

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

SIAOSI VANISI,

Appellant,

vs.

WILLIAM GITTERE, WARDEN,
and
AARON FORD, ATTORNEY
GENERAL FOR THE
STATE OF NEVADA.

Respondents.

Electronically Filed
Sep 26 2019 03:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 78209
District Court No. 98CR0516

Volume 4 of 38

APPELLANT'S APPENDIX

Appeal from Order Denying Petition for Writ of
Habeas Corpus (Post-Conviction)
Second Judicial District Court, Washoe County
The Honorable Connie J. Steinheimer

RENE L. VALLADARES
Federal Public Defender

RANDOLPH M. FIEDLER
Assistant Federal Public Defender
Nevada State Bar No. 12577
411 E. Bonneville, Suite 250
Las Vegas, Nevada 89101
(702) 388-6577
randolph_fiedler@fd.org

Attorneys for Appellant

<u>VOLUME</u>	<u>DOCUMENT</u>	<u>PAGE</u>
36	Addendum to Motion to Set Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 August 20, 2018.....	AA07685 – AA07688
EXHIBIT		
36	1. Handwritten note from Siao Si Vanisi to Jennifer Noble or Joe Plater August 13, 2018.....	AA07689 – AA07690
32	Answer to Petition for Writ of Habeas Corpus (Post-Conviction), July 15, 2011	AA06756 – AA06758
35	Application for Order to Produce Prisoner, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 20, 2018.....	AA07321 – AA07323
35	Application for Order to Produce Prisoner, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 11, 2018	AA07385 – AA07387
12	Application for Setting, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 11, 2001	AA02529
35	Application for Setting, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 20, 2018.....	AA07324

14	Application for Writ of Mandamus and/or Writ of Prohibition, <i>State of Nevada v. Vanisi</i> , Nevada Supreme Court, Case No.45061 April 13, 2005.....	AA02818 – AA02832
14-15	Case Appeal Statement, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 28, 2007.....	AA02852 – AA03030
39	Case Appeal Statement, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 25, 2019	AA08295 – AA08301
35	Court Minutes of May 10, 2018 Conference Call Re: Motion for Reconsideration of the Order to Produce, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 17, 2018	AA07390
35	Court Minutes of May 30, 2018 Oral Arguments on Motion for Discovery and Issuance of Subpoenas/Waiver of Petitioner’s Appearance at Evidentiary Hearing and All Other Hearings, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 June 4, 2018	AA07447-AA07749
39	Court Minutes of September 25, 2018 Status Hearing on Petitioner’s Waiver of Evidentiary Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 28, 2018.....	AA08190 – AA08191

37	Court Ordered Evaluation, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 (FILED UNDER SEAL) September 19, 2018.....	AA07791 – AA07829
3	Evaluation of Siao Si Vanisi by Frank Everts, Ph.D., June 10, 1999	AA00554 – AA00555
34	Findings of Fact, Conclusions of Law and Judgment Dismissing Petition for Writ of Habeas Corpus, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 April 10, 2014	AA07103 – AA07108
12	Judgment, Second Judicial District Court of Nevada, <i>State of Nevada v. Vanisi</i> , Case No. CR98-0516 November 22, 1999.....	AA02523 – AA02524
12	Motion for Appointment of Post-Conviction Counsel, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 18, 2002.....	AA02530 – AA02540
12	Motion for Extension of Time to File Supplemental Materials (Post-Conviction Petition for Writ of Habeas Corpus (Death Penalty Case), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 23, 2002.....	AA02556 – AA02559
38	Motion for Leave to File Supplement to Petition for Writ of Habeas Corpus, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 28, 2018.....	AA08083 – AA08090

EXHIBIT

- 38 1. Supplement to Petition for Writ of
 Habeas Corpus (Post Conviction)
 September 28, 2018..... AA08091 – AA08114
- 13 Motion for Order Appointing Co-Counsel, State of *Nevada*
 v. Vanisi, Second Judicial District Court of Nevada,
 Case No. CR98-0516
 October 30, 2003..... AA02588 – AA02590
- 35 Motion for Reconsideration, *State of Nevada v. Vanisi*,
 Second Judicial District Court of Nevada,
 Case No. CR98-0516
 April 2, 2018 AA07327 – AA07330

EXHIBITS

- 35 1. *State of Nevada v. Vanisi*, Case No.
 CR98-P0516, Petitioner’s Waiver of
 Appearance,
 January 24, 2012..... AA07332 – AA07336
- 35 2. *State of Nevada v. Vanisi*, Case No.
 CR98-P0516, Waiver of Petitioner’s
 Presence,
 November 15, 2013..... AA07337- AA07340
- 35 3. *State of Nevada v. Vanisi*, Case No.
 CR98-P0516, Order on Petitioner’s
 Presence,
 February 7, 2012 AA07341 – AA07342
- 35 4. *State of Nevada v. Vanisi*, Case No.
 CR98-P0516, Order, AA07343 – AA07346
 February 7, 2014

13	Motion for Stay of Post-Conviction Habeas Corpus Proceedings and for Transfer of Petitioner to Lakes Crossing for Psychological Evaluation and Treatment (Hearing Requested), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 9, 2004.....	AA02594 – AA02608
14	Motion to Continue Evidentiary Hearing, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 April 26, 2005.....	AA02835 – AA02847
32	Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 15, 2011	AA06759 – AA06764
35	Motion to Disqualify the Washoe County District Attorney’s Office, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 June 29, 2018	AA07450 – AA07468

EXHIBITS

35	1. State Bar of Nevada, Standing Committee on Ethics and Professional Responsibility, Formal Opinion No. 41 June 24, 2009	AA07469 – AA07476
35	2. American Bar Association, Standing Committee on Ethics and Professional Responsibility, Formal Opinion 10-456,	

	Disclosure of Information to Prosecutor When Lawyer's Former Client Brings Ineffective Assistance of Counsel Claim July 14, 2010	AA07477 – AA07482
35-36	3. Response to Motion to Dismiss, or Alternatively, To Disqualify the Federal Public Defender, <i>Sheppard v. Gentry, et al.</i> , Second Judicial District Court of Nevada, Case No. CR03-502B December 22, 2016	AA07483 – AA07545
36	4. Transcript of Proceedings – Conference Call Re: Motions, <i>Sheppard v. Gentry, et al.</i> , Second Judicial District Court of Nevada, Case No. CR03-502B December 29, 2016	AA07546 – AA07568
36	5. Order (denying the State's Motion to Dismiss, or Alternatively, To Disqualify the Federal Public Defender), <i>Sheppard v. Gentry, et al.</i> , Second Judicial District Court of Nevada, Case No. CR03-502B January 5, 2017.....	AA07569 – AA07586
36	Motion to Set Hearing Regarding Vanisi's Request to Waive Evidentiary Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 25, 2018	AA07607 – AA07610
12	Motion to Withdraw as Counsel of Record, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 18, 2002	AA02564 – AA02567
36	Non-Opposition to Presence of Defendant, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 August 21, 2018.....	AA07691 – AA07694

12	Notice in Lieu of Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 34771 October 6, 1999.....	AA02413
14	Notice in Lieu of Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 45061 May 17, 2005	AA02848
12	Notice of Appeal, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516, Nevada Supreme Court Case No. (35249) November 30, 1999.....	AA02525 – AA02526
14	Notice of Appeal, <i>State of Nevada v. Vanisi</i> , Nevada Supreme Court, Case No. 50607 November 28, 2007.....	AA02849 – AA02851
34	Notice of Appeal, <i>State of Nevada v. Vanisi</i> , Nevada Supreme Court, Case No. 65774 May 23, 2014	AA07117 – AA07293
38	Notice of Appeal, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516, Nevada, Supreme Court Case No. (78209) February 25, 2019	AA08181 – AA08184
34	Notice of Entry of Order, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 April 25, 2014	AA07109 – AA07116
38	Notice of Entry of Order, (Order Denying Relief), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 6, 2019	AA08167 – AA08173

38	Notice of Entry of Order (Order Denying Motion for Leave to File Supplement), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 22, 2019	AA08174 – AA08180
34	Objections to Proposed Findings of Fact, Conclusions of Law and Judgment Dismissing Petition for Writ of Habeas Corpus, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 31, 2014.....	AA07097 – AA07102
36	Opinion (on ethical duties of capital post-conviction counsel), David M. Siegel, Professor of Law, August 23, 2018.....	AA07695 – AA07700
12	Opposition to Motion for Extension of Time to File Supplemental Materials (Post-Conviction Petition for Writ of Habeas Corpus) (Death Penalty Case), State of Nevada v. Vanisi, Second Judicial District Court of Nevada, Case No. CR98-0516 November 1, 2002.....	AA02560 – AA02563
32	Opposition to Motion to Dismiss, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 30, 2011.....	AA06765 – AA06840
38	Opposition to Motion for Leave to File Supplement to Petition for Writ of Habeas Corpus, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 8, 2018.....	AA08115 – AA08122

36	Opposition to Motion to Disqualify the Washoe County District Attorney's Office, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 9, 2018	AA07587 – AA07594
----	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------

EXHIBITS

36	1. State Bar of Nevada, Standing Committee on Ethics and Professional Responsibility, Formal Opinion No. 55	AA07595 – AA07602
36	2. E-mail from Margaret "Margy" Ford to Joanne Diamond, Randolph Fiedler, Scott Wisniewski, re Nevada-Ethics-Opinion-re-ABA-Formal-Opinion-55 July 6, 2018	AA07603 – AA07604
12	Opposition to Motion to Withdraw as Counsel of Record, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 23, 2002	AA02568 – AA02571
3	Order (directing additional examination of Defendant), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 June 3, 1999	AA00551 – AA00553
32	Order (to schedule a hearing on the motion to dismiss), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 21, 2012.....	AA06845 – AA06847
34-35	Order Affirming in Part, Reversing in Part and Remanding, <i>Vanisi v. State of Nevada</i> , Nevada Supreme Court, Case No. 65774 September 28, 2017.....	AA07294 – AA07318

38	Order Denying Motion for Leave to File Supplement, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 15, 2019	AA08176 – AA08180
37	Order Denying Motion to Disqualify, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 17, 2018.....	AA07785 – AA07790
14	Order Denying Petition, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 45061 April 19, 2005.....	AA02833 – AA02834
3	Order Denying Petition for Writ of Certiorari or Mandamus, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 34771 September 10, 1999.....	AA00620 – AA00621
38	Order Denying Relief, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 6, 2019	AA08169 – AA08173
37	Order for Expedited Psychiatric Evaluation, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 6, 2018.....	AA07782 – AA07784
13	Order (granting Motion to Appoint Co-Counsel), <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 23, 2003	AA02591 – AA02593
38	Order Granting Waiver of Evidentiary Hearing, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 6, 2019	AA08157– AA08166

35	Order to Produce Prisoner, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 23, 2018.....	AA07325 – AA07326
35	Order to Produce Prisoner, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 14, 2018	AA07388 – AA07389
12	Order (relieving counsel and appointing new counsel), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 11, 2002.....	AA2553 – AA02555
3	Original Petition for Writ of Certiorari or Mandamus And Request for Emergency Stay of Trial Pending Resolution of the Issues Presented Herein, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 34771 September 3, 1999.....	AA00556 – AA00619
15-16	Petition for Writ of Habeas Corpus (Post-Conviction), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 4, 2011	AA03033 – AA03269

EXHIBITS

16	1. Criminal Complaint, <i>State of Nevada v. Vanisi, et al.</i> , Justice Court of Reno Township No. 89.820, January 14, 1998.....	AA03270 – AA03274
16	2. Amended Complaint, <i>State of Nevada v. Vanisi, et al.</i> , Justice Court of Reno Township No. 89.820, February 3, 1998	AA03275 – AA3279

16	3.	Information, <i>State of Nevada v. Vanisi</i> , Second Judicial Circuit of Nevada, Case No. CR98-0516, February 26, 1998.....	AA03280 – AA03288
16	5.	Declaration of Mark J.S. Heath, M.D., (including attached exhibits), May 16, 2006	AA03289 – AA03414
16	6.	Birth Certificate of Siaosi Vanisi, District of Tongatapu, June 26, 1970.....	AA03415 – AA03416
16	7.	Immigrant Visa and Alien Registration of Siaosi Vanisi, May 1976.....	AA03417 – AA03418
16-17	11.	Juror Instructions, Trial Phase, <i>State of Nevada v.</i> <i>Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516, September 27, 1999.....	AA03419 – AA03458
17	12.	Juror Instructions, Penalty Phase, <i>State of Nevada v.</i> <i>Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516, October 6, 1999.....	AA03459 – AA03478
17	16.	Motion to Dismiss Counsel and Motion to Appoint Counsel. <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516, June 16, 1999	AA03479 – AA03489
17	17.	Court Ordered Motion for Self Representation, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 August 5, 1999	AA03490 – AA03493
17	18.	Ex-Parte Order for Medical Treatment, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 12, 1999	AA03494 – AA03496

17	19.	Order, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516, August 11, 1999.....	AA03497 – AA03507
17	20.	<i>State of Nevada v. Vanisi</i> , Washoe County Second Judicial District Court Case No. CR98-0516, Transcript of Proceedings June 23, 1999	AA03508 – AA03551
17	21.	Transcript of Proceedings <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 August 3, 1999	AA03552 – AA03594
17-18	22.	Reporter's Transcript of Motion for Self Representation <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 August 10, 1999.....	AA03595 – AA03681
18	23.	In Camera Hearing on Ex Parte Motion to Withdraw <i>State of Nevada v. Vanisi</i> , Second Judicial District Court, Case No. CR98-0516 August 26, 1999.....	AA03682 – AA03707
18	24.	Amended Notice of Intent to Seek Death Penalty, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 18, 1999.....	AA03708 – AA03716
18	25.	Mental Health Diagnosis, Phillip A. Rich, M.D., October 27, 1998.....	AA03717 – AA03720
18	26.	Various News Coverage Articles ...	AA03721 – AA03815

18	29.	Verdict, Guilt Phase, <i>State of Nevada v. Vanisi, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 27, 1999.....	AA03816 – AA03821
18	30.	Verdict, Penalty Phase, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 6, 1999.....	AA03822 – AA03829
18	31.	Photographs of Siaoisi Vanisi from youth	AA3830 – AA03834
18	32.	Ex Parte Motion to Reconsider Self-Representation, <i>State of Nevada v. Vanisi</i> , Case No. CR98-0516, Second Judicial District Court of Nevada, August 12, 1999.....	AA03835 – AA03839
18-19	33.	Defense Counsel Post-Trial Memorandum in Accordance with Supreme Court Rule 250, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 15, 1999.....	AA03840 – AA03931
19	34.	Petition for Writ of Habeas Corpus (Post-Conviction) <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98P0516 January 18, 2002.....	AA03932 – AA03943
19	35.	Ex Parte Motion to Withdraw, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98P0516 August 18, 1999.....	AA03944 – AA03952

19-20	36.	Supplemental Points and Authorities to Petition for Writ of Habeas Corpus (Post-Conviction), <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98P0516 February 22, 2005 AA03953 – AA04146
20	37.	Reply to State’s Response to Motion for Protective Order, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516, March 16, 2005..... AA04147 – AA04153
20	39.	Transcript of Proceedings - Post-Conviction Hearing <i>Vanisi v. State of Nevada et al.</i> , Second Judicial District Court of Nevada, Case No. CR98P0516 May 2, 2005 AA04154 – AA04255
20-21	40.	Transcript of Proceedings - Continued Post-Conviction Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98P0516 May 18, 2005 AA04256 – AA04349
21	41.	Transcript of Proceedings, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98P0516 April 2, 2007 AA04350 – AA04380
21	42.	Findings of Fact, Conclusions of Law and Judgment, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98P0516 November 8, 2007..... AA04381 – AA04396
21	43.	Appellant’s Opening Brief, Appeal from Denial of Post-Conviction Habeas Petition <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 50607, August 22, 2008..... AA04397 – AA04496

21-22	44.	Reply Brief, Appeal from Denial of Post-Conviction Habeas Petition, <i>State of Nevada v. Vanisi</i> , Nevada Supreme Court, Case No. 50607 December 2, 2008.....	AA04497 – AA04554
22	45.	Order of Affirmance, Appeal from Denial of Post-Conviction Petition, <i>State of Nevada v. Vanisi</i> , Nevada Supreme Case No. 50607 April 20, 2010.....	AA04555 – AA04566
22	46.	Petition for Rehearing Appeal from Denial of Post-Conviction Petition, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 50607 May 10, 2010	AA04567 – AA04580
22	48.	Order for Competency Evaluation <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 27, 2004	AA04581 – AA04584
22	49.	Forensic Psychiatric Assessment, Thomas E. Bittker, M.D., January 14, 2005.....	AA04585 – AA04593
22	50.	Competency Evaluation, A.M. Amezaga, Jr., Ph.D., February 15, 2005	AA04594 – AA04609
22	56.	Order finding Petitioner Competent to Proceed, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court, Case No. CR98-0516 March 16, 2005.....	AA04610 – AA04614
22	59.	Sanity Evaluation, Thomas E. Bittker, M.D., June 9, 1999	AA04615 – AA4622
22-23	60.	Preliminary Examination, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 20, 1998	AA04623 – AA04856

- 23 61. Arraignment, *State of Nevada v. Vanisi*,
 Second Judicial District Court of Nevada, Case No.
 CR98-0516
 March 10, 1998..... AA04857 – AA04867
- 23 62. Status Hearing, *State of Nevada v. Vanisi*,
 Second Judicial District Court of Nevada,
 Case No. CR98-0516
 August 4, 1998 AA04868 – AA04906
- 23 63. Status Hearing *State of Nevada v. Vanisi*,
 Second Judicial District of Nevada,
 Case No. CR98-0516
 September 4, 1998..... AA04907 – AA04916
- 23 64. Status Hearing, *State of Nevada v. Vanisi*,
 Second Judicial District Court of Nevada, Case No.
 CR98-0516
 September 28, 1998..... AA4917 – AA04926
- 23 65. Report on Psychiatric Evaluations, *State of Nevada v.*
 Vanisi, Second Judicial District Court of Nevada,
 Case No. CR98-0516
 November 6, 1998..... AA04927 – AA04940
- 24 66. Hearing Regarding Counsel, *State of Nevada v.*
 Vanisi, Second Judicial District Court of Nevada,
 Case No. CR98-0516
 November 10, 1998..... AA04941 – AA04948
- 24 67. Pretrial Hearing, *State of Nevada v. Vanisi*,
 et al., Second Judicial District Court of Nevada,
 Case No. CR98-0516
 December 10, 1998 AA04949 – AA04965

24	69.	Hearing to Reset Trial Date, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court, Case No. CR98-0516 January 19, 1999.....	AA04966 – AA04992
24	70.	Transcript of Proceeding – Pretrial Motion Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 June 1, 1999	AA04993 – AA05009
24	71.	Motion Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 August 11, 1999.....	AA05010 – AA05051
24	72.	Decision to Motion to Relieve Counsel, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 August 30, 1999.....	AA05052 – AA05060
24	73.	In Chambers Review, <i>State of Nevada v. Vanisi, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 12, 1999	AA05061 – AA05080
24	81.	Transcript of Proceedings - Report on Psych Eval, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 6, 1998.....	AA5081 – AA05094
24	82.	Hearing Regarding Counsel, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 10, 1998.....	AA05095 – AA05102
24-25	89.	Transcript of Proceeding, Trial Volume 4, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516	

	January 14, 1999.....	AA05103 – AA05331
25	90. Order (granting Motion for Mistrial), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 15, 1999.....	AA05332 – AA05335
25	92. Declaration of Paulotu Palu January 24, 2011.....	AA05336 – AA05344
25	93. Declaration of Siaosi Vuki Mafileo February 28, 2011	AA05345 – AA05359
25-26	94. Declaration of Sioeli Tuita Heleta January 20, 2011.....	AA05360 – AA05373
26	95. Declaration of Tufui Tafuna January 22, 2011.....	AA05374 – AA05377
26	96. Declaration of Toeumu Tafuna April 7, 2011	AA05378 – AA05411
26	97. Declaration of Herbert Duzant’s Interview of Michael Finau April 18, 2011	AA05412 – AA05419
26	98. Declaration of Edgar DeBruce April 7, 2011	AA05420 – AA05422
26	99. Declaration of Herbert Duzant’s Interview of Bishop Nifai Tonga April 18, 2011	AA05423 – AA05428
26	100. Declaration of Lita Tafuna April 2011.....	AA05429 – AA05431
26	101. Declaration of Sitiveni Tafuna April 7, 2011	AA05432 – AA05541

26	102. Declaration of Interview with Alisi Peaua conducted by Michelle Blackwill April 18, 2011	AA05442 – AA05444
26	103. Declaration of Tevita Vimahi April 6, 2011	AA05445 – AA05469
26	104. Declaration of DeAnn Ogan April 11, 2011	AA05470 – AA05478
26	105. Declaration of Greg Garner April 10, 2011	AA05479 – AA05486
26	106. Declaration of Robert Kirts April 10, 2011	AA05487 – AA05492
26	107. Declaration of Manamoui Peaua April 5, 2011	AA05493 – AA05497
26	108. Declaration of Toa Vimahi April 6, 2011	AA05498 – AA05521
26-27	109. Reports regarding Siaosi Vanisi at Washoe County Jail, Nevada State Prison and Ely State Prison, Various dates	AA05522 – AA05699
27	110. Declaration of Olisi Lui April 7, 2011	AA05700 – AA05704
27	111. Declaration of Peter Finau April 5, 2011	AA05705 – AA05709
27	112. Declaration of David Kinikini April 5, 2011	AA05710 – AA05720
27	113. Declaration of Renee Peaua April 7, 2011	AA05721 – AA05726

27	114. Declaration of Heidi Bailey-Aloi April 7, 2011.....	AA05727 – AA05730
27	115. Declaration of Herbert Duzant’s Interview of Tony Tafuna April 18, 2011.....	AA05731- AA05735
27	116. Declaration of Terry Williams April 10, 2011.....	AA05736 – AA05741
27	117. Declaration of Tim Williams April 10, 2011.....	AA05742 – AA05745
27	118. Declaration of Mele Maveni Vakapuna April 5, 2011.....	AA05746 – AA05748
27	119. Declaration of Priscilla Endemann April 6, 2011.....	AA05749 – AA05752
27	120. Declaration of Mapa Puloka January 24, 2011.....	AA05753 – AA05757
27	121. Declaration of Limu Havea January 24, 2011.....	AA05758 – AA05767
27	122. Declaration of Sione Pohahau January 22, 2011.....	AA05768 – AA05770
27	123. Declaration of Tavake Peaua January 21, 2011.....	AA05771 – AA05776
27	124. Declaration of Totoa Pohahau January 23, 2011.....	AA05777 – AA05799
27-28	125. Declaration of Vuki Mafileo February 11, 2011	AA05800 – AA05814

28	127. Declaration of Crystal Calderon April 18, 2011.....	AA05815 – AA05820
28	128. Declaration of Laura Lui April 7, 2011.....	AA05821 – AA05824
28	129. Declaration of Le’o Kinkini-Tongi April 5, 2011.....	AA05825 – AA05828
28	130. Declaration of Sela Vanisi-DeBruce April 7, 2011.....	AA05829 – AA05844
28	131. Declaration of Vainga Kinikini April 12, 2011.....	AA05845 – AA05848
28	132. Declaration of David Hales April 10, 2011.....	AA05849 – AA05852
28	136. Correspondence to Stephen Gregory from Edward J. Lynn, M.D. July 8, 1999.....	AA05853 – AA05855
28	137. Memorandum to Vanisi File from MRS April 27, 1998.....	AA05856 – AA05858
28	143. Memorandum to Vanisi File From Mike Specchio July 31, 1998.....	AA05859 – AA05861
28	144. Correspondence to Michael R. Specchio from Michael Pescetta October 9, 1998.....	AA05862 – AA05863
28	145. Correspondence to Michael Pescetta from Michael R. Specchio October 9, 1998.....	AA05864 – AA05866

28	146. 3 DVD's containing video footage of Siaosi Vanisi in custody on various dates (MANUALLY FILED).....	AA05867
28	147. Various Memorandum to and from Michael R. Specchio 1998-1999	AA05868 – AA05937
28	148. Memorandum to Vanisi file Crystal-Laura from MRS April 20, 1998.....	AA05938 – AA05940
28	149. Declaration of Steven Kelly April 6, 2011	AA05941 – AA05943
28	150. Declaration of Scott Thomas April 6, 2011	AA05944 – AA05946
28	151. Declaration of Josh Iveson April 6, 2011	AA05947 – AA05949
28	152. Declaration of Luisa Finau April 7, 2011	AA05950 – AA05955
28	153. Declaration of Leanna Morris April 7, 2011	AA05956 – AA05960
28	155. Declaration of Maile (Miles) Kinikini April 7, 2011	AA05961 – AA05966
28	156. Declaration of Nancy Chiladez April 11, 2011	AA05967 – AA05969
28-29	159. Transcript of Proceedings, Trial Volume 1, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 11, 1999.....	AA05970 – AA06222

29-31	160. Transcript of Proceedings, Trial Volume 2, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 12, 1999.....	AA06223 – AA06498
31	163. Neuropsychological and Psychological Evaluation of Siaoosi Vanisi, Dr. Jonathan Mack April 18, 2011.....	AA06499 – AA06569
31-32	164. Independent Medical Examination in the Field of Psychiatry, Dr. Siale ‘Alo Foliaki April 18, 2011.....	AA06570 – AA06694
32	172. Motion for Change of Venue, <i>State of Nevada v.</i> <i>Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 15, 1998	AA06695 – AA06700
32	173. Declaration of Herbert Duzant’s Interview with Tongan Solicitor General, ‘Aminiasi Kefu April 17, 2011	AA06701 – AA06704
32	175. Order Denying Rehearing, Appeal from Denial of Post-Conviction Petition, <i>Vanisi vs. State of</i> <i>Nevada</i> , Nevada Supreme Court, Case No. 50607 June 22, 2010	AA06705 – AA06706
32	178. Declaration of Thomas Qualls April 15, 2011.....	AA06707 – AA06708
32	179. Declaration of Walter Fey April 18, 2011.....	AA06709 – AA06711
32	180. Declaration of Stephen Gregory April 17, 2011.....	AA06712 – AA06714
32	181. Declaration of Jeremy Bosler April 17, 2011.....	AA06715 – AA06718

- 32 183. San Bruno Police Department Criminal
Report No. 89-0030
February 7, 1989 AA06719 – AA06722
- 32 184. Manhattan Beach Police Department Police
Report Dr. # 95-6108
November 4, 1995..... AA06723 – AA06727
- 32 185. Manhattan Beach Police Department
Crime Report
August 23, 1997..... AA06728 – AA06730
- 32 186. Notice of Intent to Seek Death Penalty,
State of Nevada v. Vanisi, Second Judicial
District Court of Nevada, Case No. CR98-0516
February 26, 1998 AA06731 – AA06737
- 32 187. Judgment, *State of Nevada v. Vanisi*,
Second Judicial District Court of Nevada,
Case No. CR98-0516
November 22, 1999..... AA06738 – AA06740
- 32 190. Correspondence to The Honorable Connie
Steinheimer from Richard W. Lewis, Ph.D.
October 10, 1998..... AA06741 – AA06743
- 32 195. Declaration of Herbert Duzant’s Interview of
Juror Richard Tower
April 18, 2011 AA06744 – AA06746
- 32 196. Declaration of Herbert Duzant’s Interview of
Juror Nettie Horner
April 18, 2011 AA06747 – AA06749
- 32 197. Declaration of Herbert Duzant’s Interview of
Juror Bonnie James
April 18, 2011 AA06750 – AA06752

32	198. Declaration of Herbert Duzant’s Interview of Juror Robert Buck April 18, 2011.....	AA06753 – AA06755
12	Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 35249 November 27, 2001.....	AA02527 – AA02528
15	Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 50607 July 19, 2010	AA03031 – AA03032
35	Remittitur, <i>Vanisi v. State of Nevada, et al.</i> , Nevada Supreme Court, Case No. 65774 January 5, 2018.....	AA07319 – AA07320
12	Reply in Support of Motion to Withdraw as Counsel of Record, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 27, 2002	AA02572 – AA02575
39	Reply to Opposition to Motion for Leave to File Supplement to Petition for Writ of Habeas Corpus, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 15, 2018.....	AA08232 – AA08244
36	Reply to Opposition to Motion to Disqualify the Washoe County District Attorney’s Office, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 July 27, 2018	AA07615 – AA07639

EXHIBITS

36	1. Response to Motion for a Protective Order, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court
----	-----------------------------------------------------------------------------------------------------------------------------

	of Nevada, Case No. CR98-0516 March 9, 2005.....	AA07640 – AA07652
36	2. Letter from Scott W. Edwards to Steve Gregory re Vanisi post-conviction petition. March 19, 2002.....	AA07653 – AA07654
36	3. Supplemental Response to Motion for a Protective Order, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 16, 2005.....	AA07655 – AA07659
36	4. Appellant’s Appendix, Volume 1, Table of Contents, <i>Vanisi v. State of Nevada</i> , Nevada Supreme Court, Case No. 50607 August 22, 2008.....	AA07660 – AA07664
36	5. Facsimile from Scott W. Edwards to Jeremy Bosler April 5, 2002.....	AA07665 – AA07666
35	Reply to Opposition to Motion for Reconsideration and Objection to Petitioner’s Waiver of Attendance at Evidentiary Hearing, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 April 16, 2018.....	AA07356 – AA07365

EXHIBIT

35	1. Petitioner’s Waiver of Appearance (and attached Declaration of Siaosi Vanisi), April 9, 2018.....	AA07366 – AA07371
13	Reply to Response to Motion for Stay of Post-Conviction Habeas Corpus Proceedings and for Transfer of Petitioner to Lakes Crossing for Psychological Evaluation and treatment (Hearing Requested), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada,	

Case No. CR98-0516
November 17, 2004..... AA02609 – AA02613

36 Reply to State’s Response to Petitioner’s Suggestion
of Incompetence and Motion for Evaluation, *Vanisi*
v. State of Nevada, et al., Second Judicial District
Court of Nevada, Case No. CR98-0516
August 6, 2018..... AA07671 – AA07681

EXHIBIT

36 1. Declaration of Randolph M. Fiedler
August 6, 2018 AA07682 – AA07684

36 Request from Defendant, *State of Nevada v.*
Vanisi, Second Judicial District Court of Nevada,
Case No. CR98-0516
July 24, 2018 AA07605 – AA07606

32 Response to Opposition to Motion to Dismiss
Petition for Writ of Habeas Corpus
(Post-Conviction), *State of Nevada v. Vanisi*,
Second Judicial District Court of Nevada,
Case No. CR98-0516
October 7, 2011..... AA06841 – AA06844

36 Response to Vanisi’s Suggestion of Incompetency
and Motion for Evaluation, *State of Nevada v.*
Vanisi, Second Judicial District Court of Nevada,
Case No. CR98-0516
July 30, 2018 AA07667 – AA07670

35 State’s Opposition to Motion for Reconsideration
and Objection to Petitioner’s Waiver of Attendance at
Evidentiary Hearing, *State of Nevada v. Vanisi*, Second
Judicial District Court of Nevada,
Case No. CR98-0516
April 11, 2018..... AA07347 – AA07352

EXHIBIT

1. Declaration of Donald Southworth, *Vanisi v. State of Nevada, et al.*, Second Judicial District Court of Nevada, Case No. CR98-0516
April 11, 2018..... AA07353 – AA07355
- 36 State’s Sur-Reply to Vanisi’s Motion to Disqualify the Washoe County District Attorney’s Office, *Vanisi v. State of Nevada, et al.*, Second Judicial District Court of Nevada, Case No. CR98-0516
August 31, 2018..... AA07701 – AA07710

EXHIBIT

- 36 1. Transcript of Proceedings – Status Hearing, *Vanisi v. State of Nevada*, Second Judicial District Court of Nevada, Case No. CR98-0516
July 1, 2002 AA07711 – AA07724
- 36 Suggestion of Incompetency and Motion for Evaluation, *State of Nevada v. Vanisi*, Second Judicial District Court of Nevada, Case No. CR98-0516
July 25, 2018 AA07611 – AA07614
- 37 Transcript of Proceedings – Competency for Petitioner to Waive Evidentiary Hearing, *State of Nevada v. Vanisi*, Second Judicial District Court of Nevada, Case No. CR98-0516
September 24, 2018..... AA07830 – AA07924
- 37-38 Transcript of Proceedings – Report on Psychiatric Evaluation, *State of Nevada v. Vanisi*, Second Judicial District Court of Nevada, Case No. CR98-0516
September 24, 2018..... AA07925 – AA08033

13	Transcript of Proceedings – Conference Call – In Chambers, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 5, 2003	AA02583 – AA02587
35	Transcript of Proceedings – Conference Call, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 10, 2018	AA07372 – AA07384
34	Transcript of Proceedings – Decision (Telephonic), <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 March 4, 2014.....	AA07089 – AA07096
12	Transcript of Proceedings – In Chambers Hearing & Hearing Setting Execution Date, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District of Nevada, Case No. CR98-0516 January 18, 2002.....	AA02541 – AA02552
13	Transcript of Proceedings – In Chambers Hearing, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District of Nevada, Case No. CR98-0516 January 19, 2005.....	AA02645 – AA02654
13	Transcript of Proceedings – In Chambers Hearing, <i>Vanisi v. State of Nevada, et al.</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 24, 2005.....	AA02655 – AA02679
35	Transcript of Proceedings – Oral Arguments, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 May 30, 2018	AA07391 – AA07446

38	Transcript of Proceedings – Oral Arguments, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 25, 2019.....	AA08136 – AA08156
32-33	Transcript of Proceedings - Petition for Post-Conviction (Day One), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 5, 2013	AA06848 – AA06966

EXHIBITS

Admitted December 5, 2013

33	199. Letter from Aminiask Kefu November 15, 2011.....	AA06967 – AA06969
33	201. Billing Records-Thomas Qualls, Esq. Various Dates.....	AA06970 – AA06992
33	214. Memorandum to File from MP March 22, 2002.....	AA06993 – AA07002
33	Transcript of Proceedings - Petition for Post-Conviction (Day Two), <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 December 6, 2013	AA07003 – AA07083

EXHIBITS

Admitted December 6, 2013

33	200. Declaration of Scott Edwards, Esq. November 8, 2013.....	AA07084 – AA07086
33	224. Letter to Scott Edwards, Esq. from Michael Pescetta, Esq. January 30, 2003.....	AA07087 – AA07088

12-13	Transcript of Proceedings – Post-Conviction, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 28, 2003.....	AA02576 – AA02582
13	Transcript of Proceedings – Post-Conviction, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 22, 2004.....	AA02614 – AA02644
1	Transcript of Proceedings – Pre-Trial Motions, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 November 24, 1998.....	AA00001 – AA00127
13	Transcript of Proceedings – Report on Psychiatric Evaluation, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 27, 2005.....	AA02680 – AA02716
37-38	Transcript of Proceedings – Report on Psychiatric Evaluation, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 24, 2018.....	AA07925 – AA08033
13-14	Transcript of Proceedings – Report on Psychiatric Evaluation <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 February 18, 2005	AA02717 – AA02817
38	Transcript of Proceedings – Report on Psychiatric Evaluation, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 25, 2018.....	AA08034 – AA08080

36-37	Transcript of Proceedings – Status Conference, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 5, 2018.....	AA07725 – AA07781
3-5	Transcript of Proceedings – Trial Volume 1, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 20, 1999.....	AA00622 – AA00864
5-6	Transcript of Proceedings – Trial Volume 2, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 21, 1999.....	AA00865 – AA01112
1-2	Transcript of Proceedings – Trial Volume 3, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 13, 1999.....	AA00128 – AA00295
6-7	Transcript of Proceedings – Trial Volume 3, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 22, 1999.....	AA01113 – AA01299
2-3	Transcript of Proceedings – Trial Volume 4, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 14, 1999.....	AA00296 – AA00523
7	Transcript of Proceedings – Trial Volume 4, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 23, 1999.....	AA01300 – AA01433

3	Transcript of Proceedings, Trial Volume 5, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 January 15, 1999.....	AA00524 – AA0550
7-8	Transcript of Proceedings, Trial Volume 5, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 24, 1999.....	AA01434 – AA01545
8	Transcript of Proceedings – Trial Volume 6, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 27, 1999.....	AA01546 – AA01690
8-9	Transcript of Proceedings – Trial Volume 7, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 28, 1999.....	AA01691 – AA01706
9	Transcript of Proceedings – Trial Volume 8, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 September 30, 1999.....	AA01707 – AA01753
9-10	Transcript of Proceedings – Trial Volume 9, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 1, 1999.....	AA01754 – AA01984
10-11	Transcript of Proceedings – Trial Volume 10, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 4, 1999.....	AA01985 – AA02267

11-12	Transcript of Proceedings – Trial Volume 11, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 5, 1999.....	AA02268 – AA02412
12	Transcript of Proceedings – Trial Volume 12, <i>State of Nevada v. Vanisi</i> , Second Judicial District Court of Nevada, Case No. CR98-0516 October 6, 1999.....	AA2414 – AA02522

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 26th day of September, 2019.

Electronic Service of the foregoing Appellant's Appendix shall be made in accordance with the Master Service List as follows:

Jennifer P. Noble
Appellate Deputy
Nevada Bar No. 9446
P.O. Box 11130
Reno, NV 89520-0027
jnoble@da.washoecounty.us

Joseph R. Plater
Appellate Deputy
Nevada Bar No. 2771
P.O. Box 11130
Reno, NV 89520-0027
jplater@da.washoecounty.us

Sara Jelenik
An employee of the Federal
Public Defender's Office

1 assist you in finding your chair.

2 So we'll proceed with the calling of the jurors
3 at this time.

4 THE CLERK: Bonnie K. James.

5 Victoria L. Kersbergen.

6 Marilyn A. Patch.

7 Lauren Ziler.

8 Niculina C. Jones.

9 Sheila M. Caramella.

10 Shaylene J. Grate.

11 Jeannette L. Minassian.

12 Larry F. Mullins.

13 Leon D. Ralston.

14 Joy M. Ashley.

15 Michael W. Sheahan.

16 Patricia A. Sharkey.

17 Alice J. Bell.

18 Starlin E. Jones.

19 Patrick W. Grider.

20 Leslie C. Johnson.

21 James L. Ayers.

22 Laura A. O'Keefe.

23 Wendy S. Kruse.

24 Juan C. Salais.

25 Robert T. Buck.

1 Stewart C. Butler.
 2 Joan C. Scolari.
 3 Kimberly M. Hodges.
 4 Warren C. Estes.
 5 Richard A. Tower.
 6 THE COURT: Go ahead and fill in those seats in
 7 the back, those of you who are standing.
 8 THE CLERK: Shaun L. Carmichael.
 9 Evelyn A. Hullin.
 10 THE COURT: Do we have Evelyn Hullin?
 11 A PROSPECTIVE JUROR: Right here.
 12 THE COURT: You were too quick.
 13 A PROSPECTIVE JUROR: I'm in my assigned seat.
 14 THE COURT: You are just really quick.
 15 THE CLERK: Cyndi L. Petrilak.
 16 Patricia D. Magnin.
 17 Amy L. Whitmore.
 18 Heidi A. Beers-Diaz.
 19 Theresa E. Williams.
 20 Karen S. Morris.
 21 Miles E. Webb.
 22 THE COURT: Those of you whose names have just
 23 been called, you have a witness list. Go ahead and review
 24 that witness list for anyone that you might be acquainted
 25 with, related to or know.

1 Those of you sitting out behind the bar, it's
2 not only possible but highly probable that you are going to
3 be called upon to replace some of the jurors currently
4 seated in the jury box. If that takes place, it's going to
5 be essential that I assure myself that you have listened to
6 my questions, and that you are ready to respond to those
7 questions that you would have responded to at the time I
8 asked the initial question of the panel.

9 So to be sure that you can do that, we ask that
10 you take a written note of any question that you would
11 respond to, either of mine or of counsel, as you sit in the
12 audience. That means you can't be daydreaming. You must be
13 listening to the question.

14 And if it turns out when you come up that you
15 haven't paid attention, I must repeat every question I have
16 asked, and the attorneys will repeat every question they
17 have asked. That could add two hours onto the questioning
18 for just one juror who didn't pay attention.

19 Please cooperate with this. It will really
20 assist us in getting this panel and the jury selected
21 timely.

22 Now, the bailiff has pencils and Mr. Anderson
23 has pads of paper and pencils if you need them. They don't
24 have enough pencils for everyone, so if you have a pen of
25 your own, please use it. But they have paper available for

1 you to use.

2 MR. BOSLER: Your Honor, at this point, could
3 we inquire whether Mr. Phillips and Miss Barrientos have
4 arrived? I saw two people come in.

5 THE COURT: Those of you in the jury box are
6 not going to have to take any written notes because you are
7 going to raise your hand if you want to respond to my
8 question. I encourage you to feel comfortable doing that.

9 Through this question-and-answer process is the
10 way that we're able to select a jury. The jury in all cases
11 must be fair and impartial to the best of our ability. So
12 as I ask you the questions and as counsel asks you
13 questions, I want you to bear in mind that we're only asking
14 you to be frank and honest with your responses, and don't be
15 afraid to raise your hand. We're going to let them finish
16 this process, because it is kind of noisy, before I ask you
17 questions.

18 Have any prospective jurors come into the
19 courtroom that were not previously called, their names
20 weren't called? We have Miss Barrientos or Mr. Phillips?

21 It doesn't look like it. The Jury Commissioner
22 should notify us when they are in the building.

23 Mr. ANDERSON: Some people are having a hard
24 time hearing back here.

25 THE COURT: If you are unable to hear my

1 questions, please raise your hand. Now I will be facing
2 this direction. Can you all hear me now? Nobody is raising
3 their hand saying they cannot hear me.

4 There are a couple of people in the back. Do
5 we have any room in the front where one of those people
6 could come forward? We have a chair here in the front row.

7 Mr. Anderson, you can sit in the back.

8 If you have a little bit of hard time hearing
9 me because you can't see me, do you want to come forward,
10 please? We have a couple of chairs in the front.

11 There is one right in front here, sir.

12 Mr. Anderson will show you where it is.

13 Can everyone hear me now?

14 Thank you. The following comments are directed
15 to all prospective jurors, those seated in the jury box as
16 well as those still outside the rail. It is important that
17 you all pay close attention to what is going to happen now.
18 It is not only possible but probable that some of the people
19 now in the jury box will be excused and some of you sitting
20 outside the rail will be called upon to take their place.

21 The purpose of what now follows is to ascertain
22 if you are qualified under the law to serve as a juror in
23 this particular case. That is, are you so unrelated to the
24 parties, their attorneys and the facts of the case that you
25 would be able to serve as a fair and impartial juror. To

1 make this determination, I will first ask you a series of
2 general questions. Then the attorneys will ask you some
3 more questions, both of a general and specific nature.

4 You are obligated by the oath that you just
5 took to answer these questions fully and completely and
6 truthfully. If any of your answers appear to reveal a legal
7 basis for which you may be excused as a juror in this case,
8 one or the other of the attorneys will challenge you. That
9 is, they will request that you be excused.

10 If the Court agrees with the reasons stated for
11 the challenge, you will be excused from further service in
12 this case, and the name of another prospective juror
13 currently seated outside the rail will be called to take
14 your place. These challenges are called challenges for
15 cause.

16 Once all 36 jurors in our jury box have been
17 qualified for cause, the attorneys may then exercise another
18 type of challenge called a peremptory challenge. Each side
19 is allowed ten -- eight plus two, so you will each be
20 allowed ten challenges for peremptories. If either side for
21 any reason or for no reason at all, really, that they tell
22 us makes this type of challenge against you, the Court has
23 no alternative but to excuse you.

24 If this happens, please don't feel that
25 anything you have said was wrong or there is anything wrong

1 with you. It simply means that one or the other of the
2 attorneys challenges you because they believe someone else
3 might be better suited to sit in this case.

4 During the questioning, I ask you to bear in
5 mind that neither the attorneys nor myself wish to embarrass
6 you or match wits with you. We are only seeking relevant
7 information upon which to decide your qualifications as a
8 possible juror. If any of the questions that I or counsel
9 ask are of an embarrassing nature for you to answer out loud
10 in front of the whole group, I will allow you to come
11 forward and speak privately, sort of, but quietly with the
12 court reporter, myself and the attorneys.

13 This is a public record and it will be open to
14 anyone to see, but it isn't like talking in front of all
15 these people. And I want you to use this method if you are
16 uncomfortable saying something. Don't refuse to say
17 something because you are embarrassed because of how many
18 people are here.

19 Sometimes that does happen, and it actually
20 happens quite frequently. So feel free to ask to approach
21 me if that would help you in being more frank with your
22 answers.

23 Now, as I proceed to ask you the questions, I
24 want you to remember what I told you a few minutes ago, and
25 that is that you are to raise your hand if you have an

1 answer for me that is affirmative. Usually it will be:
 2 Does anyone not understand something, or, Does anyone have a
 3 question about a certain thing, or, Do you know anyone, that
 4 kind of questioning. You raise your hand and I will
 5 proceed.

6 If during this process you are confused by the
 7 process and don't understand what is going on, just stop me.
 8 We spend every day in the courtroom; you don't. And I
 9 understand that. So please stop me and ask a question if
 10 you don't know what's happening.

11 I encourage you not to hesitate to raise your
 12 hand should you feel it is appropriate. The integrity of
 13 our entire judicial system depends upon obtaining jurors who
 14 are disinterested, unbiased and unprejudiced. And the only
 15 way that we can do that is through this question-and-answer
 16 process.

17 Now, you had an opportunity to read the witness
 18 list. Now, everyone on this list may not be called as a
 19 witness, but these are the potential witnesses. Is there
 20 anyone in the jury box related to, acquainted with, or have
 21 any familiarity with any of those individuals on the list?
 22 Just raise your hand. Okay.

23 MR. BOSLER: Your Honor, I don't mean to be
 24 difficult, but looking at the list, I would ask the Court
 25 also add the name George Sullivan because I think that will

1 have some special implications for some people in the jury
2 box. That isn't on our witness list.

3 THE COURT: I will do that, Mr. Bosler. Let's
4 just talk about the written list first.

5 We have Miss Patch. Can you tell me who you
6 know and how you know them?

7 A PROSPECTIVE JUROR: Actually there are
8 several officers and deputies that I know. I used to work
9 for Reno PD and the Sheriff's Department.

10 THE COURT: So I think you need to say which
11 ones you actually know.

12 A PROSPECTIVE JUROR: Sergeant Partyka, Deputy
13 Ellis, Officer Meyer, Sergeant Ybarra. I'm not sure if I'm
14 saying that right. I think that's it.

15 THE COURT: Now, is there anything about your
16 association or knowledge of these officers that would cause
17 you difficulty serving in this case?

18 A PROSPECTIVE JUROR: Not that I'm aware of.

19 THE COURT: Would you be able to evaluate their
20 testimony based on the way they present it on the witness
21 stand and not by any other issue?

22 A PROSPECTIVE JUROR: I believe so.

23 THE COURT: Now, would you feel that whatever
24 the result may be of the jury that you sat on would affect
25 your husband's employment?

1 A PROSPECTIVE JUROR: I'm not sure. He is a
2 deputy.

3 THE COURT: Right. And I'm asking you how you
4 feel about that. Do you feel that -- would you have to
5 justify a result in this case to him or anyone else?

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Would you feel that you had to
8 explain yourself to his superiors or anyone else?

9 A PROSPECTIVE JUROR: No.

10 THE COURT: And do you have any doubts about
11 your ability to sit and weigh the testimony of the officers
12 in this case?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Now, I also had someone in the back
15 row. It's Miss Caramella.

16 Who do you know?

17 A PROSPECTIVE JUROR: John Oakes.

18 THE COURT: And what is the nature of your
19 knowledge of him?

20 A PROSPECTIVE JUROR: We dated.

21 THE COURT: Is there anything about that
22 prior -- you say past tense -- so that past association that
23 would cause you difficulty serving in this case?

24 A PROSPECTIVE JUROR: I'm not sure.

25 THE COURT: Would you not be able to afford

1 that witness the same determination as any other witness?

2 A PROSPECTIVE JUROR: I will try.

3 THE COURT: Do you feel uncomfortable going
4 into this in front of everyone?

5 A PROSPECTIVE JUROR: No. John and I just were
6 really close.

7 THE COURT: As with all witnesses, you'd have
8 to be able to weigh his testimony based on the way he
9 presents from the witness stand. Would your relationship be
10 such that you would just accept anything he said on the
11 witness stand and feel that you had to accept whatever he
12 said, no matter what his demeanor or no matter what the
13 basis for his testimony was?

14 A PROSPECTIVE JUROR: It would depend on which
15 side he was on.

16 THE COURT: I can't tell you which side. I
17 don't know for sure.

18 Counsel have any inquiry of this witness?

19 MR. STANTON: A couple questions.

20 Miss Caramella, would you categorize your
21 relationship with John Oakes as positive or negative?

22 A PROSPECTIVE JUROR: Positive.

23 MR. STANTON: Mr. Oakes, if he's called as a
24 witness in this case, is a relatively minor witness in the
25 scheme of all the facts and evidence in this case. Based

1 upon your relationship, could you listen to what he said and
2 evaluate what he said, or would you always believe what he
3 testified to, no matter what the content?

4 A PROSPECTIVE JUROR: Like I just answered, I
5 think it would depend on which side he was testifying for.
6 I'm trying to be honest.

7 MR. STANTON: I understand. And it would make
8 a difference to you which side of this case called him as a
9 witness?

10 A PROSPECTIVE JUROR: Yes.

11 MR. STANTON: I have nothing further.

12 THE COURT: Mr. Bosler?

13 MR. BOSLER: No follow-up, Your Honor. Based
14 upon her honesty and equivocation, we'd ask that the Court
15 excuse her.

16 MR. STANTON: Your Honor, I'm not sure I
17 understand the challenge. But if it is for cause, I don't
18 know what specifically she's indicated that would justify
19 her being excused for cause.

20 THE COURT: What is your concern, Mr. Bosler?

21 MR. BOSLER: I think she's indicated depending
22 on which side Mr. Oakes testifies, she would have a certain
23 bias. I think that bias in itself is a basis to excuse a
24 juror.

25 THE COURT: Are you saying that if he

1 testified -- if he was called by one side or the other, that
2 that would affect how you viewed that whole side's case, not
3 just his individual testimony?

4 A PROSPECTIVE JUROR: I have walked in here
5 already with an opinion, and so all I can say is it would
6 depend on whose side he was on.

7 THE COURT: If he was on the side of your
8 opinion, you would --

9 A PROSPECTIVE JUROR: I would believe him.

10 THE COURT: -- would you believe him? If he
11 were not on the side of your opinion, you would not believe
12 him?

13 A PROSPECTIVE JUROR: Right.

14 THE COURT: I think we need to deal with her
15 issue of opinion more than we have to deal with Mr. Oakes.
16 So we'll move on and we'll get to her opinion.

17 Anyone else in that row? Second row.

18 Yes, Miss Bell?

19 A PROSPECTIVE JUROR: Carolyn Sullivan. I have
20 seen her at my son's school on occasion.

21 THE COURT: Other than that, you have no
22 personal relationship with her?

23 A PROSPECTIVE JUROR: No, ma'am.

24 THE COURT: And would you be able to -- is
25 there anything about the fact that your children go to the

1 same school that would cause you difficulty serving in this
2 case?

3 A PROSPECTIVE JUROR: No. They don't hang
4 around together.

5 THE COURT: Anyone else in that second row?
6 Yes, Mr. Sheahan?

7 A PROSPECTIVE JUROR: I know Kaleb Bartelheim.
8 He is a close friend of my number three son.

9 THE COURT: He's a close friend of your third
10 son?

11 A PROSPECTIVE JUROR: Right.

12 THE COURT: And how often do you see him?

13 A PROSPECTIVE JUROR: It depends. I have got a
14 divorce, so it's only once every other week, or
15 approximately.

16 THE COURT: Would you be able to evaluate his
17 testimony based on the way he presents himself on the
18 witness stand?

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: Do you carry any bias for or
21 against him?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: And would you be able to evaluate
24 it solely on how he is here in the courtroom and not based
25 on some outside knowledge of him?

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: Anyone else in that row? The third
3 row, I think I had some hands. No, I didn't. Fourth row.

4 Yes, Miss Hullin.

5 A PROSPECTIVE JUROR: Yes, I know Detective
6 Dave Jenkins.

7 THE COURT: And how do you know him?

8 A PROSPECTIVE JUROR: I went to school with
9 him.

10 THE COURT: Do you still stay in contact with
11 him?

12 A PROSPECTIVE JUROR: No, I don't.

13 THE COURT: Would you be able to evaluate his
14 testimony based on the way he presents himself on the stand?

15 A PROSPECTIVE JUROR: Yes, I would.

16 THE COURT: Do you carry any bias for or
17 against him personally?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Anyone else in that row?

20 Yes, Mr. Carmichael.

21 A PROSPECTIVE JUROR: Manaoui Peaua. I'm not a
22 hundred percent sure, but I went to school with some of
23 them. As far as like the Peaua family, I'm familiar with
24 the name. I'm not a hundred percent sure if it was him or
25 not.

1 THE COURT: You'd recognize him if he came in?

2 A PROSPECTIVE JUROR: Maybe, maybe not. Just
3 the name. I'm familiar with the name as far as from school.

4 THE COURT: What school?

5 A PROSPECTIVE JUROR: McQueen High School.

6 THE COURT: When did you graduate from McQueen?

7 A PROSPECTIVE JUROR: '92.

8 THE COURT: Have you stayed in touch with any
9 of the people from McQueen?

10 A PROSPECTIVE JUROR: No. As far as from
11 McQueen, yes, but not as far as them.

12 THE COURT: What was the nature of knowing his
13 family? Did you play on a sports team together?

14 A PROSPECTIVE JUROR: Just familiarizing with
15 them at school. Not really one-on-one or anything.

16 THE COURT: Is there anything about your
17 association with him through being at the same high school
18 that would cause you difficulty?

19 A PROSPECTIVE JUROR: No, ma'am.

20 THE COURT: Do you harbor any bias or
21 prejudices one way or another?

22 A PROSPECTIVE JUROR: No, ma'am.

23 THE COURT: Anyone else in that fourth row?

24 Yes, Miss Scolari? I'm sorry. Wrong person.

25 Miss Whitmore.

1 A PROSPECTIVE JUROR: No, Magnin.

2 THE COURT: Magnin. Sorry. I'll get this
3 straight. There are too many of you.

4 A PROSPECTIVE JUROR: My husband works with
5 Sateki -- I can't pronounce his last name.

6 THE COURT: Sateki?

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Where is that?

9 A PROSPECTIVE JUROR: At Traner Middle School.

10 THE COURT: Is your husband a teacher there?

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Is there anything about the fact
13 that your husband is a teacher there and this witness -- is
14 that a student?

15 A PROSPECTIVE JUROR: No. He comes in and does
16 the afternoon program for the teenagers.

17 THE COURT: Is there anything about that
18 relationship that would cause you difficulty?

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Would you feel compelled to take a
21 particular stand with regard to that witness because of your
22 husband's knowledge of him?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Do you have any bias? Do you feel
25 any bias one way or another for or against the witness?

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Would you be able to evaluate the
3 witness's testimony as it is presented here in the courtroom
4 and not based on any other facts?

5 A PROSPECTIVE JUROR: Yes, ma'am.

6 THE COURT: Anyone in the front row? Anyone
7 else?

8 Is anyone acquainted with the defendant in this
9 case or related to him? Is anyone acquainted with or
10 related to the attorneys trying this case, either for the
11 State or for Mr. Vanisi?

12 Is anyone acquainted with or related to anyone
13 in the Washoe County District Attorney's Office? Is there
14 anyone acquainted with or related to anybody in the Washoe
15 County Public Defender's Office?

16 Is there anyone related to or acquainted with
17 George Sullivan, the deceased? He's the gentleman who is
18 deceased in this case.

19 Yes, Miss Bell.

20 A PROSPECTIVE JUROR: Once again, he was at
21 school.

22 THE COURT: So you have seen him before?

23 A PROSPECTIVE JUROR: Right.

24 THE COURT: Did you have any relationship with
25 him?

1 A PROSPECTIVE JUROR: No. I went on a field
2 trip about five years ago to Carson City. He was on the
3 same bus that my son was on, and I went on the bus. But
4 never been over to their house, wouldn't strike up a
5 conversation. I don't know how --

6 THE COURT: You didn't serve on any committees
7 with him at school or anything like that?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: And we also had in the front row
10 Miss Williams.

11 A PROSPECTIVE JUROR: Yeah. I worked with him
12 at the university. I used to give orientation
13 presentations, and he would come in and speak to the
14 orientation crowd.

15 THE COURT: Now, over what period of time did
16 you work with him?

17 A PROSPECTIVE JUROR: Two years.

18 THE COURT: Is there anything about the fact
19 that you worked with him that would cause you difficulty
20 being fair and impartial in this case?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: Would you not be able to afford one
23 side or the other a fair hearing on the evidence?

24 A PROSPECTIVE JUROR: Yeah.

25 THE COURT: Counsel, inquire?

1 MR. STANTON: I didn't hear the answer to the
2 last question.

3 A PROSPECTIVE JUROR: Yes.

4 THE COURT: Yes.

5 MR. STANTON: That is Miss Williams?

6 THE COURT: It is Miss Williams, Theresa
7 Williams.

8 MR. STANTON: Miss Williams, the gravamen of
9 some of the questions that me and Mr. Bosler are going to
10 ask and the judge is asking is ultimately where your life
11 comes from and who do you know. Can you be fair and
12 impartial in this case?

13 A PROSPECTIVE JUROR: I don't think so.

14 MR. STANTON: You don't think so?

15 A PROSPECTIVE JUROR: No.

16 MR. STANTON: Because of your knowledge of
17 Sergeant Sullivan?

18 A PROSPECTIVE JUROR: Yes.

19 MR. STANTON: This case is a criminal case, as
20 I'm sure most of you know. It involves two phases. One is
21 a guilt phase, and if the defendant is found guilty of
22 murder in the first degree, then there would be a penalty
23 phase that you would participate. Do you think you wouldn't
24 be able to be fair in both of those phases?

25 A PROSPECTIVE JUROR: I don't think I could be.

1 MR. STANTON: And you would, I'm assuming
2 because of your relationship with Sergeant Sullivan, it
3 would be you don't think you can be fair to Mr. Vanisi; is
4 that correct?

5 A PROSPECTIVE JUROR: That is correct.

6 MR. STANTON: No further questions.

7 THE COURT: Mr. Bosler?

8 MR. BOSLER: I appreciate Miss Williams'
9 honesty. No questions.

10 THE COURT: Anyone have a challenge?

11 MR. BOSLER: We challenge for cause, Your
12 Honor.

13 MR. STANTON: Court's indulgence one moment.

14 MR. BOSLER: I don't know if the Court wants a
15 basis or what it is based on.

16 MR. STANTON: No objection to the challenge.

17 THE COURT: Miss Williams, thank you. We
18 appreciate your service. You need to go down and report to
19 the Jury Commissioner. You are excused at this time. Give
20 your witness list to the bailiff, please.

21 Call a name of a replacement juror.

22 THE CLERK: Lori T. Frazer.

23 THE COURT: Go ahead and take a moment, ma'am,
24 to read the list over. Miss Frazer, are you acquainted with
25 or related to anyone on that list?

1 A PROSPECTIVE JUROR: John Oakes. Just
2 acquainted.

3 THE COURT: Is there anything about your
4 acquaintance with Mr. Oakes that would cause you any
5 difficulty serving in this case?

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Do you harbor any bias or prejudice
8 for or against him?

9 A PROSPECTIVE JUROR: No.

10 THE COURT: Now, we have a question from
11 Mr. Salais.

12 A PROSPECTIVE JUROR: I'm coming from a foreign
13 country, and I am American citizen now, but my English about
14 85 -- I understand about 80, 85 percent. I don't know if
15 this is going to be good enough.

16 THE COURT: Have you understood all my
17 questions?

18 A PROSPECTIVE JUROR: So far.

19 THE COURT: If you didn't understand something
20 that I asked, that the attorneys asked or that a witness
21 said, would you be willing to raise your hand and say,
22 Judge, I didn't understand that?

23 A PROSPECTIVE JUROR: Sure, I can do that.

24 THE COURT: If you are willing to do that, and
25 you have understood me thus far, I think you should go ahead

1 and stay on the jury.

2 A PROSPECTIVE JUROR: Okay. I just want to be
3 sure. Thank you.

4 THE COURT: Now, as we go, if you don't
5 understand something, raise your hand.

6 A PROSPECTIVE JUROR: Thank you.

7 THE COURT: Thank you, Mr. Salais.

8 Yes, Miss Ziler?

9 Miss Jones?

10 A PROSPECTIVE JUROR: I have the same question.
11 I was born in another country, and my English not so good.
12 It is a big job.

13 THE COURT: Have you been able to understand
14 everything I have said?

15 A PROSPECTIVE JUROR: Yes, but I do not
16 understand this card that is here. I have read this ten
17 times, but I don't understand. I couldn't understand some
18 of the sentences.

19 THE COURT: Can you tell me which sentence you
20 don't understand?

21 A PROSPECTIVE JUROR: Yeah, the one that said
22 here, okay, if your service is not required, you will be
23 scheduled the following week. I don't understand that.

24 THE COURT: Can you tell me which words you
25 didn't understand?

1 A PROSPECTIVE JUROR: Not the words. The
2 sentence, the paragraph.

3 THE COURT: The structure, what it meant?

4 A PROSPECTIVE JUROR: The structure. I had my
5 son call and get permission for me.

6 THE COURT: Counsel?

7 MR. STANTON: Your Honor, based upon the
8 juror's role in this case, specifically with jury
9 instructions in this case, I believe if that is causing a
10 problem, it would be significantly more difficult with that.
11 And the State would have no objection to excusing Miss Jones
12 for cause.

13 MR. BOSLER: Join in the challenge, Your Honor.

14 THE COURT: Miss Jones, we are going to excuse
15 you from service in this case. Thank you for bringing the
16 problem to our attention. Appreciate your service. Go
17 ahead and report to the Jury Commissioner. Go down and see
18 her.

19 We'll call the name of another prospective
20 juror.

21 THE CLERK: Tish A. Kelley.

22 THE COURT: Miss Kelley, I'd like you to read
23 over the witness list as I have asked all other potential
24 jurors. While you are doing that, I'm going to be asking
25 Miss Frazer some questions.

1 Miss Frazer, were you able to hear all my
2 questions while you were sitting in the audience?

3 A PROSPECTIVE JUROR: Yes.

4 THE COURT: Would you have responded to any of
5 those questions had you been sitting here in the jury box?

6 A PROSPECTIVE JUROR: I know other people.

7 THE COURT: That's fine. Tell me who you know.

8 A PROSPECTIVE JUROR: I know Brian Uptain, and
9 I think Lieutenant Jeff Wise was married to somebody I used
10 to work with years ago.

11 THE COURT: Now Deputy Uptain is serving as my
12 bailiff in this case. He works with the court. We are the
13 neutral parties in the courtroom.

14 But is there something about the fact that he
15 would be in the courtroom that would cause you difficulty?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: He will be called upon to assist
18 the jury as our bailiffs do, and they take care of our
19 juries. Would there be anything about that that would cause
20 you a problem?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Any other questions that you would
23 have responded to?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Jeff Wise is the same Jeff Wise who

1 was married to a friend or a co-worker, would there be
2 anything about that that would cause you difficulty in
3 assessing his testimony fairly and objectively?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Any no other responses to my
6 questions thus far?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Now, Miss Kelley, have you read the
9 witness list?

10 A PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: Are you acquainted with or are you
12 related to anyone on the list?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Have you been able to hear my
15 questions thus far?

16 A PROSPECTIVE JUROR: Uh-huh.

17 THE COURT: Is there any of the questions that
18 I asked previously of the other panel members that you would
19 have responded to if you had been seated up here the entire
20 time?

21 A PROSPECTIVE JUROR: (No audible response.)

22 THE COURT: You have to answer out loud, ma'am.

23 A PROSPECTIVE JUROR: No.

24 THE COURT: The court reporter is taking down
25 your responses, so we have to be sure that you, everyone,

1 answer out loud.

2 Now, is anyone related to, acquainted with, or
3 close personal friends with any law enforcement personnel,
4 police officers, sheriffs, deputy sheriffs, highway patrol,
5 anything like that? I usually get quite a few responses.

6 Now I'll try to remember who has raised their
7 hands, and I'll have you raise your hands again as we go row
8 by row.

9 In the first row we have Miss Kersbergen.

10 A PROSPECTIVE JUROR: Yeah. Dave is all I
11 know. He's a friend that comes over and talks. He's with I
12 believe tribal.

13 THE COURT: Council?

14 A PROSPECTIVE JUROR: Tribal police.

15 THE COURT: Is there anything about your
16 association with him that would cause you difficulty serving
17 on this case?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Would you feel required to justify
20 a particular result to him?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: And, Miss Patch, is there something
23 more that you wanted to share with us about your
24 association?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: And, Miss Kelley, did you raise
2 your hand?

3 A PROSPECTIVE JUROR: Yeah. Jim McNeil. Do
4 you want me to tell you who I know?

5 THE COURT: Yes. Who you are acquainted with
6 and who your friends are.

7 A PROSPECTIVE JUROR: Jim McNeil. He is in the
8 Sheriff's Department.

9 Brian Howard, he trains the canines. And I
10 thought I knew somebody else but I don't. I think that's
11 it.

12 THE COURT: Is there anything about your
13 association with these peace officers that would cause you
14 difficulty serving in this case?

15 A PROSPECTIVE JUROR: Huh-uh.

16 THE COURT: Would you feel compelled to justify
17 any particular result to these officers?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: There was another hand.

20 Yes, Miss Grate?

21 A PROSPECTIVE JUROR: Well, let's see. My
22 brother-in-law, Dustin Grate, was just on Sparks PD. He is
23 in between jobs right now.

24 My husband owns a judicial school, and like
25 three of our friends are students there, and they are all

1 police officers. Tim Avilla, David Gill and Larry Lyman,
2 sheriffs. My father-in-law is a retired sheriff.

3 THE COURT: From Washoe County?

4 A PROSPECTIVE JUROR: Uh-huh.

5 THE COURT: Now, is there anything about all
6 these associations that would cause you difficulty serving
7 as a juror in this case?

8 A PROSPECTIVE JUROR: Probably. I would try
9 not to, but to be honest, it is kind of hard.

10 THE COURT: What would be the nature of your
11 difficulty?

12 A PROSPECTIVE JUROR: Just because I could see
13 them in the spot of Mr. Sullivan.

14 THE COURT: And would that give you the
15 inability to be fair and impartial as you hear evidence?

16 A PROSPECTIVE JUROR: Honestly?

17 THE COURT: Absolutely, honestly.

18 A PROSPECTIVE JUROR: It would impair my
19 judgment, honestly.

20 THE COURT: Counsel?

21 MR. STANTON: Miss Grate, obviously by your
22 questions, you know that the basis of this trial is that
23 Sergeant Sullivan was murdered while he was on duty. You
24 may and many jurors may have strong feelings by knowing
25 other police officers.

1 The question is simply this: This man,
2 Mr. Vanisi, is presumed innocent, and he is innocent until a
3 jury convicts him in a court of law based upon only the
4 evidence that's heard in this courtroom, not the newspaper
5 or television coverage.

6 Could you put aside your feelings and your
7 understanding and your relationship that you have with
8 friends and associates that are law enforcement and make
9 your decision as a juror solely on what you hear in this
10 room and nothing else?

11 A PROSPECTIVE JUROR: I could try.

12 MR. STANTON: Okay. Well, I guess that's --
13 not only trying it, but you know yourself, obviously, better
14 than anybody in this room. Do you think you can do that?
15 Because if you are selected as a juror, you will take an
16 oath separate and apart from the oath you have already
17 taken, to indeed precisely do that. Can you do that?

18 A PROSPECTIVE JUROR: I guess I'd have to say
19 no.

20 MR. STANTON: No?

21 A PROSPECTIVE JUROR: I mean, it would be hard
22 to be impartial.

23 MR. STANTON: Well, I understand that people
24 may carry into this case, at least a case that has the
25 attendant publicity to it, feelings, opinions, everything

1 like that. The question is: Can you put that aside and
2 listen to just what happens in this courtroom?

3 A PROSPECTIVE JUROR: Yeah.

4 MR. STANTON: Are you the type of person that
5 can follow directions and if you take an oath, you take it
6 seriously?

7 A PROSPECTIVE JUROR: Uh-huh.

8 MR. STANTON: So you may have some feelings,
9 but you will come in here and watch the evidence and you
10 say, Wait a minute, that is not the way I heard it, then
11 rule on the evidence as opposed to your opinion and what you
12 know or your friends?

13 A PROSPECTIVE JUROR: Yeah.

14 MR. STANTON: If you were a juror in this case
15 and you listened to the facts and you said the State didn't
16 prove Mr. Vanisi guilty beyond a reasonable doubt, could you
17 tell all your law enforcement friends, That's the way I saw
18 it?

19 A PROSPECTIVE JUROR: Yeah, I guess.

20 MR. STANTON: No further questions.

21 THE COURT: Mr. Bosler?

22 MR. BOSLER: Mrs. Grate, no one wants to say
23 you are being unfair. No one wants to say you are biased.
24 But everybody here is a human, and everybody here may not be
25 the best juror to sit on this particular case, and if you

1 are not, that's fine. And I appreciate you being honest
2 about this.

3 Knowing that those people work with your
4 husband, I believe you put in your questionnaire that your
5 brother-in-law was almost hired by UNR?

6 A PROSPECTIVE JUROR: Yes.

7 MR. BOSLER: How does that make you feel
8 knowing you are going to have to sit in judgment of this
9 case?

10 A PROSPECTIVE JUROR: It's hard because I do
11 put him in those shoes. I can try to put the facts aside,
12 but I'm --

13 MR. BOSLER: So I mean, as a human, it is hard
14 for you to keep from placing your brother-in-law in the
15 shoes of the deceased?

16 A PROSPECTIVE JUROR: Uh-huh.

17 MR. BOSLER: Do you think that is going to
18 affect your ability to sit at the trial fairly?

19 A PROSPECTIVE JUROR: It might.

20 MR. BOSLER: Do you think that based upon those
21 circumstances, you are the type of person who should be
22 sitting in this case and saying they can be fair?

23 A PROSPECTIVE JUROR: I'm probably not the
24 person, no.

25 MR. BOSLER: I appreciate your honesty. There

1 is no right or wrong answer. You have your own specific
2 issues, and I'm not going to take those away from you.

3 So your questionnaire, you had a question about
4 whether you could be fair. You said, I cannot be fair in
5 light of -- that is just because of this case?

6 A PROSPECTIVE JUROR: I know a lot about it.

7 MR. BOSLER: There is something about court
8 instructions, you are going to take an oath to be a juror,
9 and the judge will instruct you you are supposed to follow
10 instructions. Even all those things being said, you are
11 going to have difficulty sitting fairly in this case; would
12 that be an accurate statement?

13 A PROSPECTIVE JUROR: Yeah.

14 MR. BOSLER: Appreciate your honesty.

15 Thank you, Your Honor.

16 THE COURT: Why don't we inquire right now
17 while we have Miss Caramella about her husband's back
18 surgery.

19 MR. STANTON: Miss Caramella?

20 THE COURT: Caramella.

21 Ma'am, is your husband going to have surgery,
22 Miss Caramella?

23 A PROSPECTIVE JUROR: Yes, he is.

24 THE COURT: Is that tomorrow?

25 A PROSPECTIVE JUROR: Yes, it is.

1 THE COURT: Can you tell us a little bit more
2 about that?

3 A PROSPECTIVE JUROR: Well, I have already
4 postponed it once because I thought I was going to serve on
5 a jury somewhere between June, July and August. So we
6 scheduled it for the 21st.

7 He's supposed to be in the hospital at 7:30 in
8 the morning down in San Pablo. He has surgery about 9:30.
9 He should be out and put in intensive care between 2:00 and
10 3:00, where he will be in intensive care for two days. He
11 will probably be in the hospital for eight or nine days.

12 THE COURT: Okay. Counsel?

13 MR. STANTON: No objection to excusing
14 Miss Caramella for cause.

15 MR. BOSLER: I have no problem with that, Your
16 Honor.

17 THE COURT: Ma'am, we looked at this early last
18 week, and we saw your problem, but we just needed a little
19 bit more information. So since I had you and I was looking
20 at Miss Kelley --

21 A PROSPECTIVE JUROR: I'm sorry. I was not
22 trying to use it for an excuse. I tried between last week
23 and this week to see if I could have someone go down with
24 him but --

25 THE COURT: You can't?

1 A PROSPECTIVE JUROR: Well, because when we met
2 with the doctor on Wednesday, I was concerned about the two
3 days in intensive care, and that is because they are doing
4 so much work by his spinal cord that if there was a problem,
5 I felt I should be there.

6 THE COURT: We understand that, and counsel has
7 given me permission to excuse you. So I am going to let you
8 go ahead and go, and thank you for appearing today.

9 A PROSPECTIVE JUROR: Thank you.

10 THE COURT: You have to report to the Jury
11 Commissioner.

12 Now, with regard to Miss Kelley, counsel, did
13 you finish your inquiry with regard to Miss Kelley?

14 MR. BOSLER: Yes, Your Honor. There is a
15 for-cause challenge before the Court.

16 MR. STANTON: I believe it is Miss Grate.

17 THE COURT: Miss Grate. Sorry, Miss Kelley.
18 You are still with us. And you did -- do you have a
19 response to the motion for recusal?

20 MR. STANTON: Yes, Your Honor. I believe that
21 Miss Grate's responses still fall within the parameters of
22 her being able to serve on this jury, at least at this
23 juncture. Having feelings and impressions at this point,
24 the ultimate feeling was she could abide by the instructions
25 of the Court and the instructions of law.

1 THE COURT: Okay. Miss Grate, you kind of --
2 you moved around a little bit on me. I'm not exactly sure
3 how you are viewing all of this.

4 Everyone comes in with preconceived notions,
5 opinions. Some opinions are of such a nature that they
6 require someone not to serve on a case. Other opinions are
7 not of such a nature.

8 You indicated to me that you thought you would
9 see your friends in the evidence; is that what you were
10 talking about? That you thought that you'd sort of
11 visualize your friends being --

12 A PROSPECTIVE JUROR: My brother-in-law.

13 THE COURT: Your brother-in-law?

14 A PROSPECTIVE JUROR: Because he was almost
15 hired on UNR. It could have been him, is what I'm trying to
16 say. That is what I was thinking when all this happened.

17 THE COURT: That's probably a realistic
18 assumption. But does it necessarily in your mind follow
19 that, therefore, whoever is accused of this offense must be
20 found guilty?

21 A PROSPECTIVE JUROR: That is a tough one.
22 Well, I mean, based on what I have seen, it's hard, what I
23 already know.

24 THE COURT: Now, you told us in your
25 questionnaire some information. Now, did you glean some of

1 your information from sources outside of the press?

2 A PROSPECTIVE JUROR: Yeah. Just hearsay, but
3 not -- just from other officers that I know. Rumor stuff.
4 Who knows if it is true or not?

5 THE COURT: But you have heard things outside
6 of what you have seen in the newspaper or heard on
7 television?

8 A PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: And is that affecting your opinion
10 at this stage in the proceedings, what you have heard from
11 the police officers?

12 A PROSPECTIVE JUROR: Well, I would like to
13 think it's not, but I mean, I'm sure it would affect a
14 little bit. You know, I would try to be impartial. That's
15 what I'm trying to say.

16 THE COURT: If you sat on a jury and you looked
17 at the evidence and the State had not proven beyond a
18 reasonable doubt that this particular defendant committed
19 the offense he's charged with, would you be able to vote not
20 guilty?

21 A PROSPECTIVE JUROR: That's a tough one. I
22 would like to think based on the evidence that I could do
23 that. That I would go with -- if the evidence didn't show
24 that, that I would have to go with not guilty.

25 THE COURT: Would you be able to do that?

1 A PROSPECTIVE JUROR: I would think so.

2 THE COURT: I think she's there, Mr. Bosler. I
3 know she's having some difficulty, but at this time, I'm not
4 going to excuse her. But that's not to say that later we
5 don't still have a problem and you can request it before we
6 finalize the jury panel.

7 MR. BOSLER: I just note an objection for the
8 record, Your Honor.

9 THE COURT: If you think it's still
10 objectionable when we get down to finishing my questions and
11 yours, please notify me that you renew the objection.

12 MR. BOSLER: Yes, Your Honor.

13 THE COURT: We need to call another juror.
14 Call another name to replace Miss Caramella.

15 THE CLERK: Nettie Horner.

16 THE COURT: While Miss Horner is looking at the
17 witness list, I'm going to find out about other people who
18 are related to or acquainted with peace officers. Anyone
19 else in that back row?

20 Second row. Yes, Mr. Ralston.

21 A PROSPECTIVE JUROR: I have two friends, one
22 life-long friend that's chief of police in Ephrata,
23 Washington, and fishing buddy that is a highway patrolman in
24 California.

25 THE COURT: Anything about those associations

1 with peace officers that would cause you difficulty serving
2 in this case?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Would you be able to set aside any
5 biases one way or another and decide the case based solely
6 on the evidence?

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Would you feel you had to justify
9 any particular result to your friends?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Miss Ashley?

12 A PROSPECTIVE JUROR: Yeah. I work at Lake's
13 Crossing Center, and the forensics that I work with have
14 peace officer status.

15 THE COURT: Anything about your employment that
16 would cause you difficulty serving in this case?

17 A PROSPECTIVE JUROR: I think I can be
18 impartial in the first segment. It's the second segment
19 that causes me difficulty about if they would try to do the
20 death penalty thing. Is this appropriate for me to talk
21 about right now?

22 THE COURT: I'm going to allow counsel to
23 inquire a little further into that. But at this stage, you
24 think you could be fair and impartial?

25 A PROSPECTIVE JUROR: Yeah.

1 THE COURT: Mr. Sheahan, did you raise your
2 hand?

3 A PROSPECTIVE JUROR: Yes, I did. I'm related
4 to -- or my ex-wife's brother is a highway patrolman in
5 California, in Fresno, and my ex-wife's oldest sister's son
6 is a Sparks policeman.

7 THE COURT: Now, is there anything about your
8 in-law familial relationships that would cause you
9 difficulty serving in this case?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Do you feel any biases one way or
12 another?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Do you stay in touch with these
15 people?

16 A PROSPECTIVE JUROR: Yes, I do.

17 THE COURT: Would you feel you had to justify
18 any particular result to them?

19 A PROSPECTIVE JUROR: No.

20 THE COURT: I know there's more in that row. I
21 just couldn't tell how far along I went. Miss Sharkey?

22 A PROSPECTIVE JUROR: My son-in-law is a guard
23 at the Nevada State Prison.

24 THE COURT: Anything about that association of
25 law enforcement that would cause you difficulty?

1 A PROSPECTIVE JUROR: Probably not.

2 THE COURT: Do you feel any bias one way or
3 another based upon the nature of this case?

4 A PROSPECTIVE JUROR: Yeah. But that's my own.

5 THE COURT: You do have some biases?

6 A PROSPECTIVE JUROR: Uh-huh.

7 THE COURT: Do you feel that's based upon the
8 fact that the deceased was a law enforcement officer?

9 A PROSPECTIVE JUROR: Yeah. And how he was
10 murdered.

11 THE COURT: So you are coming in with some
12 strong feelings?

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Counsel may inquire.

15 MR. STANTON: Miss Sharkey, the feelings that
16 you have coming in, you may not be the only one on this
17 panel or this room. The question that we collectively want
18 to inquire to is: Can you put aside those feelings and
19 listen to only what happens in this courtroom?

20 A PROSPECTIVE JUROR: No.

21 MR. STANTON: Is there any particular reason
22 why you couldn't do that?

23 A PROSPECTIVE JUROR: Because it was just a
24 brutal murder, and I just don't go along with it. Sorry.

25 MR. STANTON: Well, I hope no one in this room

1 would go along with a brutal murder. The question is: If
2 you sat in here as a juror, could you put aside your
3 feelings and listen to what happens in this courtroom and
4 not take your feelings or let your feelings overcome your
5 role as a juror?

6 A PROSPECTIVE JUROR: No.

7 MR. STANTON: You don't think you can?

8 A PROSPECTIVE JUROR: I don't think I could.

9 Sorry.

10 MR. STANTON: Nothing further.

11 THE COURT: Mr. Bosler?

12 MR. BOSLER: No questions, Your Honor.

13 THE COURT: Anyone have any challenges?

14 MR. BOSLER: For bias, Your Honor.

15 MR. STANTON: Court's indulgence one moment.

16 THE COURT: Yes.

17 MR. STANTON: No objection.

18 THE COURT: Miss Sharkey, I'm going to go ahead
19 and excuse you at this time. You must report to the Jury
20 Commissioner for reassignment.

21 A PROSPECTIVE JUROR: Thank you.

22 THE COURT: The clerk will call the name of
23 another prospective juror.

24 THE CLERK: William R. Meyers.

25 THE COURT: Mr. Meyers, go ahead and have a

1 seat and review the witness list, please. We'll continue
2 with my question, which was knowledge of law enforcement or
3 related to law enforcement officers. And I think I'm at
4 Miss Bell.

5 Was there any additional -- did you already
6 tell us?

7 A PROSPECTIVE JUROR: No. My boss's husband is
8 a Sparks police officer, and my ex-brother-in-law is a
9 police officer in Pleasanton.

10 THE COURT: Now, is there anything about this
11 relationship with peace officers that would cause you
12 difficulty serving in this case?

13 A PROSPECTIVE JUROR: I don't believe so, no.

14 THE COURT: Would you feel it necessary to
15 justify any particular result to the peace officers that you
16 know?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Do you feel any bias one way or
19 another with regard to peace officers?

20 A PROSPECTIVE JUROR: I would hope not.

21 THE COURT: Will you be able to evaluate the
22 testimony as it's presented here in the courtroom and not
23 based on other criteria?

24 A PROSPECTIVE JUROR: I believe so.

25 THE COURT: Now, anyone else in that row?

1 Yes, Mr. Grider?

2 A PROSPECTIVE JUROR: My father is a deputy
3 reserve and a commander in the Civil Air Patrol Search and
4 Rescue. My ex-sister-in-law is a Washoe County Sheriff.

5 THE COURT: Is there anything about your
6 relationship with your father and his activities of the
7 search and rescue that would cause you difficulty serving in
8 this case?

9 A PROSPECTIVE JUROR: No.

10 THE COURT: What about your ex-sister-in-law?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Do you feel you would have to
13 justify any particular verdict to these individuals?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: Do you have any problem sitting in
16 this case on that basis?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Did you, Mr. Jones, start to raise
19 your hand?

20 A PROSPECTIVE JUROR: Yeah. My next door
21 neighbor recently moved in, and he's a deputy with Washoe
22 County. I know his father's name. I don't know his last
23 name.

24 The lady next to me reminded me, when I was in
25 high school, I worked for the Pleasanton Police Department

1 washing cars and taking people's fingerprints.

2 THE COURT: Now, since that was a while ago
3 that you were in high school - I don't want to comment - but
4 do you feel that you are still connected to what happened
5 when you were working with the Pleasanton Police Department?

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Are you able to set aside your
8 prior experiences and decide this case fairly and
9 impartially?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Do you feel any bias one way or
12 another with regard to peace officers?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Let's move into the third row.
15 Yes, we have Mr. Meyers.

16 A PROSPECTIVE JUROR: Father was INS border
17 patrol, brother-in-law, INS border patrol, sister,
18 investigator in Calaveras County.

19 THE COURT: Anything about your family's
20 relationship to law enforcement that would cause you
21 difficulty serving in this case?

22 A PROSPECTIVE JUROR: I feel a definite bias,
23 yes, with regard to peace officers and with regard to rules
24 of evidence.

25 MR. BOSLER: I didn't catch the last part.

1 THE COURT: Rules of evidence.

2 Mr. Meyers, I'm going to get back to you. I'm
3 not quite ready. I have lots of questions for you.

4 Let's move into the third row. Yes, Miss
5 O'Keefe?

6 A PROSPECTIVE JUROR: My best friend is a
7 police officer with the City of Sparks.

8 THE COURT: And the name?

9 A PROSPECTIVE JUROR: Andrea Rayner.

10 THE COURT: Is there anything about that
11 relationship that would cause you difficulty serving in this
12 case?

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: And what is that?

15 A PROSPECTIVE JUROR: I feel very strongly
16 because she is a police officer, I know how hard she works,
17 and I feel a bias against the defendant.

18 THE COURT: Counsel?

19 MR. STANTON: Is it Miss O'Keefe?

20 A PROSPECTIVE JUROR: Yes.

21 MR. STANTON: Miss O'Keefe, there is a
22 distinction at least at this juncture in the proceedings
23 between people's feelings, impressions and opinions that
24 they might have regarding the case. I think everybody
25 probably would agree that murder is wrong, vicious murder is

1 wrong, killing a police officer is wrong. You may have
2 those feelings coming in.

3 Can you put those aside and do your role as a
4 juror and listen fairly to the facts and evidence in the
5 case and decide at least one initial issue, and that is
6 whether or not that man is guilty or not? Can you do that?

7 A PROSPECTIVE JUROR: No.

8 MR. STANTON: You think your feelings are so
9 strong that it would prevent you from listening to the
10 evidence fairly?

11 A PROSPECTIVE JUROR: No.

12 MR. STANTON: I'm sorry?

13 A PROSPECTIVE JUROR: I can listen to the
14 evidence fairly, but I'm probably still going to carry bias.

15 MR. STANTON: Okay. Well, and that's to some
16 extent fine if you have a bias that you like police officers
17 or know that they do good work.

18 Obviously, this case, the State alleges that
19 Mr. Vanisi killed a police officer. You might have a bias
20 against him. But there is a very big and important
21 distinction at this juncture, and that is: He hasn't been
22 convicted of anything. He is an innocent man.

23 The role of the jury is to listen to that
24 evidence and hold the State to its burden of evidence,
25 burden of proof. Can you do that?

1 A PROSPECTIVE JUROR: Yes.

2 MR. STANTON: So you would listen to this case,

3 and you have strong feelings, let's say, about police

4 officers, and you listen to the case and you say, Well,

5 Mr. Gammick, Mr. Stanton, you just didn't do your job, we

6 don't feel you presented enough evidence. Could you find

7 not guilty if we, the prosecution, didn't do its job in this

8 case?

9 A PROSPECTIVE JUROR: Yes.

10 MR. STANTON: Thank you. Nothing further.

11 THE COURT: Mr. Bosler?

12 MR. BOSLER: Miss O'Keefe, you put in your

13 questionnaire that you had a friend who was in training to

14 be a peace officer.

15 A PROSPECTIVE JUROR: Correct.

16 MR. BOSLER: So the person has graduated, I

17 suppose?

18 A PROSPECTIVE JUROR: She's currently in

19 training.

20 MR. BOSLER: So do you have two --

21 A PROSPECTIVE JUROR: No, she is at the police

22 academy right now. It's the same person.

23 MR. BOSLER: And how close is this friend?

24 A PROSPECTIVE JUROR: Very close.

25 MR. BOSLER: How long have you known her?

1 A PROSPECTIVE JUROR: Ten years.

2 MR. BOSLER: So you knew her when she first
3 applied to be a police officer?

4 A PROSPECTIVE JUROR: Yes.

5 MR. BOSLER: Do you support her desire to
6 become a law enforcement officer?

7 A PROSPECTIVE JUROR: 100 percent.

8 MR. BOSLER: This is something you have talked
9 about for a long time?

10 A PROSPECTIVE JUROR: Yes.

11 MR. BOSLER: And again, I can only ask you to
12 be honest. This may not be the case, the person who needs
13 to serve as a juror. Knowing all that information, the
14 Court is going to instruct you on reasonable doubt, the
15 Court is going to instruct you on your duty as a juror.
16 Taking all those things into consideration and your personal
17 thoughts and your relation with this close friend, do you
18 still feel that you can't be fair if you consider all those
19 circumstances?

20 A PROSPECTIVE JUROR: No, I don't think I can
21 be fair.

22 MR. BOSLER: I appreciate your honesty. Thank
23 you.

24 We'd ask the Court to allow her to serve on
25 another jury and make a challenge for cause.

1 MR. STANTON: The State would traverse that,
2 Your Honor, for the reasons I believe she stated to the
3 State's questions. I believe what we're encountering here
4 with the last couple of jurors is strongly held opinions and
5 feelings. But the operative word at this juncture for
6 challenge for cause is can they abide by the oath and listen
7 to the facts and evidence, and I believe she answered
8 affirmatively to that question.

9 THE COURT: Miss O'Keefe, why do you say you
10 won't be fair if you are going to listen to the evidence?

11 A PROSPECTIVE JUROR: I could probably be fair
12 to a certain degree. I don't know whether that makes sense
13 or not. But I mean, I have heard other things at this case
14 that maybe haven't been in the media. So I obviously
15 already have a preconceived idea of how I would vote in the
16 case.

17 THE COURT: One of the things that I will be
18 instructing everyone on is that you can't decide this case
19 about anything that you read in the newspaper or anywhere
20 else or anybody told you. The jury in this case has to
21 decide the case based on the evidence that is presented here
22 in the courtroom and no other basis.

23 And that's what is required of a jury. If in
24 fact that evidence that's presented here in the courtroom
25 isn't sufficient to convince the jury, jurors individually,

1 that this particular defendant is guilty beyond a reasonable
2 doubt, then the result must be a not guilty verdict. And
3 are you capable of doing that?

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: For this time, the challenge for
6 cause is denied. You have a right to renew it later before
7 we empanel the jury.

8 Anyone else? Miss Kruse?

9 A PROSPECTIVE JUROR: Two of my girlfriends are
10 dating policemen.

11 THE COURT: Anything about their relationship
12 with police officers that would cause you a problem?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Anyone else in that row?

15 Yes, Mr. Buck?

16 A PROSPECTIVE JUROR: My employment. I'm an
17 investigator for the State Board of Nursing. I contact
18 detectives and do simultaneous investigations with various
19 departments throughout this state.

20 THE COURT: Is there anything about your
21 contact with police officers that would cause you difficulty
22 serving in this case?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Do you hold any bias or prejudice
25 one way or another?

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Anyone else in that row?

3 Yes, Miss Scolari?

4 A PROSPECTIVE JUROR: Yes. My brother-in-law

5 is a lieutenant on the Reno Police Department.

6 THE COURT: And what is his name?

7 A PROSPECTIVE JUROR: Roger Call.

8 THE COURT: Is there anything about your

9 relationship with your brother-in-law that would cause you

10 difficulty serving in this case?

11 A PROSPECTIVE JUROR: I don't think so.

12 THE COURT: Do you have any bias one way or

13 another with regard to peace officers?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: I think we're at the fourth row

16 now. Okay.

17 Yes, Mr. Tower?

18 A PROSPECTIVE JUROR: One of my co-workers, her

19 husband is on Reno PD.

20 THE COURT: How well do you know this person?

21 A PROSPECTIVE JUROR: I have seen them twice.

22 THE COURT: Anything about that

23 acquaintanceship that would cause you difficulty serving in

24 this case?

25 A PROSPECTIVE JUROR: No. I have another. I

1 coach a soccer team, and one of the boys, his father is on
2 the Sheriff's Department.

3 THE COURT: Anything about that relationship
4 that would cause you difficulty?

5 A PROSPECTIVE JUROR: No.

6 THE COURT: Would you feel you had to justify
7 any particular result to those acquaintances?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Do you harbor any bias for or
10 against peace officers in general?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Anyone else in that row?

13 Yes, Miss Hullin?

14 A PROSPECTIVE JUROR: My brother-in-law is an
15 officer with the Reno Police Department. My
16 ex-brother-in-law is an officer with the Sparks Police
17 Department, and my husband and I are personal friends of the
18 Sparks Chief of Police. And then, one of my best friends is
19 with the Nevada Highway Patrol.

20 THE COURT: Now, anything about the
21 relationship that you have with all these law enforcement
22 officers and the in-law relationship with some of them that
23 would cause you difficulty serving in this case?

24 A PROSPECTIVE JUROR: Yes, I think so.

25 THE COURT: And what is the nature of that

1 difficulty?

2 A PROSPECTIVE JUROR: Well, I just have a real
3 bias for police officers and have already a preconceived
4 opinion on the case.

5 THE COURT: Mr. Stanton?

6 MR. STANTON: Thank you. Is it Miss Hullin?

7 A PROSPECTIVE JUROR: Yes.

8 MR. STANTON: Miss Hullin, have you heard my
9 questions to other jurors?

10 A PROSPECTIVE JUROR: Yes, I have.

11 MR. STANTON: One of the things, for example,
12 if you have a preconceived notion in favor of police
13 officers, and indeed in this case, is to determine whether
14 or not Mr. Vanisi is guilty or not guilty of the crime in
15 order to ensure that indeed the right person is held
16 responsible for the acts the State alleges.

17 Would you agree with me that it is important
18 that indeed we don't convict people by public opinion or by
19 facts and evidence in the newspapers and television?

20 A PROSPECTIVE JUROR: Absolutely.

21 MR. STANTON: And if your role as a juror is to
22 listen to the facts in this case, and then apply the facts
23 and the law as the judge instructs it, do you think you
24 could do that in this case?

25 A PROSPECTIVE JUROR: Yes, I do.

1 MR. STANTON: And relative to the penalty phase
2 in this case, do you think you could properly assess the
3 facts and the law to determine the appropriate punishment in
4 this case?

5 A PROSPECTIVE JUROR: Yes.

6 MR. STANTON: Thank you. Nothing further.

7 THE COURT: Mr. Bosler?

8 MR. BOSLER: Miss Hullin, does it feel
9 uncomfortable for people to say that you are biased?

10 A PROSPECTIVE JUROR: No, it doesn't.

11 MR. BOSLER: If someone called you prejudiced,
12 would that make you feel uncomfortable?

13 A PROSPECTIVE JUROR: No.

14 MR. BOSLER: How often have you had an argument
15 with a judge?

16 A PROSPECTIVE JUROR: With a judge?

17 MR. BOSLER: Yes.

18 A PROSPECTIVE JUROR: Never had arguments with
19 a judge.

20 MR. BOSLER: I'm a little bit confused because
21 I got the sense when you first addressed the Court that you
22 thought that you would have a problem with this type of
23 case, and as the District Attorney stood up and appealed to
24 your fairness, you went the other direction.

25 A PROSPECTIVE JUROR: Well, I would like to

1 think I would be fair. However, I think just with all of
2 the details that I have read, and obviously, with all of the
3 police officers that I do know, I have heard a lot of the
4 details of the case and have already formed a very, very
5 strong opinion.

6 MR. BOSLER: And based upon that strong
7 opinion, do you feel that you are an unfair juror in this
8 case?

9 A PROSPECTIVE JUROR: I honestly do. I feel I
10 would be very unfair.

11 MR. BOSLER: I mean, I could stand here and
12 appeal that you are going to take an oath and you are not a
13 dishonest person and not disobey that oath. Knowing that
14 you take an oath and be instructed, and your feelings today,
15 do you still feel that you couldn't be fair, even if the
16 Court instructed you how you are supposed to conduct
17 yourself as a juror?

18 A PROSPECTIVE JUROR: I do. I feel I would not
19 be fair.

20 MR. BOSLER: No further questions, Your Honor.

21 MR. STANTON: One follow-up question.

22 THE COURT: Certainly.

23 MR. STANTON: Miss Hullin, I want to see if I
24 can use a visual aid here to see where you stand on this.
25 You have two trains heading down a train track, two trains.

1 One is your strongly held belief and bias towards police
2 officers and your feelings and opinion in this case. The
3 other is your oath and how you as a person take that oath as
4 a juror to listen to the facts in this case, to put aside
5 what you know. Those things, two things collide. Which one
6 is going to win?

7 A PROSPECTIVE JUROR: You know what, I don't
8 know. I don't know. I'm human. And I'm fighting the same
9 thing inside of myself. I know a lot of the facts of the
10 case, and I put myself in the position of the juror, and can
11 I make a fair opinion, and you know, I can say I can try and
12 be fair. But which side is going to win? I don't know. I
13 don't know.

14 MR. STANTON: You indicate that you know facts
15 of this case outside of what's been in the television and
16 the newspapers; is that correct? Without telling me what it
17 is, is that correct?

18 A PROSPECTIVE JUROR: That's correct.

19 MR. STANTON: The facts in this case, and I
20 know we as attorneys in the courtroom use those terms with a
21 little bit more precision, but the only facts in this case
22 is what happens in this courtroom over the next several
23 weeks. Knowing that, can you put what you know and what you
24 have heard aside and solely base your decision on what you
25 hear in the courtroom and nothing else?

1 A PROSPECTIVE JUROR: You know, I really don't
2 think I could.

3 MR. STANTON: No further questions.

4 MR. BOSLER: And I don't want to call her
5 biased, but we would submit the challenge and ask the Court
6 to allow her to a serve on a different jury.

7 THE COURT: The fact that she's heard evidence
8 or I think she's heard stuff from somewhere else that will
9 not and cannot be removed from her memory of something other
10 than what is open and the fact that she's heard it from law
11 enforcement, that is a concern to me. For that reason, I'll
12 grant your request. It is something more than the press
13 coverage.

14 Miss Hullin, you are excused. The clerk will
15 call another juror. We're going to go a few more minutes.
16 Everyone hold on with me.

17 THE CLERK: Maria L. Knight.

18 THE COURT: I'm going to try to get through
19 this one question before we go to lunch. So that's why I'm
20 going to keep going for a little bit.

21 Miss Knight, go ahead and review the witness
22 list, and I'm just going to keep on going with the other
23 jurors. I'll get back to you. We were in the fourth row.
24 Was there anyone else in that row who wanted to tell me
25 about your law enforcement connections?

1 Okay. And in the front row. Anyone acquainted
2 with -- yes, Miss Beers-Diaz?

3 A PROSPECTIVE JUROR: Detective Ribucket and
4 Deputy Sheriff John Macias.

5 THE COURT: Anything about your relationship
6 with those officers that would cause you difficulty serving
7 in this case?

8 A PROSPECTIVE JUROR: No, not from the
9 association with them, no.

10 THE COURT: With any law enforcement?

11 A PROSPECTIVE JUROR: No, not law enforcement.

12 THE COURT: Do you harbor any bias or prejudice
13 one way or another about law enforcement?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: And will you be able to hear the
16 evidence as it is presented?

17 A PROSPECTIVE JUROR: Yeah.

18 THE COURT: Miss Frazer, you raised your hand.

19 A PROSPECTIVE JUROR: Yes. I know Ken Bunker
20 and Bill Gallagher, Kim Bradshaw. I work with Kelly
21 Bradshaw, not in the same office, but that is her sister,
22 and she is the daughter of Chief Bradshaw.

23 And last summer I took a course that the police
24 department offers. Ten weeks, you go one night a week, and
25 every week they have a different division, like gang, drugs,

1 that type of thing. And I took that course at the police
2 department.

3 THE COURT: Now, is there anything about your
4 association with the police officers and your relationship
5 with them that would cause you difficulty serving in this
6 case?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: And do you harbor any bias,
9 strongly held bias one way or another?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: And would you feel you had to
12 justify any particular result to peace officers?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Now, we're going to go back to --
15 anyone else?

16 Miss Horner, you have had a chance to read the
17 witness list. Are you acquainted with or related to anyone
18 on that list?

19 A PROSPECTIVE JUROR: No, ma'am.

20 THE COURT: And the questions that I have been
21 asking of everyone this morning, have you been able to hear
22 them?

23 A PROSPECTIVE JUROR: Yeah.

24 THE COURT: And would you have answered
25 affirmatively to any of those questions?

1 A PROSPECTIVE JUROR: (Shakes head negatively.)

2 THE COURT: You don't know any peace officers?

3 A PROSPECTIVE JUROR: No, ma'am.

4 THE COURT: And, Mr. Meyers, your question with
5 regard to peace officers you filled us in. Now, did you
6 tell me that you would be able to set aside any familial
7 relationship with peace officers and decide this case based
8 on the evidence?

9 A PROSPECTIVE JUROR: I'd have difficulty with
10 that, Your Honor.

11 THE COURT: You would have difficulty?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: And, Miss Knight, have you had a
14 chance to read the witness list?

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Are you acquainted with anyone on
17 the list?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Are you related to anyone on the
20 list?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: And have you been able to hear my
23 questions thus far?

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: Are there any questions you would

1 want to respond to thus far?

2 A PROSPECTIVE JUROR: No.

3 THE COURT: And, Mr. Meyers, are you acquainted
4 with or related to anyone on the witness list?

5 A PROSPECTIVE JUROR: No, ma'am.

6 THE COURT: Mr. Stanton, you may inquire of
7 Mr. Meyers with regard to his question on law enforcement.

8 MR. STANTON: Thank you. Mr. Meyers, can you
9 tell me a little bit more detail why it is that you don't
10 think you can be fair and impartial?

11 A PROSPECTIVE JUROR: Yes, sir. I served on a
12 jury about 20 years ago. I was one of two people in the
13 jury who voted guilty. The defendant was released on drunk
14 driving charge, and he killed somebody the next week.

15 I was firmly convinced he was guilty because of
16 the evidence, followed by a number of travesties, and I
17 can't go along with it. It's been followed by a number of
18 travesties in the justice system that have completely
19 undermined any faith I have in the justice system.

20 MR. STANTON: In this case, and I'm sure as
21 your prior experience has indicated --

22 THE COURT: Mr. Stanton, I'm sorry to interrupt
23 you, but could you come over here so he is looking this way
24 for the court reporter?

25 MR. STANTON: Certainly, Your Honor.

1 THE COURT: Thank you.

2 MR. STANTON: As your prior experience
3 dictated, there are rules of evidence that prohibit the
4 introduction of evidence in a trial for any number of
5 reasons. When you sat as a juror, you took an oath in this
6 case to follow the rules and the law. Is it because of that
7 experience you don't think you could do that in this case,
8 and that is follow your directives as a juror?

9 A PROSPECTIVE JUROR: I think it's because of
10 that experience, and it's because of a number of experiences
11 subsequent to that with my father and my brother-in-law, my
12 sister who have experienced similar instances in the justice
13 system, and I think that coupled with a long discussion with
14 one deputy chief shortly after Mr. Vanisi fled the state
15 leads me to believe that I couldn't be fair and impartial.

16 MR. STANTON: I have no further questions.

17 THE COURT: Mr. Bosler?

18 MR. BOSLER: Your Honor, I just appreciate
19 Mr. Meyers' honesty. We submit a challenge for bias and ask
20 the Court to allow him to serve on a separate jury.

21 MR. STANTON: No objection.

22 THE COURT: Mr. Meyers, you are excused.

23 Miss Beers-Diaz, there is something bothering
24 you. I can tell you have a problem sitting on this jury,
25 and I haven't asked the right question yet. But rather than

1 have you sit, why don't you tell me what the problem is.

2 A PROSPECTIVE JUROR: Just everything, being
3 here.

4 THE COURT: Just being here? Okay. Well,
5 you're not alone. You happen to be sitting in the front, so
6 you can't see. Nobody is comfortable.

7 You don't have any specific issue you need to
8 raise with me at this time, we'll keep going with the
9 questioning. Is that all right?

10 A PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: We'll call the name of another
12 prospective juror. Just so we can fill out our 36 before we
13 go to lunch.

14 THE CLERK: Mary E. Callahan.

15 THE COURT: Go ahead and read the list, Miss
16 Callahan, of potential witnesses.

17 MR. STANTON: Your Honor, while this juror is
18 reviewing the witness list, I believe the Court is about
19 ready to recess for the noon hour. Could I ask the Court to
20 advise the potential jurors about the juror badge and also
21 interaction with counsel?

22 THE COURT: Yes. I'll tell them everything.

23 Miss Callahan, are you through reading the
24 list?

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Are you acquainted with anyone or
2 related to anyone on the list?

3 A PROSPECTIVE JUROR: No. John Oakes, but only
4 because I'm a legal secretary and have done cases. I
5 haven't dated him, though.

6 THE COURT: I don't know if Mr. Oakes is going
7 to want to testify. Is there anything about your being a
8 legal secretary that would cause you difficulty evaluating
9 his testimony?

10 A PROSPECTIVE JUROR: Not at all.

11 THE COURT: Now, the rest of my questions, have
12 you been able to hear my questions?

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Would you affirmatively respond to
15 any of those questions?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: You are not acquainted with any law
18 enforcement officers?

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Ladies and gentlemen, we are going
21 to go to lunch at this time. Now, I'm going to give you
22 until a quarter to 2:00, but I would ask you to try to be
23 back at 1:30 because it is going to take us about 20 minutes
24 to get you all seated and ready before we can go back into
25 what we're doing. If you don't get your lunch any quicker

1 than that, be sure you are here no later than a quarter to
2 2:00.

3 Now, you have a juror badge on your clothing.
4 You must wear that juror badge with you. Wear it at all
5 times when you are going and coming to the courthouse.

6 There is all sorts of potential witnesses in
7 the courthouse, and officers and people running around, the
8 attorneys. You can't have any contact with anyone that you
9 know now is associated with the case. Do not engage in any
10 conversation with anyone about the case.

11 Now, those of you seated in the jury box, when
12 we come back from lunch, you are going to find your exact
13 seat. When you leave here today, though, please give your
14 witness lists to the bailiff as you file out. And you must
15 also wear your juror badge at all times.

16 Now, ladies and gentlemen of the jury panel,
17 those of you seated outside the jury box, as well as those
18 of you in the jury box, we will not be able to start again
19 until you are all back here, seated, ready to go and the
20 clerk calls the roll. I want to make that as quick as
21 possible so we can move through the jury process.

22 Please accommodate us by getting back on time.
23 Take your seat when you come back where you are seated now
24 and be ready to start.

25 You may have to wait outside the courtroom

1 until the bailiff opens up the doors. Find a chair outside
2 the courtroom in the waiting area right outside this
3 courtroom, or the next courtroom down. You can go ahead and
4 sit in that waiting area and we'll go find you.

5 Mr. Anderson and the bailiffs will be working
6 with you, and they will help try to find you, but stay on
7 this floor. Don't go wandering off. Go down out of the
8 building, come back to this floor and be seated on this
9 floor. I don't want you going anywhere else. Otherwise we
10 won't be able to find you.

11 Now, during this recess, you may not discuss
12 this case among yourselves or with anyone else. That means
13 you can't talk about anything about this case, about what
14 the lawyers are wearing, what I have said, what somebody
15 else has said. No discussion, period.

16 It is your further duty not to form or express
17 any opinion regarding the guilt or innocence of the
18 defendant until this case has been finally submitted to you.
19 That's not now. You are not to read, look at, listen to any
20 news media accounts regarding this case should there be any.

21 Do not read the newspapers and do not listen to
22 radio news or TV news.

23 Should any person attempt to influence you in
24 any way, or attempt to discuss this case with you, report it
25 immediately to the bailiffs upon your return. They will

1 report it to me.

2 So do not disobey any of these admonitions.
3 Remember that while you're out and about, you may run into
4 one of the attorneys, and they will ignore you. They will
5 not say good morning, they will not say good afternoon, they
6 won't nod, they will walk on by. It is not because they
7 want to be rude to you. It is because they cannot have any
8 contact whatsoever with you.

9 If you get on the elevator and the attorneys
10 are on the elevator, get off. Do not put yourself in that
11 position.

12 And there is a good reason besides the fact
13 they are attorneys. Remember this admonition. It is
14 essential that you follow it.

15 You may go now to lunch. I will see you --
16 wait, wait, wait. There are too many of you. You follow
17 exactly what I say. Remember, a quarter to 2:00, wait
18 outside the courtroom until the bailiff has opened up the
19 doors. Now you may go.

20 Court is in recess.

21 (Recess at 12:44 p.m.)

22

23

24

25

RENO, NEVADA, MONDAY, SEPTEMBER 20, 1999, 1:50 P.M.

-oOo-

(Whereupon, the following proceedings were held in open court, in the presence of the jury panel.)

THE COURT: Ladies and gentlemen of the jury panel, we will call the roll again. Please answer here or present when your name is called.

(Whereupon, the roll of the jury panel was taken with everyone present except Sue A. Gilmore.)

THE COURT: Counsel, we do not have Sue Gilmore. Is anyone acquainted with Sue Gilmore?

THE CLERK: I have a note, Sue Gilmore is on her way, almost here.

THE COURT: Counsel approach, please.

(Whereupon, a bench conference was held among Court and counsel as follows:)

THE COURT: Sue Gilmore has called the Jury Commissioner. She went home. She's not here yet. She's on her way back. Do you want to proceed without her being present? We'd have to re-question her on everything we go over when she gets here.

MR. BOSLER: I don't know if she got called, if she had some kind of problem.

1 THE COURT: Exactly.

2 MR. BOSLER: She is a professor at UNR.

3 THE COURT: I don't know what the State's
4 position is.

5 MR. STANTON: I say we proceed without her.

6 THE COURT: Do you stipulate to that?

7 MR. GREGORY: We'll submit it.

8 THE COURT: You have to stipulate or we don't
9 go on, guys. You can't submit to me. I have to know if you
10 have a problem with it. If you have got a problem with it,
11 we'll sit and wait for her. If you don't have a problem
12 with it, we'll go on.

13 MR. STANTON: Could we tell the jury if we
14 wait, it is because they won't stipulate to it?

15 THE COURT: No, we can't.

16 MR. GREGORY: Thank you, David.

17 MR. BOSLER: I think could we wait like 10
18 minutes or something and make a decision?

19 THE COURT: She is in the parking garage. Do
20 you want to wait for her?

21 MR. BOSLER: I think that is the best thing.

22 THE COURT: Wait, wait. I have one more for
23 you. Mr. Ray, the cab driver, who I've forgotten, got here
24 in time. He has gone down to the Jury Commissioner and he
25 is very unhappy. It is all economic, but I want to put

1 this -- let you know that he is complaining to the Jury
2 Commissioner and the bailiff, and it's an economic issue,
3 not one that I would normally let automatically off. But if
4 he is going to be extremely vocal, you all might want to
5 stipulate to it.

6 I don't want to give the jury any more ideas
7 about how to get off jury duty. So if you are going to
8 stipulate to it, I'd rather you did it now and I could do it
9 and the jury wouldn't know why he is getting off. If you
10 are not going to stipulate to it, that's fine.

11 MR. STANTON: Okay. We'll stipulate to it.

12 MR. BOSLER: So stipulated.

13 (Whereupon, the following proceedings were held
14 in open court, in the presence of the jury
panel.)

15 THE COURT: Counsel?

16 MR. BOSLER: Your Honor, we'll offer a
17 stipulation to Mr. Ray. Because there is a missing juror,
18 rather than waiting, having to start everything over again,
19 we would ask the Court to wait a couple minutes for the
20 absent juror to arrive.

21 THE COURT: Mr. Ray, Rick Ray, I understand you
22 have had communication with the Jury Commissioner?

23 A PROSPECTIVE JUROR: Yes, I have.

24 THE COURT: I represented what you told the
25 Jury Commissioner and the bailiff to counsel, and they are

1 stipulating to you -- that you be excused at this time. Go
2 ahead and go down to the Jury Commissioner's office and
3 report to her.

4 A PROSPECTIVE JUROR: Okay. Thank you very
5 much.

6 THE COURT: You are welcome.

7 Ladies and gentlemen of the jury panel, we are
8 missing Miss Gilmore. I received word she's parking a car a
9 few minutes ago. We are waiting for Miss Gilmore.

10 Now, normally I'd recess and we'd wait and you
11 all could stretch, but there are so many of you, and I hate
12 to have you all just sit here staring at each other, but I
13 ask that you bear with us and let's do it that way rather
14 than worry about the logistics of moving all of you in and
15 out. Just bear with us.

16 Please do not talk, but you may sit and wait,
17 read if you have something.

18 Call the roll, please.

19 THE CLERK: Sue A. Gilmore.

20 A PROSPECTIVE JUROR: Here.

21 THE COURT: Ladies and gentlemen, we will
22 proceed.

23 Everyone still have your pieces of paper and
24 pens ready? Those of you sitting in the audience, I want
25 you to keep track of those questions that you would respond

1 to.

2 Ladies and gentlemen of the jury panel, is
3 any -- if any law enforcement officer were to testify in
4 this case, would any of you tend to give any more or less
5 weight to that testimony simply because the person
6 testifying is a law enforcement officer? I see a lot --
7 does anyone say yes? Do you say yes, you would give it more
8 credibility, raise your hand.

9 Miss James, you are answering affirmatively?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: And Miss Grate?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: And Mr. Ralston. Anyone else?

14 Miss Whitmore.

15 A PROSPECTIVE JUROR: And me.

16 THE COURT: And Miss Patch. Thank you.

17 In your jury questionnaires previously, you
18 were asked about the amount of publicity, pretrial publicity
19 that you might have read, seen or heard through the news
20 media. Has anyone heard any additional news media coverage
21 regarding this case since the time of filling out the
22 questionnaire?

23 Miss Ziler?

24 A PROSPECTIVE JUROR: They were talking about
25 it last week when I got home.

1 THE COURT: At home, your family was talking?
2 A PROSPECTIVE JUROR: No, on the news.
3 THE COURT: Did you turn it off or what did you
4 do?
5 A PROSPECTIVE JUROR: Yeah, I changed the
6 channel.
7 THE COURT: Do you remember the content? Don't
8 tell me what you heard.
9 A PROSPECTIVE JUROR: As far as I got was they
10 were --
11 THE COURT: Don't tell me what you heard, just
12 in case someone else didn't hear it. You did hear something
13 on the news?
14 A PROSPECTIVE JUROR: Yes.
15 THE COURT: It was different than what you had
16 heard previously?
17 A PROSPECTIVE JUROR: It was pertaining to the
18 case but not particulars of the case.
19 THE COURT: Okay. So there wasn't anything new
20 about the particulars of the case that you heard?
21 A PROSPECTIVE JUROR: No. Because I changed
22 the channel.
23 THE COURT: Thank you. Now, someone else in
24 the back row? Yes, Mr. Mullins.
25 A PROSPECTIVE JUROR: Yes, ma'am. I think I

1 heard the same report on Channel 8, and we switched it.

2 THE COURT: Right away?

3 A PROSPECTIVE JUROR: Right away.

4 THE COURT: Anyone else?

5 Okay. Yes, Miss Bell.

6 A PROSPECTIVE JUROR: Same thing, Channel 8.

7 THE COURT: And did you listen to the entire
8 report or did you change the channel?

9 A PROSPECTIVE JUROR: I changed the channel.

10 THE COURT: Anyone else? I think there are
11 some more hands. Yes, Miss Whitmore?

12 A PROSPECTIVE JUROR: Yeah, it was on the news
13 last night. Not last night, I'm sorry. It was the one --
14 the day the accident, one happened up on Keystone, and I was
15 watching that, and that came on right after that, and we
16 changed the channel.

17 THE COURT: Was there anything that you learned
18 about the case that you hadn't -- you thought you learned
19 about it from the news, new from when you filled out your
20 questionnaire?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: And was it facts that you thought
23 you heard?

24 A PROSPECTIVE JUROR: I don't know how to
25 answer that without saying what I heard.

1 THE COURT: Okay. We'll get back to you on
2 what you heard.

3 Anyone else? Yes.

4 A PROSPECTIVE JUROR: I just saw a glimpse of
5 it in the paper that they were picking the jury selection
6 for it, and that's all I saw.

7 THE COURT: You didn't read any further?

8 A PROSPECTIVE JUROR: (Shakes head negatively.)

9 THE COURT: Was that today?

10 A PROSPECTIVE JUROR: No, I think it was last
11 week.

12 THE COURT: Anyone else? Okay. Does anyone
13 currently seated in the jury box know anything of your own
14 personal knowledge about the facts of this case? I'm not
15 talking about what you have already told us that you heard
16 on the news media. I'm talking about something you might
17 have learned because you personally knew something about the
18 facts.

19 Yes, Miss Tower. Or I'm sorry, Miss O'Keefe.
20 You had told us that you thought you heard from police
21 officers information.

22 A PROSPECTIVE JUROR: Correct.

23 THE COURT: And so is that what you are talking
24 about?

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: But is it anything that you
2 investigated or you know of your own knowledge?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Now, did someone else raise their
5 hands? I thought I saw another hand go up. No one else?

6 Now, Miss O'Keefe, on your questionnaire, was
7 the information that you put on the questionnaire basically
8 the information that you had?

9 A PROSPECTIVE JUROR: Yeah, pretty much.

10 THE COURT: So even though we were kind of
11 thinking on the questionnaire that most people were going to
12 tell us things they heard on the news, you were filling us
13 in about your knowledge of the case?

14 A PROSPECTIVE JUROR: Right.

15 THE COURT: Anyone else?

16 Has any juror thus far formed or expressed any
17 opinion as to the guilt or innocence of the defendant as he
18 is connected to this case?

19 A PROSPECTIVE JUROR: What do you mean by
20 expressed?

21 THE COURT: Have you told anybody? Have you
22 sat around and said, you know, you really have a strong
23 opinion and this is what my opinion is? Speaking out loud.

24 Miss Kelley.

25 A PROSPECTIVE JUROR: Every -- well, I don't

1 know if I'm answering your question right, but everybody who
2 saw me go to jury duty last Monday asked me, you know, is
3 this to do with the case and had an opinion and they would
4 talk amongst it, and it was an unavoidable. It's all the
5 work people, and my family and everybody else. So no matter
6 what I can say, they are all going to be shooting things
7 because even if it was not about that, they would still have
8 opinions. Does that make sense?

9 THE COURT: So after they found out you might
10 serve on this case, people had -- were telling you what they
11 thought?

12 A PROSPECTIVE JUROR: Right. I'm like -- I
13 cleared up their -- I told them, yes, and then they started
14 talking, and there's nothing I can do. I can't tell them
15 all to shut up. I can't.

16 So I am just letting you know, people talked
17 about it.

18 THE COURT: So people did talk about it?

19 A PROSPECTIVE JUROR: Very much so.

20 THE COURT: Did you talk back to them about it?

21 A PROSPECTIVE JUROR: I have an opinion, yeah,
22 I did. I did.

23 THE COURT: Who else raised their hand? Yes.
24 Miss Bell.

25 A PROSPECTIVE JUROR: Pretty much the same

1 thing as what she said. When they found out that I was on
2 it, they expressed their opinions, and it went in one ear
3 and out the other, but I had my opinion and I expressed it.

4 THE COURT: Anyone else? Yes, Miss Whitmore.

5 A PROSPECTIVE JUROR: When I returned to work
6 on Tuesday, we had a staff meeting, and it came up, Are you
7 on the Vanisi case? and I answered, Yes, and people went
8 around the room once, and I tried not to say anything.

9 THE COURT: There's been no other discussion
10 around you?

11 A PROSPECTIVE JUROR: Just that.

12 THE COURT: Did you tell them you couldn't talk
13 about it?

14 A PROSPECTIVE JUROR: I tried. But I was
15 crying so hard, this upsets me very much.

16 THE COURT: So you were upset both at work and
17 at home over it?

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: And, Miss Hodges, did you say --
20 no, not Miss Hodges; Miss Johnson.

21 A PROSPECTIVE JUROR: Yeah, the same thing she
22 was saying in the very beginning. And I just didn't have
23 any comment towards it.

24 THE COURT: You ignored everyone and then they
25 stopped bugging you about it?

1 A PROSPECTIVE JUROR: Yeah. They don't
2 influence me.

3 THE COURT: They did not influence you?

4 A PROSPECTIVE JUROR: No.

5 A PROSPECTIVE JUROR: Mine is the same way.
6 People, they would ask me if I'm on that case, and I said,
7 Well, I can't say, but they would still talk about it, and
8 I'd go to another area, then they would talk about it. So
9 it was like they are at work, but I tried to, like, walk
10 away and that kind of thing. But I heard different
11 opinions.

12 THE COURT: Miss Hodges, anyone who talked to
13 you, did they influence you?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: In the back row, just a second. I
16 have got to get through this.

17 Miss Minassian, did you raise your hand?

18 A PROSPECTIVE JUROR: Just a similar situation
19 at work. I didn't offer any information or comment.

20 THE COURT: And were you influenced in any way?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: And yes, Mr. Estes.

23 A PROSPECTIVE JUROR: Ayres.

24 THE COURT: Sorry.

25 A PROSPECTIVE JUROR: Same here. At work and

1 at home.

2 THE COURT: And did you participate in the
3 discussions?

4 A PROSPECTIVE JUROR: No. I basically told my
5 wife I can't talk about it and told my mother-in-law the
6 same thing.

7 THE COURT: Were you influenced by anything
8 anyone said?

9 A PROSPECTIVE JUROR: No, I have my own
10 opinions about it.

11 THE COURT: Yes.

12 A PROSPECTIVE JUROR: I had a similar thing. I
13 had to explain to work where I was going.

14 THE COURT: And then people made comments?

15 A PROSPECTIVE JUROR: Yeah.

16 THE COURT: And did you listen to those
17 comments or was it sort of --

18 A PROSPECTIVE JUROR: No, pretty much just left
19 the area.

20 THE COURT: And were you influenced by anything
21 anyone was saying?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Yes, Mr. Carmichael.

24 A PROSPECTIVE JUROR: Again, same thing. I
25 didn't listen to it, didn't take anybody's opinions. Same

1 thing, I had my own opinion.

2 THE COURT: And Miss Kruse.

3 A PROSPECTIVE JUROR: Same thing next day. But
4 I just walked off and said, I don't want to discuss it.

5 THE COURT: Anyone else?

6 Mr. Bosler.

7 MR. BOSLER: Your Honor, I just state, and I
8 don't mean to put Miss Whitmore on the spot, because this is
9 based on the record, the record should reflect she was
10 having some emotional difficulty and maybe was close to
11 tears when she answered the Court's last question. That is
12 all.

13 THE COURT: That is fine. Anyone else?

14 Does anyone in the jury box have anything other
15 than a passing interest in the outcome of this case? Anyone
16 feel personally connected to the case in some way? No one
17 is raising their hands.

18 Does any juror entertain any bias or prejudice
19 for or against the State of Nevada?

20 At the conclusion of the evidence, I will state
21 to you what the law as it applies to this case. I will
22 instruct you that it is your duty to apply that law to the
23 facts as found by you.

24 Would any juror be reluctant to apply the
25 general principles of law which will be stated to you by the

1 Court? No one?

2 Does anyone believe you can -- yes, ma'am.

3 Miss Ashley; right?

4 A PROSPECTIVE JUROR: Yeah. I just have one
5 question and that is in regards to that second segment that
6 I referred to earlier.

7 THE COURT: Yes.

8 A PROSPECTIVE JUROR: Does that apply? Like a
9 matter of one's conscience?

10 THE COURT: The law allows you to consider
11 anything that you consider mitigation, and that would be
12 embodied in my instructions to you. Is that what your
13 question was about?

14 A PROSPECTIVE JUROR: I think so.

15 THE COURT: So the question here is, your job
16 is to find out what the facts are and apply the facts as you
17 find them to be to the law as I give it to you. Now, does
18 anyone think you can make up your own version of the law?
19 That would require an out loud answer.

20 THE PROSPECTIVE JURY: No.

21 THE COURT: Does anyone think the jury can
22 disregard the law in making its decision?

23 THE PROSPECTIVE JURY: No.

24 THE COURT: If the Court were to instruct you
25 at the conclusion of this case that a defendant in a

1 criminal action is presumed to be innocent until the
2 contrary is proven beyond a reasonable doubt, and in the
3 case of a reasonable doubt as to whether the defendant's
4 guilt is satisfactorily shown, then they are entitled to be
5 acquitted, would each of you accept and follow this
6 instruction?

7 THE PROSPECTIVE JURY: Yes.

8 THE COURT: Does anyone disagree with the
9 proposition of the presumption of innocence for everyone
10 charged with a crime?

11 THE PROSPECTIVE JURY: No.

12 THE COURT: Anyone feel you could not afford
13 this defendant a presumption of innocence?

14 THE PROSPECTIVE JURY: No.

15 THE COURT: Does everyone understand what that
16 presumption of innocence is? Does anyone not understand it?

17 A PROSPECTIVE JUROR: No, I don't. I don't
18 understand what you mean, that he's just already innocent.

19 THE COURT: Okay. The law says that every
20 criminal defendant is presumed innocent, and it's the job of
21 the State to prove to you that they are not innocent. It's
22 not the job of a defendant to prove that they are innocent
23 in this country. And that's what Mr. Stanton was talking
24 about earlier about the burden of proof and whether or not
25 they do what they need to do.

1 Do you understand that?

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: Okay. And so the question here is:
4 Can you afford a criminal defendant, this particular
5 criminal defendant, the presumption of innocence, hold the
6 State to their burden of proof? Are you having some
7 problems with that?

8 A PROSPECTIVE JUROR: I guess, yes, uh-huh.

9 THE COURT: These are new words, I know, for
10 people. You don't deal with it all the time, it gets kind
11 of confusing sometimes, and I want to make sure I'm making
12 myself clear. It is certainly all right to ask me.

13 So we start with the defendant presumed
14 innocent, and then the State's job is to change that and
15 prove to you beyond a reasonable doubt that a defendant is
16 guilty, and they may or may not be successful at that.

17 Do you understand that process?

18 A PROSPECTIVE JUROR: Uh-huh.

19 THE COURT: Does anyone else have any questions
20 about that process?

21 Now, the Court will instruct you as to what a
22 reasonable doubt is. A reasonable doubt is one based on
23 reason. It is not mere possible doubt but is such a doubt
24 as would govern or control a person in the more weighty
25 affairs of life.

1 If the minds of the jurors, after the entire
2 comparison and consideration of all the evidence, are in
3 such condition that they can say they feel an abiding
4 conviction of the truth of the charge, there is not a
5 reasonable doubt. Doubt to be reasonable must be actual,
6 not mere possibility or speculation.

7 Would each of you accept and follow that
8 instruction?

9 THE PROSPECTIVE JURY: Yes.

10 THE COURT: Have any of you served on a jury
11 before, criminal or civil jury?

12 Would you put those hands up again? Got quite
13 a few prior service here. And grand jury. Anybody?

14 Now, what I'm going to ask you all, all of you
15 who served on a jury before, I'm going to ask you a series
16 of questions. We'll start with Miss James.

17 Can you tell me what kind of a case you served
18 on?

19 A PROSPECTIVE JUROR: A federal.

20 THE COURT: A federal criminal or civil?

21 A PROSPECTIVE JUROR: Civil.

22 THE COURT: How long ago?

23 A PROSPECTIVE JUROR: Five years, I believe.

24 THE COURT: Now, without telling me the result,
25 were you able to reach a verdict?

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: Is there anything about your prior
3 service that would cause you difficulty serving again?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Miss Kersbergen, what kind of a
6 case?

7 A PROSPECTIVE JUROR: It was molestation of a
8 minor.

9 THE COURT: In state court?

10 A PROSPECTIVE JUROR: In one of these
11 courtrooms.

12 THE COURT: You were in state court. And it
13 was here in Washoe County?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: How long ago?

16 A PROSPECTIVE JUROR: About five years ago.

17 THE COURT: Without telling me the result, were
18 you able to reach a verdict?

19 A PROSPECTIVE JUROR: Yeah.

20 THE COURT: Was there anything about your
21 service that would cause you difficulty serving again?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: In the back row, were there any
24 other hands?

25 The second row, I had a couple of hands.

1 Yes, Mr. Ralston.

2 A PROSPECTIVE JUROR: It was a felony child
3 abuse case, and I think wrongful death is how -- something
4 like that, on the death of a child.

5 THE COURT: Here in Washoe County?

6 A PROSPECTIVE JUROR: It was in San Joaquin
7 County, California.

8 THE COURT: How long ago?

9 A PROSPECTIVE JUROR: '92.

10 THE COURT: Without telling me the result, were
11 you able to reach a verdict?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: Miss Ashley?

14 A PROSPECTIVE JUROR: It was a civil suit in
15 California, Santa Clara County.

16 THE COURT: How long ago?

17 A PROSPECTIVE JUROR: About ten years ago.

18 THE COURT: Without telling me the result, were
19 you able to reach a verdict?

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: Was there anything about your
22 service that would cause you difficulty serving again?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: I think I forgot to ask you that,
25 Mr. Ralston. Is there anything about your service that

1 would cause you difficulty serving again?

2 A PROSPECTIVE JUROR: Some of the gruesome
3 facts I suppose were. It was a five-week trial and very
4 emotional.

5 THE COURT: So you know it could be
6 uncomfortable.

7 A PROSPECTIVE JUROR: Yes, it can.

8 THE COURT: But can you serve again?

9 A PROSPECTIVE JUROR: Yeah. Yes.

10 THE COURT: Anyone else in that row?

11 Yes, Mr. Sheahan.

12 A PROSPECTIVE JUROR: Right. It was a civil
13 case about ten years ago.

14 THE COURT: Where?

15 A PROSPECTIVE JUROR: Here in Reno.

16 THE COURT: And can you tell me whether or not
17 you were able to reach a verdict.

18 A PROSPECTIVE JUROR: Yes, we were.

19 THE COURT: Was there anything about your
20 service that would cause you difficulty serving again?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: And Miss Callahan?

23 A PROSPECTIVE JUROR: It was five years ago.
24 It was in this courtroom. It was a criminal case, and we
25 deadlocked on one of the counts, but we came to a conclusion

1 on the two other ones.

2 THE COURT: Is there anything about your
3 service that would cause you difficulty serving again?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: You still have Mr. Nelson and Miss
6 Stone and me. That would be okay?

7 A PROSPECTIVE JUROR: That would be fine, yes.

8 THE COURT: Anyone else in that row?

9 A PROSPECTIVE JUROR: You mentioned grand jury.
10 Does that count?

11 THE COURT: Yes, it does.

12 A PROSPECTIVE JUROR: I served two years on a
13 federal grand jury here in Reno, '90 through '92.

14 THE COURT: Anything about serving on the grand
15 jury that would cause you difficulty serving again?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Anyone else in that row? We'll go
18 to the third row.

19 Yes, Miss O'Keefe.

20 A PROSPECTIVE JUROR: It was a criminal case in
21 Washoe County about 12 years ago.

22 THE COURT: And without telling me the result,
23 were you able to reach a verdict?

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: Anything about your service that

1 would cause you difficulty serving again?

2 A PROSPECTIVE JUROR: No.

3 THE COURT: And was that Mr. Buck?

4 A PROSPECTIVE JUROR: Yes. Criminal case in
5 1985. And we reached a decision.

6 THE COURT: Here in Washoe County?

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Was there anything about your
9 service that would cause you difficulty serving again?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Anyone else in that row?

12 Yes, Mr. Butler.

13 A PROSPECTIVE JUROR: Yes, it was a child
14 molestation case here in Washoe County District Court and
15 about a year and-a-half ago, and we were able to reach a
16 verdict.

17 THE COURT: Anything about serving that would
18 cause you difficulty serving again?

19 A PROSPECTIVE JUROR: Huh-uh.

20 THE COURT: Anyone in the fourth row?

21 Yes, Mr. Estes.

22 A PROSPECTIVE JUROR: It was a federal criminal
23 case about two years ago.

24 THE COURT: And here in Reno?

25 A PROSPECTIVE JUROR: Here in Reno.

1 THE COURT: Were you able to reach a verdict?

2 A PROSPECTIVE JUROR: Yes, we reached a
3 verdict.

4 THE COURT: Anything about your service that
5 would cause you difficulty serving again?

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Was there anyone else in that row?
8 Yes, Mr. Tower.

9 A PROSPECTIVE JUROR: Criminal case in Los
10 Angeles. We were dismissed and he pleaded to a lesser
11 charge.

12 THE COURT: Anything about your service until
13 the point you were dismissed that would cause you difficulty
14 serving again?

15 A PROSPECTIVE JUROR: No.

16 THE COURT: Anyone else in that row? Anyone in
17 the front row served before?

18 Yes, Miss Morris.

19 A PROSPECTIVE JUROR: Yeah, it was a criminal
20 case here in Reno, and it didn't get as far as a verdict.

21 THE COURT: Anything about your service until
22 that point that would cause you difficulty?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Was that no?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Mr. Webb.

2 A PROSPECTIVE JUROR: It was a federal civil
3 case about ten or 12 years ago. Here in Reno. And we
4 reached a verdict.

5 THE COURT: Anything about your service that
6 would cause you difficulty serving again?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: All of you who previously served on
9 a case, will you all agree with me that you will put aside
10 anything you heard about the law or instructed by the Court
11 about the law in your prior case? Will you all agree to do
12 that?

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: Will you all agree to follow the
15 instructions as I instruct you it is in this jurisdiction at
16 this time?

17 THE PROSPECTIVE JURY: Yes.

18 THE COURT: And you all understand there is a
19 difference in the burden of proof between civil and
20 criminal? And especially the definitions may change over
21 time and by jurisdiction?

22 THE PROSPECTIVE JURY: Yes.

23 THE COURT: You have no problem with that?

24 Okay. Are any of you seated in the jury box
25 acquainted with anyone else?

1 A PROSPECTIVE JUROR: In this room?

2 THE COURT: In the jury box.

3 A PROSPECTIVE JUROR: What do you mean by

4 acquainted?

5 THE COURT: Have you seen them before today?

6 A PROSPECTIVE JUROR: Just in this or in the

7 whole room?

8 THE COURT: We'll start with the 36 of you and

9 then we'll see how many associations we have.

10 Miss Kelley, you raised your hand.

11 A PROSPECTIVE JUROR: I work with Nettie, or I

12 used to.

13 THE COURT: You are sitting right next to each

14 other.

15 A PROSPECTIVE JUROR: Yes, we know each other.

16 THE COURT: If the two of you did happen to be

17 on our jury, would you have difficulty either you, Miss

18 Horner, or you, Miss Kelley, deliberating with each other?

19 A PROSPECTIVE JUROR: No.

20 A PROSPECTIVE JUROR: No.

21 THE COURT: Would there be any problem if you

22 happened to disagree in the jury room?

23 A PROSPECTIVE JUROR: I'd just punch her. I

24 was kidding. No.

25 THE COURT: You're not afraid of her, Miss

1 Horner, are you?

2 A PROSPECTIVE JUROR: No, ma'am, I'm not.

3 THE COURT: Now, Miss Bell, you raised your
4 hand.

5 A PROSPECTIVE JUROR: This gentleman over here,
6 I see him every once in a while where I work.

7 THE COURT: Mr. Grider.

8 A PROSPECTIVE JUROR: I couldn't tell you his
9 name if my life depended on it.

10 THE COURT: He's a customer of the bank?

11 A PROSPECTIVE JUROR: Uh-huh.

12 THE COURT: And, Mr. Grider, you recognize
13 Miss Bell?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Do either of you feel you'd have
16 any difficulty if you ended up serving on the same jury?

17 A PROSPECTIVE JUROR: No.

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Anyone else? You guys do know each
20 other.

21 Let's see. We have Miss Ashley. Who do you
22 know?

23 A PROSPECTIVE JUROR: Kim at Reno Toyota.

24 THE COURT: Okay. Miss Hodges; right? Now
25 Miss Hodges and Miss Ashley, Miss Hodges, do you think you'd

1 have any difficulty if you ended up serving on the same jury
2 as Miss Ashley?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Miss Ashley, would you have any
5 problem? You have to answer out loud.

6 A PROSPECTIVE JUROR: No.

7 THE COURT: Will you be able to deliberate with
8 each other?

9 A PROSPECTIVE JUROR: Yeah.

10 THE COURT: Miss Hodges?

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Now I have Mr. Ayers.

13 A PROSPECTIVE JUROR: Yes, Mr. Webb. We have
14 gone to a couple construction sites together.

15 THE COURT: And, Mr. Webb, do you recognize
16 Mr. Ayers?

17 A PROSPECTIVE JUROR: See him all the time,
18 yeah.

19 THE COURT: Is there anything about the fact
20 that you have been on construction sites together that would
21 cause you, either of you difficulty if you served on the
22 same jury?

23 A PROSPECTIVE JUROR: No.

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Would you all be able to deliberate

1 with each other?

2 A PROSPECTIVE JUROR: Yes.

3 A PROSPECTIVE JUROR: Yeah. He's bigger than
4 me, so I'd have no problem.

5 THE COURT: You wouldn't be intimidated by him.

6 A PROSPECTIVE JUROR: No, not at all.

7 THE COURT: Anyone else? Yes, Mr. Tower.

8 A PROSPECTIVE JUROR: The gentleman on the far
9 back row, we used to work at the same company.

10 THE COURT: Mr. Mullins?

11 A PROSPECTIVE JUROR: I'll be honest with you,
12 Your Honor. I have been looking at him for three sessions
13 now, and he looks familiar, but I cannot place him.

14 THE COURT: You can't remember where?

15 But it looks like Mr. Tower remembers where you
16 all worked together.

17 A PROSPECTIVE JUROR: I beg your pardon?

18 THE COURT: Mr. Tower remembered it was from
19 work.

20 A PROSPECTIVE JUROR: I hope it's favorable,
21 Your Honor, because I am absolutely blank.

22 THE COURT: So you wouldn't have any problem
23 serving with Mr. Tower?

24 A PROSPECTIVE JUROR: No, ma'am.

25 THE COURT: Mr. Tower, would you have any

1 difficulty serving with Mr. Mullins?

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Anyone else? Yes, Mr. Sheahan.

4 A PROSPECTIVE JUROR: I know of Mr. Webb. He
5 works at the same company that I do.

6 THE COURT: You two work in the same company?

7 A PROSPECTIVE JUROR: Same company.

8 THE COURT: Mr. Webb, you know Mr. Sheahan
9 then, too.

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Now do the two of you have any
12 problem working together?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Is that no, Mr. Sheahan?

15 A PROSPECTIVE JUROR: No.

16 THE COURT: Now, anyone else? Now, someone
17 said in the whole room. So is someone familiar with
18 somebody out in there?

19 Well, I'll tell you what I'm going to do rather
20 than go into all of this. I'm going to ask that if any of
21 the people that you are acquainted with are called upon to
22 substitute on to the jury and come up here and sit with you
23 in the 36, will you raise your hand and get my attention?
24 Will you all agree to do that?

25 THE PROSPECTIVE JURY: Yes.

1 THE COURT: Anyone feel uncomfortable doing
2 that?

3 THE PROSPECTIVE JURY: No.

4 THE COURT: Then we will explore that if it
5 comes to pass.

6 Are any of you now or have you ever been
7 involved in litigation yourself, had your own lawsuit, or
8 been a witness in a case?

9 Yes, Miss Frazer.

10 A PROSPECTIVE JUROR: I was just recently
11 involved in, like, a family court matter.

12 THE COURT: Now, anything about your
13 experiences in that case that would cause you difficulty in
14 this case?

15 A PROSPECTIVE JUROR: No.

16 THE COURT: You don't have any bias one way or
17 another about attorneys or about the legal system?

18 A PROSPECTIVE JUROR: No. Not really, no.

19 THE COURT: Mr. Ayers.

20 A PROSPECTIVE JUROR: I was just involved in a
21 family court case.

22 THE COURT: Was there anything about your
23 family court case that would cause you difficulty in this
24 case?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Yes, Mr. Buck.

2 A PROSPECTIVE JUROR: Through work I have had
3 to testify.

4 THE COURT: So you have been a witness before?

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Would that create any difficulties
7 for you sitting on the jury?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Would you be able to separate your
10 own experiences as a witness in a case from those that may
11 be experienced by the witnesses in this case?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: Anyone else? I think there was one
14 more hand. Yes, Miss Scolari.

15 A PROSPECTIVE JUROR: I'm involved in my own
16 lawsuit right now. It doesn't go to court till next year.

17 THE COURT: What kind of a lawsuit, a civil
18 lawsuit?

19 A PROSPECTIVE JUROR: Civil.

20 THE COURT: And are you one of the parties?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: Is there anything about the fact
23 you are involved in a civil lawsuit that would cause you
24 difficulties serving in this case?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Anyone else? Kind of like to go by
2 row.
3 Miss Bell.
4 A PROSPECTIVE JUROR: Working for the bank, I
5 have been called upon to testify about checks and stuff, but
6 it's been probably 20 years.
7 THE COURT: Ago?
8 A PROSPECTIVE JUROR: (Positive nod.)
9 THE COURT: Is that yes?
10 A PROSPECTIVE JUROR: Yes.
11 THE COURT: Is there anything about that prior
12 experience that would cause you difficulty serving in this
13 case?
14 A PROSPECTIVE JUROR: No.
15 THE COURT: Would you be able to separate your
16 own experiences as a witness on the witness stand from those
17 that may be experienced by the witnesses in this case?
18 A PROSPECTIVE JUROR: Yes.
19 THE COURT: Back row. Yes, Mr. Ralston.
20 A PROSPECTIVE JUROR: I forgot I was a witness
21 in a murder trial in Houston, Texas, and it was probably,
22 I'm going to say about 1977.
23 THE COURT: Anything about that prior
24 experience that would cause you difficulty serving in this
25 case?

1 A PROSPECTIVE JUROR: No.

2 THE COURT: Miss Kersbergen.

3 A PROSPECTIVE JUROR: I was called as a witness
4 in a domestic violence case. The party pled guilty so I
5 didn't have to testify.

6 THE COURT: You didn't actually come into the
7 courtroom?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Anyone else? Yes, Miss Patch.

10 A PROSPECTIVE JUROR: I used to testify through
11 my employment years ago, and I also had a civil lawsuit that
12 we settled out of court. I was the plaintiff.

13 THE COURT: Now, when you testified before, is
14 there anything about the fact that you have been a witness
15 in a courtroom before that would cause you difficulty being
16 fair and impartial in this case?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: And would you be able to set aside
19 your own experiences and decide the witnesses' testimony
20 based on their demeanor and not putting yourself in their
21 place?

22 A PROSPECTIVE JUROR: Yes.

23 THE COURT: I think there was more hands in the
24 back row, or were there?

25 Have any of the jurors currently seated in the

1 jury box ever been a victim of a crime?

2 Miss James.

3 A PROSPECTIVE JUROR: Just had my car broke
4 into.

5 THE COURT: Anything about your experiences
6 with law enforcement or that circumstance that would cause
7 you difficulty in this case?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Miss Kersbergen.

10 A PROSPECTIVE JUROR: I have had five police
11 reports this year on stalking, vandalism, my house has been
12 shot. Bad divorce.

13 THE COURT: Okay. So you kind of see this more
14 as a domestic -- these are kind of domestic issues?

15 A PROSPECTIVE JUROR: Yeah.

16 THE COURT: I mean, I understand that you are
17 filing police reports, but --

18 A PROSPECTIVE JUROR: I have had a dog stolen.

19 THE COURT: It is not a stranger?

20 A PROSPECTIVE JUROR: No. I know the people.

21 THE COURT: Now, is there anything about this
22 that's been going on this year that's going to cause you
23 difficulty serving in this case?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Do you have any animosity towards

1 law enforcement or any bias for law enforcement based upon
2 what's going on?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Now, I think there was more people
5 in the back row. Yes, Miss Patch.

6 A PROSPECTIVE JUROR: Assaults years ago.

7 THE COURT: Is there anything about your
8 experiences dealing with law enforcement or your experiences
9 in the justice system that would cause you difficulty being
10 fair to both sides in this case?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Miss Kelley.

13 A PROSPECTIVE JUROR: I had a few cars broken
14 into. That's about it.

15 THE COURT: Anything about your experiences
16 with law enforcement that would cause you to be biased one
17 way or another based upon these experiences?

18 A PROSPECTIVE JUROR: They are just a little
19 slow, but other than that. I mean, as far as they haven't
20 caught anybody. I still like them.

21 THE COURT: You don't think it will impact you?

22 A PROSPECTIVE JUROR: No, no.

23 THE COURT: Back row, was there anyone else in
24 the back row? The second row.

25 Let's go to Miss Johnson.

1 A PROSPECTIVE JUROR: Domestic violence.

2 THE COURT: And how long ago?

3 A PROSPECTIVE JUROR: Six years ago.

4 THE COURT: Is there anything about the way the
5 system dealt with your circumstance that would cause you
6 difficulty serving in this case?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Do you have any bias one way or
9 another in this case?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Miss Bell.

12 A PROSPECTIVE JUROR: I had my car broken into.
13 I had my car stolen, and we had our apartment robbed.

14 THE COURT: And was this all in Washoe County?

15 A PROSPECTIVE JUROR: No. It was all in --
16 when the car was broken into, it was down in Carson City.
17 And when it was stolen it was in Fremont, California. And
18 that's where the apartment was too.

19 THE COURT: So do you have any difficulties
20 with the criminal justice system based on these experiences?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Do you have any animosity towards
23 the system, either the State or the defendant based on these
24 experiences?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Mr. Ralston.

2 A PROSPECTIVE JUROR: Car break-in. Apartment
3 broken into and a garage break-in. And someone stole my
4 checkbook once and wrote checks on it before I could get
5 everything stopped. But I have no -- go ahead.

6 THE COURT: Go ahead, tell me. You are on a
7 roll.

8 A PROSPECTIVE JUROR: I don't have any bias as
9 a result of any of that.

10 THE COURT: You don't feel it affects you in
11 this case?

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Third row. Yes, Mr. Ayers.

14 A PROSPECTIVE JUROR: An assault back a long
15 time ago. Also my wallet was stolen, and I was -- had a
16 hit-and-run last year.

17 THE COURT: Vehicle hit-and-run?

18 A PROSPECTIVE JUROR: Yes.

19 THE COURT: Now, is there anything about your
20 experiences with law enforcement that would cause you a
21 problem here?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Do you have any animosity for
24 either side?

25 A PROSPECTIVE JUROR: No, none.

1 THE COURT: Were there more hands in that row?
2 Okay. We're at the fourth row.

3 Yes, Mr. Tower.

4 A PROSPECTIVE JUROR: Armed robbery, got into a
5 fight with a shoplifter and my car was stolen.

6 THE COURT: Was this all in Washoe County?

7 A PROSPECTIVE JUROR: No, Los Angeles.

8 THE COURT: Is there anything that still is
9 with you that carries with you any favorable feelings or
10 negative feelings for or against either side in this case
11 based on your experiences?

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Anyone else in that row?

14 Yes, Miss Knight.

15 A PROSPECTIVE JUROR: I had goods stolen from
16 when I was coming from Equador to the United States, but it
17 actually didn't -- law enforcement wasn't involved.

18 THE COURT: That wouldn't affect you in this
19 case?

20 A PROSPECTIVE JUROR: No.

21 THE COURT: Anyone else in that row? Front
22 row?

23 Yes, Miss Beers-Diaz.

24 A PROSPECTIVE JUROR: Where do you want me to
25 start? Actually, can I come up there?

1 THE COURT: Yes, you may.
 2 Counsel approach, please.
 3 (Whereupon, a bench conference was held among
 4 Court and counsel as follows.)

5 A PROSPECTIVE JUROR: Assault and battery,
 6 rape, and I have been jumped, and lots of things.

7 THE COURT: Okay. Was this in Washoe County?

8 A PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: Is there -- is that part of what
 10 you were concerned with earlier today?

11 A PROSPECTIVE JUROR: Yeah. I feel
 12 uncomfortable.

13 THE COURT: You are uncomfortable?

14 A PROSPECTIVE JUROR: I am.

15 THE COURT: Is it because of your experiences
 16 in the past?

17 A PROSPECTIVE JUROR: Uh-huh.

18 THE COURT: Can you tell me a little bit more
 19 about that?

20 A PROSPECTIVE JUROR: Just, I don't know, just
 21 similar, I guess, build, skin color.

22 THE COURT: So the person who perpetrated these
 23 things on you --

24 A PROSPECTIVE JUROR: Was a little shorter is
 25 all.

1 THE COURT: Reminds you of him?

2 A PROSPECTIVE JUROR: Yeah.

3 THE COURT: Counsel have any questions?

4 MR. STANTON: I don't have any questions.

5 THE COURT: Are you requesting that I excuse
6 you from service because of that?

7 A PROSPECTIVE JUROR: I mean, not solely
8 because of that. I mean, I hate to use that for an excuse,
9 but I mean, I'm like shaking.

10 THE COURT: Just being in the room?

11 A PROSPECTIVE JUROR: Yeah. It's hard.

12 MR. STANTON: Can I ask one question?

13 Miss Beers-Diaz, if I understand your comments,
14 you believe that the defendant Siaosi Vanisi physically
15 looks like the person that has perpetrated those criminal
16 acts against you; is that correct?

17 A PROSPECTIVE JUROR: Yeah. Just a little
18 taller.

19 MR. STANTON: I have no further questions, Your
20 Honor.

21 MR. BOSLER: No questions, Your Honor.

22 A PROSPECTIVE JUROR: That's all on record.

23 THE COURT: Okay. Do you wish to make a
24 motion?

25 MR. BOSLER: Based upon her comments, Your

1 Honor, we ask she be excused for cause.

2 THE COURT: Do you have any objection?

3 MR. STANTON: No, Your Honor.

4 THE COURT: Miss Beers, thank you for your
5 candor.

6 A PROSPECTIVE JUROR: I need to check in
7 downstairs?

8 THE COURT: Yes. Thank you.

9 (Whereupon, the following proceedings were held
10 in open court, in the presence of the jury.)

11 THE COURT: The clerk will call another name to
12 replace Miss Beers-Diaz.

13 THE CLERK: Joann Shively.

14 THE COURT: Go ahead and read that list,
15 Miss Shively, and I'll finish inquiring of Miss Frazer.

16 A PROSPECTIVE JUROR: Purse snatch and car
17 broken into. One in Washoe County, one in Disneyland.

18 THE COURT: Disneyland. Anything about those
19 prior experiences that would cause you difficulty serving in
20 this case?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Are you able to set aside whatever
23 your feelings were about those cases and not let it impact
24 you in the case that we're about to try?

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Miss Whitmore, would you approach,
2 please?

3 Counsel approach, please.

4 (Whereupon, a bench conference was held among
5 Court and counsel as follows.)

6 THE COURT: I just saw how unhappy you were,
7 and I want to kind of give you a chance to tell us what's
8 bothering you.

9 A PROSPECTIVE JUROR: This murder case has
10 given me nightmares for weeks. And I felt safe, and now I
11 don't feel safe anymore. I'm sorry. I'm so sorry.

12 MR. STANTON: I think for the record, I believe
13 that this witness has also written an extensive letter to
14 the Court which I think establishes the basis for her
15 removal for cause, specifically that she can not judge
16 another person because of her religious beliefs. For that
17 reason alone, the State would not object to her removal upon
18 cause.

19 MR. BOSLER: Based upon her comments today,
20 we're not going to object to her being removed for cause.

21 THE COURT: I'm going to let you go, and I'm
22 sorry it's been so difficult for you. It's okay. We
23 appreciate your service.

24 A PROSPECTIVE JUROR: I have never done this
25 before. I really haven't.

1 THE COURT: This is a new experience for most
2 people. So just go on down to the Jury Commissioner, okay?

3 A PROSPECTIVE JUROR: Okay. Thank you very
4 much.

5 THE COURT: The clerk will call another name to
6 replace Miss Whitmore.

7 THE CLERK: Donna J. Martin.

8 THE COURT: Miss Martin, go ahead and sit down
9 and review the witness list, please.

10 Miss Kersbergen.

11 A PROSPECTIVE JUROR: I don't know if you would
12 want -- the reason for my divorce was sexual assault for
13 eight years, but that was him and no other person. So I
14 don't hold it against no one.

15 THE COURT: So you knew the perpetrator.

16 A PROSPECTIVE JUROR: Yeah.

17 THE COURT: You wouldn't be --

18 A PROSPECTIVE JUROR: It was my husband.

19 THE COURT: The concern I have is if you would
20 want to get even with all men because this particular
21 defendant is a man.

22 A PROSPECTIVE JUROR: No, it was just one
23 person and everybody seen him.

24 THE COURT: So you wouldn't substitute this
25 defendant for your husband?

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

A PROSPECTIVE JUROR: No.

THE COURT: For your ex-husband?

A PROSPECTIVE JUROR: No.

THE COURT: Thank you for sharing that. I know it's difficult.

Miss Patch.

A PROSPECTIVE JUROR: When I said assault, I left out sexual assault. But no, I don't hold all men accountable for that.

THE COURT: Thank you.

A PROSPECTIVE JUROR: Just didn't want to --

THE COURT: I know, it's hard.

Does anyone else have anything further you want to tell me or want to approach?

Okay. Now, Miss Shively, have you had a chance to read the witness list?

A PROSPECTIVE JUROR: Yes.

THE COURT: Are you acquainted with or related to anyone on that list?

A PROSPECTIVE JUROR: No.

THE COURT: And have you been able to hear my questions thus far today?

A PROSPECTIVE JUROR: Yes.

THE COURT: Would you respond to any of those questions?

1 A PROSPECTIVE JUROR: My brother was a police
2 officer over in California.

3 THE COURT: And you say was, so he's not now?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Now, is there anything about your
6 brother's prior employment that would cause you difficulty
7 serving in this case?

8 A PROSPECTIVE JUROR: No.

9 THE COURT: Do you feel any bias or prejudice
10 one way or another with regard to the police officers?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: Would you give a police officer's
13 testimony more or less credibility simply because he was a
14 police officer?

15 A PROSPECTIVE JUROR: Oh, no.

16 THE COURT: You would weigh it?

17 A PROSPECTIVE JUROR: I would weigh it.

18 THE COURT: Based on how they approach here in
19 court?

20 A PROSPECTIVE JUROR: Yes.

21 THE COURT: And any other questions you would
22 respond to affirmatively?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: That was the only note you took?

25 A PROSPECTIVE JUROR: That was it.

1 THE COURT: Now, I have a new juror, too.

2 A PROSPECTIVE JUROR: You can skip me. It is
3 okay. I don't mind.

4 THE COURT: I knew I had a new juror. You were
5 looking so quiet like you weren't going to raise your hand.
6 Miss Martin.

7 A PROSPECTIVE JUROR: Yes, it is.

8 THE COURT: Were you able to read the witness
9 list?

10 A PROSPECTIVE JUROR: Yeah.

11 THE COURT: Are you related to or acquainted
12 with anyone on that list?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Have you been able to hear my
15 questions?

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: And did you take notes of which
18 questions you would respond to?

19 A PROSPECTIVE JUROR: No, but I listened to all
20 of them.

21 THE COURT: Can you tell me which you would
22 respond to?

23 A PROSPECTIVE JUROR: I have sort of formed an
24 opinion on this case.

25 THE COURT: Anything else?

1 A PROSPECTIVE JUROR: Huh-uh. No.

2 THE COURT: You don't know any police officers?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Never served on a jury before?

5 A PROSPECTIVE JUROR: Once. Somebody that fell

6 at a storage place.

7 THE COURT: I'm sorry?

8 A PROSPECTIVE JUROR: Someone that fell at a

9 storage place.

10 THE COURT: And so you served on a civil trial?

11 A PROSPECTIVE JUROR: Yes.

12 THE COURT: Were you able to reach a verdict in

13 that case?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Anything about your prior service

16 that would cause you difficulty serving again?

17 A PROSPECTIVE JUROR: No.

18 THE COURT: Do you know anyone in the jury box?

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Have you ever been a victim of a

21 crime?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: Have you ever been a witness in a

24 trial?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: Have you ever had your own case go
2 to court?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: Did you understand my question
5 about presumption of innocence?

6 A PROSPECTIVE JUROR: Uh-huh.

7 THE COURT: And are you able to follow that
8 instruction?

9 A PROSPECTIVE JUROR: To some extent.

10 THE COURT: I'll ask you the question again.
11 If the Court were to instruct you at the conclusion of this
12 case that a defendant in a criminal action is presumed to be
13 innocent until the contrary is proven beyond a reasonable
14 doubt, and in the case of a reasonable doubt as to whether
15 the defendant's guilt is satisfactorily shown, then they are
16 entitled to be acquitted, would each of you -- would you
17 accept and follow that instruction?

18 A PROSPECTIVE JUROR: I would follow it.

19 THE COURT: Did you understand the instruction
20 with regard to reasonable doubt?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: And would you follow that
23 instruction?

24 A PROSPECTIVE JUROR: Yes.

25 THE COURT: Do you understand that it's your

1 duty to find the facts if you sit on the jury?

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: And apply those facts to the law as
4 I instruct you the law is?

5 A PROSPECTIVE JUROR: Yes.

6 THE COURT: Do you believe that you could
7 disregard the law as I instruct you?

8 A PROSPECTIVE JUROR: Disregard?

9 THE COURT: Disregard the law as you get it in
10 the jury instructions?

11 A PROSPECTIVE JUROR: No.

12 THE COURT: You'd follow the law as I instruct
13 you?

14 A PROSPECTIVE JUROR: I would follow them.

15 THE COURT: Do you have anything more than a
16 passing interest in the outcome of this case?

17 A PROSPECTIVE JUROR: Do I have any what now?

18 THE COURT: Do you have anything more than just
19 a passing interest in the outcome of this case?

20 A PROSPECTIVE JUROR: No.

21 THE COURT: Do you entertain any bias for or
22 against the State of Nevada?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Do you entertain any bias for or
25 against the defendant?

1 A PROSPECTIVE JUROR: In a way, yes.

2 THE COURT: You say in a way?

3 A PROSPECTIVE JUROR: In a way, yes.

4 THE COURT: Were you able -- did you see any
5 additional publicity regarding this matter after you filled
6 out your questionnaire?

7 A PROSPECTIVE JUROR: After I did, no. Before,
8 I did.

9 THE COURT: And you told us about that on your
10 questionnaire?

11 A PROSPECTIVE JUROR: Yes, I did.

12 THE COURT: Do you know anything personally
13 about the facts of the case?

14 A PROSPECTIVE JUROR: No.

15 THE COURT: You indicated that you have formed
16 an opinion; is that correct?

17 A PROSPECTIVE JUROR: Yes, ma'am.

18 THE COURT: Is that opinion different than what
19 you filled out on your questionnaire?

20 A PROSPECTIVE JUROR: No.

21 THE COURT: I'm going to allow counsel to
22 inquire, but we'll wait a few minutes before they inquire
23 further of you.

24 Does any juror have any health reason which
25 would prevent you from serving as a juror in this case?

1 Does anyone have any health reason that I should be aware of
2 just in terms of making your service easier, back problems,
3 hearing problems, eyesight, anything like that?

4 Yes, Miss Hodges.

5 A PROSPECTIVE JUROR: Several years ago I had
6 injured my back, and so sitting in these kind of chairs is a
7 little uncomfortable.

8 THE COURT: If you serve on the jury you won't
9 be on those metal chairs. Are you all right now?

10 A PROSPECTIVE JUROR: I'm fine so far.

11 THE COURT: Okay. Tell the bailiff if you are
12 getting uncomfortable.

13 Anyone else?

14 Does anyone have any business or professional
15 reason that you think your problem will interfere with your
16 impartiality to serve as a juror in this case? I know that
17 most of you probably have many, many places to be and things
18 to do, and it is a financial hardship for almost everyone to
19 serve on a jury, and I understand that. That's why we make
20 the best use of your time.

21 Our schedule is in the mornings, you will be
22 coming approximately 10:15 or so four days a week, three
23 days a week, and you will go until noon. And then you will
24 be back here at 1:30 and go until 5:00. One morning a week
25 you will be completely off because we have different

1 hearings that we have to hear on that one morning a week.
2 And one day a week you will start earlier than 10:15. You
3 will start probably about 9:00 on Fridays.

4 But that is sort of our schedule, and we do
5 take an hour and-a-half lunch, and we're always done at
6 5:00, or we will attempt to be done at 5:00. We will not
7 work weekends. And as I said, three days a week, you have
8 until 10:15 or 10:30, and one day a week you have the whole
9 morning.

10 So that gives you an idea of what the schedule
11 is. If your situation is of such a nature that you really
12 can't be impartial in this case, we need to hear about that.
13 Otherwise, we will just make good use of your time.

14 Yes, Miss Patch.

15 A PROSPECTIVE JUROR: Ashley.

16 THE COURT: Ashley. I should remember by now.

17 A PROSPECTIVE JUROR: That is okay. Because I
18 work at Lake's Crossing Center, the only thing that I could
19 foresee is if Mr. Vanisi would have to come to our facility,
20 I'm just wondering, you know.

21 THE COURT: That could be a problem.

22 A PROSPECTIVE JUROR: That could be a problem.

23 THE COURT: But I don't think that is going to
24 happen.

25 A PROSPECTIVE JUROR: Okay. And we could

1 always handle whatever happens.

2 THE COURT: Mr. Estes.

3 A PROSPECTIVE JUROR: Ayers. I'm not sure if I
4 fully understand that, but this is really an economic
5 hardship on me. My wife and I and our two children rely on
6 my check.

7 THE COURT: You are a taper?

8 A PROSPECTIVE JUROR: Yes.

9 THE COURT: So you work for a drywall company?

10 A PROSPECTIVE JUROR: Yes, I do. And it's
11 impossible for me to go to work for a couple hours in the
12 morning and come here. My wife has a job, but it's -- we
13 can't live off of that for a couple weeks.

14 THE COURT: The Legislature says who is excused
15 from jury service, and people who work like you are not. I
16 wish we could pay you more so it wouldn't be such a
17 financial hardship.

18 A PROSPECTIVE JUROR: Okay.

19 THE COURT: The attorneys may inquire more
20 fully into your concerns, and I'll let them do that. But
21 just on the financial hardship aspect of it. It isn't that
22 I don't care.

23 A PROSPECTIVE JUROR: I understand.

24 THE COURT: I understand the problem.

25 Yes, Miss Kersbergen.

1 A PROSPECTIVE JUROR: Okay. I have three kids,
2 raising them on my own. I do hold a job. The job doesn't
3 bother me. But finding day care when they are out of school
4 because they won't go with their father because they are
5 afraid of him. I have no family in town.

6 THE COURT: Did you make arrangements for this
7 afternoon?

8 A PROSPECTIVE JUROR: Yeah.

9 THE COURT: With friends or school friends?

10 A PROSPECTIVE JUROR: With friends. She can
11 help as much as she can.

12 THE COURT: Do you have Latch Key at your
13 school?

14 A PROSPECTIVE JUROR: I have Latch Key, but
15 right now I can't afford Latch Key. If I'm not at work, I
16 can't pay Latch Key. It is expensive.

17 THE COURT: You don't get paid if you are not
18 here -- if you are here?

19 A PROSPECTIVE JUROR: I work for the school
20 district. I'm not sure if I'll get paid because I only work
21 24 hours a week, and --

22 THE COURT: We can check for you if that will
23 help set your mind at ease. Most school district employees
24 are paid for their full paycheck. You have to kick back
25 your jury fees, but most Washoe County School District

1 employees, but I don't know about a 24-hour.

2 A PROSPECTIVE JUROR: I'm hoping.

3 THE COURT: But we'll check with the Jury
4 Commissioner and let you know for sure.

5 Yes, Mr. Sheahan.

6 A PROSPECTIVE JUROR: Your Honor, you said
7 three days. You are in session three days during the week.
8 So that would be Monday, Tuesday, Wednesday or Tuesday,
9 Wednesday, Thursday?

10 THE COURT: No. We're in session every day.
11 What happens is Monday morning, we'll start probably at a
12 regular time, 9:00 or 10:00 o'clock in the morning,
13 depending on what other cases are set earlier. And you will
14 go normally from 10:00 to 5:00 with an hour and-a-half off.

15 Tuesday mornings I have lots of hearings and we
16 won't be starting until 10:15 or so. You will go until
17 5:00. Wednesday mornings we do not have any early morning
18 hearings.

19 This is a new schedule that the Court is on.
20 I'm trying to remember it all. Wednesday mornings we'll
21 start at 9:00, 9:30, around in there, I guess, and we'll go
22 until 5:00.

23 Thursday mornings I have hearings, so many in
24 the morning that I can't hear a case in the morning. So you
25 will have Thursday mornings off. You won't come to court

1 until 2:00 o'clock Thursdays.

2 And then Friday will be a regular day, 9:00 to
3 5:00. So that is the schedule. I'm trying to remember it
4 because we just switched over to a new system.

5 Miss Callahan.

6 A PROSPECTIVE JUROR: Just for tomorrow
7 morning, do you know exactly what time we would have to be
8 here? I have an interview with Valerie Cooke-Skau for the
9 secretary to the Magistrate Judge. That is at 9:30. If
10 it's not until 10:30 we don't have to be here, I won't have
11 to change it.

12 THE COURT: I have to check with the clerk to
13 see how many. I'm thinking we're planning on about 10:15.

14 A PROSPECTIVE JUROR: Okay.

15 THE COURT: Miss Bell.

16 A PROSPECTIVE JUROR: We're planning or we
17 already had planned and purchased tickets for a vacation
18 that starts the 26th of October.

19 THE COURT: You'll be done.

20 A PROSPECTIVE JUROR: Well, I would have been
21 worried and concerned about it.

22 THE COURT: No, I know.

23 A PROSPECTIVE JUROR: Now I'm fine. Thank you.

24 THE COURT: That is why we want you to
25 understand the system so you won't be concerned.

1 Mr. Jones.

2 A PROSPECTIVE JUROR: Same question, except for
3 October 10th.

4 THE COURT: I think you're going to be done,
5 don't you, counsel, think you will be done by then? That
6 would be the fourth week. Everyone is nodding no. I don't
7 think it will be a problem, Mr. Jones. You shouldn't have
8 to worry about that.

9 Miss Ziler.

10 A PROSPECTIVE JUROR: I'm scheduled to be in
11 California Wednesday and Thursday, and they just changed it
12 that I'm not coming back until Friday morning.

13 THE COURT: Well, if you are on the jury and
14 you are going to be here Friday morning --

15 A PROSPECTIVE JUROR: It's our fiscal year-end
16 and I can't be off for three weeks. We have tried having
17 somebody else do my job when I'm not there. It takes me two
18 weeks to clean up their messes. And the only way I'm going
19 to be able to do it is when I leave here at night, I go
20 work.

21 THE COURT: You are a secretary? Are you a
22 secretary?

23 A PROSPECTIVE JUROR: Yeah. I do the payables
24 for the corporation. And I can't even take a two-week
25 vacation. One week at a time is all I can do.

1 THE COURT: I understand that difficulty, but
2 the Legislature has not made your profession exempt from
3 service.

4 A PROSPECTIVE JUROR: What about my board
5 meeting?

6 THE COURT: What is your board meeting? Is it
7 your own corporation?

8 A PROSPECTIVE JUROR: Yes. I'm an officer of
9 the company.

10 THE COURT: Okay.

11 A PROSPECTIVE JUROR: It is our fiscal year end
12 and it is our big board meeting. We have got people flying
13 in from all over the country. We have been scheduled for
14 over a month, and we can't change it.

15 THE COURT: It's already been noticed?

16 A PROSPECTIVE JUROR: Everybody has been
17 noticed. I notified everybody as soon as I got the notice
18 in the mail. But for everybody else to change all their
19 airline schedules is going to cost the company a pretty
20 penny, and they won't do that.

21 THE COURT: I think somebody else raised their
22 hands. Okay.

23 Miss O'Keefe.

24 A PROSPECTIVE JUROR: I have a vacation
25 scheduled for October 4th.

1 THE COURT: What is that? Is that a prepaid
2 vacation?

3 A PROSPECTIVE JUROR: Yeah. We have already
4 booked our reservations. We did it before I knew I was
5 going to have to be in here.

6 THE COURT: And there is someone else in that
7 row?

8 Miss Hodges.

9 A PROSPECTIVE JUROR: I just wanted to let you
10 be aware that I'm a single parent and I'm the only income,
11 and my work doesn't pay me to be here. They pay me to be at
12 work. And I have about six days of vacation that I can
13 take, but other than that, I won't have pay from work. It
14 will be just whatever I get in here. I just need to let
15 that be noted, because I'm stressing over how I'm going to
16 pay my bills, pay my rent and everything else.

17 THE COURT: Do you think you'd stress out to
18 the point that you wouldn't be fair and impartial?

19 A PROSPECTIVE JUROR: Well, I have been
20 stressing the last week, yeah.

21 THE COURT: Counsel will probably have some
22 more questions of you.

23 A PROSPECTIVE JUROR: I'm in the same boat.

24 THE COURT: I'm sorry?

25 A PROSPECTIVE JUROR: I'm stressing, too.

1 THE COURT: I wish I could tell you that I have
2 a doctor on duty to give you relaxants, but I don't.

3 MR. BOSLER: For the record, was that
4 Mr. Ayers?

5 THE COURT: That was Mr. Ayers. It is
6 difficult, I understand it's difficult. And counsel will be
7 asking you some more questions, and then we'll be making a
8 final decision as to who will serve.

9 Miss Kruse.

10 A PROSPECTIVE JUROR: I put down my vacation,
11 and I was going to San Francisco this weekend, Friday. So I
12 mean, I could -- do you know how late we would possibly go
13 on Friday?

14 THE COURT: Until 5:00. But we'll be done at
15 5:00.

16 A PROSPECTIVE JUROR: Okay. So we don't
17 account for our vacation times now basically?

18 THE COURT: You were going to be gone Friday,
19 Saturday, Sunday?

20 A PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: It sort of depends.

22 Mr. Salais.

23 A PROSPECTIVE JUROR: I ask, when you say three
24 days, Your Honor, I don't remember, how many weeks do you
25 say?

1 THE COURT: Two to three weeks.

2 A PROSPECTIVE JUROR: I have a problem. I am
3 the manager of this small complex of apartments. My main
4 problem is my wife. She requires oxygen 24 hours a day, and
5 I am the only one around her.

6 THE COURT: And so you don't have anyone who
7 can help stay with her?

8 A PROSPECTIVE JUROR: Not really.

9 THE COURT: Not really? Do you have somebody
10 who can check on her for you during the day?

11 A PROSPECTIVE JUROR: I can ask a friend, but I
12 don't know if he is -- if it's going to be all day or the
13 three days in a row, like we was going to be here.

14 THE COURT: It would be the middle of the day,
15 Monday, Tuesday, Wednesday, and then all day on Friday. So
16 could they come and go and check on her, and could you get
17 home in an hour and-a-half and check on her?

18 A PROSPECTIVE JUROR: Oh, yes. I live over
19 here, about 15 minutes from here.

20 THE COURT: So you could go at lunchtime and
21 check on her?

22 A PROSPECTIVE JUROR: Yes.

23 THE COURT: Do you think you have a friend who
24 could check on her for you in the mornings and afternoon?

25 A PROSPECTIVE JUROR: I will ask. I look

1 for --

2 THE COURT: You think maybe you could work it
3 out?

4 A PROSPECTIVE JUROR: I will try.

5 THE COURT: Anyone else?

6 Yes, Mr. Carmichael.

7 A PROSPECTIVE JUROR: Just I have a paid
8 vacation, plane tickets purchased and everything for
9 October 18th.

10 THE COURT: You will be okay.

11 A PROSPECTIVE JUROR: And then I called my boss
12 at lunch and she said, Well, then I think I might have to
13 get someone to try and replace you already, because I told
14 her I got picked for the jury panel and they have to pick
15 from us still. It's just hard to get her to understand it
16 because we're a small business, and she said, Well, I'm not
17 making money if you are not here.

18 THE COURT: Is she talking about firing you?

19 A PROSPECTIVE JUROR: She didn't say that. But
20 that's what she said.

21 So I'm the only one that does my job, I'm the
22 mechanic at the boat shop. She didn't say fire, but she
23 said, I need someone to get the work done for you. She only
24 carries the minimal mechanics she can. That is how I took
25 it.

1 THE COURT: It is against the law for anyone to
2 receive a dismissal or discharge or reprimand of any kind
3 for serving on a jury. We'll do everything we can to assist
4 you. But is that something that is going to be kind of
5 wearing on your mind?

6 A PROSPECTIVE JUROR: Yeah, because I have a
7 wife and two children, and I'm the only source of income.

8 THE COURT: Perhaps a telephone call, do you
9 think, would help from the Court?

10 A PROSPECTIVE JUROR: I don't see how it would
11 help. She's worried about not making her money, too, I
12 guess.

13 THE COURT: Do you have a good working
14 relationship with her other than this particular issue?

15 A PROSPECTIVE JUROR: Yeah. As like my wife,
16 she's real good friends with my wife's family and for quite
17 a bit of time. I'm going to call her after work to say, Get
18 ahold of me as soon as you get out and let me know what is
19 going on. That is all I can do for now.

20 THE COURT: Anyone else have something you want
21 to tell me about?

22 Yes, Mr. Ralston.

23 A PROSPECTIVE JUROR: I thought work was sort
24 of irrelevant, but I just want to relate my situation. I
25 have a major contract that's in progress in Brentwood,

1 Tennessee, and I go there every two weeks.

2 I also have two developments under construction
3 in California, one in Elk Grove and one in Roseville,
4 California. I go there every week. And I have five budgets
5 I was handed Friday that are due October 15th. I'm really
6 the only person that does those things. There is other
7 responsibilities I have, but those issues are things that I
8 do.

9 THE COURT: Mr. Sheahan.

10 A PROSPECTIVE JUROR: Your Honor, I made
11 reservations to go to my son's homecoming game the end of
12 this week in August, and I called on -- for that phone call
13 you make to call the jury, they told me the jury is usually
14 anywhere from a day to three days or four days or something
15 like that, not knowing it would last for two or three weeks.
16 So I went ahead and made reservations thinking that I'd have
17 a chance to go. But that's up to you.

18 THE COURT: I couldn't hear where your
19 reservations were to.

20 A PROSPECTIVE JUROR: Montana.

21 THE COURT: And you wanted to leave when?

22 A PROSPECTIVE JUROR: Friday morning.

23 THE COURT: But you just made those
24 reservations?

25 A PROSPECTIVE JUROR: I made them August 29th.

1 Not knowing how long the trial would last. I heard anywhere
2 from a day to two or three days, not knowing it would be two
3 or three weeks.

4 THE COURT: Okay. I'm going to allow counsel
5 to inquire further of the panel, and we'll decide who is --
6 they will basically probably decide on who they feel should
7 not sit on this case.

8 Mr. Ralston is kind of right, everybody, as you
9 can hear, and I bet you that a bunch of people who didn't
10 raise their hands have issues that you just haven't told me
11 about. Everybody has an issue, everybody has work. All of
12 you are employed, and we all need to make money. So we all
13 understand that. It's just those particular circumstances
14 that get so egregious that I continue service.

15 And I wanted to let you know this: You are not
16 excused from service even if I do it. Your service is only
17 continued to another trial.

18 I don't know who told you the average length of
19 a trial is a day. The average length of a trial is five.
20 And there are lots of cases that go longer than this one.
21 And there's many more yet to go, this kind of case.

22 So when I continue service, it is not to when
23 it is convenient. It's when we need you, and that may or
24 may not be as convenient as now. In most cases it's less
25 convenient, just to give you heads up on the circumstances.

1 Now, Miss Ashley, did you raise your hand? Did
2 someone else over there?

3 Mr. Ayers.

4 A PROSPECTIVE JUROR: I was just agreeing with
5 what Mr. Sheahan said, that because the one recording I
6 called, it said it would be a day or two.

7 THE COURT: Well, I'll talk to the Jury
8 Commissioner.

9 A PROSPECTIVE JUROR: It does say that on the
10 recording.

11 THE COURT: Great. Well, you know it's not.
12 Got a hint for you, it isn't.

13 We use a jury, we usually don't use them for a
14 day. Most cases that need a jury go at least three days or
15 a week. Okay.

16 Is there anything else that you haven't told me
17 about that any juror in the jury box knows of any reason why
18 you should not serve in this case?

19 Yes, Miss Kelley.

20 A PROSPECTIVE JUROR: I have school also, and
21 that's just starting. I mean, we're into the third week, I
22 think.

23 THE COURT: Where do you go to school?

24 A PROSPECTIVE JUROR: I'm just taking classes
25 at Truckee Meadows right now.

1 THE COURT: Are they day or night classes?

2 A PROSPECTIVE JUROR: Well, they're night. I'm
3 not going to cry or anything. I just really want to go to
4 school.

5 THE COURT: The lawyers know now. Part of what
6 you all are telling me is important for the attorneys when
7 they make the decision about who will sit on a case. So it
8 may not rise to the level of me excusing you or continuing
9 your service, but it is important for the attorneys to know
10 your circumstances.

11 Miss Kersbergen, you will be paid by the School
12 District. It's been confirmed.

13 A PROSPECTIVE JUROR: Thank you.

14 THE COURT: Any other? Yes.

15 A PROSPECTIVE JUROR: I was also going out of
16 town this weekend. My flight doesn't leave till 6:15 on
17 Friday.

18 THE COURT: You will be back Monday morning?

19 A PROSPECTIVE JUROR: Yeah, as long as we're
20 done by 5:00.

21 THE COURT: You are good. Got you.

22 A PROSPECTIVE JUROR: If it doesn't go over.

23 THE COURT: We'll get you to the airport by
24 6:00. Promise.

25 You might have to bring your suitcase with you.

1 A PROSPECTIVE JUROR: That's fine.

2 THE COURT: Anyone else? Okay.

3 I think, Miss Hodges, did you have something
4 you needed to tell me about?

5 A PROSPECTIVE JUROR: I just mentioned that
6 financially I don't know where I'm going to get money to pay
7 bills.

8 THE COURT: Miss Martin, did you have an issue
9 that you needed to tell me about?

10 A PROSPECTIVE JUROR: My husband just got laid
11 off. So it is kind of a major hardship on me and the
12 family.

13 THE COURT: That was what was of concern to you
14 earlier?

15 A PROSPECTIVE JUROR: Yes.

16 THE COURT: Anything else?

17 Mr. Stanton, you may inquire.

18 MR. STANTON: Thank you, Your Honor.

19 Ladies and gentlemen of the prospective jury
20 panel, my questions and the questions that I have also of
21 the folks in the audience, I'm going to ask the first set of
22 questions to you all as the judge has; and if you have any
23 questions or problems or concerns with any of the subject
24 matter that I bring up, if you could raise your hand, and
25 we'll discuss them, and then I'll go individually.

1 First thing I'd like to talk to you about is
2 the Judge mentioned a concept to you, a cornerstone, if you
3 will, of a criminal trial, and that is the presumption of
4 innocence. That man right there, Siaosi Vanisi, is presumed
5 innocent. And you all agreed with that proposition that we
6 have in the United States.

7 There is another proposition of law in a
8 criminal trial that's just as important, and it deals with
9 this side of the table, the prosecution. And the right that
10 exists in that case is that if the State meets its burden,
11 that is if and when the State proves this case beyond a
12 reasonable doubt, the State has a right that the verdict in
13 a criminal case be guilty. You all agree with that law?

14 THE PROSPECTIVE JURY: Yes.

15 MR. GAMMICK: Is there anybody on the
16 prospective panel that has any moral or religious or other
17 doctrine of thought that would prohibit them from performing
18 the functions of a juror?

19 THE PROSPECTIVE JURY: No.

20 MR. GAMMICK: The Judge read to you an
21 instruction of law about reasonable doubt, and I'm wondering
22 since you all have had some exposure to the case, what this
23 case is about -- this is a criminal case that involves the
24 charges of murder in the first degree. And it has as part
25 of the jury component a penalty phase where the jury will

1 consider and decide what the punishment will be in that
2 case.

3 The burden of proof in a criminal case does not
4 depend upon the nature of the charges that are alleged. The
5 burden of proof in a murder case is the same burden of proof
6 as it is in a DUI case. Does anybody have a problem with
7 that concept?

8 THE PROSPECTIVE JURY: No.

9 MR. BOSLER: Your Honor, at this point we
10 impose an objection. I don't think that is quite an
11 accurate statement because a burden of proof as in a capital
12 case also carries over to the penalty phase where it
13 wouldn't in a DUI case. So I think the jury should be
14 admonished that it is not exactly like a misdemeanor case.

15 MR. STANTON: Your Honor, the State would --

16 THE COURT: The burden of proof doesn't change.
17 The burden of proof in all criminal cases are identical.
18 The difference in this case is that it is one of the only
19 cases that the jury is asked to consider penalty, and that
20 does not happen in other criminal cases.

21 MR. STANTON: Does anybody -- the Judge has
22 touched upon this in the different context, and I want to
23 ask the question straight out, dealing with whether or not
24 you had ever been the victim of a crime or other things. In
25 this context, a speeding ticket. The general question I

1 have for you, all of you, anybody had a negative experience
2 with law enforcement?

3 THE PROSPECTIVE JURY: No.

4 MR. STANTON: There is -- and I don't know how
5 many people here will have seen this, but there are certain
6 publications here in Washoe County that carry ads that deal
7 with the rights of jurors, what rights you have as a juror
8 sitting in a civil or criminal case. Has anybody read any
9 of those ads?

10 THE PROSPECTIVE JURY: No.

11 MR. STANTON: One of the roles of the juror may
12 be a difficult one, or at least an odd one from your normal
13 life experiences, and that is when you sit as a juror and
14 you deliberate ultimately on the guilt or innocence of the
15 case before you, you cannot in your deliberations interject
16 sympathy, bias or prejudice. So that if you are sitting in
17 the juror room, either out loud or in your own mind saying
18 the State has met its burden, they have proved to me beyond
19 a reasonable doubt the case, but I feel sorry, I feel bias,
20 or I feel prejudice, those things are specifically
21 prohibited from being involved in your decision-making
22 process.

23 Would anybody not be able to follow that?

24 THE PROSPECTIVE JURY: No.

25 MR. STANTON: The next point I'd like to

1 discuss with you is one that certainly is going to occur in
2 this case. In this case you will hear gruesome testimony.
3 You will see very gruesome photographs. They have a purpose
4 in this case because they are evidence, and they
5 specifically have a purpose because they will depict
6 forensic evidence, something that a jury weighing and
7 deciding the facts must pay particular attention to because
8 they will have great meaning.

9 Does anybody here have a problem with having,
10 as a role as a juror, to view graphic and violent
11 photographs?

12 A PROSPECTIVE JUROR: I do.

13 MR. STANTON: Okay. I'd like to do it in order
14 as the Judge did by the rows. Is there anybody in the first
15 row?

16 Anybody in the second row? In the third row I
17 believe I saw some hands.

18 Okay, Miss Hodges.

19 A PROSPECTIVE JUROR: Being that I have never
20 done any kind of trial before, I have never been in that
21 situation to know how I feel, but like right now, I'm
22 shaking.

23 MR. STANTON: Miss Hodges, have you ever seen a
24 deceased person before?

25 A PROSPECTIVE JUROR: No.

1 MR. STANTON: I'm assuming that you have never
2 seen someone who has had a violent injury inflicted on them?

3 A PROSPECTIVE JUROR: Do you mean somebody like
4 that I have seen one day and then the next day they didn't
5 have an arm? That way?

6 MR. STANTON: Or a significant wound.

7 A PROSPECTIVE JUROR: No.

8 MR. STANTON: In this case there are
9 photographs of Sergeant Sullivan that show him as he was
10 found and photographs of him at a medical procedure called
11 an autopsy, and they will depict the nature and size and
12 severity and location of the wound on his body. They are in
13 color.

14 I don't know you, Miss Hodges, but can you tell
15 me whether or not you can view those photographs as the role
16 of a juror is to look at them as facts?

17 A PROSPECTIVE JUROR: I don't know because I
18 never have done it before, so I don't know how I would react
19 to it.

20 MR. STANTON: Well, your best guess as to
21 whether or not you think you can do that? Is it something
22 that when I tell you that they are graphic in nature, that
23 you say, There's no way I can look at those, there's no way,
24 knowing myself, that I can look at that and pay attention to
25 the evidence and the witnesses that are testifying about

1 those photographs?

2 A PROSPECTIVE JUROR: I think I'm going to be
3 too emotional to be able to -- for example, my grandma
4 passed away. The family went to go to see her and that and
5 say their good-byes. I couldn't do it.

6 MR. STANTON: Okay. And was it because this
7 was an open casket?

8 A PROSPECTIVE JUROR: It wasn't there. She was
9 cremated. But the family was able to go to the morgue and
10 say their good-byes and that.

11 MR. STANTON: Anybody in that next row? And
12 the next row after that?

13 Miss Magnin? And can you tell me -- would you
14 have difficulty viewing photographs?

15 A PROSPECTIVE JUROR: Most definitely. I can't
16 even see scary movies, anything like that. I just can't.

17 MR. STANTON: And is it something that if you
18 saw it, based upon how you know you react to something like
19 that, that you would just turn off your mind or not look at
20 it?

21 A PROSPECTIVE JUROR: I couldn't look. I can't
22 do things like that.

23 MR. STANTON: Okay. In this case there will be
24 a series of photographs of Sergeant Sullivan at autopsy.
25 Could you -- I'm assuming those are the type of photographs

1 that you couldn't even look at?

2 A PROSPECTIVE JUROR: No.

3 MR. STANTON: Your Honor, I would challenge
4 Miss Magnin for cause based upon her response to that
5 question.

6 THE COURT: Mr. Bosler, do you wish to inquire?

7 MR. BOSLER: Just briefly. Miss Magnin -- and
8 I don't mean to put you in a spot -- there's going to be a
9 great deal of physical evidence. Some of it is photographs,
10 some of it is forensic evidence, some of it DNA evidence.
11 The issue is: Can you consider all that evidence before you
12 make your decision as a juror, or are you saying --

13 A PROSPECTIVE JUROR: I can't look at the
14 evidence.

15 THE COURT: You could not hear that evidence?

16 A PROSPECTIVE JUROR: I won't be able to look
17 at that type of evidence. It is too gruesome.

18 MR. BOSLER: If it is presented to you in the
19 form of a photograph or blowup, is it something you could at
20 least consider? I don't mean you have to stare at it or
21 memorize the nature of it or anything like that. But you
22 can at least consider it before you make your decision?

23 A PROSPECTIVE JUROR: No. I couldn't look.

24 MR. BOSLER: You'd rather not look?

25 A PROSPECTIVE JUROR: Right.

1 MR. BOSLER: We'll submit the matter to the
2 Court, Your Honor.

3 THE COURT: I'm going to grant the challenge
4 for cause.

5 Miss Magnin, you will report to the Jury
6 Commissioner.

7 MR. STANTON: Would the Court like me to finish
8 up with the panel?

9 THE COURT: You are on that question. You
10 might as well finish it up.

11 MR. STANTON: Was there somebody else in the
12 second row?

13 In the front row, Miss Morris.

14 A PROSPECTIVE JUROR: Yeah. Same reason for
15 me. I could not handle looking at something like that.

16 MR. STANTON: Couldn't look at it at all?

17 A PROSPECTIVE JUROR: No.

18 MR. STANTON: If there were certain things that
19 were being testified in this particular case, in conjunction
20 with those photographs being displayed, there will be
21 testimony by a doctor, Dr. Ellen Clark, regarding the
22 wounds, the size of the wounds, and as I indicated before,
23 the location of the wounds. Is that something you just
24 couldn't listen to because of your feelings?

25 A PROSPECTIVE JUROR: No. I just can't handle

1 that kind of thing. Like I just lost my father last month,
2 and it's really got an impact on me.

3 MR. STANTON: Your Honor, for the same reason,
4 the State would move relative to Miss Morris.

5 MR. BOSLER: No objection.

6 THE COURT: Miss Morris, you are excused.

7 MR. STANTON: Is there anybody else in the
8 prospective panel that would like to raise a concern
9 regarding my last series of questions?

10 THE COURT: The clerk will call two new jurors
11 to replace.

12 THE CLERK: Pete S. Costello. Dianne M. Smith.

13 THE COURT: Yes, Miss Hodges.

14 A PROSPECTIVE JUROR: I know Dianne.

15 THE COURT: Good.

16 A PROSPECTIVE JUROR: To answer that question.

17 THE COURT: Thank you for letting us know.

18 Now, would you have any problem serving with Miss Smith?

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Miss Smith, would you have any
21 problem serving with Miss Hodges?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: I see you are reviewing the witness
24 list. You can do that.

25 Mr. Costello, you finished the witness

1 questionnaire. Are you acquainted with, related to or know
2 anyone on that witness list?

3 A PROSPECTIVE JUROR: No.

4 THE COURT: You have had a chance to hear all
5 of my questions. Is that correct? You have to answer for
6 the court reporter.

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Which things would you have
9 responded to, if any?

10 A PROSPECTIVE JUROR: I know Reno Police
11 Officer Jeff Hobensack.

12 THE COURT: Is there anything about your
13 relationship with Mr. -- Officer Hobensack that would cause
14 you a problem serving in this case?

15 A PROSPECTIVE JUROR: No.

16 THE COURT: Would you feel your verdict would
17 be impacted because of that relationship?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Go on.

20 A PROSPECTIVE JUROR: And I was a victim of a
21 crime. Auto theft.

22 THE COURT: Auto theft?

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: How long ago was that?

25 A PROSPECTIVE JUROR: Eight years ago.

1 THE COURT: Is there anything about that
2 circumstance that would cause you difficulty serving in this
3 case?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Do you harbor any bias or prejudice
6 for or against the State or the defendant?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Miss Smith, have you had a chance
9 to read the list?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: Are you acquainted with or related
12 to anyone on that list?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: Were you able to hear all of my
15 questions thus far?

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: And would you have responded to any
18 of my questions if you had been sitting up here the whole
19 time?

20 A PROSPECTIVE JUROR: The only one is with the
21 financial. Kim and I work basically for the same company.
22 They have already informed us that they will not pay us for
23 this. I am a widow and by myself. I have no other income
24 except my job.

25 THE COURT: That would be a difficulty for you?

1 A PROSPECTIVE JUROR: It would be.

2 THE COURT: Do you have any vacations saved up?

3 A PROSPECTIVE JUROR: No. I just started there
4 in January. So my vacation wouldn't start until after
5 January 16th of next year.

6 THE COURT: Thank you.

7 Mr. Stanton, you may continue inquiring.

8 MR. STANTON: Thank you. Are there any -- of
9 the two recent additions to the panel, do you have any
10 concern about the questions that the State has asked so far?

11 A PROSPECTIVE JUROR: No.

12 A PROSPECTIVE JUROR: No.

13 MR. STANTON: The next area that I'd like to
14 cover is what we as attorneys or within the judicial system
15 call penalty phase in a murder trial. As it may be
16 abundantly obvious to you at this juncture, that in a case
17 involving the charges of first degree murder, that upon a
18 conviction of that offense, the punishment in that case is
19 given by the jury, and so that role would fall to the jury
20 in this case.

21 In this case there are three sentencing
22 options: the death penalty, life without the possibility of
23 parole, and life with the possibility of parole.

24 The question I'd like to ask you all is: Does
25 any member of the panel have any moral, religious or

1 conscientious objection to what we refer to as the death
2 penalty? Okay. And we start by row.

3 Miss Kelley.

4 A PROSPECTIVE JUROR: Uh-huh. I'm going to get
5 myself in really big trouble. But I put that I strongly
6 agree with it on there hoping that you guys would throw me
7 right out. But I can't play God's part. I can't ever
8 convict anybody to death. That's not my job.

9 MR. STANTON: Okay. So if I understand you
10 correct, Miss Kelley, under no circumstances, no matter what
11 the facts are, no matter what the law is, there is no case,
12 no time, under no circumstances that you would ever feel the
13 death penalty is appropriate?

14 A PROSPECTIVE JUROR: What comes around goes
15 around. He'll get his. I don't want to be part of it.

16 MR. STANTON: Okay. Am I correct then -- I
17 know you kind of put my question or answered my question in
18 your own words. I was wondering if you could just answer it
19 yes or no. Is it true that under no circumstances could you
20 ever impose the death penalty?

21 A PROSPECTIVE JUROR: That's true.

22 MR. STANTON: Your Honor, I would move --

23 A PROSPECTIVE JUROR: Unless you -- okay. Can
24 I change my thing? Because if you mess with my family, then
25 I have a different idea.

1 MR. STANTON: I see. So if it was someone in
2 your family --

3 A PROSPECTIVE JUROR: Can I just go home?
4 Sorry.

5 MR. STANTON: If it is somebody in your family,
6 you would feel differently?

7 A PROSPECTIVE JUROR: Yeah. Because this
8 sounds horrible, and I wish I would have just shut up, but I
9 still don't believe that anybody has the right to sentence
10 anybody to death. It would be harder for me to stick with
11 that belief if it was one of my family, if it was someone
12 close to me like that. I still probably wouldn't want
13 anything to do with it, hoping that what does come around
14 goes around and they get a terrible disease and die from
15 that or something.

16 Do you understand what I'm saying? It's
17 harder -- it would be harder to say that I don't agree with
18 it if it was my family.

19 MR. STANTON: Well, Miss Kelley, let me ask you
20 this. George Sullivan, he isn't related to you, is he?

21 A PROSPECTIVE JUROR: Well, now I feel like a
22 jerk. No, he's not.

23 MR. STANTON: So in this case, in him not being
24 a relative or family member, my question to you is: Is
25 there any circumstances regarding the facts or the law that

1 would permit you to sentence somebody to death as a juror?
2 In this case?

3 A PROSPECTIVE JUROR: I wouldn't do it.

4 MR. STANTON: Your Honor, I renew my motion to
5 excuse Miss Kelley for cause.

6 THE COURT: Do you wish to inquire?

7 MR. BOSLER: Just briefly, Your Honor.

8 THE COURT: Why don't you go ahead and replace
9 Mr. Stanton. We're having a little trouble hearing.

10 MR. GREGORY: Court's indulgence.

11 MR. BOSLER: Apologize. Miss Kelley, of course
12 I'm in an awkward position right now. If I understand you,
13 you are saying that you don't feel it's right for any juror,
14 you, to play God and decide someone's life.

15 A PROSPECTIVE JUROR: Right.

16 MR. BOSLER: If you were told that the law
17 never requires you to impose death, no matter how
18 aggravating, gruesome, you may find the actual murder, the
19 law allows you whatever you find, there's always the option
20 for life without, life with the possibility of parole,
21 knowing that that sentencing scheme exists, and there is no
22 way the law can force you to impose the death penalty, are
23 you at least able to consider the death penalty as one of
24 those options?

25 A PROSPECTIVE JUROR: The death penalty

1 wouldn't be an option for me. The life without possibility
2 of parole would be something to consider. As long as he was
3 put in with a bunch of mean men.

4 This is not easy for me. I got to laugh a
5 little bit because it's totally disturbing. So I'm just
6 letting you know.

7 MR. BOSLER: I hope it is disturbing for
8 anybody. The reason we ask these questions is not because
9 we're assuming we're even going to a penalty phase, but the
10 law requires us to ask questions about your views of
11 penalties, that that reflects on your ability to sit as a
12 juror. And if your statement is no matter how much time he
13 would face on any of the other charges, robbery charges or
14 possibility of life in prison without the possibility of
15 parole and life, dying natural death in prison, if those
16 options were available, you still would not consider the
17 death penalty as an option?

18 A PROSPECTIVE JUROR: I can't. Sorry.

19 MR. BOSLER: No, no need to apologize. I
20 appreciate your honesty. We'll submit the matter, Your
21 Honor.

22 THE COURT: Miss Kelley, you are excused.
23 Motion granted.

24 MR. STANTON: Your Honor, would the Court like
25 the State to finish its questioning?

1 THE COURT: I think if we could finish this
2 question with the panel, then we're going to take our
3 afternoon recess.

4 MR. STANTON: Miss Ashley, am I correct -- does
5 anybody else in the first row?

6 Miss Ashley, am I correct you raised your hand?

7 A PROSPECTIVE JUROR: Yes.

8 MR. STANTON: Could you explain your position
9 regarding that question?

10 A PROSPECTIVE JUROR: I think I feel similarly
11 now that I have really considered this for a week. I don't
12 think it's my place. I could consider life in prison with a
13 possibility of parole or without, but I personally don't --
14 I think that if I was on a jury and everybody else voted
15 yes, this is the thing to do, I would probably be the one
16 saying no, I don't really want to do this.

17 MR. STANTON: Okay. Miss Ashley, as with most
18 if not all these questions, it's very important that you
19 speak from the heart. In fact, that's what the oath that
20 you took to begin with is to speak the truth. So I
21 appreciate that.

22 My question to you is kind of a specific one,
23 if I can maybe focus in and put you on the spot.

24 A PROSPECTIVE JUROR: That's okay.

25 MR. STANTON: Mr. Bosler says, I don't mean to

1 put you on the spot, and us attorneys, we always say what
2 we're just about to tell you we're not going to do. I like
3 to put you on the spot, and that is: Is there no case where
4 you believe that the death penalty, you can vote as an
5 individual juror for the death penalty?

6 A PROSPECTIVE JUROR: I work with clients all
7 of the time who are facing charges, and it's my stance and
8 my profession to keep a neutral position, and it's not my
9 position in that setting to judge if somebody is guilty or
10 if somebody is innocent. I am there merely, you know, as a
11 psychiatric nurse to help them with their issues. Also to
12 help them to get competent to go to trial.

13 But it's hard for me to divorce myself from
14 that because as a person, that's who I am. That's very much
15 the kind of persona I am anyway.

16 I don't feel that it's my -- I always believe
17 there is a reason for behavior. So in facing this as I
18 would in other issues, I would be thinking there is always a
19 reason for behavior, and even though it's not -- I do not
20 condone murder at all, but there was a psychiatric reason.
21 I would think that somebody at that time, you know, was
22 perhaps, you know, temporarily, they were not, you know, all
23 together competent when they committed that offense.

24 MR. STANTON: Okay. Miss Ashley, once again,
25 if I could ask the question again. You gave me some insight

1 into your perspectives, but you haven't answered my question
2 directly.

3 A PROSPECTIVE JUROR: Yeah.

4 MR. STANTON: And I'll reask the question. Is
5 there any case that you believe you could as a juror vote
6 for the imposition of the death penalty?

7 A PROSPECTIVE JUROR: Probably up until this
8 point in time, no.

9 MR. STANTON: And do you think, based upon what
10 you know about this case, not so much the facts of the case,
11 but the fact that it is a first degree murder case, do you
12 have a sense that there's no way in the world you could
13 impose the death penalty in a case like this?

14 A PROSPECTIVE JUROR: I think it's a matter of
15 volition. It is just I don't want to.

16 MR. STANTON: I understand you may not want to.
17 Probably no one does.

18 A PROSPECTIVE JUROR: Yeah.

19 MR. STANTON: I think I could fairly say. But
20 the question is: Can you?

21 A PROSPECTIVE JUROR: I would probably give all
22 my arguments to everybody else as to why psychiatrically
23 maybe this person did what they did or the sociological
24 reason or whatever reason. I would be the person defending
25 this person saying, Hey, you know, that's why we have prison

1 psychiatric units.

2 MR. STANTON: Miss Ashley, if none of that was
3 presented as evidence, in other words, you may take things
4 from your work, but unless it's proven as evidence in this
5 court, you can't consider it. So if there was no evidence
6 that would support your theories of psychiatric forensic
7 examination, would you still be tending to interject your
8 work and your other case studies into this?

9 A PROSPECTIVE JUROR: It would be very
10 difficult not to.

11 MR. STANTON: Okay.

12 A PROSPECTIVE JUROR: But may I ask you a
13 question? I mean, in somebody's case where you are judging
14 whether somebody is going to live or die, you are not going
15 to provide some kind of psychiatric evaluation?

16 MR. STANTON: Ma'am, I can't answer that
17 question for you because we're not at that stage yet.

18 A PROSPECTIVE JUROR: But that would be
19 really -- you know, I'm not trying to be terrible here, but
20 you know, we're talking about somebody's life. I would
21 surely hope that you would consider all of that, not just
22 some of these other things.

23 MR. STANTON: Well, once again, I can't answer
24 the question to you because that part of the trial hasn't
25 occurred. My question to you is: Can you impose the death

1 penalty, yes or no, in any case that you can envision?

2 A PROSPECTIVE JUROR: What if you don't know?

3 THE COURT: Well, you are directing that to me?

4 A PROSPECTIVE JUROR: You know, what if you up
5 until this point in time -- up until this point in time, I
6 have not come across anything where I could feel comfortable
7 saying, you know, kill that person, and be part of a legally
8 sanctioned plot to kill somebody.

9 THE COURT: The question goes to your personal
10 philosophy.

11 A PROSPECTIVE JUROR: Yeah.

12 THE COURT: If you think there may be an
13 opportunity given certain sets of circumstances where you
14 could impose -- you would consider that as an option, or
15 whether or not you would never consider that as an option.
16 There is really no right or wrong answer. I hope you don't
17 feel like there is. It's just whatever the answer is. And
18 if you can't answer it, you can tell Mr. Stanton that you
19 can't answer it.

20 A PROSPECTIVE JUROR: In my personal
21 philosophy, aside from the legal system?

22 THE COURT: Right, we're not asking whether or
23 not you would violate --

24 A PROSPECTIVE JUROR: In my personal
25 philosophy, that would not even be an option, you know. Do

1 you know what I'm saying?

2 MR. STANTON: That wouldn't be an option, being
3 the death penalty; correct?

4 A PROSPECTIVE JUROR: In my personal
5 philosophy, death penalty would not even be an option. It
6 wouldn't even be a consideration.

7 MR. STANTON: What about your role as a juror
8 in this case if you are instructed as a matter of law that
9 that's one of three options for this case?

10 A PROSPECTIVE JUROR: Probably what you would
11 face with me is I would be the last person, if I had to be,
12 saying, Hey, blah, blah, blah, blah; but ultimately if
13 everybody, you know, there was this question on the form
14 that says, Would you finally go with what everybody said,
15 well, if I had to go with what everybody said but at least I
16 made my arguments and I would have a clear conscience, you
17 know, saying hey, you know, I tried to do my best.

18 MR. GREGORY: Your Honor, if I might, I'm
19 having difficulty with Mr. Stanton's statement that that's
20 one of only three options available. You know, I think it's
21 important that the jury understand that there are other
22 charges and that if the defendant is convicted on those
23 other charges, that this Court has the sentencing option
24 that's available to it.

25 THE COURT: Okay. We have all been talking

1 about the most serious offense that this particular
2 defendant is charged with. There are other offenses and we
3 don't know what it will result in the trial and how the jury
4 will reach its verdicts. We want to be sure that the jury
5 doesn't misunderstand their role.

6 The only time the jury determines penalty is if
7 there is a conviction for first degree murder. Other
8 issues, other charges, et cetera, are not within the jury's
9 purview to determine penalty.

10 MR. STANTON: Miss Ashley, if I understand what
11 I think ultimately you expressed regarding the death penalty
12 and your role as a juror in this case is, while it wouldn't
13 be something that you on your own would consider, you would
14 consider the facts and the law as you are instructed, get
15 whatever argument you felt was appropriate, but certainly
16 the death penalty is an option that you ultimately could
17 vote?

18 A PROSPECTIVE JUROR: If I had to, but I would
19 also be arguing with everybody else, you know, before I
20 finally had to, if I had to.

21 MR. STANTON: Well, you never have to. You
22 never have to vote for the death penalty.

23 THE COURT: You are looking at me. He is
24 right, you never have to.

25 MR. STANTON: So I don't want you to put in a

1 hypothetical or something that you are going through by your
2 answer to give you a misconception. The death penalty is
3 something that is never automatic. Never required.

4 So my question to you is a very specific one,
5 Miss Ashley, and that is: Is it a sentencing option that
6 you could fairly consider in a criminal case?

7 A PROSPECTIVE JUROR: Okay. I want to share
8 something with you.

9 THE COURT: Miss Ashley, you have to answer the
10 question.

11 A PROSPECTIVE JUROR: Okay.

12 THE COURT: If you can. If you can't, say, I
13 can't answer it.

14 A PROSPECTIVE JUROR: I don't know if I can
15 really answer that yes or no without sharing some feedback
16 for you on one thing.

17 MR. STANTON: Will it answer my question?

18 A PROSPECTIVE JUROR: It might clarify.

19 MR. STANTON: Well, I think I understand your
20 position, Miss Ashley, as far as the philosophical one. I'm
21 more concerned with just a simple straightforward question
22 to you. Is it fairly an option for you to consider in this
23 case if you sat as a juror in this case?

24 A PROSPECTIVE JUROR: Yeah.

25 MR. STANTON: Is there anybody on the

1 prospective panel -- we have talked about your personal
2 views of the death penalty and a consideration as a
3 potential sentencing in this case. Is there anybody in the
4 panel that would have outside influences that may make that
5 decision uncomfortable for them? Specifically friends,
6 acquaintances or co-workers that would criticize you
7 relative to your verdict one way or another in this case,
8 either the verdicts of death in the penalty phase or life
9 verdict, and that that criticism would weigh on your mind in
10 your deliberations to the extent that you couldn't fairly
11 and impartially deliberate the facts and the law?

12 Is there anybody that has any concerns about
13 friends, acquaintances and criticism of whatever their
14 verdict may be in this case?

15 THE PROSPECTIVE JURY: No.

16 THE COURT: My final question to you all is a
17 process that deals with selecting what we call a foreperson
18 and is the dynamic that none of us here know how it occurs.
19 There is no instruction or rule of law to give you. But
20 that when you go back to deliberate, it is up to you
21 collectively as a jury to select a foreperson, and the
22 foreperson in this case is selected from the 12 that hear
23 and deliberate the case.

24 My question is going to be a question for each
25 one of you, and I'll start with Miss James.

1 Miss James, if you were elected the foreperson
2 in this case, and the facts and the law supported in your
3 mind that the death penalty be the appropriate punishment in
4 this case, could you sign your name as the foreperson to a
5 document that puts that man to death?

6 A PROSPECTIVE JUROR: If the facts and
7 everything, yes.

8 MR. STANTON: Miss Kersbergen?

9 A PROSPECTIVE JUROR: Yes.

10 MR. STANTON: Miss Patch?

11 A PROSPECTIVE JUROR: Yes.

12 MR. STANTON: Miss Ziler.

13 A PROSPECTIVE JUROR: Yes.

14 MR. STANTON: Miss Horner.

15 A PROSPECTIVE JUROR: Yes.

16 MR. STANTON: Miss Grate.

17 A PROSPECTIVE JUROR: Yes.

18 MR. STANTON: Miss Minassian?

19 A PROSPECTIVE JUROR: Yes.

20 MR. STANTON: Mr. Mullins?

21 A PROSPECTIVE JUROR: Yes, sir.

22 MR. STANTON: Mr. Ralston?

23 A PROSPECTIVE JUROR: Yes.

24 MR. STANTON: Miss Ashley?

25 A PROSPECTIVE JUROR: No.

1 MR. STANTON: Your Honor, I'd move to exclude
2 Miss Ashley for cause.
3 THE COURT: Go ahead and finish your inquiry.
4 MR. STANTON: Mr. Sheahan?
5 A PROSPECTIVE JUROR: Yes.
6 MR. STANTON: Miss Callahan?
7 A PROSPECTIVE JUROR: Yes.
8 MR. STANTON: Miss Bell?
9 A PROSPECTIVE JUROR: Yes.
10 MR. STANTON: Mr. Jones?
11 A PROSPECTIVE JUROR: Yes.
12 MR. STANTON: Mr. Grider?
13 A PROSPECTIVE JUROR: Yes.
14 MR. STANTON: Miss Johnson?
15 A PROSPECTIVE JUROR: Yes.
16 MR. STANTON: Miss Hodges?
17 A PROSPECTIVE JUROR: I don't know.
18 MR. STANTON: Miss Scolari?
19 A PROSPECTIVE JUROR: Yes.
20 MR. STANTON: Mr. Butler?
21 A PROSPECTIVE JUROR: Yes.
22 MR. STANTON: Mr. Buck?
23 A PROSPECTIVE JUROR: Yes.
24 MR. STANTON: Mr. Salais?
25 A PROSPECTIVE JUROR: No.

1 MR. STANTON: Miss Kruse?
2 A PROSPECTIVE JUROR: Yes.
3 MR. STANTON: Miss O'Keefe?
4 A PROSPECTIVE JUROR: Yes.
5 MR. STANTON: Mr. Ayers?
6 A PROSPECTIVE JUROR: Yes.
7 MR. STANTON: Mr. Estes?
8 A PROSPECTIVE JUROR: Yes.
9 MR. STANTON: Mr. Tower?
10 A PROSPECTIVE JUROR: Yes.
11 MR. STANTON: Mr. Carmichael?
12 A PROSPECTIVE JUROR: Yes.
13 MR. STANTON: Miss Knight?
14 A PROSPECTIVE JUROR: Yes.
15 MR. STANTON: Miss Petrilak?
16 A PROSPECTIVE JUROR: Yes.
17 MR. STANTON: Mr. Costello?
18 A PROSPECTIVE JUROR: Yes.
19 MR. STANTON: Miss Martin?
20 A PROSPECTIVE JUROR: Yes.
21 MR. STANTON: Mr. Webb?
22 A PROSPECTIVE JUROR: Yes.
23 MR. STANTON: Miss Smith?
24 A PROSPECTIVE JUROR: Yes.
25 MR. STANTON: Miss Frazer?

1 A PROSPECTIVE JUROR: Yes.

2 MR. STANTON: Miss Shively?

3 A PROSPECTIVE JUROR: Yes.

4 MR. STANTON: Your Honor, I believe I'd move
5 for cause with Mr. Salais and Miss Hodges based upon their
6 response when I asked the question.

7 THE COURT: Mr. Bosler?

8 MR. BOSLER: Your Honor, there's nothing in
9 Nevada law -- in fact, the District Attorney indicated,
10 nothing that guides them in their selection of a foreperson.
11 No one says they have to accept the job as a foreperson. So
12 the only foreperson job is to sign the death warrant -- the
13 death verdict form.

14 And so if either of these people decide they
15 don't want to be foreperson, then that alleviates any
16 problem. So although this is kind of a bootstrapping
17 *Weatherspoon* challenge, there is nothing that says people
18 have to be forepeople. For that reason, the challenge
19 should fail.

20 MR. STANTON: Would the Court like me to
21 respond?

22 THE COURT: No. Miss Ashley, you are excused.

23 Mr. Salais, you are excused.

24 We're going to replace some people, but
25 Miss Hodges, you're still crying, and I couldn't really hear

1 your response. I think Mr. Stanton must have been able to
2 hear your response, and the court reporter probably heard
3 it. But I know that you are having difficulty with the
4 case, and originally you started becoming emotional over
5 looking at graphic testimony. But now are you having
6 problems just with the nature of the case?

7 A PROSPECTIVE JUROR: It's just too emotional
8 for me. I mean, like I said earlier, I'm a single parent,
9 and you know, I try to be a good person by going out there,
10 working, making a living, supporting my daughter, this and
11 that. And I never had to do anything like this before.

12 It's very emotional for me. This is very hard.
13 And if I'm doing this now, I have a feeling I'm going to be
14 even worse during the trial.

15 THE COURT: The clerk will call the names of
16 those jurors to replace the jurors that are missing. First
17 juror called will take the chair number 5.

18 THE CLERK: John E. Kennedy. James D.
19 McMorran.

20 THE COURT: That is taking chair 11.

21 THE CLERK: Bruce C. Miller.

22 THE COURT: Taking chair 21.

23 A PROSPECTIVE JUROR: I know him.

24 THE COURT: You know James McMorran? Who did
25 you know?

1 A PROSPECTIVE JUROR: John. We train together.

2 THE COURT: Okay. Mr. Kennedy, you know
3 Miss Grate. Do you have any problem knowing each other?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: Would it cause you any difficulty
6 serving on the same jury?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Miss Grate, would you have any
9 difficulty?

10 A PROSPECTIVE JUROR: No.

11 THE COURT: Mr. Kennedy, have you read the list
12 yet?

13 A PROSPECTIVE JUROR: Yes, ma'am.

14 THE COURT: Are you acquainted with or know
15 anyone on that list?

16 A PROSPECTIVE JUROR: I work for the fire
17 department, so some of these officers' names are real
18 familiar to me. And I do know a lot of police officers in
19 Washoe County.

20 THE COURT: Now, is there anything about your
21 relationship with the police department for being a fire
22 fighter that would cause you difficulty being fair and
23 impartial on this case?

24 A PROSPECTIVE JUROR: No. I would like to
25 bring up, though, that I did attend Officer Sullivan's

1 funeral with the honor guard, but I didn't know Officer
2 Sullivan personally.

3 THE COURT: That was with the fire honor guard?

4 A PROSPECTIVE JUROR: Yeah.

5 THE COURT: Is there anything about the service
6 that would be difficult for you to be fair and impartial?

7 A PROSPECTIVE JUROR: No.

8 THE COURT: Would you feel if you happened to
9 sit on a jury that reached a verdict, particular verdict,
10 that you had to justify that verdict to any of your fellow
11 firemen or police officers that you run into contact with?

12 A PROSPECTIVE JUROR: No.

13 THE COURT: I see you have a list of all the
14 questions.

15 A PROSPECTIVE JUROR: I basically just started
16 writing down officers' names, but I know there are too many
17 of them. I need more paper, I guess. We work together out
18 in the streets.

19 THE COURT: What about the rest of my
20 questions? Would you have wanted to respond affirmatively
21 to any of those questions?

22 A PROSPECTIVE JUROR: No.

23 THE COURT: You never served on a jury before?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: And you haven't been a victim of a

1 crime?

2 A PROSPECTIVE JUROR: No.

3 THE COURT: Thank you. We also have Mr. James
4 McMorran. Have you had an opportunity to review the list?

5 A PROSPECTIVE JUROR: Yes, I have.

6 THE COURT: Are you related to, familiar with
7 or know any people on that list?

8 A PROSPECTIVE JUROR: No, I'm not.

9 THE COURT: Did you keep track of the questions
10 that you might respond to?

11 A PROSPECTIVE JUROR: Yes, I have got a few.

12 THE COURT: Okay.

13 A PROSPECTIVE JUROR: The first one was related
14 to police officers. My brother is a deputy sheriff in
15 Colorado. I have got two brother-in-laws that are
16 correctional officers in California. And I served on a
17 church board a few years ago with Lieutenant Busick from the
18 Washoe County Sheriff's Department.

19 THE COURT: Is there anything about your
20 relationship with -- and family relationships with police
21 officers that would cause you difficulty serving in this
22 case?

23 A PROSPECTIVE JUROR: No.

24 THE COURT: Would you be able to afford both
25 sides, the State and the defense, equal opportunity, and

1 afford them both your impartial analysis of the evidence?

2 A PROSPECTIVE JUROR: Yes.

3 THE COURT: Any other questions?

4 A PROSPECTIVE JUROR: There's a question about
5 testifying at trial or something. I testify routinely for
6 the Power Company, before the Public Utilities Commission.
7 I don't know if that counts.

8 THE COURT: It may not be quite exactly the
9 same, but it is similar to being a witness. Would you feel
10 compelled to put your own experiences into the witness box
11 as people are testifying?

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Anything else?

14 A PROSPECTIVE JUROR: Crime victim, I have had
15 my car broke into about 15 years ago in L.A. County.

16 THE COURT: Did it impact your feelings with
17 regard to law enforcement or criminal defendants?

18 A PROSPECTIVE JUROR: No, it doesn't.

19 That was really about it.

20 THE COURT: Okay. And then I think I also have
21 Mr. Miller; correct?

22 A PROSPECTIVE JUROR: Yes, Your Honor.

23 THE COURT: Did you get a chance to read the
24 witness list?

25 A PROSPECTIVE JUROR: Yes, Your Honor. I don't

1 know anybody.

2 THE COURT: Were you able to keep track of the
3 questions you would respond to?

4 A PROSPECTIVE JUROR: Yes. I have a friend
5 that is a police officer, a guy I went to high school with,
6 but that wouldn't affect me.

7 And I'm also friends with Dave Vial who works
8 in the District Attorney's Office.

9 THE COURT: I am sorry, a who?

10 A PROSPECTIVE JUROR: Dave Vial.

11 THE COURT: And do you talk about his work with
12 him?

13 A PROSPECTIVE JUROR: I haven't seen him in a
14 few months, and it's very social. We don't really talk
15 about work.

16 THE COURT: Would you feel that you would have
17 to justify any particular result in this case to your
18 friend?

19 A PROSPECTIVE JUROR: No, Your Honor.

20 THE COURT: Do you have anything else on your
21 list?

22 A PROSPECTIVE JUROR: No, those were the only
23 things. I mean, other than having my bike stolen when I was
24 in college, I haven't been a victim of crime.

25 THE COURT: There is no problem carrying

1 forward with regard to that?

2 A PROSPECTIVE JUROR: No, Your Honor.

3 THE COURT: What about any questions that
4 Mr. Stanton may have asked any of you? Do any of you
5 have -- would you want to respond affirmatively to any of
6 his concerns? I'm going to allow him to inquire further of
7 you in a few minutes, but if you have anything you want to
8 bring up right now, do it.

9 The three of you have anything? Okay.

10 Mr. Stanton, can you get through it quickly?

11 MR. STANTON: Yes.

12 THE COURT: Go ahead. Then we'll be able to
13 have the jury panel as soon as we take our break.

14 MR. STANTON: I have a couple questions that
15 I'd like to follow up on based upon the comments to your
16 questionnaire. You filled out a questionnaire for most of
17 you sometime maybe back in January and April and came in for
18 what we refer to as a supplemental questionnaire.

19 Miss Callahan, can you tell me, what attorneys
20 did you work for prior to your current?

21 A PROSPECTIVE JUROR: I'm not currently
22 working. I worked for Woodburn & Wedge.

23 MR. STANTON: Primarily civil work?

24 A PROSPECTIVE JUROR: Yeah.

25 MR. STANTON: Do any criminal work at all?

1 A PROSPECTIVE JUROR: Not at all. And then I
2 did work for Ron Logar just last year, and Ken Howard is in
3 the office, too.

4 MR. STANTON: So a little bit of --

5 A PROSPECTIVE JUROR: Just hearing what's going
6 on. But I didn't do any work with him.

7 MR. STANTON: Is that primarily for Ken Howard
8 as a judge over in muni court?

9 A PROSPECTIVE JUROR: It was before he really
10 started working there.

11 MR. STANTON: And, Miss Knight, in your initial
12 questionnaire, you wrote on the back one sentence of a line
13 about judgment.

14 A PROSPECTIVE JUROR: Yes.

15 MR. STANTON: Can you help me, can you explain
16 that a little bit more, what you meant by that comment?

17 A PROSPECTIVE JUROR: Yes. I felt that I
18 personally could not judge a person on their guilt.
19 However, I kind of reconsidered because I thought about this
20 and realizing that I am going to be with people present, I
21 was just going from kind of a general statement, but what
22 the presentation is and realized that without all of us
23 looking at the evidence, we'd be in a lot of trouble. And I
24 realized that I'm not really judging the person anyway.
25 It's not me, Marria. That we're doing it, we're looking at

1 the evidence.

2 I still don't call it judgment. And I realized
3 that it's just a consequence. It's cause, cause and effect.
4 You do this, this is what happens. And so I really kind of
5 had to reconsider that it is not really judgment, it is a
6 consequence, though, and yes, I could be a part of
7 consequence for what evidence shows.

8 MR. STANTON: Has been presented to you?

9 A PROSPECTIVE JUROR: Yes.

10 MR. STANTON: Miss Howard.

11 MR. BOSLER: At this point, I don't know if the
12 Court wants to interject an objection on its own part, but
13 it is improper for Mr. Stanton or me to argue that it is
14 their responsibility to impose something less than death.
15 It isn't the system, it isn't a consequence. Anything that
16 minimizes the jury's realization of what they will do, is
17 sentence someone to death, would be improper.

18 So I don't know if this is the idea that the
19 juror has. I think the Court should probably correct that
20 misconception at this point.

21 THE COURT: I didn't take it that way. But I
22 didn't even take the question with regard to penalty. I
23 thought it was more with regard to guilt or innocence from
24 her questionnaire.

25 Mrs. Knight, with regard to serving on the

1 jury, you had initially said something about not being able
2 to sit on the jury.

3 A PROSPECTIVE JUROR: No, to judge.

4 THE COURT: To judge. Are you telling us now
5 that a determination as to the facts as I have given you
6 instruction on would not in your mind be judging? Is that
7 what you are telling me?

8 A PROSPECTIVE JUROR: Right. Right. Maybe
9 it's just terminology. But I just kind of did a lot of
10 thinking and realized that that's not exactly what I meant.

11 THE COURT: Now, in this particular case, if
12 the jury determination is one of guilt in first degree, then
13 the next phase of the trial will take place, which is a
14 determination by the jury of the appropriate penalty to be
15 imposed.

16 A PROSPECTIVE JUROR: Right.

17 THE COURT: Now, Mr. Bosler thought perhaps you
18 misunderstood and thought you had to make a particular
19 result with regard to the penalty, that if you sat on the
20 jury, you only could do one thing. Do you feel that you
21 would be able to consider a potential penalty, all potential
22 penalties, and reach a decision as to a recommendation and a
23 decision to the Court as to the potential penalty if you sat
24 on this kind of a jury but returned that kind of verdict?

25 A PROSPECTIVE JUROR: Yes, Your Honor.

1 THE COURT: So I think that clears it up, and
2 then I'll let you, Mr. Bosler, inquire further in your
3 questions, because I think we're only dealing with an issue
4 of judgment at this point.

5 MR. STANTON: Miss Shively, in your
6 questionnaire you talked about beyond a shadow of a doubt.
7 You have heard the Judge's instruction on reasonable doubt.
8 Do you have any difficulty with that instruction of law as
9 she read it to you this afternoon?

10 A PROSPECTIVE JUROR: No.

11 MR. STANTON: Mr. Kennedy, my question to you,
12 did you hear my questions regarding the foreperson being
13 selected as foreperson?

14 A PROSPECTIVE JUROR: Yes.

15 MR. STANTON: Sir, if you were selected as a
16 foreperson in this case and the facts and the law supported
17 a verdict of death, could you sign that verdict form and
18 sentence Mr. Vanisi to death?

19 A PROSPECTIVE JUROR: Yes.

20 MR. STANTON: Mr. McMorran, that same question
21 to you, sir.

22 A PROSPECTIVE JUROR: Yes.

23 MR. BOSLER: Your Honor, I don't mean to be
24 difficult. I'm going to impose an objection here. We had
25 an earlier discussion about whether it is proper to make a

1 juror commit to any particular position. If it's wrong for
2 me, it should be wrong for the State, and I'll note an
3 objection.

4 MR. STANTON: Your Honor, the question is not
5 to commit any juror here or potential juror to a potential
6 position. Merely whether they could, under the appropriate
7 facts and instructions of law, do a specific role as the
8 foreperson.

9 THE COURT: Right. I'm not exactly sure what
10 you are thinking of, Mr. Bosler. If you are talking about
11 that series of eight questions or so for each juror that I
12 said you couldn't ask, that still stands. If you have a
13 similar one question for each juror, like Mr. Stanton is
14 using, we can certainly talk about that.

15 MR. BOSLER: I note an objection for the
16 record, Your Honor.

17 MR. STANTON: Mr. Miller, finally, to you, sir,
18 do you recall my question?

19 A PROSPECTIVE JUROR: Can you restate it so I
20 don't make sure I reverse it?

21 MR. STANTON: Certainly. There is a process of
22 which none of us are really involved in, and that is the
23 jury comes back to deliberate, to determine which of their
24 12 is the foreperson.

25 If you were elected as a foreperson and if the

1 law and the facts supported in your mind the decision that
2 the death penalty was appropriate, could you indeed sign
3 that form and sentence Mr. Vanisi to death?

4 A PROSPECTIVE JUROR: Yes.

5 MR. STANTON: Thank you. Thank you, Your
6 Honor.

7 THE COURT: Okay. Ladies and gentlemen, we're
8 going to take our afternoon recess. As you have noticed, it
9 takes us about 20 minutes at best to get in and out of here.
10 You will be able to go out onto the floor. There is public
11 restrooms.

12 Can we open the jury room in Department 3 if we
13 need additional restrooms?

14 DEPUTY BROKAW: I'll check on that, Your Honor,
15 but they were having a hearing earlier.

16 THE COURT: I know it is going to be quick and
17 hard, but I ask that you stay on this floor. I don't really
18 want you running around the courthouse. We'll run more risk
19 of losing you, and as you can see, every minute counts.

20 Yes, Mr. Ralston.

21 A PROSPECTIVE JUROR: Can we leave some stuff
22 here this time?

23 THE COURT: Those of you in the 36 here, just
24 leave your stuff. Nobody is going to disturb them. You can
25 leave them on your chair. Feel comfortable to do that.

1 In the audience, there's -- I can't guarantee
2 everybody would sit in the exact same spot. So maybe you
3 better take your things a little bit with you. But the
4 staff will be here if you feel comfortable leaving it.
5 Nobody will walk out the door with your things.

6 During this break -- yes.

7 A PROSPECTIVE JUROR: Is there anywhere we can
8 smoke up on this top floor?

9 A PROSPECTIVE JUROR: Isn't there a balcony?
10 There used to be a balcony we could smoke on.

11 THE COURT: The smoker's balcony has been
12 closed.

13 A PROSPECTIVE JUROR: Oh, man.

14 A PROSPECTIVE JUROR: Can we take the elevator
15 down to outside?

16 THE COURT: What we'll do is we will have
17 one -- Mr. Anderson, go ahead and stand up, get by the door,
18 go ahead and go on outside.

19 If you want to go outside, Mr. Anderson will
20 take you outside for a smoke. Please stay together so that
21 nobody will be talking about the case and disturbing you,
22 and he will stay with you. But he will get you out to have
23 a cigarette.

24 Go ahead and go on over across the street or
25 down out through the parking garage, either place with the

1 jury panel. Just away from the entrance.

2 Now, during this break, remember, we're going
3 to be back here in 15 minutes. So if you look at my clock,
4 it is just a few minutes after 4:15. During the break, it
5 is your duty not to discuss among yourselves or with anyone
6 else any matter having to do with this case.

7 It is your further duty not to form or express
8 any opinion regarding the guilt or innocence of the
9 defendant until the case has been finally submitted to you
10 for decision. You are not to read, look at or view in any
11 manner any news media accounts relating to this case should
12 there be any. And should any person attempt to discuss this
13 case with you, or in any manner attempt to influence you
14 with regard to it, you are to report such an occurrence to
15 the bailiff immediately, and he in turn will report it to
16 me.

17 Court is in recess.

18 (Recess taken at 4:06 p.m.)

19
20
21
22
23
24
25

RENO, NEVADA, MONDAY, SEPTEMBER 20, 1999, 4:24 P.M.

-o0o-

(Whereupon, the following proceedings were held in open court, in the presence of the jury panel.)

THE COURT: Deputy Brokaw, Mr. Anderson, do you feel you kept your jury panel together enough that we can go forward without calling the roll?

DEPUTY BROKAW: Yes, Your Honor.

THE COURT: Okay. Counsel stipulate to the presence at least of the 36 that you can see?

MR. STANTON: Yes, Your Honor, State does.

MR. BOSLER: Yes, Your Honor.

THE COURT: Are you comfortable going forward without calling the roll?

MR. BOSLER: Yes, Your Honor.

THE COURT: Proceed, Mr. Bosler.

MR. BOSLER: Ladies and gentlemen, my name is Jeremy Bosler. We met earlier. Siaosi Vanisi, Stephen Gregory.

I hope you understand that we appreciate the patience you have shown so far. I know some people have had a little difficulty with the pace at which things go, but hopefully everybody can understand this is not something to be pushed into, nothing to be taken lightly or given short

SIERRA NEVADA REPORTERS (775) 329-6560

1 trip.

2 Hopefully you will still extend to me the same
3 patience and courtesy you have shown my opposing counsel,
4 Mr. Stanton, and with that I'll begin.

5 Now, some of the questions I'm going to ask
6 you, a lot of people have opinions about penalties, what
7 type of situation would warrant a sentence of death. What I
8 would like you to understand is this is the only time I'm
9 going to ask you these questions. I mean, we're talking
10 about the first degree murder, a murder that is
11 premeditated, deliberate, unlawful, willful murder. So
12 we're not talking about self-defense murders, justifiable
13 homicide, accidental killings. My questions to you are
14 going to be phrased in the issue or in the context of first
15 degree murder.

16 And I'd like to step back a second, and it's a
17 little bit awkward for me, I would imagine for any attorney,
18 to stand here and ask you about what penalties you would
19 impose upon any certain set of facts, because we're really
20 way ahead -- way behind that type of situation ever
21 happening. The law requires counsel, the Court, the State,
22 to ask you your opinions about penalties not because any of
23 us presumes we have reached that point, but in order for you
24 to qualify yourselves for a qualified juror, your views on
25 penalties have to be made part of the record; and the law

1 says those views affect your ability to even sit during the
2 guilt-innocence phase of any trial. So hopefully you can
3 understand that and see that this is an awkward position
4 that everybody is placed in for us to ask these questions.

5 I really have some general questions and some
6 specific questions. If I could just start with this issue.

7 Miss Hodges, I know that you are having some
8 difficulty with the gravity of the situation, for want of a
9 better word. Would you agree with me that it is important
10 for a person to have a fair trial?

11 A PROSPECTIVE JUROR: Yes.

12 MR. BOSLER: Part of that fair trial is having
13 a fair cross-section of your community sit as your juror?

14 A PROSPECTIVE JUROR: Yes.

15 MR. BOSLER: Do you think it would be fair for
16 anybody to go to trial, have a jury that was made up of
17 everybody who strongly felt the death penalty was
18 appropriate for all murders and thought that they would sign
19 one death verdict form before the trial started? Would that
20 be fair to a defendant to have a situation like that?

21 A PROSPECTIVE JUROR: I don't think I
22 understand.

23 MR. BOSLER: I know that you seem to have some
24 trouble with the issue of sentencing someone to death.
25 Would that be accurate?

1 A PROSPECTIVE JUROR: When I answered the
2 questionnaire last Monday, I answered the ones yes, but
3 under certain circumstances.

4 MR. BOSLER: I think you said you favored the
5 death penalty.

6 A PROSPECTIVE JUROR: Yeah. I mean I do. But
7 I have never had to really think about it and actually go
8 through anything like this. So I feel like I'm kind of
9 like, my emotions are telling me that maybe I can't.

10 MR. BOSLER: And I appreciate your honesty. Do
11 you think it would be fair for a defendant to sit in front
12 of a jury that didn't look at this case emotionally and had
13 no reservations about imposing the death penalty, the people
14 of the exact opposite view? Would that be a fair situation?

15 MR. STANTON: Your Honor, I object. The
16 question is improper. The question by counsel can elicit
17 this juror's views, but not this juror's views about what
18 she would think is a fair panel. That is what this process
19 is all about.

20 MR. BOSLER: I disagree, Your Honor. Her views
21 of her role as a juror certainly relate to her ability to
22 serve in this trial.

23 MR. STANTON: And I have no objection to
24 counsel asking questions along those lines. But that is not
25 the question he posed. He is asking a question about

1 whether or not this jury feels about a panel sitting in this
2 case, not this individual juror's views.

3 THE COURT: I'm confused by your question. I'm
4 sorry. I don't see where you're going with it. I think the
5 juror is a little confused with the question also. If your
6 intent is to ask her how she feels, what her position is,
7 get directly to that.

8 She hasn't said she can or cannot feel
9 comfortable with signing a verdict. She said she didn't
10 know. So I don't think she's said one way or the other with
11 that question, if that's what you're asking with regard to
12 Mr. Stanton's question.

13 MR. BOSLER: Perhaps I can present it this way.

14 What type of person do you think it would
15 require to be a fair person in a death penalty case? What
16 type of qualities would a person have to have to be a fair
17 person in a death penalty case?

18 A PROSPECTIVE JUROR: Somebody that won't get
19 emotional of life.

20 MR. BOSLER: If I could. Miss Grate, any ideas
21 on your part, what type of qualities a person should have to
22 serve fairly on a death penalty case?

23 A PROSPECTIVE JUROR: They should be impartial.
24 They should be someone who probably respects the law, and
25 someone who doesn't sway either way, isn't like biased or

1 prejudiced.

2 MR. BOSLER: And why do you think impartiality
3 is an important issue?

4 A PROSPECTIVE JUROR: Impartiality?

5 MR. BOSLER: Yes.

6 A PROSPECTIVE JUROR: Because that makes for a
7 fair trial.

8 MR. BOSLER: And what type of people do you
9 think would be impartial?

10 A PROSPECTIVE JUROR: I don't know. Anybody.

11 MR. BOSLER: People whose family members are
12 police officers?

13 A PROSPECTIVE JUROR: Yeah.

14 MR. BOSLER: Why do you think it would be more
15 difficult for them to serve on this type of jury?

16 A PROSPECTIVE JUROR: Someone who has family
17 members as police officers?

18 MR. BOSLER: Yes.

19 A PROSPECTIVE JUROR: The specific case is
20 because the police officer is the one who was murdered would
21 be the only one thing that would taint that view.

22 MR. BOSLER: And this is kind of your own
23 situation, roughly?

24 A PROSPECTIVE JUROR: Uh-huh.

25 MR. BOSLER: I know that you had discussions

1 with the Court, with the State, even with me, earlier. We
2 talked a lot about impartiality, whether you thought you
3 could be fair, and I think you, to be honest, you have said
4 that you are not quite sure whether you can be fair.

5 A PROSPECTIVE JUROR: But I would try.

6 MR. BOSLER: You would try.

7 Your fairness as it relates to this case again,
8 to go back to what I said earlier, extends to your ability
9 to judge a penalty fairly. Do you understand that?

10 A PROSPECTIVE JUROR: Uh-huh.

11 MR. BOSLER: It would be your responsibility to
12 decide whether someone lives or dies. In your specific
13 situation, with the brother-in-law almost being hired as a
14 UNR police officer, Mr. Sullivan being a UNR police officer,
15 if you were to find that a person was guilty of first degree
16 murder and the death of Mr. Sullivan, a police officer,
17 would the fact your brother-in-law is a -- was in this
18 situation, would that affect your ability to decide what
19 penalty was appropriate?

20 A PROSPECTIVE JUROR: I would try not to let
21 it. It may sway me as to making a decision. It might put
22 me in a certain -- more towards one side than another.

23 MR. BOSLER: Do you feel it would put you more
24 towards the side of arguing for death for a person?

25 A PROSPECTIVE JUROR: Yeah.

1 MR. BOSLER: Even though the Court tells you
2 you need to consider a lot of things, really your
3 circumstances would put you towards death?

4 A PROSPECTIVE JUROR: I don't know the whole
5 picture, but probably.

6 MR. BOSLER: And I get the impressions it is
7 something you have thought about since --

8 A PROSPECTIVE JUROR: Pardon me?

9 MR. BOSLER: I get the impression this is
10 something you thought about since we last were here a week
11 ago?

12 A PROSPECTIVE JUROR: Uh-huh.

13 MR. BOSLER: Does the fact that the Court may
14 instruct you that you need to consider multiple penalties
15 really change the way you feel inside, that you are being
16 pushed towards death because of your circumstances?

17 A PROSPECTIVE JUROR: Well, it doesn't -- I
18 don't think it changes the way I feel, but I'm being more
19 impartial the longer I sit here. The longer I weigh things
20 and see the full picture.

21 MR. BOSLER: Why do you say that? I'm
22 interested.

23 A PROSPECTIVE JUROR: Just because I'm starting
24 to see a little bit more. I mean, we all come in here not
25 knowing too much, and then the more you see, you don't know.

1 MR. BOSLER: If I could, Mr. Tower, you
2 indicated you are an accountant with the Reno Gazette.

3 A PROSPECTIVE JUROR: Yes.

4 MR. BOSLER: You indicated that you were the, I
5 guess the victim of an armed robbery, you tried to stop a
6 shoplifter.

7 A PROSPECTIVE JUROR: There was two separate
8 instances. I worked for a truck store down in Los Angeles,
9 and their cashier called out the code for robbery. I went
10 running up, and she said he had already left the building,
11 which I went out to chase him, and he turned around and shot
12 at us.

13 MR. BOSLER: So you were actually shot at.

14 A PROSPECTIVE JUROR: Yes.

15 MR. BOSLER: The police I would think came to
16 help investigate it?

17 A PROSPECTIVE JUROR: Yes.

18 MR. BOSLER: The reason I asked that is because
19 on your questionnaire, I don't get the impression that you
20 had a different occupation. In fact, the questionnaire does
21 not allow for past employers. And again, I was hoping that
22 you and the Court would be patient with me.

23 If you could, I'd like to start at the top to
24 see if you have changed occupations in the last five years
25 and if you could tell me a little bit more about yourself

1 before we undertake this big proceeding. If the Court will
2 allow that.

3 I'll start with Miss James.

4 MR. STANTON: Your Honor, could counsel
5 approach?

6 (Whereupon, a bench conference was held among
7 Court and counsel as follows.)

8 MR. STANTON: Your Honor, I'm going to object
9 to the question. Number one, it's not specific. It's
10 compound in nature, and he's asking about the change of
11 employment in their past five years.

12 I think in general, a question can be is if
13 they have changed their employment since they have filled
14 out their questionnaire, and certainly the question to tell
15 Mr. Bosler a little bit more about themselves is
16 inappropriate.

17 I'd say approximately 50 percent of
18 Mr. Bosler's questions so far are philosophical ones that
19 aren't designed to elicit any information as to whether or
20 not the person can sit as a juror. He's asking
21 philosophical ones. And I was about ready to ask a side bar
22 to interpose an objection that he is trying to indoctrinate
23 the jury to the position of his case rather than asking
24 appropriate voir dire questions.

25 THE COURT: Is it your desire to ask every

1 juror to say what their occupation has been in the last five
2 years and tell you about themselves?

3 MR. BOSLER: If they have changed their
4 occupation, and what it was. That in the sense is telling
5 me about themselves. Because we know from this juror,
6 although he appears to be an accountant on his
7 questionnaire, he had this experience essentially quasi law
8 enforcement.

9 THE COURT: I think that's kind of stretching
10 his experience with the shoplifting 12 years ago. We
11 wouldn't even get a response out of him.

12 I'll let you ask a question if anyone has
13 changed their occupation in the last five years, and then
14 you can follow up with a question as to what their
15 occupation was previously.

16 But not to tell me a little bit more about
17 yourself question. Let's get into some specifics.

18 (Whereupon, the following proceedings were held
19 in open court, in the presence of the jury
panel.)

20 MR. BOSLER: For the sake of time, Mr. Tower
21 indicated his employment wasn't on his questionnaire. Is
22 there anybody else on the jury panel who has changed
23 occupations in the last five years? Quite a few people.

24 THE COURT: Not jobs, occupations. About 12.

25 MR. BOSLER: About 12 people. I'll start at

1 the top and work my way cross.

2 Miss Kersbergen.

3 A PROSPECTIVE JUROR: I went from a housewife
4 to teacher's aid.

5 MR. BOSLER: To teacher's aid?

6 A PROSPECTIVE JUROR: Yeah.

7 MR. BOSLER: How long have you been a teacher's
8 aid.

9 THE COURT: That is on the questionnaire. Her
10 answer on the questionnaire was as a teacher's aid.

11 MR. BOSLER: When did you make this change?

12 A PROSPECTIVE JUROR: About two years ago.

13 THE COURT: I think the significance is the
14 different occupation, not how long they have been at the
15 occupation.

16 MR. BOSLER: I disagree. If someone changed --

17 THE COURT: I just decided.

18 MR. BOSLER: The Court is not going to allow me
19 to ask when they changed?

20 THE COURT: Exactly.

21 MR. BOSLER: Any particular reason?

22 THE COURT: I'll be glad to share it with you
23 but let's get through this panel for now.

24 MR. BOSLER: Okay, Your Honor.

25 Miss Patch.

1 A PROSPECTIVE JUROR: Yeah. I changed two job
2 changes in the last year.

3 MR. BOSLER: Don't tell me when it happened.
4 Just the change.

5 A PROSPECTIVE JUROR: What I did?

6 MR. BOSLER: Yes.

7 A PROSPECTIVE JUROR: Both of them?

8 MR. BOSLER: Yes.

9 A PROSPECTIVE JUROR: The City of Reno to
10 Washoe County to federal jobs.

11 MR. BOSLER: To federal jobs?

12 A PROSPECTIVE JUROR: To a federal government
13 job.

14 THE COURT: Mr. Bosler is looking for
15 occupation. You are a residential advisor now?

16 A PROSPECTIVE JUROR: Yes.

17 THE COURT: What did you previously do?

18 A PROSPECTIVE JUROR: Before that I was a
19 Sheriff's support specialist.

20 THE COURT: That is what he needs to find out
21 about.

22 And before that?

23 A PROSPECTIVE JUROR: Animal Control, City of
24 Reno.

25 THE COURT: Were you a peace officer in those

1 positions?

2 A PROSPECTIVE JUROR: I was an animal control
3 officer.

4 MR. BOSLER: A what?

5 A PROSPECTIVE JUROR: Animal control officer.
6 For the Reno PD. Prior to the Sheriff's Department.

7 MR. BOSLER: Am I allowed to ask her how long
8 she had that job?

9 THE COURT: Sure.

10 MR. BOSLER: Thank you, Your Honor.

11 If you could, Miss Patch, how long were you
12 involved in this Reno Police Department function?

13 A PROSPECTIVE JUROR: Eight and-a-half years.

14 MR. BOSLER: I appreciate your telling me that.
15 I'll come back to that.

16 Miss Horner.

17 A PROSPECTIVE JUROR: I was a waitress, and now
18 I work in a warehouse.

19 MR. BOSLER: Thank you. And Miss Grate.

20 A PROSPECTIVE JUROR: I was a medical
21 secretary. Now I'm a personal trainer.

22 MR. BOSLER: What type of secretary?

23 A PROSPECTIVE JUROR: Medical.

24 MR. BOSLER: And anybody else in the last row?

25 A PROSPECTIVE JUROR: I went from warehousing

1 distribution into the gaming industry.

2 MR. BOSLER: All right. And Miss Minassian?

3 No.

4 Second row?

5 A PROSPECTIVE JUROR: Mine is merely company
6 change. Same profession.

7 MR. BOSLER: Same job, title, description?

8 A PROSPECTIVE JUROR: I was a general
9 accounting manager, went to controller, and then went back
10 to general accounting manager.

11 MR. BOSLER: Anybody else in the second row?

12 Yes, Miss Johnson.

13 A PROSPECTIVE JUROR: Cashier. I was there for
14 two years. Went to a housewife and to cleaning agency.

15 MR. BOSLER: That's where you work now?

16 A PROSPECTIVE JUROR: Yes.

17 MR. BOSLER: Third row. Anybody in the third
18 row?

19 Miss Kruse?

20 A PROSPECTIVE JUROR: Kruse. Assistant to
21 registered nurse.

22 MR. BOSLER: Step up?

23 A PROSPECTIVE JUROR: I hope but I haven't
24 figured it out yet.

25 MR. BOSLER: Mr. Miller.

1 A PROSPECTIVE JUROR: Went from being a
2 military aviator to an airline pilot.

3 MR. BOSLER: How long were you in the military?

4 A PROSPECTIVE JUROR: Eleven years.

5 MR. BOSLER: Is that where you became a pilot?

6 A PROSPECTIVE JUROR: I actually had my pilot's
7 license prior to that. But that is where the majority of my
8 training has been.

9 MR. BOSLER: Anybody else in the third row?

10 Miss Hodges.

11 A PROSPECTIVE JUROR: I worked in the bank, and
12 then now I work in a dealership, car dealership.

13 MR. BOSLER: Local bank?

14 A PROSPECTIVE JUROR: Yes.

15 MR. BOSLER: And the fourth row? Mr. Costello.

16 A PROSPECTIVE JUROR: I worked as a musician,
17 to technical director at the Eldorado.

18 MR. BOSLER: How long were you a musician?

19 A PROSPECTIVE JUROR: Fifteen years.

20 MR. BOSLER: And Miss Martin?

21 A PROSPECTIVE JUROR: I was customer service,
22 and now I'm a delivery driver for wholesale magazines and
23 books.

24 MR. BOSLER: And this last row, anybody change?

25 Miss Frazer.

1 A PROSPECTIVE JUROR: I worked for a title
2 company, then I was a housewife, and then back to title
3 company.

4 MR. BOSLER: And now what title company?

5 A PROSPECTIVE JUROR: Stewart Title.

6 A PROSPECTIVE JUROR: I was a communications
7 manager, and now I'm a receptionist.

8 MR. BOSLER: Are these both at Reno Mazda?

9 A PROSPECTIVE JUROR: No, the one,
10 receptionist, is at Reno Mazda.

11 MR. BOSLER: Communications?

12 A PROSPECTIVE JUROR: At the Flamingo Hilton.

13 THE COURT: Miss James also is raising her
14 hand.

15 A PROSPECTIVE JUROR: I don't know if you need
16 to know. I went from one type of driving to another type of
17 driving.

18 MR. BOSLER: You drive for UPS right now?

19 A PROSPECTIVE JUROR: Yes. And I was for UPS
20 before, but they trained me on a different vehicle.

21 MR. BOSLER: I appreciate you telling me that.

22 I want to ask particular people questions, and
23 if there is a response or something you would like to say to
24 add to that or you think it's important for the Court to
25 know, please raise your hand, and I'll try to keep track of

1 what everybody is saying.

2 Miss Ziler, you indicate on your questionnaire
3 that you strongly favor the death penalty.

4 A PROSPECTIVE JUROR: Yes.

5 MR. BOSLER: Can you tell me why you strongly
6 favor the death penalty?

7 A PROSPECTIVE JUROR: I guess it's an eye for
8 an eye, tooth for a tooth.

9 MR. BOSLER: All right. Is there any other
10 reasons? That is kind of like a revenge type.

11 A PROSPECTIVE JUROR: I guess it is, if you
12 stop and think about it.

13 MR. BOSLER: Is there any other reasons you
14 support, strongly support the death penalty?

15 A PROSPECTIVE JUROR: I don't think so. Not
16 off the top of my head.

17 MR. BOSLER: Have you thought about this
18 opinion for a long time?

19 A PROSPECTIVE JUROR: No, it is not something I
20 came to over night.

21 MR. BOSLER: How long, if you could?

22 A PROSPECTIVE JUROR: Years.

23 MR. BOSLER: Any particular event that caused
24 you to feel this way?

25 A PROSPECTIVE JUROR: Oh, murders, robberies,

1 you name it. Just got fed up with hearing it.

2 MR. BOSLER: So things you hear in the news?

3 A PROSPECTIVE JUROR: Yes.

4 MR. BOSLER: And no particular event do you
5 think that's --

6 A PROSPECTIVE JUROR: No, just the buildup of
7 everything. I transferred up from California, and there was
8 a lot of that. I don't even watch the news if I can help
9 it. It's too depressing and too disgusting.

10 MR. BOSLER: Do you read the paper?

11 A PROSPECTIVE JUROR: No.

12 MR. BOSLER: If you could, you strongly favor
13 the death penalty, and it is kind of a revenge or extracting
14 a common punishment, I guess. Can you think of a first
15 degree murder case where you would think the death penalty
16 is inappropriate?

17 A PROSPECTIVE JUROR: Yes.

18 MR. BOSLER: What type of case is that?

19 A PROSPECTIVE JUROR: If I don't think -- well,
20 now. If I felt it were premeditated, then yes, I would be
21 in favor of the death penalty. If I did not feel it was
22 premeditated, then I wouldn't necessarily go for the death
23 penalty.

24 MR. BOSLER: I think I understand. If you were
25 told that if a murder is premeditated, it is first degree

1 murder, that gets you right back to the same issue. If it
2 is a premeditated first degree murder, can you think of a
3 situation where you wouldn't say the death penalty is
4 deserving?

5 A PROSPECTIVE JUROR: Now manslaughter is
6 accidental; right? That is not a premeditated?

7 MR. BOSLER: Well, there are two kinds of
8 manslaughter. Neither of them is murder. There is murder
9 first, second, and then the manslaughters. Manslaughter is
10 a lesser offense as far as the killing of a person.

11 A PROSPECTIVE JUROR: If it were an accident,
12 it was not premeditated, that's like extenuating
13 circumstances, and that wouldn't necessarily be revenge
14 factor there.

15 MR. BOSLER: I think I understand that if it
16 was a manslaughter case, you wouldn't think the death
17 penalty was appropriate.

18 A PROSPECTIVE JUROR: Probably not. Not
19 knowing the actual circumstances, it's hard to give you a
20 definitive answer one way or the other.

21 MR. BOSLER: I'm just asking you to give me a
22 little bit more idea of how strong this belief in the death
23 penalty is in your mind.

24 If I were to tell you that if it was a
25 manslaughter case, you wouldn't have a choice of the death

1 penalty because the law only allows what they call a term of
2 years for manslaughter. So that is not an issue. If this
3 was a first degree murder case, premeditated, deliberate,
4 willful, unlawful, all those legal terms in a first degree
5 murder case, is there a situation where you think even
6 though this is premeditated murder, the death penalty is not
7 the right thing to do for a penalty?

8 A PROSPECTIVE JUROR: No, I don't think I would
9 go for the death penalty.

10 MR. BOSLER: This brings up an issue. You have
11 heard Mr. Stanton describe to you that even in a first
12 degree murder case, there are three possible sentences
13 allowed under the law.

14 A PROSPECTIVE JUROR: Yes.

15 MR. BOSLER: Death penalty; life without the
16 possibility of parole, you can die your natural life in
17 prison; life with the possibility of parole, meaning you
18 serve a certain number of years and you can be released on
19 parole. Those are options that are available to everybody
20 who sits in a jury situation like this.

21 Would I be correct if I understand your
22 position to be no in the first degree murder sense,
23 everything -- the penalty should always be death?

24 A PROSPECTIVE JUROR: Well, I don't see a
25 sentence with parole because most of them wind up going

1 back. Rehabilitation is, at least what I understand it, is
2 not very successful. I don't see sentencing somebody to
3 life in prison. That's like a death penalty.

4 MR. BOSLER: And so you'd reach that --

5 A PROSPECTIVE JUROR: So, yeah.

6 MR. BOSLER: For you, first degree murder,
7 always the death penalty?

8 A PROSPECTIVE JUROR: Yeah. That's
9 premeditated. That's horrible.

10 MR. BOSLER: And I only appreciate you being
11 honest. There is no right-wrong answer in the legal sense.

12 I suppose you are an honest person; right? You
13 consider yourself an honest person?

14 A PROSPECTIVE JUROR: I certainly try to be.

15 MR. BOSLER: There was some talk with earlier
16 jurors about an oath and whether they would obey the oath to
17 follow the Court's instructions.

18 A PROSPECTIVE JUROR: Yes.

19 MR. BOSLER: Correct me if I'm wrong. My
20 understanding is that even though the Court is going to give
21 you these instructions, that you can consider different
22 penalties, in your mind, you feel that whenever you reach
23 the level of first degree murder, death is really the only
24 option because it is premeditated?

25 A PROSPECTIVE JUROR: I think so. Deep down

1 that's the way I feel, yes.

2 MR. BOSLER: And this is despite what the
3 instructions are that the Court may give you?

4 A PROSPECTIVE JUROR: If you're judging a case
5 and you are being fair and impartial when you reach a guilty
6 verdict on a premeditated murder, the judge is instructing
7 you not to go for death penalty, that's a jury decision.
8 That's what I understand; correct?

9 MR. BOSLER: The decision is up to the jury.
10 The Court instructs you to consider many things, but the
11 ultimate decision is yours.

12 A PROSPECTIVE JUROR: Correct. But if I come
13 to a fair and impartial decision that yes, they are guilty,
14 then yes, I go to the death penalty.

15 MR. BOSLER: And again, I appreciate your
16 honesty.

17 I'd make a *Witherspoon* challenge, Your Honor.

18 THE COURT: Would you like to inquire,
19 Mr. Stanton?

20 MR. STANTON: First of all, Your Honor, I'd
21 like to traverse the motion because the fundamental defect
22 in Mr. Bosler's question and his motion is that he, based
23 upon the juror's answer, Miss Ziler, is that there are two
24 other types of theories that would not require premeditated
25 intentional murder, both of which are applicable to this

1 case as charged in Count I of the charging document by the
2 State, murder in the furtherance of a robbery pursuant to
3 the felony murder rule and also murder by lying in wait.

4 So if his challenge for cause is because of
5 *Witherspoon*, as Mr. Bosler sites as his authority, he hasn't
6 established that as a predicate factor that indeed this
7 juror is excusable under *Witherspoon*. I have no further
8 questions, and I don't believe the motion should survive
9 merely on Mr. Bosler's analysis.

10 MR. BOSLER: If the Court is willing, I'll go
11 into the felony murder rule and lying in wait.

12 THE COURT: I think I'd rather instruct the
13 jury because I think we're going down a road here that's not
14 completely adequately instructing the jury.

15 Ladies and gentlemen of the jury, it's ten
16 minutes to 5:00. I'm going to have to instruct you, and I
17 want to be sure that the instruction that I give you at the
18 next stage in the proceedings is accurate, and I'm going to
19 pull that out. I had it and I don't have it in front of me
20 now.

21 Therefore, I am going to let them go home for
22 the day. It's been a long day, and you have all been very
23 patient with us, and I appreciate that.

24 We're not going to be able to get this jury
25 picked today. We have made great headway. We have made

1 very good headway, and we are very close to the selection of
2 the jury.

3 It may seem like it's taking a long time. It
4 really isn't. In the grand scheme of things, this is not an
5 unusual amount of time given the nature of this case.

6 You all have been wonderful. You have been
7 very attentive, and I appreciate that. Counsel are moving
8 the case along as much as they can, and I assure you we're
9 going to have a jury tomorrow.

10 So we are in good shape for the time. Those of
11 you who haven't been in a trial like this before may feel
12 some frustration by thinking that it took a long time. It
13 hasn't. We really are making good progress.

14 However, when you go home this evening, you are
15 going to be in a situation where we kind of heard some of
16 the people here, people questioned you: What happened,
17 what's going on. You tell them that you have been
18 instructed by the Court that you cannot talk about it. And
19 you have also been instructed by the Court to tell me if
20 somebody tries to get you to talk about it.

21 And I'm telling you, I'm going to be asking for
22 who is asking you about it. And you tell your co-workers, I
23 have to tell the judge, so don't bug me about it, otherwise
24 the judge is going to know and they are going to know that
25 you are violating the order I was put under. If that helps

1 at all in assisting you to keep the pressure off, because
2 that is absolutely essential to you and to your job here.

3 That applies to those of you sitting outside
4 the rail as well as those of you sitting in front. Now, I
5 don't want you to lose your written notes.

6 Mr. Bosler, you can go back.

7 I don't want you to lose your written notes, so
8 could you please write your name on your notes, and you'll
9 leave them with the bailiff tonight, and they will just give
10 them back to you. Just write your name on the top of those
11 questions that you have responded to. Nobody is going to be
12 looking at them, I promise. But we'll just hold on to them
13 for you so they don't get misplaced.

14 I don't want anybody to leave them in their
15 pocket and lose them and have to start all over. Go ahead
16 and write your name. If you know your juror number, that
17 would even be better.

18 Just write your name. Okay. Is everybody
19 ready to turn in their little slips of paper when they get
20 ready to go?

21 We are going to start tomorrow morning at
22 10:15. So I have a long -- I have other hearings first
23 thing in the morning. So the bailiff is going to ask
24 probably that you wait outside until we're ready to start
25 your case. We're going to recess my other hearings at 10:00

1 a.m. So between 10:00 and 10:15, you can come into the
2 courtroom and find your places.

3 We will not be able to start until all 36 of
4 you are in your chairs and ready to go. We won't know for
5 sure about those people in the audience that come back until
6 I call the roll, which I will do in the morning, and again,
7 we will have to wait if you are not here. So as you saw
8 this morning, or at lunch, we called the Jury Commissioner
9 who got on the phone and started calling around.

10 We did not start without everyone here. So
11 please be considerate of your fellow jurors and get here so
12 we can start. Otherwise everyone will be waiting. And
13 everyone will be on the hook until we find someone who is
14 missing.

15 So if you have a reason why you are late,
16 please be sure to call in so we know where you are at. We
17 will not continue with this trial until we have accounted
18 for every prospective juror. So be sure that you accept
19 your responsibilities in that regard.

20 Now, tomorrow morning at 10:15 -- yes.

21 A PROSPECTIVE JUROR: Your Honor, do I
22 understand you want us to come here instead of the jury room
23 at the office downstairs?

24 THE COURT: You can come directly to the floor
25 between 10:00 and 10:15. Don't get here before 10:00

1 because I don't have any place to put you. I'm going to
2 have all sorts of other hearings on completely different
3 cases. So don't get here before that. But get here by
4 then.

5 Now, does anyone else have a question about
6 what time you need to be back?

7 A PROSPECTIVE JUROR: Badges? What do we do
8 with the badges?

9 THE COURT: You wear them. Hold on to them,
10 save them, wear them. Keep them on your clothing. If you
11 need an extra one, the Jury Commissioner is staying late,
12 she is staying past 5:00 tonight, she will give you
13 additional badges for you.

14 If you want to come in in the morning and get a
15 badge from her, but I'd rather when you came in the door,
16 you had your badges on. If you need letters for your
17 employment, the Jury Commissioner is staying, she will give
18 them to you. If you need anything with regard to your
19 parking, the Jury Commissioner is down there and waiting for
20 you. So that's all arranged.

21 During this evening's recess, it is your duty
22 not to discuss among yourselves or with anyone else any
23 matter having to do with this case. It is your further duty
24 not to form or express any opinion regarding the guilt or
25 innocence of the defendant until the case has been finally

1 submitted to you for decision.

2 You are not to read, look at or listen to any
3 news media accounts regarding this case. Be sure someone
4 else is editing the newspaper before you see it. Do not
5 watch the local news tonight or listen to the local radio
6 news shows. There will be accounts.

7 Should any person attempt to discuss the case
8 with you or in any manner attempt to influence you with
9 regard to it, report such an attempt to the bailiff
10 immediately upon your return.

11 Counsel, I'd like you to remain. We have some
12 things to talk about outside the presence of the jury panel.
13 But I'm going to let the jury leave the courtroom while I
14 take a short recess, but don't leave the courtroom while
15 they are leaving. Just wait for them to exit the courtroom.
16 And then we'll be back on the record for a few minutes after
17 they have all left.

18 Ladies and gentlemen of the jury, you are
19 excused at this time. Court is in recess.

20 (Recess taken at 5:00 p.m.)

21 (Whereupon, the following proceedings were held
22 in open court, outside the presence of the jury
at 5:11 p.m.)

23 THE COURT: I remember we had a similar
24 situation like this come up in the last trial, and I just
25 read the proposed jury instruction from the proposed penalty

1 phase aspect of the case, and instructed the jury as to
2 aggravating and mitigating circumstances right at this
3 point. That's what I did last time.

4 I just wanted to -- I think we need to do that
5 again. I think it was very clean, it worked very well in
6 the other trial I had, and I'm ready to do that. I wanted
7 to make sure we discussed that outside the presence of the
8 jury.

9 MR. GAMMICK: Your Honor, I would even request
10 that instead of just reading the aggravators and mitigators,
11 the Court go further to explain the process to these folks
12 so they know what's going to be expected of them should this
13 get to a penalty phase. Then I believe they can answer
14 Mr. Bosler's questions a lot more informed than what they
15 are being asked right now.

16 MR. BOSLER: I object to that, Your Honor. I
17 think it is important they understand what the aggravators
18 are.

19 THE COURT: I know what I did in the last
20 trial. Does everyone think that what we did in the last
21 trial was all right?

22 So I will explain the bifurcated process and
23 that there is a verdict, that they will be called upon after
24 hearing evidence and argument, et cetera, and then I'll give
25 the instructions as to the potential penalties that they

1 will be allowed to consider and the aggravating and
2 mitigating circumstances.

3 MR. BOSLER: There is one other thing the Court
4 did last time that I would ask the Court to do again.
5 That's the issue on pretrial publicity.

6 What we had is people indicated they had
7 information. We bring them in separately so they wouldn't
8 speak in front of the jury, and get an idea what information
9 they had and how that affected them. We haven't even really
10 touched upon that at all during these questions, and I know
11 the people out there said, I have information.

12 I think for Mr. Vanisi's position, for him to
13 intelligently exercise his peremptory challenges, he may
14 want to know what kind of information these people had and
15 how that affects their view. They all said they could put
16 it behind them, but it may bear upon Mr. Vanisi's right to
17 intelligently exercise his peremptory challenges.

18 And therefore, I ask the Court to follow what
19 it did in the last proceeding, which was when people said, I
20 have information I gathered from outside newspapers, or the
21 radio, or other public means, let's get them in here
22 separately to find out what information they have and how
23 they got it.

24 THE COURT: I didn't utilize -- I didn't have
25 everyone come in separately who indicated that they had new

1 information.

2 MR. BOSLER: That is not what I said, Your
3 Honor. I said people who got information from other than
4 public sources. So we know that someone has friends on the
5 police department they have talked about the case with, that
6 they know information that wasn't in the newspaper or on the
7 radio, those type of people.

8 THE COURT: Yes, but is there anyone currently
9 on our panel who has said that that hasn't been excused
10 already?

11 MR. BOSLER: I'd have to go over the transcript
12 I will be provided tomorrow morning. I think Miss Patch may
13 have said something like that. I'm not sure if Miss Grate
14 said her -- she's talked about the crime with her law
15 enforcement friends. I'd have to review my notes.

16 THE COURT: Go ahead and do that and let me
17 know before 9:00 o'clock in the morning. Let me know before
18 9:00 o'clock in the morning those people that you think did
19 respond in that kind of a manner.

20 I remember one person for sure, but she's off.
21 We excused her for another reason.

22 MR. STANTON: Your Honor, I think the follow-up
23 question the Court inquired was whether or not that juror
24 had assimilated in her questionnaire all the information
25 that she had been provided both by the media and by outside

1 resources, and my recollection is the juror answered in the
2 affirmative, indeed she had, and there was no new
3 information.

4 As far as Mr. Bosler's request relative to what
5 we did last time, it is my recollection that the last time
6 the Court had hearings with individual jurors when there was
7 a problem relative to putting aside what they knew with
8 their own opinions in the case. And I don't think that has
9 ever -- or that same situation presents itself at this
10 juncture.

11 THE COURT: Right. That was my memory, and I
12 did -- now that you refreshed what I did follow up with that
13 question, because I wanted to be sure that everything that
14 they knew was in the questionnaires, and I invite you to
15 review the transcript in the morning, because I didn't
16 remember anyone saying that there was more information that
17 they knew.

18 There were a few people who heard the
19 broadcasts begin and had turned it off. And they said they
20 really didn't learn anything that wasn't already in the
21 written document. So I did ask that question. But if there
22 is someone that did not respond that way, please call it to
23 my attention, Mr. Bosler.

24 Okay. So first thing at 10:15, after we figure
25 out that everyone is here, we'll move forward with -- I will

1 instruct the jury as to the process, and then I'll let you
2 continue to inquire.

3 Mr. Gammick.

4 MR. GAMMICK: Your Honor, one other matter here
5 if I could just ask at least for the remainder of the week
6 for scheduling witnesses, et cetera, on your times you
7 intend to start. I didn't quite grasp all of that.

8 THE COURT: That's because I hadn't grasped it.
9 I'm not used to this two-days-a-week business. I'm a
10 little -- in my own mind, I'm confused about which days I
11 can start at 9:00 and which days I can't.

12 What we plan for tomorrow is we're going to
13 recess criminal calendar at 10:00 whether we're done or not.
14 We'll start at 10:15. Then Wednesday morning, I think we
15 can start regular time. The clerk is checking that.

16 So Wednesday morning we're going to start at
17 10:00 a.m., she tells me. We have an 8:00 a.m. that we will
18 hear first.

19 Then Thursday morning is the morning that we
20 pile all the criminal calendars. So that calendar, it will
21 be an afternoon. It will be 2:00 to 5:00 in the afternoon,
22 maybe 2:00 to 5:30 with our half-hour recess, something like
23 that. Not a half hour recess. 15, 20 minutes.

24 And then Friday morning we'll start at 9:00
25 a.m., and then there will be a little bit of an extended