

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

APPELLANT'S SUPPLEMENTAL APPENDIX VOLUME 11

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**Race Report
for
Case # C327395-1**

Date: 02/26/2019
Time: 10:03 am

Asian

Female	4	44%
Male	5	56%
Unknown	<u>0</u>	<u>0%</u>
	9	15%

Black/African American

Female	3	60%
Male	2	40%
Unknown	<u>0</u>	<u>0%</u>
	5	8%

Hawaiian/Pacific Islander

Female	0	
Male	0	
Unknown	<u>0</u>	<u>0%</u>
	0	0%

Native American/Native Alaskan

Female	1	50%
Male	1	50%
Unknown	<u>0</u>	<u>0%</u>
	2	3%

Other Race

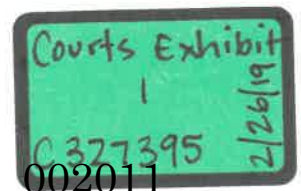
Female	5	71%
Male	2	29%
Unknown	<u>0</u>	<u>0%</u>
	7	12%

Unknown

Female	1	100%
Male	0	0%
Unknown	<u>0</u>	<u>0%</u>
	1	2%

White/Caucasian

Female	14	39%
Male	22	61%



**Race Report
for
Case # C327395-1**

Date: 02/26/2019

Time: 10:03 am

Unknown

0
36

0%
60%

TOTAL PANEL COUNT: 60

**Ethnicity Report
for
Case # C327395-1**

Date: 02/26/2019
Time: 10:00 am

HISPANIC/LATINO

Female	4	50%
Male	4	50%
Unknown	0	0%
	<hr/> 8	<hr/> 13%

NOT HISPANIC/LATINO

Female	24	46%
Male	28	54%
Unknown	0	0%
	<hr/> 52	<hr/> 87%

UNKNOWN

Female	0	
Male	0	
Unknown	0	
	<hr/> 0	<hr/> 0%

TOTAL PANEL COUNT: 60

1 THE CLERK: Thank you. Please be seated. Could you
2 please state and spell your name for the record.

3 THE WITNESS: Mariah Witt. M-a-r-i-a-h, W-i-t-t.

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MR. AFSHAR:

7 Q Good morning, Ms. Witt. How are you?

8 A I'm good. How are you?

9 Q Good. Thank you. What is your current occupation?

10 A I'm the Jury Commissioner for the Eighth Judicial
11 District Court.

12 Q And how long have you been in that role?

13 A Since November of 2012.

14 Q Okay. Are you familiar with the current case that
15 we've called you on today?

16 A Somewhat familiar, yes.

17 Q Okay. Were you the Jury Commissioner when the --

18 A Yes.

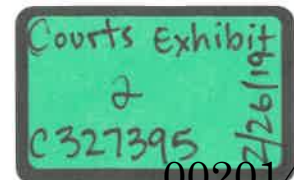
19 Q Okay.

20 A Yes. Yes.

21 Q I just have a few questions and I appreciate your
22 time. Do you recall testifying in September of 2018 in this
23 court?

24 A I'm sure I did. I mean, I don't have specific
25 recollections of -- I mean, I testify in different courts.

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1 So --

2 Q It was on --

3 MR. AFSHAR: Am I allowed to present her with the
4 case number, Your Honor?

5 THE COURT: Sure. I don't mind.

6 MR. AFSHAR: Okay.

7 BY MR. AFSHAR:

8 Q It was C-17-326105. It was Kendrick, Malik Kendrick.

9 A Okay.

10 Q Okay. Do you recall at that time that there was an
11 issue with the voting rolls?

12 A I do.

13 Q Okay. And what was that specific issue?

14 A It's just that they had not been provided or there
15 were some issues with incorporating that list. We actually had
16 just done a merge just within the last month or so, I think. I
17 can't remember the exact date, but within the last month, and
18 the voter rolls have been incorporated into the jury list now,
19 the master.

20 Q Within the last month?

21 A I think it's within -- I want to say -- actually, I
22 want to say November --

23 Q Okay.

24 A -- 26th or something like that. It was -- yeah,
25 right before the holidays. I don't remember the exact date.

1 Q Okay. And do you know -- so when the juror summons
2 are sent out, do you know which zip codes they're sent out to
3 specifically?

4 A I have a report that I can run, but I mean, it's a
5 random selection. There is an algorithm built within the
6 system, so it's not like it targets a certain zip code. It's
7 random throughout the county.

8 Q Has your office ever tracked which zip codes maybe
9 get more juror summons than others?

10 A All I have -- I do have a report that I've run
11 before. It's kind of difficult to run those reports because
12 they change.

13 Q Okay.

14 A What will happen is you'll run the report but then as
15 people change their status, postpone, whatever, it changes the
16 numbers. So it's a very fluid thing, but we have done that.
17 My assistant has actually been out sick and so I'm not sure if
18 he's kept up with those, but we have done them at random. I
19 don't --

20 THE COURT: What does that mean? You've done what at
21 random?

22 THE WITNESS: We've run some -- occasionally we run
23 some of the zip code reports. They're not one of the reports
24 that I run systematically.

25 THE COURT: What would the report tell you?

1 THE WITNESS: It just lists for a certain period of
2 time --

3 THE COURT: Okay.

4 THE WITNESS: -- the zip codes that were mailed to
5 and how many were in each zip code.

6 THE COURT: Okay.

7 THE WITNESS: But it's a really hefty report because
8 it lists all of them. So again, it's kind of one of those
9 things where it's really not very efficient to run it unless
10 there's a specific concern. Then I can run it, but it's not
11 something I run, and save all the time.

12 THE COURT: Okay. Thank you.

13 BY MR. AFSHAR:

14 Q And does your office track those generally or would
15 you be able to provide a report for this case specifically,
16 like to which zip codes it went to?

17 A I'd have to look at it, but again, I don't know that
18 it's going to tell you a whole lot because, again, that
19 information changes because between the time when these people
20 were initially summoned -- I think it does it a week at a time.
21 They change.

22 Q Okay.

23 A So the numbers --

24 THE COURT: What changes? People's zip codes?

25 THE WITNESS: The reports themselves will change.

1 THE COURT: Oh, okay.

2 THE WITNESS: So the easiest way I can explain is if
3 you have a pool -- and I'm just going to use round numbers --
4 if you have a pool of 2,000 people and you summon 2,000 people,
5 out of those 2,000 people some respond, some do not, some are
6 excused, some are postponed, transferred to another pool. So
7 those numbers are very fluid. I could give you those numbers
8 but it's not necessarily the original number.

9 MR. AFSHAR: Oh, I see what you're saying.

10 THE WITNESS: Right. Right. It's a fluid thing. I
11 don't know how much it's going to tell you.

12 MR. AFSHAR: Okay.

13 THE WITNESS: Yeah.

14 BY MR. AFSHAR:

15 Q If we did request that report, and I know it's
16 probably not -- I mean, if it's difficult or anything, we could
17 wait. If we could just get an idea what it looks like, would
18 your office be able to generate that?

19 A I can look at it. Zip code reports are not something
20 we have pursued on a regular basis.

21 Q Okay.

22 A It's something that we did generate and there were
23 some -- I don't recall the specific problems with it, but
24 again, I think it's just because it is so fluid. I mean, I'm
25 certainly going to oblige any request that the Court makes of 6

1 me --

2 Q Okay.

3 A -- and provide what I can. That's always our policy.

4 Yeah.

5 Q All right. Thank you. Does your office keep track
6 of racial demographics?

7 A We do run reports, yes.

8 Q Okay.

9 A Yes.

10 Q That are -- How does that work, exactly?

11 A Okay. I have race and ethnicity reports that I run
12 by pool, by attendance date and then by panel. So the pool
13 reports are everybody in a pool, in a given pool, or everybody
14 summoned on a specific date. Those are probably the ones that
15 are least conclusive. Because when they're sent out, some fill
16 them out, some do not. We don't have control over who
17 completes the information while it's out there.

18 When they come in by attendance date, one of the
19 things I do as part of my jury orientations, I do ask who's
20 completed the qualification questionnaire which includes those
21 demographics, and anybody who has not is asked to do so either
22 using their smart phone or using our kiosk. And we do a pretty
23 good job with that.

24 Q Okay.

25 A I think we run right around 98, 99 percent of

1 everybody that reports, and sometimes 100 percent. It just
2 varies. It depends on the week. Have that completed. So
3 that's everybody in attendance for the entire day, the entire
4 group of people in attendance for the day, regardless of what
5 case. And then we also have reports that we run by panel,
6 which is case specific.

7 Q So are you able, then, to identify their ethnic or
8 racial background? Was that the 99 or 100 percent you're
9 talking about or --

10 A If you mean individually --

11 Q Right.

12 A No. I mean, it's a report that I run, and it just
13 pulls from everybody in attendance.

14 Q Oh, okay. Okay.

15 A I can't say Joe Smith is this, that or the other race
16 or ethnicity. I don't have that information. I would have to
17 go into their individual record to see that. But we run it
18 every day.

19 Q Okay. Okay. And in general does your office make
20 any attempts to see in terms of the jury summons you get back,
21 like which racial demographics tend to respond more? Is that
22 something your office does?

23 A Other than those race reports and the ethnicity
24 reports that we run on a regular basis, I mean, those are the
25 people that respond.

1 Q Uh-huh.

2 A So I'm not sure what --

3 Q I guess what -- I apologize, let me rephrase that.

4 So, for example, you send them out and it's random; right?

5 A Uh-huh.

6 Q And you send those out, but in terms of the ones that
7 you get back, then do you then identify, hey, we're getting
8 back more of a certain race or less of a certain race? Do you
9 do any tracking of that?

10 A Are you talking about --

11 THE COURT: What do you mean, getting back?

12 THE WITNESS: Yeah.

13 THE COURT: Are you talking about people that
14 respond?

15 MR. AFSHAR: Respond. Yes.

16 THE COURT: Okay.

17 MR. AFSHAR: Yeah, return. Yeah.

18 THE WITNESS: Well, we don't necessarily know their
19 racial composition until they confirm.

20 MR. AFSHAR: Okay.

21 THE WITNESS: In other words, when they get that
22 summons they are supposed to either go on the phone or go
23 online and complete the qualification questionnaire and the
24 demographic information. I don't know that breakdown until
25 they actually appear because a lot of people don't do it until

1 the night before.

2 And then I do have a few people, again, when they
3 come in they haven't completed it. The system will identify to
4 me when they're checking in if they have not completed the
5 questionnaire. I will ask them to step aside, and then I ask
6 them to go complete it.

7 MR. AFSHAR: Okay.

8 THE WITNESS: So I don't have all that information;
9 it's incomplete.

10 MR. AFSHAR: Okay.

11 THE WITNESS: Yeah.

12 BY MR. AFSHAR:

13 Q And then -- so with this case you know that there
14 were a certain number of people who put Other, the racial
15 report that we subpoenaed from you?

16 A Right.

17 Q Okay. When you receive those does your office make
18 any follow-up attempt to ask them to clarify their race?

19 A No. And the report that I have does not identify
20 people. In other words --

21 Q No, I mean by race.

22 A Right. But I'm just saying I don't necessarily
23 know -- I wouldn't know who selected Other --

24 Q Okay.

25 A -- so how do I follow up with them?

1 Q I see. Okay.

2 A Yeah.

3 Q And kind of forgive my ignorance because I'm still
4 kind of --

5 A No, no, that's fine.

6 Q But, so the questionnaire that's sent out, that's the
7 one that's agreed to by both sides, the State and the defense?

8 THE COURT: Okay. I think we're talking about a
9 couple questionnaires.

10 THE WITNESS: Yes.

11 THE COURT: There was a questionnaire that we gave
12 out, but she's talking about when they get their summons, the
13 qualifying questionnaire.

14 THE WITNESS: Correct.

15 THE COURT: Correct?

16 THE WITNESS: Correct.

17 THE COURT: The one that they --

18 THE WITNESS: Yes, ma'am.

19 THE COURT: -- fill out online.

20 MR. AFSHAR: Oh, I see. Okay.

21 THE WITNESS: Yes. Yeah. It's are you over 18? Are
22 you a resident? Are you a citizen?

23 MR. AFSHAR: Okay.

24 THE WITNESS: Those type of questions.

25 / / /

1 BY MR. AFSHAR:

2 Q And does that one have a question for ethnicity or
3 race?

4 A Yes. That's part of the qualification questionnaire.

5 Q Oh, okay. Okay.

6 A It's attached to that is the biographical
7 information.

8 Q Okay. And you're familiar, obviously, with
9 NRS 6.045?

10 A Yes.

11 Q Okay. What are the main -- under NRS 6.045, and I
12 have it here if you want to -- if you want to --

13 A Yeah, you'd have to tell me exactly which paragraph
14 that is.

15 Q Okay. Let me -- absolutely.

16 MR. AFSHAR: Permission to approach, Your Honor?

17 THE COURT: Of course.

18 MR. AFSHAR: Okay. Thank you.

19 BY MR. AFSHAR:

20 Q So, if you could just read that to yourself for a
21 second and then let me know when you're --

22 A Okay.

23 Q Do you mind if I --

24 A Okay.

25 Q So having looked at this, it states that you pull

1 from a few different sources; right?

2 A Correct.

3 Q The Nevada -- and correct me if I'm wrong -- Nevada
4 Energy?

5 A Correct.

6 Q DMV?

7 A Correct.

8 Q Voting rolls?

9 A Correct.

10 Q And one I was kind of confused on, if you could maybe
11 provide a little more clarification, is it talked about the
12 Employment Security Division of the Department of Employment,
13 Training and Rehabilitation. How does that work exactly?

14 A Okay. Well, as of right now we don't have that list.
15 Efforts have been made to get that list from the Department of
16 Employment, Training and Rehabilitation.

17 Q Okay.

18 A I couldn't address specifically what those concerns
19 are. You would have to speak to our IT Director about that,
20 but there have been some concerns about getting the list, and
21 that's not just us; it's Nevada-wide.

22 Q Okay.

23 A Because this mandate, it's actually a result of
24 Assembly Bill 207, which was passed --

25 Q Correct.

1 A -- so it imposed additional requirements, the
2 additional sources, and also some additional reporting
3 requirements. We changed the way we did our reporting, our
4 reports at that time. We had to separate out ethnicity and
5 race as well, and that is to more closely mirror what the
6 National Center for State Courts recommends, as well as that
7 Assembly bill that was passed. It imposed certain reporting
8 requirements.

9 And then there's information that has to be provided
10 to the Administrative Office of the Courts every year on an
11 annual basis, and that's done by our IT Department. They pull
12 that. The numbers are too big. It's not something I can just
13 run.

14 Q Looking at this, though, it says that in 2017 the
15 last amendment was made to this. So that's one of the required
16 things that needs to be pulled up. Are you saying that that's
17 not being pulled, for whatever reason, whether it's the IT
18 Department or no lists are coming from that right now?

19 A The Department of Employment, Training and
20 Rehabilitation?

21 Q Correct.

22 A That's correct. We do not have the list.

23 Q Okay.

24 A There have been some issues. I had an update just
25 before the beginning of the year from -- I think it's Robin

1 Sweet from the Administrative Office of the Courts, explaining
2 that they made some progress and they were hoping to have the
3 list before too much longer, but it's in progress. We do not
4 currently have that list --

5 Q Is there --

6 A -- as part of our master list.

7 Q And I apologize for interrupting. Is there an
8 estimated time table of --

9 A I couldn't tell you that.

10 Q Okay.

11 A I mean, they didn't give me one, and I just don't
12 have any further information on that.

13 Q Okay. And I just have a few more questions. So now
14 with the recent -- and are you familiar with one of the recent
15 legislative changes that happened in the last election where if
16 you go to the DMV now you are automatically registered to vote?

17 A I vote myself. So, yeah. Uh-huh.

18 Q Okay. Is your office planning on changing anything
19 in regards to that, or --

20 A Well, I would assume. Again, we're going to get --
21 we get -- when we do a merge, we actually update our master
22 list at least once a year, but we try to do it twice.

23 Q Okay.

24 A And when that happens we get the lists from all three
25 sources, Nevada Energy, Nevada DMV and then the voter rolls,

1 and, hopefully, next time it will include the Department of
2 Employment, Training and Rehabilitation.

3 Q The fourth one.

4 A And then they take all those lists and combine them
5 and then they -- it's a very technical process and there are
6 certain rules that it has to follow, but then it will remove
7 duplicates and that kind of thing so that you only really have
8 one -- supposed to only have one record for one person.

9 Q Okay. And I feel like -- because I know you always
10 get like inundated with a lot of these questions that sometimes
11 are just, you know, very broad, but has your office ever looked
12 at or who would I guess be the person to ask in terms of, for
13 example, Nevada Energy -- let me rephrase it. So are you aware
14 that Nevada Energy sends out to potential -- you know, people
15 who rent, how do you deal with people who rent, knowing that
16 they have a landlord? Like, how does that process work?

17 A We just get their entire list, and so we don't -- it
18 doesn't necessarily -- we don't discriminate where it says -- I
19 mean, it's not, to my knowledge, differentiated that, oh, this
20 is a landlord as opposed to a renter, that kind of thing. We
21 don't have that information. I think the idea is being that
22 you have various different sources and that way you will get
23 everyone or be as inclusive as possible.

24 Q But there's no way to know definitively if it's going
25 to the intended recipient or to the landlord?

1 A Correct.

2 MR. AFSHAR: Okay. All right. I guess that pretty
3 much -- I covered a lot.

4 Court's indulgence just for a second.

5 THE COURT: Sure.

6 MR. AFSHAR: And that will be it. Thank you so much
7 for your time.

8 THE WITNESS: Of course.

9 MR. AFSHAR: Pass the witness, Your Honor.

10 THE WITNESS: Happy to help.

11 THE COURT: Thank you.

12 Mr. Pesci, do you have any questions?

13 MR. PESCI: Yes, Your Honor. Thank you.

14 CROSS-EXAMINATION

15 BY MR. PESCI:

16 Q Thank you very much, ma'am, for coming here today.

17 A Happy to be here.

18 Q I want to understand what are these sources. As I
19 understand them, there are three: Nevada Energy, the DMV of
20 the voting rolls. We're working towards what? Let's say the
21 unemployment list.

22 A Uh-huh.

23 Q You are not preventing that. Unfortunately, at this
24 point you haven't been given the information to work with?

25 A Correct. Yeah. We're relying on getting that source

1 from that outside agency.

2 Q Right.

3 A They haven't provided it.

4 Q It's not your entity that's blocking that?

5 A No.

6 Q It's the State of Nevada, whatever --

7 A Correct.

8 Q -- responsibility has to get it to you hasn't done
9 that yet?

10 A Correct.

11 Q And you've described it as some sort of problem with
12 IT and maybe transfers, and this is a statewide problem?

13 A Correct.

14 Q So it's not here in Clark County. We're not doing
15 this and everybody else is?

16 A Right. Exactly.

17 Q Now, when we go to the Nevada Energy, as far as
18 whether it's a landlord or a tenant, whoever registers the
19 power bill in their name is the person who makes it to the
20 list; correct?

21 A Yes.

22 Q All right. So you could be a renter, or you could be
23 the person who owns a home. It doesn't matter. It's just
24 whoever's got the power in their name?

25 A Correct.

1 Q Okay. Which would differentiate from the voter roll;
2 correct?

3 A Correct.

4 Q Now, let's go to the DMV. When the DMV -- I mean, I
5 have a driver's license, but if I don't have a driver's
6 license, but I have an ID, isn't that list just an ID also
7 coming to you?

8 A My understanding is that it's a list of all of their
9 people that have identification.

10 Q Right.

11 A Yeah.

12 Q So if for some reason you don't have a license,
13 you're not excluded from the potential of serving because that
14 name would go under an ID, not a driver's license, just an ID.
15 That name is given to you as well?

16 A Correct.

17 Q So it's even more expansive as to the people that
18 you're pulling in to potentially serve?

19 A Correct.

20 Q And it's not discriminating based on race, religion,
21 sexual orientation or anything of that nature?

22 A Correct.

23 Q And when we talk about this list, as I understood it,
24 you said there is a demographic question. There's a
25 qualification and a demographic. Is that all a part of what I

1 would deem your original questionnaire?

2 A It's actually considered within our system two
3 questionnaires, but the juror doesn't know any different.

4 Q Okay.

5 A It gets -- goes through the qualification questions,
6 and that biographical information is included as part of it.

7 The system is designed to force the juror to complete
8 that. So when they call, they have to go through lots of steps
9 if they wanted to go directly to -- they can't go directly to
10 an operator. It's going to ask for their ID number, and then
11 it's going to ask them to answer those questions.

12 Q Okay.

13 A Before they ask for any kind of a change. The same
14 is true for online. It takes them through those questions
15 first, which includes the biographical information.

16 Q Okay. But within the questionnaire that we received
17 from you, there is a category for race; correct?

18 A Correct.

19 Q Now, if somebody doesn't put down a race, are they
20 prevented from serving?

21 A No.

22 Q So if they put down other race, they're allowed to
23 serve?

24 A Correct.

25 Q So, in essence, if we were to force somebody, and

1 they didn't choose, we would be excluding them from service as
2 a juror?

3 A I would assume so. I --

4 Q So your policy is saying in allowing other is more
5 inclusive, meaning more people can come in and serve?

6 A Correct.

7 MR. AFSHAR: Objection. Leading.

8 THE COURT: Well, it is cross-examination.

9 MR. AFSHAR: Okay. All right.

10 THE WITNESS: Okay.

11 BY MR. PESCI:

12 Q So you would agree with me by allowing somebody, not
13 forcing somebody to declare what their race is you're allowing
14 even more people to serve?

15 A Yes.

16 Q You are including, not excluding?

17 A Yes.

18 Q We don't want to exclude in this process, do we?

19 A No.

20 Q And then in this process of inclusion and exclusion,
21 you know, most of these arguments are problematic because
22 someone's arguing that there are not enough people seated over
23 here that are members of a cognizable group; right? The
24 thought process -- this is just me. I'm not saying this is
25 you. All right?

1 A No, I understand.

2 Q The thought process is is that too many white people
3 are coming in, and you're really bad people, like me, like a
4 white male. Too many white males are coming. I've been in
5 Clark County for 20 years, and I've only gotten one summons.
6 How is that possible? I'm on a power bill. I'm a voter. I
7 have a driver's license. How is it possible that the bogeyman,
8 the white male cannot get to serve on a jury?

9 A The only thing I can tell you is that it's because it
10 is random. If everybody got it every 18 months, that would be
11 systematic. What we tell the jurors all the time is that if
12 you -- it's like throwing a die. It's oversimplifying it, but
13 if you throw that die six times it's not going to hit every
14 number. Some numbers are going to hit twice. Some aren't
15 going to hit at all.

16 Q So the fact that I got a summons in 2001, I called
17 the night before, I didn't have to even come in. So in 20
18 years, one summons is what you're just saying in a dice. It's
19 not your evidence or the prior juror's evidence of excluding
20 me, the white male?

21 A That's correct.

22 Q It's just random?

23 A Correct.

24 Q It just so happens --

25 A Yes.

1 Q -- that I haven't been able to serve yet as a juror.
2 Maybe because I'm a prosecutor.

3 THE COURT: Well, how would they --

4 MR. PESCI: Exactly.

5 BY MR. PESCI:

6 Q How would they know? They don't know --

7 THE COURT: Sorry.

8 THE WITNESS: No.

9 BY MR. PESCI:

10 Q -- because you're not excluding people because you're
11 not making them say what race they are. You're not making them
12 say what ethnicity they are or their sexual orientation.
13 You're letting everybody come in the door who chooses to?

14 A Correct.

15 Q And, in fact, when you send that information out, it
16 doesn't ask questions about sexual orientation?

17 A No.

18 Q Right. It just -- there's what about race?

19 A Race and ethnicity.

20 Q And ethnicity. And they're not prevented, no matter
21 what answer they're given, from coming in and serving?

22 A No.

23 Q Because some people could identify as other, whatever
24 that is?

25 A We have some that are unknown too. They may not

1 answer. They may answer one question, then not another. So
2 there are some that are just unknown. We don't know.

3 Q And your policies and procedures don't exclude them?

4 A No. They still were sent to court.

5 MR. PESCI: Thank you so much.

6 THE WITNESS: Yes.

7 THE COURT: Any redirect?

8 MR. AFSHAR: Yes, Your Honor.

9 First of all, I would just like to object to the use
10 of the word white man as a bogeyman. The United States Supreme
11 Court in Powers V Ohio has said white people have the same
12 right to raise these challenges. So I don't know where that's
13 coming from. We're just trying to get a fair cross section. I
14 think that's inappropriate, and I would ask that be stricken
15 from the record.

16 THE COURT: Well, there's not a jury in here.

17 MR. AFSHAR: I understand, but it's --

18 THE COURT: I think it was his attempt at sarcasm.

19 MR. AFSHAR: I understand, but --

20 THE COURT: So --

21 MR. AFSHAR: Okay.

22 REDIRECT EXAMINATION

23 BY MR. AFSHAR:

24 Q So just a question. What Mr. Pesci just laid out for
25 you, is that indicative of anything scientifically, that he

1 just got one, or he hasn't gotten one? Does that mean anything
2 realistically in your years of experience as a jury
3 commissioner?

4 A I'm not even sure I understand what you're asking.

5 Q So he said, Well, I've only gotten one.

6 A Right.

7 Q So that must mean so-and-so. Does that really -- are
8 you qualified to make that determination as to what he was
9 trying to say?

10 A I can only tell you what I know about the reports
11 that I receive and our process --

12 Q Okay. So whether he got one or none, it doesn't
13 really matter; correct? Would that be fair?

14 A All I can say is it's a random process, and that's
15 what I thought he was trying to explain, but --

16 Q Okay. Now, as a jury commissioner, your role is to
17 make sure that through a random process, through a fair process
18 we obtain a fair cross-section?

19 A Correct.

20 Q Okay. Now, one thing I wanted to ask is do you merge
21 the biographical info from the DMV to your records?

22 A No. It's self-reporting.

23 Q And why not?

24 A Because they can change. That information can
25 change, and I don't know that we're -- I think it's one of

1 those things where we don't -- I don't even know that they
2 collect all of that information --

3 Q Wouldn't -- yeah.

4 A -- per se. So I just know that we do the name,
5 address, that type of thing, and self-reporting because
6 sometimes people report something differently. Maybe
7 originally they might think one thing, and they might think
8 something different, but it does happen. So --

9 Q And again, if you don't know, that's fine, but
10 wouldn't the DMV potentially have more information on someone's
11 ethnicity, background?

12 A I couldn't tell you that, sir. I think the intention
13 is to get the most recent information. So we're assuming if we
14 summon somebody and they confirm their service before they come
15 in that that would be the most up-to-date information.

16 Q Okay. And one last thing I wanted to ask you is do
17 you know -- and, remember, we had discussed this last time.
18 What was the -- if you could clarify it again, what is the
19 percentage of people who actually return the summons? The
20 initial --

21 THE COURT: And do you mean the ones that call up --

22 THE WITNESS: Again, we don't return a summons.

23 THE COURT: -- and confirm?

24 MR. AFSHAR: That respond, yeah.

25 THE COURT: Okay.

1 THE WITNESS: From an entire pool?

2 BY MR. AFSHAR:

3 Q Like one that you send out, yeah, for each case.

4 A If you're talking about the pool, it's only about
5 50 percent.

6 Q It's only 50. And then are there any efforts that
7 you're aware of that, legislatively or anything else to try to,
8 like, improve that or any kind of enforcement to follow up on
9 people who don't?

10 A I can tell you that I am part of a jury services
11 improvement committee.

12 Q Okay.

13 A We have a committee that part of what they're trying
14 to do is to encourage participation, and so part of what we are
15 looking at or working on is community outreach. There has been
16 a public service announcement that's been put out before, but
17 it plays at odd hours. It's not like we have a huge time slot,
18 but there is an effort being undertaken to try and encourage
19 participation through community outreach, through various
20 groups and different people on the committee; it's their
21 intention to go to some of these groups.

22 We talked to some of the larger employers too to try
23 to find out, you know, what their policies are on whether they
24 do pay or don't pay their employees and to encourage. And, in
25 fact, we were successful very recently. We were told the MGM

1 resorts is going to strongly encourage all of their employees
2 to make sure they participate and that type of thing.

3 Q Okay.

4 A So there is an effort being made. It's more of a
5 community outreach thing.

6 Q Okay. And is there a way to, like, track that, I
7 guess, or --

8 A We don't have specific results at this time, but it
9 is something that we are in the process of working on. Yes.

10 MR. AFSHAR: Okay. Again, thank you so much.

11 THE WITNESS: Sure.

12 MR. AFSHAR: For my part. Thank you again.

13 THE WITNESS: Sure.

14 MR. AFSHAR: I really appreciate it.

15 THE WITNESS: Sure.

16 MR. AFSHAR: Pass the witness, Your Honor.

17 THE COURT: Thank you.

18 Any recross?

19 MR. PESCI: No. Thank you, Your Honor.

20 THE WITNESS: Okay.

21 THE COURT: Thank you very much for your testimony
22 here today. You may step down.

23 THE WITNESS: Okay.

24 THE COURT: And you are excused. Thank you for
25 always coming up so quickly.

QuickFacts

Clark County, Nevada; Las Vegas city, Nevada; Nevada

	Clark County, Nevada	Las Vegas city, Nevada	Nevada
Population estimates, July 1, 2018, (V2018)	NA	NA	3,034,392
PEOPLE			
Population			
Population estimates, July 1, 2018, (V2018)	NA	NA	3,034,392
Population estimates, July 1, 2017, (V2017)	2,204,079	641,676	2,998,039
Population estimates base, April 1, 2010, (V2018)	NA	NA	2,700,679
Population estimates base, April 1, 2010, (V2017)	1,951,269	584,575	2,700,691
Population, percent change - April 1, 2010 (estimates base) to July 1, 2018, (V2018)	NA	NA	12.4%
Population, percent change - April 1, 2010 (estimates base) to July 1, 2017, (V2017)	13.0%	9.8%	11.0%
Population, Census, April 1, 2010	1,951,269	583,756	2,700,551
Age and Sex			
Persons under 5 years, percent	6.3%	6.4%	6.2%
Persons under 18 years, percent	23.3%	24.1%	22.9%
Persons 65 years and over, percent	14.4%	14.1%	15.3%
Female persons, percent	50.1%	50.0%	49.8%
Race and Hispanic Origin			
White alone, percent	70.3%	62.7%	74.6%
Black or African American alone, percent(a)	12.5%	12.2%	9.8%
American Indian and Alaska Native alone, percent(a)	1.2%	0.7%	1.7%
Asian alone, percent (a)	10.5%	6.7%	8.8%
Native Hawaiian and Other Pacific Islander alone, percent(a)	0.9%	0.7%	0.8%
Two or More Races, percent	4.7%	4.8%	4.3%
Hispanic or Latino, percent(b)	31.3%	32.7%	28.8%
White alone, not Hispanic or Latino, percent	42.7%	44.4%	49.1%

