

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Electronically Filed
Aug 08 2018 03:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME V PAGES 904-1153

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

ADAM LAXALT
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

INDEX
KEANDRE VALENTINE
Case No. 74468

PAGE NO.

1		
2		
3	Amended Jury List filed 07/28/17	657
4	Amended Notice of Department Reassignment filed 09/20/17	825-826
5	Court's Exhibit 1 dated 07/24/17.....	3064-3080
6	Court's Exhibit 2 dated 07/24/17.....	3081
7	Court's Exhibit 3	3082
8	Court's Exhibit 4	3083
9	Court's Exhibit 5	3084
10	Court's Exhibit 6 dated 07/31/17.....	3085
11	Court's Exhibit 7 dated 07/31/17.....	3086
12	Court's Exhibit 8 dated 07/31/17.....	3087
13	Court's Exhibit 9 dated 07/31/17.....	3088-3091
14	Court's Exhibit 10 dated 07/31/17.....	3092-3093
15	Court's Exhibit 11 dated 07/31/17.....	3094-3103
16	Court's Exhibit 12 dated 07/31/17.....	3104-3107
17	Court's Exhibit 13	3108
18	Court's Exhibit 14 dated 08/01/17.....	3109
19	Court's Exhibit 15 dated 08/01/17.....	3110
20	Court's Exhibit 16 dated 08/01/17.....	3111
21	Court's Exhibit 17 dated 08/01/17.....	3112
22	Court's Exhibit 18 dated 08/01/17.....	3113-3114
23	Court's Exhibit 19 dated 08/01/17.....	3115
24	Court's Exhibit 20 dated 08/01/17.....	3116
25	Court's Exhibit 21 dated 08/01/17.....	3118-3122
26	Court's Exhibit 22 dated 08/02/17.....	3123-3125
27	Court's Exhibit 23 dated 08/02/17.....	3117
28	Court's Exhibit 24	3126-3131

1	Court's Exhibit 25 dated 08/03/17.....	3132-3138
2	Court's Exhibit 26 dated 08/03/17.....	3139
3	Court's Exhibit 27 dated 08/03/17.....	3140
4	Court's Exhibit 28 dated 08/04/17.....	3141-3142
5	Court's Exhibit 29 dated 08/04/17.....	3159-3229
6	Defendant's Exhibit A dated 07/27/17	3232-3233
7	Defendant's Exhibit A dated 07/27/17	3244-3245
8	Defendant's Exhibit B dated 07/27/17	3143-3144
9	Defendant's Exhibit C dated 07/27/17	3145-3146
10	Defendant's Exhibit D dated 07/27/17	3147-3148
11	Defendant's Exhibit F dated 07/31/17.....	3149-3150
12	Defendant's Exhibit G dated 07/31/17	3151-3152
13	Defendant's Exhibit H dated 07/31/17	3153-3154
14	Defendant's Exhibit I dated 07/31/17.....	3155-3156
15	Defendant's Exhibit J dated 07/31/17	3157-3158
16	Defendant's Motion to Reconstruct the Record Date of Hrg: 07/02/18.....	3253-3310
17	Defendant's Notice of Alibi Witness filed 07/14/17	518-625
18	Defendant's Notice of Expert Witnesses filed 06/30/17	265-293
19	Defendant's Notice of Non-Opposition to State's Motion to Compel Reciprocal Discovery filed 07/17/17	641-642
20	Defendant's Notice of Witnesses filed 07/13/17	516-517
21	District Court Minutes dated 07/02/18	3252
22	District Court Minutes from 06/29/16 through 09/28/17	841-881
23	Ex Parte Motion and Order for Release of Evidence filed 12/01/17.....	837-838
24	Ex Parte Motion and Order for Release of Evidence filed 12/08/17.....	839-840
25	Judgment of Conviction filed 10/16/17	827-831
26	Jury List filed 07/25/17.....	656
27	Indictment filed 06/29/16	1-6

1	Indictment Warrant Return filed 06/30/16	7-8
2	Instructions to the Jury filed 08/04/17	770-818
3	Media Request and Order for Camera Access to Court Proceedings filed 07/11/16	114-115
4	Motion for Production of Discovery Date of Hrg: 09/01/16	185-210
5	Notice of Appeal filed 11/06/17	832-836
6	Notice of Court Exhibits Added to the Trial Record filed 07/10/18	3314-3334
7	Notice of Department Reassignment filed 09/19/17	823-824
8	Notice of Intent to Seek Punishment as a Habitual Criminal filed 01/27/17	251-252
9	Notice of Motion and Motion Outlining State's Discovery Compliance Date of Hrg: 02/21/17	253-261
10	Notice of Motion and Motion to Compel Reciprocal Discovery Procedural History Date of Hrg: 08/03/17	635-640
11	Notice of Motion and Motion to Exclude Eyewitness Expert Testimony Date of Hrg: 07/20/17	294-331
12	Notice of Motion and Motion to Strike Alibi Notice Date of Hrg: 08/03/17	643-647
13	Notice of Motion and Motion to Strike Defendant's Supplemental Notice of Expert Witnesses Date of Hrg: 08/03/17	626-630
14	Notice of Rebuttal Alibi Witness filed 07/24/17	654-655
15	Notice of Witnesses and/or Expert Witnesses filed 07/28/16	116-119
16	Opposition to State's Motion to Exclude Eye-Witness Expert Testimony filed 07/19/17	332-515
17	Opposition to State's Motion to Strike Alibi Notice filed 07/18/17	648-653
18	Opposition to State's Motion to Strike Defendant's Supplemental Notice of Expert Witnesses Date of Hrg: 07/20/17	631-634
19	Order filed 07/25/18	3311-3313
20	Proposed Exhibit K	3246-3247
21	Proposed Exhibit L	3248-3249
22	Proposed Exhibit U	3250-3251
23	Receipt of Copy: List of Discovery Items	

1	Provided to Defense filed 06/06/17	262-264
2	Second Amended Jury List filed 08/03/17	769
3	Second Supplemental Notice of Witnesses and/or Expert Witnesses filed 09/20/16.....	237-242
4	State's Exhibit 13 dated 07/26/17.....	3230-3231
5	State's Exhibit 33 dated 07/26/17.....	3232-3233
6	State's Exhibit 48 dated 07/26/17.....	3343-3344
7	State's Exhibit 52 dated 07/26/17.....	3000-3001
8	State's Exhibit 52 dated 07/26/17.....	3234-3235
9	State's Exhibit 54 dated 07/26/17.....	2990-2991
10	State's Exhibit 57 dated 07/26/17.....	3236-3237
11	State's Exhibit 171 dated 07/26/17.....	3002-3014
12	State's Exhibit 172 dated 07/26/17.....	3015-3026
13	State's Exhibit 175 dated 07/22/17.....	3027-3037
14	State's Exhibit 182 dated 07/28/17.....	3038-3047
15	State's Exhibit 183 dated 07/31/17.....	3335-3336
16	State's Exhibit 184 dated 07/31/17.....	3337-3339
17	State's Exhibit 185 dated 07/31/17.....	3340-3342
18	State's Exhibit 186 dated 07/31/17.....	3048-3049
19	State's Exhibit 187 dated 07/31/17.....	3050-3051
20	State's Exhibit 188 dated 07/31/17.....	3238-3239
21	State's Exhibit 192 dated 08/01/17.....	3240-3242
22	State's Exhibit 193 dated 07/31/17.....	3055-3057
23	State's Exhibit 194 dated 07/31/17.....	3052-3054
24	State's Exhibit 195 dated 07/31/17.....	3058-3063
25	State's Exhibit 196 dated 08/02/17.....	3242-3243
26	State's Exhibit 197 dated 08/02/17.....	2992-2993
27	State's Exhibit 198 dated 08/02/17.....	2994-2995
28		

1	State's Exhibit 199 dated 08/02/17.....	2996-2997
2	State's Exhibit 200 dated 08/02/17.....	2998-2999
3	State's Motion in Limine to limit Testimony of Dr. Steven Smith	
4	Date of Hrg: 07/31/17.....	658-768
5	State's Response to Defendant's Motion for Production of Discovery	
6	Date of Hrg: 09/01/16.....	211-236
7	Supplemental Notice of Witnesses and/or	
8	Expert Witnesses filed 08/12/16.....	120-184
9	Third Supplemental Notice of Witnesses	
10	and/or Expert Witnesses filed 01/26/17.....	243-250
11	Verdict filed 08/04/17.....	819-822

TRANSCRIPTS

12	Recorder's Transcript JURY TRIAL DAY 1	
13	Date of Hrg: 07/24/17.....	937-1238
14	Recorder's Transcript JURY TRIAL DAY 2	
15	Date of Hrg: 07/25/17.....	1239-1426
16	Recorder's Transcript JURY TRIAL DAY 3	
17	Date of Hrg: 07/26/17.....	1427-1625
18	Recorder's Transcript JURY TRIAL DAY 4	
19	Date of Hrg: 07/27/17.....	1626-1799
20	Recorder's Transcript JURY TRIAL DAY 5	
21	Date of Hrg: 07/28/17.....	1800-2021
22	Recorder's Transcript JURY TRIAL DAY 6	
23	Date of Hrg: 07/31/17.....	2022-2341
24	Recorder's Transcript JURY TRIAL DAY 7	
25	Date of Hrg: 08/01/17.....	2341-2529
26	Recorder's Transcript JURY TRIAL DAY 8	
27	Date of Hrg: 08/02/17.....	2530-2812
28	Recorder's Transcript JURY TRIAL DAY 9	
	Date of Hrg: 08/03/17.....	2813-2947

1	Recorder's Transcript	
2	JURY TRIAL DAY 10	
	Date of Hrg: 08/04/17	2948-2957
3	Recorder's Transcript	
4	Calendar Call	
	Date of Hrg: 02/16/17	894-898
5	Recorder's Transcript	
6	Calendar Call and Defendant's Motion for Production of Discovery	
	Date of Hrg: 09/01/16	890-893
7	Recorder's Transcript	
8	Defendant's Motion for Setting of Reasonable Bail	
	Date of Hrg: 10/04/16	893a-893f
9	Recorder's Transcript	
10	Defendant's Request Re: Stipulated Status Check-Trial Setting	
	Date of Hrg: 06/06/17	904-911
11	Recorder's Transcript	
12	Grand Jury Return	
	Date of Hrg: 06/29/16	882-884
13	Recorder's Transcript	
14	Initial Arraignment and Indictment Warrant Return	
	Date of Hrg: 07/07/16	885-889
15	Recorder's Transcript	
16	Motion Outlining State's Discovery Compliance and Status Check: Trial Setting	
	Date of Hrg: 02/21/17	899-903
17	Recorder's Transcript	
18	Sentencing	
	Date of Hrg: 09/28/17	2958-2989
19	Recorder's Transcript	
20	State's Motion to Exclude Eyewitness Expert Testimony and Calendar Call	
	Date of Hrg: 07/20/17	912-921
21	Recorder's Transcript	
22	State's Motion to Exclude Eyewitness Expert Testimony,	
23	State's Motion to Strike Alibi Notice, and State's Motion to Strike	
	Defendant's Supplemental Notice of Expert Witnesses	
	Date of Hrg: 07/24/17	929-936
24	Recorder's Transcript	
25	State's Motion to Exclude Eyewitness Expert Testimony;	
26	State's Motion to Strike Alibi Notice and State's Motion to Strike	
	Defendant's Supplemental Notice of Expert Witnesses; Overflow	
	Date of Hrg: 07/21/17	922-928
27	Reporter's Transcript	
28	Grand Jury	
	Date of Hrg: 06/28/16	9-113



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

KEANDRE VALENTINE,

Defendant.

CASE NO. C-16-316081-1

DEPT. NO. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

TUESDAY, JUNE 6, 2017

RECORDER'S TRANSCRIPT OF PROCEEDINGS

DEFENDANT'S REQUEST RE: STIPULATED STATUS CHECK - TRIAL SETTING

APPEARANCES:

For the State:

AGNES M. LEXIS
Chief Deputy District Attorney
KAREN MISHLER
Deputy District Attorney

For the Defendant:

TEGAN C. MACHNICH
Deputy Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, JUNE 6, 2017, 9:42 A.M.

2 * * * * *

3 MS. MACHNICH: Rest of the cases that I have at this point, and
4 Ms. Lexis is here so perhaps we could deal with Mr. Valentine's case?

5 THE COURT: Okay.

6 MS. MACHNICH: And then thereafter we can call Mr. Fields.

7 MS. LEXIS: Your Honor, may I approach with another receipt of copy?

8 THE COURT: Sure.

9 MS. LEXIS: To be filed today, thank you.

10 MS. MACHNICH: And, Your Honor, I did receive the documents that are
11 stated in the R.O.C., but as I wrote on there with the caveat that many of the
12 documents are on a disk and while there is a print-out of what's on the disk, I
13 have not verified that the documents are functional that are on the disk.

14 THE COURT: Okay.

15 MS. MACHNICH: And the last time we got a copy of the statement, and
16 I realize that this is not the State's fault, but the copy of my client's interview
17 was not functional. So I'm hoping that this time it is, but I just -- I wrote that
18 on the R.O.C. just because I received them today in court and --

19 THE COURT: Okay.

20 MS. MACHNICH: -- I can't open a disk without a computer.

21 MS. LEXIS: I think I.T. has to help and also maybe a laptop because
22 there's a smart client player, it's a video and it's a certain program that needs
23 to be used so you need to launch the player and it will open.

24 THE COURT: Why don't -- just --

25 MS. MACHNICH: And I did, it just -- it locked me out and --

1 THE COURT: E-mail Tegan and let her know what the program is you-all
2 use in your office to open these things up and then maybe they can just make
3 sure they get the same thing downloaded so they can --

4 MS. LEXIS: It's actually on the disk.

5 MS. MACHNICH: It's on there.

6 MS. LEXIS: The actual player's also on the disk, Your Honor.

7 THE COURT: Okay. Okay.

8 MS. MACHNICH: It was on in the last one as well, it just -- it required an
9 authentication password and then locked me out and I tried to click on the files
10 to back-door and it didn't work, so we'll -- hopefully it'll work.

11 THE COURT: All right.

12 MS. MACHNICH: I have no reason to believe it won't, but --

13 THE COURT: All right. So we are on at the defense request regarding
14 status checks for trial setting.

15 MS. MACHNICH: Yes.

16 THE COURT: On Mr. Valentine as well as Mr. Fields.

17 MS. MACHNICH: Your Honor, I had approached on this the other day
18 with Mr. Rogan from the D.A.'s office, just to discuss with Your Honor how to
19 deal best with the situation, I had two trials that are currently no-offered set on
20 the same date, they were set while I was out.

21 THE COURT: Correct.

22 MS. MACHNICH: And I don't want to put the department or my clients in
23 a position where I can't be ready on both trials at the same time because I want
24 to be able to give my full attention to my clients. So if we could reset, I -- I
25 don't have a huge preference. We can move, depending on Ms. Lexis's

1 schedule, we can move Mr. Valentine up a few weeks, if that would work. But
2 I don't know what her trial schedule is like.

3 THE COURT: Okay.

4 MS. LEXIS: Your Honor, I would prefer to keep Mr. Valentine on the 24th
5 only because I have --

6 THE COURT: Does Jeff have Fields?

7 MS. LEXIS: Jeff is handling Fields.

8 THE COURT: Okay.

9 MS. LEXIS: And my understanding was the Court was inclined to keep
10 Mr. Valentine on the 24th and perhaps move Fields?

11 THE COURT: Well, I don't know that I expressed any real inclination, all I
12 said was I was trying to help Tegan when the cases came on before and I told
13 your office, look, why don't you find somebody else to help her out with these
14 or at least make sure somebody's still working them up while she's out.
15 They -- your office never listens to me when I say try and find another attorney
16 to help somebody out. They're always -- Phil is very strict on, nope, it's their
17 case.

18 MS. MACHNICH: Yeah.

19 THE COURT: And that's how it has to be.

20 MS. MACHNICH: Vertical representation.

21 THE COURT: So, I get it. I will tell you both that I start what'll probably
22 be a three- to four-week capital murder trial on the 24th. So, I mean, I'm happy
23 to find somebody else if this is a non-overflow eligible case, otherwise it'll
24 probably go to overflow.

25 MS. LEXIS: Depending on the court, of course, in overflow, we could get

1 it done in a week.

2 MS. MACHNICH: It -- it would -- it would be close just because of the
3 number of witnesses that are necessary to the case for the State and then if
4 the defense has witnesses.

5 THE COURT: Okay.

6 MS. MACHNICH: It would be a close call. I think that Ms. Lexis, it
7 sounds like both of us would agree that it's probably like a five-to-seven day
8 trial depending on the department that tries it.

9 THE COURT: Okay.

10 MS. MACHNICH: And so, again, I'm submitting to Your Honor on the
11 trial setting.

12 THE COURT: Here's what we'll do, we'll leave it on -- we'll leave this
13 case in place and then when Mr. Rogan gets here, since he's not here yet, we'll
14 just move his case.

15 MS. MISHLER: And, Your Honor, I actually have the file for Fields, so we
16 can -- we can call that one.

17 THE COURT: Okay. Does he have any notes in there about preference or
18 anything like that?

19 MS. MISHLER: No, Your Honor.

20 MS. MACHNICH: I can tell you that --

21 MS. MISHLER: The Court's preference.

22 MS. MACHNICH: -- I was actually told by Mr. Kochevar that the file was
23 likely going to get sent to Ms. Cannizzaro when she returned from the
24 legislature.

25 THE COURT: Okay.

1 MS. MACHNICH: I don't know if things have changed since then, I don't
2 want to contradict them, but that is what I had heard from Mr. Kochevar last
3 time. I had e-mailed about who that belonged to since it was Tierra's case.

4 THE COURT: Okay. Well, I tell you what, so Jeff's not coming down,
5 Karen, is that correct?

6 MS. MISHLER: Correct. I have -- I have the file.

7 THE COURT: And it looks like we may have a new attorney, so it's kind
8 of hard to, essentially move our date today until we figure out who's going to
9 have it, so.

10 MS. MACHNICH: If we can move it and then if they have an issue with
11 it -- with the date, they can certainly put it back on. I -- because right now
12 they're both set the same date.

13 THE COURT: Right, no, no, no, understood. How much time do you
14 need either before or after if you're going to move Fields right now?

15 MS. MACHNICH: I would prefer, if we were going to move it before,
16 which I absolutely can do if that's what Your Honor would like, I prefer to move
17 it to the 10th.

18 THE COURT: No, I mean, I -- it doesn't matter to me either way, we can
19 move it beyond.

20 MS. MACHNICH: I prefer to move it to the 10th because I guess then it
21 would go into, what, the September stack?

22 THE COURT: Yeah. If it doesn't -- if --

23 MS. MACHNICH: Mr. Fields, will you --

24 THE COURT: If we have to continue it out, then it goes to September. If
25 we move it back, then you can move back to the 10th, I mean, that's fine with

1 me.

2 MS. MACHNICH: Do you have a preference between July and
3 September?

4 DEFENDANT FIELDS: Whatever's best for you.

5 MS. MACHNICH: I mean, how does your date on the 10th -- I would
6 prefer not to set it the 17th so that it backs up to Mr. Valentine.

7 THE COURT: The only hesitancy I have about the 10th is starting July 1st
8 when all those cases shift, we haven't decided how we're distributing them yet
9 and there's 23 murder trials set in July that the four of us are going to be
10 stacking up --

11 MS. MACHNICH: Okay.

12 THE COURT: -- across our calendars. So if I have a murder trial that has
13 to take priority over anything else pursuant to the way Judge Gonzalez has
14 adopted this whole thing.

15 MS. MACHNICH: Let's do the 10th and if Your Honor needs to bump us,
16 it's understandable.

17 THE COURT: I mean, and the same thing, I can find another court to take
18 it if everybody else is ready. I'm sure that's not going to be a problem, so.

19 MS. MACHNICH: Okay. Let's do the 10th unless the State can't.

20 THE COURT: All right, we will -- we'll back it up to Mr. Fields' matter,
21 which is page 10, 318767, we're going to vacate the 24th and we'll back that
22 matter up to July 10th for trial at 10:00 a.m. with calendar call July 6th at 9:00
23 a.m.

24 MS. MACHNICH: Thank you, Your Honor.

25 THE COURT: All right. And then we'll leave Mr. Valentine as set for

1 July 24th.

2 PROCEEDING CONCLUDED AT 9:49 A.M.

3 * * * * *

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

23 

24 SARA RICHARDSON
25 Court Recorder/Transcriber



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

KEANDRE VALENTINE,

Defendant.

CASE NO. C-16-316081-1

DEPT. NO. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

THURSDAY, JULY 20, 2017

RECORDER'S TRANSCRIPT OF PROCEEDINGS
STATE'S MOTION TO EXCLUDE EYEWITNESS EXPERT TESTIMONY AND
CALENDAR CALL

APPEARANCES:

For the State:

AGNES M. LEXIS
JEFFREY S. ROGAN
Chief Deputies District Attorney
MICHAEL DICKERSON
Deputy District Attorney

For the Defendant:

TEGAN C. MACHNICH
TYLER GASTON
JUSTIN R. GLASGOW
Deputies Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, JULY 20, 2017, 10:00 A.M.

2 * * * * *

3 THE COURT: State of Nevada versus Keandre Valentine, 316081,
4 present in custody. This is on for calendar call. There is a recently filed State's
5 motion that has not been -- an opposition hasn't been filed yet as well.

6 MR. GLASGOW: Your Honor, the only -- I'm sorry.

7 MR. ROGAN: That's the case then -- can we trail we it for the trial
8 deputy please?

9 THE COURT: Oh, okay.

10 MR. GLASGOW: The only reason I'm calling it right now is because it's
11 Ms. Machnich's case, she's in North Las Vegas, and she's coming over.

12 THE COURT: Okay.

13 MR. GLASGOW: When she's done. So he was transported over for the
14 9:00 o'clock calendar instead of 10:30, so I was just asking that he be passed
15 over.

16 THE COURT: All right. We'll -- we'll try and keep him here or bring him
17 back with the other inmates.

18 MR. GLASGOW: Okay.

19 MR. ROGAN: Okay.

20 THE COURT: Thank you.

21 [Proceeding trailed until 10:27 a.m.]

22 THE COURT: Mr. Valentine.

23 MR. GLASGOW: I'm sorry?

24 THE COURT: Mr. Valentine?

25 MR. GLASGOW: I just wanted to state that Ms. Machnich is coming in

1 from North Las Vegas.

2 THE COURT: Okay.

3 MR. GLASGOW: She just texted me that she's on her way.

4 THE COURT: Okay.

5 MR. GLASGOW: I was just letting you know that he's here for this
6 calendar, but we're asking he be on the 10:15, 10:30 calendar.

7 THE COURT: How many guys do I got coming back then? 15?

8 THE CORRECTIONS OFFICER: 16.

9 THE COURT: 16? All right. We're going to go ahead and take a recess.
10 You can take everybody, officer, and if you'll just bring back with the other
11 crew, if you can bring me back, please, Mr. Prunier on page 17, Mr. Valentine,
12 and Mr. Washington on page 14. Okay? Thank you.

13 [Proceeding trailed until 12:05 p.m.]

14 THE COURT: Mr. Valentine is on page --

15 MS. MACHNICH: Page 11.

16 THE COURT: -- 11, thank you, 316081, present in custody. This is on
17 for calendar call. There's also a State's motion pending that has not yet been a
18 written opposition filed. So what's going on?

19 MS. MACHNICH: Yes, there has. I filed my written opposition and
20 e-mailed it to your department yesterday morning. It was filed the same day
21 and the filing did go through.

22 THE COURT: I did not get that. I have the motion, but I didn't get an
23 opposition.

24 MS. MACHNICH: My opposition to the motion to strike the ID expert?

25 THE COURT: Yeah.

1 MS. MACHNICH: Yes.

2 THE COURT: I have a motion to exclude eyewitness expert.

3 MS. MACHNICH: Yes. I have -- I filed an opposition to that yesterday.

4 We also e-mailed it to your department --

5 THE COURT: Did you say "ID" or "eyewitness"?

6 MS. MACHNICH: Honestly, I don't know.

7 MS. LEXIS: Eyewitness I think.

8 MS. MACHNICH: Here, we're --

9 THE COURT: Well, there was apparently a bunch of motions that were
10 attempted to be filed yesterday that are now on calendar for August 3rd. I don't
11 know if those are --

12 MS. MACHNICH: I -- so -- so I have both received and responded to
13 every motion the State has filed.

14 THE COURT: Okay.

15 MS. MACHNICH: The one that is properly calendared for today is the
16 motion to exclude eyewitness expert testimony filed by the State.

17 THE COURT: Correct. Right.

18 MS. MACHNICH: I filed an opposition to State's motion to exclude
19 eyewitness expert testimony, it was formally filed yesterday -- it was submitted
20 by my secretary at 7:25, it was e-mailed around 9:00, 9:30, I think, and then it
21 was formally -- the filing went through before -- right around 10:00 a.m.

22 MS. LEXIS: I have a copy of her opposition.

23 THE COURT: Well, you know what, I have a copy of it as well and I
24 understand what happened now.

25 Your -- your write-up got done before the opposition came in

1 because you were gone yesterday?

2 THE LAW CLERK: Yeah, and I put a sticky note on it.

3 THE COURT: Yeah, okay. So I never -- I didn't see -- I see it now, it's
4 about an inch thick?

5 MS. MACHNICH: Well, most of those are exhibits. The actual motion
6 itself is significantly or opposition is significantly shorter.

7 THE COURT: Okay.

8 MS. MACHNICH: Those are attachments.

9 THE COURT: So, well, in any event, look, I can't rule on it because I
10 haven't even read the opposition. I didn't realize that had come in, I apologize.
11 That's my fault. But what about our trial date? What's going on with our trial
12 date?

13 MS. LEXIS: State's ready.

14 THE COURT: Okay.

15 MS. MACHNICH: So here's the representations I can make, I don't know
16 what Your Honor is intending to do with the other motions that the State filed.

17 THE COURT: Okay.

18 MS. MACHNICH: The remedy for two of the three of those is a
19 continuance.

20 THE COURT: Okay.

21 MS. MACHNICH: Or just allowing it in if they feel that they're not
22 prejudiced.

23 THE COURT: Okay.

24 MS. MACHNICH: I don't know if those are going to be considered at all.
25 I can say that excluding those motions and one further representation I will

1 make, I have no legal grounds to seek a continuance at this time, so we will be
2 announcing ready.

3 THE COURT: Okay.

4 MS. MACHNICH: That being said, we have those two -- those issues that
5 the State's raised that I know are a concern.

6 THE COURT: Okay.

7 MS. MACHNICH: Additionally, my client has advised that he's attempting
8 to hire private counsel and he wanted me to make those representations to
9 Your Honor. We don't know if money has actually changed hands yet. We
10 believe it is Roy Nelson and he has been contacted by my client's mother and
11 cousin or sister or girlfriend, I -- I -- female, two females, including his mom. I,
12 again, I told the State when I learned of this, I don't believe I have legal grounds
13 to request a continuance, but I do want that put before Your Honor.

14 THE COURT: Okay. Well, and the State's ready as well?

15 MS. LEXIS: We are, Your Honor.

16 THE COURT: All right. How many witnesses? How many days,
17 et cetera?

18 MS. LEXIS: Ten to fifteen witnesses, it should, depending on whether
19 they put on their expert or an alibi witness, the State, we could get done in a
20 week depending on --

21 THE COURT: Okay.

22 MS. LEXIS: -- which department.

23 THE COURT: I'm going to send it to overflow at this point. And usually I
24 won't do that with motions pending, but I can't rule on your motions because I
25 had to take Judge Kephart's trial right now. So I gotta try and finish that one.

1 So if, I'm going to make sure that Judge Gonzalez knows that there's the
2 motions pending that need to be decided, if that department decides for
3 whatever reason to make a ruling on those motions that give either one of you
4 rise to say now we want to request a continuance, then they can rule on that
5 request as well.

6 But I'm not continuing it because, Mr. Valentine, you want to hire
7 an attorney at this point. I mean, that needs to be done way in advance of
8 trial. We don't vacate trial dates at the last second to try and get somebody
9 else involved. So absent anything related to the motions, it needs to go ahead
10 and go to trial next week.

11 MS. MACHNICH: And, Your Honor, just for clarification, will the overflow
12 judge be ruling on the motion to exclude eyewitness ID expert that --

13 THE COURT: Yep.

14 MS. MACHNICH: -- the State filed? So how about the other three things
15 that were --

16 THE COURT: Yeah, my -- what I was told this morning was that there's
17 three other motions that got filed and they're on calendar for August the 3rd, so
18 I'm going to put them all on for Monday.

19 MS. LEXIS: Thank you.

20 THE COURT: In front of whomever is going to take the case out of
21 overflow.

22 MS. MACHNICH: Here's one concern, if we can possibly put it on for
23 Friday, I have in those -- within those motions are motions to strike my expert
24 and my alibi.

25 THE COURT: Okay.

1 MS. MACHNICH: Both of those people are out of state and we're going
2 to have to arrange travel arrangements, so.

3 THE COURT: They wouldn't be coming in until later in the week anyway,
4 right?

5 MS. MACHNICH: They -- they would, but we would like to know
6 whether we're even booking it. I mean, my office is already angry that we
7 don't have travel arrangements started and in the process and I also have to
8 lock down the expert. We don't want to pay his fee until we know that he's
9 actually going to come.

10 THE COURT: I will ask Judge Gonzalez if she can take a look at them
11 and be prepared to rule on them tomorrow morning. I can't promise you that.

12 MS. MACHNICH: Okay.

13 THE COURT: It's usually going, you know, go to whomever the trial
14 judge is Monday morning. But if she can, great, if not, then we're going to
15 have to do it Monday morning.

16 MS. MACHNICH: Well, and the other issue is those will precipitate
17 potential continuances.

18 THE COURT: Okay.

19 MS. MACHNICH: So, depending on --

20 THE COURT: I'll ask her -- I'll try and get everything to her, if I can get
21 out of here because I've got to start trial in less than an hour now, so I'll ask
22 her about it. But tomorrow morning you'll be in front of Judge Gonzalez at
23 8:30 in Department 11, courtroom --

24 THE CLERK: 10C.

25 THE COURT: -- 10C.

1 MS. LEXIS: Thank you.

2 THE COURT: Okay.

3 [Colloquy between the Court and the Clerk]

4 THE COURT: All the motions, which is the motion to exclude eyewitness
5 expert as well as --

6 What are the other three motions?

7 MS. LEXIS: Motion to strike the supplemental notice of expert witness,
8 notice to strike the alibi notice, and motion to compel reciprocal discovery, but
9 there was a non-opposition filed, so that's -- that's been settled.

10 MS. MACHNICH: Yeah.

11 THE COURT: Okay. All right. So the discovery motion, we'll just grant
12 that same thing, pursuant to statute and case law for reciprocal discovery.

13 MS. MACHNICH: And we had no opposition to that.

14 THE COURT: All right, so we'll just leave the three motions on tomorrow,
15 motion to exclude eyewitness ID expert, motion to strike another expert?

16 MR. GASTON: Supplemental --

17 MS. LEXIS: Supplemental notice of expert.

18 THE COURT: Okay. Is that somebody other than the eyewitness expert?

19 MS. MACHNICH: So basically, Your Honor, what happened was we had
20 one ID expert noticed, we found out on the 14th, which is when we filed the
21 supplemental notice, that our ID expert was not available in the -- to push the
22 case forward, we noticed four other ID experts that our office has used, same
23 reasons.

24 THE COURT: Is it a different person?

25 MS. MACHNICH: It's a different human being but same content.

1 THE COURT: All right. Got it.
2 MR. GASTON: We've also -- we've also, I believe we've also --
3 THE COURT: Just trying to make sure they're not duplicate or whatever.
4 MS. MACHNICH: No, they're not duplicative.
5 THE COURT: Different people, so those three motions will be tomorrow
6 morning at 8:30 with Judge Gonzalez.
7 MS. MACHNICH: Okay. That's fine.
8 THE COURT: To hopefully be able to rule on.
9 MS. LEXIS: Thank you.
10 THE COURT: All right.
11 MS. MACHNICH: Okay.
12 THE COURT: Thanks, guys.
13 MS. MACHNICH: Thank you.

14 PROCEEDING CONCLUDED AT 12:12 P.M.

15 * * * * *

16
17
18
19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-video recording of this proceeding in the above-entitled case.

23 

24 SARA RICHARDSON
25 Court Recorder/Transcriber



1 RTRAN

2
3
4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6
7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 KEANDRE VALENTINE,

11 Defendant.

)
)
) CASE#: C-16-316081-1

) DEPT. XI
)
)
)
)
)
)

12
13 BEFORE THE HONORABLE ELIZABETH GONZALEZ, CHIEF DISTRICT
14 COURT JUDGE

15 FRIDAY, JULY 21, 2017

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDING**
17 **STATE'S MOTION TO EXCLUDE EYEWITNESS EXPERT TESTIMONY; STATE'S**
18 **MOTION TO STRIKE ALIBI NOTICE AND STATE'S MOTION TO STRIKE**
19 **DEFENDANT'S SUPPLEMENTAL NOTICE OF EXPERT WITNESSES;**
20 **OVERFLOW**

21 APPEARANCES:

22 For the State:

23 AGNES M. LEXUS, ESQ.
24 Chief Deputy District Attorney
25 MICHAEL DICKERSON, ESQ.
Deputy District Attorney

For the Defendant:

TEGAN C. MACHNICH, ESQ.
TYLER GASTON, ESQ.
Deputy Public Defenders

RECORDED BY: JILL HAWKINS, COURT RECORDER

1 FRIDAY, JULY 21, 2017 AT 8:35 A.M.

2
3 THE COURT: Takes me to my only other case, which is our problem case for
4 the morning, the Valentine case.

5 MS. MACHNICH: Yes, Your Honor.

6 THE COURT: Good morning.

7 MS. MACHNICH: Tegan Machnich here with Tyler Gaston, on behalf of Mr.
8 Valentine, who's present and in custody.

9 THE COURT: Good morning, Mr. Valentine. How are you?

10 THE DEFENDANT: Good, how are you?

11 THE COURT: I'm well, thank you.

12 So, since you guys aren't in my department, I can't yell at you
13 about violating my procedures that I use on motions. But I think Judge Herndon will
14 yell at you.

15 MS. MACHNICH: We've already received an email from the Judge, yes.

16 THE COURT: Your motions are not on this morning. I am not doing motions
17 on overflow; period, end of story, ever.

18 MS. MACHNICH: Okay.

19 THE COURT: Okay, so --

20 MS. MACHNICH: They're not the defense motions, so we're good.

21 THE COURT: I know, but you had oppositions. So you asked Judge
22 Herndon to put them on this morning so you could have a decision, and that doesn't
23 happen.

24 MS. MACHNICH: Okay.

25 THE COURT: Technically it's not supposed to come to overflow unless the

1 motions have already been decided. But I understand they were filed very, very
2 late, which precluded them from being filed or decided.

3 MS. LEXIS: And, Your Honor, we were not able to put ours on calendar
4 because Judge Herndon already had so many matters on calendar, so I mean --

5 THE COURT: Maybe you should have filed them earlier.

6 Anything else you want to tell me?

7 MS. MACHNICH: Nope.

8 MS. LEXIS: No.

9 THE COURT: Judge Herndon says that he would be happy to decide the
10 motions before the Judge who hears your trial starts. How many days do you really
11 think your trial is?

12 MS. LEXIS: We are at approximately 15 witnesses for us, so it depends on
13 the department, Your Honor.

14 MS. MACHNICH: And we have --

15 THE COURT: So, can we go to the hours estimate and then I can do the
16 calculation based on the chart my lovely assistant has prepared?

17 MS. LEXIS: We probably have --

18 THE COURT: Mr. Dickerson used to have to do this and Ms. Machnich too,
19 so we would have this discussion in hours instead of days usually.

20 MS. LEXIS: Yes.

21 MR. GASTON: Are you guys saying we do the trial in 20 hours?

22 MS. LEXIS: With openings and closings, probably not. More like 25, let's
23 say.

24 THE COURT: Does that include jury selection?

25 MS. MACHNICH: We always have to build a cushion.

1 MS. LEXIS: Oh --

2 MS. MACHNICH: We have about three to four hours.

3 MR. GASTON: I mean, we'll be very concise and to the point, but Mr.
4 Dickerson's very wordy, and so, you know, you can't let up on the guy. You just --

5 THE COURT: You know he was on my track.

6 MR. DICKERSON: I'm sure that's what it is.

7 THE COURT: I know that -- I know how all of you, except for you, who still
8 are pretty new --

9 MR. GASTON: I'm the wordiest of all four of us.

10 THE COURT: -- at. All right. So, if I can give you a department that starts
11 Monday at ten and then has a one o'clock start Tuesday through Thursday, and
12 what time on Friday, Dan?

13 THE JUDICIAL EXECUTIVE ASSISTANT: I believe nine.

14 THE COURT: And a nine o'clock start on Friday. Do you think you can get
15 done?

16 MS. MACHNICH: It'll be close.

17 MS. LEXIS: Agreed, That might be a little bit close.

18 THE COURT: Okay. That is the longest Judge I have available. I have one
19 Judge that's available to start at Monday at nine, but she's not available Friday.

20 THE JUDICIAL EXECUTIVE ASSISTANT: Correct.

21 THE COURT: So, that would -- and her days don't usually start till 10:30 on
22 the Tuesday, Wednesday, Thursdays.

23 MS. MACHNICH: Might we inquire who the Judges are since we've done in --

24 THE COURT: No. You may not make that inquiry, nor may you ever go ask
25 a Judge to take a case.

1 MS. MACHNICH: That's fair.

2 MR. GASTON: I think we can probably get it done.

3 MS. LEXIS: Will that -- yeah, I mean if we're pushed. We'll have to just stack
4 our witnesses.

5 THE COURT: Well, so the question is, I have one Judge who is available for
6 three days. Two Judges who are available for four days, but one of them is
7 afternoons. Four days starting at nine, but not available on Friday and 10:30 on the
8 other days. And then I have one Judge who says five days, but Dan's calculation is
9 it's not really five days. Those -- some of the starts are at one o'clock

10 MS. MACHNICH: I would think the five day Judge would probably be the
11 best bet that -- so that we're not dark if something rolls over.

12 MS. LEXIS: Agreed.

13 THE COURT: All right. So, you're going to start Monday at ten o'clock in
14 Department II, with Judge Scotti. Judge Herndon is going to decide your motions
15 Monday at nine.

16 MS. MACHNICH: Okay.

17 MS. LEXIS: Okay.

18 MR. GASTON: Thank you.

19 MS. MACHNICH: Thank you.

20 MS. LEXIS: Thank you.

21 THE COURT: Sir, has an offer been conveyed to you?

22 THE DEFENDANT: About ten months ago, something like that.

23 THE COURT: Has an offer -- is this a case where a plea was withdrawn and
24 so there's no new offer?

25 MS. MACHNICH: No, we had plea negotiations last fall, and the plea was

1 withdrawn after --

2 THE COURT: Okay.

3 MS. MACHNICH: -- it was not negotiated.

4 THE COURT: So, then there would never be a new offer, usually?

5 MS. MACHNICH: I -- that's up to the State.

6 THE COURT: Well, that's usually my experience with the State. Once you
7 get a motion to withdraw granted they don't ever negotiate with you again.

8 MR. GASTON: Not, there wasn't --

9 MS. MACHNICH: Oh, there was no motion to withdraw.

10 MR. GASTON: There was an offer made and he didn't want it and the offers
11 been withdrawn. And there hasn't been a new offer made.

12 MS. MACHNICH: Correct.

13 THE COURT: Okay. So, what was the offer that was communicated to him
14 ten months ago?

15 MS. MACHNICH: 12 to 30 years.

16 THE COURT: So, Sir, you've had an offer of 12 to 30 years. You made a
17 decision you didn't want to accept that offer and the State's not made you a new
18 offer?

19 THE DEFENDANT: Yeah.

20 THE COURT: Do you understand that?

21 THE DEFENDANT: Yeah.

22 THE COURT: Okay. Anything else?

23 MS. LEXIS: There was a counter offer. I know you like to make a record as
24 to that as well, Your Honor. There was a counter offer made and I believe it was --

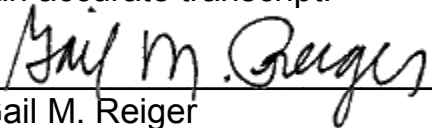
25 MS. MACHNICH: There was --

1 MS. LEXIS: -- like a 6 on the bottom.
2 MS. MACHNICH: There was a counter offer with a 6 on the bottom, 8 on the
3 bottom, and a 10 on the bottom.
4 THE COURT: And all of those were rejected by the State?
5 MS. LEXIS: Correct, Your Honor. Yes, he's a three time convicted felon.
6 THE COURT: Okay. So, Judge Herndon will see you at nine o'clock for the
7 motions. And then hopefully, you'll get those done. And then you will go to
8 Department II to Judge Scotti at ten o'clock to start trial.
9 MR. GASTON: Thank you.
10 MS. MACHNICH: Thank you.
11 MS. LEXIS: Thank you.
12 MS. MACHNICH: Might we have 30 seconds with our client?
13 THE COURT MARSHAL: Go ahead.
14 THE COURT: Sure, it's not Competency Court yet.
15 THE COURT MARSHAL: Not yet. We've got time.
16 THE COURT: I've got 20 minutes before it starts Competency Court.

17 [Proceeding concluded at 8:40 a.m.]

18 * * * * *

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

24 
25 Gail M. Reiger
Court Recorder/Transcriber



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

KEANDRE VALENTINE,

Defendant.

CASE NO. C-16-316081-1

DEPT. NO. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE

MONDAY, JULY 24, 2017

RECORDER'S TRANSCRIPT OF PROCEEDINGS

**STATE'S MOTION TO EXCLUDE EYEWITNESS EXPERT TESTIMONY, STATE'S
MOTION TO STRIKE ALIBI NOTICE, AND STATE'S MOTION TO STRIKE
DEFENDANT'S SUPPLEMENTAL NOTICE OF EXPERT WITNESS**

APPEARANCES:

For the State:

AGNES M. LEXIS
Chief Deputy District Attorney
MICHAEL DICKERSON
Deputy District Attorney

For the Defendant:

TEGAN C. MACHNICH
TYLER GASTON
Deputies Public Defender

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, JULY 24, 2017, 9:20 A.M.

2 * * * * *

3 THE COURT: That's Valentine, right?

4 MS. MACHNICH: Yes.

5 THE COURT: 316081, Mr. Valentine's present in custody. There's three
6 motions that came on late last week that I had agreed to rule on before
7 Judge Scotti takes the trial at 10:00 o'clock. So we have a State's motion to
8 exclude eyewitness expert testimony, a motion to strike the supplemental
9 notice of experts, and a motion to strike the alibi notice.

10 Ms. Lexis.

11 MS. LEXIS: Your Honor, I submit as to the eyewitness expert motion
12 unless there's an issue that the Court would like me to address specifically.

13 THE COURT: Okay.

14 MS. LEXIS: Concerning the notice of alibi, I received the defense's
15 opposition and I'll just note that I think the E.D.C.R. perhaps enlarged the time
16 allowed by the statute which was, you know, allowed pursuant to
17 N.R.S. 178.476, which allowed for the enlargement of time.

18 I will also note concerning the alibi that if the timing cited by the
19 defense would be accurate, they're basically agreeing, because we have ten
20 days from receipt of that list of alibi witnesses, we have ten days and if we do
21 the accounting or the date count according to Ms. Machnich, my supplement or
22 my notice of rebuttal witnesses for the alibi wouldn't be due until today
23 sometime.

24 THE COURT: Right.

25 MS. LEXIS: The first day of trial. I just don't think that's a common

1 sense approach particularly when this case is a year old and this is the third trial
2 setting. With that, I'll submit on that as well.

3 THE COURT: All right. I mean, if -- if I allow the alibi notice to stand, are
4 you-all still going to be prepared to go forward with trial or are you requesting a
5 continuance?

6 MS. LEXIS: We should be prepared to go forward with trial. However,
7 we will -- we do anticipate putting together a rebuttal case.

8 THE COURT: Okay.

9 MS. LEXIS: In that event. So right now, Your Honor, we have 19 --
10 Mr. Dickerson and I finished pre-trialing this weekend.

11 THE COURT: Okay.

12 MS. LEXIS: We have 19 witnesses scheduled definitely to testify in our
13 case-in-chief.

14 THE COURT: Okay.

15 MS. LEXIS: If they're allowed to present their expert witness and also
16 their alibi witness, of course, we're going to probably put on rebuttal case.

17 THE COURT: No, understood. That's okay.

18 All right. Ms. Machnich.

19 MS. MACHNICH: Your Honor, we disclosed our alibi in good faith using
20 the N.R.S. counting statute. We believe it is timely. However, further,
21 pursuant to *Founts*, when discussing the issue of notice because in the end an
22 alibi notice the issue is notice and whether the State has enough notice to
23 prepare for their case. And the *Founts* case and additional cases that have
24 been considered by the Nevada Supreme Court, generally, when you're talking
25 about late notice of an alibi you're talking about two days before trial or after

1 the State's case and in *Founts* it was disclosed two days before trial and the
2 case was reversed on appeal because the court found that that was enough
3 notice.

4 So, again, it's not -- while we believe we did follow the appropriate
5 law in disclosing the alibi witness, if Your Honor finds that we didn't, it's still an
6 issue of notice for the State and they had notice. And to go one step further,
7 when the State asked me if I would provide his phone number so that they
8 could contact him if he wished to -- wished to speak with them, I did. I actually
9 provided his phone number in California.

10 THE COURT: Okay.

11 MS. MACHNICH: So, there's nothing more I can do. I can't force my
12 witness to talk to them, nor is that appropriate. But he's free to talk with them.
13 He knows that and they have his contact number as well as the address which
14 was the initial thing that we disclosed with the notice. So we believe that it is
15 both timely and if Your Honor finds that it was not timely, it's within enough
16 time for the State to prepare its case.

17 THE COURT: Okay. Anything further?

18 MS. LEXIS: No, submit.

19 THE COURT: All right. On the motion to exclude the eyewitness expert
20 testimony, I'm going to deny that. I think there's a sufficient enough, you
21 know, legal basis to allow that type of testimony. And it's really a factual or
22 weight-based argument for the time of trial and it's going to be up to the trial
23 judge to kind of regulate how the questioning and testimony occurs so that it's
24 not something that enters into giving a specific, you know, opinion about what
25 a witness did or didn't do in this particular case, but more along the generalized

1 idea of how that testimony occurs.

2 I'll also allow, or I'm going to deny the supplemental notice, which
3 as I understand it, was just all of a sudden the original expert might be
4 unavailable so you supplemented additional experts in lieu of that person. Now
5 is that original person available now or --

6 MS. MACHNICH: No. The original person is not available. I believe we
7 mentioned this to the State late last week that the witness that is available is
8 Steven Smith and he was --

9 THE COURT: Okay.

10 MS. MACHNICH: -- noticed on our supplemental expert, it was as soon
11 as we learned, the same day we disclosed every possible ID expert, the
12 testimony and their qualifications are largely the same and they do have a copy
13 of our expert's CV.

14 THE COURT: Okay. So Mr. Smith's going to be the guy now?

15 MS. MACHNICH: Yes.

16 THE COURT: Okay.

17 MS. LEXIS: Your Honor, we have not received, however, part two of our
18 motion does ask for disclosure of the literature, articles, and research authored
19 or relied upon by the expert.

20 THE COURT: I'm going to assume the guy didn't author a report or
21 anything.

22 MS. MACHNICH: He did not. There's no report in this case. We can
23 certainly discuss with him, we have not pre-trialed him yet, we're still --

24 THE COURT: Okay.

25 MS. MACHNICH: -- working with him and arranging travel arrangements

1 because he's from Texas.

2 THE COURT: Okay.

3 MS. MACHNICH: So I -- we could certainly provide that.

4 THE COURT: As soon -- as soon as you do that, just disclose what you
5 need to statutorily and under the case law to the defense from a reciprocal
6 standpoint -- or to the State rather.

7 MS. MACHNICH: Okay.

8 THE COURT: The motion to strike alibi, look, I don't want to continue the
9 trial, I know it's been pending for a long time, I'm not going to strike the alibi. I
10 understand the argument about timeliness. My concern however, and I'm going
11 to ask you to either put it on the record now or file something, I don't think the
12 alibi notice is sufficient. I mean, to say he was in California is like saying he
13 was somewhere else in Nevada. Right? I mean, that doesn't give anybody the
14 ability to investigate what, you know, the statute and the rule talks about
15 specificity at the place where the person was not just tell us if he was in a state
16 or in another country or something, right? That doesn't really give people the
17 opportunity to investigate that. I mean, what I've always seen is an alibi notice
18 says he's at his grandmother's house in Concord, California, or something like
19 that, right, not just he's in California.

20 MR. GASTON: And, Your Honor, I can answer that. Just for now, for
21 the record, if they were wondering, he was at his -- Davion's birthday party.
22 The --

23 THE COURT: I'm sorry?

24 MR. GASTON: He was at Davion's birthday party.

25 THE COURT: That being the witness that was noticed on the alibi?

1 MR. GASTON: Correct. And that's the -- when he was being interviewed
2 by the police originally in the audio-recorded interview, the police say, hey, the
3 first robbery happened on the 26th and Keandre's like, no, I for sure didn't do,
4 like, impossible I did that one because I was at my cousin's birthday party.
5 What's that cousin's name? Davion.

6 THE COURT: And is that at that address that was listed? Is that where
7 the birthday party is? Is that the location, the place that we're talking about?

8 MS. MACHNICH: As far as we know.

9 THE COURT: Okay.

10 MS. MACHNICH: We don't have any additional information on a location
11 beyond that at this point.

12 THE COURT: Okay. All right. Well, if anything --

13 MS. LEXIS: So birthday party --

14 THE COURT: -- additional with more specificity arises as to the location, I
15 want you to turn that over to the State. And if the State has rebuttal
16 witnesses, because I know we're on the morning of trial now, then my ruling
17 would be they'll be allowed but you need to disclose them as soon as you have
18 them to the defense so they know who it is that's going to be called in rebuttal
19 because I know this is going to take some time to try out, but I just want to
20 make sure everybody kind of knows what's going on.

21 MS. MACHNICH: Okay. Thank you, Your Honor.

22 THE COURT: All right. And then I will let Judge Scotti know you guys
23 are -- be up there at 10:00 o'clock.

24 MS. MACHNICH: Okay. Thank you, Your Honor.

25 THE COURT: Thank you.

1 MS. LEXIS: Your Honor, it may go over a week. I don't want
2 Judge Scotti to think that --

3 THE COURT: No, no, no, no --

4 MS. LEXIS: -- we lied or something.

5 THE COURT: I'll let him know.

6 MS. LEXIS: You know?

7 THE COURT: I'll let him know. It's okay.

8 MS. LEXIS: Okay. Thank you.

9 MS. MACHNICH: Thank you.

10 PROCEEDING CONCLUDED AT 9:28 A.M.

11 * * * * *

12
13
14
15
16
17
18
19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-video recording of this proceeding in the above-entitled case.

23 

24 SARA RICHARDSON
25 Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
KEANDRE VALENTINE,
Defendant.

CASE NO. C-16-316081-1
DEPT. NO. II

BEFORE THE HONORABLE RICHARD SCOTTI, DISTRICT COURT JUDGE

MONDAY, JULY 24, 2017

**TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL - DAY 1**

APPEARANCES:

For the Plaintiff:

AGNES M. LEXIS, ESQ.
Chief Deputy District Attorney
MICHAEL DICKERSON, ESQ.
Deputy District Attorney

For the Defendant:

TEGAN C. MACHNICH, ESQ.
Deputy Public Defender
TYLER GASTON, ESQ.
Deputy Public Defender

RECORDED BY: DALYNE EASLEY, COURT RECORDER

1 **LAS VEGAS, NEVADA, MONDAY, JULY 24, 2017**

2 [Case called at 10:02 a.m.]

3 [Outside the presence of the prospective jury panel.]

4 THE COURT: So this is *State of Nevada vs. Keandre Valentine*,
5 C-316081.

6 Are you Mr. Valentine?

7 THE DEFENDANT: Yeah. Yes, sir.

8 THE COURT: All right. Very good. Mr. Valentine is present,
9 represented by counsel. The State is present.

10 Why don't you guys get your appearances on the record.

11 MS. LEXIS: Good morning, Your Honor, Agnes Lexis and Michael
12 Dickerson. My bar number is 11064.

13 MS. MACHNICH: 13476 for me, Your Honor.

14 THE COURT: All right. Very good.

15 MS. MACHNICH: And Your Honor, for the defense, Tegan Machnich,
16 Public Defender's Office, with Tyler Gaston. And my bar number is 11642.

17 MR. GASTON: 13488.

18 THE COURT: All right. Anything you need to put on the record before
19 we talk about some procedures?

20 MS. MACHNICH: Just procedures, actually.

21 THE COURT: Okay.

22 MS. MACHNICH: Jury selection procedures. Three of the four of us
23 have done trials here in the past. But, I mean, obviously, if Your Honor changes
24 procedure, that's fine. We just wanted to make sure that we're all on the same
25 page, that we'd be requesting two alternates, given the length of the trial, just to

1 make sure. We think that one --

2 THE COURT: Well, I usually only do one, unless it's going to go over
3 a week, unless both parties agree.

4 MR. DICKERSON: That's what we've got to address.

5 MS. LEXIS: Your Honor, I believe that we'll probably go over a week.

6 THE COURT: Okay.

7 MS. LEXIS: We have 19 witnesses as it stands right now --

8 THE COURT: Okay.

9 MS. LEXIS: -- in our case in chief.

10 THE COURT: Isn't overflow eligibility conditioned on being done in a
11 week?

12 MS. LEXIS: It is. And we let Judge Herndon know about the status of
13 our witnesses this morning at 9:00 a.m. when he heard the motions on this case.

14 THE COURT: Right.

15 MS. LEXIS: And he indicated that he would call your chambers and
16 advise you.

17 THE COURT: Well, I did get an e-mail from him. Let me check with
18 my law clerk.

19 Do we have a trial scheduled for next week already?

20 MS. LEXIS: That is our understanding, though, for overflow it should
21 be no -- no more than a week.

22 THE CLERK: No. I don't think I've gotten it.

23 THE COURT: Okay. Well, we might -- might be able to roll over to the
24 next week for a couple of days.

25 MS. LEXIS: Okay.

1 THE COURT: All right. Well, given that, then we'll have two
2 alternates. I prefer to have the alternates the last two seats, unless the parties
3 want the alternates selected using a random method, in which case we'll just roll
4 the dice. Do you guys want the last two seats?

5 MR. DICKERSON: The last two seats.

6 MS. LEXIS: The last two.

7 MS. MACHNICH: The last two seats work for the defense.

8 THE COURT: All right. I usually keep the alternates hidden from the
9 other jurors; is that acceptable?

10 MS. LEXIS: Yes, Your Honor.

11 MS. MACHNICH: Yes.

12 MR. DICKERSON: It is, Your Honor.

13 THE COURT: All right. And then everybody gets -- you get four
14 preempts plus one additional preempt for the alternates. So that's a total of five. I
15 usually allow the parties to use the five with respect to anybody in the box, unless
16 the parties want to strictly comply with the rules, in which case the alternate -- or
17 the -- the preemptory challenge for the alternate can only be used for the alternate.

18 MR. GASTON: We actually spoke before, just for the record, we
19 spoke before, me and Tegan and Agnes and Mr. Dickerson, and we've all agreed
20 to do the five, as --

21 THE COURT: Five can be used for anybody?

22 MS. LEXIS: Yes.

23 MR. DICKERSON: Correct, Your Honor.

24 THE COURT: All right. And then I'll also let everybody know that you
25 are allowed to -- to waive a preemptory challenge, and it doesn't preclude you from

1 asserting a preemptory challenge later on. All right.

2 MR. GASTON: Last question.

3 THE COURT: Go ahead.

4 MR. GASTON: Ms. Machnich and I -- we plan on splitting our voir dire.

5 THE COURT: Uh-huh.

6 MR. GASTON: We won't cover the same topics or anything.

7 THE COURT: Yeah, I allow that. That's fine. Not a problem. Just
8 don't -- as long as you don't, you know, get redundant. All right. Anything else?

9 It goes 1 through 8 in the back, then 9 through 16, 17 through 23 -- 24
10 this time. All right. Do we have two chairs in the back?

11 THE MARSHAL: I've got 24.

12 THE COURT: All right. Very good. Anything else?

13 MS. MACHNICH: No, Your Honor.

14 MS. LEXIS: No.

15 MR. GASTON: Is there sheets for the jury information? The juror
16 information? Like a packet of information about --

17 THE COURT: Well, we get that when the jurors show up.

18 MR. GASTON: Oh, that's -- that's downstairs.

19 THE COURT: Melanie, my JEA went to get the -- the jurors. All right.
20 So just be at ease for a few minutes. And I'll let you know when I see that they're
21 coming in. All right.

22 MS. MACHNICH: Thank you.

23 MS. LEXIS: Thank you, Your Honor.

24 [Pause in proceedings.]

25 MS. LEXIS: Your Honor, before the jury gets here, would we be able

1 to get kind of a rough estimate of start times so we can schedule our witnesses --

2 THE COURT: Oh, yeah.

3 MS. LEXIS: -- appropriately?

4 THE COURT: I've got the schedule right here.

5 MS. LEXIS: Thank you.

6 THE COURT: Here's my proposed schedule for the week.

7 MS. LEXIS: Okay.

8 THE COURT: Today till 5:00, tomorrow 11:00 to 5:00,
9 Wednesday 10:30 to 5:00, Thursday 11:00 to 5:00, Friday 9:00 to 5:00.

10 MS. LEXIS: Thank you.

11 THE COURT: If you need any modifications to that, let's discuss it.

12 MS. MACHNICH: 11:00 to 5:00. No, Your Honor, that's great. We
13 were actually originally told that it was 1:00 to 5:00 Tuesday through Thursday. So
14 this is more time. That's great.

15 THE COURT: Yeah, well, because I looked at my criminal docket and
16 it's not too crowded. And it looks like we can fit some of this in earlier, right?

17 THE CLERK: That's correct. It will go fast.

18 THE COURT: Oh. Well, did you want to change -- you think 11:00
19 to 5:00 will still work? Should I move some of those to 1:00 to 5:00?

20 THE CLERK: No, I think as long as [indiscernible].

21 THE COURT: All right. I was trying to, you know, push it up to give
22 you guys more time.

23 MS. MACHNICH: No, and that's great.

24 MR. DICKERSON: We appreciate that, Your Honor.

25 MS. LEXIS: We do.

1 MS. MACHNICH: We really appreciate it.

2 THE COURT: Okay. Let's try to do -- I'm going to -- you know, I'm --
3 I'm going to push everybody to criminal calendar. So let's -- let's try to do 11:00
4 to 5:00 Tuesdays and Thursdays.

5 MS. LEXIS: Okay.

6 MS. MACHNICH: Okay.

7 MR. DICKERSON: And I'll be handling those calendars, Your Honor,
8 so I'll try to make them go quick on my end.

9 THE COURT: Oh, excellent. Thank you.

10 MR. DICKERSON: Absolutely.

11 [Pause in proceedings.]

12 THE COURT: Let's all take a look and see if you recognize anybody
13 on here.

14 MS. LEXIS: Yes. Already No. 21, Badge No. 33.

15 MR. GASTON: You know that person?

16 MS. LEXIS: She is Steve Wolfson's administrative JEA.

17 THE COURT: I don't have a Badge No. 21.

18 MS. LEXIS: Oh, I'm sorry. Badge No. 33, Panel No. 21. Audrie
19 Locke.

20 THE COURT: Wolfson's JEA?

21 MS. LEXIS: Yes. Assistant.

22 THE COURT: Wolfson's assistant?

23 MS. LEXIS: Yes. So that'll probably come up.

24 THE COURT: Okay. Well, so are you bringing that up because you
25 stipulate to -- to exclude her?

1 MS. LEXIS: Probably, yes.

2 MR. GASTON: Does she like him?

3 MS. LEXIS: You know, that's a good question, Tyler. Maybe we

4 should, you know -- I'm not asking that.

5 MR. GASTON: Okay. Teasing.

6 THE COURT: I think if you have an employee that works for the law

7 enforcement agency that's prosecuting the defendant, they probably should be

8 removed from the jury.

9 MS. LEXIS: And we would have no problem with that.

10 THE COURT: Okay. So we'll go ahead and excuse Audrie

11 Locke, No. 33. We'll bring her in and excuse her --

12 MS. LEXIS: Thank you.

13 THE COURT: -- on the record.

14 MS. LEXIS: Just to make sure that's her.

15 THE COURT: Yeah. I'll make sure. Thank you for raising that.

16 MS. LEXIS: You're welcome.

17 MR. DICKERSON: Yep, that's her.

18 MS. LEXIS: That's her, right?

19 [Pause in proceedings.]

20 THE COURT: Are we almost ready, marshal?

21 THE MARSHAL: Everyone's ready, Your Honor.

22 THE COURT: We'll, let's bring them in, then, please.

23 MR. GASTON: One second, before -- last issue.

24 THE COURT: Yeah.

25 MR. GASTON: Went through the -- the race identifications.

1 THE COURT: Uh-huh.

2 MR. GASTON: Listed in here. There is a higher than normal listing of
3 other. So I think it might be better just to wait until they come in and afterwards.
4 But I do want to contemporaneously lodge and objection. We can make the record
5 later, if that please the court.

6 THE COURT: I'm sorry, to lodge an objection to the word other?

7 MR. GASTON: An objection to the panel. To the panel.

8 THE COURT: On what grounds?

9 MR. GASTON: Violating the fair cross-section of the community. So
10 I --

11 THE COURT: Does it violate it? How so?

12 MR. GASTON: In the -- well, I can -- I can make -- I can do the record
13 now, if you wish.

14 So this is going on for --

15 THE COURT: How did you get that so fast?

16 MS. LEXIS: I know.

17 MR. GASTON: Well, so -- I've looked --

18 MS. MACHNICH: We counted.

19 MR. GASTON: Yeah. There's no race identifications, how they
20 identify racially in the packet.

21 THE COURT: Right.

22 MR. GASTON: So going off of that, I counted up that, and it's --

23 THE COURT: How many people do we have?

24 MR. GASTON: There's 45 people total.

25 THE COURT: 45. Well, 44 -- well, 45, yeah.

1 MR. GASTON: I calculated three African-Americans out of the 45, and
2 five out of 45 Hispanics. And, the court's indulgence, I'll give you the exact
3 percentage of that -- what that is.

4 THE COURT: Okay.

5 MR. GASTON: Four identified as other, though, so I'm not sure what
6 that means yet, obviously, because they're not in the courtroom yet.

7 THE COURT: So we've got others, right.

8 MR. GASTON: Yeah. Because they -- that's an option you don't --

9 THE COURT: How many others, did you say?

10 MR. GASTON: I counted four.

11 MS. MACHNICH: I got four as well, yeah.

12 MR. GASTON: So we don't exactly know what that means, because
13 they're not here yet.

14 THE COURT: So what does that -- do I need to find out what they
15 are?

16 MR. GASTON: I think -- I think so. Probably. I mean, if -- if they're -- I
17 mean, I get the State will object. But I don't really know how else we can do it
18 without stats.

19 THE COURT: Well, three African-Americans, what percentage?

20 MR. GASTON: 6.7 percent. And I can go through the -- kind of the
21 legal standard here, if the court wishes.

22 THE COURT: Well, it's -- it's -- you can make whatever record you
23 want, I guess, right?

24 MR. GASTON: I can do it now or I can do it later. I just wanted to
25 lodge it contemporaneously.

1 THE COURT: Well, we should probably do it outside the presence of
2 the jury.

3 MR. GASTON: Okay. I can do it.

4 THE COURT: So this is a good time, is right now.

5 MR. GASTON: Okay. So, obviously, the right to a fair and impartial
6 jury chosen from the fair cross-section of the community is guaranteed by the
7 United States Constitution under the Fourteenth Amendment's due process and
8 equal protection clause, the Sixth Amendment's fair cross-section requirement, as
9 well as by the Nevada Constitution.

10 And during the Missouri 1979 United States Supreme Court case, they
11 established three requirements that must be met in order to establish a prima facie
12 violation of the Sixth amendment's fair cross-section requirement.

13 1. That the group alleged to be excluded is a distinctive group in the
14 community;

15 2. That the representation of this group and venires from which juries
16 are selected is not fair and reasonable in relation to the number of such persons in
17 the community;

18 3. That this underrepresentation is due to systemic exclusion of the
19 group in the jury selection process.

20 Now, unlike a challenge under the equal protection clause, this does
21 not require a showing that the selection procedure is susceptible of the abuse or
22 not race neutral. That's from *U.S. v. Rodriguez Lara*, Ninth Circuit 2005 case. And
23 I also don't have to show any racial animus on the part of the State. I don't even
24 have to show -- I mean, in this case, the defendant is African-American, but even if
25 he weren't, it wouldn't matter, it's similar to *Batson*.

1 And so in this case, first, I'm alleging that African-Americans and
2 Hispanics are excluded. Those are the two distinctive groups, so technically I'm
3 making a claim for each one. In -- I mean, just to clear up the record, *U.S. v.*
4 *Rodriguez Lara*, Ninth Circuit 2005 case held that Latinos are a distinctive group in
5 the community. *Williams v. State*, a Nevada Supreme Court case in 2006 held that
6 African-Americans are a distinctive group in the community. I don't think the
7 State's really going to object to that anyways.

8 The second prong is that, basically, there's a statistically significant
9 difference, that it's not just random variance, that they're -- that they're not
10 represented. And that's looking at this case, specifically. And this -- in the 2013
11 Clark County census, there was a population number of 1,999,371. Of
12 those, 233,371 were African-American. That's 11-1/2 percent.

13 THE COURT: So 11.5 percent is like the county -- county percentage
14 right now.

15 MR. GASTON: Right. As of -- as of 2013. But that's the closest data
16 we've got right now.

17 THE COURT: Right.

18 MR. GASTON: Latino, 608,794, which was 30 percent of the
19 population.

20 In this case, 3 of 45 are African-American, which is 6.7 percent. That's
21 half. That is statistically significant. And in Hispanics, it's even more egregious; 5
22 of 45, which is 11.1 percent. So that's even -- that's almost a third.

23 THE COURT: So the county is 11.1 percent is what it should be?

24 MR. GASTON: No. The county should be 11-1/2 percent
25 African-American.

1 THE COURT: 11.5 is what it should be for the county.
2 MR. GASTON: For African-American.
3 THE COURT: Well, no, I -- I got African-American. I thought you were
4 talking about Hispanics now.
5 MR. GASTON: Yeah. Hispanics --
6 THE COURT: Wait. You've got to slow down. You've got to take a
7 breath. Slow down.
8 MR. GASTON: I've got a memo in front of me. Sorry. My bad.
9 THE COURT: All right. Take a breath. Let me -- let me ask some
10 questions.
11 MR. GASTON: Yes, sir.
12 THE COURT: All right. What should the county percentage be for
13 Hispanics?
14 MR. GASTON: 30 percent.
15 THE COURT: 30 percent? And what is it --
16 MR. GASTON: 11.1 percent.
17 THE COURT: -- on our venire?
18 MR. GASTON: 11.1.
19 THE COURT: 11.1 percent. So that means that the absolute
20 percentage here, county minus venire, 30 minus 11.1, is basically 18.9 percent is
21 the absolute percentage?
22 MR. GASTON: Yes, sir.
23 THE COURT: All right. For African-Americans, it should be 11.5. I
24 think it's 6.7.
25 MR. GASTON: 4.8.

1 THE COURT: So that's an absolute percentage of --

2 MR. GASTON: 4.8.

3 THE COURT: -- 4.8 percent.

4 MR. GASTON: Yes, sir.

5 THE COURT: Okay. All right. I'm listening.

6 MR. GASTON: So I -- I would submit that that is statistically
7 significant, especially for Hispanics, which is only -- basically, a third of what it
8 should be. And we should be -- only be looking at this case, but anecdotally, we
9 have the same issue every single time we have the venire. They're never
10 overrepresented. They're always underrepresented. Asians and Caucasians are
11 continually overrepresented.

12 So, anyway, I do think I've met Prong 2, just from a number analysis
13 on that point.

14 THE COURT: Well, so let's look at this. Give me a minute. So I'm --
15 I've got little formula right here --

16 MR. GASTON: Yes, sir.

17 THE COURT: -- that -- that I apply. So absolute percentage, 4.8
18 divided by county is 11.5. That is -- wait.

19 Will you do the math for me? What's 4.8 divided by 11.5?

20 MR. GASTON: That would be 41.73 percent.

21 THE COURT: 41 point what?

22 THE CLERK: 7.

23 THE COURT: Point 7. So it's 41.7 percent. All right. And that's -- all
24 right. I mean, there's a general presumption that the venire does not represent a
25 fair cross-section of the community if the comparative percentage is more than 50

1 percent.

2 MR. GASTON: Yes, sir.

3 THE COURT: In this case, we're close to that, 41.7 percent. It's
4 based on a footnote in the --

5 MR. GASTON: Yes, sir.

6 THE COURT: -- I think it's the *Williams* case. But anyway, so let -- let
7 me look at Hispanics.

8 You can sit down for a second. I will give you a chance to speak.

9 MS. LEXIS: Okay. Thank you.

10 THE COURT: So then, let me look at the Hispanics is 18.9 percent
11 divided by 30 percent, which gives us what?

12 THE CLERK: 63.

13 THE COURT: 63 percent. So that's -- that's higher than 50 percent.
14 So that's more troubling. All right.

15 And what about -- so that's Hispanics. What about Asians, is there --
16 do you think there's a problem there?

17 MR. GASTON: It's actually the opposite. They're continually
18 overrepresented.

19 THE COURT: Okay.

20 MR. GASTON: And I'm not --

21 THE COURT: Asians are overrepresented. All right.

22 MR. GASTON: I'll -- I'll get to the point as why -- when I get Prong 3.

23 THE COURT: So get to the point.

24 MR. GASTON: Prong -- Prong 3 is that we have to show it's due to
25 systematic exclusion.

1 THE COURT: Well, systematic exclusion is the -- is the ultimate test.

2 MR. GASTON: Right. And I usually fail on the -- also, just --

3 THE COURT: Hang on.

4 MR. GASTON: -- I mean, first, systematic exclusion doesn't mean
5 they're doing it on purpose. It just means because of the system, it's been
6 excluded as a result of the system that we have currently set up. And so that
7 makes sense.

8 It's based on socioeconomic status. That's what's being excluded.
9 African-Americans and Hispanics have lower socioeconomic status than
10 Caucasians and Asians on average, which is why Caucasians and Asians are
11 continually overrepresented, Hispanics and African-Americans are not.

12 Now, when I've got to this point in the past, I've always kind of butt my
13 head against -- it's like I'm butting my head against a wall. I don't really know how
14 to prove systematic exclusion to a point that the court would be happy. I've
15 recently think I've answered that question.

16 There's a couple different ways I could do that. I mean, on the base
17 level is anecdotally 20-some trials. I've now made this objection in about 15 of
18 them. Your Honor has seen this objection by multiple attorneys. Your Honor has
19 seen multiple panels.

20 But anecdotal is obviously not the most powerful kind of persuasion,
21 and it's also not evidence in the record, either.

22 Secondly we can do what other people have seen. There's
23 newspaper reviews have prior newspapers -- in the *Sun* and other articles have
24 discussed the systematic exclusion. 2005, the Las Vegas *Sun* published
25 numerous articles questioning the process. One mentioned a 1993 report by the

1 Nevada Appellate and Postconviction Project. And then there's some more.

2 But, of course, the way we picked jurors changed in 2007, so there's a
3 problem somewhat relying on newspaper articles from over a decade or other 20
4 years ago to show systematic exclusion.

5 Then I tried, like, a logic argument on -- on Level 3. There's --
6 typically, when the jury commissioner testifies -- and just for the record, if the
7 court's going to deny my motion here based on lack of good argument on Prong 3,
8 I would ask for a hearing with the jury commissioner, and then I have the
9 opportunity to provide my own expert witnesses, just so I formally requested that.

10 But I -- generally, in the past, when the jury commissioner testifies, I
11 think there's two, and now three ways that they get candidates for the jury pool.
12 There's utility records, DMV records, and I think they've now used voting records --
13 or they're about to use voting records, one or the other. So then I try to break that
14 down logically. Utility records, well, we have a problem with utility records. You
15 can see why the socioeconomic status breakdown might be an issue, because
16 utility records are, what, by house? More socioeconomic status, share -- of people
17 of lower economic status house share, share residences.

18 Suburban upper class white family has one family per household.
19 Poor Latino has 10 people per the house. And so you can see how utilities might
20 break down. DMVs, well, it gets a little tougher to make that same kind of logic
21 argument, and you can see the issue. I argue that it's the same -- same argument,
22 but it kind of breaks down.

23 With voting records, I don't really -- I think my argument kind of goes
24 out the window on that front.

25 So this is the best I've done up to now.

1 THE COURT: Uh-huh.

2 MR. GASTON: And I can -- like, it seems that everybody agrees
3 there's an issue; everybody agrees they're being underrepresented, but I don't
4 really show how it's part of the system. And I have two answers.

5 In my most recent case, Judge Johnson proposed an idea, and it
6 seems that it could be right. He thinks that perhaps everyone is getting the right
7 jury summons, but poor people just aren't responding, perhaps.

8 And we don't enforce it. I don't know when jury service became
9 voluntary, and so in that case, I argued that it should be compulsory. If they're not
10 responding, they should be arrested. And he said, do you really want to go out
11 and arrest all these people? And if they're depriving my client of a right to a fair
12 trial, yes, I do. But we don't know if that's what's really happening.

13 In that case, I asked for the data from the summonses that went out for
14 this Monday jury service pool, and I wanted to see who responded, who didn't, or
15 at a minimum, the races of the people who responded and who didn't. He denied
16 that, seemingly on the basis that he didn't think my office would pay for an expert if
17 we got that jury data, which seems wrong. That case is up on appeal.

18 But if that is a possible explanation, and it can be, I'm asking the court
19 to order the jury commissioner, because they won't respond to anything if it's not a
20 court order, to provide data of the summonses that went out. And maybe how --
21 maybe 99 percent of the people responded to the jury summons and my argument
22 doesn't hold any water. But maybe only 70 percent did, and all the ones that didn't
23 are African-Americans and Hispanics. And then the -- the court and the judicial
24 system, the law enforcement system's failure to enforce compulsory jury service is
25 the issue. And that's the systematic problem.

1 So that could be the answer. We don't know that without more data.
2 So I'd ask the court to order the jury commissioner to give that extra data.

3 And then I think hitting the nail on the head recently, I -- it was told to
4 me that Sharon Dickinson in our office, in one of these hearings where the jury
5 commissioner testifies, learned something very interesting. And this makes a ton
6 of sense. And I think, taking 10 steps forward, I can get past the wall.

7 Apparently the way we send out jury summonses is an equal number
8 to each ZIP code. That's wrong. That would amount -- that would explain
9 everything. The other arguments are potential arguments with some flaws. This
10 explains everything. If that's what's really happening and we're sending out the
11 equal number of jury summons to every ZIP code, well, every ZIP code doesn't
12 represent an equal percentage of the population of Clark County. So you have
13 rich Summerlin, you have one out of three people getting a jury commons; and
14 poor -- wherever the poor Vegas is, is getting one out of 10 people, one out of 15
15 people.

16 THE COURT: I've -- I've heard Ms. Witt describe the process several
17 times, and that has never been explained as the method by which it's done.

18 MR. GASTON: Kind of blew my mind, but I heard --

19 THE COURT: So I don't know where you're getting that information on
20 that.

21 MR. GASTON: I'm getting it -- told to me from other attorneys in my
22 office.

23 THE COURT: Okay.

24 MR. GASTON: -- about what happened in a recent time they testified
25 to.

1 THE COURT: Yeah.

2 MR. GASTON: If I am incorrect, then I'm -- then I'm incorrect. But if
3 I'm right, then that is the systematic exclusion. Because what should be
4 happening is people should just be -- if you want to split it up by ZIP code, then it
5 should be by what percentage that ZIP code population is. If this ZIP code
6 is 20 percent of the population of Clark County, they should get 20 percent of the
7 jury summonses. If you don't want to split it up by ZIP code and you just want to
8 do random of the whole whatever-million people pool is -- is in the jury pool, that
9 would make a lot of sense to me, too.

10 But if it's possible that the jury commissioner is actually doing it this
11 way or abdicating her responsibilities as the person who is supposed to make
12 these decisions and allowing a third party to do it this way, then that is the issue,
13 that's the concern, and that would make my point.

14 So I do believe I have a good faith basis based on, you know, being
15 told this is how it works in a recent hearing from other attorneys in my office to
16 potentially think that this is how it's done.

17 So again, I think this makes another issue for requesting a hearing with
18 the jury commissioner. Because if it is -- if it is actually how it's being done, then I
19 think I have my answer right there in a pretty little bow. If it's not, well, then, it's
20 probably some more subtle issues, and I don't have the right answer other than to
21 say there is a problem going on, and it must be because of the system.

22 THE COURT: Are you finished?

23 MR. GASTON: Yes.

24 THE COURT: Okay. You may sit down.

25 MR. GASTON: Thank you, Your Honor.

1 THE COURT: Thank you.

2 All right. Let me hear from the State.

3 MS. LEXIS: Yes, Your Honor.

4 Your Honor, for a defense, for the defense to successfully challenge
5 the jury venire, they must make a showing -- a prima facie showing of a violation of
6 the fair cross-section requirements based on three factors, and it's all-inclusive. It
7 has to be all three factors.

8 The first is that the group alleged to be excluded is a distinctive group
9 in the community, which we do --

10 THE COURT: Right. But he meets that factor.

11 MS. LEXIS: Right.

12 THE COURT: Okay.

13 MS. LEXIS: Number 2, that the representation of this group in venires
14 from which juries are selected is not a fair and reasonable -- is not fair and
15 reasonable in relation to the number of such persons in the community. And --
16 that's a key word, and --

17 THE COURT: And.

18 MS. LEXIS: -- that this underrepresentation is due to a systematic
19 exclusion of the group in the jury selection process. And you've already noted that
20 is cited in *Williams vs. State*, 121 Nevada 934, 940.

21 In -- the defense attorneys in this jurisdiction have been raising this
22 issue quite a bit. And I understand Mr. Gaston is asking for the jury commissioner
23 to testify as to the Prong No. 2 and perhaps 3.

24 In a recent case, unpublished, decided by Judge Herndon, Judge
25 Herndon was affirmed by the Nevada Supreme Court -- that's *Battle vs. State*,

1 Your Honor.

2 THE COURT: I'm familiar with that.

3 MS. LEXIS: Okay. And I would just note for the record that in that
4 particular case, Judge Herndon used a transcript from the jury commissioner in
5 testifying in a different case in front of a different judge as his basis to find that
6 there was no systematic exclusion in the jury selection process.

7 At that particular point in time -- and I'm just making this for the record,
8 Your Honor -- in *Battle vs. State*, the only sources for the juror names and
9 addresses were DMV and Nevada Energy records, as alluded to by Mr. Gaston in
10 his argument.

11 In *Battle vs. State* the Nevada Supreme Court held that the process
12 explained by the jury commissioner provides no opportunity for systematic
13 exclusion of specific races. And even if that particular system, which was in play
14 when *Battle* was decided, just included DMV and Nevada Energy sources. That
15 passed the test by the Nevada Supreme Court, finding no systematic exclusion.

16 And I would also like to note that in -- on November 22nd, 2016, Judge
17 Barker did sign an administrative order adding registered voters in Clark County as
18 a third source of names and other addresses to the jury master list, which is the list
19 of qualified jurors in Clark County used by the jury commissioner.

20 So at this point we have registered voters, active utility subscribers,
21 and also licensed drivers. Also, as noted and passed by the legislature most
22 recently, Assembly Bill 207, passed on June 12, 2017, a bill which was proffered
23 by current defense attorney -- actually Public Defender Steven Yeager,
24 Congressman Steve Yeager added welfare recipients.

25 THE COURT: But that hasn't -- has that taken effect yet?

1 MS. LEXIS: It was passed June 12th, 2017, so it's current law.

2 THE COURT: I didn't know what the effective date was of that change.

3 MS. LEXIS: My understanding is it was signed -- it was already signed
4 by the governor, so it is existing law as we -- as we stand.

5 MR. GASTON: That doesn't mean it went into effect immediately,
6 though.

7 THE COURT: It's a different question from when it actually took effect.

8 But -- but I understand your argument. I mean, a -- the fact that our
9 legislature is broadening the -- the source of the jurors suggests that they
10 recognize there was some problem with how we were doing it.

11 MS. LEXIS: Correct. But at the same time, *Battle vs. State* did find
12 that just the two, you know, the DMV records and Nevada Energy --

13 THE COURT: Right.

14 MS. LEXIS: -- subscribers was sufficient for the court to find no
15 systematic exclusion.

16 THE COURT: Right.

17 MS. LEXIS: So at this point, I don't believe a prima facie violation of
18 the fair cross-section requirements has been demonstrated by the defense,
19 particularly Prongs No. 2 and 3. And there must be a showing of all three in order
20 for the prima facie showing to be made.

21 THE COURT: All right. Thank you. Anything else?

22 MS. LEXIS: It's effective July 1st, excuse me.

23 THE COURT: Yeah.

24 MS. LEXIS: Mr. Dickerson just told me, that particular Welfare
25 Recipient Assembly Bill 207 is effective July 1st, 2017.

1 THE COURT: Interesting. Okay.

2 MS. LEXIS: Thank you.

3 THE COURT: Effective July 1st. Thank you.

4 MR. GASTON: And may -- may I reply?

5 THE COURT: Yes.

6 MR. GASTON: In response -- so I think it's cool. I mean, you're right.
7 The legislature realized maybe we need to expand the jury pool. It seems like
8 they're doing so.

9 That was one -- I mean, when we're talking -- I guess starting almost --
10 going back to my wall that I keep hitting that we have a problem. Every single trial
11 we don't have -- never, ever, ever had overrepresented African-Americans.
12 Sometimes we get kind of close, and it's always under. Same with Hispanics. And
13 we always have lots of, compared to what we should have, Asians and
14 Caucasians. So there's some kind of problem in existence. Don't know what it is
15 yet. Can't get past Prong 3.

16 So one -- one proposal, like I said, is the jury pool. Somehow the way
17 we're collecting the names and the candidates for the jury pool is discriminating
18 based on the poor people. I don't think people are looking at the race, saying I'm
19 not letting these people in, but it's discriminating against the poor.

20 It doesn't seem like the issue. We have a huge jury pool. And I think,
21 in fact, if we actually look at the numbers, the numbers of the jury pool are almost
22 exactly, if not a little bit more, of what the entire population of Clark County in 2013
23 was.

24 THE COURT: But it's not really -- it's not really discrimination, is it, if
25 the system creates a procedure to -- to allow a proper amount of

1 African-Americans to appear, but it's the African-Americans and the -- and perhaps
2 Hispanics that are self-deciding not to appear. All right? So --

3 MR. GASTON: Well, you -- you saw where I was going. The
4 second -- so I don't think it's the jury pool. I think it's potentially the second issue is
5 that --

6 THE COURT: So I mean, it's not discriminatory if -- if the system, you
7 know, would allow a proper representation, you know. So --

8 MR. GASTON: Well, I think if people are failing to comply with the jury
9 summons --

10 THE COURT: You -- you, yourself, indicated that there might be --
11 part of the problem might be people failing to comply.

12 MR. GASTON: And if that -- if that would be the issue, then it's the
13 system's inability -- it's the system's just refusal to -- to enforce the law that is
14 causing the process. Jury service is not voluntary. It is a crime to not show up for
15 jury service.

16 If we are just not arresting these people and forcing them to come in,
17 and then their refusal to come in is now causing an unfair trial, our refusal to
18 enforce it is allowing them to get away with causing an unfair trial, then we have an
19 unfair system.

20 Jury service is compulsory. If you don't come, and you don't have a
21 good reason, you get arrested.

22 So if that's really the issue, then I do think it's still a systemic procedure
23 that -- because it's the failure to enforce the jury summons that caused the issue.

24 And then, of course, I still have the third way. It's potentially the way
25 the summonses are being issued out. The summonses are going out that's

1 causing the issue.

2 All I know for certain is that every single trial we seem to have an
3 under-inclusion. That's happening because of something.

4 THE COURT: Yeah. All right. Well, I appreciate all the argument.
5 And so, you know, this court has also witnessed in the past under-inclusion of
6 certain distinct groups. I don't know what the solution is, but it seems to -- seems
7 to this court that the supreme court, from both published and unpublished opinions,
8 has -- has not found any systematic exclusion.

9 So I'm going to respectfully deny your motion. And I do -- for the
10 record, I do find that there has been -- that distinct groups have been excluded
11 here, African-Americans and Hispanics.

12 As to the second factor, where we have three African-Americans, I -- I
13 think that that could be just a statistical anomaly, and I -- and I do find that there
14 appears to be a fair and reasonable number of African-Americans on our
15 prospective jury pool with respect to African-Americans. But not with respect to
16 Hispanics. There seems to be a more than just a statistical anomaly there. And I
17 don't think Hispanics are fairly represented on this panel.

18 But as to the third factor, the -- the lack of fair representation of
19 Hispanics, I -- I find that it's not due to systematic exclusion, you know, the
20 *Battle vs. State* and -- and the other cases that I've seen suggest to me that the --
21 the system that we do have in place is -- is, you know, the best system that we can
22 come up with to date.

23 For the record, I am going to incorporate -- I'll just put this in the
24 record. Ms. Witt has testified in the past regarding the procedures that she
25 employs in -- in summoning jurors to appear.

1 The transcript that I've relied upon in the past is this -- I know it's a
2 couple years old, but it's still -- this -- this is the procedure that she used up until
3 the legislative changes just a couple months ago.

4 This January 6, 2015, transcript of proceedings, I'm going to mark it as
5 a court exhibit. This is *State vs. Christian Dominic Williams*,
6 Case No. 08-C-241632, transcript of her testimony in front of Michael Villani.

7 I understand, of course, that denying you the opportunity to
8 cross-examine her and denying you the opportunity to bring in expert witnesses or
9 put on additional evidence, but I think -- I think the issue is pretty clear that at least
10 our supreme court has not found systematic exclusion. You have the right to
11 actually take it up higher, if circumstances warrant.

12 MR. GASTON: My -- my other request was the jury commissioner
13 provides data regarding the amount of summonses went out and the people that
14 responded. Is the court -- is my court denying that order at the --

15 THE COURT: I'm going to deny that.

16 MR. GASTON: Okay.

17 THE COURT: I'm going to deny that. But I -- you know, I do
18 appreciate the dilemma that you are put in in some of these cases. Hopefully, with
19 the changes that our legislature has made, it will be a -- a process that is more to
20 the liking of the defense bar.

21 MR. GASTON: Thank you.

22 THE COURT: All right.

23 So I think we can bring the jurors in, unless anybody wants a break?

24 MS. LEXIS: No. I think we're good to go.

25 THE COURT: Okay. Let's bring the jurors in. Thank you.

27

1 MS. LEXIS: Thank you.
2 THE COURT: Oh, we'll make copies of that transcript and get it to you
3 at --
4 MR. GASTON: Thank you.
5 THE COURT: -- over the lunch, so you can have it.
6 MR. GASTON: Appreciate it.
7 MS. LEXIS: Thank you.
8 MS. MACHNICH: And just for the court's information, *Battle* was my
9 case.
10 THE COURT: Oh, that was your case?
11 MS. MACHNICH: I was -- yeah.
12 THE COURT: Oh, wow.
13 MS. MACHNICH: Myself and Amy Coffee for the defense.
14 THE COURT: All right.
15 MS. MACHNICH: It's always interesting when you own cases get cited
16 back -- cited back at you.
17 THE COURT: Well, good job. Good arguments and --
18 MS. MACHNICH: Yeah. I made the record for the defense on that
19 one.
20 THE COURT: I've read the whole file on that one, so.
21 MS. MACHNICH: Okay. So yes.
22 [Pause in proceedings.]
23 [Prospective jury panel convened at 10:44 a.m.]
24 THE COURT: All right. Very good. So good morning, everybody.
25 Please be seated.

1 Ladies and gentlemen, welcome, this is Department 2 of the Eighth
2 Judicial District Court. My name is Judge Richard Scotti. I'll be presiding over this
3 matter.

4 The case the *State of Nevada vs. Keandre Valentine*, Case No.
5 C-316081.

6 You've been summoned today to serve as possible jurors in a criminal
7 lawsuit. The defendant has been presumed innocent until and unless the State
8 can meet its burden of proving all the elements of the crimes charged beyond a
9 reasonable doubt. Some of the crimes charged here include burglary and robbery,
10 so that's what this case is -- is about. You'll be hearing more about that later.

11 This case is expected to last one -- one full week and maybe into
12 Monday -- probably into Monday of next week. Okay. Let me tell you what our
13 schedule is going to be. Generally we're going to go today until 5:00;
14 tomorrow 11:00 to 5:00; Wednesday 10:30 to 5:00; Thursday, 11:00 to 5:00; and
15 then Friday, 9:00 to 5:00. And then the following Monday will be 9:00 to 5:00
16 again. All right. And then if we need to go into Tuesday of next week, then that
17 would be probably -- probably 11:00 to 5:00. Okay.

18 So in a few minutes I'll give you a chance to talk about your ability to
19 serve here for a -- a week-plus-long trial.

20 But first let me take this opportunity to introduce you to my court staff.
21 I need to make sure that -- that you don't know any of the court staff or the
22 attorneys or the parties or the witnesses. And this is the first stage of -- of
23 learning -- learning that.

24 So first of all, my name is Judge Richard Scotti. To my immediate
25 right, there -- the lady who was sitting here, Stephanie Getler, she is my law clerk.

1 She went to make some copies. You'll see her when she comes back in. She
2 assists in various legal matters.

3 To my left here is Michael Cruz. He's an intern. And he's also
4 assisting in various legal matters. All right.

5 Then, further to my right is the official court clerk, Natalie Ortega.
6 Raise your hand, Ms. Ortega. Thank you. Ms. Ortega is the deputy court clerk.
7 She administers the oaths to the witnesses, marks exhibits, keeps track of the
8 evidence, and prepares the official record.

9 Then we have the marshal in the back -- marshal, raise your hand. All
10 right. You saw him already. This is Marshal J.R. Cabridilla [phonetic], and he'll be
11 the marshal today. And the marshal maintains security. He's the person who will
12 escort you to and from the courtroom. Also, if you need to contact the court for
13 any reason when you're not in court, you should do so through the marshal. If
14 you're chosen to serve on the jury during deliberations, he'll look after you and
15 maintain your privacy. All right.

16 Then over here to my far right, that is the official court recorder, Dalyne
17 Easley. All right, Ms. Easley will be recording everything that is said during the trial
18 and will be helping out with the -- the monitors and some of the equipment. All
19 right.

20 Does anybody -- does anybody know any of the court staff that I've
21 identified? Anybody behind the bench or the marshal? If you do know anybody,
22 raise your hand. All right. I don't see any hands.

23 So let me talk about cell phones. If you have a cell phone, now is the
24 time to make sure it's turned off. While court is in session, you must not use the
25 cell phone or any smartphone, iPad, tablet, computer, or other portable electronic

1 device capable of making or accepting calls or sending or receiving any
2 information.

3 This admonishment applies throughout the entire proceedings. All
4 right. You can keep it with you. Keep your cell phone with you, keep your
5 electronic equipment with you, just keep it turned off while court is in session.

6 Also, during these proceedings, if you need to use the restroom,
7 please raise your hand to let us know. We will, however, try -- try to take a break
8 at least every 90 minutes. All right.

9 At this point, I need the court clerk to take roll. So she's going to call
10 out your names in order. If you hear your name, please answer present or here.
11 You don't need to stand up or raise your hand or anything. Just -- just let us know
12 that you're here. All right.

13 Madam Clerk, please take the roll.

14 [Prospective jury panel roll taken.]

15 THE COURT: Thank you. Is there anybody present whose name was
16 not called?

17 All right. Very good. So at this time, I'm going to allow the -- the
18 attorneys to make some very brief remarks to you. This is an opportunity for the
19 attorneys to introduce themselves and who they represent and the nature of the
20 case and -- and potential witnesses. The purpose of this introduction is to allow
21 you to better answer questions during the jury selection process. All right.

22 So I'll allow counsel for the State to -- to go first.

23 You may now address the jurors.

24 MS. LEXIS: Thank you.

25 THE COURT: This is not their opening statement. It's just a little bit of

1 background information to help us get started. Okay.

2 MS. LEXIS: Thank you, Your Honor.

3 THE COURT: Go ahead.

4 MS. LEXIS: Good morning, everyone. My name is Agnes Lexis. I'm a
5 chief deputy district attorney. This is my co-counsel, Michael Dickerson. We are
6 the prosecutors who have been assigned to this particular case.

7 In this case the defendant is charged with committing several armed
8 robberies. The first occurred at the Rancho Discount Mall and then in a housing
9 subdivision located here in Las Vegas, Clark County, Nevada, and then
10 possessing some of the stolen items taken from the robberies. Okay.

11 We intend to call -- oh, excuse me. The timeframe would have been
12 May 26th, 2016, and May 28, 2016. So a little bit over a year ago. Okay.

13 During our case in chief, which is when we're presenting evidence, the
14 State could call any of the following witnesses -- so just pay attention and see if
15 you recognize any of these names: The custodian of records from the Clark
16 County Detention Center; from LVMPD Dispatch; also from the LVMPD Records
17 Division; someone who works for the forensic lab by the name of Gayle Johnson;
18 some detectives and officers -- Dean Ludwig; Andrew Ubbens; Michael Foster;
19 Christopher Dowler; Derek Endelman; a DNA analyst with the lab, Beata Vida; an
20 officer, Courtney Richardson; Officer Joshua Simms; Officer Cierra Spronk; Officer
21 Jason Henson; Crime Scene Analyst by the name of Ebony Stephens; Officer
22 Thomas Tacano [phonetic]; Detective William Majors; Sergeant Richard Bilyeu; a
23 crime scene analyst by the name of Jeffrey Smith; Detective -- or excuse me --
24 Sergeant David Watts; Officer Gregory Tracy [phonetic]; David Wise; Officer Dave
25 Stockton.

1 And the following witnesses, as well: Marvin Bass; Garcia Santiago;
2 Darrell Faulkner; Deborah Faulkner; Lazaro Bravo-Torres; Rosa Vazkuez; Jordan
3 Alexander; Juan Torres; Steve Denton; Chanise Williams; and Omara McBride
4 [phonetic].

5 Thank you, Your Honor.

6 THE COURT: All right. Thank you. All right.

7 Ms. Machnich or -- or Mr. Gaston, one of you may address the jurors.

8 MS. MACHNICH: Thank you, Your Honor.

9 THE COURT: All right.

10 MS. MACHNICH: Good morning, everyone. My name is Tegan
11 Machnich, and here, along with Tyler Gaston, my co-counsel, we work with the
12 Public Defender's Office. And we represent Mr. Valentine, who is sitting beside us
13 here, who has entered a plea of not guilty in this case.

14 We have just a few witnesses in addition to any of those described by
15 the State. We have the right to call any of those witnesses to testify. In addition to
16 that, we may call Steven Smith, Ph.D.; Gayland Seaberry; and Damian Smith
17 [phonetic].

18 Thank you, everybody.

19 THE COURT: All right. Thank you very much. All right.

20 So ladies and gentlemen, you heard a long list of witnesses. It's just to
21 let you know it's my experience that not everybody gets called. They just -- they --
22 they err on the side of listing anybody who might potentially be called, to make
23 sure that there's no conflict of interest and make sure that you have a chance to
24 hear their names. All right.

25 So ladies and gentlemen, we're now about to commence the

1 examination of potential jurors in this case. During this process you will be asked
2 some questions bearing on your ability to sit as fair and impartial jurors.

3 The court, the lawyers, and all persons involved in this case are
4 interested in having this matter tried by a jury composed of 12 open-minded people
5 who are completely neutral and who have no bias or prejudice towards either side.

6 In this trial we will also need two alternates -- alternate jurors to listen
7 to all the proceedings and to be prepared to take over as a juror in the event that a
8 sitting juror is excused.

9 In order to accomplish this, it is necessary for me to ask some
10 questions. The attorneys will then be given an opportunity to ask questions. And
11 although some of the questions may, at times, seem quite personal, our only
12 objective is to determine whether there is any reason why any of you cannot sit as
13 fair and impartial jurors in this case.

14 If a question seems too personal to you, you can raise your hand and
15 ask for us to talk to you privately. But understand that your answer still has to be
16 given here in court and on the record.

17 It is very important that you give full, complete, and honest answers to
18 all of the questions we are about to ask you. And I caution you not to try to hide or
19 withhold anything which might indicate bias or prejudice of any sort by any of you.
20 If you fail to answer our question -- fail to answer truthfully, or if you hide or
21 withhold anything that touches upon your qualifications, that fact could tend to
22 contaminate the verdict and could subject you to further inquiry even after your
23 discharge as jurors. Your decisions should be based upon all the evidence
24 presented during the trial and not based upon preconceived bias or prejudice.

25 During this process of selecting a juror, the attorneys for both sides will

1 have the right to request that a particular person not serve as a juror. These
2 requests are called challenges. Please don't be offended if you are excused by a
3 challenge. This is simply part of the process designed to protect the rights of the
4 parties.

5 So the questioning of the potential jurors is -- is done under oath at the
6 beginning of -- of the case.

7 So at this point in time, I'm going to ask the court clerk to administer an
8 oath.

9 But first, let me ask the parties, do you consent that the oath can be
10 administered to the potential jurors as a group, rather than individually?

11 MS. LEXIS: Yes, we do.

12 MS. MACHNICH: Yes, Your Honor.

13 THE COURT: All right. Madam Clerk, will you please administer the
14 oath to the potential jurors.

15 THE CLERK: Please rise. And please raise your right hand.

16 [Prospective jury panel sworn.]

17 THE COURT: All right. The record will reflect that it appears that
18 everyone answered in the affirmative. All right.

19 Very good. So now, ladies and gentlemen, I have some questions to
20 help us in the jury selection process. Just to let you know, this process is going to
21 seem tedious at times and it's going to take a few hours, overall process. But --
22 but it's a very important process, because we're basically selecting the individuals
23 that are going to be the judges of the facts in this case.

24 All right. First of all, is there anybody here who has difficulty speaking
25 English or understanding English? Anybody who cannot understand English that

1 well? I do see two hands.

2 For the record, we need everyone to speak into the microphone.
3 And -- and let me talk to those people.

4 Marshal, can you hand the microphone to the lady who has trouble
5 with English.

6 What is your -- your name?

7 PROSPECTIVE JUROR NO. 002: Alice Yim.

8 THE COURT: What is your badge number on your badge, your
9 number? Last three digits.

10 PROSPECTIVE JUROR NO. 002: 002.

11 THE COURT: 002? Okay. So how much English do you understand?

12 PROSPECTIVE JUROR NO. 002: Not for the court cases.

13 THE COURT: Yeah. Do you speak some English?

14 PROSPECTIVE JUROR NO. 002: Little bit.

15 THE COURT: Little bit?

16 PROSPECTIVE JUROR NO. 002: Uh-huh.

17 THE COURT: Great. So tell me -- tell me about that. Tell me, where
18 did you learn English?

19 PROSPECTIVE JUROR NO. 002: A school.

20 THE COURT: A school? Okay. Are you a resident? Do you live here
21 in Clark County? Where do you live?

22 PROSPECTIVE JUROR NO. 002: Spring Valley.

23 THE COURT: Spring Valley. Okay. Very good. Do you have a job?
24 Do you work?

25 PROSPECTIVE JUROR NO. 002: No.

1 THE COURT: No? Are you married?
2 PROSPECTIVE JUROR NO. 002: Yeah.
3 THE COURT: Do you have children?
4 PROSPECTIVE JUROR NO. 002: No.
5 THE COURT: No children? Okay. Does your spouse speak English?
6 PROSPECTIVE JUROR NO. 002: Little bit.
7 THE COURT: A little bit. Do you speak English at all?
8 PROSPECTIVE JUROR NO. 002: Uh-uh.
9 THE COURT: No. What is your -- what is your language? What
10 language do you speak?
11 PROSPECTIVE JUROR NO. 002: We speak Cantonese.
12 THE COURT: Cantonese?
13 PROSPECTIVE JUROR NO. 002: Uh-huh.
14 THE COURT: Cantonese, okay. How much English do you
15 understand? 10 percent? 50 percent? Do you understand what I'm saying now?
16 PROSPECTIVE JUROR NO. 002: Sorry?
17 THE COURT: Okay. Okay. So you -- you're having trouble speaking
18 English, right?
19 PROSPECTIVE JUROR NO. 002: Maybe.
20 THE COURT: Maybe. Okay. All right. All right. Thank you. Let me
21 make a note here. All right.
22 Ms. Yim, how long have you been in -- in the country, in America?
23 PROSPECTIVE JUROR NO. 002: 28 years.
24 THE COURT: 28 years?
25 PROSPECTIVE JUROR NO. 002: Uh-huh.

1 THE COURT: Okay. But you -- it's has been difficult to learn English?
2 PROSPECTIVE JUROR NO. 002: We speak Chinese all the time.
3 THE COURT: I see. Okay. Okay. Well, thank -- thank you. So you --
4 you think it would be hard for you to serve, right?
5 PROSPECTIVE JUROR NO. 002: I -- I don't know, maybe -- no
6 understand.
7 THE COURT: Okay. All right. Thank you. Hand the microphone
8 back to the marshal. Thank you.
9 PROSPECTIVE JUROR NO. 002: Thank you.
10 THE COURT: Who else raised their hand? With English? Okay.
11 What's your badge number?
12 PROSPECTIVE JUROR NO. 013: 0 -- 013.
13 THE COURT: 013. And what is your name?
14 PROSPECTIVE JUROR NO. 013: Marybel Rojasdeforero.
15 THE COURT: All right. What is -- what is your -- your race or
16 ethnicity?
17 PROSPECTIVE JUROR NO. 013: Bogota, Columbia.
18 THE COURT: You're from Columbia?
19 PROSPECTIVE JUROR NO. 013: Uh-huh.
20 THE COURT: All right. And what language do you speak?
21 PROSPECTIVE JUROR NO. 013: I speak Spanish.
22 THE COURT: You speak Spanish?
23 PROSPECTIVE JUROR NO. 013: Speak Spanish, uh-huh.
24 THE COURT: All right. Do you have trouble with English?
25 PROSPECTIVE JUROR NO. 013: Sometimes. The -- the thing is

1 when you talk and I try to understand very well, because I have some problem with
2 this ear, the right, and some words I don't understand. But I don't know. I want to
3 stay, but you understand me when I -- when you going to ask me.

4 THE COURT: All right.

5 PROSPECTIVE JUROR NO. 013: It's your decision.

6 THE COURT: So is the problem comprehension or hearing?

7 PROSPECTIVE JUROR NO. 013: A little bit hearing and the
8 comprehension, a little bit.

9 THE COURT: Little bit. All right.

10 PROSPECTIVE JUROR NO. 013: Uh-huh.

11 THE COURT: Well, thank you for being honest with us. So let's -- let's
12 explore the issue of comprehension. But first let's get the headphones.

13 PROSPECTIVE JUROR NO. 013: Thank you.

14 THE COURT: We have headphones that maybe can help.

15 PROSPECTIVE JUROR NO. 013: Okay.

16 THE COURT: One moment.

17 PROSPECTIVE JUROR NO. 013: Thank you.

18 THE COURT: Thank you, marshal.

19 [Pause in proceedings.]

20 THE COURT: Okay. Can you hear me now? Make sure it's not too
21 loud. Does that help a little bit on your -- on your hearing ability?

22 PROSPECTIVE JUROR NO. 013: Yeah. I -- I hear you.

23 THE COURT: Is it working?

24 PROSPECTIVE JUROR NO. 013: Uh-huh.

25 THE COURT: Is it working?

1 PROSPECTIVE JUROR NO. 013: Yes.
2 THE COURT: And you can hear me better now?
3 PROSPECTIVE JUROR NO. 013: Yes.
4 THE COURT: Okay. So let's talk about comprehension. You've been
5 hearing some of the discussion so far this morning. How much of that discussion
6 did you understand? What percentage?
7 PROSPECTIVE JUROR NO. 013: Like...
8 THE COURT: 90 percent or less?
9 PROSPECTIVE JUROR NO. 013: Less.
10 THE COURT: Less?
11 PROSPECTIVE JUROR NO. 013: Uh-huh.
12 THE COURT: What percentage?
13 PROSPECTIVE JUROR NO. 013: Like, 50.
14 THE COURT: How much? 50?
15 PROSPECTIVE JUROR NO. 013: Or 60. Uh-huh.
16 THE COURT: 50 to 60? All right. So let me ask you some more
17 questions, so I can get a better idea of how well --
18 PROSPECTIVE JUROR NO. 013: Okay.
19 THE COURT: -- you understand. Are you married?
20 PROSPECTIVE JUROR NO. 013: Yes, I am married.
21 THE COURT: You are married? And how long have you been
22 married?
23 PROSPECTIVE JUROR NO. 013: 18 years.
24 THE COURT: 18 years.
25 PROSPECTIVE JUROR NO. 013: 18 years ago.

1 THE COURT: All right. And does your spouse speak English at
2 home?

3 PROSPECTIVE JUROR NO. 013: No.

4 THE COURT: No?

5 PROSPECTIVE JUROR NO. 013: We speak in Spanish.

6 THE COURT: Do you have children?

7 PROSPECTIVE JUROR NO. 013: Yes. I have one.

8 THE COURT: How old -- how old is your child?

9 PROSPECTIVE JUROR NO. 013: He's 28.

10 THE COURT: 28?

11 PROSPECTIVE JUROR NO. 013: Uh-huh.

12 THE COURT: And does your child speak English?

13 PROSPECTIVE JUROR NO. 013: Yes.

14 THE COURT: And -- and did you help your child learn English while
15 he was growing up?

16 PROSPECTIVE JUROR NO. 013: No.

17 THE COURT: No? Okay. How long have you lived in -- in America?

18 PROSPECTIVE JUROR NO. 013: Almost 17 years.

19 THE COURT: 17 years?

20 PROSPECTIVE JUROR NO. 013: Uh-huh.

21 THE COURT: All right. Do you have a job?

22 PROSPECTIVE JUROR NO. 013: Yes.

23 THE COURT: And what is your job?

24 PROSPECTIVE JUROR NO. 013: I working in the Clark County
25 School District.

1 THE COURT: What -- Clark County School District?
2 PROSPECTIVE JUROR NO. 013: Uh-huh.
3 THE COURT: Oh, very good. Are -- are you a teacher or do you have
4 another --
5 PROSPECTIVE JUROR NO. 013: No. Assistant.
6 THE COURT: Assistant?
7 PROSPECTIVE JUROR NO. 013: Uh-huh.
8 THE COURT: Very good. Well, thank you for your work as an
9 assistant teacher. What grade do you -- do you assist with?
10 PROSPECTIVE JUROR NO. 013: I working sometimes with four and
11 fifth grade. And I started today with the, you know, the summer school.
12 THE COURT: Okay.
13 PROSPECTIVE JUROR NO. 013: With the first grade.
14 THE COURT: Very good. All right.
15 PROSPECTIVE JUROR NO. 013: Uh-huh.
16 THE COURT: So if you were on the jury, you -- you would -- you
17 would need a substitute teacher for your class? Or different assistant to help?
18 PROSPECTIVE JUROR NO. 013: The teacher, she -- she say, just go
19 and see.
20 THE COURT: Go and see.
21 PROSPECTIVE JUROR NO. 013: She can do it today to herself.
22 THE COURT: All right. The -- the children that you help teach, do you
23 try to speak English with them?
24 PROSPECTIVE JUROR NO. 013: Yes.
25 THE COURT: Yes?

1 PROSPECTIVE JUROR NO. 013: Uh-huh.

2 THE COURT: And do -- do some of them speak Spanish?

3 PROSPECTIVE JUROR NO. 013: Yes.

4 THE COURT: Okay. Do you -- how -- how do you feel about serving?
5 If you were chosen to serve as a juror, do you think -- do you think you could do a
6 good job?

7 PROSPECTIVE JUROR NO. 013: Yeah. I like. Because I want to
8 practice to my English and I want to learn more. I like that. But it -- the thing is, if I
9 say something wrong, you can help me to -- to speak.

10 THE COURT: All right. Well, we need to make sure, too, that -- well,
11 let me ask you this.

12 PROSPECTIVE JUROR NO. 013: Uh-huh.

13 THE COURT: Do you understand English more or do you speak it --
14 do you understand it better or speak it better?

15 PROSPECTIVE JUROR NO. 013: It's more like speaking, but I
16 understand -- it's only now because that's -- that my ear.

17 THE COURT: Right.

18 PROSPECTIVE JUROR NO. 013: Uh-huh. But I try to do it the best I
19 can, because I working at the school and -- and sometimes that if I have to teach
20 some -- teach something and one day before I read and practice and practice, and
21 I teach then -- the more well I can.

22 THE COURT: Okay. All right. So if you're chosen as a juror, after you
23 hear all the evidence, you'll have to go back and deliberate. That means discuss
24 the facts and the law with the other jurors. Do you understand that that's part of
25 the process?

1 PROSPECTIVE JUROR NO. 013: Yes. I had to thinking about it, let
2 me see what is going on, what is that, they talking about it.

3 THE COURT: So would -- would you -- because of your little bit of
4 difficulty with English, would you be embarrassed expressing yourself and talking
5 to other people about the case?

6 PROSPECTIVE JUROR NO. 013: Well, no, no. I'm no embarrass.
7 The thing, if I say something not right, but I wanted to do it, to speak very well --

8 THE COURT: Right.

9 PROSPECTIVE JUROR NO. 013: -- but if I don't speak very well and
10 you don't understand me, that's the only -- I was thinking about it, if I don't say
11 right -- if I don't speak very well, you don't understand me.

12 THE COURT: Right. Okay. All right. Have there been some words
13 you have not understood so far today?

14 PROSPECTIVE JUROR NO. 013: Little words.

15 THE COURT: Some words?

16 PROSPECTIVE JUROR NO. 013: When -- yeah, some words.

17 THE COURT: Okay. Okay. All right. Well, thank you very much.
18 Why don't you hand the microphone to the marshal. And then I'll talk to the
19 attorneys and we'll -- we'll decide. Okay.

20 PROSPECTIVE JUROR NO. 013: Okay.

21 THE COURT: What to do. Thank you, thank you very much for being
22 honest. And I -- I think you're very brave to -- to express yourself. And I
23 appreciate your honesty.

24 PROSPECTIVE JUROR NO. 013: Thank you.

25 THE COURT: All right. I thought I saw another hand, marshal.

1 PROSPECTIVE JUROR NO. 018: Yeah. My name is Norma
2 Palma-Pozadas. It's 0018.

3 THE COURT: 0018. One second. All right. Ms. Pozadas, how are
4 you today?

5 PROSPECTIVE JUROR NO. 018: Pretty good, sir.

6 THE COURT: So can you tell me a little bit about your understanding
7 of English and ability to speak English.

8 PROSPECTIVE JUROR NO. 018: I maybe understand, like, 60
9 percent.

10 THE COURT: You've understood 60 percent so far today?

11 PROSPECTIVE JUROR NO. 018: Yes.

12 THE COURT: All right. So are -- are you married?

13 PROSPECTIVE JUROR NO. 018: No, I'm divorced.

14 THE COURT: All right. When -- was your spouse -- did he speak
15 English?

16 PROSPECTIVE JUROR NO. 018: Yes, he does.

17 THE COURT: And -- and did you speak English with him at home?

18 PROSPECTIVE JUROR NO. 018: Sometimes we speak both Spanish
19 and English.

20 THE COURT: Do you -- do you have children?

21 PROSPECTIVE JUROR NO. 018: No, sir.

22 THE COURT: All right. Are -- are you employed? Do you have a job?

23 PROSPECTIVE JUROR NO. 018: Yes, I do.

24 THE COURT: What is your job?

25 PROSPECTIVE JUROR NO. 018: I'm a bus driver for a special kids,

1 as a part of transit service.

2 THE COURT: For you said special kids?

3 PROSPECTIVE JUROR NO. 018: Yes.

4 THE COURT: Okay. And so is that a -- like a school bus driver?

5 PROSPECTIVE JUROR NO. 018: Yeah. I'm a bus driver for --

6 THE COURT: All right. How long have you had that job?

7 PROSPECTIVE JUROR NO. 018: For 18 years.

8 THE COURT: 18 years?

9 PROSPECTIVE JUROR NO. 018: Yes.

10 THE COURT: And that's here in Clark County?

11 PROSPECTIVE JUROR NO. 018: Yes, is --

12 THE COURT: All right. Do -- do these children -- what ages are these
13 children?

14 PROSPECTIVE JUROR NO. 018: Oh, they're adult.

15 THE COURT: Adults?

16 PROSPECTIVE JUROR NO. 018: Yes.

17 THE COURT: And do some of them speak English?

18 PROSPECTIVE JUROR NO. 018: Oh, most of them, yeah.

19 THE COURT: Okay. And do you speak English with -- do you try to
20 speak English with them?

21 PROSPECTIVE JUROR NO. 018: Yes, I do.

22 THE COURT: Okay. All right. So you say 60 percent you understand;
23 do you speak better than your comprehension?

24 PROSPECTIVE JUROR NO. 018: I think I understand better that I
25 speak, yeah.

1 THE COURT: You understand better than you speak?
2 PROSPECTIVE JUROR NO. 018: Yes.
3 THE COURT: Okay. And so -- do you -- have you generally --
4 generally understood everything that's going on, but it's just a few difficult words?
5 PROSPECTIVE JUROR NO. 018: Yes. Some -- a few words I don't
6 understand or something -- maybe know the meaning of the words, too.
7 THE COURT: The meaning of the words, okay.
8 PROSPECTIVE JUROR NO. 018: Yeah.
9 THE COURT: Do you recall some of the words you did not
10 understand?
11 PROSPECTIVE JUROR NO. 018: I don't -- oh, about the case,
12 something?
13 THE COURT: About the case.
14 PROSPECTIVE JUROR NO. 018: Yeah.
15 THE COURT: Okay. Do you understand, like, the word presumption?
16 No?
17 PROSPECTIVE JUROR NO. 018: Yes, I --
18 THE COURT: Yes? Do you understand when I said the defendant is
19 presumed innocent? Did you understand that?
20 PROSPECTIVE JUROR NO. 018: Yes, sir.
21 THE COURT: What about burden of proof?
22 PROSPECTIVE JUROR NO. 018: I don't know that.
23 THE COURT: You don't know what word? Reasonable doubt, do you
24 know that word?
25 PROSPECTIVE JUROR NO. 018: No.

1 THE COURT: You don't know what word?
2 PROSPECTIVE JUROR NO. 018: Uh-uh.
3 THE COURT: You know evidence? Do you know that word,
4 evidence?
5 PROSPECTIVE JUROR NO. 018: Yes, I do.
6 THE COURT: Yes? All right. All right. Do you know the word, when I
7 talked about the process of selecting a jury, do you know that -- do you understand
8 those words?
9 PROSPECTIVE JUROR NO. 018: Yes, sir.
10 THE COURT: And -- and challenges?
11 PROSPECTIVE JUROR NO. 018: Yes.
12 THE COURT: Do you understand that word? Okay. It sounds like
13 you know a lot of the -- the important words here.
14 PROSPECTIVE JUROR NO. 018: Yes. But, you know, it's an honor
15 to me to go here, but I'm being honest myself, if I misunderstand something, I don't
16 want to do, like, a --
17 THE COURT: Right.
18 PROSPECTIVE JUROR NO. 018: -- a bad job.
19 THE COURT: Okay. So what about the attorneys? Did you
20 understand when they described the case? Did you understand how much of
21 that?
22 PROSPECTIVE JUROR NO. 018: Yes. Understand it.
23 THE COURT: How -- how much? What percentage?
24 PROSPECTIVE JUROR NO. 018: Maybe 60 percent.
25 THE COURT: 60 percent?

1 PROSPECTIVE JUROR NO. 018: Yeah.

2 THE COURT: All right. Do you think you would feel comfortable
3 speaking with other jurors in the deliberation room after the case, about the case?

4 PROSPECTIVE JUROR NO. 018: Yes, I do. But maybe if I don't miss
5 some word, the meaning, I don't want to get in the position to understand that in
6 the wrong way.

7 THE COURT: Okay. All right. Well, so thank you very much. I
8 appreciate your information.

9 PROSPECTIVE JUROR NO. 018: Thank you, sir.

10 THE COURT: And microphone back to the marshal. We'll -- we'll talk
11 about what to do in a little bit.

12 All right. So now, let me -- let me ask some more questions. Is there
13 anybody here that knows the defendant? The defendant's name is Keandre
14 Valentine; anybody know him? I don't see any hands. No.

15 Did anybody recognize the names of any of the proposed witnesses?
16 Anybody know those witnesses?

17 I see someone who knows one of the witnesses, marshal. Can we talk
18 to her? All right.

19 Your badge number?

20 PROSPECTIVE JUROR NO. 041: It's 0041.

21 THE COURT: 0041, and your name?

22 PROSPECTIVE JUROR NO. 041: Rebekah Scaringi.

23 THE COURT: All right. Which witness do you -- do you think you
24 know?

25 PROSPECTIVE JUROR NO. 041: The one with the last name Bass.

1 THE COURT: Bass?

2 PROSPECTIVE JUROR NO. 041: I know some friends of mine, their
3 last name is Bass. But I'm not -- I don't know what her family members' names
4 are.

5 THE COURT: All right. Let's hear from the -- whoever -- from the
6 attorneys identified someone named Bass. What's the first name?

7 MS. LEXIS: Marvin.

8 THE COURT: Do you know a Marvin Bass?

9 PROSPECTIVE JUROR NO. 041: I don't know my friend's father's
10 name. I just know him. But I don't know his first name.

11 THE COURT: What -- what's -- do you know what your friend's
12 father's occupation is?

13 PROSPECTIVE JUROR NO. 041: No, I do not.

14 THE COURT: Do you know anything about him that might help us in
15 determining if this is the same person?

16 PROSPECTIVE JUROR NO. 041: I know his wife's name.

17 THE COURT: You know his wife's name. All right, what's his wife's
18 name?

19 PROSPECTIVE JUROR NO. 041: Karen.

20 THE COURT: Karen. Do you know how -- how old Mr. Bass is, the
21 one you know, roughly?

22 PROSPECTIVE JUROR NO. 041: Maybe 50, 60s.

23 THE COURT: 50 to 60? Do you know what he looks like? Tall?
24 Skinny? Bald?

25 PROSPECTIVE JUROR NO. 041: Skinny, kind of short, black, and

50

1 bald.

2 THE COURT: Short. Is he African-American?

3 PROSPECTIVE JUROR NO. 041: Yes.

4 THE COURT: African-American, and he's bald?

5 PROSPECTIVE JUROR NO. 041: Yes. I'm --

6 THE COURT: Is that what you said? Okay. All right.

7 Let me ask the State, does that sound like Marvin Bass, do you know?

8 MS. LEXIS: No. The Mr. Bass that we know is a little bit bigger built.

9 THE COURT: Bigger built? Bigger build? Okay.

10 MS. LEXIS: Yes.

11 THE COURT: Okay. Does that sound like Mr. Bass?

12 PROSPECTIVE JUROR NO. 041: Uh-uh, no.

13 THE COURT: No? Different Mr. Bass. Okay. Well, I'll tell you what,
14 if -- if Mr. Bass -- if you're chosen as a juror and you see Mr. Bass and you -- and
15 you realize it's the person that you know, will you let us know?

16 PROSPECTIVE JUROR NO. 041: Yes, I will.

17 THE COURT: Okay. Thank you very much. I appreciate that.

18 PROSPECTIVE JUROR NO. 041: Thanks.

19 THE COURT: Sounds like it's a different person, though.

20 All right. Anybody else know the witnesses? No.

21 Anybody -- anybody here know the attorneys that are sitting here
22 today? All right. All right. Somebody knows one of the attorneys. All right.

23 Badge number.

24 PROSPECTIVE JUROR NO. 033: 033, Audrie Locke.

25 THE COURT: 33. Oh, Ms. Locke. Yeah, you know what, you work for

1 the district attorney's office, don't you?

2 PROSPECTIVE JUROR NO. 033: Yes, sir.

3 THE COURT: All right. I am going to excuse you.

4 Badge No. 33 excused for cause, because she works for the district
5 attorney's office.

6 PROSPECTIVE JUROR NO. 033: Thank you, sir.

7 THE COURT: Thank you.

8 Anybody else know the attorneys? All right.

9 How about -- have any of you heard anything about this case before
10 coming to court today? Don't see any hands.

11 Are any of you -- do any of you have any such strong feelings about
12 race or religion or gender or national origin that you feel would -- would make you
13 biased or prejudiced and unable to serve as a juror? Anybody that thinks that they
14 would be biased or prejudiced or any other strong feelings that would make it
15 difficult for them to serve?

16 I think I see a hand.

17 Badge number, sir?

18 PROSPECTIVE JUROR NO. 046: 872.

19 THE COURT: 872.

20 PROSPECTIVE JUROR NO. 046: Oh, wait. That's wrong.
21 Sorry. 046.

22 THE COURT: 046. Your name, sir?

23 PROSPECTIVE JUROR NO. 046: Thomas Sullivan.

24 THE COURT: All right. Mr. Sullivan, what is it you'd like to tell us?
25 What strong opinions do you have, sir?

1 PROSPECTIVE JUROR NO. 046: Oh, it was about three years ago, I
2 was -- my house was burglarized by a -- a black man. And we went to trial and he
3 was found guilty.

4 THE COURT: Okay. And how does that -- how does that relate to this
5 case?

6 PROSPECTIVE JUROR NO. 046: I don't -- I don't --

7 THE COURT: I mean, do you -- to be -- as a result of that, do you --
8 do you think that --

9 PROSPECTIVE JUROR NO. 046: As a result --

10 THE COURT: -- all black men commit burglaries, is that what you're
11 saying?

12 PROSPECTIVE JUROR NO. 046: No. That's not the case. It just
13 was my first impression or first emotion that I had --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 046: -- when I walked in.

16 THE COURT: So you -- so you saw the gentleman, the defendant,
17 that he's a different color than yourself, you -- you had a negative feeling? Is that
18 what you're trying to say?

19 PROSPECTIVE JUROR NO. 046: No. I -- it wasn't exactly that. I
20 think it was the fact that after you described what the case was --

21 THE COURT: It just brought back memories?

22 PROSPECTIVE JUROR NO. 046: Yes.

23 THE COURT: All right. So you're not -- you're not prejudiced
24 against -- or are you prejudiced against African-Americans?

25 PROSPECTIVE JUROR NO. 046: No, I wouldn't say that.

1 THE COURT: Okay. But you have -- and I want you to be honest.

2 PROSPECTIVE JUROR NO. 046: Oh, yes.

3 THE COURT: There's nothing -- we -- we want to make sure we have
4 jurors that are fair and impartial. You understand, right?

5 PROSPECTIVE JUROR NO. 046: Yeah. I'm trying to be honest, but
6 I -- I think that would prejudice my decision.

7 THE COURT: So you might, because of your -- your prior -- the prior
8 incident, you might have negative feelings against the defendant here?

9 PROSPECTIVE JUROR NO. 046: Yes.

10 THE COURT: All right. So is it possible for you to set aside what
11 happened to you and judge this case just on the facts of this case?

12 PROSPECTIVE JUROR NO. 046: Yes, I think I could do that.

13 THE COURT: So you think you can do that. All right. But we need to
14 be certain -- because we -- you understand that the American system of justice
15 depends strongly upon us having fair and impartial jurors; you understand that?

16 PROSPECTIVE JUROR NO. 046: Yes, I do.

17 THE COURT: And we can't have anybody that has any prejudice
18 against a person based on their race, you know, the color of their skin, ethnicity,
19 religion. We can't have that. You understand that, right?

20 PROSPECTIVE JUROR NO. 046: Yes. I understand that. But I -- I
21 do believe it might affect my decisions.

22 THE COURT: Okay. So now I'm -- I'm a little bit conflicted in
23 understanding. Because on the one hand you said you could try to set aside what
24 happened to you before. And I understand that's probably pretty traumatic to be
25 the victim of a crime. You said you could try to set it aside. But then you also still

1 say that it might affect your ability to -- to be fair and impartial. So do you -- are
2 you saying that you have some doubt?

3 PROSPECTIVE JUROR NO. 046: Yeah --

4 THE COURT: Or -- or you think -- you think you could repress your
5 feelings of what happened before and -- and be fair?

6 PROSPECTIVE JUROR NO. 046: I don't think I could. I -- I think that
7 would cause a conflict with myself, when I'm trying to make a decision.

8 THE COURT: All right. All right. And you understand that -- well, all
9 right. Thank you, sir. I'll -- I might give the attorneys a chance to talk to you some
10 more about that. All right. But I appreciate you expressing yourself. All right.

11 PROSPECTIVE JUROR NO. 046: Okay. That's fine.

12 THE COURT: All right. Thank you very much.

13 And you're Mr. Sullivan, right?

14 PROSPECTIVE JUROR NO. 046: That's correct.

15 THE COURT: All right. Is there anybody else that has such strong
16 opinions relating to age, religion, race, gender, or national origin, that -- that you
17 feel it would affect your ability to be open-minded, fair, and impartial? I don't see
18 any hands there. All right.

19 So is there anybody here who is seriously ill? Because we -- we need
20 to know if you're contagious or -- or if you're seriously ill, can't sit here? I see a
21 hand. All right.

22 What's your name? What's your badge number?

23 PROSPECTIVE JUROR NO. 036: 036.

24 THE COURT: 036. Your name, sir?

25 PROSPECTIVE JUROR NO. 036: Steve Yamaguchi.

1 THE COURT: Mr. Yamaguchi, what's going on with you, sir?
2 PROSPECTIVE JUROR NO. 036: Well, I just got out of emergency
3 hospital at Mountain View Hospital, and I'm on --
4 THE COURT: When did you get released?
5 PROSPECTIVE JUROR NO. 036: Thursday.
6 THE COURT: And what -- are you -- what -- what would you like to tell
7 us about your condition now, sir?
8 PROSPECTIVE JUROR NO. 036: Well, this Friday I see Dr. Zommick
9 to see if I have cancer.
10 THE COURT: So what -- what time Friday do you go in?
11 PROSPECTIVE JUROR NO. 036: 1:00.
12 THE COURT: All right. And how long have you had that scheduled?
13 PROSPECTIVE JUROR NO. 036: I've had it scheduled now for a little
14 over a week.
15 THE COURT: All right. Is that something -- so you need to know --
16 okay. I was going to ask you --
17 PROSPECTIVE JUROR NO. 036: I -- I've had --
18 THE COURT: I don't want to be insensitive. I was going to ask you if
19 that's something that can be postponed a few days?
20 PROSPECTIVE JUROR NO. 036: Well, if you --
21 THE COURT: But I would understand that --
22 PROSPECTIVE JUROR NO. 036: Well, I'm more curious to know if I
23 do have cancer.
24 THE COURT: Yeah. I -- I understand and appreciate that. All right,
25 sir. And was your hospital stay related to possible cancer condition?

1 PROSPECTIVE JUROR NO. 036: No. But I've had a CAT scan and
2 chest x-rays, and there's a high possibility.

3 THE COURT: Okay. High possibility you have cancer. All right. And
4 so you would need to get started on a course of treatment as soon as possible.

5 PROSPECTIVE JUROR NO. 036: That's why I'm seeing him Friday.

6 THE COURT: Okay. All right. 1:00 p.m. Friday. All right. Thank you,
7 sir.

8 PROSPECTIVE JUROR NO. 036: But it's Dr. Zommick.

9 THE COURT: All right. Thank you, sir. I appreciate that. All right.
10 Anybody else who is too sick to -- to be here for a week or so? All
11 right.

12 And so is there anybody who -- who has trouble hearing? We had the
13 lady who -- who needs the hearing device. Is there anybody else who needs a
14 hearing device? No?

15 Oh, I see another gentleman who might need a hearing device,
16 marshal. Will you give him the microphone?

17 Hi. What is your name, sir, and badge number?

18 PROSPECTIVE JUROR NO. 020: Louis Grusinski, Badge 20.

19 THE COURT: Badge No. 20. Badge No. 20. That is Louis Grusinski.
20 Great. Tell us -- tell us about your hearing difficulty, sir.

21 PROSPECTIVE JUROR NO. 020: I have severe high frequency loss
22 in my right ear. And without my hearing aids, I'm about 50 percent hearing loss.

23 THE COURT: All right. Do you have your hearing --

24 PROSPECTIVE JUROR NO. 020: I can hear you pretty well. But I
25 couldn't hear the lady reading the names this morning.

1 THE COURT: Oh, okay. Do you have your hearing devices in now?

2 PROSPECTIVE JUROR NO. 020: Yeah. I have them, but they're
3 not 100 percent.

4 THE COURT: Okay. Right. So thank you for letting us know. For
5 now we're going to keep you, but if you have trouble hearing anything, raise your
6 hand, and we'll make sure that we repeat it.

7 PROSPECTIVE JUROR NO. 020: Okay.

8 THE COURT: All right. If you -- do you -- do you think you want to try
9 wearing one of our hearing headsets? Do you want to try one of those?

10 PROSPECTIVE JUROR NO. 020: Do they fit over the hearing aids?

11 THE COURT: I don't know. I think so.

12 PROSPECTIVE JUROR NO. 020: My hearing aids might squeal.

13 THE COURT: Well, do you see what the lady is -- do you -- do you
14 see what the lady is wearing? Oh, you have one there. Do you want to give that a
15 try, sir? All right.

16 Testing, testing, 1, 2, 3, can you hear me a little bit better?

17 PROSPECTIVE JUROR NO. 020: Yes.

18 THE COURT: All right. Very good. Feel free to use those while you're
19 in court. Okay.

20 PROSPECTIVE JUROR NO. 020: Yeah. If somebody has a soft
21 voice, then I'll probably use them. Otherwise, I think I'll be okay.

22 THE COURT: Okay. Very good. Thank you. Just use it at your
23 convenience.

24 PROSPECTIVE JUROR NO. 020: Okay.

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

1 Is there anybody here who has been convicted of a felony? I need to
2 know that. There shouldn't be anybody here. All right.

3 Is there anybody who is sight impaired? They have trouble seeing,
4 other than, you know -- if you -- because if -- if you have some trouble seeing, we
5 need to take special steps to make sure you can see the exhibits. All right. Don't
6 see any.

7 So now I need to know if there's anybody -- now, here's the -- here's
8 the -- the time where I spend a little more time with you all about your ability to
9 serve for a week, because that takes a lot of time out of your day, time out of your
10 week, time away from your family.

11 Some of you might be full-time caregivers. Some of you might have a
12 job where it's simply, absolutely impossible for you to get away for a week. Some
13 of you might want to explain how it's an -- an extreme financial hardship for you to
14 be here. And if that's the case, I need to explore with you your financial condition.

15 Some of you might be a -- you know, a -- a single parent with a couple
16 young kids and -- and nobody to watch them. So there might be some -- some
17 instances of -- of hardships. Those are examples of hardships, where maybe I can
18 excuse you.

19 Things that are not hardships, generally, if you have a -- a vacation
20 where you can reschedule; if you have a doctor's appointment where you can
21 reschedule; where, you know, your boss just doesn't want you to leave -- you
22 know, that's not a hardship. Those things are not hardships.

23 So is there -- so let's start with this side of the room for just the first
24 row. Is there anybody on that first row that thinks you -- that you have, like, a
25 really bad hardship that you want to try to get out of serving for a week? I need to

1 see -- let me just see the hands. How many people in the first row want to talk to
2 me about a hardship? All right. You only get one chance to raise your hand. So
3 raise your hand if you think you've got a hardship. All right.

4 There's three people. So let me talk to those three people.

5 What's your badge number, sir?

6 PROSPECTIVE JUROR NO. 006: 6.

7 THE COURT: Say again?

8 PROSPECTIVE JUROR NO. 006: 6.

9 THE COURT: All right. Let me find you here. All right, what is -- what
10 is your -- what is your possible hardship, sir?

11 PROSPECTIVE JUROR NO. 006: Basically, I -- I don't have the same
12 address as what I had before, and now I live all the way down past Durango on
13 the 95. And I don't have a vehicle. I had to spend the night at a friend's house just
14 to be here today so I don't get in contempt of court. So it would be really hard for
15 me to get back and forth with work and everything and -- and just the distance,
16 without having a vehicle. It's pretty far from here. It's -- it's a struggle.

17 THE COURT: What is the distance from here to Durango and 95?

18 PROSPECTIVE JUROR NO. 006: I've -- I haven't -- I don't know
19 that -- it takes me about -- probably about 40 minutes to get here.

20 THE COURT: By -- by car?

21 PROSPECTIVE JUROR NO. 006: Yeah.

22 THE COURT: Have you ever tried that route by bus?

23 PROSPECTIVE JUROR NO. 006: I -- I don't even know the bus
24 system. I just moved out there. I kind of -- kind of -- kind of got into a split-up, and
25 you know, I have half my stuff still at -- you know, it's all over the place.

1 THE COURT: All right. And so --

2 PROSPECTIVE JUROR NO. 006: I did have -- I also -- I tried to
3 contact the -- the court to let them know my situation that I'm in right now. And
4 they --

5 THE COURT: What is your situation? What else would you like to tell
6 us about your situation?

7 PROSPECTIVE JUROR NO. 006: It's just I'm in a split right now, and
8 I'm going through a lot of emotional kind of stuff right now. And -- and I'm just
9 staying at a friend's house and just trying to get stuff situated. And then -- and I'm
10 pretty far from the courthouse. And I have no vehicle, so now I'm just kind of trying
11 to scrape some change together to try to get around and try to get my stuff back
12 together.

13 THE COURT: How long are you planning to stay at your friend's
14 house?

15 PROSPECTIVE JUROR NO. 006: I'm not sure. As long as I -- as long
16 as I can to get my stuff together. But it's looking like probably -- we -- we agreed
17 on, like, four months.

18 THE COURT: Okay. And where does your friend live?

19 PROSPECTIVE JUROR NO. 006: Off of -- like, in the back of
20 Durango. 8 -- 83 -- 8300 Southern Comfort.

21 THE COURT: Oh, so it's your friend who's at Durango and 95?

22 PROSPECTIVE JUROR NO. 006: Yeah. Yeah. They --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 006: I -- I -- that's where I'm staying.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 006: I'm staying out -- way out there with
2 them.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 006: It's actually my -- it's actually my --
5 my mom.

6 THE COURT: Okay. All right. Are you presently employed?

7 PROSPECTIVE JUROR NO. 006: Yeah.

8 THE COURT: All right. So, obviously, taking the bus is a difficulty.
9 What about -- did you think about renting a car so you could make it here -- here
10 and back?

11 PROSPECTIVE JUROR NO. 006: If the -- if the court would --

12 THE COURT: The court wouldn't pay for that. You'd have to pay for
13 that on your own. Is that --

14 PROSPECTIVE JUROR NO. 006: Oh, no. I -- I -- yeah, my job's not
15 paying.

16 THE COURT: Would that be a financial --

17 PROSPECTIVE JUROR NO. 006: I'm not making that much money
18 on my job. I -- I get, like, maybe 6 hours a day.

19 THE COURT: So that -- so that would be a financial difficulty for you?

20 PROSPECTIVE JUROR NO. 006: Yeah. Yeah. I mean, if the court --
21 if the court would do it, I mean, that -- that would be great.

22 THE COURT: The court wouldn't do it. I've already told you no.

23 PROSPECTIVE JUROR NO. 006: Yeah, yeah, yeah.

24 THE COURT: All right. All right. All right. Well, we'll consider that,
25 and I'll get back to you on that one, sir.

1 PROSPECTIVE JUROR NO. 006: Okay. Thank you.
2 THE COURT: Thank you, sir. One second. All right.
3 Who is next? Let's go in order, marshal.
4 Yes, ma'am, you were --
5 PROSPECTIVE JUROR NO. 013: Marybel, number --
6 THE COURT: Rojasdeforero.
7 PROSPECTIVE JUROR NO. 013: Deforero, yes.
8 THE COURT: Okay. Tell us what your hardship would be, ma'am.
9 PROSPECTIVE JUROR NO. 013: Okay. I was only, like, last week
10 we have meeting for the -- the -- for the teaching first and kinder, and we started
11 today. And there's only two teachers and two assistants. And I had to told them
12 about one week, if I don't go there. But for -- it's difficult, because everybody is on
13 vacation now. But I can talk to the teachers and let them know and see what
14 happened and -- and they can find somebody else.
15 THE COURT: Okay. Thank you. Thank you, ma'am.
16 PROSPECTIVE JUROR NO. 013: Okay.
17 THE COURT: Pass the microphone to the next person.
18 PROSPECTIVE JUROR NO. 015: Badge 0-1-5, Richard Sheldon.
19 THE COURT: Yes. Mr. Sheldon?
20 PROSPECTIVE JUROR NO. 015: Is it definitely going to be till next
21 Monday?
22 THE COURT: I'm 90 percent sure it's going to go into Monday.
23 PROSPECTIVE JUROR NO. 015: Because I didn't think it was going
24 to be that long, you know, so I only get -- you get paid for three days jury duty.
25 After that, you get nothing. I know you get paid here, but it's -- it's not the same.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 015: So I'm just -- you know, I could do
3 it. But, you know, I -- I don't really want to lose out on the income. That's it.

4 THE COURT: What's your employment, sir?

5 PROSPECTIVE JUROR NO. 015: I am a emergency room -- I'm
6 employed through an emergency room, imaging tech.

7 THE COURT: Oh, okay. An imaging tech. All right. And what's your
8 marital status?

9 PROSPECTIVE JUROR NO. 015: Married.

10 THE COURT: Does your spouse work?

11 PROSPECTIVE JUROR NO. 015: Yes.

12 THE COURT: What does your spouse do, sir?

13 PROSPECTIVE JUROR NO. 015: She's a nurse.

14 THE COURT: A nurse. Okay. Can we ask -- I -- I need to ask what
15 facilities, what hospitals you and your wife work at?

16 PROSPECTIVE JUROR NO. 015: Summerlin.

17 THE COURT: Summerlin?

18 PROSPECTIVE JUROR NO. 015: Yep.

19 THE COURT: Both there?

20 PROSPECTIVE JUROR NO. 015: Yep.

21 THE COURT: Okay. All right. Yeah. It's unfortunate some employers
22 don't -- don't --

23 PROSPECTIVE JUROR NO. 015: Right.

24 THE COURT: -- provide enough compensation, but -- but that by itself
25 is not a sufficient to reason to -- to let you out. But --

1 PROSPECTIVE JUROR NO. 015: Well, I -- I just want it known, just in
2 case, you know, you can skip me and get somebody else.

3 THE COURT: We -- we can try that during the --

4 PROSPECTIVE JUROR NO. 015: You know, because -- I -- I -- you
5 know, like I said, can I do it? Yeah. But do I wanted to lose that kind of money?
6 No.

7 THE COURT: It -- it depends how many potential jurors we have --

8 PROSPECTIVE JUROR NO. 015: Right.

9 THE COURT: -- as we move along the process. So we'll -- we'll keep
10 that in mind, and I'm sure the attorneys will keep that in mind during the selection
11 process.

12 PROSPECTIVE JUROR NO. 015: Oh, thank you very much. Thanks.

13 THE COURT: Thank you. All right.

14 Marshal, let's go to the second row. Remember, marshal, I want to do
15 this in order.

16 So who would be next in the second row?

17 First, let me see a show of hands. How many people are going to
18 want to talk to me? Raise your hand. Second row.

19 I see three people, marshal. Marshal, do you see the next person to
20 hand the mic to? Thank you.

21 Name and badge number?

22 PROSPECTIVE JUROR NO. 022: James Wheeler, Badge 22 -- 022.

23 THE COURT: Mr. Wheeler, what would you like to say, sir?

24 PROSPECTIVE JUROR NO. 022: Just I'm a Realtor and I'm currently
25 working with a client. And my income is based on commission. So if -- if I'm out

1 for, like, a week, I might -- I could possibly end up losing the client or losing a sale.
2 So that could be a conflict.

3 And, actually, my girlfriend, my live-in girlfriend that I have, she -- she's
4 getting selected for jury duty on Thursday, as well, so --

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 022: -- that could possibly be another
7 problem.

8 THE COURT: Well, that's kind of unusual, two people --

9 PROSPECTIVE JUROR NO. 022: Yeah. Two at the same -- so
10 Thursday she's going in.

11 THE COURT: All right. So tell me a little more about your financial
12 condition. It sounds like you're claiming financial hardship due to possibly losing a
13 client?

14 PROSPECTIVE JUROR NO. 022: Right.

15 THE COURT: I need to know, do you own your own home?

16 PROSPECTIVE JUROR NO. 022: We do. Well, it's my -- in my -- my
17 girlfriend's home. But -- yeah.

18 THE COURT: So she owns her own home?

19 PROSPECTIVE JUROR NO. 022: Yeah. We -- we live together,
20 though, so.

21 THE COURT: Oh, you live -- okay.

22 PROSPECTIVE JUROR NO. 022: Yeah. We've lived for a while.

23 THE COURT: Do you -- do you own a car?

24 PROSPECTIVE JUROR NO. 022: Yes.

25 THE COURT: Do you make car payments on the car?

1 PROSPECTIVE JUROR NO. 022: Yes.
2 THE COURT: All right. Do you have any equity in your house?
3 Some?
4 PROSPECTIVE JUROR NO. 022: Yeah, some. We do.
5 THE COURT: Okay. If -- do you have any -- any dependents?
6 PROSPECTIVE JUROR NO. 022: No.
7 THE COURT: Okay. So what you described for me doesn't sound like
8 enough to -- to constitute a financial hardship under the criteria that we use.
9 PROSPECTIVE JUROR NO. 022: Okay.
10 THE COURT: But thank you for the information.
11 PROSPECTIVE JUROR NO. 022: All right.
12 THE COURT: And we'll see if you get selected.
13 PROSPECTIVE JUROR NO. 022: All right. Thanks.
14 THE COURT: All right. Pass the microphone.
15 PROSPECTIVE JUROR NO. 025: Hello. Number 025, Ausra Bisek.
16 THE COURT: Yes. Hi, Ms. Bisek.
17 PROSPECTIVE JUROR NO. 025: Bisek.
18 THE COURT: Bisek. What would you like to describe for us?
19 PROSPECTIVE JUROR NO. 025: I'm a small business owner and I'm
20 international educator for the beauty industry. And I currently have three students
21 coming from out of state tomorrow for the next three days to get educated by me
22 for microblading and eyelash -- eyelash extensions. So it's not more, like, for
23 inconvenience for me, but for the people have -- that traveling from out of state and
24 they're going to be staying here for a few days.
25 THE COURT: Can they reschedule that?

1 PROSPECTIVE JUROR NO. 025: I mean, it's a last-minute kind of
2 situation.

3 THE COURT: Yeah.

4 PROSPECTIVE JUROR NO. 025: I'm sure it's a possibility. But that's
5 what my business depends on, these people are paying over \$6,000 to be with me
6 for three days.

7 THE COURT: Oh, I see. Okay. So --

8 PROSPECTIVE JUROR NO. 025: So it's kind of a little bit an
9 inconvenience for my customers and my -- my students coming in for three days
10 and staying here.

11 THE COURT: All right.

12 PROSPECTIVE JUROR NO. 025: So it's not really for me, but it's kind
13 of both business and clients.

14 THE COURT: Right. What is the name of your business?

15 PROSPECTIVE JUROR NO. 025: My business currently is called
16 Lovely Lashes. It's located on Windmill and 215.

17 THE COURT: Do you have other professionals in your office that
18 could teach these three students, besides yourself?

19 PROSPECTIVE JUROR NO. 025: In this profession, unfortunately,
20 when it comes to education, most students do want to be provided there by
21 masters. I do have assistants that work under me, and I do have employees.
22 However, that could be a disappointment for my customers and a bad name for the
23 future.

24 THE COURT: And what state are the three students coming from?

25 PROSPECTIVE JUROR NO. 025: One of them is coming from

1 New Jersey, the other one is from Hawaii, and I have one from Utah.

2 THE COURT: You said, New Jersey, Utah, and --

3 PROSPECTIVE JUROR NO. 025: Hawaii.

4 THE COURT: -- Hawaii? And they're all coming tomorrow?

5 PROSPECTIVE JUROR NO. 025: They arriving -- I don't know if they
6 arriving today, but the class is starting tomorrow.

7 THE COURT: Okay. For three days or?

8 PROSPECTIVE JUROR NO. 025: For three days.

9 THE COURT: All right. Well, let me get back to you on that one.

10 PROSPECTIVE JUROR NO. 025: Okay. I understand.

11 THE COURT: All right. Marshal, third -- third row, or whoever is next.

12 Oh, yes, sir.

13 PROSPECTIVE JUROR NO. 026: Yeah. Number 24.

14 THE COURT: Yes, sir.

15 PROSPECTIVE JUROR NO. 026: Darrel Galloway. I just went
16 through a divorce and I have joint physical custody and joint legal custody of three
17 small children. And just having to take care of that -- I didn't realize this would go
18 for a whole week, and I don't really have the help to -- the help with my kids. And
19 also, if I took off a week, I'd be using annual leave or -- I don't think they'd let me
20 use sick leave, but I don't really have the annual leave to burn right now.

21 THE COURT: So where are your three children right at this moment?

22 PROSPECTIVE JUROR NO. 026: They're with my sister.

23 THE COURT: How old are they?

24 PROSPECTIVE JUROR NO. 026: 6, 9, and 11.

25 THE COURT: All right. Do they have any -- any schooling this week

1 and next week?

2 PROSPECTIVE JUROR NO. 026: No. They're on summer break right
3 now.

4 THE COURT: What are the -- so you have joint physical custody.
5 What are -- what are -- what's the arrangement with respect to what days you have
6 the children?

7 PROSPECTIVE JUROR NO. 026: I have them till Thursday this week.
8 It's Sunday till Wednesday one week and Sunday till Thursday the next week.
9 Three nights and four nights.

10 THE COURT: So you have them through Thursday this week? All
11 right. Can your sister watch them the rest of the week?

12 PROSPECTIVE JUROR NO. 026: Well, she has three kids of her
13 own, so I know she's very busy with her schedule and --

14 THE COURT: All right. Is she employed?

15 PROSPECTIVE JUROR NO. 026: She's not. She goes to school,
16 though, but...

17 THE COURT: All right. What -- so who watches her kids when she's
18 at school?

19 PROSPECTIVE JUROR NO. 026: I think she has a -- a nanny or --

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 026: -- babysitters.

22 THE COURT: So are you -- I mean, I can see that's kind of tough for --
23 are -- are you -- are you really saying that your sister can't -- can't manage
24 handling six kids? Is that what you're trying to explain?

25 PROSPECTIVE JUROR NO. 026: In my opinion, it would probably be

1 a burden to her. I -- I wouldn't want to put that on her. That's -- that's kind of a lot.
2 I have three boys. They're kind of tough.

3 THE COURT: Yeah. Hmm, okay.

4 PROSPECTIVE JUROR NO. 026: And on top of that, they're in --
5 they're all in soccer and they have -- they have places to be. So I'd have to --
6 she'd have to take them to their activities.

7 THE COURT: Okay. Have you thought about -- what other
8 arrangements do you think are available to you, other than having your sister
9 watch your three kids?

10 PROSPECTIVE JUROR NO. 026: Well, I mean, I guess I could
11 maybe look into some babysitting options. But I -- I work for the State. I don't
12 make a whole lot of money, so.

13 THE COURT: Oh, so let's find out the -- who do you work for, sir?

14 PROSPECTIVE JUROR NO. 026: The Department of Agriculture.

15 THE COURT: Okay. All right. All right. Well, let me get back to you,
16 sir, on that one. Thank -- thank you very much. I appreciate that information.

17 Marshal, I -- I'm trying to see. The that was the second row I think we
18 were at? So let's -- let's go to the third row and start at the end and -- and see who
19 needs to talk to us. It's hard to see that far. But if you want to talk to me, tell me
20 your badge number and name to start.

21 PROSPECTIVE JUROR NO. 029: It's Shirley Hernandez, and
22 I'm 029.

23 THE COURT: Okay. Yes, Ms. Hernandez, what would you like to
24 say?

25 PROSPECTIVE JUROR NO. 029: Yes. I don't know if my company

1 actually pays for jury duty. I didn't find out on that before coming here. I am a
2 single mother. My mom is actually here from Florida, so she takes care of the
3 baby for me, until she gets back. So we only have one car. If any emergency,
4 like, you know, I have to go and take care of that and take her to the doctor and
5 stuff.

6 THE COURT: So your mom's watching your baby and you have one
7 car and -- so you're worried about if something happens, you have the car here
8 and your mom wouldn't be able to -- to go somewhere, is that --

9 PROSPECTIVE JUROR NO. 029: Right. I mean, she can take the
10 car and drop he off.

11 THE COURT: Yeah.

12 PROSPECTIVE JUROR NO. 029: But I don't know if my company
13 pays for my days being here --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 029: -- for that week.

16 THE COURT: Are you living with your mom?

17 PROSPECTIVE JUROR NO. 029: She's living with me, actually.

18 THE COURT: She's living with you. Okay.

19 PROSPECTIVE JUROR NO. 029: Uh-huh. Right now.

20 THE COURT: Okay. And does your mom -- your mom doesn't work?

21 PROSPECTIVE JUROR NO. 029: She don't work.

22 THE COURT: All right. And -- and --

23 PROSPECTIVE JUROR NO. 029: She actually takes care of the baby
24 for when I'm at work.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 029: But I'm not -- like I said, I'm not
2 sure if my company pays for it.

3 THE COURT: I know. But that's -- unfortunately, I can't excuse
4 somebody just because the company doesn't pay.

5 PROSPECTIVE JUROR NO. 029: Yeah. But I'm the one who pays
6 the bills in the house and everything. So.

7 THE COURT: All right. So is it a financial hardship?

8 PROSPECTIVE JUROR NO. 029: Financial -- yeah, it's financially.
9 So.

10 THE COURT: If it's a financial hardship, you've got to tell me?

11 PROSPECTIVE JUROR NO. 029: Yes, yes.

12 THE COURT: All right. So why is it a financial hardship?

13 PROSPECTIVE JUROR NO. 029: Because I'm the one who pays the
14 mortgage and pay all the bills in the house.

15 THE COURT: All right. But you won't -- see -- see, usually if --

16 PROSPECTIVE JUROR NO. 029: And my car payment and
17 everything.

18 THE COURT: So don't talk over me.

19 PROSPECTIVE JUROR NO. 029: Sorry.

20 THE COURT: Okay. So you said pay the mortgage, so you own a
21 house, right?

22 PROSPECTIVE JUROR NO. 029: Yes.

23 THE COURT: All right. Generally, if someone owns a house, then,
24 you know, it's difficult to find a financial hardship. There's a lot of people that come
25 and serve on the jury that -- that rent, that don't even know a house. All right. So

1 you own a house?

2 PROSPECTIVE JUROR NO. 029: Yes.

3 THE COURT: So how much -- how much equity do you have in your
4 house? How much is your house worth?

5 PROSPECTIVE JUROR NO. 029: Right now it's at 93.

6 THE COURT: 93,000 you think it's worth?

7 PROSPECTIVE JUROR NO. 029: Well, I don't know the worth right
8 now. I haven't checked that.

9 THE COURT: So the mortgage is 93,000?

10 PROSPECTIVE JUROR NO. 029: Yeah. Right now, it's at 93,000.

11 THE COURT: That's how much you owe?

12 PROSPECTIVE JUROR NO. 029: Yeah.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 029: So I...

15 THE COURT: Do you know what your equity is in your house?

16 PROSPECTIVE JUROR NO. 029: Well, I pay -- monthly I pay,
17 like, 700 and -- and 63.

18 THE COURT: Okay. So -- so how -- tell me how much money do you
19 have at the end of each month, disposable income?

20 PROSPECTIVE JUROR NO. 029: Sometimes I don't even have any
21 money in my -- my card, because I pay all my bills before.

22 THE COURT: Okay. So you're living paycheck to paycheck?

23 PROSPECTIVE JUROR NO. 029: Yes, I am.

24 THE COURT: Okay. All right. Give me one second.

25 [Pause in proceedings.]

1 THE COURT: So, I mean, according to Zillow, you have a -- a lot of
2 equity in your house. So I'm not sure if you qualify as financial hardship here. I'll
3 get back to you on that one. Okay?

4 How long have you owned your house?

5 PROSPECTIVE JUROR NO. 029: Since 2015.

6 THE COURT: 2015? Okay. All right. We'll get back to you. Thank
7 you. All right.

8 Who's next?

9 PROSPECTIVE JUROR NO. 030: Badge 03 --

10 THE COURT: You've got to speak up louder, sir.

11 PROSPECTIVE JUROR NO. 030: Badge No. 030, Dwight Davis.

12 THE COURT: Yeah. All right. Mr. Davis, what's your situation?

13 PROSPECTIVE JUROR NO. 030: My situation is my wife, she just
14 had surgery on the 21st, and it was, like, breast cancer.

15 THE COURT: Oh, I'm sorry. Sorry.

16 PROSPECTIVE JUROR NO. 030: So right now she's at home, and I
17 have one of our -- a friend of mine looking after her right now. Then she going to
18 have a -- I got about two or three more appointments this week. I got to go to
19 Comprehensive Cancer Center for an appointment. Then I have Dr. Spock
20 [phonetic] for an appointment on Thursday.

21 THE COURT: All right. Thank you, sir.

22 Pass the microphone. Who is next?

23 PROSPECTIVE JUROR NO. 036: 036, Steve Yamaguchi.

24 THE COURT: Mr. Yamaguchi, what's up, sir?

25 PROSPECTIVE JUROR NO. 036: Well, I forgot to let you know I'm on

1 medication. And --

2 THE COURT: Oh, I already talked to you. I've got enough information
3 on you. Pass the microphone.

4 PROSPECTIVE JUROR NO. 036: Okay.

5 THE COURT: Thank you, sir. All right.

6 Who is next?

7 PROSPECTIVE JUROR NO. 038: Sheila Porath.

8 THE COURT: Yes, Ms. Porath. I can't see you too well. But thank
9 you for raising your hand.

10 PROSPECTIVE JUROR NO. 038: Sorry. I do work three days a
11 week. I do get Social Security. But I also have a subpoena for next week, and
12 some medical stuff I have to have done on the 3rd. So that would be making me
13 actually miss more of my time working. Because I can't work more than three
14 days.

15 THE COURT: What -- what line of work you are you in?

16 PROSPECTIVE JUROR NO. 038: I am casino. I do bingo.

17 THE COURT: Oh, okay. No, that's great. What's your marital status?

18 PROSPECTIVE JUROR NO. 038: Soon to be divorced.

19 THE COURT: Okay. All right. Do you have any dependents?

20 PROSPECTIVE JUROR NO. 038: No.

21 THE COURT: Okay. So you mentioned two things, medical stuff and
22 subpoena.

23 PROSPECTIVE JUROR NO. 038: Right.

24 THE COURT: Let's break those down.

25 PROSPECTIVE JUROR NO. 038: Well, subpoena, I have a TPO,

1 have had for quite some time.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 038: For a couple months. And that's, I
4 think on the first --

5 THE COURT: So the subpoena you have to go to court?

6 PROSPECTIVE JUROR NO. 038: Yes.

7 THE COURT: All right. Is that -- and is that justice court, municipal
8 court?

9 PROSPECTIVE JUROR NO. 038: It's going to be here, I guess,
10 somewhere.

11 THE COURT: Yeah. When -- and when was that? When do you
12 have to go to court?

13 PROSPECTIVE JUROR NO. 038: The 1st.

14 THE COURT: August 1st? Okay. And so -- so you weren't saying
15 that -- that doesn't conflict with this trial --

16 PROSPECTIVE JUROR NO. 038: No.

17 THE COURT: -- but it -- let me talk.

18 PROSPECTIVE JUROR NO. 038: I'm sorry.

19 THE COURT: But what you're -- what you're suggesting is that's more
20 time out, which makes it more difficult for you to earn money?

21 PROSPECTIVE JUROR NO. 038: Right.

22 THE COURT: All right. And then you said you had medical stuff,
23 some appointments?

24 PROSPECTIVE JUROR NO. 038: Yes. That's why, when you said
25 sick, or real -- I'm not real sick, but I have back issues, neck issues.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 038: I have to have more injections --

3 some injection -- they're going to fuse my nerves --

4 THE COURT: All right.

5 PROSPECTIVE JUROR NO. 038: -- in my spine.

6 THE COURT: So sounds like you've got -- I mean, we all have --

7 PROSPECTIVE JUROR NO. 038: Yes.

8 THE COURT: -- life commitments. Unfortunately, these aren't enough

9 for me to -- to excuse you.

10 PROSPECTIVE JUROR NO. 038: Okay.

11 THE COURT: But -- but we'll let the attorneys take it into consideration

12 in determining whether you're appropriate for this jury.

13 PROSPECTIVE JUROR NO. 038: All right. Thank you.

14 THE COURT: All right. Thank you. All right.

15 Let's go on to the next person. All right.

16 Marshal, let's go over to this side. Let's start in order, so it's, like, the

17 far right. Who do I need to talk to first.

18 THE MARSHAL: Nobody on the first row.

19 THE COURT: All right. Anybody in this row would like to talk to me

20 please? Raise your hand, let me just see who the marshal needs to --

21 Yes, sir. Let me -- let me have your badge number, please.

22 PROSPECTIVE JUROR NO. 051: 051.

23 THE COURT: Yes, sir. 051, Andrew Reynolds.

24 PROSPECTIVE JUROR NO. 051: That's correct.

25 THE COURT: All right. Mr. Reynolds, what's the nature of your

1 hardship?

2 PROSPECTIVE JUROR NO. 051: Pretty much it would just be an
3 employment inconvenience, because I work in my section -- I work for Bearcom for
4 radios. We only have two people in our section. And, obviously, I'm one of two
5 only hands that are there. So, obviously, that would, obviously, inconvenience
6 everything we do, service, deliveries, et cetera.

7 THE COURT: What type of -- what type of work is it again?

8 PROSPECTIVE JUROR NO. 051: Radios are pretty much a
9 subbranch under Motorola.

10 THE COURT: Okay. You manufacture radios?

11 PROSPECTIVE JUROR NO. 051: We do subrents. We do stuff like
12 that for all the casinos and everything else as such. Whatever's needed,
13 obviously.

14 THE COURT: Okay. How long have you had that job, sir?

15 PROSPECTIVE JUROR NO. 051: I've been there just over two years
16 now.

17 THE COURT: Two years. Okay. And are -- are you the owner or an
18 employee?

19 PROSPECTIVE JUROR NO. 051: No. Employee.

20 THE COURT: Okay. How -- how -- and what do you think your boss
21 would -- have you talked to your boss about coverage --

22 PROSPECTIVE JUROR NO. 051: Yeah.

23 THE COURT: -- while you're gone?

24 PROSPECTIVE JUROR NO. 051: Yeah. It's, like I said, with only two
25 bodies there, even my other assistant, he's -- he's pulling the whole weight today.

1 But a full week's worth would be so out of hand.

2 THE COURT: All right. We'll take that into account and see what --
3 what our situation is when we excuse some others. And we've got to prioritize
4 here.

5 PROSPECTIVE JUROR NO. 051: Uh-huh.

6 THE COURT: We'll see where we are. Thank you for that information.

7 PROSPECTIVE JUROR NO. 051: Appreciate it, sir.

8 THE COURT: All right. Anybody else in that first row? I -- I didn't see
9 any other hands. This is your chance.

10 Oh, yes. Marshal.

11 This is -- your name was Ms. Scaringi?

12 PROSPECTIVE JUROR NO. 041: Scaringi.

13 THE COURT: Scaringi, yep. What did you want to say to us?

14 PROSPECTIVE JUROR NO. 041: Oh, I have no vehicle to get down
15 here. I live out in Henderson, not too far. But it would affect my father, the only
16 person that would be able to drive me, it would affect his work, for if it lasts about a
17 week.

18 THE COURT: Okay. And did your dad drive you today?

19 PROSPECTIVE JUROR NO. 041: Yes.

20 THE COURT: Okay. And does he live -- or does he work nearby this
21 area?

22 PROSPECTIVE JUROR NO. 041: He works at McCarran.

23 THE COURT: McCarran?

24 PROSPECTIVE JUROR NO. 041: Uh-huh.

25 THE COURT: That's about -- about 15 -- 12, 15 minutes from here,

1 right?

2 PROSPECTIVE JUROR NO. 041: Yeah. So.

3 THE COURT: So do you think -- what -- what are his hours of -- of
4 work?

5 PROSPECTIVE JUROR NO. 041: Graveyard.

6 THE COURT: So what does that mean?

7 PROSPECTIVE JUROR NO. 041: 10:30 to 7:00, I guess.

8 THE COURT: So 10:30 p.m. to 7:00 a.m.?

9 PROSPECTIVE JUROR NO. 041: Yeah. Well, he gets home
10 around 8:00.

11 THE COURT: Oh, okay.

12 PROSPECTIVE JUROR NO. 041: So that's 7:00, 7:30.

13 THE COURT: So he'd have to get off, go all the way to Henderson,
14 pick you up, come all the way back here, drop you off.

15 PROSPECTIVE JUROR NO. 041: Uh-huh.

16 THE COURT: Go all the way back home. And then until -- until his
17 shift -- yeah. Okay. That is a pretty big inconvenience for him.

18 PROSPECTIVE JUROR NO. 041: For him, yeah.

19 THE COURT: Well, let's -- do you have any other options? Could --
20 could maybe -- so is there another car that -- do you live with your parents?

21 PROSPECTIVE JUROR NO. 041: Yes.

22 THE COURT: All right. Do you have -- do they have another car that
23 they could let you borrow and you could come to work in --

24 PROSPECTIVE JUROR NO. 041: The other one is needed, too, for
25 my mother.

1 THE COURT: Your mom needs the other car?
2 PROSPECTIVE JUROR NO. 041: Yeah.
3 THE COURT: What -- and could you describe or explain that for us;
4 what does she need it for?
5 PROSPECTIVE JUROR NO. 041: She needs it for her volunteer
6 work.
7 THE COURT: Okay. What -- what volunteer work does she do?
8 PROSPECTIVE JUROR NO. 041: One of Jehovah's Witnesses.
9 THE COURT: Okay.
10 PROSPECTIVE JUROR NO. 041: A full-time bible teacher. We both
11 are.
12 THE COURT: Okay. So how -- what part of Henderson -- you know,
13 you don't need to put on the record where you live, but what part of Henderson are
14 you in?
15 PROSPECTIVE JUROR NO. 041: Older section, Lake Mead and
16 Warm Springs.
17 THE COURT: Right.
18 PROSPECTIVE JUROR NO. 041: Like, over from Tuscany and
19 Cross, in that area.
20 THE COURT: Have you -- do you know if there's any convenient bus
21 routes to get you from there to here?
22 PROSPECTIVE JUROR NO. 041: Not really.
23 THE COURT: Okay. All right. Are --
24 PROSPECTIVE JUROR NO. 041: I haven't looked into it.
25 THE COURT: Are you employed?

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

PROSPECTIVE JUROR NO. 041: No.

THE COURT: Okay. And you're 20 years old, right?

PROSPECTIVE JUROR NO. 041: Yes.

THE COURT: Okay. All right. Let me discuss that with the attorneys, we'll see what -- what we might need to do.

What about -- I'm just trying to think. Yeah. I can't -- I can't come up with any options right now. Let me get back to you. Okay.

PROSPECTIVE JUROR NO. 041: Thank you.

THE COURT: All right. Next person, marshal.

Badge number, please?

PROSPECTIVE JUROR NO. 065: 065, Yubart Narsa.

THE COURT: 065. Yes, Mr. Narsa. What would you like to describe?

PROSPECTIVE JUROR NO. 065: I didn't know it was going to take a week. Where I work, I'm the only employee there.

THE COURT: You're lucky it's not six weeks. I had a six-week trial scheduled not too long ago.

PROSPECTIVE JUROR NO. 065: Right. And I didn't -- I don't have a babysitter. I barely found one today. But that's not the issue. The issue is I'm the only employee. Where I work is a high-riser. And last week, the building went -- was approved for construction defective. And I'm the only person who going to allow all these vendors into the building with the access.

THE COURT: What is -- what is your title?

PROSPECTIVE JUROR NO. 065: Service coordinator.

THE COURT: For what building?

PROSPECTIVE JUROR NO. 065: For -- well, I work for service

1 residential. And the building is West Charleston C2 Loft.

2 THE COURT: So you're the service coordinator?

3 PROSPECTIVE JUROR NO. 065: Yes, sir.

4 THE COURT: And the name of the building?

5 PROSPECTIVE JUROR NO. 065: C2 Loft, West Charleston.

6 THE COURT: C -- I'm sorry. The name of the building?

7 PROSPECTIVE JUROR NO. 065: It's called West Charleston C2 Loft.

8 THE COURT: West Charleston C2 Loft. Where is that?

9 PROSPECTIVE JUROR NO. 065: It's right across the street from Red
10 Rock Casino, going over the freeway.

11 THE COURT: All right. And you said that it was recently declared to
12 have construction defects?

13 PROSPECTIVE JUROR NO. 065: Yes, sir. That's going to last about
14 six month.

15 THE COURT: So that means that there will be inspections?

16 PROSPECTIVE JUROR NO. 065: Inspections already been done.
17 I've just got to allow the people to come into the building and out of the building.
18 And they're going to build their office inside the garage where my office is. And I'm
19 the only one who has access through that building that would allow all the vendors
20 to come in.

21 THE COURT: The vendors for -- well, I thought you -- you were talking
22 about repair work?

23 PROSPECTIVE JUROR NO. 065: Yes, sir.

24 THE COURT: All right. So contractors?

25 PROSPECTIVE JUROR NO. 065: Yes.

1 THE COURT: And they need to come in and out to do their work?

2 PROSPECTIVE JUROR NO. 065: Yes.

3 THE COURT: All right. Who's supervising that -- that work? Or who
4 is the general -- is there a general contractor?

5 PROSPECTIVE JUROR NO. 065: That I don't know. But my -- I
6 mean, my manager, her name is Jennie, and she was hired about two weeks ago.

7 THE COURT: Jennie?

8 PROSPECTIVE JUROR NO. 065: Jennie.

9 THE COURT: Did you mention your possible jury service to Jennie?
10 And what was her reaction?

11 PROSPECTIVE JUROR NO. 065: I mentioned it, actually, to her
12 yesterday, even though we were both off. And I told her that, hey, I'm going to find
13 out today --

14 THE COURT: Yeah.

15 PROSPECTIVE JUROR NO. 065: -- if -- if they going to need me or
16 not. Then she said, go ahead and take tomorrow off. And just bring the -- bring
17 your tag so you can get paid for it.

18 THE COURT: All right. Thank you, Mr. Narsa. I appreciate that
19 information. We'll -- we'll talk and decide if we're able to accommodate you.

20 PROSPECTIVE JUROR NO. 065: Thank you.

21 THE COURT: All right. Let's go to the next person.

22 PROSPECTIVE JUROR NO. 066: Raymond Nickels, No. 66.

23 THE COURT: 66. And we're -- we'll take a break here pretty soon.
24 But Mr. Nickels, No. 66, what would you like to say, sir?

25 PROSPECTIVE JUROR NO. 066: Just a possible conflict. I -- I can't

1 really say for sure.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 066: I believe you mentioned on
4 Wednesday you intended to start at 10:30.

5 THE COURT: Yes, sir.

6 PROSPECTIVE JUROR NO. 066: My partner has been diagnosed
7 with early Alzheimer's, and she does have an appointment with the Lou Ruvo
8 Brain Clinic that morning. It is earlier, I believe the appointment's at 8:30, so I don't
9 think that it would be a conflict. But they do ask that I be there. They think that's
10 very important.

11 THE COURT: I understand.

12 PROSPECTIVE JUROR NO. 066: I just -- I can't say for sure whether
13 that would be a conflict or not. I thought I should bring it up.

14 THE COURT: So that -- that's important to bring it up. I appreciate
15 that. If -- if you are chosen to be a juror and that -- and -- and you're going to --
16 and -- and you would not be able to make it here at 10:30, as we got closer -- well,
17 tomorrow we would be able to look into that some more. But we could probably
18 start maybe a little bit later to accommodate you, if you're chosen. Okay?

19 PROSPECTIVE JUROR NO. 066: Thank you.

20 THE COURT: So thank you.

21 Pass the microphone. Anybody else in that -- are we in the last row, I
22 think -- I see two hands still.

23 PROSPECTIVE JUROR NO. 067: Hi. I'm Debra Castille, 067. I'm a
24 little embarrassed, because mine doesn't seem to be as important as -- as
25 everybody else's. But I have planned an 80 -- a huge 80th birthday party for my

1 mother on Friday, in California, and would like to attend. I know you said vacation.
2 This is not really vacation. I've --

3 THE COURT: Well, I -- yeah.

4 PROSPECTIVE JUROR NO. 067: I --

5 THE COURT: So we take things all -- you know, 80's pretty -- pretty
6 significant.

7 PROSPECTIVE JUROR NO. 067: Yeah.

8 THE COURT: It's your mom. So it's planned for Friday?

9 PROSPECTIVE JUROR NO. 067: Yes.

10 THE COURT: Can you move it to Friday evening, so you have time to
11 get there? We can maybe get done 4:00 p.m. on Friday; would that give you time
12 to get there for the party? Are you flying or driving?

13 PROSPECTIVE JUROR NO. 067: I'm flying.

14 THE COURT: Is it possible to fly to get there in time for the party?
15 Just -- just asking. I'm not requiring it.

16 PROSPECTIVE JUROR NO. 067: Yeah. Like, if I was to -- if we were
17 to finish up, like, around 5:00 or so.

18 THE COURT: Yeah.

19 PROSPECTIVE JUROR NO. 067: Yeah.

20 THE COURT: But, I mean, what if we finished, like, at 4:00 or 3:30;
21 would that make it a lot more feasible for you to get there --

22 PROSPECTIVE JUROR NO. 067: It would be fine. I could get there.

23 THE COURT: -- for the party? Then would it work out?

24 PROSPECTIVE JUROR NO. 067: Yeah.

25 THE COURT: We could try to accommodate you on that late, just --

1 just remember if we left a little bit early Friday, that probably pushes the trial a little
2 bit later Monday, the following Monday. Would you be back here on Sunday or
3 Monday?

4 PROSPECTIVE JUROR NO. 067: No.

5 THE COURT: Oh.

6 PROSPECTIVE JUROR NO. 067: No.

7 THE COURT: Well, when do you -- when you were you planning on
8 flying back?

9 PROSPECTIVE JUROR NO. 067: I was flying back on Tuesday.

10 THE COURT: Well, we might need you to come back sooner. We'll
11 see. We'll -- we'll see. Well, let me -- let me see where we are. Okay.

12 PROSPECTIVE JUROR NO. 067: Okay. Okay.

13 THE COURT: I'll put a big question mark on that one. All right.

14 PROSPECTIVE JUROR NO. 067: Thank you.

15 THE COURT: All right. If we don't excuse you right away, it just
16 means we need to ask more questions and consider more options. All right.

17 Anybody else? All right.

18 Is that it? All right. Oh, one more.

19 PROSPECTIVE JUROR NO. 057: Sorry, Your Honor. My name is
20 Charlene Gibson, my badge number is 057.

21 THE COURT: We're going backwards here. All right.

22 Ms. Gibson, what do you got?

23 PROSPECTIVE JUROR NO. 057: So I had asked for this date to be
24 rescheduled, because I was teaching summer school previously, and I just picked
25 an arbitrary date. In the middle of that, and getting up to this date, my mother was

1 unexpectedly hospitalized. And they told her that -- and she's -- she lives in Texas
2 currently with my sister who has three very young children, the youngest of which
3 was born prematurely.

4 And they told her -- after they released her from the hospital, that it
5 was no longer safe -- I'm sorry -- safe or smart for her to go live with my sister. So
6 I actually had to buy a ticket.

7 And I'm -- I'm moving -- or, I'm sorry, I'm going to Texas to help my
8 sister pack up my mother and then move her to an assisted living facility here in
9 Las Vegas. And the -- the home that's here is the only one that will accept the VA
10 benefit that she will qualify for. All the other homes that were in Texas were a few
11 hours away, which would create hardship for my sister.

12 THE COURT: All right. So when were you planning to go to Texas?

13 PROSPECTIVE JUROR NO. 057: I was actually -- I have a flight -- or
14 I'm sorry, I have a -- I think it was going to be just the next couple of days. Like, I
15 have a flight tomorrow that was already previously planned to New York on other
16 business, which I'm already having to adjust. And then I was going to put the
17 return to go straight to Texas.

18 THE COURT: So this week?

19 PROSPECTIVE JUROR NO. 057: Yes, sir.

20 THE COURT: And then when were you going to come back with your
21 mom? How long were you going to be there?

22 PROSPECTIVE JUROR NO. 057: We're trying to get her packed up
23 immediately, as soon as possible, because we can't have her in a hotel or anything
24 by herself. So as soon as I arrive we're packing up the car. We're renting a
25 minivan, and we're driving back.

1 THE COURT: So you said -- when does your mom get released from
2 the hospital?

3 PROSPECTIVE JUROR NO. 057: They don't know exactly yet. So
4 I'm trying to get there as soon as possible so that as soon as they release her we
5 can go.

6 As soon as she found out she was moving to Vegas, she's been
7 begging 50 times a day, wanting to know when I'm getting there. But they -- but
8 they said that as soon as her -- I guess, they finish her therapy. But they expect it
9 to be sooner rather than later and the insurance won't cover it. So we're trying to
10 get there before all of that kicks in to minimize any expense, because it's already
11 going to be a thousand dollars to rent this minivan and, of course, the flights and
12 everything else.

13 THE COURT: Is there a probability your mom might be released this
14 week?

15 PROSPECTIVE JUROR NO. 057: Yes. Very high probability. That's
16 why I'm -- yeah. And as I said, and I apologize, because I truly -- I do love jury
17 duty. And I hate to even ask for an exemption. I've never asked for one before,
18 because I'm very honored to serve. But --

19 THE COURT: And I appreciate that.

20 PROSPECTIVE JUROR NO. 057: -- with the -- the change in the
21 date, like I said, it just -- it happened -- I called -- as soon as I found out, I called to
22 try to get it rescheduled again. And they told me since I had rescheduled once,
23 they wouldn't be able to reschedule it again. But I'm more than happy after I'm
24 back to serve again in August or -- or whenever.

25 THE COURT: Okay. All right. Thank you. We'll get back to you on

1 that one.

2 PROSPECTIVE JUROR NO. 057: Okay. Thank you, Your Honor.

3 THE COURT: All right. So everyone please have a second bite at the
4 apple. Is there anybody who really needed to talk to me about a hardship that --
5 that didn't raise their hand and is having second thoughts and wants to raise their
6 hand now?

7 PROSPECTIVE JUROR NO. 039: Yeah. I'd contemplated whether or
8 not to rescind my -- my comment on this, but I'll go ahead and present it briefly.

9 THE COURT: Yes, sir. Can -- can I have -- the very first thing I need,
10 whenever anybody takes the --

11 UNIDENTIFIED PROSPECTIVE JUROR 039: 039.

12 THE COURT: Please -- and another thing I really don't like is people
13 interrupting me.

14 So very first thing everybody needs to do when they get the
15 microphone is give the badge number and their name.

16 Okay. Go ahead, sir.

17 PROSPECTIVE JUROR NO. 039: My apologizes. 039, Benjamin
18 Muhlestein.

19 I am the sole provider of my family. We -- I have six children. I am
20 working a full-time job, plus I'm trying to get in about 80 hours in the next three
21 weeks, again, in addition to my 40-hour workweek, getting those additional hours
22 in, in preparation to teach a seminary for my church on the side, during the
23 daytime.

24 And so trying to get -- you know, get as, you know, get those hours in
25 and get as much income as possible.

1 THE COURT: All right. Very good. And can I ask who watches your
2 children while you're here in court?

3 PROSPECTIVE JUROR NO. 039: Well, my wife does.

4 THE COURT: Right. Is -- is she employed?

5 PROSPECTIVE JUROR NO. 039: She is not.

6 THE COURT: Okay. And -- that's a handful, six children. How --

7 PROSPECTIVE JUROR NO. 039: It's -- it's a handful.

8 THE COURT: How old are your children now?

9 PROSPECTIVE JUROR NO. 039: They're -- they're getting older.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 039: 19 to 6.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 039: So I have a daughter that's 19.
14 She's about ready to -- to, you know, the -- leave the house here soon. A
15 son, 18, 17, 15, 12, and 6.

16 THE COURT: Okay. And you said you're a sole proprietor for your --
17 your church?

18 PROSPECTIVE JUROR NO. 039: No. I -- like I said, I work full-time
19 for the -- in the grocery business, grocery industry, as a manager. And then -- and
20 then on the side I'm going to be teaching seminary as a student teacher, looking to
21 make a professional change --

22 THE COURT: Oh, okay.

23 PROSPECTIVE JUROR NO. 039: -- to become a full-time seminary
24 teacher for my church.

25 THE COURT: All right. Thank you for that information.

1 So -- so we're going to -- we're going to take a lunch break now. And
2 then after lunch, there's a group of you that I'm going to excuse. I'm going to talk
3 to the attorneys between now and -- and that point in time and excuse you -- a
4 group of you.

5 Now, it may be that some of you have a potentially valid excuse. But
6 we need more information, so if you're not excused right away, it simply means
7 that you're going to go on to the next phase of the process, and we're going to get
8 more information from you. We'll make a decision for a little later on. All right.

9 But, at this time I'm going to read you this admonishment. These are
10 words for you to listen carefully to, to make sure that you don't do anything that
11 taints the process here.

12 During your lunch recess, do not communicate among yourselves or
13 with anybody else about this trial or the subject matter of this trial; do not
14 communicate at all with any of the parties, attorneys, or witnesses involved in this
15 trial; do not seek or obtain any information or comments about this case from any
16 source, including newspapers, television, radio, Internet, e-mail, cell phones, or
17 any other electronic device; do not read, watch, or listen to any report of or
18 commentary about the case; do not perform any research or investigation; do not
19 form or express any opinion on any subject connected with this trial until the case
20 is finally submitted to you for deliberations.

21 You are directed to return to the hallway outside this courtroom for
22 further proceedings at 1:15. And then you'll hear if you're excused or whether you
23 go on to the next phase. All right.

24 Thank you very much. Please gather your belongings, and I'll see you
25 all back at 1:15.

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

[Prospective jury panel recessed at 12:07 p.m.]

THE COURT: All right. We're outside the presence of the jurors.

Let me ask my staff, do you guys -- are you okay to spend five more minutes discussing the excusals? Or do you want to do that after -- after lunch?

THE CLERK: Now is fine.

THE COURT: Okay now? All right.

You guys okay to discuss it now?

MS. LEXIS: Yes.

MR. GASTON: Yes, sir.

MS. MACHNICH: Absolutely.

THE COURT: Okay. So let's -- let's take these in order.

The first one I think we should discuss is Alice Yim, No. 2. Her English seemed quite problematic, so I think we should excuse her.

MR. GASTON: We move to strike.

MS. LEXIS: State agrees.

THE COURT: Okay. So we'll -- we'll excuse No. 2.

Then No. 6, Ryan McAvity, he -- what do you guys think? I mean, he lives Durango and 15. It would be a financial hardship for him to get a car. It might be too much to --

What? Okay.

I just got a note from my law clerk. Thank you for being on the ball. There's the Centennial Express that goes from terminal court -- terminal at 95 and Durango, which he says is where he lives, directly to downtown.

MS. LEXIS: Wow.

THE COURT: So that seems pretty convenient.

1 MS. LEXIS: Great find.

2 THE COURT: I think he can just take the -- the terminal express.

3 What do you think? I'm going to keep him for now. He could take the bus. Right?

4 He's living with a friend right near the bus terminal.

5 MR. GASTON: Yes, sir.

6 THE COURT: All right.

7 MS. LEXIS: Yep.

8 THE COURT: Well, I'll let him know about this. Remind me to let him

9 know.

10 That's excellent news. All right.

11 Next person would be -- I think No. 18, Pozadas.

12 MR. GASTON: I think we skipped a couple, Judge.

13 THE COURT: Oh, tell me. Who did we skip?

14 MR. GASTON: Badge 13, Marybel Rojasdeforero.

15 THE COURT: Oh, yes. Thank you. Number 13. Yeah, her establish

16 is too broken. Let's excuse her. All right. I'll excuse No. 13 for English.

17 MR. GASTON: Badge No. 15, Richard Sheldon.

18 THE COURT: Yeah. I'm not -- I'm not excusing him. It didn't sound

19 enough like a hardship to me.

20 MR. GASTON: Badge number --

21 THE COURT: Do you want to make a record?

22 MR. GASTON: No. I -- I was going to say the same thing.

23 THE COURT: Okay. I'm keeping No. 15. All right.

24 Next?

25 MR. GASTON: Badge No. 18 -- oh, you said 18. Badge 18.

1 THE COURT: Let's go to 18. Any -- what -- what's your thoughts,
2 guys?

3 MR. GASTON: We'll submit.

4 MS. MACHNICH: I think I -- I'd actually move to strike. I -- she
5 seemed to be trying, but if she's having concerns about legal terms, we haven't
6 even gotten into the legal terms yet. So I would have some concerns about that. If
7 she thinks that she has a problem and she's saying 60 percent, I -- I think that she
8 should be let go.

9 MS. LEXIS: We'll defer to the court. But compared to the other
10 individuals who we've kicked, in terms of speaking and understanding the court's
11 questioning thus far, I think she's been the best. I think, as of right now, her
12 English is not that much of a problem --

13 THE COURT: Okay.

14 MS. LEXIS: -- that it would pose an issue.

15 MR. GASTON: I was going to back up. I'm sorry. When I said I
16 submit, I thought we would all be in agreement that her language issues were --
17 difficulty and she'd be gone.

18 THE COURT: Yeah. That's fine.

19 MR. GASTON: So I -- I didn't --

20 THE COURT: So, yeah, I generally -- my general rule of thumb is I -- I
21 use like a 75 percent cutoff. If they self-report 75 or higher --

22 MS. LEXIS: Okay.

23 THE COURT: -- then I'll explore it more. She's self-reporting at 60 for
24 both comprehension and speaking, and so I think that's a problem. I'm going to go
25 ahead and excuse her.

1 MS. LEXIS: Okay. Thank you, Judge.
2 THE COURT: But thank you.
3 MS. LEXIS: Thank you.
4 THE COURT: So excuse No. 18 for English hardship.
5 Then I -- I didn't have any -- I'm not excusing anyone else until I get
6 to 25.
7 MR. GASTON: There --
8 THE COURT: Anybody want to make a record of anybody before 25?
9 MR. GASTON: I guess -- not -- not to make a record, but the only one
10 is Badge 22. I'm assuming the court is not finding his situation a hardship.
11 THE COURT: Yeah. Builder.
12 MR. GASTON: I'm not asking to excuse him.
13 THE COURT: Owns his own home, car, some equity, no dependents,
14 I -- that's not a financial hardship. He's staying.
15 MR. GASTON: And the defense was going to argue the same thing.
16 THE COURT: All right. Very good.
17 Number 25, Ausra Bisek. Small business owner, three students that --
18 that plans already from three different states to come in for -- for education. I -- I
19 think that's a hardship.
20 MS. LEXIS: The State will submit.
21 MR. GASTON: Defense agrees.
22 THE COURT: And not a hardship again because of the owner, but
23 because of the -- the disruption to the students coming in.
24 MR. GASTON: Yes. Yes, Your Honor.
25 THE COURT: So I'm excusing No. 25 for hardship. All right.

1 Then No. 26, Darrel Galloway.

2 MR. GASTON: The defense --

3 THE COURT: I'm not sure about this one. But what are your guys'
4 thoughts? I'm not -- I'm -- I'm leaning towards excusing, because I don't see how
5 sister watching six kids seems like -- it seems tough. But I'm not sure. I mean, I've
6 never had to watch that many kids, so I don't know.

7 MR. GASTON: I mean, at the end of the day, though -- so we're not
8 moving not to excuse. The other guy's wife watches six kids, and he's not arguing
9 that's a hardship. These kids are older. And he -- like, he can also find a
10 babysitter for three days. The kid -- there's no -- there's no indication, there's no
11 testimony that he can't afford to have a babysitter. He has split custody with the
12 mom. Why can't the mom take the kids back for these three days? I mean, he
13 has three children. He has plenty of -- it seems like the mother of the children
14 could watch the kids, the sister could watch the kids. He could hire a nanny. He
15 could do all of the above to split them up and lessen the hardship on others. I
16 don't --

17 THE COURT: I know, it's tough when you have, like, joint custody and
18 you're losing out on your week with the kids, too.

19 MR. GASTON: Yeah. But --

20 THE COURT: I kind of sympathize with that. But --

21 MR. GASTON: He's got jury duty.

22 MS. LEXIS: I agree with the defense, actually, on this one. I don't
23 think it rises to the level. I myself thought maybe the mother -- they could break it
24 up differently this week.

25 MR. GASTON: I mean, at a -- at a minimum --

1 THE COURT: All right. We'll -- so we'll -- we'll keep him on for now
2 and see if he's chosen. I -- I -- that was -- that was a close call for me. Let's go
3 on.

4 MR. GASTON: Will the court allow us to explore that further, of
5 course, I mean, if something comes up?

6 THE COURT: Yeah. Of course.

7 MR. GASTON: Okay.

8 THE COURT: Let's go to Hernandez, 29, maybe I was too hard on
9 her. But when we looked up Zillow, you know, it says her house is worth 188,000.
10 And she says that she owes 93 on it. That's a big chunk of equity. Yet -- yet she's
11 living paycheck to paycheck. I know people can, you know, have a lot of equity in
12 a house and still live paycheck to paycheck. That is possible. She's a single
13 mom. She's got a baby. I -- I'm on the -- I'm on the -- I'm on the fence on this one.
14 Thoughts?

15 MS. LEXIS: Your Honor, the only thing is she said she wasn't sure if
16 her employer at Advance America was willing to pay for jury duty. So I -- I would
17 ask that we be allowed to inquire as to whether or not she can find out at the break
18 whether it's actually paid, because that might help with the financial difficulty, if
19 they pay for a certain number of days or -- or whatnot.

20 MR. GASTON: Defense submits.

21 THE COURT: So, yeah. I -- I think that's fair. We'll excuse if her
22 employer does not pay. She can check. All right.

23 MR. GASTON: So -- so coming back to her, depending on that.

24 THE COURT: We're coming back to her for questioning.

25 MR. GASTON: Okay.

1 THE COURT: We'll ask her.
2 MR. GASTON: Okay.
3 THE COURT: Thank you. That's a good --
4 MS. LEXIS: You're welcome.
5 THE COURT: That's a good way of resolving it.
6 Dwight Davis, No. 30, his wife is having surgery. I think we need to
7 excuse him.
8 MS. LEXIS: Yes.
9 MS. MACHNICH: We submit.
10 MR. GASTON: Yeah.
11 MS. LEXIS: Yeah.
12 THE COURT: All right. He's excused.
13 We already excused 33.
14 Let's go to 36, Steve Yamaguchi. His -- he was seen in an emergency
15 room. He's got his -- a 1:00 cancer appointment. I can't have him miss that.
16 MS. MACHNICH: No.
17 THE COURT: Do you guys understand?
18 MS. LEXIS: No. We agree.
19 MS. MACHNICH: We move to strike, because, I mean, his mind is not
20 going to be in this trial.
21 THE COURT: No. So we'll excuse 36 for hardship.
22 I was going to -- let's go to 38, Porath, I was going to keep Porath.
23 She got the subpoena and the medical stuff.
24 MR. GASTON: Yeah.
25 THE COURT: I -- I think for now we've got to keep -- she's got to

100

1 reschedule.

2 MS. LEXIS: We agree.

3 MS. MACHNICH: Yeah.

4 THE COURT: Muhlestein, No. 39, I understand he's got a 40-hour a
5 week job as a grocery store manager, and then he was saying he wants to put in
6 another 80 hours as prep for his new church work.

7 MR. GASTON: I don't think he understands how many hours are in a
8 week, but --

9 THE COURT: Yeah.

10 MR. GASTON: -- it seems that he's busy. So we would submit on the
11 request.

12 THE COURT: I'm not -- I -- I think he can start his planning for his new
13 church career after this trial. I'm not excusing him right now.

14 MS. LEXIS: Okay.

15 THE COURT: All right? Let's go to 41, Rebecca Scaringi.

16 MS. MACHNICH: I --

17 MR. GASTON: We -- we don't think that's a good excuse. Her mom
18 doesn't want to take her to work so she can't use the car?

19 THE COURT: Yeah.

20 MS. LEXIS: Did she say whether she drove?

21 MS. MACHNICH: Her dad drove her today.

22 MS. LEXIS: Oh. But also --

23 THE COURT: Well, her dad takes the car and her dad has the car
24 over there at McCarran until 7:00 in the morning. I guess, if her dad got home --

25 MS. LEXIS: She could take the car.

1 THE COURT: -- she could take the car when her dad got home.

2 MS. LEXIS: Yeah.

3 THE COURT: Yeah. You know what, why was I thinking her dad
4 needs to drive her?

5 MR. GASTON: Because she made it sound like she doesn't live near
6 him -- doesn't live with him and lives in a different -- like, she -- the way she
7 originally made it sound was that she wasn't live -- she didn't live with him, and
8 then it seemed like -- more like a hardship. She lives with her parents.

9 THE COURT: She lives with them. So she can wait till the dad gets
10 home, then take the car, and then be back before -- long before he needs it.

11 MR. GASTON: Or she could take her mom's car.

12 THE COURT: They have two cars. So --

13 MR. GASTON: Now, if there -- if there's an issue with that, she -- for
14 some reason she can't drive, it still, in my opinion, doesn't really change the
15 analysis, because I don't see why the mom can't give the ride and just postpone
16 her volunteer work as a Jehovah's Witness.

17 THE COURT: Yeah. We're going to keep her.

18 MR. GASTON: And she can take a bus, just like everybody else.

19 THE COURT: Yeah. We're going to keep her.

20 MS. MACHNICH: She may ultimately have an issue, because if she
21 shares the faith of her mother, she might have an inability to --

22 THE COURT: I asked about any religious --

23 MS. MACHNICH: -- judge --

24 THE COURT: -- concerns. And she can't raise it.

25 MS. MACHNICH: We'll see.

1 THE COURT: We'll see what she says during voir dire. All right?

2 MS. MACHNICH: Yeah, absolutely.

3 THE COURT: All right. Let's go to No. 46, Thomas Sullivan. Bias
4 because -- he's got possible bias. I -- but do you -- do you guys think --
5 realistically, let me ask the State, do you think there's any chance of rehabilitating
6 him --

7 MS. LEXIS: No.

8 THE COURT: -- if you want the opportunity?

9 MS. LEXIS: No.

10 THE COURT: I was very troubled by some of his comments.

11 MS. LEXIS: No, Your Honor. We don't want to further taint the jury at
12 this point anyway. So --

13 THE COURT: Right. Hopefully he didn't taint the jury by --

14 MS. LEXIS: No.

15 THE COURT: All right.

16 MS. LEXIS: It's just -- we would have -- if we were to inquire, we
17 would ask about the crime and things like that, and he would offer further opinions
18 that were not as general as -- as what he's already stated. So.

19 THE COURT: So excuse him for cause. All right. Number 46 without
20 objection. All right.

21 Then let's go to -- I'm keeping No. 51, Andrew Reynolds.

22 MS. MACHNICH: Yeah.

23 THE COURT: I didn't think that that was a sufficient hardship. All
24 right. You guys okay with that so far?

25 MS. MACHNICH: Absolutely.

1 MS. LEXIS: Yes.

2 MR. GASTON: Yes, sir.

3 THE COURT: All right. Then No. 57, Charlene Gibson, it seemed like
4 a valid medical hardship. She needs to go -- her mom's going to be out of the
5 hospital any day now and she needs to get her mom here in an assisted living
6 facility.

7 MR. GASTON: We'll submit.

8 MS. MACHNICH: Yeah. And it also sounded like, while she didn't
9 articulate it well, she has at least one plane ticket booked. I think she has two
10 plane tickets and a -- and a rental van. So she -- I mean --

11 THE COURT: So I'm excusing 57 for medical hardship.

12 MS. MACHNICH: Yeah.

13 THE COURT: Let's go up to 65. I'm keeping Yubart Narsa, only
14 employee, service coordinator. Look, these -- some of these vendors -- the -- the
15 manager can maybe make arrangements to let some of these vendors in. Some
16 of the vendors can be rescheduled. He didn't -- he didn't indicate that there's any,
17 you know, contract where they're going to be hit with some kind of delay damages
18 if the vendors can't make it in. So they're just going to have to reschedule some of
19 these -- some of these vendors. All right.

20 MS. LEXIS: Yep.

21 MS. MACHNICH: Or he can let them in before he goes to jury duty.

22 THE COURT: Or let them in before, whatever. I'm keeping --
23 keeping No. 65.

24 Keeping No. 66. But the -- the partner, let's see, Arizona 8:30 a.m.,
25 what was that? That was -- we'll be able to work around that.

1 Number 67, Debra Castille.

2 MR. GASTON: Well, I've got one issue. I mean, did it sound like -- it
3 said brain cancer; is that what he said?

4 MS. LEXIS: Alzheimer's.

5 MR. DICKERSON: Alzheimer's, early onset.

6 MS. MACHNICH: It's Alzheimer's.

7 MR. GASTON: Is it -- just -- I mean, is it going to -- is the guy going to
8 be able to focus on a week-long -- over a week-long jury trial that's fairly
9 complicated?

10 THE COURT: He didn't mention a focus problem. He mentioned
11 scheduling.

12 MR. GASTON: So I guess we can just ask about it.

13 THE COURT: I'll let you ask.

14 MR. GASTON: Because presumably he's probably worried about this.

15 THE COURT: Presumably. But I -- I'm worried about a lot of things.

16 MS. MACHNICH: But you're here.

17 THE COURT: I'm still going to make rulings. Well, I have to. But -- all
18 right.

19 MR. GASTON: Sorry.

20 THE COURT: Never mind.

21 MR. GASTON: Sounds good.

22 THE COURT: We all have life issues, right? And just -- just explore
23 whether it's going to be too much of a distraction for him.

24 MR. GASTON: Yeah, yeah.

25 THE COURT: All right. Castille, No. 67, 80th birthday party. What do

1 you think of that one?

2 MS. MACHNICH: My issue more is the plane tickets. She has plane
3 tickets booked.

4 MR. GASTON: On the other -- but at the same time, she can come
5 back. It's not that she can't do her birthday party. She can go to -- it sounds like --
6 I'm not trying to keep her from her mom's birthday party. It sounds like she can go.
7 She can -- just needs to be back Monday. I don't know why she just can't move it
8 to Sunday or to something different.

9 MS. LEXIS: Your Honor, I think she can serve. She indicated she
10 could come back on Monday.

11 THE COURT: Well, we'll keep her -- keep her around for now. All
12 right. We'll keep her around for now. All right.

13 And so let me -- let me go through this. The people I'm excusing now,
14 let's just make sure we've got a good record. Let me know if I've -- I've left anyone
15 out or made any mistakes.

16 This is the list of people I'm excusing: No. 2, No. 13, No. 18, No. 25,
17 No. 30. I already excused 33. No. 36, 46, and 57. Okay?

18 MS. LEXIS: Yes, Your Honor.

19 MS. MACHNICH: Yes.

20 THE COURT: Thank you guys for cooperating. And we'll start back
21 at -- why don't we say 1:20 now.

22 MS. MACHNICH: Okay.

23 THE COURT: All right. 1 -- 1:25. Let me give my staff a full hour.

24 MR. GASTON: Great. Thank you, Your Honor.

25 THE COURT: 1:25. Okay, everybody?

106

1 MS. MACHNICH: Thank you.

2 MS. LEXIS: Thank you.

3 THE COURT: And marshal, if you'll let the jurors know, if they start
4 coming back around 1:15, we're going to actually start at 1:25. All right.

5 Thank you, everybody. See you back in an hour.

6 MS. MACHNICH: Thank you.

7 MS. LEXIS: Thank you.

8 [Court recessed from 12:21 p.m., until 1:29 p.m.]

9 [Outside the presence of the prospective jury panel.]

10 THE COURT: All right. Are we ready to bring the jurors in?

11 MS. MACHNICH: Yes.

12 THE COURT: All right. Let's do it, marshal.

13 [Prospective jury panel reconvened at 1:30 p.m.]

14 THE COURT: All right. Please be seated, everybody. All right.

15 A few -- a few pieces of information.

16 First, Mr. Ryan McAvity, you are Badge No. 6. You don't need the
17 microphone, but so you -- you told us you live by Durango and -- and the 95. We
18 checked, you're in luck, right by Durango and 95, it is a major bus terminal, which
19 has an express that runs straight from there to downtown, to the downtown bus
20 terminal. So check into that. It should be really convenient for you. All right.

21 Next, I wanted to speak to Ms. Castille. You're having an 80th birthday
22 party for your -- your mother on Friday. If you are chosen to be on the jury, then
23 we can accommodate you maybe a little bit, to allow you to -- maybe we can finish
24 a little bit earlier on Friday, but you'll -- you'll have to make arrangements to be
25 back Monday. That's if you're chosen.

107

1 I wanted to speak to Ms. Hernandez, No. 29. It -- so you indicated that
2 you don't know if your employer pays for you to be on jury duty. You need to find
3 out and report back to us. Because if -- if it turns out -- you're -- you're borderline
4 financial hardship. So if -- if it turns out that you're employer does not pay for you
5 to be here, then we will excuse you. But you need to find out and let us know. All
6 right? All right.

7 The following people are excused. When I read you name, you may
8 gather your belongings, with the thanks of the court and Clark County, you are
9 excused. If you feel you still should be excused but your name is not called, you --
10 you may be excused later on in the process as we get more information.

11 But these people are excused, and only these people at this time:
12 Badge No. 2, Alice Yim, you are excused for hardship. You may -- you may go.
13 You may -- you may leave. Thank you now. Yes.

14 PROSPECTIVE JUROR NO. 002: Thank you.

15 THE COURT: Yes.

16 Badge No. 13, Marybel Rojasdeforero, you may be excused. You may
17 leave. Thank you.

18 PROSPECTIVE JUROR NO. 013: Thank you.

19 THE COURT: Badge No. 18, Norma Palma-Pozadas, you may be
20 excused.

21 Badge No. 25, Ausra Bisek, you are excused for hardship.

22 Badge No. 30, Dwight Davis, you are excused for medical hardship.

23 Badge No. 36, Steve Yamaguchi, you are excused for medical
24 hardship.

25 Badge No. 46, Thomas Sullivan, you are excused for cause.

1 Badge No. 57, Charlene Gibson, you are excused for medical
2 hardship.

3 Those are the only people who are excused. We went -- yes. Those
4 are the only people we are excusing at this time.

5 Marshal, one sec. All right.

6 Marshal, now, the court clerk will call the names of the next 24 in
7 order, beginning with the lowest number. The 24 people who are called will take
8 the seats up in the box. All right.

9 Marshal, please help the potential jurors find their seats. All right.

10 The back row is 1 through 8, going left to right, and the middle row is 9
11 through 16, and then the front row, considered part of the box, is Seats 17
12 through 24.

13 You may proceed.

14 THE CLERK: Dana Justice; Ryan McAvity.

15 THE COURT: And don't go too fast, because I'm numbering these on
16 my sheets. Thank you. Go ahead.

17 THE CLERK: Stephen Gray; Steve Winterbourne.

18 THE COURT: Make sure you say the names loud enough for
19 everyone to hear.

20 THE CLERK: Okay. Mirna Hermosillo; Richard Sheldon; Corey Lee;
21 Karen Smallwood; Harrichan Ramnath; Louis Grusinski; James Wheeler; Kelly
22 Day; Gary John Raczka; Darrel Galloway; Shirley Hernandez; Todd Garfield; Betty
23 Antonucci; Christopher Armanious; Sheila Porath; Benjamin Muhlestein; Rebekah
24 Scaringi; Cynthia Jones; Shawn Maurer.

25 THE COURT: Only need one more.

1 THE CLERK: Okay. Timothy Duerson.

2 THE COURT: All right. Thank you, Madam Clerk. All right.

3 So the next round of the jury selection process will involve us asking
4 questions just of you guys that are considered in the box.

5 The rest of you in the back, you're still under court order to -- to attend
6 the proceedings, to sit quietly, to listen carefully to all the questions, and to be
7 prepared to take a seat, in case a seat becomes vacant. All right. But after our
8 next break, you're free to move around, sit wherever you want, there's no particular
9 order you need to sit in at this time. All right.

10 Ladies and gentlemen, in the box, I now need the biographical
11 information that's listed on the sheet that is in front of you.

12 So we're going to start with the person in Seat No. 1, who I believe is
13 Dana Justice.

14 Is that you, ma'am?

15 PROSPECTIVE JUROR NO. 001: That is me.

16 THE COURT: You have a microphone.

17 PROSPECTIVE JUROR NO. 001: I do.

18 THE COURT: And do you have your sheet. And this is a pretty simple
19 process. I just want each person to first begin by telling us their name, in this
20 case, you know, hi, I'm Dana Justice. And I'm badge number. -- No. 1 is what you
21 would say. And then -- and then tell us how many years you lived in Clark County.
22 And then -- and then the rest of it. And I may have some follow-up questions. All
23 right.

24 PROSPECTIVE JUROR NO. 001: My name is Dana Justice. My
25 badge number is 001. I've lived in Clark County for just over eight years. I have

110

1 some college completion. I also did a vocational nursing school that I did not
2 complete. I am currently unemployed. I am single. I do not have any children.
3 And I've never served on a jury.

4 THE COURT: All right. So let me absorb all that.

5 When you were employed, what was your primary employment?

6 PROSPECTIVE JUROR NO. 001: My -- when I had full-time
7 employment --

8 THE COURT: Full-time.

9 PROSPECTIVE JUROR NO. 001: -- which I ended in March of 2016, I
10 worked for Spirit Airlines as a flight attendant. I quit that job, because I had to go
11 through chemical dependency treatment, and I have generalized anxiety disorder,
12 which you can already hear coming out of me while I talk.

13 THE COURT: Oh. Okay.

14 PROSPECTIVE JUROR NO. 001: I didn't want to say that when I
15 was -- when you were asking about sick people --

16 THE COURT: Yeah.

17 PROSPECTIVE JUROR NO. 001: -- because I don't consider myself
18 to be sick. I don't take medication. However, I'm an extremely anxious person.

19 THE COURT: Okay. Well, thank you for -- thank you for sharing. I
20 appreciate that.

21 PROSPECTIVE JUROR NO. 001: Sure.

22 THE COURT: We'll try and make this as -- as comfortable as possible
23 for you.

24 PROSPECTIVE JUROR NO. 001: Sure.

25 THE COURT: Then we'll move on to the next person. Thank you very

111

1 much.

2 Hi, sir.

3 PROSPECTIVE JUROR NO. 006: Hello.

4 THE COURT: You are --

5 PROSPECTIVE JUROR NO. 006: My name --

6 THE COURT: -- go ahead and tell us your name and badge number.

7 PROSPECTIVE JUROR NO. 006: My name is Ryan McAvity. My
8 badge number is 6. I've lived in Clark County for six years. I got my diploma, high
9 school. I'm a bus driver for the school district.

10 THE COURT: Excellent. Thank you.

11 PROSPECTIVE JUROR NO. 006: And -- and I'm not married. No
12 kids. And yes, I have served on a jury.

13 THE COURT: Oh, you have? All right. Was that here in Clark
14 County?

15 PROSPECTIVE JUROR NO. 006: Yes.

16 THE COURT: And how long ago?

17 PROSPECTIVE JUROR NO. 006: Oh, probably about maybe two to
18 three years ago.

19 THE COURT: And was that a civil or criminal case?

20 PROSPECTIVE JUROR NO. 006: Civil, I believe.

21 THE COURT: All right. And did the jury reach a decision --

22 PROSPECTIVE JUROR NO. 006: Yes.

23 THE COURT: -- in that case?

24 PROSPECTIVE JUROR NO. 006: Yeah.

25 THE COURT: All right. Did you happen to serve as the foreperson in

112

1 that case?

2 PROSPECTIVE JUROR NO. 006: The foreperson?

3 THE COURT: The foreperson.

4 PROSPECTIVE JUROR NO. 006: I was in the jury, but I wasn't --
5 the -- the foreperson is, like, defined -- the extra, right?

6 THE COURT: No. The -- the foreperson is the person that -- that is
7 the representative of the jury in court.

8 PROSPECTIVE JUROR NO. 006: No. No, no.

9 THE COURT: Okay. All right. Good. So anything unusual about that
10 experience that -- that we should know about?

11 PROSPECTIVE JUROR NO. 006: No.

12 THE COURT: No? All right. I know that you have some
13 transportation issues that hopefully you -- we can work out. But --

14 PROSPECTIVE JUROR NO. 006: Yeah. I'll check into that bus -- the
15 bus route.

16 THE COURT: Check into that. Aside from that, if called upon to
17 serve, any reason why you can't be fair and impartial in this case?

18 PROSPECTIVE JUROR NO. 006: No.

19 THE COURT: Nothing comes to mind? All right. If something does
20 come to mind, let us know.

21 PROSPECTIVE JUROR NO. 006: I will.

22 THE COURT: All right. Thank you, sir. All right. You may pass the
23 microphone.

24 PROSPECTIVE JUROR NO. 008: My name is Stephen Gray. My
25 badge number is 8. I lived in Clark County for 16 years. I have my GED. I'm a

1 warehouse supervisor. I'm married. I have one child, his age is 30. And I have
2 never served on jury duty.

3 THE COURT: All right. Thank you, Mr. Gray. You can pass the
4 microphone.

5 Mr. Winterbourne.

6 PROSPECTIVE JUROR NO. 009: Yes, sir.

7 THE COURT: You may proceed.

8 PROSPECTIVE JUROR NO. 009: My name is Steve Winterbourne,
9 and my badge number is 009. And I've lived in Clark County for about a year and
10 a half. I have just a couple of years of college. I am retired now. I am separated.
11 I have a 20-year-old child, and I've never served on a jury.

12 THE COURT: What line of work did you used to be in?

13 PROSPECTIVE JUROR NO. 009: I was a service representative for a
14 medical equipment company.

15 THE COURT: Thank you, sir. You can pass the microphone.

16 PROSPECTIVE JUROR NO. 010: My name is Mirna Hermosillo,
17 Badge 10. I've lived here 49 years; 12th grade graduate. Admissions. Married.
18 And I have two kids, one age 31 and the other one 13. And I've served twice on
19 the jury.

20 THE COURT: All right. Why don't you tell us about those, like, what --
21 when -- when was that, what type of cases were they?

22 PROSPECTIVE JUROR NO. 010: They were both criminal. And it
23 was a while back. I would say about 10 years.

24 THE COURT: 10 years ago? Okay. All right. Were you a foreperson
25 in any -- in either of those?

1 PROSPECTIVE JUROR NO. 010: No.
2 THE COURT: All right. Did the jury reach a verdict?
3 PROSPECTIVE JUROR NO. 010: Yes.
4 THE COURT: On both of them?
5 PROSPECTIVE JUROR NO. 010: Yes.
6 THE COURT: All right. Were you a foreperson?
7 PROSPECTIVE JUROR NO. 010: No.
8 THE COURT: Anything about that experience that makes it hard for
9 you to serve again?
10 PROSPECTIVE JUROR NO. 010: No.
11 THE COURT: No? All right. What did your occupation used to be?
12 PROSPECTIVE JUROR NO. 010: It is admissions.
13 THE COURT: Admissions?
14 PROSPECTIVE JUROR NO. 010: Admissions, yeah.
15 THE COURT: All right. For what -- for what educational facility?
16 PROSPECTIVE JUROR NO. 010: It's UMC.
17 THE COURT: Oh, you -- oh, admissions, like -- like hospital
18 admissions?
19 PROSPECTIVE JUROR NO. 010: Yes.
20 THE COURT: Okay. Very good. All right. Thank you for that
21 information. You can pass the microphone. All right.
22 Mr. Sheldon.
23 PROSPECTIVE JUROR NO. 015: Yes. My name is Rick Sheldon,
24 Badge No. 015. I've lived here 20 years. College degree. I am a CT special
25 procedures tech. Yes, I am married, no kids. And I did serve on a jury once,

115

1 about 2005.

2 THE COURT: Civil or criminal?

3 PROSPECTIVE JUROR NO. 015: Criminal.

4 THE COURT: And did they reach a verdict?

5 PROSPECTIVE JUROR NO. 015: No, they did not.

6 THE COURT: Didn't reach a verdict. Okay. Were you a foreperson?

7 PROSPECTIVE JUROR NO. 015: No.

8 THE COURT: All right. Anything about that experience that is
9 noteworthy for us here?

10 PROSPECTIVE JUROR NO. 015: Nope.

11 THE COURT: All right. Do you think you could be fair and impartial if
12 chosen as a juror in this case?

13 PROSPECTIVE JUROR NO. 015: Oh, yeah.

14 THE COURT: All right. Very good. Thank you, sir. You can pass the
15 microphone.

16 PROSPECTIVE JUROR NO. 016: I'm Corey Lee, Juror No. 16. I've
17 lived in Clark County two and a half years. I have a master's degree. I'm a refuge
18 manager for the U.S. Fish and Wildlife Service. I'm married, have a six-year-old
19 son, and I have not served on a jury.

20 THE COURT: Thank you, Mr. Lee. Pass the microphone.

21 Hello, Ms. Smallwood.

22 PROSPECTIVE JUROR NO. 017: Hi, my name is Karen Smallwood,
23 Badge No. 17. I've lived in Clark County for about 28 years. I have a master's
24 degree. I retired last year from Clark County School District as a middle school
25 principal. I'm a widow. I have two children that are 30 and 32. And I have never

1 served on a jury.

2 THE COURT: All right. Thank you for your information. You can pass
3 the microphone.

4 Marshal, would you mind moving it down to Seat No. 9, please. All the
5 way down.

6 Thanks, guys. I appreciate your help. All right.

7 Hello, sir.

8 PROSPECTIVE JUROR NO. 019: My name -- hello, my name is
9 Harrichan Ramnath, Badge No. 18. Lived in Clark County for about 10 years.

10 THE COURT: Are you -- are you No. 19?

11 PROSPECTIVE JUROR NO. 019: I thought I was No. 18.

12 THE COURT: Let's double check.

13 PROSPECTIVE JUROR NO. 019: Sorry, No. 19.

14 THE COURT: 19. Okay. Very good.

15 PROSPECTIVE JUROR NO. 019: I'm sorry about that.

16 THE COURT: No problem. Thank you.

17 PROSPECTIVE JUROR NO. 019: Bachelor degree, accounting.
18 Divorced. Two children.

19 THE COURT RECORDER: Sir, can you please speak into the
20 microphone? Thank you.

21 PROSPECTIVE JUROR NO. 019: Oh, two children, 40 and 31. And
22 never served in the jury.

23 THE COURT: All right. How do you -- how do you feel about maybe
24 serving?

25 PROSPECTIVE JUROR NO. 019: I don't know if this is important, but

117

1 I own a small business, and it was broke into twice.

2 THE COURT: It was broke into twice? Okay.

3 PROSPECTIVE JUROR NO. 019: And they were caught on the
4 surveillance camera, but no arrest was ever made.

5 THE COURT: Okay. Well, that is important for us to know. We all like
6 to know about jurors' backgrounds, and I'll let the attorneys ask you some more
7 questions about that. So thank you for sharing, sir.

8 PROSPECTIVE JUROR NO. 019: Thank you.

9 THE COURT: All right. All right. Let's talk to Mr. Grusinski.

10 PROSPECTIVE JUROR NO. 020: Hi. Hi name is Louis Grusinski.
11 My badge number is No. 20. I've lived in Clark County for 12 years. I completed
12 high school. I'm a banquet server in a casino. I'm married. I have a 39-year-old
13 son and a 40-year-old daughter. And yes, I have served on a jury.

14 THE COURT: All right. Tell us about that.

15 PROSPECTIVE JUROR NO. 020: It was a domestic abuse case.

16 And --

17 THE COURT: How long ago was that?

18 PROSPECTIVE JUROR NO. 020: Oh, probably 15 years ago in
19 Hawaii.

20 THE COURT: Okay. Did they reach a verdict?

21 PROSPECTIVE JUROR NO. 020: I'm sorry?

22 THE COURT: Did they reach a verdict?

23 PROSPECTIVE JUROR NO. 020: It's like -- I think so.

24 THE COURT: Were you a foreperson?

25 PROSPECTIVE JUROR NO. 020: No.

1 THE COURT: All right. Anything noteworthy about that trial that you
2 want to share with us?

3 PROSPECTIVE JUROR NO. 020: I learned a little bit about domestic
4 abuse and how a lot of -- a lot of women stay in despite abuse.

5 THE COURT: Yeah. Well, this case is different. And so we'll give you
6 instructions on the law at the end. And do you believe you -- are you willing to
7 follow the law as the court instructs it?

8 PROSPECTIVE JUROR NO. 020: Yes.

9 THE COURT: All right. Very good. And can you be fair if chosen as a
10 juror?

11 PROSPECTIVE JUROR NO. 020: I'm sorry?

12 THE COURT: Can you be fair, sir?

13 PROSPECTIVE JUROR NO. 020: Oh, can I be -- yes.

14 THE COURT: Do you think you're a fair person?

15 PROSPECTIVE JUROR NO. 020: I don't have my headphones on.

16 THE COURT: Okay. No problem. Okay.

17 PROSPECTIVE JUROR NO. 020: Yes.

18 THE COURT: All right. All right. Thank you very much, sir. We'll get
19 back to you. Thank you. All right.

20 Who's next?

21 PROSPECTIVE JUROR NO. 022: James Wheeler, Badge 22 -- 022.
22 Lived in Clark County 13 years. Bachelor's degree. Realtor. I'm not married, no
23 kids, and never served on a jury.

24 THE COURT: All right. Thank you very much, Mr. Wheeler. You can
25 pass the microphone. Thank you, sir.

1 Ms. Day?

2 PROSPECTIVE JUROR NO. 023: Yes.

3 THE COURT: Yes.

4 PROSPECTIVE JUROR NO. 023: My name is Kelly Day. I'm
5 Badge No. 023. I've lived in Clark County three years. I have a Bachelor of
6 Science in Nursing. I'm a registered nurse. I am not married. I'm divorced. And I
7 do not have any children. And I've never been on a jury.

8 THE COURT: All right. Thank you very much. You can pass the
9 microphone.

10 Mr. Raczka.

11 PROSPECTIVE JUROR NO. 024: My name is Gary Raczka,
12 Badge No. 24. I lived in Clark County for about eight years. I have a Bachelor of
13 Science in Electrical Engineering. I'm a project manager for a solar project in
14 Tonopah. Married, got two grown kids, 40 and 37, and I've never served on a jury.

15 THE COURT: Thank you, Mr. Raczka. Pass the microphone.

16 Mr. Galloway, you may proceed.

17 PROSPECTIVE JUROR NO. 026: My name is Darrel Galloway,
18 Badge No. 26. I've lived in Clark County just about 40 years. A bachelor's degree.
19 Currently I'm a waste measures inspector for Department of Agriculture. Not
20 married, divorced. Three kids, ages 6, 9, and 11. And I've never served on a jury.

21 THE COURT: All right. Thank you. Pass the microphone.

22 Go ahead.

23 PROSPECTIVE JUROR NO. 029: Okay. My name is Shirley
24 Hernandez, Badge No. 29. I've lived here for three years. My education is high
25 school. My job position, I'm an assistant manager customer service rep. I'm not

1 married. I have one baby girl, she's one years old. And I've never served in a jury.

2 THE COURT: All right. And you're going to check with us on whether
3 your employer pays, right?

4 PROSPECTIVE JUROR NO. 029: Yes.

5 THE COURT: All right. You can let us know as soon as you find out.
6 Thank you. All right.

7 Who's next?

8 PROSPECTIVE JUROR NO. 034: My name is Todd Garfield,
9 Badge No. 034. I've lived in Clark County for approximately three years. I have a
10 high school diploma with some college. Currently I'm a bartender. Not married, no
11 kids, and have never served on a jury.

12 THE COURT: All right. Thank you. You can bring the microphone all
13 the way down here.

14 Thank you, marshal.

15 Ms. Antonucci.

16 PROSPECTIVE JUROR NO. 035: Hi.

17 THE COURT: Hi.

18 PROSPECTIVE JUROR NO. 035: My name is Betty Antonucci,
19 Badge No. 0035. I've lived in Clark County almost 29 years. I have a high school
20 education and about two years of college. I am retired. I am widowed. I have
21 three children, age 47, 50, and 53, and never served on a jury.

22 THE COURT: All right. When you had full-time employment in the
23 past, what was it?

24 PROSPECTIVE JUROR NO. 035: I worked in a casino as a
25 supervisor, as the Paris Casino.

1 THE COURT: All right. Thank you very much. Pass the microphone.

2 PROSPECTIVE JUROR NO. 037: My name is Christopher
3 Armanious, I'm Badge No. 37. I've lived in Clark County for right about two years.
4 Education is some college. I'm a sales manager. Not married, no children, and I
5 have never served on a jury.

6 THE COURT: All right. Sales manager for what -- what type of
7 company?

8 PROSPECTIVE JUROR NO. 037: Wireless.

9 THE COURT: Okay. Wireless. All right. And for recordkeeping and
10 administrative purposes, we'd like to know what your -- what would you consider
11 your race to be, sir? Because you put other down on your form. We just for, you
12 know, recordkeeping purposes.

13 PROSPECTIVE JUROR NO. 037: Middle Eastern.

14 THE COURT: Okay. Thank you, sir. Thank you very much. Do you
15 think you can be fair and impartial, sir?

16 PROSPECTIVE JUROR NO. 037: Yes.

17 THE COURT: All right. Very much -- very good. Thank you, sir.
18 Hi.

19 PROSPECTIVE JUROR NO. 026: Hi. My name is Sheila Porath,
20 Badge No. 38. I've been here 34 years. High school. I'm a bingo agent. I'm
21 separated. Children's ages are 46 and 37. Never served on a jury.

22 THE COURT: Never served on a jury. All right. Very good. Thank
23 you, Ms. Porath. All right.

24 Mr. Muhlestein.

25 PROSPECTIVE JUROR NO. 039: Yes. My name is Benjamin

1 Muhlestein, Badge No. 39. I lived in Clark County for 11 years. I have a master's
2 degree. I am a manager for a grocery store, as well as teaching on the side. I am
3 married and I have six children, 19, 18, 17, 15, 12, and 6.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 039: And yes, I have served on a jury
6 before.

7 THE COURT: You have? Tell us about that, sir.

8 PROSPECTIVE JUROR NO. 039: It was a criminal case. It was
9 about three years ago.

10 THE COURT: Was that here in Clark County, then?

11 PROSPECTIVE JUROR NO. 039: It was here in Clark County.

12 THE COURT: All right. Did they reach a verdict?

13 PROSPECTIVE JUROR NO. 039: They did.

14 THE COURT: Were you one of the forepersons?

15 PROSPECTIVE JUROR NO. 039: I was not.

16 THE COURT: All right. Anything unusual about that case that would
17 make it difficult for you to be fair and -- fair and impartial here?

18 PROSPECTIVE JUROR NO. 039: No.

19 THE COURT: Nothing comes to mind in that case? All right.

20 PROSPECTIVE JUROR NO. 039: No.

21 THE COURT: All right. What type of case was it?

22 PROSPECTIVE JUROR NO. 039: It was attempted murder.

23 THE COURT: Okay. All right.

24 PROSPECTIVE JUROR NO. 039: The -- let's see -- a break-in -- a
25 forced break-in to the home, and as well as they -- they -- there was theft. They

123

1 had stolen several things.

2 THE COURT: How long did that trial last?

3 PROSPECTIVE JUROR NO. 039: About a week.

4 THE COURT: About a week? Okay. We'll try to be about the same
5 here. So we'll -- we'll see if you get on the jury. So -- all right. Thank you very
6 much. You can pass the microphone. All right.

7 Mr. -- Ms. Scaringi?

8 PROSPECTIVE JUROR NO. 041: Uh-huh.

9 THE COURT: All right. We were wondering on -- you know, the
10 reason why we didn't kick you off so far, you know, you have some travel issues.
11 We're thinking that, you know, when your dad gets home, he -- he gets off at 7:00,
12 he gets home. See if they'll let you borrow the car. So you can take the car, be
13 here at jury duty, go back home before he needs it, when he needs to go back
14 at 10:30. Something to think about. All right? Ask him.

15 PROSPECTIVE JUROR NO. 041: Yeah.

16 THE COURT: All right. So why don't you give us your information.

17 PROSPECTIVE JUROR NO. 041: Okay. It's -- the -- also just one
18 point there.

19 THE COURT: Yes.

20 PROSPECTIVE JUROR NO. 041: I don't have a driver's license.
21 That's why --

22 THE COURT: Oh, well, that's important to know.

23 PROSPECTIVE JUROR NO. 041: Yeah.

24 THE COURT: All right. Well, you can't pick one up by tomorrow
25 morning, can you?

1 PROSPECTIVE JUROR NO. 041: Uh-uh. Unfortunately.

2 THE COURT: All right. Let me talk to the folks and we'll get back to
3 you on that one. All right. Why don't you go ahead and give us your information.

4 PROSPECTIVE JUROR NO. 041: Okay. My name is Rebecca
5 Scaringi. My badge number is 41. Years I've lived in Clark County, 20.
6 Education, high school diploma. Job position, I'm employed. Not married, no
7 children, and never served on a jury.

8 THE COURT: All right. Thanks. So before we get back to you,
9 anything else that comes to mind that you can tell us about how you could get here
10 or get home at the end of the day? Is there anything else that comes to mind that
11 might work for you?

12 PROSPECTIVE JUROR NO. 041: I'll have to talk to my father.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 041: But it's...

15 THE COURT: All right. All right. Thank you. You can pass the
16 microphone.

17 PROSPECTIVE JUROR NO. 042: Hi.

18 THE COURT: Hi. All right. You can -- Ms. -- are you Ms. Jones?

19 PROSPECTIVE JUROR NO. 042: I am. I'm Cynthia Jones. I'm
20 Badge No. 42. I've lived in Clark County 46 years. I have a high school diploma. I
21 work for MGM Resorts. I'm the vice president of corporate ticketing. I'm married, I
22 have three grown stepchildren, 41, 37, and 35, and I have served as a juror before.

23 THE COURT: All right. What type of case was that?

24 PROSPECTIVE JUROR NO. 042: It was a criminal.

25 THE COURT: Criminal? Was that here in Clark County?

1 PROSPECTIVE JUROR NO. 042: It was.
2 THE COURT: How long ago?
3 PROSPECTIVE JUROR NO. 042: Probably about 20 years ago.
4 THE COURT: Oh. Okay. Did they reach a verdict in that case?
5 PROSPECTIVE JUROR NO. 042: We did.
6 THE COURT: You did? Were you a foreperson?
7 PROSPECTIVE JUROR NO. 042: I was not.
8 THE COURT: No? What type of case was that?
9 PROSPECTIVE JUROR NO. 042: It was a murder trial.
10 THE COURT: A murder trial?
11 PROSPECTIVE JUROR NO. 042: Yes.
12 THE COURT: All right. And do you think you can be fair and impartial
13 if chosen as a juror in this case?
14 PROSPECTIVE JUROR NO. 042: Yes, I can.
15 THE COURT: All right. Then thank you very much for being here.
16 PROSPECTIVE JUROR NO. 042: Thank you.
17 THE COURT: All right. Pass the microphone.
18 Mr. Maurer.
19 PROSPECTIVE JUROR NO. 045: Yes.
20 THE COURT: All right.
21 PROSPECTIVE JUROR NO. 045: Hi. I'm Shawn Maurer,
22 Badge No. 045. Lived in Clark County for a little under two years. Have
23 completed some master's work in education. I'm currently a family support
24 counselor. And I'm married, I have three children, ages 8, 6, and 4, and have
25 been called twice, but never served on a jury.

126

1 THE COURT: All right. Thank you very much, Mr. Maurer. You can
2 pass the microphone.

3 Go ahead, sir.

4 PROSPECTIVE JUROR NO. 048: Hello. My name is Tim Duerson,
5 Badge No. 48. Lived in Clark County for 18 years. A master's degree. Currently
6 between jobs for a Department of Defense contractor at Nellis Air Force Base.
7 Married, no children. Served on a criminal jury two years ago in Clark County.
8 They did reach a verdict. I was not in the deliberation room, I was excused --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 048: -- when they went in deliberation.
11 And I see no reason why I can't serve on a jury.

12 THE COURT: Perfect. All right. Thank you very much for all that
13 information, Mr. Duerson. All right.

14 So now I have some general questions for all of you. Is there anybody
15 here who has a close connection to -- to anybody that works in law enforcement,
16 either -- or has worked in law enforcement yourselves? So, like, if -- you have,
17 like, a -- an immediate family member, like a parent or a brother or sister, or a son
18 or daughter, or -- or, like, your best friend, anybody have a close connection to law
19 enforcement? If so I want to -- I want to hear about. All right.

20 Let's just -- we'll just kind of -- I see several hands mixed around. Let's
21 just kind of wiggle the microphone. Whoever's got it first, go first.

22 PROSPECTIVE JUROR NO. 015: I just know police officers --

23 THE COURT: Oh, hold on. Remember, I need to know badge number
24 and the name.

25 PROSPECTIVE JUROR NO. 015: Oh, 015, Rick Sheldon, Richard

127

1 Sheldon.

2 THE COURT: 15. Okay, Mr. Sheldon, who do you know?

3 PROSPECTIVE JUROR NO. 015: I -- I just know a few officers, you
4 know, go to the river, do things with them. Mainly through their spouses, I work
5 with them and then, you know, become friends, hang out, do stuff like that.

6 THE COURT: So general friendships with a few people?

7 PROSPECTIVE JUROR NO. 015: Yep. Yep.

8 THE COURT: All right.

9 PROSPECTIVE JUROR NO. 015: Like I said, the river, you know,
10 off-roading, stuff like that.

11 THE COURT: All right. Any of those relationships are going to cause
12 you to be -- to start off, like, in favor of the State or the prosecutor in this case?

13 PROSPECTIVE JUROR NO. 015: No, no.

14 THE COURT: All right. You going -- you going to judge this case by
15 the facts in this case, right?

16 PROSPECTIVE JUROR NO. 015: Yeah. Give me some facts and I'll
17 make my own judgment.

18 THE COURT: All right. Very good. That's what I needed to know.

19 Why don't you pass the microphone to whoever else wants to talk.

20 That's you, ma'am.

21 Okay. You, sir. Whoever.

22 PROSPECTIVE JUROR NO. 022: Hi. James Wheeler, Badge 22.

23 THE COURT: 22. Yeah. What's your law enforcement connection?

24 PROSPECTIVE JUROR NO. 022: My first cousin, he's a police officer.
25 And then a cousin of mine's husband is a police officer, also.

1 THE COURT: Can you speak a little bit louder? We can't hear you,
2 sir.

3 PROSPECTIVE JUROR NO. 022: Oh, I -- I have a first cousin. He's a
4 police officer.

5 THE COURT: Yep.

6 PROSPECTIVE JUROR NO. 022: And then my cousin's husband is a
7 police officer, also.

8 THE COURT: All right. Are they police officers here in Clark County?

9 PROSPECTIVE JUROR NO. 022: No, uh-uh.

10 THE COURT: In what state?

11 PROSPECTIVE JUROR NO. 022: Ohio.

12 THE COURT: Ohio? Okay.

13 PROSPECTIVE JUROR NO. 022: Yeah.

14 THE COURT: How -- how close would you say you are with your
15 cousins?

16 PROSPECTIVE JUROR NO. 022: Fairly close. I don't know.

17 THE COURT: All right.

18 PROSPECTIVE JUROR NO. 022: Not -- not real -- we've kind of --
19 since I've moved here, it's been a little less close, I guess, so.

20 THE COURT: Do you talk to them about the type of cases they
21 handle?

22 PROSPECTIVE JUROR NO. 022: No. Uh-uh.

23 THE COURT: No?

24 PROSPECTIVE JUROR NO. 022: Yeah.

25 THE COURT: All right. Do you -- do you think since you know some

1 police officers that if a police officer takes the stand you're going to -- you're going
2 to tend to -- tend to automatically believe what they say before you even hear
3 anything?

4 PROSPECTIVE JUROR NO. 022: No, uh-uh. No, I wouldn't. No.

5 THE COURT: So, you know, sir, when -- when somebody takes the
6 stand, part of your job as a juror is to assess their credibility; do you -- do you
7 understand that? You have to --

8 PROSPECTIVE JUROR NO. 022: Right.

9 THE COURT: You have to --

10 PROSPECTIVE JUROR NO. 022: Oh, yeah.

11 THE COURT: -- decide if someone who is taking the stand is telling
12 the truth or not.

13 PROSPECTIVE JUROR NO. 022: Right, yeah, yeah.

14 THE COURT: All right. And -- and there's a lot of -- a lot of different
15 things to look at, their demeanor, their -- how they act upon the stand, their --
16 whether they're consistent in what they're saying, whether they have a motive or
17 bias.

18 PROSPECTIVE JUROR NO. 022: Yeah. Well, there's good --

19 THE COURT: And whether --

20 MR. GASTON: I just think there's good -- there's good police officers
21 and some might be possibly bad.

22 THE COURT: Okay. Do you agree --

23 PROSPECTIVE JUROR NO. 022: So I don't really know.

24 THE COURT: -- that whoever -- let me ask you some questions.
25 Okay?

1 PROSPECTIVE JUROR NO. 022: Yeah.

2 THE COURT: Do you -- do you agree, sir, that whoever takes the

3 stand, you'll -- you'll assess their credibility the same --

4 PROSPECTIVE JUROR NO. 022: Right.

5 THE COURT: -- whether it's a police officer or not a police officer?

6 PROSPECTIVE JUROR NO. 022: Yeah. Yeah, absolutely.

7 THE COURT: And everybody's credibility is --

8 PROSPECTIVE JUROR NO. 022: Yeah.

9 THE COURT: -- you -- you -- basically they take the stand, it's a blank

10 slate. You're going to assess their credibility based upon what you see and

11 observe on -- on the stand and -- and in the courtroom; is that fair?

12 PROSPECTIVE JUROR NO. 022: Yeah. That's fair. Yep.

13 THE COURT: All right.

14 PROSPECTIVE JUROR NO. 022: Yep. Okay.

15 THE COURT: Do you agree to do that?

16 PROSPECTIVE JUROR NO. 022: Yeah. Absolutely. Yeah.

17 THE COURT: Okay. Very good. Thank you.

18 PROSPECTIVE JUROR NO. 022: Yeah. All right.

19 THE COURT: Let's pass the microphone to whoever is next.

20 Hi.

21 PROSPECTIVE JUROR NO. 023: Hi. I'm Kelly Day. Badge 023.

22 THE COURT: 23. Yes, ma'am.

23 PROSPECTIVE JUROR NO. 023: Uh-huh. My brother just retired two

24 years ago from the State of California Corrections Department.

25 THE COURT: California Corrections Department?

131

1 PROSPECTIVE JUROR NO. 023: Uh-huh.

2 THE COURT: So have you ever heard anything from your brother that
3 would cause you not to be fair and impartial in this case?

4 PROSPECTIVE JUROR NO. 023: No.

5 THE COURT: All right. Do you believe that despite, you know, having
6 a close connection to law enforcement, you can still -- still give the gentleman
7 here, the defendant, a fair trial?

8 PROSPECTIVE JUROR NO. 023: I believe so, yes.

9 THE COURT: All right. Do you -- do you agree with the fundamental
10 principle of American justice that he's presumed innocent and -- until and unless
11 proven guilty beyond a reasonable doubt?

12 PROSPECTIVE JUROR NO. 023: Yes.

13 THE COURT: All right. Thank you, ma'am.

14 Who else? Who else has a law enforcement connection? Anybody?
15 Raise your hand, if you have a law enforcement connection.

16 Right -- right there. All right. Badge number?

17 PROSPECTIVE JUROR NO. 039: Yeah. I have a -- Badge No. 39.

18 THE COURT: 39. All right. What -- what's your connection, sir?

19 PROSPECTIVE JUROR NO. 039: I have a friend here, Clark County,
20 Officer Sink [phonetic]. And worked with him actually in the grocery business
21 about 10 years ago.

22 THE COURT: And what's his last name?

23 PROSPECTIVE JUROR NO. 038: Sink.

24 THE COURT: All right. But he wasn't named as one of the witnesses
25 in this case, right?

1 PROSPECTIVE JUROR NO. 039: No.
2 THE COURT: Is he -- does he work with Metro?
3 PROSPECTIVE JUROR NO. 039: Yes.
4 THE COURT: Okay. And what do you know about his line of work?
5 PROSPECTIVE JUROR NO. 039: Lately, I'm not sure. I know he got
6 moved --
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NO. 039: -- to a different section here within
9 Las Vegas, but I don't know exactly where he is.
10 THE COURT: All right. So I imagine like most -- well, let me ask you,
11 if -- if an officer takes the stand, are you going to -- to tend to -- to automatically
12 believe the officer before he even starts speaking, because you -- you have a
13 friend who is an officer?
14 PROSPECTIVE JUROR NO. 039: No.
15 THE COURT: Are you able to give the defendant a fair trial -- the
16 defendant here a fair trial?
17 PROSPECTIVE JUROR NO. 039: Yes.
18 THE COURT: All right. And you understand that he's presumed
19 innocent, right?
20 PROSPECTIVE JUROR NO. 039: Yes.
21 THE COURT: You understand that the defense doesn't have to prove
22 anything, that the burden of proof is on the State?
23 PROSPECTIVE JUROR NO. 039: Yes.
24 THE COURT: And you'll hear more about that as we proceed. And
25 the burden of proof is beyond a reasonable doubt; you understand that?

133

1 PROSPECTIVE JUROR NO. 039: Yes, I do.

2 THE COURT: So the defendant, he can elect not to testify, it's a
3 Constitutional right not to testify. And -- and you can't hold that against him. I'll
4 instruct you on that later, if he chooses not to testify. Do you -- do you agree with
5 that principle of justice?

6 PROSPECTIVE JUROR NO. 039: Yes.

7 THE COURT: All right. Now, I don't know if he's going to testify or not.
8 That's up to -- he doesn't even have to make that decision until later on. So if he
9 doesn't testify, are you -- will you hold that against him?

10 PROSPECTIVE JUROR NO. 039: No.

11 THE COURT: All right. Are you sure?

12 PROSPECTIVE JUROR NO. 039: Absolutely.

13 THE COURT: All right. Very good. Thank you, sir.

14 And that's one of the -- our founding fathers said, yeah, you can -- you
15 know, no one can be compelled, you know, to testify against oneself, right?

16 PROSPECTIVE JUROR NO. 039: Uh-huh.

17 THE COURT: It's the State's burden. You can just sit quietly and see
18 if the State proves its case. If they don't prove its case, then what's -- what's your
19 verdict against the defendant?

20 Not guilty, right?

21 PROSPECTIVE JUROR NO. 039: Not guilty. Right.

22 THE COURT: Okay. You were searching for the right word, right?

23 PROSPECTIVE JUROR NO. 039: Yeah.

24 THE COURT: Okay. No problem. Why don't you pass the
25 microphone, then, to -- to the lady next to you who has a law enforcement

1 connection.

2 Hi.

3 PROSPECTIVE JUROR NO. 041: I have Badge No. 41, Rebekah
4 Scaringi.

5 THE COURT: Okay. Oh, but similarly, sir, I guess it should be
6 even-handed. If the State meets its burden of proof and proves beyond a
7 reasonable doubt all the elements of the crimes charged, and you're satisfied that
8 that's what they've done, and you've deliberated with everybody else and you've
9 reached a consensus that that's the case, then -- then what would be your verdict?

10 PROSPECTIVE JUROR NO. 039: Guilty.

11 THE COURT: Okay. All right. Just make sure, I have to be
12 even-handed on both sides. All right.

13 Go ahead.

14 PROSPECTIVE JUROR NO. 041: Yes. I'm courting someone who
15 is -- works for Metro Police.

16 THE COURT: And what's your badge number again?

17 PROSPECTIVE JUROR NO. 041: Oh, 41.

18 THE COURT: 41, yeah. Thank you.

19 So -- so you are seeing someone who is Metro?

20 PROSPECTIVE JUROR NO. 041: Uh-huh. Yes.

21 THE COURT: Okay. Does he have a -- a specialty? Or what type
22 cases does he handle?

23 PROSPECTIVE JUROR NO. 041: Actually, he works with the -- in the
24 maintenance of a -- the police cars and -- but he does know of some -- of court --
25 of any cases.

1 THE COURT: Okay. How is that going to affect how you -- how you
2 view this case?

3 PROSPECTIVE JUROR NO. 041: It won't affect it at all.

4 THE COURT: All right. Can -- can you promise us that, it won't affect
5 you?

6 PROSPECTIVE JUROR NO. 041: Yes. I do promise.

7 THE COURT: All right. Thank you very much. But we still have the
8 transportation issue. So it sounds like you -- you would be a good juror, but you
9 don't really have a way to get -- how are you getting home tonight?

10 PROSPECTIVE JUROR NO. 041: My father is here.

11 THE COURT: Oh, your father's -- he'll take you home?

12 PROSPECTIVE JUROR NO. 041: Uh-huh.

13 THE COURT: All right.

14 PROSPECTIVE JUROR NO. 041: He had to leave work early.

15 THE COURT: All right. All right. Thank you.

16 Anybody else have a law enforcement connection? All right.

17 So now has anybody here ever testified as a witness in a criminal
18 lawsuit? Did you ever testify? Did you ever take the witness stand before?
19 Anybody? Raise your hand if you have. Yes, okay.

20 We have a -- a lady down here. Let's talk to her.

21 Hi.

22 PROSPECTIVE JUROR NO. 035: Hi.

23 THE COURT: Badge number?

24 PROSPECTIVE JUROR NO. 035: Hi. 30 -- 0035.

25 THE COURT: Yes.

1 PROSPECTIVE JUROR NO. 035: I have testified in a criminal case in
2 the state of California in 1979.

3 THE COURT: All right. What type of case was that?

4 PROSPECTIVE JUROR NO. 035: Assault and battery.

5 THE COURT: All right. Was that -- did you witness the assault and
6 battery?

7 PROSPECTIVE JUROR NO. 035: No.

8 THE COURT: No? Were you a character reference?

9 PROSPECTIVE JUROR NO. 035: Character reference.

10 THE COURT: All right. Is there anything about that case that might
11 affect your judgment or reasoning here?

12 PROSPECTIVE JUROR NO. 035: No.

13 THE COURT: All right. Well, the attorneys might be have some more
14 questions about that. But thank you for sharing.

15 PROSPECTIVE JUROR NO. 035: Okay.

16 THE COURT: All right. So now this next question, has anybody ever
17 been the victim of -- of a serious crime? And -- and I -- I'm going to limit this to not
18 including, like, usually we have, like, cars getting broken into with some -- some
19 minor stuff stolen out of the car. And I'm -- I'm not interested in that. I think
20 that's -- that's kind of minor. But anything other than, like, a -- a minor theft? Has
21 anybody -- has anybody here been a victim of -- of a crime?

22 And if you're not sure whether to speak out or not, feel free to tell us
23 what it is and -- and the attorneys can decide whether they have follow-up
24 questions. All right.

25 So tell us if you've ever been the victim of a serious crime.

1 Ma'am?

2 PROSPECTIVE JUROR NO. 001: Yes. I'm Dana Justice. My badge
3 is No. 1. I did have a car stolen here in Clark County from the Palazzo. It was in
4 valet. Don't -- still don't know how --

5 THE COURT: Wow.

6 PROSPECTIVE JUROR NO. 001: -- my car disappeared, but it did.
7 And that was about 2009 or '10; I can't remember which year. I've also been in
8 abusive relationships before.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 001: No -- no pressed charges, but he
11 did serve time that evening that he was arrested. That was, I want to say, 1995 in
12 Ohio.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 001: He is deceased.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 001: So no longer have a problem, but it
17 was a very traumatic issue for me in my life. So -- and I've also had a phone
18 stolen, but that's, you know, minor. But the -- the biggest one, most recent, was
19 my car theft here.

20 THE COURT: All right. So I'm kind of, like, in the same position all the
21 prospective jurors are, in that I really don't know the facts of this case and what --

22 PROSPECTIVE JUROR NO. 001: Right.

23 THE COURT: -- you know, what all this case is about.

24 PROSPECTIVE JUROR NO. 001: Right.

25 THE COURT: But, you know, knowing whatever you do so far, do you

1 think those prior incidents are going to affect your ability to -- to concentrate on the
2 evidence and --

3 PROSPECTIVE JUROR NO. 001: I don't think anything that's
4 happened to me in the past. I just think that my anxiety level brings me to a place
5 where I internalize and then I can't focus on things --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 001: -- that are happening outside of
8 me. Does that make sense?

9 THE COURT: Yeah. No, it does.

10 PROSPECTIVE JUROR NO. 001: So then I can't, like, retain
11 information and -- and you could question me on something that was
12 asked 10 minutes ago, and I would blank.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 001: And that's straight up. I -- I know
15 that's my problem, and I've been diagnosed with anxiety and depression and
16 suicidal ideations, as well. So -- it's very -- it's just difficult to be here, that's all. I
17 don't think it would affect me to judge the person. I just think it affects me in my
18 brain to be able to speak what I need to and to be, you know, to -- to word it
19 correctly and not let my brain take over my anxiety level.

20 THE COURT: It sounds like you're doing just fine, so far.

21 PROSPECTIVE JUROR NO. 001: As tears are rolling down my face,
22 but yes.

23 THE COURT: Is there -- what can we do to help make this less
24 uncomfortable for you?

25 PROSPECTIVE JUROR NO. 001: Honestly, this is something I deal

1 with on a daily basis, anxiety. And I -- I don't think there's anything you could do,
2 personally. I don't have insurance, so I can't go see a therapist right now, so I
3 don't have medication to take for this problem, because I am unemployed. So it's
4 just a daily struggle to live a normal life.

5 THE COURT: Do you think you need medication?

6 PROSPECTIVE JUROR NO. 001: It's quite possible. However, now
7 that we thankfully have legal marijuana in this state, I've been using it to
8 self-medicate myself, because I do not have a medical card. It's too expensive to
9 get one. But thankfully now, as of January 1st, things are legal and July 1st, we
10 could start buying. So I've been self-medicating for my own purposes to -- just to
11 live, just to be able to go to the grocery store, just to function.

12 THE COURT: So we -- I -- I know the rest of us all really appreciate
13 you being here. It's -- it's really important to get -- to get jurors that -- that come
14 from a diversity of backgrounds and life experiences. It's really important to have
15 that on a jury -- jury panel. And so I could see you being as someone that would
16 be -- add a good perspective here. I was wondering, suppose during -- during this
17 questioning process, if maybe what we didn't have -- we didn't have the attorneys
18 asking you questions in front of everybody. But we can -- we can talk to you
19 privately outside the presence of the other jurors. Would -- and -- and then if you
20 were chosen as a juror, then I think probably the most stressful thing for you --
21 because most of the rest of the trial is sitting and observing and listening. There's
22 no focus on you.

23 PROSPECTIVE JUROR NO. 001: Right.

24 THE COURT: Right. But the only focus would be, then, when you
25 have to go back to deliberate. And then it's -- then it's pretty important that all

1 jurors participate in the deliberations and all jurors listen to each other and that all
2 jurors have an opportunity to share their points of view. And do you think you'd be
3 comfortable enough to participate in that process, where you're back in the privacy
4 of the room with, you know, the -- with 11 other men and women back there?
5 Would you feel comfortable enough sharing your views about what's right and
6 wrong in this case?

7 PROSPECTIVE JUROR NO. 001: I believe I would be able to do that.

8 THE COURT: All right. Do you -- would you prefer -- now, would you
9 prefer us to -- to talk to you privately, outside the presence of the other jurors? Or
10 you want to give it a shot as a -- you know, maybe they could start asking other
11 people questions first and you could see how it goes and --

12 PROSPECTIVE JUROR NO. 001: I suppose it depends on what kind
13 of questioning they have for me.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 001: What kind of answers. I feel
16 comfortable giving in front of a group of strangers.

17 THE COURT: Well, if you feel uncomfortable at all, just tell us, you
18 know.

19 PROSPECTIVE JUROR NO. 001: Okay.

20 THE COURT: Judge, I would -- or, you know, to the attorney, I would
21 really -- can I -- can I speak to you privately about that? And we'll certainly
22 accommodate you. Okay.

23 PROSPECTIVE JUROR NO. 001: Okay. I appreciate it.

24 THE COURT: I think you're doing a wonderful job, and we'd really love
25 to have you if -- if possible. All right.

1 PROSPECTIVE JUROR NO. 001: Okay. Thank you.

2 THE COURT: All right. Thank you.

3 So anyone else -- I think we have a few other people that are -- are
4 victims of crime.

5 Badge number?

6 PROSPECTIVE JUROR NO. 006: 6.

7 THE COURT: Yes, sir?

8 PROSPECTIVE JUROR NO. 006: Ryan. Yeah. In 2005, I was
9 jumped by three -- three different people at my job -- at my job at the time, and
10 robbed. And I was left with lower back and neck injuries that I feel to this day.

11 THE COURT: Sorry about that. Was -- was any weapon used?

12 PROSPECTIVE JUROR NO. 006: Not that I know of. I was kind of,
13 like, I -- I blanked out after -- after I -- they were jumping on top of me. So I don't --
14 so what they did after that, I'm not really sure.

15 THE COURT: All right. So that's about 12 years ago?

16 PROSPECTIVE JUROR NO. 006: Yeah.

17 THE COURT: Do you still have flash backs about what happened?

18 PROSPECTIVE JUROR NO. 006: Yeah. I've -- I've -- the same stuff
19 I've been diagnosed with post-traumatic stress and I've -- I've got anxiety and stuff,
20 too.

21 THE COURT: All right. And do you think you can --

22 PROSPECTIVE JUROR NO. 006: That's --

23 THE COURT: -- is that -- is that going to affect -- is that going to affect
24 your ability to -- to focus on the facts in this case?

25 PROSPECTIVE JUROR NO. 006: No. If I -- the only thing I'm going

1 to focus on is the facts.

2 THE COURT: The facts? Okay.

3 PROSPECTIVE JUROR NO. 006: Yeah.

4 THE COURT: All right. So you -- you willing to -- to, you know, to -- to
5 decide this case based on the facts of this case?

6 PROSPECTIVE JUROR NO. 006: Sure.

7 THE COURT: All right. Do you mind if the attorneys ask you some
8 follow-up questions about that 2005?

9 PROSPECTIVE JUROR NO. 006: Not at all.

10 THE COURT: All right. Thank you, sir. I appreciate that.

11 PROSPECTIVE JUROR NO. 006: Uh-huh.

12 THE COURT: Who else has been a victim of a serious crime? I think
13 we -- can we pass it to the -- the gentleman right in front of you? Yeah. All right.

14 Yes, sir.

15 PROSPECTIVE JUROR NO. 019: Badge No. 19.

16 THE COURT: Yes. Number 19. Yes, sir.

17 PROSPECTIVE JUROR NO. 019: 2008 -- I should give you a
18 background here. And I own a salon in north -- northwest part of the city.

19 THE COURT: A salon?

20 PROSPECTIVE JUROR NO. 019: Beauty salon.

21 THE COURT: Oh, beauty salon. Okay.

22 PROSPECTIVE JUROR NO. 019: Yeah. And in 2008, I -- I was
23 broken into. And again, March of 2017. Both incidents were captured by -- on
24 surveillance camera, but no arrest was ever made. As far as items stolen, the
25 cash register was gone. I had the stereo system, music system that was taken. I

1 really can't remember exactly what -- how many stuff was stolen.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 019: But it was really important part that
4 is -- it's -- I was...

5 THE COURT: All right. And did these -- these break-ins happen
6 overnight, when no one was around?

7 PROSPECTIVE JUROR NO. 019: Correct.

8 THE COURT: All right. So is anything about those incidents that's
9 going to affect your reasoning in this case?

10 PROSPECTIVE JUROR NO. 019: I believe I -- I can make a fair
11 judgment based on the facts.

12 THE COURT: You can make a fair judgment?

13 PROSPECTIVE JUROR NO. 019: Yes.

14 THE COURT: Okay. And do you agree with the American system of
15 justice that -- that the burden of proof is on the State?

16 PROSPECTIVE JUROR NO. 019: I do.

17 THE COURT: All right. And -- and the defendant is presumed
18 innocent, right?

19 PROSPECTIVE JUROR NO. 019: Correct.

20 THE COURT: All right. And just because he's sitting here and he has
21 charges against him doesn't mean anything; do you understand that?

22 PROSPECTIVE JUROR NO. 019: Correct. I do.

23 THE COURT: Okay. All right. Well, thank you very much.

24 Oh, the -- the lady in the back had -- raised her hand. Could you pass
25 the microphone back to her again?

1 PROSPECTIVE JUROR NO. 001: I'm sorry. I did think of something
2 else to add. My badge is No. 1.

3 THE COURT: Yeah. No, that's important. Thank you.

4 PROSPECTIVE JUROR NO. 001: Another --

5 THE COURT: And you're Badge Number --

6 PROSPECTIVE JUROR NO. 001: 1.

7 THE COURT: -- Number 1?

8 PROSPECTIVE JUROR NO. 001: Yes. I was assaulted by a -- a
9 friend's boyfriend here. They were coming in from Ohio to visit and he was really
10 drunk and he choked me out. I do -- I did file a report here. So there -- there is a
11 police report on file from I think it was 2010, where they -- they took pictures of my
12 throat, which was bruised up.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 001: So that -- I just forgot to mention
15 that one.

16 THE COURT: And did -- did the friend's boyfriend ever get arrested?

17 PROSPECTIVE JUROR NO. 001: No. Because he immediately
18 absconded, went right back -- just went right to the airport and flew right back to
19 Ohio, so there was no chance to do anything.

20 THE COURT: So do you -- do you have any negative feelings towards
21 law enforcement or the District Attorney's Office for not -- not catching him or
22 locking him up before he fled?

23 PROSPECTIVE JUROR NO. 001: No. No. It -- it all happened so
24 fast. I mean, they didn't even have a chance, because he was already in Ohio by
25 that -- by the time I reported it.

1 THE COURT: Okay. All right. Well, thank you for adding to -- to your
2 information. Thank you. All right.

3 Marshal, will you please see who else needs to talk to us?

4 Raise your hand if you've been a victim of serious crime. I think we
5 have one more person. Thank you.

6 And you're -- tell us your badge number again.

7 PROSPECTIVE JUROR NO. 041: Badge No. 41.

8 THE COURT: 41. Yes, ma'am.

9 PROSPECTIVE JUROR NO. 041: Yes. I have been a victim of a
10 sexual assault, too. Many years ago, I'm not sure really what happened to the
11 person. I believe charges were pressed, but I am -- I was way too young to
12 remember anything about it.

13 THE COURT: Oh, okay. So given that your memory is kind of faded
14 about that and it was many years ago, can you -- can you tell us with certainty that
15 that case won't affect your decision in this case?

16 PROSPECTIVE JUROR NO. 041: Since it's a armed robbery, I don't
17 think it is --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 041: -- that would -- that it would.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 041: Only if it was -- anything was
22 sexual, which --

23 THE COURT: Yeah. And I don't think it does.

24 PROSPECTIVE JUROR NO. 041: -- I will do anything in my power
25 to -- okay.

1 THE COURT: All right. Thank you very much for sharing.
2 Is there anybody else who has been a victim of a serious crime? No?

3 All right.

4 Has anybody here -- and usually there's some DUIs, but I -- but I need
5 to know. Sometimes it happens. Don't be -- don't be, you know, ashamed. But
6 has anybody here been convicted of -- of a crime? If so, I -- it's something that I
7 need to know. All I need to know is what -- what crime it was and what year it was.
8 And the attorneys might have some -- some follow-up on that. That's all I need to
9 know, just what crime it was and what year it was. So --

10 PROSPECTIVE JUROR NO. 038: DUI -- oh, Badge 38. DUI, it's,
11 what, 25 years ago.

12 THE COURT: Okay. 25 years ago.

13 PROSPECTIVE JUROR NO. 038: Yeah.

14 THE COURT: Okay. Thank you. Appreciate that.
15 Who else did we have? Couple people in the back.
16 Marshal, if you don't mind helping.

17 PROSPECTIVE JUROR NO. 019: Badge No. 19.

18 THE COURT: Yes, sir.

19 PROSPECTIVE JUROR NO. 019: I think 1995 DUI.

20 THE COURT: Okay. Thank you, sir. That's all I need to know.
21 And then the gentleman couple of seats down.

22 PROSPECTIVE JUROR NO. 008: Badge No. 8. I got my third DUI
23 back in 1999 here in Vegas.

24 THE COURT: 1999. And that was the third DUI, so that was a -- it
25 was a felony, right?

1 PROSPECTIVE JUROR NO. 008: Yes. I went through a -- a three
2 year series offenders program to keep from going to prison.

3 THE COURT: Great.

4 PROSPECTIVE JUROR NO. 008: And getting a felony.

5 THE COURT: Did you get that reduced, then, down to a gross
6 misdemeanor?

7 PROSPECTIVE JUROR NO. 008: Yes.

8 THE COURT: Okay. All right. Well, thank you. Thank you, sir. I
9 appreciate that.

10 Is there anybody else? No? All right.

11 So I might have a few more questions. Let me just check here.

12 So a couple things. One more thing I want to mention to everybody as
13 a group. You're -- you're required to decide the facts of the case. In making your
14 decision, you must be guided by the law as it applies to the facts. It will be my
15 duty, after conferring with the attorneys for both sides, to instruct you on what the
16 law is.

17 Is there anybody here who will not be able to follow the law, if you
18 believe the law should be something different than what I tell it -- tell you it is? So,
19 basically, is there anybody here who will not be able to follow the law for whatever
20 reason? I don't see any hands. All right.

21 Sometimes in -- in some drug cases we get some people raising their
22 hands on that.

23 Oh, I see we have a gentleman here in Seat No. 3.

24 Do you think you might have a difficulty in following the law, sir?

25 PROSPECTIVE JUROR NO. 003: Yes. I think I might. My son was

1 arrested when he was 15 for just being around in a party where a older gentleman
2 stabbed some guy. And they -- in California, I guess they have a law if you're
3 considered to be a gang member, it's some type of a law. It took them three years
4 to convict him. And they convicted him and put him in prison for five years. And I
5 thought he was just not done right. I thought it was not a good process.

6 THE COURT: So -- but if --

7 PROSPECTIVE JUROR NO. 003: I didn't believe some of the police
8 officers, what they were saying. He was a junior police officer before. And then
9 the city that he was arrested, it was the same city he was a junior police officer, he
10 just took the -- just took a left turn all of a sudden, and you know, just went out and
11 started partying. But I still think they ruined his life, just putting him in prison, in
12 Folsom Prison for just being around, you know, the wrong people.

13 THE COURT: All right. So if there -- so if the law -- if I were to tell you
14 the law is that it's illegal just to be a gang member, then you would take issue with
15 that law?

16 PROSPECTIVE JUROR NO. 003: For that period of time that they put
17 him away, yes.

18 THE COURT: Okay. Well -- all right. But I'm -- I'm talking about now.
19 I don't know if -- if there's any gang component to this case. I don't -- let's assume
20 there is not. If the -- if -- for the sake of argument there's no gang issue in this
21 case, then do you think you would have a problem with any of the -- the law?

22 PROSPECTIVE JUROR NO. 003: No. I think I would have a problem
23 with the police officers.

24 THE COURT: Okay. Are you going to have a problem with there's no
25 gang issue in this case with the police officers?

1 PROSPECTIVE JUROR NO. 003: No. It's just believing them.

2 THE COURT: Believing them. Okay.

3 PROSPECTIVE JUROR NO. 003: Because I think they know how --
4 how the judicial -- judicial system works.

5 THE COURT: Yeah.

6 PROSPECTIVE JUROR NO. 003: And a lot of times they -- they can
7 say what they know needs to be said.

8 THE COURT: So, okay. So are -- are you saying that you might have
9 a problem believing police officers in this case if they take the stand?

10 PROSPECTIVE JUROR NO. 003: That's correct.

11 THE COURT: All right. And that's -- that's based on your prior
12 involvement with them in -- in California incidents?

13 PROSPECTIVE JUROR NO. 003: That's correct.

14 THE COURT: All right. All right. So -- so you're going to start off
15 disbelieving police officers?

16 PROSPECTIVE JUROR NO. 003: I won't start off, but, you know, I'll
17 hear what they have to say. But I think I might have a problem with it.

18 THE COURT: Okay. So --

19 PROSPECTIVE JUROR NO. 003: Just to be perfectly honest with
20 you.

21 THE COURT: So you know how I told -- told everybody that -- and I
22 told some of you that, you know, it's your responsibility to decide if the people on
23 the stand are telling the truth or not. Right?

24 PROSPECTIVE JUROR NO. 003: That's correct.

25 THE COURT: All right. And -- and you're really supposed to decide

150

1 whether they're telling the truth based upon what you see and hear and observe in
2 the courtroom. That's -- that's going to include the testimony about the officers' --

3 PROSPECTIVE JUROR NO. 003: And I understand --

4 THE COURT: -- background and experience and whether they have a
5 motive to lie or a bias, you know, to convict. Or you know, you're -- you're going to
6 hear all kinds of stuff, and you're going to have to decide whether they're telling the
7 truth. And so I guess what I need to know is -- is can you decide whether the
8 police officer's telling the truth just based upon everything that happens in this
9 courtroom and not based upon what happened in -- in the California incidents that
10 you told us? Can you set it aside --

11 PROSPECTIVE JUROR NO. 003: No, I don't think I can. Because
12 they ruined my son's life.

13 THE COURT: All right. So you think that all police officers might have
14 a tendency to act as -- like the ones that treated your son?

15 PROSPECTIVE JUROR NO. 003: A majority of them, yes.

16 THE COURT: Okay. Well, all right. So your answers -- I appreciate
17 you're being honest. That's what we need you to do.

18 PROSPECTIVE JUROR NO. 003: All right.

19 THE COURT: I'm concerned about your answers, but I'm going to let
20 the attorneys ask some follow-up questions and see where that leads. Okay. All
21 right.

22 Anybody else have -- been a victim of a crime that they need to talk to
23 us about? Or anyone else -- I'm sorry -- believe they can't follow the law?

24 All right. At this point in time, the court is going to turn over the
25 questioning to the lawyers. I'm going to ask the State to go first. And they're

1 allowed to ask you questions, either individually or as a group, and they can go
2 back and forth. Okay.

3 So please give your attention to -- is it Mr. Dickerson, are you going
4 first?

5 MR. DICKERSON: Yes, Your Honor. May we approach before?

6 THE COURT: Yes, you may.

7 MR. DICKERSON: Thank you.

8 [Bench conference transcribed as follows.]

9 MR. DICKERSON: Before we even get started on our questioning --

10 THE COURT: Yes.

11 MR. DICKERSON: -- we just wanted to lodge an objection to 008,
12 Mr. Gray, who was just speaking.

13 THE COURT: 008?

14 MR. DICKERSON: Yeah.

15 MS. MACHNICH: And Your Honor, the defense position would be the
16 same as Your Honor, that we have a chance to speak with him on the insurance --

17 THE COURT: And what's the basis of your --

18 MR. DICKERSON: That he's obviously bias. He clearly -- there's no
19 way that he would be even close to being unequivocally unbiased. And everything
20 that he said indicates to this court that he has preconceived notions about police
21 officers being dishonest, and all of them really being dishonest. He can't trust
22 them. So with that, Your Honor, we move to kick him.

23 THE COURT: I -- you know, I tend to side with you on that. But I -- I
24 will give Ms. Machnich a chance to rehabilitate. But I tend to -- I don't see how he
25 could possibly be rehabilitated after what he said. But --

1 MR. GASTON: Don't underestimate the power of --
2 THE COURT: -- I've seen some big transformations.
3 MS. LEXIS: [Indiscernible.]
4 THE COURT: I'll give -- I'll give him a chance.
5 MR. DICKERSON: Okay.
6 THE COURT: All right? All right.
7 MR. GASTON: Was that -- was that the only one? I'm sorry. Was
8 that the only one that was raised right now?
9 THE COURT: Yep. Right now.
10 MR. GASTON: All right. So [indiscernible].
11 MS. MACHNICH: We don't have enough for cause yet.
12 THE COURT: Okay.
13 MR. GASTON: Okay.
14 [End of bench conference.]
15 THE COURT: Thank you.
16 MR. DICKERSON: Thanks.
17 THE COURT: Thank you.
18 MR. DICKERSON: Good afternoon, ladies and gentlemen. My name
19 is Mike Dickerson, as you heard earlier from my co-counsel, Agnes Lexis.
20 I'm going to ask you guys some questions. It's kind of like the judge
21 did, because some will be general. If it applies to you, raise your hand; we'll chat a
22 little bit further.
23 First, I just want to talk with you, Mr. Gray, while we're still on it, it
24 seems like you definitely have some dislike for law enforcement in general. And --
25 PROSPECTIVE JUROR NO. 008: Yes. It look a very long time, and I

1 think it -- sorry. Thank you. Yes, I do.

2 MR. DICKERSON: Okay. And so as the judge asked you, you
3 hearing police officers testify in this case are automatically going to hold something
4 against them; is that right?

5 PROSPECTIVE JUROR NO. 008: That's correct.

6 MR. DICKERSON: And so you won't be able to just listen to their
7 testimony as you would anybody else who wasn't a police officer?

8 PROSPECTIVE JUROR NO. 008: That's correct.

9 MR. DICKERSON: And due to that, you just really wouldn't be able to
10 be fair and impartial?

11 PROSPECTIVE JUROR NO. 008: Not at all.

12 MR. DICKERSON: Does anybody else have any strong feelings,
13 either positive or negative, we can have a mixture of both, about law enforcement?
14 If you would just raise your hands. So nobody that doesn't have a connection to
15 law enforcement has ever had any good experience with law enforcement?

16 Anybody who doesn't have a connection to law enforcement ever just
17 had a bad experience?

18 Okay. Yeah. Mr. McAvity, that's 006?

19 PROSPECTIVE JUROR NO. 006: Yeah.

20 MR. DICKERSON: You raised your hand on that question. What's
21 your experience been, sir?

22 PROSPECTIVE JUROR NO. 006: I've had a few experiences. Well,
23 I've lived in pretty bad neighborhoods and whatnot. And --

24 MR. DICKERSON: Where?

25 PROSPECTIVE JUROR NO. 006: Hayward, California.

1 MR. DICKERSON: Okay.

2 PROSPECTIVE JUROR NO. 006: I've had -- I've had, just walking
3 down the street, I've had, like, four or five cops pull guns out on me and a
4 helicopter come down on me and tackle me and just over nothing, really. They
5 finally sat me down and finally questioned, when they -- one of the cops
6 recognized me, because he was a cop at my school, my high school, and he
7 realized that, you know, I had nothing to do with it. I guess they were chasing
8 somebody else. So it was a mistaken identity. But they roughed me up pretty bad
9 for mistaken identity.

10 And -- and then this other stuff is just like getting, you know, basic --
11 probably basically with what everybody else here would be, like getting pulled over
12 and I guess the cops having bad days or whatever, and just kind of take it out on
13 you. You could tell with the attitude and they'll pull you out the car, slam you
14 against the car. Just, you know, roughing you up. And --

15 MR. DICKERSON: So you've been slammed against the car?

16 PROSPECTIVE JUROR NO. 006: Yeah.

17 MR. DICKERSON: Specifically, on that incident of where you said it
18 was mistaken identity --

19 PROSPECTIVE JUROR NO. 006: Uh-huh.

20 MR. DICKERSON: -- was that something they realized right there on
21 the scene, after sitting down and talking to you?

22 PROSPECTIVE JUROR NO. 006: Yeah. It took -- it took a while, I sat
23 for a while. Probably about a half an hour. And they're running up -- you know,
24 running my -- all my information down and everything like that. So it's -- it was like
25 about a half an hour.

1 MR. DICKERSON: Okay.

2 PROSPECTIVE JUROR NO. 006: And then they --

3 MR. DICKERSON: Were you arrested during that --

4 PROSPECTIVE JUROR NO. 006: No, no, no. They had -- they let me

5 go.

6 MR. DICKERSON: Okay. So they quickly realized that they --

7 PROSPECTIVE JUROR NO. 006: So I -- just kind of dust -- dust --

8 dusted me off and kind of sent me on my way. I was young. I was still in high

9 school.

10 MR. DICKERSON: Right.

11 PROSPECTIVE JUROR NO. 006: So I didn't know any of my rights. I

12 probably could have sued them for the -- as much as they roughed me up. But I

13 was pretty young at the time, so I just -- you know, I was just happy that they let

14 me go. I was like --

15 MR. DICKERSON: And that was in Hayward, California?

16 PROSPECTIVE JUROR NO. 006: Yes.

17 MR. DICKERSON: So with that experience and the experience that

18 you've had, traffic stops, color your view here of the police officers in this case?

19 PROSPECTIVE JUROR NO. 006: No. I'd -- I'd still -- I'd still listen to

20 the facts or whatnot.

21 MR. DICKERSON: Okay.

22 PROSPECTIVE JUROR NO. 006: You know what I'm saying, I'd -- I'd

23 still listen to the facts. But, you know, I -- I -- I'm not just going to believe -- blindly

24 believe a cop because he's a cop. You know, it's like --

25 MR. DICKERSON: Are -- on the opposite end, are you going to kind of

1 hold something against them because they're a cop?

2 PROSPECTIVE JUROR NO. 006: No, no. I'm -- I'm -- I'm going to
3 be -- I'll be fair and partial or whatever.

4 MR. DICKERSON: Okay. I definitely appreciate that.

5 PROSPECTIVE JUROR NO. 006: Yeah.

6 MR. DICKERSON: You were the victim of a robbery 12 years ago.

7 Sounds --

8 PROSPECTIVE JUROR NO. 006: Yeah. I was the victim.

9 MR. DICKERSON: It sounds like it was pretty intense.

10 PROSPECTIVE JUROR NO. 006: Yes.

11 MR. DICKERSON: The PTSD that you have from that --

12 PROSPECTIVE JUROR NO. 006: Uh-huh.

13 MR. DICKERSON: -- is that something that could affect you here in
14 this case?

15 PROSPECTIVE JUROR NO. 006: No, no.

16 MR. DICKERSON: No?

17 PROSPECTIVE JUROR NO. 006: I --

18 MR. DICKERSON: When does that seem to surface with you?

19 PROSPECTIVE JUROR NO. 006: Large crowds.

20 MR. DICKERSON: Okay.

21 PROSPECTIVE JUROR NO. 006: Just depending on what areas I'm
22 in. Darkness. And just people that I see that remind me of -- of certain people.

23 MR. DICKERSON: So in this case, you may hear facts -- you will hear
24 facts about robberies. You may hear things about guns and about people being
25 victimized --

1 PROSPECTIVE JUROR NO. 006: It might give me a little anxiety, but
2 I think I can get through it.

3 MR. DICKERSON: Okay. Good.

4 PROSPECTIVE JUROR NO. 006: Yeah.

5 MR. DICKERSON: All right. I had another name -- was it you, sir?
6 Oh, right there, perfect.

7 Mr. Wheeler, Badge No. 022; is that right?

8 PROSPECTIVE JUROR NO. 022: Yeah. That's right. Yeah. I just --
9 I've had kind of -- I've had good experiences with police officers and I've had some
10 bad, also, where they've actually lied about some stuff and --

11 MR. DICKERSON: Tell me about that.

12 PROSPECTIVE JUROR NO. 022: Well, I don't want to get into all the
13 details.

14 MR. DICKERSON: Okay.

15 PROSPECTIVE JUROR NO. 022: Actually. So -- but there was --
16 there was a time I remember when I was 18, I think, or maybe 17, I just get my
17 license and went out with my friends and we were having some fun. I just was
18 going down the -- you know, I was driving, going down the road. And I got pulled
19 over. Didn't know why. Got -- got out of the car. Had police officers pointing a
20 gun at me, get out of the car, get out of the car. You know, they're pointing a gun.
21 I'm like, what is going on?

22 Put your hands on your head. You know, they put me on the -- I'm
23 like, we're just going -- I'm just going home, you know.

24 MR. DICKERSON: Right.

25 PROSPECTIVE JUROR NO. 022: And nothing happened. There was

1 no charges or anything. And then he just said something about the tint in my
2 window. And he said go home. I don't know what it was about, but they had their
3 guns pointed at me when I was, like, a kid. I didn't like that too much. And I
4 remember that. And --

5 MR. DICKERSON: So you ended up not being arrested at that
6 moment?

7 PROSPECTIVE JUROR NO. 022: No. There was nothing. He just
8 said, oh, you have your windows a little too tinted. And I was, like --

9 MR. DICKERSON: Okay.

10 PROSPECTIVE JUROR NO. 022: -- why did you point a gun at me for
11 windows?

12 MR. DICKERSON: Where was this?

13 PROSPECTIVE JUROR NO. 022: In Ohio.

14 MR. DICKERSON: Ohio?

15 PROSPECTIVE JUROR NO. 022: Yeah. So I've had some
16 experience -- I've had some bad, and, you know, I've had good experiences, too.
17 So actually just --

18 MR. DICKERSON: So --

19 PROSPECTIVE JUROR NO. 022: -- just, like, last week, my -- I have
20 this crazy neighbor that just moved in. I didn't even know who he was, because I
21 hadn't met him yet. And he knocks -- somebody was knocking on my door at 2:00
22 in the morning, or ringing my doorbell at 2:00 in the morning. And I didn't know it
23 was my neighbor. And I was, like, freaking out.

24 MR. DICKERSON: Regardless.

25 PROSPECTIVE JUROR NO. 022: I got, like, a video doorbell and I

1 had him on video. And he, like, had something in his hand. It was, like, a long
2 story, but it looked like somebody was going to try and break in and do something.
3 So I called the police. And they showed up, and I told them the story. And -- and
4 then, you know, the police came. It took -- took about an hour for them to show
5 up.

6 But then -- then, like, after I explained everything, and I showed them
7 the video and everything. And then my -- my neighbor comes out. And I'm, like --
8 I'm, like, are you my new neighbor? You're the one that was knocking on my door
9 at 2:00 in the morning?

10 And he was -- the police officer was really nice, though. So, like, he
11 was -- so I've had good and bad.

12 MR. DICKERSON: Okay.

13 PROSPECTIVE JUROR NO. 022: But I've had some bad too, so.

14 MR. DICKERSON: So a combination. It seems as though the bad
15 ones were --

16 PROSPECTIVE JUROR NO. 022: Yeah.

17 MR. DICKERSON: -- more in your youth?

18 PROSPECTIVE JUROR NO. 022: Yeah, yeah.

19 MR. DICKERSON: And any of them --

20 PROSPECTIVE JUROR NO. 022: Yeah. When I was younger.

21 MR. DICKERSON: -- here in Las Vegas?

22 PROSPECTIVE JUROR NO. 022: No. Not in Las Vegas. No.

23 MR. DICKERSON: Would any of those bad experiences be something
24 you hold against police officers when they testify in this case?

25 PROSPECTIVE JUROR NO. 022: It's just that I -- I won't trust

1 everything they say. I'll be honest with -- some of it -- it's -- I'm going to be kind of,
2 like, because of those bad experiences where I've had a police officer actually lie
3 about something before, so --

4 MR. DICKERSON: Okay.

5 PROSPECTIVE JUROR NO. 022: -- you know.

6 MR. DICKERSON: And that's something that you don't want to get
7 into the specifics of that?

8 PROSPECTIVE JUROR NO. 022: Yeah. I don't want to get into that,
9 no. Specifics. Yeah.

10 MR. DICKERSON: I'll respect that. I won't get into it with you.

11 PROSPECTIVE JUROR NO. 022: Yeah.

12 MR. DICKERSON: But I just want to hear a little bit more about --

13 PROSPECTIVE JUROR NO. 022: Yeah.

14 MR. DICKERSON: -- you not trusting them. So is this a situation
15 where if you had the testimony of a police officer, you're going to be predisposed
16 to not believe some or all of it because they're a police officer, as opposed to if
17 they were just a regular citizen?

18 PROSPECTIVE JUROR NO. 022: Possibly. Just because I -- I read
19 the news, too, and I've seen stuff -- you know, stuff happen. Like recently. There
20 was a police officer that planted evidence and it got caught on video on his dash
21 cam or -- so it does happen. I don't know how often it happens. You know, just --

22 MR. DICKERSON: Okay.

23 PROSPECTIVE JUROR NO. 022: -- just from what I read and hear.
24 And so I just know that -- not -- not to believe everything that they say, so.

25 MR. DICKERSON: Okay. And that's something specific to police

161

1 officers, right?

2 PROSPECTIVE JUROR NO. 022: Yeah. Exactly. Yeah.

3 MR. DICKERSON: Not --

4 PROSPECTIVE JUROR NO. 022: Because they can get away with it.
5 They can -- they won't get in trouble.

6 MR. DICKERSON: Okay.

7 PROSPECTIVE JUROR NO. 022: A lot of -- they, you know -- with all
8 the shootings and things that have been happening in the news, you know.

9 MR. DICKERSON: Okay. And so a large part --

10 PROSPECTIVE JUROR NO. 022: And they get away with it. So.

11 MR. DICKERSON: -- of that is based on your experiences as a
12 juvenile and what you see in the news and what you read in the news?

13 PROSPECTIVE JUROR NO. 022: Right. Yeah.

14 MR. DICKERSON: Okay.

15 PROSPECTIVE JUROR NO. 022: That, too. My -- my own
16 experience and also what I -- I read in the news.

17 MR. DICKERSON: Does anybody else share those same general
18 feelings that they don't trust police officers based on what they see in the news
19 these days? Okay. Seeing no hands.

20 I thank you for sharing, sir.

21 Does anybody have any prior military service?

22 Yes, sir.

23 We have two hands raised. I'll go first to the back to Mr. Winterbourne.

24 PROSPECTIVE JUROR NO. 009: Yes.

25 MR. DICKERSON: Badge No. 009?

1 PROSPECTIVE JUROR NO. 009: Yes.
2 MR. DICKERSON: Thank you for your service, sir.
3 PROSPECTIVE JUROR NO. 009: Sure. You're welcome.
4 MR. DICKERSON: Which branch?
5 PROSPECTIVE JUROR NO. 009: Navy.
6 MR. DICKERSON: Okay. And when was that?
7 PROSPECTIVE JUROR NO. 009: Joined in 1968 and got out in '76.
8 MR. DICKERSON: And what'd you do in the Navy?
9 PROSPECTIVE JUROR NO. 009: Swept a lot of hangars.
10 MR. DICKERSON: Is that right? Great. How has your experience in
11 the Navy and being a veteran changed the way, if at all, that you see the world
12 now, today?
13 PROSPECTIVE JUROR NO. 009: I -- I don't think it has.
14 MR. DICKERSON: Okay. So as far as you -- you came to Las Vegas
15 a year and a half ago; is that right?
16 PROSPECTIVE JUROR NO. 009: Yes.
17 MR. DICKERSON: And where were you before that.
18 PROSPECTIVE JUROR NO. 009: Southern California.
19 MR. DICKERSON: Okay. What brought you here?
20 PROSPECTIVE JUROR NO. 009: The house, the -- the price of
21 houses.
22 MR. DICKERSON: Okay. It wasn't the prospect of having the Raiders
23 come?
24 PROSPECTIVE JUROR NO. 009: No. I'll be a Raiders fan no matter
25 where they're at.

1 MR. DICKERSON: Okay. Icing on the cake, right?

2 PROSPECTIVE JUROR NO. 009: Yes.

3 MR. DICKERSON: Okay. Great. I appreciate it, sir.

4 We'll go over to you in the corner. Mr. Duerson?

5 PROSPECTIVE JUROR NO. 048: Correct.

6 MR. DICKERSON: That's Badge No. 048.

7 We'll just take that microphone, if you could pass it down. Thanks a
8 lot.

9 Thank you for your service, sir. Which branch were you in?

10 PROSPECTIVE JUROR NO. 048: Air Force from 1981 to 2005.

11 MR. DICKERSON: Career Air Force; what did you do?

12 PROSPECTIVE JUROR NO. 048: An officer, multiple jobs, centering
13 around aviation in general and intelligence.

14 MR. DICKERSON: And so you came here in -- 18 years ago you were
15 stationed here at Nellis?

16 PROSPECTIVE JUROR NO. 048: Came here in '98 for a two-year
17 tour and never left. Retired in 2005/6.

18 MR. DICKERSON: Okay. Great. And has your experience in the
19 military at all changed the way that you see the world now, today?

20 PROSPECTIVE JUROR NO. 048: The world, yes. I've seen a lot of
21 hardship and everything that people have gone through to correct wrongs and
22 preserve our freedoms. And how oftentimes in our country we don't often respect
23 the freedoms we have.

24 MR. DICKERSON: Tell me a little more about that.

25 PROSPECTIVE JUROR NO. 048: A lot of people in this country have

1 opportunities and they don't take advantage of the opportunities. They calmly
2 fritter them away. And it's just sad.

3 MR. DICKERSON: Right. And the freedoms that you protected
4 from 1981 to 2005, that includes the freedom to a fair and impartial jury; is that
5 right?

6 PROSPECTIVE JUROR NO. 048: Yes.

7 MR. DICKERSON: And you have previously been on a jury?

8 PROSPECTIVE JUROR NO. 048: Yes.

9 MR. DICKERSON: Do you think that's something that you can do
10 here?

11 PROSPECTIVE JUROR NO. 048: Yes.

12 MR. DICKERSON: Appreciate that.

13 Ladies and gentlemen, we had the question before regarding whoever
14 has been convicted of a crime. We've touched on that. We don't need to rehash
15 any of that.

16 But has anybody in -- it's going to be three different sections --
17 yourself, your family, or your friends -- ever been accused of a crime? And we've
18 heard a little bit from the people who've already spoke. I don't necessarily need to
19 hear from them again, unless it's something different.

20 But if that at all applies to you -- you, your family, or your friends -- ever
21 been accused of a crime? All right. I see two hands, three hands. We've got the
22 microphone right there.

23 First we'll go up front then. We'll go to Ms. Porath, with
24 Badge No. 038. And yes.

25 PROSPECTIVE JUROR NO. 038: Well, my husband's actually in jail

1 at the present time.

2 MR. DICKERSON: May I ask for what, ma'am?

3 PROSPECTIVE JUROR NO. 038: Violating TPO about six, seven,
4 eight times. Who knows the number?

5 MR. DICKERSON: And that's --

6 PROSPECTIVE JUROR NO. 038: Temporary protection order.

7 MR. DICKERSON: That's the TPO that you had mentioned earlier; is
8 that right?

9 PROSPECTIVE JUROR NO. 038: Yes.

10 MR. DICKERSON: Okay. And that's --

11 PROSPECTIVE JUROR NO. 038: And he had a DUI in that time.
12 He's hit three different people.

13 MR. DICKERSON: Okay.

14 PROSPECTIVE JUROR NO. 038: In vehicles, yeah.

15 MR. DICKERSON: And based on that and, obviously, you've had
16 some experience with the criminal justice system, as part of that; is that right?

17 PROSPECTIVE JUROR NO. 038: Yeah.

18 MR. DICKERSON: And in your own capacity, too?

19 PROSPECTIVE JUROR NO. 038: [Indiscernible.]

20 MR. DICKERSON: Do you feel you've been treated fairly by the
21 criminal justice system, then?

22 PROSPECTIVE JUROR NO. 038: Yes.

23 MR. DICKERSON: Okay. You seem pretty upset right now. I -- I can
24 only imagine how hard it is to talk about this in a room full of strangers. It's
25 something that's actively going on in your life. But we do have a criminal case

1 that's going to be presented here.

2 PROSPECTIVE JUROR NO. 038: I know.

3 MR. DICKERSON: Do you think that your emotions right now are
4 going to affect your ability to sit here as a fair and impartial juror?

5 PROSPECTIVE JUROR NO. 038: Listening to that girl back there just
6 made me, you know.

7 MR. DICKERSON: Do you want me to come back to you?

8 PROSPECTIVE JUROR NO. 038: Can I go to the restroom?

9 MR. DICKERSON: I'll leave that to the judge.

10 THE COURT: Yes. Marshal, will you please allow the juror to go to
11 the restroom.

12 Ma'am, the --

13 PROSPECTIVE JUROR NO. 038: I have a hard time sitting.

14 MR. DICKERSON: Okay.

15 THE COURT: Unless -- ma'am, just go to restroom. Do you know
16 where it is?

17 PROSPECTIVE JUROR NO. 038: Yeah.

18 THE COURT: And please go and come back without talking to
19 anybody or without using any electronic device. That's not -- not a problem.
20 Thank you, ma'am. It's not a problem. Take your time.

21 MR. DICKERSON: All right.

22 THE COURT: Mr. Dickerson, there's a hand up.

23 MR. DICKERSON: Yes, sir.

24 PROSPECTIVE JUROR NO. 006: I know I've been talking a lot.

25 MR. DICKERSON: And we appreciate it.

1 PROSPECTIVE JUROR NO. 006: I apply -- I apply to this one, too. I
2 don't know if I should talk --

3 MR. DICKERSON: We'll have you talk. Absolutely.

4 First we'll go to Ms. Justice right next to you, and I have No. 001.

5 PROSPECTIVE JUROR NO. 001: Yes. I have a cousin, first cousin,
6 who was, basically, my best friend growing up, who was a recovering heroin addict
7 who also went through the whole gamut of robbing homes, break-ins, forging
8 checks. He had felony upon felony upon felony racked up against him.

9 My father, who is deceased at this time, he had multiple DUIs. And I
10 also have a sealed record for myself. I was accused of criminal damaging,
11 however I was found not guilty and my record was sealed in Ohio. That's it.

12 MR. DICKERSON: Okay. Do you feel that the criminal justice system
13 has treated you fairly?

14 PROSPECTIVE JUROR NO. 001: Yes.

15 MR. DICKERSON: Do you feel that it's treated your cousin fairly?

16 PROSPECTIVE JUROR NO. 001: In certain cases that he -- he
17 had 99 felonies [indiscernible] problems for checks. So in some of the cases he
18 was treated fairly, and others not as fairly, I would say. I don't know all the details,
19 though. I just know --

20 MR. DICKERSON: Okay. Is what he told you about the way he was
21 treated was with the 99 felonies going to affect the way that you view the evidence
22 here in this case?

23 PROSPECTIVE JUROR NO. 001: I don't believe it would at all.

24 MR. DICKERSON: Does it affect the way that you view the criminal
25 justice system as a whole?

1 PROSPECTIVE JUROR NO. 001: No, it doesn't.

2 MR. DICKERSON: You -- you spoke to the judge quite a bit about
3 your anxiety and stuff that's been going on with you in your life.

4 PROSPECTIVE JUROR NO. 001: Yes.

5 MR. DICKERSON: Now, as you sit here right now, how are you
6 feeling as far as the anxiety?

7 PROSPECTIVE JUROR NO. 001: Not as [indiscernible]. My brain is
8 just going in circles. I feel bad for this poor woman who I apparently affected by
9 telling my story. So a little just all over the place. Pretty much [indiscernible].

10 MR. DICKERSON: Yeah. And, you know, I -- as I told Mr. McAvity
11 earlier, there's going to be some talk in this case about robberies, people being
12 victimized, guns. Are these type of things going to be an issue for you?

13 PROSPECTIVE JUROR NO. 001: Well, since I was never assaulted
14 with any weapons, only hands in the past, I don't believe armed robbery would be
15 something I could -- I mean, I -- I think I could fairly, you know, judge that or -- or
16 listen to the facts and come up with my own opinion. I guess if there's other details
17 about the case that I don't know about that could affect me or -- I don't know at this
18 point.

19 MR. DICKERSON: Okay. Is it fair to say that this situation, being a
20 juror, if you are selected, is going to be more high intensity or give you more
21 anxiety than just a normal day in your life would?

22 PROSPECTIVE JUROR NO. 001: Oh, yeah. Absolutely it will give me
23 more anxiety.

24 MR. DICKERSON: And so currently you use marijuana to kind of get
25 through the day?

1 PROSPECTIVE JUROR NO. 001: Yes.

2 MR. DICKERSON: So given that, that would mean that you would
3 have to use marijuana to just get through jury service?

4 PROSPECTIVE JUROR NO. 001: I mean, I'm not doing it now.

5 MR. DICKERSON: Okay.

6 PROSPECTIVE JUROR NO. 001: But I am absolutely showing -- I'm
7 sweating profusely. I -- my voice is shaking.

8 MR. DICKERSON: Okay.

9 PROSPECTIVE JUROR NO. 001: He's seen me nonstop moving.

10 MR. DICKERSON: Yeah.

11 PROSPECTIVE JUROR NO. 001: It's just really difficult to, like, take
12 in everything and focus on all of it in a broad spectrum. And -- and by that, I mean,
13 like, if you throw a bunch of evidence or things at me, and I can only focus on one
14 at a time, and my brain kind of derails, I may not remember everything I should
15 remember in order to make a fair judgment.

16 MR. DICKERSON: Okay.

17 PROSPECTIVE JUROR NO. 001: Just based on the way my brain
18 operates.

19 MR. DICKERSON: Okay. And so that's just you knowing yourself --

20 PROSPECTIVE JUROR NO. 001: Just -- yes, correct. Me knowing
21 myself.

22 MR. DICKERSON: And how confident are you in -- in saying that --
23 that you likely will not remember some things?

24 PROSPECTIVE JUROR NO. 001: I'm 100 percent confident.

25 MR. DICKERSON: Okay.

1 PROSPECTIVE JUROR NO. 001: There are things that I can't
2 remember that I do earlier in the day for myself, let alone trying to remember
3 something in someone else's story line.

4 MR. DICKERSON: Okay. And is that -- when you refer to that, is that
5 just giving a regular day in your life?

6 PROSPECTIVE JUROR NO. 001: Yeah. Absolutely.

7 MR. DICKERSON: Not with the higher anxiety day that jury service
8 would bring?

9 PROSPECTIVE JUROR NO. 001: Correct. I could be at home and I
10 could forget what I had for breakfast, because I've had something make me get
11 anxious through the day, and then I'm -- like, I can't even remember if I took my
12 dog out or --

13 MR. DICKERSON: Okay.

14 PROSPECTIVE JUROR NO. 001: You know what --

15 MR. DICKERSON: Yeah.

16 PROSPECTIVE JUROR NO. 001: -- I'm saying? Simple things like
17 that, I lose track.

18 MR. DICKERSON: Okay. And given that -- and what you would -- you
19 know you'd be experiencing and that this trial would likely run until next Monday,
20 what do you think that you would likely have to use marijuana sometime
21 throughout the week before coming to court?

22 PROSPECTIVE JUROR NO. 001: Oh, yes.

23 MR. DICKERSON: Okay.

24 PROSPECTIVE JUROR NO. 001: Maybe not in the morning, but after
25 I leave for the day.

1 MR. DICKERSON: Okay.

2 PROSPECTIVE JUROR NO. 001: Go home and sleep at night.

3 MR. DICKERSON: Okay.

4 PROSPECTIVE JUROR NO. 001: I also take supplements, nothing

5 medicinal, to help me sleep and to help curb my anxiety, too. But they don't work

6 as well as the marijuana does.

7 MR. DICKERSON: And on a regular day, are you using marijuana in

8 the morning?

9 PROSPECTIVE JUROR NO. 001: Yes.

10 MR. DICKERSON: Okay.

11 PROSPECTIVE JUROR NO. 001: And in the afternoon and in the

12 evening.

13 MR. DICKERSON: Okay. Is that something that you could say that

14 you would not do at all --

15 PROSPECTIVE JUROR NO. 001: If I had to --

16 MR. DICKERSON: -- for the whole week?

17 PROSPECTIVE JUROR NO. 001: If I had to go to court and be on my

18 game, I could do it. I probably would be a mess.

19 MR. DICKERSON: You would be a mess?

20 PROSPECTIVE JUROR NO. 001: Mentally.

21 MR. DICKERSON: And it would be even harder to focus?

22 PROSPECTIVE JUROR NO. 001: I mean, yes, because it -- it really

23 brings me down to a level of being able to, like, function on a normal -- get up,

24 have a routine --

25 MR. DICKERSON: Okay.

1 PROSPECTIVE JUROR NO. 001: -- life.
2 MR. DICKERSON: All right.
3 THE COURT: Welcome back, Ms. Porath. You can please take your
4 seat. Thank you.
5 PROSPECTIVE JUROR NO. 038: I don't want to walk in front.
6 THE COURT: No problem. Thank you for your courtesy.
7 MR. DICKERSON: Okay. I appreciate that.
8 Mr. McAvity, we'll switch to you, sir, that's Badge No. 006. You had
9 something else to say?
10 PROSPECTIVE JUROR NO. 006: Yeah. I -- I just [indiscernible] at
11 the time --
12 MR. DICKERSON: We welcome it.
13 PROSPECTIVE JUROR NO. 006: -- I don't like talking or whatever.
14 But I just got out of a 10-year relationship, and I -- I helped her raise her son, and
15 he's currently here locked up. And for getting into a fight, for possession of a
16 weapon.
17 MR. DICKERSON: Okay. So kind of like a stepson to you?
18 PROSPECTIVE JUROR NO. 006: Yes.
19 MR. DICKERSON: And how old was he when you became involved in
20 his life?
21 PROSPECTIVE JUROR NO. 006: Eight years old.
22 MR. DICKERSON: Okay. And now he's 18?
23 PROSPECTIVE JUROR NO. 006: Yes.
24 MR. DICKERSON: Okay. He's currently incarcerated?
25 PROSPECTIVE JUROR NO. 006: Here in this building, yes.

173

1 MR. DICKERSON: Okay. Or the building next door?

2 PROSPECTIVE JUROR NO. 006: Yes.

3 MR. DICKERSON: How does that affect the way that you see the
4 criminal justice system?

5 PROSPECTIVE JUROR NO. 006: It doesn't really affect me. It
6 doesn't, you know, I'm just saying, you know, people who didn't do -- you know,
7 does the crime fit the time? You know, do the time if you did the crime.

8 MR. DICKERSON: How do you feel that the system has treated him?

9 PROSPECTIVE JUROR NO. 006: It's kind of like in the beginning
10 stages, so I don't -- I don't know where -- where he's at. I haven't really been able
11 to assess everything.

12 MR. DICKERSON: Do you keep in contact with him?

13 PROSPECTIVE JUROR NO. 006: Yeah.

14 MR. DICKERSON: Okay. Has he told you anything about what's
15 going on with his case or in jail?

16 PROSPECTIVE JUROR NO. 006: Yeah. Yeah, he --

17 MR. DICKERSON: Okay.

18 PROSPECTIVE JUROR NO. 006: -- talks to me about it, yeah.

19 MR. DICKERSON: And how, if at all, would hearing those things and
20 stories about what's going on with him affect you as you sit here in this building?

21 PROSPECTIVE JUROR NO. 006: Actually, he says, that they're
22 treating him pretty well, and she didn't [indiscernible], you know, next door or
23 whatever, that -- they're talking to him and he's -- he's really trying to change. He
24 really wants to go in the military and change his -- change everything around. He's
25 maybe some stuff and -- and I think that they're -- you know, they're being fair to

1 him.

2 MR. DICKERSON: Okay. Okay. So then it wouldn't really change
3 anything for you?

4 PROSPECTIVE JUROR NO. 006: No, sir.

5 MR. DICKERSON: Okay. Good. I'm glad to hear. Hope for the best
6 for him.

7 PROSPECTIVE JUROR NO. 006: Thanks.

8 MR. DICKERSON: Then we'll go right over here to Mr. Galloway.

9 PROSPECTIVE JUROR NO. 026: Yeah.

10 MR. DICKERSON: Is that right? Badge No. 026.

11 PROSPECTIVE JUROR NO. 026: Correct.

12 THE CLERK: Mr. Dickerson, do you mind if we change the battery?

13 MR. DICKERSON: No. That's fine. Yeah.

14 THE COURT: Why don't we take a break? Is it a good time for a
15 break? Let's do that.

16 Ladies and gentlemen, I'm going to give you a 15-minute recess.

17 During this recess, you are admonished not to communicate with
18 yourselves or anybody else about the trial or the subject matter of the trial.
19 General chitchat about nontrial stuff is okay. But do -- do not communicate at all
20 with any of the parties, attorneys, or witnesses involved in this trial. Some of the
21 people involved might be using the same restrooms, they're direct to avoid any
22 communication or contact with you without being rude, they're following my
23 instructions.

24 Do not seek or obtain any information or comments about the case
25 from any source, including newspapers, television, radio, Internet, e-mail, cell

1 phones, or any other electronic device; do not read, watch, or listen to any report
2 of or commentary about the case; do not perform any research or investigation; do
3 not form or express any opinion on any subject connected with the trial until the
4 case is finally submitted to you for deliberations.

5 You are directed to return to the hallway outside this courtroom for
6 further proceedings at 3:10. All right. Please enjoy your break. You can leave
7 those papers. We'll collect those. You don't need those anymore. Thank you.

8 [Prospective jury panel recessed at 2:52 p.m.]

9 THE COURT: All right. Please be seated. We're outside the
10 presence of the jury.

11 Is there any consensus on what to do with Dana Justice,
12 Badge No. 001 in Seat 1?

13 MR. DICKERSON: We move to strike.

14 MS. MACHNICH: Your Honor, we'd like a chance to speak with her.

15 THE COURT: All right. Well, I -- she seems really --

16 MR. GASTON: Well, what -- what would be --

17 THE COURT: -- really frustrated -- really anxious.

18 MR. GASTON: I -- I don't disagree with that. But I guess what would
19 be the technical basis to object to her, like, on a legal reason?

20 MR. DICKERSON: Medical, inability --

21 THE COURT: Legal reason is she's unable to pay attention --

22 MR. DICKERSON: Competent.

23 THE COURT: -- to the evidence and remember basic things. I mean,
24 she admitted.

25 MR. GASTON: There's nobody in the entire jury that's going to

1 remember every detail that's come out of this trial. I don't think she knows that she
2 gets the afternoon --

3 THE COURT: No. Of course, there's a difference between
4 remembering everything, which is why they're allowed notes, and remembering
5 basic things about what you had for breakfast and whether you let your dog out in
6 the morning. There's a distinction, which I think she was trying to articulate. I -- at
7 least she -- I was able to understand the difference she was trying to draw
8 between remembering everything and remembering basic things.

9 MR. GASTON: Well, maybe I meant --

10 THE COURT: I think it was the latter that she articulated.

11 MR. GASTON: Maybe I misunderstood on that point. But I -- I was -- I
12 was operating under the impression that she didn't realize she gets the opportunity
13 to take notes. And if -- and -- and, like, so one of the questions --

14 THE COURT: That would be important to tell her.

15 MS. MACHNICH: That --

16 MR. GASTON: And then see if it changes her mind.

17 MS. MACHNICH: Exactly.

18 THE COURT: Let's see. Okay.

19 MS. MACHNICH: Because I was -- I was sort of analogizing it in my
20 own mind, too, when you go and get in your car and drive home and you're
21 thinking about all those things, and all of a sudden you're at home, like, you don't
22 remember getting on the highway, going down the highway, driving safely, getting
23 home, not getting pulled over, pulling in your driveway, but you got there. And, in
24 between --

25 THE COURT: Yeah.

1 MS. MACHNICH: -- you're, like, wow, all right. I'm here. Like, and
2 you did it fine. But the little things slipped away, but the important things, like --

3 THE COURT: That -- that --

4 MS. MACHNICH: -- making it home --

5 THE COURT: I'll give you a chance.

6 MS. MACHNICH: Okay.

7 THE COURT: That's all right. You can have a chance to talk.

8 MR. GASTON: That's -- that's what --

9 THE COURT: I just wanted to see if we had a consensus. If not, well,
10 I'll give you a chance to see what will, you know, if that helps.

11 MR. GASTON: And just to narrow, I mean, I think Tegan's going to --
12 Ms. Machnich is going to do the rehabilitation of that witness.

13 THE COURT: Okay.

14 MR. GASTON: Just to clarify the scope of the rehabilitation, the other
15 two potential issues, the anxiety issue, I mean, to the extent that she can't
16 remember what's going on, that's different. But the fact that she's going to be
17 anxious while listening to testimony, I mean, maybe I sound callous, but I think she
18 should be anxious. This is a big deal. I mean, I would -- I'd -- I'd like all the jurors
19 to be anxious.

20 THE COURT: And general anxiety by itself is probably not a reason to
21 strike, unless that anxiety affects your ability to -- to perceive and remember and
22 exercise judgment.

23 MR. GASTON: And -- and the --

24 THE COURT: So I'm worried about whether the anxiety is going to
25 affect those three things.

1 MR. GASTON: Yeah. And then going in and finding about the other --
2 the third objection -- I don't know if they said this objection or if it was just implied
3 in the questions, the marijuana use.

4 THE COURT: Yeah.

5 MR. GASTON: I don't think that's a basis to exclude someone, either,
6 if they're allowed to have it. Just like if someone's on -- basically, if they can pay
7 attention --

8 THE COURT: Depends on whether it's affecting her ability to perceive,
9 right? Or to --

10 MR. GASTON: Same principle. Okay.

11 THE COURT: -- remember or exercise judgment.

12 MR. GASTON: Thank you.

13 THE COURT: So --

14 MR. DICKERSON: Your Honor, the --

15 THE COURT: Yeah.

16 MR. DICKERSON: -- it would be the same thing if someone was
17 taking oxycodone before they come in, they'd still be intoxicated.

18 THE COURT: Yeah.

19 MR. DICKERSON: That wouldn't be okay.

20 MS. MACHNICH: Well --

21 MR. DICKERSON: Your Honor, under NRS 6.0301A, as well as 4 of
22 that section, she would be good for excusal at this time. She has a physical and
23 mental inability to retain the stuff. She's telling you that even in a regular day she
24 can't remember certain things, let alone when she has the heightened experience
25 of jury service.

1 The anxiety is going to cause her to not be able to focus on what's
2 going on around her. That's -- she's made that very clear.

3 THE COURT: Well, you're -- and you might be right. But remember,
4 she made those points through your questioning.

5 MR. DICKERSON: And through yours.

6 THE COURT: And I think it's only fair that if you get to question her,
7 the defense should get to question her. Isn't that fair? I mean, just to see -- just to
8 see if the changes --

9 MR. DICKERSON: I -- I submit it to Your Honor. But I would just tell
10 you that it's not just my questioning. My questioning is open. It's your questioning,
11 as well --

12 THE COURT: Some of it.

13 MR. DICKERSON: -- Your Honor.

14 THE COURT: Right.

15 MR. DICKERSON: It's -- she's been very clear about how she feels
16 about this whole situation.

17 THE COURT: Yeah. And -- and you might be right. I just like to, you
18 know, if the State gets to ask questions, I'd like to let the defense ask questions,
19 too. All right.

20 MR. DICKERSON: Respectfully, Your Honor, yes.

21 THE COURT: So what about -- so let's move on. But it sounds like we
22 don't have a -- I just want to know if there's a consensus. I -- at this point on -- on
23 her. So, I mean, I am concerned, but let's see what -- let's see what the defense --
24 I know you respect the process --

25 MR. DICKERSON: Absolutely.

180

1 THE COURT: -- tremendously. I know you do. And I just want to see
2 if there's anything new that comes out. But I'm -- I'm kind of concerned about her.

3 MR. DICKERSON: Absolutely.

4 THE COURT: Just like I said with -- with Mr. Gray, you know, I'm --

5 MR. DICKERSON: Absolutely.

6 THE COURT: -- I'm very concerned. But let's -- let's just see. I mean,
7 who knows what the defense might draw out.

8 MR. GASTON: We both think Mr. Gray might be tough.

9 MS. MACHNICH: Yeah.

10 THE COURT: Yeah.

11 MR. GASTON: But we'll see.

12 THE COURT: So what -- what about -- let -- so let me go on to the
13 other one.

14 Mr. Dickerson, what about Scaringi? She had the travel issues. No.
15 She said she doesn't even have her driver's license, so I think that might -- is that
16 one that we can all agree upon, letting her go?

17 MS. MACHNICH: I don't think she can get here. I think it's her poor
18 father who is going to be driving her back and forth, because it doesn't sound like
19 Mom --

20 THE COURT: That's -- that's a burden on her -- on the father --

21 MS. MACHNICH: That's a huge burden on the father.

22 THE COURT: -- which is -- which is something that we can't impose
23 upon him.

24 MR. DICKERSON: Right.

25 MS. LEXIS: We have no objection to excusing her.

1 MR. DICKERSON: None at all.

2 THE COURT: Well, okay. So I'll do that when we come back. And

3 then the next person in order to take that seat will be?

4 THE CLERK: That is Juror 50, Ellen McGarity.

5 THE COURT: McGarity? Okay. All right. Why don't you take a

6 break. Can you guys limit it to 10 minutes?

7 MS. MACHNICH: We have one more, if we could address at this time.

8 THE COURT: Oh, sure.

9 MS. MACHNICH: Ms. Porath, our juror who left crying --

10 THE COURT: Yeah.

11 MS. MACHNICH: -- who appears to be both related to someone who

12 is in jail and a victim of crime, same crime --

13 MS. LEXIS: We have no objection to that one.

14 MS. MACHNICH: Okay.

15 MR. DICKERSON: Yeah. I have concerns about her emotional state.

16 THE COURT: Yeah.

17 MS. MACHNICH: Yeah.

18 THE COURT: I a little worried, but I was going to wait and see what

19 you guys said about that.

20 MS. MACHNICH: She just seemed too --

21 THE COURT: Do you want -- so stipulation to remove Ms. Porath,

22 Badge No. 38, for emotional hardship?

23 MS. MACHNICH: Yes.

24 THE COURT: Is that okay?

25 MS. LEXIS: Yes.

1 MS. MACHNICH: Yes, thank you.
2 THE COURT: Okay. Then I'll do that, too.
3 Thank you, guys. You guys are most accommodating on this stuff.
4 Anything else we need to discuss?
5 MR. GASTON: With -- what juror is going to take her spot?
6 THE CLERK: Badge 051, Andrew Reynolds.
7 MR. GASTON: Okay. Just making sure I'm following.
8 THE COURT: Yeah. We do them in the order in which we remove
9 them. So -- so, you know, Badge No. 50 goes in Seat 21, but then Badge No. 51
10 goes in Seat 19.
11 MR. GASTON: Makes sense. Just following along.
12 MS. MACHNICH: Okay.
13 MR. GASTON: Okay. Thank you.
14 THE COURT: All right.
15 MS. LEXIS: Perfect.
16 THE COURT: All right. 10-minute break then, can we do that?
17 MS. MACHNICH: Yes.
18 MS. LEXIS: Yes.
19 MS. MACHNICH: Thank you.
20 THE COURT: All right.
21 MS. LEXIS: Are we allowed to use the facilities behind?
22 THE COURT: Of course you are.
23 MS. LEXIS: Thank you.
24 THE COURT: Yes. All of you.
25 MS. MACHNICH: I'll just go after you.

1 THE COURT: All right. Thank you. Be back in -- at 3:10.

2 [Court recessed from 3:00 p.m., until 3:13 p.m.]

3 [Outside the presence of the prospective jury panel.]

4 THE COURT: So let's go back on the record. All right. We're back on
5 the record, *State vs. Valentine*, C-316081. The defendant is now present. And as
6 soon as the marshal brings in the jury, we can proceed.

7 [Prospective jury panel reconvened at 3:13 p.m.]

8 THE COURT: All right. Please be seated, everybody. We're back on
9 the record. All right.

10 I'm going to excuse a couple people now.

11 Badge No. 41, Rebekah Scaringi, you are excused, unless you -- you
12 actually came up with some travel arrangements. No? All right. Well, maybe you
13 can serve in the future. But thank you very much for being here and for your
14 attention.

15 The clerk will call in the next person in order to take Seat No. 21.

16 THE CLERK: Badge 050, Ellen McGarity.

17 MR. GASTON: Your Honor, may we approach?

18 THE COURT: Yes. Yeah, do we need to stop the juror from leaving?

19 MR. GASTON: No. No, Your Honor.

20 THE COURT: Okay. You may leave. Thank you.

21 [Bench conference transcribed as follows.]

22 MR. GASTON: I -- I thought -- I asked -- it was the order in which we,
23 like, [indiscernible] or whatever, I thought that guy was taking her spot and the girl
24 was taking the other one -- the other spot.

25 THE COURT: Well, we --

1 MR. GASTON: Because we actually did them a little weird, I
2 remember.

3 THE COURT: We excused her first.

4 MS. MACHNICH: Yeah.

5 MR. GASTON: Oh, that's how we're going to --

6 THE COURT: So we fill --

7 MR. GASTON: -- so girl goes her?

8 THE COURT: Yeah, we -- we -- yeah. I mean, we -- I fill them in the
9 order in which the vacancy appears.

10 MR. GASTON: Right. Okay. Okay. I'm on the same page. Sorry.

11 THE COURT: Okay. Perfect.

12 [End of bench conference.]

13 THE COURT: All right. Ellen McGarity.

14 PROSPECTIVE JUROR NO. 050: Yes.

15 THE COURT: All right. Welcome. I'll ask you some questions
16 momentarily.

17 PROSPECTIVE JUROR NO. 050: Okay.

18 THE COURT: I'll let you review that biographical sheet. And welcome
19 to the jury box. In a moment. All right.

20 And then I'm also excusing Badge No. 38, Sheila Porath. Thank you
21 very much --

22 PROSPECTIVE JUROR NO. 038: Thank you.

23 THE COURT: -- for your time and attention. And we hope you have
24 an opportunity sometime in the future.

25 PROSPECTIVE JUROR NO. 038: Thank you.

1 THE COURT: All right. Sorry for -- for any inconvenience this caused
2 you.

3 And then please --

4 THE CLERK: Badge --

5 THE COURT: -- let's call the next in order.

6 THE CLERK: Badge 051, Andrew Reynolds.

7 THE COURT: Andrew Reynolds, please come forward. All right. I'll
8 be with you momentarily. All right.

9 Ms. McGarity, will you kindly provide us with the biographical
10 information that we need.

11 PROSPECTIVE JUROR NO. 050: My name is Ellen McGarity. I'm
12 Badge No. 50, 50. I've lived in Clark County for about three years. I have a
13 business -- business degree, four-year degree. I'm a financial accounting tech. I
14 am twice divorced. I have two children. My oldest one is -- sorry -- my oldest child
15 is 26 today. It's her birthday. And my youngest one is 25.

16 THE COURT: Great. Ever serve on a jury?

17 PROSPECTIVE JUROR NO. 050: Yes, I have. About 10-ish or
18 so -- 10 to 15 years ago. It was a murder trial. It lasted about a week. And no, I
19 was not the floor [sic] person.

20 THE COURT: All right. Have you ever been a victim of a -- of a
21 serious crime?

22 PROSPECTIVE JUROR NO. 050: No, I haven't.

23 THE COURT: Have you ever testified as a witness in a criminal case?

24 PROSPECTIVE JUROR NO. 050: Only a divorce case.

25 THE COURT: Okay. Divorce case?

1 PROSPECTIVE JUROR NO. 050: My own.

2 THE COURT: Do you have any close connections to law
3 enforcement?

4 PROSPECTIVE JUROR NO. 050: Yes, I do.

5 THE COURT: All right. Tell us about that.

6 PROSPECTIVE JUROR NO. 050: My brother is a circuit court judge
7 in the state of Florida, so he worked his way up to become elected judge.

8 THE COURT: Florida, okay.

9 PROSPECTIVE JUROR NO. 050: And that's it.

10 THE COURT: Great. All right. So do you believe you could be fair
11 and impartial?

12 PROSPECTIVE JUROR NO. 050: Yes, sir.

13 THE COURT: All right. Do you have any -- anything that you feel that
14 you should tell us about your ability as a juror in this case?

15 PROSPECTIVE JUROR NO. 050: No, sir. I'm fine.

16 THE COURT: All right. Well --

17 PROSPECTIVE JUROR NO. 050: Normal person, no -- I've been
18 fortunate.

19 THE COURT: Do you have the time to serve?

20 PROSPECTIVE JUROR NO. 050: I've been fortunate.

21 THE COURT: Do you have the time to serve?

22 PROSPECTIVE JUROR NO. 050: Yes, I do.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 050: I do work, but they can cover my
25 hours and -- I work for the Department of the VA. So they have jury duty allotment.

1 THE COURT: All right. You -- you willing to follow the law as the court
2 instructs you?

3 PROSPECTIVE JUROR NO. 050: Yes, sir.

4 THE COURT: All right. Do you believe in the basic principles of
5 American justice that a --

6 PROSPECTIVE JUROR NO. 050: Uh-huh.

7 THE COURT: -- criminal defendant is presumed innocent?

8 PROSPECTIVE JUROR NO. 050: Yes.

9 THE COURT: All right.

10 PROSPECTIVE JUROR NO. 050: Until proven guilty.

11 THE COURT: All right. Thank you very much. Appreciate it.

12 PROSPECTIVE JUROR NO. 050: Thank you.

13 THE COURT: Why don't you pass your microphone down to -- to your
14 right a couple spots. Okay.

15 Now we have Mr. -- Mr. Reynolds, Seat No. 19. Please provide us
16 with the info that we -- we need.

17 PROSPECTIVE JUROR NO. 051: Name's Andrew Reynolds,
18 Badge No. 051. Years living in Clark County has been 23, from 1990 to 2013.
19 Was in and out of Cambodia for the next two years. And I've been back in the
20 country for two years.

21 THE COURT: All right.

22 PROSPECTIVE JUROR NO. 051: I'm sorry.

23 THE COURT: What were you doing there?

24 PROSPECTIVE JUROR NO. 051: Christian missionary.

25 THE COURT: Okay. Great. Well, welcome back.

1 PROSPECTIVE JUROR NO. 051: Thanks. Job position, rental
2 assistant for Bearcom. Not married. No children. And never served on a jury.

3 THE COURT: Great. What -- what kind of work -- what kind of
4 company is Bearcom? Is it construction equipment?

5 PROSPECTIVE JUROR NO. 051: Bearcom is mainly -- no, radios,
6 communications throughout --

7 THE COURT: Oh.

8 PROSPECTIVE JUROR NO. 051: -- like, all the hotels, security --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 051: -- and events out here.

11 THE COURT: Right. Yeah. Yeah. Yeah. I think you did refer to that.
12 All right.

13 Do you believe you could follow the law?

14 PROSPECTIVE JUROR NO. 051: Yes, sir.

15 THE COURT: All right. Do you believe in the principle of American
16 justice that Defendant is presumed innocent until proven guilty by a burden of
17 proof of beyond a reasonable doubt by the State?

18 PROSPECTIVE JUROR NO. 051: Yes, sir.

19 THE COURT: All right. Do -- do you believe you could be fair and
20 impartial?

21 PROSPECTIVE JUROR NO. 051: Yes, sir.

22 THE COURT: All right. Have you ever been the victim of a serious
23 crime?

24 PROSPECTIVE JUROR NO. 051: No, sir.

25 THE COURT: Have you ever testified as a witness in a criminal

1 lawsuit?

2 PROSPECTIVE JUROR NO. 051: No, sir.

3 THE COURT: All right. And what was the other question? Do you
4 have any close connection to law enforcement?

5 PROSPECTIVE JUROR NO. 051: I know one police officer, but it's
6 not that close.

7 THE COURT: Okay. Very good.

8 Oh, I -- I forgot to ask, of the two new people, have either of you ever
9 been convicted of a crime?

10 PROSPECTIVE JUROR NO. 051: No, sir.

11 THE COURT: All right. I'm satisfied with the two new people. Thank
12 you very much. Welcome. Welcome to -- to the jury box. I will now let
13 Mr. Dickerson continue with his -- his questioning now.

14 MR. DICKERSON: Thank you, Your Honor.

15 Greetings, new folks.

16 So same questions. You guys heard them, because I asked
17 everybody else; is that right? Do any of those apply to either one of you? Service
18 in military; never accused of a crime; no friends and family accused of crimes?

19 PROSPECTIVE JUROR NO. 050: I'm a -- I was brought up with a
20 father in the service. I'm a --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 050: -- what they call an Army brat.

23 THE COURT: And just for the record, that's Ms. McGarity --

24 PROSPECTIVE JUROR NO. 050: Uh-huh.

25 THE COURT: -- 050, right?

1 PROSPECTIVE JUROR NO. 050: Yeah. Oh, and I was married to a
2 Naval lieutenant.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 050: And then, I guess you could say.

5 MR. DICKERSON: But other than that, nothing else that I asked of --

6 PROSPECTIVE JUROR NO. 050: Uh-huh.

7 MR. DICKERSON: -- these other potential jurors rang any bell?

8 PROSPECTIVE JUROR NO. 050: Uh-uh.

9 MR. DICKERSON: Okay. I appreciate it.

10 Now, where we ended, we'll go ahead and pass that right there to
11 Mr. Galloway, Badge No. 026.

12 We ended with you, sir.

13 PROSPECTIVE JUROR NO. 026: Yeah. We're -- Darrel Galloway,
14 Badge 26. What --

15 MR. DICKERSON: The question was, I think we were on -- have you,
16 your family members, or any close friends ever been accused of a crime?

17 PROSPECTIVE JUROR NO. 026: Well, I won't say I was accused
18 where I had to go before a court. But it kind of more ties into experience, a bad
19 experience with law enforcement --

20 MR. DICKERSON: Okay. Tell me about it.

21 PROSPECTIVE JUROR NO. 026: -- as a young teenager. Well, I was
22 just, basically, at some friend's house and we left -- three of us left, got in my car,
23 left his house. But during that same time, I guess his neighbor was being robbed
24 and the witness described our -- my vehicle. And so the cops approached us
25 when we were approach -- almost got to my house. And they were -- they were

1 pretty rough with us. Drew guns on us and my older sister and dad had to witness
2 this.

3 And it all -- it came down to even the -- the witness was driven up by
4 the police officers and identified me being there, but not my two friends, when I
5 was with them the whole time. And I had to have his dad, you know, vouch for me,
6 basically saying, no, he was at my house the whole time. So that -- that
7 experience was --

8 MR. DICKERSON: Okay.

9 PROSPECTIVE JUROR NO. 026: -- as a kid, pretty traumatic.

10 MR. DICKERSON: Okay.

11 PROSPECTIVE JUROR NO. 026: But I don't think it's going to have
12 any effect on me having any impartial judgment, though, based on the facts given
13 here, though. But it was just, you know, if we have to disclose that information, I
14 guess I should disclose it. I'm not --

15 MR. DICKERSON: I appreciate that.

16 PROSPECTIVE JUROR NO. 026: I -- I don't really talk well in front of
17 big --

18 MR. DICKERSON: No. You're good.

19 PROSPECTIVE JUROR NO. 026: -- big groups of strangers, either,
20 and don't really want to share any personal experience if I don't have to.

21 MR. DICKERSON: Right.

22 PROSPECTIVE JUROR NO. 026: But I guess if I -- if it came up later,
23 I don't want to, you know, just say, hey, we asked you this, so I guess --

24 MR. DICKERSON: Absolutely. Yeah. I appreciate you being more --

25 PROSPECTIVE JUROR NO. 026: Right.

1 MR. DICKERSON: -- forthcoming.
2 PROSPECTIVE JUROR NO. 026: Right. Yeah.
3 MR. DICKERSON: They're relying on that.
4 How old were you when this happened?
5 PROSPECTIVE JUROR NO. 026: I was, like, 16, I think, 17.
6 MR. DICKERSON: Where did it occur?
7 PROSPECTIVE JUROR NO. 026: I mean, I grew up here as a kid, so.
8 MR. DICKERSON: So this was in Las Vegas?
9 PROSPECTIVE JUROR NO. 026: Yeah. Oh, yeah.
10 MR. DICKERSON: And did you get charged with a crime that day?
11 PROSPECTIVE JUROR NO. 026: No. No, no. It took a couple hours
12 for -- for us to get out -- get out of there. But, I mean, yeah, we were held on cop --
13 held on cop cars, cuffed until --
14 MR. DICKERSON: Okay.
15 PROSPECTIVE JUROR NO. 026: -- you know, they found -- they
16 actually found the guy who did it. But we were, you know, the fingers were pointed
17 at us, too, because we were at the wrong place at the wrong time --
18 MR. DICKERSON: Okay.
19 PROSPECTIVE JUROR NO. 026: -- basically.
20 MR. DICKERSON: So as you're sitting there for a couple hours, finally
21 they --
22 PROSPECTIVE JUROR NO. 026: Oh, yeah.
23 MR. DICKERSON: -- ended up catching the guy who did it?
24 PROSPECTIVE JUROR NO. 026: Yeah. They caught the guy who
25 did it as we were sitting there. They were able --

1 MR. DICKERSON: That experience, specifically having been here,
2 growing up here --

3 PROSPECTIVE JUROR NO. 026: Yeah.

4 MR. DICKERSON: -- and the same with the Las Vegas Metropolitan
5 Police Department, how does that affect the way you feel about, number one,
6 police, and number two, law enforcement here in Las Vegas?

7 PROSPECTIVE JUROR NO. 026: I don't want to have such a
8 negative thing towards law enforcement, because we do need them. They are --
9 there -- there's good ones as many as there are bad ones. I mean, we've all had
10 our own experiences. But I -- I think there's a lot of people that might be
11 incarcerated and are innocent.

12 MR. DICKERSON: Okay.

13 PROSPECTIVE JUROR NO. 026: And just on what my experience
14 was, I could see how -- how it could happen so easy. Like, there was a lady sitting
15 there pointing at me, saying that I did it. And I was with my friends downstairs in
16 this basement playing pool the whole time. It's, like, but even so.

17 MR. DICKERSON: Okay.

18 PROSPECTIVE JUROR NO. 026: I just think it's pretty sad, but.

19 MR. DICKERSON: So, yeah, and that -- that probably goes along
20 with -- I noticed that when I asked the question does anybody have any feelings
21 based on how they view law enforcement related to what they see in the news and
22 read now --

23 PROSPECTIVE JUROR NO. 026: Oh, well, yeah, I mean --

24 MR. DICKERSON: -- you kind of cringed at that a little bit.

25 PROSPECTIVE JUROR NO. 026: Yeah. Well, I just -- I try not to

1 believe the news too much.

2 MR. DICKERSON: Okay.

3 PROSPECTIVE JUROR NO. 026: You know, because they're going
4 to say what they want. But, yeah, I don't know, there's a lot of negative stuff going
5 on in -- in the media towards law enforcement.

6 MR. DICKERSON: So, specifically, your feelings that you said there's
7 a lot of people that are incarcerated, that are innocent, right?

8 PROSPECTIVE JUROR NO. 026: Yeah.

9 MR. DICKERSON: Did those feelings come from just this incident as a
10 kid?

11 PROSPECTIVE JUROR NO. 026: Well, yeah. That experience you're
12 talking about? Yeah.

13 MR. DICKERSON: Yeah.

14 PROSPECTIVE JUROR NO. 026: As a kid, yeah, just having that
15 experience, I -- I see -- it was an eye-opening experience, like, oh, my God, I
16 could -- you know -- I totally believe there are a lot of innocent people --

17 MR. DICKERSON: Okay.

18 PROSPECTIVE JUROR NO. 026: -- just based on that.

19 MR. DICKERSON: How do you feel that the American criminal justice
20 system and having a fair and impartial jury affects that proposition that you just
21 spoke of?

22 PROSPECTIVE JUROR NO. 026: Can you repeat that?

23 MR. DICKERSON: Specifically, the requirement that we have a fair
24 and impartial jury here, that's what the goal is --

25 PROSPECTIVE JUROR NO. 026: Right, right.

1 MR. DICKERSON: How does that affect your view that -- that a lot of
2 innocent people are currently in prison?

3 PROSPECTIVE JUROR NO. 026: I mean, I think that -- I think the jury
4 can even make a mistake.

5 MR. DICKERSON: Okay. And do you think that's something that you
6 could handle, being a juror?

7 PROSPECTIVE JUROR NO. 026: I think so. I mean --

8 MR. DICKERSON: So if you think a jury can make a mistake, how do
9 you feel that you can do it properly?

10 PROSPECTIVE JUROR NO. 026: Just do your best with the evidence
11 given, I guess, and --

12 MR. DICKERSON: Okay. And what does that mean to you?

13 PROSPECTIVE JUROR NO. 026: You just -- doing your best is -- I
14 mean, you -- with the facts given and the information given, you do your best to
15 make a decision, you know, no biases or no outside influences.

16 MR. DICKERSON: Great. Now, in doing that, taking into account your
17 feelings about the criminal justice system and, specifically, police officers, how this
18 came up, I know you're not anti-cop by any means, but --

19 PROSPECTIVE JUROR NO. 026: No.

20 MR. DICKERSON: -- does that have any effect on the way that you're
21 going to view police officers who testify?

22 PROSPECTIVE JUROR NO. 026: No. I wouldn't automatically have
23 a -- a view of him or, you know, like you said, I would listen to what he said, look at
24 his demeanor, look at his body language, and then draw a conclusion if I believe
25 him or not, based on what he said, you know.

1 MR. DICKERSON: Would you view a police officer's testimony any
2 different than you would any other regular person?

3 PROSPECTIVE JUROR NO. 026: Yeah. Only because a police
4 officer isn't a normal person.

5 MR. DICKERSON: Okay. Tell me more about that.

6 PROSPECTIVE JUROR NO. 026: I mean, they're -- they're law
7 enforcement. They're -- and so they -- they have a different, I guess, persona. I
8 guess they carry themselves different. They -- they, you know, we're general
9 population, and they're law enforcement, I guess. So I -- I think they are viewed
10 different by everybody.

11 MR. DICKERSON: Right. Do -- though they may be -- should be held
12 to a higher standard --

13 PROSPECTIVE JUROR NO. 026: Correct.

14 MR. DICKERSON: -- does that affect, specifically, you? I mean, you
15 say that it affects the way you -- you see them in their testimony; how is it that it
16 affects the way you see them in their testimony?

17 PROSPECTIVE JUROR NO. 026: Well, I mean, I -- I don't know if it --
18 how it affects me. I guess, you know, they're sworn -- when they get the job in law
19 enforcement, they're sworn under an oath to protect and serve and -- and do right
20 or, you know, whatever the -- the case is in the aspect of their job. But I don't -- I
21 definitely know that not all of them do that. You know, there's -- you got your good
22 cops and bad cops. But I -- I don't know, I just -- I'm not going to say every cop is
23 bad or every cop is good. I'm not, you know, saying anything like that. I guess it's
24 just -- you've just got to go case by case, individual by individual, like you said,
25 hear what he has to say, how he acts, and do what the case may be.

1 But how it makes me feel, I -- I'm not going to have an opinion on a
2 police officer just based on that he's a police officer and wears a badge, you know.

3 MR. DICKERSON: You might just be more critical of their testimony?

4 PROSPECTIVE JUROR NO. 026: Yeah, just because they're held to
5 a higher standard.

6 MR. DICKERSON: Okay. And that's because they're law
7 enforcement?

8 PROSPECTIVE JUROR NO. 026: They're law enforcement, yeah.

9 MR. DICKERSON: Okay. Now, right off the bat, we can pass it over
10 to Mr. Garfield.

11 PROSPECTIVE JUROR NO. 034: Yes.

12 MR. DICKERSON: You been here three years, sir?

13 PROSPECTIVE JUROR NO. 034: Yes.

14 MR. DICKERSON: Where are you from?

15 PROSPECTIVE JUROR NO. 034: I was originally born and raised
16 here, left, I lived in Los Angeles for seven years. So I've been back for the past
17 three years.

18 MR. DICKERSON: Okay. Okay. And you're a bartender?

19 PROSPECTIVE JUROR NO. 034: Yes.

20 MR. DICKERSON: Where are you a bartender?

21 PROSPECTIVE JUROR NO. 034: It's at Cork and Thorn in Tivoli
22 Village up in Summerlin.

23 MR. DICKERSON: Okay. So what brought you back here to
24 Las Vegas?

25 PROSPECTIVE JUROR NO. 034: I was actually on the road in L.A. I

1 got a job as a tour manager, so I was touring the country, just going city to city, in
2 music. And then I kind of got sick of traveling. And so I came back home, friends
3 and family here brought me back to Vegas.

4 MR. DICKERSON: Any particular band that you were touring with?

5 PROSPECTIVE JUROR NO. 034: Just -- it's a pop boy band called
6 After Romeo.

7 MR. DICKERSON: Okay.

8 PROSPECTIVE JUROR NO. 034: Yeah.

9 MR. DICKERSON: So how long did you do that for?

10 PROSPECTIVE JUROR NO. 034: That was for about two years.

11 MR. DICKERSON: Okay.

12 PROSPECTIVE JUROR NO. 034: Off and on.

13 MR. DICKERSON: How is it being back here in Las Vegas?

14 PROSPECTIVE JUROR NO. 034: Good. I love Vegas. Vegas is
15 great.

16 MR. DICKERSON: And what are your general feelings about Vegas in
17 general and local occurrences of whether it be crime or events, anything like that?
18 Do you have any opinion?

19 PROSPECTIVE JUROR NO. 034: You know what, I haven't had any
20 negative experiences here in Vegas myself. So I think in the community I'm in, I --
21 I love the area I'm in. I never have had any issues or problems. So --

22 MR. DICKERSON: Great.

23 PROSPECTIVE JUROR NO. 034: -- I don't have any -- anything
24 negative to say.

25 MR. DICKERSON: Do you read the news?

1 PROSPECTIVE JUROR NO. 034: I don't read the news. I was -- I
2 follow certain news stations every once in a while.

3 MR. DICKERSON: What news stations?

4 PROSPECTIVE JUROR NO. 034: Fox News.

5 MR. DICKERSON: Okay. Who else follows the news? Okay. Kind of
6 everybody. I see a smattering of fans.

7 Who follows news from traditional cable news sources?

8 And who gets their news elsewhere? Okay.

9 And out of those folks that get their news elsewhere, who gets them
10 from, like, small blogs?

11 Who gets them from the Internet?

12 Those folks that get their news from the Internet, is that from big
13 brand-name, like, cable-related sources? Or New York *Times*-related sources?
14 Or smaller news organizations? Smaller news organizations?

15 Okay. Mr. Wheeler and Mr. Shelton.

16 PROSPECTIVE JUROR NO. 015: Yeah.

17 MR. DICKERSON: We'll go up to you, sir.

18 PROSPECTIVE JUROR NO. 015: Sheldon.

19 MR. DICKERSON: Sheldon.

20 PROSPECTIVE JUROR NO. 015: Yeah.

21 MR. DICKERSON: I'm so sorry.

22 PROSPECTIVE JUROR NO. 015: That's okay.

23 MR. DICKERSON: Where do you get your news from, sir?

24 PROSPECTIVE JUROR NO. 015: TV, Internet, and the smaller stuff,
25 too. Like you said, pretty much everything you listed there.

200

1 MR. DICKERSON: Okay.

2 PROSPECTIVE JUROR NO. 015: You know.

3 MR. DICKERSON: You a news junkie?

4 PROSPECTIVE JUROR NO. 015: Yeah, kind of. You know, I just

5 want to know what's going on, you know, so I can make the best decisions for

6 myself.

7 MR. DICKERSON: Okay. You know, I didn't really get a chance -- I

8 didn't write it down, you were a juror in a criminal trial?

9 PROSPECTIVE JUROR NO. 015: Yes.

10 MR. DICKERSON: How long ago was that?

11 PROSPECTIVE JUROR NO. 015: I want to say it was,

12 like, 2005, 2006.

13 MR. DICKERSON: And that was here locally?

14 PROSPECTIVE JUROR NO. 015: Yes.

15 MR. DICKERSON: Okay. Great. So, specifically, the -- the news that

16 you get, do you focus more on national news or local news?

17 PROSPECTIVE JUROR NO. 015: National.

18 MR. DICKERSON: Okay. Do you listen to the local news at all?

19 PROSPECTIVE JUROR NO. 015: Yes, at night.

20 MR. DICKERSON: Okay. And where do you get that from?

21 PROSPECTIVE JUROR NO. 015: Local news station TV.

22 MR. DICKERSON: And where do you --

23 PROSPECTIVE JUROR NO. 015: Like, when you go to bed, you

24 know, you throw on the TV, watch the 11:00 news, 10:00 news.

25 MR. DICKERSON: Okay.

1 PROSPECTIVE JUROR NO. 015: See what the weather is going to
2 be, stuff like that.

3 MR. DICKERSON: Great. Now, you know, if you could pass it down --
4 right down here to Ms. Garity -- McGarity again.

5 PROSPECTIVE JUROR NO. 050: Oh, boy.

6 MR. DICKERSON: I had a question that I forgot to ask you.

7 PROSPECTIVE JUROR NO. 050: Uh-huh. Yeah.

8 MR. DICKERSON: You were a juror in a murder trial 10 years ago?

9 PROSPECTIVE JUROR NO. 050: Yes.

10 MR. DICKERSON: It -- it wasn't asked, did you reach a verdict? You
11 don't have to tell me what it is.

12 PROSPECTIVE JUROR NO. 050: Oh, yeah.

13 MR. DICKERSON: Just tell us.

14 PROSPECTIVE JUROR NO. 050: We -- we reached a verdict.

15 MR. DICKERSON: Okay. Great. That's all I had.

16 Go to Mr. Maurer, 045.

17 PROSPECTIVE JUROR NO. 050: Yes.

18 MR. DICKERSON: You've been here in Clark County for two years,
19 sir?

20 PROSPECTIVE JUROR NO. 045: Uh-huh. Just under.

21 MR. DICKERSON: Where are you from?

22 PROSPECTIVE JUROR NO. 045: Moved here from Texas.

23 MR. DICKERSON: Okay. Where in Texas?

24 PROSPECTIVE JUROR NO. 045: Dallas-Fort Worth Metroplex.

25 MR. DICKERSON: DFW, Texas. Okay. And were you a family

1 counselor out there in Texas, as well?

2 PROSPECTIVE JUROR NO. 045: No. I was in ministry.

3 MR. DICKERSON: Okay. And how long were you in ministry for?

4 PROSPECTIVE JUROR NO. 045: Professionally for 12-plus years.

5 MR. DICKERSON: Is that what got you into family counseling?

6 PROSPECTIVE JUROR NO. 045: Yes.

7 MR. DICKERSON: Okay. And so then that's something you started
8 off when you started here in Las Vegas?

9 PROSPECTIVE JUROR NO. 045: Uh-huh.

10 MR. DICKERSON: Great. How is that going?

11 PROSPECTIVE JUROR NO. 045: Good. There's a lot of need.

12 MR. DICKERSON: Yeah. No doubt. What was your motivation for
13 getting into family counseling?

14 PROSPECTIVE JUROR NO. 045: Foster-adoptive need, know what
15 Clark County has as needs, skills, and so my wife and I foster-adopted our
16 daughter. And when we learned of opportunities that were here and some of the
17 programs that were available, just felt like that that was a way that we could make
18 an impact.

19 MR. DICKERSON: That's great. So -- and explain that to me a little
20 bit more. So you specifically work with foster and adoption?

21 PROSPECTIVE JUROR NO. 045: No. I thought I was going to. But
22 I'm not.

23 MR. DICKERSON: Okay.

24 PROSPECTIVE JUROR NO. 045: I work with Boys Town.

25 MR. DICKERSON: Okay.

1 PROSPECTIVE JUROR NO. 045: And so family prevention services.
2 And so my role is teaching skills to parents, crisis family, specifically with folks
3 under a grant program that are at high risk. Referrals through CPS to make sure
4 that safety, skills, and protocol, supports are in place and make sure that family
5 preservation is intact.

6 MR. DICKERSON: Okay.

7 PROSPECTIVE JUROR NO. 045: So kids don't end up in the system.

8 MR. DICKERSON: Okay. Sounds like you play a pretty vital role in
9 people's lives.

10 PROSPECTIVE JUROR NO. 045: For a short season, yeah.

11 MR. DICKERSON: Yeah? How do you feel that you affect the
12 majority of your clients?

13 PROSPECTIVE JUROR NO. 045: Positively, yeah, we have some
14 great marks. It's a six-week program. So it is very quick. We meet them at the
15 time of crisis, teach to increase support to try to help them to long-term -- long-term
16 solutions.

17 MR. DICKERSON: Do you have contact with law enforcement as a
18 result of this?

19 PROSPECTIVE JUROR NO. 045: No direct contact with Metro.

20 MR. DICKERSON: Do you have referrals from, like, Clark County
21 School District police?

22 PROSPECTIVE JUROR NO. 045: Not directly under my grant and on
23 my team, no.

24 MR. DICKERSON: Okay. Do you have any particular feelings about
25 the criminal justice system in general? Just nothing? Okay. Great. I appreciate

1 your time. Thank you very much.

2 PROSPECTIVE JUROR NO. 045: Uh-huh.

3 MR. DICKERSON: Does anybody in here own guns? Okay.

4 Does anybody in here -- seeing several hands -- dislike guns or
5 vehemently oppose gun ownership?

6 Does anybody in here own more than one gun? Okay.

7 And it was possibly touched on earlier, but I did not hear it, specifically
8 about moral or religious feelings that may keep you from being able to sit in
9 judgment of another person; does anybody have that sort of situation that pops up,
10 that feeling inside of them that says, you know, I've had this true belief, either in
11 my religion or my moral or spiritual values that is going to prohibit me from sitting in
12 judgment of another person? Seeing no hands.

13 Mr. Reynolds, we have you as Badge No. 051, right?

14 PROSPECTIVE JUROR NO. 051: Yep.

15 MR. DICKERSON: Let's get the microphone to you. I saw that you
16 were shaking your hand at me, kind of like --

17 PROSPECTIVE JUROR NO. 051: Yeah.

18 MR. DICKERSON: -- maybe, kind of.

19 PROSPECTIVE JUROR NO. 051: Kind of.

20 MR. DICKERSON: Tell me about it, sir. You have some -- some
21 moral or religious feelings that might keep you from sitting in judgment of another
22 person?

23 PROSPECTIVE JUROR NO. 051: Well, I mean, I -- I come from just a
24 place of immaturity just like plenty of other people. And I made my own bad
25 decisions. I did a lot of stupid crap. And I, you know, I obviously went down a big,

1 dark path, and, you know, obviously, mercy and forgiveness came my way. And I
2 understand that's easily accessible for anybody who needs it.

3 But for such a place where it needs physical justice now, I don't know
4 if, you know, my own self would be critical enough to judge, just as a statement.

5 MR. DICKERSON: Okay. So do you feel that you would be unable to
6 actually sit in judgment and if the evidence shows, as you're instructed by the
7 judge, beyond a reasonable doubt guilt, that it would be hard or impossible for you
8 to actually say that person is guilty?

9 PROSPECTIVE JUROR NO. 051: No.

10 MR. DICKERSON: Okay. So you wouldn't have a problem doing
11 that?

12 PROSPECTIVE JUROR NO. 051: I wouldn't say it as impossible. I'm
13 just saying, as you said, would you see it as iffy. And that's just where it came
14 from, is just kind of iffy line --

15 MR. DICKERSON: Okay.

16 PROSPECTIVE JUROR NO. 051: -- to where --

17 MR. DICKERSON: So maybe not impossible, but it could become an
18 issue?

19 PROSPECTIVE JUROR NO. 051: Possibly.

20 MR. DICKERSON: Okay. So it would be an issue of just your own
21 personal belief system that you might not want to find somebody guilty of a crime --

22 PROSPECTIVE JUROR NO. 051: Yeah.

23 MR. DICKERSON: -- even though the evidence shows it.

24 PROSPECTIVE JUROR NO. 051: Yes, sir.

25 MR. DICKERSON: Okay. You had spoken to us about your work,

1 Bearcom, right?

2 PROSPECTIVE JUROR NO. 051: Yes, sir.

3 MR. DICKERSON: So Bearcom is a -- a radio supply --

4 PROSPECTIVE JUROR NO. 051: Yeah.

5 MR. DICKERSON: -- company. They actually make radio systems?

6 PROSPECTIVE JUROR NO. 051: Yep. And they're a subbranch
7 under Motorola.

8 MR. DICKERSON: Okay. There's only two of you?

9 PROSPECTIVE JUROR NO. 051: In my department, yeah.

10 MR. DICKERSON: To what effect, if any, is your attendance here until
11 at least next Monday going to have on that?

12 PROSPECTIVE JUROR NO. 051: A major. With only two people,
13 there's delivery, service, prep, everything. I mean -- and I'm mainly running the
14 show, as my other guy is allotted an assistant. So even today, obviously, they
15 were ready for it, because it was my jury summons day.

16 MR. DICKERSON: Okay.

17 PROSPECTIVE JUROR NO. 051: But -- yeah, because --

18 MR. DICKERSON: So what's going to happen tomorrow?

19 PROSPECTIVE JUROR NO. 051: Panic.

20 MR. DICKERSON: Are they going to be able to manage?

21 PROSPECTIVE JUROR NO. 051: Possibly. I mean, there's always
22 finding a way. But the -- the weight in the stack and everything, obviously, builds
23 up. And then whenever time comes here is when I'll have to take on whatever
24 heap is left and shiver that out.

25 MR. DICKERSON: So you guys usually work the same shift?

207

1 PROSPECTIVE JUROR NO. 051: Yep. Every day. 8:00 to 5:00, 40
2 hours a week easy, if not more.

3 MR. DICKERSON: And so then tomorrow panic ensues; what
4 happens the day after that?

5 PROSPECTIVE JUROR NO. 051: Just continues a bit more and a bit
6 more unease to where they're searching for whoever we could find as far as just a
7 free hand around the office and maybe another section. But even that's iffy,
8 because they're doing tower work. They're out somewhere else, obviously, doing
9 physical setup, et cetera. So.

10 MR. DICKERSON: Okay. So by next Monday, where is your office
11 going to be?

12 PROSPECTIVE JUROR NO. 051: Mine's going to -- my personal one
13 is going to look like a hurricane went through it.

14 MR. DICKERSON: Okay.

15 PROSPECTIVE JUROR NO. 051: And I will be the cleaning maid.

16 MR. DICKERSON: Okay. So you think they'll be able to manage?

17 PROSPECTIVE JUROR NO. 051: They can manage? Yes.

18 MR. DICKERSON: Okay. All right.

19 Ms. Antonucci?

20 PROSPECTIVE JUROR NO. 035: Yes.

21 MR. DICKERSON: Badge No. 035.

22 PROSPECTIVE JUROR NO. 035: Correct.

23 MR. DICKERSON: How you doing, ma'am?

24 PROSPECTIVE JUROR NO. 035: Good. How are you?

25 MR. DICKERSON: Good. So you sat as a character witness --

208

1 PROSPECTIVE JUROR NO. 035: Yes.

2 MR. DICKERSON: -- in a criminal trial?

3 PROSPECTIVE JUROR NO. 035: Yes.

4 MR. DICKERSON: And may I ask who that was for?

5 PROSPECTIVE JUROR NO. 035: My ex-husband.

6 MR. DICKERSON: And how did that experience affect the way that
7 you view the criminal justice system, in total?

8 PROSPECTIVE JUROR NO. 035: Well, I don't like to be judgmental,
9 but it didn't have a very good effect on me, because he got away with it. And he
10 knew that he did it. We knew that he did it. That's why I was there as a character
11 witness. And other people in my family knew that he did it. I don't know how he
12 got off, but he did.

13 MR. DICKERSON: Okay.

14 PROSPECTIVE JUROR NO. 035: It was very sad.

15 MR. DICKERSON: Given that and whatever happened there that
16 obviously had a detrimental impact on the way you view things, can you sit here in
17 this case and give the defendant in this case, as well as the State, a -- a fair and
18 impartial jury trial?

19 PROSPECTIVE JUROR NO. 035: I think so.

20 MR. DICKERSON: Okay. So you can listen to the evidence and judge
21 it as -- as you will?

22 PROSPECTIVE JUROR NO. 035: Correct.

23 MR. DICKERSON: You won't hold a bias against any one witness?

24 PROSPECTIVE JUROR NO. 035: No.

25 MR. DICKERSON: Okay. I appreciate that, ma'am.

1 Now, there's lots of TV shows about crime. Does anybody watch any
2 crime TV shows? *CSI* being one of them. I see a couple hands. Okay.

3 Does anybody specifically watch *CSI*?

4 UNIDENTIFIED PROSPECTIVE JUROR: It's over.

5 MR. DICKERSON: It's over? It's done? *Forensic Files*? No?

6 Is there -- taking that into consideration, seeing a few people here that
7 watch those shows, is there anybody that is sitting here right now and feels that if
8 you're a juror in a criminal trial here in the United States, you have to see forensic
9 evidence to reach a guilty verdict? Just on every single case, is there anybody
10 that -- that believes that? Okay.

11 Is there anybody that believes that forensic evidence should exist in
12 every single case?

13 PROSPECTIVE JUROR NO. 022: Yeah.

14 MR. DICKERSON: Mr. Wheeler?

15 PROSPECTIVE JUROR NO. 022: I think so, sure.

16 MR. DICKERSON: Okay. Is there anybody that believes that you
17 can't convict somebody of a crime based on testimony alone, were that testimony
18 to prove that the person is guilty beyond a reasonable doubt? Is there anybody
19 that believes that, that you can't find a person guilty based solely on testimony?
20 Seeing no hands.

21 UNIDENTIFIED PROSPECTIVE JUROR: Is that just building --

22 UNIDENTIFIED PROSPECTIVE JUROR: I would have a hard time,
23 yeah.

24 UNIDENTIFIED PROSPECTIVE JUROR: Yeah.

25 MR. DICKERSON: Okay. So the hands I see, tell me if I -- if I'm

210

1 wrong or -- Ms. Justice, Badge No. 001; Mr. McAvity, Badge No. 006; and
2 Mr. Wheeler, 022. Anybody else?

3 PROSPECTIVE JUROR NO. 015: It depends -- it depends on what --
4 what the discussion is about.

5 MR. DICKERSON: Okay. Mr. Sheldon.

6 PROSPECTIVE JUROR NO. 015: Yes, sir.

7 MR. DICKERSON: Badge No. 015. Go ahead and pass the
8 microphone to you.

9 PROSPECTIVE JUROR NO. 015: Okay.

10 MR. DICKERSON: Okay. So the discussion is you believe that as a
11 juror in a criminal trial, were there testimony presented that satisfies the jury that
12 the person is guilty beyond a reasonable doubt, you wouldn't be able to find that
13 person guilty, because you didn't see any evidence besides that testimony?

14 PROSPECTIVE JUROR NO. 015: Well, what I think is the testimony --
15 what was involved in the testimony? Was it, like, somebody seeing somebody do
16 something? Or was it just hearsay? You know.

17 MR. DICKERSON: And -- and the testimony --

18 PROSPECTIVE JUROR NO. 015: I mean, the testimony can be a
19 fact, too, right? If I saw you do something or if I just think that you did it.

20 MR. DICKERSON: Right.

21 PROSPECTIVE JUROR NO. 015: Because of what somebody else
22 said, I think you did it, that's two different things.

23 MR. DICKERSON: And so do you know that it's the jury's duty to
24 judge credibility of a witness?

25 PROSPECTIVE JUROR NO. 015: Right.

1 MR. DICKERSON: Do you know that?
2 PROSPECTIVE JUROR NO. 015: Right.
3 MR. DICKERSON: And you agree with that?
4 PROSPECTIVE JUROR NO. 015: Yes.
5 MR. DICKERSON: And in judging the credibility of a witness and
6 judging that testimony, do you believe that testimony of a witness could show
7 evidence of guilt beyond a reasonable doubt were that person to be deemed
8 credible by the jury?
9 PROSPECTIVE JUROR NO. 015: Yeah.
10 MR. DICKERSON: Is there anybody that disagrees with that?
11 Now, Ms. Justice, Mr. McAvity, and Mr. Wheeler, you guys have raised
12 your hands before. Do you guys disagree with it?
13 PROSPECTIVE JUROR NO. 001: I just --
14 UNIDENTIFIED PROSPECTIVE JUROR: I don't think about it.
15 PROSPECTIVE JUROR NO. 001: Sorry. I just feel like what he said
16 is -- is valid.
17 MR. DICKERSON: Okay. And that's --
18 PROSPECTIVE JUROR NO. 001: You know, and --
19 MR. DICKERSON: And just for the record --
20 PROSPECTIVE JUROR NO. 001: Zero --
21 MR. DICKERSON: -- we are talking to --
22 PROSPECTIVE JUROR NO. 001: Yes.
23 MR. DICKERSON: -- Ms. Justice, Badge No. 001.
24 Go ahead and pass the microphone.
25 PROSPECTIVE JUROR NO. 001: Just like what the gentleman said.

1 If -- it depends on what I hear out of the person's mouth, if they were an actual
2 witness to the crime or are -- you know, are they a character witness to the person,
3 you know, being an upstanding citizen, even though people are saying that they
4 committed a crime? I really believe that evidence should come to light if there is
5 any, surveillance tapes, whatever the case may be.

6 Just listening to somebody's word for it is hard for me to believe,
7 because I've been lied to a bunch of times in my life. It's hard to believe somebody
8 just based on how they are presenting themselves. There could be people who
9 are really good at hiding the facts, hiding the truth. It's --

10 MR. DICKERSON: And how do you tell that? How do you judge
11 credibility?

12 PROSPECTIVE JUROR NO. 001: I -- I can't. I -- I truly don't think that
13 I am -- I -- I would love to be able to be -- to say the person who is up on the stand
14 is a credible witness. And I can look at them and I can see their body language,
15 and I can hear what they're saying. But that doesn't necessarily mean that what I
16 have -- what I -- what I'm listening to is something I can use to judge against
17 somebody else, depending on what they're saying. But, like, if it's a robbery case
18 or if it's a murder -- whatever the case may be, if there is physical evidence, I
19 would love to see it, as well as hear testimony.

20 MR. DICKERSON: Right.

21 PROSPECTIVE JUROR NO. 001: If there absolutely is none, then I
22 have to do what I have to do, and base -- base it on what I hear, it would be more
23 difficult.

24 MR. DICKERSON: Okay. Is there anybody that, going off of what
25 Ms. Justice said, thinks that they can't -- or they may have an inability to judge

1 credibility of a witness? Okay.

2 I see two hands over here from Mr. McAvity, Badge No. 006, and
3 Mr. Gray, Badge No. 008.

4 Anybody else?

5 Let's go to Mr. McGray -- or Mr. Gray, I'm sorry, Badge No. 008. You
6 said that you would have an inability to judge credibility?

7 PROSPECTIVE JUROR NO. 008: Yes, I would.

8 MR. DICKERSON: And why is that?

9 PROSPECTIVE JUROR NO. 008: Because the case against my son,
10 that I felt that he did not do some of the things that the officers said he did.

11 MR. DICKERSON: Right.

12 PROSPECTIVE JUROR NO. 008: He was just there.

13 MR. DICKERSON: And because of that, you now have an inability to
14 be fair and impartial when it comes to police officer testimony, right?

15 PROSPECTIVE JUROR NO. 008: That's correct.

16 MR. DICKERSON: Okay.

17 PROSPECTIVE JUROR NO. 008: Because he wouldn't even have
18 been caught unless he would have taken his friend to the hospital, and we would --
19 I never known he was there.

20 MR. DICKERSON: Okay.

21 PROSPECTIVE JUROR NO. 008: But like I said, he was a junior
22 officer and these police officers went after him because of their own feeling against
23 him.

24 MR. DICKERSON: Yeah. And so as a result of that, anybody else?

25 I -- I know Mr. McAvity, I've noted that. Thank you, sir.

1 Nobody else? Seeing no hands as far as being unable to judge the
2 credibility of a witness?

3 So final question for me, ladies and gentlemen: By a show of hands,
4 who wants to be a juror? No one.

5 I got one. Anybody else? Going once, going twice. Okay. And just
6 for the record, that's Mr. Maurer, Badge No. 045. Thank you.

7 UNIDENTIFIED PROSPECTIVE JUROR: You said to be honest.

8 THE COURT: All right. Thank you, Mr. Dickerson.

9 Mr. Gaston or Ms. Machnich, who would like to begin?

10 MS. MACHNICH: I -- I just wanted to inquire. We'll be -- can we
11 approach?

12 THE COURT: Well, were they --

13 MS. MACHNICH: Because are they going to pass?

14 THE COURT: Do you want to -- sure. Why don't you approach.

15 MS. MACHNICH: Yeah. That would be my question.

16 [Bench conference transcribed as follows.]

17 THE COURT: So she probably wants to know --

18 MR. DICKERSON: So we're going to -- my feeling was that you were
19 going to be reserving because of you wanting them to have an opportunity to voir
20 dire.

21 THE COURT: Well, I need to know at this point, because it's the
22 conclusion of your voir dire, if you're challenging them for cause. Because then
23 she needs to know who do we rehabilitate.

24 MR. DICKERSON: Absolutely.

25 THE COURT: And you already indicated.

1 MR. DICKERSON: I'll switch it.
2 MS. LEXIS: We're challenging.
3 THE COURT: You already indicated number --
4 MS. LEXIS: We're challenge --
5 THE COURT: Let's be quiet. I put Seat No. 1, Seat No. 3.
6 MS. LEXIS: Yes.
7 THE COURT: Any else -- any others?
8 MS. LEXIS: Anyone else?
9 MR. DICKERSON: Ms. Justice.
10 MS. LEXIS: Oh, that, one, two, and what do you think about
11 [indiscernible].
12 MR. DICKERSON: [Indiscernible.]
13 MS. LEXIS: Okay. What do you think about [indiscernible]?
14 MR. DICKERSON: [Indiscernible.]
15 MS. LEXIS: And No. 11, in Seat No. 11.
16 THE COURT: Seat No. 11?
17 MS. LEXIS: Juror No. 22.
18 THE COURT: Okay.
19 MR. GASTON: What's his name?
20 MR. DICKERSON: Wheeler.
21 MS. LEXIS: Okay. So I have 1, 2, 3, and 11. Anybody else?
22 THE COURT: I don't think they said 2.
23 MS. LEXIS: He said 2. Not 2.
24 MR. GASTON: [Indiscernible.]
25 MS. LEXIS: [Indiscernible.]

216

1 MR. GASTON: No, 22.
2 MS. LEXIS: Oh.
3 MR. GASTON: In Seat 11.
4 MS. LEXIS: Seat 11?
5 MR. DICKERSON: What's the -- what's the basis of the for-cause with
6 them?
7 MS. LEXIS: Police officers and minors.
8 MR. DICKERSON: Oh, yeah.
9 MS. LEXIS: Because anything police officers say --
10 MR. GASTON: That's Seat -- Seat 11?
11 THE COURT: Make sure you guys give her the microphone.
12 MS. LEXIS: Seat 11. No. 22. He says police officers lie or just --
13 everything they say -- Mr. Wheeler. Yeah. [Indiscernible] evidence must exist in
14 every case.
15 MR. GASTON: [Indiscernible.]
16 MS. LEXIS: I was referring to seat number --
17 MR. GASTON: [Indiscernible.]
18 MS. LEXIS: It's a -- yeah. I got out of it. Seat No. 11. Seats 1, 2, 3,
19 and 11. Anybody else? I didn't do 2.
20 MS. MACHNICH: Okay. So 2 or not 2?
21 MR. DICKERSON: Are -- are you --
22 MS. LEXIS: Are you saying 2?
23 MS. MACHNICH: Do you think we have enough?
24 MS. LEXIS: I don't think so.
25 THE COURT: I got it.

217

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

KEANDRE VALENTINE,) No. 74468
)
 Appellant,)
)
 vi.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
 _____)

PHILIP J. KOHN Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 ADAM LAXALT Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
---	---

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 2 day of August, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

28