

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS CASH)
)
Appellant,)
vs.)
)
THE STATE OF NEVADA,)
)
Respondent.)
_____)

S.C. Case No. 77018

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APPELLANT'S APPENDIX Vol 3 of 6

(Appeal from a Judgment of Conviction Following a Jury Trial and Verdict)

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1 Forensic Files.

2 MS. BLUTH: What do you love about it?

3 PROSPECTIVE JUROR NUMBER 078: Because I'm interested
4 in the forensic side of criminal justice and it being true and how they
5 collect evidence. It's just really interesting to me.

6 MS. BLUTH: Do you think every case has it?

7 PROSPECTIVE JUROR NUMBER 078: No.

8 MS. BLUTH: Do you think in order to establish that someone's
9 guilty that you have to have it?

10 PROSPECTIVE JUROR NUMBER 078: I do believe you have
11 to have some kind of evidence to establish guilt.

12 MS. BLUTH: Okay. So, now, there's a difference between
13 evidence and forensic evidence?

14 PROSPECTIVE JUROR NUMBER 078: Right.

15 MS. BLUTH: So, you know, evidence could be people saw it
16 happen --

17 PROSPECTIVE JUROR NUMBER 078: Right.

18 MS. BLUTH: -- someone admits that they did it?

19 And forensic evidence would be fingerprints, DNA, there's a
20 couple of other.

21 PROSPECTIVE JUROR NUMBER 078: There has to be
22 something that says this person is guilty.

23 MS. BLUTH: Okay. So but it doesn't have to forensic is what
24 you're saying?

25 PROSPECTIVE JUROR NUMBER 078: No, no, no.

1 MS. BLUTH: All right. What about following the law, even
2 though you don't agree with it?

3 PROSPECTIVE JUROR NUMBER 078: Even though I don't
4 agree with it, it is the law. And if I'm on the jury panel and you tell me I
5 have to abide within this, then that is what I'm going to do.

6 MS. BLUTH: Okay. Have you ever been a participant in a trial
7 in away, like a witness or --

8 PROSPECTIVE JUROR NUMBER 078: No.

9 MS. BLUTH: -- in part of a civil trial or anything like that?

10 PROSPECTIVE JUROR NUMBER 078: No.

11 MS. BLUTH: Yesterday I asked a juror how they would handle
12 a situation if you guys went outside on recess, someone was like
13 researching the case on their phone, kind of like on Google, or I think the
14 specific analogy -- or the specific example I used was, like, two people
15 were already talking about the case. And I think the juror was, like, well,
16 that would -- I don't really want to tell, but if that's what I'm supposed to
17 do, then I would do it.

18 Would you be able to do something like that?

19 PROSPECTIVE JUROR NUMBER 078: I wouldn't like doing it,
20 but I would because that could be a mistrial.

21 MS. BLUTH: Right, exactly.

22 PROSPECTIVE JUROR NUMBER 078: That's a serious
23 matter.

24 MS. BLUTH: Anybody that you know that's law enforcement or
25 in the legal field, judges, lawyers?

1 PROSPECTIVE JUROR NUMBER 078: My brother is a
2 paralegal. And he actually knows most all of the judges and he knows
3 you.

4 THE COURT: Who does he work for?

5 PROSPECTIVE JUROR NUMBER 078: He works for Helm
6 and Associates.

7 MR. LONG: How do you know he knows the judge?

8 PROSPECTIVE JUROR NUMBER 078: Oh, because my
9 brother asked what -- he only asked who the judge was and I said Judge
10 Smith.

11 THE COURT: I don't know him. If I saw him, I might.

12 MS. BLUTH: Is your brother, is that a civil law firm or is it
13 criminal? I don't know.

14 PROSPECTIVE JUROR NUMBER 078: I really don't know.

15 MS. BLUTH: Do they deal with like crimes, like homicide,
16 robberies or is it more like dealing with slip and falls and construction
17 defect?

18 PROSPECTIVE JUROR NUMBER 078: I don't know, I'm sorry.

19 MS. BLUTH: No, that's okay.

20 Does he talk about his work at all?

21 PROSPECTIVE JUROR NUMBER 078: No.

22 MS. BLUTH: All right. And I know someone is going to say
23 this. So I will say it. Is you can't call your brother and ask, like, hey, this
24 legal concept is says this, what do you think. And I'm sure you
25 understand that but.

1 PROSPECTIVE JUROR NUMBER 078: I understand.

2 MS. BLUTH: You'd be okay with that?

3 PROSPECTIVE JUROR NUMBER 078: U'm-h'm.

4 MS. BLUTH: Okay. Any training in yourself, either in the legal
5 field or --

6 PROSPECTIVE JUROR NUMBER 078: No.

7 MS. BLUTH: -- anything like that?

8 How long have you been in the county?

9 PROSPECTIVE JUROR NUMBER 078: On an off since 2000.

10 MS. BLUTH: Do you feel comfortable voicing your opinion in
11 front of other people?

12 PROSPECTIVE JUROR NUMBER 078: Yes and no. It
13 depends on the people. If I'm comfortable with them, then I have no
14 problem saying I believe in this and not this. But when there's people
15 around that I don't know, that I don't feel comfortable with, it can be a little
16 intimidating.

17 MS. BLUTH: If need be though, you know, first of all, when
18 you're in a trial you're around those 12 people like all day, every day. So
19 you kind of get to know each other very quickly. And so usually it
20 becomes more comfortable with each other. Do you think that would be a
21 more comfortable setting in order for you to voice your opinion?

22 PROSPECTIVE JUROR NUMBER 078: Yes.

23 MS. BLUTH: All right. If this -- we, prove to you beyond a
24 reasonable doubt that the Defendant committed this crime, would you be
25 able to walk back in and say, like, we, as the jury, have found you guilty of

1 these crimes?

2 PROSPECTIVE JUROR NUMBER 078: Yes.

3 THE COURT: Likewise, could you find him not guilty?

4 PROSPECTIVE JUROR NUMBER 078: Yes.

5 MS. BLUTH: And then what about the conversations we've
6 been having about fights and escalating them with weapons, things like
7 that, what are your thoughts on that?

8 PROSPECTIVE JUROR NUMBER 078: Well, as a CCW holder
9 myself, I generally always have my gun on me.

10 MS. BLUTH: Okay.

11 PROSPECTIVE JUROR NUMBER 078: I do not go looking for
12 fights, and I will avoid one at all costs. But if Mike Tyson were to come
13 after me, you know --

14 MS. BLUTH: Yeah.

15 PROSPECTIVE JUROR NUMBER 078: -- I can't handle that
16 so.

17 MS. BLUTH: Of course.

18 PROSPECTIVE JUROR NUMBER 078: Yeah.

19 MS. BLUTH: So I think what you're saying is, is there would
20 have to be a certain threat level?

21 PROSPECTIVE JUROR NUMBER 078: There has be, my life
22 is threatened or my child's life.

23 MS. BLUTH: Okay. All right. Is there anything about you that
24 makes you feel like you -- we should know or would that makes you
25 anxious or nervous that we should assess?

1 PROSPECTIVE JUROR NUMBER 078: No, not that I can think
2 of.

3 MS. BLUTH: Okay. Thank you.

4 Pass for cause, Your Honor.

5 MR. LONG: Ms. Bird, I have just a few brief questions. So
6 you've told your brother that you had jury duty?

7 PROSPECTIVE JUROR NUMBER 078: Yeah, I did, yeah.

8 MR. LONG: Did you talk to him about the case at all or what
9 you know about it?

10 PROSPECTIVE JUROR NUMBER 078: No.

11 MR. LONG: Okay. Did your brother give you any advice, how
12 to wiggle out, what to say?

13 PROSPECTIVE JUROR NUMBER 078: No.

14 PROSPECTIVE JUROR NUMBER 034: Well, she's not doing a
15 very good job, if he did.

16 MR. LONG: And you understand that your brother, and his
17 employer, Kevin Helm, is an exceptional attorney, but regardless of what
18 they say, you cannot pick up the phone, you cannot text them, all that
19 matters is what comes from the bench?

20 PROSPECTIVE JUROR NUMBER 078: Yes, I agree.

21 MR. LONG: You're okay with that?

22 PROSPECTIVE JUROR NUMBER 078: Yes.

23 MR. LONG: And you're an accountant for a construction
24 company, are you a CPA?

25 PROSPECTIVE JUROR NUMBER 078: No, no. I just do

1 accounts payable and accounts receivable.

2 MR. LONG: Okay. So is it closer to bookkeeping or closer to
3 accounting?

4 PROSPECTIVE JUROR NUMBER 078: Bookkeeping.

5 MR. LONG: Okay. And you have a CCW?

6 PROSPECTIVE JUROR NUMBER 078: Yes, I do.

7 MR. LONG: And how many years have you had that?

8 PROSPECTIVE JUROR NUMBER 078: One.

9 MR. LONG: Okay. And was there anything that happened that
10 made you make the decision to --

11 PROSPECTIVE JUROR NUMBER 078: No.

12 MR. LONG: -- today's the day, I'm going to go get me that
13 card?

14 PROSPECTIVE JUROR NUMBER 078: No.

15 MR. LONG: Okay. And I'm assuming that in one year you've
16 never drawn down on anybody?

17 PROSPECTIVE JUROR NUMBER 078: No.

18 MR. LONG: Okay. And do you believe that trouble can find
19 you, like you said, you don't go out looking for fights, you don't go into
20 bars and picking fights, but do you believe that fights can come to you?

21 PROSPECTIVE JUROR NUMBER 078: Yes.

22 MR. LONG: And if they do, do you believe that you can be
23 justified or that anyone else can be justified in taking someone's life?

24 PROSPECTIVE JUROR NUMBER 078: If your life is in danger,
25 yes.

1 MR. LONG: What about the lives of others as well?

2 PROSPECTIVE JUROR NUMBER 078: The lives of my family,
3 my loved ones, yes.

4 MR. LONG: Okay. What about the lives of strangers? What if
5 you went out on the street today and you saw a big guy knocking around
6 three or four people that you've never seen before and he's going to kill
7 them all?

8 PROSPECTIVE JUROR NUMBER 078: No, I wouldn't kill them
9 all. I'd be screaming while on the phone --

10 MR. LONG: No, he's going to.

11 PROSPECTIVE JUROR NUMBER 078: Oh, I'm sorry.

12 MR. LONG: Big guy?

13 PROSPECTIVE JUROR NUMBER 078: I would be screaming
14 at him while I was on the phone with 9-1-1.

15 MR. LONG: Would you be drawing down as well, lock and
16 unload?

17 PROSPECTIVE JUROR NUMBER 078: No.

18 MR. LONG: Okay.

19 PROSPECTIVE JUROR NUMBER 078: If he was to turn on
20 me and come after me, I may.

21 MR. LONG: All right. That's all the questions that I have. I'll
22 pass for cause.

23 I'm a little concerned that she's talked about the case. She
24 doesn't know anything about the case though yet so.

25 THE COURT: She didn't talk about it.

1 MR. LONG: She's probably okay.

2 THE COURT: She talked about where she was going.

3 MR. LONG: Yeah.

4 THE COURT: He probably told her, oh, no, not Judge Smith.

5 MR. LONG: Yeah. Didn't roll her eyes and say, oh, gosh, do
6 whatever you can to get out of there.

7 THE COURT: All right. Thank you.

8 We're going to have to take our evening recess.

9 During the recess you're not to converse among yourselves, or
10 with anyone else, including your brother, on any subject connected with
11 this trial. Or read or watch or listen to any report of or commentary on the
12 trial by any medium of information, including, without limitation,
13 newspapers, television, radio, or the Internet. Or form or express an
14 opinion on any subject connected with the trial until the case is finally
15 submitted to you.

16 Remember, no social media, don't get on social media and talk
17 about it. Don't talk to your brother about it what you've heard in here.
18 Don't do any research on computers on your own.

19 We'll see you in the morning. I have law and motion calendar
20 that starts at 8:00. I will come before 8:00. Well, I'll be here at 4:30. I'll
21 start court before 8:00 and I should be done any 9:00. So be here at 9
22 o'clock. Tom will tell you how to lineup and where to go. We'll have a jury
23 tomorrow.

24 [Outside the presence of the prospective jury panel]

25 THE COURT: All right. We'll have a jury testimony.

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MS. BLUTH: Yep.

THE COURT: If you guys weren't so talkative, we'd have one today.

I want jury instructions Thursday morning. Give me a clean copy. I don't care about cites. You get with 'em and see what you agree on. I don't want to see those cited ones. I only want to see the ones that have -- that are not opposed. We'll fight about the others.

MS. BLUTH: Okay.

THE COURT: Thursday morning.

MS. DIGIACOMO: That's a.m.; right?

THE COURT: That's a.m.

MS. DIGIACOMO: Got it.

THE COURT: Depending on how tomorrow goes, it might be 6:00 a.m.

MS. BLUTH: Oh, my gosh.

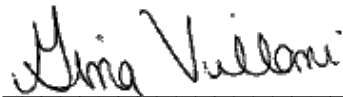
THE COURT: For Jacqueline.

MS. BLUTH: Jiminy Christmas.

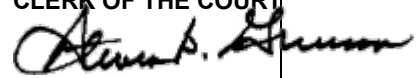
[Jury Trial, Day 2, concluded at 3:29 p.m.]

* * * * *

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.



Gina Villani
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,**

10 **vs.**

11 **THOMAS CASH,**
12 **Defendant.**

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) **CASE#: C-18-329699-1**
) **DEPT. VIII**
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13
14 **BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE**
15 **WEDNESDAY, JUNE 20, 2018**

16 ***RECORDER'S TRANSCRIPT OF PROCEEDINGS:***
17 ***JURY TRIAL - DAY 3***

18
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JACQUELINE M. BLUTH, ESQ.
Chief Deputy District Attorneys

21
22
23 **For the Defendant:**

KENNETH W. LONG, ESQ.

24
25 **RECORDED BY: GINA VILLANI, COURT RECORDER**

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Las Vegas, Nevada, Wednesday, June 20, 2018

[Jury Trial began at 9:45 a.m.]

[In the presence of the prospective jury panel]

THE MARSHAL: All rise, please.

And be seated.

THE COURT: Ms. Butler, yeah, you're free to go.

PROSPECTIVE JUROR NUMBER 013: Thank you so much.

THE COURT: And then if you will take her seat, and then you
will take this seat; okay.

Yeah, you go up there and take that seat.

Give him the mic, we'll talk to him.

MS. DIGIACOMO: I'm sorry, he took which seat?

MS. BLUTH: Yeah, where did that guy go?

MS. DIGIACOMO: Oh, it's Corbin; okay. So it was number 33.

THE COURT: All right. Tell me your name.

PROSPECTIVE JUROR NUMBER 052: Good morning, my
name is Gagik Karapetyan.

THE COURT: Do you work?

PROSPECTIVE JUROR NUMBER 052: Yes, sir.

THE COURT: What do you do?

PROSPECTIVE JUROR NUMBER 052: I work in the company,
taxi driver.

THE COURT: Are you married?

PROSPECTIVE JUROR NUMBER 052: Yes, 32 years.

1 THE COURT: Spouse work?
2 PROSPECTIVE JUROR NUMBER 052: She work in Jockey
3 Club, hospitality.
4 THE COURT: Children?
5 PROSPECTIVE JUROR NUMBER 052: Three kids and six
6 grandkids.
7 THE COURT: Any of your children in law or law enforcement?
8 PROSPECTIVE JUROR NUMBER 052: My son have -- he go
9 to jail 2010.
10 THE COURT: Not yet.
11 PROSPECTIVE JUROR NUMBER 052: Not yet.
12 THE COURT: Are they police officers?
13 PROSPECTIVE JUROR NUMBER 052: No.
14 THE COURT: Have you ever sat as a juror before?
15 PROSPECTIVE JUROR NUMBER 052: No.
16 THE COURT: You'll be fair and impartial in this case if you're
17 chosen?
18 PROSPECTIVE JUROR NUMBER 052: Yes.
19 THE COURT: State.
20 MS. DIGIACOMO: Thank you, Your Honor.
21 Okay. Sir, so you've heard questions now --
22 THE COURT: Wait, before you do. Mr. Perez-Heredia, you
23 have a seat over here, behind the State. You're going to have a social
24 studies lesson. You're going to sit right there, with the master's degree
25 that doesn't speak English.

1 And we'll fill that spot too now.

2 THE COURT CLERK: Kerry Henderson.

3 THE COURT: All right. State, now go.

4 MS. DIGIACOMO: Okay. Thank you.

5 Okay. Sir, so you've heard everything the last two days,

6 anything you want to say just right off the bat before we get into

7 questions? You said that your son was arrested in 2010?

8 PROSPECTIVE JUROR NUMBER 052: That's correct.

9 MS. DIGIACOMO: Okay. What was that for?

10 PROSPECTIVE JUROR NUMBER 052: Felony.

11 MS. DIGIACOMO: Felony what?

12 PROSPECTIVE JUROR NUMBER 052: You know what, I'm

13 not interesting for that because almost -- no, I give bail -- bail for him in

14 2012 after -- after prison. Because his -- his case is not closed. It's

15 immigration court now, and it's next -- his court is September 11, 9 o'clock

16 in the morning. So I need to go. But I don't talk to him. That's long time.

17 Because he's, you know what, that's his mistake, but I don't -- I don't give

18 for him chance. I don't take that mistake. I don't have nothing in my life,

19 not one. Like is having a hole in my life. But he have that.

20 MS. DIGIACOMO: Okay.

21 PROSPECTIVE JUROR NUMBER 052: So that's not the

22 excuse for him. It's I thinking that. Maybe I'm wrong but I doing that.

23 MS. DIGIACOMO: Okay. So the felony that he got, you don't

24 know what it's for?

25 PROSPECTIVE JUROR NUMBER 052: I don't know.

1 MS. DIGIACOMO: But he went to prison?

2 PROSPECTIVE JUROR NUMBER 052: Yes, in California.

3 MS. DIGIACOMO: Oh, so it was in California.

4 And then when he got out, he went to immigration and you
5 bailed him out?

6 PROSPECTIVE JUROR NUMBER 052: Yes. In San
7 Francisco, I go to driving in San Francisco, giving bail, \$10,000, and keep
8 this guy here.

9 MS. DIGIACOMO: Okay. And so his hearing is coming up this
10 September?

11 PROSPECTIVE JUROR NUMBER 052: No, his -- he's court in
12 September 11, this year.

13 MS. DIGIACOMO: Okay.

14 PROSPECTIVE JUROR NUMBER 052: 2018.

15 MS. DIGIACOMO: And you plan to go?

16 PROSPECTIVE JUROR NUMBER 052: Of course, I need to
17 go. I'm a parent. I'm a father.

18 MS. DIGIACOMO: Okay. But you don't, I mean, you're going
19 to help him with his immigration?

20 PROSPECTIVE JUROR NUMBER 052: I going to help him but
21 I never talk to him.

22 MS. DIGIACOMO: You don't talk to him; okay.

23 So is there anything about your son, his conviction and his
24 immigration issues with that immigration court, does that have any bearing
25 on your ability to be fair and impartial here?

1 PROSPECTIVE JUROR NUMBER 052: No.

2 MS. DIGIACOMO: Okay. Anyone else close to you that's been

3 arrested?

4 PROSPECTIVE JUROR NUMBER 052: No.

5 MS. DIGIACOMO: What about victim of a crime, anyone close

6 to you ever been the victim of a crime?

7 PROSPECTIVE JUROR NUMBER 052: No.

8 MS. DIGIACOMO: What about -- okay. How long have you

9 been here?

10 PROSPECTIVE JUROR NUMBER 052: United States or

11 Vegas?

12 MS. DIGIACOMO: In United States first.

13 PROSPECTIVE JUROR NUMBER 052: 1997 I come here

14 and --

15 MS. DIGIACOMO: Okay.

16 PROSPECTIVE JUROR NUMBER 052: -- political asylum.

17 MS. DIGIACOMO: I'm sorry?

18 PROSPECTIVE JUROR NUMBER 052: I'm a political guy.

19 MS. DIGIACOMO: Oh, okay.

20 So, and then you've been in Las Vegas for how long?

21 PROSPECTIVE JUROR NUMBER 052: 15 years.

22 MS. DIGIACOMO: Okay. What do you think of our criminal

23 justice system?

24 PROSPECTIVE JUROR NUMBER 052: Working perfect.

25 MS. DIGIACOMO: Why do you say it works perfect? Is that

1 based upon where you're from?

2 PROSPECTIVE JUROR NUMBER 052: You know what, where
3 you're just guilty, you needed to take everything. I mean, you need to give
4 an answer for that. For your --

5 MS. DIGIACOMO: Okay. So --

6 PROSPECTIVE JUROR NUMBER 052: I mean everything is
7 working good.

8 MS. DIGIACOMO: Okay.

9 PROSPECTIVE JUROR NUMBER 052: I don't have a problem
10 about that. So after that, for me, that's -- I thinking that that's right.

11 MS. DIGIACOMO: Okay.

12 PROSPECTIVE JUROR NUMBER 052: That's good.

13 MS. DIGIACOMO: Okay. So, but you said something about if
14 somebody's guilty, they should, I guess, just do it or something?

15 PROSPECTIVE JUROR NUMBER 052: I mean, what you're
16 doing, you know what, it's life, everybody have a mistake. I understand.
17 But mistake have a, you know, three, four category and the difference;
18 right? It's a small mistake, middle, and big mistake. I mean, when people
19 just kill other people, you don't give the life for these people what you just
20 killed the guy, you know what I mean? That's it. He need to go to --

21 MS. DIGIACOMO: You need to go --

22 PROSPECTIVE JUROR NUMBER 052: He's guilty. That's it.

23 MS. DIGIACOMO: You need to be guilty; okay.

24 But what if the State can't prove that the person actually killed
25 somebody?

1 PROSPECTIVE JUROR NUMBER 052: I mean, I'm not judge
2 for other life. But where he guilty, going to -- everybody say, well, he's
3 guilty, he's guilty; right?

4 MS. DIGIACOMO: Okay. So if everybody agrees he's guilty,
5 then he's guilty; right, is that what you're saying?

6 PROSPECTIVE JUROR NUMBER 052: Yes.

7 MS. DIGIACOMO: So if everybody agrees he's not guilty, then
8 he's not guilty?

9 PROSPECTIVE JUROR NUMBER 052: Where he's not guilty,
10 he's not guilty.

11 MS. DIGIACOMO: Okay. So you're not sitting there with any
12 preconceived notions of the Defendant in this case?

13 PROSPECTIVE JUROR NUMBER 052: No, that's good.

14 MS. DIGIACOMO: Okay. And you'll keep an open mind if
15 you're selected as a juror?

16 PROSPECTIVE JUROR NUMBER 052: Of course.

17 MS. DIGIACOMO: So if the judge instructs you on the law at
18 the end and you -- there's something you disagree with, will you still follow
19 the judge's instructions?

20 PROSPECTIVE JUROR NUMBER 052: Instruction is first.

21 MS. DIGIACOMO: So that's a yes?

22 PROSPECTIVE JUROR NUMBER 052: Yes.

23 MS. DIGIACOMO: All right.

24 PROSPECTIVE JUROR NUMBER 052: I'm sorry, for that one.

25 MS. DIGIACOMO: No, that's okay.

1 PROSPECTIVE JUROR NUMBER 052: You know, my English
2 not very perfect. I understand it's very good. But sometime I just, you
3 know.

4 MS. DIGIACOMO: So you under --

5 PROSPECTIVE JUROR NUMBER 052: My slang is a little bit
6 different. I'm a taxi driver, sorry.

7 MS. DIGIACOMO: Okay. All right. And you said that your wife
8 works for hospitality?

9 PROSPECTIVE JUROR NUMBER 052: Yes, Jockey Club,
10 that's between the Bellagio and Cosmopolitan.

11 MS. DIGIACOMO: Okay.

12 PROSPECTIVE JUROR NUMBER 052: She working 14 years.

13 MS. DIGIACOMO: 14 years; okay.

14 Have you been a taxi driver the whole time you -- the whole 15
15 years you've been here?

16 PROSPECTIVE JUROR NUMBER 052: No. I work in the
17 Palace Station before that, dealer, roulette dealer, blackjack, and other.

18 MS. DIGIACOMO: Okay.

19 PROSPECTIVE JUROR NUMBER 052: And just three years I
20 working the taxi driver.

21 MS. DIGIACOMO: Okay. Do you watch any of the law shows?

22 PROSPECTIVE JUROR NUMBER 052: Never.

23 MS. DIGIACOMO: Never?

24 PROSPECTIVE JUROR NUMBER 052: I don't spend my time
25 for that.

1 MS. DIGIACOMO: Okay. What do you watch if you're going to
2 watch TV?

3 PROSPECTIVE JUROR NUMBER 052: I'm watching just, you
4 know, sport.

5 MS. DIGIACOMO: Okay.

6 PROSPECTIVE JUROR NUMBER 052: Now is, you know,
7 FIFA and World Cup. But now I don't have a chance watching that
8 because three day I'm here.

9 MS. DIGIACOMO: Recorder.

10 PROSPECTIVE JUROR NUMBER 052: Yeah, I record it, yeah.

11 MS. DIGIACOMO: So nobody give him updates.

12 PROSPECTIVE JUROR NUMBER 052: I watching in a good
13 concert. I like watching a show, in a concert, I mean, Carlos Santana, you
14 know.

15 MS. DIGIACOMO: Okay.

16 PROSPECTIVE JUROR NUMBER 052: I'm a different, little bit
17 maybe.

18 MS. DIGIACOMO: Okay.

19 PROSPECTIVE JUROR NUMBER 052: Maybe crazy, maybe
20 not.

21 MS. DIGIACOMO: So as you sit here, you don't have any
22 expectations about what --

23 PROSPECTIVE JUROR NUMBER 052: No, I don't like that.

24 MS. DIGIACOMO: Okay.

25 PROSPECTIVE JUROR NUMBER 052: Believe me, I don't like

1 that.

2 MS. DIGIACOMO: Okay. And what about the, what we've
3 been talking about, bringing a gun or a weapon to a fist fight?

4 PROSPECTIVE JUROR NUMBER 052: You know, sometime
5 in -- what he -- using gun, I mean, but it's illegal. He using gun. Just one
6 thing what -- some people giving up dangerous for your family, I
7 understand that. But not just you going out on Strip and starting a
8 shooting, that's -- that's wrong.

9 MS. DIGIACOMO: Okay. And with regard to the fact that there
10 is a possibility of a second phase to this trial, with a penalty, can you hear
11 the first, the trial phase?

12 PROSPECTIVE JUROR NUMBER 052: I never separate that.

13 MS. DIGIACOMO: You can separate it?

14 PROSPECTIVE JUROR NUMBER 052: No.

15 MS. DIGIACOMO: And if you get to penalty, can you consider
16 all three options?

17 PROSPECTIVE JUROR NUMBER 052: Yes.

18 MS. DIGIACOMO: Okay. And with regard, I meant to ask you
19 with your son, with the immigration, so he never became a naturalized
20 citizen?

21 PROSPECTIVE JUROR NUMBER 052: You know what, he's --
22 I told you, that his mistake. Before he come here, he have a Green Card.
23 And he have a now a Green Card. But he doing that small mistake
24 because he don't listening. He going to live in California, he says, I'm a
25 34 years old. I say, okay, go.

1 But in my family, I don't -- I ended up giving up -- what I say,
2 then, you know, I need not pushing. I just helping for his life. Where he
3 going now, not wrong way, I mean, in the true way. But he don't listening.
4 I go to him and he said, I have a lot of friend in California, blah-blah-blah.
5 He going to live in California, after that he have this problem.

6 MS. DIGIACOMO: Okay. But, I guess, what I'm asking --

7 PROSPECTIVE JUROR NUMBER 052: I mean, that's
8 disrespect, you know what I mean?

9 MS. DIGIACOMO: Right.

10 But so he never went through and became a U.S. citizen?

11 PROSPECTIVE JUROR NUMBER 052: No.

12 MS. DIGIACOMO: And did your other kids?

13 PROSPECTIVE JUROR NUMBER 052: I have a -- my little
14 daughter, she's a citizen. She married. She have two kids. She living to
15 me.

16 And my older daughter, she's 42 years -- she's 41 years old,
17 she live in Armenia. She have two kids. My older grandson is 19 years
18 old.

19 MS. DIGIACOMO: Okay. And then did you -- when did -- did
20 you become natural?

21 PROSPECTIVE JUROR NUMBER 052: I went now when my
22 older daughter coming here and her family.

23 MS. DIGIACOMO: Okay. So did you become a U.S. citizen --
24 are you U.S. citizen?

25 PROSPECTIVE JUROR NUMBER 052: I'm a citizen of the

1 United States.

2 MS. DIGIACOMO: Okay. But --

3 PROSPECTIVE JUROR NUMBER 052: And I'm a citizen of
4 two country, Armenia and United States.

5 MS. DIGIACOMO: Okay. And then your wife is also dual
6 citizenship?

7 PROSPECTIVE JUROR NUMBER 052: She too.

8 MS. DIGIACOMO: Okay.

9 PROSPECTIVE JUROR NUMBER 052: She's a citizen too.

10 MS. DIGIACOMO: Okay. I have -- I'll pass for cause, Your
11 Honor.

12 MR. LONG: Good morning, sir.

13 PROSPECTIVE JUROR NUMBER 052: Good morning.

14 MR. LONG: You stated you came here, you sought political
15 asylum?

16 PROSPECTIVE JUROR NUMBER 052: Yes, sir.

17 MR. LONG: And that happened in '97?

18 PROSPECTIVE JUROR NUMBER 052: Yes, sir.

19 MR. LONG: What was going on that caused you to seek
20 political asylum?

21 PROSPECTIVE JUROR NUMBER 052: Okay. Before that, in
22 Armenia, you know, it's 1996, I have a big problem in minister in aviation.
23 I'm a veteran in the army and aviation. I'm a pilot.

24 MR. LONG: You're a pilot; okay.

25 PROSPECTIVE JUROR NUMBER 052: Yes. I have a pension

1 in my country. So I fighting in my minister in aviation because I thinking in
2 a difference. He thinking in a difference. He need to work. I mean, he
3 like -- for what he just say, what this world now is black, I need to say
4 that's for a black. But where what I see that bit of white, I never say that
5 black.

6 MR. LONG: Okay.

7 PROSPECTIVE JUROR NUMBER 052: So that's really
8 difference because situation is difference, Soviet Union is dead. I hate
9 Soviet Union before that, you know. And he's a communist. So I have a
10 big problem about this. So I don't need to put in all my case, please.
11 That's not good memory for me, believe me.

12 MR. LONG: I'm just wondering, did anything happen there that
13 you think could prevent you from being fair here?

14 PROSPECTIVE JUROR NUMBER 052: Before this year,
15 before this year, all corrupt in my country.

16 MR. LONG: Okay.

17 PROSPECTIVE JUROR NUMBER 052: Now, it's a revolution,
18 almost one and a half months in Armenia, now is a perfect country.

19 MR. LONG: Yeah. But Armenia is --

20 PROSPECTIVE JUROR NUMBER 052: Eastern --

21 MR. LONG: -- quite away and we're here --

22 PROSPECTIVE JUROR NUMBER 052: That's correct.

23 MR. LONG: -- do you think you can fairly sit in judgment of
24 Mr. Cash, regardless of what happened in your past?

25 PROSPECTIVE JUROR NUMBER 052: I -- I'm very, very,

1 interested in standing here, you know.

2 MR. LONG: Okay.

3 PROSPECTIVE JUROR NUMBER 052: Because that's a rule.

4 MR. LONG: The second question, here in the United States
5 various states have different laws about self-defense, how do you feel
6 about a person's right to defend him or herself?

7 PROSPECTIVE JUROR NUMBER 052: You know, this country
8 is a free country, you have a freedom, and every state have a different
9 rule. So I agree that and I take that.

10 MR. LONG: Do you think there's ever situations that someone
11 is justified in taking the life of someone else?

12 PROSPECTIVE JUROR NUMBER 052: Sometime.

13 MR. LONG: Such as?

14 PROSPECTIVE JUROR NUMBER 052: I told you before that
15 where I have a situation, same in my family, how big dangerous and other
16 people need to take my life, or my family life, I need to stop this when I
17 have a chance, stop not using gun, you know what I mean?

18 MR. LONG: Okay. I'll pass for cause, Your Honor.

19 THE COURT: Thanks.

20 MR. LONG: Thank you.

21 THE COURT: Tell me your name.

22 PROSPECTIVE JUROR NUMBER 079: Kerry Henderson.

23 THE COURT: Do you work?

24 PROSPECTIVE JUROR NUMBER 079: Yes, sir. I'm a camera
25 operator, an unmanned aircraft.

1 THE COURT: Are you married?
2 PROSPECTIVE JUROR NUMBER 079: Yes, sir.
3 THE COURT: Children?
4 PROSPECTIVE JUROR NUMBER 079: Stepchildren in their
5 20's and neither are in law enforcement.
6 THE COURT: What does your spouse do?
7 PROSPECTIVE JUROR NUMBER 079: He does the same job.
8 THE COURT: Have you ever sat as a juror before?
9 PROSPECTIVE JUROR NUMBER 079: No, sir.
10 THE COURT: You'll be fair to both parties in this case?
11 PROSPECTIVE JUROR NUMBER 079: Yes.
12 THE COURT: State.
13 MS. BLUTH: Good morning.
14 PROSPECTIVE JUROR NUMBER 079: Good morning.
15 MS. BLUTH: Can you tell me a little bit more about what you
16 do?
17 PROSPECTIVE JUROR NUMBER 079: Sure. I was trying to
18 figure out the best way to phrase it for everybody. So the government has
19 unmanned aircraft and people have to control the cameras on there to
20 watch things. I'm the camera person. I don't fly. I watch.
21 MS. BLUTH: So what type of training do you have to --
22 PROSPECTIVE JUROR NUMBER 079: Military background,
23 military training.
24 MS. BLUTH: And what is your military background?
25 PROSPECTIVE JUROR NUMBER 079: First, I started in

1 military intelligence in the Air Force, and then the career field is called a
2 sensor operator.

3 MS. BLUTH: Okay. And how long have you been in the
4 military?

5 PROSPECTIVE JUROR NUMBER 079: I was in for 10 years.
6 I've done this sort of job for 14.

7 MS. BLUTH: And then have you always been stateside?

8 PROSPECTIVE JUROR NUMBER 079: No. In fact, I'm
9 currently, I'm not. So my work location is overseas.

10 MS. BLUTH: Okay. And but you said you're currently what?
11 I'm sorry, what did you say?

12 PROSPECTIVE JUROR NUMBER 079: My current work
13 location is not in the country.

14 MS. BLUTH: Oh, okay.

15 PROSPECTIVE JUROR NUMBER 079: I work overseas.

16 MS. BLUTH: And so why are you here right now?

17 PROSPECTIVE JUROR NUMBER 079: It's my time off. I got
18 my original summons in April, I was overseas, I rescheduled it for now,
19 and I go back in a few weeks.

20 MS. BLUTH: Okay. And then your husband has the exact
21 same job?

22 PROSPECTIVE JUROR NUMBER 079: Yes, he does.

23 THE COURT: And then are you guys in the same, like, is he
24 overseas as well?

25 PROSPECTIVE JUROR NUMBER 079: We both go at the

1 same time. We're on opposite shifts. It's a 24/7 operation.

2 MS. BLUTH: Gotchu.

3 And then do your -- are your stepchildren grown or do
4 they come with you guys?

5 PROSPECTIVE JUROR NUMBER 079: No, they're grown and
6 not in the house. Not an issue.

7 MS. BLUTH: Okay. All right.

8 Okay. So talk to me about some of your answers that you have
9 been hearing other people answer, some of the questions?

10 PROSPECTIVE JUROR NUMBER 079: I agree with a lot of the
11 answers that have been given.

12 Throw them at me and I'll tell you what I got.

13 MS. BLUTH: Okay. Ever been a victim or anybody you know
14 close to you?

15 PROSPECTIVE JUROR NUMBER 079: No.

16 MS. BLUTH: All right. Accused of a crime, anybody close to
17 you?

18 PROSPECTIVE JUROR NUMBER 079: Yes. My brother was
19 accused of marijuana possession when he was 16, 20 years ago.

20 MS. BLUTH: Okay.

21 PROSPECTIVE JUROR NUMBER 079: And then my uncle got
22 in a fight a couple of years ago and was charged with a misdemeanor for
23 that.

24 MS. BLUTH: Okay. Now, the brother thing seemed so long
25 ago.

1 PROSPECTIVE JUROR NUMBER 079: It was.

2 MS. BLUTH: It doesn't seem like I really need to ask you many
3 questions about it unless you harbor some type of feelings?

4 PROSPECTIVE JUROR NUMBER 079: No, he got what he
5 deserved.

6 MS. BLUTH: Okay. So talk to me about your uncle getting in a
7 fight, where was it? What happened?

8 PROSPECTIVE JUROR NUMBER 079: My uncle lives in
9 Wisconsin, where I'm originally from, and he lost his temper. And he's
10 very embarrassed and doesn't want to talk about it very much. And I kind
11 of leave it alone. I don't pressure him on it. Because of my background, I
12 need to know -- people in my family when they have troubles, with the
13 law, so I had to ask him so I could report it.

14 MS. BLUTH: Oh.

15 PROSPECTIVE JUROR NUMBER 079: And it wasn't anything
16 that was substantial.

17 MS. BLUTH: Sure. It's just like a -- not just -- but like a bar fight
18 or just a normal fight?

19 PROSPECTIVE JUROR NUMBER 079: It was a fight with a
20 neighbor I believe.

21 MS. BLUTH: Okay. All right. How long have you been in Las
22 Vegas?

23 PROSPECTIVE JUROR NUMBER 079: 20 years.

24 MS. BLUTH: And did you come right from Wisconsin?

25 PROSPECTIVE JUROR NUMBER 079: Yes, I did.

1 MS. BLUTH: What are your thoughts in regards to local law
2 enforcement?

3 PROSPECTIVE JUROR NUMBER 079: I don't have a problem
4 with local law enforcement.

5 MS. BLUTH: Ever had a negative encounter or negative
6 contact with local law enforcement or non-local law enforcement?

7 PROSPECTIVE JUROR NUMBER 079: No, no issues ever.

8 MS. BLUTH: What about the criminal justice system as a whole
9 in our country, how do you feel about that?

10 PROSPECTIVE JUROR NUMBER 079: I think it's the best
11 system that there is.

12 MS. BLUTH: Watch any of the shows that we've been talking
13 about?

14 PROSPECTIVE JUROR NUMBER 079: Not the ones that
15 you've listed but other shows that are kind of on that -- in that realm.

16 MS. BLUTH: Can you give me an idea?

17 PROSPECTIVE JUROR NUMBER 079: Sure. I watch The
18 Good Fight. I watch Bash. Those are law type shows so.

19 MS. BLUTH: Yeah.

20 Is it The Good Fight, is that like the spinoff of the --

21 PROSPECTIVE JUROR NUMBER 079: The Good Wife, yeah.

22 MS. BLUTH: -- The Good Wife?

23 PROSPECTIVE JUROR NUMBER 079: I saw that one too,
24 yeah.

25 MS. BLUTH: Okay. All right. So those are more like, yeah,

1 like, not forensics or not science based but they're more like courtroom?

2 PROSPECTIVE JUROR NUMBER 079: Exactly.

3 MS. BLUTH: Okay. How do you feel about following laws
4 inside of courtroom, if you don't generally agree with them?

5 PROSPECTIVE JUROR NUMBER 079: I have no problem
6 following the law that is given to me.

7 MS. BLUTH: Okay. Issues with speaking in front of others or
8 voicing your opinion in front of others?

9 PROSPECTIVE JUROR NUMBER 079: No.

10 MS. BLUTH: What about this concept of, you know, sitting in
11 judgment of another person, what do you think about that?

12 PROSPECTIVE JUROR NUMBER 079: I don't think anybody
13 wants to. But if I have to, I will. There is my civic duty and I will perform it.

14 MS. BLUTH: And then you've heard us talk about the two
15 different phases of a murder trial --

16 PROSPECTIVE JUROR NUMBER 079: Yes.

17 MS. BLUTH: -- and only in a case where you return a verdict of
18 guilty of first degree murder you move into the second one?

19 PROSPECTIVE JUROR NUMBER 079: Right.

20 MS. BLUTH: Are you capable of, if in one phase, not thinking
21 about the other, like really compartmentalizing yourself?

22 PROSPECTIVE JUROR NUMBER 079: I can do that, yes.

23 MS. BLUTH: And are you comfortable with the three
24 sentences, that should we get to that part, you have to be able to look at
25 all three fairly?

1 PROSPECTIVE JUROR NUMBER 079: Yes.

2 MS. BLUTH: Any training in the legal field at all?

3 PROSPECTIVE JUROR NUMBER 079: No, ma'am.

4 MS. BLUTH: And any friends or family members in law
5 enforcement, attorneys, judges?

6 PROSPECTIVE JUROR NUMBER 079: My husband has a
7 niece who's an immigration attorney in North Carolina but that's really it.

8 MS. BLUTH: Okay. What are your thoughts on this
9 conversation that we've been having about, you know, if you're in a
10 regular fist fight and you grab a weapon or you use a weapon, what are
11 your thoughts about that?

12 PROSPECTIVE JUROR NUMBER 079: Well, I would prefer
13 someone not to escalate. But I do recognize that things happen and
14 sometimes things have to be escalated for whatever reason. But I would
15 prefer things to be settled at the lowest level possible.

16 MS. BLUTH: Okay. Anything that I haven't asked you that you
17 think we should know about you or any opinions that you've had as you've
18 been sitting here that would help us assess whether or not you're the
19 appropriate juror in this case?

20 PROSPECTIVE JUROR NUMBER 079: No, ma'am.

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

22 Pass for cause, Your Honor.

23 MR. LONG: Ms. Henderson, are you enlisted or are you civilian
24 employee?

25 PROSPECTIVE JUROR NUMBER 079: I was enlisted. I'm

1 now a civilian.

2 MR. LONG: And all your work with drones, do you know a
3 captain named Ryan Sebastian?

4 PROSPECTIVE JUROR NUMBER 079: The name doesn't
5 sound familiar.

6 MR. LONG: Okay. And your husband, is he enlisted or he's
7 civilian now?

8 PROSPECTIVE JUROR NUMBER 079: He was enlisted.

9 MR. LONG: Okay. What are your general feelings about
10 self-defense?

11 PROSPECTIVE JUROR NUMBER 079: I believe everyone has
12 a right to defend themselves and their property.

13 MR. LONG: Even if it escalates to the point where someone
14 else losses their life?

15 PROSPECTIVE JUROR NUMBER 079: I would hope it doesn't
16 get to that point, but I can see it happening, yes.

17 MR. LONG: Okay. And if you can tell me, I don't want you to
18 have to kill me, where is your assignment overseas?

19 PROSPECTIVE JUROR NUMBER 079: I'm stationed in Iraq.

20 MR. LONG: Okay. And do you know anyone affected by
21 domestic battery, any women who have been beaten by husbands,
22 boyfriends, or any men?

23 PROSPECTIVE JUROR NUMBER 079: No, sir.

24 MR. LONG: Okay. Pass for cause, Your Honor.

25 THE COURT: Thank you. I need that mic -- where are we at?

1 Hold on.

2 MS. BLUTH: No, we should be the very first one; right?

3 THE COURTCLERK: Right here.

4 THE COURT: Where?

5 MS. DIGIACOMO: The one that's got the mic.

6 MS. BLUTH: Her.

7 THE COURT: Oh, we are right there?

8 MS. DIGIACOMO: Yeah.

9 THE COURT: Oh, I knew that. I was just testing you. If you
10 don't believe that, I'm Judge Bixler.

11 Tell me your name.

12 PROSPECTIVE JUROR NUMBER 038: Nancy Hardy.

13 THE COURT: Do you work?

14 PROSPECTIVE JUROR NUMBER 038: Yes.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR NUMBER 038: I'm a retired Strip
17 performer, but now I freelance as a performer, writer/editor.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR NUMBER 038: Yes.

20 THE COURT: Spouse work?

21 PROSPECTIVE JUROR NUMBER 038: Yes.

22 THE COURT: What does your spouse do?

23 PROSPECTIVE JUROR NUMBER 038: He's a professor at the
24 College of Southern Nevada.

25 THE COURT: What does he teach?

1 PROSPECTIVE JUROR NUMBER 038: Photography.
2 THE COURT: Children?
3 PROSPECTIVE JUROR NUMBER 038: No.
4 THE COURT: Have you ever sat as a juror before?
5 PROSPECTIVE JUROR NUMBER 038: No. I've been called
6 up many times but never got this far.
7 THE COURT: You'll be fair to both parties in this case?
8 PROSPECTIVE JUROR NUMBER 038: Yes.
9 THE COURT: State.
10 MS. DIGIACOMO: Thank you.
11 So how long did you work as an entertainer on the Strip?
12 PROSPECTIVE JUROR NUMBER 038: I danced in production
13 shows for 25 years, and then I switched over to being an actor for five
14 years at Star Trek The Experience.
15 MS. DIGIACOMO: Okay. So 30 years?
16 PROSPECTIVE JUROR NUMBER 038: Yes.
17 MS. DIGIACOMO: Okay. And how long have you been doing
18 the freelance?
19 PROSPECTIVE JUROR NUMBER 038: Ever since.
20 MS. DIGIACOMO: And so your husband does photography, so
21 he's artistic too?
22 PROSPECTIVE JUROR NUMBER 038: Yeah, I met him as a --
23 he was a dancer. He switched careers, so yeah.
24 MS. DIGIACOMO: Okay. So I know you said that you were
25 held at -- okay, I cannot read my handwriting -- held up at gunpoint and

1 then you also had a burglary?

2 PROSPECTIVE JUROR NUMBER 038: Yes.

3 MS. DIGIACOMO: Okay. So what happened with the
4 gunpoint?

5 PROSPECTIVE JUROR NUMBER 038: It was decades ago. I
6 was dancing in the Nutcracker and I got pulled over into the bushes on my
7 way to show up for call. And he asked me for my money and I didn't have
8 any. And I was young and naive, and I just said, sorry, I don't have any,
9 and I think that's your finger. And he ran away.

10 MS. DIGIACOMO: Oh, okay. So he had it like in his pockets?

11 PROSPECTIVE JUROR NUMBER 038: He had it against my
12 back. But --

13 MS. DIGIACOMO: Oh.

14 PROSPECTIVE JUROR NUMBER 038: -- I thought it felt --
15 because I was kind of dumb, I just said, it felt like a finger.

16 MS. DIGIACOMO: Okay. So he just took off?

17 PROSPECTIVE JUROR NUMBER 038: He took off.

18 MS. DIGIACOMO: Did you report it?

19 PROSPECTIVE JUROR NUMBER 038: Yes.

20 MS. DIGIACOMO: And did the police catch him?

21 PROSPECTIVE JUROR NUMBER 038: The police came and
22 they brought in some people from the audience to see if I could identify
23 anyone but I never saw his face.

24 MS. DIGIACOMO: Okay. You just heard him behind you?

25 PROSPECTIVE JUROR NUMBER 038: Yes.

1 MS. DIGIACOMO: So were you satisfied with the way the
2 police handled that?

3 PROSPECTIVE JUROR NUMBER 038: Yes.

4 MS. DIGIACOMO: Okay. And then you said you had a
5 burglary here?

6 PROSPECTIVE JUROR NUMBER 038: Yes.

7 MS. DIGIACOMO: And when was that?

8 PROSPECTIVE JUROR NUMBER 038: 1992.

9 MS. DIGIACOMO: Okay. And what happened?

10 PROSPECTIVE JUROR NUMBER 038: They kicked in the
11 front door of my house and took -- actually just took pillow cases off the
12 bed and took what seemed like them to be valuables but they were only
13 valuable to me. So it was okay. But I'm still afraid to take a shower at
14 home alone at night because you feel so violated, you know.

15 MS. DIGIACOMO: Right. And that was a long time ago --

16 PROSPECTIVE JUROR NUMBER 038: Yes.

17 MS. DIGIACOMO: -- and you still feel that?

18 PROSPECTIVE JUROR NUMBER 038: Yeah, I do. I think
19 about it all the time.

20 MS. DIGIACOMO: Did the police respond?

21 PROSPECTIVE JUROR NUMBER 038: Yes.

22 MS. DIGIACOMO: And you said you were satisfied on that how
23 it was handled?

24 PROSPECTIVE JUROR NUMBER 038: Yes, they did all they
25 could.

1 MS. DIGIACOMO: Was anyone caught?

2 PROSPECTIVE JUROR NUMBER 038: Not that I know of.
3 And they never found my stuff.

4 MS. DIGIACOMO: Okay. All right.

5 So nothing about that that would affect your ability to be fair and
6 impartial here?

7 PROSPECTIVE JUROR NUMBER 038: No.

8 MS. DIGIACOMO: Okay. So, now, has anyone close to you
9 ever been the victim of a crime?

10 PROSPECTIVE JUROR NUMBER 038: Yeah, that's kind of a
11 laundry list.

12 MS. DIGIACOMO: Okay, I'm ready.

13 PROSPECTIVE JUROR NUMBER 038: The most present one
14 was murder of a close, co-worker from Star Trek, and also I work as a
15 standardized acting patient at Touro University, and I worked with him
16 there. He was murdered a couple of years ago in his home.

17 MS. DIGIACOMO: Okay.

18 PROSPECTIVE JUROR NUMBER 038: I also --

19 MS. DIGIACOMO: Whoa, whoa, hold on.

20 PROSPECTIVE JUROR NUMBER 038: Okay.

21 MS. DIGIACOMO: Because I won't remember to go back all of
22 these.

23 So let's take it one at a time, so the close friend of yours that
24 was murdered, did you know -- did anyone get caught?

25 PROSPECTIVE JUROR NUMBER 038: They arrested a

1 couple of people a few months ago, I guess, they found some more
2 evidence. His son found some more evidence in his home when they
3 were cleaning out stuff.

4 MS. DIGIACOMO: So up until a few months ago it was kind of
5 a cold case?

6 PROSPECTIVE JUROR NUMBER 038: Yeah.

7 MS. DIGIACOMO: Okay. So but -- so now somebody's
8 arrested, so it's going to go through the courts?

9 PROSPECTIVE JUROR NUMBER 038: I assume so.

10 MS. DIGIACOMO: All right. Do you plan to follow it or?

11 PROSPECTIVE JUROR NUMBER 038: I would like to. I'm not
12 in close contact with anyone -- with his son who knows the most firsthand.
13 I just hear kind of gossip so.

14 MS. DIGIACOMO: Okay. But anything about that that would
15 affect your ability, I mean, with the charges here, can you separate that
16 from hearing the case before you?

17 PROSPECTIVE JUROR NUMBER 038: Yes, yes. Everyone
18 acts as an individual, so yeah.

19 MS. DIGIACOMO: Okay. And then next?

20 PROSPECTIVE JUROR NUMBER 038: One of my -- I taught
21 ballroom dance at the College of Southern Nevada for a while -- one of
22 my friends was murdered. It was actually a murder-suicide.

23 MS. DIGIACOMO: When was that?

24 PROSPECTIVE JUROR NUMBER 038: That was about seven
25 years ago, I would say.

1 MS. DIGIACOMO: Was she the one murdered?

2 PROSPECTIVE JUROR NUMBER 038: Yes.

3 MS. DIGIACOMO: Oh, was it a boyfriend or a significant other?

4 PROSPECTIVE JUROR NUMBER 038: Her husband came

5 back from Iraq and I think it was post-traumatic stress situation.

6 MS. DIGIACOMO: Anything about that that would affect your

7 ability to be fair and impartial here?

8 PROSPECTIVE JUROR NUMBER 038: No. I just kind of get

9 emotional about all the murders close to me.

10 MS. DIGIACOMO: Right.

11 What else?

12 PROSPECTIVE JUROR NUMBER 038: Another

13 murder-suicide, one of the dancers I worked with in a show, her husband,

14 who I also knew, shot and killed her and then shot himself.

15 MS. DIGIACOMO: How long ago was that?

16 PROSPECTIVE JUROR NUMBER 038: That was about 25

17 years ago.

18 MS. DIGIACOMO: Okay. Anything about that that would affect

19 your ability to be fair and impartial here?

20 PROSPECTIVE JUROR NUMBER 038: No.

21 MS. DIGIACOMO: Okay. What else?

22 PROSPECTIVE JUROR NUMBER 038: Another dancer,

23 co-worker, was raped, beaten, and shut in the trunk of her car out in the

24 desert. And this was decades ago.

25 MS. DIGIACOMO: Was that reported to the police?

1 PROSPECTIVE JUROR NUMBER 038: Oh, yeah.
2 MS. DIGIACOMO: And was anyone caught?
3 PROSPECTIVE JUROR NUMBER 038: I don't think they ever
4 caught the person.
5 MS. DIGIACOMO: Anything about that?
6 PROSPECTIVE JUROR NUMBER 038: No, just, you know,
7 just.
8 MS. DIGIACOMO: Okay.
9 PROSPECTIVE JUROR NUMBER 038: I just kind of emotional
10 because they're people that I know and you never can quite wrap your
11 mind around the fact that that could happen to someone, you know.
12 MS. DIGIACOMO: Right.
13 Anyone else that's been a victim of a crime?
14 PROSPECTIVE JUROR NUMBER 038: Those are the worst
15 ones.
16 MS. DIGIACOMO: Anything less worse or?
17 PROSPECTIVE JUROR NUMBER 038: Not that I can think of
18 right now.
19 MS. DIGIACOMO: Okay. All right.
20 What about anyone close to you accused of a crime?
21 PROSPECTIVE JUROR NUMBER 038: No.
22 MS. DIGIACOMO: So have you ever had to participate in a
23 court proceeding?
24 PROSPECTIVE JUROR NUMBER 038: No.
25 MS. DIGIACOMO: So in any of those cases, you were never --

1 did you ever have to, like, get interviewed by the police or anything?

2 PROSPECTIVE JUROR NUMBER 038: I was interviewed by
3 the police when my house was burglarized, if that's what you mean?

4 MS. DIGIACOMO: Okay.

5 PROSPECTIVE JUROR NUMBER 038: But the only other
6 cases, no.

7 Oh, I missed something. I'm so old I forgot. I was deposed
8 once for -- I don't know if you would remember the Bobby Berosini case,
9 the orangutan abuse case. I was a witness for -- I was just deposed. I
10 was never a witness during the trial.

11 MS. DIGIACOMO: Okay. All right.

12 So how do you feel about our criminal justice system as a
13 whole?

14 PROSPECTIVE JUROR NUMBER 038: I admire and think it's
15 very effective as a whole. I think sometimes the system gets
16 overwhelmed and I tend to think that everyone does their best, most
17 people do their best every day, and they're just a few individuals who kind
18 of go astray sometimes. But everyone's responsible for their own actions.
19 So I get that. But I think most people are trying really hard to do a good
20 job.

21 MS. DIGIACOMO: Okay. What about local police here, do you
22 have any strong opinions either way?

23 PROSPECTIVE JUROR NUMBER 038: I have sort of a
24 dichotomous thing going on that I think about all the time, is I have a great
25 sympathy for police officers and the work that they have. My husband

1 and I very often will pick up the tab of police officers eating in a restaurant
2 where we are.

3 At the same time, I have a strong sympathy for the Black Lives
4 Matter movement. I get both sides. And I just think it's just individuals
5 asking as individuals that where the problem lies, you know.

6 MS. DIGIACOMO: But nothing, I guess, your -- your opinions
7 wouldn't affect your ability to be fair and impartial here?

8 PROSPECTIVE JUROR NUMBER 038: I don't believe so.

9 MS. DIGIACOMO: You say you don't believe so?

10 PROSPECTIVE JUROR NUMBER 038: Oh, I'm sorry, no.

11 MS. DIGIACOMO: Okay. What about the TV shows we've
12 been talking about, do you watch any of them?

13 PROSPECTIVE JUROR NUMBER 038: I watch Bones,
14 Rizzoli & Isles, and I'm a PBS girl so I watch Sherlock. And I mostly
15 watch for the investigations and not the courtroom stuff so much.

16 MS. DIGIACOMO: Okay.

17 PROSPECTIVE JUROR NUMBER 038: Nothing personal.

18 MS. DIGIACOMO: The -- I don't know why you'd say that after
19 being here three days but.

20 So you like the investigation part?

21 PROSPECTIVE JUROR NUMBER 038: Yeah.

22 MS. DIGIACOMO: Do you have any expectations of what you
23 would expect the investigation in a case presented to you like how it
24 should have been done or?

25 PROSPECTIVE JUROR NUMBER 038: No. I mean, I realize

1 they were trying court cases long before they had all of these tools at their
2 disposal. So, yeah, I get that.

3 MS. DIGIACOMO: Okay. If you are instructed at the end on
4 the law by the judge, will you follow the law, even if you disagree with it?

5 PROSPECTIVE JUROR NUMBER 038: Absolutely.

6 MS. DIGIACOMO: What about bringing a gun to a fist fight, do
7 you have any opinions on that?

8 PROSPECTIVE JUROR NUMBER 038: Yeah, I've been kind of
9 thinking that over for a couple of days, because I hadn't really thought
10 about that. But I believe that if you carry something with you, it must be
11 with some kind of intent, either to defend yourself.

12 But I was kind of thinking about road rage situation where
13 somebody's screaming at somebody in the street and then they go back
14 to their glove box and get a gun.

15 Any time that you pick up something that is a lethal instrument,
16 you have to have thought about what you might do with it, I believe.

17 So I kind of have mixed feelings about that one, that if you carry
18 it at all. And it does seem to make a difference in my mind whether you
19 just happen to have it on you or you go to get it.

20 MS. DIGIACOMO: Okay. Well, and that's valid. Because if
21 you go to get it, you're making more of a conscious decision, taking time
22 to think about it before you head over to get it and come back. Versus
23 you're in the middle of a fight and you just pull something, grab something
24 that's close to you.

25 PROSPECTIVE JUROR NUMBER 038: Yeah.

1 MS. DIGIACOMO: Let's talk about the road rage example you
2 gave, if somebody is, you know, flipping you off and calling you all kinds of
3 names, does that justify the person, you know, that the attack is -- the
4 verbal attack is against getting a gun and firing it against the other
5 person?

6 PROSPECTIVE JUROR NUMBER 038: Can you say that
7 again, I'm sorry.

8 MS. DIGIACOMO: I can try, sorry.

9 Okay. So in your example, you have, you know, person A who
10 is, you know, driving and they get mad at person B in their car. So A is
11 yelling at B and calling them names, et cetera. So B gets a gun out of
12 their glove box and points it at A. And maybe even fires it.

13 Do you think B was justified?

14 PROSPECTIVE JUROR NUMBER 038: Oh, no.

15 MS. DIGIACOMO: Okay. And why not?

16 PROSPECTIVE JUROR NUMBER 038: That's kind of a violent
17 overreaction to the situation.

18 MS. DIGIACOMO: Okay.

19 PROSPECTIVE JUROR NUMBER 038: And I can't put
20 myself -- I'm such a non-violent person, I cannot put myself in a situation
21 of somebody that would do that. I can't wrap my mind around being
22 willing to do that.

23 MS. DIGIACOMO: But you can imagine there are situations
24 though where somebody is in fear for their life or the life of somebody with
25 them --

1 PROSPECTIVE JUROR NUMBER 038: Sure.

2 MS. DIGIACOMO: -- that they would, I guess, do what they had
3 to to save their life?

4 PROSPECTIVE JUROR NUMBER 038: Sure.

5 MS. DIGIACOMO: And with regard to the two different phases
6 we've talked about, can you just focus on the trial phase and make a
7 determination without thinking about there could be a penalty phase?

8 PROSPECTIVE JUROR NUMBER 038: Yeah, I'm a really
9 good compartmentalizer.

10 MS. DIGIACOMO: Okay. Perfect.

11 And if we got to the penalty phase, would you be able to
12 consider all three options?

13 PROSPECTIVE JUROR NUMBER 038: Yes.

14 MS. DIGIACOMO: I have nothing further.

15 I will pass for cause.

16 MR. LONG: Ms. Hardy, first of all, I show you're not that old,
17 you're 62.

18 PROSPECTIVE JUROR NUMBER 038: You didn't have to say
19 that out loud.

20 MR. LONG: Well, you said you were old and you had problems
21 with your memory and I thought it was wrong. I thought it should say 42.

22 PROSPECTIVE JUROR NUMBER 038: Thank you. I forgive
23 you now.

24 MR. LONG: Do you have any health problems that would
25 prevent you from sitting as a juror?

1 PROSPECTIVE JUROR NUMBER 038: Not personally, no.

2 MR. LONG: Okay. Now, you mentioned a few times that, you
3 know, you've been a witness to some tragedies with people that you
4 know, there's a lot of emotion any time a life is lost. Do you think you
5 could set that aside, not so much focus on whether or not a young man
6 lost his life, but whether or not a crime was actually committed that
7 resulted in that loss of life?

8 PROSPECTIVE JUROR NUMBER 038: I think so. I do tend to
9 get emotional about this one particular crime because of that experience.
10 Like when we were first told, my heart was pounding out of my chest and
11 it was just kind of subconscious stuff.

12 MR. LONG: Because it's a murder? Do you think it would
13 easier for you to sit on a civil jury where all they're fighting about is money,
14 whose fault it was?

15 PROSPECTIVE JUROR NUMBER 038: Yes, yes.

16 MR. LONG: Your Honor, I'd ask dismissal for cause.

17 THE COURT: Do you want to traverse?

18 MS. DIGIACOMO: Sure. What's the reason -- well, Court's
19 indulgence.

20 [Colloquy between the District Attorney and Defense Counsel]

21 MS. DIGIACOMO: I would suspect everyone here would say
22 it's much easier to sit on a civil jury than a criminal jury because you're
23 just fighting who gets money; right?

24 PROSPECTIVE JUROR NUMBER 038: [Nods head.]

25 MS. DIGIACOMO: Yes?

1 PROSPECTIVE JUROR NUMBER 038: Yes.

2 MS. DIGIACOMO: Okay. And I understand that. But are you
3 saying that your -- the emotions would overwhelm you and you wouldn't
4 be able to listen and do your job as a juror because this is a criminal
5 case?

6 PROSPECTIVE JUROR NUMBER 038: I would be able to
7 listen and I would really try hard. My only reservation is that sometimes I
8 get emotional and I don't have any control. Sometimes I'll just start crying
9 for no apparent reason and I have to figure out why it is that I started
10 crying, that's all.

11 MS. DIGIACOMO: Okay. But it's not that you keep an open
12 mind and be fair and impartial in this case?

13 PROSPECTIVE JUROR NUMBER 038: I think I can be fair and
14 impartial.

15 MS. DIGIACOMO: Okay. So now your -- let me ask you what
16 you mean by, I think I can.

17 PROSPECTIVE JUROR NUMBER 038: Oh, sorry, I'm sorry.

18 MS. DIGIACOMO: I know that's a habit we all do that, but we
19 need something more definite. So we --

20 PROSPECTIVE JUROR NUMBER 038: Can I say, yes, I will
21 do my best to be fair and impartial?

22 MS. DIGIACOMO: You can say that but I'm going to question
23 you.

24 PROSPECTIVE JUROR NUMBER 038: Oh.

25 MS. DIGIACOMO: No, I know everyone -- what I'm saying is,

1 going into this, do you think you can keep an open mind and try and be
2 fair and impartial?

3 PROSPECTIVE JUROR NUMBER 038: Yes. I mean, I think
4 my kind of soft heart goes both ways, so yes.

5 MS. DIGIACOMO: And I'm not saying that this isn't a difficult
6 kind of case to hear. I'm just saying, you know, you're not going to
7 become so overwhelmed with emotion you have to run out of the
8 courtroom and --

9 PROSPECTIVE JUROR NUMBER 038: Oh --

10 MS. DIGIACOMO: -- don't even want to --

11 PROSPECTIVE JUROR NUMBER 038: I hope not.

12 MS. DIGIACOMO: No, okay.

13 I would object, Your Honor.

14 THE COURT: Yeah, I'm not going to release her for cause.

15 MR. LONG: Okay.

16 So Ms. Hardy, you don't have any memory problems, do you?

17 PROSPECTIVE JUROR NUMBER 038: No.

18 MR. LONG: Okay.

19 PROSPECTIVE JUROR NUMBER 038: Not that I can think of.

20 MR. LONG: I have memory problems but I forget which ones
21 they were.

22 And you understand that sometimes people carry tools?

23 PROSPECTIVE JUROR NUMBER 038: Yes.

24 MR. LONG: And you would believe there's a difference
25 between a tool that somebody had in their pocket versus going to obtain

1 it, going into the --

2 PROSPECTIVE JUROR NUMBER 038: Yes.

3 MR. LONG: -- garage to get a wrench? Okay.

4 And do you believe, I know that you're very emotional about
5 murder, but do you believe there's ever a time when it can be justified?

6 PROSPECTIVE JUROR NUMBER 038: I -- I -- I'm saying it
7 again. Yes. Personally, I don't know about myself. But I understand why
8 somebody could do that and be justified doing it.

9 MR. LONG: And do you think that defense of self or others can
10 that justify taking someone's life?

11 PROSPECTIVE JUROR NUMBER 038: Self and others, like a
12 child, yes.

13 MR. LONG: Okay. Does it have to be a child? What about a
14 grownup?

15 PROSPECTIVE JUROR NUMBER 038: Family member.

16 MR. LONG: Okay. Your Honor, I'll renew. But I'm done with
17 Ms. Hardy.

18 Thank you, Ms. Hardy, I appreciate it.

19 THE COURT: No, I'm not going to kick her for cause.

20 Pass that mic to that gentleman next to you.

21 Tell me your name.

22 PROSPECTIVE JUROR NUMBER 039: Benjamin Morales.

23 THE COURT: Do you work?

24 PROSPECTIVE JUROR NUMBER 039: Yes.

25 THE COURT: What do you do?

1 PROSPECTIVE JUROR NUMBER 039: I am working
2 housekeeping.
3 THE COURT: Are you married?
4 PROSPECTIVE JUROR NUMBER 039: Yes.
5 THE COURT: Spouse work?
6 PROSPECTIVE JUROR NUMBER 039: No, disability.
7 THE COURT: Children?
8 PROSPECTIVE JUROR NUMBER 039: Yeah, I have five.
9 THE COURT: How old?
10 PROSPECTIVE JUROR NUMBER 039: [No audible response.]
11 THE COURT: Are any of them policemen?
12 PROSPECTIVE JUROR NUMBER 039: No.
13 THE COURT: Have you ever sat as a juror before?
14 PROSPECTIVE JUROR NUMBER 039: Sorry, I don't
15 understand.
16 THE COURT: You understand what's been going on?
17 PROSPECTIVE JUROR NUMBER 039: Yeah, I am -- my
18 English is -- sorry.
19 THE COURT: Tell me what your name is again.
20 PROSPECTIVE JUROR NUMBER 039: Benjamin Morales.
21 THE COURT: Morales?
22 PROSPECTIVE JUROR NUMBER 039: U'm-h'm.
23 MR. LONG: Badge 39, Your Honor.
24 THE COURT: 39.
25 State have any questions?

1 MS. DIGIACOMO: No, Your Honor.
2 THE COURT: Defense?
3 MR. LONG: No.
4 THE COURT: All right. You're released, sir. You can go.
5 Thank you.
6 THE COURT CLERK: Percival Deloraya.
7 THE COURT: Tell me your name.
8 PROSPECTIVE JUROR NUMBER 080: I am Percival
9 Deloraya.
10 THE COURT: Do you work?
11 PROSPECTIVE JUROR NUMBER 080: Yes.
12 THE COURT: What do you do?
13 PROSPECTIVE JUROR NUMBER 080: I'm a slot attendant
14 over at MGM Grand.
15 THE COURT: Married?
16 PROSPECTIVE JUROR NUMBER 080: No.
17 THE COURT: Children?
18 PROSPECTIVE JUROR NUMBER 080: No.
19 THE COURT: Have you ever sat as a juror before?
20 PROSPECTIVE JUROR NUMBER 080: No.
21 THE COURT: You'll be fair to both parties?
22 PROSPECTIVE JUROR NUMBER 080: Yes.
23 THE COURT: State.
24 MS. BLUTH: I didn't hear what you said you did at the MGM?
25 PROSPECTIVE JUROR NUMBER 080: I'm a slot attendant.

1 MS. BLUTH: A slot attendant?

2 PROSPECTIVE JUROR NUMBER 080: Basically, jackpots and
3 stuff like that so.

4 MS. BLUTH: All right. Ever been the victim of a crime?

5 PROSPECTIVE JUROR NUMBER 080: No.

6 MS. BLUTH: How long -- are you born and raised in Las
7 Vegas?

8 PROSPECTIVE JUROR NUMBER 080: I was born in the
9 Philippines. But like I moved to the United States in '93 and moved to
10 Vegas in 2007.

11 MS. BLUTH: Okay. Has anyone close to you ever been the
12 victim of a crime?

13 PROSPECTIVE JUROR NUMBER 080: No.

14 MS. BLUTH: What about accused of a crime?

15 PROSPECTIVE JUROR NUMBER 080: Not that I know of. I
16 don't think so.

17 MS. BLUTH: How old were you when you moved from the
18 Philippines?

19 PROSPECTIVE JUROR NUMBER 080: I was 16 years old.

20 MS. BLUTH: Okay. How would you say the criminal justice
21 system works in the United States in comparison to the Philippines?

22 PROSPECTIVE JUROR NUMBER 080: I mean, it's pretty bad
23 back home but. You pretty much can get away with anything, I mean,
24 bad.

25 MS. BLUTH: In the Philippines?

1 PROSPECTIVE JUROR NUMBER 080: Yeah, as long as you
2 know people or. There's a lot of corruption going on still so.

3 MS. BLUTH: Okay. What about here, what do you think about
4 it here?

5 PROSPECTIVE JUROR NUMBER 080: I think most of us can
6 agree like there's some gray areas. Like, you know, maybe some
7 prejudice, unfairness sometimes, yeah.

8 MS. BLUTH: Okay. But talk to me about, like, some specifics?
9 Like where do you see those flaws?

10 PROSPECTIVE JUROR NUMBER 080: Well, sometimes, like,
11 if you're a millionaire, you can, like, you know, get four, five lawyers to
12 defend yourself. And, like, and others, like, who's, like, working 9 to 5 can
13 only -- can only afford, you know, whatever but.

14 So there's more chance of the other guy getting off easy
15 because of the money whatever but. For instance, O.J. Simpson, stuff
16 like that so.

17 MS. BLUTH: For instance, O.J. Simpson, is that what you
18 said?

19 PROSPECTIVE JUROR NUMBER 080: Yeah.

20 MS. BLUTH: So you're just saying, having more money gives
21 you the opportunity to buy better legal representation --

22 PROSPECTIVE JUROR NUMBER 080: Exactly.

23 MS. BLUTH: -- and you feel like that that creates an unfairness
24 within the system?

25 PROSPECTIVE JUROR NUMBER 080: Exactly.

1 MS. BLUTH: What are your thoughts on law enforcement?

2 PROSPECTIVE JUROR NUMBER 080: Never had a problem.

3 Well, actually when I was in Seattle, Washington State, me and my friends
4 would usually, like, we cross the border from Seattle to Canada. And for
5 some reason they always detained us, like, always ask us questions.

6 They probably think we're, like, illegal aliens or something like that. But,
7 like, yeah, I mean, it's not, like, one. It's, like, three, four times so.

8 MS. BLUTH: At the border?

9 THE COURT: Going into Canada or coming back?

10 PROSPECTIVE JUROR NUMBER 080: Ah --

11 THE COURT: It's different.

12 PROSPECTIVE JUROR NUMBER 080: I think on the way into
13 Canada.

14 THE COURT: So the Canadian --

15 PROSPECTIVE JUROR NUMBER 080: Yeah, I guess.

16 THE COURT: -- side? Well, they would question your mother.

17 PROSPECTIVE JUROR NUMBER 080: But I don't know. It's,
18 like, it happens all the time, but like.

19 THE COURT: I have family that lives in Canada.

20 PROSPECTIVE JUROR NUMBER 080: But, I guess, I guess,
21 they're not U.S. citizen so.

22 MS. BLUTH: So you were not -- you're not sure if it was the
23 Canadian or --

24 PROSPECTIVE JUROR NUMBER 080: But I'm not sure if it's
25 on the way in or on the way back but. Maybe it's on the way back.

1 MS. BLUTH: Okay. But anything about that experience that
2 made you, you know, have any type of prejudice or bias against law
3 enforcement?

4 PROSPECTIVE JUROR NUMBER 080: I hope not, no.

5 MS. BLUTH: Like, if a police officer comes in here and testifies,
6 are you going to be more harsh towards his testimony because of some of
7 your personal experiences, or would you look at him the way you would
8 look at anyone else?

9 PROSPECTIVE JUROR NUMBER 080: It's kind of hard to say.
10 But I'll -- I'll try to be fair.

11 MS. BLUTH: Okay. It kind of seems like you're going back and
12 forth on that. Is there -- do you think law enforcement doesn't do a good
13 job? Do you -- what are you -- I'm trying --

14 PROSPECTIVE JUROR NUMBER 080: I'm not generalizing.
15 It's just that one experience probably just kind of stood out to me, like.

16 MS. BLUTH: At the border?

17 PROSPECTIVE JUROR NUMBER 080: Yeah, but.

18 MS. BLUTH: I think, I mean, a couple of things I want to ask
19 about that, like, number one, there's probably a difference in patrol cops
20 or homicide detectives versus border patrol; right?

21 PROSPECTIVE JUROR NUMBER 080: Yeah.

22 MS. BLUTH: I mean, I would think that their -- their jobs are
23 quite different.

24 PROSPECTIVE JUROR NUMBER 080: Yeah.

25 MS. BLUTH: And is there - you never had --

1 PROSPECTIVE JUROR NUMBER 080: Yeah, I know what
2 you're saying so.

3 MS. BLUTH: And you --

4 PROSPECTIVE JUROR NUMBER 080: They are different,
5 like, how you are, like, cops.

6 MS. BLUTH: Yeah, I mean, I just think their jobs are completely
7 different.

8 PROSPECTIVE JUROR NUMBER 080: Yeah.

9 MS. BLUTH: But, I guess, what I'm asking you is, have you had
10 any negative contacts with local law enforcement? Like stopped and, you
11 know, in your vehicle or?

12 PROSPECTIVE JUROR NUMBER 080: Like, all of my
13 speeding tickets? No, I'm just. No -- no, I don't have any negative.

14 MS. BLUTH: Okay. Would you treat an officer's testimony just
15 like anybody else's?

16 PROSPECTIVE JUROR NUMBER 080: Yeah.

17 MS. BLUTH: Do you -- I mean, I don't think anybody, like, really
18 wants to be a juror, but there are people who really, really don't want to be
19 a juror. So where are you on the spectrum of that?

20 PROSPECTIVE JUROR NUMBER 080: I was raised by, like, a
21 born again Christian mother so.

22 MS. BLUTH: Okay.

23 PROSPECTIVE JUROR NUMBER 080: She taught me not to
24 judge anybody.

25 MS. BLUTH: Okay.

1 PROSPECTIVE JUROR NUMBER 080: And I used to -- I'm a
2 Sunday schoolteacher too. Like, way back when, but. So I teach kids not
3 to judge people.

4 MS. BLUTH: Okay.

5 PROSPECTIVE JUROR NUMBER 080: So if I do that now, I'll
6 be, like, hypocrite, something like that but.

7 MS. BLUTH: Okay.

8 PROSPECTIVE JUROR NUMBER 080: I'm just saying.

9 MS. BLUTH: Yeah, no, there's no answer that's a bad answer
10 or a wrong answer.

11 So we've been talking a lot in the last couple of days about, you
12 know, judging someone's actions versus judging them as a person. Can
13 you separate those two or because of your religious upbringing you
14 struggle with that concept?

15 PROSPECTIVE JUROR NUMBER 080: I think it's just the
16 concept of judging. It's just -- I don't know. I don't know how to like. I
17 don't know how to say it but like.

18 MS. BLUTH: Try to articulate it to me though what makes --

19 PROSPECTIVE JUROR NUMBER 080: So you're saying to
20 judge a person, as what again? Like.

21 MS. BLUTH: So I'm saying that, I would agree with you that
22 from very young age we're all taught we shouldn't judge somebody; right?
23 I mean, as of today, we shouldn't be judging people.

24 But as part of our system, when you sit as a juror, it's little bit
25 different, you're being tasked to judge whether someone committed a

1 crime or not? So some people can see the difference in those two things
2 and some people it's still too hard.

3 And so I'm just trying to find where you're at?

4 PROSPECTIVE JUROR NUMBER 080: I think it just going to
5 be a little bit hard. Just the way I was raised.

6 MS. BLUTH: Does it --

7 PROSPECTIVE JUROR NUMBER 080: And just because of
8 my religious beliefs too so.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NUMBER 080: Yeah.

11 MS. BLUTH: Because of your religious beliefs?

12 PROSPECTIVE JUROR NUMBER 080: Yeah. It's just going to
13 be a little bit hard but.

14 MS. BLUTH: Okay. Judge, because of the religious belief he's
15 expressed, I'm going to respectfully ask that he be kicked for cause.

16 MR. LONG: No objection.

17 THE COURT: Thank you. You're free to go.

18 THE COURT CLERK: Michael (phonetic) Boland.

19 MR. LONG: I think that might be Mikel.

20 THE COURT: All right. Mr. Boland, do you work?

21 PROSPECTIVE JUROR NUMBER 082: Yes, I do.

22 THE COURT: What do you do?

23 PROSPECTIVE JUROR NUMBER 082: Geometry teacher at
24 Sierra Vista High School.

25 THE COURT: Married?

1 PROSPECTIVE JUROR NUMBER 082: Yes.
2 THE COURT: Spouse work?
3 PROSPECTIVE JUROR NUMBER 082: She is a copy writer at
4 Virgin Advertising, local agency.
5 THE COURT: Children?
6 PROSPECTIVE JUROR NUMBER 082: One, he's 14 months
7 old.
8 THE COURT: Have you ever sat as a juror before?
9 PROSPECTIVE JUROR NUMBER 082: No, I have not.
10 THE COURT: Can you be fair and impartial to both parties in
11 this case?
12 PROSPECTIVE JUROR NUMBER 082: Yes, I can.
13 THE COURT: State.
14 MS. DIGIACOMO: I apologize, Mr. Boland, I missed it, do you
15 work?
16 PROSPECTIVE JUROR NUMBER 082: Yes, I'm a math
17 teacher.
18 MS. DIGIACOMO: Oh, a math teacher, I'm sorry.
19 And what grade do you teach?
20 PROSPECTIVE JUROR NUMBER 082: Geometry, so mainly
21 9th and 10th.
22 MS. DIGIACOMO: Where do you teach?
23 PROSPECTIVE JUROR NUMBER 082: Sierra Vista.
24 MS. DIGIACOMO: How long have you been doing that?
25 PROSPECTIVE JUROR NUMBER 082: Teaching math about

1 12 years. I was at other locations before I was at Western High School for
2 your years. I've been at Sierra Vista the last six years.

3 MS. DIGIACOMO: Okay. Now, have you ever been the victim
4 of a crime?

5 PROSPECTIVE JUROR NUMBER 082: I actually have. I
6 guess, I didn't think of it at first. I almost put it out of my head. But back in
7 2006 my car was stolen from my parent's driveway.

8 MS. DIGIACOMO: Did you ever get it back?

9 PROSPECTIVE JUROR NUMBER 082: I did. It was recovered
10 right away. It was LoJacked and easily recovered.

11 MS. DIGIACOMO: Did anyone get caught?

12 PROSPECTIVE JUROR NUMBER 082: They did.

13 MS. DIGIACOMO: And did they get prosecuted?

14 PROSPECTIVE JUROR NUMBER 082: They did.

15 MS. DIGIACOMO: Did you have to actually go to court?

16 PROSPECTIVE JUROR NUMBER 082: I had to show up in
17 court and the Defendant did not show up.

18 MS. DIGIACOMO: Okay. And then you never had to go back?

19 PROSPECTIVE JUROR NUMBER 082: No.

20 MS. DIGIACOMO: Did you, I guess, are you satisfied or
21 dissatisfied with how the police and the system handled your case?

22 PROSPECTIVE JUROR NUMBER 082: I was satisfied with the
23 way they handled it.

24 MS. DIGIACOMO: Okay. Anything else for you?

25 PROSPECTIVE JUROR NUMBER 082: Same car was broken

1 into at some local tennis courts. I guess I had a -- my workbag in the
2 backseat. It probably looked like it would contain a computer but it didn't
3 so.

4 MS. DIGIACOMO: Okay. So just your workbag was stolen?

5 PROSPECTIVE JUROR NUMBER 082: Yeah. No, no extreme
6 value. I didn't report that one. Basically just got the window fixed.

7 MS. DIGIACOMO: Okay. Anything else?

8 PROSPECTIVE JUROR NUMBER 082: No.

9 MS. DIGIACOMO: Okay. What about close friends or family?

10 PROSPECTIVE JUROR NUMBER 082: I guess my parent's
11 minivan was stolen back when I was in middle school or high school.

12 MS. DIGIACOMO: And did you even follow that?

13 PROSPECTIVE JUROR NUMBER 082: No, not really.

14 MS. DIGIACOMO: Okay. Anyone else?

15 PROSPECTIVE JUROR NUMBER 082: Off the top of my
16 head, I can't think of it at the moment.

17 MS. DIGIACOMO: Okay. What about anyone that you've
18 know, that's close to you, has been arrested or convicted of anything?

19 PROSPECTIVE JUROR NUMBER 082: No one that I know of
20 arrested or -- well, I guess, I loosely know someone who was involved in a
21 hit and run.

22 MS. DIGIACOMO: Okay.

23 PROSPECTIVE JUROR NUMBER 082: Who worked at a
24 restaurant that I would frequent but.

25 MS. DIGIACOMO: But you didn't -- did you even follow that

1 case?

2 PROSPECTIVE JUROR NUMBER 082: No, and I actually don't
3 really associate with him. But I've kind of kept up with the way it's gone
4 for him.

5 MS. DIGIACOMO: Okay. Do you have an opinion about that
6 case?

7 PROSPECTIVE JUROR NUMBER 082: No, I don't. It was kind
8 of unfortunate mistake on his part, but he's going to pay the penalty and
9 that is what it is. If he had stayed on the scene, it may not have even
10 been his fault.

11 MS. DIGIACOMO: Okay.

12 PROSPECTIVE JUROR NUMBER 082: But --

13 MS. DIGIACOMO: But he made a choice --

14 PROSPECTIVE JUROR NUMBER 082: -- he panicked, left the
15 scene, and then called after the fact, and got in trouble for the hit and run.

16 MS. DIGIACOMO: Okay. Anything about any of those
17 situations we've talked that could affect your ability to be fair and impartial
18 here?

19 PROSPECTIVE JUROR NUMBER 082: No.

20 MS. DIGIACOMO: What about the law shows, do you watch
21 any of them?

22 PROSPECTIVE JUROR NUMBER 082: I watch Trial and Error.

23 MS. DIGIACOMO: Okay.

24 PROSPECTIVE JUROR NUMBER 082: But I don't think that
25 really counts.

1 MS. DIGIACOMO: Okay. Do you have any preconceived
2 notions or expectations about what needs to go on in this courtroom for
3 you to make a decision?

4 PROSPECTIVE JUROR NUMBER 082: No.

5 MS. DIGIACOMO: If you're instructed at the end what the law
6 is and you disagree with it, can you still follow the law as instructed?

7 PROSPECTIVE JUROR NUMBER 082: Yes, I can.

8 MS. DIGIACOMO: Do you know anyone that works in the court
9 system, attorneys, judges, clerks?

10 PROSPECTIVE JUROR NUMBER 082: I ran into a friend of
11 mine, Mike Troiano, on the first day. He's a defense attorney.

12 Yesterday in this hallway a guy that I went to high school with
13 John Giordani passed by.

14 MS. DIGIACOMO: Okay.

15 PROSPECTIVE JUROR NUMBER 082: I don't know exactly
16 what line of law he's in.

17 MS. DIGIACOMO: Okay. So you don't know where he works?

18 PROSPECTIVE JUROR NUMBER 082: No.

19 MS. DIGIACOMO: Okay. So that won't affect your ability to be
20 fair and impartial?

21 PROSPECTIVE JUROR NUMBER 082: No.

22 MS. DIGIACOMO: Okay. And you hadn't seen him since
23 when?

24 PROSPECTIVE JUROR NUMBER 082: John Giordani. I think
25 the last time I saw him was shortly after we graduated college, undergrad.

1 MS. DIGIACOMO: Okay. And with both of those person's
2 being attorneys, you didn't discuss anything with them about the case
3 you're sitting on or anything?

4 PROSPECTIVE JUROR NUMBER 082: No, I -- he did ask
5 what -- or Mike Troiano had asked me what judge it was. So I did mention
6 that it was --

7 MS. DIGIACOMO: What was his reaction when you said that?
8 I'm sure John Giordani had a great one.

9 THE COURT: Careful, you are 35 years old, do you want to
10 see 36?

11 PROSPECTIVE JUROR NUMBER 082: He did -- he
12 mentioned that when it came to --

13 MS. DIGIACOMO: I'm just joking, you don't have to tell us.

14 PROSPECTIVE JUROR NUMBER 082: -- sentencing he
15 was --

16 MS. DIGIACOMO: I'm joking, I'm joking. Don't tell us.

17 PROSPECTIVE JUROR NUMBER 082: Okay, sorry.

18 MS. DIGIACOMO: He's got to come in here, no.

19 Okay. So if you were -- if you sat on this jury, can you
20 compartmentalize, do the trial phase and consider whether or not the
21 State's met its burden and proved a crimes committed without thinking
22 about possible penalty?

23 PROSPECTIVE JUROR NUMBER 082: Yes, I can.

24 MS. DIGIACOMO: And if it got to the point of a penalty phase,
25 could you do that? Could you make a decision regarding penalty?

1 PROSPECTIVE JUROR NUMBER 082: I'm assuming we
2 would be given some guidelines as to how to distinguish between the
3 three.

4 MS. DIGIACOMO: You would be given instructions by the
5 Court as to what the law is.

6 PROSPECTIVE JUROR NUMBER 082: Then, yes, I could do
7 that.

8 MS. DIGIACOMO: Okay. And you can -- the three that we've
9 talked about, you can consider all three equally or --

10 PROSPECTIVE JUROR NUMBER 082: Yes.

11 MS. DIGIACOMO: -- give all an equal chance?

12 PROSPECTIVE JUROR NUMBER 082: [Nods head.]

13 MS. DIGIACOMO: Okay. Now, if you were back, you're
14 chosen as a juror first, and then back in the deliberation room, and sides
15 weren't agreeing, how would you, I guess, put your opinion out there or
16 what would you do if you were back there?

17 PROSPECTIVE JUROR NUMBER 082: I would probably
18 layout my reasoning for whatever my opinion may be. Go back, review
19 particular facts and key pieces of evidence that support why I think it
20 should be guilty or not guilty.

21 MS. DIGIACOMO: And you wouldn't have any problem voicing
22 your opinion back there?

23 PROSPECTIVE JUROR NUMBER 082: No. I'm the type that
24 generally sits back at first and listen first, but at some point I'll give my
25 opinion. I'd step up as needed.

1 MS. DIGIACOMO: What about the Bro Code and the gun to a
2 fist fight that we've been talking about?

3 PROSPECTIVE JUROR NUMBER 082: I don't think I've
4 actually been in a fight since like age five or six.

5 MS. DIGIACOMO: Okay. Did you bring a gun to that fist fight?

6 PROSPECTIVE JUROR NUMBER 082: No. So, yeah, as far
7 as any Bro Code, I think if it were, like, an arranged fight you would
8 assume that no one is supposed to bring anything. However, if you're
9 arranging to get into a fight, you're at least doing something wrong in the
10 first place. If it is more spontaneous, I guess, I don't know, let's, we can
11 avoid gun, I guess, if you felt like your life was threatened.

12 I could even picture, you know, certain movies or TV where you
13 see the dad hear something in the middle of the night. He grabs the
14 baseball bat next to his bed.

15 So, particularly, if you feel like you're in the right to defend
16 yourself, I actually can see where you would grab something to give
17 yourself the advantage.

18 MS. DIGIACOMO: Okay. But if you're -- it's one thing having
19 something, to have an advantage, and it's another thing to use it, you
20 would agree with that?

21 PROSPECTIVE JUROR NUMBER 082: Yes, I would.

22 MS. DIGIACOMO: When do you think it would be justified in
23 using, I guess --

24 PROSPECTIVE JUROR NUMBER 082: So it would --

25 MS. DIGIACOMO: -- deadly force basically?

1 PROSPECTIVE JUROR NUMBER 082: -- you would have to
2 truly feel that your life or someone else's life that you care about is in
3 imminent danger.

4 MS. DIGIACOMO: Is there anything else that we should know
5 about you or I forgot to ask you that you would like to just volunteer to all
6 of us right now?

7 PROSPECTIVE JUROR NUMBER 082: I probably had thought
8 of something earlier. But being on the spot, no.

9 MS. DIGIACOMO: Okay. Well, if you think about it, let us
10 know.

11 PROSPECTIVE JUROR NUMBER 082: Okay.

12 MS. DIGIACOMO: All right. I will pass for cause, Your Honor.

13 THE COURT: Can you teach us the Pythagorean Theorem?
14 No, no, I'm kidding.

15 PROSPECTIVE JUROR NUMBER 082: I could, if you'd really
16 like to.

17 THE COURT: I didn't go to -- I went to law school. I didn't go to
18 math school.

19 Sorry, Mr. Long.

20 MR. LONG: That's fine.

21 Good morning, Mr. Boland, in your 12 years of teaching high
22 school, can you make a rough estimate as to the number of fights you
23 have seen?

24 PROSPECTIVE JUROR NUMBER 082: Let's see, I guess,
25 rough estimate -- well, seen versus --

1 MR. LONG: I mean, hundreds versus less than a hundred
2 versus in the thousands?

3 PROSPECTIVE JUROR NUMBER 082: Less than a hundred.

4 MR. LONG: Okay.

5 PROSPECTIVE JUROR NUMBER 082: But double digits for
6 sure.

7 MR. LONG: Okay. And when you see a fight in high school,
8 are you supposed to, as a teacher, are you supposed to break it up, are
9 you supposed to call the school police, what are you supposed to do?

10 PROSPECTIVE JUROR NUMBER 082: Well, by all
11 technicalities we're supposed to just hit the button, call for hall monitor,
12 which they may also call for the school police officer.

13 MR. LONG: Have you ever broken up a fight just because --

14 PROSPECTIVE JUROR NUMBER 082: I have.

15 MR. LONG: -- what you have to do?

16 And in breaking up this fight, were you ever hurt?

17 PROSPECTIVE JUROR NUMBER 082: I was not.

18 MR. LONG: Okay.

19 PROSPECTIVE JUROR NUMBER 082: No. Yeah, like I said --
20 and I've never gotten in trouble for it. Although, from what they tell you,
21 your responsibility is to call the hall monitor and not get involved. But
22 generally speaking, if you break up the fight and you don't hurt the
23 students and they don't hurt you, then it will be a non-issue.

24 MR. LONG: And would you agree you broke up these fights
25 because you had to do something, you weren't going to sit there and push

1 the button on the hall monitor and watch these kids mix it up; right?

2 PROSPECTIVE JUROR NUMBER 082: Yes. I could see,
3 depending on, you know, female teachers I've known, some female
4 teachers that have just done that. But personally feel like I'm capable of
5 breaking up most of the fights especially if you get there quickly enough.
6 Sometimes once they're already rolling on the ground it's not worth getting
7 involved.

8 MR. LONG: Yeah.

9 And do you think, now I'm not talking about high school now, I'm
10 just asking you, Mr. Boland, do you think that there is an occasion where if
11 someone is in a fight they might be justified in taking the life of another
12 person?

13 PROSPECTIVE JUROR NUMBER 082: Yes.

14 MR. LONG: Under what circumstances?

15 PROSPECTIVE JUROR NUMBER 082: Like I said, I guess,
16 you would have to truly feel your life was in imminent danger, I guess.
17 And I could even see it may have started off as a fair fight but you feel like
18 you're on the losing end of it and the person still is coming at you and may
19 even be threatening your life in the process, then yes.

20 MR. LONG: Okay. And what about defending other people?

21 PROSPECTIVE JUROR NUMBER 082: Again, it comes down
22 to, is it possible to just pull off the aggressor, I guess. I never have a
23 weapon at hand when I break up a fight. So that's generally my option is
24 to remove or try to pull someone up off of someone else.

25 MR. LONG: Okay.

1 PROSPECTIVE JUROR NUMBER 082: But if it was absolutely
2 necessary to defend someone else, I would say that it is justified.

3 MR. LONG: Okay. You exercise a lot?

4 PROSPECTIVE JUROR NUMBER 082: Not as much since my
5 son was born.

6 MR. LONG: Okay, yeah.

7 And where -- are you a native? Are you a Vegas native?

8 PROSPECTIVE JUROR NUMBER 082: Born and raised.

9 MR. LONG: Where did you go to high school?

10 PROSPECTIVE JUROR NUMBER 082: Durango.

11 MR. LONG: Okay. And where did you go to college?

12 PROSPECTIVE JUROR NUMBER 082: I went to UNR for four
13 years and then came back down.

14 MR. LONG: Is that where you got your masters as well?

15 PROSPECTIVE JUROR NUMBER 082: I actually got my
16 masters through Touro University in curriculum and instruction. It was
17 actually an online degree.

18 MR. LONG: In what?

19 PROSPECTIVE JUROR NUMBER 082: Curriculum and
20 instruction with an emphasis on differentiated instruction.

21 MR. LONG: Okay. Whew.

22 PROSPECTIVE JUROR NUMBER 082: A lot essay writing. It
23 was easier than getting a masters in math.

24 MR. LONG: Yeah. Okay.

25 And do you think, same question I asked your neighbor

1 Ms. Hardy, do you think you could set aside, I guess, the tremendous
2 emotion that accompanies a murder, an alleged murder, and just focus on
3 guilt or innocence?

4 PROSPECTIVE JUROR NUMBER 082: Yes.

5 MR. LONG: Okay. I don't have anything further.

6 Pass for cause.

7 THE COURT: I don't remember my high school math teacher
8 35 years old. He had one leg in the grave and one in a wheelchair. I
9 don't remember him looking as young as you do.

10 All right. Pass that mic over.

11 I shouldn't have made that comment.

12 All right. Tell me your name.

13 PROSPECTIVE JUROR NUMBER 040: I'm Mark Harlan.

14 THE COURT: Do you work?

15 PROSPECTIVE JUROR NUMBER 040: I do not. I'm
16 semi-retired.

17 THE COURT: From what?

18 PROSPECTIVE JUROR NUMBER 040: Computing.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 040: I am not but I live with
21 a significant other.

22 THE COURT: Does your significant other work?

23 PROSPECTIVE JUROR NUMBER 040: Yes, she does. She's
24 an architectural historian.

25 THE COURT: Children?

1 PROSPECTIVE JUROR NUMBER 040: No, not as far as I
2 know, better not.

3 THE COURT: Have you ever sat as a juror before?

4 PROSPECTIVE JUROR NUMBER 040: No. But I was on one
5 big jury pool one time that was dismissed in the most interesting fashion.

6 THE COURT: I'll let the State ask you questions about that.

7 MS. BLUTH: Hi, Mr. Harlan.

8 PROSPECTIVE JUROR NUMBER 040: Howdy.

9 MS. BLUTH: So why were you guys dismissed or how did it
10 go?

11 PROSPECTIVE JUROR NUMBER 040: Okay. I won't go deep
12 into it. But there was a big pool, like, somewhat equal to what was out by
13 the television out there when we first got sat. And they brought people in,
14 and we sat down, more people than in here, and they're going through --
15 they ask an opening question, does anyone in here know anyone in this
16 room?

17 And one guy raises his hand and is like, yeah, I do, I know the
18 district attorney. And they're like, okay.

19 Does anyone know anyone else? And a woman raises her
20 hand. And they said, who do you know, I know the Defendant. Well, how
21 do you know him? He dated my sister in -- dated my sister and he stole
22 our family's television set.

23 And things became what you might call a little eruptive.

24 And the judge says, are you sure? And when she describes
25 like his car and the spinners on his wheels and all this stuff.

1 And she said -- and the judge says, when did that happen?
2 She said it happened about 14 months ago.

3 Well, did you do anything? And judge said, do you want to?
4 And the woman said, yes, I would.

5 And so the judge sends everyone, all the jury out into the hall,
6 calls the bailiff, write that guy up.

7 There's about 15 minutes passes, the judge comes out in the
8 hall, ladies and gentlemen, I want to let you know, you're all going to be
9 excused, you don't have to serve your jury duty today, and you need to
10 know that the case that you got brought forward for has been pled in the
11 last 15 minutes, and so that trials not going to happen but there is going to
12 be a trial about the television set.

13 And he said, I've been a judge for 35 years and I can tell you,
14 this is extremely unusual and I hope you remember it.

15 And I said, can we tell the story?

16 He's like, oh, yeah, you can tell the story.

17 So now I'm passing along the wishes of a judge that I was on
18 jury for, yeah.

19 MS. BLUTH: Where was that?

20 PROSPECTIVE JUROR NUMBER 040: That was in Santa
21 Clara, California.

22 MS. BLUTH: That's so funny.

23 THE COURT: That wouldn't happen in Nevada.

24 PROSPECTIVE JUROR NUMBER 040: No, it doesn't -- it
25 doesn't happen in Nevada, which is why I moved here.

1 MS. BLUTH: How long have you been here?
2 PROSPECTIVE JUROR NUMBER 040: I've been here for a
3 decade.
4 MS. BLUTH: Okay. And you said you're semi-retired?
5 PROSPECTIVE JUROR NUMBER 040: Yeah.
6 MS. BLUTH: So what do you do?
7 PROSPECTIVE JUROR NUMBER 040: I'm a
8 semi-professional gambler and I do some writing.
9 MS. BLUTH: And what type of things do you write?
10 PROSPECTIVE JUROR NUMBER 040: The thing I'm probably
11 most famous for is do you know the black and yellow dummies books, like
12 Computers for Dummies, and that kind of stuff?
13 MS. BLUTH: Yeah.
14 PROSPECTIVE JUROR NUMBER 040: I wrote Texas Hold'em
15 For Dummies.
16 MS. BLUTH: Oh, cool.
17 PROSPECTIVE JUROR NUMBER 040: It's a best seller.
18 MS. BLUTH: Good for you.
19 PROSPECTIVE JUROR NUMBER 040: Thank you.
20 MS. BLUTH: I like it.
21 PROSPECTIVE JUROR NUMBER 040: Thank you. Thank
22 you.
23 PROSPECTIVE JUROR NUMBER 030: I love your work.
24 PROSPECTIVE JUROR NUMBER 040: Thank you.
25 MS. BLUTH: I love your work.

1 PROSPECTIVE JUROR NUMBER 040: I need to say -- I need
2 to say a couple of things here. One, I realize that this is a murder trial,
3 and I think it's extremely serious. I think it's the most serious thing that
4 can happen in society. And when I laugh or I joke, I'm not trying to make
5 brevity of the situation.

6 Unfortunately, I was raised and taught in such a way that a little
7 bit of humor makes people pay more attention and it helps release the
8 tension because there's a lot of tension in here. And I don't want anyone
9 to think that --

10 MS. BLUTH: Oh, no, I don't think --

11 PROSPECTIVE JUROR NUMBER 040: -- I'm not being
12 respectful.

13 In fact, I'm a little bit self-consciousness of sitting down in an
14 audience when I have a microphone in my hand. I feel like I should be
15 standing. I feel like it shows disrespect to everyone for not being
16 standing.

17 MS. BLUTH: Oh, if you want to stand, you can. But, no, I think
18 it's okay.

19 PROSPECTIVE JUROR NUMBER 040: No, no, no, I'm fine.

20 MS. BLUTH: Okay.

21 PROSPECTIVE JUROR NUMBER 040: I already stand out
22 enough in a crowd. I don't need to do more.

23 MS. BLUTH: Okay. So let's talk about some of the things that
24 you've been hearing about for the last few days. Ever been the victim?

25 PROSPECTIVE JUROR NUMBER 040: Let me think. Me

1 personally?

2 MS. BLUTH: Yeah.

3 PROSPECTIVE JUROR NUMBER 040: Sure. I've had a
4 couple of things stolen here and there.

5 MS. BLUTH: Okay. Anything about those situations, you know,
6 that --

7 PROSPECTIVE JUROR NUMBER 040: No.

8 MS. BLUTH: -- you're frustrated with?

9 PROSPECTIVE JUROR NUMBER 040: No.

10 MS. BLUTH: Okay. Close family member or close friends or
11 family member ever been --

12 PROSPECTIVE JUROR NUMBER 040: I knew we were going
13 to get to this. Okay. Let me backup one step, does my surname mean
14 anything to you? Does the name Harlan mean anything to you?

15 MS. BLUTH: No.

16 PROSPECTIVE JUROR NUMBER 040: It might to the judge.

17 He was the chief justice of the Supreme Court at the turn of the
18 20th Century. He wrote the first Human Rights Acts out of the Supreme
19 Court.

20 MS. BLUTH: Oh, wow.

21 PROSPECTIVE JUROR NUMBER 040: That is not my direct
22 decedent. You have to go up five across and down two or three. But I
23 know who he is and I knew who he was.

24 And his kid was also on the Supreme Court, not chief justice
25 because, you know, the family tree has to degrade over time; right?

1 So chief justice -- not chief justice. But my dad, John L. Harlan,
2 who is not John Marshall Harlan, he was alcoholic, a binge drinker -- and
3 we had, our family, had an attorney on retainer for his drinking and
4 driving. Because, you know, you have a couple of choices, you can drink
5 and drive or you can get an attorney and drink and drive, you know, I
6 guess, so that's the way it goes. And so he was arrested a lot. At least
7 six states. My brother thinks it might be as many as 20.

8 MS. BLUTH: Wow.

9 PROSPECTIVE JUROR NUMBER 040: I've spent a lot of time
10 in courtrooms. I've seen a lot of testimony. I know a lot of lawyers.

11 MS. BLUTH: Okay.

12 PROSPECTIVE JUROR NUMBER 040: But it's not really here
13 or there.

14 MS. BLUTH: Okay.

15 PROSPECTIVE JUROR NUMBER 040: You just don't -- I can
16 tell you, you don't want a binge alcoholic as a father. Unless you want a
17 really interesting life and you want to be able to write about it later, I
18 guess, maybe.

19 MS. BLUTH: Was there any domestic violence in your home?
20 Sometimes drinking and domestic violence --

21 PROSPECTIVE JUROR NUMBER 040: That's a really hard
22 question because the concept of domestic violence has changed over
23 time. I'm a kid of the 60s and the 70s. I'm 57 years old. When I was a
24 kid, if -- if your mom got hit -- and it wasn't common and it wasn't normal.
25 But it wasn't -- it wasn't considered acceptable by any stretch of the

1 imagination. But it wasn't thought of as being --

2 MS. BLUTH: Criminal; right?

3 PROSPECTIVE JUROR NUMBER 040: Right. And it wasn't
4 thought of being abusive and neglected behavior. But I saw my dad hit
5 my mom a couple of times. I saw neighbor's parents hit each other a
6 couple of times.

7 MS. BLUTH: Okay.

8 PROSPECTIVE JUROR NUMBER 040: So, yeah, there was a
9 little.

10 MS. BLUTH: Okay.

11 PROSPECTIVE JUROR NUMBER 040: By the 21st Century,
12 standard, absolutely there was.

13 MS. BLUTH: Okay. But does it --

14 PROSPECTIVE JUROR NUMBER 040: But I didn't -- at that
15 time it wasn't -- 21st Century that times change and things change.

16 MS. BLUTH: And it wasn't reported because it was different
17 time?

18 PROSPECTIVE JUROR NUMBER 040: No, no.

19 MS. BLUTH: All right.

20 PROSPECTIVE JUROR NUMBER 040: I called the cops on
21 my dad once when he was wildly out of control. And my mom said, where
22 are you going? I said, I'll tell you exactly where I'm going. I'm going next
23 door to call the cops on my dad.

24 MS. BLUTH: Because he was being violent or just because he
25 was being belligerent?

1 PROSPECTIVE JUROR NUMBER 040: He's capable of
2 anything. And he ultimately killed himself on the patio.

3 MS. BLUTH: Oh.

4 PROSPECTIVE JUROR NUMBER 040: So, you know, there's
5 a little gift for the neighborhood, as if there wasn't enough already.

6 MS. BLUTH: Yeah, I'm sorry.

7 PROSPECTIVE JUROR NUMBER 040: That's all right. It's not
8 your fault.

9 MS. BLUTH: Okay. So any other family members or close
10 friends victimized?

11 PROSPECTIVE JUROR NUMBER 040: Oh, sure.

12 MS. BLUTH: Okay. Tell me.

13 PROSPECTIVE JUROR NUMBER 040: I had a friend in
14 college who had a car stolen. I had -- I had my aunt's house -- I have a
15 very small family. I just have one aunt. She had her house broken into.
16 She had stuff stolen. My mom was accosted at knifepoint in the mid-60s
17 by a guy that was -- became known as the "garage gorilla." Spelled
18 G-O-R not G-U-E-R. And we had a tear gas gun by the house the whole
19 time, by the front door, the whole time I grew up. All sorts of
20 miscellaneous things.

21 MS. BLUTH: What about charged with a crime or accused of a
22 crime? I mean, I know you just spoke about your dad, but anybody else?

23 PROSPECTIVE JUROR NUMBER 040: Excuse me a second,
24 I'm just thinking. I have a lot of friends.

25 Yes. A guy I know -- I came out of Silicon Valley, a guy I know,

1 who was a programmer, was charged with manufacturing
2 methamphetamine. He had a girlfriend who was a -- who had a meth
3 habit, she taught him how to cook meth, he learned it and did it, and then
4 she broke up with him and she called the DEA on him, and they put him
5 down for -- the put him down for that. He has since had that record
6 expunged. So I don't even know if I'm allowed to say that that happened.
7 But I gave testimony for him as a character witness, before they -- before
8 they give him his sentence and then said he didn't do it or whatever. I
9 don't even know -- I know a little bit about law. I don't even know what
10 expunging is.

11 MS. BLUTH: Okay. What do you think about local law
12 enforcement?

13 PROSPECTIVE JUROR NUMBER 040: I think -- if we talk
14 local, so now we're talking --

15 MS. BLUTH: Let's talk local first.

16 PROSPECTIVE JUROR NUMBER 040: -- Las Vegas or the
17 Las Vegas area. I think they're very good. I think that they have an
18 extremely difficult job. I think that -- I don't know. I'm glad they're there.
19 I'm glad they're there.

20 MS. BLUTH: What about countrywide law enforcement?

21 PROSPECTIVE JUROR NUMBER 040: It varies. I've seen --
22 I've seen police lie on the witness stand. And I know for a fact it was a lie
23 because I saw what they saw and they were making up stuff.

24 But the Denver Police Department, so -- yeah, I'm sorry for
25 these weird stories. But I just lived -- there's a thing in mathematics called

1 normal distribution curve, the bell curve, and my life, my experiences.
2 They're about Six Sigma out. They're way, way out there. They're way
3 out there.

4 MS. BLUTH: I'm getting that.

5 PROSPECTIVE JUROR NUMBER 040: Yeah, yeah, yeah.

6 MS. BLUTH: But I like it. I would read your book.

7 PROSPECTIVE JUROR NUMBER 040: Okay, okay.

8 All right. So I have a rule, anyone who buys any of my books,
9 she knows this, I have to give them 85 cents because that's my royalty on
10 every copy and I don't take money from people that I know.

11 MS. BLUTH: Okay.

12 PROSPECTIVE JUROR NUMBER 040: Okay. So if you buy it,
13 I'll bring out three quarters and a dime.

14 I'm sorry, I --

15 MS. BLUTH: That's okay.

16 PROSPECTIVE JUROR NUMBER 040: -- I distracted myself.
17 What was the question?

18 MS. BLUTH: It was about somebody in Denver.

19 PROSPECTIVE JUROR NUMBER 040: I'm sorry, about
20 Denver?

21 MS. BLUTH: It was about somebody in Denver, I think --

22 PROSPECTIVE JUROR NUMBER 040: Oh, oh, oh, oh. So,
23 yeah, it was -- I had a friend who had his record expunged. And, you
24 know, for those of you that have dismay about the environment and the
25 way that people behave and the kinds of things that happen, take this

1 one, highest level of education 8th grade. He just left a job because he
2 couldn't take it there anymore. He was being paid \$300,000 a year.

3 And he said to me -- I said to him, what would it take for you
4 to -- to move to this new company, that he applied for.

5 And he said, ah -- you've got \$2,000 here. And he said
6 \$300,000.

7 I said, all right, they're going to offer you the job. You know how
8 to interview, you know what's going on, they know who you are. You're
9 going to get paid. They offer -- they make him an offer \$400,000 a year.
10 He tells his boss, it's an Internet of things company, the people that are
11 going to put the Internet into your vending machines. They tell him and
12 he's like, oh, they're like, oh, you're the most important thing at this
13 company, we've got to keep you, we're going to pay you \$500,000 a year.

14 And he said, no, I said I was leaving.

15 That's how insane the Silicon Valley is now.

16 MS. BLUTH: Wow.

17 PROSPECTIVE JUROR NUMBER 040: Yeah.

18 MS. BLUTH: That's crazy.

19 PROSPECTIVE JUROR NUMBER 040: A 1,000 square foot
20 apartment in San Jose will cost you \$5500 a month. You have to make
21 \$85,000 a year just to pay your rent.

22 MS. BLUTH: Um --

23 PROSPECTIVE JUROR NUMBER 040: And people wonder
24 why I moved.

25 MS. BLUTH: Yeah.

1 What do you think about being a juror, like, sitting in, you know,
2 in judgment of another person?

3 PROSPECTIVE JUROR NUMBER 040: I'm glad you asked
4 that question. So I think everyone in this situation, right here right now,
5 everyone has a job. He does. She does. You do.

6 My job is to be a prospective juror. I'm not trying to impress you
7 with anything about me. I'm not trying to impress you with anything that I
8 do. I'm not trying to get on. I'm not trying to get off. If I was trying to get
9 off, I'm sure I can get out on a medical almost immediately. What my job
10 is, is to present myself in the best possible way I can.

11 What your guys' job is, what the attorneys' job is, is to figure out
12 whether or not I make sense on the jury.

13 So all I want to do is present myself as who I am and let you
14 figure out whether or not you'll take this -- this ball of flakes that is me on
15 the jury.

16 It's, like, yeah, that's a good idea, we need him. Or, no, we
17 don't want him. Because I don't want to be -- I don't want to be the
18 member of a club that doesn't want me as a member.

19 MS. BLUTH: Yeah.

20 PROSPECTIVE JUROR NUMBER 040: But if you guys want
21 me on here, I absolutely want to do it.

22 MS. BLUTH: Okay. What about the conversations we've been
23 having about, you know, gun fight or fist fight, guns, weapons?

24 PROSPECTIVE JUROR NUMBER 040: So my -- my -- I'm 11th
25 generation American. My father's line came to the United States in 1687.

1 And when they came over here, they were Quakers, not Puritans,
2 Quakers. And Quakers are the society of friends. If anyone's ever been
3 to a Quaker meeting, you've got to go to one because it is church like you
4 have never seen. There is no officiant, people just sitting around in a
5 room and then they suddenly say whatever they want to say.

6 And one of the things about the Quakers is you listen to people,
7 you understand people, and you listen to what they have to say. And
8 there's no doubt, there is no doubt, I am not a Quaker but I understand it
9 and it runs right through my bloodline. It has not left. And all you want to
10 do -- all I want to do is sit and listen and pay attention and to express to
11 you what I can be.

12 MS. BLUTH: But what do you feel though about a gun being
13 used in a fight?

14 PROSPECTIVE JUROR NUMBER 040: Okay. So, it depends
15 on how the fight transgresses. If you say there's -- if someone calls me up
16 and says, hey, Red, there's going to be a fight next weekend, I'll bring a
17 gun to that fight, the gun I'm going to bring is going to be on the -- is going
18 to be on the policeman's belt and I'm going to be 50 miles away. I'm not
19 going to be anywhere near that.

20 One of the things that really breaks my heart about this whole
21 business here is something happened and escalated. And I can tell you
22 for a fact, if I could have been there before any of this stuff happened, it
23 wouldn't have gone down. I can -- I assure you it would not have gone
24 down. I've walked any number of people away from the ledge in my life.

25 MS. BLUTH: Sure.

1 PROSPECTIVE JUROR NUMBER 040: And --

2 MS. BLUTH: -- do you --

3 PROSPECTIVE JUROR NUMBER 040: So would I -- would I
4 bring a gun to a knife fight? No. I wouldn't have a gun on me in the first
5 place. You know, if I have -- if I have a lunar lander and it sits in my
6 garage, I guarantee you I'm going to want to go to the moon. I guarantee
7 it. Like, I've got a lunar lander; I'm going to go to the moon. It's, like, you
8 know, maybe you should think this through. Maybe you shouldn't have a
9 lunar lander. Maybe you shouldn't go to the moon.

10 MS. BLUTH: But do you think there is a situation in which
11 someone would be justified in gaining a weapon?

12 PROSPECTIVE JUROR NUMBER 040: I can -- I can imagine
13 situations where that would be true, yes. But I think you haven't thought
14 the situation out ahead of time. I think there's a lot of problems in the
15 world and in life that if you just put your mind to it and think about it for just
16 for a second, you know, like, like, take a deep breath and have a glass of
17 orange juice and think about it. That you can -- you can dodge a lot of the
18 stuff.

19 Because I believe that our society is a -- is a giant woven fabric
20 and when you kill somebody, or if someone is killed, you just blow a hole
21 right through that fabric. And it's not just -- it's not just about that person.
22 And it's not just about you as the person who has that aggression.
23 Because that person that got killed, that person has brothers and sisters
24 and aunts and uncles and neighbors and anything can spill out of that.
25 That's the way fights start. And the concept of aggression is how we as

1 the United States you just like just escalate it right on up. Like, bring your
2 own NUC, you know, where does it stop?

3 MS. BLUTH: Do you know an attorney by the name of David
4 Figler?

5 PROSPECTIVE JUROR NUMBER 040: No.

6 MS. BLUTH: He's a writer but.

7 PROSPECTIVE JUROR NUMBER 040: Okay.

8 MS. BLUTH: You guys are very similar.

9 PROSPECTIVE JUROR NUMBER 040: Okay. Good.

10 MS. BLUTH: The way you -- yeah --

11 PROSPECTIVE JUROR NUMBER 040: Good.

12 MS. BLUTH: He's a friend of mine. But if you --

13 PROSPECTIVE JUROR NUMBER 040: Unless we're not
14 similar at all, then bad.

15 MS. BLUTH: No. Okay. Well, I thank you for your insight.

16 PROSPECTIVE JUROR NUMBER 040: You're welcome.

17 MS. BLUTH: And we pass you for cause.

18 PROSPECTIVE JUROR NUMBER 040: You're welcome.

19 MR. LONG: No questions, Your Honor.

20 Pass for cause.

21 THE COURT: Thanks.

22 Pass that mic over.

23 Tell me your name.

24 PROSPECTIVE JUROR NUMBER 059: John Lubratich.

25 THE COURT: Do you work?

1 PROSPECTIVE JUROR NUMBER 059: Recently retired.

2 THE COURT: From what?

3 PROSPECTIVE JUROR NUMBER 059: I was chief financial
4 officer for a Washington, D.C. based federal contractor.

5 THE COURT: Married?

6 PROSPECTIVE JUROR NUMBER 059: Yes.

7 THE COURT: Spouse work?

8 PROSPECTIVE JUROR NUMBER 059: No.

9 THE COURT: Children?

10 PROSPECTIVE JUROR NUMBER 059: She has two, ages 36
11 and 30. I have two boys, ages 36 and 31.

12 THE COURT: Any of them in law or law enforcement?

13 PROSPECTIVE JUROR NUMBER 059: My younger one was
14 scheduled to go to the Metro Academy but decided selling Mercedes was
15 just too lucrative to give up.

16 THE COURT: Have you ever sat as a juror before?

17 PROSPECTIVE JUROR NUMBER 059: No, first time in a
18 courtroom.

19 THE COURT: Can you think of any reason you would not be
20 fair and impartial to both parties in this case?

21 PROSPECTIVE JUROR NUMBER 059: Not at all.

22 THE COURT: State.

23 MS. DIGIACOMO: Thank you.

24 So if you were worked for a D.C. based company, how did you
25 end up in Vegas?

1 PROSPECTIVE JUROR NUMBER 059: I lived in -- I commuted
2 for six years.

3 MS. DIGIACOMO: Oh, you commuted; okay.
4 How long have you been in Vegas?

5 PROSPECTIVE JUROR NUMBER 059: Nine years.

6 THE COURT: Before you get started, let's take a five minute
7 recess, the jury -- some of the jurors need a recess.

8 Don't discuss what you've seen or heard in this courtroom. Be
9 back here in five minutes.

10 [Recess taken at 11:14 a.m.]
11 [Jury Trial resumed at 11:23 a.m.]
12 [In the presence of the prospective jury panel]

13 THE MARSHAL: All rise, please.
14 And be seated.

15 THE COURT: All right. Tell me again your name.

16 PROSPECTIVE JUROR NUMBER 059: John Lubratich.

17 THE COURT: Where do you work?

18 PROSPECTIVE JUROR NUMBER 059: Retired.

19 THE COURT: And -- oh, from --

20 PROSPECTIVE JUROR NUMBER 059: A company --

21 THE COURT: Washington, D.C.?

22 PROSPECTIVE JUROR NUMBER 059: -- east coast,
23 Washington D.C. based, federal IT contractor.

24 THE COURT: And -- am I done and it's you -- do you guys --

25 MS. DIGIACOMO: You're done, yeah, I'm sorry.

1 THE COURT: All right.

2 MS. DIGIACOMO: It was me. I should have been -- I should
3 have been more on the ball.

4 THE COURT: That's all right.

5 UNIDENTIFIED JUROR: It's been a long day.

6 MS. DIGIACOMO: Okay. I have like a squiggly where I started
7 to write something, but I don't remember what it was. So let's start over,
8 so you've never been the victim of a crime?

9 PROSPECTIVE JUROR NUMBER 059: A couple of minor
10 things. My identity was stolen a year and a half ago but that was quickly
11 cleaned up. And when I was retiring, at the end of last year, we drove
12 across country and had the car broken into and had some stuff stolen but.

13 MS. DIGIACOMO: Okay.

14 PROSPECTIVE JUROR NUMBER 059: No big deal.

15 MS. DIGIACOMO: Now, with your ID stolen though, that one
16 wasn't a big deal?

17 PROSPECTIVE JUROR NUMBER 059: It was -- caught it early
18 enough.

19 MS. DIGIACOMO: Okay.

20 PROSPECTIVE JUROR NUMBER 059: We got -- fortunately,
21 one of the credit cards that was applied for, they sent a letter to us, and
22 said, you know, hey, we have a problem with your request for a Victoria's
23 Secret credit card.

24 MS. DIGIACOMO: And then your wife said what?

25 PROSPECTIVE JUROR NUMBER 059: Yeah, exactly, exactly.

1 And then that's -- I immediately got on -- figured out. And there
2 was some -- unfortunately there was one other location that had accepted
3 credit and shipped the goods to the person. But I filled out the paperwork,
4 filed the police report, and it was all taken -- yeah, it was all done quickly.

5 MS. DIGIACOMO: Okay. So the police did investigate it?

6 PROSPECTIVE JUROR NUMBER 0591: They required me to
7 file a police report.

8 MS. DIGIACOMO: Oh, for your --

9 PROSPECTIVE JUROR NUMBER 059: For the --

10 MS. DIGIACOMO: Fraud?

11 PROSPECTIVE JUROR NUMBER 059: -- for the fraud. I filed
12 it here. They shipped it to Hayward, California because the goods were
13 shipped to Hayward, California.

14 MS. DIGIACOMO: Okay.

15 PROSPECTIVE JUROR NUMBER 059: And I don't know what
16 happened after that.

17 MS. DIGIACOMO: You never heard; okay.

18 So I'm sensing you're fine with what happened and it wouldn't
19 affect you here?

20 PROSPECTIVE JUROR NUMBER 059: No.

21 MS. DIGIACOMO: Okay. Anyone close to you ever been the
22 victim of a crime?

23 PROSPECTIVE JUROR NUMBER 059: My son had his car
24 stolen but that was returned quickly. So no large issue.

25 MS. DIGIACOMO: Okay. And what about anyone you know or

1 anyone close to you that has been accused or convicted of a crime?

2 PROSPECTIVE JUROR NUMBER 059: None.

3 MS. DIGIACOMO: Okay. What do you think about our criminal
4 justice system?

5 PROSPECTIVE JUROR NUMBER 059: Any institution which is
6 potentially run by humans can't be, by definition, isn't perfect. But I
7 believe the system is reasonably fair and it's getting better over time. I
8 mean, you go back a 100 years from today, it's a much -- worse situation
9 then it is today. The society continues to evolve and improve and so does
10 the justice system.

11 MS. DIGIACOMO: Now, what did you do before you worked for
12 the federal --

13 PROSPECTIVE JUROR NUMBER 059: Federal contractor.
14 I'm a Silicon Valley boy. I was born and raised in the San Francisco Bay
15 area. I worked for National Semi -- the large division of Hitachi as well.

16 MS. DIGIACOMO: Oh, okay.

17 Okay. So law shows, do you watch any of them, CSI?

18 PROSPECTIVE JUROR NUMBER 059: Huge fan of the
19 original Law and Order.

20 MS. DIGIACOMO: Okay.

21 PROSPECTIVE JUROR NUMBER 059: So I've probably seen
22 every episode more than once.

23 MS. DIGIACOMO: Okay.

24 PROSPECTIVE JUROR NUMBER 059: Other than that, I will
25 occasionally watch Dateline, if I don't have anything else on. And that's it,

1 basically it.

2 MS. DIGIACOMO: Okay. So do you have any expectations of
3 what you would expect in this trial, evidence-wise or forensically, in order
4 to convince you?

5 PROSPECTIVE JUROR NUMBER 059: No, no. I do expect
6 you'll be done in two hours though.

7 MS. DIGIACOMO: Well, let's gage it on jury selection, that's not
8 going to happen.

9 All right. So if the judge instructs you on the law at the end, and
10 you don't agree with it can you still follow it?

11 PROSPECTIVE JUROR NUMBER 059: Yes.

12 MS. DIGIACOMO: Do you know anyone that works in the
13 criminal justice system or even just the court system in general?

14 PROSPECTIVE JUROR NUMBER 059: Nope.

15 MS. DIGIACOMO: You said you've even been in a courtroom?

16 PROSPECTIVE JUROR NUMBER 059: This is the first time
17 ever been in a courtroom.

18 MS. DIGIACOMO: Well, welcome. I'm sure you'll see it again,
19 no.

20 PROSPECTIVE JUROR NUMBER 059: Oh. Okay.

21 MS. DIGIACOMO: That's a little preview of what's coming up in
22 the commercial, no.

23 No, we're going to finish today so. With jury selection.

24 What about the fight, the bringing a gun to a fist fight, justified,
25 not justified?

1 PROSPECTIVE JUROR NUMBER 059: Clearly, I mean, I
2 haven't been in a fight in 60 -- probably 60 years. But, no, I understand
3 the concept of, if your life is threatened, you clearly have the right to take
4 another life. Or your family. Or you're sitting in a school and someone
5 starts shooting it up, you have the, you know, you have the right, even if
6 you don't know anybody, you have the right to take out that person.

7 MS. DIGIACOMO: Okay. But you would agree though it has to
8 be imminent --

9 PROSPECTIVE JUROR NUMBER 059: Yeah.

10 MS. DIGIACOMO: -- kind of thing?

11 PROSPECTIVE JUROR NUMBER 059: Immediate, yes.

12 MS. DIGIACOMO: Okay.

13 PROSPECTIVE JUROR NUMBER 059: Imminent and
14 immediate.

15 MS. DIGIACOMO: Now, if you were selected to be on this jury
16 and you're back in the deliberation room and everybody, all 11, are for
17 one way and you're the lone for the other way, what would you do?

18 PROSPECTIVE JUROR NUMBER 059: I would spend quite a
19 bit of time going through my view and my -- the rational. I would also
20 listen to the other 11 and weigh what they had to say as well.

21 MS. DIGIACOMO: Okay.

22 PROSPECTIVE JUROR NUMBER 059: And, yes, I could --
23 would I -- could I change my mind, yes. Would I change my mind, no. I
24 don't know. Not guaranteed one way or the other.

25 MS. DIGIACOMO: Would you --

1 PROSPECTIVE JUROR NUMBER 059: -- but I --
2 MS. DIGIACOMO: -- change your mind just because, hey --
3 PROSPECTIVE JUROR NUMBER 059: No.
4 MS. DIGIACOMO: -- it's close to dinnertime, I can go home?
5 PROSPECTIVE JUROR NUMBER 059: I've been an executive
6 for a long time, you don't make it to an executive by doing that.
7 MS. DIGIACOMO: Okay. And what do you think, I mean,
8 you've been in the corporate world, I guess, your entire career?
9 PROSPECTIVE JUROR NUMBER 059: 40, yeah, pretty -- yes.
10 MS. DIGIACOMO: Okay. How do you think about your ability
11 to judge character of others?
12 PROSPECTIVE JUROR NUMBER 059: You know, I -- it's
13 interesting, you raised the issue of, you're not judging the person, you're
14 judging their actions. Well, I spent 40 years judging people's action.
15 Granted the stakes here are much higher, with, you know. There's a big
16 difference between you get to keep your job and you get to move up or
17 you could lose your job versus do you lose your freedom.
18 MS. DIGIACOMO: Right.
19 PROSPECTIVE JUROR NUMBER 059: But the basic -- the
20 basics are still the same. You're judging a person's actions.
21 MS. DIGIACOMO: And you're okay with that?
22 PROSPECTIVE JUROR NUMBER 059: Yes, fine.
23 MS. DIGIACOMO: And if -- if, you know, as we've talked about,
24 the case could be two parts, it could be the trial phase, where you're
25 deciding the actions and whether or not a crime was committed, and there

1 could be possibly a penalty phase, can you keep them separate?

2 PROSPECTIVE JUROR NUMBER 059: Yeah, easily.

3 MS. DIGIACOMO: And if we got to penalty, can you weigh and
4 consider all three options equally?

5 PROSPECTIVE JUROR NUMBER 059: Absolutely.

6 MS. DIGIACOMO: I forgot my question.

7 Do you have any bumper stickers on your car?

8 PROSPECTIVE JUROR NUMBER 059: I drove a 2004, which
9 is now back in the family, there's stuff on that but they're not nine. And
10 the answer is, no, I don't put bumper stickers on my car.

11 MS. DIGIACOMO: Okay. I'll pass for cause.

12 MR. LONG: Sir, you've the heard the questions that I've asked
13 the other prospective jurors as far as there being -- ever being justification
14 for taking a human life. Do you have any comments on that? Any strong
15 feelings one way or the other?

16 PROSPECTIVE JUROR NUMBER 059: I agree that there are
17 circumstances. Everything's based on facts and circumstances. On the
18 right side of circumstances, absolutely.

19 MR. LONG: And how do you feel about apparent danger, do
20 you feel like you should judge someone on what they thought at a
21 moment or what comes out in the wash afterwards?

22 PROSPECTIVE JUROR NUMBER 059: It's an interesting
23 question. They --

24 MR. LONG: Take the school shooting, for example.

25 PROSPECTIVE JUROR NUMBER 059: Yeah.

1 MR. LONG: Your, you have a gun, you're on a campus, you
2 see a kid looks like he's been picked on, he's got a trench coat, on a day
3 like today, there's a bulge in it, you're thinking, I'm not going to see
4 another Parkland, not another Columbine, you draw down and you cap
5 him?

6 PROSPECTIVE JUROR NUMBER 059: No.

7 MS. DIGIACOMO: Well, it turns out that that trench coat is full
8 of pool cues that he's making in shop class, and he looks -- he looks a
9 little nerdy but he's -- he's an aspiring carpenter and that was the best way
10 to carry them. How do you -- let's say the shooters not you, how would
11 you judge the shooter?

12 PROSPECTIVE JUROR NUMBER 059: It would be -- it would
13 be an -- the shooter in my mind would be -- would probably be guilty of --
14 some crime. Because he did not let -- fully let that come out. He didn't let
15 the situation play out.

16 If a guy pulls -- if the kid pulls a gun out, that's one thing. But
17 until you know, how can, you know, you're assuming that person has
18 something, or you don't -- a gun, and they're going to start shooting other
19 children. But you don't necessary know them. You don't -- you don't
20 know.

21 MR. LONG: Do you think you could be justified by all the facts,
22 okay, it's June in Las Vegas, it's hot, why are you wearing a trench coat?
23 Why are you coming to school off hours? Why are you going through the
24 back door? There's no situation in which you think this person could be
25 justified? Yes, a tragedy happened but it's just an unfortunate incident.

1 We had all the wrong ingredients in the cake to make a tragedy.

2 Hard question?

3 PROSPECTIVE JUROR NUMBER 059: It's a very hard
4 question. I guess, my answer would be, I would have to -- you'd have to
5 get to more of the facts and circumstances and details for me to make a
6 decision.

7 That simple, if I look at that just brief example, I'd have to see
8 more before I'd -- before I could support it.

9 MR. LONG: Okay. And but something like that you definitely
10 wouldn't say, hey, you know what, there's a young man dead, you shot
11 him, first degree?

12 PROSPECTIVE JUROR NUMBER 059: No.

13 MR. LONG: Okay. And your feelings about self-defense; okay.
14 That's all the questions I have. I'll pass for cause.

15 THE COURT: Tell me your name.

16 PROSPECTIVE JUROR NUMBER 042: Pooy Loffredo.

17 THE COURT: Do you work?

18 PROSPECTIVE JUROR NUMBER 042: No, sir.

19 THE COURT: Have you worked?

20 PROSPECTIVE JUROR NUMBER 042: Yes, before.

21 THE COURT: What?

22 PROSPECTIVE JUROR NUMBER 042: CNA.

23 THE COURT: What did you do there?

24 PROSPECTIVE JUROR NUMBER 042: Take care of old
25 people.

1 THE COURT: Are you married?

2 PROSPECTIVE JUROR NUMBER 042: No, sir.

3 THE COURT: Do you have children?

4 PROSPECTIVE JUROR NUMBER 042: No, sir.

5 THE COURT: Have you ever sat as a juror before?

6 PROSPECTIVE JUROR NUMBER 042: No, sir.

7 THE COURT: State -- you'll be fair?

8 PROSPECTIVE JUROR NUMBER 042: Yes, sir.

9 THE COURT: State.

10 MS. BLUTH: Where are you from originally?

11 PROSPECTIVE JUROR NUMBER 042: Thailand.

12 MS. BLUTH: How long have you been in the United States?

13 PROSPECTIVE JUROR NUMBER 042: I've been over here 15

14 year.

15 MS. BLUTH: Okay. Were you in nursing in Thailand as well?

16 PROSPECTIVE JUROR NUMBER 042: No.

17 MS. BLUTH: What did you do in Thailand?

18 PROSPECTIVE JUROR NUMBER 042: Staying home, take

19 care of my mom.

20 MS. BLUTH: Okay. Have you ever been involved in the court

21 system at all or is this your first time in this environment?

22 PROSPECTIVE JUROR NUMBER 042: This is my first time.

23 MS. BLUTH: Okay. Have you ever been the victim of a crime?

24 PROSPECTIVE JUROR NUMBER 042: No.

25 MS. BLUTH: Any of your family members?

1 PROSPECTIVE JUROR NUMBER 042: No.

2 MS. BLUTH: Have you been accused of a crime?

3 PROSPECTIVE JUROR NUMBER 042: No.

4 MS. BLUTH: Any of your family members?

5 PROSPECTIVE JUROR NUMBER 042: No.

6 MS. BLUTH: All right. What do you think about the criminal

7 justice system we have here in the United States compared to Thailand's?

8 PROSPECTIVE JUROR NUMBER 042: I think all the same.

9 MS. BLUTH: The same?

10 PROSPECTIVE JUROR NUMBER 042: Yeah, I think the

11 same.

12 MS. BLUTH: Okay. In what way?

13 PROSPECTIVE JUROR NUMBER 042: What way I think of --

14 MS. BLUTH: Do you think they're good? Bad?

15 PROSPECTIVE JUROR NUMBER 042: In the middle.

16 MS. BLUTH: In the middle?

17 PROSPECTIVE JUROR NUMBER 042: Yeah.

18 MS. BLUTH: What do you think is good about the system?

19 PROSPECTIVE JUROR NUMBER 042: I'm not sure.

20 MS. BLUTH: Okay. When you have been speaking to me, your

21 English is very good. Do you -- do you have any -- have you had any

22 issues at all understanding?

23 PROSPECTIVE JUROR NUMBER 042: A little bit with you.

24 MS. BLUTH: With me; okay.

25 PROSPECTIVE JUROR NUMBER 042: You speak slowly

1 that's why I understand.

2 MS. BLUTH: I speak -- oh, wait, sorry, so it's easier to
3 understand with me?

4 PROSPECTIVE JUROR NUMBER 042: Yes.

5 MS. BLUTH: Oh, okay. It's the rest of them that have issues.
6 Got it.

7 PROSPECTIVE JUROR NUMBER 042: Sorry.

8 MS. BLUTH: That's usually how it works.

9 PROSPECTIVE JUROR NUMBER 042: Sorry.

10 THE COURT: Comedy Central.

11 PROSPECTIVE JUROR NUMBER 042: Sorry.

12 MS. BLUTH: No, that's okay, that's okay.

13 PROSPECTIVE JUROR NUMBER 042: I try.

14 MS. BLUTH: No, and I know that you're trying, and I really
15 appreciate it.

16 PROSPECTIVE JUROR NUMBER 042: That's why I tell her, I
17 say, I'm so nervous. My heart, tuk-tuk-tuk-tuk.

18 MS. BLUTH: No, don't be -- yeah, don't be nervous. That's
19 okay.

20 So out of 100 percent, how much do you think you have been
21 understanding?

22 PROSPECTIVE JUROR NUMBER 042: Well, maybe 30, 50.

23 MS. BLUTH: Okay. All right.

24 Judge, I really think that she's trying, but with 40 percent I think
25 that we're probably going to struggle here.

1 MR. LONG: No objection.
2 THE COURT: All right.
3 MS. BLUTH: That so much.
4 THE COURT: You're excused. Thank you.
5 Fill that spot.
6 PROSPECTIVE JUROR NUMBER 042: Thank you, sir.
7 THE COURT: Thank you.
8 THE COURT CLERK: Next person is Lorelee Cat -- Case.
9 Lorelee Case.
10 THE COURT: All right. Ms. Case, do you work?
11 PROSPECTIVE JUROR NUMBER 083: I do.
12 THE COURT: What do you do?
13 PROSPECTIVE JUROR NUMBER 083: I'm a sommelier at
14 MGM Grand.
15 THE COURT: Married?
16 PROSPECTIVE JUROR NUMBER 083: No.
17 THE COURT: Children?
18 PROSPECTIVE JUROR NUMBER 083: No.
19 THE COURT: Have you ever sat as a juror before?
20 PROSPECTIVE JUROR NUMBER 083: No.
21 THE COURT: Can you fair and impartial to both parties in this
22 case?
23 PROSPECTIVE JUROR NUMBER 083: Yes.
24 THE COURT: State.
25 MS. BLUTH: Hi.

1 PROSPECTIVE JUROR NUMBER 083: Hi.

2 MS. BLUTH: So before I get into all the questions, is there
3 anything that we need to know, like something that you have a problem
4 with, so I don't find out about it, like, 20 questions later, then trying to save
5 some time?

6 PROSPECTIVE JUROR NUMBER 083: No problems.

7 MS. BLUTH: Okay. All right.

8 Ever been a victim?

9 PROSPECTIVE JUROR NUMBER 083: Thinking about it now,
10 I didn't say it before, but just domestic violence.

11 MS. BLUTH: Okay. And you personally or a family member or
12 friend?

13 PROSPECTIVE JUROR NUMBER 083: Myself. It was over 20
14 years ago, just with an ex-boyfriend.

15 MS. BLUTH: Okay.

16 PROSPECTIVE JUROR NUMBER 083: It became physical
17 and the police were called because they saw him, you know, what he was
18 doing so.

19 MS. BLUTH: Okay. So the police came because someone saw
20 him doing what he was doing; is that what you said, or the police
21 themselves saw it?

22 PROSPECTIVE JUROR NUMBER 083: I was at a nightclub
23 and he was jealous so he grabbed me and dragged me on the street and
24 then hit me over the head and.

25 MS. BLUTH: Okay. And so the police got involved?

1 PROSPECTIVE JUROR NUMBER 083: Yes.

2 MS. BLUTH: Is that the only incident?

3 PROSPECTIVE JUROR NUMBER 083: Where the police were
4 involved.

5 MS. BLUTH: Okay. So there were other instances where you
6 didn't report it?

7 PROSPECTIVE JUROR NUMBER 083: [Nods head.]

8 MS. BLUTH: Okay. When the police did get involved, were you
9 happy with the way that that was handled?

10 PROSPECTIVE JUROR NUMBER 083: I think they could have
11 been a little bit more considerate to me because I was so young and I was
12 on the streets by on myself. I didn't have my purse. And they were going
13 to leave me there and not give me a ride home.

14 MS. BLUTH: Oh, yeah. Okay.

15 PROSPECTIVE JUROR NUMBER 083: It was late. I was on
16 the bad side of town of Chicago. So I had to really plead for that. And
17 just the way they were speaking to me. And then I'm in the back of the
18 car, another cop comes up, starts flirting with me, and offers me
19 doughnuts, of all things. And so it was just uncomfortable.

20 MS. BLUTH: Yeah. Sure.

21 How old were you at that time?

22 PROSPECTIVE JUROR NUMBER 083: I was maybe 21, 22.

23 MS. BLUTH: Okay. Were you born and raised in Chicago?

24 PROSPECTIVE JUROR NUMBER 083: The suburbs.

25 MS. BLUTH: And then when did you come to Las Vegas?

1 PROSPECTIVE JUROR NUMBER 083: In 2003.

2 MS. BLUTH: All right. Have you had any contacts with local
3 law enforcement where you felt kind of the same, disappointed or
4 frustrated?

5 PROSPECTIVE JUROR NUMBER 083: Well, yes. My best
6 friend used to date a police officer and he did end up being fired because
7 of his behavior. But he was angry with me one night, we were out at a
8 bar, and then he took his gun and he starts hitting me with it and then he
9 grabbed me by my hair.

10 MS. BLUTH: Oh, my gosh.

11 Did he get fired over that incident?

12 PROSPECTIVE JUROR NUMBER 083: No. I didn't report it --

13 MS. BLUTH: Oh.

14 PROSPECTIVE JUROR NUMBER 083: -- because it was my
15 friend.

16 MS. BLUTH: Yeah.

17 PROSPECTIVE JUROR NUMBER 083: So you --

18 MS. BLUTH: It was your friend's boyfriend or friend's husband?

19 PROSPECTIVE JUROR NUMBER 083: It was my best friend's
20 boyfriend.

21 MS. BLUTH: Okay.

22 PROSPECTIVE JUROR NUMBER 083: So I didn't. But over
23 time he was doing that around town. He was beating people up or
24 stealing whatever they had.

25 MS. BLUTH: And so he got fired?

1 PROSPECTIVE JUROR NUMBER 083: He did.
2 MS. BLUTH: When was that?
3 PROSPECTIVE JUROR NUMBER 083: Like 20 years ago. It's
4 a long time.
5 MS. BLUTH: Oh, was it --
6 PROSPECTIVE JUROR NUMBER 083: It was back home.
7 MS. BLUTH: Oh, okay.
8 PROSPECTIVE JUROR NUMBER 083: Oh, we're talking
9 about now in Vegas?
10 MS. BLUTH: Yeah.
11 PROSPECTIVE JUROR NUMBER 083: Okay. So everything
12 here in Vegas, the police officers have been fine.
13 MS. BLUTH: Okay.
14 PROSPECTIVE JUROR NUMBER 083: No incidence.
15 MS. BLUTH: Okay. Any other friends who have been victims,
16 victimized in anyway?
17 PROSPECTIVE JUROR NUMBER 083: Nothing where it's ever
18 gone to the police.
19 MS. BLUTH: Okay. And then what about any friends that have
20 been accused of a crime or family members?
21 PROSPECTIVE JUROR NUMBER 083: No.
22 MS. BLUTH: Okay. So what about some of the crime scene,
23 you know, CSI, Las Vegas -- or, sorry, not Las Vegas -- Law and Order,
24 any of those types of shows?
25 PROSPECTIVE JUROR NUMBER 083: I don't watch them.

1 MS. BLUTH: Okay. What do you -- are a TV watcher? Are you
2 a book reader?

3 PROSPECTIVE JUROR NUMBER 083: I hate to admit it, I
4 watch reality shows and a lot of reruns of Sex and the City, Netflix.

5 MS. BLUTH: Okay. And, like, reality is it like HGTV or Bravo or
6 all of it?

7 PROSPECTIVE JUROR NUMBER 083: How embarrassing,
8 like, Love and Hip Hop and just.

9 MS. BLUTH: That's hilarious.

10 PROSPECTIVE JUROR NUMBER 083: Sorry, guilty pleasure.

11 MS. BLUTH: Okay. So what do you think about being selected
12 as a juror and judging whether or not someone has committed a crime?
13 Like the questions we've had about judging other people, sitting in a
14 position of judgment?

15 PROSPECTIVE JUROR NUMBER 083: I feel just as everyone
16 else does, we're all uncomfortable, we don't want to be here, but it's our
17 civil duty to do this. And hopefully we're all level-headed enough to
18 separate the sentencing from guilty and not guilty.

19 MS. BLUTH: Yeah.

20 PROSPECTIVE JUROR NUMBER 083: And see things for --
21 as facts.

22 MS. BLUTH: Okay. What about following laws that you don't
23 agree with?

24 PROSPECTIVE JUROR NUMBER 083: I mean, the law is the
25 law. When it comes to marijuana that is a tough one. As someone was

1 saying, if it's for your sister and you're growing it, I personally didn't think it
2 was enough for anyone to have a felony. That would be difficult for me --

3 MS. BLUTH: Okay.

4 PROSPECTIVE JUROR NUMBER 083: -- to decide that.

5 MS. BLUTH: Okay. So, I think, that the law, probably when
6 we're not talking about marijuana, is a little bit more clear and probably not
7 so -- I don't know -- gut-wrenching or usually you don't have -- there's not
8 those facts in there.

9 But when you -- one of the jury instructions that you're given, I
10 think it's actually the first one, is that these are the instructions and it's part
11 of your oath to follow the law that is within this packet.

12 Is that something you see yourself struggling with?

13 PROSPECTIVE JUROR NUMBER 083: No.

14 MS. BLUTH: Okay. Do you feel you're comfortable voicing
15 your opinion in front of other people?

16 PROSPECTIVE JUROR NUMBER 083: Yes.

17 MS. BLUTH: And you stated that you've never been a juror
18 before?

19 PROSPECTIVE JUROR NUMBER 083: No.

20 MS. BLUTH: Have you ever been, like, called and part of this
21 type of process?

22 PROSPECTIVE JUROR NUMBER 083: Like 25 years ago.

23 MS. BLUTH: Okay. And was that back in Chicago?

24 PROSPECTIVE JUROR NUMBER 083: Yes.

25 MS. BLUTH: Any local friends or family that are in law

1 enforcement or attorneys, judges?

2 PROSPECTIVE JUROR NUMBER 083: No.

3 MS. BLUTH: And have you ever had any training in the criminal
4 justice field at all?

5 PROSPECTIVE JUROR NUMBER 083: No.

6 MS. BLUTH: How do you feel about our criminal justice system
7 like nationwide?

8 PROSPECTIVE JUROR NUMBER 083: Laws need to be in
9 place and there needs to be people who enforce them. It's mandatory. I
10 don't understand why so many people go to prison and they return back in
11 two to five years. That's a big problem for me. So they're not being
12 rehabilitated.

13 MS. BLUTH: Let me ask you a question about that, do you
14 think they're coming back because they're not being rehabilitated, or do
15 you think they're coming back because they're making the same bad
16 choices, or a little of both?

17 PROSPECTIVE JUROR NUMBER 083: It's both definitely.
18 Because we do make our choices in life. But I think when you're -- when
19 you really go to prison, it makes you become a different person or you
20 have to become a way because of the way of life. And for some people
21 they don't know how to live outside of that way of life when they've been in
22 there for that long.

23 And, two, when you are released, where are the programs truly
24 to set them up for -- to find a job or career. If you put down felon on your
25 application, people don't want you.

1 So I think there needs to be a little bit more set up and structure
2 and guidance and.

3 MS. BLUTH: To get them back into the society?

4 PROSPECTIVE JUROR NUMBER 083: U'm-h'm.

5 MS. BLUTH: Okay.

6 PROSPECTIVE JUROR NUMBER 083: Or make it a little
7 tougher, you know. You know, what's wrong with the -- what is it? The
8 chain gang. I mean, make them work all day, so you're tired, so you don't
9 fight.

10 MS. BLUTH: Okay. What else about our criminal justice
11 system nationwide? Anything else that you think of?

12 PROSPECTIVE JUROR NUMBER 083: Just the, I mean, I
13 really do believe in everyone deserves a fair trial. But I just don't
14 understand why is it so prolonged and so much time, money, and effort?
15 Like with John Wayne Gacy, and maybe it's for the family's sake, but he
16 was already sentenced to death or what have you. So why go through all
17 those cases and time and money when we already know what's going to
18 happen?

19 MS. BLUTH: Yeah.

20 No, it's a --

21 PROSPECTIVE JUROR NUMBER 083: I guess, like I was
22 saying, for the family's maybe, it's just to give them peace.

23 MS. BLUTH: Or maybe, like, you have to serve a certain
24 sentence for each victim, you know. I mean, I understand, it's a good
25 question. Because at the end of the day it's like --

1 PROSPECTIVE JUROR NUMBER 083: He's still going to --

2 MS. BLUTH: -- he's going to, yeah.

3 PROSPECTIVE JUROR NUMBER 083: U'm-h'm.

4 MS. BLUTH: But, like you said, everybody kind of deserves
5 their day in court too.

6 But, yeah, I mean, there are a lot of procedural things within the
7 system that take up time and money.

8 But do you think, you know, like if you were charged with a
9 crime, you would probably want, like, all of those procedural safeguards
10 for yourself?

11 PROSPECTIVE JUROR NUMBER 083: I would. But I'm not
12 educated enough to even know what are my safeguards.

13 MS. BLUTH: Okay. We talked about the two phases, which
14 you've already spoken about. But I wanted to make sure you understood
15 when I talked about on Monday of the three different classes of
16 punishment or the forms of sentences more -- I should use that term. And
17 that you could look at each of those and you were okay with that?

18 PROSPECTIVE JUROR NUMBER 083: Yes.

19 MS. BLUTH: Okay. And then, lastly, what are your thoughts on
20 the hypothetical that we've been talking about in regards to fighting and
21 using deadly threat when it's necessary? Where are you at there?

22 PROSPECTIVE JUROR NUMBER 083: I think it's human
23 nature to defend and protect yourself when. As for bringing a knife to a
24 fist fight, the way I was raised and grew up, you don't do it because you're
25 a coward. You can't fight them face to face.

1 I do think though, you know, if you -- well, why is the gun there?
2 It's weird. Because where I grew -- times were different in the 90s, you
3 know, that's high school time. And they used to fight a lot where I'm from.
4 And a lot of gangs. Rarely did anyone pull out the gun, even though
5 they're there, because they would just fight.

6 MS. BLUTH: Right. Okay.

7 PROSPECTIVE JUROR NUMBER 083: And more just get
8 waved around, you know. But times are so different now.

9 MS. BLUTH: Like, maybe threaten to use it but --

10 PROSPECTIVE JUROR NUMBER 083: The showing off, like
11 I'm a --

12 MS. BLUTH: -- but not.

13 PROSPECTIVE JUROR NUMBER 083: -- I'm this, you know,
14 man, but.

15 MS. BLUTH: Yeah. Okay.

16 Thank you so much.

17 Your Honor, pass for cause.

18 MR. LONG: Ms. Case, what is your degree in?

19 PROSPECTIVE JUROR NUMBER 083: Asian Studies and I'm
20 a certified sommelier.

21 MR. LONG: Okay. What is that, I'm sorry?

22 PROSPECTIVE JUROR NUMBER 083: A liberal arts degree.

23 MR. LONG: Okay. No, you're a certified --

24 PROSPECTIVE JUROR NUMBER 083: Oh, sommelier. I'm a
25 wine steward.

1 MR. LONG: Oh, okay. All right.

2 And you've known people who have been involved in domestic
3 relationships that turned violent, you yourself has been in one. Do you --
4 is it your experience that women or possibly men sometimes minimize the
5 violent aspect of the relationship?

6 PROSPECTIVE JUROR NUMBER 083: Definitely.

7 MR. LONG: Do you believe that battered woman syndrome is a
8 real legitimate psychiatric disorder?

9 PROSPECTIVE JUROR NUMBER 083: Yes.

10 MR. LONG: Okay. What are your feelings on self-defense?

11 PROSPECTIVE JUROR NUMBER 083: I don't even know if it's
12 a feeling. It's a reaction.

13 MR. LONG: What does your reaction?

14 PROSPECTIVE JUROR NUMBER 083: Well, recently, this
15 past year, there was a man following me and he got in the elevator and he
16 grabbed me. But I didn't report it to the police.

17 MR. LONG: Was this at work or?

18 PROSPECTIVE JUROR NUMBER 083: It was at work.

19 And I reported it to security. But they didn't do so well of a job
20 in my opinion. They didn't really question me.

21 MR. LONG: Did you know this man --

22 PROSPECTIVE JUROR NUMBER 083: No.

23 MR. LONG: -- or was it just a stranger?

24 PROSPECTIVE JUROR NUMBER 083: He's just a stranger off
25 the street who followed me into the parking garage. You know, so, it's just

1 a gut instinct feeling, you don't think, you just do when he was coming at
2 me. You push him and run.

3 MR. LONG: Okay.

4 PROSPECTIVE JUROR NUMBER 083: Hit or whatever you
5 have to do.

6 MR. LONG: I know hindsight is 20/20, but if say you had a full
7 wine bottle in your purse, wasn't expensive or anything.

8 PROSPECTIVE JUROR NUMBER 083: Didn't steal it. I will
9 fight.

10 MR. LONG: Would you feel justified and conk him on the head
11 with it?

12 PROSPECTIVE JUROR NUMBER 083: If he's hitting me or
13 grabbing me and I can't get loose, yes.

14 MR. LONG: Do you think a person is ever justified in taking the
15 life of another?

16 PROSPECTIVE JUROR NUMBER 083: Yes.

17 MR. LONG: Under what circumstances?

18 PROSPECTIVE JUROR NUMBER 083: I mean, there's so
19 many circumstances. What is the attacker doing, what does he have as a
20 weapon? So I may need a bigger one to protect myself. Even his fists
21 are stronger than what I can do. So I'm going to go for something.

22 MR. LONG: Okay. Your Honor, I'll pass for cause.

23 Thank you.

24 THE COURT: Thanks.

25 Tell me your name.

1 PROSPECTIVE JUROR NUMBER 046: Darlene Hamilton.
2 THE COURT: Do you work?
3 PROSPECTIVE JUROR NUMBER 046: Yes.
4 THE COURT: What do you do?
5 PROSPECTIVE JUROR NUMBER 046: I'm a manager for
6 United Healthcare.
7 THE COURT: Are you married?
8 PROSPECTIVE JUROR NUMBER 046: Yes.
9 THE COURT: Spouse work?
10 PROSPECTIVE JUROR NUMBER 046: He's a pastor.
11 THE COURT: With your religious belief, do you have any
12 problem sitting and judging actions?
13 PROSPECTIVE JUROR NUMBER 046: No.
14 THE COURT: Children?
15 PROSPECTIVE JUROR NUMBER 046: Yes.
16 THE COURT: Ages?
17 PROSPECTIVE JUROR NUMBER 046: 32, 29, and 26.
18 THE COURT: Any of them in law or law enforcement?
19 PROSPECTIVE JUROR NUMBER 046: No.
20 THE COURT: Have you ever sat as a juror before?
21 PROSPECTIVE JUROR NUMBER 046: Yes.
22 THE COURT: Where?
23 PROSPECTIVE JUROR NUMBER 046: In Palm Springs,
24 California.
25 THE COURT: When?

1 PROSPECTIVE JUROR NUMBER 046: Like 25 years ago.

2 THE COURT: What kind of case?

3 PROSPECTIVE JUROR NUMBER 046: It was an accident -- a
4 drunk driving accident.

5 THE COURT: Without telling us a verdict, were you able to
6 reach a verdict?

7 PROSPECTIVE JUROR NUMBER 046: Yes.

8 THE COURT: Were you the jury foreperson?

9 PROSPECTIVE JUROR NUMBER 046: No.

10 THE COURT: Is there anything about that experience that
11 would prejudice you against the State or the Defendant?

12 PROSPECTIVE JUROR NUMBER 046: No.

13 THE COURT: You'll be fair and impartial?

14 PROSPECTIVE JUROR NUMBER 046: Yes.

15 THE COURT: State.

16 MS. DIGIACOMO: Thank you.

17 So you're a manager at United Health?

18 PROSPECTIVE JUROR NUMBER 046: Yes.

19 MS. DIGIACOMO: What do you do specifically?

20 PROSPECTIVE JUROR NUMBER 046: I hate when people
21 ask. It's kind of complicated. I'm a contract analytics team or we -- that's
22 the team I manage. We make sure that contracts and demographics are
23 correct. So there's a lot of work because it's never correct.

24 MS. DIGIACOMO: Oh, okay.

25 And then your husband's a pastor?

1 PROSPECTIVE JUROR NUMBER 046: U'm-h'm.

2 MS. DIGIACOMO: Has he always been a pastor or does he --
3 did he have a career too?

4 PROSPECTIVE JUROR NUMBER 046: He used to do
5 personal security.

6 MS. DIGIACOMO: Okay. Did he carry a gun as personal
7 security?

8 PROSPECTIVE JUROR NUMBER 046: Yes.

9 MS. DIGIACOMO: How long did he do that?

10 PROSPECTIVE JUROR NUMBER 046: Probably five years.

11 MS. DIGIACOMO: And how long has he been doing -- been a
12 pastor?

13 PROSPECTIVE JUROR NUMBER 046: Three years.

14 MS. DIGIACOMO: The -- when you were a juror in California,
15 you said it was a DUI accident, were you deciding money damages or
16 were you deciding whether or not somebody committed a crime?

17 PROSPECTIVE JUROR NUMBER 046: If somebody
18 committed a crime.

19 MS. DIGIACOMO: Okay. Now, have you ever been the victim
20 of a crime?

21 PROSPECTIVE JUROR NUMBER 046: No.

22 MS. DIGIACOMO: Anyone close to you ever been the victim of
23 a crime?

24 PROSPECTIVE JUROR NUMBER 046: No.

25 MS. DIGIACOMO: What about arrested, anyone close to you

1 arrested?

2 PROSPECTIVE JUROR NUMBER 046: No.

3 MS. DIGIACOMO: Do you watch any of the law shows?

4 PROSPECTIVE JUROR NUMBER 046: I do.

5 MS. DIGIACOMO: Okay. What do you watch?

6 PROSPECTIVE JUROR NUMBER 046: Kind of all of them,

7 Law and Order.

8 MS. DIGIACOMO: Okay.

9 PROSPECTIVE JUROR NUMBER 046: Criminal Minds.

10 MS. DIGIACOMO: Okay. And what is it about those shows
11 that you like?

12 PROSPECTIVE JUROR NUMBER 046: Just the, you know,
13 the stories.

14 MS. DIGIACOMO: Okay. Do you have any expectations as
15 you're sitting there as to what the State has to present as evidence in this
16 case?

17 PROSPECTIVE JUROR NUMBER 046: No, I have no
18 expectations.

19 MS. DIGIACOMO: So if you think every case has to have DNA
20 and there's no DNA in this case, you're okay?

21 PROSPECTIVE JUROR NUMBER 046: I'm okay with that.

22 MS. DIGIACOMO: Okay. If you're chosen as a juror and the
23 judge instructs you at the end on the law, can you follow it even if you
24 disagree with it?

25 PROSPECTIVE JUROR NUMBER 046: Yeah, I'm a

1 rule-follower so.

2 MS. DIGIACOMO: And then what about, you know, what we've
3 been talking about, fist fights versus escalating fights?

4 PROSPECTIVE JUROR NUMBER 046: Well, I've been
5 thinking about this a lot, 'cause we've been here forever I feel like but.

6 MS. DIGIACOMO: Not forever yet.

7 PROSPECTIVE JUROR NUMBER 046: It feels like it.

8 I'm not a violent person. And, you know, I got in one fight in my
9 whole fight. It was in junior high. Usually I'm very, very
10 non-confrontational. So I walk away.

11 But, that, I understand, like, I'm a mother. So if somebody were
12 hurting my kids or my grandkids, I believe that I would, you know, defend
13 them.

14 But, and I understand, I mean, we live in an open carry state.
15 So a lot of people have guns. And my husband's one of them. And so,
16 you know, chances are, for example, if my husband were to get in a fight,
17 he's got a weapon on him so.

18 I mean, I don't know. Is that enough or did you want me to go
19 on?

20 MS. DIGIACOMO: Well, go on, no.

21 Okay. So but -- so, from what I'm sensing, is that you don't
22 have an issue with people having guns or carrying guns?

23 PROSPECTIVE JUROR NUMBER 046: Correct.

24 MS. DIGIACOMO: And, you know, you don't have an issue if
25 people end up in fights versus walking away?

1 PROSPECTIVE JUROR NUMBER 046: Right.

2 MS. DIGIACOMO: But do you think that there are times when
3 somebody is justified in escalating, like if it's a fist fight, escalating it with a
4 weapon or a gun?

5 PROSPECTIVE JUROR NUMBER 046: Yes. I mean, if their
6 life was being threatened.

7 MS. DIGIACOMO: Okay. And would it be just words or actions
8 or immediacy or like?

9 PROSPECTIVE JUROR NUMBER 046: Well, it would depend
10 on the circumstance. I mean, if I were, I mean -- well, it's hard to say me
11 because I'm -- I'm a weakling. But, I mean, I would do my best to defend
12 myself. If somebody were trying to kill me, and I felt like they were going
13 to kill me, I think I would -- if I had a weapon, I would use it.

14 MS. DIGIACOMO: You'd do what it took?

15 PROSPECTIVE JUROR NUMBER 046: I'd do whatever it took
16 to get that person off of me.

17 MS. DIGIACOMO: But if you had somebody who was coming
18 at you and you had another avenue out versus fighting them, you would
19 take that first?

20 PROSPECTIVE JUROR NUMBER 046: Yes.

21 MS. DIGIACOMO: Okay. Do you know anyone in the criminal
22 field here --

23 PROSPECTIVE JUROR NUMBER 046: No.

24 MS. DIGIACOMO: -- anyone who works?

25 Have you ever in your job had to get involved in any court

1 proceedings?

2 PROSPECTIVE JUROR NUMBER 046: No.

3 MS. DIGIACOMO: And if you were chosen and you were back
4 in the deliberation room and, you know, everyone is one side and you're
5 the lone person that has a different opinion, what would you do about it?

6 PROSPECTIVE JUROR NUMBER 046: Just talk it out until
7 either I understood their point or they understood mine.

8 MS. DIGIACOMO: All right. And you're a manager at work;
9 right?

10 PROSPECTIVE JUROR NUMBER 046: Yes.

11 MS. DIGIACOMO: So you're used to, I guess, you know,
12 speaking your mind or expressing your opinion --

13 PROSPECTIVE JUROR NUMBER 046: Yes.

14 MS. DIGIACOMO: -- to small groups of people?

15 PROSPECTIVE JUROR NUMBER 046: Large groups too.

16 MS. DIGIACOMO: Large groups too?

17 PROSPECTIVE JUROR NUMBER 046: Yeah.

18 MS. DIGIACOMO: Okay. So that's not an issue for you?

19 PROSPECTIVE JUROR NUMBER 046: No.

20 MS. DIGIACOMO: Can you, as we've been talking about the
21 two different phases, can you keep them separate and when you're doing
22 the, if you were chosen, the trial phase, can you just concentrate on that
23 and not even think about penalty?

24 PROSPECTIVE JUROR NUMBER 046: Yes.

25 MS. DIGIACOMO: And if it got to a penalty phase, can you

1 consider all three?

2 PROSPECTIVE JUROR NUMBER 046: Yes.

3 MS. DIGIACOMO: I don't have any further questions.

4 I will pass for cause.

5 MR. LONG: Ms. Hamilton, this DUI where you were a juror in
6 California, was it a whodunit, or was it, I wasn't drunk and a lot of scientific
7 evidence?

8 PROSPECTIVE JUROR NUMBER 046: It -- I'm really reaching
9 back because it was a long time ago. But it was -- he said that he wasn't
10 drunk.

11 MR. LONG: Okay.

12 PROSPECTIVE JUROR NUMBER 046: And they proved that
13 he was.

14 MR. LONG: Battle of the experts --

15 PROSPECTIVE JUROR NUMBER 046: Right.

16 MR. LONG: -- my expert says I was sober; okay.

17 As far as, with the question the State answered, if you had an
18 avenue of retreat, then you would take it, if, you know, there was a way to
19 escape. Do you think that everyone is bound to do the same thing? Or
20 do you think a woman or a man has a right to stand his or her ground?

21 PROSPECTIVE JUROR NUMBER 046: I believe everyone has
22 a right to stand his or her ground. I'm just a chicken.

23 MR. LONG: So your person choice is --

24 PROSPECTIVE JUROR NUMBER 046: Yeah.

25 MR. LONG: Now, your husband is a pastor?

1 PROSPECTIVE JUROR NUMBER 046: Yes.

2 MR. LONG: Would you have any problem sitting on a jury

3 where you're asked to, I guess -- let me start over again.

4 Do you believe there any situations where murder is justified?

5 PROSPECTIVE JUROR NUMBER 046: Yes.

6 MR. LONG: And those situations include?

7 PROSPECTIVE JUROR NUMBER 046: If my life or someone

8 else's life is being threatened.

9 MR. LONG: What about protecting --

10 PROSPECTIVE JUROR NUMBER 046: I would.

11 MR. LONG: -- someone?

12 PROSPECTIVE JUROR NUMBER 046: I would protect.

13 MR. LONG: Do they have to be a family member, do they have

14 to be a close friend, or can you protect a stranger?

15 PROSPECTIVE JUROR NUMBER 046: No, I would protect a

16 stranger.

17 MR. LONG: Okay. I'll pass for cause, Your Honor.

18 Thank you.

19 THE COURT: Thanks.

20 All right. Tell me your name.

21 PROSPECTIVE JUROR NUMBER 053: Anthony Pyle.

22 THE COURT: Do you work?

23 PROSPECTIVE JUROR NUMBER 053: I'm retired.

24 THE COURT: From what?

25 PROSPECTIVE JUROR NUMBER 053: I worked for RC

1 Willey, the furniture and appliance company.

2 THE COURT: Are you married?

3 PROSPECTIVE JUROR NUMBER 053: I am.

4 THE COURT: Spouse work?

5 PROSPECTIVE JUROR NUMBER 053: My wife is retired from
6 the Internal Revenue.

7 THE COURT: Children?

8 PROSPECTIVE JUROR NUMBER 053: I have four children, I
9 have 13 grandchildren, and two great grandchildren.

10 THE COURT: Any of them in law or law enforcement?

11 PROSPECTIVE JUROR NUMBER 053: They are not.

12 THE COURT: Have you ever sat as a juror before?

13 PROSPECTIVE JUROR NUMBER 053: I have.

14 THE COURT: Where?

15 PROSPECTIVE JUROR NUMBER 053: Now I know the
16 reason I've been called four times because nobody else has. I've only
17 served -- I was seated twice, Your Honor, both criminal.

18 THE COURT: Where?

19 PROSPECTIVE JUROR NUMBER 053: Right here.

20 THE COURT: Without telling us a verdict, in the first one, were
21 you able to reach a verdict?

22 PROSPECTIVE JUROR NUMBER 053: The first one was -- I
23 wasn't the foreperson, but I was the person that was doing the arguing
24 with the --

25 THE COURT: Were you able to reach a verdict?

1 PROSPECTIVE JUROR NUMBER 053: We were not. It ended
2 up after --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 053: -- four days of
5 deliberation --

6 THE COURT: Okay. Okay. I don't need anymore.

7 PROSPECTIVE JUROR NUMBER 053: Okay.

8 THE COURT: On the second one, were you able to reach a
9 verdict?

10 PROSPECTIVE JUROR NUMBER 053: Actually there was
11 evidence that was exposed to the jury that we weren't supposed to see.
12 So the judge came out and excused us all.

13 THE COURT: Is there anything about those two experiences
14 that would prejudice you against the State or the Defendant?

15 PROSPECTIVE JUROR NUMBER 053: I guess, I had kind of
16 hard feelings in the one case. But it's not going -- it doesn't have any
17 bearing on this case. So, no, I would not.

18 THE COURT: All right. You'll be fair and impartial?

19 PROSPECTIVE JUROR NUMBER 053: That's correct.

20 THE COURT: State.

21 MS. BLUTH: So we can't -- well, there were no verdicts, so we
22 don't have to talk about a verdict; right? But I do want to know the types
23 of case they were. I know they were criminal, but tell me about -- you
24 don't have to get into the facts but tell me the crimes?

25 PROSPECTIVE JUROR NUMBER 053: A convicted felon in

1 possession of a firearm.

2 MS. BLUTH: Okay.

3 PROSPECTIVE JUROR NUMBER 053: And the other one -- I
4 don't remember all the charges in that one. But it was -- I don't know if it
5 was murder or not. I don't remember.

6 MS. BLUTH: I'm sorry, you don't know if what?

7 PROSPECTIVE JUROR NUMBER 053: If it was like a murder
8 case. I don't remember if it was. I don't -- I don't remember what the
9 charge was exactly.

10 MS. BLUTH: Was there violence involved?

11 PROSPECTIVE JUROR NUMBER 053: There was.

12 MS. BLUTH: Okay. And then how long ago were these?

13 PROSPECTIVE JUROR NUMBER 053: The first one was
14 probably about seven years ago, eight years ago, and the other one about
15 three years ago.

16 MS. BLUTH: And were these both in Las Vegas?

17 PROSPECTIVE JUROR NUMBER 053: Correct.

18 MS. BLUTH: All right. You said that you have hard feelings --
19 you said that there was one where you guys argued for several days or
20 did you say that?

21 PROSPECTIVE JUROR NUMBER 053: Well, four days.

22 MS. BLUTH: You argued for four days?

23 PROSPECTIVE JUROR NUMBER 053: Three days actually.

24 MS. BLUTH: Three days.

25 PROSPECTIVE JUROR NUMBER 053: We were there four

1 days but the first day they selected the jury and the next three were
2 deliberation.

3 MS. BLUTH: So you picked a jury and did the whole trial in one
4 day?

5 PROSPECTIVE JUROR NUMBER 053: The trial -- yes, it
6 started the first day, yeah.

7 MS. BLUTH: Oh, okay.

8 And then the trial itself or evidence and testimony was coming
9 in was for four days?

10 PROSPECTIVE JUROR NUMBER 053: No. The deliberation
11 was pretty much -- the trial, like I said, it was -- the case -- the State had
12 presented its case pretty well. So it was pretty, you know.

13 MS. BLUTH: Straightforward?

14 PROSPECTIVE JUROR NUMBER 053: Straightforward.

15 MS. BLUTH: Okay. But you guys still go back there and you
16 argue?

17 PROSPECTIVE JUROR NUMBER 053: U'm-h'm, that's
18 correct.

19 MS. BLUTH: And you can't come to agreement so it's done?

20 PROSPECTIVE JUROR NUMBER 053: Yeah, that's correct.

21 MS. BLUTH: Okay. You said you had some real hard feelings?

22 PROSPECTIVE JUROR NUMBER 053: With this one person,
23 it was one person that held out.

24 MS. BLUTH: So it was frustrating?

25 PROSPECTIVE JUROR NUMBER 053: The frustrating part of

1 it was that we're basing our decision on the evidence that was presented
2 to us. It was just a personal bias.

3 MS. BLUTH: Gothcu.

4 And then the second one, how far were you into the trial when
5 you got the evidence?

6 PROSPECTIVE JUROR NUMBER 053: Just -- we were -- they
7 basically had selected the jury. It took most of the day for that. And we
8 had come back the next day and when we came -- came out for lunch --
9 come back from lunch, we were all excused.

10 MS. BLUTH: Okay. So not a whole lot of your time was
11 invested?

12 PROSPECTIVE JUROR NUMBER 053: That's correct.

13 MS. BLUTH: That happened to me after six weeks of trial and I
14 was nine months pregnant. It happened on the very last day of trial. So I
15 feel your pain.

16 I won't talk about department it was in.

17 Is he looking at me?

18 PROSPECTIVE JUROR NUMBER 050: Yes.

19 PROSPECTIVE JUROR NUMBER 053: He's smiling.

20 MS. BLUTH: So what do you think about local law
21 enforcement?

22 PROSPECTIVE JUROR NUMBER 053: I think we have a very
23 good law enforcement here in Vegas.

24 MS. BLUTH: Okay. And then what do you think about our
25 criminal justice system nationwide?

1 PROSPECTIVE JUROR NUMBER 053: Overall, it's a real -- I
2 think we have -- well, probably one of the best in the world actually
3 because of all we see going on around the world.

4 I guess I feel a lot of times, I understand the overcrowding
5 situation in the prisons that we deal with. But I, you know, you see a lot of
6 the cases come up on TV that they're -- or they plead the cases down. I
7 guess my feelings go out to the victims. Especially if it's a, you know, a
8 homicide case or a real tragic case. It seems like the perpetrator gets to
9 plead down and the victims are actually the ones that suffer more than the
10 person who committed the crime.

11 MS. BLUTH: Okay. You've heard us ask the questions, you
12 know, about the type of shows, do you think that every case that comes
13 into the district court has to have forensic evidence?

14 PROSPECTIVE JUROR NUMBER 053: No, I do not.

15 MS. BLUTH: What about following the laws that you don't
16 necessarily agree with?

17 PROSPECTIVE JUROR NUMBER 053: I think everybody
18 should obey the law. But about three years ago, and this is -- a lot of laws
19 cannot be enforced. The voters' -- the citizens of Clark County voted that
20 there should be no smoking indoors. You go out and about to any bar or
21 anywhere in town and it's like open smoking.

22 MS. BLUTH: Yeah.

23 PROSPECTIVE JUROR NUMBER 054: But they can't really
24 police something like that and it wouldn't be, you know, the cost of it would
25 be unreal but.

1 So a lot of people do break the law, but it's not -- and speeding,
2 the average speed limit here is probably about 75, and the posted speed
3 limit is 65.

4 MS. BLUTH: Yeah.

5 But what about following the law, like in a courtroom, you know,
6 that the --

7 PROSPECTIVE JUROR NUMBER 053: Yes.

8 MS. BLUTH: -- judge gives you? Are you okay with that
9 premise?

10 PROSPECTIVE JUROR NUMBER 053 I am. Yeah, I think
11 everybody should obey the law.

12 MS. BLUTH: Okay. And I know you've been a juror twice
13 before, so it doesn't seem like you have any issues sitting in a position of
14 judgement of someone's actions, whether they be criminal or not?

15 PROSPECTIVE JUROR NUMBER 052: Correct.

16 MS. BLUTH: And then are you okay with the three forms of
17 sentence?

18 PROSPECTIVE JUROR NUMBER 053: I am.

19 MS. BLUTH: All right. So talk to me about the question that
20 we've been talking about in regards to the fighting and weapons?

21 PROSPECTIVE JUROR NUMBER 053: When I was a young
22 man growing up it seemed like getting in a fight was almost a rite of
23 passage. You know, if you came to school with a black eye, it was like a
24 badge of honor, you know. Basically it showed that you stood up for
25 yourself.

1 I've noticed over the years the fighting situations have been
2 worse, especially with the influx of drugs when they entered the society.
3 And the gangs, the same thing. When I went to school there was, you
4 know, you heard of maybe one gang or two gangs. But they were just
5 young kids just. And, now, with, you know, the situation that it is, things
6 are becoming more and more violent. And more and more people are
7 carrying weapons. And a lot more crimes are committed with firearms.

8 I have a concealed weapon or a concealed carry, but I usually
9 don't pack when I got out into public.

10 When you have that too, you know, they tell you, you know, if
11 you can brandish your weapon, unless -- even in the situation where it's a
12 fight, don't even pull it out. And you end up getting it taken away from you
13 and that's what is ended up using in the crime so. So, yeah, so.

14 I think in a fist fight it should be basically just a fist fight. But in
15 situations when you're in a fight, adrenaline, a lot of times, will affect your
16 reasonable thinking and so things do escalate and things do happen.

17 MS. BLUTH: Thank you.

18 Is there anything I didn't ask you or have there been opinions
19 that have been voiced that are different than yours, that you think we
20 should know in assessing whether or not you're the appropriate juror for
21 this case?

22 PROSPECTIVE JUROR NUMBER 053: There is not.

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

24 Pass for cause, Your Honor.

25 MR. LONG: Mr. Pyle, do you know anyone who's been

1 involved in a domestic violence situation where the victim or perpetrator?

2 PROSPECTIVE JUROR NUMBER 053: Not personally I don't.

3 MR. LONG: Okay. What are your feelings about domestic
4 violence?

5 PROSPECTIVE JUROR NUMBER 053: I think --

6 MR. LONG: Let me ask another question, is there ever an
7 excuse for it?

8 PROSPECTIVE JUROR NUMBER 053: There is not. There is
9 not.

10 MR. LONG: Okay. And you stated that fist fights can change,
11 what do you mean?

12 PROSPECTIVE JUROR NUMBER 053: Well, like I said, when
13 you get into a fight, adrenaline kicks in. A lot of times you're -- you're
14 going to, you know, you start fighting harder. And, like I said, if you -- and
15 if you don't want to lose the fight, like I said, it can escalate pretty bad.
16 And, like I said, if there's something available, if you're on the losing end
17 of that, you may seek some other aid to help you overcome the problem
18 that you're in.

19 MR. LONG: Okay. And you have a CW permit, a carry conceal
20 weapons permit. Do you think there are situations where taking a life is
21 justified?

22 PROSPECTIVE JUROR NUMBER 053: I do.

23 MR. LONG: Okay. And what would those situations be?

24 PROSPECTIVE JUROR NUMBER 053: Basically like
25 everybody else has stated in the protection of yourself, your family, home

1 invasion, that sort of thing I think it would be.

2 MR. LONG: Okay. And do you think that if a life is taken, that
3 you, on a jury, say, not this jury, hypothetically, could judge a person as to
4 what he or she thought at the moment versus looking back?

5 PROSPECTIVE JUROR NUMBER 053: Hard to know what
6 somebody else was thinking in a situation. But, you know, you can
7 assess what I guess what did happen and make a determination.

8 MR. LONG: Okay. And do you know anyone whose family has
9 been murdered or?

10 PROSPECTIVE JUROR NUMBER 053: Not personally I don't.

11 MR. LONG: Okay. I don't have any further questions, Your
12 Honor.

13 I'll pass for cause.

14 THE COURT: Thanks.

15 Tell me your name.

16 PROSPECTIVE JUROR NUMBER 050: Irma Alatorre.

17 THE COURT: Do you work?

18 PROSPECTIVE JUROR NUMBER 050: I recently retired.

19 THE COURT: From what?

20 PROSPECTIVE JUROR NUMBER 050: Southwest Gas
21 Corporation.

22 THE COURT: Are you married?

23 PROSPECTIVE JUROR NUMBER 050: No.

24 THE COURT: Children?

25 PROSPECTIVE JUROR NUMBER 050: I have a daughter,

1 she's 36, she works for Metro.

2 THE COURT: What does she do?

3 PROSPECTIVE JUROR NUMBER 050: She's a senior LEST
4 at Records and Fingerprint. She's been with the department --

5 THE COURT: You can't call her or any of her friends and ask
6 for help.

7 PROSPECTIVE JUROR NUMBER 050: No, she would
8 probably tell me, you know you can't talk to me.

9 THE COURT: Are you going to feel any pressure to find one
10 way or the other?

11 PROSPECTIVE JUROR NUMBER 050: No.

12 THE COURT: You'll be --

13 PROSPECTIVE JUROR NUMBER 050: But --

14 THE COURT: What?

15 PROSPECTIVE JUROR NUMBER 050: -- and I'll let them -- I
16 do know several people.

17 THE COURT: Okay. Have you -- just a minute. Have you sat
18 on a jury before?

19 PROSPECTIVE JUROR NUMBER 050: Yes, three times.

20 THE COURT: Where?

21 PROSPECTIVE JUROR NUMBER 050: Once here, twice in
22 California.

23 THE COURT: Okay. The two times in California, the first time,
24 what kind of case?

25 PROSPECTIVE JUROR NUMBER 050: Criminal.

1 THE COURT: Without telling us a verdict, were you able to
2 reach a verdict?

3 PROSPECTIVE JUROR NUMBER 050: No, we didn't reach a
4 verdict on that one.

5 THE COURT: Were you the jury foreperson?

6 PROSPECTIVE JUROR NUMBER 050: No.

7 THE COURT: Okay. The second one in California.

8 PROSPECTIVE JUROR NUMBER 050: Civil. And we did
9 reach a verdict.

10 THE COURT: And the difference is, six out of eight make the
11 decision.

12 PROSPECTIVE JUROR NUMBER 050: Right.

13 THE COURT: And here it's unanimous; you understand that?

14 PROSPECTIVE JUROR NUMBER 050: Yes, yes.

15 THE COURT: You don't have a problem with that?

16 PROSPECTIVE JUROR NUMBER 050: No.

17 And then I had one here --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 050: -- when I first moved
20 here and it was also criminal. But it was dismissed.

21 THE COURT: And what kind of case was that?

22 PROSPECTIVE JUROR NUMBER 050: Murder.

23 THE COURT: What kind of case was the criminal in California?

24 PROSPECTIVE JUROR NUMBER 050: Murder.

25 THE COURT: Is there anything about those experiences that

1 would prejudice you against the State or the Defendant?

2 PROSPECTIVE JUROR NUMBER 050: No, not prejudice me.
3 But, I mean, I --

4 THE COURT: Okay. I'll let the State ask you some questions.

5 MS. DIGIACOMO: Okay. Just finish your thought, not
6 prejudice you but?

7 PROSPECTIVE JUROR NUMBER 050: The first one was kind
8 of a high profile one. So there were some things that make me
9 uncomfortable, which I've spoken to the bailiff. I think security-wise, I
10 think they had access to our phones. We -- I think there was intimidation
11 there. It lasted two and a half months.

12 MS. DIGIACOMO: Okay.

13 PROSPECTIVE JUROR NUMBER 050: It ended up being
14 hung.

15 MS. DIGIACOMO: Okay. And how long ago did you say
16 that was?

17 PROSPECTIVE JUROR NUMBER 050: That was back in
18 1994.

19 MS. DIGIACOMO: Okay. So your concerns here would be like
20 the security, not necessarily sitting on this type of case?

21 PROSPECTIVE JUROR NUMBER 050: Yeah, no, it was just --
22 it was my first one. I was young. Like I said, it was a pretty high profile
23 one. So being my first experience I've obviously never forgotten it. And
24 what was going on, it was pretty intense.

25 MS. DIGIACOMO: Okay. But anything about that that would

1 affect your ability to be fair and impartial in this case?

2 PROSPECTIVE JUROR NUMBER 050: No.

3 THE COURT: Bring that mic closer.

4 PROSPECTIVE JUROR NUMBER 050: Sorry. No.

5 THE COURT: About three inches from your mouth, please.

6 PROSPECTIVE JUROR NUMBER 050: No.

7 MS. DIGIACOMO: All right. And you said that you actually got

8 a murder case here as well?

9 PROSPECTIVE JUROR NUMBER 050: Yeah. Right after I

10 moved here I was called in. And that one they plea bargained at the end

11 of the trial. They were gonna -- we were gonna go into deliberation, they

12 stopped, and did a plea bargain.

13 MS. DIGIACOMO: How long ago was that?

14 PROSPECTIVE JUROR NUMBER 050: I want to say that had

15 to have been about 1990.

16 MS. DIGIACOMO: Okay. And nothing about that that would

17 affect your ability to sit here?

18 PROSPECTIVE JUROR NUMBER 050: No, no.

19 MS. DIGIACOMO: Okay. Now, you said that you had -- well,

20 you were going to start to tell the judge that you knew some people or

21 what was it you were going to say?

22 PROSPECTIVE JUROR NUMBER 050: Well, my daughter's

23 been working for Metro since about 2001. She did internship while she

24 was going to college. She's been full time since 2006. So I know a few

25 officers. One was a ex-fiancé, that is no longer --

1 MS. DIGIACOMO: Metro?

2 PROSPECTIVE JUROR NUMBER 050: Yeah.

3 -- he got in trouble.

4 MS. DIGIACOMO: Okay.

5 PROSPECTIVE JUROR NUMBER 050: And one is a detective.

6 He's -- I sponsored him for confirmation through my church. I haven't

7 seen him in a while. I would say five, six years. I know he's a detective.

8 I'm not sure if he's Homicide or not though because I haven't talked to him

9 in a while. And she hasn't really talked to him.

10 MS. DIGIACOMO: But was it one of the names you heard in

11 this case?

12 PROSPECTIVE JUROR NUMBER 050: I don't remember

13 hearing that one.

14 MS. DIGIACOMO: Okay. Well, what's the last name?

15 PROSPECTIVE JUROR NUMBER 050: Johnson.

16 MS. DIGIACOMO: Okay. You didn't hear it.

17 PROSPECTIVE JUROR NUMBER 050: Okay.

18 MS. DIGIACOMO: You might have heard an officer Johnson

19 but not a detective Johnson.

20 PROSPECTIVE JUROR NUMBER 050: Yeah, he's a detective

21 now.

22 MS. DIGIACOMO: Okay. So your relationship or knowing

23 these officers, would that affect your ability to be fair and impartial?

24 PROSPECTIVE JUROR NUMBER 050: I have so much law

25 enforcement in my family it's not funny.

1 MS. DIGIACOMO: Who else?

2 PROSPECTIVE JUROR NUMBER 050: My girlfriend's -- when
3 I was in California, I knew several LAPD. You know, just, they were
4 married to them.

5 MS. DIGIACOMO: Okay.

6 PROSPECTIVE JUROR NUMBER 050: My cousin, my first
7 cousin, is a retired LAPD. My brother's a retired Tampa Bay Police. Like I
8 said, I know several officers here. My daughter, just friends, they'd come
9 over to the house. She was engaged to one --

10 MS. DIGIACOMO: Okay.

11 PROSPECTIVE JUROR NUMBER 050: -- early 20's.

12 My -- a friend, family friend, she's an immigration attorney here
13 in town.

14 MS. DIGIACOMO: Okay. Does -- so that's somebody that she
15 actually goes to the court and practices or does she just do immigration
16 court?

17 PROSPECTIVE JUROR NUMBER 050: I haven't really -- you
18 know what, she -- I've known her since she was a little girl. But, I mean, I
19 don't see them that much. My godson is [inaudible] also.

20 MS. DIGIACOMO: Oh, okay.

21 PROSPECTIVE JUROR NUMBER 050: So --

22 MS. DIGIACOMO: And so it's his sister that's the attorney?

23 PROSPECTIVE JUROR NUMBER 050: Yes, yes.

24 MS. DIGIACOMO: Okay. But having all these people who are
25 involved in the court system --

1 PROSPECTIVE JUROR NUMBER 050: I see them as regular
2 people.

3 MS. DIGIACOMO: Okay.

4 PROSPECTIVE JUROR NUMBER 050: I mean, to me their --
5 their cops. I mean, that -- that is their profession or was their profession.
6 When you say, good or bad, I -- there's good and bad.

7 MS. DIGIACOMO: Okay.

8 PROSPECTIVE JUROR NUMBER 050: 'Cause they're family
9 members or -- that's just what they do.

10 MS. DIGIACOMO: Okay. Fair enough.

11 What about the criminal justice system as a whole, what are
12 your opinions on it?

13 PROSPECTIVE JUROR NUMBER 050: I support it. I think it's
14 really good. I did have a slight -- not here in Vegas or California. I really
15 think it's fair.

16 I had a personal experience with my brother, who was the
17 Tampa Bay, who's now an airplane pilot. I want to say maybe 10 years
18 ago. He was coming home from flying and he was basically runoff the
19 road. And the guy came after him, but he used to be a boxer in high
20 school, so he punched him out. So they did go to court. He was
21 convicted. It's been --

22 MS. DIGIACOMO: Wait, wait, I'm confused. Who's the "he"
23 that was convicted?

24 PROSPECTIVE JUROR NUMBER 050: My brother ended up
25 because they said that because he had boxing experience and because

1 he was a previous cop, he should have acted differently even though it
2 was proven that the other guy was lying.

3 MS. DIGIACOMO: Started it?

4 PROSPECTIVE JUROR NUMBER 050: Yeah.

5 MS. DIGIACOMO: Okay.

6 PROSPECTIVE JUROR NUMBER 050: But my concern, even
7 though, like I said, in the end it was expunged and the whole thing, the
8 only -- and I feel bad saying this, but this was back in Kentucky, because
9 he's an airline pilot there, and I did experience -- well, he did experience a
10 little bit of racism. And it wasn't from our side. They actually told him. His
11 attorney actually told him he was probably going to have a tough time
12 because they didn't really like Mexicans over there. They told him, he
13 goes, you don't act Mexican, you don't dress Mexican, obviously your
14 education. My brother's highly educated. He is pretty high. He says, but
15 your parents. And it kind of came into play. But, I mean, they did tell him
16 all. They told him while they were doing the case.

17 MS. DIGIACOMO: Well, that doesn't make it right though.

18 PROSPECTIVE JUROR NUMBER 050: No, and that's the only
19 bad taste I have.

20 MS. DIGIACOMO: Okay.

21 PROSPECTIVE JUROR NUMBER 050: You know, because he
22 wasn't worried about it. He, being an ex-cop and everything he thought,
23 you know, so he was a little bit surprised.

24 MS. DIGIACOMO: Was it a misdemeanor he was convicted of?

25 PROSPECTIVE JUROR NUMBER 050: No, they did the fel -- I

1 think it was a felony because of the assault, the thing. He did like 30
2 days, you know, and then --

3 MS. DIGIACOMO: Okay.

4 PROSPECTIVE JUROR NUMBER 050: But I think it's been
5 expunged since then.

6 MS. DIGIACOMO: So it's not on his record anymore?

7 PROSPECTIVE JUROR NUMBER 050: No, it's not anymore.

8 MS. DIGIACOMO: Okay. But nothing about that would affect
9 your ability to be fair and impartial?

10 PROSPECTIVE JUROR NUMBER 050: No, no, no. I'm just -- I
11 just had to --

12 MS. DIGIACOMO: Right. No, I appreciate that.

13 PROSPECTIVE JUROR NUMBER 050: -- you know, bring it
14 out.

15 MS. DIGIACOMO: And then I have to ask you that so.

16 PROSPECTIVE JUROR NUMBER 050: Yes.

17 MS. DIGIACOMO: Okay. Anyone else that you know or close
18 to you that's been either the victim of a crime or accused of a crime?

19 PROSPECTIVE JUROR NUMBER 050: My sister was
20 assaulted in -- I want to say in the 80s, 70. When she going to an ATM,
21 with a gun.

22 MS. DIGIACOMO: Okay.

23 PROSPECTIVE JUROR NUMBER 050: But they didn't hurt
24 her. I don't know if they ever found the guy. I mean, she reported it.

25 MS. DIGIACOMO: Okay.

1 PROSPECTIVE JUROR NUMBER 050: But I don't know if
2 he -- nothing -- we never went to court. She never went to court. So I
3 don't know if they ever caught the guy.

4 MS. DIGIACOMO: Did -- well, do you feel like she was treated
5 fairly by the system or unfairly?

6 PROSPECTIVE JUROR NUMBER 050: I mean, I think they
7 looked into it, they just -- I don't think they ever -- just found the person.

8 MS. DIGIACOMO: Never found them; okay.

9 PROSPECTIVE JUROR NUMBER 050: Yeah.

10 MS. DIGIACOMO: Anyone else?

11 PROSPECTIVE JUROR NUMBER 050: I just mentioned my
12 brother.

13 You asked about domestic abuse, when we were young my dad
14 had a drinking problem, probably one of the few that got over it 10, 15
15 years later so.

16 MS. DIGIACOMO: Okay. But he was abusive when he was
17 drinking?

18 PROSPECTIVE JUROR NUMBER 050: He was abusive
19 towards my mom, not us. He never touched us.

20 MS. DIGIACOMO: Okay.

21 PROSPECTIVE JUROR NUMBER 050: But, like I said, that --
22 for some reason, he -- it stopped.

23 MS. DIGIACOMO: All right. Did they stay together?

24 PROSPECTIVE JUROR NUMBER 050: Yes, yes. My father --

25 MS. DIGIACOMO: Did his stopping -- are you talking about

1 stopping with the abuse or stopping the drinking or both?

2 PROSPECTIVE JUROR NUMBER 050: Both.

3 MS. DIGIACOMO: Both?

4 PROSPECTIVE JUROR NUMBER 050: He stopped both.

5 MS. DIGIACOMO: So when he stopped drinking, did the abuse
6 stop?

7 PROSPECTIVE JUROR NUMBER 050: Yeah, they both
8 stopped about the same time.

9 MS. DIGIACOMO: Okay. Do you watch any of the law shows?

10 PROSPECTIVE JUROR NUMBER 050: I watch Law and
11 Order, the reruns, not even the current ones.

12 MS. DIGIACOMO: Okay.

13 PROSPECTIVE JUROR NUMBER 050: I'm not a big TV
14 watcher. So I tend to kind of veg out. I'll read a book at the same time. I
15 was just telling a friend, I said, I watch it because I kind of know what's
16 going on.

17 MS. DIGIACOMO: Oh, gotchu.

18 PROSPECTIVE JUROR NUMBER 050: I can walk away and
19 come back and I know what happened.

20 MS. DIGIACOMO: Right.

21 PROSPECTIVE JUROR NUMBER 050: So I've never really
22 been a big TV watcher.

23 MS. DIGIACOMO: Okay. So it's fair to say you don't have any
24 expectations --

25 PROSPECTIVE JUROR NUMBER 050: No, no, no.

1 MS. DIGIACOMO: -- on what we need to show in this case?

2 PROSPECTIVE JUROR NUMBER 050: No, no.

3 MS. DIGIACOMO: Okay. Other than, I think you said it was
4 your niece that practices law, anyone else that you know?

5 PROSPECTIVE JUROR NUMBER 050: Oh, no, she's not a
6 niece. She's a family friend.

7 MS. DIGIACOMO: Oh, family friend, sorry.

8 PROSPECTIVE JUROR NUMBER 053: They played -- we
9 know them because my daughter was a soccer player.

10 MS. DIGIACOMO: Oh, okay. I'm sorry.

11 PROSPECTIVE JUROR NUMBER 050: So I saw them grow
12 up.

13 MS. DIGIACOMO: Gotcha.

14 Anyone else that you know that's in the criminal justice system
15 or the court system?

16 PROSPECTIVE JUROR NUMBER 050: I have a cousin who's
17 a real estate lawyer in California, Santa Ana.

18 MS. DIGIACOMO: Okay. And then -- I know you've already
19 been seated on two murder cases, but can you keep the trial phase and
20 the penalty phase separated?

21 PROSPECTIVE JUROR NUMBER 050: [Nods head.]

22 MS. DIGIACOMO: Yes?

23 PROSPECTIVE JUROR NUMBER 050: Yes.

24 MS. DIGIACOMO: Okay. And you can consider all three
25 punishments, if it got to that part?

1 PROSPECTIVE JUROR NUMBER 050: Yes, yes. I -- in the
2 line of work that I did, you have to take step by step. You know, you take
3 it as it comes.

4 MS. DIGIACOMO: And you'll follow the law as the judge
5 instructs?

6 PROSPECTIVE JUROR NUMBER 050: Yes, yes.

7 MS. DIGIACOMO: Anything else that you wanted to say?

8 PROSPECTIVE JUROR NUMBER 050: I -- something came to
9 me when I was hearing the other people. I remember when I was young,
10 probably about 20, I just started working for the gas company in
11 California, and I worked on Central Avenue, you know, in L.A. I
12 remember going to buy my co-workers their snacks. And on the way back
13 this man accosted he. As I walked, I tried to push him away, and he
14 wouldn't let me go. So I remember I had a bag, of the sodas, and I
15 remember hitting him over the head, with the bag.

16 MS. DIGIACOMO: Okay.

17 PROSPECTIVE JUROR NUMBER 050: He let me go.

18 MS. DIGIACOMO: He let you -- good.

19 PROSPECTIVE JUROR NUMBER 050: And I continued
20 walking.

21 MS. DIGIACOMO: Okay. He didn't chase you or anything?

22 PROSPECTIVE JUROR NUMBER 050: No, no.

23 In fact, about a week later, he came into the gas company,
24 because the -- my co-worker's -- I was the youngest one -- and so they
25 told me, on Central Avenue, you scream, you run, or you do you both, but

1 you don't hit somebody. And so the following week he walked in, he goes,
2 oh, you're that chili hot pepper. Nothing ever came out of it. But, I mean,
3 it did happen, so I have to say it.

4 MS. DIGIACOMO: So you didn't report it?

5 PROSPECTIVE JUROR NUMBER 050: No.

6 MS. DIGIACOMO: You just got away?

7 PROSPECTIVE JUROR NUMBER 050: I just got away. I was
8 only half a block away.

9 MS. DIGIACOMO: Okay.

10 PROSPECTIVE JUROR NUMBER 050: So I just walked in and
11 told them that I didn't have their candy anymore. I was 20.

12 MS. DIGIACOMO: Oh, so -- so when you -- when you hit him
13 with the bag, you left the bag, you didn't --

14 PROSPECTIVE JUROR NUMBER 050: The bag broke. It was
15 a paper bag.

16 MS. DIGIACOMO: It broke?

17 PROSPECTIVE JUROR NUMBER 050: It's back in the 70s so.

18 MS. DIGIACOMO: Oh, so it was a paper bag?

19 PROSPECTIVE JUROR NUMBER 050: So it was -- I had a
20 soda and their candies and stuff. I would always go get it because I
21 wanted to get out of the office.

22 MS. DIGIACOMO: Gotcha.

23 PROSPECTIVE JUROR NUMBER 050: So I just, you know, I
24 tried pushing him. He was much bigger and so then I just hit him and I
25 walked away.

1 MS. DIGIACOMO: And then -- well, you didn't report it, you
2 didn't feel the need?

3 PROSPECTIVE JUROR NUMBER 050: [Shakes head], uh-uh.

4 MS. DIGIACOMO: Okay. And nothing about that would affect
5 your ability to be fair and impartial here?

6 PROSPECTIVE JUROR NUMBER 050: No, no. Just -- you
7 wanted us to say, so.

8 MS. DIGIACOMO: All right. And I appreciate your honesty.
9 Thank you.

10 I'll pass for cause.

11 MR. LONG: Ms. Alatorre, did your mother ever minimize your
12 father's conduct towards her?

13 PROSPECTIVE JUROR NUMBER 050: Yeah, I think so.

14 MR. LONG: Did she ever blame herself?

15 PROSPECTIVE JUROR NUMBER 050: No. We're first
16 generation here. And so I think what she has explained to me, later in life,
17 was that her father got murdered when she was six or seven, and she just
18 felt that she didn't want her kids to grow up without their father.

19 And so other than my dad drank, he was -- he was the perfect
20 gentleman. I mean, he was brought up with very high education and
21 everything over there. So just turned into a different person when he
22 drank.

23 MR. LONG: Just alcohol?

24 PROSPECTIVE JUROR NUMBER 050: Yeah.

25 And he never touched any of us. It was always anger towards

1 my mom.

2 MR. LONG: Okay. Now, you've heard what I've asked
3 everyone else as far as justification in limited circumstances for taking a
4 life, do you have anything you want to share about that?

5 PROSPECTIVE JUROR NUMBER 050: I think I'm also kind of
6 non-confrontational. But when I was -- I defended myself. So I do -- I'm
7 not crazy about guns. So we're talking other weapons. I think that if your
8 life is in imminent danger or a loved one or even a stranger, and you're
9 trying to save their lives, then I think it's -- it's warranted.

10 MR. LONG: Yeah. Now, you used a soda can?

11 PROSPECTIVE JUROR NUMBER 050: Yeah.

12 MR. LONG: So I'm glad you had a soda can and not a juice
13 box.

14 PROSPECTIVE JUROR NUMBER 050: I tried pushing him off.

15 MR. LONG: You tried pushing --

16 PROSPECTIVE JUROR NUMBER 050: I tried to push him off.
17 He was much bigger than me.

18 MR. LONG: What if you had to go purchase ice picks and that's
19 all you had?

20 PROSPECTIVE JUROR NUMBER 050: I don't know.

21 MR. LONG: Would you have felt justified using it or
22 screwdrivers?

23 PROSPECTIVE JUROR NUMBER 050: No, I don't think I
24 could -- I'm kind of leery of blood. So I don't think I would have gone that
25 way.

1 MR. LONG: What if someone else did it, how would you judge
2 that person?

3 PROSPECTIVE JUROR NUMBER 050: I would have to see
4 what the circumstances were.

5 MR. LONG: Okay.

6 PROSPECTIVE JUROR NUMBER 050: What -- what --

7 MR. LONG: Now, do you think you could judge the person as
8 those circumstances, as he or she perceived them? Like this man that
9 accosted you, he might have just been in like with you. He might have
10 meant nothing ill at all.

11 PROSPECTIVE JUROR NUMBER 050: No, he was intoxicated
12 so.

13 MR. LONG: Okay.

14 PROSPECTIVE JUROR NUMBER 050: I think I'm pretty good
15 at seeing things from different points of view.

16 MR. LONG: Okay. Nothing further.

17 We'll pass for cause, Your Honor.

18 THE COURT: All right. Those that have been here for three
19 days, thank you so much. We're going to pick a jury from this group. So
20 you're free to go. Give Tom your badges.

21 You on the jury, we'll break for lunch. We'll be back at 1:30.

22 During the recess you're not to talk or converse among
23 yourselves or with anyone else on any subject connected with the trial. Or
24 read or watch or listen to any report of or commentary on the trial or any
25 person connected with this trial by any medium of information, including,

1 without limitation, newspapers, television, radio, or the Internet. Or form
2 or express an opinion on any subject connected with the trial until the
3 case is finally submitted to you.

4 Remember, do not get on Facebook or any social media sites.
5 Do not get on computers and do research. Have a good lunch.

6 [Outside the presence of the prospective jury panel]

7 THE COURT: Mr. Perez-Heredia, with the master's degree,
8 you can leave. But I'm so embarrassed that you would come here and not
9 participate in this jury.

10 Thank you. You're free to go.

11 [Recess taken at 12:29 p.m.]

12 [Jury Trial resumed at 1:35 p.m.]

13 [Outside the presence of the prospective jury panel]

14 THE COURT: All right. Put on the record.

15 MS. DIGIACOMO: There's two things, Your Honor, that's come
16 up with jury selection, as well as when we did the preliminary hearing.

17 First of all, Mr. Long has alluded to the fact about that
18 involuntary manslaughter might be in play here. And I just want to --
19 before we get to opening -- make the record clear that this cannot be an
20 involuntary manslaughter pursuant to case law because there was a
21 weapon involved. You can't have a weapon with an accidental death.
22 And so --

23 THE COURT: And correct me if I'm wrong as well, if he's going
24 to say, self-defense, the Defendant has to take the stand and claim
25 self-defense, yes?

1 MS. DIGIACOMO: As long as we don't put in his statement,
2 and that's the other thing I was going to bring up. We have no intention of
3 putting in his statement in our case in chief.

4 He also does have other witnesses that can do it for him. But
5 so, no, he doesn't have to take the stand. But I think we're anticipating he
6 will.

7 But I just want to make --

8 THE COURT: All right.

9 MS. DIGIACOMO: -- it's the State's position that involuntary is
10 not in play in this case because we have a deadly weapon.

11 MR. LONG: Your Honor, what we have --

12 THE COURT: Voluntary would?

13 MS. DIGIACOMO: Voluntary, yes, not involuntary.

14 MR. LONG: So you're saying you're okay with instructions for
15 voluntary, first and second?

16 THE COURT: As a lesser included.

17 MS. DIGIACOMO: Well, yeah, that's -- we don't have a choice
18 there. We have open murder charge, so all of them are in play except
19 involuntary because there was a knife used.

20 MR. LONG: And, Your Honor, there was a knife used but it was
21 a -- it was a little work knife. Mr. Cash is an HVAC technician.

22 THE COURT: It doesn't say --

23 MR. LONG: Yeah, but them saying --

24 THE COURT: -- if it's a sword or if it's a machete or if it's a little
25 work knife, it's a knife, deadly weapon.

1 MR. LONG: Yeah, they never recovered the knife.
2 How can a four-inch wound, we're talking one of them.
3 So is it your ruling, no IM?

4 THE COURT: No, IM.

5 MR. LONG: Okay.

6 MS. DIGIACOMO: Okay. Next. You know, obviously this
7 started as some sort of domestic between Kyriell and Brittney, and that's
8 been alluded to that there's some domestic violence that Mr. Long has
9 brought up. What he tried to do at preliminary hearing -- and he's done no
10 motion in limine. So I don't anticipate he's going to get into it but just in
11 case. He tried it at preliminary hearing to get into the prior history with
12 Kyriell of him beating Brittney. And I objected it's not relevant, plus I think
13 it's improper impeachment. And it's not even -- it wasn't even an issue.

14 So if he's intending to do that, he also mentioned at preliminary
15 hearing he had video of one of these fights. I have never been provided
16 anything that he intends to use in his case in chief, any evidence, any
17 videos, nothing. But it is the State's position that it's not relevant to this
18 proceeding what happened to them prior.

19 MR. LONG: Your Honor, it goes to credibility. If Kyriell takes
20 the stand and is truthful, and in the preliminary hearing he did concede
21 that he put his hands on her. Angel, the 17 year old who was watching
22 from the window, is going to testify he was shaking her against the car.

23 If he sits up there and he test -- and another thing that's relevant
24 at this juncture is Kyriell was not allowed at Thomas's house. Because
25 two of the witnesses, his wife and Thomas's sister, have told Kyriell, don't

1 come around this house. That's because they had seen instances of it
2 domestic battery. And so if he's truthful on the stand, it won't be an issue.
3 But if he's going to sit up there and say, I never hit her, I never touched
4 her, she was the one going ballistic, then that is proper impeachment.

5 MS. DIGIACOMO: No, it's not.

6 THE COURT: No, that wouldn't be. That would be --

7 MS. DIGIACOMO: No, no. It's basically another bad act. And
8 it's improper impeachment. It's not anything they've got a conviction for.

9 THE COURT: No.

10 MS. DIGIACOMO: It's a crime that involves truth of voracity.

11 And also, two, Kyriell does, he denied it to the police. He
12 denied it at prelim. He does -- and even Brittney said there was no
13 violence. Both of them admitted having their arms on each other, like kind
14 of stay away from me, but there was no hitting, slamming, that -- that the
15 other witnesses say. But they're also related to the Defendant and they
16 had their own motives.

17 MR. LONG: Well, the police didn't check Brittney to see if she
18 had any grab spots.

19 THE COURT: Well, you can cross-examine that. If she -- if
20 they --

21 MR. LONG: Yeah, but.

22 THE COURT: -- checked her. And if they say, no. I don't think
23 it is proper cross-examination. And without having brought this up in law
24 and motion calendar, I'm not going to permit it.

25 MR. LONG: Okay. Well, we'll see where it -- I --

1 THE COURT: If you believe it comes in, please --

2 MR. LONG: -- I'd like to preserve my objection for the record.

3 And --

4 THE COURT: -- please -- yes, you've preserved it for the

5 record.

6 MR. LONG: Yeah.

7 THE COURT: Approach the bench if you think its come in --

8 MR. LONG: Yeah.

9 THE COURT: -- and we can discuss it out of the presence of

10 the jury.

11 MR. LONG: Yeah. Because if he opens the door and he says

12 all it is is yelling, then I'm -- I think it's very relevant impeachment. It isn't

13 so much a prior bad act, as it is leopards don't change their spots.

14 MS. DIGIACOMO: Oh, so it's coming in for propensity?

15 THE COURT: That's not a law. That isn't a statute, leopards

16 don't change their spots, but it's an interesting argument.

17 So you can't get into it unless it comes in and you approach the

18 bench and we talk about it. Don't get into it, like in your opening. I

19 wouldn't get into it.

20 MR. LONG: No, no. Well, I am going to say in my opening that

21 Angel saw. I mean, Angel saw.

22 MS. DIGIACOMO: But what happened that night is fair game.

23 THE COURT: Angel saw what she saw.

24 MR. LONG: Yeah.

25 MS. DIGIACOMO: Right.

1 MR. LONG: I'm not going to get into priors during the opening,
2 no.

3 THE COURT: Okay.

4 MR. LONG: I am going to say Kyriell's not allowed over there.

5 THE COURT: That's fine.

6 MR. LONG: So.

7 THE COURT: That's for a lot of reasons.

8 MS. DIGIACOMO: Right.

9 THE COURT: All right.

10 MS. DIGIACOMO: Thank you.

11 THE COURT: Anything else?

12 MS. DIGIACOMO: No.

13 THE COURT: Bring them in, Thomas.

14 [In the presence of the prospective jury panel]

15 THE MARSHAL: All rise, please.

16 And be seated.

17 THE COURT: All right. Thank you for being timely. We're now
18 going to do what's called peremptory challenges, that is the attorneys
19 each have a number of challenges that they can do and excuse part of
20 you. Maybe they don't like the book you read, maybe they -- or written --
21 or they may not like your shirt or an answer to a question.

22 I once, when I was a trial attorney, had a young lad come in, not
23 that I'm conservative, but he had real long hair and came in on a
24 skateboard. And I thought, oh, my gosh, he will be so liberal, I don't want
25 him on my jury. But the next five or six that came on were worse than

1 him. By the time I'd used up my peremptory challenges, he was there.
2 And I thought, I'll live with it. I'll live with it. And he turned out to be the
3 jury foreperson and the most conservative on the jury.

4 So we think it's scientific, it isn't. Don't feel bad if you're not
5 chosen.

6 So they will pass the paper back and forth and I'm going to read
7 you some law. And this doesn't -- this will help you as you decide the
8 issues. I will read -- I will give you a copy of the law for you to follow at
9 the end of the trial. But I wanted you to know some of this stuff.

10 You're admonished that no juror may declare to a fellow juror
11 any fact relating to this case or their knowledge. And if any juror
12 discovers during the trial or after the jury has retired that they, or any other
13 juror, has personal knowledge of any fact in controversy they shall
14 disclose such situation to myself in the absence of jurors.

15 It means that if you learn during the course of the trial that you
16 are acquainted with the facts of the case or witnesses, and you haven't
17 previously told me of this relationship. And it may be that you see them
18 come, you know them by sight, oh, it's my son's soccer coach. You don't
19 know them. You should bring that -- declare that fact to me and you do
20 that through the marshal.

21 During the course of this trial, the attorneys for both sides, the
22 court personnel, and other than the marshal, are not permitted to
23 converse with members of the jury. These individuals -- again, I've told
24 you this before -- but are not being antisocial, they're bound by ethics and
25 the law not to talk to you. To do so might contaminate your verdict.

1 You're admonished, additionally, that you are not to visit the
2 scene of any acts or occurrences made mention of during the trial, unless
3 specifically directed to do by myself.

4 Ladies and gentlemen, what I will now say is intended to serve
5 as an introduction to the trial. This is a criminal case conducted --
6 commenced by --

7 Information or Indictment? I don't remember.

8 MR. LONG: Information, Your Honor.

9 MS. DIGIACOMO: Amended Information.

10 THE COURT: -- by Information, to which the Defendant has
11 pled not guilty.

12 You should distinctly understand that the pleadings in this case
13 are not in any sense evidence of the allegations that they contain. The
14 State has the burden of proving each element of the crimes charged -- or
15 crime charged beyond a reasonable doubt. The purpose of the trial is to
16 determine whether the State will meet that burden.

17 The trial will proceed in the following order: The parties have
18 the opportunity to make opening statements. What is said in opening
19 statement is not evidence. The statements simply serve the purpose of
20 introduction to the evidence which the party making the statement intends
21 to produce.

22 The State will introduce evidence in support of the State's
23 information. This is called the State's case in chief.

24 After the State presents evidence, the Defendant may, if they
25 choose, present evidence but is not obligated to do so. This would be

1 called the Defendant's case in chief.

2 If the Defendant presents evidence, the State may present
3 rebuttal evidence.

4 After the evidence, I will instruct you on the applicable law. You
5 must not be concerned with the wisdom of any rule of law stated in these
6 instructions or in the instructions which I'll read to you after the evidence.
7 Regardless of any opinion you may have as to what the law ought to be, it
8 would be a violation of your oath to base a verdict upon any other view of
9 the law than that given you by me.

10 After the instructions on the law are read to you, each party has
11 the opportunity to present closing argument in support of their case.
12 Again, what is said in closing argument is not evidence just as what is
13 said in opening statements is not evidence. The arguments are designed
14 to present the contentions of the parties as to what the evidence has
15 shown and what inferences may be drawn from the evidence.

16 You will be given the opportunity to ask written questions of any
17 of the witnesses called to testify in this case. You are not encouraged to
18 ask a large number of questions because that is the primary purpose and
19 responsibility of the attorneys. Only a limited number of questions may be
20 posed by jurors and you will not be allowed to become a third attorney or
21 to advocate a certain position with your questions.

22 I have the discretion to preclude individual jurors from asking an
23 excessive number of questions.

24 Questions may be asked after both layers have finished
25 questioning the witness and only at that time. For example, the State

1 calls a witness, conducts a direct examination, the defense has an
2 opportunity to conduct cross-examination, this process could go back and
3 forth a few times.

4 If you should desire to ask a question, you would write your
5 question down, you'll have -- I don't know if you have your notebooks,
6 you'll be given notebooks -- with your seat number and your name, not
7 your badge number anymore. So if you have a question, you have to let
8 me know. I move pretty fast. So if you're just kind of humming and
9 hawing, I may pass you up. So make sure you raise your hand.

10 Any questions you pose must be factual in nature, designed to
11 clarify information already presented. All questions must be directed to
12 the witness and not to the lawyers or myself.

13 After you have indicated you have a question, the marshal will
14 pick up your question and give it to me. And after consultation with the
15 attorneys -- and what I'll probably do is take them out in the hall, because
16 rather than have you guys go out in the hall that way, I'm going to take
17 them out there. It's easier to move them around.

18 I'll have to determine if your question is legally proper. Only
19 questions permissible under the rules of evidence will be asked and jurors
20 should not draw any inference or conclusions if their question is -- the
21 question they have submitted is not asked. If your question is asked, you
22 shouldn't draw any conclusions. You can't say, oh, man, that must have
23 been a good question.

24 Until this case is submitted to you, you must not discuss it with
25 anyone, even with your fellow jurors or family. After it is submitted to you,

1 you must discuss it only in the jury room with your fellow jurors. It is
2 important that you keep an open mind and not decide any issue in the
3 case until the entire case has been submitted to you under instructions
4 from me.

5 If you can't hear a witness, please raise your hand as an
6 indication. Also, if you need to use the restroom or you feel ill, please
7 raise your hand as an indication. We'll try and take intermittent breaks as
8 the Court sees fit. Usually about every 90 minutes or so. And for the
9 most part I have no objections to jurors bringing drinks or snacks into the
10 courtroom. Some have to do it for health purposes.

11 Your purpose as jurors is to find and determine the facts.
12 Under our system of criminal procedure, you are the sole judge of the
13 facts. You determine the facts from the testimony you hear and the other
14 evidence, including exhibits introduced in court. It's up to you to
15 determine the inferences which you feel may be properly drawn from the
16 evidence. It is especially important that you perform your duty of
17 determining the facts diligently and conscientiously for ordinarily there's no
18 means of correcting an erroneous determination of facts by a jury.

19 The parties may sometimes present objections to some of the
20 testimony or other evidence. It is the duty of the lawyer to object to
21 evidence which they believe may not be properly offered and you should
22 not be prejudiced in anyway against the lawyer who makes the objections
23 on behalf of the party they represent. At times I may sustain the objection
24 or direct that you disregard certain testimony or exhibits. You must not
25 consider any evidence to which an objection has been sustained or which

1 I have instructed you to disregard.

2 Anything you may have seen or heard outside of the courtroom
3 is not evidence and must also be disregarded. Remember, the
4 statements, arguments, and opinions of counsel are not evidence in the
5 case. They're not witnesses.

6 If the attorneys stipulate as to the existence of a fact, you must
7 accept that stipulation as evidence and regard the fact as proved. You
8 must not speculate to be true any insinuations suggested by a question
9 asked a witness. The question is not evidence and may be considered
10 only as it supplies meaning to the answer.

11 You must not be influenced in any degree by personal feelings
12 of sympathy or prejudice against the State or Defendant. Both sides are
13 entitled to the same fair and impartial considerations.

14 In considering the weight and value of the testimony of any
15 witness, you may take into consideration the appearance, attitude, and
16 behavior of the witness, the interest of the witness in the outcome of the
17 case, if any, the relation of the witness to the Defendant or the State, the
18 inclination of the witness to speak truthfully or not, and the probability or
19 improbability of the witness's statements, and all of the facts and
20 circumstances in evidence. Thus, you may give the testimony of any
21 witness just such weight and value as you believe the testimony of the
22 witness is entitled to receive.

23 There are two kinds of evidence, direct and circumstantial.
24 Direct evidence is testimony by a witness about what the witness
25 personally saw, heard, or did. Circumstantial evidence is testimony or

1 exhibits which if you prove a particular fact from which, if proven, you may
2 infer the existence of a second fact.

3 A lot of these television shows will say, well, that's not
4 admissible, it's circumstantial. Circumstantial evidence is admissible.

5 And here's the difference, if we're outside and we came in just
6 now, there's no snow on the ground. But if we went out at 5 o'clock and
7 there's three feet of snow throughout the valley, you can infer the fact that
8 it snowed but you didn't see it. That's circumstantial evidence.

9 Direct evidence is if you're standing outside and the snow falls
10 on you, that's direct evidence.

11 You may consider both direct and circumstantial evidence in
12 deciding the case. The law permits you to give equal weight to both, but it
13 is up to you to decide how much weight to give any evidence.

14 No statement, ruling, remark, or comment which I may make
15 during the course of the trial is intended to indicate my opinion as you
16 should decide the case or to influence you in anyway in your
17 determination of the facts.

18 At times, I may even ask questions of witnesses, if I do so, it's
19 for the purpose of bringing out matters which I feel should be brought out
20 and not in any way indicate my opinion about the facts or to indicate the
21 weight I feel you should give to the testimony of the witness. I may also
22 find it necessary to admonish the lawyers and if I do, you should not show
23 prejudice against the lawyer or their client because I have found it
24 necessary to admonish them.

25 Until this case is submitted to you, you must not discuss it with

1 anyone, even with your fellow jurors. After it is submitted to you, you must
2 discuss it only in the jury room with your fellow jurors. It's important,
3 again, that you keep an open mind and not decide any issue in the case
4 until the entire case has been submitted to you under instructions from
5 me.

6 If you can't hear a witness, please raise your hand as an
7 indication. Also, if you need to go to the restroom, again, or you feel ill,
8 please raise your hand.

9 Now, you may look up and say, and see I'm writing, and say,
10 oh, that must be important, the judge is writing it. I'm going to make note
11 of that. I'm probably making my grocery store list. So whatever I do up
12 here is no indication; okay. I just have to be prepared for arguments of
13 counsel, legal arguments.

14 Oh, I guess I just ad-libbed that.

15 If during the trial I take notes of the witness's testimony, you're
16 not to make any inference from that action. I am required to be prepared
17 for legal arguments of counsel during the trial, and for that reason, I may
18 take lot of notes.

19 And let me remind you that until this case is submitted to you,
20 one, do not talk to each other or anyone else about it or about anyone
21 who has anything to do with it until the end of the case when you go to the
22 jury room to decide on your verdict.

23 Two, anyone else includes members of your family or friends.
24 You may tell them that you are a juror in a criminal case, but don't tell
25 them anything else about it until after you've been discharged as a juror

1 by myself.

2 Don't let anyone talk to you about the case or about anyone
3 who has anything to do with it. If someone should try to talk to you,
4 please report that to me through the marshal.

5 Do not read any news stories or articles or listen to any radio or
6 television reports about the case or anyone who has anything to do with it.

7 This is really important. Do not jump on the Internet to do any
8 personal research -- okay, this is how old this was -- nor ask Jeeves. I
9 don't think Jeeves is still out there. And I'm going to cross Jeeves out.
10 But don't get on and think, I'm going to make myself better acquainted
11 with the facts of the case or do some independent research. Actually, I'm
12 not even permitted under ethics to do independent research. I have to
13 rely on the attorneys.

14 Don't communicate or publish anything about this on any social
15 media sites, like Facebook, Instagram, Twitter. That's it? I'm trying to
16 remember.

17 [Colloquy between the Court and Court staff]

18 MS. BLUTH: Tinder.

19 THE COURT: Any social media. Stay off social -- stay off
20 social media, stay off the computer, don't do any tests. You will get a
21 written instruction about that.

22 Let me see if there's anything else I can read to you.

23 That's it.

24 [Brief pause in the proceeding]

25 THE MARSHAL: I thought you were looking at me for a clue.

1 THE COURT: No clue, Thomas.
2 Thomas has been with me for 25 years. I don't think any other
3 judge in the courthouse can say that. Longer than most people are
4 married.
5 THE MARSHAL: Not me.
6 THE COURT: I said most people.
7 THE MARSHAL: I've been married 44.
8 THE COURT: The wife said, stands a little too close to the
9 microwave.
10 [Brief pause in proceeding]
11 THE COURT: Now the times will be closer to -- since there's
12 not going to be a big group.
13 [Brief pause in proceeding]
14 THE COURT: Okay. You have to go argue something in the
15 morning at 9:00?
16 MS. BLUTH: Yeah.
17 THE COURT: Okay. We'll start at 9:30 tomorrow.
18 MS. BLUTH: Thank you.
19 THE COURT: I like to start early.
20 [Brief pause in proceeding]
21 THE COURT: Thomas, clear them out.
22 And the reason, I need -- I need all of you to stand and you're
23 going to move into that area.
24 All right, we're done?
25 Carol will call you and seat you.

1 THE CLERK: Juror number 1 is Kevin Cash.

2 Juror number 2 is Stephanie Wolf.

3 Juror number 3 is Patricia Hanson.

4 Juror number 4 is Kathy McMenamin.

5 Juror number 5 is Christopher Brody.

6 Juror number 6 is Patrick Ward.

7 Juror number 7 is Laureen Ledbetter.

8 Juror number 8 is Lori Humphrey.

9 Juror number 9 is Elizabeth Bird.

10 Juror number 10 is Mikel Boland.

11 Juror number 11 is John Lubratich.

12 Juror number 12 is Darlene Hamilton.

13 Juror number 13 is Anthony Pyle.

14 And juror number 14 is Irma Alatorre.

15 THE COURT: Ladies and gentlemen, this doesn't mean you've
16 just wasted your time. Because if good people as yourselves don't take of
17 their time, our system won't work. Our system wouldn't work. I appreciate
18 you being here and enduring all of this. It isn't pleasant for anyone. But
19 thank you. And if you'll put your badge in that box, Tom will give.

20 [Remaining prospective jury panel exits courtroom]

21 THE COURT: Ladies and gentlemen, you're our jury. If you'll
22 stand, raise your right hand to be sworn in.

23 [The Court Clerk swears in the jury]

24 THE COURT: Be seated.

25 The clerk will now read the Information -- Amended Information

1 to the --

2 What?

3 THE MARSHAL: The chairs.

4 THE COURT: Oh, yeah, you've got to pick up the chairs. Wait
5 a minute, Carol.

6 THE COURT: Have we checked to make sure that the
7 PowerPoint works?

8 MS. DIGIACOMO: No, we haven't.

9 THE MARSHAL: No, we were going to do it at a break.

10 MS. DIGIACOMO: You want to -- or switch it over right now
11 and we can see.

12 THE COURT: The clerk will now read the Amended Information
13 to the jury.

14 [The Clerk reads the Amended Information]

15 THE COURT: State.

16 MS. DIGIACOMO: Thank you.

17 Can we switch it over.

18 Do we need microphone somewhere for me to --

19 THE COURT: Give her the microphone.

20 MS. DIGIACOMO: I mean, will it pick me up if I'm over here.

21 THE COURT RECORDER: You'll be okay, as long as you're
22 close to the microphone.

23 THE COURT: Or give her a mic. What I saw isn't important.

24 May I, Your Honor.

25 THE COURT: Yes, please.

1 **OPENING STATEMENT BY THE STATE**

2 MS. DIGIACOMO: All right. Good afternoon.

3 So you made it through the trial -- or the voir dire phase as now
4 we're going to talk about the case; okay.

5 State of Nevada versus Thomas Cash. So we're here because
6 on December 11th, 2017, Ezekiel Devine was stabbed once in the heart
7 by the Defendant and he died, right where he was stabbed.

8 And so the reason we're here is because of the Defendant's
9 actions. This boy went over to the Defendant's house with his friend to
10 pick up a child and ended up dead. He had one stab wound through his
11 heart.

12 So there's two things that the State has to prove beyond a
13 reasonable doubt before you can convict somebody. One is, was a crime
14 committed, if so, what crime?

15 The other thing is, who did it? Now, I submit to you in this case
16 it's not really a whodunit. We know who did it. The question is, was a
17 crime committed? Was this murder?

18 These are the players I'm going to talk about. Brittney Turner is
19 the stepdaughter of the Defendant. She is also the ex or on-and-off-again
20 of Kyriell Davis. At the time they shared one child together, Londyn about
21 11 months in December, and Brittney was pregnant with their second
22 child.

23 Ezekiel Devine is just a friend of Kyriell's.

24 And you might hear Kyriell be called K2, you might Ezekiel be
25 called Zek or Twin. That was the names that Kyriell called him.

1 But Ezekiel just went along for the ride. That was it. He didn't
2 know the Defendant and the Defendant obviously, Thomas Cash, the
3 stepdad to Brittney.

4 So these are the people you're going to have to know just to
5 start off with; okay.

6 So as I said, Kyriell and Brittney have a child Londyn, they don't
7 have a formal court agreement, but what they do is they just agree to
8 exchange the child. So when one's at work, the other has them, and then
9 they switch.

10 So on December 11th, a little after six o'clock in the evening,
11 Kyriell goes to Brittney's house to pick up Londyn, their daughter. He
12 doesn't go in. He pulls up, he parks behind Brittney's car in the street, in
13 front of the house, and he calls her and says, I'm here. And she didn't
14 answer. It was about 15 minutes later she finally came out and he was
15 irritated.

16 So they get into a verbal argument because Brittney's irritated
17 as well because he kept calling her. So she comes outside with the car
18 seat and the diaper bag. They get into an argument.

19 Now, Kyriell, and Brittney will tell you this too, is what she told
20 the police is, she's the one screaming at him, calling him names, you're a
21 no good father, et cetera. And Kyriell's just standing there listening. He's
22 not really saying much at this point.

23 At some point Brittney's getting in his face and so he takes his
24 hands on her shoulders to push her away because he's kind of bent over
25 the car because it's a small area. And she's in his face and they end up, I

1 guess, holding each other, like their arms. Not a physical fight. They'll
2 both tell you, didn't consider it violent. But it was more trying to get them
3 out -- each other's space.

4 They break apart and now Defendant comes out and interjects
5 himself into the situation. Kyriell will tell you when the Defendant came
6 out he asked Brittney, did he hit you? And Brittney said, no.

7 And at that point, Kyriell turns his back on them, as they're
8 getting into it, and goes to put his daughter in the backseat of the car
9 behind where Ezekiel, his friend, has been sitting. He never even got out
10 of the car. He was on Kyriell's phone while sitting in the car.

11 As he's bent over, Kyriell's bent over, putting Londyn in the car,
12 the Defendant, from behind him, swings and misses and hits like the car
13 door. And so Kyriell immediately turns around, he pushes the Defendant
14 back, and they begin to throw blows at each other.

15 At some point, when in this initial, the Defendant is able to grab
16 hold of Kyriell. And so Kyriell's afraid of getting slammed so he'll tell you
17 he kind of put his head down into the Defendant's chest and is holding him
18 too so that he couldn't, I guess, slam him on the ground. And they end up
19 kind of tussling, going in circles, and they end up going a little bit down the
20 street.

21 And at this point, Ezekiel, I guess, seeing what happens, gets
22 out of the car, kind of runs down to where they are, and Kyriell will tell you,
23 he saw Zek's hand come in between the Defendant and himself and kind
24 of break them apart. He didn't see Ezekiel throw any punches at the
25 Defendant, but he did -- but his heads down and he did see him break

1 them apart.

2 When they break apart, they're in the middle of the street. A car
3 starts to come by. And because they're all in the middle of the street,
4 Kyriell will tell you, he ended up on one side of the car, Ezekiel ended up
5 on the other side, and the Defendant was kind of in the middle by the
6 headlights.

7 And Kyriell will tell you he saw in the Defendant's hand
8 something shiny because he could see the glare from the headlight
9 because this happened close to seven o'clock. So it is dark because this
10 is December. So it's dark out.

11 So he saw something shiny in the Defendant's hand, he tells
12 Zek, watch out, as the Defendant goes around to the side of the car where
13 Ezekiel is. He sees -- because he's kind of stepping back because the car
14 hit him a little bit. So he's trying to step back and he ends up falling on the
15 ground. He sees Zek fall on the ground and he sees the Defendant run
16 towards his house.

17 His first thought is to get up and run towards the house and he
18 followed the Defendant not realizing, I guess, Ezekiel was still on the
19 ground. As he gets to the door of the Defendant's house, the door is
20 locked or he -- and he hears Ezekiel yelling, K2. So he runs back to his
21 friend and that's when he finds him in the street and bleeding. He's not
22 sure where he's -- what he's injured or what happened at that point.

23 Kyriell tries to help him. You'll see that he -- the car that he
24 came in when the police got there, it's on the other side of the street,
25 because he went to get his car, tried to come around to -- thought about

1 putting him in the car. He's on the phone with paramedics. He's asking
2 neighbors for help. He's trying to, you know, get somebody to bring a
3 towel. One neighbor did bring out a towel, that same neighbor also
4 moved her car in the street. Because as they're in the middle of the
5 street, cars kept coming by. And she actually was afraid that somebody
6 was going to, you know, run over the body. So neighbors are kind of
7 helping.

8 And the police arrive fairly quickly. The first arriving officer was
9 actually in the neighborhood. And eventually the police talk to Brittney
10 that night as well. And she tells them that Kyriell was trying to defend
11 himself against the Defendant. She tells the police that Ezekiel, when he
12 attacked, as she called it, the Defendant, when he was breaking them up,
13 she said he was probably doing it because he was trying to protect Kyriell,
14 who the Defendant was -- who started -- he started a fight with him.

15 But she also says, as no point, no point, was it ever two against
16 one against the Defendant.

17 The Defendant initially started a fight with Kyriell, then when
18 Ezekiel broke it up, he was with Ezekiel on the other side of the car and
19 stabbed him. But at no point was it Kyriell and Ezekiel going after the
20 Defendant.

21 And keep in mind, it's the Defendant that threw the first punch.
22 He started this whole situation by interjecting himself in the child
23 exchange.

24 When Officer Smith got there, he saw the body on the ground,
25 Kyriell is right there, he's asking, who did this? Kyriell points at the house,

1 3999 Pistachio Nut, and says he went in there.

2 So the officer immediately sets up a perimeter around the
3 house. And other officers arrive, they end up bullhorning that house,
4 and -- to get the occupants to come out, which they didn't do right away.
5 But eventually two people do come out, Angel Turner and Tamisha
6 Kinchron. They come out of the house. That's the Defendant's
7 stepdaughter, other stepdaughter, and a niece. The other two people in
8 the house were an older lady, who couldn't come out of the house, and a
9 three-year-old child. Nobody else was found in the house.

10 But think about this, these occupants, the Defendant went back
11 in there, and they know the Defendant went back in there because when
12 they cleared the house there was a blood trail that led from the front of
13 Pistachio Nut, all the way through the house, over the fence, into the
14 neighbor's yard, over another fence.

15 And you'll see pictures of the Defendant. He did have a cut on
16 the side of his nose where -- I don't know if it was from a punch or what.
17 But he did get an injury in the fight that he started.

18 And so but the Defendant runs in that house, there are
19 occupants in that house, the police are outside, there's a dead body in the
20 street.

21 And think about this, not one of those people came out of the
22 house.

23 When the Defendant learned of Ezekiel's death from his niece
24 he said, he can't be dead, I didn't touch him. I didn't do it. If he's dead, I
25 didn't do it. That is the Defendant's initial reaction. And that's what

1 Ms. Kinchron told the police that night.

2 And he did turn himself in about eight, eight and a half hours
3 later to the police, but he didn't bring a weapon with him. So the weapon
4 in this case has never been recovered.

5 But, you know, there was a lot of questions in jury voir dire
6 about self-defense, self-defense, when are you justified, when are you
7 justified.

8 So that's going to be an issue in this case; however, keep some
9 things in mind when you're hearing this evidence.

10 First of all, motive, think about the motives of the people who
11 are testifying as to what they saw happen. You have Kyriell, think about
12 his motive. He's just there to exchange a baby. He's not trying to start
13 anything. The Defendant starts a fight with him. And his friend just
14 happens to get in the middle trying to help him and ends up dead.

15 So think about motives, why would he tell you that happened?
16 Probably because that's what happened. Think about the motives of
17 maybe some of the people you'll hear from inside the Defendant's house,
18 that are related to the Defendant, that don't ever come out. Every other
19 neighbor on that streets coming out but they never come out of the house.

20 So think about why they would do that and why they now come
21 in and what they're testifying to. And look at the consistencies of the
22 stories. You know, who, what they said that night is same as what they
23 say now.

24 And bring your commonsense, you -- there's actually -- I know
25 you're going to be excited to hear this -- a jury instruction at the end that is

1 on commonsense. You don't leave it at the door.

2 So consider all of these things when you are hearing the
3 evidence in this case.

4 The State submits to you that the Defendant did not act, it's not
5 going to be a self-defense case. This isn't a whodunit. It's a question of
6 what crimes did he commit.

7 He's charged with murder with use of a deadly weapon, that's
8 what we generally call open murder. And what it means is it entails the
9 jury has a choice. It could be first degree murder with use of a deadly
10 weapon, second degree murder with use of a deadly weapon, or even
11 voluntary manslaughter with use of a deadly weapon. And the judge will
12 instruct you on that in the end.

13 He is also charged with battery with intent to kill.

14 The State submits when you hear all the evidence in this case,
15 you will find the Defendant guilty. State submits it is guilty of murder
16 because he went out, he started a fight, and he escalated it. He pulled
17 out some sort of knife or something sharp that he had in his hand and he
18 stabbed that boy one time through the heart. For nothing but he was out
19 there trying to help get him off of his friend.

20 So this isn't a case of self-defense. It's not. And think about
21 those things that I told you to consider when you're hearing the evidence
22 in this case.

23 And at the end, the State's going to ask you to find him guilty.

24 Thank you.

25 MR. LONG: Madam clerk, could I use that easel with the paper.

1 THE COURT: Tom -- oh, Tom's not here.

2 THE MARSHAL: Just a second, Your Honor.

3 THE COURT: Well, always the best when you're here.

4 [Brief pause in proceeding]

5 MR. LONG: Ladies and gentlemen of the jury, congratulations
6 on making the cut.

7 During voir dire, during voir dire the State asked a lot whether or
8 not you watched crime shows, and if you did, what your opinion of those
9 crime shows were.

10 Well, long before there were those crime shows there was a
11 show called Perry Mason. It was a popular TV show. And Perry Mason is
12 a fictional character, a lawyer, and the show would usually begin with him
13 starting a trial. And during the trial, as witnesses would testify, he would
14 have an investigator out interviewing different witnesses, and they would
15 learn different things in the trial. And usually right before the last
16 commercial break, someone in the back would jump up and confess and
17 say, I did it, and the show would end.

18 And it made for entertaining television. And I'm sorry to
19 disappoint you, it is not what's going to happen here. Because like the
20 State said, this is not a whodunit.

21 But let me tell you what happened on December 11th. And
22 everything that I tell you is actually going to be supported by the witnesses
23 who come in and testify.

24 Now, this man sitting here, Thomas Cash, he's 52 years old.
25 He works at Sears. He's an HVAC technician. He carries a tool belt

1 around his waist. In addition to the tool belt, he keeps a knife flipped on
2 the inside of his pocket. That knife really isn't for working. It's for when
3 boxes come in that he has to open. He slices them open. And Thomas
4 was at work on December 11th, it's two weeks before Christmas. He
5 comes home, it's a Monday. He takes off his tool belt. He sets it aside.
6 He has dinner. He goes upstairs and he's wrapping presents, like half the
7 rest of the population of Las Vegas two weeks before Christmas.

8 Now, this is a picture of Thomas's house, this front window is
9 where his 17-year-old stepdaughter, Angel Turner, is in her room. The TV
10 is often. The window is closed. Remember it's December. It's not like is
11 now. It's cold. And she is just in her room doing whatever teenagers do.
12 Thomas is in his room, which doesn't face the driveway at all. And what
13 happens is, is Angel, even though the TV is on, even though the window
14 is closed, she hears something. She hears something and it sounds bad.

15 And so she looks out her window and what she's going to testify
16 is she sees her older sister, who's six months pregnant, she's exchanging
17 her 11 month old baby with the on-again-off-again boyfriend, baby daddy,
18 I don't know, whatever you want to call him, they're exchanging it, the
19 baby, in the front yard.

20 And what Angel sees is terrible. Kyriell, the baby daddy, has
21 Angel by both hands and he's shaking her against the car. It wasn't just
22 yelling, ladies and gentlemen of the jury, it was so bad that what Angel did
23 is she left her room, she runs down the hallway, Tommy, help. He's
24 shaking her against the car.

25 Now, what the clerk just read was an instruction on a murder

1 case. We're not here to prove whether or not domestic battery occurred
2 between Brittney and Kyriell. That's not the purpose of this trial.

3 What does Thomas do? He does what a good dad does. He
4 jumps up and he runs out to the front yard.

5 There's going to be testimony given at this trial that Kyriell was
6 not allowed at this house. And it wasn't because of anything that Thomas
7 said. It was Brittney's mother. It was Brittney's aunt, who also lived there.
8 They told him, don't come around here anymore.

9 Kyriell doesn't care.

10 By the State's own admission, Kyriell was out there for 15
11 minutes. He calls over and over again. I guess he's upset that it takes so
12 long to get a diaper bag and the car seat and everything together.

13 But going back, Thomas is in his room. He says he hears that
14 his stepdaughter is being pounded against the car. He jumps up and he
15 runs out. He runs out and he does engage Kyriell in a fight.

16 Now, you're going to have to forgive my pictures, as I was
17 practicing this last night I realized the picture stuck together. So I had the
18 genius idea to glue them to a card and the glue made the pictures bubble
19 up.

20 That's Kyriell. That's what he was wearing that night. He and
21 Kyriell and Thomas are in a fight. Is there a mark on him? Did Ezekiel
22 need to come to his defense? No.

23 Kyriell, who's 22 years old, 30 years younger than Thomas, is in
24 a fight. But we're not here for that fight. Ezekiel, who had never met
25 Thomas before, gets out of the car while Thomas and Kyriell are mixing it

1 up. Ezekiel, bam, lands a punch right to Thomas's face.

2 Now, the DA said, it wasn't a fight, it was just a little shoving and
3 pushing.

4 Well, this is Thomas's nose. Look at the swelling. Look at the
5 cut. This is Thomas's shirt. That's his blood. This was a punch that was
6 strong enough to send a 52-year-old man down to the ground.

7 So I want you to go back with me to this scene and picture how
8 chaotic this was. The baby is screaming, it's dark, it's two-on-one. Angel
9 is out there, she's screaming. Brittney is screaming.

10 But in addition to that chaos, both Ezekiel and Kyriell are saying
11 things. One of them says, "get my gun, kill this old ass N word."

12 The other one is saying, "get my shit."

13 He thinks that they're going to shoot up his house. His pregnant
14 stepdaughter is out there. He's on the ground. It's two-on-one. And what
15 the State alleges is that he takes out his knife and he stabs Ezekiel and
16 Ezekiel dies.

17 And the coroner is going to come in and the coroner is going to
18 show you some gory pictures. You're going to see Ezekiel on the autopsy
19 table, you're going to see him cut open, you're going to see the wound to
20 his heart.

21 But what is so important about the coroner's testimony --

22 THE COURT: Now, are you arguing or are you doing an
23 opening statement?

24 MR. LONG: I'm --

25 THE COURT: It sounds like argument to me. I haven't stopped

1 you up to this point.

2 MR. LONG: I'll rephrase it.

3 I want you to pay attention to the coroner's testimony when he
4 talks about the direction of the stab wound. Because in his report, the
5 stab wound is going up. It's a small wound. It's four inches. But it's going
6 up. And why is it going up, because Thomas has been knocked to the
7 ground.

8 And now the two are going to attack. They're going to shoot up
9 his house.

10 What's wrong with his pregnant stepdaughter? Is she okay?
11 Where's the baby?

12 "Kill him." That's what they're yelling.

13 And so Thomas did what he had to do to defend himself.

14 Now, ladies and gentlemen of the jury, you have a difficult task
15 ahead of you. Like I said, you're going to see some pictures that are
16 going to be graphic, you're going to see Ezekiel laying out there in the
17 street, you're going to see him lifeless.

18 But remember we're not looking at things with the aid of
19 hindsight. This was not an MMA fight where they said, in this corner,
20 weighing in at X number of pounds is Ezekiel Devine.

21 The first time Thomas met Ezekiel Devine it was met with a
22 sucker punch right to his face. You've seen the pictures. His nose is
23 swollen. He thinks it's broken. There's blood all over his face.

24 Now, the State makes much ado, Thomas ran away.

25 MS. DIGIACOMO: Objection, Your Honor, it's argument.

1 THE COURT: Yeah, you are arguing.

2 MR. LONG: Okay.

3 As far as Thomas running away, Thomas did go back to his
4 house and he locked the door and he grabbed a towel for his nose. And
5 he said, they're going to shoot up. And then he left.

6 And a couple of hours later he calls. Is everything okay? He
7 doesn't know anyone's died.

8 And his family says, no, things are not okay, that young man is
9 dead.

10 Does he keep running? No. He comes back to his house, he
11 picks up the phone, and he tells the police exactly where he is. The police
12 say, come on down, you're probably going to jail, and that's exactly what
13 Thomas did. He drove down there and he told the police exactly what I
14 just told you.

15 MS. DIGIACOMO: Objection.

16 MR. LONG: What grounds?

17 THE COURT: You can't argue. You've got to just tell them
18 what the testimony is. That's it.

19 MR. LONG: What the testimony is going to show, the police are
20 going to testify, that Thomas told them what he --

21 MS. DIGIACOMO: Objection.

22 Your Honor, can we approach?

23 THE COURT: Yeah.

24 [Bench conference begins]

25 THE COURT: That's a statement not coming in. I don't think.

1 MR. LONG: No, it's what the police said on testimony.

2 MS. DIGIACOMO: No, they're not. It's hearsay. I'm not brining
3 it in. So you can't get into that.

4 MR. LONG: You didn't say you're not going to have the cops
5 come in --

6 MS. DIGIACOMO: You can't ask the cops what he told them,
7 that's hearsay.

8 THE COURT: I thought you weren't going to get into that.

9 MS. DIGIACOMO: I did. That's why I made the record that we
10 were not planning to use his statement in our case in chief.

11 MR. LONG: You're not going to use his video?

12 MS. DIGIACOMO: No.

13 MR. LONG: Well, why do we have the objection about the
14 video? Okay.

15 THE COURT: All right. Just -- just --

16 MR. LONG: I'll move on.

17 THE COURT: All right. Move on.

18 MR. LONG: I don't have anything more.

19 [Bench conference ends]

20 MR. LONG: So ladies and gentlemen, with the aid of hindsight
21 everything is clear, hindsight's always 20/20 and it's a saying that gets
22 passed around.

23 But we're not here to prove whether or not domestic battery
24 occurred. We're not here really to prove what happened on
25 December 11th. What you have to do is put yourself into Thomas's mind

1 when he did what he did. Taking into account --

2 MS. DIGIACOMO: Objection, Your Honor, this is argument.

3 THE COURT: Sustained.

4 MR. LONG: So, ladies and gentlemen of the jury, when you go
5 back and deliberate --

6 THE COURT: That's argument.

7 MR. LONG: So, ladies and gentlemen of the jury, I'm confident
8 that when you have heard all of the facts and evidence that are going to
9 be presented to you, that you're going to say, yes, this is a tragedy. On
10 the night of December 11th, a young man lost his life. But it's not murder.

11 And the judge is going to give you instructions as to
12 self-defense.

13 MS. DIGIACOMO: Objection, Your Honor. It's argument.

14 THE COURT: Sustained.

15 MR. LONG: And with that, I will close.

16 Thank you for your time.

17 THE COURT: Call your first witness, State.

18 MS. DIGIACOMO: Thank you.

19 Your Honor, the State will call Dr. Leonardo Roque.

20 THE COURT: And the exclusionary rule is in effect. So you
21 guys have to monitor. I don't know who the witnesses are -- might be.

22 MS. BLUTH: I will.

23 **LEONARDO ROQUERO**

24 [Having been called as a witness and being first duly sworn, testified as
25 follows:]

1 THE CLERK: Please be seated and then state and spell your
2 name for the record.

3 THE WITNESS: Sure.

4 MR. LONG: Go ahead.

5 MS. DIGIACOMO: Court's indulgence.

6 THE WITNESS: My name is Leonardo Roquero,
7 L-e-o-n-a-r-d-o, R-o-q-u-e-r-o.

8 THE COURT: Okay. We need to take a short recess. The jury
9 needs to use the restroom.

10 MS. DIGIACOMO: Okay.

11 THE COURT: During the recess you're not to talk or converse
12 among yourselves or with anyone else on any subject connected with this
13 trial. Or read or watch or listen to any report of or commentary on the trial
14 or any person connected with this trial by any medium of information,
15 including, without limitation, newspapers, television, radio, or the Internet.
16 Or form or express an opinion on any subject connected with the trial until
17 the case is finally submitted to you.

18 Remember, no social media, no computer testing. Take five
19 minutes, please.

20 THE MARSHAL: All rise for the exit of the jury.

21 Your Honor, that was the question the juror said to me when
22 she called me over there.

23 THE COURT: To use the restroom.

24 THE MARSHAL: Yes.

25 THE COURT: I overheard it.

1 Use hand signals.

2 MR. LONG: I don't know, Judge, sign language.

3 [Outside the presence of the jury]

4 THE COURT: Now, the family should just stay here and let that
5 jury use the facilities, please.

6 [Recess taken at 2:58 p.m.]

7 [Jury trial resumed at 3:08 p.m.]

8 [In the presence of the jury]

9 THE MARSHAL: All rise for the entry of the jury.

10 THE COURT: Stipulate to the presence of the jury.

11 MS. DIGIACOMO: Yes, Your Honor.

12 MR. LONG: Yes.

13 THE COURT: You may be seated.

14 THE WITNESS: Thank you.

15 THE COURT: I think you were spelling your name for the
16 record.

17 THE WITNESS: Sure.

18 My name is Leonardo Roquero. It's spelled as, L-e-o-n-a-r-d-o,
19 R-o-q-u-e-r-o.

20 MS. DIGIACOMO: May I?

21 THE COURT: Go ahead.

22 MS. DIGIACOMO: Thank you.

23 **DIRECT EXAMINATION**

24 BY MS. DIGIACOMO:

25 Q Sir, how are you employed?

1 A I'm employed as a medical examiner at Clark County Office of
2 the Coroner Medical Examiner.

3 Q So what does that mean, what do you do?

4 A As a medical examiner, my education is based on pathology,
5 particularly in subspecialty of forensic pathology. In which it is a branch of
6 pathology which focuses on the study of the cause and manner of death.

7 Q So what is your education, training, and background?

8 A Sure. After finishing up school of medicine, I proceeded to
9 undergo a four year residency training in anatomical and clinical pathology
10 at Henry Ford Health System in Detroit, Michigan. This is followed by a
11 one year subspecialty training in forensic pathology at the University of
12 Michigan. Currently I am board certified for anatomical and clinical
13 pathology, as well as board certified for forensic pathology.

14 Q And how long have you been doing forensic pathology, overall?

15 A Three years now.

16 Q All right. All with the Clark County Coroner's Office?

17 A One here in Clark County, closing one year now. I started
18 July 1st of last year.

19 Q All right. Where were you before?

20 A I work at the Wayne County Medical Examiner's Office in
21 Detroit, Michigan.

22 Q Have you ever testified in court before as an expert?

23 A Yes.

24 Q How many times would you say?

25 A More than 40 times in court.

1 Q All here or some where you previously were?

2 A Majority of that is from Detroit, Michigan and some of those
3 testimonies that I did is here.

4 Q All right. How many autopsies would you say you've performed
5 since you've come to Clark County in the last year?

6 A More than a thousand.

7 Q And when you say that, it is your, I guess, duty to determine
8 cause and manner of death, can you explain to the jury what you mean by
9 that?

10 A Sure. In forensic pathology, again, is it a subspecialty of
11 pathology, again, it focuses the cause and manner of death. This is done
12 by examination of the body, which we refer to -- which I refer to as
13 autopsy.

14 Q Okay. So directing your attention to this case, on
15 December 12th, 2017, did you perform an autopsy on the body of Ezekiel
16 Devine?

17 A Yes.

18 Q All right. Can you just explain overall how an autopsy is
19 performed?

20 A Sure. An autopsy is a scientific procedure which involves
21 examination of the body to determine the cause and manner of death.
22 Autopsy has several procedures. One is the external examination
23 wherein the body is inspected on the outer surface, which we call
24 external.

25 And this is followed by an internal examination, which involves

1 the examination of the organs of the chest, abdomen, as well as in the
2 head.

3 Part of the autopsies also taking specimen, like blood, fluid in
4 the eye, urine, or liver for toxicology testing.

5 Q All right. So before beginning the exam, is the body measured
6 and weighed?

7 A Yes.

8 Q All right. And with regard to Ezekiel, how much did he weigh
9 and how long was his body?

10 A The weight was 134 pounds, the height or the length was
11 72 inches.

12 Q And Ezekiel was 21 years old at the time?

13 A Correct.

14 Q All right. So you begin with your external examination, what, I
15 guess, did you notice on Ezekiel's body that was interest?

16 A There was a stab wound to the left side of the chest.

17 Q All right. What kind of a stab wound would you say it was?

18 A I'm sorry, what do you mean, when you say what kind of a stab?
19 Could you please elaborate that?

20 Q You're right. That was a bad question, I'm sorry.

21 Well, you say, it was a stab wound to his left chest, what was its
22 size and appearance?

23 THE WITNESS: The size, if I may, Judge, refer to my copy?

24 THE COURT: Yes.

25 THE WITNESS: Thank you.

1 BY MS. DIGIACOMO:

2 Q And are you referring, just for the record, are you referring to
3 your autopsy report that was completed?

4 A Yes.

5 Q All right. And that would refresh your recollection?

6 A Yes.

7 Q Thank you.

8 A Thank you.

9 The stab wound was a two-inch gaping stab wound to the left
10 side of the chest, which in by reapproximation it's about one-sixteenth of
11 an inch.

12 Q Okay. So let's backup, you said it's a gaping stab wound, what
13 do you mean by gaping?

14 A Gaping is open.

15 Q All right. And when you said, by reapproximation, it's
16 one-sixteenth of an inch, what do you mean by that?

17 A Sure.

18 So gaping is an open stab wound, wherein it is materially open.
19 By approximation we -- I try to re-oppose the two edges of the stab
20 wound. So it is approximately the width of the stab wound on
21 reapproximation is about one-sixteenth of an inch.

22 MS. DIGIACOMO: Your Honor, may I approach?

23 THE COURT: Yes.

24 BY MS. DIGIACOMO:

25 Q All right. Sir, I'm going to show you -- first of all, it's been

1 marked as State's Proposed Exhibit Number 5, would you let me know if
2 you recognize that, please.

3 A Yes, I do recognize this. And what I receive is a copy of the
4 diagram of autopsy number 17-12503.

5 Q And is that autopsy number the autopsy for Ezekiel Devine?

6 A Yes.

7 Q And that is the same number that you have on top of your
8 autopsy report for him?

9 A Correct.

10 Q All right. Now, how do you recognize that this was prepared for
11 that same autopsy? Like, do you have the date or initials or anything on
12 it?

13 A Of the diagram, which I do prepare in this case, has an autopsy
14 number labeled with the case number of the decedent, Mr. Ezekiel
15 Devine, when he came to the office. And that autopsy number is
16 17-12503, which is assigned to that.

17 Q All right. So you were the one that actually made this diagram
18 that we're looking at, it's State's Proposed Exhibit Number 5?

19 A Yes.

20 Q And you know it goes with Mr. Ezekiel Devine's autopsy
21 because of the number?

22 A Correct.

23 MS. DIGIACOMO: Your Honor, I move for admission of State's
24 Proposed Exhibit 5?

25 MR. LONG: No objection.

1 THE COURT: Be admitted.

2 MS. DIGIACOMO: Thank you.

3 **[STATE'S EXHIBIT 5 ADMITTED]**

4 BY MS. DIGIACOMO:

5 Q Next, I'm going to show you a group of photos marked as
6 State's Proposed Exhibits 204 to 215, if you could just flip through those
7 and let me know if you recognize what's depicted in them?

8 A Sure.

9 THE COURT: Have you showed those to defense?

10 MS. DIGIACOMO: The defense has -- yes.

11 MR. LONG: She showed me the top one.

12 MS. DIGIACOMO: Did you -- I -- I'm sorry, I offered if you
13 wanted to come look at them. But he does have copies of all of these.

14 THE COURT: Do you want to come up?

15 MR. LONG: Let me just see what they are.

16 [Colloquy between the District Attorney and Defense Counsel]

17 MR. LONG: Sure.

18 MS. DIGIACOMO: Your Honor, may I proceed now?

19 THE COURT: Yes.

20 BY MS. DIGIACOMO:

21 Q So, again, showing you State's Proposed Exhibits 204 to 215, if
22 you can just flip through each of those photographs and let me know if
23 you recognize what's depicted in all of them?

24 A Sure.

25 Yes, I do recognize all of them.

1 Q All right. Are these all photographs of the decedent, Ezekiel
2 Devine, that were taken at the time of autopsy?

3 A Correct.

4 Q And they show overall of his body, as well as the injuries
5 notated by you in your autopsy report?

6 A Correct.

7 Q And they fairly and accurately depict the way he looked on
8 December 12th, 2017?

9 A Yes.

10 MS. DIGIACOMO: Your Honor, I would move for admission of
11 State's Proposed Exhibits 205 to 215, please.

12 MR. LONG: No objection.

13 THE COURT: Be admitted.

14 **[STATE'S EXHIBITS 205 through 215 ADMITTED]**

15 MS. DIGIACOMO: May I publish?

16 THE COURT: Yes.

17 MS. DIGIACOMO: Thank you.

18 BY MS. DIGIACOMO:

19 Q All right. Now, I'm sorry, let's go back to what you were
20 describing as the gaping stab wound and you were talking about the
21 reapproximation.

22 So let me show you first what's been marked and admitted as
23 State's 211, and let me zoom out; okay.

24 All right. Doctor, do you recognize what's depicted here?

25 A Yes.

1 Q All right. Can you explain to the jury what we're looking at?
2 And if you need to circle on your screen, you can go ahead and do that.

3 A Sure.

4 So in this photo we are looking at the portion of the neck as well
5 as the chest. So in this photo, there's the gaping stab wound on the left
6 side of the chest, adjacent to that, and medial to that or at the center of
7 the chest, there is an incised wound. Again adjacent to the open or
8 gaping stab wound.

9 Q Doctor, just for the record, can you circle for the jury on the
10 screen the gaping stab wound you're talking about?

11 A Sure.

12 Q Thank you.

13 A So the gaping -- well, the gaping stab wound is on the left side
14 of the chest, which is this.

15 Q All right. And then you were talking about an incised wound
16 across the center of the chest?

17 A Correct.

18 Q And if you could just, maybe, draw a line next to the one that
19 you were referring to?

20 A Sure.

21 Thank you.

22 Q Thank you.

23 A The incised wound is on the midline of the chest, which is just
24 adjacent to the stab wound which is this.

25 Q Okay. Now, you talked about that, that the one that's in the

1 midline, it's an incised wound, can you explain to the jury what you mean
2 by an incised wound?

3 A Sure. An incised wound is a form of a sharp force injury in
4 which it is literally a cut, in layman's term, or basically an incised wound.

5 Q Okay. So it's caused by some sort of sharp object?

6 A Correct.

7 Q It wouldn't be caused from blunt force trauma?

8 A Correct.

9 Q Okay. Now, you were talking about doing the reapproximation
10 to determine the width for being one-sixteenth of an inch. So let me show
11 you State's Exhibit 215.

12 MS. DIGIACOMO: Your Honor, our computer won't clear it.

13 MR. LONG: It cleared.

14 MS. DIGIACOMO: It did?

15 MS. BLUTH: Yeah.

16 MS. DIGIACOMO: Okay.

17 MS. BLUTH: It was left, I tried it.

18 MS. DIGIACOMO: Which side was it?

19 MS. BLUTH: The bottom left.

20 MS. DIGIACOMO: The bottom left. Thank you.

21 BY MS. DIGIACOMO:

22 Q Okay, sorry.

23 Now, showing you State's Exhibit 212, if you could explain to
24 the jury what we're looking at here?

25 A Sure.

1 We are looking at a portion of the left chest, with a portion of the
2 left shoulder, and a portion of the left upper arm as well. At the center of
3 the image, we are looking at the stab wound, which is being -- trying to
4 reapproximate wherein both ends are being extend or --

5 Q Pulled?

6 A -- stretched out.

7 Q Okay.

8 A Correct or pulled.

9 Q And the reason you're trying to do that is to get the skin to go
10 back to the way it was before the stab wound?

11 A Correct. More or less, yes.

12 Q Okay. And so when you were able to stretch the skin and bring
13 the wound back together, that's where you determined it's about
14 one-sixteenth inch width?

15 A Yes, by reapproximation.

16 Q Okay. And it's two inches long?

17 A Correct.

18 Q Okay. Now, the next question I have for you is -- okay. This
19 stab wound. I would presume, again, is caused by something that is
20 sharp? It's not blunt force trauma from hitting?

21 A That is correct.

22 Q Okay. And I'm going to show you now State's Exhibit 213 --
23 and I'm trying to get it orientated the right way; okay -- are you able to tell
24 what kind of instrument caused this stab wound?

25 A Accurately, I cannot.

1 Q What can you tell us about this stab wound or the instrument
2 that caused it?

3 A Sure.

4 Based on the appearance of the stab wound, the stab wound is
5 a blunt end -- rather the -- appearance rather of the stab wound has a
6 blunt end and a sharp end.

7 Q Okay. Now, how can you tell that?

8 A Sure.

9 Q If you can you circle.

10 A Sure.

11 So the appearance of the -- by reapproximation, aside from
12 determining the width, approximate width of the stab wound, the
13 reapproximation is also important in terms of determining if the both ends
14 of a stab wound is a blunt end and a sharp end.

15 For this case, on this photo, we are looking at the stab wound
16 and adjacent to it on the left side is the nipple. And this is the left side of
17 the chest.

18 The blunt end is on the lower part. And the sharp end is on the
19 upper portion of the stab wound.

20 Q So does that mean that whatever sharp instrument caused this,
21 just one side's sharp and the other side would be like a flat side?

22 A Possibly, yes.

23 Q All right. Now, this stab wound, did you do -- well, actually, hold
24 on, let me just show you the rest of the photos first.

25 So showing you State's Exhibit Number 204, what are we

1 looking at here?

2 A This photo, we are looking at the almost the full body image of
3 the decedent, Mr. Ezekiel Devine, the frontal portion of the body.

4 Q Okay. Now --

5 A And at the center, again, we are looking at the stab wound and
6 the incised wound, the center of the chest.

7 Q This overall photo that we're looking at, is it done before or after
8 the bodies cleaned for autopsy?

9 A This is after the bodies cleaned for autopsy --

10 Q And what --

11 A -- before autopsy.

12 Q -- and what do you mean by, the bodies cleaned?

13 A After taking the photos and taking out the clothing and wiping
14 off any blood that will hamper any -- hamper the examination. So by
15 cleaning, in terms of using the water, wet towels, just to take off the blood,
16 taking out all the -- the evidence of treatment, in order to determine the
17 exact or the true evidence of injury in the body.

18 Q Okay. And showing you State's Exhibit 205, is this just the
19 lower portion of his body?

20 A Correct.

21 Q From showing the top?

22 A Correct.

23 Q All right. Showing you State's Exhibit 206, what is depicted
24 here?

25 A In 206 we are looking at the back of the decedent, Mr. Ezekiel

1 Devine.

2 Q Okay. Now, were there any injuries notated on Mr. Devine's
3 back?

4 A None.

5 Q Okay. Showing you State's Exhibit 207, what are we looking at
6 here?

7 A This is -- we are looking at the lower portion, lower half of the
8 body of Mr. Devine on his back.

9 Q So going back to State's Exhibit 204, showing the upper body,
10 the front of Mr. Devine, other than the stab wound and the midline incised
11 wound that we've talked about, did you notate any other injuries on
12 Mr. Devine from the external examination?

13 A Yes.

14 Q What did you notate?

15 A There were abrasions on the right side of the forehead, as well
16 as on the eye.

17 Q Okay. So let me show you State's Exhibit 208, is this what you
18 were talking about?

19 A Yes.

20 Q Okay. If you could point out to the jury what you're specifically
21 talking about, please?

22 A Sure.

23 Again, abrasions on the right side of the forehead, as well as on
24 the right side of the eye.

25 MS. DIGIACOMO: Now, I'm going to trip on these cords.

1 THE COURT: Don't, that cost me \$200,000 last time for an
2 attorney to do that.

3 MS. DIGIACOMO: Well, can I move it?

4 THE COURT: Don't trip.

5 MS. DIGIACOMO: Well, maybe we should put this over,
6 because I cannot guarantee I won't trip.

7 BY MS. DIGIACOMO:

8 Q Okay. So these -- these abrasions that you notated in your --

9 THE COURT: Back it up.

10 BY MS. DIGIACOMO:

11 Q -- autopsy --

12 MS. DIGIACOMO: Maybe we should put that over.

13 BY MS. DIGIACOMO:

14 Q -- did they appear to be contemporaneous with death?

15 A Yes.

16 Q Okay. And how can you determine that?

17 A The appearance of the abrasions have this pink appearance,
18 which we call as a vital reaction. Meaning, around -- this happened
19 around the time of death.

20 Q All right. And how big was this, I guess, cluster of abrasions
21 here?

22 THE WITNESS: If I may, Your Honor, I would like to refer to my
23 copy again.

24 THE COURT: Sure.

25 THE WITNESS: Thank you.

1 THE COURT: If it helps you refresh your recollection.

2 THE WITNESS: Yes, sir. Thank you.

3 The cluster of all of his abrasions on the right forehead and the
4 right eye is about two-and-a-half-inch by one-inch.

5 BY MS. DIGIACOMO:

6 Q Okay. Now, when you're talking about abrasions, can you
7 explain to the jury what you mean by that?

8 A Sure.

9 An abrasion is a form of a blunt force injury wherein abrasion is
10 the damage to the superficial layer of the skin. It's like a scrape. It's a
11 form of a scrape, in layman's term.

12 Q Okay. So you when you say, it could be caused by blunt force
13 trauma, like what would be an example of such?

14 A Sure.

15 Example of blunt force trauma, if someone hit by someone else,
16 be another individual or the decedent, Mr. Ezekiel, fall to the ground as
17 well. Or any blunt force trauma that is -- rather any blunt force surface or
18 material that is impacting the forehead or on the side of the right eye.

19 Q All right. So thank you.

20 Let's go back to the stab wound, please. All right. So when you
21 are looking at the stab wound that we see here in 209, you documented
22 the size of it on the exterior, did you do any sort of internal examination
23 with regard to this wound?

24 A Yes.

25 Q And what kind of examination did you do?

1 A Internal examination.

2 Q All right. To determine what?

3 A The injuries of the internal organs related to the stab wound.

4 Q Okay. And can you tell us about that, please.

5 A Sure.

6 The wound track of this stab wound went to the skin and soft
7 tissue in the fourth intercostal cartilage and it went through the heart.

8 Q Okay. Which part of the heart did it go through?

9 A The right side of the heart.

10 Q And showing you State's Exhibit 215, what are we looking at
11 here?

12 A So we are looking at the internal examination of Mr. Ezekiel
13 Devine, on the right-hand side is the superior portion, meaning it goes into
14 the head.

15 The left-hand side is towards the lower portion of the body,
16 which is going down to the -- or -- or going to the feet -- or to the pelvic or
17 the hips or the legs.

18 At the center, we are looking at the portion of the heart, which
19 has the corresponding --

20 Q Bottom left?

21 A Okay. Thank you.

22 -- which has the corresponding injury from the stab wound.

23 Q Okay. So that right there is a stab wound, as well -- that's
24 where it went through the heart?

25 A Correct.

1 Q Okay. Now, can you, other than determining, like how far this
2 sharp instrument went into Mr. Ezekiel's chest, can you tell anything else
3 about how it went in, the angle?

4 A I'm sorry, what do you mean by that?

5 Q Well, did it go straight in, did it go downward, did it go, you
6 know, left to right?

7 A Sure.

8 Are you referring to the -- if I may ask, are referring to the
9 direction?

10 Q Yes, thank you.

11 A Sure.

12 Q I couldn't think of that word.

13 A The direction of the stab wound was front to back, left to right,
14 and upward.

15 Q Now, what does that mean, front to back, left to right and
16 upward?

17 A It means the direction of the stab wound.

18 Q Okay. Now, are you -- when you are determining that, how is
19 the body?

20 A Sure.

21 The determination of the direction of the stab wound is doing
22 the autopsy itself by the section of the different tissues that have been
23 injured from the stab wound. As I have said before, the stab wound went
24 into the skin and soft tissue, the left -- rather the left intercostal cartilage
25 and went into the heart. So by doing that, the dissection, the

1 hemorrhages that I see, I was able to determine the direction of the stab
2 wound itself.

3 Q And as you're determining the direction, is the body laying flat
4 as we saw it in State's 204?

5 A Correct.

6 Q All right. So are you -- when you determine this directionality,
7 does that really tell you like where the decedent was when he was
8 stabbed?

9 A No.

10 Q And why not?

11 A The direction of the stab wound is described in a standard
12 anatomical position. What I meant by that standard anatomical position is
13 the body is stationary.

14 So an autopsy, again, is examination of a dead individual, if you
15 will. So the bodies not moving at all. So the standard anatomical position
16 is an atomic position in a stationary phase wherein the person is standing,
17 for example, palms facing up, as what you saw before in the photo of
18 Mr. Ezekiel Devine.

19 So the direction is done by or using a standard anatomical
20 position in which there is no movement of a body because the body's
21 dead.

22 Q Okay. And if it Mr. Devine was stabbed while moving or in a
23 different position, that doesn't --

24 MR. LONG: Your Honor, I'm going to object, leading.

25 THE COURT: Sustained. Restate your question.

1 MS. DIGIACOMO: Okay.

2 BY MS. DIGIACOMO:

3 Q So the way that you determine the directionality does not
4 equate to being able to determine the position Mr. Devine was in at the
5 time he was stabbed?

6 MR. LONG: Renew my objection, leading.

7 BY MS. DIGIACOMO:

8 Q All right. I'll change it to does --

9 THE COURT: Does.

10 BY MS. DIGIACOMO:

11 Q -- the ability to determine the directionality give you the ability to
12 tell how Mr. Devine was positioned at the time he was stabbed?

13 A No.

14 Q Showing you State's Exhibit 210, what's depicted here?

15 A Sure.

16 In this photo, we are looking at a close-up photograph of the
17 stab wound and the adjacent incised wound.

18 Q Okay. And it's -- there's also a ruler, a marker, is that just to
19 help determine the size?

20 A Correct.

21 Q All right. And showing you State's Exhibit 214, what's depicted
22 there?

23 A So in Exhibit 214, we're looking at again the photo depicts the
24 close-up of the stab wound and adjacent -- rather the stab wound, which
25 is being reapproximated.

1 Q Okay. And it's got the ruler as well?

2 A Correct.

3 Q Now, can you -- could you tell how far the sharp instrument
4 would have had to have gone into Mr. Devine's body to go through the
5 skin and the soft tissue and all the way to the heart?

6 A Sure.

7 It was about approximately four inches.

8 Q And how do you measure that?

9 A So the measurement is from the skin after the level of the end
10 of injury into the heart and using a ruler.

11 Q This kind of injury would you expect significant amount of blood
12 loss?

13 A Yes.

14 Q And did you notate any, I guess, blood in his cavity, in his chest
15 cavity?

16 A Yes, there was.

17 Q All right. What was there?

18 A There was about approximately about 180 milliliter of blood in
19 the cavity of the heart.

20 Q Is that a significant amount?

21 A Yes.

22 Q With a stab wound like we've seen, I guess, can you
23 approximate whether or not he could have survived, how quickly he would
24 have died, any of that?

25 A Sure.

1 This type of stab wound relative to the injury of this stab wound
2 it is a rapid death.

3 Q Would -- with medical informa -- excuse me, medical
4 intervention, would Mr. Ezekiel Devine been able to survive that stab
5 wound?

6 A Less likely.

7 Q When there's stab wounds, are you able to tell if maybe the
8 sharp instrument went in and was turned or there are multiple stab
9 wounds, are you able to tell those kinds of things from an autopsy?

10 A Sure.

11 As far as the multiple stab wounds, based on my examination
12 there was only a single stab wound that I was able to determine. And as
13 far as multiple stab wound, that is already excluded from that.

14 Q Okay. How did you exclude that it wasn't multiple stab wounds?

15 A Sure.

16 There's only a single stab wound to the left chest.

17 Q All right. And no other injuries around that stab wound, just
18 straight in and out?

19 A There's none; correct. Aside -- other than the incised wound
20 adjacent to the stab wound.

21 Q Okay. So let's talk about the one adjacent, I'm showing you
22 State's Exhibit 211, how long was this incised wound?

23 A It was about -- the length is about four inches.

24 Q Okay. And how -- what's the width?

25 A It's about one-sixteenth of an inch.

1 Q Can you tell whether or not the incised wound on the chest was
2 caused by the same instrument that caused the stab wound?

3 A I cannot. But most likely, based on the distance and the
4 adjacency of the --

5 MR. LONG: Your Honor, I'm going to object. He says he can't
6 tell if it was the same and now he's making -- he's authenticating.

7 THE COURT: He's a doctor. I'm going to let him testify.

8 Overruled.

9 BY MS. DIGIACOMO:

10 Q I'm sorry, go ahead, Doctor.

11 A Again, I cannot. However, though, based on the proximity of
12 the incised wound and the stab wound, it is possible that it came from the
13 same instrument.

14 Q What was the approximate depth now of this incised wound or
15 were you able to tell?

16 A Sure. The approximate depth is about one-thirty-second of an
17 inch.

18 Q All right. Now, are you able to tell whether or not that incised
19 wound was contemporaneous with death or that stab wound?

20 A Yes.

21 Q All right. And was it?

22 A Because, again, the appearance of the incised wound has this
23 vital reaction, which has a pink appearance to it. So it is around the
24 perimortem finding of -- or rather contemporaneous around the time of
25 death.

1 Q And you said that the stab wound would have been a rapid
2 death, what does that mean more specifically?

3 A Sure.

4 Rapid death usually death ensues within seconds or around the
5 time -- or rather seconds for that.

6 Q So he -- it wouldn't be an hour?

7 A Correct.

8 Q Okay. So these other wounds, the incised wound and the
9 abrasions around the eye, would have been within -- it would had come
10 right before the stab wound then or can you tell which came first?

11 A No, I cannot.

12 Q But they're all just around the same time?

13 A Correct.

14 Q Now, you didn't -- well, let me ask you first. I'm going to show
15 you State's Exhibit Number 5, if you can explain to the jury what we're
16 looking at here?

17 A Sure.

18 This is the diagram of injury that we see here, with a
19 Case Number 171-2503, and this diagram show, again, the
20 aforementioned stab wound, incised stab wound on the left side of the
21 chest, the incised wound on the midline of the chest, and the abrasions on
22 the right side the forehead and the eye.

23 Q Now, these are the only injuries that you have notated on your
24 diagram?

25 A Correct.

1 Q Are these the only injuries that you found on the decedent's
2 body?

3 A Correct.

4 Q And the fact that we don't see the flip side, the back of a person,
5 or on this diagram, does that mean there was no injuries on the backside
6 of the decedent?

7 A Correct.

8 Q Okay. Now, you did an external and internal examination?

9 A Correct.

10 Q During the internal examination of the organs and whatnot, did
11 you find any significant findings?

12 A The significant findings is related to the injury that previously
13 mentioned, which included injury to the heart, injuries to the skin and soft
14 tissue from the stab wound, as well as injuries to the interior fourth
15 intercostal cartilage.

16 Q So other than the injuries caused from the stab wound, did the
17 decedent have any other, I guess, medical issues that could have
18 contributed to his death?

19 A None.

20 Q Now, you said that specimens are taken and toxicology tests
21 are run on autopsies?

22 A Correct.

23 Q All right. Did -- was a toxicology requested for the decedent?

24 A Yes.

25 Q And was there anything of significance that came back in his

1 toxicology?

2 A There was. I don't know what do you mean by significance.

3 Q Well, I should say, was there anything notated that was found in
4 his toxicology?

5 A Yes.

6 Q And what was that?

7 A Marijuana.

8 Q Okay. Did that have any significance or play any role in
9 determining the cause of death?

10 A As far as the cause of death, none.

11 Q After doing all of your examination and doing the toxicology and
12 all the other things that were done at time of autopsy, were you able to
13 form an opinion as to the cause of death?

14 A Yes.

15 Q What was the cause of the death of Mr. Ezekiel Devine?

16 A Stab wound to the chest.

17 Q So even though you notated the incised wound and the
18 abrasions, those two wounds had nothing to do with causing his death?

19 A Correct.

20 Q Okay. And I'm going to ask you -- before I ask you what your
21 opinion is regarding manner of death -- can you explain to the jury what, I
22 guess, the options are for manner of death? What it is you're trying to
23 determine?

24 A Sure.

25 The manner of death is the circumstances surrounding the

1 death. It has five options but -- these are classifications of the manner of
2 death and these are, if you will, not options, if I may correct. The
3 classifications of manner of death include natural, wherein the person died
4 of a natural disease, such as, pneumonia or coronary, artery disease.

5 The second is accident. Like, for example, a motor vehicle
6 accident.

7 Third is suicide, wherein the person killed himself or herself.

8 Fourth is homicide, wherein the person died at the hands of
9 another person.

10 And fifth is the classification is indeterminate, wherein if all of
11 the evidence will not satisfy the four previously mentioned manner of
12 death, then the manner of death is classified as indeterminate.

13 Q Okay. In this case, what was the manner of death?

14 A The manner of death is homicide.

15 Q All right. Now, showing you State's Exhibit 211, again, back to
16 the stab wound with the incised wound next to it, are you able to
17 determine whether or not the incised wound and the stab wound were
18 made, I guess, at the same time or in the same motion or are they two
19 separate wounds?

20 A So at the same time, most likely, yes. Again, because of the
21 vital reaction, the appearance of the incised wound is red and the injury to
22 the stab wound is also a perimortem finding. So it is most likely around
23 the same time.

24 As far as the motion, I don't know.

25 I'm sorry, you were asking another?

1 Q Well, I was asking, if you could tell, say that the -- whether
2 these two wounds were caused by separate actions? Meaning it wasn't,
3 you know, there was a stab wound and it just drug across the midline?

4 A Sure.

5 Incised wound, again, is a cut wound wherein the -- the depth of
6 this stab wound as I have mentioned is one-and-thirty-two inches, so it's
7 pretty superficial.

8 As far the motion of the incised wound, it can be a linear motion
9 as in this case.

10 Stab wound is a thrusting motion from a sharp force instrument
11 resulting in a deeper injury which goes into the heart. So it's a thrusting
12 motion for that matter, as far as stab wound is concerned.

13 MS. DIGIACOMO: Okay. I have nothing further.

14 **CROSS-EXAMINATION**

15 BY MR. LONG:

16 Q Doctor, my name is Kenneth Long, I represent Mr. Thomas
17 Cash.

18 Now, your job is to just do the autopsy, correct?

19 A Correct.

20 Q You don't know any off the facts as to what preceded the
21 decedent's death?

22 A I do know the facts. As part of the -- as a medical examiner, we
23 are provided by the coroner investigator of the facts that preceded the
24 case.

25 Q Hold on just a second. But you yourself don't go out and

1 investigate?

2 A Correct.

3 Q Okay. Now, the incised wound you said it was
4 one-thirty-second, one-thirty-two, of an inch deep?

5 A Correct.

6 Q So that's what we would commonly say, didn't break the skin;
7 correct?

8 A It did break the skin.

9 Q Okay. More like a scratch?

10 A No. It's an incised wound.

11 A scratch is a -- an abrasion.

12 Q Okay. Now, Doctor, when you weighed the decedent, you didn't
13 know how much blood he'd lost at the scene; correct?

14 A Correct.

15 Q Okay. And you didn't take that into an account?

16 A Yes.

17 Q Okay. And --

18 THE COURT: Yes, you didn't, or yes, you did?

19 THE WITNESS: Yes, I did not.

20 BY MR. LONG:

21 Q Now, in regards to the abrasions on the eye, if a body was
22 dragged shortly after death, could not that have caused those abrasions?

23 A It's possible, yes.

24 Q Okay. You don't know if they were caused by a fist or a fall to
25 the ground; correct?

1 A Correct.

2 Q And you didn't check to see if there was any asphalt in the
3 wounds; correct?

4 A Correct.

5 Q Okay. And isn't it true that the body, to your knowledge, was
6 dragged?

7 A I don't know.

8 Q Okay. And it's not your job to extract any evidence, like DNA, or
9 anything like that; correct?

10 A Correct.

11 Q Okay. And you don't know what direction the decedent fell to
12 the ground; correct?

13 A That is correct.

14 Q Okay. And it's your testimony that there was only one stab
15 wound; correct?

16 A Correct.

17 Q And according to your report, isn't it true that the wound traveled
18 in an upward motion?

19 A Correct.

20 Q Okay. And while the marijuana in the decedent's system didn't
21 contribute to his death, you're training and experience as a doctor, could
22 that have influenced his behavior before his death?

23 A I do not know.

24 Q Okay. Is it your testimony that marijuana doesn't alter anyone's
25 behavior when ingested?

1 THE COURT: No, he's not an expert in marijuana. There
2 hasn't been laid a foundation. He's an autopsy doctor.

3 MR. LONG: Well, he's answered -- he's answered the question.

4 THE COURT: Do you want me to strike the answer or do you
5 want to move on?

6 MR. LONG: I'm moving on.

7 BY MR. LONG:

8 Q And the information you gave regarding his weight of 134
9 pounds, that was from weighing; correct?

10 A Correct.

11 Q You didn't just estimate?

12 A Yes.

13 Q Could you have guessed what his weight was?

14 A No.

15 MR. LONG: Okay. I don't have any further questions for the
16 doctor.

17 **REDIRECT EXAMINATION**

18 BY MS. DIGIACOMO:

19 Q And you said that the wound traveled in an upward direction,
20 are you able to say like how far it was in an upward direction? I mean, I
21 guess, what --

22 MR. LONG: I would object to vague.

23 MS. DIGIACOMO: Well, I'm trying to --

24 THE COURT: I think she's trying to clarify your question. I'm
25 not sure it's clear. That question wasn't very clear.

1 MS. DIGIACOMO: I'll try again.

2 BY MS. DIGIACOMO:

3 Q Okay. So, you know, with my pen, there could be slightly
4 upward or it could be like greatly upward, are you able to tell how far
5 upward the wound was as it went through to the heart?

6 A No, I cannot.

7 Q Okay. To get to the heart, you were talking about that it's a -- it
8 was a thrusting motion. Even though you said that it's front to back, it's
9 upward, was the wound, and I think you said left to right, but was it almost
10 straight through to the heart or did it have -- or did it go up to get to the
11 heart?

12 MR. LONG: I'm going to object, Your Honor, it's leading. He's
13 giving the doctor two suggestions which he can answer.

14 MS. DIGIACOMO: It's not leading. I'm not suggesting the
15 answer.

16 THE COURT: No, it's not leading.

17 But do you understand the question?

18 THE WITNESS: No, I do not.

19 THE COURT: Restate it.

20 BY MS. DIGIACOMO:

21 Q Okay. So the stab wound to go from where it was on the chest
22 to get to that right -- to that side of the heart, would the wound had to have
23 gone almost straight in to get there -- or excuse me -- the object go
24 straight in to get there or could it have been gotten there and been only
25 four inches long by, you know, starting down below and going upward to

1 the heart and stabbing it?

2 A Again, the direction of the wound is described in a standard
3 anatomical position. Going upward means that the -- as far as the injuries
4 concerned, from the external injury of the skin and soft tissue to the -- to
5 the fourth intercostal space and went into the heart, specifically the injury
6 in the heart include the right ventricle, which went upward into the
7 tricuspid valve and ended up at the right atrium of the heart. So it went
8 upward for that.

9 Q Okay. But you -- you can't say, just from measuring and getting
10 the direction of the wound as the decedent's laying on the table, whether
11 or not he got that wound by standing over somebody or the person who
12 stabbed him was on their knees, you can't say that, can you?

13 A No, I cannot.

14 Q Now, with regard to the weight of the decedent, 134 pounds, if
15 there had been a significant amount of blood loss at the scene, I guess,
16 would that change his weight greatly?

17 A I do not know.

18 Q Okay. So, I guess, how much blood is in the human body, like
19 how many milliliters or --

20 A Sure.

21 Q -- liters?

22 A In an adult, 70 kilogram adult, the range of blood volume is
23 about 3.5 to 4.5 liters.

24 THE COURT: How much does a liter weigh?

25 THE WITNESS: I do not know.

1 THE COURT: Okay.

2 BY MS. DIGIACOMO:

3 Q Do you know how many milliliters are in a liter?

4 A 1,000.

5 Q And so when you said that there was a 180 milliliters of blood in
6 the cavity, is that a significant amount? I mean, well, you said it was a
7 significant amount, but it's -- it's not that -- it's not even a full liter; right?

8 A Correct.

9 Q Okay. Would it be possible for somebody to lose, you know,
10 say blood at the scene and their weight be 20 pounds less on the table
11 than what it was at the scene?

12 A I don't know.

13 MR. LONG: Object, it calls for speculation.

14 THE COURT: Sustained.

15 BY MS. DIGIACOMO:

16 Q You said that you get a report from your partner/investigator?

17 A Not necessarily a partner, in that term. It would be our coroner
18 investigator.

19 Q Okay. So can you explain to the jury what a coroner
20 investigator is?

21 A Sure.

22 A coroner's office is composed of a coroner, coroner
23 investigator, which are medical-legal investigators and the medical
24 examiner. So the coroner investigator, again, these are medical-legal
25 investigator, these are the assigned investigators who investigate the

1 scene on what happened to an incident resulting to the death of an
2 individual.

3 Q Okay. Thank you.

4 A You're welcome.

5 Q So when you were talking about that you got information from
6 an investigator, it's from your coroner investigator, not from the detectives
7 or the police at the scene?

8 A Sure.

9 Q Okay.

10 A As far as the coroner investigator is concerned, they are the
11 ones, again, going to the scene, talking to individuals present on the
12 scene, which includes or which may include a police officer or a detective
13 or anyone in the scene.

14 Q Okay. But then the coroner investigator does a report that is
15 given to you?

16 A Correct.

17 Q Okay. I know you can't quantify, you know, how much liters
18 would equate to pounds, but can you maybe give an example of how
19 much, like, 180 milliliters would be? Would it fill this cup that I'm holding,
20 this Styrofoam coffee cup?

21 A I do not know.

22 Q You don't know?

23 A Yeah, correct.

24 Q Okay. Now, you talked about the stab wound was a, like a -- it
25 would have to be a sharp force injury or a thrusting injury to, I guess, that

1 one stab wound to penetrate that far to get to the heart?

2 A Yes.

3 Q Okay. How much force, if you know, would be required to do
4 one stab wound that got all the way to the heart and out again?

5 A I do not know.

6 MS. DIGIACOMO: Nothing further.

7 **FURTHER RECROSS-EXAMINATION**

8 BY MR. LONG:

9 Q Doctor, have you examined every aspect of Ezekiel's body?

10 A Yes, I did.

11 Q Did you examine his hands?

12 A Yes.

13 MR. LONG: And -- actually I'm going to withdraw that question.
14 I don't have any further questions.

15 THE COURT: Jury have any questions of this witness? Seeing
16 no hands. You're free to go, Doctor. Thank you.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: We're going take a five minute recess.

19 During the recess you're admonished not to talk or converse
20 among yourselves or with anyone else on any subject connected with this
21 trial. Or read or watch or listen to any report of or commentary on the trial
22 or any person connected with this trial by any medium of information,
23 including, without limitation, newspapers, television, radio, or the Internet.
24 Or form or express an opinion on any subject connected with the trial until
25 the case is finally submitted to you.

1 Remember, no social media, no computer investigation.
2 See you in five minutes.

3 [Recess taken at 3:59 p.m.]

4 [Jury trial resumed at 4:06 p.m.]

5 [In the presence of the jury]

6 THE MARSHAL: All rise for the entry of the jury.

7 THE COURT: Stipulate to the presence of the jury.

8 MR. LONG: Yes.

9 MS. DIGIACOMO: Yes, Your Honor.

10 THE COURT: All right. Call your next witness, State.

11 MS. DIGIACOMO: Thank you.

12 The State calls Adam Felabom.

13 **ADAM FELABOM**

14 [Having been called as a witness and being first duly sworn, testified as
15 follows:]

16 THE COURT: Please be seated and spell your first and last
17 name for the record.

18 THE WITNESS: Adam, A-d-a-m, Felabom, F-e-l-a-b-o-m.

19 MS. DIGIACOMO: May I?

20 THE COURT: Yes.

21 **DIRECT EXAMINATION**

22 BY MS. DIGIACOMO:

23 Q Okay. Sir how are you employed?

24 A I'm a crime scene analyst with the Las Vegas Metropolitan
25 Police Department.

1 Q Can you please explain your education, training, and
2 background that allows you to be crime scene analyst for Metro?

3 A I have my bachelor's degree in criminal justice. I've also
4 graduated from the police department crime scene analyst academy. I've
5 also had continuing training throughout the years in various courses, such
6 as, photography, evidence collection, fingerprint processing, as well as
7 hazardous evidence collection.

8 Q How long have you been a CSA with Metro?

9 A It'll be 10 years in August.

10 Q Okay. And so are there different levels of CSA or can you
11 explain the process from where you started until you got to where you are
12 now?

13 A Yes. There are four different categories of crime scene analyst.
14 There's the entry level, which is Crime Scene Analyst I; there is the
15 intermediate level, which is Crime Scene Analyst II; there's the advanced
16 level, which is Senior Crime Scene Analyst; and then there's the
17 supervisory position, which is Crime Analyst Supervisor.

18 Q Okay. And where do you fall within that?

19 A I'm a senior crime scene analyst.

20 Q All right. And so how did you become a senior crime scene
21 analyst?

22 A The requirements are you have to have basically four years of
23 experience and then you go through a promotion, testing process, which
24 involves a written exam and oral board interview as well as a practical
25 exam.

1 Q And what would be the practical exam?

2 A They create a mock crime scene and then you investigate it and
3 they grade you on it.

4 Q Now, what are the duties of a crime scene analyst at any crime
5 scene?

6 A Our job is to respond to crime scenes and to document those
7 crime scenes. We use various methods depending on the crime we're
8 investigating and the specifics of the crime scene. Typically it'll be notes
9 so that we can write our reports later. We'll take photographs to
10 document the way the scene is and any actions that would take within the
11 scene. And we will also, if necessary, process for fingerprints. We'll
12 collect evidence. And depending on the circumstances, we might do
13 other things like create diagrams. And if it's a shooting, maybe do
14 trajectories and things like that. It just depends on the crime scene.

15 Q Okay. So, now, if you're called out to a burglary, let's say, or a
16 homicide, is there a difference between how those two calls would be
17 handled for crime scene analysts?

18 A Yes. Typically on a burglary we'll work independently. We'll
19 just go out to the scene on our own and we'll work the scene individually.
20 The more complex the crime scene, such as homicides, we'll typically go
21 out as a team. We'll have multiple crime scene analysts out there and
22 we'll work together to document the scene.

23 Q Okay. So on a homicide more than one normally goes out?

24 A Typically, yes.

25 Q Typically, okay.

1 Now, directing your attention to December 11th, 2017, were you
2 called out to Pistachio Nut regarding a deceased person?

3 A Yes.

4 Q All right. And did you respond alone for that crime scene or did
5 you work with other crime scene analysts?

6 A No. In that particular scene, I worked along with a fellow crime
7 scene analyst Laura Cornell, as well as my supervisor Jeff Smink.

8 Q All right. So when you get to the scene, how was it that you
9 proceed first?

10 A Every scene is different, but on homicides we'll typically all meet
11 together along with the detectives and the initial officers that arrived on
12 the scene, as well as any initial detectives that were on the scene that did
13 any preliminary investigations or interviews, that way we'll get all the
14 information that they're already acquired so that we're all on the same
15 page, we're all starting from the same point, and then we'll proceed from
16 there.

17 Q All right. Now, do you recall about what time you got to
18 Pistachio Nut on December 11th?

19 A I arrived there at 8:27 p.m.

20 Q And when you arrived, it was dark out?

21 A Yes.

22 Q All right. At that time in December, about what time did it get
23 dark?

24 A I don't recall.

25 Q Okay. But it was definitely dark out when you got there?

1 A Yes.

2 Q Okay. So when you got there, you said you meet with everyone
3 to get on the same page, what's the next thing that happens? How do you
4 assign out who's going to do what?

5 A Every supervisors different, some will tell their crime scene
6 analysts what they want them to do, others will let who take a consensus
7 of who wants to do what and the decision is made.

8 We'll typically walk through the scene to see what is all going to
9 be involved. We'll make the determination on whether we need to call
10 more people out to assist us, and we'll make that determination of who's
11 going to do what tasks within the crime scene. Typically we'll break it up
12 as to one person will do the report, as well as the photographs of the
13 scene, and then another person will do the diagram of the scene and
14 collect the evidence.

15 Q Now, do you do a diagram at every scene you go out to?

16 A No.

17 Q Only homicides?

18 A Not only homicides. It's typically reserved for more in depth
19 crime scenes. Typically if it's a large shooting or a homicide or a
20 suspicious dead body, we'll sometimes do them on.

21 Q Okay. So for this scene, what did you do?

22 A On this scene I drew the diagram and I collected the evidence.

23 Q What did Laura do?

24 A She took the notes and generated the report later on and she
25 took the photographs.

1 Q Okay. So you get there, you walk the scene with, I guess,
2 Homicide and the initial officers that responded, after the crime scenes
3 walked and you get an idea of what you need to do, what's the next thing
4 that happens?

5 A First thing that we'll typically do is the person who's taking the
6 photos will begin taking photographs of the scene to document the way
7 that we found the scene, that way we have initial set of photographs to
8 document that before we start placing anything inside the scene, such as
9 markers, to mark evidence that we might collect later.

10 Q Okay. So photographs were taken first, then what was the next
11 thing you did?

12 A Typically while they're doing the photographs I'll be standing
13 behind them so I'm not in there way and I'll be drawing my sketch so that I
14 can do the diagram. I'll be determining or -- determining with detectives
15 about what evidence we're looking for, what evidence we're going to
16 collect, where we're going to collect it from. And then after the
17 photographs are taken, I will go through and put down markers to mark
18 the evidence so that's more visible in the photographs. Typically as well
19 as add that information to my diagram for later.

20 MS. DIGIACOMO: Your Honor, I have here in my hands State's
21 Proposed Exhibits 4, 9 through 203. I'm going to move for object --
22 excuse me, move for admission now. And it's my understanding that
23 defense counsel is stipulating.

24 MR. LONG: Yes, Your Honor, I'm fine with them being admitted
25 by way of stipulation. I have seen them, they are grouped according to

1 topic.

2 THE COURT: Okay. They'll be admitted.

3 MS. DIGIACOMO: Okay. Thank you.

4 **[STATE'S EXHIBITS 4, 9 THROUGH 203 ADMITTED]**

5 BY MS. DIGIACOMO:

6 Q All right. So showing you first of all State's Exhibit Number 4,
7 what's depicted here?

8 A This is the diagram that I created.

9 Q All right. And so can you explain to the jury what this diagram
10 is?

11 A So the diagram in the center is the street of Pistachio Nut
12 Avenue, along the top you have a row of houses with their numbers and
13 the driveways leading to the sidewalk along the north side and as well as
14 the south side of the roadway. Then you have two more residences on
15 the south side of the street. And the street you have a vehicle parked in
16 front of 3984 Pistachio Nut Avenue. As well as -- it's a drawing of where
17 we found the body. And the red marks are where we found some
18 apparent blood in the roadway.

19 Q Okay. Now, was this situation unique for you and how you were
20 going to do this diagram and put the body on versus other crime scenes?

21 A Unique in what way?

22 Q Well, had the body been -- generally, when you get to a crime
23 scene the bodies where it -- it initially was. Was there something unique
24 about what happened here in trying to do the diagram of the body? Was it
25 moved?

1 A I didn't observe it moving. I was -- during our initial briefing, we
2 had been told that it had been moved, yes.

3 Q Okay. So where you have the circle in red and then there's
4 marks to where you have the body, is that because there was, I guess, a
5 grouping of blood and then kind of marks leading to the body?

6 A Correct. The circle is more like a pool area of blood with the
7 lines being some drag marks in the blood.

8 Q Okay. All right. So, now, if you could explain what these
9 numbers are, AB-1 and, I guess, the dotted red line going into 3999?

10 A AB-1 over here to the southeast of where we found the body is
11 the -- it's a marker that we use to denote where we found some blood.
12 We found a blood drop there. We also found blood along the sidewalk
13 and the driveway of 3999 Pistachio Nut leading up to the walkway to the
14 front door, and that's denoted by that dotted red line here, leading up to
15 the front door.

16 And there's also AB-2 and AB-3 where our other stains that
17 were collected --

18 Q Okay.

19 A -- from that trail.

20 Q Anything else of significance in your -- this diagram?

21 A There was a cell phone, which is the item number 2, just to the
22 east of the body which was on the ground.

23 Q All right. So photos are being taken, you're doing your -- well,
24 let me ask you, this diagram that you do, is it to scale?

25 A It's to an approximate scale.

1 Q Okay. So you actually take measurements when you're out
2 there?

3 A Correct.

4 Q Okay. So then after she's done doing the initial photographs,
5 do you go around and start marking evidence that you're going to collect?

6 A Correct.

7 Q Are photographs taken of those markers?

8 A Yes.

9 Q Now, did you -- did you ever go inside 3999 Pistachio Nut?

10 A I did.

11 Q Was that after detectives had obtained a search warrant?

12 A Correct.

13 Q Okay. And after going through Pistachio Nut, did evidence lead
14 you to another residence?

15 A Yes. We found blood inside of the 3999, it went through the
16 front door, it was through the living room, which the front door opened into
17 the living room, and through the dining room area, kitchen area, which
18 was south of the living room. We also found blood on the back sliding
19 glass door, as well as on the patio of the backyard, as well as the fence
20 on the south side of the backyard, which -- which was the same wall as
21 the backyard wall for 3998 Spruce Fern Lane. They shared a back wall.
22 And then there was also blood on the east wall of the 3998 Spruce Fern
23 Lane.

24 Q All right. Now, let's start with, I'm going to show you
25 State's Exhibit Number 9, could you just explain to the jury what we're

1 looking at here?

2 A This is a view of the street. There was that vehicle that was in
3 the diagram and then you can see, and the body in the center of the
4 photo, and you can see where that blood area is over here, to the right.

5 Q All right. Showing you State's Exhibit Number 10, does that
6 show better than 9 the pool of blood you were talking about, as well as
7 what you thought were drag marks?

8 A Yes.

9 Q All right. Can you circle that for the jury?

10 A It's right here below, where the body is.

11 Q All right. Now, showing you State's Exhibit 14, what's depicted
12 there?

13 A It's the same -- it's the same scene. She's just progressively
14 making a circuit around, taking different angles of the same area.

15 Q All right. Now, in your diagram you notated a vehicle that was
16 at the scene, do you see that vehicle in this photograph?

17 A Yes, that's this Volkswagen Jetta.

18 Q The white one?

19 A Correct.

20 Q Thank you.

21 So when you come upon a scene and the photographs are first
22 taken, is everything just documented the way it is when you get there?

23 A Correct.

24 Q All right. So showing you State's Exhibit 15, is this the way the
25 body looked when you arrived?

1 A Correct.

2 Q State's Exhibit 16, what's depicted there?

3 A That is the pool of blood that was near the body.

4 Q And then 17, does that show the drag marks?

5 A Correct.

6 Q Now, when you are at a crime scene is the body moved so you
7 can photograph it and touched?

8 A Yes, eventually.

9 Q Eventually, why eventually?

10 A Well, we want to document the body as we find it and any
11 injuries we find on it. So once the coroner arrives, they will -- the
12 investigator will assist us and they'll move the body. We'll document
13 anything we find on the body.

14 Q Is it fair that the body at a crime scene, I guess, the coroner
15 investigator is in charge of?

16 A Correct.

17 Q Okay. So nobody can touch the body until the coroner
18 investigator gets there?

19 A Correct. We -- if we need to touch it beforehand, we have to
20 get their permission.

21 Q So showing you State's Exhibit Number 20, are these the
22 photographs taken after the body was moved when the coroner
23 investigator got there?

24 A Yes, it's -- they're being taken while we're doing the body exam,
25 yes.

1 Q Okay. And, I'm sorry, and I should have said State's Exhibit
2 Number 20 depicts what?

3 A This is the head area and it looks like they're pulling back the
4 hooded sweatshirt a little bit.

5 Q To see the head?

6 A The head and the face, yes.

7 Q Showing you State's Exhibit 21, what's depicted there?

8 A This is the decedent's face.

9 Q Showing you State's Exhibit 22, I don't know if you can see it on
10 the door, but can you see what this photograph is depicting?

11 A That is a fabric defect we found in his sweatshirt.

12 Q And when you say, fabric defect, what do you mean by that?

13 A It means that there is something that doesn't appear to be a
14 natural part of the clothing. It seems like there's been some sort of a tear
15 or cut or something that was not originally designed into the clothing.

16 Q All right. Now State's Exhibit 23, is that that same defect we
17 saw in 22, but just kind of pulled open?

18 A Yes. You can see someone's gloved finger over here, they're
19 just kind of pulling it apart just to make it more clear.

20 Q Okay.

21 All right. The next set of photographs, showing you
22 State's Exhibit 29, and let me zoom out, is this the car that you
23 documented in your crime scene diagram?

24 A Yes.

25 Q And this was photographed at all angles?

1 A Yes.

2 Q Were you aware later or did you take part in the car being
3 searched or inside of it, did you ever see?

4 A I know that it was searched, but I don't recall being a part of
5 that.

6 Q Okay. So now showing you, it's been marked as State's Exhibit
7 52, what's depicted here?

8 A This is the front of the residence. I believe it's 3999 Pistachio
9 Nut.

10 Q Okay. Now, is this before -- was this picture taken like upon
11 first arrival before you marked evidence and before you went inside the
12 residence?

13 A It appears so.

14 Q All right. Now, you also marked on your diagram, and there
15 was a photograph taken of 3984, what was the significance of that
16 address?

17 A 3984 was the residence that the vehicle, the Volkswagen Jetta,
18 was parked in front of. So the scene was basically directly in front of
19 3984 Pistachio Nut.

20 Q Where the body was too?

21 A Correct.

22 Q Okay. Showing you State's Exhibit Number 55, do you
23 recognize what's depicted there?

24 A This is the living room of 3999 Pistachio Nut.

25 Q Okay. And you did go and walk through that?

1 A Through the ground floor, yes.

2 Q All right. Did you notice anything of significance inside that
3 ground floor?

4 A Yes, there was some blood on the living room floor, as well as
5 in the dining room, kitchen area, as well as on the sliding glass door from
6 the dining room area to the backyard patio.

7 Q All right. Now, I'm going to show you State's Exhibit 62, was it
8 also by the -- is this the front door area?

9 A Correct. That's just inside the front door that opens into the
10 living room.

11 Q Okay. And if you can kind of point out or circle for the jury what
12 you're talking about?

13 A Its' all these little red dots on the ground.

14 Q And then showing you State's Exhibit 59, are there more dots in
15 here?

16 A Correct. There's some more apparent blood on the ground.

17 Q And this is as you're going into the living room?

18 A Correct.

19 Q State's Exhibit 60, let me zoom out, what's depicted there?

20 A That's some more apparent blood, you have some throughout
21 the photograph are here.

22 Q Still in the living room area?

23 A Correct.

24 Q And you said that that -- there was apparent blood also in the
25 kitchen or dining room area?

1 A Correct.

2 Q All right. So showing you State's Exhibit 63, what's depicted
3 there?

4 A So in this photograph your -- your perspective is you're standing
5 inside the living, looking south into the dining room area here, and then
6 the kitchen area is over here to the right.

7 Q To the right?

8 A Correct.

9 Q All right. And was there -- did you notate any apparent blood in
10 this area?

11 A Yes, there was some blood on the sliding glass door, which is
12 here, and the back wall. And there was some also by the trash can in the
13 back.

14 Q All right. Showing you State's Exhibit 66.

15 A This is a photograph of the sliding glass door and the back wall
16 and you can see a drop of apparent blood there on the floor.

17 Q Now, did the sliding glass door have vertical blinds?

18 A Yes.

19 Q All right. And what is this laying right next to the back door?

20 A It's one of the vertical blinds.

21 Q So it's not attached, it looks like it fallen down?

22 A Correct.

23 Q And you said there was some apparent blood on the vertical
24 blinds as well?

25 A Ah --

1 Q You might not be able to see that.

2 But do you know where it is, this is showing you State's 68?

3 A It appears to be here, on the center here.

4 Q Showing you State's Exhibit Number 69, is that a close up of
5 that?

6 A Correct.

7 Q So did you follow -- or with it being on the blinds, did you go
8 outside in the backyard?

9 A Yes.

10 Q Did you notate any blood out there?

11 A Yes, there was a concrete patio right outside the sliding glass
12 door, we found some blood on the ground of the patio, as well as on the
13 south fenced wall of the backyard.

14 Q Okay. So showing you State's Exhibit 75, is that the patio?

15 A Correct. You can see the sliding glass door that goes into the
16 dining room area on the left-hand side of the screen.

17 Q And where would the apparent blood drops be?

18 A I cannot --

19 Q Tell from that picture?

20 A -- tell from this picture.

21 Q All right. Well, showing you State's Exhibit 76, is this a close-up
22 of one of those stains on the concrete?

23 A Correct. It's here in the center.

24 Q Showing you State's Exhibit 78, can you see one of the blood
25 drops there?

1 A Yes. You have the sliding glass door up in the top left corner
2 here and there's a drop of apparent blood by the mop bucket.

3 Q Okay. Now, you said there was also some on the back wall of
4 the backyard of 3999 Pistachio Nut?

5 A Correct.

6 Q All right. Showing you State's Exhibit 80, is this just kind of an
7 overall of that back wall?

8 A Correct.

9 Q Where the blood is?

10 A Correct.

11 Q All right. Showing you State's Exhibit 81, is that a close-up, can
12 you show the jury what it is?

13 A This red line right here.

14 Q Was there also some on the top of that wall?

15 A There was.

16 Q Showing you State's Exhibit 82, what's depicted here?

17 A You can see these little red areas here.

18 Q And they're at the top of the back wall, but is it on the 3999
19 Pistachio Nut side?

20 A Correct.

21 Q Did you ever go, I know you're -- we're talking about the blood
22 that you saw, did you ever try and see if there was any sort of weapon in
23 the house?

24 A Yes.

25 Q All right. Did you take part in any of the search of that?

1 A Yes, I assisted in some of the searching downstairs.

2 Q Okay. Was that in the kitchen?

3 A Correct.

4 Q All right. Showing you State's Exhibit 83, what's depicted
5 there?

6 A This is the kitchen area of the residence.

7 Q And does 84 show the rest of the kitchen?

8 A Correct.

9 Q So where would you have looked to try and find a weapon that
10 could have caused a stab wound?

11 A We looked in the drawers, in the dishwasher, and in the sink.

12 Q All right. Now, showing you State's Exhibit 86, is that the sink?

13 A Correct.

14 Q What was the purpose of taking that photograph?

15 A To show the condition that we found the sink it.

16 Q All right. Did it appear that anyone had, you know, washed or
17 had -- was there any blood in the sink or anything of note?

18 A Not that we could observe, no.

19 Q Okay. And showing you State's Exhibit 87, is that the other side
20 of the sink?

21 A Correct.

22 Q Did you look at all the knives that were in the house?

23 A Correct.

24 Q And showing you State's Exhibit 88, is that some of the knives
25 that you -- that were located?

1 A Yes.

2 Q Okay. Showing you State's Exhibit 89, there's a paper towel
3 holder up there, was there any indication that somebody with blood had
4 touched that?

5 A Not that we could see, no.

6 Q Showing you State's Exhibit 91, what's depicted here?

7 A These are four knives that we found inside the sink that was full
8 of dishes.

9 Q Did it appear that any of these had been, I guess, could be
10 possibly the weapon?

11 A We did not feel that they had been used, no.

12 Q And why not?

13 A Based on the condition that they were in, we didn't find any
14 apparent blood on them. We didn't find any tissue or skin or anything like
15 that on them.

16 Q Now, the kind of blood that you -- we went through in the living
17 room and the kitchen area and the backyard, did it go anywhere else in
18 the house? Like the hallway or upstairs?

19 A Not to my knowledge, no.

20 Q If it had gone, would you have been asked to document it or
21 take samples?

22 A Yes.

23 MR. LONG: I'm going to object, speculation.

24 THE COURT: Overruled.

25 THE WITNESS: Yes, I would have been.

1 BY MS. DIGIACOMO:

2 Q All right. So when you're now in the backyard and you've got
3 that on the fence, did you ever go over to the other side to see if there
4 was anything of evidence in that backyard of 3998 Spruce Fern?

5 A Yes. Looking over the back wall we could see into the
6 neighbor's backyard and we saw a towel in the corner of the backyard.
7 And when we gained access to the backyard, we found a white towel with
8 some blood on it, as well as blood on the east wall of their backyard.

9 Q Okay. So showing you State's Exhibit 119, what is this doing,
10 what is this picture depicting?

11 A This is showing the front of the residence of 3998 Spruce Fern
12 Lane.

13 Q And showing you State's Exhibit 120, what is -- what's being
14 documented here?

15 A This is showing the side gate to the -- to that residence.

16 Q And did you make entry through that side gate?

17 A Yes.

18 Q Showing you State's Exhibit 122, what are we looking at here?

19 A This is a photograph showing the east side of the backyard
20 fence so you can see the gate on the left-hand side and then this shows
21 the sidewalk and that the -- there's a roadway along this side of this
22 property.

23 Q So it shows the exterior of the backyard wall along that street?

24 A Correct.

25 Q Is there anything of significance found along that wall?

1 A There was some blood on the east wall there.

2 Q All right. Showing you 123, is that just looking more down that
3 wall, so 3998 would be on the left side of that fence?

4 A Correct.

5 Q All right. Now, showing you State's Exhibit 124, what was the
6 significance of this photo?

7 A This is still looking towards the backyard of 3998 Spruce Fern,
8 you're standing in the street looking to the west, and this is -- this is the
9 east fence of that property.

10 Q All right. Was there apparent blood found on this wall?

11 A Yes, there was.

12 Q All right. So showing you State's Exhibit 126, what's depicted
13 here?

14 A In this photograph we're now in the backyard of 3998 Spruce
15 Fern and we're looking north and in the background this would be 3999
16 Pistachio Nut.

17 Q So where the light is on, next to the sliding glass door, that is
18 3999?

19 A Correct.

20 Q Okay. And, I guess, is this an overall of the fence and was
21 there any blood found on -- or apparent blood found on this fence?

22 A On this side of the fence?

23 Q On this side?

24 A No.

25 Q Showing you State's Exhibit 127, is this just showing more of

1 that fence in 3998 Spruce Fern?

2 A Yes.

3 Q Okay. Was there apparent blood here?

4 A It looks like there may be there at the top to the left of the chair.

5 Q All right. So showing you State's Exhibit 128, is that more of a
6 close-up of that area?

7 A Correct.

8 Q And can you see the same porch light with 3999 in the
9 background?

10 A Correct.

11 Q All right. Where's the apparent blood? And if you need me to
12 bring the photo up to you, I can.

13 A There's like -- this possibly might be if there's a closer photo.

14 Q Okay. So let me show you 129?

15 A So you can see it here, this red mark here.

16 Q Showing you 130?

17 A Again, you can see right here.

18 Q Okay. And then same with 132?

19 A These red marks here at the top edge of the fence.

20 Q And is 133 a close-up of what was in 132?

21 A It appears so, yes.

22 Q So it appears that there's a couple of blood marks directly, I
23 guess, behind 3999's house on the other side of the fence?

24 A Correct.

25 Q Okay. Now, in this backyard, you said there was also a towel?

1 A Yes.

2 Q Okay. Showing you State's Exhibit 134, what's depicted here?

3 A This is again a view of the backyard of 3998 Spruce Fern
4 looking -- you can see the 3999 residence over here in the top left.

5 Q Okay. And can you see where that towel was in this -- in this --

6 A Yes, it's over here in the corner.

7 Q To the right?

8 A To the right, yes.

9 Q Now, showing you 135, do you see that towel in the corner as
10 well?

11 A Yes.

12 Q Okay. This fence that we're looking at, that goes from where
13 that towel is, all the way over to the right, what's on the other side of that
14 fence?

15 A That's the roadway that we were looking at previously -- in the
16 previous photos.

17 Q So where that towel is, is that the part of the fence that we saw
18 blood on the other side?

19 A Yes. You can see that telephone or that street lamp here and
20 that's why there's that indentation in the fence because it's making room
21 for the pole.

22 Q Okay. All right. So showing you State's Exhibit 138, what are
23 we looking at here?

24 A Here we're just closer to the wall and to the towel. You can,
25 again, see that -- that pole here on the other side of the fence and you can

1 see the towel down here at the bottom.

2 Q Okay. Did you look for any weapons in the back of the Spruce
3 Fern residence?

4 A Yes.

5 Q Did you find anything?

6 A No.

7 Q Okay. Showing you 140, is this just a close-up of that towel that
8 was on the ground?

9 A Correct.

10 Q And what appears to be on it?

11 A There appears to be apparent blood.

12 Q Showing you State's Exhibit 142, is this the fence area -- at the
13 top of the fence area where that rag or that towel would have been at the
14 bottom?

15 A Yes.

16 Q Was there any apparent blood on there?

17 A You can see these lighter things here on the top edge of the
18 fence.

19 Q And showing you 143, do those stains go over the top of the
20 fence?

21 A Correct.

22 Q And then showing you 145, is that just showing the top of that
23 same fence from inside the Spruce Fern backyard looking over to the
24 street side?

25 A Correct. So the right-hand side would be the backyard and the

1 left-hand side you can see some reflections from cars, is the street.

2 Q Okay. Did you collect that towel?

3 A Yes.

4 Q Showing you State's Exhibit 146, what is that?

5 A That is the towel once it's been laid out.

6 Q All right. So once it's been photographed the way it was found,
7 you lay it out to see what it looks like?

8 A Correct.

9 Q All right. And is 147 just the flip side of that towel?

10 A Correct.

11 Q Okay. So you now walked all the scenes, did you ever find any
12 weapon to collect?

13 A No.

14 Q Did you collect any evidence at the scene?

15 A Yes. I collected the cell phone that was in the street by the
16 body. I also collected multiple swabs of the apparent bloodstains that we
17 found along the trail and along the fence.

18 Q As well as the towel you said?

19 A Correct.

20 Q All right. Did you also take buccal swabs from anyone at the
21 scene?

22 A I did.

23 Q And who did you take those from?

24 A I took them from Kyriell Davis and Brittney Turner, I believe.

25 Q Okay. Can you explain to the jury what a buccal swab is?

1 A A buccal swab is a -- it's used as an exemplar for DNA
2 purposes. So it's basically a cotton swab that we rub on the inside of your
3 cheeks, that we're collecting only your DNA. So that way we -- when
4 we're looking at DNA within a case, we can determine if that DNA belongs
5 to any of the people that we've collected the buckle swabs on. So it lets
6 us determine who blood -- who any blood or DNA evidence belongs to.

7 Q Is that typical to do when you do have blood at a scene?

8 A Yes. Whenever we have any type of DNA it's typical for us to
9 collect a buccal swab kit whenever we're able.

10 Q Is that done to see whose blood it is or to exclude somebody
11 from it being their blood?

12 A Correct.

13 Q Okay. Now, showing you -- you said that you went back
14 through and you took swabs of the blood, can you explain what you mean
15 by that?

16 A So when we're collecting blood evidence, we'll typically use a
17 sterile cotton swab and we'll use distilled water to moisten the swab and
18 then we'll swab the bloodstains to collect a sample of that. We'll then
19 package that individually so that it's not in with any other -- or touching
20 any other swabs or anything like that. And then we'll impound that so that
21 later on, if necessary, our forensic scientists can examine that blood to do
22 any type of testing to determine who that belongs to.

23 Q Now, do you take a swab of blood from every piece of blood at
24 a scene?

25 A No.

1 Q Okay. So what is the strategy used to determine what blood
2 you're going to swab?

3 A When we're determining what blood we're going to swab, we'll --
4 if it's in a trail form, we'll typically take from areas where we first find the
5 blood and then progressively, depending on how long the trail is, different
6 lengths along that trail. We're not going to swab every single drop that we
7 find. But we'll swab at regular intervals throughout. Or if they're in
8 different areas, different rooms within the trail, we'll swab those different
9 areas. And if we see any stains that look like they don't fit with what we're
10 seeing with the other bloodstains, as if someone was -- most typical way I
11 can think of is if we find, like, blood drops on top of a body, that would
12 indicate to us that someone was dripping blood on top of them. So we
13 would be interested in that because it's not from a normal flow of blood out
14 of that -- out of the body so.

15 That didn't happen in this case but we're -- that's the type of
16 thing we're looking for throughout scenes is patterns that don't correspond
17 to the rest of the patterns that are around them.

18 Q All right. So with the blood swabs that were taken at the scene,
19 were any taken of the pool of blood that was by the decedent's body?

20 A No. The first swab we took was the AB-1, which was marked,
21 and it was to the southeast of the body.

22 Q So why weren't swabs of the pool of blood by the victim's body
23 swabbed?

24 A If -- because of the trail and the bloodletting from the body, we
25 felt confident that almost all of that blood came from the victim. So we