MR. MODAFFERI: You want to do that; right? We want

1 you to do that.

2 PROSPECTIVE JUROR NO. 081: Sure.

3 MR. MODAFFERI: And you would welcome that
4 opportunity?

5 PROSPECTIVE JUROR NO. 081: Well, I don't know if I
6 would welcome it. I would --

7 MR. MODAFFERI: Come on now.

8 PROSPECTIVE JUROR NO. 081: -- abide by it --

9 MR. MODAFFERI: Give me a little --

10 PROSPECTIVE JUROR NO. 081: -- that's for sure.

11 MR. MODAFFERI: -- enthusiasm.

12 PROSPECTIVE JUROR NO. 081: But I don't know if I
13 would welcome it --

14 MR. MODAFFERI: All right.

15 PROSPECTIVE JUROR NO. 081: -- fighting this traffic
16 every day.

17 MR. MODAFFERI: Okay. I appreciate it.

18 PROSPECTIVE JUROR NO. 081: But, you know, I would
19 do my part to see that justice was served.

20 MR. MODAFFERI: I appreciate that. Thank you very
21 much.

22 I pass for cause, Your Honor.

23 THE COURT: Okay. Thank you.

24 Mr. Toro, how are you today?

25 PROSPECTIVE JUROR NO. 082: Pretty good.

1 THE COURT: Sir -- sorry, let me take a look here.
2 I notice that in the questionnaire that there were many blanks
3 left when you completed it.

4 PROSPECTIVE JUROR NO. 082: Because I don't
5 understand much about it.

6 THE COURT: Okay. Do you have difficulty
7 understanding English, sir?

8 PROSPECTIVE JUROR NO. 082: Yes.

9 THE COURT: You do.

10 PROSPECTIVE JUROR NO. 082: Yes.

11 THE COURT: What language do you primarily speak?

12 PROSPECTIVE JUROR NO. 082: Spanish.

13 THE COURT: Spanish. Okay. And have you understood
14 what we've been talking about here the last few days?

15 PROSPECTIVE JUROR NO. 082: Not all of them. Part
16 of it, but not -- not all of them.

17 THE COURT: Okay. Do you understand what the case
18 is about?

19 PROSPECTIVE JUROR NO. 082: Part of it.

20 THE COURT: Part of it?

21 PROSPECTIVE JUROR NO. 082: Yes.

22 THE COURT: Okay. Do you under -- did you -- have
23 you understood the questions about the possible punishments
24 for first degree murder?

25 PROSPECTIVE JUROR NO. 082: I don't.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 082: That's why if you look
3 at it, I don't write anything because I don't know if I do the
4 right thing or not.

5 THE COURT: I understand.

6 MS. BLUTH: We submit.

7 MR. MODAFFERI: We would move, Judge.

8 THE COURT: Okay.

9 MR. MODAFFERI: Thank you.

10 MS. BLUTH: We stipulate.

11 THE COURT: All right. Mr. Toro, thank you so much
12 for your time these last few days. I'm going to go ahead and
13 excuse you because if you can't understand it then then that's
14 going to be a problem.

15 PROSPECTIVE JUROR NO. 082: It is. Yes.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NO. 082: Thank you very much.

18 THE COURT: Thank you. I do appreciate your time.

19 PROSPECTIVE JUROR NO. 082: Thank you.

20 THE COURT: All right. So, folks, we're going to
21 need to break for the evening at this time. I mentioned a
22 little while ago that we do have some additional potential
23 jurors that are part of the process to make sure we have
24 enough ultimately to be on the jury in this case. You may
25 have seen them your first day down in the jury room, or not,

1 but -- actually, you probably didn't. Anyway, we're going to
2 need to talk to them and so that you don't have to listen to
3 all the introductions twice, because you've been here a lot of
4 your time already.

5 We're going to have you guys come at 1:00 tomorrow.
6 I have those folks coming at 10:00 tomorrow morning so we can
7 go through all the introductory information with them. But I
8 need you folks to come back to continue at 1:00 tomorrow,
9 okay. And I am hopeful, and it looks good, that we're going
10 to finish picking the jury tomorrow and be able to then go on
11 to the much more interesting part of the case for those of you
12 who will be on the jury.

13 Before I let you go, and I don't think there's much
14 chance of his, but I just want to ask. All of you responded
15 in the questionnaires as to whether you had been exposed to
16 any public information about the case before you completed the
17 questionnaire. I'm just asking the group of you now, and I'm
18 going to try to remember to ask each day to make sure, have
19 any of you had any exposure to information about this case
20 outside of the courtroom since you completed the
21 questionnaire?

22 Okay. No hands up. Let me be clear. Raise your
23 hand if you have. Okay. There are no hands. Thank you. So
24 I'll be asking as we proceed in the case just to make sure
25 that by asking the question awhile ago we didn't miss

1 something.

2 With that you are admonished not to talk or converse
3 among yourselves or with anyone else on any subject connected
4 with this trial, or to read, watch, or listen to any report of
5 or commentary on the trial or any person connected with this
6 trial by any medium of information, including, without
7 limitation, newspapers, television, the Internet, or radio, or
8 to form or express any opinion on any subject connected with
9 this trial until the case is finally submitted to you. We'll
10 see you back at 1:00 tomorrow.

11 (Court recessed for the evening at 5:01 p.m.)
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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

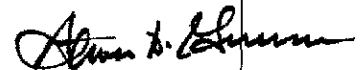
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DISTRICT COURT
CLARK COUNTY, NEVADA

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CLERK OF THE COURT

1 State of Nevada

) Case No.: C270562Q

2

3 vs.

) ORDER TO SHOW CAUSE

) RE: CONTEMPT

4

5 NORMAN BELCHER

) JUROR ID: 103843606

) CRISTIAN CASIAN

) 2655 E DEER SPRINGS WAY APT

) 2100

) NORTH LAS VEGAS, NV 89086-1467

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YOU ARE HEREBY ORDERED TO APPEAR in the above entitled court on the

14th day of December, 2016, at 8:30 a.m. in Department 6 to show cause why you should

not be held in contempt of court for your failure to appear for jury service on:

Wednesday, November 30, 2016

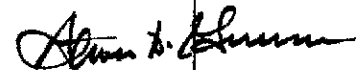
YOUR FAILURE TO APPEAR AS ABOVE SET FORTH, AT THE TIME, DATE,
AND PLACE THEREOF, WILL CAUSE THE COURT TO ISSUE A BENCH WARRANT
FOR YOUR ARREST AND DETENTION IN JAIL UNTIL SUCH TIME AS THE MATTER
CAN BE HEARD UNLESS BAIL IS FURNISHED AS PROVIDED IN SUCH WARRANT

Dated this 2nd day of December, 2016.



ELISSA CADISH
DISTRICT COURT JUDGE DEPT # 6

DISTRICT COURT
CLARK COUNTY, NEVADA



CLERK OF THE COURT

1 State of Nevada

) Case No.: C270562Q

2

) ORDER TO SHOW CAUSE

3 vs.

) RE: CONTEMPT

4

5 NORMAN BELCHER

) JUROR ID: 103548626

6

) KATANA MERCEDES KENNISON

7

) 1882 BARTOLI DR APT 4

8

) LAS VEGAS, NV 89115

9

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13

Wednesday, November 30, 2016

14

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18 CAN BE HEARD UNLESS BAIL IS FURNISHED AS PROVIDED IN SUCH WARRANT
19

20

21 Dated this 2nd day of December, 2016.

22

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24



25

ELISSA CADISH
DISTRICT COURT JUDGE DEPT # 6

26

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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
12/02/2016 09:34:46 AM

1 State of Nevada

) Case No.: C270562Q

Alvin D. Blum
CLERK OF THE COURT

2
3 vs.

) ORDER TO SHOW CAUSE
) RE: CONTEMPT

4
5 NORMAN BELCHER

) JUROR ID: 103875828

) VICTORIA LACOUR

) 1905 BEARDEN AVE

) HENDERSON, NV 89011-4206

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13 **Wednesday, November 30, 2016**

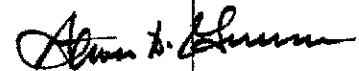
14
15 YOUR FAILURE TO APPEAR AS ABOVE SET FORTH, AT THE TIME, DATE,
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18 CAN BE HEARD UNLESS BAIL IS FURNISHED AS PROVIDED IN SUCH WARRANT
19

20
21 Dated this 2nd day of December, 2016.

Elissa F. Cadish

22
23
24
25 ELISSA CADISH
DISTRICT COURT JUDGE DEPT # 6

DISTRICT COURT
CLARK COUNTY, NEVADA



CLERK OF THE COURT

1 State of Nevada

) Case No.: C270562Q

2

) ORDER TO SHOW CAUSE

3 vs.

) RE: CONTEMPT

4

5 NORMAN BELCHER

) JUROR ID: 100247826

6

) JENNIFER SMITH

7

) 54 MOONRISE WAY

8

) HENDERSON, NV 89074-6207

9

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13

Wednesday, November 30, 2016

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Dated this 2nd day of December, 2016.

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ELISSA CADISH
DISTRICT COURT JUDGE DEPT # 6

ORIGINAL

DEC - 2 2016

BY Keith Reed
KEITH REED, DEPUTY

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

State of Nevada

Plaintiff(s),

CASE NO. C270562

DEPT. NO. VI

-vs-

Defendant(s),

Norman Belcher, aka
Norman David Belcher Jr.

JURY

- | | |
|---------------------|---------------------|
| 1. Donald Klepper | 9. Jason Sleeter |
| 2. Charles Woodland | 10. Diana Letwinch |
| 3. John Lyon | 11. Larry Norvell |
| 4. Martin Earhart | 12. Michael Bonilla |
| 5. Linda Sadler | 13. Jason Platner |
| 6. Athena Homuth | 14. Ronald Ritsema |
| 7. Marlo Tonge | 15. Steven Dawson |
| 8. Jeff Hayner | 16. Harlond Felker |

ALTERNATES (SECRET FROM ABOVE)

C-11-270562-1
JURL
Jury List
4803388



DEC - 2 / 2016

BY 
KEITH REED, DEPUTY

ORIGINAL

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

State of Nevada

Plaintiff(s),

CASE NO. C270562

-vs-

DEPT. NO. VI

Defendant(s),

Norman Belcher, aka
Norman David Belcher Jr.

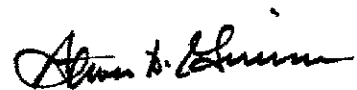
AMENDED JURY LIST

- | | |
|----------------------|---------------------|
| 1. Donald Klepper | 9. Jason Sleeter |
| 2. Charles Woodland | 10. Diana Letwinch |
| 3. John Lyon EXCUSED | 11. Larry Norvell |
| 4. Martin Earhart | 12. Michael Bonilla |
| 5. Linda Sadler | 13. Jason Platner |
| 6. Athena Homuth | 14. Ronald Ritsema |
| 7. Marlo Tonge | 15. Steven Dawson |
| 8. Jeff Hayner | 16. Harlond Felker |

ALTERNATES (SECRET FROM ABOVE)

C-11-270562-1
AJUR
Amended Jury List
4803389





CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C270562-1
)	DEPT NO. VI
vs.)	
)	
NORMAN BELCHER,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 4

THURSDAY, DECEMBER 1, 2016

APPEARANCES:

For the State:	GIANCARLO PESCI, ESQ.
	JACQUELINE BLUTH, ESQ.
	Chief Deputy District Attorneys

For the Defendant:	GARY A. MODAFFERI, ESQ.
	ROBERT DRASKOVICH, ESQ.

RECORDED BY JESSICA KIRKPATRICK, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

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1 **LAS VEGAS, NEVADA, THURSDAY, DECEMBER 1, 2016, 10:29 A.M.**

2 * * * * *

3 (Outside the presence of the prospective jury panel.)

4 THE COURT: Good morning.

5 MS. BLUTH: Good morning, Judge.

6 MR. DRASKOVICH: Good morning, Your Honor.

7 THE COURT: So go ahead.

8 MR. MODAFFERI: I don't want to get into the
9 politics of what happens at CCDC, you know everyone's trying
10 to do their best. I would just ask that the Court make a
11 directive, an order, I don't know, something that he take a
12 shower and shave, that he be allowed that opportunity because
13 it's been since --

14 THE COURT: I did that yesterday.

15 MR. MODAFFERI: -- Monday.

16 THE COURT: -- and my understanding, third-hand
17 probably, is that last night he had the opportunity but went
18 to sleep instead and that this morning he had the opportunity
19 but did not take advantage of it and instead had other issues.
20 So that's what I've been told.

21 MR. MODAFFERI: He wants to address the Court --

22 THE COURT: So it's not -- you know, yes, it should
23 happen, but it's not on his whim and on his schedule because
24 he's still in jail.

25 MR. MODAFFERI: No, I appreciate that. He just

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1 disputes that that's what occurred.

2 THE COURT: Fair enough.

3 MR. MODAFFERI: Do you want to tell her.

4 THE DEFENDANT: I mean, he said it all. Everything
5 they're saying is not true. I never was offered an
6 opportunity to come out and shave or shower. That's the
7 [inaudible]

8 THE COURT: All right. Officers, do you have any
9 personal knowledge about what happened? And if you do, then
10 we need you up on a mic. Hold on -- so just come on up here
11 on the podium on the other side and you'll be picked up by the
12 mic. So first I need your name.

13 CORRECTION OFFICER MACARTHUR: MacArthur, 74 -- P
14 No. 7620.

15 THE COURT: Thank you.

16 CORRECTION OFFICER MACARTHUR: I wasn't there last
17 night or this morning when the alleged disagreement happened
18 between Mr. Belcher and the module officers. We came to pick
19 him up and we're told by the officers that they're having a
20 disagreement with him and we're told by Mr. Belcher that he
21 was disagreeing with the officers. So we transport --

22 THE COURT: Right.

23 CORRECTION OFFICER MACARTHUR: -- and I know he's in
24 a max unit, and generally they come out one or two at a time
25 because they can't all come out together based on their

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1 classification status, so --

2 THE COURT: Right.

3 THE CORRECTIONS OFFICER: But officers in the module
4 told me, like I said, it's secondhand, that he was given an
5 opportunity. As they walked by, he may have been exercising
6 and -- but also the officer said that he was told that
7 Mr. Belcher wanted to shave. It was his desire to shave
8 earlier in the morning and for whatever reason that didn't
9 happen and so the module officers gave him a lockdown; that's
10 like an internal sanction.

11 THE COURT: Apparently because of the dispute.

12 CORRECTION OFFICER MACARTHUR: Yeah, because of the
13 dispute and alleged happenings. And so that's the sanctions
14 that was given to him today that he be on lockdown. And part
15 of that is you don't come out to use the phone or to shave or
16 whatever. And Mr. Belcher gave me a different story as well,
17 so --

18 THE COURT: Right.

19 CORRECTION OFFICER MACARTHUR: Like I said --

20 THE COURT: You weren't there.

21 CORRECTION OFFICER MACARTHUR: -- I'm secondhand so
22 that's what I'm told.

23 THE COURT: Okay. Thanks.

24 MR. DRASKOVICH: And Your Honor, according to
25 Mr. Belcher, the dispute was that he requested to be allowed

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1 to take a shower and they said no and then there was an
2 argument that ensued because they wouldn't allow him to take a
3 shower or shave.

4 THE COURT: Okay. I don't run the jail. I don't
5 want to run the jail, and I don't know what they're schedule
6 is and whether it makes more sense to try to do it at night
7 versus in the morning and what hour of the morning would be
8 appropriate. Probably we will be starting -- in fact, I
9 expect we will be starting at 10 again tomorrow morning so
10 we'll have kind of the same schedule we had today. So I don't
11 know -- my -- whether it makes more sense to try to do it
12 tonight when he gets back there as opposed to waiting until
13 the morning.

14 MR. DRASKOVICH: Mr. Belcher is saying any time.
15 He's saying the only dispute is that he's saying, hey, I need
16 to shower and shave and they're saying basically be quiet and
17 that's their dispute, and then they're putting him in lockdown
18 because he's requesting to shower and shave.

19 THE DEFENDANT: Any time before tomorrow.

20 MR. DRASKOVICH: And he's saying he's available any
21 time. He's not working out. He's saying that's -- and all
22 due respect to this officer, he's saying this isn't true.
23 He's saying I'm wanting to shower and shave, I would do it at
24 any time.

25 THE COURT: And so, you know, obviously, I wasn't

1 there, and I don't know the details of exactly what happened,
2 and the truth's probably somewhere in the middle, but I would
3 like him to be offered an opportunity to shower and shave
4 either tonight or tomorrow morning before coming over to
5 court. And I don't know when you go to sleep. I don't --
6 part of what I was told is that you went to sleep as soon as
7 you went back yesterday.

8 THE DEFENDANT: This is something he can acknowledge
9 to be the truth. Had I refused to come out last night, then
10 it would have been documented to where they never would have
11 offered me the opportunity [inaudible]. And he would be able
12 to verify that is true.

13 THE COURT: Okay. So it may not have been offered;
14 it may be that they thought about it and you were sleeping.
15 And that may be what happened. I have no idea.

16 MS. BLUTH: And Judge, just for the record, because
17 we had been going through all of this before you got here. I
18 think there is going to be a writeup in regards to issues that
19 happened this morning. And I know that the officer involved
20 is writing -- because that's just policy that they do it.
21 It's our understanding that when they offered this morning,
22 there was an argument between Mr. Belcher and one of the
23 officers and he threatened the officer's life, and he's
24 getting written up for that.

25 So I mean, everybody has to work together. And here

1 we are the fourth day in trial and we're still starting
2 however minutes late because of these same issues. So I know
3 we can't know exactly what's going on, but somewhere we've got
4 to figure this out. And if there's an officer writing this up
5 and these things are happening every single day, there seems
6 to kind of be a common denominator because there's not the
7 same officer working with him every single day.

8 THE DEFENDANT: This will be the first writeup in
9 response to that and they never offered me today. I asked
10 today. Then they told me, when you come out, you can't use
11 the phone. I asked why. They told me why and I let it go.
12 Then when the next group came to come out I asked them was I
13 coming out and he said no. When he started walking downstairs
14 I asked him was he serious. He said, yes, I'm serious. I
15 said, but I've told you I have to shave before trial. He said
16 no, you want to use the phone. I said no, I didn't. When I
17 first asked the other officers the first thing I said was
18 shave. You guys told me I can't use the phone. I said why,
19 you told me why and I left it alone.

20 THE COURT: Okay.

21 THE DEFENDANT: Then -- then -- honestly, then I
22 just started getting crazy because I knew that I was not going
23 to be able to shave for this trial.

24 THE COURT: Right.

25 THE DEFENDANT: So the writeup is after I was denied

1 and it's going to say that. After I got denied, then I got
2 written up because I haven't been since Monday.

3 THE COURT: I'm going to order them to offer you an
4 opportunity between when you leave here tonight and when you
5 get transported tomorrow morning, whenever that opportunity
6 is, you take it. You don't take that opportunity to ask for
7 other individuals, not included in shower and shaving and you
8 treat them with appropriate respect.

9 THE DEFENDANT: I understand. Thank you.

10 THE COURT: Okay. I guess we do have the jurors up
11 here at this point. So we're still on the record, guys.

12 Let's go off for a moment.

13 (Court recessed at 10:36 A.M. until 10:38 A.M.)

14 (Outside the presence of the prospective jury panel.)

15 THE COURT: So we do have the second part of the
16 panel here today. While we were off the record, we went over
17 the -- some of those folks who are not -- not here today at
18 this point. And there's one from the first panel, Alexis
19 Mulhollan, No. 074, who is here today.

20 Before we bring them in, and we're going to do so, I
21 did have an opportunity last night to go back over the defense
22 motion arguing to strike the conspiracy in aiding and abetting
23 theories. And I went over that motion and the exhibits to it
24 again last night, along with rereading the Barron case from
25 1983, the Nevada Supreme Court which was primarily relied on

1 by the defense in this case.

2 So the Barron case involved a situation where the
3 charge was only alleged against the defendant as a principal,
4 and then at the time of trial, evidence was presented about
5 aiding and abetting, and that was the theory argued and used
6 in the conviction. And the Court had some concerns about
7 that.

8 Now, they talked about a prior -- one prior Nevada
9 Supreme Court case which had allowed it to be [indiscernible]
10 as a principal, and then use an aiding and abetting theory at
11 trial. But contrast that with other Nevada Supreme Court
12 cases that had held, when aiding and abetting is alleged, that
13 there needs to be some allegation about what acts allegedly
14 were the aiding and abetting.

15 So in order to reconcile those two disparate lines
16 of cases in Barron, Nevada Supreme Court did say, if you're
17 proceeding on an aiding and abetting theory, you have to
18 allege any information and describe to some extent what acts
19 they alleged are means of aiding and abetting. Okay. So
20 that's ultimately the holding areas. You do have to say that.

21 Now, in this case the Information filed in January
22 of 2011, now nearly six years ago, alleged conspiracy and
23 aiding and abetting as alternative theories for each of the
24 counts, I believe, and sets forth that it was aiding and
25 abetting by counsel and/or encouragement in acting in concert

1 throughout.

2 I should also say that it is clear under Nevada law
3 that the State can plead in the alternative; that is, as a
4 principal or on a conspiracy theory or aiding and abetting.
5 And there's nothing improper about them pleading it in the
6 alternative even though they may be focus on one of the
7 theories, but they're allowed to plead it in the alternative
8 in that fashion.

9 The concern in the Barron court and the concern that
10 gives rise to the line of cases talking about needing to set
11 forth what alleged act constitutes the aiding and abetting,
12 are to ensure that there's notice to a defendant of what he's
13 being charged with and what the theory is with a, you know,
14 fundamental due process concern forming the basis for that.

15 So in this case it's been alleged from the beginning
16 to the extent the motion is referencing whether there was
17 sufficient evidence of aiding and abetting presented at the
18 prelim. The proper procedure for that would have been in a
19 habeas petition and that would have been the proper time and
20 place to argue it. Obviously, it's too late for a habeas now.

21 To the extent that it's -- it's more focused on
22 other arguments about pleading and giving notice as in Barron
23 about the theory on which the State is proceeding, the
24 defense -- had it pleaded in the information from the
25 beginning of the case, and had been aware of the evidence,

1 that is the only potential basis for those theories by the
2 search warrant application we discussed the other day by the
3 witness testimony by Mr. Brabham and Ms. Riley, whatever
4 portions of their testimony gives some indication about there
5 being two people there.

6 And yes, there was appropriately discovery motions
7 by the defense, and the State's response was that there was
8 nothing else to give about a second suspect other than that
9 that information and evidence which had already been provided.
10 There was no further investigation, no other fingerprints, no
11 other whatever evidence on that point which appropriately was
12 requested and that was the response.

13 Obviously, the State isn't going to be allowed to
14 come up with some new different theory of aiding and abetting
15 and conspiracy other than those grounds that we've discussed
16 and are aware of, because that would be a due process concern.
17 However, other than that, there is sufficient notice. They're
18 allowed to plead in the alternative.

19 Their obviously primary theory is that he acted as a
20 principal and acted alone. But there is some evidence which
21 may welcome before the jury that there may have been another
22 person present who he was acting in concert with or, you know,
23 on that day, and the State can plead those alternate theories
24 and have sufficiently given notice of those theories to
25 proceed in that fashion.

1 So on that basis, I'm denying that motion.

2 MR. PESCI: Thank you.

3 THE COURT: Yes, sir.

4 (Pause in proceedings)

5 THE COURT: All right. So we're going to bring in
6 this group now and we'll start with the introductions and
7 swear them in to do that initial voir dire. Be ready to
8 identify potential witnesses.

9 MR. PESCI: Yes. How are you going seat them?

10 THE MARSHALL: Judge, I was going to go 24 and then
11 crunch them all the way in the back.

12 THE COURT: Right. There's going to have to be some
13 of them up front to fit them all.

14 THE MARSHALL: So I'm going to put them in
15 sequential order this way.

16 THE COURT: But they're not in numbered seats right
17 now?

18 THE MARSHALL: No, there's going to be no chart but
19 [inaudible]

20 THE COURT: Right.

21 THE MARSHALL: As you read them going down the list,
22 they'll be one, two, three, four, five.

23 THE COURT: So the first one will be the lady from
24 the first panel.

25 THE MARSHALL: Yes, that seat in the back.

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12

1 THE COURT: Right.

2 MR. PESCI: Okay. So we're not going to fill any
3 holes --

4 THE COURT: Sorry. Go ahead.

5 MR. PESCI: Are we filling any of the holes with
6 this group?

7 THE COURT: Not right now. This afternoon we'll
8 have to do that.

9 MR. PESCI: Okay. All right.

10 THE COURT: Okay. Let's go ahead and bring them in.

11 (Prospective jury panel reconvened at 10:47 a.m.)

12 THE COURT: Okay. Go ahead and have a seat. Thank
13 you.

14 All right, folks. So good morning. I do apologize
15 for the delay and the inconvenience that you've had to get to
16 even this point and coming into court to have some questions
17 for you. We are here for the trial of Case No. C270562-1, the
18 State of Nevada, plaintiff versus Norman Belcher, the
19 defendant, and we do have all the parties present here today.

20 So folks, you are in Department 6 of the
21 Eighth Judicial District Court of the State of Nevada. My
22 name is Elissa Cadish, and I'm the presiding judge in this
23 department.

24 Let me take this opportunity to introduce the court
25 staff with whom you may be coming into contact during the

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1 course of these proceedings.

2 To my far right is Jessica Kirkpatrick. She's our
3 court recorder. She makes sure that everything that is said
4 during the trial is preserved in case of an appeal. We do
5 have audiovisual recording going on during all of our court
6 proceedings, and she also types up notes from them. But when
7 we have you speak during these proceedings, we'll be giving
8 you a mic to talk into so that whatever you're saying will
9 also be recorded. We'll also be asking you when you speak to
10 state your name and the last three digits of your badge number
11 when you speak into the mic so that it will be clear later
12 when someone does a transcript who is speaking at any given
13 time.

14 To my immediate right is Keith Reed. He's our
15 courtroom department clerk. He swears witnesses, marks
16 exhibits, keeps track of evidence, and prepares minutes or
17 descriptions of the proceedings for the official record.

18 You've already met Anthony Russo. He is our
19 marshal. He's in charge of courtroom security and the only
20 one that you may talk to directly during the trial, outside of
21 the court proceedings where we are directly addressing you.

22 I should note that Anthony may be out for a few days
23 in the next week and so we may have another marshal filling
24 in, but the same rules would apply.

25 At this time does any party wish to present a

1 challenge -- well, you've already -- you've already agreed not
2 to challenge the panel as a whole, but let me just confirm
3 today with the new group.

4 MR. MODAFFERI: I appreciate that. There is no
5 objection to the panel, Judge.

6 MR. PESCI: Nor from the State, Your Honor. Thank
7 you.

8 THE COURT: Okay. So we're now going to call the
9 roll of the potential jurors. When you're name is called,
10 please answer present or here.

11 (Roll called, not transcribed.)

12 THE COURT: Okay. Is there anyone whose name was
13 not called? Raise your hand?

14 Okay. No hands.

15 All right. So we're about to begin what's called
16 the voir dire process, and that's just the legal term for the
17 process where I and the attorneys have the opportunity to ask
18 you some questions baring on your ability to be fair and
19 impartial jurors in this particular case. I know you did
20 already complete questionnaires, so we are going to try not to
21 repeat questions you were already asked in the questionnaire,
22 but there may well be follow up on some of the answer that you
23 gave.

24 At times it may seem like the questions are somewhat
25 personal and I'm sorry about that. We're not trying to just

1 delve into your privacy unnecessarily, but sometimes it is
2 necessary to ask personal questions to understand whether you
3 can be fair and impartial in this particular case.

4 During the course of the process there are two ways
5 that potential jurors may be excused. One is called a cause
6 challenge. And that is if it appears that any of you cannot
7 be fair and impartial in this particular case or for whatever
8 reason can't serve during the course of this trial, you might
9 be excused for cause. The other possibility is, after we pass
10 enough jurors for cause, then the attorneys get a certain
11 number of what are called peremptory challenges.

12 They get a certain number under Nevada law where
13 they don't have to give a particular reason for excusing some
14 of the jurors. Please don't be offended if you are excused
15 using either of these challenge procedures. It's just part of
16 the process designed to ensure a fair trial for everybody
17 involved.

18 So this process of voir dire is done under oath, so
19 I do need you all to stand and raise your right hand to be --
20 so the clerk can administer the oath.

21 (Prospective jurors sworn.)

22 THE COURT: Okay. Folks, so we're going to start
23 with introducing the people involved in the case and the
24 nature of the case. It is important that you pay attention
25 during these introductions because you are going to be asked

1 in a few minutes if you know anything about the case or if you
2 know any of the folks who are involved in it.

3 So starting with the case, introduce yourselves,
4 briefly describe the nature of the case and identify potential
5 witnesses or people involved.

6 MR. PESCI: Yes. Thank you very much, Your Honor.

7 Ladies and gentlemen, my name is Giancarlo Pesci. I
8 am here along with Jacqueline Bluth. We are the district
9 attorneys assigned to the case of the State of Nevada versus
10 the defendant, Norman Belcher. He is accused of having
11 committed burglary while in possession of a deadly weapon,
12 robbery with use of a deadly weapon, murder with use of a
13 deadly weapon, attempt murder with use of a deadly weapon,
14 battery with use of a deadly weapon resulting in substantial
15 bodily harm and third-degree arson.

16 It is alleged that these events occurred here in Las
17 Vegas on December the 6th of 2010. The State is going to call
18 multiple witnesses to the stand. I'm going to read a list of
19 these witnesses. Not every one of these people are going
20 testify, but you might hear of their name. So it might be
21 someone that you recognize.

22 As far as from the Metropolitan Police Department
23 you may hear from: Ann Reeser, Lance Hardman, Ken Hardy, Dan
24 Long, Theresa Kyger, Dean O'Kelley, Paul Ellers (phonetic),
25 Dean Raetz, Cliff Mogg, Daniel Webb, Anthony Cavaricci.

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1 Also from the Metropolitan Police Department, as
2 crime scene analysts, the following individuals: Erin Taylor,
3 Terry Martin, Joe Szukeiwicz, Dan Holstein, Vince Roberts,
4 Noreen Charlton, Adam Felabom.

5 They'll be individuals potentially from the the
6 crime lab itself. A Jan Kelly, Craig King, Laurie Haines
7 (phonetic), Onya Lester (phonetic). You may also here from
8 FBI Agent Ryan Burke; from the Coroner's office, Dr. Lary
9 Simms.

10 Then there will be some individuals that are not
11 associated with Metropolitan Police Department: A William
12 Postorino, a Nick Brabham, Ashley Riley, Alexis Postorino,
13 Lisa Postorino, Claudia Ortiz, Brenda Williams, Johnny Laroya,
14 Crystal Soto, Bridget Chaplin, and Paula Silvestri.

15 Thank you very much, Your Honor.

16 THE COURT: Thank you. All right. Go ahead and
17 introduce yourselves and your client.

18 MR. MODAFFERI: Thank you, Your Honor.

19 Good morning, ladies and gentlemen. My name is Gary
20 Modafferi along with Robert Draskovich. We'll be defending
21 Mr. Norman Belcher.

22 Mr. Belcher, as you heard, has been accused by the
23 State of many serious and important crimes. He denies that he
24 was ever at the murder scene in this case. And the defense
25 will present witnesses as well as cross-examine the State's

1 witnesses in this case.

2 And the witnesses that the defense may project into
3 Mr. Belcher's defense include the following expert testimony:
4 Dr. Norman Roitman, Robert White, George Shiro, Larry Smith,
5 Steven Tillmann, Dwane Hilderbrand, Jonathan Lord, Robert
6 Shomer. Those are all expert witnesses that will be or may be
7 presented by the defense during the course of this case. The
8 defense will also be presenting possibly, attorney Michael
9 Gowdey. Thank you.

10 THE COURT: Thank you.

11 THE MARSHALL: Just one second, Judge. Anybody have
12 any difficult time hearing? Anybody need a headset? Raise
13 your hand.

14 THE COURT: Raise your hand if you can't hear me.

15 No hands. Thank you.

16 Okay. So before I ask you about those specific
17 introductions, I have a few general questions that I need to
18 ask in every single case to ensure that you can at least make
19 the basic qualifications for sitting as a juror.

20 First --

21 MR. MODAFFERI: Judge, I forgot one name. I
22 apologize. I forgot our defense investigator Richard Franky.

23 THE COURT: Okay. Richard Franky.

24 MR. MODAFFERI: Yeah.

25 THE COURT: Okay. One more name. Thank you.

1 All right. So go ahead. Who's the additional
2 gentleman who just came in?

3 THE MARSHALL: Steven Cumley.

4 THE COURT: Okay. Thank you. All right. Folks, so
5 my first question is: Have any of you ever been convicted of
6 a felony? Please raise your hand if you have.

7 MR. PESCI: Judge, can we approach for just one
8 moment?

9 THE COURT: Yes.

10 (Bench conference.)

11 MR. PESCI: I don't know that the last person to
12 come into the courtroom has been sworn.

13 THE COURT: Oh, good question. Thank you. Let's go
14 ahead and swear. Thank you.

15 (End of bench conference.)

16 THE COURT: We need to swear in Mr. Cumley, who just
17 walked into courtroom, before we proceed with the voir dire
18 questioning. Thank you for the reminder.

19 Sir, will you please stand and raise your right
20 hand. The rest of the group was already sworn in before you
21 arrived.

22 (Prospective Juror 483 sworn.)

23 THE COURT: He missed the introductions also. I'll
24 have a separate conversation with him at a later time about
25 the specific introduction, names.

1 So let me try again. For the whole group, have any
2 of you been convicted of a felony. Please raise your hand.

3 No hands. Okay.

4 Are any of you not a United States citizen? Please
5 raise your hand if you are not a citizen.

6 No hands.

7 Now, do any of you have such -- excuse me. Let me
8 start again. Do any of you have such a sympathy, prejudice,
9 or bias relating to age, religion, race, gender, or national
10 origin that you feel would affect your ability to be an open
11 minded, fair and impartial juror? Anyone feel that way?

12 No hands. Okay.

13 Now -- okay. So we do have the defendant, Norman
14 Belcher, and his attorneys, Robert Draskovich and Gary
15 Modafferi, sitting here. Why don't you stand quickly and show
16 yourselves. Okay. Everyone else saw this already,
17 Mr. Cumley. I just -- before I asked I wanted to do that.

18 So with that, do any of you know Mr. Belcher or his
19 attorneys?

20 Yes, okay. I've got Mr. Gang in the back.

21 State your name and the last three digits of your
22 badge number.

23 PROSPECTIVE JUROR NO. 262: William Gang, 262.

24 THE COURT: Okay. So of those three gentlemen, who
25 do you know?

1 PROSPECTIVE JUROR NO. 262: I am familiar with
2 Mr. Draskovich.

3 THE COURT: Okay. And I have some idea how you know
4 that, but I need a record so why don't you describe how you
5 may know him.

6 PROSPECTIVE JUROR NO. 262: In the '80s and '90s I
7 was a newspaper reporter covering courts and I covered some of
8 the cases that he handled at that time.

9 THE COURT: Okay. Would the fact that you know
10 Mr. Draskovich from that context affect your ability to be a
11 fair and impartial juror in this case?

12 PROSPECTIVE JUROR NO. 262: No.

13 THE COURT: Would it cause you to favor or disfavor
14 the defendant, his client, in this case?

15 PROSPECTIVE JUROR NO. 262: No, not at all.

16 THE COURT: You think you can put aside whatever
17 interactions you had with him and base a decision only on the
18 evidence and arguments presented here in this courtroom?

19 PROSPECTIVE JUROR NO. 262: Yes.

20 THE COURT: Thank you. Anyone else know any of
21 them?

22 No other hands. Okay.

23 Now, we have two deputy district attorneys here
24 today, Mr. Giancarlo Pesci and Ms. Jacqueline Bluth. Why
25 don't you quickly stand up and turn around. Again, everyone

1 else has seen this already.

2 Do any of you know either of our two deputy district
3 attorneys who are here today?

4 No hands.

5 Now more broadly, do any of you know our District
6 Attorney Steve Wolfson or other personnel in the District
7 Attorney's Office?

8 All right. Do you still have the mic back there,
9 Mr. Gang?

10 PROSPECTIVE JUROR NO. 262: I do.

11 THE COURT: Okay. So I'm going to start with you
12 and then go to the others who raised their hands, so why don't
13 you tell me about your relationship with Mr. Wolfson and/or
14 other folks in the DA's office.

15 PROSPECTIVE JUROR NO. 262: In the context of my job
16 as a newspaper reporter covering courts, I had interactions
17 with Mr. Wolfson on a number of occasions.

18 THE COURT: And similar questions to what I asked
19 about Mr. Draskovich. Would those interactions affect your
20 ability to be fair and impartial as a juror in this case?

21 PROSPECTIVE JUROR NO. 262: Not at all.

22 THE COURT: Are you going to have a tendency to
23 favor or disfavor the District Attorney's Office because of
24 those interactions you've had with Mr. Wolfson?

25 PROSPECTIVE JUROR NO. 262: No.

1 THE COURT: You still think you can base your
2 decision on the evidence presented here in this courtroom?

3 PROSPECTIVE JUROR NO. 262: Yes.

4 THE COURT: Thank you. Okay.

5 PROSPECTIVE JUROR NO. 323: Eric Larsen, Badge 323.

6 THE COURT: Okay. Give me just a second just to get
7 there.

8 Yes, sir, tell me who you know.

9 PROSPECTIVE JUROR NO. 323: I know a law clerk --
10 actually, she's recently admitted to the bar with the District
11 Attorney's Office.

12 THE COURT: And who is she?

13 PROSPECTIVE JUROR NO. 323: She goes by the first
14 name Katie. I don't remember her last name.

15 THE COURT: Okay. So what's your relationship with
16 her?

17 PROSPECTIVE JUROR NO. 323: It's friendship through
18 mutual friends.

19 THE COURT: Okay. When's the last time you had some
20 interaction with Katie.

21 PROSPECTIVE JUROR NO. 323: Probably about four
22 months ago.

23 THE COURT: Okay. And would the relationship that
24 you've had with her as you've described it affect your ability
25 to be fair and impartial as a juror in this case?

1 PROSPECTIVE JUROR NO. 323: No, Your Honor.

2 THE COURT: The fact that she's in the District
3 Attorney's Office, would that affect you in any way in
4 deliberating in this case?

5 PROSPECTIVE JUROR NO. 323: No, Your Honor.

6 THE COURT: Okay. Thank you very much. Was there
7 anyone else who raised their hand? Okay. Why don't you hand
8 that up to this gentleman. Name and badge.

9 PROSPECTIVE JUROR NO. 391: Keith Slade, Badge 391.
10 I know a -- I work with Lisa Logsdon on the civil side in the
11 District Attorney's Office.

12 THE COURT: You know Lisa --

13 PROSPECTIVE JUROR NO. 391: Logsdon.

14 THE COURT: Can you spell that?

15 PROSPECTIVE JUROR NO. 391: L O G S D O N.

16 THE COURT: Got it. Okay. So you know her through
17 work?

18 PROSPECTIVE JUROR NO. 391: Through work; that's
19 correct.

20 THE COURT: So what do you do that causes you to
21 have interaction with her?

22 PROSPECTIVE JUROR NO. 391: I'm the privacy officer
23 over at University Medical Center, and she was a counsel on
24 HIPPA issues.

25 THE COURT: Okay. Would the fact that you have had

1 interactions with Ms. Logsdon in that context, affect your
2 ability to be a fair and impartial juror in this case?

3 PROSPECTIVE JUROR NO. 391: No.

4 THE COURT: Okay. Do you think you can be fair to
5 both sides here?

6 PROSPECTIVE JUROR NO. 391: Yes.

7 THE COURT: Do you think you can base your decision
8 on the evidence and arguments presented in this courtroom and
9 this case rather than on any interactions you had with
10 Ms. Logsdon with the District Attorney's Office?

11 PROSPECTIVE JUROR NO. 391: Yes.

12 THE COURT: Thank you very much. Is there anyone
13 else? Got one on the far right there.

14 PROSPECTIVE JUROR NO. 565: Lewis Turner, Badge No.
15 565.

16 THE COURT: Okay. 565. Okay. Yes, sir.

17 PROSPECTIVE JUROR NO. 565: Yes, I know one of the
18 district attorneys.

19 THE COURT: Okay. And what's the name?

20 PROSPECTIVE JUROR NO. 565: Danae Adams.

21 THE COURT: Right. Okay. And how do you know her?

22 PROSPECTIVE JUROR NO. 565: We're next door
23 neighbors.

24 THE COURT: How often do you have occasion to
25 interact with Ms. Adams?

1 PROSPECTIVE JUROR NO. 565: A couple times a week.

2 THE COURT: Okay. And is that -- I guess what's the
3 nature of those interactions? Are you just saying hi, how are
4 you. Or do you have -- you know hang out together?

5 PROSPECTIVE JUROR NO. 565: No. Her and my wife are
6 good friends and, you know, she comes by the house, you know,
7 comes over at different times, but other than that,
8 personally, just saying hi.

9 THE COURT: Got it. Would the fact that you are
10 neighbors and that you're wife is friendly with affect your
11 ability to be fair and impartial as a juror in this case?

12 PROSPECTIVE JUROR NO. 565: No.

13 THE COURT: Would it cause you to favor or disfavor
14 the District Attorney's Office in any way?

15 PROSPECTIVE JUROR NO. 565: No.

16 THE COURT: And do you think you could base your
17 decision in this case on the evidence and arguments presented
18 in this courtroom in this case rather than on your
19 relationship with Ms. Adams?

20 PROSPECTIVE JUROR NO. 565: Yes.

21 THE COURT: Wonderful. Thank you very much. Anyone
22 else? Okay. Don't see any other hands. Okay. Might as well
23 just suck it up and do it.

24 Go ahead and read the -- if you could quickly read
25 the list of witnesses again.

1 MR. PESCI: Sure.

2 THE COURT: And then we'll have defense do the same.

3 MR. PESCI: Okay.

4 THE COURT: I just want to be sure we're covered
5 before we proceed.

6 MR. PESCI: So from the Metro Police Department:
7 Ann Reeser, Lance Hardman, Ken Hardy, Dan Long, Theresa Kyger,
8 Dean O'Kelley, Paul Ellers (phonetic), Dean Raetz, Cliff Mogg,
9 Daniel Webb, Anthony Cavaricci.

10 From the crime scene analysts: Erin Taylor, Terry
11 Martin, Joe Szukeiwicz, Dan Holstein, Vince Roberts, Noreen
12 Charlton, Adam Felabom.

13 From the forensic lab: Jan Kelly, Craig King,
14 Laurie Haines, (phonetic) Onya Lester (phonetic). FBI Agent
15 Ryan Burke, Dr. Lary Simms, William Postorino, a Nick Brabham,
16 Ashley Riley, Alexis Postorino, Lisa Postorino, Claudia Ortiz,
17 Brenda Williams, Johnny Laroya, Crystal Soto, Bridget Chaplin,
18 and Paula Silvestri.

19 THE COURT: And just to be clear, not each of those
20 people will be called as witnesses, but you're going to hear
21 their names because of some involvement they may have had in
22 this case.

23 For the defense, if you identify any additional
24 witnesses you may have.

25 MR. MODAFFERI: Very good. Attorney Michael Gowdy,

1 Officer Moyer, Detective Sanford, Officers, Albert, Frazier,
2 Guerra, Pacifico. Experts: Dr. Roitman; Robert White; George
3 Shiro; Larry Smith; Jonathan Lord, attorney; Steven Tillman,
4 forensic investigator; Dwane Hilderbrand, forensic
5 investigator; Robert Shomer, identification expert and Richard
6 Franky, defense expert -- excuse me, defense investigator.

7 THE COURT: Okay. And just to be -- to have a
8 complete record, I also had had the district attorney briefly
9 describe the nature of the charges earlier, which is the same
10 as the description that you were already given in the
11 questionnaire as well when you completed it. And
12 Mr. Modafferi noted that Mr. Belcher has pleaded not guilty
13 and denies his involvement in these charged crimes.

14 Okay. With that in mind and now speaking to all of
15 you, do any of you know any of the witnesses who were
16 identified by either party in the case?

17 No hands. Okay.

18 Now a little bit about the role of a judge and jury
19 in a trial like this. As the judge, I'm the judge of the
20 questions of law. It's my job to know and tell you the law
21 that applies to this case. And I will give the jury
22 instructions on the law that does apply. The jurors are the
23 judges of the questions of fact. They decide what to believe
24 and ultimately what happened and apply the law they give you
25 to the facts that you find to determine what the correct

1 verdict should be in this case.

2 But the jurors are required to follow my
3 instructions on the law, even if you think I'm mistaken or
4 even if you think that's not what the law should be you're,
5 still required as jurors to follow what I tell you the law is.

6 With that in mind, is there anyone of you who thinks
7 that they will not be able to follow the instructions of the
8 Court on the law?

9 No hands. Okay. Thank you very much.

10 Under our system of justice there are certain
11 principles of law that apply in every criminal trial. They
12 are that the charging document filed in this case is a mere
13 accusation and is not evidence of guilt.

14 Next, that the defendant, Mr. Belcher is presumed
15 innocent, and the State must prove that he is guilty beyond a
16 reasonable doubt. Do any of you not understand or believe in
17 these basic principles of American justice?

18 Okay. No hands. Thank you.

19 Okay. Counsel, can you come on up for just a
20 second.

21 (Bench conference.)

22 THE COURT: So we're in an interesting situation.
23 that is all the general questions. These folks are much less
24 chatty and objecting than the first group was, which is
25 probably a good thing. We can just start questioning in order

1 as to possibly passing for cause.

2 Now the idea when we have the whole group here this
3 afternoon is the first one here will fill the first empty spot
4 in the existing group next, and I think -- how many holes do
5 we have from the original group?

6 MR. PESCI: Two.

7 MR. DRASKOVICH: Three, I believe.

8 MR. PESCI: Three.

9 THE COURT: Three. So the first three that we're
10 able to pass for cause from this group willing into those
11 spots. And then perhaps the next four, we could -- I mean, we
12 can talk about if we keep them in order to fill in or if we
13 make them Seats 33 to 36.

14 MR. DRASKOVICH: Okay. Are we going until noon?

15 THE COURT: Huh?

16 MR. DRASKOVICH: Are we going to go until noon?

17 THE COURT: Yes.

18 MR. DRASKOVICH: Because the other group is coming
19 in at one.

20 THE COURT: Right. That's true so --

21 MR. DRASKOVICH: Okay.

22 THE COURT: I probably don't have to worry about
23 getting through that many, but we'll start and, you know, if
24 we can get the three, who would fill those three open spots.
25 That would be great.

1 MR. DRASKOVICH: All right.

2 THE COURT: We'll see how far we get. So I'll do
3 what I've been doing and start just with you guys asking
4 questions and pulling out the questionnaire for myself as
5 well.

6 MR. PESCI: And we're on the same page that we need
7 to qualify 12 and then we'll get to our 36.

8 MR. DRASKOVICH: Okay.

9 MR. PESCI: Because we have 24 -- I think we have
10 24 --

11 THE COURT: I'm sorry?

12 MR. PESCI: I think we have 24 qualified so far.

13 MR. DRASKOVICH: We just need to get through 12.

14 MR. PESCI: We need to get 12 from this group.

15 THE COURT: Right. That's correct.

16 MR. PESCI: Yeah, we need to get 12 from this group.

17 THE COURT: Well, but some of them will be from the
18 first group because we have some seated in chairs we haven't
19 gotten to in the first group.

20 MR. PESCI: That's true. Okay. You're right.
21 You're right.

22 THE COURT: So we don't need that -- we need that
23 many more to pass for cause but not necessarily from this
24 group.

25 MR. MODAFFERI: Judge, I'm sorry. I didn't get a

1 seating chart. Who's the lady in the --

2 MS. BLUTH: Seventy-four.

3 THE COURT: She's one of the ladies who was in the
4 first group but wasn't here the first day that ended up with
5 the second group.

6 MR. MODAFFERI: I just couldn't find her card.

7 MR. DRASKOVICH: She had a much lower number. Was
8 it 75?

9 MR. PESCI: Seventy-four.

10 MR. DRASKOVICH: Seventy-four.

11 THE COURT: No. 074, Alexis Mulhollan.

12 MR. MODAFFERI: Thank you.

13 MR. PESCI: When we're all said and done, can we get
14 them all seated in their right seats before we start our
15 perempt? We can kind of get some time to look at them in the
16 right spots because it's going to be all mismatched --

17 THE COURT: This afternoon I expect we're going to
18 put them in seats when they come in, when they're all here --
19 well, when we start with the full group at one.

20 MR. MODAFFERI: Okay. Thank you, Judge.

21 MR. PESCI: Thank you very much.

22 THE COURT: Thanks.

23 (End of bench conference.)

24 THE COURT: So in the first seat, do you have the
25 microphone now?

1 PROSPECTIVE JUROR NO. 074: Yes, I do.

2 THE COURT: All right. And you're Ms. Mulhollan,
3 correct?

4 PROSPECTIVE JUROR NO. 074: Yes.

5 THE COURT: Okay.

6 THE COURT RECORDER: I'll need their numbers because
7 I don't have a seating chart.

8 THE COURT: Oh, right. So it's Badge No. 074,
9 Alexis Mulhollan.

10 How are you going today, ma'am?

11 PROSPECTIVE JUROR NO. 074: I'm good. How are you?

12 THE COURT: Okay. So what we're going to do now
13 that we're asking some individual questions is the parties are
14 going to be allowed to direct some questions to you and then
15 I'll ask any additional questions if I think they're
16 necessary, or as we go along, primarily following up on some
17 of the things that you already gave us in those
18 questionnaires.

19 So State.

20 MS. BLUTH: Thank you, Your Honor.

21 Good morning, Ms. Mulhollan.

22 PROSPECTIVE JUROR NO. 074: Good morning.

23 MS. BLUTH: So I think most of you have been sitting
24 downstairs during this week, and what we've been doing up here
25 is working with another group of you. And so those people

1 will join us at 1:00, and so we've been asking questions in
2 regard to the questionnaire. And I'd like to ask you some
3 questions about what you wrote.

4 Before we get to that, when you first came in and
5 you heard the charges, there's two phases to this type of
6 trial. There's what's referenced a guilt phase and then a
7 penalty phase. So in the guilt phase the State must prove to
8 you beyond a reasonable doubt that the defendant is guilty of
9 the crimes that he's been charged with, and one of those
10 crimes is murder.

11 If you're selected as a juror and you and the other
12 jurors find the defendant guilty of first-degree murder, then
13 and only then do you move onto the penalty phase where you
14 consider those four forms of punishment that you read in your
15 questionnaire.

16 So it's two -- just so we're clear, it's two phases.
17 And when you're in the guilt phase, you can only be thinking
18 about whether or not the defendant's guilty. You can't be
19 thinking about the possible punishments. Though have -- the
20 law says that those two have to be separated.

21 Now, when I say separated, I don't mean that you
22 come back in like a couple of weeks. They'll go right back to
23 another, but when you're in the guilt phase, you can't think
24 about the penalty phase.

25 Do you kind of understand the importance of that?

1 PROSPECTIVE JUROR NO. 074: Yes.

2 MS. BLUTH: And is that something that you could do?

3 PROSPECTIVE JUROR NO. 074: Yes.

4 MS. BLUTH: Okay. So I'd like to ask you a few
5 questions about some of your answers in the questionnaire. So
6 in response to, how do you feel about the criminal justice
7 system, you talk about your feelings in that sometimes you
8 don't think it's necessarily fair, as in, punishments don't
9 fit the crime. For drugs you think that sometimes people get
10 really harsh punishments, and then for some serious crimes
11 like robbery, murder, rape, you feel like the crimes can be
12 lighter. Am I -- I want to make sure I'm getting your answer
13 right. Do you feel that way?

14 PROSPECTIVE JUROR NO. 074: Yes; that is correct.

15 MS. BLUTH: Okay. So it's just kind of a -- you
16 think that there's a disparity in the sentencing that doesn't
17 quite think are maybe rational?

18 PROSPECTIVE JUROR NO. 074: Yes.

19 MS. BLUTH: So I wanted to talk first about your
20 thoughts on drugs. You're going to hear us ask questions of
21 you guys ad nauseam and they're going to sound like they're
22 the same question over and over again. And they are, but
23 everybody usually has different views on these questions.

24 So my question to you about drugs are, you will hear
25 testimony. Probably both sides will talk about drugs used in

1 this case. Do you have feelings, strong feelings regarding
2 drugs one way or the other about, you know, people who do
3 drugs are bad, and then you have -- they should have a stigma
4 or you don't really care about drugs. Where are you at in
5 that spectrum?

6 PROSPECTIVE JUROR NO. 074: Well, I'm not --
7 personally, I've never been really big into drugs, so I don't
8 really understand it. So I don't think I have a stigma. I
9 think as long as you're not harming anybody else, that's your
10 own kind of thing.

11 MS. BLUTH: Okay. If someone is on drugs when they
12 commit a crime, do you think that that person should still be
13 held accountable for their actions, or do you think that they
14 should somewhat get a pass because they weren't acting the way
15 they would normally act? Where do you stand in that?

16 PROSPECTIVE JUROR NO. 074: I think they should
17 100 percent get what they deserve. I think that they should
18 be punished for the crime.

19 MS. BLUTH: Okay. You're -- you had a friend whose
20 mother was murdered?

21 PROSPECTIVE JUROR NO. 074: Yes, I did.

22 MS. BLUTH: Was that here in Las Vegas?

23 PROSPECTIVE JUROR NO. 074: No, that was in
24 California.

25 MS. BLUTH: What year was that? How long ago?

1 PROSPECTIVE JUROR NO. 074: That was in 2008.

2 MS. BLUTH: I'm sorry.

3 PROSPECTIVE JUROR NO. 074: No, it's okay.

4 MS. BLUTH: Was the individual who murdered her
5 caught?

6 PROSPECTIVE JUROR NO. 074: Yes, he was.

7 MS. BLUTH: And was he prosecuted?

8 PROSPECTIVE JUROR NO. 074: Yes.

9 MS. BLUTH: Did you go to court and partake in those
10 proceedings or watch those proceedings?

11 PROSPECTIVE JUROR NO. 074: I was there for it. I
12 didn't actually go into the courtroom. I was there just as
13 support, so I was just around during it.

14 MS. BLUTH: And then your father was also a victim
15 of a crime when he was -- does -- when he was around 37 years
16 old.

17 PROSPECTIVE JUROR NO. 074: Yes, he was 37.

18 MS. BLUTH: Was that in Nevada?

19 PROSPECTIVE JUROR NO. 074: No, that was also in
20 California.

21 MS. BLUTH: The individual or individuals
22 responsible for that crime, were they caught?

23 PROSPECTIVE JUROR NO. 074: Yes.

24 MS. BLUTH: And were they prosecuted?

25 PROSPECTIVE JUROR NO. 074: Yeah. I don't believe

1 that both parties got -- I feel like they both got off light,
2 but, yes, they both were.

3 MS. BLUTH: Okay. In regards to your feelings
4 about, they were let off light -- let me ask you first. Do
5 you feel like law enforcement treated those situations
6 appropriately being murder as well as the kidnapping?

7 PROSPECTIVE JUROR NO. 074: I mean, like -- are you
8 talking about like police, or --

9 MS. BLUTH: Yeah.

10 PROSPECTIVE JUROR NO. 074: -- or are you talking
11 about in court and everything?

12 MS. BLUTH: No, I'm talking about the police
13 response and how they worked the crime.

14 PROSPECTIVE JUROR NO. 074: For my dad's, I actually
15 wasn't born yet. He got kidnapped before I was born. It just
16 obviously altered the way I was raised. We were raised to be
17 a little bit more cautious and paranoid.

18 With my friend's mom, the only thing I didn't like
19 about law enforcement at that point was that it was released
20 to the news before she even found out that her mom was
21 murdered.

22 MS. BLUTH: And you said in the court system though
23 you felt that both of the individuals were -- the sentence was
24 too light?

25 PROSPECTIVE JUROR NO. 074: Yes.

1 MS. BLUTH: Do you -- who do you hold accountable
2 for that? The judge? The District Attorney's Office? The
3 defense attorneys?

4 PROSPECTIVE JUROR NO. 074: I'm not 100 percent sure.
5 You know, I don't really -- I haven't been in a courtroom. I
6 haven't seen all of the systems work so I'm not 100 percent
7 sure on who determines everything for it.

8 MS. BLUTH: Okay. Would you take that out on
9 anybody here even though it's a completely separate incident?
10 Do you feel like, well, I don't think that so and so got the
11 justice that they deserve so I'm going to make Mr. Belcher pay
12 for it?

13 PROSPECTIVE JUROR NO. 074: I don't think I would
14 take it out. The only thing that would be my concern -- I
15 would love to think I would be fair. Unfortunately, I believe
16 that if I think that everything is pointing toward someone, I
17 might be a little bit more extreme on my decision, if I really
18 believe it. I mean -- but I'm not 100 percent sure. I don't
19 know how I --

20 MS. BLUTH: Sure. In Nevada the State, Mr. Pesci
21 and I, we have to prove to the jurors beyond what's called a
22 reasonable doubt that the defendant committed those crimes.
23 And you as a juror, you have to hold us to that burden. If
24 you think we have failed and we haven't met our burden of
25 proving that to you beyond a reasonable doubt, it's your duty

1 to find the defendant not guilty. If you're selected as a
2 juror, can you hold Mr. Pesci and I to that burden?

3 PROSPECTIVE JUROR NO. 074: Yes.

4 MS. BLUTH: If you felt like we didn't do our job
5 and we didn't prove this case to you, what would your verdict
6 be?

7 PROSPECTIVE JUROR NO. 074: It would be -- if you
8 didn't prove that he was guilty, then it would be nongUILTY.

9 MS. BLUTH: When I was talking to you about the two
10 separate phrases -- so now I want to talk to you about the
11 second phase. So you've been selected as a juror and you and
12 your other jurors have found the defendant guilty of
13 first-degree murder, and now it's time to move into the
14 penalty phase. You saw the first -- excuse me. You saw the
15 four possible punishments, and those are set by law here in
16 Nevada. So if you're found guilty of first-degree murder
17 those are the only four punishments that can be applicable to
18 you.

19 So in the penalty phase, the State presents evidence
20 to you of why a certain punishment is appropriate and you'll
21 hear that evidence. And then the defense has opportunity
22 to -- what's called mitigation evidence or mitigating
23 circumstances of why the -- why another type of punishment is
24 appropriate. Would you be willing to listen to both sides?

25 PROSPECTIVE JUROR NO. 074: Yes.

1 MS. BLUTH: And, you know, we can't get into what
2 those circumstances are, so it's so hard to have these clear
3 answers, right, because you're putting the cart way before the
4 horse. But, you know, the State might present evidence to you
5 and you might think -- or no, this is the right punishment,
6 but then you may hear from the defense and you may think that
7 makes sense to me. Maybe -- maybe this is the right
8 punishment, but can you wait until you hear both sides and
9 then consider all four?

10 PROSPECTIVE JUROR NO. 074: I believe so.

11 MS. BLUTH: Okay. Thank you.

12 Your Honor, at this time the State would pass for
13 cause. Thanks so much.

14 THE COURT: Okay. Counsel.

15 MR. DRASKOVICH: Good morning, Ms. Mulhollan.

16 PROSPECTIVE JUROR NO. 074: Good morning. I need to
17 make a disclosure to you and everybody in this room. Today
18 I'm having actually a remarkably good day, but most days my
19 hands shake. I suffered a neck injury, C4-5, and 6. I have a
20 collapse disc and a severe stenosis. And as a result of that,
21 usually the nerve signals being sent down my arms are
22 interrupted, but it makes me shake, so today it's not. So in
23 the event and throughout the course of this trial, you see
24 that, please don't think it's that I'm nervous or something's
25 going wrong or things are going bad. It's just a condition

1 that -- all of us have conditions that we deal with in life.

2 I don't want to dwell on this issue too much because
3 we may never get there, but in reference to the penalty phase,
4 in the event that this jury were to come back with a guilty
5 finding, you are able to consider all four penalties?

6 PROSPECTIVE JUROR NO. 074: Yes.

7 MR. DRASKOVICH: Twenty to 50 years, to 20 to life,
8 to life without, or the death penalty?

9 PROSPECTIVE JUROR NO. 074: I believe so.

10 MR. DRASKOVICH: Okay. And you paused there for a
11 minute, and you know, Your Honor had said this process is
12 called voir dire. Voir dire is Latin for tell the truth.
13 There's no right or wrong answers. There's just honest
14 answers and maybe less than honest answers. So this is the
15 time we get to talk and just think our minds.

16 So you had paused for a minute there. What were you
17 thinking?

18 PROSPECTIVE JUROR NO. 074: I was thinking that if I
19 truly believed that somebody killed someone, 20 years to me
20 still is pretty minimal. So I don't know if I would be able
21 to consider all of them. I would like to say so, but I'm not
22 100 percent sure.

23 MR. DRASKOVICH: Okay. And this is a point where we
24 actually need certainty. So would you agree with me you
25 probably couldn't? And that actually conforms with what you

1 wrote in your questionnaire that you thought 20 years wouldn't
2 be enough.

3 PROSPECTIVE JUROR NO. 074: Depending on the
4 circumstance, I would say this -- if it was murder and we
5 found guilty and it was premeditated or whatever --

6 MR. DRASKOVICH: Or committed through the commission
7 of a felony, a robbery.

8 PROSPECTIVE JUROR NO. 074: Yes. I don't think I
9 would be able to consider that.

10 MR. DRASKOVICH: Okay. Thank you very much for your
11 honesty.

12 May we approach.

13 THE COURT: Yeah.

14 (Bench conference.)

15 MR. DRASKOVICH: We move for cause.

16 MS. BLUTH: Jacqueline Bluth on behalf of the State.
17 Here we are kind of back at that same issue about premeditated
18 murder. And I know that Mr. Draskovich tried to clarify by
19 saying, in the commission of robbery, but I don't think she
20 really understands what that means --

21 THE COURT: Right.

22 MS. BLUTH: -- so I just like the opportunity to
23 traverse her and then I'd submit it after I have the
24 opportunity.

25 THE COURT: Go ahead.

1 MR. DRASKOVICH: Okay. And I'll reserve the right
2 to retrace her.

3 THE COURT: Yes.

4 MS. BLUTH: Yeah.

5 THE COURT: Go ahead.

6 MS. BLUTH: Thanks.

7 (End of bench conference.)

8 MS. BLUTH: So sometimes we switch off.
9 Mr. Draskovich was just talking about first-degree murder, and
10 I think you or he used the term, premeditated. If you're
11 selected as a juror in this case, at the end of the case, you
12 find out the laws and the definition of murder. In Nevada
13 there's two different ways to get to first-degree murder. And
14 the first way, it's what all of us normally think of murder.
15 It's deliberate, it's wilfull, it's premeditated.

16 In Nevada there's also something called the Felony
17 Murder Rule, that says if you -- if you kill someone even by
18 accident in the commission of a felony, such as robbery,
19 burglary, you're automatically found guilty of first degree.

20 PROSPECTIVE JUROR NO. 074: Okay.

21 MS. BLUTH: So knowing that there's different ways
22 to get to first-degree murder, so you could find it
23 premeditated, wilfull, or you could also find it that a felony
24 was being committed and someone died. That's probably a
25 little bit different than what is in your mind as

1 premeditated, right?

2 PROSPECTIVE JUROR NO. 074: Yes.

3 MS. BLUTH: So knowing that and not knowing what
4 you're going to hear yet, so the cart's way before the horse,
5 because you have no idea about any of the facts, at this point
6 can you say, well, since I don't know anything and since I
7 haven't heard the facts, I can consider all four?

8 PROSPECTIVE JUROR NO. 074: At this point --

9 MS. BLUTH: Yeah, right now.

10 PROSPECTIVE JUROR NO. 074: Since we have not found
11 him guilty, yes, I can consider all four.

12 MS. BLUTH: Okay. Now let's move towards if you
13 found him guilty. Okay. You find him guilty of first-degree
14 murder whether it be premeditated or whether it be during the
15 commission of a felony, and that's why -- and I should have
16 been more clear. This is my fault. That's why I was talking
17 about, could you have an open mind to all four until you heard
18 the facts that the State wanted to present as well as what the
19 defense wanted to present.

20 And like aggravators that the State could present,
21 you know, like I was saying is factors why you should consider
22 or what the State wants. But the defense mitigation could be,
23 you know, how someone was treated as a child or something that
24 happened to them growing up or things like that. That's what
25 mitigation is. Could you wait until you heard all those

1 before making a final determination?

2 PROSPECTIVE JUROR NO. 074: Now in cases like this,
3 I'm totally new to the whole -- I have not ever served jury
4 duty or anything like that --

5 MS. BLUTH: Don't worry about it.

6 PROSPECTIVE JUROR NO. 074: -- do we know if they are
7 charged of any other felonies? Do we know what any of their
8 past has? Or is that something that's not disclosed because
9 you want it to be solely on this specific crime?

10 MS. BLUTH: So during the guilt phase, you know
11 about this case only. Okay. Does that answer your question?

12 PROSPECTIVE JUROR NO. 074: Yes.

13 MS. BLUTH: So during the guilt phase, you heard the
14 charges that the defendant is charged with. Those --
15 that's -- you will listen to testimony and you will hear
16 evidence regarding that crime.

17 PROSPECTIVE JUROR NO. 074: Okay. Based only off
18 that, I would like to believe I can do all four. If found
19 guilty, I still -- I'm still not sure that murder in 20 years
20 would still be a good --

21 MS. BLUTH: And what the law says is, you don't
22 have -- you have to be willing to consider all four. So
23 maybe -- maybe you say I really like life without, and maybe
24 the lady next to you says, well, I really like 20 to 50, but
25 if both of you are willing to consider all four and wait until

1 you get through the evidence to decide, then that's okay.
2 It's just if you're not willing to consider all four, then
3 you're not the right juror.

4 PROSPECTIVE JUROR NO. 074: Okay. Sorry. This is
5 really hard for me to figure -- to think about it because to
6 me I already have -- like I said, I already have something in
7 my head where the punishment doesn't fit the crime, so I would
8 like to believe I can. I'm not hundred percent sure that I
9 can.

10 MS. BLUTH: All right. Thank you so much.
11 Submit it, Your Honor.

12 THE COURT: All right. Ma'am, I do appreciate your
13 thought process in trying to be honest with us and think
14 through these issues. Given the answers in your questionnaire
15 and similar responses now given, I am going to have to excuse
16 you from jury services in this case. Go ahead and just pass
17 the mic to the next lady and you can go. Thanks very much for
18 your time, ma'am. I do appreciate it.

19 PROSPECTIVE JUROR NO. 074: Thank you.

20 THE COURT: This is Ms. Tang, correct?

21 PROSPECTIVE JUROR NO. 237: Yes.

22 THE COURT: Okay. Ms. Tang, Juror No. 237, Badge
23 No. 237. Let me see if I've got your questionnaire.

24 State, why don't you go ahead and ask any questions
25 you have while I find the questionnaire.

1 MR. PESCI: Thank you very much, Your Honor.

2 Ma'am, how are you?

3 PROSPECTIVE JUROR NO. 237: Good. Fine, thanks.

4 MR. PESCI: Good. If I understood correctly, you
5 work in a casino locally as a dealer?

6 PROSPECTIVE JUROR NO. 237: Yes.

7 MR. PESCI: What particular game?

8 PROSPECTIVE JUROR NO. 237: Twenty-one, and the
9 blackjack and the (inaudible).

10 MR. PESCI: Okay. And how long have you been doing
11 that particular job?

12 PROSPECTIVE JUROR NO. 237: I do about 29 years,
13 something.

14 MR. PESCI: Twenty-nine?

15 PROSPECTIVE JUROR NO. 237: Mm-hmm.

16 MR. PESCI: All right. Have you seen a lot of
17 different changes in Vegas since you first came?

18 PROSPECTIVE JUROR NO. 237: Yes.

19 MR. PESCI: Okay. We've asked some questions in
20 this questionnaire about different things about the criminal
21 justice system. Some of what we asked was if we got to a
22 penalty phase, that's only if the State of Nevada convinces
23 all 12 that the crime has occurred of first-degree murder,
24 there are four possible forms of punishment and you said that
25 you could consider all four forms of punishment; is that

1 correct.

2 PROSPECTIVE JUROR NO. 237: Yes.

3 MR. PESCI: And then there's kind of a follow-up
4 question right after that one that asks if you favor one of
5 the four, and it looks like you said that you would favor one
6 of the four because he killed somebody. Does that ring a
7 bell?

8 PROSPECTIVE JUROR NO. 237: Yeah.

9 MR. PESCI: Unfortunately, we're asking questions
10 about a questionnaire that you filled out on November the 9th
11 so it was a few weeks ago when you filled this out, so if you
12 don't remember, that's totally fine.

13 PROSPECTIVE JUROR NO. 237: I don't remember.

14 MR. PESCI: Okay. So --

15 THE COURT: Counsel, sorry. Can you come up for
16 just a sec.

17 (Bench conference.)

18 MR. PESCI: I'm trying to figure out how much she
19 can speak English.

20 THE COURT: That's what I was just going to say
21 is -- I was going to say before we get too deep on the
22 substance if we want to address the language issue.

23 MR. MODAFFERI: I had reached out to Mr. Pesci and I
24 thought that she, based on her answers, wasn't going to be
25 able to --

1 MR. PESCI: Right. I just didn't know if she --

2 THE COURT: Right. You're trying to explore.

3 MR. PESCI: -- 29 years, but I think her English is
4 not great.

5 THE COURT: Okay. I mean you -- I wasn't going to
6 excuse her yet, but I was kind of going to say let's try to
7 focus on the language issue before we spend a bunch of time.

8 MR. DRASKOVICH: Could Your Honor handle that
9 portion?

10 THE COURT: Oh, I'd be happy to, yes.

11 (End of bench conference.)

12 THE COURT: Ma'am, you noted in the questionnaire
13 that you have some difficulty with English; is that right?

14 PROSPECTIVE JUROR NO. 237: Yeah. I'm not very well
15 with the English side. Sorry about that.

16 THE COURT: That's okay. So we've been here a
17 little while now talking about the case. Have you understood
18 what we've been talking about here in the courtroom so far?

19 PROSPECTIVE JUROR NO. 237: Huh-uh.

20 THE COURT: No?

21 PROSPECTIVE JUROR NO. 237: Huh-hu.

22 THE COURT: Can you say, no.

23 PROSPECTIVE JUROR NO. 237: No.

24 THE COURT: Okay. I heard you say huh-uh, but it's
25 hard to transcribe that later and someone wouldn't understand

1 it.

2 PROSPECTIVE JUROR NO. 237: My [indiscernible] losing
3 voice. Yeah, I'm sick.

4 THE COURT: Okay. So are you having trouble
5 understanding the questions we're asking and what we're
6 talking about here?

7 PROSPECTIVE JUROR NO. 237: Yes.

8 THE COURT: Yes.

9 PROSPECTIVE JUROR NO. 237: Because I don't
10 understand.

11 THE COURT: Okay. Now, in the course of your job as
12 a dealer, do you need to speak English with the folks?

13 PROSPECTIVE JUROR NO. 237: I can speak the rules
14 are, the house rules.

15 THE COURT: So there are some limited things that
16 you've learned how to discuss in English?

17 PROSPECTIVE JUROR NO. 237: Yeah.

18 THE COURT: Yes.

19 PROSPECTIVE JUROR NO. 237: Yes.

20 THE COURT: Okay. Are you concerned about whether
21 you'll be able to understand the testimony in this case if
22 you're a juror?

23 PROSPECTIVE JUROR NO. 237: The law. I don't
24 understand the law. Sorry.

25 THE COURT: Okay. And if I were to read to you and

1 give you instructions on the law, would you be able to
2 understand those and follow them?

3 PROSPECTIVE JUROR NO. 237: Huh-uh.

4 THE COURT: No?

5 PROSPECTIVE JUROR NO. 237: No, I'm not very.

6 THE COURT: Okay. A lot of the questions in the
7 questionnaire you left blank, you didn't answer them. Is that
8 because you didn't understand?

9 PROSPECTIVE JUROR NO. 237: Yes.

10 THE COURT: Okay. Any objection?

11 MR. MODAFFERI: No, objection, Your Honor. Thank
12 you.

13 MR. PESCI: We'll submit, Judge.

14 THE COURT: All right. Ms. Tang, I'm goin to have
15 to excuse you from jury service. I thank you very much for
16 your time and your willingness to serve.

17 PROSPECTIVE JUROR NO. 237: Thank you so much. I'm
18 sorry about that.

19 THE COURT: It's okay. Thank you. Go ahead and
20 pass it to the next gentleman.

21 All right. So we have Mr. James now, correct?

22 PROSPECTIVE JUROR NO. 256: Correct.

23 THE COURT: All right. How are you doing today,
24 sir?

25 PROSPECTIVE JUROR NO. 256: Just fine. How are you?

1 THE COURT: Very good. One second. Okay. All
2 right. State, you got some questions for Mr. James?

3 MS. BLUTH: Yes, please. Thank you.

4 Good morning, Mr. James.

5 PROSPECTIVE JUROR NO. 256: Good morning.

6 MS. BLUTH: Let's talk about some of your answers,
7 please, in your questionnaire. So explain to me what it is
8 you do for work.

9 PROSPECTIVE JUROR NO. 256: I work as an audio video
10 warehouse in the LED department. We set up like -- or excuse
11 me. We prep and check large scale audio and video for
12 concerts and stuff like that.

13 MS. BLUTH: Oh, okay. Perfect. That makes sense to
14 me. Thank you. When you were at Collins College, what did
15 you receive your degree in?

16 PROSPECTIVE JUROR NO. 256: Bachelor's in film and
17 HD.

18 MS. BLUTH: Now, talk to me about your feelings in
19 regards to the criminal justice system. You said it needs
20 improvement.

21 PROSPECTIVE JUROR NO. 256: Yes.

22 MS. BLUTH: Where does it need improvement?

23 PROSPECTIVE JUROR NO. 256: Mostly what I've been --
24 what I've -- and I'm basing my opinions on what I've been
25 seeing on television lately.

1 MS. BLUTH: Okay.

2 PROSPECTIVE JUROR NO. 256: The -- I guess mostly
3 unfair treatment of African-Americans.

4 MS. BLUTH: Okay.

5 PROSPECTIVE JUROR NO. 256: I feel like -- and
6 personal experience also. I feel like, I guess, there could
7 be more -- there could be a bit more cordial between
8 African-Americans and police.

9 MS. BLUTH: Okay. And I want to say -- because I
10 can tell you are like being hesitant -- there's no wrong
11 answer so whatever --

12 PROSPECTIVE JUROR NO. 256: Yeah, I'm just trying to
13 think it out before I'm like blah, blah, you know.

14 MS. BLUTH: Yeah, no. I just don't want you to
15 think you have to be politically correct in any way, so you
16 are free to have whatever feelings you want.

17 PROSPECTIVE JUROR NO. 256: Thank you.

18 MS. BLUTH: You're welcome. So -- all right. So I
19 want to break it down into the things that you see in the
20 media and then you talked about your personal experiences. So
21 talk to me about some of the things that you see in the media
22 that are bothersome to you.

23 PROSPECTIVE JUROR NO. 256: Lately there's been a lot
24 of -- the -- the riots and protests because of unfair
25 treatment between -- from the police between them and

1 African-Americans. That just -- when it -- when I think of
2 that, I also start to remember how I've been, I guess -- I
3 guess jammed up by police out in Pahrump.

4 MS. BLUTH: Okay. Tell me about it.

5 PROSPECTIVE JUROR NO. 256: Mostly in middle school
6 and high school. Every time I will -- well, sometimes when I
7 would drive down to like a McDonalds and the Nugget I'd be
8 pulled over on 372, just for no reason really.

9 MS. BLUTH: Once the officers pulled you over, did
10 they tell you why they pulled you over, or did they just start
11 asking questions?

12 PROSPECTIVE JUROR NO. 256: They would -- they would
13 tell me that I would be like, you know, maybe 5 miles over the
14 speed limit, or there would be like a brake light out or
15 something, you know.

16 MS. BLUTH: Yeah, meniscal.

17 PROSPECTIVE JUROR NO. 256: And I would check it,
18 nothing's wrong, you know.

19 MS. BLUTH: You live in Las Vegas now?

20 PROSPECTIVE JUROR NO. 256: I do.

21 MS. BLUTH: Have you had some of those similar
22 experiences in Las Vegas?

23 PROSPECTIVE JUROR NO. 256: No. I try to keep to
24 myself.

25 MS. BLUTH: Okay. Have you had like a speeding

1 ticket or have you had any contact with the police? And I
2 don't mean that you've done anything wrong. I just mean like
3 where you could compare some of the people who work in the Las
4 Vegas Police Officer to Pahrump Officers?

5 PROSPECTIVE JUROR NO. 256: Actually, no.
6 Actually -- no. No -- excuse me. I have had I think two
7 tickets within the last -- within the last month, but one was
8 for parking in the garage over here. It was over my time.
9 And the other one was -- I didn't put my -- my new
10 registration sticker on my license plate and I got a ticket
11 for that, but that was from HP and each of those were cordial
12 and mostly because -- I feel like mostly because I didn't
13 really say much.

14 MS. BLUTH: All right. Do you think if you would
15 have said something that they would have treated you
16 differently?

17 PROSPECTIVE JUROR NO. 256: No, but I didn't want to
18 take the chance.

19 MS. BLUTH: Because of some of the feelings that
20 you've expressed, do you think if a police officer came in
21 here and testified, you would question them in your mind a
22 little more than you would another person?

23 PROSPECTIVE JUROR NO. 256: Yes.

24 MS. BLUTH: Why?

25 PROSPECTIVE JUROR NO. 256: I mean I question

1 everything, but with them and because of my experiences, I
2 think -- and of course, because of what I've been seeing on
3 TV, I -- I guess I just have stronger feelings toward, you
4 know, what they've been saying. And I guess -- yeah, pretty
5 much what they would testify with.

6 MS. BLUTH: Okay. I appreciate your honesty. Thank
7 you. So when -- let's say a police officer comes in and
8 they're -- you hear their testimony. Do you think you would
9 tend to give their credibility less weight because they're a
10 police officer?

11 PROSPECTIVE JUROR NO. 256: No.

12 MS. BLUTH: But you would --

13 PROSPECTIVE JUROR NO. 256: But I would definitely
14 think about it a little bit more.

15 MS. BLUTH: You would question them more -- question
16 it in your mind more?

17 PROSPECTIVE JUROR NO. 256: Yes.

18 MS. BLUTH: Okay. Are you -- do you not trust the
19 police?

20 PROSPECTIVE JUROR NO. 256: To an extent, yes. I
21 mean, who else am I going the call, you know, if somebody
22 steals the radio out of my car or whatever?

23 MS. BLUTH: Yeah.

24 PROSPECTIVE JUROR NO. 256: But I mean, I guess, if
25 I'm just out on the street by myself and I feel like -- I'm

1 just walking down the street the other day -- or excuse me,
2 the other night and the cop shines a light in my face and
3 asks me where I'm going. It's -- that's kind of scary to me.

4 MS. BLUTH: Yeah, and it should be.

5 PROSPECTIVE JUROR NO. 256: Have you ever seen the
6 pictures of lady justice? It's -- you know, you see like
7 little statutes, and --

8 PROSPECTIVE JUROR NO. 256: Yes.

9 MS. BLUTH: -- she has the -- you know, she's
10 holding -- she's supposed to be weighing and she's blind.
11 Lady justice is supposed to be blind, right? It doesn't
12 matter if you're black and I'm white or if someone's Asian or
13 Hispanic because justice should be blind. Do you believe in
14 that premise?

15 PROSPECTIVE JUROR NO. 256: I do.

16 MS. BLUTH: When you put that, I feel too many black
17 people are in jail for minor crimes, would it matter to you
18 what color a defendant is?

19 PROSPECTIVE JUROR NO. 256: As far as a minor crime?

20 MS. BLUTH: Well, when you say too -- when you say
21 specifically -- you're talking about your feelings about the
22 criminal justice system, it needs improvement, there's too
23 many black people in jail for minor crimes. So I guess what
24 I'm asking you, does it matter to you, with some of the things
25 that you've been voicing, whether the defendant is white or

1 black? Are you more hesitant if a defendant is black?

2 PROSPECTIVE JUROR NO. 256: No. No, but --

3 MS. BLUTH: I'm sorry. Go ahead.

4 PROSPECTIVE JUROR NO. 256: Oh, I'm sorry. But I
5 think in this case like this -- it's a little bit more
6 serious. You have to -- it's easy to look past that
7 especially when it's -- I guess someone's family that's been
8 affected by it. I mean, if a black guy is being, I guess,
9 tried because he stole somebody's car, I don't think -- I
10 don't think it's that serious to me, if these a -- if that
11 makes sense.

12 MS. BLUTH: Yes, it did. I just -- when you said
13 the part about too many black people in jail for minor crimes,
14 like we were discussing, you know, justice should be blind and
15 it shouldn't matter what color I am or you are or Mr. Belcher
16 is or anybody. It should just matter about the facts, and it
17 seems to me like you agree with that completely?

18 PROSPECTIVE JUROR NO. 256: Yes.

19 MS. BLUTH: When you were talking about -- you were
20 actually robbed at gunpoint --

21 PROSPECTIVE JUROR NO. 256: I was.

22 MS. BLUTH: -- in Tempe, Arizona. And did you call
23 the police, or did someone in the area call the police?

24 PROSPECTIVE JUROR NO. 256: I called the police.

25 MS. BLUTH: How did you feel that situation was

1 treated by law enforcement?

2 PROSPECTIVE JUROR NO. 256: I -- at first I didn't
3 think they took it very seriously. I probably waited an hour
4 until I called them and that's probably why. When they showed
5 up at my apartment, they took down a couple of questions and I
6 gave them the description. They asked me if there were any
7 injuries after I was -- after I was assaulted and there
8 weren't any visible ones. And the cop that I was talking to
9 kind of -- it felt like he didn't really care.

10 MS. BLUTH: Okay. Was anyone ever caught?

11 PROSPECTIVE JUROR NO. 256: I don't believe so.

12 MS. BLUTH: Did you ever see the individuals again
13 that robbed you?

14 PROSPECTIVE JUROR NO. 256: No.

15 MS. BLUTH: Are you frustrated with that experience?

16 PROSPECTIVE JUROR NO. 256: Not anymore.

17 MS. BLUTH: Anything about that experience or any of
18 the concerns you voiced would affect you from being fair and
19 impartial to either side?

20 PROSPECTIVE JUROR NO. 256: No.

21 MS. BLUTH: Do you want to serve as a juror?

22 PROSPECTIVE JUROR NO. 256: Not really.

23 MS. BLUTH: Okay. That's good. You're honest.
24 That's good. Is it the time or is it something more?

25 PROSPECTIVE JUROR NO. 256: It's completely

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1 work-related.

2 MS. BLUTH: Okay. When you talked about the four
3 crimes -- sorry, the four punishments, you talked about life
4 without the possibility of parole, you think that that would
5 be worse because you have like your entire life to sit there
6 and be a constant reminder that your crime doesn't pay --

7 PROSPECTIVE JUROR NO. 256: Correct.

8 MS. BLUTH: -- or that you -- like you'd have to
9 deal with remorse or something of that degree. Do you
10 remember writing that?

11 PROSPECTIVE JUROR NO. 256: Yes.

12 MS. BLUTH: Would you agree with me that that would
13 only be bad if you felt sorry for what you did or if you
14 really felt like you had to live with what you did?

15 PROSPECTIVE JUROR NO. 256: I think it would be -- it
16 definitely would be bad if you had to -- if you truly felt
17 sorry for what you did, but then you were just kind of left
18 there to think about it constantly. I think that would be
19 much worse.

20 MS. BLUTH: Your feelings about the death penalty
21 was that, it's harsh and useless. If you're dead you won't
22 learn anything --

23 PROSPECTIVE JUROR NO. 256: Correct.

24 MS. BLUTH: -- I prefer indenture servitude to your
25 victim.

1 PROSPECTIVE JUROR NO. 256: Correct.

2 MS. BLUTH: Does that mean that you wouldn't
3 consider the death penalty?

4 PROSPECTIVE JUROR NO. 256: No, I wouldn't.

5 MS. BLUTH: You would not consider death penalty?

6 PROSPECTIVE JUROR NO. 256: No.

7 MS. BLUTH: Is there a scenario in my head -- or in
8 your head that I could come up with that would make you change
9 your mind to that, or is that just something that you don't
10 believe in?

11 PROSPECTIVE JUROR NO. 256: That's something I don't
12 believe in.

13 MS. BLUTH: Okay. I appreciate your time and your
14 honesty. Thank you so much.

15 Your Honor, I have a motion.

16 THE COURT: Yeah, come on up.

17 (Bench conference.)

18 MS. BLUTH: I really like him.

19 THE COURT: I like him too. Not a good batting
20 average so far here today.

21 MR. MODAFFERI: Judge, he wrote something
22 differently in his --

23 THE COURT: In his -- he pretty much said in his
24 questionnaire that he wouldn't consider it. I was hoping that
25 he might have come around, but --

1 MS. BLUTH: Yeah. And that's why I tried this
2 because in the first part he said, I'd consider all four, but
3 then the very next one he said, I believe in the indenture
4 servitude and it's completely useless, and so --

5 THE COURT: Indenture servitude is an interesting
6 theory.

7 MS. BLUTH: Yeah, so anyways, I think at this
8 point --

9 MR. MODAFFERI: So his response to Question 32 was,
10 It's appropriate.

11 MS. BLUTH: I'm sorry. What?

12 THE COURT: That life in prison is appropriate.

13 MR. MODAFFERI: Oh, I'm sorry.

14 THE COURT: Got the glasses on now?

15 MR. MODAFFERI: It says here, The death penalty has
16 some sense to it, Question 30. May I ask a few questions,
17 Judge?

18 THE COURT: Yeah.

19 (End of bench conference.)

20 MR. MODAFFERI: Good morning.

21 PROSPECTIVE JUROR NO. 256: Good morning.

22 MR. MODAFFERI: Thank you for being here. I
23 appreciate your time. I wanted just to follow up on this
24 death penalty issue. First of all, I don't want you to think
25 that the defendant's guilty just because we are talking about

1 the death penalty. It's just in case the State has the
2 ability to prove the defendant guilty beyond a reasonable
3 doubt that you get to that phase.

4 But the jurors who sit on a case like this have to
5 be able to consider all forms of possible punishments to
6 qualify as jurors. And one of the punishments is a term of
7 years. One's life without parole, one's life with the
8 possibility of parole, and obviously the most severe is the
9 imposition of death penalty in the state by lethal injection.
10 You in no circumstance, if the defendant was convicted of
11 first degree murder could ever impose that?

12 PROSPECTIVE JUROR NO. 256: No.

13 MR. MODAFFERI: Good enough. Thank you.

14 THE COURT: Okay. Not a good start with this panel
15 but -- but -- I joke about that, but obviously what we need
16 are honest answers. And if folks need to be excused, we need
17 to know that. So please I'm not encouraging anybody to hide
18 anything. We need to know your true feelings and if that
19 means you get excused, so be it. That's part of the system.

20 Mr. James, I am going to have to excuse you based on
21 that issue, which you discussed in the questionnaire as well
22 as here in court today. Thanks so much for your time.

23 Counsel, come on up.

24 (Bench conference.)

25 THE COURT: So we're going to take a break until

1 1:00 o'clock. At 1:00 o'clock the original group of jurors
2 will be in their seats. We'll put the next three in order
3 from this group into the holes in that group and then go back
4 and talk to them. And then proceed on through the group.
5 We're not -- I don't -- I still think -- we're clearly not
6 going to be able to fit this entire group in the room with the
7 original group at 1:00 o'clock.

8 So I'll ask Anthony how many, whether it's ending up
9 that we keep 20 or 25 in the room from this group or however
10 many and we can always bring more up, if we need to.

11 MS. BLUTH: And then just fill in at the end of our
12 first group, right?

13 THE COURT: Right?

14 MS. BLUTH: So we'll put these first three in --

15 THE COURT: Right, in the holes.

16 MS. BLUTH: -- in the holes and then --

17 THE COURT: Right. So first they'll come in and sit
18 in the back. We'll call them up one by one to sit in the
19 particular seats and then keep the rest back there.

20 MS. BLUTH: Perfect.

21 MR. DRASKOVICH: And once we fill the seats, then
22 we'll pick up on this last row?

23 THE COURT: Right.

24 MR. DRASKOVICH: Okay.

25 MS. BLUTH: Okay.

1 MR. DRASKOVICH: All right.

2 MR. PESCI: Thank you, Judge.

3 THE COURT: I'm going to talk to them about their
4 duties when they leave the room.

5 MR. DRASKOVICH: Okay.

6 (End of bench conference.)

7 THE COURT: Folks, so we're going to go ahead and
8 take our lunch break until 1:00 o'clock at this point. And it
9 was already mentioned earlier that we do have another part of
10 the jury panel that we've been talking to the last couple of
11 days. They're going to be coming at 1:00 o'clock too.
12 Because we can't fit all of of you in the courtroom at once,
13 when we start this afternoon, we'll probably have the first
14 half or so of you up here and the rest of you, for a while at
15 least, downstairs waiting until we're ready to bring you up,
16 depending on how things go in the jury selection process. I'm
17 still hopeful that we're going to finish the jury selection
18 process today. I know never to make guarantees about things
19 but that's certainly our goal and our expectation.

20 Before I let you go to lunch, I need to talk to you
21 about some of the rules that apply to you about potential
22 jurors and ultimately that will apply to the folks that do sit
23 as jurors, in this case.

24 So the first thing is that the attorneys, parties,
25 witnesses, and everybody involved in the case are not allowed

1 to talk to you folks, okay, while your here as potential
2 jurors and you ultimately as jurors. It's probably obvious to
3 you that they can't go in the hall and discuss the case with
4 you, but they're going to avoid having any conversations with
5 you about any topic whether it's weather, the schedule,
6 someone shoes. Whatever may be the topic, they're going to
7 avoid talking to you to honor their obligations. And I'm
8 going to ask you also to avoid having any interactions outside
9 of the courtroom or even in the courtroom, not when we're
10 specifically addressing you with any of the attorneys,
11 parties, witnesses, or everybody involved with the case. You
12 shouldn't have any interactions with them. And if you see
13 them chatting out in the hallway, having a conversation,
14 please keep a little bit of distance so you're not going to be
15 overhearing their private conversations and they'll be aware
16 of that as well as we go through the process.

17 Now, you also need to know that as long as you are a
18 potential juror or involved in this case in any way until you
19 get dismissed from jury service for this case, you're not
20 allowed to talk with anyone or communicate with anyone about
21 the case. So when I say you can't talk about the case, it
22 means about the charges, about any of the people involved, the
23 defendant, parties, me as the judge, or even any of the
24 questions and answers that are given during the jury selection
25 process.

1 You can't communicate with anyone about any of that.
2 What you can tell -- you may need to check in with your boss,
3 your secretary, your wife or husband about what you're doing
4 or how it's going. You can tell them you are here for jury
5 selection for a criminal case; that if you are selected, the
6 case may take two to three weeks. Beyond that you're not to
7 get into anything further.

8 And when I say you can't talk or communicate with
9 anyone, that includes you can't talk to each other about
10 what's been going on here in the courtroom or about anything
11 related in the case. You can't talk to anyone else about
12 that, and that means you can't talk to anyone in person, by
13 phone, be Internet. You're not going to send any e-mails to
14 anybody. There's not to be any Facebook posts, tweets,
15 Instagrams, whatever other forms of communication you may
16 usually undertake. You're not to communicate in any way with
17 anybody about this case or anything having anything to do with
18 it other than that limited information about potentially a
19 juror in a criminal case.

20 It's also important that you not do any independent
21 research related to the case. You know, so often these days
22 because we carry our phones everywhere with us it's easy to
23 jump on and start Googling anything new that we hear about or
24 that anybody mentions. You're not allowed to do anything like
25 that as a juror. You're not allowed to do any independent

1 research. You're not allowed to conduct any experience on
2 your own to try to see how things work. That's simply not
3 allowed.

4 Ultimately the jurors will have to base on the
5 evidence presented here in the courtroom that everyone sees
6 and hears it at the same time and that is legally admissible
7 evidence. It's very very important that you comply with that
8 going forward.

9 And it's also important of course that you keep an
10 open mind as you go through the process. Ultimately the
11 jurors should keep an open mind until the very end of the case
12 when it's time to reach a verdict. So certainly at this
13 phase of the case you should not be forming any opinions about
14 the case and keeping an open mind as we go through the
15 process.

16 Okay. So now I'm going to read you the formal
17 admonitions, they're called, that I will be reading to the
18 jurors at each and every break during the proceedings. And
19 they're the legal rules under Nevada law that I'm required to
20 read to the jurors at each and every break that we take. And
21 that's to make sure that you understand these rules that apply
22 to you as jurors, which I've just been talking to you about.

23 So those of you who do end up on the jury during
24 this case will probably be able to read these admonitions to
25 me by the end of the case because you'll hear them at each and

1 every break that we take throughout the proceedings. And it's
2 not because I think you're not paying attention or not
3 listening, but they are considered so important that I am
4 required to read them each time we take a break.

5 So during this recess you are admonished not to talk
6 or converse among yourselves or with anyone else on any
7 subject connected with this trial or to read, watch or listen
8 to any report of or commentary on the trial or any person
9 connected with this trial by any medium of information
10 including without limitation newspapers, television, the
11 Internet or radio or to form or express any opinion on any
12 subject connected with this trial until the case is finally
13 submitted to you.

14 Have a good lunch and we'll see you back at about
15 one.

16 (Court recessed at 12:07 p.m. until 1:01 p.m.)

17 (Outside the presence of the prospective jury panel.)

18 THE COURT: All right. So the gentleman who arrived
19 late, Mr. Cumley, apparently came with a doctor's note
20 indicating that he is a patient and for medical reasons it is
21 inadvisable that this person serve as a juror and requesting
22 that he be excused. And, of course, because everyone is
23 scared to death of HIPAA, it says nothing about exactly what
24 the condition is.

25 MR. DRASKOVICH: Did you want to question him? I'm

1 willing to stipulate to have him removed in the interest of
2 time. I think we have plenty of people left.

3 MR. PESCI: He's 483?

4 THE COURT: No, Steven Cumley, 483. He was the
5 gentleman who showed up late and then we had to redo all the
6 introductions for him. Yeah, he's the one who now has the
7 doctor's note. Maybe he had a doctor's note earlier and I
8 just didn't know. I don't know. 483. So anyway, let me just
9 -- to be clear, I have a doctor's note dated today's date
10 regarding Steven Cumley from Dr. Philippe Lam, L-A-M, with
11 Healthcare Partners.

12 It says to whom it may concern, I am a provider
13 licensed to practice medicine in the State of Nevada. The
14 above-name individual is a patient of mine. For medical
15 reasons it is inadvisable that this person serve as a juror
16 and I request that you please excuse Mr. Steven Cumley from
17 jury duty. If you have any questions, please feel free to
18 call my office, sincerely, electronically signed.

19 MR. PESCI: The State has no objection.

20 MR. MODAFFERI: No objection, Judge.

21 THE COURT: Okay. So, Anthony, just tell him he's
22 excused as a result of the note.

23 We -- when we bring them in, we basically have as
24 many of that extra group of jurors that will fill the room
25 when they come in. They will fill every seat, and those who

1 are left will be downstairs. Initially, only the so-called
2 old people will be in their assigned seats when they come in
3 and the rest will be all in the back.

4 We will call up the first three in order from the
5 second group to fill the three open seats. We'll proceed to
6 question them and hopefully pass them for cause, and then
7 we'll continue on down the row with the folks who had been
8 there, filling any open seats as we go. And then after we pass
9 for those 32 seats, then we'll need to pass four more, as
10 well, to have the complete 36 that we need to end up with four
11 alternates.

12 MR. PESCI: Judge, if I could ask, in the three rows
13 in front of us here it's going from left to right. On the
14 fourth row it went from right to left.

15 THE COURT: Yes, it does.

16 MR. PESCI: The next row, will it continue with the
17 right to left, ascending?

18 THE COURT: I don't know. We've never don't it
19 before.

20 MR. PESCI: Okay. Well, we'll see.

21 MR. DRASKOVICH: To keep it consistent, let's do
22 that.

23 THE COURT: Right to left is fine. So we can do 30
24 -- so it'll be 33., 34, 35, 36 starting on the right.

25 MR. DRASKOVICH: Yes.

1 MR. PESCI: That's if he puts them in that way.

2 THE COURT: I don't think he's going to be putting
3 them in those seats when they come in. We're going to start
4 at the beginning of the second panel, plugging the holes, and
5 then just whoever is next in order after the 32 --

6 MR. PESCI: Okay.

7 THE COURT: --- we'll get to them.

8 MR. DRASKOVICH: And our last alternates will be the
9 last two here and the two in the back.

10 MR. PESCI: If we do that she [inaudible].

11 MR. DRASKOVICH: The alternates.

12 THE COURT: No, no, no.

13 MR. PESCI: Let's get there later.

14 MR. DRASKOVICH: I know what you're saying. It's
15 going to be the first 12 starting in this, and then the last
16 four will be the alternates.

17 THE COURT: The last eight jurors who -- the jurors
18 in the last eight seats that are passed for cause will be the
19 potential alternates, and you'll each get two alternate -- two
20 peremptorys to use, which will leave four alternates.

21 MR. DRASKOVICH: Got it.

22 MR. PESCI: Thank you.

23 MR. MODAFFERI: Thank you.

24 THE COURT: Okay. I'm glad we're all clear on the
25 math. All right. Did he go to get them? All right. Let's

1 go off until Anthony brings them in, I guess.

2 (Pause in the proceedings.)

3 (Inside the presence of the prospective jury panel.)

4 THE COURT: Go ahead and have seat, folks. Thank
5 you. All right.

6 So, Anthony, you're now getting the ones we can fit?

7 THE MARSHAL: Yeah.

8 THE COURT: Okay. All right. Thank you for
9 cooperating with the logistics of now sort of starting to put
10 the two groups of the potential jurors together. So for the
11 folks that were -- the new group from this morning, we're
12 going to need to pull a couple of you up to fill spots from
13 folks who were excused from the original group yesterday. So
14 let's do that first.

15 THE CLERK: Yes, Your Honor. Next in Seat No 20,
16 Badge No. 257, Athena Homuth. Seat 25, Badge No. 261, Nicolas
17 Duran. And Seat 27, Badge No. 262, William Gang.

18 THE COURT: Okay. So we are going to start
19 questioning Ms. Homuth. Is that how you say it?

20 PROSPECTIVE JUROR NO. 257: Yes.

21 THE COURT: Okay. How are you doing today?

22 PROSPECTIVE JUROR NO. 257: Good. Thank you.

23 THE COURT: Let me grab your questionnaire here.
24 Okay. All right. So the State is going to have some
25 questions for you, Ms. Homuth, all right. Just hold on.

1 MR. PESCI: Thank you very much, Your Honor.

2 Ma'am, how are you?

3 PROSPECTIVE JUROR NO. 257: Good, thank you.

4 MR. PESCI: Good. Thanks for holding the microphone
5 up. Sorry. So, ma'am, you unfortunately have been
6 burglarized, your home was burglarized?

7 PROSPECTIVE JUROR NO. 257: Yes, it was.

8 MR. PESCI: Okay. Was that here in Las Vegas?

9 PROSPECTIVE JUROR NO. 257: Henderson.

10 MR. PESCI: Okay. And did the police, the Henderson
11 Police Department respond?

12 PROSPECTIVE JUROR NO. 257: Yes, they did.

13 MR. PESCI: Okay. And do you know if someone was
14 caught?

15 PROSPECTIVE JUROR NO. 257: No, none that I've
16 heard. It's been awhile.

17 MR. PESCI: All right. So you never had to come to
18 court and testify?

19 PROSPECTIVE JUROR NO. 257: No.

20 MR. PESCI: Okay. Do you feel as if the police did
21 a good enough job? How do you feel about that whole
22 situation?

23 PROSPECTIVE JUROR NO. 257: I think they did the
24 best they could. We didn't really have any evidence of
25 anybody.

1 MR. PESCI: Was it just you came home and stuff was
2 gone?

3 PROSPECTIVE JUROR NO. 257: Yeah, pretty much. They
4 tried to get in and they got in.

5 MR. PESCI: Okay. In this particular case there is
6 a burglary charge of a home. The fact that you've been the
7 victim of a residential burglary, would that affect your
8 ability to be fair and impartial to either side in this case?

9 PROSPECTIVE JUROR NO. 257: I don't think so.

10 MR. PESCI: Okay. You realize that that's a
11 different situation, it's not the case that we have before us?

12 PROSPECTIVE JUROR NO. 257: Right.

13 MR. PESCI: And that you would only make your
14 decision based on the evidence and not your own personal
15 experience?

16 PROSPECTIVE JUROR NO. 257: Correct.

17 MR. PESCI: Okay. You've heard all the questions
18 going on about if we get to a penalty phase, and then the four
19 possible forms of punishment. And you said you could consider
20 all four?

21 PROSPECTIVE JUROR NO. 257: correct.

22 MR. PESCI: All right. And then I think you had a
23 really good answer on the sub question within that one was
24 would you automatically favor one of the punishments over the
25 other. You checked no and you said I would have to see the

1 facts; right? And that's really a great answer because until
2 you know the facts, it's hard to really say if you'd favor one
3 or the other.

4 PROSPECTIVE JUROR NO. 257: Correct.

5 MR. PESCI: Okay. But you're willing to consider
6 all of them?

7 PROSPECTIVE JUROR NO. 257: Of course.

8 MR. PESCI: Okay. And then do you have any reason
9 why you couldn't sit in judgment of another human being?

10 PROSPECTIVE JUROR NO. 257: No, I don't think so.

11 MR. PESCI: And then we talked about the concept
12 that you may hear information about drugs and drug sales and
13 things of that nature, people that were involved in that kind
14 of behavior. Do you have such a feeling about drugs that it
15 would make it such that you could not listen to the evidence?

16 PROSPECTIVE JUROR NO. 257: No, I don't believe so.

17 MR. PESCI: Do you think you could be fair to both
18 sides?

19 PROSPECTIVE JUROR NO. 257: Absolutely.

20 MR. PESCI: Thank you very much, ma'am.

21 We'll pass for cause, Your Honor.

22 THE COURT: Thank you.

23 Counsel.

24 MR. MODAFFERI: Thank you. Thank you, Your Honor.

25 Good afternoon.

1 PROSPECTIVE JUROR NO. 257: Hello.

2 MR. MODAFFERI: Thank you for your time. Thank you
3 for coming here today. One of the things I've been going
4 through with all the jurors from the last panel and with the
5 new panel are these two basic foundational precepts with the
6 American criminal justice system that a person is presumed
7 innocent, that it's not just a slogan, that you don't come
8 into court with an open mind, but you have to have a very
9 specific frame of mind.

10 And that specific frame of mind is that when you
11 look across the room at the person sitting in the defendant's
12 seat that you look him in the eye and you actually and
13 honestly believe truthfully that you're innocent, I don't know
14 anything about you, I don't know anything about your case, I
15 don't know anything about the facts, I don't -- I know what
16 the accusation is. The accusation is not evidence.

17 PROSPECTIVE JUROR NO. 257: Right.

18 MR. MODAFFERI: Do you believe that?

19 PROSPECTIVE JUROR NO. 257: Absolutely.

20 MR. MODAFFERI: You believe that that's the way it
21 should be?

22 PROSPECTIVE JUROR NO. 257: We all should be treated
23 -- if I'm sitting there, that should be me, same thing. Fair.

24 MR. MODAFFERI: If somebody was pointing the finger
25 at you saying you did something, you'd want the same right?

1 PROSPECTIVE JUROR NO. 257: Absolutely.

2 MR. MODAFFERI: Okay. In the course of the case
3 we're going to hear horrific testimony about a 15 year old
4 girl being shot and killed, murdered, for no -- for no reason.
5 Those are the facts, you know. That's why we told you in
6 advance what the facts were so that you could wrap your head
7 around it and so that people could ask you about your reaction
8 to it. And like I told the other people from the other panel,
9 there's no right or wrong answer about these questions. The
10 only wrong answer is one that's not true, one that doesn't
11 involve your honest and visceral and true reaction to what's
12 being asked of you.

13 So when you hear that a 15 year old girl was shot,
14 and you presume the defendant innocent, is that presumption
15 going to be somehow affected? And by affected, I mean
16 lessened, is it going to be degraded because of the crime
17 itself, the fact that it's a 15 year old girl?

18 PROSPECTIVE JUROR NO. 257: No, and I stated before,
19 I need to see the facts, we need to see the evidence, you
20 know, what -- what happened. You can't just accuse somebody
21 just by saying it. You've got to have facts.

22 MR. MODAFFERI: Part of what we are going to present
23 as a defense team is a questioning of how the process was
24 done. Would you take offense with us questioning the way a
25 detective or a police officer or a crime scene analyst did

1 their job?

2 PROSPECTIVE JUROR NO. 257: No, I think everybody
3 should -- should be questioned and asked if everything was
4 done properly.

5 MR. MODAFFERI: You realize that because we might
6 interrogate someone on those points we mean no disrespect to
7 law enforcement, the people that are empowered to -- to
8 protect us. But in this case there's going to be an honest
9 and direct, blunt question about whether they did their job
10 correctly. And I don't want a juror to look at me and say,
11 you know what, you're being disrespectful to our police force
12 and I'm going to take that out on your client.

13 PROSPECTIVE JUROR NO. 257: Uh-huh.

14 MR. MODAFFERI: You wouldn't do that?

15 PROSPECTIVE JUROR NO. 257: No.

16 MR. MODAFFERI: Okay. A second component of the
17 American criminal justice system is the concept that the State
18 always maintains the burden. The word burden means it's their
19 job. You know, they have to prove to you. We don't have to
20 do anything. We plan on presenting testimony, expert
21 testimony, our investigator's testimony, our investigation.

22 And what we would ask is, first of all, that you
23 realize that we don't have to present anything. And even if
24 we sat still with our mouths shut, it would still be
25 incumbent. It would still be their burden. I don't know

1 another word. It would still be their job to prove beyond a
2 reasonable doubt each and every element of each and every
3 crime before you found the defendant guilty. Would you keep
4 them to that burden?

5 PROSPECTIVE JUROR NO. 257: Absolutely.

6 MR. MODAFFERI: And if -- considering the nature of
7 the crime, that somebody was killed, would you be inclined if
8 they were not able to get to that height, to that proof of
9 beyond a reasonable doubt, not mere suspicion, not
10 probabilities, but proof beyond a reasonable doubt. If they
11 were not able to convince you that the facts proved beyond a
12 reasonable doubt that he committed murder, would you fill in
13 the gray areas? Would you fill in the blanks for them?

14 PROSPECTIVE JUROR NO. 257: No. No.

15 MR. MODAFFERI: I mean, a lot of people might think
16 to myself, well, you know, maybe they just couldn't find it
17 and something really bad happened here, all right, let's lower
18 the bar a bit. You wouldn't do that/

19 PROSPECTIVE JUROR NO. 257: No, you have to deal
20 with what's presented to you and then make a decision off
21 that.

22 MR. MODAFFERI: I truly -- I truly appreciate your
23 honest responses to these. It's important. Thank you.

24 I pass for cause, Your Honor. Thank you.

25 THE COURT: Thank you very much.

1 Okay. Mr. Duran, how are you?

2 PROSPECTIVE JUROR NO. 261: All right.

3 THE COURT: So you're an architect over at Klai
4 Juba?

5 PROSPECTIVE JUROR NO. 261: Correct. Intern
6 architect.

7 THE COURT: What's that?

8 PROSPECTIVE JUROR NO. 261: Intern architect. Not a
9 licensed architect.

10 THE COURT: Intern. Got it. Okay. I didn't want
11 to misspeak for you there. All right. Okay.

12 All right. State, you have some questions for Mr.
13 Duran?

14 MR. PESCI: Yes. Thank you very much.

15 Sir, tell me about your cousin with NYPD.

16 PROSPECTIVE JUROR NO. 261: Well, my cousin, Dennis,
17 he worked at NYPD for several years, I think over 20 in New
18 York City. He did -- I didn't know too much about his job
19 during the time what he did, but he retired several years ago.
20 Unfortunately, he passed a few months ago. He was -- at the
21 time he was pretty much retired from that duty and he was just
22 doing body guard duty.

23 MR. PESCI: Did you talk to him much about his job
24 when he was a police officer?

25 PROSPECTIVE JUROR NO. 261: Oh, yes. We talked

1 about it all the time because he had some interesting cases
2 and he was body guard to some famous people.

3 MR. PESCI: Okay. The fact that you had someone
4 that was close to you that was a police officer, would that
5 affect your ability to be fair and impartial when we call
6 police officers to the stand?

7 PROSPECTIVE JUROR NO. 261: No.

8 MR. PESCI: Could you assess their credibility based
9 on the facts and the circumstances of the evidence?

10 PROSPECTIVE JUROR NO. 261: Yes.

11 MR. PESCI: Okay. Assuming we get to a phase of
12 punishment, assuming that there's been a verdict of first
13 degree murder, the punishments that are available, those four
14 that are listed, and you said you could consider all of them;
15 is that correct?

16 PROSPECTIVE JUROR NO. 261: I could, but I think the
17 one thing I said was the -- the death penalty one where I
18 signed -- mentioned that is one that I would be a little more
19 hesitant on.

20 MR. PESCI: Right. I was going to try to follow up.
21 It seems, if I understood this correctly, that you really lean
22 towards life without the possibility of parole?

23 PROSPECTIVE JUROR NO. 261: Yes.

24 MR. PESCI: All right. And -- and you gave some
25 explanations about that specifically that even if that person

1 showed no remorse, you would probably want them to stay in
2 jail for their life to reflect on it?

3 PROSPECTIVE JUROR NO. 261: Correct.

4 MR. PESCI: Okay. And then if someone were to
5 actually reflect, they could use that time to do that. Are
6 you open to the concept that some people might not actually
7 reflect or show remorse?

8 PROSPECTIVE JUROR NO. 261: Yes.

9 MR. PESCI: All right. Would that affect whether
10 you thought maybe that the death penalty would be appropriate
11 because if I'm understanding you correctly, you're kind of
12 leaning away from that.

13 PROSPECTIVE JUROR NO. 261: Correct. I am leaning
14 away from it.

15 MR. PESCI: Right. So if you thought that the
16 person did not have remorse, do you think that that would
17 affect you?

18 PROSPECTIVE JUROR NO. 261: To be honest, no. I
19 still think that it would take something major to make me want
20 to end someone's life.

21 MR. PESCI: And that's totally fine. And that's --
22 everybody has a right to their opinions about these, and we're
23 just trying to ascertain based on that, and this -- it seems
24 nitpicky and I apologize, but I kind of have to figure it out.
25 Is death even really an option for you?

1 PROSPECTIVE JUROR NO. 261: Honestly, probably not.

2 MR. PESCI: Okay. And we have to just nail it down
3 to yes or no.

4 PROSPECTIVE JUROR NO. 261: No

5 MR. PESCI: I apologize.

6 PROSPECTIVE JUROR NO. 261: Then no.

7 MR. PESCI: Okay. So you're saying that you could
8 not consider the death penalty as a possible form of
9 punishment?

10 PROSPECTIVE JUROR NO. 261: No, I couldn't.

11 MR. PESCI: And what is that you feel that way?

12 PROSPECTIVE JUROR NO. 261: It's not in terms of
13 like a morality thing or like the sanctity of life. It's more
14 of what I said, I think if someone did something that heinous,
15 I see no point in just ending their life and then it's over.
16 That person has -- like what does that accomplish? I would
17 much rather, if something happened to someone in my life, I
18 would much rather see that person have to go through their
19 life having to have that in the back of their mind.

20 MR. PESCI: Okay. I appreciate that. And that's
21 actually where I was going at the beginning of your response,
22 whether it may be religious or moral, it's just -- I'd say
23 maybe intellectually that's what you feel would be more
24 appropriate?

25 PROSPECTIVE JUROR NO. 261: Yes.

1 MR. PESCI: Okay.

2 THE COURT: And so I just want to be clear. No
3 matter what the evidence is, no matter what may be presented
4 to you, there would be no circumstance under which you could
5 ever vote for death?

6 PROSPECTIVE JUROR NO. 261: I do not think so, no.

7 THE COURT: And it can be irritating to people that
8 lawyers are nitpicky about language, but I need to be nitpicky
9 about language.

10 PROSPECTIVE JUROR NO. 261: No.

11 THE COURT: Okay. So it's definitive for you, no
12 matter whatever happens, it's just off the table, not a
13 consideration?

14 PROSPECTIVE JUROR NO. 261: Correct.

15 MR. DRASKOVICH: We'll submit, Judge.

16 THE COURT: Okay.

17 MR. PESCI: Thank you very much.

18 THE COURT: I'm going to have to excuse you, Mr.
19 Duran. Thank you.

20 THE CLERK: In Seat 25, Badge No. 292, Diana
21 Letwinch.

22 THE COURT: Ma'am, it's Letwinch?

23 PROSPECTIVE JUROR NO. 292: Yes, ma'am.

24 THE COURT: How are you doing today?

25 PROSPECTIVE JUROR NO. 292: Fine. Thank you.

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1 THE COURT: You noted in the questionnaire, ma'am,
2 that you care for three children.

3 PROSPECTIVE JUROR NO. 292: Yes, ma'am.

4 THE COURT: And how old are the children?

5 PROSPECTIVE JUROR NO. 292: They're all girls and
6 there's twin 14 year olds and an 11 year old. They're my
7 grandchildren.

8 THE COURT: Okay. So two 14 years olds and an 11
9 year old?

10 PROSPECTIVE JUROR NO. 292: Yes, ma'am.

11 THE COURT: And so you're retired at present?

12 PROSPECTIVE JUROR NO. 292: Yes, ma'am.

13 THE COURT: So you're usually -- are you usually at
14 home during the day?

15 PROSPECTIVE JUROR NO. 292: Yes.

16 THE COURT: Do the children --

17 PROSPECTIVE JUROR NO. 292: I have a small part-time
18 job. It's just during the mornings three days a week.

19 THE COURT: Okay. So while the children are at --
20 or let me say it this way. Do the children come home to the
21 house on their own after school?

22 PROSPECTIVE JUROR NO. 292: Yes, they do.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 292: Or they go with their
25 friends.

1 THE COURT: Sure.

2 PROSPECTIVE JUROR NO. 292: But I always know where
3 they are.

4 THE COURT: Of course. Right. So today, for
5 example, it's only 1:30 now, but assuming you're still here
6 when school lets out, so they would be going -- are they going
7 home to the house or did you make some different arrangements?

8 PROSPECTIVE JUROR NO. 292: They have other
9 arrangements today.

10 THE COURT: They have someone watching them?

11 PROSPECTIVE JUROR NO. 292: Yes.

12 THE COURT: And if you had to be here during the
13 trial, would you be able to make appropriate arrangements so
14 you wouldn't be distracted by concern about them?

15 PROSPECTIVE JUROR NO. 292: Probably, yes.

16 THE COURT: Okay. All right. Thank you, ma'am.
17 All right. I think State might have a few more questions for
18 you.

19 MS. BLUTH: Thank you.

20 Good afternoon.

21 PROSPECTIVE JUROR NO. 292: Hi.

22 MS. BLUTH: Sorry. It's hard for me to keep you
23 guys straight. Were you the first group or the second group?

24 PROSPECTIVE JUROR NO. 292: Second.

25 MS. BLUTH: Okay.

1 PROSPECTIVE JUROR NO. 292: Right?

2 THE COURT: Yes.

3 MS. BLUTH: Yes, okay.

4 PROSPECTIVE JUROR NO. 292: We're the new group, not
5 the old group.

6 THE COURT: Yes. Experienced. Experienced group.

7 MS. BLUTH: So welcome. We've been having a great
8 time. Guys? Yay. There we go. Nice. So, first of all,
9 what was it that you did in the Air Force?

10 PROSPECTIVE JUROR NO. 292: I was -- I worked in an
11 area called operations plans. I typed top secret documents.

12 MS. BLUTH: Okay. And how long were you in the Air
13 Force?

14 PROSPECTIVE JUROR NO. 292: Four years.

15 MS. BLUTH: Thank you for your service. In your
16 thoughts about the criminal justice system, you said that you
17 think it needs some restructuring.

18 PROSPECTIVE JUROR NO. 292: Yes.

19 MS. BLUTH: Can you explain to me what you meant by
20 that?

21 PROSPECTIVE JUROR NO. 292: Well, I just think that
22 a lot of it is old fashioned and it needs to be updated. And
23 I have a lot of questions about why things are done the way
24 they're done. Like, for instance, I don't know if I'm allowed
25 to say this or not, but this particular case started in 2010,

1 and here it is 2016. And I'm wondering why it has taken so
2 long --

3 MS. BLUTH: Sure.

4 PROSPECTIVE JUROR NO. 292: -- to come to this
5 point.

6 MS. BLUTH: Yeah, I know. You're not --

7 PROSPECTIVE JUROR NO. 292: For everyone concerned.

8 MS. BLUTH: Yeah. You're not the only one who has
9 voiced that. There were some people yesterday or the day
10 before. And I don't think anyone has any good answers for
11 you.

12 PROSPECTIVE JUROR NO. 292: Right.

13 MS. BLUTH: But would you take that out on either
14 side?

15 PROSPECTIVE JUROR NO. 292: No.

16 MS. BLUTH: You know, would you be frustrated with
17 one side?

18 PROSPECTIVE JUROR NO. 292: No. I'm probably just
19 frustrated with the whole system. No. I think it's probably
20 just the way things are. There's a lot of people, and
21 unfortunately there's a lot of crime. And, you know, that's
22 just the way it is.

23 MS. BLUTH: Yeah.

24 PROSPECTIVE JUROR NO. 292: But I do think it needs
25 to be reworked somehow.

1 MS. BLUTH: And when you say it needs to be updated,
2 what -- what -- like give me an example of that.

3 PROSPECTIVE JUROR NO. 292: Gosh. I don't know.
4 Like just maybe a quicker way of getting through the process
5 and, you know, if they commit a crime, a severe crime, maybe
6 it can go a little bit faster than the other crimes. Because
7 we've got, you know, a lot of people that are waiting for
8 closure, you know, families and the suspect and the --

9 MS. BLUTH: Right.

10 PROSPECTIVE JUROR NO. 292: -- the family of the
11 victim, you know. So I think that they shouldn't have to wait
12 so long.

13 MS. BLUTH: Besides the timing aspect of it, is
14 there -- is there other avenues that you also have issue with,
15 or is that your main issue?

16 PROSPECTIVE JUROR NO. 292: That's the main issue, I
17 think.

18 MS. BLUTH: What are your thoughts about local law
19 enforcement?

20 PROSPECTIVE JUROR NO. 292: Well, I know that there
21 have been a lot of issues lately with supposed abuse by the
22 police force. My husband is an ex-officer, so I have a lot of
23 respect for law enforcement. I think that they do a hard,
24 tough job, and they are not perfect and they all make
25 mistakes. But I think for the most part they do the best they

1 can, and I think that -- I think that, you know, without them
2 we would be in a lot of trouble.

3 MS. BLUTH: Okay. You had a family member that was
4 the victim of a crime of domestic violence.

5 PROSPECTIVE JUROR NO. 292: Yes, my daughter.

6 MS. BLUTH: Yes. And was that -- were the
7 authorities called?

8 PROSPECTIVE JUROR NO. 292: Oh, yes.

9 MS. BLUTH: Okay. Was it multiple times or just one
10 time?

11 PROSPECTIVE JUROR NO. 292: Multiple times.

12 MS. BLUTH: Did you feel like the police handled
13 those situations in the way that they should have?

14 PROSPECTIVE JUROR NO. 292: Yes.

15 MS. BLUTH: Were there court processes because of
16 those cases, as well?

17 PROSPECTIVE JUROR NO. 292: Yes, there was. He was
18 jailed and they have since divorced. And I think it went like
19 it should have gone.

20 MS. BLUTH: Okay. And then your -- you also had a
21 family member that was arrested or convicted for petty theft
22 and possession of illegal drugs?

23 PROSPECTIVE JUROR NO. 292: Again, that's my
24 daughter.

25 MS. BLUTH: And --

1 PROSPECTIVE JUROR NO. 292: That's why I have the
2 three grandchildren.

3 MS. BLUTH: Well, that's good. Do you feel like
4 those situations were handled properly, like your daughter was
5 treated fair?

6 PROSPECTIVE JUROR NO. 292: Yes.

7 MS. BLUTH: Was your daughter prosecuted by the
8 District Attorney's office?

9 PROSPECTIVE JUROR NO. 292: I think so. I think she
10 was. She's been through a lot, so I think, you know, as I
11 recall she was.

12 MS. BLUTH: Knowing that we represent the State of
13 Nevada through the District Attorney's office, would you hold
14 that against us?

15 PROSPECTIVE JUROR NO. 292: Not -- absolutely not.
16 No, I would not because she deserved what she got.

17 MS. BLUTH: Okay. You said that in that type of
18 situation where you are chosen as a juror and then 11 jurors
19 think one way and you think the other, you said that you would
20 stand firm in your convictions.

21 PROSPECTIVE JUROR NO. 292: I'm pretty stubborn.

22 MS. BLUTH: Yeah?

23 PROSPECTIVE JUROR NO. 292: Uh-huh.

24 MS. BLUTH: But would you -- would you be willing to
25 listen to others?

1 PROSPECTIVE JUROR NO. 292: Oh, yeah. Absolutely.

2 MS. BLUTH: If they pointed out something that you
3 thought that -- excuse me. If they pointed out something that
4 you missed, would you engage in conversation --

5 PROSPECTIVE JUROR NO. 292: Yes, I would.

6 MS. BLUTH: -- and discuss it?

7 PROSPECTIVE JUROR NO. 292: Uh-huh.

8 MS. BLUTH: You read the -- the four punishments.
9 And did you hear earlier when I was talking about the two
10 different phases of -- of trial, how there's a guilt phase and
11 a penalty phase?

12 PROSPECTIVE JUROR NO. 292: Right. Uh-huh.

13 MS. BLUTH: And do you understand it and agree that
14 during the guilt phase your mind can just be about whether or
15 not the defendant is guilty?

16 PROSPECTIVE JUROR NO. 292: Correct. Yes, I
17 understand.

18 MS. BLUTH: And you could put the penalties aside?

19 PROSPECTIVE JUROR NO. 292: Right.

20 MS. BLUTH: Okay. You think that -- you are in
21 favor of the death penalty for premeditated murder.

22 PROSPECTIVE JUROR NO. 292: Yes.

23 MS. BLUTH: And you think that it's applied or
24 sought randomly.

25 PROSPECTIVE JUROR NO. 292: I did? I did say that?

1 MS. BLUTH: Yeah. It says how often do you feel
2 that the death penalty is sought, and you said randomly.
3 Sometimes defendant should get death penalty, but gets life.

4 PROSPECTIVE JUROR NO. 292: Yeah. Like I'm -- I'm a
5 real big fan of the crime shows on TV at night, you know. I
6 watch all these things. But I just think that sometimes it
7 seems like they should get the death penalty when they just
8 get life. So I was a little bit confused about --

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NO. 292: -- you know, that. But,
11 you know, I am not in those juries so I don't know, you know,
12 the facts, so --

13 MS. BLUTH: Sure. The crime shows that you watch,
14 are those like the Hollywood type like CSI, NCIS, or are they
15 like the Forensic Files, First 48?

16 PROSPECTIVE JUROR NO. 292: Forensic Files and Dr.
17 Joe -- or Sergeant Joe Kenda and those kind of things.

18 MS. BLUTH: Those one are more -- those are based on
19 reality, though, aren't they?

20 PROSPECTIVE JUROR NO. 292: Reality. Yeah, I like
21 more of the reality rather than the fantasy things.

22 MS. BLUTH: Okay. And do you see a difference in
23 what CSI shows that crime analysts can do and then what like
24 the First 48 shows in reality what you can do?

25 PROSPECTIVE JUROR NO. 292: Right. A little bit.

1 They're more true to life in the reality shows. You know, it
2 doesn't always end in a happy -- a happy scenario like the --
3 like the fake ones do.

4 MS. BLUTH: If you were selected as a juror, could
5 you consider all four of the punishments?

6 PROSPECTIVE JUROR NO. 292: Yes.

7 MS. BLUTH: Now, you said that you think if someone
8 deliberately takes a life, they should get the death penalty.

9 PROSPECTIVE JUROR NO. 292: Uh-huh.

10 MS. BLUTH: Life is too hard on a defendant, on the
11 victim's family, and society in general.

12 PROSPECTIVE JUROR NO. 292: Right.

13 MS. BLUTH: When you read this questionnaire, I
14 don't know if you had, and maybe you did, a complete
15 understanding of stuff that evidence that can be presented in
16 a penalty hearing. And we've been talking about the
17 aggravators and the mitigators, and the aggravators being the
18 State presents to you things why that -- why the death penalty
19 is appropriate, and then the defense would have the
20 opportunity to present mitigators.

21 PROSPECTIVE JUROR NO. 292: Okay.

22 MS. BLUTH: And I'm not talking about specifically
23 Mr. Belcher, but maybe something that happened as a child or
24 an upbringing or an accident, some things like that in regards
25 to mitigation.

1 PROSPECTIVE JUROR NO. 292: Right.

2 MS. BLUTH: Though you favor the death penalty,
3 would you be willing to consider all four while you're
4 thinking about the aggravators and the mitigators?

5 PROSPECTIVE JUROR NO. 292: Yes.

6 MS. BLUTH: Is that something you can do?

7 PROSPECTIVE JUROR NO. 292: Yes, because that would
8 be adding more facts, you know, to -- to my thinking.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NO. 292: And more information to
11 my decision.

12 MS. BLUTH: Okay. So while you favor one over the
13 other --

14 PROSPECTIVE JUROR NO. 292: Right.

15 MS. BLUTH: -- you're open to listening about all
16 four.

17 PROSPECTIVE JUROR NO. 292: Right.

18 MS. BLUTH: Or not listening to all four, but
19 considering all four.

20 PROSPECTIVE JUROR NO. 292: Considering it.
21 correct.

22 MS. BLUTH: Thank you so much.

23 Pass for cause, Your Honor.

24 THE COURT: Thank you.

25 MR. DRASKOVICH: Thank you.

1 Good afternoon, Ms. Letwinch. How are you?

2 PROSPECTIVE JUROR NO. 292: Hi. Fine, thank you.

3 MR. DRASKOVICH: I'm not going to ask you questions
4 about the penalty phase because --

5 PROSPECTIVE JUROR NO. 292: Oh, good.

6 MR. DRASKOVICH: -- would submit to you there's a
7 real likelihood we won't even get there in this case, okay.

8 PROSPECTIVE JUROR NO. 292: Okay.

9 MR. DRASKOVICH: You would agree with me that police
10 officers, just like human beings, all human beings can make
11 mistakes?

12 PROSPECTIVE JUROR NO. 292: Right.

13 MR. DRASKOVICH: Rush to judgment?

14 PROSPECTIVE JUROR NO. 292: Right.

15 MR. DRASKOVICH: Are you familiar with the term
16 confirmation bias?

17 PROSPECTIVE JUROR NO. 292: No.

18 MR. DRASKOVICH: Where someone makes up their mind
19 and then disregards all other possibilities because they've
20 already reached a conclusion?

21 PROSPECTIVE JUROR NO. 292: I'm familiar with that
22 part. I've never heard it called that specific term.

23 MR. DRASKOVICH: Okay. That's what psychologists
24 refer to it. We as human beings tend to do this sometimes,
25 would you agree?

1 PROSPECTIVE JUROR NO. 292: Yes.

2 MR. DRASKOVICH: Would you agree to keep an open
3 mind throughout the entirety of the trial in the event that
4 you are on this jury?

5 PROSPECTIVE JUROR NO. 292: I think so, yes.

6 MR. DRASKOVICH: You've heard that the allegations
7 include the senseless killing of a 15 year old innocent child.
8 And you're aware of the burden that's placed upon the State,
9 they must prove each and every element of every offense beyond
10 a reasonable doubt?

11 PROSPECTIVE JUROR NO. 292: Right.

12 THE RECORDER: Mr. Draskovich, you're out of
13 hearing.

14 MR. DRASKOVICH: Am I too far away from my
15 microphone?

16 THE RECORDER: Yeah. Thank you.

17 MR. DRASKOVICH: Thank you.

18 Regardless of the innocence and the tragedy of this
19 15 year old being killed, will you hold the State to their
20 burden?

21 PROSPECTIVE JUROR NO. 292: Yes.

22 MR. DRASKOVICH: If they don't prove that this man
23 committed this crime, would you have a problem returning a
24 verdict of not guilty?

25 PROSPECTIVE JUROR NO. 292: I don't think so, no, as

1 long as they could really prove it.

2 MR. DRASKOVICH: What's your opinions on science?

3 PROSPECTIVE JUROR NO. 292: I'm sorry?

4 MR. DRASKOVICH: On science.

5 PROSPECTIVE JUROR NO. 292: Science?

6 MR. DRASKOVICH: Yes.

7 PROSPECTIVE JUROR NO. 292: I'm a retired registered
8 nurse, so I have a great respect for science.

9 MR. DRASKOVICH: Thank you.

10 I'll pass for cause.

11 THE COURT: Thank you.

12 Let's go to Mr. Gang over there. Sorry. It's Mr.
13 Gang, No. 262. How are you doing today?

14 PROSPECTIVE JUROR NO. 262: Good. How are you?

15 THE COURT: Good. All right. So, Mr. Gang, before
16 retiring you were a public information officer for the Nevada
17 Supreme Court; correct?

18 PROSPECTIVE JUROR NO. 262: Correct. For 14 years.

19 THE COURT: Okay. And before that did you work for
20 the District Court?

21 PROSPECTIVE JUROR NO. 262: No, I worked -- before
22 that I worked for the Las Vegas Sun for 12 years.

23 THE COURT: That's when you were a reporter?

24 PROSPECTIVE JUROR NO. 262: Yes.

25 THE COURT: Okay. Got it. So as a result of those

1 14 years of working as part of the legal system, would that
2 affect your ability to be fair and impartial in this case?

3 PROSPECTIVE JUROR NO. 262: I don't see why.

4 THE COURT: Okay. And just to be clear, you don't
5 have any inside knowledge that relates to this case in any
6 way?

7 PROSPECTIVE JUROR NO. 262: No.

8 THE COURT: Okay.

9 Okay. All right. State.

10 MS. BLUTH: Thank you.

11 So you have kind of an interesting perspective
12 probably more than anyone really because you've worked not in
13 the criminal justice system necessarily, but a good part of
14 your career in both with the Sun and then with the Supreme
15 Court death with criminal cases.

16 PROSPECTIVE JUROR NO. 262: Correct.

17 MS. BLUTH: And so do you -- what do you think that
18 either adds or takes or takes away from you being a juror?

19 PROSPECTIVE JUROR NO. 262: I don't think it takes
20 anything away from me being a juror. I've -- I'm familiar
21 with the system. I've sat through numerous trials, more than
22 most attorneys, I suspect.

23 MS. BLUTH: Uh-huh.

24 PROSPECTIVE JUROR NO. 262: And I've seen it from
25 both sides and -- and written about it from both sides and

1 seen the good and the bad in the system. So it's just -- it's
2 just experience.

3 MS. BLUTH: Okay. But as a reporter when you follow
4 cases, criminal cases -- well, we're going to move on for a
5 second. The criminal justice system, it's overburdened and
6 it's sometimes unfair. When you say it's overburdened, are
7 you referring to kind of the things that Ms. Letwinch was
8 talking about in regards to we have a lot of crime, our
9 criminal justice system can't keep up with it, or what did you
10 mean?

11 PROSPECTIVE JUROR NO. 262: To a great extent, yes.
12 I'm -- having worked for the Supreme Court and dealt with --
13 which oversees all the court systems in the state. And
14 particularly in Clark County there is a great need for more
15 judges, more courtrooms, more facilities. The system is just
16 stretched too thin just because of staffing and budgetary
17 issues.

18 MS. BLUTH: And how do you think it's unfair?

19 PROSPECTIVE JUROR NO. 262: It doesn't get cases in
20 and out quickly enough, and sometimes forces defendants,
21 particularly in more minor cases, to plead guilty to things
22 they may not be guilty of.

23 MS. BLUTH: Oh, because they don't want to sit and
24 wait?

25 PROSPECTIVE JUROR NO. 262: Because they don't want

1 to go through the entire process and -- and knowing that it's
2 going to be perhaps months or years away before they could
3 ever get to trial.

4 MS. BLUTH: Okay.

5 PROSPECTIVE JUROR NO. 262: And it's also a very
6 expensive proposition for a defendant.

7 MS. BLUTH: Okay. Your cousin was convicted of a
8 crime. Was that here in Las Vegas?

9 PROSPECTIVE JUROR NO. 262: It was in Pahrump.

10 MS. BLUTH: Okay. Was he -- or he was convicted,
11 and what year was that?

12 PROSPECTIVE JUROR NO. 262: In the '80s. I'm not
13 sure.

14 MS. BLUTH: Did you follow that closely?

15 PROSPECTIVE JUROR NO. 262: Only peripherally.

16 MS. BLUTH: Okay. Do you have any feelings about
17 the way he was treated either by law enforcement or by the
18 court systems?

19 PROSPECTIVE JUROR NO. 262: No, it seemed to follow
20 along the way it should and -- and he ended up pleading guilty
21 and got probably a pretty good deal.

22 MS. BLUTH: Okay. And what about your
23 brother-in-law?

24 PROSPECTIVE JUROR NO. 262: That was a drug sales
25 case in the federal system.

1 MS. BLUTH: Okay.

2 PROSPECTIVE JUROR NO. 262: And he also pled guilty
3 and went to prison for a couple of years.

4 MS. BLUTH: Do you have thoughts on drugs, strong --
5 strong thoughts either one way or the other?

6 PROSPECTIVE JUROR NO. 262: Drugs are a reality in
7 the world today, and particularly in the United States. It's
8 something that we have to deal with and have to be aware of
9 and it's just -- it's just the reality. Do I have strong
10 feelings one way or the other? You know, drugs bad, I think,
11 is something you could say.

12 MS. BLUTH: Okay.

13 PROSPECTIVE JUROR NO. 262: Is it -- is it -- is it
14 something that people should be always punished for? Probably
15 not. I think -- I think the marijuana initiative this past
16 election indicates that a lot of people think that about
17 certain drugs and the way we treat certain drug use. Other
18 drugs are certainly more heinous, create more problems for the
19 users and for society.

20 MS. BLUTH: You can consider all four forms of
21 punishment?

22 PROSPECTIVE JUROR NO. 262: Yes.

23 MS. BLUTH: If you were sitting where Mr. Pesci and
24 I are sitting, would you feel comfortable with someone like
25 you on the jury?

1 PROSPECTIVE JUROR NO. 262: I don't see why not.

2 MS. BLUTH: What about where Mr. Belcher is sitting
3 with the same question?

4 PROSPECTIVE JUROR NO. 262: I don't see why not.

5 MS. BLUTH: Thank you so much.

6 We pass for cause.

7 THE COURT: Thank you.

8 MR. DRASKOVICH: Thank you.

9 Mr. Gang, it's been awhile. How have you been?

10 PROSPECTIVE JUROR NO. 262: Good. How are you?

11 MR. DRASKOVICH: Doing well. Thank you. Do you
12 think you can be a fair and impartial juror?

13 PROSPECTIVE JUROR NO. 262: I do.

14 MR. DRASKOVICH: Why?

15 PROSPECTIVE JUROR NO. 262: Having watched the
16 system for all the years that I did in -- in -- when I was a
17 newspaper reporter, having sat through a couple of hundred --
18 at least a couple of hundred trials, I've seen how the system
19 works and seen how evidence is presented and I'm not -- I
20 wouldn't be influenced as a -- as a novice by some -- some
21 evidence that's presented. I've seen both the good and the
22 bad on -- on both sides, on prosecution side, on the defense
23 side, on the police side. So I feel I can be fair in that
24 respect.

25 MR. DRASKOVICH: The photos in this case aren't

1 going to bother you?

2 PROSPECTIVE JUROR NO. 262: I sat through an autopsy
3 once. I've seen -- you know, as I said, I've sat through
4 numerous trials, most of them murder trials, and seen photos
5 that were gruesome.

6 MR. DRASKOVICH: In reference to the drug question,
7 will you take the use of drugs or being under the influence of
8 drugs during the time that a witness witnesses an alleged
9 event into account?

10 PROSPECTIVE JUROR NO. 262: It's a hard thing to --
11 I mean, you can -- yeah, I'd take it into account. Would it
12 -- would it -- justify somebody's action? I think everyone is
13 responsible for their actions whether they're using drugs,
14 alcohol, or whatever.

15 MR. DRASKOVICH: Let me put it this way. Let's say
16 somebody said they witnessed an event occur, and at the time
17 they witnessed this event occur they were under the influence
18 of drugs. Would that play into your -- oh, your evaluation of
19 their credibility?

20 PROSPECTIVE JUROR NO. 262: I think it has to.

21 MR. DRASKOVICH: Okay. You've heard a number of
22 questions before we've spoken to you. Do you have anything to
23 add? Is there anything that we failed to ask you that you
24 would like to make part of this record or part of our
25 evaluation as having you a member of this juror -- of this

1 jury?

2 PROSPECTIVE JUROR NO. 262: I think both sides have
3 done just fine.

4 MR. DRASKOVICH: Thank you.

5 I'll pass for cause.

6 THE COURT: Let me -- let me just ask this because
7 you've had more exposure to the legal system than many folks
8 have. Will you base your verdict just on the evidence
9 presented here in the courtroom rather than speculating about
10 -- that's the wrong word -- rather than thinking about
11 evidence that may have come up in other cases that you
12 observed or thinking did that really happen. I'm not making
13 myself very clear. Will you limit your consideration just to
14 the evidence presented here in the courtroom and not speculate
15 about what you may not have seen?

16 PROSPECTIVE JUROR NO. 262: Yes, I -- I would -- I
17 would evaluate the evidence as it comes in, as I did in every
18 case that I wrote about as a newspaper reporter. I had to
19 start fresh with every case, look at the information, the
20 evidence that came out, and write about that in a fair and
21 impartial balanced way.

22 THE COURT: Yes. Okay. All right. Thank you very
23 much. Go ahead and pass the mic.

24 Okay. so we're now up to Ms. Miller, 084, I
25 believe.

1 PROSPECTIVE JUROR NO. 084: Yes.

2 THE COURT: Okay. Go to the right stack of
3 questionnaires. How are you doing today, ma'am?

4 PROSPECTIVE JUROR NO. 084: Fine, thank you.

5 THE COURT: And, ma'am, your questionnaire says
6 you're retired. What did you do before retiring?

7 PROSPECTIVE JUROR NO. 084: Was an assistant
8 administration manger.

9 THE COURT: Okay. And you indicated in here that
10 you have some difficulty sitting or standing for long periods
11 of time.

12 PROSPECTIVE JUROR NO. 084: Yes.

13 THE COURT: So you've been here all week now. Have
14 you been okay with the schedule as we've done it, or are you
15 suffering from distracting discomfort?

16 PROSPECTIVE JUROR NO. 084: Not distracting.
17 Discomfort, but not distracting.

18 THE COURT: Okay. All right. Thank you, ma'am.

19 All right. State, do you have any additional
20 questions?

21 MS. BLUTH: I do. Thank you, Judge.

22 Good afternoon. I want to get right into some
23 questions about penalty if I can --

24 PROSPECTIVE JUROR NO. 084: Okay.

25 MS. BLUTH: -- with you in regards to your

1 questionnaire. So in your questionnaire you talk about you
2 believe in the death penalty, but --

3 PROSPECTIVE JUROR NO. 084: But.

4 MS. BLUTH: -- you don't think you can be a person
5 that can -- that can do it?

6 PROSPECTIVE JUROR NO. 084: No, I don't think it's
7 up to me to cause another person's death.

8 MS. BLUTH: Some people believe in the death penalty
9 and can be involved in a process where they can, you know,
10 sign off that someone has to die for the crimes that they
11 committed.

12 PROSPECTIVE JUROR NO. 084: Right.

13 MS. BLUTH: And then there's other people who
14 believe in the death penalty, but it's not for them to decide
15 it. And that seems to me from your questions to be in the
16 camp that you are in.

17 PROSPECTIVE JUROR NO. 084: Absolutely.

18 MS. BLUTH: So there's nothing that I could present
19 to you or nothing that I could say where you yourself could
20 deliver that sentence?

21 PROSPECTIVE JUROR NO. 084: That's correct. I
22 thought long and hard about this all week.

23 MS. BLUTH: And I appreciate you giving it so much
24 consideration. I really do. And I appreciate you being
25 honest.

1 Your Honor, the State has a motion.

2 MR. DRASKOVICH: Submit.

3 MR. MODAFFERI: Did you say --

4 May I, Judge?

5 THE COURT: Yes.

6 MR. MODAFFERI: -- under any circumstances? No?

7 PROSPECTIVE JUROR NO. 084: No, under no
8 circumstance --

9 MR. MODAFFERI: Thank you.

10 PROSPECTIVE JUROR NO. 084: -- could I change my
11 moral view.

12 MR. MODAFFERI: Honest answers is all that we ask.
13 Thank you.

14 Submit, Your Honor.

15 THE COURT: Okay. All right. Ma'am, I am going to
16 need to excuse you at this time because you cannot consider
17 that as indicated in your questionnaire. So I will excuse
18 you. Just leave the mic there. Thank you. I appreciate your
19 time all week.

20 THE CLERK: Next in Seat 28, Badge No. 319, Hollis
21 Berry.

22 THE COURT: Mr. Berry, how are you doing today?

23 PROSPECTIVE JUROR NO. 319: Fine, thank you.

24 THE COURT: Good. All right. I think the State has
25 some questions for you.

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1 MR. PESCI: Thank you.

2 Sir, did you come directly from Boston to Vegas, or
3 was there some place in between?

4 PROSPECTIVE JUROR NO. 319: No. I was in the
5 military and retired.

6 MR. PESCI: Okay. And the military, which branch?

7 PROSPECTIVE JUROR NO. 319: The U.S. Army.

8 MR. PESCI: And how long were you in the military
9 for?

10 PROSPECTIVE JUROR NO. 319: I was -- I was in the
11 military for three years, but I retired here after working for
12 the phone company for 35 years.

13 MR. PESCI: The phone company here in Las Vegas?

14 PROSPECTIVE JUROR NO. 319: Yes.

15 MR. PESCI: Okay. But you're still a Pats fan?

16 PROSPECTIVE JUROR NO. 319: Yes.

17 MR. PESCI: You've got the hat with you; right?

18 PROSPECTIVE JUROR NO. 319: Yes, I do.

19 MR. PESCI: All right. Okay. Sir, in the situation
20 if we were to get to a penalty phase, you've heard all the
21 questions, we'll kind of get right to it. Do you feel as if
22 you could consider all four forms of punishment?

23 PROSPECTIVE JUROR NO. 319: Yes.

24 MR. PESCI: Okay. Now you talked about, at least in
25 your questionnaire here, that you would favor, if I understand

1 you correctly, one sentence, but you could consider all of
2 them?

3 PROSPECTIVE JUROR NO. 319: Yes.

4 MR. PESCI: Okay. And that you are okay with the
5 death penalty?

6 PROSPECTIVE JUROR NO. 319: Yes.

7 MR. PESCI: All right. You don't think that it
8 necessarily -- well, let me put it this way. In one answer
9 you said here to the question is the death penalty appropriate
10 in some cases but not others, and you said okay.

11 PROSPECTIVE JUROR NO. 319: Yes.

12 MR. PESCI: You agree with that comment. There's
13 another question that asks if you think the death penalty
14 should always be imposed, you checked yes. Now, that seems
15 somewhat inconsistent and could just be based on these
16 multiple choice questions. But are you saying you would
17 always go with that?

18 PROSPECTIVE JUROR NO. 319: No.

19 MR. PESCI: Okay.

20 PROSPECTIVE JUROR NO. 319: If somebody was proven
21 guilty, I believe, of a murder, that they should be put to
22 death. Yes.

23 MR. PESCI: All right. So that's what we've got to
24 figure out. You only get to consider those punishments if the
25 defendant is found guilty of first degree murder. So what we

1 have to understand is if you get to that stage, could you
2 actually really consider the other options other than death?

3 PROSPECTIVE JUROR NO. 319: Yes.

4 MR. PESCI: Okay. All right. And I hate to bring
5 this up, but as far as your family members that were victims
6 of crime, and in particular you had one that was actually
7 murdered?

8 PROSPECTIVE JUROR NO. 319: Yes.

9 MR. PESCI: Okay.

10 PROSPECTIVE JUROR NO. 319: Actually two.

11 MR. PESCI: Oh, did I misread that?

12 PROSPECTIVE JUROR NO. 319: My daughter was
13 murdered, too.

14 MR. PESCI: I'm sorry. I'm sorry. I misread that.
15 I apologize. This is a murder case of a 15 year old girl.
16 Will the experience that you had in your family make it such
17 that you'll just believe the State just because of the charge?

18 PROSPECTIVE JUROR NO. 319: Could you repeat that,
19 please?

20 MR. PESCI: Yes. I'm sorry, sir. I apologize. And
21 this is kind of why we have to ask the question and I'm very
22 sorry. Because emotions obviously are strong with a situation
23 like that. What we have to understand is will your emotions
24 of your family experience make it such that you will
25 automatically find the defendant guilty, or will you listen to

1 the evidence and make your determination by the evidence and
2 only the evidence in this case?

3 PROSPECTIVE JUROR NO. 319: I would listen to the
4 evidence, yes.

5 MR. PESCI: Okay. All right. Do you think you
6 could be fair to both sides?

7 PROSPECTIVE JUROR NO. 319: I think that would be
8 hard for me.

9 MR. PESCI: Be hard for you?

10 PROSPECTIVE JUROR NO. 319: Yes.

11 MR. PESCI: Based on your experience?

12 PROSPECTIVE JUROR NO. 319: Yes.

13 MR. PESCI: Okay. Speaking of drugs, we've asked
14 this question of many people. Hearing about people selling
15 drugs or using drugs, would that make it so that you could not
16 listen to the evidence because maybe you have such strong
17 feelings about drugs?

18 PROSPECTIVE JUROR NO. 319: No.

19 MR. PESCI: You could listen to the evidence? You
20 could take that into consideration as a factor as to whether
21 you think someone is credible or not, but you -- you wouldn't
22 be closed off to listening?

23 PROSPECTIVE JUROR NO. 319: No, I wouldn't be closed
24 off.

25 MR. PESCI: Okay. All right. Thank you

1 Pass for cause.

2 THE COURT: Okay.

3 MR. DRASKOVICH: Good afternoon, Mr. Berry.

4 PROSPECTIVE JUROR NO. 319: Good afternoon.

5 MR. DRASKOVICH: There's been a number of questions
6 asked of you concerning automatic or immediate. The question
7 to you is obviously there's -- there's a trial that's going to
8 occur here, and each side is going to present its case.
9 Although, we don't have a case -- we're not require by law to
10 present a case, nonetheless we're going to present a case.
11 And due to the very traumatic history that you've had, would
12 you agree that you may tend to favor the -- the State? I
13 mean, it's our supposition that we're going to poke some big
14 holes in the State's case. And due to your experience, would
15 you agree with me you'd be more likely to fill in those holes
16 because of what you've experienced in your life?

17 PROSPECTIVE JUROR NO. 319: Yes.

18 MR. DRASKOVICH: And would you agree with me that
19 due to the nature of this case that may be far better suited
20 or just better suited to sit as a juror in a case that didn't
21 involve circumstances such as those in this case?

22 PROSPECTIVE JUROR NO. 319: No.

23 MR. DRASKOVICH: Okay. But you would agree with me
24 that you may be more inclined to find the defendant guilty, to
25 fill in these holes in the State's case because of what you've

1 experienced in your life?

2 PROSPECTIVE JUROR NO. 319: Yes.

3 MR. DRASKOVICH: We have a motion.

4 THE COURT: All right. Well, come on up.

5 (Bench conference)

6 THE COURT: Go ahead.

7 MR. DRASKOVICH: Your Honor, this is Robert
8 Draskovich. I move for cause. I mean, he's clearly emotional
9 and he's doing the best he can, but we would submit that he's
10 not -- can't be fair and impartial in our case.

11 MR. PESCI: Giancarlo Pesci on behalf of the State.
12 I think he's kind of answered based on who is asking the
13 questions. I wonder if Your Honor would follow up with him
14 and then maybe you can ascertain for sure if he can.

15 THE COURT: So -- and I'm sorry if I missed it. Did
16 you get any information from him about these murder and rapes
17 that happened? I'm sorry.

18 MR. DRASKOVICH: They were family members.

19 THE COURT: Right.

20 MR. PESCI: Yes, family members.

21 THE COURT: Like how long ago? Did you get into
22 that?

23 MR. PESCI: I didn't ask how long ago. He kind of
24 got a little shook up. I do agree he got emotional, so I
25 didn't pry into that. I tried to follow up with if he could

1 consider all four. He said he could. I tried to
2 differentiate between considering and it and actually doing it
3 -- I'm sorry, favoring it versus actually considering it. So
4 I think it might be appropriate for Your Honor to follow up.
5 And if he's still in this position --

6 THE COURT: Right.

7 MR. PESCI: -- then we'll submit it. But if not, he
8 might be appropriate.

9 THE COURT: Okay. Thank you.

10 MR. PESCI: Thank you.

11 (End of bench conference)

12 THE COURT: All right. Sir, I just want to follow
13 up and ask you a few questions, okay.

14 PROSPECTIVE JUROR NO. 319: Yes, Your Honor.

15 THE COURT: So you understand that in a criminal
16 case like this one, this -- the defendant is presumed
17 innocent; right?

18 PROSPECTIVE JUROR NO. 319: Yes, Your Honor.

19 THE COURT: Okay. And it's the State that has the
20 burden of proving each element of each crime charged beyond a
21 reasonable doubt. Do you understand that?

22 PROSPECTIVE JUROR NO. 319: Yes, Your Honor.

23 THE COURT: Now, even though you understand that
24 intellectually, are you going to have to difficulty actually
25 applying that law because of some of your background and

1 experiences?

2 PROSPECTIVE JUROR NO. 319: No, I don't think so.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 319: No.

5 THE COURT: So now you said a few minutes ago, and I
6 want to make sure that we understand what you're really
7 thinking, you said a few minutes ago that you would have --
8 that it would be hard for your to be fair to both sides. What
9 did you mean that?

10 PROSPECTIVE JUROR NO. 319: Well, I kind of -- I
11 kind of have an anger in my heart still for the people that
12 committed the crimes against my sister.

13 THE COURT: Right.

14 PROSPECTIVE JUROR NO. 319: So I think that would
15 probably have something to do with my judgment.

16 THE COURT: I see. And how long ago was that that
17 happened to your sister?

18 PROSPECTIVE JUROR NO. 319: That was in the
19 military, when I was in the military in 1969.

20 THE COURT: I see.

21 PROSPECTIVE JUROR NO. 319: And her daughter -- her
22 daughter also was killed at that time. And last week I
23 attended a funeral of a friend of a break and entry. He was
24 killed. So it's still there.

25 THE COURT: Yeah. And so you're emotional now in

1 talking about it, I can see.

2 PROSPECTIVE JUROR NO. 319: Yes, Your Honor.

3 THE COURT: And so are you concerned that you might,
4 because of those experiences, be biased against Mr. Belcher
5 already as he sits here today?

6 PROSPECTIVE JUROR NO. 319: Yes, Your Honor.

7 MR. PESCI: State submits, Your Honor.

8 THE COURT: Okay. All right. I'm going to have to
9 excuse you. And I do appreciate your time and patience
10 throughout this week, okay.

11 THE CLERK: Next in Seat 28, Badge No. 321, Michael
12 Bonilla.

13 THE COURT: Okay. Mr. Bonilla, how are you today?

14 PROSPECTIVE JUROR NO. 321: Good, Your Honor. How
15 are you doing?

16 THE COURT: Very good. Thank you. Okay. I think
17 the State has got some questions for you.

18 PROSPECTIVE JUROR NO. 321: Okay.

19 MR. PESCI: You said that the TV show that you watch
20 the most is ESPN; right?

21 PROSPECTIVE JUROR NO. 321: That's correct.

22 MR. PESCI: Okay. Is there a particular time slot
23 that you look for?

24 PROSPECTIVE JUROR NO. 321: Just any sporting event
25 pretty much.

1 MR. PESCI: Okay. So it's not necessarily for the
2 analysts?

3 PROSPECTIVE JUROR NO. 321: No, not really.

4 MR. PESCI: The sports themselves?

5 PROSPECTIVE JUROR NO. 321: Everything. Yeah.

6 MR. PESCI: Okay. All right. As a bartender, do
7 you speak to a lot of different people?

8 PROSPECTIVE JUROR NO. 321: I do.

9 MR. PESCI: Do you hear all kinds of stories?

10 PROSPECTIVE JUROR NO. 321: Yes.

11 MR. PESCI: Some of those stories do you think,
12 yeah, I'm not sure I believe that?

13 PROSPECTIVE JUROR NO. 321: Absolutely.

14 MR. PESCI: Some stories that you do?

15 PROSPECTIVE JUROR NO. 321: Uh-huh.

16 MR. PESCI: And I apologize, is that a yes?

17 PROSPECTIVE JUROR NO. 321: Yes. Sorry.

18 THE COURT: Thank you.

19 MR. PESCI: She's recording everything and --

20 PROSPECTIVE JUROR NO. 321: Yes.

21 MR. PESCI: Some of those people that are telling
22 you their stories, they're drinking?

23 PROSPECTIVE JUROR NO. 321: Yes.

24 MR. PESCI: Okay. And even though they're drinking
25 or might be some degree under the influence, can you still

1 listen to them, can you still assess what they're saying?

2 PROSPECTIVE JUROR NO. 321: Yes, in some cases.

3 MR. PESCI: Okay. In some cases can you think,
4 well, that's the alcohol talking?

5 PROSPECTIVE JUROR NO. 321: Absolutely.

6 MR. PESCI: Some cases, even with alcohol on their
7 breath you can assess and believe what they're saying?

8 PROSPECTIVE JUROR NO. 321: Yes.

9 MR. PESCI: Okay. Now, if we get to a penalty
10 phase, I think you've indicated you can consider all four
11 forms of punishment?

12 PROSPECTIVE JUROR NO. 321: I could.

13 MR. PESCI: Okay. And you indicated at least that
14 you didn't really have any feelings as far as the death
15 penalty. You said I really don't have any feelings about it.

16 PROSPECTIVE JUROR NO. 321: That's correct. Because
17 most people can pass judgment without being in a situation to
18 apply the death penalty or, you know, convict somebody of it.
19 So it's hard for me to say how I feel until that particular
20 moment happens, you know.

21 MR. PESCI: Right. And especially when you were
22 filling this out, it was weeks ago, you were just by yourself.

23 PROSPECTIVE JUROR NO. 321: Exactly.

24 MR. PESCI: Well, in a room and by yourself.

25 PROSPECTIVE JUROR NO. 321: Yeah, sort of. Yeah.

1 MR. PESCI: But you weren't answering your questions
2 in front of everybody.

3 PROSPECTIVE JUROR NO. 321: Yes.

4 MR. PESCI: Okay. Do you think that your feelings
5 have changed as you're now here talking about it?

6 PROSPECTIVE JUROR NO. 321: No, I still kind of feel
7 the same way. I think it's too easy for us to say yes or no
8 towards it until it's someone else's life that we're actually
9 going to put a judgment on.

10 MR. PESCI: And you, in fact, said it depends on the
11 case, depends on the circumstances?

12 PROSPECTIVE JUROR NO. 321: Yes.

13 MR. PESCI: Are you willing to listen to the
14 circumstances? Especially in the context of the death
15 penalty, the State would argue here are reasons why it should
16 be death, the defense will say here are the reasons why it
17 shouldn't. Are you willing to listen to all of that?

18 PROSPECTIVE JUROR NO. 321: Yes.

19 MR. PESCI: Do you think you could be fair to both
20 sides?

21 PROSPECTIVE JUROR NO. 321: Absolutely.

22 MR. PESCI: Pass for cause, Your Honor. Thank you.

23 THE COURT: Thank you.

24 MR. MODAFFERI: Thank you, Your Honor.

25 Mr. Bonilla, good afternoon.

1 PROSPECTIVE JUROR NO. 321: Good afternoon.

2 MR. MODAFFERI: Good to see you and thank you so
3 much for being here. I appreciate your time.

4 PROSPECTIVE JUROR NO. 321: No problem.

5 MR. MODAFFERI: The defense is very appreciative of
6 the fact that you've taken the time out of your schedule to
7 listen to this and give your attention. It's going to be a
8 case in which emotion is involved. Do you think you could set
9 aside emotion and dispassionately examine the evidence, weigh
10 the evidence without -- without feeling sorry for anybody,
11 without being angry at anybody?

12 PROSPECTIVE JUROR NO. 321: Yeah, I believe I do
13 that every day on my job.

14 MR. MODAFFERI: Okay. Tough customers, huh? How
15 about this concept of examining a police officer's testimony?
16 Now, again, we've repeatedly said we do not mean to disrespect
17 law enforcement. But during the course of this trial we are
18 going to cross-examine police officers with an eye toward the
19 fact they didn't do their job properly. Are you going to have
20 an automatic kneejerk response saying you guys are out of
21 line?

22 PROSPECTIVE JUROR NO. 321: No.

23 MR. MODAFFERI: Will you listen to what we present?

24 PROSPECTIVE JUROR NO. 321: Yes.

25 MR. MODAFFERI: Will you listen to the end of the

1 examination of a witness entirely before you even start
2 considering what that witness said, both the direct
3 examination from the prosecution, and the cross-examination
4 from the defense?

5 PROSPECTIVE JUROR NO. 321: Yes.

6 MR. MODAFFERI: Because that evidence that we
7 elicit, those questions, those exhibits, those observations
8 that we exhibit after they've questioned the witness are just
9 as -- could be just as valid evidence than what they elicit
10 from a witness. Do you understand that?

11 PROSPECTIVE JUROR NO. 321: Yes, I agree with that.

12 MR. MODAFFERI: When it comes to scientific
13 evidence, if we present experts in certain fields,
14 fingerprint, DNA, whatever analysis, would you be patient
15 enough to listen to the methodology to their expertise, to
16 their education, to their ability to perform and answer the
17 questions that are put before them? Sometimes it's not going
18 to be very exciting. It may be very technical. But would you
19 have the patience to do that?

20 PROSPECTIVE JUROR NO. 321: Yes, I believe I would
21 listen to your experts just the same as the State's experts.

22 MR. MODAFFERI: Perfect. That's all we could ask
23 for. Can you think of a reason why you couldn't be fair to
24 Mr. Belcher in this case?

25 PROSPECTIVE JUROR NO. 321: Yes, only because I have

1 an eight year old daughter and I was raised around women and I
2 have a different understanding on how women are supposed to be
3 perceived and protected. So when I found out it was a girl
4 that's 15, you know, I'm not going to say I'm passing
5 judgment, but it does, you know, open up something to think
6 about.

7 MR. MODAFFERI: Sure. So, I mean, this is the
8 thing. You seem like a very straightforward, impartial juror.
9 And then you've told me something. You know, I have children,
10 as well. You have a child, and this is a child. A 15 year
11 old girl has been killed. What we as defendants, defense
12 attorneys and the defendant himself are most concerned about
13 is that emotion seeping into your dispassionate consideration
14 of the evidence. That's you telling me that instead of them
15 building the complete house and convincing you beyond a
16 reasonable doubt that you're going to add a few bricks in
17 there. Is that what you're telling me?

18 PROSPECTIVE JUROR NO. 321: No, not at all. I'm
19 going to look at the facts. I'm going to be fair. I'm just
20 expressing why you said if I might have a concern or think
21 about it and a little different perspective now knowing what
22 you had said, that it was a little girl, compared to not
23 knowing, you know, before.

24 MR. MODAFFERI: Perfect.

25 PROSPECTIVE JUROR NO. 321: That alone is a new fact

1 that everybody is getting.

2 MR. MODAFFERI: A 15 year old girl in this instance;
3 right? So, you know, I have been talking to the jury
4 panelists yesterday and today about the fact that that is
5 going to strike a raw nerve in everybody. When you see those
6 pictures, you're going to pull back.

7 PROSPECTIVE JUROR NO. 321: Uh-huh.

8 MR. MODAFFERI: You know, and what we're concerned
9 about is while you're pulling back, you're going to be
10 pointing the finger, you did this? You know, that in and of
11 itself, is that going to cause you to point the finger and
12 say, wow, did you do this?

13 PROSPECTIVE JUROR NO. 321: Absolutely not.

14 MR. MODAFFERI: Because you need more evidence than
15 just an autopsy photo, don't you?

16 PROSPECTIVE JUROR NO. 321: Absolutely. I think
17 everybody is going to be taken back. Everybody is not used to
18 seeing what we might see. But you wanted me to be honest
19 about it. I'm not going to pass a specific judgment, but I
20 want to know all the facts, yeah. And I will be taken back by
21 the pictures, but I won't point a finger until everything is
22 presented.

23 MR. MODAFFERI: And unless and until proof beyond a
24 reasonable doubt is shown?

25 PROSPECTIVE JUROR NO. 321: Absolutely.

1 MR. MODAFFERI: Good enough.
2 I pass for cause.
3 Thank you, Mr. Bonilla.
4 PROSPECTIVE JUROR NO. 321: You're welcome.
5 MR. MODAFFERI: Thank you very much.
6 THE COURT: Thank you.
7 Mr. Platner next?
8 PROSPECTIVE JUROR NO. 092: Yes.
9 THE COURT: Is that right? Okay. So, Mr. Platner,
10 you studied political science at Ohio State?
11 PROSPECTIVE JUROR NO. 202: That is correct.
12 THE COURT: Okay. And had you -- I can see from the
13 employment you listed that you're not a lawyer; correct?
14 PROSPECTIVE JUROR NO. 202: Correct.
15 THE COURT: And you never attended law school?
16 PROSPECTIVE JUROR NO. 202: No, I did not.
17 THE COURT: Did you contemplate it at some point?
18 PROSPECTIVE JUROR NO. 202: I definitely did.
19 THE COURT: I would say that's true for most
20 political science majors.
21 PROSPECTIVE JUROR NO. 202: Correct.
22 THE COURT: Okay. All right. So why did you choose
23 not to pursue that path?
24 PROSPECTIVE JUROR NO. 202: I was sick and tired of
25 school.

1 THE COURT: Fair enough.

2 PROSPECTIVE JUROR NO. 202: So I started school out
3 at Boston Northeastern University, did two years there. I
4 grew up in Columbus, and I transferred back to Ohio State. My
5 mother got sick, so I wanted to be close to home.

6 THE COURT: Sure. Okay. And what's the -- what's
7 your employment? I see it's sales, but --

8 PROSPECTIVE JUROR NO. 202: Yeah. Sales at the
9 Costar Group.

10 THE COURT: Costar.

11 PROSPECTIVE JUROR NO. 202: Yes.

12 THE COURT: I couldn't read what that said. Okay.

13 PROSPECTIVE JUROR NO. 202: I write like a doctor.
14 I apologize.

15 THE COURT: I understand. My handwriting is also
16 hard to read. Okay. So what kind of a company is Costar?

17 PROSPECTIVE JUROR NO. 202: We own -- so the Costar
18 Group, we own many different facets. We own Apartments.com,
19 we own Loopnet.com. I work in the arm of Costar it's data
20 software sales for commercial real estate. So the commercial
21 real estate brokers, investors, owners, governments use our
22 data to evaluate commercial property.

23 THE COURT: I see. And you -- so you try to sell
24 people like that the product?

25 PROSPECTIVE JUROR NO. 202: Correct.

1 THE COURT: Or products. Okay. All right. Thank
2 you.

3 State, do you have some questions?

4 MS. BLUTH: Thank you, Judge.

5 Hi.

6 PROSPECTIVE JUROR NO. 202: HI.

7 MS. BLUTH: When you were asked about your feelings
8 on the criminal justice system and you said that you think
9 it's a fair system.

10 PROSPECTIVE JUROR NO. 202: Yes.

11 MS. BLUTH: Now since you -- well, actually, you're
12 the new group.

13 PROSPECTIVE JUROR NO. 202: Nope, I've been here all
14 week.

15 MS. BLUTH: You've been here all week?

16 PROSPECTIVE JUROR NO. 202: Yes.

17 MS. BLUTH: Okay. Sorry. All right. So you've
18 heard everything everybody is saying all week. So it's easier
19 with the people who have been here all week. Is there a
20 question that you have heard that you thought I have a strong
21 opinion on that or I really disagree with what that person is
22 saying?

23 PROSPECTIVE JUROR NO. 202: No.

24 MS. BLUTH: Okay. What are your thoughts about the
25 drugs?

1 PROSPECTIVE JUROR NO. 202: It doesn't affect my
2 opinion one way or another.

3 MS. BLUTH: Thoughts on law enforcement?

4 PROSPECTIVE JUROR NO. 202: Positive. Positive.

5 MS. BLUTH: Any of the shows we've been talking
6 about, NCIS, CSI?

7 PROSPECTIVE JUROR NO. 202: I don't want them.

8 MS. BLUTH: You said that if you got into the
9 situation where you were the only juror that felt differently
10 from the 11, so you were the one, you said that you would talk
11 it out with them, but you would hold your ground. What if
12 they showed you something you hadn't thought of before?

13 PROSPECTIVE JUROR NO. 202: I would voice my
14 opinion.

15 MS. BLUTH: Uh-huh.

16 PROSPECTIVE JUROR NO. 202: And -- but also take
17 into consideration, you know, maybe someone took a note or
18 something from the trial, I would take that into
19 consideration. And then from that point maybe reevaluate, you
20 know, go back into my notes and, you know, make a decision
21 from that point.

22 MS. BLUTH: I'm glad you said something about notes
23 because I had forgotten about one thing is that if you are
24 selected as a juror Her Honor will instruct you that at
25 certain points in the trial jurors can actually write

1 questions that are submitted to the Court.

2 PROSPECTIVE JUROR NO. 202: Okay.

3 MS. BLUTH: And then the parties will go up to the
4 Judge and discuss the question. And it may be asked or it may
5 not be asked because there's certain evidentiary rules.

6 PROSPECTIVE JUROR NO. 202: Right.

7 MS. BLUTH: If you write out a question and then it
8 didn't ultimately get asked, would you take it out on one side
9 or the other and think, oh, they didn't want that question
10 answered?

11 PROSPECTIVE JUROR NO. 202: No, of course not

12 MS. BLUTH: Okay. So you could understand that
13 there might be some evidentiary rule that would prevent that
14 from being asked?

15 PROSPECTIVE JUROR NO. 202: Correct.

16 MS. BLUTH: You've heard the admonishment about, you
17 know, you can't talk to anyone else about it, you can't tweet,
18 you can't, you know. If you were selected as a juror and you
19 got into a situation where you heard two other jurors talking
20 about the case before you were allowed to do so, what do you
21 think your course of action would be?

22 PROSPECTIVE JUROR NO. 202: We have to let the Judge
23 know. I guess you would go to good old Anthony over there and
24 let him know what you know.

25 MS. BLUTH: Great. Tell Anthony about all your

1 problems, all your issues. He's warm and fuzzy.

2 PROSPECTIVE JUROR NO. 202: Well, at the end of the
3 day it's about being fair --

4 MS. BLUTH: Exactly.

5 PROSPECTIVE JUROR NO. 202: -- to both parties.

6 MS. BLUTH: So that's something that you would do.
7 If you saw something that other jurors were doing that was not
8 proper, you would feel comfortable going to --

9 PROSPECTIVE JUROR NO. 202: Yeah, I have no problem
10 doing that.

11 MS. BLUTH: Okay. In regards to the penalties, you
12 would consider all four?

13 PROSPECTIVE JUROR NO. 202: Correct.

14 MS. BLUTH: And since you've been here you've heard
15 that there are different ways to get to first degree murder in
16 Nevada.

17 THE COURT: Right.

18 MS. BLUTH: So now that you know that there are
19 different ways to get to first degree murder, and you also
20 know about the evidence that both sides can present both in
21 aggravation and mitigation. Can you consider all four and --
22 and wait until you heard both sides before you make that final
23 decision?

24 PROSPECTIVE JUROR NO. 202: Yes.

25 MS. BLUTH: Okay. Thank you so much.

1 We'll pass for cause, Your Honor.

2 THE COURT: Thank you.

3 MR. DRASKOVICH: Thank you.

4 Good afternoon, Mr. Platner.

5 PROSPECTIVE JUROR NO. 202: Hello.

6 MR. DRASKOVICH: Weren't you here in the second row
7 for the first two and a half days?

8 PROSPECTIVE JUROR NO. 202: Oh, yeah.

9 MR. DRASKOVICH: And now you're here.

10 PROSPECTIVE JUROR NO. 202: Now I'm here.

11 MR. DRASKOVICH: You've heard a lot of questions
12 being asked and answered. Is there any questions that haven't
13 been asked of you that you'd like to add any insight?

14 PROSPECTIVE JUROR NO. 202: No.

15 MR. DRASKOVICH: I mean, starting to have disparate
16 groups, I mean, you've been here for the duration.

17 PROSPECTIVE JUROR NO. 202: Right.

18 MR. DRASKOVICH: You've heard a lot of questions
19 being asked. Let me ask you this. How would you expect or
20 what would you expect the demeanor to be of a man who is
21 facing a first degree murder charge? I mean, you've seen him
22 here shuffling papers, participating in his defense. In the
23 event that a witness takes the stand and gives false
24 testimony, do you expect him to stand up and say you're a liar
25 or to flip out because he's hearing false testimony?

1 PROSPECTIVE JUROR NO. 202: No, of course not. I
2 would -- that's your job.

3 MR. DRASKOVICH: What is my job? And believe me,
4 you dodged a bullet in not going to law school.

5 PROSPECTIVE JUROR NO. 202: Defending.

6 MR. DRASKOVICH: Do you believe a defense attorney's
7 job can be to present the truth?

8 PROSPECTIVE JUROR NO. 202: Yes.

9 MR. DRASKOVICH: And if we lean -- if I lean on a
10 witness of if Mr. Modafferi, as you've already seen from his
11 demeanor, he's going to lean on witnesses, are you going to
12 hold it against him or myself?

13 PROSPECTIVE JUROR NO. 202: No, of course not.

14 MR. DRASKOVICH: Do you believe that if both sides
15 do their jobs that we may ultimately arrive at the truth?

16 PROSPECTIVE JUROR NO. 202: Yes.

17 MR. DRASKOVICH: Let's say the State presents some
18 evidence that may indicate that he may have been involved, but
19 they have proven the case. There's evidence that points to
20 other people that say the police have failed to follow up on,
21 will you take that into your consideration in deliberating on
22 whether or not the State has met its burden?

23 PROSPECTIVE JUROR NO. 202: Yes.

24 MR. DRASKOVICH: Do you truly believe you can be
25 fair and impartial? PROSPECTIVE JUROR NO. 202: Yes.

1 MR. DRASKOVICH: Thank you. I'll pass for cause.

2 THE COURT: Thank you.

3 Do we have Mr. Foley next?

4 PROSPECTIVE JUROR NO. 090: Yes, Your Honor.

5 THE COURT: Okay. All right. We've had people from
6 different groups. I want to be sure I know who we're going
7 to.

8 MS. BLUTH: Your Honor, may we have the badge
9 number. I'm sorry.

10 THE COURT: Thank you. 090.

11 MS. BLUTH: Thank you.

12 THE COURT: All right. State, I think, has some
13 questions for you, Mr. Foley.

14 MS. BLUTH: Thank you, Judge.

15 Hi, Mr. Foley.

16 PROSPECTIVE JUROR NO. 090: Hi.

17 MS. BLUTH: So you're also a bartender.

18 PROSPECTIVE JUROR NO. 090: I am.

19 MS. BLUTH: You've been so for 25 years. Where do
20 you work?

21 PROSPECTIVE JUROR NO. 090: The airport.

22 MS. BLUTH: Okay. And so like Mr. Pesci was talking
23 about earlier, you probably hear a lot of stories? Yes?

24 PROSPECTIVE JUROR NO. 090: I do, yes.

25 MS. BLUTH: Do you think that your experience with

1 so many with all their life experiences has made you a better
2 judge of character?

3 PROSPECTIVE JUROR NO. 090: Possibly. I encounter a
4 lot of people.

5 MS. BLUTH: This might seem like an odd question,
6 but are there individuals -- have you been 25 years at the
7 airport?

8 PROSPECTIVE JUROR NO. 090: No.

9 MS. BLUTH: Okay. Was there a bar that you worked
10 at for a long period of time where you would see the same type
11 of customer?

12 PROSPECTIVE JUROR NO. 090: There was.

13 MS. BLUTH: Okay. In that situation were there
14 individuals who you felt maybe had a problem with alcohol,
15 would come in all the time, drink tons and tons. Can you
16 think of somebody in your mind?

17 PROSPECTIVE JUROR NO. 090: I can.

18 MS. BLUTH: Okay.

19 PROSPECTIVE JUROR NO. 090: I have seen it.

20 MS. BLUTH: Have you ever heard the term like a
21 functioning alcoholic?

22 PROSPECTIVE JUROR NO. 090: I have.

23 MS. BLUTH: Did you see any of those individuals?

24 PROSPECTIVE JUROR NO. 090: I have.

25 MS. BLUTH: Were they as affected by the alcohol as

1 someone else who -- who wasn't an alcoholic? Does that make
2 sense? Like so somebody -- let's say a functioning alcoholic
3 comes in and takes six shots, and then a patron, another
4 patron who maybe doesn't drink as much comes in and takes six
5 shots, could you tell the difference in the type of drinker
6 that they were?

7 PROSPECTIVE JUROR NO. 090: Yes, very easily.

8 MS. BLUTH: Okay. Tell me how. Tell me --

9 PROSPECTIVE JUROR NO. 090: A functioning alcoholic,
10 I think, can handle his liquor sometimes remarkably well.
11 I've seen people drink 24 beers and you wouldn't know it.
12 Then I've seen people have two or three and their personality
13 is changed.

14 MS. BLUTH: Your spouse is not in -- I'm sorry. Are
15 you -- you've been divorced and are you now remarried or --

16 PROSPECTIVE JUROR NO. 090: No, I -- I've only been
17 married once. I'm still married.

18 MS. BLUTH: Oh, you're still married. Oh, I'm
19 sorry. Oh, it's the Y in the -- the Y in the last of your
20 name went into the divorce section. Sorry. I do not want
21 your wife to get a hold of that. Oh, no. So your wife, that
22 you're still married to, she does not work -- has she every
23 worked or does she work within the home?

24 PROSPECTIVE JUROR NO. 090: She works within the
25 home.

1 MS. BLUTH: When you got your BA at UNLV, where --
2 I'm sorry, what was that degree in?

3 PROSPECTIVE JUROR NO. 090: History.

4 MS. BLUTH: What have you thought about this process
5 so far, other than it's lengthy?

6 PROSPECTIVE JUROR NO. 090: I'm very impressed with
7 the Court and the defense and prosecution. I see that justice
8 can be done here, I think.

9 MS. BLUTH: Did you have a different type of view
10 before you came in about -- has your views changed at all?

11 PROSPECTIVE JUROR NO. 090: No, I have a positive
12 belief in the justice system. I think that it generally
13 works.

14 MS. BLUTH: What about your feelings on the local
15 law enforcement? What are your thoughts about that?

16 PROSPECTIVE JUROR NO. 090: It's changed over the
17 years. I think that Metro has had some problems in the past.
18 I think they've addressed them. I think they're doing a
19 better job now.

20 MS. BLUTH: What did you consider those problems to
21 be?

22 PROSPECTIVE JUROR NO. 090: There was some, I think,
23 some of their enforcement may have been a little heavy handed
24 at times in the past.

25 MS. BLUTH: Okay. You feel those issues have been

1 addressed?

2 PROSPECTIVE JUROR NO. 090: I think -- my opinions
3 changed. I think that they're doing a good job now, but I did
4 feel that in the past.

5 MS. BLUTH: And when you say the past are we
6 thinking -- are we talking '80s/'90s, early 2000s?

7 PROSPECTIVE JUROR NO. 090: Since the early '80s, I
8 think.

9 MS. BLUTH: Have you always been in Las Vegas?

10 PROSPECTIVE JUROR NO. 090: Yes.

11 MS. BLUTH: There -- now, when you talked about the
12 question have you or anyone close to you ever been charged
13 with a crime, you just put yes, so I didn't know if that was a
14 family member, friend, or you.

15 PROSPECTIVE JUROR NO. 090: Me.

16 MS. BLUTH: Did you feel that you were treated
17 properly by the police?

18 PROSPECTIVE JUROR NO. 090: I was, yes.

19 MS. BLUTH: Is there anything about that that you
20 felt like would, you know, make you be unfair or partial to
21 either side?

22 PROSPECTIVE JUROR NO. 090: No.

23 MS. BLUTH: Okay. I'm going to ask you a very
24 specific question, so if you could just answer me yes or no.
25 You said that you thought you may have seen something about

1 this on the news at one point. Is that a yes?

2 PROSPECTIVE JUROR NO. 090: Yes.

3 MS. BLUTH: Okay. As you've been sitting here and
4 hearing more about it, do you think it was this case that you
5 heard something about, yes or no?

6 PROSPECTIVE JUROR NO. 090: I don't.

7 MS. BLUTH: Okay. Now, you can consider all four.
8 And when you were asked would you automatically favor one of
9 the punishments over the other, you said no. But you did see
10 -- you did say I feel one of the forms would be more
11 appropriate than the others, severity and such. So I was
12 wondering what you meant by that.

13 PROSPECTIVE JUROR NO. 090: I think that the
14 ultimate punishment should be used very, very rarely unless
15 the case was proven, if there were -- I'm sorry. The question
16 was again?

17 MS. BLUTH: That's okay. No worries. The question
18 was would you automatically favor one of the punishments over
19 the other, and you wrote no. But then in your answer you said
20 I feel one of the forms would be more appropriate than the
21 others, severity and such. And so I didn't know what you were
22 referring to there.

23 PROSPECTIVE JUROR NO. 090: I think I was referring
24 to capital punishment. I feel that that's the ultimate
25 punishment the State can present and it should be used

1 sparingly. And I think that of those four forms of
2 punishment, I would -- I would look at the -- I would tend to
3 find one of the others before capital punishment.

4 MS. BLUTH: Sure. The woman who I believe was
5 sitting to your left a minute ago, she believes in the death
6 penalty, but she doesn't want to be the one involved in that
7 decision. Is that like you, or are you someone that can be
8 involved in that process?

9 PROSPECTIVE JUROR NO. 090: I think I could be
10 involved in the process.

11 MS. BLUTH: Thank you so much.

12 I pass for cause.

13 THE COURT: Thank you.

14 MR. MODAFFERI: Thank you.

15 Sir, thank you for being here. I appreciate it.
16 I'll stand in front of the mic so the reporter can take this
17 down. We heard some talk about crime shows from the
18 prosecution and a distinction between reality crime shows and
19 fantasy crime shows. And I am thinking that the fantasy crime
20 shows, and I've watched them, you know, the ones where you put
21 your hand on the little teleprompter and 15 monitors come up
22 and biometrics from your eye pushes out the entire United
23 States database and the human genome shows up and all of the
24 sudden their entire biological profile and their ancestry
25 appears on another screen. We know that Metro doesn't have

1 that; right?

2 PROSPECTIVE JUROR NO. 090: I don't think so.

3 MR. MODAFFERI: Well, we do know that they have
4 things like fingerprinting and DNA and hair analysis and
5 shoeprint analysis and the ability to analyze things like
6 cellular phones. Those things are things that you would see
7 in a reality TV show; right?

8 PROSPECTIVE JUROR NO. 090: Yes, I think so. I'm
9 not -- I don't watch a lot of that kind of programming, but --

10 MR. MODAFFERI: That's fine.

11 PROSPECTIVE JUROR NO. 090: -- I imagine you would
12 see those.

13 MR. MODAFFERI: I just wanted to note the
14 distinction between what has been described as complete
15 fantasy or futuristic crime investigation and what might be
16 considered standard crime investigation, especially in a
17 murder case involving a 15 year old. Do you see what I'm
18 saying? You don't. Let me ask it this way. Do you believe
19 that there should be certain processes involved in the
20 investigation of such a serious case?

21 PROSPECTIVE JUROR NO. 090: Of course.

22 MR. MODAFFERI: And if we question those processes
23 about whether they conducted, how they were conducted, and who
24 was targeted when they were conducted, if we question that,
25 will you get mad at us? Will you get mad at me and Mr.

1 Draskovich and think, oh, those are communists over there?

2 PROSPECTIVE JUROR NO. 090: No, on the contrary. I
3 would expect you to question and --

4 MR. MODAFFERI: Good. And you wouldn't think that
5 we're disrespecting law enforcement?

6 PROSPECTIVE JUROR NO. 090: No, I would think you
7 were seeking truth.

8 MR. MODAFFERI: And you -- you had mentioned in your
9 questionnaire something about pretrial media exposure to the
10 case. And I know it hasn't been addressed and it shouldn't be
11 addressed in front of everybody.

12 MR. DRASKOVICH: It was.

13 MR. MODAFFERI: It was?

14 THE COURT: Yes.

15 MR. MODAFFERI: I apologize. Oh, that's right. I
16 apologize.

17 THE COURT: That's okay.

18 MR. MODAFFERI: Yes.

19 THE COURT: He answered that he no longer -- I
20 believe he said he no longer thinks that it was about this
21 case.

22 MR. MODAFFERI: Yeah. Thank you, Judge.

23 Can you think of any reason why you can't be fair
24 and impartial that hasn't been asked so far?

25 PROSPECTIVE JUROR NO. 090: No.

1 MR. MODAFFERI: Pass for cause.

2 Thank you, Mr. Foley.

3 THE COURT: I just want to quickly ask you one
4 question. I notice your middle name is Roger, correct?

5 PROSPECTIVE JUROR NO. 090: Yes.

6 THE COURT: Are you related to the late federal
7 judge, Roger Foley?

8 PROSPECTIVE JUROR NO. 090: Yes.

9 THE COURT: You are. What's your relationship?

10 PROSPECTIVE JUROR NO. 090: He was my uncle.

11 THE COURT: Your uncle. Okay. And there are lots
12 of attorneys in town who are part of that Foley family.

13 PROSPECTIVE JUROR NO. 090: There are.

14 THE COURT: And in fact, there was a recent loss of
15 John Foley, who recently passed away. Was he your relative as
16 well?

17 PROSPECTIVE JUROR NO. 090: My uncle as well.

18 THE COURT: Your uncle as well. Okay. Would any
19 stories you may have heard around the family dinner or holiday
20 tables over the years with lots of lawyers in the family
21 affect your ability to be fair and impartial in this case?

22 PROSPECTIVE JUROR NO. 090: No. I don't think so.

23 THE COURT: Okay. Thank you, sir. All right. You
24 can go ahead and pass it.

25 We have Mr.?

1 PROSPECTIVE JUROR NO. 098: Ritsema.

2 THE COURT: Thank you. Ritsema.

3 PROSPECTIVE JUROR NO. 098: Yeah. 098.

4 THE COURT: I was going to ask how to pronounce it.
5 Okay. I'm going to guarantee you, and I don't guarantee very
6 much in life, that we will not be in this trial anymore when
7 you leave the country January 6. All right. I think the
8 State may have a few questions for you.

9 MS. BLUTH: Thank you, Judge.

10 Is it Ritsema? How do I pronounce it?

11 PROSPECTIVE JUROR NO. 098: Well, in Demark they'll
12 say Weetsima, with a W, but it's -- but in America we just
13 pronounce the R, so we're saying it wrong, but Ritsema.

14 MS. BLUTH: You are retired. What did you do before
15 your retirement?

16 PROSPECTIVE JUROR NO. 098: I did statistical
17 process control for General Motors.

18 MS. BLUTH: How long did you do that?

19 PROSPECTIVE JUROR NO. 098: Twenty-seven years.

20 MS. BLUTH: But your bachelor's from Purdue is in
21 psychology.

22 PROSPECTIVE JUROR NO. 098: Yes.

23 MS. BLUTH: Were you ever going to go into that
24 field?

25 PROSPECTIVE JUROR NO. 098: I thought about

1 industrial psychology, which is very different, but I had so
2 much time with General Motors, to leave them and give up the
3 pension and everything, I just became a professional student
4 then.

5 MS. BLUTH: I actually do not know what industrial
6 psychology is. What is that?

7 PROSPECTIVE JUROR NO. 098: You walk into a Walmart
8 store and they give you larger carts to hold more stuff in, in
9 case you want to feel like shopping more, and cleaner aisles
10 and wider aisles, make it easier to shop, or just sticking a
11 camera on you because you will work a little better if you're
12 conscious about somebody watching you like the boss, even
13 though the camera doesn't even work, it just has a little red
14 light on it.

15 MS. BLUTH: So like you would -- so like in the
16 Walmart, they would be -- you would make everything look
17 prettier and bigger so you would want to fill your cart?

18 PROSPECTIVE JUROR NO. 098: Yeah, but some people
19 compulsive, like they say do not shop when you're hungry
20 because you'll shop -- food shop more. And the same thing as
21 if someone gets into a shopping binge that cart can hold more,
22 because when that cart is full you don't want to drag around
23 another cart, so then you'll leave and check out.

24 MS. BLUTH: I think that's what Target's been doing
25 to me.

1 PROSPECTIVE JUROR NO. 098: Yeah, they're sneaky.

2 MS. BLUTH: How long were you in the military police
3 for?

4 PROSPECTIVE JUROR NO. 098: I signed up for three
5 years and I extended for another half-year, so 3 1/2.

6 MS. BLUTH: Thank you for your service. The
7 criminal justice system overburdened, I think we've heard that
8 a couple of times today. Do you think that that's one
9 specific entity's fault?

10 PROSPECTIVE JUROR NO. 098: One specific entity
11 as --

12 MS. BLUTH: Yeah. Do you think that's the State of
13 Nevada's fault, do you think it's the defense's fault, the
14 judge, that it's so overburdened?

15 PROSPECTIVE JUROR NO. 098: Oh, oh. No, no. I
16 mean, it's just there's so much crime and more ways of
17 catching people and so it's just too much for the system to
18 handle. That's why I favor how Germany does it in which they
19 use three judges instead of a jury, and I think the judges are
20 more professional and less likely to fall for say sympathetic
21 ploys or anything.

22 MS. BLUTH: Thoughts on local law enforcement?

23 PROSPECTIVE JUROR NO. 098: I think they're pretty
24 good. You know, I have no problem other than if they enter
25 into an HOA then they say, nope, we're not touching this, go

1 to the HOA, even though you're calling them for something that
2 really in fact the HOA will say call the police. So it's a
3 little confusing.

4 MS. BLUTH: In regards to you stated had anyone --
5 you or anyone close to you been the victim of a crime and you
6 said, yes, assault.

7 PROSPECTIVE JUROR NO. 098: Yes.

8 MS. BLUTH: Was that you or another family member?

9 PROSPECTIVE JUROR NO. 098: Me.

10 MS. BLUTH: Were the police called?

11 PROSPECTIVE JUROR NO. 098: Yes.

12 MS. BLUTH: And was that situation dealt with in a
13 manner you thought was appropriate?

14 PROSPECTIVE JUROR NO. 098: It went to court, but
15 the witnesses did not want to be witnesses and they were
16 friends of mine, so I let them off the hook. I could have
17 subpoenaed them. But the results of that was that the guy did
18 walk even though everybody knew he did it, and he kind of said
19 he did to other people, but without those people coming
20 forward he basically was just punished with a rather large
21 attorney bill.

22 MS. BLUTH: Is there anything about that process
23 that you think would --

24 PROSPECTIVE JUROR NO. 098: Not in the least.

25 MS. BLUTH: -- impede you from being fair and

1 impartial to either side?

2 PROSPECTIVE JUROR NO. 098: Not in the least.
3 That's totally separate.

4 MS. BLUTH: Do you watch the shows that we've been
5 talking about?

6 PROSPECTIVE JUROR NO. 098: No. I grew up with
7 Adam 12 and all that and I burned out on it, and I haven't
8 used a TV in over a year other than for movies. But I do not
9 do TV at all. I'm just sick of commercials.

10 MS. BLUTH: Where do you get your news from?

11 PROSPECTIVE JUROR NO. 098: Generally the Internet.
12 I like the BBC over anything else.

13 MS. BLUTH: Would you consider yourself to be -- are
14 things usually black and white for you, or are you a gray area
15 person?

16 PROSPECTIVE JUROR NO. 098: It all depends on the
17 circumstances, but in general black and white.

18 MS. BLUTH: You stated that you could consider all
19 four punishments.

20 PROSPECTIVE JUROR NO. 098: Yes.

21 MS. BLUTH: And you would be willing to wait until
22 you heard both sides to make an opinion on what type of
23 sentencing is appropriate?

24 PROSPECTIVE JUROR NO. 098: Absolutely.

25 MS. BLUTH: Multiple times you talked about you

1 think that you could be fair and that you are capable of
2 serving on a jury. So I think you -- would it be fair to say
3 that you feel confident in that position?

4 PROSPECTIVE JUROR NO. 098: Yes. In fact, earlier I
5 was thinking if I was on trial I would want 12 of me.

6 MS. BLUTH: Twelve of you? But then you'd just all
7 agree all the time and there would be no --

8 PROSPECTIVE JUROR NO. 098: But I just mean that I
9 would be fair and I know where the -- you know, you just stay
10 in the middle road and, you know, just weigh out all the
11 facts. But no bias despite anything that's happened to me or
12 friends or anybody in the past, because I have witnessed some
13 really bad stuff or heard about it firsthand, about things
14 going wrong in a courtroom. But that pertained to somebody
15 else in a different situation. It has nothing to do with this
16 today.

17 MS. BLUTH: Sure. In that situation, but it was in
18 the courtroom?

19 PROSPECTIVE JUROR NO. 098: Yes.

20 MS. BLUTH: And was it a criminal case?

21 PROSPECTIVE JUROR NO. 098: Yes.

22 MS. BLUTH: And the person, is that like a friend or
23 a co-worker?

24 PROSPECTIVE JUROR NO. 098: It was my father.

25 MS. BLUTH: It was your father?

1 PROSPECTIVE JUROR NO. 098: Yeah.

2 MS. BLUTH: Oh, okay. And was he charged with a
3 crime or was he a victim of a crime, or --

4 PROSPECTIVE JUROR NO. 098: Charged.

5 MS. BLUTH: He was charged?

6 PROSPECTIVE JUROR NO. 098: Yeah.

7 MS. BLUTH: And was that in Las Vegas?

8 PROSPECTIVE JUROR NO. 098: No. That was in
9 Wisconsin.

10 MS. BLUTH: Okay. And was there a full trial?

11 PROSPECTIVE JUROR NO. 098: Yes.

12 MS. BLUTH: There was. And was he convicted?

13 PROSPECTIVE JUROR NO. 098: Yes.

14 MS. BLUTH: And do you feel -- because you said a
15 lot of bad things happened, do you feel like he was wrongfully
16 convicted?

17 PROSPECTIVE JUROR NO. 098: Yes, or just given a
18 much more powerful sentence. In fact, a university did a
19 paper on his case of it being kind of like how did this ever
20 happen.

21 MS. BLUTH: Like it is a serious crime or is it just
22 a theft type crime?

23 PROSPECTIVE JUROR NO. 098: We didn't think it was
24 serious, but the state treated it serious. We lived on 61
25 acres of woods. We had raccoons as pets, never dogs, cats.

1 It's just these wild animals always. But Dad would shoot
2 feral cats. Okay. And because they'd climb up the trees,
3 kill the songbirds. They'd kill the baby animals there, just
4 natural born hunters.

5 And these cats would come around Dad would shoot at,
6 but he didn't like the loud bang of the gun. So he built
7 himself a silencer, learned how to do it. And the thing was
8 amazing, amazingly quiet. But a silencer is, you know, looked
9 upon as a major offense and it was treated that way, like he
10 was kind of a mafia thing.

11 Now, us kids shot it. It was like this long
12 [indicating] just, you know, a great big thing, you know, not
13 what like you could hide what was on the end of a rifle. It
14 didn't fit any pistol or anything. So he just had this really
15 long silencer on the end of a .22, but he was found with that
16 and they gave him ten years. And he served ten years, yeah.

17 So we thought he'd die in prison but he didn't, but
18 really bad things happened to him there, and we'd have to pay
19 \$1,000 to send an attorney up there to get him into medical
20 treatment because he'd get attacked and stuff, and he was in
21 his 70s. So yeah, it was kind of weird. But I was in the
22 military at the time in Germany, you know. I wasn't up on it.
23 I just heard things as it came out from my sisters.

24 But do I hold that against our court system?
25 Absolutely not. He did other things in his life. It's kind

1 of a karma thing. So when he took the sheriff's boat out to
2 the middle of the lake and dumped off the engine and never got
3 caught, just swam back to shore, it caught up with him. It
4 did.

5 MS. BLUTH: Okay. Now this is all starting to make
6 a little more sense.

7 PROSPECTIVE JUROR NO. 098: Yeah. Yeah.

8 MS. BLUTH: All right. But knowing what you know,
9 can you be fair and impartial to both sides?

10 PROSPECTIVE JUROR NO. 098: Absolutely.

11 MS. BLUTH: Okay. Thank you so much for your
12 honesty.

13 We'll pass for cause, Judge.

14 THE COURT: Thank you. Go ahead, Mr. Draskovich.

15 MR. DRASKOVICH: Good afternoon, sir.

16 PROSPECTIVE JUROR NO. 098: I know I'm a little
17 animated but, you know.

18 MR. DRASKOVICH: It just keeps getting funnier as we
19 go along. I'm going to ask you, you've got a bachelor's
20 degree in psychology from a very reputable university. I'm
21 going to put you to the test right now. I'm going to ask you
22 the same question that I asked Ms. Letwinch in reference to
23 are you familiar with the term of confirmation (inaudible)
24 rights?

25 PROSPECTIVE JUROR NO. 098: I couldn't define it,

1 but you're welcome to clue me in furthermore.

2 MR. DRASKOVICH: We as human beings sometimes reach
3 conclusions and then discard information that may take us away
4 from the conclusion we've already reached, rush to judgment.
5 I think Johnny Cochran used the word, and I'm not in any way
6 equating this case to that case.

7 Do you believe the police can make mistakes?

8 PROSPECTIVE JUROR NO. 098: I've seen it. Mm-hmm.

9 MR. DRASKOVICH: Do you believe that a detective can
10 reach a judgment very early on in an investigation and stop
11 really investigating the case?

12 PROSPECTIVE JUROR NO. 098: I'm sure it's happened
13 and it could. I mean, basically humans, I've learned, are
14 only human and some of them will give in to certain flaws like
15 being biased.

16 MR. DRASKOVICH: Some people would take short cuts?

17 PROSPECTIVE JUROR NO. 098: Mm-hmm.

18 MR. DRASKOVICH: Do you have any concerns in
19 reference to presumption of innocence; that a man or woman
20 charged with a serious crime is presumed innocent until the
21 contrary is proved?

22 PROSPECTIVE JUROR NO. 098: True.

23 MR. DRASKOVICH: Are you willing to hold the State
24 to their burden?

25 PROSPECTIVE JUROR NO. 098: Yes.

1 MR. DRASKOVICH: If they present evidence that may
2 point to this gentleman, but it's not beyond a reasonable
3 doubt, will you have any problem returning a verdict of not
4 guilty?

5 PROSPECTIVE JUROR NO. 098: No problem. No problem.
6 I've already talked to myself about this. Like I said, that
7 narrow road, staying in the middle until this trial is
8 completely finished and all facts are weighed.

9 MR. DRASKOVICH: We have in this case a truly
10 innocent victim. Given that fact, are you still willing to
11 hold the State to their burden and not fill in gaps that their
12 case may have?

13 PROSPECTIVE JUROR NO. 098: Yes.

14 MR. DRASKOVICH: Thank you. I'll pass for cause.

15 THE COURT: Thank you. Okay. We now have
16 Mr. Dawson, Number 101. How are you doing today?

17 PROSPECTIVE JUROR NO. 101: I'm good. How are you?

18 THE COURT: Good. I think State might have some
19 questions for you.

20 MR. PESCI: Thank you, Judge.

21 Sir, you were unfortunately the victim of a robbery.
22 Where was that?

23 PROSPECTIVE JUROR NO. 101: The Mirage parking
24 garage.

25 MR. PESCI: How long ago was that?

1 PROSPECTIVE JUROR NO. 101: Almost two years, a year
2 and a half.

3 MR. PESCI: And did the police respond?

4 PROSPECTIVE JUROR NO. 101: Yes.

5 MR. PESCI: And did they take a report?

6 PROSPECTIVE JUROR NO. 101: This gentleman robbed me
7 in front of a camera and got into a car in front of a camera,
8 and drove out of the parking garage which has a camera to take
9 a picture of your license plates, so he was arrested before he
10 got home.

11 MR. PESCI: Okay. Do you know, was there a
12 prosecution --

13 PROSPECTIVE JUROR NO. 101: Brilliant.

14 MR. PESCI: Was there a prosecution of that case?
15 Did you have to go --

16 PROSPECTIVE JUROR NO. 101: Yes, there was.

17 MR. PESCI: Did you have to come to court and
18 testify?

19 PROSPECTIVE JUROR NO. 101: I did not go.

20 MR. PESCI: Do you know if it was negotiated or
21 resolved?

22 PROSPECTIVE JUROR NO. 101: Oh, no. He was
23 sentenced. It was a second offense, so.

24 MR. PESCI: Were you happy with the way that that
25 was handled?

1 PROSPECTIVE JUROR NO. 101: Yes.

2 MR. PESCI: The fact that you're the victim of a
3 robbery and we have a robbery charge in this case, will that
4 automatically make you side for the State of Nevada?

5 PROSPECTIVE JUROR NO. 101: No.

6 MR. PESCI: Could you be fair to the defendant even
7 though you've been a victim of a different crime, same charge
8 but obviously a different case?

9 PROSPECTIVE JUROR NO. 101: Yes.

10 MR. PESCI: You said as far as the penalty phase you
11 could consider all four forms of punishment; is that correct?

12 PROSPECTIVE JUROR NO. 101: Correct.

13 MR. PESCI: And then you had a way of describing an
14 answer to the question about the death penalty. "I've always
15 been in the middle of this debate. I'm not enthusiastic about
16 taking a life, however the severity of the crime would
17 influence my decision."

18 PROSPECTIVE JUROR NO. 101: Correct.

19 MR. PESCI: So have you had debates about the death
20 penalty?

21 PROSPECTIVE JUROR NO. 101: Like anybody else would.
22 If I was in a voting booth to determine whether it should or
23 should not be a law, I would be on the fence of that argument.
24 That's what I meant by that. But given it's a law here in
25 Nevada, if we got to that phase I wouldn't have a problem

1 considering it.

2 MR. PESCI: And then -- explained this, you would
3 need to know facts in order to make that determination?

4 PROSPECTIVE JUROR NO. 101: I would look at, again,
5 if we're referencing the death penalty --

6 MR. PESCI: Yes.

7 PROSPECTIVE JUROR NO. 101: --- I would look at that
8 as the most severe of the penalty, and the facts to me would
9 have to determine severity, and I would assign penalty based
10 on that.

11 MR. PESCI: And you could listen to both sides; like
12 the State would make its arguments as to why they think it
13 should be death, and the defense would give you reasons why it
14 should not be death, and you're open to listening to all of
15 that?

16 PROSPECTIVE JUROR NO. 101: Correct.

17 MR. PESCI: As far as the conversation we've had
18 about drugs and hearing about witnesses that are involved in
19 that kind of drug subculture, would you have an aversion to
20 hearing that? Would you just not listen to it because it
21 involves drug use?

22 PROSPECTIVE JUROR NO. 101: I wouldn't have a
23 problem hearing anything that -- facts are facts, whether
24 they're involving drug use or not or trafficking or whatever
25 it is.

1 MR. PESCI: And you could take that into
2 consideration as far as the credibility of that witness?

3 PROSPECTIVE JUROR NO. 101: Correct.

4 MR. PESCI: Is there anything that you wanted to
5 answer that we haven't asked you?

6 PROSPECTIVE JUROR NO. 101: Not that I can think of.

7 MR. PESCI: All right. Thank you very much.

8 Pass for cause, Your Honor.

9 THE COURT: Thank you. We're going to go ahead and
10 take short break. We've going a couple of hours and we don't
11 have a whole lot more to do.

12 THE CLERK: Do you want to finish with Mr.
13 Modafferi?

14 THE COURT: Pardon?

15 THE CLERK: Mr. Modafferi, the juror.

16 THE COURT: Oh.

17 MR. MODAFFERI: Do you want to let me ask anything?

18 THE COURT: I am so sorry. I already --

19 MR. MODAFFERI: I know we've been long-winded and
20 just a pain in the neck to deal with, but...

21 THE COURT: Never mind. I apologize, Mr. Modafferi.
22 I did not mean to cut you off from your opportunity to
23 question this juror. Go ahead.

24 MR. MODAFFERI: I promise you I can keep it short.

25 THE COURT: Just thinking ahead. Sorry.

1 MR. MODAFFERI: So good afternoon and thank you for
2 being here.

3 PROSPECTIVE JUROR NO. 101: Certainly.

4 MR. MODAFFERI: Appreciate it. We were talking --
5 they were talking about drug use and drug subculture, and how
6 it might come into play in the story line in this case. And
7 you were telling the prosecutor, if I got it right, that it
8 probably wouldn't phase you that much.

9 PROSPECTIVE JUROR NO. 101: I don't believe so.

10 MR. MODAFFERI: And I'm not trying to doubt you. I
11 really [inaudible]. My basic question is this. Can you
12 understand that the people involved in this subculture or this
13 life of using drugs and dealing drugs, that they can be
14 criminals and still not be criminal in another nature? I
15 mean, does a drug dealer make you a murderer?

16 PROSPECTIVE JUROR NO. 101: Of course not.

17 MR. MODAFFERI: No. Okay. So you understand that,
18 right?

19 PROSPECTIVE JUROR NO. 101: Yeah.

20 MR. MODAFFERI: And being under drugs doesn't
21 necessarily mean that you will murder, right?

22 PROSPECTIVE JUROR NO. 101: No.

23 MR. MODAFFERI: It might affect your ability --

24 PROSPECTIVE JUROR NO. 101: I believe the chronic
25 use affects judgment. I mean, it's not --

1 MR. MODAFFERI: Affects judgment.

2 PROSPECTIVE JUROR NO. 101: -- a reach.

3 MR. MODAFFERI: And it also affects perception,
4 right?

5 PROSPECTIVE JUROR NO. 101: Sure.

6 MR. MODAFFERI: So if a drug user comes in here and
7 tells you, well, this is the way I saw it, where you saw it
8 may not be the way reality sees it, right?

9 PROSPECTIVE JUROR NO. 101: I agree.

10 MR. MODAFFERI: And, you know, the point I think I'm
11 trying to make with you is when you hear these people talk and
12 understand their background, specifically with drug use and
13 drug dealing, it doesn't necessarily mean that a person who
14 uses drugs and even deals drugs is necessarily, necessarily
15 going to be a murderer; would you agree with that?

16 PROSPECTIVE JUROR NO. 101: I agree.

17 MR. MODAFFERI: Do you believe right now as you sit
18 there that Mr. Belcher is presumed innocent? Can you honestly
19 say that in your heart?

20 PROSPECTIVE JUROR NO. 101: Well, we've been here
21 for four days and having heard the case, I've been thinking
22 about the victim, because I know who the victim is, and we
23 haven't determined who did that crime yet, so no, I haven't
24 given much thought. He's innocent until proven guilty
25 obviously. But no, I have no ill will or I don't believe he's

1 guilty before something's been determined. We have to wait
2 for the trial for that. I'm not making any opinions before
3 that.

4 MR. MODAFFERI: When you say you knew the victim,
5 you mean you know that there is --

6 PROSPECTIVE JUROR NO. 101: We know who the victim
7 is, correct?

8 MR. MODAFFERI: Right. Exactly.

9 PROSPECTIVE JUROR NO. 101: We don't know who did it
10 yet, that's why we're here.

11 MR. MODAFFERI: Right. And I've asked this question
12 before of other jurors, this concept of 15-year-old girl,
13 innocent, gruesome, emotional reaction; is that going to cause
14 you in and of itself to point your finger at Mr. Belcher?

15 PROSPECTIVE JUROR NO. 101: No. The process of
16 determining who did it has to be separated from how intense
17 the crime is. I would see that as two separate -- two
18 separate issues altogether.

19 MR. MODAFFERI: So you come into the room, you sit
20 in the box, you hear a witness testify, let's say a crime
21 scene analyst or perhaps an EMT, and they come in and they
22 describe to you the way they found Alexis Postorino shot to
23 death on the floor. And as you hear that testimony and as Mr.
24 Pesci shows you the pictures of the autopsy and the bullet
25 wounds and the blood, before you've heard a single witness

1 testify to what happened that night, other than that, are you
2 going to think to yourself, you know what, I heard Mr.
3 Modafferi talk a lot about presumption of innocence, but I
4 ain't buying it now, now that I've seen these pictures?

5 PROSPECTIVE JUROR NO. 101: I won't promise I won't
6 be affected. Any human would of course. But the severity of
7 the crime doesn't dictate who did it. So no, in my mind I see
8 that as two very different compartments or rooms or however
9 you want to look at that.

10 MR. MODAFFERI: Thank you.

11 PROSPECTIVE JUROR NO. 101: I'm not going to blindly
12 point a finger because it's a very serious crime.

13 MR. MODAFFERI: Thank you. You'll wait until you
14 hear everything before you make up your mind about what
15 happened?

16 PROSPECTIVE JUROR NO. 101: Correct.

17 MR. MODAFFERI: And by keeping an open mind, we're
18 not confusing the concept of keeping an open mind as to what
19 happened with the concept of I will maintain the basic precept
20 of American justice that people are presumed innocent until
21 proven guilty at the same time. Two different state of minds;
22 keeping an open mind as to what the evidence proves, but at
23 the same time closely guarding that constitutional right that
24 if the government says I'm going to prove you did a murder,
25 you better bring the evidence. Will you do that?

1 PROSPECTIVE JUROR NO. 101: Yes.

2 MR. MODAFFERI: You promise to do that?

3 PROSPECTIVE JUROR NO. 101: Absolutely.

4 MR. MODAFFERI: Thank you. We pass for cause.

5 Thank you, sir.

6 THE COURT: Thank you very much. So sorry I jumped
7 the gun a little bit earlier. We are going to go ahead and
8 take a brief break at this point. So probably take about ten
9 minutes, I hope.

10 During this recess, you are admonished not to talk
11 or converse among yourselves or with anyone else on any
12 subject connected with this trial, or to read, watch or listen
13 to any report of or commentary on the trial or any person
14 connected with this trial by any medium of information,
15 including without limitation newspapers, television, the
16 Internet or radio, or to form or express any opinion on any
17 subject connected with this trial until the case is finally
18 submitted to you.

19 Jurors are excused. Counsel, stay just a minute.

20 (Prospective jurors recessed at 2:56 p.m.)

21 THE COURT: So I just wanted to talk with you before
22 we continue on. So we've gone through the 32 seats. That
23 means we still have four more to pass for cause.

24 Anthony, glad you're in the room. So when the
25 jurors come back in, we need the next four in order from the

1 back, which I believe will start with Badge No. 323, to sit
2 right to left in the second row back there. So it will be 33
3 on the right, then -- Seat No. 33, then 34, then 35, then 36,
4 similar to the way the row in front of them is. And then the
5 rest of the panel in the back as we have been.

6 So we'll continue on attempting to pass for cause
7 four more individuals to take 33, 34, 35 and 36. And he's
8 doing an additional chart that will show those next four
9 seats. So and then once we have passed the additional four
10 that we need, we'll be ready to do perempts. Now, so everyone
11 will be in those seats and in their order 1 to 36 at that
12 point.

13 Before -- are you going to need additional time
14 before I excuse them to do your perempts then?

15 MS. BLUTH: If we could just look at them where they
16 are and just make sure we know. I'm sorry. I'm not used to
17 having them leave the room when we do it.

18 THE COURT: Right.

19 MS. BLUTH: So I just need to make sure, and I've
20 been trying to do that so I have something to focus on so I
21 can remember. So if we just could have maybe like a minute.

22 MR. DRASKOVICH: With them sitting here? Or to
23 have --

24 MR. MODAFFERI: Yeah. I would like --

25 MR. DRASKOVICH: I mean --

1 THE COURT: Yes. So yes, once we finish passing all
2 36 for cause, I will give you a minute to look at them.
3 Frankly, I'll probably just chat with them for a minute while
4 you look around to make sure you have your notes in order.
5 But I am going to excuse them when you're doing the actual
6 perempts back and forth. And then as I indicated, should
7 there be a Batson challenge, I'll deal with that before we
8 bring the jurors back in.

9 MR. PESCI: Judge, if I could, you were saying
10 Seat 33 is going to be 323, Larsen, correct?

11 THE COURT: I believe that's correct.

12 MR. PESCI: Could we ask who 34, 35 and 36 are,
13 because I'm off.

14 THE COURT: The next in order. 340, Adam Knisley;
15 343, Cadedria Gaston; and 352, Harlond Felker.

16 MR. PESCI: Thank you so much.

17 THE COURT: So we'll first finish up the passing for
18 cause. I'll give you a second to take a look at all of them
19 at that point. And in fact, what I'll do at that point is
20 excuse the rest of the panel. Yes, I will excuse the rest of
21 the panel at that point, because if they're not in the 36,
22 they're done at that point.

23 MR. PESCI: And before we start we could probably
24 say, okay, here's the delineation, these are the people that
25 are in the alternate section, these people and beyond.

1 THE COURT: You mean amongst us?

2 MR. PESCI: Yes. Just so it's clear before we
3 start.

4 THE COURT: Yes. So the first 28 seats are going to
5 be for the petit jury, if you will, the 12 jurors.

6 MR. PESCI: Right. Okay.

7 THE COURT: So of that first 28, you'll each have
8 eight perempts, which gets that down to 12 people. Then in
9 Seats 29 through 36 will be the potential to be the four
10 alternates. That's a total of eight people, you'll each get
11 two perempts, which should leave us with four alternates.

12 MR. PESCI: Perfect. Thank you so much.

13 THE COURT: Okay. Let's go ahead and take a break.

14 (Court recessed at 3:01 p.m. until 3:14 p.m.)

15 (Outside the presence of the prospective jurors.)

16 THE COURT: Did Mr. Draskovich just go down the hall
17 for a sec?

18 MR. MODAFFERI: I don't know where he went.

19 THE COURT: Usually what happens. Okay. So it
20 would appear that we will, God willing, finish the jury
21 selection process this afternoon, and then go ahead and start
22 with openings tomorrow. We're scheduled to start at 10:00
23 tomorrow morning, so hopefully we'll start with openings at
24 that time and proceed into the trial.

25 MR. PESCI: Would it be okay if we came in like

1 9:30, so we can test our PowerPoints?

2 THE COURT: Yes.

3 MR. PESCI: Thank you very much.

4 MR. MODAFFERI: Thank you, Judge.

5 THE COURT: Sure.

6 MR. PESCI: I think there's going to be some
7 discussion --

8 MR. MODAFFERI: One issue. One issue about what can
9 be mentioned during opening. It's an evidentiary issue. It
10 concerns a reference in one of the CAD reports. It
11 specifically is this caller assisted dispatch report was made,
12 and it's this entry at 3:09 that I wanted to specifically
13 mention to the jury and show the jury.

14 And it says, At 3:09, two subjects unknown race
15 wearing masks canvassed the area. Mr. Pesci says that that
16 should not be allowed in. I'll let Mr. Pesci say what
17 Mr. Pesci says. But we want to use that not to essentially
18 prove that, but that was what the police did. The police
19 canvassed the area for two unknown men wearing ski masks, and
20 it's important to know that they did it and why they did it,
21 and they did it because they were told by Nick Brabham that he
22 was shot by two men wearing ski masks.

23 MR. PESCI: First and foremost, the CAD itself is
24 hearsay. There's no exception to that. It's hearsay.
25 Secondly, I would ask them to tell me where it is that it's

1 attributed that Nick Brabham said that.

2 MR. MODAFFERI: Well, I'll show you, Judge.

3 MR. PESCI: A search warrant? I know they're going
4 there, right.

5 MR. MODAFFERI: If you will hold on a second, I will
6 show you.

7 MR. DRASKOVICH: And Your Honor's already read the
8 search warrant he's --

9 THE COURT: Yes.

10 MR. DRASKOVICH: What I find disturbing in this case
11 is for the first two years we're on this case, it's been the
12 State's position that it was, Mr. Belcher, there were no two
13 people, the end. And now they're going about trying to bury
14 the fact that Mr. Brabham did say there were two masked men in
15 his apartment, and the State's done -- or in the house, and
16 the State's done nothing to follow up on that. We don't know
17 who those officers were.

18 THE COURT: Right.

19 MR. DRASKOVICH: And there's no way for us to get
20 the information. They don't return our phone calls. I mean,
21 it's --

22 MR. PESCI: That is categorically not true. There
23 was a detective that was here on Monday, the 28th, who
24 responded to a subpoena that was from the defense and not from
25 the State. So it's impossible to make that representation to

1 the Court.

2 Now, as far as the detectives, I mean, you have to
3 get some showing that Nick said that. They can ask Nick that.
4 Of course they can ask him that. But to point to a CAD, to
5 hold it up in front of the jury and say, isn't it true in this
6 hearsay statement that they said that you said two people,
7 they can't do that with a hearsay document. They can
8 absolutely ask him did you tell the police that.

9 THE COURT: Okay. So the real issue for now is
10 whether they can reference it in opening, which by the way, I
11 don't need to discuss now because I still have a ton of jurors
12 in the hallway.

13 MR. DRASKOVICH: All right. So we'll wait.

14 MR. PESCI: It can wait. Sorry, Judge.

15 THE COURT: Why don't we wait until hopeful -- when
16 we're done for today with the jurors, then we can finish up
17 this discussion. But as I understand it, the discussion for
18 now is whether or not that can be shown to the jury in
19 opening.

20 MS. BLUTH: Yes.

21 MR. MODAFFERI: Right, Judge.

22 THE COURT: All right. I promise we will deal with
23 that before opening and we should be able to deal with that at
24 the end of the day today. But sorry, not right now. Let's
25 get the jurors.

1 (Prospective jurors enter at 3:19 p.m.)

2 THE COURT: Anthony, so do I have them, 33 to 36?
3 Where is 30 -- Mr. Larsen is where?

4 THE MARSHAL: Thirty-three.

5 THE COURT: Flip [indicating].

6 (Prospective jurors reseated.)

7 THE COURT: Okay. So Mr. Larsen, how are you doing
8 today?

9 PROSPECTIVE JUROR NO. 323: I'm doing well, Your
10 Honor. Thank you. How are you?

11 THE COURT: Good, thanks. So, sir, you are an
12 attorney, correct?

13 PROSPECTIVE JUROR NO. 323: Yes, Your Honor.

14 THE COURT: And from what it says here, your entire
15 practice is civil; is that correct?

16 PROSPECTIVE JUROR NO. 323: Yes, Your Honor.

17 THE COURT: Have you ever practiced in the criminal
18 field at all?

19 PROSPECTIVE JUROR NO. 323: No, Your Honor.

20 THE COURT: You never like even law clerked at a
21 firm that did it?

22 PROSPECTIVE JUROR NO. 323: No, never.

23 THE COURT: Okay. All right. State, any questions
24 for Mr. Larsen, and make sure you're on a mike.

25 MR. PESCI: Sir, how you doing?

1 PROSPECTIVE JUROR NO. 323: Doing well, thanks. How
2 are you?

3 MR. PESCI: Pretty good, thanks. Your area of
4 expertise is civil law, and you said it looks like it's civil
5 defense?

6 PROSPECTIVE JUROR NO. 323: Yes.

7 MR. PESCI: So what type of cases do you normally do
8 as your mainstay?

9 PROSPECTIVE JUROR NO. 323: I do a variety of cases.
10 I am in house for Hartford Insurance Company, so I do
11 automobile accident defense, construction defense, subrogation
12 work, and workers' compensation.

13 MR. PESCI: And in that work have you had many jury
14 trials?

15 PROSPECTIVE JUROR NO. 323: I've has four, two first
16 chair, two second chair.

17 MR. PESCI: And in those contexts, were any of them
18 bench trials versus jury trials?

19 PROSPECTIVE JUROR NO. 323: They were all jury
20 trials.

21 MR. PESCI: Okay. And so far how do you think it's
22 going based on being on the other side?

23 PROSPECTIVE JUROR NO. 323: It's pretty interesting
24 being on this side.

25 MR. PESCI: I can only imagine. I've never been

1 called in.

2 THE COURT: You shouldn't have told them that.

3 MR. PESCI: I'm never even in the building. I
4 haven't even got the chance to come upstairs.

5 PROSPECTIVE JUROR NO. 323: I said that for years
6 until a few weeks ago.

7 MR. PESCI: Okay. Maybe my luck will change. As
8 far as the penalty phase, you've heard those questions. Now,
9 you have indicated that you can consider all four forms of
10 punishment?

11 PROSPECTIVE JUROR NO. 323: That's correct.

12 MR. PESCI: And then as far as the death penalty,
13 you specifically said you think it's appropriate if the facts
14 support it?

15 PROSPECTIVE JUROR NO. 323: That's correct, if the
16 totality of the circumstances support it, then yes.

17 MR. PESCI: Okay. Because you're a lawyer, if you
18 think, hey, you know, if I was the prosecutor or if I was the
19 defense attorney I would have done this or I would have done
20 that, do you think that will kind of permeate into your
21 thought process if you're sitting as a juror?

22 PROSPECTIVE JUROR NO. 323: No, not in this context.
23 The criminal world is totally foreign to me, so.

24 MR. PESCI: All right. So that's my follow-up
25 question. At the end of the day, when the instructions come

1 from the judge, can you apply those instructions? Because the
2 standard is different as far as proof beyond a reasonable
3 doubt and the standard in a civil case.

4 PROSPECTIVE JUROR NO. 323: That's correct. Yes, I
5 can.

6 MR. PESCI: You also indicated that you said
7 sympathy should not play a factor. What do you mean by that?

8 PROSPECTIVE JUROR NO. 323: Well, sympathy for the
9 victim shouldn't play a factor, or especially in this context
10 where we're presuming that the defendant is innocent, so.

11 MR. PESCI: All right. You've heard obviously that
12 this deals with a 15-year-old girl being killed in her home.
13 Is that what you're kind of referring to as far as having
14 sympathy affect you?

15 PROSPECTIVE JUROR NO. 323: Yes.

16 MR. PESCI: And when you say that, I think you mean
17 that your decision should be based on the facts, correct?

18 PROSPECTIVE JUROR NO. 323: 100 percent, yes.

19 MR. PESCI: And let's assume for the sake of
20 conversation that you're convinced that in fact the defendant
21 was the person that killed that 15-year-old. Sympathy can't
22 be the reason for which you would go with a penalty, but can
23 you consider the fact of how the murder occurred and what
24 happened as a reason to consider a certain penalty?

25 PROSPECTIVE JUROR NO. 323: Yes, I could.

1 MR. PESCI: So like you're saying don't let it
2 affect your ability to find guilt or innocence?

3 PROSPECTIVE JUROR NO. 323: Correct.

4 MR. PESCI: Do you have any questions that you think
5 we should have asked?

6 PROSPECTIVE JUROR NO. 323: No.

7 MR. PESCI: All right. We'll pass for cause. Thank
8 you very much.

9 THE COURT: Thank you.

10 MR. DRASKOVICH: Thank you. Just briefly. Good
11 afternoon, Mr. Larsen.

12 PROSPECTIVE JUROR NO. 323: Good afternoon.

13 MR. DRASKOVICH: In the four trials that you've
14 tried, have you ever had a witness that you've been crossing
15 ultimately say, you know what, you got me, I lied?

16 PROSPECTIVE JUROR NO. 323: Fortunately I have not.

17 MR. DRASKOVICH: You'd agree that that's very
18 unlikely to happen based upon your experience in the
19 courtroom?

20 PROSPECTIVE JUROR NO. 323: Correct. Yes.

21 MR. DRASKOVICH: In order to evaluate a witness's
22 credibility or the reliability of their statements, what tools
23 would you use?

24 PROSPECTIVE JUROR NO. 323: Tools meaning?

25 MR. DRASKOVICH: What things would you look at?

1 What elements would you examine?

2 PROSPECTIVE JUROR NO. 323: I would listen to what
3 they're saying, their responses to their questions and only
4 their responses to their questions, their demeanor on the
5 stand sometimes, and what they're saying.

6 MR. DRASKOVICH: Would you compare what they said to
7 what other people have said that were in the same situation,
8 the same place?

9 PROSPECTIVE JUROR NO. 323: Yes.

10 MR. DRASKOVICH: And if there was a conflict between
11 let's say two witnesses' accounts of the very same thing,
12 would that cause a problem in your determination as to at
13 least the credibility of one of them?

14 PROSPECTIVE JUROR NO. 323: The credibility or the
15 weight of what they're saying, yes, potentially.

16 MR. DRASKOVICH: Do you believe you can be fair and
17 impartial?

18 PROSPECTIVE JUROR NO. 323: Yes, I do.

19 MR. DRASKOVICH: Thank you. I'll pass for cause.

20 PROSPECTIVE JUROR NO. 323: Thank you.

21 THE COURT: Okay. All right. Mr. Nisley
22 [phonetic]?

23 PROSPECTIVE JUROR NO. 340: It's Nicely [phonetic],
24 ma'am.

25 THE COURT: Knisley. Okay. Mr. Knisley, how are

1 you doing?

2 PROSPECTIVE JUROR NO. 340: I'm doing great. How
3 about you?

4 THE COURT: Good. This is probably more my
5 curiosity than anything else. A flight simulation tech, is
6 that like for recreational use or like for the Air Force or
7 something?

8 PROSPECTIVE JUROR NO. 340: Yes, ma'am. I'm a
9 contractor for the Department of Defense.

10 THE COURT: All right. I understand. Okay. State.

11 MS. BLUTH: Thank you, Judge.

12 Good afternoon, Mr. Knisley.

13 PROSPECTIVE JUROR NO. 340: Afternoon.

14 MS. BLUTH: I want to talk to you about penalty. So
15 now that you have been here and you've heard the difference
16 between the two phases, and you've also heard that there's
17 multiple ways to be found guilty of first degree murder,
18 knowing that, in your answers to your questionnaire you were
19 saying, you know, if someone takes a life then I believe that
20 they should have to forfeit their own, and those weren't the
21 exact words you used, but --

22 PROSPECTIVE JUROR NO. 340: Yes, ma'am. Eye for an
23 eye.

24 MS. BLUTH: Okay. Now that you have been listening
25 and you recognize that there's several different scenarios and

**PLEADING
CONTINUES
IN NEXT
VOLUME**