

IN THE SUPREME COURT OF THE STATE OF NEVADA

Barry Harris,
Appellant

VS.

The State of Nevada,
Respondent,

) Supreme Court Case No.: 76774

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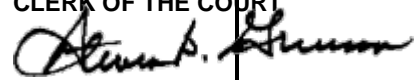
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TRAN

IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.) JC CASE NO. 17F15265X
) DC CASE NO. C326569
)
BARRY HARRIS,)
)
Defendant.)
_____)

REPORTER'S TRANSCRIPT

OF

PRELIMINARY HEARING

**BEFORE THE HONORABLE MELANIE ANDRESS-TOBIASSON
JUSTICE OF THE PEACE**

THURSDAY, DECEMBER 14, 2017

Volume 1

APPEARANCES:

For the State: GENEVIEVE CRAGGS
Deputy District Attorney

For the Defendant: SCOTT RAMSEY
Deputy Public Defender

Reported by: Donna J. McCord, CCR #337

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1 LAS VEGAS, NEVADA, DECEMBER 14, 2017, 12:47 P.M.

2
3 * * * * *

4
5 THE COURT: 17F15265X, Barry Harris. He's
6 present in custody with the Public Defender. This
7 is the time set for preliminary hearing. State, are
8 you ready to proceed?

9 MS. CRAGGS: Yes, your Honor.

10 THE COURT: Defense ready to proceed?

11 MR. RAMSEY: Yes, your Honor.

12 THE COURT: All right. State, who is your
13 first witness?

14 MS. CRAGGS: Nicole Dotson, your Honor.
15 For the record she's in custody.

16 THE COURT: Thank you.

17 Just have a seat.

18 Do you want to talk to her?

19 MS. CRAGGS: Yeah.

20 THE DEFENDANT: You ain't got to do
21 nothing you don't want to do. You got a right to an
22 attorney.

23 MS. CRAGGS: Your Honor --

24 MR. RAMSEY: You need to keep your
25 mouth -- you're not helping yourself.

1 THE COURT: I'm just going to make a
2 record that as soon as the witness came into the
3 courtroom who is in custody on a material witness
4 warrant the defendant made the statements that have
5 been documented in the record.

6 I'm going to direct you, sir, that
7 you are not to communicate with her again.

8 THE DEFENDANT: Okay. I'm sorry, your
9 Honor.

10 THE COURT: Just look over here. She's
11 going to swear you in. You don't have to stand up.

12 Go ahead. Oh, he will.

13

14 **NICOLE DOTSON,**

15 having been first duly sworn, was
16 examined and testified as follows:

17

18 THE WITNESS: I do.

19 THE CLERK: Please state your first and
20 last name and spell it for the record.

21 THE COURT: Is your name Nicole Dotson?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Is it N-I-C-O-L-E?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: D-O-T-S-O-N?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: All right. Thank you.

3 State.

4

5 **DIRECT EXAMINATION**

6 BY MS. CRAGGS:

7 Q All right. Nicole, I'm just going to ask
8 you a couple questions, okay?

9 A (Nods head.)

10 Q All right. You don't want to be here,
11 right?

12 A (Inaudible response.)

13 Q Okay. First thing I'm going to ask you is
14 I know it's going to be hard but you have to say yes
15 or no, okay? And if you need to take a second
16 that's fine. Do you want a second?

17 A No, I want to go home.

18 Q Okay. I'm just going to ask you a few
19 questions and then you can go home after Mr. Ramsey
20 asks you a few questions.

21 A You promise?

22 Q I promise.

23 Right, Judge? If we ask for the
24 warrant to be quashed today she can go home today?

25 THE COURT: Yes, you'll be released today,

1 okay?

2 BY MS. CRAGGS:

3 Q We've just got to get through this part,
4 okay?

5 A (Nods head.)

6 Q Okay. So do you know Barry Harris?

7 A Yes.

8 Q Okay. Do you see him today?

9 A Yes.

10 Q Okay. Is he sitting over at this table to
11 my right?

12 A Yes.

13 Q In the blue shirt?

14 A Yes.

15 THE COURT: Record will reflect
16 identification of the defendant.

17 MS. CRAGGS: Thank you, your Honor.

18 BY MS. CRAGGS:

19 Q Now, have you been in a relationship with
20 Mr. Harris?

21 A Yes.

22 Q Okay. A dating relationship or what kind
23 of a relationship?

24 A Yeah, a relationship.

25 Q Okay. For how long?

1 A Like six years.

2 Q Okay. And were you in a relationship with
3 him in August of this year?

4 A Yes.

5 Q Okay. And I know this is going to be hard
6 but remember we just talked about you just have to
7 tell me the truth, okay?

8 A (Nods head.)

9 Q Okay. So on August 22nd of this year do
10 you remember where you were living?

11 A Yes.

12 Q Okay. Where was that?

13 A The address?

14 Q Yeah, the address. Was it on Mountain
15 Vista Street?

16 A Yeah.

17 Q Does 3850 sound right?

18 A Uh-huh.

19 Q In Vegas?

20 A Yeah.

21 Q Okay. Now, when you got home on
22 August 22nd was anyone in your house?

23 A Yes.

24 Q Who was in your house?

25 A Barry was there.

1 Q Did you invite him over that day?

2 A He lived there.

3 Q He lived there at the time?

4 A He had a key, yeah.

5 Q Okay. Was he living with you full time at
6 the time?

7 A Kinda, yes.

8 Q Kinda, okay.

9 Court's indulgence, your Honor.

10 So he was living with you at that
11 time?

12 A Yeah.

13 Q Okay. Now, what happened when you walked
14 in and saw him? Where was he?

15 A He was in the room.

16 Q Which room?

17 A He was in the bedroom.

18 Q In the bedroom, okay. Did he say anything
19 to you when you first walk in there or did you say
20 anything to him?

21 A No, I was talking on my phone.

22 Q Okay. Now, you said that he wasn't living
23 or he was living with you at the time, right?

24 A Yes.

25 Q Okay. Do you remember talking to a

1 detective, Detective Carey on that day, on
2 August 22nd?

3 A Honestly I don't know who was who.

4 Q Okay. Do you remember talking to a
5 detective on that day?

6 A Yeah.

7 Q Okay. And you remember talking to him a
8 little bit about what happened that day?

9 A Yeah, you told me.

10 Q Okay.

11 And for opposing counsel I'm on
12 page 3 of the voluntary statement.

13 And do you remember when he asked you
14 if Mr. Harris lived with you?

15 A No.

16 Q Okay. Do you remember telling him that
17 Mr. Harris didn't live with you on that day?

18 A No.

19 Q Okay. So you said you walked in and he
20 was already in which room?

21 A The bedroom.

22 Q Okay. And you said he had a key, right?

23 A He had a key.

24 Q Okay. Had you guys been fighting that
25 day?

1 A Not that day, no.

2 Q Okay. So you hadn't been talking to him
3 on the phone at all?

4 A Yes. Previous, yeah.

5 Q Okay. And did you have any issues when
6 you were talking on the phone?

7 A We was arguing a little bit.

8 Q Arguing a little bit, okay. Now, when you
9 saw him in your house did you tell him to get out?

10 A At some point I did, yes.

11 Q Okay. Did you think he was going to be
12 there when you got home?

13 A No.

14 Q Okay. Did he say that he would leave when
15 you asked him to get out?

16 A No.

17 Q Okay. Do you remember if he said he
18 wasn't going to leave?

19 A Yes.

20 Q Did he call you any names?

21 A We were arguing.

22 Q Now, you were arguing about him leaving,
23 right?

24 A Yeah, that and a lot of things.

25 Q Okay. And did you ever tell him when you

1 were arguing that you were going to call the police?

2 A Yeah.

3 Q Okay. What happened when you told him you
4 were going to call the police?

5 A The beginning is really blurry for me.

6 THE COURT: Okay. Just tell her what you
7 remember.

8 BY MS. CRAGGS:

9 Q Yeah, tell me what you remember, that's
10 okay. Do you remember if he ever put his hands on
11 your neck?

12 MR. RAMSEY: Object, leading.

13 THE COURT: I'm going to give her a little
14 leeway.

15 THE WITNESS: No.

16 BY MS. CRAGGS:

17 Q You don't remember that?

18 A No.

19 MS. CRAGGS: Your Honor, may I approach?

20 THE COURT: Yes, you may.

21 BY MS. CRAGGS:

22 Q All right. Do you remember writing this
23 statement?

24 A (Nods head.)

25 Q Is that your handwriting?

1 A (Nods head.)

2 Q Did you sign it too?

3 A (Nods head.)

4 Q Okay. Do you remember this was on that
5 day, right, August 22nd?

6 A Uh-huh.

7 Q Okay. And then you talked to a detective
8 after that, right?

9 A Uh-huh.

10 Q Okay. Do you remember in this statement
11 when you wrote he started strangling me?

12 A I remember the statement, yes.

13 Q Okay.

14 A The actual in the house, I have like this
15 point on what I remember and everything before I
16 just --

17 Q That's okay, I'm just going to keep asking
18 you, okay? But you remember writing this statement,
19 right?

20 A Yeah.

21 Q Okay. And you did sign it?

22 A Uh-huh.

23 Q Okay. And you said in the statement that
24 he was strangling you on that day?

25 A Okay.

1 Q But you don't remember that right now?

2 A No.

3 Q Okay. Do you remember that he punched you
4 at all?

5 A (Nods head.)

6 Q Okay. Is that a yes?

7 A Yeah.

8 Q Okay. Was that when you guys were arguing
9 in the bedroom?

10 A Yes.

11 Q Okay. Do you know how many times he
12 punched you?

13 A Once.

14 Q Okay. And you said you didn't remember
15 the strangling part, right?

16 A Huh-uh.

17 Q Okay. So do you remember telling the
18 detective that when that happened you had a hard
19 time breathing?

20 A Yeah. I was pretty worked up.

21 Q Okay. Do you remember telling the
22 detective that when the defendant had his hands
23 around your neck you had a hard time breathing?

24 A No.

25 Q Okay. So after you're inside the bedroom

1 and you remember him punching you --

2 A Uh-huh.

3 Q -- did you leave the bedroom?

4 A Yes.

5 Q Where did you go when you left the
6 bedroom?

7 A I was trying to go out the front door. I
8 was trying to --

9 Q Were you trying to leave?

10 A Yeah.

11 Q And where did you end up getting to? Were
12 you able to leave?

13 A I was in the bathroom.

14 Q Okay. Did you walk to the bathroom
15 yourself or did you go somewhere else first when you
16 were trying to leave the apartment? I'm asking you
17 bad questions. How come you weren't able to leave
18 the apartment?

19 A Barry wouldn't let me.

20 Q He wouldn't let you leave?

21 A Huh-uh.

22 Q Is that a no?

23 A No.

24 Q Okay. Now, did you end up going to the
25 living room?

1 A For a second, yeah.

2 Q Okay. Now, did you ever see Barry have
3 any weapons?

4 A At some point.

5 Q Do you remember what that was? Do you
6 remember what it was?

7 A (Nods heads.)

8 Q What was it? I know you don't want to be
9 here but you just have to tell the truth and answer
10 my questions, okay?

11 A I know.

12 Q Nicole, do you remember what he had?

13 A Yes.

14 Q Okay. What was it?

15 A It was a gun.

16 Q Okay. Did you see the gun when you were
17 first talking to him when you went home?

18 A No.

19 Q Did you see it when you were in the
20 bedroom?

21 A No.

22 Q Okay. Did you see it when you were in the
23 living room?

24 A No.

25 Q And then I think you said you went to the

1 bathroom, right?

2 A (Nods head.)

3 Q Is that a yes, Nicole?

4 A Yes.

5 Q Did you want to go to the bathroom?

6 A No.

7 Q Why did you go to the bathroom? Did you
8 feel like you had to?

9 A (Nods head.)

10 Q Is that a yes?

11 A Yes.

12 Q Okay. Why did you feel like you had to go
13 to the bathroom?

14 A Well, we were arguing or fighting,
15 arguing.

16 Q Okay. Did you see the gun before you went
17 to the bathroom?

18 A No.

19 Q Okay. Did he tell you that you had to go
20 to the bathroom?

21 A No.

22 Q But you said you didn't want to go.

23 A I mean, I wanted to leave altogether
24 but --

25 Q Okay. When did he have the gun out?

1 A In the bathroom.

2 Q In the bathroom?

3 A (Nods head.)

4 Q Okay. What did he do with the gun? Did
5 he ever point it at you?

6 A What if I have a question?

7 Q You have a question?

8 A (Nods head.)

9 Q Do you have a question for me or the
10 judge?

11 THE COURT: Probably better for you.

12 MS. CRAGGS: She was looking at you.

13 Do you want me to come up there so
14 you can tell me?

15 THE COURT: No, no, no, what's the
16 question? It doesn't necessarily mean I'll answer
17 it. Let's just hear what it is. What's the
18 question?

19 THE WITNESS: What if maybe it wasn't
20 necessarily pointed at me but kind of like wavered
21 in the air.

22 THE COURT: That's fine. If that's what
23 happened that's what you say. Just tell the truth,
24 okay?

25 ///

1 BY MS. CRAGGS:

2 Q Just answer it as best as you can.

3 A That's the answer.

4 Q That it was wavering in the air?

5 A Yeah, that is the answer.

6 Q Okay. Did he ever hit you with the gun?

7 A I don't know because Barry's fist is
8 pretty strong so I'm not sure if it was -- I was hit
9 but I'm not sure if it was with that or with his
10 fist.

11 Q Okay. You remember that statement we
12 talked about that you said you wrote?

13 A Yeah.

14 Q Okay. Now, do you remember when you said
15 that he started beating you with a gun on top of
16 your head?

17 A Now that you're reading it to me I
18 remember.

19 Q Okay. Do you remember that happening?

20 A To some extent.

21 Q So you remember him hitting you on your
22 head with a gun?

23 A I remember being hit, yes.

24 Q Okay. But you're not sure if it's the
25 gun?

1 A Yeah.

2 Q Okay. But you remember writing that it
3 was with a gun?

4 A Now that you're telling me, yes.

5 Q Okay. And I think you said that he
6 punched you one time in your face; is that right?

7 A Correct.

8 Q Okay. Did he ever hit you any other times
9 in the head?

10 A Could have been.

11 Q Could have been, okay. Do you remember
12 saying that he continued to put blows to your head?

13 A No.

14 Q Okay. Did he ever -- after he hit you,
15 well, you think he might have hit you on the top of
16 your head with a gun, did he ever kick you?

17 A Yeah.

18 Q Do you know how many times?

19 A More than once.

20 Q Now, did you ever say you were going to
21 call the police?

22 A Yes.

23 Q Okay. Did he say anything to you when you
24 said you were going to call the police?

25 A See, all that is still a blur to me.

1 Q Okay.

2 A What was said precisely I don't know. We
3 were arguing.

4 Q Okay. Did he ever tell you not to make
5 any sounds?

6 A At some point, yes.

7 Q Did he ever make any threats to you while
8 this was going on?

9 A Just about not calling the police, yeah.

10 Q Did he ever make any threats about your
11 life or doing anything to you?

12 A See, again this is like four months later.

13 THE COURT: It's okay. If you don't
14 remember you don't remember. Just tell the truth.

15 THE WITNESS: It's just that's a blur what
16 was said.

17 BY MS. CRAGGS:

18 Q Okay. So in this statement we keep
19 talking about that you wrote --

20 A Yeah, I know, I know.

21 Q Okay. And I'm saying this so that it all
22 gets down on the record, okay?

23 A Okay.

24 Q I know you remember. So referring to the
25 statement, you remember saying, writing that he told

1 you if you screamed he was going to kill you?

2 A Do I remember writing that or saying that?

3 Q Both. Do you remember writing it?

4 A I don't remember writing it, no.

5 Q Do you remember him saying it to you?

6 A Some things were said that scared me but
7 again when all that happened that was in the
8 beginning.

9 Q I understand. Like I said, just tell me
10 the truth and do your best.

11 A So, I mean, that's why I'm hesitant
12 because I don't want to tell you yeah and I don't
13 remember that or clearly. It's like I have what I
14 remember clearly.

15 Q If you don't remember just tell me you
16 don't remember.

17 A Okay. I don't remember that precisely
18 clearly.

19 Q That's okay. Now, did he ever do anything
20 else with the gun?

21 A No.

22 Q Okay. Do you remember him putting it to
23 your head?

24 A No.

25 Q Okay. And in the same statement do you

1 remember saying that he cocked the gun back and put
2 it to your head?

3 A I don't remember saying it but I remember
4 what you're, now that you're reading it to me.

5 Q Okay. So you remember when he put it to
6 your head?

7 A Well, I remember being in the bathroom and
8 I was being hit in some form at the top.

9 Q Okay.

10 A But my eye was shut closed, that's what I
11 remember.

12 Q Why was your eye shut closed?

13 A Because there was a punch.

14 Q Okay.

15 A And I just remember feeling like I
16 couldn't open my eye and I was confused. But I
17 don't -- that's what I'm telling you, the stuff that
18 was happening around me, it wasn't as clear as I
19 thought. My head was down. I was sitting on the
20 floor.

21 Q Okay.

22 A So I don't remember precisely what was
23 happening because I wasn't like staring at him or --
24 I was like on the floor.

25 Q So do you remember him putting the gun to

1 your head?

2 A Not precisely, no.

3 Q Okay. Do you remember him saying that
4 I'll blow your brains out when the gun was to your
5 head?

6 A Anything that was said I don't remember
7 anymore. I know some things were said but I don't
8 remember them anymore.

9 Q And you said you do remember talking to
10 detectives that day but you're not sure you remember
11 what you said?

12 A Yeah, right.

13 Q Okay.

14 A I remember them greeting me as I walked
15 out the door.

16 Q Okay. Do you remember them saying they
17 were going to record anything?

18 A No.

19 Q Okay. But you do remember talking to them
20 though?

21 A Yeah, I remember talking to them.

22 Q Okay.

23 Page 4.

24 So do you remember telling detectives
25 that the defendant said I'll blow your brains out,

1 if you make any noise I will fucking kill you?

2 A No.

3 Q Okay. Do you remember telling the
4 detectives that he said if you made any noise he
5 would pull the trigger?

6 A No, but I do remember him telling me to be
7 quiet.

8 Q Okay.

9 Court's indulgence, your Honor.

10 Do you remember -- you said you don't
11 really remember much with the gun, right?

12 A Yeah.

13 Q But do you remember him putting the gun in
14 your mouth?

15 A No, that never happened I know for a fact.

16 Q Do you remember telling the detectives
17 that he put the gun in your mouth?

18 A Possibly, yeah.

19 Q Okay. And at this time you said you were
20 scared?

21 A Right.

22 Q Were you trying to leave?

23 A Was I trying to leave, what, my house?

24 Q Yeah, trying to get away.

25 A Yeah.

1 Q Now, were you eventually able to leave?
2 What happened next that you remember?

3 A Barry eventually left on his own and when
4 I opened the door there were a bunch of cops at the
5 bottom of my stairs I can remember.

6 Q Okay. Now, you didn't call the police,
7 right?

8 A No.

9 Q Okay. So somebody else must have done it?

10 A Someone else called the police. I didn't
11 even have a phone.

12 Q Okay. Now, did you have any injuries
13 after this? You said your eye was swollen shut,
14 right?

15 A Yeah.

16 Q Okay. Did you have any bruises?

17 A For a little while.

18 Q Did you go to the doctor?

19 A (Nods heads.)

20 Q Did you go to the hospital or the doctor?

21 A They made me go to the hospital.

22 Q Okay. What did they tell you at the
23 hospital? Did you have a hard time breathing or --

24 MR. RAMSEY: Objection, calls for hearsay.

25 THE COURT: Sustained with regard to that

1 but --

2 MS. CRAGGS: I'll rephrase, your Honor, I
3 apologize.

4 BY MS. CRAGGS:

5 Q When you went to the hospital did you have
6 any injuries at that point?

7 A My eye was black.

8 Q Anything else?

9 A No, not that I can remember. My eye was
10 the biggest thing.

11 Q Did you get any medication when you left?

12 A The hospital?

13 Q Yeah.

14 A Absolutely.

15 Q Okay. Do you know what it was for?

16 A Pain.

17 Q Where else did you have pain other than
18 your eye?

19 A I mean, my body was a little sore but I
20 just remember my eye being the biggest issue.

21 THE COURT: I'm sorry, I didn't hear what
22 you said.

23 THE WITNESS: My eye was the most --

24 THE COURT: Okay.

25 ///

1 BY MS. CRAGGS:

2 Q How long did you have pain?

3 A For my eye?

4 Q Yeah, for your eye.

5 A Oh, my God, like four months.

6 Q Okay. Did you ever have to get any
7 surgery or anything on it?

8 A So there were like blood clots once they
9 opened the eye. He said that those would not
10 recover on their own so they would have to remove
11 them.

12 THE COURT: And did they?

13 THE WITNESS: Yes.

14 THE COURT: Okay.

15 MS. CRAGGS: Court's indulgence, your
16 Honor.

17 THE COURT: Sure.

18 MS. CRAGGS: I don't have any further
19 questions.

20 THE WITNESS: Thank God.

21 THE COURT: All right.

22 MS. CRAGGS: I'm done asking you
23 questions, okay, Nicole?

24 THE WITNESS: So I can leave now?

25 THE COURT: I'm sorry, he's got to ask you

1 some questions, his attorney is going to ask you
2 some questions as well. She might have some to ask
3 after he asks questions. Once they're done you're
4 done, you go home, okay?

5 THE WITNESS: Okay.

6 THE COURT: All right.

7 MR. RAMSEY: Court's brief indulgence.

8 THE COURT: Of course.

9

10 **CROSS-EXAMINATION**

11 BY MR. RAMSEY:

12 Q Miss Dotson, you said you've been in a
13 relationship with Mr. Harris --

14 A Yes, sir.

15 Q -- for about six years?

16 A Yes, sir.

17 Q You had lived together off and on for a
18 period of time?

19 A Yes, sir.

20 Q And he resided with you at that house?

21 A In the Mountain Vista house, right?

22 Q Yes.

23 A Right.

24 Q And he had a key to the apartment?

25 A Yes.

1 Q He was free to come and go as he pleased?

2 A At that time, yes.

3 Q You may not have expected him that night
4 but he still had permission to be there?

5 A Yeah.

6 Q Okay. I wanted to talk to you about this
7 gun. Can you describe the gun, please?

8 A No.

9 Q Was it any specific color?

10 THE WITNESS: I can't describe the gun,
11 your Honor.

12 THE COURT: Okay.

13 BY MR. RAMSEY:

14 Q Was it one that fit in a single hand or
15 was it a large gun?

16 A It had to have fit in his hand.

17 Q Okay. In one hand?

18 A I don't know, I was kneeled down. I just
19 got a glimpse of it.

20 Q Okay. And you didn't see the gun you said
21 until you were in the bathroom?

22 A Correct.

23 Q Okay. Prior to the bathroom you had tried
24 to leave out the front door?

25 A Yes.

1 Q And he stopped you?

2 A Yes.

3 Q How did he stop you?

4 A Well, he kind of pulled me back.

5 Q Okay. You said the two of you had been
6 arguing throughout the day, correct?

7 A We had started arguing that night.

8 Q That night when you got home?

9 A No, previous to me going home I remember
10 there was some conversations on the phone.

11 Q What were you arguing over?

12 A Barry was cheating as usual.

13 Q Were you upset about that?

14 A Very.

15 Q Is that why you told him to leave when you
16 got to the house?

17 A Absolutely.

18 Q Okay. You said you don't remember his
19 hands on your neck at all?

20 A No.

21 Q You said he only punched you once?

22 A One time that I can remember distinctly,
23 yes.

24 Q And that's the time that caused the eye
25 issue?

1 A Correct.

2 Q Okay. When you were in the bathroom were
3 you ever locked in the bathroom?

4 A No, but I wasn't allowed to leave the
5 bathroom.

6 Q I understand, I'm just asking if you were
7 locked in.

8 A No.

9 Q Okay. And when he left you remained in
10 the bathroom until you heard the door lock?

11 A That's correct.

12 Q Did you go to the front door immediately
13 after you heard the door lock?

14 A Nope.

15 Q You stayed in the bathroom for how long?

16 A Maybe like 20 minutes.

17 Q Twenty minutes, okay. You said he never
18 pointed the gun at you, he just waived it in the
19 air, correct?

20 A I believe that to be what happened.

21 Q Okay. He never put the gun in your mouth?

22 A No.

23 Q Although you say you do recall writing
24 that in your written statement?

25 A After she refreshed my memory, yes.

1 Q Do you know why you wrote that in the
2 statement when you say it didn't happen?

3 A Honestly, no, I don't. But again there
4 was a matter of mixed emotions, a whole lot of mixed
5 emotions.

6 Q You were upset about him cheating?

7 A Well, yeah.

8 Q And you were upset about him fighting or
9 punching you?

10 A Correct. But, I mean, it wasn't -- at
11 that point when I talked to a detective I was no
12 longer concerned about him cheating. My face was --
13 that's what I was concerned about.

14 Q I understand.

15 Court's brief indulgence.

16 THE COURT: Sure.

17 MR. RAMSEY: I'll pass the witness, your
18 Honor.

19 THE COURT: Any other questions?

20 MS. CRAGGS: Just a couple, your Honor.
21 Thank you.

22 THE COURT: Okay.

23 ///

24 ///

25 ///

REDIRECT EXAMINATION

BY MS. CRAGGS:

Q Nicole, do you remember when you were talking with the detectives about the gun you said you thought it was black with a brown bottom and the pointy part was skinny; do you remember that?

A Somewhat, yeah.

Q Sorry?

A I said I -- everything when you read it back to me kind of I remember it but not clearly, no.

Q But you don't remember what it looked like today?

A No.

Q Okay. How long can you estimate from when you came home Mr. Harris was there to when he left? Do you know how long that was?

A I need you to explain to me.

Q From when you came home --

A Uh-huh.

Q -- and he's in your bedroom --

A Uh-huh.

Q -- to when he leaves, do you know how many minutes?

A Oh, you're talking about the duration of

1 time that he was with me?

2 Q See, you said it better than me. Yes.

3 THE COURT: That's exactly what she meant.

4 BY MS. CRAGGS:

5 Q Thank you. That's exactly what I meant.

6 A I don't know precisely how long it was.

7 Q Do you think it was less than a half hour?

8 A It seemed to be longer than that.

9 Q Okay. Less than an hour?

10 A Probably something.

11 Q Okay. So like between 30 minutes and an
12 hour?

13 A Maybe, yeah, uh-huh.

14 Q All right.

15 No further questions, your Honor.

16 THE COURT: Any others based on those?

17 MR. RAMSEY: No recross, your Honor.

18 THE COURT: All right. They're going to
19 take you out and you will get released, all right?

20 THE WITNESS: Thank you.

21 THE COURT: Can you approach real quick?

22 (Discussion held off the record.)

23 THE COURT: All right. State, you rest?

24 MS. CRAGGS: Well, your Honor --

25 THE COURT: Oh, there's probably some

1 amendments.

2 MS. CRAGGS: Well, there's amendments and
3 honestly, your Honor, I was hoping I wouldn't need
4 to have a police officer come and testify as to the
5 substance of her statement and I have a
6 nonappearance form for the officer that would be
7 testifying.

8 THE COURT: Oh, you do have an officer,
9 okay.

10 MS. CRAGGS: So I had told Mr. Ramsey that
11 I may have to request for it to be bifurcated
12 depending on what --

13 THE COURT: Well, at least you guys talked
14 about it and I wasn't aware of it but at least
15 you --

16 MS. CRAGGS: I don't know that he agrees
17 to it but --

18 MR. RAMSEY: Oh, obviously I don't agree
19 to it. If the State's going to make a motion to
20 continue, I just ask that she be sworn and we go
21 through the proper Bustos --

22 THE COURT: Oh, absolutely. I just want
23 to say this. Hold on, I need to say something.

24 THE DEFENDANT: Oh, I'm sorry, your Honor.

25 THE COURT: You can't hear me if you're

1 talking in his ear. Had I been advised of this
2 previously based on the fact that she was in custody
3 I would have required her testimony today anyway
4 because I would not have wanted to hold her for two
5 weeks assuming that their motion is in order.

6 MR. RAMSEY: I understand.

7 THE COURT: So let's go there first and
8 then I can make a lengthier record if necessary.
9 All right. So she's going to be sworn.

10 MS. CRAGGS: And, your Honor, I do have a
11 judgment of conviction if I could enter that right
12 now or I can wait until next time. It's a
13 possession of firearm by a prohibited person.

14 THE COURT: You may as well do it now.

15 You've seen this?

16 MR. RAMSEY: I received a copy of that,
17 your Honor.

18 THE COURT: So it's State's Exhibit 1?

19 MS. CRAGGS: Yes.

20 THE COURT: Proposed exhibit?

21 MS. CRAGGS: Yes.

22 THE COURT: Any objection?

23 MR. RAMSEY: Objection, your Honor, but, I
24 mean, it is sealed.

25 THE COURT: Okay.

1 MS. CRAGGS: It is. And for the record
2 it's a judgment of conviction from 2007 from Clark
3 County for a battery with a deadly weapon resulting
4 in substantial bodily harm --

5 THE COURT: Okay.

6 MS. CRAGGS: -- for Mr. Barry Harris.

7 THE COURT: All right. And I'll note the
8 objection on the record but I am going to allow its
9 admission for purposes of preliminary hearing. It
10 will be admitted as State's Exhibit 1.

11 (State's Exhibit 1 admitted.)

12 MS. CRAGGS: And I should have told you
13 about the bifurcation.

14 THE COURT: It's okay.

15 MS. CRAGGS: I was just hoping that it
16 would not be a necessity.

17 THE COURT: I know. We were kind of going
18 back and forth but he'll swear you in.

19 (At this time, Miss Craggs was sworn.)

20 MS. CRAGGS: I do. My name is Genevieve
21 Craggs. I'm a Deputy District Attorney assigned to
22 the State of Nevada versus Barry Harris which is
23 17F15265X.

24 When I was going through my subpoenas
25 this morning, your Honor, I did notice that I had a

1 return, first of all, for Detective Casey. He is
2 one of the detectives who took the voluntary
3 statement that I was referring to multiple times and
4 we did have a transcription of that and it was
5 provided to Mr. Ramsey before we started. Then I
6 also noticed that I had received a nonappearance
7 form at some point that says that he will be out of
8 state on family business and that he would be
9 returning to duty on December 23rd of 2017.

10 Your Honor, obviously based on this I
11 do need him in order to get the substance of her
12 statements in. This is made in good faith and not
13 for the purpose of delay. I would request a
14 continuance, your Honor.

15 MR. RAMSEY: And the defense would object
16 and move for dismissal, your Honor. It seems like
17 she just checked this morning. And I understand she
18 was in trial but there's no element of surprise
19 here. If she received that before it should have
20 done by written motion.

21 THE COURT: It's a Hill motion. You have
22 a nonappearance notification.

23 MS. CRAGGS: I do. I mean, I didn't see
24 it until this morning.

25 THE COURT: No, I understand that but, I

1 mean, it is, you know, for all intents and purposes
2 an oral Hill.

3 MS. CRAGGS: And if I need to write it up,
4 your Honor, I guess I would request a -- and I
5 should have been more clear when I spoke with
6 Mr. Ramsey about it earlier and made assumptions,
7 but I would be happy to write it up if you give me a
8 five-minute recess to do so.

9 MR. RAMSEY: I'm not going to require
10 that. Additionally, your Honor, this is a second
11 preliminary hearing setting. We should have been
12 ready to proceed here. My client has his due
13 process rights. He has a statutory right to a
14 preliminary hearing in 15 days. He would like to
15 exercise that right and have his preliminary hearing
16 today, have it decided, bound over or not today,
17 your Honor. I don't think there's a valid basis for
18 a second continuance here and I'll submit.

19 THE COURT: Well, the first continuance
20 was based on the nonappearance of Miss Dotson and
21 the case was re-subpoenaed and this continuance is
22 being requested because of the nonappearance or the
23 unavailability of the detective, obviously two
24 different witnesses. I do appreciate her
25 representations that she thought she may be able to

1 go forward with just the one witness. With regard
2 to the custody status of that witness, even if she
3 had made the motion at the beginning of the hearing
4 I would have allowed the testimony of the victim
5 because of her custody status. And so I would have
6 granted -- I mean, it appears to be in order. I
7 realize she didn't see that until this morning, but
8 it is a nonappearance notification, she does have
9 that, he clearly was served, and I think, you know,
10 there's no rule that dictates that a preliminary
11 hearing can only be continued one time. And so I
12 know that it's kind of been a standard procedure but
13 there is no direct rule that says you can't have
14 more than one continuance. And I will say at least
15 this one is for a separate witness and who has now
16 become somewhat of an essential witness.

17 So I am going to grant the State's
18 request. The 15-day date is the 28th. We don't
19 have to do 15 days. He's back to duty on the 23rd.
20 I mean, we do it on the 24th if you'd like.

21 MR. RAMSEY: The 15-day date is the 28th,
22 is that what you said?

23 THE COURT: Yeah. Today's the 14th. It's
24 actually 14 days.

25 MR. RAMSEY: Give me a second so I can

1 check that because I'm out of town. Your Honor, is
2 there an earlier date?

3 MS. CRAGGS: Well, he's not back until the
4 23rd which is a Saturday.

5 THE COURT: I mean, I can do the 26th or
6 the 27th.

7 MR. RAMSEY: 26th I can't do. I can do
8 the 27th or the 28th.

9 THE COURT: Which one do you prefer?

10 MR. RAMSEY: Probably the 28th because my
11 first day back in the office is the 27th.

12 THE COURT: Okay. So let's do the 28th.

13 MS. CRAGGS: And somebody else will be
14 here because I'm not here but we'll find someone.

15 THE COURT: How many do we have set on the
16 28th already?

17 THE CLERK: Let me check.

18 MR. RAMSEY: We had all this morning and
19 it was quite a few.

20 THE COURT: I know.

21 THE CLERK: We have eight in custody, four
22 out of custody.

23 THE COURT: I'll just own it now. I
24 probably set it.

25 THE CLERK: On the 27th we have five in

1 and one out.

2 MR. RAMSEY: Do the 27th, I'll deal with
3 it.

4 THE COURT: Okay. We'll do the 27th at
5 10:00 o'clock.

6 MS. CRAGGS: Thank you.

7 THE COURT: Will you be here then?

8 MS. CRAGGS: I will not but I'll have
9 someone. I think Lisa will be happy to.

10 THE DEFENDANT: Can I get a bail
11 reduction?

12 THE COURT: No.

13 THE DEFENDANT: An OR?

14 THE COURT: No.

15 THE DEFENDANT: All right.

16 MS. CRAGGS: And can we admonish what no
17 contact means in terms of third parties as well?

18 THE COURT: Yeah, I mean, there's to be no
19 contact including through third parties. It's a
20 understatement to say I'm concerned about the other
21 party that's here today and his attempts to keep
22 coming in the courtroom after he was asked to leave
23 the courtroom. You can have that conversation, I
24 don't need to, you can. So we'll finish the
25 preliminary hearing December 27th. Thank you.

MS. CRAGGS: Thank you.

* * * * *

Attest: Full, true, accurate transcript of
proceedings.

_____/S/Donna J. McCord
DONNA J. McCORD CCR #337

<p>BY MR. RAMSEY: [2] 29/10 30/12</p> <p>BY MS. CRAGGS: [12] 6/5 7/1 7/17 12/7 12/15 12/20 18/25 21/16 27/3 27/25 34/1 35/3</p> <p>MR. RAMSEY: [19] 4/10 4/23 12/11 26/23 29/6 33/16 35/16 36/17 37/5 37/15 37/22 39/14 40/8 41/20 41/24 42/6 42/9 42/17 43/1</p> <p>MS. CRAGGS: [32] 4/8 4/13 4/18 4/22 7/16 12/18 18/11 27/1 28/14 28/17 28/21 33/19 35/23 36/1 36/9 36/15 37/9 37/18 37/20 37/25 38/5 38/11 38/14 38/19 39/22 40/2 42/2 42/12 43/5 43/7 43/15 43/25</p> <p>THE CLERK: [4] 5/18 42/16 42/20 42/24</p> <p>THE COURT: [68]</p> <p>THE DEFENDANT: [6] 4/19 5/7 36/23 43/9 43/12 43/14</p> <p>THE WITNESS: [14] 5/16 5/21 5/23 5/25 12/14 18/18 21/14 27/22 28/12 28/19 28/23 29/4 30/9 35/19</p>	<p>absolutely [3] 27/14 31/17 36/22</p> <p>accurate [1] 44/4</p> <p>actual [1] 13/14</p> <p>actually [1] 41/24</p> <p>Additionally [1] 40/10</p> <p>address [2] 8/13 8/14</p> <p>admission [1] 38/9</p> <p>admitted [2] 38/10 38/11</p> <p>admonish [1] 43/16</p> <p>advised [1] 37/1</p> <p>after [9] 6/19 13/8 14/25 20/14 26/13 29/3 32/13 32/25 43/22</p> <p>again [4] 5/7 21/12 22/7 33/3</p> <p>agree [1] 36/18</p> <p>agrees [1] 36/16</p> <p>ahead [1] 5/12</p> <p>ain't [1] 4/20</p> <p>air [3] 18/21 19/4 32/19</p> <p>all [23] 4/12 6/2 6/7 6/10 11/3 12/22 14/4 20/25 21/21 22/7 28/21 29/6 31/19 35/14 35/18 35/19 35/23 37/9 38/7 39/1 40/1 42/18 43/15</p> <p>allow [1] 38/8</p> <p>allowed [2] 32/4 41/4</p> <p>already [2] 10/20 42/16</p> <p>also [1] 39/6</p> <p>Although [1] 32/23</p> <p>altogether [1] 17/23</p> <p>am [2] 38/8 41/17</p> <p>amendments [2] 36/1 36/2</p> <p>ANDRESS [1] 1/15</p> <p>ANDRESS-TOBIASSON [1] 1/15</p> <p>answer [5] 16/9 18/16 19/2 19/3 19/5</p> <p>any [19] 11/5 11/20 16/3 20/8 21/5 21/7 21/10 25/1 25/4 26/12 26/16 27/6 27/11 28/6 28/18 30/9 33/19 35/16 37/22</p> <p>anymore [2] 24/7 24/8</p> <p>anyone [1] 8/22</p> <p>anything [9] 9/18 9/20 20/23 21/11 22/19 24/6 24/17 27/8 28/7</p> <p>anyway [1] 37/3</p> <p>apartment [3] 15/16 15/18 29/24</p> <p>apologize [1] 27/3</p> <p>APPEARANCES [1] 1/19</p> <p>appears [1] 41/6</p> <p>appreciate [1] 40/24</p> <p>approach [2] 12/19 35/21</p> <p>are [2] 4/7 5/7</p> <p>arguing [12] 11/7 11/8 11/21 11/22 12/1 14/8 17/14 17/15 21/3 31/6 31/7 31/11</p> <p>around [2] 14/23 23/18</p> <p>as [15] 5/2 5/2 5/16 19/2 19/2 23/18 23/18 24/14 29/2 30/1 31/12 36/4 37/14 38/10 43/17</p> <p>ask [8] 6/7 6/13 6/18 6/23 28/25 29/1 29/2 36/20</p> <p>asked [3] 10/13 11/15 43/22</p> <p>asking [4] 13/17 15/16 28/22</p>	<p>32/6</p> <p>asks [2] 6/20 29/3</p> <p>assigned [1] 38/21</p> <p>assuming [1] 37/5</p> <p>assumptions [1] 40/6</p> <p>attempts [1] 43/21</p> <p>Attest [1] 44/4</p> <p>attorney [4] 1/21 4/22 29/1 38/21</p> <p>August [5] 8/3 8/9 8/22 10/2 13/5</p> <p>August 22nd [4] 8/9 8/22 10/2 13/5</p> <p>aware [1] 36/14</p> <p>away [1] 25/24</p>
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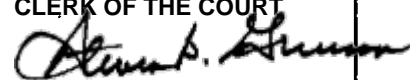
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DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 01/18/18
10:00 AM
D. SHEETS

THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-17-326569-1

-vs-

DEPT NO: XX

BARRY HARRIS, aka,
Barry Rashad Harris, #1946231,
Defendant.

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That BARRY HARRIS, aka, Barry Rashad Harris, the Defendant(s) above named, having committed the crimes of **BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060 - NOC 50426); FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony - NRS 200.310, 200.320, 193.165 - NOC 50056); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony - NRS 200.481; 200.485; 33.018 - NOC 57935); BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 54740); BATTERY**

1 **RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC**
2 **VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937);**
3 **PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING**
4 **CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 -**
5 **NOC 52996); CARRYING CONCEALED FIREARM OR OTHER DEADLY**
6 **WEAPON (Category C Felony - NRS 202.350 (1)(d)(3) - NOC 51459) and OWNERSHIP**
7 **OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony -**
8 **NRS 202.360 - NOC 51460),** on or about the 22nd day of August, 2017, within the County of
9 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
10 and provided, and against the peace and dignity of the State of Nevada,

11 COUNT 1 – BURGLARY WHILE IN POSSESSION OF A FIREARM

12 did willfully, unlawfully, and feloniously enter, with intent to commit an assault and/or
13 battery, that certain building occupied by NICOLE DOTSON, located at 3850 Mountain Vista,
14 Apartment No. 267, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain
15 possession of a firearm during the commission of the crime and/or before leaving the structure.

16 COUNT 2 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
17 RESULTING IN SUBSTANTIAL BODILY HARM

18 did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy,
19 abduct, conceal, kidnap, or carry away NICOLE DOTSON, a human being, with the intent to
20 hold or detain the said NICOLE DOTSON against her will, and without her consent, for the
21 purpose of committing inflicting substantial bodily harm, to wit: by forcing her into the
22 bathroom and/or preventing her from leaving the apartment and/or bathroom, with use of a
23 deadly weapon, to wit: a firearm, resulting in substantial bodily harm to NICOLE DOTSON.

24 COUNT 3 - ASSAULT WITH A DEADLY WEAPON

25 did willfully, unlawfully, feloniously and intentionally place another person in
26 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
27 attempt to use physical force against another person, to wit: NICOLE DOTSON, with use of
28

1 a deadly weapon, to wit: a firearm, by pointing the said firearm at NICOLE DOTSON while
2 threatening to kill her.

3 COUNT 4 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
4 DOMESTIC VIOLENCE

5 did willfully and unlawfully use force or violence against or upon the person of
6 NICOLE DOTSON, a person with whom the Defendant has a dating relationship, with use of
7 a deadly weapon, to wit: a firearm, by shoving said firearm into the mouth of the said NICOLE
8 DOTSON and/or striking her with said firearm.

9 COUNT 5 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

10 did willfully, unlawfully, and feloniously use force or violence upon the person of
11 NICOLE DOTSON, a person with whom the Defendant has a dating relationship, by
12 strangulation.

13 COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM
14 CONSTITUTING DOMESTIC VIOLENCE

15 did willfully and unlawfully use force or violence against or upon the person of his
16 spouse, former spouse, any other person to whom he is related by blood or marriage, a person
17 with whom he has had or is having a dating relationship, a person whom he has a child in
18 common, the minor child of any of those persons or his minor child, to wit: NICOLE
19 DOTSON, by punching and/or hitting and/or kicking the said NICOLE DOTSON about the
20 head and/or body, resulting in substantial bodily harm.

21 COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
22 REPORTING CRIME OR COMMENCING PROSECUTION

23 did then and there willfully, unlawfully, and feloniously, by intimidation or threats,
24 prevent or dissuade, or hinder or delay NICOLE DOTSON, from reporting a crime to police
25 and/or commencing prosecution by stating that he would kill her if she called the police and/or
26 stating that he would blow her brains out if she made any noise.

27 COUNT 8 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

28 did then and there willfully, intentionally, unlawfully and feloniously carry concealed


upon his person, a firearm or other deadly weapon, to wit: firearm.

COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

did willfully, unlawfully, and feloniously own, or have in his possession and/or under his custody or control, a handgun, to wit: firearm, the Defendant being a convicted felon, having in 2006, been convicted of Battery With Deadly Weapon Resulting in Substantial Bodily Harm, in Case No. C220524, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

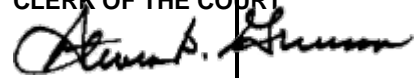
BY


MICHELLE SUDANO
Deputy District Attorney
Nevada Bar #013260

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
CAREY, KEVIN D.	LVMPD #8739
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD RECORDS
DOTSON, NICOLE	C/O DISTRICT ATTORNEY'S OFFICE
FERRON, BLAKE MARSHALL	LVMPD #15322
HAMBLY, MICHAEL S.	LVMPD #6614
PATTERSON, DEBRA	District Attorney Process Server
PLOENSE, KELLY	District Attorney Process Server
REVELS, JEROME	District Attorney Investigator
WARNKE, RICHMOND	District Attorney Process Server

17F15265X/td/dvu
LVMPD EV#1708224075
(TK1)



TRAN

IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.) JC CASE NO. 17F15265X
) DC CASE NO. C326569
)
BARRY HARRIS,)
)
Defendant.)
_____)

REPORTER'S TRANSCRIPT

OF

PRELIMINARY HEARING

**BEFORE THE HONORABLE MELANIE ANDRESS-TOBIASSON
JUSTICE OF THE PEACE**

TUESDAY, JANUARY 16, 2018

Volume 2

APPEARANCES:

For the State: MICHELLE SUDANO
Deputy District Attorney

For the Defendant: DAMIAN SHEETS
Attorney at Law

Reported by: Donna J. McCord, CCR #337

AA056

W I T N E S S E SPAGESTATE'SKEVIN CAREY

Direct Examination by Ms. Sudano	4
Cross-Examination by Mr. Sheets	21
Redirect Examination by Ms. Sudano	30
Recross-Examination by Mr. Sheets	31

1 LAS VEGAS, NEVADA, JANUARY 16, 2018, 1:12 P.M.

2
3 * * * * *

4
5 THE COURT: Barry Harris. All right.
6 This is the time set for the continuation of the
7 preliminary hearing. State, are you ready?

8 MS. SUDANO: Yes.

9 THE COURT: All right. Defense ready?

10 MR. SHEETS: Yes, your Honor.

11 MS. SUDANO: Well, I say that and I need
12 to make sure my detective is still out there.

13 THE COURT: I'm sure he is. I hope he is.

14 MS. SUDANO: Or he's in the restroom.
15 He's not far away.

16 THE COURT: What's his name?

17 MS. SUDANO: Detective Carey.

18 THE COURT: All right. Do I have the
19 transcript?

20 MR. SHEETS: I have an extra copy for your
21 Honor.

22 THE COURT: That would be great. Thank
23 you.

24 If you could raise your right hand
25 the clerk will swear you in.

KEVIN CAREY,

having been first duly sworn, was
examined and testified as follows:

THE CLERK: Please have a seat. State and
spell your first and last name both for the record.

THE WITNESS: Kevin, K-E-V-I-N, last name
is Carey, C-A-R-E-Y.

THE COURT: Thank you.
State.

MS. SUDANO: Thank you.

DIRECT EXAMINATION

BY MS. SUDANO:

Q Sir, how are you employed?

A I'm a detective with the Las Vegas
Metropolitan Police Department.

Q And how long have you been a detective
with Metro?

A Six months now.

Q Were you working as a detective on
August 22nd of 2017?

THE COURT: Can I just interrupt you real
quick?

Mr. Sheets, you said you have a copy

1 of the transcript? May I make a copy of your
2 transcript, please?

3 MR. SHEETS: Yes.

4 THE DEFENDANT: Will you read this, Judge?

5 THE COURT: No.

6 THE DEFENDANT: It's a copy of the
7 questions I want to be asked.

8 THE COURT: Listen, you're not asking
9 questions, okay, your attorney is.

10 THE DEFENDANT: That's my Sixth Amendment.

11 THE COURT: Oh, for the love of God.
12 Don't start, Mr. Harris.

13 THE DEFENDANT: Can I participate? It's
14 my Sixth Amendment.

15 THE COURT: I know all about the Sixth
16 Amendment.

17 THE DEFENDANT: It says right to
18 participate on the defense, right?

19 THE COURT: It doesn't mean you ask
20 questions, okay? All right.

21 THE DEFENDANT: Where does it say that?

22 THE COURT: I'll let you talk to your
23 attorney, okay?

24 (Recess.)

25 THE COURT: All right. State, go ahead.

1 BY MS. SUDANO:

2 Q Sir, I started to ask were you a detective
3 with Metro on August 22nd of 2017?

4 A Yes, I was.

5 Q And how long have you been with Metro?

6 A Twelve years.

7 Q Now, sometime, August 22nd to August 23rd,
8 were you assigned to investigate a domestic
9 disturbance?

10 A Yes, I was.

11 Q Okay. Was it your understanding that that
12 took place at 3850 Mountain Vista?

13 A That sounds correct, yes.

14 Q At apartment 267?

15 A Uh-huh.

16 Q Is that here in Las Vegas, Clark County,
17 Nevada?

18 A It is.

19 Q When you were assigned to that case did
20 you have reason to make contact with an individual
21 named Nicole Dotson?

22 A Yes, I did.

23 Q And were you able to speak with
24 Miss Dotson?

25 A Uh-huh. Yes.

1 Q And did that take place on the 22nd or did
2 it take place on the 23rd; do you recall?

3 A By the time — I spoke with her when I
4 first arrived. I'm not sure what time it was. I'm
5 pretty sure it was the early first hours of the
6 23rd.

7 Q And did you have occasion to speak with
8 her about what had happened?

9 A I did.

10 Q Okay. And did you conduct a formal
11 recorded interview with Miss Harris?

12 A Yes, I did.

13 Q I mean Miss Dotson?

14 A Yes, I did, with Miss Dotson.

15 Q And did she indicate to you that she had
16 been the victim of a domestic violence offense?

17 A Yes.

18 Q Okay. And did she indicate to you who
19 that was involving?

20 A She said it was a Mr. Barry Harris.

21 Q And did you ever have any reason to come
22 into contact with Mr. Harris during your
23 investigation?

24 A I did not.

25 Q So your only interaction was with

1 Miss Dotson?

2 A Correct.

3 Q When you spoke with Miss Dotson did she
4 have any visible injuries?

5 A She did.

6 Q Can you describe those for the Court?

7 A Her left eye was swollen shut and extended
8 a couple inches out from her face. I believe she
9 had a few scratches on the arms, maybe the neck.
10 I'm not positive of those though.

11 Q And during the course of your interview
12 with her did she indicate pain anywhere?

13 A Yes, she said she pretty much hurt all
14 over and when she was asked to demonstrate
15 something —

16 MR. SHEETS: I'm going to object as to
17 hearsay, your Honor.

18 MS. SUDANO: It's all hearsay at this
19 point with prior inconsistent statements at this
20 point.

21 MR. SHEETS: You know, to the best of my
22 recollection she didn't say that she wasn't in pain.
23 I don't think this is an inconsistent statement or
24 anything like that with regards to what she told him
25 at that point.

1 MS. SUDANO: So my response to that would
2 be if she testified that she was in pain at the time
3 then it's not necessarily a prior inconsistent
4 statement; however, there's no prejudice to it
5 because she's already testified to it. I'm just
6 trying to lay some foundation for his interaction
7 with her, her demeanor and her --

8 THE COURT: Well, I think that's where
9 we're going is with the demeanor and the appearance.
10 I mean, we're getting -- I mean, I think there's
11 some additional foundation that can be laid which I
12 will give you an opportunity to do.

13 MS. SUDANO: Thank you.

14 BY MS. SUDANO:

15 Q Now, Detective, when you spoke with Miss
16 Dotson, you indicated that her left eye was swollen
17 shut and she had some other cuts on her body; is
18 that accurate?

19 A Yes.

20 Q What was her demeanor when she spoke with
21 you?

22 A At that point she was crying, she was
23 upset.

24 Q And did that last throughout your
25 interaction with her?

1 A On and off.

2 Q Okay. Now, did you indicate to her or was
3 she aware that the interview with you was going to
4 be recorded?

5 A Yes.

6 Q And did you in fact record that interview
7 with her?

8 A I did.

9 Q Did she indicate to you when she had first
10 gone to the apartment on Mountain Vista on the
11 evening of the 22nd?

12 A If I recall correctly she indicated she, I
13 believe she got off of work at 10:00 o'clock and she
14 says she arrived around 10:45 p.m.

15 Q Did she indicate to you whether there was
16 anybody inside the apartment?

17 A Yes.

18 Q And who did she say was there?

19 A Mr. Harris was there.

20 Q And that was Barry Harris?

21 A Correct.

22 Q Did she indicate to you whether Mr. Harris
23 was living in the apartment at that time?

24 A I asked her in the interview and she
25 indicated no.

1 Q Did she indicate whether or not he had a
2 key to the residence?

3 A Yes, she did and she said he does have a
4 key.

5 Q But she indicated no other possessions, no
6 mail, no clothing, anything like that; is that
7 accurate?

8 A Correct. That's correct.

9 Q Did she indicate to you whether she
10 expected Mr. Harris to be at the apartment when she
11 arrived home?

12 A I asked her that, somewhat of that
13 question, and she said, no, she did not expect him
14 to be there.

15 Q When she arrived and found Mr. Harris
16 there, did she indicate to you what she did at that
17 point?

18 A She engaged him verbally and I believe
19 told him to get out was one of the first things she
20 said she said to him, to Mr. Harris.

21 Q Was it your understanding through her
22 interview that Mr. Harris left at that point?

23 A No.

24 Q Did she indicate to you instead that the
25 argument turned physical?

1 A Yes.

2 Q What did she say about that?

3 A She stated he was lying on the bed in the
4 master bedroom. She sat there. They got into a
5 verbal argument. She asked or told him to leave.
6 He refused. I believe she said, eventually she said
7 I'm going to call the police if you don't leave and
8 that's when she said he got mad enough and began
9 choking and strangling her.

10 Q And when she said that she was being
11 choked and strangled, did you ask her or follow up
12 with her about what she meant by that?

13 A Yes. I asked her -- well, I don't
14 remember the particular question but she stated,
15 yeah, I could not breathe.

16 Q And did she indicate to you whether she
17 was being strangled with one hand or both hands?

18 A She indicated both hands.

19 Q Okay. And at that point she couldn't
20 breathe?

21 A Correct.

22 Q Did she indicate to you where she was when
23 Mr. Harris started to strangle her?

24 A On the bed. Sitting on the bed.

25 Q Did she indicate to you whether she ever

1 left the bed as a result of being strangled?

2 A She stated that everything happened so
3 fast. I believe it was -- she stated the strangling
4 was first, she started to fight back and she states
5 that Mr. Harris then threw her on the bed, began
6 hitting her with fists and both of them ended up on
7 the floor.

8 Q Okay. She indicated she fell to the
9 ground; is that correct?

10 A Yes.

11 Q Okay. Did she indicate to you whether
12 Mr. Harris was saying anything to her during that
13 part of the altercation?

14 A I don't recall.

15 Q Okay. Did she indicate that at some point
16 the argument or the fight moved from the bedroom to
17 another part of the house?

18 A Yes.

19 Q Where did she indicate she went to?

20 A She stated that when Mr. Harris got up off
21 of her she ran into the living room and started
22 screaming help, help, help.

23 Q When she started to scream for help did
24 she indicate to you what Mr. Harris started to do?

25 A She stated then that he came from the

1 master bedroom, produced a handgun and hit her with
2 the handle of the --

3 MR. SHEETS: I'm going to object --

4 THE WITNESS: -- handgun.

5 MR. SHEETS: -- as to foundation for the
6 handgun.

7 THE COURT: Overruled.

8 BY MS. SUDANO:

9 Q I apologize, Detective, so she indicated
10 that Mr. Harris came out into the living room,
11 produced a handgun and began hitting her with the
12 handle of the handgun; is that correct?

13 A On top of the head is what she indicated,
14 yeah.

15 Q Did she indicate to you whether Mr. Harris
16 was making any statements to her at that point?

17 A Yes. I cannot remember verbatim but it
18 was you better be quiet or I'm going to pull the
19 trigger, something of that sort.

20 Q Did he indicate or did she indicate to you
21 that Mr. Harris did anything with the gun other than
22 putting it or hitting her in the head with it?

23 A Yes, she said that he put it in her mouth.

24 Q Did he say anything to her while he had
25 the gun in her mouth?

1 A I believe that's when the statement was
2 made, according to her, that he said something like
3 you better be quiet, shut up, stop screaming or I
4 will pull the trigger.

5 Q Okay. And you indicated you don't recall
6 specifically what that statement was?

7 A I don't.

8 Q Would looking at a copy of that voluntary
9 statement refresh your memory as to that exact
10 statement?

11 A Yes.

12 Q And, Detective, I'm showing you a copy of
13 the voluntary statement from Nicole Dotson from
14 August 23rd. I'm going to direct you to the top of
15 page 4. Let me know if that refreshes your
16 recollection.

17 A Yes. So she stated that, this was a
18 quote, "Bitch, I'll blow your brains out. You make
19 any noise I will fucking kill you."

20 Q And Detective, Miss Dotson indicated that
21 that was what the defendant was saying while he had
22 the gun, or Mr. Harris was saying while he had the
23 gun in her mouth; is that correct?

24 A Yes.

25 Q Okay. Did she indicate at that point that

1 she moved again from the living room to somewhere
2 else in the apartment?

3 A She did. She stated that they both ended
4 up in the guest bathroom.

5 Q Did Miss Dotson indicate to you how it was
6 that she ended up in that guest bathroom?

7 A When asked she said crawled or climbed.
8 He had the gun at my head the whole time, indicating
9 that she was forced at gunpoint into the bathroom.

10 Q Okay. And that was your understanding
11 from your conversation with her as well?

12 A Yes.

13 Q Did you ever ask her during this
14 conversation whether she wanted to leave the
15 apartment or attempted to leave the apartment?

16 A My partner Detective Hambly who was also
17 sitting in on the interview did ask her later on if
18 she tried to escape and she indicated she made it
19 basically as far as the living room.

20 Q Okay. And what happened when she arrived
21 back in that living room?

22 A From the bathroom or from the original --
23 she did not try to escape from the bathroom, no.

24 Q Okay. So the only time she tried to leave
25 was --

1 A I'm sorry, I misunderstood.

2 Q The only time she tried to leave was
3 initially in the living room; is that correct?

4 A Yes.

5 Q Did she indicate whether something stopped
6 her from leaving the apartment?

7 A Yes, she felt threatened.

8 Q Okay.

9 A Again, I cannot remember verbatim but
10 there are statements made on tape. She said that
11 she was threatened to stay in the bathroom,
12 otherwise I will, she states by Mr. Harris.

13 Q Okay. And did she indicate the end of
14 that thought, otherwise I will what?

15 A Kill you.

16 Q And it's your understanding from
17 Miss Dotson that these statements took place in the
18 bathroom; is that correct?

19 A Yes.

20 Q Okay. Did she indicate to you whether
21 anything else happened in the bathroom?

22 A She stated that at some point Mr. Harris
23 left the bathroom, went into the kitchen, grabbed a
24 two liter of some sort of beverage, came back into
25 the bathroom and poured it all over her from the

1 head down calling her names.

2 Q Now, did Miss Dotson indicate whether she
3 was struck with anything other than the handgun?

4 A Fists and feet.

5 Q Did she indicate where she was struck with
6 the fists and the feet?

7 A I believe she stated that she was kicked
8 in the body while she was on the ground, fists to
9 the head is what I believe she indicated.

10 Q And do you know where inside the apartment
11 that part of the altercation took place?

12 A Both in the master bedroom and in the
13 living room.

14 Q Now, you've stated that Miss Harris, or
15 excuse me, Miss Dotson saw Mr. Harris with a
16 handgun; is that correct?

17 A Yes.

18 Q Did she describe that handgun for you at
19 all?

20 A She did.

21 Q How did she describe it?

22 A She described it as a smaller black
23 handgun with a brown bottom.

24 Q Now, in addition to the statements that
25 were made about threatening to kill her if she made

1 any noise, did Miss Dotson indicate to you any
2 additional threats that Mr. Harris made to her?

3 A I believe she said that, she said
4 Mr. Harris said to her if you call the police or I
5 find out you called the police I will come back and
6 kill you. Again, not verbatim.

7 Q Did Miss Dotson indicate to you that the
8 firearm was ever pointed at her at any point?

9 A Other than inside of her mouth, no, not
10 specifically that I recall.

11 Q And are you sure about that, Detective?

12 A No.

13 Q Would looking at the transcript refresh
14 your memory as to that point?

15 A It would.

16 MS. SUDANO: May I approach?

17 THE COURT: Yes.

18 BY MS. SUDANO:

19 Q Detective, I'm showing you the top of page
20 5. Go ahead and read that to yourself.

21 A Okay.

22 Q And did that refresh your recollection as
23 to whether Miss Dotson said the gun was ever pointed
24 at her?

25 A I do. Yes, it did, I'm sorry.

1 Q And specifically what did she tell you
2 about that?

3 A She stated that he kept the gun pointed at
4 me the whole time while he was collecting his
5 belongings to leave.

6 Q And did she indicate to you that he made
7 any additional statements at that point?

8 A Yes.

9 Q And what was that statement?

10 A If you make any noise or try to get out
11 I'm going to kill you.

12 Q Okay. And did she indicate where she was
13 at that point?

14 A That was when she was in the bathroom.

15 Q Okay.

16 A The guest bathroom.

17 Q Did she indicate to you whether Mr. Harris
18 stayed in the apartment or whether he left at some
19 point?

20 A She stated he left.

21 Q And did she describe to you how that
22 happened?

23 A She stated while she was in the bathroom
24 he collected his belongings and exited the door and
25 she heard the deadbolt lock with a key from the

1 outside.

2 Q Did she indicate to you what she did at
3 that point?

4 A She said she waited until she felt it was
5 safe enough.

6 Q And what did she do at that point?

7 A At that point she grabbed her belongings
8 and she exited the apartment.

9 Q Okay. And did she indicate that the
10 police were already there at the time she left the
11 apartment?

12 A Yes, she met a patrolman on the way down
13 the stairs.

14 MS. SUDANO: Court's indulgence.

15 Nothing further, your Honor.

16 THE COURT: All right. Cross.

17

18 **CROSS-EXAMINATION**

19 BY MR. SHEETS:

20 Q Now, Detective, you testified that as of
21 today you've been a detective for about six months?

22 A Correct.

23 Q Were you a police officer before then?

24 A Yes.

25 Q How long have you been a police officer?

1 A A total of 12 years, sir.

2 Q Thank you. Now, when you went out and
3 talked to Miss Dotson, did you have an opportunity
4 to walk in or go through the apartment at all?

5 A I did.

6 Q I'm obviously trying to get a perspective
7 of everything, we're talking about bathrooms, as you
8 walk into the door of the apartment, the main entry
9 door, what do you see?

10 A The main living room area.

11 Q Okay. And the bathroom that's in question
12 would be located where in reference to you looking
13 in the front door?

14 A If you're entering the front door it is to
15 the left.

16 Q So it's on your left. Is it down a
17 hallway, is it connected to the living room?

18 A I guess I'd call it a tiny little hallway.
19 If I may, the layout is going to be, from what I
20 recall, your main living room, master bedroom off to
21 the right, straight ahead would be your
22 kitchenette/dining type area and then the guest
23 bathroom and then the guest bedroom.

24 Q Okay. So the guest bathroom was connected
25 to a second bedroom?

1 A Not connected, it's just a few steps away.

2 Q Okay. So the mini hallway, bathroom,
3 bedroom?

4 A Yes.

5 Q Now, down the mini hallway, was the
6 bathroom at the end of it with the door facing to
7 the living room or was the door facing along the
8 hallway?

9 A It was facing the living room.

10 Q Okay. And so the bedroom down that
11 hallway would be the same thing, is the door facing
12 the living room or the bedroom?

13 A That door would be facing the bathroom,
14 bathroom door.

15 Q Okay. So you have a bedroom and a
16 bathroom door facing each other at the end of this
17 hallway?

18 A Yes.

19 Q Okay. And are the doors -- I guess what
20 I'm asking, if you're looking out the bathroom door
21 or the bedroom door to what you call the guest
22 rooms, do you have a line of sight into the living
23 room?

24 A From the bathroom door, yes.

25 Q Okay. But from the bedroom door no?

1 A No.

2 Q Okay. Thank you. And you have a line of
3 sight into the master bedroom from that bathroom
4 door?

5 A I'm not sure.

6 Q And the kitchenette?

7 A Can you see it from the master? I'm
8 sorry, from the bathroom, probably not.

9 Q Okay. And it was your testimony that she
10 told you he kept the gun pointed at her the whole
11 time while she was walking around?

12 A I believe that is what she said.

13 Q Okay. Now, let me ask you this, Officer.
14 You never asked her if she knew why it was a gun,
15 correct?

16 A Not specifically, no.

17 Q Okay. In fact, you ask her at one point
18 if it looked like a real real gun and you started to
19 ask another part of the question but she interrupted
20 and said she had no idea; is that right?

21 A That's correct.

22 Q And then she stated shortly thereafter
23 she's never really seen a bunch of guns, correct?

24 A Correct.

25 Q All right. So when she says gun, you're

1 unable to say whether she actually knew it was a
2 firearm or whether it could have been a fake one or
3 anything like that, correct?

4 A Correct.

5 Q Okay. Now, you had testified that you had
6 seen some injuries. Did you see any cuts on the top
7 of Miss Dotson's head?

8 A I myself did not, no.

9 Q No bleeding or bruising on the top of her
10 head?

11 A No bleeding. I couldn't tell bruising.

12 Q And again I'm talking about the top of the
13 head, not around the eye obviously, but no large
14 bumps or anything like that?

15 A Not that I felt.

16 Q Okay.

17 A And I did not examine her head in that
18 way.

19 Q Now, when you interviewed her, you did
20 testify earlier that she told you that he did not
21 live there. She actually told you in that same
22 interview that my client did live there
23 periodically; isn't that correct?

24 A I don't know if it was at that particular
25 residence to be clear. She did say that they lived

1 together periodically throughout the six years they
2 had been together.

3 Q Okay. And that was actually in reference
4 when you were talking about the apartment in
5 question; isn't that correct?

6 A No.

7 Q Would it refresh your recollection to look
8 at —

9 A Yes, please.

10 MR. SHEETS: May I? Page 2.

11 THE COURT: Yes.

12 THE WITNESS: Thank you.

13 BY MR. SHEETS:

14 Q Just read through that whole line of
15 questioning.

16 A Sure thing. Up to the pen mark is what
17 you're referring to, right?

18 Q That was my own note. I'm sorry about
19 that.

20 A Oh, okay, that's all right.

21 Q In that line of questioning you were
22 talking about the apartment in question, correct?

23 A In my domestic violence training and
24 experience and interviews, to determine the domestic
25 relationship I always ask dating, children in

1 common, live together.

2 Q Correct.

3 A So I myself didn't specifically refer to
4 that apartment. I didn't indicate whether or not
5 though, whether that's semantics or not.

6 Q And the very next question you refer to as
7 this apartment; is that correct?

8 A I'm sorry, can you point out what you're
9 referring to?

10 MR. SHEETS: May I, your Honor?

11 THE COURT: Yes.

12 THE WITNESS: I apologize.

13 THE COURT: It's okay.

14 THE WITNESS: Yes. Okay.

15 BY MR. SHEETS:

16 Q So she never indicated to you that at the
17 time my client entered the apartment he was not
18 allowed to be there, correct?

19 A No, she never indicated that.

20 Q In fact, she had indicated that he had a
21 key to that apartment; isn't that correct?

22 A That is correct.

23 Q Okay. Now, during that interview did you
24 have an opportunity to discuss with Miss Dotson what
25 the argument was about?

1 A I did.

2 Q And she indicated that he was cheating as
3 usual; is that correct?

4 A Again, not verbatim I don't know, but she
5 did say something to that effect.

6 Q Okay.

7 A Yes.

8 MR. SHEETS: Court's indulgence.

9 BY MR. SHEETS:

10 Q During that interview she also indicated
11 that my client had beat her on the top of the head
12 with what she thought was the gun, correct?

13 A Yes.

14 Q Okay. Did you apply for a search warrant
15 of that apartment or anything belonging to my
16 client?

17 A No.

18 Q Okay. Officer, did you ever find a
19 canister or two liter bottle of lemonade in the
20 apartment?

21 A Yes.

22 Q Okay. And was that empty or full?

23 A It was empty from what I recall.

24 Q Did you find, was there anywhere on the
25 floor or the carpet wet?

1 A I believe in the bathroom, I don't recall
2 whether it was the toilet tank top or somewhere in
3 there there was some sort of puddle of some fluid.

4 Q Did you ask CSI to photograph or document
5 this?

6 A Yes.

7 Q Okay. Thank you. To your knowledge did
8 any of the responding or -- strike that.

9 You weren't the primary officer on
10 the scene, correct?

11 A No, I was not.

12 Q To your knowledge were any of the initial
13 responding officers in possession of a functioning
14 body cam?

15 A I believe so. I can't say a hundred
16 percent.

17 Q And did you have the opportunity to review
18 any of those if they existed?

19 A I did not.

20 Q Okay. Did you find a phone inside the
21 apartment?

22 A No, I didn't.

23 MR. SHEETS: I have no further questions,
24 your Honor.

25 THE COURT: Redirect?

1 MS. SUDANO: Very briefly.

2
3 **REDIRECT EXAMINATION**

4 BY MS. SUDANO:

5 Q So, Detective, you were asked some
6 questions about whether or not Mr. Harris ever lived
7 in that apartment with Miss Dotson. Do you recall
8 those questions?

9 A Yes.

10 Q Okay. And it was your testimony that Miss
11 Dotson indicated they lived together at some point
12 but you're not sure where?

13 A That's correct.

14 Q And she did indicate to you that
15 Mr. Harris was not living in the apartment with her
16 at that point; is that correct?

17 A That's correct.

18 Q Okay. And she didn't expect him to be
19 there?

20 A No, she did not.

21 Q And in fact when she first saw him there
22 the first thing she said to him was get out of my
23 apartment?

24 A That is what she told me.

25 MR. SHEETS: Objection, your Honor, she's

1 leading through this whole line.

2 THE COURT: Sustained.

3 BY MS. SUDANO:

4 Q And did she indicate to you what the first
5 thing that she said to Mr. Harris when she came into
6 the apartment was?

7 A Yes.

8 Q What did she say?

9 A She told him to leave.

10 Q And he refused to leave; is that correct?

11 A That is correct.

12 Q Did she indicate to you whether the first
13 part of the argument or some part of the argument
14 was about trying to get Mr. Harris to leave?

15 A From what I recall she indicated that was
16 the first part of the argument.

17 MS. SUDANO: Nothing further, your Honor.

18 THE COURT: Recross?

19

20 **RECROSS-EXAMINATION**

21 BY MR. SHEETS:

22 Q Officer, she never actually told you that
23 he was not allowed to be present in that apartment,
24 correct?

25 A She didn't say that, correct.

1 Q Okay. And, Officer, I'm sorry, Detective,
2 I'm sorry, I keep saying officer, through your
3 training and experience you're familiar with
4 statutes and crimes that you can potentially charge
5 defendants with; is that right?

6 A Yes.

7 Q To your knowledge through that training
8 and experience, if somebody legally enters the
9 property and then refuses to leave after being told
10 to leave, what would that crime be?

11 MS. SUDANO: I'm going to object, your
12 Honor, that calls for a legal conclusion.

13 THE COURT: Sustained.

14 MR. SHEETS: I have no further questions.

15 THE COURT: All right. Thank you.

16 Any other questions?

17 MS. SUDANO: No.

18 THE COURT: Thank you so much for your
19 testimony and your patience today. I know it was a
20 long day. Just don't discuss your testimony with
21 any other witnesses.

22 THE WITNESS: Understood.

23 THE COURT: Thank you.

24 THE WITNESS: Thank you, your Honor.

25 THE COURT: And he's free to go?

1 MS. SUDANO: He is.

2 Do you have your subpoena?

3 THE COURT: Any other witnesses, State?

4 MS. SUDANO: I don't have any additional
5 witnesses. I did file an amended criminal complaint
6 this morning.

7 THE COURT: I have it. Any amendments to
8 that? Do you want to look over it for a minute?
9 Well, you've got the other prelim too so I guess you
10 may as well look over it before we start that one.

11 MS. SUDANO: The only thing that I would
12 add that I didn't add in here is on Count 2, the
13 first degree kidnapping with use of a deadly weapon,
14 I would move to amend that to first degree
15 kidnapping with use of a deadly weapon resulting in
16 substantial bodily harm. I think that that comports
17 with the victim's testimony. She did indicate that
18 she was still in pain at the time of the preliminary
19 hearing or had been in pain for a number of months
20 due to the clotting issue with her eye.

21 THE COURT: Right. Okay.

22 MS. SUDANO: Other than that I would rest,
23 your Honor.

24 THE COURT: All right. And Mr. Sheets,
25 have you advised your client of his right to

1 testify?

2 MR. SHEETS: If I can have a brief moment?

3 THE COURT: Yes.

4 (At this time, Mr. Sheets consulted
5 with the defendant.)

6 MR. SHEETS: Your Honor, I've advised my
7 client of his right to testify. I've also advised
8 my client of his right not to testify. I advised
9 him that that right is his, his alone, he's the one
10 that makes the choice and I can't make that choice
11 for him. My client is choosing to take my advice
12 today and to remain silent for the purposes of this
13 hearing.

14 THE COURT: Okay. So defense rests?

15 MR. SHEETS: We do, your Honor.

16 THE COURT: All right. And Mr. Harris, I
17 will tell you as well you do have a right to
18 testify. Your decision not to exercise that right
19 is not going to be used against you, okay? Anything
20 you say could be used against you but not testifying
21 will not be used against you.

22 THE DEFENDANT: Right.

23 THE COURT: Do you understand?

24 THE DEFENDANT: Yes, ma'am. Could I --

25 THE COURT: I just want yes or no.

1 THE DEFENDANT: Could I --

2 THE COURT: No. No.

3 THE DEFENDANT: -- get a private
4 investigator, appointed a private investigator?

5 THE COURT: Mr. Sheets.

6 MR. SHEETS: I hate to be kind of the bear
7 on this, it's tough for me to come into a case mid
8 preliminary hearing and I just kind of -- I've got
9 to make the record that I would have asked different
10 follow-up questions of the alleged victim in this
11 case.

12 THE COURT: I understand that as well
13 but --

14 MR. SHEETS: I just put that out there,
15 you know, for what it's worth just because I feel
16 like there's questions --

17 THE COURT: Do you want time to review the
18 transcript along with the detective's testimony
19 before you argue?

20 MR. SHEETS: I'm prepared to argue based
21 on the transcript and the testimony. I've read
22 through them all. Just so the record is clear, I
23 mean, there's different questions I would have
24 asked. If we get to the standpoint of we're going
25 on a trial and they're trying to admit the

1 transcript of her preliminary hearing testimony,
2 obviously I would have asked basically a whole slew
3 of different questions.

4 THE COURT: That's not where we are.

5 MR. SHEETS: No, I know, I'm just putting
6 that in the record, your Honor.

7 THE COURT: All right. Do you rest?

8 MR. SHEETS: Yes, your Honor.

9 THE COURT: All right. State, argument?

10 MS. SUDANO: Your Honor, I'll reserve for
11 rebuttal. The only thing that I should have made
12 sure was in the record before was Miss Craggs had
13 previously marked a copy of a prior judgment of
14 conviction for Mr. Harris, State's Exhibit 1. So as
15 long as that's in the record. Thank you.

16 THE COURT: It's been admitted already.
17 And you reserve for rebuttal?

18 MS. SUDANO: Yes.

19 THE COURT: Argument?

20 MR. SHEETS: Your Honor, I would argue on
21 a couple of points. Obviously the burden here is
22 slight or marginal evidence that a crime has been
23 committed and the defendant committed it. We had
24 not heard either through the officer's testimony or
25 through her, the alleged victim Miss Dotson's

1 testimony, that my client was not allowed to be
2 there. Burglary, obviously the misconception is
3 that you're entering, breaking and entering.
4 Obviously it's with the intent to commit a felony or
5 larceny therein. I don't think there's been any
6 testimony to establish that that was the purpose for
7 his entry into that particular apartment. I don't
8 think that Miss Dotson offers anything to bridge
9 that gap. Miss Dotson said he was lying on the bed
10 and then the argument reconvened from there. That's
11 a combination of both through testimony and
12 according to the officer. So I don't think that
13 there's enough there to bind over on Count 1 unless
14 we're creating inferences that haven't been laid out
15 through the testimony.

16 Again, with regards to Count 2,
17 additionally, your Honor, I would put forth that I
18 don't believe there's enough there. As the
19 complaint reads, the amended complaint reads, it
20 indicates that she was being forced into the
21 bathroom for the purpose of inflicting the
22 substantial bodily harm. And what we heard through
23 the testimony of the alleged victim and the officer,
24 the only thing that went on once they arrived in the
25 bathroom at that point was the pouring of lemonade

1 over the head. Had the complaint been pled
2 differently with regards to the apartment versus the
3 bathroom I think it would be different, but I think
4 on the lines of the complaint itself they're
5 deficient. It indicates that the purpose for
6 forcing her into a bathroom was to inflict
7 substantial bodily harm, bodily harm which the
8 testimony establishes or the testimony infers would
9 have occurred prior to being forced into the
10 bathroom. I think that that's an important
11 distinction because on the letter of the complaint
12 that's how it reads.

13 With regards to the deadly weapon
14 enhancements, your Honor, the reason for the
15 objection as to foundation is the firearm, we didn't
16 clarify why it was believed to be a firearm. We
17 heard her testimony -- well, you heard her testimony
18 at the preliminary hearing which differed from the
19 statement she gave the officer that even when asked
20 by the officer as to whether or not it was a real
21 real gun or what did it look like, she said she had
22 no idea and that she had never really seen a bunch
23 of guns. So even the, quote, unquote, inconsistent
24 statement doesn't necessarily establish that she has
25 knowledge that this is an actual firearm that's

1 being used. So I don't believe that there's been a
2 proper foundation for deadly weapon and I would ask
3 that that be stricken from all of the allegations
4 here.

5 As a result of that same line of
6 thinking, your Honor, I would ask your Honor to
7 dismiss Counts 8 and 9 as they require that
8 possession of the firearm which we've heard no
9 testimony a firearm was recovered either.

10 With regards to the remaining counts,
11 your Honor, I would submit and I think there's been
12 slight or marginal evidence to set it for trial.

13 THE COURT: All right.

14 State.

15 MS. SUDANO: Your Honor, she had the
16 firearm in her mouth, she was struck with the
17 firearm. I think that that's probably enough for
18 slight or marginal evidence for her to indicate that
19 it was a firearm.

20 As far as the intent on the burglary
21 and the kidnapping, I would submit that both of
22 those are jury questions, that they should be left
23 up to the jury to make the determination. Miss
24 Dotson did tell the detective that she didn't expect
25 the defendant to be there, he didn't have any reason

1 to be there, she told him to leave, had no
2 possessions or anything there. So although he had a
3 key he didn't have permission to be there according
4 to her testimony, according to what she told the
5 detective because she told him to leave and was
6 trying to get him to leave for the entire first part
7 of the argument and he refused to do so which is
8 then what starts the rest of it.

9 THE COURT: Right.

10 MS. SUDANO: As far as the kidnapping
11 count, it's pled preventing her from leaving the
12 apartment and/or the bathroom as well as forcing her
13 into the bathroom. I think that there was slight or
14 marginal evidence through her testimony and the
15 statements that she made to the detective to support
16 that count as well.

17 THE COURT: All right. Let's start with
18 Count 1, the burglary while in possession of a
19 firearm. I went back through the transcript at page
20 10 and I remember from when she testified apparently
21 on December 14th, even though you all got the
22 transcript and apparently I didn't because it's not
23 scanned and it's not in the system but I have it
24 now, she indicated that he did not live with her on
25 that day. He did have a key but he didn't live

1 there, and just because you have a key to somebody's
2 house doesn't mean you can go in there at any time
3 and it's not a burglary. So he didn't live there,
4 it doesn't appear that his name was there, that he
5 had lived there.

6 MR. SHEETS: You're saying she said that
7 on page 10, your Honor?

8 THE COURT: Well --

9 MR. SHEETS: That he didn't live with her?
10 I think the question was did she remember telling
11 the officer that and she said, no, she didn't
12 remember telling the officer that.

13 THE COURT: And you know what, you're
14 right when you're reading it but because I was here,
15 the way it was stated, and it's difficult to -- it
16 reads differently, but she indicated he did not live
17 with her. You see what I'm saying? Like the way
18 she answered the question was indicating that he did
19 not live with her. I know how it reads but I know
20 how the testimony came out. Do you see what I'm
21 saying?

22 MR. SHEETS: I wasn't there.

23 THE COURT: I know and that's why I'm
24 explaining it to you. I'm continuing to read the
25 transcript. And, I mean, that's the way you argued

1 it and that's my recollection of it, Miss Sudano,
2 was that was how she answered the question that he
3 did not live there but --

4 MS. SUDANO: I'm making a face because I
5 wasn't there either.

6 THE COURT: Oh, that's right, it was
7 Genevieve.

8 MS. SUDANO: However, that is what the
9 detective stated was that he was told he did not
10 live there.

11 THE COURT: Right. Anyway, I guess that's
12 going to be an issue. But, I mean, at the end of
13 the day it was understanding he did not live there,
14 he did not have permission to be there on that
15 particular day. She came home, she didn't think he
16 was going to be there and guess who was there and
17 guess what happened? So at this point I think at
18 least for purposes of preliminary hearing, it's
19 slight or marginal, the bind-up on Count 1.

20 With regard to first degree
21 kidnapping with use of a deadly weapon resulting in
22 substantial bodily harm, I kind of think that's
23 pretty clear at this point in time. He repeatedly
24 injured her severely. He used a gun that looked
25 like a gun. And, I mean, I don't even have words

1 for whether it was a gun or not because she said it
2 was a gun. I mean, I don't know what else a gun
3 looks like. I mean, some look like a pen. I've
4 seen a knife that looks like a gun. But anyway, I
5 think with regard to that, certainly his intent is a
6 question of fact for the jury. But for purposes of
7 preliminary hearing it certainly meets the slight or
8 marginal test.

9 And with regard to all the other
10 counts that allege a deadly weapon, I don't think we
11 need to address those individually, that it was a
12 gun, he hit her with a gun, put the gun in her
13 mouth, I'm pretty sure she knew it was a gun. You
14 guys didn't really argue much about the other
15 counts.

16 So at this point based on the
17 testimony presented at the preliminary hearing both
18 on December 14th and today and the complaint on
19 file, it appears to me that crimes have been
20 committed, to-wit: Count 1, burglary while in
21 possession of a firearm; Count 2, first degree
22 kidnapping with use of a deadly weapon resulting in
23 substantial bodily harm; Count 3, assault with a
24 deadly weapon; Count 4, battery with use of a deadly
25 weapon constituting domestic violence; Count 5,

1 battery constituting domestic violence
2 strangulation; Count 6, battery resulting in
3 substantial bodily harm constituting domestic
4 violence; Count 7, preventing or dissuading witness
5 or victim from reporting crime or commencing
6 prosecution; Count 8, carrying a concealed firearm
7 or other deadly weapon; Count 9, ownership or
8 possession of firearm by prohibited person, and that
9 the defendant Barry Harris did commit those
10 offenses, I hereby order said defendant be held to
11 answer to said charges in the Eighth Judicial
12 District Court, County of Clark, State of Nevada at
13 the following date and time.

14 THE CLERK: January 18th at 10:00 a.m.

15 THE COURT: Thank you.

16
17 * * * * *

18 Attest: Full, true, accurate transcript of
19 proceedings.

20 _____/S/Donna J. McCord
21 DONNA J. McCORD CCR #337
22
23
24
25

<p>BY MR. SHEETS: [5] 21/18 26/12 27/14 28/8 31/20 BY MS. SUDANO: [7] 4/13 5/25 9/13 14/7 19/17 30/3 31/2 MR. SHEETS: [25] 3/9 3/19 5/2 8/15 8/20 14/2 14/4 26/9 27/9 28/7 29/22 30/24 32/13 34/1 34/5 34/14 35/5 35/13 35/19 36/4 36/7 36/19 41/5 41/8 41/21 MS. SUDANO: [24] 3/7 3/10 3/13 3/16 4/10 8/17 8/25 9/12 19/15 21/13 29/25 31/16 32/10 32/16 32/25 33/3 33/10 33/21 36/9 36/17 39/14 40/9 42/3 42/7 THE CLERK: [2] 4/3 44/13 THE COURT: [57] THE DEFENDANT: [10] 5/3 5/5 5/9 5/12 5/16 5/20 34/21 34/23 34/25 35/2 THE WITNESS: [7] 4/6 14/3 26/11 27/11 27/13 32/21 32/23</p>	<p>31/22 add [2] 33/12 33/12 addition [1] 18/24 additional [4] 9/11 19/2 20/7 33/4 additionally [1] 37/17 address [1] 43/11 admit [1] 35/25 admitted [1] 36/16 advice [1] 34/11 advised [4] 33/25 34/6 34/7 34/8 after [1] 32/9 again [6] 16/1 17/9 19/6 25/12 28/4 37/16 against [3] 34/19 34/20 34/21 ahead [3] 5/25 19/20 22/21 all [25] 3/5 3/9 3/18 5/15 5/20 5/25 8/13 8/18 17/25 18/19 21/16 22/4 24/25 26/20 32/15 33/24 34/16 35/22 36/7 36/9 39/3 39/13 40/17 40/21 43/9 allegations [1] 39/3 allege [1] 43/10 alleged [3] 35/10 36/25 37/23 allowed [3] 27/18 31/23 37/1 37/23 alone [1] 34/9 along [2] 23/7 35/18 already [3] 9/5 21/10 36/16 also [3] 16/16 28/10 34/7 altercation [2] 13/13 18/11 although [1] 40/2 always [1] 26/25 amend [1] 33/14 amended [2] 33/5 37/19 Amendment [3] 5/10 5/14 5/16 amendments [1] 33/7 and/or [1] 40/12 ADDRESS [1] 1/15 ADDRESS-TOBIASSON [1] 1/15 another [2] 13/17 24/19 answer [1] 44/11 answered [2] 41/18 42/2 any [21] 7/21 8/4 14/16 15/19 19/1 19/1 19/8 20/7 20/10 25/6 29/8 29/12 29/18 32/16 32/21 33/3 33/4 33/7 37/5 39/25 41/2 anybody [1] 10/16 anything [13] 8/24 11/6 13/12 14/21 14/24 17/21 18/3 25/3 25/14 28/15 34/19 37/8 40/2 anyway [2] 42/11 43/4 anywhere [2] 8/12 28/24 apartment [32] 6/14 10/10 10/16 10/23 11/10 16/2 16/15 16/15 17/6 18/10 20/18 21/8 21/11 22/4 22/8 26/4 26/22 27/4 27/7 27/17 27/21 28/15 28/20 29/21 30/7 30/15 30/23 31/6 31/23 37/7 38/2 40/12 apologize [2] 14/9 27/12 apparently [2] 40/20 40/22 appear [1] 41/4 appearance [1] 9/9</p>	<p>APPEARANCES [1] 1/19 appears [1] 43/19 apply [1] 28/14 appointed [1] 35/4 approach [1] 19/16 are [7] 3/7 4/15 17/10 19/11 23/19 36/4 39/22 area [2] 22/10 22/22 argue [4] 35/19 35/20 36/20 43/14 argued [1] 41/25 argument [11] 11/25 12/5 13/16 27/25 31/13 31/13 31/16 36/9 36/19 37/10 40/7 arms [1] 8/9 around [3] 10/14 24/11 25/13 arrived [6] 7/4 10/14 11/11 11/15 16/20 37/24 as [33] 4/3 4/21 8/16 13/1 14/5 15/9 16/11 16/19 16/19 18/22 19/14 19/22 21/20 22/7 27/6 28/2 33/10 34/17 35/12 36/14 36/15 37/18 38/15 38/20 39/5 39/7 39/20 39/20 40/10 40/10 40/12 40/12 40/16 ask [12] 5/19 6/2 12/11 16/13 16/17 24/13 24/17 24/19 26/25 29/4 39/2 39/6 asked [13] 5/7 8/14 10/24 11/12 12/5 12/13 16/7 24/14 30/5 35/9 35/24 36/2 38/19 asking [2] 5/8 23/20 assault [1] 43/23 assigned [2] 6/8 6/19 attempted [1] 16/15 Attest [1] 44/18 attorney [4] 1/21 1/23 5/9 5/23 August [5] 4/22 6/3 6/7 6/7 15/14 August 22nd [3] 4/22 6/3 6/7 August 23rd [2] 6/7 15/14 aware [1] 10/3 away [2] 3/15 23/1</p>
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<p>a.m [1] 44/14 able [1] 6/23 about [17] 5/15 7/8 12/2 12/12 18/25 19/11 20/2 21/21 22/7 25/12 26/4 26/18 26/22 27/25 30/6 31/14 43/14 according [4] 15/2 37/12 40/3 40/4 accurate [3] 9/18 11/7 44/18 actual [1] 38/25 actually [4] 25/1 25/21 26/3</p>		
		<p>B</p> <p>back [5] 13/4 16/21 17/24 19/5 40/19 BARRY [5] 1/9 3/5 7/20 10/20 44/9 based [2] 35/20 43/16 basically [2] 16/19 36/2 bathroom [33] 16/4 16/6 16/9 16/22 16/23 17/11 17/18 17/21 17/23 17/25 20/14 20/16 20/23 22/11 22/23 22/24 23/2 23/6 23/13 23/14 23/16 23/20 23/24 24/3 24/8 29/1 37/21 37/25 38/3 38/6 38/10 40/12 40/13 bathrooms [1] 22/7 battery [3] 43/24 44/1 44/2 be [35] 3/22 5/7 9/2 9/11 10/4 11/10 11/14 14/18 15/3 22/12 22/19 22/21 23/11 23/13 25/25 27/18 30/18 31/23 32/10 34/19 34/20 34/21 35/6 37/1 38/3 38/16</p>

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8 THE STATE OF NEVADA,) CASE NO. C-17-326569-1
9)
10 Plaintiff,) DEPT. XX
11 vs.) (ARRAIGNMENT HELD IN DEPT. LLA)
12)
13 BARRY HARRIS, aka,)
14 Barry Rashad Harris,)
15 Defendant.)

16 BEFORE THE HONORABLE MELISA DE LA GARZA, HEARING MASTER
17 THURSDAY, JANUARY 18, 2018

18
19 **RECORDER'S TRANSCRIPT OF HEARING RE:**
20 **INITIAL ARRAIGNMENT**
21

22 APPEARANCES:

23 For the State: VIVIAN LUONG, ESQ.,
24 Deputy District Attorney
25 ANN DUNN, ESQ.,
Deputized Law Clerk

For the Defendant: DAMIAN SHEETS, ESQ.,
Attorney at Law

RECORDED BY: KIARA SCHMIDT, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, JANUARY 18, 2018

2 * * * * *

3 P R O C E E D I N G S

4
5 THE COURT: State of Nevada v. Barry Harris, C326569. He is
6 present in custody. Mr. Sheets is here on his behalf. Counsel?

7 MR. SHEETS: Good morning, your Honor. Damian Sheets on
8 behalf of Mr. Harris. It's going to be a not-guilty plea and then I'll have him
9 determine if he's going to waive or invoke here.

10 THE COURT: Okay. And it's an Information?

11 MR. SHEETS: Yes, your Honor.

12 THE COURT: Sir, you received a copy of the Information stating the
13 charges against you? You should have gotten that today.

14 MR. SHEETS: That document I handed to you.

15 THE COURT: Just now.

16 THE DEFENDANT: Yeah, I got the -- I got it but it's not the first
17 ones.

18 THE COURT: I didn't say it was the first one but --

19 THE DEFENDANT: Oh.

20 THE COURT: -- it's the Information --

21 THE DEFENDANT: Yeah, it's the Information.

22 THE COURT: -- stating the charges against you.

23 THE DEFENDANT: Yes. Yes, ma'am.

24 THE COURT: Did you read through it?

25 THE DEFENDANT: Yes, ma'am.

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THE COURT: Did you understand it?

THE DEFENDANT: Yes, ma'am.

THE COURT: Do you want to waive a formal reading of the charges?

THE DEFENDANT: Do I want to waive a --

THE COURT: Waive the reading of the charges?

THE DEFENDANT: Oh, yes. Yes. Yes. Yes.

THE COURT: How do you plead?

THE DEFENDANT: Not guilty.

THE COURT: You do have a right to a trial within 60 days. Do you want to waive or invoke that right?

THE DEFENDANT: I want to go to trial --

THE COURT: Okay. You're going to go to trial.

THE DEFENDANT: -- in 60 days.

THE COURT: Do you want to go within 60 days or not?

THE DEFENDANT: Yeah, I want to go within 60 days.

THE COURT: All right. We'll invoke that right. Speedy trial.

THE CLERK: Calendar call, February 27th, 8:30 a.m. Jury trial, March 19th, 9:00 a.m., Department 20.

THE COURT: Counsel, pursuant to statute you have 21 days from today for the filing of any writs. If the transcript has not been filed as of today, you have 21 days from the filing.

MR. SHEETS: Thank you, your Honor.

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THE COURT: All right. Thank you.

(Whereupon, the proceedings concluded.)

* * * * *

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



Kiara Schmidt, Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-17-326569-1
DEPT. XX

10 vs.

11 BARRY HARRIS aka
12 BARRY RASHAD HARRIS,
13 Defendant.

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 TUESDAY, FEBRUARY 27, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **CALENDAR CALL**

18
19 APPEARANCES:

20 For the State:

MEGAN S. THOMSON
Chief Deputy District Attorney

21
22 For the Defendant:

DANIEL F. LIPPMANN, ESQ.

23
24
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, February 27, 2018, at 8:45 a.m.

2

3 THE COURT: State of Nevada versus Barry Harris, case
4 number C326569. Counsel, please note your appearances for the
5 record.

6 MS. THOMSON: Megan Thomson for the State.

7 MR. LIPPMANN: Daniel Lippmann on behalf of Mr. Harris,
8 who's present in custody.

9 THE COURT: Okay. I'm showing this as the time for
10 calendar call. Where do we stand on this one?

11 MR. LIPPMANN: That's just where we need to make a little
12 bit of a record. Obviously, we're far away from the actual trial date, and
13 the amount of an investigation that we have to do is not concluded. I
14 informed Mr. Harris of that. Our investigator has spoken with him and
15 we have anticipated an end date for our investigation in about two
16 weeks, which would put me right before the actual trial date.

17 Today, I cannot say that we are ready. We are trying to
18 get ready for that trial date because Mr. Harris does want to keep that
19 invoked setting. We want to appease that, but today I can't say that
20 we're ready because that investigation is not complete.

21 THE COURT: Well, I mean, he's invoked. I mean, it's -- you
22 know, his -- it's his life --

23 MR. LIPPMANN: I know. But I --

24 THE COURT: -- and he has rights.

25 MR. LIPPMANN: I have to make that --

1 THE COURT: I know.

2 MR. LIPPMANN: -- representation that, as far as us being
3 effective at trial, I do not believe that we are ready as of today. I do
4 believe, however, we revisit this right before trial; we very well could be.
5 I just can't say today definitively.

6 THE COURT: When was he arraigned? I'm showing --

7 MS. THOMSON: It looks like January 18 of this year.

8 THE COURT: January 18. So, yeah, this is -- the trial date is
9 the -- this is the 60 days. We went out as far as we can.

10 MR. LIPPMANN: I know.

11 THE COURT: All right. How many days do you think this one
12 would take?

13 MR. LIPPMANN: I would refer to the State on this.

14 MS. THOMSON: The note that I have is that, it is overflow
15 eligible so I anticipate five or fewer.

16 THE COURT: Okay. If we kicked it a week, would you think
17 you'd be ready?

18 MR. LIPPMANN: I would have a better idea in a week, for
19 sure.

20 MS. THOMSON: I think he's asking if we can kick the trial a
21 week out.

22 MR. LIPPMANN: Oh, kick the trial.

23 THE COURT: Yeah.

24 MR. LIPPMANN: Again, I just --

25 THE COURT: Well it sounds like you feel like you could be

1 ready on the 19th, but you're being definitely close to being ready on the
2 19th.

3 MR. LIPPMANN: I mean we're at the 27th. We're a couple of
4 weeks away from the actual trial date. I know my investigation is not
5 done. But my investigator told us and told Mr. Harris, a week ago, that
6 he anticipated in two weeks he would have a response and we could
7 say, yes, we're ready.

8 THE DEFENDANT: May I speak, Your Honor?

9 THE COURT: Well why don't you -- why don't you see what
10 he's going to say first before I let him speak.

11 THE DEFENDANT: I'm very certain --

12 THE COURT: You really -- you really should let your attorney
13 do the -- speaking for you because anything you say out here is public.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And depending what you say could be used
16 against you, so I always encourage people --

17 THE DEFENDANT: I understand. My lawyer work for me,
18 right?

19 THE COURT: Well he does -- you know, he represents you.

20 THE DEFENDANT: He work for me --

21 THE COURT: He represents you.

22 THE DEFENDANT: -- with taxpayer money. He work for me.

23 THE COURT: Well anyway we're not going to argue about it.
24 Why don't you tell your attorney what you plan to say, and he can give
25 you some advice as to whether you should say it.

1 THE DEFENDANT: Well, Your Honor, I got evidence that I've
2 been trying to put in record -- that I would like to put in record.

3 THE COURT: Well why don't you provide it to your attorney;
4 he can make an evaluation whether that's something that should be
5 provided to -- because if you put it into record with the Court, the State's
6 going to have access to it; everyone's going to have access to it. And
7 like I said, anything you put into the courtroom or say here in the
8 courtroom becomes public record and can be used against you --

9 THE DEFENDANT: Yes, sir.

10 THE COURT: -- and you may not appreciate how that could
11 be used against you.

12 THE DEFENDANT: I understand my fundamental rights, sir. I
13 was found competent to stand trial and I'm standing, Your Honor. I
14 would like to exercise my Sixth Amendment right to assist in my -- in my
15 public defender the best of my knowledge. I was found to stand
16 competent at trial; I'm standing.

17 THE COURT: Well your public --

18 THE DEFENDANT: Attorney.

19 THE COURT: -- your attorney represents you. He represents
20 you and he calls the shots, and -- in your trial. It's not a tag team or a --
21 or a dual joint representation. He represents you.

22 THE DEFENDANT: But my constitutional rights, Sixth
23 Amendment, that guarantee me by the constitutional laws says that I
24 can assist my attorney or my attorney can assist me.

25 THE COURT: No, you have a right -- you have a right to

1 represent yourself.

2 THE DEFENDANT: And participate in my own defense, sir.

3 THE COURT: But you participate by communicating with your
4 attorney. He is -- when he -- as -- I'm telling you right now, when you
5 have an attorney --

6 THE DEFENDANT: Yes, sir.

7 THE COURT: -- he runs the case. You assist him by
8 communicating with him. And when he needs information from you or
9 needs you to provide to do something for him, he tells you and you do it.
10 That's how you assist your attorney under your Sixth Amendment rights.
11 You do have a Sixth Amendment right to represent yourself. But if you
12 represent yourself, there's not going to be an attorney.

13 We don't -- I don't do -- and if you look it up, I can -- I
14 don't do joint -- where you get to make motions whenever you want to
15 make a motion, or file whatever you want to file. It's either you're
16 represented by your attorney or you represent yourself.

17 THE DEFENDANT: So there's no such thing of assisting him
18 or he assisting me?

19 THE COURT: You assist him by communicating with him and
20 providing him the information he needs, but that's it.

21 THE DEFENDANT: So I can't turn this to Exhibit B --

22 THE COURT: I mean, you --

23 THE DEFENDANT: -- evidence I've been trying to turn in for
24 a long time to the Court?

25 THE COURT: Well, I mean, you -- I'm not going to advise you

1 on that. You've got an attorney, I'll let your attorney advise you on that.

2 THE DEFENDANT: I'm very aware of everything, Your
3 Honor. I would like to turn this in on my behalf.

4 THE COURT: Well, Mr. Lippmann, I --

5 MR. LIPPMANN: Judge, I have no idea what it is.

6 THE COURT: I appreciate that.

7 MR. LIPPMANN: I'm not --

8 THE DEFENDANT: It's a letter from --

9 MR. LIPPMANN: I checked; I don't want my client to give --

10 THE COURT: I would --

11 MR. LIPPMANN: -- something over to the Court

12 THE COURT: I would --

13 MR. LIPPMANN: -- as an exhibit.

14 THE COURT: I would prefer you to give that to Mr. Lippmann
15 with the instructions that you want him to turn it in; he can advise you on
16 it. Ultimately, he may have an obligation to turn it in --

17 THE DEFENDANT: Yeah.

18 THE COURT: -- if you insist on him turning it in, but I want
19 him to advise you on whether it's a good idea for you to do it.

20 THE DEFENDANT: Excuse me, Your Honor --

21 THE COURT: I don't have time to argue about this today. All
22 right. What we're going --

23 MR. LIPPMANN: Judge, I've compromised. I'm proposing --

24 THE DEFENDANT: Where is the -- where's the integrity in
25 the courtroom?

1 THE COURT: I don't want to hear anything more from you
2 today.

3 THE DEFENDANT: Canon 1 --

4 MR. LIPPMANN: We could have it sent to overflow provided
5 there aren't -- if there are other people in front of us and we could just
6 say, at that point, whether we're ready. I mean, that would be on the
7 eve of trial we could say, yes. And if not, then we could be remanded
8 back here if that's an appropriate compromise.

9 THE COURT: Let's do that. We'll set this over to overflow.
10 And you can, hopefully, call ready on the 19th.

11 THE DEFENDANT: I'm ready on the 19th, Your Honor.

12 THE COURT: And then if you're ready to go on the 19th and
13 the Court -- I can do it. And if I don't have another trial ahead, I can do it
14 on the 19th.

15 MR. LIPPMANN: Okay, perfect. That's what we'll do at this
16 point.

17 THE COURT: All right. Thank you.

18 THE CLERK: Okay, that would be March 16th at nine a.m. in
19 Department XXIII. How many days? How many witnesses?

20 MS. THOMSON: Seven to nine and let's say five.

21 THE CLERK: And --

22 THE COURT: Seven to nine witnesses?

23 MS. THOMSON: Correct.

24 THE COURT: Okay.

25 THE CLERK: And, Counsel, are you the DA?

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MS. THOMSON: It will be Genevieve Craggs.

MR. LIPPMANN: Judge, I -- again, just so we're all clear, I'm not ready today. I will try my very best to be ready on that date.

THE COURT: All I can tell you to do -- you know, with this, he has the right to a trial within 60 days.

MR. LIPPMANN: I know.


THE COURT: All I can tell you to do is to advise him that you do not believe it is in his interest to go in 60 days. But then if he insists on going, do the best you can.

MR. LIPPMANN: Sure. Thank you.

THE COURT: Thank you.

[Hearing concluded at 8:53 a.m.]

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



Angie Calvillo
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-17-326569-1
DEPT. XX

10 vs.

11 BARRY HARRIS aka
12 BARRY RASHAD HARRIS,
13 Defendant.

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 TUESDAY, MARCH 27, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: RESETTING OF TRIAL**

18
19 APPEARANCES:

20 For the State:

GENEVIEVE CRAGGS
Deputy District Attorney

21
22 For the Defendant:

DAMIAN R. SHEETS, ESQ.

23
24
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, March 27, 2018, at 10:11 a.m.

2

3 THE COURT: State of Nevada versus Barry Harris, case
4 number C326569.

5 THE DEFENDANT: How are you doing today, Your Honor.

6 THE COURT: Good. How are you?

7 THE DEFENDANT: I'm fine.

8 MR. SHEETS: Good morning, Your Honor.

9 THE DEFENDANT: Um --

10 THE COURT: Hold on. Hold on, let's let your attorney do
11 your talking for you.

12 MR. SHEETS: So I spoke with the State, Your Honor --

13 THE COURT: Let's make your appearance first.

14 MR. SHEETS: Damian Sheets on behalf of Mr. Harris, who's
15 present in custody.

16 THE COURT: Okay.

17 MS. CRAGGS: Genevieve Craggs for the State, Your Honor.

18 THE COURT: All right, we're here for a resetting of trial. So,
19 where do we stand?

20 MR. SHEETS: Yes, Your Honor. He was technically invoked.
21 When we got to overflow, I was going to be asking for a week or a week
22 and a half to finish my preparations, but the Court announced that there
23 wouldn't have been a Judge available anyways. I've spoken with the
24 State; I have an in custody sexually assault going next week, Your
25 Honor. And I think based on everything, we have the dates of April 30th

1 and I think what? May 23rd?

2 MS. CRAGGS: Twenty-second or 23rd.

3 MR. SHEETS: Twenty-second or -- that would work for the
4 two of us. I know my client disagrees with that. He would -- he'd love to
5 start it right now. But I think just based on everything that's what's best
6 for us and for me to be effective, and to not have to let another in
7 custody wait.

8 THE COURT: How many days do you think this would go?

9 MS. CRAGGS: I think it would be three to four, Your Honor.

10 THE COURT: Okay. And what's the earliest dates that you
11 had looked up?

12 MR. SHEETS: April 30th.

13 THE COURT: Did they talk to you about that or --

14 THE CLERK: No.

15 MR. SHEETS: No.

16 THE CLERK: As long as it can go to overflow.

17 MS. CRAGGS: It's overflow eligible, Your Honor.

18 MR. SHEETS: It's -- it is eligible, Your Honor.

19 THE COURT: Okay, we'll set it for April 30th then.

20 THE DEFENDANT: Excuse me, Your Honor, may I -- may I
21 address the Court?

22 THE COURT: You know I really want you to work through
23 your attorney. Why don't you -- I mean --

24 THE DEFENDANT: But --

25 THE COURT: Mr. Sheets, why don't you talk to him real quick

1 and --

2 THE DEFENDANT: NRS 174.420, Your Honor, I was found
3 competent to stand trial. May I speak and represent myself? Like,
4 speak on my behalf.

5 THE COURT: No. I mean, you're represented by Mr. Sheets.

6 THE DEFENDANT: He's an assistant of counsel, correct?
7 On my behalf he's assistant counsel --

8 THE COURT: We have --

9 THE DEFENDANT: -- which the Sixth Amendment
10 constitutional rights --

11 MR. SHEETS: It's the same conversation that you had with
12 him before versus who works for who and --

13 THE COURT: Okay.

14 THE DEFENDANT: Whether he -- whether -- I'm not allowed
15 to participate in my trial -- my court?

16 MR. SHEETS: I've explained to my client, Your Honor, that --

17 THE COURT: All right.

18 THE DEFENDANT: May I address the Court, Your Honor?

19 THE COURT: Mr. Harris, no. I'm not -- you're represented by
20 Mr. Sheets.

21 THE DEFENDANT: So where's the integrity? Where is the
22 integrity in the courtroom?

23 THE COURT: Mr. Harris, I'm not going to get into discussing
24 integrity here.

25 THE DEFENDANT: I got a -- I got evidence for my alibi, Your

1 Honor.

2 THE COURT: And I want you to give that --

3 THE DEFENDANT: I've been trying to put in since December
4 2nd.

5 THE COURT: I want you to give that to Mr. Sheets. He'll -- if
6 there's evidence that's admissible in court --

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: -- he'll present it at your trial on April 30th.

9 THE DEFENDANT: Could I ask you --

10 THE COURT: He's in trial next week.

11 THE DEFENDANT: Could I ask you about my 60 days
12 speedy trial right? It's overdue, Your Honor. I was supposed to start
13 trial two weeks ago.

14 THE COURT: What is the situation? What was the --

15 MR. SHEETS: He's beyond the 60 days, Your Honor, that's
16 what I was saying at the beginning. We tried our best, but we were
17 coming to court and our office was asking for a week or a week and a
18 half. We -- the private investigator's been meeting with him throughout
19 this and she has been collecting things. And --

20 THE DEFENDANT: She was ready on record.

21 MR. SHEETS: We had a little bit --

22 THE COURT: Hold on, Mr. Harris.

23 MR. SHEETS: We had a little bit more we needed to do, so
24 we were -- we had -- we had shown up to the overflow on March 16th
25 and we were going to be asking for a week or week and a half, and the

1 Court ended up telling us that they wouldn't have had a courtroom
2 available anyways. This was -- the continuance was going to be for me
3 to be effective. Obviously, if I had been forced to go on that 60-day
4 date, I would not have felt that I was fully prepared to do what I needed
5 to do.

6 THE DEFENDANT: Your Honor, we did do a status check in
7 between that time. I think it was February --

8 THE COURT: Mr. Harris, I don't want you to talk until I ask
9 you to.

10 THE DEFENDANT: But --

11 THE COURT: Mr. Harris?

12 THE DEFENDANT: Yes, sir. Yes, sir.

13 THE COURT: Do you want to leave?

14 THE DEFENDANT: No, sir.

15 MR. SHEETS: Given that this is a life case --

16 THE COURT: All right. So when was his 60 days technically
17 up?

18 MR. SHEETS: I think it was March 18th, Your Honor.

19 THE COURT: Okay.

20 MR. SHEETS: Or March 19th because February --

21 THE COURT: And then Judge Villani found good cause to
22 extend it beyond the 60 days?

23 MS. CRAGGS: He did, Your Honor, I believe. And also I just
24 don't think there were any other courtrooms available as well, so that
25 kind of -- I believe made the decision for Judge Villani at the time.

1 THE COURT: Okay. All right. And you're saying you need --
2 you're in trial next week.

3 MR. SHEETS: I can technically do the week after that as long
4 as -- it's a sexual assault, so I worry about it rolling over into a second
5 week, Your Honor.

6 THE COURT: Okay.

7 MR. SHEETS: That's my biggest concern.

8 THE COURT: What's the State's situation?

9 MS. CRAGGS: I would be prepared for the 9th, Your Honor. I
10 believe I may also be in trial next week. But the week after, the State
11 would be ready to go.

12 THE COURT: All right. Let's set this -- I find good cause and
13 reaffirm Judge Villani in terms of good cause based upon preparation
14 needs of counsel to move it past the March 16th -- 18th date.

15 THE DEFENDANT: May I address the Court again, Your
16 Honor?

17 THE COURT: No, Mr. Harris.

18 THE DEFENDANT: NRS --

19 THE COURT: Mr. Harris, don't cite the NRS to me or you can
20 go and cite it to yourself all you want in the holding cell. Do you want to
21 do that?

22 THE DEFENDANT: No, Judge. I was trying to represent the
23 rights --

24 THE COURT: All right, be quiet. All right. Now --

25 THE DEFENDANT: Canon 1, Canon 1, where is the integrity

1 of the courtroom, Your Honor?

2 THE COURT: All right, remove the defendant.

3 THE DEFENDANT: Is I'm doing something wrong?

4 THE COURT: Yes, you are.

5 THE DEFENDANT: I can't speak? Is it against the law to
6 speak?

7 THE COURT: You can't speak unless the Court gives you
8 authority to speak.

9 THE DEFENDANT: Once -- NRS 174.420 --

10 THE CLERK: Are we going to set the trial for April 9th?

11 THE COURT: Yes.

12 THE CLERK: Okay. Calendar call is April 3rd at 8:30; jury
13 trial, April 9th at nine a.m.

14 MR. SHEETS: Thank you, Your Honor.

15 THE COURT: All right.

16 MS. CRAGGS: Thank you.

17 [Hearing concluded at 10:16 a.m.]

18
19 ATTEST: I do hereby certify that I have truly and correctly transcribed the
20 audio/video proceedings in the above-entitled case to the best of my ability.

21 

22 Angie Calvillo
23 Court Recorder/Transcriber
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1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-17-326569-1
DEPT. XX

10 vs.

11 BARRY HARRIS aka
12 BARRY RASHAD HARRIS,
13 Defendant.

14 BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE
15 TUESDAY, APRIL 03, 2018

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **CALENDAR CALL**

18
19 APPEARANCES:

20 For the State:

MICHELLE SUDANO
Deputy District Attorney

21
22 For the Defendant:

DAMIAN R. SHEETS, ESQ.

23
24
25 RECORDED BY: ANGIE CALVILLO, COURT RECORDER

1 Las Vegas, Nevada, Tuesday, April 03, 2018, at 8:46 a.m.

2

3 THE COURT: State of Nevada versus Barry Harris, case
4 number C326569. Counsel, please note your appearances for the
5 record.

6 THE DEFENDANT: How are you doing, Your Honor?

7 THE COURT: Good. How are you?

8 THE DEFENDANT: I'm fine.

9 MR. SHEETS: Damian Sheets on behalf of Mr. Harris, who's
10 present in custody.

11 MS. SUDANO: Good morning, Your Honor. Michelle Sudano
12 for the State.

13 THE COURT: Okay. I'm showing this as calendar call, and
14 we kicked this off a month for your calendar, Counsel. How are we
15 looking this week?

16 THE DEFENDANT: We didn't kick this off for a month. My
17 rights -- my 60 days --

18 THE COURT: I don't want to hear it right now. I'm talking --

19 THE DEFENDANT: My rights was --

20 THE COURT: I'm talking to your attorney.

21 MR. SHEETS: Your Honor, I think we're set for trial next
22 Monday. I think I can be ready. I did get an e-mail over the weekend, or
23 maybe it was yesterday. The weekend was included yesterday for me
24 with medical records. If I see anything striking, I'll let the State know.
25 But I don't anticipate it to be much different than what we already know

1 in this case.

2 MS. SUDANO: And there were already medical records from
3 the hospital provided, however, I just yesterday got the AMR, the
4 ambulance records and so I provided those to Mr. Sheets last night
5 when I received them.

6 THE DEFENDANT: I've been had them records, Your Honor.

7 THE COURT: All right. Now -- so we're set for trial. I have
8 another trial that's going to go on Monday. How many days will --

9 THE DEFENDANT: My lawyer is withholding evidence, Your
10 Honor.

11 THE COURT: Will you be quiet or I'll have you removed from
12 the room. Now, is that getting through to you?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You're gone if you say anything else, am I
15 clear?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Now, how many days should this
18 take?

19 MS. SUDANO: Four to five, Your Honor. We previously gone
20 to overflow and been sent back.

21 THE COURT: I remember that, yeah. All right. We're going
22 to -- unless my other case -- something happens to negotiate it, we'll be
23 going on that. So we'll send this to overflow on Friday.

24 THE CLERK: Okay.

25 THE DEFENDANT: How many times we going to send it to

1 overflow?

2 THE COURT: Okay, remove him from the courtroom.

3 THE CLERK: April 6th at nine a.m. in Department XXIII. And
4 how many witnesses?

5 MS. SUDANO: Seven to nine.

6 THE DEFENDANT: This is against my rights, Your Honor.

7 THE CLERK: And you are the DA and Mr. Sheets
8 [indiscernible].

9 THE DEFENDANT: Due process rights, to be treated fairly.
10 Canon 1, a Judge to hold -- uphold the integrity and independence in the
11 judiciary system.

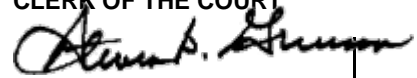
12 THE COURT: All right. So what's our next case?

13 [Hearing concluded at 8:48 a.m.]

14
15 ATTEST: I do hereby certify that I have truly and correctly transcribed the
16 audio/video proceedings in the above-entitled case to the best of my ability.

17 

18 Angie Calvillo
19 Court Recorder/Transcriber
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-17-326569-1
)	
vs.)	DEPT NO. XX
)	
BARRY HARRIS,)	
)	
Defendant.)	Transcript of
)	Proceedings

BEFORE THE HONORABLE ERIC JOHNSON, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, APRIL 9, 2018

APPEARANCES:

FOR THE STATE:	MICHELLE L. SUDANO, ESQ.
	GENEVIEVE C. CRAGGS, ESQ.
	<i>Deputy District Attorneys</i>

FOR THE DEFENDANT:	DAMIAN R. SHEETS, ESQ.
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RECORDED BY: ANGIE CALVILLO, COURT RECORDER
TRANSCRIBED BY: JULIE POTTER, TRANSCRIBER

1 LAS VEGAS, NEVADA, MONDAY, APRIL 9, 2018, 9:20 A.M.

2 (Outside the presence of the prospective jury)

3 THE COURT: Case No. C326569. Counsel, please note
4 your appearances for the record.

5 MS. SUDANO: Good morning, Your Honor. Michelle
6 Sudano and Genevieve Craggs for the State.

7 MR. SHEETS: Good morning, Your Honor. Damian Sheets,
8 on behalf of Mr. Harris.

9 THE COURT: Okay. Bring up Mr. Harris and we'll get
10 the jury panel up here and we'll get going on that.

11 MR. SHEETS: Before we get going, Your Honor, I will
12 have two preliminary just kind of housekeeping type of issues.

13 THE COURT: Yeah, I was going to -- that's what I
14 wanted to do now while we're waiting for Mr. Harris to get up
15 here.

16 MR. SHEETS: I was going to ask, in my preparation of
17 the case over the last week and on the weekend, I went and I
18 reviewed the information one last time. And I realized the
19 information doesn't make any indication that the ex-felon
20 possession of a firearm charge would be severed or not read to
21 the jury. I was going to just ask that pursuant with, I believe
22 it was Brown v. State, that -- that that case --

23 THE COURT: I assumed that you are provide us an
24 information that didn't have the -- the felon in --

25 MR. SHEETS: Oh.

1 THE COURT: -- possession charge.

2 MR. SHEETS: Perfect.

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

4 THE COURT: Okay. All right.

5 MR. SHEETS: And then when the time comes, Your Honor,
6 pending approval from my client, I'd -- I'd ask that we just be
7 allowed to stipulate that there is a felony, and that the jury
8 only to -- or and -- and preclude the description --

9 THE COURT: Well, that's --

10 MR. SHEETS: -- of the nature --

11 THE COURT: -- that's fine, but I mean --

12 MR. SHEETS: -- of the felony.

13 THE COURT: -- we'll -- when we -- when we get to that
14 point, then we'll -- we'll see if he can -- we'll get --
15 hopefully get a waiver from him. And then we'll -- I don't have
16 any problems proceeding that way. I assume the State doesn't.

17 MS. SUDANO: No, and I think that there's case law on
18 point that if he stipulates to the felony we can't --

19 THE COURT: Yeah.

20 MS. SUDANO: -- introduce the JOC, so --

21 THE COURT: Yeah.

22 MS. SUDANO: May I approach, Your Honor? It's the
23 amended information.

24 THE COURT: Oh, okay. My --

25 THE CLERK: Yeah, throw that one away.

1 THE COURT: Oh, you're throwing this one? Okay. All
2 right.

3 THE MARSHAL: All right. I'll go down and get them.

4 THE COURT: Okay.

5 MR. SHEETS: Other than that, Your Honor, just to be
6 kind of familiar with kind of your -- your process, I know every
7 court does it a little bit differently in terms of, you know,
8 even -- even etiquette. Do you -- do you prefer that we're
9 asking all questions from the podium, do you prefer we stand up
10 for each objection and then sit back down?

11 THE COURT: You know, I don't care. I mean,
12 objections, I don't care if you stand up for objections. I do
13 want you to sort of generally stay around the podium. I don't
14 want you to get -- I mean, you can walk behind it, you can walk
15 in front of it. I don't want you coming up and being close to
16 the witness absent you want them showing -- you have a purpose
17 of showing them something. I will note, and when you're doing
18 argument or opening statements, if you'll notice there are a
19 bunch of metal rings on the floor in front of the jury box, see
20 the metal rings?

21 MR. SHEETS: Yes, sir.

22 THE COURT: Don't cross the -- this side of the metal
23 rings. I'll --

24 MR. SHEETS: Yes, sir.

25 MS. SUDANO: Yes, sir.

1 THE COURT: -- have you move back if you do that.
2 It's an imaginary line made up by the metal -- metal -- this
3 side of the metal rings. We'll bring in and seat the 32 people
4 over here. I usually refer to the jurors by their seat number,
5 I don't ever use the badge number, their seat number or their
6 names. So the back row will be Jurors 1 through 10, the next
7 row will be 11 through 20, and then we'll have 21 through 28,
8 and 30 -- or 29 through 32.

9 I don't want you moving for cause to remove any juror.
10 We'll do that at any sidebar or on breaks. When we remove
11 anyone for cause, the next person in the jury panel comes in and
12 takes the seat. I don't have everybody get up and move down.
13 Alternates I'll give you one strike for each. The alternates --
14 the alternates will always come out of Jurors No. 29 through 32.

15 So if you decide to waive any of your perempts --
16 eight perempts on the first 28 that doesn't move somebody into
17 an alternate position. The alternates will always come out at
18 29 through 32. I can't think of anything else right now. What
19 other questions do you have?

20 MR. SHEETS: So just so I understand, it's one strike
21 for alternates, alternates are from 29 to 32, all challenges for
22 cause are done when Your Honor grants a sidebar. Do we ask for
23 the sidebar, or will you tell us when it's sidebar time?

24 THE COURT: I'll tell -- you know, I'll tell you. I
25 mean, there will -- there will be a lot of times I'll let

1 someone who we obviously should be let go sit there for a while
2 because I don't want to signal to the jury that that statement
3 will necessarily cause them to get excused. So, I mean, we'll
4 -- we just sort of go for a while. I don't want to have a lot
5 of sidebars, either, and I don't want to be -- so usually I'll
6 have you move at breaks. So unless something serious in terms
7 of getting rid of someone, I'll usually get rid of people at
8 breaks.

9 MR. SHEETS: Yes, Your Honor. Perfect.

10 MS. SUDANO: Do you want to make a record about the
11 offer?

12 MR. SHEETS: Oh. Yes, Your Honor. The State has
13 tendered an offer. They tendered it --

14 THE COURT: Let's wait until Mr. Harris --

15 MR. SHEETS: Yes.

16 THE COURT: -- gets here before you -- you put the
17 offer on the record. I don't feel that going through these sort
18 of things --

19 MR. SHEETS: Perfect.

20 THE COURT: -- really relates to any of his
21 substantive rights, but I think it is important that if you're
22 going to state an offer on the record that we have -- we have
23 Mr. Harris here. Did Mr. Harris appear cooperative the last
24 time you spoke to him?

25 MR. SHEETS: Quite frankly, I've been having my

1 investigator handle most of the communications because the
2 communication has gone very well with her.

3 THE COURT: Okay. Good.

4 MR. SHEETS: So is --

5 THE COURT: If you want to have the investigator sit
6 at the table to enhance that, I don't have any problem with
7 that.

8 MR. SHEETS: He was -- he was quite behaved at the
9 preliminary hearing that I did, so it just kind of went quirky
10 somewhere along the line.

11 THE COURT: Okay.

12 MR. SHEETS: I believe before I was appointed there
13 were issues with prior counsel, as well.

14 MS. CRAGGS: And Judge, while we're waiting for Mr.
15 Harris, is it all right if I use the restroom --

16 THE COURT: Sure.

17 MS. CRAGGS: -- in the back? Thank you.

18 THE MARSHAL: Ready for him, Your Honor?

19 THE COURT: He needs a tie?

20 MR. SHEETS: Yes, I believe he does, Your Honor. I
21 can -- I can go to my car and get one. I have an extra one in
22 my vehicle.

23 THE COURT: Let me see if I can find a tie.

24 MR. SHEETS: Same exact tie as I'm wearing, but --

25 THE MARSHAL: Twinsies.

1 MR. SHEETS: Did you really just do that?

2 THE MARSHAL: Yeah. We're off -- we're off the
3 record; right?

4 (Pause in proceedings)

5 THE COURT: All right. Let the record reflect the
6 presence of the attorneys for both sides, the presence of the
7 defendant. It's my understanding there was an offer that you
8 wanted to put on the record as having been made and rejected?

9 MR. SHEETS: Yes, Your Honor. Today I conveyed to my
10 client an offer I received last night from the District
11 Attorney's Office. It was one count of second degree kidnapping
12 and one count of battery domestic violence --

13 MS. SUDANO: With deadly weapon.

14 MR. SHEETS: -- with a deadly weapon. It would be a
15 stipulated 6 to 15 years in the Nevada Department of
16 Corrections. I did convey that to my client. My client, he'd
17 like to reject that offer today. Additionally, I wanted to make
18 a record, Your Honor, that -- that I came on this case
19 mid-prelim. I was appointed to -- halfway through the prelim to
20 be able to cross-examine the other witness. I have been on the
21 case the whole time. My client did invoke his right to a speedy
22 trial. I had thought there may be potential red issues. I just
23 want the record to establish that the reason that I did not
24 pursue those was because it would have required a waiver of that
25 60-day trial.

1 THE COURT: Okay. All right. All right. Anything --
2 as soon as we get the -- the jury panel here, anything else we
3 need to discuss?

4 MS. SUDANO: Not from the State, no, Your Honor.

5 THE DEFENDANT: Could I speak?

6 THE COURT: No. Why don't you talk through your
7 attorney.

8 THE DEFENDANT: Tell him I got a couple cites that I
9 want to get adopted.

10 MR. SHEETS: Cites for what?

11 THE DEFENDANT: Cite -- citations that a person cannot
12 bear -- burglarize his own place.

13 MR. SHEETS: We -- we have to wait for the right --

14 THE DEFENDANT: And --

15 MR. SHEETS: -- time in trial to do that.

16 THE DEFENDANT: -- I got bound over on charges that
17 wasn't -- that I got bound over on charges by a biased judge
18 that I been trying to speak on record for the longest. This
19 judge had a personal bias against me, this just called me a
20 narcissist, this judge called me a pimp, this judge called me a
21 thug, I treat women like trash.

22 MR. SHEETS: Now is not the time to address those
23 things.

24 THE DEFENDANT: But I -- I been trying to talk to you
25 for the longest. I always get kicked out --

1 MR. SHEETS: Well --

2 THE DEFENDANT: -- the courtroom.

3 MR. SHEETS: -- what you want me to do is -- is move
4 for a new prelim now, but you did not want that beforehand
5 because you wanted to go to trial.

6 THE DEFENDANT: Because you -- you wanted to -- the
7 judge at -- at prelim asked you did you need more time and you
8 said, no, you was okay. She --

9 MR. SHEETS: Well --

10 THE DEFENDANT: -- asked you did you want to read the
11 transcripts, you said no --

12 MR. SHEETS: I had actually --

13 THE DEFENDANT: -- it's okay.

14 MR. SHEETS: -- if you remember correctly, I actually
15 gave her the transcripts because I had already read them and she
16 didn't have a copy.

17 THE DEFENDANT: Right. And I was telling you at
18 trial, at the -- at the prelim or whatever it was, that this
19 judge had a personal bias against me.

20 THE COURT: Counsel, you -- we don't have the jury
21 panel here yet, but is it possible for them to go back and speak
22 in -- in a little bit --

23 MR. SHEETS: My -- my concern --

24 THE COURT: -- more privacy?

25 MR. SHEETS: -- Your Honor, is these are things that

1 have kind of been talked about at this point. I mean, I can go
2 back and talk about them again, but --

3 THE COURT: All right. Well, I just -- I don't -- you
4 know, I didn't know if that would be more convenient to you or
5 -- or not. If you don't want to go back, that's -- I'm not
6 forcing you to --

7 MR. SHEETS: No. I mean, I -- I can --

8 THE COURT: -- go back.

9 MR. SHEETS: -- Your Honor, I just -- these --

10 THE COURT: All right.

11 MR. SHEETS: I'm being asked to do things I don't have
12 a legal basis to do.

13 THE COURT: Okay. All right. That's fine.

14 THE DEFENDANT: But I just -- I just want to be
15 treated fairly.

16 MR. SHEETS: And I think you will be.

17 THE COURT: All right. Well, as soon as we get the
18 panel here, we'll seat people and we'll go from there in terms
19 of jury selection. Hopefully they'll get here relatively soon.

20 MR. SHEETS: As far as the law --

21 THE DEFENDANT: Because I didn't even know I was
22 starting. I didn't even know my trial date was today. My
23 family not even here.

24 MR. SHEETS: How would you not know? You've --

25 THE DEFENDANT: How would I not know?

1 MR. SHEETS: -- been told the trial date --

2 THE DEFENDANT: Because --

3 MR. SHEETS: -- for the last --

4 THE DEFENDANT: -- last time I was in court, you guys
5 kicked me out of court and y'all told me y'all was going to send
6 me to overflow, which was on the 6th. And district court told
7 me, too, was that it wasn't -- district court told me, too, it
8 never happened because it was a Friday.

9 MR. SHEETS: You realize my private investigator came
10 and met with you, right?

11 THE DEFENDANT: When?

12 MR. SHEETS: You met with him and talked to him about
13 when trial was, right? I know you got the date, because he
14 announced it before he took the --

15 (Pause in proceedings)

16 THE MARSHAL: There you are.

17 THE COURT: Got everybody?

18 THE MARSHAL: I'll just line them up, if you want. I
19 just --

20 THE COURT: I'd say go ahead and line them up so we
21 can get moving here. All right.

22 THE DEFENDANT: Your Honor.

23 MR. SHEETS: Just -- just -- Your Honor, my client is
24 going to continue to ask me until I ask you. I've told my
25 client I don't have a legal basis. He wants me to ask you if

1 you can be fair for the purposes of today's trial.

2 THE COURT: Oh, yeah. I don't have any reason not to
3 be fair.

4 THE DEFENDANT: Because there was times that I was
5 trying to make representation about evidence that you didn't
6 give me time to present. You always kicked me out of
7 courtrooms.

8 THE COURT: I only kicked you out of the courtroom one
9 time, and that was because --

10 THE DEFENDANT: You kicked me out three times, sir.
11 I've been here --

12 THE COURT: Have I?

13 THE DEFENDANT: -- three times.

14 THE COURT: Well, maybe I have. I don't remember.

15 THE DEFENDANT: And I --

16 THE COURT: If I have, it's because you won't be
17 quiet. That's the only time I -- when I ask you to be quiet.
18 Because I do insist -- I do let people talk in my courtroom, I
19 think most of the time you -- you would agree with that. But I
20 do insist, when I tell you not to talk anymore, that you stop
21 talking. And if you don't, then I will have you removed from
22 the courtroom. So if you -- you know, on those occasions in
23 which you were removed, were all caused by you refusing to stop
24 talking when I instructed you to stop talking.

25 THE DEFENDANT: But at that time I asked for

1 permission, may I address the Court, Your Honor.

2 THE COURT: And I said no. And so then that means you
3 don't have permission at that point in time.

4 THE DEFENDANT: And then I --

5 THE COURT: But, I mean, I have no issue in terms of
6 being fair.

7 THE DEFENDANT: Right.

8 THE COURT: It's --

9 THE DEFENDANT: Because --

10 THE COURT: That's not a concern of mine in any way.

11 THE DEFENDANT: -- I was trying to make -- let you
12 know that the judge bound me over here on charges that was
13 false. The judge down in lower court, Ms. Judge Tobiasson, she
14 had a bias against me. She -- she never let me talk, neither.
15 She said that no lawyer was going to represent me zealously, and
16 I seen that here today, Your Honor.

17 THE COURT: Well I --

18 THE DEFENDANT: And it was --

19 THE COURT: Mr. Sheets, I'm sure, will provide a very
20 strong defense for you to the degree that one exists.

21 THE DEFENDANT: And there was at times that I even
22 asked Judge Tobiasson that I wanted to represent myself. I
23 didn't ask for no lawyer.

24 THE COURT: Okay. Did -- I don't remember you ever
25 asking to represent yourself --

1 THE DEFENDANT: Well --

2 THE COURT: -- in my court. Did you ever do that? I
3 thought, in fact -- didn't we bring Mr. Sheets on?

4 THE DEFENDANT: You never let me speak, sir.

5 THE COURT: Huh?

6 THE DEFENDANT: You never gave me the opportunity to
7 speak.

8 THE COURT: Okay. Are you wanting to represent
9 yourself today?

10 THE DEFENDANT: I'm asking -- I'm asking -- I'm asking
11 you I was found competent to stand trial, Your Honor.

12 THE COURT: You are competent to stand trial. We're
13 going to trial today.

14 THE DEFENDANT: And -- and in them -- in them records
15 that I was found competent to stand trial, NRS 178.240, pursuant
16 to that, it gave me the right to assist my attorney.

17 THE COURT: No, you don't have a right to assist your
18 attorney.

19 THE DEFENDANT: It --

20 THE COURT: Your attorney handles --

21 THE DEFENDANT: -- it said I was capable --

22 THE COURT: -- handles this. Unless you -- you do
23 have a right to assume your own self-representation, represent
24 yourself, but you do that without an attorney.

25 THE DEFENDANT: Okay.

1 THE COURT: You do not have a right, under Nevada
2 statute, to be co-counsel with your attorney. Now, you do have
3 a right and a responsibility to assist your attorney in every --
4 anything that he needs you to assist him in in presenting your
5 defense. So, I mean, if he has a question or you have a comment
6 or some information you think would be valuable for him to know
7 or to hear or if he has a question for you and you have an
8 answer, you have -- you -- you can assist him in that way.

9 THE DEFENDANT: Right.

10 THE COURT: But he's the one who handles your case.

11 THE DEFENDANT: Now, what if my attorney was holding
12 out on evidence that'd get me acquitted of all charges today?

13 THE COURT: Well, your -- your attorney --

14 THE DEFENDANT: Who do I tell?

15 THE COURT: -- is responsible for deciding what
16 evidence to present at trial. And, additionally, there are
17 rules of evidence, which I'm sure you're aware of, which govern
18 what evidence can be admitted and what evidence can't be
19 admitted. So your attorney is the one who decides to present
20 evidence.

21 Now, what happens in a case is that the State presents
22 evidence first because they have the burden of proof. So the
23 State will present evidence, then when the State is done with
24 their presentation of evidence, your attorney has the ability at
25 that point to present evidence. Okay.

1 THE DEFENDANT: Right. But this evidence was the
2 victim saying that I didn't do these things, and we got this
3 victim on recording. And I would like all the recordings that
4 the State and my attorney have presented to the jury.

5 THE COURT: Well --

6 THE DEFENDANT: I want them to listen to them.

7 THE COURT: -- you have to understand that only
8 certain -- if the victim testifies, under the rules of evidence,
9 the issue is whether -- if she testifies inconsistent with a
10 recorded statement or a written statement or a statement made to
11 another individual, if she -- or he or she testifies
12 inconsistently, that inconsistent statement can be introduced,
13 but not the whole recording, sir, or the whole writing.

14 THE DEFENDANT: Well, that's why we're here today,
15 Your Honor, because of a recording that I never heard. I don't
16 even know if the recording is real, but I know what is real that
17 the investigator that the State hired to -- to represent me had
18 came with evidence saying that.

19 THE COURT: I'm sure if your attorney has an
20 inconsistent statement with the victim or of any witness --

21 THE DEFENDANT: It's a recording, sir.

22 THE COURT: -- he'll -- well --

23 THE DEFENDANT: Audio.

24 THE COURT: -- a recorded statement of any witness in
25 which there is something inconsistent that this witness here in

1 court says, he'll consider using that to impeach the -- impeach
2 the witness.

3 THE DEFENDANT: But it was my right to call a witness.
4 I can subpoena people, my witness, to court, which Judge
5 Tobiasson kicked my witness out during prelim of the 14th that
6 had nothing to do -- she kicked him out the courtroom.

7 THE COURT: Well, tell your attorney who you think
8 should be --

9 THE DEFENDANT: I did tell him. He said that he
10 wasn't going to argue these. That's why I'm asking --

11 THE COURT: Well --

12 THE DEFENDANT: -- you for permission to speak.

13 THE COURT: Well, your attorney controls how your
14 defense and the witnesses and evidence that's introduced.
15 Unless you're going to represent yourself, then he controls
16 that.

17 THE DEFENDANT: So if I wanted to represent myself
18 today, we still can start today?

19 THE COURT: If you want to represent yourself today,
20 but we're -- you -- you have to follow the rules of evidence.
21 You have to follow the procedure of the Court. And so I'm just
22 telling you, just because you get to -- you would represent
23 yourself doesn't meant that you get to call whatever witness you
24 want to call or put on any -- whatever evidence you want to
25 call. That's why we have an attorney here that represents you

1 because they know the rules of evidence and they know the rules
2 of procedure.

3 THE DEFENDANT: But I've been trying the longest to
4 tell my -- my lawyer that I got evidence that I needed the
5 courts to hear. I got a letter from the victim saying that she
6 was intimidated by a District Attorney named Geneva Craigers,
7 Craggs, or something.

8 THE COURT: Okay.

9 THE DEFENDANT: That this attorney had -- was
10 interrogating --

11 THE COURT: Have you given the letter to your -- copy
12 of the letter to your attorney?

13 THE DEFENDANT: I been trying to introduce it to the
14 Court for the longest.

15 THE COURT: Well it's not -- that's not something --

16 THE DEFENDANT: Is it -- could I --

17 THE COURT: -- that gets --

18 THE DEFENDANT: -- introduce it --

19 THE COURT: -- introduced to the Court.

20 THE DEFENDANT: Could I --

21 THE COURT: That's something that your attorney can
22 use during the trial. So it's --

23 THE DEFENDANT: Could I introduce it?

24 THE COURT: -- not something that gets introduced to
25 the Court.

1 MR. SHEETS: I know that based on this -- I do not
2 have a copy of the letter, but based on --

3 THE DEFENDANT: I got it right here.

4 MR. SHEETS: -- a statement made by my client, my
5 private investigator followed up and investigated that issue.

6 THE COURT: Okay. Well, go ahead and provide him with
7 the letter. And like I said, when the witness testifies, maybe
8 there's something he can use the letter for, but it's up to him
9 to do that.

10 THE DEFENDANT: But I -- I even told my attorney at
11 the time, Scott Ramsely (phonetic) that this -- this woman that
12 was a part of the DA said she was going to take the victim's
13 daughter if she didn't say these things.

14 THE COURT: Well, and that's -- that's -- you know,
15 that's something that possibly can be brought up during
16 cross-examination. But that isn't something that at this point
17 in time impacts upon -- that is admitted to the Court. I don't
18 make those decisions. The jury makes the decision. The jury
19 decides whether or not the victim is lying or not or telling the
20 truth.

21 THE DEFENDANT: Okay. Could we have that victim
22 present so she could say that she wrote this letter or --

23 THE COURT: Well, the -- the State is -- decides who
24 to call and who not to call for -- like I said, the State
25 presents their case first. They have to present sufficient

1 evidence to -- first to prove the elements of all the offenses
2 that you're charged with. So the State puts on the evidence.
3 Now, frequently, I don't know who the State plans to call, but
4 frequently the State will call the victim. I don't know if they
5 are going to call the victim or not, but typically they will
6 call the victim in these cases.

7 THE DEFENDANT: But if not, could I?

8 THE COURT: The victim will testify, and the State
9 will question them and testify, and then your attorney has the
10 opportunity to cross-examine -- cross-examine the victim. And
11 at that point in time, if the victim -- your attorney, if he
12 feels he has a good face basis, can ask the victim if she was
13 threatened by any of the prosecutors with her child being
14 removed. He can show her statements that were recorded or -- or
15 written or said to someone else, and ask her about those things.
16 But that's what -- how the rules of evidence --

17 THE DEFENDANT: Right.

18 THE COURT: -- provide to do this.

19 THE DEFENDANT: And I -- I know the rules of evidence
20 and guidelines that a detective got to follow -- follow by
21 certain rules, too. This detective had took the victim's keys
22 and reentered the apartment, the crime scene, and I -- who knows
23 what this detective did. He was only a detective for --

24 THE COURT: And, see that's --

25 THE DEFENDANT: -- two and a half weeks.

1 THE COURT: If the detective testifies, your attorney
2 can question him about how he conducted his investigation.

3 THE DEFENDANT: And I -- I had made --

4 THE COURT: Your attorney could ask him how he
5 conducted his investigation. That's if the detective testifies.

6 THE DEFENDANT: And I had made representation on
7 record that I wanted questions to be asked. I wasn't allowed to
8 ask the detective questions through my lawyer.

9 THE COURT: Well, your lawyer decides what questions
10 should be asked. And that's -- and he has an ethical
11 responsibility under the law to only ask questions that are
12 legally proper. Just because you want to ask a question doesn't
13 mean you get to ask it. The rules of evidence limits questions
14 that can be asked, and that's what your attorney's job is.

15 Now, if you got a question you want to ask a witness,
16 tell your attorney. It's his job to decide whether or not it's
17 a legally proper question, and his job to decide whether or not
18 the question is a -- is one that moves your defense forward.

19 THE DEFENDANT: Right. So he's somebody I should
20 listen to and -- and know law because he passed law. He --

21 THE COURT: Well, that's why we have attorneys help.
22 That's why you have a right to an attorney.

23 THE DEFENDANT: Right.

24 THE COURT: It's because he knows what kind of
25 questions can be asked and what kind of questions cannot be

1 asked.

2 THE DEFENDANT: Now -- now it took -- me -- them six
3 months to bound me over to -- to district court.

4 THE COURT: Okay.

5 THE DEFENDANT: I was in -- I was in justice court for
6 six months.

7 THE COURT: Okay.

8 THE DEFENDANT: My due process rights was violated.
9 That right was to be treated fair. This judge never treated me
10 fair. She always yelled at me.

11 THE COURT: I -- I --

12 THE DEFENDANT: She cussed at me.

13 THE COURT: I understand that.

14 THE DEFENDANT: She brought dogs in the court, which
15 -- that she said that was --

16 THE COURT: I understand that --

17 THE DEFENDANT: -- they was for therapy.

18 THE COURT: -- you may not like how you were handled
19 in justice court, but I'm -- I have to move forward with the
20 case that's before me here today.

21 THE DEFENDANT: Yes, sir. I understand that. But a
22 lot of stuff -- a lot of stuff took place down there. Like I
23 got bound over on charges that this judge was like, so, it don't
24 matter, that stuff that it wasn't probable --

25 THE COURT: Well, I mean, that's what --

1 THE DEFENDANT: -- cause to bound me over.

2 THE COURT: -- we're here to do today, is the State is
3 going to present the evidence that it has on those charges, and
4 the jury is going to decide whether the -- it's not me that's
5 going to decide, it's the jury --

6 THE DEFENDANT: It's the jury.

7 THE COURT: -- that's going to decide --

8 THE DEFENDANT: I understand that.

9 THE COURT: -- that, whether you're guilty or not
10 guilty of the charges.

11 THE DEFENDANT: All right.

12 THE COURT: So it's not -- it's not me. It's the
13 jury.

14 THE DEFENDANT: Well, I got -- I got -- I got specific
15 stuff that I -- I wanted the jury -- instructions that the jury
16 should follow, because I'm --

17 THE COURT: Well, I mean, your attorney -- give the
18 instructions to your attorney, but I decide what the
19 instructions are, and not -- and so the attorneys are -- each
20 will --

21 THE DEFENDANT: Could we adopt laws --

22 THE COURT: -- give me --

23 THE DEFENDANT: -- from different state? Because I
24 got citations that a person -- they have absolute right to enter
25 an apartment or a place or thing --

1 THE COURT: Well, I mean -- you can -- if there's case
2 law on that, give it to your -- here in Nevada, give it to your
3 attorney.

4 THE DEFENDANT: I do.

5 THE COURT: And we'll look at the -- and when we write
6 the instructions on the law, we'll -- we'll look at -- we'll
7 look at that.

8 THE DEFENDANT: It was State -- State vs. Wright. You
9 want the P number?

10 MR. SHEETS: Your Honor, I think he's going to be
11 getting into strategy and case law --

12 THE COURT: Okay.

13 MR. SHEETS: -- regarding burglary.

14 THE COURT: All right. Let's --

15 MR. SHEETS: I've already --

16 THE COURT: At this point in time, Mr. --

17 MR. SHEETS: I've already addressed this.

18 THE COURT: -- Mr. Harris, I'm just -- I've got a
19 jury, I've got 60-some people sitting out there --

20 THE DEFENDANT: All right.

21 THE COURT: -- ready to be considered for a jury.
22 I've got to move forward.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So this is --

25 THE DEFENDANT: I understand.

1 THE COURT: -- this is where I'm telling you now --
2 THE DEFENDANT: It's just serious --
3 THE COURT: -- we've got to be --
4 THE DEFENDANT: -- it's just serious --
5 THE COURT: -- you've got to be quiet.
6 THE DEFENDANT: -- it's just serious charges and I
7 want to --
8 THE COURT: I understand they're very serious charges,
9 but I'm going to move forward right now because I've got 60
10 people out there, and I've got to get a jury picked. So talk
11 with your attorney. I need you to talk to him, and don't be
12 making any outbursts or comments to where the jurors can hear
13 anything.
14 THE DEFENDANT: Yes. And I --
15 THE COURT: Okay.
16 THE DEFENDANT: -- I'm just --
17 THE COURT: You understand that?
18 THE DEFENDANT: I understand.
19 THE COURT: Okay.
20 THE DEFENDANT: I just -- I just --
21 THE COURT: All right. I've got to tell you to stop.
22 We've got to go on. So this is where I'm cutting you off. All
23 right. Let's bring in the jury.
24 (Inside the presence of the prospective jury)
25 THE COURT: Okay. All right. Good morning, ladies

1 and gentlemen. It's good to see everybody here today. All
2 right. Good morning. Anyway, it is good to see everybody here
3 today. I'm Eric Johnson -- and counsel can be seated. I'm Eric
4 Johnson. I'm the District Court Judge here in Department 20.

5 Some people will ask me at different times what
6 Department 20 -- what geographic area Department 20 represents,
7 and it doesn't represent any particular geographic area like
8 your numbers are for the state assembly or the state senate.
9 Department 20 is more or less an organizational term. We have
10 32 general jurisdiction judges here in the Eighth Judicial
11 District Court. And so it -- for organization purposes, we
12 assign a number to each one of the judges, and I'm assigned to
13 Department 20.

14 Some people will ask me sometimes what is a general
15 jurisdiction judge, and quite simply, a general jurisdiction
16 judge is a judge that handles jury trials for both criminal jury
17 trials and civil jury trials. And that's why you're all here
18 today is to be considered for possible service in what will be a
19 criminal jury trial.

20 As I said, I really am glad to see you all here, and I
21 want to thank you for all being here. I'm -- I want you to know
22 I'm not under any delusion that when you got that summons in the
23 mail that you were hopping up and down and saying I got my jury
24 summons, and that you were thrilled to see that. But I am very
25 glad you're here, and I do appreciate you taking the

1 responsibility of citizens to come and be considered for -- for
2 this jury.

3 And people frequently are like why do I have to come
4 down here and do this, and -- and why do I have to be considered
5 for a jury, I've got other things to do with my family, with
6 school, job, whatever. Well, jury service is important because
7 juries are important. And juries are important, I like to
8 explain, because you are the ones who give our community
9 confidence in the decisions that come out of this courtroom.

10 And do what I mean by confidence in the decisions that
11 come out of this courtroom? Well, think about what a jury is.
12 A jury is a group of people that's picked totally at random from
13 the community. And you all were picked totally random from all
14 parts of the community. We have a computer program that picks
15 and sends out the summons, and that computer program has 1.6
16 million names in it. So you all were picked out of 1.6 million
17 names. So it's sort of like you won the lottery, but there's
18 not really a cash -- a cash prize at the end.

19 But we try to pick a jury that's essentially taken
20 from the community, people who have no interest in the case, no
21 real knowledge about the case, no real knowledge or involvement
22 with the witnesses in the case, and people who can sit here and
23 listen to the testimony that's given here on the witness stand
24 under oath, look at the exhibits that are admitted into
25 evidence, and then go back as a group, as a group, and

1 deliberate together, and ultimately determine whether or not
2 somebody is guilty or not guilty, or determine whether somebody
3 has been harmed and deserves compensation for that harm.

4 You, the jury, do that. You make that decision. You,
5 out of the community, with no stake in the case, make that
6 decision. And because it's you, you give the community a
7 confidence in the decisions that come out of the court.

8 I don't decide whether or not somebody is guilty or
9 not guilty. The District Attorney's Office doesn't decide
10 whether someone is guilty or not guilty. The governor doesn't
11 decide, the mayor doesn't decide, the county commission doesn't
12 decide, there's no special three-judge panel that decides. It's
13 you, citizens from the community who give part of their time to
14 come in and sit and consider the evidence that's -- the State
15 has prepared to offer as -- and determine whether or not someone
16 is guilty or not guilty.

17 And so I want to thank you for that service, and I
18 want to emphasize how important that service is. The right to
19 jury trial has been considered an essential right for all of us,
20 and I emphasize all of you have the right to a jury trial if any
21 of you ever become involved in the justice system. But it's a
22 right that's been thought to be important for hundreds of years.

23 When the Magna Carta, one of the first written
24 constitutions, was created in England hundreds of years ago, the
25 right to jury trial was included in that document. When the

1 United States Constitution was created in the 1780s, the right
2 to jury trial was one of those rights enshrined in our Bill of
3 Rights. And when the Nevada Constitution was written in the
4 1860s, again, the right to jury trial was included in our Bill
5 of Rights, it was included in the Nevada Constitution.

6 And so this right to jury trial has been thought to be
7 an essential and important right for all of us as citizens of
8 this country. And it's a right that people have defended for
9 hundreds of years, and millions of people have served in the
10 military, and many thousands -- hundreds of thousands have died
11 or have been wounded in the military in defending our rights,
12 including the right to jury trial.

13 And I like to emphasize that at any one time we have
14 about 1.3 million people in active duty status. We have about
15 800,000 people in reserve status, and we have usually over
16 200,000 of our military stationed overseas. And I like to
17 emphasize that point because those individuals that are serving
18 in our military, serving our country, meeting their
19 responsibilities, don't always have the chance to come home for
20 Christmas or Passover, they don't have a chance to come home for
21 a first date or a first ball game, don't have to come home for
22 the barbecue with friends or the birthday party with family.
23 They frequently have to give up a lot of things that we all take
24 for granted to serve their country and to defend our rights as
25 citizens in the country.

1 And I do like to mention that because there is going
2 to come a point during the jury selection process when I ask you
3 if there's any reason that you can't serve on the jury. And
4 before you throw up your hand and you think -- say, hey, I've --
5 I've got my family, I've got some school, I've got a job issue,
6 I've got this going on or that going on in my life, I really
7 want you to think that there are millions of people who have
8 served our country, hundreds of thousands who have fought in
9 wars and have died, and, you know, this -- this is your
10 opportunity to provide a very real and meaningful service as a
11 citizen.

12 Last thing I want to say is if you are selected for
13 jury service, I do think you'll find it to be a meaningful and
14 important experience in your life. I, before coming onto the
15 bench about three years ago, had been a prosecutor with the
16 organized crime strike force with the US Department of Justice,
17 on the federal side of the -- of the law.

18 And during that period of time I worked with a lot of
19 juries in trials that lasted a few days to trials that lasted a
20 couple months. And after each one of those trials, I would try
21 to grab some of the jurors and talk to them about the case, see
22 what I could have done better, how we could have presented the
23 case better, and -- and -- and see what their experience was
24 like.

25 And in meeting with those jurors I would ask, how did

1 you find the experience. And I'll tell you, during the 32 years
2 that I was a prosecutor, I didn't speak to any juror who didn't
3 tell me that they didn't think it was a good experience, and one
4 that they found important and gave them some real perspective as
5 to the justice system and the importance of the jury in the
6 justice system.

7 Since coming onto the bench, I've done many -- many
8 criminal and civil jury trials, and after each one of those
9 trials, I -- I do ask the jurors if they have time to go back to
10 the jury deliberation room so I can thank them personally for
11 their service, but also to find what we, as a court, can do
12 better in terms of the jury selection process that you're going
13 through today, or, you know, how we present evidence or arrange
14 things here in the court.

15 And during the course of my conversation with the
16 jurors, I always ask them how did they find the experience. And
17 I'll tell you, in the three years that I've been doing this, I
18 haven't spoken to any juror who didn't tell me that they didn't
19 find it to be a really meaningful and important experience for
20 them.

21 I've had jurors come up to me and say I was so angry
22 with you, I was so angry that you didn't let me off the jury. I
23 thought I had given you a good enough excuse to get off of the
24 jury, and you didn't let me off, but you know, I'm glad you
25 didn't let me off, I'm glad I served, it was something that I

1 think was important, and something that I really appreciate the
2 opportunity to do.

3 So if you are selected for the jury, I do think you
4 will find it to be a very good and meaningful experience and
5 give you a real sense of what it is to be a citizen of this
6 country.

7 So with that, let me introduce a few of the people
8 that you'll see during the course of our selection process
9 today, and then during the course of the trial if you're
10 selected as a juror. Seated to my left is Linda. She's our
11 courtroom clerk. She is essentially the real brains of the
12 operation here. She keeps track of all the witnesses who
13 testify, the exhibits that are admitted into evidence, and makes
14 sure that I don't screw up or forget things that need to be
15 done. And I assure you she'll remember one or two or three or
16 four or more things that I messed up and need to catch and get
17 corrected. So Linda has a very important role here.

18 The next person you'll see is Angie, and she's our
19 court recorder. And that's essentially what she does is she
20 records everything that's going on here in the courtroom. If
21 you notice, there's little microphones that are located at
22 different places here in the room, and that -- they're intended
23 to pick up everything that's being said. It's very important
24 that we have a complete and clear record of everything that goes
25 on here in the courtroom. We also have a handheld mic that

1 we'll use a lot during the jury selection process here today.

2 Because of that, there are going to be times that I
3 ask you or Angie asks you to speak up and speak a little louder
4 or put the microphone right in front of your mouth. There may
5 be times we stop you and say, hey, one at a time, please.
6 Because frequently what you'll find happens during the jury
7 selection process is I or one of the attorneys will start to ask
8 you a question and you'll anticipate the question, and you'll
9 start to answer before the question is done.

10 And at the same time we, in hearing your answers, will
11 anticipate your answers and start to ask the next question. And
12 sometimes I'll say something or Angie will say something. It's
13 not that we're trying to be rude in any way and you shouldn't
14 take it that way. It's just that we need to have a very clear
15 record of what happens here in the courtroom.

16 A little bit further is our marshal, Marshal
17 Swandeveldt. You've all met him. He's responsible for the
18 security in the courtroom while we're in session. He also is
19 responsible for handling all of you in terms of organizing and
20 getting you in and out of the courtroom.

21 And if anything comes up during the course of the
22 trial that you've got a question about or a concern about,
23 anything other than the facts of the case, you cannot discuss
24 with him the facts of the case or anything like that, but if you
25 see something that you have a question about or you want to know

1 where you can get a drink or get a soda or where the vending
2 machines are, something about parking, go and talk to him.

3 As a general rule as we go through the selection
4 process and trial, my staff and the attorneys won't talk to you,
5 even if they should happen to see you out in the halls or in the
6 elevators. And it's not that we're trying to be antisocial in
7 any way. It's simply that we don't want anything improper to
8 come to your attention during the course of the proceedings that
9 might have some influence on your verdict or deliberations.

10 And we've found the best way to sort of do that is to
11 limit people talking to you in any way who is involved with a
12 case in any way during -- during the trial. But we do have the
13 marshal who works with you, and so if something comes up, speak
14 to him and he'll pass it on to me, and I'll pass it on to the
15 attorneys in the case.

16 Over here to my right is Velma. Velma is our extern.
17 She's a law student at the UNLV Boyd School of Law, and so
18 she'll be in and out at different times during the trial sort of
19 observing and helping me with things that may come up during the
20 trial. And then you also may see John, he's my law clerk. He
21 works with me in terms of issues that come up during the trial,
22 and you may also Kelly, my assistant. She may be in and out at
23 different times.

24 Now, a couple preliminary requests and orders. The
25 first thing is while you're going through the jury selection

1 process here today, and if you're selected as a juror, you --
2 I'm ordering you not to use your social media in any way to
3 discuss this case. I'm ordering you to do that.

4 That doesn't limit you from going on Facebook and
5 talking about or posting about anything other than this case or
6 on the other social media sites and posting something other than
7 this case, but I am ordering you as to your social media
8 accounts that you may have, whatever it may be, do not go on
9 them while you're in the jury selection process and during, if
10 you're a member of the jury, and discuss posts about this case
11 in any way. I'm ordering you to do that, but I'm also asking
12 you to do that.

13 And hopefully you understand why I'm asking you to do
14 that. Again, it's very important during the course of the trial
15 that you not receive any information or hear any comments or be
16 presented with any comments that may be inappropriate for you to
17 know or for you to consider.

18 And if you go on social media like Facebook and you
19 post on there, hey, I'm being considered as a possible member of
20 a jury in a criminal trial, you don't know, people can respond.
21 And one of those responses may be something that's inappropriate
22 for you to consider. So the best way to avoid that is just
23 simply don't go on your social media and post or write or say
24 anything in regard to your being considered or participation in
25 this case.

1 The second thing I'm going to order you not to do is
2 not to use the Internet or any reference materials in any way
3 regarding this case. You can go on the Internet and check
4 scores or look up who played what role in what movie as it may
5 be for conversation or anything, but don't go on the Internet in
6 any way to look up any of the names or events or places or
7 anything that relates in any way to this case. I'm ordering you
8 not to do that, I'm asking you not to do that.

9 Hopefully, in asking you not to do that, again, you
10 appreciate the fact that you're -- you're only to consider the
11 evidence that's introduced in this case. And if you were to go
12 on the Internet and look up anything concerning any of the
13 participants or the location or anything at all, you would be
14 having information that other jurors wouldn't have and you
15 possibly would be having information that wasn't appropriate for
16 you to have.

17 And so, again, to make sure that we limit you to
18 what's been introduced through the testimony here and the
19 exhibits that are introduced, I'm asking you not to go on the
20 Internet in any way and do any investigation on your own. That
21 includes, you know, if you hear a word that you don't understand
22 or have a question about some phrase that's used, don't go
23 looking it up in a dictionary or don't go looking it up on your
24 own. It's the job of the attorneys to make sure that you have
25 all the information that you need in order to reach -- to

1 deliberate and reach a verdict, so let them do their job in that
2 regard.

3 All right. Okay. I'm going to call roll here
4 initially and make sure we got -- and I'm going to be focusing
5 for right now on the group over here. This is a group of 32.
6 I'm going to usually refer to you by your seat number or by your
7 name.

8 And the seats are -- they're numbered in the sense of
9 the back row for the far over to this side is Seat No. 1, and
10 then we go down to Seat No. 10 on this side. And then the
11 second row down, it's Seat No. 11, and we go over to Seat No.
12 20. And then right in front of the jury box we have Seat No. 21
13 and we go over to 28. And then we have four here that are Seats
14 29 through 32.

15 And so sitting in Seat No. 1 should be Ms. McCloud; is
16 that correct?

17 PROSPECTIVE JUROR NO. 0141: Yes.

18 THE COURT: All right. Now, this is your first test
19 in terms of being recorded and making sure you're loud enough to
20 be recorded. So I really need you to give me a yes, present,
21 whatever, to acknowledge that you're here. That was close, Ms.
22 McCloud, but I a little bit louder the next time, okay?

23 PROSPECTIVE JUROR NO. 0141: Okay.

24 (Prospective jury roll called)

25 THE COURT: At this point I'm going to ask everyone

1 here and everyone in the gallery to stand up so we can swear you
2 in as jurors.

3 (Prospective jury sworn)

4 THE COURT: All right. Thank you, everybody. All
5 right. At this point in time I'm going to ask the prosecutors
6 who represent the State of Nevada in this case to introduce
7 themselves, to provide you a very short summary of the case that
8 they're prepared to present, and a list of witnesses.

9 Now, I haven't heard their list of witnesses, but I
10 will frequently tell you the list of witnesses will be really
11 long and people sometimes become terrified at the thought of
12 that many people and how long the case may be because of hearing
13 that many names. The list of witnesses is intended to include
14 anyone who possibly could come in and testify. Frequently, the
15 number of people who actually testify is substantially,
16 substantially less than the list of witnesses that is give.

17 But what's important is as you hear the list of
18 witness, if you hear a name that you think you might know, put
19 that in the back of your heard because there will come a time
20 when I ask if you think that you might know any of the
21 witnesses. And at that point say, well, you know, there was the
22 name of Mark Jones, I know a Mark Jones, and we'll figure out at
23 that point if that's the Mark Jones that was mentioned is the
24 Mark Jones that you know.

25 The simple fact of the matter is, you know, names, as

1 much as we like to think our names are all unique, lots of
2 people have -- have our names for the most part. And so Eric
3 Johnson, while I'd like to think that I'm a unique individual
4 and there's no one else like me, I know, I've never actually
5 listened to any of his recordings, but I know there's a fairly
6 famous guitarist named Eric Johnson out there.

7 When I was growing up in my small town of 32,000
8 people in Kansas, there were four Eric Johnsons in the phone
9 book, and I wasn't one of them because I was living with my
10 parents. So I realize Eric Johnson is not a unique name. So if
11 there's a name that you hear, just store it away and we'll ask
12 you a little bit later if it's a name you know and we'll see if
13 it's one of our witnesses in this case.

14 All right. Be glad to hear from the State.

15 MS. SUDANO: Thank you, Your Honor.

16 Good morning, everyone. My name is Michelle Sudano.
17 I'm joined by Genevieve Craggs. We're both Deputy District
18 Attorneys, and we've been assigned to prosecute Case No.
19 C326569, State of Nevada versus Barry Harris. This is a
20 domestic violence case. The allegations took place on August
21 22nd of last year, 2017, in an apartment at 3850 Mountain Vista,
22 it's No. 267, here in Las Vegas, Clark County, Nevada.

23 Now, the charges in this case, as I indicated, are
24 domestic violence related, but it's burglary while in possession
25 of a firearm, first degree kidnapping with use of a deadly

1 weapon resulting in substantial bodily harm, assault with use of
2 a deadly weapon, battery with use of a deadly weapon
3 constituting domestic violence, battery domestic violence by
4 strangulation, battery domestic violence resulting in
5 substantial bodily harm, preventing or dissuading a witness from
6 testifying -- or, excuse me, from reporting a crime or
7 commencing prosecution, and carrying concealed firearm.

8 So you'll hear from the victim in this case, Nicole
9 Dotson. You may also hear from a Tanisha Jones. And as Judge
10 Johnson indicated, you're not going to hear from all these
11 people, so do not worry. You may also hear from Dr. Lisa Gavin
12 with the Clark County Coroner's Office, some additional medical
13 personnel by the name of Priscilla Benedict, Dr. Patrick Flores,
14 Nick Knight, Cheuk Lam, and Dr. Peter Williams.

15 You may hear from some individuals who work in the
16 District Attorney's Office, including Jerome Revels, Debra
17 Patterson, Richmond Warnke, and Kelly Ploense. You may hear
18 from custodians of records that work at several different
19 establishments, including the Las Vegas Metropolitan Police
20 Department, the Clark County Detention Center, AMR, Medic West,
21 and Sunrise Hospital.

22 And then finally you may hear from a number of
23 different individuals from the Las Vegas Metropolitan Police
24 Department, including Shawn Beck, Nicholas Bianco, Kevin Carey,
25 John Deschutter, J. Emery, Gabrielle Guerrero, Michael Hambly,

1 Blake Ferron, Ken Krmpotich, Lance Landholm, Joseph Lepore,
2 Brandon McFarlane, Chad Palmira, Kevin Samuels, Jason Santos,
3 Mark Shea, Linda Theobold, and Gilbert Vannostrand.

4 Thank you all for your attention.

5 THE COURT: All right. Thank you, counsel.

6 Now, I'll invite defense counsel to introduce himself,
7 defendant, and any additional witnesses that he'd like to put
8 the jury on notice of.

9 MR. SHEETS: Good morning, everybody. My name is
10 Damian Sheets. I am the criminal defense attorney that's
11 representing Mr. Harris. I work out of a law firm called
12 Mayfield Gruber & Sheets. Certain staff members that work with
13 us are Judith Veyond (phonetic), Myra Gonzalez, Maritza Mendoza,
14 Danielle Littman, Elizabeth Allison, Harvey Gruber. Potential
15 witnesses in this case would be Ryan Conner, my private
16 investigator, and potentially Mr. Harris, and then any of the
17 witnesses that the defense has referenced today.

18 THE COURT: All right. Thank you very much, counsel.

19 All right. We're going to start asking some questions
20 now. And I want to emphasize that there's no right answer to
21 any question, there's no wrong answer to any question. We just
22 want honest answers from you. Sometimes I hear from jurors
23 concerns, you know, how they should answer a question because
24 they're afraid they're going to show some sort of bias or
25 prejudice in some way. And don't feel concerned about that in

1 any way.

2 We all have certain biases and prejudices. Sometimes
3 those are conscious bias or prejudice. Sometimes they're
4 subconscious biases or prejudice. But the point of it is if
5 frequently if we recognize our biases and prejudice, we can set
6 those aside and weigh and consider a case as fairly, being fair
7 to both sides in the case.

8 So the fact you may have a bias or prejudice, don't
9 feel back about that in any way. The key question, then, is can
10 you set aside that bias or prejudice and follow my instructions
11 on the law and be fair to both sides. So all we're looking for
12 here is an honest answer from all of you to the questions that I
13 and the attorneys are going to ask.

14 Now, if at any time I ask you a question which you are
15 uncomfortable answering out here in front of everyone, just say
16 to me that you'd like to have a sidebar or answer it privately,
17 and what we'll do at that point is we'll have you go back behind
18 the bench here. The attorneys will be present and it will be
19 something that's recorded, but it is something where you
20 wouldn't have to say it out in front of everyone.

21 And so we can do that. I don't encourage you to do
22 that a lot because, obviously, that takes time as we, you know,
23 go through the process. But if it's something that we need to
24 do in order to get an honest answer out of you, then definitely
25 let us know and we'll take you back to a sidebar.

1 Now, in terms of most of my questioning, I'm going to
2 focusing on the group of 32 over here. Those of you who are
3 sitting out in the gallery, it's very important that you listen
4 to each of the questions that I ask, and each of the questions
5 that the attorneys ask. And the reason for that is usually at
6 different times people will be excused from this group of 32
7 over here. And when those people are excused, we'll be taking
8 somebody out of the group out there in to fill their spots.

9 When you come in and you fill a spot, what I'm going
10 to do is ask you if you heard the questions that I've asked so
11 far. And if you say yes, I'm going to ask you if you would have
12 answered any of those questions. And if you say yes, then I'll
13 say go ahead and let us know the questions that you would have
14 answered, and you answer the questions.

15 If, however, I ask you have you heard all the
16 questions that I've asked so far today and you say no, then I
17 have to go back and repeat all the questions that I've asked you
18 so far today, and everybody will stare at you in a real mean way
19 because that takes up time and everybody is wanting to move the
20 process forward as quickly as possible. So it's really
21 important that you need to listen to all the questions.

22 And I need everybody back there to listen to the
23 questions because it's very possible that we'll get to the very
24 last person in -- who is sitting out there in the gallery in
25 terms of seating a jury here today. I'll tell you that in the

1 course of my time on the bench there's been three occasions
2 where we've gone through literally everyone in the jury box to
3 -- to get to a jury. So I really need you to -- everyone to
4 listen.

5 Okay. Now, the first question I'm going to ask,
6 though, is for everybody, people here in the group of 32 and
7 people out in the gallery, and that is language. Is there
8 anyone having trouble hearing me, either because you have a
9 hearing problem or because English is not your native language?

10 Okay. Let's go and --

11 PROSPECTIVE JUROR NO. 0210: She raised her hand.

12 THE COURT: -- take the mic to Juror --

13 PROSPECTIVE JUROR NO. 0210: She raised her hand.

14 THE COURT: Okay. I usually try to take in order, and
15 Juror No. 11, Ms. Gamez raised her hand. Yes, ma'am?

16 PROSPECTIVE JUROR NO. 0164: I not speak English good
17 and I understand a lot here, so --

18 THE COURT: What is your native language? What
19 language?

20 PROSPECTIVE JUROR NO. 0164: Spanish. Yeah, Spanish.

21 THE COURT: Spanish? Okay. And how much of what I'm
22 saying do you feel you understand? Not very much, huh?

23 PROSPECTIVE JUROR NO. 0164: No, I don't.

24 THE COURT: Okay. If we had a translator, do you
25 think that might help?

1 PROSPECTIVE JUROR NO. 0164: Well, that's -- if that
2 was possible --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 0164: -- it's fine.

5 THE COURT: All right. Thank you.

6 Let's hand -- I thought there was another hand. Let's
7 go down to No. 20. Ms. Ramirez-DeCastaneda.

8 PROSPECTIVE JUROR NO. 0199: I'm sorry. No English.
9 Only in Spanish.

10 THE COURT: Spanish?

11 PROSPECTIVE JUROR NO. 0199: Yes.

12 THE COURT: Okay. All right. Do you understand
13 anything that I'm saying?

14 PROSPECTIVE JUROR NO. 0199: Poquito.

15 THE COURT: Just a little bit? Okay. If we were able
16 to get a translator, do you think you might be able to work?

17 PROSPECTIVE JUROR NO. 0199: Yes.

18 THE COURT: Okay. All right. Thank you.

19 Anybody else? I'm not seeing hands over here in the
20 32. Okay. I see one hand in the gallery. And if I could have
21 their badge number.

22 THE MARSHAL: 297.

23 THE COURT: Okay. And you have a language problem or
24 a hearing problem?

25 PROSPECTIVE JUROR NO. 0297: Yo hablo Espanol.

1 THE COURT: You speak Spanish, too? Okay.
2 PROSPECTIVE JUROR NO. 0297: Yeah.
3 THE COURT: All right. How much of what I've said so
4 far do you understand?
5 PROSPECTIVE JUROR NO. 0297: Muy poquito.
6 THE COURT: A little bit?
7 PROSPECTIVE JUROR NO. 0297: Yeah.
8 THE COURT: Okay. All right. If we found a
9 translator, do you think you might be able to -- to work?
10 PROSPECTIVE JUROR NO. 0297: Uh-huh.
11 THE COURT: Okay.
12 THE RECORDER: I need a yes or a no.
13 THE COURT: Yes or -- you need to answer yes or no.
14 THE RECORDER: Yes or no?
15 PROSPECTIVE JUROR NO. 0297: Yes.
16 THE COURT: Okay. All right. All right. Thank you
17 very much.
18 All right. Now, anybody I missed? Okay. Let the
19 record reflect no other hands. All right.
20 Now, let me focus on the group of 32 over here.
21 Hopefully quick questions. Let me ask, is there anyone of the
22 group of 32 over here who is not a U.S. citizen? The record
23 will reflect no hands.
24 Is there anyone of the group over here who has ever
25 been convicted of a felony? All right. Let the record reflect

1 no hands.

2 Is there anyone who has a prejudice or bias for or
3 against any individuals relating to age, gender, religion,
4 ethnic origin, or gender identity? All right. Let the record
5 reflect no hands.

6 Now, you have had the prosecutors introduce -- we've
7 had the defense attorney introduce himself and the defendant.
8 Let me ask you, is there anyone who thinks you are acquainted
9 with or know or have some information about the defense attorney
10 in this case, Mr. Sheets? All right. Let the record reflect no
11 hands.

12 Is there anyone who thinks they may know or have any
13 acquaintance with or have some information or familiarity at all
14 with the defendant in this case, Mr. Harris? All right. Let
15 the record reflect no hands.

16 Now, the prosecutors have introduced themselves in
17 this case. Is there anyone who thinks they know or have heard
18 of or seen or have any information concerning our two
19 prosecutors? Let the record reflect no hands.

20 Now, the Clark County District Attorney's Office
21 participates in a reality type television program called Sin
22 City Justice on the Investigation Discovery Channel. Has anyone
23 ever watched the program?

24 PROSPECTIVE JUROR NO. 0202: What program?

25 THE COURT: Sin City Justice on the Investigation

1 Discovery Channel. Okay. All right. Let the -- this isn't
2 good for ratings, but let the record reflect no hands.

3 Let me ask is there anyone who -- over here who knows
4 anyone at the Clark County District Attorney's Office, an
5 attorney or a staff member? Okay. Let's hand the microphone
6 back to Mr. Davidson.

7 PROSPECTIVE JUROR NO. 0150: Yes, sir.

8 THE COURT: Okay. No. 7.

9 PROSPECTIVE JUROR NO. 0150: I'm involved with the
10 Clark County District Attorney with a current project. We're
11 actually all through Clark County, so a public defender and DA,
12 as well as the county building, this whole RJC.

13 THE COURT: Okay. What's the project?

14 PROSPECTIVE JUROR NO. 0150: It's the copier and
15 printers, they're replaced. The contract is up. The City
16 Commission, we start next week.

17 THE COURT: Okay. All right. And so --

18 PROSPECTIVE JUROR NO. 0150: So I work with the IT
19 department at the DA, as well as Clark County Public, and one of
20 the other courts, district courts.

21 THE COURT: All right. Well, I'm glad to hear we're
22 getting new copy machines, so that's -- that's good. All right.
23 Let me ask you, is there anything about your work with the IT
24 department or anyone with any of those agencies, Clark County
25 District Attorney or the Clark County Public Defender or here at

1 the Regional Justice Center that would affect your ability to be
2 a fair juror in this case?

3 PROSPECTIVE JUROR NO. 0150: No.

4 THE COURT: All right. Do you think you would be able
5 to follow my instructions and fairly and unbiasedly apply those
6 instructions to the evidence submitted?

7 PROSPECTIVE JUROR NO. 0150: Yes.

8 THE COURT: Okay. Thank you.

9 Anybody else I missed who knows someone at the Clark
10 County District Attorney's Office, either an attorney or staff
11 member? Let the record reflect no other hands.

12 All right. Now, this is a -- is this a Metro or North
13 Las Vegas case?

14 MS. SUDANO: Metro.

15 THE COURT: Metro. All right. Let me ask you, is
16 there anyone who knows somebody who works for the Las Vegas
17 Metropolitan Police Department? All right. We've got a few
18 hands for that. Let's start back again with Mr. Davidson, No.
19 7.

20 PROSPECTIVE JUROR NO. 0150: Yeah, I have a couple of
21 girls I used to coach, their fathers were -- one was SWAT and
22 one was Metro, both Metro.

23 THE COURT: Okay. And coach --

24 PROSPECTIVE JUROR NO. 0150: And the rest are
25 Henderson. Yeah.

1 THE COURT: And how long ago was that?

2 PROSPECTIVE JUROR NO. 0150: A couple years ago. I
3 haven't seen them in a bit, though.

4 THE COURT: Okay. And what were you coaching?

5 PROSPECTIVE JUROR NO. 0150: Soccer.

6 THE COURT: All right. Any social relationship
7 outside soccer?

8 PROSPECTIVE JUROR NO. 0150: No, sir.

9 THE COURT: Okay. Anything about the -- about your
10 connection with them and your experience with them and their
11 kids that would affect your ability to be a fair juror in this
12 case?

13 PROSPECTIVE JUROR NO. 0150: No, sir.

14 THE COURT: All right. Let's see. I thought I saw
15 another hand. All right. I'm going to try to go in order, so
16 right now I'll focus on the back row, and let's go to No. 9, Ms.
17 Collins.

18 PROSPECTIVE JUROR NO. 0153: Yes. My nephew is a
19 police officer with Metro.

20 THE COURT: Okay. And how long has he been a police
21 officer?

22 PROSPECTIVE JUROR NO. 0153: It's been a number of
23 years.

24 THE COURT: Okay. What's he -- is he patrol or a
25 detective or --

1 PROSPECTIVE JUROR NO. 0153: I honestly, I don't know
2 exactly what department he's in.

3 THE COURT: Okay. All right. Do you talk about his
4 work very much?

5 PROSPECTIVE JUROR NO. 0153: No.

6 THE COURT: Okay. Anything about your relationship
7 with him and his work that would affect your ability to be a
8 fair juror in this case?

9 PROSPECTIVE JUROR NO. 0153: I don't think so.

10 THE COURT: Okay. Do you think you'd be able to
11 follow my instructions and fairly and unbiasedly apply those
12 instructions to the evidence admitted?

13 PROSPECTIVE JUROR NO. 0153: Yes.

14 THE COURT: All right. Thank you. And I think next
15 door in Seat No. 10, Ms. Faso, had her hand up.

16 PROSPECTIVE JUROR NO. 0160: Yeah. I live next to
17 three Metro police officers, and then I'm currently dating
18 someone in the academy --

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 0160: -- for Metro.

21 THE COURT: All right. Let me ask, you say you live
22 next to three -- is this in your neighborhood or --

23 PROSPECTIVE JUROR NO. 0160: Yeah, in my neighborhood.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 0160: So it's me, a fellow

1 house, and then there's a police officer, he's a K-9. And then
2 across the street, right next to each other, there's two just
3 regular Metro cops.

4 THE COURT: Okay. And how long have you lived in that
5 -- around that area?

6 PROSPECTIVE JUROR NO. 0160: Five years.

7 THE COURT: Okay. Do you guys socialize very much
8 or --

9 PROSPECTIVE JUROR NO. 0160: With my K-9 cop we do
10 like barbeques and stuff.

11 THE COURT: Okay. But the two guys across the street,
12 you don't socialize that much?

13 PROSPECTIVE JUROR NO. 0160: They're not as friendly.

14 THE COURT: Oh. Well, all right. You know a guy
15 loves dogs, what can you -- what can you expect. All right.
16 And -- and then you say you were dating someone.

17 PROSPECTIVE JUROR NO. 0160: Yeah, he's trying to get
18 into the academy right now.

19 THE COURT: Okay. All right. Let me ask, is there
20 anything about your relationship with your neighbors or your --
21 the gentleman -- is it a gentleman that you're dating that --

22 PROSPECTIVE JUROR NO. 0160: Yes.

23 THE COURT: -- would affect your ability to be a fair
24 juror in this case?

25 PROSPECTIVE JUROR NO. 0160: I'm not sure about my

1 current dating, but my neighbor, we have talked about like
2 incidents that have happened like crimes in the neighborhood --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 0160: -- so I'm not sure.

5 THE COURT: All right. Well, you know, you're talking
6 about crimes in your neighborhood. But that's obviously a
7 totally different situation than what you're going to be exposed
8 to here. Those are totally different facts. What's going to
9 happen here is we're going to have witnesses who are going to
10 come in and testify under oath, and we're going to have exhibits
11 that are introduced. And so what I need to know is do you think
12 you'll be able to focus on the evidence that's presented here --

13 PROSPECTIVE JUROR NO. 0160: Yeah.

14 THE COURT: -- and be able to be fair to both sides?

15 PROSPECTIVE JUROR NO. 0160: Yes.

16 THE COURT: Okay. Again, you think you'd be able to
17 follow my instructions and fairly and unbiasedly apply those
18 instructions to the evidence admitted here?

19 PROSPECTIVE JUROR NO. 0160: Yes.

20 THE COURT: Okay. Thank you.

21 All right. Did I miss anyone in the front row -- I
22 mean, the back row? Okay. Anyone? All right. Let's go to the
23 next row down, and I thought I saw some hands. Okay. I see
24 two. Let's go to -- like I said, I try to keep things
25 numerically. Let's go to 13, Mr. Brown.

1 PROSPECTIVE JUROR NO. 0173: Yes. I --
2 THE COURT: Hold on.
3 THE RECORDER: Hold on. Wait for the mic.
4 THE COURT: Let me get the mic.
5 PROSPECTIVE JUROR NO. 0173: Oh, okay.
6 THE COURT: It's coming up behind you. There you go.
7 PROSPECTIVE JUROR NO. 0173: Yes, I know a couple
8 Metro cops, and also my son is in -- what is it, a correction
9 officer in the prison. I don't know if that affects anything.
10 THE COURT: Yeah, that counts.
11 PROSPECTIVE JUROR NO. 0173: And then I know of
12 someone where they take their stuff that's investigated or
13 whatever.
14 THE COURT: The evidence vault?
15 PROSPECTIVE JUROR NO. 0173: Yeah.
16 THE COURT: Okay. All right. And who -- all right.
17 What was the first name that you gave me before your son?
18 PROSPECTIVE JUROR NO. 0173: Metro police.
19 THE COURT: Okay. And who do you know?
20 PROSPECTIVE JUROR NO. 0173: Bill Kitsakelly
21 (phonetic).
22 THE COURT: And how long have you known him?
23 PROSPECTIVE JUROR NO. 0173: Probably seven or eight
24 years.
25 THE COURT: Okay. And you socialize much with him?

1 PROSPECTIVE JUROR NO. 0173: Not lately. He moved
2 across town.

3 THE COURT: Okay. Was -- what kind of work did he do
4 for Metro?

5 PROSPECTIVE JUROR NO. 0173: He is a Metro cop.

6 THE COURT: Okay. And then you said that your son was
7 a corrections officer?

8 PROSPECTIVE JUROR NO. 0173: A correction officer at
9 the prison.

10 THE COURT: And how long has he been doing that?

11 PROSPECTIVE JUROR NO. 0173: Six years now, seven.

12 THE COURT: All right. And then I'm trying to
13 remember. There was one other --

14 PROSPECTIVE JUROR NO. 0173: And criminal or --

15 THE COURT: Oh, that's right.

16 PROSPECTIVE JUROR NO. 0173: -- well, the --

17 THE COURT: It was the --

18 PROSPECTIVE JUROR NO. 0173: -- investigation.

19 THE COURT: -- evidence vault. All right. And how do
20 you know that person?

21 PROSPECTIVE JUROR NO. 0173: We know her through my
22 son, and I've known her probably 13 or 14 years.

23 THE COURT: Okay. Do you socialize with her at all?

24 PROSPECTIVE JUROR NO. 0173: Oh, every chance we get.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 0173: I haven't seen her for
2 probably six months to a year.

3 THE COURT: Okay. All right. Is there anything about
4 your relationship with your one friend, your son, and the woman
5 who works at the evidence vault that would affect your ability
6 to be a fair juror in this case?

7 PROSPECTIVE JUROR NO. 0173: No, I don't think so.

8 THE COURT: All right. You think you would be able to
9 follow my instructions and fairly and unbiasedly apply those
10 instructions to the evidence admitted?

11 PROSPECTIVE JUROR NO. 0173: Yes.

12 THE COURT: All right. Thank you.

13 And then let's go down. The next hand I saw was Mr.
14 Court.

15 PROSPECTIVE JUROR NO. 0193: Yes, sir.

16 PROSPECTIVE JUROR NO. 0184: I had my hand up, too.

17 THE COURT: Oh, I'm sorry. I apologize. I didn't see
18 it. And that's No. 14, Ms. Iverson.

19 PROSPECTIVE JUROR NO. 0184: I have a cousin that's a
20 Metro policeman, and a friend's husband that -- that I'm close
21 to both of those families.

22 THE COURT: Okay. So you socialize with them?

23 PROSPECTIVE JUROR NO. 0184: Uh-huh.

24 THE COURT: You need to answer yes or no.

25 PROSPECTIVE JUROR NO. 0184: Yes. Sorry.

1 THE COURT: Okay. And how long have you known them,
2 just generally?

3 PROSPECTIVE JUROR NO. 0184: His whole life. The
4 police officer's whole life, the first one that I mentioned.
5 The second one for the last 20 years.

6 THE COURT: Okay. All right. Let me ask, is there
7 anything about your relationship to them and their work that you
8 think would affect your ability to be a fair juror in this case?

9 PROSPECTIVE JUROR NO. 0184: No.

10 THE COURT: Okay. Do you think you'd be able to
11 follow my instructions and fairly and unbiasedly apply those
12 instructions to the evidence admitted?

13 PROSPECTIVE JUROR NO. 0184: Yes.

14 THE COURT: Okay. All right. Now, let's see if we're
15 -- anybody else before we get to Mr. Court, No. 18?

16 All right. Go ahead, sir.

17 PROSPECTIVE JUROR NO. 0193: I have several friends
18 that are working for Metro --

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 0193: -- at the moment, like
21 four.

22 THE COURT: Four? Okay. And who are they?

23 PROSPECTIVE JUROR NO. 0193: Two of them I went to
24 high school with and played football with them. One of them is
25 actually my friend's dad, but they're both in Metro together.

1 The other one is a family friend that our fathers have known
2 each other for 20-something years.

3 THE COURT: Okay. The ones you played football with,
4 do you still socialize with them?

5 PROSPECTIVE JUROR NO. 0193: Yes.

6 THE COURT: Okay. All right. And then the other, I
7 get the impression you socialize with them, too?

8 PROSPECTIVE JUROR NO. 0193: Yeah, yeah, yeah. Well,
9 when our dads are, you know, together --

10 THE COURT: Okay. All right.

11 PROSPECTIVE JUROR NO. 0193: -- type situation. Yeah.

12 THE COURT: All right. Anything about your relation
13 with them and their work that would affect your ability to be a
14 fair juror in this case?

15 PROSPECTIVE JUROR NO. 0193: I do not believe so.

16 THE COURT: Okay. And you think you would be able to
17 follow my instructions and fairly and unbiasedly apply those
18 instructions to the evidence admitted?

19 PROSPECTIVE JUROR NO. 0193: Yes.

20 THE COURT: All right. Thank you.

21 Anyone else in the second row that I missed? All
22 right. The next row down, anyone know someone who works for
23 Metro? All right. Let's go to No. 24, Ms. Vasquez.

24 PROSPECTIVE JUROR NO. 0212: Yes, my brother --

25 THE RECORDER: Hold on. Just --

1 THE COURT: Hold on. We --
2 THE RECORDER: -- waiting for the mic.
3 THE COURT: -- need to get you the microphone.
4 THE RECORDER: Thank you.
5 THE COURT: Sorry.
6 PROSPECTIVE JUROR NO. 0212: My brother is a
7 correctional officer at Indian Springs, and I have cousin who is
8 also a correctional officer here in town.
9 THE COURT: Okay.
10 PROSPECTIVE JUROR NO. 0212: And I have a co-worker
11 whose wife is also a police officer or a detective. I'm not
12 sure exactly what she does.
13 THE COURT: Okay.
14 PROSPECTIVE JUROR NO. 0212: We're Facebook friends,
15 but we don't really socialize or anything.
16 THE COURT: All right. I assume you socialize with
17 your brother?
18 PROSPECTIVE JUROR NO. 0212: Not often, but
19 occasionally, yes.
20 THE COURT: All right. All right. And then the --
21 the -- let's see, your brother and then --
22 PROSPECTIVE JUROR NO. 0212: My cousin.
23 THE COURT: -- your cousin. Do you socialize much
24 with your cousin?
25 PROSPECTIVE JUROR NO. 0212: Not often.

1 THE COURT: Okay. All right. Anything about your
2 relationship with them and their work that -- people that you've
3 mentioned and their work that would affect your ability to be a
4 fair juror in this case?

5 PROSPECTIVE JUROR NO. 0212: No.

6 THE COURT: Okay. You feel you would be able to
7 follow my instructions and fairly and unbiasedly apply those
8 instructions to the evidence admitted?

9 PROSPECTIVE JUROR NO. 0212: Yes.

10 THE COURT: Okay. Thank you. I know there was
11 another hand. Okay. Let's go down to No. 26, Ms. Sanchez.

12 PROSPECTIVE JUROR NO. 0220: Uh-huh. My daughter's
13 ex-husband is --

14 THE RECORDER: I'm sorry. You need the mic closer to
15 your mouth.

16 PROSPECTIVE JUROR NO. 0220: My daughter's ex-husband,
17 he works for Metro, and my daughter works as a probation and
18 parole officer.

19 THE COURT: Okay. All right. And still socialize
20 with your daughter's ex-husband?

21 PROSPECTIVE JUROR NO. 0220: No.

22 THE COURT: Okay. You never know nowadays, so -- and
23 then --

24 PROSPECTIVE JUROR NO. 0220: My daughter, yes.

25 THE COURT: Your daughter, yes. All right. And

1 anything about their work, the people you mentioned, their work
2 and your relation to them that would affect your ability to be a
3 fair juror in this case?

4 PROSPECTIVE JUROR NO. 0220: No.

5 THE COURT: Okay. Thank you very much.

6 Let's -- anybody else? I'm not seeing any hands.

7 Anyone in the row here? All right. We've got a couple hands.

8 Let's go to No. 29, Mr. Nordsiek.

9 PROSPECTIVE JUROR NO. 0235: Yes.

10 THE COURT: Who do you know?

11 PROSPECTIVE JUROR NO. 0235: I have a good friend who
12 works for Metro.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 0235: He's a patrol cop in the
15 northwest.

16 THE COURT: All right. How long have you known him?

17 PROSPECTIVE JUROR NO. 0235: Five years.

18 THE COURT: All right. And I take it you socialize?

19 PROSPECTIVE JUROR NO. 0235: We had a barbeque last
20 night.

21 THE COURT: Okay. Good deal. And you mentioned to
22 him that you were coming in to be considered for a jury?

23 PROSPECTIVE JUROR NO. 0235: Yeah, I did.

24 THE COURT: Okay. And what did he say?

25 PROSPECTIVE JUROR NO. 0235: Good luck.

1 THE COURT: All right. Very good. All right. Let me
2 ask, is there anything about your relationship with him and the
3 work that he does that would affect your ability to be a fair
4 juror in this case?

5 PROSPECTIVE JUROR NO. 0235: No.

6 THE COURT: All right. Do you feel you would be able
7 to follow my instruction and fairly and unbiasedly apply those
8 instructions to the evidence admitted?

9 PROSPECTIVE JUROR NO. 0235: Yes, sir.

10 THE COURT: Okay. Thank you. Let's hand that now to
11 No. 30, Ms. Medrano.

12 PROSPECTIVE JUROR NO. 0240: Yes.

13 THE COURT: Who do you know?

14 PROSPECTIVE JUROR NO. 0240: I know Officer Randall
15 for Metro. We socialize outside of work.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 0240: Our sons play sports
18 together. And I am also an employee of Metro.

19 THE COURT: Okay. And how long have you known Officer
20 Randall?

21 PROSPECTIVE JUROR NO. 0240: I've known him since high
22 school, so 10-plus years.

23 THE COURT: Okay. All right. And then what do you do
24 for Metro?

25 PROSPECTIVE JUROR NO. 0240: I work at the Detention

1 Center.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 0240: Clark County.

4 THE COURT: And what do you do there?

5 PROSPECTIVE JUROR NO. 0240: I do processing.

6 THE COURT: Okay. All right. And how long have you
7 been doing that?

8 PROSPECTIVE JUROR NO. 0240: Over a year.

9 THE COURT: All right. Let me ask in terms of your
10 friendship with Officer Randall and your work at the Detention
11 Center, is there anything about that that would affect your
12 ability to be a fair juror in this case?

13 PROSPECTIVE JUROR NO. 0240: Not so much my
14 relationship with Officer Randall, but maybe things in my job.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 0240: Working over there, being
17 in processing.

18 THE COURT: All right. How do you think that working
19 in processing might affect your ability to be fair in this case?

20 PROSPECTIVE JUROR NO. 0240: Just having seen things
21 that we book. I'm not sure if it would generally affect this
22 case in particular, but --

23 THE COURT: Okay. Well, as I was saying to the other
24 potential juror, you know, whatever you've seen in these other
25 cases is nothing that -- you know, that you're going to be

1 seeing here. This is a totally different case. And the case is
2 going to involve the witnesses who testify here and the exhibits
3 that are introduced here. The question I have is do you think
4 you would be able to put aside these other cases and focus on
5 the evidence here and be fair to both sides?

6 PROSPECTIVE JUROR NO. 0240: Yes.

7 THE COURT: Okay. You think you'd be able to follow
8 my instructions and fairly and unbiasedly apply those
9 instructions to the evidence admitted?

10 PROSPECTIVE JUROR NO. 0240: Yes, sir.

11 THE COURT: All right. Did I miss anybody else? All
12 right. Let the record reflect no hands.

13 Let me ask, does anyone here believe they know
14 anything about the facts of this particular case, either through
15 personal knowledge, conversations with people, the news media,
16 or social media? Anybody think they know anything at all about
17 the facts of this particular case? All right. Let the record
18 reflect no hands.

19 All right. Let me talk now a little bit about
20 scheduling. This case -- the attorneys have indicated they
21 think this case can be done in four days. There is a chance it
22 might slip into a fifth day, but I think it can be done in four
23 days. This week the trial -- today we will go until
24 approximately 5:00. We'll take a break here for lunch probably
25 around 12:30 to 1:00. I usually try to break at that time

1 because it's easier to do that with the lunch crowd. If you go
2 down right at 12:00, you'll be standing out for a long time at
3 Capriotti's of some of the other lunch spots.

4 Tomorrow we'll get started at around 1:00 and go to
5 5:00. And then on Wednesday we'll get started around 9:00 and
6 go to 5:00 for the lunch break. And then on Thursday we'll get
7 started around 12:30 and go until about 4:00. Friday we'll only
8 be in session if we -- you're deliberating. If there's a need
9 to present additional evidence or to do argument, then you'll be
10 off on Friday and we'll come back on Monday to finish up the
11 case.

12 So that's the general parameters of -- of the schedule
13 in this case. This is not a long case. Fortunately, you aren't
14 being brought in to be considered for a construction defect
15 case, you aren't having to sit for six months to study yellow
16 brass and the effect of our water on that, which is one of the
17 cases we've had in this court, or nine months and the effect of
18 different elements in Nevada on stucco. So this will be a
19 fairly short case.

20 We don't get started until around noon-ish on Tuesdays
21 and Thursdays because I have a criminal calendar in the
22 mornings. I have -- besides this case, I have several hundred
23 other cases that I'm responsible for continuing to move. So we
24 set those hearings on Tuesday and Thursday mornings, and I
25 usually have anywhere from 35 to 50-plus matters that I have to

1 consider in those calendars. And so it pretty much does take
2 the morning, and sometimes a lot longer than that to get through
3 it.

4 But we'll make a point to get through it in time to
5 get started at 1:00 tomorrow, and around 12:30 on Thursday.
6 While we're not in session, you're certainly free to work or do
7 whatever you want, just so long as you can get down here when we
8 get ready to -- to start up and keep the trial moving.

9 All right. With that, let me ask anyone over here, is
10 there -- is there anyone who has any issue with being able to
11 serve with that schedule? Okay. A few hands. All right.
12 Let's go up to No. 1, Ms. McCloud. Hand that microphone back to
13 her.

14 Go ahead, Ms. McCloud.

15 PROSPECTIVE JUROR NO. 0141: I have just started my
16 quarter. I'm a college student and it's --

17 THE COURT: I'm sorry. Could you say it a little
18 louder?

19 PROSPECTIVE JUROR NO. 0141: It's my first week of
20 school for my sophomore year in college, and I have to have a
21 certain amount of hours in my lab, and I don't believe I'll be
22 able to miss that many days.

23 THE COURT: When do you have classes and lab?

24 PROSPECTIVE JUROR NO. 0141: Today I start 1:00 in the
25 afternoon until 10:00 tonight, tomorrow I have 1:00 to 4:00,

1 and, oh, my gosh, let me think. Wednesday I have 5:00 to 10:00,
2 and then Thursday I have 1:00 to 6:00.

3 THE COURT: Okay. Do you think you could get, for
4 your jury service, get those lab times adjusted like you have on
5 Wednesday from 5:00 to 10:00?

6 PROSPECTIVE JUROR NO. 0141: My classes are already
7 set in stone for the quarter. I was able to, you know, get
8 excused for today, but I would have to talk with my chair, my
9 department chair --

10 THE COURT: All right.

11 PROSPECTIVE JUROR NO. 0141: -- at school.

12 THE COURT: Okay. Thank you.

13 Let's go down -- who was the next hand that was up?
14 Let's go over to No. 3, Ms. Seiling.

15 PROSPECTIVE JUROR NO. 0144: I just have a problem
16 with Wednesday. I have tickets to the hockey game, so I don't
17 know if I'd be able to get out of here at 5:00 and get all the
18 way across town to pick up my son and get all the way back to
19 the strip.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 0144: If we could be done a
22 little bit early --

23 THE COURT: What time is the game starting on
24 Wednesday?

25 PROSPECTIVE JUROR NO. 0144: 7:00.

1 THE COURT: 7:00. Okay.

2 PROSPECTIVE JUROR NO. 0144: Yeah.

3 THE COURT: All right.

4 PROSPECTIVE JUROR NO. 0144: Otherwise, I'm good.

5 THE COURT: We probably, for that kind of situation,
6 maybe make a little time adjustment.

7 PROSPECTIVE JUROR NO. 0144: Yeah.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 0144: Then, I'm good.

10 THE COURT: All right. Thank you.

11 Let's go down to the next hand that was up. Ms.
12 Ubaldo?

13 PROSPECTIVE JUROR NO. 0146: Yeah. I work a full-time
14 job. I can't miss that many days.

15 THE COURT: Where do you work?

16 PROSPECTIVE JUROR NO. 0146: Lorica (phonetic),
17 pharmacy help.

18 THE COURT: I'm sorry. What?

19 PROSPECTIVE JUROR NO. 0146: Lorica, pharmacy help.

20 THE COURT: Where -- where is that?

21 PROSPECTIVE JUROR NO. 0146: It's near like Pilot, by
22 the airport.

23 THE COURT: Okay. And, I'm sorry, what kind of work
24 is that?

25 PROSPECTIVE JUROR NO. 0146: Pharmacy help, like prior

1 authorizations for medications.

2 THE COURT: You do what, I'm sorry?

3 PROSPECTIVE JUROR NO. 0146: Prior authorization for
4 like certain scripts.

5 THE COURT: Okay. You write the scripts?

6 PROSPECTIVE JUROR NO. 0146: No, I approve them.

7 THE COURT: You approve them.

8 PROSPECTIVE JUROR NO. 0146: I ask criteria questions
9 of certain physicians.

10 THE COURT: All right.

11 PROSPECTIVE JUROR NO. 0146: From doctors.

12 THE COURT: All right. And how are you paid there?

13 PROSPECTIVE JUROR NO. 0146: Sorry?

14 THE COURT: Are you on a salary or how are you paid?

15 PROSPECTIVE JUROR NO. 0146: It's hourly.

16 THE COURT: It's hourly. Okay. Now, do they make any
17 provision for jury service? A lot of these businesses do.

18 PROSPECTIVE JUROR NO. 0146: I can request it, but my
19 situation, I've already missed a few days from work from being
20 sick. So if I were to tell them I would miss some more, I don't
21 think they'd be able to be okay with that.

22 THE COURT: All right. Well, my office can also call
23 if there's issues in that regard. All right. Thank you very
24 much.

25 Let's pass the mic down to the next hand that was up,

1 and that's No. 6, Mr. Roberts.

2 PROSPECTIVE JUROR NO. 0148: I've been in a hotel for
3 the past five weeks due to a construction defect.

4 THE COURT: Oh. Yellow brass or stucco?

5 PROSPECTIVE JUROR NO. 0148: Leaking wax ring in the
6 toilet in the unit above mine.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 0148: Both of my bathrooms were
9 gutted. Reconstruction is supposed to start today. The
10 insurance company will only pay for the hotel for two more
11 weeks. So every day that I'm not there to let the construction
12 workers in is a day that they're not working.

13 THE COURT: Okay. All right. So what time do you
14 need to let them in?

15 PROSPECTIVE JUROR NO. 0148: Whatever time they want
16 to show up for work, usually 8:00 a.m.

17 THE COURT: Okay. All right.

18 PROSPECTIVE JUROR NO. 0148: But I'm -- obviously, I
19 can't leave them there by themselves.

20 THE COURT: I'm sorry. What?

21 PROSPECTIVE JUROR NO. 0148: I can't leave them there
22 by themselves unattended.

23 THE COURT: And is there anyone else who can watch
24 them while you're -- you're not there?

25 PROSPECTIVE JUROR NO. 0148: I own 20 guns.

1 THE COURT: I'm sorry. What?

2 PROSPECTIVE JUROR NO. 0148: I said I own 20 guns.
3 I'm not going to leave them in my condo with 20 guns.

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

5 Anybody else in the back row? Let's go down to No.
6 8., Ms. Galindo.

7 PROSPECTIVE JUROR NO. 0152: I only have an issue on
8 Wednesday. My son will be having an MRI, and he's going to get
9 sedated for it over at the hospital. An appointment we've been
10 waiting for like a couple weeks.

11 THE COURT: Okay. What time is that?

12 PROSPECTIVE JUROR NO. 0152: He has to be at the
13 hospital at 7:00.

14 THE COURT: Okay. In the morning?

15 PROSPECTIVE JUROR NO. 0152: Yes.

16 THE COURT: Okay. You have any sense of how long they
17 said it would be?

18 PROSPECTIVE JUROR NO. 0152: His appointment will
19 start at 8:00, so I don't know how long those run for.

20 THE COURT: Okay. All right. All right. Thank you
21 very much.

22 Let's go up -- or down to No. 10, Ms. Faso.

23 PROSPECTIVE JUROR NO. 0160: I don't have
24 transportation. I currently don't have a license or a car. And
25 I have school on Tuesdays and Wednesdays, and I also work.

1 THE COURT: All right. What time do you have school
2 on Tuesdays and Wednesdays?

3 PROSPECTIVE JUROR NO. 0160: 2:00 to 5:00.

4 THE COURT: Okay. And where are you going?

5 PROSPECTIVE JUROR NO. 0160: Nevada State College.

6 THE COURT: Okay. Okay. Can -- you think there's
7 someone there that can give you the notes for those -- for this
8 week?

9 PROSPECTIVE JUROR NO. 0160: I actually have a test
10 tomorrow for my environmental science, so I can't miss that.

11 THE COURT: Have you talked at all to your teacher in
12 terms of taking it, having another time for that test in view of
13 your jury service?

14 PROSPECTIVE JUROR NO. 0160: Maybe. They're pretty
15 lenient, so I could, it's just the transportation. Like I had
16 to take an Uber and it's like --

17 THE COURT: I can -- I can help you with that. That
18 part I can help you with, so we'll -- but I appreciate knowing
19 that that's a problem, a concern that you have.

20 All right. Anyone I miss in the back row? Let's go
21 now to the second row down. Anyone who has trouble with the
22 schedule that I've given? All right. Let's go to No. 12, Mr.
23 Noorzi.

24 PROSPECTIVE JUROR NO. 0171: Yeah, I have a health
25 issue.

1 THE COURT: I'm sorry. What?
2 PROSPECTIVE JUROR NO. 0171: Health.
3 THE COURT: Health issue?
4 PROSPECTIVE JUROR NO. 0171: Yeah.
5 THE COURT: Okay.
6 PROSPECTIVE JUROR NO. 0171: So I'm on recovery to
7 beat the cancer.
8 THE COURT: Okay.
9 PROSPECTIVE JUROR NO. 0171: So it's a couple more --
10 two more years.
11 THE COURT: All right. And how does the health issue
12 affect your ability to sit here and --
13 PROSPECTIVE JUROR NO. 0171: Yeah.
14 THE COURT: -- listen to what's going on?
15 PROSPECTIVE JUROR NO. 0171: Yeah, it's a long
16 discussion or a long walk and basically it's keep my blood
17 pressure up, it gets up, and that's -- it's hard.
18 THE COURT: Okay. Well, you'll be sitting here, I
19 mean, and just listening to testimony. I mean, what do you --
20 do you have a job?
21 PROSPECTIVE JUROR NO. 0171: Yeah, I have a job, but
22 it's like for hours and hours discussions, so probably that's
23 the problem I get.
24 THE COURT: Okay. All right. What's your job?
25 PROSPECTIVE JUROR NO. 0171: I'm a sales associate.

1 THE COURT: A what?

2 PROSPECTIVE JUROR NO. 0171: Sales associate.

3 THE COURT: Sales associate where?

4 PROSPECTIVE JUROR NO. 0171: One of those home
5 improvements.

6 THE COURT: Okay. All right. All right. Thank you
7 very much.

8 PROSPECTIVE JUROR NO. 0171: Yeah.

9 THE COURT: Okay. Anyone else in the second row?
10 Let's go to No. 14, Ms. Iverson.

11 PROSPECTIVE JUROR NO. 0184: I'm a special ed teacher,
12 and I have two IEPs on Wednesday, one at 8:20 and one at 2:20.
13 It involves a lot of other staff that have to be in attendance
14 and I'm a required team member at those two.

15 THE COURT: Okay. Is this special ed with the Clark
16 County School District?

17 PROSPECTIVE JUROR NO. 0184: Yes.

18 THE COURT: Okay. Now, what do you have this week?
19 I'm sorry.

20 PROSPECTIVE JUROR NO. 0184: It's called an IEP, an
21 individualized education plan. We have to meet annually for
22 each student, and I have two that day.

23 THE COURT: What time are those?

24 PROSPECTIVE JUROR NO. 0184: 8:20 a.m. and 2:20 p.m.

25 THE COURT: Are those something that can be

1 rescheduled?

2 PROSPECTIVE JUROR NO. 0184: It can, but it requires a
3 lot of paperwork and trying to get the team members together
4 again.

5 THE COURT: All right. All right. Thank you very
6 much.

7 PROSPECTIVE JUROR NO. 0184: Uh-huh.

8 THE COURT: And let's go down to No. 16, Mr.
9 Arnada-Riviera.

10 PROSPECTIVE JUROR NO. 0189: It's actually
11 Aranda-Rivera.

12 THE COURT: I'm sorry, what?

13 PROSPECTIVE JUROR NO. 0189: Aranda-Rivera.

14 THE COURT: Oh, Aranda-Rivera.

15 PROSPECTIVE JUROR NO. 0189: I don't know if --

16 THE COURT: Oh, I'm sorry.

17 PROSPECTIVE JUROR NO. 0189: -- I can -- working the
18 graveyard shift will affect my -- the fact that I'm paying
19 attention to the case, will affect my -- because I work the
20 whole week. I don't know if that will affect that.

21 THE COURT: Okay. Where do you work?

22 PROSPECTIVE JUROR NO. 0189: At Tropicana. I do --
23 I'm a parking attendant.

24 THE COURT: And what hour do you work?

25 PROSPECTIVE JUROR NO. 0189: From midnight to 8:00.

1 THE COURT: Okay. When do you normally sleep?

2 PROSPECTIVE JUROR NO. 0189: I try to sleep around
3 1:00 p.m. to like 9:00, 10:00 p.m. I mean, yeah.

4 THE COURT: All right. Okay. All right. Thank you
5 very much.

6 And anyone else in this second row down? All right.
7 Not any hands. Let me go the row in front of the bar. All
8 right. And we'll have the mic handed to No. 21, Ms. Trice.

9 PROSPECTIVE JUROR NO. 0201: Hi. I'm currently
10 severely underemployed and I'm also on unemployment. So for me
11 to not be at work and also not searching for work while I'm here
12 will affect my income. I have also -- I am extremely close to
13 getting back to a full-time job with the company that I'm with
14 right now and we're about to find the decision on Thursday. So
15 he's already made it very adamant about whoever gets picked for
16 the position that you, you know, you have to be there and you
17 have to have absolute open availability. I understand that
18 employers can't keep you from jury duty. However, if you guys
19 want me to be here and paying attention, I'm sorry, I'm too
20 stressed out about getting this full-time position and getting
21 back on my feet.

22 THE COURT: Okay. All right. And you're -- you're
23 currently employed there?

24 PROSPECTIVE JUROR NO. 0201: Yes.

25 THE COURT: And what are your hours there?

1 PROSPECTIVE JUROR NO. 0201: They vary severely, and I
2 am scheduled to go back to work starting on Wednesday.

3 THE COURT: Okay. And what kind of work is this?

4 PROSPECTIVE JUROR NO. 0201: Right now I'm just a
5 cashier at Kohl's. The position that I'm waiting to hear back
6 about would be a full-time like an online ordering position
7 where I'm -- basically everyone that orders online to say we
8 want this time from your store to either come pick up or ship it
9 to my house, I have to go find those items.

10 THE COURT: Okay. And that's at Kohl's, too?

11 PROSPECTIVE JUROR NO. 0201: Yes. Yes.

12 THE COURT: All right. Now, Kohl's, I think, does
13 provide, you know, for jury -- you know, for you to serve on a
14 jury.

15 PROSPECTIVE JUROR NO. 0201: I understand that, but my
16 unemployment is about to run out in a matter of two weeks. I
17 have no other income. And if I don't land this full-time job, I
18 don't know what I'm going to do.

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

20 All right. Anyone else in the third row? Okay. No
21 other hands. Anyone in the fourth row? All right. Let's hand
22 that off to Mr. Nordsiser -- or Nordsiek. I'm sorry.

23 PROSPECTIVE JUROR NO. 0235: Nordsiek. The only
24 problem I have is if it flows into Monday, I have tickets to go
25 to Texas for my job. I work on aircraft.

1 THE COURT: Okay. When do you leave on that?

2 PROSPECTIVE JUROR NO. 0235: My flight is at 7:00 in
3 the morning.

4 THE COURT: On Monday?

5 PROSPECTIVE JUROR NO. 0235: Monday, yes.

6 THE COURT: Okay. All right. Okay. Thank you very
7 much.

8 Anybody I missed? Oh, if you could hand that back to
9 No. 11. Ms. Gamez.

10 PROSPECTIVE JUROR NO. 0164: I have problem because I
11 have four kids in different schools and it's busy. I have two
12 kids of five years, and today no go to school because I'm go to
13 school in the morning and take in the afternoon.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 0164: So my kids is at my
16 neighbor, so --

17 THE COURT: Do you --

18 PROSPECTIVE JUROR NO. 0164: I can --

19 THE COURT: Do you have anyone that can pick up your
20 kids?

21 PROSPECTIVE JUROR NO. 0164: No, because my husband
22 working, and then next year he go to other states. He's working
23 in different states.

24 THE COURT: You don't have any friends who can help
25 you out?

1 PROSPECTIVE JUROR NO. 0164: No, because working and
2 today, nothing help me. So just my -- my neighbor, and she say
3 only for today because tomorrow I have more something, so --

4 THE COURT: All right.

5 THE COURT: -- it's very hard for them.

6 THE COURT: Thank you. Anybody else I missed? Okay.
7 Let the record reflect no other hands.

8 THE RECORDER: I think No. 28 had his.

9 THE COURT: Oh. I'm sorry, Mr. Wolfbrandt. I
10 apologize. Will you hand the mic down to him.

11 PROSPECTIVE JUROR NO. 0232: I live in Faith
12 Fellowstry (phonetic) with my dad, Lou. He's here. I worked at
13 Leticia's 5:00 to 9:00. We are closing to 9:00.

14 THE COURT: Okay. And if you get out of here close to
15 that, do you think that you can make that work?

16 PROSPECTIVE JUROR NO. 0232: Until 8:30-ish.

17 THE COURT: Huh?

18 PROSPECTIVE JUROR NO. 0232: 8:30.

19 THE COURT: 8:30?

20 PROSPECTIVE JUROR NO. 0232: P.M.

21 THE COURT: Okay. So you work from 5:00 to 9:00 or --

22 PROSPECTIVE JUROR NO. 0232: Yeah. It's in the --

23 THE COURT: At night?

24 PROSPECTIVE JUROR NO. 0232: Cut it short until 5:00
25 at night until 8:30, that is three hours.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 0232: And I'm not happy with my
3 father, I'm here in criminal defense, and I will to take my plea
4 to the District --

5 THE COURT: All right.

6 PROSPECTIVE JUROR NO. 0232: -- Attorneys.

7 THE COURT: Well, I'll talk to you separately about
8 that in a little bit, okay?

9 PROSPECTIVE JUROR NO. 0232: All right.

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

11 PROSPECTIVE JUROR NO. 0232: You're welcome.

12 THE COURT: Okay. Let me go on to a few more
13 questions before we take our first break here. Now, a number of
14 you have expressed to me issues or concerns that you have with
15 the schedule that we've got for jury service, so you don't need
16 to restate those with this next question. But let me just ask,
17 was there anyone who was really upset when you go the summons?

18 And, again, if you were upset because of scheduling
19 issues you've already mentioned, you don't need to explain them
20 again. But is there anyone who was really upset when they got
21 the jury service summons? Okay. All right. Let's go up to No.
22 4, Ms. Ubaldo.

23 PROSPECTIVE JUROR NO. 0146: You want to know why I
24 was upset?

25 THE COURT: Yeah.

1 PROSPECTIVE JUROR NO. 0146: Because you guys just had
2 me up here trying to pay a ticket basically, and the judge I was
3 dealing with wasn't really too nice about it. And then I get a
4 summons and it's like --

5 THE COURT: All right.

6 PROSPECTIVE JUROR NO. 0146: It's just I didn't want
7 to come back here.

8 THE COURT: All right. All right. That's fair
9 enough. Thank you very much.

10 Anybody else who was upset? All right. Let the
11 record reflect no other hands. Let me ask, and every now and
12 then I do get a few, was there anyone who was really thrilled
13 and happy to get the jury service summons? Okay. All right.
14 No. 21, Ms. Trice.

15 PROSPECTIVE JUROR NO. 0201: Well, I kind of sort
16 of --

17 THE RECORDER: Hold on. Wait.

18 THE COURT: Hold on. You need --

19 PROSPECTIVE JUROR NO. 0201: Oh, I'm sorry.

20 THE RECORDER: Talk in the mic.

21 PROSPECTIVE JUROR NO. 0201: Like kind of sort of.
22 It's just the wrong time. I'd actually like to do something
23 like this, but like I said earlier with my answer. So in
24 that --

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 0201: -- sense it was just the
2 wrong timing of everything that's going on right now.

3 THE COURT: Okay. All right. Thank you.

4 Anybody else who is happy to get -- and like I said,
5 every now and then, I've had people tell me this was a bucket
6 list item for them. So anybody else? All right. Let the
7 record reflect no other hands.

8 Now, is there anyone of the group over here, either
9 you, a close family member, or a close friend who has been
10 engaged in some way in the practiced of law, either as an
11 attorney, a paralegal, or a staff member? And so by close
12 family member, I'm talking someone that you feel close to. If
13 you have a nephew that you haven't seen in 30-some years, that's
14 not a close family member. If you've got a third cousin six
15 times removed who you see all the time, I consider that a close
16 family member.

17 So either you, close family member, or friend been
18 engaged in the practice of law as an attorney, paralegal, or
19 staff member? I saw one hand in the back. That's No. 6, Mr.
20 Roberts.

21 PROSPECTIVE JUROR NO. 0148: My ex-wife is an attorney
22 in Las Vegas. She practices mostly civil defense, construction
23 defect.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 0148: My cousin is a paralegal

1 in Delaware and does mostly bankruptcy.

2 THE COURT: Okay. All right. Anything about your
3 relationship with your ex-wife and her work or your cousin and
4 his work that would affect your ability to be a fair juror in
5 this case?

6 PROSPECTIVE JUROR NO. 0148: Not with my cousin. If
7 my ex-wife comes in, you lose.

8 THE COURT: I'm sorry. What?

9 PROSPECTIVE JUROR NO. 0148: If my ex-wife is here,
10 she's going to lose.

11 THE COURT: Okay. All right. Well, I think we're --
12 you didn't hear her name on the witness list, did you?

13 PROSPECTIVE JUROR NO. 0148: No, Your Honor.

14 THE COURT: Okay. Good deal. All right.

15 All right. Anyone else? Let's go down to No. 11, Ms.
16 Gamez.

17 PROSPECTIVE JUROR NO. 0164: My husband is paralegal.

18 THE COURT: I'm sorry. What?

19 PROSPECTIVE JUROR NO. 0164: My husband is paralegal.

20 THE COURT: Okay. Where?

21 PROSPECTIVE JUROR NO. 0164: In Diamond Resort.

22 THE COURT: Okay. And what kind of work generally
23 does he do?

24 PROSPECTIVE JUROR NO. 0164: By the resort, so
25 something by -- he's in department legal, so I don't --

1 THE COURT: Okay. Anything about his work there and
2 your relation with him that would affect your ability to be a
3 fair juror?

4 PROSPECTIVE JUROR NO. 0164: I don't understand.

5 THE COURT: Okay. All right. Well, like I said,
6 we'll come back to that, then, a little bit later. Thank you.

7 Anyone else, either you or a close family member or
8 friend been involved in -- engaged in some way in the practice
9 of law? Let the record reflect no other hands.

10 Now, some of you have already talked about people you
11 know with Metro. If you've already talked about them, you don't
12 need to talk about them again. But what I'm going to ask you
13 now is there any one of you, either a close family member or
14 close friend who have been engaged in -- who are engaged or have
15 been engaged in law enforcement work or security work? And,
16 again, you don't need to mention somebody you've already
17 mentioned. But if there's any other close family member or
18 close friend who, or you, that's engaged or have been engaged in
19 law enforcement or security work, let me know that.

20 Okay. Let's go back up to Mr. Roberts, No. 6, again.
21 Where's the microphone? Okay.

22 PROSPECTIVE JUROR NO. 0148: I have a cousin who is an
23 FBI agent in Virginia.

24 THE COURT: Okay. Are you close to him?

25 PROSPECTIVE JUROR NO. 0148: Yes.

1 THE COURT: Okay. And how long has he been an FBI
2 agent?

3 PROSPECTIVE JUROR NO. 0148: 30 years.

4 THE COURT: Okay. And anything about your
5 relationship with him and his work that would affect your
6 ability to be a fair juror in this case?

7 PROSPECTIVE JUROR NO. 0148: No.

8 THE COURT: Okay. Thank you very much.

9 Anybody else? Okay. I'm not seeing any other hands
10 except Ms. Merando, No. 30. Medrano. Sorry.

11 PROSPECTIVE JUROR NO. 0240: That's okay. My husband
12 is an officer for Henderson Police.

13 THE COURT: Okay. How long has he been doing that?

14 PROSPECTIVE JUROR NO. 0240: Nine years.

15 THE COURT: Okay. Anything about his work and your
16 relation to him that would affect your ability to be a fair
17 juror in this case?

18 PROSPECTIVE JUROR NO. 0240: No.

19 THE COURT: All right. Thank you very much. Again,
20 anybody else that I missed? Either you or a close family member
21 or a close friend engaged in law enforcement work or security
22 work? Let the record reflect no other hands.

23 Now, as has been explained to you, this case involves
24 charges of burglary while in possession of a firearm, first
25 degree kidnapping with use of a deadly weapon resulting in

1 substantial bodily harm, assault with a deadly weapon, battery
2 constituting domestic violence, preventing or dissuading victim
3 or witness from reporting crime, and carrying a concealed
4 weapon.

5 Does anyone feel that they could -- that they possibly
6 could not be fair or keep an open mind as to whether the State
7 has met its burden of proof until the end of the trial because
8 of the nature of the charges in this case? Okay. I see one
9 hand. Ms. Trice, No. 21. Can we hand the mic over to her. Go
10 ahead.

11 PROSPECTIVE JUROR NO. 0201: Honestly, that just seems
12 -- if you could -- first of all, repeat that question one more
13 time.

14 THE COURT: Sure. Not a problem. And let me
15 emphasize that again. If during the course of this you don't
16 hear one of the questions that I asked or you need me to
17 explain, you don't understand it and need me to explain it,
18 don't hesitate to say to me, a) could you repeat the question,
19 or b) could you rephrase it. So let me say that to everyone.
20 All right.

21 As has been explained, what the -- ultimately what I'm
22 asking is because of the nature of the charges here, does anyone
23 feel that they cannot be fair or keep an open mind as to whether
24 the State has met its burden of proof until the end of trial
25 because of the nature of the charges in this case?

1 And those charges involve burglary while in possession
2 of a firearm, first degree kidnapping with use of a deadly
3 weapon resulting in substantial bodily harm, assault with a
4 deadly weapon, battery constituting domestic violence, and
5 persuading or dissuading victim or witness from reporting crime,
6 and carrying a concealed weapon.

7 Because of the nature of those charges, is there
8 anyone who feels they cannot keep -- be fair and keep an open
9 mind as to whether the State has met its burden of proof until
10 the end of trial?

11 PROSPECTIVE JUROR NO. 0201: I feel that I could be
12 fair, but I feel like it would be very difficult for me to be
13 open-minded.

14 THE COURT: Okay. And that's --

15 PROSPECTIVE JUROR NO. 0201: Considering the types of
16 charges and all being stacked together like that.

17 THE COURT: All right. Well, I mean, and no one is
18 suggesting in any way that the charges -- you know, that those
19 crimes are good in any way. That's why they're crimes. But the
20 issue is not the nature of the charges, but whether or not
21 someone is guilty or not guilty of those charges. Do you think
22 you'd be able to focus on the evidence here and my instructions
23 on the law and be fair to both sides?

24 PROSPECTIVE JUROR NO. 0201: No.

25 THE COURT: Okay. All right. Thank you very much.

1 All right. Anybody else? Okay. Let's go down the
2 row to Ms. Dabney, 25. Okay. Go ahead, ma'am.

3 PROSPECTIVE JUROR NO. 0215: My father was arrested
4 for domestic abuse a couple times when I was younger, so I just
5 -- I don't know. For me, that would be a bias that I would
6 have.

7 THE COURT: Okay. Well, and as I said, I mean, no one
8 is suggesting domestic violence or abuse is any way good, and
9 that's why it's criminal. I mean, what -- what I need to know
10 is do you think you would be able to set aside your experiences
11 with your dad and focus on the evidence in this case and be fair
12 to both sides.

13 PROSPECTIVE JUROR NO. 0215: Yeah, but I just -- I
14 just like -- I don't know how fair that is to him if I
15 already --

16 THE COURT: No, I --

17 PROSPECTIVE JUROR NO. 0215: -- have that bias.

18 THE COURT: And that's good to mention it. But the
19 key thing I need to know is whether you think you can be fair to
20 -- to focus on the testimony that's given here under oath, the
21 exhibits that are introduced here at trial, and take my
22 instructions on the law and go back with your other jurors and
23 be fair to both sides in your deliberations. Do you think you
24 can do that?

25 PROSPECTIVE JUROR NO. 0215: Yeah.

1 THE COURT: Okay. Thank you very much.

2 All right. Anybody else? All right. Let the record
3 reflect no other hands.

4 Now, if you've already mentioned something, you don't
5 need to re-mention it, but let me ask have you or any close
6 family member or friend been a victim of some type of domestic
7 violence or domestic wrongful conduct? Okay. We've got a few
8 hands. Let's go up to No. 1, Ms. McCloud.

9 Go ahead, Ms. McCloud.

10 PROSPECTIVE JUROR NO. 0141: Can you repeat the
11 question one more time, please?

12 THE COURT: Sure. Have you or any close family member
13 or friend been the victim of some type of domestic violence or
14 domestic wrongful conduct?

15 PROSPECTIVE JUROR NO. 0141: Yeah, my -- one of my
16 first cousins has been.

17 THE COURT: Okay. And was that here in Nevada or
18 somewhere else?

19 PROSPECTIVE JUROR NO. 0141: Yes.

20 THE COURT: Down here in Southern Nevada?

21 PROSPECTIVE JUROR NO. 0141: Yes.

22 THE COURT: Okay. And approximately when was this?
23 Just approximate.

24 PROSPECTIVE JUROR NO. 0141: About a year ago.

25 THE COURT: Okay. And I can tell it's -- it's, you

1 know, emotion for you. Can you give me a general sense of what
2 was involved?

3 PROSPECTIVE JUROR NO. 0141: They've always kind of
4 had like a -- like a weird relationship, not like really
5 abusive, more like mentally, and it would just get out of hand
6 sometimes, Your Honor.

7 THE COURT: All right. All right. Was police ever
8 brought into this?

9 PROSPECTIVE JUROR NO. 0141: Once on the -- the one
10 I'm referring to, no. That was the one a year ago, but they
11 have gotten the police involved --

12 THE COURT: All right.

13 PROSPECTIVE JUROR NO. 0141: -- a couple times.

14 THE COURT: Have you generally been satisfied or
15 dissatisfied with how -- what the police has -- the police
16 involvement when they've gotten involved?

17 PROSPECTIVE JUROR NO. 0141: Satisfied.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 0141: It's more, you know, the
20 -- the people involved not wanting to do what they should do,
21 but the police have always done their job.

22 THE COURT: All right. Is there anything about your
23 relationship with her and her experience you think that would
24 affect your ability to be a fair juror in this case?

25 PROSPECTIVE JUROR NO. 0141: No.

1 THE COURT: Okay. All right. Thank you very much.

2 Anyone else? Let's go down to No. 5, Ms. Ramos.

3 PROSPECTIVE JUROR NO. 0147: About a year ago, I
4 believe, my cousin was brought in. She's a female. She was
5 brought in overnight due to a domestic violence.

6 THE COURT: Okay. By brought in, was she arrested?

7 PROSPECTIVE JUROR NO. 0147: Yes, she was.

8 THE COURT: Okay. And are you close to your cousin?

9 PROSPECTIVE JUROR NO. 0147: Pretty much.

10 THE COURT: Okay. All right. And so obviously police
11 were involved.

12 PROSPECTIVE JUROR NO. 0147: Yes.

13 THE COURT: Were you satisfied or dissatisfied with
14 how the police handled the situation?

15 PROSPECTIVE JUROR NO. 0147: From my understanding
16 they never put it in record, but they had to take her in. They
17 said according to the law that every time there's a domestic
18 violence they have to take someone in for that. I'm pretty
19 satisfied with the result.

20 THE COURT: Okay. Is there anything about that
21 experience that would affect your ability to be a fair juror in
22 this case?

23 PROSPECTIVE JUROR NO. 0147: I'm good.

24 THE COURT: You're good? You'd be able to follow my
25 instructions and fairly and unbiasedly apply those instructions

1 to the evidence admitted?

2 PROSPECTIVE JUROR NO. 0147: Yes. Yes.

3 THE COURT: Okay. Thank you.

4 And I think, Mr. Roberts, you had your hand up.

5 PROSPECTIVE JUROR NO. 0148: Yes.

6 THE COURT: Go ahead.

7 PROSPECTIVE JUROR NO. 0148: My stepdaughter was the
8 victim of a domestic abuse by her fiancé. He was arrested,
9 released OR, decided to hang himself in her house as --

10 THE COURT: Okay. All right. About when was this?

11 PROSPECTIVE JUROR NO. 0148: '97.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 0148: And --

14 THE COURT: I mean, any -- I mean, I'm sorry that you
15 had to go through that, but is there anything about that
16 experience and your relationship with your stepdaughter that
17 would affect your ability to be a fair juror in this case?

18 PROSPECTIVE JUROR NO. 0148: Not in this case.

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

20 PROSPECTIVE JUROR NO. 0148: I had one other one.

21 THE COURT: Oh, you had one more? I'm sorry.

22 PROSPECTIVE JUROR NO. 0148: I have a neighbor that
23 called 911 for a domestic abuse by her teenage son. Responding
24 Metro officers shot him. He was 15.

25 THE COURT: Okay. About when was that?

1 PROSPECTIVE JUROR NO. 0148: I believe that was in
2 2004 or 2005.

3 THE COURT: All right. So obviously police were
4 involved in that. Were you satisfied or dissatisfied with their
5 response?

6 PROSPECTIVE JUROR NO. 0148: I think the officer got
7 the short end of the stick in that situation, so I -- I -- I
8 don't think there was ever going to be a winner in that
9 situation.

10 THE COURT: All right. All right. Let me ask, is
11 there anything about that situation and your relationship with
12 the neighbor that would affect your ability to be a fair juror
13 in this case?

14 PROSPECTIVE JUROR NO. 0148: No, sir.

15 THE COURT: Okay. Thank you very much.

16 All right. Let's go down to No. 10, Ms. Faso.

17 PROSPECTIVE JUROR NO. 0160: Yeah, about two years ago
18 my best friend was strangled by -- sorry -- by her boyfriend at
19 the time. And --

20 THE COURT: Okay. I'm sorry. Now, was that here in
21 Southern Nevada?

22 PROSPECTIVE JUROR NO. 0160: Yeah.

23 THE COURT: All right. And -- and all right. You
24 want some water?

25 PROSPECTIVE JUROR NO. 0160: No, I'm okay.

1 THE COURT: Were the police brought in to that
2 situation?

3 PROSPECTIVE JUROR NO. 0160: They were.

4 THE COURT: And was anyone prosecuted?

5 PROSPECTIVE JUROR NO. 0160: No. The -- he did go to
6 jail, but I guess there wasn't enough proof, so he did get
7 released. So he is still out here and --

8 THE COURT: All right.

9 PROSPECTIVE JUROR NO. 0160: -- they can't do anything
10 about it.

11 THE COURT: All right. Were you satisfied or
12 dissatisfied with the police response?

13 PROSPECTIVE JUROR NO. 0160: Probably dissatisfied. I
14 don't -- I think they should have did more.

15 THE COURT: Okay. Let me ask you, is there anything
16 about that, your relationship with your friend and her
17 experience that would affect your ability to be a fair juror in
18 this case?

19 PROSPECTIVE JUROR NO. 0160: It makes me feel
20 uncomfortable. I don't know if I could deal with that. I don't
21 know.

22 THE COURT: All right. All right. Thank you very
23 much.

24 Anybody else that I missed in the back row? All
25 right. Let's go one row down. Anybody in the next row down?

1 Let the record reflect no hands. And then let's go to the third
2 row down. All right. Let's go over to No. 21, Ms. Trice.

3 PROSPECTIVE JUROR NO. 0201: About three, four, five,
4 maybe six years ago when I was living in an apartment by myself,
5 I've had to call the police on just about every building in my
6 -- every apartment building has like separate doors to go into,
7 but it's the one building. I've had to call the police for at
8 least every other apartment in that building while being trapped
9 inside my own apartment and not being able to get out because of
10 domestic violence.

11 THE COURT: Okay. All right. Have you been satisfied
12 or dissatisfied with police response?

13 PROSPECTIVE JUROR NO. 0201: Dissatisfied.

14 THE COURT: Okay. Is there anything about those
15 experiences that would affect your ability to be a fair juror in
16 this case?

17 PROSPECTIVE JUROR NO. 0201: Yes.

18 THE COURT: Okay. All right. All right. And then I
19 think next to you, No. 22, Ms. Serrano. Go ahead.

20 PROSPECTIVE JUROR NO. 0202: Yeah. I lost my
21 granddaughter two years ago. She got shot.

22 THE COURT: I'm sorry.

23 PROSPECTIVE JUROR NO. 0202: She died.

24 THE COURT: Was that here in Southern Nevada?

25 PROSPECTIVE JUROR NO. 0202: And we should have

1 protection walking home from school.

2 THE COURT: Do you need any water or anything?

3 PROSPECTIVE JUROR NO. 0202: What?

4 THE COURT: Do you need any water?

5 PROSPECTIVE JUROR NO. 0202: No.

6 THE COURT: Okay. All right. I assume police were
7 involved?

8 PROSPECTIVE JUROR NO. 0202: No. The trial is going
9 to start in September.

10 THE COURT: Okay. Okay. So someone was apprehended,
11 then?

12 PROSPECTIVE JUROR NO. 0202: What?

13 THE COURT: Someone was arrested?

14 PROSPECTIVE JUROR NO. 0202: I cannot hear him.

15 PROSPECTIVE JUROR: Someone was arrested?

16 THE COURT: All right.

17 PROSPECTIVE JUROR NO. 0202: Yes, two days later.

18 THE COURT: Are you having trouble hearing -- hearing
19 my questions?

20 PROSPECTIVE JUROR NO. 0202: Yeah, a little bit.

21 THE COURT: All right. Why don't we get the
22 headphones. Does that help at all?

23 PROSPECTIVE JUROR NO. 0202: Yes. Thank you.

24 THE COURT: Good. Good. All right. Were you
25 satisfied or dissatisfied with the police response to your

1 granddaughter's situation?

2 PROSPECTIVE JUROR NO. 0202: I think they did a good
3 job.

4 THE COURT: All right. Is there anything about your
5 relationship with your granddaughter and her -- her situation
6 that would affect your ability to be a fair juror in this case?

7 PROSPECTIVE JUROR NO. 0202: I don't know. I don't
8 know. I don't think so.

9 THE COURT: Okay. Do you think you'd be able to focus
10 on the evidence here and the testimony here?

11 PROSPECTIVE JUROR NO. 0202: Yes.

12 THE COURT: All right. And you think you would be
13 able to follow my instructions and fairly and unbiasedly apply
14 those instructions to the evidence admitted?

15 PROSPECTIVE JUROR NO. 0202: Yes.

16 THE COURT: Okay. Thank you very much.

17 PROSPECTIVE JUROR NO. 0202: Okay.

18 THE COURT: Anyone else -- no, you can keep those.
19 Keep those so you can hear everything that's being asked so you
20 don't miss anything.

21 All right. Anybody else in the third row down? The
22 record will reflect no hands. Anyone in the fourth row? Record
23 will reflect no other hands.

24 All right. Again, if you've already mentioned this,
25 don't feel you have to mention it again, but let me -- something

1 again. But let me ask have you or any close family member or
2 friend been a victim of a violent crime?

3 PROSPECTIVE JUROR NO. 0202: No.

4 THE COURT: Okay. Anybody up -- let's go to No. 21,
5 Ms. Trice.

6 PROSPECTIVE JUROR NO. 0202: About two years ago my
7 best friend's dad tried to shoot her mother, basically unloading
8 his gun on her.

9 THE COURT: Okay. Was that here in Southern Nevada?

10 PROSPECTIVE JUROR NO. 0202: Yes.

11 THE COURT: All right. And was anyone ever
12 apprehended?

13 PROSPECTIVE JUROR NO. 0202: It's kind of hard to
14 answer that question. He barricaded himself in the house and
15 killed himself.

16 THE COURT: All right. Were you satisfied or
17 dissatisfied with police response?

18 PROSPECTIVE JUROR NO. 0202: Dissatisfied.

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

20 Anybody else? All right. Let the record reflect no
21 hands. Now, let me ask have any of you or close family members
22 or friends been a victim of a crime, any crime, again, if you've
23 already mentioned it, don't feel you have to mention it again,
24 but any of you or a close family member or friend been a victim
25 of a crime which you believe would impact on your ability to be

1 fair to both sides in this case? All right. Let the record
2 reflect no hands.

3 Let me ask, has anyone -- have you ever testified at a
4 court proceeding, deposition, grand jury, preliminary hearing,
5 or at some other proceeding where you put under oath and
6 answered questions? Okay. A few hands on that. And this is
7 probably a good time to take a break, then, because we're going
8 to have to with that.

9 All right. Ladies and gentlemen, we're going to take
10 a break. We're going to shoot for 15 minutes. While you're out
11 there, what I'm going to ask you is just go to the restroom,
12 take a stretch. If you need a drink of water or anything, do
13 that and get back as soon as possible.

14 I want to emphasize we need you to get back as soon as
15 possible because the long and short of it is if any of you don't
16 get back as soon as possible, we're all going to be waiting for
17 you to get back. So if you decide that you want to go and take
18 a walk down and check out the Fremont Street Experience, we're
19 all going to be waiting for you to get back from the Fremont
20 Street Experience, and so that will delay the process of getting
21 jury selection taken care of. So I really need you to get back
22 and we will try to move this along as quickly and as fast as we
23 can.

24 While you're out there, I want to emphasize don't talk
25 to each other, I'm going to order you, don't talk to each other

1 about this case or about anyone who has anything to do with it.
2 Do not talk with anyone else about this case or about anyone who
3 has anything to do with it. Anyone else includes members of
4 your family, your employer, and your friends. You may tell them
5 that you are a juror or being considered as a juror in a
6 criminal case, but don't tell them anything else about it until
7 after you've been discharged.

8 Don't let anyone talk to you about the case or about
9 anyone who has anything to do with it. If someone should try to
10 talk to you, please report it to me immediately by contacting
11 the marshals. Do not read any news stories or articles or
12 listen to any radio or television reports about the case or
13 about anyone who has anything to do with it.

14 Do not visit the scene of any events mentioned during
15 the trial or undertake any investigation, experimentation, or
16 research on your own. This would include use of social media to
17 in any way discuss the case or use of the Internet or other
18 reference materials to do any investigation or research, and do
19 not begin to form or express any opinion on any subject
20 connected with the case until it's finally submitted to you.

21 We'll see you back as soon as possible.

22 (Prospective jury recessed at 11:48 a.m.)

23 THE COURT: Okay. All right. All right. Let's see.
24 Is there anyone who the State thinks at this point it wants to
25 excuse?

1 MS. SUDANO: Well, there are several people for cause.
2 I don't know Your Honor's position on college students.

3 THE COURT: I have a feeling if she's got one lab
4 class on Wednesday at 5:00 to 10:00 that she could probably
5 adjust these things around if she needed to.

6 MS. SUDANO: She also had another one from 1:00 to
7 5:00, I think, a couple of the days.

8 THE COURT: Well --

9 MR. SHEETS: I can tell Your Honor I'm okay. I concur
10 with the State on it. I just -- labs are really hard to make
11 up. I had -- I had lots of trouble because they're -- they're
12 structured very specifically to what you're doing. And if you
13 miss that lab, normally there's only a finite number of seats in
14 a lab and it becomes very difficult to try and make up,
15 especially if you miss at the beginning. I'm okay with that
16 one.

17 THE COURT: Let me think about that one. I'll put a
18 question mark. All right. Go on.

19 MS. SUDANO: And then there were several people that
20 had work issues. Seat No. 4, Ms. Ubaldo, had some work issues.
21 She didn't really articulate it particularly well, so I don't
22 know the Court's position on those, either.

23 THE COURT: I have a feeling that, you know, she's --
24 she works for a pharmacy. I'm guessing that they can make
25 adjustments with her schedule. I mean, but I'm --

1 What's your position on that, on her, Mr. Sheets?

2 MR. SHEETS: I didn't have that marked as one that I
3 felt described enough to me. But, I mean, that's all I'm -- I'm
4 -- where I'm at.

5 THE COURT: Let me think about her for right now. All
6 right. Let's go on. Next one from the State's perspective.

7 MS. SUDANO: Ms. -- well, Mr. Roberts had the issue
8 with the contractors and not wanting to leave people alone at
9 the house. I don't know if that one qualifies. I'm just kind
10 of raising them at this point.

11 THE COURT: I mean -- I mean, I -- at this point I'm
12 not real inclined to let Mr. Roberts -- Roberts go. I mean, I
13 appreciate the gun in the house, but, I mean, that -- it's hard
14 for me to justify someone getting off because they have 20 guns
15 as opposed to someone else who -- who really has some sort of
16 issue.

17 So what's your position on Mr. Roberts, Mr. Sheets?

18 MR. SHEETS: I -- other -- aside from several issues
19 that I am going to want to investigate in my voir dire, I had --
20 my only concern for him is, I mean, I don't know what he's
21 supposed to do with his firearms. I can understand the fear. I
22 also understand the need to -- to get your house remodeled and
23 not be without a hotel. So I don't want him to have to incur
24 substantial expense. I don't know. I was okay with that one,
25 as well.

1 THE COURT: All right. Let me think about Mr.
2 Roberts.

3 THE DEFENDANT: Police officer, too.

4 THE COURT: All right. Let's go on to the next one
5 from the State.

6 MS. SUDANO: Seat 8, Ms. Galindo, she has the child's
7 MRI on Wednesday morning.

8 THE COURT: How long do those take?

9 MR. SHEETS: Well, she -- she said sedated. That's my
10 concern. Because once you're sedated, I mean, I don't know. I
11 was just sedated for surgery a few months back and I was done
12 for the day. I was not very functional the rest of the day. I
13 understand a mom wanting to be with her son for something like
14 that.

15 THE COURT: Well, she sounded like as soon as they got
16 done, I mean, she -- she -- they'd be okay. So let me -- I'm
17 going to think about her. All right. Let's go on to the next
18 one.

19 MS. SUDANO: Ms. Faso in Seat No. 12 indicated she had
20 school issues and no ride.

21 THE COURT: I can make arrangements for her to get
22 paid to do Uber.

23 MS. SUDANO: Okay. And then she was also not sure she
24 could be fair, not sure she could deal with this type of charge
25 because of her friend's situation.

1 THE COURT: Okay. What's your position on No. 10, Ms.
2 Faso.

3 MR. SHEETS: I concur with the State on Seat 10.

4 THE COURT: Okay. I'd be inclined to excuse Ms. Faso
5 at this point in time.

6 MS. SUDANO: Okay.

7 THE COURT: All right. Next?

8 MS. SUDANO: Seat No. 11, Ms. Gamez, she was having
9 English issues understanding what was going on, and then she
10 also articulated that she doesn't have anybody to watch her
11 children for the rest of the week.

12 THE COURT: You know, the kid thing I'm guessing she
13 could work out. I didn't get a sense there. The issue is do I
14 have agreement to excuse her because of the English issue?

15 MR. SHEETS: Yes, Your Honor. I have -- I've
16 concurred with pretty much every one of the State's except for 4
17 thus far.

18 THE COURT: Okay.

19 MR. SHEETS: I think we're all seeing the same things.

20 THE COURT: All right. Does anybody have a problem if
21 I excuse Ms. Gamez?

22 MS. SUDANO: No, Your Honor.

23 MR. SHEETS: No, Your Honor.

24 THE COURT: All right. I'm going to excuse her.
25 While we're on that, then we have No. 20, Ms.

1 Ramirez-DeCastaneda who also said she had an English problem.
2 Anybody have a problem if I excuse her?

3 MS. SUDANO: No, Your Honor.

4 MR. SHEETS: No, Your Honor.

5 THE COURT: All right. And then we do have the one
6 juror in the gallery, it was Badge No. -- I don't remember what
7 badge number.

8 THE RECORDER: 297.

9 THE CLERK: Panel No. 39, Maria Mendoza-DeMendoza.

10 THE COURT: All right. Maria Mendoza-DeMendoza.
11 Anybody have a problem if we excuse her?

12 MS. SUDANO: No, Your Honor.

13 MR. SHEETS: No, Your Honor.

14 THE COURT: All right. We'll excuse her. All right.
15 Let's go back and finish up. I stopped you at Ms. Gamez. So
16 where next?

17 MS. SUDANO: Next one was Seat No. 21, Ms. Trice.

18 THE COURT: Okay. Any problem with Ms. Trice?

19 MR. SHEETS: No, I -- I would have had a million
20 things to --

21 THE DEFENDANT: She was stressed out. She's stressed.
22 She ain't in the right state of mind.

23 MR. SHEETS: I have no objection to her release, as
24 well, Your Honor.

25 THE COURT: All right. Well, Ms. Trice expressed a

1 lot of questions with her being able to be fair and it got to
2 the point where I stopped asking her because she constantly kept
3 saying that she had trouble being fair. So I will go ahead and
4 we'll strike Ms. Trice.

5 Anyone else for the State?

6 MS. SUDANO: There were a couple additional, yes, Your
7 Honor. In Seat No. 28, Mr. Wolfbrandt.

8 THE COURT: Yes.

9 MS. SUDANO: He indicated he has work issues. He
10 works, I think, every night at 5:00, and then the State just had
11 some concerns about whether or not he was actually understanding
12 the questions and what was going on.

13 THE COURT: Yeah. No, I think we might bring in Mr.
14 Wolfbrandt separately.

15 MS. SUDANO: That might be his father that's sitting
16 in the back.

17 THE MARSHAL: It is.

18 MR. SHEETS: Okay. Yeah, I'm concerned about possible
19 disabilities that might make it difficult to --

20 THE COURT: Well, I know.

21 MR. SHEETS: -- understand legal concepts.

22 THE COURT: I mean, as long as he understands what's
23 going on and can understand the questions, I mean, if he has
24 some disability, then it doesn't preclude him from serving.

25 MR. SHEETS: I wasn't ready yet to challenge that one

1 for cause, but I did have some things I wanted to examine.

2 THE DEFENDANT: Competency.

3 THE COURT: Okay. All right. Anybody else from the
4 State's perspective?

5 MS. SUDANO: The only other one was Seat 29, Mr.
6 Nordsiek. He's traveling for work on Monday.

7 THE COURT: Well, and that's my thought is that's why
8 we have alternates. So if, you know, we go into Monday and he
9 can't serve, then we'll deal with it at that point in time.

10 All right. Anybody else from the State's perspective?

11 MS. SUDANO: No. Thank you, Your Honor.

12 THE COURT: All right. Anyone from your perspective,
13 Mr. Sheets?

14 MR. SHEETS: Yes, Your Honor. I had concurred,
15 briefly run past the ones just because I didn't mark down which
16 one the State referenced. I concurred with Seat No. 1. Again,
17 because of the lab issues. I had -- I had Seat No. 6, as well,
18 for similar issues. Seat No. 8 because of the child being
19 sedated. I had Seat No. 12 marked because there was an
20 indication that there was a health issue. I think he said he
21 had cancer and he's treating for cancer.

22 THE COURT: Yeah, but he's working, too, so I'm not
23 buying that one.

24 MR. SHEETS: Okay. No. 14, depending on how difficult
25 it was for her, I was concerned that she wouldn't be able to --

1 special ed requires such specific attention and specific
2 involvement. That was something I was concerned about with Seat
3 No. 14, Your Honor.

4 THE COURT: Clark County School District works with us
5 in terms of -- I mean, I appreciate she's got issues. We all
6 have issues, and so I'm not inclined to let her off. It sounds
7 like she has four appointments that she can't be making. She
8 can reschedule those.

9 MR. SHEETS: Again, with 29 I understand that there's
10 the possibility of an alternate, Your Honor. I do know that
11 even if the deliberations were to go over the weekend for some
12 reason, it would be -- it would be somewhat concerning to me if
13 we had an alternate slide in that would miss out on some of that
14 deliberation in the event that deliberations ran over through
15 Friday. So I would, again, concur with the State.

16 THE COURT: Well, he's sitting in an alternate
17 position right now.

18 MS. SUDANO: Oh, he is?

19 MR. SHEETS: So, you know, I don't know what happens
20 next -- next -- what if he ends up in a main spot. I just -- I
21 worry about something like that happening. If he were an
22 alternate and then moves himself in, and then all of the sudden
23 goes over one day and can't. That's a concern.

24 THE COURT: Well, then we have another alternate.

25 MR. SHEETS: Hopefully we wouldn't have to use them

1 both. And that's -- there was one thing I wanted to address
2 with regards to Seat No. 30. I don't think she knows it. I
3 used to prosecute for the City of Henderson, and I used to
4 interact with her husband. I am only mentioning that now
5 because I would obviously be -- I don't want there to be any
6 concern if something comes up. If she mentions the lawyers,
7 obviously she shouldn't be, but if she does, then I just want to
8 make the Court aware.

9 THE COURT: Okay. Well --

10 MR. SHEETS: Yeah.

11 THE COURT: -- she's indicated no issues.

12 THE DEFENDANT: I've got a couple, Your Honor.

13 MR. SHEETS: Tell me.

14 (Off-record colloquy)

15 MR. SHEETS: Your Honor, my client makes a good point.
16 I was going to explore that one more on voir dire, but she is
17 the one who ended up crying, and she did initially tell Your
18 Honor she didn't know if she could be fair, but I was going to
19 explore that further.

20 THE COURT: At the end she said that she could follow
21 my instructions and be fair to both sides. You're free to
22 follow up more with her on individual voir dire.

23 (Off-record colloquy)

24 THE COURT: All right. Well, I don't hear anybody
25 else. I guess the -- anything else.

1 THE DEFENDANT: Your Honor.

2 THE COURT: So the issue is --

3 THE DEFENDANT: May I address the Court, Your Honor?

4 THE COURT: -- Ms. McCloud and Mr. Roberts. I'm just
5 not inclined to let Mr. Roberts go at this point in time. And
6 Ms. Galindo, I'm not inclined to let her go. I think we can
7 work around her schedule to some degree. Ms. McCloud, you know,
8 right now I'm not going to let her go. I think we'll see if she
9 -- we'll see how we're doing with filling in the four that we've
10 got. So right now I'm going to excuse Ms. Faso, No. 10; No. 11,
11 Ms. Gamez; No. 20, Ms. Ramirez-DeCastaneda; and No. 21, Ms.
12 Trice. Is that -- does that concur -- everyone concur with
13 that?

14 MR. SHEETS: No. 39, as well, Your Honor?

15 THE COURT: 39? Oh, and 39. 39, yeah. 39 from the
16 gallery. All right. Anybody --

17 THE DEFENDANT: May I speak really quick, Your Honor?

18 THE COURT: Not -- talk to your attorney. If he
19 feels --

20 THE DEFENDANT: I'm just --

21 THE COURT: -- it's something that should be raised,
22 I'll deal with it. But everybody else --

23 THE DEFENDANT: I'm just asking you --

24 THE COURT: -- has got to take a break, and so we --
25 we're going to do that.

1 THE DEFENDANT: It's about bias between you. Do you
2 think you can be fair?

3 THE COURT: Yes. I've already told you that.

4 All right. Everybody, we'll take --

5 THE DEFENDANT: You never stated that you --

6 THE COURT: -- a break and get back as soon as you can
7 and we'll -- as soon as we get back and I hear --

8 THE DEFENDANT: Can I ask you --

9 THE COURT: -- everybody else is okay.

10 THE DEFENDANT: -- to recuse yourself, Your Honor?

11 THE COURT: And so, all right, we'll see you.

12 (Court recessed at 12:03 p.m., until 12:12 p.m.)

13 (Outside the presence of the prospective jury)

14 THE DEFENDANT: So could we bring that issue up, Your
15 Honor?

16 THE COURT: You need to discuss it with your attorney.

17 THE DEFENDANT: Well, I have.

18 THE COURT: Well --

19 THE DEFENDANT: I already have discussed it with him.

20 THE COURT: Well, let's wait until your attorney gets
21 back.

22 THE DEFENDANT: And I got a competency letter that
23 found me competent to stand trial from Judge Togliatti's
24 courtroom.

25 THE COURT: All right.

1 THE DEFENDANT: And pursuant to 178.420 it say I have
2 -- I am capable of assisting my attorney in my defense. Now --

3 THE COURT: You --

4 THE DEFENDANT: -- Your Honor --

5 THE COURT: You can assist your attorney by telling
6 him, you know, communicating with him, letting him know what
7 your concerns are, and helping him out, but that doesn't mean
8 you get to be co-counsel. That's not what it means.

9 THE DEFENDANT: Now is my name --

10 THE COURT: It means your competent to --

11 THE DEFENDANT: Could you read me --

12 THE COURT: -- stand trial.

13 THE DEFENDANT: -- the criminal complaint?

14 THE COURT: Huh?

15 THE DEFENDANT: The criminal complaint.

16 THE COURT: What about it?

17 THE DEFENDANT: Could you read it to me, my charges?

18 THE COURT: I'm not going to read it to you. You've
19 have -- do you have a copy of the criminal complaint?

20 Have you provided your client with a copy of the
21 criminal complaint?

22 MR. SHEETS: Yes, Your Honor. At the initial
23 arraignment he waived a reading of that information.

24 THE COURT: All right.

25 MR. SHEETS: And he has a copy --

1 THE DEFENDANT: But --
2 MR. SHEETS: -- of the amended information right here.
3 THE DEFENDANT: -- I only waived it because at the --
4 THE COURT: That's fine. I don't care.
5 All right. Let's bring in the jury.
6 THE DEFENDANT: See, that's bias, Your Honor.
7 THE COURT: No, it's not. It means I've got a jury of
8 people out there who have other lives --
9 THE DEFENDANT: I want you to --
10 THE COURT: -- that need to be dealt with.
11 THE DEFENDANT: -- recuse yourself, Your Honor.
12 THE COURT: Well, I'm not, so --
13 THE DEFENDANT: Is that on record, reporter?
14 (Inside the presence of the prospective jury)
15 THE COURT: Okay. Let the record reflect the presence
16 of the attorneys for both sides, the presence of the defendant.
17 Do the parties stipulate to the presence of the voir dire panel?
18 MS. SUDANO: Yes, Your Honor.
19 MR. SHEETS: Yes, Your Honor.
20 THE COURT: All right. Thank you. Ladies and
21 gentlemen, thank you for getting back in such a timely fashion.
22 I really do appreciate it. We will continue on and go, well,
23 probably close to 1:00, and then we'll break for -- for lunch at
24 that point in time.
25 During the break, I did have a chance to chat with the

1 attorneys, and I am going to excuse a few people at this point
2 in time. I want to emphasize the decision whether anyone gets
3 excused or not is my decision, so if you don't get excused and
4 you're mad and upset, be mad and upset at me, not at the
5 attorneys or the parties in any way.

6 So at this point in time, we are going to excuse Juror
7 No. 10, Ms. Faso. Thank you for your participation here today,
8 ma'am.

9 We're going to excuse Juror No. 11, Ms. Gamez. Thank
10 you for your participation here today, ma'am.

11 We're going to excuse Juror No. 20, Ms.
12 Ramirez-DeCastaneda. Thank you so much for your participation
13 here, ma'am.

14 And we're going to excuse Juror No. 21, Ms. Trice.
15 Thank you for your participation, Ms. Trice.

16 And then we're also going to release at this point in
17 time Ms. Mendoza-DeMendoza, Badge No. 297. Thank you for your
18 participation here today.

19 All right. We're going to need a new Juror No. 10,
20 and that's going to be Melanie Wright-Myers. And we need a new
21 Juror No. 11, and that's going to be Ms. Eva Miller. And we
22 need a new Juror No. 20, and that's going to be Daria Briggs.
23 And then we need a new Juror No. 21, and that's going to be Nora
24 Gonzalez.

25 Okay. All right. If we could hand the microphone

1 over to No. 10, Ms. Wright-Myers. You already got it?

2 THE MARSHAL: I got it.

3 THE COURT: Oh, you got it. Okay.

4 THE MARSHAL: I went the wrong way.

5 PROSPECTIVE JUROR NO. 0264: Hey, Judge.

6 THE COURT: All right. Good afternoon, Ms. -- Ms.
7 Wright-Myers. How are you today?

8 PROSPECTIVE JUROR NO. 0264: I'm okay.

9 THE COURT: All right. Did you have a chance to hear
10 the questions that I asked earlier today?

11 PROSPECTIVE JUROR NO. 0264: Yes, sir.

12 THE COURT: And would you have answered any of those
13 questions?

14 PROSPECTIVE JUROR NO. 0264: Yes.

15 THE COURT: Okay. Which questions would you have
16 answered?

17 PROSPECTIVE JUROR NO. 0264: I have been a victim of
18 violent crimes.

19 THE COURT: All right.

20 PROSPECTIVE JUROR NO. 0264: My dad killed my mom when
21 I was little. My exes have beaten and abused me. I've also
22 been arrested for domestic violence, even though they should
23 have been the one getting arrested.

24 THE COURT: Okay. All right. All right. We may
25 bring you up separately at this point in time. Any other

1 questions that you would answer, other than those questions?

2 PROSPECTIVE JUROR NO. 0264: A lot of the times I felt
3 like the police department was very unfair on the situations.

4 THE COURT: Okay. All right. Any other questions you
5 would have answered?

6 PROSPECTIVE JUROR NO. 0264: No.

7 THE COURT: Okay. Thank you very much. Let's hand
8 that microphone down now to No. 11, Ms. Miller. Okay. Good
9 afternoon, Ms. Miller. How are you doing today?

10 PROSPECTIVE JUROR NO. 0269: I'm doing well, thank
11 you.

12 THE COURT: Okay. Let me ask you, did you hear all
13 the questions that I asked earlier today?

14 PROSPECTIVE JUROR NO. 0269: Yes, I did.

15 THE COURT: And would you have answered any of those?

16 PROSPECTIVE JUROR NO. 0269: Nope.

17 THE COURT: Okay. Thank you very much. All right.
18 Let's take the mic all the way down now to No. 20, Ms. Biggs.

19 PROSPECTIVE JUROR NO. 0277: Hello.

20 THE COURT: All right. Good afternoon, Ms. Biggs.
21 How are you?

22 PROSPECTIVE JUROR NO. 0277: Good. How are you?

23 THE COURT: Good. Did you hear the questions that I
24 asked -- all the questions I asked earlier today?

25 PROSPECTIVE JUROR NO. 0277: Yes. I would only answer

1 one about scheduling.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 0277: We have a family
4 vacation, and we're leaving on Saturday for San Diego.

5 THE COURT: Okay. All right. Okay. Thank you very
6 much. And then let's hand the mic down now to No. 21, Ms.
7 Gonzalez.

8 Good afternoon, Ms. Gonzalez.

9 PROSPECTIVE JUROR NO. 0280: Hi.

10 THE COURT: How are you?

11 PROSPECTIVE JUROR NO. 0280: I'm good, thank you. How
12 are you?

13 THE COURT: Good. Did you have a chance to hear all
14 the questions I asked earlier today?

15 PROSPECTIVE JUROR NO. 0280: Yes.

16 THE COURT: And would you have answered any of those?

17 PROSPECTIVE JUROR NO. 0280: A lot of them, I think.

18 THE COURT: Huh?

19 PROSPECTIVE JUROR NO. 0280: A lot of them, I think.

20 THE COURT: Okay. Well, go ahead and start up.

21 PROSPECTIVE JUROR NO. 0280: I -- I work for municipal
22 court.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 0280: So not in the law
25 enforcement kind of field, but the judicial system field.