

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENNETT GRIMES,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Supreme Court Case No. 74419
Mar 13 2018 04:41 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME 1 PAGES 001-236

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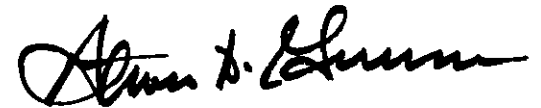
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Bennett Grimes, Case No. 74419

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CLERK OF THE COURT

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Nevada Bar #0010935
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(702) 671-2500
Attorney for Plaintiff

I.A. 09/20/2011
1:30 PM
PD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BENNETT GRIMES,
#2762267

Defendant.

Case No: C-11-276163-1
Dept No: XII

I N F O R M A T I O N

STATE OF NEVADA }
COUNTY OF CLARK } ss.

DAVID ROGER, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That BENNETT GRIMES, the Defendant(s) above named, having committed the crimes of **ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (Felony - NRS 200.010, 200.030, 193.330, 193.165, 193.166); BURGLARY WHILE IN POSSESSION OF A FIREARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (Felony - NRS 205.060, 193.166) and BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (Felony - NRS 200.481.2e; 193.166)**, on or about the 22nd day of July, 2011, within the

County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF TEMPORARY PROTECTIVE ORDER

did then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill ANIKA GRIMES, a human being, by stabbing at and into the body of the said ANIKA GRIMES, with a deadly weapon, to-wit: a knife, in violation of a Temporary Order for Protection against Domestic Violence issued by the District Court, Family Division, of the State of Nevada in Case No. T-11-134754-T.

COUNT 2 - BURGLARY IN VIOLATION OF TEMPORARY PROTECTIVE ORDER

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit assault or battery and/or to commit substantial bodily harm and/or murder, that certain building occupied by ANIKA GRIMES, located at 4325 West Desert Inn, Las Vegas, Clark County, Nevada, in violation of a Temporary Order for Protection against Domestic Violence issued by the District Court, Family Division, of the State of Nevada in Case No. T-11-134754-T.

COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF TEMPORARY PROTECTIVE ORDER


did then and there wilfully, unlawfully, and feloniously use force or violence upon the person of his spouse, former spouse, or any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child, to-wit: ANIKA GRIMES, with use of a deadly weapon, to-wit: a knife, by stabbing at and into the body of the said ANIKA GRIMES with said knife, in violation of a Temporary Order for Protection against Domestic

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1 Violence issued by the District Court, Family Division, of the State of Nevada in Case No.
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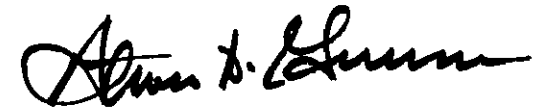
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4
5
6 BY 

7 DAVID ROGER
8 DISTRICT ATTORNEY
9 Nevada Bar #002781

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

12	<u>NAME</u>	<u>ADDRESS</u>
13	BREWER, MICHAEL	LVMPD #8426
14	CUSTODIAN OF RECORDS	CCDC
15	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
16	CUSTODIAN OF RECORDS	LVMPD RECORDS
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18	GRIMES, ANIKA	C/O CC DISTRICT ATTORNEY
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20	HOFFMAN, BOBBY	LVMPD #10069
21	KNEPP, ELAINE/OR DESIGNEE	D.A. INVESTIGATOR
22	NEWMAN, STEPHANIE	16041 KNOLL VIEW CIR VICTORVILL CA
23	TAVAREZ, MICHELLE	LVMPD #8518
24	TOMAINO, DANIEL	LVMPD #8278

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28 LVMPD EV#1107223412
(TK4)



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INFO
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Nevada Bar #002781
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200 Lewis Avenue
Las Vegas, Nevada 89155-2212
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Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

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-vs-

BENNETT GRIMES,
#2762267

Defendant.

Case No: C-11-276163-1

Dept No: XII

A M E N D E D
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A TEMPORARY PROTECTIVE ORDER

did then and there wilfully, unlawfully, and feloniously enter, with intent while in possession of a firearm, to commit assault or battery and/or to commit substantial bodily harm and/or murder, that certain building occupied by ANIKA GRIMES, located at 4325 West Desert Inn, Las Vegas, Clark County, Nevada, in violation of a Temporary Order for Protection against Domestic Violence issued by the District Court, Family Division, of the State of Nevada in Case No. T-11-134754-T.

COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
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did then and there wilfully, unlawfully, and feloniously use force or violence upon the person of his spouse, former spouse, or any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child, to-wit: ANIKA GRIMES, with use of a deadly weapon, to-wit: a knife, by stabbing at and into the body of the said ANIKA GRIMES with said knife, in violation of a Temporary Order for Protection against Domestic

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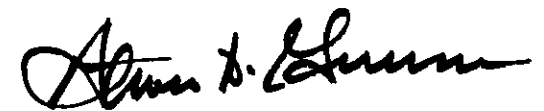
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CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BENNETT GRIMES,
#2762267

Defendant.

Case No: C-11-276163-1

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**SECOND AMENDED
INFORMATION**

STATE OF NEVADA)
COUNTY OF CLARK) ss.

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2 State of Nevada,

3 COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN
4 VIOLATION OF TEMPORARY PROTECTIVE ORDER

5 did then and there, without authority of law, and malice aforethought, willfully and
6 feloniously attempt to kill ANEKA GRIMES, a human being, by stabbing at and into the
7 body of the said ANEKA GRIMES, with a deadly weapon, to-wit: a knife, in violation of a
8 Temporary Order for Protection against Domestic Violence issued by the District Court,
9 Family Division, of the State of Nevada in Case No. T-11-134754-T.

10 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN
11 VIOLATION OF A TEMPORARY PROTECTIVE ORDER

12 did then and there wilfully, unlawfully, and feloniously enter, and thereafter gain
13 possession of a deadly weapon, to-wit: a knife, with intent to commit assault and/or battery
14 and/or to commit substantial bodily harm and/or murder, that certain building occupied by
15 ANEKA GRIMES, located at 4325 West Desert Inn, Las Vegas, Clark County, Nevada, in
16 violation of a Temporary Order for Protection against Domestic Violence issued by the
17 District Court, Family Division, of the State of Nevada in Case No. T-11-134754-T.

18 COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
19 DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM
IN VIOLATION OF TEMPORARY PROTECTIVE ORDER


20 did then and there wilfully, unlawfully, and feloniously use force or violence upon
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22 or marriage, a person with whom he is or was actually residing, a person with whom he has
23 had or is having a dating relationship, a person with whom he has a child in common, the
24 minor child of any of those persons or his minor child, to-wit: ANEKA GRIMES, with use
25 of a deadly weapon, to-wit: a knife, by stabbing at and into the body of the said ANEKA

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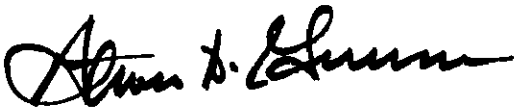
1 GRIMES with said knife, resulting in substantial bodily harm to the said ANEKA GRIMES,
2 in violation of a Temporary Order for Protection against Domestic Violence issued by
3 the District Court, Family Division, of the State of Nevada in Case No. T-11-134754-T.

4
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6
7 BY 
8 DAVID ROGER
9 DISTRICT ATTORNEY
10 Nevada Bar #002781

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(TK4)


CLERK OF THE COURT

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(702) 455-4685
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-11-276163-1
)	
v.)	DEPT. NO. XII
)	
BENNETT GRIMES,)	DATE: June 19, 2012
)	TIME: 8:30 a.m.
Defendant.)	

DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE

COMES NOW, the Defendant, BENNETT GRIMES, by and through Deputy Public Defender NADIA HOJJAT, and hereby files this motion for an Order dismissing the charges against Defendant Bennett Grimes based upon the State's failure to gather evidence.

This Motion is made and based upon all the papers and pleadings on file, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 5th day of June, 2012.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/ Nadia Hojjat
NADIA HOJJAT, #12401
Deputy Public Defender

STATEMENT OF FACTS

Mr. Grimes is currently being charged with one count of Attempt Murder With Use of a Deadly Weapon In Violation of a Temporary Protective Order, one count of Burglary With Possession of a Deadly Weapon in Violation of a Temporary Protective Order, and one count of Battery With Use of a Deadly Weapon Constituting Domestic Violence Resulting in Substantial Bodily Harm in Violation of a Temporary Protective Order. A trial is to be held on June 19, 2012 regarding the aforementioned charges.

The deadly weapon alleged in all of the counts above is a black handled steak knife. The source and handling of the knife will be material facts in dispute in trial. The knife has been in the custody of the Las Vegas Metropolitan Police Department since the time of the alleged incident on July 22, 2011. The knife had apparent blood and fingerprints on it when the police took it into evidence.

No testing was ever conducted to determine who the blood or fingerprints belonged to. Per the State, no fingerprint testing of any kind has ever been conducted on the knife. Additionally, during DNA testing of the knife, state agents deliberately avoided testing the visible blood on the knife to determine who it belonged to.

MEMORANDUM OF POINTS AND AUTHORITIES

THE STATE'S FAILURE TO GATHER EVIDENCE

The Supreme Court of Nevada has previously addressed the State's failure to gather evidence. The Nevada Supreme Court adopted a two-part test, developed by the New Mexico Supreme Court, in the event that the State failed to gather evidence. (see State v. Ware, 118 N.M. 319, 881 P.2d 679 (N.M. 1994)).

"The first part requires the defense to show that the evidence was 'material,' meaning that there is a reasonable probability that, had the evidence been available to the defense, the result of the proceedings would have been different." State v. Daniels, 114 Nev. 261, 267, 956 P.2d 111 (1998). "If the evidence was material, then the court must determine whether the failure to gather

1 evidence was the result of mere negligence, gross negligence, or a bad faith attempt to prejudice
2 the defendant's case." Id. at 267.

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4 "When mere negligence is involved, no sanctions are imposed, but the defendant can still
5 examine the prosecution's witnesses about the investigative deficiencies." Id. at 267. "When
6 gross negligence is involved, the defense is entitled to a presumption that the evidence would have
7 been unfavorable to the state." Id. at 267. "In cases of bad faith, dismissal of the charges may be
8 an available remedy based upon an evaluation of the case as a whole." Id. at 267.

9 10 MATERIAL EVIDENCE

11 In order to satisfy the first prong of the Daniels test, the evidence must be material. In
12 Daniels, appellant was convicted of two counts of first-degree murder with use of a deadly weapon
13 and two counts of robbery with use of a deadly weapon. Id. Appellant relied on a voluntary
14 intoxication defense at trial, and thereafter challenged the conviction because the State did not take
15 a blood sample for testing after his arrest which could have proven that he was intoxicated. Id.
16 The Daniels Court found that such evidence was not material because appellant was not arrested
17 until 6 hours after the alleged ingestion of drugs, and because such drugs would have only been
18 detected in the blood for "a few hours" after ingestion. Id. As such, the evidence was not material
19 because of the speculative nature as to whether it would have prevented a conviction.

20 In the case at hand, fingerprints and blood on the knife are material, as it would affect the
21 proceedings and could lead to differing results. Specifically, proof that the alleged victim, Aneka
22 Grimes, held the knife when she has clearly stated she did not would both impeach her and prove
23 that Bennett Grimes was acting in self defense. Likewise, if Bennett Grimes' blood was on the
24 knife, it would show that he had been injured with it, again providing strong proof of self-defense.

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BAD FAITH

Because the initial prong of the test had not been satisfied, the Daniels Court did not reach the second part of the analysis. They did note, however, that appellant failed to establish negligence, gross negligence, or bad faith in the State's failure to gather blood evidence. Id. at 268. In doing so, the Court deemed that a Detective's decision not to order blood tests was not unjustified because of his deference to a nurse's professional judgment that appellant was not under the influence, and because of appellant's own assertions that he was not intoxicated at the time of his arrest. Id.

In the case at hand, bad faith exists. In adopting the two part test, the Daniels Court concluded that "police officers generally have no duty to collect all potential evidence from a crime scene," but "this rule is not absolute." Id. at 268 (citing State v. Ware, 118 N.M. 319, 881 P.2d 679 (N.M. 1994)).

According to the police reports provided by the State, the officer who impounded the knife, Officer L. Renhard, clearly observed blood and fingerprints on the knife. Indeed, the Crime Scene Investigation Evidence Impound Report states that there was, "...apparent blood and visible prints on the blade."

Additionally, blood was found on Mr. Grimes and he had an injury for which he was transported to the hospital. Police even documented his injuries by taking pictures of them. Clearly both Mr. Grimes and the victim, Aneka Grimes, were injured in the encounter. Proof of who initiated the violence must be collected by police when there is evidence suggesting both parties are injured. Yet here, the report states that the blood and fingerprints on the knife were "apparent" and "visible" and yet neither was collected or tested.

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CONCLUSION

In light of the two part test to determine when dismissal of charges is warranted due to the State’s failure to gather evidence, the charges must be dismissed. In the alternative, the Court should instruct the jury to presume that Aneka Grimes’ fingerprints were on the knife handle and that Bennett Grimes’ blood was on the knife blade.

DATED this 5th day of June, 2012.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/ Nadia Hojjat
NADIA HOJJAT, #12401
Deputy Public Defender

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YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing Motion to Dismiss on for hearing before the Court on the 19th day of June, 2012, at 8:30 a.m., in District Court Department XII.

DATED this 5th day of June, 2012.

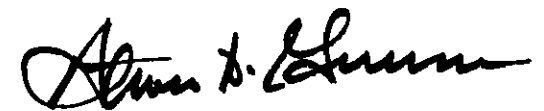
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By /s/ Nadia Hojjat
NADIA HOJJAT, #12401
Deputy Public Defender

I hereby certify that service of DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE, was made this 5TH day of June, 2012 to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE
 PDMotions@ccdany.com

By: /s/ S. Ruano
Employee of the Public Defender's Office



CLERK OF THE COURT

OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
AGNES BOTELHO
Deputy District Attorney
Nevada Bar #11064
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

BENNETT GRIMES,
#2762267

Defendant.

CASE NO: C-11-276163-1

DEPT NO: XII

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO
GATHER EVIDENCE

DATE OF HEARING: 07/19/2012
TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through AGNES BOTELHO, Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Dismiss For Failure To Gather Evidence.

This opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 POINTS AND AUTHORITIES

2 STATEMENT OF FACTS

3 Bennett Grimes (hereinafter "Defendant") is currently charged by way of Second
4 Amended Information with one count of Attempt Murder With Use Of A Deadly Weapon In
5 Violation Of A Temporary Protective Order; Burglary While In Possession Of A Deadly
6 Weapon In Violation Of A Temporary Protective Order; and Battery With Use Of A Deadly
7 Weapon Constituting Domestic Violence Resulting In Substantial Bodily Harm In Violation
8 Of A Temporary Protective Order. The charges stem from Defendant's conduct on July 22,
9 2011.

10 Prior to that day, Defendant and the victim in this case, Aneka Grimes, had been
11 married for over six years. Preliminary Hearing Transcripts ("PHT") p. 7. They separated in
12 2011 and Aneka obtained a Temporary Protective Order on July 7, 2011. Defendant was
13 served with the Order on July 8, 2011.

14 On July 22, 2011, Aneka and her mother arrived home from buying a new car. Id. at
15 8. Upon entering Aneka's apartment, Defendant forced the door open behind them and
16 gained entry into the residence. Id. at 9. Defendant began arguing with Aneka in an attempt
17 to reconcile their relationship. Id. at 10. While they were arguing, Aneka's mother called
18 her husband, who then called the police. Id. at 9. Just prior to police arriving, Defendant
19 snapped. Id. at 13. He grabbed a steak knife from the kitchen and attacked Aneka. Id. He
20 put her in a headlock and began stabbing her. Id. Defendant stabbed Aneka twenty (20)
21 times in the chest, neck, arms, back, face, and head. Id. at 14. His attempt to kill her was
22 only thwarted when Las Vegas Metropolitan Police Department Officer Bobby Hoffman saw
23 Defendant attacking Aneka and tackled him to the ground as he was attempting to plunge the
24 knife into Aneka's neck. Id. at 30-31.

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1 **ARGUMENT**

2 **I. DEFENDANT’S MOTION SHOULD BE DENIED BECAUSE HE FAILS**
3 **TO SHOW THAT THE STATE FAILED TO GATHER EVIDENCE**

4 In the instant case, Defendant argues that failed to gather evidence by not submitting
5 the steak knife Defendant used to stab Aneka twenty (20) times for DNA or fingerprint
6 analysis. This argument lacks merit.

7 “In a criminal investigation, police officers generally have no duty to collect all potential
8 evidence.” Randolph v. State, 117 Nev. 970, 987, 36 P.3d 424, 435 (2001). In this case, it is
9 important to note two points. First, it is clear that neither the State nor the Las Vegas
10 Metropolitan Police Department have a duty to collect and test all evidence. Second, the
11 State in no way failed to preserve evidence, as the knife used in this horrific attack has been
12 impounded as evidence and is thus available for testing, should the Defendant desire to have
13 such testing conducted and if Defendant should believe that such testing is material to his
14 defense. The State is under no obligation to investigate Defendant’s case or to conduct
15 testing that would assist Defendant in proffering a self-defense claim.

16 **II. DEFENDANT’S MOTION SHOULD BE DENIED BECAUSE HE FAILS**
17 **TO SHOW THAT THE FINGERPRINT OR DNA ANALYSIS IS**
18 **MATERIAL EVIDENCE**

19 In the instant case, Defendant argues that “fingerprints and blood on the knife are
20 material, as it would affect the proceedings and could lead to different results” and
21 “provid[e] strong proof of self-defense.” This argument lacks merit and the State disagrees
22 with Defendant’s analysis.

23 In order for the Court to find that some form of sanctions against the State are
24 warranted, Defendant must satisfy a two part test. Randolph v. State, 117 Nev. 970, 987, 36
25 P.3d 424, 435 (2001). He must first show that the evidence was material. Evidence will be
26 deemed material if “there is a reasonable probability that the result of the proceedings would
27 have been different if the evidence had been available.” Id. “Second, if the evidence was
28 material, the court must determine whether the failure to gather it resulted from negligence,
gross negligence, or bad faith.” Id.

1 In this case, the Defendant fails to show that the DNA and/or fingerprint testing
2 would yield material evidence, even in light of his alleged self-defense claim. Neither DNA
3 nor fingerprint testing would impeach Aneka and “prove that Bennett Grimes was acting in
4 self-defense,” as it cannot explain away the fact that Defendant stabbed Aneka twenty (20)
5 times in the neck, chest, and back and was seen by responding officers stabbing Aneka when
6 they entered the home nor can such testing provide a definitive answer as to who held the
7 knife first or identify the initial aggressor, as Defendant claims in his motion.

8 Moreover, the existence of Aneka’s fingerprint on the knife does not prove
9 Defendant’s alleged self-defense claim. Aneka’s fingerprint could very well be on the knife
10 for various reasons, such as the fact that the knife belonged to her and was located in her
11 kitchen, or that she may have grabbed the knife in an effort to defend herself from the
12 vicious attack. In addition, the fact that Aneka’s blood may be on the knife only proves the
13 obvious, which is that she suffered substantial injury due to Defendant’s brutal attack and
14 her blood transferred to the weapon he used.

15 Lastly, the existence of Defendant’s blood on the knife does not immediately
16 establish a self-defense claim either, as he most likely received his injuries from the very
17 knife he used to attack Aneka and sustained said injuries during the attack. It is highly
18 probable that Defendant’s injury was the result of the fact that he used a steak knife to
19 repeatedly stab Aneka and may have cut himself as he attacked her. Also, it is reasonable
20 that Defendant would have blood on his person, as he had just stabbed his wife twenty (20)
21 times.

22 In this case, it is clear that there is no reasonable probability that the result of the
23 proceedings would be different if the testing is conducted or the evidence is made available.
24 Again, if the Defendant believes that such evidence is material to his case in chief, the
25 evidence has been preserved and is available for him to conduct the testing he is seeking.

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1 **III. DEFENDANT’S MOTION SHOULD BE DENIED BECAUSE HE FAILS**
2 **TO SHOW THAT THE STATE ACTED IN BAD FAITH BY NOT**
3 **TESTING THE KNIFE FOR APPARENT AND VISIBLE BLOOD AND/OR**
4 **FINGERPRINTS**

5 In the instant case, Defendant’s argues that the State acted in bad faith by failing to
6 gather and/or preserve and/or collect “proof of who initiated the violence when there is
7 evidence suggesting that both parties are injured.” This argument is entirely without merit.

8 As stated above, this Court need not reach the second prong of the analysis because
9 Defendant fails to show that the requested testing is material. Should this Court choose to
10 reach the second prong of the test, it is important to note that dismissal is only a proper
11 remedy if Defendant can prove that the State acted in bad faith and the Court decides that
12 such a remedy is proper based on the case as a whole. Randolph v. State, 117 Nev. 970, 987,
13 36 P.3d 424, 435 (2001). As explained below, dismissal is not appropriate because there is
14 no evidence of bad faith in this case.

15 As already stated above, the State did gather, preserve and collect the knife Defendant
16 used to attempt to kill Aneka. Thus, the evidence Defendant wishes to test is still available
17 and the State did not act in bad faith. Again, the State elected not to test the knife for
18 fingerprint and DNA evidence as it is not material to the State’s case and in no way would
19 such evidence prove “who initiated the violence.” Such a conclusion is for the trier of fact to
20 decide after hearing all of the evidence in this case. It is a rather bold claim to assert that the
21 State acted in bad faith in this particular case. While apparent and visible fingerprints and
22 blood were noted on the knife, the State’s decision not to submit the knife for fingerprint or

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1 DNA testing is not indicative of any kind of bad faith. The evidence was not lost or
2 destroyed or made unavailable to Defendant and it is certainly not bad faith to refuse to
3 conduct Defendant's investigation for him. As such, Defendant's motion should be denied.

4 DATED this 18TH day of July, 2012.

5 Respectfully submitted,

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

9 BY /s/ Agneg Botelho
10 AGNES BOTELHO
11 Deputy District Attorney
12 Nevada Bar #11064

13 CERTIFICATE OF ELECTRONIC FILING

14 I hereby certify that service of the above and foregoing, was made this 18th day of
15 July, 2012, by Electronic Filing to:

16 R. HILLMAN, Deputy Public Defender

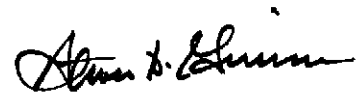
17 E-mail Address: hillmaRR@clarkcountyNV.gov

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19 By: /s/ D. Jason

20 Secretary for the District Attorney's Office

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28 AG/djj


CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

BENNETT GRIMES,

Defendant.

CASE NO. C276163

DEPT. NO. XII

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

TUESDAY, AUGUST 14, 2012

ROUGH DRAFT
RECORDER'S TRANSCRIPT OF
DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE

APPEARANCES:

For the State:

AGNES M. BOTELHO
SHAWN A. MORGAN
Deputies District Attorney

For the Defendant:

NADIA HOJJAT
DARIN F. IMLAY
Deputies Public Defender

RECORDED BY: KERRY ESPARZA, COURT RECORDER

1 LAS VEGAS, NEVADA, TUESDAY, AUGUST 14, 2012, 9:50 A.M.

2 THE COURT: State of Nevada versus Bennett Grimes, C276163. He's
3 present. He is in custody. It's on for defendant's motion to dismiss for failure to
4 gather evidence.

5 MS. HOJJAT: Good morning, Your Honor, Nadia Hojjat, number 12401, on
6 behalf of Mr. Grimes. And, Your Honor, if we may approach about --

7 MR. MORGAN: Various issues.

8 THE COURT: Sure.

9 MR. MORGAN: Thank you.

10 [Bench conference as follows:]

11 MR. MORGAN: Hi, Judge, how you doing?

12 THE COURT: Good, thank you.

13 MR. MORGAN: So, Roger, I don't know if you heard, is having some medical
14 issues.

15 MS. HOJJAT: Roger Hillman is scheduled, he's the first chair on this.

16 THE COURT: You'll tell me later, right?

17 MR. IMLAY: Right.

18 THE COURT: Okay.

19 MS. HOJJAT: He will not be back in the office until August 30th, the trial is set
20 to go on August 28th right now. So the defense would have been ready to go, we
21 were anticipating announcing ready at calendar call; however, these medical issues
22 were unforeseen and we are going to be asking for this case to be pushed back to
23 the next stack because Mr. Hillman will be out for a significant period of time and
24 won't be able to prep in the weeks before the trial.

25 THE COURT: Does it need to be assigned to somebody else?

1 MR. IMLAY: No, he'll be back on the 30th.

2 THE COURT: Okay.

3 MR. MORGAN: Judge, here's my concern, between us, September 14th is
4 going to be my last day in the office.

5 THE COURT: Where are you going?

6 MR. MORGAN: I'm moving to Portland.

7 THE COURT: Shut up.

8 MR. MORGAN: Yeah, just for change of scenery.

9 THE COURT: What?

10 MR. MORGAN: Going to -- I'm just ready for a change of scenery, I guess.

11 MR. IMLAY: He's tired of the desert.

12 THE COURT: Wow, geez, he's tired of the judges?

13 MR. IMLAY: The desert.

14 MR. MORGAN: No, no, no.

15 MR. IMLAY: Yeah, that's what he's --

16 MR. MORGAN: Never.

17 MR. IMLAY: -- that what he told me, but --

18 MR. MORGAN: Yeah, so that being the case, you know, I've had a long
19 relationship with this victim. I've had the case from the beginning. She is ready for
20 this case to go forward. We speak monthly. And I really am invested in this case
21 and would like to try it before I leave.

22 THE COURT: And when do you leave?

23 MR. MORGAN: September 14th is my last day.

24 THE COURT: Well, I don't know what you want me to do, I can't force --

25 MR. MORGAN: I understand.

1 THE COURT: -- Mr. Hillman to come back ill.

2 MR. MORGAN: Well, if he comes back on the 30th, I would request that we
3 either kick the trial a week or two weeks at the latest, two weeks is as far as we can
4 do it for me to be able to still try it. That would be my request.

5 MS. HOJJAT: And we do oppose that request just because Mr. Hillman's
6 going to be out for such a long period of time.

7 THE COURT: Yeah, this is an attempt murder case. No one's invoked?

8 MR. MORGAN: No, everyone's waived.

9 THE COURT: Okay. I mean, I'm not going to try --

10 MR. MORGAN: Okay. All right.

11 THE COURT: -- force the case to trial. I'm sorry.

12 MR. MORGAN: It's okay. Just the victim is really, you know, she -- this case
13 just hangs over her head and she's -- she called me --

14 THE COURT: I understand.

15 MR. MORGAN: -- yesterday, actually, before Ms. Hojjat said, and she's like,
16 Are we really going to go this time, and I really need to get closure on this and move
17 on and so, just -- I would just -- was hoping to be able to push it.

18 THE COURT: Okay. But I have Mr. Hillman out.

19 MR. MORGAN: I understand.

20 THE COURT: And now you moving to Portland.

21 MR. MORGAN: I understand.

22 THE COURT: So I have a double problem.

23 MR. MORGAN: Okay.

24 THE COURT: So I have, I mean, I'm assuming there's a D.A.?

25 MR. MORGAN: The D.A.'s not an issue. Ms. Botehlo's very competent.

1 THE COURT: Okay.

2 MR. MORGAN: And she will take this --

3 THE COURT: So she is going to --

4 MR. MORGAN: -- and run with it.

5 THE COURT: All right.

6 MR. MORGAN: Yeah.

7 THE COURT: Okay. So you want me to -- do you want to rule on the
8 motion?

9 MS. HOJJAT: I mean, at this point, I know that Mr. Grimes would feel more
10 comfortable if Mr. Hillman was here for the motion. We had initially kicked the
11 motion anticipating Mr. Hillman would be back. We didn't anticipate the health
12 issues. So if we could possibly push it back to after the 30th so that Mr. Hillman can
13 be present for the motion.

14 THE COURT: Okay. But at this point we have to --

15 MR. MORGAN: Vacate the trial date.

16 THE COURT: -- vacate the trial date.

17 MR. MORGAN: Yeah.

18 THE COURT: Okay. I don't even know if I could give you two weeks into
19 September, that's probably my civil stack.

20 MR. MORGAN: I see. Okay.

21 THE COURT: I probably would do it, if everybody was in agreement, but I
22 don't think that's fair to Mr. Hillman.

23 MR. MORGAN: I know.

24 THE COURT: If he's coming back from health issues, to say, oh, and by the
25 way, I want you ready in a week to do an attempt murder case.

1 MR. MORGAN: I understand. I don't want to be insensitive.

2 THE COURT: And this was a stabbing, right?

3 MR. MORGAN: Yes.

4 MS. HOJJAT: Yes, Your Honor.

5 MR. MORGAN: I don't want to be insensitive to Mr. Hillman, I just, I feel I
6 have to speak on behalf of the victim and voice my concerns.

7 THE COURT: Okay. And the problem, well, I mean, what's the problem with
8 this motion? I'm told that the knife is in evidence. If you want to test it, test it. So, I
9 mean, I don't think it's the State's responsibility to test it for fingerprints for all this
10 stuff that you think it should be tested for. So if you want to sit around and wait for it,
11 you know, I think that's your -- your problem

12 MS. HOJJAT: And, Your Honor, our concern on this, I've spoken with people
13 who understand the science a little bit better than I do, and I guess my
14 understanding is that at this point it's too late to test it because fingerprints
15 evaporate over time apparently. And it's been so long at this point that it was in the
16 custody of the State, we were under the impression that it would be tested because
17 DNA testing was done on the knife, that basically at this point a test wouldn't yield
18 accurate results of whose fingerprints were on there.

19 THE COURT: Okay. Well, who are you relying upon? Experts? Or other
20 people in your office?

21 MS. HOJJAT: Other people in the office, Your Honor.

22 THE COURT: Okay. If you want to test it, I'll allow you to have, you know, I'm
23 assuming it's bagged somewhere.

24 MR. MORGAN: Uh-huh.

25 MS. BOTELHO: Yes, it is.

1 THE COURT: If you want to test it, you can have it. I don't know if that's true
2 or not. I don't know -- I don't want to rely upon what other people say in the office,
3 but certainly --

4 MS. HOJJAT: Right.

5 THE COURT: -- if you want that knife and you want to test it for fingerprints,
6 DNA, whatever it is because you think it goes to your self-defense, feel free. I'll
7 allow you to have it.

8 MS. HOJJAT: Okay.

9 THE COURT: You just have to waive any chain-of-custody issue.

10 MS. HOJJAT: And, Your Honor, at this point I guess my --

11 THE COURT: Do you want it?

12 MS. HOJJAT: -- my request at this point, Your Honor, would be if we can
13 continue the motions so I could actually speak with -- I can go back and contact an
14 expert and find out whether it really is that the fingerprints at this point would have
15 evaporated and it's not -- because I don't want to test it and then the State's going to
16 come back and say --

17 THE COURT: I don't think an expert's going to say, I can't pull any prints off
18 of that right now. They're going to want to look at it and see if they can because --

19 MR. IMLAY: We may be able to give a time period as far as the oils.

20 THE COURT: -- they need to look at -- they need to look at the type of knife.
21 They need to look at the type of surface.

22 MS. HOJJAT: Right.

23 THE COURT: There's a lot of things that go into --

24 MS. HOJJAT: Right.

25 THE COURT: -- whether a print --

1 MS. HOJJAT: And the --

2 THE COURT: -- even can be found on something.

3 MS. HOJJAT: -- the concern I have at this point, Your Honor, is that if we test
4 it and the prints aren't found, there would be an element of burden shifting there
5 because self-defense does still require the State to prove beyond a reasonable
6 doubt that wasn't self-defense. And so --

7 THE COURT: Sure, it does. Absolutely.

8 MS. HOJJAT: -- it's our position it was their burden to test that knife, and they
9 didn't do it. And for us to now test it would be taking on a rule of investigation that
10 they should have done and then they're going to turn around and use that against --

11 THE COURT: Okay.

12 MS. HOJJAT: -- us, all these months later.

13 THE COURT: That's fine. So you're telling me you don't want the knife
14 tested? That's fine.

15 MS. HOJJAT: At this point I'd need to consult with Mr. Hillman to see what he
16 wants. He is technically the first chair on this case. If we could potentially just push
17 off this --

18 THE COURT: Because I'm not sure I agree with you that it's the State's
19 responsibility to test it for fingerprints to somehow overcome your theory of
20 self-defense. If the fact that they didn't test it for fingerprints, the jury says, oh, wow,
21 we believe, you know, it's self-defense; therefore, not guilty, great. But --

22 MS. HOJJAT: Right.

23 THE COURT: -- I'm trying to tell you so that if you want to test it, I'm going to
24 allow you to test it.

25 MS. HOJJAT: Okay.

1 THE COURT: You don't have to.

2 MS. HOJJAT: Right.

3 THE COURT: Because sometimes that takes away an argument that you
4 want to make that they should have tested it, they had it, and they didn't.

5 MS. HOJJAT: Right. At this point if I could consult with Mr. Hillman before
6 informing the Court of whether -- as to whether we'd like to have it tested or not, just
7 because I don't -- I don't feel like I should be the one making that decision.

8 THE COURT: Okay. Then I'll continue it for one week.

9 MS. HOJJAT: Thank you.

10 MS. BOTELHO: Thank you.

11 THE COURT: For that. And I guess --

12 MR. MORGAN: I don't think Mr. Hillman'll be back in a week.

13 MS. HOJJAT: Could we potentially continue after --

14 THE COURT: Well, you can call him on the phone. No? Okay.

15 MS. HOJJAT: There -- I do think --

16 MR. IMLAY: Could we do it --

17 MS. HOJJAT: -- the issues might be --

18 MR. IMLAY: -- yeah, can we do it after the 30th?

19 MS. HOJJAT: -- stress and heart related, if we can push to after the 30th? I
20 just don't want to burden him with this case right now. I'm sorry.

21 MR. MORGAN: The first week of September, I think probably be best for him.

22 MR. IMLAY: Yeah, that would be best.

23 MR. MORGAN: And the State has no opposition to that obviously.

24 THE COURT: Someone else can probably make this decision. Mr. Imlay
25 could way easy make this decision.

1 MS. HOJJAT: Okay. In that case, a week is fine.

2 THE COURT: I mean, I know you could look at this and make this decision.
3 You could make this decision. I don't think you need Mr. Hillman to make this -- it's
4 basically a strategy decision.

5 MS. HOJJAT: Yeah, and the problem, because Mr. Hillman is the first chair
6 and it's an attempt murder case, that's why I just didn't want to, for P.C.R.
7 purposes --

8 MR. IMLAY: Right.

9 MS. HOJJAT: -- somebody outside the case making the decision, but
10 whatever Your Honor prefers.

11 MR. IMLAY: Yeah, we're okay with that, one week's fine.

12 THE COURT: One week, okay.

13 MS. BOTELHO: Thank you.

14 THE COURT: But I'll give you a new trial date now.

15 MR. MORGAN: Thank you.

16 THE COURT: Okay?

17 MR. MORGAN: Thank you, Your Honor.

18 MS. HOJJAT: Thank you.

19 MS. BOTELHO: Thank you.

20 [End of bench conference]

21 THE COURT: All right, Mr. Grimes, based upon the representations made by
22 your lawyers, it appears as though Mr. Hillman's going to be out 'til after August 30th,
23 so I'm going to have to vacate your trial date. And I'll reset it at this -- as soon as
24 possible on the next -- the next stack. Is October going to be okay?

25 MS. BOTELHO: Yes, Your Honor.

1 THE COURT: Okay.

2 THE COURT CLERK: Calendar call will be October 2 at 8:30; jury trial will be
3 October 9th at 1:30.

4 MS. HOJJAT: Thank you, Your Honor.

5 THE COURT: Okay. And then we're going to continue this motion for one
6 week for the defense to let me know whether they would like the opportunity to test
7 that knife.

8 MR. IMLAY: Thank you, Your Honor.

9 MS. HOJJAT: Thank you, Your Honor.

10 MS. BOTELHO: Thank you, Your Honor.

11 THE COURT CLERK: August 23, 8:30.

12 MR. MORGAN: Thank you, Your Honor.

13 PROCEEDING CONCLUDED AT 9:59 A.M.

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21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

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SARA RICHARDSON

Court Recorder/Transcriber

DISTRICT COURT
CLARK COUNTY, NEVADA

Defendant.

DEPT. XII

AA 0033

1 THURSDAY, AUGUST 23, 2012 AT 9:03 A.M.

2
3 THE COURT: State versus Grimes, C276163.

4 THE DEFENDANT: Your Honor.

5 THE COURT: He's present. He's in custody.

6 MR. MORGAN: Thank you. Shawn Morgan for the State. Ms. Hojjat is the
7 person from the Public Defender's Office who wants to be here for the opposition. I
8 saw her down in DC 17. I've got the calendar in Adair that starts at 9:30, so I have
9 to be there at 9:15. I'm just concerned. I don't know if the Court --

10 THE COURT: You're late.

11 MR. MORGAN: -- would pass it for a week?

12 MS. DIEFENBACH: We were going to ask for September 10th for when Mr.
13 Hillman came back as well.

14 THE COURT: That's fine.

15 MS. DIEFENBACH: Does the Court -- all right with the Court?

16 THE DEFENDANT: Excuse me, Your Honor, I don't know what happened in
17 the proceedings the last time I was here on the 14th, is there anyway I can be
18 notified of that?

19 THE COURT: Mr. Hillman's -- what? You don't know what happened at the
20 proceedings?

21 THE DEFENDANT: Yeah, the last moment I was here, at the last
22 appearance.

23 THE COURT: Your attorney is -- your attorney is out.

24 THE DEFENDANT: Yeah, but there was something that --

25 THE COURT: Right, they had to tell me at the bench what was wrong with

1 your attorney.

2 THE DEFENDANT: Yeah, I thought that they --

3 THE COURT: He's out.

4 THE DEFENDANT: No, I thought they sent --

5 THE COURT: It's none of your business why he's out.

6 THE DEFENDANT: I thought they had sent it to the lab.

7 THE CORRECTIONS OFFICER: Quiet Grimes.

8 THE DEFENDANT: I'm talking to Your Honor.

9 THE CORRECTIONS OFFICER: You're done.

10 THE DEFENDANT: Excuse me?

11 THE COURT: Okay. What? Go ahead. What is it?

12 THE DEFENDANT: Oh, I thought I had sent out for lab results or something
13 like that?

14 THE COURT: No. There's no talk about any lab results. There's a motion to
15 dismiss for failure to gather evidence at this point.

16 THE DEFENDANT: Okay.

17 THE COURT: I mean that's just -- that's -- I mean I'm looking at the notes;
18 there was a conference at the bench. Based on representations made by Counsel, I
19 ordered the matter continued. Oh, I did say to determine whether or not the defense
20 is seeking to have the alleged weapon tested? I probably did make some remarks
21 'cause I know that's in my head.

22 MS. DIEFENBACH: Okay.

23 THE COURT: That it -- the weapon is in custody and I know that's the basis
24 of the motion. If you want to have the weapon tested, that might be an other issue
25 you might want to bring before the Court.

1 MS. DIEFENBACH: And unfortunately, Your Honor, I am merely standing in
2 just for procedural purposes --

3 THE COURT: Okay.

4 MS. DIEFENBACH: -- so I'm not really familiar at all with the case.

5 THE COURT: I'm not sure it's really a failure to gather evidence, than a
6 failure to conduct every test known to mankind on the weapon.

7 MR. MORGAN: I think Ms. Hojjat wanted to discuss with Mr. Hillman the
8 issues that Your Honor brought up at the bench, whether or not they were going to
9 seek testing of the weapon.

10 THE COURT: Okay.

11 MS. DIEFENBACH: And I'm not -- and I'm not certain, what we're doing with
12 that, Your Honor I'm sorry.

13 THE COURT: Okay.

14 MS DIEFENBACH: But we are asking for it to be passed so that both
15 attorneys can be present for that.

16 THE COURT: All right. But I think I probably did make some representation
17 to the parties that if they wanted the weapon tested I would probably allow that.

18 THE DEFENDANT: Okay. Yeah, I was just wondering if it took place or not
19 or if it came back with any results or anything?

20 THE COURT: No, they didn't -- the Defense hasn't even asked for it yet.

21 THE DEFENDANT: Okay.

22 THE COURT: You want September 4th, is that what you --

23 MS. DIEFENBACH: September 10th, please.

24 THE COURT: Oh, September 10th.

25 THE COURT CLERK: That's a Monday, can we do it Thursday?

1 THE COURT: That's a Monday. So yeah, uh-huh.

2 MS. DIEFENBACH: Oh, I'm sorry.

3 THE COURT CLERK: September 13th Thursday.

4 MS. DIEFENBACH: That will be -- that'll be fine. Thank you so much.

5 MR. MORGAN: Thank you, Your Honor.

6 [Proceedings concluded at 9:05 A.M.]

7 ***

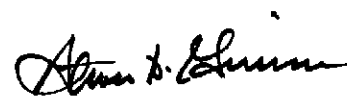
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9

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

13 

14 THERESA SANCHEZ
15 Court Recorder/Transcriber
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CLERK OF THE COURT

1 RTRAN

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 BENNETT GRIMES,

9 Defendant.

CASE NO. C276163

DEPT. NO. XII

10
11 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

12 THURSDAY, SEPTEMBER 13, 2012

13 **ROUGH DRAFT**
14 **RECORDER'S TRANSCRIPT OF**
15 **DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE**

16
17
18
19 APPEARANCES:

20 For the State:

21 AGNES M. BOTELHO
22 SHAWN A. MORGAN
Deputies District Attorney

23 For the Defendant:

24 NADIA HOJJAT
R. ROGER HILLMAN
Deputies Public Defender

25 RECORDED BY: KERRY ESPARZA, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 13, 2012, 9:17 A.M.

2 THE COURT: State of Nevada versus Bennett Grimes, C276163. He's
3 present. He's in custody.

4 MS. HOJJAT: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MS. HOJJAT: Nadia Hojjat, number 12401, and Roger Hillman --

7 MR. HILLMAN: 3076.

8 MS. HOJJAT: -- for Mr. Grimes. This is on for the defense's motion to
9 dismiss for failure to gather and preserve evidence. Your Honor, basically in this
10 case the knife was impounded by officers and the impound report clearly states that
11 there was apparent blood and visible fingerprints.

12 THE COURT: I got all that. So let me ask you a question --

13 MS. HOJJAT: Yes.

14 THE COURT: -- do you want it tested?

15 MS. HOJJAT: Your Honor, it's our --

16 THE COURT: Do you want it tested because we're before trial?

17 MS. HOJJAT: No, Your Honor. We do not want it tested because it's our
18 position that that is burden-shifting on the State's part. I know that the State
19 mentioned that in their motion, but they had an obligation --

20 THE COURT: Okay, that's fine. You don't want to test it --

21 MS. HOJJAT: No, Your Honor.

22 THE COURT: -- because I don't think you have a basis to bring this motion.

23 MS. HOJJAT: And Your Honor did indicate that at a bench conference last
24 time we were in court, I would like to just make my record on this issue.

25 THE COURT: Okay. I'm sorry.

1 MS. HOJJAT: No worries.

2 THE COURT: I just thought we could cut to the chase. So I apologize.

3 MS. HOJJAT: And I apologize, we just -- we'd like to make our record, this is
4 an attempt murder case.

5 THE COURT: Sure.

6 MS. HOJJAT: At this point, a knife was impounded, the knife had visible
7 fingerprints, visible blood on it. It's been sitting in impound for a year now.
8 Fingerprints, based on the -- basically the material, the oil, the density of the oil, they
9 evaporate, a year later, the reason that the defense doesn't want it tested at this
10 point is because the State had an obligation to test it one year ago when those
11 fingerprints were fresh and could actually be lifted and could actually be compared.

12 At this point, first of all, it's burden-shifting for them to suggest that we
13 have an obligation to test it; second --

14 THE COURT: I didn't say you had an obligation.

15 MS. HOJJAT: Yes.

16 THE COURT: So let me make that clear. I said I would allow it.

17 MS. HOJJAT: Yes, Your Honor.

18 THE COURT: If that's what the defense wanted.

19 MS. HOJJAT: And we weren't presenting --

20 THE COURT: So I'm not quite sure how it could be material if you don't even
21 want to know what it says or what the results are.

22 MS. HOJJAT: Your Honor, the problem is, we'd like to know what it said a
23 year ago. We don't want to know what it says today when fingerprints have
24 evaporated and the evidence isn't, basically, in proper condition.

25 THE COURT: There's no evidence that those fingerprints have been

1 evaporated or all that stuff that you have just said.

2 MS. HOJJAT: The problem is that fingerprints --

3 THE COURT: Or that the integrity of the prints have been --

4 MS. HOJJAT: -- do erode, they do evaporate.

5 THE COURT: -- compromised.

6 MS. HOJJAT: And I wasn't suggesting that Your Honor had suggested that
7 you were burden-shifting, but that the State did suggest in their motion that we had
8 an obligation to test that if we want it tested. And it's our position that that's not the
9 case, the State does have a burden to rebut a self-defense argument beyond a
10 reasonable doubt.

11 THE COURT: Yes, they do.

12 MS. HOJJAT: And so it is still their burden. When we've got a case when
13 both individuals had injuries on them, both individuals were bleeding when the police
14 arrived, there's a knife, there's blood on the knife, there's fingerprints on the knife.
15 It's been sitting there for a year now.

16 THE COURT: One person had 20 stab wounds and the other one didn't.

17 MS. HOJJAT: And, Your Honor, we're actually rebutting that as well because
18 it's my understanding there weren't 20 any wounds. I think --

19 THE COURT: Okay

20 MS. HOJJAT: -- the medical reports indicated maybe there were pokes and
21 scratches totaling 17.

22 THE COURT: There were what? Say that again, what did you call it?

23 MS. HOJJAT: They were stab wounds, there were lacerations, pokes, there
24 was -- they weren't stab wounds --

25 THE COURT: Pokes?

1 MS. HOJJAT: -- is our understanding of reading the medical report.

2 THE COURT: Okay. Lacerations --

3 MS. HOJJAT: Lacerations --

4 THE COURT: -- stab wounds are kind of the same thing to me, but go ahead.

5 MS. HOJJAT: -- lacerations less than three millimeters deep, Your Honor.

6 THE COURT: Okay.

7 MS. HOJJAT: And so at this point, we're presenting to Your Honor that

8 either -- Your Honor has indicated that you will not be dismissing this case pursuant
9 to our motion, but we would be asking for a jury instruction to the jury that they must
10 presume that the fingerprints of the victim, Anika Grimes, would have been on that
11 knife had it been tested.

12 THE COURT: Based on what? I mean, because the State is -- the State
13 does not have the obligation to test the blood, they have no obligation to test the
14 prints. They have the burden of proof, okay, and you certainly can point that out at
15 the time of trial, and the jury can consider that. But there is no rule that says they
16 have to test every single piece of evidence and gather every single -- they, I mean,
17 in fact the case law is contrary, the police are not required to do all that.

18 MS. HOJJAT: And, Your Honor, certainly they're not required to test every
19 single thing in every single area or that could possibly exist within a case.

20 THE COURT: Uh-huh.

21 MS. HOJJAT: But when there's a weapon that is clearly the weapon that the
22 State is going to be alleging was the instrument used in the case, when they put in
23 their own impound report, Apparent blood and visible prints on the blade --

24 THE COURT: Uh-huh.

25 MS. HOJJAT: -- then at that point they, it's our position they do have an

1 obligation. The case law certainly says that there's not necessarily an obligation to
2 go out far and wide following every possible unlikely lead that exists, but when
3 there's evidence sitting in their laps, yes, they do have an obligation to collect and
4 preserve and test it. That's why *Daniel's* motion exists, that's why *Daniel* case --
5 *Daniel's* case law exists because there is a minimum burden of testing.

6 THE COURT: But it was collected, it was preserved.

7 MS. HOJJAT: And when it's been sitting in impound for a year, Your Honor,
8 fingerprints do evaporate. That's the science of fingerprints. They, depending on
9 the oils in the person's hand, depending on the person, we have no way of knowing
10 whether her fingerprints were on there a year ago or not. And that's the worst part, if
11 we have it tested today, it's not simply that it might come back with one person's or
12 not another person's, we have no way of knowing whether something is evaporated
13 or not, there's just no way to test that. But we know that that does happen. We
14 know that today a fingerprint might be here, it might be sitting in impound for a year,
15 and a year later, that fingerprint will no longer be there.

16 And that's why it's -- there is no remedy for the defense at this point in
17 testing that knife. We've been left with no remedy in this situation. And that's why
18 we think that we are entitled to a jury instruction --

19 THE COURT: Because you believe that the fingerprints on the knife would
20 have been the victim's?

21 MS. HOJJAT: Yes, Your Honor.

22 THE COURT: The victim alleged in here?

23 MS. HOJJAT: Yes, Your Honor.

24 THE COURT: And it's -- was this her house?

25 MS. HOJJAT: It was her house. However --

1 THE COURT: And her kitchen?

2 MS. HOJJAT: -- she testified --

3 THE COURT: And her utensils?

4 MS. HOJJAT: -- Your Honor, she testified at preliminary hearing that the knife
5 had just been washed and that she did not touch it and that she never held it. And
6 so her fingerprints should not be on that knife. If she told the truth there, her
7 fingerprints should not be on that knife. If her fingerprints were on that knife, that
8 would be both impeachment evidence and evidence going to show that Mr. Grimes
9 acted in self defense.

10 THE COURT: Anything from the State?

11 MS. BOTELHO: Your Honor, is there a particular point you'd like me to
12 address? I set forth in our motion, first of all, the Court already pointed out the
13 State, police are not under any obligation to test or gather every single piece of
14 evidence. The defense is pointing out to the fact that the evidence or fingerprints
15 may have evaporated, I would contest that. It's basically an assumption. They want
16 to know that, you need to test it. We've -- there have been times where we've been
17 able to get fingerprints years and years and years later. I mean, there's just no
18 factual basis for that particular claim. No one's looked at it.

19 And as far as the claim of burden-shifting, we're not shifting anything. It
20 is the State's contention that the defense wants to know whether or not the victim's
21 blood and fingerprints are on the knife to assert or proffer or support a claim of
22 self-defense. If that is the case, they need to test the knife. They need to go
23 forward and make the necessary arrangements and get that done. The State does
24 not need it for our case in chief. I understand we have burden of proving, not only
25 beyond a reasonable doubt the elements of this particular crime, but also to rebut

1 the self-defense claim. I get that. We don't think it's necessary for that.

2 Yes, it has been in impound for a year, which also gives credence to
3 the fact that they've had a year, they wanted it tested, they could have done so. It is
4 readily available, we could have made the necessary arrangements.

5 And with regard to the victim's fingerprints being on the knife, there are
6 lots of other ways, I mean, this is pure argument for the jury, there are other ways
7 that the victim's fingerprints could have been there. How about the fact that she was
8 stabbed, poked, or given lacerations 20 different times? She could have grabbed
9 the knife to defend herself from this really vicious and brutal attack. Arguments that
10 can be made if they want this particular evidence to support self-defense, it's
11 available.

12 MS. HOJJAT: And, Your Honor, to clarify, I -- we don't want to know
13 whether -- what fingerprints are on the knife today, we want to know what
14 fingerprints were on that knife a year ago. And there's no way to know what
15 fingerprints were on that knife a year ago. And that evidence that is potentially,
16 highly exculpatory is *Brady*. And that means they did have an obligation to collect it
17 because exculpatory evidence, they do have obligation to collect and hand over to
18 defense.

19 THE COURT: Okay. At this time the Court's going to deny the motion. State
20 can prepare the order.

21 MS. BOTELHO: Thank you, Your Honor.

22 MS. HOJJAT: And, Your Honor, I'm sorry, one more thing, just for the record,
23 the State did say that we had a year to test this knife, we were unaware that this
24 knife was not being tested for fingerprints and DNA. We saw an impound sheet that
25 said it's being sent to the lab for testing, and we assumed when that impound sheet

1 says, Obvious, visible fingerprints and blood, that that testing was going to be done.
2 We found out a week or two before this motion was filed. As soon as we got the
3 results back, we saw that this testing hadn't been done, we filed the motion. So, it's
4 an inaccurate statement to say that we've had all this time to test it. We were under
5 the impression that testing was being done based on the impound sheet.

6 THE COURT: Okay. But they didn't test it the day they took it in, which is the
7 day you wanted to know, right?

8 MS. HOJJAT: It's my understanding the testing was done pretty soon
9 thereafter, Your Honor.

10 THE COURT: Which was the day you wanted -- you wanted to know the day
11 that knife was taken into evidence whose prints were on it. And any -- any day after
12 that, you say the prints would have evaporated.

13 MS. HOJJAT: Well, Your Honor, over time prints evaporate, and certainly
14 after a year, yes, they -- they could very well likely have evaporated. However, it's
15 our understanding the testing was done fairly soon thereafter. We didn't receive the
16 results until just a month or two ago when this motion was filed. And so we were
17 under the impression --

18 THE COURT: What testing did they do?

19 MS. HOJJAT: They did DNA skin cell testing, but not the test -- DNA of the
20 blood, they avoided the blood deliberately.

21 THE COURT: What was the result?

22 MS. HOJJAT: I don't have the DNA results right now, Your Honor.

23 THE COURT: I thought you said you got the results?

24 MS. HOJJAT: I don't have them currently at this moment in court. But I do
25 have the results.

1 THE COURT: You don't remember what they were?

2 MS. HOJJAT: I believe the DNA --

3 THE COURT: Whose DNA?

4 MS. HOJJAT: -- results indicated that only Ms. Grimes's skin cells were on
5 the knife handle.

6 THE COURT: Okay. All right.

7 MS. HOJJAT: Which would support our contention that she was the only one
8 holding that knife because this is not her blood, this is her skin cells.

9 THE COURT: Okay. All right. Then we'll see you on October 2nd.

10 MS. HOJJAT: Thank you.

11 MR. MORGAN: Thank you, Your Honor.

12 MS. BOTELHO: Thank you, Your Honor.

13 THE COURT: Thank you.

14 PROCEEDING CONCLUDED AT 9:27 A.M.

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21 ATTEST: Pursuant to Rule 3C(9) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25



SARA RICHARDSON

Court Recorder/Transcriber

● ORIGINAL ●

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

OCT 10 2012

BY: 
SUSAN JOVANOVIICH, DEPUTY

C-11-276163-1
AINF
Amended Information
1981077



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BENNETT GRIMES,
#2762267

Defendant.

Case No: C-11-276163-1
Dept No: XII

THIRD AMENDED
INFORMATION

STATE OF NEVADA

COUNTY OF CLARK

} ss.

Steven B. Wolfson -ML

~~DAVID ROSSER~~; District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That BENNETT GRIMES, the Defendant(s) above named, having committed the crimes of ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (Felony - NRS 200.010, 200.030, 193.330, 193.165, 193.166); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (Felony - NRS 205.060, 193.166) and BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (Felony - NRS 200.481.2e; 193.166), on or about the 22nd day of July, 2011, within the County of Clark, State of Nevada, contrary to the form, force and

1 effect of statutes in such cases made and provided, and against the peace and dignity of the
2 State of Nevada,

3 COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN
4 VIOLATION OF TEMPORARY PROTECTIVE ORDER

5 did then and there, without authority of law, and malice aforethought, willfully and
6 feloniously attempt to kill ANEKA GRIMES, a human being, by stabbing at and into the
7 body of the said ANEKA GRIMES, with a deadly weapon, to-wit: a knife, in violation of a
8 Temporary Order for Protection against Domestic Violence issued by the District Court,
9 Family Division, of the State of Nevada in Case No. T-11-134754-T.

10 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN
11 VIOLATION OF A TEMPORARY PROTECTIVE ORDER

12 did then and there wilfully, unlawfully, and feloniously enter, and thereafter gain
13 possession of a deadly weapon, to-wit: a knife, with intent to commit assault and/or battery
14 and/or to commit substantial bodily harm and/or murder, that certain building occupied by
15 ANEKA GRIMES, located at 9325 West Desert Inn, Apt. 173, Las Vegas, Clark County,
16 Nevada, in violation of a Temporary Order for Protection against Domestic Violence issued
17 by the District Court, Family Division, of the State of Nevada in Case No. T-11-134754-T.

18 COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
19 DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM
IN VIOLATION OF TEMPORARY PROTECTIVE ORDER


20 did then and there wilfully, unlawfully, and feloniously use force or violence upon
21 the person of his spouse, former spouse, or any other person to whom he is related by blood
22 or marriage, a person with whom he is or was actually residing, a person with whom he has
23 had or is having a dating relationship, a person with whom he has a child in common, the
24 minor child of any of those persons or his minor child, to-wit: ANEKA GRIMES, with use
25 of a deadly weapon, to-wit: a knife, by stabbing at and into the body of the said ANEKA
26 GRIMES with said knife, resulting in substantial bodily harm to the said ANEKA GRIMES,

27 ///

28 ///

1 in violation of a Temporary Order for Protection against Domestic Violence issued by the
2 District Court, Family Division, of the State of Nevada in Case No. T-11-134754-T.

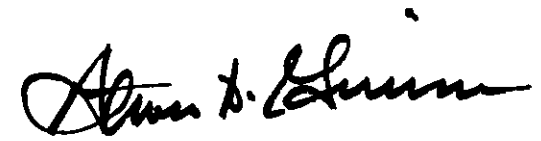
3
4 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
5

6
7 BY 
8 AGNES BOTELHO
Deputy District Attorney
Nevada Bar #011064
9

10
11 Names of witnesses known to the District Attorney's Office at the time of filing this
12 Information are as follows:

13	<u>NAME</u>	<u>ADDRESS</u>
14	BREWER, MICHAEL	LVMPD #8426
15	CUSTODIAN OF RECORDS	CCDC
16	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
17	CUSTODIAN OF RECORDS	LVMPD RECORDS
18	GALLUP, BRADLEY	LVMPD #8729
19	GRIMES, ANIKA	C/O CC DISTRICT ATTORNEY
20	HODSON, RODNEY	LVMPD #3711
21	HOFFMAN, BOBBY	LVMPD #10069
22	KNEPP, ELAINE/OR DESIGNEE	D.A. INVESTIGATOR
23	NEWMAN, STEPHANIE	16041 KNOLL VIEW CIR VICTORVILL CA
24	TAVAREZ, MICHELLE	LVMPD #8518
25	TOMAINO, DANIEL	LVMPD #8278

26
27 DA#11F13012X/djj/L-2
28 LVMPD EV#1107223412
(TK4)



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C276163-1
)	DEPT NO. XII
VS.)	
)	
BENNETT GRIMES,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

WEDNESDAY, OCTOBER 10, 2012

APPEARANCES:

For the State:	AGNES M. BOTELHO, ESQ. Deputy District Attorney PATRICK J. BURNS, ESQ. Deputy District Attorney
For the Defendant:	RALPH HILLMAN, ESQ. Deputy Public Defender NADIA HOJJAT, Esq. Deputy Public Defender

RECORDED BY KERRY ESPARZA, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

UNCERTIFIED ROUGH DRAFT

1 LAS VEGAS, NEVADA, WEDNESDAY, OCTOBER 10, 2012, 10:55 A.M.

2 * * * * *

3 (Outside the presence of the prospective jury panel.)

4 THE COURT: Good morning. State of Missouri versus
5 Bennett Grimes, C276163. Mr. Bennett is -- I'm sorry, Mr.
6 Grimes is present. He's in custody. Both sides ready to go?

7 MS. BOTELHO: The State is ready, Your Honor.

8 MR. HILLMAN: Yes, Judge.

9 THE COURT: Okay. Did you all state your
10 appearances?

11 MS. BOTELHO: Not yet. Agnes Botelho for the State,
12 Your Honor.

13 MR. BURNS: Patrick Burns for the State.

14 MR. HILLMAN: Roger Hillman.

15 MS. HOJJAT: Nadya Hojjat for the Defendant.

16 THE COURT: Okay. The jury panel is here and ready
17 to go, they're lined up. Does anybody want to have anything
18 outside the presence?

19 MS. HOJJAT: Your Honor, we did have a motion in
20 limine.

21 THE COURT: Yes, that's right. We do have to address
22 that. You know, I don't know if we have to address that now.
23 And did the State file an opposition?

24 MS. BOTELHO: We did not file an opposition. Mr.
25 Hillman and I spoke in my office during the --

1 THE COURT: I seem to agree.

2 MS. BOTELHO: -- and we spoke about certain things;
3 however there might have been a misunderstanding as to what
4 Ms. Hojjat's position was. All we were asking with regard to
5 the motion in limine, what Mr. Hillman and I spoke about, Your
6 Honor, is the State is definitely in agreement that we do not
7 need to bring out the acts or the facts of what led to the
8 TPO; but the fact there was a temporary restraining order in
9 effect at the time of this offense is certainly relevant.
10 It's probative.

11 It's actually one of the charged elements in two of
12 our offenses and the fact that he -- there was a TPO was
13 certainly talked about in the 9-1-1 calls as the reason both
14 the victim and her mother, you know, state to the police of
15 wanting the police to come in and remove the defendant from
16 the apartment.

17 Also the fact that there was a TPO in effect also
18 goes towards -- it's relevant towards the burglary charge;
19 burglary while in possession of a deadly weapon in violation
20 of a TPO certainly goes towards his intent. He knew he wasn't
21 supposed to be there. There was a TPO in effect certainly
22 that told him he should not be anywhere near the victim or the
23 apartment.

24 So yes, we agree we do not need to talk about the
25 facts. If the jurors have questions about it, we certainly

1 can tell them that it's not appropriate to talk about the
2 underlying facts of the TPO, just that that it was in effect.

3 MS. HOJJAT: And, Your Honor, basically the defense's
4 position is we will stipulate to the fact of the appeal for
5 the fact that it is elements that have been charged. We
6 understand the State does have a burden of proving beyond a
7 reasonable doubt everything they're charging, and so we will
8 stipulate to those elements to the fact of the TPO.

9 The reason we don't want the jury to hear about it is
10 because it's our position that it -- it's actually far more
11 prejudicial than probative in the sense that as soon as the
12 jurors hear there's a TPO, the first question in their mind is
13 going to be, Well, what caused the TPO? What was going on?
14 Was it violent behavior?

15 And this jurisdiction does allow jurors to ask
16 questions. It's more than likely we're going to get a
17 question. Obviously because there's been no bad acts motion
18 here the question won't be answered and then the juror's going
19 to be sitting there wondering why the question -- why the
20 question can't be answered. It just -- it opens a Pandora's
21 box.

22 We think that the fact that Mr. Grimes shouldn't have
23 been there is very apparent from the fact that he shoved his
24 way into the apartment, and we're not disputing the fact that
25 he did shove his way into that apartment. The fact that

1 somebody wouldn't -- somebody saying, "leave my apartment,"
2 this person shoved their way in, they're saying, "get out, get
3 out," he's not getting out, it makes perfect sense to call
4 9-1-1.

5 The fact that there wasn't a TPO there doesn't
6 matter. Nobody's going to be sitting there going, Well, why
7 did you call 9-1-1? No. The facts are clear that he shoved
8 his way into this apartment. He was told to leave repeatedly.
9 He didn't leave. And so it's not particularly probative as to
10 the motive of the victim calling 9-1-1, but it is highly
11 prejudicial in what the jurors are going to be thinking about
12 Mr. Grimes and what they're going to be speculating on when
13 they should be listening to evidence.

14 THE COURT: And it's an enhancement.

15 MS. BOTELHO: Yes, Your Honor.

16 THE COURT: I mean, really because I -- I reviewed
17 all the statutes and it's just -- it's clearly just an
18 enhancement.

19 MS. BOTELHO: And one other thing, Your Honor --

20 THE COURT: [Inaudible] two enhancements in some of
21 the charges.

22 MS. BOTELHO: We do. And another thing that I'd just
23 like to point out factually is that the victim and the
24 defendant were married at the time, and that could also come
25 into play. I mean, they're married; but she's kicking him out

1 of an apartment. A lot of --

2 THE COURT: Were they married and living together or
3 were they married and separated?

4 MS. BOTELHO: They were married, separated --
5 separated because of the TPO and --

6 THE COURT: Well, not probably because of the TPO;
7 probably because of the act that led to the TPO.

8 MS. BOTELHO: Well, separate because of the acts that
9 led to the TPO, absolutely. I understand, Your Honor, it is
10 an enhancement, but again it goes towards burglary, it
11 explains the entire story. Everyone -- the victim, the
12 mother, the dad, they all make reference to the fact that
13 there was a TPO during the 9-1-1 calls, that is why they were
14 in kind of enhanced fear or an enhanced state of suspicion
15 when the Defendant came into the home. He knew he was not
16 supposed to be there and -- the Court's indulgence.

17 And, Your Honor, Mr. Burns just pointed out the fact
18 that, you know, with regard to the enhancement, the jury
19 should get to hear the facts and circumstances that would
20 prove the enhancement. And it is certainly -- certainly
21 probative and we can cure the, you know, the prejudicial --
22 the overly prejudicial nature, of course, by not getting into
23 the facts and just simply stipulating that there was one in
24 effect; on that particular day he was not to be there near
25 that home or near the victim.

1 THE COURT: Anything else?

2 MS. HOJJAT: Judge, as I said, we're willing to
3 stipulate to it so that the jury doesn't need to hear that
4 there's a TPO. Simply whatever -- if he's found guilty of
5 something, whatever he's found guilty of, we are basically
6 pleading him guilty to the area of the TPO, we're willing to
7 do that.

8 THE COURT: If you stipulated to a TPO, the jury
9 doesn't have to hear that, so I'm not quite sure -- a private,
10 secret stipulation?

11 MS. HOJJAT: Yes, basically what we're asking for is
12 for it to just be removed from the charging document, removed
13 from the jury verdict. Simply it will be something --
14 essentially because a violation of a TPO is and in itself a
15 misdemeanor, and it's also an enhancement in this case on
16 these charges. Basically we would plead him guilty to the
17 enhancement of the TPO. The jury doesn't need to hear about
18 it. Doesn't need to be in the charging document. Doesn't
19 need to be on the jury verdict.

20 THE COURT: Do you know what that means plead him
21 guilty, you know, plead him guilty to the deadly weapon
22 enhancement too? I mean, I think this is more of an
23 enhancement issue. I know you made the analogy to the
24 ex-felon in possession of a firearm, I'm not quite sure it's
25 the same thing. You know, I don't know if it's that.

1 It's not like a DUI Third where we don't want the
2 jury to know the person has multiple DUIs, therefore they're
3 here on a felony DUI. I mean, it's -- it's the facts. I
4 guess I'm trying to figure out how you think I can keep the
5 facts from the jury? I mean, the State charged it like this,
6 there was a TPO in place, the law allows for enhancement.

7 If you violate the TPO, just -- it appears to me it's
8 the same thing as a deadly weapon, it's a one to 20. It's the
9 same thing. It's an enhancement. I mean, the gang
10 enhancement, you have to have expert testimony on that, right?
11 I don't know of any enhancement where we don't let the jury
12 hear about it. They're going to hear about the deadly weapon.
13 We let them hear about gangs. We let them hear about --
14 here's the TPO.

15 MS. HOJJAT: And, Judge, it is our position that this
16 is like the DUI Third. We believe that this is more closely
17 analogous to that. I do believe I looked -- looked at the
18 statute --

19 THE COURT: If I do that, in a Post Conviction your
20 client's going to raise, The judge should have let it go to
21 the jury and let the jury make that determination.

22 MS. HOJJAT: Your Honor, it's my understanding --

23 MS. BOTELHO: Absolutely, according to appenda --
24 appendi [phonetic].

25 THE COURT: Uh-huh.

1 MS. HOJJAT: It's my understanding that looking at
2 the law, and perhaps I looked at this wrong, but it's my
3 understanding that there's only one enhancement per charge
4 that can actually be toward a greater sentence.

5 THE COURT: I totally agree with you.

6 MS. HOJJAT: And there's already more -- there's
7 already one enhancement on each of the charges that the TPO is
8 attached to.

9 THE COURT: I agree with you. If he is convicted of
10 attempt murder with use of a deadly weapon in violation of a
11 temporary protective order, yes, one enhancement could apply.
12 They're exactly the same. They're both one to 20. But, yeah,
13 it's my belief it's my decision which enhancement to use at
14 the time of sentencing if the jury found both enhancements.

15 MS. HOJJAT: And that's correct, that's true, Your
16 Honor; however in this case given that there's a knife at
17 issue, and nobody's disputing there's a knife at issue, we're
18 disputing Mr. Bennett's or Mr. Grimes' intent and the facts
19 that led to the injuries, but there's no dispute of a weapon.
20 If he is found guilty of attempt murder or battery, the deadly
21 weapon is going to be there. This enhancement is -- he will
22 be found guilty of the enhancement if he's found guilty of the
23 attempt murder or the battery.

24 THE COURT: I know from previous motions you're going
25 to contend that he has a complete defense to this, that he was

1 acting in self defense.

2 MS. HOJJAT: Yes, Your Honor.

3 THE COURT: And that the victim was actually the
4 perpetrator.

5 MS. HOJJAT: Yes, Your Honor, and that's precisely
6 what we're contending, but if the jury doesn't believe us,
7 essentially if the jury finds that the State has met their
8 burden of proof beyond a reasonable doubt of the attempt
9 murder or the battery, the deadly weapon is somewhat attached.

10 They can't find an attempt murder without the deadly
11 weapon in this case because the only reason they're finding
12 the attempt murder is that they found that he used the knife;
13 that he was the one in possession of the knife and that he
14 used the knife. And so basically the fact of the TPO is
15 simply something there that is going to lead the jury to
16 presume prior bad acts by Mr. Grimes.

17 THE COURT: Anything else?

18 MS. BOTELHO: I'll submit to the Court, Your Honor.

19 THE COURT: Okay. At this time the motion is denied.

20 MS. HOJJAT: You Honor, in that case -- I'm sorry, I
21 didn't mean to interrupt.

22 THE COURT: Go ahead.

23 MS. HOJJAT: I apologize.

24 THE COURT: No, go ahead.

25 MS. HOJJAT: In that case, Your Honor, we would just

1 ask for what Ms. Botelho indicated the State was willing to
2 agree to, which is not to allow the facts that led up to the
3 TPO.

4 THE COURT: No, I agree.

5 MS. HOJJAT: Thank you.

6 THE COURT: I agree, I don't think that's relevant.
7 Everyone ready? Okay. Does everyone have a jury list?

8 MS. BOTELHO: Yes, Your Honor.

9 THE COURT: Okay.

10 (In the presence of the prospective jury panel.)

11 THE COURT: Okay. No, no. Is he 22? Are you -- is
12 he --

13 THE MARSHAL: Yes, Judge.

14 THE COURT: Okay. Then he should be in the first
15 seat. So it should be 22, 23, 24, 25, 26. Bear with us.
16 There's a reason for this. It's just so all the attorneys and
17 myself know which seat you're in. Right next to him. No, no.
18 That's okay. Just stop and put them in order. 22, 23, 24,
19 25. Officer, are there only four seats there? There's one
20 more. Please bear with us. There's one more seat. And 27
21 starts on the back row. Sorry you ended up by yourself over
22 there.

23 THE MARSHAL: Judge, I apologize for the --

24 THE COURT: No, no, no problem. No problem. Do the
25 parties stipulate to the presence of the jury venire?

1 MS. BOTELHO: Yes, Judge.

2 MR. HILLMAN: Yes, Judge.

3 MS. HOJJAT: Yes, Judge.

4 THE COURT: Okay. Good morning, ladies and
5 gentlemen, and welcome to Department 12 of the Eighth Judicial
6 District Court. You have been summoned here today to serve as
7 jurors in a criminal case entitled State of Nevada versus
8 Bennett Grimes, Case C276163. Before I do allow the attorneys
9 to speak to you and give you a brief statement of the facts,
10 I'm going to introduce some of the members of the staff and
11 tell you what they do.

12 In front of me is Kerry. Kerry is a court recorder
13 in Department 12. She takes down everything that is being
14 said in the courtroom at all times. At some point she'll be
15 called upon by myself to prepare a written transcript, which
16 means she will listen to the audio and she will transcribe
17 verbatim everything that is being said.

18 So if you're called upon to address the Court or the
19 lawyers, I ask that you please state your name and the badge
20 number that's been provided to you by the Jury Commissioner
21 before responding so we have an accurate and clear record of
22 who is speaking at all times. To my right is Susan. Susan's
23 the clerk of the court.

24 In Department 12 it's her job to keep the official
25 record. She takes the official minutes. She takes charge of

1 the evidence that will be introduced at the time of trial.
2 You know, during trial and during jury selection you will
3 probably see Susan doing other things because she also has to
4 do other work while we're here in trial as well.

5 You've already met the court marshal in Department
6 12. He takes charge of the security. He's also the person
7 that takes charge of the jury panel. Throughout this process
8 of selecting the jury and after we do have a jury selected,
9 myself, the attorneys, the parties, the staff in Department
10 12, with the exception of the officer, we're not permitted to
11 have any communication with you whatsoever outside of the
12 courtroom.

13 So if there's anything that you wish to address to
14 the Court or the lawyers, you do it inside the courtroom on
15 the record with everyone present. The court marshal is the
16 only one that's permitted to have any communication with you
17 outside of the courtroom. The court marshal is the person
18 that will come -- just like he brought you in today, he'll be
19 the person when we take recesses that comes and gets you and
20 brings you back in when we're about to begin court again.

21 All right. At this time I'm going to allow the State
22 of Nevada to introduce themselves. They're going to give you
23 a brief statement of the facts that they believe will come out
24 at the time of trial. They're also going to read their
25 witness list. I ask you to pay close attention to the names

1 of the witnesses who will be called to testify in this matter
2 because at some point I will ask you if you're familiar with
3 any of the witnesses who will be called upon to testify. Go
4 ahead.

5 MS. BOTELHO: Thank you, Your Honor. Good morning,
6 ladies and gentlemen, potential jurors. My name is Agnes
7 Botelho. I am a Deputy District Attorney. I, along with my
8 co-counsel, Patrick Burns, are the prosecutors in this
9 particular case. In this case the State is alleging that the
10 Defendant, Bennett Grimes, on January -- excuse me -- July 22,
11 2011, entered the home or the apartment of his wife, Anika
12 Grimes, unlawfully and in the home he stabbed her multiple
13 times.

14 To prove our case, the State intends to call the
15 following witnesses, the following are officers with the Las
16 Vegas Metropolitan police Bobby Hoffman, Sam Diaz, Lori
17 Crickett, Rodney Hodson, Christopher Embree, Michael Perkins,
18 Steven Thaxton, Louise Renhardt, Kenny Delzer, Michael Brewer,
19 Daniel Tomaino, Michelle Tavarez, Kellie Gauthier, Bradley
20 Gallup, Julie Marschner, Christopher Boddie, Justin Zinger,
21 Celina Cruz, Jeffrey Lang, Tracy Brownlee.

22 And the following are witnesses that are not
23 officers: Anika Grimes, Stephanie Newman, Earl Newman, Doctor
24 Wasden, Doctor Beverly Hughes, Doctor Deborah Kuhls, Doctor
25 Rachel Weber, Mark Zucaro, and Melanie Robinson. Thank you.

1 THE COURT: Thank you.

2 MS. BOTELHO: Thank you, Your Honor.

3 THE COURT: Mr. Hillman.

4 MR. HILLMAN: Thank you, Judge. Good morning, ladies
5 and gentlemen. My name is Roger Hillman, I'm an attorney.
6 This is Nadya Hojjat, she's co-counsel in this case. This is
7 our client, Bennett Grimes. Witnesses that we may call are:
8 Julie Marschner, Khris -- and I can't read his last name --
9 Soonthornsawad, and Joclyn Fornero. Thank you.

10 THE COURT: Okay. At this time the clerk is going to
11 call the roll of the panel of prospective jurors. When your
12 name is called, if you will please say "present" or "here."

13 (Clerk called the roll of prospective jury panel.)

14 THE COURT: Anyone whose name was not called by the
15 clerk of the court? Let the record reflect no response from
16 the panel. If you all will please stand and raise your hands
17 so the clerk can administer the oath.

18 (Clerk administered the oath.)

19 THE COURT: Thank you. Ladies and gentlemen, we're
20 about to commence what is called voir dire examination. The
21 term "voir dire" means to tell the truth. During this process
22 you'll be asked questions bearing upon your ability to sit as
23 fair and impartial jurors. To accomplish this result, various
24 questions will be asked of you by myself or counsel for the
25 parties.

1 On occasion some of these questions will seem
2 somewhat personal. While we do not wish to unnecessarily pry
3 into your personal lives, the questions are necessary so that
4 counsel and the Court can make an intelligent determination as
5 to your capabilities to serve fairly and impartially.

6 I want you to know that myself and the attorneys and
7 all other persons involved in this case are concerned with
8 having this matter tried by jurors who are completely
9 open-minded, neutral, objective, and unbiased in their
10 thinking. [Inaudible] discretion is best in neutral
11 [inaudible] examination of jurors.

12 As I stated previously, I will personally conduct the
13 voir dire, but I will give the attorneys the opportunity to
14 participate in the questioning. It is important that you know
15 the significance of full, complete, and honest answers to all
16 the questions we're about to ask you.

17 I caution you not to try to hide or withhold anything
18 which might indicate bias or prejudice of any sort by any of
19 you. Should you fail to answer truthfully or if you hide or
20 withhold anything touching upon your qualifications, that fact
21 may tend to contaminate your verdict and subject you to
22 further inquiry even after discharged as jurors.

23 Your decision should be based upon all of the
24 evidence during the trial, not based upon preconceived
25 prejudice or bias. I will conduct a general voir dire

1 examination of all of you while you're seated in the audience.
2 After those general questions, the clerk will call names that
3 I instruct her to using the order provided to us by the Jury
4 Commissioner to fill the jury box.

5 At some point during the process of selecting a jury
6 the attorneys for both sides have the right to ask that a
7 particular person not serve as a juror. These requests are
8 called challenges. There are two types of challenges:
9 Challenges for cause and peremptory challenges.

10 Challenge for cause means that a juror has been
11 excused because his or her answers to some of the voir dire
12 questions indicate that he or she would have a difficult time
13 in giving a fair and impartial hearing to the case. I will
14 ask the attorneys to pass or waive prospective jurors for a
15 cause challenge when they are done questioning the prospective
16 juror.

17 A peremptory challenge means that a juror can be
18 excused from duty without counsel having to give a reason for
19 the excusal. Please do not be offended should you be excused
20 by either of the challenge procedures. They are simply a part
21 of the procedure designed to protect the rights of the parties
22 under our system of government.

23 If you wish to respond to a question individually and
24 in the affirmative, please raise your hand, state your name,
25 and provide us with the badge number that was given to you by

1 the Jury Commissioner.

2 Is there anyone on the panel who has ever been
3 convicted of a felony? The record will reflect no response
4 from the panel.

5 Is there anyone who is not a United State citizen?
6 The record will reflect no response from the panel.

7 Is there anyone who is not a resident of Clark
8 County, Nevada? The record will reflect no response from the
9 panel.

10 Is there anyone who has such a sympathy, prejudice,
11 or bias relating to age, religion, race, gender or national
12 origin, that you feel would affect your ability to be an
13 open-minded, fair, and impartial juror? Go ahead, sir. You
14 can stand up, that would be helpful. Thank you very much.
15 Your name and badge number?

16 PROSPECTIVE JUROR NO. 040: Antonio Jackson.

17 THE COURT: You have to speak up a little bit, Mr.
18 Jackson.

19 PROSPECTIVE JUROR NO. 040: Antonio Jackson.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR NO. 040: Badge number 040. My
22 reason --

23 THE COURT: Yeah, I asked you a question and you rose
24 -- I asked a question of the panel and you raised your hand.

25 PROSPECTIVE JUROR NO. 040: Right. My reason I

1 wouldn't put another black male in jail for something I truly
2 believe he didn't do so.

3 THE COURT: Well, would that apply to anyone
4 regardless of their race? You wouldn't want to put anyone in
5 jail for something they didn't do?

6 PROSPECTIVE JUROR NO. 040: [Inaudible.]

7 THE COURT: Is that a yes?

8 PROSPECTIVE JUROR NO. 040: Yes.

9 THE COURT: Okay. Don't worry. I'm not going to ask
10 anybody to put anybody else in jail. Does that make you feel
11 better?

12 PROSPECTIVE JUROR NO. 040: I guess.

13 THE COURT: Okay. Do you have any prejudice or bias
14 that you want to discuss with me?

15 PROSPECTIVE JUROR NO. 040: Well, my bias is like I
16 said as far as what this case represents as far as another
17 black man getting accused of doing something, I don't
18 [inaudible].

19 THE COURT: I'm sorry.

20 PROSPECTIVE JUROR NO. 040: I don't think he did it
21 so --

22 THE COURT: Who?

23 PROSPECTIVE JUROR NO. 040: I wouldn't be able to --
24 I wouldn't be able to give my -- I wouldn't be able to give my
25 -- I'd be biased.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 040: I just wouldn't want to
3 see [inaudible].

4 THE COURT: Okay. You said "I don't think he did
5 it."

6 PROSPECTIVE JUROR NO. 040: Right. I wouldn't -- it
7 would be very hard.

8 THE COURT: All right. I want to go back to that "I
9 don't think he did it."

10 PROSPECTIVE JUROR NO. 040: Right.

11 THE COURT: Do you know the Defendant? Do you know
12 Mr. Grimes?

13 PROSPECTIVE JUROR NO. 040: I do not.

14 THE COURT: Do you know anything about this case?

15 PROSPECTIVE JUROR NO. 040: No.

16 THE COURT: Have you heard any evidence --

17 PROSPECTIVE JUROR NO. 040: [Inaudible.]

18 THE COURT: -- that you've already come to a
19 conclusion?

20 PROSPECTIVE JUROR NO. 040: I wouldn't be able to --
21 I wouldn't -- just on the fact that he's black, I wouldn't be
22 able to say, Okay, regardless of what certain testimony was.

23 THE COURT: So regardless of what is happening in
24 this courtroom, you could not sit on a panel and be fair and
25 impartial if the Defendant is African American?

1 PROSPECTIVE JUROR NO. 040: Correct.

2 THE COURT: Okay. Because?

3 PROSPECTIVE JUROR NO. 040: Too many in prison now
4 for a lot of things they probably didn't do.

5 THE COURT: Okay. So you have a belief there's
6 people in prison for things they didn't do --

7 PROSPECTIVE JUROR NO. 040: Right.

8 THE COURT: -- and therefore you're going to right
9 that wrong in this case?

10 PROSPECTIVE JUROR NO. 040: I wouldn't.

11 THE COURT: Okay. If you sat on this panel and the
12 State proved their case by proof beyond a reasonable doubt,
13 would you be able to return a verdict of guilty?

14 PROSPECTIVE JUROR NO. 040: No.

15 THE COURT: Okay. Why not? The State proves their
16 case, they've met their burden of proof, you would say "not
17 guilty"?

18 PROSPECTIVE JUROR NO. 040: Yes.

19 THE COURT: And let a person that did it go?

20 PROSPECTIVE JUROR NO. 040: I mean, I would have to
21 -- I would have to have seen him actually do it. I mean, like
22 okay [inaudible].

23 THE COURT: Okay. If there was a white person
24 sitting there, would you have to have seen that person do it
25 in order to find them guilty?

1 PROSPECTIVE JUROR NO. 040: Yes.

2 THE COURT: Okay. So it doesn't matter?

3 PROSPECTIVE JUROR NO. 040: No.

4 THE COURT: What -- okay, so it's really not a race
5 thing?

6 PROSPECTIVE JUROR NO. 040: No.

7 THE COURT: It's, you know, you don't think you can
8 be fair and impartial unless you actually witnessed an
9 incident?

10 PROSPECTIVE JUROR NO. 040: Correct.

11 THE COURT: Okay. And you don't know Mr. Grimes?

12 PROSPECTIVE JUROR NO. 040: No.

13 THE COURT: Okay. And if you were a witness to the
14 crime, do you think we'd let you sit on the jury panel?

15 PROSPECTIVE JUROR NO. 040: Probably not.

16 THE COURT: Okay. But you believe you'd have to be a
17 witness to a crime in order to be a fair and impartial juror?

18 PROSPECTIVE JUROR NO. 040: Exactly.

19 THE COURT: Okay. Thank you. You can have a seat.
20 Okay. Anyone else that wishes to respond to that question?

21 The record will reflect no further response from the panel.

22 Are there any of you who are acquainted with the
23 Defendant in this matter, Mr. Grimes? Anyone that knows Mr.
24 Bennett Grimes? The record will reflect no response from the
25 panel.

1 Are there any of you who know his attorneys? The
2 record will reflect no response from the panel.

3 Are there any of you who are acquainted with the
4 Deputy District Attorneys who are assigned to prosecute this
5 matter? Go ahead. Your name and badge number?

6 PROSPECTIVE JUROR NO. 008: Janet Robertson, 008. I
7 work for the District Attorney's Office.

8 THE COURT: Okay. What do you do?

9 PROSPECTIVE JUROR NO. 008: Legal secretary.

10 THE COURT: For who?

11 PROSPECTIVE JUROR NO. 008: Tommy Panda.

12 THE COURT: Okay. You can have a seat. Anyone else?
13 The record will reflect no response from the panel.

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

21 Are there any of you on the panel who are acquainted
22 with any of the witnesses whose names were previously
23 mentioned by the attorneys? Anyone who is familiar with any
24 of the witnesses who will be called to testify? The record
25 will reflect no response from the panel.

1 We do expect this case to take about 2 to 3 days. We
2 expect to be done by Friday, but when I say that I always like
3 to make sure that jury panels know I'm making an estimate, my
4 best estimate. So if we didn't finish on Friday, we would be
5 back here on Monday.

6 But based upon my communication with the attorneys
7 and my familiarity with the case, I think that we will be done
8 by Friday. You can have -- are you okay, sir? Do you like --
9 do you want to stand up?

10 PROSPECTIVE JUROR NO. 052: Yes, ma'am.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 052: I can only sit like 15
13 minutes at a time. I had a back operation so I can't sit for
14 any length of time.

15 THE COURT: And that's 0052, Mr. Ernest Thompson.

16 PROSPECTIVE JUROR NO. 052: Yes.

17 THE COURT: Are you okay today?

18 PROSPECTIVE JUROR NO. 052: Just uncomfortable.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 052: So I need to stand.

21 THE COURT: That seat is not comfortable?

22 PROSPECTIVE JUROR NO. 052: No, ma'am.

23 THE COURT: Sorry.

24 PROSPECTIVE JUROR NO. 052: That's okay.

25 THE COURT: If you feel like you want to stand up, it

1 looks like we put you in the right place. Please feel free to
2 stand up. If you have to move around, please feel free to do
3 that. Just don't walk out without telling me, okay?

4 PROSPECTIVE JUROR NO. 052: No, I'm not going to.
5 I'm just going to stay.

6 THE COURT: All right. I'm just making sure. Okay.
7 You just need to move around, right?

8 PROSPECTIVE JUROR NO. 052: Just stand.

9 THE COURT: Feel free.

10 PROSPECTIVE JUROR NO. 052: Thank you.

11 THE COURT: Okay. Is there anyone who feels that
12 serving for that amount of time would be such an undue burden
13 on you that it would make it impossible for you to be here?
14 I'm just going to start on the front row. Go ahead, sir.
15 Your name and badge number.

16 PROSPECTIVE JUROR NO. 013: Chad Hanson, 008. I'm an
17 orthopedic surgeon and there's no one else to cover my
18 practice.

19 THE COURT: Okay. I'm sorry. It's Mr. Hanson, your
20 badge number is 0013.

21 PROSPECTIVE JUROR NO. 013: Sorry.

22 THE COURT: All right. You're an orthopedic surgeon?

23 PROSPECTIVE JUROR NO. 013: Yes.

24 THE COURT: All right. And no one to cover your
25 practice?

1 PROSPECTIVE JUROR NO. 013: Correct.

2 THE COURT: Who's covering it today?

3 PROSPECTIVE JUROR NO. 013: I am currently. I
4 finished surgery --

5 THE COURT: You're not, you're in court.

6 PROSPECTIVE JUROR NO. 013: I finished surgery at
7 9:00 a.m. I'm oncall at three hospitals currently.

8 THE COURT: Okay. I have a feeling that if you're
9 oncall, you obviously told them that you're doing jury duty?

10 PROSPECTIVE JUROR NO. 013: I was hopeful to be
11 excused rather early.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 013: Generally during business
14 hours, emergent stuff kind of waits until after clinic is over
15 and so -- but tomorrow I have a full clinic.

16 THE COURT: What does that mean? You have a full
17 day?

18 PROSPECTIVE JUROR NO. 013: That means I have 40
19 patients that I'm the only person that could see them. Friday
20 I have surgery all day that no one else can perform.

21 THE COURT: Okay. Thank you, Mr. Hanson. Anyone
22 else? Anyone on the front row? Go ahead, ma'am.

23 PROSPECTIVE JUROR NO. 016: Janice David, Badge No.
24 0016. Until Friday I should be okay, but if it goes beyond
25 that, I'm a court reporter, self-employed, and I usually have

1 quite a challenge getting my courtroom covered on Tuesdays
2 should it go there.

3 THE COURT: Do you work in the courthouse?

4 PROSPECTIVE JUROR NO. 016: Not this one. Next
5 Tuesday I will be in Goodsprings.

6 THE COURT: Okay. Thank you. Go ahead, sir.

7 PROSPECTIVE JUROR NO. 017: Ruben Placido, 80017.
8 I'm the only one to take my daughter to school and picking her
9 up from school.

10 THE COURT: How old is she?

11 PROSPECTIVE JUROR NO. 017: She's 15, and we don't
12 have any school bus in our area available.

13 THE COURT: Okay. So she's a sophomore in high
14 school?

15 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

16 THE COURT: Okay. So you could take her to school;
17 that wouldn't be a problem because we don't start before 7:00.
18 She starts at 7:00 a.m.?

19 PROSPECTIVE JUROR NO. 017: 7:00 a.m.

20 THE COURT: Okay. And they get out around --

21 PROSPECTIVE JUROR NO. 017: 1:30.

22 THE COURT: 1:25.

23 PROSPECTIVE JUROR NO. 017: 1:25.

24 THE COURT: Okay. And you pick her up everyday?

25 PROSPECTIVE JUROR NO. 017: Yes.

1 THE COURT: Do you work full time?

2 PROSPECTIVE JUROR NO. 017: My wife's the only one
3 that's working.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 017: I quit the job just
6 because once she start with school, you know, she go to
7 Northwest Career, that school, and it's too far from our --
8 from our place and we don't have --

9 THE COURT: Okay. So she goes to one of the I guess
10 -- do they call them -- is it magnet still?

11 PROSPECTIVE JUROR NO. 017: Magnet school.

12 THE COURT: Magnet high schools. I thought if your
13 child went to a magnet high school they had to provide bus
14 transportation?

15 PROSPECTIVE JUROR NO. 017: We don't have any school
16 bus available in our area.

17 THE COURT: Again I thought if your child went to a
18 magnet school, the school district provided transportation; is
19 that not true?

20 PROSPECTIVE JUROR NO. 017: I don't think so.

21 THE COURT: Have you ever checked?

22 PROSPECTIVE JUROR NO. 017: Well, we talk to them
23 about it and they said there's no available for our -- because
24 of our distance.

25 THE COURT: So she can't like hop on a Centennial bus

1 and get dropped off at Northwest? You know what I'm talking
2 about? Because Centennial High School is in that area. I
3 mean, there's lots of schools there. There's a high school, a
4 middle school, and then technical school.

5 PROSPECTIVE JUROR NO. 017: Yes, ma'am, it's too far
6 from our place.

7 THE COURT: What side of town do you live on?

8 PROSPECTIVE JUROR NO. 017: I live on Pecos, around
9 Pecos and Oxinger.

10 THE COURT: Who's going to pick her up today?

11 PROSPECTIVE JUROR NO. 017: Me.

12 THE COURT: Okay. You're not going to be excused by
13 1:30.

14 PROSPECTIVE JUROR NO. 017: Okay, ma'am.

15 THE COURT: Okay. Do you have someone to do it
16 today?

17 PROSPECTIVE JUROR NO. 017: I think my wife work in
18 the -- she's an OR nurse and she works from 8:30 to 7:30.

19 THE COURT: Okay. 8:30 a.m.?

20 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

21 THE COURT: To 7:30 p.m.? What are her days off?

22 PROSPECTIVE JUROR NO. 017: Seven o'clock, yes.

23 THE COURT: What are her days off?

24 PROSPECTIVE JUROR NO. 017: Sometimes it's days off
25 are Tuesday.

1 THE COURT: Works four days, right? Three days off?

2 PROSPECTIVE JUROR NO. 017: Yeah, so --

3 THE COURT: What are her three days off?

4 PROSPECTIVE JUROR NO. 017: Tuesday, Saturday and
5 Sunday.

6 THE COURT: She doesn't have them in a row?

7 PROSPECTIVE JUROR NO. 017: That's -- that's --
8 that's her schedule.

9 THE COURT: Okay. If you were asked to be here,
10 would you be able to make arrangements for your daughter to be
11 picked up? You'd be able to take her in the morning, but we
12 generally go til 5:00 o'clock. Would you be able to make
13 other arrangements?

14 PROSPECTIVE JUROR NO. 017: I could try, ma'am.

15 THE COURT: Okay. Thank you. Anyone else on that
16 first row? Second row? Go ahead, sir.

17 PROSPECTIVE JUROR NO. 026: Your Honor, Kirk Sanford,
18 Badge No. 0026.

19 THE COURT: Good morning.

20 PROSPECTIVE JUROR NO. 026: Good morning. I'm the
21 CEO of a [inaudible] company and I have --

22 THE COURT: CEO of?

23 PROSPECTIVE JUROR NO. 026: CEO of a payment company,
24 a financial services company --

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 026: -- in the gaming
2 industry, and I have meetings that are set up. I think we
3 have a very busy schedule with clients that are visiting from
4 out of town. And while it wouldn't be unduly burdensome for
5 me --

6 THE COURT: Just a minute. We got to get the
7 cellphones off. If you have a cellphone, just put it on
8 silent or turn it off because it interferes with --

9 UNIDENTIFIED SPEAKER: I borrowed this from my son.
10 I don't know how to turn it off.

11 THE MARSHAL: I'll try. I did tell the jurors to
12 shut off their cellphones, Judge.

13 THE COURT: Okay. You used your son's. Okay.
14 That's okay. Maybe we can figure out how to --

15 THE MARSHAL: I'll try to shut it off.

16 COURT RECORDER: What was your badge number, sir?

17 THE COURT: Kerry, that's okay. I don't need his
18 badge number. Mr. Sanford, so you're a CEO of a financial
19 service company for the gaming industry?

20 PROSPECTIVE JUROR NO. 026: Correct.

21 THE COURT: Okay. What does that mean?

22 PROSPECTIVE JUROR NO. 026: And I have -- well, I
23 provide various forms of payment solutions to casino operators
24 around the world, and while it's not unduly burdensome for me
25 to attend, I do have prior meetings that were established with

1 people that are traveling in that may now be burdensome for
2 them if they have to change tickets and the cost to do so as
3 well as any hotel arrangements that they may have made.

4 THE COURT: Okay. Could you rearrange the meetings?
5 We're not here at night.

6 PROSPECTIVE JUROR NO. 026: No. I understand, but
7 these meetings occur in the day. They were already
8 established and some of these are day trips established and it
9 would really -- might be burdensome for them given, you know,
10 last-minute change notices for tickets or hotel
11 accommodations, so I just wanted you to take that into
12 consideration.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 026: So not so much for me,
15 but for others.

16 THE COURT: Okay. I -- and I just -- for my own
17 edification, you've had this jury summons for quite some time?

18 PROSPECTIVE JUROR NO. 026: Understood.

19 THE COURT: Right?

20 PROSPECTIVE JUROR NO. 026: It's been a couple --
21 maybe a few weeks, yes.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 026: And I'm sorry, Your
24 Honor, I tried to plan for that but -- and therefore I pushed
25 meetings more to Thursday evening and Friday, but if it

1 extends beyond that then into the following week, I didn't
2 anticipate that may be required.

3 THE COURT: Why does everyone think they're going to
4 come here and be excused?

5 PROSPECTIVE JUROR NO. 026: I didn't think that.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 026: I thought that perhaps it
8 would be a day or two days [inaudible] and it wouldn't be an
9 issue.

10 THE COURT: This is a pretty short trial in terms of
11 the kind of trials I do. The next one I'm going to do is
12 going to be really long, it's going to be about a month.

13 PROSPECTIVE JUROR NO. 026: Fair enough.

14 THE COURT: You want to come for that one? I'm just
15 kidding. I'm just kidding.

16 PROSPECTIVE JUROR NO. 026: If I get enough advanced
17 notice I'll make sure.

18 THE COURT: But two to three -- I really was just
19 kidding.

20 PROSPECTIVE JUROR NO. 026: I know.

21 THE COURT: But two to three days is a very short
22 time period for trials -- I mean for serving for that amount
23 of time. Doesn't sound like it's going to be a burden for
24 you, but it may be a burden for other people that are relying
25 upon you?

1 PROSPECTIVE JUROR NO. 026: Correct.

2 THE COURT: Okay. Do you have other people that work
3 for you?

4 PROSPECTIVE JUROR NO. 026: I do.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 026: But they come to see me,
7 I'm the CEO of a company, it's a start-up company in a
8 start-up scenario. CEO is sort of instrumentally involved in
9 the organization.

10 THE COURT: Okay. Thank you, Mr. Sanford. Thank you
11 very much for being here. Anyone else on the second row? Go
12 ahead, ma'am.

13 PROSPECTIVE JUROR NO. 028: Vijaya Rajagopal, and the
14 Badge No. is 080028.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR NO. 028: This, you know, death in
17 the family last week --

18 THE COURT: I'm sorry.

19 PROSPECTIVE JUROR NO. 028: And they have some
20 [inaudible] some services in California so I was hoping that I
21 could attend for Saturday.

22 THE COURT: In California?

23 PROSPECTIVE JUROR NO. 028: And my [inaudible] in
24 India, she passed away last week.

25 THE COURT: If you need to go to a funeral on

1 Saturday, we're not in session on Saturdays.

2 PROSPECTIVE JUROR NO. 028: No, but I have to fly on
3 Friday.

4 THE COURT: What time?

5 PROSPECTIVE JUROR NO. 028: I have not booked the
6 ticket because I knew that I had to come here.

7 THE COURT: Could you book your ticket for after 5:00
8 o'clock?

9 PROSPECTIVE JUROR NO. 028: Yeah, I could.

10 THE COURT: Okay. But the services are on Saturday?

11 PROSPECTIVE JUROR NO. 028: Yeah, Saturday and the
12 following week they have funeral services planned. It's like
13 10th day through 13th day, that's what they're doing, you
14 know, the religious ceremonies.

15 THE COURT: Okay. So the 10th day to the 13th day
16 you need?

17 PROSPECTIVE JUROR NO. 028: Yeah, yeah.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 028: So that's -- that's
20 Monday -- that's Saturday, Sunday, Monday.

21 THE COURT: Okay. Thank you, ma'am. Anyone else
22 over there? Go ahead, sir.

23 PROSPECTIVE JUROR NO. 030: My name is Adam Rovit, it
24 is Badge 080030. I'm a physician and --

25 THE COURT: What, do we have two doctors?

1 PROSPECTIVE JUROR NO. 030: Yes, at least I guess.

2 THE COURT: Yeah, at least.

3 PROSPECTIVE JUROR NO. 030: I'm a sub-specialist of
4 one of only two in the city.

5 THE COURT: What do you do?

6 PROSPECTIVE JUROR NO. 030: I'm a pediatric
7 ophthalmologist.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 030: I served on a jury trial,
10 criminal, three years ago, and it was a significant burden for
11 my practice and my patients.

12 THE COURT: Okay. How long was that trial?

13 PROSPECTIVE JUROR NO. 030: Three days.

14 THE COURT: All right. And it's -- so obviously you
15 were able to do that, but it was a burden?

16 PROSPECTIVE JUROR NO. 030: It was a significant
17 burden in terms of canceling, rescheduling. You know, I felt
18 at the time it was part of my civic duty and I served.

19 THE COURT: You feel like you got called back too
20 soon, is that what I'm sensing?

21 PROSPECTIVE JUROR NO. 030: I think so. I mean, I
22 don't know what the schedule is. I was in another city and I
23 was never called in 15 years and I got called here twice in
24 three years.

25 THE COURT: You must be doing something right. That

1 is -- that is pretty quick.

2 PROSPECTIVE JUROR NO. 030: Right.

3 THE COURT: But you can get a jury summons I think
4 every 18 months. They can't call you within 18 months, okay?
5 Thank you. Thank you very much for being here. Anyone else?
6 Go ahead, sir.

7 PROSPECTIVE JUROR NO. 037: Hi. Peter Pryor, 0037.

8 THE COURT: Good morning, Mr. Pryor.

9 PROSPECTIVE JUROR NO. 037: This gentleman here, I
10 have a back problem, nerves and spinal damage from an injury,
11 and I have to walk over a quarter of a mile to get to a bus to
12 get here. The bus to get to here is a certain time. If I
13 miss the bus, the Court will probably be mad at me for showing
14 up late.

15 THE COURT: Okay. Is it a problem getting to the
16 bus?

17 PROSPECTIVE JUROR NO. 037: It's over a quarter-mile
18 walk and when my back's not feeling right, it takes me a lot
19 longer to get there.

20 THE COURT: Okay. But you were able to plan
21 accordingly today?

22 PROSPECTIVE JUROR NO. 037: I left my house before
23 8:00, and I got to the jury selection room at 9:28.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 037: So it took me over an

1 hour and a half --

2 THE COURT: All right.

3 PROSPECTIVE JUROR NO. 037: -- to go about seven
4 blocks.

5 THE COURT: Okay. So you're within seven miles of
6 the courthouse?

7 PROSPECTIVE JUROR NO. 037: I think it's [inaudible].
8 I'm on Charleston and -- between Charleston and Sahara on
9 South Sandhill.

10 THE COURT: Charleston and Sahara makes no sense.
11 They both run --

12 PROSPECTIVE JUROR NO. 037: They both [inaudible],
13 I'm on South Sandhill, right in the middle of both of them.

14 THE COURT: Okay. Okay. Well, would you be --

15 PROSPECTIVE JUROR NO. 037: [Inaudible.]

16 THE COURT: Would you be able to do it if you were
17 asked to be here?

18 PROSPECTIVE JUROR NO. 037: Well, like I say, if it's
19 bad weather or if I miss the bus and the thing starts -- the
20 trial starts at 8:00 or 9:00 in the morning and I'm 15 or 20
21 minutes late, then I'll --

22 THE COURT: We would all be waiting for you.

23 PROSPECTIVE JUROR NO. 037: -- then I'll probably be
24 cooked.

25 THE COURT: You won't be in trouble, but we'd all be

1 waiting for you.

2 PROSPECTIVE JUROR NO. 037: Yeah.

3 THE COURT: Okay. So you would be able to plan
4 accordingly?

5 PROSPECTIVE JUROR NO. 037: I'd try to get here, but
6 like I said, if I miss it, I don't want to hold everybody up.

7 THE COURT: Okay. Well, you would.

8 PROSPECTIVE JUROR NO. 037: I don't want to be in
9 trouble for being late.

10 THE COURT: You won't be in trouble. Why do you
11 think you're going to be in trouble? Okay. Thank you very
12 much for being here, Mr. Pryor. Anyone else over there?
13 Third row? Anyone else that wishes to respond to the Court?
14 Okay. The record will reflect no further response from the
15 panel.

16 Are there any of you who believe that for any other
17 reason you would be unable to serve as a juror in this
18 particular case? The record will reflect no response from the
19 panel.

20 Is there anyone on the panel who's ever been engaged
21 in law enforcement work or have a spouse or close relative
22 who's ever been engaged in law enforcement work? Okay. We'll
23 start over here.

24 PROSPECTIVE JUROR NO. 005: Nick Schettino, 080005.
25 My niece is a DA in New York.

1 THE COURT: Okay. How long has she been a DA in New
2 York?

3 PROSPECTIVE JUROR NO. 005: Five or six years.

4 THE COURT: How often do you talk to her?

5 PROSPECTIVE JUROR NO. 005: Actually she's coming in
6 this weekend to see me. I talk to her, you know, every couple
7 of weeks.

8 THE COURT: You ever talk to her about what she does
9 for a living?

10 PROSPECTIVE JUROR NO. 005: Yes.

11 THE COURT: What do you talk about?

12 PROSPECTIVE JUROR NO. 005: Just about when the case
13 is over, she just, you know, mentions them. I saw her in the
14 paper a couple of times. She had some big cases.

15 THE COURT: Okay. Anything about her employment that
16 would affect your ability to be fair and impartial?

17 PROSPECTIVE JUROR NO. 005: No.

18 THE COURT: Okay. You understand that if you were
19 selected to be a juror on this panel you would not be
20 permitted to discuss this case with her or anyone else? You
21 would only be permitted to speak it with -- speak about this
22 case with your fellow jurors and only after you have been
23 released to deliberate upon your verdict?

24 PROSPECTIVE JUROR NO. 005: Yes.

25 THE COURT: So you wouldn't be able to call up your

1 niece, or if she was here, talk to her at all about this case;
2 do you understand that?

3 PROSPECTIVE JUROR NO. 005: Yes.

4 THE COURT: Would you comply with that order?

5 PROSPECTIVE JUROR NO. 037: Yes.

6 THE COURT: Okay. Thank you, sir. Anyone else? Go
7 ahead, sir.

8 PROSPECTIVE JUROR NO. 011: My name is Gordon Brooke,
9 Badge No. 080011. My brother and my ex-brother-in-law were
10 law enforcement officers.

11 THE COURT: Where?

12 PROSPECTIVE JUROR NO. 011: Elko, Nevada for my
13 brother-in-law, and Tucson, Arizona for my brother.

14 THE COURT: Anything about their employment that
15 would affect your ability to be fair and impartial?

16 PROSPECTIVE JUROR NO. 011: I don't think so, I just
17 want to let you know.

18 THE COURT: All right. You're the only one who can
19 tell me whether it would affect your ability --

20 PROSPECTIVE JUROR NO. 011: I think I can do it, but
21 they're both officers and we've talked about difference cases
22 and, you know, they're patrol officers and what they have to
23 deal with.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 011: Stuff like that on day to

1 day, we talk about many times.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 011: Okay.

4 THE COURT: That's fine. Anything about that that
5 would affect your ability to be a fair and impartial juror in
6 this particular case?

7 PROSPECTIVE JUROR NO. 011: I don't think so, no.

8 THE COURT: Okay. Thank you, sir. Anyone else? Go
9 ahead, ma'am.

10 PROSPECTIVE JUROR NO. 021: Karen Augspurger, 080021.
11 My brother-in-law was District Attorney of Lincoln County and
12 now he works in Henderson as an attorney.

13 THE COURT: Anything about his employment that would
14 affect your ability to be fair and impartial?

15 PROSPECTIVE JUROR NO. 021: I don't think so.

16 THE COURT: Okay. You're the only one who can tell
17 me.

18 PROSPECTIVE JUROR NO. 021: No.

19 THE COURT: All right. You understand you won't be
20 able to discuss this case with him?

21 PROSPECTIVE JUROR NO. 021: Yes.

22 THE COURT: And you understand you won't be able to
23 call him up and ask him any questions?

24 PROSPECTIVE JUROR NO. 021: Yes.

25 THE COURT: Okay. And you'll comply with that order?

1 PROSPECTIVE JUROR NO. 021: Yes.

2 THE COURT: Okay. Thank you. Anyone else on this
3 first row? Second row? Okay. You're up.

4 PROSPECTIVE JUROR NO. 036: I'm up, huh? Vicky
5 Woodside, 080036. My son's a corrections officer.

6 THE COURT: Who does he work for?

7 PROSPECTIVE JUROR NO. 036: High Desert.

8 THE COURT: Anything about -- so he works for the
9 State of Nevada?

10 PROSPECTIVE JUROR NO. 036: Yeah.

11 THE COURT: All right. Anything about his employment
12 that would affect your ability to be fair and impartial?

13 PROSPECTIVE JUROR NO. 036: No.

14 THE COURT: Okay. You know you wouldn't be able to
15 discuss the case with him?

16 PROSPECTIVE JUROR NO. 036: Right.

17 THE COURT: Does he live here in Las Vegas?

18 PROSPECTIVE JUROR NO. 036: Yeah.

19 THE COURT: So he commutes?

20 PROSPECTIVE JUROR NO. 036: Yeah, they drive back and
21 forth everyday.

22 THE COURT: Okay. Anything about his employment that
23 would affect your ability to be fair and impartial?

24 PROSPECTIVE JUROR NO. 036: No.

25 THE COURT: Okay. Thank you. Anyone else on the

1 second row? Third row? Anyone else that wishes to address
2 the Court on that? The record will reflect no response from
3 the panel.

4 Is there anyone on this panel who believes they may
5 not be able to follow all the instructions of the Court on the
6 law even if the instructions differ from your personal
7 conceptions of what the law ought to be? Anyone who believes
8 they cannot follow the law as given to you by myself? The
9 record will reflect no response from the panel.

10 As a follow-up to the previous question, in any
11 criminal trial the members of the jury sitting collectively
12 are the judges of the question of fact. As the Judge in this
13 case, I'm the judge of the questions of law. It's my
14 responsibility to be sure that I give instructions on the law
15 that apply to this particular case.

16 It would be a violation of a juror's duty if he or
17 she tried to render a judgment based upon what he or she
18 believed the law to be if that differed from my instructions.
19 With that in mind, is there anyone who feels they cannot be
20 fact finders and follow my instructions on the applicable law
21 in this case? The record will reflect no response from the
22 panel.

23 Under our system there are certain principles of law
24 that apply in every criminal trial. They are that the
25 information filed in this case is a mere accusation and is not

1 evidence of guilt. That as Mr. Bennett Grimes sits here today
2 he is presumed innocent and therefore the State must prove all
3 of the allegations in their charging document by proof beyond
4 a reasonable doubt.

5 Is there anyone who does not understand or believe in
6 these basic precepts of American justice? The record will
7 reflect no response from the panel.

8 Does anybody know anything about this case other than
9 what's been stated in the courtroom here today? The record
10 will reflect no response.

11 [Inaudible] panel, at this time, ladies and
12 gentlemen, I'm going to have the attorneys meet me out in the
13 hallway. We'll just converse for a couple of minutes and then
14 we'll be right back in here. So Court is still in session.
15 The officer will remain with you and we'll be right back.

16 (Pause in proceedings.)

17 THE COURT: We locked him out. Sorry about that.
18 Sorry. Sorry, Mr. Hillman. Do the parties stipulate to the
19 presence of the jury panel?

20 MR. HILLMAN: Yes, ma'am.

21 MS. BOTELHO: Yes, Your Honor.

22 MS. HOJJAT: Yes, Your Honor.

23 THE COURT: Thank you. There being no objection, the
24 clerk's going to call the first 23 names provided to us by the
25 Jury Commissioner. When your name is called, please take your

1 seat in the jury box. The court marshal will help you figure
2 out where you need to sit.

3 (Clerk announced the 23 names for the panel.)

4 THE COURT: Okay. The people that are still
5 remaining on the first row, if you'll please stand up and just
6 stand in the back and as soon as we seat the first 23 we'll
7 let you know where you can have a seat. You can go sit back
8 there on a back row, that's perfect. Thank you.

9 (Clerk continues to announce names for the panel.)

10 THE COURT: Okay. Mr. Mark -- is it Whelchel?

11 PROSPECTIVE JUROR NO. 001: Yes.

12 THE COURT: Good morning. How long have you lived in
13 Clark County?

14 PROSPECTIVE JUROR NO. 001: Thirty years.

15 THE COURT: Your employment, training, education
16 background?

17 PROSPECTIVE JUROR NO. 001: Licensed marriage and
18 family therapist and [inaudible] master's degree.

19 THE COURT: What's your master's degree in?

20 PROSPECTIVE JUROR NO. 001: Marriage and family
21 therapy.

22 THE COURT: Okay. Your marital status?

23 PROSPECTIVE JUROR NO. 001: Married.

24 THE COURT: Is your wife employed?

25 PROSPECTIVE JUROR NO. 001: Yes.

1 THE COURT: What does your wife do for a living?

2 PROSPECTIVE JUROR NO. 001: She's a Clark County
3 school teacher.

4 THE COURT: What does she teach?

5 PROSPECTIVE JUROR NO. 001: Second grade.

6 THE COURT: Okay. How long has she done that?

7 PROSPECTIVE JUROR NO. 001: Twelve years.

8 THE COURT: Do you have any children?

9 PROSPECTIVE JUROR NO. 001: Yes.

10 THE COURT: How many?

11 PROSPECTIVE JUROR NO. 001: Four.

12 THE COURT: Are any of them old enough to be
13 employed?

14 PROSPECTIVE JUROR NO. 001: Yes.

15 THE COURT: All of them?

16 PROSPECTIVE JUROR NO. 001: All of them are old
17 enough, yes.

18 THE COURT: Okay. Will you start at the top and you
19 tell us what they do for a living?

20 PROSPECTIVE JUROR NO. 001: My oldest is 30, he's a
21 worship pastor. My next oldest is 24, he's a worship pastor
22 also.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 001: My next is 21, he is a
25 waiter.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 001: And my next is 18, and
3 she's a college student.

4 THE COURT: Okay. Well, she doesn't have to be
5 employed?

6 PROSPECTIVE JUROR NO. 001: That's right.

7 THE COURT: She's a full-time student?

8 PROSPECTIVE JUROR NO. 001: Yes.

9 THE COURT: Okay. Any reason why you could not be a
10 completely fair and impartial juror --

11 PROSPECTIVE JUROR NO. 001: No.

12 THE COURT: -- if you were selected to serve on this
13 panel?

14 PROSPECTIVE JUROR NO. 001: No.

15 THE COURT: Thank you, sir. Thank you very much for
16 being here. Mr. Nick Schettino, how long have you lived in
17 Clark County?

18 PROSPECTIVE JUROR NO. 005: Ten years.

19 THE COURT: Your employment, training, education
20 background?

21 PROSPECTIVE JUROR NO. 005: Retired.

22 THE COURT: How long have you been retired?

23 PROSPECTIVE JUROR NO. 005: Ten dollars years.

24 THE COURT: What did you do before you retired?

25 PROSPECTIVE JUROR NO. 005: I was an associate

1 director at a brokerage firm.

2 THE COURT: Your education background?

3 PROSPECTIVE JUROR NO. 005: Two years of college.

4 THE COURT: What did you study?

5 PROSPECTIVE JUROR NO. 005: Excuse me?

6 THE COURT: What did you study in those two years of
7 college?

8 PROSPECTIVE JUROR NO. 005: Business.

9 THE COURT: Business. Your marital status?

10 PROSPECTIVE JUROR NO. 005: Married.

11 THE COURT: Is your wife employed?

12 PROSPECTIVE JUROR NO. 005: No, she's retired.

13 THE COURT: She's not employed?

14 PROSPECTIVE JUROR NO. 005: No.

15 THE COURT: Is she retired as well?

16 PROSPECTIVE JUROR NO. 005: Yes.

17 THE COURT: Okay. What did she do before she
18 retired?

19 PROSPECTIVE JUROR NO. 005: Housewife.

20 THE COURT: Okay. So she's retired from being a
21 housewife?

22 PROSPECTIVE JUROR NO. 005: She is.

23 THE COURT: Sort of. Okay. Do you have children?

24 PROSPECTIVE JUROR NO. 005: Yes, three.

25 THE COURT: Three children. Are any of them old

1 enough to be employed?

2 PROSPECTIVE JUROR NO. 005: Yes.

3 THE COURT: Can you tell us what each does for a
4 living?

5 PROSPECTIVE JUROR NO. 005: Excuse me?

6 THE COURT: Can you tell us what they do for a
7 living?

8 PROSPECTIVE JUROR NO. 005: My oldest works in a
9 hospital.

10 THE COURT: Doing what?

11 PROSPECTIVE JUROR NO. 005: Just maintenance.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 005: Second one's a plumber.
14 And the third one's unemployed at the moment.

15 THE COURT: Okay. Any reason why you could not be a
16 completely fair and impartial juror --

17 PROSPECTIVE JUROR NO. 005: No.

18 THE COURT: -- if you were selected to serve on this
19 panel?

20 PROSPECTIVE JUROR NO. 005: No.

21 THE COURT: Thank you. Mr. Phillip Jennings, good
22 morning. How long have you lived in Clark County?

23 PROSPECTIVE JUROR NO. 006: Twenty-seven years.

24 THE COURT: Your employment, training, education
25 background?

1 PROSPECTIVE JUROR NO. 006: I'm a union cement mason
2 and I'm a high school graduate.

3 THE COURT: How long have you been a mason?

4 PROSPECTIVE JUROR NO. 006: Since I got out of the
5 Marine Corp in '80, '82.

6 THE COURT: Okay. Long time?

7 PROSPECTIVE JUROR NO. 006: Yes.

8 THE COURT: All right. And you served in the
9 military?

10 PROSPECTIVE JUROR NO. 006: Yes.

11 THE COURT: When did you serve in the military?

12 PROSPECTIVE JUROR NO. 006: When?

13 THE COURT: Uh-huh.

14 PROSPECTIVE JUROR NO. 006: I went in 1979 to 1982.

15 THE COURT: And did you say you were in the Marines?

16 PROSPECTIVE JUROR NO. 006: Yes.

17 THE COURT: Okay. Your marital status?

18 PROSPECTIVE JUROR NO. 006: Single.

19 THE COURT: Do you have any children?

20 PROSPECTIVE JUROR NO. 006: No.

21 THE COURT: Do you know of any reason why you could
22 not be a completely fair and impartial juror if you were
23 selected to sit on this panel?

24 PROSPECTIVE JUROR NO. 006: No.

25 THE COURT: Thank you, sir. Thank you for being

1 here. Ms. Pod, how long have you lived in Clark County?
2 PROSPECTIVE JUROR NO. 007: Two and a half years.
3 THE COURT: Where did you move from?
4 PROSPECTIVE JUROR NO. 007: Thailand.
5 THE COURT: Okay. Your education background?
6 PROSPECTIVE JUROR NO. 007: I -- I work --
7 THE COURT: Your education?
8 PROSPECTIVE JUROR NO. 007: Oh, I -- from Thailand I
9 went to high school.
10 THE COURT: Okay. And what do you do for a living?
11 PROSPECTIVE JUROR NO. 007: [Inaudible.]
12 THE COURT: I'm sorry?
13 PROSPECTIVE JUROR NO. 007: Housewife.
14 THE COURT: Housewife?
15 PROSPECTIVE JUROR NO. 007: Yes.
16 THE COURT: Okay. Do you have children?
17 PROSPECTIVE JUROR NO. 007: Yes, twenty.
18 THE COURT: I'm sorry. How many children do you
19 have?
20 PROSPECTIVE JUROR NO. 007: Three.
21 THE COURT: Three children?
22 PROSPECTIVE JUROR NO. 007: Uh-huh.
23 THE COURT: Are they old enough to work?
24 PROSPECTIVE JUROR NO. 007: Yes, my -- I have two
25 sons and one daughter.

1 THE COURT: Okay. What do they do for a living?

2 PROSPECTIVE JUROR NO. 007: My son, he work in Dell
3 Company.

4 THE COURT: A what company?

5 PROSPECTIVE JUROR NO. 007: A Dell Computer.

6 THE COURT: I'm sorry. Oh, everybody can hear except
7 me. Okay. All right. And the other child?

8 PROSPECTIVE JUROR NO. 007: He still go to school.

9 THE COURT: And the daughter?

10 PROSPECTIVE JUROR NO. 007: Daughter still go to
11 school.

12 THE COURT: Okay. Any reason why you could not be a
13 completely fair and impartial juror if you were selected to
14 serve?

15 PROSPECTIVE JUROR NO. 007: My husband, he not get
16 along very well. He's sick.

17 THE COURT: Your husband's sick?

18 PROSPECTIVE JUROR NO. 007: Yes. He's 77 years old.

19 THE COURT: That's not that old.

20 PROSPECTIVE JUROR NO. 007: But he cannot get around
21 very good.

22 THE COURT: All right. Is he disabled?

23 PROSPECTIVE JUROR NO. 007: Just little bit, not that
24 much, you know.

25 THE COURT: Okay. If you're here, how is that going

1 to affect him?

2 PROSPECTIVE JUROR NO. 007: Nobody watching when I
3 not there, you know.

4 THE COURT: Does he need someone to watch him?

5 PROSPECTIVE JUROR NO. 007: Sometimes. Sometimes he
6 goes to the bathroom, you know, he cannot get up. Some little
7 things, you know.

8 THE COURT: Okay. If you're required to be here,
9 will you be able to make arrangements --

10 PROSPECTIVE JUROR NO. 007: Sure.

11 THE COURT: -- to cover that?

12 PROSPECTIVE JUROR NO. 007: Yes.

13 THE COURT: All right. Thank you. Any reason why
14 you could not be a completely fair and impartial juror if
15 you're selected to serve?

16 PROSPECTIVE JUROR NO. 007: No.

17 THE COURT: Thank you. Mr. Cruz, how long have you
18 lived in Clark County?

19 PROSPECTIVE JUROR NO. 009: Four years.

20 THE COURT: Your education background?

21 PROSPECTIVE JUROR NO. 009: High school graduate, and
22 security officer at the Bellagio.

23 THE COURT: How long have you done that?

24 PROSPECTIVE JUROR NO. 009: Almost one year.

25 THE COURT: Your marital status?

1 PROSPECTIVE JUROR NO. 009: Single.

2 THE COURT: Do you have children?

3 PROSPECTIVE JUROR NO. 009: Yes.

4 THE COURT: How many children do you have?

5 PROSPECTIVE JUROR NO. 009: One.

6 THE COURT: Is that child old enough to be employed?

7 PROSPECTIVE JUROR NO. 009: No.

8 THE COURT: So small?

9 PROSPECTIVE JUROR NO. 009: Yeah.

10 THE COURT: Okay. Any reason why you could not be a

11 completely fair and impartial juror if selected to serve on

12 this panel?

13 PROSPECTIVE JUROR NO. 009: No.

14 THE COURT: Thank you. Mr. Brooke, how long have you

15 lived in Clark County?

16 PROSPECTIVE JUROR NO. 011: Forty-six years.

17 THE COURT: Your education background?

18 PROSPECTIVE JUROR NO. 011: High school graduate.

19 THE COURT: What do you do for a living?

20 PROSPECTIVE JUROR NO. 011: I run a meat department

21 for a local grocery chain.

22 THE COURT: Your marital status?

23 PROSPECTIVE JUROR NO. 011: Single.

24 THE COURT: Do you have any children?

25 PROSPECTIVE JUROR NO. 011: Two.

1 THE COURT: Okay. Are your children old enough to be
2 employed?

3 PROSPECTIVE JUROR NO. 011: Yes.

4 THE COURT: What do they do for a living?

5 PROSPECTIVE JUROR NO. 011: My daughter is 27 is CEO
6 of her household and my son is --

7 THE COURT: Is a what?

8 PROSPECTIVE JUROR NO. 011: She's a housewife.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 011: There's a lot to do
11 there.

12 THE COURT: Yes, there is.

13 PROSPECTIVE JUROR NO. 011: And she is a -- my son
14 who is 25 is a convenience store clerk.

15 THE COURT: Any reason why you could not be a
16 completely fair and impartial juror if selected to serve?

17 PROSPECTIVE JUROR NO. 011: No.

18 THE COURT: Thank you. Thank you for being here.
19 Ms. Janice David, how long have you lived in Clark County?

20 PROSPECTIVE JUROR NO. 016: Forty-three years.

21 THE COURT: Your education background?

22 PROSPECTIVE JUROR NO. 016: High school graduate and
23 three years of college.

24 THE COURT: What did you study in college?

25 PROSPECTIVE JUROR NO. 016: Court reporting slash

1 business administration.

2 THE COURT: Okay. You're a court reporter?

3 PROSPECTIVE JUROR NO. 016: Yes, I am.

4 THE COURT: Okay. And you said you work in the
5 Goodsprings Court?

6 PROSPECTIVE JUROR NO. 016: Yes, I'm a freelancer. I
7 work with an agency and I also cover Justice Court for
8 Goodsprings and Boulder City.

9 THE COURT: Okay. Your marital status?

10 PROSPECTIVE JUROR NO. 016: Married.

11 THE COURT: Your husband employed?

12 PROSPECTIVE JUROR NO. 016: Yes.

13 THE COURT: What does your husband do for a living?

14 PROSPECTIVE JUROR NO. 016: He sells cars.

15 THE COURT: Do you have any children?

16 PROSPECTIVE JUROR NO. 016: Yes.

17 THE COURT: How many?

18 PROSPECTIVE JUROR NO. 016: Three.

19 THE COURT: Are any of them old enough to be
20 employed?

21 PROSPECTIVE JUROR NO. 016: Yes.

22 THE COURT: Can you tell us what they do for a
23 living?

24 PROSPECTIVE JUROR NO. 016: My older son is a
25 security guard at the D, Las Vegas. And my other one -- my

1 other sons are 10 and 7.

2 THE COURT: Okay. Any reason why you could not be a
3 completely fair and impartial juror if you were selected to
4 serve on this panel?

5 PROSPECTIVE JUROR NO. 016: No.

6 THE COURT: Thank you. Thank you for being here.
7 Okay. Mr. Placido, good morning. How long have you lived in
8 Clark County?

9 PROSPECTIVE JUROR NO. 017: Almost 8 years.

10 THE COURT: Your education background?

11 PROSPECTIVE JUROR NO. 017: High school graduate.

12 THE COURT: Okay. And you're not employed right now?

13 PROSPECTIVE JUROR NO. 017: Not employed right now.

14 THE COURT: Okay. And you're married and your wife's
15 an O.R. nurse, correct?

16 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

17 THE COURT: And you have children, correct?

18 PROSPECTIVE JUROR NO. 017: One.

19 THE COURT: One child. And she's a high school
20 student, right?

21 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

22 THE COURT: Any reason why you could not be a
23 completely fair and impartial juror if you were selected to
24 serve on this panel?

25 PROSPECTIVE JUROR NO. 017: No.

1 THE COURT: Thank you, sir. Ms. Michala Reinholtz,
2 how long have you lived in Clark County?

3 PROSPECTIVE JUROR NO. 018: Two and a half years.

4 THE COURT: Where did you move from?

5 PROSPECTIVE JUROR NO. 018: Salt Lake City, Utah.

6 THE COURT: Your education background?

7 PROSPECTIVE JUROR NO. 018: I have an associate's
8 degree in medical assisting and currently a college student
9 again to go back for nursing.

10 THE COURT: So you're in a nursing program?

11 PROSPECTIVE JUROR NO. 018: I'm not in it yet. I'm
12 doing the pre-reqs.

13 THE COURT: Okay. So you're enrolled full-time in
14 school?

15 PROSPECTIVE JUROR NO. 018: Uh-huh.

16 THE COURT: Okay. Do you work?

17 PROSPECTIVE JUROR NO. 018: Not currently, no.

18 THE COURT: Okay. Your marital status?

19 PROSPECTIVE JUROR NO. 018: Married.

20 THE COURT: Is your husband employed?

21 PROSPECTIVE JUROR NO. 018: He is not employed right
22 now.

23 THE COURT: Do you have children?

24 PROSPECTIVE JUROR NO. 018: Step-daughter who's in
25 high school.

1 THE COURT: Okay. Any reason why you could not be a
2 completely fair and impartial juror if selected to serve?

3 PROSPECTIVE JUROR NO. 018: No.

4 THE COURT: Thank you. Mr. Martino, good morning.
5 How long have you lived in Clark County?

6 PROSPECTIVE JUROR NO. 020: Six years.

7 THE COURT: Your education background?

8 PROSPECTIVE JUROR NO. 020: Master's in business
9 administration.

10 THE COURT: An MBA?

11 PROSPECTIVE JUROR NO. 020: Yeah.

12 THE COURT: Okay. And what do you do for a living?

13 PROSPECTIVE JUROR NO. 020: Investor/trader.

14 THE COURT: Your marital status?

15 PROSPECTIVE JUROR NO. 020: Single.

16 THE COURT: Any children?

17 PROSPECTIVE JUROR NO. 020: No.

18 THE COURT: Do you know of any reason why you could
19 not be a completely fair and impartial juror if you were
20 selected to serve on this panel?

21 PROSPECTIVE JUROR NO. 020: No.

22 THE COURT: Thank you, sir. Ms. Karen Augspurger?

23 PROSPECTIVE JUROR NO. 021: Yes.

24 THE COURT: How long have you lived in Clark County?

25 PROSPECTIVE JUROR NO. 021: Forty-six years.

1 THE COURT: Your employment, training, education
2 background?

3 PROSPECTIVE JUROR NO. 021: I'm a retired school
4 teacher. I have a master's degree.

5 THE COURT: I'm sorry. You have a master's?

6 PROSPECTIVE JUROR NO. 021: Master's plus 32 hours.

7 THE COURT: What's your master's in?

8 PROSPECTIVE JUROR NO. 021: Secondary education.

9 THE COURT: What did you teach when you were a
10 teacher?

11 PROSPECTIVE JUROR NO. 021: Home economics.

12 THE COURT: Okay. Middle school or high school?

13 PROSPECTIVE JUROR NO. 021: High school.

14 THE COURT: Okay. Your marital status?

15 PROSPECTIVE JUROR NO. 021: Married.

16 THE COURT: Is your husband employed?

17 PROSPECTIVE JUROR NO. 021: No, he's retired.

18 THE COURT: What's he retired from doing?

19 PROSPECTIVE JUROR NO. 021: General contractor.

20 THE COURT: Okay. Have any children?

21 PROSPECTIVE JUROR NO. 021: Yes, two boys.

22 THE COURT: Are they old enough to be employed?

23 PROSPECTIVE JUROR NO. 021: Yes.

24 THE COURT: Can you tell us what they do for a
25 living?

1 PROSPECTIVE JUROR NO. 021: The oldest one is a heavy
2 equipment operator, but he's unemployed right now. And the
3 younger one has a mold and asbestos testing business.

4 THE COURT: Any reason why you could not be a
5 completely fair and impartial juror if selected to serve on
6 our panel?

7 PROSPECTIVE JUROR NO. 021: No.

8 THE COURT: Thank you. Mr. Jason Morgan, how long
9 have you lived in Clark County?

10 PROSPECTIVE JUROR NO. 022: Almost five years.

11 THE COURT: Your employment, training, education
12 background?

13 PROSPECTIVE JUROR NO. 022: I am an assistant
14 superintendent on a golf course; bachelor of science degree in
15 horticulture.

16 THE COURT: I'm sorry. In what?

17 PROSPECTIVE JUROR NO. 022: Horticulture.

18 THE COURT: Okay. Your marital status?

19 PROSPECTIVE JUROR NO. 022: Married.

20 THE COURT: Is your wife employed?

21 PROSPECTIVE JUROR NO. 022: Yes, she's a sales
22 representative for Oro Roofing.

23 THE COURT: Do you have any children?

24 PROSPECTIVE JUROR NO. 022: No.

25 THE COURT: Any reason why you could not be a

1 completely fair and impartial juror if you were selected to
2 serve on this panel?

3 PROSPECTIVE JUROR NO. 022: No.

4 THE COURT: Thank you, sir. Mr. Conley, how long
5 have you lived in Clark County?

6 PROSPECTIVE JUROR NO. 023: Thirty-three years.

7 THE COURT: Your employment, training, education
8 background?

9 PROSPECTIVE JUROR NO. 023: High school graduate.

10 THE COURT: What do you do for a living?

11 PROSPECTIVE JUROR NO. 023: Self-employed painter.

12 THE COURT: Your marital status?

13 PROSPECTIVE JUROR NO. 023: Single.

14 THE COURT: Do you have any children?

15 PROSPECTIVE JUROR NO. 023: No.

16 THE COURT: Any reason why you could not be a
17 completely fair and impartial juror if you were selected to
18 serve?

19 PROSPECTIVE JUROR NO. 023: No.

20 THE COURT: Thank you, sir. Ms. Hernandez?

21 PROSPECTIVE JUROR NO. 024: Yes.

22 THE COURT: How long have you lived in Clark County?

23 PROSPECTIVE JUROR NO. 024: Two and a half years.

24 THE COURT: Your employment, training, education
25 background?

1 PROSPECTIVE JUROR NO. 024: High school graduate.

2 THE COURT: What do you do for a living?

3 PROSPECTIVE JUROR NO. 024: I'm an administrator for
4 medical records.

5 THE COURT: I'm sorry?

6 PROSPECTIVE JUROR NO. 024: Administrator for medical
7 records retrieval company.

8 THE COURT: What's medical records retrieval?

9 PROSPECTIVE JUROR NO. 024: We are custodian of
10 records --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 024: -- for orthopedic
13 centers.

14 THE COURT: Your marital status?

15 PROSPECTIVE JUROR NO. 024: Single.

16 THE COURT: Do you have any children?

17 PROSPECTIVE JUROR NO. 024: Yes, one boy.

18 THE COURT: One child. Is he old enough to be
19 employed?

20 PROSPECTIVE JUROR NO. 024: No, he's three.

21 THE COURT: Okay. Any reason why you could not be a
22 completely fair and impartial juror if you were selected to
23 serve?

24 PROSPECTIVE JUROR NO. 024: No.

25 THE COURT: Thank you. Brandon Keenum. Do you mind

1 standing up because I have a hard time hearing from that part
2 of the courtroom? How long have you lived in Clark County?

3 PROSPECTIVE JUROR NO. 025: Six years.

4 THE COURT: Your employment, training, education
5 background?

6 PROSPECTIVE JUROR NO. 025: I'm airplane pilot,
7 bachelor's degree in aeronautics.

8 THE COURT: Your marital status?

9 PROSPECTIVE JUROR NO. 025: Married.

10 THE COURT: Is your wife employed?

11 PROSPECTIVE JUROR NO. 025: No.

12 THE COURT: Do you have any children?

13 PROSPECTIVE JUROR NO. 025: One three-year-old.

14 THE COURT: Any reason why you could not be a
15 completely fair and impartial juror if selected to serve?

16 PROSPECTIVE JUROR NO. 025: No.

17 THE COURT: Thank you, sir. Thank you for being
18 here. Mr. Sanford, how long have you lived in Clark County?

19 PROSPECTIVE JUROR NO. 026: Ten years.

20 THE COURT: Okay. Your education background?

21 PROSPECTIVE JUROR NO. 026: I have a doctorate of
22 chiropractic degree. I don't practice it. I'm currently a
23 CEO of a payments company.

24 THE COURT: How do you go from having a doctorate in
25 chiropractic -- just --

1 PROSPECTIVE JUROR NO. 026: Better opportunity.

2 THE COURT: Okay. All right. I mean, you said it
3 was a start-up company?

4 PROSPECTIVE JUROR NO. 026: Yes.

5 THE COURT: Will you just say the name of your
6 company again?

7 PROSPECTIVE JUROR NO. 026: It's called Sideline
8 Payments.

9 THE COURT: And how long have you done that?

10 PROSPECTIVE JUROR NO. 026: Since the beginning of
11 2010.

12 THE COURT: Okay. Your marital status?

13 PROSPECTIVE JUROR NO. 026: Married.

14 THE COURT: Is your wife employed?

15 PROSPECTIVE JUROR NO. 026: No.

16 THE COURT: Do you have children?

17 PROSPECTIVE JUROR NO. 026: Yes, three. Son's 11,
18 and twin daughters, 9.

19 THE COURT: Okay. So any reason why you could not be
20 a completely fair and impartial juror if you were selected to
21 serve?

22 PROSPECTIVE JUROR NO. 026: No.

23 THE COURT: Thank you, sir. Thank you very much for
24 being here. Ms. Karen Hopkins, how long have you lived in
25 Clark County?

1 PROSPECTIVE JUROR NO. 027: Thirty-seven years.

2 THE COURT: Thirty-seven years. Your education
3 background?

4 PROSPECTIVE JUROR NO. 027: [Inaudible] in
5 counseling.

6 THE COURT: What do you do for a living?

7 PROSPECTIVE JUROR NO. 027: Right now I'm retired. I
8 have taken on special projects at a high-risk high school.

9 THE COURT: You're retired, but you've taken on a
10 project?

11 PROSPECTIVE JUROR NO. 027: Uh-huh.

12 THE COURT: At a high school that has high-risk
13 children?

14 PROSPECTIVE JUROR NO. 027: Uh-huh.

15 THE COURT: Are those all yeses?

16 PROSPECTIVE JUROR NO. 027: Yes, they are.

17 THE COURT: Okay. Thank you. Remember Kerry --
18 because if you say uh-huh, that's what's going to come up on
19 my transcript, okay? And so this project, what does it
20 require you to do?

21 PROSPECTIVE JUROR NO. 027: We just work with getting
22 kids who are extremely short with credits in order to try to
23 help them graduate. This particular school has a lot of
24 opportunities for them to be placed in different situations so
25 that they are more likely to graduate.

1 THE COURT: Can you just give me an example? Like
2 what? So you go into this high school that has high-risk kids
3 and these are kids that probably wouldn't graduate but for
4 your help?

5 PROSPECTIVE JUROR NO. 027: Well, there are
6 traditional -- well, this is a traditional high school.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 027: But they don't have as
9 many programs in place to assist kids. This particular school
10 has gotten grants from different organizations to help pay for
11 the kids to finish their education.

12 THE COURT: Okay. So do you get paid?

13 PROSPECTIVE JUROR NO. 027: Do I get paid?

14 THE COURT: Uh-huh.

15 PROSPECTIVE JUROR NO. 027: Yes.

16 THE COURT: Okay. And so what do you -- I mean, are
17 there classes? Tutors? Proficiency help? What do you do?

18 PROSPECTIVE JUROR NO. 027: There's classes. There's
19 tutoring. There are situations where we send them to an
20 option of online schools so that they can work at their own
21 pace if they are credit deficient so that they can move more
22 quickly through the course work and have an opportunity to
23 graduate versus staying at the traditional, you know, one-
24 period through six-period day and not being able to catch up.

25 THE COURT: Okay. Your marital status?

1 PROSPECTIVE JUROR NO. 027: Married.
2 THE COURT: Is your husband employed?
3 PROSPECTIVE JUROR NO. 027: Retired.
4 THE COURT: Okay. What is your husband retired from?
5 PROSPECTIVE JUROR NO. 027: Teaching, high school
6 teaching.
7 THE COURT: How long did he do that?
8 PROSPECTIVE JUROR NO. 027: Thirty-two years.
9 THE COURT: In Clark County?
10 PROSPECTIVE JUROR NO. 027: Yes.
11 THE COURT: Okay. Do you have any children?
12 PROSPECTIVE JUROR NO. 027: Yes.
13 THE COURT: How many?
14 PROSPECTIVE JUROR NO. 027: I have three.
15 THE COURT: Are they old enough to be employed?
16 PROSPECTIVE JUROR NO. 027: Yes.
17 THE COURT: Can you tell us what they do for a
18 living?
19 PROSPECTIVE JUROR NO. 027: I have one who is in
20 business dining. I have another one who is an office manager
21 for an elementary school. And then I have a son who is a
22 police officer in Midville, Utah.
23 THE COURT: In Mid --
24 PROSPECTIVE JUROR NO. 027: Sorry -- Midvale outside
25 of Salt Lake City, Utah.

1 THE COURT: Okay. How long has your son been a
2 police officer?

3 PROSPECTIVE JUROR NO. 027: About -- for about
4 probably the last 15 years.

5 THE COURT: Okay. Do you know what kind of -- what
6 he does? Does he patrol? Is he a detective?

7 PROSPECTIVE JUROR NO. 027: He's a -- he does a
8 patrol.

9 THE COURT: Okay. Anything about his employment that
10 would affect your ability to be fair and impartial?

11 PROSPECTIVE JUROR NO. 027: No.

12 THE COURT: You know of any reason why you could not
13 be a completely fair and impartial juror if you were selected
14 to serve on this panel?

15 PROSPECTIVE JUROR NO. 027: No.

16 THE COURT: Thank you. Thank you for being here.
17 Mr. Robert -- would you pronounce your last name for me?

18 PROSPECTIVE JUROR NO. 029: Wilczynski, Your Honor.

19 THE COURT: Wilczynski. Thank you. How long have
20 you lived in Clark County?

21 PROSPECTIVE JUROR NO. 029: Fourteen years.

22 THE COURT: Your employment, training, education
23 background?

24 PROSPECTIVE JUROR NO. 029: Two years of college. I
25 spent most of my career in human resources management.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 029: Most recently I'm
3 unemployed.

4 THE COURT: Your marital status?

5 PROSPECTIVE JUROR NO. 029: Married.

6 THE COURT: Is your wife employed?

7 PROSPECTIVE JUROR NO. 029: No, she's been a
8 housewife since we moved here 14 years ago.

9 THE COURT: Do you have children?

10 PROSPECTIVE JUROR NO. 029: Yes, one daughter.

11 THE COURT: Is she old enough to be employed?

12 PROSPECTIVE JUROR NO. 029: Yes.

13 THE COURT: What does she do?

14 PROSPECTIVE JUROR NO. 029: She's currently
15 unemployed as well.

16 THE COURT: Okay. Any reason why you could not be a
17 completely fair and impartial juror if you were selected to
18 serve?

19 PROSPECTIVE JUROR NO. 029: Your Honor, I've been
20 asking myself that while I stand here for a while.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 029: I'd like to think I can
23 be.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 029: I should tell you,

1 though, my daughter was in an abusive relationship with the
2 father of our granddaughter. In fact, [inaudible] now. And I
3 -- I think I can put that out of my mind but the similarity of
4 the situations.

5 THE COURT: That you just -- so your daughter was in
6 a situation --

7 PROSPECTIVE JUROR NO. 029: She's never been
8 seriously injured.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 029: But the father of our
11 granddaughter she lived with at the time was abusing her
12 verbally and physically.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 029: Never anything that had
15 gone to court or anything like that. Police were called
16 several times and they got security [inaudible] in a hotel and
17 pretty much cut off relation with him for the past several
18 years.

19 THE COURT: All right. So how long has it been since
20 this has gone on?

21 PROSPECTIVE JUROR NO. 029: Probably about five
22 years, but it was kind of a hot button with me.

23 THE COURT: Okay. I understand, you're a father. Is
24 there anything -- I mean, you understand that has nothing to
25 do with this case?

1 PROSPECTIVE JUROR NO. 029: Right. I understand
2 that.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 029: It's just I -- I -- I
5 knew this fellow I thought pretty well.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 029: Kind of a guy who
8 [inaudible] shirt off his back, great guy. More I found out
9 about him, I just couldn't believe it. Made me really
10 cynical.

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

14 PROSPECTIVE JUROR NO. 029: I'd like to think not.
15 I'm in human resources, obviously I have to mediate a lot of
16 things and try and be fair and impartial in those situations
17 and I think I've done a good job of it.

18 THE COURT: Okay. Well again, everybody that comes
19 to this courtroom, comes to this courtroom with lots of life
20 experiences, okay? I don't expect you to leave them at the
21 door; but, well, I guess I kind of do expect you to leave them
22 at the door. I mean, can you leave that experience at the
23 door, listen to the evidence that you hear in this case and
24 judge this case solely upon what you see and hear in the
25 courtroom and the instructions on the law and nothing else?

1 PROSPECTIVE JUROR NO. 029: I think that I can.

2 THE COURT: Okay. Well --

3 PROSPECTIVE JUROR NO. 029: I just thought I should
4 make you aware of the situation.

5 THE COURT: No, I appreciate that because obviously
6 it caused you to think that maybe you should disclose that,
7 right? Okay. Is there anything about that situation that's
8 going to affect your ability to be fair and impartial?

9 PROSPECTIVE JUROR NO. 029: I don't believe so, Your
10 Honor.

11 THE COURT: Well, you keep saying, "I don't think so,
12 I don't believe so," and you're the only one that can tell me.

13 PROSPECTIVE JUROR NO. 029: I guess I'm having a hard
14 time coming up with a hard yes.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 029: Until I'm in the
17 situation I'm not sure I really know.

18 THE COURT: All right. Well, let me ask you this
19 because I can't -- I cannot wait until you've heard all the
20 case and you go back to deliberate and you get back in the
21 deliberation room and you start talking about your daughter's
22 situation; and that has nothing to do with this, do you
23 understand that?

24 PROSPECTIVE JUROR NO. 029: Yeah, I -- I don't think
25 I would do anything like that.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 029: I'm just worried about
3 how subconsciously it might affect my train of thought.

4 THE COURT: All right. Well, that's what I'm worried
5 about too. Is it going to do that? Is it going to impede
6 your ability to look at the evidence objectively --

7 PROSPECTIVE JUROR NO. 029: I don't know, Your Honor.

8 THE COURT: -- and weigh it fair and impartially?

9 PROSPECTIVE JUROR NO. 029: I can't honestly say, no,
10 it won't.

11 THE COURT: Okay. So you think what's happened to
12 your daughter could -- do you believe that what's happened to
13 your daughter should affect Mr. Bennett Grimes?

14 PROSPECTIVE JUROR NO. 029: Not at all.

15 THE COURT: Neither do I, because would that be fair?

16 PROSPECTIVE JUROR NO. 029: No.

17 THE COURT: Okay. Are you a juror that's going to
18 allow that to affect your judgment?

19 PROSPECTIVE JUROR NO. 029: Again I would hope not.
20 I believe that I can keep them separate.

21 THE COURT: Okay. I'm not -- I'm not hopeful that
22 your questions are good enough right now. I mean, you have to
23 be able to say you can or you can't, okay? Someone that's
24 kind of on the fence, generally that's not really a yes; and
25 both of these parties, they're entitled to fair and impartial

1 treatment.

2 PROSPECTIVE JUROR NO. 029: I agree completely.

3 THE COURT: Okay. If you -- if you have family
4 members sitting in Mr. Bennett Grimes' seat, would you want
5 someone like yourself sitting on the panel?

6 PROSPECTIVE JUROR NO. 029: Probably not.

7 THE COURT: Why not?

8 PROSPECTIVE JUROR NO. 029: Because again I can't be
9 sure --

10 THE COURT: It's always a good question, isn't it?

11 PROSPECTIVE JUROR NO. 029: It is. Again I just
12 can't be 100% positive.

13 THE COURT: Okay. And the reason is if you had a
14 family member sitting over there, you'd want them to have a
15 fair and impartial trial, would you not?

16 PROSPECTIVE JUROR NO. 029: Yes.

17 THE COURT: In front of a panel of their peers,
18 listen to the evidence in the case, correct?

19 PROSPECTIVE JUROR NO. 029: Yes.

20 THE COURT: And base their decision on the law and
21 the evidence they heard in the courtroom, right?

22 PROSPECTIVE JUROR NO. 029: Yes.

23 THE COURT: And nothing else?

24 PROSPECTIVE JUROR NO. 029: Right.

25 THE COURT: Okay. Are you a person that can do that?

1 PROSPECTIVE JUROR NO. 029: Again I can't give you a
2 hard yes.

3 THE COURT: Okay. All right.

4 PROSPECTIVE JUROR NO. 029: Sorry, Your Honor.

5 THE COURT: That's okay. I'm just going to ask you
6 to just go sit on the back row. And at this time I'm going to
7 ask Daniel Davenport -- Mr. Davenport, if you will come up and
8 take Seat No. 18. Okay. Mr. Davenport, I'm going to ask you
9 a few questions. How long have you lived in Clark County?

10 PROSPECTIVE JUROR NO. 043: Five years.

11 THE COURT: Where did you move from?

12 PROSPECTIVE JUROR NO. 043: St. Louis.

13 THE COURT: What's your education background?

14 PROSPECTIVE JUROR NO. 043: Bachelor's degree.

15 THE COURT: In?

16 PROSPECTIVE JUROR NO. 043: Business administration
17 management.

18 THE COURT: What do you do for a living?

19 PROSPECTIVE JUROR NO. 043: I work high-end luxury
20 retail.

21 THE COURT: High-end luxury retail. What's that?

22 PROSPECTIVE JUROR NO. 043: A store like Louis
23 Vuitton or Chanel or something.

24 THE COURT: Okay. All right. Have you worked at
25 those two stores?

1 PROSPECTIVE JUROR NO. 043: No.

2 THE COURT: Okay. Your marital status?

3 PROSPECTIVE JUROR NO. 043: Single.

4 THE COURT: Do you have children?

5 PROSPECTIVE JUROR NO. 043: No.

6 THE COURT: Any reason why you could not be a
7 completely fair and impartial juror if you were selected to
8 serve on this panel?

9 PROSPECTIVE JUROR NO. 043: No, but I was --

10 THE COURT: What's "no but"? Go ahead.

11 PROSPECTIVE JUROR NO. 043: I just want to let you
12 know I recently had a traumatic experience.

13 THE COURT: I'm sorry. Do you feel comfortable
14 sharing it with everybody or --

15 PROSPECTIVE JUROR NO. 043: Sure.

16 THE COURT: Okay. I just want to make sure.

17 PROSPECTIVE JUROR NO. 043: About four months ago my
18 best friend was murdered in a domestic violence situation back
19 in St. Louis.

20 THE COURT: I'm sorry. Okay. It was your best
21 friend. In the relationship, who was your best friend?

22 PROSPECTIVE JUROR NO. 043: My friend, Deandre.

23 THE COURT: Is that -- was that the woman or the man?

24 PROSPECTIVE JUROR NO. 043: The guy.

25 THE COURT: The guy?

1 PROSPECTIVE JUROR NO. 043: Yeah.

2 THE COURT: Okay. He was murdered in like a domestic
3 violence type of situation?

4 PROSPECTIVE JUROR NO. 043: Yes.

5 THE COURT: Okay. Can you just generally tell me
6 what the facts are? I mean generally, you don't have to be
7 real specific. It was in St. Louis, correct?

8 PROSPECTIVE JUROR NO. 043: Yes.

9 THE COURT: Okay. And you were here?

10 PROSPECTIVE JUROR NO. 043: Yeah, I was here.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 043: I was here. There was an
13 argument with his -- with the mother of his child.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 043: And he was asked to
16 leave, he didn't leave, and someone else was called and it
17 escalated to that outcome.

18 THE COURT: Who was -- so somebody -- a third person
19 was called in?

20 PROSPECTIVE JUROR NO. 043: By the --

21 THE COURT: Did the mom murder your friend or the
22 third person?

23 PROSPECTIVE JUROR NO. 043: No. The third person,
24 the guy that was --

25 THE COURT: Okay. The third party. Has that third

1 party been arrested?

2 PROSPECTIVE JUROR NO. 043: No, because it was
3 supposedly self defense.

4 THE COURT: Okay. That -- was that person arrested?

5 PROSPECTIVE JUROR NO. 043: No.

6 THE COURT: Not even arrested? Is that a no?

7 PROSPECTIVE JUROR NO. 043: No.

8 THE COURT: Okay. So you -- and you're -- again I'm
9 asking you to tell me things that I assume you heard third
10 person --

11 PROSPECTIVE JUROR NO. 043: Yes.

12 THE COURT: -- is that correct?

13 PROSPECTIVE JUROR NO. 043: Yes.

14 THE COURT: Okay. Is there anything about that
15 situation that's going to affect your ability to be fair and
16 impartial in this case?

17 PROSPECTIVE JUROR NO. 043: No.

18 THE COURT: Okay. Can you set that aside and -- and
19 do your job as a juror based on the evidence you see and hear
20 in the courtroom and the law as given to you by myself?

21 PROSPECTIVE JUROR NO. 043: Yes.

22 THE COURT: Okay. Thank you, sir. I'm sorry you had
23 to tell us that. I apologize. Elizabeth Denny, how long have
24 you lived in Clark County?

25 PROSPECTIVE JUROR NO. 034: Eight years.

1 THE COURT: Your employment, training, education
2 background?

3 PROSPECTIVE JUROR NO. 034: I have a bachelor's in
4 clinical psychology. I'm a personal trainer and a bartender.
5 I'm married. My husband is a chef, at the [inaudible] hotel.

6 THE COURT: Chef?

7 PROSPECTIVE JUROR NO. 034: Uh-huh.

8 THE COURT: Okay. Do you have children?

9 PROSPECTIVE JUROR NO. 034: No.

10 THE COURT: Any reason why you could not be a
11 completely fair and impartial juror if you were selected to
12 serve on this panel?

13 PROSPECTIVE JUROR NO. 034: No.

14 THE COURT: Thank you. Thank you for being here.
15 Ms. Woodside, how long have you lived in Clark County?

16 PROSPECTIVE JUROR NO. 036: Twenty-three years.

17 THE COURT: Your employment, training, education
18 background?

19 PROSPECTIVE JUROR NO. 036: I'm a school bus driver
20 and I'm a high school graduate.

21 THE COURT: And it's obviously okay for you to be
22 here; the kids are going to make their way to school?

23 PROSPECTIVE JUROR NO. 036: Yeah.

24 THE COURT: What's the rule with magnet schools, do
25 you know?

1 PROSPECTIVE JUROR NO. 036: There should be a bus,
2 yeah.

3 THE COURT: Okay. That's what I thought, right?
4 Okay. And [inaudible] stays at one mile, if you're beyond one
5 mile is that --

6 PROSPECTIVE JUROR NO. 036: [Inaudible] one mile.

7 THE COURT: Is that still the rule?

8 PROSPECTIVE JUROR NO. 036: [Inaudible.]

9 THE COURT: Okay. How long have you been a bus
10 driver?

11 PROSPECTIVE JUROR NO. 036: Twenty-three years.

12 THE COURT: School district?

13 PROSPECTIVE JUROR NO. 036: Yes.

14 THE COURT: Do you like it?

15 PROSPECTIVE JUROR NO. 036: It's all right.

16 THE COURT: All right. I won't ask you anymore
17 questions. Your marital status?

18 PROSPECTIVE JUROR NO. 036: Married.

19 THE COURT: Is your husband employed?

20 PROSPECTIVE JUROR NO. 036: Yes. Transportation
21 supervisor.

22 THE COURT: For?

23 PROSPECTIVE JUROR NO. 036: School district.

24 THE COURT: Okay. Do you have any children?

25 PROSPECTIVE JUROR NO. 036: Yes, two.

1 THE COURT: Are they old enough to be employed?

2 PROSPECTIVE JUROR NO. 036: Yes.

3 THE COURT: What do they do for a living?

4 PROSPECTIVE JUROR NO. 036: My son's a corrections
5 officer and my daughter is a cashier at a Home Depot in Utah.

6 THE COURT: Any reason why you could not be a
7 completely fair and impartial juror if you were selected to
8 serve on this panel?

9 PROSPECTIVE JUROR NO. 036: No.

10 THE COURT: Thank you. Thank you for being here.
11 Mr. Peter Pryor, how long have you lived in Clark County?

12 PROSPECTIVE JUROR NO. 037: Seventeen years.

13 THE COURT: Your education background?

14 PROSPECTIVE JUROR NO. 037: High school graduate,
15 retired firefighter.

16 THE COURT: Retired firefighter. For what
17 jurisdiction?

18 PROSPECTIVE JUROR NO. 037: I was in New York state,
19 it was in [inaudible], city of Water [inaudible].

20 THE COURT: So you've been retired for 17 years or
21 more? Okay. Your marital status?

22 PROSPECTIVE JUROR NO. 037: Married.

23 THE COURT: Is your wife employed?

24 PROSPECTIVE JUROR NO. 037: She works for Loomis.

25 THE COURT: For?

1 PROSPECTIVE JUROR NO. 037: Loomis. Used to be
2 Loomis Fargo; now it's just Loomis. Armored car company.

3 THE COURT: Okay. Do you have any children?

4 PROSPECTIVE JUROR NO. 037: I have a son and two
5 stepdaughters.

6 THE COURT: So three children?

7 PROSPECTIVE JUROR NO. 037: Yes.

8 THE COURT: Are they old enough to be employed?

9 PROSPECTIVE JUROR NO. 037: Yes.

10 THE COURT: Can you tell us what each does for a
11 living?

12 PROSPECTIVE JUROR NO. 037: My son's out of work
13 right now, had to move back home. Two girls --

14 THE COURT: With you?

15 PROSPECTIVE JUROR NO. 037: Yes.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 037: Two girls still live in
18 New York.

19 THE COURT: Okay. Are they old enough to be
20 employed?

21 PROSPECTIVE JUROR NO. 037: Yes.

22 THE COURT: What do they do?

23 PROSPECTIVE JUROR NO. 037: They hook up part-time
24 jobs since the economy went south. One works for Dunkin'
25 Donuts and the other one for a dry cleaner, I think.

1 THE COURT: Any reason why you could not be a
2 completely fair and impartial juror if you were selected to
3 serve on this panel?

4 PROSPECTIVE JUROR NO. 037: Well, for the 22 years I
5 was on the fire department --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 037: -- I would go out on
8 domestic calls where people have been stabbed.

9 THE COURT: Okay. Anything about that is going to
10 affect your ability to be fair and impartial?

11 PROSPECTIVE JUROR NO. 037: I could never understand
12 why a male would stab another female but.

13 THE COURT: Okay. I'm sorry. I didn't hear you.

14 PROSPECTIVE JUROR NO. 037: Why a male could stab
15 another female; but I don't know the reason for this case.

16 THE COURT: All right. So over --

17 PROSPECTIVE JUROR NO. 037: As I was treating, they
18 were -- guys were usually drunk. They usually took off. I
19 never speak to them.

20 THE COURT: Okay. That was -- you've been retired
21 for at least 17 years, correct?

22 PROSPECTIVE JUROR NO. 037: Yes.

23 THE COURT: All right. And apparently during your
24 job as a firefighter you had to come upon situations where
25 somebody had been stabbed by somebody else?

1 PROSPECTIVE JUROR NO. 037: Stabbed, shot, beat with
2 bones.

3 THE COURT: Okay. How long did you do it?

4 PROSPECTIVE JUROR NO. 037: Twenty-two years.

5 THE COURT: Okay. So you probably saw your fair
6 share of things?

7 PROSPECTIVE JUROR NO. 037: Yes.

8 THE COURT: Anything about your employment, your
9 former employment that's going to affect your ability to be
10 fair and impartial?

11 PROSPECTIVE JUROR NO. 037: I'm pretty -- I could do
12 it, I believe. I just wanted to be fair to bring it up so
13 everybody here would know.

14 THE COURT: Okay. All right. Anything about your
15 prior employment that's going to interfere with your ability
16 to be fair and impartial?

17 PROSPECTIVE JUROR NO. 037: No.

18 THE COURT: Okay. Thank you very much. Mr. Richard
19 Evans?

20 PROSPECTIVE JUROR NO. 038: Yes.

21 THE COURT: Good morning. How long have you lived in
22 Clark County?

23 PROSPECTIVE JUROR NO. 038: About ten months.

24 THE COURT: And you got a jury summons? Is that a
25 yes? I guess you did. Where did you move from?

1 PROSPECTIVE JUROR NO. 038: Des Moines, Iowa.

2 THE COURT: Thank you for responding. Your education
3 background?

4 PROSPECTIVE JUROR NO. 038: One year college, and
5 retired carpenter.

6 THE COURT: So you moved out here to retire?

7 PROSPECTIVE JUROR NO. 038: Yes.

8 THE COURT: Okay. Your marital status?

9 PROSPECTIVE JUROR NO. 038: Married.

10 THE COURT: Is your wife employed?

11 PROSPECTIVE JUROR NO. 038: She's retired as well.

12 THE COURT: What did she do?

13 PROSPECTIVE JUROR NO. 038: She was an office
14 manager.

15 THE COURT: Do you have children?

16 PROSPECTIVE JUROR NO. 038: I have a stepson.

17 THE COURT: Okay. One child?

18 PROSPECTIVE JUROR NO. 038: Yeah.

19 THE COURT: Is he old enough to be employed?

20 PROSPECTIVE JUROR NO. 038: Yeah.

21 THE COURT: What does he do for a living?

22 PROSPECTIVE JUROR NO. 038: He's a manager for a
23 fast-food restaurant.

24 THE COURT: Any reason why you could not be a
25 completely fair and impartial juror if you were selected to

1 serve on this panel?

2 PROSPECTIVE JUROR NO. 038: No.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR NO. 038: You're welcome.

5 THE COURT: Good morning, Mr. Brian Kuntz. How long
6 have you lived in Clark County?

7 PROSPECTIVE JUROR NO. 041: Almost eight years.

8 THE COURT: Your education background?

9 PROSPECTIVE JUROR NO. 041: Three years of college.

10 THE COURT: What did you study?

11 PROSPECTIVE JUROR NO. 041: Computer information
12 systems.

13 THE COURT: What do you do for a living?

14 PROSPECTIVE JUROR NO. 041: I'm currently unemployed.

15 THE COURT: Your marital status?

16 PROSPECTIVE JUROR NO. 041: Single.

17 THE COURT: Do you have children?

18 PROSPECTIVE JUROR NO. 041: No, ma'am.

19 THE COURT: Do you know of any reason why you could
20 not be a completely fair and impartial juror if you were
21 selected to serve on this panel?

22 PROSPECTIVE JUROR NO. 041: No.

23 THE COURT: Thank you. Thank you very much for being
24 here. All right. At this time, ladies and gentlemen, it's
25 12:30. We are going to recess for lunch. During this recess

1 you're admonished not to talk or converse amongst yourselves
2 or with anyone else on any subject connected with this trial
3 or read, watch or listen to any report of or commentary on the
4 trial or any person connected with this trial by any medium of
5 information, including without limitation newspapers,
6 television, the Internet or radio, or form or express any
7 opinion on any subject connected with this trial until the
8 case is finally submitted to you.

9 You're further admonished you may not communicate
10 with anyone, including your fellow jurors about this case on
11 your cellphone, through email, Blackberry, iPhone, text
12 messaging, through Twitter, any blog or website, through any
13 Internet chat room or by way of any other social networking
14 website including but not limited to Facebook, MySpace,
15 LinkedIn and YouTube.

16 We're going to be in recess until 1:45. After lunch,
17 you'll come back up to the fourteenth floor in which the
18 officer will meet you and he'll bring you back in. Before I
19 excuse you, can I just speak to the officer for one minute?

20 (Pause in proceedings.)

21 THE COURT: Okay. At this time, ladies and
22 gentlemen, you're excused. We'll see you at 1:45. Thank you.

23 (Court recessed at 12:32 p.m. until 1:54 p.m.)

24 (Outside the presence of the prospective jury panel.)

25 THE COURT: This hearing is taking place outside the

1 presence of the jury panel. Mr. Bennett Grimes is present.
2 Generally, especially when a jury comes in, I like people to
3 stand up. It's just, you know, out of respect, okay? But
4 thank you, you can have a seat. All right. Because you don't
5 want the jury to think you're not being respectful, okay? Do
6 you have something that has to be done before I bring the
7 panel back in?

8 MR. HILLMAN: Just briefly.

9 THE COURT: Go ahead, Mr. Hillman.

10 MR. HILLMAN: When Ms. Hojjat and I left the
11 courtroom for the lunchroom break, we tried to wait to make
12 sure that the elevator well was clear of jurors. We came
13 around the corner and saw Janice David.

14 THE COURT: What badge number?

15 MR. HILLMAN: She is Badge No. 16 in Chair No. 7.

16 THE COURT: Okay.

17 MR. HILLMAN: And that's all --

18 THE COURT: The court reporter?

19 MR. HILLMAN: Yes. That's all --

20 THE COURT: The court reporter who knows better?

21 MR. HILLMAN: Well, it wasn't her fault. She was
22 just waiting for the elevator. We walked around the corner,
23 there she was, we turned around and went -- and backtracked.
24 So we're wondering if the Court would consider telling them
25 that if we run into them on the street or anywhere else, we

1 can't say anything to them and we're not being rude. That's
2 all.

3 THE COURT: Okay. So nothing happened? You just saw
4 her.

5 MR. HILLMAN: Nothing happened. We just want you to
6 add that extra instruction.

7 THE COURT: Okay.

8 MR. HILLMAN: Okay.

9 THE COURT: I usually do.

10 MR. HILLMAN: Right, you usually do, but I don't
11 remember hearing it this morning.

12 THE COURT: I don't remember either, Mr. Hillman.

13 MR. HILLMAN: And I didn't want to wait until the end
14 because I would forget by then.

15 THE COURT: Okay. But she didn't say anything to
16 you?

17 MR. HILLMAN: No, nothing was said.

18 THE COURT: Okay. But you think she might be worried
19 because you turned around and ran?

20 MS. HOJJAT: It just -- it appeared --

21 MR. HILLMAN: It was --

22 MS. HOJJAT: -- we walked, took one look at her,
23 turned right back around and walked back out again.

24 THE COURT: Okay. No problem.

25 MR. HILLMAN: It was a little awkward, that's all.

1 THE COURT: Okay. No problem. I'll be happy to do
2 it. Before we went to lunch the only person that I allowed to
3 leave was Janet Robertson, 0008, but everyone else should
4 still be here with us. So we'll bring them in. I just have a
5 few questions to ask the panel as a whole, and then after that
6 I'm going to turn the panel over to the State.

7 MS. BOTELHO: Thank you, Your Honor.

8 THE COURT: I have just a few more questions. You
9 can bring them in.

10 (In the presence of the prospective jury panel.)

11 THE COURT: Sir, I know you have issues with your
12 back. You can sit wherever it is that's most comfortable for
13 you, okay? Okay. If you want to come over here where there's
14 less people so you don't -- you can sit on the second row
15 right there if you want to. Or you can sit in that chair,
16 it's up to you. All right.

17 Do the parties stipulate to the presence of the jury
18 panel as a whole?

19 MS. BOTELHO: Yes, Your Honor.

20 MR. HILLMAN: Yes, Judge.

21 THE COURT: Okay. At this time my -- I have a few
22 questions left for the panel of 23 only. So if you are in the
23 first 23 these questions pertain to you and if you'd like to
24 respond in the affirmative, again please raise your hand,
25 state your name and your badge number before responding to my

1 question.

2 Anyone on the panel 1 through 23 that's ever served
3 as a juror before; ever been called, actually was on the jury
4 panel? Go ahead, sir.

5 PROSPECTIVE JUROR NO. 001: Mark Whelchel, No.
6 080001. I've been --

7 THE COURT: How many times.

8 PROSPECTIVE JUROR NO. 001: I've been called three
9 times, I've served on one jury.

10 THE COURT: Okay. Do you know if that was civil or
11 criminal?

12 PROSPECTIVE JUROR NO. 001: Criminal.

13 THE COURT: Was that here in Clark County?

14 PROSPECTIVE JUROR NO. 001: Yes.

15 THE COURT: How long ago was it?

16 PROSPECTIVE JUROR NO. 001: Probably about eight
17 years ago.

18 THE COURT: So it was in this building?

19 PROSPECTIVE JUROR NO. 001: No, it wasn't this
20 building, so it may have been longer.

21 THE COURT: Was it the other -- I can't even remember
22 how long we've been in here.

23 MR. HILLMAN: Me either.

24 THE COURT: Have we been in here for at least eight
25 years? I don't know. I'm so sorry.

1 PROSPECTIVE JUROR NO. 001: I'm not sure either.
2 THE COURT: It was the other courthouse?
3 PROSPECTIVE JUROR NO. 001: Yes.
4 THE COURT: Okay. Were you -- it was a criminal
5 case?
6 PROSPECTIVE JUROR NO. 001: Yes.
7 THE COURT: Were you selected to be the foreperson?
8 PROSPECTIVE JUROR NO. 001: No.
9 THE COURT: Without telling us what your verdict was,
10 was the jury able to reach a verdict?
11 PROSPECTIVE JUROR NO. 001: Yes.
12 THE COURT: Anything about that experience that would
13 affect your ability to be a fair and impartial juror in this
14 case?
15 PROSPECTIVE JUROR NO. 001: No.
16 THE COURT: Thank you, sir. Anyone else that's ever
17 served as a juror before? Go ahead.
18 PROSPECTIVE JUROR NO. 021: Karen Augspurger, 080021.
19 THE COURT: Have you ever served as a juror?
20 PROSPECTIVE JUROR NO. 021: Yes.
21 THE COURT: How many times?
22 PROSPECTIVE JUROR NO. 021: Two.
23 THE COURT: Civil or criminal?
24 PROSPECTIVE JUROR NO. 021: Two civil.
25 THE COURT: Both were civil?

1 PROSPECTIVE JUROR NO. 021: Uh-huh.

2 THE COURT: Is that a yes?

3 PROSPECTIVE JUROR NO. 021: Yes.

4 THE COURT: Okay. In either of those cases were you
5 selected to be the foreperson?

6 PROSPECTIVE JUROR NO. 021: No.

7 THE COURT: Was the jury able to reach a verdict?
8 Don't tell us what the verdict was; but in both cases was the
9 jury able to reach a verdict?

10 PROSPECTIVE JUROR NO. 021: Yes.

11 THE COURT: Anything about those experiences that
12 would affect your ability to be a fair and impartial juror in
13 this particular case?

14 PROSPECTIVE JUROR NO. 021: No.

15 THE COURT: Thank you. Anyone else that's ever
16 served as a juror before? Go ahead, ma'am.

17 PROSPECTIVE JUROR NO. 036: Vicky Woodside, 080036.

18 THE COURT: How many times?

19 PROSPECTIVE JUROR NO. 036: Once.

20 THE COURT: Civil or criminal?

21 PROSPECTIVE JUROR NO. 036: Criminal.

22 THE COURT: And that was here in Clark County?

23 PROSPECTIVE JUROR NO. 036: Yeah. Yes.

24 THE COURT: Were you selected to be the foreperson?

25 PROSPECTIVE JUROR NO. 036: No.

1 THE COURT: Without tell us what your verdict was,
2 were you able to reach a verdict?

3 PROSPECTIVE JUROR NO. 036: Yes.

4 THE COURT: Anything about that experience that would
5 affect your ability to be fair and impartial in this
6 particular case?

7 PROSPECTIVE JUROR NO. 036: No.

8 THE COURT: Thank you. Anyone else that's ever
9 served as a juror before? Go ahead, ma'am.

10 PROSPECTIVE JUROR NO. 027: 080027.

11 THE COURT: Your name?

12 PROSPECTIVE JUROR NO. 027: Karen Hopkins.

13 THE COURT: Go ahead, Ms. Hopkins. How many times?

14 PROSPECTIVE JUROR NO. 027: Once.

15 THE COURT: Civil or criminal?

16 PROSPECTIVE JUROR NO. 027: Civil.

17 THE COURT: That was here in Clark County?

18 PROSPECTIVE JUROR NO. 027: Yes.

19 THE COURT: Were you selected to be the foreperson?

20 PROSPECTIVE JUROR NO. 027: No.

21 THE COURT: Without telling me what your verdict was,
22 were you able to reach a verdict?

23 PROSPECTIVE JUROR NO. 027: No.

24 THE COURT: No?

25 PROSPECTIVE JUROR NO. 027: No.

1 THE COURT: So what happened?

2 PROSPECTIVE JUROR NO. 027: The judge just dismissed
3 us and said there wasn't enough information to make a
4 decision.

5 THE COURT: Okay. Were you ever excused to
6 deliberate your verdict?

7 PROSPECTIVE JUROR NO. 027: [Inaudible.]

8 THE COURT: Okay. So at some point in the trial the
9 judge says, "you're discharged, you can go home." Is that a
10 yes?

11 PROSPECTIVE JUROR NO. 027: At the end, yes.

12 THE COURT: All right. And you did not have to
13 deliberate?

14 PROSPECTIVE JUROR NO. 027: Right.

15 THE COURT: Okay. Anything about that that would
16 affect your ability to be a fair and impartial juror in this
17 case?

18 PROSPECTIVE JUROR NO. 027: No.

19 THE COURT: Thank you. Anyone else? The record will
20 reflect no further response from the jury panel.

21 Have you or anyone close to you, such as a family
22 member or friend, ever been the victim of a crime? Have you
23 or anyone close to you, such as a family member, friend, ever
24 been the victim of a crime? And other than what potential
25 jurors have already informed the Court. Go ahead, ma'am.

1 Your name and badge number?

2 PROSPECTIVE JUROR NO. 024: Llendy Hernandez, Badge
3 No. 080024. My dad was murdered in 2006.

4 THE COURT: I'm sorry.

5 PROSPECTIVE JUROR NO. 024: My dad was murdered in
6 '06.

7 THE COURT: 2006?

8 PROSPECTIVE JUROR NO. 024: Yes.

9 THE COURT: Was that here in Clark County?

10 PROSPECTIVE JUROR NO. 024: No. Moreno Valley,
11 California.

12 THE COURT: Okay. I'm sorry. I'm sorry I have to
13 ask you these questions. Did they catch --

14 PROSPECTIVE JUROR NO. 024: [Inaudible.]

15 THE COURT: All right. Is it still unsolved?

16 PROSPECTIVE JUROR NO. 024: The DA said it was out of
17 their hands and couldn't do anything about it until the State
18 -- they don't know anything and it's still a mystery to my
19 family still.

20 THE COURT: Okay. I don't know what that means, "the
21 DA said it's out of our hands."

22 PROSPECTIVE JUROR NO. 024: I don't know either. I
23 was 18. I wasn't sure of the verbiage. [Inaudible.]

24 THE COURT: All right. But they never arrested
25 anybody?

1 PROSPECTIVE JUROR NO. 024: No.

2 THE COURT: They never had any suspects?

3 PROSPECTIVE JUROR NO. 024: They had a suspect, but I
4 guess they fled the country, or I don't know.

5 THE COURT: Was it a robbery or something like that?

6 PROSPECTIVE JUROR NO. 024: No, he was shot at a --
7 the restaurant he owned, like right after Christmas.

8 THE COURT: Okay. It doesn't sound like you know
9 much of the circumstances? Is that a no?

10 PROSPECTIVE JUROR NO. 024: Yeah, I don't.

11 THE COURT: Okay. Anything about that experience
12 that would affect your ability to be fair and impartial?

13 PROSPECTIVE JUROR NO. 024: Well, I'm just upset
14 because like I felt like there was no justice done for my dad,
15 and I don't know, I just feel like the system didn't work in
16 our favor in our case. I'm upset about it til this day,
17 [inaudible] family.

18 THE COURT: Of course.

19 PROSPECTIVE JUROR NO. 024: My future, I had to drop
20 out of college because I couldn't pay for it.

21 THE COURT: Oh my gosh.

22 PROSPECTIVE JUROR NO. 024: My sister as well. We
23 lost our home. We lost everything. So, yeah, I'm upset til
24 this day.

25 THE COURT: Okay. Well, I apologize. I hope you

1 didn't interpret my questions as, Are you not upset, because I
2 would expect you'd probably be upset the rest of your life
3 over it. But you -- do you think it's the -- do you blame the
4 judicial system?

5 PROSPECTIVE JUROR NO. 024: Yeah, I mean --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 024: -- I see other small
8 cases of people go to jail for just like small things. I
9 mean, this is a father that was murdered and they never had to
10 do anything about it so.

11 THE COURT: Okay. So you believe the police didn't
12 do anything about it?

13 PROSPECTIVE JUROR NO. 024: I don't think they did
14 everything they could, no.

15 THE COURT: Okay. So obviously the police were
16 called?

17 PROSPECTIVE JUROR NO. 024: [Inaudible.]

18 THE COURT: Is that a yes?

19 PROSPECTIVE JUROR NO. 024: Yes.

20 THE COURT: Okay. I mean, because you were 18; you
21 were an adult, right?

22 PROSPECTIVE JUROR NO. 024: Yeah, I just turned 18.

23 THE COURT: Okay. What I'm going to be asking you,
24 are those based on your personal knowledge or what your mom or
25 family members told you?

1 PROSPECTIVE JUROR NO. 024: What our attorney told
2 us. We sued -- because it was a restaurant, there was like a
3 concert going on so I guess they hired --

4 THE COURT: I'm sorry.

5 PROSPECTIVE JUROR NO. 024: -- more people to check
6 the guns and weapons and whatnot; they didn't do their part so
7 the case just settled last -- two weeks ago I believe and I
8 told our attorney, you know, what happened to this guy that
9 killed our dad, was he ever caught? He was like, no, well,
10 they don't know. The guy is still out there. And that's all,
11 that's all that I know. I obviously didn't want to go back to
12 that [inaudible].

13 THE COURT: All right. Now it was in a -- it was in
14 your father's restaurant? Is that a yes?

15 PROSPECTIVE JUROR NO. 024: Yes.

16 THE COURT: And there was a concert there?

17 PROSPECTIVE JUROR NO. 024: Yes.

18 THE COURT: And who -- and there was somebody, door
19 people, security that was --

20 PROSPECTIVE JUROR NO. 024: Security guards.

21 THE COURT: -- supposed to check for guns?

22 PROSPECTIVE JUROR NO. 024: Right.

23 THE COURT: Okay. But somehow a gun got in there?

24 PROSPECTIVE JUROR NO. 024: Uh-huh.

25 THE COURT: Is that a yes?

1 PROSPECTIVE JUROR NO. 024: Yes.

2 THE COURT: And do you -- I mean, do they think your
3 father was randomly shot or was more than one person shot?

4 PROSPECTIVE JUROR NO. 024: It was just my dad. They
5 -- it was just my dad. Nobody else was hurt.

6 THE COURT: Okay. And you don't know if it was
7 random or what the motive was?

8 PROSPECTIVE JUROR NO. 024: No.

9 THE COURT: Okay. And the police never arrested
10 anybody?

11 PROSPECTIVE JUROR NO. 024: No.

12 THE COURT: Okay. What is it you think the police
13 could have done that they didn't do?

14 PROSPECTIVE JUROR NO. 024: They could have
15 investigated why it was [inaudible] -- I don't know, kept in
16 touch with us to see how, you know, they needed further
17 information from us to help in the system to catch whoever did
18 this to him.

19 THE COURT: Okay. Did the police -- do you know what
20 their investigation was?

21 PROSPECTIVE JUROR NO. 024: No.

22 THE COURT: Okay. So I'm -- I'm sorry, what is it
23 you think they should have investigated if you're not sure
24 what they did investigate?

25 PROSPECTIVE JUROR NO. 024: What was the cause of

1 them going in there, like what was the motive? Like why him?
2 We -- I'm left with like no answers, so I -- I don't know.

3 THE COURT: Okay. I'm sorry.

4 PROSPECTIVE JUROR NO. 024: It's okay.

5 THE COURT: Have you ever spoken to the police
6 directly?

7 PROSPECTIVE JUROR NO. 024: I don't even know who to
8 contact over there. I mean this is like six years ago outside
9 of where we live in Orange (sic) County. This is all in a
10 different county and [inaudible] so I wasn't even sure of the
11 resources that I could use there, who to contact or anything.

12 THE COURT: So who was like the person that would
13 speak for the family to the police?

14 PROSPECTIVE JUROR NO. 024: Our attorney.

15 THE COURT: Okay. Have you ever asked the attorney
16 who is it, who's the detective, who's a homicide detective,
17 who can I contact?

18 PROSPECTIVE JUROR NO. 024: They were in contact with
19 my mom. I really didn't --

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 024: -- get into it. I was
22 just [inaudible]. Kind of hurts too much to go back.

23 THE COURT: Okay. So they were in contact with your
24 mother? Is that a yes?

25 PROSPECTIVE JUROR NO. 024: Yes.

1 THE COURT: All right. All right. But you're not
2 really sure what investigation was done?

3 PROSPECTIVE JUROR NO. 024: Right, I don't.

4 THE COURT: You don't know what leads they have?

5 PROSPECTIVE JUROR NO. 024: No.

6 THE COURT: But somebody told you that whoever it
7 was, they fled the country?

8 PROSPECTIVE JUROR NO. 024: I'm not sure the country,
9 they just said they couldn't find the person, that they're
10 still out there.

11 THE COURT: So they -- they have a suspect, they've
12 ID'd somebody? A person?

13 PROSPECTIVE JUROR NO. 024: That's what my attorney
14 said, yeah, that they know who did it but they don't know
15 where he's at.

16 THE COURT: Okay. So they know who did it or they
17 have a suspect?

18 PROSPECTIVE JUROR NO. 024: Right.

19 THE COURT: And they just haven't been able to
20 apprehend that suspect?

21 PROSPECTIVE JUROR NO. 024: Correct.

22 THE COURT: Okay. So I'm assuming you're hopeful
23 that at some point they will be able to apprehend him and
24 prosecute him?

25 PROSPECTIVE JUROR NO. 024: Yes.

1 THE COURT: Okay. How do they know how they come to
2 the conclusion that this is who did it, we just can't find
3 him?

4 PROSPECTIVE JUROR NO. 024: I don't know. I didn't
5 want to ask too many questions, to be honest.

6 THE COURT: I'm sorry.

7 PROSPECTIVE JUROR NO. 024: I don't know. I didn't
8 want to ask too many questions. Honestly, like it felt like
9 kind of like the less I knew the better. I just didn't want
10 to go back to that day; so I don't feel comfortable about
11 this. I really don't. Sorry.

12 THE COURT: I'm sorry?

13 PROSPECTIVE JUROR NO. 024: I don't feel comfortable
14 talking about this.

15 THE COURT: Okay. I'm sorry. But you brought it up
16 to me.

17 PROSPECTIVE JUROR NO. 024: Right, because --

18 THE COURT: So that's -- I'm just trying to -- would
19 you feel more comfortable coming up here at the bench? Okay.
20 Is there anything about -- so you're okay talking about it
21 with everybody else? Because you can talk about it like that
22 or we can come up to the bench and it will just be me and the
23 lawyers. Would that make you feel better? No. Okay. And
24 again, I'm sorry that you have to talk about it. I'm really
25 sorry. Is there anything about that particular incident that

1 would affect your ability to be fair and impartial in this
2 case?

3 PROSPECTIVE JUROR NO. 024: Yes.

4 THE COURT: Okay. Then you're going to have to come
5 up here, all right?

6 (Bench conference transcribed as follows.)

7 THE COURT: I'm sorry, Ms. Hernandez.

8 PROSPECTIVE JUROR NO. 024: It's okay.

9 THE COURT: Hopefully you're more comfortable if
10 we're just up here. Let the record reflect Ms. Hernandez is
11 present at the bench, 0024, as well as all four lawyers.
12 Okay. Because I've asked you repeatedly if you could be fair
13 and impartial, and you said, Yes. Now you said you think that
14 what happened to your father might affect you here. How so?

15 PROSPECTIVE JUROR NO. 024: I'm just really bitter
16 about the situation and I'm just upset and also in opening I
17 was --

18 THE COURT: Okay. Let's not go onto anything else
19 yet. Okay. You're bitter and upset.

20 PROSPECTIVE JUROR NO. 024: Right.

21 THE COURT: Okay. And that's completely
22 understandable, okay? And that was in another jurisdiction,
23 right?

24 PROSPECTIVE JUROR NO. 024: Benita [phonetic].

25 THE COURT: [Inaudible], California, there was

1 another police department.

2 PROSPECTIVE JUROR NO. 024: Right.

3 THE COURT: That was another state.

4 PROSPECTIVE JUROR NO. 024: Right.

5 THE COURT: Okay. And you clearly think they didn't
6 do enough to solve this?

7 PROSPECTIVE JUROR NO. 024: Yes.

8 THE COURT: Okay. Although they clearly have
9 somebody, they've ID'd somebody, they just can't find that
10 person.

11 PROSPECTIVE JUROR NO. 024: That's what our attorney
12 said.

13 THE COURT: That's what you think?

14 PROSPECTIVE JUROR NO. 024: Yeah.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 024: I'm not 100% sure, but
17 that's what our attorney said.

18 THE COURT: Okay. That's what you think. Let me
19 just remind everybody we're still in session

20 and we're recording at the bench. Thank you. Would
21 you use what happened there against the parties
22 in this matter?

23 PROSPECTIVE JUROR NO. 024: I just feel like my
24 emotions are going to get in the way.

25 THE COURT: Okay. How so?

1 PROSPECTIVE JUROR NO. 024: I just don't believe in
2 the court system. I just don't feel like -- there's other
3 things that happened to me as well and I just don't --

4 THE COURT: Okay. You don't believe in the court
5 system in California?

6 PROSPECTIVE JUROR NO. 024: No.

7 THE COURT: Okay. Does that mean that Nevada, you
8 don't believe in the court system here?

9 PROSPECTIVE JUROR NO. 024: Well, I've never been to
10 -- well, I just have a lot of different factors that are -- I
11 know that are going to impair my judgment as far as --

12 THE COURT: Go ahead and tell me what they are.

13 PROSPECTIVE JUROR NO. 024: Like I also had a gun to
14 my head for 45 minutes while I was 8 months pregnant, they
15 shoplifted the whole entire store, and I'm kind of like -- I
16 don't want --

17 THE COURT: Okay. Wait a minute. You were 8 months
18 pregnant at some point, when was this?

19 PROSPECTIVE JUROR NO. 024: This is in '08.

20 THE COURT: So two years -- '08, '09, '10, like four
21 years ago?

22 PROSPECTIVE JUROR NO. 024: I have anxiety attacks.

23 THE COURT: Just a minute. Were you some place and
24 someone was committing a robbery?

25 PROSPECTIVE JUROR NO. 024: I was a store manager at

1 RadioShack, two black men came into the store with a gun, put
2 it to my head, 45 minutes, this is after my dad died so you
3 could just --

4 THE COURT: Oh, yeah, I can't even imagine.

5 PROSPECTIVE JUROR NO. 024: My son came out a month
6 earlier than he should have with a hole in his chest. I
7 [inaudible], I get anxious around black people. I'm not --
8 I'm not racist, but I just don't [inaudible].

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 024: I just try to put all
11 this stuff aside, but I can't.

12 THE COURT: Okay. So you were working at RadioShack
13 as a manager and a robbery went down and you were held at
14 gunpoint? Is that a yes?

15 PROSPECTIVE JUROR NO. 024: Yes.

16 THE COURT: Did the police come and investigate?

17 PROSPECTIVE JUROR NO. 024: Yes.

18 THE COURT: Did they catch the people that did it?

19 PROSPECTIVE JUROR NO. 024: Yes.

20 THE COURT: Okay. Did you have to go to court and
21 identify them?

22 PROSPECTIVE JUROR NO. 024: No.

23 THE COURT: Did you go to court and testify?

24 PROSPECTIVE JUROR NO. 024: No.

25 THE COURT: You didn't have to do anything?

1 PROSPECTIVE JUROR NO. 024: No.

2 THE COURT: So what happened?

3 PROSPECTIVE JUROR NO. 024: I was traumatized.

4 THE COURT: No, I mean I -- of course you were, I
5 apologize. I'm trying to figure out what happened with the
6 case.

7 PROSPECTIVE JUROR NO. 024: They were caught.

8 THE COURT: Police caught them?

9 PROSPECTIVE JUROR NO. 024: Yes.

10 THE COURT: And then what happened to the
11 perpetrators? Was it more than one?

12 PROSPECTIVE JUROR NO. 024: It was two.

13 THE COURT: It was two. What happened to them?

14 PROSPECTIVE JUROR NO. 024: They were locked up
15 because they also robbed three other RadioShacks and some
16 Gamestops.

17 THE COURT: How do you know that?

18 PROSPECTIVE JUROR NO. 024: Because the detective
19 that followed me to the emergency room told me after -- he's
20 saying that they finally caught these guys [inaudible] or --

21 THE COURT: Good.

22 PROSPECTIVE JUROR NO. 024: -- shoplifting or
23 whatever at other stores.

24 THE COURT: But you didn't have to identify them?

25 PROSPECTIVE JUROR NO. 024: No.

1 THE COURT: You didn't have to testify?

2 PROSPECTIVE JUROR NO. 024: No.

3 THE COURT: What, did they enter a guilty plea?

4 PROSPECTIVE JUROR NO. 024: I have no idea.

5 THE COURT: But they're locked up where and for how
6 long?

7 PROSPECTIVE JUROR NO. 024: In San Diego. I don't
8 know how long.

9 THE COURT: Okay. Did you follow the case at all?

10 PROSPECTIVE JUROR NO. 024: No, I didn't want to. I
11 had to go --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 024: I had to go see a
14 psychologist because I was like traumatized from the incident.
15 I get anxiety attacks here and there and I just don't feel
16 comfortable.

17 THE COURT: Okay. Anything else you want to tell us?

18 PROSPECTIVE JUROR NO. 024: No. That's it.

19 THE COURT: Okay. So you were a victim of crime and
20 also your father was a victim. You think that's going to
21 impede your ability --

22 PROSPECTIVE JUROR NO. 024: Oh, yeah.

23 THE COURT: Okay. I have to finish asking my
24 question because Kerry is taking down everything. What
25 happened between this morning and lunch?

1 PROSPECTIVE JUROR NO. 024: I was trying to like get
2 over it and move on and not let it hold me back from my life,
3 but it's hard, you know. Just I can't let it -- my dad's
4 situation, I can't let it past me. My situation, okay, I'll
5 grow up from it one day, but not now. I'm not ready to -- I
6 just don't want my judgment and my feelings and whatnot to get
7 in the way of a man's case; I just don't feel like that's
8 right.

9 THE COURT: Okay. Neither is one that happened to
10 you. So do you think that because what happened to you you're
11 going to convict him regardless of the evidence?

12 PROSPECTIVE JUROR NO. 024: I don't -- I don't know.
13 I just --

14 THE COURT: Okay. You're the only one that can tell
15 us.

16 PROSPECTIVE JUROR NO. 024: I don't -- I'm just
17 angry.

18 THE COURT: And you have every right to be, okay?
19 But if you're picked as a juror and you listen to both sides
20 put on their case and after you've heard all of the evidence
21 if you believe the State failed to carry their burden of proof
22 by proving beyond a reasonable doubt, would you have any
23 problem entering a not guilty plea?

24 PROSPECTIVE JUROR NO. 024: Honestly, I don't know.
25 I just don't think that I'm suitable for this one, at least.

1 The whole criminal thing with my dad and what happened to me,
2 I'm just -- I don't want to do this.

3 THE COURT: Could you answer my question? If you sit
4 in this trial, you're picked as a juror, and you believe the
5 State hasn't met their burden of proof, they didn't prove
6 their case by proof beyond a reasonable doubt, would you have
7 any problem entering a not guilty plea -- I'm sorry, not
8 guilty verdict? I'm sorry. Have any problem returning a not
9 guilty verdict?

10 PROSPECTIVE JUROR NO. 024: Yeah, like I'm saying, he
11 didn't do it and they're going to have him free.

12 THE COURT: Okay. Listen to my question. You sat
13 through the case, you've heard all of the evidence. You go
14 back to deliberate and you believe the State did not meet
15 their burden of proof, they didn't prove their case, okay?
16 Would you have any problem returning a not guilty verdict?

17 PROSPECTIVE JUROR NO. 024: No.

18 THE COURT: Okay. Vice versa. If you sat through
19 the case and the State put on -- both sides put on their case
20 and you heard the evidence and the State did meet their burden
21 of proof by proof beyond a reasonable doubt, could you return
22 a guilty verdict?

23 PROSPECTIVE JUROR NO. 024: What do you mean? My
24 head is somewhere else right now. I'm just kind of shocked
25 and embarrassed, to be honest.

1 THE COURT: If you're selected to serve as a juror.

2 PROSPECTIVE JUROR NO. 024: Right.

3 THE COURT: And after you've heard all of the
4 evidence and after being instructed on the law you believe the
5 State has met their burden of proof by proof beyond a
6 reasonable doubt, would you have any problem returning a
7 guilty verdict?

8 PROSPECTIVE JUROR NO. 024: No.

9 THE COURT: And you already told me if they don't
10 meet their burden of proof, you won't have any problem
11 returning a not guilty verdict, correct?

12 PROSPECTIVE JUROR NO. 024: Right. I just --

13 THE COURT: Do we have to worry about whether you're
14 going to take out on either side what happened to you?

15 PROSPECTIVE JUROR NO. 024: I feel like I will; like
16 I feel like I would want to put someone because what happened
17 to me and my dad. Like I know it's weird [inaudible], I don't
18 -- it's just I don't feel like -- I don't know, I just --

19 THE COURT: You feel like you want to put someone in
20 jail regardless of who it is?

21 PROSPECTIVE JUROR NO. 024: No, I just feel -- I
22 don't know. [Inaudible] am I going to have everything
23 [inaudible].

24 THE COURT: Are you on any medication for anxiety?

25 PROSPECTIVE JUROR NO. 024: No. I was supposed to go

1 to the doctor today but I had to cancel it because I was here.

2 THE COURT: What kind of doctor is he?

3 PROSPECTIVE JUROR NO. 024: Just a general doctor, it
4 was just a doctor because I can't [inaudible] sometimes, you
5 know. I was [inaudible] anxiety at times. I feel my
6 [inaudible] so --

7 THE COURT: In '08?

8 PROSPECTIVE JUROR NO. 024: In '08, and I stopped
9 taking medication. I was like I need to get on it because I'm
10 so stressed out.

11 THE COURT: So in '08 you were placed on medication
12 for anxiety?

13 PROSPECTIVE JUROR NO. 024: Just for -- just that one
14 time when I was in the emergency room, the doctor --
15 [inaudible] emergency room, told me to go see a doctor, get on
16 anxiety medication, I never did.

17 THE COURT: So the ER doctor diagnosed you with
18 anxiety?

19 PROSPECTIVE JUROR NO. 024: Just because I -- because
20 of what happened, you know, I was all stressed out.

21 THE COURT: What kind of medication?

22 PROSPECTIVE JUROR NO. 024: Xanax. I just took it
23 that one time he gave it to me.

24 THE COURT: Okay. So you've had one prescription for
25 anxiety and four years have gone by and you haven't ever taken

1 any other medication?

2 PROSPECTIVE JUROR NO. 024: Right.

3 THE COURT: Or had to see another medical doctor for
4 it?

5 PROSPECTIVE JUROR NO. 024: Not for that, no.

6 THE COURT: For anxiety?

7 PROSPECTIVE JUROR NO. 024: No.

8 THE COURT: Never?

9 PROSPECTIVE JUROR NO. 024: No.

10 THE COURT: Okay. All right. You have a concern
11 about this case, you feel like you're going to put somebody in
12 jail because of what happened to your dad, what does it mean?

13 PROSPECTIVE JUROR NO. 024: I just want justice done.
14 Like --

15 THE COURT: For your father?

16 PROSPECTIVE JUROR NO. 024: Well, yeah.

17 THE COURT: Okay. I agree.

18 PROSPECTIVE JUROR NO. 024: I'm not saying like put
19 someone in jail if they didn't do it. I'm just saying like in
20 this case if he did do it and he gets free, that's going to
21 kill me. [Inaudible], that's going to really leave me with
22 just a -- it doesn't work, the system doesn't work.

23 THE COURT: Okay. You understand that your father
24 could still see -- I mean, there still could be justice in
25 your father's case?

1 PROSPECTIVE JUROR NO. 024: But nobody cares to look
2 into it, you know.

3 THE COURT: How do you know? You haven't even talked
4 to anybody that's handling the case; how do you know?

5 PROSPECTIVE JUROR NO. 024: Well, wouldn't they
6 contact us to have our information? Like wouldn't they let
7 our attorneys know? I mean --

8 THE COURT: I suggest you find out who [inaudible]
9 your father's case and you call him yourself; that would be my
10 suggestion.

11 PROSPECTIVE JUROR NO. 024: I don't know where to
12 start from.

13 THE COURT: You're an adult. You can do it. Call
14 your attorney. You're obviously not an attorney. Find out
15 who's been -- who was assigned your father's case and do it
16 yourself. They'll talk to you. they'll talk to you and tell
17 them you want updates. Call them every other month if you
18 want to and find out for yourself instead, you know, taking
19 what other people tell you. That's what I would do. It might
20 make you feel better too. You're allowed to do that, okay?
21 Maybe you can satisfy yourself. It's up to you. There's no
22 statute of limitation on murder. If they catch the person 20
23 years from now they can try them, did you know that?

24 PROSPECTIVE JUROR NO. 024: Huh-huh.

25 THE COURT: Okay. So hopefully your family will get

1 justice for what happened. Okay. All of that aside, you've
2 had some pretty significant things that happened to you.
3 You're a young person, okay? Is that going to interfere and
4 impede your ability to be a fair and impartial to Mr. Grimes?

5 PROSPECTIVE JUROR NO. 024: You're asking me a
6 question that I don't know until I get, you know, until I go
7 through it. Like I don't want to answer the wrong way or tell
8 you, No, I'm going to be perfectly fine, when I know I'm not.

9 THE COURT: Okay. Because you're allowed to be upset
10 about what happened to you and happened to your father.

11 PROSPECTIVE JUROR NO. 024: Right.

12 THE COURT: I can't tell you, Don't be upset about
13 that, okay? You're allowed to be upset about that. The only
14 thing that would be inappropriate is if you say, You know
15 what, these bad things happened to me, they didn't catch the
16 person that did this to my father, so I'm going to stick it to
17 somebody else.

18 PROSPECTIVE JUROR NO. 024: Well, no, I'm not going
19 to do that. I'm not crazy. You know, I don't want --

20 THE COURT: Okay. It sounds like you're -- you're
21 not necessarily fond of the judicial system.

22 PROSPECTIVE JUROR NO. 024: Well, you asked the
23 question if anybody had seen or been murdered, I answered --

24 THE COURT: I didn't say that. I said "been a victim
25 of a crime."

1 PROSPECTIVE JUROR NO. 024: Yeah.

2 THE COURT: Yeah, I did. And it's horrible.

3 PROSPECTIVE JUROR NO. 024: I didn't want [inaudible]
4 today so I didn't want [inaudible].

5 THE COURT: That's why I wanted you to come up here.
6 That's why -- I mean, nobody else can hear us. I mean, they
7 know we're talking but they can't hear the content. Are you a
8 person that these things that have happened to you, are they
9 going to hamper your ability to be fair and impartial to the
10 State of Nevada? Because they're prosecutors, they're
11 prosecuting the defendant. You understand that?

12 PROSPECTIVE JUROR NO. 024: Right.

13 THE COURT: [Inaudible] fair to the State of Nevada?

14 PROSPECTIVE JUROR NO. 024: Yeah, I'll try, yeah.

15 THE COURT: [Inaudible] fair to the defendant, Mr.
16 Grimes?

17 PROSPECTIVE JUROR NO. 024: Yes, I don't know him.

18 THE COURT: Okay. I assume you don't know him
19 because I already asked you that so. Anyway, you'll listen to
20 the evidence?

21 PROSPECTIVE JUROR NO. 024: Uh-huh.

22 THE COURT: Is that a yes?

23 PROSPECTIVE JUROR NO. 024: Yes.

24 THE COURT: Okay. You'll follow the law as given to
25 you by myself?

1 PROSPECTIVE JUROR NO. 024: Yes.

2 THE COURT: Okay. I mean, I understand it sounds
3 like you don't want to be here.

4 PROSPECTIVE JUROR NO. 024: I don't.

5 THE COURT: Okay. Do you think anybody wants to be
6 here? I bet you if I took a hand -- I'd get everybody raising
7 their hand saying they don't want to be here.

8 PROSPECTIVE JUROR NO. 024: Right.

9 THE COURT: I get that.

10 PROSPECTIVE JUROR NO. 024: I mean, I don't want to
11 be here for different reasons, not because I'm going to miss
12 work or my kids. It's emotional stress, that's why I don't
13 want to be here.

14 THE COURT: Okay. You think something bad is going
15 to happen during the trial to you physically?

16 PROSPECTIVE JUROR NO. 024: No.

17 THE COURT: I mean, I don't want to compromise your
18 health. It doesn't sound like I'm going to if you're required
19 to be here. Everything okay so far?

20 PROSPECTIVE JUROR NO. 024: Yeah.

21 THE COURT: Other than this; I understand you want to
22 talk about this.

23 PROSPECTIVE JUROR NO. 024: [Inaudible.]

24 THE COURT: Okay. But other than that, have you been
25 okay?

1 PROSPECTIVE JUROR NO. 024: Uh-huh.

2 THE COURT: Is that a yes?

3 PROSPECTIVE JUROR NO. 024: Yes.

4 THE COURT: Okay. If you're selected to be on this
5 panel, are you going to be able to sit here for the next
6 couple of days and listen to the evidence?

7 PROSPECTIVE JUROR NO. 024: Yeah, I mean --

8 THE COURT: Okay. Will you follow the law?

9 PROSPECTIVE JUROR NO. 024: Yes.

10 THE COURT: Will you hold the State to their burden
11 of proof?

12 PROSPECTIVE JUROR NO. 024: Yes.

13 THE COURT: And if they don't meet that burden of
14 proof, you have any problem returning a verdict of not guilty?

15 PROSPECTIVE JUROR NO. 024: No.

16 THE COURT: Okay. Is there anything that's going to
17 interfere with your ability to be a fair and impartial to
18 either side?

19 PROSPECTIVE JUROR NO. 024: [Inaudible.]

20 THE COURT: Okay. Does either side wish to ask
21 questions? Go ahead.

22 MS. BOTELHO: I have a question.

23 MR. HILLMAN: Okay.

24 THE COURT: The District Attorney will be allowed to
25 ask you some questions up here, okay?

1 MS. BOTELHO: I'm wondering if [inaudible] problem
2 [inaudible] with this case, it sounds like you're the victim
3 of a serious violent crime, the gun incident, [inaudible], and
4 [inaudible] your father's kind of a violent-type case. Do you
5 think that the nature of this case that you would [inaudible]
6 presenting evidence, this is a -- the crimes that are charged
7 in this case involve violence, are you going to be okay
8 listening to the facts like that?

9 PROSPECTIVE JUROR NO. 024: It depends how gruesome
10 there are, honestly. You know, it's very emotional for me.
11 It's just kind of -- it's just a lot.

12 MS. BOTELHO: Do you think that while we're
13 presenting the case and the defense [inaudible]
14 cross-examining witnesses and things like that, and we had to
15 show you pictures because they're -- it's going to be part of
16 the evidence and stuff you would have to look at, and
17 deliberate, do you think -- do you have or do you think it
18 would take you back to the two incidents that you have been a
19 part of, have been the victim of, and then will that --

20 THE COURT: Well, what's your question? Are you
21 going to be able to look at the evidence, even though some of
22 the evidence might not be pleasant? It might be gruesome.

23 PROSPECTIVE JUROR NO. 024: I mean, that's what
24 [inaudible] medical records of people in car accidents. And
25 this is like [inaudible] hurts me [inaudible].

1 THE COURT: But we told you there's probably going to
2 be photographs.

3 PROSPECTIVE JUROR NO. 024: Right.

4 THE COURT: Okay. Are you going to be able to look
5 at the evidence as far as photographs?

6 PROSPECTIVE JUROR NO. 024: Yes.

7 MS. BOTELHO: Do you think -- I imagine it will
8 elicit some kind of reaction from you, and not just the
9 typical reaction, but maybe to take you back to the victim
10 part of your -- are you going to be able to put that aside and
11 just look at the evidence just from what we present to you,
12 just what you hear in court, what you see as far as evidence,
13 are you going to be able to set aside all the other things?

14 PROSPECTIVE JUROR NO. 024: Honestly, I don't know.
15 I will try to do my best. Emotionally, as far as emotions I
16 can't really control, but I will try to have a different
17 [inaudible] but it's like [inaudible].

18 MS. BOTELHO: When you say "justice," that means
19 justice for the State? Or justice for the defendant as well?

20 PROSPECTIVE JUROR NO. 024: For the defendant as
21 well. I don't feel [inaudible.]

22 MS. BOTELHO: Okay.

23 MS. HOJJAT: I have a couple questions.

24 THE COURT: Can you just [inaudible]?

25 MS. HOJJAT: Sure.

1 THE COURT: Will you state your name so Kerry can
2 just get used to your voice?

3 MS. HOJJAT: Oh, sure. This is Nadya Hojjat. So you
4 were obviously the victim of a violent crime, you said there
5 was a gun pointed at your head?

6 THE COURT: Is that a yes?

7 PROSPECTIVE JUROR NO. 024: Yes.

8 THE COURT: Thank you.

9 MS. HOJJAT: That's a [inaudible] incident for you?

10 PROSPECTIVE JUROR NO. 024: Yes.

11 MS. HOJJAT: [Inaudible] violence circumstances as
12 well that was happening?

13 PROSPECTIVE JUROR NO. 024: Yes.

14 MS. HOJJAT: [Inaudible] screaming?

15 PROSPECTIVE JUROR NO. 024: [Inaudible] just me by
16 myself.

17 MS. HOJJAT: Just by yourself?

18 THE COURT: You were in the RadioShack all by
19 yourself?

20 PROSPECTIVE JUROR NO. 024: By myself. It was in the
21 morning so they [inaudible].

22 MS. HOJJAT: Okay. Was he yelling at you?

23 PROSPECTIVE JUROR NO. 024: He asked me to shut up
24 and I was telling him ** [inaudible].

25 MS. HOJJAT: All right. So he's yelling at you, he's

1 cursing at you?

2 PROSPECTIVE JUROR NO. 024: He got [inaudible] out of
3 my [inaudible].

4 MS. HOJJAT: Right, and obviously very traumatic. In
5 this case there is going to be talk of screaming, there's
6 going to be people back and forth were screaming at each
7 other. There's going to be some language used. Do you think
8 that hearing that kind of stuff will take you back?

9 PROSPECTIVE JUROR NO. 024: I wonder.

10 MS. HOJJAT: Okay. Okay. I mean, obviously you went
11 through a lot, [inaudible] absolutely to be [inaudible] by
12 that. You said you were traumatized by what you went through
13 [inaudible]?

14 PROSPECTIVE JUROR NO. 024: [Inaudible.]

15 MS. HOJJAT: If you hear that -- well, actually I
16 [inaudible] raise that. Should you -- you wanted justice?

17 PROSPECTIVE JUROR NO. 024: For my dad.

18 MS. HOJJAT: [Inaudible.] And you felt like there
19 wasn't justice for your dad?

20 PROSPECTIVE JUROR NO. 024: Right.

21 MS. HOJJAT: If you hear that somebody's injured,
22 [inaudible] justice for that person?

23 PROSPECTIVE JUROR NO. 024: Right.

24 MS. HOJJAT: Of course. Now if there are
25 circumstances around how that person got injured, could you

1 take those circumstances into account?

2 PROSPECTIVE JUROR NO. 024: Yes.

3 MS. HOJJAT: Okay. So even if you're hearing that
4 somebody got injured, could you still, if the State failed to
5 meet their burden, return a verdict of not guilty?

6 PROSPECTIVE JUROR NO. 024: [Inaudible.]

7 THE COURT: I'm sorry. I didn't hear you.

8 PROSPECTIVE JUROR NO. 024: Can you repeat that?

9 THE COURT: Okay. Thank you.

10 MS. HOJJAT: If you're hearing that somebody got
11 injured, if you're hearing that there was some yelling, some
12 screaming going on but the State fails to meet their burden of
13 proof beyond a reasonable doubt, could you still find Mr.
14 Grimes not guilty?

15 THE COURT: I think she's already answered these
16 questions several times by me.

17 PROSPECTIVE JUROR NO. 024: Yes.

18 MS. HOJJAT: Good. Okay. And now, and this one's a
19 little bit different in terms of if you think maybe he did it
20 but they failed --

21 THE COURT: Okay. Huh-huh-huh. It's a reasonable
22 doubt standard. Don't try to quantify it and don't use any
23 other words except what the Supreme Court indicated you're
24 allowed to use.

25 MS. HOJJAT: Your Honor, I just -- if we could have a

1 bench conference?

2 THE COURT: No.

3 MS. HOJJAT: Okay.

4 THE COURT: It's -- it's been stated so many times.
5 You can -- I'm not going to allow you to quantify it and use
6 different words.

7 MS. HOJJAT: Right, and I'm not trying to quantify it
8 so much as my concern, and that's why I wanted to do this
9 outside the presence --

10 THE COURT: No. I mean, I could [inaudible] to your
11 question and it's not appropriate, so go ahead.

12 MS. HOJJAT: Okay. Thank you, Your Honor. My
13 concern [inaudible] is because a lot of times jurors tell us,
14 you know, we thought maybe but --

15 THE COURT: Okay. Now you're trying to have a
16 conversation with me. If you want to ask her or do you want
17 to question, go ahead.

18 MS. HOJJAT: All right. I guess my question to you
19 would be if a family member of yours was sitting in Mr. Grimes
20 seat, would you want someone with your mindset on that jury?

21 PROSPECTIVE JUROR NO. 024: No.

22 MS. HOJJAT: No.

23 THE COURT: Why not?

24 PROSPECTIVE JUROR NO. 024: Because I don't trust
25 somebody else's emotions that are going to dictate my family

1 member's future.

2 MS. HOJJAT: Okay. So you're concerned that maybe
3 your emotions will end up dictating Mr. Grimes' future?

4 PROSPECTIVE JUROR NO. 024: Well, like I told the
5 Judge, I don't know until I'm there, but I will try to put my
6 emotions aside and be a fair person and, you know, look at
7 this case, not my own cases, whatnot.

8 MS. HOJJAT: Okay.

9 THE COURT: Okay. Because it's strange because
10 you're telling all of us you can be fair and impartial, you
11 can listen to the evidence, and you can follow the
12 instructions of law. If -- if you had a family member being
13 [inaudible], isn't that the type of jury you would want?

14 PROSPECTIVE JUROR NO. 024: Yes.

15 THE COURT: Okay. And let me ask you, if that was
16 your family member, would you want a juror like yourself, and
17 you say, "no," so --

18 PROSPECTIVE JUROR NO. 024: Well, no, because --

19 THE COURT: So explain to us why you would say "no."

20 PROSPECTIVE JUROR NO. 024: Because I wouldn't know
21 what their train of thought is at that moment and like if
22 they're going to -- if they're going to like use their past to
23 -- to move this -- to [inaudible] on this man's future, I
24 don't [inaudible].

25 THE COURT: Right, but are you -- are you the person

1 that's going to do that?

2 PROSPECTIVE JUROR NO. 024: No. I wouldn't want to.

3 THE COURT: Okay. You understand, none of us,
4 neither side, nobody wants you to judge this case based upon
5 what happened to you or your father?

6 PROSPECTIVE JUROR NO. 024: Right.

7 THE COURT: You get that, right?

8 PROSPECTIVE JUROR NO. 024: Right.

9 THE COURT: Okay. Nobody wants you to put someone in
10 jail regardless of what the evidence is because something bad
11 happened to your family, you get that, right?

12 PROSPECTIVE JUROR NO. 024: Right.

13 THE COURT: Okay. So explain to us why your answer
14 is different when the attorneys ask you, If you had a family
15 member sitting at that table you wouldn't want a juror like
16 yourself? What kind of juror would you want?

17 PROSPECTIVE JUROR NO. 024: Someone that hasn't gone
18 through any [inaudible] so they have a better, like clear
19 state of mind, I guess.

20 THE COURT: You got to be at least 18 years old to
21 sit on a jury. I mean, do you think there's anybody in the
22 world that reaches 18 without any life experience?

23 PROSPECTIVE JUROR NO. 024: Well, no, I know everyone
24 has their own experience.

25 THE COURT: Of course.

1 PROSPECTIVE JUROR NO. 024: Some people deal with it
2 differently and don't let it, you know, haunt them and
3 [inaudible] I guess. I mean, with my -- with what happened to
4 me, with whatever happened to my dad, I'm just --

5 THE COURT: So you want someone on the jury that's
6 had no life experience, because that would be impossible?

7 PROSPECTIVE JUROR NO. 024: I understand.

8 THE COURT: You understand that? Okay. So really
9 we're all just looking for a panel of jurors that can be fair
10 and impartial, listen to the evidence, weigh it appropriately,
11 and follow the instructions on the law; do you understand
12 that?

13 PROSPECTIVE JUROR NO. 024: Yes.

14 THE COURT: Are you a person that can do that?

15 PROSPECTIVE JUROR NO. 024: Yes.

16 THE COURT: Okay. We're not telling you forget about
17 what happened to you. And no one's going to tell you, You're
18 not allowed to think about what happened to you during this
19 trial, because I can't control your thoughts. Nobody can.
20 What we're asking you to do is set it aside and not let it
21 affect your ability to consider and weigh the evidence in this
22 case and render a decision accordingly; do you understand
23 that?

24 PROSPECTIVE JUROR NO. 024: Yes.

25 THE COURT: Can you do that? I mean, we just want to

1 hear yes or no. If you think you can, do it. Just tell me.
2 We're asking you questions different ways and I'm getting
3 completely different answers.

4 PROSPECTIVE JUROR NO. 024: I just don't --

5 THE COURT: And I have to be the one to determine
6 whether you can be on the panel or not.

7 PROSPECTIVE JUROR NO. 024: I just think it's going
8 to be a lot of emotional stress on me.

9 THE COURT: And -- and so that's why I asked you,
10 okay, because quite frankly, any case should give you stress.
11 If you're sitting as a juror, I don't care what case it is,
12 you should be under stress. That's called doing your job.
13 That's appropriate, all right? But I don't want to compromise
14 your health, and that's why I asked you, Am I going to
15 compromise your health if you're required to be here? I don't
16 want to do that. I mean, I don't want to do that, okay? So
17 I'll ask you that again. Am I going to compromise your
18 wellbeing and your health if you're required to be here?

19 PROSPECTIVE JUROR NO. 024: Well, I don't know. I
20 had a doctor's appointment today at 2:30. I am canceling it.
21 Like I said, I'm having shortness of breath and my heart's
22 beating fast, and I feel like I'm going to have an anxiety
23 attack. I don't -- I don't --

24 THE COURT: I mean -- I don't know, things like that
25 don't necessarily bother me or think you can't be on the jury

1 because every case I sit on, I get nervous, I get stressed
2 out. Sometimes I can't eat. I can't sleep half the time,
3 right? That's the way it should be because what we do is
4 very, very serious.

5 PROSPECTIVE JUROR NO. 024: Right.

6 THE COURT: Okay. But that's me. [Inaudible] do for
7 Llendy. So I want to know about you. Is that going to
8 compromise your health? I don't want to send you into a spin
9 of something that's going to cause you to be [inaudible]; but
10 it sounds like you haven't seen any doctor since this happened
11 in 2008 until today in 2012. So have you been okay for the
12 last four years?

13 PROSPECTIVE JUROR NO. 024: Yeah.

14 THE COURT: You haven't had to see a doctor?

15 PROSPECTIVE JUROR NO. 024: No.

16 THE COURT: All right. So were you going to the
17 doctor today for like a well-check-up or a -- I mean what -- a
18 general practitioner?

19 PROSPECTIVE JUROR NO. 024: [Inaudible] new doctor.

20 THE COURT: She's what?

21 PROSPECTIVE JUROR NO. 024: My new doctor. Just a
22 new doctor, just general, yeah.

23 THE COURT: Okay. And if you went to the doctor,
24 what were your complaints?

25 PROSPECTIVE JUROR NO. 024: Shortness of breath and

1 [inaudible] permission [inaudible].

2 THE COURT: Okay. Do you feel sick?

3 PROSPECTIVE JUROR NO. 024: No, I just feel my heart
4 beat [inaudible] went up. I -- sorry.

5 THE COURT: I'm sorry.

6 PROSPECTIVE JUROR NO. 024: [Inaudible.]

7 THE COURT: Okay. Just let me know when you're ready
8 to continue.

9 PROSPECTIVE JUROR NO. 024: I mean [inaudible] needed
10 to [inaudible].

11 THE COURT: Well, clearly we need people to do it,
12 that's why we're here, okay? But again, I'm going to state it
13 and I don't know how much more I can say. I don't want you --
14 I don't want to compromise your health. I don't want to send
15 you to the hospital. I don't want to make you sick.

16 PROSPECTIVE JUROR NO. 024: Right, [inaudible].

17 THE COURT: It's not going to happen?

18 PROSPECTIVE JUROR NO. 024: No.

19 THE COURT: Okay. You're healthy enough to sit on
20 this panel?

21 PROSPECTIVE JUROR NO. 024: Yes.

22 THE COURT: Okay. You've had some horrific things
23 happen to you in your life and nobody's discounting that, do
24 you understand that?

25 PROSPECTIVE JUROR NO. 024: Yes.

1 THE COURT: And I feel terrible I didn't ask you
2 about it, but I have to ask you about it. Is that going to --
3 is your past going to interfere with your ability to give
4 these parties here a fair and impartial trial?

5 PROSPECTIVE JUROR NO. 024: No.

6 THE COURT: Okay. Will you be able to listen to the
7 evidence that's presented by both sides?

8 PROSPECTIVE JUROR NO. 024: Yes.

9 THE COURT: Will you follow the instructions on the
10 law as given to you by the Court?

11 PROSPECTIVE JUROR NO. 024: Yes.

12 THE COURT: And you understand we're not going to
13 give you any instruction that says, Consider your past and how
14 it's affected you in determining what decision to render in
15 this case; you understand that, right?

16 PROSPECTIVE JUROR NO. 024: Yes.

17 THE COURT: I mean, I'll give you exactly the
18 opposite. I'll tell you you can only use your common sense
19 and the evidence that's presented to you and the instructions
20 on the law; do you understand that?

21 PROSPECTIVE JUROR NO. 024: Yes.

22 THE COURT: Do you understand this is serious?

23 PROSPECTIVE JUROR NO. 024: Yes.

24 THE COURT: You understand that both sides and
25 myself, we're just interested in getting a jury, you know,

1 that's composed of people that are open-minded, fair, neutral,
2 and unbiased and have no prejudice; do you understand that?

3 PROSPECTIVE JUROR NO. 024: Yes.

4 THE COURT: Are you a person that can do that?

5 PROSPECTIVE JUROR NO. 024: Yes.

6 THE COURT: Okay. Is there anything else you want to
7 tell us?

8 PROSPECTIVE JUROR NO. 024: No. I told you all my
9 story.

10 THE COURT: Okay. I'm glad you smiled. I appreciate
11 that.

12 PROSPECTIVE JUROR NO. 024: It's so embarrassing.

13 THE COURT: It's not. It's not embarrassing.

14 PROSPECTIVE JUROR NO. 024: It is.

15 THE COURT: We're not going to -- I mean, it's not
16 embarrassing. A, it's just your life, okay, and you have no
17 control over it. All right. So I'm just going to let you go
18 back up and take your seat and I'm going to move on if
19 everyone is okay? Are you okay? All right. But I just want
20 to tell you that when I -- when I'm done, both sides have the
21 right to have to question the panel, so [inaudible] the
22 question, but I'm not going to let them question you about
23 this because we've had like 45 minutes to do it up here, okay?

24 So if there's anything you want to ask about this
25 particular issue, [inaudible] any other issue you can, but I'm

1 not going to allow her to go back down as soon as I'm done and
2 somebody open that wound again. I mean, she's been very
3 truthful and honest and I spent a lot of time up here. So if
4 there's any question, ask her now?

5 MS. HOJJAT: I just have a couple more, I'm sorry,
6 kind of related to what was said up here. You mentioned
7 earlier that black people make you uncomfortable because of
8 what you went through with the robbery.

9 PROSPECTIVE JUROR NO. 024: Uh-huh.

10 THE COURT: I'm sorry. I apologize.

11 MS. HOJJAT: You -- obviously Mr. Grimes [inaudible]
12 is an African American gentleman. Do you think that's going
13 to affect your ability to be completely impartial, like can
14 you be completely impartial about his race?

15 PROSPECTIVE JUROR NO. 024: It won't affect me
16 because [inaudible].

17 MS. HOJJAT: Okay.

18 PROSPECTIVE JUROR NO. 024: It's [inaudible].

19 THE COURT: I didn't hear the answer.

20 PROSPECTIVE JUROR NO. 024: It won't make me
21 uncomfortable because [inaudible], [inaudible].

22 MS. HOJJAT: Okay. But when you're making a decision
23 about whether or not he's guilty, do you think the fact he's
24 African American will affect your decision even just a little
25 bit?

1 PROSPECTIVE JUROR NO. 024: No.

2 MS. HOJJAT: No. Okay.

3 THE COURT: So you're not going to consider his race
4 in --

5 PROSPECTIVE JUROR NO. 024: No.

6 THE COURT: -- determining whether the State met its
7 burden, correct?

8 PROSPECTIVE JUROR NO. 024: Correct, I won't.

9 THE COURT: Okay.

10 MS. HOJJAT: Now obviously you were the victim of a
11 violent crime from an African American individual. Has that
12 created any sort of feeling that maybe African American people
13 are more violent?

14 PROSPECTIVE JUROR NO. 024: Not anymore.

15 MS. HOJJAT: Not anymore, but you did have those --

16 PROSPECTIVE JUROR NO. 024: At one point I did, yeah.

17 MS. HOJJAT: Okay. Has it created any sort of
18 feelings in you that you believe an African American person is
19 more likely to have committed a violent crime?

20 PROSPECTIVE JUROR NO. 024: No.

21 MS. HOJJAT: Okay.

22 PROSPECTIVE JUROR NO. 024: [Inaudible.] The person
23 that killed my dad was Mexican.

24 THE COURT: And that's based upon what you've been
25 told?

1 PROSPECTIVE JUROR NO. 024: Uh-huh.

2 THE COURT: Say yes.

3 PROSPECTIVE JUROR NO. 024: Yes.

4 THE COURT: Okay. I just want to ask one more
5 question because you said your family was involved in some
6 kind of civil suit as a result of what happened to your
7 father. You said you sued somebody?

8 PROSPECTIVE JUROR NO. 024: We sued them.

9 THE COURT: Who did you sue?

10 PROSPECTIVE JUROR NO. 024: The security guards that
11 were supposed to help -- keep the place safe.

12 THE COURT: Okay. So whatever company provided the
13 security guards you sued over negligent security?

14 PROSPECTIVE JUROR NO. 024: Yes, but they weren't
15 [inaudible].

16 THE COURT: They were what?

17 PROSPECTIVE JUROR NO. 024: They [inaudible]. They
18 didn't want to give us anything.

19 THE COURT: But you said it just settled?

20 PROSPECTIVE JUROR NO. 024: Yeah, it just settled
21 like two weeks ago. Like it's only going to give us 300 bucks
22 out of pocket for my dad [inaudible].

23 THE COURT: Okay. You don't have to tell us what the
24 settlement was, but were you satisfied with that?

25 PROSPECTIVE JUROR NO. 024: No.

1 THE COURT: No?

2 PROSPECTIVE JUROR NO. 024: No.

3 THE COURT: It wasn't \$300, was it?

4 PROSPECTIVE JUROR NO. 024: It was \$311, yeah.

5 THE COURT: You settled for \$311?

6 PROSPECTIVE JUROR NO. 024: A month, for like the
7 next [inaudible].

8 THE COURT: Okay. Did the company declare
9 bankruptcy?

10 PROSPECTIVE JUROR NO. 024: They had no insurance, so
11 he's paying out of pocket, all the trustees, all that.

12 THE COURT: Okay. So kind of like you can't squeeze
13 blood out of a turnip, is that the term?

14 PROSPECTIVE JUROR NO. 024: Something like that.

15 THE COURT: Because I don't want you -- is that kind
16 of what your family decided? Okay. There's no --

17 PROSPECTIVE JUROR NO. 024: But we had no options.

18 THE COURT: Yeah. You had no options.

19 PROSPECTIVE JUROR NO. 024: That was it.

20 THE COURT: Heck with that. That stinks, huh?

21 PROSPECTIVE JUROR NO. 024: Uh-huh.

22 THE COURT: Okay. You're not going to hold that
23 against any parties here, right?

24 PROSPECTIVE JUROR NO. 024: No.

25 THE COURT: Okay.

1 MS. HOJJAT: So let me make this my final question.
2 Just taking into account the victim [inaudible] that your
3 family has had, the violence that you've personally
4 encountered, the distrust you have of the justice system, and
5 the fear that you said you have of African Americans when
6 you're alone like that --

7 PROSPECTIVE JUROR NO. 024: A year ago [inaudible].

8 THE COURT: That's like ten compound questions.
9 Okay. Why don't you ask her, Considering everything that
10 you've disclosed to us up here?

11 MS. HOJJAT: Considering everything that you've
12 disclosed to us up here, do you think you could be a fair and
13 impartial juror in this case?

14 PROSPECTIVE JUROR NO. 024: Yes.

15 THE COURT: All right. Okay. I'm going to let you
16 go. Again I want to thank you for answering our questions.
17 And again I won't permit them to ask any questions about this
18 unless we ask to approach the bench. If they have to ask
19 anything else, we won't do it in front of the other jurors,
20 okay? And you don't have to tell any of the other jurors what
21 we spoke about up here, okay?

22 PROSPECTIVE JUROR NO. 024: Okay.

23 THE COURT: And you can tell the court marshal if
24 anyone tries to discuss with you your private matters, he can
25 let me know [inaudible] court marshal, okay?

1 PROSPECTIVE JUROR NO. 024: Okay. Thank you.

2 THE COURT: Thank you very much. You can take your
3 seat.

4 (End of bench conference.)

5 THE COURT: Okay. Thank you very much for your
6 patience and your courtesy, I appreciate that for allowing me
7 to conduct that up here at the bench. The question pending
8 before the panel is: Have you or anyone close to you, such as
9 a family member, friend, ever been the victim of a crime? I
10 just want to make sure there was nobody else that wanted to
11 respond to the Court. Go ahead, sir.

12 PROSPECTIVE JUROR NO. 020: You mean like car
13 thieves?

14 THE COURT: Your name and badge number?

15 PROSPECTIVE JUROR NO. 020: Anthony Martino, 080020.

16 THE COURT: Go ahead.

17 PROSPECTIVE JUROR NO. 020: Car break-ins, is that
18 considered --

19 THE COURT: That's a crime.

20 PROSPECTIVE JUROR NO. 020: Someone broke into my car
21 once. Stole my --

22 THE COURT: All right. Was that in Clark County?

23 PROSPECTIVE JUROR NO. 020: No, in Arizona.

24 THE COURT: All right. How long ago was that?

25 PROSPECTIVE JUROR NO. 020: Twelve years ago.

1 THE COURT: Anything about that that would interfere
2 with your ability to be fair and impartial in this case?

3 PROSPECTIVE JUROR NO. 020: No.

4 THE COURT: Anyone else? Go ahead, ma'am. Your name
5 and badge number?

6 PROSPECTIVE JUROR NO. 018: Michala Reinholtz,
7 080018. About 10 years ago when I was in Salt Lake City our
8 house was broken into.

9 THE COURT: Anything about that that would interfere
10 with your ability to be fair and impartial?

11 PROSPECTIVE JUROR NO. 018: No.

12 THE COURT: Okay. Did you call the police?

13 PROSPECTIVE JUROR NO. 018: Yes.

14 THE COURT: Was it your home?

15 PROSPECTIVE JUROR NO. 018: Yes.

16 THE COURT: Okay. The home that you share with your
17 husband and child?

18 PROSPECTIVE JUROR NO. 018: It was my boyfriend at
19 the time.

20 THE COURT: Okay. But it was your home?

21 PROSPECTIVE JUROR NO. 018: Yes.

22 THE COURT: And you called the police?

23 PROSPECTIVE JUROR NO. 018: Yes.

24 THE COURT: Did they come?

25 PROSPECTIVE JUROR NO. 018: They did.

1 THE COURT: Did they investigate?

2 PROSPECTIVE JUROR NO. 018: Yeah.

3 THE COURT: What was the result?

4 PROSPECTIVE JUROR NO. 018: Nothing really. It --
5 they were pretty sure it was teenagers who kicked in one of
6 the windows and came in and stole stuff, but no one saw
7 anything so that was pretty much it.

8 THE COURT: Okay. Anything about that that would
9 interfere with your ability to be fair and impartial in this
10 case?

11 PROSPECTIVE JUROR NO. 018: No.

12 THE COURT: Thank you. I saw -- go ahead, sir.

13 PROSPECTIVE JUROR NO. 022: Jason Morgan, 080022.
14 Just house gotten broken into this last May, kicked the front
15 door, the alarm went off though and nothing was stolen, but
16 police report and all that was done.

17 THE COURT: Was anybody home?

18 PROSPECTIVE JUROR NO. 022: No, just the two dogs.

19 THE COURT: All right. But did the alarm chase them
20 off, scare them off?

21 PROSPECTIVE JUROR NO. 022: I know the alarm went
22 off. When we got home the front door was cracked, the dogs
23 were sitting in the doorway so.

24 THE COURT: Was anything taken?

25 PROSPECTIVE JUROR NO. 022: No, not that we know of.

1 THE COURT: Okay. So probably you could conclude the
2 alarm and the dogs scared them away?

3 PROSPECTIVE JUROR NO. 022: Yeah, yeah.

4 THE COURT: Okay. Anything about that that would
5 interfere with your ability to be fair and impartial?

6 PROSPECTIVE JUROR NO. 022: No.

7 THE COURT: Okay. Anyone else? Go ahead, sir.

8 PROSPECTIVE JUROR NO. 026: Had a home break-in too.

9 THE COURT: Your name and badge number?

10 PROSPECTIVE JUROR NO. 026: Kirk Sanford, 0026.

11 THE COURT: Go ahead.

12 PROSPECTIVE JUROR NO. 026: I had my home in Utah
13 broken into about two years ago.

14 THE COURT: Anything about that that would interfere
15 with your ability to be fair and impartial in this case?

16 PROSPECTIVE JUROR NO. 026: No.

17 THE COURT: Okay. Did you call the police?

18 PROSPECTIVE JUROR NO. 026: Yes.

19 THE COURT: Did the police respond?

20 PROSPECTIVE JUROR NO. 026: Yes.

21 THE COURT: Was it investigated?

22 PROSPECTIVE JUROR NO. 026: They took some
23 fingerprints and they know who it is but he's still on the --
24 still on the loose [inaudible].

25 THE COURT: I'm sorry?

1 PROSPECTIVE JUROR NO. 026: They haven't been able to
2 apprehend him yet. They've identified the suspect.

3 THE COURT: Okay. Anything about that that would
4 interfere with your ability to be fair and impartial to the
5 parties in this matter?

6 PROSPECTIVE JUROR NO. 026: No, I don't think so.
7 No.

8 THE COURT: Okay. Thank you, sir. Anyone else?
9 Okay. The record will reflect no further response from the --
10 I'm sorry -- from the jury panel.

11 Have you or anyone close to you, such as a family
12 member, friend, ever been accused of a crime? Go ahead, sir.
13 Your name and badge number? You don't have to look at your
14 badge to give me your name.

15 PROSPECTIVE JUROR NO. 017: Ruben Placido, 80017.

16 THE COURT: Thank you. Go ahead.

17 PROSPECTIVE JUROR NO. 017: [Inaudible] burglarizing
18 my own house because of the divorce dispute.

19 THE COURT: You got accused of burglarizing your own
20 home?

21 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

22 THE COURT: And it was in the midst of a divorce?

23 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

24 THE COURT: Okay. Who accused you?

25 PROSPECTIVE JUROR NO. 017: The attorney of my wife.

1 THE COURT: Okay. What happened as a result of those
2 accusations? Were charges brought against you?

3 PROSPECTIVE JUROR NO. 017: It was just I spent two
4 months in jail in L.A. County because -- and more than a month
5 in Everett, Washington jail.

6 THE COURT: Okay. You spent jail -- you spent time
7 in jail in L.A. and in Washington?

8 PROSPECTIVE JUROR NO. 017: Yes, ma'am, because I was
9 --

10 THE COURT: That doesn't make sense. Okay.

11 PROSPECTIVE JUROR NO. 017: I was on vacation from,
12 you know, the Philippines at that time.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 017: And when I came back --

15 THE COURT: Okay. So when you came back in the
16 airport?

17 PROSPECTIVE JUROR NO. 017: -- and they picked me up
18 in the airport.

19 THE COURT: In Washington?

20 PROSPECTIVE JUROR NO. 017: They said I had -- no, in
21 L.A.

22 THE COURT: Okay. You were coming through L.A?

23 PROSPECTIVE JUROR NO. 017: They told me that I'm a
24 fugitive.

25 THE COURT: Okay. Was there a warrant for your

1 arrest?

2 PROSPECTIVE JUROR NO. 017: They just handcuffed me
3 and that's all, I didn't see anything.

4 THE COURT: Okay. What happened as a result of that?

5 PROSPECTIVE JUROR NO. 017: Well --

6 THE COURT: You were never convicted, I assume?

7 PROSPECTIVE JUROR NO. 017: Between the truth and
8 responsibility, they told me to plead guilty so I can go home
9 the next day. That was in Everett. And --

10 THE COURT: Is that where you lived with your wife at
11 the time, in Everett, Washington?

12 PROSPECTIVE JUROR NO. 017: That's my first wife.

13 THE COURT: Your first wife. Okay. And your first
14 wife's the one that accused you of breaking into the home?

15 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

16 THE COURT: Okay. And what did you plead guilty to?

17 PROSPECTIVE JUROR NO. 017: Well, a misdemeanor
18 because they told me that, you know, if I plead guilty I'm not
19 going to spend more time and I can go home, and the
20 responsibility that I've got was my parents was in Indiana and
21 they're over 66-years-old.

22 THE COURT: So you plead guilty to a misdemeanor?

23 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

24 THE COURT: All right. And how long ago was that?

25 PROSPECTIVE JUROR NO. 017: It was 1995, '94, '94.

1 THE COURT: Anything about that that would interfere
2 with your ability to be fair and impartial in this case?

3 PROSPECTIVE JUROR NO. 017: Well, I have be -- I'm
4 going to be fair for what, you know, they done to me.

5 THE COURT: From what you're telling me, I mean, I
6 don't know everything, but that kind of stinks.

7 PROSPECTIVE JUROR NO. 017: Well --

8 THE COURT: You don't think you were treated fairly?

9 PROSPECTIVE JUROR NO. 017: Right.

10 THE COURT: Okay. You don't -- you didn't -- are you
11 saying you didn't break into your wife's house?

12 PROSPECTIVE JUROR NO. 017: Well, you know, I was
13 asking --

14 THE COURT: Well, you said it was your house.

15 PROSPECTIVE JUROR NO. 017: Well, because we bought
16 that house.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 017: You know, I have to spend
19 time --

20 THE COURT: Were you in the midst of getting divorced
21 and your wife was living in the house and you were not living
22 in the house? Had you moved out?

23 PROSPECTIVE JUROR NO. 017: Well, they -- they give
24 me -- restriction order.

25 THE COURT: Restraining order?

1 PROSPECTIVE JUROR NO. 017: Restraining order.

2 THE COURT: Okay. So during the divorce your wife
3 got a restraining order against you?

4 PROSPECTIVE JUROR NO. 017: Yeah, and I even asked my
5 wife to get my tools because I was an -- I am electrician and
6 I need my tools at that time --

7 THE COURT: Okay. So --

8 PROSPECTIVE JUROR NO. 017: -- that time and then --

9 THE COURT: Let me just ask you this. Because it was
10 in the midst of a divorce, you apparently hadn't moved
11 everything out of the house, your wife gets a restraining
12 order against you, and you went back to the house anyways?

13 PROSPECTIVE JUROR NO. 017: I didn't move anything.
14 All -- everything is --

15 THE COURT: Did you go back to the house anyways?

16 PROSPECTIVE JUROR NO. 017: -- what's in my house.
17 Yeah. I asked him permission.

18 THE COURT: You asked who for permission?

19 PROSPECTIVE JUROR NO. 017: To my wife just to get my
20 tools and some of my clothes.

21 THE COURT: Okay. And then she called the cops on
22 you?

23 PROSPECTIVE JUROR NO. 017: And called the cops.

24 THE COURT: What did you learn about that? Don't
25 call back, there's a restraining order.

1 PROSPECTIVE JUROR NO. 017: As I said, you know, half
2 an hour after that they got two cops and, you know, telling me
3 to get out that property, and then -- and then -- and then I
4 went back to Indiana, and then when I took a vacation, when I
5 came back I got handcuffed and they told me that I was a
6 fugitive and I have a, you know, a case in Washington, in
7 Everett, Washington.

8 THE COURT: Okay. So was the charge violation of a
9 temporary restraining order or was it a home burglary? What
10 were the charges?

11 PROSPECTIVE JUROR NO. 017: Said I'm burglarizing my
12 house, what they indicated on the --

13 THE COURT: Okay. All right. So you don't think you
14 were treated fairly?

15 PROSPECTIVE JUROR NO. 017: Well --

16 THE COURT: Although you said you had went back in
17 violation of the restraining order.

18 PROSPECTIVE JUROR NO. 017: I don't know, but, you
19 know, my wife told me to get out of here and I don't have any
20 house or home and that -- in Everett, Washington, so I went
21 back to Indiana where I came from.

22 THE COURT: Okay. Why did the restraining order get
23 -- what was the -- how come your wife asked for a restraining
24 order? What was the background in getting the restraining
25 order?

1 PROSPECTIVE JUROR NO. 017: I don't know.

2 [Inaudible] of me, I didn't even know what's -- what's
3 happening. She just wanted to divorce me, that's all.

4 THE COURT: Okay. So part of a divorce and she got a
5 restraining order, but you have no idea why she did?

6 PROSPECTIVE JUROR NO. 017: Because I tried -- ma'am,
7 I tried to, you know, work out my marriage and think she
8 doesn't [inaudible]. I tried to talk to her and she doesn't
9 want to talk.

10 THE COURT: She didn't want to talk to you?

11 PROSPECTIVE JUROR NO. 017: Yeah.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 017: So that's probably --
14 that's why the [inaudible].

15 THE COURT: Okay. And that was a long time ago? And
16 you're married to someone else, right? Yes?

17 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

18 THE COURT: And you even have a daughter, right? You
19 have a 15-year-old daughter?

20 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

21 THE COURT: Okay. Is -- is the wife you're with, is
22 that her mother? Yes?

23 PROSPECTIVE JUROR NO. 017: Yes, ma'am.

24 THE COURT: Okay. So is there anything about what
25 happened in 1995 that would interfere with your ability to be

1 fair and impartial to the parties here today?

2 PROSPECTIVE JUROR NO. 017: No.

3 THE COURT: Okay. Thank you, sir. Anyone else? The
4 record will reflect no further response from the panel.

5 Is there anyone on the panel who would have a
6 tendency to give more weight or credence or less weight or
7 credence to the testimony of a police officer simply because
8 the witness is a police officer? Okay. The record will
9 reflect no response from the panel.

10 Is there anyone on the panel who believes they cannot
11 wait in forming their opinion as to what the appropriate
12 result should be in this case until you have heard all of the
13 evidence and after you have been instructed on the law by the
14 Court? Anyone who believes they cannot do that? Okay. The
15 record will reflect no further response from the panel.

16 At this time I'm going to turn the panel over to the
17 State of Nevada. Both sides have an opportunity to question
18 the panel. We just have one [inaudible] goes pretty quickly
19 because neither side is permitted to ask you any questions
20 that I have already asked you. State of Nevada can address
21 the panel?

22 MS. BOTELHO: Thank you, Your Honor. May I use the
23 --

24 THE COURT: Of course, of course.

25 MS. BOTELHO: Thank you.

1 MS. BOTELHO: Good afternoon, everyone. [Inaudible]
2 all raise your hand too quickly for this first question, but
3 who's excited to be here?

4 THE COURT: Oh, come on.

5 MS. BOTELHO: Who actually wants to serve on this
6 jury? Who's excited to do that? No one is raising their
7 hand. So what are some of the reasons why, besides all the,
8 you know, the reasons that we've already discussed with Judge
9 Leavitt, what are some of the reasons why you're kind of
10 hesitant to serve on a jury?

11 THE COURT: You know what? I'm -- you know what?
12 Excuse me. I don't know if I want to hear all this again.

13 MS. BOTELHO: Okay.

14 THE COURT: I think I've already asked everybody all
15 the reasons. But, sir, did you want to address the Court?
16 Your name and badge number?

17 PROSPECTIVE JUROR NO. 006: It's Phillip Jennings,
18 0006.

19 THE COURT: Okay. What did you want to tell me?

20 PROSPECTIVE JUROR NO. 006: The company I work for,
21 they don't make up my pay difference and I'm a construction
22 worker, and I'm currently working now but, you know, I might
23 be working this week and not working the next week the way the
24 construction is now and I just can't afford not to make money
25 when I have an opportunity to make money.

1 THE COURT: I understand that and it's probably --
2 everybody in the courtroom would probably be able to say that
3 too.

4 PROSPECTIVE JUROR NO. 006: Oh, I understand that
5 too.

6 THE COURT: So I just want to make sure, if you're
7 required to be here for the next couple of days, are you going
8 to be able to pay your bills or are you going to be on the
9 streets?

10 PROSPECTIVE JUROR NO. 006: I'll be able to pay them
11 but.

12 THE COURT: Okay. Just be tight?

13 PROSPECTIVE JUROR NO. 006: Excuse me?

14 THE COURT: It would be tight?

15 PROSPECTIVE JUROR NO. 006: Yes.

16 THE COURT: But you can be here?

17 PROSPECTIVE JUROR NO. 006: Yes.

18 THE COURT: Okay. Thank you.

19 MS. BOTELHO: And I'll move on, Your Honor.

20 THE COURT: Thanks.

21 MS. BOTELHO: Judge Leavitt already asked everyone on
22 the panel whether or not you or anyone close to you has ever
23 been convicted of a crime. I want to focus a little bit more
24 on something a little focused. Have you or anyone close to
25 you ever been the victim of domestic violence? And I see Mr.

1 Whelchel, Juror No. 0001.

2 PROSPECTIVE JUROR NO. 001: As a marriage family
3 therapist, not somebody close to me, but one of the things in
4 my work, I'm on like a panel that serves people who have been
5 victims of violent crime and just in general in marriage
6 [inaudible] therapy who are often working with people who --
7 where there's domestic violence, so, you know, 10 to 20
8 sessions with somebody who has -- has been a victim. So not
9 necessarily again that it's a personal relation or close but.

10 MS. BOTELHO: So you're familiar with at least
11 through your work victims of violent crime?

12 PROSPECTIVE JUROR NO. 001: Yes.

13 MS. BOTELHO: In your work, sir, do you also deal
14 with those that have been charged with domestic violence or
15 kind of on the opposite end of the spectrum?

16 PROSPECTIVE JUROR NO. 001: Very rarely. I have, but
17 not as often.

18 MS. BOTELHO: Okay. Now does your contact or through
19 your work -- my understanding is you're a marriage counselor.
20 Would your experience with domestic violence victims through
21 your work, would that affect your ability to sit in on this
22 particular type of case?

23 PROSPECTIVE JUROR NO. 001: No.

24 MS. BOTELHO: Okay. So you could set aside your
25 experience with other domestic violence victims and not use

1 that when you're deciding the evidence and whether we've met
2 our burden in this case?

3 PROSPECTIVE JUROR NO. 001: Correct.

4 MS. BOTELHO: Anyone else? Yes, ma'am. Ms.?

5 PROSPECTIVE JUROR NO. 021: Karen Augspurger, 0021.
6 Yes.

7 MS. BOTELHO: Yes, ma'am.

8 PROSPECTIVE JUROR NO. 021: My first husband hit me.

9 MS. BOTELHO: I need to ask this, ma'am. Would that
10 experience with your ex-husband -- first of all, ex-husband;
11 so how long have you not been with him?

12 PROSPECTIVE JUROR NO. 021: Thirty-five years.

13 MS. BOTELHO: Your experience 35 years ago with your
14 first husband, would that weigh in on your ability to decide
15 the facts and circumstances in this case, just based on that,
16 the facts and evidence that we present to you?

17 PROSPECTIVE JUROR NO. 021: No.

18 MS. BOTELHO: So are you saying that you
19 automatically sympathize with the victim simply because you
20 are a victim yourself?

21 PROSPECTIVE JUROR NO. 021: Probably I would.

22 MS. BOTELHO: Earlier when Judge Leavitt asked is
23 there anything about your experiences that would prevent you
24 from being a fair and impartial juror, I don't think you
25 raised your hand, but did this just kind of trigger a memory?

1 PROSPECTIVE JUROR NO. 021: Uh-huh.

2 THE COURT: Okay. Is that a yes?

3 PROSPECTIVE JUROR NO. 021: Yes.

4 THE COURT: Okay. Ms. Augspurger?

5 PROSPECTIVE JUROR NO. 021: Yes.

6 THE COURT: Because again, I questioned the panel at
7 length. Is there something about your past that's going to,
8 interfere with your ability to be fair and impartial?

9 PROSPECTIVE JUROR NO. 021: No.

10 THE COURT: Okay. Because it kind of sounded like
11 you just told the District Attorney that there was. So -- so
12 what happened? You said something with your first husband?

13 PROSPECTIVE JUROR NO. 021: Uh-huh.

14 THE COURT: Okay. I'm sorry. What happened?

15 PROSPECTIVE JUROR NO. 021: He was an alcoholic.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 021: And he would come home
18 and be angry and hit me and it wasn't to the point where I
19 ever had to be hospitalized or anything like that, but it was
20 very scary.

21 THE COURT: It was not appropriate at all?

22 PROSPECTIVE JUROR NO. 021: Yeah.

23 THE COURT: Okay. You got divorced, right?

24 PROSPECTIVE JUROR NO. 021: Yes.

25 THE COURT: Did you ever call the police?

1 PROSPECTIVE JUROR NO. 021: No.

2 THE COURT: Okay. Why not?

3 PROSPECTIVE JUROR NO. 021: I honestly can't answer
4 that. I don't know why.

5 THE COURT: That's okay.

6 PROSPECTIVE JUROR NO. 021: I was embarrassed.

7 THE COURT: That's perfectly -- yeah, okay. So you
8 lived with it until you got divorced?

9 PROSPECTIVE JUROR NO. 021: Uh-huh.

10 THE COURT: Is that a yes?

11 PROSPECTIVE JUROR NO. 021: Yes, it is.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 021: And it wasn't all the
14 time.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 021: It was probably three or
17 four times.

18 THE COURT: Okay. Did you have -- were children
19 involved?

20 PROSPECTIVE JUROR NO. 021: Yes, one [inaudible], my
21 oldest son.

22 THE COURT: Okay. How long ago was it?

23 PROSPECTIVE JUROR NO. 021: 1970 -- [inaudible] 1975
24 to 1979.

25 THE COURT: Is there anything about your experiences

1 with your former husband that would interfere with your
2 ability to be fair and impartial in this case?

3 PROSPECTIVE JUROR NO. 021: I -- I'm going to say
4 yes.

5 THE COURT: Okay. What is it?

6 PROSPECTIVE JUROR NO. 021: I -- I wish I could -- I
7 mean, I wish I could divorce myself from it, but I don't think
8 I would be able to.

9 THE COURT: All right. Who are you not going to be
10 able to be fair to?

11 PROSPECTIVE JUROR NO. 021: Probably the Defendant.

12 THE COURT: Okay. And does that mean -- I'm trying
13 to get at why do you think you're not going to be fair? What
14 are you going to do that's not going to be fair? Are you
15 going to disregard the evidence and judge this case based upon
16 what happened to you?

17 PROSPECTIVE JUROR NO. 021: No.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 021: No, I think I could do
20 that. All I know is there's just a feeling there and I can't
21 explain, you know, whether it's going to change me or not. I
22 think I could -- I mean, I would do my best to try to be fair
23 and impartial about it, but I, you know, if I can't say
24 positively that I would, then maybe I shouldn't be on it.

25 THE COURT: Okay. This happened 30 plus years ago?

1 PROSPECTIVE JUROR NO. 021: Uh-huh.

2 THE COURT: Is that a yes?

3 PROSPECTIVE JUROR NO. 021: Yes.

4 THE COURT: Okay. The only reason I'm correcting you
5 is because Kerry has to remember to type this all down --

6 PROSPECTIVE JUROR NO. 021: I'm sorry.

7 THE COURT: -- at some point, so thank you. And
8 again, I'll ask you what I've asked some of the -- your fellow
9 jurors. Are you going to be able to listen to the evidence if
10 you're selected to be a juror?

11 PROSPECTIVE JUROR NO. 021: Yes.

12 THE COURT: Okay. Are you going to follow the law as
13 given to you by the Court?

14 PROSPECTIVE JUROR NO. 021: Yes.

15 THE COURT: Will you judge this case based solely
16 upon what you see and hear in the courtroom and nothing else?

17 PROSPECTIVE JUROR NO. 021: Yes.

18 THE COURT: Okay. Because neither side wants you to
19 judge this case based solely upon what happened to you.

20 PROSPECTIVE JUROR NO. 021: I know that.

21 THE COURT: Do you understand that?

22 PROSPECTIVE JUROR NO. 021: Yes, I do.

23 THE COURT: Do we have to worry about you saying, you
24 know, This happened to me in my first marriage so I'm going to
25 stick it to somebody?

1 PROSPECTIVE JUROR NO. 021: Oh, no.

2 THE COURT: And since I'm on a jury now I'm going to
3 stick it to this person?

4 PROSPECTIVE JUROR NO. 021: No, I wouldn't do that.

5 THE COURT: Okay. Because all we're looking for --
6 everybody has life experiences. We're just looking for people
7 that can set those aside and not consider them as a part of
8 your deliberations as a juror because you understand it would
9 be very inappropriate to go back in the jury deliberation room
10 and say, I don't need to deliberate because I've made up my
11 mind because of what happened to me, and so this person is
12 going to have to pay because of what happened to me; do you
13 understand that?

14 PROSPECTIVE JUROR NO. 021: Yes.

15 THE COURT: Or vice versa. The State wouldn't want
16 you to do that either, Well, I'm going to rule in favor of
17 them because of what happened to me for whatever reason; do
18 you understand that?

19 PROSPECTIVE JUROR NO. 021: Yes, I do.

20 THE COURT: Are you a person that would do that?

21 PROSPECTIVE JUROR NO. 021: No.

22 THE COURT: Okay. In your deliberations will you set
23 aside what happened to you in your personal life and judge
24 this case based solely on the evidence and the law?

25 PROSPECTIVE JUROR NO. 021: Yes, I will.

1 THE COURT: Okay. Will you -- will you be able to be
2 fair and impartial to both sides?

3 PROSPECTIVE JUROR NO. 021: Yes.

4 THE COURT: Okay. State of Nevada can take over.

5 MS. BOTELHO: Thank you, Your Honor. Thank you,
6 ma'am. Anyone else has been the victim of domestic violence
7 or anyone close to you a victim of domestic violence? I see
8 no more hands.

9 I already asked another juror this, but have you or
10 anyone close to you ever been charged with domestic violence;
11 not just convicted, but charged?

12 THE COURT: Your name and badge number?

13 PROSPECTIVE JUROR NO. 006: Phillip Jennings, 0006.

14 THE COURT: Mr. Jennings, you were charged with --
15 what were you charged with?

16 PROSPECTIVE JUROR NO. 006: Domestic violence, I
17 believe.

18 THE COURT: Okay. So you were accused of a crime at
19 some point?

20 PROSPECTIVE JUROR NO. 006: I -- I don't know if I
21 was accused of it, but I went to Court.

22 THE COURT: If you were charged, you were accused.

23 PROSPECTIVE JUROR NO. 006: Okay.

24 THE COURT: Okay. So you -- did you get arrested?

25 PROSPECTIVE JUROR NO. 006: Yes.

1 THE COURT: Okay. And you had to go in front of a
2 judge?

3 PROSPECTIVE JUROR NO. 006: Yes.

4 THE COURT: Okay. And somebody handed you a charging
5 document and said, We're charging you with a crime and this is
6 what it is?

7 PROSPECTIVE JUROR NO. 006: Not yet, I guess so, yes.

8 THE COURT: Well, I don't know. I'm not trying to
9 talk you into it. I'm just trying to figure out what it was.

10 PROSPECTIVE JUROR NO. 006: I pleaded not guilty, and
11 they made me go to the -- some schooling thing and that was
12 that.

13 THE COURT: When did this -- because if you plead not
14 guilty, I can't tell you to do anything as a judge.

15 PROSPECTIVE JUROR NO. 006: No, I plead no contest,
16 that's what it was.

17 THE COURT: Okay. So you entered a form of a guilty
18 plea and you were adjudicated guilty of a crime. What were
19 you convicted of?

20 PROSPECTIVE JUROR NO. 006: Domestic violence.

21 THE COURT: Was it a misdemeanor?

22 PROSPECTIVE JUROR NO. 006: Yes.

23 THE COURT: Okay. When was this?

24 PROSPECTIVE JUROR NO. 006: Probably around 1992-ish.

25 THE COURT: During -- and was it here in this

1 jurisdiction because you've been here quite a while?

2 PROSPECTIVE JUROR NO. 006: Yes.

3 THE COURT: Do you remember what courthouse you went
4 to? Do you know if you went to -- did you go to City Hall?

5 PROSPECTIVE JUROR NO. 006: I think so, yes. That's
6 the one by the bus station there, used to be the bus station.

7 THE COURT: Uh-huh. The old City Hall?

8 PROSPECTIVE JUROR NO. 006: Yes.

9 THE COURT: Okay. The new City Hall, am I pointing
10 in the right direction? Right? Okay. The new City Hall is
11 really pretty and it's right over here --

12 PROSPECTIVE JUROR NO. 006: Yeah, it was in --

13 THE COURT: But --

14 PROSPECTIVE JUROR NO. 006: -- it was in '92 or so,
15 so it was the old one.

16 THE COURT: Okay. And you went over there and you
17 plead guilty to a misdemeanor?

18 PROSPECTIVE JUROR NO. 006: Yeah.

19 THE COURT: All right. Anything about that that
20 would interfere with your ability to be fair and impartial?

21 PROSPECTIVE JUROR NO. 006: No, I just answered
22 because they asked.

23 THE COURT: Okay. Who was -- who made the
24 accusations against you? Who was the other person that it was
25 alleged --

1 PROSPECTIVE JUROR NO. 006: My girlfriend, we live
2 together.

3 THE COURT: Okay. And you knew -- did she call the
4 police on you?

5 PROSPECTIVE JUROR NO. 006: Oh, yeah.

6 THE COURT: Okay. Were you there --

7 PROSPECTIVE JUROR NO. 006: Oh, yeah.

8 THE COURT: -- when she called the police?

9 PROSPECTIVE JUROR NO. 006: Yes.

10 THE COURT: And the police came and what happened?

11 PROSPECTIVE JUROR NO. 006: They arrested me.

12 THE COURT: All right. Do you think you were treated
13 fairly?

14 PROSPECTIVE JUROR NO. 006: Yeah. Yes.

15 THE COURT: All right. And you believe you could be
16 fair and impartial in this case?

17 PROSPECTIVE JUROR NO. 006: Yes.

18 THE COURT: Anything about that that would interfere
19 with your ability to sit as a juror on this particular case?

20 PROSPECTIVE JUROR NO. 006: No.

21 THE COURT: Okay. Thank you, sir.

22 MS. BOTELHO: Thank you. Anyone else, anyone close
23 to you or you yourself been charged with domestic violence? I
24 see no more hands, Your Honor.

25 THE COURT: Thank you.

1 MS. BOTELHO: Next question is: How many of you have
2 ever witnessed a domestic violence incident, except for the
3 [inaudible]?

4 THE COURT: Mr. Pryor?

5 PROSPECTIVE JUROR NO. 037: Would that be before or
6 after?

7 THE COURT: Can you please -- it's Mr. Pryor. Will
8 you state your badge number, Mr. Pryor?

9 PROSPECTIVE JUROR NO. 037: 0037.

10 THE COURT: You were -- do you mind standing up? You
11 were -- you witnessed domestic violence?

12 PROSPECTIVE JUROR NO. 037: No, I helped with the
13 first aide and I was on a call.

14 THE COURT: Okay. Right. And you've already --

15 PROSPECTIVE JUROR NO. 037: A stabbing call.

16 THE COURT: You've already told us about all of that,
17 correct?

18 PROSPECTIVE JUROR NO. 037: Right.

19 THE COURT: Okay. Thank you.

20 MS. BOTELHO: Any other hands? I see no more hands,
21 Your Honor.

22 All right. Judge Leavitt already asked you about
23 whether or not you know someone, you know, close friend or
24 relative that works for law enforcement. I'm going to kind of
25 change the question a little bit. Do any of you have or have

1 any of you had a positive or negative contact with law
2 enforcement? I see no hands.

3 How many of you or do any of you watch crime
4 investigation shows like CSI?

5 THE COURT: Are there any of you who don't watch
6 them?

7 MS. BOTELHO: That might be the better question.

8 THE COURT: There's a few of you that don't watch
9 them. Maybe one, two, three, four, five, six.

10 MS. BOTELHO: Don't watch. Okay.

11 THE COURT: Maybe five or six that don't watch them.

12 MS. BOTELHO: We seem to have a few on both sides,
13 some watchers and non-watchers. To those of you who watch, I
14 take it that you realize that those are TV shows? Crime is
15 not necessarily solved in 45 minutes with state of the art,
16 you know, satellite -- satellites zoom in and, you know, 5,000
17 percent to find a fabric or that hair follicle on carpet and
18 that that solves the case? It doesn't work like that in real
19 life, we all agree on that?

20 There are other shows, though, not like CSI but
21 they're more like reality crime shows, like the First 48 or
22 Real Interrogations, anybody watch those kinds of shows?
23 Okay. I saw some hands go up.

24 To those of you who watch those shows, do you also
25 realize that those shows kind of portray different types of

1 evidence and different ways to solve a case? That those
2 pieces of evidence may not all be present in one case? There
3 are different types of evidence that are presented, will you
4 all agree to that?

5 How many or do any of you know any attorneys, someone
6 close to you, close friend you hang out with or family member?

7 THE COURT: Other than what's already been disclosed
8 because we have some family -- we have some members of the
9 panel that indicated they had family members that are
10 attorneys.

11 PROSPECTIVE JUROR NO. 005: [Inaudible.]

12 MS. BOTELHO: [Inaudible.] Juror No. 0005.

13 PROSPECTIVE JUROR NO. 005: Yes.

14 MS. BOTELHO: She's the D.A. in New York?

15 PROSPECTIVE JUROR NO. 005: Yes.

16 MS. BOTELHO: Okay. And, sir, you are?

17 PROSPECTIVE JUROR NO. 020: Anthony Martino, 080020.

18 MS. BOTELHO: Yes, sir.

19 PROSPECTIVE JUROR NO. 020: My brother-in-law is an
20 attorney. And actually I forgot to mention this, that my
21 cousin's wife in Arizona is an attorney. I think she works
22 for the State. I really -- I'm not close to her or anything
23 like that, but I think she does something with the --

24 MS. BOTELHO: Okay. Your brother-in-law, does he
25 live here?

1 PROSPECTIVE JUROR NO. 020: No.

2 MS. BOTELHO: Okay. Are both of these lawyers in
3 your family in Arizona?

4 PROSPECTIVE JUROR NO. 020: One is in San Francisco.

5 MS. BOTELHO: Okay. And you said the one in Arizona
6 may practice for -- may work for the State, but you're not
7 sure what?

8 PROSPECTIVE JUROR NO. 020: Yeah. I think she may be
9 a prosecutor or something for the county or the state or
10 something like that.

11 MS. BOTELHO: Do you speak to that family member
12 regularly?

13 PROSPECTIVE JUROR NO. 020: Not that often.

14 MS. BOTELHO: And you ever discuss her cases?

15 PROSPECTIVE JUROR NO. 020: Well, one time I was in
16 Arizona, one time a few years ago I was a witness to a
17 [inaudible] and at Christmas dinner mentioned it, she was
18 like, well, that might be an issue for me, so she disclosed it
19 to whoever she was working with.

20 MS. BOTELHO: Okay.

21 PROSPECTIVE JUROR NO. 020: I haven't seen her in a
22 couple years so.

23 MS. BOTELHO: Okay. What about the brother-in-law,
24 do you speak to him about his work as an attorney on his
25 cases?

1 PROSPECTIVE JUROR NO. 020: Not really, but it's
2 corporate stuff.

3 MS. BOTELHO: Okay.

4 UNIDENTIFIED SPEAKER: What was the question?

5 MS. BOTELHO: Do you have any close friends or
6 relatives that are attorneys? Yes. Mr. Sanford?

7 PROSPECTIVE JUROR NO. 026: Yes.

8 MS. BOTELHO: Juror No. 0026.

9 PROSPECTIVE JUROR NO. 026: Yes.

10 MS. BOTELHO: Who do you know, sir?

11 PROSPECTIVE JUROR NO. 026: Specific names or --

12 MS. BOTELHO: How are they related to you?

13 PROSPECTIVE JUROR NO. 026: Personal friendships and
14 business; business-related generally.

15 MS. BOTELHO: Is that here in Las Vegas?

16 PROSPECTIVE JUROR NO. 026: Yes, it is.

17 MS. BOTELHO: Do you talk to them about -- do any of
18 them practice criminal law?

19 THE COURT: Do you have any close friends --

20 PROSPECTIVE JUROR NO. 026: No, I don't believe they
21 --

22 THE COURT: Mr. --

23 PROSPECTIVE JUROR NO. 026: They -- they -- but they
24 run practices here [inaudible].

25 THE COURT: Mr. Sanford, do you have close friends

1 that are attorneys?

2 PROSPECTIVE JUROR NO. 026: Yes.

3 THE COURT: Okay. How many?

4 PROSPECTIVE JUROR NO. 026: Probably half a dozen?

5 THE COURT: So six?

6 PROSPECTIVE JUROR NO. 026: Yeah.

7 THE COURT: That you socialize on a consistent basis?

8 PROSPECTIVE JUROR NO. 026: Yes.

9 THE COURT: Okay. What are their names?

10 PROSPECTIVE JUROR NO. 026: Greg Garman [phonetic],
11 Gordon and Silver.

12 THE COURT: Greg?

13 PROSPECTIVE JUROR NO. 026: Garman.

14 THE COURT: Garman. Okay. What did you say? Did
15 you say Gordon and Silver?

16 PROSPECTIVE JUROR NO. 026: Gordon and Silver.

17 THE COURT: That's the name of a law firm. Which
18 one? Gordon or Silver do you know?

19 PROSPECTIVE JUROR NO. 026: It's both, it's the name
20 of the law firm.

21 MR. HILLMAN: I think he said that's who Mr. Carmen
22 works for.

23 THE COURT: That's where he works. Okay. I'm sorry.
24 I'm sorry. Okay.

25 PROSPECTIVE JUROR NO. 026: [Inaudible.]

1 THE COURT: I'm sorry. I thought you said Gordon and
2 Silver. Nevermind. Go ahead.

3 PROSPECTIVE JUROR NO. 026: Sharon Green.

4 THE COURT: Sharon Green.

5 PROSPECTIVE JUROR NO. 026: Kim Sinatra.

6 THE COURT: Kim Sinatra.

7 PROSPECTIVE JUROR NO. 026: Barry Conbraco
8 [phonetic].

9 THE COURT: Barry Conbraco.

10 PROSPECTIVE JUROR NO. 026: There were some others,
11 I'm just drawing a blank.

12 THE COURT: Okay. But the names you've given us, and
13 Gordon -- well, I don't know. They might do some -- they do
14 do some criminal because Dominic Gentile is there.

15 PROSPECTIVE JUROR NO. 026: Yes, [inaudible].

16 THE COURT: I'm sorry?

17 PROSPECTIVE JUROR NO. 026: I met Dominic on several
18 occasions. He's in social service.

19 THE COURT: All right. You understand I told some of
20 the other jurors that while if you're selected to be a juror
21 on this panel you won't be permitted to discuss this case with
22 anyone, including your fellow jurors until you've been asked
23 to go back and deliberate upon your verdict, do you understand
24 that?

25 PROSPECTIVE JUROR NO. 026: I do.

1 THE COURT: Okay. So you understand you can't call
2 up any of these lawyers and ask them any questions about this
3 case?

4 PROSPECTIVE JUROR NO. 026: Yes, ma'am.

5 THE COURT: And that if you see them within the next
6 few days while you're impaneled, the only thing you can tell
7 them is that you're a juror on a criminal case, you're not
8 permitted to tell them anything else; do you understand that?

9 PROSPECTIVE JUROR NO. 026: Yes.

10 THE COURT: Would you comply with that order?

11 PROSPECTIVE JUROR NO. 026: Yes.

12 THE COURT: Okay. Thank you.

13 MS. BOTELHO: Anyone else have an answer to that
14 question?

15 PROSPECTIVE JUROR NO. 005: I know [inaudible]. I
16 work for --

17 THE COURT: Okay. Wait just a minute. That's Mr.
18 Schettino?

19 PROSPECTIVE JUROR NO. 005: Yes.

20 THE COURT: Badge No. 0005. Go ahead.

21 PROSPECTIVE JUROR NO. 005: Besides my niece being a
22 D.A., I worked in a legal compliance department. I worked
23 [inaudible] 25 lawyers so 20 years [inaudible]. I used to go
24 [inaudible].

25 MS. BOTELHO: Okay. And that was during your

1 employment as -- what was your position?

2 PROSPECTIVE JUROR NO. 005: I was associate director
3 of [inaudible].

4 MS. BOTELHO: And so you worked with a lot of
5 attorneys?

6 PROSPECTIVE JUROR NO. 005: Yeah.

7 MS. BOTELHO: Was this in a criminal --

8 PROSPECTIVE JUROR NO. 005: No, it's mostly
9 arbitrations.

10 MS. BOTELHO: Okay.

11 PROSPECTIVE JUROR NO. 005: Of course we had a clause
12 in our thing you couldn't take us to court, you had to sign an
13 arbitration agreement [inaudible] arbitration.

14 MS. BOTELHO: Okay. Do you still maintain contact
15 with these individuals?

16 PROSPECTIVE JUROR NO. 005: No, not normally.

17 MS. BOTELHO: Okay. So you wouldn't be talking to
18 them at all through the case even though the judge asked you
19 not to. Any other potential jurors who know attorneys? Okay.

20 Court's indulgence? I just have one more follow-up
21 question for -- I believe it's Juror No. 00043, Daniel
22 Davenport. Hi, Mr. Davenport. Sir, earlier Judge Leavitt
23 asked you or you indicated to us that you -- your best friend
24 had been murdered, [inaudible] your friend was involved in a
25 domestic kind of relationship, had to leave the home, was

1 killed by a third party, and I think you said something to the
2 effect that nothing happened to that first party because it
3 was allegedly self defense or something like that.

4 Sir, do you harbor any -- I don't know how to phrase
5 this -- ill feelings towards maybe the police or the District
6 Attorney's Office for not looking at the facts and
7 circumstances of your friend's death?

8 THE COURT: Okay. Well, you're assuming they didn't.

9 MS. BOTELHO: I thought I heard him say earlier that
10 he didn't know anything about it.

11 THE COURT: I never asked him if the D.A's Office was
12 involved.

13 MS. BOTELHO: Okay. I can ask that, Your Honor.

14 THE COURT: Okay.

15 MS. BOTELHO: Did the D.A's Office or the police do
16 anything as far as investigating or following up on the case?

17 PROSPECTIVE JUROR NO. 043: It was kind of like an
18 open and shut, but I believe otherwise happened.

19 MS. BOTELHO: Okay. So do you harbor kind of some --
20 I don't know -- bitterness or ill feelings towards the police
21 for that reason or either the District Attorney's Office for
22 not filing charges or things like that against that third
23 party?

24 PROSPECTIVE JUROR NO. 043: No.

25 MS. BOTELHO: And so that experience, of course, you

1 wouldn't hold whatever feelings you may have or
2 dissatisfaction you may have with the police against the
3 police officers who are going to come before our jurors to
4 testify?

5 PROSPECTIVE JUROR NO. 043: No.

6 MS. BOTELHO: And you wouldn't hold it against Mr.
7 Burns and I, the D.A. -- this was in a different state, right?

8 PROSPECTIVE JUROR NO. 043: Missouri.

9 MS. BOTELHO: In Missouri, and didn't, you know, file
10 charges against a third party that caused your friend to die,
11 you wouldn't hold that against us?

12 PROSPECTIVE JUROR NO. 043: No.

13 MS. BOTELHO: Okay. So you realize this is separate
14 and different defendant, different case, different set of
15 circumstances?

16 PROSPECTIVE JUROR NO. 043: Yes.

17 MS. BOTELHO: Your Honor, I have no further
18 questions. Thank you very much.

19 THE COURT: You'll pass the panel for cause?

20 MS. BOTELHO: Yes, Your Honor.

21 THE COURT: Okay. We're going to take a recess.

22 During this recess you're admonished not to talk or converse
23 amongst yourselves or with anyone else on any subject
24 connected with this trial or read, watch or listen to any
25 report of or commentary on the trial or any person connected

1 with this trial by any medium of information including without
2 limitation newspapers, television, the Internet or radio, form
3 or express any opinion on any subject connected with this
4 trial until the case is finally submitted to you.

5 We're going to take a 15-minute recess. When we're
6 ready to come in the officer will come get you to bring you
7 back in. Thank you very much. So it will be about 3:40.

8 (Court recessed at 3:25 p.m. until. 3:43 p.m.)

9 THE COURT: Do the parties stipulate to the presence
10 of our panel?

11 MS. BOTELHO: Yes, Your Honor.

12 MR. HILLMAN: Yes, Judge.

13 THE COURT: The State has passed the panel for cause
14 and the Defense can take the jury panel on voir dire.

15 MR. HILLMAN: Before we get there, can we have a
16 quick sidebar, please?

17 THE COURT: Sure, of course.

18 (Bench conference transcribed as follows.)

19 THE COURT: It requires a laptop computer? Go ahead.

20 MR. HILLMAN: She's playing a game.

21 MS. BOTELHO: Your Honor, on here I asked Mr.
22 Jennings who is in Seat No. 3, he disclosed he was previously
23 convicted of a DV on one incident. We ran his SCOPE and it's
24 two. He was convicted twice of battery DV, separate case, one
25 in 1994 and one in 1995.

1 THE COURT: Okay. Well, maybe he just didn't
2 realize.

3 MS. BOTELHO: I know.

4 THE COURT: You said, Have you ever been accused of a
5 crime, and he said, Yes, battery domestic violence. Did you
6 ask him, Have you been accused of [inaudible]? I mean, I
7 don't know. I don't know if you asked him how many battery
8 DV's do you have?

9 MS. BOTELHO: No, I didn't ask him how many. He only
10 disclosed the one.

11 THE COURT: Does he have convictions?

12 MS. BOTELHO: Yeah. One was a closed [inaudible],
13 the other one was with a fine, excused, and --

14 THE COURT: What do you want me to do? Do you want
15 me to ask him if he ever --

16 MS. BOTELHO: No, I mean --

17 THE COURT: Okay. So we all know it. I'm not quite
18 sure he's been untruthful. Do you think he was untruthful?

19 MS. BOTELHO: I kind of do, but --

20 THE COURT: I don't know. Okay. So what do you want
21 to do? Is it a challenge for cause?

22 MS. BOTELHO: I guess I am making a challenge for
23 cause just because I don't think he was entirely truthful. I
24 think the question was --

25 THE COURT: I'm happy to bring him back up again.

1 MR. HILLMAN: I think that's what we need to do at
2 this point in time or if they want to re-open, that's fine,
3 too.

4 THE COURT: Do you want to re-open or do you want me
5 to do it?

6 MS. BOTELHO: You could do it.

7 THE COURT: Okay. I just don't want to embarrass
8 him, but I don't know what else to do.

9 MR. HILLMAN: Do you want to bring him up here?

10 MS. HOJJAT: Bring him up here so the rest of the
11 panel --

12 THE COURT: You know what, Mr. Jennings?

13 MS. BOTELHO: Wait, wait.

14 THE COURT: Just a minute. Just a minute.

15 MS. BOTELHO: What if he ends up on our jury? He'll
16 be very [inaudible].

17 MR. BURNS: Right.

18 MS. BOTELHO: If he ends up on our jury it's just
19 going to be rather uncomfortable.

20 THE COURT: I'm trying to figure out how to handle it
21 so he doesn't get pissed off at somebody.

22 MR. HILLMAN: I would let him explain why.

23 THE COURT: Well, I can tell him I determined, you
24 know -- I'll take it. I don't care if he's mad at me. I'll
25 say I determined -- I'll think of something to say.

1 MS. BOTELHO: Okay.

2 THE COURT: Okay.

3 MS. BOTELHO: Okay.

4 THE COURT: Mr. Jennings, do you mind, the court
5 marshal is going to escort you up here to the bench? I just
6 have to ask you a couple more questions, okay?

7 PROSPECTIVE JUROR NO. 006: Sure, where do you want
8 me to go?

9 THE COURT: The court marshal is going to bring you
10 up here. The record reflect Mr. Jennings is present at the
11 bench, Badge No. 0006 as well as all four lawyers. Thank you
12 very much for coming here. I just have to ask you a few more
13 questions based upon the colloquy you had with the District
14 Attorney. I just want to make sure I fully understand. You
15 indicated to the District Attorney that you had been accused
16 of battery domestic violence with your girlfriend; is that
17 correct?

18 PROSPECTIVE JUROR NO. 006: Yeah, I'm not exactly
19 sure what the --

20 THE COURT: We're up here for a reason.

21 PROSPECTIVE JUROR NO. 006: I'm not exactly sure what
22 it was called.

23 THE COURT: Okay. You're still very loud. Can you
24 just talk lower so everybody doesn't here? Okay.

25 PROSPECTIVE JUROR NO. 006: I'm not sure -- exactly

1 sure what the exact charge was, but --

2 THE COURT: Okay. You think it was something like
3 that or domestic violence?

4 PROSPECTIVE JUROR NO. 006: Some sort of domestic
5 violence, yes.

6 THE COURT: Were there allegations -- what were the
7 facts? What did she accuse you of doing?

8 PROSPECTIVE JUROR NO. 006: I --

9 THE COURT: Physical contact?

10 PROSPECTIVE JUROR NO. 006: I was blacked out and I
11 saw somebody else in her face and I popped her in the head.

12 THE COURT: Okay. All right. Was there more than
13 one occasion?

14 PROSPECTIVE JUROR NO. 006: No, just that one.

15 THE COURT: And so you believe you only have one
16 conviction for battery domestic violence?

17 PROSPECTIVE JUROR NO. 006: Yes, I don't know if
18 there was battery or not, but it was domestic violence.

19 THE COURT: Okay. And that was around '95.

20 PROSPECTIVE JUROR NO. 006: More like '93, I think.

21 THE COURT: Okay. Is there a possibility you had
22 another one during that time frame?

23 PROSPECTIVE JUROR NO. 006: I don't think so.

24 THE COURT: Okay. How long were you with this woman?

25 PROSPECTIVE JUROR NO. 006: We've been together for

1 -- since '85.

2 THE COURT: Oh, she's still -- you're still with her?

3 PROSPECTIVE JUROR NO. 006: Oh, yes.

4 THE COURT: Oh, since 1985. Gosh, how long have you
5 guys been [inaudible] like thirty years?

6 PROSPECTIVE JUROR NO. 006: Pretty close.

7 THE COURT: Okay. Let me -- you don't think you were
8 ever accused or arrested of more than one?

9 PROSPECTIVE JUROR NO. 006: No.

10 THE COURT: Okay. What if I told you my records
11 indicate that you have two convictions for battery domestic
12 violence?

13 PROSPECTIVE JUROR NO. 006: Okay. Then yours are
14 probably more right than mine.

15 THE COURT: Okay. I know it was a long time ago. Do
16 you remember the facts and circumstances of the other one?

17 PROSPECTIVE JUROR NO. 006: Probably just an
18 argument.

19 THE COURT: Okay. There was one in '94 and one in
20 '95.

21 PROSPECTIVE JUROR NO. 006: Okay.

22 THE COURT: Okay? And it would involve your current
23 girlfriend, correct?

24 PROSPECTIVE JUROR NO. 006: Yes.

25 THE COURT: Okay. Do you remember the facts and

1 circumstances of the other one? Because they're --

2 PROSPECTIVE JUROR NO. 006: Nothing specific.

3 THE COURT: -- like within the same time frame.

4 PROSPECTIVE JUROR NO. 006: Just the same situation,
5 and it was arguing.

6 THE COURT: Just arguing and somebody -- did she call
7 the police, do you think?

8 PROSPECTIVE JUROR NO. 006: She did, yes.

9 THE COURT: Okay. And you were -- do you recall it
10 at all?

11 PROSPECTIVE JUROR NO. 006: Not -- there wasn't that
12 much to it.

13 THE COURT: Okay. What happened?

14 PROSPECTIVE JUROR NO. 006: Just like I said, just --
15 we both drank in those days and --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 006: -- it was just an
18 argument.

19 THE COURT: All right. Do you drink any more?

20 PROSPECTIVE JUROR NO. 006: I still do.

21 THE COURT: Okay. She doesn't drink?

22 PROSPECTIVE JUROR NO. 006: No.

23 THE COURT: So basically everybody was getting drunk
24 and you -- it get out of hand?

25 PROSPECTIVE JUROR NO. 006: Basically.

1 THE COURT: I mean, I'm not trying to demean it or
2 anything.

3 PROSPECTIVE JUROR NO. 006: No.

4 THE COURT: I'm just -- all right. Now your
5 girlfriend would be the one that would call the police?

6 PROSPECTIVE JUROR NO. 006: Yes.

7 THE COURT: Okay. And you haven't had any problems
8 like that since 1995, right?

9 PROSPECTIVE JUROR NO. 006: Right.

10 THE COURT: Okay. Anything about those incidents,
11 those two incidents that would interfere with your ability to
12 be fair and impartial?

13 PROSPECTIVE JUROR NO. 006: No.

14 THE COURT: Okay. Were weapons ever used?

15 PROSPECTIVE JUROR NO. 006: No.

16 THE COURT: Was it just both of you were drinking and
17 that wasn't a good combination?

18 PROSPECTIVE JUROR NO. 006: Correct.

19 THE COURT: Okay. Now did she top drinking?

20 PROSPECTIVE JUROR NO. 006: Yes.

21 THE COURT: Any follow-up questions? Does anyone --

22 MS. BOTELHO: I honestly don't, Your Honor.

23 MR. HILLMAN: No.

24 THE COURT: Okay. Thank you very much for answering
25 my questions. Sorry we had to call you up here but --

1 PROSPECTIVE JUROR NO. 006: Not a problem.

2 THE COURT: -- I really appreciate you answering our
3 questions. You can go take your seat and then I'll allow the
4 defense to question the panel.

5 PROSPECTIVE JUROR NO. 006: Okay. Thank you.

6 THE COURT: Thank you, Mr. Jennings.

7 MS. BOTELHO: Your Honor, sorry.

8 MR. HILLMAN: We talked during the break and neither
9 one of us has a problem dismissing Ms. Hernandez for cause.

10 THE COURT: Mr. who?

11 MR. HILLMAN: Ms. Hernandez, Juror No. 14.

12 THE COURT: You guys want -- you guys --

13 MS. HOJJAT: Your Honor, the concern we have is
14 because there was just hesitation when she was first
15 answering, we think she just got to the point that she didn't
16 want to answer our questions anymore and we're concerned that
17 perhaps she was just saying that she would follow the law
18 because she was indicating that she didn't want to answer any
19 more questions basically, that's our concern. And I think --

20 THE COURT: She got up here and answered all of my
21 questions for almost 45 minutes, okay? Nobody likes to come
22 up here and answer my questions, but I mean, I think what
23 happened was is, quite frankly, I think she took a lunch break
24 and came back and thought that maybe saying that was going to
25 get her excused. But I don't have any -- this is the woman

1 who said she was suffering from anxiety yet she's never seen a
2 doctor in four years, a coincidence that she had a doctor's
3 appointment today. So, I don't know, you guys --

4 MS. BOTELHO: We're just worried --

5 THE COURT: -- want to stipulate to get rid of her?

6 MS. BOTELHO: We would, Your Honor. We just worry
7 from our standpoint that there were too many issues raised
8 with her. You know, she's the victim of some very horrific
9 violent crimes. She has unresolved issues with how they were
10 dealt with by the police, by the District Attorney's Office.

11 THE COURT: Okay. If you guys stipulate to let her
12 go, I have to -- I have to put somebody in Seat No. 14, so it
13 looks like it would be Michael Andrews. It would be Michael
14 Andrews will become 14. So I'll take the panel back over, and
15 then you can voir dire her and do your turn.

16 MS. HOJJAT: Thank you, Your Honor.

17 MR. HILLMAN: Thank you, Judge.

18 MS. BOTELHO: Thank you, Your Honor.

19 (End of bench conference.)

20 THE COURT: Ms. Hernandez, will you step out of the
21 box? If you will just step out of the box and you can go take
22 -- you can take a seat anywhere except on the front row? And
23 Mr. Michael Andrews, if you will go up into the box and take
24 Seat No. 14. Mr. Andrews, how long have you lived in Clark
25 County?

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENNETT GRIMES,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 74419

APPELLANT'S APPENDIX

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 13th day of March, 2018. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Wolfson, Clark County District Attorney's Office

Adam P. Laxalt, Nevada Attorney General

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By: 

Employee, Resch Law, PLLC d/b/a Conviction Solutions