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Jul 20 2018 09:21 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

V.

Respondent.

**AA0250 – AA0482**

Facsimile: 702.868.2415

**APPELLANT'S APPENDIX INDEX**  
***(Alphabetical)***

<b>Document</b>	<b>Volume &amp; Page No.</b>
Information (filed 06/09/16) .....	Vol. 1, AA0001
Instructions to the Jury (filed 12/01/17) .....	Vol. 4, AA0778
Judgment Of Conviction (filed 02/06/18) .....	Vol. 4, AA0935
Motion To Dismiss Counsel (filed 12/28/16).....	Vol. 1, AA0082
Notice Of Appeal (filed 03/01/18).....	Vol. 4, AA0938
Notice of Intent to Seek Punishment as a Habitual Criminal (filed 02/03/17) .....	Vol. 1, AA0103
Second Amended Information (filed 11/27/17) .....	Vol. 1, AA0122
Third Amended Information (filed 12/01/17) .....	Vol. 4, AA0776
Transcript – JURY TRIAL, DAY 1 (11/27/17).....	Vol. 1, AA0125
Transcript – JURY TRIAL, DAY 2 (11/28/17).....	Vol. 2, AA0322
Transcript – JURY TRIAL, DAY 3 (11/29/17) .....	Vol. 3, AA0483
Transcript– JURY TRIAL, DAY 4 (11/30/17) .....	Vol. 3, AA0649
Transcript– JURY TRIAL, DAY 5 (12/01/17) .....	Vol. 4, AA0808
Transcript – Calendar Call (07/19/16) .....	Vol. 1, AA0004
Transcript – Calendar Call (02/07/17) .....	Vol. 1, AA0106
Transcript – Confirmation of Counsel (08/09/16) .....	Vol. 1, AA0021
Transcript – Defendant's Discovery Motion (07/26/16) .....	Vol. 1, AA0009

1	Transcript – Defendant’s Pro Per Discovery Motion (10/18/16)...Vol. 1, AA0054
2	Transcript – Defendant’s Pro Per Motion to Dismiss Counsel; Defendant’s Pro
3	Per Motion for Right of Access to the Courts (11/08/16)...Vol. 1, AA0097
4	Transcript – Defendant’s Pro Per Motion for Right of Access to the
5	Courts and to Dismiss Counsel (02/28/17) .....Vol. 1, AA0112
6	Transcript – Defendant’s Pro Per Motion to Right of Access
7	To the Courts (11/01/16) .....Vol. 1, AA0063
8	Transcript – Defendant’s Pro Per Motion to Right of Access to the
9	Courts; Confirmation of Counsel (11/08/16) .....Vol. 1, AA0069
10	Transcript – Status Check Negotiations/Trial Setting (08/23/16)..Vol. 1, AA0024
11	Transcript – Status Check Negotiations/Trial Setting; Status Check Motion to
12	Dismiss Counsel; <i>Faretta</i> Canvass (08/25/16).....Vol. 1, AA0031
13	Transcript – Sentencing (01/25/18).....Vol. 4, AA0921
14	Verdict – Phase I (filed 12/01/17).....Vol. 4, AA0918
15	Verdict – Phase II (filed 12/01/17) .....Vol. 4, AA0920
16	
17	
18	
19	
20	
21	
22	
23	
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26	
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1 PROSPECTIVE JUROR NO. 1058: No.

2 THE COURT: Besides anything you may have already told  
3 us, do you have any close relatives or friends who have ever been  
4 engaged in law enforcement?

5 PROSPECTIVE JUROR NO. 1058: Yes. My brother is a  
6 retired police officer from Arizona.

7 THE COURT: And do you ever speak about -- with him about  
8 his work?

9 PROSPECTIVE JUROR NO. 1058: No.

10 THE COURT: Okay. So does your knowledge about this  
11 person's job affect your ability to be fair and impartial in this case?

12 PROSPECTIVE JUROR NO. 1058: No.

13 THE COURT: It is anticipated that certain law enforcement  
14 officers will testify in this case; will you be -- will you give more credibility  
15 to their testimony by the mere fact that they are law enforcement  
16 officers?

17 PROSPECTIVE JUROR NO. 1058: No.

18 THE COURT: Do you agree that if you are chosen to serve as  
19 a juror in this case, that you will honor your duty to be completely fair  
20 and impartial and to listen carefully to all of the evidence?

21 PROSPECTIVE JUROR NO. 1058: Yes.

22 THE COURT: Could you pass the microphone, please?

23 Sir, you're Badge No. 1063?

24 PROSPECTIVE JUROR NO. 1063: Yes.

25 THE COURT: And it's Mr. Lopez?

1 PROSPECTIVE JUROR NO. 1063: Yes.  
2 THE COURT: Sir, how long have you lived in Clark County,  
3 Nevada?  
4 PROSPECTIVE JUROR NO. 1063: 29 years.  
5 THE COURT: And how far did you go in school? How far did  
6 you go in school?  
7 PROSPECTIVE JUROR NO. 1063: No school, sir.  
8 THE COURT: No school?  
9 PROSPECTIVE JUROR NO. 1063: No.  
10 THE COURT: Okay.  
11 PROSPECTIVE JUROR NO. 1063: I don't -- I -- I keep  
12 working all the time my life. No school.  
13 THE COURT: So you worked all --  
14 PROSPECTIVE JUROR NO. 1063: Just work hard. That's  
15 all.  
16 THE COURT: Okay.  
17 PROSPECTIVE JUROR NO. 1063: No school.  
18 THE COURT: What do you do for a living, sir?  
19 PROSPECTIVE JUROR NO. 1063: Well, I --  
20 THE COURT: What do you do for a living?  
21 PROSPECTIVE JUROR NO. 1063: Now?  
22 THE COURT: Now.  
23 PROSPECTIVE JUROR NO. 1063: Yeah. I work for Bally's.  
24 THE COURT: And what do you do at Bally's?  
25 PROSPECTIVE JUROR NO. 1063: Convention porter.

1 THE COURT: And, sir, are you married?  
2 PROSPECTIVE JUROR NO. 1063: Married, sir.  
3 THE COURT: And what does your wife do for a living?  
4 PROSPECTIVE JUROR NO. 1063: Pardon me.  
5 THE COURT: What does your wife do for a living?  
6 PROSPECTIVE JUROR NO. 1063: Oh, as a worker?  
7 THE COURT: Right.  
8 PROSPECTIVE JUROR NO. 1063: Yeah, in Excalibur.  
9 THE COURT: She works at the Excalibur?  
10 PROSPECTIVE JUROR NO. 1063: She's work in Excalibur.  
11 THE COURT: And what does she do at the Excalibur?  
12 PROSPECTIVE JUROR NO. 1063: Maid.  
13 THE COURT: Okay. Do you have any children, sir?  
14 PROSPECTIVE JUROR NO. 1063: Two. Two daughters.  
15 THE COURT: And how old are they?  
16 PROSPECTIVE JUROR NO. 1063: I think 35 and 29.  
17 THE COURT: And what do they do for a living? What do your  
18 two daughters do for a living?  
19 PROSPECTIVE JUROR NO. 1063: Huh?  
20 THE COURT: What do your two daughters do for a living?  
21 PROSPECTIVE JUROR NO. 1063: Yeah. They --  
22 THE COURT: You said you had two daughters?  
23 PROSPECTIVE JUROR NO. 1063: Yeah. Two daughters.  
24 THE COURT: Do they work?  
25 PROSPECTIVE JUROR NO. 1063: Yeah. Oh, work. They

1 work. Okay. I'm sorry. I was, you know, confuse.

2 THE COURT: Okay. That's fine. Do they work?

3 PROSPECTIVE JUROR NO. 1063: Yeah. They work for  
4 doctors.

5 THE COURT: I'm sorry?

6 PROSPECTIVE JUROR NO. 1063: They work for doctors, for  
7 doctors.

8 THE COURT: They work for --

9 PROSPECTIVE JUROR NO. 1063: But I -- I -- they -- I don't  
10 know how, like, they -- they call the name. But they do -- every people  
11 call for -- yeah, doctor -- working for doctor.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 1063: Both. Patient --

14 THE COURT: Have you ever served as a juror before? Have  
15 you ever served as a juror before?

16 PROSPECTIVE JUROR NO. 1063: No.

17 THE COURT: All right. Have you ever testified as a witness  
18 in a criminal case?

19 PROSPECTIVE JUROR NO. 1063: No.

20 THE COURT: Have you or a close family member ever been  
21 convicted of a crime? Convicted of a crime?

22 PROSPECTIVE JUROR NO. 1063: Oh, I was here one time  
23 before. The second time I be here.

24 THE COURT: Okay. So this is the second time you've been  
25 a juror?

1 PROSPECTIVE JUROR NO. 1063: Well, I don't know. But I  
2 just remember I come in, I think it's this room. I don't know. I forget, I  
3 mean, sir.

4 THE COURT: Okay. Were you actually picked as a juror to  
5 sit through a jury trial?

6 PROSPECTIVE JUROR NO. 1063: Yeah, yeah.

7 THE COURT: You sat through a jury trial?

8 PROSPECTIVE JUROR NO. 1063: No. Well, I -- you know, I  
9 was here. But yeah, I was -- I was here two times, but today. So I don't  
10 know.

11 THE COURT: Okay. And when --

12 PROSPECTIVE JUROR NO. 1063: Before.

13 THE COURT: -- you were here before --

14 PROSPECTIVE JUROR NO. 1063: Four years ago.

15 THE COURT: Did you -- did you get picked?

16 PROSPECTIVE JUROR NO. 1063: Huh?

17 THE COURT: Did you get picked to serve on the jury?

18 PROSPECTIVE JUROR NO. 1063: Well, I don't know but I --  
19 I remember, I was --

20 THE COURT: Did you remember coming back for several  
21 days and sitting in the jury box and listening to --

22 PROSPECTIVE JUROR NO. 1063: Yeah, yeah --

23 THE COURT: -- people testify?

24 PROSPECTIVE JUROR NO. 1063: Yeah, yeah, yeah. Right.

25 THE COURT: Okay. Okay. My question, though, was has



1 any -- have you or close family member ever been convicted of a crime?  
2 Have anybody that you know that's close to you been convicted of a  
3 crime, charged with a crime and convicted?

4 PROSPECTIVE JUROR NO. 1063: I have a nephew was in  
5 a -- in a -- in the jail.

6 THE COURT: Okay. Was that here in Clark County,  
7 Nevada? Was that here in Clark County, Nevada?

8 PROSPECTIVE JUROR NO. 1063: In here, yeah. Nevada.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 1063: Yeah.

11 THE COURT: Do you believe that experience would make it  
12 difficult for you to be fair and impartial to both sides in this case? The  
13 fact that your niece was convicted, would that make it difficult for you to  
14 be fair and impartial to both sides in this case?

15 PROSPECTIVE JUROR NO. 1063: No.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 1063: I don't know really, sir.  
18 You know, the -- oh, okay. Maybe I -- what I understand is they -- they  
19 was -- but because she -- she -- he was try to -- what he was girlfriend  
20 was living together was [indiscernible].

21 THE COURT: Okay. But can you be fair and impartial to both  
22 sides?

23 PROSPECTIVE JUROR NO. 1063: No.

24 THE COURT: Do you understand what the word impartial  
25 means?

1 PROSPECTIVE JUROR NO. 1063: No. He --  
2 THE COURT: You don't know what the word --  
3 PROSPECTIVE JUROR NO. 1063: He didn't live with me, no.  
4 I don't understand.  
5 THE COURT: You don't know what the word impartial  
6 means?  
7 PROSPECTIVE JUROR NO. 1063: No, no.  
8 THE COURT: Okay. And I think --  
9 PROSPECTIVE JUROR NO. 1063: Sorry.  
10 THE COURT: -- you previously told me that your -- is your  
11 native language Spanish?  
12 PROSPECTIVE JUROR NO. 1063: Oh, my language -- yeah.  
13 Spanish, right.  
14 THE COURT: And your second language is English?  
15 PROSPECTIVE JUROR NO. 1063: Yes.  
16 THE COURT: Okay. And are you having difficulty  
17 understanding some of the words I'm using?  
18 PROSPECTIVE JUROR NO. 1063: No. I don't --  
19 THE COURT: You understand every word I'm saying to you?  
20 PROSPECTIVE JUROR NO. 1063: No, no. Some okay.  
21 Some no.  
22 THE COURT: Okay. If you don't understand something, you  
23 need to let me know. Okay?  
24 PROSPECTIVE JUROR NO. 1063: Okay.  
25 THE COURT: All right. Besides anything you've already told

1 us, do you have any close relatives or friends who have ever been  
2 engaged in law enforcement?

3 PROSPECTIVE JUROR NO. 1063: I don't -- I don't  
4 understand.

5 THE COURT: Do you have any friends that are --

6 PROSPECTIVE JUROR NO. 1063: I don't --

7 THE COURT: -- police officers? Do you have any -- anybody  
8 you know that's a police officer?

9 PROSPECTIVE JUROR NO. 1063: Was what?

10 THE COURT: A police officer. Do you know what a police --

11 PROSPECTIVE JUROR NO. 1063: Oh, no, no. No, I don't.  
12 Police officer, no. No, no.

13 THE COURT: Okay. Isn't this -- shucks. It is anticipated that  
14 certain law enforcement officers will testify in this case. Will you give  
15 more credibility to their testimony by the mere fact that they are law  
16 enforcement officers? Do you understand that question, sir?

17 PROSPECTIVE JUROR NO. 1063: I -- no.

18 THE COURT: Okay. Do you agree that if you are chosen to  
19 serve as a juror in this case, that you will honor your duty to be  
20 completely fair and impartial, to listen carefully to all of the evidence?  
21 Did you understand that question?

22 PROSPECTIVE JUROR NO. 1063: No. It's too long. I  
23 don't --

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 1063: Sorry.

1 THE COURT: That's okay. Could you pass the microphone --  
2 PROSPECTIVE JUROR NO. 1063: Yeah.  
3 THE COURT: -- to the gentleman next to you.  
4 Sir, your badge is No. 1082?  
5 PROSPECTIVE JUROR NO. 1082: Yes.  
6 THE COURT: And you're Mr. Sanders?  
7 PROSPECTIVE JUROR NO. 1082: Yes.  
8 THE COURT: How long have you lived in Clark County,  
9 Nevada?  
10 PROSPECTIVE JUROR NO. 1082: 20 -- 20 years.  
11 THE COURT: Okay. And how far did you go in school?  
12 PROSPECTIVE JUROR NO. 1082: I am currently in college.  
13 THE COURT: And which college?  
14 PROSPECTIVE JUROR NO. 1082: CSN.  
15 THE COURT: And what is your occupation?  
16 PROSPECTIVE JUROR NO. 1082: I work --  
17 THE COURT: Do you work part-time?  
18 PROSPECTIVE JUROR NO. 1082: I work full time at an  
19 accounting firm.  
20 THE COURT: And what is name of that firm?  
21 PROSPECTIVE JUROR NO. 1082: It's Udall CPA.  
22 THE COURT: Okay. Are you married?  
23 PROSPECTIVE JUROR NO. 1082: I am not.  
24 THE COURT: Do you have any children?  
25 PROSPECTIVE JUROR NO. 1082: No.

1 THE COURT: Have you ever served as a juror before?  
2 PROSPECTIVE JUROR NO. 1082: No.  
3 THE COURT: Have you ever testified as a witness in a  
4 criminal case?  
5 PROSPECTIVE JUROR NO. 1082: Nope.  
6 THE COURT: Have you or close family member ever been  
7 convicted of a crime?  
8 PROSPECTIVE JUROR NO. 1082: No.  
9 THE COURT: Have you or close family member ever been  
10 the victim of a crime?  
11 PROSPECTIVE JUROR NO. 1082: Yes.  
12 THE COURT: And who?  
13 PROSPECTIVE JUROR NO. 1082: So my sister, I think it's  
14 under investigation right now, but she's involved with a sexual  
15 harassment at school.  
16 THE COURT: Okay. So your sister is the victim of sexual  
17 harassment that's currently under investigation?  
18 PROSPECTIVE JUROR NO. 1082: Yes.  
19 THE COURT: And who's the law enforcement agency  
20 investigating?  
21 PROSPECTIVE JUROR NO. 1082: It's Henderson PD, I  
22 believe.  
23 THE COURT: Okay. And do you believe that experience with  
24 your sister would make it difficult for you to be fair and impartial to both  
25 sides in this case?

1 PROSPECTIVE JUROR NO. 1082: No.

2 THE COURT: Besides anything you may have already told  
3 us, do you have any close relatives or close friends who have ever been  
4 engaged in law enforcement?

5 PROSPECTIVE JUROR NO. 1082: Yes.

6 THE COURT: And who is that, sir?

7 PROSPECTIVE JUROR NO. 1082: So I've got -- there's  
8 actually two family friends at -- my family has. And we all get together  
9 actually on Monday nights and have dinner with all the family.

10 THE COURT: Okay. And do you talk to them about their job?

11 PROSPECTIVE JUROR NO. 1082: Yes.

12 THE COURT: And what do you talk about?

13 PROSPECTIVE JUROR NO. 1082: So usually they'll talk  
14 about cases and stuff that's gone on at work. And then I've also talked  
15 about going on a ride-along, because becoming a police officer was  
16 something I -- I don't know if I'm so much looking into it now, but it's  
17 something that I wanted to do. It's just these days it seems like an  
18 accountant is a safer job than being a police officer.

19 THE COURT: Okay. But it's something that you thought  
20 about doing?

21 PROSPECTIVE JUROR NO. 1082: Yeah.

22 THE COURT: All right. As to your friends, do you believe  
23 your knowledge about these persons' job affects your ability to be fair  
24 and impartial in this case?

25 PROSPECTIVE JUROR NO. 1082: I want to say no, but -- so

1 I've lived in Alabama for a couple of years. And the police officers I met  
2 there, I know that there's definitely cops out there that aren't as good as  
3 they should be, but the police officers that I've met in Clark County, I've  
4 never met a bad police officer. So --

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 1082: -- I want to say I won't be  
7 partial to one or the other, but from my --

8 THE COURT: Well, who would you be -- if you -- you're kind  
9 of hesitating here. You're straddling the fence.

10 PROSPECTIVE JUROR NO. 1082: Yeah.

11 THE COURT: If you were going to be impartial -- or if you're  
12 going to be partial, would you be partial towards a police officer or  
13 against the police officer?

14 PROSPECTIVE JUROR NO. 1082: Towards the police  
15 officer.

16 THE COURT: All right. You understand it is anticipated that  
17 certain law enforcement officers will testify in this case; will you give  
18 more credibility to their testimony by the mere fact that they are law  
19 enforcement officers?

20 PROSPECTIVE JUROR NO. 1082: Yes. But I won't just be --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 1082: It -- if what they say is not  
23 necessarily going to be what I believe. If there's stuff going against it,  
24 I'm not just going to be a blind follower.

25 THE COURT: Okay. So you're willing to listen to the

1 testimony of all the witnesses in this case before you make a  
2 determination of credibility; is that correct?

3 PROSPECTIVE JUROR NO. 1082: Yes.

4 THE COURT: So do you agree that if you are chosen to serve  
5 as a juror in this case, that you will honor your duty to be completely fair  
6 and impartial and to listen carefully to all of the evidence in this case?

7 PROSPECTIVE JUROR NO. 1082: Yes.

8 THE COURT: Sir, if you can pass the microphone.

9 And, ma'am, your badge number is 1083?

10 PROSPECTIVE JUROR NO. 1083: Yes, Your Honor.

11 THE COURT: And is it Ms. Ocampo?

12 PROSPECTIVE JUROR NO. 1083: Yes, Your Honor.

13 THE COURT: And, ma'am, how long have you lived in Clark  
14 County, Nevada?

15 PROSPECTIVE JUROR NO. 1083: Eight years.

16 THE COURT: And how far did you go in school?

17 PROSPECTIVE JUROR NO. 1083: BS in accounting.

18 THE COURT: And what is your occupation?

19 PROSPECTIVE JUROR NO. 1083: Retired.

20 THE COURT: And before you retired, what did you do for a  
21 living?

22 PROSPECTIVE JUROR NO. 1083: I work in the Department  
23 of Housing, Litigation Bureau.

24 THE COURT: And are you married?

25 PROSPECTIVE JUROR NO. 1083: Yes.



1 THE COURT: And what does your spouse do for a living?  
2 PROSPECTIVE JUROR NO. 1083: He works at Lenox Hill  
3 Hospital in medical records.  
4 THE COURT: Okay. Do you have any children?  
5 PROSPECTIVE JUROR NO. 1083: I --  
6 THE COURT: Do you have any children?  
7 PROSPECTIVE JUROR NO. 1083: No.  
8 THE COURT: Have you ever served as a juror before?  
9 PROSPECTIVE JUROR NO. 1083: No.  
10 THE COURT: Have you ever testified as a witness in a  
11 criminal case?  
12 PROSPECTIVE JUROR NO. 1083: No.  
13 THE COURT: Have you or close family member ever been  
14 convicted of a crime?  
15 PROSPECTIVE JUROR NO. 1083: No.  
16 THE COURT: Have you or close family member ever been  
17 the victim of a crime?  
18 PROSPECTIVE JUROR NO. 1083: No.  
19 THE COURT: Besides anything you may have already told  
20 us, do you have any close relatives or friends who have ever been  
21 engaged in law enforcement?  
22 PROSPECTIVE JUROR NO. 1083: No.  
23 THE COURT: It is anticipated that certain law enforcement  
24 officers will testify in this case; will you give more credibility to their  
25 testimony by the mere fact that they are law enforcement officers?

1 PROSPECTIVE JUROR NO. 1083: No.

2 THE COURT: And do you agree that if you are chosen to

3 serve as a juror in this case, that you will honor your duty to be

4 completely fair and impartial and to listen carefully to all of the evidence?

5 PROSPECTIVE JUROR NO. 1083: Yes, Your Honor.

6 THE COURT: Thank you, ma'am. If you could pass the

7 microphone, please.

8 And, ma'am, you're Badge No. 1086?

9 PROSPECTIVE JUROR NO. 1086: Yes.

10 THE COURT: And it's Ms. Lunt?

11 PROSPECTIVE JUROR NO. 1086: Yep.

12 THE COURT: And how -- how long have you lived in Clark

13 County, Nevada?

14 PROSPECTIVE JUROR NO. 1086: Since 2008.

15 THE COURT: And how far did you go in school?

16 PROSPECTIVE JUROR NO. 1086: Bachelor's in dental

17 hygiene.

18 THE COURT: And what is your occupation?

19 PROSPECTIVE JUROR NO. 1086: I'm a dental hygienist.

20 THE COURT: And who do you work for?

21 PROSPECTIVE JUROR NO. 1086: Kruyer Dental.

22 THE COURT: Okay. And what is your marital status?

23 PROSPECTIVE JUROR NO. 1086: Married.

24 THE COURT: And what is the occupation of your spouse?

25 PROSPECTIVE JUROR NO. 1086: Attorney.

1 THE COURT: And what is the -- his name?  
2 PROSPECTIVE JUROR NO. 1086: Ryan Lunt.  
3 THE COURT: Okay. And do you have any children?  
4 PROSPECTIVE JUROR NO. 1086: Yes.  
5 THE COURT: And how old are they?  
6 PROSPECTIVE JUROR NO. 1086: I have four. My oldest  
7 is 12, 9, and then 7-year-old twins.  
8 THE COURT: And they're in school?  
9 PROSPECTIVE JUROR NO. 1086: Yes, they are.  
10 THE COURT: All right. Have you ever served as a juror  
11 before?  
12 PROSPECTIVE JUROR NO. 1086: I have not.  
13 THE COURT: Have you ever testified as a witness at a  
14 criminal case?  
15 PROSPECTIVE JUROR NO. 1086: No.  
16 THE COURT: Have you or close family member ever been  
17 convicted of a crime?  
18 PROSPECTIVE JUROR NO. 1086: Yes.  
19 THE COURT: And could you explain, please?  
20 PROSPECTIVE JUROR NO. 1086: I have two  
21 brother-in-laws, both have been convicted of drug charges. One for  
22 dealing, I think one for using.  
23 THE COURT: And was that here in Clark County, Nevada?  
24 PROSPECTIVE JUROR NO. 1086: No. That was in Utah.  
25 THE COURT: And do you believe that experience would

1 make it difficult for your to be fair and impartial to both sides in this  
2 case?

3 PROSPECTIVE JUROR NO. 1086: No.

4 THE COURT: Have you or close family member ever been  
5 the victim of a crime?

6 PROSPECTIVE JUROR NO. 1086: No.

7 THE COURT: Besides anything you may have already told  
8 us, do you have any close relatives or friends who have ever been  
9 engaged in law enforcement?

10 PROSPECTIVE JUROR NO. 1086: We have some church  
11 friends here that are police officers. And I have a handful of patients that  
12 are officers. So.

13 THE COURT: Okay. And do you ever talk with those persons  
14 about their job?

15 PROSPECTIVE JUROR NO. 1086: Yeah. The people I  
16 work -- my patients, it's a good conversation goer. So we talk about  
17 schedules, work -- where they're working. They like -- they know that I  
18 like to hear fun stories, so --

19 THE COURT: So sometimes they tell you stuff that  
20 happens --

21 PROSPECTIVE JUROR NO. 1086: Yeah.

22 THE COURT: -- during the course of their day?

23 PROSPECTIVE JUROR NO. 1086: At their job, yeah.

24 THE COURT: Okay. Their job. Does your knowledge about  
25 this person's job affect your ability to be fair and impartial in this case?

1 PROSPECTIVE JUROR NO. 1086: No, I don't think so.

2 THE COURT: All right. It is anticipated that certain law  
3 enforcement officers will testify in this case; will you give more credibility  
4 to their testimony by the mere fact that they are law enforcement  
5 officers?

6 PROSPECTIVE JUROR NO. 1086: It depends on, like the  
7 other people were saying, the evidence. But if it's a he said/she said,  
8 honestly, I'd have to lean towards the officer. But that --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 1086: -- doesn't mean I'm not  
11 willing to hear --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 1086: -- everything. But if it's  
14 my word against your word, honestly, I would tend to lean towards the  
15 officer.

16 THE COURT: Okay. Are you willing to listen to all the  
17 witnesses testify in this case --

18 PROSPECTIVE JUROR NO. 1086: Yes.

19 THE COURT: -- and all the evidence before you make a  
20 determination of credibility in this matter?

21 PROSPECTIVE JUROR NO. 1086: Yes.

22 THE COURT: And do you agree that if you are chosen to  
23 serve as a juror in this case, that you will honor your duty to be  
24 completely fair and impartial and to listen carefully to all of the evidence  
25 in the case?

1 PROSPECTIVE JUROR NO. 1086: Yes.  
2 THE COURT: Okay. If you can pass the microphone, please.  
3 And you're Badge No. 1089?  
4 PROSPECTIVE JUROR NO. 1089: Yes.  
5 THE COURT: And is it Ms. Penrod?  
6 PROSPECTIVE JUROR NO. 1089: Yes.  
7 THE COURT: Okay. And how long have you lived in Clark  
8 County, Nevada?  
9 PROSPECTIVE JUROR NO. 1089: 65 years.  
10 THE COURT: And how far did you go in school?  
11 PROSPECTIVE JUROR NO. 1089: I did a GED and some  
12 college courses.  
13 THE COURT: And what is your occupation?  
14 PROSPECTIVE JUROR NO. 1089: I'm retired.  
15 THE COURT: I'm sorry?  
16 PROSPECTIVE JUROR NO. 1089: Retired.  
17 THE COURT: And before you retired, what did you do for a  
18 living?  
19 PROSPECTIVE JUROR NO. 1089: I worked 36 years at NV  
20 Energy. I was a training consultant.  
21 THE COURT: All right. And what is your marital status?  
22 PROSPECTIVE JUROR NO. 1089: Widow.  
23 THE COURT: And before your husband passed away, what  
24 did he do for a living?  
25 PROSPECTIVE JUROR NO. 1089: He was in construction.

1 THE COURT: Okay. And do you have any children?  
2 PROSPECTIVE JUROR NO. 1089: One.  
3 THE COURT: And how old is your child?  
4 PROSPECTIVE JUROR NO. 1089: He's 41. He works for  
5 Las Vegas Valley Water District.  
6 THE COURT: Okay. Have you ever served as a juror?  
7 PROSPECTIVE JUROR NO. 1089: No.  
8 THE COURT: Have you ever testified as a witness in a  
9 criminal case?  
10 PROSPECTIVE JUROR NO. 1089: No.  
11 THE COURT: Have you or close family member ever been  
12 convicted of a crime?  
13 PROSPECTIVE JUROR NO. 1089: No. But after my  
14 husband passed away in '92, I found out that he did some time in  
15 Chicago.  
16 THE COURT: All right. Do you believe that experience would  
17 make it difficult for you to be fair and impartial to both sides in this case?  
18 PROSPECTIVE JUROR NO. 1089: No.  
19 THE COURT: Have you or close family member ever been  
20 the victim of a crime?  
21 PROSPECTIVE JUROR NO. 1089: Yes.  
22 THE COURT: And could you explain, please?  
23 PROSPECTIVE JUROR NO. 1089: My son had his truck  
24 stolen from Las Vegas Valley Water District parking lot. And I -- my  
25 home was almost burglarized.

1 THE COURT: Okay. Were you home at the time?  
2 PROSPECTIVE JUROR NO. 1089: No.  
3 THE COURT: Okay. And they attempted to get into the  
4 home, but were unsuccessful?  
5 PROSPECTIVE JUROR NO. 1089: Yeah. The alarm went  
6 off.  
7 THE COURT: Okay. Did -- were either of these incidents  
8 investigated by law enforcement?  
9 PROSPECTIVE JUROR NO. 1089: Yes.  
10 THE COURT: And were you satisfied with their investigation?  
11 PROSPECTIVE JUROR NO. 1089: Yes.  
12 THE COURT: So do you believe that experience would make  
13 it difficult for you to be fair and impartial to both sides in this case?  
14 PROSPECTIVE JUROR NO. 1089: No.  
15 THE COURT: Okay. So you could be fair and impartial to  
16 both sides?  
17 PROSPECTIVE JUROR NO. 1089: Yes.  
18 THE COURT: Besides anything you may have already told  
19 us, do you have any close relatives or friends who have ever been  
20 engaged in law enforcement?  
21 PROSPECTIVE JUROR NO. 1089: Yes.  
22 THE COURT: And could you explain, please?  
23 PROSPECTIVE JUROR NO. 1089: I have a friend that is with  
24 Metro. What we talk about are guns, CCW, carry, and what gun ranges  
25 he goes to and then the guns that my son and him --



1 THE COURT: So you really don't talk about his -- his job  
2 then?  
3 PROSPECTIVE JUROR NO. 1089: [No audible response.]  
4 THE COURT: Okay. Does your knowledge about this person  
5 affect your ability to be fair and impartial in this case?  
6 PROSPECTIVE JUROR NO. 1089: Does it affect --  
7 THE COURT: In other words, could you be -- even though  
8 you know this person's in law enforcement, could you still be fair and  
9 impartial to both sides in this case?  
10 PROSPECTIVE JUROR NO. 1089: Yes. Yes.  
11 THE COURT: It is anticipated that certain law enforcement  
12 officers will testify in this case; will you give more credibility to their  
13 testimony by the mere fact that they are law enforcement officers?  
14 PROSPECTIVE JUROR NO. 1089: No.  
15 THE COURT: Okay. Do you agree that if you are chosen to  
16 serve as a juror in this case, that you will honor your duty to be  
17 completely fair and impartial and to listen carefully to all of the evidence  
18 in the case?  
19 PROSPECTIVE JUROR NO. 1089: Yes.  
20 THE COURT: If you can pass the microphone, please.  
21 And sir, your badge number is 1090?  
22 PROSPECTIVE JUROR NO. 1090: Yes, Your Honor.  
23 THE COURT: Okay. Could you pronounce your last name?  
24 PROSPECTIVE JUROR NO. 1090: You want to try?  
25 THE COURT: I'll try. Mr. Baborian?

1 PROSPECTIVE JUROR NO. 1090: Yeah. Baborian. You got  
2 it.  
3 THE COURT: I got lucky.  
4 PROSPECTIVE JUROR NO. 1090: Tough Armenian last  
5 name.  
6 THE COURT: Sir, how long have you lived in Clark County,  
7 Nevada?  
8 PROSPECTIVE JUROR NO. 1090: 24 years.  
9 THE COURT: And how far did you go in school?  
10 PROSPECTIVE JUROR NO. 1090: Some college. I went --  
11 bounced around to a lot of schools.  
12 THE COURT: Okay.  
13 PROSPECTIVE JUROR NO. 1090: Never finished.  
14 THE COURT: But you do have some college, but you just  
15 don't have a degree?  
16 PROSPECTIVE JUROR NO. 1090: Yes.  
17 THE COURT: Okay. And sir, what is your occupation?  
18 PROSPECTIVE JUROR NO. 1090: I'm a cook.  
19 THE COURT: Okay. And --  
20 PROSPECTIVE JUROR NO. 1090: At the Aria.  
21 THE COURT: At the Aria?  
22 PROSPECTIVE JUROR NO. 1090: Yes, sir.  
23 THE COURT: And you're currently employed there?  
24 PROSPECTIVE JUROR NO. 1090: Yes. I just got employed.  
25 THE COURT: And what is your marital status?

1 PROSPECTIVE JUROR NO. 1090: I'm -- I'm married.  
2 THE COURT: And what does your spouse do for a --  
3 PROSPECTIVE JUROR NO. 1090: She's a teacher.  
4 THE COURT: And for the Clark County School District?  
5 PROSPECTIVE JUROR NO. 1090: Yes, sir.  
6 THE COURT: And do you have any children?  
7 PROSPECTIVE JUROR NO. 1090: Yes. Two young  
8 children, five and two.  
9 THE COURT: Okay. Have you ever served as a juror before?  
10 PROSPECTIVE JUROR NO. 1090: No, Your Honor.  
11 THE COURT: Have you ever testified as a witness in a  
12 criminal case?  
13 PROSPECTIVE JUROR NO. 1090: No, Your Honor.  
14 THE COURT: Have you ever -- have you or close family  
15 member ever been convicted of a crime?  
16 PROSPECTIVE JUROR NO. 1090: No, Your Honor.  
17 THE COURT: Have you or close family member ever been  
18 the victim of a crime?  
19 PROSPECTIVE JUROR NO. 1090: I mean, no, not really.  
20 THE COURT: Okay.  
21 PROSPECTIVE JUROR NO. 1090: Identity theft that wasn't  
22 reported. I mean, I grew up in the '90s in Vegas, so I'm sure I've been  
23 swung at in high school. But back then, that wasn't a crime. Sorry.  
24 THE COURT: All right. So do you believe that experience  
25 would make it difficult for you to be fair and impartial to both sides in this

1 case?

2 PROSPECTIVE JUROR NO. 1090: I mean, I was quite bitter  
3 when I was a victim of identity theft at the holiday time.

4 THE COURT: Yeah.

5 PROSPECTIVE JUROR NO. 1090: So yeah, I mean, I do -- I  
6 do find it a little annoying that crimes happen against good people.

7 THE COURT: Okay. But do you think you can still be fair and  
8 impartial to both sides?

9 PROSPECTIVE JUROR NO. 1090: I'll try my best in that  
10 circumstance.

11 THE COURT: Okay. Besides anything you have -- may have  
12 already told us, do you have any close relatives or friends who have  
13 ever been engaged in law enforcement?

14 PROSPECTIVE JUROR NO. 1090: Yes. My uncle, my  
15 mom's brother, was a NYPD police officer that died on duty.

16 THE COURT: Okay. Before that, did you ever talk to him  
17 about his job?

18 PROSPECTIVE JUROR NO. 1090: No.

19 THE COURT: I'm sorry?

20 PROSPECTIVE JUROR NO. 1090: No. He was --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 1090: He was -- he was the  
23 uncle -- a close uncle, my hero. And just pretty much uncle, and he died  
24 on a rough, rainy day chasing a perp.

25 THE COURT: Okay. Does your knowledge about your

1     uncle's passing affect your ability to be fair and impartial in this case?  
2             PROSPECTIVE JUROR NO. 1090: Yes.  
3             THE COURT: Okay. So you do not believe, because of what  
4     happened to your uncle, that you can fair and impartial in this case?  
5             PROSPECTIVE JUROR NO. 1090: It will be hard for me to  
6     be partial --  
7             THE COURT: Okay.  
8             PROSPECTIVE JUROR NO. 1090: -- with respect to the  
9     defense.  
10            THE COURT: So would you be partial towards the State or  
11     towards the defense?  
12            PROSPECTIVE JUROR NO. 1090: State.  
13            THE COURT: The State. It's anticipated that certain law  
14     enforcement officers will testify in this case; will you give more credibility  
15     to their testimony by the mere fact that they're a law enforcement  
16     officer?  
17            PROSPECTIVE JUROR NO. 1090: Yes. I'm afraid -- afraid I  
18     will.  
19            THE COURT: Okay. And that's because your uncle was a  
20     law enforcement officer?  
21            PROSPECTIVE JUROR NO. 1090: Yes.  
22            THE COURT: Even so, are you willing to listen to the  
23     testimony of all the witnesses in this case before you make a  
24     determination as to credibility?  
25            PROSPECTIVE JUROR NO. 1090: I'll listen and I'll -- I'm --

1 but I'm human. And it -- it really hit my family hard. So.

2 THE COURT: Okay. But you still would be willing to listen to  
3 all the witnesses before you determine credibility?

4 PROSPECTIVE JUROR NO. 1090: Like I said, I'll listen, but  
5 I -- I am partial.

6 THE COURT: All right. Are you willing to agree that if you're  
7 chosen to serve as a juror in this case, that you will honor your duty to  
8 be completely fair and impartial to both sides and listen carefully to all  
9 the evidence?

10 PROSPECTIVE JUROR NO. 1090: I'll listen, but I am partial  
11 to the defense -- or to the State.

12 THE COURT: Okay. But if, after you hear all the evidence,  
13 you'll base your decision on the evidence --

14 PROSPECTIVE JUROR NO. 1090: Yes, Your Honor.

15 THE COURT: -- is that correct? And you'll -- you'll be  
16 completely fair and impartial when you make that decision?

17 PROSPECTIVE JUROR NO. 1090: Yes, Your Honor.

18 THE COURT: Okay. And if you can pass it to the --  
19 microphone to the gentleman on your left.

20 And sir, you're Badge No. 1091?

21 PROSPECTIVE JUROR NO. 1091: Correct.

22 THE COURT: And it's Mr. Blazer?

23 PROSPECTIVE JUROR NO. 1091: Yes.

24 THE COURT: Okay. Sir, how long have you lived in Clark  
25 County, Nevada?

1 PROSPECTIVE JUROR NO. 1091: 25 years.  
2 THE COURT: And how far did you go in school?  
3 PROSPECTIVE JUROR NO. 1091: Associate's degree.  
4 THE COURT: And what is your occupation?  
5 PROSPECTIVE JUROR NO. 1091: Security systems  
6 coordinator at Clark County Water Reclamation.  
7 THE COURT: Okay. And what is your marital status?  
8 PROSPECTIVE JUROR NO. 1091: I'm divorced.  
9 THE COURT: And what was the occupation of your  
10 ex-spouse?  
11 PROSPECTIVE JUROR NO. 1091: Accountant.  
12 THE COURT: Here in Las Vegas, Nevada?  
13 PROSPECTIVE JUROR NO. 1091: Yes.  
14 THE COURT: Do you have any children?  
15 PROSPECTIVE JUROR NO. 1091: Yes. A daughter in San  
16 Diego. She works for SDSU.  
17 THE COURT: And she's an adult child, I take it?  
18 PROSPECTIVE JUROR NO. 1091: Yes.  
19 THE COURT: Have you ever served as a juror before?  
20 PROSPECTIVE JUROR NO. 1091: Yes.  
21 THE COURT: Was it a civil or criminal case?  
22 PROSPECTIVE JUROR NO. 1091: Civil case in the federal  
23 court.  
24 THE COURT: Courthouse? And without telling me the  
25 verdict, did the jury reach a verdict?

1 PROSPECTIVE JUROR NO. 1091: Yes.  
2 THE COURT: And were you the foreperson?  
3 PROSPECTIVE JUROR NO. 1091: No.  
4 THE COURT: Is there anything about that experience that  
5 would affect your ability to be fair and impartial in this case?  
6 PROSPECTIVE JUROR NO. 1091: No.  
7 THE COURT: Have you ever testified as a witness in a  
8 criminal case?  
9 PROSPECTIVE JUROR NO. 1091: No.  
10 THE COURT: Have you or close family member ever been  
11 convicted of a crime?  
12 PROSPECTIVE JUROR NO. 1091: No.  
13 THE COURT: Have you or close family member ever been  
14 the victim of a crime?  
15 PROSPECTIVE JUROR NO. 1091: My house was broken  
16 into.  
17 THE COURT: Okay. Were you home at the time?  
18 PROSPECTIVE JUROR NO. 1091: No.  
19 THE COURT: Did you make a police report?  
20 PROSPECTIVE JUROR NO. 1091: Yes, to North Las Vegas  
21 police.  
22 THE COURT: And was it investigated?  
23 PROSPECTIVE JUROR NO. 1091: Yes.  
24 THE COURT: Are you satisfied with the investigation?  
25 PROSPECTIVE JUROR NO. 1091: Right. Nothing was ever



1 found, but they did an investigation.

2 THE COURT: Okay. Do you believe that experience will  
3 make it difficult for you to be fair and impartial to both sides in this case?

4 PROSPECTIVE JUROR NO. 1091: No, that shouldn't. No  
5 problem.

6 THE COURT: Okay. So you can be fair and impartial --

7 PROSPECTIVE JUROR NO. 1091: Yes.

8 THE COURT: -- to both sides --

9 PROSPECTIVE JUROR NO. 1091: Uh-huh.

10 THE COURT: -- is that correct?

11 PROSPECTIVE JUROR NO. 1091: Yes.

12 THE COURT: All right. Besides anything you may have  
13 already told us, do you have any close relatives or friends who have  
14 ever been engaged in law enforcement?

15 PROSPECTIVE JUROR NO. 1091: No.

16 THE COURT: It is anticipated that certain law enforcement  
17 officers will testify in this case; will you give more credibility to their  
18 testimony by the mere fact that they are law enforcement officers?

19 PROSPECTIVE JUROR NO. 1091: Yes, I would.

20 THE COURT: Okay. But are you willing to listen to the  
21 testimony of all of the witnesses and then make a determination of  
22 credibility after you've heard all the testimony?

23 PROSPECTIVE JUROR NO. 1091: Yes, I believe so. But I  
24 would be leaning that way.

25 THE COURT: Okay. But you're willing to listen to

1 everybody's testimony --

2 PROSPECTIVE JUROR NO. 1091: Yes.

3 THE COURT: -- and be fair and impartial, and make a  
4 determination of credibility after you've heard everybody -- all the  
5 witnesses' testimony; is that correct?

6 PROSPECTIVE JUROR NO. 1091: Yes.

7 THE COURT: Do you agree that if you are chosen to serve as  
8 a juror in this case, that you will honor your duty to be completely fair  
9 and impartial and to listen carefully to all of the evidence?

10 PROSPECTIVE JUROR NO. 1091: Yes.

11 THE COURT: Okay. At this time we're going to take our  
12 afternoon recess. We'll be in recess for about 10 minutes.

13 During this recess, you are admonished not to talk or  
14 converse among yourselves or with anyone else on any subject  
15 connected with this trial, or read, watch or -- if you could just -- I need to  
16 admonish -- if you could just sit for just one second. I'm required to do it.  
17 That's okay. That's -- do an admonishment. All right.

18 During this recess, you're admonished not to talk or converse  
19 among yourselves or with anyone else on any subject matter connected  
20 with the trial, or read, watch, or listen to any report or any commentary  
21 on the trial, or any person connected with this trial by any medium of  
22 information including, without limitation, social media, text, newspapers,  
23 television, the Internet, and radio; do not -- you don't know where the  
24 scene is, but I'm still going to read it -- do no visit the scene of any of the  
25 events mentioned during the trial, undertake any investigation; do not do

1 any posting or communications on any social networking sites or do any  
2 independent research, including Internet searches of any kind, or form or  
3 express any opinion or any subject -- on any subject connected with trial  
4 until the case is finally submitted to you.

5 We'll be in recess for about 10 minutes. Okay. Thank you.

6 Counsel, if you'll remain for a moment.

7 [Prospective jury panel recessed at 3:15 p.m.]

8 THE COURT: I'm going to go to 4:30 today. Obviously, you  
9 know, I don't think we'll have a jury by today. I don't have a heavy  
10 criminal calendar tomorrow. So I'm going to tell them to be back  
11 at 11:00 tomorrow, remain outside. And then I anticipate going to 5:00  
12 tomorrow.

13 MR. DICKERSON: Okay. And do you anticipate the same  
14 lunch break time, about 12:30?

15 THE COURT: About 12:30.

16 MR. DICKERSON: Okay.

17 THE COURT: If we can get started -- we may get started a  
18 little after 11:00, but I'll go for about an hour, hour and a half. I may  
19 even tell them to maybe have a late breakfast --

20 MR. DICKERSON: Okay.

21 THE COURT: -- because we're going to have a late lunch.  
22 And then we should be able to go to, I believe, 5:00 tomorrow -- 5:00  
23 tomorrow. So hopefully we'll have a jury by tomorrow, do opening  
24 statements, and maybe even get the testimony of a few witnesses in.

25 MR. DICKERSON: Okay.

1 THE COURT: Okay.

2 MR. DICKERSON: Absolutely.

3 THE COURT: Okay. So 10 minutes, be back. And then,  
4 obviously, you're going to have the opportunity to ask questions at this  
5 point.

6 MR. DICKERSON: Thank you, your Honor.

7 THE COURT: Thank you.

8 MS. PLUNKETT: Thank you, Judge.

9 MR. COYER: Thank you.

10 [Court recessed at 3:17 p.m. until 3:27 p.m.]

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

12 THE COURT: Back on the record. I had my law clerk over  
13 the break pull my calendar for tomorrow. It's 26 pages and he advises  
14 me I have four sentencings and four revocation proceedings. So I was  
15 hopeful the -- to be finished by 11:00, but depending on the revocations  
16 will depend on how long I go tomorrow. So I'm thinking instead, I'll have  
17 them come back at 11:30, just to be safe. And that way we'll go for at  
18 least an hour, to 12:30, and then take a lunch break and then go for the  
19 rest of the day. So I'm going to advise them to come back tomorrow  
20 at 11:30 if -- unless counsel has -- is not available.

21 MR. DICKERSON: That's fine with the State, Your Honor.

22 THE COURT: And Mr. Coyer?

23 MR. COYER: That's -- that's fine with us, Judge.

24 THE COURT: Matter of fact, I think one of the sentencings on  
25 tomorrow may be one of yours.

1 MR. COYER: It is.

2 THE COURT: And I believe -- are you in my department  
3 tomorrow, Mr. Dickerson?

4 MR. DICKERSON: I will be here.

5 THE COURT: Okay. So, you know, we can't get started until,  
6 obviously, I finish.

7 MS. PLUNKETT: And, Judge, I do just want to point out I  
8 have a quick City hearing at 2:00 p.m. tomorrow. I'm hoping we can  
9 somehow work around that where I can briefly leave, possibly a break in  
10 that area anywhere in the 2:00 p.m. vicinity.

11 THE COURT: Okay. How long --

12 MR. LEXIS: Judge, how about we just lunch at 1:30  
13 then, 1:30 to 2:30?

14 THE COURT: That works for me if that's good for counsel.

15 MS. PLUNKETT: If everyone is amenable to that, it would be  
16 great.

17 THE COURT: Just remind me 1:30 to -- because we're not  
18 going to get started until probably at the earliest 11:30. So that -- that's  
19 fine with me. And so just remind me tomorrow that we're doing our  
20 lunch from 1:30 to 2:30 and that should accommodate you.

21 MS. PLUNKETT: Thank you so much, Judge.

22 THE COURT: Okay. Thank you.

23 MS. PLUNKETT: Thank you, State.

24 MR. DICKERSON: Absolutely.

25 THE COURT: Are the jurors out there? All right. So

1 obviously now I'm going to open it up to voir dire to the attorneys. And  
2 then we'll go till 4:30 today.

3 [Prospective jury panel reconvened at 3:29 p.m.]

4 THE COURT: And this is continuation of Case No.  
5 C-16-315580, *State of Nevada vs. Valencia*. Let the record reflect the  
6 presence of counsel for the State and the defense, and the presence of  
7 the defendant.

8 Ladies and gentlemen, the attorneys now are going to  
9 proceed to ask you some questions. We're going to go to 4:30 today  
10 and take our afternoon recess. So we'll probably have to continue  
11 tomorrow. We're going to have you come back at 11:30. And then  
12 we're going to take our lunch break tomorrow between 1:30 and 2:30, so  
13 you might want to have a -- a snack or breakfast or something before  
14 you come to court tomorrow, because we're going to have a late lunch  
15 break. Then I anticipate going to 5:00 tomorrow.

16 So in any event, this is the time set where the attorneys are  
17 going to proceed to ask you questions.

18 State, you may proceed.

19 MR. LEXIS: Thank you, Your Honor.

20 Good afternoon folks. I'll try to be as brief as I can.

21 You can just randomly give it to anybody, the mic. Thank you.

22 Folks, as the judge told you earlier, the State has the burden  
23 of proof. We have to prove the case. Does anyone disagree with that  
24 notion? Let the record reflect no response. And you're going to hear my  
25 say that to myself repeatedly. It's because there's a record and it's

1 being recorded.

2 As the defendant sits there right now, he's not guilty. Does  
3 anyone disagree with that? Let the record reflect, no response.

4 After we pick a jury, the judge is going to say, State, do you  
5 want to do opening statements and ask the defense the same thing.  
6 We'll get up and talk to you about the case. If the judge then says,  
7 State, call your first witness, and we say, Judge, we rest, you would only  
8 have one option if you went back and deliberated. And it would be not  
9 guilty, because the State has not presented any evidence; does anyone  
10 disagree with that notion? Let the record reflect no response.

11 The evidence is going to come from right here, the witness  
12 stand. That's the evidence. Now, let's say there's -- first of all, does  
13 anyone believe that the District Attorney's Office can pick who becomes  
14 victims of crime? Let the record reflect no response.

15 Does anyone here think we can pick who becomes witnesses  
16 to crimes? Let the record reflect no response.

17 Let's say there's the same set of circumstances, same facts.  
18 The same set of circumstances and facts the victim is a doctor in  
19 Summerlin, and the same set of facts and circumstances is a victim and  
20 she's a homeless drug addict, former gang member, go on and on.  
21 Does anyone here believe that the District Attorney's Office should go  
22 after the person that committed the crime against the doctor more  
23 aggressively than the homeless drug addict? Let the record reflect no  
24 response.

25 Let's say -- and the judge is going to show you the law and

1 what reasonable doubt means. Let's say just one person took this  
2 stand -- let me back up before I even go there.

3 Does here anyone watch *CSA*, those crime scene shows?  
4 Yes?

5 Can you pass the mic to Juror 1090.  
6 Sir, is that correct?

7 PROSPECTIVE JUROR NO. 1090: Yes.  
8 MR. LEXIS: What crime shows do you watch?  
9 PROSPECTIVE JUROR NO. 1090: *Law & Order*.

10 MR. LEXIS: Okay. In Clark County, with over two million  
11 people, do you think Metro is going to have time to come up, roll up with  
12 multiple detectives and multiple air units, CSAs; do you think that  
13 happens in every case?

14 PROSPECTIVE JUROR NO. 1090: No.  
15 MR. LEXIS: Now, are you going to expect the State to that  
16 kind of standard that you see on TV?

17 PROSPECTIVE JUROR NO. 1090: Is that a trick question?  
18 MR. LEXIS: No.  
19 PROSPECTIVE JUROR NO. 1090: No. I don't expect that  
20 kind of standard, like TV drama. No.

21 MR. LEXIS: I ask, because you'd be surprised. People --  
22 PROSPECTIVE JUROR NO. 1090: The way you asked it, it  
23 was a little --

24 MR. LEXIS: All right. Anybody -- do you know what I'm  
25 getting at? Does anybody expect that type of investigation and the



1 amount of resources that just, at a snap in the finger, happens like it  
2 does on TV? Let the record reflect no response.

3 Now, would you agree that -- pass -- pass the mic to your left  
4 or right or behind you, I don't care. Okay.

5 Juror 1091; is that correct?

6 PROSPECTIVE JUROR NO. 1091: Yes, sir.

7 MR. LEXIS: Sir, do you believe that there are certain crimes  
8 where there is no forensic evidence left behind? There is no, let's say,  
9 fingerprint evidence, DNA evidence, cameras?

10 PROSPECTIVE JUROR NO. 1091: There may be some left  
11 behind, yeah.

12 MR. LEXIS: And can you give me an example of some of  
13 those crimes?

14 PROSPECTIVE JUROR NO. 1091: Not specific crime, no.  
15 But I would imagine there are things that are left behind. You know, by  
16 time, just by mistakes.

17 MR. LEXIS: Okay. Let's say somebody goes in some alley,  
18 sees some woman walk in an alley and grabs her purse and takes off.  
19 There's no cameras behind there. Let's say there's no cameras. Okay?  
20 And let's say there's no fingerprints or no DNA. And let's say he did  
21 leave behind something that --

22 PROSPECTIVE JUROR NO. 1091: Uh-huh.

23 MR. LEXIS: -- he dropped or that was the victim's and he  
24 dropped. And it came back, there -- because there's no guarantee,  
25 there was no DNA or no fingerprint evidence. But do you think those

1 cases can be prosecuted?

2 PROSPECTIVE JUROR NO. 1091: I don't know if they could  
3 or not. I mean, well, they may attempt, but all of the evidence may not  
4 come out.

5 MR. LEXIS: What happens if the only person to witness that  
6 crime was the actual victim?

7 PROSPECTIVE JUROR NO. 1091: Well, there will probably  
8 still be an attempt to prosecute.

9 MR. LEXIS: Okay. Folks, let's say that the State just calls  
10 one person on the stand. And that's all the evidence in this case, one  
11 person. There is no forensic evidence. There's no DNA and there's no  
12 fingerprints, there's no video surveillance, there's no independent  
13 eyewitness. If all you have is just one person, and even though the law  
14 says that you can convict based on just one person if you believe that  
15 person beyond a reasonable doubt, is there anybody here that's going to  
16 say, you know what, I'm not going to be able to do that? Just one  
17 person saying what happened is not enough for me.

18 Go ahead. Can you pass this over?

19 Juror 1086?

20 PROSPECTIVE JUROR NO. 1086: Sorry, yeah. I don't  
21 think -- I -- I would have a hard time with one person.

22 MR. LEXIS: Okay. Can you think of some other crimes,  
23 ma'am, that happen just where there's the defendant and the victim?

24 PROSPECTIVE JUROR NO. 1086: Yeah. I'm sure there's a  
25 lot of crimes that happen with just two people there. But when it's a he

1 said/she said, and, like, from my perspective, if I don't know either of  
2 these people, it would be hard for me to say this person is telling the  
3 truth and this person isn't, when I -- I don't know them, I'm just listening  
4 to what they said happened. But if there happened to be multiple people  
5 who witnessed something and gave the same account, then that would  
6 be different.

7 MR. LEXIS: Okay. Does anyone feel the same way? And  
8 that's fine if you do. Pass it over, please.

9 1082?

10 PROSPECTIVE JUROR NO. 1082: Yes.

11 MR. LEXIS: Go ahead, sir.

12 PROSPECTIVE JUROR NO. 1082: So like she said, if it's just  
13 one person, it -- I'd be reluctant to make a decision. Well, I guess it  
14 depends on what the consequences are too. If it was just -- if it was  
15 something that was just a fine, then I'd be more willing to go off -- based  
16 off how I feel with that one. But if it was time in jail or whatever else  
17 might come, I'd be a little more reluctant to base it just off one decision.

18 MR. LEXIS: Okay. Let me stop you right there and let's get  
19 sidetracked for a second.

20 First of all, and you'll be instructed, sentencing is up to the  
21 judge. You are not to go back and consider any type of sentencing  
22 when you're deliberating whether or not somebody is guilty or not guilty.  
23 That is absolutely law. The judge is the trier of the law, you're the trier of  
24 the fact. He's also the sentencer. You are not to consider that.

25 However, sir, you're telling me if there's just one person, we

1 just call one person to the stand and, even though you're not to consider  
2 that, you -- your back of your mind that this person might be going to jail,  
3 you believe that you're not going to be able to find guilty?

4 PROSPECTIVE JUROR NO. 1082: If it's just off someone  
5 saying this is what happened to me and there's no physical evidence,  
6 nothing else, I'd find it hard. Because it's kind of like any statistic; if you  
7 just have one person, it's not going to be -- the results aren't as definite.

8 MR. LEXIS: Okay. Let me ask you this, sir. You -- we can go  
9 with many examples. Let's go with a common one, battery, domestic  
10 violence. Do you agree that battery, domestic violence happens in  
11 homes all across this country?

12 PROSPECTIVE JUROR NO. 1082: Yes.

13 MR. LEXIS: And do you believe there's times where there is  
14 no physical injuries?

15 PROSPECTIVE JUROR NO. 1082: Yeah, I guess, like, verbal  
16 and --

17 MR. LEXIS: What was that, sir?

18 PROSPECTIVE JUROR NO. 1082: -- well -- like, would that  
19 be, like, mental abuse and whatnot?

20 MR. LEXIS: No, sir. If you had --

21 PROSPECTIVE JUROR NO. 1082: Verbal? Or all physical?

22 MR. LEXIS: If you got upset with your spouse, girlfriend,  
23 whatever, you grab her, you put her in a choke hold, you push her down.  
24 By the time the cops get there, there's no physical injuries. First of all,  
25 you would agree that's a battery, correct?

1 PROSPECTIVE JUROR NO. 1082: Yes.

2 MR. LEXIS: All right. Now, if the only person -- let's say there  
3 is no cameras in the home, and there is no specific type of forensic  
4 evidence that would help determine whether or not this person battered  
5 her, do you believe that the District Attorney's Office should just deny  
6 prosecution?

7 PROSPECTIVE JUROR NO. 1082: No.

8 MR. LEXIS: So you believe we should prosecute those  
9 cases?

10 PROSPECTIVE JUROR NO. 1082: Yes.

11 MR. LEXIS: All right. Same thing with somebody in an alley,  
12 like I gave a previous example. Lady going back there, there's no video  
13 cameras. Maybe there's evidence left behind, but there's no forensics  
14 left behind. Maybe the prints weren't good enough or not enough DNA  
15 was left on it. Okay. And we just have this one person taking the stand.  
16 In that situation, do you believe that we should deny that case?

17 PROSPECTIVE JUROR NO. 1082: Can you repeat that?

18 MR. LEXIS: Okay. Do you believe that we should prosecute  
19 that case?

20 PROSPECTIVE JUROR NO. 1082: Yes.

21 MR. LEXIS: Okay. And let's say the only person we have to  
22 put forward on the stand for you in that case is the actual victim. You  
23 get what I'm saying?

24 PROSPECTIVE JUROR NO. 1082: Yeah.

25 MR. LEXIS: Okay. Are you telling me that -- let's say you

1 believe that witness beyond a reasonable doubt. And as the law allows,  
2 if you believe that one witness beyond a reasonable doubt, the  
3 defendant did it, the State is entitled to a guilty verdict?

4 PROSPECTIVE JUROR NO. 1082: Yes.

5 MR. LEXIS: Would you be able to find guilty?

6 PROSPECTIVE JUROR NO. 1082: Yes.

7 MR. LEXIS: I think everyone gets what I'm getting at. Is there  
8 anybody here -- and it's okay if you do, one person on the stand, okay,  
9 homeless drug addict, crimes happen against those people too. And  
10 they come in here and tell you a person in the defense chair is the one  
11 that did it to me and you believe that person beyond a reasonable doubt;  
12 is there anybody in here that's going to say no? Even though the law  
13 allows if I believe that person beyond a reasonable doubt to find guilty,  
14 I'm not going to be able to do it, because my gut's not going to be right,  
15 I'm not having a feeling that, you know what, I need more. I need  
16 another witness. I need forensic evidence. Anybody?

17 Sir, 1004?

18 PROSPECTIVE JUROR NO. 1004: Yeah.

19 MR. LEXIS: Could you pass the mic back, sir? Here I got it.  
20 Go ahead, sir.

21 PROSPECTIVE JUROR NO. 1004: I'm sorry, I -- I mean, if  
22 you're just saying it's this one person's word against another, I mean, we  
23 can't decide on that. I couldn't.

24 MR. LEXIS: Okay. So same type of question, sir. On most  
25 crimes that happen against victims like that, okay, somebody goes out in

1 the grocery store parking lot tonight, late at night, no cameras, nobody  
2 around, they don't leave any forensic evidence, cops come, get that  
3 person's statement, submit it to my office. And one of the district  
4 attorneys should say, you know what, this is only going to be -- have one  
5 witness to the stand, denied prosecution. I mean, it's all right if you  
6 believe that, I'm just --

7 PROSPECTIVE JUROR NO. 1004: Yeah. Because I don't  
8 think you're going to get a -- get 12 people to say that that person was  
9 guilty. I mean, I could see maybe the majority of people think he's guilty,  
10 but I think a lot of people would not convict just on that.

11 MR. LEXIS: Okay. I'm not asking about everybody. I'm  
12 asking about you, sir. Do you -- is that your belief, that if that's -- on  
13 situations like that -- and again, assuming that you believe that person  
14 beyond a reasonable doubt, you're not going to be able to convict?

15 PROSPECTIVE JUROR NO. 1004: Yeah. I will not be able to  
16 guess.

17 MR. LEXIS: Okay. And so just to be clear, on those type of  
18 cases that come in, and the -- the most common one would be domestic  
19 violence, you believe that we should deny prosecution every time that  
20 happens, when there's no forensic evidence, physical evidence and no  
21 independent eyewitnesses, because all we have is one person to take  
22 the stand?

23 PROSPECTIVE JUROR NO. 1004: Yes.

24 MR. LEXIS: Okay. Does anybody else feel like that? Let the  
25 record reflect no response.

1 Judgment in general. At the end of this trial, you're going to  
2 be asked to cast judgment upon the defendant, whether it be guilty or  
3 not guilty. Does anybody have anything in their past, whether it's  
4 religious personal beliefs or something that's happened to them in the  
5 past, which is going to hinder their ability to cast judgment at the end of  
6 this trial? Let the record reflect no response.

7 Has anybody had any negative contact with law enforcement?

8 Juror No. 977; is that correct, sir?

9 PROSPECTIVE JUROR NO. 977: Yeah. I've been pulled  
10 over. I've been arrested before. I've -- I've been -- plenty of negative  
11 growing up with law enforcement. But there's no question there. But I  
12 have been, yes.

13 MR. LEXIS: Okay. And you -- and you categorized that --  
14 let's ask it this way. Do you believe that was justified or unjustified, how  
15 you were treated by law enforcement?

16 PROSPECTIVE JUROR NO. 977: Both. Sometimes justified,  
17 sometimes not. Sometimes it's kind of like a -- I don't want to say  
18 targeting, but kind of like targeting, I mean, I guess. Coming out of a  
19 bowling alley, I was put on -- put in handcuffs, because they thought I  
20 looked like somebody. Stuff like that. Put in the back of the car, waited  
21 for hours in the back of a car and then find out it wasn't me. So stuff like  
22 that. But then there's stuff I've justifiably done wrong.

23 MR. LEXIS: Like what, sir?

24 PROSPECTIVE JUROR NO. 977: Speeding. I stole before.  
25 Stuff like that.



1 MR. LEXIS: Anybody else have any negative contact with law  
2 enforcement?

3 Has anybody had any positive contact with law enforcement?  
4 Ma'am, Juror 1058?

5 PROSPECTIVE JUROR NO. 1058: I have. Yes, I have.

6 MR. LEXIS: One second, ma'am. We need the mic so they  
7 can hear it for the record.

8 PROSPECTIVE JUROR NO. 1058: You said positive, right?

9 MR. LEXIS: Yes, ma'am.

10 PROSPECTIVE JUROR NO. 1058: Yes, I have. Because I  
11 live alone. And twice I've thought that there was somebody outside.  
12 You know, my dog was barking and all that. And I called and -- and  
13 they're -- they come really fast and check everything out. I'm -- you  
14 know, I'm happy -- I'm happy about that.

15 MR. LEXIS: Okay.

16 PROSPECTIVE JUROR NO. 1058: Makes me feel better.

17 MR. LEXIS: Anybody else?

18 Pass it behind you, ma'am.

19 Juror 961?

20 PROSPECTIVE JUROR NO. 961: I work as a security officer.  
21 And there's been maybe five or six times since 2000 where I've had to  
22 call police about something, like, usually somebody breaking into a car  
23 in a parking lot at my post or someone coming into a retail store that I  
24 was posted at and attempting to steal or create a disturbance. And the  
25 police arrived. They were prompt. They listened to what I had to say

1 and what everybody else had to say and took it from there. I -- I think  
2 they did a -- they made a favorable impression on me in --

3 MR. LEXIS: Anybody else? Pass it down the row.

4 Ma'am, No. 990; is that correct?

5 PROSPECTIVE JUROR NO. 990: Yes. Correct. I've had  
6 lots -- I'm a nurse by profession. I don't treat patients now. But, you  
7 know, I come in contact with law enforcement in certain situations and  
8 EMS and had very positive experiences. I live in a high-rise on the Strip.  
9 Couple weeks ago there was a disturbance. I heard loud music playing  
10 in an abandoned parking lot. And I called the police. They responded  
11 what I thought was very timely. And they even called me back to let me  
12 know that, you know, they checked on it and that they were thankful.  
13 And it was just a very positive experience. I was surprised that they  
14 called me back.

15 MR. LEXIS: Okay. Sir, No. 992?

16 PROSPECTIVE JUROR NO. 992: Yes, sir.

17 MR. LEXIS: Or excuse me, 993.

18 PROSPECTIVE JUROR NO. 993: Oh, yep. Nope, 993.  
19 Correct. Just work, like I say, as an administrator here and deal with  
20 district police often. Specifically in the last seven years and just dealing  
21 with their day-to-day duties. We have students on campus, teenagers  
22 on campus that don't always make the best decisions. And they've  
23 always been, you know, positive with customer service, positive in  
24 dealing with the -- you know, any and all infractions and do a great job in  
25 upholding a safe and secure campus.

1 MR. LEXIS: Anybody in the second row?  
2 Number 1048?  
3 PROSPECTIVE JUROR NO. 1048: Yes.  
4 MR. DICKERSON: Is that correct, ma'am?  
5 PROSPECTIVE JUROR NO. 1048: Yes.  
6 MR. DICKERSON: Yes.  
7 PROSPECTIVE JUROR NO. 1048: When my purse was  
8 stolen, I didn't know that it was stolen at first. It was about midnight and  
9 my phone rang and I heard a woman telling me that she found my card  
10 and she wanted me to come pick it up. And I thought that was going to  
11 be an ambush. I was nervous. Why do you want me, a stranger, to  
12 come -- you know, that's a stranger. I'm going to drive my car to your  
13 house. I didn't know this person.  
14 And I called the police and asked them to escort me to go get  
15 my belongings, and they did. And that actually solved who took it. It  
16 was actually the woman who took it. And you know, I -- I never thought  
17 that they would accompany me, but they handled it and made me feel  
18 more secure.  
19 MR. LEXIS: Okay. Anyone else in the second row?  
20 Anybody else in the first row?  
21 Can you pass it forward, then.  
22 1091?  
23 PROSPECTIVE JUROR NO. 1091: I'm the point of contact  
24 for any security-related incidents at the Water Reclamation District. And  
25 numerous times when we've had incidents happen, I mean, been good

1 response. A lot of -- at least a showed caring to what was going on  
2 and -- and follow up, and they've even come out and done training  
3 sessions with our group. So it's been overwhelmingly positive.

4 MR. LEXIS: Okay. Anyone else in the first row?

5 Can you please pass it back to 1018 in the second row, third  
6 one over.

7 You ma'am, is that Ms. Khuu? Ma'am?

8 PROSPECTIVE JUROR NO. 1018: Yeah.

9 MR. LEXIS: What percentage are you understanding here  
10 today? Percentio?

11 PROSPECTIVE JUROR NO. 1018: Yeah. Thank you. I -- I  
12 understand --

13 THE COURT: Ma'am, can you put the microphone closer --

14 PROSPECTIVE JUROR NO. 1018: I understand --

15 THE COURT: -- to your mouth please?

16 PROSPECTIVE JUROR NO. 1018: -- a little bit, when talk  
17 about some things too, somethings called police.

18 MR. LEXIS: Give me a figure, percentio, how much do you  
19 understand? Comprehende percent?

20 PROSPECTIVE JUROR NO. 1018: I --

21 MR. DICKERSON: She's Vietnamese.

22 MR. LEXIS: All right. Ma'am --

23 PROSPECTIVE JUROR NO. 1018: Yeah.

24 MR. LEXIS: -- I don't know how to speak Vietnamese. I don't  
25 know how to speak Spanish either.

1 PROSPECTIVE JUROR NO. 1018: Yeah.  
2 MR. LEXIS: So --  
3 MR. DICKERSON: I got that.  
4 MR. LEXIS: Ma'am, how much -- percent-wise, how much do  
5 you understand?  
6 PROSPECTIVE JUROR NO. 1018: I think --  
7 THE COURT: Ma'am, can --  
8 PROSPECTIVE JUROR NO. 1018: -- 12, 12 percent.  
9 THE COURT: Ma'am --  
10 PROSPECTIVE JUROR NO. 1018: 12 -- 12 percent.  
11 MR. LEXIS: 12 percent?  
12 PROSPECTIVE JUROR NO. 1018: Yeah.  
13 MR. LEXIS: That's all I need to know. Thank you.  
14 Pass it up to 1063. Mr. Lopez?  
15 PROSPECTIVE JUROR NO. 1063: Yes, sir.  
16 MR. LEXIS: I'll try my great Spanish with you. Percentio  
17 comprehende?  
18 PROSPECTIVE JUROR NO. 1063: My English is, you know,  
19 a little bit. So, you know, maybe --  
20 MR. LEXIS: Give me a percentage.  
21 PROSPECTIVE JUROR NO. 1063: Huh?  
22 MR. LEXIS: Percentage?  
23 PROSPECTIVE JUROR NO. 1063: In Spanish?  
24 MR. LEXIS: No. In English. How much do you understand  
25 me, percentage?

1 PROSPECTIVE JUROR NO. 1063: Oh, how much do I -- I  
2 don't know. Some words I understand, some words don't understand.  
3 MR. LEXIS: Give me a figure, sir.  
4 PROSPECTIVE JUROR NO. 11063: Yeah. Huh?  
5 MR. LEXIS: Give me a figure. Percentage wise, how much?  
6 UNIDENTIFIED SPEAKER: [In Spanish.]  
7 THE COURT: Wait, wait, wait. Please do not speak in  
8 Spanish.  
9 PROSPECTIVE JUROR NO. 1063: English?  
10 MR. LEXIS: I wish I would be able to do that, but we can't --  
11 we can't do that. So I need to --  
12 THE COURT: Okay. Just so everybody understands, we  
13 have a court recorder. Everything is being recorded and it has to be in  
14 English. So all questions and answers must be in English.  
15 MR. LEXIS: 10 percent? 20 percent? 50 percent? 100  
16 percent?  
17 PROSPECTIVE JUROR NO. 1063: Maybe 5 percent.  
18 MR. LEXIS: Okay. That's all I need to know. Thank you.  
19 Can you please pass it down to 1090. Mr. Baborian?  
20 PROSPECTIVE JUROR NO. 1090: Baborian.  
21 MR. LEXIS: Baborian. Sir, you mentioned earlier about  
22 somebody being killed in your family?  
23 PROSPECTIVE JUROR NO. 1090: Yeah.  
24 MR. LEXIS: Who was that?  
25 PROSPECTIVE JUROR NO. 1090: My uncle.

1 MR. LEXIS: Your uncle. Do you know the facts of that?

2 PROSPECTIVE JUROR NO. 1090: He was chasing a  
3 notorious pickpocket and it was a rainy day and he got hit by a bus.  
4 The guy got free. And I don't know if the weather condition -- but he had  
5 the guy in sight and he died the next day in the -- the hospital.

6 MR. LEXIS: Okay. About using force, I'm going to ask this to  
7 everybody, because there's been a lot of that going on in the news, use  
8 of force. Does anybody here have an issue with how Metro uses force?  
9 Let the record reflect no response.

10 Is there anyone here that believes that before Metro uses  
11 force, force needs to be used on them? For example, if somebody has a  
12 knife, a knife should be -- a cop should wait until that knife is deployed  
13 on them or somebody else before they use force? Let the record reflect  
14 no response.

15 And sir, I know you were previously asked this question, but  
16 you understand these facts have nothing to do with your situation, and  
17 you understand that what we're ultimately looking here is for fair and  
18 impartial jurors for both sides?

19 PROSPECTIVE JUROR NO. 1090: Yes.

20 MR. LEXIS: And do you understand your duty, if you're  
21 picked as a juror, to be fair and impartial to both sides?

22 PROSPECTIVE JUROR NO. 1090: Yes.

23 MR. LEXIS: And with that, I want to talk about another  
24 question that the judge asked to everyone. And it was giving more  
25 weight. I believe he asked about you add more weight to law

1 enforcement officers. Folks, do you understand whether or not we bring  
2 a firefighter in here, a rocket scientist, some other type of expert, a cop,  
3 you are the ones that are to weigh their credibility, you're the triers of  
4 fact. Okay. You're not to automatically presume what is coming out of  
5 their mouth is the truth just by State calls rocket scientist so-and-so to  
6 the stand. Though you could use your common sense, and you'll be  
7 instructed to use your common sense, you are to hold off on judgment  
8 until you hear what's coming out of their mouth. Does anyone here  
9 disagree with that notion? And I believe -- first of all, does anyone here  
10 disagree with that notion? Let the record reflect no response.

11 Can you please pass the mic back to Juror 993.

12 Sir, do you remember that question being asked of you?

13 PROSPECTIVE JUROR NO. 993: Yes, sir.

14 MR. LEXIS: And do you remember your response?

15 PROSPECTIVE JUROR NO. 993: Yes, sir.

16 MR. LEXIS: Do you remember you saying it depends on the  
17 evidence?

18 PROSPECTIVE JUROR NO. 993: Correct.

19 MR. LEXIS: Which is a very good way of putting it. Does  
20 anyone here disagree with that? That's essentially what we're getting at.  
21 You are to -- evidence is going to come from up there. It's not going to  
22 come from anybody's title. You're to weigh their evidence and their  
23 credibility from what's on the stand. Does anybody disagree with that?

24 And sir, was that what -- what you were trying to convey when  
25 you said depends on the evidence?



1 PROSPECTIVE JUROR NO. 993: Correct.

2 MR. LEXIS: Can anybody think of any other reasons on why  
3 they would not be fair and impartial? Let the record reflect no response.  
4 Court's indulgence.

5 Can you please pass the mic over to Juror 980.

6 I know you've been dying to talk, ma'am, too, because I saw  
7 you raise your hand earlier when somebody else --

8 PROSPECTIVE JUROR NO. 980: Oh. No, I just -- I -- I'm still  
9 a little worried about my feelings. I just don't want them to get in the way  
10 of me making the right decision. I've -- I've been feeling like I didn't get  
11 any justice. So therefore I feel like it may, you know, change the way I --  
12 I should -- I don't want to say vote or decide on -- on what it is I should  
13 do. You don't know how hard I pray that I wouldn't get a case like this. I  
14 wanted a civil case, something that wasn't going to tug at my  
15 heartstrings. But this one does because of, you know, people getting  
16 hurt. There's so much of that right now that it overwhelms me. And I'm  
17 just nervous. I want to do the right thing, mind you, but I don't know if I  
18 can. Do you understand?

19 MR. LEXIS: Well, first of all, I appreciate what -- where you're  
20 coming from. No, I can't speak on your behalf, because I don't have the  
21 full set of circumstances I'm faced with. But I think what you just  
22 reiterated, you said that it's important for justice to be served, correct?

23 PROSPECTIVE JUROR NO. 980: Yes.

24 MR. LEXIS: Okay. And if picked as a juror, you're the one  
25 ultimately going to be serving the justice as far as whether somebody is

1 guilty or not guilty. And you're going to be the one judging the people  
2 that take the stand on whether or not they're credible or not.

3 PROSPECTIVE JUROR NO. 980: Are you okay with that? I  
4 mean, are you okay with the way that I feel about it? I --

5 MR. LEXIS: Ma'am, everyone comes in with their own set of  
6 circumstances and background. The most important things to both sides  
7 of us is whether you could intelligently give a fair and impartial verdict.

8 PROSPECTIVE JUROR NO. 980: Okay. I'll really try.

9 MR. LEXIS: We're not doing anything really that would be --  
10 wouldn't -- wouldn't make you to be a fair and impartial juror, ma'am.  
11 Unless you want to tell me some other reason that I'm not hearing.

12 PROSPECTIVE JUROR NO. 980: No. No. That's just -- I  
13 just had a big loss, is all. I just, you know -- things like that, you just  
14 don't get over.

15 MR. LEXIS: Okay. But would you be able to sit here and  
16 listen to the evidence?

17 PROSPECTIVE JUROR NO. 980: I think so.

18 MR. LEXIS: Okay. Anybody else have anything that would  
19 affect their ability to be fair and impartial?

20 Court's indulgence.

21 We'll reserve our for-cause challenges at the end, Judge.

22 THE COURT: Okay. Defense, you may proceed.

23 MR. COYER: Good afternoon everyone. Again, my name is  
24 Gregory Coyer. So does everybody understand that there's no right or  
25 wrong answers during this process? Does anybody feel like there's a

1 right or a wrong answer when somebody asks you a question? Seeing  
2 no hands.

3 Mr. Locke, if you could -- Ms. Ramos, could you just pass the  
4 mic down to Mr. Locke, please?

5 Can you hear me?

6 PROSPECTIVE JUROR NO. 1004: Yes.

7 MR. COYER: Okay. Previously, when Mr. Lexis was asking  
8 you some questions, you said that it would be difficult if it was just one  
9 person's word against another person's word, right?

10 PROSPECTIVE JUROR NO. 1004: Yes.

11 MR. COYER: Would it be easier if that one person was a  
12 police officer?

13 PROSPECTIVE JUROR NO. 1004: Well, there's got to be  
14 more evidence than just one person's word against the other. I -- I  
15 mean, you -- it's -- I mean, I would probably lean towards the police  
16 officer. But, I mean, there's got to be something else, I would think. I  
17 mean, I -- I know you're talking about an ideal case, but there has to be  
18 something else involved, I guess, other than just the word of the two  
19 parties there.

20 MR. COYER: Okay. But would it be easier to believe a police  
21 officer if that was the only witness?

22 PROSPECTIVE JUROR NO. 1004: Well, if you're saying I --  
23 would I vote for guilty if it was only on the word of a police officer?  
24 Probably not.

25 MR. COYER: Okay. And I'm not trying to ask you how you'd

1 vote. I'm not going to ask anybody that question. Okay. So part of the  
2 reason why we go through this process is to make sure that we get a  
3 group of people who are the best situated to make a fair and impartial  
4 determination based on the evidence, whether or not the State's met  
5 their burden of proof.

6 Does everybody understand that? Does anybody need any  
7 clarification on that?

8 So Mr. Locke, for example, there -- there's no right or wrong  
9 answers. Okay? Do you understand that?

10 PROSPECTIVE JUROR NO. 1004: Yes.

11 MR. COYER: All right. Do you recall when the charges were  
12 read this morning?

13 PROSPECTIVE JUROR NO. 1004: A little bit.

14 MR. COYER: I thought I saw you shaking your head when the  
15 charges were read.

16 PROSPECTIVE JUROR NO. 1004: I don't remember. I could  
17 have. I thought they, you know, seemed pretty serious, attacking -- I  
18 thought it was attacking a -- the police officer and -- and drug dealing or  
19 whatever.

20 MR. COYER: Sure. So one of the charges is assault on a  
21 police officer with a deadly weapon. Do you -- you recall that?

22 PROSPECTIVE JUROR NO. 1004: Yes.

23 MR. COYER: Okay.

24 PROSPECTIVE JUROR NO. 1004: Okay.

25 MR. COYER: That charge, just hearing that charge, does that

1 cause anyone to feel any strong feelings toward or in favor of law  
2 enforcement? Okay. For the record, I'm seeing three hands.

3 Could you pass it back down to Ms. Ramos.

4 PROSPECTIVE JUROR NO. 980: Sorry. Well --

5 MR. COYER: Sorry to keep picking on you, Ms. Ramos.

6 PROSPECTIVE JUROR NO. 980: Well, yeah. I -- I feel that,  
7 yeah, I'm really partial to the -- the police officer if he's being attacked  
8 by -- by I guess with a gun, wasn't it? And just that statement right there  
9 sounds really one-sided. I mean, true, I haven't heard the other side  
10 totally, but that -- that kind of sums it up for me, anyway.

11 MR. COYER: What if you never heard the other side?

12 PROSPECTIVE JUROR NO. 980: Never heard the other  
13 side?

14 MR. COYER: Yeah. What if Mr. Valencia just sat there and  
15 never took the stand at any point during this trial; would you have a  
16 problem with that?

17 PROSPECTIVE JUROR NO. 980: Would I? Well, that's not a  
18 very smart thing to do, I wouldn't think. But I probably would have a -- I  
19 would like to hear what he had to say. Because just that statement --  
20 just that statement alone kind of puts a nail in his coffin. If he doesn't  
21 say anything, then definitely he's, you know, headed in the wrong  
22 direction.

23 MR. COYER: I don't want to put words in your mouth.

24 PROSPECTIVE JUROR NO. 980: Okay.

25 MR. COYER: Is it fair to say that if Mr. Valencia doesn't

1 testify, it would be very difficult for you to vote not guilty?

2 PROSPECTIVE JUROR NO. 980: Yeah. I think it would be  
3 very difficult. I need to hear something.

4 MR. COYER: And I know you talked a lot about the feelings  
5 that you're having during this process.

6 PROSPECTIVE JUROR NO. 980: Yeah.

7 MR. COYER: And I don't even know where to -- how to begin  
8 saying I'm sorry to hear about your son. You mentioned that one of the  
9 things you struggle with is you felt that you didn't get justice?

10 PROSPECTIVE JUROR NO. 980: Right.

11 MR. COYER: So would that -- I was trying to understand what  
12 you meant by that. Did you mean that it would be hard for you to vote  
13 not guilty in any criminal trial, just because you want to make sure justice  
14 is done?

15 PROSPECTIVE JUROR NO. 980: Well, see, that's what I  
16 was afraid of, because it's something that haunts me. Because they  
17 never found who did it. I'm always kind of thinking, well, maybe he's  
18 already in jail by -- because I don't know who this -- who this man -- or  
19 maybe it was even a woman, I don't know. But I don't know. I -- I --  
20 that's why I didn't want to do one of these, because I wasn't sure how it  
21 would make me feel or how I would react. I mean, part of me, I think, to  
22 be honest, wants a conviction somewhere, but that's not the right way to  
23 think, because --

24 MR. COYER: Sure.

25 PROSPECTIVE JUROR NO. 980: -- you know, you got to

1 hear both sides. That's why if he doesn't say anything, that's not a good  
2 thing. But I don't know.

3 I -- I remember when I was going through that process of  
4 trying to piece together what had happened to my son and there was  
5 people that came and told us that, hey, you know, we overheard this  
6 when we were at this party. And then we give that information to the  
7 police officers and they say, well, we can't use it, because that's just  
8 hearsay; they didn't tell it to this guy, they just overheard it. And -- and  
9 that made me angry, because I figured, well, it's something. Can't you  
10 go, you know, investigate something? But they just gave me the kind of  
11 a blank look and that was the end of that.

12 So for me, I -- I want to do the right thing. I -- I don't want  
13 somebody to, you know, just because they look the part or -- or  
14 whatever. But I need -- I think I need more than just that one little line  
15 that you said, just his word and the statement that he was, you know,  
16 attacked with a, you know, with a gun kind of thing just seals it for me.

17 MR. COYER: Right. Given your circumstances --

18 PROSPECTIVE JUROR NO. 980: Uh-huh.

19 MR. COYER: -- if you were on trial, would you want someone  
20 like you on your jury?

21 PROSPECTIVE JUROR NO. 980: Oh, I don't know. I'm kind  
22 of wishy washy right now. I don't know. I -- I really can't say. I really  
23 can't.

24 MR. COYER: And so you know, I'll go back to where I started,  
25 which is, you -- you just mentioned that's the wrong way to think.

1 PROSPECTIVE JUROR NO. 980: Yeah, I know. But --  
2 MR. COYER: That's not -- that's not what we're here to -- to  
3 tell you. What -- there's no right or wrong way to think. What we're  
4 trying to figure out is how you do think so that we can make a decision  
5 about whether or not we want you on our jury, right?  
6 PROSPECTIVE JUROR NO. 980: Yeah. Well --  
7 MR. COYER: So.  
8 PROSPECTIVE JUROR NO. 980: -- I want to -- I want to do  
9 the right thing. And for me, I need to hear more than -- I think, like, my  
10 friend at the end, more than one person. I need evidence of some kind.  
11 MR. COYER: Do you recall the questions about the State's  
12 burden of proof?  
13 PROSPECTIVE JUROR NO. 980: Pardon?  
14 MR. COYER: Do you recall the questions that were being  
15 asked about the State's burden of proof?  
16 PROSPECTIVE JUROR NO. 980: No.  
17 MR. COYER: Okay. Well, like Mr. Lexis pointed out, if they  
18 just came out here and made an argument and didn't present -- didn't  
19 present a single witness and said the State rests, that wouldn't be  
20 enough to -- to -- for anybody to convict, right?  
21 PROSPECTIVE JUROR NO. 980: Right.  
22 MR. COYER: Okay. And he gave -- he gave you that  
23 example because he was emphasizing that the State carries the burden  
24 of proof in a criminal case; do you understand that?  
25 PROSPECTIVE JUROR NO. 980: Yeah.



1 MR. COYER: Okay. So going back to the example I gave  
2 you about Mr. Valencia not testifying, for example --

3 PROSPECTIVE JUROR NO. 980: Uh-huh.

4 MR. COYER: -- do you understand that you're not here to  
5 weigh one story versus the other; you're here to weigh all the evidence  
6 and evaluate whether or not the burden of proof has been met?

7 PROSPECTIVE JUROR NO. 980: Okay.

8 MR. COYER: Okay. Do you think you could do that if you -- if  
9 Ms. Plunkett and I sat there and played poker the whole -- throughout  
10 the trial and Mr. Valencia took a nap on the table, do you think you'd be  
11 able to evaluate all the evidence and see if you held the State to their  
12 burden or do you expect something from us? Do you expect us to put  
13 on some kind of a case?

14 PROSPECTIVE JUROR NO. 980: Oh, I would like that. But,  
15 you know, I -- I guess I can -- yeah. I think I could do it. I think I would  
16 be able to weigh all the evidence and put it through my little pea brain  
17 and hopefully I'll come up with a verdict of one way or another.

18 MR. COYER: Okay. Can you pass the mic forward here to  
19 Mr. Sanders.

20 So you had -- you had raised your hand when I asked the  
21 question about feeling in favor of law enforcement when you heard the  
22 charges, right?

23 PROSPECTIVE JUROR NO. 1082: Yes.

24 MR. COYER: Okay. Would you elaborate on that, please?

25 PROSPECTIVE JUROR NO. 1082: To augment, when I first

1 heard the charges, I started coming to conclusions of -- so when I first  
2 heard the charges, I started jumping to conclusions. And so that's why I  
3 guess when I'd fill in the blanks, what I don't know, if it was what I was  
4 thinking, I'd be in favor of law enforcement. But as evidence came out, I  
5 wouldn't respond the same, depending on what happens.

6 MR. COYER: Okay. And I'll ask you, Mr. Sanders, the same  
7 question I asked Ms. Ramos, about whether or not you hear from the  
8 defendant in the case; does it matter to you whether or not you hear  
9 from the defendant in the case?

10 PROSPECTIVE JUROR NO. 1082: So I know the defendant  
11 has no -- they don't have to prove themselves innocent. But to me, I  
12 don't think, unless the evidence that is being provided by the plaintiff just  
13 was a crap shot, I'd expect the defendant to at least, I guess, put forth  
14 something. But I also know that technically, with the Constitution, you  
15 guys don't have to put forth any evidence. They have to prove their side  
16 of the story. But for me personally, kind of like she said, I'd -- it would  
17 help me with my decision if you guys put forth, I guess, some resistance  
18 and gave your side of the story as well.

19 MR. COYER: Would you say that those sentiments that you  
20 just described are increased if the person saying that a crime was  
21 committed is a police officer?

22 PROSPECTIVE JUROR NO. 1082: Yes. If -- it depends on  
23 the evidence. Like, I don't know what exactly the -- I know what the  
24 charges are, but I don't know the story behind it, what happened. Is  
25 there footage of it? Is -- or is it just going to be his word? But it depends

1 what they're claiming. If they're claiming that something big went down,  
2 but there's no proof other than their word, I'd expect there'd be more  
3 proof than just this is what happened, I can't show it, I have no marks on  
4 my body, but this is what happened. But it depends on what -- I guess  
5 what they're saying happened.

6 MR. COYER: Okay. You can go ahead and pass the mic  
7 down to Mr. Baborian -- yes?

8 PROSPECTIVE JUROR NO. 1090: You got it.

9 MR. COYER: All right. I didn't want to leave you out. I saw  
10 that you raised your hand when I asked the question about positive  
11 feelings for law enforcement when you heard the charges read.

12 PROSPECTIVE JUROR NO. 1090: Oh, yeah.

13 MR. COYER: Right?

14 PROSPECTIVE JUROR NO. 1090: Yeah.

15 MR. COYER: Okay. Would you elaborate on -- on your  
16 feelings in that respect?

17 PROSPECTIVE JUROR NO. 1090: Just in the fact that, you  
18 know, based on, like, egregious charges and seems like the State has  
19 enough prosecution to prosecute, so automatically you're in favor of that  
20 they went that route. So you're automatically kind of on the side that --  
21 you're siding with the prosecution, in my mind.

22 MR. COYER: And part of that goes back to what happened  
23 with your -- your uncle, right?

24 PROSPECTIVE JUROR NO. 1090: Yeah.

25 MR. COYER: Okay. Now, if we were here on like, you know,

1 possession of stolen vehicle case or something that's totally unlike what  
2 happened to your uncle --

3 PROSPECTIVE JUROR NO. 1090: Uh-huh.

4 MR. COYER: -- would it be easier for you to --

5 PROSPECTIVE JUROR NO. 1090: Yeah. I'm going to tell  
6 you straight out, yeah.

7 MR. COYER: Yeah. So if the evidence comes out and it to  
8 you, starts to kind of be similar to what happened with your uncle --

9 PROSPECTIVE JUROR NO. 1090: Uh-huh.

10 MR. COYER: -- do you think that you would be able to sit as  
11 an impartial juror?

12 PROSPECTIVE JUROR NO. 1090: But was there multiple  
13 witnesses? Did they say that in the beginning?

14 MR. COYER: I can't answer that for you. But the evidence --

15 PROSPECTIVE JUROR NO. 1090: That's what I thought I  
16 heard.

17 MR. COYER: We have to wait for the evidence portion --

18 PROSPECTIVE JUROR NO. 1090: Okay.

19 MR. COYER: -- to -- to answer that question.

20 PROSPECTIVE JUROR NO. 1090: I just -- I -- you asked  
21 somebody this question, I believe, a little bit ago. And if -- it -- if I was in  
22 his shoes, I don't know if I'd want somebody like a few -- me or a few of  
23 the other people on this -- I'd want the fairest, most bipartisan -- partial --  
24 no, I wouldn't want me on the -- I'm not trying to get out of jury duty. If I  
25 was these guys, I'd want me on it.

1 MR. COYER: Okay. Well, I appreciate your -- your candor. I  
2 do. Thank you very much.

3 PROSPECTIVE JUROR NO. 1090: I hate to say that, but --

4 MR. COYER: Like I said, there's no right or wrong answer so  
5 thank you for sharing that. I appreciate it.

6 PROSPECTIVE JUROR NO. 1090: No problem.

7 MR. COYER: Let us pass the mic over to Ms. Buncio.

8 Did I say that right?

9 PROSPECTIVE JUROR NO. 1011: Yeah.

10 MR. COYER: Buncio?

11 PROSPECTIVE JUROR NO. 1011: Yeah.

12 MR. COYER: All right. Okay. Can you hear me okay?

13 PROSPECTIVE JUROR NO. 1011: Yeah.

14 MR. COYER: Okay. As I recall, you said that it depends,  
15 when you were asked about whether or not you might be impartial  
16 toward law enforcement; do you recall that?

17 PROSPECTIVE JUROR NO. 1011: Yeah. I remember that.

18 MR. COYER: Would you explain that answer a little more for  
19 me?

20 PROSPECTIVE JUROR NO. 1011: It depends because, first  
21 of all, if I have the time, I mean, I just travel a long year. That's so I'm  
22 having a hard time. And depends on, what's this, depends on the --  
23 the --

24 MR. COYER: Keep that mic up close to your mouth.

25 PROSPECTIVE JUROR NO. 1011: I don't know how to

1 answer. I don't know.

2 MR. COYER: Would you feel it would be difficult to -- to --  
3 would you feel like if you voted not guilty, you were voting against law  
4 enforcement?

5 PROSPECTIVE JUROR NO. 1011: No.

6 MR. COYER: Okay. Are you more likely to believe someone  
7 if they are a law enforcement officer?

8 PROSPECTIVE JUROR NO. 1011: I think so.

9 MR. COYER: Okay. Would you like someone that feels that  
10 way to be a juror if it was you that was on trial?

11 PROSPECTIVE JUROR NO. 1011: Maybe. Maybe. I'm not  
12 so sure about it.

13 MR. COYER: Okay. I'm going to ask this question to the  
14 entire group here now. And again, no right or wrong answers. We're  
15 just trying to see how some of you think. Okay?

16 Is there anybody here who under no circumstances could  
17 accept that a police officer was not telling the truth? Not seeing any  
18 hands.

19 Go ahead and slide it down to Ms. Iaconi there.

20 Can you hear me?

21 PROSPECTIVE JUROR NO. 1048: Yes.

22 MR. COYER: Okay. You -- you had mentioned you had been  
23 victimized several times?

24 PROSPECTIVE JUROR NO. 1048: Yes.

25 MR. COYER: Right? I'm sorry to hear that. And I know that

1 some of your experiences with law enforcement you described as very  
2 positive, right?

3 PROSPECTIVE JUROR NO. 1048: Yes.

4 MR. COYER: Okay. So would you say that you're more likely  
5 to side with or believe law enforcement because of your experiences?

6 PROSPECTIVE JUROR NO. 1048: We're almost  
7 programmed that they're an authority and a higher -- they're held to a  
8 higher standard. But you -- you have to look at everything. I understand  
9 that.

10 MR. COYER: Based on your experiences, do you see law  
11 enforcement as the good guys?

12 PROSPECTIVE JUROR NO. 1048: For the most part, I'd like  
13 to think that.

14 MR. COYER: Okay. If you were on trial, do you think you  
15 would be the kind of person you'd want on your jury?

16 PROSPECTIVE JUROR NO. 1048: That I would want  
17 someone like me on my jury? Absolutely.

18 MR. COYER: Okay. So I'm going to ask another panel  
19 question here. Has anybody ever been falsely accused of anything?  
20 Okay.

21 Let's see, Mr. Sanders, right?

22 PROSPECTIVE JUROR NO. 977: Yeah.

23 MR. COYER: Raised his hand.

24 PROSPECTIVE JUROR NO. 977: Like I talked about earlier,  
25 coming out of that bowling alley, I was accused of being the wrong

1 person and stuff like that. And that's not the only time. I've been  
2 accused of stealing before, even though I have in the past. This is, like,  
3 recently that I got stopped, had to go in the back. And it was just  
4 somebody that looks like me. It wasn't me. So I sat there for a couple  
5 hours and they let me go when they found out the real guy wasn't --

6 MR. COYER: So in -- in that experience, if you had had to  
7 prove your own innocence, would you have been able to do it?

8 PROSPECTIVE JUROR NO. 977: Yeah. Because they had  
9 cameras.

10 MR. COYER: Okay. Do you think that someone accused  
11 should have to prove their own innocence or do you think that the  
12 accusers should have to prove what they've accused?

13 PROSPECTIVE JUROR NO. 977: Both, in a sense. Like, if  
14 I'm getting accused, I should be -- they have to prove that I'm doing  
15 something wrong and I should be able to prove that I didn't do it wrong.

16 MR. COYER: Based on that, would you expect to see  
17 something from the defense?

18 PROSPECTIVE JUROR NO. 977: Yes.

19 MR. COYER: Okay. Would you be able to vote not guilty if  
20 we didn't do anything, but the State didn't prove their case either?

21 PROSPECTIVE JUROR NO. 977: Probably not.

22 MR. COYER: Okay.

23 THE COURT: Counsel, I'm going to stop you at this point.

24 MR. COYER: Is it 4:30? Okay.

25 THE COURT: Ladies and gentlemen, we're going to take our



1 evening recess.

2           During this recess you're admonished not to talk or converse  
3 among yourselves or with anyone else on any subject matter connected  
4 with this trial, or read, watch, or listen to any report or -- of or  
5 commentary on the trial or any person connected with this trial by any  
6 medium of information, including, without limitation, through social  
7 media, text, newspapers, television, the Internet, and radio. At this  
8 point, you haven't heard any testimony, but do not visit the scene of any  
9 of the events mentioned during the trial or undertake any investigation.  
10 Do not do any posting or communications on any social networking sites  
11 or do any independent research, including Internet searches, or form or  
12 express any opinion on any subject connected with the trial until the  
13 case is finally submitted.

14           If you could return tomorrow at 11:30 and remain in the  
15 hallway until the marshal brings you into the courtroom. As I advised  
16 you, I anticipate taking our lunch break at approximately 1:30 tomorrow.  
17 So we're going to have a little bit of a late lunch because we're having a  
18 late start. So at this time we'll -- I'll excuse you and we're taking our  
19 evening recess.

20           [Prospective jury panel recessed at 4:28 p.m.]

21           THE COURT: What I anticipate, we'll finish attorney voir dire.  
22 I may ask some follow-up questions based on the attorney voir dire. I  
23 don't know how much longer you have, Mr. Coyer.

24           MR. COYER: Very little, if any.

25           THE COURT: Okay. And then I'll just ask some -- may

1 follow-up questions. Then I'll take a recess and you can argue  
2 challenges for cause. And, obviously, if any are removed for cause,  
3 then I'll re-seat those vacant seats, go back through and ask the  
4 individual voir dire. Then you'll be allowed to do attorney voir dire. And  
5 then we'll do the same process again until we get 24 people that -- that  
6 pass cause. And then we'll do the peremptory challenges.

7 MR. DICKERSON: From our end, I think that we'll plan on  
8 trying to have a witness here by 12:30.

9 THE COURT: You're very optimistic.

10 MR. DICKERSON: Luckily, if I can make it happen. They're  
11 police officers and we can have them wait around.

12 THE COURT: I'm hopeful to take testimony tomorrow  
13 afternoon.

14 MR. DICKERSON: But other --

15 THE COURT: I'm not going to hold it against you --

16 MR. DICKERSON: Okay.

17 THE COURT: -- if we have to wait a little bit for a witness, but  
18 I am hopeful to have a jury by the lunch hour.

19 MR. DICKERSON: Okay.

20 THE COURT: And then hopefully start taking some testimony.  
21 I mean, I'm assuming, you know, the opening statements aren't going to  
22 be lengthy. And then we'll start taking some testimony tomorrow  
23 afternoon.

24 MR. DICKERSON: Okay. Great. I appreciate it, Your Honor.

25 THE COURT: Thank you. So if there's any -- I mean, both of

1 you are probably going to be here during my 9:00 calendar. You can  
2 kind of gauge, if there's anything that needs to be brought to my  
3 attention, please let my law clerk know before I bring the jury back in.

4 MR. DICKERSON: Absolutely.

5 MR. COYER: Will do.

6 THE COURT: Okay. All right. We're in recess until 11:30  
7 tomorrow.

8 MR. DICKERSON: Thank you.

9 MR. COYER: Thank you, Your Honor.

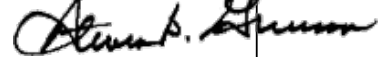
10 MS. PLUNKETT: Thank you, Judge.

11 [Proceedings concluded at 4:31 p.m. until November 28, 2017,  
12 at 11:30 a.m.]

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

22  
23 

24 Shawna Ortega, CET\*562



1 **RTRAN**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6  
7 THE STATE OF NEVADA, )

8 Plaintiff, )

9 vs. )

10 CEASAR SANCHAZ VALENCIA, )

11 Defendant. )

Case No. C-16-315580-1

DEPT. XVIII

12  
13 BEFORE THE HONORABLE MARK B. BAILUS, DISTRICT COURT JUDGE

14  
15 TUESDAY, NOVEMBER 28, 2017

16 **TRANSCRIPT OF PROCEEDINGS RE:**  
17 **JURY TRIAL - PHASE I - DAY 2**

18 **APPEARANCES:**

19 For the Plaintiff:

20 MICHAEL DICKERSON, ESQ.  
(Deputy District Attorney)  
21 CHAD N. LEXIS, ESQ.  
(Deputy District Attorney)

22 For the Defendant:

23 GREGORY E. COYER, ESQ.  
ALEXIS ANNE PLUNKETT, ESQ.

24 RECORDED BY: ROBIN PAGE, COURT RECORDER  
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INDEX

Page No.

Jury impaneled	83
Preliminary jury admonishment read	83
Opening statement by Plaintiff	95

WITNESSES

PLAINTIFF'S WITNESSES:

CHRISTOPHER HOUSTON

Direct Examination	103
Cross-Examination	125
Redirect Examination	146
Recross-Examination	149

EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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State's Exhibit Nos. 9 through 11	107
State's Exhibit Nos. 17 and 26	115
State's Exhibit No. 8	123
Defense Exhibit No. A	138

1                   **LAS VEGAS, NEVADA, TUESDAY, NOVEMBER 28, 2017**

2                   [Proceedings commenced at 11:34 a.m.]

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

5                   THE COURT: Please be seated. This continuation of *State*  
6 *vs. Sanchaz*, Case No. C-315580. Apparently, over the evening recess,  
7 one of the potential jurors, Mr. Sanders, is claiming undue hardship. He  
8 e-mailed the court. I'm going to provide counsel with a copy of the  
9 e-mail.

10                  MR. DICKERSON: Thanks.

11                  [Pause in proceedings.]

12                  THE COURT: And this can be a -- a court exhibit. I'm also  
13 going to make this e-mail a court exhibit. Okay.

14                  MR. DICKERSON: Judge --

15                  THE COURT: What I was going to do, we're missing a couple  
16 of potential jurors. I think a -- a couple haven't arrived yet. I was going  
17 to bring Mr. Sanders in, advise him I got the e-mail, let you ask him a  
18 couple questions, then excuse him and then we'll discuss whether he  
19 qualifies for undue hardship, if he should be excused.

20                  MR. LEXIS: State's going to object to that.

21                  MR. COYER: Just to complete that record, Mr. Sanders, I  
22 was told this morning, also approached my co-counsel, Ms. Plunkett.  
23 And I'll let her make the representations as to what he said to her. We  
24 just wanted the court to be aware of that since it was a communication  
25 from a juror.

1 THE COURT: Why don't you put it on the record.

2 MS. PLUNKETT: And, Judge, Mr. Sanders approached me  
3 outside in the hallway. He indicated that he had a hardship. He had  
4 already sent an e-mail, and if I could alert the marshal so he did not  
5 disrupt the proceedings. I said yes, and walked away.

6 THE COURT: Okay. I'm going bring him in, tell him that we  
7 received the e-mail, and I was going to let counsel ask him some  
8 questions. And then we'll excuse him. We'll discuss whether he  
9 qualifies as an undue hardship.

10 So why don't you bring -- is Mr. Sanders out there?

11 THE MARSHAL: Yes, sir.

12 THE COURT: Why don't you bring him in.

13 [Prospective Juror No. 1082 entered courtroom.]

14 THE COURT: Mr. Sanders, why don't you -- come forward,  
15 just come forward to the podium. Okay. No, to the podium.

16 PROSPECTIVE JUROR NO. 1082: Sorry.

17 THE COURT: That's okay. Two things. You have -- you  
18 e-mailed the court this morning and I provided a copy of your e-mail to  
19 both the prosecution and defense counsel. Also one of defense counsel  
20 told me that you approached her this morning. Again, I'm going to  
21 admonish you, do not attempt to speak with any counsel in this case  
22 outside the presence of the court.

23 I have provided a copy of your request to be excused due to  
24 an undue hardship. I'm going to allow counsel to ask you some  
25 questions at this time.

1                   Would it be easier, counsel, if I had him sit in the front row of  
2 the -- the jury box?

3                   MR. DICKERSON: Court's pleasure.

4                   MR. COYER: I think so because there's a microphone that  
5 will pick him up.

6                   THE COURT: Why don't you sit in one of the chairs in the  
7 front row. Thank you.

8                   And for the record, this is Rex Sanders, Badge No. 1082.  
9 State?

10                  MR. LEXIS: State has no questions.

11                  THE COURT: Mr. Coyer?

12                  MR. COYER: I don't believe we have any questions for  
13 Mr. Sanders either, Judge.

14                  THE COURT: Okay. I do have a couple of questions. You  
15 say you're a part-time student at CSN and you're taking online classes,  
16 so you have a little bit of freedom with that. Why can't you complete  
17 your classes -- I mean, your assignments at night? We're only going to  
18 go -- so just you know, Mr. Sanders, because of the court's calendar, I  
19 probably will never start before 11:30 in the morning and we'll never go  
20 beyond 5:00. So we're only talking of that type of window. So you  
21 would have sufficient time in the morning and in the evening to complete  
22 your assignments, just so you're aware. And it's only going to probably  
23 go to the end of the week, at most.

24                  So it seems like you would have sufficient time to complete  
25 your assignments, either in the morning -- and there may be some



1 mornings -- days we may not even go until later, depending on the  
2 court's calendar. But the earliest I would probably go is 11:30 and I will  
3 not go passed 5:00. And I anticipate on Thursday I'm not going to go  
4 beyond 3:30. I believe it's Thursday I -- I'm going to break at 3:30. So I  
5 think you would have sufficient time to complete your assignments, quite  
6 frankly.

7 PROSPECTIVE JUROR NO. 1082: All right.

8 THE COURT: Okay?

9 PROSPECTIVE JUROR NO. 1082: Yes.

10 THE COURT: Okay. So counsel approach.

11 [Bench conference transcribed as follows:]

12 THE COURT: Does anybody think he qualifies for an undue  
13 hardship?

14 MR. DICKERSON: Doesn't appear to --

15 THE COURT: Counsel for State.

16 MR. COYER: No --

17 THE COURT: I mean, counsel for defense?

18 MR. COYER: We don't have a position one way or the other.

19 MR. LEXIS: We want him to stay.

20 THE COURT: Okay. Well, at this --

21 MR. DICKERSON: And I think by his own letter, it just -- it  
22 indicates that it's not really school that's a problem. It's work --

23 THE COURT: Well, based on my --

24 MR. DICKERSON: -- and he doesn't live paycheck to  
25 paycheck.

1 THE COURT: Right.

2 MR. DICKERSON: And so based on that --

3 THE COURT: I'm just -- I just not going to excuse him at this

4 time for undue hardship. Okay?

5 MR. DICKERSON: Thank you.

6 THE COURT: Thank you.

7 [End of bench conference.]

8 THE COURT: Mr. Sanders, based on your representations

9 and response to my questions, I'm not going to excuse you --

10 PROSPECTIVE JUROR NO. 1082: All right.

11 THE COURT: -- for an undue hardship.

12 PROSPECTIVE JUROR NO. 1082: All right.

13 THE COURT: All right. But thank you for notifying the court.

14 And again, I'm going to admonish you, do not approach counsel. If -- if

15 you are selected as a juror, do not approach counsel. They cannot talk

16 to you. It would be improper for them to have what's called an ex parte

17 communication with you. So if you are selected as a juror, please

18 adhere to my admonishments.

19 PROSPECTIVE JUROR NO. 1082: Yes, Your Honor.

20 THE COURT: Okay. Thank you.

21 PROSPECTIVE JUROR NO. 1082: Thank you.

22 THE COURT: All right. And we'll call the -- I believe we're still

23 waiting for a couple of people. We're still waiting for -- so if you could

24 just wait outside, I appreciate it.

25 [Pause in proceedings.]

1 THE COURT: Mr. Coyer, how much longer do you think you  
2 have on voir dire?

3 MR. COYER: Your Honor, I don't believe that we have much  
4 longer. But I -- I was going to ask the court if the court had any objection  
5 to Ms. Plunkett finishing it up?

6 THE COURT: I have no problem with that.

7 State, are you going to have any follow-up questions on voir  
8 dire?

9 MR. LEXIS: No. Well, likely not.

10 THE COURT: Okay. What I was going to do, quite frankly, is  
11 once Mr. -- or Ms. Bianca [sic] finishes the voir dire examination, I was  
12 going to take a break, have you make your arguments if you're going to  
13 make any challenges for cause. I was going to take a short recess,  
14 review my notes, come back, make my determination. Depending on  
15 whether I excuse anybody, then we'll have to re-seat whoever, go over  
16 the same procedure during -- for court voir dire and then attorney voir  
17 dire. Hopefully we'll have a jury before the lunch break.

18 MR. DICKERSON: Understood.

19 THE COURT: And I don't know if you have any witnesses  
20 available today available or not.

21 MR. DICKERSON: We will, Your Honor.

22 THE COURT: Okay.

23 MR. LEXIS: Oh, we got several.

24 THE COURT: Okay. So again, to accommodate counsel, I'm  
25 going to take the lunch break at 1 -- from 1:30 to 2:30 and we're going to

1 go to 5:00 today.

2 MR. DICKERSON: Great. Thank you very much.

3 THE COURT: Thank you.

4 MS. PLUNKETT: Thank you.

5 THE COURT: We'll be a short recess. As soon as the --

6 THE MARSHAL: They're here.

7 THE COURT: Oh, they're here? Then can you bring them in?

8 [Prospective jury panel reconvened at 11:44 a.m.]

9 THE COURT: All right. Let the record reflect that counsel for  
10 the State and defense and the defendant are all present, and members  
11 of the jury panel are also present.

12 Counsel, this is the continuation of attorney voir dire by the  
13 defense. Are you prepared to go forward?

14 MS. PLUNKETT: Yes, Judge.

15 THE COURT: Okay. Proceed.

16 MS. PLUNKETT: Good morning, ladies and gentlemen.  
17 Thank you for coming back today. Just as a reminder, my name is  
18 Alexis Plunkett, and along with Gregory Coyer, we -- we represent  
19 Ceasar Valencia.

20 I also want to remind everyone that we're just here today to  
21 find 12 people with no bias who will listen to the evidence and decide  
22 guilty or not guilty. We're not here to judge you. Okay. There's no right  
23 or wrong answers.

24 I see that a lot of people somewhat work in the same industry  
25 and this wasn't asked; does anyone in this courtroom know anyone else,

1 by a show of hands? Can I pass the microphone to Mr. Sanders.  
2 PROSPECTIVE JUROR NO. 1082: Hey.  
3 MS. PLUNKETT: Tell me who you know --  
4 THE COURT: Sir, state your name and your badge number,  
5 please.  
6 PROSPECTIVE JUROR NO. 977: Christopher Sanders,  
7 Badge No. 977.  
8 THE COURT: Thank you.  
9 PROSPECTIVE JUROR NO. 977: And I know  
10 Mr. Antheaume.  
11 MS. PLUNKETT: And how is it that you know  
12 Mr. Antheaume?  
13 PROSPECTIVE JUROR NO. 977: He is my boss.  
14 MS. PLUNKETT: He's your boss. Okay. Is he your current  
15 boss?  
16 PROSPECTIVE JUROR NO. 977: Yes.  
17 MS. PLUNKETT: And how long have you worked under him?  
18 PROSPECTIVE JUROR NO. 977: Four years.  
19 MS. PLUNKETT: Four years?  
20 PROSPECTIVE JUROR NO. 977: Maybe three.  
21 MS. PLUNKETT: In -- in what capacity do you work under  
22 him? Is that as an administrator or substitute teacher?  
23 PROSPECTIVE JUROR NO. 977: I'm a -- a long-term sub,  
24 and then I coach for him also.  
25 MS. PLUNKETT: Sure. Can you pass the microphone down

1 to Mr. Antheaume.

2 THE COURT: Sir, again, if -- if you have the microphone,  
3 before you begin speaking, if you can just say -- state your name and  
4 your badge number. Because we have a court recorder, so I need to  
5 identify who is speaking.

6 PROSPECTIVE JUROR NO. 993: Sounds good. Xavier  
7 Antheaume, Number 993.

8 MS. PLUNKETT: Thank you, Mr. Antheaume. Were you  
9 involved in the hiring process of Mr. Sanders?

10 PROSPECTIVE JUROR NO. 993: Indirectly.

11 MS. PLUNKETT: Indirectly. If he were to be disciplined as an  
12 employee, would you be involved in that process?

13 PROSPECTIVE JUROR NO. 993: Correct.

14 MS. PLUNKETT: And you would have the ability to end  
15 Mr. Sanders' employment?

16 PROSPECTIVE JUROR NO. 993: Absolutely.

17 MS. PLUNKETT: Do you know anyone else in this  
18 courtroom?

19 PROSPECTIVE JUROR NO. 993: Do not.

20 MS. PLUNKETT: And I think someone else -- will you pass  
21 the microphone forward? Thank you, sir.

22 PROSPECTIVE JUROR NO. 1048: Sharon Iaconi,  
23 Number 1048.

24 MS. PLUNKETT: And who do you know in this courtroom,  
25 Ms. Iaconi?

1 PROSPECTIVE JUROR NO. 1048: Mr. Ed Blazer and I  
2 worked briefly together. He issued my badge as -- as a temp employee  
3 at the Water Reclamation District.

4 MS. PLUNKETT: And when did you work with Mr. Blazer?

5 PROSPECTIVE JUROR NO. 1048: 10 years ago.

6 MS. PLUNKETT: 10 years ago?

7 PROSPECTIVE JUROR NO. 1048: We almost didn't  
8 recognize one another.

9 MS. PLUNKETT: Okay. So it's safe to say you haven't seen  
10 him in 10 years?

11 PROSPECTIVE JUROR NO. 1048: Not at all, yeah. Yeah.

12 MS. PLUNKETT: Will you pass the badge [sic] back to  
13 Mr. Antheaume briefly? Thank you.

14 PROSPECTIVE JUROR NO. 993: Xavier Antheaume, 993.

15 MS. PLUNKETT: Do you socialize with Mr. Sanders outside  
16 of a work capacity?

17 PROSPECTIVE JUROR NO. 993: During school events. We  
18 don't hang out on the weekends.

19 MS. PLUNKETT: Has Mr. Sanders ever been to your home?

20 PROSPECTIVE JUROR NO. 993: Never.

21 MS. PLUNKETT: Will you pass the mic forward up to  
22 Mr. Blazer, please?

23 PROSPECTIVE JUROR NO. 1091: Yes, Edwin Blazer, 1091.

24 MS. PLUNKETT: It's safe to say you know Ms. Iaconi?

25 PROSPECTIVE JUROR NO. 1091: Yes.

1 MS. PLUNKETT: In a work capacity?  
2 PROSPECTIVE JUROR NO. 1091: Yes.  
3 MS. PLUNKETT: And when she said you issued her badge,  
4 what -- can you describe what that means?  
5 PROSPECTIVE JUROR NO. 1091: Right. I work in security.  
6 I do all the badge access. And so I do the badges for all -- everybody  
7 who comes through.  
8 MS. PLUNKETT: How long did you and Ms. Iaconi work  
9 together?  
10 PROSPECTIVE JUROR NO. 1091: I don't remember. A  
11 short time.  
12 MS. PLUNKETT: Did you ever socialize --  
13 PROSPECTIVE JUROR NO. 993: No.  
14 MS. PLUNKETT: -- outside of work? Do you know anyone  
15 else in this courtroom?  
16 PROSPECTIVE JUROR NO. 1091: No, I don't.  
17 MS. PLUNKETT: Thank you.  
18 Does anyone else here know any of the other prospective  
19 jurors who are not seated in the box right now? Let the record reflect no  
20 one is raising their hand.  
21 Thank you for that.  
22 Let's see, Mr. Coyer asked you yesterday if anyone had been  
23 accused of something that they felt they did not do. The only response  
24 was Mr. Sanders in the back row, who described an event in a criminal  
25 context with the police. Is there anyone else here who has been



1 accused of something that you believe you did not do? That does not  
2 include a criminal context, it's not limited to a criminal context; that can  
3 be an accusation from a parent, spouse, a brother, a sister, a boss, any  
4 time that you feel as though you were accused of something you did not  
5 do. Can I have a show of hands?

6 Can I pass the microphone back to Ms. Ramos, please? I  
7 also -- I also have the names in front of me, so that helps.

8 PROSPECTIVE JUROR NO. 980: Esther Ramos, 0980.

9 MS. PLUNKETT: And in -- and can you tell me -- elaborate on  
10 that a little bit?

11 PROSPECTIVE JUROR NO. 980: I was a housekeeper  
12 working at Nellis Air Force Base in the hospital. And I was cleaning a  
13 room. And somebody had left a drawer out. And I went to push it shut,  
14 and I noticed that there was a lot of money in an envelope. So I went to  
15 get a superior to tell him that the envelope with money was there and I  
16 didn't want to be blamed if anything happened to it. He said, okay, that  
17 he would take care of it. Well, the envelope was gone. And I was  
18 accused of taking the money, because I cleaned the room. You know,  
19 they had a little meeting. I told them my side of the story. And, well, I --  
20 they -- you know, I was okay, obviously.

21 And, of course, he said he didn't take it either, that he had  
22 closed it and -- it was a dental office. And when they asked the dental  
23 technician who put it there, his explanation for leaving it there was, well,  
24 if it's closed, people will open it to see what's in it. And if I leave it open,  
25 nobody will bother with it. I don't know, but that's what he said. But

1 anyway, I -- I came out all right in the deal, but the money was still gone.

2 MS. PLUNKETT: Was that situation your word against the  
3 word of another person?

4 PROSPECTIVE JUROR NO. 980: Yeah, I guess you would  
5 say. I truly thought that I was going to be out of a job, because it's  
6 always the housekeeper, you know what I mean?

7 MS. PLUNKETT: Sure.

8 PROSPECTIVE JUROR NO. 980: Uh-huh.

9 MS. PLUNKETT: Let's pass the mic, front row, Mr. Sanders.

10 PROSPECTIVE JUROR NO. 1082: Rex Sanders,  
11 Badge No. 1082.

12 MS. PLUNKETT: Can you tell me a little bit about your  
13 situation?

14 PROSPECTIVE JUROR NO. 1082: So I was in an accident.  
15 And it was my word against their word, because there was no witnesses  
16 that could say I went through an intersection and a lady turned left out in  
17 front of me. And she said she had a green light and I said I had a green  
18 light. And no witnesses could say who had a green light. And the police  
19 officer, based off the light cycle and then the two words, issued me a  
20 ticket for running a red light.

21 The ticket was dismissed. I think I had to pay the \$95 fee, but  
22 I was happy to get the ticket gone. But because of the report, I took the  
23 blame on the accident.

24 MS. PLUNKETT: Were you civilly sued for that accident?

25 PROSPECTIVE JUROR NO. 1082: Yes. Well, it stayed

1 within the insurance, but there -- I did have an attorney and all that.

2 MS. PLUNKETT: Did you testify in front of a judge --

3 PROSPECTIVE JUROR NO. 1082: No.

4 MS. PLUNKETT: -- regarding that accident?

5 PROSPECTIVE JUROR NO. 1082: No.

6 MS. PLUNKETT: It settled out of court?

7 PROSPECTIVE JUROR NO. 1082: I believe so.

8 MS. PLUNKETT: How did it make you feel that you were  
9 essentially blamed for something that you were saying that you did not  
10 do?

11 PROSPECTIVE JUROR NO. 1082: At first I was upset. But  
12 then I just accepted it. The lady claimed she had some injuries. I came  
13 out all right. My car was totaled, but I had no -- I broke my hand, but that  
14 was it. So at first I was upset. But then it helped that it stayed in the  
15 insurance policy that I had, so I didn't have to pay any out-of-hand other  
16 than my rate going up. But I was just happy that she was getting the  
17 treatment she needed.

18 MS. PLUNKETT: Would you feel different if you could have  
19 possibly gone to jail over that accident?

20 PROSPECTIVE JUROR NO. 1082: Yeah. I would have --  
21 there's some stuff that I tried to look into, but they said that the evidence  
22 was -- like, some video footage, but the file was corrupted. I would have  
23 definitely gone back and looked for another copy of that if it was more  
24 than just money on the line.

25 MS. PLUNKETT: Sure.

1 And who else raised their hand to that question?

2 Will you pass the mic over to, is it Ms. Penrod?

3 PROSPECTIVE JUROR NO. 1089: Yes. Susan  
4 Penrod, 1089.

5 MS. PLUNKETT: And what was your situation?

6 PROSPECTIVE JUROR NO. 1089: As a training consultant  
7 with NV Energy, I was training six employees. And one of the  
8 employees complained that I wasn't treating her fair, that I was picking  
9 on her. And in a sense, I guess I was, because she wasn't doing very  
10 well, so she felt like she was being profiled. It wasn't my intention to pick  
11 on her. It was my intention to show her what she was doing incorrectly.

12 MS. PLUNKETT: So you believe that what she stated may  
13 have been her belief, but not necessarily the full truth?

14 PROSPECTIVE JUROR NO. 1089: Yes.

15 MS. PLUNKETT: Thank you.

16 Who else raised their hand to that one? Is that all?

17 I apologize, but can we pass it back to Ms. Ramos?

18 PROSPECTIVE JUROR NO. 980: Oh, goodness. Esther  
19 Ramos, Number 0980.

20 MS. PLUNKETT: Yesterday to Mr. Coyer, you described the  
21 reading of the charges against Mr. Valencia, simply the reading of the  
22 charges as "the nail in the coffin."

23 PROSPECTIVE JUROR NO. 980: Uh-huh.

24 MS. PLUNKETT: What would Ceasar have to do in your eyes  
25 to get out of that coffin.

1 PROSPECTIVE JUROR NO. 980: Prove his innocence.  
2 MS. PLUNKETT: You also said that it would be difficult to  
3 vote not guilty if Ceasar does not testify himself; is that true?  
4 PROSPECTIVE JUROR NO. 980: Yes, I think so.  
5 MS. PLUNKETT: So even with the understanding that he has  
6 a right to remain silent, that the State has to prove the case against  
7 Mr. Valencia, you would still have a problem voting anything other than  
8 guilty if you do not hear from Ceasar himself?  
9 PROSPECTIVE JUROR NO. 980: Well, it would be better if  
10 he spoke for himself.  
11 MS. PLUNKETT: Does anyone else here agree with  
12 Ms. Ramos; you would find it difficult to vote not guilty if you do not hear  
13 from Ceasar himself?  
14 And will you pass the mic to Mr. Sanders.  
15 PROSPECTIVE JUROR NO. 977: Christopher Sanders, 977.  
16 MS. PLUNKETT: Can you elaborate on that a little bit?  
17 PROSPECTIVE JUROR NO. 977: I just feel like if I was in his  
18 shoes, I would want to let my word out, let what -- my experiences, you  
19 know, my side. You know, like, if I was about to go to jail, I would want  
20 to -- everybody to know my side of it, not just their side. You know, I  
21 want to prove the I'm guilty. I don't want to give a chance for them to  
22 make sure I'm guilty.  
23 MS. PLUNKETT: So you are looking for Mr. Valencia to prove  
24 his innocence here?  
25 PROSPECTIVE JUROR NO. 977: In a way.

1 MS. PLUNKETT: And I know yesterday when you described  
2 an incident where you believe you were falsely accused of, I believe,  
3 some type of theft --

4 PROSPECTIVE JUROR NO. 977: Uh-huh.

5 MS. PLUNKETT: -- and you mentioned a video to prove your  
6 innocence; what if there is no video? What if you would have been  
7 arrested on the word of a witness?

8 PROSPECTIVE JUROR NO. 977: I probably would have  
9 went to jail. I mean, without the video, I was guilty. My word.

10 MS. PLUNKETT: And it's absolutely fine if you feel this way,  
11 but would anyone else here find it difficult to find Ceasar not guilty if you  
12 don't hear directly from him?

13 Will you pass the mic forward to Mr. Sanders.

14 PROSPECTIVE JUROR NO. 1082: Rex Sanders,  
15 Badge 1082.

16 MS. PLUNKETT: And can you elaborate on that a little bit?

17 PROSPECTIVE JUROR NO. 1082: So I guess with my  
18 accident, I -- I feel like I annoyed my lawyer at first, because I was trying  
19 to do everything that I figured they -- they're going to try, but I figured if I  
20 tried, then there's two chances of finding something. So for me  
21 personally, I was -- not necessarily that I had to prove my innocence, but  
22 I was going at it that if I'm going to go to court, then I'm going to make  
23 sure I share everything that I can about it to put myself in the best  
24 situation.

25 So to me, I guess my way of thinking is I've got to prove my

1 innocence, because if I don't say anything and someone else says  
2 something and I just keep quiet, then to me it makes sense that they  
3 would win because they're the only ones that shared any evidence.

4 MS. PLUNKETT: Would you feel differently if you were  
5 subject to a cross-examination by someone who is there to destroy your  
6 story?

7 PROSPECTIVE JUROR NO. 1082: I would definitely want to  
8 take my time with my answers. Because me, personally, I start going  
9 with something and then I just kind of keep going. And then there's  
10 times that I'm, like, that's not what I actually meant. Like the -- the  
11 accident, at first I told the police officer I was not running a yellow light.  
12 And then I had the thought, like, he's going to think I was -- I ran a red  
13 light or something. So I said to him, Just so you know, I meant I had a  
14 green light, but then I got the running a red light. So I don't know if that  
15 had anything to do with it. But after that incident, I realized I need to  
16 really pick my words.

17 So I'm not sure with the cross-examination, I guess if it's -- if I  
18 were to put myself up in a spot to be cross-examined, I'd still do it, but I  
19 would make sure I definitely know what I want to say and take my time  
20 with my answers.

21 MS. PLUNKETT: You mentioned how you changed some  
22 details of that story. If someone tells you a story and re-tells the story  
23 and some details have changed, how do you feel about that story?

24 PROSPECTIVE JUROR NO. 1082: I guess even with my  
25 own -- if you change the story, that leaves doors open for -- you're

1 changing the story. How credible is it? So, I guess, depending on the  
2 details, I guess even with my own, I would see the details changing as a  
3 problem.

4 MS. PLUNKETT: It's a problem in the sense that your  
5 credibility was called into question?

6 PROSPECTIVE JUROR NO. 1082: Yeah. I can see why,  
7 with what I said and how I changed things, that I was found at fault for  
8 my thing. So I could see why for other people it would have that same  
9 effect.

10 MS. PLUNKETT: Thank you.

11 Does anyone else agree with Mr. Sanders, that if you hear a  
12 story and you hear the story again and details have changed, that that  
13 person's credibility is called into question? Does anyone agree with that  
14 by a show of hands?

15 Will you pass the mic back to Ms. Higgs.

16 PROSPECTIVE JUROR NO. 1034: Dee Higgs, Badge 1034.

17 MS. PLUNKETT: Thank you. Can you elaborate on that a  
18 little bit?

19 PROSPECTIVE JUROR NO. 1034: Well, if someone is telling  
20 a story, they're the one, obviously, that's -- that has experienced it,  
21 they're telling the story, there shouldn't be a reason why they would  
22 change the details in it. And yeah, I would question their credibility.

23 MS. PLUNKETT: Thank you.

24 Can you pass the mic to Ms. Johnson.

25 PROSPECTIVE JUROR NO. 1045: Sonya Johnson, 1045.



1 MS. PLUNKETT: Do you agree with Ms. Higgs' sentiment?  
2 PROSPECTIVE JUROR NO. 1045: Yeah, to an extent. I feel  
3 like the truth is the truth and your story, in detail, should be the same, no  
4 matter what. But I can understand if, in the moment, you're trying to say  
5 one thing but your words get jumbled and you try to correct it also. In  
6 your mind, you're just correcting what happened. But to the other  
7 person, it can seem like your credibility is shot.  
8 MS. PLUNKETT: And you would be able to listen to multiple  
9 stories and determine what you believe is correct?  
10 PROSPECTIVE JUROR NO. 1045: Yes.  
11 MS. PLUNKETT: Okay. Who else raised their hand to that?  
12 Will you pass the mic to Mr. Bucsit?  
13 PROSPECTIVE JUROR NO. 1043: Leonard Bucsit,  
14 Badge No. 1043.  
15 MS. PLUNKETT: Thank you. Would you agree with  
16 Ms. Johnson, that if details of a story have changed, that you would be  
17 able to determine on your own, based on other evidence, what you  
18 believe happened?  
19 PROSPECTIVE JUROR NO. 1043: Well, if he's telling the  
20 truth, then it would be okay. But after if everybody else would change  
21 the story, then now would have to have evidence, you know. So he  
22 would have to come up and let us know what was the real truth.  
23 Because story changes, so you be listening to one story for the longest  
24 time, and all of a sudden a different story would change.  
25 MS. PLUNKETT: If the complaining witness tells multiple

1 stories, would you then want evidence --

2 PROSPECTIVE JUROR NO. 1043: Yes.

3 MS. PLUNKETT: -- to back up --

4 PROSPECTIVE JUROR NO. 1043: Yes.

5 MS. PLUNKETT: Thank you.

6 Court's indulgence one moment.

7 Mr. Bucsit, will you pass the mic behind you to Mr. Sanders.

8 PROSPECTIVE JUROR NO. 977: Christopher Sanders, 977.

9 MS. PLUNKETT: Thank you. I just have one follow-up  
10 question. If you and Mr. Antheaume were both selected to be on this  
11 jury, would you feel any pressure, due to your subordination, to vote  
12 along with Mr. Antheaume?

13 PROSPECTIVE JUROR NO. 977: I mean, if he was, like, if  
14 you don't vote guilty, you're fired, then yeah, I would. But other than  
15 that, I don't think so.

16 MS. PLUNKETT: Would it be an uncomfortable situation for  
17 you to be on the jury with Mr. Antheaume?

18 PROSPECTIVE JUROR NO. 977: A little bit, because if we  
19 disagree, it's kind of weird to butt heads with your boss.

20 MS. PLUNKETT: You would be less likely to express your  
21 true opinion with Mr. Antheaume on the jury?

22 PROSPECTIVE JUROR NO. 977: Yes.

23 MS. PLUNKETT: Thank you.

24 I think I'm done, Judge.

25 THE COURT: Thank you.

1 Any additional questions by counsel --

2 MR. LEXIS: Yes.

3 THE COURT: -- of this jury panel?

4 MR. LEXIS: I just want to clarify some stuff, folks. As you  
5 heard the judge say, as you heard me say earlier, the State has the  
6 burden of proof; does anyone disagree with that?

7 As defense counsel came up here and brought out, some of  
8 you want the defendant to testify. Well, that's not the law. Okay. All of  
9 you -- is there anyone here that will not follow the law that is given to you  
10 by the judge? Let the record reflect no response.

11 The State has the burden of proof. If we call up a witness,  
12 one witness, and they say, Oh, I think it might be that guy, I'm  
13 not -- 50/50, the State hasn't met their burden of proof. The defendant  
14 does not need to testify. They don't need to come up here and say oh,  
15 yeah, and prove that I wasn't the guy. We have not met our burden, so  
16 he's not guilty. Wanting him to testify is not the standard; us proving our  
17 case is the standard. Does anybody have a problem with that? Let the  
18 record reflect, no response.

19 Defense counsel also brought up stories and how they --  
20 somebody reflects them when they change them.

21 Can you please pass the mic to 1045, ma'am.

22 And I believe you stated something to the effect that it's going  
23 to depend maybe on the moment?

24 PROSPECTIVE JUROR NO. 1045: Yes.

25 MR. LEXIS: All right. If somebody came in this room right

1 now and start attacking one of the COs and we took voluntary  
2 statements from everybody, do you think everyone is going to say the  
3 exact same thing?

4 PROSPECTIVE JUROR NO. 1045: No, not at all.

5 MR. LEXIS: Okay. Do you think maybe sometimes  
6 somebody might think that they came from the right-hand side, or maybe  
7 it was a left punch instead of a right punch or et cetera, et cetera?

8 PROSPECTIVE JUROR NO. 1045: Yes.

9 MR. LEXIS: Okay. Does anyone disagree with that? Does  
10 anyone think, oh, yeah, it's -- even when the -- when you're in the  
11 moment, and then afterwards everything needs to line up perfectly and  
12 everybody is going to have to say the same story every time, per detail,  
13 for them to be credible? Let the record reflect, no response.

14 Nothing further, Your Honor.

15 THE COURT: At this time, ladies and gentlemen, there's  
16 some housekeeping matters that the court and counsel need to take  
17 care of. I'm going to have a -- a short recess.

18 So during the recess you're admonished not to talk or  
19 converse among yourselves or with anyone else on any subject  
20 connected with this trial, read, watch, or listen to any report or  
21 commentary on the trial or any person connected with this trial by any  
22 medium of information, including, without limitation, social media, text,  
23 newspapers, television, the Internet, and radio; do not do any posting or  
24 communications on any social network sites or do any independent  
25 research, including Internet searches, or form or express any opinion on

1 any subject connected with the trial until the case is submitted to you.

2 It will probably be a minimum of a 15-minute  
3 recess, 15-20 minutes, so don't go far. But at this point, I'm going to  
4 excuse you and we have to take care of some housekeeping matters.

5 [Prospective jury panel recessed at 12:11 p.m.]

6 THE COURT: Counsel, do you need a few minutes to review  
7 your notes or are you prepared to go? Hold on.

8 MR. LEXIS: We're good to, Judge.

9 THE COURT: Defense?

10 MR. COYER: We're ready, Judge.

11 THE COURT: Okay.

12 MR. LEXIS: I think the most obvious ones, Judge, are 1018  
13 and 1063 --

14 THE COURT: Hang on a second. Let me get my chart. So at  
15 this time, I'll start with the State first.

16 State, do you have any challenges for cause.

17 MR. LEXIS: Yes. 1018 and 1063, both for language issues. I  
18 believe one said 13 percent of everything we were saying she  
19 understood and the other said 15 percent.

20 MS. PLUNKETT: I thought he said five.

21 MR. DICKERSON: Five.

22 MR. LEXIS: Or five.

23 THE COURT: So that's Badge No. 1018, and what was the  
24 second badge number, counsel?

25 MR. LEXIS: 1063.

1 THE COURT: Okay. Any other challenges for cause,  
2 counsel?

3 MR. LEXIS: No, Your Honor.

4 THE COURT: Okay. Defense?

5 MR. COYER: Your Honor, we do not object to the removal  
6 of 1018, Ms. Khuu, and 1063, Mr. Lopez.

7 THE COURT: Does the defense have any other challenges  
8 for cause?

9 MR. COYER: Yes, Your Honor. We have five. The first one  
10 is Ms. Esther Ramos, Badge 0980. This is the woman who, if you will  
11 recall, mentioned that her son was murdered and the case remained  
12 unsolved. She -- we all spent, I think, a little bit of time focused on her.  
13 And she was very equivocal in her answers about whether or not her  
14 feelings with respect to what happened with her son would -- would  
15 cause her to be able to sit as a fair and impartial juror. She specifically  
16 said at one point she felt she didn't get justice. That's -- that's troubling,  
17 I think, for obvious reasons. She also stated at one point that  
18 Mr. Valencia should have to prove his innocence, those were her words.

19 Given all of those factors, Judge, I think that she meets the  
20 criteria to be stricken for cause. And I would cite to the *Preciado v. State*  
21 case in support of that motion, 318 P.3d 176. Supreme court said a  
22 prospective juror who is anything less than unequivocal about her  
23 impartiality should be excused for cause. So that's our first challenge,  
24 Judge.

25 THE COURT: Any others, counsel?

1 MR. COYER: Yes, Your Honor. Our second one is for John  
2 Baborian, Badge No. 1090. This is the gentleman you may recall who  
3 stated that his -- he had a very close uncle who was chasing a suspect  
4 through the streets of New York City and was killed in that pursuit.  
5 Those facts are, in some ways, similar to the facts of this case, in the  
6 sense that there's a -- there's a chase from the police to, you know,  
7 engaged him with a suspect. And that's when the alleged assault  
8 occurs, is during this foot pursuit.

9 At one point yesterday when I pressed him, he did say that he  
10 was, "I am partial." That was specifically with respect to a bias toward  
11 law enforcement. So I think given that, he also meets the criteria to be --  
12 to be stricken for cause, Judge.

13 Third, if I may continue, is Glenn Locke, Badge 1004. He was  
14 kind of all over the map. But at one point he did state that he had a bias  
15 in favor of law enforcement. And I would also -- I have some concerns  
16 that he was one of the individuals who saw my co-counsel in the news.  
17 We approached the bench, he said that it wouldn't affect him, as I recall.  
18 But nonetheless, I think in an abundance of caution, he should be  
19 stricken for cause.

20 Fourth is Marissa Buncio -- Buncio, Badge No. 1011. When  
21 asked about a bias toward law enforcement, her answer was, "It  
22 depends." That was her first answer that she was -- that she gave.

23 And then finally, Christopher Sanders, Badge No. 0977. He  
24 clearly stated just recently that he needs to hear from the defendant. He  
25 wants to hear him speak up for himself. He wants to hear the defendant

1 testify. It would be very difficult for him to vote in our favor if he doesn't  
2 hear that.

3 I also have a concern with him being subordinate to  
4 Mr. Antheaume. We don't have a basis to strike Mr. Antheaume for  
5 cause at this time, so he may end up on the jury. And I -- I don't think it  
6 would be proper for Mr. Sanders to be under the pressure of potentially  
7 trying to vote against his boss. I think he clearly indicated that would  
8 make him feel uncomfortable.

9 So those are our five challenges, Judge.

10 MR. LEXIS: What was the fourth one?

11 MR. COYER: Marissa Buncio --

12 MR. LEXIS: What's --

13 MR. COYER: -- 1011.

14 THE COURT: State, do you want to be heard in opposition of  
15 the defense challenges for cause?

16 MR. LEXIS: Yes. As far as 977, we have no objection to  
17 kicking that person.

18 THE COURT: To excusing him?

19 MR. LEXIS: Yes.

20 THE COURT: Okay.

21 MR. LEXIS: As far as 1045 --

22 MR. COYER: Wait, I didn't -- I didn't mention a 1045.

23 MR. LEXIS: Sorry. 1090 --

24 MR. COYER: Okay.

25 MR. LEXIS: -- I mean, Judge, that's not the standard, as far



1 as having similar facts as the case at hand. This individual said,  
2 pressed, when asked the group the question and individual questions,  
3 he could be fair and impartial. And once it was explained to them that  
4 the defendant does not need to testify and the State has the burden of  
5 proof, same for several of his other challenges, once they were -- they  
6 just don't know the law. But once they were instructed that State has the  
7 burden of proof, he doesn't need to prove his innocence, he doesn't  
8 need to take the stand, they all unequivocally did not have any  
9 opposition to the fact that they're going to follow the law and not hold  
10 that against him.

11 As far as objections related to police, they -- they all have their  
12 own common sense and background and experience. And once again,  
13 when pressed and say -- and given the example, can they be fair and  
14 impartial? Yes. Will you not give automatically, just say oh, yeah,  
15 they're automatically telling the truth, whether it's a doctor, firefighter,  
16 officer, they all unequivocally stated no, as well. So we would object to  
17 the other four for-cause challenges.

18 THE COURT: Thank you, counsel. I'm going to take a brief  
19 recess.

20 [Court recessed at 12:19 p.m. until 12:31 p.m.]

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

22 THE COURT: I'm going to excuse the following jurors --  
23 potential jurors for cause. Badge No. 1018; Badge No. 1063;  
24 Badge No. 0977; Badge No. 0980; and Badge No. 1090.

25 Randy, I'm going to bring them in, excuse those individuals,

1 and then we'll -- and then the clerk will re-seat those individuals starting  
2 with the lowest number.

3 Is that correct, Mr. Castle?

4 Anything further, counsel?

5 MR. LEXIS: No, Your Honor.

6 MR. COYER: Not from the defense.

7 THE COURT: Okay. Let's bring the jury panel back in.

8 [Prospective jury panel reconvened at 12:33 p.m.]

9 THE COURT: Let the -- let the record reflect the presence of  
10 counsel for the State, counsel for the defense, the defendant, and the  
11 jury panel.

12 At this time, I would like to thank and excuse Ms. Khuu,  
13 Badge No.1018; Mr. Lopez, Badge No. 1063; Mr. Sanders,  
14 Badge No. 0977; Ms. Ramos, Badge No. 0980; and Mr. Baborian,  
15 Badge No. 1090.

16 THE CLERK: Wesley Layne, Badge No. 10 --  
17 correction, 1101; Ronquillo Domingo, Badge No. 1104; Grace Eldridge,  
18 Badge No. 1105; Edward Keith, Badge No. 1110; Amy McTeir,  
19 Badge No. 1126.

20 THE COURT: As those individuals have been newly seated in  
21 the jury box, I need to ask you similar questions that I asked the  
22 previous individuals.

23 Mr. Layne --

24 PROSPECTIVE JUROR NO. 1101: Yes.

25 THE COURT: -- Badge No. 1101?

1 PROSPECTIVE JUROR NO. 1101: Yes.  
2 THE COURT: Sir, how long have you lived in Clark County,  
3 Nevada?  
4 PROSPECTIVE JUROR NO. 1101: 28 years.  
5 THE COURT: And how far did you go in school?  
6 PROSPECTIVE JUROR NO. 1101: Some college.  
7 THE COURT: Okay. And, sir, what is your occupation?  
8 PROSPECTIVE JUROR NO. 1101: Retired carpenter.  
9 THE COURT: And what is your marital status?  
10 PROSPECTIVE JUROR NO. 1101: Widowed. My late wife  
11 was a dealer at the Mirage.  
12 THE COURT: Okay. And do you have any children, sir?  
13 PROSPECTIVE JUROR NO. 1101: Yes. My daughter is 39.  
14 She's a senior project manager for Wynn Design & Development,  
15 currently employed in Boston. And my son is in northern Utah, 38 years  
16 old, involved in the building trades there.  
17 THE COURT: Thank you, sir. Have you ever served as a  
18 juror before?  
19 PROSPECTIVE JUROR NO. 1101: No.  
20 THE COURT: Have you ever testified as a witness in a  
21 criminal matter?  
22 PROSPECTIVE JUROR NO. 1101: No.  
23 THE COURT: Have you or close family member ever been  
24 convicted of a crime?  
25 PROSPECTIVE JUROR NO. 1101: Yes. Drunken driving, 30

1 years ago.

2 THE COURT: And was that you, sir?

3 PROSPECTIVE JUROR NO. 1101: That was me, yes.

4 THE COURT: Okay. Is there anything about that experience  
5 that would make it difficult for you to be fair and impartial to both sides in  
6 this case?

7 PROSPECTIVE JUROR NO. 1101: No. My memory is not  
8 that good.

9 THE COURT: Have you or close family member ever been  
10 the victim of a crime?

11 PROSPECTIVE JUROR NO. 1101: We had a burglary in the  
12 house. My wife was doing an in-home drug test for an insurance policy.  
13 While she was in the bathroom giving a specimen, the woman stole the  
14 jewelry off the island. She insisted that that had happened, and I said,  
15 oh, you're -- but she called Metro and they came and investigated.  
16 Ultimately recovered the stuff, so --

17 THE COURT: Okay. And so you were satisfied how Metro --

18 PROSPECTIVE JUROR NO. 1101: Oh, absolutely. Yeah.

19 THE COURT: -- handled the situation?

20 PROSPECTIVE JUROR NO. 1101: Yeah.

21 THE COURT: Okay. Was there anything about that  
22 experience -- well, was there anything about that experience that would  
23 make it difficult for you to be fair and impartial to both sides?

24 PROSPECTIVE JUROR NO. 1101: No.

25 THE COURT: Besides anything you've already told us, do

1 you have any close relatives or friends who have ever been engaged in  
2 law enforcement?

3 PROSPECTIVE JUROR NO. 1101: Yeah. I have one very  
4 close friend that's a Metro officer.

5 THE COURT: Currently?

6 PROSPECTIVE JUROR NO. 1101: Yes.

7 THE COURT: Do you ever speak to him about his job?

8 PROSPECTIVE JUROR NO. 1101: Matter of fact, he called  
9 me this morning and we talked for a little bit. Not coincidentally, a little  
10 bit about this process.

11 THE COURT: Okay. Did you ever talk to him -- have you  
12 ever talked to him about his job, what he does?

13 PROSPECTIVE JUROR NO. 1101: Yeah, occasionally.

14 THE COURT: Okay. And does he just tell you about different  
15 events that he's involved in?

16 PROSPECTIVE JUROR NO. 1101: Yeah. Just some of the  
17 more bizarre ones, yeah.

18 THE COURT: Okay. Does your knowledge about your  
19 friend's job affect your ability to be fair and impartial in this case?

20 PROSPECTIVE JUROR NO. 1101: No.

21 THE COURT: And it's anticipated that certain law  
22 enforcement officers will testify in this case; will you give more credibility  
23 to their testimony by the mere fact that they're law enforcement officers?

24 PROSPECTIVE JUROR NO. 1101: No.

25 THE COURT: And do you agree that if you are chosen to

1 serve as a juror in this case that you will honor your duty to be  
2 completely fair and impartial and to listen carefully to all the evidence in  
3 the case?

4 PROSPECTIVE JUROR NO. 1101: Yes.

5 THE COURT: Thank you, sir. Could you pass the  
6 microphone down.

7 Mr. Domingo?

8 PROSPECTIVE JUROR NO. 1104: Yes, Your Honor.

9 THE COURT: And your badge number is 1104?

10 PROSPECTIVE JUROR NO. 1104: Yes, Your Honor.

11 THE COURT: Okay. Sir, how long have you lived in Clark  
12 County, Nevada?

13 PROSPECTIVE JUROR NO. 1104: 17 years.

14 THE COURT: Okay. And how far did you go in school?

15 PROSPECTIVE JUROR NO. 1104: High school.

16 THE COURT: And what is your occupation, sir?

17 PROSPECTIVE JUROR NO. 1104: Bellagio, a [indiscernible]  
18 runner.

19 THE COURT: I'm sorry?

20 PROSPECTIVE JUROR NO. 1104: Bellagio, sir.

21 THE COURT: Okay. And what is your marital status?

22 PROSPECTIVE JUROR NO. 1104: Married.

23 THE COURT: And what does -- what is the occupation of  
24 your spouse?

25 PROSPECTIVE JUROR NO. 1104: Housekeeping.

1 THE COURT: Okay. And do you have any children, sir?  
2 PROSPECTIVE JUROR NO. 1104: Yes, two. Two kids.  
3 THE COURT: And how old are they?  
4 PROSPECTIVE JUROR NO. 1104: 24 and 20.  
5 THE COURT: And as to the 24 year old, what does that  
6 person do for a living?  
7 PROSPECTIVE JUROR NO. 1104: He's working Blue Martini  
8 as a kitchen worker.  
9 THE COURT: Okay. And your younger child?  
10 PROSPECTIVE JUROR NO. 1104: Stay home. Maybe next  
11 year just go to college.  
12 THE COURT: Okay. Have you ever served as a juror before?  
13 PROSPECTIVE JUROR NO. 1104: No, sir.  
14 THE COURT: No?  
15 PROSPECTIVE JUROR NO. 1104: No.  
16 THE COURT: Have you ever testified as a witness in a  
17 criminal matter?  
18 PROSPECTIVE JUROR NO. 1104: No, sir.  
19 THE COURT: Have you or close family member ever been  
20 convicted of a crime?  
21 PROSPECTIVE JUROR NO. 1104: No.  
22 THE COURT: Have you or close family member ever been  
23 the victim of a crime?  
24 PROSPECTIVE JUROR NO. 1104: No, sir.  
25 THE COURT: Besides anything you have already told us, do

1 you have any close relatives or friends who have ever been engaged in  
2 law enforcement? Do you have any friends or family members who are  
3 or police officers, federal agents, anything in law enforcement?

4 PROSPECTIVE JUROR NO. 1104: Nothing, sir. No.

5 THE COURT: Okay. Are you picking him up?

6 THE COURT RECORDER: Yeah.

7 THE COURT: If you could just speak up just a little bit so my  
8 court recorder can -- can record this, I'd appreciate it.

9 PROSPECTIVE JUROR NO. 1104: Sorry, Your Honor. I'm  
10 not really speak English.

11 THE COURT: All right. You don't really have anybody in law  
12 enforcement? You don't know anybody in law enforcement?

13 PROSPECTIVE JUROR NO. 1104: No, sir.

14 THE COURT: Okay. It is anticipated that certain law  
15 enforcement officers will testify in this case; will you give more credibility  
16 to their testimony by the mere fact that they are law enforcement  
17 officers?

18 PROSPECTIVE JUROR NO. 1104: [No audible response.]

19 THE COURT: Some law enforcement officers may testify in  
20 this case; are you going to believe them more so than anybody else just  
21 because of the mere fact that they're a law enforcement officer?

22 PROSPECTIVE JUROR NO. 1104: I didn't understand, sir.

23 THE COURT: I'm sorry, sir?

24 PROSPECTIVE JUROR NO. 1104: I'm not -- I'm not  
25 understand, sir.



1 THE COURT: Okay. Are -- are you having difficulty  
2 understanding what I'm telling you, sir?

3 PROSPECTIVE JUROR NO. 1104: I understand a little bit,  
4 you know.

5 THE COURT: Okay. Is there anything that you haven't  
6 understood that I've asked you previously? Have you understood  
7 everything I've asked you?

8 PROSPECTIVE JUROR NO. 1104: Yes, sir.

9 THE COURT: Okay. And my question is, it's anticipated that  
10 certain law enforcement officers may testify in this case. Are you going  
11 to believe them over somebody else who's not a law enforcement officer  
12 just because they're a law enforcement officer? Are you willing to listen  
13 to all the witnesses before you make a decision?

14 PROSPECTIVE JUROR NO. 1104: Yes, sir.

15 THE COURT: You're willing to listen to all the witnesses  
16 before you make a decision?

17 PROSPECTIVE JUROR NO. 1104: Yes.

18 THE COURT: Okay. And do you agree that if you are chosen  
19 to serve as a juror in this case that you will honor your duty to be  
20 completely fair and impartial and listen to all of the evidence; do you  
21 agree that -- that, sir?

22 PROSPECTIVE JUROR NO. 1104: Yeah, I agree, sir.

23 THE COURT: Okay. If you could, pass the microphone to  
24 Mr. Eldridge -- Ms. Eldridge, I'm sorry.

25 And your badge number is 10 -- 1105; is that correct?

1 PROSPECTIVE JUROR NO. 1105: Yes. Correct.  
2 THE COURT: Ma'am, how long have you lived in Clark  
3 County, Nevada?  
4 PROSPECTIVE JUROR NO. 1105: 10 years.  
5 THE COURT: And how far did you go in school?  
6 PROSPECTIVE JUROR NO. 1105: High school graduate.  
7 THE COURT: And what is your occupation?  
8 PROSPECTIVE JUROR NO. 1105: Currently, I'm a  
9 housewife.  
10 THE COURT: Okay. What did you do before that? You said  
11 currently; did you have an occupation before?  
12 PROSPECTIVE JUROR NO. 1105: Yeah. I did -- I work as a  
13 tour guide on tour bus driver, a little period of time, like a dealer --  
14 dealer.  
15 THE COURT: Okay. And are you married?  
16 PROSPECTIVE JUROR NO. 1105: Yes, I'm married.  
17 THE COURT: And what is the occupation of your spouse?  
18 PROSPECTIVE JUROR NO. 1105: He's a financial advisor.  
19 THE COURT: Okay. And do you have any children?  
20 PROSPECTIVE JUROR NO. 1105: No, I don't.  
21 THE COURT: Okay. Have you ever served as a juror before?  
22 PROSPECTIVE JUROR NO. 1105: No.  
23 THE COURT: All right. Have you ever testified as a witness  
24 in a criminal matter?  
25 PROSPECTIVE JUROR NO. 1105: No.

1 THE COURT: Have you or close family member ever been  
2 convicted of a crime?

3 PROSPECTIVE JUROR NO. 1105: No.

4 THE COURT: I'm sorry. Have you or close family member  
5 ever been the victim of a crime?

6 PROSPECTIVE JUROR NO. 1105: Yes.

7 THE COURT: And could you explain, please?

8 PROSPECTIVE JUROR NO. 1105: About 10 years ago, my  
9 sister got robbed and the guy grab her bag from behind, so her arm got  
10 dislocated.

11 THE COURT: Was that here in Clark County, Nevada?

12 PROSPECTIVE JUROR NO. 1105: No. It was in California.

13 THE COURT: Okay. Do you believe that experience by your  
14 sister would make it difficult for you to be fair and impartial to both sides  
15 in this case?

16 PROSPECTIVE JUROR NO. 1105: I believe no.

17 THE COURT: So you could be fair and impartial?

18 PROSPECTIVE JUROR NO. 1105: Yes.

19 THE COURT: Okay. Besides anything you have already told  
20 us, do you have any close relatives or friends who have ever been  
21 engaged in law enforcement?

22 PROSPECTIVE JUROR NO. 1105: No.

23 THE COURT: Okay. And it's anticipated that certain law  
24 enforcement officers will testify in this case; will you give more credibility  
25 to their testimony by the mere fact that they are law enforcement

1 officers?

2 PROSPECTIVE JUROR NO. 1105: No.

3 THE COURT: And do you agree that if you are chosen to  
4 serve as a juror in this case, that you will honor your duty to be  
5 completely fair and impartial and to listen carefully to all of the evidence  
6 in this case?

7 PROSPECTIVE JUROR NO. 1105: Yes, I will. But I got to  
8 state something. My English level actually is not that good. My  
9 understanding is a little worse than my speaking, so --

10 THE COURT: Okay. Have you not understood anything I've  
11 said to you today?

12 PROSPECTIVE JUROR NO. 1105: I understand.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 1105: But I have to say that,  
15 because I don't want to cause any misunderstanding.

16 THE COURT: No, I understand. And is English a second  
17 language?

18 PROSPECTIVE JUROR NO. 1105: Yes.

19 THE COURT: And what's your first language?

20 PROSPECTIVE JUROR NO. 1105: Chinese.

21 THE COURT: Okay. If you don't understand anything that is  
22 said, raise your hand. Okay.

23 PROSPECTIVE JUROR NO. 1105: Okay.

24 THE COURT: Let me know that you don't understand  
25 something.

1 PROSPECTIVE JUROR NO. 1105: Okay.  
2 THE COURT: Okay?  
3 PROSPECTIVE JUROR NO. 1105: Okay.  
4 THE COURT: All right. Thank you. If you could pass the  
5 microphone down to Mr. Keith.  
6 And you are Mr. Keith, Badge No. 1110?  
7 PROSPECTIVE JUROR NO. 1110: Yes.  
8 THE COURT: Okay. It's going to be no surprise what I'm  
9 going to ask you, sir. How long have you lived in Clark County,  
10 Nevada?  
11 PROSPECTIVE JUROR NO. 1110: I've lived here 12 years,  
12 but I also lived here five years in the 1970s.  
13 THE COURT: Okay. And when did you move back?  
14 PROSPECTIVE JUROR NO. 1110: I --  
15 THE COURT: About 12 years ago?  
16 PROSPECTIVE JUROR NO. 1110: Yes, 2005.  
17 THE COURT: And how far did you go in school, sir?  
18 PROSPECTIVE JUROR NO. 1110: I have a master's degree.  
19 THE COURT: In what?  
20 PROSPECTIVE JUROR NO. 1110: In business  
21 administration.  
22 THE COURT: All right. And what is your occupation?  
23 PROSPECTIVE JUROR NO. 1110: I'm retired.  
24 THE COURT: And what did you do before you retired?  
25 PROSPECTIVE JUROR NO. 1110: I was an engineer, a

1 manager, and a teacher.

2 THE COURT: Okay. And are you married, sir?

3 PROSPECTIVE JUROR NO. 1110: Yes.

4 THE COURT: And what -- what occupation -- what is your

5 wife's occupation?

6 PROSPECTIVE JUROR NO. 1110: She's a retired school

7 psychologist.

8 THE COURT: Apparently the microphone is making noises,

9 so I'm trying to calm it down.

10 And --

11 THE COURT RECORDER: What was that again?

12 PROSPECTIVE JUROR NO. 1110: She's a retired school

13 psychologist.

14 THE COURT: And sir, do you have any children?

15 PROSPECTIVE JUROR NO. 1110: Yes. Two sons, ages 37

16 and 35.

17 THE COURT: And what does your older son -- oldest son do?

18 PROSPECTIVE JUROR NO. 1110: He's some sort of a

19 business analyst. And my youngest is a electronic technician.

20 THE COURT: Okay. And do they live here in Clark County,

21 Nevada?

22 PROSPECTIVE JUROR NO. 1110: No. They live in

23 California.

24 THE COURT: All right. Have you ever served as a juror

25 before?

1 PROSPECTIVE JUROR NO. 1110: I was an alternate juror  
2 one time.

3 THE COURT: And was that in a civil matter or criminal  
4 matter?

5 PROSPECTIVE JUROR NO. 1110: Criminal, DWI.

6 THE COURT: Okay. And without telling me what the verdict  
7 was, did the jury reach a verdict in that case?

8 PROSPECTIVE JUROR NO. 1110: No, they didn't.

9 THE COURT: Okay. And you weren't the foreperson; you  
10 were an alternate, correct?

11 PROSPECTIVE JUROR NO. 1110: I was an alternate, didn't  
12 vote.

13 THE COURT: Okay. Is there anything about that experience  
14 that would affect your ability to be fair and impartial in this case?

15 PROSPECTIVE JUROR NO. 1110: No.

16 THE COURT: And have you ever testified as a witness in a  
17 criminal matter?

18 PROSPECTIVE JUROR NO. 1110: Yes.

19 THE COURT: And could you explain, please?

20 PROSPECTIVE JUROR NO. 1110: The defendant was  
21 somebody who I had worked with. And the prosecution said that he was  
22 a making devices to help drug smuggling and he was saying that it was  
23 to -- as an invention for aircraft collision avoidance. And my testimony  
24 was the -- was the capabilities and limitations of the electronic  
25 equipment that he was using.

1 THE COURT: So -- so you basically testified as an expert in  
2 that case?

3 PROSPECTIVE JUROR NO. 1110: Sort of, yes. I didn't  
4 testify anything about him. It was about the equipment.

5 THE COURT: Okay. And you testified on behalf of the  
6 defendant in that case?

7 PROSPECTIVE JUROR NO. 1110: It was on behalf of the  
8 defendant.

9 THE COURT: All right. Thank you, sir. Have you or close  
10 family member ever been convicted of a crime?

11 PROSPECTIVE JUROR NO. 1110: No.

12 THE COURT: Have you or close family member ever been  
13 the victim of a crime?

14 PROSPECTIVE JUROR NO. 1110: Yes.

15 THE COURT: And could you explain, sir?

16 PROSPECTIVE JUROR NO. 1110: In this country, twice  
17 in 1976, my house was vandalized, broken into and vandalized.

18 THE COURT: And were you or your wife home at the time  
19 or --

20 PROSPECTIVE JUROR NO. 1110: No.

21 THE COURT: -- any family member? And did you make a  
22 police report?

23 PROSPECTIVE JUROR NO. 1110: Yes.

24 THE COURT: And were they able to recover your items?

25 PROSPECTIVE JUROR NO. 1110: Recovered some coins.



1 That was all.

2 THE COURT: Okay. Were you -- was it Metro that did the  
3 investigation?

4 PROSPECTIVE JUROR NO. 1110: Yes, it was.

5 THE COURT: Were you satisfied with how Metro handled the  
6 situation?

7 PROSPECTIVE JUROR NO. 1110: No, I wasn't.

8 THE COURT: Okay. Do you believe that experience would  
9 make it difficult for you to be fair and impartial to both sides in this case?

10 PROSPECTIVE JUROR NO. 1110: No.

11 THE COURT: Why not, sir?

12 PROSPECTIVE JUROR NO. 1110: It was an experience long  
13 ago and I thought the Metro tried very well, but apparently it was  
14 juveniles involved. And I think they knew who it was, but they wouldn't  
15 tell me, of course, which was probably a smart thing to do. So -- but  
16 nonetheless, after it was broken into the first time, apparently they did  
17 the same thing a second time. And that's what I was dissatisfied with.

18 THE COURT: Okay. But you're not going to hold that against  
19 Metro? I mean, that occurred a long --

20 PROSPECTIVE JUROR NO. 1110: Oh, no.

21 THE COURT: -- time ago and you could still be fair and  
22 impartial in this case, couldn't you?

23 PROSPECTIVE JUROR NO. 1110: Oh, absolutely.

24 THE COURT: Okay. And besides anything you may have  
25 already told us, do you have any close relatives or friends who have

1 ever been engaged in law enforcement?

2 PROSPECTIVE JUROR NO. 1110: My wife has a nephew  
3 who is a deputy sheriff in Washington state. I don't think he's still  
4 serving now though.

5 THE COURT: Okay. Are you close with him?

6 PROSPECTIVE JUROR NO. 1110: No. I haven't spoken with  
7 him for many years.

8 THE COURT: All right. So you don't talk to him about his job  
9 or anything related to his job when he was in law enforcement?

10 PROSPECTIVE JUROR NO. 1110: No.

11 THE COURT: All right. And it's anticipated that certain law  
12 enforcement officers will testify in this case; will you give more credibility  
13 to their testimony by the mere fact they are law enforcement officers?

14 PROSPECTIVE JUROR NO. 1110: No.

15 THE COURT: And do you agree that if you are chosen to  
16 serve as a juror in this case, that you will honor your duty to be  
17 completely fair and impartial and to listen carefully to all of the evidence  
18 in this case?

19 PROSPECTIVE JUROR NO. 1110: Yes.

20 THE COURT: Thank you, sir. If you can pass down to  
21 Mr. McTeir, if I pronounced that correctly -- or Ms. McTeir.

22 See, there's no -- there's no designation in front of the name. I  
23 only have last name on my chart, so I apologize.

24 PROSPECTIVE JUROR NO. 1126: You did the name good.

25 THE COURT: Yeah.

1 PROSPECTIVE JUROR NO. 1126: At least you changed the  
2 gender from Mr. to Ms.

3 THE COURT: And your badge number is 1126; is that  
4 correct?

5 PROSPECTIVE JUROR NO. 1126: That's correct.

6 THE COURT: Okay. Thank you. Again, these are going to  
7 be no surprises.

8 PROSPECTIVE JUROR NO. 1126: Uh-huh.

9 THE COURT: How long have you lived in Clark County,  
10 Nevada?

11 PROSPECTIVE JUROR NO. 1126: I've been here 17 years.

12 THE COURT: All right. And how far did you go in school?

13 PROSPECTIVE JUROR NO. 1126: College and technical  
14 schools.

15 THE COURT: And what kind of technical school?

16 PROSPECTIVE JUROR NO. 1126: Graphic artist and  
17 cosmetology.

18 THE COURT: And what is your occupation, ma'am?

19 PROSPECTIVE JUROR NO. 1126: I'm a registered nurse  
20 working as a project manager for Amerigroup.

21 THE COURT: And are you married?

22 PROSPECTIVE JUROR NO. 1126: I'm -- no, I'm divorced.

23 THE COURT: Okay. And what does your -- is it ex-husband,  
24 I take it, what does your ex-husband do as -- for a living?

25 PROSPECTIVE JUROR NO. 1126: He's a president for a

1 food distribution company back East.

2 THE COURT: Okay. And do you have any children, ma'am?

3 PROSPECTIVE JUROR NO. 1126: I have two sons,  
4 a 30-year-old and a 28-year-old.

5 THE COURT: And as to the 30-year-old, what does he do for  
6 a living?

7 PROSPECTIVE JUROR NO. 1126: He works for an  
8 insurance company, Centene, as customer service.

9 THE COURT: Is that here in Las Vegas, Nevada?

10 PROSPECTIVE JUROR NO. 1126: He's in Las Vegas, yes.

11 THE COURT: And what about your younger son?

12 PROSPECTIVE JUROR NO. 1126: My youngest lives in  
13 Manhattan. He is an investment banker for Bank of America.

14 THE COURT: And have you ever served as a juror before?

15 PROSPECTIVE JUROR NO. 1126: No, I have not.

16 THE COURT: Have you ever testified as a witness in an -- in  
17 a criminal matter?

18 PROSPECTIVE JUROR NO. 1126: I was a -- I was  
19 interviewed by the grand jury for a Medicare fraud case for one of my  
20 employers.

21 THE COURT: Okay. And did you actually testify before the  
22 grand jury?

23 PROSPECTIVE JUROR NO. 1126: Yes.

24 THE COURT: Okay. Have you or close family member ever  
25 been convicted of a crime?

1 PROSPECTIVE JUROR NO. 1126: I have a cousin that was  
2 convicted for embezzlement back East.

3 THE COURT: Are you close with your cousin?

4 PROSPECTIVE JUROR NO. 1126: Yes and no. We don't  
5 really talk much.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 1126: And when we see each  
8 other, it's all we talk.

9 THE COURT: Is there anything about that experience that  
10 would make it difficult you -- difficult for you to be fair and impartial to  
11 both sides?

12 PROSPECTIVE JUROR NO. 1126: No, not at all.

13 THE COURT: Have you or close family member ever been  
14 the victim of a crime?

15 PROSPECTIVE JUROR NO. 1126: Something small here,  
16 our windows were shot out in our vehicles. It was a community where a  
17 bunch of kids went out and were just shooting out windows of cars.

18 THE COURT: Okay. An you weren't present when that  
19 occurred?

20 PROSPECTIVE JUROR NO. 1126: We were sleeping.

21 THE COURT: All right.

22 PROSPECTIVE JUROR NO. 1126: It happened at night.

23 THE COURT: And did you report it to law enforcement?

24 PROSPECTIVE JUROR NO. 1126: They actually came to our  
25 house, knocking on the door at 4:00 in the morning.

1 THE COURT: Okay. Were you satisfied with how law  
2 enforcement handled the investigation?

3 PROSPECTIVE JUROR NO. 1126: Yes.

4 THE COURT: And do you believe that that experience would  
5 make it difficult for you to be fair and impartial to both sides in this case?

6 PROSPECTIVE JUROR NO. 1126: No.

7 THE COURT: Besides anything you've already told us, do  
8 you have any close -- I think you answered this. Do you have any close  
9 relatives or friends who have ever been engaged in law enforcement?  
10 Do you have any close relatives or friends --

11 PROSPECTIVE JUROR NO. 1126: Yes. My brother and my  
12 cousin.

13 THE COURT: Okay. Tell me about your brother.

14 PROSPECTIVE JUROR NO. 1126: My brother, he's a  
15 policeman back in Pittsburgh. And --

16 THE COURT: And do you speak with him regularly?

17 PROSPECTIVE JUROR NO. 1126: Yes, but --

18 THE COURT: Do you talk about his job?

19 PROSPECTIVE JUROR NO. 1126: A little bit, just funny  
20 stories and --

21 THE COURT: Okay. But nothing -- I mean, would -- and I  
22 think you said you had a cousin?

23 PROSPECTIVE JUROR NO. 1126: Yes.

24 THE COURT: And what -- what do -- what type of law  
25 enforcement is your cousin involved in?

1 PROSPECTIVE JUROR NO. 1126: He's a patrolman back  
2 East also, in Pittsburgh.

3 THE COURT: Okay. And do you speak to your cousin  
4 regularly?

5 PROSPECTIVE JUROR NO. 1126: No, not that often.

6 THE COURT: Okay. Does your knowledge about your  
7 brother and cousin's job affect your ability to be fair and impartial in this  
8 case?

9 PROSPECTIVE JUROR NO. 1126: No.

10 THE COURT: All right. It's anticipated that certain law  
11 enforcement officers will testify in this case. Will you give more  
12 credibility to their testimony by the mere fact that they are law  
13 enforcement officers?

14 PROSPECTIVE JUROR NO. 1126: No, I didn't think so.

15 THE COURT: Okay. And do you agree that if you are chosen  
16 to serve as a juror in this case, that you will honor your duty to be  
17 completely fair and impartial and to listen carefully to all the evidence?

18 PROSPECTIVE JUROR NO. 1126: Yes.

19 THE COURT: Okay. State, do you have any questions for  
20 the panel?

21 MR. LEXIS: I'll be quick folks.

22 Can you please pass the mic back to Mr. Domingo, 1104.

23 Percentage-wise, sir, how much are you understanding?

24 PROSPECTIVE JUROR NO. 1104: I mean, a little bit English,  
25 you know.

1 MR. LEXIS: Give me a percent.  
2 PROSPECTIVE JUROR NO. 1104: Sir?  
3 MR. LEXIS: Do you know a percent? How much  
4 percentage-wise?  
5 PROSPECTIVE JUROR NO. 1104: 15 minutes. 15 --  
6 MR. LEXIS: 15?  
7 PROSPECTIVE JUROR NO. 1104: 15 percent, maybe like  
8 that.  
9 MR. LEXIS: Okay. Can you please pass it to  
10 Ms. Eldridge, 1105.  
11 Ma'am, I believe it's the opposite. You seem to understood all  
12 the questions the judge was asking you; am I correct?  
13 PROSPECTIVE JUROR NO. 1104: Yes.  
14 MR. LEXIS: Okay. And how long have you been here in the  
15 United States?  
16 PROSPECTIVE JUROR NO. 1104: Wow, pretty long. 17  
17 years.  
18 MR. LEXIS: Okay. And what are all the jobs you've had?  
19 PROSPECTIVE JUROR NO. 1104: I used to own some  
20 business, a fish store. Sell those or corals, saltwater fish. Just fish for  
21 looking, not for eating. So -- and then --  
22 MR. LEXIS: Did you have customers come in regularly and  
23 speak English to you?  
24 PROSPECTIVE JUROR NO. 1104: Yeah. But you know  
25 what, at the time, my English is even worse than now. But anyway, I run



1 the business for a few years. And then I used to be a bartender too, and  
2 then waitress.

3 MR. LEXIS: Okay. So you were a bartender too? You  
4 need --

5 PROSPECTIVE JUROR NO. 1104: But you know what? I --  
6 where I work is mostly people from Hong Kong, from -- I mean, the -- the  
7 customer, they're Chinese, so that's why. And anyway, at that time, my  
8 English is really worse than now.

9 MR. LEXIS: And you seem to understand me just fine; is that  
10 correct?

11 PROSPECTIVE JUROR NO. 1104: Yes.

12 MR. LEXIS: And if you are picked as a juror and you are  
13 having a hard time communicating with the other jurors, will you let them  
14 know that?

15 PROSPECTIVE JUROR NO. 1104: I believe I can  
16 communicate. But just, I don't mean -- I don't mean I don't understand.  
17 But just to communicate, probably not really fluent.

18 MR. LEXIS: That's fine, ma'am. You don't need to be fluent.

19 PROSPECTIVE JUROR NO. 1104: Okay. I -- I don't -- I  
20 don't -- I mean, I -- I'm not avoiding anything, but I have to tell the truth  
21 that I -- my listening, the understanding is just not as good as I talk,  
22 because when you talk, you have more -- more, how to say it, you easy  
23 to handle what you want to tell than -- than you passively listening. So  
24 that's -- that's my question.

25 MR. LEXIS: You're --

1 PROSPECTIVE JUROR NO. 1104: That's my problem.  
2 MR. LEXIS: -- giving a pretty good explanation, so it seems  
3 like you're understanding what I'm saying and the judge; is that correct?  
4 PROSPECTIVE JUROR NO. 1104: Yes.  
5 MR. LEXIS: Okay. Just directing the questions to the five  
6 people, the new people. For the most -- pass it up to -- take you off the  
7 hot seat, ma'am.  
8 1110, sir, is there anything in your past that would affect your  
9 ability to cast judgment upon the defendant at the end of this trial?  
10 PROSPECTIVE JUROR NO. 1110: No.  
11 MR. LEXIS: Any of the new people who would have any  
12 hindrance of casting judgment at the end? Let the record reflect, no  
13 response.  
14 Sir, do you understand that you are not to be concerned with  
15 sentencing when you're deliberating?  
16 PROSPECTIVE JUROR NO. 1110: What is that again?  
17 MR. LEXIS: You are not to be concerned with sentencing in  
18 your deliberations?  
19 PROSPECTIVE JUROR NO. 1110: Yes, I am.  
20 MR. LEXIS: Okay. And you understand that that is 100  
21 percent up to the judge?  
22 PROSPECTIVE JUROR NO. 1110: Yes.  
23 MR. LEXIS: You are only to decide -- you're the trier of fact,  
24 whether or not the defendant is guilty or not guilty?  
25 PROSPECTIVE JUROR NO. 1110: Yes.

1 MR. LEXIS: Does any of the new people disagree with that  
2 notion? Let the record reflect, no response.

3 Sir, do you know my questions previously -- first of all, you  
4 would agree that the State has a burden of proof?

5 PROSPECTIVE JUROR NO. 1110: Yes.

6 MR. LEXIS: The defendant does not need to testify?

7 PROSPECTIVE JUROR NO. 1110: Yes.

8 MR. LEXIS: And if he does not testify, that doesn't change the  
9 fact the State has the burden of proof?

10 PROSPECTIVE JUROR NO. 1110: That's correct, yes.

11 MR. LEXIS: Does any of the new people disagree with that  
12 notion? Let the record reflect, no response.

13 Sir, same type of questions previously as well; if just one  
14 person took that stand and you believe that person beyond a reasonable  
15 doubt, would you be able to find guilty or are you somebody that says  
16 no, if it's just one person, I am going to need something more, I'm going  
17 to need another independent witness, I'm going to need some type of  
18 forensic evidence?

19 PROSPECTIVE JUROR NO. 1110: I would have -- have to  
20 judge that one person's credibility.

21 MR. LEXIS: Okay. Any of the new people disagree with that  
22 notion; you would need something more? Let the record reflect no  
23 response.

24 Do any of you have anything in your past or any question that  
25 wasn't asked that would affect your ability to be fair and impartial? The

1 record reflect no response.

2 Sir, last question. I'll just pose it to all the new people. If the  
3 same crime is committed against a homeless drug addict gang member,  
4 and the same crime is committed against a doctor in Summerlin, do you  
5 believe the District Attorney's Office should prosecute the crime against  
6 the doctor more aggressively than the homeless drug addict, sir,  
7 Number 1110?

8 PROSPECTIVE JUROR NO. 1110: No.

9 MR. LEXIS: Should prosecute them both equally?

10 PROSPECTIVE JUROR NO. 1110: Yes.

11 MR. LEXIS: Does anybody disagree with that notion? Let the  
12 record reflect no response.

13 No further questions, Judge.

14 THE COURT: Defense, do you have any questions of the  
15 jury?

16 MS. PLUNKETT: Very -- very briefly --

17 THE COURT: Of the new panel members?

18 MS. PLUNKETT: -- Judge. Good afternoon. Mr. Keith?

19 PROSPECTIVE JUROR NO. 1110: Yes.

20 MS. PLUNKETT: Give your name and badge number.

21 PROSPECTIVE JUROR NO. 1110: My name is Edward Keith  
22 and I'm 1110.

23 MS. PLUNKETT: Thank you. The case where you testified  
24 for the defense, was that here in Clark County?

25 PROSPECTIVE JUROR NO. 1110: No. It was in California.

1 MS. PLUNKETT: And what year was that?

2 PROSPECTIVE JUROR NO. 1110: 1982.

3 MS. PLUNKETT: Thank you. Will you pass the microphone  
4 to the back row, Mr. Layne.

5 PROSPECTIVE JUROR NO. 1101: Wes Layne, 1101.

6 MS. PLUNKETT: Thank you. What did you discuss today  
7 with your friend who is a Metro police officer?

8 PROSPECTIVE JUROR NO. 1101: A case that he had been  
9 on just last week where a woman was so intoxicated or high that she  
10 had inadvertently stabbed her boyfriend to death thinking that she was  
11 killing herself. He thought that I had probably seen about it on the news,  
12 but I'm not a news person. I don't watch the news. But we talked a little  
13 bit about that. And we also talked about the fact that -- how burdensome  
14 this whole process is.

15 MS. PLUNKETT: Burdensome in what way?

16 PROSPECTIVE JUROR NO. 1101: In just the repetition and  
17 asking the same questions over and over and over again.

18 MS. PLUNKETT: Did you both agree that it was a  
19 burdensome process?

20 PROSPECTIVE JUROR NO. 1101: Absolutely.

21 MS. PLUNKETT: Did you discuss who the defendant was in  
22 this case?

23 PROSPECTIVE JUROR NO. 1101: No.

24 MS. PLUNKETT: Did you discuss who the attorneys were in  
25 this case?

1 PROSPECTIVE JUROR NO. 1101: No.

2 MS. PLUNKETT: Did you discuss anything specific to this  
3 case?

4 PROSPECTIVE JUROR NO. 1101: Not at all. I didn't tell him  
5 anything about it, other than it was an aggravated assault.

6 MS. PLUNKETT: And you mostly just discussed the jury  
7 selection process?

8 PROSPECTIVE JUROR NO. 1101: Yeah.

9 MS. PLUNKETT: Have you ever had a bad encounter with a  
10 police officer?

11 PROSPECTIVE JUROR NO. 1101: No.

12 MS. PLUNKETT: Thank you. Will you pass the microphone  
13 to Mr. Domingo.

14 Will you state your name and badge number, please?

15 PROSPECTIVE JUROR NO. 1104: Ronquillo  
16 Domingo, 1104.

17 MS. PLUNKETT: I don't know if I heard you correctly, but did  
18 you tell Judge Bailus that you do not speak English well?

19 PROSPECTIVE JUROR NO. 1104: Yes. I don't really speak  
20 English and understand.

21 MS. PLUNKETT: And you informed the State that you're only  
22 understanding about 15 percent of what's going on here?

23 PROSPECTIVE JUROR NO. 1104: Yeah. Yes, ma'am.  
24 That's --

25 MS. PLUNKETT: What's your primary language?

1 PROSPECTIVE JUROR NO. 1104: Filipino, Tagalog.  
2 MS. PLUNKETT: And how long did you say you've -- how  
3 long have you lived in the United States?  
4 PROSPECTIVE JUROR NO. 1104: 17 years.  
5 MS. PLUNKETT: Do you think you would have a problem  
6 understanding witness testimony?  
7 PROSPECTIVE JUROR NO. 1104: Yeah. I got a -- I know --  
8 I didn't -- I don't understand.  
9 MS. PLUNKETT: Thank you.  
10 PROSPECTIVE JUROR NO. 1104: Welcome.  
11 MS. PLUNKETT: Will you pass the microphone forward to  
12 Ms. Eldridge.  
13 Will you give your name and badge number, please, ma'am?  
14 PROSPECTIVE JUROR NO. 1105: Grace Eldridge, 1105.  
15 MS. PLUNKETT: Do you think you would also have a  
16 problem understanding testimony given by witnesses in this case?  
17 PROSPECTIVE JUROR NO. 1105: I might have about 5  
18 percent not understanding.  
19 MS. PLUNKETT: Only 5 percent not understanding?  
20 PROSPECTIVE JUROR NO. 1105: Yes.  
21 MS. PLUNKETT: You would 95 percent understand what's  
22 happening in the courtroom?  
23 PROSPECTIVE JUROR NO. 1105: Correct.  
24 MS. PLUNKETT: Okay. Thank you.  
25 Only the five new jurors, will you please raise your hand if

1 anyone has an opinion on Mr. Valencia's guilt or innocence simply  
2 because we are here because the State has brought charges against  
3 him; does anyone have an opinion on that? Let the record reflect no  
4 hands.

5 That's all I have, Judge.

6 THE COURT: Counsel approach.

7 [Bench conference transcribed as follows:]

8 THE COURT: I assume there's going to be a couple of  
9 challenges for cause. Let's go -- let them go for five minutes, do a -- I  
10 mean, let you make your record. I'll make my determination. Depending  
11 on how many -- go do our lunch break at 1:30. So it's about 10 after. I  
12 think we could probably handle the challenges for cause, so maybe  
13 depending on how many, seat the new panel --

14 MR. LEXIS: Can we just go until we get the jury, Judge?  
15 We're almost there.

16 THE COURT: Well, it's -- it's -- I'll -- I'll leave it up -- again, my  
17 staff hasn't had a break. We've been on the bench since 9:00. We had  
18 a short break between my law and motion calendar, so let's take care of  
19 the challenges for cause first. So we'll excuse them real quick, just tell  
20 them to stick around. And then you can make your record and then we'll  
21 go from there.

22 MR. LEXIS: Do you have more than just that guy, the  
23 Spanish --

24 THE COURT: Well, you know what, let's give -- let's get it on  
25 the record and we'll go from there.



1 [End of bench conference.]

2 THE COURT: Ladies and gentlemen, there's some  
3 housekeeping matters that we need to take care of. So this should only  
4 be about 5, 10 minutes. So I'm going to take a recess right now. I have  
5 to admonish you.

6 So during this recess, you're admonished not to talk or  
7 converse among yourselves or with anyone else on any subject  
8 connected with this trial, or read, watch, or listen to any report or  
9 commentary on the trial or any person connected with this trial by any  
10 medium of information, including without limitation, social media, text,  
11 newspapers, television, the Internet, and radio; do not do any posting or  
12 communications on any social networking sites or do any independent  
13 research, including Internet searches, or form or express any opinion on  
14 any subject connected with the trial and the case is finally submitted to  
15 you.

16 If -- we're going to take about 5, 10-minute recess. So don't  
17 wander too far off. And as soon as we finish, we'll have you come back  
18 in. Thank you.

19 [Prospective jury panel recessed at 1:09 p.m.]

20 THE COURT: Let the record reflect the jury is not present.  
21 Does the State have any challenges for cause of the new panel  
22 members?

23 MR. DICKERSON: Your Honor, yes. State is challenging for  
24 cause Badge No. 1104, Ronquillo Domingo, based on the fact that he  
25 doesn't understand English. It was pretty clear from the questioning that

1 he didn't understand English, that from the court, that from the State,  
2 that from the defense. Then he confirmed it with his assessment of his  
3 own ability to understand, being about 15 percent. I think that probably  
4 squares with exactly what we saw, is about 15 percent of what we were  
5 saying he understood. Based on that, Your Honor, we're moving to  
6 excuse that juror, Badge No. 1104.

7 THE COURT: Defense, what's your position on Mr. Domingo?

8 MR. COYER: We don't object to him being excused.

9 THE COURT: Okay. So we're -- State -- any other  
10 challenges for cause of the new panel members?

11 MR. DICKERSON: No further challenges for cause.

12 THE COURT: Defense?

13 MR. COYER: Judge, I guess I would just note for the record  
14 that if we're excusing people for language barriers in general, I'm not  
15 sure what percentage it becomes sufficient to leave someone on. I have  
16 some concerns about Ms. Eldridge, Badge No. 1105, because I  
17 anticipate some of the evidence will be audio dispatch, which can be,  
18 even for -- if you're a 100 percent English, it can be difficult to hear those  
19 sometimes. So given that, I think maybe in an abundance of caution,  
20 she should be removed for cause as well, due to language.

21 THE COURT: State, what's your position on Ms. Eldridge?

22 MR. DICKERSON: We oppose her removal, Your Honor. I  
23 think that it was extremely clear from the way she was answering  
24 questions, her demeanor here in court, and I would ask Your Honor to  
25 find the same thing, that she understood what was going on. She's had

1 several businesses that she's owned and different jobs that are much  
2 higher level and interactive with the public than we've seen some -- from  
3 some of the other folks that had lesser ability to understand English. I  
4 think her estimate of maybe not understanding 5 percent was -- it was  
5 what it was. But at the end of the day, I think that probably half the  
6 people on there that speak English as their first language might not  
7 understand 5 percent of what happens during the day.

8 THE COURT: And I would note for the record, counsel, that  
9 when asked certain questions about her ability to understand, I know this  
10 is a cold record when it goes up on appeal, so I want to note for the  
11 record, before she asked, she kind of smiled, and then indicated that she  
12 can understand, I believe, 95 percent. So I think, again, this is a cold  
13 record. But she seemed to be able to understand. And when pressed,  
14 she would kind of just smile and give an answer that she did understand.  
15 I just want to note that for the record.

16 Any other challenges for cause?

17 MR. COYER: Not from the defense, Your Honor.

18 THE COURT: Okay. I'm just going to take two seconds. Just  
19 remain seated.

20 [Court recessed at 1:13 p.m. until 1:15 p.m.]

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

22 THE COURT: Back on the record. I am going to excuse for  
23 cause Mr. Domingo. And so you can bring the -- is there any other  
24 argument, counsel?

25 MR. LEXIS: No, Your Honor.

1 THE COURT: Bring the panel back in.  
2 [Prospective jury panel reconvened at 1:15 p.m.]  
3 THE COURT: Okay. Let the record reflect the presence of  
4 counsel for the State and the defense, the defendant, and the jury panel.  
5 At this time, the court would like to thank and excuse  
6 Mr. Domingo, Badge No. 1104.  
7 THE CLERK: Deanna Yturralde, Badge No. 1127.  
8 THE COURT: Could you say your name, ma'am?  
9 PROSPECTIVE JUROR NO. 1127: Take the Y off.  
10 THE COURT: Yturralde? And you're Badge No. 1124?  
11 PROSPECTIVE JUROR NO. 1127: Yes.  
12 THE COURT: I'm sorry --  
13 PROSPECTIVE JUROR NO. 1127: No, 1127.  
14 THE COURT: 1127. Thank you, ma'am. How long have you  
15 lived in Clark County, Nevada?  
16 PROSPECTIVE JUROR NO. 1127: Since '86.  
17 THE COURT: And how far did you go in school?  
18 PROSPECTIVE JUROR NO. 1127: Two years college.  
19 THE COURT: And what is your occupation?  
20 PROSPECTIVE JUROR NO. 1127: Pharmacy technician.  
21 THE COURT: And are you married?  
22 PROSPECTIVE JUROR NO. 1127: Yeah.  
23 THE COURT: And what does your husband do?  
24 PROSPECTIVE JUROR NO. 1127: He's disabled.  
25 THE COURT: Okay. And how long has he been disabled?

1 PROSPECTIVE JUROR NO. 1127: Since '96.  
2 THE COURT: Okay. Before he was disabled, did he work?  
3 PROSPECTIVE JUROR NO. 1127: He was a truck driver.  
4 THE COURT: Okay. And do you have any children?  
5 PROSPECTIVE JUROR NO. 1127: I have a daughter  
6 who's 43, she works in the gaming business, and a son who is 40, he's a  
7 manager at a Walmart.  
8 THE COURT: Are they -- do they both live in Las Vegas,  
9 Nevada?  
10 PROSPECTIVE JUROR NO. 1127: My daughter does, my  
11 son does not.  
12 THE COURT: Okay. Have you ever served as a juror before?  
13 PROSPECTIVE JUROR NO. 1127: No.  
14 THE COURT: Have you ever testified as a witness in a  
15 criminal matter?  
16 PROSPECTIVE JUROR NO. 1127: No.  
17 THE COURT: Have you or close family member ever been  
18 convicted of a crime?  
19 PROSPECTIVE JUROR NO. 1127: No.  
20 THE COURT: Have you or close family member ever been  
21 the victim of a crime?  
22 PROSPECTIVE JUROR NO. 1127: Yes.  
23 THE COURT: And could you explain, please?  
24 PROSPECTIVE JUROR NO. 1127: In '08 my husband was --  
25 just stepped out of a vehicle and was struck down -- down by a -- a

1 drunk driver.

2 THE COURT: Is that how he became disabled?

3 PROSPECTIVE JUROR NO. 1127: No. He broke his back  
4 when he wrecked his truck.

5 THE COURT: I see. And was that matter investigated by law  
6 enforcement?

7 PROSPECTIVE JUROR NO. 1127: It was.

8 THE COURT: And were you satisfied with the investigation  
9 that law enforcement did?

10 PROSPECTIVE JUROR NO. 1127: We had no part in it.

11 THE COURT: Okay. Did they find the individual, the -- the  
12 driver of the vehicle?

13 PROSPECTIVE JUROR NO. 1127: Oh, yeah. He stepped  
14 out of the car, said he was being taught how to drive drunk.

15 THE COURT: Okay. And was he prosecuted?

16 PROSPECTIVE JUROR NO. 1127: Yes. He served six  
17 months in jail.

18 THE COURT: And was that here in Clark County, Nevada?

19 PROSPECTIVE JUROR NO. 1127: No, Southern California.

20 THE COURT: Okay. Anything else, ma'am?

21 PROSPECTIVE JUROR NO. 1127: You ask me.

22 THE COURT: Yeah. Well, is there anything else you want to  
23 tell me about the incident with the drunk driver and your husband?

24 PROSPECTIVE JUROR NO. 1127: No.

25 THE COURT: Okay. Do you believe that experience will

1 make it difficult for you to be fair and impartial in this case?

2 PROSPECTIVE JUROR NO. 1127: No.

3 THE COURT: Besides anything you've already told us, do  
4 you have any close relatives or friends who have ever been engaged in  
5 law enforcement?

6 PROSPECTIVE JUROR NO. 1127: Most of them. All --  
7 practically all the male in my in-laws are former or now police officers.

8 THE COURT: And how many males in your family that you're  
9 speaking of?

10 PROSPECTIVE JUROR NO. 1127: My father-in-law was  
11 LAPD; my brother-in-law just retired San Bernardino PD; my nephew is  
12 a detective for LAPD. That's all I can think of right now.

13 THE COURT: Okay. And do you ever speak to them about  
14 their job?

15 PROSPECTIVE JUROR NO. 1127: Not voluntarily.

16 THE COURT: All right. So mainly, your interaction with your  
17 in-laws is just socially?

18 PROSPECTIVE JUROR NO. 1127: Correct.

19 THE COURT: Okay. And it's -- does your knowledge about  
20 your in-laws' occupation, them being police officers, does that your --  
21 affect your ability to be fair and impartial in this case?

22 PROSPECTIVE JUROR NO. 1127: To a lot of things.

23 THE COURT: Such as?

24 PROSPECTIVE JUROR NO. 1127: Well, being married to  
25 that side of the family for 45 years, you're kind of conditioned to believe

1 the cops are right.

2 THE COURT: Okay. Well, that's somewhat my next question.  
3 It's anticipated that certain law enforcement officers are going to testify  
4 in this case; will you give more credibility to their testimony by the mere  
5 fact that they are law enforcement officers, or are you willing to hear all  
6 the testimony from all of the witnesses before you make a determination  
7 of credibility?

8 PROSPECTIVE JUROR NO. 1127: Honestly, I -- I hope to be  
9 fair, but I have to lean toward the cops. It's just in me.

10 THE COURT: Okay. But if other witnesses contradict the  
11 officers and you believe those witnesses over the law enforcement, can  
12 you be fair and impartial and do that?

13 PROSPECTIVE JUROR NO. 1127: My best.

14 THE COURT: Have an open mind?

15 PROSPECTIVE JUROR NO. 1127: Open mind.

16 THE COURT: Okay. Do you agree that if you are chosen to  
17 serve as a juror in this case, that you will honor your duty to be  
18 completely fair and impartial and to listen carefully to all of the evidence  
19 before you make a decision?

20 PROSPECTIVE JUROR NO. 1127: Oh, yeah.

21 THE COURT: Okay. State, any questions?

22 MR. LEXIS: Ma'am, I'm sure you know where I'm going. Just  
23 because a doctor or a firefighter come in here, or a cop, what they say  
24 is -- you can't -- you got -- first need to wait and see what comes out of  
25 their mouth; will you do that?



1 PROSPECTIVE JUROR NO. 1127: Oh, yeah.  
2 MR. LEXIS: As far as sentencing, you know that's up to the  
3 judge?  
4 PROSPECTIVE JUROR NO. 1127: Yes.  
5 MR. LEXIS: Are you going to put that aside during  
6 deliberations if you're picked?  
7 PROSPECTIVE JUROR NO. 1127: What we're told to do.  
8 MR. LEXIS: Okay. Are you going to -- do you have anything  
9 in your past that's going to affect your ability to cast judgment at the end  
10 of this case?  
11 PROSPECTIVE JUROR NO. 1127: No.  
12 MR. LEXIS: And if just one person takes the stand and you  
13 believe that person beyond a reasonable doubt, could you be able to  
14 convict or are you someone that needs another witness or other forensic  
15 evidence?  
16 PROSPECTIVE JUROR NO. 1127: I need more info than just  
17 a one-sided deal.  
18 MR. LEXIS: Okay. So a older woman goes out to her mailbox  
19 tonight and a guy comes up to her, mugs her, and takes off with her  
20 stuff. Couple weeks go by and she sees somebody in a neighborhood  
21 and she says, That's the guy. She calls the cops. First of all, do you  
22 believe the cops should come and arrest that guy, if she's telling police  
23 that's the man that mugged me two weeks ago?  
24 PROSPECTIVE JUROR NO. 1127: They would investigate it,  
25 wouldn't they?

1 MR. LEXIS: Okay.

2 PROSPECTIVE JUROR NO. 1127: I don't know.

3 MR. LEXIS: Okay. Yes. There would be an investigation.  
4 But let's say that's the only thing they can could up with. I mean, the  
5 property is gone. He's not wearing the same clothing, et cetera, et  
6 cetera.

7 PROSPECTIVE JUROR NO. 1127: They'd have to prove it.

8 MR. LEXIS: Okay. If that -- if that lady comes on the stand  
9 and you judge her credibility and you believe she's telling you the truth  
10 beyond a reasonable doubt, would that be enough to convict?

11 PROSPECTIVE JUROR NO. 1127: No.

12 MR. LEXIS: Okay. And explain why.

13 PROSPECTIVE JUROR NO. 1127: Because that's her side.  
14 That's her thought process. She believes in what she's saying. You  
15 know, I can say you robbed me, and I believe that. But I -- I -- you know,  
16 someone would say well -- you know, couldn't you have more proof?

17 MR. LEXIS: Okay. Do you believe that those cases happen  
18 every day --

19 PROSPECTIVE JUROR NO. 1127: Oh, yeah.

20 MR. LEXIS: -- where -- where there's just one person and  
21 there is no other forensic evidence, there is no --

22 PROSPECTIVE JUROR NO. 1127: I'm sure there is.

23 MR. LEXIS: -- camera following people around, there's no  
24 fingerprints, no guarantee, DNA is no guarantee; so you would agree  
25 those cases happen all the time?

1 PROSPECTIVE JUROR NO. 1127: I would imagine they  
2 would.

3 MR. LEXIS: Okay. And do you believe our office should  
4 prosecute those cases or say, you know what, since we only have one  
5 person that's going to testify, we should deny the case?

6 PROSPECTIVE JUROR NO. 1127: Oh, no. You should --  
7 you should investigate it, you know.

8 MR. LEXIS: Okay. Let's say we do investigate it and there is  
9 no other witnesses, and there is no forensic evidence. We search for  
10 cameras, there's no cameras that captured the crime, there's no  
11 independent witnesses that captured the crime. It comes back to this  
12 lady telling us that's the man that did it. Should our office dismiss the  
13 case?

14 PROSPECTIVE JUROR NO. 1127: No, I don't think so.

15 MR. LEXIS: So we should prosecute that case?

16 PROSPECTIVE JUROR NO. 1127: Again, you would need to  
17 hear his side; where was he that day?

18 MR. LEXIS: The defendant has a right not to testify.

19 PROSPECTIVE JUROR NO. 1127: That's true.

20 MR. LEXIS: State has a burden of proof. The law allows the  
21 State to just put up one witness, and evidence is testimony. And if you  
22 believe that testimony beyond a reasonable doubt --

23 PROSPECTIVE JUROR NO. 1127: Beyond a reasonable  
24 doubt.

25 MR. LEXIS: -- the State is entitled for a guilty verdict; do you

1 agree or disagree with that?

2 PROSPECTIVE JUROR NO. 1127: Well, beyond a  
3 reasonable doubt, I agree.

4 MR. LEXIS: Okay. So if she testifies and you judge her -- you  
5 believe that she's credible and you believe beyond a reasonable doubt  
6 that that man did that to her, would you be able to convict?

7 PROSPECTIVE JUROR NO. 1127: Yes.

8 MR. LEXIS: Nothing further, Judge.

9 THE COURT: Defense, do you have any questions of this --

10 MS. PLUNKETT: I do, Judge.

11 THE COURT: -- potential juror?

12 MS. PLUNKETT: Good afternoon, ma'am. How many hours  
13 a week do you work as a pharmacy technician?

14 PROSPECTIVE JUROR NO. 1127: 40.

15 MS. PLUNKETT: And when you say your husband is  
16 disabled, is he mobile?

17 PROSPECTIVE JUROR NO. 1127: He's mobile. He has no  
18 feeling from the waist down, but he is still mobile.

19 MS. PLUNKETT: And I believe you said that you have a  
20 family member, who is also disabled, who stays with him when you  
21 work?

22 PROSPECTIVE JUROR NO. 1127: Right. Either my mother,  
23 who is 87, or his sister, who has MS.

24 MS. PLUNKETT: Is your husband here today?

25 PROSPECTIVE JUROR NO. 1127: No. He was in bad shape

1 when we left yesterday.

2 MS. PLUNKETT: Do you -- do you worry about him while  
3 you're at work?

4 PROSPECTIVE JUROR NO. 1127: Constantly.

5 MS. PLUNKETT: Does that affect your ability to perform your  
6 job?

7 PROSPECTIVE JUROR NO. 1127: Not at all. My superiors  
8 also know if I get a phone call, my husband comes first. I'm out of there.

9 MS. PLUNKETT: How often do you get that phone call?

10 PROSPECTIVE JUROR NO. 1127: I've had it three times  
11 in 21 years.

12 MS. PLUNKETT: When was the last time you got that phone  
13 call?

14 PROSPECTIVE JUROR NO. 1127: When he was found in  
15 our garage with encephalitis and he was almost comatose.

16 MS. PLUNKETT: And when was that?

17 PROSPECTIVE JUROR NO. 1127: Probably three years ago.

18 MS. PLUNKETT: If you were chosen to sit on this jury, would  
19 you be thinking about him as you sat on the jury?

20 PROSPECTIVE JUROR NO. 1127: I always think about him.

21 MS. PLUNKETT: Would his situation affect your ability to  
22 focus on the evidence in this case?

23 PROSPECTIVE JUROR NO. 1127: I don't think so.

24 MS. PLUNKETT: You said earlier that you would "do your  
25 best" to be impartial. Can you tell me more about how you would do

1 your best?

2 PROSPECTIVE JUROR NO. 1127: Well, it -- it depends on  
3 all the evidence and what is presented and -- and to the best of my  
4 ability to understand all that.

5 MS. PLUNKETT: In a close call, would you be able to give the  
6 defendant the benefit of the doubt?

7 PROSPECTIVE JUROR NO. 1127: In a close call?

8 MS. PLUNKETT: In a close call?

9 PROSPECTIVE JUROR NO. 1127: I don't understand. What  
10 are you --

11 MS. PLUNKETT: If we have the one witness and it's a -- in  
12 your mind a close call on whether or not you believe this person, would  
13 you be able to give Mr. Valencia the benefit of the doubt?

14 PROSPECTIVE JUROR NO. 1127: I guess I'm not getting  
15 what you mean by close call.

16 MS. PLUNKETT: Let me -- let me ask --

17 PROSPECTIVE JUROR NO. 1127: Believable or not  
18 believable, kinda sorta. I --

19 MS. PLUNKETT: Let me ask a --

20 PROSPECTIVE JUROR NO. 1127: -- I'm not understanding  
21 that.

22 MS. PLUNKETT: I'll ask a different question. In the --

23 PROSPECTIVE JUROR NO. 1127: Thank you.

24 MS. PLUNKETT: -- mugging example that Mr. Lexis gave,  
25 you referred to a one-sided deal; would you expect the defendant to

1 testify?

2 PROSPECTIVE JUROR NO. 1127: Or have great lawyers.

3 MS. PLUNKETT: So you're saying you would not necessarily  
4 need to hear directly from the mouth of Mr. Valencia?

5 PROSPECTIVE JUROR NO. 1127: I don't think so.

6 MS. PLUNKETT: Court's indulgence one second.

7 That's all I have, Judge.

8 THE COURT: Thank you.

9 Counsel, approach.

10 [Bench conference transcribed as follows:]

11 THE COURT: Is either side challenging this potential juror for  
12 cause?

13 MR. DICKERSON: State's not.

14 THE COURT: Defense?

15 MR. COYER: No.

16 THE COURT: I can't hear you.

17 MR. COYER: No.

18 THE COURT: Okay. So what I'm going to do is take our  
19 lunch break and then when we come back, we'll do the peremptory  
20 challenges. And then once the peremptory challenges are complete,  
21 we'll do opening statements and begin testimony. Is that satisfactory to  
22 both parties?

23 MR. DICKERSON: It is, Your Honor.

24 MR. COYER: Yeah.

25 THE COURT: Okay. State -- defense?

1 MR. COYER: Yep.

2 THE COURT: Okay. Thank you.

3 [End of bench conference.]

4 THE COURT: At this time, ladies and gentlemen, we're going  
5 to take a one-hour lunch break. So if you could come back by 2:30.  
6 Just stay out in the hallway until the marshal brings you into the  
7 courtroom.

8 And during this recess, you're admonished not to talk or  
9 converse among yourselves or with anyone else on any subject matter  
10 connected with this trial, read, watch, or listen to any report of or any  
11 commentary on the trial or any person connected with this trial by any  
12 medium of information, including without limitation, social media, text,  
13 newspapers, television, the Internet, and radio; do not do any posting or  
14 communications on any social networking sites or do any independent  
15 research, including Internet searches, or form or express any opinion on  
16 any subject connected with the trial until the case is submitted to you.

17 So we'll be in recess for one hour. Thank you.

18 [Prospective jury panel recessed at 1:31 p.m.]

19 THE COURT: Court is in recess for one hour.

20 MR. DICKERSON: Thank you, Judge.

21 MS. PLUNKETT: Thank you, Judge.

22 [Court recessed from 1:33 p.m. until 2:39 p.m.]

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

24 THE COURT: Please be seated. This is the continuation of  
25 Case No. C-16-315580. Let the record reflect counsel for the State,



1 counsel for the defendant and Defendant are present outside the  
2 presence of the jury.

3 MR. LEXIS: Your Honor, just so you know, some of the  
4 officers that were present during this incident are here in the courtroom.  
5 We brought them in in order to bring in the evidence and open it up in  
6 front of defense counsel in order to pre-mark it, save time, and for  
7 chain-of-custody purposes.

8 THE COURT: Okay. Do you want -- is -- has that been done?

9 MR. LEXIS: It -- yes. The gun, the bag with the three drugs  
10 are all other there.

11 THE COURT: Is that correct, counsel?

12 MR. COYER: I assume so. I didn't -- we did not open the  
13 bags, but that's what they were represented to me to be. I have no  
14 reason to doubt that.

15 THE COURT: Okay. But I thought what he represented was  
16 they're going to pre-open the bag in your presence so there's not a  
17 chain-of-custody issue or to save time. Is that --

18 MR. LEXIS: Well, Your Honor, we opened up a main bag  
19 which had then separate bags in there.

20 THE COURT: Okay.

21 MR. LEXIS: We will at a break then open up the individual  
22 bags too, after they're marked.

23 THE COURT: You know what, you can do it from the witness  
24 stand. I don't care.

25 MR. LEXIS: Yeah. We were just trying to -- for

1 chain-of-custody purposes and save time.

2 THE COURT: Defense, what's your preference, do you want  
3 to open it up when the -- each witness testifies? Usually it's done from  
4 the witness stand.

5 MR. COYER: I don't think that I have a preference. So  
6 however, the court would prefer the State --

7 THE COURT: I have no preference.

8 MR. LEXIS: During the breaks, then, we'll open them up in  
9 front of defense counsel and get them pre-marked, Judge.

10 THE COURT: Okay. Is -- is that agreeable to the defense?

11 MR. COYER: Yes.

12 THE COURT: Thank you. Okay. Is there anything -- any  
13 other housekeeping matters that need to be brought to the court's  
14 attention?

15 MR. LEXIS: No, Your Honor.

16 MR. DICKERSON: If I may approach your clerk with the  
17 State's proposed exhibits, additional exhibits outside of the evidence that  
18 has been brought in today?

19 THE COURT: Okay. That's fine.

20 MR. DICKERSON: Thank you.

21 THE COURT: And -- and you want him to mark them at this  
22 point?

23 MR. DICKERSON: Yes. That's what we would request, Your  
24 Honor.

25 THE COURT: Okay.

1 MR. DICKERSON: They are paper-clipped together just for  
2 our reference as to kind of keep them organized. But each page would  
3 be individually marked, unless it's -- has a staple through it, which I don't  
4 think any do.

5 THE COURT: Okay. And, Mr. Lexis, when did you anticipate  
6 having the evidence bags opened, at what point?

7 MR. LEXIS: Whenever we break, Judge.

8 THE COURT: Okay. After opening statements?

9 MR. LEXIS: Just throughout this trial whenever you break.

10 THE COURT: Okay.

11 MR. DICKERSON: Or we can just do them from the stand,  
12 whatever the court --

13 THE COURT: Yeah.

14 MR. DICKERSON: -- prefers.

15 THE COURT: This doesn't seem like it's going to be a lengthy  
16 trial, so.

17 MR. LEXIS: Today is only going to be the gun, Judge.

18 THE COURT: Okay. It's time where we're going to do the  
19 peremptory challenges. As you're aware, you're each entitled to  
20 exercise four -- I'm sorry, that's correct, four peremptory challenges  
21 towards the proposed regular jurors and one peremptory challenge  
22 towards the alternate juror.

23 I was going to bring the jury panel in and have them seated,  
24 and then you can pass the -- you're going to be -- you will alternate  
25 writing your challenges down on the clerk's form, passing the form back

1 and forth. Any given turn, you are allowed to waive your right to  
2 challenge. We will do this process first for the proposed regular jurors.  
3 So once you do a total of eight peremptory challenges, that's going to be  
4 the first -- that will be the jury. Then you're going to each get one  
5 peremptory challenge for the alternate jurors.

6 So the first 12 will be the jury, and the last two, for a total  
7 of 14, will be the alternates; is that agreeable to the parties?

8 MR. LEXIS: Yes.

9 MR. DICKERSON: Yes.

10 MR. COYER: It is, Your Honor.

11 THE COURT: Okay. Then I'll review the form and ask  
12 counsel to approach before any of the challenged jurors are released.  
13 That is the time to assert any challenges under *Batson v. Kentucky* or  
14 *JVK vs. Alabama*. Any *Batson* challenges not asserted at the time will  
15 be deemed waived. So once I release the panel, if you haven't asserted  
16 your *Batson* challenge, it's waived. It has to be done before I release  
17 the -- the challenged jurors.

18 After resolving any *Batson* challenge, I will release any  
19 persons that will not be on the final jury panel and that's the final jury  
20 panel. Is there any questions at this time?

21 MR. DICKERSON: None from the State, Your Honor.

22 MR. COYER: None, your Honor.

23 THE COURT: Okay. So I'm going to bring the -- the jury  
24 panel in at this time and have them seated.

25 [Prospective jury panel reconvened at 2:45 p.m.]

1 THE COURT: Let the record reflect that the jury panel has  
2 been seated.

3 Ladies and gentlemen, we're at the point in the trial where the  
4 attorneys are going to exercise what's called peremptory challenges.  
5 This will take a few minutes. If you could just have a seat quietly,  
6 converse among yourselves, and as soon as the peremptory challenge  
7 process is completed, I will announce the jury panel. So if you give us  
8 the -- take a few moments.

9 Do you have the form? Give it to him.

10 MR. DICKERSON: Thank you very much.

11 [Pause in proceedings.]

12 THE COURT: Counsel approach.

13 [Bench conference transcribed as follows:]

14 THE COURT: Is there any objection to the court accepting the  
15 peremptory challenges?

16 MR. LEXIS: No objection, Your Honor.

17 MR. DICKERSON: No.

18 THE COURT: Defense?

19 MR. COYER: No.

20 THE COURT: Okay. Thank you.

21 [End of bench conference.]

22 THE COURT: It appearing to the court that all peremptory  
23 challenges have either been exercised or waived, the clerk will now call  
24 the names of the persons who will comprise the jury.

25 THE CLERK: Anna Dunegan, Kimberly Wasden, Wesley

1 Adams [sic], Jennifer Fighera, Xavier Antheaume, Thomas McAuley,  
2 Deatrice Higgs, Sonya Johnson, Sharon Iaconi, Leticia Morales, Shawna  
3 Perez, Susan Penrod, Amy McTeir, Edwin Blazer.

4 THE COURT: If your name was not called, you're going to be  
5 excused at this time. I'd like to thank everybody whose name was not  
6 called far -- for participating in the jury selection process. As you've  
7 heard your entire life, if -- it's the juries that make the system work. And  
8 I know it may seem burdensome at the time, but it's the foundation of the  
9 American justice system.

10 So if your name was not called, I'd like to thank and excuse  
11 each of those individuals at that time -- at this time. Thank you.

12 [Balance of prospective jury panel excused at 2:56 p.m.]

13 MS. PLUNKETT: Wesley Layne.

14 MR. COYER: He's on our jury.

15 MS. PLUNKETT: Isn't his name Wesley Layne?

16 THE COURT: Okay. I just got to say I'm counting 13 and I'm  
17 going -- okay. Okay.

18 Marshal, if you'll seat them in order, please.

19 [Pause in proceedings.]

20 THE COURT: Okay. The clerk will now administer the oath to  
21 the jurors.

22 [Jury sworn.]

23 THE COURT: You may be seated. The jury is now fully  
24 impaneled.

25 At this point in the trial, I'm going to give you some preliminary

1 instructions. They're quite lengthy and I'm going to use a script to make  
2 sure I fully explain everything to you. The print is very small on this  
3 script, so I have to go a little bit slow. I -- because, like I said, the print is  
4 very small. So if you could just listen carefully, and I'm going to give you  
5 some preliminary instructions before the parties do their opening  
6 statements.

7 Ladies and gentlemen, you are admonished that no juror may  
8 declare to a fellow juror any fact relating to this case of his own  
9 knowledge. And if -- if any juror discovers during the trial or after the jury  
10 has retired that he or any other juror has personal knowledge of it -- that  
11 he or she or any other juror has personal knowledge of any fact or  
12 controversy in this case, he or she shall disclose the situation to me in  
13 the absence of the other jurors.

14 This means that if you learn during the course of the trial that  
15 you are acquainted with the facts of this case or the witnesses and you  
16 have not previously told us of that relationship, you must then declare  
17 that fact to me.

18 The way that you communicate with the court throughout our  
19 trial is through our marshal. Our marshal is Randy Stevenson. He is  
20 present at all times while we are in session. And you previously met  
21 Randy. He's the one who's been escorting you in and out during the  
22 breaks.

23 During the course of this trial, the attorneys for both sides,  
24 court personnel other than the marshal, are not permitted to talk with  
25 you. It's not that we are antisocial, it's simply that we are bound by

1 ethics and the law not to speak with you because to do so might  
2 contaminate your verdict. We are not even allowed to say hi to you if we  
3 should pass you in the hall or be in the elevator together.

4 If you should recognize a witness or be familiar with the facts  
5 of the case when the witness is testifying, please make a little note on  
6 your jury pad that you will -- that you recognize such-and-such witness,  
7 and how it is that you recognize that witness. At the next break in the  
8 trial, please hand that note to the marshal and he will present it to the  
9 court and counsel.

10 Frequently people do not recognize witnesses by name, but  
11 may recognize them when they come into the courtroom to testify. If  
12 that should happen in this case, please make a note of that as the  
13 witness is testifying, and the next break, give that note to the marshal.

14 You are admonished additionally that you are not to visit the  
15 scene of any of the acts or occurrences made mention of during trial  
16 unless specifically directed to do so by the court. The reason that we do  
17 not want you going out to any particular scene or location referenced  
18 during the trial is not because we don't want you to know everything  
19 there is to know about the location, but simply that there is no guarantee  
20 that the intersection, street, apartment complex, the restaurant, whatever  
21 looks the same as it did at the time of the incident. Usually photos are  
22 taken at the time of the incident or shortly thereafter, and we will use  
23 those photographs during the trial rather than going to the site to look at  
24 first hand.

25 This case is a criminal case commenced by the State of



1 Nevada. Sometimes I may refer to it as the *State vs. Ceasar Sanchaz*  
2 *Valencia*. This case is based upon a second amended information. The  
3 clerk will now read the second information to you and state the plea of  
4 the defendant.

5 [Information read.]

6 THE COURT: Thank you. This case is based upon that  
7 second amended information which has just been read to you by the  
8 clerk. You should distinctly understand that the second amended  
9 information is simply a charge and that it is not in any sense evidence of  
10 the allegations that it contains.

11 The defendant has pled not guilty to the charges. The State  
12 therefore has the burden of proving each of the essential elements of the  
13 second amended information beyond a reasonable doubt. The purpose  
14 of this trial is to determine whether the State will meet that burden.

15 It is your primary responsibility as jurors to find and determine  
16 the facts. Under our system of criminal procedure, you are the sole  
17 judge of the facts. You are to determine the facts from the testimony  
18 you hear and the other evidence, including exhibits introduced in court.  
19 It is up to you to determine the inferences which you may feel may  
20 properly be drawn from the evidence.

21 If during the examination of witnesses some questions occur  
22 to you, be patient. The answers will probably be given before the  
23 witness is excused. If not, write your questions on a full sheet of paper  
24 and hand it to the marshal. He will then give it to me and if the question  
25 is a proper one under the law, I will see that it is answered. Any

1 questions must be factual in nature and designed to clarify information  
2 already presented. If your question is asked, you may not place undue  
3 weight on the question to the -- undue weight on the answer to the  
4 question.

5           The parties may sometime present objections to some of the  
6 testimony or other evidence. At times I may sustain those objections or  
7 direct that you disregard certain testimony and exhibits. You must not  
8 consider any evidence to which an objection has been sustained or  
9 which I have instructed you to disregard.

10           It is the duty of the -- of a lawyer to object to evidence which  
11 he or she believes may not properly be offered. And you should not be  
12 prejudiced in any way against a lawyer who makes objections on behalf  
13 of the party which he or she represents.

14           I may also find it necessary to admonish the lawyers. If I do,  
15 you should not show prejudice towards the lawyer or his or her clients  
16 because I found it necessary to admonish him or her.

17           Throughout the trial, if you cannot hear a question asked by  
18 the attorney or the answer given by a witness, please raise your hands  
19 as an indication. If I don't see your hand, please say excuse me, I didn't  
20 hear that, and we will ask that question be repeated or the answer -- or  
21 the answer be repeated.

22           If you wish, you may take notes to help you remember what  
23 any witness has said. If you do take notes, please keep those notes to  
24 yourself until you and your fellow jurors go to the jury room to decide the  
25 case. Do not let note taking distract you so that while you are writing

1 down the answers to question, three or four questions are asked and  
2 answered and go right past you and you have no recollection of those  
3 answers. Notepads will be provided to you and kept in the courtroom.  
4 You can't take them with you and the marshal will collect them at the  
5 end of each day. You should rely upon your own memory of what was  
6 said and not to be overly influenced by the notes of other jurors when  
7 you go back to deliberate.

8           This case will proceed in the following order. First, the State  
9 will make an opening statement outlining its case. The opening  
10 statement is like roadmap or an outline. During the opening statement,  
11 the State will be telling you what they expect the evidence will be. After  
12 the State opens, the defendant has a right to make an opening  
13 statement if he or she wishes to do so. Neither party is to -- is required  
14 to make opening statements.

15           After the opening statements, the State will first introduce  
16 evidence. At the conclusion of the State's evidence, the defendant has  
17 a right to introduce evidence. However, please remember, the  
18 defendant is not obligated to present any evidence or to prove -- or to  
19 prove his evidence. The law never imposes upon the defendant in a  
20 criminal case the burden of calling any evidence or introducing any  
21 evidence. The defendant and his attorneys can sit through the trial and  
22 do nothing, not ask any questions, not call any witnesses, do nothing at  
23 all, because the defendant has no burden of proof in a criminal trial.

24           As we already discussed, the State has to prove two things to  
25 you. First, the State has to prove to you beyond a reasonable doubt that

1 a crime occurred. And second, the State has to prove to you, also  
2 beyond a reasonable doubt, that the defendant did it.

3 At the close of the defendant's case, if any, the State may  
4 introduce rebuttal evidence. At the conclusion of all the evidence, I will  
5 instruct you on the law. You must not be concerned with the wisdom of  
6 any rule of law stated in these instructions or the instructions which I will  
7 read to you after the evidence is in. Regardless of any opinion you may  
8 have as to what the law ought to be, it would be a violation of the oath to  
9 base a verdict upon any other view of the law than that given to you by  
10 the court.

11 Now, please understand, ladies and gentlemen, the court  
12 does not make up the law. Law in each state is created by the state  
13 legislature.

14 After the instructions on the law are read to you, each party  
15 has the opportunity to argue orally in support of his or her case. This is  
16 called the closing argument or summation. What is said in closing is not  
17 evidence. The arguments are designed to summarize and interpret the  
18 evidence for you and show you how the evidence and law relate to one  
19 another. Since the State has the burden of proving the defendant guilty  
20 beyond a reasonable doubt, the State has the right to both open and  
21 close the arguments, which means at the end of the trial, the State gets  
22 to argue to you twice and Defendant gets to argue to you once.

23 After the attorneys have presented their arguments, you will  
24 retire to select a foreperson to deliberate and arrive at your verdict.  
25 Faithful performance by you of your duties is vital to the administration of

1 justice. It is your duty to determine the facts and determine -- and  
2 determine them from the evidence and reasonable inferences arising  
3 from such evidence. And in so doing, you must not indulge in  
4 guesswork or speculation.

5         The evidence which you are to consider consists of testimony  
6 of witnesses and the exhibits admitted in evidence. The term witness  
7 means anyone who testifies in person or by way of deposition and may  
8 include the parties to the lawsuit. A deposition is simply an examination  
9 of the witness at a prior date under oath with the attorneys present  
10 where the testimony is taken down in written form and those written  
11 questions and answers will be read to you during the trial.

12         Admission of evidence in court is governed by rules of law.  
13 From time to time, there -- it may be the duty of the attorney to make  
14 objections and my duty as the judge to rule on those objections, and  
15 decide whether a certain question may be answered or whether certain  
16 evidence may be admitted. You must not concern yourself with any  
17 objections made by the attorneys or with the court's reasons for its  
18 rulings.

19         You must not consider testimony, exhibits -- exhibits to which  
20 an objection has been sustained or which has been ordered stricken.  
21 Further, you must not consider anything which you may have seen or  
22 heard when the court is not in session, even -- even if what you see or  
23 hear is said or done by one of the parties or by one of the witnesses.

24         While you are in the courthouse, please always wear the  
25 badge the marshal just gave you or you will be given -- or which the

1 marshal has just given you. When you come in in the morning, during  
2 the breaks, during the daytime, or during the noon recess, when you are  
3 in the elevator or walk -- walking around in the hallway, I always tell my  
4 jury panels, please only talk with people wearing a badge that indicates  
5 they are jurors.

6           The witness in this -- the witnesses in this trial and all the rest  
7 of the trials that are going on today in this building are not identified in  
8 any way. You will not know if you are carrying on a conversation with a  
9 witness in this trial until it's too late and they come and they take the  
10 witness stand and they're sworn to testify. Therefore, I would urge you  
11 not to talk to anyone in this building unless they're identified as a juror,  
12 because if they're identified as a juror, you know that they're not going to  
13 have anything to do with this case.

14           In every case there are two types of evidence; direct evidence  
15 and circumstantial evidence. Direct evidence is testimony by witnesses  
16 about what they saw, heard, or did. Circumstantial evidence is  
17 testimony or exhibits which are proof of a particular fact from which, if  
18 that fact is proven, you can infer the existence of a second fact. You  
19 may consider both direct and circumstantial evidence in deciding this  
20 case.

21           The law permits you to give equal weight to both types of  
22 evidence, but it is up to you to decide how much weight to give to any  
23 particular piece of evidence. Opening statements and closing  
24 arguments are intended to help you in understanding the evidence and  
25 in applying the law. But please understand, the attorneys tell -- please

1 understand, what the attorneys tell you is not evidence. They are not  
2 witnesses. They have no firsthand information, and therefore, what they  
3 tell you is not evidence.

4           You are not to concern yourself in any way with the sentence  
5 which the defendant might receive if you should find him guilty. Your  
6 function is solely to decide whether the State has proven to you beyond  
7 a reasonable doubt that the defendant is guilty of the crimes charged. If,  
8 and only if, you find him guilty, then it becomes the duty of the court at a  
9 later date to process sentence.

10           You must not be influenced in any degree by any personal  
11 feeling or sympathy for or prejudice against any party to the lawsuit, for  
12 each party is entitled to the same fair and impartial consideration. No  
13 statement, ruling, remark or facial expression -- expression which I may  
14 make during the course of the trial is intended to indicate my opinion as  
15 to what the facts are. I don't get to decide the facts. You are the ones  
16 who determine the facts.

17           In this determination, you alone must decide upon the  
18 believability of the evidence and its weight and value. In considering the  
19 weight and value of the testimony of any witness, you may take into  
20 consideration the appearance, attitude, and behavior of the witness, the  
21 interest of the witness in the outcome of the lawsuit, the relationship of  
22 the witness to any party to the lawsuit, the inclination of the witness to  
23 speak truthfully or not, the probability or improbability of the witness  
24 statements, and all other facts and circumstances in evidence. Thus,  
25 you may give the testimony of any witness just such weight and value as

1 you believe that witness is entitled to receive.

2 I may, during the trial, take notes of what the witnesses are  
3 saying. Do not make any inference from this action on my part, because  
4 I'm required to be prepared for legal arguments of the attorneys during  
5 the trial. For that reason, I may take extensive notes.

6 Again, let me remind you that until this case is submitted to  
7 you, do not talk to each other about it or about anyone who has anything  
8 to do with it until the end of the -- of the case when you get -- when you  
9 go to the jury room to decide your verdict. Do not talk with anyone else  
10 about this case or about anyone who has anything to do with it until the  
11 trial has ended and you've been discharged as jurors. Anyone else  
12 includes members of your family and your friends.

13 Those of you who are employed obviously need to call their  
14 boss today at one of the breaks and tell him or her you have been  
15 chosen as a juror in a criminal case and the judge has told you the trial  
16 is going to last three to five days. You may also tell him that -- that if the  
17 trial is over earlier than that, you will be back to work sooner. That's all  
18 you can tell your workplace until after you have been discharged by the  
19 court.

20 Do not let anyone talk to you about this case or about anyone  
21 who has anything to do with this case. If someone should try to talk to  
22 you about this case while you are serving as a juror, please report that to  
23 me immediately by contacting my bailiff -- my marshal.

24 Do not read any news stories or articles or listen to any radio  
25 or television reports about the case or about anyone that has anything to



1 do with it. Do not research or make any investigation about this case on  
2 your own. Now, this is a very simple instruction, so simple that people  
3 frequently ignore it, overlook it, or do not comprehend it. So let me  
4 amplify the instruction.

5 That means if something happens during the trial and there is  
6 some testimony or some witness that you do not understand what they  
7 are talking about and you know that your best friend may be an expert in  
8 this area, you cannot call him and say, Hey, in the trial today, the  
9 witness are talking about this and that, and next thing, and can you  
10 explain to me. It also means that you cannot go on the Internet or social  
11 media or anything such as that and look up anything about the --  
12 anything to do about this trial.

13 Do not make up your mind about what the verdict should be  
14 until after you have gone to the jury room to decide the case and you  
15 and your fellow jurors have discussed the evidence. It is important  
16 throughout the trial to keep an open mind.

17 At the end of this trial, you will have to make your decision  
18 based on what you recall of the evidence. You will not have a written  
19 transcript to consult. Even though we have a court recorder who takes  
20 down the testimony, it is not typed into a readable format and is difficult  
21 and time consuming for the court recorder to read back lengthy  
22 testimony. Therefore, I would urge you to pay close attention to the  
23 testimony as it is given.

24 We will now hear opening statements. But before that, does  
25 either party invoke the exclusionary rule regarding witnesses?

1 MR. COYER: Yes, Your Honor.

2 THE COURT: The exclusionary rule having been invoked, is  
3 there anybody present who expects to be called as a witness in this  
4 matter? And if so, you are directed to please leave the courtroom.  
5 There appears to be nobody present in the courtroom who may be a  
6 witness in this case.

7 State of Nevada, are you prepared to present your opening  
8 statement?

9 MR. DICKERSON: Yes, Your Honor.

10 THE COURT: Please proceed.

11 MR. DICKERSON: Thank you very much.

12 Ladies and gentlemen, Thursday, May 19th, 2016, began  
13 pretty much normal for our two Las Vegas Metropolitan Police  
14 Department officers, Officer Christopher Houston and Officer Jeremy  
15 Jacobitz. They had attended a church barbecue at the Downtown Area  
16 Command and were just leaving around 7:45 p.m.

17 They were pulling out of this area here, the Downtown Area  
18 Command, which is the police station for the downtown area, just like it  
19 sounds. And as they're pulling out, they see through the houses  
20 across 9th Street a moped speeding down the alley, speeding  
21 northbound down that alley that runs between 9th Street and 10th  
22 Street.

23 Now, Officer Jacobitz, he's driving. Officer Houston, he's  
24 riding passenger, working the radio. You'll hear that they don't always  
25 work together, but when they do, that's generally how they do it, is

1 Officer Jacobitz will drive and Officer Houston will work the radio and the  
2 computer.

3 They see this. They decide to go check out that moped that's  
4 racing through the alleyway. As they do that, they see that moped come  
5 down Wilson Avenue and blow through the stop sign in the area of 10th  
6 and Wilson. They get behind it, ready to light it up to do a traffic stop,  
7 you'll hear that's going to be putting on their lights and sirens.

8 As they get into the apartment complex right here -- there's an  
9 apartment complex at 11th and Wilson. You'll hear that there's a parking  
10 lot right there. And that's where the moped pulled in. There, that moped  
11 pulls up to a gate that's located right towards the -- the front of the  
12 apartment complex. The rider, still on the moped, is fumbling with the  
13 gate. That's when they hit the air horn.

14 Officer Houston, Officer Jacobitz immediately see this  
15 individual turn around, Ceasar Valencia. At that point in time, they see  
16 his face. It's very clear, he's wide-eyed like a deer in headlights. He just  
17 had an air horn hit on him in this parking lot. And that's when he takes  
18 the opportunity to turn back around and drive that moped right back  
19 up 9th Street -- or back Wilson.

20 So he goes westbound on Wilson and then makes a left. And  
21 as he makes that left, he comes down 10th Street. Coming down 10th  
22 Street, southbound, he goes into another parking lot, this time the  
23 parking lot of 610 10th Street. Here in the parking lot of 610 10th Street,  
24 the defendant, Ceasar Valencia, dumps that moped that he's on and  
25 starts running.

1 He runs into an alleyway that's located right here at 610  
2 North 10th Street. You'll see it highlighted right there. That alleyway, it's  
3 a pretty thin entryway. And you'll hear that Officer Jacobitz is the first  
4 out. As Officer Jacobitz pulls in, his driver's side is closer to the  
5 entryway of this alley. Officer Jacobitz, out of the vehicle, running,  
6 Officer Houston coming around from the passenger side.

7 So Officer Jacobitz gets right about to this point, looking down  
8 the alleyway, as he notices the defendant, Ceasar Valencia, turning with  
9 a gun in his hand. It's right there where Ceasar Valencia was standing,  
10 right near that yellow cone and that fence post. The firearm that he  
11 pulled out was a .38 Special Taurus revolver.

12 As he turns, Mr. Valencia pointing the gun at Officer  
13 Jacobitz -- Officer Jacobitz will tell you at this point in time, he has his  
14 service weapon out, he's putting the gun up and his finger is getting on  
15 that trigger. He's thinking, I'm going to be shot, I'm going to shoot. It's a  
16 split second, and maybe the luckiest split second of his life.

17 Next thing that happens, the defendant, Ceasar Valencia's  
18 arm, as he's turning around, hits that metal fence post that had been  
19 stuck there that -- apparently from an old fence, that they didn't pull the  
20 fence post out, but they took the fence post down. By the grace of God,  
21 that gun dropped right there on the ground.

22 Ceasar Valencia keeps running. The gun is on the ground.  
23 Officer Jacobitz, holstering his weapon, realizing, I almost just got shot, I  
24 almost just shot somebody, stands by the gun as his partner, Officer  
25 Houston runs past following Ceasar Valencia.

1           You'll hear that that gun's on the ground. This is in a  
2 neighborhood, as you saw. Officer Jacobitz knows right then his focus is  
3 staying with that gun. He doesn't want to move it. He's going to stay  
4 right where it is and not touch it, but this means that he has to separate  
5 from his partner. Well, it is what it is. He can't leave the gun there and  
6 he wants to preserve the evidence. So he stays there. Officer Houston  
7 keeps running after Ceasar Valencia.

8           Officer Houston, chasing the defendant, Ceasar Valencia, gets  
9 into the area of 623-625 North 10th Street. It's in this area where he  
10 ends up losing the defendant, Ceasar Valencia. You'll hear that the  
11 address of 625 North 10th Street is Ceasar Valencia's address. That's  
12 where he lives.

13           In the meantime, back there at 610 North 10th -- excuse  
14 me, 610 North 10th Street, Officer Jacobitz is standing by with the gun.  
15 This is extremely dynamic. Now we have officers coming in from around  
16 the area command, hearing that they're in a foot pursuit. What goes on  
17 at this point in time is you're going to hear that radio goes on a Code  
18 Red, which means than only emergency traffic can come out. They  
19 cleared everything for these two officers who are in the middle of a very  
20 dynamic situation.

21           As Officer Jacobitz is standing back there in the alley at 610  
22 North 10th Street just making sure that nobody comes and grabs this  
23 gun, somebody comes and grabs that moped, two individuals. You'll  
24 hear that it's an individual by the name of Eric Gilbert and another  
25 individual -- individual by the name of Anibal Rivera.

1           They see a moped on the ground and they go and they pick it  
2 up. Now, I don't know what it is, if they're just really good citizens or just  
3 really dumb, but that's what they decided to do that night. You'll hear  
4 that both of them end up going to jail. But this is just the next thing that  
5 Officer Jacobitz has to react to.

6           Officer Jacobitz now seeing that these two individuals are  
7 picking up that moped that Ceasar Valencia dropped on the ground,  
8 goes and confronts these two. Again, he takes these two at gunpoint,  
9 realizing they're stealing the moped and taking a potential piece of in  
10 evidence the -- a crime that is possibly occurring here. And as he has  
11 them there, his partner, Officer Houston, still on the other side of the  
12 neighborhood. The situation is even more dynamic than it was before.

13           You'll hear that Officer Jacobitz gets on the radio, is asking for  
14 other people to come down. Ultimately, other people -- other officers  
15 come down to assist him and he takes those two individuals into  
16 custody. There, they still have the moped. These two are there. They  
17 end up going to jail that night.

18           But in the meantime, the officers set up what they call a  
19 perimeter. Pretty obvious what a perimeter is, but a perimeter is just  
20 where officers set up around the neighborhood at the corners and watch  
21 to see if anybody is trying to exit the perimeter. That way they can  
22 contain the area, bring a K-9 in and search for whoever was running  
23 from them. That's exactly what they do here.

24           So that perimeter is set up. And while this perimeter is set up,  
25 people -- officers that are involved in this are hearing the description of

1 this individual and hearing that address, 625 North 10th Street, realizing  
2 it's -- hey, that's Ceasar Valencia. A picture is ultimately sent to Officer  
3 Jacobitz of Ceasar Valencia. He confirms, Yeah, that's the guy.  
4 That's 100 percent the guy.

5 And at that point in time, K-9 hasn't found anything. The  
6 officers on scene haven't been able to find anybody running out of the  
7 perimeter or hiding under a bush or a trash can or anywhere else that  
8 you might find somebody hiding. And because of that, they end up  
9 breaking the perimeter down. But they know who the guy is. So that's  
10 something that they can take solace in, and they do. They know that  
11 they have the opportunity to still catch him.

12 So it's approximately 11:18 p.m. on Friday, May 20th, 2016.  
13 Then that's when detectives have started their surveillance operation of  
14 Mr. Ceasar Valencia's home, 625 North 10th Street. There, officers  
15 stake out the area. You'll hear that there's officers on a balcony or a  
16 rooftop and they're watching and officers around the neighborhood, all  
17 plainclothes, just staking it out to see if they can find the guy who they've  
18 identified as being the one who pulled a gun on a police officer just the  
19 night before.

20 Couple hours go by into the next morning, Saturday,  
21 May 21st, 2016, approximately 1:30 a.m. they see movement from 625  
22 North 10th Street. That movement is in the form of individuals leaving in  
23 a vehicle. It's a Ford Mustang with -- with Florida plates. Officers that  
24 are on the surveillance operation, once again, in plainclothes, tail the  
25 vehicle.

1           They tail the vehicle over here from 625 North 10th Street up  
2 into the West Monroe Avenue area. In the process of tailing the vehicle,  
3 they know that there's an individual in that vehicle matching the  
4 description of Ceasar Valencia. It appears to be him. Ultimately, in the  
5 area of that West Monroe address, that vehicle stops. That vehicle is  
6 there for some time. Officers have contained that area, trying to stake it  
7 out. And they're setting up stuff back at 625 North 10th Street, having  
8 officers go into that area just in case somehow the vehicle gets back  
9 there without them seeing it.

10           Well, the vehicle doesn't get back there without them seeing it.  
11 Ultimately, they pick that vehicle back up in the west side area and they  
12 stop it right here in the area of Main and Washington. That vehicle's  
13 taken down in what's called a felony stop. It's multiple officers on scene  
14 pulling the occupants out at gunpoint. That's what happens.

15           You'll hear that the driver of that vehicle is an individual by the  
16 name of Nicholas Harris. That's his car. He's the one driving it.  
17 Passenger, Ceasar Valencia. So Ceasar Valencia is brought out of that  
18 vehicle. They search Ceasar Valencia.

19           At that point in time, you'll hear that he has on him 11.6 grams  
20 of heroin, 2.67 grams of methamphetamine, and 2.4 grams of cocaine.

21           That's it, ladies and gentlemen. It's very straightforward. And  
22 because of that, at the end of this case, I'm going to ask you to find the  
23 defendant guilty of all counts. Thank you.

24           THE COURT: Counsel approach, please.

25           [Bench conference transcribed as follows:]



1 THE COURT: Mr. Dickerson, during your opening statements  
2 you used visual aids. I want those visual aids reduced to a paper  
3 format.

4 MR. DICKERSON: Absolutely.

5 THE COURT: Provide them to me and I'm going to make it a  
6 court exhibit.

7 MR. DICKERSON: Absolutely.

8 THE COURT: Okay. When -- when will you do that?

9 MR. DICKERSON: I can do that tomorrow morning.

10 THE COURT: Okay. So if you could bring it with you before  
11 court tomorrow --

12 MR. DICKERSON: Yeah. I can do that.

13 THE COURT: All right. Thank you.

14 [End of bench conference.]

15 THE COURT: All right. Counsel for the defense, are you  
16 going to present an opening statement at this time?

17 MR. COYER: Court's indulgence, please.

18 [Pause in proceedings.]

19 MR. COYER: Your Honor, the defense is going to opt to defer  
20 its opening statement at this time.

21 THE COURT: Thank you, counsel.

22 Is the State prepared to call their first witness?

23 MR. LEXIS: State calls Officer Houston.

24 THE COURT: Thank you.

25 **CHRISTOPHER HOUSTON**

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

3 THE CLERK: Please be seated. Will you please state and  
4 spell your name for the record?

5 THE WITNESS: My name is Christopher Houston. It's  
6 C-H-R-I-S-T-O-P-E-R, Houston is H-O-U-S-T-O-N.

7 **DIRECT EXAMINATION**

8 BY MR. LEXIS:

9 Q Sir, where you do you work?

10 A I work for the LVMPD.

11 Q How long have you worked there?

12 A I hit my 10-year mark in March here.

13 Q Tell us about your training and experience and where you've  
14 been.

15 A My training and experience is basically in patrol. I've been  
16 working as patrolman in the Downtown Area Command for my entire  
17 career.

18 Q What kind of training did you have to go through as far as an  
19 academy and so forth?

20 A I went to the academy, standard six-month academy. I had  
21 a 20-week field training program. And then various classes and  
22 certifications that you take in the regular course of your patrol work  
23 maintaining your status as a post-certified officer.

24 Q You said you worked at Downtown Area Command your entire  
25 time?

1           A     That's correct.

2           Q     So are you very familiar with the area and where this incident  
3 took place?

4           A     I am.

5           Q     On May 19th, 2016, were you in -- working in the capacity as a  
6 police officer?

7           A     I was.

8           Q     And were you working around 7:45 p.m.?

9           A     I was.

10          Q     Did something happen around that time which caused you to  
11 be in court today?

12          A     It did.

13          Q     What happened, sir?

14          A     About that time I was riding as a directed patrol unit with  
15 another officer. And a directed patrol unit is just a -- a unit that's set  
16 apart that day to do proactive work in the area to suppress crime in the  
17 Downtown Area Command, geographic boundaries. So we were just  
18 out looking for stops to enforce.

19                 At that time, approximately, there was a -- a moped driving at  
20 what appeared to be -- okay. Sorry about that. There was a moped that  
21 appeared to be going at a pretty high rate of speed through the alley  
22 between 9th and 10th Street, which is actually just straight east of our  
23 station.

24          Q     Let me stop you there. Did you guys come from a barbecue?

25          A     We did.

1 Q Where was that at?

2 A It was at the station.

3 MR. COYER: Objection, relevance.

4 THE COURT: He can answer.

5 BY MR. LEXIS:

6 Q Sir, was that barbecue at the Downtown Area Command?

7 A Yes. Yeah. We had just finished eating lunch.

8 Q And when you pulled out, is that pretty much -- this incident  
9 took place right around the Downtown Area Command?

10 A Yes. Yeah. We were able to see a moped as we were  
11 leaving the exit gate of the station, which faces east, going through the  
12 alley directly east of 9th Street, which the station is on.

13 Q Pretty much instantaneously after you pulled out?

14 A Correct.

15 Q All right.

16 MR. LEXIS: May I approach, Your Honor?

17 THE COURT: Counsel --

18 MR. LEXIS: May I approach the witness, Your Honor?

19 THE COURT: Are you going to show the witness an exhibit?

20 MR. LEXIS: Yes.

21 THE COURT: Before you publish an exhibit, you need to  
22 show it to opposing counsel and have it admitted.

23 MR. LEXIS: I'm going to do that, Judge.

24 MR. DICKERSON: And for the record, Your Honor, opposing  
25 counsel has reviewed all of our exhibits that we intend to admit today.

1 THE COURT: Okay. And is the -- I can't see that screen. Is  
2 that screen blank?

3 MR. DICKERSON: It's up with the ELMO.

4 THE COURT: Is there anything on that screen right now?

5 MR. DICKERSON: There's nothing.

6 THE COURT: Okay. Thank you.

7 MR. LEXIS: May I approach, Judge?

8 THE COURT: Are you moving to admit the exhibit?

9 MR. LEXIS: No, Your Honor. I want to approach the witness  
10 and establish foundation first.

11 THE COURT: That's fine.

12 BY MR. LEXIS:

13 Q Officer, I'm showing you what has been pre-marked as State's  
14 Exhibit 9, State's Exhibit 10, and State's Exhibit 11; are you familiar with  
15 these photographs?

16 A Yes.

17 Q Are they a true and accurate representation of the area that  
18 this incident occurred?

19 A Yes, it is.

20 Q And that -- essentially overhead map areas?

21 A Yes. That's what it looks like.

22 MR. LEXIS: Your Honor, I move to admit the following three  
23 exhibits.

24 THE COURT: Any objection by the defense?

25 MR. COYER: No, Your Honor.

1 THE COURT: The exhibits will be admitted.  
2 [State's Exhibit Nos. 9, 10, and 11 admitted.]  
3 MR. LEXIS: Permission to publish.  
4 THE COURT: Yes.  
5 BY MR. LEXIS:  
6 Q Sir, I'm showing you State's Exhibit 9; do you recognize this  
7 photograph?  
8 A Yes.  
9 Q Do you see Downtown Area Command on there?  
10 A I do.  
11 Q Can you circle it?  
12 A Actually, can you -- it's -- it's a little bit out of -- out of my  
13 picture.  
14 Q There you go.  
15 A Yeah, there you go. So this is going to be our -- it's off from  
16 where my finger's at by about an inch.  
17 Q Okay.  
18 A This is -- that's going to be about an inch away from where my  
19 area commend is.  
20 Q All right. And did you have anybody else in your patrol car  
21 that day?  
22 A I did. Officer Jacobitz was riding with me that day.  
23 Q Who was driving and who was the passenger?  
24 A I was passenger.  
25 Q Where did you guys go when you pulled out of Downtown

1 Area Command?

2 A Would you like me to show you on the screen here?

3 Q Yes.

4 A So we pulled out of the exit gate, which I believe is right here  
5 on the -- anyways, right around the address. I don't know if I can show  
6 you there, about right there. We went northbound on 9th Street,  
7 following the direction of the moped that I had told you I saw. We saw  
8 the driver turn eastbound on Wilson, so we followed him.

9 As we were getting close to the moped, at approximately --  
10 when he -- when he arrived at Wilson and 11th Street, he -- he had a  
11 stop sign there and he failed to stop. So at that point, we --

12 Q Let me stop you right there, sir. Let me get a closer view.  
13 Showing you State's Exhibit 10; do you recognize this photograph, sir?

14 A Yes.

15 Q Is that pretty much just a closer view of this area?

16 A Yes.

17 Q Okay. Can you tell us, again, where is this moped blowing  
18 through the -- the stop sign?

19 A All right. So okay, about -- about right there. So the moped  
20 was headed eastbound on Wilson and there's a stop sign right there to  
21 prevent it from crossing 11th street without stopping.

22 Q After you saw that, what did you and your fellow officer decide  
23 to do?

24 A At that time, we were going to initiate a vehicle stop on the  
25 moped. We were going to turn on our lights and sirens and conduct a

1 stop.

2 Q Did you do that right away or did you wait until you came up  
3 close?

4 A It -- you know, it would have been all about the same moment,  
5 because mopeds typically don't go that fast. So we were gaining on him  
6 pretty good. And right about the corner of Wilson 11th, we were starting  
7 to catch up to him to try to initiate the stop as he kind of headed south  
8 on 11th Street.

9 Q So right when you were gaining up to him?

10 A Yeah.

11 Q And you activated your lights and sirens?

12 A Yes.

13 Q And what did he do?

14 A He turned into this parking lot over here. See if I can get my  
15 bearings here from your map. So he went down and kind of turned to  
16 this parking lot right here and proceeded to what appeared to be, like, a  
17 gate into a courtyard or a row of apartments right there. Kind of pulled  
18 up next to the gate sideways with -- while he was still on the moped.

19 Q And what did you and Officer Jacobitz do?

20 A As I said, we had already initiated the stop with lights and  
21 sirens. So at that point, we felt like he was probably going to run or flee.  
22 That's why he was trying to open the door. So we started to exit the  
23 vehicle and we're yelling commands to stop. At that time --

24 Q And let me ask you this, so might be common sense, but  
25 describe your demeanor, your attention to detail, et cetera, as you and



1 Jacobitz are getting out of this vehicle.

2 A Anytime you're going to get behind --

3 MR. COYER: Objection to the form --

4 THE WITNESS: -- a vehicle --

5 MR. COYER: -- of the question, Judge.

6 THE COURT: I'm sorry?

7 MR. COYER: Objection to the form of the question.

8 THE COURT: Restate the question.

9 BY MR. LEXIS:

10 Q Describe your demeanor as you're getting out of this vehicle.

11 A Any time you go to stop a vehicle that doesn't stop or makes  
12 an unusual movement, like, pulls up to the gate of an apartment  
13 complex, immediately you're going to be at a higher state of awareness,  
14 looking -- watching hands, trying to decide if this person is going to run,  
15 what's their route going to be, what action is it going to take beginning  
16 right then to either flee or evade you. So my -- my demeanor was of  
17 attentiveness and getting ready for action.

18 Q And did Jacobitz -- did he appear to be under the same  
19 awareness?

20 A Yes.

21 Q And when you guys got out of the vehicle, approximately how  
22 far were you from the -- the suspect?

23 A I would say between 5 and 8 feet.

24 Q Were you able to get a description of what items of clothing he  
25 was wearing?

1 A Yes.

2 Q And what was that?

3 A That he was wearing a dark hat, a -- a shirt with, like, a red  
4 shirt with red horizontal stripes, and some dark blue pants.

5 Q And was this suspect looking at you at one point?

6 A He looked directly at me.

7 Q His whole body turned?

8 A I don't know if his whole body was turned, but -- because he  
9 was still on the moped, but I -- his face was looking right at me.

10 Q And you said approximately how far away?

11 A Maybe 5 to 8 feet.

12 Q And this is as you're out of the vehicle?

13 A Yeah. This was as I was getting out of the vehicle, as I said,  
14 preparing to take whatever necessary action if he was going to flee or  
15 whatever he was going to do.

16 Q Was there anything obstructing your view of the suspect's  
17 face?

18 A No.

19 Q What did you do next?

20 A At that point, he got -- he kind of backed the moped away from  
21 the door and started to head north again towards Wilson. So he left -- I  
22 can't -- I can't get my bearing on your map here. Hang on a second.

23 Q Let me clear it for you, sir.

24 A All right.

25 Q And we understand that this is off a little bit.

1           A     Yeah. Because it's off by a little ways. He started to head  
2 north through the parking lot towards Wilson again and -- taking off from  
3 us. So we -- we both got back in the vehicle. I jumped back in my side  
4 and Officer Jacobitz got back in the driver's seat and we proceeded to  
5 follow him.

6           Q     Let me stop you there. When you say taking off from you, is  
7 he on the moped?

8           A     Correct. Yeah. He -- he was still on the moped. And then he  
9 rode it away northbound towards Wilson from the parking lot we were in.

10          Q     And what kind of commands are you shouting out at the  
11 suspect?

12          A     To stop.

13          Q     Is Officer Jacobitz doing the same thing?

14          A     You know, I don't -- I don't recall exactly what he was saying.  
15 It was pretty loud with the sirens and myself yelling, so I'm not sure  
16 exactly what he was yelling.

17          Q     Okay. And he takes off on the moped?

18          A     Correct.

19          Q     And go ahead and draw on there where --

20          A     So he headed north to Wilson, and then back west, and then  
21 cut down the alley here between 10th and 11th Street to about -- right to  
22 this -- I can't get to it, this spot over here, 610 North 10th Street in the --

23          Q     And --

24          A     -- on the east side of the alley.

25          Q     Are you guys on him pretty good?

1           A     Yeah. We were catching up to him pretty well, because, like I  
2 said, mopeds aren't very fast. So we were able to get pretty good  
3 ground on him.

4           Q     Still lights and sirens?

5           A     Correct.

6           Q     What happens next?

7           A     At -- at that address on the east alley behind 610 North 10th  
8 Street, there's a parking area. As he reached the parking area, he -- he  
9 threw the moped down and took off on foot.

10          Q     Will you circle that parking lot area?

11          A     I don't know if your map is going to comply with me here. So  
12 about right there.

13          Q     And you and Jacobitz are obviously in the vehicle?

14          A     We were in our -- we were in our vehicle.

15          Q     Okay. And what do you guys do?

16          A     So as he's throwing the moped down and taking off on foot,  
17 we're pulling up into the parking lot near where he dropped the moped  
18 and kind of at an angle in the rear parking area. At that time, we both  
19 get out of the vehicle and we're going to proceed to chase him on foot.

20                 Officer Jacobitz happened to be closer to where this  
21 gentleman was at when he dropped the moped, just because he was  
22 driving. And so he was on him first, as I was coming around the door of  
23 my side of the vehicle and the front of the vehicle. We were towards the  
24 south side of the building, 610 North 10th. And on the south side of the  
25 building, there is like a -- a narrow passageway for the apartments and

1 the residents to get in and out.

2 The subject ran up the -- the passageway and Officer Jacobitz  
3 was close to him. As I was getting out of the car, I heard Officer  
4 Jacobitz yell, Gun. Loud. As I was coming around the front of the car  
5 and running down the east side of the building, I came around the corner  
6 and Officer Jacobitz is standing there. And I could see our -- our subject  
7 that we had been chasing running westbound through the -- the  
8 passageway out towards 10th Street.

9 Q Okay. Let me stop you right there. What is Officer Jacobitz's  
10 demeanor when you hear him yell, Gun?

11 A He sounded stressed. I mean, he was yelling -- he yelled,  
12 Gun, really loud.

13 Q And when you guys stopped the vehicle, Metro police vehicle,  
14 did he immediately start giving chase to the -- to the suspect?

15 A Yes. We -- we were both getting out of the vehicle as fast as  
16 we could.

17 Q Okay. Why did you have to go around to the other side to give  
18 chase?

19 A Just the way that -- that we end up parked in the parking  
20 space, just due to the way that -- where the location of the moped was  
21 laid down and they way we had to park in the parking area and kind of  
22 how we came in from the alley. We were at an angle, so that took me a  
23 little bit to get around.

24 Q When Officer Jacobitz yelled, Gun, was there anything  
25 obstructing your view of Officer Jacobitz?

1           A     I could see Officer Jacobitz standing at the -- kind of at the  
2 entry to the walkway, but I couldn't see the subject we were chasing at  
3 all. There was a building and a -- in my way. 610 North 10th was in my  
4 way. Or 620 -- yeah, 610 North 10th.

5           MR. LEXIS: May I approach, Your Honor?

6           THE COURT: Yes.

7 BY MR. LEXIS:

8           Q     Officer, I'm showing you what has been marked as State's  
9 Proposed Exhibits 17 and 26; do you recognize these photographs?

10          A     Yes. This would have been the -- the alley -- the passageway  
11 I was describing on the south side of 610 North 10th.

12          Q     True and accurate representation of what the -- that alley  
13 looked like on that day?

14          A     Yes. At the time it was -- it was lighter, but yes, it's the  
15 same -- same location.

16          MR. LEXIS: Your Honor, I move to admit.

17          THE COURT: Any objection from the defense?

18          MS. PLUNKETT: No, Judge.

19          MR. COYER: No, Your Honor.

20          MS. PLUNKETT: Sorry.

21          THE COURT: Exhibits 17 and 26 will be admitted.

22                [State's Exhibit Nos. 17 and 26 was admitted.]

23 BY MR. LEXIS:

24          Q     Sir, I'm showing you State's Proposed -- excuse me, State's  
25 Exhibit 17; do you recognize this photograph?

1           A     Yes.

2           Q     What is it?

3           A     That's the passageway or walkway I was describing at 610

4 North 10th Street.

5           Q     Okay. And is that where you're describing as giving chase?

6           A     Yes.

7           Q     Showing you State's 26; do you recognize that?

8           A     Yes. This is the same location, just a little further in.

9           Q     Going back to the previous map; can you circle on this map for

10 the ladies and gentlemen of the jury where that alley is? It's pretty small.

11          A     About right there.

12               MR. LEXIS: Can you clear that, Mike?

13               MR. DICKERSON: Yeah.

14 BY MR. LEXIS:

15          Q     Can you do it again, Officer?

16          A     Yes. It's about right there.

17          Q     So sir, when your -- essentially partner, Officer Jacobitz,

18 immediately gives chase and yells, Gun, you're somewhere behind the

19 vehicle?

20          A     I was coming around from the passenger side door, just

21 coming around the front of the vehicle, running over to him.

22          Q     Were you moving quick as well?

23          A     As quick as I could. Yes, sir.

24          Q     Okay. But you had an obstructed view of the suspect?

25          A     Correct.

1 Q Okay. Now, you says that, basically, the gun was on the  
2 ground?

3 A By the time I got up to Officer Jacobitz, we were both running  
4 up the -- the passageway there. He stopped and -- at -- at a location  
5 maybe not very far up the -- the walkway there. And I looked down.  
6 There was -- there was a gun on the ground. So he stayed with the gun  
7 and --

8 Q Let me stop you right there. Is that common practice with  
9 Metro, where when you have a piece of evidence like that, especially a  
10 firearm on the ground, for an officer to stay with that firearm?

11 A Yes. Standard practice to protect evidence, especially  
12 something potentially dangerous as a firearm and potentially as  
13 important for evidence.

14 Q Was this also a residential area?

15 A It was.

16 Q Did that also play into the facts of whether or not to stay with  
17 the gun or not?

18 A It did. I mean, you can't leave a firearm like that in a place  
19 where people are going to have access to it.

20 Q So he stayed with the firearm?

21 A He did.

22 Q What did you do?

23 A I gave chase to the subject we were chasing.

24 Q What did you do?

25 A I ran out onto 10th Street where I had a visual contact with him



1 again. And we ran northbound on 10th Street.

2 Q Let me pull it up again, sir. Okay.

3 A You want me to mark on here?

4 Q Yes.

5 A All right. So I came out of the alley, the walkway there and ran  
6 northbound on 10th Street to approximately this residence here, 625  
7 North 10th Street. At that residence on the north side is -- is where the  
8 driveway is for the house. The subject ran up the driveway towards the  
9 backyard and I followed him. He ran to what appeared to be some kind  
10 of shed and paused for a moment, looked back at me. And then as I got  
11 closer, he took off again.

12 Q Let me stop you right there. When you said he looked back at  
13 you again?

14 A Yes.

15 Q And how far away from you are him?

16 A He was at the shed and I was probably in the driveway, so I'd  
17 say 40 feet maybe.

18 Q And again, facial contact?

19 A Yes.

20 Q And again, your demeanor as far as level of attention?

21 A High. I mean, I wanted to catch any details I could to help us  
22 catch the person we were chasing.

23 Q What happened next?

24 A When he saw that I was close enough to where he couldn't --  
25 what -- what I suppose is close enough he couldn't pause for too long,

1 he took off from me again, ran under some clotheslines in the yard, and  
2 went out into the alley west of the residence, about -- about right there.  
3 He went around a building. I'm not sure what the exact address was. It  
4 was within two -- two or three buildings of where he came out of. And I  
5 didn't see him again.

6 Q And you lost contact at that point?

7 A I lost visual contact and I didn't see him again while I was  
8 chasing him.

9 Q And at some point is a Code Red called as well?

10 A Yes. As -- as I was running through the alley, I called out that  
11 I was in a foot pursuit and that was immediately given the channel. The  
12 dispatcher automatically gives you Code Red.

13 Q And explain to the ladies and gentlemen of the jury what a  
14 Code Red is.

15 A When you are in a volatile incident that's dynamic and the  
16 dispatcher knows that you're going to need any radio space to give out  
17 traffic, they will give you a Code Red. That means that the channel is  
18 secure for you. So only you and maybe another officer that's involved in  
19 the incident can give out radio traffic and everybody else has to hold  
20 their traffic for the meantime.

21 Q Is it safe to say other officers are trying to race to the scene as  
22 soon as possible as well?

23 A Yes.

24 Q But at the time, were you the only officer in a foot pursuit with  
25 this individual?

1 A That's correct.

2 Q Jacobitz stayed behind the entire time?

3 A He was watching the -- the firearm.

4 Q Do you know if the air unit was eventually called and K-9 and  
5 other officers?

6 A Standard practice in a foot pursuit is to call for K-9, air unit,  
7 and other officers. I spoke with the K-9 unit on the incident. I know he  
8 was there. I can't -- I can't recall exactly if I remember seeing the air unit  
9 or not, but I believe there were there.

10 Q Did you have multiple units there at some point?

11 A Yes. Yeah. There was a perimeter established. So any  
12 available unit came to help secure the area.

13 Q And was that successful in locating the suspect?

14 A It was not.

15 Q Was there -- there was obviously an investigation conducted  
16 immediately?

17 A There was.

18 Q And were pictures being sent back -- back and forth of  
19 possible suspects, and eventually shown to you?

20 A There were. I was shown a few pictures of potential suspects  
21 that matched the description that I had given on the radio. And then  
22 eventually I was shown a picture of Ceasar Valencia and I knew 100  
23 percent that that was him.

24 Q Do you see Ceasar Valencia in court today?

25 A I do.

1 Q Can you please point to him and identify for me the color shirt  
2 he's wearing?

3 A He's sitting right there wearing a dark-colored shirt. I can't tell  
4 if it's kind of gray or purple.

5 MR. LEXIS: Your Honor, let the record reflect the officer's  
6 identified the defendant.

7 THE COURT: The record will so reflect.

8 BY MR. LEXIS:

9 Q Okay. And sir, you stated that when you were shown that  
10 picture, you were immediately identifying that man as the man who you  
11 gave chase to?

12 A 100 percent.

13 Q You were aware of a surveillance operation that eventually  
14 took place the following day, and the day after that?

15 A There was a lot of detective work done. I'm not sure of the  
16 specifics. I know they were running an operation to potentially catch the  
17 Ceasar Valencia suspect that we had identified.

18 Q Was the defendant eventually apprehended on  
19 May 21st, 2016?

20 A He was.

21 Q And were you able to make facial contact with Ceasar  
22 Valencia on that day?

23 A I was. The operation ended up finishing in Downtown Area  
24 Command again, and near my location. And we went to make visual  
25 confirmation again.

1 Q And how sure were you on that date that that man was the  
2 man that you gave chase to on -- in that alley?

3 A I was just as sure as when I saw the picture, 100 percent. I  
4 knew it was him.

5 Q You were not primary on that day; is that correct, sir, as far as  
6 the day he was apprehended?

7 A No, I wasn't.

8 Q You were one of several officers to assist in the  
9 apprehension?

10 A That's correct. I was just working in the area and we heard  
11 the operation coming towards us and thought there might be a need for  
12 a perimeter due to propensity of for -- what we believe, propensity for the  
13 subject to flee again.

14 MR. LEXIS: May I approach, Your Honor?

15 THE COURT: Yes.

16 BY MR. LEXIS:

17 Q Officer, I'm showing you what has been marked as State's  
18 Proposed Exhibit 8; do you recognize that picture?

19 A I do.

20 Q Is that a true and accurate representation of what the  
21 defendant looked like on the day of the apprehension?

22 A It is.

23 MR. LEXIS: Your Honor, I move to admit State's Proposed  
24 Exhibit 8.

25 THE COURT: Any objection by the defense?

1 MR. COYER: No objection.

2 THE COURT: Exhibit 8 is admitted.

3 [State's Exhibit No. 8 was admitted.]

4 BY MR. LEXIS:

5 Q Sir, you previously stated that you made facial contact again  
6 when he was apprehended on May 21st, 2016; is that correct?

7 A Yes.

8 Q And was a picture taken of him on that day?

9 A I'd imagine there was when he was booked.

10 Q Okay. Showing you State's Exhibit 8; is that a true and  
11 accurate representation of what he looked like on the day that you gave  
12 chase?

13 A Yes.

14 Q Same individual that you stated previously you were 100  
15 percent sure that was the man?

16 A Yes. That's correct.

17 Q Then the same person that you identified not only in the photo,  
18 but here in court, as Ceasar Valencia?

19 A Yes.

20 MR. LEXIS: Court's indulgence.

21 No further questions.

22 THE COURT: At this time, ladies and gentlemen, we're going  
23 to take our afternoon recess. It will be a 15-minute recess.

24 During this recess you're admonished not to talk or converse  
25 among yourselves or with anyone else on any subject connected with

1 this trial, or read, watch, or listen to any report of or any commentary  
2 on -- on the trial or any person connected with this trial by any medium  
3 of information, including, without limitation, social media, text,  
4 newspapers, televisions, the Internet, and radio; do not visit the scene of  
5 any of the events mentioned during the trial or undertake any  
6 investigation. Do not do any posting or communications on any social  
7 networking sites or do any independent research, including Internet  
8 searches, or form or express any opinion on any subject connected with  
9 the trial until the case is finally submitted to you.

10 We'll be in recess.

11 [Court recessed at 4:00 p.m. until 4:14 p.m.]

12 [Outside the presence of the jury.]

13 THE COURT: Please be seated. Let the record reflect the  
14 presence of counsel for the State, counsel for the defense, and the  
15 defendant. This is a continuation of *State vs. Valencia*.

16 Bring the jury in, please.

17 [Jury reconvened at 4:15 p.m.]

18 THE COURT: Let the record -- let the record reflect the  
19 presence of the jury.

20 Defense, are you prepared to go forward with  
21 cross-examination at this time?

22 MR. COYER: Yes, Your Honor.

23 THE COURT: You may proceed.

24 MR. COYER: May I approach the podium, Judge?

25 THE COURT: Yes.

1 MR. COYER: Could we get the ELMO back on?

2 **CROSS-EXAMINATION**

3 BY MR. COYER:

4 Q Good afternoon, Officer. My name is Gregory Coyer. You  
5 know I represent Mr. Valencia?

6 A Yeah.

7 Q So I wanted to take you back to that day that you were just  
8 speaking about on direct examination, specifically, the day of the  
9 May 19th, 2016. Okay?

10 A Yes, sir.

11 Q As you testified on direct, that is the day that you and Officer  
12 Jacobitz -- did I say that right?

13 A I believe so.

14 Q Okay. You guys were on a, what you called a directed patrol  
15 unit, correct?

16 A That's correct.

17 THE COURT: Counsel, is --

18 MR. DICKERSON: Your Honor --

19 THE COURT: -- your piece of paper appearing on the  
20 screen?

21 MR. COYER: Yeah. Sorry about that.

22 THE COURT: Thank you.

23 BY MR. COYER:

24 Q What -- describe again for me what a directed patrol unit is.

25 A Directed patrol simply means that instead of doing regular



1 patrol duties where you are responding to calls for service, you're in a  
2 proactive capacity enforcing crimes that you see first person within the  
3 geographic boundaries of the station.

4 Q So you're not getting calls to go out to respond to crime  
5 scenes?

6 A Normally, no. Normally, you don't go to your typical calls for  
7 service.

8 Q So as you testified, Officer Jacobitz was driving and you were  
9 passenger, correct?

10 A That's correct.

11 Q Okay.

12 MR. COYER: Your Honor, I'm going to ask to republish what's  
13 been -- already been entered as State's 11.

14 THE COURT: Proceed.

15 MR. COYER: Okay.

16 BY MR. COYER:

17 Q Can you see that okay, Officer, on your screen?

18 A Yeah. I can see it.

19 Q Okay. So --

20 THE COURT: Counsel, I -- I apologize. What exhibit are you  
21 publishing?

22 MR. COYER: State's 11.

23 THE COURT: Has State's 11 been admitted?

24 MR. COYER: Yes.

25 THE COURT: It has?

1 MR. LEXIS: If not, we have no objection to it being admitted.  
2 THE COURT: Very good.  
3 MR. COYER: Okay.  
4 BY MR. COYER:  
5 Q And this is oriented with the compass, correct, where -- toward  
6 the top of the page is north and the bottom of the page is south, correct?  
7 A That looks correct.  
8 Q Okay. And this is the area, general area, that you see on this  
9 map here where, as you testified, you and Officer Jacobitz encountered  
10 this moped, correct?  
11 A Correct.  
12 Q Okay. And do you see where my -- the tip of my pen is  
13 pointing on that -- on that picture? Can you see that?  
14 A 11th Street and Wilson? Yeah.  
15 Q I'm sorry?  
16 A On 11th Street and Wilson?  
17 Q Yes. And that is the corner you testified where the moped you  
18 said failed to stop at a stop sign, correct?  
19 A Correct, sir.  
20 Q Okay. Now, did the moped blow right through the stop sign or  
21 did it simply slow down, but fail to stop?  
22 A As I recall, he -- he slowed down, also probably because he  
23 was making a 90-degree turn, and then rolled through the stop sign.  
24 Q So he did slow down?  
25 A Correct.

1 Q Was the blinker activated?

2 A I don't recall if there was a blinker or not, to be honest.

3 Q Okay. And I believe you testified this is a parking lot also on  
4 the southwest corner of Wilson and 11th, correct?

5 A It is.

6 Q Okay. Now, when the moped rider failed to stop, that's when  
7 you and Officer Jacobitz made the decision to attempt to pull him over,  
8 correct?

9 A To initiate a stop with lights and sirens, that's correct.

10 Q I was just about to ask you. When -- when you initiate a stop,  
11 what does that exactly mean? So lights come on, sirens go on, correct?

12 A That's correct.

13 Q Okay. Now, you mentioned on direct that you were calling out  
14 commands for him to stop?

15 A That was after he had stopped and it appeared that he wasn't  
16 going to comply with our traditional traffic stop. He wasn't going to pull  
17 to the right and wait for us to contact him. He was -- it appeared that he  
18 was trying to get through a gate at the apartment complex there.

19 Q Okay. And were you calling out commands just verbally out  
20 the window, or were you using, like --

21 A I was stepping out of the car.

22 Q Were you using --

23 A Yelling with my voice, yeah.

24 Q Sorry, we can't talk over each other, because they're taking  
25 down everything we say.

1           A     Oh, okay.

2           Q     Were you using, like, the announcement, the PA system in the  
3 car?

4           A     No.

5           Q     Okay. Now, at some point when that moped is in the area  
6 of 11th and Wilson, is what you said you got a good look at the rider,  
7 correct?

8           A     I got a really good look at him when he was stopped at -- in  
9 front of this apartment complex right there at the door.

10          Q     Okay. Now, I don't want to confuse the jury. So are you  
11 talking about up on this court?

12          A     These ones you just described -- this thing is off by, like, an  
13 inch whenever I touch it. Sorry.

14          Q     That's all right.

15          A     Like, right there.

16          Q     We'll get through it. Okay. Now, this is what you mean when  
17 you say when he stopped by those apartments, right?

18          A     We were at the side of the apartments. The moped was  
19 parked right at the side of the apartment next to a door. And we were  
20 just behind him.

21          Q     So I don't want to confuse anybody. There's a little bit of  
22 action related to the moped here, correct?

23          A     Correct.

24          Q     And then down here is where the foot pursuit takes place,  
25 correct?

1           A     That's correct.

2           Q     Okay. So we'll get to the foot pursuit. I'm just asking you  
3 about up here at these apartments right now. All right.

4           A     Okay.

5           Q     Up here is when you said you got a good look at the rider,  
6 correct?

7           A     Yes.

8           Q     And, essentially, somewhere in this parking lot near these  
9 apartments, correct?

10          A     Yes.

11          Q     Okay. And you said you got your good view at  
12 approximately 5 to 8 feet?

13          A     That's correct.

14          Q     Okay. And you said there was nothing obstructing the view of  
15 the face?

16          A     No.

17          Q     Okay. And is that the time when you developed the  
18 description of the suspect that ultimately went out over the audio  
19 dispatch?

20          A     From -- from what I can recall, it would have been at least the  
21 clothing on the upper body and then his physical features.

22          Q     Okay. At this corner up here, where we're talking about  
23 encountering the moped, we're not Code Red yet, correct?

24          A     At that particular moment, not yet.

25          Q     Okay. So are -- is it -- I don't want to put words in your mouth.

1 Is it fair to say that you were not calling things out over the -- the secure  
2 dispatch that's only reserved for Code Red?

3 A No. At that point, sir, we're still trying to conduct the stop.  
4 And we couldn't be on the radio and issuing commands at the same  
5 time.

6 Q Okay. So you try to initiate the stop there and the rider  
7 doesn't stop, correct?

8 A Correct.

9 Q Okay. Proceeds out up here west on Wilson, and then  
10 south -- sorry, south down this alley, right?

11 A Yes.

12 Q Okay. I just want to make sure that we're oriented -- we're on  
13 the same page here. So we get down here, you and Officer Jacobitz,  
14 you get down here to the -- the alley at approximately 610 North 10th  
15 Street, correct?

16 A Correct.

17 Q And that's where you said the rider dumps the moped?

18 A Yes.

19 Q Okay. And proceeds to flee on foot, right?

20 A Yes.

21 Q Okay. At that point, did you also get a look at the suspect's  
22 face?

23 A You know, I don't know -- I don't recall if I saw his face directly  
24 when he was running right there at that particular moment. I was on the  
25 opposite side of the car from where he had parked.

1 Q Okay. Now, when you first got your look at the suspect, okay,  
2 Jacobitz was driving, correct?

3 A Yes.

4 Q Okay. And he was, you know, presumably not crashing the  
5 vehicle he was driving, you know, intentionally, correct?

6 A Yes.

7 Q Okay. Do you recall whether or not Officer Jacobitz got a view  
8 of the suspect or said anything to suggest to you that he got a view of  
9 the suspect when you're -- and specifically up here, at Wilson and 11th?

10 A We didn't really have a conversation about it at the time. I  
11 would suppose that his view was just as good as mine.

12 Q Okay. And I don't want you to speculate. I'm just curious if he  
13 maybe said something that caused you to think he saw him as well.

14 A At the time, we're more concerned with radio traffic and  
15 direction of travel and those type of things, sir.

16 Q Okay. So now, we've established the moped flees down this  
17 alley and dumps the moped -- the rider dumps the moped here in this  
18 area, 610 North 10th, right?

19 A Correct.

20 Q Now, Officer Jacobitz was the first person out of the vehicle,  
21 correct?

22 A I don't know if he was the first person out, but he was  
23 definitely the first person to engage, once again, with the -- the subject  
24 we were chasing.

25 Q Okay. You had to go around the vehicle?

1           A     I had to go around it. I was on the opposite side of the vehicle  
2 from where the moped was at.

3           Q     Because of the way it was parked, right?

4           A     Correct.

5           Q     Okay. Were you wearing a body-worn camera at the time?

6           A     I was not issued a body-worn camera yet.

7           Q     Okay. Do you know if Officer Jacobitz was?

8           A     I'm pretty sure he hadn't been issued a camera yet either.

9           Q     Okay.

10           MR. COYER: So I'm going to request permission to publish  
11 what's been previously entered, Judge -- admitted, rather, as State's 17.

12           THE COURT: May publish.

13           MR. COYER: May I publish freely or should I request every  
14 time?

15           THE COURT: No. You can publish -- once it's admitted you  
16 can -- you can publish.

17           MR. COYER: Okay.

18           BY MR. COYER:

19           Q     And Officer Houston, do you know how to take that red mark  
20 off the screen there?

21           A     I have no idea how to take that red mark off the screen.

22           Q     Okay. Touch the lower, right-hand corner, yeah. There you  
23 go. Okay.

24           Now, what we're looking at here is the entryway to the  
25 walkway that goes essentially down the south side of the residence



1 at 610 South 10th, correct?

2 A Yes.

3 Q Okay. And that's where the driver of the moped fled on foot,  
4 right?

5 A Correct.

6 Q Okay. Now, you stated on direct that this fairly and accurately  
7 depicts what it looked like on May 19th, 2016, but that it was lighter?

8 A That's correct, sir.

9 Q Okay. Can you describe how light it was?

10 A It was still pretty light outside. I would -- I would -- I guess I  
11 would call it dusk. Like, the sun was down but it's still pretty bright. You  
12 could see really well.

13 Q Okay. Obviously, this picture -- in this picture, the sky is dark,  
14 correct?

15 A That's correct.

16 Q And you'd agree this is probably, like, a flash from somebody  
17 who took the picture, right?

18 A That's what it looks like.

19 Q Okay. But when the foot pursuit occurred, we're talking about  
20 dusk, right? It was about 7:00, what 7:45, something like that?

21 A That's correct.

22 Q Is that to your recollection?

23 A Yes.

24 Q Okay. You did not see the suspect point a gun at Officer  
25 Jacobitz, correct?

1           A     That was while I was still running around the car.

2           Q     Okay. And your knowledge of -- of -- your belief that that

3 happened comes from Officer Jacobitz?

4           A     That and some of the things I saw at the scene.

5           Q     Okay. Like the gun, you mean?

6           A     The gun itself would corroborate that there was a gun present.

7 Yes, sir.

8           Q     Okay. But you didn't see how the gun got to the ground; is

9 that fair to say?

10          A     I didn't, no.

11          Q     Okay. How was it determined who would stay with the gun

12 and who would continue the foot pursuit?

13          A     To be honest, sir, it was just one of those organic things that

14 happen. Officer Jacobitz ended up staying and I ended up running. I

15 don't know that we had a real conversation about it.

16          Q     Okay.

17          A     I was running up the -- that -- whatever you want to call this,

18 the passageway here. And he was already at the firearm. I saw it on

19 the ground and I don't know -- even know if I waited for him to tell me to

20 stay or go. I just went. I went running. I went chasing after the subject.

21          Q     You never stopped along with Jacobitz?

22          A     Not for any lengthy period of time to make a plan or discuss

23 anything.

24          Q     Okay. So you don't have a good memory of exactly where the

25 gun was located at this point in time; is that fair to say?

1           A     If I had to go back here and point to the exact spot in the dirt,  
2 I -- I wouldn't be able to do it, sir. I just know it was in this alleyway, an  
3 approximation of where it was at.

4           Q     Sure. And you continued on chasing the suspect?

5           A     That's correct.

6           Q     Okay. And then eventually, the suspect is lost and in some  
7 area nearby, right?

8           A     The last place I saw him was in the alleyway between 9th  
9 and 10th Street.

10          Q     And at that point, once you lost visual, you -- you stopped  
11 chasing the suspect?

12          A     At that point, was -- a perimeter set up and we were trying to  
13 do containment to hopefully catch up to the subject that got away from  
14 us.

15          Q     Okay. Now, we talked about -- or rather you answered some  
16 questions about, on direct examination, these photographs that you  
17 looked at to try to identify the suspect?

18          A     That's correct, sir.

19          Q     Do you recall that? How many pictures were you shown on  
20 the evening of May 19th, 2016?

21          A     I would have to estimate now, but I'd say probably three  
22 pictures.

23          Q     Okay. And how did those pictures come to you?

24          A     To be honest, I'm not sure. Other officers brought them to me  
25 through their own detective work. I'm not -- I don't know the details

1 behind them. Just based on the description I'd given, people brought  
2 pictures of approximations of that description.

3 Q Okay. Do you recall if these photographs were in digital  
4 format or paper or --

5 A I think there was a mix. Some were digital and some were  
6 paper.

7 Q Okay. And this would have been based on the description  
8 that was called out over the -- the radio?

9 A Correct.

10 Q Because the other officers could be listening in, they  
11 presumably would have heard this description?

12 A That's correct.

13 Q Okay. Would you recognize that -- that radio traffic if you  
14 heard it?

15 A I could recognize my own voice, yes, sir.

16 Q Okay. Would you be able to recognize the voice of Officer  
17 Jacobitz?

18 A Yes.

19 Q Okay. Would that audio -- that captured audio most  
20 accurately reflect what was said along the radio traffic on that evening?

21 A If you're -- you're asking if the radio traffic would reflect the  
22 radio traffic? Yes, sir.

23 Q Well, what I'm asking is, would it accurately reflect -- would it  
24 most accurately reflect everything that was said?

25 A On the radio?

1 Q Correct.

2 A Yes, sir.

3 Q Okay. And fair to say, this is over a year ago, you probably  
4 don't remember exactly everything that you said on that evening?

5 A I don't remember word for word, sir, no.

6 Q But you would recognize it if you heard it?

7 A Correct.

8 Q Okay.

9 MR. COYER: So Your Honor, at this time I move for the  
10 admission of Defense Proposed 1. It's been -- or Defense A, excuse  
11 me. It's been pre-marked. It is a CD containing the radio traffic.

12 THE COURT: Any objection by the State?

13 MR. LEXIS: No, Your Honor.

14 THE COURT: Will be so admitted.

15 [Defense Exhibit No. A admitted.]

16 MR. COYER: And may I publish the audio?

17 THE COURT: You can.

18 MR. COYER: Okay.

19 THE COURT: And why don't you identify for the jurors exactly  
20 what you're publishing.

21 MR. COYER: Okay. I just want to make sure I'm on the mic.  
22 So what I'm going to be publishing is the audio that is going back and  
23 forth --

24 MR. DICKERSON: And Your Honor, I would just ask that that  
25 come out through the witness instead of having counsel testify.

1 THE COURT: He's just describing what the exhibit is. What  
2 is the exhibit that has been admitted into evidence?  
3 MR. COYER: It -- it is a recording of the audio of dispatch,  
4 so --  
5 THE COURT: On what date?  
6 MR. COYER: On May 19th of 2016.  
7 THE COURT: And --  
8 MR. COYER: That captures this event that he already  
9 testified about on direct.  
10 THE COURT: Okay. Sir, is that a correct description of the  
11 audio? It's audio capturing the events that occurred between you and  
12 Jacoby [sic] and dispatch?  
13 THE WITNESS: If it's the radio traffic, yes, sir. That's what it  
14 would be.  
15 THE COURT: Okay. All right.  
16 MR. COYER: May I?  
17 THE COURT: And what's the date of this event?  
18 MR. COYER: The event is May 19th, 2016.  
19 THE COURT: Thank you, counsel.  
20 [Audio played.]  
21 MR. COYER: Judge, I'd like to inquire if the jury can hear this  
22 adequately.  
23 THE COURT: That's what I -- can the jury hear that or does  
24 he need to move it closer? Or make it louder?  
25 MR. COYER: All right. I'm at full volume on this machine and

1 the microphone is right up next to the speaker, so I think we're as loud  
2 as we can go.

3 THE COURT: Okay. If any of the jurors cannot hear it, please  
4 raise your hand. We'll stop and try to make it as loud as we can.

5 [Audio played.]

6 BY MR. COYER:

7 Q Officer, did you recognize that voice?

8 A That sounds like my voice, sir.

9 Q Okay. And you had -- you had stated there's a guy on a  
10 moped running from us?

11 A Correct.

12 Q As you sit here today, do you recall at what point in the  
13 incident which we're at right now; are we up there at the corner of 11th  
14 and Wilson or are we down at 610 South 10th?

15 A Sounds like we're between those two places.

16 Q Okay.

17 [Audio played.]

18 Q Did you recognize that voice?

19 A Sound like the dispatcher, sir.

20 Q Okay. And you heard Code Red called out, right?

21 A Affirmative. Yep. That's what I heard.

22 Q Okay. And at that point, you would initiate the process that  
23 you described on direct where that line is now reserved for people who  
24 are involved with this event, right?

25 A That's correct.

1 Q Okay.

2 [Audio played.]

3 Q Did -- did you recognize that voice?

4 A That sound like Officer Jacobitz, sir.

5 Q Okay. And you heard what he said, right?

6 A I -- I can't really hear it that well from here, to be honest.

7 THE COURT: Okay. Counsel, can you move it --

8 THE WITNESS: I heard something about a firearm.

9 THE COURT: -- closer to the witness and the jury? Is that  
10 attached to the table or --

11 MR. COYER: It's not attached to the table, but it's the  
12 microphone for the court's audio that's picking up what's coming out of  
13 my computer.

14 THE COURT: Is there a microphone that's -- that we can use  
15 closer to the jurors and the witness?

16 [Audio played.]

17 BY MR. COYER:

18 Q That a little better, Officer?

19 A I can hear a little better, yes.

20 Q Okay.

21 [Audio played.]

22 Q Okay. You heard Officer Jacobitz say, be advised the crime is  
23 he dropped a firearm, correct?

24 A That's what it sounded like, correct.

25 Q Okay. Now, do you recall whether or not this was before or



1 after he yelled to you I thought something about a firearm?  
2 A I believe that would be after, sir.  
3 Q Okay. You would agree that, at that point, what that -- what  
4 we just heard, he didn't mention anything about the gun being pointed at  
5 him?  
6 A That's not what he said on the radio, sir.  
7 [Audio played.]  
8 Q Now, that's your voice kind of winded in a foot pursuit,  
9 correct?  
10 A That's correct.  
11 Q Okay. And you're calling out what's happening to the audio  
12 dispatcher, correct?  
13 A That's correct.  
14 Q Okay.  
15 [Audio played.]  
16 Q Now, was that the voice of the dispatcher there that we heard  
17 asking for a description?  
18 A Yes. That sounds like dispatcher asking for a description.  
19 Q And then did -- would you have given the dispatcher at that  
20 point the description of the suspect that you had seen?  
21 A I believe so.  
22 Q Okay.  
23 [Audio played.]  
24 Q Okay. HMA, dark hat, red-striped shirt, correct?  
25 A Yes.

1 Q HMA would be Hispanic male adult?

2 A That's correct.

3 Q Okay.

4 [Audio played.]

5 Q Okay. Dark pants, 5'7", 100 -- about 160 pounds, right?

6 A That's what I said.

7 Q Okay. So you're giving a pretty detailed description all the  
8 way down to height, weight, and clothing description, correct?

9 A That's correct.

10 Q Okay. No mention of facial hair in this description, correct?

11 A Not at that point, sir.

12 Q Okay.

13 [Audio played.]

14 Q Okay. So you can hear what -- we're talking about a  
15 perimeter on the audio now, right?

16 A That's what it sounds like. Yes, sir.

17 Q And that's because at that point we've lost visual and we're  
18 now -- you guys, the police, are now setting up a perimeter to try to  
19 contain the suspect, correct?

20 A That's correct.

21 Q Okay. Now, were you, at some point in this investigation,  
22 directed to 625 North 10th?

23 A I was chasing the suspect to 625 North 10th, sir.

24 Q After you lost visual on the suspect were -- did you then go  
25 back to 625 North 10th?

1       A     I was standing on property 625 North 10th when I lost visual.  
2       Q     So did you then search that property?  
3       A     I didn't search it. No, sir.  
4       Q     Okay.  
5       MR. COYER: Can I get the ELMO back up?  
6       Q     I'm going to publish what's been already entered as State's 8.  
7       Now, you testified that this is what Mr. Valencia looked like on  
8       May 21st, 2016, correct?  
9       A     Correct.  
10      Q     And that's two days after May 19th, 2016, correct?  
11      A     Correct.  
12      Q     Okay. So if you had gotten a good look at this man's face on  
13      May 19th, 2016, this would have been the face that you saw?  
14      A     Yes.  
15      Q     Okay. Now, this amount of facial hair, you would agree, is -- is  
16      pretty noticeable on his face, correct?  
17      A     Yes.  
18      Q     But there's no mention of facial hair on the audio we just  
19      heard, correct?  
20      A     No, there's not.  
21      Q     So that would be a detail about his face that you did not  
22      include in the description that went out over the radio?  
23      A     I had just been at a dead sprint, sir, so I didn't get all the  
24      details out that I probably could have.  
25      Q     Okay. What was your involvement in the investigation after

1 May 21st?

2 A After May 21st?

3 Q Yeah. Well, let me -- let me lay a couple foundation  
4 questions.

5 Mr. Valencia was arrested on May 21st, correct?

6 A As far as I know, yes.

7 Q And you said you kind of happened to be in the area, but you  
8 weren't directly involved with taking him into custody; is that right?

9 A I wasn't part of the operation that took him into custody, but  
10 there was a -- a vehicle stop, as I remember, that ended within the  
11 boundaries of my area command and I happened to be free and able to  
12 help with containment or anything else that was going on.

13 Q Okay. So my question is, I understand you work patrol. But  
14 my question is did you have any further involvement with this  
15 investigation after May 21st, 2016?

16 A Not that I remember, sir. If it would have been anything, it  
17 would have just been a question that a detective asked me about the  
18 previous incident. But as far as I remember, I don't -- I didn't have  
19 anything to do with the investigation outside of subpoenas for court and  
20 things of that nature.

21 Q Did you draft any reports?

22 A After that day?

23 Q At any time --

24 A After the 21st?

25 Q Let me be clear. At any time after May 19th, 2016, did you

1 draft any reports?

2 A After May 19th?

3 Q Correct.

4 A Regarding this case, no, sir. Not that I can remember.

5 MR. COYER: Nothing further, Judge.

6 THE COURT: Thank you.

7 State, any redirect?

8 MR. LEXIS: Yeah.

9 **REDIRECT EXAMINATION**

10 BY MR. LEXIS:

11 Q Sir, it was brought out through defense counsel about  
12 questions regarding radio traffic. And your response to that as far as the  
13 primary purpose is direction of travel; do you remember that?

14 A Yes.

15 Q Okay. In other words, location. Is that one of the primary  
16 reasons for radio traffic?

17 A Absolutely.

18 Q Okay. So it does -- does it surprise you at all that Officer  
19 Jacobitz called out he dropped the firearm at that particular location,  
20 since he stayed at that location?

21 A It doesn't surprise me. No, sir.

22 Q And in fact, would that be something important to tell dispatch,  
23 since he is now staying at the location?

24 A I believe so.

25 Q You were asked a question regarding body cam. Back

1 in 2016 on this particular date, it was not standard issue, correct?

2 A No, sir.

3 Q And only a select few of Metro had body cam at that time?

4 A As far as I understand.

5 Q And you did not have it?

6 A I did not, no.

7 Q You listened to the radio traffic. And is it safe to say that that's

8 not in realtime?

9 A No. That was not realtime.

10 Q Okay. So when you're getting a -- when it comes in a CD as

11 far as radio traffic, it's pretty much -- it could be an expanded period of

12 time, 30 minutes, an hour, et cetera, and it's going to come in back to

13 back to back?

14 A That's what it sounded like on the recording, sir.

15 Q Okay. So that was not in realtime is what -- is that accurate?

16 A That was not realtime.

17 Q Now, your familiar with CAD, correct?

18 A Yes.

19 Q And is that pretty much a synopsis of what was said over the

20 radio as well?

21 A The computer-aided dispatch is entered by the dispatcher at

22 the time. So whatever you say on the air is what they're going to put into

23 the CAD system.

24 Q And that's going to come from an officer at the scene, correct?

25 A That's correct.

1 Q Okay. And do you recall in the CAD for this event, it does  
2 mention soon thereafter that:  
3 Subject turns and points a gun at me.  
4 Do you recall that? Or I can refresh your memory.  
5 A Could you refresh my memory of that?  
6 MR. LEXIS: Your Honor, may I approach?  
7 THE COURT: Yes.  
8 BY MR. LEXIS:  
9 Q First of all, sir, do you recognize this?  
10 A That looks like a printout of a -- a CAD incident.  
11 Q True and accurate representation of what the CAD was on this  
12 particular event?  
13 A Yes, sir.  
14 Q With regards to my previous question, don't say anything out  
15 loud, just read this to yourself and tell me if that refreshes your memory.  
16 A [Witness complies.] Yes, sir.  
17 Q Does that refresh your memory as to what CAD said regarding  
18 this particular event, with regards to subject pointing a firearm at a unit?  
19 A Yes, sir. It said there was a 413 pointed at a unit. 413 is  
20 our 400 code for a firearm.  
21 Q And specifically pointed at a unit?  
22 A That's correct.  
23 Q And that was, of course, must have been addressed over  
24 radio traffic, since it's in the CAD?  
25 A That's correct.

1 Q And is it surprise you at all that when you're giving a  
2 description of a suspect when you're running after him, that your primary  
3 description over the radio traffic is his clothing?

4 A Not at all.

5 Q Just a couple other housekeeping matters, sir. This occurred  
6 in Clark County, correct?

7 A Yes.

8 Q And on this particular day, you stated earlier that you were in a  
9 marked patrol unit; were you also in a uniform?

10 A Yes, I was, sir.

11 Q And is it a standard issue uniform that you're wearing today?

12 A Exactly like the one I'm wearing today, sir.

13 Q Okay. Was Officer Jacobitz also in a Metropolitan Police  
14 Department uniform?

15 A Yes, he was.

16 Q Thank you.

17 MR. LEXIS: Nothing further, Your Honor.

18 THE COURT: Any recross by the defense?

19 MR. COYER: Briefly, Judge.

20 **RECROSS EXAMINATION**

21 BY MR. COYER:

22 Q So, Officer Houston, I want to make sure I understand. The  
23 difference between the audio that we heard and the CAD is that  
24 someone's listening on the audio and writing what -- the CAD, that's how  
25 we get the CAD; is that right?



1           A     Yes, sir. As far as I understand, dispatchers listen to the radio  
2 and then they update the computer-aided dispatch system.

3           Q     Okay. And the CAD, specifically, was the paper that you  
4 looked at, right?

5           A     Yes, sir.

6           Q     Now, the -- you also testified that the audio might not be  
7 realtime?

8           A     There's no way I run that fast, sir.

9           Q     Can you expand on that a little bit, as far as the audio not  
10 being realtime?

11          A     I -- to be honest, I don't how evidentiary audio is handled with  
12 dispatch. But I can tell you from listening to it that that was definitely not  
13 the realtime incident.

14          Q     Would the CAD most accurately reflect in realtime the amount  
15 of time that passes between something going out over the audio, the  
16 amount of time between --

17          A     I would say CAD should be more accurate, because the  
18 dispatcher is going to timestamp some of the comments that are in  
19 there.

20          Q     Okay. So we heard on the audio you stating that you were in  
21 a foot pursuit, correct?

22          A     Yes, sir.

23          Q     Do you have a copy of the CAD there in front of you?

24          A     I -- I don't have a copy of anything, no.

25          Q     No? Okay. Would -- would you agree that -- that that call

1 went out with the timestamp of 1946?

2 A For the time of the initial stop?

3 Q No, the time of the foot pursuit.

4 A Oh, the foot pursuit? That sounds like it would be accurate,  
5 sir.

6 Q And 1946 being military time for 7:46 p.m., right?

7 A That's correct.

8 Q Okay. And the foot pursuit would have occurred after this  
9 firearm was allegedly pointed at Officer Jacobitz, correct?

10 A Yes.

11 Q Your foot pursuit, to be clear?

12 A Yes.

13 Q Okay. Would you agree that the first entry in the CAD where  
14 there's a mention of a gun being pointed at a unit is 2002?

15 A You know, I didn't see that specifically for the timestamp,  
16 but --

17 Q That's okay. I -- I can refresh.

18 A Okay.

19 Q Just take a second.

20 MR. COYER: May I approach?

21 THE COURT: You can.

22 BY MR. COYER:

23 Q Does that refresh?

24 A That -- that will be correct, sir.

25 Q So the first entry into CAD talking about a gun being pointed at

1 a unit happens at 2002, right?

2 A That's what it appears to be on CAD, sir.

3 Q And mathematically that would be 16 minutes after --

4 A 15, 16 minutes, correct.

5 Q 16 minutes after 7:46 p.m.?

6 A Yes.

7 Q Okay.

8 MR. COYER: No further questions.

9 THE COURT: Counsel, can this witness be excused at this  
10 time?

11 MR. LEXIS: No, Your Honor. I move to admit the CAD. It's  
12 not been marked, but it would be State's proposed exhibit, whatever the  
13 next exhibit is.

14 THE CLERK: 53.

15 THE COURT: Any objection by the defense?

16 MR. COYER: Yes, Judge. I -- I -- there are some redactions  
17 that probably need to be made before it's admitted.

18 MR. LEXIS: And the State would have no objection to the  
19 redactions that are relevant that need to be made by the defense.

20 THE COURT: Okay. But we need to do the redactions first  
21 and then have it admitted.

22 MR. LEXIS: May we approach, Judge?

23 THE COURT: Sure.

24 [Bench conference transcribed as follows:]

25 THE COURT: What --

1 MR. LEXIS: We're not -- we're not going to put up  
2 [indiscernible.] I mean, if we want to redact it afterwards, I mean, they  
3 pretty much want the warrants lined out. I have no objection to that,  
4 Judge.

5 THE COURT: Okay. So your objection based on that the --  
6 that the exhibit either contains not relevant information or it's -- it's  
7 prejudicial --

8 MS. PLUNKETT: Prejudicial.

9 THE COURT: -- and effects substantially outweighs any  
10 probative value. He wants to admit it at this point without your  
11 redactions.

12 MR. LEXIS: No, Judge --

13 MR. DICKERSON: Also, I think it's fair to note that already in  
14 evidence is the audio that they've admitted, which contains all the same  
15 information --

16 THE COURT: Okay. Here's my concern.

17 MR. COYER: That's fair.

18 THE COURT: If there is redactions you want to make and  
19 he's moving to admit, I'm not going to let him publish until the redactions  
20 are made. He can question from it --

21 MR. COYER: Yeah.

22 THE COURT: And I -- but I'm not going to let him publish it to  
23 the jury if you're objecting to it. I need to see what the redactions are.

24 MR. LEXIS: Then you know what I'll do, Judge --

25 MR. DICKERSON: That's fine.

1 MR. LEXIS: -- we'll bring this in through Jacobitz.  
2 MR. DICKERSON: You're fine. He can admit it right now.  
3 That's fine. You can talk to him about it, just don't publish it.  
4 THE COURT: Okay. So problem is, I don't know what his  
5 redactions are. He's just telling me there's going to be redactions, make  
6 an objection. Before I can admit it, I have to rule on his objections. So  
7 did you know this was going to be admitted?  
8 MR. COYER: I didn't know that the CAD -- I mean, you can  
9 always assume --  
10 THE COURT: Right.  
11 MR. COYER: -- that it might be, but I did, in fairness --  
12 THE COURT: So --  
13 MR. COYER: -- admit the audio.  
14 MR. LEXIS: To be honest with you, he had an -- we had an  
15 agreement among ourselves too that we're going to allow them to redact  
16 the prejudicial stuff off of the audio, and it's already admitted.  
17 MR. DICKERSON: Now it's already admitted.  
18 MR. COYER: Yeah, so I --  
19 MR. LEXIS: So -- but we want -- we have no objection -- I  
20 mean, we do that all the time.  
21 THE COURT: All right. But he's made an objection. I have to  
22 rule on the objection. So --  
23 MR. COYER: I think --  
24 THE COURT: -- are you objecting to it coming in as it is?  
25 MR. COYER: No. I'm objecting the publishing. I wasn't going

1 to publish the prejudicial stuff in the audio. I'm fine with it coming in and  
2 we can redact it later. I just don't want to publish the prejudicial part.

3 THE COURT: That's why I said, I can admit it, but you can't  
4 publish it to the jury at this time.

5 MR. LEXIS: No problem.

6 THE COURT: You can ask questions from it. He can look at  
7 it. But until it's redacted, I won't let -- I'm not going to let you publish it.  
8 Is that --

9 MR. LEXIS: No problem.

10 THE COURT: -- is that agreeable?

11 MS. PLUNKETT: Yeah.

12 MR. DICKERSON: Yeah. Absolutely.

13 MS. PLUNKETT: Yes.

14 THE COURT: Okay. So I'm going to admit it -- admit it, but --  
15 and he can ask questions from it and the witness can review it.

16 MR. DICKERSON: Sure.

17 THE COURT: But at this point, until you do your redactions,  
18 we're not going to publish. When are you going to redact -- when are  
19 you going to provide a redacted copy to be -- because he may want to  
20 publish it at some point.

21 MR. COYER: Well, whenever you -- I mean, you guys have  
22 Wite-Out tape.

23 MR. LEXIS: Judge, we could do it after we --

24 MR. COYER: Yeah.

25 MR. LEXIS: -- finish --

1 THE COURT: All right. So I'm going to make my ruling.  
2 MR. DICKERSON: Yeah. Just run the Wite-Out over it.  
3 MR. COYER: Yeah. Or I can do it, whatever.  
4 THE COURT: What exhibit is it?  
5 MR. LEXIS: It's going to be State's --  
6 MR. DICKERSON: Can we have the --  
7 MR. LEXIS: I forget what he said.  
8 THE COURT: What are you doing?  
9 MR. DICKERSON: This right here?  
10 MR. COYER: Yeah. That's -- we're not worried about that,  
11 but --  
12 THE COURT: All right. Do you need to publish it today?  
13 MR. DICKERSON: Is this good right here?  
14 MR. COYER: Yeah.  
15 MR. DICKERSON: Is that all?  
16 THE COURT: They're doing something. I just want --  
17 MR. DICKERSON: Then I'll white out --  
18 MS. PLUNKETT: Well, what about the -- does it refer to him  
19 as a troublemaker in there?  
20 MR. COYER: That's a great question. Let's look at that real  
21 quick.  
22 MS. PLUNKETT: We might be mixing up --  
23 MR. LEXIS: We can do this later, guys. I'm not going to  
24 publish is.  
25 MS. PLUNKETT: Yeah. I'll just --

1 MR. COYER: Okay.  
2 MS. PLUNKETT: I'll look at it now.  
3 THE COURT: All right.  
4 MR. DICKERSON: I think that's it.  
5 THE COURT: Okay.  
6 MR. COYER: Think so.  
7 THE COURT: Is that the redacted -- let me see it real quick.  
8 MR. COYER: That's not -- that's not the redacted. That just  
9 shows where the redactions are going to go.  
10 THE COURT: Okay. So I'm still doing what I -- what we said?  
11 MR. COYER: Yes.  
12 MS. PLUNKETT: Yes.  
13 THE COURT: We're going to admit it. He can ask questions  
14 from -- the witness can look at it. Until it's redacted, it won't be  
15 published.  
16 MR. LEXIS: Yeah.  
17 MR. COYER: We're all on the same page.  
18 THE COURT: Okay.  
19 [End of bench conference.]  
20 THE COURT: At this time I'm going to admit Exhibit 53,  
21 subject to the limitations that was discussed at the bench conference.  
22 [State's Exhibit No. 53 admitted.]  
23 BY MR. LEXIS:  
24 Q Officer, is it safe to say that the audio you heard was an  
25 extremely redacted version, that the defense counsel played?



1           A     It seemed very short, sir.

2           Q     And the CAD is a more comprehensive and a time figure of

3 when certain radio traffic was done?

4           A     That's correct.

5           Q     Primarily for location purposes?

6           A     I -- what was that?

7           Q     Primarily for location purposes?

8           A     For the information on there?

9           Q     Yes.

10          A     Most of it. Yes, sir.

11          Q     And you were asked a question regarding, I believe, did you

12 say 17 minutes? How many minutes?

13          A     I think it was 16.

14          Q     16 minutes. Does it surprise you, sir, given the gravity of the

15 situation, the amount of adrenaline in the situation at hand, was 17

16 minutes that long of a time to further start developing additional facts?

17          A     Given the dynamics of the situation, I would say no, especially

18 out of the fact that there was further incident regarding the moped at the

19 initial scene that would have also delayed the -- the timelines for

20 additional investigation of the primary incident.

21          Q     And is that moped incident the fact that two other subjects

22 went to try to take that as Officer Jacobitz was -- stayed with the

23 firearm?

24          A     That's correct. As I was chasing the subject and --

25               MR. COYER: Objection, foundation.

1 THE COURT: Restate the question.

2 MR. LEXIS: Sure.

3 BY MR. LEXIS:

4 Q You said that there was also a delay in certain aspects of this  
5 investigation due to other individuals taking the moped?

6 A The investigation was delayed by two subjects that went and  
7 picked up the moped and proceeded to walk away with it during the --  
8 while we were still trying to contain the scene with a perimeter and while  
9 Officer Jacobitz was still trying to hang on to the primary evidence, the  
10 firearm.

11 MR. COYER: Your Honor, this witness doesn't have personal  
12 knowledge of that. That's why I objected to foundation.

13 THE COURT: It sounds like this is a -- counsel, was that a  
14 foundational question or were you asking for personal knowledge?

15 MR. LEXIS: It foundation and affect on the listener, Your  
16 Honor. And it goes to --

17 THE COURT: I'm going -- it was a foundational question  
18 regarding timeframes. So I'm going to allow to -- the answer to stand.

19 MR. LEXIS: No clue.

20 THE COURT: I'm going to overrule your objection.

21 MR. LEXIS: No further questions, Judge.

22 THE COURT: Any -- any redirect? I'm sorry, any -- any  
23 additional questions by the defense?

24 MR. COYER: No, Your Honor.

25 THE COURT: Okay. Can this -- and again, Exhibit 53 is

1 conditionally admitted subject to the limitations discussed at the bench  
2 conference.

3 Can this witness be excused?

4 MR. LEXIS: Yes, Your Honor.

5 THE COURT: Defense?

6 MR. COYER: Yes. We have nothing else for this witness,  
7 Judge.

8 THE COURT: Okay. Ladies and gentlemen, at this time  
9 we're going to take our evening recess.

10 During this recess you're admonished not to talk or converse  
11 among yourselves or with anyone else on any subject matter connected  
12 with this trial, read, watch, or listen to any report or commentary on the  
13 trial or any person connected with this trial by any medium of  
14 information, including without limitation, to social media, text,  
15 newspapers, television, the Internet, and radio; do not visit the scene of  
16 any of the events mentioned during the trial or undertake any  
17 investigation; do not do any posting or communications on any social  
18 networking sites or do any independent research, including Internet  
19 searches, or form or express any opinion on any subject connected with  
20 the trial until the case is finally submitted to you.

21 We'll reconvene tomorrow at 11:30.

22 Officer, you are excused.

23 THE WITNESS: Thank you.

24 THE COURT: Thank you.

25 And for the jury's edification, I intend to go to 5:00 o'clock

1 tomorrow. Thank you.

2 [Jury recessed at 4:59 p.m.]

3 THE COURT: Is there any housekeeping matters?

4 MR. LEXIS: Not from us, Your Honor.

5 THE COURT: Okay. The court's in recess until 11:30  
6 tomorrow.

7 MR. COYER: Thank you.

8 MS. PLUNKETT: Thank you, Judge.

9 MR. LEXIS: Thank you.

10 [Proceedings concluded at 5:00 p.m. until November 29, 2017,  
11 at 11:30 a.m.]

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

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Shawna Ortega, CET\*562