

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL McNAIR

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 78871

Appeal From A Judgment of Conviction (Jury Trial)
Eighth Judicial District Court
The Honorable Douglas Herndon, District Judge
District Court No. C-17-327395-1

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Navid Afshar
State Bar #14465
JoNell Thomas
State Bar #4771
Special Public Defender
330 South 3rd Street
Las Vegas, NV 89155
(702) 455-6265
Attorneys for Michael McNair

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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

MICHAEL MCNAIR,

Defendant.

CASE NO. C-17-327395-1

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON,
DISTRICT COURT JUDGE

TUESDAY, FEBRUARY 26, 2019

RECORDER'S TRANSCRIPT OF HEARING
JURY TRIAL - DAY 1
VOLUME I

APPEARANCES:

For the State:

JACQUELINE M. BLUTH, ESQ.
JEFFREY S. ROGAN, ESQ.
Chief Deputy District Attorneys

For the Defendant:

RANDALL H. PIKE, ESQ.
MELINDA E. SIMPKINS, ESQ.
NAVID AFSHAR, ESQ.
Chief Deputy Special Public Defenders

RECORDED BY: SARA RICHARDSON, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING

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1 Las Vegas, Nevada, Tuesday, February 26, 2019

2
3 [Trial began at 10:19 a.m.]

4 THE COURT: You all may be seated. Mr. McNair is present
5 with his attorney, State's attorneys are present. We have the Defense
6 motion that got filed late last week to preclude any telephone records in
7 the case in chief or rebuttal. I did not get an Opposition, I don't know if
8 you guys prepared one, or filed one, or have one.

9 MS. BLUTH: No, Judge, I didn't. I told Randy, as of now, I've
10 gone through several phone calls, there's really nothing of significance.

11 THE COURT: Okay.

12 MS. BLUTH: I reached out to Martina Rojas from LVMPD, just
13 to say hey, here's a copy of the subpoena, I'd really like you guys to be
14 able to provide that for them, because there's so many, it would be
15 impossible for me to just keep downloading -- well I shouldn't use the
16 word impossible but that would take a lot of time for me to download
17 every single call.

18 THE COURT: Right.

19 MS. BLUTH: And they just said -- I can forward you the e-mail
20 but something like pursuant to their policy and pursuant to NRS, that's
21 not how they do it.

22 Randy, explain, what did she say? I don't really -- I don't deal
23 with it a lot.

24 MR. PIKE: Well, basically, because we've had problems
25 before that's the reason I put a date on the subpoena for them to

1 appear. They didn't appear. Apparently they had sent over a letter
2 saying that this is not in -- we don't do it without a court order. And I
3 don't understand -- the State doesn't have to do a court order. We have
4 to do a court order, they can access it all the time. We can't access it.
5 So out of an abundance of caution I did the ex parte application and
6 an --

7 THE COURT: Correct.

8 MR. PIKE: -- order directing them to produce it last Friday.
9 We contacted them and they said well, we got the order but we won't
10 have it ready until this Friday, upcoming.

11 I said well, that isn't what the order says. That's when we'll
12 have it available for you.

13 THE COURT: Okay.

14 MS. BLUTH: So I just told --

15 MR. PIKE: And --

16 MS. BLUTH: I just told Randy that I haven't come across
17 anything that I would use. I said the only reason I don't want to agree to
18 what you're saying because it's -- you know, if Mr. McNair were to say
19 something during the trial, then I would be put in a position where I
20 stipulated to something and --

21 THE COURT: Well, so I'll save you the stipulation. I'm going
22 to grant the motion. So it pertains to any phone calls that exists prior to
23 today. If there's something that comes up during the course of the trial
24 then that wasn't discoverable beforehand, obviously.

25 MR. PIKE: Yeah.

1 THE COURT: But to the extent -- I mean, I agree with Randy,
2 they don't have access to this, so you all have that obligation if you hear
3 statements from the Defendant in a phone call, to turn those over. And I
4 can appreciate that there can be reams of phone calls. But I think he's
5 done everything he was supposed to do in terms of subpoenaing them
6 and then they didn't show up. Get it in a order and they haven't
7 complied.

8 It doesn't a week to make a copy, you know, of the disk and
9 those phone calls. So based on Metro's negligence and not complying
10 with the court order, the ruling is going to be nothing that occurs prior to
11 today can be utilized during the case. Any phone calls or anything
12 moving forward is fair game, obviously. But you need to, as soon as you
13 find about one of those, you're going to need to turn it over to them,
14 okay?

15 MR. PIKE: Absolutely.

16 THE COURT: Anything else outside the presence?

17 MR. PIKE: Yes, Your Honor.

18 MS. BLUTH: Mitchell Johnson is outside.

19 THE COURT: Okay.

20 MS. BLUTH: And he is the Defendant's brother and if you
21 remember, as a part of Mr. Pike's motion from last week he had asked
22 that we bring him in, make sure he has an attorney. Drew Christensen
23 appointed Josh Tomscheck.

24 THE COURT: Correct.

25 MS. BLUTH: And so I just think it would be best practice if we

1 brought Mr. Johnson -- Mr. Tomsheck's not going to be here this
2 morning.

3 THE COURT: I didn't know that he was going to be here this
4 morning before trial even started or I would have got Mr. Tomsheck over
5 here for right now. I thought it was a discussion we were going to have
6 before -- if and when and before he testified.

7 MS. BLUTH: We told Josh that it was going to be on this
8 morning at 10:00 and he just said if you guys wouldn't mind just letting
9 Mr. Johnson know what's going on if he -- I'm happy to meet with him
10 right now if he just wants to walk across the street over to my office.

11 THE COURT: So when would it be -- I mean, he's
12 contemplated testifying, if he's going to testify?

13 MS. BLUTH: We were just talking about that. I would think
14 maybe Friday, but I -- I'm leaning more towards Monday. It just -- it
15 always depends on how long the jury selection process takes.

16 THE COURT: So has Josh talked to him yet, at all?

17 MS. BLUTH: No.

18 THE COURT: Okay.

19 MS. BLUTH: I forwarded -- or I e-mailed Josh his statements,
20 as well as a full copy of the officer's report so he could -- you know,
21 have a better understanding.

22 THE COURT: Okay.

23 MS. BLUTH: But he said he'd be willing to meet with him
24 today or whenever is -- works for the both of them.

25 THE COURT: Okay. Yeah, you can bring him in and I'll let

1 you do that.

2 MS. BLUTH: Okay.

3 THE COURT: Sir, how you doing?

4 MR. MITCHELL JOHNSON: Doing all right.

5 THE COURT: What's your name?

6 MR. MITCHELL JOHNSON: Mitchell Johnson.

7 THE COURT: Mitchell Johnson, all right. So, Mr. Johnson,
8 apparently, you may be a witness in this case. Somebody may want to
9 call you testify. So in light of that, the attorneys asked if I could get an
10 attorney appointed for you that could speak to you beforehand and
11 advise you of any rights you have, anything related to testimony, okay?

12 MR. MITCHELL JOHNSON: Okay.

13 THE COURT: So I got an attorney, his name is Josh
14 Tomscheck. I'm going to have the State give you contact information for
15 him. You'll remain under court order to be available to testify in the
16 case. I don't think that it's anticipated that anybody would need you until
17 later this week or potentially early next week. So we'll make sure that
18 we get you in contact with the attorneys beforehand. And I'll make sure
19 the attorney is here on the date that any sides wishes to call you to
20 testify so that you can talk to him before that as well, okay?

21 But they will reach out to you in terms of when they need you
22 to come in and testify so you'll know when you need to come back to
23 court, so you don't have to hang around right now. And we will -- do you
24 have Josh's number?

25 MS. BLUTH: I do.

1 THE COURT: Okay.

2 MS. BLUTH: Jamie Honaker, my investigator is here --

3 THE COURT: Okay.

4 MS. BLUTH: -- with me and he knows Mr. Johnson, so he's

5 going to get him all that information.

6 THE COURT: Okay. So they'll get that for you and then we'll

7 just see you back here if they need you later in the week, okay?

8 MR. MITCHELL JOHNSON: All right.

9 THE COURT: All right. Thank you.

10 MR. PIKE: Thank you. And then, Your Honor, we do have a

11 challenge as to the jury panel.

12 THE COURT: Okay. Mr. Afshar.

13 MR. AFSHAR: Yes, sir. Good morning, Your Honor. Before

14 we begin, I have a couple things I'd like to have marked as court

15 exhibits.

16 THE COURT: Okay.

17 MR. AFSHAR: With the Court's permission I'd like to

18 approach.

19 THE COURT: Sure. Are those the race and ethnicity reports?

20 MR. AFSHAR: Yes.

21 THE COURT: Okay.

22 MR. AFSHAR: And two other things. I provided the State with

23 a copy. This is our original. I can make a copy if -- that's the census

24 data.

25 THE COURT: Okay.

1 MR. AFSHAR: This is -- yeah, the race report.

2 THE COURT: I actually probably have a copy of that, I think.
3 That same one you have.

4 MR. AFSHAR: Oh, okay.

5 THE COURT: Yeah, I have -- well, I have July 2018.

6 MR. AFSHAR: Oh, I'll take --

7 THE COURT: This is 2017.

8 MR. AFSHAR: I'll take that one actually.

9 THE COURT: Okay. Let me just look --

10 MR. AFSHAR: Okay.

11 THE COURT: -- and see what, if anything, are changes on
12 Clark County.

13 So under race and Hispanic origin on the Census Bureau
14 documents, White alone stayed at 70.3 percent for Clark County.

15 MR. AFSHAR: Okay.

16 THE COURT: Black or African American stayed at 12.5
17 percent both years. American Indian stayed at 1.2. Asian alone, 10.5.
18 Native Hawaiian, .9. Two or more, 4.7. Hispanic and Latino, 31.3.
19 White alone, not Hispanic, 42.7. Yeah, they're all the same.

20 MR. AFSHAR: Okay. So we can just have that one --

21 THE COURT: Yeah.

22 MR. AFSHAR: -- marked as --

23 THE COURT: Okay.

24 MR. AFSHAR: And then this is the testimony from the Arenas
25 Chair --

1 THE COURT: Okay.

2 MR. AFSHAR: -- Commissioner. And you can actually keep

3 that, I just --

4 THE COURT: Okay.

5 MR. AFSHAR: Yeah, so.

6 THE COURT: All right. Yeah, we will mark both of those as

7 court exhibits.

8 MR. AFSHAR: Okay.

9 THE COURT: And then --

10 MR. AFSHAR: Oh, this is just the race and ethnicity reports.

11 THE COURT: Okay. Those are the actual ethnicity --

12 MR. AFSHAR: Yeah.

13 THE COURT: -- reports for this case, right?

14 MR. AFSHAR: Correct.

15 THE COURT: Okay. All right. So we'll mark three things as

16 exhibits. The race and ethnicity reports will be one exhibit, it includes

17 both the race report and the ethnicity report. And the transcript will be

18 marked as the 2nd court exhibit. And then the Census Bureau data will

19 be marked as a 3rd court exhibit. Okay.

20 MR. AFSHAR: All right. Thank you.

21 THE COURT: Okay.

22 All right. You can go ahead, Navid.

23 MR. AFSHAR: All right. So, I'll make it brief, Your Honor. So

24 there's two cases in Nevada, *Morgan v. State*, 416 P.3d 212; 134 Nev

25 *Op Response*, 2018. There's also a US Supreme Court case, *Duren v.*

1 *Missouri*, 439 U.S. 357 (1979). So looking at the race and ethnicity
2 reports, I see that there are eight Hispanics on the ethnicity report.

3 So in *Morgan v State*, and this is the national -- the federal
4 standard as well. The Nevada Supreme Court narrowed the way to
5 show the prima facie case of how they're told, not what, you know, is the
6 ultimate makeup of the jury or just how they're polled. First prong, are
7 they a cognizable group. Hispanics are a cognizable group. According
8 to the Census data they comprise 31.3 percent in Clark County.

9 So the second prong is a mathematical formula that the
10 Nevada Supreme Court used in *Morgan*. I think they derived it from
11 Evans. But using that formula, exactly how they did, I came to a
12 comparative disparity of -- it's between 57 and 58 percent. And I can go
13 over to the Court how I arrived to that number using the -

14 THE COURT: I actually have it at 58.4, so --

15 MR. AFSHAR: Okay.

16 THE COURT: -- I think a little more than you.

17 MR. AFSHAR: So that's -- and in *Morgan*, the Nevada
18 Supreme Court said that anything over 50 percent is strong evidence of
19 under representation. And as the Court is aware in a prior hearing and
20 based on the transcript I provided, one of the four things by statute that
21 is required to be done is not being done.

22 I want to reiterate that -- again, I think we have a really
23 dedicated, diligent, Jury Commissioner, who's very helpful, but --

24 THE COURT: She will appreciate you saying that.

25 MR. AFSHAR: Well, I just -- I've seen some of the other

1 briefings on this, I don't want to, you know -- anyway. So, but the thing
2 is, for whatever reason it's not complied with, whether it's on the end of
3 the, you know, state of Nevada, an IT issue. I would submit to the Court,
4 as I had mentioned last week, systematic doesn't need to mean
5 intentional. If a bolt of lightning hit the mainframe and we couldn't
6 generate -- or we couldn't pull from those sources, that's systematic.

7 So if there's some reason, whether it's on the end of the state
8 of Nevada, unemployment division, whether it's here, whatever it is, the
9 IT department, I would submit that there's nothing in 8207, which was
10 the bill that ultimately made the amendment change to NRS 6.045 that
11 says that hey, if for some reason the statute's not being complied with, it
12 can be disregarded.

13 I would argue that lack of compliance with the statute for
14 whatever reason is systematic. And as we've shown the first two prongs
15 of *Morgan*, that establishes a third prong and then the burden shifts to
16 the State for rebuttal and then the Court determines if a new jury is
17 warranted.

18 THE COURT: Okay. State.

19 MR. ROGAN: Your Honor, first I have to apologize, I was just
20 given this information this morning and I'm only halfway through the
21 report from the *State v. Arenas* transcript that was provided. I also
22 haven't had the benefit of reviewing the case law in quite some time
23 regarding this. And I've never seen these race or ethnicity reports
24 before. So I'm just going to be essentially winging it here. But I think the
25 result is that as I recall we have to be drawing our jury pool from a fair

1 cross-representation of the community

2 Now, what we have presented in Court Exhibit's 1 is the
3 results of who actually showed up to court today and is a member of our
4 jury venire, compared to presumably, what is the most accurate report
5 from the Census, even though at the top of Court Exhibit 3, due to a
6 lapse in federal funding this is not being updated, so I don't even know if
7 we can rely on it.

8 But nothing tells us whether the sources, that is the DMV,
9 Nevada Energy, and the voting rolls actually encompass a fair cross-
10 representation that would more appropriately mirror the Census Bureau
11 statistics. That's the statistics that we need in order to challenge the jury
12 venire because if we're doing the very best that we can to pull a fair
13 cross-representation of the community into the courthouse and then
14 they're either simply transferring dates or just not showing up, that's
15 going to skew who actually -- the race or ethnicity of actually who shows
16 up in the courthouse today, but it doesn't certainly mean that the cross --
17 the fair cross-representation of the community is not being met. So I
18 don't think that even the evidence that's been presented to the court
19 could support any of that.

20 Now, with regard to whether we're complying with, I think it
21 was AB-207, to bring in the Nevada, I think it's Department of
22 Employment and Training, that seems to be a problem of being able to
23 obtain that list and utilize it to send out summonses to potential jurors,
24 which they're working on.

25 So, again, that is -- seems to be a statutory noncompliance.

1 But given the existence of the use of the DMV and voting rolls and
2 Nevada Energy, that presumably, right now, as far as we know, could be
3 sufficient to establish that there's a fair cross-representation of the
4 community being represented by those three sources of information.

5 So I don't think that the challenge that they're making has
6 been met from the evidence that they've presented to the Court at all.
7 And I presume that their motion, whatever the case may be, should be
8 denied, based upon that fact alone.

9 THE COURT: All right. Mr. Afshar.

10 MR. AFSHAR: Yes, Your Honor, if I could correct a couple
11 things. So in regards to the Census data, this shows it was updated I
12 believe in July 2017. Your Honor has the most current one, which
13 matches the one I have, I think it's --

14 THE COURT: Correct.

15 MR. AFSHAR: -- totally reliable. In *Morgan*, the Nevada
16 Supreme Court went off Census information.

17 And secondly, the -- I just want to make sure I address
18 everything because the issue of the fair cross-section, in *Morgan*, the
19 Nevada Supreme Court went off the venire panel. There was 43 people
20 in the venire panel in *Morgan*. It was three African Americans and they
21 went off that for the calculations.

22 So -- and one reason that we didn't apply -- or supply the
23 evidentiary transcript is because that's the third prong. Normally we'd
24 call the Jury Commissioner if it's necessary. So we wouldn't know until
25 this morning when we received the race and ethnicity reports, which we

1 had subpoenaed if that would even be necessary. But I think in lieu of
2 calling her, we could use this, unless the Court wants to inquire further,
3 but --

4 THE COURT: Well, I think on that issue, at this point
5 everybody knows what the --

6 MR. AFSHAR: Right.

7 THE COURT: -- Jury Commissioner is describing in terms of
8 the process, as well as the attempts to comply with what's contained
9 within the statute. So, I think the only thing that's changed recently is, as
10 of last year, the voting rolls -- they were having problems with the voting
11 rolls, but that's been remedied since then so really now it's just the
12 Department of Employment division.

13 But I think you all have examined her, the State's examined
14 her, everybody knows kind of what that part of it is. And whether it's the
15 *Arenas* transcripts or some of the other recent transcripts, I know some
16 of the other judges have had them as well, I'm comfortable that
17 everybody -- not just me but you all as well, kind of understands what
18 they're doing in Jury Services, what the limitations are, what's available
19 to them right now.

20 MR. AFSHAR: Right. I just wanted address it, that's why we
21 provided it. But we wouldn't have known that until we got to the race
22 reports, which we got this morning.

23 THE COURT: Got it.

24 MR. AFSHAR: But the point I want to make is, you know, I
25 looked at them -- and that's AB-207, this was amended in 2017. And

1 part of the minutes, from what I can recall was, we want this to be more
2 comprehensive. We want -- and so this was the legislature's intent. As
3 Your Honor pointed in *Battle*, the Nevada Supreme Court in the in the
4 footnotes said we never required. But now the legislature --

5 THE COURT: Right.

6 MR. AFSHAR: -- two years ago said yeah, we do require four
7 sources. Nothing in that statute says but hey, for some reason if it's not
8 being complied with, disregard it.

9 So what do we have here, we have the first prong, Hispanic. I
10 think we would agree on the second prong, 58 -- I think the Court had 58
11 percent, which is well over 50 percent.

12 THE COURT: Well a little over 58 percent, actually, yeah.

13 MR. AFSHAR: Right. Which is over the 50 percent mark in
14 *Morgan*. So the only thing that's left to show prima facie case is the third
15 prong. What's more systematic than the statute not being complied
16 with? We don't know if that's the specific reason or now but what we do
17 know is that there's a variance that it's over 50 percent so what could
18 cause it? Gee, maybe it's lack of statutory compliance.

19 There's nothing more to me that screams systematic than lack
20 of statutory compliance that meets the first two prongs. I think this is
21 about as clear case as I've seen of the fair cross-section challenge. As
22 Your Honor knows I kind of make this my little pet project. This one, to
23 me, given the testimony that the statute's not being complied with, that
24 the first two prongs are met, I think warrants us to receive a new jury.

25 And in one proceeding, the Jury Commissioner testified that it

1 would take her about five minutes to get a new panel impaneled -- or a
2 new jury impaneled. So that's it, and we'll submit on that, Your Honor.

3 THE COURT: Well, you acknowledge though that we weren't
4 getting the employment security reports in the last case that we
5 discussed the other day and that had a significantly higher number of
6 Hispanics in the pool. I think it was 23 or 24 percent.

7 MR. AFSHAR: It had 15, I think in that one, but --

8 THE COURT: 15 in number --

9 MR. AFSHAR: Right.

10 THE COURT: -- but the percentage was 23 to 24. The point
11 being that there's a lot of variables and a lot of variation between panels.

12 Look, I -- so here's what I'll say, I do think the Census
13 numbers are reliable, so I will say that. And I think that -- I don't mean
14 any disrespect, Mr. Rogan, but you may be the only person who hasn't
15 discussed this recently because this is coming up a lot, particularly in our
16 homicide trials. So you guys are going to need to gear up and get
17 familiar with the case law and everything that's going on and take a look
18 at the transcripts because a lot of people have reviewed a lot of these
19 different transcripts. And Mariah has testified a number of times.

20 I think the ideal is to get a fair cross-section of the community.
21 One of the ways the legislature decided that we need to achieve that is
22 by amending the statute and the statute doesn't say the Jury
23 Commissioner needs to get a fair cross-section, it lays out four prongs
24 that she has to comply with and that is four things from which to draw
25 and maintain a list of qualified electors.

1 The problem is the Employment Security Division isn't
2 providing the information. And this is a distinction that I raised the other
3 day when we were having discussion in the *Latore* case. There is a
4 difference in my mind between the Jury Commissioner is not doing her
5 job to maintain that information, whether it's intentionally or negligently --
6 and I agree with you, Navid, it doesn't have to be intentional to be a
7 systematic exclusion. But there is a difference between that and we're
8 attempting to do our job and get that information, but an entity isn't
9 providing it back to us.

10 And that's the situation that we have with the Employment
11 Security Division. They have made those requests for that information
12 and whatever reason, the Department of Employment has been holding
13 up providing that information. So the Jury Commissioner, I think, has
14 done what she can do to compile and maintain the list of jurors from
15 information provided.

16 The problem is the Department of Employment isn't providing
17 certain information, so she's having to work off of what she has available
18 to her. And one of the comments I made the other day was, I don't
19 believe that the Supreme Court would interpret this and say you have to
20 halt the criminal justice system, not give people their trials until the
21 Department of Employment can start providing their information. I think
22 they would view it and say what's being provided.

23 And that's why I raised that other case the other day where
24 prior to the statutory change, they made reference that there had never
25 been bright-line rule and only utilizing two sources was okay. You're

1 really looking at are you still hopefully getting a fair cross-section of the
2 community.

3 I agree with your numbers that you stated here today, that
4 there is -- 13 percent of this panel is Hispanic, that the Census numbers
5 would be 31.3 percent Hispanic. That's an absolute disparity of 18.3
6 percent and a comparative disparity, in my mind, of 58.4 percent. And
7 under *Morgan*, that would be a sufficient showing of under
8 representation.

9 I do not however, think under the third prong that there is a
10 systematic exclusion. I mean, we all recognize that the case law says
11 even though you have discernible minority groups, nobody's entitled to
12 have a certain number of folks on any panel, whether it's Hispanic,
13 African American or otherwise.

14 And I would note, for the record, the African American
15 comparative disparity here is 36 percent, which I think is well below 50
16 percent and not -- does not equate to any under representation and I
17 only point that since the gentleman, Mr. McNair, on trial, is African
18 American.

19 But with regard to the Hispanic group, to the extent that the
20 Jury Commissioner is following the statute, requesting the information,
21 and the statute says that information has to be provided by the entity
22 back to the Jury Commissioner, I think she's complied such that I don't
23 think it would be a logical finding to say that the Jury Commissioner
24 somehow has systematically excluded Hispanics from our jury panel, so
25 I'm going to deny the request to strike the panel.

1 MR. AFSHAR: Your Honor, if I could just add one thing for the
2 record, please?

3 THE COURT: Sure.

4 MR. AFSHAR: From my understanding of the *Duran* and the
5 *Morgan* challenges, I believe the race -- it's not like the *Batson*, I believe
6 the race of the Defendant isn't material to --

7 THE COURT: Well, no --

8 MR. AFSHAR: I know but I just --

9 THE COURT: Look, I'm always going to make a record of that
10 depending upon what the race the Defendant is.

11 MR. AFSHAR: Uh-huh.

12 THE COURT: You have the right, whether it's men, women,
13 White, Black, Hispanic, Asian, to the extent that you feel there is an
14 underrepresentation of any discernable protected class, you can always
15 make the challenge, you're absolutely right about that. But I also always
16 think it's appropriate, particularly with regard to a Defendant that's of a
17 protective class to make a record as to what the composite is of that
18 class and the jury panel.

19 MR. AFSHAR: I understand. Thank you, Your Honor.

20 THE COURT: Okay. Anything further from anybody?

21 MS. BLUTH: No, Your Honor.

22 THE COURT: Okay. All right. So we have our -- oh, JR
23 stepped back out.

24 [Pause in proceedings]

25 MR. PIKE: In order to avoid inappropriate contact with the

1 cli -- or with the jurors, are we entitled to use the restroom back --

2 THE COURT: Yeah, you guys can go in the back. Once we
3 get the jury situated, if there's nobody else deliberating, I'll try and keep
4 them back there so that you guys are free to use the hallways and have
5 witnesses out there, but I kind of have to figure out if we have any other
6 trials going on first.

7 MR. PIKE: Thank you.

8 THE COURT: And make sure Judge Ellsworth doesn't yell at
9 my jurors again.

10 [Pause in proceedings]

11 THE COURT: Do you guys have the 2017 Census data over
12 there that maybe was one we marked as an exhibit? We didn't get that.

13 MS. SIMPKINS: I think probably, he does.

14 MR. PIKE: Which one, the race --

15 MS. SIMPKINS: 2017 --

16 THE COURT: We can mark the 2018 one if you want.

17 MR. PIKE: Yeah.

18 THE COURT: I mean, it's more recent and it had the same
19 numbers.

20 MR. PIKE: That would be fine.

21 MS. SIMPKINS: That's fine.

22 THE COURT: All right. So we will use the 2018 document
23 that the Court printed out, thanks, in lieu of the 2017 one.

24 [Pause in proceedings]

25 THE COURT: So you've got all of them?

1 THE MARSHAL: Yes, Your Honor.
2 THE COURT: Okay. Got them all in order?
3 THE MARSHAL: Got them all in order.
4 THE COURT: Okay, great.
5 You took too long. Now people went to the bathroom so you
6 got to wait a minute.
7 [Pause in proceedings]
8 THE COURT: While we're waiting, I don't know, Ms.
9 Simpkins, if you're prepared to address this, but was there any offers
10 that were recently conveyed that are outstanding, anything like that?
11 MS. BLUTH: When we here last time, nothing has changed
12 since then, so I was still at the second with use. Defense conveyed to
13 me that they were still at voluntary and then we left it at that.
14 THE COURT: Okay.
15 MS. SIMPKINS: That's correct, Your Honor.
16 THE COURT: Good. Okay. Thank you.
17 [Pause in proceedings]
18 THE COURT: All right. You can go ahead, JR.
19 THE MARSHAL: Yes, Your Honor.
20 [In the presence of the prospective jury]
21 THE MARSHAL: All rise for the jurors.
22 The panel is present, Your Honor.
23 THE COURT: Thank you. You all can all be seated.
24 And we'll be on the record in C327395, State of Nevada
25 versus Michael McNair. Mr. McNair is present with his attorneys, State's

1 attorneys are present, all of our prospective jurors are present. Good
2 afternoon. I think it's afternoon now. Good afternoon, Ladies and
3 Gentlemen, how are you?

4 THE PROSPECTIVE JURY PANEL: [Various responses].

5 THE COURT: How many of you are excited to be here?
6 You've got to give me one, somebody, come on. There we go. Raising
7 your hand doesn't mean you're automatically on the jury, I'm just kind of
8 always curious about that. Some people really look forward to getting a
9 jury summons and partaking in the process, other people dread it like
10 the rising of the sun every morning. I get that it's really inconvenient to
11 have to do it, but we will get you through this process, I promise you.

12 So, my name is Douglas Herndon, I'm the presiding judge
13 here in Department III. You all have been summonsed here for what I
14 will tell you will be a criminal case jury trial. In a moment I'll have the
15 attorneys talk to you a little about what the charges are in the case, kind
16 of introduce themselves to you, talk to you about who the witnesses are,
17 things like that, and then we'll get on into the jury selection process.

18 But before we do that, how many of you have been jurors
19 before; been selected, actually heard a trial? A few. Keep your hands
20 up if you would. How many of you have been through this process, you
21 just weren't selected? A few more. So we have a lot of folks that have
22 never been through it before, so welcome. I will familiarize you real
23 quickly kind of with who everybody is in court, so you know what
24 everybody's role is and then I'll tell you a couple things about how we're
25 going to go forward and then we'll get started.

1 First off, the attorneys for the State are seated at the table
2 over here closest to the jury box. The attorneys for the Defendant and
3 the Defendant Mr. McNair are seated here to my left.

4 Seated immediately to my left is my Court Clerk, Kory. So she
5 kind of keeps track of everything that's going on in any proceeding on
6 every given day and then has a responsibility to kind of summarize
7 everything that we do into what we call our court minutes that get
8 published publically so anybody that wants to look and see what we're
9 doing on any given day in any cases can do so. She'll administer the
10 oath to you all like she does with witnesses before we answer questions.
11 Keeps track of all the exhibits that are introduced, so forth and so on.

12 Seated a little further to my left is Sara. So Sara is a court
13 recorder. We don't type things down like old court reporting for the most
14 part. We now use audio/video to court record, so you can kind of see
15 little cameras up in the soffits of the courtroom, microphones around at
16 most places where people are going to be speaking. So it's important as
17 we go through the process of asking you all questions that we do a few
18 things. Number one, it's really difficult later on when we make a
19 transcript if two people are talking at once. So I'll always try and make
20 sure I let you finish an answer before we ask another question and try
21 and let us finish our answers as well. You're going to see that there's a
22 lot of repetitive questioning and you'll know where the question is going
23 but kind of let us spit our question out before you answer it, if you would.

24 You need to answer it out loud. So if somebody's just nodding
25 or shaking their head I may interrupt you to say was that a yes, was that

1 a no? Same thing with uh-huh and uh-uh, that doesn't always translate
2 real well, so I might interrupt you to kind of again, make sure it was a yes
3 or a no.

4 Then we need to make sure we get you identified, so
5 whenever somebody has their hand in the air to answer a question and I
6 will pick on Ms. Robinson. Ms. Robinson, how are you?

7 PROSPECTIVE JUROR NUMBER 003: Good, thank you.

8 THE COURT: So, Seat Number 1, you're pretty much
9 automatically on the jury, okay? So, you can -- you're going to get used
10 to that. So Ms. Robinson is Badge Number 003. I'm just looking for the
11 last three digits of your badge, not that whole giant number. So as we
12 go through the process, if Ms. Robinson wants to answer a question, I'll
13 try and always remember to say yes, Ms. Robinson or Ms. Robinson
14 Badge 003. If I forget to do that and you want to identify yourself, that
15 would be great.

16 Inevitably we're both going to forget to do it on occasions,
17 which is okay, but I might at some point interrupt you to just get your
18 name and badge number on the record so you're not just some
19 anonymous person speaking, okay?

20 Additionally, the microphones are everywhere so we're going
21 to be passing a microphone around when you're called on to answer
22 questions. It's kind of a pain I know but you'll get used to it pretty quick.
23 We just need to make sure that we can hear you when you're giving
24 answers.

25 Okay. JR, you've already met. JR is a marshal that works in

1 my courtroom. He's not the only marshal that you're going to state
2 during the course of the trial. All the marshals in the building are
3 collectively responsible for everything in the building; whether it's a
4 particular courtroom and jury, whether it's security down at the metal
5 detectors when you come in the building, whether it's helping facilitate
6 your movement throughout the building, taking charge of jurors when
7 you deliberate, answering questions about where to park, where you go
8 to lunch, all that kind of stuff. So you'll see a variety of marshals
9 throughout the trial.

10 They're important in a different respect in that court staff, the
11 attorneys, the witnesses, the parties are not prohibit -- or are prohibited,
12 excuse me, from talking to you outside the courtroom, so please do not
13 try and talk to them. Even if you just need to find out what time I said to
14 come back to court or whatever, please don't try and talk to the
15 attorneys at all. They're not rude or antisocial but if they're doing their
16 job they will avoid speaking to you because they don't want to be
17 accused of trying to contaminate the jury pool or win favors with any of
18 you in particular, okay? So they'll kind of politely and say I can't talk to
19 you.

20 But you can always talk to the marshals for those kind of
21 questions. If you need a letter for your employer, need to know what
22 time court starts tomorrow, whatever if may be, you can always
23 approach them and talk to them, okay?

24 I also have a law clerk, Jacque. You may see her come in
25 and out of court on occasion. And I have an extern, wave Peyton, way

1 in the back of the courtroom, who is in law school right now that's
2 working with my department for the semester. So you'll see her around
3 during the course of the trial.

4 That's pretty much it from a court staff standpoint. So as I
5 said, I will ask the attorneys now to introduce themselves to you, tell you
6 a little bit about the case. Not opening statement kind of stuff, but just
7 the charges, when they're alleged to have occurred, and here's some
8 folks that we think might be testifying during the course of the trial.

9 So, on behalf of the State, Mr. Rogan.

10 MR. ROGAN: Good morning, everyone. My name is Jeff
11 Rogan, I'm a chief deputy district attorney in the Clark County District
12 Attorney's Office. This is Jacqueline Bluth, she's also a chief deputy
13 district attorney in the Clark County District Attorney's Office. And
14 together we're prosecuting Mr. Michael McNair, on behalf of the people
15 of the State of Nevada.

16 We allege that the Defendant committed the crimes of murder
17 with use of a deadly weapon, and carrying a concealed firearm or deadly
18 weapon on September 14th of 2017. And we also allege that the
19 Defendant on that evening went in the vicinity of 1300 North Las Vegas
20 Boulevard, Las Vegas, Nevada, went across Las Vegas Boulevard and
21 shot and killed Gordon Phillips, a homeless person that was there.

22 In the course of this trial we intend to call the following
23 witnesses or may call the following witnesses. Courtney Asberry,
24 Joshua Brennan, Casey Coon, Tyler Coon, Lyle Galeener, Ashley
25 Gardner, Matt Gillis, Allen Goodrich, Alfonso Henderson, John Hoffman,

1 Jamie Honaker, Damar House, Mitchell Johnson, Brian Kowalski, Bret
2 Lesh, Deanna Lopez, Ashley Parmley, Ashely Perez, Cameron Phillips,
3 Crystal Phillips, Eboni Phillips, Gordon -- Sundra Phillips, Gordon
4 Phillips, and Officer Quinteros, Anthony Razo, Bianca Redden, Lakisa
5 Roberson, Emanuel Robertson, Ramiro Romero, Kenneth Saldana,
6 Dennis Simpson, Matthew Stedeford, Scott Vaughn, Tod Williams,
7 Tiffany Adams, Debbie Andrews, Danielle Courtney, Glenn Davis, Kathy
8 Geil, Olivia Klosterman, Dr. Chiara Mancini, Jeff Scott, Jamelle
9 Shannon, Erin Taylor, and Heather Ubbens.

10 THE COURT: So they're not going to call all those people.

11 MR. ROGAN: Correct.

12 THE COURT: The trial's not going to be that long. But what
13 we ask of the attorneys is to kind of lay out anybody who's name may
14 come up in the trial, in addition to those that are actually going to be
15 called as witnesses in court, just to make sure if you have any familiarity
16 with any of those folks, you can let us know about it, okay?

17 Thank you, Mr. Rogan.

18 On behalf of the Defense.

19 MR. PIKE: Thank you, Your Honor.

20 All right. My name's Randy Pike, I'm Chief Deputy Special
21 Public Defender with the Special Public Defender's Office. And I will,
22 along with Melinda Simpkins, who is also a Chief Deputy from our office,
23 and Navid Afshar, who's also from our office -- he's a Deputy Special
24 Public Defender. And special just means that we handle cases that the
25 Public Defender's Office cannot handle. So that's where that comes

1 from. I like to think that we're special, but that's just the name of our
2 office.

3 And we'll be representing Michael McNair. Michael, will you
4 please stand? Thank you.

5 The evidence that's going to come in front of you is -- it would
6 indicate that Mr. McNair has just been charged by way of an Information.
7 That's just a document that outlines the State's theory. Mr. Rogan
8 indicated one theory. There's actually two theories contained within that
9 Information, indicating that it was either Mr. McNair that shot and killed
10 Mr. Gordon or it was a third party that had done that. And so you're
11 going to have to make findings upon two different theories that the State
12 had previously alleged.

13 This occurred at -- instead of just giving you the address, I'm
14 going to give you the location of where it happened. If you go down -- if
15 you're going down Las Vegas Boulevard North -- or going up north, I
16 guess or along main street heading north, between Washington and
17 Foremaster, there's the old Anderson Dairies, they're using -- for those
18 of you who have been here for a long period of time, or taken you kids
19 there on field trips to get ice cream, there's a store there called Funnys
20 and behind that there's a business. And this occurred in the homeless
21 corridor, I guess, just right around Las Vegas Boulevard North.

22 The case will be presented to you in two parts and -- because
23 this is a murder count -- charge and this charge is an open murder
24 charge [unintelligible] back there, this is unusual in that the -- Ladies and
25 Gentlemen of the jury, if you come back with a first degree verdict of

1 murder, then you will also proceed to a sentencing portion of that and
2 we'll ask you questions about that during the jury selection process.

3 When the evidence is presented to you at the time of this trial
4 and it's completed, we are going to submit that you will not need to go to
5 that second stage of it and we'll ask you to find Mr. McNair not guilty.

6 Thank you.

7 THE COURT: Thank you.

8 All right. Ladies and Gentlemen, we're going to have Kory call
9 the roll of the jurors. That's just kind of our way of making sure we have
10 everybody that Jury Services tells me I'm supposed to have here. So if
11 you hear your name and you can just answer present or here, I would
12 appreciate that.

13 [The Clerk does the prospective jury roll call]

14 THE COURT: All right. Anybody present whose name was
15 not called?

16 See no hands, thank you.

17 Okay. We're going to get you sworn in, so you can remain
18 seated but if you would just raise your right hands for me and you'll be
19 asked if you swear to tell the truth, et cetera, et cetera.

20 [The Clerk swears in the prospective jury panel]

21 THE COURT: All right. And just so you know, since we got
22 started a little bit late, I don't intend on going the normal hour and a half
23 to two hours we would go before we take our break. We're going to go
24 for about an hour, just to kind of get you familiarized with what we're
25 doing and then we'll get you a lunch break, okay?

1 But a couple of things before we get started, primarily for
2 those of you that have never been through this before. The whole idea
3 of the jury selection process, what we call voir dire, is just to get you to
4 give us some information about yourselves so that the attorneys can
5 intelligently choose 14 folks to hear our trial that are as open-minded,
6 fair, and impartial as possible.

7 We don't have a lot of information. We get this packet from
8 Jury Services and just so you know I get all these when we're done and
9 it doesn't contain personal identifying information. There's no social
10 security numbers, driver's license numbers, nothing like that. It just kind
11 of tells us supposedly what zip code you live in, you answer the
12 questions about race and ethnicity, and it tells us your gender, and
13 whether you're employed or not.

14 So, in order for the attorneys to have information to figure out
15 whether there's anybody that's appropriate or inappropriate, based on
16 any viewpoints they have, or experiences they've had, it's kind of
17 necessary to ask you some questions. So, please, as we go through the
18 questions, understand that there are no right or wrong answers. Don't
19 tell people what you think they want to hear. Please just be as open and
20 honest as you can.

21 Make sure you answer the questions completely. Don't try
22 and hide anything. There's no reason to hide anything. And if you hide
23 something, that fact alone can contaminate a verdict, which would be a
24 really bad thing, okay?

25 If we're asking questions and you feel like hey, we're getting

1 done with me or getting done with the panel and there's something
2 important that nobody's really asked me about, by all means raise your
3 hand and let us know what it is. If you think it's important, then I'm sure
4 it's going to be important to the attorneys to understand as well.

5 If I ask any questions -- well, let me backtrack. I'm sure I'll ask
6 a question at some point that maybe you don't understand or isn't the
7 most articulate question, just say hey, Judge, I have no idea what you're
8 asking me. Can you please kind of say that again or rephrase it or
9 whatever. And feel free to do the same with the attorneys as well.

10 We want to make sure that you understand what the questions
11 are. Most of them are kind of a yes/no kind of a thing, although some of
12 them will be allowed -- will be geared towards getting you to provide
13 more information. And as I said we'll pass the microphone around,
14 depending upon who's speaking, so that we make sure we can hear you
15 during the course of our questions.

16 The way this process will work is I have some questions that
17 are just general to the whole panel and then eventually I'm going to
18 focus mainly on the 24 of you seated to my right and the first eight of you
19 seated over there in the audience because what I need is 32 people,
20 what we call, passed for cause. That means you've gone through the
21 questions from everybody and you don't have any bias or prejudices that
22 would prohibit you from being a fair juror. And once we get 32 people
23 passed for cause, it's from that group that the attorneys choose the 14
24 that are going to hear our trial.

25 So, we kind of expediency sake, focus on the first 24 of you --

1 or excuse me, 32 of you. And if any of you all get excused for any
2 reason then we'll bring some other folks from behind there up to take
3 those seats and keep moving forward. We probably won't finish this
4 process today, but I'm pretty confident that we'll finish it at least by
5 afternoon tomorrow so that those of you that aren't going to serve will be
6 on your way by afternoon tomorrow and those of you that are going to
7 continue on with us, we will be getting started with opening statements
8 and presentation of evidence as soon as we get our jury seated, okay?

9 All right. So my first question generally to the panel is, is there
10 anybody here who has ever been convicted of a felony?

11 Can you get the microphone back there, JR, please?

12 All right. Who do I got, sir?

13 PROSPECTIVE JUROR NUMBER 051: Juror Number 051.

14 THE COURT: 051. Mr. Veal?

15 PROSPECTIVE JUROR NUMBER 051: Yes.

16 THE COURT: All right. Mr. Veal, what was the felony and
17 when was it?

18 PROSPECTIVE JUROR NUMBER 051: I had a felony in
19 1989 in Lowden, Oklahoma, Comanche County.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 051: Possession of a
22 controlled dangerous substance.

23 THE COURT: Okay. And just to be clear I'm not just asking if
24 you were arrested, you actually got convicted of a felony?

25 PROSPECTIVE JUROR NUMBER 051: Yes.

1 THE COURT: And did that stay on your record or did it later
2 get dropped down or dismissed or expunged or anything?

3 PROSPECTIVE JUROR NUMBER 051: No.

4 THE COURT: Did you ever have any petitions to get your civil
5 rights back, to vote, and take part --

6 PROSPECTIVE JUROR NUMBER 051: I have that.

7 THE COURT: You do?

8 PROSPECTIVE JUROR NUMBER 051: Yes, sir.

9 THE COURT: Okay. And did you do that through the courts
10 in Oklahoma?

11 PROSPECTIVE JUROR NUMBER 051: The rights to vote?

12 THE COURT: Yeah, to get your civil rights restored?

13 PROSPECTIVE JUROR NUMBER 051: That's -- no, that was
14 done by the president.

15 THE COURT: Oh. I just mean, you never went back to court
16 to petition for that in particular, you've just always been able to?

17 PROSPECTIVE JUROR NUMBER 051: Yes.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 051: Correct.

20 THE COURT: Thank you.

21 Anybody else on that question?

22 Yeah. If you could come over for me, JR.

23 Thank you, Mr. Veal.

24 THE COURT: Is that Mr. Pienta?

25 PROSPECTIVE JUROR NUMBER 075: Hector.

1 THE COURT: Oh, wrong way. Gonzalez, I'm sorry. Badge
2 Number 075. Okay, Mr. Gonzalez, what do you got?

3 PROSPECTIVE JUROR NUMBER 075: I guess I got one
4 1985 -- no, '87.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NUMBER 075: In Oakland,
7 California. A drunk driver.

8 THE COURT: Okay. And you were convicted of a felony for
9 that?

10 PROSPECTIVE JUROR NUMBER 075: Yes.

11 THE COURT: Okay. And did you ever have your rights
12 restored to be able to vote or serve on juries?

13 PROSPECTIVE JUROR NUMBER 075: No, yes -- I just
14 answered the question when I filled out the --

15 THE COURT: So you were convicted of the felony and you
16 haven't done anything since then to get any kind of liberties restored.

17 PROSPECTIVE JUROR NUMBER 075: No.

18 THE COURT: Okay. Thank you.

19 Anybody else?

20 Seeing no other hands, thank you.

21 Is there anybody here who is not a United States citizen?

22 See no hands.

23 Is there anybody here who has such a sympathy, bias or
24 prejudice, related to age, religion, race, gender, or national origin, that
25 they think would affect their ability to be a fair and impartial juror?

1 See no hands. Thank you.

2 Anybody here who believes they know either of the

3 prosecutors, Ms. Bluth or Mr. Rogan?

4 See no hands.

5 Anybody believe they know any of the Defense attorneys, Ms.

6 Simpkins, Mr. Pike, or Mr. Afshar?

7 No hands.

8 Anybody believe they know Mr. McNair?

9 No hands.

10 Anybody believe you know or are acquainted with any of the

11 witnesses that were spoken to you about by the attorneys?

12 I'm see -- see how easy this is, you guys don't have to do

13 anything. I got to do all the work.

14 Anybody believe -- oh, right over here. Yes, sir.

15 PROSPECTIVE JUROR NUMBER 076: Alan Riecki, Badge

16 76.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR NUMBER 076: There was a Glenn

19 Davis mentioned --

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 076: -- and I was

22 wondering if that is -- if he is an insurance agent.

23 MS. BLUTH: He is not.

24 THE COURT: No, not an insurance agent. Thank you, Mr.

25 Riecki.

1 All right. Anybody believe you know or are acquainted with
2 any of the attorneys that work in the Clark County District Attorney's
3 Office?

4 See no hands. Oh, we do have one hand. Yes, sir?

5 PROSPECTIVE JUROR NUMBER 054: Michael Harris --

6 THE COURT: Badge Number --

7 PROSPECTIVE JUROR NUMBER 054: -- 054.

8 THE COURT: 54. Go ahead.

9 PROSPECTIVE JUROR NUMBER 054: Yeah, I'm a federal
10 agent with the Homeland Security Investigations, so I know quite a few
11 district attorneys.

12 THE COURT: Okay. Do you work with -- like at the fusion
13 center with the task force or?

14 PROSPECTIVE JUROR NUMBER 054: No, I'm the special
15 agent in charge.

16 THE COURT: Okay. So is there any particular district
17 attorneys that you work with as part of any kind of task force or just
18 generally if you happen to be subpoenaed on a case?

19 PROSPECTIVE JUROR NUMBER 054: Generally, just in
20 meetings.

21 THE COURT: Okay. Either of these two folks, you ever had
22 any familiarity with them?

23 PROSPECTIVE JUROR NUMBER 054: No.

24 THE COURT: Okay. Very good. Thank you, sir.

25 And by these two folks I was directing towards and he was

1 looking at Ms. Bluth and Mr. Rogan.

2 Anybody else on that question?

3 See no other hands, thank you.

4 Okay. Our trial is expected to last a couple of weeks and so
5 I'm going to ask you if serving that amount of time is going to be undue
6 burden on anybody and by a coup -- ah, no, I see a few jumping the gun.
7 I didn't ask you yet, don't raise your hand yet. And by a couple of weeks
8 I'm going to say probably potentially into Monday, the 11th or so, in terms
9 of the length of the trial.

10 And before you answer the question let me give you a little
11 information because as I said earlier I recognize that doing jury duty is
12 an undue burden on anybody. It's inconvenient to be here, right? But
13 most of our trials now are probably about anywhere from five to seven
14 days in length, that's the average trial time, so this isn't too far outside of
15 that. Doesn't make it any less inconvenient on you all, I get that.

16 But when we talk about if it's an undue burden upon
17 anybody -- and I shouldn't have use undue burden a moment ago when I
18 said I know it's an undue burden, what I meant was I know it's
19 inconvenient. Undue burden is really something separate and apart
20 from just I don't want to do jury duty, it's inconvenient for me, I'm the
21 only person at my job that does my work, my kids are in school.
22 Everybody has those same similar concerns about work and finances
23 and kids and what not.

24 So a lot of you may raise reasons to me about why you can't
25 serve and at the end of the day I'm going to keep you here. And what I

1 want to tell you up front is if you want to be mad about that, be mad at
2 me. Don't be mad at the attorneys. That's my decision, okay? But
3 really the undue burden is about special circumstances that kind of set
4 you apart from what other people have going on because it's
5 inconvenient for everybody to be here.

6 The other thing I'll tell you is you're not just the only 60 people
7 that could not get out of jury duty. Everybody does jury duty. Whether
8 it's lawyers and judges, they've sat on my juries as well. Just like
9 everybody else from every other walk of life, okay?

10 So I very much appreciate your presence and your
11 participation. And the other thing I'll tell you that if you raise a reason to
12 me now and I decide that's sufficient to exclude you, you're not done
13 with jury duty. Jury Services can tell you to come back tomorrow, next
14 Monday, whatever, because you won't have served jury duty yet. If you
15 go through this process with me over the next couple of days and you're
16 just not chosen, then you're done with jury duty, okay?

17 So, all that being said, upon whom is it going to be an undue
18 burden to serve on this trial for the next two weeks? Go ahead and raise
19 your hands. We'll start on the top row, if there's anybody. Nope.

20 How about the middle row? Yeah. Anybody have a hand?
21 Yes?

22 THE MARSHAL: We got one on the top row. Name and
23 badge number.

24 THE COURT: Mr. Hackett?

25 PROSPECTIVE JUROR NUMBER 012: Yes, sir.

1 THE COURT: Badge Number 12?
2 PROSPECTIVE JUROR NUMBER 012: Yes, sir.
3 THE COURT: What do you got?
4 PROSPECTIVE JUROR NUMBER 012: I have severe
5 psychological issues, including night terrors and insomnia. I'm on
6 medication for it. I have panic disorders. I have panic doubt coming in
7 here. I can't ride your elevator.
8 THE COURT: You take medication daily?
9 PROSPECTIVE JUROR NUMBER 012: What's that?
10 THE COURT: You take your medication daily?
11 PROSPECTIVE JUROR NUMBER 012: Yes, sir.
12 THE COURT: Thank you.
13 All right. Anybody else on that top row? Nope.
14 On the middle row? Yes? Ms. Jensen
15 PROSPECTIVE JUROR NUMBER 017: Yes, Badge Number
16 17.
17 THE COURT: Badge Number 17. How are you, Ms. Jensen?
18 PROSPECTIVE JUROR NUMBER 017: Good, how are you?
19 THE COURT: I'm good, how are you?
20 PROSPECTIVE JUROR NUMBER 017: Does a vacation
21 count as --
22 THE COURT: Pardon?
23 PROSPECTIVE JUROR NUMBER 017: Does a -- is a
24 vacation an undue burden?
25 THE COURT: Well you tell me -- everybody's going to tell me

1 what they got going on, I'm going to talk to the attorneys about some
2 things and then we'll work through but what do you got?

3 PROSPECTIVE JUROR NUMBER 017: I'm flying up to see
4 my family on Thursday until -- through -- I think I'm coming back next
5 Wednesday, the 6th.

6 THE COURT: Okay. So this Thursday through the following
7 Wednesday? Got it, thank you.

8 Anybody else on that row? Down to the end, Ms. Moreno,
9 Badge Number 24, yes, ma'am?

10 PROSPECTIVE JUROR NUMBER 024: Yes, hi. I also have
11 a vacation planned for next week for my kids' birthdays which are the 2nd
12 and the 11th so we were going to do it in the middle of the week; I have it
13 all planned and paid for already.

14 THE COURT: Okay. So I'm sorry, when are you going to be
15 gone?

16 PROSPECTIVE JUROR NUMBER 024: The 4th through the
17 11th.

18 THE COURT: Thank you. Anybody else on that row? Nope.

19 How about on the bottom row? Yes? Start with Mr. Gondy,
20 Badge Number 26.

21 PROSPECTIVE JUROR NUMBER 026: Yeah, this has to do
22 with kids at school. My wife's a physician, so I have to take care of my
23 kid, especially now, because it's baseball season and they have
24 practices and games and so I pick him up during school and give him his
25 bag and then go back and pick him up after school and stuff. It's kind of

1 the wrong timing because it's baseball season right now and it's difficult
2 for my wife to do it -- to pick him up from school. But we can make
3 arrangements, but it will be kind of a burden for us.

4 THE COURT: Okay. Elementary/middle/high school age?

5 PROSPECTIVE JUROR NUMBER 026: High school, Varsity.

6 THE COURT: Pardon?

7 PROSPECTIVE JUROR NUMBER 026: High school, Varsity
8 baseball.

9 THE COURT: High school. Okay, thank you.

10 Yes, ma'am?

11 PROSPECTIVE JUROR NUMBER 028: Hello.

12 THE COURT: Ms. Payton?

13 PROSPECTIVE JUROR NUMBER 028: Yes, Ms. Payton.

14 THE COURT: Badge 28.

15 PROSPECTIVE JUROR NUMBER 028: Yes, Badge 28. I
16 just filed for divorce a week ago today. It's a domestic violence case
17 and I actually have to go to court on March 7th to extend the protection
18 order.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NUMBER 028: So it's a little bit of --

21 THE COURT: Is that in Family Court right now, the protective
22 order --

23 PROSPECTIVE JUROR NUMBER 028: Yes.

24 THE COURT: -- or is it in the --

25 PROSPECTIVE JUROR NUMBER 028: Family Court.

1 THE COURT: -- this building?

2 PROSPECTIVE JUROR NUMBER 028: Yes.

3 THE COURT: Okay. Thank you.

4 All right. And then Ms. Brown, Badge 31

5 PROSPECTIVE JUROR NUMBER 031: Hi.

6 THE COURT: Hi.

7 PROSPECTIVE JUROR NUMBER 031: My anxiety level just

8 went up when you said what the case was about. I'm a nurse and this is

9 my last two weeks at my job. I take care of patients where I have to call

10 them and post-discharge and make sure they're okay and unfortunately

11 the murder part of it is causing me anxiety and then I have to finish out

12 my week and it would be unfair to my patients and stuff and what not.

13 And I had an incident in my own personal family when my

14 daughter was seven and stuff, so these type of things I don't do well in.

15 THE COURT: Okay. So let's break that down a little bit. First

16 off, don't be anxious, okay? Everybody -- you know, you bring jurors in

17 for a trial and say somebody's charged with stealing a motor scooter,

18 everybody -- you know, the needle doesn't move, right? You bring

19 cases in that involve a lot higher stakes and more serious allegations

20 and everybody gets a little anxious about that. It's okay.

21 What type of nurse are you?

22 PROSPECTIVE JUROR NUMBER 031: I can't even think

23 straight.

24 THE COURT: Do you --

25 PROSPECTIVE JUROR NUMBER 031: I've been a nurse for

1 39 years --

2 THE COURT: Do you work with pediatric patients or adults?

3 PROSPECTIVE JUROR NUMBER 031: No, I work with
4 adults and some peds as well. Right now presently I'm a care
5 coordinator so --

6 THE COURT: Okay. So like an assistant facility or --

7 PROSPECTIVE JUROR NUMBER 031: No.

8 THE COURT: -- at a hospital?

9 PROSPECTIVE JUROR NUMBER 031: I work with Health
10 Care Partners --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NUMBER 031: -- and I do contracts
13 and what I basically do is do transitional care. I follow up my members
14 and stuff on the phone to make sure they're okay, they understand their
15 discharge instructions they were given from the hospital and make sure
16 that they have their appointments.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NUMBER 031: And if they need any
19 other equipment that was not delivered or whatever the case manager
20 misses, I'm in the middle to catch everything.

21 THE COURT: Got it. And you get to retire in two weeks?

22 PROSPECTIVE JUROR NUMBER 031: No, I'm not -- I wish I
23 was retiring, no. I'm moving -- actually, I'm going where my boss is. We
24 had -- the contract was switched over to somewhere else, so I'm --

25 THE COURT: Got it.

1 PROSPECTIVE JUROR NUMBER 031: -- leaving with here.

2 THE COURT: So you will still --

3 PROSPECTIVE JUROR NUMBER 031: I'm cleaning up the
4 office.

5 THE COURT: -- be working as a nurse, kind of doing the
6 same stuff, only with --

7 PROSPECTIVE JUROR NUMBER 031: Right, yeah.

8 THE COURT: -- different hospitals.

9 PROSPECTIVE JUROR NUMBER 031: I'm closing this office
10 down because next week, the 8th, is my last day here and I'm moving
11 over.

12 THE COURT: Okay. Got it. Okay. The other stuff about
13 things that may have happened within your family we might chat about a
14 little later, okay?

15 PROSPECTIVE JUROR NUMBER 031: Okay.

16 THE COURT: All right. Anybody else on the bottom row?
17 No.

18 How about over here? First row? Yeah?

19 PROSPECTIVE JUROR NUMBER 038: Badge 38.

20 THE COURT: Mr. Purfey?

21 PROSPECTIVE JUROR NUMBER 038: Yes.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR NUMBER 038: Yes, sir? I'm an
24 independent --

25 THE COURT: Let me interrupt you for one moment.

1 Hey, JR, can you put that thing down? Like looking through --
2 no, no, no, the overhead thing.

3 Okay. All right.

4 PROSPECTIVE JUROR NUMBER 038: Yes, Judge --

5 THE COURT: Go ahead.

6 PROSPECTIVE JUROR NUMBER 038: -- I'm an independent
7 CPA. I do tax -- income taxes for a living. I'm the sole provider of my
8 family. I'm right at the heart of tax season right now. I think this would
9 be an undue burden if I were to spend a week or two here, otherwise I
10 don't get paid. If I don't prepare get taxes, I don't get paid.

11 THE COURT: Okay. Thank you.

12 Anybody else on that row? Yep. If you could pass it down to
13 your right for me, please, sir? Thank you.

14 Mr. Manley?

15 PROSPECTIVE JUROR NUMBER 040: Yeah, 040.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NUMBER 040: I have a prearranged
18 trip out of the country from March 2nd to March 9th, otherwise I'd be
19 available.

20 THE COURT: Are you going somewhere good?

21 PROSPECTIVE JUROR NUMBER 040: Mexico.

22 THE COURT: Yeah, that's good. Okay.

23 Who else I got? Yes, ma'am, Ms. Barder, 43?

24 PROSPECTIVE JUROR NUMBER 043: 043, Cheryl Barder.
25 I'm just supposed to take a quick vacation that's bought and paid for.

1 I'm supposed to leave Thursday morning and come back Monday
2 morning.

3 THE COURT: Thursday morning, come back when?

4 PROSPECTIVE JUROR NUMBER 043: Monday morning.

5 THE COURT: Monday morning, thank you.

6 And Ms. Bustos, did you have your hand up as well?

7 PROSPECTIVE JUROR NUMBER 044: Yeah, 44. I have a
8 vacation scheduled for March 8th through the 11th and it's paid for; the
9 tickets.

10 THE COURT: Thank you.

11 Who else I got? Anybody else on that row? Nope.

12 Well, no, I'm not going back over there right now, let's stick
13 where we are.

14 How about the next row?

15 Is that Ms. Toland?

16 PROSPECTIVE JUROR NUMBER 047: Yes.

17 THE COURT: Badge 47.

18 PROSPECTIVE JUROR NUMBER 047: Yes, Badge 47. I am
19 a single mom with four kids and I'm also enrolled in fulltime nursing
20 school at Nevada State. And every day that I spend here is a day that I
21 either make up the time at a clinical at the end of the semester or I will
22 have to reapply and restart the whole semester over again. There's a
23 state-mandated number of patient contact hours and every hour that I
24 miss --

25 THE COURT: Right.

1 PROSPECTIVE JUROR NUMBER 047: -- is something that
2 has to either be made up or returned back to the beginning of the
3 semester to do it again.

4 THE COURT: Okay. Are your kids all school-aged?

5 PROSPECTIVE JUROR NUMBER 047: They are.

6 THE COURT: Okay. All right. Thank you.

7 Anybody else on that row? Nope.

8 How about the next row? If you could pass it back, Sara,
9 thank you.

10 Who do I got?

11 PROSPECTIVE JUROR NUMBER 059: Ashley Behre.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR NUMBER 059: I have a prearranged
14 trip, March 3rd through the 5th, out of state.

15 THE COURT: Thank you.

16 Who else on that row?

17 PROSPECTIVE JUROR NUMBER 064: Mike Ankrum, Badge
18 064. I'm a store manager with Whole Foods and I have an out-of-town
19 business meeting on the 5th and 6th of March.

20 THE COURT: Thank you.

21 Anybody else on that row? Nope.

22 How about my first row over here? Yes?

23 PROSPECTIVE JUROR NUMBER 079: I'm Jeff Pienta,
24 Badge Number 079. I'm actually a head varsity baseball coach in town
25 at Spring Valley High School and our season opens up this week.

1 Missing school is not a big deal because there's substitutes available
2 for -- you know, to take care of my classroom but the 20 players that are
3 excited for the season to start this week, they're going to be in a bind
4 without their coach this week, so.

5 THE COURT: Okay. Thank you.

6 Anybody else on that row?

7 How about the next row? No.

8 Okay. Who was it that had their hands up over here? Let's
9 talk to these gentlemen.

10 PROSPECTIVE JUROR NUMBER 020: Anthony Nguyen --

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR NUMBER 020: -- Badge 20. I'm
13 actually a cancer physician. I actually have -- they call it intrathecal
14 chemo. I have to give a surgical procedure.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NUMBER 020: I have to do it twice a
17 week on one patient. She's a 40-year old. And if I'm gone, no one else
18 can do it. We have coverage but no one can do my procedure. And I
19 also have an end-of-life meeting that I cancelled today.

20 THE COURT: Meaning like nobody else is pediatric qualified
21 for that or --

22 PROSPECTIVE JUROR NUMBER 020: She's an adult but --

23 THE COURT: Oh, I thought you said 4, I'm sorry.

24 PROSPECTIVE JUROR NUMBER 020: It's called intrathecal,
25 so it's a brain injection of chemo.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 020: And I have to do it
3 twice a week now because she has -- she's paralyzed. So it is
4 complicated.

5 THE COURT: Are there set times that you do that?

6 PROSPECTIVE JUROR NUMBER 020: I do it twice a week
7 on -- I do it -- I did one on Monday and I do it usually on Thursday or
8 Wednesday depending -- I don't know my schedule.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NUMBER 020: But it's new. It's not
11 common. I do this once every five years. But this patient's paralyzed
12 and I won't -- I don't have coverage for someone to do that procedure.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 020: She's a breast
15 cancer patient. And the other one is a -- my -- I know everyone's job is
16 important but --

17 THE COURT: No, no, no, no. Look, I mean, you do
18 something the rest of us don't do, right? So I get that. And maybe my
19 question wasn't as articulate as it should have been. Is that something
20 where -- like usually you guys tell us hey, you got to be there at 5:00 in
21 the morning so we can do this so you haven't eaten and things like that.
22 Is there a particular time that you do it during the day?

23 PROSPECTIVE JUROR NUMBER 020: I do it at 4:00 after all
24 the patients are gone.

25 THE COURT: Oh, at the end of the day.

1 PROSPECTIVE JUROR NUMBER 020: I do it at the end fo
2 the day because --

3 THE COURT: Got it, okay.

4 PROSPECTIVE JUROR NUMBER 020: -- yeah, so I don't --
5 so I can spend more time with her.

6 THE COURT: Okay. Thank you.

7 All right. And then we had this gentleman. Is that Mr. Patlan?

8 PROSPECTIVE JUROR NUMBER 022: Yep.

9 THE COURT: Badge Number 22.

10 PROSPECTIVE JUROR NUMBER 022: Just general
11 question. What's the latest time this will get out?

12 THE COURT: Oh, you know what, really good question. I
13 mean, so I forgot to kind of give you an outlay of the schedule before
14 everybody started answering that. So I don't know if that changes
15 anybody that's already talked about undue burdens, but -- so the
16 schedule of the court, I wish we could just say we're going to start trial
17 every day at 8:00 and be done at 5:00 and then we would probably be
18 able to get a trial done in four or five days, right?

19 Unfortunately, that's not how it works. Every court has what
20 we call law and motion calendars in the morning where other cases
21 getting ready for trial need motions decided. And we do those in the
22 morning starting at 9:00 because the attorneys also have cases in the
23 lower courts, Justice Court and Municipal Court, and they start earlier so
24 we don't get everybody until 9:00.

25 So, usually we won't start court before 10:30. Some days I

1 can start at 9:00 but usually Tuesdays/Thursdays for sure, sometimes
2 Wednesdays, it's going to be about 10:30. Monday and Friday are the
3 two days that we can sometimes start a little earlier; and possibly this
4 Wednesday, tomorrow, but we'll have to -- I'll have to figure that out this
5 afternoon. But we'll always stop by 5:00. I know that was a primary
6 issue in your question. I recognize that you all have things to do in the
7 evening like everybody else.

8 So sometimes we may stop a little early because we finished
9 a witness and we don't want to start another one. Maybe we go five
10 minutes past 5:00 to finish up a witness, but other than that, we're
11 always going to stop by 5:00 at the end of a normal day, okay? All right.

12 Does that change anybody's perspective that earlier said
13 you've, you know, got an undue burden? I'm guessing probably not.

14 Okay. Yeah, you can go ahead.

15 PROSPECTIVE JUROR NUMBER 021: Stephen Aguirre,
16 Badge 21.

17 THE COURT: 21.

18 PROSPECTIVE JUROR NUMBER 021: So I just wanted
19 clear a few things up. So I worked here in Las Vegas up to about four
20 years ago.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 021: I still -- part of my
23 territory is still northern Nevada, like Reno, all the way down to Beatty.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 021: And -- but I spend

1 most of my time in California. I never did transfer my -- I own a home
2 here.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 021: And I still have a
5 driver's license in Nevada.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 021: I never did get the
8 California license so -- but I was called for jury duty so I drove down
9 here.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NUMBER 021: And I just want to
12 make sure that that's okay.

13 THE COURT: So -- yeah, so long as you maintain a
14 residence here --

15 PROSPECTIVE JUROR NUMBER 021: Yeah, I do.

16 THE COURT: -- then you're going to be on our jury rolls.

17 PROSPECTIVE JUROR NUMBER 021: Okay.

18 THE COURT: If you were ever to declare your residence for
19 more than six months a year in California then you'd get on their rolls. I
20 would rather do jury duty in Nevada, quite honestly than California --

21 PROSPECTIVE JUROR NUMBER 021: Okay.

22 THE COURT: -- but maybe that's just me. But you're fine.
23 Thank you, though.

24 Okay. Let's see. Next question I wanted to ask is if there's
25 anybody on the panel if you are anyone close to you has ever been

1 engaged in law enforcement work. And by close to you I mean, close
2 enough that you would talk to them about their work. Not just that you a
3 distant cousin in Chicago that's a police officer or what have you, but
4 somebody that's close enough that you would talk to them about the job
5 that they do.

6 So, let's start on the top row with Ms. Savino, Badge Number
7 005. Yes, Christine.

8 PROSPECTIVE JUROR NUMBER 005: Yes, my husband is
9 a detective for Metro.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NUMBER 005: He's a --

12 THE COURT: And what detail is he assigned to?

13 PROSPECTIVE JUROR NUMBER 005: Vice.

14 THE COURT: Vice, okay. Has he ever worked in the
15 homicide detail?

16 PROSPECTIVE JUROR NUMBER 005: No.

17 THE COURT: Thank you.

18 Anybody else up there? No top there.

19 We'll go down to the middle row.

20 Yes, Ms. Gasperino?

21 PROSPECTIVE JUROR NUMBER 019: Yep.

22 THE COURT: Badge Number 19.

23 PROSPECTIVE JUROR NUMBER 019: Yep, my brother is a
24 police officer in Yonkers, New York. And my brother-in-law is an
25 attorney.

1 THE COURT: Okay. Brother-in-law an attorney here or back
2 in New York?

3 PROSPECTIVE JUROR NUMBER 019: New Jersey.

4 THE COURT: New Jersey. Does he practice in civil law or
5 criminal law?

6 PROSPECTIVE JUROR NUMBER 019: Civil law.

7 THE COURT: Civil, okay, thank you.

8 Who else did I have? Yes, go back to Mr. Aguirre --

9 PROSPECTIVE JUROR NUMBER 021: Yes, Badge --

10 THE COURT: -- Badge 21.

11 PROSPECTIVE JUROR NUMBER 021: -- 21, yes. So my
12 wife's best friend's husband was -- he was -- he's a retired Sacramento
13 County Sheriff's Deputy in California.

14 THE COURT: Okay. Thank you.

15 Yes?

16 PROSPECTIVE JUROR NUMBER 013: Adam, Badge 13.

17 THE COURT: Do I pronounce it Haman?

18 PROSPECTIVE JUROR NUMBER 013: Haman.

19 THE COURT: Haman, thank you.

20 PROSPECTIVE JUROR NUMBER 013: My next-door
21 neighbor retired from Metro as a captain.

22 THE COURT: And who's that?

23 PROSPECTIVE JUROR NUMBER 013: Rich Suey.

24 THE COURT: Okay. Thank you.

25 Anybody else on that middle row?

1 How about the -- oh, pass it down here, if you would, Mr.
2 Haman, thank you.

3 Ms. Belmonte, Badge Number 18.

4 PROSPECTIVE JUROR NUMBER 018: That's correct. My
5 next-door neighbor is also a police with the Metro. And being a
6 community leader in the Filipino and Asian community, I work with a lot
7 of -- several judges and I know several of them.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 018: Several marshals
10 that I talk to every now and then because they're invited to our events.

11 THE COURT: Do you work with the Asian American group?

12 PROSPECTIVE JUROR NUMBER 018: Correct, sir.

13 THE COURT: Okay. All right.

14 PROSPECTIVE JUROR NUMBER 018: Correct, Judge, I'm
15 sorry.

16 THE COURT: Well, I've probably I've met you before and I
17 apologize if I don't recognize you.

18 PROSPECTIVE JUROR NUMBER 018: It's okay.

19 All right. Anybody else on that row?

20 How about on the front row?

21 Yes, could you pass it forward for me, Ms. Belmonte --

22 PROSPECTIVE JUROR NUMBER 018: Sure.

23 THE COURT: -- thank you very much.

24 PROSPECTIVE JUROR NUMBER 026: I'm a good friend of
25 former deputy of Metro, [unintelligible]. We've been going out for lunch

1 once a month for the last several years.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NUMBER 026: It's a group of
4 baseball parents. And he's now the marshal for the state of Nevada
5 and --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 026: -- you know, I
8 mean -- that's one.

9 And then I work for the Hindu Temple in Summerlin so
10 whenever we big events I go down to the Northwest Area Command and
11 I talk to the captain there, Sasha, and there are some officers there that I
12 deal with --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 026: -- for security and
15 patrol for the temple during those big events.

16 THE COURT: Thank you.

17 Yes, Ms. Payton, 28.

18 PROSPECTIVE JUROR NUMBER 028: Yes, I'm a personal
19 family friend of Brian Williams. He runs High Desert Prison.

20 THE COURT: He's one of their wardens, correct?

21 PROSPECTIVE JUROR NUMBER 028: Yes.

22 THE COURT: Thank you.

23 Anybody else down there?

24 Yep, Mr. Smith, 32.

25 PROSPECTIVE JUROR NUMBER 032: Yes. I don't know if

1 this counts or not, nobody locally here, but my grandfather was a deputy
2 sheriff, and we -- he talked all the time about stars.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 032: And then --

5 THE COURT: Where was that?

6 PROSPECTIVE JUROR NUMBER 032: In Wisconsin.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NUMBER 032: And then also in
9 Wisconsin I was a professor and I taught a lot of police officers that were
10 going to school for their bachelors and stuff. I teach business but they
11 took a lot -- a lot of the CJs came in and were in my class a lot, so.

12 THE COURT: Okay. Thank you.

13 Anybody else on that row?

14 Pass it down to the end for me, please, thank you.

15 Mr. McAndrew, Badge 36.

16 PROSPECTIVE JUROR NUMBER 036: Yes, Your Honor,
17 Badge 36. My uncle was a detective in New York City and my father
18 was the attorney for the Rhode Island State Police for several years
19 doing labor employment work for them.

20 THE COURT: Got it, thank you.

21 How about our first row over here?

22 Nope.

23 Second row?

24 Yes. Mr. Harris.

25 PROSPECTIVE JUROR NUMBER 054: Yes, sir.

1 THE COURT: Badge 54.

2 PROSPECTIVE JUROR NUMBER 054: Badge 54. My wife

3 is a retired special agent with Homeland Security.

4 THE COURT: Okay.

5 Anybody else on that row?

6 Nope.

7 How about the next row back?

8 Yes. Could you pass it behind you for me? Thank you.

9 PROSPECTIVE JUROR NUMBER 068: My sister's a judge in

10 Philadelphia.

11 THE COURT: Okay. Let me -- is that Ms. Pool?

12 PROSPECTIVE JUROR NUMBER 068: Yes.

13 THE COURT: Okay. Badge Number 68.

14 PROSPECTIVE JUROR NUMBER 068: Correct.

15 THE COURT: And you said it was your sister?

16 PROSPECTIVE JUROR NUMBER 068: Yes.

17 THE COURT: Okay. Thank you. Do you know does she -- is

18 she a trial court judge like this or --

19 PROSPECTIVE JUROR NUMBER 068: Yes.

20 THE COURT: Okay. Civil cases? Criminal? Both?

21 PROSPECTIVE JUROR NUMBER 068: I don't know. We

22 don't talk about it.

23 THE COURT: Okay. Very good.

24 PROSPECTIVE JUROR NUMBER 068: I'm just trying to be

25 transparent.

1 THE COURT: No, that's okay.

2 PROSPECTIVE JUROR NUMBER 068: Okay.

3 THE COURT: That's what you're supposed to do, thank you.

4 Anybody else?

5 Yeah?

6 PROSPECTIVE JUROR NUMBER 063: Ashley, Badge 63.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR NUMBER 063: My dad's a retired

9 corrections officer for the state of New Mexico.

10 THE COURT: Thank you.

11 Anybody else?

12 Nope.

13 How about our first row over here?

14 Yes. Give it to Mr. Riecki, Badge Number 76. Yes, sir?

15 PROSPECTIVE JUROR NUMBER 076: Correct. I had a

16 brother -- older brother, now deceased, who was a sheriff's deputy in the

17 late 80s in Ventura, California.

18 THE COURT: Thank you.

19 Yes, sir?

20 PROSPECTIVE JUROR NUMBER 079: Badge Number 79.

21 We just have a close family friend -- he's actually my wife's cousin's

22 husband who's a Metro officer.

23 THE COURT: Do you know what detail he works with, with

24 Metro?

25 PROSPECTIVE JUROR NUMBER 079: I think he's in

1 Southwest Area Command. His name is Zack Davis [phonetic].
2 THE COURT: So works in patrol?
3 PROSPECTIVE JUROR NUMBER 079: Yes --
4 THE COURT: As far as you know.
5 PROSPECTIVE JUROR NUMBER 079: -- I believe so,
6 THE COURT: Thank you.
7 And we had a hand in the back row there. Yes, sir? Mr.
8 Moore, Badge 83.
9 PROSPECTIVE JUROR NUMBER 083: Stanley Moore.
10 Yeah, I represented a party in a murder case. I practiced law for 30
11 years and my daughter's husband has been a sheriff's deputy in Pierce
12 County, Washington.
13 THE COURT: Thank you.
14 PROSPECTIVE JUROR NUMBER 083: Okay. Anybody else
15 that I missed?
16 Oh, missed on the end. I'm sorry.
17 Mr. Bautista, Badge 82.
18 PROSPECTIVE JUROR NUMBER 082: Yes, sir. I'm familiar
19 with a friend, he works for Metro. His name is Kevin Madden [phonetic].
20 THE COURT: He's a police officer?
21 PROSPECTIVE JUROR NUMBER 082: He's a police officer.
22 I believe he works the patrol.
23 THE COURT: Patrol? Okay, thank you.
24 All right. Is there anybody here in our group of 60 that
25 believes you would be unable to follow the instructions on the law that

1 I'm going to give you, the jury instructions, if they differed from your
2 personal belief as to what the law ought to be? Does that make sense?
3 I did not write that question.

4 So here's just kind of a little outline. We do this process, we
5 select a jury, and then the attorneys give opening statements, there are
6 witnesses called and evidence is produced, whether it's a document,
7 photograph, testimony, whatever it may be. And then at the end of the
8 case, before the attorneys give their closing arguments, I give you the
9 jury instructions and that's the law that I've determined applies to this
10 particular case.

11 If you have opinions about that, if you disagree with a certain
12 aspect of the law, you're certainly free to do what all of us can do in
13 terms of going to your state assemblymen and women or senators and
14 ask to see certain things be changed or lobby on behalf of that. But the
15 only way the process of a trial is fair to the parties involved and to your
16 fellow jurors is that everybody listens to the same evidence, and
17 everybody takes the same law and applies it to deciding the case.

18 So the question is, is there anybody that if you see some
19 aspect of the law that I give that you disagree with, are you going to
20 ignore it or can you still follow the law and apply it to this case in
21 reaching a decision? Anybody that believes they would be unable to do
22 that?

23 We got two or three hands in the air here. So let's start with
24 Mr. Haman, Badge Number 13.

25 PROSPECTIVE JUROR NUMBER 013: Hi, I'm Adam, Badge

1 13. I don't know if this is what you're talking about but I believe in the
2 concept of jury nullification.

3 THE COURT: Okay. That's exactly what I'm talking about.
4 So you swear an oath that says you'll follow the law but what you're
5 saying is you believe that you have some right within our country's laws
6 to just kind of ignore the law and decide what you think is appropriate.

7 PROSPECTIVE JUROR NUMBER 013: You understand the
8 concept.

9 THE COURT: I do understand.

10 PROSPECTIVE JUROR NUMBER 013: I mean, obviously --
11 well maybe not obvious, but I don't think it applies to murder --

12 THE COURT: Well --

13 PROSPECTIVE JUROR NUMBER 013: But --

14 THE COURT: And so that was going -- you raised a good
15 point. That was going to be my next question. So back in the day, you
16 know, I've been doing this for almost 30 years. Back in the day there
17 are a lot of people before marijuana was legalized that said look, if this
18 case deals with possession with marijuana, then I don't think I would
19 ever find anybody guilty because I disagree that marijuana should be
20 illegal, okay?

21 That's a little different, obviously, than saying somebody's
22 charged with a homicide-related crime. But nonetheless, the same kind
23 of idea applies and that when you swear an oath and decide -- and say
24 that you'll follow the law, you got to follow the law as I read it to you. So
25 are you saying that might be a problem?

1 PROSPECTIVE JUROR NUMBER 013: Yeah, I understand
2 the arguments on both sides.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 013: They make sense. I
5 would never put anybody in prison for a victimless crime, is what I --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 013: -- my position is.

8 THE COURT: Okay. All right. Thank you very much.

9 And then next to you, Mr. Hackett, Badge Number 12.

10 PROSPECTIVE JUROR NUMBER 012: You sort of hit it with
11 the -- with your explanation.

12 THE COURT: Okay. All right. So you think you're okay in
13 terms of what we're dealing with here?

14 PROSPECTIVE JUROR NUMBER 012: We'll find out.

15 THE COURT: Okay. Thank you. Who else had their hand
16 up? I thought there was one other.

17 PROSPECTIVE JUROR NUMBER 019: I did.

18 THE COURT: Yes, okay.

19 PROSPECTIVE JUROR NUMBER 019: Badge 19, Laura
20 Gasperino, but --

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR NUMBER 019: -- you kind of hit on it
23 already, so.

24 THE COURT: Okay. And one thing that Mr. Pike kind of
25 alluded to issues in a homicide trial if somebody's convicted of first-

1 degree murder about the jury being involved in sentencing. We're going
2 to talk about that later on but I will tell you at the outset, this case does
3 not involve any allegations of the death penalty. I know that can be
4 really polarizing with people. That's not an aspect of this case, so don't
5 worry about that. But as I said, we'll get to that a little later.

6 Anybody else have a hand on that last -- nope.

7 Okay. As a follow-up to that last question, the other aspect I
8 need to explain to you is that -- obviously as I just said I'm the guy that
9 has to figure out what the law is. The jury sitting collectively are the folks
10 that figure out what the facts are. That's your primary purpose in the trial
11 is to listen to testimony, take in whatever exhibits are introduced, and
12 you decide what you think the facts of any given situation are; fact
13 finders.

14 Then you take the law that I give you and you put all that
15 together to come up with whatever you think is a proper verdict. So kind
16 of understanding that, is there anybody that feels they could not be a
17 fact finder; that you couldn't sit and listen, view evidence, evaluate it, talk
18 with your fellow jurors, and decide what you think the facts are?

19 Got a couple of hands over here on that. Could you get the
20 microphone down?

21 Ms. Ebel?

22 PROSPECTIVE JUROR NUMBER 014: Yes, 0014.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NUMBER 014: I am just afraid of a
25 language barrier. I speak English, my English is not that good.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 014: So.

3 THE COURT: What is your first language?

4 PROSPECTIVE JUROR NUMBER 014: Romanian.

5 THE COURT: Romanian. So you're worried that --

6 PROSPECTIVE JUROR NUMBER 014: Yeah.

7 THE COURT: -- there may be things that you might miss?

8 PROSPECTIVE JUROR NUMBER 014: Yes.

9 THE COURT: Okay. Are you better listening to English --

10 PROSPECTIVE JUROR NUMBER 014: Yes.

11 THE COURT: -- or reading?

12 PROSPECTIVE JUROR NUMBER 014: No, listening.

13 THE COURT: Listening?

14 PROSPECTIVE JUROR NUMBER 014: Yes.

15 THE COURT: Reading's more a problem?

16 PROSPECTIVE JUROR NUMBER 014: Yes.

17 THE COURT: Okay. Thank you.

18 PROSPECTIVE JUROR NUMBER 014: And sometimes

19 listening too. I mean, I cannot understand all the words.

20 THE COURT: Okay. Have you been okay so far?

21 PROSPECTIVE JUROR NUMBER 014: Yeah.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NUMBER 014: But I was dismissed

24 of the previous jury duty for the same reason.

25 THE COURT: Same reasons, okay. If I say anything that you

1 don't understand, let me know, okay?

2 PROSPECTIVE JUROR NUMBER 014: Okay.

3 THE COURT: All right. And then I had one other hand I
4 believe?

5 Yeah, would you pass it down here in front of you, Ms. Ebel?

6 PROSPECTIVE JUROR NUMBER 014: Oh.

7 THE COURT: There you go. To, Ms. Williams, correct?

8 PROSPECTIVE JUROR NUMBER 031: 031, Lorraine.

9 THE COURT: Or Ms. Brown, excuse me, 31. Yes, ma'am?

10 PROSPECTIVE JUROR NUMBER 031: When you said
11 different facts and stuff, for me, my family was involved when my
12 daughter was 8 --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 031: -- someone came
15 into our garage --

16 THE COURT: Well, I don't want to -- and I'm sorry to interrupt
17 you. I don't want to go into the personal issue that happened in your
18 family just yet.

19 PROSPECTIVE JUROR NUMBER 031: But you just said
20 something about the facts --

21 THE COURT: I understand that may cloud how you view a
22 case.

23 PROSPECTIVE JUROR NUMBER 031: Okay.

24 THE COURT: But just for right now, you're comfortable with
25 the idea of being somebody that you listen to whatever's available to

1 you, and you figure out what you think the facts are.

2 PROSPECTIVE JUROR NUMBER 031: [Unintelligible] -- but I
3 think he said something about two scenarios and for me that brought
4 back what I actually listened to. Two scenarios.

5 THE COURT: Okay. But I'm not talking about his question
6 right now. I'm just talking about being a fact finder. Whether you're
7 listening to your kids talk about, you know, who stole the cookie or
8 you're trying to evaluate what the car repairman is telling you about your
9 car, I mean, we all, every day in our lives, have to take in information
10 about something and decide what we think the facts are in regard to that
11 situation.

12 PROSPECTIVE JUROR NUMBER 031: I don't know. I'm
13 going to be honest with you, I don't do well with these. My father did
14 shoot someone and then it turned into something all -- and I just -- it's
15 anxiety.

16 THE COURT: Okay. I get all that. But I'm just asking you,
17 can you be fact finder? Just like you do in your job every day, nursing
18 and helping people with their plans; you kind of evaluate it and decide
19 what's the right thing to do.

20 PROSPECTIVE JUROR NUMBER 031: That's my oath that I
21 took to take care of people, yes, I can do that. But I'm -- you're telling --
22 putting me in another situation where I have to think outside of what I do
23 every day as far as a fact finder for what this is related to and I'm going
24 to be honest with you, no.

25 THE COURT: So you don't think you can be a fact finder?

1 PROSPECTIVE JUROR NUMBER 031: No, not in any -- no,
2 uh-uh.

3 THE COURT: Okay. All right. And that's just because of the
4 nature of this case?

5 PROSPECTIVE JUROR NUMBER 031: Yes.

6 THE COURT: Or in any case?

7 PROSPECTIVE JUROR NUMBER 031: Absolutely.

8 THE COURT: Okay. All right. Anybody else?

9 Got no other hands. Thank you.

10 Okay. There's several principles of law that apply in any
11 criminal trial no matter what the charges and no matter where in the
12 United States the charge lies and those principles are number one, that
13 when somebody is charged with a crime they are presumed innocent.
14 Does everyone understand the presumption of innocence?

15 Anybody disagree with the presumption of innocence?

16 I see no hands.

17 The second principle is that a person gets charged with a
18 crime, they get noticed that they've been charged with a crime by the
19 filing of a document and that document is called either an information or
20 an indictment. That's just a piece of paper that's given to somebody that
21 says the State is charging you with a crime. That document is not
22 evidence, it's just the allegation of a crime. Does everybody understand
23 that? Does anybody disagree with that?

24 Seeing no hands.

25 And finally, when somebody's accused of a crime they are

1 charged by a particular jurisdiction, in this case the State of Nevada.
2 And the State of Nevada, therefore, has the burden of proving
3 somebody's guilt beyond a reasonable doubt. I'm not going to ask you if
4 you understand what reasonable doubt is, that's something that we'll talk
5 about in jury instructions. But just that you understand that when
6 somebody's charged with a crime, it is not their obligation to prove their
7 innocence, rather it's the State's obligation to prove their guilt.
8 Everybody understand that?

9 Anybody disagree with that?

10 I see no hands.

11 Okay. So here's what we're going to do, we're going to go
12 ahead and break for lunch now. Give you a break. We'll come back in
13 an hour, give me an opportunity to talk to the attorneys about some of
14 the things that we've chatted about so far. I'm sure when you get back
15 there may some of you that we're able to release and then we'll move to
16 the rest of our questions, okay?

17 But before you leave there's something I have to tell you every
18 time we take a break, which is during a recess you're admonished not to
19 talk or converse among yourselves or with anyone else on any subject
20 connected with the trial. Or read or watch or listen to any report of or
21 commentary on the trial by any medium of information including, without
22 limitation, newspapers, television, the internet and radio. Cannot form or
23 express any opinions on the case or anybody involved in the case, until
24 it is submitted to you for your deliberations.

25 So, what that means is even during the recess you can't talk

1 about the case with each other. You've got to find other things to chat
2 about. The only time you'll talk about the case is in the deliberation
3 room when you're deliberating.

4 Additionally, how many of you do not have smart phones?
5 Anybody left? Anybody got a flip phone? No. Okay. So whether it's
6 your phone or at home at night on an iPad or a computer, please, you
7 cannot do any kind of legal or factual research on the case. Don't look
8 up people's names or legal terminology, anything like that. Everything
9 you need to know to decide the case you'll learn here in court through
10 the evidence presented and the jury instructions.

11 How many of you do not have any kind of social media?

12 Just a couple of people left on that as well. Wow, the world is
13 ending.

14 So, those of you social media aficionados, please do not go
15 on social media communicating to your friends and the masses that
16 you're doing jury duty, anything like that. All you do is invite people to
17 respond for things that you are not asking for and it's kind of
18 inappropriate and we don't want you being infected by what other people
19 have to say about anything, so please do not communicate out to
20 anybody that you're doing jury duty.

21 I recognize that if we have 14 of you that are going to sit on
22 our trial for a couple of weeks, you're going to need to let your loved
23 ones and your employers know what's going on and we'll talk about that
24 a little later. But for right now, don't engage in any kind of
25 communication about that case.

1 When you come back, you're going to come back to the same
2 seats, so if you have a book or something that you brought with you and
3 you want to leave it, feel free to do so, okay?

4 And with that, we'll be in recess and I'll see you back in an
5 hour, so that's just a tad after 2:00. Thank you.

6 THE MARSHAL: All rise for the jurors.

7 [Outside the presence of the prospective jury]

8 THE COURT: You guys can be seated.

9 Before you run off, let's just go through the undue burden
10 people. As always, if you guys agree, I'll excuse them, if one side or the
11 other disagrees for right now, we'll keep them and you guys can raise it
12 later as needed. But the first person that raised anything related to
13 undue burden would be Mr. Hackett. He's Panelist Number 7. The
14 gentleman that says he's having some psych issues and he's on
15 medication.

16 MS. BLUTH: The State would like to dismiss him.

17 THE COURT: Okay.

18 MR. PIKE: No objection, Your Honor.

19 THE COURT: All right. So we'll excuse Mr. Hackett.

20 Then I had -- got a whole bunch of travelers, apparently. Ms.
21 Jensen, Panelist Number 10, so she's going to be gone Thursday
22 through Wednesday.

23 MS. BLUTH: The State would like to dismiss her.

24 MR. PIKE: And the Defense agrees.

25 THE COURT: Okay. Dr. Nguyen, Badge Number 20 raised

1 the issue of some -- sounds like some delicate chemotherapy surgery
2 that he is involved with twice a week with a particular patient, late in the
3 afternoon.

4 MS. BLUTH: So, Judge, the only thing I have about that, if
5 he's going to be selected as a juror and he can do that in the morning,
6 I'd like to keep him.

7 THE COURT: Okay.

8 MS. BLUTH: So I'd just to like him some additional questions.
9 If he can't, I'd absolutely like to let him go.

10 THE COURT: Okay. Yeah, that's fine. We'll leave him for
11 now.

12 Ms. Moreno, Badge Number 24, said she's gone the 4th
13 through the 11th.

14 MS. BLUTH: The State would like to dismiss.

15 MR. PIKE: Same.

16 THE COURT: Okay. Mr. Gondy, Badge 26. He was kind of
17 back and forth a little bit saying that he's responsible for getting his high
18 school kid for baseball practice and it would be problematic for his wife.
19 But then it sounded like he was saying he could make arrangements, so.

20 MS. BLUTH: Yeah, I think he can stay.

21 THE COURT: Okay. Like I said, if one side or the other says
22 keep him for now, we'll keep him.

23 Ms. Payton, Badge 28, has a TPO hearing on March 7th.
24 She's going through a divorce with some allegations of domestic
25 violence. I mean, I have to assume that's a pretty acute issue because -

1 -

2 MS. BLUTH: Yeah.

3 THE COURT: -- she's talking about getting an extension on
4 the TPO, which means it's only been issued within the last 30 days.

5 MR. ROGAN: That's going to be a contested hearing most
6 likely since it's an EPO extension. So it could be -- it could interfere with
7 the trial.

8 THE COURT: So what's your pleasure?

9 MS. BLUTH: I'm going to move to let her go.

10 MR. PIKE: Yeah, that's fine with us.

11 THE COURT: Okay.

12 Mr. Purfey is a CPA and he has to do all your taxes. I --

13 MS. BLUTH: I know it's a pretty critical time of season for him
14 so I'm more leaning towards letting him go.

15 MR. PIKE: I'm surprised they didn't let him go to begin with if
16 he's a sole proprietor of his business, I know that that's --

17 THE COURT: Okay.

18 MR. PIKE: And he -- if we release him now, he can -- he'll be
19 able to go for another one right after the tax season.

20 THE COURT: Okay. So there's agreement, we'll release him.

21 Mr. Manley says he's going to be out of town the 2nd through
22 the 9th.

23 MS. BLUTH: Fine with letting him go.

24 MR. PIKE: No objection.

25 THE COURT: Ms. Barder, leaving Thursday through Monday.

1 MS. BLUTH: Fine with letting her go.

2 MR. PIKE: Same with us, Judge.

3 THE COURT: Okay. Ms. Bustos, the 8th through the 11th.

4 What I was unclear of with her is that's Friday to Monday, so I don't
5 know if she may be leaving later Friday and being back in time for
6 Monday, or if she's actually going to be gone on Friday and Monday.

7 MS. BLUTH: We can ask. I just hate always working up
8 against some date where I feel like, you know, we have to hurry because
9 so and so might be gone. I'd rather have a juror in her place that I don't
10 have the same time constraints with. So I'd like to let her go.

11 THE COURT: Randy?

12 MR. PIKE: I think the Court had preferred that this would be
13 done by the 8th.

14 THE COURT: Yeah, yeah. Absolutely.

15 MR. PIKE: So I don't know -- if we're going to go past -- we
16 can just ask her some more questions, see if --

17 THE COURT: Okay. Let's keep --

18 MR. PIKE: If it's not going to interfere with it then we can --
19 but definitely if she's leaving early or during the day on the 8th and not
20 coming back until late on Monday --

21 THE COURT: Okay.

22 MR. PIKE: -- or any permutation of that, that's fine.

23 THE COURT: Okay. We'll keep her for now and see what
24 comes to whit.

25 Ms. Toland, 47, says she's a fulltime nursing school student

1 and also has four children.

2 MS. BLUTH: I'd like to let her go.

3 MR. PIKE: Yes.

4 MS. SIMPKINS: She's a saint.

5 MS. BLUTH: Yes, she is.

6 MR. PIKE: Excused for Sainthood.

7 THE COURT: Ms. Behre, 59, is going to be out of town, she

8 said, the 3rd through the 5th. So --

9 MS. BLUTH: Yeah, I think we'd better let her go.

10 MR. PIKE: Yes.

11 THE COURT: That's Sunday through Tuesday.

12 Randy?

13 MR. PIKE: Yes.

14 MS. BLUTH: Judge, can we go back though on to 51, Mr.

15 Veal, I was still so confused about the felony in 1989. Was he trying --

16 THE COURT: Well, hold on, hold on.

17 MS. BLUTH: Oh, sorry, I thought --

18 THE COURT: Let me --

19 MS. BLUTH: Okay. Sorry.

20 THE COURT: We got Mr. Ankrum, Badge 64, says he's got

21 work out of state on the 5th and the 6th. I'm a little less --

22 MS. BLUTH: Yes.

23 THE COURT: -- concerned about a guy that's got a work

24 meeting for Whole Foods than people that have preplanned vacations.

25 MS. BLUTH: Yeah, I'd say keep him.

1 THE COURT: My sense is people can work around work
2 meetings. And we're letting a lot of people go.

3 MS. BLUTH: What do you want to do, Randy, keep him or --

4 MR. PIKE: Well -- no, we'll keep him.

5 MS. BLUTH: Let's just keep him.

6 THE COURT: All right. We'll keep him for now. Then Mr.
7 Pienta, Badge 79 that's a high school baseball coach?

8 MS. BLUTH: Yeah, I think he could stay.

9 THE COURT: I would imagine most of their games are after
10 school anyway if not the evening.

11 MS. BLUTH: I think they have assistants for that very reason,
12 right?

13 THE COURT: Well they do. They do. Okay. Well if you guys
14 one to keep him on the one side, we'll keep him.

15 Okay. And who did you want to go back to?

16 MS. BLUTH: Sorry. I just was unclear -- I didn't realize we
17 were doing just the hardships. I didn't realize about the felony in -- or
18 51, Cyrus Veal.

19 THE COURT: Mr. Veal, okay.

20 MS. BLUTH: I was just confused. Was he saying that he was
21 pardoned?

22 THE COURT: I'm not sure, actually. Look, he wouldn't be the
23 first guy that has a felony conviction that somehow is still on the voter
24 rolls when he's not supposed to be, so I don't know. All I can really ask
25 him is what was it and did you seek to get any civil rights restored? Like

1 the one guy said clearly no, I never sought anything. I got convicted of a
2 felony and, you know, I'm just here because you summonsed me.

3 MS. BLUTH: Right.

4 THE COURT: And that was Mr. Gonzalez, 75, who said he
5 had a DUI felony. Mr. Veal, I don't know. He seemed to make it sound
6 like he thought he had those rights restored.

7 MS. BLUTH: So that's what I was thinking. So what happens
8 in a situation where you don't have your civil rights restored but you do
9 vote. Like --

10 THE COURT: Well, I mean, that would potentially be a
11 problem that the Secretary of State should address.

12 MS. BLUTH: But as far as --

13 THE COURT: If you haven't had your civil rights restored then
14 you're not eligible to do jury duty. So -- that doesn't mean these people
15 don't get summons because --

16 MS. BLUTH: Sure.

17 THE COURT: -- when we send out our, you know,
18 summonses to the masses --

19 MR. PIKE: We could run an NCIC and -- or we --

20 THE COURT: Yeah, if you guys want to look it up then you
21 can look it up over lunch hour and see what you can find. I would ask
22 that if you're going to do that though you share -- I mean, you don't have
23 to give them --

24 MS. BLUTH: Of course.

25 THE COURT: -- a copy and -- I understand that. But share

1 with them whatever it is that's found so we all know. My sense is the
2 guy's got a felony conviction that he's probably not supposed to be here,
3 but I don't know.

4 MS. BLUTH: Okay.

5 THE COURT: All right. And then I don't think that there were
6 any others that had things that jumped out at me other than Ms. Ebel,
7 Badge 14, that said Romanian is her first language. She seemed to say
8 that she's understanding things so far. So if you guys want to keep her,
9 we'll keep her.

10 MR. PIKE: Yes.

11 THE COURT: Okay. I guess that's it.

12 MS. BLUTH: So on Mr. Gonzalez, on 75, the one who has a
13 DUI who says it wasn't restored, do we -- we have to let him go, right?

14 THE COURT: Yeah, we would let him go. Mr. Veal is the only
15 one that seems to think that something was restored.

16 MS. BLUTH: Okay.

17 THE COURT: Okay. All right. Go to lunch and I'll see you
18 back.

19 MS. BLUTH: Sounds good.

20 MR. PIKE: Thanks.

21 THE COURT: Thank you.

22 [Recess taken at 1:06 p.m.]

23 [Trial resumed at 2:08 p.m.]

24 [Outside the presence of the prospective jury]

25 THE COURT: I realized that I forgot to ask you guys as we

1 were going through the undue burden stuff what, if anything, you wanted
2 to do with Ms. Brown, the nurse with the anxiety that can't be a fact
3 finder, that's had a couple of family members that have been victims of
4 crimes it sounds like.

5 MS. BLUTH: I -- honestly, no matter --

6 THE COURT: She didn't bring up an undue burden kind of
7 thing, so that's why I kind of- skipped over it, but your pleasure. You
8 want to keep her for now? You want to send her on her way? What's --

9 MS. BLUTH: I think -- my position is to get rid of her only
10 because we're just going to be wasting time by asking her questions
11 because it's clear she doesn't want to be here and she's just going to
12 continue to give answer after answer of why she can't be fair, why -- I
13 mean, I've never had anybody say they couldn't be a fact finder.

14 THE COURT: Yeah, that was a little surprising to me.

15 MR. PIKE: That was a little bit surprising, but I'd like to ask a
16 few --

17 MS. BLUTH: Okay.

18 MR. PIKE: -- questions, if I may.

19 THE COURT: Okay. We'll keep her.

20 All right. Do you guys have anything outside of the presence?

21 MS. BLUTH: Not on behalf of the State, Your Honor.

22 THE COURT: Okay.

23 MR. PIKE: Not on behalf of the Defendant.

24 THE COURT: Okay.

25 If JR's out there, Officer, would you tell him he could go ahead

1 and get them in?

2 Thank you.

3 [In the presence of the prospective jury]

4 THE MARSHAL: All rise for the jurors.

5 THE COURT: You guys can sit down, thank you.

6 THE MARSHAL: The panel's present, Your Honor.

7 THE COURT: All right. Probably should have done this
8 before we got you all and got your comfortable. You guys can sit down
9 as well.

10 There's ten of you that we're going to release now, so if you'd
11 let me read through these names before you get up to leave, I would
12 appreciate it.

13 But we are going to excuse at this time Mr. Hackett, Badge
14 Number 12; Ms. Jensen, Badge Number 17; Ms. Moreno, Badge
15 Number 24; Ms. Payton, Badge Number 28; Mr. Purfey, Number 38; Mr.
16 Manley, Number 40; Ms. Barder, Number 43; Ms. Toland, 47; Ms.
17 Behre, 59; and Mr. Gonzalez, 75.

18 I thank you all very much for your participation this morning,
19 you're excused. Jury Services will reach out to you if they need you to
20 come back in, okay? Thank you.

21 All right. We're going to fill some seats.

22 And where are we starting?

23 THE CLERK: Sun Cheong.

24 Badge 048, Sun Cheong.

25 THE COURT: Ms. Cheong, can you come on up here to this

1 seat on my front row right here, if you would, please -- or excuse me, on
2 the top row, that vacant seat on the top row.

3 And then David Conti, 49, this seat here on the middle row.

4 Followed by Jeanna Lyons, Number 50, the seat on the end of
5 the middle row.

6 Mr. Veal, Badge 51, this seat here on the front row.

7 Mr. Dresel, 52 -- am I pronouncing that right, is it Dresel?

8 PROSPECTIVE JUROR NUMBER 052: Yep.

9 THE COURT: Okay. Just going to hop right up in front of you
10 there, that seat right in front of you, yes.

11 And Mr. Oyler, 53. Mr. Harris, 54, will take those other seats
12 that are empty on that row.

13 All right. Thank you, all.

14 All right. Can we get our microphone up to Ms. Robinson?

15 Hi, Ms. Robinson, it's me again.

16 PROSPECTIVE JUROR NUMBER 003: Hello.

17 THE COURT: How are you?

18 PROSPECTIVE JUROR NUMBER 003: Good, how are you?

19 THE COURT: You're still good?

20 PROSPECTIVE JUROR NUMBER 003: Yes.

21 THE COURT: You excited to be here?

22 PROSPECTIVE JUROR NUMBER 003: Sure.

23 THE COURT: Great. Okay. So you're the guinea pig for this
24 first series of questions that I'm going to run through with you and then
25 everybody we're going to run through these individual questions, the first

1 32 of you.

2 But how long have you lived here?

3 PROSPECTIVE JUROR NUMBER 003: 28 years.

4 THE COURT: Okay. And if it's usually less than ten years, I'll
5 ask you where you moved her from.

6 What's your level of education?

7 PROSPECTIVE JUROR NUMBER 003: I have an associate
8 degree.

9 THE COURT: What type of work do you do?

10 PROSPECTIVE JUROR NUMBER 003: Medical.

11 THE COURT: Billing, provider, what type of medical?

12 PROSPECTIVE JUROR NUMBER 003: I'm a phlebotomist.

13 THE COURT: Okay. Are you married?

14 PROSPECTIVE JUROR NUMBER 003: Separated.

15 THE COURT: And what type of work does your current
16 married, but separated spouse do?

17 PROSPECTIVE JUROR NUMBER 003: He's retired.

18 THE COURT: Okay. Do you have children?

19 PROSPECTIVE JUROR NUMBER 003: Yes.

20 THE COURT: And if they're grown, you can just tell me
21 grown, but how old are they?

22 PROSPECTIVE JUROR NUMBER 003: I have three grown
23 and then I have a 9-year old.

24 THE COURT: Okay. Any grandkids?

25 PROSPECTIVE JUROR NUMBER 003: Yes.

1 THE COURT: Pardon?
2 PROSPECTIVE JUROR NUMBER 003: Yes.
3 THE COURT: How many?
4 PROSPECTIVE JUROR NUMBER 003: One.
5 THE COURT: One, thank you.
6 All right. Can you pass that next to you?
7 Ms. Savino, Badge 005. How long have you lived here?
8 PROSPECTIVE JUROR NUMBER 005: About three and a
9 half years.
10 THE COURT: Where'd you move here from?
11 PROSPECTIVE JUROR NUMBER 005: San Francisco.
12 THE COURT: And what's your level of education?
13 PROSPECTIVE JUROR NUMBER 005: Masters.
14 THE COURT: What type of work do you do?
15 PROSPECTIVE JUROR NUMBER 005: I'm an elementary
16 school teacher.
17 THE COURT: Are you married?
18 PROSPECTIVE JUROR NUMBER 005: Yes.
19 THE COURT: And what type of work does your spouse do?
20 PROSPECTIVE JUROR NUMBER 005: He works with Metro,
21 he's a detective for Vice.
22 THE COURT: Oh, that's right, you told me that. I'm sorry.
23 Do you have any children?
24 PROSPECTIVE JUROR NUMBER 005: No.
25 THE COURT: Thank you.

1 Ms. Stevens, Badge 007, how long have you lived here?
2 PROSPECTIVE JUROR NUMBER 007: 26 years.
3 THE COURT: And what's your level of education?
4 PROSPECTIVE JUROR NUMBER 007: Some college.
5 THE COURT: What type of work do you do?
6 PROSPECTIVE JUROR NUMBER 007: Contracting in the
7 healthcare industry.
8 THE COURT: Are you married?
9 PROSPECTIVE JUROR NUMBER 007: Yes.
10 THE COURT: What type of work does your spouse do?
11 PROSPECTIVE JUROR NUMBER 007: He works for the City
12 of Henderson in the water department.
13 THE COURT: Children?
14 PROSPECTIVE JUROR NUMBER 007: Grown, one.
15 THE COURT: Grown. How many are there?
16 PROSPECTIVE JUROR NUMBER 007: One.
17 THE COURT: Any grandkids?
18 PROSPECTIVE JUROR NUMBER 007: No.
19 THE COURT: Thank you.
20 Mr. Gustilo, 009, how long have you lived here?
21 PROSPECTIVE JUROR NUMBER 009: 15 years.
22 THE COURT: What's your level of education?
23 PROSPECTIVE JUROR NUMBER 009: Masters
24 THE COURT: What type of work do you do?
25 PROSPECTIVE JUROR NUMBER 009: Engineering

1 management.

2 THE COURT: Are you married?

3 PROSPECTIVE JUROR NUMBER 009: Divorced.

4 THE COURT: And children?

5 PROSPECTIVE JUROR NUMBER 009: Two kids, college
6 and high school.

7 THE COURT: Okay. Thank you.

8 So my -- is it Bryan or Byrne?

9 PROSPECTIVE JUROR NUMBER 010: Byrne.

10 THE COURT: Byrne, okay. Byrne Kinney, Badge Number
11 010. How long have you lived here, sir?

12 PROSPECTIVE JUROR NUMBER 010: 25 years.

13 THE COURT: Your level of education?

14 PROSPECTIVE JUROR NUMBER 010: Four years of
15 college?

16 THE COURT: What type of work do you do?

17 PROSPECTIVE JUROR NUMBER 010: Computer
18 programming.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 010: Married, yes.

21 THE COURT: What type of work does your spouse do?

22 PROSPECTIVE JUROR NUMBER 010: Real estate agent.

23 THE COURT: Children?

24 PROSPECTIVE JUROR NUMBER 010: One child, 25.

25 THE COURT: Any grandkids?

1 PROSPECTIVE JUROR NUMBER 010: No.
2 THE COURT: Thank you.
3 Mr. Jacobs, Badge Number 11, how long have you lived here?
4 PROSPECTIVE JUROR NUMBER 011: 16 years.
5 THE COURT: Your level of education?
6 PROSPECTIVE JUROR NUMBER 011: Master's.
7 THE COURT: What type of work do you do?
8 PROSPECTIVE JUROR NUMBER 011: Network engineering
9 and security.
10 THE COURT: Are you married?
11 PROSPECTIVE JUROR NUMBER 011: I am, 45 years.
12 THE COURT: Congratulations.
13 PROSPECTIVE JUROR NUMBER 011: Thank you.
14 THE COURT: What type of work does your spouse do?
15 PROSPECTIVE JUROR NUMBER 011: She's an RN. She
16 works for the Department of Interior at Hoover Dam.
17 THE COURT: Work with pediatric patients or adult patients?
18 PROSPECTIVE JUROR NUMBER 011: No, she takes care of
19 the employees at Hoover Dam, Parker, and Davis Dams.
20 THE COURT: Got it. Children?
21 PROSPECTIVE JUROR NUMBER 011: I have two children,
22 four grandchildren.
23 THE COURT: Thank you.
24 Ms. Cheong, Badge Number 48, how long have you lived
25 here?

1 PROSPECTIVE JUROR NUMBER 048: I'm not too much at
2 speaking English.

3 THE COURT: Oh, what's your first language?

4 PROSPECTIVE JUROR NUMBER 048: It's Korea.

5 THE COURT: Korean?

6 PROSPECTIVE JUROR NUMBER 048: Yes.

7 THE COURT: Okay. I'll tell you what, why don't you pass it
8 next to you for a moment. Thank you.

9 Mr. Haman, how long have you lived here, sir?

10 PROSPECTIVE JUROR NUMBER 013: Nine years.

11 THE COURT: And where'd you move here from?

12 PROSPECTIVE JUROR NUMBER 013: Arizona.

13 THE COURT: What's your level of education?

14 PROSPECTIVE JUROR NUMBER 013: Bachelors.

15 THE COURT: What type of work do you do?

16 PROSPECTIVE JUROR NUMBER 013: I'm a freelance
17 writer.

18 THE COURT: Are you married, sir?

19 PROSPECTIVE JUROR NUMBER 013: Yes.

20 THE COURT: And what type of work does your spouse do?

21 PROSPECTIVE JUROR NUMBER 013: She's a retired
22 attorney.

23 THE COURT: And I apologize if you mentioned that earlier
24 and I missed it. But did she practice criminal law at all?

25 PROSPECTIVE JUROR NUMBER 013: She did product

1 liability defense, primarily.

2 THE COURT: Okay. Do you have children?

3 PROSPECTIVE JUROR NUMBER 013: No.

4 THE COURT: Thank you. Can you just pass it forward for
5 me, please, and we'll kind of go left to right here on this row, folks.

6 So that is Ms. Lyons?

7 PROSPECTIVE JUROR NUMBER 050: Yes.

8 THE COURT: Okay. Badge Number 50. Ms. Lyons, how
9 long have you lived here?

10 PROSPECTIVE JUROR NUMBER 050: 12 years.

11 THE COURT: What's your level of education?

12 PROSPECTIVE JUROR NUMBER 050: I'm working on my
13 bachelor's degree.

14 THE COURT: What are you studying?

15 PROSPECTIVE JUROR NUMBER 050: IT.

16 THE COURT: Okay. Are you working as well?

17 PROSPECTIVE JUROR NUMBER 050: Yes.

18 THE COURT: What type of work do you do?

19 PROSPECTIVE JUROR NUMBER 050: X-ray/CT
20 technologist.

21 THE COURT: Are you married?

22 PROSPECTIVE JUROR NUMBER 050: No.

23 THE COURT: Pardon?

24 PROSPECTIVE JUROR NUMBER 050: No.

25 THE COURT: Children?

1 PROSPECTIVE JUROR NUMBER 050: Three grown
2 children, one grandson.

3 THE COURT: Thank you.

4 Mr. Patlan, Badge Number 22, how long have you lived here?

5 PROSPECTIVE JUROR NUMBER 022: Four years.

6 THE COURT: And where'd you move here from?

7 PROSPECTIVE JUROR NUMBER 022: Chicago.

8 THE COURT: What's your level of education?

9 PROSPECTIVE JUROR NUMBER 022: Bachelors.

10 THE COURT: What type of work do you do?

11 PROSPECTIVE JUROR NUMBER 022: Payroll taxes.

12 THE COURT: Are you married?

13 PROSPECTIVE JUROR NUMBER 022: Divorced.

14 THE COURT: Children?

15 PROSPECTIVE JUROR NUMBER 022: Three.

16 THE COURT: And how old are they?

17 PROSPECTIVE JUROR NUMBER 022: 5, 7, and 9.

18 THE COURT: Great, thank you.

19 Mr. Aguirre, Badge Number 21, how long have you lived here?

20 PROSPECTIVE JUROR NUMBER 021: 2008.

21 THE COURT: Okay. Kind of off and on, back and forth with
22 California?

23 PROSPECTIVE JUROR NUMBER 021: Right.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 021: Well I was fulltime

1 until like 2014 and then since then I've been back and forth.

2 THE COURT: Okay. And what's your level of education?

3 PROSPECTIVE JUROR NUMBER 021: I have a bachelor's
4 degree, engineering.

5 THE COURT: Engineering, thank you. Is that the field you're
6 working in now?

7 PROSPECTIVE JUROR NUMBER 021: I'm -- I've worked for
8 the FAA and Air Traffic Control.

9 THE COURT: Got it. Are you married?

10 PROSPECTIVE JUROR NUMBER 021: Yes.

11 THE COURT: And what type of work does your spouse do?

12 PROSPECTIVE JUROR NUMBER 021: She's retired.

13 THE COURT: Children?

14 PROSPECTIVE JUROR NUMBER 021: Two, grown.

15 THE COURT: Grown. Any grandkids?

16 PROSPECTIVE JUROR NUMBER 021: No.

17 THE COURT: Thank you.

18 Mister -- or Dr. Nguyen, Badge Number 20, how long have
19 you lived here, sir?

20 PROSPECTIVE JUROR NUMBER 020: 12 years.

21 THE COURT: And your level of education?

22 PROSPECTIVE JUROR NUMBER 020: Doctorate.

23 THE COURT: And are you an oncologist?

24 PROSPECTIVE JUROR NUMBER 020: I'm a hematology
25 oncologist.

1 THE COURT: Okay. Are you married, sir?
2 PROSPECTIVE JUROR NUMBER 020: Yes.
3 THE COURT: And what type of work does your spouse do?
4 PROSPECTIVE JUROR NUMBER 020: She's an eye doctor.
5 THE COURT: Children?
6 PROSPECTIVE JUROR NUMBER 020: Three, young.
7 THE COURT: Thank you.
8 Ms. Gasperino, Badge Number 19, how long have you lived
9 here?
10 PROSPECTIVE JUROR NUMBER 019: Six years.
11 THE COURT: Pardon?
12 PROSPECTIVE JUROR NUMBER 019: Six years.
13 THE COURT: Six years. Where did you move here from?
14 PROSPECTIVE JUROR NUMBER 019: New Jersey.
15 THE COURT: And what's your level of education?
16 PROSPECTIVE JUROR NUMBER 019: Bachelor's degree.
17 THE COURT: What type of work do you do?
18 PROSPECTIVE JUROR NUMBER 019: Non-profit.
19 THE COURT: Are you married?
20 PROSPECTIVE JUROR NUMBER 019: Yes.
21 THE COURT: And what type of work does your spouse do?
22 PROSPECTIVE JUROR NUMBER 019: Military.
23 THE COURT: Children?
24 PROSPECTIVE JUROR NUMBER 019: No.
25 THE COURT: Thank you.

1 Ms. Belmonte, Badge Number 18, how long have you lived
2 here?

3 PROSPECTIVE JUROR NUMBER 018: 22 years.

4 THE COURT: What's your level of education?

5 PROSPECTIVE JUROR NUMBER 018: Master's degree.

6 THE COURT: What type of work do you do?

7 PROSPECTIVE JUROR NUMBER 018: Own my own
8 company.

9 THE COURT: Are you married?

10 PROSPECTIVE JUROR NUMBER 018: Yes, sir.

11 THE COURT: And what type of work does your spouse do?

12 PROSPECTIVE JUROR NUMBER 018: Retired FAA Aviation
13 accident investigator.

14 THE COURT: Children?

15 PROSPECTIVE JUROR NUMBER 018: No.

16 THE COURT: No, okay.

17 PROSPECTIVE JUROR NUMBER 018: None.

18 THE COURT: Okay, thank you.

19 Mr. Conti?

20 PROSPECTIVE JUROR NUMBER 049: Yes.

21 THE COURT: Badge Number 49. How long have you lived
22 here, sir?

23 PROSPECTIVE JUROR NUMBER 049: About nine years.

24 THE COURT: And where did you move here from?

25 PROSPECTIVE JUROR NUMBER 049: Buffalo, New York.

1 THE COURT: Your level of education?
2 PROSPECTIVE JUROR NUMBER 049: Masters
3 THE COURT: What type of work?
4 PROSPECTIVE JUROR NUMBER 049: Chemistry teacher.
5 THE COURT: Are you married?
6 PROSPECTIVE JUROR NUMBER 049: Yes.
7 THE COURT: And what type of work does your spouse do?
8 PROSPECTIVE JUROR NUMBER 049: Bonds and
9 securities.
10 THE COURT: Children?
11 PROSPECTIVE JUROR NUMBER 049: No.
12 THE COURT: Thank you.
13 Ms. Ebel, Badge Number 14, you still understanding me okay?
14 PROSPECTIVE JUROR NUMBER 014: Yes.
15 THE COURT: Good. How long have you lived here?
16 PROSPECTIVE JUROR NUMBER 014: 17 years.
17 THE COURT: And just so I know, did you move here at that
18 time from Romania?
19 PROSPECTIVE JUROR NUMBER 014: From Pennsylvania
20 and before from Romania.
21 THE COURT: Got it. And what's your level of education?
22 PROSPECTIVE JUROR NUMBER 014: High school.
23 THE COURT: What type of work do you do?
24 PROSPECTIVE JUROR NUMBER 014: Front desk, medical.
25 THE COURT: Are you married?

1 PROSPECTIVE JUROR NUMBER 014: A widow.
2 THE COURT: Do you have any children?
3 PROSPECTIVE JUROR NUMBER 014: No.
4 THE COURT: No? Okay. Thank you. Could you pass that
5 forward for me to Mr. Gondy, please?
6 Mr. Gondy is Badge 26. Mr. Gondy, how long have you lived
7 here?
8 PROSPECTIVE JUROR NUMBER 026: 30 years.
9 THE COURT: Your level of education?
10 PROSPECTIVE JUROR NUMBER 026: Masters in
11 engineering.
12 THE COURT: What type of work do you do?
13 PROSPECTIVE JUROR NUMBER 026: I own a convenience
14 store.
15 MS. BLUTH: I apologize, Judge, I didn't hear that.
16 THE COURT: Could you repeat that, please?
17 PROSPECTIVE JUROR NUMBER 026: I own a convenience
18 store.
19 MS. BLUTH: Thank you.
20 THE COURT: And you're married, correct?
21 PROSPECTIVE JUROR NUMBER 026: Yes.
22 THE COURT: And I believe you said your spouse is a
23 physician?
24 PROSPECTIVE JUROR NUMBER 026: OB/GYN, yeah.
25 THE COURT: OB/GYN, thank you.

1 You mentioned children. How many children do you have?
2 PROSPECTIVE JUROR NUMBER 026: Two in college, one
3 in high school.
4 THE COURT: Thank you.
5 Mr. Veal, correct?
6 PROSPECTIVE JUROR NUMBER 051: Yes, sir.
7 THE COURT: All right. Badge 51. Mr. Veal, how long have
8 you lived here?
9 PROSPECTIVE JUROR NUMBER 051: 22 years.
10 THE COURT: And what's your level of education?
11 PROSPECTIVE JUROR NUMBER 051: Bachelor's degree.
12 THE COURT: What type of work do you do?
13 PROSPECTIVE JUROR NUMBER 051: I'm a disabled vet.
14 THE COURT: What branch of the service were you in?
15 PROSPECTIVE JUROR NUMBER 051: US Army.
16 THE COURT: Thank you very much. Are you married, sir?
17 PROSPECTIVE JUROR NUMBER 051: Yes.
18 THE COURT: And what type of work does your spouse do?
19 PROSPECTIVE JUROR NUMBER 051: She retired.
20 THE COURT: Any particular profession that she retired from?
21 PROSPECTIVE JUROR NUMBER 051: She was in sales,
22 prior.
23 THE COURT: Okay. Children?
24 PROSPECTIVE JUROR NUMBER 051: Yes, we have six
25 kids.

1 THE COURT: Grown?

2 PROSPECTIVE JUROR NUMBER 051: Grown, all of them.

3 THE COURT: Okay. What about grandkids?

4 PROSPECTIVE JUROR NUMBER 051: Six grandkids.

5 THE COURT: Six grandkids. Jury duty's kind of a break for

6 you. All right. Thank you very much.

7 PROSPECTIVE JUROR NUMBER 051: Okay. Thank you.

8 THE COURT: If you could pass it over for me to Ms. Brown,

9 Badge Number 31.

10 Ms. Brown, how long have you lived here?

11 PROSPECTIVE JUROR NUMBER 031: Since '95.

12 THE COURT: And what's your level of education?

13 PROSPECTIVE JUROR NUMBER 031: Associates.

14 THE COURT: You told us that you work as a nurse.

15 PROSPECTIVE JUROR NUMBER 031: Yep.

16 THE COURT: Are you married?

17 PROSPECTIVE JUROR NUMBER 031: Yes.

18 THE COURT: What type of work does your spouse do?

19 PROSPECTIVE JUROR NUMBER 031: Postal.

20 THE COURT: Pardon?

21 PROSPECTIVE JUROR NUMBER 031: United States Postal.

22 THE COURT: Thank you. Do you have children?

23 PROSPECTIVE JUROR NUMBER 031: Grown.

24 THE COURT: Grown. How many?

25 PROSPECTIVE JUROR NUMBER 031: Three; two girls, a

1 boy.

2 THE COURT: And grandkids?

3 PROSPECTIVE JUROR NUMBER 031: Two.

4 THE COURT: Thank you.

5 All right. Mr. Smith, Badge Number 32, how long have you
6 lived here?

7 PROSPECTIVE JUROR NUMBER 032: Two years.

8 THE COURT: And where'd you move here from?

9 PROSPECTIVE JUROR NUMBER 032: Wisconsin.

10 THE COURT: What's your level of education?

11 PROSPECTIVE JUROR NUMBER 032: Can I qualify that?

12 Completed or --

13 THE COURT: Took some college classes, took some
14 masters, took some high school.

15 PROSPECTIVE JUROR NUMBER 032: Well, I -- I'm in my
16 doctorate dissertation.

17 THE COURT: Got, okay.

18 PROSPECTIVE JUROR NUMBER 032: Okay.

19 THE COURT: What type of work do you do?

20 PROSPECTIVE JUROR NUMBER 032: I'm a professor.

21 THE COURT: Oh, you told me that as well, I'm sorry.

22 PROSPECTIVE JUROR NUMBER 032: Yes.

23 THE COURT: Are you married?

24 PROSPECTIVE JUROR NUMBER 032: Yes.

25 THE COURT: What type of work does your spouse do?

1 PROSPECTIVE JUROR NUMBER 032: She's a school
2 teacher.
3 THE COURT: Thank you. Children?
4 PROSPECTIVE JUROR NUMBER 032: Three.
5 THE COURT: Age range?
6 PROSPECTIVE JUROR NUMBER 032: Adult.
7 THE COURT: Adult, okay. Any grandkids?
8 PROSPECTIVE JUROR NUMBER 032: No.
9 THE COURT: Mr. Bushong, Badge Number 33, how long
10 have you lived here?
11 PROSPECTIVE JUROR NUMBER 033: 50 years.
12 THE COURT: And what's your level of education?
13 PROSPECTIVE JUROR NUMBER 033: Masters.
14 THE COURT: What type of work do you do?
15 PROSPECTIVE JUROR NUMBER 033: Retired.
16 THE COURT: Any particular profession?
17 PROSPECTIVE JUROR NUMBER 033: Teaching in the
18 casino industry for 30 years.
19 THE COURT: Are you married?
20 PROSPECTIVE JUROR NUMBER 033: No, sir.
21 THE COURT: Any children?
22 PROSPECTIVE JUROR NUMBER 033: Two, adult.
23 THE COURT: Any grandkids?
24 PROSPECTIVE JUROR NUMBER 033: Three.
25 THE COURT: Thank you.

1 Mr. Lindenbach, Badge Number 34, how long have you lived
2 here?
3 PROSPECTIVE JUROR NUMBER 034: 34 years.
4 THE COURT: And your level of education?
5 PROSPECTIVE JUROR NUMBER 034: Some college.
6 THE COURT: What type of work do you do?
7 PROSPECTIVE JUROR NUMBER 034: I'm an Electrician.
8 THE COURT: Are you married?
9 PROSPECTIVE JUROR NUMBER 034: No.
10 THE COURT: Any children?
11 PROSPECTIVE JUROR NUMBER 034: Yes, one.
12 THE COURT: One. How old?
13 PROSPECTIVE JUROR NUMBER 034: Five months.
14 THE COURT: Oh, congratulations. Thank you.
15 Mr. Lemus, Badge Number 35, how long have you lived here?
16 PROSPECTIVE JUROR NUMBER 035: Four years.
17 THE COURT: And where did you move here from?
18 PROSPECTIVE JUROR NUMBER 035: San Diego,
19 California.
20 THE COURT: And what's your level of education?
21 PROSPECTIVE JUROR NUMBER 035: High school grad.
22 THE COURT: What type of work do you do?
23 PROSPECTIVE JUROR NUMBER 035: Warehouse
24 manager.
25 THE COURT: Are you married, sir?

1 PROSPECTIVE JUROR NUMBER 035: Yes, I am.
2 THE COURT: And what does your spouse do?
3 PROSPECTIVE JUROR NUMBER 035: He is a truck driver.
4 THE COURT: Do you all have children?
5 PROSPECTIVE JUROR NUMBER 035: Nope.
6 THE COURT: Thank you.
7 And Mr. McAndrew, Badge Number 36, how long have you
8 lived here, sir?
9 PROSPECTIVE JUROR NUMBER 036: 14 years.
10 THE COURT: What's your level of education?
11 PROSPECTIVE JUROR NUMBER 036: Bachelors.
12 THE COURT: What type of work do you do?
13 PROSPECTIVE JUROR NUMBER 036: Concert promoter.
14 THE COURT: Are you married?
15 PROSPECTIVE JUROR NUMBER 036: No.
16 THE COURT: Any children?
17 PROSPECTIVE JUROR NUMBER 036: No.
18 THE COURT: Thank you.
19 If we could get it over to Ms. -- or we can -- yeah, thank you.
20 Ms. Hernandez, Badge Number 37?
21 PROSPECTIVE JUROR NUMBER 037: Yes.
22 THE COURT: How you doing?
23 PROSPECTIVE JUROR NUMBER 037: Okay, thank you.
24 THE COURT: How long have you lived here?
25 PROSPECTIVE JUROR NUMBER 037: 16 years.

1 THE COURT: And what's your level of education?
2 PROSPECTIVE JUROR NUMBER 037: High school.
3 THE COURT: What type of work do you do?
4 PROSPECTIVE JUROR NUMBER 037: I'm a housewife.
5 THE COURT: Are you married?
6 PROSPECTIVE JUROR NUMBER 037: Yes.
7 THE COURT: And what type of work does your spouse do?
8 PROSPECTIVE JUROR NUMBER 037: Plumber.
9 THE COURT: Children?
10 PROSPECTIVE JUROR NUMBER 037: Yes.
11 THE COURT: How many?
12 PROSPECTIVE JUROR NUMBER 037: Three.
13 THE COURT: And how old are they?
14 PROSPECTIVE JUROR NUMBER 037: 10, 12, and 16.
15 THE COURT: Thank you.
16 Mister -- who do I got?
17 PROSPECTIVE JUROR NUMBER 052: Dresel.
18 THE COURT: Mr. Dresel. I'm sorry, Mr. Dresel --
19 PROSPECTIVE JUROR NUMBER 052: 52.
20 THE COURT: -- thank you. Badge Number 52. Mr. Dresel,
21 how long have you lived here?
22 PROSPECTIVE JUROR NUMBER 052: 26 years.
23 THE COURT: And what's your level of education?
24 PROSPECTIVE JUROR NUMBER 052: Bachelors.
25 THE COURT: What type of work do you do?

1 PROSPECTIVE JUROR NUMBER 052: Engineering and
2 construction.

3 THE COURT: Are you married?

4 PROSPECTIVE JUROR NUMBER 052: Yes.

5 THE COURT: And what type of work does your spouse do?

6 PROSPECTIVE JUROR NUMBER 052: She's a teacher.

7 THE COURT: Do you have children?

8 PROSPECTIVE JUROR NUMBER 052: Two grown.

9 THE COURT: Grandkids?

10 PROSPECTIVE JUROR NUMBER 052: None.

11 THE COURT: Thank you.

12 That's to Ms. Martinez?

13 PROSPECTIVE JUROR NUMBER 039: Yes.

14 THE COURT: Badge 39. How long have you lived here,
15 ma'am?

16 PROSPECTIVE JUROR NUMBER 039: 40 years.

17 THE COURT: What's your level of education?

18 PROSPECTIVE JUROR NUMBER 039: Bachelor's in
19 accounting.

20 THE COURT: What type of work do you do?

21 PROSPECTIVE JUROR NUMBER 039: Accounting.

22 THE COURT: Pardon?

23 PROSPECTIVE JUROR NUMBER 039: Accounting.

24 THE COURT: Accounting, thank you.

25 Are you married?

1 PROSPECTIVE JUROR NUMBER 039: Yes.
2 THE COURT: And what type of work does your spouse do?
3 PROSPECTIVE JUROR NUMBER 039: Auditing Supervisor
4 for State of Nevada Unemployment.
5 THE COURT: Children?
6 PROSPECTIVE JUROR NUMBER 039: Two.
7 THE COURT: And how old are they?
8 PROSPECTIVE JUROR NUMBER 039: 18 and 16.
9 THE COURT: Thank you.
10 Mister --
11 PROSPECTIVE JUROR NUMBER 053: Oyler.
12 THE COURT: -- Oyler --
13 PROSPECTIVE JUROR NUMBER 053: Yeah.
14 THE COURT: -- Badge 53, thank you.
15 PROSPECTIVE JUROR NUMBER 053: Yes.
16 THE COURT: How long have you lived here, sir?
17 PROSPECTIVE JUROR NUMBER 053: 13 years.
18 THE COURT: Your level of education?
19 PROSPECTIVE JUROR NUMBER 053: Bachelors
20 THE COURT: What type of work do you do?
21 PROSPECTIVE JUROR NUMBER 053: Oil and gas.
22 THE COURT: Do you work out of state a lot?
23 PROSPECTIVE JUROR NUMBER 053: I travel a lot, but I --
24 THE COURT: I'm from Texas so oil and gas is, you know, half
25 the people in the jury pool probably.

1 PROSPECTIVE JUROR NUMBER 053: Yeah, I'm --
2 THE COURT: I've never had anybody out here in Nevada that
3 worked in oil and gas.
4 PROSPECTIVE JUROR NUMBER 053: Well, I work for a
5 large energy company.
6 THE COURT: Okay. Are you married?
7 PROSPECTIVE JUROR NUMBER 053: yes.
8 THE COURT: What type of work does your spouse do?
9 PROSPECTIVE JUROR NUMBER 053: Retired.
10 THE COURT: Children?
11 PROSPECTIVE JUROR NUMBER 053: Yes, four grown.
12 THE COURT: Grandkids?
13 PROSPECTIVE JUROR NUMBER 053: One.
14 THE COURT: All right. Agent Harris is Badge 54. How long
15 have you lived here?
16 PROSPECTIVE JUROR NUMBER 054: Seven years.
17 THE COURT: And where'd you come here from?
18 PROSPECTIVE JUROR NUMBER 054: Virginia.
19 THE COURT: What's your level of education?
20 PROSPECTIVE JUROR NUMBER 054: Bachelors.
21 THE COURT: And you told us you work as an agent with
22 Homeland Security, correct?
23 PROSPECTIVE JUROR NUMBER 054: Yes, sir.
24 THE COURT: And I believe you told us that your spouse was
25 retired from Homeland Security?

1 PROSPECTIVE JUROR NUMBER 054: Yes, sir.
2 THE COURT: Okay. What about children?
3 PROSPECTIVE JUROR NUMBER 054: One, adult.
4 THE COURT: One adult. Any grandkids?
5 PROSPECTIVE JUROR NUMBER 054: No.
6 THE COURT: All right. Thank you.
7 Ms. Bustos?
8 PROSPECTIVE JUROR NUMBER 044: Yes.
9 THE COURT: Badge Number 44. Ms. Bustos, how long have
10 you lived here?
11 PROSPECTIVE JUROR NUMBER 044: 18 years.
12 THE COURT: What's your level of education?
13 PROSPECTIVE JUROR NUMBER 044: Bachelors.
14 THE COURT: What type of work do you do?
15 PROSPECTIVE JUROR NUMBER 044: Banking.
16 THE COURT: Are you married?
17 PROSPECTIVE JUROR NUMBER 044: Yes.
18 THE COURT: And what type of work does your spouse do?
19 PROSPECTIVE JUROR NUMBER 044: Clinical research.
20 THE COURT: Do you have children?
21 PROSPECTIVE JUROR NUMBER 044: Yes.
22 THE COURT: Yes?
23 PROSPECTIVE JUROR NUMBER 044: Two.
24 THE COURT: Two? How old are they?
25 PROSPECTIVE JUROR NUMBER 044: 18 and 15.

1 THE COURT: Thank you.
2 Ms. Trinidad, Badge 45, how long have you lived here?
3 PROSPECTIVE JUROR NUMBER 045: 15 years.
4 THE COURT: Your level of education?
5 PROSPECTIVE JUROR NUMBER 045: Bachelors.
6 THE COURT: What type of work do you do?
7 PROSPECTIVE JUROR NUMBER 045: I'm a nurse.
8 THE COURT: Hospital setting, hospice --
9 PROSPECTIVE JUROR NUMBER 045: Hospital.
10 THE COURT: Pediatric or adult.
11 PROSPECTIVE JUROR NUMBER 045: Adult.
12 THE COURT: It's in a -- like down in triage or an ER or on the
13 floor.
14 PROSPECTIVE JUROR NUMBER 045: Critical care.
15 THE COURT: Okay. Are you married?
16 PROSPECTIVE JUROR NUMBER 045: No.
17 THE COURT: Any children?
18 PROSPECTIVE JUROR NUMBER 045: One.
19 THE COURT: How old?
20 PROSPECTIVE JUROR NUMBER 045: Ten.
21 THE COURT: Ten. Thank you.
22 Mister, do I pronounce it Benkovitz?
23 PROSPECTIVE JUROR NUMBER 046: That's correct.
24 THE COURT: Mr. Benkovitz, Badge 46, how long have you
25 lived here?

1 PROSPECTIVE JUROR NUMBER 046: 22 years.
2 THE COURT: Your level of education?
3 PROSPECTIVE JUROR NUMBER 046: A Masters.
4 THE COURT: What type of work do you do?
5 PROSPECTIVE JUROR NUMBER 046: High school math
6 teacher.
7 THE COURT: Are you married?
8 PROSPECTIVE JUROR NUMBER 046: No.
9 THE COURT: Any children?
10 PROSPECTIVE JUROR NUMBER 046: No.
11 THE COURT: All right. Thank you. So, hold on to that for a
12 just second there, Stephen, thank you.
13 So let me ask a couple of general questions, and I'll just
14 confine it to this row right now so we don't have to keep passing it
15 across the room. But anybody on that row, the eight of you, ever been a
16 juror before?
17 See no hands, thank you.
18 Anybody on that row, the eight of you, ever been the victim of
19 a crime before? Anything? Bicycle got stolen from the house, home got
20 burglarized, anything like that? Yeah. So, would you go ahead -- if we
21 can start on the end with Mr. Benkovitz, sir? Go ahead.
22 PROSPECTIVE JUROR NUMBER 046: Just an automobile
23 break-in, if that counts.
24 THE COURT: Okay. How long ago was that?
25 PROSPECTIVE JUROR NUMBER 046: I'd say five or six

1 years.

2 THE COURT: Here in Las Vegas then?

3 PROSPECTIVE JUROR NUMBER 046: Yeah, Henderson.

4 THE COURT: Henderson. Were the police called?

5 PROSPECTIVE JUROR NUMBER 046: No.

6 THE COURT: Thank you. And if you could go ahead and
7 pass it to Ms. Trinidad, Badge 45, you had --

8 PROSPECTIVE JUROR NUMBER 045: Same thing.

9 THE COURT: -- your hand up as well.

10 PROSPECTIVE JUROR NUMBER 045: My car got broken
11 into.

12 THE COURT: Car got broken into. How long ago was that?

13 PROSPECTIVE JUROR NUMBER 045: A couple years ago, I
14 think.

15 THE COURT: Okay. Here in Clark County?

16 PROSPECTIVE JUROR NUMBER 045: Yes.

17 THE COURT: Okay. Did you report it to the police?

18 PROSPECTIVE JUROR NUMBER 045: Yes, but the police
19 didn't come. I reported it to security in Summerlin Hospital.

20 THE COURT: Okay. Did it result in any -- you going to court
21 at all?

22 PROSPECTIVE JUROR NUMBER 045: No, nobody -- but I
23 filed a report.

24 THE COURT: Okay. And who else did I have? Agent?
25 Badge Number 54 for Mr. Harris.

1 PROSPECTIVE JUROR NUMBER 054: Yes, my home was
2 vandalized back in 2018 -- January of 2018.

3 THE COURT: Okay. Were the police called?

4 PROSPECTIVE JUROR NUMBER 054: Yes.

5 THE COURT: And did the matter ever go to court?

6 PROSPECTIVE JUROR NUMBER 054: No.

7 THE COURT: Okay. And that was here in Clark County,
8 correct?

9 PROSPECTIVE JUROR NUMBER 054: Yes, sir.

10 THE COURT: Okay. Anybody else down the row?

11 See no other hands.

12 How about any of you ever been arrested, charged, convicted
13 of any kind of crimes? Anybody?

14 Yeah. Could you pass it down to your right, sir, thank you,
15 back to Mr. Benkovitz?

16 PROSPECTIVE JUROR NUMBER 046: I was a minor.

17 THE COURT: Okay. That's okay. So we're talking many
18 years ago. Was it even in Las Vegas or --

19 PROSPECTIVE JUROR NUMBER 046: No, it was in Long
20 Island, New York.

21 THE COURT: Long Island, okay. So, 20? 30? How many
22 years ago?

23 PROSPECTIVE JUROR NUMBER 046: 40.

24 THE COURT: 40, okay. I was being kind. I didn't want make
25 you look old. Thank you.

1 All right. Anybody over there in that row of eight, do any of
2 you believe that you would have a tendency to give more weight or
3 credence or less weight or credence to testimonies of -- testimony of
4 police officers just because they're police officers. Or could you judge
5 them the same way you judge any other witness, by evaluating their
6 testimony in light of everything else in the case? Anybody thinks they
7 would treat an officer differently?

8 See no hands. Thank you.

9 Do the eight of you believe that you would be able to wait in
10 forming your opinion on the appropriate result here until after you've
11 heard all the evidence and been given the legal instructions by the court.
12 It means you can't make up your mind after the opening statement from
13 the State or the Defense cross-examines the first witness. Like
14 everything else in life, you have to sit and wait until you have all the
15 information and then you go back and make a decision. Anybody who
16 could not do that?

17 Are you raising your hand or just moving a little?

18 PROSPECTIVE JUROR NUMBER 046: Well, I don't know if I
19 can answer that honestly.

20 THE COURT: Look, I -- I mean, the reality of a trial is you're
21 listening to people and you're kind of evaluating what you think about
22 their testimony. But making the ultimate decisions on the appropriate
23 result, that's something you do once you get back there and start
24 deliberating with your fellow jurors. So what's important is that people
25 are able to keep an open mind and listen to everything that's going to be

1 presented in the case before they make a decision about the case. So
2 do you think you might have a problem with that?

3 PROSPECTIVE JUROR NUMBER 046: I can't really tell.

4 THE COURT: Okay. Kind of depends on what's coming up
5 and how it's coming up?

6 PROSPECTIVE JUROR NUMBER 046: That's what goes on
7 in my mind.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 046: It's like in the future
10 which I can't tell right now.

11 THE COURT: Okay. Fair enough.

12 PROSPECTIVE JUROR NUMBER 046: I'm just trying to be
13 honest.

14 THE COURT: No, no, no, that's fine. I'll let the attorneys
15 follow up in a little bit.

16 The last thing I'm going to ask you about is what Mr. Pike
17 alluded to when he was speaking to you all earlier, which is in any other
18 kind of criminal case in the state of Nevada, the jury has no function in
19 sentencing people. If somebody's found guilty then the Court decides
20 what somebody's sentence should be.

21 In a case in which somebody is charged in a homicide --and a
22 homicide doesn't necessarily mean murder. There's various levels of
23 what can be contained in a homicide trial; both murder and
24 manslaughter, which is really not for what we're talking about right now.
25 But if, and only if someone is convicted of first-degree murder, then the

1 jury would sit and decide what their punishment would be. And there are
2 three punishments that a jury is allowed to choose from.

3 The first is a 50-year sentence, with a minimum of 20 years in
4 prison. The second is a life sentence with a minimum of 20 years in
5 prison. And the third option would be a sentence of life without the
6 possibility of parole. You have to be able to just weigh those three
7 sentencing options before you decide what you think an appropriate
8 sentence would be.

9 Does anybody believe that they would have a problem
10 considering all those options before deciding on an appropriate
11 sentence?

12 I see no hands, thank you.

13 Okay. JR, could you go ahead and grab the -- so let me start
14 with my 24 folks over here to my right. Who, over here, has ever been a
15 juror before? Sat and heard a trial?

16 Nobody. Wow, okay.

17 How about anybody over here in my 24 ever been the victim
18 of a crime?

19 So let's just start on the top row. You can start on either end
20 there, JR, that's fine. Mr. Haman, Badge Number 13, what do you got,
21 sir?

22 PROSPECTIVE JUROR NUMBER 013: Just an automobile
23 break-in.

24 THE COURT: Okay. And was that here in Las Vegas?

25 PROSPECTIVE JUROR NUMBER 013: Colorado, 1986.

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THE COURT: Okay.

PROSPECTIVE JUROR NUMBER 013: They never caught him.

THE COURT: Never caught him. Never went to court I take it. You did call the police though.

PROSPECTIVE JUROR NUMBER 013: You know, I don't even remember.

THE COURT: Okay. Thank you.

Who else had their hands up on the top row? Could you pass it down to your left there, Mr. Haman? Thank you.

Thank you, folks. All right, Ms. Robinson.

PROSPECTIVE JUROR NUMBER 003: My house was vandalized.

THE COURT: Pardon?

PROSPECTIVE JUROR NUMBER 003: My house vandalized.

THE COURT: Vandalized. And how long ago was that?

PROSPECTIVE JUROR NUMBER 003: It was in the early 80s.

THE COURT: So, 28 years ago, yes?

PROSPECTIVE JUROR NUMBER 003: I was in California.

THE COURT: California, okay.

PROSPECTIVE JUROR NUMBER 003: Yes.

THE COURT: Police called?

PROSPECTIVE JUROR NUMBER 003: Yes.

1 THE COURT: And did you ever go to court?

2 PROSPECTIVE JUROR NUMBER 003: They did, I was
3 never called as a witness though.

4 THE COURT: Got it. Thank you.

5 Okay. How about my middle row? I think there were some
6 hands on the middle row. Yeah, could you pass it forward for me?
7 Thank you very much.

8 Ms. Belmonte, Badge 18.

9 PROSPECTIVE JUROR NUMBER 018: Yes, sir, our car was
10 stolen in front of our house.

11 THE COURT: Okay. Here in Nevada? In Las Vegas?

12 PROSPECTIVE JUROR NUMBER 018: Henderson, yeah.
13 Henderson.

14 THE COURT: Okay. Henderson. And I keep using Las
15 Vegas. I mean, anywhere here --

16 PROSPECTIVE JUROR NUMBER 018: Okay.

17 THE COURT: -- in Clark County, while you're living here. I'm
18 sorry. Were the police called?

19 PROSPECTIVE JUROR NUMBER 018: Yes, a report was
20 made.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 018: It was returned to us,
23 I think about three days later.

24 THE COURT: Wow, so they found it, okay.

25 PROSPECTIVE JUROR NUMBER 018: Yeah, they did.

1 THE COURT: Did you ever go to court?
2 PROSPECTIVE JUROR NUMBER 018: No.
3 THE COURT: Okay, thank you.
4 Who else do I got on the middle row? Could you pass it
5 down?
6 Dr. Nguyen, Badge Number 20.
7 PROSPECTIVE JUROR NUMBER 020: Our house was
8 vandalized and someone shot at us when I was a child.
9 THE COURT: Someone shot at the house?
10 PROSPECTIVE JUROR NUMBER 020: Yes.
11 THE COURT: Okay. And was that here in Clark County?
12 PROSPECTIVE JUROR NUMBER 020: It was in California.
13 THE COURT: California. How long ago was that?
14 PROSPECTIVE JUROR NUMBER 020: I was a child. Maybe
15 30 or -- 30 --
16 THE COURT: Oh, so when you were a child?
17 PROSPECTIVE JUROR NUMBER 020: Yes.
18 THE COURT: Okay. I'm sorry. And was that two separate
19 events, a vandalization and --
20 PROSPECTIVE JUROR NUMBER 020: It was one.
21 Someone had come over.
22 THE COURT: Do you know did you family report it to the
23 police?
24 PROSPECTIVE JUROR NUMBER 020: Yeah, the police
25 were there.

1 THE COURT: Okay. And did -- how old were you at the
2 time?

3 PROSPECTIVE JUROR NUMBER 020: I was in elementary
4 school.

5 THE COURT: Oh, so you were probably never called as a
6 witness or anything.

7 PROSPECTIVE JUROR NUMBER 020: No.

8 THE COURT: Okay. Got it. Thank you.

9 All right. Anybody else down there? Yeah.

10 Mr. Patlan, Badge 22.

11 PROSPECTIVE JUROR NUMBER 022: No.

12 PROSPECTIVE JUROR NUMBER 021: No, Steve Aguirre.

13 THE COURT: Oh, I'm sorry. Mr. Aguirre, Badge 21.

14 PROSPECTIVE JUROR NUMBER 021: 21, yeah.

15 Excuse me.

16 THE COURT: No, you're good. 21. What do you got?

17 PROSPECTIVE JUROR NUMBER 021: Oh, identity theft.

18 THE COURT: Pardon?

19 PROSPECTIVE JUROR NUMBER 021: Identity theft.

20 THE COURT: Oh, okay. And was that while you were living
21 here?

22 PROSPECTIVE JUROR NUMBER 021: No, it was in
23 California.

24 THE COURT: Was that reported to the police or to your credit
25 card company or --

1 PROSPECTIVE JUROR NUMBER 021: To everybody
2 because there were so many competing jurisdictions, they didn't know
3 where to go to --

4 THE COURT: Got it --

5 PROSPECTIVE JUROR NUMBER 021: Ended up filing a
6 report in Glendale, I think.

7 THE COURT: Okay. Did you ever go to court?

8 PROSPECTIVE JUROR NUMBER 021: No, they never found
9 the guy.

10 THE COURT: Okay. And how long ago was that?

11 PROSPECTIVE JUROR NUMBER 021: '96.

12 THE COURT: Thank you.

13 David, did you have your hand up as well?

14 PROSPECTIVE JUROR NUMBER 022: I did.

15 THE COURT: Badge 22.

16 PROSPECTIVE JUROR NUMBER 022: House vandalized.

17 THE COURT: How long ago?

18 PROSPECTIVE JUROR NUMBER 022: Six years ago.

19 THE COURT: Here in -- no --

20 PROSPECTIVE JUROR NUMBER 022: No, it was in
21 Chicago.

22 THE COURT: Chicago, okay. Did -- were the police called?

23 PROSPECTIVE JUROR NUMBER 022: They were.

24 THE COURT: And did you go to court?

25 PROSPECTIVE JUROR NUMBER 022: No.

1 THE COURT: Okay.

2 All right. How about my -- oh, Ms. Lyons, yes.

3 PROSPECTIVE JUROR NUMBER 050: I had a van stolen,

4 car broken into, and home invasion.

5 THE COURT: Was the car broken into --

6 PROSPECTIVE JUROR NUMBER 050: All in Michigan.

7 THE COURT: -- the van or was that a different car?

8 PROSPECTIVE JUROR NUMBER 050: Two different cars.

9 THE COURT: Two different cars. Any of those -- any or all of

10 those here in Las Vegas?

11 PROSPECTIVE JUROR NUMBER 050: All in Michigan.

12 THE COURT: All in Michigan. Police called?

13 PROSPECTIVE JUROR NUMBER 050: On the van.

14 THE COURT: On the van. Did you ever go to court?

15 PROSPECTIVE JUROR NUMBER 050: No.

16 THE COURT: Okay. Thank you.

17 How about my bottom row?

18 Yes, if you could pass it forward for me, Ms. Lyons, thank you.

19 All right. Who's the first one? Go ahead. All right. That's Mr.

20 Lindenbach, Badge 34.

21 PROSPECTIVE JUROR NUMBER 034: Yes. Car was

22 broken into twice, my house was robbed once.

23 THE COURT: Auto burglaries here in Clark County?

24 PROSPECTIVE JUROR NUMBER 034: Yes, both of them.

25 THE COURT: Home burglary, Clark County?

1 PROSPECTIVE JUROR NUMBER 034: Yes.
2 THE COURT: Okay. Police called on any of those?
3 PROSPECTIVE JUROR NUMBER 034: The home invasion
4 one.
5 THE COURT: Okay. And how long ago was the home
6 invasion?
7 PROSPECTIVE JUROR NUMBER 034: I'd say about 10/11
8 years ago.
9 THE COURT: Okay. Did you ever go to court?
10 PROSPECTIVE JUROR NUMBER 034: No.
11 THE COURT: Okay. Thank you.
12 Who else had their hand up?
13 Yep, Mr. Bushong, Badge 33.
14 PROSPECTIVE JUROR NUMBER 033: Yes, sir, I was
15 mugged when I was a teenager.
16 THE COURT: You've lived here for 50 years, so I'm guessing
17 it was here.
18 PROSPECTIVE JUROR NUMBER 033: Yes.
19 THE COURT: Were the police called?
20 PROSPECTIVE JUROR NUMBER 033: Actually, they were
21 close enough to see him flee and they went after him?
22 THE COURT: They catch him?
23 PROSPECTIVE JUROR NUMBER 033: Yes.
24 THE COURT: And did you ever go to court?
25 PROSPECTIVE JUROR NUMBER 033: No.

1 THE COURT: Thank you.
2 Who else did I have?
3 Yes, Mr. Smith.
4 PROSPECTIVE JUROR NUMBER 032: Yeah, car broken in.
5 THE COURT: And here? Wisconsin?
6 PROSPECTIVE JUROR NUMBER 032: Here, two weeks
7 ago.
8 THE COURT: Two weeks ago?
9 PROSPECTIVE JUROR NUMBER 032: Yeah.
10 THE COURT: Okay. And did you call the police?
11 PROSPECTIVE JUROR NUMBER 032: No.
12 THE COURT: Okay. Thank you.
13 Anybody else? Ms. Brown?
14 PROSPECTIVE JUROR NUMBER 031: 1989, my father-in-
15 law shot a person in our garage that was trying to rob them with my
16 seven-year old daughter there and me standing in the window with my
17 little ones looking.
18 THE COURT: Okay. So was that here in Las Vegas?
19 PROSPECTIVE JUROR NUMBER 031: No, Chicago.
20 THE COURT: Chicago, thank you. And I apologize, I know
21 you started to talk about that a little bit earlier. Did your father-in-law
22 survive?
23 PROSPECTIVE JUROR NUMBER 031: Yes, he was the one
24 that shot the other individual.
25 THE COURT: Oh, oh, I thought you said your father-in-law

1 was shot, I apologize.

2 PROSPECTIVE JUROR NUMBER 031: No.

3 THE COURT: Okay. I'm assuming the police were called.

4 PROSPECTIVE JUROR NUMBER 031: Exactly.

5 THE COURT: All right.

6 PROSPECTIVE JUROR NUMBER 031: And there was a trial.

7 THE COURT: Was there ever any kind of court case out of
8 any of that?

9 PROSPECTIVE JUROR NUMBER 031: Hell yeah.

10 THE COURT: All right. And did you have to testify at all?

11 PROSPECTIVE JUROR NUMBER 031: My daughter was
12 there but they didn't let her do it but I went because I was looking in the
13 window when I saw a flash --

14 THE COURT: Saw what had happened.

15 PROSPECTIVE JUROR NUMBER 031: -- and I didn't know
16 what was going on until --

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NUMBER 031: -- I walked out there.

19 THE COURT: And did that proceed to a jury trial?

20 PROSPECTIVE JUROR NUMBER 031: It did.

21 THE COURT: Okay. And you said that was 1989?

22 PROSPECTIVE JUROR NUMBER 031: Yes.

23 THE COURT: Got it. Thank you.

24 All right. Were there any other hands?

25 PROSPECTIVE JUROR NUMBER 051: Yes.

1 THE COURT: Yeah, Mr. Veal?
2 PROSPECTIVE JUROR NUMBER 051: Some kids broke into
3 my house.
4 THE COURT: How long ago was that?
5 PROSPECTIVE JUROR NUMBER 051: About eight years
6 ago.
7 THE COURT: So here in Clark County?
8 PROSPECTIVE JUROR NUMBER 051: Yes.
9 THE COURT: Okay. Did you call the police?
10 PROSPECTIVE JUROR NUMBER 051: Yes.
11 THE COURT: And did you ever go to court?
12 PROSPECTIVE JUROR NUMBER 051: No.
13 THE COURT: Okay. Thank you.
14 Anything, Mr. Gondy?
15 PROSPECTIVE JUROR NUMBER 026: Yeah, theft at my
16 store.
17 THE COURT: Like people --
18 PROSPECTIVE JUROR NUMBER 026: Kids.
19 THE COURT: -- during the work hours stealing stuff or --
20 PROSPECTIVE JUROR NUMBER 026: Yeah.
21 THE COURT: -- after hours breaking in.
22 PROSPECTIVE JUROR NUMBER 026: During work hours.
23 THE COURT: Okay. So I'm assuming you have occasion to
24 call the police?
25 PROSPECTIVE JUROR NUMBER 026: Yeah, the manager

1 called the police. I was not there.

2 THE COURT: Oh, okay.

3 PROSPECTIVE JUROR NUMBER 026: And I filed the report.

4 THE COURT: Have you ever had to go to court over any of
5 those?

6 PROSPECTIVE JUROR NUMBER 026: No.

7 THE COURT: No, okay. Thank you.

8 All right. So flipping that around, how many of any of you
9 have ever been arrested, charged, convicted of any kind of crimes?

10 All right. So, Mr. Veal, is that what you referred to earlier
11 about the possession of dangerous drug?

12 PROSPECTIVE JUROR NUMBER 051: Yes, sir, in '89.

13 THE COURT: Okay. 1989. Thank you.

14 Anybody else on the bottom row?

15 Mr. Smith, Badge 32.

16 PROSPECTIVE JUROR NUMBER 032: Yeah, what -- it was
17 when I was 18.

18 THE COURT: 18. Were you before 18 so you were a minor
19 or were an adult.

20 PROSPECTIVE JUROR NUMBER 032: No, it was just after
21 18.

22 THE COURT: You were just after 18, okay. And what was
23 that?

24 PROSPECTIVE JUROR NUMBER 032: Shoplifting.

25 THE COURT: Thank you.

1 Anybody else on the bottom row? Yeah.

2 Mr. Lindenbach, 34.

3 PROSPECTIVE JUROR NUMBER 034: I was arrested for a

4 DUI and one for a domestic violence.

5 THE COURT: So how long ago were those?

6 PROSPECTIVE JUROR NUMBER 034: Seven and eight

7 years ago.

8 THE COURT: Okay. Here in Clark County?

9 PROSPECTIVE JUROR NUMBER 034: Yes.

10 THE COURT: Okay. Assuming those are over and done with

11 by now --

12 PROSPECTIVE JUROR NUMBER 034: Yes.

13 THE COURT: -- correct?

14 Okay. Great. Thank you.

15 Anybody else?

16 Yeah, on the end. Mr. McAndrew, 36.

17 PROSPECTIVE JUROR NUMBER 036: Yes, Your Honor,

18 was arrested for a DUI. The case is still pending here in Clark County.

19 THE COURT: In Clark County

20 PROSPECTIVE JUROR NUMBER 036: Yes, sir.

21 THE COURT: Do you know if it's in Justice Court or Municipal

22 Court?

23 PROSPECTIVE JUROR NUMBER 036: I don't know the

24 answer to that to be honest.

25 THE COURT: Do you know who the judge is?

1 PROSPECTIVE JUROR NUMBER 036: I don't know.

2 THE COURT: Okay. Do you if it's the city attorney or the

3 district attorney that's prosecuting you?

4 PROSPECTIVE JUROR NUMBER 036: I believe it's probably

5 the DA's office.

6 THE COURT: Probably the DA's office, okay. Neither of

7 these two individuals I take it though?

8 PROSPECTIVE JUROR NUMBER 036: This happened last

9 year so I haven't even had a first court --

10 THE COURT: Oh --

11 PROSPECTIVE JUROR NUMBER 036: -- appearance or --

12 THE COURT: -- so you haven't been there.

13 PROSPECTIVE JUROR NUMBER 036: Correct.

14 THE COURT: Okay. Do you have --

15 PROSPECTIVE JUROR NUMBER 036: Yeah, this is all

16 still --

17 THE COURT: -- attorney?

18 PROSPECTIVE JUROR NUMBER 036: -- pending.

19 THE COURT: do you have an attorney involved yet or --

20 PROSPECTIVE JUROR NUMBER 036: Yes, Chip Siegel.

21 THE COURT: Okay. Got it.

22 PROSPECTIVE JUROR NUMBER 036: Yeah.

23 THE COURT: All right. Thank you.

24 How about on the middle row?

25 Yeah. If you could pass it right back to Mr. Aguirre, Mr.

1 McAndrew, thank you.

2 Mr. Aguirre.

3 PROSPECTIVE JUROR NUMBER 021: Badge Number 21.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR NUMBER 021: I had a DUI in '96 in
6 Redondo Beach, California.

7 THE COURT: California. Thank you.

8 Anybody else on that row?

9 Nope. Top row?

10 If you could pass it to your right, thank you.

11 Mr. Haman, Badge 13.

12 PROSPECTIVE JUROR NUMBER 013: Yeah, I had a DUI in
13 '97, in California.

14 THE COURT: Thank you.

15 Anybody else up there?

16 No more on the top row, thank you.

17 Okay. The 24 of you that I've been chatting with, are there
18 any of you that believe that you would have a tendency to treat a police
19 officer any differently than any other witness, or do you think you could
20 evaluate them like all the other witnesses, by looking at everything on
21 the case before deciding on their credibility? Anybody treat a police
22 officer differently? A couple hands. Why don't you hand that straight
23 ahead to Ms. Lyons, if you would, please?

24 Ms. Lyons.

25 PROSPECTIVE JUROR NUMBER 050: I was a victim of

1 racial profiling.

2 THE COURT: Okay. So how long ago was that?

3 PROSPECTIVE JUROR NUMBER 050: 2008.

4 THE COURT: In Las Vegas or somewhere --

5 PROSPECTIVE JUROR NUMBER 050: Henderson.

6 THE COURT: Pardon?

7 PROSPECTIVE JUROR NUMBER 050: Henderson.

8 THE COURT: Henderson, okay.

9 And did that involve something at work, personally, getting
10 pulled over.

11 PROSPECTIVE JUROR NUMBER 050: Getting pulled over.

12 THE COURT: And you had a what I take is an unpleasant
13 experience with whoever the Henderson police officers were?

14 PROSPECTIVE JUROR NUMBER 050: Yes, he lied.

15 THE COURT: Okay. Did -- when you say he lied, did it
16 ultimately go to court for some reason and --

17 PROSPECTIVE JUROR NUMBER 050: No.

18 THE COURT: All right. Just lied in terms of what they were
19 writing down?

20 PROSPECTIVE JUROR NUMBER 050: What they were
21 pulling me over for.

22 THE COURT: Got it, okay. And so based on that, you think
23 you might have a tendency to treat the police officers differently in this
24 case?

25 PROSPECTIVE JUROR NUMBER 050: That I don't know.

1 THE COURT: So that's what the question gets at, right?

2 PROSPECTIVE JUROR NUMBER 050: It's --

3 THE COURT: Everybody probably in the room has had some
4 kind of --

5 PROSPECTIVE JUROR NUMBER 050: I would be --

6 THE COURT: -- interaction with a police officer.

7 PROSPECTIVE JUROR NUMBER 050: Yeah, I would be --

8 THE COURT: We all get pulled over, maybe we've had to call
9 them because we've been a victim of something, maybe we've been
10 accused of something.

11 So just like everything else in life, whatever happens to you is
12 kind of a part of the fabric of who you are. But the question is,
13 regardless of what happened, whether it was really good or really bad
14 with police officers, do you think you can treat them fairly in this case
15 and just say, you're not the guy that pulled me over, I'm just going to
16 evaluate you based on what's in this case.

17 Or, are you going to say, no, no, no, what happened to me
18 was bad enough that I just I'm not going to trust any police officers?

19 We don't have any Henderson police officers that are
20 witnesses --

21 PROSPECTIVE JUROR NUMBER 050: Okay. Well then that
22 makes --

23 THE COURT: -- correct?

24 PROSPECTIVE JUROR NUMBER 050: -- a difference.

25 MS. BLUTH: We don't.

1 THE COURT: Okay. All right. So we just make sure. So
2 you're dealing with Metro officers in this case.

3 PROSPECTIVE JUROR NUMBER 005: Okay. I could try.

4 THE COURT: Okay. Well, you know, unfortunately the law
5 makes me ask for a little more than try. Like sometimes you'll have
6 people that are married to police officers who say oh, I'm going to
7 believe the police officers all the time because I'm married to one and I
8 think they're all really, really good. And so that person can't really be fair
9 because they're not objectively deciding whether those police officers
10 are believable or not.

11 Same thing on the other side. We need to make sure people
12 are like yeah, whatever's happened to me in the other aspects of my life,
13 I can put that aside and just deal with the people in this case and decide
14 what I think.

15 PROSPECTIVE JUROR NUMBER 050: I could try.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NUMBER 050: That's the best I can
18 do.

19 THE COURT: All right. Fair enough. It's okay. I'll let the
20 attorneys follow up and ask some more questions, okay?

21 Who else did I have a hand up?

22 Why don't you pass it on down to your left? Thank you.

23 PROSPECTIVE JUROR NUMBER 019: Badge 19, Laura
24 Gasperino.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR NUMBER 019: I am the other
2 extreme that you just explained.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 019: I had a large police
5 and military presence growing up in my life.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 019: So I'm sure that that
8 has influenced my --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NUMBER 019: -- decision making.

11 THE COURT: So same question. Do you think that's going to
12 cause you to fault -- to automatically believe in people or do you think
13 you'll still listen to what's being presented and then decide whether
14 somebody's believable or not?

15 PROSPECTIVE JUROR NUMBER 019: I don't know. I truly
16 don't.

17 THE COURT: Okay. You'll try.

18 PROSPECTIVE JUROR NUMBER 019: I don't know.

19 THE COURT: Okay. All right. I get it. Thank you.

20 I think I had one other hand somewhere. Did I have one other
21 hand?

22 If you could pass it forward to Mr. Lindenbach, Badge 34.

23 Yes, sir?

24 PROSPECTIVE JUROR NUMBER 034: I think it was mostly
25 during my arrest for my domestic violence.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 034: The cops seemed
3 like they were not listening to my side of what happened and ultimately
4 got me pretty much arrested and --

5 THE COURT: Okay. So kind of like Ms. Lyons, you have a
6 little sour taste about how your case was handled.

7 PROSPECTIVE JUROR NUMBER 034: Yeah.

8 THE COURT: And was that Metropolitan Police Department,
9 Henderson, North Las Vegas?

10 PROSPECTIVE JUROR NUMBER 034: Metro.

11 THE COURT: Pardon?

12 PROSPECTIVE JUROR NUMBER 034: Metro.

13 THE COURT: Metro, okay. So same question I asked the
14 two young ladies before you. Do you think you can kind of set that aside
15 and say look, assuming it's not the same officer in this case, I can
16 evaluate them and decide what I think, based on this case? Or do you
17 think that experience is going to cause you to be unfair one way or the
18 other?

19 PROSPECTIVE JUROR NUMBER 034: It's just hard to kind
20 of trust those officers when they always cover for each other or they
21 make up things to make a case, it seems like.

22 THE COURT: Okay. All right.

23 Anybody else on that question?

24 Nope, okay.

25 Thank you, Mr. Lindenbach.

1 Last question to the group -- or not -- the second to last
2 question to this group. Do all of you believe that you would be able to
3 wait in forming your opinion on the appropriate result until after you've
4 heard all the evidence and been given the legal instructions by the
5 court? It means, can you keep an open mind and wait until you've been
6 given all the information available to you before you make a decision?
7 Anybody that could not do that?

8 Yeah. Why don't you pass it back behind you there to Ms.
9 Gasperino, Badge Number 19.

10 PROSPECTIVE JUROR NUMBER 019: Yep. I don't know. I
11 truly don't. And I think I have some very strong beliefs and ways I've
12 grown up so --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 019: -- I can't honestly
15 answer that question.

16 THE COURT: Okay. You think you're going to want to just
17 kind of default to an opinion about it before you hear all the evidence?

18 PROSPECTIVE JUROR NUMBER 019: I might, yes.

19 THE COURT: Okay. All right. And that was Badge Number -

20 -

21 PROSPECTIVE JUROR NUMBER 019: 19.

22 THE COURT: -- 19. Thank you.

23 Anybody else on that question?

24 See no other hands.

25 Now the final question. As I explained to your peers in the row

1 of eight to my left, if and only if someone is convicted of first-degree
2 murder, then the jury also sits to decide the punishment. And there's
3 three options available to you. A 50-year sentence with a minimum of
4 20 years before parole eligibility, a life sentence with a minimum of 20
5 years before parole eligibility, or a sentence of life without the possibility
6 of parole. Do you all believe that you would be able to consider all those
7 three forms of punishment before deciding what punishment you think
8 somebody should receive? Anybody that could not do that?

9 Mr. --

10 PROSPECTIVE JUROR NUMBER 033: 33, Bushong.

11 THE COURT: -- Bushong, thank you.

12 PROSPECTIVE JUROR NUMBER 033: Yes.

13 THE COURT: Yes, sir?

14 PROSPECTIVE JUROR NUMBER 033: I'm not sure --

15 THE COURT: Hold on, I'm going to let --

16 PROSPECTIVE JUROR NUMBER 033: I'm not sure,
17 honestly, that I want to be someone who judges the penalty that
18 someone should suffer.

19 THE COURT: Okay. You don't want to be put in that
20 situation?

21 PROSPECTIVE JUROR NUMBER 033: Yes, sir.

22 THE COURT: Look, most jurors don't want to be put in that
23 situation. That's what I have to do every day and most jurors are very
24 thankful that that's not something that they have a responsibility for, but
25 separate from wanting to do it or not wanting to do it, do you think you

1 could do it.

2 If you're called upon to do that, if it comes to that, and people
3 are able to, in a penalty phase, which is the second part of the trial if
4 somebody's convicted of first-degree murders, the attorneys have the
5 opportunity to present whatever evidence they want to present to you
6 and then make argument to you before you go back and deliberate on a
7 sentence, just like deliberating on a verdict. So if you're called upon to
8 do that in a case, do you think you could do it, even though you don't
9 want to do it?

10 PROSPECTIVE JUROR NUMBER 033: I don't know, sir.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NUMBER 033: I don't think I would
13 want to be a part of that.

14 THE COURT: Okay. Well we keep going back to that word
15 want, right? Which is kind of I think the equivalent of I'll try that I got
16 from a couple of jurors before you. I know you don't want to --

17 PROSPECTIVE JUROR NUMBER 033: I don't feel worthy --

18 THE COURT: Okay. Well --

19 PROSPECTIVE JUROR NUMBER 033: -- to make that
20 judgment of another person.

21 THE COURT: Look, our system is based on -- I mean,
22 constitutionally to allow our peers to decide issues in our community
23 when people are accused of crimes, so you're certainly worthy.
24 Everybody in this room is worthy. Don't sell yourself short in that regard.
25 And I get that it's not a pleasant thing and that most people don't want to

1 do it.

2 But the question is really just could you go in there and
3 consider the three forms of punishment before deciding on which one
4 was appropriate. It's really geared more towards -- for instance, in a
5 case that involves the death penalty, I referred to that earlier, that's
6 really polarizing with people. You have some people that would come in
7 and say, I'm automatically going to give somebody the death penalty if
8 they're convicted of murder. And then you have other people that'll say I
9 could never, no matter what the circumstances are, consider that as an
10 option. So that kind of makes those people inappropriate to sit on the
11 jury because they can't consider all the options.

12 In this case, we're not dealing with the death penalty. It's
13 those three other options that I've talked about. So the question right
14 now is if you're placed in that situation, understanding you don't want to
15 be, but if you're placed in it, can you consider those three forms of
16 punishment?

17 PROSPECTIVE JUROR NUMBER 033: Yes. And I was just
18 thinking it'll probably be based on the evidence and knowing what
19 happened.

20 THE COURT: Certainly.

21 PROSPECTIVE JUROR NUMBER 033: Yeah.

22 THE COURT: Certainly. It's just like a verdict in the trial
23 phase, I mean, it's going to be based on whatever's provided to you from
24 an evidentiary standpoint that allows and informs you as to what an
25 appropriate decision would be. Okay?

1 PROSPECTIVE JUROR NUMBER 033: Yes, sir. And again,
2 this will be -- if I was part of a team of people who were making the
3 decision --

4 THE COURT: Right.

5 PROSPECTIVE JUROR NUMBER 033: -- I could do that,
6 probably.

7 THE COURT: But you just don't want to.

8 PROSPECTIVE JUROR NUMBER 033: But individually I
9 would have trouble.

10 THE COURT: Understood.

11 PROSPECTIVE JUROR NUMBER 033: Yeah.

12 THE COURT: Okay. All right. Those are all the questions
13 that I have for our group of 32. I thank you all very much for your time
14 and I will turn it over -- hold on to it. We'll turn it over to the State. Ms.
15 Bluth will get it and pass it around. She may not pick on you right away.

16 MS. BLUTH: I just need one second to set up, Judge.

17 All right. Good afternoon, everybody. So my questions will be
18 kind of like Judge was doing in this last section, it will be to all of you in
19 front of me and then that first row, okay? So if you have an answer to
20 the question, just go ahead and raise your hand. There are going to be
21 some specific questions that I have for specific people but for right now
22 we're just going to go with some general questions.

23 So this isn't a fast process, I'm sure you're kind of catching on
24 to that by now. We're not going to be done today. We'll probably be
25 done some time tomorrow. But the more you talk, the faster it goes. So

1 if you have an answer or you think you have an answer, raise your hand,
2 all right? So let's start with some of the easy ones. Number one, raise
3 your hand if you have military experience, please.

4 All right. Who has the mic right now? You, okay, let's go --

5 THE COURT: Mr. Bushong.

6 MS. BLUTH: -- Mister -- hang on -- is it -- do I have it right, is
7 that --

8 PROSPECTIVE JUROR NUMBER 033: Bushong, 33.

9 MS. BLUTH: Thank you. Mr. Bushong, 33. Would you mind
10 talking to me about that? What did you do in the military?

11 PROSPECTIVE JUROR NUMBER 033: I was in the Air
12 Force, I carted nuclear missiles.

13 MS. BLUTH: Okay. And what years was that?

14 PROSPECTIVE JUROR NUMBER 033: I got out in 1978.

15 MS. BLUTH: Thank you for your service.

16 In that same -- all right, would you mind passing it down,
17 please, to Mr. Veal, which would be Badge Number 051. And I know
18 you spoke, you said you were a disabled vet in the US Army.

19 PROSPECTIVE JUROR NUMBER 051: Yes.

20 MS. BLUTH: What did you do in the Army?

21 PROSPECTIVE JUROR NUMBER 051: I was a field artillery
22 officer and also a nuclear chemical target analysis.

23 MS. BLUTH: Okay. And how many years?

24 PROSPECTIVE JUROR NUMBER 051: 12.

25 MS. BLUTH: 12. Thank you very much for your service.

1 PROSPECTIVE JUROR NUMBER 051: Okay.

2 MS. BLUTH: Was there anyone else in this first row that I

3 missed?

4 Okay. If you wouldn't mind going down to Mr. Lindenbach,

5 which is 034, is that right?

6 PROSPECTIVE JUROR NUMBER 034: Yes.

7 MS. BLUTH: Okay. What branch and what did you do?

8 PROSPECTIVE JUROR NUMBER 034: I was in the Marines.

9 MS. BLUTH: Okay. How --

10 PROSPECTIVE JUROR NUMBER 034: I drove trucks,

11 vehicles, personnel.

12 MS. BLUTH: And what years?

13 PROSPECTIVE JUROR NUMBER 034: From 2000 to 2007.

14 MS. BLUTH: Okay. Did you do active combat?

15 PROSPECTIVE JUROR NUMBER 034: Uh-huh. Iraq, 2003,

16 yep.

17 MS. BLUTH: Thank you for your service. Would you mind

18 passing it back to Mr. Lemus.

19 Hi, how are you?

20 PROSPECTIVE JUROR NUMBER 035: Good, how are you?

21 MS. BLUTH: Good. Tell me about what branch and what did

22 you do?

23 PROSPECTIVE JUROR NUMBER 035: Marine Corps.

24 MS. BLUTH: Okay.

25 PROSPECTIVE JUROR NUMBER 035: Legal admin clerk.

1 MS. BLUTH: What does that mean?

2 PROSPECTIVE JUROR NUMBER 035: We would interview

3 deserters and Marines that had gone AWOL and just enter entries into

4 their service record books and court martial proceedings.

5 MS. BLUTH: Would you have to testify ever in the court

6 martial proceeding?

7 PROSPECTIVE JUROR NUMBER 035: No, ma'am.

8 MS. BLUTH: Okay. And what were your years of service?

9 PROSPECTIVE JUROR NUMBER 035: '79 to '84.

10 MS. BLUTH: Thank you very much for your service.

11 PROSPECTIVE JUROR NUMBER 035: You're welcome.

12 MS. BLUTH: Second row, did I have any hands?

13 Would you mind passing it back to Mr. Aguirre? He's behind

14 you, Badge Number 021.

15 Hi.

16 PROSPECTIVE JUROR NUMBER 021: Hello.

17 MS. BLUTH: When did you serve and tell me your capacity?

18 PROSPECTIVE JUROR NUMBER 021: I was in the Navy

19 and I was called a fire control technician. We did missile fire control.

20 MS. BLUTH: What years?

21 PROSPECTIVE JUROR NUMBER 021: '74 through '78.

22 MS. BLUTH: Thank you very much.

23 Was there anyone else in that second row?

24 And then behind you, if you wouldn't mind passing it to Mr.

25 Jacobs, Badge Number 011.

1 Hi, Mr. Jacobs.

2 PROSPECTIVE JUROR NUMBER 011: Hi.

3 MS. BLUTH: What did you serve? Where did you serve?

4 PROSPECTIVE JUROR NUMBER 011: United States Air

5 Force.

6 MS. BLUTH: Okay.

7 PROSPECTIVE JUROR NUMBER 011: Six years. From '73

8 to -- and I was a crypto engineer.

9 MS. BLUTH: What is that?

10 PROSPECTIVE JUROR NUMBER 011: So, black box stuff.

11 Friend or foe. Meaning that I worked kind of in a top-secret

12 environment.

13 MS. BLUTH: Okay.

14 PROSPECTIVE JUROR NUMBER 011: For weapons and

15 stuff like that.

16 MS. BLUTH: Okay. Thank you very much.

17 PROSPECTIVE JUROR NUMBER 011: You're welcome.

18 MS. BLUTH: Did I miss anybody else?

19 All right, perfect. Thank you.

20 Okay. So I want to go on and talk a little bit about the process

21 of being a juror. So if you -- or you know what, I apologize, did I miss

22 anybody over here with -- thank you. Would you mind passing that all

23 the way over, please, to Mr. Harris?

24 Mr. Harris, I didn't write down your badge number, I'm sorry.

25 Could you tell me it?

1 PROSPECTIVE JUROR NUMBER 054: 54.

2 MS. BLUTH: 054.

3 PROSPECTIVE JUROR NUMBER 054: United States Air
4 Force, from 1979 to 1994. I was logistics for nine years and I was a
5 special agent with the Air Force of Special Investigations for six years.

6 MS. BLUTH: What do you do in that capacity? I mean,
7 obviously I recognize you investigate but could you give me -- what do
8 you investigate?

9 PROSPECTIVE JUROR NUMBER 054: All the criminal
10 investigations related. Suicides, homicides, drug investigations, fraud.

11 MS. BLUTH: And how is it that you get assigned to that type
12 of unit?

13 PROSPECTIVE JUROR NUMBER 054: It was a special duty
14 assignment, you had to apply for it.

15 MS. BLUTH: Thank you. Anybody else that I missed in that
16 row? Showing no response.

17 All right. So back to -- what I was getting at is that if you are
18 selected as a juror, at the beginning of the trial, his Honor -- well really
19 JR passes out kind of like a little booklet or a notepad to each one of you
20 that sits there in the box and you're allowed to, you know, take notes
21 during the trial. Because at the end of like a week or two you may think
22 you might remember something from day 1 but it gets a little bit harder
23 because you'll be listening to many witnesses, so you have to kind of
24 find this balance of being able to take notes so you remember but not
25 being so crazy about taking notes that you're losing track really of what

1 the witness is going on -- what the witness is saying.

2 But another I wanted to tell you about is in this department,
3 you're allowed to ask questions of a witness. So what will happen is the
4 State will ask their questions, the Defense may ask their questions, and
5 once the attorneys are done, Judge Herndon will turn to you and say,
6 are there any questions from the jury? The jury then gets to write -- let's
7 say Juror Number 1 has a question. They then write that in their
8 notepad, they put down their juror number, sign it, and then we walk up,
9 Judge reads it and we all walk up.

10 Here's the issue with juror questions, those are subject to the
11 same rules of evidence as any question we may ask. So you'll hear
12 during the trial I'll ask a question and the Defense may object to it. And
13 because of certain rules of evidence, the Judge will sustain that
14 objection and the question won't get asked.

15 So that same thing happens when a juror -- so Juror Number
16 1, which is Ms. Robinson for right now, if she asks a question and we go
17 up there and the rules of evidence don't allow that question it doesn't get
18 to be asked. It's not because the State's trying to hide something from
19 you, it's not because the Defense is trying to hid something from you, it's
20 just because the same rules apply.

21 Is there anybody here who we would go through that process
22 and it would bother them, like they would think we're trying to keep it
23 from you; we don't want you to know the truth. That they would be so
24 bothered that they would hold it against one side or the other. Is there
25 anybody who thinks that or who would have that issue?

1 Showing no response. Thank you.

2 All right. Again, once you're selected you go back -- after the
3 trial you'll hear closing arguments and you'll go back and that will be
4 your time to deliberate with your fellow jurors. So a lot of times, kind of
5 like I think -- let's see I think it was Mr. Bushong, who was just saying
6 that he doesn't want to make the decision all by himself but when you're
7 in a group setting it may make you feel more comfortable to know, it's
8 not just one person making the decision, it's all 12 of you collectively.

9 Is there anybody who would feel uncomfortable though being
10 able to voice their opinions in front of the other jurors? That they don't
11 feel comfortable -- maybe you're shy or it's just not something you'd feel
12 like you would be comfortable in doing, going back there and discussing
13 your opinions with the other jurors? Anybody have an issue with that?

14 Okay. Yeah, let's talk about it. Ms. Hernandez, Badge
15 Number 037. Tell me what about it makes you uncomfortable?

16 PROSPECTIVE JUROR NUMBER 037: I'm a little bit shy.

17 MS. BLUTH: Okay, yeah. And, you know, I think especially
18 when we're in a room like this and we're all -- everybody -- you feel like
19 everybody's staring at you, right, it makes it hard. The thing is about jury
20 selection process is let's say you're selected as one of the 12, you're
21 going to be in there with those people all day long. And people who you
22 didn't know, by the end of it, you guys are like best friends because
23 you're sick -- you're basically sick of each because you've been with
24 each other for so long.

25 Do you think that would make you feel comfortable if you were

1 with that people day in and day out or you still think you're going to feel
2 uncomfortable?

3 PROSPECTIVE JUROR NUMBER 037: Probably yeah, a
4 little bit.

5 MS. BLUTH: A little bit?

6 PROSPECTIVE JUROR NUMBER 037: Yes.

7 MS. BLUTH: When you're with a group of like your friends,
8 are you the quietest one in the group, are you medium, or are you
9 loudest?

10 PROSPECTIVE JUROR NUMBER 037: Yeah, I'm the
11 quietest one.

12 MS. BLUTH: You're the quietest one.

13 If you got back there -- let's say you got back there and maybe
14 11 of the jurors saw it one way and you saw it the opposite way, do you
15 think you would be able to say to them, well I have some questions
16 about this or I kind of see it more this way. Would that be something
17 you'd be comfortable with?

18 PROSPECTIVE JUROR NUMBER 037: No.

19 MS. BLUTH: No?

20 PROSPECTIVE JUROR NUMBER 037: No.

21 MS. BLUTH: Would you just kind of go with the majority and
22 stay quiet?

23 PROSPECTIVE JUROR NUMBER 037: Yes.

24 MS. BLUTH: Even if --

25 PROSPECTIVE JUROR NUMBER 037: Most of the time,

1 yeah.

2 MS. BLUTH: Yeah. Even if it was something you didn't agree
3 with?

4 PROSPECTIVE JUROR NUMBER 037: I might say
5 something.

6 MS. BLUTH: Okay.

7 PROSPECTIVE JUROR NUMBER 037: Yeah.

8 MS. BLUTH: Depending on how strongly you felt?

9 PROSPECTIVE JUROR NUMBER 037: Yes.

10 MS. BLUTH: Is there -- as time goes on and as maybe you
11 get to know some of the other jurors, do you think that that would help
12 you feel comfortable?

13 PROSPECTIVE JUROR NUMBER 037: Maybe.

14 MS. BLUTH: Okay.

15 Is there anybody who shares that same sentiment; that has
16 those same type of thoughts or feelings?

17 All right. Yeah, let's turn it over -- let's see, is it Mrs. -- do I
18 say it Ebel or Ebel?

19 PROSPECTIVE JUROR NUMBER 014: Ebel.

20 MS. BLUTH: Ebel. Badge Number 014.

21 PROSPECTIVE JUROR NUMBER 014: Yes.

22 MS. BLUTH: Tell me about that.

23 PROSPECTIVE JUROR NUMBER 014: Like I can find myself
24 in the same situation as the previous lady.

25 MS. BLUTH: Yeah.

1 PROSPECTIVE JUROR NUMBER 014: And on top of that is
2 my language.

3 MS. BLUTH: Okay.

4 PROSPECTIVE JUROR NUMBER 014: I would stay --

5 MS. BLUTH: So --

6 PROSPECTIVE JUROR NUMBER 014: -- stay on the side --

7 MS. BLUTH: Would you speak just a little louder for me?

8 PROSPECTIVE JUROR NUMBER 014: Yes.

9 MS. BLUTH: And I heard what you were saying to Judge
10 about, you know, being from Romania and you thought that there was --

11 PROSPECTIVE JUROR NUMBER 014: Uh-huh.

12 MS. BLUTH: -- maybe a language issue, but since we've
13 been here -- since this morning, since we've been talking, have you had
14 any issues understanding thus far?

15 PROSPECTIVE JUROR NUMBER 014: I didn't. I don't know
16 if some other people have the issues because that's my problem.
17 Sometimes people around me don't have enough patience to pay
18 attention and that's when I get frustrated and I just stay quiet.

19 MS. BLUTH: Yeah, okay. Okay. Well a couple of things.
20 Number one, if at any point in time today I'm talking or the Defense is
21 talking and you don't understand, just raise your hand --

22 PROSPECTIVE JUROR NUMBER 014: No, I understand, I
23 understand. The problem is the other way.

24 MS. BLUTH: So your concern is more --

25 PROSPECTIVE JUROR NUMBER 014: From --

1 MS. BLUTH: -- whether or not the other --
2 PROSPECTIVE JUROR NUMBER 014: Right.
3 MS. BLUTH: -- people will understand you?
4 PROSPECTIVE JUROR NUMBER 014: Right.
5 MS. BLUTH: Okay. All right.
6 I want to ask you that same question that I was asking Ms.
7 Hernandez and that was, you know, the 11 to 1 question. If you went
8 back there and 11 people felt one way and you felt the other, would you
9 feel comfortable saying well, that's not really how I saw it, you guys?
10 PROSPECTIVE JUROR NUMBER 014: Probably, if I'm
11 writing, yes.
12 MS. BLUTH: Say it again.
13 PROSPECTIVE JUROR NUMBER 014: If I write it, yes.
14 MS. BLUTH: If you write it.
15 PROSPECTIVE JUROR NUMBER 014: Probably, yes.
16 MS. BLUTH: All right. Thank you.
17 Anybody else share that same sentiment?
18 Showing no hands.
19 All right. I want to talk about another thing about being
20 selected as a juror.
21 At a very young age, I think most all of us are taught hey you
22 shouldn't judge other people, right? I think that we're -- whether it's
23 philosophically, morally, religiously, you're taught you should not judge
24 other people. When you're selected as a juror that -- it's a little bit
25 different, right, you're kind of judging the facts? It's not whether or not

1 you're judging the individual, you're judging hey, does the State of
2 Nevada prove to you beyond a reasonable doubt that the Defendant
3 committed these crimes. That's different than, you know, judging a
4 human being as being good or bad.

5 Is there anyone here, whether it be religiously, philosophically,
6 moral, ethically, that has a problem sitting in judgment of another
7 person?

8 Okay. Where is it? Would you mind passing it down to MS.
9 Gasp -- is it Gasperino?

10 PROSPECTIVE JUROR NUMBER 019: Gasperino.

11 MS. BLUTH: Okay. Badge Number 019, talk to me about
12 that.

13 PROSPECTIVE JUROR NUMBER 019: I have some very
14 strong religious beliefs and I'm not sure that I could put that aside for
15 facts.

16 MS. BLUTH: All right. So, talk to me a little bit though about
17 specifically what your religious beliefs in regards to how you think it
18 would impact you here.

19 PROSPECTIVE JUROR NUMBER 019: I've been raised on
20 these religious beliefs and it's just who I am as a human, so.

21 MS. BLUTH: But I mean which specific belief are you
22 referring to that you feel like would prevent you?

23 PROSPECTIVE JUROR NUMBER 019: There's a few, I
24 think. So depending on what's presented, I just don't know if I could put
25 that aside. Kind of going back to what I said earlier, I have been raised

1 a certain way and that's shaped my beliefs and how I am and I'm just not
2 confident in my ability to put that aside to make judgments.

3 So I just feel like I'm putting myself in a compromised position
4 because I have been taught not to judge and I don't know if I can do it.

5 MS. BLUTH: Okay. Do you think or believe that there's a
6 difference between, you know, following the, Thou Shalt Not Judge and
7 determining whether or not the State has met their burden? Do you see
8 a difference in those two?

9 PROSPECTIVE JUROR NUMBER 019: I -- I'm going back to
10 what I said before. I was raised with some very strong beliefs and I'm
11 already struggling with things.

12 MS. BLUTH: Okay.

13 PROSPECTIVE JUROR NUMBER 019: So.

14 MS. BLUTH: Okay. All right. Do you think that it -- what's
15 hard is, right, we ask all these questions in the beginning and then we
16 say well at the end of this do you think you could do it? And it's hard
17 because you feel like we're putting the cart a little bit before the horse.

18 Unfortunately, like today and tomorrow are really the only
19 opportunities we get to see if you're the person for the job. And so we
20 kind of have to know today or tomorrow whether or not this is something
21 that you can do and so that's why we don't -- we try not to hear things
22 like I think I can or I'll try because we can't get in two weeks to it and
23 then you say I really thought I could do this but I can't. At that point it's
24 too late. So, as you sit here today, do you think this is something you
25 can do?

1 PROSPECTIVE JUROR NUMBER 019: No.

2 MS. BLUTH: Based on the things that you brought out before,
3 the religious beliefs, how you were raised?

4 PROSPECTIVE JUROR NUMBER 019: Yeah.

5 MS. BLUTH: Okay. I appreciate your honesty, thank you.

6 If you wouldn't mind passing it forward, please, to Mr.

7 Bushong, Badge Number 033.

8 Talk to me about that, Mr. Bushong.

9 PROSPECTIVE JUROR NUMBER 033: Well, it's what I said
10 earlier about deciding the sentence or the fate. I -- honestly I just don't
11 want to be a part of that.

12 MS. BLUTH: Okay. Can you talk to me a little bit about what
13 makes you uncomfortable with that?

14 PROSPECTIVE JUROR NUMBER 033: Well, I'm not sure
15 how my conscious would deal with it.

16 MS. BLUTH: And --

17 PROSPECTIVE JUROR NUMBER 033: Assuming that
18 there's some ambiguity about the whole case --

19 MS. BLUTH: Sure.

20 PROSPECTIVE JUROR NUMBER 033: -- you know, I'm
21 skeptical about people telling the truth or not. We've already talked
22 about police officers who aren't honest, et cetera.

23 MS. BLUTH: Sure.

24 PROSPECTIVE JUROR NUMBER 033: I have trouble
25 believing people if -- except if they're saying something that's in their

1 best interest. So then to take that information and decide someone's
2 sentence, I just don't want to be a part of that.

3 MS. BLUTH: All right. So let me break it down for a second.
4 So the only way we ever get to -- and this really should be for
5 everybody, but in every homicide trial there's two phases, we -- the trial
6 phase where you decide whether or not the Defendant is guilty or not
7 guilty of those crimes. And only if you find the Defendant guilty of first-
8 degree murder do you move on to the penalty phase where you're given
9 those three options.

10 So you're completely done with A, right? You've -- in order to
11 get to B, you found the Defendant guilty of first-degree murder, that's the
12 only way you get there. So there should be no questions in -- you know,
13 you shouldn't -- those thoughts that you're saying in regards to the
14 factual ambiguities, I think those questions should not be there for the
15 sent -- the penalty part. Does that make sense to you?

16 PROSPECTIVE JUROR NUMBER 033: No, I'm not sure what
17 you just said.

18 MS. BLUTH: Okay. So, let's say you're selected, all right?
19 And the first part of the trial, which would be the Phase 1, I'll call it, is just
20 deciding whether or not the State has proven to you that the Defendant
21 is guilty of first-degree murder. That's your only consideration, okay? If
22 you find the Defendant guilty with your fellow jurors of first-degree
23 murder, then you move on to the penalty phase.

24 So you've already completely decided that first side, whether
25 the Defendant was guilty or not guilty. It's only then that you move to the

1 penalty phase. Does that help you at all with the way you're thinking
2 about this process?

3 PROSPECTIVE JUROR NUMBER 033: No.

4 MS. BLUTH: Okay. And why not?

5 PROSPECTIVE JUROR NUMBER 033: I just don't want to be
6 a part of the judging.

7 MS. BLUTH: So not --

8 PROSPECTIVE JUROR NUMBER 033: I don't want to be a
9 part of deciding if someone's telling me the truth, judging evidence, I
10 don't want to be a part of it.

11 MS. BLUTH: All right. So before I worked homicide cases, I
12 worked purely sexual assault on children and almost every juror didn't
13 want to do it and there's a difference between I don't want to do this and
14 I cannot do this. So I can appreciate that you don't want to, but the
15 question is, can you?

16 PROSPECTIVE JUROR NUMBER 033: If I'm asked -- if this
17 court today decides that that's my fate, then I can.

18 MS. BLUTH: Okay.

19 PROSPECTIVE JUROR NUMBER 033: But I don't want to.

20 MS. BLUTH: You talked about being skeptical of what people
21 are saying.

22 PROSPECTIVE JUROR NUMBER 033: Yes.

23 MS. BLUTH: And you said that -- that's pretty much anybody,
24 right? It's not like oh it's just police officer or just lay people --

25 PROSPECTIVE JUROR NUMBER 033: Correct.

1 MS. BLUTH: -- it's just everybody.

2 PROSPECTIVE JUROR NUMBER 033: Correct.

3 MS. BLUTH: Is there a reason for that?

4 PROSPECTIVE JUROR NUMBER 033: Just experiences,

5 you know. You live long enough to see what human is like.

6 MS. BLUTH: Okay. So your life experiences have led you

7 just to be --

8 PROSPECTIVE JUROR NUMBER 033: Skeptical.

9 MS. BLUTH: Skeptical.

10 PROSPECTIVE JUROR NUMBER 033: Yes

11 MS. BLUTH: All right. In regards to -- you know, when you

12 say if this court tells me that I have to then I will do it, if -- with your

13 thoughts of sitting in judgment -- some of the thoughts you talked about

14 in regards to the trial phase and the penalty phase, is it going to be

15 weighing -- are those concepts going to be weighing on you so heavily

16 that you feel you wouldn't be able to make an ultimate decision?

17 PROSPECTIVE JUROR NUMBER 033: That would depend

18 on what I'm hearing, I guess.

19 MS. BLUTH: Okay. All right. Thank you.

20 Anybody else have an answer or -- yeah, have a response to

21 that question, the sitting in judgment of another person? Anybody else

22 have issues with that? Show your hands, please.

23 All right. Nothing further. You just hold on to that for one

24 second until I ask something else, okay?

25 All right. Anybody here with any friends or family that are

1 either judges or lawyers that you haven't spoken about already? And I
2 mean, close family or friends?

3 Okay. If you wouldn't mind passing it back to Ms. Robinson,
4 which is 003.

5 PROSPECTIVE JUROR NUMBER 003: Just so you know,
6 my daughter is a legal clerk, but she works with an attorney in family
7 law.

8 MS. BLUTH: Okay. Is that here --

9 PROSPECTIVE JUROR NUMBER 003: And I -- yes, it's here
10 and I do not know the name of the attorney she works with.

11 MS. BLUTH: Okay. And how long has she been doing that?

12 PROSPECTIVE JUROR NUMBER 003: She's been doing
13 legal work for 12 years.

14 MS. BLUTH: Okay. And it's just strictly family law.

15 PROSPECTIVE JUROR NUMBER 003: Yes.

16 MS. BLUTH: Thank you, Ms. Robinson.

17 PROSPECTIVE JUROR NUMBER 003: You're welcome.

18 MS. BLUTH: I don't know if I said this, Badge Number 003.

19 Anybody else? Close family or friends with any lawyers or
20 judges?

21 All right. If you wouldn't mind passing it to Ms. Belmonte,
22 Badge Number 018. Hi, Ms. Belmonte.

23 PROSPECTIVE JUROR NUMBER 018: Hello. I have several
24 friends that are judges here and like what I mentioned earlier, I'm part of
25 the Asian community leadership.

1 MS. BLUTH: Yes.

2 PROSPECTIVE JUROR NUMBER 018: We sponsor a lot of
3 the events for, Judge's night, you know, and things like that. So I know
4 some of the judges and some attorneys who work here. And some of
5 them are close friends of mine or a spouse of a friend.

6 MS. BLUTH: Okay. And do you do -- any friends with criminal
7 attorneys, either prosecutors or defense attorneys?

8 PROSPECTIVE JUROR NUMBER 018: Attorneys, yeah,
9 some.

10 MS. BLUTH: Okay. Can you give me some names of people
11 we would know?

12 PROSPECTIVE JUROR NUMBER 018: Attorneys, you said?

13 MS. BLUTH: Yeah.

14 PROSPECTIVE JUROR NUMBER 018: I know Attorney
15 Almase, he's a criminal attorney.

16 MS. BLUTH: Caesar?

17 PROSPECTIVE JUROR NUMBER 018: Yes, uh-huh. And of
18 course I know the wife. I forget some of the names, but yeah.

19 MS. BLUTH: And then could you explain to me a little bit
20 more about your leadership position?

21 PROSPECTIVE JUROR NUMBER 018: I'm a president of the
22 Filipino American political organization with equal representation and
23 basically we sponsor events for judges. Judges and all the other people
24 who are running for office, we sponsor events like that. And I'm part of
25 the Asian community as well.

1 MS. BLUTH: Thank you.

2 Anyone else?

3 Showing no response.

4 Does anyone have any personal training in the legal field or
5 the criminal justice system, besides Mr. Harris?

6 If you wouldn't mind passing it back to Mr. Jacobs, 011. Go
7 ahead, Mr. Jacobs.

8 PROSPECTIVE JUROR NUMBER 011: Just legal contracts.
9 Business contracts. Just business law, I guess.

10 MS. BLUTH: Got it. Thank you.

11 Anybody else?

12 All right. Would you mind passing that down, please?

13 Mr. Oyler, Badge Number 053.

14 PROSPECTIVE JUROR NUMBER 053: Right.

15 As he just mentioned, I deal with a lot of contract -- business
16 contracts and my interaction is with in-house attorneys.

17 MS. BLUTH: Okay. Thank you.

18 Now I want to make sure I have this right but of everybody up
19 here in the first row, there's no one here who has ever sat as a juror on a
20 jury trial?

21 THE COURT: For the record, nobody rose their hand.

22 MS. BLUTH: I'm sorry, yes. Thank you. I've just never seen
23 that before.

24 THE COURT: Shocking, I know. Right?

25 MS. BLUTH: I know, I'm just like --

1 When we first walked in here, one of the first questions that
2 His Honor asked was -- and I -- I mean, he was kind of teasing but is
3 anybody really excited to be here or is anybody happy to be here and a
4 couple people actually did raise their hands but I've lost track of you.
5 So, if you did raise your hand to that, would you raise it again?

6 Oh.

7 THE COURT: Unfortunately, it's --

8 Oh, wait, Ms. Lyons

9 MS. BLUTH: No, Ms. Lyons did.

10 THE COURT: -- raised her hand as well.

11 MS. BLUTH: Thank you, Ms. Lyons. Can someone pass her
12 a mic, please?

13 PROSPECTIVE JUROR NUMBER 050: What do you want
14 me to say?

15 THE COURT: Eventually it's going to be 14 of you and you
16 got to raise your hand at that point. Just so you know.

17 MS. BLUTH: Ms. Lyons, is it 050?

18 PROSPECTIVE JUROR NUMBER 050: Yes.

19 MS. BLUTH: Okay. No, I -- you said what do you want me to
20 say. I just want you to say why -- like why -- why were you -- no one
21 else is every happy to be here, so I'm just --

22 PROSPECTIVE JUROR NUMBER 050: I'm happy to be
23 wherever I am --

24 MS. BLUTH: Okay, you're just --

25 PROSPECTIVE JUROR NUMBER 050: -- so it doesn't make

1 any difference rather I'm here or at home, I'm just happy.

2 MS. BLUTH: You're just a happy person?

3 PROSPECTIVE JUROR NUMBER 050: Yes.

4 MS. BLUTH: Is there anything about this process or the facts
5 that you've already heard that interest you or intrigue you to make you
6 want to be here?

7 PROSPECTIVE JUROR NUMBER 050: No.

8 MS. BLUTH: Okay. Have you changed your mind since
9 you've been here?

10 PROSPECTIVE JUROR NUMBER 050: No.

11 MS. BLUTH: Okay.

12 PROSPECTIVE JUROR NUMBER 050: About being happy?

13 MS. BLUTH: Yeah.

14 PROSPECTIVE JUROR NUMBER 050: No.

15 MS. BLUTH: Or wanting to be here, either way.

16 PROSPECTIVE JUROR NUMBER 050: No.

17 MS. BLUTH: All right. Nobody else raised their hands.

18 Is there anybody here who just -- and we talked about being
19 busy, you know, having work, having constraints but just really is very,
20 very unhappy that they are sitting here?

21 Okay. Let's pass it down to Ms. Bustos, right? Is that you,
22 Ms. Bustos?

23 PROSPECTIVE JUROR NUMBER 044: No, I'm here.

24 MS. BLUTH: What? Oh. Oh, no, I apologize. I'm sorry. Ms.
25 Brown, 031.

1 THE COURT: Thank you, Ms. Belmonte.

2 MS. BLUTH: What is -- talk to me about what -- what about
3 this is making you so upset? Or frustrated? Or whatever the word you
4 want to use?

5 PROSPECTIVE JUROR NUMBER 031: Work. I just turned
6 my resignation in, I'm leaving next week, I have to close the office down,
7 and I still have patients that I'm not there if they call to talk to and stuff.
8 There's no one else to pass it to.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NUMBER 031: And this is the
11 second -- I was supposed to do it last month or whatever and I asked
12 them, I said is there better ways you guys can do it for nurses?

13 MS. BLUTH: And they wouldn't.

14 PROSPECTIVE JUROR NUMBER 031: Well they let me out
15 of that one so I couldn't get out of this but I didn't know I was going to
16 end up leaving my job next week because it's getting cut and I have to
17 go to the other place.

18 MS. BLUTH: Right, okay. So let's talk a little bit about the
19 other issue that you had spoken about in regards to -- in 1989 about
20 your father-in-law, okay? Because I -- we're going to have to ask some
21 questions and Judge said we're going to let the attorneys follow up with
22 you on that. So in regards to that situation, if I understand factually what
23 happened is someone was trying to get into the house, right? To break
24 into the home?

25 PROSPECTIVE JUROR NUMBER 031: No.

1 MS. BLUTH: Okay. Well then you --

2 PROSPECTIVE JUROR NUMBER 031: My mother-in-law,
3 my father-in-law, and my daughter, who was 7 at the time were pulling
4 into the garage after shopping on December 22nd, which was my
5 birthday. I had just gotten into the house, not aware that they were in
6 the garage with the two little ones and I heard a pop sound and I ran to
7 the back window and I saw the garage door was open, so I opened up
8 the door and I heard my daughter screaming.

9 So I ran down and my mother-in-law said that he tried to rob
10 us, he told us he was going to kill me and the baby, and stuff, call the
11 police. But one of the neighbors must have called the police because
12 just as I turned around to run, I saw squad cars coming. So I had to
13 grab my seven-year old and take her back in the house with the other
14 little ones and stuff while the police and them were out there looking at
15 the person or whatever.

16 MS. BLUTH: Okay. But the person was trying to --

17 PROSPECTIVE JUROR NUMBER 031: Yeah, he came in the
18 garage and put the gun to my father-in-law's head and told my mother
19 he -- mother-in-law he wanted the money.

20 MS. BLUTH: Okay.

21 PROSPECTIVE JUROR NUMBER 031: And unfortunately,
22 my father-in-law, he's a postal worker as well, he kept his bag like I carry
23 a bag and she told him that the money is in the trunk and where the bag
24 was located in the trunk and he reached over to get it from my mother-
25 in-law he was able to get -- grab his gun and shoot him -- shot him.

1 MS. BLUTH: Shot the --
2 PROSPECTIVE JUROR NUMBER 031: Shot the intruder.
3 MS. BLUTH: -- person -- the robber.
4 PROSPECTIVE JUROR NUMBER 031: Yes.
5 MS. BLUTH: And your father-in-law was tried for that
6 person's --
7 PROSPECTIVE JUROR NUMBER 031: He was -- no. The
8 other person was tried because of the fact that he was trying to rob
9 them.
10 MS. BLUTH: Oh --
11 PROSPECTIVE JUROR NUMBER 031: But it was turned the
12 other way. He said that my father-in-law ran out the garage, mistakenly
13 thought he was the person that came in the garage and he shot him.
14 MS. BLUTH: Okay.
15 PROSPECTIVE JUROR NUMBER 031: Twisted.
16 MS. BLUTH: So -- I'm -- yeah. I guess what I'm trying to say,
17 the person that was doing the robbing, did that person go on trial?
18 PROSPECTIVE JUROR NUMBER 031: Yeah.
19 MS. BLUTH: Okay. But he tried -- you're saying he -- at the
20 trial --
21 PROSPECTIVE JUROR NUMBER 031: Right.
22 MS. BLUTH: -- he tried to turn it around.
23 PROSPECTIVE JUROR NUMBER 031: Right.
24 MS. BLUTH: Okay. Now I got you. We're on the same page.
25 And you said because of that you feel pretty anxious.

1 PROSPECTIVE JUROR NUMBER 031: Always because I
2 had to watch my daughter go through things and stuff. And when
3 I -- and then I had the little ones and it was more or less like if I had
4 decided to take and go in the garage instead of them, I had my other two
5 babies --

6 MS. BLUTH: Right.

7 PROSPECTIVE JUROR NUMBER 031: At that time my son
8 was only two and the other one was 5.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NUMBER 031: So -- and it's just that
11 I just pulled up in the front and stuff but normally I would have been the
12 one that would take and put the car in the garage.

13 MS. BLUTH: Right. So I want to ask you the same kind of
14 questions that I was asking Mr. Bushong a little bit earlier and that is is --
15 no, I understand you don't want to be here because of many issues --

16 PROSPECTIVE JUROR NUMBER 031: Right. More than
17 less.

18 MS. BLUTH: And I get that, I really do. But -- and
19 respectfully, what I said to Mr. Bushong I need to say to you and that is,
20 you know, difference between can't and want --

21 PROSPECTIVE JUROR NUMBER 031: Uh-huh.

22 MS. BLUTH: -- and you not wanting to be here, I totally
23 understand. But I got to know, can you be here? Or will your mind be
24 other places?

25 PROSPECTIVE JUROR NUMBER 031: I can put work aside

1 because when it comes down to it, I mean, you know, unfortunately this
2 is just the way the cards were dealt. I just got called on a week that's --

3 MS. BLUTH: Sure.

4 PROSPECTIVE JUROR NUMBER 031: -- going to be the
5 week before I go. The part that bothers me is having to relive that whole
6 thing and then, you know, to actually sit in a court and never sat in a
7 court before, looking at, you know -- and listening to how they do the
8 stories and stuff and try to -- everybody's got their side and stuff --

9 MS. BLUTH: Yeah.

10 PROSPECTIVE JUROR NUMBER 031: -- or whatever and
11 you kind of like knowing that we're home, it's our home, and he invaded
12 our home, I mean -- you know, what else could my father-in-law do?

13 MS. BLUTH: Sure.

14 PROSPECTIVE JUROR NUMBER 031: It's like reliving that
15 over again. And now that my daughter's 38, she's just had her baby.
16 She still takes medicine, she does have anxieties --

17 MS. BLUTH: Yeah.

18 PROSPECTIVE JUROR NUMBER 031: -- disorders from it.
19 But she's gotten better but this came up today when I told her I was
20 coming her. I said if I get -- prob -- if I get shoplifting or anything you
21 know, other than that then that's fine, but then as a nurse I guess this
22 could be happening for me to actually put me in a position to see -- I'm
23 doing psychoanalysis on myself, you know --

24 MS. BLUTH: That's okay.

25 PROSPECTIVE JUROR NUMBER 031: -- because I -- I

1 mean, you know.

2 MS. BLUTH: No, I understand. I understand. Do you think
3 that because of what your family went through and being victimized in
4 that way, that would kind of affect or interfere with you being able to pay
5 attention and to give everything your full attention in regards to these
6 facts of this case?

7 PROSPECTIVE JUROR NUMBER 031: To be fair and not
8 judgmental to the point where actually paying attention to what evidence
9 is presented, you know what I mean, and maybe something that would
10 be said that would probably maybe make me think or reflect back on me
11 but not realizing this is not about me --

12 MS. BLUTH: Right.

13 PROSPECTIVE JUROR NUMBER 031: -- at this time, it's
14 about the other individuals that are involved.

15 MS. BLUTH: So you think it could affect you being fair?

16 PROSPECTIVE JUROR NUMBER 031: Possibly. And as a
17 nurse, you know, realistically when you look at things, you just have to
18 look at it realistically and be honest and so that's just -- it's -- I don't
19 want to be put in -- say -- you know how you say you can do something
20 but then, you know, when you get into it -- and like I said, listening to
21 the --

22 MS. BLUTH: Right.

23 PROSPECTIVE JUROR NUMBER 031: -- particulars,
24 asked -- an individual died, you know. That poor individual, you know,
25 on my end of it, my family, we were lucky and stuff, you know, but.

1 MS. BLUTH: And that kind of leads me to my next question,
2 you know, because this is a homicide, the doctor who did the autopsy
3 will have to come in and explain the findings of that autopsy where you
4 will have to see photos of the gunshot wounds and how they course
5 through the body. And so the way you were answering that question,
6 you know, kind of led me into that new question, are -- is that going to be
7 difficult for you?

8 PROSPECTIVE JUROR NUMBER 031: I'm not a squeamish
9 nurse. I was trained at Cook County Hospital and I rotated through
10 trauma, so I've seen all kinds of stuff, but --

11 MS. BLUTH: Not the -- I'm not talking about -- I -- you being a
12 squeamish nurse, I'm talking about your feelings in regards to the gun
13 violence and your family and then having to see another individual.

14 PROSPECTIVE JUROR NUMBER 031: I can't answer that
15 because I -- you know, I see ripped things all the time and stuff and I
16 guess when I'm at work, is that -- I'm -- it's like when you walk into work,
17 home is home; I'm walking in to do my job.

18 MS. BLUTH: Right.

19 PROSPECTIVE JUROR NUMBER 031: Now I might be a
20 mess after it's over and I go home, you know, but, I'm not -- I've seen
21 some real good stuff, so that wouldn't bother me.

22 MS. BLUTH: Okay. So safe to say you don't -- you're not real
23 sure if you would be able to do this this week or next week?

24 PROSPECTIVE JUROR NUMBER 031: Anything to do with
25 violence and stuff and what not as far as like have to sit there and listen

1 to all of that again -- and I mean, the part that gets me -- and I know
2 people have to present their cases and stuff because the other person
3 has a job as far as that persons they're defending, you have a job as far
4 as what you're doing is prosecuting --

5 MS. BLUTH: Yeah.

6 PROSPECTIVE JUROR NUMBER 031: -- but for me the
7 confusing part of it is that when you hear all of these different people and
8 their stuff and then I have to be there and be that one to say okay, are
9 they telling the truth or are they telling the truth or did the facts present
10 the truth. And then my instance with what happened with my kid, this
11 person had been in jail before and they let him out.

12 MS. BLUTH: Okay. So now we're kind of going back to
13 you're not sure about the actual fact-finding process of it because of
14 what you've gone through.

15 PROSPECTIVE JUROR NUMBER 031: Exactly.

16 MS. BLUTH: Well I appreciate your honesty, there's no wrong
17 answers.

18 PROSPECTIVE JUROR NUMBER 031: Yeah.

19 MS. BLUTH: All right? Thank you.

20 Okay. So I want to move on to the penalty part that Judge
21 spoke about last. So, if and only if you find the Defendant guilty of first-
22 degree murder, you move on to the penalty phase of the trial. And
23 there's three forms of punishment that you choose from. There's a term
24 of years, 20 to 50 years, there's life with the possibility of parole after 20
25 years have been served, and then the third option is life without the

1 possibility of parole.

2 What I want to ask you is, is you know, before I was talking
3 about the two phases. So there's the one phase where you're deciding
4 whether or not the State has proven to you that the Defendant
5 committed these crimes. And then if and only if the first degree -- you
6 find first-degree murder you move on to the second phase. My question
7 to you, is there anybody here who would not be able to separate those
8 phases in your mind?

9 So, for instance, you're in the middle of the first phase and
10 you're not -- you can't think about the second phase, you can't think
11 about penalty, you can't think about sentencing; at that point in time you
12 can only think about the trial phase. Is there anybody here who couldn't
13 separate that in their mind, who would be thinking oh, if I find him guilty
14 of this, now I'm going to have to sentence and not be able to clear it --
15 make a clear line between those two phases? Is there anybody here
16 who would struggle with that concept?

17 Showing no response.

18 Has there been anyone here who has had what I'm going to
19 refer to as a negative contact with law enforcement? And what I mean
20 by negative contact with law enforcement is that you maybe were
21 stopped for a traffic ticket, any type of contact and you just felt like you
22 weren't treated with dignity and respect and the way that you should
23 have been treated? Is there anybody here who has had that interaction?

24 Okay. All right. So let's start -- Mr. Veal, were you shaking
25 your head yes or --

1 PROSPECTIVE JUROR NUMBER 051: Oh, I just was
2 thinking about it.

3 MS. BLUTH: Okay. You want to think about it some more?

4 PROSPECTIVE JUROR NUMBER 051: Yes.

5 MS. BLUTH: Okay. All right. Let's hand it down, please, to
6 Mr. Smith, which is Badge Number 032, right next to you, Ms. Brown, if
7 you wouldn't mind.

8 Hi, Mr. Smith.

9 PROSPECTIVE JUROR NUMBER 032: Hi. This was a long
10 time ago.

11 MS. BLUTH: The shoplifting?

12 PROSPECTIVE JUROR NUMBER 032: Yeah, but actually it
13 was before all that. I was harassed by the police --

14 MS. BLUTH: Okay. Tell me about that.

15 PROSPECTIVE JUROR NUMBER 032: -- quite regularly. I
16 couldn't drive through town without getting pulled over for something.

17 MS. BLUTH: Why were they --

18 PROSPECTIVE JUROR NUMBER 032: For some reason I
19 came in a small town and I became the number one bad guy after I
20 graduated high school and I don't know why.

21 UNKNOWN SPEAKER: Yellow Corvette.

22 PROSPECTIVE JUROR NUMBER 032: Yeah. And so I
23 mean, it's was continuous until I left. I got out of town shortly after the
24 shoplifting incident.

25 MS. BLUTH: Yeah.

1 PROSPECTIVE JUROR NUMBER 032: And traveled around
2 for quite a while and then came back and then everything was fine, but.

3 MS. BLUTH: Was there like -- how did you even get on their
4 radar?

5 PROSPECTIVE JUROR NUMBER 032: I have no idea. I
6 mean, I think some parents complained about me or something. I don't
7 know from my friends.

8 MS. BLUTH: Yeah.

9 PROSPECTIVE JUROR NUMBER 032: But, you know --

10 MS. BLUTH: How small of a town are we talking?

11 PROSPECTIVE JUROR NUMBER 032: 9,000 people.

12 MS. BLUTH: Okay. And where was that, was that
13 Wisconsin?

14 PROSPECTIVE JUROR NUMBER 032: Wisconsin, yeah.

15 MS. BLUTH: All right. So when you say you were harassed,
16 like would they stop you all the time?

17 PROSPECTIVE JUROR NUMBER 032: Oh yeah for
18 anything. Equipment checks, you know, just random checks on my car.
19 Bumper heights, things like that, all these --

20 MS. BLUTH: Was this all before you were 18.

21 PROSPECTIVE JUROR NUMBER 032: No, it was after I was
22 18.

23 MS. BLUTH: Okay. So but the -- did the shoplifting that
24 happened -- did that happen right --

25 PROSPECTIVE JUROR NUMBER 032: Right after -- yes,

1 right shortly after 18 too, yes.

2 MS. BLUTH: Okay. Has that changed the way you view law
3 enforcement?

4 PROSPECTIVE JUROR NUMBER 032: It did initially but, you
5 know, I'm a lot older now.

6 MS. BLUTH: Okay.

7 PROSPECTIVE JUROR NUMBER 032: So it's -- I haven't
8 really had any terrible experiences since then, so. But you wanted to
9 know and --

10 MS. BLUTH: No, I think -- no, I do --

11 PROSPECTIVE JUROR NUMBER 032: I just --

12 MS. BLUTH: -- want to know. I do want to know.

13 THE COURT: You've been back to that town, make sure your
14 face still isn't in the post office or anything?

15 PROSPECTIVE JUROR NUMBER 032: Yeah, my parents
16 still live there, I go back there occasionally, so yeah.

17 MS. BLUTH: The shoplifting incident, was it those same type
18 of cops? Same like few that were bothering you?

19 PROSPECTIVE JUROR NUMBER 032: It's a small town, but
20 I think there was only maybe 10/12 officers in the whole town, so. And I
21 knew all of them.

22 MS. BLUTH: I know you've only been here for a couple
23 years --

24 PROSPECTIVE JUROR NUMBER 032: Couple years, yeah.

25 MS. BLUTH: -- like two years. What are your thoughts on

1 local law enforcement?

2 PROSPECTIVE JUROR NUMBER 032: I really haven't made
3 an opinion at this point. I haven't had any run-in with anybody so I have
4 no opinion at this point.

5 MS. BLUTH: What about -- you said you went back to the
6 small town after you travelled for a little while and then you went back to
7 the small town. How long were you in the small town before? Like
8 years?

9 PROSPECTIVE JUROR NUMBER 032: I grew up there, I
10 was born and raised there.

11 MS. BLUTH: So you said that shortly after turning 18 you
12 moved away, right?

13 PROSPECTIVE JUROR NUMBER 032: Uh-huh.

14 MS. BLUTH: And then -- but you went back after --

15 PROSPECTIVE JUROR NUMBER 032: About three years.

16 MS. BLUTH: You were gone three years?

17 PROSPECTIVE JUROR NUMBER 032: Yeah, about three
18 years. I mean, I was back and stuff but I wasn't really living there.

19 MS. BLUTH: Okay. And then once you did go back and you
20 lived there --

21 PROSPECTIVE JUROR NUMBER 032: Yeah.

22 MS. BLUTH: -- how long did you live there for?

23 PROSPECTIVE JUROR NUMBER 032: I lived there for about
24 another three years.

25 MS. BLUTH: Okay. Have you had any other interactions with

1 law enforcement since -- you know, since you left there and in the other
2 places where that you've lived where you felt positive or negative?

3 PROSPECTIVE JUROR NUMBER 032: No, not really. I
4 mean, I've been pulled over for speeding and things like that, but
5 nothing, you know, that would be positive or negative.

6 MS. BLUTH: Okay. All right. Thank you.

7 PROSPECTIVE JUROR NUMBER 032: Okay.

8 MS. BLUTH: Would you mind, please, passing it down to your
9 right, which would be Mr. Lindenbach, Badge Number 034.

10 And I wanted to talk to you about that because you stated that
11 in the domestic violence incident you just felt like they weren't listening
12 to you.

13 PROSPECTIVE JUROR NUMBER 034: Pretty much.

14 MS. BLUTH: Could you -- talk to me about it.

15 PROSPECTIVE JUROR NUMBER 034: Incident was
16 between me and my girlfriend who that night was drunk and fell down
17 and caused an injury to herself that caused her to bleed and the cops
18 automatically assumed I had hit her.

19 MS. BLUTH: How did the cops even get involved in the first
20 place? Did someone call?

21 PROSPECTIVE JUROR NUMBER 034: It was somebody in
22 the neighborhood that saw me bringing her inside. I, you know, picked
23 her up from the bar and they saw me bring her in and saw the blood and
24 assumed that I had done something to her and so they called the cops
25 to come investigate I guess.

1 MS. BLUTH: Okay. How long ago was the domestic
2 violence?

3 PROSPECTIVE JUROR NUMBER 034: I believe it was about
4 seven years ago.

5 MS. BLUTH: All right.

6 PROSPECTIVE JUROR NUMBER 034: Maybe eight.

7 MS. BLUTH: And so when you went through that process, I
8 mean, did you say -- you were arrested, right?

9 PROSPECTIVE JUROR NUMBER 034: Yeah, they took me
10 to jail.

11 MS. BLUTH: And so what happened once it got through the
12 court process?

13 PROSPECTIVE JUROR NUMBER 034: I had to pay the fines
14 and do all the community service, whatever was given to me by the
15 court.

16 MS. BLUTH: Did your girlfriend ever go to court and say hey,
17 that's not what happened?

18 PROSPECTIVE JUROR NUMBER 034: My attorney
19 suggested that it -- you know, she shouldn't go because we were still
20 dating and it would basically help my case if she wasn't there to testify.

21 MS. BLUTH: Oh, he told the witness not to show up?

22 PROSPECTIVE JUROR NUMBER 034: He said that she had
23 the choice to show up or not and of course since we were dating I said
24 well, do you want me to go to jail for this or not? And she's like well I
25 just won't show up.

1 MS. BLUTH: Okay. All right. But once you got through the
2 court process, did you feel like you were -- how do you feel like you were
3 treated throughout that process?

4 PROSPECTIVE JUROR NUMBER 034: Like a criminal.

5 MS. BLUTH: Okay.

6 PROSPECTIVE JUROR NUMBER 034: And it's something
7 that I didn't do.

8 MS. BLUTH: Yeah.

9 PROSPECTIVE JUROR NUMBER 034: And just felt like it
10 was just, you know, somebody to blame that just like automatically we're
11 going to create a case out of something. And --

12 MS. BLUTH: And who do you -- where do you lay most of the
13 blame on that?

14 PROSPECTIVE JUROR NUMBER 034: The court system
15 kind of and the officers because that's caused a blemish on my record
16 that's prohibited me from doing a lot of things.

17 MS. BLUTH: Sure. Help me though understand did -- why
18 didn't you fight it if you felt like, you know, I didn't do this, why didn't --
19 were you just following your advice of your Counsel?

20 PROSPECTIVE JUROR NUMBER 034: Yeah.

21 MS. BLUTH: Okay. So was it then dropped down or do you
22 have the domestic violence conviction?

23 PROSPECTIVE JUROR NUMBER 034: They told me it was
24 supposed to be dropped down but I haven't been able to see what it is
25 on my record that it shows.

1 MS. BLUTH: Okay. Thank you.
2 Mister -- I thought I saw -- Mr. Aguirre?
3 PROSPECTIVE JUROR NUMBER 021: Yeah?
4 MS. BLUTH: Would you mind passing that behind you to MR.
5 Aguirre, Badge Number 021?
6 PROSPECTIVE JUROR NUMBER 021: Yes, 021.
7 MS. BLUTH: Tell me about that contact.
8 PROSPECTIVE JUROR NUMBER 021: Okay. It was for the
9 DUI. I was in Redondo Beach and I was pulled over and somebody
10 backed up in front of me while I was heading down the street and
11 anyways so the police came and they -- you know, they gave me the
12 road test or whatever they call it, you know, --
13 MS. BLUTH: Yeah.
14 PROSPECTIVE JUROR NUMBER 021: -- the sobriety test.
15 MS. BLUTH: Sobriety test.
16 PROSPECTIVE JUROR NUMBER 021: And it -- I was -- it
17 was actually on a hill and he had me like leaning back and trying to
18 touch my nose and do all kinds of stuff but I was actually on an incline
19 and so I thought that was kind of unfair. And then they took me to the
20 hospital to draw my blood because I didn't want to do the blow test and
21 the form he had me -- he had me look at a form first to -- that said what
22 could happen if you didn't agree, blah, blah, blah.
23 And I think they had just lowered the blood alcohol percent in
24 California. I forget if it was .10 and then it became .08 or 08 or 05, I
25 forget. But the form still had the old data on it, the higher limit, but the

1 police officer was telling me no, that's not right, it's the lower limit, so I
2 was kind of confused. I said well, why does it say -- why are you giving
3 me a form with a higher limit and he just said you're a refusal and he just
4 hauled me off to jail.

5 And then when I went to go get -- you know, for my license,
6 the DMV worker asked me well, did he tell you it was the lower limit? I
7 said yes, but the-- you know, I was asking him why did the form say the
8 higher limit but he didn't want to answer me, he just took me off to jail as
9 a result. So that wasn't a very pleasant experience for me.

10 MS. BLUTH: Sure. Did that affect how you view law
11 enforcement as a whole?

12 PROSPECTIVE JUROR NUMBER 021: No, because there's
13 times when I have been speeding and the -- you know, the police will
14 pull me over, what can I say, I was speeding, you know. So they're just
15 doing their job. But for that particular officer I think he should have
16 explained to me why he was using the -- they shouldn't have -- you
17 know, something was wrong there and they didn't want to make it right.

18 MS. BLUTH: So it was like a bad apple but you didn't let it
19 ruin the whole bunch, would that be kind of fair?

20 PROSPECTIVE JUROR NUMBER 021: Right. Yeah, yeah,
21 that's pretty fair, yeah.

22 MS. BLUTH: Okay. All right. Would you mind passing it
23 down to Ms. Lyons, please, Badge Number 050?

24 So when you had this issue with the police officers in
25 Henderson, remind me how long ago was that?

1 PROSPECTIVE JUROR NUMBER 050: 2008.

2 MS. BLUTH: 2008, okay. Why did they tell you they pulled
3 you over?

4 PROSPECTIVE JUROR NUMBER 050: Because my plate
5 expired.

6 MS. BLUTH: And you said, you know they --

7 PROSPECTIVE JUROR NUMBER 050: And I said, no it's
8 not.

9 MS. BLUTH: Okay.

10 PROSPECTIVE JUROR NUMBER 050: He said well, yes it
11 is. It expired. I said no, it's not. It expires on the 22nd. This was two
12 days before he pulled me over because I knew when I renewed my
13 plate.

14 MS. BLUTH: Ah, okay.

15 PROSPECTIVE JUROR NUMBER 050: And I was -- actually
16 had dropped my children off at the bus and when I go in the morning to
17 drop my children off at the bus, I just put on a hoodie over my head, with
18 my pajamas on so. And then when I pulled out from around the bus, I
19 made the first left and that's when they pulled me over.

20 MS. BLUTH: Okay.

21 PROSPECTIVE JUROR NUMBER 050: Said my plate
22 expires. I said no, it's not.

23 MS. BLUTH: So what happened from there once you --

24 PROSPECTIVE JUROR NUMBER 050: Oh well you didn't
25 change your insurance? I said, no. You didn't drop your insure -- No.

1 Well, maybe you changed your insurance and they didn't transfer it over.
2 But I don't want to see this van on the road until this is taken -- otherwise
3 I'm going to have it towed away. So I spent the afternoon that whole day
4 calling the DMV and they said they had no record of it. It was not true.
5 My insurance company said that that's not true. [Unintelligible].

6 MS. BLUTH: Yeah. I get that. Did you ever -- was that police
7 officer, was he --

8 PROSPECTIVE JUROR NUMBER 050: I didn't pay attention
9 to his name or his badge number.

10 MS. BLUTH: Okay. So I was going to -- you didn't turn him in
11 or anything like that?

12 PROSPECTIVE JUROR NUMBER 050: No, but I wish I had.

13 MS. BLUTH: Yeah. Do you --

14 PROSPECTIVE JUROR NUMBER 050: Instead I just vented
15 to the insurance company and DMV.

16 MS. BLUTH: Yeah. Do you think that affects you today and
17 how you -- well actually let me ask you about -- let me ask you a
18 question before. Before that incident, what were your thoughts in
19 general towards law enforcement? Positive, negative, or somewhere in
20 between?

21 PROSPECTIVE JUROR NUMBER 050: Pretty much
22 negative.

23 MS. BLUTH: Why is that?

24 PROSPECTIVE JUROR NUMBER 050: Because I was also
25 pulled over in Michigan for speeding, when I wasn't.

1 MS. BLUTH: Okay. Do you feel like that was due to racial
2 profiling as well?

3 PROSPECTIVE JUROR NUMBER 050: Yes.

4 MS. BLUTH: Was that the first time that you felt like you had
5 a negative contact with law enforcement was the time in Michigan?

6 PROSPECTIVE JUROR NUMBER 050: Yes.

7 MS. BLUTH: Before that incident, did you feel like you had
8 negative or positive views of law enforcement?

9 PROSPECTIVE JUROR NUMBER 050: Yes.

10 MS. BLUTH: Which one, negative or positive?

11 PROSPECTIVE JUROR NUMBER 050: Negative.

12 MS. BLUTH: Why?

13 PROSPECTIVE JUROR NUMBER 050: Because I worked in
14 a hospital where they brought police prisoners in.

15 MS. BLUTH: All right. And what about that experience made
16 you feel like you had negative?

17 PROSPECTIVE JUROR NUMBER 050: Negative?

18 MS. BLUTH: Yeah.

19 PROSPECTIVE JUROR NUMBER 050: I'd hear -- they
20 came -- come in and hang out sometimes and I'd hear them talking.

21 MS. BLUTH: All right. And I know earlier when you were --
22 when Judge Herndon was asking you questions you said like I'm going
23 to try, I'm going to try. Remember that?

24 PROSPECTIVE JUROR NUMBER 050: Uh-huh.

25 MS. BLUTH: And I'm sure you heard me speaking earlier, the

1 try thing is always scary to us because we can't get into this in two
2 weeks I tried, I really tried, guys, but I just can't do it. Do you think you
3 would be better seated as like someone on a civil jury where there isn't a
4 law enforcement aspect to it? It's people usually arguing over money.

5 PROSPECTIVE JUROR NUMBER 050: Would I feel better
6 about that?

7 MS. BLUTH: Yeah, would you feel more comfortable about
8 that?

9 PROSPECTIVE JUROR NUMBER 050: Probably. Maybe. It
10 depends.

11 MS. BLUTH: Okay. It's my understanding, you correct me if
12 I'm wrong, that the reason why you keep saying I'll try, I'll try is because
13 of these feelings you have of negativity or of not being able to trust law
14 enforcement. Would that be a fair assessment of what you were
15 saying?

16 PROSPECTIVE JUROR NUMBER 050: Yes.

17 MS. BLUTH: All right. Because of that, like if we have a
18 detective come in here -- I mean, obviously the -- you know, the -- we
19 have -- the State of Nevada has charged Mr. McNair with the crime, so
20 the way that whole thing usually starts is, is the police gets involved,
21 right?

22 PROSPECTIVE JUROR NUMBER 050: Yes.

23 MS. BLUTH: That's how it gets to the District Attorney's
24 Office. So you're going to hear from police officers, you're going to hear
25 from homicide detectives. Because of what you have been through, are

1 they already starting way behind the 50-yard line because of some of the
2 things you've gone through in your life?

3 PROSPECTIVE JUROR NUMBER 050: Are they? Yes.

4 MS. BLUTH: Would you tend not to trust them because of
5 that.

6 PROSPECTIVE JUROR NUMBER 050: I would be skeptical
7 about what they said.

8 MS. BLUTH: Versus just let's say an individual, maybe a lay
9 witness who comes off, you know -- comes off of the street, maybe they
10 witness something, you'd be more skeptical of a police officer versus
11 that person.

12 PROSPECTIVE JUROR NUMBER 050: Right. If there was a
13 police officer in plain clothes and I didn't know he was a police officer I
14 would trust him more than if I saw him in -- as a police officer.

15 MS. BLUTH: Okay. All right. Thank you.

16 Anybody else? Negative contacts with law enforcement
17 where you felt like you weren't treated the way that you should have
18 been treated?

19 Over there to the side, anybody?

20 Showing no response.

21 All right. So this one it's going to kind of have multi-facets to
22 the question. So raise your hand if you watch any shows like CSI, NCIS,
23 some of those kind of like science, DNA, forensic shows.

24 UNIDENTIFIED SPEAKER: If you haven't watched it?

25 MS. BLUTH: Yeah, I mean, I guess not ever, like some

1 people have seen it once, then never really watched it again. But some
2 people like really like it. They watch it for a period of years, something
3 like that. So raise your hand if that's who you are.

4 Do we watch them?

5 UNIDENTIFIED SPEAKER: Yeah, that you watch them.
6 Okay. So I want -- nope, we got to keep them up because there's a
7 second part of the question, all right.

8 Now, I want you to keep your hand up if you feel like those are
9 reality-based? Like they're not drama or you know, like you expect
10 crime scene analysts to come in here and be able to do the same things
11 police do, blah, blah, blah?

12 Ms. Lyons, did you put your hand down? Are you still on the
13 fence on that one?

14 PROSPECTIVE JUROR NUMBER 050: It depends on the
15 CSI.

16 MS. BLUTH: Oh, like CSI New York's okay but CSI LA, it's
17 not a --

18 PROSPECTIVE JUROR NUMBER 050: I'm thinking in terms
19 of CSI Cyber.

20 MS. BLUTH: CSI -- oh, I didn't even know there was a CSI
21 Cyber.

22 PROSPECTIVE JUROR NUMBER 050: Yeah.

23 MS. BLUTH: Okay. What the heck is CSI Cyber? I'm going
24 to imagine it's computers, but--

25 PROSPECTIVE JUROR NUMBER 005: Yes, cyber

1 investigations.

2 MS. BLUTH: Oh, okay.

3 UNIDENTIFIED SPEAKER: You just -- you have a test.

4 MS. BLUTH: So I guess the point I'm trying to make is that,
5 you know, you'll -- crime scene analysts will come in here and they'll
6 explain to you what real world capabilities crime scene analysts have.
7 DNA people will come in here and tell you what really they can do in the
8 DNA world. But there is a difference between what we see on shows
9 like CSI and NCIS in compared to what you see here.

10 Is there anybody who doesn't agree with that, who does
11 expect to see some of the things that you see on those TV shows?
12 Anybody who had their hand raised?

13 Mr. Aguirre, I feel like you are you thinking about that one?

14 PROSPECTIVE JUROR NUMBER 021: They have --

15 MS. BLUTH: Could you -- Ms. Brown -- or Ms. Lyons, would
16 you mind passing that to Mister -- thank you.

17 PROSPECTIVE JUROR NUMBER 021: Well they have some
18 shows that are actual cases that are --

19 MS. BLUTH: Yes.

20 PROSPECTIVE JUROR NUMBER 021: -- not like made up.

21 MS. BLUTH: Right. So --

22 PROSPECTIVE JUROR NUMBER 021: And I watch those.

23 MS. BLUTH: Those are more like Forensic Files and First 48,
24 right?

25 PROSPECTIVE JUROR NUMBER 021: Right. Yeah, First

1 48. That's one.

2 MS. BLUTH: Those ones I think that we can all agree, that,
3 mean, those are reality-based, right? But I -- and I should have asked a
4 better question. I more meant like you know, the CSI kind of docu-
5 dramas, those types of things. You good on that?

6 All right. Thank you.

7 THE COURT: Can I interrupt you for a moment? Is this as --

8 MS. BLUTH: Yeah.

9 THE COURT: -- a good as place as any to give them a short
10 break?

11 MS. BLUTH: Definitely.

12 THE COURT: All right. I know we've been going for lose to
13 two hours, folks. We'll take about a ten-minute recess before we finish
14 up for the evening.

15 So during the recess you're admonished not to talk or
16 converse among yourselves or with anyone else on any subject
17 connected with the trial. Or read or watch or listen to any report of or
18 commentary on the trial by any medium of information including, without
19 limitation, newspapers, television, the internet, and radio. Or form or
20 express any opinion on any subject connected with the trial until the
21 case is finally submitted to you.

22 We'll be in break for, as I said, about 10/15 minutes and then
23 we'll get back in here and finish up, okay? Thank you very much.

24 THE MARSHAL: All rise for the jury.

25 THE COURT: Will you guys approach, please?

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[Bench Conference Begins]

THE COURT: I just wanted you guys to know because I never put them on the spot but like Mr. Gondy -- I know Mr. Gondy -- I don't know if he remembers but his daughter who's at University at Michigan now and my daughter were friends. They both graduated from the Meadows School together. So, generally when I know somebody, I don't generally say hey, can you be fair even though I'm the guy up here. But I'll let you guys know so you can ask him questions about it, just --

MS. BLUTH: And that's Mr. Conti?

THE COURT: Mr. Gondy.

MR. PIKE: Gondy.

THE COURT: Mr. Gondy on the bottom row --

MS. BLUTH: Oh, Gondy --

THE COURT: -- on the left.

MS. BLUTH: Okay.

THE COURT: The guy that his wife's an OB/GYN.

MS. BLUTH: Got you. Okay. Sounds good.

THE COURT: And I'll tell him when we get back that I know him.

[Bench Conference Concludes]

[Outside the presence of the prospective jury]

THE COURT: Do you guys have anything outside the presence?

MS. BLUTH: Not on behalf of the State.

1 THE COURT: Okay.

2 MS. SIMPKINS: No, Your Honor.

3 MR. PIKE: Not --

4 THE COURT: Did you guys try and scope Mr. Veal?

5 MS. BLUTH: Yes, I'll check into that.

6 THE COURT: Okay.

7 MS. BLUTH: I haven't been checking my computer, but I will.

8 THE COURT: I would do it for you both, but we don't have

9 that capability anymore since I'm not the presiding guy.

10 MS. BLUTH: That's fine.

11 THE COURT: All right. Go to the bathroom.

12 [Recess taken at 3:52 p.m.]

13 [Trial resumed at 4:16 p.m.]

14 [Outside the presence of the prospective jury]

15 THE COURT: Do you guys have any outside the presence?

16 MR. PIKE: Do you anticipate that we'll give openings

17 tomorrow afternoon or Wednesday -- or excuse me, Thursday morning.

18 THE COURT: One of the things I was talking about when

19 Navid and Jacque were in here after some of you had walked out, is I

20 can start as early as 9:00 tomorrow. Apparently, the meeting that was

21 arranged for Josh to talk to Mr. Johnson is at 9:00, so I was saying we

22 could start at 10:00.

23 My sense would be that I would hope that we would have a

24 jury in time for you guys to do that tomorrow. If you would rather wait

25 and do it Thursday morning, I'm okay with that, so long as that doesn't

1 kind of be setting us back in our schedule.

2 MR. PIKE: Yeah, I don't --

3 THE COURT: But I don't want to get a jury picked by like 1:00
4 and then not be doing anything. So, I would say roll into opening.

5 MR. PIKE: That encourages me to conduct a longer process
6 of interrogation of the witnesses.

7 THE COURT: I trust you to use whatever time you think you
8 need to.

9 MR. PIKE: No, I --

10 THE COURT: If it takes a long time then I'll call it and say
11 nope, we won't do it today. Maybe I read my stuff to them if we have
12 enough time or whatever. That usually takes about 30 minutes maybe --
13 20/30 minutes. But I'm not going to make you do opening if it rolls us
14 into past 5:00 and people are tired because they've been there all day,
15 don't worry about that.

16 I just would say kind of maybe be prepared. And if we can get
17 to it, great. If it's not prudent to do it then we'll do it Thursday.

18 MR. PIKE: Okay.

19 MS. BLUTH: The people that --

20 THE COURT: But you don't have to have witnesses available.

21 MS. BLUTH: The people that were -- I mean, I think that
22 there's a few people that have made enough for us to kick right now.

23 THE COURT: Okay.

24 MS. BLUTH: Do you want to do that now so if they -- in case
25 we're correct, we don't --

1 THE COURT: Well --

2 MS. BLUTH: -- have to bring them back or what would you

3 like to do?

4 THE COURT: I'll let you finish up --

5 MS. BLUTH: Okay.

6 THE COURT: -- with however much you can get done tonight.

7 And if there are some people that we can agree upon before we break,

8 that's great if they don't have to come back.

9 MS. BLUTH: Sounds good to me.

10 THE COURT: I don't know if you guys have looked at them so

11 far with any eye towards there's some that you're fine with excusing. If

12 you want to keep them all because you want to chat with them, that's

13 fine as well.

14 MR. PIKE: I think the State got the information about the

15 arrests on the --

16 THE COURT: On Mr. Veal.

17 MR. PIKE: -- drug charge and that appears to be a felony,

18 possession of --

19 THE COURT: Dangerous drug.

20 MR. PIKE: -- dangerous drugs.

21 THE COURT: Okay.

22 MS. BLUTH: Showing him convicted in Oklahoma in 1990.

23 Shows another arrest in the 80s for assault and battery. But in regards

24 to that felony conviction, it's still showing in his record. He's also

25 registered.

1 THE COURT: Okay.

2 MS. BLUTH: So I'm still confused. I can obviously follow up
3 with other questions if you guys want me to. I just don't want it to seem
4 like I'm picking on him.

5 THE COURT: No.

6 MR. PIKE: If he's still registering here and he's doing that,
7 then that would indicate to me that he -- it's probably -- he did not have
8 his rights restored, otherwise he wouldn't have had to register when he
9 came into Nevada.

10 THE COURT: Yeah, quite frankly, I don't know how that
11 affects it but I would agree that generally after a period of time at the
12 very least you could have it sealed. Which, if it's 1990, you would have
13 been eligible for that, as opposed to continuing on and registering. So,
14 you guys agree to excuse him or you want to keep chatting?

15 MS. BLUTH: I'm fine with excusing him but whatever you
16 want to do.

17 MR. PIKE: Yeah, we're -- based upon the results and the
18 continued registration, I think that he does not qualify --

19 THE COURT: Okay.

20 MR. PIKE: -- to serve as a juror.

21 THE COURT: All right. So we'll excuse him. And then are
22 there any others as of right now that you all know of that you want to
23 agree to excuse or do you want to keep everybody for right now? And
24 I'll bring you up to the bench at the end of the next, you know, 45
25 minutes, but --

1 MS. BLUTH: I think Mister -- or excuse me, I think Ms. Brown
2 has made more than enough record. It's clear she doesn't want to be
3 here. She can't commit to me if she's going to be able to do it. And
4 quite honestly I think, if I'm reading right, she's saying that she may hold
5 it against Mr. McNair because of the gun violence towards her family.

6 So, I think that we've -- we have established enough through
7 our questioning to kick her for cause.

8 MR. PIKE: I'd like an opportunity to traverse.

9 THE COURT: Okay. We'll keep her.

10 MS. BLUTH: And Mr. Bushong, which is 033, he --

11 THE COURT: Because he said he doesn't want to be here?

12 MS. BLUTH: That. he doesn't want to be here and also, I
13 mean, at the very end of it does he say if this court forces me to do it am
14 I going to do it but --

15 THE COURT: I don't think he said force, but he said look, if
16 the Judge decides that my fate is to be here then I'll do it.

17 MS. BLUTH: I think he did say force.

18 MR. PIKE: He --

19 MS. BLUTH: But at the end of the day --

20 THE COURT: Did he say force?

21 MR. PIKE: He did.

22 THE COURT: Oh, okay. All right.

23 MS. BLUTH: But at the end of the day --

24 THE COURT: he used some word --

25 MR. PIKE: We'd tie him up here.

1 THE COURT: -- like it was my fate or my --

2 MS. BLUTH: He did at the end, he said then that's my fate
3 and I'll do it.

4 THE COURT: Okay.

5 MS. BLUTH: I don't --

6 THE COURT: Well, look, I -- the reality is I force everybody to
7 be here, even though they want to get out of jury duty, like -- you know,
8 some drastically want to get out like Ms. Gasperino --

9 MS. BLUTH: Yeah.

10 THE COURT: -- who is clinging to any and everything --

11 MS. BLUTH: Yes.

12 THE COURT: -- to get out of it. And my thought has always
13 been I wouldn't want people that don't want to be here --

14 MS. BLUTH: Right.

15 THE COURT: -- if I have a choice as an attorney. But for
16 purposes of a challenge for cause, I mean, would excuse him if there is
17 an agreement. If there's not an agreement then I think, particularly right
18 now so far, he's passed his muster.

19 MS. SIMPKINS: What about Juror Number 48, Ms. Cheong,
20 who --

21 MS. BLUTH: Yes --

22 THE COURT: Yeah, we passed her over. Thank you,
23 Melinda. Because she seemed to indicate that she wasn't
24 understanding a lot of English and -- when I tried to start asking
25 questions. So you guys agree to excuse her or --

1 MS. BLUTH: Yeah, I don't want to waste any time.

2 THE COURT: Yes?

3 MR. PIKE: Yes.

4 THE COURT: Okay. So we'll excuse Ms. Cheong.

5 I'm assuming by your silence you're not agreeing on Mr.

6 Bushong --

7 MR. PIKE: Right. That's correct.

8 MS. SIMPKINS: Correct.

9 THE COURT: So we'll keep him.

10 MS. BLUTH: So then my next one would be Ms. Lyons, who

11 has discussed the fact that she just doesn't trust law enforcement.

12 That's not only because of the incident in Henderson. That also is an

13 issue that started before that in Michigan. And then I tried to ask her

14 well was that when it started and she said no, it didn't start then it started

15 even before then when I worked in the hospitals and I would hear their

16 stories.

17 And then she even said -- she actually phrased it in a way that

18 I've never heard somebody phrase it before and it's a lot better than

19 whatever I do, but she just said if there was a police officer but he was in

20 plain clothes and he talked to me, I would believe him. But then if he

21 was in his officer uniform I wouldn't believe him as much. She actually

22 said it much more eloquently than that but I think her point was I don't

23 trust police officers.

24 THE COURT: Yeah.

25 MR. PIKE: No, they could -- they just don't need to wear their

1 uniforms when they come in. That's --

2 THE COURT: You're going to want to chat with her.

3 MR. PIKE: Right.

4 THE COURT: Okay.

5 MR. PIKE: We'll need to make a record on her and --

6 MS. BLUTH: Brown.

7 MR. PIKE: Brown, yeah.

8 MS. BLUTH: And then lastly would be Ms. Gasperino, 019,
9 who had literally raised her hand to every single thing I had tried to get
10 her off and it's because of these deep-seeded reasons that she can't
11 even really give me in regards to what are these ways she was raised.

12 THE COURT: Right.

13 MS. BLUTH: But the last one was she can't judge. And I was
14 trying to kind of get into that if -- whether they were religious or what and
15 she just keeps saying again, this is how I was raised. But I mean, it's
16 clear she doesn't want to be here. And, you know, quite honestly, in
17 regards to the Defense she is from -- one of the reasons she raised her
18 hand is she says she's from a background of law enforcement and
19 military.

20 THE COURT: Understood.

21 MR. PIKE: Yeah.

22 THE COURT: You want to talk to her or --

23 MR. PIKE: No. Not that I don't find her charming.

24 THE COURT: All right. So, I'm not going to release them
25 right now, but you don't need to talk to them any further, Jacqueline.

1 MS. BLUTH: Oh, I apologize, Judge, no, I don't.

2 THE COURT: So those three.

3 MS. BLUTH: And then --

4 THE COURT: I'll release them once we send everybody
5 home for the day.

6 MS. BLUTH: The last one, I apologize, Mr. Rogan reminded
7 me, is Mr. Lindenbach, which is 034. Because of the way he stated that
8 he was treated in regards to the domestic violence, he does not trust
9 police officers and it would change the way he judges their credibility as
10 a witness.

11 THE COURT: All right.

12 MR. PIKE: Well, it's -- this is in one of those cases where
13 there aren't really a lot of cops. You got -- the police come in, they
14 interrogate some people, and there's, you know, three different people
15 that are identified in the shooting and the cops don't identify them. It's
16 identified by homeless people near and the people there. The officers
17 just kind of marshal all the witnesses together. They're not -- other than
18 the interrogation of the detectives.

19 THE COURT: So you want to keep him?

20 MR. PIKE: Yeah.

21 THE COURT: Okay. We'll keep him for now as well.

22 MS. BLUTH: That's it, Judge.

23 THE COURT: And look, I'll let you make fuller records on any
24 of the challenges for cause once we actually get to challenging them for
25 cause. I just wanted to see if there was any agreement.

1 So, once we break for the day we will release Gasperino,
2 Cheong, and Veal. But for now, let's just go ahead and get everybody
3 back in, JR, and we'll finish up about 30 minutes and then break for the
4 day.

5 MS. BLUTH: Okay.

6 [In the presence of the prospective jury]

7 THE MARSHAL: All rise for the jurors.

8 THE COURT: All right. We are back on the record. Mr.
9 McNair is present with his attorneys, State's attorneys are present, and
10 we're going to continue on with our questioning.

11 Before we do that though, Mr. Gondy, how is Samantha?

12 PROSPECTIVE JUROR NUMBER 026: She's doing good,
13 thanks.

14 THE COURT: So whenever I know somebody on the jury
15 panel, I don't ever make you answer questions from me about you
16 knowing me but I do tell the attorneys if I have any relationship with
17 folks, so I told them that our daughters went to school together and
18 graduated together and we know each other a little bit.

19 PROSPECTIVE JUROR NUMBER 026: Yeah.

20 THE COURT: So they may want to follow up and chat with
21 you about that, okay?

22 PROSPECTIVE JUROR NUMBER 026: Okay.

23 THE COURT: Tell her I said hello, by the way.

24 MS. BLUTH: So, Mr. Gondy, we'll just get to that really quick.
25 So you're Badge Number 026.

1 PROSPECTIVE JUROR NUMBER 026: Yes.

2 MS. BLUTH: Is there anything about the fact that you know
3 Judge Herndon that you feel would affect you in any way of being a fair
4 and impartial juror?

5 PROSPECTIVE JUROR NUMBER 026: No, I don't think so.

6 MS. BLUTH: Okay. All right. Thank you.

7 Okay. So a few more questions in regards to everybody that
8 I've been speaking with thus far. So, Judge Herndon talked a little bit
9 about the constitutional rights that we are all afforded and I want to ask a
10 few questions in regards to those. So in every criminal trial, no matter
11 what courtroom you are, across the United States, the State of Nevada,
12 so the prosecuting side has the burden.

13 And what that means is, is we have the burden, we have to
14 prove to you beyond a reasonable doubt that the Defendant has
15 committed these crimes. And so what that means is, is, you know, we
16 can put on this case, we can call witnesses, we can show you evidence,
17 things like that. The Defense, they do not have to do anything. They
18 don't have to call any witnesses, they don't have to put up any evidence,
19 because it's the State that has the burden. Does anybody have an issue
20 with that? Or does anybody think well, I don't agree with that, I think that
21 they should have to do something? Does anybody have thoughts on
22 that, one way or the other?

23 I hear like murmurs, but no one's raising their hand. Mr.
24 Aguirre, I feel like you're looking around.

25 PROSPECTIVE JUROR NUMBER 021: No.

1 MS. BLUTH: Are you okay with that or do you --

2 PROSPECTIVE JUROR NUMBER 021: Yeah, I'm okay with
3 that.

4 MS. BLUTH: You're okay with that, okay.

5 Now, here's the deal, I know these attorneys and they are
6 going to ask questions, they are going to do things, they are not going to
7 be over there reading magazines the entire time but it's just important
8 that everybody understands that it's the State's burden to prove that this
9 crime happened. It's not the Defense's duty to prove to you that it didn't
10 happen. Is everybody okay with that? Okay. I guess I should just ask it
11 in the negative. Is there anybody who's not okay with that?

12 Showing no response.

13 Another right that we all have is that it's a Defendant's right
14 not to have to testify. He has the right not to testify in his own case. Is
15 there anybody who disagrees with that or thinks well, if it was me, I'd
16 want to testify? Can't really understand why somebody wouldn't want to
17 testify on their own behalf. Is there anybody who has the thoughts in
18 that way?

19 Showing no response. Okay.

20 I want to talk a little bit about the criminal justice system in
21 general. And first I'm going to do it generally and then I might go to
22 some of you for some specific answers. But is there anybody here who
23 just thinks our criminal justice system here in the United States, it
24 doesn't work; that it's flawed, it's broken, that it needs improvement in
25 certain areas?

1 THE COURT: They're making you work.

2 MS. BLUTH: Yeah, I mean, it looks like I need jury
3 questionnaires.

4 All right. So, this is the bad part, you guys, if you don't
5 answer, I'm just going to start picking random people to talk to me. So --
6 okay, thank you, Mr. Haman, I appreciate it.

7 Would you mind passing that back, Mr. Gondy, all the way
8 back to 013.

9 Am I pronouncing that right when I say Haman?

10 PROSPECTIVE JUROR NUMBER 013: You are, yeah.

11 MS. BLUTH: Okay. Talk about that.

12 PROSPECTIVE JUROR NUMBER 013: You asked a very
13 broad question.

14 MS. BLUTH: I did.

15 PROSPECTIVE JUROR NUMBER 013: Yeah, of course it
16 can be improved.

17 MS. BLUTH: Okay. Well then tell me how.

18 PROSPECTIVE JUROR NUMBER 013: That's a long and
19 involved question. For one thing we have immoral laws and they should
20 not be on the books in my opinion.

21 MS. BLUTH: Could you give me like an example?

22 PROSPECTIVE JUROR NUMBER 013: Victimless crimes.
23 Drug possession, drug selling, drug use, prostitution. Anything that
24 involves a consent -- two consenting adults --

25 MS. BLUTH: Okay.

1 PROSPECTIVE JUROR NUMBER 013: -- I don't think those
2 are justifiable laws in a civil society.

3 MS. BLUTH: Okay.

4 PROSPECTIVE JUROR NUMBER 013: And then as a
5 broader question that we shouldn't get into that I don't think it should be
6 a monopoly either. I don't think we're going to deal with that today.

7 MS. BLUTH: Well, no -- I do want to know what you mean
8 though because I think that that can mean a couple different things, so I
9 want to no specifically what you mean.

10 PROSPECTIVE JUROR NUMBER 013: I think in an ideal
11 society we wouldn't have one single monopoly over law in a particular
12 jurisdiction, I think they should be competing.

13 MS. BLUTH: Okay. In what way?

14 PROSPECTIVE JUROR NUMBER 013: Competition. If a
15 public doesn't feel like they're being served by one particular agency,
16 they should be able to shop around.

17 MS. BLUTH: In a --

18 PROSPECTIVE JUROR NUMBER 013: It's a big idea, I'm not
19 going to be able to convince you of it, but --

20 MS. BLUTH: And you don't have to convince me, I -- you
21 don't have to convince me I -- you don't have to convince me, but I do
22 kind of want to understand where you're coming from so --

23 PROSPECTIVE JUROR NUMBER 013: All the things that we
24 learn that are bad in economics about monopoly --

25 MS. BLUTH: Yeah.

1 PROSPECTIVE JUROR NUMBER 013: -- applies to the
2 State as well.

3 MS. BLUTH: Okay.

4 PROSPECTIVE JUROR NUMBER 013: So we get really,
5 really bad outcomes and there's no recourse from the consumer's point
6 of view because it's a monopoly.

7 THE COURT: You talking about kind of privatizing certain
8 things --

9 PROSPECTIVE JUROR NUMBER 013: Yes.

10 THE COURT: -- like people have the ability to call a particular
11 fire department if they want --

12 PROSPECTIVE JUROR NUMBER 013: Sure.

13 THE COURT: -- fire service or a particular --

14 PROSPECTIVE JUROR NUMBER 013: And you can take
15 that as radically --

16 THE COURT: -- law enforcement.

17 PROSPECTIVE JUROR NUMBER 013: -- as you want to
18 take it and I would take it all the way.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NUMBER 013: But yeah, that sort of
21 thing.

22 MS. BLUTH: Okay.

23 PROSPECTIVE JUROR NUMBER 013: Since you said
24 something about efficiency or -- I mean, you asked a really broad
25 question.

1 MS. BLUTH: Yeah.

2 PROSPECTIVE JUROR NUMBER 013: Anything we could
3 do to make the legal system better, well I think there's lots of things.

4 MS. BLUTH: Okay. So in regards to though -- I think you and
5 -- if I understand what you're saying that you do see flaws in the system.

6 PROSPECTIVE JUROR NUMBER 013: Yes.

7 MS. BLUTH: Okay. And so -- I guess -- and it's purposefully
8 a broad question because people see this very differently and so if you
9 believe the system is broken I'd like to know why and -- or I'd like to
10 know where it is that you see the flaws. So are you saying that -- I
11 understand the flaws that you've already discussed. Are there more in
12 your mind?

13 PROSPECTIVE JUROR NUMBER 013: Nothing else that's
14 not endemic to the human condition in general. Nothing that's
15 avoidable.

16 MS. BLUTH: Okay. You talked early on about, you know, the
17 jury nullification, you said -- you asked His Honor is that what you were
18 referring to, you said I believe in it. And then you followed it up with this
19 is a murder case, I don't really think that I would have issues in a murder
20 case. Granted you don't know all the law that supports --

21 PROSPECTIVE JUROR NUMBER 013: Yeah, that's why I
22 brought it up.

23 MS. BLUTH: Yeah.

24 PROSPECTIVE JUROR NUMBER 013: There's a bunch of
25 ancillary things that could come up and I don't know what they are.

1 MS. BLUTH: So -- and that's another problem with this is you
2 don't really get to know the law that applies until the trial's almost
3 completely over and then the Judge reads the law. So if there was a lot
4 that had to do with the crimes or you know, this jury pro -- this process,
5 this trial process that you didn't agree with, would you stick by your oath
6 to follow the law or you would -- if you didn't believe in it you would still
7 go against it.

8 PROSPECTIVE JUROR NUMBER 013: Yeah, I would follow
9 my conscience on that. If I think the law is unjust, I would not send
10 someone to prison for something that I don't even think should be a
11 crime. That's -- I just won't do that.

12 MS. BLUTH: Okay. And -- but I mean, we're not even talking
13 now about prison or not prison, I'm just talking about, you know, guilty or
14 not guilty. Just --

15 PROSPECTIVE JUROR NUMBER 013: Yeah, not even a
16 fine. Nothing.

17 MS. BLUTH: Okay. All right. Thank you very much.

18 Anybody else have -- see flaws in the criminal justice system
19 that they -- where we could do better? Or think the criminal justice is the
20 best there is out there and has comments in -- to that regard?

21 All right. Would you please pass it down to Mr. Kinney, Badge
22 Number 010?

23 Hi, Mr. Kinney?

24 PROSPECTIVE JUROR NUMBER 010: Hello.

25 MS. BLUTH: How are you?

1 PROSPECTIVE JUROR NUMBER 010: Good, thank you.

2 MS. BLUTH: Good. So I haven't heard a lot from you. Are
3 you a naturally one of like a more quiet individual or you just haven't had
4 a lot to say today?

5 PROSPECTIVE JUROR NUMBER 010: Haven't had a lot to
6 say.

7 MS. BLUTH: All right. Has there been any viewpoints
8 expressed by others that you disagree with?

9 PROSPECTIVE JUROR NUMBER 010: No.

10 MS. BLUTH: All right. What do you think about -- what are
11 your general thoughts about our criminal justice system, either locally or
12 nationally?

13 PROSPECTIVE JUROR NUMBER 010: I have no problem
14 with it whatsoever.

15 MS. BLUTH: What about local law enforcement, how do you
16 feel? Have you ever had any contacts with them?

17 PROSPECTIVE JUROR NUMBER 010: Love them.

18 MS. BLUTH: Love them?

19 PROSPECTIVE JUROR NUMBER 010: Yeah.

20 MS. BLUTH: Tell me a little bit more about what you do in
21 regards to the computer programing. Like what's your specific job

22 PROSPECTIVE JUROR NUMBER 010: Why?

23 MS. BLUTH: Why?

24 PROSPECTIVE JUROR NUMBER 010: Yeah, I'm not sure --
25 are we under trial -- on trial here? That's --

1 MS. BLUTH: Kind of, yeah.

2 PROSPECTIVE JUROR NUMBER 010: Okay.

3 MS. BLUTH: That's what this process is, is we need figure out
4 a lot about you guys and understand who can be fair and part of it is you
5 guys answer questions.

6 PROSPECTIVE JUROR NUMBER 010: I've just been
7 involved for 30 years in gambling programing, that's it.

8 MS. BLUTH: Okay. Do you want to be selected as a juror?

9 PROSPECTIVE JUROR NUMBER 010: Not really.

10 MS. BLUTH: Why not?

11 PROSPECTIVE JUROR NUMBER 010: I can't really tell you
12 that. I'm not sure.

13 MS. BLUTH: Is it --

14 THE COURT: It's not on your bucket list, I guess, right?

15 PROSPECTIVE JUROR NUMBER 010: It's not on my bucket
16 list but it's what I have to do. That's why I'm here.

17 MS. BLUTH: Yeah. So when I ask people that, usually --
18 excuse me. Usually it falls under kind of two categories, number one is,
19 you know, I just have a lot of other things to do, a lot on my plate. Or the
20 second one is, is I just don't feel comfortable with this --

21 PROSPECTIVE JUROR NUMBER 010: I always have a lot of
22 things to do.

23 MS. BLUTH: I don't feel comfortable with this process. Which
24 one are you?

25 PROSPECTIVE JUROR NUMBER 010: I always have a lot of

1 things. The process, no problem.

2 MS. BLUTH: Okay. If you were sitting where I'm sitting --

3 PROSPECTIVE JUROR NUMBER 010: Yes.

4 MS. BLUTH: -- would you feel comfortable with somebody
5 like you on the jury?

6 PROSPECTIVE JUROR NUMBER 010: I would think so.

7 MS. BLUTH: All right. What about if you were sitting where
8 Mr. McNair is sitting, would you feel comfortable with someone like you
9 sitting there?

10 PROSPECTIVE JUROR NUMBER 010: Maybe a little less.

11 MS. BLUTH: Why is that?

12 PROSPECTIVE JUROR NUMBER 010: I've seen a lot of
13 things in life. I don't know.

14 MS. BLUTH: When you say that, what type of things and how
15 has that affected you?

16 PROSPECTIVE JUROR NUMBER 010: I've seen a lot of
17 crime in life -- not through me but I've seen a lot of it. Maybe I'd just
18 assume somebody's guilty before they actually are.

19 MS. BLUTH: When you say that --

20 PROSPECTIVE JUROR NUMBER 010: I hope not, but I think
21 it happens.

22 MS. BLUTH: When you say you have seen a lot of crime in
23 your life, I know you're not saying personally but like just in the
24 neighborhoods you've lived or what --

25 PROSPECTIVE JUROR NUMBER 010: Yeah.

1 MS. BLUTH: -- do you mean by that?

2 PROSPECTIVE JUROR NUMBER 010: Yeah. I grew up in a

3 city back East.

4 MS. BLUTH: Okay. Thank you.

5 PROSPECTIVE JUROR NUMBER 010: Sure.

6 MS. BLUTH: Would you mind passing it Mr. Gustilo next to

7 you, 009?

8 Hi, Mr. Gustilo?

9 Hello. You are divorced. What did your spouse do before you

10 were divorced?

11 PROSPECTIVE JUROR NUMBER 009: She was at home for

12 about 15 -- about 18 years. So before that she had a -- she worked for a

13 nonprofit organization in DC.

14 MS. BLUTH: Okay. When we were talking earlier about the

15 two different phases of a trial, do you remember my questions --

16 PROSPECTIVE JUROR NUMBER 009: Uh-huh.

17 MS. BLUTH: -- in regards to that?

18 PROSPECTIVE JUROR NUMBER 009: Yes.

19 MS. BLUTH: Did you feel comfortable with the two phases

20 and being able to separate those two phases within your mind?

21 PROSPECTIVE JUROR NUMBER 009: Yeah, very clearly.

22 MS. BLUTH: What did you say?

23 PROSPECTIVE JUROR NUMBER 009: Very clearly, I can

24 separate them.

25 MS. BLUTH: Okay. And then also in regards to the three

1 options, do you understand those and could you consider all three of
2 those equally?

3 PROSPECTIVE JUROR NUMBER 009: Yes.

4 MS. BLUTH: Is there anything about this process that you
5 could potentially be a part of or the charges in this case that make you
6 feel uncomfortable?

7 PROSPECTIVE JUROR NUMBER 009: Not at this time. I
8 don't see anything that makes me uncomfortable.

9 MS. BLUTH: Has there been any views that have been
10 expressed by other fellow, you know, prospective jurors that you have
11 disagreed with that you thought ah, that's not really how I see that?

12 PROSPECTIVE JUROR NUMBER 009: I don't think so.

13 MS. BLUTH: How do you feel about the criminal justice
14 system?

15 PROSPECTIVE JUROR NUMBER 009: Not -- haven't been
16 too involved and seen a lot of it but overall I feel pretty confident in the
17 criminal justice system here in the US.

18 MS. BLUTH: Okay. Are you a news watcher or a newspaper
19 reader?

20 PROSPECTIVE JUROR NUMBER 009: Not really. Listen to
21 NPR sometimes, podcasts. I don't watch the news all the time.

22 MS. BLUTH: What about voicing your opinions in front of
23 others, is that something that you -- when you're in a crowd, are you the
24 loudest, the quietest, somewhere in the middle?

25 PROSPECTIVE JUROR NUMBER 009: Depends where I'm

1 at. Like at work certainly voice my opinion a lot in my current role. My
2 friends, close friends, yes. If it's people I don't know so much I'll base it
3 on the facts -- you know, I'm comfortable voicing my opinion based on
4 facts.

5 MS. BLUTH: You talked about having two children.

6 PROSPECTIVE JUROR NUMBER 009: Uh-huh.

7 MS. BLUTH: How close are those two children in age to one
8 another?

9 PROSPECTIVE JUROR NUMBER 009: They're five years
10 apart.

11 MS. BLUTH: Okay. So with -- I would imagine that at some
12 point in time they -- if they're an argument and two of -- they're each
13 telling you a different side of the story.

14 PROSPECTIVE JUROR NUMBER 009: Uh-huh.

15 MS. BLUTH: What -- how did you know which one -- I mean,
16 a lot of the times parents get -- they're like look, one of them's kind of the
17 more naughty one, so I -- it was that one, that one's usually lying.

18 PROSPECTIVE JUROR NUMBER 009: Right.

19 MS. BLUTH: But how would you usually assess that
20 situation?

21 PROSPECTIVE JUROR NUMBER 009: Well my youngest is
22 the daughter, so she's always right.

23 MS. BLUTH: Well, but like for instance in your work, do you --
24 you stated a couple seconds ago you said, you know, in my work I have
25 to be confident in my decisions and --

1 PROSPECTIVE JUROR NUMBER 009: Yeah.

2 MS. BLUTH: What is it exactly in your role that you have to do
3 that?

4 PROSPECTIVE JUROR NUMBER 009: I oversee a group of
5 about 50 people and have a somewhat leadership role in our -- in one of
6 our groups so I have to sometimes be the decision maker for whether it's
7 hiring, firing, new programs, things like that.

8 MS. BLUTH: Okay. Do you think that you have -- do you
9 possess qualities that you feel would make you a good juror?

10 PROSPECTIVE JUROR NUMBER 009: I think so. I do a lot
11 of consensus building at work, work with a lot of teams.

12 MS. BLUTH: Do you think you're a good judge of character?

13 PROSPECTIVE JUROR NUMBER 009: I don't think I'm a
14 great judge but I'm decent at it.

15 MS. BLUTH: Any issues you have in sitting in judgment of
16 another person in this process?

17 PROSPECTIVE JUROR NUMBER 009: No, not at this time.

18 MS. BLUTH: Okay. Thank you very much. Would you mind
19 passing that to Ms. Stevens?

20 Hi, Ms. Stevens.

21 PROSPECTIVE JUROR NUMBER 007: Hello.

22 MS. BLUTH: Badge Number 007.

23 PROSPECTIVE JUROR NUMBER 007: Yes.

24 MS. BLUTH: All right. I kind of want to ask you a few of the
25 other questions since I haven't heard a lot from you so I just want to talk

1 to you for a little bit. Is there anything that -- any issues I've breached to
2 where you had an answer to but you didn't necessarily really want to
3 raise your hand at that point in time?

4 PROSPECTIVE JUROR NUMBER 007: No. Well, there --
5 you had said earlier who raised their hands who wanted to be a part of
6 this.

7 MS. BLUTH: Yeah.

8 PROSPECTIVE JUROR NUMBER 007: And you just said the
9 people that raised their hands earlier. You didn't ask for was there
10 anybody else. I'm pretty literal, so.

11 MS. BLUTH: Okay. So I didn't say is there anybody right
12 now?

13 PROSPECTIVE JUROR NUMBER 007: Yeah. So --

14 MS. BLUTH: So if I said you would have raised your hand?

15 PROSPECTIVE JUROR NUMBER 007: Yes.

16 MS. BLUTH: Why? And so you want to?

17 PROSPECTIVE JUROR NUMBER 007: Just to go through
18 the process of this, to be a part of our justice system.

19 MS. BLUTH: Yeah. And when you walked in here and you
20 heard about -- a little bit more about it, what the charges were, you
21 know, the names got read, did that change the way you felt in any way?

22 PROSPECTIVE JUROR NUMBER 007: It got serious real
23 quick. You know, it was nothing light.

24 MS. BLUTH: Right.

25 PROSPECTIVE JUROR NUMBER 007: Yeah, so.

1 MS. BLUTH: How would you handle the situation if, you
2 know, 11 -- you got back there and 11 people thought one way and you
3 thought the other, how would you deal with that situation?

4 PROSPECTIVE JUROR NUMBER 007: I would raise my --
5 bring up my thoughts. You know, make sure my thoughts were heard.

6 MS. BLUTH: Okay. Would you -- like you said you would
7 bring up your thoughts and you would say well, did you guys consider
8 this?

9 PROSPECTIVE JUROR NUMBER 007: Right.

10 MS. BLUTH: Would you be willing to listen to them though as
11 well and think --

12 PROSPECTIVE JUROR NUMBER 007: Oh yes.

13 MS. BLUTH: -- if they maybe showed you something that you
14 hadn't thought of?

15 PROSPECTIVE JUROR NUMBER 007: Yes, most definitely.
16 I believe there's two sides to every story.

17 MS. BLUTH: What do you think about our criminal justice
18 system in general?

19 PROSPECTIVE JUROR NUMBER 007: I don't have any, you
20 know, don't have any negative thoughts either way.

21 MS. BLUTH: What about local law enforcement? You've
22 lived here for 26 years so, you know, Metro, Henderson, North Las
23 Vegas, what are your thoughts?

24 PROSPECTIVE JUROR NUMBER 007: I've had good
25 experiences.

1 MS. BLUTH: Okay. If you were seated over where myself
2 and MR. Rogan are seated, would you feel comfortable with someone
3 like you being seated as a juror?

4 PROSPECTIVE JUROR NUMBER 007: Yes.

5 MS. BLUTH: And what about if you were seated over where
6 Mr. McNair was seated --

7 PROSPECTIVE JUROR NUMBER 007: Yes.

8 MS. BLUTH: -- would you feel comfortable?

9 PROSPECTIVE JUROR NUMBER 007: Yes.

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

11 Ms. Savino, how long has your husband been a detective?

12 PROSPECTIVE JUROR NUMBER 005: For about four years
13 now.

14 MS. BLUTH: And before --

15 PROSPECTIVE JUROR NUMBER 005: Oh well -- I'm sorry,
16 technically he started off in patrol, so he's probably in patrol for about a
17 year/year and a half and then he went to detective.

18 MS. BLUTH: All right. So has he been in Vice for about four
19 years or --

20 PROSPECTIVE JUROR NUMBER 005: Probably about
21 three.

22 MS. BLUTH: Okay. And what specific section? Does he
23 work enforcement, in pandering, trick rolls?

24 PROSPECTIVE JUROR NUMBER 005: I just know it's within
25 prostitution. I think trick rolls I think I've heard before.

1 MS. BLUTH: Okay.

2 PROSPECTIVE JUROR NUMBER 005: I know that he's like
3 out on the street.

4 MS. BLUTH: All right.

5 PROSPECTIVE JUROR NUMBER 005: Yeah.

6 MS. BLUTH: That's okay. And you have your Masters in
7 elementary education --

8 PROSPECTIVE JUROR NUMBER 005: Yes.

9 MS. BLUTH: -- in here so you're a teacher?

10 PROSPECTIVE JUROR NUMBER 005: Yes.

11 MS. BLUTH: What grade?

12 PROSPECTIVE JUROR NUMBER 005: Second grade.

13 MS. BLUTH: How do you feel about this process, about being
14 a part of it?

15 PROSPECTIVE JUROR NUMBER 005: I used -- my
16 undergrad is journalism and sociology and I took a journalism and law
17 class once and so it's interesting.

18 MS. BLUTH: Yeah.

19 PROSPECTIVE JUROR NUMBER 005: I'm up for it, yeah.

20 MS. BLUTH: Do you think that you possess characteristics
21 that would make you be a good juror?

22 PROSPECTIVE JUROR NUMBER 005: Yes.

23 MS. BLUTH: And what are those?

24 PROSPECTIVE JUROR NUMBER 005: I think with the
25 journalism background, I like to think that I'm unbiased. I like to try to --

1 being a teacher, you know, all day you have conflict resolutions and I
2 like to play mediator -- or I have to play mediator in that sense. So I like
3 to weight out all the sides and I think those are some qualities that are --
4 I would be a good juror.

5 MS. BLUTH: Okay. Is there anything that I haven't asked you
6 that you think we should know about before -- when I get done Mr. Pike
7 or Ms. Simpkins is going to stand up and ask you some questions --

8 PROSPECTIVE JUROR NUMBER 005: Uh-huh.

9 MS. BLUTH: -- but is there anything that we haven't asked
10 that you think well I really think that they should know this when they're
11 assessing whether or not I should be a juror?

12 PROSPECTIVE JUROR NUMBER 005: Not particularly.

13 MS. BLUTH: Do you feel comfortable with the two different
14 phases of a trial that I --

15 PROSPECTIVE JUROR NUMBER 005: Yes.

16 MS. BLUTH: -- have been talking about and you understand
17 those?

18 PROSPECTIVE JUROR NUMBER 005: Yes.

19 MS. BLUTH: Okay. Thank you so much. If you wouldn't
20 mind passing it to Ms. Robinson.

21 I just have one question for you, Ms. Robinson. When you
22 said that your home -- was your home vandalized or was it burglarized?

23 PROSPECTIVE JUROR NUMBER 003: Vandalized.

24 MS. BLUTH: IT was --

25 PROSPECTIVE JUROR NUMBER 003: They went in and

1 broke and ripped up everything.

2 MS. BLUTH: And -- but it wasn't anyone you knew?

3 PROSPECTIVE JUROR NUMBER 003: I don't think -- I think
4 they knew my sister and I don't -- it was a long time ago, so I don't really
5 remember all the particulars. And they did catch them.

6 MS. BLUTH: And -- but you didn't have to go to --

7 PROSPECTIVE JUROR NUMBER 003: No.

8 MS. BLUTH: -- court, you stayed -- it went to court but you
9 didn't have to go to court.

10 PROSPECTIVE JUROR NUMBER 003: Right.

11 MS. BLUTH: Do you feel like that whole situation was
12 handled appropriately, either by law enforcement or by, you know, the
13 prosecuting attorneys, the judge?

14 PROSPECTIVE JUROR NUMBER 003: It was handled
15 wonderfully. They kept us in the loop the whole time. And they -- you
16 know, they were able to recover a lot of our stuff as well.

17 MS. BLUTH: Okay.

18 PROSPECTIVE JUROR NUMBER 003: So I felt it was
19 handled very well.

20 MS. BLUTH: Okay. Do you want to be a juror?

21 PROSPECTIVE JUROR NUMBER 003: I would love to be a
22 juror?

23 MS. BLUTH: Okay. Why would you love it?

24 PROSPECTIVE JUROR NUMBER 003: I've always been
25 intrigued by it. I've always wanted to be a part of it. I've only been

1 summonsed down here one other time and I didn't get this far.

2 MS. BLUTH: Yeah?

3 PROSPECTIVE JUROR NUMBER 003: So but it's been
4 interesting.

5 MS. BLUTH: Do you -- talk to me about that question I've
6 been asking about the 11-1 scenario, right? You get back there and
7 have been selected, how would you handle that if you saw things one
8 way and the rest of the jurors saw things another.

9 PROSPECTIVE JUROR NUMBER 003: I would voice my
10 opinion and then I would listen to -- you know, we'd get into a debate I'm
11 sure so I would voice my opinion and then just listen to what they would
12 come back with and just be able to hatch it out that way.

13 MS. BLUTH: What -- how do you feel about the whole law
14 enforcement?

15 PROSPECTIVE JUROR NUMBER 003: I have nothing but
16 respect for them. I thank them every time I see them.

17 MS. BLUTH: Thank you.

18 PROSPECTIVE JUROR NUMBER 003: You're welcome.

19 MS. BLUTH: If you wouldn't mind passing that up to Mr.
20 Conti, Badge Number, I can't read my writing. Is it 047 or 049?

21 PROSPECTIVE JUROR NUMBER 049: 49.

22 MS. BLUTH: 049. How are you?

23 PROSPECTIVE JUROR NUMBER 049: Very well.

24 MS. BLUTH: Good. All right. So right now I'm just asking a
25 few questions of people I haven't heard speak before. So chemistry

1 teacher, is that a high school level I --

2 PROSPECTIVE JUROR NUMBER 049: Yeah, Cheyenne.

3 MS. BLUTH: Okay. How -- when you got your jury summons,
4 how did you feel about that?

5 PROSPECTIVE JUROR NUMBER 049: I actually pushed it
6 back so I was kind of happy with the date. I had something I really didn't
7 want to be doing today in class so I wasn't too unhappy to be out of it.

8 MS. BLUTH: How do the next two weeks look for you? Good
9 stuff? Bad stuff?

10 PROSPECTIVE JUROR NUMBER 049: I can plan things.

11 MS. BLUTH: You can?

12 PROSPECTIVE JUROR NUMBER 049: Yeah.

13 MS. BLUTH: Okay, good. Has there been anything I asked
14 that you did have an answer to but you just didn't really want to raise
15 your hand?

16 PROSPECTIVE JUROR NUMBER 049: I don't think so.

17 MS. BLUTH: Okay. When you came here and you found out
18 it was, you know, a homicide, you heard the charges, heard a little bit
19 about the facts, change the way you feel one way or the other?

20 PROSPECTIVE JUROR NUMBER 049: No.

21 MS. BLUTH: Chemistry teacher. You've obviously had
22 interactions with kids all day long. How do you assess the situation
23 when, you know, two people are telling you completely different stories --

24 PROSPECTIVE JUROR NUMBER 049: They're both lying
25 then.

1 MS. BLUTH: They're both lying?

2 PROSPECTIVE JUROR NUMBER 049: Yeah, I'll take over,
3 I'm in control, then their stories don't matter if they're not on the same
4 page. I'm in control, I'll take over.

5 MS. BLUTH: Okay. So how -- I'm trying to think of how that
6 transitions if you're a juror and you're --

7 PROSPECTIVE JUROR NUMBER 049: Yeah, I don't think it
8 would.

9 MS. BLUTH: -- you can't really just take over.

10 PROSPECTIVE JUROR NUMBER 049: Yeah, I don't think
11 that would.

12 MS. BLUTH: I guess what tools would you use, you know --

13 PROSPECTIVE JUROR NUMBER 049: So my science
14 background, I have a Biochem background. I look at facts only, they are
15 what the truth is. It's not your perception of the truth, it is what the facts
16 are.

17 MS. BLUTH: Okay. Anything we should know about you --

18 PROSPECTIVE JUROR NUMBER 049: No.

19 MS. BLUTH: -- that you think hey, this happened to me, you
20 guys should be aware of it?

21 PROSPECTIVE JUROR NUMBER 049: I don't think so, no.

22 MS. BLUTH: What do you think about the criminal justice
23 system general, either locally or on a national level?

24 PROSPECTIVE JUROR NUMBER 049: I'm indifferent.
25 There's pros and cons on everything, so could it be improved? Sure.

1 I'm not an expert on it to say what could be improved but everything can
2 be improved.

3 MS. BLUTH: Okay. What about local law enforcement?

4 PROSPECTIVE JUROR NUMBER 049: Again, I've had good
5 and bad with them, so they're just normal people to me; they can be just
6 as good and just as bad.

7 MS. BLUTH: You seem like a very black and white person, is
8 that fair?

9 PROSPECTIVE JUROR NUMBER 049: No.

10 MS. BLUTH: No, okay.

11 PROSPECTIVE JUROR NUMBER 049: So I guess that --

12 MS. BLUTH: Well, there you go.

13 PROSPECTIVE JUROR NUMBER 049: Yeah.

14 MS. BLUTH: I mean, normally I feel like either when
15 engineers or scientists come in here they kind of say that about
16 themselves, so I'm sorry that I prejudged you.

17 PROSPECTIVE JUROR NUMBER 049: No, no, there's a lot
18 of gray area, I just won't have an answer for that gray area.

19 MS. BLUTH: Okay.

20 PROSPECTIVE JUROR NUMBER 049: I'm not going to give
21 an opinion if it's not based on fact.

22 MS. BLUTH: Do you think though --

23 THE COURT: You should have been a lawyer.

24 PROSPECTIVE JUROR NUMBER 049: I hear that a lot.

25 THE COURT: I was a Biochemistry major for two years,

1 you're -- God bless you, man.

2 PROSPECTIVE JUROR NUMBER 049: I'm looking into
3 patent law still.

4 THE COURT: I ended up with a desk job in the desert.

5 MS. BLUTH: Honestly, I barely passed chemistry --

6 PROSPECTIVE JUROR NUMBER 049: Yeah.

7 MS. BLUTH: -- in high school, so I -- my hat's off to you. But I
8 guess what I was kind of getting it is, you know, like on shows like CSI or
9 Law and Order, the cases come and they're pretty clear, they're like and
10 black and white, they kind of come to the juries with like a little bow and
11 that's not real world. You know, that's why we need jurors is because
12 you have to assess facts, and situations, and evidence. And things
13 aren't always so black and white. Are you okay with that?

14 PROSPECTIVE JUROR NUMBER 049: Yeah.

15 MS. BLUTH: Is that something you feel like you can, you
16 know, venture through?

17 PROSPECTIVE JUROR NUMBER 049: Yeah, I won't use
18 that piece of evidence -- if the evidence isn't clear or whatever the gray
19 area is, I just won't use that to be my determining factor. It'll be part of
20 my decision making but not the main determining factor.

21 MS. BLUTH: What do you think jurors looked at in regards to
22 evidence when we didn't have science? Like we didn't have DNA and
23 we didn't have fingerprints and things like that because there were still
24 trials.

25 PROSPECTIVE JUROR NUMBER 049: Unfortunately, I have

1 no answers about that sort of thing because that's how my brain thinks, I
2 would expect -- give me evidence and that's how I'll make a decision, so
3 I don't know.

4 MS. BLUTH: When you say give me evidence, do you think
5 that evidence comes in more ways than science? For instance, like
6 what about cell phone technology or maybe video or people who see
7 things happen.

8 PROSPECTIVE JUROR NUMBER 049: Well I think video
9 would be the best.

10 MS. BLUTH: Yeah.

11 PROSPECTIVE JUROR NUMBER 049: Yeah, so there's
12 definitely many other options.

13 MS. BLUTH: Can you assess things though that aren't
14 scientific I guess is what I'm --

15 PROSPECTIVE JUROR NUMBER 049: Oh yeah.

16 MS. BLUTH: -- saying. You're okay with that?

17 PROSPECTIVE JUROR NUMBER 049: Uh-huh.

18 MS. BLUTH: Okay. Thank you very much.

19 PROSPECTIVE JUROR NUMBER 049: You're welcome.

20 MS. BLUTH: All right. If you wouldn't mind passing that down
21 to Mr. Nguyen, please, Badge Number 020 -- or actually Dr. Nguyen, I
22 apologize.

23 I wanted to ask you a few things about your patient that you --

24 PROSPECTIVE JUROR NUMBER 020: Yes.

25 MS. BLUTH: -- think --

1 PROSPECTIVE JUROR NUMBER 020: Yes.

2 MS. BLUTH: Okay.

3 PROSPECTIVE JUROR NUMBER 020: I'm terrified by the
4 way. I'm terrified with this process.

5 MS. BLUTH: You are?

6 PROSPECTIVE JUROR NUMBER 020: Yes.

7 MS. BLUTH: Why?

8 PROSPECTIVE JUROR NUMBER 020: Because --

9 MS. BLUTH: You're going into people's brains and you're
10 terrified of this?

11 PROSPECTIVE JUROR NUMBER 020: My background is
12 I've lost -- I three parents with cancer and lost two --

13 MS. BLUTH: Aww.

14 PROSPECTIVE JUROR NUMBER 020: One's going through
15 treatment right now. I lost my dad very early and so this is the job I've
16 spent my whole life doing. And so there's a patient right now, it's -- I've
17 been outside trying to figure out what to do for this patient. She's a
18 teacher, she's a widow, and she's paralyzed. And she went to UCLA,
19 she got treated, and they sent her back and she said Anthony, do this
20 procedure twice a week for at least two months. And so no one else -- I
21 can't get coverage.

22 MS. BLUTH: No, we're not going to --

23 PROSPECTIVE JUROR NUMBER 020: Yeah.

24 MS. BLUTH: Let me tell you this right now, they're -- no one's
25 going to stop you from doing that.

1 PROSPECTIVE JUROR NUMBER 020: Okay. I --

2 MS. BLUTH: Well I mean, -- I don't think we are, right, Judge?

3 PROSPECTIVE JUROR NUMBER 020: I'm terrified. I've

4 been on the phone right now, I don't -- I can't --

5 THE COURT: Don't be terrified, we're going to figure it out.

6 PROSPECTIVE JUROR NUMBER 020: Yeah, I can't --

7 MS. BLUTH: Yeah.

8 PROSPECTIVE JUROR NUMBER 020: -- figure out too -- I'm

9 going to send her to the ER to have a neurosurgeon by the way, I'm an

10 oncologist. We -- I went into oncology because I don't do procedures, I

11 treat patient --

12 MS. BLUTH: Sure.

13 PROSPECTIVE JUROR NUMBER 020: -- I'm closer to them,

14 I talk to them. But the thing is that there's a few procedures that we do

15 do and this is one of them. One is a bone marrow biopsy and one is the

16 intrathecal chemo. Intrathecal chemo is you put chemotherapy into their

17 brain and it's hard. So you can't dump it on someone. We have

18 partners --

19 MS. BLUTH: Yeah.

20 PROSPECTIVE JUROR NUMBER 020: I have hundreds of

21 help -- I mean, I have four associates that could take care of my other

22 150 patients --

23 MS. BLUTH: No, we get that.

24 PROSPECTIVE JUROR NUMBER 020: -- no big deal.

25 MS. BLUTH: And I promise you, I just want -- we're not going

1 to stop you from giving that woman care.

2 PROSPECTIVE JUROR NUMBER 020: Yeah. I'm very
3 worried. This is -- my heartrate is like 120 --

4 MS. BLUTH: No.

5 PROSPECTIVE JUROR NUMBER 020: -- because I'm
6 thinking about what I'm going to do. And normally one procedure's not a
7 big deal --

8 MS. BLUTH: Yeah.

9 PROSPECTIVE JUROR NUMBER 020: -- but it's twice a
10 week for -- and I do this like once every six years.

11 MS. BLUTH: Yeah.

12 PROSPECTIVE JUROR NUMBER 020: I've only had two
13 cases like this.

14 MS. BLUTH: So let me just ask you --

15 THE COURT: How long -- I'm sorry, how long does the
16 procedure take? Is it an X-ray or MRI guided process?

17 PROSPECTIVE JUROR NUMBER 020: No, this is in-office.
18 It's in-office so it's probably like -- I usually put myself an hour because I
19 talk with her while I'm dealing with it. And it's no big deal, it was only
20 once a month before and then it got worse and she got paralyzed and
21 then everything got messed up and -- this -- I mean, this is a gal I've
22 been taking care of for about six years.

23 MS. BLUTH: Yeah.

24 PROSPECTIVE JUROR NUMBER 020: And so it's --

25 MS. BLUTH: So I think where --

1 PROSPECTIVE JUROR NUMBER 020: We're real close.

2 MS. BLUTH: -- Judge was going is, is that we don't --
3 generally there are some days we have court in the morning but His
4 Honor has a calendar in the mornings, which means we generally are
5 not in session in the mornings. So what we were going to ask you is
6 that --

7 PROSPECTIVE JUROR NUMBER 020: Yeah.

8 MS. BLUTH: -- if you were selected as a juror and we were in
9 trial in like the later morning, so like 10:30 start or a 11:00 start, and
10 throughout the day, would you be able to see her in the mornings for
11 those two days of the week?

12 PROSPECTIVE JUROR NUMBER 020: Probably. Yeah, I
13 mean, I -- she would have to come in --

14 MS. BLUTH: Yeah.

15 PROSPECTIVE JUROR NUMBER 020: It's either that or the
16 ER, yeah.

17 MS. BLUTH: Yeah. The last thing anybody wants is to
18 interfere with her treatment, like that's an absolute priority. So we just
19 wanted to know -- it was our job to kind of follow up as the attorneys if
20 we did have court and we did have it in the late mornings and
21 afternoons, if you could meet with your patient in the mornings those two
22 days a week and make sure she got those.

23 PROSPECTIVE JUROR NUMBER 020: Most -- probably,
24 yes.

25 MS. BLUTH: Okay.

1 PROSPECTIVE JUROR NUMBER 020: I don't see a huge
2 problem.

3 MS. BLUTH: Okay. All right. How's the heartrate?

4 PROSPECTIVE JUROR NUMBER 020: My nurse -- well, I
5 mean, my nurses are freaking out right now because they're already
6 calling to -- you know, they have to cancel -- they'll figure something
7 out --

8 MS. BLUTH: Okay.

9 PROSPECTIVE JUROR NUMBER 020: -- but that one was
10 the hard one, so.

11 MS. BLUTH: Okay. All right. So let me ask you a few other
12 things --

13 PROSPECTIVE JUROR NUMBER 020: Sure.

14 MS. BLUTH: -- because I haven't heard you speak a whole
15 lot. So you also -- I was confused about your -- was your house
16 vandalized or burglarized?

17 PROSPECTIVE JUROR NUMBER 020: Some -- our neighbor
18 came in and brought a gun and started shooting up all our pots in the
19 front door. It wasn't -- it was -- I think it was a BB-gun, I don't think it
20 was like a real gun.

21 MS. BLUTH: Okay.

22 PROSPECTIVE JUROR NUMBER 020: And then I was
23 probably in elementary school, so it was very stressful and scary.

24 MS. BLUTH: Yeah.

25 PROSPECTIVE JUROR NUMBER 020: And then so we call

1 the police and -- this is our neighbor. And the police came and the
2 police talked to this lady and the lady was still crazy and screaming at
3 the police officers too and she went home and that was it. That's all I
4 remember.

5 MS. BLUTH: Okay. So there was probably more that carried
6 on after that you just -- were you young and don't remember? Because I
7 would imagine the police would have had an issue --

8 PROSPECTIVE JUROR NUMBER 020: No.

9 MS. BLUTH: -- with what she did to your house.

10 PROSPECTIVE JUROR NUMBER 020: No, my parents were
11 quiet, they didn't push the envelope, you know. I think because we had
12 a dog, we had a Doberman, I think that was part of the reasons. We had
13 a dog that was probably barking, she got really upset at it, so.

14 MS. BLUTH: Oh, she's mad that the dog was barking?

15 PROSPECTIVE JUROR NUMBER 020: I think so. That's, I
16 think what caused it.

17 MS. BLUTH: And you said that she shot but she didn't shoot
18 somebody, right? No one got shot.

19 PROSPECTIVE JUROR NUMBER 020: No, no, no. She shot
20 like the house.

21 MS. BLUTH: Okay. You've heard me asking questions in
22 regards to you know, our criminal justice system and what do you -- how
23 do you feel about local law enforcement and things like that. Where are
24 your views on that?

25 PROSPECTIVE JUROR NUMBER 020: I don't have any

1 major problem with it. I don't pay attention too much to it. We've been
2 pretty blessed in -- you know, not to have a lot of issues or problems.

3 MS. BLUTH: You heard me when I was speaking just a
4 second ago and I was talking to Mr. Conti about a lot of the times when
5 we have like engineers, scientists, doctors, they see things -- like it's
6 either one way or the other, it's a lot of kind of black and white. And the
7 law isn't necessarily like that. Do you see things like that? Do -- are
8 things usually just like one way or the other with you?

9 PROSPECTIVE JUROR NUMBER 020: For my field, the way
10 I was trained, it's not like -- there's no textbook cases, so law is -- I
11 would probably feel the same, because I don't think there's absolutes. I
12 think we have a lot of gray area.

13 MS. BLUTH: Okay.

14 PROSPECTIVE JUROR NUMBER 020: So I'm not black and
15 white. I would use data to help to make decisions but sometimes there's
16 lack of data and you have to use your opinion.

17 MS. BLUTH: Yeah. Do you think that -- I mean, you know
18 you best, so you do you think -- do you have the type of personality or
19 type of characteristics that would make a good juror?

20 PROSPECTIVE JUROR NUMBER 020: I'm sort of impatient
21 and I kind of want to finish things, I --

22 MS. BLUTH: Sorry, did you say you're impatient?

23 PROSPECTIVE JUROR NUMBER 020: I'm impatient, I like to
24 finish things quickly. So I don't know if that's a -- I don't think that's a
25 good --

1 MS. BLUTH: And in case you haven't figured it out thus far --
2 PROSPECTIVE JUROR NUMBER 020: I know --
3 MS. BLUTH: -- that's not necessarily how --
4 PROSPECTIVE JUROR NUMBER 020: I've been --
5 MS. BLUTH: -- they --
6 PROSPECTIVE JUROR NUMBER 020: I've been -- you
7 know, I've been in lawsuits, I mean, I forgot to mention that. You know,
8 I've been -- I don't know what the term is, named, I guess.
9 MS. BLUTH: What is it?
10 PROSPECTIVE JUROR NUMBER 020: Like named.
11 MS. BLUTH: Oh, named.
12 PROSPECTIVE JUROR NUMBER 020: Like malpractice.
13 MS. BLUTH: Oh, okay.
14 PROSPECTIVE JUROR NUMBER 020: Yeah, for -- I didn't
15 mention that, that's another thing.
16 MS. BLUTH: No, that's okay.
17 PROSPECTIVE JUROR NUMBER 020: We get this a lot.
18 You know, when someone gets sick, you know, everyone who's on the
19 chart gets called in.
20 MS. BLUTH: Sure.
21 PROSPECTIVE JUROR NUMBER 020: So those are not fun
22 pro -- those are not fun things to do -- go through.
23 MS. BLUTH: Do you have to be deposed to --
24 PROSPECTIVE JUROR NUMBER 020: Yes.
25 MS. BLUTH: Have you ever had to go to a jury trial and

1 testify?

2 PROSPECTIVE JUROR NUMBER 020: No, no, no. No.

3 MS. BLUTH: Okay.

4 PROSPECTIVE JUROR NUMBER 020: But I've been
5 deposed.

6 MS. BLUTH: Is there anything about those -- that process that
7 you think may affect you in one way or the other as a juror in a criminal
8 case?

9 PROSPECTIVE JUROR NUMBER 020: I mean, I didn't really
10 like the process at all, it was very uncomfortable. You know, especially
11 when you do all this work to help someone and all the sudden someone
12 comes back in and says oh, you know, you have to defend yourself.
13 You didn't -- you spent all this time trying to take of that person. And it's
14 not usually them, it's someone else, a family member.

15 So it makes our life so miserable because we spend our whole
16 life devoted to taking care of someone and someone comes back and
17 says oh, you did a horrible job, I'm going to sue you.

18 MS. BLUTH: Right.

19 PROSPECTIVE JUROR NUMBER 020: And it -- we don't
20 want to do anything anymore.

21 MS. BLUTH: Yeah.

22 PROSPECTIVE JUROR NUMBER 020: So that's one
23 negative thing that happened. I don't think that's part of this process, I
24 think, that's just part of the, I guess malpractice -- I don't --

25 MS. BLUTH: Sure.

1 PROSPECTIVE JUROR NUMBER 020: -- know what the
2 term would be.

3 MS. BLUTH: No, it's a term. Is there anything -- well let me
4 ask, if you were sitting where I was sitting or Mr. Rogan was sitting, my
5 co-Counsel, would you want someone like you on the jury panel? On
6 the jury?

7 PROSPECTIVE JUROR NUMBER 020: I didn't have -- I
8 wasn't super happy when I was deposed and I didn't like -- I mean, when
9 I went through the process it was -- I was very unhappy. So I don't --

10 THE COURT: And you're talking about in a civil case.

11 PROSPECTIVE JUROR NUMBER 020: I'm sorry?

12 THE COURT: When you were deposed in a civil case?

13 PROSPECTIVE JUROR NUMBER 020: So I don't -- I mean,
14 a civil -- I don't understand that.

15 MS. BLUTH: The med-mal case.

16 PROSPECTIVE JUROR NUMBER 020: Yeah.

17 THE COURT: The medical malpractice --

18 PROSPECTIVE JUROR NUMBER 020: Yes.

19 THE COURT: Which is a civil case --

20 PROSPECTIVE JUROR NUMBER 020: Yeah, I -- yeah.

21 THE COURT: -- so you get deposed by the civil attorneys.

22 So here's a --

23 PROSPECTIVE JUROR NUMBER 020: Like I was treated
24 poorly --

25 THE COURT: There's a --

1 PROSPECTIVE JUROR NUMBER 020: -- by the attorneys.

2 THE COURT: There's a famous saying about the law.

3 Criminal attorneys are civil to each other, civil attorneys are criminal to
4 each other. So I imagine that was not a pleasant process.

5 PROSPECTIVE JUROR NUMBER 020: It was miserable.

6 MS. BLUTH: Well --

7 PROSPECTIVE JUROR NUMBER 020: And that's why I'm
8 not thrilled about being here and -- because it reminds me of all these
9 things.

10 MS. BLUTH: Yeah. No, I get that. I think -- I guess the main
11 question is so is that such a different -- I've always thought that maybe
12 civil lawyers should be called lawyers and we should be called attorneys
13 or something should dif -- because we do such different, different things.

14 PROSPECTIVE JUROR NUMBER 020: Uh-huh.

15 MS. BLUTH: Can you separate, you know, your experiences
16 with those attorneys if you were selected as a juror and just kind of leave
17 that out there and focus on hey, the facts that are presented, the
18 evidence that is presented here in the arguments?

19 PROSPECTIVE JUROR NUMBER 020: It would be harder.

20 MS. BLUTH: Because the -- just because of how unpleasant
21 that that process was?

22 PROSPECTIVE JUROR NUMBER 020: Yeah, it was very
23 unpleasant.

24 MS. BLUTH: Really?

25 PROSPECTIVE JUROR NUMBER 020: Yeah.

1 MS. BLUTH: Who would you take that out on?

2 THE COURT: Don't look at me, I wasn't there.

3 PROSPECTIVE JUROR NUMBER 020: I don't know. I
4 mean, I just -- like I said I just don't want to be here. Like -- not --
5 nothing personal, I think this process is very interesting and fascinating.
6 And -- because I've never been here before --

7 MS. BLUTH: Yeah.

8 PROSPECTIVE JUROR NUMBER 020: -- you know, and --
9 but at the same time, you know, being deposed is so rough because
10 they tear your notes apart. All this work that you do to take care of -- like
11 I spend all this time, like an hour in the room talking to a patient about
12 their mom or their daughter and then I don't write a note -- I mean, I write
13 a short note and then some lawyer comes in and tears my note apart
14 and I spent an hour with the family.

15 MS. BLUTH: Sure.

16 PROSPECTIVE JUROR NUMBER 020: You know, and -- I'm
17 sorry, it's starting to bring back all the stuff, but I just got another patient
18 who passed away from breast cancer. I took care of them for a long
19 time and then the spouse comes back and calls a complaint. And it was
20 weird because he didn't know who was -- he didn't know who he was
21 complaining about.

22 And in the end it was like -- he got the doctors mistaken. And
23 so he got the doctors mistaken and what happened was that he actually
24 couldn't, quote, unquote, sue us, he was -- it was more of just calling the
25 Board of --

1 MS. BLUTH: Medicine.

2 PROSPECTIVE JUROR NUMBER 020: Yeah. And obviously
3 it was -- I guess it was thrown -- actually, no, it's still in process right
4 now. I'm just saying these processes are really hard on us because this
5 is a patient I took really good care of and he had -- this patient sent me
6 a note thanking me a note four years ago and he forgot and comes back
7 and does this.

8 So these are the things that we deal with. I mean, we figure it
9 out and we understand that --

10 MS. BLUTH: Yeah.

11 PROSPECTIVE JUROR NUMBER 020: -- when patients die,
12 you know, their families are upset and they have depression and are sad
13 and what not --

14 MS. BLUTH: OF course.

15 PROSPECTIVE JUROR NUMBER 020: -- and we
16 understand. That's why I still do this job.

17 MS. BLUTH: Yeah.

18 PROSPECTIVE JUROR NUMBER 020: But coming to this
19 place makes it hard. It's not fun.

20 MS. BLUTH: I'm sorry that those civil guys are so bad.

21 PROSPECTIVE JUROR NUMBER 020: I -- yeah, I'm learning
22 the lingo. I'm starting to learn it.

23 MS. BLUTH: Okay. Well I appreciate your honesty, thank
24 you.

25 Would you pass that down? Am I pronouncing that right if I

1 say Patlan?

2 THE COURT: I'll tell you what, before we start anybody
3 else --

4 MS. BLUTH: Yes, Judge.

5 THE COURT: -- we're a little past 5:00, so --

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

7 THE COURT: -- let me -- I'm going to go ahead and break for
8 the evening, folks and let you all go home. Before we excuse you
9 though, let me have the attorneys approach the bench, please.

10 Hey, Dr. Nguyen, you work with Andy Cohen, right?

11 PROSPECTIVE JUROR NUMBER 020: Yes.

12 THE COURT: I think he's a medical -- or excuse me --

13 PROSPECTIVE JUROR NUMBER 020: He's a --

14 THE COURT: -- a radiation oncologist, but -- look, I know him
15 well, so ask him and he'll tell you you're in a friendly environment. It's
16 okay. It's not civil.

17 [Bench Conference Begins]

18 THE COURT: Anybody other than our three --

19 MS. BLUTH: I don't think so.

20 THE COURT: Anything else come up?

21 THE COURT: So I'll release those three and then we'll just
22 have everybody else back tomorrow at 10:00.

23 MS. BLUTH: Sounds good.

24 THE COURT: Okay.

25 [Bench Conference Concludes]

1 THE COURT: Okay. So there's three of you that I'm going to
2 go ahead and release, so you're going to be done with jury duty, you do
3 not have to come back tomorrow and that's going to be Ms. Cheong,
4 Badge Number 34; Mr. Veal, Badge Number 37; and Ms. Gasperino,
5 Badge Number 12. You three are excused from jury duty.

6 PROSPECTIVE JUROR NUMBER 051: What number?

7 THE COURT: Pardon?

8 PROSPECTIVE JUROR NUMBER 051: What number did
9 you say?

10 THE COURT: You.

11 PROSPECTIVE JUROR NUMBER 051: Oh, I'm 51.

12 THE COURT: Are you 51?

13 PROSPECTIVE JUROR NUMBER 051: Yeah.

14 MS. BLUTH: Yeah.

15 PROSPECTIVE JUROR NUMBER 051: I'm 51.

16 THE COURT: Oh, you know what, I read --

17 PROSPECTIVE JUROR NUMBER 051: But okay, I'm
18 excused.

19 THE COURT: I'm sorry.

20 PROSPECTIVE JUROR NUMBER 051: That's good.

21 THE COURT: No, no, no, no. Hey, no, Cyrus, you're
22 absolutely right. We have badge numbers and panel numbers --

23 PROSPECTIVE JUROR NUMBER 051: Okay.

24 THE COURT: -- and I read the wrong number. So it's Mr.
25 Veal, Badge Number 51; Ms. Cheong, Badge Number 48; and Ms.

1 Gasperino, Badge Number 19. So I thank you all very much for your
2 time today, you're excused. You guys can go ahead and take off if you
3 want.

4 And then everybody else, we're going to start tomorrow at
5 10:00, so what I'm going to ask you to do, rather than come up and pile
6 up in the hallway, you just want them to go to Jury Services, JR?

7 THE MARSHAL: Yes, Your Honor.

8 THE COURT: Okay. So go back to the third floor to Jury
9 Services and once we know that we have everybody, we'll bring you
10 back up here and get finished up. I would expect that probably early
11 afternoon tomorrow, I'm hoping that we'll be done with jury selection, so
12 the bulk of you will be on your way.

13 During the recess, again, you're admonished not to talk or
14 converse among yourselves or with anyone else on any subject
15 connected with this trial. Or read, watch, or listen to any report of or
16 commentary on the trial any medium of information including, without
17 limitation, newspapers, television, the internet, and radio. Cannot form
18 or express any opinion on any subject connected with the case until it's
19 finally submitted to you.

20 I will see you all tomorrow at 10:00. Thank you for your time
21 today.

22 [Outside the presence of the prospective jury]

23 THE COURT: Anything outside the presence?

24 MS. BLUTH: There was one thing, Judge, that I should have
25 brought up but I know that the Defense hasn't had an opportunity to

1 speak to them but Mr. Haman, I can't remember, he's in Seat Number 8.
2 I feel very uncomfortable with the record that he has made in regards to
3 jury nullification.

4 First of all, a CCW is charged in this case which I don't know if
5 he considers that a crime of non-violence, but also there -- here's a case
6 where we have theories of liability, right? Someone directly doing it or
7 the jury can find that Mr. McNair conspired with his brother or aided and
8 abetted his brother. They found Mr. Johnson to be a shooter. I can't get
9 into the nitty gritty of those laws with him but I do think that he said very
10 clearly, look, if I disagree with this law, I'm not going to follow it. And I
11 think he has to be able to say he would follow the law, even if he doesn't
12 agree with it.

13 THE COURT: Anything you want to say for now?

14 MR. PIKE: I don't think it was any -- I don't think it was that
15 clear that he said -- he indicated consensual laws involving two
16 consenting adults --

17 THE COURT: Right.

18 MR. PIKE: Two consenting adults with like prostitution and
19 drugs and relationships and that. So I'll delve into and see if I can
20 rehabilitate and get --

21 THE COURT: I'll --

22 MR. PIKE: -- the State's concern is gone.

23 THE COURT: I'll hold off and we'll talk about it tomorrow.
24 The reality of jury nullification is that a lot of people do it even though
25 they answer the question about yep, I can follow the law. So, it is

1 refreshing I guess, but nonetheless troubling when somebody's telling
2 you up front, no, no, no, I've got a lot of things where I think I wouldn't
3 follow the law.

4 And the problem is when you have that refreshing approach,
5 you don't know exactly what it is that's going to, you know, render them
6 to say oh, I don't like that one so I'm going to ignore it. And you don't
7 know who it benefits and who it disfavors. So I would agree that he's a
8 guy that, you know, both sides may have some issue with. But until we
9 finish all the questioning, generally, unless there's an agreement, I don't
10 excuse anybody.

11 MS. BLUTH: I just want to make sure I made my record.

12 THE COURT: I'm pretty sure they probably share your
13 concerns at this point, so we'll let them follow up as well and then we'll
14 see where we're at.

15 MS. BLUTH: Sounds good.

16 THE COURT: Okay.

17 MR. PIKE: Thank you.

18 THE COURT: All right, guys, I'll see you tomorrow.

19 [Evening recess at 5:09 p.m.]

20 * * * * *

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

24 
25 Brittany Mangelson
Independent Transcriber