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Respondent.

Electronically Filed
Oct 20 2017 01:30 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Docket 72701 Document 2017-36039

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DONOVINE MATHEWS
Case No. 72701

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1 revoked yesterday on his other case so, you know, he's going to be in custody
2 for a while anyway and we still have some investigation that we're working on.
3 I would ask the Court for around two months, if that's convenient for the Court
4 and for the State.

5 THE COURT: So a continuance for 60 days?

6 MS. CLARK: Yes, please, Your Honor.

7 THE COURT: Okay. Any objection by the State?

8 MS. JOBE: No, Your Honor, at the Court's convenience.

9 THE COURT: The motion to –

10 MS. JOBE: And just for the record, the State would've been ready to
11 proceed, if necessary.

12 THE COURT: Okay. The motion to continue is granted.

13 Can we set it in two months?

14 THE CLERK: Yeah, we can.

15 THE COURT: Okay.

16 THE CLERK: But it will be a civil stack.

17 THE COURT: Well, then go to the next criminal.

18 THE CLERK: Oh, August.

19 THE COURT: Okay. It will be August.

20 THE CLERK: Calendar Call, August 9, 8:30; Jury Trial, August 16, 1:30.

21 MS. JOBE: Court's indulgence.

22 That's fine. Okay, thank you.

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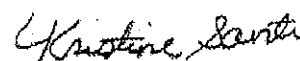
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MS. CLARK: Thank you, Your Honor.

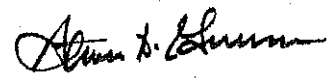
[Proceedings concluded at 9:15 a.m.]

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



KRISTINE SANTI
Court Recorder



CLERK OF THE COURT

1 RTRAN

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4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 DONOVINE MATHEWS,)

10 Defendant.)

CASE NO. C-16-313047-1

DEPT. XII

11
12 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

13 TUESDAY, MAY 31, 2016

14
15 **RECORDER'S TRANSCRIPT RE:**
16 **DEFENDANT'S MOTION FOR DISCOVERY**

17
18 **APPEARANCES:**

19 For the Plaintiff:

ELIZABETH J. ANDERLIK, ESQ.
Deputy District Attorney

20 For the Defendant:

KELLI M. DEVANEY, ESQ.
Deputy Public Defender

21
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25 RECORDED BY: DEBRA WINN, COURT RECORDER

1 TUESDAY, MAY 31, 2016, 8:58 A.M.

2 * * * * *

3 THE COURT: State of Nevada versus Mathews, C313047. He's present.
4 He's in custody.

5 MS. DEVANEY: Thank you, Your Honor. This matter was set today for
6 defense discovery motion; however, after discussions between the parties on
7 this, they are requesting a two-week continuance on the matter.

8 THE COURT: Okay.

9 MS. ANDERLIK: Your Honor, I actually - I'm sorry. I spoke with Mr.
10 Hamner this morning. He's requesting, in his words, several weeks to a month.
11 So if we could have a bit longer than the two weeks.

12 THE COURT: Several weeks to what?

13 MS. ANDERLIK: A month, up to 30 days.

14 MS. DEVANEY: And I do have word -

15 THE COURT: For what?

16 MS. DEVANEY: - from Ms. Clark that she does not mind if the State -

17 THE COURT: Okay.

18 MS. DEVANEY: - is requesting additional time.

19 THE COURT: Okay, 30 days.

20 THE CLERK: Yes, Your Honor.

21 June 30, 8:30.

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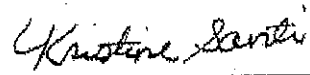
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MS. ANDERLIK: Thank you, Your Honor.

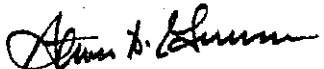
[Proceedings concluded at 8:59 a.m.]

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



KRISTINE SANTI
Court Recorder


CLERK OF THE COURT

1 RTRAN

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DISTRICT COURT

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CLARK COUNTY, NEVADA

6

THE STATE OF NEVADA,

7

Plaintiff,

8

vs.

9

DONOVINE MATHEWS,

10

Defendant.

11

12

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

13

THURSDAY, JUNE 30, 2016

14

15

**RECORDER'S TRANSCRIPT RE:
DEFENDANT'S MOTION FOR DISCOVERY**

16

17

18

APPEARANCES:

19

For the Plaintiff:

CHRISTOPER S. HAMNER, ESQ.
Deputy District Attorney

20

21

For the Defendant:

KRISTY CLARK, ESQ.
Deputy Public Defender

22

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24

25

RECORDED BY: KRISTINE SANTI, COURT RECORDER

1 THURSDAY, JUNE 30, 2016, 9:17 A.M.

2 * * * * *

3 THE COURT: State versus Mathews, C313047, present in custody.

4 MR. HAMNER: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. HAMNER: Christopher Hamner for the State.

7 THE COURT: Okay. So it's your discovery motion.

8 MR. HAMNER: Your Honor, the State is going to be requesting a
9 continuance. I've been in the middle of a two-week trial. I just haven't had an
10 opportunity to do it. If the Defense doesn't have any opposition –

11 THE COURT: Okay.

12 MR. HAMNER: – we were going to ask to possibly set it to the end of
13 July, if that's possible.

14 THE COURT: That's fine.

15 MR. HAMNER: His trial is not until August 16th.

16 THE COURT: Okay.

17 MS. CLARK: That's correct, Your Honor.

18 MR. HAMNER: Thank you so much.

19 THE CLERK: July 26, 8:30.

20 MS. CLARK: Thank you, Your Honor.

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THE COURT: You're welcome.

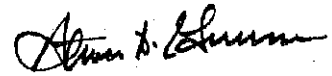
[Proceedings concluded at 9:18 a.m.]

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Kristine Santi

KRISTINE SANTI
Court Recorder



CLERK OF THE COURT

1 RTRAN

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4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 DONOVINE MATHEWS,)

10 Defendant.)

CASE NO. C-16-313047-1

DEPT. XII

11
12 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

13 TUESDAY, JULY 26, 2016

14 **RECORDER'S TRANSCRIPT RE:**
15 **DEFENDANT'S MOTION FOR DISCOVERY**

16
17 APPEARANCES:
18 For the Plaintiff:

MICHELLE Y. JOBE, ESQ.
Chief Deputy District Attorney

19 CHRISTOPER S. HAMNER, ESQ.
20 Deputy District Attorney

21 For the Defendant:

KRISTY HOLIDAY, ESQ.
Deputy Public Defender

22
23
24
25 RECORDED BY: KRISTINE SANTI, COURT RECORDER

1 TUESDAY, JULY 26, 2016, 10:04 A.M.

2 * * * * *

3 THE COURT: State of Nevada versus Mathews, C313047, present and in
4 custody. Okay. It's on for the Defendant's Motion for Discovery, correct?

5 MS. HOLIDAY: That's correct, Your Honor.

6 THE COURT: Let me get my notes. Okay. As to the first one, any
7 statements made by the Defendant or any other person in the case, is granted
8 pursuant to NRS 174.235, as well as Number 2.

9 Obviously, any crime scene analysis reports is granted, as is
10 required by the Nevada Revised Statute.

11 It looks – Number Four is access to and preservation of all
12 evidence. What is it you want to have access to?

13 MS. HOLIDAY: We'd like access to anything that the State might have
14 that we don't have. I know that's a really broad request, Your Honor. In this
15 case I don't think that there's something we don't have that the State has.

16 THE COURT: Okay.

17 MS. HOLIDAY: But we're asking just in case.

18 THE COURT: So at this time I'll just deny it without prejudice. If there's
19 something you believe that you don't have that the State has and you're
20 entitled to it, you can bring it back.

21 Number 5, I believe that this is too broad. Do you want to narrow
22 your request? I get all nervous about what this means, because it appears to
23 encompass a whole lot of things. I mean electronic messages could even be,
24 you know, text messages, emails.

25 MS. HOLIDAY: We could –

1 THE COURT: And I think you need to narrow it.

2 MS. HOLIDAY: We could narrow it, Your Honor.

3 THE COURT: I mean, obviously, if there's a wiretap you'd be entitled to
4 that, but it doesn't appear as though there's that in this, right?

5 MS. HOLIDAY: That's correct, Your Honor.

6 THE COURT: Okay.

7 MS. HOLIDAY: We can –

8 THE COURT: I think it's entirely too broad, but, again, if you have
9 something that's more narrow that meets this definition I would consider it.

10 Number 6 is, I guess, just the definition of *Brady* material. It's
11 granted.

12 Number 7, were there any warrants issued in this case?

13 MR. HAMNER: No, Your Honor.

14 THE COURT: Okay. Number 8, they're entitled to the reports regarding
15 any chain of custody as to evidence.

16 Number 9, let me see, sometimes I think these requests are so
17 broad I don't know how I can grant them, you know? Anything they use to
18 prepare a witness for a preliminary hearing. Is there anything specific? I
19 mean –

20 MS. HOLIDAY: Specifically, in this case, Your Honor, we've got an
21 expert that made some statements, a burn expert that made some statements
22 to officers, as well as a doctor from Sunrise Hospital that never treated the
23 victim or examined the victim, and the expert didn't treat or examine the victim
24 either. So we would want access to anything –

25 THE COURT: Oh, you want to know what they had in order to arrive at

1 those opinions.

2 MS. HOLIDAY: That's correct, Your Honor.

3 MS. JOBE: They're the photographs that the Defense has, Your Honor.

4 THE COURT: Okay.

5 MS. HOLIDAY: And if that's it, then that's fine. We just want to make
6 sure that we've asked for anything that they may have used.

7 THE COURT: Was it anything other than photographs and medical
8 records?

9 MS. JOBE: Not that the State is aware of.

10 THE COURT: Okay. So it's granted to the extent it's photographs and
11 medical records.

12 Number 10 is granted to the extent it's required by 174.234,
13 Subsection 4.

14 Number 11, again, I'm not sure how – any records that Metro has, I
15 just think it's too broad, so I'm going to deny it, if you want to get more
16 specific.

17 Number 12, were there any police informants?

18 MS. JOBE: No, Your Honor.

19 THE COURT: Okay. Number 13 – okay, I guess, 12 and 13, there
20 weren't any. They're not applicable to this case.

21 I'm assuming you have all the photographs. Was there any video?

22 MS. HOLIDAY: I don't – actually, Your Honor, I don't believe we do. In
23 the probation –

24 THE COURT: Because clearly there's photographs of the child.

25 MS. HOLIDAY: That's correct. We do have some photographs. In the

1 probation revocation hearing in his other case the detective testified that there
2 were some photographs taken specifically of inside the cupboards in the
3 apartment. We don't have those yet.

4 THE COURT: Why would they take pictures inside the cupboard?

5 MS. HOLIDAY: They were looking for coffee in this case.

6 THE COURT: Oh, okay. Okay, okay.

7 MS. HOLIDAY: Yeah.

8 THE COURT: Okay. You want the pictures of the inside of the
9 cupboard? Okay.

10 MS. HOLIDAY: We want any pictures that they may have taken, but,
11 specifically, we know we don't have those ones.

12 THE COURT: Okay. So any video, audio or photographs taken can be
13 turned over.

14 15, was there anything other than what's statutorily required?

15 MS. JOBE: No, Your Honor.

16 MR. HAMNER: No.

17 THE COURT: Okay. Number 16, it's granted as to the extent it's
18 required by statute.

19 Number 17, this is denied.

20 Number 18, it's granted to the extent of prior felonies or crimes of
21 dishonesty.

22 Number 19 is denied. Because I think Number 19 says if we didn't
23 ask for it previously we're asking for it now, and I'm not sure there's anything
24 you didn't ask for, so.

25 Number 20, it's my understanding that they went to the hospital

1 and that there were not any – it wasn't a 9-1-1, 3-1-1 situation – that they
2 came in contact with the police after they took the child to the hospital,
3 correct?

4 MS. HOLIDAY: Actually, Your Honor, I thought that maybe a nurse from
5 the hospital had called 9-1-1 to get Metro detectives to respond.

6 MR. HAMNER: I believe that's correct.

7 MS. HOLIDAY: But I could be wrong.

8 THE COURT: Pardon?

9 MR. HAMNER: I think that's correct, Your Honor.

10 THE COURT: Okay, then it's granted. Obviously, I'll give you the medical
11 records relating to this specific instance.

12 MS. HOLIDAY: Thank you, Your Honor.

13 THE COURT: Were you seeking every medical record for this child,
14 because I think you're only entitled to the medical records relevant to this
15 situation.

16 MS. HOLIDAY: That's fine, Your Honor.

17 THE COURT: Okay. Were there any – was CPS –

18 MS. JOBE: [Nods head.]

19 THE COURT: Okay. And so there's a file.

20 MS. JOBE: There –

21 THE COURT: So what I generally do is I just order it, and then they can
22 give it to the Court and then I review it in camera.

23 MS. JOBE: Yes, Your Honor. There was an investigation and ongoing
24 situation with the mother of the child because she now has a separate child
25 from the Defendant. So she has a DFS worker and all of that.

1 THE COURT: Okay. So the State can prepare the order.

2 MS. JOBE: And it will be just limited to this case, correct, Your Honor?

3 THE COURT: Yes. And then – they're really good. They'll bring them to
4 chambers sealed, and then if I deem them appropriate they'll be turned over, or
5 if they have *Brady* material.

6 MS. HOLIDAY: Thank you, Your Honor.

7 THE COURT: And Number 23, it sounds like we've already discussed
8 this. You want anything the expert relied upon in forming his or her opinion?

9 MS. HOLIDAY: That's correct, Your Honor.

10 THE COURT: Okay. It was previously granted.

11 Again, I think Number 24 is too broad; therefore, it's denied.

12 MS. HOLIDAY: Your Honor, specifically, if I may, for the second part of
13 Number 24, electronic communications between Child Protective Services and
14 the State, we think that CPS and the State may be communicating back and
15 forth as to the Defendant's communication with the child's mother.

16 Specifically, CPS in the past has warned her that she shouldn't be
17 speaking to him, even via the jail calls. And if she is, that they're threatening,
18 you know, action against her rights as a mother. And they keep bringing this
19 up time and time again, which is making the mother feel that maybe they're
20 getting information about jail calls from the State or from somebody else. So I
21 would just be curious as to what kind of information CPS and the State are
22 passing back and forth regarding this case.

23 MS. JOBE: A, the State represents the Department of Family Services.

24 THE COURT: Right. That's –

25 MS. JOBE: So there's that issue.

1 THE COURT: Right.

2 MS. JOBE: Secondly, the mother's proven herself untrustworthy and not
3 protective by showing up on behalf of the Defendant and taking the stand on
4 his behalf at the preliminary hearing, while her permanency worker, Nancy
5 Doyle, was sitting outside. So the State isn't providing any information or jail
6 calls. Nancy Doyle just happens to be smart and intuitive when it comes to
7 unprotective mothers.

8 MS. HOLIDAY: And, Your Honor, you can see where the mother feels
9 like –

10 THE COURT: Well, she's not on trial here.

11 MS. HOLIDAY: She's not on trial, but she feels like she's on trial.

12 THE COURT: I suggest she does what they tell her to do, if she wants to
13 keep her kids.

14 MS. HOLIDAY: And one of the things she's concerned about them telling
15 her to do is not to testify on his behalf; whereas, Your Honor knows, as a
16 witness she's –

17 THE COURT: They can't tell her that.

18 MS. HOLIDAY: Then that's what I'm asking for in this case, because I'm
19 wondering if there's –

20 THE COURT: They can't tell her not to come in and testify.

21 MS. HOLIDAY: I don't think there's specific –

22 THE COURT: That's not – I mean that's not their job to say you can't
23 testify. That makes no sense.

24 Because the State's going to subpoena her, correct?

25 MR. HAMNER: That's correct.

1 THE COURT: So, basically, you're saying that her CPS worker is telling
2 her to avoid a subpoena?

3 MS. HOLIDAY: No, Your Honor. That's not what I'm saying. And,
4 again, the reason I want to see the communications is because I –

5 THE COURT: Are you trying to say they're trying to tell her how to
6 testify?

7 MS. HOLIDAY: I'm trying to say, I would like to get some –

8 THE COURT: Because that's –

9 MS. HOLIDAY: – information to see if that's a possibility. I would
10 certainly never accuse the State or CPS of something like that, but I'm getting
11 information that she might be concerned about that. And that's why I would
12 just like to see the communications. I would –

13 THE COURT: Between whom?

14 MS. HOLIDAY: Between the State and CPS, regarding this case in
15 particular.

16 THE COURT: Well, I guess, anything that would be in the CPS file. Are
17 you talking about these district attorneys?

18 MS. HOLIDAY: Any representatives from the State.

19 THE COURT: I mean because they represent the Department of Family
20 Services, right? So there's another DA involved in this case that's handling it
21 down in Family Court. I'm not sure you're entitled to that, unless it's part of
22 the CPS file. I mean are you asking me to tell the DA that's in charge of it in
23 Family Court to turn over his or her file?

24 MS. HOLIDAY: I would ask for communications between that DA and
25 CPS workers that relate to this case.

1 MR. HAMNER: Well, it's –

2 MS. JOBE: But, yeah, and that's –

3 THE COURT: That DA and that –

4 MS. JOBE: They're privileged.

5 THE COURT: This seems to be the mother's issue.

6 MS. JOBE: Right.

7 THE COURT: I mean she's not the Defendant here. I mean she should
8 probably just worry about her – you know she should probably just worry about
9 her kids at this point. But if there's any evidence that someone's trying to
10 dissuade her from being a witness or sway or persuade her how to testify, that
11 would be very concerning to me. Because it sounds like that's kind of the
12 allegation you're making –

13 MS. HOLIDAY: I don't want to make that allegation, Your Honor. I
14 would just like –

15 THE COURT: – on her behalf.

16 MS. HOLIDAY: I'm concerned that she's concerned, and so I'd like to see
17 if there's any basis to make that allegation. That's why I'd like to see the
18 communication. I'd like to see if there's any basis for that allegation.

19 THE COURT: I'm not sure –

20 MS. JOBE: Can we approach?

21 THE COURT: Sure.

22 [Bench conference transcribed as follows:]

23 THE COURT: See, I get worried because I'm –

24 MS. JOBE: Any communication is attorney/client privilege –

25 THE COURT: Right.

1 MS. JOBE: – between the DFS attorney, for the attorneys in Child
2 Welfare –

3 THE COURT: Yeah.

4 MS. JOBE: – and the CPS worker.

5 THE COURT: Plus you got –

6 MS. JOBE: And just –

7 THE COURT: I'm thinking of all the levels of confidentiality –

8 MS. JOBE: Right.

9 THE COURT: – attorney/client. Yeah.

10 MS. JOBE: Not to mention that –

11 THE COURT: Yeah.

12 MS. JOBE: – Ms. Jasmine Cathcart, the mother, has lied to CPS workers
13 faces and lied about things that are independently verified in case notes. So I
14 appreciate she wants to take her at her word, but this is ridiculous.

15 MS. HOLIDAY: I don't want to take her at her word. I want to be able to
16 verify the information for myself. That's why I'm asking for the information.

17 MS. JOBE: She's getting a CPS worker.

18 THE COURT: Okay, but I mean you can't –

19 MS. JOBE: She's not our client.

20 THE COURT: Yeah. You can't have attorney/client – I mean there's –
21 it's protected by law. I mean I can't even give you the CPS records, unless I
22 review them and deem that they're *Brady* material. If I see anything in there
23 that's *Brady* material or – I mean they – I read these CPS records. They
24 document everything. If they have a phone conversation it's documented. So I
25 don't know if I've ever gotten the emails in the files. I can't remember. But

1 you're for sure not entitled to any communication electronically because that
2 could be protected.

3 MS. HOLIDAY: Would Your Honor consider reviewing that kind of
4 information in camera, as you would the CPS records, to see if –

5 THE COURT: Oh, there's no –

6 MS. HOLIDAY: – there's *Brady* material?

7 THE COURT: You mean ask the DA to turn their file over to me? No.

8 MS. JOBE: Ask DFS to waive their privilege?

9 THE COURT: Yeah. First of all, I think it's an extremely serious allegation
10 to make that there's a representative of the State of Nevada that is telling her,
11 because this is what it sounded like to me and you can correct me if I'm wrong,
12 that they have her children holding over – they have the threat of –

13 It's two kids now?

14 MS. HOLIDAY: Uh-huh.

15 THE COURT: – of two children being taken away from her unless she
16 testifies the way the State wants her to, either doesn't testify, because you
17 said they don't want her to testify on his behalf, or the State's told me she
18 comes in and gives favorable testimony for him. So that's outrageous. I mean
19 you're – that's accusing someone of committing a crime, a representative of
20 the State. I mean that's dissuading a witness.

21 MS. HOLIDAY: I agree, Your Honor. I agree.

22 MS. JOBE: The only thing –

23 THE COURT: It's a crime.

24 MS. JOBE: Yeah.

25 THE COURT: So, no, I'm not going to ask someone to turn over

1 attorney/client privileged information based on someone's whim.

2 MS. JOBE: Thank you, Your Honor.

3 MS. HOLIDAY: And that's okay. I understand.

4 THE COURT: I mean if you have more than that. But you can tell her I'm
5 not going to [indiscernible] anyone to dissuade her, persuade her, keep her from
6 testifying, not testifying. She's going to testify.

7 Because she's going to be subpoenaed, right?

8 MS. HOLIDAY: That's right.

9 THE COURT: Either way, she's going to either testify for the State or
10 you.

11 MS. HOLIDAY: That's correct, yes.

12 THE COURT: Right.

13 MS. JOBE: Yeah.

14 THE COURT: Because I mean she came home. She came upon the
15 incident and then they all went to the hospital.

16 MS. HOLIDAY: Absolutely.

17 THE COURT: So she's a percipient witness.

18 MS. HOLIDAY: Right. Not only will she be subpoenaed, she'll have to
19 swear to tell the truth.

20 THE COURT: Sure.

21 MS. HOLIDAY: And she's worried about that. She feels like she got –

22 MS. JOBE: She's not your client.

23 THE COURT: She's worried if she tells the truth and the truth benefits
24 him?

25 MS. HOLIDAY: Because the way she –

1 THE COURT: They cannot take her kids away from her because she
2 comes in and tells the truth.

3 MS. HOLIDAY: I agree.

4 MS. JOBE: It's about whether or not she's protective. That's their issue.

5 MS. HOLIDAY: She thinks it's about whether or not she's supportive of
6 him, and if she testifies honestly she feels that – I mean she feels like they
7 already made threats to her based on her preliminary hearing testimony because
8 she told the truth and she was supportive of him, and she's worried. After that
9 CPS responded very negatively to that.

10 MS. JOBE: Because she's not protective of the kids. That's the bottom
11 line. That's a different issue than whether or not why she testifies to is the
12 truth or not. They assess her protective capacity and, again, not Kristy Clark's
13 client.

14 THE COURT: Right.

15 MS. HOLIDAY: And I want to make it clear. I respect CPS. I respect the
16 CPS workers. I certainly respect the District Attorney's Office. I would never
17 just take her word that that's what they're saying.

18 THE COURT: Well, that's kind of what you're telling me.

19 MS. HOLIDAY: That's why I –

20 THE COURT: You're accusing the District Attorney's Office of, you
21 know, conspiring to commit a crime with the DCFS people –

22 MS. HOLIDAY: And I –

23 THE COURT: – based on what she says.

24 MS. HOLIDAY: Right. I certainly wouldn't accuse them of that, but
25 when she gives me that information I want to find out more about it. That's all

1 I want to do is –

2 THE COURT: Okay.

3 MS. HOLIDAY: – I want to find out more about it. I want to find out.

4 THE COURT: Call up the DCFS workers and talk to them.

5 MR. HAMNER: Right.

6 THE COURT: Call up the District Attorney that's on the –

7 MS. JOBE: It will – right.

8 THE COURT: – that side. There's nothing that prevents you from doing
9 that.

10 MS. JOBE: Or any – like you said – any conversations they've had with
11 her will be documented in the UNITY notes.

12 THE COURT: Right. So when I get – they really do document it good, so
13 if there's any concern about that. And you know if they have concerns about
14 mom testifying and doing things like that, then, yeah, they'll be documented in
15 the notes and, yeah, they do record the phone calls. She knows that, right?

16 MS. HOLIDAY: Yeah, of course. They both know that.

17 THE COURT: So if she's been told not to communicate with him –

18 MS. HOLIDAY: And –

19 THE COURT: – the phone calls are recorded.

20 MS. HOLIDAY: Right. And our point is just she's – they're obviously
21 getting information from somewhere about phone calls.

22 THE COURT: Well, sure they are. Oh, okay. So she's disobeying what
23 they're telling her to do.

24 MS. JOBE: The DAs down there have the power to subpoena the jail
25 records and the jail calls.

1 THE COURT: I'm sorry. What?
2 MS. JOBE: The DAs down there have the power to subpoena jail –
3 THE COURT: Sure.
4 MS. JOBE: – records and visitor logs and phone calls.
5 MR. HAMNER: Right.
6 MS. JOBE: We don't – we haven't turned any of that information over.
7 THE COURT: Yeah. And it's not private.
8 MS. JOBE: Right.
9 MS. HOLIDAY: Right. It's just –
10 THE COURT: It's not private. If she's calling him on the phone and
11 they've told her not to do it, that's her problem. That's not a *Brady* issue.
12 MS. HOLIDAY: I understand.
13 THE COURT: Okay, thanks.
14 [Bench conference concluded]
15 [Colloquy between the Court and clerk]
16 MS. JOBE: And, Your Honor –
17 THE COURT: Okay. So I think we were down to 25, and I'm going to
18 deny that as being overly broad, except to the extent that there are CAD
19 reports. Because I know there was a 9-1-1 call, so there should be a CAD
20 report.
21 And do you want to prepare the order?
22 MS. HOLIDAY: Thank you, Your Honor. Sure.
23 THE COURT: Okay.
24 MS. JOBE: And, Your Honor, are –
25 THE COURT: But you'll prepare the CPS order?

1 MS. JOBE: Yes, Your Honor.

2 THE COURT: Okay.

3 MS. JOBE: And are you granting the State's request for reciprocal
4 discovery?

5 THE COURT: Yes.

6 MS. JOBE: Thank you, Your Honor.

7 MS. HOLIDAY: And, Your Honor, in this case the trial date is currently
8 set, I believe, for August 16th.

9 THE COURT: Sure.

10 MS. HOLIDAY: We would be requesting a defense continuance at this
11 time. We have further investigation that we need to do. We spoke to the State
12 about it. I don't think they have an objection at this time. We would ask for a
13 month or two, I think October, if the Court's available in October. That was the
14 time that would work for both us and the State.

15 THE COURT: Sure.

16 Any –

17 MR. HAMNER: We don't have any objection and October does work for
18 us. I think we even threw out a possible date of October 24th. I don't know if
19 that's a criminal stack in this court – in this department but –

20 THE COURT: We have that date. So the motion to continue is granted.
21 The trial date is vacated. It will be reset.

22 THE CLERK: Calendar Call, October 18th, 8:30; Jury Trial, October 25,
23 Tuesday, 1:30.

24 MR. LAURENT: Your Honor, can I direct your attention to page 11 –

25 MS. HOLIDAY: Thank you, Your Honor.

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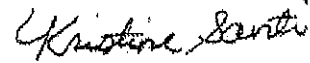
MR. LAURENT: -- Ranzie?

THE COURT: Thank you.

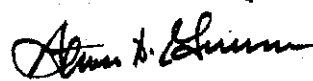
[Proceedings concluded at 10:23 a.m.]

* * * * *

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



KRISTINE SANTI
Court Recorder


CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 DONOVINE MATHEWS,

9 Defendant.

CASE NO. C313047

DEPT. NO. XII

10
11 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

12 TUESDAY, OCTOBER 18, 2016

13 **RECORDER'S TRANSCRIPT OF CALENDAR CALL**

14
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19
20 APPEARANCES:

21 For the State:

CHRISTOPHER S. HAMNER
Deputy District Attorney

22
23 For the Defendant:

KRISTY S. HOLIDAY
CARLI L. KIERNY
Deputies Public Defender

24
25 RECORDED BY: KRISTINE CORNELIUS, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 18, 2016, 8:59 A.M.

2 * * * * *

3 THE COURT: Mathews, C313047, Donovine Mathews present, good
4 morning, in custody.

5 MS. HOLIDAY: Good morning, Your Honor.

6 THE COURT: It's on for calendar call.

7 MS. HOLIDAY: Your Honor, would you mind just trailing this case for a
8 little bit? We're trying to talk about our calendar call and upcoming trial.

9 THE COURT: Sure.

10 MS. HOLIDAY: Thank you, Your Honor.

11 [Proceeding trailed until 9:34 a.m.]

12 THE COURT: On for calendar call.

13 MS. DEMONTE: Where'd Hamner go?

14 MS. KIERNY: Your Honor, we're waiting for Mr. Hamner and Ms. Clark.
15 Oh, here they come.

16 MR. HAMNER: Sorry, Your Honor.

17 THE COURT: Has page 13 been resolved?

18 MS. HOLIDAY: No, Your Honor, it's not resolved.

19 MR. HAMNER: No, Your Honor, it's not.

20 MS. HOLIDAY: Here's the issue, Your Honor, the defense is ready --

21 THE COURT: Okay.

22 MS. HOLIDAY: -- to proceed to trial. However, we have a couple of
23 problems. One, we agree with the State that this is probably going to be at
24 least a five-day trial, maybe even more. We noticed that the start date isn't
25 until Tuesday, next Friday is a holiday, and I understand Your Honor has a death

1 penalty case --

2 THE COURT: What's next Friday?

3 MS. HOLIDAY: Nevada Day.

4 MR. HAMNER: It's Nevada Day.

5 THE COURT: Is it already Nevada Day?

6 MS. HOLIDAY: Nevada Day.

7 THE COURT: Oh my goodness. Okay.

8 MS. HOLIDAY: And I understand Your Honor has a death penalty case

9 that starts on the 31st. So it's possible that we would, in fact, it's probable

10 that we would bleed over to the week of the 31st.

11 THE COURT: You let me worry about the schedule. Are you ready to

12 go?

13 MS. HOLIDAY: Okay. We're -- so we're ready to go, Your Honor, if

14 that's the only problem.

15 THE COURT: So this is not overflow eligible?

16 MR. HAMNER: The State's -- correct, because we need five days.

17 THE COURT: Because I have -- I have --

18 MR. HAMNER: And so even if we went to over -- that was our -- State's

19 ready to go, but the only thing we noticed was it's a four-day week, this is at

20 least a five-day trial.

21 THE COURT: But the parties could start on Monday?

22 MS. HOLIDAY: We could start on Monday.

23 MR. HAMNER: Yes.

24 THE COURT: Okay. I have another one that appears to be -- Ms. Lavell's

25 still here. But Ms. Lavell, yours is overflow eligible?

1 MS. LAVELL: It would appear to be. I mean, I guess it -- the State
2 believes it's a two-to-three-day case. The defense thinks it's a little bit longer.
3 I think we should probably be able to get it done in four days.

4 THE COURT: Okay. All right. Oh, Mr. Cottner, you're still here too. So
5 you think it's overflow eligible as well, page 12? Why won't you give me a
6 commitment?

7 MR. COTTNER: Most likely --

8 THE COURT: Make a commitment.

9 MR. COTTNER: Most likely not. I mean, I --

10 [Proceeding trailed until 9:36 a.m.]

11 THE COURT: Probably into next year.

12 MS. HOLIDAY: Into January?

13 THE COURT: No, like, March-April.

14 MS. HOLIDAY: March or April? Okay. We'll stick with next week, thank
15 you, Your Honor.

16 MR. HAMNER: Just --

17 THE COURT: Okay, so --

18 MR. HAMNER: Just one other note and it has nothing to do with
19 scheduling. The defense has noticed an expert and provided us a series of
20 photographs that have some kind of mathematical formulas where they appear
21 to have done kind of reconstructions, a sense of kind of what happened,
22 supposedly happened to this little kid who burned themselves, numbers, figures,
23 timing, there's, like, snapshots of children running. But there's been no report
24 that's been prepared.

25 And so the State's requesting is -- I asked defense counsel, Is there

1 a report, we were told no. But I -- my indication is we'd like any notes that this
2 expert has in terms of what they relied upon, any handwritten notes that this
3 expert's relying upon because I was told that this expert kind of orally told them
4 how his experiments were done over the phone with defense counsel. And so,
5 clearly, he must be or she must be relying on something, and she's written
6 some things done for measurements, things of that nature. We'd like those
7 provided before we start trial.

8 MS. HOLIDAY: Just to respond briefly, Your Honor, to our knowledge,
9 there have been no notes prepared. However, if our expert has prepared
10 notes --

11 THE COURT: Are there mathematical calculations?

12 MS. HOLIDAY: I believe there are, Your Honor, yes.

13 THE COURT: And this expert does them in his or her head without
14 writing them down?

15 MS. HOLIDAY: I'm not sure, Your Honor.

16 THE COURT: Okay.

17 MS. HOLIDAY: And the State has his phone number and address, they
18 would be welcome to call him and ask him if they want to.

19 THE COURT: You don't have any objection to them calling your expert?

20 MS. HOLIDAY: On the phone?

21 THE COURT: On the phone?

22 MS. HOLIDAY: Of course not, Your Honor. He's, you know, he's
23 welcome to call him. We'd love him to talk to our expert, actually. The other
24 thing, Your Honor, is I don't think he would be entitled --

25 THE COURT: Okay.

1 MS. HOLIDAY: -- to any notes, even if there are notes. The third thing is
2 I think the State has noticed at least three experts. We have not been provided
3 any reports or notes from those experts.

4 THE COURT: Okay.

5 MS. HOLIDAY: So I think at the very least, if their expert has notes, we
6 would want those too if we have to give our expert's notes.

7 MR. HAMNER: And I think one of the distinctions at least is this, their
8 expert is conducting what appear to be simulations or re-creations of an
9 accident where they're suggesting there's a certain timeframe in which a
10 two-year-old child runs from point A to point B because it shows you snapshots
11 of a child running to some location, an undisclosed location.

12 THE COURT: Okay.

13 MR. HAMNER: And it shows, you know, point-two and then point-seven.
14 It looks as if it's measuring the number of seconds it takes for this child to go
15 from kind of point A to point B. I don't know how they came up with any of
16 that.

17 THE COURT: A hypothetical child?

18 MR. HAMNER: A hypothetical -- and I asked that, I said, Is this our kid?
19 This isn't our kid. It's not our child. This doesn't appear to be the same
20 location where this actually happened. So there's really no notes to where this
21 was taking place, who was used, how these formulas were calculated.
22 Normally you'd expect that to be in a report. And the difference is is that our
23 experts are --

24 THE COURT: It sounds like a hypothetical child might be irrelevant.

25 MR. HAMNER: And that's -- that's all -- I mean, if we had more to go on,

1 yeah. I think that would be our concern. So we've been waiting to see if
2 there's been any more details to kind of substantiate as to how they came up
3 with these conclusions.

4 And with respect to our experts, the two experts in question are
5 medical doctors that examined, either examined the child or examined
6 photographs of the burns which would explain why there wouldn't be a report
7 *per se* because they were just offering their opinion as to what they saw when
8 they examined it. And they have the medical records. We've already provided
9 those.

10 So it's really kind of apples and oranges in terms of our experts
11 because one is re-creating a hypothetical scenario, according to the defendant;
12 and the other two are treating physicians that examined a child or examined
13 medical reports and photographs of a child who had second degree burns.

14 THE COURT: Okay. So no other reports except the medical records and
15 medical reports. Is your expert going to try to do some kind
16 re-creation/simulation?

17 MS. KIERNY: You mean an in-court demonstration? Is that what you're
18 talking about or --

19 THE COURT: I didn't say an in-court, I said some type of simulation or
20 re-creation, like a reconstruction of -- I don't know -- of what -- of the
21 allegations?

22 MS. KIERNY: It's correct, that he did run some analysis and he did do
23 some calculations regarding certain hypotheticals. Ultimately, he could have
24 completed an omnibus report.

25 THE COURT: Okay.

1 MS. KIERNY: However, it would have required multiple hours of work,
2 and we did not have the budget for it, unfortunately.

3 THE COURT: Okay.

4 MS. KIERNY: So what we asked him to do --

5 THE COURT: So your expert didn't prepare a report?

6 MS. KIERNY: -- is just talk to us about it. And so if --

7 THE COURT: Okay.

8 MS. KIERNY: -- Mr. Hamner wants to call him, that's fine. We have
9 additional hours available we can, you know, they can bill us. I would love for
10 him to talk to our expert about the experiments that they're -- about the
11 hypotheticals that he, you know --

12 THE COURT: Okay. I would suggest to you you turn over anything you
13 think is required to be turned over by law.

14 MS. KIERNY: We have turned over everything we have.

15 THE COURT: Or the run the risk of it being excluded.

16 MS. KIERNY: We have turned over everything that we've been provided.

17 THE COURT: Okay.

18 MR. HAMNER: Well --

19 THE COURT: Okay. I don't know if your expert's going to try to do
20 some kind of, I mean, I don't know -- I've never, ever had a -- a reconstruction,
21 well, no, I guess I have, but you always have reports, diagrams, and such. So
22 you really run a risk -- I don't know what it is, so you have to make a decision
23 of -- of what you think you need to turn over. So I'm going to tell both sides,
24 turn over what the statute requires you to turn over.

25 MR. HAMNER: And, Your Honor, I didn't want to jump the gun in terms

1 of kind of filing a motion to kind of exclude the expert because I was hoping to
2 see if they could provide me something more substantive. But, you know --

3 THE COURT: Well, they don't even care if you call their expert, they've
4 given you permission.

5 MR. HAMNER: Well -- well, I will -- I will put that phone call in today.
6 So, I will try to give him a call. But I would ask that --

7 THE COURT: I just want to make sure that's correct, you have no
8 objection, he can call your expert?

9 MS. HOLIDAY: Correct, that's correct.

10 THE COURT: Okay.

11 MR. HAMNER: Thank you.

12 THE COURT: Thank you.

13 MS. HOLIDAY: Thank you, Your Honor.

14 THE COURT: So we'll see you Monday at 10:30 for jury selection.

15 MS. HOLIDAY: Monday, 10:30?

16 THE COURT: Uh-huh, so it's October --

17 THE CLERK: 24th.

18 THE COURT: -- 24th.

19 THE CLERK: How many days?

20 THE COURT: Five days.

21 THE CLERK: Thank you.


22 MS. KIERNY: And also, if Mr. Hamner intends on filing a motion to
23 exclude our expert, obviously, we're past the date on that, that's something
24 that would change our ability to go forward, so I don't know if that's something
25 that needs to be filed or --

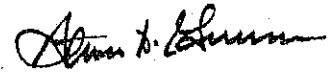
1 THE COURT: I don't think he said he was going to. I simply said, you
2 know, make sure that you turn over everything you're supposed to turn over or
3 run the risk of exclusion.
4 MS. KIERNY: Of course.
5 THE COURT: But I -- I trust you.
6 MS. KIERNY: All right.
7 THE COURT: You know what you're required to turn over.
8 MS. HOLIDAY: Thank you, Your Honor.
9 MS. KIERNY: Thank you, Your Honor.
10 THE COURT: Thank you.
11 MR. HAMNER: Thank you, Your Honor.

12 PROCEEDING CONCLUDED AT 9:43 A.M.

13 * * * * *

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20 ATTEST: I do hereby certify that I have truly and correctly transcribed the
21 audio-video recording of this proceeding in the above-entitled case.

22 
23 SARA RICHARDSON
24 Court Recorder/Transcriber
25



CLERK OF THE COURT

1 RTRAN

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

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Plaintiff,

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vs.

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DONOVINE MATHEWS,

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Defendant.

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BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

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THURSDAY, OCTOBER 20, 2016

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15

**RECORDER'S TRANSCRIPT RE:
STATE'S MOTION TO CONTINUE TRIAL BASED ON OUTSTANDING EXPERT
DISCOVERY**

16

17

18

APPEARANCES:

19

For the Plaintiff:

CHRISTOPER S. HAMNER, ESQ.
Deputy District Attorney

20

21

MICHELLE Y. JOBE, ESQ.
Chief Deputy District Attorney

22

23

For the Defendant:

KRISTY HOLIDAY, ESQ.
Deputy Public Defender

24

25

RECORDED BY: DEBRA WINN, COURT RECORDER

1 THURSDAY, OCTOBER 20, 2016, 8:41 A.M.

2 * * * * *

3 MS. HOLIDAY: Your Honor, I'm also ready on page 19; however, I think
4 the prosecutor is not here anymore. Mr. Hamner was here. It doesn't look like
5 he's here.

6 THE COURT: Okay..

7 [Proceedings trailed and recalled at 8:59 a.m.]

8 THE COURT: State versus Mathews, C313047.

9 Mr. Mathews is not here today?

10 MS. HOLIDAY: No, Your Honor. I guess the State did not do an order for
11 transport this morning.

12 MR. HAMNER: Well –

13 MS. JOBE: And I apologize, Your Honor.

14 Sorry, Mr. Hamner.

15 THE COURT: I think we – Pam told me – I mean this motion was put on
16 yesterday, right?

17 MS. JOBE: I had thought he'd been remanded to CCDC.

18 THE COURT: Oh.

19 MS. JOBE: Because that's what they usually do.

20 MR. HAMNER: Right.

21 THE COURT: Okay.

22 MS. JOBE: I didn't realize he'd gone all the way back to prison.

23 THE COURT: Okay, all right.

24 MS. HOLIDAY: And, Judge, obviously, I would ask to continue this
25 hearing for a couple of reasons, first and most importantly, because my client

1 isn't here. I think this is a significant proceeding that he should be present for.
2 In fact, it was very important to Mr. Mathews that the trial not be continued.
3 It's also important to us but especially important to Mr. Mathews.

4 THE COURT: I'm assuming you don't want to go forward without your
5 expert.

6 MS. HOLIDAY: No. No, Your Honor. We don't want to --

7 THE COURT: Okay.

8 MS. HOLIDAY: -- go forward without the expert.

9 THE COURT: Well, then I'm sure that it's important for him to -- because
10 I figured there was going to be something that expert should've turned over and
11 didn't turn over.

12 MS. HOLIDAY: Well, Your Honor, I think we would dispute that.

13 THE COURT: I mean you can't do calculations. You can't take all these
14 photos. I mean this is a -- he's a biomechanic, correct?

15 MS. HOLIDAY: Biomechanical Injury Expert --

16 THE COURT: Right.

17 MS. HOLIDAY: -- that's correct.

18 THE COURT: And so they try to reconstruct, basically, what happened.

19 MS. HOLIDAY: What could've happened.

20 THE COURT: I'm not sure I've ever had a biomechanic that can come in
21 and testify -- I mean I just -- if you're going to do things like that, there's going
22 to be something, and we know that there are clearly photos because they were
23 attached to the motion, right?

24 MR. HAMNER: That's correct.

25 THE COURT: Okay.

1 MS. HOLIDAY: That's correct.

2 THE COURT: What else is there?

3 MR. HAMNER: There --

4 THE COURT: And can the State not get ready, I guess, is the next
5 question.

6 MR. HAMNER: Yeah.

7 MS. JOBE: Your Honor, I spoke to the defense expert briefly after
8 Calendar Call, based on the conversations that were had in court.

9 THE COURT: Sure.

10 MS. JOBE: And he indicated to me that he did approximately 20 videos
11 trying to recreate the scenario that fits the Las Vegas Metropolitan Police
12 Department video reenactment with the Defendant trying to explain how this
13 child's hands got burned. So he would watch that and review that. He'd do a
14 video of his experiment, I guess we shall say, and then he'd review that and
15 compare it to the Metro video and make modifications and changes to his
16 reenactment videos that he was recreating based on whether or not it fit the
17 Las Vegas Metropolitan Police Department reenactment video.

18 We don't have any of those 20 -- we don't have one of those 20
19 videos of all the things he did, of what worked, what didn't work. We also
20 don't have the measurements and the photographs taken by the investigator of
21 the Public Defender's Office that were provided to the defense expert by which
22 he used to determine what model of a cup to use and how to make these
23 simulations that are --

24 THE COURT: Well, what's the stuff that was attached to the motion
25 then?

1 MS. JOBE: Those were the photographs that the defense expert did.
2 And he told me he took those still frames from videos.

3 THE COURT: Okay.

4 MS. JOBE: And so, but we don't know which video. We don't know
5 which videos he chose to ignore. We have no basis to cross-examine him on
6 the veracity, I guess, or the weight of his testimony to – in reconstructing what
7 worked and –

8 THE COURT: So he created videos and photos at least.

9 MR. HAMNER: Right.

10 MS. JOBE: He created videos and he created photos from those videos,
11 and he relied on information from the Public Defender's Office that only they
12 have; that has not been provided to the State.

13 THE COURT: Okay.

14 MR. HAMNER: And, additionally, Your Honor, he also indicated to Ms.
15 Jobe when she spoke to him that he actually had [indiscernible] had a series of
16 notes. And he also indicated that he has destroyed some of those notes in
17 preparation, as he described it, of his trial presentation, presumably –

18 THE COURT: Yeah. It sounded like I destroyed my notes after I prepared
19 my report that I'm going to testify about at the time of trial.

20 MR. HAMNER: Or –

21 THE COURT: I'm just saying that's what it sounded like to me.

22 MR. HAMNER: Or there's the possibility that there's a video PowerPoint
23 presentation of some sort, another thing that hasn't been provided to the State
24 prior to this.

25 So the bottom line is this. All of the – I've been doing this now for

1 12 years. I've never had a situation, and I've done civil practice too, where you
2 have an Accident Reconstructionist Expert who - there's no report, none of the
3 videos are turned over, none of the information, and all we have are
4 representations that all he did was take a couple of photographs, which is
5 absolutely not the case. And the only reason why the State learned of it was
6 because we had to go out of our way and have a conversation with their
7 expert.

8 I'm shocked that the Defense didn't know about the existence of
9 the 20 videos, because Dr. Johnson was more than forthcoming about the
10 existence of all this information. And the State can't even evaluate whether the
11 methodology and the analysis he did would even be appropriate for a jury to
12 hear until we have that information.

13 So, and it was what I had said at Calendar Call. I didn't want to
14 jump the gun to try to strike this guy, because I hadn't seen all of his materials
15 yet. And right now it's Thursday. We don't have any of the information yet.
16 He's indicated that he's putting it on a jump drive because the information is so
17 vast he can't just email it. He's sending it to defense counsel. It's Thursday.
18 We still don't have it. He's from out of state. We have out-of-state witnesses
19 as well that need to review this information and analyze it.

20 So the bottom line is: we are asking for a continuance at this point.
21 I mean it's the only appropriate remedy, if they want to go forward with this
22 theory of defense, because the other alternative is he's struck, and then no one
23 testifies about it because they've violated this discovery obligation. But I think
24 the more reasonable thing is: we continue it out, they provide us this material,
25 we can then analyze it, see if it's even appropriate to file a motion to exclude

1 him, or at least have our experts prepare and review his material so they can
2 testify about it.

3 THE COURT: What do you think, Ms. Holiday?

4 MS. HOLIDAY: Thank you, Your Honor. Your Honor, for the record,
5 again, I would just object to going forward with this hearing at all without my
6 client present. It's not his fault that --

7 THE COURT: I don't think your client needs to be here for a motion to
8 continue, but go ahead.

9 MS. HOLIDAY: And I respect your decision, Your Honor, but I just want
10 to make the record clear. You know, it wasn't his fault that he wasn't
11 transported this morning. I would personally suggest that we continue the
12 motion for maybe tomorrow morning, try to get an order to transport. The
13 second reason I would object to this hearing even going forward this morning is
14 because I didn't receive a copy of the State's motion until right when I was
15 coming into court this morning. The e-file email came in around midnight with a
16 copy of the motion.

17 THE COURT: You guys didn't send it over to her when you sent it to
18 chambers?

19 MS JOBE: I specifically asked our secretary to send it to her. She
20 confirmed she had. Ms. Clark was aware when I had a telephone conversation
21 with her that the motion had been prepared and should've been anticipating it.
22 So if she hadn't received it --

23 THE COURT: Okay.

24 MS. HOLIDAY: And, in fact, Your Honor, when Ms. Jobe and I --

25 THE COURT: I would've hoped that you would've received it yesterday

1 when I did.

2 MS. HOLIDAY: That's correct. And when Ms. Jobe and I spoke on the
3 phone, that's part of why I called her, because she had given advance notice
4 that this motion or that they would at least be requesting a motion be put on
5 this morning. And so one of the things I wanted to ask her for was a copy of
6 the motion. She indicated at the time we spoke on the phone that they hadn't
7 finished the motion yet. This was before lunch.

8 MS. JOBE: That's not what I said. I said we'd just gotten the motion
9 and just got everything set to put it on calendar for tomorrow.

10 THE COURT: Okay.

11 MS. HOLIDAY: Perhaps not finished --

12 THE COURT: Have you even had a chance to read it?

13 MS. HOLIDAY: I skimmed it briefly, Your Honor, while I was sitting over
14 in the corner.

15 THE COURT: Okay.

16 MS. HOLIDAY: Also, Ms. --

17 THE COURT: All right, if you haven't even had a chance to read it, I'm
18 not going to --

19 Can the parties be here tomorrow morning?

20 MS. JOBE: Yes.

21 MR. HAMNER: Yes.

22 MS. HOLIDAY: Yes, Your Honor.

23 THE COURT: Okay. Because if you're not going to go to trial I have to --
24 if you're not going to go to trial I have to -- you know I kind of need to know by
25 tomorrow.

1 MS. HOLIDAY: That's correct.

2 THE COURT: Okay. What time, 9:00, 10:00?

3 MS. JOBE: Court's convenience.

4 THE COURT: It's your pleasure. Well, we have to make sure – I just
5 want to make sure we get –

6 MS. JOBE: I'm going to go back and have it typed out and I'll walk it
7 over, Your Honor.

8 THE COURT: Right, to make sure that he gets here in the morning.

9 So why don't we try 10 o'clock?

10 THE CLERK: Yes, Your Honor.

11 October 21, 10 o'clock.

12 MS. HOLIDAY: Thank you, Your Honor.

13 THE COURT: Thank you.

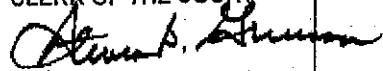
14 [Proceedings concluded at 9:07 a.m.]

15 * * * * *

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

18 

19 KRISTINE SANTI
20 Court Recorder
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24
25



1 RTRAN

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3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 DONOVINE MATHEWS,

10 Defendant.

)
) CASE NO. C-16-313047-1

)
) DEPT. XII
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)

11
12 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE
13 FRIDAY, OCTOBER 21, 2016

14 **RECORDER'S TRANSCRIPT RE:**
15 **STATE'S MOTION TO CONTINUE TRIAL BASED ON OUTSTANDING EXPERT**
16 **DISCOVERY**

17
18 APPEARANCES:

19 For the Plaintiff:

MICHELLE Y. JOBE, ESQ.
Chief Deputy District Attorney

20 CHRISTOPHER S. HAMNER, ESQ.
21 Deputy District Attorney

22 For the Defendant:

KRISTY HOLIDAY, ESQ.
23 Deputy Public Defender
24

25 RECORDED BY: DEBRA WINN, COURT RECORDER

1 FRIDAY, OCTOBER 21, 2016, 10:09 A.M.

2 * * * * *

3 THE COURT: State versus Mathews, C313047. He's present. He's in
4 custody. And it's on for the State's Motion to Continue Trial.

5 So, Mr. Mathews, I'm assuming your attorney brought you up to
6 speed.

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay.

9 MS. HOLIDAY: Good morning, Judge.

10 THE COURT: Any objection?

11 MS. HOLIDAY: Any objection to going forward, Your Honor? No.

12 THE COURT: Well, no. Any objection to the motion to continue?

13 MS. HOLIDAY: Yes, Your Honor. I do have an objection. I filed an
14 opposition this morning in open court. I did send the Court and the district
15 attorneys a courtesy copy, but it was really late yesterday. I'm not even sure if
16 Your Honor would've still been here to get it. So, obviously, if you didn't
17 receive it and didn't have time to review it, that's okay. I'd be happy to just
18 argue it orally this morning.

19 THE COURT: Go ahead.

20 MS. HOLIDAY: Your Honor, I'm opposing this continuance for a couple of
21 reasons. First, the items that the State doesn't yet have or was just given this
22 week prior to Calendar Call – I mean after Calendar Call – I don't think those
23 are things that I was required to turn over in the first place. I was looking
24 through the statute that governs –

25 THE COURT: You really think you're not supposed to turn that stuff over,

1 stuff that your expert prepared in anticipation, videos, calculations? You have
2 to turn over the facts and underlying data of the opinion. Both sides have to do
3 that so that both sides can conduct a meaningful cross-examination.

4 MS. HOLIDAY: Well, Judge, I think that according to NRS 174.245,
5 specifically as to results or reports of physical or mental examinations, scientific
6 tests or scientific experiments, which I think is what we're talking about –

7 THE COURT: Yes.

8 MS. HOLIDAY: – scientific experiments.

9 THE COURT: Mathematical calculations.

10 MS. HOLIDAY: Right. The statute says that the Defendant has to turn
11 over those things which the Defendant intends to introduce in evidence during
12 the case-in-chief of the Defendant.

13 THE COURT: I agree.

14 MS. HOLIDAY: When we compare that with statute 174.235, which
15 governs what the State has to turn over, the State has to turn over those same
16 items that they have possession, custody or control of. There's a difference
17 between their requirements and our requirements. We are required to turn over
18 only those things that we intend to introduce into evidence in our case-in-chief.

19 THE COURT: Okay.

20 MS. HOLIDAY: Now on October 4th I provided the State an email with
21 pictures. Some of those pictures were pictures that my investigator took.
22 Some of those pictures were pictures that the expert took and some of those
23 pictures were still photos created from videos that the expert took. Those are
24 the entirety of the photos that we intend to introduce in our case-in-chief. All
25 of the videos that were made we don't intend on introducing and we never did.

1 All of the – so there are six additional pictures that the – or I mean that the
2 expert took – that we didn't turn over until this morning.

3 THE COURT: Okay. It appeared pretty clear to me, based on the State's
4 representations, that your expert is clearly preparing a report. He's just
5 preparing it in a PowerPoint presentation. He's – I mean unless he's going to
6 do all of this off the top of his head, which I know that's not true. I mean it's
7 not true. Those biomechanical experts they don't just do it on the fly.
8 Otherwise we could just call him in here, tell him the facts and data while
9 they're sitting on the stand and let them give their testimony. That's not what
10 your expert did.

11 MS. HOLIDAY: No, Your Honor. Our expert in preparing to testify in this
12 case reviewed materials that I provided him. Those materials included all of the
13 evidence that the State had given me, so medical records, photos, the police
14 reports, and the six photos that our investigator took, which, like I said, I
15 provided those six photos to the State back on October 4th. That's what he
16 used to base his opinion on. Now he also made some videos.

17 THE COURT: And he created 20 different videos.

18 MS. JOBE: It's actually 30, Your Honor.

19 THE COURT: Thirty now? It's –

20 MS. JOBE: Just so the record is clear.

21 THE COURT: Okay, thirty different videos to apparently match this
22 scenario that the Defendant gave the police, right?

23 MS. HOLIDAY: That's correct, Your Honor. So in creating these videos,
24 the purpose that he creates these videos is so that he can later take still photos
25 from the videos. The videos, most of them are two or three seconds. The

1 longest video is 11 seconds. If you put all the videos together they total 117
2 seconds –

3 THE COURT: Okay.

4 MS. HOLIDAY: – which is a little less than two minutes. That's all of the
5 videos put together.

6 THE COURT: Do you plan on using those?

7 MS. HOLIDAY: No, Your Honor. We do not plan on –

8 THE COURT: And he doesn't plan on testifying about them at all?

9 MS. HOLIDAY: He plans on testifying about the still photos that were
10 created from five of those videos.

11 THE COURT: You just told me you're going to use it in your case-in-chief
12 then.

13 MS. HOLIDAY: So five of the still photos created from the videos, five of
14 the videos, we intend to introduce in our case-in-chief and we turned over those
15 still photos on October 4th.

16 THE COURT: Okay.

17 MS. HOLIDAY: Now I would agree with the State that for those five
18 photos that are still photos made from a video, they're probably entitled to have
19 those videos. If the still photos are created from videos they should have those
20 videos.

21 THE COURT: And they don't have them, correct?

22 MS. HOLIDAY: They do now.

23 THE COURT: Okay.

24 MS. HOLIDAY: However, they did not before yesterday.

25 THE COURT: And they got them when, yesterday?

1 MS. HOLIDAY: Yesterday, yes.

2 THE COURT: Okay.

3 MS. JOBE: About 4:30.

4 MS. HOLIDAY: That's correct, Your Honor.

5 THE COURT: So untimely.

6 MS. HOLIDAY: Untimely, absolutely. Those –

7 THE COURT: Okay. So you're admitting you didn't – I mean and there's
8 an order in place. So you're admitting you didn't turn them over until
9 yesterday, but they've been turned over.

10 MS. HOLIDAY: That's correct, Your Honor.

11 THE COURT: Yet you think that there's an objection to them asking for a
12 continuance?

13 MS. HOLIDAY: Yes, Your Honor, because those five videos are about 26
14 seconds total. I think that the State has time before trial to review the videos,
15 the five videos of 27 or 26 seconds, before trial on Monday. Not only that,
16 Your Honor, again, the longest video that we're talking about –

17 THE COURT: Okay, so here's – I mean I don't think I've changed my
18 mind. We can either go forward without your expert, or I can grant the
19 continuance. I guess I'm just trying to figure out why you're fighting so hard
20 the continuance when you're the one that has the problem.

21 MS. HOLIDAY: Well, Judge, part of the reason I'm fighting the
22 continuance is because at Calendar Call Your Honor said that your next
23 available stack for a continuance would be March or April. That's –

24 THE COURT: That's what it's looking like.

25 MS. HOLIDAY: Yeah. That's a significant amount of time for the State

1 to review 26 seconds worth of video. I mean, Judge, if we were talking about
2 a continuance of a month or a couple of weeks, I wouldn't have any opposition
3 at all, but when we're looking at March or April because outstanding is 26
4 seconds worth of video, I think that's a big deal. I think that's not fair. That's
5 not – it violates fundamental fairness.

6 Judge, just to try to make it a little bit more clear, these five videos
7 that we're talking about, again, the longest is 11 seconds. The still photos that
8 I provided the State, they show the substance of what's in those videos. So
9 they've had those still photos since October 4th. So if they needed to review
10 them or analyze them, or if they needed their expert to review them or analyze
11 them, again, they had the substance of the video back on October 4th. Now I
12 agree that they're entitled to have those videos if we're using still photos based
13 on them, but I don't think there needs to be an additional analysis performed
14 beyond, you know, those still photos. And if there does need to be an
15 additional analysis, I think it can be done, over that 26 seconds of video, before
16 trial next week.

17 A few other things that the expert had not given to us that we
18 hadn't given to the State included six additional photos. Now, again, these are
19 photos that we never intended to use in our case-in-chief. In fact, the expert
20 never even planned on giving them to us because he didn't intend on using
21 them. I provided them to the State just out of an abundance of caution, but we
22 don't plan on using these pictures, so I don't think these pictures not being
23 turned over until today merits a continuance either.

24 The third thing that we're talking about is some notes, some
25 calculations. We had talked about this at Calendar Call. So when I talked to

1 the expert –

2 THE COURT: So we're on to the third thing that hasn't been turned over.

3 MS. HOLIDAY: That's correct, Your Honor.

4 THE COURT: Okay.

5 MS. HOLIDAY: Again, though, these calculations that we're talking about
6 we were not planning on using in our case-in-chief. We think that the photos
7 speak for themselves as to these calculations. So the calculations, basically,
8 what we're talking about is –

9 THE COURT: The photos speak for themselves.

10 MS. HOLIDAY: – when the –

11 THE COURT: Did your expert do calculations, and is he going to talk
12 about calculations?

13 MS. HOLIDAY: I don't think he's going to talk about the calculations,
14 Your Honor.

15 THE COURT: Okay.

16 MS. HOLIDAY: Because what –

17 THE COURT: Then why did he do it?

18 MS. HOLIDAY: This is what he did. From those videos he then slows the
19 videos down so that he can provide a frame-by-frame picture of what's
20 happening.

21 THE COURT: Okay.

22 MS. HOLIDAY: That's the whole purpose of the video, so that we can
23 break it down and see the mechanics of what's going on in slow motion. The
24 calculations helped him to determine how many fractions of a second had
25 passed in the video.

1 So, for example, we have a child – the longest video is a child
2 turning and running. So he had to note, you know, that in this frame it was
3 point 24 seconds had passed, in this frame point 54 seconds had passed, and
4 those were the calculations that he made. In fact, the calculations altogether
5 total a half of page. Now I gave the State a three-page document because, at
6 my request, after Calendar Call the expert provided a rough explanation for how
7 he did these calculations, so that the State could understand what they were
8 looking at, but the calculations in total are a half of page.

9 So what we're really talking about here is five videos totaling 26
10 seconds, again, the substance of which the State already had back on October
11 4th, and half of page of calculations, but, again, I think were reflected in the
12 original photos because they did have times on the bottom. But I understand.
13 If that's important for the State to be able to analyze, I think they can analyze
14 or have their expert analyze half of page of time calculations between now and
15 trial. Again, certainly I don't think that fundamental fairness would merit an
16 almost six month's continuance for them to do –

17 THE COURT: We're almost in November. That's 90 days: December,
18 January, February. I mean where are you getting –

19 MS. HOLIDAY: Okay. You're right.

20 THE COURT: Yeah.

21 MS. HOLIDAY: So April would be five months.

22 THE COURT: Well, and it's March.

23 MS. HOLIDAY: So almost six months. If it's March, it's four months.

24 But, Judge, even then, for a 26 seconds worth of video and a half of page of
25 calculations, a continuance of that size just so that the State has time to review

1 those things, I don't think it's merited here.

2 THE COURT: Well, it would be really nice if I could continue stuff a
3 week, two weeks. That's just not the way things work.

4 MS. HOLIDAY: And I do understand that, Your Honor. I understand that
5 that's not the Court's fault. But speaking of fault, you know this isn't my
6 client's fault either. This is my fault. The fact that I didn't give the State those
7 five videos, those 20 seconds, 26 seconds worth of videos, that's my fault.

8 THE COURT: I'm not looking to place fault, I mean, but both sides are
9 entitled to a fair trial.

10 MS. HOLIDAY: I agree, Your Honor. And my client also has a
11 constitutional right to fundamental fairness and to me it just seems not just for
12 him to be in custody for an additional four or five months because I failed to
13 turn over 26 seconds worth of video and a half of page of calculations before
14 now. Now, again, the State has that stuff now. They would have time to
15 review it before trial and they've had the substance of those things since
16 October 4th.

17 As to the PowerPoint, Your Honor, when I learned that the expert
18 prepares a PowerPoint for his testimony I was pretty surprised. Obviously, I
19 have never seen an expert testify on direct examination with a PowerPoint.
20 Come to find out that's what he does in every criminal case he's testified in.

21 THE COURT: Right, because he's – if you tell him not to prepare a
22 report, he's got to do something. So his report is the PowerPoint.

23 MS. HOLIDAY: Well, I disagree with that, Judge.

24 THE COURT: I've been doing this awhile. The report is the PowerPoint.

25 MS. HOLIDAY: I asked him a little – to specify a little bit more about

1 what would be in this PowerPoint. He's not finished with it yet. That's why I
2 don't have it. That's why I haven't given it to the State.

3 THE COURT: Because you're the one that's going to ask the questions.

4 MS. HOLIDAY: That's correct.

5 THE COURT: Not the expert.

6 MS. HOLIDAY: And it –

7 THE COURT: So it sounds like it's a report to me.

8 MS. HOLIDAY: Well, Judge, again, I would disagree with that. I would
9 further even state that I don't think I would be requesting the Court to allow
10 this PowerPoint. I don't think I would intend on using it, because I don't think
11 that –

12 THE COURT: But it's your witness.

13 MS. HOLIDAY: – that's direct examination.

14 THE COURT: Yeah. It's your witness.

15 MS. HOLIDAY: So I asked him to give me a little bit of an idea of what
16 goes into the PowerPoint. He said –

17 THE COURT: This is kind of strange to me because it's your witness.
18 You're saying you don't want a PowerPoint. You don't want him to do it; yet
19 he told the State that's what he was in the process of doing.

20 MS. HOLIDAY: That's correct, Your Honor.

21 THE COURT: You know that sounds nonsensical to me.

22 MS. HOLIDAY: Well –

23 THE COURT: That an expert that you hired and is paying – and are
24 paying – is doing something you don't want him to do.

25 MS. HOLIDAY: Admittedly, Your Honor, I did not discuss the PowerPoint

1 with the expert. I assumed, because I've never seen an expert use a
2 PowerPoint, that he would not be preparing the PowerPoint. He assumed that I
3 would expect a PowerPoint because that's what he's done in every other case.
4 So this was definitely just a miscommunication. But either way, it's not
5 something that is a report. He said around 20 slides, talk about his
6 qualifications, so that would be reflected in his CV, which was already turned
7 over.

8 THE COURT: He's preparing the foundation for his expert testimony and
9 – okay.

10 MS. HOLIDAY: Apparently, this is what he's done in the past. And when
11 I've asked other people in my office if they've ever seen this done, they said
12 yes, they've seen it done and usually it's just for timing. It goes a lot quicker.
13 If you have an expert that's going to go through a lot of material, it goes a lot
14 quicker if they just go through it.

15 Now, again, I don't know if that's what we would be requesting to
16 do in this case, but the point I'm trying to make is it's not a report. Again,
17 these 20 beginning slides would talk about his qualifications and the Field of
18 Biomechanics in general. So they had – they would have nothing to do with
19 this case in specific, but they would just kind of talk about the Field of
20 Biomechanics, what is it? Another ten slides would talk about skin and burns,
21 again, not specific to this case but –

22 THE COURT: Okay, but this is something your expert is preparing but
23 you don't want him to; then tell him not to prepare it.

24 MS. HOLIDAY: Well, Judge, I just found out about it a couple of days
25 ago. I personally don't think we'll need to use it, but he's not done with it yet,

1 so I haven't seen it, so I don't know if I'd want to use it.

2 THE COURT: He's your expert. If you don't want to use it, tell him not
3 to do it.

4 MS. HOLIDAY: Here's what I would propose then, Your Honor. We
5 would agree not to use a PowerPoint, not to use this PowerPoint or any other
6 PowerPoint from this expert. I'm totally okay with that. All of the pictures that
7 I turned over on October 4th, that's all I intended to use in our case-in-chief.
8 That's all I still intend to use in our case-in-chief. And certainly I've talked to
9 the expert --

10 THE COURT: Okay, but still, by your own admission, they weren't turned
11 over timely.

12 MS. HOLIDAY: Those email or those pictures, they were turned over
13 timely. They were turned over on October 4th.

14 THE COURT: You just got through telling me you turned some stuff over
15 yesterday.

16 MS. HOLIDAY: What I turned over yesterday was the videos.

17 THE COURT: Okay.

18 MS. HOLIDAY: The videos --

19 THE COURT: So, by your own admission, there's stuff you didn't turn
20 over until yesterday.

21 MS. HOLIDAY: That's correct.

22 THE COURT: Okay. So the State hearing that, what's your position?

23 MS. JOBE: Where do I start is the thing. I would just point out for the
24 record, it's disingenuous for the Defense to stand here and say it's her fault she
25 didn't turn over these things and then invoke fundamental fairness. The fact of

1 the matter is the Defendant is currently in Nevada State Prison on another case,
2 on another prison sentence. So whether it's two months, three months, four
3 months or eight months, he's not going anywhere.

4 THE COURT: What's his sentence?

5 MR. HAMNER: Nineteen –

6 MS. JOBE: I don't remember –

7 MR. HAMNER: It's 19 to 48 months, Your Honor –

8 THE COURT: Okay.

9 MR. HAMNER: – for a home invasion.

10 THE COURT: Okay.

11 MS. HOLIDAY: That's correct, Your Honor. And he's not getting credit
12 on this case while he's in custody, obviously.

13 MS. JOBE: And to invoke fundamental fairness when it's –

14 THE COURT: Yeah, because he's under a term of imprisonment.

15 MS. JOBE: Right.

16 MS. HOLIDAY: Exactly.

17 MS. JOBE: And to invoke fundamental fairness when this is all the
18 Defense's doing is so disingenuous and egregious based on the discovery
19 violations. That's about all I'm going to say at that point.

20 The fact of the matter is the State didn't have the substance just by
21 having the still photos, as Defense claims. I've taken the time, though I got the
22 videos at 4:30 yesterday afternoon, I took the time to sit and watch the videos.
23 And while theoretically I could go through all the videos in two minutes and
24 eleven seconds or however minutes it is and physically watch all the videos,
25 there's much more to analyzing these videos than simply watching cross my

1 eyes on the screen.

2 I'd note that in the still photos of the child running, which there
3 have to be calculations, the expert told me came from a computer program he
4 uses, and those calculations are contained in some of the still photos provided,
5 how much distance the child is covering, some formulation comes up with
6 some mathematical number. Clearly, I'm not a mathematician; I'm an attorney.
7 But in watching that specific video where those stills come from, there's so
8 much more to that video, even in that short amount of time. That child has an
9 individual speaking to him, prodding him, probing him to try to come and run.

10 The State has the absolute duty and obligation to cross-examine
11 that expert witness. And what the Defense is doing is they're trying to cherry-
12 pick which evidence they're going to introduce and withhold absolutely
13 everything else from the State. That is not how this system works. That is not
14 how the defense is prepared. I have never seen a defense attorney do
15 something more egregious than withhold anything and everything, except for
16 what they want to present, and tell the State, tough, we're going forward.

17 The fact of the matter is, in watching all of those videos, all 30
18 videos are relevant to the State's cross-examination of this defense expert
19 because, though he picked five, and I point out for the Court that not all five
20 videos that they turned over that he's pulled stills from are of the reenactments
21 of pouring the water on the child's hands, some are, two or three –

22 THE COURT: Well, I'm just kind of curious. Do the parties think I'm
23 going to allow someone to do a reenactment? I mean I'm just wondering.

24 MS. JOBE: We were –

25 MR. HAMNER: That's –

1 MS. JOBE: We received this –

2 THE COURT: Because I know what biomechanics do and it –

3 MS. JOBE: Your Honor –

4 THE COURT: And based on the facts in this case –

5 MS. JOBE: Sure.

6 THE COURT: – I'm not sure why everyone is assuming I'm going to let
7 that expert testify.

8 MS. JOBE: And, Your Honor, we weren't able to fully analyze whether
9 we should even bring a motion to strike him with only receiving the still photos.
10 We had no idea if he only conducted experiments from pouring from the sides,
11 which is what we've seen. There appear to be no experiments with any child,
12 let alone that Your Honor's going to let him testify, but there's – there are no
13 experiments. There's nothing showing a child reaching up and grabbing
14 something and pouring it down on him, which the State's position is that has to
15 be the facts of how this happened according to the Defense's statement,
16 though the, or although the State's theory is he held that child's hands under
17 water. So these reenactments don't even get at the Defendant's statements in
18 that reenactment video.

19 But the fact of the matter is it's not just five videos; it's all 30
20 videos that are relevant to the State appropriately cross-examining this defense
21 expert. He said to me on the phone the other day he would essentially create
22 an experiment, he'd watch his video of the experiment, he'd go back, he'd
23 watch the Metro reenactment with the Defendant and look at the statements
24 and everything else that he obtained, and then he'd tweak his experiment and
25 he'd tweak what he'd do. He'd create a new experiment, different angles,

1 slightly different hand position, now that I've seen the 30 videos, and he'd redo
2 the experiment and videotape that as well.

3 Well, Mr. — Dr. Johnson — how come Video 61 wasn't sufficient for
4 your opinion today? How come you didn't use Video 33? How come you
5 didn't use Video 34? We have the right to ask those questions. And by
6 intentionally withholding those videos and all that information the Defense is
7 trying to hamstring the State and have a very unfair trial.

8 And in the course of all these discussions we've had and the
9 hearings that we've had, the State can't help but think, what the heck would
10 happen if the shoe was on the other foot? If it were the State who retained an
11 expert and the State only turned over evidence or only turned over stills that
12 were favorable to the State, (a) we'd be in egregious violation of the discovery
13 statutes. I guarantee you the news would be here. The headline would be how
14 shady the State is, they're hiding evidence, they're wrongfully convicting
15 people, wrongfully imprisoning people, and she'd be screaming from the top of
16 her lungs and we'd probably get fired. That's how egregious this would be if
17 the shoe were on the other foot.

18 The other things I want to point out, Your Honor, based on her
19 representations today, she said there's something in the PowerPoint about skin
20 and burns. Absolutely nothing about the disclosure of this expert has anything
21 to do with skin or burns. None of the discovery turned over to us has to do
22 with skin or burns.

23 So the fact of the matter is it's not just 26 seconds, it's not just
24 five videos, it's not even just the still pictures she turned over to us this
25 morning or everything else, according to Ms. Holiday, according to their

1 opposition, there are items of evidence that the State's entitled to that we are
2 never going to get. On page, I believe – yeah, page 4 – the Defense notes that
3 there were two to three pages of notes created, possibly other reminder notes,
4 and they talk about how on page 5 what was turned over to us yesterday
5 wasn't even his original notes. He recreated the calculations and the
6 explanations to turn them over to the State.

7 And, Your Honor, I'd point out that all of this happened after I
8 spoke with him Tuesday afternoon, after I talked to him about his
9 methodologies, after I talked to him about what he used and relied upon. He
10 contacts them, or they have a communication with them, and it's the State's
11 doing that's brought all of this to light. It's the State's doing that's brought up
12 the videos.

13 I note that in the Defense opposition they never mention surprise;
14 they never mention that they didn't know about these videos. They, in fact,
15 state on page 4, the Defense does not intend, nor did we ever intend to
16 introduce any of those videos in evidence in our case-in-chief and that is why
17 Dr. Johnson did not even send them to the Defense and the Defense never
18 watched the videos. You can't selectively decide what you get or don't get
19 from a defense expert or what you do or don't turn over.

20 In fear of repeating myself, I would just point out that, first, the
21 videos were turned over yesterday without a court order at the Defense's
22 doing. They didn't wait for Your Honor to order them to do that. Regardless of
23 the amount of time it takes to continue this trial, if Your Honor is inclined to
24 grant that, that's on the defense attorney and that's on their side of the case.
25 It's not the State. It's not fundamental unfairness when it's their doing that

1 causes this continuance.

2 And, finally, Your Honor, because this is criminal practice and not
3 private practice, where sanctions and fees and everything else would be
4 ordered, [indiscernible] just asking the Court to order the Defense to turn over
5 everything they received. I note that the defense expert has run everything
6 through Ms. Holiday and not given it to us directly, which is fine, and that's his
7 choice. We are asking Your Honor to require them to turn over absolutely
8 everything and it includes that report because, as Ms. Holiday said today, that
9 report includes things the State doesn't have. In their opposition that report
10 includes things that were in notes that have been destroyed once – that were
11 destroyed once it was incorporated into that PowerPoint presentation.

12 THE COURT: Well, that's what it sounded like to me, because you're
13 taking notes, and then he said, once I prepare my presentation I destroy all my
14 notes. It sounds like a report to me. You can't call it something else and say
15 it's not a report. So at this time I'm inclined to grant the motion to continue.

16 MS. HOLIDAY: And, Judge –

17 THE COURT: But the State has everything except –

18 MS. JOBE: Well –

19 THE COURT: – what I think is probably the report?

20 MS. JOBE: Yeah. And we don't know that, Your Honor, because (a)
21 when I spoke to him yesterday – not yesterday, Tuesday afternoon – he said he
22 still had some notes, but I'd point out to the Court that what was turned over
23 to us yesterday is not what his notes are. Those were recreations of
24 calculations. So to the extent he still has any notes, Your Honor, we're asking
25 for an order that he not destroy or get rid of anything else and that he turn over

1 everything that he has, whether it be scribble notes, whether it be post-it
2 reminders, whatever it may be as it relates to his experiments and what will be
3 his testimony. We are asking for all those things and an order that he not
4 destroy it.

5 MS. HOLIDAY: Judge –

6 THE COURT: He can't keep destroying stuff.

7 MS. HOLIDAY: And I understand what you're saying, Judge. When I
8 talked to him I asked a lot more about the notes, like what are you talking about
9 as far as notes, how many pages of notes did you have? He said he might have
10 had a total of two to three pages of notes, maybe, and what those notes would
11 look like would be, like I said, jotted down reminders. So he used this specific
12 example with me. He said, I might write "61 gravity spill" to indicate that in
13 Video 61 that had been a gravity spill. So we're talking about – I'm not talking
14 about, like, paragraphs of notes he would've written.

15 THE COURT: Okay.

16 MS. HOLIDAY: He didn't have that, according to him, when he told me.
17 He would have –

18 THE COURT: He still destroyed them.

19 MS. HOLIDAY: – little handwritten notes.

20 THE COURT: He said in preparation of his PowerPoint he was destroying
21 them.

22 MS. HOLIDAY: I think, Judge, because once he had the photos –

23 THE COURT: If you have a presentation prepared to give in court, you
24 have a report. I don't know. I mean I – he has a report.

25 MS. HOLIDAY: Judge, and –

1 THE COURT: You're just calling it something else. So turn it over.
2 Comply with the statute. I'll give you a court date as soon as I can. Here's
3 what you can do. I can continue it until the next stack and you'll go to the very
4 bottom, or I can give you the ordinary course, where you have a better chance
5 of going. It's your pleasure.

6 MS. HOLIDAY: I think we would like the next stack but –

7 THE COURT: Okay.

8 MS. HOLIDAY: And, Judge, I –

9 THE COURT: But just so you know, you're going to the bottom, okay?

10 MS. HOLIDAY: That's okay, Your Honor.

11 THE COURT: But there's always a chance you'll go.

12 MS. HOLIDAY: And, Your Honor, I do respect your opinion, but I would
13 like to just make a record in response to some of the –

14 THE COURT: Sure.

15 MS. HOLIDAY: – the points that the State's made.

16 The State talks about how if the shoe were on the foot we would
17 have a different view. That's true, Judge, because –

18 THE COURT: You have different obligations. I understand that.

19 MS. HOLIDAY: Right. We do have different obligations. And as far as
20 cherry-picking what evidence we turn over, that's because the statute tells us
21 we can cherry-pick what evidence we want to present in our case-in-chief and
22 we don't have to turn over the things that we decided not to use in our case-in-
23 chief.

24 In fact, this morning I read a case that kind of explained why our
25 statute is written that way. The case, Judge, is called *Binegar vs. the Eighth*

1 *Judicial District Court*. And it sounds like back in 1996 – I do have a copy for
2 the Court, if the Court would like a copy – back in 1996 it sounds like maybe
3 the statutes were written the same, or at least a draft of the statute that was
4 going through the legislature was written the same for both the State and
5 Defense, meaning that the Defense would have to turn over all scientific
6 experiments that their expert prepared, even if they didn't plan on using them in
7 their case-in-chief. But the Supreme Court, the Nevada Supreme Court stated
8 that that would violate constitutional rights of the Defendant because the
9 Defendant has the constitutional right against self-incrimination.

10 And so the statute, as it was written at the time, would violate the
11 Defendant's constitutional rights, and that's why there's a different standard for
12 the Defense. That's why the Defense can have an expert prepare a bunch of
13 materials that are not reports, scientific experiments or even notes, and the
14 Defense can decide if –

15 THE COURT: And destroy them –

16 MS. HOLIDAY: Not necessarily destroy them.

17 THE COURT: – so you don't have to turn them over?

18 MS. HOLIDAY: But then the Defense can decide if we want to use those
19 notes or scientific experiments in our case-in-chief. If we decide not to use
20 those in our case-in-chief, then the statute says that we don't have to provide
21 them to the State. The statute is very clear that we only have to provide to the
22 State the items which we intend to introduce into evidence in our case-in-chief.
23 The statute is very clear on this, as long as it's not a report.

24 THE COURT: But you can't – here's the thing. Your expert is preparing a
25 report and calling it a PowerPoint and you're saying we don't have a report.

1 He's using all these notes and calculations and videos and saying, but I
2 destroyed them, so I don't have to turn them over. I mean I'm getting kind of
3 frustrated with what I'm hearing here, because that's not how the rules are
4 supposed to work. You're not allowed to have an expert prepare a report and
5 call it a PowerPoint so you don't have to turn it over. You're not permitted to
6 have your expert do all these things: take notes, do calculations, create videos,
7 and then say, it's not a report, so we're not going to turn it over. I mean I just
8 never heard of such a thing, okay?

9 MS. HOLIDAY: And –

10 THE COURT: I mean and if you want your expert to testify, comply with
11 the rules. If you don't, you risk exclusion of the expert. I mean do you want to
12 go forward without your expert, because it sounds like both sides would be
13 ready to go without your expert?

14 MS. HOLIDAY: My suggestion, Your Honor, would be what the Defense
15 is always requesting in these situations of discovery violations.

16 THE COURT: So it's no.

17 MS. JOBE: Well –

18 MS. HOLIDAY: I –

19 THE COURT: It's just simple. Do you want to go forward without your
20 expert?

21 MS. HOLIDAY: I want to go forward without the things that we didn't
22 provide –

23 THE COURT: Okay. That's –

24 MS. HOLIDAY: – timely.

25 THE COURT: I'm not – well, I'm not – it's not let's make a deal, okay?

1 Do you want to go forward without your expert?

2 MS. HOLIDAY: Of course not, Your Honor.

3 THE COURT: Okay, that's what I thought, so.

4 MS. JOBE: And, Your Honor –

5 MS. HOLIDAY: But my suggestion to the Court would be that you
6 exclude us from introducing anything that we didn't provide by the deadline.

7 MS. JOBE: So give them what they want is what she's saying.

8 THE COURT: Well, yeah, because –

9 MS. HOLIDAY: Well, because we never intended to introduce these
10 things in the first place. Exclude the videos, because we never intended on
11 introducing them in the first place. Exclude these six additional photos. We
12 never intended on introducing them into our case-in-chief.

13 THE COURT: Okay. All right, so when is the next trial stack?

14 MS. JOBE: Your Honor, I need to make a record on the case she just
15 cited because it involves Fifth Amendment and I want Your Honor to make a
16 finding. I didn't bring it up when I initially was arguing because I – she didn't
17 go there, so I didn't go there. But the fact of the matter is this case is
18 remarkably distinguishable from the – was it Burrenger [phonetic] – *Binegar*
19 case.

20 The fact of the matter is in the *Binegar* case the Defendant had
21 gone to evaluations, mental health psyche evaluations, and the Defense in that
22 case was not calling the expert at issue. The Court forced the Defense to turn
23 over the reports, the notes from the mental health and psyche evaluations of
24 the expert who was not testifying. And so the statute was held overly broad
25 and unconstitutional because it didn't include just the witnesses the Defense

1 was calling; it included any potential witnesses the Defense may call. And that
2 was unconstitutional because, let's be honest, in certain situations the Defense
3 may hire an expert who has an opinion that goes against their case and for the
4 State they don't have to call that expert.

5 In this case –

6 THE COURT: And then they don't notice them. This expert is noticed.

7 MS. JOBE: Correct. This expert is noticed. They intend on calling him.
8 The State has an absolute right to impeachment of this expert for all the
9 experiments that he did and the evaluations based on the Defendant's own
10 statements to Metro in the Metro reenactment video that was done on the date
11 in question and his interview.

12 MS. HOLIDAY: Judge, specifically concerning the case that we're talking
13 about now, the case specifically analyzed the statute language that we're
14 talking about now, results or reports of physical or mental examinations,
15 scientific tests or scientific experiments made. On page 849 of that opinion
16 they specifically said that that is what the Defense can decide to use in their
17 case-in-chief or not and that only those items that the Defense uses in their
18 case-in-chief have to be turned over. It's not – the case isn't limited to just any
19 experts that the Defense decides to call in their case-in-chief.

20 It's specifically talking about an expert's experiments or results or
21 reports, and that's the way the statute reads too. Just because I pick an expert
22 to testify, doesn't mean that the State gets all of their stuff. In fact, the
23 statute specifically says the State only gets the things that we intended to
24 introduce in our case-in-chief. And so it's not just – I want to make clear that
25 case doesn't just say if you're not calling an expert in your case-in-chief you

1 don't have to provide their things. It also applies to other things that an expert
2 you are calling prepared that you're not intending on using in your case-in-chief.

3 THE COURT: Okay. So –

4 MS. JOBE: And it involves self-incrimination and these recreation videos
5 this expert did, and this specific case is not self-incrimination because the
6 Defendant had no conversation with him about what was going on. No
7 statements were made by the Defendant and nothing about these videos that
8 their expert created that the State intends to use in cross-examination have
9 anything to do with the Fifth Amendment.

10 THE COURT: Okay. So the State's Motion to Continue is going to be
11 granted. The objection is noted.

12 It looks like the first week in January. Is that going to be okay?

13 MS. HOLIDAY: Yes, Your Honor.

14 MR. HAMNER: Court's indulgence.

15 Right, I mean I'm not – the first week in January?

16 MS. JOBE: It's the 3rd, right?

17 THE CLERK: Yeah, the 3rd, with a Calendar Call on –

18 MR. HAMNER: Counsel's –

19 THE CLERK: – December 27th.

20 MR. HAMNER: Counsel's in a murder trial that week, so I don't think the
21 first week of January is going to work.

22 THE CLERK: Okay. How about January 10th, with a Calendar Call of
23 January 3rd?

24 MS. HOLIDAY: That works for me, Your Honor.

25 MR. HAMNER: That's fine.

1 THE COURT: Okay.

2 THE CLERK: Calendar Call is January 3rd at 8:30 with a Jury Trial

3 January 10th at 1:30 p.m.

4 MR. HAMNER: I hate to point this out. I just saw on my calendar I am

5 set to go for a invoked trial in this department on the exact same day.

6 THE COURT: Okay.

7 MR. HAMNER: So, I mean that's fine if you want to double stack.

8 THE COURT: Well, like I said, I can leave it here, but I mean that's the --

9 MS. JOBE: Sure.

10 MR. HAMNER: That's fine.

11 THE COURT: I mean this is my very next stack, so.

12 MS. JOBE: Because he -- yeah. And for the record, he has waived.

13 THE COURT: Okay. He has waived?

14 MR. HAMNER: Yeah.

15 MS. JOBE: Yes.

16 MR. HAMNER: This Defendant has waived.

17 THE COURT: Okay.

18 MR. HAMNER: The other one has not.

19 THE CLERK: Do you want to go to March then, Your Honor?

20 THE COURT: No. We'll leave them there.

21 MS. JOBE: All right.

22 MR. HAMNER: Okay.

23 THE COURT: We'll leave them there.

24 THE CLERK: Okay.

25 THE COURT: Thank you.

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MR. HAMNER: Thank you, Your Honor.

THE COURT: Thank you.

MS. HOLIDAY: Thank you, Your Honor.

THE COURT: Thank you.

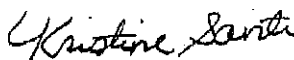
MS. HOLIDAY: I appreciate the Court's indulgence.

THE COURT: Thank you.

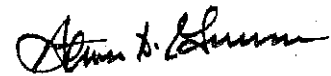
[Proceedings concluded at 10:44 a.m.]

* * * * *

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



KRISTINE SANTI
Court Recorder



CLERK OF THE COURT

1 **RTRAN**

2
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4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**

6 **THE STATE OF NEVADA,**

7 **Plaintiff,**

8 **vs.**

9 **DONOVINE MATHEWS,**

10 **Defendant.**

)
) **CASE NO. C-16-313047-1**

)
) **DEPT. XII**

11
12 **BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE**
13 **TUESDAY, JANUARY 3, 2017**

14 **RECORDER'S TRANSCRIPT RE:**
15 **CALENDAR CALL**

16
17 **APPEARANCES:**
18 **For the Plaintiff:**

CHRISTOPER S. HAMNER, ESQ.
Deputy District Attorney

MICHELLE Y. JOBE, ESQ.
Chief Deputy District Attorney

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22 **For the Defendant:**

ERIC W. RUSLEY, ESQ.
Deputy Public Defender

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25 **RECORDED BY: DEBRA WINN, COURT RECORDER**

1 TUESDAY, JANUARY 3, 2017, 9:10 A.M.

2 * * * * *

3 THE COURT: State versus Donovine Mathews, C313047, present in
4 custody. It's on for Calendar Call.

5 MR. RUSLEY: Judge, I'm here for Ms. Holiday. Her son is sick today, so
6 she could not be here. Just to give you a little status, she filed a late response
7 on Friday. She has some additional information she wants to supplement.
8 She's getting the information from the expert, so she does have some more
9 information she wants to provide. I guess we're kind of debating whether Your
10 Honor is going to request a hearing with regard to the motion, but I think what
11 we'd like to do, regardless of how you decide the motion, is do a – start next
12 week maybe on Wednesday for Mr. Hamner's schedule. Ms. Holiday is fine
13 with that. If you're inclined then to order a hearing, we would ask maybe if we
14 could do that on Tuesday –

15 THE COURT: Well –

16 MR. RUSLEY: – because the expert would be available.

17 THE COURT: Well, what's the motion? Is it the State's – are you talking
18 about the State's motion?

19 MR. HAMNER: Yes. It's the motion to strike their expert, Your Honor.

20 THE COURT: Okay.

21 MR. HAMNER: And Christopher Hamner and Michelle Jobe for the State
22 for the record.

23 THE COURT: Well, and you have filed a response?

24 MR. RUSLEY: She filed a response on Friday, Judge. I've got a copy if it
25 here. I don't know if the Court has it yet. I think the date it was originally set

1 to be argued was the 10th, which was going to be a day after the trial date. So
2 she's filed a response, but she does have more information to add to that.
3 She's going to have that done in the next couple of days. I just didn't know if
4 you wanted to set a date to argue that, you know, next Monday or Tuesday,
5 and then, regardless of which way it's decided, she'll be ready to go on
6 Wednesday.

7 THE COURT: Okay. So both sides will be ready to go?

8 MR. HAMNER: Yes, Your Honor. And I'm in a murder trial starting today,
9 which is why I am requesting a Wednesday start. And I've spoken with Ms.
10 Holiday. She indicated that, regardless of how the Court rules on her motion,
11 she indicated the Defense would be ready regardless of whether they win or
12 lose, so. And she's fine with that Wednesday start date. So that's fine. I
13 think we received it, I don't know –

14 MS. JOBE: It was after Friday.

15 THE COURT: How many days do you think it will be?

16 MR. HAMNER: I think three.

17 THE COURT: Will you be able to finish it next week?

18 MR. HAMNER: I think it's three days, possibly four, but I think we
19 probably could get it done in three days.

20 THE COURT: Okay.

21 [Colloquy between the Court and clerk]

22 MR. HAMNER: And I think – Ms. Jobe was indicating to me I think we
23 received it at 5:02 on Friday. I got an email. We got an email from her.

24 THE COURT: Okay. I'm sorry. Say that again.

25 MR. HAMNER: I was just saying that we had received the opposition at

1 about 5:02 on Friday via email.

2 THE COURT: Okay. All right, so it will be continued or it will be
3 continued to start trial on Wednesday at 8:30.

4 What's that date?

5 THE CLERK: The 11th.

6 THE COURT: January 11th at 8:30.

7 Do you want to put the motion on for Tuesday?

8 MR. RUSLEY: That would be fine, Judge.

9 MR. HAMNER: That's -

10 THE COURT: Okay.

11 MR. HAMNER: That's fine. If we could have a morning start, my trial
12 schedule, we start in the afternoons on Tuesday, so anytime in the morning
13 would be fine.

14 THE COURT: Sure.

15 THE CLERK: 8:30, Judge?

16 THE COURT: That's fine.

17 THE CLERK: January 10th, 8:30, for the motion.

18 MS. JOBE: And, Your Honor, I apologize. Just to clarify, do you want us
19 to be ready to go with an evidentiary hearing, if necessary, on Tuesday, or how
20 does the Court want to handle that?

21 THE COURT: I guess, can you give me an opportunity to review the
22 pleadings -

23 MR. RUSLEY: We can.

24 THE COURT: - and I can let you know?

25 ///

1 MR. RUSLEY: She'll try and have everything done by Thursday, so you'll
2 – you can give us an idea. We can have the witness here on Tuesday, if need
3 be.

4 THE COURT: Okay. Why don't you just have the witness here?

5 MR. RUSLEY: Okay.

6 THE COURT: Okay.

7 MR. RUSLEY: Thank you, Judge.

8 THE COURT: Thank you.

9 MR. HAMNER: Thank you, Your Honor.

10 [Proceedings concluded at 9:14 a.m. and recalled at 9:16 a.m.]

11 THE COURT: State versus Mathews, C313047.

12 MR. RUSLEY: He's up at the prison, Judge. Is there any way we can
13 remand him to the detention center to make it easier for her to go over – Ms.
14 Clark – to go over to see him, or Ms. Holiday to go see him for the next few
15 days?

16 THE COURT: That's fine.

17 MR. RUSLEY: Okay.

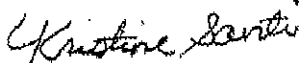
18 THE COURT: He'll be remanded pending his trial.

19 MR. RUSLEY: Thank you.

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

21 * * * * *

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

24 

25 KRISTINE SANTI
Court Recorder

Steven D. Grierson

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

DONOVINE MATHEWS,

Defendant.

CASE NO. C-16-313047-1

DEPT. NO. XII

TRANSCRIPT OF
PROCEEDINGS

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, JANUARY 9, 2017

FOR THE PLAINTIFF:

CHRISTOPHER F. BURTON, ESQ.
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FOR THE DEFENDANT:

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COURT RECORDER:

KRISTINE SANTI
District Court

TRANSCRIPTION BY:

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1 LAS VEGAS, NEVADA, MONDAY, JANUARY 9, 2017, 10:49 A.M.

2 (Outside the presence of the prospective jurors)

3 (Pause in the proceedings)

4 THE COURT: How long do you think this trial's
5 going to last?

6 MS. JOBE: No longer than Friday.

7 THE COURT: No longer than Friday?

8 MS. JOBE: Hopefully, before then.

9 THE COURT: Okay. So maybe two alternates. So,
10 we'll qualify 24. I'm assuming there's not going to be
11 anything outside the presence?

12 MS. JOBE: There is, Your Honor.

13 THE COURT: There is? Okay. Sorry, I told him to
14 go -- all right. The record will reflect the hearing is
15 taking place outside the presence of the jury panel. The
16 defendant is present in custody with his attorneys.

17 MS. JOBE: Your Honor, in reviewing the Information
18 this weekend and comparing it to the preliminary transcript,
19 the State has presented a request to file a Motion to Amend
20 the Criminal Information to modify the language. At the
21 current time it says "hot water". Have it say "hot water
22 and/or liquid".

23 Pursuant to the Preliminary Hearing transcript,
24 Dr. Cetl testified it will was a hot liquid. The fact of hot
25 water actually came from the defendant's statements to Metro.

1 This doesn't prejudice the defendant in that it doesn't alter
2 the State's theory of the case. It doesn't -- it just
3 modifies whether it was water or some other hot liquid used
4 to --

5 THE COURT: So the State wants to amend so it says
6 "with hot water and/or any other hot liquid"?

7 MS. JOBE: Yes, Your Honor.

8 THE COURT: Okay. Any objection?

9 MS. HOLIDAY: We just have a quick objection, Your
10 Honor, and that would be, to the extent that this does change
11 the State's theory of the case, from the very beginning of
12 this case, there's never been an indication to us that the
13 State felt the burns were caused by anything but water.

14 So if now we want to leave the possibility open
15 that it could have been some other liquid, to me that seems
16 like a change in theory. And our only other objection would
17 be that this is something that could have been handled a long
18 time ago at the Preliminary Hearing or any time since then.
19 And that's all we have. So we would submit it on that.

20 THE COURT: Okay. So the motion's granted.

21 MS. JOBE: Thank you, Your Honor.

22 THE COURT: Have you filed it?

23 MS. JOBE: I presented it, Your Honor, to be filed.

24 THE COURT: Okay.

25 MS. JOBE: As well as the Amended Information.

1 THE COURT: Anything else?

2 MS. JOBE: I just want to make a record, Your
3 Honor, the State conveyed an offer to plead guilty to the
4 charge with a sentence of two to eight years. The State's
5 understanding, as communicated to counsel, was if the State
6 didn't hear back that the offer was going to be accepted by
7 Friday, we were proceeding to trial today. So that is
8 information the State's proceeding on.

9 MS. HOLIDAY: That's correct.

10 THE COURT: Okay. And that's your understanding,
11 sir?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And you rejected that offer?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And you want to proceed and go to
16 trial?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Okay.

19 MS. HOLIDAY: And Your Honor, we only have a couple
20 other brief things. We met with the State Friday. We
21 discussed some redactions to the audio statements that the
22 State is thinking about playing. One statement would be
23 Mr. Mathews' statement. Another would be the recorded
24 statement of Jasmin Cathcart. I believe the State said they
25 are planning on playing Mr. Mathews' statement. They're not

1 sure yet if they're going to play Ms. Cathcart's statement.

2 MS. JOBE: I believe that we're playing Ms.
3 Cathcart's statement.

4 MS. HOLIDAY: In any event, we agreed on some
5 redactions to Mr. Mathews' statement, including any mention
6 that he's on probation, or that he has a curfew or that he
7 was in custody, or that he had been in trouble before.

8 I think we are all good with the redactions to
9 Mr. Mathews' statement, with maybe the exception of the
10 following: We have heard some references both in Ms.
11 Cathcart's statement and in Mr. Mathews' statement to CPS.

12 MS. JOBE: Hold on.

13 THE COURT: Go ahead.

14 MS. HOLIDAY: Specifically, Ms. Cathcart has had
15 involvement with CPS in the past before this case, and I
16 believe both Ms. Cathcart and Mr. Mathews discussed that in
17 their recorded statements. It is our request that we redact
18 any mention of any CPS involvement, either prior to this case
19 or during, this case because we have previously requested CPS
20 records that are related to this case.

21 I believe that in the past the Court granted or
22 ordered CPS records to be reviewed in camera and that the
23 Court would pass along any information that she felt the
24 parties needed to have, she would pass it along to us. We
25 have not received anything from CPS. We don't know if the

1 Court has. We --

2 THE COURT: No.

3 MS. JOBE: I thought I'd take -- we had a full
4 discussion about this on Friday so I'll fill in the other
5 part of the discussion --

6 THE COURT: Okay.

7 MS. JOBE: -- when she's done.

8 THE COURT: Because I haven't received -- I haven't
9 reviewed any CPS reports.

10 MS. HOLIDAY: Right. And so our position would
11 just be because we don't have the details of the prior CPS
12 records or these -- this -- the CPS records involving this
13 case, it would be our request that we don't discuss the CPS
14 issues at all.

15 Specifically, to Ms. Cathcart's prior involvement
16 with CPS, she makes some reference to the fact that maybe her
17 -- the father of her children had made complaints to CPS, I
18 don't know, to try to hurt her or to get back at her. And if
19 that's the case, we might find details about that in CPS
20 records. I think the other part of it that she represented
21 was that the allegations were unsubstantiated. I think we
22 would like to find the details of why they were
23 unsubstantiated, and that might be important to this case if
24 the jury gets the idea that Ms. Cathcart has trouble with
25 CPS.

1 We might want to respond to that and provide
2 details. If we don't have any CPS records that we've
3 requested, we don't believe we can appropriately respond to
4 that. And so our request would just be that we not mention
5 CPS at all in this case.

6 MS. JOBE: And Your Honor, we had the opportunity
7 to discuss this. I note that at the October trial date and
8 the calendar call, defense never mentioned the lack of CPS
9 records. And I apologize, I have no explanation or
10 justification for the fact that they were not obtained
11 pursuant to the Court's order. So I do apologize for that.

12 But it wasn't mentioned in October when defense was
13 announcing, ready, ready, ready, must be ready and must go,
14 and State got the continuance based on the failure to
15 disclose information from their expert. We had an at length
16 discussion about this at our -- when we met can defense
17 counsel on Friday. I was open and honest with them when I
18 said I don't know why they weren't obtained. The State
19 doesn't have any record of producing them to the Court, so I
20 don't have any reason to think the Court would have them
21 otherwise.

22 THE COURT: Um-hum.

23 MS. JOBE: And it was agreed upon by all counsel
24 that defense wants to proceed. They don't want to take the
25 time to get these records produced to Your Honor to provide

1 it to counsel in order to wait for those to proceed. So --

2 THE COURT: Okay. So you agreed to go get them and
3 they said we don't want to continue trial?

4 MS. JOBE: That was their position.

5 THE COURT: Okay.

6 MS. JOBE: I'm like, we can fix this, but they said
7 no, we want to go forward on Monday. Fine, no problem,
8 that's their call, that's their decision. So to stand up
9 today and say well, we don't want to get into this because
10 this may be, and we don't know, and it would be really
11 helpful to have these records, and know what actually
12 happened is a bit disingenuous, based on the conversation
13 that was had in our office on Friday. In the defendant's --

14 THE COURT: I'm happy. If you want those CPS
15 records -- in fact, it sounds like they've already been -- it
16 was -- they were ordered to be turned over to you. Your
17 remedy is to seek a continuance and get the records.

18 MS. KIERNY: Your Honor, my --

19 THE COURT: And bring it to someone's attention
20 besides at 10:57 when I have a jury panel outside.

21 MS. KIERNY: And I apologize for interrupting you
22 earlier, but our understanding was that they had pretrialed
23 the CPS investigator. She did not provide anything
24 exculpatory, inculpatory, so they were not going to be
25 presenting her. So that's why we agreed to go forward. We

1 weren't -- we didn't believe that they were going to be
2 introducing anything regarding CPS.

3 And then when I e-mailed asking about those
4 redactions, they said well, it's not a bad act because it
5 involves Jasmin. So we just wanted to make sure we were all
6 on the same page. We're not --

7 THE COURT: Do you want the CPS records? If you
8 want them, we'll stop, the State will provide the CPS
9 records. I want to make sure it's loud and clear. If you
10 want those CPS records, we'll stop and give you an
11 opportunity to get them.

12 MR. HOLIDAY: We don't want a continuance, Your
13 Honor, and we believe that a continuance is not the
14 appropriate remedy in this situation, because we requested
15 the CPS records, like we were supposed to. I believe, it was
16 the Court that ordered the CPS records to be produced. They
17 weren't produced.

18 THE COURT: Which specific CPS records.

19 MS. HOLIDAY: I believe -- I'd have to go back and
20 double check, Your Honor. Just going from memory, I believe
21 the -- I believe that Mr. Hamner had done ex parte request
22 for CPS records related to this case to be reviewed in camera
23 by the Court, and I believe the Court granted that
24 application. Again, I'm just --

25 MS. JOBE: He did not --

1 MS. HOLIDAY: -- going from memory.

2 MS. JOBE: -- and no, it wasn't presented to the
3 Court or signed by the Court.

4 THE COURT: I mean --

5 MS. HOLIDAY: Yeah, I'm just -- I'm just going from
6 memory, Your Honor. I'd have to go back and double check the
7 minutes to know that. But we had also requested any CPS
8 records, whether they're related to this case or not in
9 regards to Mr. Mathews, Ms. Cathcart --

10 THE COURT: Okay. So tell me what CPS records you
11 believe were ordered by this Court to be turned over.

12 MS. HOLIDAY: Your Honor, I'd have to go back to
13 be --

14 THE COURT: Well, go back.

15 MS. HOLIDAY: -- to be sure.

16 THE COURT: Do whatever you have to do.

17 MS. HOLIDAY: Okay. Let met pull up the minutes.
18 Court's indulgence.

19 MS. JOBE: For the record, it's Request 22 by the
20 defense in their motion for discovery.

21 MS. HOLIDAY: On March --

22 THE COURT: It looks like the 1st of August, 2016,
23 I signed an order that they turn over CPS records from
24 January 5th, 2016 to the present for Chance Jacksper, and I
25 -- and/or natural mother, Jasmin Cathcart to be released to

1 the DA's Office under seal and submitted to the Court. So,
2 there was an order.

3 But I assume that orders are complied with if no
4 one tells me. So if you want a break in order to have those
5 records produced, I'm happy to do it.

6 MS. HOLIDAY: We don't, Your Honor. We don't want
7 a continuance. We would just like to lodge our objection for
8 the record.

9 THE COURT: Okay.

10 MS. JOBE: And if I could go back to the more
11 specific request regarding -- I believe this started with
12 respect to the defendant's statements and the redactions from
13 his statement. The State left in the comments he made about
14 a prior CPS investigation unrelated to these specific events,
15 and I have the transcript to quote, Your Honor.

16 There was a question, "Okay, have you had any
17 contact with CPS ever?"

18 The defendant responds, "Um, she has," referring to
19 Jasmin, "not me. She has because they were always trying to
20 get Jordan, like but all the" --

21 The detective says, "Okay."

22 The defendant responds with, "All the CPS guys
23 were", and the rest is unintelligible.

24 The detective asked, "No injuries or anything like
25 that?"

1 Defendant responds, "No."

2 Question, "To any of the kids?"

3 Answer, "No."

4 That's regarding prior CPS history. Jasmin, in her
5 statement, which we're not intending to play, had a prior
6 investigation that was unsubstantiated. She detailed that it
7 didn't have to do with injuries or anything to that effect.
8 So we've left that in the defendant's statement because it is
9 unrelated to him. It doesn't have to do with any injuries
10 and it just has to do with his knowledge of the dynamics of
11 Jasmin in the house.

12 THE COURT: And the objection to that is?

13 MS. HOLIDAY: The objection to that is the same,
14 Your Honor. I think this is evidence that the State wants to
15 present. If indeed, they want to present Ms. Cathcart's
16 statement, they are wanting to present the evidence which
17 involves a mention of her prior CPS history. If the State
18 wants to present evidence of that, we should have the
19 opportunity to get the complete picture, meaning, the details
20 of the prior CPS involvement, and we would just submit our
21 objection on that.

22 THE COURT: All right. But I've given you an
23 opportunity to get those CPS records and you don't want that
24 opportunity.

25 MS. HOLIDAY: That's correct, Your Honor.

1 THE COURT: And in fact, the order I signed is not
2 as broad as you just stated. It's not. It's -- it's from
3 January 5th, 2016 to the present. Let me just --

4 MS. HOLIDAY: That was my understanding, too, of
5 the order, Your Honor.

6 THE COURT: Right.

7 MS. JOBE: And that --

8 THE COURT: Right, and --

9 MS. JOBE: -- information is outside that time
10 frame.

11 THE COURT: Right. I mean --

12 MS. HOLIDAY: I agree with that.

13 THE COURT: -- other records that you're talking
14 about would not be responsive to this order. This order was
15 very specific.

16 MS. HOLIDAY: I agree with that, Your Honor.

17 THE COURT: Okay.

18 MS. HOLIDAY: I -- I did note that the Court only
19 ordered CPS records as pertaining to this case, but we had
20 requested them as to any prior CPS involvement for in
21 Cathcart --

22 THE COURT: Was that granted?

23 MS. HOLIDAY: It was not granted.

24 THE COURT: Okay.

25 MS. HOLIDAY: But our objection still stands,

1 though. We still think, obviously, it should have been
2 granted and that we should have that information if the State
3 wants to introduce that evidence, and that's it. We'd submit
4 it on that.

5 THE COURT: Okay. At this time, the objection's
6 overruled. Anything else?

7 MS. JOBE: Not for the State, Your Honor.

8 THE COURT: Anything else before --

9 MS. HOLIDAY: Not for us, Your Honor.

10 THE COURT: Okay.

11 MS. HOLIDAY: Thank you. You want to bring them
12 in?

13 MS. HOLIDAY: We're ready.

14 THE COURT: Okay, thank you.

15 (Waiting for prospective jurors to enter)

16 THE MARSHAL: 502, Juror James Oakley, just so you
17 know ahead of time, his daughter is with him. He's had a
18 head injury in the past so she's been helping him get to
19 where he needs to go today.

20 THE COURT: Well, wait a minute. I have a juror
21 that can't come here unassisted?

22 THE MARSHAL: That's what it looks to be is his
23 daughter is with him, had brought him here and everything.
24 He suffered a head injury. I didn't ask too many details so.

25 THE COURT: And they did not excuse him?

1 THE MARSHAL: No, Ma'am.

2 MS. JOBE: Your Honor, may I suggest, can we bring
3 him and his daughter in for brief questioning and so we can
4 just --

5 THE COURT: Sure, because I'm not -- yeah.

6 (Waiting for Prospective Juror 502 to enter)

7 (Prospective Juror No. 502 is present)

8 THE COURT: Okay, good morning.

9 THE MARSHAL: Judge, this is Mr. Oakley, Juror No.
10 502. Just right up at the podium.

11 PROSPECTIVE JUROR NO. 502: Okay.

12 THE COURT: Mr. Oakley is present, Badge No. 0502.
13 Mr. Oakley, thank you very much for being here today. And it
14 appears as though your daughter is here with you, too.

15 PROSPECTIVE JUROR NO. 502: Yes, ma'am.

16 THE COURT: Will you state your name, Ma'am.

17 MS. THOMPSON: It's Valerie Thompson (phonetic).

18 THE COURT: Okay. And do you need the assistance
19 of your daughter to be here?

20 PROSPECTIVE JUROR NO. 502: That would be helpful.

21 THE COURT: Okay. What does she need to assist you
22 with?

23 PROSPECTIVE JUROR NO. 502: Well, remember --
24 memory.

25 THE COURT: Remembering things?

1 PROSPECTIVE JUROR NO. 502: Yes, ma'am.

2 THE COURT: Okay. Did you have a head injury?

3 PROSPECTIVE JUROR NO. 502: Yes, ma'am.

4 THE COURT: And when was that?

5 PROSPECTIVE JUROR NO. 502: 6/12/87.

6 THE COURT: I'm sorry?

7 PROSPECTIVE JUROR NO. 502: 1987.

8 THE COURT: Okay. But you have a hard time
9 remembering things?

10 PROSPECTIVE JUROR NO. 502: Yes, ma'am.

11 THE COURT: All right. Because if you were to
12 serve as a juror, your daughter would not be able to assist
13 you in that manner.

14 PROSPECTIVE JUROR NO. 502: Okay.

15 THE COURT: Do you understand that?

16 PROSPECTIVE JUROR NO. 502: Yes, ma'am.

17 THE COURT: Okay. So do you want to be excused by
18 the Court?

19 PROSPECTIVE JUROR NO. 502: I -- good question. I
20 don't -- yeah, that would be -- yes, ma'am.

21 THE COURT: Okay. I guess, my question is, can you
22 proceed without the assistance of your daughter?

23 PROSPECTIVE JUROR NO. 502: I don't know. First
24 time. No.

25 THE COURT: Okay. Then what I'm going to do is I

1 just want to thank you very much for your willingness to be
2 here, and thank you for bringing him, but at this time, I'm
3 going to excuse you.

4 PROSPECTIVE JUROR NO. 502: All right.

5 THE COURT: Thank you very much, sir, for being
6 here.

7 PROSPECTIVE JUROR NO. 502: Thank you, Ma'am.

8 THE COURT: Have a good day.

9 THE MARSHAL: All rise for the entering jury panel,
10 please.

11 (Inside the presence of the prospective jurors)

12 (Pause in the proceedings)

13 THE COURT: All right. Does the State stipulate to
14 the presence --

15 THE MARSHAL: Thank you. Please be seated.

16 THE COURT: -- of the jury venire?

17 MS. JOBE: Yes, Your Honor.

18 THE COURT: The defense?

19 MS. HOLIDAY: Yes, Your Honor.

20 THE COURT: Thank you very much.

21 Good morning, ladies and gentlemen, and welcome to
22 Department 12 of the Eighth Judicial District Court. You've
23 been summonsed here today to serve as jurors in a criminal
24 trial entitled State of Nevada versus Mathews. Before I do
25 allow the parties to speak to you and give you a brief

1 statement of the facts in the case, I'm going to introduce
2 some of the members of the staff in Department 12 and tell
3 you what they do.

4 You've already met Officer Hawkes. He's the Court
5 Marshal in Department 12. He's in charge of the security in
6 Department 12. He's also the person that you'll have the
7 most contact with. Throughout this process of selecting a
8 jury and after we do have a jury selected. Myself, the
9 parties, the staff, the attorneys, with the exception of
10 Officer Hawkes are not permitted to have any communication
11 with you whatsoever outside of the courtroom.

12 So if there is something that you need to
13 communicate to the Court, I ask that you do so in the
14 courtroom on the record in the presence of both sides. In
15 front of me is Kris. Kris is the court recorder. It's her
16 job to take down everything that is being said in the
17 courtroom. When you're called upon to address the Court or
18 the lawyers, I ask that before you respond that you please
19 state your name, the badge number that's been provided to you
20 by the Jury Commissioner before you do respond so that we
21 have a clear record of who is speaking at all times.

22 At some point, Kris is going to be called upon by
23 myself to prepare what we call a written transcript, which
24 means that she will read -- I'm sorry, that she will listen
25 to the recording and she will type verbatim everything that

1 is said in the courtroom. That's why it's important that you
2 please state your name and badge number before responding.

3 To my right is the court Clerk Phyllis. She's the
4 person that keeps the official record of the court. She
5 takes the minutes, she's also the person who will take charge
6 of all of the evidence when it's introduced at the time of
7 trial. To her right is Robert. He works in Department 12 as
8 well. He's a licensed attorney in the State of Nevada and he
9 assists the Court with legal issues.

10 With that, I'm going to allow the State of Nevada
11 and the defense to give you a brief statement of the facts.
12 Both sides are going to give a witness list. I ask that you
13 pay attention to all the names of the witnesses who will be
14 called to testify in this matter because at some point I will
15 ask you if you're familiar with any of the witnesses. State
16 of Nevada.

17 MR. BURTON: Thank you, Your Honor. Good morning,
18 ladies and gentlemen of the jury. My name is Chris Burton.
19 Seated with me at counsel table is my co-counsel, Michelle
20 Jobe. We represent the State of Nevada.

21 In this case, the Defendant Donovine Mathews, is
22 charged with child abuse, neglect or endangerment with
23 substantial bodily harm arising from an incident that
24 occurred at -- on January 5th, 2016 at 1029 Lisbon Avenue,
25 Apartment No. 5, here in Las Vegas.

1 The witnesses who may be called in this class
2 include: Jasmin Cathcart, Dr. Ellis Olson, Dr. Sandra Cetl,
3 Phil Peltiar, Officer John Bethard, Detective Phil DePalma,
4 Detective Christopher Grivas, Detective Brian Santarossa,
5 Sergeant Troyce Krumne, Robbie Dahn, Joseph Szukiewicz,
6 Joanna Westmoreland and Matt Trammell. Thank you.

7 MS. HOLIDAY: Good morning, ladies and gentlemen.
8 My name is Kristy Holiday. My co-counsel in this case is
9 Carli Kierny.

10 MS. KIERNY: Good morning.

11 MS. HOLIDAY: We have the privilege of representing
12 Mr. Donovine Mathews, who is not guilty of these charges. In
13 addition to any of the witnesses named by the State, we
14 intend to call Dr. Lindsay Dutch Johnson and Kevin Gene, who
15 is an investigator with our office. Thank you.

16 THE COURT: Thank you. At this time, the Clerk
17 will call the roll of the panel of prospective jurors. When
18 your name is called, if you'll please indicate present or
19 here.

20 (THE CLERK CALLS THE ROLL OF THE PROSPECTIVE JURORS)

21 THE COURT: Anyone whose name was not called by the
22 Clerk of the Court? The record will reflect no response from
23 the panel. If you'll all please stand and raise your right
24 hand so the Clerk can swear you in.

25 (THE CLERK SWEARS PROSPECTIVE JURORS)

1 THE CLERK: Thank you. Please be seated.

2 THE COURT: Thank you. At this time, ladies and
3 gentlemen of the jury, we're about to commence is called voir
4 dire examination. The term voir dire means to tell the
5 truth. During this process, you'll be asked questions
6 bearing upon your ability to sit as fair and impartial
7 jurors. To accomplish this result, various questions will be
8 asked of you by myself or counsel for the parties.

9 On occasion some of these questions will seem
10 somewhat personal. While we do not wish to unnecessarily pry
11 into your personal lives, the questions are necessary so that
12 counsel and the Court can make an intelligence determination
13 as to your capabilities to serve fairly and impartially. I
14 want you to know that myself and the attorneys and all the
15 persons involved in this case are concerned with having this
16 matter tried by jurors who are completely open-minded,
17 neutral, objective and unbiased in their thinking.

18 Wide discretion is vested in the trial judge as to
19 the method of examination of jurors. As I stated previously,
20 I will personally conduct the voir dire, but I will give the
21 attorneys the opportunity to participate in the questioning.

22 It is important that you know the significance of
23 full, complete and honest answers to all the questions we're
24 about to ask you. I caution you not to try to hide or
25 withhold anything which might indicate bias or prejudice of

1 any sort by any of you. Should you fail to answer truthfully
2 or if you hide or withhold anything touching upon your
3 qualifications, that fact may tend to contaminate your
4 verdict and subject you to further inquiry even after you're
5 discharged as jurors.

6 Your decision should be based upon all of the
7 evidence presented during the trial, not based upon
8 preconceived prejudice or bias. I will conduct a general
9 voir dire of all of you while you're seated in the audience.
10 After those general questions, the Clerk will call the first
11 24 names using the order provided to us by the Jury
12 Commissioner to fill the jury box.

13 At some point during the process of selecting the
14 jury, the attorneys for both sides will have the right to ask
15 that a particular person not serve as a juror. These
16 requests are called challenges. There are two types of
17 challenges; challenges for cause and peremptory challenges.

18 Challenges for cause means that a juror's been
19 excused because his or her answers to some of the voir dire
20 questions indicate that he or she would have a difficult time
21 in giving a fair and impartial hearing to the case. I will
22 ask the attorneys to pass or waive the prospective jurors for
23 a cause challenge when they are done questioning the jury
24 panel.

25 A peremptory challenge means that a juror can be

1 excused from duty without counsel having to give a reason for
2 the excusal. Please do not be offended should you be excused
3 by either of the challenge procedures. They are simply part
4 of the procedure designed to protect the rights of the
5 parties under our system of government.

6 Is there anyone on the panel who has ever been
7 convicted of a felony? The record will reflect no response
8 from the panel.

9 Is there anyone on the panel who is not a citizen
10 of the United States? The record will reflect no response
11 from the panel.

12 Is there anyone on the panel who is not a resident
13 of Clark County, Nevada? The record will reflect no response
14 from the panel.

15 Is there anyone on the panel who has such a
16 sympathy, prejudice or bias relating to age, religion, race,
17 gender or national origin that they feel would affect their
18 abilities to an open-minded, fair and impartial juror? The
19 record will reflect no response from the panel.

20 Are there any of you on the panel who are
21 acquainted with the defendant in this matter? The record
22 will reflect no response from the panel.

23 Anyone familiar with his attorneys? The
24 defendant's attorneys? The record will reflect no response
25 from the panel.

1 Are there any of you who are acquainted with the
2 Deputy District Attorneys who have been assigned to prosecute
3 this matter? The record will reflect no response from the
4 panel.

5 The District Attorney's Office employs many
6 deputies and other personnel. Is there anyone who has such a
7 close relationship with either the District Attorney
8 Mr. Steve Wolfson, his deputies or other members of his staff
9 that you feel might affect your ability to serve as a fair
10 and impartial juror in this particular case? The record will
11 reflect no response from the panel.

12 Are there any of you on the panel who are
13 acquainted with any of the witnesses whose names were
14 previously mentioned by the attorneys? The record will
15 reflect no response from the panel.

16 We expect this case to last four or five days. So
17 -- is that what we agreed, four or five days?

18 MS. JOBE: Yes, Your Honor.

19 THE COURT: So, through the week. Is there anyone
20 what's spending that amount of time with us would be such an
21 undue hardship or burden such it would make it impossible for
22 you to be here? We'll just start -- if you'll start with
23 your name and badge number, Mr. Evans.

24 PROSPECTIVE JUROR NO. 363: Timothy Evans, Badge
25 No. 363. I currently work for Clark County School District

1 as a substitute teacher, so my schedule, I don't get any
2 compensation for when I'm not at work for that. And also, I
3 -- I am contracted with CSN as well. So then that would
4 hinder my attendance for going to work being gone that long.

5 THE COURT: Okay. So you work for Clark County
6 School District and CSN?

7 PROSPECTIVE JUROR NO. 363: Yes.

8 THE COURT: But they both know you're here on a
9 jury summons? as soon as.

10 PROSPECTIVE JUROR NO. 363: No.

11 THE COURT: You didn't tell your employer?

12 PROSPECTIVE JUROR NO. 363: I don't -- I'm a call
13 -- I'm a call-in. So I only get -- I only get -- I only work
14 when I go to -- like I only get called in. I'm not a --

15 THE COURT: I'm sorry, you work for the Clark
16 County School District, what, as a substitute teacher?

17 PROSPECTIVE JUROR NO. 363: Yes.

18 THE COURT: Okay. All right. Thank you. Thank
19 you for being here.

20 PROSPECTIVE JUROR NO. 369: My name's Christopher
21 Vergari, Badge No. 369. I currently have two part-time jobs
22 that don't offer like sick leave or annual leave. So if I
23 don't go to work, I don't get paid, and I'm the sole income
24 earner for my house and I support my fiancé and my
25 two-year-old son. So I don't think it would -- I wouldn't --

1 I wouldn't make money to support them.

2 THE COURT: Be able to pay your bills --

3 PROSPECTIVE JUROR NO. 369: Right.

4 THE COURT: -- if you were here?

5 PROSPECTIVE JUROR NO. 369: Right.

6 THE COURT: Would you be able to pay your bills if
7 you were here?

8 PROSPECTIVE JUROR NO. 369: Oh, no, I would not.

9 THE COURT: Okay. Thank you.

10 PROSPECTIVE JUROR NO. 439: Yes, my name is Tony
11 Lozano. My badge number is 439. I am currently on light
12 duty at work after knee surgery. I am only allowed to work
13 six hours a day, and I am not compensated through my company
14 for any kind of jury duty.

15 THE COURT: Okay. So you're on light duty over a
16 knee jury, correct?

17 PROSPECTIVE JUROR NO. 439: Yes, I had knee surgery
18 about a month-and-a-half ago, I'm on light duty now. I'm not
19 back to my full job, and I'm only allowed six hours a day
20 because of workman's comp.

21 THE COURT: Okay. Six hours a day, but if you were
22 here and sitting down, would that interfere with your injury?

23 PROSPECTIVE JUROR NO. 439: No.

24 THE COURT: Okay, thank you. Anyone else?

25 PROSPECTIVE JUROR NO. 450: My name is Nick Lewis,

1 Badge No. 450, and I have my own private facility, and I have
2 over 30 welcome workouts coming in, like consultations coming
3 in, and my partner is out of town and it's just me running
4 the business right now. And I don't know how I would manage
5 and miss out on all that money to flourish my business if I'm
6 in here.

7 THE COURT: You say a private facility. What type
8 of facility?

9 PROSPECTIVE JUROR NO. 450: It's a fitness
10 facility.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

13 THE COURT: And is there someone there watching the
14 business?

15 PROSPECTIVE JUROR NO. 450: As of right now, my
16 little brother's right now.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 450: And then my partner's
19 out of town in Miami. We're working on some partnerships and
20 everything like that right now. We've been open for two
21 years. We're working on a bigger location right now on at
22 Flamingo and Durango so it's kind of hectic and they need me
23 there.

24 THE COURT: Okay. But if you were asked to be
25 here, other arrangements would be made, correct?

1 PROSPECTIVE JUROR NO. 450: I mean, I would have
2 to, if I had to --

3 THE COURT: Kind of like today?

4 PROSPECTIVE JUROR NO. 450: If I had no choice,
5 like so --

6 THE COURT: Sure.

7 PROSPECTIVE JUROR NO. 450: -- yes. I mean, like
8 if I have no choice, then, of course, I have to be here, but.

9 THE COURT: Thank you. I appreciate you being
10 here. Thank you.

11 PROSPECTIVE JUROR NO. 371: Good morning, my name
12 is Gloria --

13 THE COURT: Morning.

14 PROSPECTIVE JUROR NO. 371: -- Melendez. My number
15 is 371. I have a difficult to understand English. I speak a
16 little bit, and I don't understand --

17 THE COURT: Are you a citizen of the United States?

18 PROSPECTIVE JUROR NO. 371: Yes.

19 THE COURT: How long --

20 PROSPECTIVE JUROR NO. 371: I --

21 THE COURT: -- have you lived in the United States?

22 PROSPECTIVE JUROR NO. 371: Excuse me?

23 THE COURT: How long have you lived in the United
24 States?

25 PROSPECTIVE JUROR NO. 371: Around 20 years.

1 THE COURT: 20 years?

2 PROSPECTIVE JUROR NO. 371: I have -- yes. I
3 have --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 371: -- taken English class
6 in the first years. After that, I -- been a volunteer at the
7 Clark County --

8 THE COURT: Are you employed?

9 PROSPECTIVE JUROR NO. 371: Excuse me?

10 THE COURT: Are you employed?

11 PROSPECTIVE JUROR NO. 371: I have my husband, he's
12 real estate agent. I have with administration paper.

13 THE COURT: You work in your husband's office?

14 PROSPECTIVE JUROR NO. 371: Yes.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 371: Uh-huh.

17 THE COURT: If there's anything that you don't
18 understand, I just ask that you bring it to my attention so
19 we can clarify for you. Okay?

20 PROSPECTIVE JUROR NO. 371: Oh, okay.

21 THE COURT: Thank you for being here.

22 PROSPECTIVE JUROR NO. 371: Thank you.

23 THE COURT: You don't have to talk.

24 PROSPECTIVE JUROR NO. 455: Hi, I'm Tim Martin,
25 Badge No. 455. I work swing to late graveyard, 7:00 to 3:00

1 to 4:00 in the morning.

2 THE COURT: 7:00 to -- okay.

3 PROSPECTIVE JUROR NO. 455: And then --

4 THE COURT: Here's -- what do you do?

5 PROSPECTIVE JUROR NO. 455: Bartend.

6 THE COURT: Okay. I know that Vegas is a 24-hour
7 town so whenever I -- but the courthouse, unfortunately, is
8 8:00 to 5:00. Well, I guess fortunately, we have regular
9 hours. So if you were asked to be on this panel, if you were
10 selected, I would tell you not to go to work, don't work --
11 don't work until 3:00 o'clock in the morning because that
12 prevents you from being awake during the day.

13 Like, I usually don't have a problem with people
14 working until midnight, but to 3:00 or 4:00 in the morning I
15 think would be a problem. So you'd be under court order,
16 basically, not to work past midnight.

17 PROSPECTIVE JUROR NO. 455: And plus, also, I pick
18 my daughters up at 3:00 from school in the afternoons.

19 THE COURT: Okay. Who's going to pick them up
20 today?

21 PROSPECTIVE JUROR NO. 455: I got my mother to pick
22 her up. She has -- she's leaving work early as soon as she
23 can pick her up.

24 THE COURT: Okay. So if you're asked to be here,
25 you'll be able to make other arrangements, correct?

1 PROSPECTIVE JUROR NO. 455: Not a hundred percent
2 guarantee.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 455: Because her mother
5 works during the day, too, so --

6 THE COURT: You're not going to leave your kids --

7 PROSPECTIVE JUROR NO. 455: -- we split --

8 THE COURT: -- on the -- on the -- you're not going
9 to leave them at school without someone to pick them up,
10 right?

11 PROSPECTIVE JUROR NO. 455: No.

12 THE COURT: Okay. Thank you.

13 PROSPECTIVE JUROR NO. 458: Hello. Brandon Bonham,
14 Badge No. 458. I currently reside in Indian Springs. I'm
15 currently unemployed so --

16 THE COURT: You don't live in Clark County?

17 PROSPECTIVE JUROR NO. 458: Indian Springs, Clark
18 County, yes, ma'am.

19 THE COURT: Okay. What do you do in Indian
20 Springs?

21 PROSPECTIVE JUROR NO. 458: I'm unemployed.

22 THE COURT: I'm sorry. How long does it take you
23 to get here?

24 PROSPECTIVE JUROR NO. 458: Over an hour.

25 THE COURT: How do you get here?

1 PROSPECTIVE JUROR NO. 458: I got a ride from
2 someone who's currently waiting in the parking garage.

3 THE COURT: You got someone that drove you from
4 Indian Springs, and they're waiting for you in the parking
5 garage?

6 PROSPECTIVE JUROR NO. 458: Yes, ma'am.

7 THE COURT: Are you sure?

8 PROSPECTIVE JUROR NO. 458: Yes, ma'am.

9 THE COURT: Are they still there?

10 PROSPECTIVE JUROR NO. 458: Yes, ma'am.

11 THE COURT: Is it a good friend?

12 PROSPECTIVE JUROR NO. 458: It's my mother.

13 THE COURT: Oh, your mom. Okay. If you were asked
14 to be here, would you be able to be here every day?

15 PROSPECTIVE JUROR NO. 458: I doubt I could.

16 THE COURT: Why not?

17 PROSPECTIVE JUROR NO. 458: I don't have the money
18 or transportation. Everybody I know works so --

19 THE COURT: Okay. Thank you, sir.

20 PROSPECTIVE JUROR NO. 467: Good morning, my name's
21 Tom Gaytan, Badge No. 467. My employer currently does not
22 reimburse me for any time off, and I'm taking care of my
23 mother, who has dementia, and I'm kind of leery of just
24 leaving her this long. I usually check in around noon. Go
25 to work in the morning, check in around noon, and I only work

1 four days a week, but it gives me that time go in and check
2 on her and make sure she's okay before I leave her for
3 another few hours and go home.

4 THE COURT: Okay. But you were asked to be here
5 today and you made arrangements, correct?

6 PROSPECTIVE JUROR NO. 467: I just came. I just
7 came. I just had to do what I had to do.

8 THE COURT: Okay. Thank you. Thank you for being
9 here. Anyone else?

10 PROSPECTIVE JUROR NO. 493: My name is Lynis Lehne.
11 My badge number is 493. I'm currently unemployed and
12 receiving compensation from the State through the
13 unemployment office. Part of that -- receiving that is I
14 have to be both available and actively seeking work on a
15 daily basis. That as a single mom precludes me from --

16 THE COURT: You're not going to be in violation of
17 your unemployment if you're here doing jury duty, right?

18 PROSPECTIVE JUROR NO. 493: Well, I do know that I
19 have to actively --

20 THE COURT: I imagine --

21 PROSPECTIVE JUROR NO. 493: -- seek and be
22 available on a daily basis. That's the requirement from
23 DETR.

24 THE COURT: Okay. You don't believe that you'll be
25 violating your unemployment by actually showing up to jury

1 duty, right?

2 PROSPECTIVE JUROR NO. 493: As far as I understand,
3 I would be, if I'm not available. I have to mark a box on
4 there that says that I'm available every day. And --

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 493: -- as a single mom of a
7 six-year-old, I'm my sole breadwinner.

8 THE COURT: Okay. Thank you.

9 PROSPECTIVE JUROR NO. 493: Thanks.

10 PROSPECTIVE JUROR NO. 495: Good afternoon, Your
11 Honor. My name is Christina Jameel, Badge ID is 495. My
12 employer does not reimburse me for being here. And my mother
13 was just recently hurt at work, so I've been providing
14 financially for myself and her. So I do not believe I'll be
15 able to pay my bills by taking a full week off of work.

16 THE COURT: If you were asked to be here, you would
17 not be able to pay your bills?

18 PROSPECTIVE JUROR NO. 495: Correct.

19 THE COURT: What do you do?

20 PROSPECTIVE JUROR NO. 495: Marketing.

21 THE COURT: Where do you work?

22 PROSPECTIVE JUROR NO. 495: Caesars.

23 THE COURT: And Caesars does not pay you if you
24 were --

25 PROSPECTIVE JUROR NO. 495: To be here.

1 THE COURT: -- here?

2 PROSPECTIVE JUROR NO. 495: Correct.

3 THE COURT: Did you check with human resources?

4 PROSPECTIVE JUROR NO. 495: Yeah.

5 THE COURT: Okay. Thank you.

6 PROSPECTIVE JUROR NO. 495: Thank you.

7 THE COURT: Anyone else?

8 PROSPECTIVE JUROR NO. 522: Marie Luce Hamilton,

9 522. I actually have more as a questions.

10 THE COURT: Sure.

11 PROSPECTIVE JUROR NO. 522: Any -- okay, I'm a
12 single mom, so if I have to be sequestered, I have a problem
13 with my son.

14 THE COURT: I'm not sequestering this jury.

15 PROSPECTIVE JUROR NO. 522: Nobody going to --
16 okay. That's fine, then.

17 THE COURT: You'll get to leave at the end of the
18 day.

19 PROSPECTIVE JUROR NO. 522: Good. Thank you.

20 THE COURT: Thank you. Anyone else? The record
21 will reflect no further response from the panel. Are there
22 any of you who believe that for any other reason, you would
23 be unable to serve as a juror in this particular case? The
24 record will reflect no response from the panel.

25 Is there anyone on the panel who's ever been

1 engaged in law enforcement work or have a spouse or close
2 relative who's been engaged in law enforcement work?

3 PROSPECTIVE JUROR NO. 450: Does it have to be here
4 or anywhere?

5 THE COURT: Go ahead and raise your hand and we'll
6 discuss it.

7 PROSPECTIVE JUROR NO. 450: Nick Lewis, Badge No.
8 450. My aunt, she's a marshal for the Texas law enforcement.

9 THE COURT: For what?

10 PROSPECTIVE JUROR NO. 450: She's a Texas law
11 enforcement, she's a marshal in Houston, Texas.

12 THE COURT: Anything about her employment that
13 would affect your ability to be fair and impartial in this
14 particular case?

15 PROSPECTIVE JUROR NO. 450: Not really, but we
16 disagree and agree to a lot of things.

17 THE COURT: I'm sorry?

18 PROSPECTIVE JUROR NO. 450: I said not really, but
19 we do disagree, and agree on a lot of different like -- it's
20 her way and then the way that I see it like --

21 THE COURT: Okay. I don't have a problem with
22 that. I just want to know --

23 PROSPECTIVE JUROR NO. 450: Yeah.

24 THE COURT: -- if there's anything about her
25 employment that would affect your ability to be fair and

1 impartial?

2 PROSPECTIVE JUROR NO. 450: I --

3 THE COURT: Because you understand you won't be
4 able to talk to her about this case?

5 PROSPECTIVE JUROR NO. 450: Most definitely.

6 THE COURT: You understand that?

7 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

8 THE COURT: Okay. Is there anything about her
9 employment that would affect your ability to be fair and
10 impartial in this case?

11 PROSPECTIVE JUROR NO. 450: Not really. I just
12 don't agree --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 450: -- with a lot of
15 things. All right.

16 THE COURT: I'm sorry, not really what?

17 PROSPECTIVE JUROR NO. 450: I said I just don't
18 agree with like some of the ways that she does her work and
19 how they have her --

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 450: -- operating.

22 THE COURT: And she's in Houston, Texas?

23 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

24 THE COURT: Okay. Go ahead. Your name and badge
25 number, sir?

1 PROSPECTIVE JUROR NO. 467: Tom Gaytan, Badge No.
2 467. Based on what you just said, would it affect my
3 decision --

4 THE COURT: Go ahead.

5 PROSPECTIVE JUROR NO. 467: -- making that it
6 would --

7 THE COURT: Just tell me what it is you were going
8 to tell me.

9 PROSPECTIVE JUROR NO. 467: No, that my brother is
10 -- he's a detective in the Arson Division in Los Angeles --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 467: -- and also does --

13 THE COURT: So LAPD?

14 PROSPECTIVE JUROR NO. 467: Yes.

15 THE COURT: Okay. Anything about his employment
16 that would affect your ability to be fair and impartial?

17 PROSPECTIVE JUROR NO. 467: No, no.

18 THE COURT: Thank you, sir.

19 PROSPECTIVE JUROR NO. 467: That's why I said.

20 THE COURT: Okay, anyone else that wishes to
21 respond? The record will reflect no further --

22 THE MARSHAL: Hang on.

23 THE COURT: I'm sorry.

24 PROSPECTIVE JUROR NO. 493: Lynis Lehne, Badge No.
25 493. My cousin is a detective with Metro.

1 THE COURT: Okay. How long is your -- what
2 department in -- where is your cousin a detective? I know
3 Metro, but what division?

4 PROSPECTIVE JUROR NO. 493: I have no idea. He was
5 part of a think tank.

6 THE COURT: I'm sorry?

7 PROSPECTIVE JUROR NO. 493: He was part of a think
8 tank so I don't know what division he's with.

9 THE COURT: A think tank?

10 PROSPECTIVE JUROR NO. 493: Correct.

11 THE COURT: Okay. Anything about that, that would
12 affect your ability to be fair and impartial in this case?

13 PROSPECTIVE JUROR NO. 493: No.

14 THE COURT: Thank you. Anyone else? The record
15 will reflect no response from the panel. Is there anyone on
16 the panel who believes they may not be able to follow all the
17 instructions of the Court on the law, even if these
18 instructions differed from your personal conceptions of what
19 the law ought to be? Anyone who believes they cannot follow
20 the law as given to you by the Court even if you don't agree
21 with it? The record will reflect no response from the panel.

22 As a follow-up to the previous question, in any
23 criminal trial, the members of the jury sitting collectively
24 are the judges of the question of fact in this case. As the
25 Judge in the case, I'm the Judge as the question of law, and

1 it's my responsibility to be sure that I give instructions on
2 the law that apply to this particular case.

3 It would be a violation of a juror's duty if he or
4 she tried to render a judgment based upon what he or she
5 believed the law to be if that differed from my instructions.
6 With that in mind, is there anyone who feels they cannot be
7 fact finders and follow my instructions on the applicable law
8 in this case? The record will reflect no response from the
9 panel.

10 Under our system, there are certain principles of
11 law that apply in every criminal trial. They are that the
12 Information filed in this case is a mere acquisition and is
13 not evidence of guilt. As the defendant sits here today, he
14 is presumed innocent and the State must therefore -- the
15 State must therefore prove the defendant is guilty by proof
16 beyond a reasonable doubt. Does anyone not understand or
17 believe in these basic precepts of American justice? The
18 record will reflect no response from the panel.

19 Anyone on the panel that knows anything about this
20 case other than what's been stated in the courtroom here
21 today? The record will reflect no response. I'm going to
22 ask the attorneys to just meet me out in the hallway. I'll
23 leave you in here because it will be faster. I just want to
24 remind you that you're not permitted to discuss the case.
25 The Court Marshal will stay in here and the Court Recorder

1 will be here, and I just want to remind you that you'll still
2 be on record. It will just take us a couple minutes. Thank
3 you.

4 (Off-record sidebar).

5 THE COURT: Does the State stipulate to the
6 presence of the jury panel?

7 MS. JOBE: Yes, Your Honor.

8 THE COURT: The defense?

9 MS. HOLIDAY: Yes, Your Honor.

10 THE COURT: Okay. Before we do begin, I just want
11 to tell you we had a change of the Clerks. Susan is the
12 Clerk in Department 12. So she's back. She was previously
13 on jury duty. She was excused so now she can get -- she gets
14 to come back to join us for the rest of the day.

15 So with that she's going to call the first 24
16 names.

17 THE CLERK: Thank you, Your Honor. Timothy Evans,
18 seat number 1. Lourdes Pineda, seat number 2.

19 THE COURT: So Mr. Vergari, I'm going to ask you to
20 step down and sit out in the gallery.

21 (Pause in the proceedings)

22 THE CLERK: Thank you. Gloria Melendez, seat
23 number 3. Just one over. Alvaro Herrera, seat number 4.
24 Donny Cheng, seat number 5. Marilyn Lopez-Hernandez, seat
25 number 6. Kevin Terry, seat number 7. Michael Browning,

1 seat number 8. Gabriel Cleto, seat number 9. Rashaad Davis,
2 seat number 10. Ericka Gonzalez-Garcia, seat number 11.
3 Alexandria Todd, seat number 12. Justin Boren,
4 seat number 13. Damaris Ibay, seat number 14. Nathan
5 Miller, seat number 15. Tommy Lozano, seat number 16. Aaron
6 Bouch, seat number 17. Nicholas Lewis, seat number 18.
7 Bryan Figuered, seat number 19. Timmy Martin, seat number
8 20.

9 THE COURT: Okay. And Mr. Bonham, I'm just going
10 to ask you to step out and sit out in the audience.

11 THE CLERK: Erica Rodriguez, seat number 21.
12 Thomas Gaytan, seat number 22. Heather Warren, seat number
13 23. And Michael Pypkowski, seat number 24.

14 THE COURT: Okay, Mr. Evans, I'm going to start
15 with you, and I just have a few questions. How long have you
16 lived in Clark County?

17 PROSPECTIVE JUROR NO. 363: Timothy Evans, Badge
18 No. 363. I've lived in Clark County for five years.

19 THE COURT: Your employment, training, education
20 background?

21 PROSPECTIVE JUROR NO. 363: Right now I'm a
22 substitute teacher for Clark County School District and CSN
23 or College of Southern Nevada. I have a bachelor's in
24 business and a master's in business administration.

25 THE COURT: Your marital status?

1 PROSPECTIVE JUROR NO. 363: Single.

2 THE COURT: Do you have any children?

3 PROSPECTIVE JUROR NO. 363: No.

4 THE COURT: Any reason why you could not be a
5 completely fair and impartial juror if you were selected to
6 serve on this panel?

7 PROSPECTIVE JUROR NO. 363: I would have to
8 honestly say my bias towards child neglect and abuse.

9 THE COURT: I'm sorry, what?

10 PROSPECTIVE JUROR NO. 363: This by my personal
11 view and bias against child neglect and abuse --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 363: -- is just for me
14 personally. I just -- because I think of my nephew and how
15 close I am so I just --

16 THE COURT: Do you have any opinions on thoughts
17 that would interfere with your ability to be fair and
18 impartial to the parties here?

19 PROSPECTIVE JUROR NO. 363: Yes. Just because of
20 my -- just how am I about --

21 THE COURT: Who are you going to be unfair to?

22 PROSPECTIVE JUROR NO. 363: Probably to the
23 defendant.

24 THE COURT: You know you haven't heard any
25 evidence, correct?

1 PROSPECTIVE JUROR NO. 363: I know. I know, and I
2 just -- it's a personal thing I do have. And I -- it's
3 something that I try to work on but it is because of my
4 background, I've also worked in prisons so then I also have
5 this block, just kind of put up --

6 THE COURT: So you have law enforcement --

7 PROSPECTIVE JUROR NO. 363: -- a history --

8 THE COURT: -- background?

9 PROSPECTIVE JUROR NO. 363: No, I wasn't a law
10 enforcement. I worked with -- I was a trainer in prisons.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 363: So I worked with people
13 getting on parole and probation and I trained them to become
14 able to get out and get on parole and take their classes when
15 they were --

16 THE COURT: Right.

17 PROSPECTIVE JUROR NO. 363: -- in prison. So I
18 wasn't a -- I wasn't a parole -- I wasn't an officer or
19 anything like that.

20 THE COURT: You understand as the defendant sits
21 here today, he's presumed innocent?

22 PROSPECTIVE JUROR NO. 363: Yeah, I do.

23 THE COURT: Do you agree with that?

24 PROSPECTIVE JUROR NO. 363: That's -- I -- I -- I
25 can -- I can see how you can be presumed innocent, but I

1 could still see where I would find bias in some things
2 because if you are -- for me to be even put into that
3 situation, means that you have to --

4 THE COURT: What situation?

5 PROSPECTIVE JUROR NO. 363: To be put into a
6 situation that you're in now where you're being accused of
7 something like that, means that you have to have -- to me, it
8 means that you have to have done something to even be put
9 into that situation.

10 THE COURT: Okay. But you understand he's presumed
11 innocent?

12 PROSPECTIVE JUROR NO. 363: Yes.

13 THE COURT: Do you agree with that?

14 PROSPECTIVE JUROR NO. 363: I can't say I do or I
15 don't.

16 THE COURT: You don't agree with the presumption of
17 innocence?

18 PROSPECTIVE JUROR NO. 363: I do to a certain
19 degree, to be perfectly honest.

20 THE COURT: Well, I need to know as to what degree
21 because --

22 PROSPECTIVE JUROR NO. 363: Because -- well, that's
23 what I'm saying, to where it you are put into a situation,
24 there has to have been something in your past or something
25 that you've done or something that has been put out there

1 that makes someone believe that you are capable and that you
2 are the person that would do something to that to a child.

3 THE COURT: So that statement would apply to
4 anybody in America that was charged with a crime, that
5 statement?

6 PROSPECTIVE JUROR NO. 363: I guess, you could
7 say --

8 THE COURT: So my question again is do you agree
9 with the presumption of innocence? Do you understand the
10 presumption of innocence?

11 PROSPECTIVE JUROR NO. 363: Yes. Presumption of
12 innocence is that you have to be proven guilty in order
13 to --

14 THE COURT: No, the presumption of innocence --

15 PROSPECTIVE JUROR NO. 363: -- in the court of
16 law --

17 THE COURT: -- means as he sits here today, he is
18 presumed innocent.

19 PROSPECTIVE JUROR NO. 363: Yeah.

20 THE COURT: And you understand that?

21 PROSPECTIVE JUROR NO. 363: Right, I do -- yes. I
22 understand that because he's sitting here he does -- but I'm
23 just saying -- I don't know to explain it, I guess, but I
24 understand that he's presumed innocent because he's sitting
25 here right now and today. But I just don't --

1 THE COURT: Just like anybody else in America --

2 PROSPECTIVE JUROR NO. 363: Right.

3 THE COURT: -- that was charged with a crime.

4 PROSPECTIVE JUROR NO. 363: Right.

5 THE COURT: Even including yourself.

6 PROSPECTIVE JUROR NO. 363: Right.

7 THE COURT: Do you think you'd be entitled to the
8 presumption of innocence?

9 PROSPECTIVE JUROR NO. 363: I -- I -- I -- I
10 couldn't say -- it's hard for me to put myself into that
11 situation.

12 THE COURT: If you were charged with a crime, do
13 you believe you'd be entitled to the presumption of
14 innocence?

15 PROSPECTIVE JUROR NO. 363: If I had nothing to do
16 with anything or anything like that, yes. But if I -- at the
17 end of the day for me, I understand what you're --

18 THE COURT: You understand that --

19 PROSPECTIVE JUROR NO. 363: -- I understand what
20 you're asking me.

21 THE COURT: Okay, just a minute. You understand
22 that's not what the presumption of innocence means?

23 PROSPECTIVE JUROR NO. 363: Right.

24 THE COURT: It doesn't mean if this or if that --

25 PROSPECTIVE JUROR NO. 363: Right.

1 THE COURT: -- and condition on this. Everybody is
2 entitled to the presumption of innocence.

3 PROSPECTIVE JUROR NO. 363: Right.

4 THE COURT: Do you understand that?

5 PROSPECTIVE JUROR NO. 363: Yes.

6 THE COURT: Including you --

7 PROSPECTIVE JUROR NO. 363: Yes.

8 THE COURT: -- if you were charged with a crime.

9 PROSPECTIVE JUROR NO. 363: Right.

10 THE COURT: Do you understand that?

11 PROSPECTIVE JUROR NO. 363: Yes.

12 THE COURT: Do you agree with that?

13 PROSPECTIVE JUROR NO. 363: I guess, you could say
14 yes. I do -- I do -- I guess, I -- I have to stop saying I
15 guess because I'm thinking too much, but yes.

16 THE COURT: Okay. You understand the State has the
17 burden and they have to prove everything that they've alleged
18 in their charging document by proof beyond a reasonable
19 doubt?

20 PROSPECTIVE JUROR NO. 363: Right.

21 THE COURT: Do you understand that?

22 PROSPECTIVE JUROR NO. 363: Yes.

23 THE COURT: And you understand that, I mean, they
24 have that burden. If you sit in this trial and the State
25 does not meet their burden, do you have any problem returning

1 a verdict of not guilty?

2 PROSPECTIVE JUROR NO. 363: No, I guess.

3 THE COURT: Okay. Is there something about the --
4 I mean, that makes sense, right?

5 PROSPECTIVE JUROR NO. 363: Yeah.

6 THE COURT: And vice versa. If the State meets
7 their burden of proof, would you have any problems signing a
8 guilty verdict?

9 PROSPECTIVE JUROR NO. 363: No.

10 THE COURT: Okay. But you understand you would
11 have to judge this case based solely upon the facts and
12 evidence as you hear in the courtroom and nothing else?

13 PROSPECTIVE JUROR NO. 363: Right.

14 THE COURT: You understand that, correct?

15 PROSPECTIVE JUROR NO. 363: Yes, I -- I understand
16 that.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 363: That's what I'm saying
19 with -- it's just the -- I understand all of that. It's just
20 me -- it's a personal thing that I do have based on certain
21 things in my past.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 363: So that's where -- it's
24 not about -- I understand that I have to do that. As my duty
25 I have to be able to block those things out. It's just that

1 I have that personal problem where I know it will be a very
2 difficult thing for me, to be very honest. I'm just trying
3 to be honest with you.

4 THE COURT: Sure. You're under oath.

5 PROSPECTIVE JUROR NO. 363: Right.

6 THE COURT: So you would have a difficult time
7 granting the defendant the presumption of innocence?

8 PROSPECTIVE JUROR NO. 363: In this case, yes.

9 THE COURT: Why?

10 PROSPECTIVE JUROR NO. 363: It's just things that
11 have happened where I just feel like neglect and -- and child
12 abuse and all that kind of -- I just -- I have a big
13 problem --

14 THE COURT: Let me just stop you there because you
15 understand that nothing that has occurred in your life has
16 anything --

17 PROSPECTIVE JUROR NO. 363: Yes.

18 THE COURT: -- to do with this case, right?

19 PROSPECTIVE JUROR NO. 363: Yes, I do.

20 THE COURT: You haven't heard -- remember I asked
21 you, do you know anything about this case other than what's
22 been said in the courtroom?

23 PROSPECTIVE JUROR NO. 363: Right.

24 THE COURT: So you know absolutely nothing about
25 this case; is that?

1 PROSPECTIVE JUROR NO. 363: Right.

2 THE COURT: All right. So you understand that you
3 would not be able to judge this case if you were asked to
4 serve, based on anything other than what you see and hear in
5 the courtroom? Do you understand that?

6 PROSPECTIVE JUROR NO. 363: Yes.

7 THE COURT: And that's an interesting concept
8 because everybody comes to the courtroom with life
9 experience. We want people. That's what makes good jurors.

10 PROSPECTIVE JUROR NO. 363: Right.

11 THE COURT: People that have life experience, that
12 have done things, experienced things. We don't expect you to
13 leave it all at the door, but what we do expect you to do is
14 to set it aside --

15 PROSPECTIVE JUROR NO. 363: Right.

16 THE COURT: -- and judge this case based solely
17 upon what you see from the witness stand and the evidence and
18 the instructions on the law, which will be given to you by
19 myself. Do you understand that?

20 PROSPECTIVE JUROR NO. 363: Yes.

21 THE COURT: Because you understand how unfair it
22 would be to either side if you were to judge this case on
23 your life experience?

24 PROSPECTIVE JUROR NO. 363: Correct.

25 THE COURT: Or something that didn't happen in the

1 courtroom?

2 PROSPECTIVE JUROR NO. 363: Right.

3 THE COURT: That would be outrageous, right?

4 PROSPECTIVE JUROR NO. 363: Yes.

5 THE COURT: Okay. Do we have to worry about your
6 life experiences or anything that would interfere with your
7 ability to judge this case solely upon what you see and hear
8 in the courtroom and the instructions on the law?

9 PROSPECTIVE JUROR NO. 363: No.

10 THE COURT: Okay. Anything else?

11 PROSPECTIVE JUROR NO. 363: That was it.

12 THE COURT: Okay. Ms. Lourdes Pineda, how long
13 have you lived in Clark County?

14 PROSPECTIVE JUROR NO. 370: Since 2005.

15 THE COURT: Your education background?

16 PROSPECTIVE JUROR NO. 370: I have a college
17 background in the Philippines.

18 THE COURT: Okay. Do you have a degree?

19 PROSPECTIVE JUROR NO. 370: No, not a degree. Just
20 only a college background. I -- I take secretarial in the
21 Philippines.

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

23 PROSPECTIVE JUROR NO. 370: I'm working at the
24 (indecipherable) right now and, yeah.

25 THE COURT: Okay. Your marital status?

1 PROSPECTIVE JUROR NO. 370: I'm married. I have
2 two kids.

3 THE COURT: Is your spouse employed?

4 PROSPECTIVE JUROR NO. 370: No, my spouse is
5 already retired.

6 THE COURT: What did your spouse retire from?

7 PROSPECTIVE JUROR NO. 370: He's retired in -- he's
8 a U.S. Navy retired.

9 THE COURT: And your two kids, are they old enough
10 to be employed?

11 PROSPECTIVE JUROR NO. 370: Oh, my daughter, she
12 went to college. She's 24 old and this coming 18 and my son
13 is 25.

14 THE COURT: Okay. Any reason why you could not be
15 a completely fair and impartial juror if you were selected to
16 serve on this panel?

17 PROSPECTIVE JUROR NO. 370: The reason why is
18 sometimes -- this is my first time in my whole life to attend
19 a jury, but --

20 THE COURT: Thank you for being here.

21 PROSPECTIVE JUROR NO. 370: -- you know, in -- in
22 this case its look like I feel nervous to judge the person.
23 I don't know why. It's not like I'm not concentrated.

24 THE COURT: Nothing wrong with being nervous.

25 PROSPECTIVE JUROR NO. 370: That's all. You know

1 -- you know, because I'm not that kind of person that to
2 judge so --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 370: -- that's -- yeah,
5 that's my problem is I'm not comfortable.

6 THE COURT: Okay. I'd probably -- I would probably
7 be more uncomfortable with someone that said I'm really
8 comfortable judging people. There's nothing wrong with that,
9 okay? You should be uncomfortable. You should be nervous.
10 But is there anything beyond that, that would interfere with
11 your ability to be fair and impartial to the State or to the
12 defense?

13 PROSPECTIVE JUROR NO. 370: I think, no.

14 THE COURT: Okay. Thank you. Ms. Melendez, how
15 long have you lived in Clark County?

16 PROSPECTIVE JUROR NO. 371: I has living here for
17 around 20 years.

18 THE COURT: Okay. Your education background?

19 PROSPECTIVE JUROR NO. 371: I have a bachelor
20 degree, accounting, public accounting in Mexico. I has been
21 taking English class here at the Community Center, and I was
22 volunteer at the --

23 THE COURT: You've been employed here in Clark
24 County?

25 PROSPECTIVE JUROR NO. 371: I was working at -- at

1 the car dealer.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 371: Yeah. And I was
4 volunteer at the Clark County School District at the school
5 -- my kids' schools.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 371: Okay?

8 THE COURT: All right. Your marital status?

9 PROSPECTIVE JUROR NO. 371: I'm married. I have
10 two kids.

11 THE COURT: Is your spouse employed?

12 PROSPECTIVE JUROR NO. 371: The what?

13 THE COURT: Is your husband employed?

14 PROSPECTIVE JUROR NO. 371: Yes. He's a real
15 estate agent.

16 THE COURT: Okay. And you indicated earlier that
17 you work in his office?

18 PROSPECTIVE JUROR NO. 371: I -- I work with him
19 sometimes. I file the documents or write some letters.

20 THE COURT: All right. And your two kids, you
21 indicated they were in the Clark County School District. Are
22 they both under 18?

23 PROSPECTIVE JUROR NO. 371: My son is 15 years old
24 and my daughter is 17 years old.

25 THE COURT: Okay. Any reason why you could not be

1 a completely fair and impartial juror if you were selected to
2 serve on this panel?

3 PROSPECTIVE JUROR NO. 371: I am glad to serve my
4 country, yeah.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 371: I don't understand more
7 technical word, but I want to serve my country.

8 THE COURT: Okay. Thank you. Thank you for being
9 here.

10 PROSPECTIVE JUROR NO. 371: Thank you.

11 THE COURT: Mr., it's Alvaro Herrera?

12 PROSPECTIVE JUROR NO. 373: Alvaro Herrera.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR NO. 373: Yes.

15 THE COURT: How long have you lived in Clark
16 County?

17 PROSPECTIVE JUROR NO. 373: End of 2000, so
18 about --

19 THE COURT: 16.

20 PROSPECTIVE JUROR NO. 373: -- 16 years, yes.

21 THE COURT: 16 years? Your educational and
22 employment background?

23 PROSPECTIVE JUROR NO. 373: I've got two associate
24 degrees. I'll currently pursuing my bachelor's at UNLV.

25 THE COURT: Your bachelor's in?

1 PROSPECTIVE JUROR NO. 373: In business
2 administration, finance.

3 THE COURT: Okay. And what do you do for a living?

4 PROSPECTIVE JUROR NO. 373: I'm a loan support
5 officer for Bank of Nevada.

6 THE COURT: Your marital status?

7 PROSPECTIVE JUROR NO. 373: Married.

8 THE COURT: Is your spouse employed?

9 PROSPECTIVE JUROR NO. 373: She is.

10 THE COURT: What does she do?

11 PROSPECTIVE JUROR NO. 373: She's an insurance
12 agent.

13 THE COURT: Do you have children?

14 PROSPECTIVE JUROR NO. 373: Two.

15 THE COURT: Are they little?

16 PROSPECTIVE JUROR NO. 373: Yes.

17 THE COURT: Minors?

18 PROSPECTIVE JUROR NO. 373: 14 and 7.

19 THE COURT: Okay. Any reason why you could not be
20 a completely fair and impartial juror if selected to serve?

21 PROSPECTIVE JUROR NO. 373: No.

22 THE COURT: Thank you, sir. Thank you for being
23 here. Mr. Donny Cheng.

24 PROSPECTIVE JUROR NO. 383: Yes, ma'am.

25 THE COURT: Good morning.

1 PROSPECTIVE JUROR NO. 383: Good morning, Ma'am.

2 THE COURT: How long have you lived in Clark
3 County?

4 PROSPECTIVE JUROR NO. 383: Since 2001:

5 THE COURT: Your employment, training, education
6 background?

7 PROSPECTIVE JUROR NO. 383: Not much.

8 THE COURT: Okay. What's your education
9 background?

10 PROSPECTIVE JUROR NO. 383: Probably high school.

11 THE COURT: Okay. And what do you do for a living?

12 PROSPECTIVE JUROR NO. 383: I'm a dealer at the
13 casino Wynn.

14 THE COURT: You're a dealer?

15 PROSPECTIVE JUROR NO. 383: Table games, dealer.

16 THE COURT: How long have you been dealing table
17 games?

18 PROSPECTIVE JUROR NO. 383: About 20 something, 30
19 years.

20 THE COURT: That's a long time.

21 PROSPECTIVE JUROR NO. 383: Yes, ma'am.

22 THE COURT: Okay. Your marital status?

23 PROSPECTIVE JUROR NO. 383: Yes, I do.

24 THE COURT: You're married?

25 PROSPECTIVE JUROR NO. 383: Yes, ma'am.

1 THE COURT: Is your spouse employed?

2 PROSPECTIVE JUROR NO. 383: Yes.

3 THE COURT: What does your spouse do for a living?

4 PROSPECTIVE JUROR NO. 383: She does as a dealer,
5 too.

6 THE COURT: Okay. Do you have children?

7 PROSPECTIVE JUROR NO. 383: We have one, Ma'am.

8 THE COURT: Is that child old enough to be
9 employed?

10 PROSPECTIVE JUROR NO. 383: No, Ma'am, she's in
11 junior high.

12 THE COURT: Any -- thank you.

13 PROSPECTIVE JUROR NO. 383: You're welcome.

14 THE COURT: Any -- any reason why you could not be
15 a completely fair and impartial juror if you were selected to
16 serve?

17 PROSPECTIVE JUROR NO. 383: I don't get.

18 THE COURT: Okay. Did you hear me? Any reason --

19 PROSPECTIVE JUROR NO. 383: I hear a little bit,
20 but not --

21 THE COURT: Any reason why you could not be a
22 completely fair and impartial juror if you were selected to
23 serve?

24 PROSPECTIVE JUROR NO. 383: Yeah, I have to pick up
25 the son at 3:00 after work. I work 4:00 a.m. to 12:00 noon,

1 and then took a nap and then I need to pick up the kid, and
2 some of the neighbor kids --

3 THE COURT: Okay. You understand if you're here,
4 you're not leaving and picking up any kids at 3:00 o'clock,
5 right?

6 PROSPECTIVE JUROR NO. 383: Yes, ma'am.

7 THE COURT: Okay? So you understand if you're
8 here, you have to make other arrangements?

9 PROSPECTIVE JUROR NO. 383: Yes.

10 THE COURT: Okay? Is there any -- any reason why
11 you could not be a fair and impartial juror if you're
12 selected to serve?

13 PROSPECTIVE JUROR NO. 383: No, Ma'am.

14 THE COURT: Thank you. Ms. Marilyn
15 Lopez-Hernandez.

16 PROSPECTIVE JUROR NO. 391: Hello. Hi.

17 THE COURT: Good morning.

18 PROSPECTIVE JUROR NO. 391: Good morning.

19 THE COURT: Well, I guess, it's afternoon, sorry.

20 PROSPECTIVE JUROR NO. 391: It's okay.

21 THE COURT: How long have you lived in Clark
22 County?

23 PROSPECTIVE JUROR NO. 391: Eight year.

24 THE COURT: Eight years?

25 PROSPECTIVE JUROR NO. 391: Yes.

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

2 PROSPECTIVE JUROR NO. 391: In my country in Cuba.

3 THE COURT: I'm sorry?

4 PROSPECTIVE JUROR NO. 391: In the -- in the United
5 States only a year.

6 THE COURT: Oh, you've been in the United States --

7 PROSPECTIVE JUROR NO. 391: Yes.

8 THE COURT: I just -- how long have you lived in
9 Clark County, here in Las Vegas?

10 PROSPECTIVE JUROR NO. 391: Eight years.

11 THE COURT: Eight years?

12 PROSPECTIVE JUROR NO. 391: Yes.

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

14 PROSPECTIVE JUROR NO. 391: No, I -- sorry, my
15 English no, no more too perfect. I came into my country
16 here. I live in the Las Vegas eight year.

17 THE COURT: Eight years?

18 PROSPECTIVE JUROR NO. 391: Yes.

19 THE COURT: And are you employed? Do you work?

20 PROSPECTIVE JUROR NO. 391: Yes.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR NO. 391: Aria, it's a casino,
23 dishwasher.

24 THE COURT: Okay. Are you married?

25 PROSPECTIVE JUROR NO. 391: Yes.

1 THE COURT: Is your spouse employed?
2 PROSPECTIVE JUROR NO. 391: Yes.
3 THE COURT: Does your spouse work?
4 PROSPECTIVE JUROR NO. 391: Yes.
5 THE COURT: What does your spouse do?
6 PROSPECTIVE JUROR NO. 391: She work the -- the
7 same casino, Aria Resort, my husband.
8 THE COURT: And what does your spouse do at the
9 Aria -- what did you say, the Aria Casino?
10 PROSPECTIVE JUROR NO. 391: Yes.
11 THE COURT: Okay.
12 PROSPECTIVE JUROR NO. 391: Yes.
13 THE COURT: What does your spouse do there?
14 PROSPECTIVE JUROR NO. 391: Kitchen worker.
15 THE COURT: Do you have children?
16 PROSPECTIVE JUROR NO. 391: Yes.
17 THE COURT: How many?
18 PROSPECTIVE JUROR NO. 391: One.
19 THE COURT: Is that child a minor child?
20 PROSPECTIVE JUROR NO. 391: I'm sorry, too more
21 nervous.
22 THE COURT: I'm sorry?
23 PROSPECTIVE JUROR NO. 391: I'm too more nervous.
24 THE COURT: I'm sorry, is that child a small child?
25 PROSPECTIVE JUROR NO. 391: Yes.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 391: Yes.

3 THE COURT: Any reason why you could not be a
4 completely fair and impartial juror if you were selected to
5 serve?

6 PROSPECTIVE JUROR NO. 391: No.

7 THE COURT: Thank you. Mr. Terry, how long have
8 you lived in Clark County?

9 PROSPECTIVE JUROR NO. 402: Since 1990.

10 THE COURT: Your education background and
11 employment?

12 PROSPECTIVE JUROR NO. 402: Bachelor's degree in
13 business administration. I work for Smith's Food and Drug as
14 a -- a receiver, inventory control manager.

15 THE COURT: Your marital status?

16 PROSPECTIVE JUROR NO. 402: I'm married.

17 THE COURT: Is your spouse employed?

18 PROSPECTIVE JUROR NO. 402: Yes, she is, with Clark
19 County as a assistant in the elementary schools.

20 THE COURT: She works for the school district in
21 the elementary --

22 PROSPECTIVE JUROR NO. 402: Yes, as an assistant.
23 I'm not sure of her title.

24 THE COURT: Do you have kids?

25 PROSPECTIVE JUROR NO. 402: Yes. I have eight

1 kids.

2 THE COURT: Are any of them old enough to be
3 employed?

4 PROSPECTIVE JUROR NO. 402: Yes, five of them are.

5 THE COURT: Okay. Can you tell me what they do for
6 a living?

7 PROSPECTIVE JUROR NO. 402: My oldest is an
8 accountant. My second oldest is a manager at a deli shop,
9 and my third oldest is employed by Clark County as a teacher.
10 Fourth oldest is a full-time student up in Reno. My fifth
11 oldest, fifth child is a missionary for our church out in
12 Japan. And my three kids at home are 16-year-old and
13 12-year-old and a 8-year-old.

14 THE COURT: Okay. Any reason why you could not be
15 a completely fair --

16 PROSPECTIVE JUROR NO. 402: I see no reason.

17 THE COURT: -- and impartial juror if you were
18 selected to serve?

19 PROSPECTIVE JUROR NO. 402: I see no reason.

20 THE COURT: Thank you, sir. Thank you for being
21 here. Mr. Browning, how long have you lived in Clark County?

22
23 PROSPECTIVE JUROR NO. 412: 54 years, Your Honor.

24 THE COURT: Your employment, training, education
25 background?

1 PROSPECTIVE JUROR NO. 412: No formal education
2 after high school, and I'm left lane electrician with a local
3 sign company.

4 THE COURT: Your marital status?

5 PROSPECTIVE JUROR NO. 412: Single.

6 THE COURT: Do you have kids?

7 PROSPECTIVE JUROR NO. 412: Yes, I do. I have two
8 children.

9 THE COURT: Are they old enough to be employed?

10 PROSPECTIVE JUROR NO. 412: Yes.

11 THE COURT: What does each do for a living?

12 PROSPECTIVE JUROR NO. 412: One is self -- excuse
13 me, self-employed. My youngest works at Pizza Hut.

14 THE COURT: Any reason why you could not be a
15 completely fair and impartial juror if selected to serve?

16 PROSPECTIVE JUROR NO. 412: No, Your Honor.

17 THE COURT: Thank you. Thank you for being here.
18 Mr. Gabriel Cleto.

19 PROSPECTIVE JUROR NO. 414: Yes, Your Honor.

20 THE COURT: How long have you lived in Clark
21 County?

22 PROSPECTIVE JUROR NO. 414: For 14 years.

23 THE COURT: Your education back ground?

24 PROSPECTIVE JUROR NO. 414: I have a bachelor's
25 degree at UNLV with art.

1 THE COURT: A bachelor's in?

2 PROSPECTIVE JUROR NO. 414: Art.

3 THE COURT: In art? What do you do for a living?

4 PROSPECTIVE JUROR NO. 414: I'm a user interface
5 designer for the websites (indecipherable).

6 THE COURT: Okay. Your marital status?

7 PROSPECTIVE JUROR NO. 414: Single.

8 THE COURT: Do you have kids?

9 PROSPECTIVE JUROR NO. 414: No, Your Honor.

10 THE COURT: Any reason why you could not be a
11 completely fair and impartial juror for you were selected to
12 serve?

13 PROSPECTIVE JUROR NO. 414: No, Your Honor.

14 THE COURT: Thank you, sir. Thank you for being
15 here. Mr. Rashaad Davis, how long have you lived in Clark
16 County?

17 PROSPECTIVE JUROR NO. 416: 20 years.

18 THE COURT: Your employment, training, education
19 background?

20 PROSPECTIVE JUROR NO. 416: No formal education
21 after high school. Background at working as loan specialist
22 for Bank of George.

23 THE COURT: Your marital status?

24 PROSPECTIVE JUROR NO. 416: Single.

25 THE COURT: Do you have kids?

1 PROSPECTIVE JUROR NO. 416: No.

2 THE COURT: Any reason why you could not be a
3 completely fair and impartial juror if selected to serve on
4 this panel?

5 PROSPECTIVE JUROR NO. 416: No reason.

6 THE COURT: Thank you, sir. Thank you for being
7 here. Ms. Ericka Gonzalez-Garcia, how long have you lived in
8 Clark County?

9 PROSPECTIVE JUROR NO. 417: Four seven years.

10 THE COURT: Your education background?

11 PROSPECTIVE JUROR NO. 417: I have a vocational
12 degree in medical billing.

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

14 PROSPECTIVE JUROR NO. 417: I work for Nationwide
15 Nevada as a funder.

16 THE COURT: As a what?

17 PROSPECTIVE JUROR NO. 417: As a funder.

18 THE COURT: What does that mean?

19 PROSPECTIVE JUROR NO. 417: We process the credit
20 applications that come in from the auto dealerships.

21 THE COURT: Okay. So you don't do anything about
22 medical billing?

23 PROSPECTIVE JUROR NO. 417: No.

24 THE COURT: Okay. Your marital status?

25 PROSPECTIVE JUROR NO. 417: Married.

1 THE COURT: Is your spouse employed?

2 PROSPECTIVE JUROR NO. 417: Yes, he is.

3 THE COURT: What does your spouse do?

4 PROSPECTIVE JUROR NO. 417: He's a Uber and Lyft
5 driver.

6 THE COURT: I'm sorry?

7 PROSPECTIVE JUROR NO. 417: An Uber and Lyft
8 driver.

9 THE COURT: Okay. Do you have children?

10 PROSPECTIVE JUROR NO. 417: No, I don't.

11 THE COURT: Any reason why you could not be a
12 completely fair and impartial juror if you were selected to
13 serve?

14 PROSPECTIVE JUROR NO. 417: No, Your Honor.

15 THE COURT: Thank you. Thank you for being here.
16 Ms. Alexandria Todd, how long have you lived in Clark County?

17 PROSPECTIVE JUROR NO. 419: For 21 years.

18 THE COURT: I'm sorry?

19 PROSPECTIVE JUROR NO. 419: For 21 years.

20 THE COURT: Your education background?

21 PROSPECTIVE JUROR NO. 419: I'm just a CNA license.

22 THE COURT: I'm sorry?

23 PROSPECTIVE JUROR NO. 419: A CNA license.

24 THE COURT: Certified nursing assistant? Is that a
25 yes?

1 PROSPECTIVE JUROR NO. 419: Yes.

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

3 PROSPECTIVE JUROR NO. 419: I'm a quality assurance
4 agent.

5 THE COURT: Your marital status?

6 PROSPECTIVE JUROR NO. 419: Married.

7 THE COURT: Is your spouse employed?

8 PROSPECTIVE JUROR NO. 419: Yes.

9 THE COURT: What does your spouse do?

10 PROSPECTIVE JUROR NO. 419: Same thing, quality
11 assurance agent.

12 THE COURT: Do you have kids?

13 PROSPECTIVE JUROR NO. 419: No.

14 THE COURT: Any reason why you could not be a
15 completely fair and impartial juror if you were selected to
16 serve?

17 PROSPECTIVE JUROR NO. 419: No.

18 THE COURT: Thank you. Thank you for being here.
19 Mr. Boren, how long have you lived in Clark County?

20 PROSPECTIVE JUROR NO. 423: 16 years.

21 THE COURT: Your employment, training, education
22 background?

23 PROSPECTIVE JUROR NO. 423: I have a bachelor's in
24 economics, and I manage a large mortgage banker.

25 THE COURT: Your marital status?

1 PROSPECTIVE JUROR NO. 423: Married, Your Honor.

2 THE COURT: Is your spouse employed?

3 PROSPECTIVE JUROR NO. 423: No.

4 THE COURT: Do you have children?

5 PROSPECTIVE JUROR NO. 423: Yes. I have three
6 biological and four stepchildren.

7 THE COURT: Okay. So, seven total?

8 PROSPECTIVE JUROR NO. 423: Yes.

9 THE COURT: Are any of them old enough to be
10 employed?

11 PROSPECTIVE JUROR NO. 423: No.

12 THE COURT: Any reason why you could not be a
13 completely fair and impartial juror if you were selected to
14 serve?

15 PROSPECTIVE JUROR NO. 423: No. Your Honor.

16 THE COURT: Thank you. Thank you for being here.
17 Ms. Damaris Ibay --

18 PROSPECTIVE JUROR NO. 425: Yes.

19 THE COURT: -- how long have you lived in Clark
20 County?

21 PROSPECTIVE JUROR NO. 425: About 18 years.

22 THE COURT: Your education and employment
23 background?

24 PROSPECTIVE JUROR NO. 425: High school. I
25 finished high school, and I studied paralegal and I became a

1 nursing assistant back in New York City. I currently manage
2 my husband's office.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 435: Medical office.

5 THE COURT: So you manage your husband's office.
6 What kind of office is it?

7 PROSPECTIVE JUROR NO. 425:
8 Obstetrician/gynecologist.

9 THE COURT: Okay. How long -- so you manage the
10 medical practice?

11 PROSPECTIVE JUROR NO. 425: Yes.

12 THE COURT: How long have you done that?

13 PROSPECTIVE JUROR NO. 425: Since about 15 years or
14 more.

15 THE COURT: Okay. Do you have kids?

16 PROSPECTIVE JUROR NO. 425: Yes.

17 THE COURT: How many?

18 PROSPECTIVE JUROR NO. 425: I have four kids.

19 THE COURT: Are any of them old enough to be
20 employed?

21 PROSPECTIVE JUROR NO. 425: Yeah, three of them.

22 THE COURT: Okay. Can you tell me what those three
23 kids do?

24 PROSPECTIVE JUROR NO. 425: My oldest daughter,
25 she's 35, she is administrator/biller of the office. My

1 second daughter, she's in college here in UNLV, and my son,
2 he's in college in San Diego. And then my 14-year-old, she's
3 in high school over here.

4 THE COURT: Any reason why you could not be a
5 completely fair and impartial juror if you were selected to
6 serve?

7 PROSPECTIVE JUROR NO. 425: No.

8 THE COURT: Thank you. Mr. Miller, how long have
9 you lived in Clark County?

10 PROSPECTIVE JUROR NO. 436: 28 years.

11 THE COURT: Your employment and education
12 background?

13 PROSPECTIVE JUROR NO. 436: High school diploma.
14 I'm an auto mechanic.

15 THE COURT: Your marital status?

16 PROSPECTIVE JUROR NO. 436: Married.

17 THE COURT: Is your spouse employed?

18 PROSPECTIVE JUROR NO. 436: No.

19 THE COURT: Do you have kids?

20 PROSPECTIVE JUROR NO. 436: Yes, three.

21 THE COURT: Are they little kids?

22 PROSPECTIVE JUROR NO. 436: Youngest is 14.

23 THE COURT: Minors? Okay. Minors?

24 PROSPECTIVE JUROR NO. 436: One's 14, 17 and 22.

25 THE COURT: Okay. The 22-year-old, is that child

1 employed?

2 PROSPECTIVE JUROR NO. 436: Yes.

3 THE COURT: What does that child do?

4 PROSPECTIVE JUROR NO. 436: He works for a pipe
5 sales company.

6 THE COURT: Okay. Any reason why you could not be
7 a completely fair and impartial juror if you were selected to
8 serve?

9 PROSPECTIVE JUROR NO. 436: No.

10 THE COURT: Thank you, sir. Thank you, sir. Thank
11 you for being here. Mr. Tommy Lozano.

12 PROSPECTIVE JUROR NO. 439: Yes.

13 THE COURT: How long have you lived in Clark
14 County?

15 PROSPECTIVE JUROR NO. 439: 16 years.

16 THE COURT: Your education background?

17 PROSPECTIVE JUROR NO. 439: No degrees, just high
18 school.

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

20 PROSPECTIVE JUROR NO. 439: Security officer for a
21 hotel resort.

22 THE COURT: How long have you done that?

23 PROSPECTIVE JUROR NO. 439: 16 years.

24 THE COURT: What hotel do you work at?

25 PROSPECTIVE JUROR NO. 439: Bellagio.

1 THE COURT: Bellagio? Your marital status?

2 PROSPECTIVE JUROR NO. 439: Married 42 years.

3 THE COURT: Is your wife employed?

4 PROSPECTIVE JUROR NO. 439: No.

5 THE COURT: Do you have kids?

6 PROSPECTIVE JUROR NO. 439: Three stepsons.

7 THE COURT: Are any of them old enough to be
8 employed?

9 PROSPECTIVE JUROR NO. 439: Yes.

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

11 PROSPECTIVE JUROR NO. 439: One's a lawyer
12 journalist. The other one's a land processor. And the other
13 one is a mechanic.

14 THE COURT: You said one was a lawyer journalist?

15 PROSPECTIVE JUROR NO. 439: Correct.

16 THE COURT: What does that mean?

17 PROSPECTIVE JUROR NO. 439: He got two master's
18 degrees. One in journalism and one as an attorney.

19 THE COURT: And does he practice law?

20 PROSPECTIVE JUROR NO. 439: Yes, he does.

21 THE COURT: Is it here in Clark County?

22 PROSPECTIVE JUROR NO. 439: No, he's not. He's in
23 California.

24 THE COURT: All right. In another jurisdiction?

25 You understand that if you're selected to be on this panel

1 that you cannot discuss this case with anyone including your
2 fellow jurors until you've been discharged as a juror or you
3 go back to deliberate upon your verdict?

4 PROSPECTIVE JUROR NO. 439: Yes.

5 THE COURT: Do you understand that?

6 PROSPECTIVE JUROR NO. 439: Yes, I do.

7 THE COURT: So you understand you can't call up
8 this son and ask him any questions about this case; do you
9 understand that?

10 PROSPECTIVE JUROR NO. 439: Yes, I do.

11 THE COURT: And you'll comply with that, correct?

12 PROSPECTIVE JUROR NO. 439: Yes, I will.

13 THE COURT: Okay. Any reason why you could not be
14 a completely fair and impartial juror?

15 PROSPECTIVE JUROR NO. 439: No.

16 THE COURT: Thank you, sir. Thank you for being
17 here. Mr. Aaron Bouch.

18 PROSPECTIVE JUROR NO. 448: Bouch.

19 THE COURT: Bouch. How long have you lived in
20 Clark County?

21 PROSPECTIVE JUROR NO. 448: Off and on for 21
22 years.

23 THE COURT: Your education and employment
24 background?

25 PROSPECTIVE JUROR NO. 448: I'm working to complete

1 my engineering and project management professional from
2 University of Nevada Reno. I am currently the senior project
3 manager for Project Neon.

4 THE COURT: For what?

5 PROSPECTIVE JUROR NO. 448: Project neon.

6 THE COURT: Okay. Your marital status?

7 PROSPECTIVE JUROR NO. 448: I am married for five
8 years.

9 THE COURT: Do you have kids?

10 PROSPECTIVE JUROR NO. 448: I have two sons and a
11 daughter. My oldest son is a junior at UNLV. My youngest
12 son is a freshman at Utah State, and my youngest daughter's
13 ten years old.

14 THE COURT: Is your spouse employed?

15 PROSPECTIVE JUROR NO. 448: She's a genetic analyst
16 for Providence Healthcare.

17 THE COURT: Any reason why you could not be a
18 completely fair and impartial juror?

19 PROSPECTIVE JUROR NO. 448: No.

20 THE COURT: Thank you. Thank you for being here.
21 Mr. Lewis, how long have you lived in Clark County?

22 PROSPECTIVE JUROR NO. 450: 20 plus years.

23 THE COURT: 21, 22?

24 PROSPECTIVE JUROR NO. 450: Because it's off and on
25 because college and everything like that. My dad was in the

1 Air Force so we like --

2 THE COURT: 21, 22?

3 PROSPECTIVE JUROR NO. 450: 22.

4 THE COURT: 22? Your education background?

5 PROSPECTIVE JUROR NO. 450: Bachelor's degree in
6 exercise science.

7 THE COURT: And you told me earlier about your
8 profession; is that correct?

9 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

10 THE COURT: Your marital status?

11 PROSPECTIVE JUROR NO. 450: Single.

12 THE COURT: Do you have kids?

13 PROSPECTIVE JUROR NO. 450: No, Ma'am.

14 THE COURT: Do you know of any reason why you could
15 not be a completely fair and impartial juror if selected to
16 serve?

17 PROSPECTIVE JUROR NO. 450: Well, it's kind of
18 personal, but I was like abused when I was younger, me and my
19 niece.

20 THE COURT: Is that something you want to talk to
21 at the bench with the Court?

22 PROSPECTIVE JUROR NO. 450: Honestly, it's a little
23 bit personal, and I would not like --

24 THE COURT: You can answer it in front of everybody
25 or at the bench in front of the lawyers and myself. It's up

1 to you.

2 PROSPECTIVE JUROR NO. 450: I mean, I can answer it
3 in front of you --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 450: -- by --

6 THE COURT: You can approach the bench and the
7 attorneys can join me.

8 (Bench conference begins)

9 THE COURT: Up here, Mr. Lewis.

10 PROSPECTIVE JUROR NO. 450: How are you doing?

11 THE COURT: Good. Just don't put your (inaudible)
12 up there.

13 PROSPECTIVE JUROR NO. 450: Sorry (inaudible). I'm
14 sorry.

15 THE MARSHAL: The speaker has to pick you up.

16 THE COURT: Yeah, so that we can hear everything
17 you're saying. The lawyers are present, Mr. Lewis is
18 present. Is there something you think that happened when you
19 were a child?

20 PROSPECTIVE JUROR NO. 450: Yeah. Me and my niece
21 got abused by a babysitter.

22 THE COURT: How old were you?

23 PROSPECTIVE JUROR NO. 450: Ten. She was nine.

24 THE COURT: I'm sorry?

25 PROSPECTIVE JUROR NO. 450: I said was ten and she

1 was nine.

2 THE COURT: Your sister?

3 PROSPECTIVE JUROR NO. 450: My niece.

4 THE COURT: Okay. And the babysitter was?

5 PROSPECTIVE JUROR NO. 450: Like a friend of one of
6 my sister's friends that moved in or whatnot, but just giving
7 us a bath and like inappropriate touching and stuff. So,
8 like --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 450: -- I said something,
11 but nothing was really like established like, but he never
12 watched us again, and a family member like believed me and my
13 niece on what went down in the bathroom.

14 THE COURT: Okay. Was it a male or female?

15 PROSPECTIVE JUROR NO. 450: It was a male.

16 THE COURT: It was a male babysitter?

17 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

18 THE COURT: Okay. And you did disclose it?

19 PROSPECTIVE JUROR NO. 450: Um-h'm. We really
20 didn't -- once I told my dad and my mother, and they like
21 handled it through them and nothing was -- like, no child --
22 charges or anything. It was just like you stay away from us,
23 we stay away from you guys type of thing.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 450: So it was like --

1 THE COURT: But you --

2 PROSPECTIVE JUROR NO. 450: -- kind of a touchy
3 subject.

4 THE COURT: -- you did disclose it to your parents?

5 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

6 THE COURT: Okay. Is there anything about that,
7 that would affect your ability to be fair and impartial in
8 this case?

9 PROSPECTIVE JUROR NO. 450: I do -- I do. With
10 anything with kids it just turns my stomach. I'm just
11 really, so obviously, I'm not really like --

12 THE COURT: Not really what?

13 PROSPECTIVE JUROR NO. 450: I don't agree with it.

14 THE COURT: You don't agree with what?

15 PROSPECTIVE JUROR NO. 450: With any child abuse or
16 anything like that.

17 THE COURT: I think most people would probably say
18 that.

19 PROSPECTIVE JUROR NO. 450: Um-h'm.

20 THE COURT: Is there anything about your experience
21 that would --

22 PROSPECTIVE JUROR NO. 450: I mean, I was
23 touched --

24 THE COURT: Just a minute.

25 PROSPECTIVE JUROR NO. 450: Sorry about that.

1 THE COURT: That would impede your ability to be
2 fair and impartial to the State or to the defense?

3 PROSPECTIVE JUROR NO. 450: I don't necessarily
4 understand what you're saying, but I was touched
5 inappropriately and I --

6 THE COURT: And I'm sorry that you had to --

7 PROSPECTIVE JUROR NO. 450: Um-h'm.

8 THE COURT: -- tell us about that.

9 PROSPECTIVE JUROR NO. 450: Right.

10 THE COURT: But you understand this isn't -- this
11 isn't -- you heard both sides tell you --

12 PROSPECTIVE JUROR NO. 450: Right, I heard -- I
13 heard --

14 THE COURT: -- what the facts were, right?

15 PROSPECTIVE JUROR NO. 450: Most definitely, but --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 450: -- I don't know, that's
18 exactly I don't know what it's going to be thrown at me if
19 this happened and maybe what if I -- you know what I mean?
20 Like I said, I don't know any information or anything. I'm
21 just letting you know because you asked me a question so --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 450: -- I'm just giving you
24 what you asked for.

25 THE COURT: Are you going to judge the case based

1 upon facts and evidence that you hear in the courtroom?

2 PROSPECTIVE JUROR NO. 450: Honestly, kind of, just
3 depending what it is. If it's like touching and stuff like
4 that, then I will probably have a cold heart towards that.

5 THE COURT: Okay. Listen to my question. Are you
6 going to judge this case based upon the facts and evidence
7 that you hear in the courtroom and the instructions on the
8 law?

9 PROSPECTIVE JUROR NO. 450: I'm not understanding.
10 I'm sorry.

11 THE COURT: Okay. You understand if you're called
12 to be a juror --

13 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

14 THE COURT: -- that you'll hear evidence?

15 PROSPECTIVE JUROR NO. 450: Oh, most definitely.

16 THE COURT: You'll hear evidence, you'll hear
17 witnesses. There might be things introduced into evidence.
18 And that you will be told what you can consider.

19 PROSPECTIVE JUROR NO. 450: Right.

20 THE COURT: Do you understand that?

21 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

22 THE COURT: You can't consider what may have
23 happened to you in your private life.

24 PROSPECTIVE JUROR NO. 450: Right.

25 THE COURT: Do you understand that?

1 PROSPECTIVE JUROR NO. 450: Right.

2 THE COURT: Can you do that?

3 PROSPECTIVE JUROR NO. 450: I'll -- like, I mean,
4 if I got to, then I will. But like I said --

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 450: -- it's a touchy
7 subject for me so --

8 THE COURT: Okay. I understand.

9 PROSPECTIVE JUROR NO. 450: -- just letting you
10 know. I'm just informing you.

11 THE COURT: But you understand that anything that
12 happened to you, you cannot judge that -- this case based
13 upon that; do you understand that?

14 PROSPECTIVE JUROR NO. 450: Oh, most definitely. I
15 learned to let it go, but it's just the thought that comes in
16 my head so --

17 THE COURT: Yeah. I'm not saying you got to let it
18 go. What I'm saying is, is that the parties here --

19 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

20 THE COURT: -- are entitled to a jury in front of a
21 fair and impartial jury panel who's going to judge the case
22 based on the evidence in the courtroom.

23 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

24 THE COURT: Do you understand that?

25 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

1 THE COURT: Do you have any problem with that?

2 PROSPECTIVE JUROR NO. 450: Like I said, I'm --

3 THE COURT: Listen, I know you don't want to be
4 here.

5 PROSPECTIVE JUROR NO. 450: I'm --

6 THE COURT: I got that.

7 PROSPECTIVE JUROR NO. 450: It's not even about
8 being here or --

9 THE COURT: I got that.

10 PROSPECTIVE JUROR NO. 450: -- anything like that.
11 If I have to be here, then by all means like I have no choice
12 but, like, you're asking me questions so I'm just let you go
13 know like, maybe it's the wrong question I may be answering
14 or I'm answering it wrong, but I was just letting you know to
15 the best of my knowledge.

16 THE COURT: No, you're doing fine.

17 PROSPECTIVE JUROR NO. 450: Um-h'm.

18 THE COURT: You're doing a good job. There's no
19 right or wrong answer.

20 PROSPECTIVE JUROR NO. 450: Right.

21 THE COURT: You're under oath.

22 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

23 THE COURT: So the answer is only the truth.

24 PROSPECTIVE JUROR NO. 450: And that's why I'm just
25 want to just --

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 450: -- inform you that
3 maybe I might not inform you the way that I'm supposed to,
4 but I was just trying to let you so you can understand where
5 I'm coming from as well.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 450: So --

8 THE COURT: And you also understand you cannot
9 judge this case based on anything other than what you see
10 here in the courtroom?

11 PROSPECTIVE JUROR NO. 450: I --

12 THE COURT: Do you understand that?

13 PROSPECTIVE JUROR NO. 450: I totally understand
14 that, but --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 450: -- it's a touchy
17 subject when stuff comes to like that.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 450: To me. I'm just going
20 to be so honest with you it is very touchy to me.

21 THE COURT: Okay. All right. Thank you, sir.

22 PROSPECTIVE JUROR NO. 450: Thank you.

23 THE COURT: Thank you again for being here.

24 PROSPECTIVE JUROR NO. 450: Thank you. Appreciate
25 you.

1 MS. HOLIDAY: (Inaudible) ask a question?

2 THE COURT: I'm sorry?

3 MS. HOLIDAY: I notice you haven't been asking if
4 they've had prior jury service.

5 THE COURT: No, I'll ask them at some point --

6 MS. HOLIDAY: Okay.

7 THE COURT: -- if they've ever served as a juror
8 before.

9 MS. HOLIDAY: Thank you.

10 (Bench conference concluded).

11 THE COURT: Okay. Mr. Bryan.

12 PROSPECTIVE JUROR NO. 454: Figuered.

13 THE COURT: There you go. How long have you lived
14 in Clark County?

15 PROSPECTIVE JUROR NO. 454: Just over 27 years.

16 THE COURT: Your employment, training, education
17 background?

18 PROSPECTIVE JUROR NO. 454: I'm employed at New
19 York New York Hotel and Casino. I'm a grave shift manager
20 for property operations and maintenance.

21 THE COURT: Did you say -- what kind of shift
22 manager?

23 PROSPECTIVE JUROR NO. 454: Grave -- graveyard.

24 THE COURT: Okay. So you heard what I say earlier?
25 If you're the manager, does that mean you have to be there?

1 PROSPECTIVE JUROR NO. 454: On the days that -- I
2 get -- I can get coverage.

3 THE COURT: Okay. So you understand you can't work
4 graveyard and then come here; you understand that, right?

5 PROSPECTIVE JUROR NO. 454: I did last night.

6 THE COURT: Pardon?

7 PROSPECTIVE JUROR NO. 454: I did last night,
8 Ma'am.

9 THE COURT: Okay. Well, you look pretty good for
10 someone that's been up all night and working, but you
11 understand I -- and I thank you very much. I appreciate you
12 doing that. But you --

13 PROSPECTIVE JUROR NO. 454: You're welcome.

14 THE COURT: -- understand that's probably not a
15 healthy thing to do, and we don't want jurors that are going
16 to do that, right?

17 PROSPECTIVE JUROR NO. 454: Not tonight.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 454: Or whatever.

20 THE COURT: Right.

21 PROSPECTIVE JUROR NO. 454: Whenever's needed.

22 THE COURT: Because at some point you might just
23 pass out because you'll get so tired. I'm assuming your
24 employer doesn't want that either.

25 PROSPECTIVE JUROR NO. 454: No.

1 THE COURT: But you understand you wouldn't be able
2 to work graveyard, right?

3 PROSPECTIVE JUROR NO. 454: Yes, ma'am.

4 THE COURT: Okay. Your marital status?

5 PROSPECTIVE JUROR NO. 454: Divorced.

6 THE COURT: Do you have children?

7 PROSPECTIVE JUROR NO. 454: Three.

8 THE COURT: Are they old enough to be employed?

9 PROSPECTIVE JUROR NO. 454: One is 27. She's
10 self-employed. The other two in Reno with their mother, is
11 12 and 11 years old boys.

12 THE COURT: Any reason why you could not be a
13 completely fair and impartial juror if you were selected to
14 serve?

15 PROSPECTIVE JUROR NO. 454: There shouldn't be, no.

16 THE COURT: Okay. Anything? What did you hesitate
17 for? No reason?

18 PROSPECTIVE JUROR NO. 454: Oh, I hesitated for
19 personal reasons, I'm sorry.

20 THE COURT: Okay. Is there anything you want to
21 inform the Court?

22 PROSPECTIVE JUROR NO. 454: No.

23 THE COURT: Okay. Mr. Martin -- thank you. Thank
24 you for being here -- how long have you lived in Clark
25 County?

1 PROSPECTIVE JUROR NO. 455: Ten years.

2 THE COURT: Your education and employment
3 background?

4 PROSPECTIVE JUROR NO. 455: Bartender and some
5 college.

6 THE COURT: Your marital status?

7 PROSPECTIVE JUROR NO. 455: Single.

8 THE COURT: Do you have kids?

9 PROSPECTIVE JUROR NO. 455: Yes.

10 THE COURT: How many kids do you have?

11 PROSPECTIVE JUROR NO. 455: One five-year-old.

12 THE COURT: Any reason why you could not be a
13 completely fair and impartial juror if you were selected to
14 serve on this panel?

15 PROSPECTIVE JUROR NO. 455: No.

16 THE COURT: Thank you, sir. Thank you for being
17 here. Ms. Rodriguez, how long have you lived in Clark
18 County?

19 PROSPECTIVE JUROR NO. 466: Ten years.

20 THE COURT: Your employment and education
21 background?

22 PROSPECTIVE JUROR NO. 466: Medical assistant.

23 (Court/Marshal conferring)

24 THE COURT: Your education background?

25 PROSPECTIVE JUROR NO. 466: High school.

1 THE COURT: And you're a medical assistant?

2 PROSPECTIVE JUROR NO. 466: Um-h'm.

3 THE COURT: Is that a yes?

4 PROSPECTIVE JUROR NO. 466: Yes.

5 THE COURT: Your marital status?

6 PROSPECTIVE JUROR NO. 466: Married.

7 THE COURT: Is your spouse employed?

8 PROSPECTIVE JUROR NO. 466: Yes.

9 THE COURT: What does your spouse do?

10 PROSPECTIVE JUROR NO. 466: He's a doorman.

11 THE COURT: Do you have kids?

12 PROSPECTIVE JUROR NO. 466: Yes, two.

13 THE COURT: Two kids? Are they old enough to be
14 employed?

15 PROSPECTIVE JUROR NO. 466: No.

16 THE COURT: Any reason why you could not be a
17 completely fair and impartial juror if you were selected to
18 serve on this panel?

19 PROSPECTIVE JUROR NO. 466: No.

20 THE COURT: Thank you. It's my understanding that
21 the panel wants a bathroom break. So at this time, we're
22 going to recess for lunch. During this recess, you're
23 admonished not to talk or converse among yourselves or with
24 anyone else on any subject connected with this trial or read,
25 watch or listen to any report of or commentary on the trial

1 or any person connected with this trial by any medium of
2 information, including without limitation, newspapers,
3 television, the Internet or radio. Or form or express any
4 opinion on any subject connected with this trial until this
5 case is finally submitted to you.

6 We'll -- we will start again at 1:45. Thank you
7 very much.

8 THE MARSHAL: All rise for the exiting jury panel.

9 (Court recessed at 12:27 p.m. until 1:52 p.m.)

10 (Inside the presence of the prospective jurors)

11 THE MARSHAL: All rise for the entering jury panel,
12 please. Thank you. Everyone please be seated.

13 Come to order. Court is now in session.

14 THE COURT: Does the State stipulate to the
15 presence of the jury panel?

16 MS. JOBE: Yes, Your Honor.

17 THE COURT: The defense?

18 MS. HOLIDAY: Yes, Your Honor.

19 THE COURT: Okay. Mr. Thomas Gaytan, how long have
20 you lived in Clark County?

21 PROSPECTIVE JUROR NO. 467: 22 years, Your Honor.

22 THE COURT: Your employment, training, education
23 background?

24 PROSPECTIVE JUROR NO. 467: Some college. I'm
25 currently a manager at the Grandview Resort.

1 THE COURT: At the where?

2 PROSPECTIVE JUROR NO. 467: Grandview Resort.

3 THE COURT: Your marital status?

4 PROSPECTIVE JUROR NO. 467: Single.

5 THE COURT: Do you have children?

6 PROSPECTIVE JUROR NO. 467: No children.

7 THE COURT: Do you know of any reason why you could
8 not be a completely fair and impartial juror if you were
9 selected to serve on this panel?

10 PROSPECTIVE JUROR NO. 467: No.

11 THE COURT: Thank you. Ms. Heather Warren, how
12 long have you lived in Clark County?

13 PROSPECTIVE JUROR NO. 470: 21 years.

14 THE COURT: Your employment, training, education
15 background?

16 PROSPECTIVE JUROR NO. 470: I have bachelor of
17 science in elementary education and a master's of education.
18 I -- I'm a sixth grade teacher for the Clark County School
19 District.

20 THE COURT: You're a sixth grade teacher?

21 PROSPECTIVE JUROR NO. 470: Um-h'm.

22 THE COURT: Is that yes?

23 PROSPECTIVE JUROR NO. 470: Yes, I'm a teacher.

24 THE COURT: You teach sixth grade?

25 PROSPECTIVE JUROR NO. 470: Um-h'm.

1 THE COURT: How long have you done that?

2 PROSPECTIVE JUROR NO. 470: This is my seventh year
3 with sixth grade. I've been in the school district since
4 2004.

5 THE COURT: Okay. Have you taught other than sixth
6 grade?

7 PROSPECTIVE JUROR NO. 470: I taught kindergarten,
8 first, third and fourth.

9 THE COURT: Oh, so almost all of them.

10 PROSPECTIVE JUROR NO. 470: Um-h'm.

11 THE COURT: What do you like best?

12 PROSPECTIVE JUROR NO. 470: There's -- everybody
13 asks me that. There's -- there's pros and cons to both. The
14 older are more independent, but sometimes they're harder to
15 get to do their work.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 470: So I love all the ages.

18 THE COURT: Good. Good answer. Your marital
19 status?

20 PROSPECTIVE JUROR NO. 470: Single for now. Just
21 got engaged.

22 THE COURT: Do you have any children?

23 PROSPECTIVE JUROR NO. 470: Three step kids.

24 THE COURT: Pardon?

25 PROSPECTIVE JUROR NO. 470: Three step kids.

1 THE COURT: Any reason why you could not be a
2 completely fair and impartial juror if you were selected to
3 serve?

4 PROSPECTIVE JUROR NO. 470: No.

5 THE COURT: And your fiancé, how is your fiancé
6 employed?

7 PROSPECTIVE JUROR NO. 470: He works in maintenance
8 control for Skywest Airlines.

9 THE COURT: Okay. Thank you. Mr. -- I'm going
10 to --

11 PROSPECTIVE JUROR NO. 473: Pypkowski.

12 THE COURT: Pypkowski. How long have you lived in
13 Clark County?

14 PROSPECTIVE JUROR NO. 473: 29 years.

15 THE COURT: Your education background?

16 PROSPECTIVE JUROR NO. 473: High school graduate.

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

18 PROSPECTIVE JUROR NO. 473: I'm an engineering
19 technician for the Nevada Department of Transportation.

20 THE COURT: What does that mean? What do you do?

21 PROSPECTIVE JUROR NO. 473: I test concrete and
22 asphalt aggregates to make sure they meet our quality
23 assurance standards.

24 THE COURT: Your marital status?

25 PROSPECTIVE JUROR NO. 473: Engaged.

1 THE COURT: What does your fiancé do for a living?

2 PROSPECTIVE JUROR NO. 473: She's an assistant
3 manager for Smith's.

4 THE COURT: Do you have children?

5 PROSPECTIVE JUROR NO. 473: Two young girls.

6 THE COURT: Any reason why you could not be a
7 completely fair and impartial juror if you were selected to
8 serve?

9 PROSPECTIVE JUROR NO. 473: No.

10 THE COURT: Thank you, sir. Thank you for being
11 here. I just have a few questions for the panel as a whole.
12 So in the panel of 24, if you wish to respond in the
13 affirmative, just let me know and remember to state your name
14 and badge number before responding.

15 Any of you on the panel of 24 that have ever been
16 called to serve as a juror before and you've been sworn in
17 and served? Anyone that's ever been called to serve as a
18 juror before? Not even one person? Okay, go ahead. Mr. --

19 PROSPECTIVE JUROR NO. 467: Gaytan, Tom Gaytan,
20 467.

21 THE COURT: All right.

22 PROSPECTIVE JUROR NO. 467: I want to say I think I
23 was, but then I was exempt at the time because I had my own
24 business.

25 THE COURT: You were called and then you were

1 excused?

2 PROSPECTIVE JUROR NO. 467: Correct.

3 THE COURT: Okay. Thank you. Anyone else? Go
4 ahead.

5 PROSPECTIVE JUROR NO. 470: Heather Warren, 470.

6 THE COURT: The question is have you ever served as
7 a juror before?

8 PROSPECTIVE JUROR NO. 470: No.

9 THE COURT: So come to court, if you've served as a
10 juror before. Go ahead.

11 PROSPECTIVE JUROR NO. 470: Oh, no. I was called
12 before, but I never made it into a courtroom.

13 THE COURT: Okay. Anyone on the panel who has ever
14 served as a juror before? The record will reflect no
15 response from the panel. Have you or anyone close to you,
16 such as a family member or friend, ever been the victim of a
17 crime? Go ahead. You got the microphone. What are you
18 handing it off for?

19 PROSPECTIVE JUROR NO. 470: Heather Warren, 470.
20 Yes, I have. My mother's car -- car was stolen.

21 THE COURT: I'm sorry?

22 PROSPECTIVE JUROR NO. 470: Car -- car theft, my --
23 my -- some -- my mother.

24 THE COURT: Okay. Your mom had a car stolen?

25 PROSPECTIVE JUROR NO. 470: Um-h'm.

1 THE COURT: Is that a yes?

2 PROSPECTIVE JUROR NO. 470: Yes.

3 THE COURT: And was that here in Clark County?

4 PROSPECTIVE JUROR NO. 470: Yes.

5 THE COURT: Anything about that, that would affect
6 your ability to be fair and impartial in this case?

7 PROSPECTIVE JUROR NO. 470: No.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR NO. 467: It was just a home
10 robbery.

11 THE COURT: Your name and badge number?

12 PROSPECTIVE JUROR NO. 467: Oh, Tom -- Tom Gaytan,
13 467. It was a home robbery during my father's funeral.

14 THE COURT: Okay. Was that here in Clark County?

15 PROSPECTIVE JUROR NO. 467: No, it was in
16 California.

17 THE COURT: And how long ago was that?

18 PROSPECTIVE JUROR NO. 467: That was eight years
19 ago.

20 THE COURT: And did you call the police?

21 PROSPECTIVE JUROR NO. 467: Oh, yes.

22 THE COURT: Did they find the person that did it?

23 PROSPECTIVE JUROR NO. 467: They did not catch him.

24 THE COURT: Okay. Anything about that, that would
25 affect your ability to be fair and impartial in this case?

1 PROSPECTIVE JUROR NO. 467: I don't believe so.

2 THE COURT: Thank you. Anyone else? Go ahead,
3 sir. Your name and badge number.

4 PROSPECTIVE JUROR NO. 363: Timothy Evans, No. 363.
5 I've been robbed three times at gunpoint.

6 THE COURT: You've been robbed at gunpoint three
7 times?

8 PROSPECTIVE JUROR NO. 363: Yes, in California, but
9 not in Nevada, but in California.

10 THE COURT: They were all in California?

11 PROSPECTIVE JUROR NO. 363: Yes.

12 THE COURT: Each time? Did you call the police?

13 PROSPECTIVE JUROR NO. 363: One time I was able to
14 call the police. Other two times, they took my phone so I
15 wasn't able to call the police or -- and there was nowhere to
16 go at like immediately to get to a phone to call.

17 THE COURT: And so you didn't report it at all?

18 PROSPECTIVE JUROR NO. 363: No.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 363: I -- yeah.

21 THE COURT: So one time you did report it, correct?

22 PROSPECTIVE JUROR NO. 363: Yes, yes.

23 THE COURT: And did the police respond?

24 PROSPECTIVE JUROR NO. 363: Unfortunately, not.

25 They didn't really come because it was in an area where a lot

1 of stuff is going on.

2 THE COURT: You call the police and they didn't
3 come?

4 PROSPECTIVE JUROR NO. 363: Not for me. They came
5 for other -- other stuff was happening in the area. It kind
6 of makes it like it was a party going on and stuff like that
7 so they came for that, but when they called, they were like
8 oh, a police is already on his way.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 363: So --

11 THE COURT: And when the police came there, did you
12 go get in contact with the police officer?

13 PROSPECTIVE JUROR NO. 363: We talked to them.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 363: And we told him what
16 was going on, but there was a whole bunch of other reports of
17 the same thing, I guess, going on. I guess, it was a whole
18 bunch of people getting robbed that night.

19 THE COURT: A whole bunch of people at a party or
20 whatever?

21 PROSPECTIVE JUROR NO. 363: Yes.

22 THE COURT: Getting robbed?

23 PROSPECTIVE JUROR NO. 363: It was -- yeah, it was
24 in high school so --

25 THE COURT: It was in high school?

1 PROSPECTIVE JUROR NO. 363: Yes.

2 THE COURT: Okay. And then the other two times,
3 you didn't call the police at all?

4 PROSPECTIVE JUROR NO. 363: No.

5 THE COURT: Why?

6 PROSPECTIVE JUROR NO. 363: I just chalked it up.
7 I just -- I just was like it's -- it happens. Where I --

8 THE COURT: Robbed at gunpoint?

9 PROSPECTIVE JUROR NO. 363: Well, I -- I've been --
10 in the areas where I grew up it was just like it happens so
11 get over it.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 363: I grew up in the areas
14 where it was kind of like that.

15 THE COURT: And that's how you felt kind of about
16 those two incidents?

17 PROSPECTIVE JUROR NO. 363: Yes.

18 THE COURT: To get over it?

19 PROSPECTIVE JUROR NO. 363: Yep.

20 THE COURT: Okay. Anything about those experiences
21 that would affect your ability to be fair and impartial in
22 this case?

23 PROSPECTIVE JUROR NO. 363: No.

24 THE COURT: Thank you, sir. Thank you for being
25 here. Anyone else? Okay. Have you or anyone close to you,

1 such as a family member or friend, ever been accused of a
2 crime? Go ahead. Your name and badge number?

3 PROSPECTIVE JUROR NO. 363: Timothy Evans, Badge
4 No. 363. I have friends that have been accused of robbery.
5 Friends that have been accused of stealing a car. I have a
6 friend that was accused of murder, and I have -- that's all I
7 can think of right now.

8 THE COURT: Are any of those currently ongoing?

9 PROSPECTIVE JUROR NO. 363: No. They've all been
10 closed cases.

11 THE COURT: Resolved?

12 PROSPECTIVE JUROR NO. 363: Yes, resolved.

13 THE COURT: Okay. Anything about those incidents
14 that would affect your ability to be fair and impartial in
15 this case?

16 PROSPECTIVE JUROR NO. 363: No.

17 THE COURT: Thank you, sir. Anyone else? Okay.

18 PROSPECTIVE JUROR NO. 373: Alvaro Herrera, No.
19 373. My brother has gotten three DUIs.

20 THE COURT: Okay. And what jurisdiction?

21 PROSPECTIVE JUROR NO. 373: Clark County.

22 THE COURT: Are any of them --

23 PROSPECTIVE JUROR NO. 373: Pending.

24 THE COURT: -- I guess -- pending?

25 PROSPECTIVE JUROR NO. 373: No. Everything's been

1 closed out.

2 THE COURT: Anything about that, that would affect
3 your ability to be fair and impartial?

4 PROSPECTIVE JUROR NO. 373: No.

5 THE COURT: Thank you. Anyone else?

6 PROSPECTIVE JUROR NO. 402: Kevin Terry, 402. I
7 had a nephew that was involved in a automobile accident, and
8 there were two people that passed away in that accident. He
9 was accused of being under the influence. He wasn't under
10 the influence. He was on medication, off of his medication
11 at that time and went through the court service, but there
12 was -- he was exonerated. He was --

13 THE COURT: Okay. So you had a nephew that was
14 accused of what?

15 PROSPECTIVE JUROR NO. 373: Of --

16 THE COURT: Of driving under the influence causing
17 death?

18 PROSPECTIVE JUROR NO. 373: Yes.

19 THE COURT: Okay. And then, I guess, was
20 prosecuted?

21 PROSPECTIVE JUROR NO. 373: He was prosecuted at
22 the time. There was no jury, there was no -- it was resolved
23 and then he was exonerated. He was let -- he was freed, I
24 guess, is what you might say.

25 THE COURT: What does that mean to you? He was

1 exonerated? He went to trial and he was acquitted?

2 PROSPECTIVE JUROR NO. 373: He did not go to trial.
3 The judge released him. He's currently on probation for a
4 little bit, but he's --

5 THE COURT: So you can't have probation unless
6 you're generally convicted of something.

7 PROSPECTIVE JUROR NO. 373: He was not convicted.

8 THE COURT: But he's on probation?

9 PROSPECTIVE JUROR NO. 373: My understanding, yes.

10 THE COURT: Okay. Do you know what he was
11 convicted of?

12 PROSPECTIVE JUROR NO. 373: Just being involved in
13 killing those two people.

14 THE COURT: Okay. So it's a current ongoing case?

15 PROSPECTIVE JUROR NO. 373: It's my understanding
16 there's no ongoing case. It was closed, but he's still on
17 some sort of probation.

18 THE COURT: Okay. Which to me, that means it's
19 ongoing current. What's his name?

20 PROSPECTIVE JUROR NO. 373: Nathan Hardy
21 (phonetic).

22 THE COURT: And it sounds like you followed the
23 case?

24 PROSPECTIVE JUROR NO. 373: Yes.

25 THE COURT: And it's your nephew?

1 PROSPECTIVE JUROR NO. 373: Yes.

2 THE COURT: Okay. So one of your sibling's child?

3 PROSPECTIVE JUROR NO. 373: My sister's oldest boy.

4 THE COURT: Okay. And so you have followed the
5 case and paid --

6 PROSPECTIVE JUROR NO. 373: Yes.

7 THE COURT: -- attention? So --

8 PROSPECTIVE JUROR NO. 373: And it's been several
9 years since -- it's been two or three years since we've been
10 to any hearings or anything.

11 THE COURT: Okay. So you actually went to some of
12 the court hearings?

13 PROSPECTIVE JUROR NO. 373: Yes.

14 THE COURT: And were they in this building?

15 PROSPECTIVE JUROR NO. 373: Yes, they were.

16 THE COURT: Okay. And what type of hearings were
17 they?

18 PROSPECTIVE JUROR NO. 373: Just the situation,
19 what happened.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 373: On his mental state.

22 THE COURT: All right. And your understanding is
23 that it's over, but he's on some sort of probation?

24 PROSPECTIVE JUROR NO. 373: Correct.

25 THE COURT: Okay. And then at some point will that

1 be over?

2 PROSPECTIVE JUROR NO. 373: Yes.

3 THE COURT: All right. And do you know who he was
4 prosecuted by?

5 PROSPECTIVE JUROR NO. 373: I don't recall.

6 THE COURT: But probably prosecuted by the Clark
7 County District Attorney's Office?

8 PROSPECTIVE JUROR NO. 373: Probably.

9 THE COURT: Right? And you know that there's two
10 DAs from that office that are here today? You understand
11 that?

12 PROSPECTIVE JUROR NO. 373: Do I what?

13 THE COURT: The same prosecutors that are here in
14 the courtroom today --

15 PROSPECTIVE JUROR NO. 373: No.

16 THE COURT: -- work in the same office, the Clark
17 County District Attorney's Office; do you understand?

18 PROSPECTIVE JUROR NO. 373: I understand that, yes.

19 THE COURT: Is there anything about that, that
20 would affect your ability to be fair and impartial? The fact
21 that your nephew was prosecuted by the same office?

22 PROSPECTIVE JUROR NO. 373: No.

23 THE COURT: Okay. Do you think he was treated
24 fairly?

25 PROSPECTIVE JUROR NO. 373: Yes, I do.

1 THE COURT: Anything about that, that would affect
2 your ability to be a fair and impartial juror in this case?

3 PROSPECTIVE JUROR NO. 373: No, no.

4 THE COURT: Thank you. Anyone else?

5 PROSPECTIVE JUROR NO. 425: Hello, Your Honor.

6 THE COURT: Your name and badge number, please?

7 PROSPECTIVE JUROR NO. 425: That is 0425, Damaris
8 Ibay. My daughter got arrested, forcibly (sic) arrested,
9 treated like garbage by an officer --

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 425: -- because her baby's
12 -- baby daddy, that's what they call them, he was abusive to
13 my daughter and to my granddaughter. And it was hard for me
14 to see that. And I went through a lot. But I want to be
15 honest with the Court. The DA was awesome because he knew
16 that she didn't do anything wrong so he didn't charge her
17 with anything. But he -- Jeremy Moe (phonetic) dragged this
18 continuously to court, disrespected the Judge. The Judge
19 kept telling him to shut up, be quiet, to respect the court,
20 but that was over and over again and did nothing.

21 And we continued to go to court for a whole year,
22 and it was really bad for me. I'm sorry that I get
23 emotional, but it was an experience I'll never forget because
24 I'm a mom and a grandma and I love my grandkids.

25 THE COURT: Why did you have to go to court for a

1 year?

2 PROSPECTIVE JUROR NO. 425: Because he will always
3 tell --

4 THE COURT: Was it custody?

5 PROSPECTIVE JUROR NO. 425: Yes, it was custody.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 425: So he was always saying
8 -- he'd tell the Judge he didn't do drugs. He'd tell the
9 Judge that he only smoked weed. They test him, he comes
10 methamphetamines and marijuana and he just kept playing the
11 Judge. And the poor Judge, she wouldn't do anything. And he
12 would disrespect the court, and I went through that, and I
13 was like, wow.

14 But have I a lot of respect for police officers
15 because I have a family of police officers. I have family of
16 lawyers in my family. And I have a lot of respect for police
17 officers. But this particular police officer did not one
18 time listen to when she said I didn't do anything.

19 THE COURT: Okay, now we're talking -- sounds like
20 we're talking about different things. That your daughter had
21 an ongoing custody dispute.

22 PROSPECTIVE JUROR NO. 425: Yes.

23 THE COURT: That you attended hearings.

24 PROSPECTIVE JUROR NO. 425: Um-h'm.

25 THE COURT: But then I think you were telling me

1 that your daughter got arrested for something?

2 PROSPECTIVE JUROR NO. 425: Yeah, they said it was
3 domestic violence, but they let -- the DA said no, there was
4 not enough evidence. And it all proved that he was -- he was
5 the one that was the problem. He was the one --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 425: -- that lied. At the
8 end, we got custody of my granddaughter.

9 THE COURT: All right. But your daughter got
10 arrested for something?

11 PROSPECTIVE JUROR NO. 425: Yeah.

12 THE COURT: And -- and you had to --

13 PROSPECTIVE JUROR NO. 425: They dropped it.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 425: They dropped her case.
16 They -- it was unfounded, they said.

17 THE COURT: All right. So I assume --

18 PROSPECTIVE JUROR NO. 425: But she did go to court
19 for child custody, we went to court for that. And that just
20 happened -- the case was closed just recently.

21 THE COURT: Okay. So the case where your daughter
22 was arrested, I assume you believe she was treated fairly?

23 PROSPECTIVE JUROR NO. 425: Yes, in the courtroom.
24 Yes, she was.

25 THE COURT: Okay. But you didn't necessarily like

1 the way the police officer treated her?

2 PROSPECTIVE JUROR NO. 425: No.

3 THE COURT: Okay. Anything about those experiences
4 that would affect your ability to be fair and impartial in
5 this particular case?

6 PROSPECTIVE JUROR NO. 425: No.

7 THE COURT: Thank you. Anyone else?

8 PROSPECTIVE JUROR NO. 448: Aaron Bouch, 448. Your
9 Honor, as a prospective juror, do we have no input on
10 repercussions or penalties, correct?

11 THE COURT: I'm sorry, does the jury determine
12 penalty? No.

13 PROSPECTIVE JUROR NO. 448: Okay.

14 THE COURT: Okay?

15 PROSPECTIVE JUROR NO. 448: So I'll share mine
16 because I can do this unbiased. So my -- my wife, her niece
17 and nephew lost both their children last year to child
18 abandonment and neglect. They fell asleep and had drugs in
19 them, the kids partook in the drugs and ended up in the
20 hospital. One nearly died. They were taken -- the -- the --
21 my nephew, he ended up going to jail for a long period of
22 time.

23 The mother went to jail for a long period of time,
24 got out to a halfway house and has since, they've both gotten
25 the kids back. But during that time, my mother-in-law had

1 custody. She's 65, she had custody of the two-year-old for
2 approximately nine months. And the other child was in
3 custody of the grandmother. But I don't have a bias to that.
4 It's -- I just -- the penalty phase, if it were differently,
5 I would -- I'd probably be bias in the -- if we came to us,
6 but --

7 THE COURT: Okay. Then have you a situation in
8 your family that involved children --

9 PROSPECTIVE JUROR NO. 448: Yeah.

10 THE COURT: -- where the adults were charged with,
11 what, child abuse and endangerment?

12 PROSPECTIVE JUROR NO. 448: Child neglect and child
13 endangerment, yes. And that was --

14 THE COURT: Okay. And those cases are resolved,
15 though?

16 PROSPECTIVE JUROR NO. 448: I believe so. Yeah,
17 they were in the -- one, I believe, was in Washoe County
18 courts and the other one was in Douglas County in Carson
19 City.

20 THE COURT: Okay. Anything about those cases that
21 is would affect your ability to be fair and impartial in this
22 case?

23 PROSPECTIVE JUROR NO. 448: No.

24 THE COURT: Thank you. Anyone else?

25 PROSPECTIVE JUROR NO. 371: I'm Gloria Melendez, my

1 number is 371. I know my husband in Mexico, and he was on
2 vacation and returned here to Las Vegas. And he was
3 detention for a police officer because in a shoe store, the
4 people that were over there called the police because the
5 store was stolen, okay, and there were people that work over
6 there say that my husband like, a person that was stole in
7 the store.

8 He was -- I don't know where in detention for a
9 week and then the police officer leave to him to go home, and
10 after that, my husband ask for a -- looking for a lawyer, and
11 the lawyer go to the court and my husband win the -- the
12 case.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 371: Uh-huh.

15 THE COURT: Anything about that, that would affect
16 your ability to be fair and impartial?

17 PROSPECTIVE JUROR NO. 371: No.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 371: No, nothing.

20 THE COURT: Thank you. Anyone else? Okay, you can
21 hand it back up to the front.

22 PROSPECTIVE JUROR NO. 470: I -- Heather Warren --

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR NO. 470: -- 470. I was arrested
25 once for obstruction of a police officer. The charges were

1 dismissed by the District Attorney's Office. My roommate's
2 boyfriend at the time got into an accident with himself and
3 his motorcycle on the ground. There was no damage, nobody
4 was hit or anything. And he called us for help, and I -- I
5 was the only one with a car at the time. And I took him to
6 the -- talked him into going to the hospital and getting
7 checked out. And when I was there, the police arrested me.

8 THE COURT: For?

9 PROSPECTIVE JUROR NO. 470: Yeah. They were lovely
10 individuals. They searched my purse, my address book,
11 quizzed me, who's this person, who's that person. Yeah, I
12 wasn't even there. He got into an accident with -- with his
13 motorcycle on the ground and he called us for help. So we
14 went and he wanted to go home, and on the way there, I talked
15 him into going to the -- to the hospital to get checked
16 out --

17 THE COURT: Sure.

18 PROSPECTIVE JUROR NO. 470: -- because he was
19 hurting. And I was standing in the emergency room driveway
20 area smoking a cigarette, and the police arrested me.

21 THE COURT: You were arrested?

22 PROSPECTIVE JUROR NO. 470: Yeah, they took me
23 down. I never got in trouble in my life. Fingerprinted me,
24 took my --

25 THE COURT: Okay. How long ago was that?

1 PROSPECTIVE JUROR NO. 470: It was like -- I think
2 it was late '90s.

3 THE COURT: And they said the charge was
4 obstructing?

5 PROSPECTIVE JUROR NO. 470: Obstructing a police
6 officer.

7 THE COURT: Okay. And --

8 PROSPECTIVE JUROR NO. 470: Her -- I guess her
9 boyfriend, I didn't really know him, but I guess, he had been
10 in trouble before and stuff. I don't even know. I didn't
11 even see him after that. I was like --

12 THE COURT: Okay. But you were released from
13 custody and formal charges were never --

14 PROSPECTIVE JUROR NO. 470: I was released on --

15 THE COURT: -- filed?

16 PROSPECTIVE JUROR NO. 470: -- OR, and the District
17 Attorney's Office sent me a letter saying that the charges
18 were dismissed. They weren't -- weren't valid.

19 THE COURT: Okay. Anything about that, that would
20 affect your ability to be fair and impartial in this case?

21 PROSPECTIVE JUROR NO. 470: No.

22 THE COURT: Thank you. Anyone else? Okay. The
23 record will reflect no further response from the panel. Is
24 there anyone on the panel who would have a tendency to give
25 more weight or credence or less weight or credence to the

1 testimony of a police officer simply because he or she is a
2 police officer? The record will reflect no further response
3 from the panel, at this time.

4 The panel is turned over tot State of Nevada.

5 MS. JOBE: Thank you, Your Honor. May I get the
6 podium? If you all see me about to trip over this cord,
7 please warn me before it happens. High probability that it
8 is a possibility.

9 All right. Ladies and gentlemen, as Mr. Burton
10 said, I am his co-counsel. I work at the District Attorney's
11 Office. My name is Michelle Jobe. No disrespect to all of
12 you in the back, I'm going to direct my questions to the 24
13 who are seated here for the moment. If any of you happen to
14 end up in one of these hot seats, then we'll have a
15 conversation, okay?

16 But if those of you sitting out there can keep in
17 mind what I'm asking or think about it, that will be a little
18 more efficient if you end up in any of these seats, okay?

19 All right. I'm going to start out with general
20 questions to the whole panel. If you guys have a response,
21 please raise your hand like you've been doing with the Judge
22 and we'll move it along, okay?

23 How many people would say they have really good
24 common sense? Okay. I see lots and lots of hands. Anyone
25 ever been told you have absolutely no common sense? All

1 right, we have one. Mr. Lewis, correct? If we -- where's
2 the microphone? Perfect. Go ahead. Why have people told
3 you, you have no common sense?

4 PROSPECTIVE JUROR NO. 450: Well, my football coach
5 told me I had no common sense.

6 MS. JOBE: Was there anything that usually happened
7 before he said that?

8 PROSPECTIVE JUROR NO. 450: It was just a hour out
9 that I used to break on and I didn't break this time, and he
10 was just ripping my butt.

11 MS. JOBE: Okay.

12 PROSPECTIVE JUROR NO. 450: So --

13 MS. JOBE: Any other times you've been told you
14 don't have any common sense?

15 PROSPECTIVE JUROR NO. 450: Just when I'm acting
16 crazy, being goofy.

17 MS. JOBE: Okay. I can't -- since you have the
18 mic, I'm very curious about your fitness business. Is it
19 like Crossfit, parkour or something?

20 PROSPECTIVE JUROR NO. 450: It's more of like hit
21 training.

22 MS. JOBE: What's that?

23 PROSPECTIVE JUROR NO. 450: It's kind of like
24 muscle building and like endurance training in between.

25 MS. JOBE: Okay. And you said someone can cover

1 the business while you're here, right?

2 PROSPECTIVE JUROR NO. 450: Well, my little
3 brother's there right now. He leaves to UNR in, what --
4 what's today, Monday -- Wednesday.

5 MS. JOBE: He leaves Wednesday?

6 PROSPECTIVE JUROR NO. 450: Yeah. And then my
7 other partner, he's in Miami right now.

8 MS. JOBE: When does he come back from Miami?

9 PROSPECTIVE JUROR NO. 450: He's not going to be
10 back until Friday.

11 MS. JOBE: Okay. And I believe, you said had
12 meetings with some people.

13 PROSPECTIVE JUROR NO. 450: Over 30 consultations.

14 MS. JOBE: It's the new year, right? Everyone
15 wants to get in shape and do all that stuff?

16 PROSPECTIVE JUROR NO. 450: Yeah. And then we're
17 on the rise to our second location, too, so it's like --

18 MS. JOBE: Okay. All right. And once your brother
19 leaves for school, what's the plan if you are selected to be
20 a juror?

21 PROSPECTIVE JUROR NO. 450: I mean, I -- I would
22 just have to say we're going to be closed down due to jury
23 duty.

24 MS. JOBE: Okay. All right, well, thank you very
25 much, Mr. Lewis.

1 PROSPECTIVE JUROR NO. 450: All right.

2 MS. JOBE: How many people -- a few of you all have
3 medical backgrounds; is that correct? Some of you have been
4 trained medically, but don't necessarily do it. I believe --
5 I have a cheat sheet here because I'm not real good with
6 names. Ms. Ibay, you work in the medical office, correct?

7 PROSPECTIVE JUROR NO. 425: Yes. And I worked in
8 the hospitals --

9 MS. JOBE: Can you pass the microphone to Ms. Ibay,
10 please? Go ahead. What's your medical background?

11 PROSPECTIVE JUROR NO. 425: Basically, I used to be
12 a nursing attendant. I used to take care of patients, very
13 sick patients. I took care of mental patients. I took care
14 of patients with heart surgery. I took of every unit in the
15 hospital. I was trained to do the whole entire units
16 (inaudible).

17 MS. JOBE: Did you work with pediatrics?

18 PROSPECTIVE JUROR NO. 425: All the time.

19 MS. JOBE: Okay. Did you ever have to work on
20 cases where abuse was reported as a result of a pediatric
21 patient?

22 PROSPECTIVE JUROR NO. 425: Yes.

23 MS. JOBE: What was your experience with that?

24 PROSPECTIVE JUROR NO. 425: Basically, I was told
25 to watch the patient when the visitors come in. Certain

1 people were not allowed in there, whether it was the parents
2 or uncles or whoever did anything to the child or stuff like
3 that. So we would be watching everything in the -- in the
4 patient's room, making sure that things weren't being brought
5 in or that if, you know, we hear anything that was not
6 correctly to a child, that we to report it to the supervisor
7 immediately.

8 MS. JOBE: Did you form any opinions about
9 investigations about child abuse or how that whole system
10 works?

11 PROSPECTIVE JUROR NO. 425: No.

12 MS. JOBE: Now, as far as your medical experience
13 goes, would you be able to set it aside if you hear medical
14 testimony and make the decisions based on the evidence
15 presented or would you bring in your knowledge, too?

16 PROSPECTIVE JUROR NO. 425: No, I wouldn't. I will
17 be able to listen and have an open-mind and I'll be able to
18 not think about what -- what I experienced back then. That
19 was years ago. No, it wouldn't affect me.

20 MS. JOBE: Okay. Thank you very much.

21 PROSPECTIVE JUROR NO. 425: Um-h'm.

22 MS. JOBE: All right. You all have been told you
23 are the fact finders in this case, as the Judge explained to
24 you. Anyone have an issue with listening to witnesses,
25 making determinations about credibility and weighing the

1 testimony? By a raise of hands, what would like to respond
2 to this? What types of things would you look for in
3 examining witnesses and weighing credibility and things you
4 would consider if you're selected to be a member of the jury?
5 Mr. Evans?

6 PROSPECTIVE JUROR NO. 363: I think some of the
7 things that I would look for would be body language to see
8 how a person reacts to a question when it's asked right away
9 to see if they're kind of looking for the right way to answer
10 a question based on their own perception of what they think
11 the person that's asking them is asking them or what they
12 think that person wants to hear.

13 MS. JOBE: Okay.

14 PROSPECTIVE JUROR NO. 363: Rather than giving the
15 -- an explanation of what really happened, I guess, you could
16 say. So really, like, body language. And sometimes in my
17 working with -- in my like things that I've worked with, it's
18 like the way someone speaks and certain words that they use
19 to connect sentences such as like me right now with "like".
20 Most of the times when you're trying to think of something or
21 trying to figure out what you want to say, you use certain
22 words to kind of fill in the space because you want to find a
23 way for that person to understand what you're saying.

24 So a lot of times when someone uses the word "um"
25 and "like a lot", I use those as cues to know whether or not

1 someone may be lying, someone may be trying to come up with
2 something or maybe they have something that they rehearsed
3 and they were trying to just use it in a way, and I just --
4 that's my experience of working and certain things I've
5 learned that from talking to people and interviewing myself.

6 MS. JOBE: Now, you said you substitute in at least
7 sometimes in the Clark County School District, correct?

8 PROSPECTIVE JUROR NO. 363: I substitute every day
9 for Clark County. That's my full -- that is my job is a
10 substitute teacher. That's my whole -- that's my sole
11 income.

12 MS. JOBE: I apologize for not quite understanding
13 how it works because --

14 PROSPECTIVE JUROR NO. 363: Okay.

15 MS. JOBE: -- I'm obviously, not a teacher.

16 PROSPECTIVE JUROR NO. 363: Right.

17 MS. JOBE: But so you call in, you're like hey, I'm
18 available today and they say we have a spot or don't have a
19 spot? How does that work?

20 PROSPECTIVE JUROR NO. 363: So for Clark County,
21 you -- you get called in the morning like at 5:00 o'clock in
22 the morning, they call you and tell you that this school has
23 a job, are you available? Or you can go online and pick the
24 schools that are -- that have spots available. You're only
25 paid if you go in.

1 MS. JOBE: Sure.

2 PROSPECTIVE JUROR NO. 363: So you kind of have to
3 pick where you're going to go for that day. For my schedule,
4 I have a weird schedule where I do Mondays and Wednesdays are
5 my open days where I can go to any school. And then on
6 Tuesday, Wednesday, Thursday, I substitute at a certain
7 school, but it's a contracted position. So it's still kind
8 of like an on-call position, it's just that I don't get
9 anything else. I don't -- if I don't show up, I still don't
10 get paid.

11 I don't get any PTOs, sick time or anything like
12 that.

13 MS. JOBE: Sure. So if I understand you, for
14 certain days of the week, you're a designated substitute at a
15 specific school?

16 PROSPECTIVE JUROR NO. 363: Yes.

17 MS. JOBE: Okay. And how frequently on any given
18 week are you working as a substitute?

19 PROSPECTIVE JUROR NO. 363: I work five days a week
20 as a substitute.

21 MS. JOBE: Okay. And to what extent, if you're
22 selected as a member of the jury, would that impact your
23 ability to pay your bills and those types of things?

24 PROSPECTIVE JUROR NO. 363: That would take my
25 whole check because this next check -- this is the end of a

1 pay period. This week is the end of a pay period so --

2 MS. JOBE: Oh, and you were off last week, right?

3 PROSPECTIVE JUROR NO. 363: -- I would -- last week
4 was our first week back, and that was on another -- well,
5 this is the beginning of a pay period.

6 MS. JOBE: Okay.

7 PROSPECTIVE JUROR NO. 363: So this would take a
8 whole weeks check, and my last check was only for a week
9 because we just came back from break.

10 MS. JOBE: Okay. I'm going to jump subjects. You
11 mentioned you had some friends who had been accused of
12 crimes, correct?

13 PROSPECTIVE JUROR NO. 363: Yes.

14 MS. JOBE: Do you think any of them are falsely
15 accused?

16 PROSPECTIVE JUROR NO. 363: Some to extent, yes.

17 MS. JOBE: What do you mean by that?

18 PROSPECTIVE JUROR NO. 363: To -- I say to an
19 extent because of their background, it's possible that they
20 -- in my -- even my opinion, it's possible that they've done
21 it because the things that they've done as a younger person
22 or when they were caught up in different things that they
23 were doing as a younger adult.

24 MS. JOBE: Okay.

25 PROSPECTIVE JUROR NO. 363: So it's possible that

1 they could have done it. But at times I do feel like they've
2 been falsely accused because of that same factor where being
3 in the wrong place at the wrong time. You just happened to
4 be with someone else that did something beforehand and then
5 they got caught and then you were just in the car with them
6 so you were accused of it as well. So you're kind of like
7 guilty by party.

8 MS. JOBE: Sure. Do you think your friends were
9 treated fairly?

10 PROSPECTIVE JUROR NO. 363: In most cases, yes.
11 But in a few, no.

12 MS. JOBE: And when you -- of the few you say no,
13 were those in Clark County or elsewhere?

14 PROSPECTIVE JUROR NO. 363: They were all -- all --
15 all -- I've only lived out here for a while. So most of my
16 -- most of my stuff is from California.

17 MS. JOBE: And would you hold big about the friends
18 who weren't treated fairly or even those you think you were
19 against either the State or the defense in it case?

20 PROSPECTIVE JUROR NO. 363: No, not -- not in this
21 state. Because I've -- I have -- I have met a lot of Metro.
22 I have friends that work for Metro now that I've moved out
23 here. I've met people that work for Metro so I kind of know
24 their characters. Well, the people I know.

25 MS. JOBE: Sure.

1 PROSPECTIVE JUROR NO. 363: So I know -- I have
2 seen like how Metro kind of works and their mentality towards
3 different things on a just a personal level. So I wouldn't
4 hold it against in this area because of just that fact that
5 it's like I know they -- they try their hardest to be fair.

6 MS. JOBE: Now, about your friendships with or the
7 people you know in Metro, would you give any more or less
8 weight to any officers from Metro or detectives who come in
9 and testify because of your friendships?

10 PROSPECTIVE JUROR NO. 363: No. I wouldn't give
11 more weight to anyone. I would -- I would expect them to
12 come in and be -- or, I would -- because I -- hopefully -- I
13 don't really know people's names. When you guys name names,
14 I couldn't say if I know anyone.

15 MS. JOBE: Okay.

16 PROSPECTIVE JUROR NO. 363: But I -- just by going
17 first names, it didn't seem like I knew any of the people.

18 But I wouldn't hold any weight towards like oh,
19 that this person's more -- more reliable because they're an
20 officer, or I wouldn't say oh, they're not as reliable
21 because they're an officer. I wouldn't give them any more
22 weight on what they say because of their experiences.

23 MS. JOBE: Okay. Thank you very much. Can you
24 pass the microphone to Mr. Miller. Okay, Mr. Miller, you
25 said you're an auto mechanic, correct?

1 PROSPECTIVE JUROR NO. 436: Yes.

2 MS. JOBE: I don't understand anything about it,
3 but fair to say people bring you their cars or whoever you
4 work their cars and they describe something's wrong with it
5 and then have you to figure it out, right?

6 PROSPECTIVE JUROR NO. 436: Sure.

7 MS. JOBE: Obviously, cars can't talk, correct?

8 PROSPECTIVE JUROR NO. 436: Correct.

9 MS. JOBE: So how do you figure out what the
10 problem is? You get some information, car's not going to sit
11 there and tell you, hey, my right rear tire needs to be
12 replaced or my breaks or whatever? How do you figure it out?

13 PROSPECTIVE JUROR NO. 436: Just get as much
14 information as possible from the customer.

15 MS. JOBE: And then what do you --

16 PROSPECTIVE JUROR NO. 436: Try to duplicate
17 whatever it is their complaint is.

18 MS. JOBE: Fair to say you don't always have all
19 the information about what's wrong with the car?

20 PROSPECTIVE JUROR NO. 436: Yes.

21 MS. JOBE: And then you kind of -- do you have to
22 kind of piece it together or you examine the car yourself and
23 then kind of make your own assessments based on your
24 expertise?

25 PROSPECTIVE JUROR NO. 436: All the above.

1 MS. JOBE: Okay. Any time someone brings you a car
2 and just says, something's wrong with it, and you have to
3 start with little to no information and figure it out?

4 PROSPECTIVE JUROR NO. 436: All the time.

5 MS. JOBE: As an analogy, if you -- if there's a
6 situation with people where say it's a closed universe, would
7 you need an eyewitness or someone to tell you exactly what
8 happened in order to reach a verdict?

9 PROSPECTIVE JUROR NO. 436: What do you mean? I'm
10 sorry.

11 MS. JOBE: So say, you know, the car can't tell you
12 exactly what happened or exactly what's wrong with it,
13 right?

14 PROSPECTIVE JUROR NO. 436: Right.

15 MS. JOBE: If you're seated on the jury here, and
16 would you need an eyewitness or someone to specifically tell
17 you A, B, C, D and E happened in order for you to reach a
18 verdict?

19 PROSPECTIVE JUROR NO. 436: Yeah.

20 MS. JOBE: Why would you need that?

21 PROSPECTIVE JUROR NO. 436: Because you just need
22 nor information.

23 MS. JOBE: Okay. What type of information would
24 you look for?

25 PROSPECTIVE JUROR NO. 436: Facts. I mean, stuff

1 that -- anything that's been proven or whatever.

2 MS. JOBE: Okay. Do you ever follow the news and
3 crime reports that are in the news? I keep wanting to lean
4 on that.

5 PROSPECTIVE JUROR NO. 436: Yeah.

6 MS. JOBE: Okay. Fair to say there's some cases or
7 some stories you may hear about where there's no eyewitness
8 to the crime, correct?

9 PROSPECTIVE JUROR NO. 436: Yeah.

10 MS. JOBE: Do you think those cases are still
11 solvable or something you could figure out what happened?

12 PROSPECTIVE JUROR NO. 436: They're probably still
13 solvable.

14 MS. JOBE: Okay. Well, what was your hesitation?

15 PROSPECTIVE JUROR NO. 436: I couldn't solve it.
16 Other people may.

17 MS. JOBE: Okay. All right. Do you have any
18 concerns if there is no -- you said you might if there's no
19 eyewitness, correct?

20 PROSPECTIVE JUROR NO. 436: Right.

21 MS. JOBE: Okay. Would you wait to listen to all
22 the evidence to make a determination?

23 PROSPECTIVE JUROR NO. 436: Yes.

24 MS. JOBE: Well, in your car situations, do you
25 think there's ever a time where you can't figure out what

1 happened?

2 PROSPECTIVE JUROR NO. 436: A lot of times.

3 MS. JOBE: What makes it that you can't figure it
4 out?

5 PROSPECTIVE JUROR NO. 436: Sometimes you just
6 can't duplicate a problem. Sometimes you're just guessing at
7 what the customer's referring to.

8 MS. JOBE: And what do you do in those situations?

9 PROSPECTIVE JUROR NO. 436: Sometimes you just say
10 that we'll have to wait until it presents itself to be able
11 to go any further.

12 MS. JOBE: Ever had customers where they swear the
13 noise happens and then you drive around and you never hear
14 the noise?

15 PROSPECTIVE JUROR NO. 436: Yeah.

16 MS. JOBE: All right. I only ask because I always
17 have at that debate with my mechanic. Anyone else here on
18 the jury panel would need an eyewitness to the events in
19 order to render a verdict? Anyone have any issues of called
20 to be a member of the jury in piecing evidence together to
21 figure out what happened? Ya'll are a very quiet bunch. Can
22 you pass the microphone to Juror 19? I don't want to
23 mispronounce your last name, sorry, I apologize.

24 PROSPECTIVE JUROR NO. 454: It's easy. Figuered.

25 MS. JOBE: Figuered?

1 PROSPECTIVE JUROR NO. 454: Just like figure eight.

2 MS. JOBE: Oh, perfect. Thank you. Okay,
3 Mr. Figuered, you were looking at me a little funny when I
4 was asking those questions. What are you thinking?

5 PROSPECTIVE JUROR NO. 454: It might be a little
6 difficult to do what you're asking.

7 MS. JOBE: Okay. What about it would be difficult
8 for you? I realize it's hard, we're all talking in
9 hypotheticals here now, but --

10 PROSPECTIVE JUROR NO. 454: Well, I know I'm not
11 personally trained or educated on the whole piecing together
12 of a court case.

13 MS. JOBE: Sure.

14 PROSPECTIVE JUROR NO. 454: Okay? He's specially
15 trained in auto mechanics and has a better idea with that as
16 opposed to yourself or me.

17 MS. JOBE: Right.

18 PROSPECTIVE JUROR NO. 454: In the field of work
19 that I do, the reverse is true.

20 MS. JOBE: Okay. And I --

21 PROSPECTIVE JUROR NO. 454: So that's what I was
22 frowning or mulling over is -- and you're specifically asking
23 if or if there is not a witness, so that's another question
24 mark in my head.

25 MS. JOBE: Okay. You have --

1 PROSPECTIVE JUROR NO. 454: As being necessary.

2 MS. JOBE: Sure. You have children, right?

3 PROSPECTIVE JUROR NO. 454: I have three children.

4 MS. JOBE: Okay. And ever a situation with your
5 three children, something happens, one of them came to you
6 complaining about something and you as the parent kind of got
7 to figure out what happened?

8 PROSPECTIVE JUROR NO. 454: Um-h'm.

9 MS. JOBE: How do you do that?

10 PROSPECTIVE JUROR NO. 454: Looking at the
11 situation physically.

12 MS. JOBE: Okay.

13 PROSPECTIVE JUROR NO. 454: Verbally finding out
14 information that you can, seeing what the other child or
15 children is seeing.

16 MS. JOBE: Okay.

17 PROSPECTIVE JUROR NO. 454: Family or friends,
18 whatever may have been around.

19 MS. JOBE: If they're --

20 PROSPECTIVE JUROR NO. 454: You try to conduct an
21 investigation as best you can and figure out what's going on.
22 Usually a parent can do so.

23 MS. JOBE: So then you have some practical skills
24 in piecing thing together and kind of figuring out what
25 happened; would that be fair?

1 PROSPECTIVE JUROR NO. 454: A little bit, yeah.

2 MS. JOBE: Okay. And then, as a parent, when
3 you're trying to sort out what's going on, you rely on the
4 information provided, correct?

5 PROSPECTIVE JUROR NO. 454: Um-h'm.

6 MS. JOBE: Is that yes?

7 PROSPECTIVE JUROR NO. 454: You try to, yes.

8 MS. JOBE: I apologize, ladies and gentlemen.
9 Ya'll have the microphone. Kris is taking everything down
10 that we say, which is why we all keep prompting you to say
11 yes or no so --

12 PROSPECTIVE JUROR NO. 454: I'm sorry.

13 MS. JOBE: It's okay. And then as far as in
14 sorting out what's going on with your children, fair to say
15 there may be times some of your children -- one or more of
16 your children have lied to you about what actually happened,
17 correct?

18 PROSPECTIVE JUROR NO. 454: Of course.

19 MS. JOBE: How do you figure that out?

20 PROSPECTIVE JUROR NO. 454: By figuring out what
21 actually happened. Piecing things together.

22 MS. JOBE: Okay.

23 PROSPECTIVE JUROR NO. 454: But you don't always
24 come to that -- you don't always figure it out.

25 MS. JOBE: Sure.

1 PROSPECTIVE JUROR NO. 454: Sometimes they get away
2 with it.

3 MS. JOBE: Sure, but there are -- fair to say at
4 least you've talked of all these experiences where you've
5 been able to piece it together and figure it out, right?

6 PROSPECTIVE JUROR NO. 454: For the most part, yes,
7 ma'am.

8 MS. JOBE: And that's all either side's going to be
9 asking any of you to do if you're selected as members of the
10 jury. Does that sound fair to you?

11 PROSPECTIVE JUROR NO. 454: Yes.

12 MS. JOBE: Sound like something you could do?

13 PROSPECTIVE JUROR NO. 454: Yes.

14 MS. JOBE: Okay. Thank you, sir. All right. Who
15 here -- a lot of you have kids. Who does not have experience
16 with young children? Can you pass the microphone behind you
17 to, is it Mr. Cleto?

18 PROSPECTIVE JUROR NO. 414: Yes.

19 MS. JOBE: Okay, thank you. And your badge number,
20 please?

21 PROSPECTIVE JUROR NO. 414: Gabriel Cleto, Badge
22 No. 414.

23 MS. JOBE: Okay. You said you do not have
24 experience with children?

25 PROSPECTIVE JUROR NO. 414: Not directly. I don't

1 have any children or anything.

2 MS. JOBE: Do you have any nephews or nieces or
3 anything?

4 PROSPECTIVE JUROR NO. 414: Yeah, I have -- I have
5 nephews and nieces and stuff, but not particularly close with
6 them since they live in different countries and stuff.

7 MS. JOBE: That would be a challenge. How
8 comfortable are you involving situations with kids or hearing
9 about evidence with kids?

10 PROSPECTIVE JUROR NO. 414: I'm open to like
11 listening to the evidence and stuff.

12 MS. JOBE: All right. And you, like Mr. Miller,
13 have a job that I do not understand. It involves computer
14 programming, correct?

15 PROSPECTIVE JUROR NO. 414: Yes. But I'm not a
16 programmer. I'm just a designer.

17 MS. JOBE: What -- I apologize, what exactly does
18 that mean?

19 PROSPECTIVE JUROR NO. 414: So I design -- like I
20 help design and mock up different like web pages and
21 interfaces for our user base.

22 MS. JOBE: So is that like the art side of it, what
23 it should look like or what it --

24 PROSPECTIVE JUROR NO. 414: Yes.

25 MS. JOBE: -- (inaudible) wants to look like?

1 PROSPECTIVE JUROR NO. 414: Um-h'm.

2 MS. JOBE: Okay. And how long have you been doing
3 that?

4 PROSPECTIVE JUROR NO. 414: Going to be three years
5 in April.

6 MS. JOBE: How do you convey your ideas of what --
7 obviously, you do some drawings, correct?

8 PROSPECTIVE JUROR NO. 414: Yes.

9 MS. JOBE: And how easily do your drawings relate
10 to the people who actually have to program it and make it
11 look like your drawing?

12 PROSPECTIVE JUROR NO. 414: It's a lot of
13 communication back and forth between us. Usually, we start
14 off with like a hypothesis and how to best tackle the problem
15 and then I come up with some wire frames, mock-ups and then
16 we go towards the -- that side of things where they convert
17 it, and then program it and stuff, and then it comes back to
18 me to check and make sure it looks good.

19 MS. JOBE: Okay. So it sounds like it's kind of a
20 back and forth with information between you and the people
21 who do the programming and that kind of stuff?

22 PROSPECTIVE JUROR NO. 414: Yes.

23 MS. JOBE: I'm sure I'm over simplifying it, so I
24 apologize. Ever have a time where those who have to bring
25 your vision to reality where they either understand it really

1 well from your drawings or don't understand it at all from
2 your drawings?

3 PROSPECTIVE JUROR NO. 414: If -- a lot of times in
4 the business side of things, they'll have a different idea of
5 how to best tackle things. So that can influence your -- or
6 like the programming side or the design side of things.

7 MS. JOBE: I know you don't have much experience
8 with children, but do you, yourself, have some memories from
9 childhood?

10 PROSPECTIVE JUROR NO. 414: Yes.

11 MS. JOBE: Okay. Do you have any expectations
12 about what a young child would or wouldn't do in a particular
13 situation?

14 PROSPECTIVE JUROR NO. 414: Yeah.

15 MS. JOBE: Growing up go to school, have classmates
16 and all that stuff?

17 PROSPECTIVE JUROR NO. 414: Um-h'm.

18 MS. JOBE: Would it be fair to say that you and
19 some of your classmates or you and some of your friends may
20 respond differently to the same situation?

21 PROSPECTIVE JUROR NO. 414: Yeah.

22 MS. JOBE: Would that affect your ability to think,
23 you know, maybe in some situations a person or a child may
24 respond differently than you would have, but that's their
25 normal response for them?

1 PROSPECTIVE JUROR NO. 414: Yes.

2 MS. JOBE: Would you be able to keep an open mind
3 and listen to the evidence in that way?

4 PROSPECTIVE JUROR NO. 414: Yeah.

5 MS. JOBE: Okay. Who else does not have much
6 experience with young children? Mr. -- can you pass the
7 microphone down, please? Thank you very much. Name and
8 badge number, sir?

9 PROSPECTIVE JUROR NO. 467: Tom Gaytan, 467.

10 MS. JOBE: And you said you don't have much
11 experience with children, correct?

12 PROSPECTIVE JUROR NO. 467: I don't have kids,
13 right?

14 MS. JOBE: Okay. Do you have --

15 PROSPECTIVE JUROR NO. 467: Dogs.

16 MS. JOBE: -- any nieces, nephews?

17 PROSPECTIVE JUROR NO. 467: I do.

18 MS. JOBE: And were you around them growing up?

19 PROSPECTIVE JUROR NO. 467: No. They've been --
20 they're in different states.

21 MS. JOBE: Okay.

22 PROSPECTIVE JUROR NO. 467: I'm the only one here.

23 MS. JOBE: Ever see them much at all when they were
24 little or growing up?

25 PROSPECTIVE JUROR NO. 467: Yeah, I did. I mean,

1 during holidays and things. Mostly holidays.

2 MS. JOBE: Any memorable incidents with your nieces
3 or nephews when they were little that you remember from the
4 holidays?

5 PROSPECTIVE JUROR NO. 467: Yeah, a few.

6 MS. JOBE: Generally speaking, how would you gauge
7 reaction of a child or the reaction of a parent without
8 having much experience yourself?

9 PROSPECTIVE JUROR NO. 467: How would I gauge it?

10 MS. JOBE: Yeah, how would you -- if someone comes
11 in here as a parent or a child and testifies, like, how would
12 you -- what would you look for? What kinds of things would
13 you consider?

14 PROSPECTIVE JUROR NO. 467: Actually, I'm kind of
15 stumped on that one. I don't -- I guess, I just have to hear
16 it, see it and make my decision right then based on what they
17 said.

18 MS. JOBE: The woman next to you has all kinds of
19 training with kids and schools, correct?

20 PROSPECTIVE JUROR NO. 467: Um-h'm.

21 MS. JOBE: That's Ms. Warren, right? All right.

22 If you -- do you think you and Ms. Warren would have a
23 different response to a young child's behavioral issues based
24 on your lack of experience and her experience with kids?

25 PROSPECTIVE JUROR NO. 467: I think because of the

1 vast experience that she's had on a daily basis with kids and
2 me not so much, yeah, they might differ.

3 MS. JOBE: Okay. Do you think Ms. Warren may get
4 -- have more patience with children and be less frustrated
5 with them and know how to handle them a little better?

6 PROSPECTIVE JUROR NO. 467: Yes, I'm sure she
7 would.

8 MS. JOBE: No disrespect to you or just --

9 PROSPECTIVE JUROR NO. 467: No, no, no. I
10 understand.

11 MS. JOBE: Okay. All right, thank you very much.
12 How many here have experience dealing with young children who
13 are very frustrating or having behavioral issues? Okay,
14 let's talk to Ms. Todd. If you could pass the microphone
15 behind you.

16 PROSPECTIVE JUROR NO. 419: Alexandria Todd, Badge
17 No. 419.

18 MS. JOBE: What experience do you have in dealing
19 with frustrating children or --

20 PROSPECTIVE JUROR NO. 419: I babysat a friend's
21 younger brother and sister a lot, and the younger brother
22 loved attention, and when he didn't get attention, he would
23 kind of act out and just do things that he probably wasn't
24 supposed to do, just being extra, you know, misbehaving. Not
25 to the extreme, but just kind of how little kids are.

1 MS. JOBE: And how would you deal with that in
2 those situations?

3 PROSPECTIVE JUROR NO. 419: We would just -- I
4 mean, I would definitely follow kind of how his parents would
5 act with him. They liked to always sit him down and explain
6 to him why you don't do certain things or this is why you
7 can't be like this, or kind of just really sitting down
8 explaining it to them, talking through it. And, I mean, that
9 was pretty much how we handled it. And it would usually work
10 for him. Excuse me.

11 MS. JOBE: Were there ever times where it wouldn't
12 work for him and you'd just become frustrated with the
13 situation?

14 PROSPECTIVE JUROR NO. 419: Sometimes because he
15 was one of those kids where he just liked to really like be
16 on you and just very clingy kid. He loved attention. But a
17 lot of times it was more of just kind of stick to first if
18 the explaining didn't work, you had would just kind have to
19 either let him know like okay, well, you can't -- a lot of it
20 would be well, okay, you can't participate with us in this
21 activity because you need to sit out because you don't know
22 how to -- you're not -- you're misbehaving, and the first
23 time didn't work explaining it, so you're going to have to
24 basically start taking little -- I don't know if you want to
25 call them treats or like little activities that they would

1 want to participate in.

2 MS. JOBE: Okay. You said you have a CNA license?

3 PROSPECTIVE JUROR NO. 419: Yeah.

4 MS. JOBE: Okay.

5 PROSPECTIVE JUROR NO. 419: It expired, but yeah.

6 MS. JOBE: Okay. So you have some medical
7 training, correct?

8 PROSPECTIVE JUROR NO. 419: Yeah.

9 MS. JOBE: What work, if any, did you do with your
10 CNA license?

11 PROSPECTIVE JUROR NO. 419: I'm sorry, what was
12 that?

13 MS. JOBE: Did you work in any hospitals or
14 facilities?

15 PROSPECTIVE JUROR NO. 419: No, is we did
16 clinicals. It was for about five months of clinicals working
17 in a nursing home.

18 MS. JOBE: Do you have any experience with children
19 or burns or anything like that?

20 PROSPECTIVE JUROR NO. 419: No.

21 MS. JOBE: All right. As far as your job with
22 quality assurance, what do you do?

23 PROSPECTIVE JUROR NO. 419: We actually listen --
24 so when a phone call is being taken place -- I don't know if
25 you've heard --

1 MS. JOBE: You're those people?

2 PROSPECTIVE JUROR NO. 419: Yes, I'm that person.

3 MS. JOBE: Oh.

4 PROSPECTIVE JUROR NO. 419: I listen to phone calls
5 that have happened --

6 MS. JOBE: Sure.

7 PROSPECTIVE JUROR NO. 419: -- the day prior. It's
8 actually for like home warranties and like Indiana and Ohio
9 and things like that. So we listen to make sure the sale is
10 valid. If it's not, we have to be very particular and list
11 what went wrong, what the agent said that shouldn't have been
12 said, what made the sale invalid and things like that.

13 MS. JOBE: I didn't know people actually listened
14 to those.

15 PROSPECTIVE JUROR NO. 419: I get that a lot.

16 MS. JOBE: Okay. And so you listen and kind of --
17 it sounds like you have certain criteria you look for,
18 correct?

19 PROSPECTIVE JUROR NO. 419: Yeah.

20 MS. JOBE: And Fair to say of the calls you
21 listened to, everyone kind of has a different -- may have a
22 different approach, but there's some basic things they're
23 supposed to do, right?

24 PROSPECTIVE JUROR NO. 419: Oh, yeah.

25 MS. JOBE: And as far as your decision-making, if

1 it's valid or not valid, is it a hard and fast criteria or is
2 it kind of in the gray area?

3 PROSPECTIVE JUROR NO. 419: There's some gray area.
4 I mean, I also do like monitoring of calls. So that's more
5 of like customer service basis. So that has a lot of gray
6 areas. Whereas, if the sale's valid or not, that's very
7 black and white. You either read what's in front of you or
8 you don't.

9 MS. JOBE: Sure.

10 PROSPECTIVE JUROR NO. 419: But with the gray area
11 side, it's very -- you have to use your opinion, put yourself
12 in the customer's shoes, would you want to be talked to that
13 -- in that way? Would you want to -- would you have liked if
14 your call was handled that way? It was a lot of just your
15 perspective, I guess.

16 MS. JOBE: Okay. And how would you feel if you
17 were asked to sit as a members of the jury if have you to
18 piece information together to figure out what happened?

19 PROSPECTIVE JUROR NO. 419: That wouldn't be a
20 problem, but, I mean, yeah, that wouldn't be a problem at
21 all.

22 MS. JOBE: I know I ask all very vague
23 hypothetical --

24 PROSPECTIVE JUROR NO. 419: No, you're good.

25 MS. JOBE: -- questions.

1 PROSPECTIVE JUROR NO. 419: It's okay.

2 MS. JOBE: Okay. Thank you very much. All right.
3 Do any of you have an investigation background? We talked
4 about how Mr. Figuered would -- you know, when his kids had
5 issue and would kind of figure out what's going on? Do any
6 of you have more formal investigation backgrounds? Seeing no
7 hands.

8 I believe, the -- Mr. Lozano --

9 PROSPECTIVE JUROR NO. 439: Yes.

10 MS. JOBE: -- would you pass the microphone to him,
11 please?

12 PROSPECTIVE JUROR NO. 439: Tommy Lozano, 439.

13 MS. JOBE: Thank you, sir. You work in security,
14 correct?

15 PROSPECTIVE JUROR NO. 439: Yes, I do.

16 MS. JOBE: Where?

17 PROSPECTIVE JUROR NO. 439: Bellagio Hotel.

18 MS. JOBE: Okay. Do you ever have to do any
19 investigations with respect to being security?

20 PROSPECTIVE JUROR NO. 439: Yes, we have.

21 MS. JOBE: Okay.

22 PROSPECTIVE JUROR NO. 439: And yes, I have.

23 MS. JOBE: Do you have any training or experience
24 in investigations?

25 PROSPECTIVE JUROR NO. 439: Not in investigation

1 department, but as a security officer, we build up that
2 training as the years that we work there.

3 MS. JOBE: Okay. Now, as far as your
4 investigations go are there times where your investigations
5 involve law enforcement?

6 PROSPECTIVE JUROR NO. 439: Many times.

7 MS. JOBE: All right. And how would you describe
8 -- do you have an opinion about law enforcement in general
9 or?

10 PROSPECTIVE JUROR NO. 439: No, other than I
11 respect law enforcement highly.

12 MS. JOBE: Based on your experience with law
13 enforcement, if officers -- well, officers and detectives are
14 going to come in and testify, would you give any more or less
15 weight to their testimony simply because they work for Metro
16 and because you have respect for officers?

17 PROSPECTIVE JUROR NO. 439: No.

18 MS. JOBE: All right. Now, as far as security, I'm
19 sure you could tell stories for days about things you've
20 investigated?

21 PROSPECTIVE JUROR NO. 439: In 16 years, hundreds
22 of stories.

23 MS. JOBE: I'm sure. Fair to say not all your
24 investigations turned out to be what you thought; is that
25 fair?

1 PROSPECTIVE JUROR NO. 439: That's very fair.

2 MS. JOBE: And how would you piece together your
3 investigations?

4 PROSPECTIVE JUROR NO. 439: Mainly through a lot of
5 questioning that we do of the person or people that we're
6 investigating. As many questions as possible. A lot of
7 background checks. Anything that we consider minor, we will
8 basically do what all hotels do, and that's just trespass
9 them. Anything major, any kind of a felony or anything more
10 than that, as much information as we can and then we detain
11 them for Metro.

12 MS. JOBE: Okay. Ever get a story from someone
13 where as you think about it and play it out in your head as
14 you're making your decisions as a security officer, you're
15 just like that doesn't really make any sense?

16 PROSPECTIVE JUROR NO. 439: Many times.

17 MS. JOBE: What do you do in those situations?

18 PROSPECTIVE JUROR NO. 439: In a situation like
19 that where I'm just -- I am a security officer, we do have
20 supervisors and managers.

21 MS. JOBE: Okay.

22 PROSPECTIVE JUROR NO. 439: I -- for the years that
23 I've been there, I do, I have an input and I will give them
24 my input on what I hear and see, and from there basically,
25 it's taken over by supervision or management. Sometimes they

1 will agree with and sometimes they won't.

2 MS. JOBE: Okay. Going back to when you first
3 started in security. Would there be times when you are
4 investigating something, things maybe didn't seem right or
5 didn't add up, but you -- someone with more experience would
6 kind of take over and decide where to go from there?

7 PROSPECTIVE JUROR NO. 439: Absolutely. Even now.

8 MS. JOBE: Okay. And any concerns if you're
9 selected as a member of the jury of sitting, listening to the
10 evidence and waiting to make a decision until all the
11 evidence has been presented?

12 PROSPECTIVE JUROR NO. 439: I have no problem.

13 MS. JOBE: A general question for the panel. Have
14 any of you all sought out a second opinion as far as medical
15 advice or doctors are concerned? I see no hands. Have any
16 of you gone to the infamous webmd.com to diagnose yourself?
17 All right. Let's talk to, is it Ms. Gonzalez-Garcia? If you
18 could pass the microphone back to her.

19 PROSPECTIVE JUROR NO. 417: Ericka Gonzalez-Garcia,
20 Badge No. 417.

21 MS. JOBE: Okay. Do you find WebMD to be
22 reassuring or make you a little nervous?

23 PROSPECTIVE JUROR NO. 417: Depending on what I
24 read, if I feel that the diagnosis that it's giving me is
25 sufficient, then I tend not to get a second opinion from a

1 second doctor. And if I still am weary or have questions,
2 then I will go and seek a second opinion from a different
3 doctor.

4 MS. JOBE: Okay. And have you ever gone to seek a
5 second opinion from a different doctor and gotten conflicting
6 information or conflicting opinions?

7 PROSPECTIVE JUROR NO. 417: Yes, I have.

8 MS. JOBE: And so when you're in that situation
9 where one doctor says, A and one doctor says B, you're the
10 patient, what do you do to kind of sort that out as to who's
11 right or whose advice you want to take?

12 PROSPECTIVE JUROR NO. 417: Compare both results
13 that I got from each doctor.

14 MS. JOBE: Okay. And then what do you do?

15 PROSPECTIVE JUROR NO. 417: And then I make my own
16 decision.

17 MS. JOBE: Okay.

18 PROSPECTIVE JUROR NO. 417: Based on the things
19 that was given to me as far as the report of the diagnostic.

20 MS. JOBE: And is that something you're comfortable
21 with or something that makes you uncomfortable?

22 PROSPECTIVE JUROR NO. 417: Sometimes it's
23 uncomfortable.

24 MS. JOBE: Now, in this trial, we anticipate you're
25 going to hear from multiple experts testifying about what

1 happened in this case. Do you have any concerns or any
2 thoughts about having to listen to expert opinion and make
3 decisions based on that even if they may disagree?

4 PROSPECTIVE JUROR NO. 417: No, because I'm open-
5 minded. So I want to listen to what both parties have to
6 say.

7 MS. JOBE: And what types of things would you look
8 for in making that decision if there's a disagreement?

9 PROSPECTIVE JUROR NO. 417: The person's behavior
10 and body language.

11 MS. JOBE: Okay.

12 PROSPECTIVE JUROR NO. 417: And the evidence that
13 is brought up.

14 MS. JOBE: Okay. Would you have any concerns
15 making that determination if you're selected to sit on the
16 jury in reaching that decision with 11 other people?

17 PROSPECTIVE JUROR NO. 417: No.

18 MS. JOBE: Anyone -- thank you very much. Anyone
19 here on the panel, if you're selected to sit, have any
20 concerns about making a decision with 11 other people,
21 engaging in that that dialogue and reaching a final decision?

22 Anyone here on the -- of the 24 of you, anyone
23 who's just kind of a go-along-to-get-along kind of a person?
24 Do you know what that means? Yes, Mr. Lewis. You don't
25 strike me as the go-along-to-get-along type, but are you?

1 PROSPECTIVE JUROR NO. 450: No.

2 MS. JOBE: I don't mean that badly. I just --

3 PROSPECTIVE JUROR NO. 450: I mean dead fish go
4 with the flow so --

5 MS. JOBE: How would you feel about deliberating
6 with 11 other people and taking in evidence and testimony and
7 doctors and all kinds of stuff?

8 PROSPECTIVE JUROR NO. 450: I think it would be a
9 headache because it's 11 different people thinking of 11
10 different things.

11 MS. JOBE: Okay. How do you think you might be
12 able to work through that situation with the other 11 to
13 reach a decision?

14 PROSPECTIVE JUROR NO. 450: I guess, just see what
15 everyone's talking about and come to an agreement.

16 MS. JOBE: Okay. Now, if you were firm in your
17 conviction that one way or the other way and you were not
18 persuaded by any of the other 11 or what they have to say,
19 would you hold on to that conviction if you were just like
20 absolutely it's this way or absolutely it's that way?

21 PROSPECTIVE JUROR NO. 450: Depending. Right is
22 right and wrong is wrong. So if it's right, then I'm going
23 to stand on it. If it's wrong, then I can't agree with it.

24 MS. JOBE: Okay. While you have the microphone,
25 you said your aunt works for law enforcement in Houston; is

1 that correct or in Texas somewhere?

2 PROSPECTIVE JUROR NO. 450: Yes, ma'am.

3 MS. JOBE: Okay. And you indicated that there are
4 some things you agree with your aunt on and some thing us
5 don't agree with her. Seems like I just found something.

6 PROSPECTIVE JUROR NO. 450: Kind of put me on the
7 spot. I see what you're doing here. It's okay.

8 MS. JOBE: Sorry.

9 PROSPECTIVE JUROR NO. 450: It's all right.

10 MS. JOBE: What types of things -- let's go with
11 the easy one. What type of things do you agree with her on?

12 PROSPECTIVE JUROR NO. 450: Well, she does like the
13 immigration part.

14 MS. JOBE: Okay.

15 PROSPECTIVE JUROR NO. 450: So she kind of like
16 tells me about like how the system's kind like of like ran.
17 So I'm kind of like not for the system, honestly.

18 MS. JOBE: Okay. And that's -- it sounds like
19 that's the federal system for people who are here illegally;
20 is that fair?

21 PROSPECTIVE JUROR NO. 450: Pretty much. Like she
22 deals with all the inmates, transferring and --

23 MS. JOBE: Between the federal custody and the
24 deportations and all that?

25 PROSPECTIVE JUROR NO. 450: Pretty much, yeah. So

1 she tells me like all the stuff that like goes on sometimes
2 so --

3 MS. JOBE: What types of stuff do you disagree with
4 her on?

5 PROSPECTIVE JUROR NO. 450: How they cage them up
6 like animals and treat them like an animal, pretty much.

7 MS. JOBE: Okay. Any thoughts on how -- you said
8 they cage them up like an animal and treat them like an
9 animal, how that affects the criminal system or the criminal
10 justice system?

11 PROSPECTIVE JUROR NO. 450: I just feel like it's
12 -- you gave me a mic. I'm just going to speak my mind, I'm
13 sorry.

14 MS. JOBE: That is all we ask you to do.

15 PROSPECTIVE JUROR NO. 450: I just -- honestly, I
16 just feel like it's corrupted, if you ask me.

17 MS. JOBE: Why do you think that?

18 PROSPECTIVE JUROR NO. 450: Because it's a lot of
19 things that's going on that's -- in this society that a lot
20 of people don't agree with.

21 MS. JOBE: Sure. Fair to say people can have
22 differing opinions, right?

23 PROSPECTIVE JUROR NO. 450: Of course, that --
24 everyone's entitled to their own opinion. That's why I keep
25 mine's to myself.

1 MS. JOBE: Doesn't make them right, doesn't always
2 make them wrong?

3 PROSPECTIVE JUROR NO. 450: Right.

4 MS. JOBE: And obviously, you probably -- would you
5 agree with me that there's been a lot of negative press about
6 things happening around the country involving law
7 enforcement?

8 PROSPECTIVE JUROR NO. 450: That's what the news
9 is, all negative. You don't see the news posting up hey,
10 what a good day today.

11 MS. JOBE: Right.

12 PROSPECTIVE JUROR NO. 450: It's all bad.

13 MS. JOBE: Right.

14 PROSPECTIVE JUROR NO. 450: But I don't watch the
15 news much.

16 MS. JOBE: What about the rare occasion you can
17 find the good story about law enforcement in the news?
18 Sorry, I believe he was in one of the southern states, the
19 gentleman who goes to a neighborhood, he patrols off duty,
20 hangs out with the kids, works with the kids to develop that
21 relationship? Have you heard that story?

22 PROSPECTIVE JUROR NO. 450: Yeah, that's like all
23 over Facebook, right?

24 MS. JOBE: Facebook is probably happier news than
25 CNN, fair?

1 PROSPECTIVE JUROR NO. 450: Yeah. I've seen it
2 where he dances with the kids and stuff.

3 MS. JOBE: Um-h'm.

4 PROSPECTIVE JUROR NO. 450: Yeah, we need more
5 people like that.

6 MS. JOBE: Do you think that the news and what's
7 going on with the law enforcement is a fair representation of
8 all officers and all police departments?

9 PROSPECTIVE JUROR NO. 450: I mean, at the end of
10 the day we'll never know.

11 MS. JOBE: Okay. Have you yourself had any
12 positive or negative situations with law enforcement?

13 PROSPECTIVE JUROR NO. 450: Yes, I have.

14 MS. JOBE: Positive or negative or both?

15 PROSPECTIVE JUROR NO. 450: Negative.

16 MS. JOBE: Okay. Tell me about that.

17 PROSPECTIVE JUROR NO. 450: Just, I guess, you --
18 just racial profiled, honestly.

19 MS. JOBE: Okay. For like an investigation? For
20 driving, what?

21 PROSPECTIVE JUROR NO. 450: Just, yeah.

22 MS. JOBE: Okay.

23 PROSPECTIVE JUROR NO. 450: We were on the Strip
24 and this guy (inaudible) for no reason, just 'cuz.

25 MS. JOBE: I mean, did they just like stop you and

1 what happened?

2 PROSPECTIVE JUROR NO. 450: Yeah, they just pulled
3 us out of nowhere and thought we were like in a gang file and
4 all types of stuff. For what? I don't know, because I don't
5 hang around stuff like that.

6 MS. JOBE: Sure. Probably not a -- obviously, not
7 a positive experience for you. But at the end of that
8 encounter, were you able to leave?

9 PROSPECTIVE JUROR NO. 450: Huh?

10 MS. JOBE: Were you able to leave? Did they let
11 you go?

12 PROSPECTIVE JUROR NO. 450: Yeah, after a while.
13 Yeah.

14 MS. JOBE: Okay. Did any --

15 PROSPECTIVE JUROR NO. 450: But that's embarrassing
16 just --

17 MS. JOBE: Sure.

18 THE MARSHAL: Can you speak into the microphone.

19 PROSPECTIVE JUROR NO. 450: Sorry. It's
20 embarrassing.

21 MS. JOBE: Sure.

22 PROSPECTIVE JUROR NO. 450: I'm not really good at
23 this.

24 MS. JOBE: And I'm not -- I'm not trying to --
25 minimize that or take that away at all. But at the end, you

1 were allowed to leave and they went about whatever they were
2 doing and you --

3 PROSPECTIVE JUROR NO. 450: Yeah.

4 MS. JOBE: -- at least eventually were allowed to
5 go?

6 PROSPECTIVE JUROR NO. 450: Most definitely, but
7 there's been other occasions that I -- I don't want to talk
8 about but --

9 MS. JOBE: Okay. Does that leave you with a
10 general opinion about law enforcement in Clark County?

11 PROSPECTIVE JUROR NO. 450: You know what I mean,
12 like I don't agree with a lot of things, but at the end of
13 the day life goes on. I -- it's out of my control. I just
14 got to worry about myself, at the end of the day.

15 MS. JOBE: Okay. And will that affect your ability
16 to listen to an officer or detective testimony and weigh it
17 for what it's worth from that officer or that detective or
18 are you going to bring in your experiences and any positive
19 or negative feelings you have?

20 PROSPECTIVE JUROR NO. 450: You never know. I
21 honestly can't sit here and tell you because until it
22 happens, it happens. Like, I can't sit here and tell you
23 what they going to -- or something's going to make me feel a
24 certain type of way. I -- I can't honestly like -- I'm like,
25 I go -- like, if something happens and I got to react and

1 either fix it or move on so.

2 MS. JOBE: Okay. Do you think if you're selected
3 to be to set any feelings you may have aside in making a
4 decision or would your feelings come into that decision
5 making process?

6 PROSPECTIVE JUROR NO. 450: I mean, it's going to
7 be hard, but like I said, at the end of the day, right is
8 right and wrong is wrong.

9 MS. JOBE: At this point, could -- are you able to
10 be fair and impartial to both the State and the defense?

11 PROSPECTIVE JUROR NO. 450: You say what, excuse
12 me?

13 MS. JOBE: At this point in time, are you able to
14 be fair and impartial to the State and the defense?

15 PROSPECTIVE JUROR NO. 450: I -- I got to
16 understand what's going on. I don't got enough evidence to
17 sit here and tell you yay or tell you no so --

18 MS. JOBE: Okay. Earlier today Judge Leavitt
19 talked about the American ideals of justice, and as you sit
20 here right now, the State's put on no evidence. The State
21 bears the burden of proving its case. And the defendant,
22 sometimes they call it the cloak of -- it's like he's wrapped
23 in protection in that he's -- and is absolutely innocent at
24 this point in time. There's been no evidence.

25 PROSPECTIVE JUROR NO. 450: Right.

1 MS. JOBE: Do you have any issues with those?

2 PROSPECTIVE JUROR NO. 450: I can't tell you. I
3 don't know.

4 MS. JOBE: Okay. Okay. Thank you for your
5 honesty. I appreciate that, Mr. Lewis.

6 PROSPECTIVE JUROR NO. 450: Thank you.

7 MS. JOBE: Anyone -- well, let's talk to, is it Ms.
8 Lopez-Hernandez. If you could pass the microphone behind
9 you, Mr. Lewis. Could you state your name and your badge
10 number, please.

11 PROSPECTIVE JUROR NO. 391: 391.

12 MS. JOBE: And your name, Ma'am?

13 PROSPECTIVE JUROR NO. 391: Can you repeat, please?

14 MS. JOBE: Your name?

15 PROSPECTIVE JUROR NO. 391: Marilyn
16 Lopez-Hernandez.

17 MS. JOBE: Okay. As you've been sitting here
18 today, have you had any trouble understanding or following
19 what everybody's been talking about?

20 PROSPECTIVE JUROR NO. 391: No.

21 MS. JOBE: Okay. When you were talking with the
22 Judge -- and I'm not trying to be disrespectful. I'm just
23 trying to figure out, make sure if you're selected to sit on
24 the jury, see if you would have any concerns about
25 understanding what everybody's testifying to. Do you have

1 any concerns about that?

2 PROSPECTIVE JUROR NO. 391: I'm sorry, I didn't --
3 I speak English so-so.

4 MS. JOBE: Okay..

5 PROSPECTIVE JUROR NO. 391: Yes.

6 MS. JOBE: Sure. You're from -- I think you said
7 you're from Cuba, right?

8 PROSPECTIVE JUROR NO. 391: Yes.

9 MS. JOBE: Okay. And how long have you been in the
10 United States?

11 PROSPECTIVE JUROR NO. 391: Eight year.

12 MS. JOBE: Eight years and --

13 PROSPECTIVE JUROR NO. 391: Yes.

14 MS. JOBE: -- how long have you been in Clark
15 County?

16 PROSPECTIVE JUROR NO. 391: Yes. Yes.

17 MS. JOBE: For eight?

18 PROSPECTIVE JUROR NO. 391: Eight.

19 MS. JOBE: So you've always been in Clark County?

20 PROSPECTIVE JUROR NO. 391: Yes.

21 MS. JOBE: Okay. And when you're -- you said you
22 work at the Aria as a dishwasher, correct?

23 PROSPECTIVE JUROR NO. 391: Yes.

24 MS. JOBE: When you're at work, do you speak in
25 English or do you speak in Spanish or something else?

1 PROSPECTIVE JUROR NO. 391: More -- more in Spanish
2 than English.

3 MS. JOBE: Okay. And when you -- you said you were
4 married, right?

5 PROSPECTIVE JUROR NO. 391: Yes.

6 MS. JOBE: And when you speak to your spouse, do
7 you speak in Spanish or English or both?

8 PROSPECTIVE JUROR NO. 391: Spanish. Only my
9 daughter speak English.

10 MS. JOBE: Okay. How old's your daughter?

11 PROSPECTIVE JUROR NO. 391: 15.

12 MS. JOBE: Does your daughter also speak Spanish?

13 PROSPECTIVE JUROR NO. 391: Yes. Two language,
14 English and Spanish.

15 MS. JOBE: Oh, that would be nice.

16 PROSPECTIVE JUROR NO. 391: Yes.

17 MS. JOBE: Do you speak more in English with your
18 daughter or more in Spanish when you're speaking?

19 PROSPECTIVE JUROR NO. 391: Can you repeat, please?
20 My daughter?

21 MS. JOBE: Yes. Do you speak more in Spanish with
22 her or in English?

23 PROSPECTIVE JUROR NO. 391: She -- she?

24 MS. JOBE: With your daughter, yes?

25 PROSPECTIVE JUROR NO. 391: She speaks more

1 English.

2 MS. JOBE: Okay. And do you speak more English to
3 her or more Spanish to her?

4 PROSPECTIVE JUROR NO. 391: I speak with my
5 daughter in Spanish.

6 MS. JOBE: Okay.

7 PROSPECTIVE JUROR NO. 391: Yes.

8 MS. JOBE: Do you think you would be able to listen
9 to doctors or other experts testify and be able to understand
10 what they're talking about?

11 PROSPECTIVE JUROR NO. 391: I'm sorry, I don't
12 understand.

13 MS. JOBE: If a doctor comes in to testify, would
14 you -- do you have any concerns about being able to
15 understand what they're saying and what they're explaining?

16 PROSPECTIVE JUROR NO. 391: Yes.

17 MS. JOBE: All right. Okay, thank you very much.

18 PROSPECTIVE JUROR NO. 391: Every the look at my
19 face and you speak English very, very -- very, very fast.
20 You going sorry, I need to (indecipherable). I need to
21 study English, but I need to job.

22 MS. JOBE: Okay.

23 PROSPECTIVE JUROR NO. 391: (Indecipherable).

24 MS. JOBE: Okay, thank you. Can you pass the make
25 phone to Ms. Pineda, please. Hi.

1 PROSPECTIVE JUROR NO. 370: Hi, I'm Lourdes Pineda,
2 Badge No. 370.

3 MS. JOBE: All right, Ms. Pineda. Just at couple
4 of questions for you, okay?

5 PROSPECTIVE JUROR NO. 370: Okay.

6 MS. JOBE: Earlier today, you said you felt nervous
7 about judging a person that was affect -- was it affecting
8 your concentration?

9 PROSPECTIVE JUROR NO. 370: Right.

10 MS. JOBE: Can you explain that for me?

11 PROSPECTIVE JUROR NO. 370: Because you know what,
12 for me, I'm not, you know, like a judgmental person until,
13 you know, a (indecipherable) she's, you know,
14 (indecipherable), you know, what's going on.

15 MS. JOBE: So it would be fair to say you wait to
16 make a decision until you hear what's going on?

17 PROSPECTIVE JUROR NO. 370: That's why it's hard
18 for me. I can't -- I can't figure out, you know, what's
19 going on to the person as long as I will see the real what's
20 going on, that's the -- you know, it's bothers me a lot. So
21 that's --

22 MS. JOBE: Okay.

23 PROSPECTIVE JUROR NO. 370: -- why I feel nervous,
24 you know, to judge the person.

25 MS. JOBE: Once -- obviously, you haven't heard

1 anything, correct?

2 PROSPECTIVE JUROR NO. 370: Right.

3 MS. JOBE: So you can't make a judgment today?

4 PROSPECTIVE JUROR NO. 370: Exactly.

5 MS. JOBE: Okay. Do you think once you hear all
6 the evidence, and all the evidence is closed and submitted,
7 if you're selected to be a part of the jury, would you then
8 be able to make a decision and make a judgment one way or the
9 other?

10 PROSPECTIVE JUROR NO. 370: I think so.

11 MS. JOBE: Okay. You think so. Would you have --

12 PROSPECTIVE JUROR NO. 370: It means, yes. Means
13 yes, that if, you know, I heard both (indecipherable), I
14 could make a decision which one or what's going on or what
15 happened, if it's guilty or not guilty.

16 MS. JOBE: Okay. Under the law, it's -- the State
17 carries the burden. So we are the only side that actually
18 has to produce evidence.

19 PROSPECTIVE JUROR NO. 370: Oh, okay.

20 MS. JOBE: Under the law, I'm not saying they will,
21 but technically, the defense attorneys and the defendant can
22 sit there and draw, play games on their phone, not even pay
23 attention, if that's what they wish to do. I'm not saying
24 they're going to do that, but they could if they wanted to.

25 Would you have any problems holding the State to

1 its burden with just the State's evidence?

2 PROSPECTIVE JUROR NO. 370: I think, yes.

3 MS. JOBE: What would be your concern?

4 PROSPECTIVE JUROR NO. 370: My concern is -- I
5 mean, my concern is -- is it's hard to justify the person.
6 That's all I can say.

7 MS. JOBE: Okay. Would you -- in order to make a
8 decision, would you have to hear from the other side?

9 PROSPECTIVE JUROR NO. 370: Yes.

10 MS. JOBE: Why would you have to hear from the
11 other side?

12 PROSPECTIVE JUROR NO. 370: Because I could
13 (indecipherable) both panel, which one. It's -- he's doing
14 the right thing or the bad thing.

15 MS. JOBE: Okay. But you understand at least in
16 the court of law, the State's the only one who has to produce
17 any evidence?

18 PROSPECTIVE JUROR NO. 370: Yes.

19 MS. JOBE: And would you have a problem with that
20 if you don't hear from the defense?

21 PROSPECTIVE JUROR NO. 370: No, no.

22 MS. JOBE: Okay. I feel like you've given me two
23 different answers so I just want to make sure I understand.
24 You may not have. It might just be my misunderstanding.

25 If the defense doesn't put on any evidence or the

1 defendant chooses not to testify, would you still be able to
2 make a decision?

3 PROSPECTIVE JUROR NO. 370: Yes, I do.

4 MS. JOBE: All right. And you said you -- you work
5 -- is it a Dillards?

6 PROSPECTIVE JUROR NO. 370: Yes, I'm working at
7 Dillards for 12 years.

8 MS. JOBE: Okay. Do you work in a specific
9 department or no?

10 PROSPECTIVE JUROR NO. 370: I'm working at the
11 ladies shoe department.

12 MS. JOBE: Oh, oh. That must have been busy for
13 the holidays.

14 PROSPECTIVE JUROR NO. 370: We're so busy in
15 holiday.

16 MS. JOBE: All right. Ever have any challenges or
17 problems with customers at Dillards?

18 PROSPECTIVE JUROR NO. 370: I do have sometimes,
19 but, you know, for me I love to deal with people. I love to
20 work with people.

21 MS. JOBE: So when you get a challenge, how do you
22 deal with a challenging person?

23 PROSPECTIVE JUROR NO. 370: Well, for me, mostly at
24 the time, you know, I cannot -- sometimes there's a customer
25 that is moody, sometimes customer just doesn't like --

1 honestly, sometimes customer just tell me that right away I
2 don't like, you know, to work with Asian people. I said
3 okay, that's fine. So that's why I call the, you know, or
4 like white, especially the customer is white. They're like
5 white people to help them. That's fine and understand.

6 But to deal with customer with a hard, you know, I
7 want to talk to my manager and tell them that, you know what,
8 is there any way that you could help her because, you know, I
9 don't have a lot of time it deal with so the customer would
10 work with those customer and then -- and then I'll find
11 another one.

12 MS. JOBE: Okay. Do you have any -- if you're
13 asked to deliberate with 11 other people, any concerns about
14 participating in that conversation about what the decision
15 should be or should not be?

16 PROSPECTIVE JUROR NO. 370: Yes, I do.

17 MS. JOBE: What are your concerns?

18 PROSPECTIVE JUROR NO. 370: My -- oh, to be able --
19 what you mean by concern other people?

20 MS. JOBE: Sure. If you are selected as a member
21 of the jury, there will be 12 of you --

22 PROSPECTIVE JUROR NO. 370: Um-h'm.

23 MS. JOBE: -- that have to reach a decision one way
24 or the other, guilty or not guilty, after hearing all the
25 evidence. How do you feel about working with 11 other people

1 to reach a decision?

2 PROSPECTIVE JUROR NO. 370: I would like to talk to
3 somebody else, you know. I don't want to deal with myself if
4 11 people were agree. So I would go with them.

5 MS. JOBE: Okay. Would you -- okay. So if the 11
6 people are reasonable, you would go with them?

7 PROSPECTIVE JUROR NO. 370: Right.

8 MS. JOBE: Let's say for whatever reason they're
9 absolutely unreasonable and you absolutely disagree with
10 them, what would you do?

11 PROSPECTIVE JUROR NO. 370: Well, that's -- that's
12 -- well, I think that's a big issue for me if 11 people is
13 disagree and then I'm agree. So I side with the 11 people,
14 you know, you just to follow them.

15 MS. JOBE: All righty. Thank you. If you could
16 pass the microphone to Mr. Herrera, please. Thank you.

17 PROSPECTIVE JUROR NO. 373: Alvaro Herrera, 373.

18 MS. JOBE: Thank you very much. You all are doing
19 a fantastic job, by the way, with your name and badge
20 numbers. I appreciate it. You said your brother has had
21 some DUIs, correct?

22 PROSPECTIVE JUROR NO. 373: Yes, yes.

23 MS. JOBE: How involved in the process were you for
24 those?

25 PROSPECTIVE JUROR NO. 373: Somewhat involved. I

1 mean, if -- the first occurrence he represented himself --

2 MS. JOBE: Oh.

3 PROSPECTIVE JUROR NO. 373: -- or the second one
4 there was an attorney involved. The third time, attorney
5 involved. The third time, I referred him over to one.

6 MS. JOBE: Oh, you know attorneys in town?

7 PROSPECTIVE JUROR NO. 373: Yes. Well, I work with
8 a special access group for a bank and so we deal with
9 collections, and so I deal with bankruptcy attorneys or --
10 yeah.

11 MS. JOBE: Okay, fair enough.

12 PROSPECTIVE JUROR NO. 373: A couple different
13 attorneys.

14 MS. JOBE: Do you think your brother was treated
15 fairly?

16 PROSPECTIVE JUROR NO. 373: Yes.

17 MS. JOBE: And as far as you said you have a degree
18 in business administration and finance?

19 PROSPECTIVE JUROR NO. 373: I have an associate's
20 in business.

21 MS. JOBE: Okay.

22 PROSPECTIVE JUROR NO. 373: And I'm working on my
23 bachelor's of science in business administration, finance,
24 yeah.

25 MS. JOBE: I see. Sorry, I got that mixed up.

1 PROSPECTIVE JUROR NO. 373: It's okay.

2 MS. JOBE: So are you kind of a numbers guy, the

3 PROSPECTIVE JUROR NO. 373: It's part of it, yea

4 but it's just business in general, yeah.

5 MS. JOBE: Okay. How would you say -- some peop

6 are like concrete people. They have to have everything la

7 out for them in order to reach a decision. Other people a

8 -- you can have part A, part B, and I can kind of figure o

9 where part C is going. Which kind of a thinker are you?

10 PROSPECTIVE JUROR NO. 373: Can you repeat that

11 more time, I'm sorry.

12 MS. JOBE: Sure. Like accountants, right? Can't

13 have fuzzy math or you might go to jail, fair?

14 PROSPECTIVE JUROR NO. 373: Yeah.

15 MS. JOBE: So you have to have all the numbers ha

16 to add up and all the numbers have to be there and you have

17 to be very detail oriented and have to see everything for

18 yourself, right?

19 PROSPECTIVE JUROR NO. 373: Yes.

20 MS. JOBE: Okay. And then there -- I guess, whil

21 we're on the topic of college -- then there are the

22 humanities majors who are like communications, sociology --

23 PROSPECTIVE JUROR NO. 373: Um-h'm.

24 MS. JOBE: -- that kind of stuff and they just kin

25 of have some information and piece things together and reach

1 their conclusion. It's not as concrete. Do you understand
2 the difference?

3 PROSPECTIVE JUROR NO. 373: Yeah, I mean, I -- I
4 try not to put things like black or white, you know, and just
5 overall try to look at both sides of things.

6 MS. JOBE: Okay. Do you tend to over analyze
7 things or you just kind of take them as they come?

8 PROSPECTIVE JUROR NO. 373: Sometimes, yeah, over
9 analyze. Yes.

10 MS. JOBE: What types of situations do you tend to
11 over analyze?

12 PROSPECTIVE JUROR NO. 373: The way to handle a
13 situation, I guess, when it comes to work.

14 MS. JOBE: Okay.

15 PROSPECTIVE JUROR NO. 373: We deal with
16 collections and -- and the group that I work with and so
17 there's different approaches in how we can pursue someone,
18 something like that, and so sometimes my boss gets on me and,
19 you know, you're over thinking this too much type of --

20 MS. JOBE: Um-h'm.

21 PROSPECTIVE JUROR NO. 373: -- thing. And so try
22 to keep things a little more simpler and --

23 MS. JOBE: Okay. All right. Well, thank you very
24 much. If you could pass the microphone to Mr. Cheng, please.

25 PROSPECTIVE JUROR NO. 383: Hi.

1 MS. JOBE: Hi. Name and badge number, please?

2 PROSPECTIVE JUROR NO. 383: Oh, I'm sorry, I'm
3 Donny. I'm Donny Cheng. My badge number is 383.

4 MS. JOBE: Okay. You said you have a child who has
5 to be picked up; is that correct? You have a child who has
6 to be picked up from school?

7 PROSPECTIVE JUROR NO. 383: Yes, ma'am.

8 MS. JOBE: Are you able to make arrangements for
9 the rest of the week if you are selected to be on the jury?

10 PROSPECTIVE JUROR NO. 383: Definitely not today.

11 MS. JOBE: What -- what do you mean not today? Is
12 your kid going to be stranded today?

13 THE COURT: It's 3:15.

14 MS. JOBE: I'm sorry?

15 THE COURT: Who picked your -- who's picking your
16 child up today?

17 PROSPECTIVE JUROR NO. 383: I just texted my
18 neighbor to do it.

19 MS. JOBE: Okay. It sounds like you weren't
20 planning on being here all day, right?

21 PROSPECTIVE JUROR NO. 383: No, Ma'am.

22 MS. JOBE: Okay. This is the part of trials you
23 never see on TV, right?

24 PROSPECTIVE JUROR NO. 383: Nope.

25 MS. JOBE: Because this is kind of the boring part

1 PROSPECTIVE JUROR NO. 383: Well, first of all, we
2 will walk up and see who's -- who's the customer that we been
3 dealing with. Let's say we -- do we know them as a royalty
4 customer? And we also -- to me, I also see who's the dealer
5 with? Who's the dealer there --

6 MS. JOBE: Okay.

7 PROSPECTIVE JUROR NO. 383: -- dealing with the
8 customer.

9 MS. JOBE: So who the people are --

10 PROSPECTIVE JUROR NO. 383: So --

11 MS. JOBE: -- kind of depends on what you do?

12 PROSPECTIVE JUROR NO. 383: Right. Kind of depend
13 on whether it was -- maybe we'll have some dealer who was a
14 troublemaker and they were never politely to the guest as to
15 how they create with the argument or something, whether it
16 was so ever for -- normally, we won't see that first and then
17 we kind of find out what happened to, you know, whatever
18 happens.

19 MS. JOBE: Okay. All right. And are there ever
20 times where either a dealer or a player gives a story or
21 makes a complaint and you're like oh, that just doesn't make
22 sense?

23 PROSPECTIVE JUROR NO. 383: We do have a lot every
24 day of different type.

25 MS. JOBE: And what do you do when you get a

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DONOVINE MATHEWS,)
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 Appellant,)
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 vi.)
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 THE STATE OF NEVADA,)
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 Respondent.)

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