

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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3 GUSTAVO GUNERA-PASTRANA,) No. 79861

4 Appellant,)

5 v.)

6 THE STATE OF NEVADA,)

7 Respondent.)

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9 **APPELLANT'S APPENDIX VOLUME IV PAGES 730-972**

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INDEX
GUSTAVO GUNERA-PASTRANA
Case No. 79861

	<u>PAGE NO.</u>
Amended Certificate of Mailing filed 01/17/19	342-346
Amended Information filed 06/12/19	387-388
Amended Jury List filed 06/14/19	396
Amended Motion to Quash Subpoena-Criminal Duces Tecum filed 01/17/19 Date of Hrg: 01/23/19	332-341
Audiovisual Transmission Equipment Appearance Request filed 06/04/19	381-383
Certificate of Mailing filed 01/03/19	306-307
Certificate of Mailing filed 03/15/19	349-350
Court's Exhibit 16 dated 06/12/19	2296
Court's Exhibit 32 dated 06/17/19	2297
Criminal Complaint filed 07/14/16	1-2
Defendant's Notice of Witnesses filed 05/24/19	362-364
Defendant's Proposed Jury Instructions & Verdict Form Not Used At Trial filed 06/13/19	389-395
Defendant's Opposition to the Immigrant Home Foundation's Procedurally and Substantively Infirm Motion to Quash Subpoena-Criminal Duces Tecum filed 01/11/19 Date of Hrg: 01/23/19	308-331
District Court Minutes from 10/04/16 through 09/25/19	468-514
Ex Parte Motion and Order for Release of CPS/DFS Records filed 05/31/17	269-270
Ex Parte Request for Hearing on an Order Shortening Time and Order filed 12/20/16	49-50
Findings of Fact, Conclusions of Law and Order filed 08/16/19 Date of Hrg: 08/07/19	454-460
Information filed 09/30/16	9-11
Instruction to the Jury filed 06/17/19	399-426
Judgment of Conviction (Jury Trial) filed 09/26/19	461-463
Jury List filed 06/10/19	386
Justice Court Minutes from 07/14/16 through 09/30/16	3-8

1	Motion for Discovery filed 12/16/16	
2	Date of Hrg: 01/18/17	39-47
3	Motion for Judgment of Acquittal After a Verdict of Guilty or in the Alternative,	
4	Motion for New Trial Based Upon Per Se Jury Misconduct filed 07/08/19	
5	Date of Hrg: 08/07/19	429-439
6	Motion in Limine filed 12/20/17	
7	Date of Hrg: 01/08/18	271-277
8	Motion in Limine to Exclude Impermissible Evidence of Prior Incidents	
9	Where the Defendant Pleaded Nolo Contendere filed 05/22/19	
10	Date of Hrg: 05/29/19	354-361
11	Motion to Continue Trial Date filed 12/20/16	51-53
12	Motion to Quash Subpoena-Criminal Duces Tecum filed 12/26/18	
13	Date of Hrg: 01/23/19	304-305
14	Motion to Suppress All Oral and Written Statements Made by the	
15	Defendant to Detectives D. Huth and L. Samples filed 01/12/17	
16	Date of Hrg: 01/23/17	71-251
17	Notice of Appeal filed 10/16/19	464-467
18	Notice of Hearing filed 07/08/19	440
19	Notice of Witnesses and/or Expert Witnesses filed 11/23/16	30-38
20	Order filed 12/20/16	48
21	Order filed 03/10/17	266-268
22	Order for Release of Confidential Records to the	
23	Eighth Judicial District Court-Clark County filed 03/10/17	264-265
24	Order Granting the Immigrant Home Foundation's Motion to	
25	Quash Subpoena-Criminal Duces Tecum filed 02/20/19	347-348
26	Order Scheduling Status Hearing: At Request of Court filed 06/18/19	
27	Date of Hrg: 06/18/19	427-428
28	Receipt of Copy for Discovery Provided filed 05/28/19	365-367
	Receipt of Copy for Discovery Provided filed 05/29/19	380
	Receipt of Copy for Discovery Provided filed 06/04/19	384-385
	State's Fourth Supplemental Notice of Witnesses and/or	
	Expert Witnesses filed 05/28/19	376-379
	State's Opposition in Part to Defendant's Motion for Discovery filed 12/21/16	
	Date of Hrg: 01/18/17	54-70

1	State's Opposition to Defendant's Motion for Judgment of Acquittal After a	
2	Verdict of Guilty, or in the Alternative, Motion for New Trial Based	
3	Upon Per Se Jury Misconduct filed 07/22/19	
	Date of Hrg: 08/07/19.....	441-453
4	State's Opposition to Defendant's Motion in Limine to Exclude Impermissible	
5	Evidence of Prior Incidents Where the Defendant Pleaded Nolo Contendere filed 05/28/19	
	Date of Hrg: 05/29/19.....	368-375
6	State's Opposition to Defendant's Motion to Suppress All Oral and Written Statements	
7	Made by the Defendant to Detectives D. Huth and L. Samples filed 01/19/17	
	Date of Hrg: 01/23/17.....	252-263
8	State's Second Supplemental Notice of Witnesses and/or	
	Expert Witnesses filed 12/18/18.....	301-303
9	State's Supplemental Notice of Witnesses and/or	
10	Expert Witnesses filed 12/14/18.....	278-300
11	State's Third Supplemental Notice of Witnesses and/or	
	Expert Witnesses filed 05/20/19.....	351-353
12	Verdict filed 06/17/19.....	397-398

TRANSCRIPTS

13		
14	Recorder's Transcript	
15	JURY TRIAL DAY 1	
16	Date of Hrg: 06/04/19.....	688-842
17	Recorder's Transcript	
18	JURY TRIAL DAY 2	
	Date of Hrg: 06/05/19.....	843-972
19	Recorder's Transcript	
20	JURY TRIAL DAY 3	
	Date of Hrg: 06/06/19.....	973-1243
21	Recorder's Transcript	
22	JURY TRIAL DAY 4	
	Date of Hrg: 06/07/19.....	1244-1454
23	Recorder's Transcript	
24	Addendum Jury Trial Day 4	
	Date of Hrg: 06/07/19.....	1454A-1454PP
25	Recorder's Transcript	
26	JURY TRIAL DAY 5	
	Date of Hrg: 06/10/19.....	1455-1632
27	Recorder's Transcript	
28	JURY TRIAL DAY 6	
	Date of Hrg: 06/11/19.....	1633-1776

1	Recorder's Transcript JURY TRIAL DAY 7	
2	Date of Hrg: 06/12/19.....	1777-1983
3	Recorder's Transcript JURY TRIAL DAY 8	
4	Date of Hrg: 06/13/19.....	1984-2129
5	Recorder's Transcript JURY TRIAL DAY 9	
6	Date of Hrg: 06/14/19.....	2130-2224
7	Recorder's Transcript JURY TRIAL DAY 10	
8	Date of Hrg: 06/17/19.....	2225-2238
9	Recorder's Transcript Argument: Defense Motion for New Trial; Defendant's Motion for Judgment of	
10	Acquittal After a Verdict of Guilty, or in the Alternative, Motion for New Trial	
11	Based Upon Per Se Jury Misconduct; Status Check: Reset Sentencing Date	
11	Date of Hrg: 08/07/19.....	2279-2286
12	Recorder's Transcript Arraignment	
13	Date of Hrg: 10/12/16.....	515-519
14	Recorder's Transcript At Request of the Court	
15	Date of Hrg: 06/18/19.....	2239-2251
16	Recorder's Transcript At Request of the Court: Evidentiary Hearing	
17	Date of Hrg: 06/21/19.....	2252-2278
18	Recorder's Transcript Calendar Call	
19	Date of Hrg: 03/01/17.....	622-627
20	Recorder's Transcript Calendar Call	
21	Date of Hrg: 05/31/17.....	628-632
22	Recorder's Transcript Calendar Call	
23	Date of Hrg: 01/02/19.....	656-667
24	Recorder's Transcript Calendar Call	
25	Date of Hrg: 03/11/19.....	668-671
26	Recorder's Transcript Defendant's Motion for Discovery	
27	Date of Hrg: 01/18/17.....	527-548
28		

1	Recorder's Transcript	
2	Defendant's Motion in Limine for an Order Excluding Impermissible Evidence	
	Date of Hrg: 01/08/19.....	633-641
3	Recorder's Transcript	
4	Defendant's Motion in Limine to Exclude Impermissible Evidence of	
	Prior Incidents Where the Defendant Pleaded Nolo Contendere; Calendar Call	
5	Date of Hrg: 05/29/19.....	672-687
6	Recorder's Transcript	
	Defendant's Motion to Suppress All Oral and Written Statements Made by the	
	Defendant to Detective D. Huth and L. Samples	
7	Date of Hrg: 01/23/17.....	549-554
8	Recorder's Transcript	
	Hearing on Defendant's Motion to Continue Trial	
9	Date of Hrg: 12/21/16.....	523-526
10	Recorder's Transcript	
	Jackson v. Denno Hearing	
11	Date of Hrg: 02/23/17.....	558-621
12	Recorder's Transcript	
	Motion to Quash Subpoena Criminal Duces Tecum	
13	Date of Hrg: 01/23/19.....	667A-667T
14	Recorder's Transcript	
	Sentencing	
15	Date of Hrg: 09/25/19.....	2287-2295
16	Recorder's Transcript	
	Status Check	
17	Date of Hrg: 11/30/16.....	520-522
18	Recorder's Transcript	
	Status Check: Records	
19	Date of Hrg: 01/22/18.....	651-655
20	Recorder's Transcript	
	Status Check: Reset Trial Date	
21	Date of Hrg: 01/17/18.....	642-650
22	Recorder's Transcript	
	Status Check: Trial Readiness	
23	Date of Hrg: 02/08/17.....	555-557
24	Reporter's Transcript	
	Preliminary Hearing	
25	Date of Hrg: 09/30/16.....	12-29

1 concentrating on how you can get out of here. I was downstairs -- well,
2 now it's been six months, but, you know, and everybody is talking about
3 the excuses they can come up with; they didn't know who I was of
4 course. It's, believe me, we've heard it all.

5 So I want to welcome you to District Court, Department
6 XXVII, my name is Ron Israel, and I kind of have a hard time with my
7 voice these last few days, so I'll move this. This is District Court,
8 Department XXVIII of the 8th Judicial District, and we're in Courtroom
9 15C. I want you to memorize all those numbers; I'm just kidding.

10 You'll, if you're chosen, you'll remember where we are and
11 for now all you have to do is remember what seat you are, and because
12 we will take a break. We will take breaks, and that way if you remember
13 what seat you're in it's easy to come back.

14 You all got to see the video, so hopefully you were watching
15 it and you know how juries are selected. Ultimately 15 of you will be
16 selected for jurors, and alternates. That selection process is done under
17 oath.

18 Go ahead and swear them in.

19 THE CLERK: Please rise. Please raise your right hand.

20 [The prospective jury was sworn]

21 THE CLERK: Please be seated.

22 THE COURT: Now the first question is pretty easy, and
23 although it is important, one of the privileges and responsibility of the
24 United States' citizen, is to be a juror. And so I need to know if all of you,
25 is there anyone here who is not a United States citizen, please raise your

1 hand; not a United States citizen? I don't --

2 PROSPECTIVE JUROR 181: I'm green card, here.

3 THE COURT: That's an interesting question. You're not a --
4 name and badge number.

5 THE MARSHAL: Give the last three numbers of your badge
6 number? Look at that. See your last three numbers right here would be
7 118, okay.

8 PROSPECTIVE JUROR 118: Okay.

9 THE COURT: I need your name and your badge number.

10 PROSPECTIVE JUROR 118: I name is Dudu Azran, and badge
11 number 0118.

12 THE COURT: All right. Is there anyone else?

13 Okay. I want to thank you, and I'm going to excuse you. As I
14 said, it's both a right and privilege, and you'll have that in what, a year or
15 two, but at this point you're not a citizen so you can't serve on a jury.
16 But I look forward to seeing you in the future.

17 PROSPECTIVE JUROR 118: Hopefully.

18 THE COURT: And I'm sure you look forward to being here.
19 Thank you. You can do down --

20 THE MARSHAL: Oh, so you're excused. You take that paper
21 out and give me that plastic thing back. I'm sorry, Judge.

22 THE COURT: And you can go down to the third floor and
23 report to them, or you can do it online, and that'll go for everybody who
24 is excused. So everyone else is a United States citizen.

25 As far as serving on a jury, as I said, I'm well aware that

1 everybody wants to come up with a reason why they shouldn't serve or
2 can't serve. I'm going to go ahead and explain to you why you should
3 want to serve, and that is because as a United States citizen there's very
4 few things you have to do. You don't have to serve in the military, that's
5 voluntary. You don't even have to vote, again, that's voluntary.

6 Serving on a jury it is an imposition, we understand that you
7 have to take time out of your daily activities, and nobody likes to go out
8 of their comfort zone, meaning you're nervous about being here, it's out
9 of the ordinary, it's not something you're familiar with; I understand that.
10 But it's important, without juries our system of government couldn't run.
11 We are -- you are being asked to serve in the third branch of
12 government.

13 And I don't know if you remember back to whatever,
14 elementary school, or junior high, or whatever, three branches; this is
15 the judicial branch. We can't do trials of any kind, civil or criminal,
16 unless we have jurors. So I know it's an imposition, I certainly
17 understand that, but we need people to make that sacrifice.

18 This case is expected to last up to two weeks, we hope to
19 be done sooner. It's very likely we will, be done a little bit sooner, but I
20 want to over-estimate, I don't want to have to say, oh, well, we need you
21 another day that you haven't planned on. So that's basically where we
22 are on that. I'm going to go through and ask all of you, by row, if there's
23 any reason you cannot serve for these two weeks.

24 And so we'll start in the back, and you're in seat number 1,
25 but we will ask for your name and badge number, and anybody just, if

1 you don't have, just keep going. Is there any reason, anybody in the
2 back row raise your hand if you cannot serve for two weeks. Go ahead,
3 start.

4 PROSPECTIVE JUROR 003: My name is Ashley Allgood,
5 badge number 03. I cannot serve. I'm a psychiatric case manager at a
6 mental health clinic. I serve people with severe mental illness, and I'm
7 also their payee. Without me there they're not going to have access to
8 their SSI money.

9 THE COURT: Okay. What happens when you're sick?

10 PROSPECTIVE JUROR 003: I have to call ahead and make
11 arrangements. However, some of my clients do come in without
12 appointments. Sometimes they come in with psychosis presenting. A
13 lot of my clients do need help just functioning day-to-day. They're
14 diagnosed with severe mental illness ranging from schizophrenia, bi-
15 polar disorder, PTSD, so on and so forth.

16 THE COURT: Thank you. Next, anybody in that row? Go
17 ahead.

18 PROSPECTIVE JUROR 004: My name is Guillermo Morales,
19 badge number 2. I'm a -- I have 14-year-old son --

20 THE COURT: Well, you're badge 004, you're in seat 2.

21 PROSPECTIVE JUROR 004: Yes, sir. 004, sorry.

22 I have a 14-year-old son, I'm a single parent and honestly,
23 and I kind of need a job too, just so I can, you know, support both of us.
24 And he is also going to go to a summer program, so I have nobody -- no
25 one to take him to the -- which program is after 3:00, or I think after 2:00,

1 something like that, but, yeah, that's the reason.

2 THE COURT: All right. Thank you. Keeping going, pass it
3 down, pass it down.

4 PROSPECTIVE JUROR 015: My name is Jennifer Johnson,
5 badge number 15. The reason is because of work. My company won't
6 pay me more than one day of jury duty, and I can't miss out on missing
7 work, and not getting paid for financial reasons, and I also have a family
8 wedding planned for next weekend.

9 THE COURT: Okay. Go on.

10 PROSPECTIVE JUROR 024: My name is Ariella Figueroa,
11 badge number 024.

12 THE COURT: Go ahead.

13 PROSPECTIVE JUROR 024: I got offered a job in Oregon,
14 both my husband and I, and we might be moving as soon as next week.

15 THE COURT: Okay. Next?

16 PROSPECTIVE JUROR 025: My name is Alex Martinez, badge
17 number 0025. And my reason for not able to come, it's -- I'm going to be
18 a best man at a wedding next weekend, and I'm also going to take care
19 of my mother, out in the California, for the rest of the week, until June
20 23rd.

21 THE COURT: Next?

22 PROSPECTIVE JUROR 028: Mary Cray, 028. I would like too.
23 Just receive a promotion at work and I have to oversee another
24 employee and train him. I don't think I can leave him for two weeks on
25 his own.

1 THE COURT: Go ahead.

2 PROSPECTIVE JUROR 032: Lisa Leonard, badge number
3 0032. I don't know if this qualifies, I'm 27 weeks -- I'm just over 27 weeks
4 pregnant, and have doctor's appointments, and need to go to the
5 bathroom frequently.

6 THE COURT: Next row, thank you.

7 PROSPECTIVE JUROR 035: Good afternoon. Jeremy Abbott,
8 0035. I have a celebration for my wife's birthday, leaving Thursday,
9 through the weekend, Santa Barbara, California. I do have a boarding
10 pass, if you need to see that, as well.

11 THE COURT: Okay. Next?

12 PROSPECTIVE JUROR 037: Kermit Diehl, badge number
13 0037. I am going to Phoenix, Arizona, with my wife on Thursday, we are
14 expecting our first grandchild.

15 THE COURT: Go ahead.

16 PROSPECTIVE JUROR 039: Brian Renfroe, 0039. I'm the sole
17 provider in my family. Missing work would just put us in a really bad
18 spot.

19 THE COURT: Next?

20 PROSPECTIVE JUROR 056: Hi. I'm Jerry Washington, badge
21 number 056. Me and my wife, we just currently bought a house and
22 hopefully we'll be closing on it by the 1st of July. And also I'm basically
23 take medication for my tremors, so it's basically a medical condition,
24 during the time when I served in the air force.

25 THE COURT: Thank you for your service. Would the tremors

1 interfere with you being a juror?

2 PROSPECTIVE JUROR 056: Just as long as I'm not doing
3 anything with the --

4 THE COURT: We're not going to --

5 PROSPECTIVE JUROR 056: -- my right side of my body.

6 THE COURT: -- ask you to do anything but sit there and
7 listen.

8 PROSPECTIVE JUROR 056: I should be able to. I'm taking
9 medication right now, so I should be fine.

10 THE COURT: Okay. Thank you.

11 PROSPECTIVE JUROR 056: You're welcome.

12 PROSPECTIVE JUROR 131: Vincent Hernandez -- Vincente
13 Hernandez, 0131. I start at summer school next Monday. I don't know
14 how that will work at UNLV, condensed. So I'm missing about around
15 two weeks out of five. It seems that I might be missing the whole class,
16 overall. So, yeah, that's -- I don't know the process with that. Thank
17 you.

18 PROSPECTIVE JUROR 062: Arno Vargas, badge number
19 0062. Well, my reason is because I just -- like the same reason as this
20 guy next to me. I started summer school at CSN, and I just recently
21 started a new job. So I wouldn't feel right if I would just miss like the
22 first few weeks, that's all. I really want to put my education first, and my
23 job ahead of me, first. Thank you.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 063: Frank Costentine, 0063. I work

1 for ESP out of California, we travel every week. Just not able to make it
2 due to the fact that I'm in California next week, and the following week
3 I'll be in Utah.

4 PROSPECTIVE JUROR 072: Royce Woodward, 0072. My
5 four-year-old daughter is just recently in remission from neuroblastoma
6 cancer, and now we're dealing with kidney failure. So we have clinic
7 visits twice a week, and then if she --

8 THE COURT: I'm sorry to hear that.

9 PROSPECTIVE JUROR 072: -- comes down with a fever, we
10 have to take her down to the emergency room, ASAP. Thank you.

11 THE COURT: Okay. First row.

12 PROSPECTIVE JUROR 081: Robert Simmons, badge number
13 0081. I'm an independent contractor that's booked out for several
14 months with a lot of out-of-town clientele, that's already made deposits
15 on making their appointments.

16 THE COURT: Who else?

17 PROSPECTIVE JUROR 084: My name is Hunter Cain, badge
18 number 0084. I'm a single foster parent of a high level of care youth who
19 I'm picking up this Thursday from California. I can do this on Tuesday.
20 Thanks.

21 PROSPECTIVE JUROR 098: I'm Eva Flores, badge number
22 098. My company only pays me for today, but if it's going to run two
23 weeks I'd have a financial problem, because they won't pay me for the
24 rest of the -- the rest of the time.

25 PROSPECTIVE JUROR 107: Cristal Randolph, badge number

1 0107. I have a job in Oregon next week, and I'm taking care of my mom,
2 back in Oregon as well.

3 PROSPECTIVE JUROR 120: My name is Kenneth Nesbitt,
4 badge number 0120. I'm the caregiver for my fiancée, she has
5 narcolepsy and some of those other neurological problems. I just got
6 her out of the hospital last weekend. I'm going to follow-up on
7 Wednesday, they -- I'm also her caregiver, and it has made me an
8 executor over -- I mean, what do you call it, power of attorney over --

9 PROSPECTIVE JUROR 121: My name is Gerard Sixta, badge
10 number 0121. I travel for work for a living and I have trip coming up next
11 week, so I'll be gone for three days.

12 THE MARSHAL: Nobody in this row? And you'll pass it
13 down there.

14 PROSPECTIVE JUROR 150: My name is Kaylie King. My
15 number is 0150. I'm a teacher at summer break, I am a music director
16 for a camp that we're putting on next week for kids, that's just next week.

17 PROSPECTIVE JUROR 154: Hi. My name is Abraham Reyes,
18 my badge number is 02-0154. And the reason is I'm kind of behind on
19 my bills, and I don't have the time to take off.

20 THE COURT: Anybody else?

21 PROSPECTIVE JUROR 177: My name is Jason Crozier, badge
22 number 0177. I work the graveyard shift, so I work from 11:30 to 8:30.
23 I've been here for -- I don't know how long it's been here, but I get no
24 sleep, and I don't get paid if I don't work. My wife just got laid off from
25 MGM, and I'm literally running on fumes, so that's that.

1 PROSPECTIVE JUROR 181: My name is Dave Blankenburg,
2 badge number 0181. I have medical appointments for myself and my
3 wife scheduled for the next two Tuesdays, and I'm her transportation to
4 one of those also.

5 PROSPECTIVE JUROR 187: Stein Johnsen, badge number
6 0187. I'm the sole provider for my family, and my company does not pay
7 jury duty benefits.

8 PROSPECTIVE JUROR 199: My name is Jane Foote. My
9 badge is 0199. I'm waiting for biopsy results for my father's bladder
10 cancer. And if he has to go back to the hospital it's at USC Medical
11 Center in Los Angeles. And I also take a medication that sometimes
12 requires me to dash to the bathroom, with very short notice, which may
13 be a bit inconvenient.

14 PROSPECTIVE JUROR 221: My name is Shu Chen, and my
15 badge number is 0221. And the main reason for me, it's I original come
16 from Taiwan, and I don't think my English is good enough ability to
17 judge any case. And also I have a couple of appointment, next couple of
18 weeks.

19 PROSPECTIVE JUROR 240: My name is Amanda Guerrero,
20 my badge number is 240, and I have some varying anxiety, and
21 situations like this just make it very difficult to think, and I don't believe
22 I'd be able to serve on a jury, to the best of my ability.

23 PROSPECTIVE JUROR 253: Katy Cahill, badge number 0253.
24 I just got a promotion at work and I'm in training this week until the end
25 of next week.

1 PROSPECTIVE JUROR 258: Jameson Reyes, badge number
2 0258. Honestly, I just can't afford to be out of work for two weeks.

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

4 PROSPECTIVE JUROR 258: I'm a nurse, Your Honor.

5 THE COURT: Where?

6 PROSPECTIVE JUROR 258: At Summerlin Hospital.

7 THE COURT: Okay, next?

8 THE MARSHAL: Anybody in this row?

9 PROSPECTIVE JUROR 0271: Hi. My name is Debra Earl,
10 badge number 0271. I just can't afford to lose pay. I'm the only one in
11 my household.

12 THE COURT: Where do you work?

13 PROSPECTIVE JUROR 0271: Palace Station, 29 years. I lost -
14 -

15 THE COURT: What do you do there?

16 PROSPECTIVE JUROR 0271: -- my husband two years.

17 THE COURT: I'm sorry. What do you do there?

18 PROSPECTIVE JUROR 0271: I fill the ATM and the kiosk
19 machines up.

20 THE COURT: Okay. Anybody else in that row?

21 PROSPECTIVE JUROR 274: Kathy Vanderlinden, 0274, I'm
22 self-employed, so if I don't work I don't get paid. Two weeks is a little
23 too long. I could do two days.

24 THE COURT: Anybody else?

25 PROSPECTIVE JUROR 278: Chitsagee Mooanprang, badge

1 number 02-0278, and I'm the only one that working in my family, so I
2 cannot afford to take -- to miss work.

3 THE COURT: It says you work at the Wynn?

4 PROSPECTIVE JUROR 278: Yes, sir.

5 THE COURT: What do you do there?

6 PROSPECTIVE JUROR 278: Slot floor person.

7 THE COURT: Okay, thanks. Anybody else in that row?

8 PROSPECTIVE JUROR 294: Lawrence Howell, badge number
9 0294. If the trial is in the next two weeks I've got six plane tickets in the
10 next ten days. If it's some other time I can certainly take a look at it. And
11 I also work in the correction's industry, so it depends on what this case is
12 about, whether I have a conflict or not.

13 THE MARSHAL: Anybody in this row?

14 PROSPECTIVE JUROR 297: My name is Sydney Hunt. My
15 badge number is 0297. I'm taking my daughter to Disneyland next
16 Friday.

17 PROSPECTIVE JUROR 303: Hello. I'm Mario Cabrera, my
18 number is 0303. I can't, I'm the sole provider for my family right now.
19 My wife is [indiscernible], I can't afford to lose two weeks' pay.

20 PROSPECTIVE JUROR 310: Good afternoon. My name is
21 Rob Rice, badge number 0310. And I just recently -- I receive the results
22 of a CT scan, and I have an aneurysm that the doctor is going to take a
23 look at and see if I need surgery. I brought the information written right
24 here, if you need to see it.

25 THE COURT: I don't want --

1 PROSPECTIVE JUROR 310: Thank you.

2 THE COURT: -- your medical information, that's private.

3 Go on.

4 PROSPECTIVE JUROR 325: Helen Shreve, badge number

5 0325. My husband has a surgical procedure scheduled for Friday that

6 requires post-op care and supervision, so he can't go Uber it there and

7 back.

8 PROSPECTIVE JUROR 334: My name is Caiden Jacob, badge

9 number 0334. I have a start date for a new job that I really need, in

10 under a week, and also I really want to see my girlfriend graduate, and I

11 have a doctor appointment this week as well.

12 PROSPECTIVE JUROR 338: Francisco Gomez, badge 0038

13 (sic). I'm one of the two crew leads for a construction crew that we have,

14 and our pipeline is full up until this month. So it would just take a lot of

15 work and a lot of havoc with the scheduling that we have already

16 created.

17 PROSPECTIVE JUROR 340: Dylan Jarrell, badge number

18 0340. I have a new career lined up, probably starting in the next few

19 days, and they sent me to go to start training, so -- and I have payments

20 coming up.

21 THE COURT: Where are you going to be working?

22 PROSPECTIVE JUROR 340: As a court reporter, hopefully.

23 THE COURT: Next row.

24 PROSPECTIVE JUROR 348: Hi. My name is Tommy Li,

25 badge number is 0348. And my boy -- my boy need surgery, the back

1 surgery.

2 THE COURT: I'm sorry? You need to hold it straight, it's --

3 PROSPECTIVE JUROR 348: My boy's back, he need a back
4 surgery in this week, yeah.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR 348: I have to take care.

7 THE COURT: Okay.

8 MR. SPEED: I'm sorry, Your Honor. Did Mr. Li say "my boy"
9 needs back surgery?

10 THE COURT: I believe that's what he said.

11 MR. SPEED: Okay.

12 THE COURT: That's what he said.

13 THE MARSHAL: Anybody back here?

14 PROSPECTIVE JUROR 0376: My name is Jasleen Gonzalez,
15 badge number 0376. I'm a service coordinator at a homecare agency.
16 Currently I'm processing payroll for all my employees, since my other
17 coordinator is on maternity leave until the end of July.

18 THE COURT: Is that it? Counsel, approach.

19 [Sidebar begins at 2:33 p.m.]

20 THE COURT: All right. So let's start at the beginning.

21 Ashley Allgood, psychiatric caseworker, "my employees,"
22 what do you want to do? If you just want to let them off just say so, and
23 you agree, then that's what we'll do.

24 MR. SPEED: Some have better reasons than others --

25 THE COURT: Yeah, I know.

1 MS. DIGIACOMO: Uh-huh.

2 MR. SPEED: -- so I mean, so --

3 THE COURT: That's why we're going to go through one at a
4 time.

5 MR. SPEED: That's fine.

6 THE COURT: So Ashley Allgood? Do you want to keep her
7 on? Okay. She's probably not going to show up; you don't care?

8 MS. DIGIACOMO: Well, I would say kick her, but he wants to
9 keep her, so --

10 THE COURT: Okay. Yeah. You know, she's -- all right, she's
11 not going to stay, but I won't kick her off at this point, you can question
12 her.

13 Guillermo Morales, 14-year-old son, and job? He's the only
14 caregiver --

15 MS. DIGIACOMO: And no one to take him to --

16 THE COURT: No one to take him --

17 MS. DIGIACOMO: -- a summer program.

18 THE COURT: I understand --

19 MR. SPEED: And his summer --

20 THE COURT: -- that he's probably, again guessing Hispanic,
21 but he doesn't want to be on any -- I'm going to excuse him.

22 So the next one I have, Jennifer Johnson.

23 MR. SPEED: Yeah.

24 THE COURT: Work.

25 MR. SPEED: Wedding next week.

1 MS. MACHNICH: It's next weekend. I'd be interested to find
2 out if she has a flight out, or, I mean --

3 MS. DIGIACOMO: No. She didn't say she was leaving.

4 MS. MACHNICH: Leaving.

5 MR. SPEED: Right.

6 MS. DIGIACOMO: She just -- or if she was going anywhere,
7 just said a family wedding.

8 MS. MACHNICH: I don't think there's enough to kick her at
9 this point.

10 THE COURT: All right. You want to keep her, okay.
11 Ariella Figueroa, offered a job in Oregon.

12 MS. MACHNICH: And may be moving.

13 MS. SUDANO: She said moving --

14 MS. MACHNICH: Next week.

15 MS. SUDANO: -- next week.

16 THE COURT: Yeah.

17 MS. DIGIACOMO: She might end up leaving in the middle of
18 trial, if we do keep her, it's a tough one, but --

19 MS. MACHNICH: I mean, what is -- I think she said "may be
20 moving next week" --

21 MR. SPEED: Yeah.

22 MS. DIGIACOMO: No. She said maybe as early. They
23 both --

24 MS. MACHNICH: Oh, okay.

25 THE COURT: Yeah.

1 MS. DIGIACOMO: Her and her husband both have a new job,
2 they're just waiting to hear when they go.

3 MR. SPEED: Right.

4 MS. MACHNICH: Okay.

5 MR. SPEED: I don't know. I heard job offer. I don't know
6 if --

7 MS. DIGIACOMO: No. She said they have a job, they just
8 don't know --

9 THE COURT: They just don't know when.

10 MS. DIGIACOMO: -- when they're starting.

11 THE COURT: So --

12 MS. DIGIACOMO: So she could be leaving in the middle of
13 trial.

14 THE COURT: Do you want to question her further?

15 MR. SPEED: No.

16 MS. DIGIACOMO: No, that's fine.

17 THE COURT: No? You want her off?

18 MS. DIGIACOMO: Yeah.

19 THE COURT: Okay, off.

20 Alex Martinez, best man, leaving for California. I didn't write
21 down when?

22 MS. SUDANO: Well, he said that he's also supposed to be
23 going to California to take care of his mom until June 23rd. I'm guessing
24 another family member is leaving.

25 MS. MACHNICH: It sounds like he's going out of town.

1 MS. SUDANO: Yeah.

2 THE COURT: Yeah.

3 MS. MACHNICH: So I think he should go.

4 THE COURT: All right. Mary Cray?

5 MS. MACHNICH: She just needs to supervise someone; no,
6 not at this point.

7 THE COURT: What's that?

8 MS. MACHNICH: She just said she couldn't leave her new
9 worker --

10 MR. SPEED: A trainee.

11 MS. MACHNICH: -- that she's training.

12 MS. DIGIACOMO: She's training somebody to replace her.

13 MS. SUDANO: I don't think that's valid.

14 THE COURT: All right. So you don't want to kick her.
15 Lisa Leonard, 27 weeks pregnant --

16 MR. SPEED: I think we can accommodate bathroom breaks.
17 I would keep her right now.

18 MS. MACHNICH: I would just want to know when her
19 doctor's appointments are. Because if she's having weekly
20 appointments, depending on when they are she may be able to stay. But
21 if they're times when we're in Court, then she won't, so we need -- I think
22 we need to question her.

23 THE COURT: All right. Jeremy Abbott, birthday celebration.
24 I didn't catch when?

25 MS. MACHNICH: Thursday.

1 MR. SPEED: He said [indiscernible].
2 MS. SUDANO: He's leaving Thursday.
3 MS. MACHNICH: He said he has a flight.
4 THE COURT: Oh, he has a flight, okay.
5 MS. MACHNICH: We may want to make a little bit of an
6 example, of like, can we see your boarding pass, because I don't --
7 MS. SUDANO: Well, he offered to show it.
8 MS. MACHNICH: Yeah, okay.
9 MR. SPEED: Yeah.
10 THE COURT: Yeah. He's the one that offered --
11 MR. SPEED: [Indiscernible].
12 THE COURT: -- so --
13 MS. MACHNICH: Okay. Yeah.
14 THE COURT: Kermit Diehl, Phoenix on Thursday.
15 MR. SPEED: Birth of his grandchild.
16 THE COURT: I'm sorry.
17 MR. SPEED: Birth of his grandchild.
18 MS. MACHNICH: Yeah. He's leaving.
19 THE COURT: Yeah, okay.
20 MS. DIGIACOMO: It's out of town.
21 MS. MACHNICH: He's not coming back next week, they have
22 it.
23 MS. DIGIACOMO: Yeah.
24 THE COURT: Yeah. He's off.
25 Brian Renfroe, sole provider.

1 MS. SUDANO: It's a money issue. I don't --
2 THE COURT: Generally I don't, but you know, some point
3 two weeks he's --
4 MS. MACHNICH: But it's like everyone.
5 MR. SPEED: Did we keep the first one --
6 THE COURT: You can question him, but --
7 MS. MACHNICH: Yeah.
8 MR. SPEED: With the 14-year-old son.
9 THE COURT: If he's not going to be here, you know, if he
10 says, hey, I can't take two weeks --
11 MR. SPEED: Right.
12 THE COURT: -- he's not going to show up.
13 MR. SPEED: I'd kick number 2.
14 THE COURT: I'll let you question him.
15 MS. MACHNICH: I guess if we kick 2.
16 MR. SPEED: We kick number 2.
17 MS. MACHNICH: But there
18 THE COURT: Do you want to keep him?
19 MS. MACHNICH: -- we have about ten more with that
20 excuse.
21 THE COURT: Well, at least, I know.
22 MR. SPEED: Right.
23 MS. MACHNICH: Yeah.
24 THE COURT: That's what I'm saying.
25 MS. DIGIACOMO: He kicked 2, because of the 14-year-old --

1 MS. SUDANO: The 14-year-old, yeah.
2 MS. DIGIACOMO: -- son and no care for him, like getting
3 him --
4 THE COURT: Do you want --
5 MS. DIGIACOMO: -- to and from school.
6 THE COURT: If you want to kick him? You agreed on it.
7 MR. SPEED: He says he's single, so we'll leave him for now.
8 THE COURT: Okay.
9 MR. SPEED: And he says he's sole provider for his family --
10 THE COURT: You can question him.
11 MR. SPEED: -- but he didn't mention any children and he's
12 listed as single.
13 MS. SUDANO: Okay.
14 THE COURT: All right. We'll question him.
15 So next, Jerry Washington.
16 MS. MACHNICH: He said he was fine --
17 THE COURT: He bought a house --
18 MS. MACHNICH: He's fine.
19 THE COURT: -- but he's okay, yeah.
20 So, oh, okay. So Arno Vargas, he has summer school, and I
21 don't want --
22 MS. DIGIACOMO: Yeah.
23 MS. MACHNICH: Yeah. He she go.
24 MS. DIGIACOMO: -- I say you let him go.
25 THE COURT: -- to keep somebody --

1 MS. MACHNICH: He should go.
2 THE COURT: -- from going to summer school.
3 MS. MACHNICH: And that would be the same for Vincente
4 Hernandez.
5 THE COURT: Yeah. Is he the next one.
6 MS. DIGIACOMO: Number 30.
7 MS. MACHNICH: Hernandez is next.
8 THE COURT: Well, let's go in order.
9 MS. DIGIACOMO: Oh, you want to go on these.
10 THE COURT: I know I included the --
11 MS. SUDANO: Yeah.
12 THE COURT: -- Frank Costentine.
13 MR. SPEED: California and --
14 MS. MACHNICH: He's in California.
15 MS. DIGIACOMO: Yeah.
16 MR. SPEED: -- [indiscernible].
17 MS. MACHNICH: Yeah.
18 MR. SPEED: And he [indiscernible].
19 THE COURT: He travels every week for a job. Okay, yeah.
20 Let him go.
21 Royce Woodward?
22 MS. DIGIACOMO: He can go.
23 MS. MACHNICH: Yeah.
24 MR. SPEED: Yeah.
25 MS. MACHNICH: Four-year-old's --

1 MR. SPEED: He's 100 percent no.

2 MS. MACHNICH: -- medical appointments.

3 THE COURT: Yeah. Robert Simmons. All I wrote is he's an

4 independent contractor --

5 MS. DIGIACOMO: He has clients coming from out-of-state.

6 THE COURT: -- and of course he wants to be off for money.

7 MS. DIGIACOMO: Yeah.

8 THE COURT: What's that?

9 MS. DIGIACOMO: He has clients coming from out-of-state.

10 Meaning, whatever, like tours, or whatever he booked, they're booked.

11 And if he's [indiscernible] doesn't do it.

12 THE COURT: He does --

13 MS. SUDANO: I think we need to find out more.

14 THE COURT: -- design, entertainment.

15 MS. MACHNICH: Yeah. I don't know what he does.

16 THE COURT: All right. I'll let you question him.

17 Hunter Cain, single foster parent. There was something

18 else --

19 MS. SUDANO: He's going to pick one of the kids, on

20 Tuesday, in California.

21 MS. DIGIACOMO: Yeah.

22 THE COURT: Well, all right. So both of you, he's off.

23 Eva Flores. All I wrote was "financial problems."

24 MS. SUDANO: I don't think so --

25 MS. DIGIACOMO: Her company only pays --

1 MS. SUDANO: -- at this point.
2 MS. DIGIACOMO: -- for one day.
3 MR. SPEED: Her company doesn't pay --
4 MS. MACHNICH: I don't think we can --
5 THE COURT: You're okay to let her off.
6 MS. DIGIACOMO: I would say not yet. We haven't been
7 letting people off for money, have we?
8 THE COURT: Not really. So all right, not a question, that's
9 fine.
10 Cristal Randolff. Job in Oregon next week.
11 MR. SPEED: And caring for her mom.
12 MS. DIGIACOMO: Yeah.
13 MS. SUDANO: And she's --
14 MR. SPEED: And caring for her mom.
15 MS. SUDANO: -- caring for her mom.
16 MS. DIGIACOMO: And caring for her mom.
17 THE COURT: Okay.
18 MS. DIGIACOMO: Yeah.
19 THE COURT: She's off.
20 Ken Nesbitt, caregiver. Financee is in, or going to the
21 hospital?
22 MS. SUDANO: Just got out of the hospital.
23 THE COURT: Oh.
24 MS. SUDANO: And he's caring for her and has power of
25 attorney.

1 THE COURT: Yeah, that's right, he said that. All right. I'm
2 inclined to let him off.

3 Gerard Sixta, travel for work, gone next week.

4 MS. SUDANO: Yeah. Three days next week.

5 THE COURT: All right. And I'm letting him go. I could ask
6 for his tickets, but I think that's a waste.

7 MR. SPEED: Here's Mr. Hernandez.

8 MS. SUDANO: Mr. Hernandez.

9 THE COURT: Yes. Mr. Hernandez --

10 MS. DIGIACOMO: Summer school, UNLV.

11 MR. SPEED: The same as the other one.

12 THE COURT: So Mr. Hernandez, another student.

13 MS. DIGIACOMO: Yeah.

14 THE COURT: Another student.

15 Kaylie King, she's a teacher with Clark County. So they get
16 paid -- well, actually she's --

17 MS. SUDANO: But she's only doing a camp for one week.

18 MR. SPEED: A kid's camp --

19 THE COURT: It's summer school.

20 MS. MACHNICH: A camp for one week.

21 MR. SPEED: Yeah.

22 THE COURT: What do you want to do, do you want to let her
23 go?

24 MR. SPEED: Yeah.

25 MS. SUDANO: Let her go.

1 MS. DIGIACOMO: Yeah. She's --
2 THE COURT: She's being generous.
3 MR. SPEED: Yeah. It's a kids' camp.
4 THE COURT: It's a kid's camp. You're sympathetic to -- my
5 daughter's grown up, so I know.
6 Abraham Reyes. All I wrote was financial.
7 MS. DIGIACOMO: Us too.
8 MR. SPEED: He's behind in his bills.
9 MS. MACHNICH: He said he was behind in his bills and it --
10 MR. SPEED: I don't understand that.
11 MS. MACHNICH: -- would be tight to take off.
12 MS. DIGIACOMO: I don't think we let him out at this point.
13 MR. SPEED: Well, I think --
14 THE COURT: Do you want to question him?
15 MS. MACHNICH: Yeah.
16 MR. SPEED: Yeah.
17 MS. MACHNICH: We should question him. Yeah.
18 THE COURT: Okay. Jason Crozier.
19 MS. MACHNICH: So --
20 THE COURT: So this is kind of funny. I wrote he's a
21 graveyard ship.
22 MS. MACHNICH: He's a graveyard ship for sure.
23 THE COURT: And his wife got laid off.
24 MS. MACHNICH: He's going to be a problem, because he
25 wants off. Even if we weren't inclined --

1 MR. SPEED: He'll fall asleep --

2 MS. MACHNICH: -- he's going to fall asleep --

3 THE COURT: I agree.

4 MS. MACHNICH: -- and he's going to come up with

5 something, and it's going to be dirty, and he's going to taint the panel.

6 Because he's ready -- he's ready to say something.

7 THE COURT: Okay. We're letting him off.

8 MS. SUDANO: I mean, we're not -- we're picking him for

9 financial hardship.

10 THE COURT: What?

11 MS. SUDANO: We're not picking people for financial

12 hardships.

13 MS. DIGIACOMO: He should -- yeah, he should have the

14 same.

15 MS. MACHNICH: I just think he's going to --

16 THE COURT: Do you want to --

17 MS. MACHNICH: -- to be a problem.

18 THE COURT: -- question him? You're right. But if you want

19 to question him --

20 MR. SPEED: He's graveyard. He --

21 MS. MACHNICH: His personality is --

22 THE COURT: Oh, wait, this guys --

23 MS. DIGIACOMO: He might not even make it on the panel.

24 THE COURT: Yeah. You said -- all right. I'm letting him off.

25 He sleeps. He's not going to not -- he's going to keep going to his job --

1 MS. MACHNICH: Yeah.

2 THE COURT: -- and come in here to sleep.

3 MR. SPEED: Yeah.

4 THE COURT: David Blankenburg, medical for wife.

5 MR. SPEED: And self.

6 MS. MACHNICH: And self for the next two Tuesdays.

7 MS. DIGIACOMO: If it's in the morning it wouldn't matter,

8 because I think next Tuesday we don't start until --

9 MS. SUDANO: Yeah.

10 MS. DIGIACOMO: I don't remember.

11 MS. SUDANO: It's like a later start, but --

12 THE COURT: Do you want to ask. He is --

13 MS. SUDANO: Yeah. We should question him.

14 MS. DIGIACOMO: Let's ask, yeah.

15 THE COURT: All right. Stein Johnsen, sole provider.

16 MS. SUDANO: Not paid for jury duty.

17 MS. DIGIACOMO: I think our trend right now is to not let him

18 off.

19 THE COURT: I know, but he was like --

20 MS. SUDANO: Unless he's [indiscernible].

21 THE COURT: He was pretty much, I'm not going to show up,

22 it seemed to me. Do you want to question him, that's fine?

23 MS. SUDANO: It's up to you.

24 MS. DIGIACOMO: It doesn't matter to us. We --

25 THE COURT: All right. It's just -- well, that takes time, all

1 these.

2 MS. DIGIACOMO: So we'll leave it up to counsel.

3 MS. MACHNICH: What do you want?

4 MR. SPEED: He can go, right?

5 MS. MACHNICH: Okay.

6 THE COURT: Yeah. Jane Foote, waiting for results, cancer
7 for father and then somebody else.

8 MS. DIGIACOMO: And going to California --

9 MR. SPEED: And frequent bathroom breaks.

10 MS. DIGIACOMO: -- if he has surgery.

11 MS. MACHNICH: Oh, yeah. And the --

12 THE COURT: All right. I'm letting her go.

13 MS. MACHNICH: Yeah. She has the medical issue with the
14 bathroom.

15 THE COURT: There's a Shu Chen --

16 MS. DIGIACOMO: English.

17 THE COURT: -- 221.

18 MR. SPEED: Another interpreter.

19 THE COURT: A language problem.

20 MS. MACHNICH: English issue and doctors' appointments. I
21 think --

22 MR. SPEED: He's got to go.

23 MS. MACHNICH: Yeah. I think he needs to go.

24 MR. SPEED: And he's got one interpreter. They'll both have
25 -- the Taiwanese interpreting, for Spanish, interpreting for English.

1 MS. DIGIACOMO: Yeah. That will be fun.
2 THE COURT: All right.
3 MR. SPEED: I will if you don't.
4 MS. MACHNICH: It'll make it go longer.
5 THE COURT: This one's even -- Amanda Guerrero has
6 anxiety attacks. She's 19. If it's stressing her out, I don't want anybody
7 to freak out.
8 MS. MACHNICH: Submit to you on that, that's --
9 THE COURT: Again, I -- I mean, if you want to question her, it
10 is somebody with a Hispanic name, apparently, but --
11 MS. SUDANO: But white Caucasian is the alias.
12 THE COURT: Which is exactly what I said happens.
13 MS. SUDANO: Yeah.
14 THE COURT: Do you want to question her, watch her freak
15 out?
16 MS. SUDANO: I don't think we --
17 MR. SPEED: No.
18 THE COURT: Okay.
19 MS. SUDANO: -- submit, no.
20 THE COURT: I don't want to go into it, but I do know those
21 conditions exist.
22 Kathy Cahill just got a promotion?
23 MS. SUDANO: She's training.
24 MS. MACHNICH: I don't -- I don't think so. I mean, it sounds
25 like just a work issue. There's no reason to believe this couldn't --

1 MS. SUDANO: Well, it depends --
2 MS. MACHNICH: -- happen any other time.
3 MS. SUDANO: No --
4 MS. MACHNICH: Maybe that's a question we have to ask
5 them.
6 THE COURT: All right. Well, let's --
7 MS. SUDANO: Because sometimes it's just training in the
8 first two weeks and then you start.
9 THE COURT: I'll let you --
10 MS. SUDANO: It's not a real one.
11 MS. MACHNICH: Okay.
12 THE COURT: It's just -- it is work that -- this will take time,
13 and I guarantee she's -- all right, Jameson Reyes --
14 MS. SUDANO: It's his money.
15 THE COURT: -- he's a nurse, and some of it's just money.
16 MS. SUDANO: No.
17 THE COURT: Debra Earl, works at Palace Station.
18 MS. SUDANO: No.
19 THE COURT: And I guess it's money, but I don't think she --
20 oh, and what did she say, she --
21 MR. SPEED: She lost her husband.
22 MS. SUDANO: She fills ATM and Kiosks.
23 THE COURT: Do you want to let her off, or do you want to
24 question her?
25 MR. SPEED: Yeah. I mean, we --

1 THE COURT: He's willing to again --

2 MS. MACHNICH: I don't know, I think she's --

3 THE COURT: A minority.

4 MS. MACHNICH: I think she's in the same category as

5 everybody, like it's money.

6 THE COURT: But, I mean, I'm trying to be, whatever,

7 cautious. An African American woman. All right. We'll let her off.

8 Kathy Vanderlinden, self-employed.

9 MS. DIGIACOMO: We need to ask her more.

10 MS. MACHNICH: Yeah.

11 THE COURT: All right. Chitsagee, I'm not sure, work?

12 MR. SPEED: So hold on, Your Honor, before we get too far,

13 did you scratch Mrs. Earl, or are we keeping her on?

14 MS. SUDANO: He scratched her.

15 THE COURT: Earl I scratched. I thought that's you were --

16 MS. MACHNICH: We can say no.

17 MR. SPEED: Yeah. Let's leave her, let's ask her another

18 question --

19 MS. MACHNICH: Okay.

20 MR. SPEED: -- she lives alone.

21 THE COURT: All right.

22 MR. SPEED: She's retired.

23 THE COURT: She, I believe --

24 MS. SUDANO: She's not retired.

25 THE COURT: What did she say she does at Palace Station,

1 it's not a --
2 MS. SUDANO: He fills the ATMs and kiosk.
3 THE COURT: Yeah. We're talking about --
4 MS. MACHNICH: Yeah. It's another money issue.
5 THE COURT: -- a minimum wage.
6 MR. SPEED: Yeah.
7 THE COURT: It's minimum wage. She's -- I don't want to
8 put --
9 MS. SUDANO: So is she --
10 THE COURT: -- somebody out of her house.
11 MS. MACHNICH: That's everyone, so she's still here.
12 THE COURT: I'll let them question her, but --
13 MS. SUDANO: Okay.
14 THE COURT: -- she's going to tell you that she can't afford,
15 I'm sure.
16 Okay. Kathy Vanderlinden, self-employed.
17 MS. MACHNICH: No. Same issue.
18 THE COURT: Chitsagee Mooangprang, work.
19 MS. MACHNICH: Same issue.
20 THE COURT: Lawrence Howell has plane tickets.
21 MS. MACHNICH: He can go. He said six plane tickets in the
22 next ten days.
23 THE COURT: The next one I have too, Sydney Hunt, tickets
24 to --
25 MS. MACHNICH: Disneyland.

1 MR. SPEED: 240. Next Friday, though.

2 MS. MACHNICH: Who?

3 MS. SUDANO: Yes.

4 MS. MACHNICH: Do you think she gets to go for -- is she
5 driving? Does she -- I mean, you don't have tickets to Disneyland on a
6 particular day, you have --

7 MS. SUDANO: No. But if she's got the day off and she's
8 leaving town on Friday it doesn't matter --

9 THE COURT: Yeah. I --

10 MS. SUDANO: -- if she's driving or flying, she should be
11 excused.

12 THE COURT: I'm letting her off. She's already -- she has
13 definite plans. I don't think -- I guess she could certainly get -- that was
14 too specific to be making up.

15 Mario Cabrera, an extra employee. Do you know what an
16 "extra employee" is?

17 MS. SUDANO: Yeah. On the extra board.

18 THE COURT: It means they only get to -- extra board, and
19 they only get to work sometimes.

20 MS. SUDANO: And they have to show up every day and
21 hope.

22 THE COURT: So you're talking about somebody who is
23 really hard up, I can't put it any other way. If you want to question her,
24 that's fine.

25 MR. SPEED: No, let him go.

1 THE COURT: All right.
2 MS. SUDANO: So he's off?
3 MR. SPEED: Yeah.
4 THE COURT: Yeah. Robert Rice. He has a -- is it he has a CT
5 scan?
6 MS. SUDANO: It's him.
7 MS. MACHNICH: She has an aneurysm.
8 MR. SPEED: Right.
9 THE COURT: Oh --
10 MS. MACHNICH: I don't think we need him here.
11 MR. SPEED: He was prepared with a note, too.
12 MS. MACHNICH: Yeah. I don't --
13 THE COURT: Yeah, that's right.
14 MS. MACHNICH: Let's not stress the man with an aneurysm.
15 THE COURT: Helen Shreve. Husband has surgical
16 procedure.
17 MR. SPEED: Right.
18 THE COURT: Yeah, so -- off.
19 Caiden Jacob. Just starting a new job.
20 MS. SUDANO: His girlfriend is graduating.
21 MS. MACHNICH: And his girlfriend is graduating. He has all
22 the excuses.
23 THE COURT: Well --
24 MS. MACHNICH: He's going to end up off.
25 MR. SPEED: Yeah.

1 THE COURT: All right.

2 MS. MACHNICH: He has all the --

3 THE COURT: I'm letting him off. You know, if you're just
4 starting you're really vulnerable.

5 MR. SPEED: But he'll miss the girlfriend's graduation.

6 MS. MACHNICH: Yeah.

7 MR. SPEED: Yeah. That's --

8 MS. MACHNICH: It's all about priorities.

9 THE COURT: Yeah. Francisco Gomez --

10 MS. MACHNICH: No.

11 THE COURT: -- crew lead.

12 MS. MACHNICH: No. He just has -- it'll just wreak havoc
13 with his schedule, no.

14 MS. DIGIACOMO: Well, no, it's more than that. There's
15 somebody who has a family member does this. If my brother doesn't
16 show up the entire crew cannot work.

17 MR. SPEED: But there was another, he said he wanted to --

18 MS. MACHNICH: He just said it would wreak havoc.

19 MS. DIGIACOMO: No, no, he -- no, I know. I'm just saying it
20 does, and also --

21 THE COURT: All right. So do you want to question him?

22 MS. DIGIACOMO: -- they can lose their spot.

23 THE COURT: All right. Dylan Jarrell, new career. And he's
24 starting training.

25 MS. SUDANO: Yeah.

1 MS. MACHNICH: Well, he said training --
2 MS. SUDANO: For a court reporter.
3 MS. MACHNICH: Training soon. I don't even know what that
4 means.
5 THE COURT: Well --
6 MS. SUDANO: No. It says his new job is starting and he's
7 doing training.
8 MS. MACHNICH: I don't know when the training starts.
9 THE COURT: To be a court reporter it takes months, and
10 then it's a job that's kind of dying, but I didn't say that.
11 MS. MACHNICH: Crush his spirit, Judge.
12 THE COURT: All right. Do you want to leave him on and
13 question him?
14 MS. MACHNICH: We'll submit.
15 THE COURT: What?
16 MS. MACHNICH: We'll submit to the 2:52:30**
17 THE COURT: All right. I'm going to -- it's a new career, like a
18 new job, I'm going to let him go then, so he can follow his dreams.
19 Back surgery, Tommy Li?
20 MS. SUDANO: His son's having it.
21 MR. SPEED: His son, right.
22 MS. DIGIACOMO: Yeah.
23 MS. SUDANO: It's supposed to be this week, I think.
24 THE COURT: All right. I'm letting him off. Oh, boy. Okay.
25 Then the last one, Gonzales, [indiscernible] check process --

1 MS. SUDANO: She's --
2 THE COURT: Oh --
3 MS. SUDANO: -- doing payroll.
4 MR. SPEED: That one's different. Yeah. She's different
5 from --
6 MS. SUDANO: There's no one to do the job.
7 MR. SPEED: Yeah. They don't get paid if she doesn't show,
8 so --
9 THE COURT: Do you want let him --
10 MR. SPEED: Yeah. And the other one is off on maternity
11 leave. So, yeah, take her off, she can go.
12 THE COURT: All right. Hispanic surname so -- okay, we'll let
13 her off. All right. Has anybody looked to see how many are left?
14 MS. DIGIACOMO: I was just going to say, we need 1, 2, 3, 4,
15 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 --
16 THE COURT: I haven't even told them --
17 MS. DIGIACOMO: -- 21, 22, 23, 24 --
18 THE COURT: -- it's a criminal yet.
19 MS. DIGIACOMO: -- 25, 26, 27, 28.
20 MS. MACHNICH: You haven't told them it's a sex assault.
21 THE COURT: I haven't even told them --
22 MS. SUDANO: We haven't told them it's a sex assault. We --
23 MS. DIGIACOMO: We just --
24 MR. SPEED: We're all good for number 1, Your Honor.
25 MS. DIGIACOMO: Your Honor, that we just kicked 28 of the

1 82.

2 THE COURT: So we supposedly have 50 and whatever that
3 comes up to.

4 MS. MACHNICH: And, Your Honor, we've sort of
5 reconsidered, I know we were keeping Allgood. We can kick her, she's
6 number -- she's the very first one, and we were holding onto her
7 because we had opposed the kicking her. So we're okay with kicking
8 her.

9 THE COURT: The psychiatric case worker?

10 MS. MACHNICH: Yeah. She's a --

11 MR. SPEED: She has to pay.

12 MS. MACHNICH: Yeah.

13 MR. SPEED: If she's not at work they don't get their checks.

14 THE COURT: And so --

15 MR. SPEED: Something about the clients have that issue
16 then.

17 THE COURT: All good.

18 MS. MACHNICH: Yeah.

19 MR. SPEED: It can be a mess.

20 THE COURT: All good.

21 MS. MACHNICH: I mean, we just kicked the last girl, because
22 someone was missing money, so --

23 THE COURT: Okay. What do you think?

24 MS. DIGIACOMO: That just up here.

25 THE COURT: Yeah. That's why -- I was going to say, are you

1 going to qualify that.

2 MS. DIGIACOMO: Yeah. That's the only time you'll hear for
3 a mistrial, Your Honor.

4 THE COURT: Okay.

5 MS. MACHNICH: All right.

6 [Court and Clerk confer]

7 [Sidebar ends at 2:54 p.m.]

8 THE COURT: All right. Ladies and gentlemen, I'm going to
9 read off the names of those that we're going to excuse at this time. You
10 can either go down to the third floor and report that you're excused, or
11 you can do it online.

12 So wait until I finish reading. If your name is read you're
13 excused, and I'll read the badge number too.

14 Ashley Allgood, 003. Guillermo Morales, 004. Ariella
15 Figueroa, 024. Alex Martinez, 025. Jeremy Abbott, 035. Kermit Diehl,
16 037. Jerry Washington, 056. Arno Vargas, 062. Frank Costentine, 063.
17 Royce Woodward, 072. Hunter Cain, 084. Cristal Randolph, 107. Ken
18 Nesbitt, 120. Gerard Sixta, 121. Vincente Hernandez, 131. Kaylie King,
19 150. Jason Crozier, 177. Stein Johnsen, 187. Jane Foote, 199. Shu
20 Chen, 221. Amanda Guerrero, 240. Lawrence Howell, 294. Sydney
21 Hunt, 297. Mario Cabrera, 303. Robert Rice, 310. Helen Shreve, 325.
22 Caiden Jacob, 334. Dylan Jarrell, 340. Tommy Li, 348, and Jasleen
23 Gonzalez, 376.

24 Did I get that right, counsel? Hopefully. All right. Those of
25 you whose name's I called, you're excused.

1 [Prospective jurors excused at 2:58 p.m.]

2 THE COURT: All right, ladies and gentlemen. We've been
3 going, and in the interest of not having you raise your hand to say, you
4 need to go to the bathroom we'll take a short recess. Then we're going
5 to fill in those empty seats. I'm going to read you the admonishment,
6 even though you don't know anything about this case yet.

7 I haven't -- the parties haven't introduced themselves, or
8 anything, but you still don't Google, don't go researching any of the
9 attorneys, anything. Don't do any of that, it will cause considerable -- it
10 will not be a good thing for everybody.

11 So we'll take ten minutes. During this recess you are
12 admonished, do not talk to each other about this case, at all. Talk about
13 the weather, talk politics, but don't mention this case. Don't ask, oh,
14 what is this question about; that's not for you to discuss.

15 Don't discuss this with anyone, anyone else. Don't talk about
16 anything connected with this case. Don't read, watch or do any research
17 of any kind, regarding this case, even though you know nothing about it.
18 Don't look at any newspapers, if anybody still reads a newspaper. Don't
19 go online, don't go on the internet. Don't form or express any opinion
20 on any subject connected with the trial, until the case is finally submitted
21 to you.

22 Take ten minutes. Thank you.

23 THE MARSHAL: Folks, remember where you are seated.
24 You're going to come back to the same seat that you're in right now. Do
25 not come in the courtroom after ten minutes, I will come and get you.

1 THE COURT: And everybody has to leave.

2 [Prospective jurors out at 3:01 p.m.]

3 [Outside the presence of the prospective jurors]

4 [Clerk and counsel confer]

5 THE COURT: -- we're going to go today. We're going to
6 obviously not going to get even halfway.

7 MR. SPEED: 5:00.

8 MS. DIGIACOMO: Yeah. There's no point in keeping them.

9 MR. SPEED: Yeah.

10 THE COURT: If I give them -- well, of course 24 hours in
11 advance, do you want to go until -- what's tomorrow Wednesday -- go
12 until 5:30?

13 MS. DIGIACOMO: Sure.

14 MR. SPEED: That's fine.

15 THE COURT: I mean, we'll see where it goes. Of course,
16 you're going to have to pick a jury tonight, right?

17 MS. DIGIACOMO: In the next hour and 45 minutes, right.

18 THE COURT: Exactly.

19 MS. DIGIACOMO: Right. Just because -- and we won't need
20 another panel after already kicking almost 30, before we've even told
21 them it's a criminal case.

22 MR. SPEED: I was going to say, what was that you said at
23 the bench?

24 MS. MACHNICH: Yeah.

25 MR. SPEED: Whatever the Defense says --

1 MS. DIGIACOMO: Nope.
2 MR. SPEED: -- if we can go with that, man we'll have one.
3 MS. DIGIACOMO: Pretty sure that was the one you had your
4 one.
5 THE COURT: Are you okay with these 20 -- 33?
6 MS. MACHNICH: No.
7 THE CLERK: I'm surprised how many --
8 MS. SUDANO: Just pick 12 and we'll go.
9 THE CLERK: -- people didn't want to serve.
10 MR. SPEED: Oh, wait.
11 MS. DIGIACOMO: I've never had --
12 MS. MACHNICH: Well, wait until they hear it's a criminal
13 case with a --
14 MR. SPEED: Hold on.
15 THE CLERK: I've never had that happen and they don't
16 even --
17 MS. DIGIACOMO: I know.
18 THE CLERK: -- know what kind of a case it is.
19 MR. SPEED: Not at all.
20 THE COURT: Yes. They don't even know it's criminal.
21 MR. SPEED: Just a minute.
22 THE COURT: Usually my speech works better. It did not
23 work very well.
24 MS. SUDANO: And yeah, you didn't overcome summer
25 break very well.

1 THE COURT: No.

2 MR. SPEED: More American flag, Judge. Civic duty --

3 MS. DIGIACOMO: Oh, yeah.

4 MR. SPEED: -- Marines, and --

5 THE COURT: Oh, I forgot -- you know, I didn't.

6 MR. SPEED: -- give it to us.

7 THE COURT: I usually do that about the --

8 MS. DIGIACOMO: Well, and you know the other thing --

9 MR. SPEED: Guilt works. It works.

10 MS. DIGIACOMO: -- the other --

11 THE COURT: I know.

12 MS. DIGIACOMO: -- the other thing that's helpful is, you

13 know, like, Villani always pulls --

14 MR. SPEED: Yeah.

15 MS. DIGIACOMO: -- out his jury summons. He goes, look,

16 no one is exempt, because I just had jury duty, in fact, you came and

17 spoke.

18 THE CLERK: Well, he did say that.

19 THE COURT: I usually do.

20 THE CLERK: You did say that.

21 THE COURT: I guess I -- I don't know. I'm not doing as well

22 today.

23 MS. SUDANO: We can try again with the next panel.

24 MS. DIGIACOMO: Yeah.

25 MS. MACHNICH: Yeah. Because there will be a next panel.

1 THE COURT: Okay. All right. Bring them in.
2 THE MARSHAL: All rise for the jury.
3 [Prospective jurors in at 3:20 p.m.]
4 [Inside the presence of the prospective jurors]
5 THE MARSHAL: Judge, I did roll call. They're all here.
6 THE COURT: All right. Well, if you don't remember, we'll
7 help you out. Just come on in.
8 THE MARSHAL: Didn't I tell y'all to remember where you
9 were sitting?
10 THE COURT: All right. Please be seated. Go ahead and fill
11 in the --
12 THE CLERK: You want me to make sure everybody is in
13 right?
14 Yes. Everything looks good.
15 Okay. Jennifer -
16 PROSPECTIVE JUROR 145: Yes.
17 THE CLERK: -- Badge Number 145.
18 PROSPECTIVE JUROR 145: Yes.
19 THE CLERK: You will be --
20 THE COURT: As you can see, we will fill in from the
21 gallery -- what we call it -- and fill in the --
22 THE CLERK: Steve, that'll be 28. She'll be in Seat Number
23 28.
24 THE MARSHAL: Seat Number 20, which one is that?
25 THE CLERK: That's the second --

1 MS. DIGIACOMO: 28 is the second one down here.
2 THE CLERK: Right. Second one on the end. Okay.
3 MS. DIGIACOMO: Second one over here.
4 THE CLERK: Now, we'll go in order.
5 Abraham Reyes, Badge Number 154, you'll be in Seat
6 Number 1 all the way in the far corner.
7 Camille Maggard.
8 PROSPECTIVE JUROR 161: [Ma gerd].
9 THE CLERK: Badge Number 161, you'll be Seat Number 2.
10 Victoria Brown, Badge Number 176, you'll be in Seat Number
11 7. That's in the middle back row.
12 David Blankenburg, Badge Number 181, you'll be in Seat
13 Number 8.
14 Jesse Rankinen, Badge Number 184, you'll be in Seat
15 Number 11. That's on the very end.
16 Tommy Detmer, Badge Number 185, you'll be in Seat
17 Number 12.
18 Andrea Loster, Badge Number 224, you'll be in Seat Number
19 14.
20 Julie Ogata, Badge Number 236, you'll be in Seat Number 15.
21 John DeMaggio, Badge Number 241, you'll be in Seat
22 Number 16.
23 Dale Wilson, Badge Number 249, you'll be in Seat Number
24 17.
25 Aaron -- is it [She en]?

1 PROSPECTIVE JUROR 251: [Sh en].

2 THE CLERK: Shen. Badge Number 251, you'll be in Seat
3 Number 20.

4 Katy Cahill, Badge Number 253, you'll be in Seat Number 23.

5 And Jameson Reyes, Badge Number 258, you'll be in Seat
6 Number 27.

7 PROSPECTIVE JUROR 258: Yes, ma'am.

8 THE CLERK: Amanda McFeely, Badge Number 268, you'll be
9 in Seat Number 29.

10 And Truc --

11 PROSPECTIVE JUROR 270: [Tr ec].

12 THE CLERK: Oh, okay. Badge Number 270, you'll be in Seat
13 Number 30.

14 THE COURT: Okay. Thank you, ladies and gentlemen.

15 Now, at least you're going to get some insight. This is a
16 criminal trial. State of Nevada v. Gustavo Gunera-Pastrana.

17 I hope I pronounced that right.

18 The State is going to start by introducing themselves and the
19 potential witnesses they intend to call.

20 I'm going to then ask you if you know any of the attorneys
21 and/or any of the potential witnesses.

22 Then the Defense will do the same thing. And I'll ask you the
23 same question.

24 State.

25 MS. DIGIACOMO: Thank you, Your Honor.

1 Good afternoon. As you heard, this case is the State of
2 Nevada v. Gustavo Gunera-Pastrana. He is charged in an information
3 with four counts: two counts of lewdness with a child under the age of
4 14, and two counts of sexual assault with a minor under 14 years of age.
5 These crimes are said to have occurred between August 1st, 2015, and
6 July 11th, 2016.

7 My name is Sandra DiGiacomo. I'm a chief deputy district
8 attorney. And with me, as co-counsel, is Michelle Sudano, also a deputy
9 district attorney with the DA's Office, and we've been assigned this case.

10 The victim in this case is named Meily Moran, so you will
11 hear from her as a witness. You will also hear from her brother Jose
12 Moran, and her mother Meile Casillas Ortiz.

13 The list of witnesses I'm about to read now it's all
14 encompassing. These are possible witnesses. It doesn't mean the
15 State's going to call every one of these.

16 So first, we have from the Las Vegas Metropolitan Police
17 Department Officer Alan Kravetz; Officer Dave Delaria; Officer Ryan
18 Larson, Officer William Dransfield; Detective Lawrence Samples; and
19 Detective Denise Huth.

20 Also, this case involves -- oh, and I'm sorry -- there's also, an
21 interpreter from Metro named Maria Jimenez.

22 There's also several workers from the Southern Nevada
23 Children's Advocacy Center or the CPS, which is Elizabeth Espinoza;
24 Tiffany Keith; Rebecca Lankford; Marabeth Russo.

25 Also, you might hear from Dr. Sandra Cetl, and as well as,

1 Kathia Pereira with the law firm of Pereira & Associates.

2 Also from CPS I missed Adriana Mendoza Plunce [phonetic],
3 you might also hear from her as well.

4 Thank you.

5 THE COURT: Thank you.

6 First of all -- and this goes for everybody, including the
7 gallery, does anyone recognize the names of the attorneys involved?

8 Name and badge number?

9 PROSPECTIVE JUROR 253: Katy Cahill, Badge Number 0253.

10 THE COURT: Okay. And I should have said this also. We are
11 a recorded department. That means there are cameras and of course
12 audio. There's no transcriber -- no court reporter. So you need to speak
13 up. If Judy can't get it, we will certainly make sure and tell you.

14 So go ahead. Name and badge number.

15 PROSPECTIVE JUROR 253: Katy -- Katy Cahill, Badge
16 Number 0253. I used to work for a family member who is an attorney
17 and I recognize a couple of the attorney names and police officers.

18 THE COURT: Okay. You recognize these --

19 PROSPECTIVE JUROR 253: Like, I recognize them, but I
20 don't -- I'm familiar with certain things, but that's the length of it.

21 THE COURT: Okay. So you don't know them personally?

22 PROSPECTIVE JUROR 253: No.

23 THE COURT: Or for that matter, professionally?

24 PROSPECTIVE JUROR 253: Just their work, I guess.

25 THE COURT: Okay. And I'm sorry. You said one of the

1 police officers or just Metro in general?

2 PROSPECTIVE JUROR 253: No, I recognize one of the police.

3 THE COURT: How do you know that particular officer?

4 PROSPECTIVE JUROR 253: I don't know if it's the same one,
5 but --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR 253: -- I just --

8 THE COURT: They will inquire further.

9 Was there somebody else who recognized? I thought I saw a
10 hand. No?

11 Hands? Nobody else?

12 Okay. Defense.

13 MR. SPEED: Good afternoon, ladies and gentlemen. I hope
14 everybody can hear me, but I need to make sure one very important lady
15 hears me.

16 Testing. Can you hear me? All right.

17 My name is Kevin Speed and along with Tegan Machnich,
18 we both represent Mr. Gustavo Gunera-Pastrana. He has been charged
19 with a number of very serious offenses, but he is not guilty of those, and
20 we intend to prove that over the next few days.

21 You heard the State's listing of potential witnesses. To that,
22 we would like to add several names: Ms. Marie Parlad [phonetic],
23 Roxana Vargas Sagastume, Jose Juan Moran, Gregory Mills [phonetic],
24 Byron Mills [phonetic], Cheryl Cooley [phonetic], Mary McCarthy
25 [phonetic], Maria Estrada [phonetic], Anna Blanco [phonetic], Liliana

1 Duarte [phonetic].

2 We have representatives from Family and Child Therapy or
3 FACT Counseling in Las Vegas.

4 The custodian of records for the Human Behavior Institute
5 Melissa Colosso [phonetic].

6 The custodian of records or representatives from Lutheran
7 Social Services here in Las Vegas.

8 Mr. Cesar Garcias [phonetic].

9 Mr. Bruce McAllister and Mr. Jeff Hanks.

10 And we have a hand.

11 THE COURT: Thank you.

12 Let's start at the beginning. First of all, does anyone
13 recognize any of the attorneys? The attorneys? I don't see any hands.

14 Okay. Second of all, does anyone recognize the Defendant?

15 Okay. I don't see any hands.

16 Now, does anyone recognize the names of any of the
17 potential witnesses?

18 Name and badge number? We'll get to you, sir. You can
19 stay seated.

20 PROSPECTIVE JUROR 123: Yes, Your Honor. Thomas
21 Macrae, badge 123. I recognize the names of many of the police officers,
22 to wit, Ryan Larson, Maria Jimenez, and many of the others. I was a Las
23 Vegas Metropolitan Police Department employee until April of this year.

24 THE COURT: All right. What did you do for Metro?

25 PROSPECTIVE JUROR 123: I was the human resources

1 director, sir.

2 THE COURT: Did you have any personal interaction with
3 these individuals?

4 PROSPECTIVE JUROR 123: Personally? No -- no,
5 professionally, though.

6 THE COURT: Well, I mean, tell me again your title?

7 PROSPECTIVE JUROR 123: Human resources director.

8 THE COURT: Okay. So you had professional interaction with
9 the individuals, other than maybe writing a check or some -- whatever it
10 is your title does for all of Metro? I assume you interact with all of
11 Metro --

12 PROSPECTIVE JUROR 123: Yes, sir.

13 THE COURT: -- as a HR personnel?

14 PROSPECTIVE JUROR 123: That's correct, sir.

15 THE COURT: Okay. But these particular individuals --

16 PROSPECTIVE JUROR 123: Yes. Maria Jimenez I tried to get
17 her to be a full-time employee. Tried to get her a pay raise.

18 THE COURT: Okay. So you dealt with --

19 PROSPECTIVE JUROR 123: Interacted with her extensively.

20 THE COURT: All right. They will question you regarding
21 that.

22 And, sir, you had a -- you raised your hand. All right.

23 PROSPECTIVE JUROR 285: Daniel Maul, Badge Number 285.
24 I recognize the name Gregory Mills. I believe he's a dentist.

25 THE COURT: Is Gregory Mills a dentist? Do we have a

1 dentist?

2 MR. SPEED: No.

3 PROSPECTIVE JUROR 285: Could be a different Greg.

4 THE COURT: Okay. Then we'll let them inquire.

5 Was there somebody over on this side?

6 PROSPECTIVE JUROR 338: Francisco Gomez, Badge

7 Number 0338. I just recognize one of the names, which was Maria

8 Estrada. I went to high school that name. I'm not if it's the same person,

9 but --

10 THE COURT: All right. I'll let the --

11 PROSPECTIVE JUROR 338: -- thought I should bring it up.

12 THE COURT: -- and I appreciate that, and so do the parties.

13 We want you to give us as much information as possible. We are all

14 looking to get a fair and impartial jury. And the way we do that is by you

15 giving us your honest answers and certainly telling us if there's anything

16 you think that's important that the parties know in this selection process.

17 Having said that, I'm going to ask -- and judges -- different

18 judges do it differently, but we're going to concentrate on the

19 panel -- and that's what we call the panel. And I'm going to ask you

20 some preliminary questions.

21 While I do that, the attorneys for both sides are going to

22 write down the answers and they -- so I'll have you give your name and

23 badge number if you have, you know, an answer that's to a follow-up

24 question, if you will, but let's start off with the most easy question and

25 we're going to go through the panel. And by the time we're done, I

1 guarantee you will it memorized.

2 I'm going to ask your name and badge number. You've
3 already done that. Where do you work? If you have a significant other,
4 where do they work, and what do they do; in other words, if it's some
5 company and we don't know exactly what they do for them, tell us what
6 they do?

7 Have you ever served on a jury? And if you have, then I'm
8 going to prompt you with some follow up, and those will be: Was it civil
9 or criminal; were the foreperson; and did you reach a verdict? If there's
10 more than one, then just go through -- I'll ask you to go through them
11 one at a time.

12 So let's start with Mr. Reyes in seat 1. I already said your
13 name. What's your badge number? It would be 154 is the last three.

14 PROSPECTIVE JUROR 154: Yeah. 02-0154.

15 THE COURT: Okay. Where do you work?

16 PROSPECTIVE JUROR 154: I work for this company called
17 Red Rock and it's a recycle company -- industrial.

18 THE COURT: And what do you do for them?

19 PROSPECTIVE JUROR 154: I operate equipment.

20 THE COURT: Do you have a significant other?

21 PROSPECTIVE JUROR 154: I do. I'm in the process to --

22 THE COURT: That's changing?

23 PROSPECTIVE JUROR 154: Yes.

24 THE COURT: All right. But where do they work?

25 PROSPECTIVE JUROR 154: She doesn't work right at this

1 moment.

2 THE COURT: Okay. Have they ever worked in Clark County?

3 PROSPECTIVE JUROR 154: Never.

4 THE COURT: Okay. Thank you. Next. Oh, and have you
5 served on a jury?

6 PROSPECTIVE JUROR 154: Never in my life.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR 161: Camille Maggard, Badge
9 Number 161. I am not employed. I'm a housewife. And my husband is
10 self-employed. He has a landscape/construction/irrigation company.
11 And I have never been on a jury.

12 THE COURT: Thank you. Wow. See. Only two people and
13 you got them.

14 PROSPECTIVE JUROR 010: My name is Ashleylynn Clare.
15 I'm 010. I work for Tesla Motors. I insure all North America gets their
16 vehicles on time. I am single and I've never worked on -- or done this
17 before.

18 THE COURT: Never been a juror. Thank you.

19 PROSPECTIVE JUROR 010: Never been a juror.

20 PROSPECTIVE JUROR 013: My name is Lizel Jackson, Badge
21 Number 0013. I am a medical assistant at Southwest Medical and a
22 medic in the Army National Guard. I have a significant other, who is also
23 a medical assistant at Southwest Medical and a medic in the Army
24 National Guard.

25 MS. DIGIACOMO: I'm sorry, Your Honor. I can't understand.

1 THE COURT: Yeah. You went kind of fast and --

2 PROSPECTIVE JUROR 013: Sorry.

3 MS. DIGIACOMO: I got medical assistant.

4 PROSPECTIVE JUROR 013: Oh, okay. Medical assistant at
5 Southwest Medical.

6 MS. DIGIACOMO: Okay.

7 PROSPECTIVE JUROR 013: And medic at the Army National
8 Guard. And my significant other is also a medical assistant at Southwest
9 Medical and a medic in the Army National Guard.

10 THE COURT: And have you ever been on a jury?

11 PROSPECTIVE JUROR 013: No, Your Honor.

12 THE COURT: Thank you. Thank you for your service also.
13 Next.

14 PROSPECTIVE JUROR 015: Name is Jennifer Johnson,
15 Badge Number is 015. I work for Walgreen's. I'm a pharmacist. My -- I
16 have boyfriend who works for Frito Lay as a sale representative. And
17 I've never been on a jury.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR 021: Yes, Your Honor. My name is
20 Hugh Mitchard. My Badge Number is 0021. My --

21 THE COURT: Where do you work?

22 PROSPECTIVE JUROR 021: What was the other one? What?

23 THE COURT: You were doing so well. Where do you work?

24 PROSPECTIVE JUROR 021: I know I forgot. I'm retired -- I'm
25 retired. My wife is -- works at the Marriott.

1 THE COURT: What did you retire from? Did you work in
2 Clark County?

3 PROSPECTIVE JUROR 021: Merchant Mariner.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR 021: So no, I have not worked in -- I
6 worked in Clark County and I've never been on a -- served on a jury.
7 And --

8 THE COURT: And your wife works for Marriot here?

9 PROSPECTIVE JUROR 021: Yes, she works on Las Vegas
10 Boulevard.

11 THE COURT: And what does she do?

12 PROSPECTIVE JUROR 021: She's a housekeeper there.

13 THE COURT: Thank you. And he's said he's never served on
14 a jury. Thank you.

15 PROSPECTIVE JUROR 176: My name is Victoria Brown. My
16 Badge Number is 0176. I work at Panda Express. My boyfriend works at
17 AMC Theaters and I have not been part of a jury before so --

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR 181: My name is David Blankenburg,
20 Badge Number 0181. I work for Catalina Graphic Films. I am married.
21 My wife does not work currently. I was on a jury probably 35 years ago.
22 It was civil and yes, we did reach a verdict.

23 THE COURT: And were you the foreperson?

24 PROSPECTIVE JUROR 181: No, I was not.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 028: My name is Mary Cray, Badge
2 Number 028. I work for Robert Half International, specifically Robert Half
3 Legal, where I'm the supervisor of the legal department there as a
4 recruiter. And I'm legally separated from my husband. I don't know if
5 that makes a difference at this time.

6 THE COURT: Well, what did he --

7 PROSPECTIVE JUROR 028: He is a business owner.

8 THE COURT: And what's what the business.

9 PROSPECTIVE JUROR 028: Gym. He -- fitness.

10 THE COURT: Okay. And have you ever served on a jury?

11 PROSPECTIVE JUROR 028: I have not.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR 028: Uh-huh.

14 PROSPECTIVE JUROR 032: -- is Lisa Leonard, Badge Number
15 032. I'm a firefighter with Las Vegas Fire & Rescue. My boyfriend is also
16 a firefighter with Las Vegas Fire & Rescue. And I have never served on a
17 jury.

18 THE COURT: Thank you.

19 While Officer Moody is doing that, I'll say that he's going to
20 be your point of contact for just about everything. If you have a
21 question, you need to write it down. Give it to Officer Moody and he will
22 give it to us if there's any questions along the way.

23 Go ahead.

24 PROSPECTIVE JUROR 184: My name is Jesse Rankinen,
25 Badge Number is 0184. Single. Work at the Gold Nugget as a bartender

1 and I've never served on a jury.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR 185: Badge Number 185. My name is
4 Tommy Detmer, a student. I work at OnTrac. It's a delivery company
5 kind of like UPS. I'm in the warehouse. I'm single. And I've never been
6 on a jury before.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR 039: Brian Renfroe, 0039. Sean
9 Craig's Plumbing. I'm a plumber. Single. Never been a juror.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR 224: Andrea Loster, Badge Number
12 224. I am unmarried. I do have a significant other. We do not live
13 together. I don't know if that --

14 THE COURT: Do they work in Clark County, Nevada?

15 PROSPECTIVE JUROR 224: Your Honor, my -- my
16 employment I can't really discuss. I'd be happy to --

17 THE COURT: We have some of those --

18 PROSPECTIVE JUROR 224: Okay.

19 THE COURT: -- occasionally. You ever been a juror?

20 PROSPECTIVE JUROR 224: No, sir.

21 THE COURT: Do you work for the government?

22 PROSPECTIVE JUROR 224: I cannot discuss that information.
23 I apologize.

24 THE COURT: Oh, really? I've never had that. Okay. Thank
25 you.

1 PROSPECTIVE JUROR 236: I'm Julie Ogata. I'm a stay-at-
2 home mom. My husband is criminal defense lawyer, Garrett Ogata. And
3 I've never been a juror.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR 241: My name is John DeMaggio,
6 Juror 241. I work for Las Vegas Valley Water District as a
7 communications systems technician. My girlfriend works at the Boulder
8 Station Casino Hotel. And I've never served on a jury before.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR 249: My name is Dale Wilson, Juror
11 249. I work Moen Warehouse in shipping. And my wife is disabled, does
12 not work.

13 THE COURT: Ever served on --

14 PROSPECTIVE JUROR 249: And I've never served on a jury.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR 066: Joseph Thompson, my badge is
17 066. I do infrastructure consulting for MGM, we're a private contractor.
18 My wife does residential real estate for Wardley here in Las Vegas.

19 THE COURT: Juror?

20 PROSPECTIVE JUROR 066: Oh, never served on a jury.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 067: My name -- my name is Esteban
23 Maciel. And I'm a software engineer for Konami Gaming, Incorporated.
24 And I've never served on a jury.

25 MR. SPEED: Badge number, Your Honor? I'm sorry.

1 PROSPECTIVE JUROR 067: Oh, 067. Sorry.

2 THE COURT: And significant other?

3 PROSPECTIVE JUROR 067: None.

4 THE COURT: Okay. Thank you.

5 PROSPECTIVE JUROR 251: My name is Aaron Schein, Badge
6 Number 251. I'm a general contractor. I work for Picerne Construction
7 Corporation. I'm single and I've never served on a jury.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 081: My name is Robert Simmons,
10 Badge Number 0081. I'm an independent contractor as a tattoo artist at
11 Pussycat Tattoo. I'm single and have never served on a jury.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR 082: My name is Jesse Addo-Quaye.
14 Badge number is 082. I work at TruCare Medical Center as a medical
15 assistant. My significant other works at a dispensary as a front desk.
16 And I've never served on a jury.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 253: My name is Katy Cahill, Badge
19 Number 0253. I'm a nurse at MountainView Hospital and my husband is
20 an accountant. And I've never served on a jury.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 096: My name is Sabreena Butrico.
23 My Badge Number is 096. I'm a dental assistant at MacDonald Ranch
24 Modern Dentistry. My significant other works at valet at the Trump. And
25 no, I've never been on a jury.

1 THE COURT: Very good. Thank you.

2 PROSPECTIVE JUROR 098: My name is Eva Flores and my
3 badge number is 098. I work at [indiscernible] as a processing tailor. My
4 husband works at Bigelow Aerospace as a technician. And I've -- I was
5 on a jury about 30 years ago. It was a civil case and there was a verdict.
6 And I wasn't the foreman.

7 THE COURT: Perfect.

8 PROSPECTIVE JUROR 105: My badge number is 105. This is
9 Jack Cook. I've never served on a jury before. And I am retired on
10 Social Security and VA pension.

11 THE COURT: Did you work in Clark County ever?

12 PROSPECTIVE JUROR 105: A long time ago as a taxi driver --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR 105: -- for ten years.

15 THE COURT: And a significant other?

16 PROSPECTIVE JUROR 105: No.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 258: Badge Number 0258. My name
19 is Jameson Reyes. I work at Summerlin Hospital as a nurse. My spouse
20 is also a nurse at Spring Valley Hospital. I've never been a juror.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 145: Badge Number 0145, Jennifer
23 Barnum-Wilson. I am a teacher at Kenny Guinn Middle School. My
24 boyfriend is a teacher at Basic High School. And I have never served on
25 a jury.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR 268: My name is Amanda McFeely,
3 Number 268. I work at Clark County Detention Center in the records
4 department. My boyfriend owns a donut shop. And I have never been
5 on a jury.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR 270: My name is Truc Nguyen, Badge
8 Number 270. I'm a -- I work at North Vista Hospital as a pharmacist. My
9 spouse is unemployed. And I have never served in a jury.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR 123: Sir, my name is Thomas Macrae,
12 Badge Number 123. I'm a retired career Naval officer with subsequent
13 employment in Clark County on -- on the police department. My wife
14 is -- runs her own business as an IT consultant. I've served on two
15 military court marshals as a jurors [sic]; once I was the foreman, and yes,
16 we reached verdict on both cases.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 124: My name is Ryan Dalton, Badge
19 Number 0124. I'm currently a stay-at-home dad. And my significant
20 other is a pharmacist at Walgreens, and I haven't been on a jury.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 130: My name is Barry Gomez, Badge
23 Number 130. I work at Green Therapeutics as a cultivation technician
24 and my girlfriend works at Nevada Organics Remedy is a compliance
25 manager. And I've never as a juror.

1 THE COURT: Thank you.

2 Now, as you are called up I'll ask you the same questions and
3 since you've been listening intently, you'll just fire off all the answers;
4 I'm confident. I hope you're confident.

5 All right. I have a few more general questions. I'm going to
6 ask, again, but this time I'll ask the whole group and if you are answering
7 the question, raise your hand, and give me your name and badge
8 number.

9 So the first one -- and I know the answer with at least a
10 couple, are you, or any close family member in law enforcement, or the
11 military? Raise your hand.

12 Let's start in the back. Name and badge number.

13 THE MARSHAL: You're going to pass the microphone
14 around.

15 THE COURT: Yeah. Now, that you've got the hang of it,
16 Steve, you know, doesn't want to.

17 Go ahead, name and badge number.

18 PROSPECTIVE JUROR 013: My name is Lizel Jackson. My
19 badge number is 0013.

20 THE COURT: And you said --

21 PROSPECTIVE JUROR 013: I work --

22 THE COURT: -- you were in the military?

23 PROSPECTIVE JUROR 013: Yes, Your Honor.

24 THE COURT: Thank you. And any close family
25 member -- your significant other is also in the military reserve, correct?

1 PROSPECTIVE JUROR 013: Yes, Your Honor.

2 THE COURT: You have to answer out loud. Okay. Anything
3 else law enforcement that we didn't cover?

4 PROSPECTIVE JUROR 013: No, Your Honor.

5 THE COURT: Okay. Thank you.

6 MR. SPEED: And, Your Honor, I'm sorry. Was that Army
7 National Guard or Air National Guard?

8 PROSPECTIVE JUROR 013: Army.

9 MR. SPEED: Army.

10 THE COURT: Pass it to your right. Somebody down there I
11 saw a hand.

12 PROSPECTIVE JUROR 032: My name is Lisa Leonard. Badge
13 number is 032. My boyfriend's dad is a retired lieutenant with
14 Metro -- Las Vegas Metropolitan Police. His brother is fire investigator
15 and was with the Reno Police Department I believe. And his brother is in
16 the Navy.

17 THE COURT: All right. Thank you.

18 Next row. Was there any hands in --

19 PROSPECTIVE JUROR 185: All right. Badge Number 185.
20 My name is Tommy Detmer. Currently my -- my brother-in-law -- sister's
21 husband -- he's serving in the Navy in Japan.

22 THE COURT: Thank you.

23 Next row.

24 PROSPECTIVE JUROR 098: My name is Eva Flores, badge
25 098. My son is in the Navy in Great Lakes, Michigan, and I do have

1 a -- like a second cousin, whose -- whose husband is in the Metro, but
2 that's it.

3 THE COURT: Thank you. What did they do for Metro?

4 PROSPECTIVE JUROR 098: I'm not sure.

5 THE COURT: Okay. Anybody else in that row? Yes.

6 PROSPECTIVE JUROR 268: My name is Amanda McFeely,
7 Number 268. I work for Metro a CCDC in records.

8 THE COURT: Thank you.

9 Front row.

10 PROSPECTIVE JUROR 123: Sir, Thomas Macrae, badge 123.
11 I was a career Naval officer with subsequent employment at Metro -- at
12 LVMPD.

13 THE COURT: Thank you.

14 All right. The next -- was that it for the front row? Yeah.

15 The next general question, the same thing, I'll ask the panel.
16 Raise your hand. Have you, or anyone close to you been the victim, or
17 accused of a crime?

18 Start off in the back room.

19 You needed some exercise, right?

20 PROSPECTIVE JUROR 123: Yes, sir.

21 PROSPECTIVE JUROR 028: Mary Quay -- Cray -- excuse
22 me -- 028. My brother-in-law in Washington State actually just went to
23 prison for child abuse -- sexual abuse.

24 THE COURT: All right. So there's somebody -- okay. Either
25 way. Go ahead.

1 PROSPECTIVE JUROR 032: Lisa Leonard, Badge Number 32.
2 My sister was accused of a number of counts of assault, but was
3 acquitted.

4 THE COURT: And there's somebody to your left. Oh,
5 back -- let's go for the back row. We're trying to do it in order.

6 PROSPECTIVE JUROR 176: When I was younger, my dad
7 went to jail for, like, holding --

8 THE COURT: Name and badge number?

9 PROSPECTIVE JUROR 176: Oh, Victoria Brown, 176. My dad
10 went to jail for -- was really young, but he went to jail for, like, not letting
11 my mom and my sister get a hold of the phone to call the police, so --

12 THE COURT: Okay. And there was somebody else. Now, so
13 let's --

14 PROSPECTIVE JUROR 010: My name is Ashleylynn Clare,
15 Badge Number 010. I was the victim of child molestation.

16 THE COURT: Next row.

17 PROSPECTIVE JUROR 249: My name is Dale Wilson, Badge
18 Number 249. My wife was sexually assaulted when she was younger.
19 She was molested.

20 THE COURT: Front row.

21 PROSPECTIVE JUROR 185: Badge Number 185, Tommy
22 Detmer. When I was younger my parents divorced, due to domestic
23 violence charges, among other things, and then also, as a teenager I've
24 had home robberies.

25 THE COURT: Next row.

1 PROSPECTIVE JUROR 098: Hi. My name is Eva Flores,
2 badge 098. My uncle was charged with a pedophile and he did molest a
3 lot of my cousins and they have issues right now that -- that really affect
4 them.

5 THE MARSHAL: Anybody else?

6 PROSPECTIVE JUROR 082: Badge Number 082, Jesse Addo-
7 Quaye. I don't know if this is actually a criminal case, but currently with
8 a DUI case and I actually have a cousin that lives with me and he has a
9 case tomorrow morning for I think it's domestic abuse.

10 THE COURT: I'm sorry did you say that you had a DUI?

11 PROSPECTIVE JUROR 082: Yeah.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 082: Unfortunately.

14 PROSPECTIVE JUROR 081: Robert Simmons, Badge 0081.
15 Back in '95 I've had graffiti charges.

16 MS. DIGIACOMO: I'm sorry I couldn't hear.

17 THE COURT: Graffiti.

18 MS. DIGIACOMO: Oh.

19 PROSPECTIVE JUROR 081: Yes.

20 THE COURT: Front row, anybody?

21 PROSPECTIVE JUROR 124: My name is Ryan Dalton, 0124
22 badge number. My current wife was sexually molested as a child. Also,
23 my sister by a uncle.

24 MS. DIGIACOMO: I'm sorry I couldn't hear the last part.

25 THE COURT: Go ahead.

1 PROSPECTIVE JUROR 124: My current wife was sexually
2 molested as a child. Also, my sister.

3 MS. DIGIACOMO: Okay. Thank you.

4 THE COURT: Okay. Next question, which actually some of
5 you did discuss. Have you, or anyone close to you been the victim of a
6 sexual assault? Raise your hand.

7 PROSPECTIVE JUROR 010: My name is Ashleylynn Clare,
8 Badge Number 010. I was sexually molested for eight years. The case
9 was dismissed, and I just wish not to discuss it.

10 THE COURT: Anyone else in the back row?

11 Next row.

12 PROSPECTIVE JUROR 241: Badge Number 241, John
13 DeMaggio. My sister was the victim of sexual assault while on the job
14 back in California. This was probably 20 -- 20 plus years ago.

15 THE COURT: Anybody else?

16 PROSPECTIVE JUROR 249: Dale Wilson, 249. My wife was
17 sexually assaulted when she was a child.

18 THE COURT: All right.

19 PROSPECTIVE JUROR 067: Esteban Maciel, 067. My current
20 roommate and friend for 15 years was sexually assaulted as a child.

21 THE COURT: Okay. Down here apparently.

22 PROSPECTIVE JUROR 185: Badge Number 185, Tommy
23 Detmer. My father, one of my uncles, and also one of my aunts when
24 they were child -- were children, they were sexually assaulted by their
25 father. They've since had therapy to deal with that.

1 THE COURT: Next row. Anyone front row? OH.

2 PROSPECTIVE JUROR 161: My husband -- my father-in-law,
3 he was --

4 THE COURT: Name and badge number.

5 PROSPECTIVE JUROR 161: I'm sorry. Camille Maggard,
6 badge 161. My father-in-law was convicted of child molestation and
7 served time.

8 THE COURT: Okay. Was there anybody in the front two
9 rows?

10 One up in the very front. Mr. Gomez, 130.

11 PROSPECTIVE JUROR 130: Barry Gomez.

12 THE COURT: I took care of it.

13 PROSPECTIVE JUROR 130: 130. My girlfriend was sexually
14 assaulted as a child.

15 THE COURT: Thank you.

16 Counsel, approach.

17 [Sidebar begins at 3:58 p.m.]

18 THE COURT: Just anything else you want me to ask? I think
19 they've covered it.

20 MS. DIGIACOMO: The only thing that I could -- but we could
21 do it individually -- is who's got kids.

22 MS. MACHNICH: Oh, you [indiscernible].

23 MS. DIGIACOMO: But we can do that, but no, I'm fine.

24 THE COURT: I come from the civil where they ask every
25 question in the room.

1 MS. SUDANO: I don't think we asked if anybody has felony
2 issues.

3 THE COURT: And I didn't know -- I don't think you
4 asked -- did you ask me to ask that?

5 MS. SUDANO: No, we didn't, but that's one of the things
6 that disqualifies --

7 THE COURT: Right. No problem.

8 MR. SPEED: [Indiscernible] felony convictions.

9 MS. MACHNICH: I don't think we -- felony convictions. We
10 also didn't ask about language or if anyone had a predisposition -- or
11 was it, the --

12 MS. DIGIACOMO: Or if anyone can't be fair and impartial --

13 MS. MACHNICH: -- can't be --

14 MS. DIGIACOMO: -- here.

15 MR. SPEED: -- just fair and impartial. Some of the general
16 ones.

17 THE COURT: All right. Okay. All right.

18 MR. SPEED: After that last question here.

19 MS. MACHNICH: Yeah.

20 THE COURT: Okay. Wait a second. Felony and fair and
21 impartial.

22 MS. MACHNICH: And do you want arguments based upon
23 what they've said up to date, or are we --

24 THE COURT: No.

25 MR. SPEED: -- waiting? Okay.

1 THE COURT: I'm going to let you start --
2 MR. SPEED: Yeah.
3 THE COURT: -- to --
4 MS. MACHNICH: Just waiting.
5 THE COURT: -- question them, and then you'll go
6 through -- yes, there's Metro. We've got all that. Unless you want to
7 stipulate to get rid of the -- okay.
8 MS. DIGIACOMO: Well, at this point, there's not enough to
9 know.
10 THE COURT: Yeah. There's no active employees I
11 don't -- didn't think. All right.
12 MS. MACHNICH: CCDC records.
13 THE COURT: Question them.
14 MS. DIGIACOMO: Yeah, but that's -- she's not a
15 commissioned --
16 THE COURT: Okay.
17 MS. DIGIACOMO: -- officer.
18 MS. MACHNICH: Okay.
19 THE COURT: Yeah. All right.
20 MS. MACHNICH: All right.
21 THE COURT: We'll discuss that.
22 [Sidebar ends at 4:00]
23 THE COURT: All right. Raise your hand if -- excuse me -- I
24 think I had -- well, did part of this -- been accused, or have you been
25 convicted of a felony? Raise your hand.

1 I don't see any hands.

2 Now, part of the thing, and I certainly am going to read this
3 more further, is your duty as jurors. And the first one is -- and as I said
4 before, we're trying to seek jurors who can be fair and impartial. And as
5 you know, or as I'm going to tell you right now, as the Defendant sits
6 here he's innocent. He's only guilty if he's proven guilty beyond a
7 reasonable doubt by the State.

8 So is there anybody here who does not feel that they can fair
9 and impartial jurors?

10 Let's start with -- well, let's start in the back there was --

11 THE MARSHAL: Oh, was there one back there?

12 THE COURT: Name and badge number.

13 PROSPECTIVE JUROR 154: Badge number is 02-0154. My
14 name is Abraham. The first time I feel uncomfortable at this moment. I
15 don't know -- I don't know how the process going to work.

16 THE COURT: Well, we're going to explain all that --

17 PROSPECTIVE JUROR 154: Uh-huh.

18 THE COURT: -- but is that going to prevent you -- and
19 this -- this whole process is going to take some time and I'm going to
20 explain everything about being a juror, but does anything so far show
21 you can't be a fair and impartial juror?

22 PROSPECTIVE JUROR 154: Well, the timing is the -- I don't
23 have time. I took a day off today, but two week is so hard for me.

24 THE COURT: Okay. Anybody -- next.

25 PROSPECTIVE JUROR 039: Brian Renfroe, 0039. Soon as I

1 heard what the case was about, I immediately thought guilty.

2 THE COURT: And that's even though I said, and you need to
3 know that as the -- as Mr. Pastrana sits here, he is innocent. In our
4 system of justice everyone is innocent until proven guilty. You haven't
5 heard not one single fact yet and yet you don't feel you could be fair and
6 impartial?

7 PROSPECTIVE JUROR 039: That was the first -- sorry -- that
8 was the first thing I thought of.

9 THE COURT: Okay. Thank you.

10 Next.

11 PROSPECTIVE JUROR 251: Aaron Schein, Number 251. I
12 think I could be impartial, and I understand the presumption of
13 innocence, but when I hear child molestation, I just can't get beyond the
14 thought that there's a problem with even the accusation, and I just am
15 really unsure if I could fairly judge someone who has been even accused
16 of it.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 228: Mary Cray, 028. Similar answer
19 to this gentleman. With the new development within my own family, as
20 objective as I attempt to be in every situation, the internal emotions from
21 that whole situation that affected my family negatively, I -- I can't
22 promise that I could remain objective emotionally. Like, even right now
23 it's hard to talk about.

24 THE COURT: Thank you.

25 Anybody -- who else? Raise your hand.

1 PROSPECTIVE JUROR 145: Jennifer Barnum-Wilson, Badge
2 Number 0145. Being a middle school teacher for over 25 years, I would
3 try to be impartial, but working with kids for the last 25 years, it would be
4 pretty hard.

5 THE COURT: Who else?

6 PROSPECTIVE JUROR 258: Badge Number 258, Jameson
7 Reyes. I just think that being as a father, when I heard what the case was
8 about, I think my opinion would be kind of biased.

9 PROSPECTIVE JUROR 098: Eva Flores, badge 098 -- Eva
10 Flores, badge 098. Yeah, when I first heard what the case is about, and
11 you already what -- what my family went through, it would be really hard
12 to be emotionally fit for this type of trial.

13 PROSPECTIVE JUROR 253: Katy Cahill, badge 0253. Kind of
14 the same thing, when I heard what it was about I just -- I knew I didn't
15 want to hear anymore. I worked in pediatrics as well, and I'm familiar
16 with many of these kind of cases, and it's -- it's hard to be impartial.

17 PROSPECTIVE JUROR 082: Jesse Addo-Quaye, Badge
18 Number 082. I just personally feel a little indifferent about it as well. I
19 recently actually had a client that had a very similar case. He actually
20 went to jail and came back, and I think I would manage him and
21 everything so -- but beyond him, I -- I -- I work with kids at the hospital as
22 well. I don't know it just feels off about it.

23 THE COURT: Do you think that it would prevent you from
24 being a fair and impartial juror?

25 PROSPECTIVE JUROR 082: Just based on the emotional

1 state. I mean, I just had a funeral last week, so I know that I'm kind of,
2 like, a little off, but otherwise --

3 THE COURT: Okay.

4 THE MARSHAL: We have another one, Judge.

5 THE COURT: Another one.

6 PROSPECTIVE JUROR 105: I'm Jack Cook, badge 105. I think
7 children are a lot like dogs, as far as you love -- love them both, you
8 know, and I think I couldn't be objective about this. I'd want to -- if I
9 thought for a little bit that I'd have to go ahead rule against him.

10 THE COURT: All right. We're going to --

11 THE MARSHAL: Another one, Judge.

12 THE COURT: Oh.

13 PROSPECTIVE JUROR 123: Sir, Thomas Macrae, badge 123.
14 I have direct, firsthand knowledge of one of the witnesses, the
15 Prosecutor has on her list, a police department employee cheating on a
16 promotion exam and helping others to cheat on a promotion exam, and
17 he was banned from the process, so for that reason, I do -- I do not trust
18 his -- I would not trust his testimony, if he were called.

19 THE COURT: All right. Thank you.

20 Anyone else?

21 PROSPECTIVE JUROR 124: Ryan Dalton, Badge Number
22 0124. I would be completely biased in this case because of my family.
23 My girlfriend and then my sister passed away because of molestation
24 and seeing my current wife go through the aftereffects and struggling.

25 THE COURT: Thank you.

1 All right. Ladies and gentlemen, we're going to --

2 THE MARSHAL: Judge --

3 THE COURT: There was another one? Okay.

4 PROSPECTIVE JUROR 130: Barry Gomez, Badge Number
5 130. I feel like my emotions would come -- would cloud my judgment in
6 this case. Knowing what my girlfriend went through with her sexual
7 assault abuse as a child and seeing how it has affected her -- affected her
8 growing up.

9 THE COURT: Anyone else?

10 All right. We're going to take another recess, as I said. I try
11 to go about an hour, so you don't have to raise your hand and embarrass
12 yourselves, or me, or whatever. So it makes sense to me we'll take ten
13 minutes.

14 During this recess you're admonished -- now that you do
15 know a little bit about what is, at least, alleged, and nothing about the
16 facts of this case, don't talk about the case at all, anything, about the
17 case. Am I clear?

18 Do not talk or converse amongst yourselves, or with anyone
19 else on any subject connected with this trial, or read, watch, or listen in,
20 or report of, or commentary on this trial, or any person connected with
21 this trial by any medium of information, including without limitation,
22 newspapers, television, radio, or internet. Do not form or express any
23 opinion on any subject connected with the trial until the case is finally
24 submitted to you.

25 Don't talk about it. Don't Google it. Don't look anything up.

1 Remember where you're seated.

2 Ten minutes.

3 [Prospective jurors out at 4:10 p.m.]

4 [Outside the presence of the prospective jurors]

5 THE COURT: All right. We're on the record outside the
6 presence. I think --

7 MS. MACHNICH: Your Honor, we have a bathroom situation
8 with the interpreter. The other interpreter left. She really has to go.

9 THE COURT: Oh.

10 MS. MACHNICH: I don't know if we can do something --

11 THE COURT: All right. We'll do it after.

12 MS. MACHNICH: -- at the bench.

13 THE COURT: Go ahead. Go.

14 THE INTERPRETER: Okay. Thank you.

15 MS. MACHNICH: Sorry.

16 THE COURT: Go ahead.

17 Wow. I didn't know how right I was on that.

18 [Recess taken from 4:12 p.m. to 4:14 p.m.]

19 [Outside the presence of the prospective jurors]

20 THE COURT: All right. We're back on the record outside the
21 presence.

22 I now have never before, and now I know why, ask that
23 question this early, because we haven't explained their duty yet, or
24 anything. I have a huge, long speech, but you've seen what did we
25 have -- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 -- say they can't be fair and

1 impartial.

2 Comments.

3 MS. DIGIACOMO: Right, but we would like a chance to
4 question them, because sometimes that's their gut reaction, but --

5 THE COURT: I certainly -- that's all well and good -- that's
6 fine. That's why I wait until I give them the entire -- tell them everything,
7 but I, you know -- all right.

8 MS. DIGIACOMO: And I think we misunderstood. I thought
9 you were done --

10 THE COURT: What's that?

11 MS. DIGIACOMO: -- when you called us up there. I thought
12 you were done with your questioning. I didn't know you had more to go
13 when you were asking us what else.

14 THE COURT: Oh. All right.

15 THE COURT: So --

16 MR. SPEED: Those last few by the Court were boilerplate
17 questions that the Courts usually ask ahead of us.

18 THE COURT: Yeah. I get it. I just think I -- to do it -- and I've
19 had -- this is like third or fourth sexual assault, but never that many
20 people, you know, saying that because I go through the entire -- the fact
21 that you have the -- you know, you have to be fair and impartial, and
22 not -- you know, and I spend -- read the whole thing.

23 Anything we need to talk about?

24 MS. DIGIACOMO: Yes, Your Honor. The State has an issue.
25 This Mr. Macrae.

1 THE COURT: Yes.

2 MS. DIGIACOMO: Okay. First of all, I'm upset he threw out
3 there about whatever officer --

4 THE COURT: He knows better. I can't believe he did that.

5 MS. DIGIACOMO: Right. And we did a *Brady* request. There
6 are -- our officers in this case -- none of them have a complaint, or
7 anything sustained against them, or in their file, so he's throwing out
8 something that -- I mean, I would just ask either he go, or that we
9 just -- that either side not be able to inquire further because it's going to
10 poison the jury worse, and it is our burden, and our witnesses, and they
11 have nothing sustained against them through IAB.

12 MS. MACHNICH: And, Your Honor, we would certainly like
13 to talk to him outside the presence. We understand not wanting to taint
14 the jury pool, so certainly not -- we understand not in front of anyone
15 else, but get an idea of where he's coming from, what he's doing. I
16 mean, eventually --

17 MS. DIGIACOMO: I don't see what the point is in
18 questioning. What he is saying, he doesn't even work for Metro
19 anymore. It's just his opinion. It is nothing that has been sustained
20 against this officer.

21 MR. SPEED: But he had -- he was a witness and it sounded
22 like administrative proceedings where one of the witnesses listed in the
23 State's notice had acted inappropriately --

24 MS. DIGIACOMO: Right.

25 MR. SPEED: -- or dishonestly in an exam -- at a promotion

1 examination. We should, at least, know about that because --

2 MS. DIGIACOMO: But --

3 MR. SPEED: -- because if everything he says is, at least,
4 minimally verifiable, we weren't informed of that by the State, and I
5 believe that the standard is, they are given constructive notice of that
6 kind of information being present in one of their witness's files.

7 Ms. DiGiacomo has indicated to the Court that they
8 performed their *Brady* request, but be that as it may, we didn't receive
9 this information from a potential juror who says that he was a witness to
10 inappropriate conduct by one of these people.

11 MS. DIGIACOMO: But again --

12 THE COURT: No, I didn't hear him say that.

13 MS. DIGIACOMO: I didn't hear witness.

14 THE COURT: He said he was aware of it.

15 MS. DIGIACOMO: Aware. But also, it would --

16 THE COURT: Because he's in HR.

17 MS. DIGIACOMO: Right. But he's in HR --

18 THE COURT: Not a witness.

19 MR. SPEED: Well, that awareness makes him a witness. He
20 has knowledge --

21 MS. DIGIACOMO: But --

22 MR. SPEED: -- of someone acting inappropriately on a
23 promotion exam --

24 THE COURT: Well, third party, or whatever.

25 MR. SPEED: -- in the police department.

1 MS. DIGIACOMO: But if he had that awareness, it would
2 have been reported to IAB. There is nothing sustained against this
3 officer, so --

4 MR. SPEED: We don't know that.

5 MS. DIGIACOMO: -- it's his -- yes, we do.

6 THE COURT: All right.

7 MR. SPEED: That's --

8 MS. DIGIACOMO: I had did the search.

9 THE COURT: Hey, guys.

10 MR. SPEED: Relax. That's --

11 MS. DIGIACOMO: But you keep --

12 MR. SPEED: That's Ms. DiGiacomo's representation.

13 MS. DIGIACOMO: -- interrupting me. I'd like to talk.

14 THE COURT: Go ahead.

15 MR. SPEED: That's Ms. DiGiacomo's representation. We
16 can't rely --

17 MS. DIGIACOMO: Can I -- I was in the middle of a sentence
18 and he keeps interrupting me, but go ahead, Mr. Speed, and let me know
19 when you're done.

20 THE COURT: Go ahead.

21 MR. SPEED: Well, I'll relax. I'll let you finish. Go ahead.

22 THE COURT: Ms. DiGiacomo, go ahead.

23 MS. DIGIACOMO: Thank you, Your Honor. What I was
24 saying is, what he was talking about is what he's aware of. It's his
25 opinion. If such a thing had happened in his presence, he would have

1 reported it to the IAB, and an investigation done.

2 We have asked Metro, per policy, about any complaints, or
3 anything sustained against any of the officers that we listed off, and it
4 came back none. So this is his opinion. This is not official within the
5 police department.

6 THE COURT: What's his number again?

7 MS. MACHNICH: 123.

8 THE COURT: All right. I'm going to allow the questioning
9 outside the presence. Certainly, and I assume from his other statement it
10 sounded, to me, like he wanted off, but why even a former HR would
11 know better than to just blurt that out; surprises me.

12 MS. MACHNICH: And, Your Honor, while we're doing
13 outside the presence, Loster, Badge Number 224, who is in seat 14, she
14 couldn't discuss anything in the presence, and I'm wondering if she can't
15 disclose anything outside the presence either. We were able to get very
16 little information from her, and if this would potentially be a good time to
17 speak with her outside the presence, because we have no idea what she
18 does for a living.

19 THE COURT: Right. But she told -- I think she was very clear,
20 she's not going to tell us anything.

21 MR. SPEED: Well --

22 THE COURT: I'll ask her, if you want me to ask her.

23 MR. SPEED: -- in the presence of the other venire persons.
24 That she's not law enforcement. She's not military. I'm not sure what
25 else has that kind of a sensitive nature.

1 THE COURT: We have this -- I've had this several times. If
2 they work at the test site, they won't tell us anything. We do have lots of
3 that here.

4 MR. SPEED: But they -- but usually the test site employees
5 will disclose that.

6 THE COURT: Will say they work at the test site.

7 MS. MACHNICH: Yeah.

8 MS. DIGIACOMO: But I've also had, Your Honor, where
9 they'll go to the bench and say it at the bench --

10 MR. SPEED: Right.

11 MS. DIGIACOMO: -- not in front of the others.

12 MS. MACHNICH: And that's fine.

13 MR. SPEED: That would have been my suggestion.

14 MS. MACHNICH: And that's fine as well.

15 THE COURT: And she -- I'll ask her if she'll -- we'll bring her
16 in too.

17 MR. SPEED: Right.

18 THE COURT: That's fine.

19 MS. MACHNICH: I mean, in the end if we can't get
20 anything --

21 THE COURT: I've never had anybody --

22 MS. MACHNICH: -- then she's just go.

23 THE COURT: -- and you heard me say that she can't say even
24 if she works for the government .

25 MR. SPEED: Right.

1 MS. DIGIACOMO: Well, I think -- yeah, but the way she was
2 looking around like she couldn't say it front of the others. It might be
3 possible she --

4 THE COURT: All right.

5 MS. DIGIACOMO: -- can say it.

6 THE COURT: We'll give it a shot.

7 MS. MACHNICH: Thank you.

8 THE COURT: I had a -- one of my dad's close friends we
9 called an uncle, and he traveled around, and this is back -- it was way,
10 way back to the '70s I guess in Southeast Asia. And he worked for a --

11 MR. SPEED: Air America.

12 THE COURT: That's exactly it.

13 MS. MACHNICH: Yep.

14 MR. SPEED: Oh, I totally guessed.

15 THE COURT: It was in -- not Air America, but he worked for
16 the CIA.

17 MR. SPEED: I see, yeah.

18 THE COURT: Doing stuff and we didn't know until 30 years
19 later --

20 MR. SPEED: Yeah.

21 MS. MACHNICH: Yeah.

22 THE COURT: -- when he retired and moved to Switzerland.
23 So they were very -- they don't talk.

24 All right. Do you need to take a break to go --

25 MS. MACHNICH: No.

1 MR. SPEED: I do, Your Honor. Let me hit the head for just a
2 second. I can be right back.

3 THE COURT: Go ahead.

4 Steve, will you bring in -- bring her in?

5 MS. MACHNICH: She's 224.

6 THE MARSHAL: Which one, Judge?

7 THE COURT: Loster, L-O-S --

8 MS. DIGIACOMO: 224.

9 THE MARSHAL: All right. Just come and sit anywhere.

10 THE COURT: Just a take seat up front. We have a couple of
11 questions.

12 PROSPECTIVE JUROR 224: Is here okay?

13 THE COURT: Yeah. Right there is fine. Ms. Loster, 224. In
14 regards to your employment, were you just worried that you couldn't
15 discuss it in front of anybody, or everybody, I should say, or is
16 there -- can you tell us where you work?

17 PROSPECTIVE JUROR 224: I -- I apologize. Unfortunately,
18 I -- I cannot discuss my employment.

19 THE COURT: Okay. Any follow up?

20 MS. DIGIACOMO: Was that the same with your significant
21 other?

22 PROSPECTIVE JUROR 224: That's correct.

23 MS. DIGIACOMO: Okay.

24 PROSPECTIVE JUROR 224: Yes.

25 THE COURT: Defense.

1 MR. SPEED: Ms. Loster, when you say, "can't discuss", any
2 aspects, any facets of your employment whatsoever, is it military, or law
3 enforcement related? Can you tell us that, or no?

4 PROSPECTIVE JUROR 224: I -- I'm sorry. I -- I cannot.

5 MR. SPEED: You can't tell us anything?

6 THE COURT: Yeah. Go ahead.

7 MS. MACHNICH: Sorry. I can't see you. Ms. Loster, in jury
8 deliberations, as His Honor will instruct, you'll be asked to bring your
9 everyday experiences to the table, would you be able to deliberate in a
10 jury deliberation room with your peers on a jury, knowing that that is
11 one of the jury instructions, and knowing that you would be discussing
12 the case?

13 PROSPECTIVE JUROR 224: Are you basically asking me if I
14 can remain impartial?

15 MS. MACHNICH: No. I'm asking if you can bring your
16 experiences from your everyday life and common sense to a jury
17 deliberation and share those with other jurors, given the fact that you are
18 unable to disclose to us what your employment is in any facets or any
19 manner?

20 PROSPECTIVE JUROR 224: Yeah, I -- I don't believe that I
21 would have a problem. My employment is one part of my life. I don't
22 discuss my work with anyone. So I -- I believe I -- I would be fine.

23 MS. MACHNICH: Okay.

24 PROSPECTIVE JUROR 224: Sure.

25 MS. MACHNICH: And obviously, you also did not answer in

1 the affirmative to any of the other questions that we've heard. Are you
2 able to discuss family, family history, friends; is that something that's
3 also outside the scope of what you're comfortable with, given your
4 employment, or are you able to go into that, if one of those items applied
5 to you, you would be forth coming?

6 PROSPECTIVE JUROR 224: That would be fine, as long as it
7 didn't pertain to my employer -- employment, then yes, I would be fine
8 with that.

9 THE COURT: All right. Thank you. You can go outside.
10 Don't talk to any of your fellow venire persons.

11 PROSPECTIVE JUROR 224: Yes, sir.

12 THE COURT: You're both -- what do you want to do?

13 MS. DIGIACOMO: I'm fine leaving her.

14 THE COURT: Okay.

15 MS. MACHNICH: I'm uncomfortable with it, because we
16 don't know if this is military. We don't know if there's any law
17 enforcement aspect of her job, because she can't disclose it.

18 MR. SPEED: Our position, Your Honor, is that she can't
19 effective deliberate. There's no scenario under which she would be
20 communicating with regular citizens, people who are picked to serve in
21 this capacity. And being charged with something as serious as what
22 they are asked to do by the Courts and say I can't discuss anything about
23 my professional life, even though all of you have, there's something that
24 is so secret, and so sensitive about my professional life that I can't share
25 that with everyone else.

1 I think it'll make her an ineffective juror and it'll do more
2 harm to the process than good by leaving her on. So I would -- I would
3 ask the Court to remove her.

4 THE COURT: Any response?

5 MS. DIGIACOMO: And, Your Honor, I would disagree. Yes,
6 we don't know what she does for a living; however, there's any other
7 facet of her life that she can discuss, and there's no reason that she has
8 to, in the jury room, say what she does for a living. She just needs to be
9 fair and impartial. Listen to the evidence. And make a decision based
10 upon the evidence, which there's no indication she cannot do that.

11 And somebody that is in here saying she cannot discuss
12 what she does obviously has been entrusted with something major and
13 can make the kind of decision that a juror has to make in this case.
14 There's been nothing here, except for the Defense wants to be
15 prejudiced against her because she has some, sort of, high level job with
16 the government, but she obviously has a life --

17 MR. SPEED: Well, we don't know that.

18 THE COURT: Counsel, don't interrupt.

19 MR. SPEED: We don't know that.

20 THE COURT: She's right. Don't interrupt. She's making her
21 argument. I let you make yours.

22 Anything else?

23 MS. DIGIACOMO: Well, I would just say, we don't know
24 enough about her. Obviously, she has friends. She has a life. She said I
25 just don't discuss my work with anyone. And there's been no reason

1 given why it would affect her ability to be a fair and impartial juror.

2 THE COURT: All right. Here's the thing. Although, I
3 certainly -- and I think I have, if you will, the obligation -- although, I
4 totally disagree with the argument that she needs to bring in her
5 personal life, as far as deliberation, the fact that they can't -- either
6 side -- can't inquire regarding potential bias with her job is troubling.
7 And how can anybody do an effective voir dire on whether or not her
8 employment affects any of this.

9 Does she work for Metro Internal Affairs? Does she do
10 the -- I mean, we know nothing. And her inability to -- not quantify -- to
11 explain that is, in my mind, grounds to excuse her. I don't see any way
12 around that. You can't do an effective questioning without knowing, and
13 that's, you know -- she could be the most fair and impartial, but there's
14 no way of knowing that without her ability to answer, so I'm excusing
15 her.

16 You'll fill that one in.

17 We're ordering 50. And now we need to talk to -- who is --

18 MS. DIGIACOMO: 123, Macrae.

19 THE COURT: Thank you.

20 123 Macrae.

21 THE MARSHAL: Judge, can you see him, or I need to move
22 that?

23 THE COURT: Yeah, I can see it. So we just have a few
24 questions.

25 State, why don't you start?

1 MS. DIGIACOMO: It wasn't the State that wanted to question
2 him, Your Honor.

3 THE COURT: All right. Defense.

4 MR. SPEED: All right. Sir, good afternoon. And I appreciate
5 your service so far. I know it's been a difficult afternoon.

6 Now, the reason we asked you to come back and speak with
7 the Court outside the presence of the other venire persons was, because
8 you revealed something that is problematic for both sides. You
9 indicated that you have knowledge, and if I'm wrong in any part of this,
10 I'm sure that you'll correct me, but you indicated that you knowledge of
11 one of the State's witnesses -- one of the people who they indicated
12 might be a witness in their case-in-chief cheating on a promotion exam;
13 is that correct?

14 PROSPECTIVE JUROR 123: Yes, sir. That's correct.

15 MR. SPEED: Can you tell us which person that was? Whose
16 name you were familiar with in that capacity?

17 THE COURT: Go ahead.

18 PROSPECTIVE JUROR 123: Yes, sir. It was Ryan Larson.
19 The -- the exam was September of 2018. It was the Las Vegas
20 Metropolitan Police Department Sergeant Promotional Exam. Mr.
21 Larson -- Mr. Ryan Larson was found to be cheating; to be aiding others
22 to be cheating on that promotional exam; he was sanctioned. He was
23 removed from the process. His -- his results were -- were not scored.
24 And he was sanctioned by my boss, and that news went up to the sheriff,
25 Sheriff Joseph Lombardo.

1 And furthermore, I was not -- I -- in my role, which I no longer
2 occupy -- I left in April -- I was not permitted to call Ryan Larson
3 for -- part of my job was to run the promotional exams. It's a huge -- it's
4 a huge just mill -- huge factory line. I was not permitted to call Ryan
5 Larson for future exams.

6 MR. SPEED: Was, I guess, Officer Larson allowed to keep his
7 employment with the police department?

8 PROSPECTIVE JUROR 123: Yes, sir. He was.

9 MR. SPEED: So he is still employed, as far as you know,
10 having retired in April of this year?

11 PROSPECTIVE JUROR 123: Yes, sir. That's correct.

12 MR. SPEED: Is that kind of -- I guess it's more than an
13 allegation at this point, if it went Sheriff Lombardo's desk. Is that kind of
14 information in an officer's file, something that is recorded, kept that
15 follows him throughout his or her career?

16 PROSPECTIVE JUROR 123: I'd be speculating.

17 MS. DIGIACOMO: I'm going to object, Your Honor.

18 THE COURT: If you're speculating, then sustained.

19 MR. SPEED: How would a person obtain that information if a
20 records check, or a search of a person's employment file was
21 conducted?

22 PROSPECTIVE JUROR 123: There's a mechanism to enter
23 events such like this into personnel files, but hand over heart, I -- I do not
24 know if that is in his personnel file. I -- I can tell you that I do not believe
25 he was suspended for the event; although, it was communicated to me,

1 who ran those programs to never involve him again, and to remove him
2 from -- and my boss Captain Roxanne Burke, pulled him out -- pulled him
3 out of the process.

4 MR. SPEED: You said Captain Burr, B-U-R-R?

5 PROSPECTIVE JUROR 123: Sir, that's Roxanne,
6 R-O-X-A-N-N-E. Last name Burke --

7 MR. SPEED: Burke.

8 PROSPECTIVE JUROR 123: -- B-U-R-K-E. She's moved on to
9 another position, but she's still employed at Metro.

10 MR. SPEED: And you mentioned personnel file, so if this
11 information was something that was finally adjudicated, or where there
12 was a terminal adjudication made, it would be present in an officer's
13 personnel file?

14 PROSPECTIVE JUROR 123: So if -- if there were a formal
15 adjudication with punishment, yes, sir, it would be in his file.

16 MR. SPEED: Okay. But if there were not, and this is the
17 negative, obviously -- if there were not a formal adjudication, there
18 would be no information about a substantiated charge of cheating, or
19 acting inappropriately present in an officer's file, yes?

20 PROSPECTIVE JUROR 123: Yes, sir. That would not be
21 written. It would be matter of -- it would be -- that place runs on -- on
22 rumor and -- and discussions among -- among the -- the fifth floor. Like,
23 they all -- they'll all know.

24 MR. SPEED: Who occupies the fifth floor, Mr. Macrae?

25 PROSPECTIVE JUROR 123: That's Sheriff Joseph Lombardo

1 his -- his three assistant sheriffs: Assistant Sheriff Hank -- I'm -- I'm sorry
2 I'm blanking on the other two names.

3 MR. SPEED: Uh-huh.

4 PROSPECTIVE JUROR 123: And the CFO is on the fifth floor.
5 Legal counsel is on the fifth floor.

6 MR. SPEED: Do you know -- to your knowledge, was legal
7 counsel notified?

8 PROSPECTIVE JUROR 123: Not to my -- I do not know.

9 MR. SPEED: And just so that I have a clear picture of your
10 role in the examination process, you said that, as HR director, you served
11 as a proctor of the exam? You were the person charged with
12 administering the exams to the applicants?

13 PROSPECTIVE JUROR 123: Yes, sir. I ran a team of 17
14 employees --

15 MR. SPEED: 17.

16 PROSPECTIVE JUROR 123: -- who -- who -- who
17 administered the exams, and I oversaw -- I was held accountable for their
18 fair processes.

19 MR. SPEED: Okay. Did you witness the described cheating
20 by Officer Larson?

21 PROSPECTIVE JUROR 123: No, sir. I did not witness it
22 firsthand.

23 MR. SPEED: Okay.

24 PROSPECTIVE JUROR 123: It was reported to me by people
25 who were.

1 MR. SPEED: Okay. One of your 17 subordinates?

2 PROSPECTIVE JUROR 123: Yes, sir.

3 MR. SPEED: Did that test -- was that test -- I don't
4 know -- terminated at that point, once the suspected cheating was
5 observed, you were notified by one of your 17 subordinates. Was that
6 test -- was that examination concluded?

7 PROSPECTIVE JUROR 123: No, sir. The -- the -- the entire
8 exam was not deemed to be compromised, because there were several
9 parts. There was written. There was the -- the practical, where they kind
10 of do a scenario, you know, for about an hour in a room, and then there
11 was an oral board afterwards. So this part, in -- in question was the
12 scenario base, and it was easy to -- to readapt that for others -- readapt
13 that scenario.

14 THE COURT: Anything else?

15 [Defense counsel confer]

16 MR. SPEED: That's all, Your Honor.

17 THE COURT: State, any follow up?

18 MS. DIGIACOMO: Thank you. I do.

19 So as HR, it sounds to me like this was handled within HR.
20 You were just told not to allow him to test again?

21 PROSPECTIVE JUROR 123: Yes, ma'am. That's correct.

22 MS. DIGIACOMO: But you have no idea if this was referred
23 to IAB?

24 PROSPECTIVE JUROR 123: I do not know.

25 MS. DIGIACOMO: And you have no idea if there was some

1 sort of formal adjudication that went into his personnel file?

2 PROSPECTIVE JUROR 123: That's correct, ma'am.

3 MS. DIGIACOMO: You did not place anything in his
4 personnel file?

5 PROSPECTIVE JUROR 123: I did not.

6 MS. DIGIACOMO: Okay. I nothing further.

7 MR. SPEED: And for our record? What is IAB?

8 PROSPECTIVE JUROR 123: I believe the reference was
9 Internal Affairs Bureau. So we would say IA, but I hope you don't mind
10 the leap.

11 MR. SPEED: No.

12 THE COURT: All right. Thank you. You may go outside.

13 PROSPECTIVE JUROR 123: Sir. Excuse me.

14 THE COURT: Okay. Mr. Macrae, 123.

15 MS. DIGIACOMO: Your Honor, I would ask that he be
16 removed for cause, based upon what he blurted out in front of the jury,
17 as well as the fact that he said he cannot be fair and impartial because of
18 that officer in this case.

19 THE COURT: Defense.

20 MR. SPEED: May we approach, Your Honor?

21 THE COURT: Approach?

22 MS. DIGIACOMO: There's no one here.

23 MR. SPEED: Well --

24 THE COURT: There's nobody here.

25 MR. SPEED: And I'm sorry, Your Honor, for being informal

1 here. Does the Court mind if we remain seated for this?

2 THE COURT: That's fine.

3 MR. SPEED: All right. We probably -- the Court has to -- I
4 would imagine have the same concerns that we do here, because there
5 was a major cheating scandal participated in. Probably the ringleader of
6 the cheating scandal was this Officer Larson, who in September of 2018,
7 while this trial was pending, and I believe we were set for a calendar call
8 sometime around that time, had in his, either hard personnel file, or
9 known throughout the file -- the rank and command at Metro to have
10 participated in this cheating scandal.

11 We don't know anything about that. I presume the State is
12 still going to call him as a witness in its case-in-chief. We need to have
13 access to his personnel file to see if there's anything else that would
14 suggest deceitfulness, bias, untruthfulness, just a lack of credibility in
15 general by someone who is going to be presented to our jurors as a
16 uniformed officer, who is sworn to protect and serve the citizenry of our
17 community, but who also has very well-known in his employment career
18 been the ringleader of a cheating scandal.

19 MS. DIGIACOMO: And Your Honor --

20 THE COURT: Well, there's two issues: First of all, do you
21 agree that Mr. Macrae should be excused?

22 MR. SPEED: He seems like a person of -- he seems to be a
23 person of great integrity for us. I mean, he -- Ms. DiGiacomo said herself
24 that he blurted out these things, but based on the Court's examination of
25 him from earlier questions, he was forthcoming. He was honest. He

1 is -- treats delicate, sensitive matters appropriately, as far as I was able to
2 see until that revelation.

3 I suppose we could question him more once we get into the
4 nuts and bolts of what we're going to be trying to prove, and whether we
5 can make a fair assessment of whether he can be fair and impartial in
6 this case, but I think just revealing to the Court that he has knowledge of
7 a particular witness, that's what the Court asked him, if he was --

8 THE COURT: Well --

9 MR. SPEED: -- familiar with anyone on the State's witness
10 list, or the Defense's witness list.

11 THE COURT: All right. I think you missed the point. He said
12 flat out, I can't be fair and impartial regarding this because, then he went
13 into that.

14 MR. SPEED: Then should we -- I would suggest then that we,
15 at least, be given the opportunity to rehabilitate him.

16 THE COURT: Well, you're familiar --

17 MR. SPEED: We're giving that same opportunity to several
18 other venire persons who said they can't be fair and impartial because of
19 incidents involving their family members or loved ones.

20 THE COURT: And you're familiar with -- shoot -- I usually
21 know the name of that case -- and including the most recent regarding, if
22 you will, rehabilitating where once the person has basically said one
23 thing, and then --

24 MS. DIGIACOMO: Your Honor --

25 THE COURT: -- contradicts --

1 MS. DIGIACOMO: -- Ms. Sudano, said it's *Sayedzada* --

2 MS. SUDANO: Yeah.

3 THE COURT: What's that?

4 MS. DIGIACOMO: *Sayedzada*.

5 THE COURT: Well, that's the most recent. There was
6 another one. I thought it began with -- anyway, it doesn't matter if I can't
7 quote it.

8 MS. DIGIACOMO: *Preciado*.

9 MR. SPEED: *Preciado*. We have it as well.

10 MS. DIGIACOMO: Oh, that was my case. That's where I --

11 THE COURT: Anyway, to rehabilitate, you know, I mean, he's
12 been unequivocal that he can't be fair and impartial regarding that, so as
13 far as the first issue, which is whether or not we need to question him
14 more, he's expressed clearly and convincingly that he cannot be fair in
15 this case, because of his own knowledge, so I'm excusing him.

16 But then the other issue you bring up, which certainly, we're
17 not going to get to, is looking into the Officer Larson's --

18 MS. DIGIACOMO: And, Your Honor, if I can address that.

19 THE COURT: Yeah.

20 MS. DIGIACOMO: I did let Mr. Speed -- it was Friday or over
21 the weekend, we were communicating back and forth -- I did let him
22 know, I have no intention of calling Officer Larson. We intend to call
23 Officer Delaria and Officer Kravetz. Officer Larson was secondary and
24 doesn't add anything.

25 And also too, I do have the record here.

1 THE COURT: If you're not calling him -- Mr. Speed, if they're
2 not calling him, what -- you may not -- whatever it may be -- he didn't get
3 anything in his file, but --

4 MS. DIGIACOMO: That is correct. He has --

5 THE COURT: -- even in -- even --

6 MS. DIGIACOMO: -- he has no discipline.

7 MR. SPEED: This is Larson?

8 MS. DIGIACOMO: All of them, but Larson, yes.

9 MR. SPEED: May I see that, please?

10 MS. DIGIACOMO: Sure.

11 THE COURT: And it seems clear, although, I supposed we
12 could, but since he's not being called, as a collateral issue that has
13 nothing to do with this case anymore, since he's not going to be a
14 witness, should he have been, could he have been whatever, and they
15 gave him unreported -- it's kind out of my hands at this point.

16 MS. MACHNICH: Your Honor, if they're truly not calling him,
17 obviously, he was still listed. If they're --

18 THE COURT: They just said that.

19 MS. MACHNICH: -- if they're not calling him --

20 THE COURT: They're not calling him.

21 MS. MACHNICH: -- it is a moot issue, and it won't come up.

22 THE COURT: That's what I'm --

23 MS. MACHNICH: If he becomes a State's witness at any
24 point during this case, we would like to renew this and what at that
25 point, we'll be requesting is a copy of his personnel file be sent to you in

1 chambers to have it reviewed, but at this point --

2 THE COURT: I understand that, but I think they made it very
3 clear they're not calling --

4 MS. MACHNICH: Okay.

5 THE COURT: -- him.

6 MS. MACHNICH: And if that remains the case, then we will
7 not need to review it -- or renew our motion.

8 THE COURT: Okay. So man.

9 THE CLERK: So he's off, and so I have the two to fill in.

10 THE COURT: Yeah.

11 THE CLERK: Debra Earl would be seat 14.

12 Kathy Vanderlinden --

13 THE COURT: I mean, if --

14 THE CLERK: -- 31.

15 THE COURT: -- do you want me to bring them back just to
16 read them the admonishment again and substitute those two people?

17 MS. MACHNICH: Is it different overnight, Your Honor?

18 THE COURT: I'm sorry?

19 MS. MACHNICH: Is it --

20 MR. SPEED: Is the overnight different?

21 THE COURT: No. I haven't -- there's a longer version, which
22 takes -- and I guess I could go into that since we do have ten
23 minutes -- telling them not to do anything. That if they see you in the
24 hall, and blah, blah, but that takes --

25 MR. SPEED: Oh, yes.

1 THE COURT: -- at least, ten minutes.
2 MR. SPEED: Yeah, we need that one.
3 MS. DIGIACOMO: I would -- yeah, I think we need to get that
4 done before they need.
5 THE COURT: All right. Then let's bring them in.
6 THE CLERK: And are we excusing any others that were --
7 THE COURT: At this point, no. They want to --
8 THE CLERK: Okay.
9 THE COURT: -- talk to them, so --
10 THE CLERK: Okay.
11 THE COURT: All right. Bring them in.
12 THE CLERK: So we'll seat those two. We'll get --
13 MS. DIGIACOMO: And then he's going to do the
14 instructions, and we'll --
15 THE CLERK: -- and then do the instructions, because --
16 THE COURT: Yeah.
17 THE CLERK: -- we're going to have a relief clerk, who's not --
18 THE COURT: Yes, I get it. There's nothing I can do.
19 THE CLERK: I know.
20 MS. DIGIACOMO: Your Honor?
21 MS. SUDANO: Your Honor? Can -- before we bring the jury
22 in --
23 THE COURT: What?
24 MS. DIGIACOMO: That -- 123 was standing right outside and
25 listening to our arguments.

1 THE MARSHAL: No. He was in the room with the door
2 closed.

3 MS. DIGIACOMO: The door was closed? You can still hear.
4 All right.

5 THE COURT: But he's gone.

6 MS. DIGIACOMO: No, that's true. That's true.

7 THE COURT: How many are in the back? Like 10?

8 THE CLERK: In the -- one, two, three, four, five, six, seven,
9 eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen.

10 THE COURT: And they haven't asked one question yet.

11 MS. MACHNICH: Your Honor, are we going to do the new
12 panel before we start with the jury again tomorrow, or are we going to
13 bring them up in the afternoon if we need them?

14 MS. DIGIACOMO: I'm sorry. I didn't hear counsel.

15 MS. MACHNICH: Oh, I was asking whether we were going to
16 start with a new panel in the morning or whether we were going to just
17 start with those that we have and call them up in the afternoon, just for
18 scheduling.

19 THE COURT: We'll start with those who we have in --

20 MS. DIGIACOMO: Okay.

21 MS. MACHNICH: And then call it after 1:00.

22 THE COURT: Yeah.

23 MS. MACHNICH: Okay.

24 MS. DIGIACOMO: Because we still have --

25 THE COURT: Fifteen. She just counted.

1 MS. DIGIACOMO: Wow.

2 THE CLERK: Yeah. We're going to drop a few because of --

3 MS. DIGIACOMO: And is that including the two that you're
4 going to fill?

5 THE CLERK: No, those I included.

6 MS. DIGIACOMO: You included? Okay. So we have 15
7 not -- not up here?

8 THE CLERK: Not counting the two new ones that are in
9 there.

10 MS. DIGIACOMO: Okay.

11 THE COURT: But that -- not one question asked yet. Well,
12 the Endoscopy [phonetic] trial, they took a whole week to pick a jury.

13 MR. SPEED: Oh yeah.

14 THE MARSHAL: Please rise for the jury.

15 [Prospective jurors in at 4:56 p.m.]

16 [Inside the presence of the prospective jurors]

17 THE COURT: All right. Please be seated.

18 Call the next in line.

19 THE CLERK: Okay. Debra Earl, badge number 271. You'll be
20 in seat number 14. And Kathy Vanderlinden, badge number 274, you'll
21 be in seat number 31.

22 THE COURT: Okay. Ladies, and gentlemen, I'm going to
23 really try to get you out by five after. I'm going to read to you the long
24 form of the admonishment, which explains a few things because you are
25 going to be back tomorrow and well, it covers lots of things. So

1 tomorrow, I'm going to -- because I'm giving you 24-hour's notice -- what
2 time do we start?

3 THE CLERK: 10:30 -- no. We start at 11.

4 THE COURT: All right. You get most of the morning off.
5 We're going to start at 11:00, but we may go as late as 5:30.

6 So the admonishment explains basically some courtroom
7 procedures. You're admonished that no juror may declare to a fellow
8 juror any fact relating to this case of his own knowledge, and if any juror
9 discovers during the trial or after the jury is retired that he or she or any
10 other juror has personal knowledge of any fact or controversy in this
11 case, he shall disclose that situation to me in the absence of the other
12 jurors.

13 What that really means, the simple fact is, if a witness is
14 called and you find out hey, that's my son's coach and all you knew his
15 name was "coach", you need to disclose that. How you do that is by
16 writing it down and giving it to Marshal Moody, who will give it to us.

17 You are not to discuss with anyone else, if you're chosen to
18 be on the jury, with your other fellow jurors, hey, I know this guy. Just
19 write it down -- or woman, whatever -- write it down and give it to the
20 marshal.

21 During the course of the trial the attorneys for both sides,
22 court personnel, other than the marshal are not permitted to talk to you.
23 You can't say, hey, Judge, I have a question. You need to write it down.
24 It is simply that we are bound -- and that goes for the parties and the
25 attorneys -- we're bound by ethics and the law not to speak with you

1 because to do so might contaminate your verdict. That includes if you
2 see somebody in the hall, the parties, the witnesses, et cetera, you can't
3 even say hi in the elevator because to do so you might be -- they might
4 be -- the other side might think you're favor is being -- I think the word is
5 curried -- in any event, the appearance of impropriety is just as
6 important. So we don't want that. When I tried cases, when I'm in the
7 courtroom and I know there's a trial, going up the elevator I used to look
8 at the floor.

9 And nobody's going to say hi and don't say hi to -- if you see
10 somebody, oh, hey, I like your car -- we've had that. Don't start a
11 conversation. The other side is, oh, you were talking to them, you were
12 becoming friendly. Please don't do that. Certainly the parties and the
13 attorneys all know that they're not supposed to that and they won't do
14 that, but it's difficult if you say hi or something like that. So avoid that by
15 only talking to your fellow, potential, venire persons until you get your
16 badge for a jury and that means you can talk to any of your other fellow
17 people potentially on the jury, but not about the trial.

18 Not about hey, what was the -- what were they asking me?
19 What was that question about -- I get that -- don't talk about that. Please.
20 It will only result in problems for all of us.

21 Although, this isn't going to come up, you're admonished
22 don't visit the scene of any of the acts or occurrences made mention
23 during this trial. That's not going to come up.

24 This is a criminal case commenced by the State. Sometimes
25 I may refer to it as The State of Nevada versus Gustavo Gunera Pastrana.

1 I hope I pronounced that correct. This case is based upon the
2 information. I am not going to have the clerk read it at this point. We
3 will read it to you when we pick a jury.

4 So that information, so you understand, is only the
5 allegations. Nothing has been proven and nothing will be proven until
6 and unless the witnesses and the evidence on the stand -- the Defendant
7 is, as he sits here, innocent, absolutely innocent. Nothing has been
8 proven. Allegations are merely allegations. The Defendant is entitled to
9 the innocence. And until anything -- and we'll get into that -- is proven
10 beyond a reasonable doubt. The State has that burden and we'll go into
11 that in more detail again if you're chosen as jurors.

12 I will explain all of this both at the beginning and then jury
13 instructions at the end of the case. If you're chosen. So the fact that you
14 may not understand anything or everything right now, don't worry. We
15 will go into jury instructions. We will explain burdens and et cetera, et
16 cetera.

17 The parties may sometimes present objections. Don't be
18 concerned with who is presenting the objection. You shouldn't hold that
19 against any party. They are entitled to make objections. And I will rule
20 on those objections.

21 The case will proceed -- again assuming you're jurors -- the
22 State will make the opening statement. The Defense gets to present an
23 opening statement, or they can reserve it. It is there choice.

24 After the opening statements, the State will present their
25 evidence, then the Defendant has the right to introduce evidence.

1 However, again, please remember the Defendant is not obligated to
2 present any evidence or to prove his innocence. The law never imposes
3 upon the Defendant in a criminal case the burden of calling any
4 witnesses or introducing any evidence.

5 The Defendant and his attorney can sit through the trial and
6 do nothing, not ask any questions, not call any witnesses, do nothing at
7 all because the Defendant has no burden of proof in a criminal trial.

8 As we already discussed, the State has to prove two things.
9 First, the State has to prove to you beyond a reasonable doubt that a
10 crime occurred. And second, the State has to prove to you also beyond
11 a reasonable doubt that the Defendant did it.

12 At the close of the Defendant's, if any, the State may
13 introduce rebuttal evidence. At the conclusion of all of the evidence I will
14 instruct you on the law, and then the parties get to do closing
15 arguments. Because the State has the burden of proof, the State goes
16 first, then the Defendant gets to argue, and the State gets to do a reply or
17 rebuttal.

18 Now, please understand the Court, this Court doesn't make
19 up the law. The law in the case is done by the legislature. We just got
20 through another legislative session. I will instruct you on the law that
21 applies to this case. Then the parties will do their closing arguments as I
22 stated.

23 Argument by the parties is not evidence. After all, the
24 attorneys have not -- weren't present for any of this. They're just giving
25 you a summation of the evidence as they see it.

1 As I said, any communication -- and there will be questions
2 you have, et cetera -- you'll write it down. If you're picked as jurors, we'll
3 give you pads of paper and give it to Marshal Moody. He will be your
4 contact.

5 There will be questions allowed of witnesses. You do that
6 the same manner. If you have a question, you'll write it down at the end
7 of the witness' testimony. I'll ask if the jurors have any questions, write
8 it down, you'll give it to Officer Moody, and we will discuss it. Not all
9 questions are appropriate. Hearsay, or maybe it's a question that's
10 better suited for another witness. The parties and I will discuss it. If your
11 question is not asked, don't take that personally. It just means that it's
12 again, more appropriate for another witness or it may not be appropriate
13 to be asked at all.

14 Again, do not discuss this case. The final -- I'll give you this
15 again and you'll have it memorized at the end of the case. You're once
16 again admonished. Do not talk with or converse with anyone regarding
17 this case. Do not read, watch, or listen any report of or commentary on
18 the trial or any person connected with this trial by any medium of
19 information including without limitation newspapers, television, radio, or
20 internet. Do not form or express any opinion on any subject connected
21 with the trial until the case is finally submitted to you.

22 Don't go home and go on Twitter or Instagram or all the stuff
23 that my daughter goes on and say oh, I'm potentially on a jury. We will
24 find out about it. Do not do that please. It will only cause problems for
25 everybody. You are only venire persons at this point, and even if you

1 become jurors, don't go on Twitter or Google anything, do any research
2 of any kind, please.

3 Thank you. We're in recess. We'll see you tomorrow at 11
4 a.m.

5 THE MARSHAL: And you'll wait for me outside. I will come
6 get you at 11:00 and bring you in. We'll do the roll call thing. If there's
7 any questions for me now, I'll be outside.

8 THE COURT: Again --

9 THE MARSHAL: You'll be in the same seats. You'll be in the
10 same seats.

11 [Prospective jurors out at 5:10 p.m.]

12 [Outside the presence of the prospective jurors]

13 THE COURT: Okay. We're on the record outside the
14 presence -- did I even ask you to substitute? I had civil calendar and it
15 wasn't a simple one this morning.

16 Okay. Anything we need to discuss?

17 MR. SPEED: Your Honor, we did have a file review with the
18 District Attorneys who were prosecuting the case last week, I believe,
19 right after our calendar call, but I noticed when we were dealing with the
20 issue with venire person number 123, Mr. Macrae, that the -- Ms.
21 DiGiacomo produced from her file a letter from the -- I'm not sure who it
22 was. I just saw the badge and the date. From the police department
23 detailing that the DA's office did perform a search. There were no
24 records of inappropriate conduct or misconduct found in their personnel
25 files. We would just like a copy of both that letter from the police

1 department and the printout showing that there were no incidents found
2 or no hits found in the personnel file for those officers.

3 MS. DIGIACOMO: And Your Honor, that was not something
4 we hand over in discovery. I let him view it, but I'm not turning over a
5 copy of it.

6 THE COURT: The --

7 MS. DIGIACOMO: There's no relevant information. It's what
8 we do to check to see if there is anything that needs to delve in to into
9 their personnel files.

10 THE COURT: They made the Brady disclosure that there is
11 nothing. Why would the actual document be relevant?

12 MR. SPEED: Well, because that's where we might get into a
13 controversy. In our calendar call meeting there was no disclosure
14 pertaining to the officers who would be potential witnesses' personnel
15 files. I didn't make a specific request for that information. I didn't ask
16 about that during our file review. I'm only seeing today for the first time
17 that -- and I'm only learning today for the first time that a Brady search of
18 the officer's personnel files was conducted and that this was the
19 correspondence received by the DA's office from the Metropolitan Police
20 Department.

21 Now, I can represent that I did look at all of the names in
22 page 2 of the printout and in each field next to the names it showed -- it
23 read "none found". I'm guessing that's in response to the request for
24 information sought in this kind of a Brady request by the Prosecutor's
25 office, but --

1 MS. DIGIACOMO: And, Your Honor --

2 MR. SPEED: -- I understand what the policy is. I guess it's a
3 policy that's similar to when the DA's office runs NCIC on different
4 witnesses. We're allowed to view it. We can't receive a copy of it. They
5 aren't permitted to disseminate copies of it. Understood. I guess we're
6 fortunate in this case that there were no disciplinary records or
7 disciplinary hits found in any of the officers' personnel files. But we
8 learned from Mr. Macrae that this was one of those incidents that may
9 have been kicked up to the fifth floor and kept from Officer Larson's
10 personnel file.

11 MS. DIGIACOMO: Well, Your Honor --

12 THE COURT: Well, we only know that's a possibility because
13 he doesn't know. You're free to whatever -- although, he's not even a
14 witness. So as far as this trial, as I said before, he's not going to be
15 called. I don't see any relevance and as far as the Brady issue, they have
16 the obligation to tell you whether there's exculpatory or inculpatory --
17 what -- but that they inquired, and they are saying that there isn't the -- I
18 don't see the relevance if you will of the actual letter that they got
19 verifying that.

20 MS. DIGIACOMO: Right. We have a due date to turn over if
21 there's something in their file that could be used for impeachment, et
22 cetera. That's it. There's nothing that it was -- that the State needed to
23 turn over in this case.

24 And also I would point out, Your Honor, too with this Juror
25 Macrae that we did [indiscernible]. It also opens another can of worms

1 because as we were sitting here I texted with somebody at Metro and
2 found out that he himself was fired from Metro. So his opinion is even
3 less credible in the State's opinion. But with regard to what we received,
4 we have to turn over anything that we get that would be impeachment,
5 that's it. And that's all I'm going to turn over.

6 THE COURT: All right. Yeah.

7 MS. DIGIACOMO: And I have none of that.

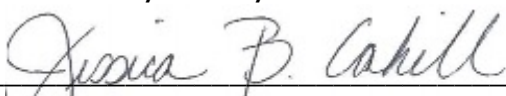
8 THE COURT: So I'm, I guess, denying your request for the
9 actual document. As far as what's his name, Macrae, it's basically moot.
10 As I said before, he's said he absolutely couldn't be fair and impartial in
11 regards to this, and so I excused him. And as far as the officer, he's not
12 testifying. So it's a nonissue. Thank you.

13 MR. SPEED: We'll consider ourselves luck and forewarned,
14 Your Honor. Thank you.

15 THE COURT: Yeah. I'm sure that -- it definitely sounded like
16 there's a lot of other stuff, but it's like the spy. We'll never know.

17 [Proceedings concluded at 5:17 p .m.]

18
19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-visual recording of the proceeding in the above entitled case to the
23 best of my ability.

24 

25 Maukele Transcribers, LLC

Jessica B. Cahill, Transcriber, CER/CET-708

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Case Number: C-16-318461-1

1 Las Vegas, Nevada, Tuesday, June 5, 2019

2
3 [Case called at 10:56]

4 [Outside the presence of the prospective jurors]

5 THE COURT: Let's see. 318461 State of Nevada v. Pastrana.
6 Is there something outside the presence?

7 MS. DIGIACOMO: Yes, Your Honor, by the State. So we're
8 either asking Your Honor for the jurors to be admonished or in lieu of
9 that, for a new panel based upon yesterday Thomas Macrae, Juror
10 Number 123, his blurting out about how one of our officers was involved
11 in a cheating scandal and -- because that poisoned the entire panel.

12 We have since learned not only was Mr. Macrae -- he was not
13 being truthful. The officer he kept referring to, Ryan Larson, is the only
14 Ryan Larson with Metro. Not only has he never tested for sergeant, but
15 he is unable to do so because you have to be on the force or on Metro
16 for a minimum of six years to be able to do so. He's only, as of last
17 September, would have been three years.

18 So Mr. Macrae, you know, poisoned the jury against
19 whatever officers come in because they're not going to know who was
20 involved. So at a minimum I'd ask this Court to admonish the entire jury
21 panel that the statements he made were not true about any of the
22 officers that will come in and testify in this case. And he must have been
23 mistaken.

24 And also, as I brought up yesterday, he was fired from Metro
25 and was not even there a year. So I'm not sure -- and I asked Officer

1 Larson as well if he even knew who this person was, and he said no.

2 THE COURT: Counsel?

3 MR. SPEED: Go ahead.

4 MS. MACHNICH: Your Honor, obviously, we understand the
5 issue, and we often have this come up as well. We don't think that it's
6 necessary at this point, based upon this reason for a new panel.
7 Obviously, we had previously asked for a new panel, so we don't want to
8 undermine the arguments we've previously made. So we will submit on
9 that issue.

10 If Your Honor is going to admonish the jury, the jury panel
11 that's here about the statements that were made yesterday, we would
12 just ask instead of calling a juror a liar perhaps we -- just saying he was
13 mistaken and that they should not presume that the officers involved in
14 this had anything to do with what that juror was talking about. I don't
15 want to make them less inclined to participate in the process.

16 MR. SPEED: Here's what I would add to that, Your Honor.
17 We don't know necessarily, and we're relying on Ms. DiGiacomo's word
18 considering the people she's spoken to and the relationships that she's
19 built with the Metropolitan Police Department over the past couple
20 decades or so that Mr. Macrae was mistaken, but we have not
21 investigated the issue. We haven't heard both sides of whatever
22 allegations he's making. So for the Court to presume that he was
23 absolutely mistaken or at worse, misleading and false in his revelation of
24 knowledge of potential witnesses, I think would be a bridge too far.

25 I think admonishment would be the best measure in this

1 case, but I would respectfully recommend that the Court tailor that
2 admonishment very specifically to the happenings of yesterday
3 afternoon and not make it such a bold statement of vouching for the
4 credibility and honor of police officers that it takes the jury in the other
5 direction.

6 THE COURT: Hence the problem. And if in fact, I think, it's
7 pretty clear if the individual the -- what was -- the officer doesn't have the
8 years, he couldn't be taking the sergeant. So he was probably mistaken
9 as to the name and/or -- well, I don't know. But --

10 MR. SPEED: But none of that we know, Your Honor.

11 THE COURT: -- without saying -- I mean, his blatant -- first of
12 all, he -- no doubt in my mind he did it intentionally to bring it up like
13 that. He's an educated individual and I was -- I'm sure as you were --
14 shocked, but you're right. What admonishment do I do that doesn't go
15 and vouch for him?

16 I'm inclined to -- as much as we've now wasted time, I don't
17 see any way other than getting a new panel. If you guys have some
18 ideas. What sort of an admonishment -- he was mistaken, don't listen to
19 him, don't -- you're right. Then I'm --

20 MR. SPEED: Right.

21 THE COURT: So I think we have no choice. And I -- soon as I
22 heard, I mean, I'm like oh, that's ridiculous.

23 MR. SPEED: I think the Court can use generalities and
24 vagaries in the sense that the venire panel can be admonished using
25 language such that -- or along the lines of --

1 THE COURT: If you guys want to take five minutes and try to
2 come up with language you agree upon -- if not, I'm just -- we have a
3 new panel. We told them we want another 50. I just -- I mean, it was a
4 very serious allegation, and now they don't know who it applies to. Do I
5 tell them it applies to?

6 MR. SPEED: No.

7 THE COURT: And then say -- right.

8 MR. SPEED: It absolutely --

9 THE COURT: And then say, I don't -- I'll give you five
10 minutes, but I am -- I don't know what you would want me to say that
11 would be fair to both sides that would deal with it. It's pretty serious to
12 call -- to say that one of the witnesses is a liar and I --

13 MS. DIGIACOMO: And a cheat.

14 THE COURT: We can replay it, but yeah, cheat, et cetera and
15 I can't tell them who. I don't think it would -- you know, what are we
16 going to do? Say that Mr. -- what was his name?

17 MS. DIGIACOMO: Macrae.

18 MR. SPEED: Macrae.

19 THE COURT: Macrae was mistaken, but he's -- all right. Take
20 five minutes, see if you guys can agree. I don't where their panel is. Can
21 you check my JAs out? All right. I'm going to check on the new panel,
22 otherwise --

23 MS. DIGIACOMO: And Your Honor --

24 THE COURT: -- I know they'll be here at lunch.

25 THE COURT: And, Your Honor, I would ask too, because

1 when I just did this two weeks ago, I was leftovers that they made us sit
2 and wait until all the courts said they don't know -- they need -- they
3 didn't need any more jury members. So you might see if we could get
4 more. Like we do another 80 something or whatever.

5 THE COURT: I will do that right now.

6 MS. DIGIACOMO: Thank you.

7 [Recess taken from 11:04 a.m. to 11:08 a.m.]

8 THE COURT: -- asking for an appeal, and we have 50 that will
9 be here at 1 or they're here, but she'll let them go to lunch. So I'm going
10 to bring them in, and I think they have a right to at least know that there
11 was --

12 MR. SPEED: There were statements -- here's what I think --

13 THE COURT: Improper statements and that's it.

14 MS. MACHNICH: Yeah, improper statements and --

15 MS. DIGIACOMO: Okay. That's fine.

16 THE COURT: All right. And so you will -- we'll get a long
17 lunch. We have 50 so we'll start working on that.

18 MS. DIGIACOMO: Okay.

19 THE COURT: And then tomorrow she'll have some more.
20 That's all we can do.

21 MS. DIGIACOMO: And Your Honor, at this time, I had victim
22 and all the kids driving in tonight. I'm going to push it back until
23 tomorrow, if that's okay. We'll do the hearing first thing Friday morning
24 because we're still going to be picking the jury tomorrow, right?

25 MR. SPEED: Yeah.

1 MS. MACHNICH: We're going to be picking the jury on
2 Friday.

3 MR. SPEED: Yeah, that's fine with us.

4 THE COURT: Yeah.

5 MS. DIGIACOMO: I know, but it's hard. They're coming from
6 out of state and to be away now, she's going to have to come back until
7 next week and --

8 LAW CLERK: So they'll have a cold panel. The other -- there
9 was another -- I think it was Department XVIII had a case, but it plead.

10 THE COURT: So when are we going to handle them?

11 LAW CLERK: By 1.

12 THE COURT: 1:00 with what 80 or?

13 LAW CLERK: Eighty plus. She's going to go 150.

14 THE COURT: Eight plus? Okay.

15 MS. DIGIACOMO: Fabulous. Okay.

16 THE COURT: So at least that again, probably 20 or 30 will --

17 MR. SPEED: We'll lose right away.

18 THE COURT: Are we going to be able to get it done by next
19 Friday? Oh, by the way we can start at 9:30 tomorrow. Somebody had
20 something.

21 MS. DIGIACOMO: Yeah. We a had 9:30 -- wait, is tomorrow
22 Thursday?

23 THE COURT: Tomorrow is Thursday.

24 MS. DIGIACOMO: Oh, I'm good then. I'm good.

25 MS. MACHNICH: I can email the DA on my case and say we

1 need to push it.

2 MR. SPEED: I'm with Judge Johnson. I'm just asking for a
3 continuance, but it could take a few minutes.

4 THE COURT: Okay. Judge Johnson.

5 MR. SPEED: Mr. Judge Johnson.

6 THE COURT: Oh.

7 MR. SPEED: Yeah.

8 THE COURT: Okay. So we will shoot for 9:30 whatever, and
9 we'll have 80 plus. All right. So are we clear on the record, because we
10 haven't started the trial, it's not a mistrial, it's nothing, it's we're getting a
11 new panel?

12 MS. DIGIACOMO: Yes, Your Honor.

13 THE COURT: And I stated -- I believe I was pretty clear as to
14 the reasons. I think he tainted the panel completely and I don't see any
15 remedy that would resolve that.

16 Okay. Bring them in. I think there's one missing already, but
17 it doesn't matter.

18 [Prospective jurors in at 11:12 a.m.]

19 [Inside the presence of the prospective jurors]

20 THE MARSHAL: Please rise for the jury.

21 THE COURT: Please be seated. Good morning, ladies and
22 gentlemen.

23 IN UNISON: Good morning.

24 THE COURT: I don't know if it's good news or bad news. I
25 assume it might be good news for you. There were some statements

1 made that were improper and therefore I have to release all of you as
2 venire persons. We will be starting all over. But I want to thank you for
3 all being here. It's very important that you participated, and you come
4 here second day. I certainly know we all wish that wasn't the case, but
5 those things do happen sometimes. And we have to follow the law.

6 So you can all either go down to the third floor and report, or
7 which is much easier assuming you have access to a computer, go
8 ahead and do it online. Again, thank you. It's a necessary process. I
9 wish that, had you served as jurors, I can tell you I never had anybody
10 say, you know it was a waste of time or whatever. They're usually very
11 proud that they've done it because they learned a lot of stuff. And you
12 could be called in 18 months -- I think it's 18 months. And I certainly
13 hope that you will not look at this as a bad experience. It is the process
14 is working and so that's a good thing.

15 We have to follow a certain process. So thank you for being
16 here. You're excused.

17 [Prospective jurors out at 11:15 a.m.]

18 [Outside the presence of the prospective jurors]

19 THE COURT: All right. Anything else?

20 MS. DIGIACOMO: No, Your Honor.

21 MR. SPEED: Thank you.

22 THE COURT: See you at 1:00.

23 [Recess taken from 11:16 a.m. to 1:02 p.m.]

24 [Outside the presence of the prospective jurors]

25 THE COURT: Once more into the breach. We -- the jurors,

1 the venires -- she let them take a break before they came up. So
2 anything outside the presence?

3 MS. MACHNICH: Nope.

4 MS. DIGIACOMO: Not yet. I think they need to do some
5 math and then they're going to -- when we get the list.

6 MR. SPEED: Our cross-section math again.

7 THE COURT: We'll get the -- did Steve go get the list?

8 MS. DIGIACOMO: Oh, you know what, Your Honor? If you
9 could add into your questioning, if you don't mind, to also ask each juror
10 if they have kids and if they're adults, like how -- what they do for a living
11 as well.

12 THE COURT: All right.

13 MR. SPEED: We had no objection to that, Your Honor.
14 Thank you.

15 THE COURT: Anything you want? Okay.

16 MR. SPEED: That's about. Yeah, that's usually all the
17 Court --

18 MS. DIGIACOMO: And a case like this you kind of want to
19 know who's got kids.

20 MR. SPEED: Right.

21 THE COURT: All right. Steve got them up here yet?

22 [Pause]

23 THE COURT: So we have the 50 people plus an entire panel
24 from somebody whose case settled.

25 MS. DIGIACOMO: Oh cool.

1 MS. MACHNICH: Great.

2 THE COURT: Like 120 people available.

3 MS. DIGIACOMO: Nice.

4 MS. MACHNICH: How many are they bringing up now, Your
5 Honor.

6 THE COURT: Well, we only can fit 80 --

7 MR. SPEED: Eighty-two?

8 THE COURT: -- four.

9 MS. MACHNICH: Okay.

10 THE COURT: Is the maximum occupancy and I think that
11 includes all of you. We don't want the fire marshal getting mad at us.

12 LAW CLERK: So I just called, Judge. They're lining up right
13 now and should be here any second.

14 THE COURT: So they got to bring them up in all the
15 elevators. All right. Well --

16 LAW CLERK: Herding cats.

17 THE COURT: Yeah.

18 [Pause]

19 THE COURT: Anything else?

20 MS. MACHNICH: Yes, Your Honor, I would like to reference
21 back to our prior argument with regard to the makeup of the jury venire.
22 We have new numbers again. This time our issue is with, again, a
23 distinct group in the community, Hispanic Latino, which is obviously the
24 racial or ethnic origin of our client. So that is particularly troubling.

25 As we've discussed in depth, and I'm not going to make my

1 argument again, I'd like to incorporate by reference everything --

2 THE COURT: That's fine.

3 MS. MACHNICH: -- that happened yesterday. The only thing
4 I'd like to update with the new numbers, zero people identified on here
5 as Hispanic or Latino. We understand there's an issue with the self-
6 reporting in the system. However, assuming that every single person
7 who identified as other belongs in Hispanic-Latino category, which I
8 think is being overly gracious and generous to that number we are still at
9 a 61 percent comparative disparity in the numbers and the makeup in the
10 community.

11 So with that, we counted 10 people identifying as other,
12 putting that 10 number into the calculation as 100 percent Hispanic-
13 Latino, it still comes up with the 61 percent being over 50 percent
14 comparative disparity.

15 At this point, I would incorporate by reference by prior
16 arguments and we would ask for the jury commissioner to testify and we
17 would ask for ultimately a new venire panel. And with that, we will
18 submit to Your Honor.

19 THE COURT: All right. Thank you. I'm going to incorporate
20 my prior decision. We discussed this ad nauseum, for instance, Alexis
21 Velasquez reports just race as other race. Granted there's no guarantee,
22 but certainly one might assume she has a Hispanic surname.

23 So the reporting isn't perfect. I think we all can agree on
24 that, but the process is what is important. And again, I said it all before.

25 All right. Bring them in. Oh, he left.

1 THE COURT: Oh, and I didn't say this before, but when you
2 actually -- if someday you actually get to question and the first person
3 says, you know, oh, I hate X, Y, or Z, don't pop up and say, you know,
4 challenge for cause. All that does is teach them how to get off. And I've
5 seen it unfortunately, it's boom, boom. And then everyone of them oh
6 yeah, I hate this, that, or the other.

7 So wait, ask other questions of other people, at some point
8 there'll be a break, or you can approach. Either way, as I said, don't
9 teach them how to get off.

10 MS. MACHNICH: Absolutely, Your Honor.

11 THE COURT: Okay. Bring them in. Is somebody going to
12 help seat them?

13 THE MARSHAL: Please rise for the jury.

14 [Prospective jurors in at 1:47 p.m.]

15 [Inside the presence of the prospective jurors]

16 THE COURT: All right. You go to the back row. Keep going
17 until you fill up that row. That'll be -- Okay. You're going to go in the
18 front the next row. Follow her and just go all the way to the front. You
19 can sit down. We're one short.

20 Steve?

21 All right. Next row, the front row. Follow to the end, just
22 follow. We have to fill every seat.

23 Please be seated. All right. We'll get to you. Like I said, we
24 need every seat so we can hopefully get this done expeditiously.

25 Good afternoon, ladies and gentlemen.

1 IN UNISON: Good afternoon.

2 THE COURT: That was pretty good. You're awake.

3 Sometimes it's really pathetic.

4 My name is Ron Israel. I'm the presiding Judge in District
5 Court Department XXVIII of the 8th Judicial District, that's Clark County
6 so you know.

7 You have all been summoned here to participate in a trial. Of
8 course, and I hope you were all paying attention to the video. Of course,
9 not all of you will be selected. This is the voir dire process and that
10 roughly means to tell the truth. We're going to ask you questions, the
11 parties will be asking questions. We just want to get a fair and impartial
12 jury panel. And we do that by finding out a little bit about you.

13 All of that is done under oath and in a second I -- well, go
14 ahead. Swear them in.

15 THE CLERK: Please stand. Raise your right hand.

16 [The prospective jurors were sworn]

17 THE CLERK: Thank you.

18 THE COURT: One preliminary question. And I'll get to it.
19 Ultimately, 15 of you will be sworn as jurors and alternates, but I need
20 you to -- if there's anyone here who is not a United States citizen, please
21 raise your hand. Only citizens get to serve on juries. It's both a right and
22 a privilege. I don't see any hands. Thank you.

23 As I said, serving on a jury is both a right and a privilege. If I
24 asked any of you if you support our troops overseas -- I see the yawns,
25 yes, but hopefully you're doing okay. If I asked any of you if you support

1 our troops overseas or for that matter, the ones serving here, you'd all
2 raise your hand of course. They're you know, protecting us, serving, and
3 sometimes even laying down their lives.

4 They serve in the executive branch of the government. The
5 President tells them what to do. We're asking you to serve -- hopefully
6 you remember back to civics or whatever it was called in elementary
7 school or middle school or wherever you had it. We're asking you to
8 serve in the judicial branch. The only way we can do trials and I think
9 again, if I asked any of you if you thought our system of government was
10 a good one, you'd all raise your hand. You're being asked to serve in the
11 judicial branch. The only way we can do trials civil or criminal is by
12 having people make the sacrifice.

13 And yes, it's a much smaller sacrifice than individuals
14 serving in the military, but it's an important one. And I know we're
15 asking you to take time out of your everyday lives and nobody likes to go
16 out of their comfort zone. Some people might be nervous to be here.
17 It's really not that big of a deal. We're just going to be asking you
18 questions.

19 If you're finally selected, you'll be a member of the jury
20 panel. And afterwards, I have always heard that it was both a interesting
21 and educational process. You get to tell your friends, not now,
22 afterwards that hey, you served on a jury and you did your civic duty and
23 yes, you had to take time out of work or whatever it might be, but you
24 did and then afterwards you'll be able to talk about the process and what
25 actually happened. During, just you understand, you can't talk about

1 anything.

2 So having said that, this case is going to go -- is expected to
3 go through next Friday. We're already at Wednesday so whatever, five,
4 three, to eight days. We might -- we certainly hope to be done by
5 Thursday, but I want to give you our best estimate.

6 So having said that, I understand sometimes you have
7 already made travel plans or whatever. So I'm going to start over here
8 and ask if there's any reason you cannot serve on the jury. So raise your
9 hand in the back row if there's anyone who cannot. I need your name
10 and badge number.

11 PROSPECTIVE JUROR 006: I have a question about dental
12 surgery next week. Is that?

13 THE COURT: Well, when next week?

14 PROSPECTIVE JUROR 006: The 11th. I believe that's
15 Tuesday.

16 THE COURT: If it's Tuesday --

17 MS. DIGIACOMO: Your Honor, did we get the name and
18 badge number?

19 PROSPECTIVE JUROR 006: No.

20 THE COURT: Yeah, name and badge number, sir?

21 PROSPECTIVE JUROR 006: Mike Mayo, number 6.

22 THE COURT: I'll write down. If you have dental surgery on
23 the 11th then -- anyone else in the back row?

24 PROSPECTIVE JUROR 010: David Arend, number 10. I have
25 travel plans. I have to fly to Phoenix on Tuesday morning for a

1 [indiscernible] meeting with the Department of Energy and then fly
2 Tuesday afternoon to Denver -- or I'm sorry, Monday afternoon fly to
3 Denver be there until Thursday morning.

4 THE COURT: Did you bring your ticket?

5 PROSPECTIVE JUROR 010: I have, on my cell phone, I have
6 the ticket shows on my phone.

7 THE COURT: Okay. Thank you. Anybody else in the back
8 row? Pass it down please. Name and badge number?

9 PROSPECTIVE JUROR 024: Emily Marvel, number 24. I
10 recently was promoted and would be missing job training if it's going to
11 be eight days.

12 THE COURT: Where do you work?

13 PROSPECTIVE JUROR 024: Private Division.

14 THE COURT: Sorry. What is Private Division?

15 PROSPECTIVE JUROR 024: Oh. It's a game testing, game
16 producing facility just a couple blocks up.

17 THE COURT: Okay. Anybody else in the back row? Next
18 row?

19 PROSPECTIVE JUROR 004: Sir, I no speak too my --

20 THE COURT: Name and badge number.

21 PROSPECTIVE JUROR 004: It's 4. Sorry. My ID number is 4.
22 I not speak too much English.

23 THE COURT: I thought we went through that row. No. Next
24 row? Raise your hand. Just raise your hand -- okay, go.

25 PROSPECTIVE JUROR 030: I'm Shu-Wen Wen, number 30.

1 THE COURT: I'm sorry. What was the number?

2 PROSPECTIVE JUROR 030: 30.

3 THE COURT: Thank you. English is not my first language.

4 So I kind of understand what you were saying before, but I don't know if
5 that helps. So I just want to let you know.

6 THE COURT: Is there anything you haven't understood so
7 far?

8 PROSPECTIVE JUROR 030: I don't understand every word
9 you say, but I can guess what you mean.

10 THE COURT: Okay. Anybody else in that row?

11 PROSPECTIVE JUROR 045: Hi. Arlene Schultz, number 45. I
12 do have a doctor's appointment on Monday the 10th, but I can
13 reschedule that. That wouldn't be a problem.

14 THE COURT: Thank you. That's very generous.

15 PROSPECTIVE JUROR 355: I'm not sure if this is a valid
16 reason, but I am a radio personality and I do have a guest flying into Las
17 Vegas next week --

18 THE COURT: Sorry. Name and badge number first.

19 PROSPECTIVE JUROR 355: 55.

20 MS. DIGIACOMO: I don't have a badge number 55.

21 THE COURT: Your badge number? We don't have 55.

22 PROSPECTIVE JUROR 355: 55, 355.

23 THE COURT: 355?

24 MS. DIGIACOMO: I don't have a 355.

25 THE COURT: I don't have you on the list. You might be in

1 the wrong place. That's very possible. Go down to the third floor and
2 report to the commissioner. We don't have the information. So I'm
3 guessing you're in the wrong place.

4 It's like when you're on a --

5 [Court and Marshal confer]

6 THE COURT: It's like when they say this plane is going to LA
7 and anybody else should be not on it. So all right.

8 MS. SUDANO: Your Honor, can we approach?

9 THE COURT: Yes.

10 [Sidebar begins at 2:02 p.m.]

11 MS. SUDANO: Can we take a roll just to see --

12 THE COURT: What's that?

13 MS. SUDANO: Can we take roll?

14 UNIDENTIFIED FEMALE SPEAKER: Can we do a roll call
15 because now --

16 THE COURT: Well, he did. He said that he --

17 MS. SUDANO: No, but I'm just saying I think our charts are
18 off now. Is there a way that we could just, at least do a roll call of who's
19 in their seats, because I -- we didn't have --

20 MS. DIGIACOMO: And we don't know if we have somebody
21 else who's not in here.

22 MS. SUDANO: Well, he said there were 83, he was supposed
23 to have 82. There's our person.

24 THE COURT: Yeah. So you want to go through --

25 MS. DIGIACOMO: I just don't know who's in --

1 MS. SUDANO: If they could just quickly say who's in what
2 seat.

3 THE COURT: All right. We'll go through the -- in the box.

4 MS. DIGIACOMO: Thank you.

5 MS. SUDANO: Thank you, Your Honor. Sorry.

6 THE COURT: And -- all right. Thank you. Do you -- here.

7 [Sidebar ends at 2:03 p.m.]

8 THE COURT: Do you want to call a roll for the people in the
9 box, so we make sure we have it right.

10 THE CLERK: Okay.

11 THE COURT: Raise your hand if we call your name, we want
12 to make sure that there was no other problems.

13 THE CLERK: Juror number 004, Socorro Andrade. Badge
14 number 005, William Collins. Badge number 006, Mike Mayo. Badge
15 number 006, Mike Mayo. Badge number 010, David Arend. Badge
16 number 011, Cheryl Clark. Badge number 016, Almavida Farro-Sulio.
17 Badge number 018, Sergio Solis-Sauri. Badge number 020, Marcus
18 Montgomery. Badge number 024, Emily Marvel. Badge Number 026,
19 Cynthia Reed. Badge Number 072, Courtney Rutledge. Badge Number
20 028, Kevin Delmour.

21 Badge number 030, Shu-Wen Wen. Badge number 031,
22 Sara Drollinger-Caldwell. Badge number 305, Kathryn Argentine. Badge
23 number 045, Arlene Schultz. Badge number 046, Jacqueline Miller.
24 Badge number 050, David Coleman. Badge number 051, Alexis
25 Velasquez. Badge number 054, Nichole Lacy.

1 Badge number 05 -- Judge, she should be in that MTC.

2 THE COURT: Yeah. I see what happened, because she was --
3 I don't know how she got where she got. Probably they're all -- well, 067
4 Timothy Whitney. And what's your name, again?

5 PROSPECTIVE JUROR 059: I'm 0059. Can I go too?

6 MS. MACHNICH: She's on the list.

7 THE COURT: No. You're in the right place, sorry. But that
8 was a good try. Why don't you just --

9 THE CLERK: Do you want me to move them?

10 THE COURT: Yeah. Re-seat them. We're going to ask you to
11 go, because there's -- no.

12 THE CLERK: Nichole Lacy, go to the end over there.

13 THE COURT: The second row, that was supposed to be your
14 seat.

15 THE CLERK: And then in the next seat, it should be 059,
16 Christina Simpson Fane.

17 THE COURT: Christina. There you, okay. Timothy, okay. I
18 guess everybody moved over.

19 THE CLERK: Then Warren Chiapparelli, and then Adam
20 Noyce, Jocelyn Parker, Sheree Harvey.

21 PROSPECTIVE JUROR 086: Here.

22 THE CLERK: Kahmishia Pender-Bey?

23 PROSPECTIVE JUROR 094: Here.

24 THE CLERK: Then next should be Breann Dusina-Bakken,
25 and then Kathleen Otter. And then Yongsik Whang, Rhonda Rafferty,

1 Henry Beam, and then Samantha LaForest.

2 THE COURT: All right. You guys may be out of order, we'll
3 get to you. This is what -- these are the individuals in the box. We will
4 be, and I'm sure if you paid attention to the video, substituting as we go
5 through this process.

6 All right. So we were on the front row, name and badge
7 number.

8 PROSPECTIVE JUROR 067: Timothy Whitney, badge number
9 067. The 1st of June I received a promotion, I'm a defense contractor
10 with JT4, and I took my position effective yesterday. It's very difficult for
11 me to be away from work right now, in that transition.

12 THE COURT: Who is your employer?

13 PROSPECTIVE JUROR 067: JT4.

14 THE COURT: Okay. Anybody else in that row?

15 PROSPECTIVE JUROR 106: Kathleen Otter, 106. I was
16 supposed to leave town on Wednesday next week, and then I'm leaving
17 the country on Friday morning next week.

18 THE COURT: Okay. You have non-refundable tickets, I take
19 it?

20 PROSPECTIVE JUROR 106: Yeah.

21 THE COURT: All right. Anybody in the front row?

22 THE MARSHAL: The gentleman in the last row, Judge.

23 PROSPECTIVE JUROR 068: Warren Chiapparelli, badge
24 number 68. A small business owner, and I'm pretty vital to my day-to-
25 day operations.

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

2 PROSPECTIVE JUROR 068: I'm a retailer.

3 THE COURT: What's the name of the company?

4 PROSPECTIVE JUROR 068: Framed eyewear, Chiapparelli,
5 Incorporated is the legal name.

6 THE COURT: Okay. Anybody else --

7 PROSPECTIVE JUROR 068: Thank you.

8 THE COURT: -- front row? Thank you.

9 PROSPECTIVE JUROR 113: Yongsik Whang, number 113. I
10 have a bad sleeping problem. I have a bad sinus, so my nose close up
11 every few hours, so I have to get up several times during the night. So
12 daytime mind is not there. So I have to take naps. Also, I have bad
13 prostrate, so I have to use the bathroom very frequently.

14 THE COURT: Okay. Anybody else? Yes?

15 PROSPECTIVE JUROR 118: Samantha LaForest, badge
16 number 118. I am a single parent, I have three kids. My twins are six
17 months old and I have no help, so I have no childcare. I left them with
18 my neighbor today.

19 THE COURT: Okay. Front row back here, raise your hand.

20 PROSPECTIVE JUROR 135: I have a -- Emily Zupan.

21 THE COURT: Ma'am, your badge number?

22 PROSPECTIVE JUROR 135: And I'm 135. I have a doctor's
23 appointment next week that I had to reschedule already from today, to
24 remove like a skin growth that's really irritating me. And I also support
25 myself, and my cousin, and I'm the only working one in the home, so I

1 can't really miss out on my work.

2 THE COURT: Okay. Anybody else in the front row. It's not
3 the front row, but go on.

4 PROSPECTIVE JUROR 173: My name is Arti Sharma, and my
5 badge number is 173. So I just recently graduated from pharmacy
6 school and I have already register for my examination, which will be in a
7 couple of weeks, and I have to devote like ten hours every day of study.
8 So that's the reason I won't be able to serve.

9 THE COURT: Okay. Anybody else in that row?

10 PROSPECTIVE JUROR 181: My name is Tien Pham, badge
11 number 181. Last week my 90 year old grandpa from -- in Vietnam
12 suffered a heart attack. He's in an intensive care unit right now, so I have
13 -- I'm waiting for any other possible -- if there's any signs that he's not
14 going to make it I would have to get my ticket right away.

15 THE COURT: Anybody else in that row?

16 PROSPECTIVE JUROR 185: My name is Mindy Rabinowitz,
17 badge 185. I'm currently having some serious financial issues. I'm just
18 waiting until the middle of July so that I can tap into my retirement
19 savings without any additional penalties. And I work in a retail store and
20 next weekend starts our big semi-annual sale, and I'll be working close to
21 35 hours.

22 THE COURT: Next row, unless there was --

23 PROSPECTIVE JUROR 199: My name is Huong Tran, the
24 badge is 119 [sic], so I'm not really good for reading and writing, and
25 some word I don't understanding.

1 THE COURT: Is there anything you haven't understood so
2 far?

3 PROSPECTIVE JUROR 199: Yeah, a lot.

4 THE COURT: All right. Anybody else in the back row?

5 PROSPECTIVE JUROR 200: Hi. Gelene Estrellado, 0200. I
6 just used to have a relationship with an HP officer, or his dad was, so I
7 don't know if that was related or no, but just to discuss that.

8 THE COURT: Well, we'll get to that, but thank you.

9 PROSPECTIVE JUROR 217: My name is Shauna Fisk, and my
10 badge number is 217, and I was planning on getting married tomorrow;
11 if that's okay?

12 THE COURT: Sorry, 217, correct?

13 PROSPECTIVE JUROR 217: 217.

14 THE COURT: Well, congratulations.

15 PROSPECTIVE JUROR 217: Why thank you.

16 PROSPECTIVE JUROR 230: My name is Maria Saravo-
17 Carlson, and the number is 230. I have a flight scheduled on Friday,
18 June 7th. I got a ticket on my cell.

19 THE COURT: All right. Where are you going?

20 PROSPECTIVE JUROR 230: Los Angeles.

21 THE COURT: Oh. It's not a big trip. All right.

22 That was the last of the row, no?

23 PROSPECTIVE JUROR 219: Alicia Williams, badge 219, I just
24 recently started a new position and I am in training.

25 THE COURT: Next row.

1 PROSPECTIVE JUROR 232: Martha Eaker, badge 232. My
2 daughter is having surgery in Wisconsin next week and my husband and
3 I are planning on driving out, leaving Friday, to take care of my eight-
4 year-old granddaughter.

5 THE COURT: Next, raise your hand.

6 PROSPECTIVE JUROR 236: Vince Garretson, badge number
7 236. I'm a Clark County schools teacher and I'm officially on summer
8 vacation. I'm flying out tomorrow, June 6th through Sunday, June 9th,
9 to Washington State with my family. Returning Tuesday, June 11th, I'm
10 leaving to Austin, Texas to June 19th, with my family.

11 THE COURT: Who else.

12 PROSPECTIVE JUROR 236: And I do have my tickets.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR 252: Kyle Brown, badge number 252.
15 I am one of two service members that -- well, I work in the army, I work
16 at Creech Air Force base, and I work an operations' cell that supports
17 operations in a deployed environment.

18 THE COURT: Who else?

19 PROSPECTIVE JUROR 254: Jeremiah Nickerson, badge 254.
20 I'm a shift supervisor at McGuire Research Services, this is the beginning
21 of our busy season, and we're not fully staffed, so we're incredibly
22 short-handed.

23 THE COURT: I'm sorry, I didn't catch where you work?

24 PROSPECTIVE JUROR 254: McGuire Research Services.

25 THE COURT: And what do they do?

1 PROSPECTIVE JUROR 254: We're a marketing research firm.

2 THE COURT: Okay. Who else, anybody else? Next row.

3 PROSPECTIVE JUROR 259: Sylvia Prado, my badge number
4 is 259. And I don't think that I speak and understand enough English to
5 be a juror.

6 THE COURT: Have you understood everything so far?

7 PROSPECTIVE JUROR 259: Yeah. But like to make a
8 decision I don't -- I don't think so.

9 THE COURT: Okay. Next row?

10 PROSPECTIVE JUROR 277: My name is Stephanie Smith,
11 badge number 277. I'm an hourly contractor, and if I don't work I don't
12 get paid, and I -- my budget is so tight, I really can't afford to be away for
13 several days, let alone a week, unfortunately.

14 THE COURT: Where do you work?

15 PROSPECTIVE JUROR 277: I work remotely, out of my
16 house, for a contracting company called "Talent Wave" and I'm a
17 contract person for CenturyLink. Well, working as a consultant for
18 CenturyLink.

19 THE COURT: Next?

20 PROSPECTIVE JUROR 276: Lauren Tasca, 276. I'm a stay-at-
21 home mom, and my kids are home for the summer now, so it's just
22 difficult. I'm not sure who would watch them all next week. In addition,
23 we are supposed to be going away, my children and I, for three weeks
24 starting next Saturday. So I would be here Monday through Friday.

25 THE COURT: Okay. Is your husband a lawyer, in town?

1 PROSPECTIVE JUROR 276: Yes.

2 THE COURT: And what's his name? Joel --

3 PROSPECTIVE JUROR 276: Joel Tasca.

4 THE COURT: -- Tasca.

5 PROSPECTIVE JUROR 276: Joel.

6 THE COURT: Okay. Next?

7 PROSPECTIVE JUROR 256: My name is Hector Zapata-

8 Serpas, my bade number is 256, and I work for the school district, a bus

9 driver. And we've got to do classes, during on the summertime, and I

10 have a doctor's appointment too.

11 THE COURT: Anybody else?

12 PROSPECTIVE JUROR 289: Martin Cazares. I'm real estate

13 agent, I have open escrows with timelines, and I have buyers that it

14 need to take out.

15 THE COURT: Is that it?

16 THE MARSHAL: There's another lady back here.

17 PROSPECTIVE JUROR 283: Kim Lambrecht, juror number

18 283. My son has an audiology appointment on Monday, and an ENC

19 appointment, that he's been waiting for, for quite some time; and my

20 husband is out of town right now.

21 THE COURT: Okay. Anybody else.

22 PROSPECTIVE JUROR 280: Joseph Cordero, badge number

23 280. I have a doctors' appointment on the 12th.

24 PROSPECTIVE JUROR 288: Rosalie Reynoso.

25 THE COURT: Wait, wait, wait. What was your badge, 280?

1 PROSPECTIVE JUROR 280. 280.

2 THE COURT: Oh, okay. All right. Who else?

3 PROSPECTIVE JUROR 288: Rosalie Reynoso, badge number
4 288. I'm a plain housewife, I'd love to be a juror, but the thing is I don't
5 have a ride.

6 THE COURT: Anybody else, is that out.

7 PROSPECTIVE JUROR 290 : Sir, I'm Peter Mattes, number
8 290. I serve at Nellis Air Force base as the director of operations for one
9 of the weapon squadrons currently participating in one of the largest
10 exercises, currently ongoing.

11 THE COURT: All right. That was it?

12 Counsel, approach.

13 [Sidebar begins at 2:19 p.m.]

14 THE COURT: I missed, somehow I put Cordero, the person
15 before him, so I missed that. I don't know what -- all right, we'll go
16 through it. Hopefully you -- Andrade, 004, language problem.

17 MS. MACHNICH: Let her go.

18 MS. SUDANO: I don't think she understood.

19 MS. MACHNICH: She doesn't understand.

20 THE COURT: Mike Mayo, 006, dental surgery?

21 MS. MACHNICH: We don't want someone -- we don't want
22 someone who's going to be --

23 THE COURT: Well, he's actually --

24 MS. MACHNICH: -- on that, no.

25 THE COURT: -- having the surgery, so.

1 MS. MACHNICH: Yeah.

2 THE COURT: David Arend.

3 MS. MACHNICH: Booked tickets.

4 THE COURT: 010. Emily Marvel, 024. She was just
5 promoted and she's in training. I know that's just job-related, but it's a
6 new thing, I'm a little bit sympathetic.

7 MS. MACHNICH: Submit.

8 THE COURT: I don't know what private division it is, but
9 what do you want to do?

10 MS. DIGIACOMO: It doesn't matter --

11 MS. MACHNICH: We'll submit. Whatever you want, Your
12 Honor.

13 THE COURT: Well, it says -- is this her, or her -- no, it's her,
14 she's got a Master's degree.

15 MS. SUDANO: She said it's -- it sounds like it's like --

16 THE COURT: Uh-huh.

17 MS. SUDANO: It sounds like it's a gaming corporation, like
18 Konami, or IGT, or one of those --

19 MS. DIGIACOMO: Yeah.

20 MS. SUDANO: -- like the slot gaming.

21 MR. SPEED: Video game producing, or game producing.

22 MS. MACHNICH: I mean, I don't think I'd would be inclined
23 to necessarily to let her go, but we'll submit to Your Honor's discretion.

24 THE COURT: All right. I'm going to let her, she just got here
25 -- we probably -- and I guess my speech did a little better. Well, they,

1 you know, what they look at it, today's already Wednesday, so it's not
2 two weeks.

3 Okay. Shu-wen, 030. Language.

4 MS. MACHNICH: Off.

5 MR. SPEED: Definitely, definitely.

6 MS. MACHNICH: I can guess what you mean is not going to
7 be okay.

8 THE COURT: Okay. And if I miss anybody tell me. So Arlene
9 Schultz.

10 MS. MACHNICH: She can reschedule.

11 MR. SPEED: She can reschedule.

12 MS. MACHNICH: That's not a thing.

13 MR. SPEED: Yeah.

14 THE COURT: Yeah. She was very --

15 MS. SUDANO: Yeah.

16 THE COURT: -- oh, I can reschedule. Well, good for you. I'd
17 appreciate it. And I already told you that Friday, that made it three
18 weeks, I'm not rescheduling, I told you.

19 MS. MACHNICH: Uh-huh.

20 MS. SUDANO: Yeah.

21 THE COURT: Okay.

22 MR. SPEED: Whitney.

23 MS. MACHNICH: Defense contractor.

24 THE COURT: 067, defense contractor.

25 MR. SPEED: Starting yesterday.

1 MS. DIGIACOMO: I didn't understand what he was saying.
2 Started some project --

3 MS. MACHNICH: He took possession of something. He got a
4 promotion, he took possession of something from the government, and
5 the project started yesterday. That sounds like he needs to go, but we'll
6 submit.

7 THE COURT: Chiapparelli, 068. A small business -- oh that
8 was what he does, framed eye, I remember.

9 MR. SPEED: Right.

10 MS. MACHNICH: I don't -- I mean, I don't think so, but --

11 MS. SUDANO: Yeah. We can ask him more. Yeah.

12 THE COURT: All right. Kathleen Otter, leaving town
13 Wednesday, 106.

14 MS. MACHNICH: Plane tickets.

15 MR. SPEED: Yeah. She's all ready to go.

16 THE COURT: Last name is Whang, 113, medical.

17 MR. SPEED: Mr. Whang has it all.

18 MS. MACHNICH: He has the problems --

19 THE COURT: Yeah. And --

20 MS. MACHNICH: -- and he need naps.

21 THE COURT: -- you know, somebody --

22 MS. MACHNICH: I don't --

23 THE COURT: -- told him he doesn't have to serve at 72.

24 MS. MACHNICH: Let him go. I mean, he wants to go.

25 THE COURT: So.

1 MR. SPEED: Let him go.

2 MS. MACHNICH: He may not have understood that, which is
3 also troubling.

4 THE COURT: Samantha LaForest, 116. Single parent, two
5 twin six-month-olds.

6 MS. SUDANO: I say let her go.

7 MS. MACHNICH: Yeah. I'm fairly sympathetic for her.

8 THE COURT: What's that?

9 MS. MACHNICH: I'm fairly sympathetic for, that's rough.

10 THE COURT: All right. I'm letting her off.

11 MS. MACHNICH: That one's rough. I mean, she --

12 THE COURT: Emily Zupan, 135, doctor's appointment?

13 MS. MACHNICH: I think we've been letting people with
14 doctor's appointments off, so --

15 THE COURT: Yeah.

16 MS. SUDANO: I mean, we can follow-up with some of these
17 folks, too.

18 THE COURT: What's that?

19 MS. SUDANO: I think she said her appointment was on
20 Monday, we don't start until 1:00 on Monday. So we can follow-up with
21 some of these folks a little be more. I know that we care, but there's a
22 bunch of doctor's appointments, so --

23 THE COURT: Yeah. She could make it. I'll let you --

24 MS. MACHNICH: She also -- I mean, she wants off. She also
25 said, sole provider, there's money issues, so. I mean --

1 THE COURT: Oh, yeah --

2 MS. MACHNICH: But, well, I'll submit to you guys. I mean,

3 I'm not usually --

4 THE COURT: She, yeah --

5 MS. MACHNICH: -- for that.

6 THE COURT: -- the one who works Hakkasan. Gets,

7 whatever, probably tips. All right. I'll let you guys talk to her a bit

8 Since we are doing better than yesterday.

9 Arti Sharma, 173. Oh, she's got her --

10 MS. SUDANO: She's got to go.

11 THE COURT: Pharmaceutical --

12 MS. MACHNICH: She has to study for her exams.

13 THE COURT: -- exams, yes.

14 MS. MACHNICH: Yeah. Go.

15 THE COURT: Tien Pham, 181. The uncle may be dying.

16 MR. SPEED: Grandpa.

17 THE COURT: Maybe not.

18 MS. SUDANO: Grandpa.

19 THE COURT: Oh.

20 MS. MACHNICH: I don't know. But he's also -- he's probably

21 going to be preoccupied?

22 THE COURT: Yeah. I think we have to, but we may have a

23 miraculous recovery.

24 MS. MACHNICH: Maybe.

25 THE COURT: But we can't wait.

1 Mindy Rabinowitz, 185 --
2 MS. MACHNICH: That's just money.
3 THE COURT: -- she says there's -- oh, she was the one that
4 has to work 35 hours or something.
5 MR. SPEED: Semi-annual sale that --
6 MS. MACHNICH: In a week.
7 MR. SPEED: -- at the Body Works.
8 MS. MACHNICH: I don't I'm particularly sympathetic to her.
9 MS. DIGIACOMO: Well, I think her point was, because of the
10 sale I'm getting extra hours. She said that she's got a financial hardship,
11 because she can't tap into her retirement until July. So I think her point
12 was, I can actually get hours next week.
13 MS. MACHNICH: Yeah. I don't think we've been letting
14 people off for that alone, so --
15 THE COURT: All right. I'll let you --
16 MS. DIGIACOMO: But I'll submit.
17 THE COURT: -- inquire. Don't wait too long, when we do,
18 we'll have to -- because I've had it where, oh, we got to ask, and then at
19 the end I'm not staying, so inquire.
20 Tran, 199, language?
21 MS. MACHNICH: Yeah, gone.
22 THE COURT: Estrellado, 200?
23 MR. SPEED: Just a relationship.
24 MS. MACHNICH: That's something for later.
25 THE COURT: It's just a boyfriend. An ex-boyfriend --

1 MS. MACHNICH: An ex-boyfriend's father.
2 THE COURT: Yeah. So --
3 MS. MACHNICH: So maybe it'll be an issue, but that's not
4 the question we asked at this point, so --
5 MR. SPEED: Misses -- soon to be --
6 MS. MACHNICH: Oh, yeah, let her go.
7 THE COURT: We'll let her go get married.
8 MS. DIGIACOMO: I say we might want to save her.
9 THE COURT: Well, there was that -- where was a fellow --
10 there was a divorced --
11 William started a new job training, 209?
12 MS. MACHNICH: He's the other one.
13 THE COURT: Yeah. What do you want?
14 MS. MACHNICH: Submit. What do you want, Your Honor?
15 THE COURT: All right. I'm letting her off. She just started
16 training for a new job.
17 Carlson, 230, has flight tickets.
18 MS. MACHNICH: Yeah.
19 THE COURT: Eaker, her daughter is having surgery, 232.
20 MR. SPEED: And she's driving --
21 MS. MACHNICH: And she's leaving, oh, yeah.
22 MS. DIGIACOMO: And she's taking care of the
23 granddaughter.
24 MS. MACHNICH: Yeah. She has to go.
25 THE COURT: Vincent Garretson, 236.

1 MS. MACHNICH: A booked vacation.
2 MR. SPEED: A teacher --
3 THE COURT: He's going everywhere.
4 Oh, Kyle Brown. He works at Creech?
5 MS. MACHNICH: I think he's essential to a deployed group
6 of military members.
7 THE COURT: Yeah, I --
8 MS. MACHNICH: I think he needs to go back --
9 MR. SPEED: Go back to.
10 MS. MACHNICH: -- to his job.
11 MR. SPEED: Yeah.
12 MS. MACHNICH: I mean --
13 THE COURT: I'm letting him off.
14 Jeremiah Nickerson, 256, shift supervisor at McGuire --
15 MS. MACHNICH: He had a recent --
16 THE COURT: Oh, this also -- what?
17 MS. MACHNICH: No. He's at marketing and research.
18 THE COURT: No.
19 MS. MACHNICH: I don't -- I would not be inclined at this
20 point. But I'll submit. I mean it's --
21 THE COURT: That's not the one --
22 MR. SPEED: He prepares surveys.
23 THE COURT: -- that also --
24 MS. MACHNICH: Yeah. It was the very last one --
25 MS. SUDANO: The last one's Nellis.

1 MS. MACHNICH: -- the other military.
2 THE COURT: Oh, okay. All right.
3 Serpas, 256, school district and a doctor appointment.
4 MS. MACHNICH: I guess the doctor, I mean --
5 MS. DIGIACOMO: He's in class --
6 THE COURT: He's what --
7 MS. DIGIACOMO: Oh, he said --
8 THE COURT: Oh, isn't he the driver.
9 MS. DIGIACOMO: -- he was in a class, yeah.
10 MR. SPEED: A bus driver, yeah.
11 MS. DIGIACOMO: He's in a class. I want the school bus
12 driver to go free.
13 MS. MACHNICH: Yeah. That's fine.
14 MS. MACHNICH: I thought he was driving for summer
15 school, I misunderstood.
16 MS. DIGIACOMO: No, they get training.
17 THE COURT: They have to.
18 MS. MACHNICH: Let's let him get trained.
19 MR. SPEED: [Indiscernible].
20 MS. MACHNICH: Yeah.
21 THE COURT: Yeah. Prado, 259, language.
22 MR. SPEED: Doesn't understand enough to make a decision.
23 MS. MACHNICH: Yeah. I mean, have a fight with her and
24 her understanding.
25 THE COURT: Tasca, stay-at-home mom, 276.

1 MR. SPEED: Did the Court recognize her husband?

2 THE COURT: It just says in occupation, lawyer. I don't know
3 who it is.

4 MR. SPEED: Okay.

5 MS. MACHNICH: Frankly, if your husband is an attorney you
6 have resources to get childcare.

7 THE COURT: Well, that's what I was -- that's why I wrote it.

8 MS. MACHNICH: That's one -- that one I don't -- I wouldn't
9 be inclined in this point.

10 THE COURT: Does anybody know what he or she does -- he
11 does? I mean, if he's a first year associate it's different than -- I never
12 heard of him. Do you want to inquire?

13 MS. DIGIACOMO: Yeah.

14 MS. MACHNICH: We can, that's fine.

15 THE COURT: All right. But, yeah, you think that she can
16 afford [indiscernible].

17 All right. Smith, 277. Hourly contractor, remote, he works
18 out of the house, CenturyLink or something?

19 MS. MACHNICH: Generally I'm not inclined on money issue
20 at this point, but we'll submit.

21 MS. DIGIACOMO: We kind of kept everybody else.

22 MS. SUDANO: Yeah.

23 THE COURT: All right. Here's where I must have missed
24 somebody. Cordero, real estate, 280.

25 MS. SUDANO: He stopped his equipment.

1 MS. DIGIACOMO: Which is the same day I had my oral my
2 argument, so we may, I don't know --

3 THE COURT: Oh, you --

4 MS. DIGIACOMO: You said we were going to start in the
5 afternoon, so I don't --

6 THE COURT: Do you want to ask her --

7 MR. SPEED: We might be dark that day. That's the
8 Wednesday, right.

9 MS. SUDANO: Yeah. We might be dark.

10 MS. DIGIACOMO: We might be dark, yeah.

11 THE COURT: Okay. Kim Lambrecht, son has a doctor's
12 appointment.

13 MS. MACHNICH: Yeah. I mean, we can inquire further, if it's
14 in the morning, or we can just strike her now.

15 MS. DIGIACOMO: I would say excused --

16 MS. MACHNICH: Okay. That's fine.

17 MS. DIGIACOMO: There was two appointments.

18 MS. MACHNICH: That's fine.

19 MS. DIGIACOMO: Well, all right.

20 THE COURT: Well, all right.

21 Reynoso, 288, no transportation.

22 MR. SPEED: She's eager to server, right.

23 MS. MACHNICH: Uber.

24 THE COURT: What's that.

25 MR. SPEED: She's eager to serve. She said I want to serve,

1 but I just don't have a ride.

2 MS. DIGIACOMO: The jury commissioner --

3 MS. SUDANO: Yeah.

4 MS. MACHNICH: Uber.

5 MS. SUDANO: -- with a taxi reimburse.

6 MR. SPEED: Oh.

7 MS. MACHNICH: I thought so.

8 MS. SUDANO: I could have sworn that came up in another

9 trial, where they were getting like Ubers and stuff

10 THE COURT: They'll get reimbursed for what, taxis?

11 MS. DIGIACOMO: Yeah. Uber, or whatever they want to

12 take, I thought.

13 MR. SPEED: Right.

14 THE COURT: I never heard of that.

15 MS. MACHNICH: I mean, they get reimbursed for parking.

16 THE COURT: Well, yes, but -- well, I don't want to tell her

17 that, and then it not be true.

18 MS. MACHNICH: Can we --

19 MS. DIGIACOMO: Check.

20 MS. MACHNICH: Yeah. We'll check I guess, I don't know.

21 THE COURT: All right. We'll check in the meantime, I guess.

22 MS. SUDANO: We're not going to get -- well, never mind.

23 THE COURT: Peter Mattes, the air force.

24 MS. MACHNICH: He should go. They're in the middle of

25 something.

1 THE COURT: Yeah. Did I -- just the one I missed. Okay.

2 MS. MACHNICH: We also have Martin, who's a Cazares.

3 He's a real estate agent. I mean, I don't think he should go.

4 THE COURT: What' number.

5 MS. DIGIACOMO: He is right above Mattes, the last one --

6 MS. MACHNICH: The second last.

7 MS. DIGIACOMO: The second last one. Who's the one that's
8 getting his college Master's.

9 THE COURT: Did I --

10 MS. MACHNICH: 2899 [sic].

11 THE COURT: Okay. And what was his excuse.

12 MR. SPEED: The real estate agent has buyers out.

13 MS. MACHNICH: I don't think so, no.

14 MS. SUDANO: Yeah. but he can work around --

15 MS. DIGIACOMO: Yeah, he can.

16 THE COURT: All right. If I make a mistake tell me right away.

17 [Sidebar ends at 2:33 p.m.]

18 THE COURT: All right. If I read your name I'm going to go
19 ahead and excuse you. Wait until I read all the names. When I'm done
20 you can again either go to the third floor to report, or do it online, report
21 that you've been excused. I'm going to just read the last name,
22 hopefully try to pronounce it right.

23 Andrade, 004. Mayo, 006. Arend, 010. Marvel, 024. Wen,
24 030. Whitney, 067. Otter, 106. Whang, 113. LaForest, 118. Sharma,
25 173. Pham, 181. Tran, 199. Fisk, 217, go get married. Williams -- I have

1 a joke, but I'm not going to say it. Williams, 219. Carlson, 230, Eaker,
2 232, Garretson, 236. Brown, 252. Serpas, 256. Prado, 259. Lambrecht,
3 283, and Mattes, 290.

4 Did I get all that right?

5 THE CLERK: Yes, Your Honor.

6 THE COURT: Thank you. You may leave.

7 [Prospective jurors excused at 2:37 p.m.]

8 [Outside the presence of the prospective jurors]

9 MS. DIGIACOMO: Can we come up?

10 THE COURT: Yes.

11 [Sidebar begins at 2:37 p.m.]

12 MS. MACHNICH: I think we missed one.

13 MR. SPEED: I also had 135, having the skin conditions
14 removed, only works at home, two doctors' appointments.

15 MS. DIGIACOMO: Wait, 135?

16 MR. SPEED: Zupan, 135.

17 MS. MACHNICH: Zupan.

18 MS. DIGIACOMO: Yeah. That's the one you said you wanted
19 to talk to, because he was a sole provided. You said you wanted to talk
20 to them more.

21 MS. MACHNICH: Yeah. I --

22 MS. DIGIACOMO: We did.

23 MS. MACHNICH: Well, it's the doctor's appointment, we're
24 fine.

25 MS. DIGIACOMO: He had to reschedule it from today --

1 MS. MACHNICH: She already did. So we'd be fine with her
2 going. We had a talk.

3 THE COURT: Do you want to talk to her, because that's what
4 I had, or not.

5 MS. SUDANO: I think we had a different one.

6 MS. MACHNICH: No, that's fine. I mean, she said it was
7 Monday, and we don't start until 1:00 --

8 MS. SUDANO: Right.

9 MS. MACHNICH: So I wanted to follow up on it.

10 MS. DIGIACOMO: Okay. So that one is Monday.

11 MS. MACHNICH: Okay, that's fine.

12 THE COURT: Is there another one?

13 MS. MACHNICH: No. We just didn't have the Monday part
14 figured out. You're right.

15 [Sidebar ends at 2:37 p.m.]

16 THE COURT: All right. Ladies and gentlemen, even though
17 you know absolutely nothing about the case so far, I'm going to give you
18 the admonition. We're going to take a short rest, recess, so we can take
19 a break.

20 During this recess you're admonished, do not talk or
21 converse amongst yourselves, or with anyone else on any subject
22 connected with this trial, or read, watch or listen any report of, or
23 commentary on this trial, or any person connected with this trial, by any
24 medium of information, including, without limitation, newspapers,
25 television, radio or internet.

1 Do not form or express any opinion on any subject
2 connected with the trial until the case is finally submitted to you. Don't
3 talk about anything regarding this trial. Talk about the weather. We'll
4 take ten minutes.

5 [Prospective jurors out at 2:39 p.m.]

6 [Recess at 2:41 p.m., recommencing at 2:52 p.m.]

7 THE MARSHAL: Please rise for the jury.

8 [Prospective jurors in at 2:55 p.m.]

9 [Inside the presence of the prospective jurors]

10 THE MARSHAL: I did a headcount, Judge. All 60 are here.

11 THE COURT: Okay. All right. Please be seated. We try to
12 take regular breaks, so you don't have to be embarrassed about raising
13 your hand. But if that's the case you need to tell us if you need a break.

14 Emily Zupan. Okay. Go ahead and replace him. We're
15 going to go ahead and fill it, if you again saw the video, that's how we do
16 it, we draw from the gallery, if you will, and fill in the seats for those of
17 you have been excused.

18 Go ahead.

19 THE CLERK: Seat 1, Wendie Welshierner-Hausman. Seat 3,
20 Christoffer Ball. Seat 4, Garrett Hedges. Seat 9, Julie Carothers. Seat
21 13, Emily Zupan. Seat 22, Michael DiGiovanni. Seat 29, James
22 Tobiasson. Seat 30, Kasidate Namboonruang, and seat 33, Michael
23 Tolman.

24 THE COURT: Thank you. If, and this applies during the trial,
25 but now while we're picking a jury, if you have any questions, the only

1 point of contact is Officer Moody, who just left. If you have a question
2 write it down, he'll give you a pad, and he'll give it to us and we will
3 discuss it, and that will follow still through trial. You won't be talking to
4 Court staff and/or anybody involved in the case, and I'll explain more of
5 that later, along with some other instructions, et cetera.

6 But at this point we just want to ask, in the box, individuals,
7 some basic questions. We're going start with Ms. Hausman, and I'll ask
8 for each of you, your name, your badge number, where do you work,
9 what do you do for a living. If you have a significant other, what do they
10 do for a living. Have you ever served on a jury, and then if you have I'll
11 ask you some follow-up questions. And I'll prompt you, but I guarantee
12 by the third or fourth person you'll know all these questions.

13 MR. SPEED: Your Honor, we're sorry, we have to interrupt
14 you for just a moment.

15 THE COURT: You need to approach?

16 [Sidebar begins at 3:01 p.m.]

17 MR. SPEED: Judge, I wanted to point out, we haven't
18 introduced ourselves yet, are you getting to that part or --

19 MS. DIGIACOMO: I was going to say, we should probably do
20 it before we go one-by-one --

21 MR. SPEED: Right.

22 MS. DIGIACOMO: -- because what if they know somebody.

23 THE COURT: This isn't the one-on-one. This is I'm just
24 asking them their names. We did it yesterday, we did it after, but I'm
25 following the same script.

1 MS. DIGIACOMO: Oh.
2 MR. SPEED: Okay.
3 MS. DIGIACOMO: I thought you were about to ask him like
4 each one to say what they do --
5 THE COURT: Yeah. But it's the same exact same script,
6 unless I --
7 MS. DIGIACOMO: No. Well, yesterday we introduced
8 ourselves first.
9 MR. SPEED: Before we got into the questions, Your Honor.
10 THE COURT: Oh, you know, you're absolutely right, okay.
11 MS. DIGIACOMO: Thank you.
12 THE COURT: Which would you rather do?
13 MS. DIGIACOMO: I'd rather introduce ourselves --
14 THE COURT: Okay.
15 MS. DIGIACOMO: -- before, so that they --
16 MR. SPEED: Let's do that now, all right.
17 MS. DIGIACOMO: We don't waste our time, if they know
18 somebody, et cetera.
19 THE COURT: Okay. That's fine.
20 MS. MACHNICH: Are we going to do the what kind of case is
21 it now, too?
22 MS. DIGIACOMO: Yeah. That's intention of that.
23 MS. MACHNICH: Okay.
24 THE COURT: That's fine.
25 [Sidebar ends at 3:02 p.m.]

1 THE COURT: Okay. So I'm going to have the attorneys
2 introduce themselves and give you the names of the potential witnesses.
3 After each side I'll ask you if you recognize the name of anyone, first the
4 attorneys then the potential witnesses.

5 So, State?

6 MS. DIGIACOMO: Thank you, Your Honor.

7 Good afternoon. So the case you are here on this morning is
8 State of Nevada v. Gustavo Adonay Gunera-Pastrana. My name is
9 Sandra DiGiacomo, the Chief Deputy District Attorney with the DA's
10 office, and with me is Michelle Sudano, also a Deputy District Attorney,
11 and we've been assigned this case. The information in this case alleges
12 two counts of lewdness with a child under the age 14, and two counts of
13 sexual assault with a minor under 14 years of age.

14 These acts occurred between August 1st, 2015 and July 11th
15 of 2016. The witnesses that I'm going to read to you, it's all possible
16 witnesses, it doesn't necessarily mean we're going to call every witness.
17 So the victim in this case is Meily Moran, her brother Jose Moran will
18 also be a witness, as well as her mom, Meili Casillas Ortiz.

19 From the Las Vegas Metropolitan Police Department, the
20 possible witnesses are Officer Alan Kravetz, Officer Ryan Larson, Officer
21 David Delaria, Officer William Dransfield, and interpreter, Maria Jimenez,
22 Detective Denise Huth, and Detective Lawrence Samples.

23 There are also possible witnesses that work at the Southern
24 Nevada Children's Advocacy Center and/or Child Protective Services.
25 Those witnesses are Elizabeth Espinoza, Tiffany Keith, Rebecca Lankford,

1 Adriana Mendoza Ponce [phonetic], Marabeth Russo. Also witness
2 possibly, are Dr. Sandra Settle [phonetic], as well as an attorney named
3 Kathia Pereira.

4 Thank you.

5 THE COURT: Thank you. Raise your hand if you recognize
6 the names of any of the attorneys that she gave you, the names of the
7 attorneys seated here? I don't see any.

8 Raise your hand if you recognize the names of any of the
9 potential witnesses she listed off. Raise your hand. I don't see any.

10 Thank you.

11 Defense, you may introduce yourselves.

12 MR. SPEED: Good afternoon, ladies and gentlemen.

13 GROUP RESPONSE: Good afternoon.

14 MR. SPEED: Our client's name is Gustavo Gunera-Pastrana,
15 he is not guilty of what he's been charged with, and it will be our honor
16 for the next few days to represent him in front of all of you.

17 My name is Kevin Speed, I am with the Public Defender's
18 Office. This is Tegan Machnich, she is also a Chief Deputy Public
19 Defender and we are representing Gustavo.

20 We wanted to know before we began if you all are familiar
21 with a few names that we intend to call as potential witnesses. Marie
22 Parlad [phonetic], Roxanna Vargas Sagastumi, Gregory Mills, Byron
23 Mills, both the Mills are attorneys at law, Cheryl Cooley [phonetic], Mary
24 McCarthy, also an attorney, Maria Estrada [phonetic], Anesthesia Blanco
25 with the Urban League of Las Vegas, Liliana Duarte [phonetic].

1 The custodian of records or a representative from the Human
2 Behavior Institute, Melissa Colosso [phonetic]. A representative with
3 Lutheran Social Services here in Las Vegas, Mr. Cesar Garcia, Mr. Bruce
4 McAllister, or Mr. Jeff Hanks.

5 Thank you, all.

6 THE COURT: Thank you.

7 MR. SPEED: And we do have a hand, Your Honor.

8 THE COURT: Okay. Let's start at the beginning. Anyone,
9 raise your hand if you recognize the names of, or recognize the attorneys
10 involved in this case?

11 Go ahead, name and badge number?

12 PROSPECTIVE JUROR 145: Byron and Gregory Mills, the
13 attorneys, they're my neighbors. My name is Jim Tobiasson.

14 THE COURT: Thank you. Okay. You're absolutely correct. I
15 said attorneys, I mean these attorneys, but let's go in order . Anybody
16 recognize these attorneys? I don't see any hands.

17 Okay. So the next is, anybody recognize the Defendant? I
18 don't see any hands. And now, anyone recognize the names of any of
19 the witnesses, other than Mr. Tobiasson? Names of any of the witnesses.
20 I don't see any other hands. Okay. Thank you.

21 Now, we'll go through and ask everybody, start with your
22 name and badge number, because anytime you address an answer, we
23 are a recorded department, you can see the cameras up here, and the
24 audio. And the only way we know, for the record, since there's nobody
25 there transcribing it, is if you tell us your name and badge number. And

1 by the way, they don't show the jury, that's why we need to do that.

2 So name, badge number, where do you work? Significant
3 other, where do they work? If you've ever served on a jury. If you have
4 served on a jury, I'm going to ask, and these are the only questions I'm
5 going to ask; was it civil or criminal? Did you reach a verdict, and were
6 you the foreperson? I don't know what the verdict was, et cetera.

7 Let's start with you. Name and badge number?

8 PROSPECTIVE JUROR 123: My name is Wendy Hausman,
9 and my bad number is 123. I work at Paris Las Vegas as a dual rate, so I
10 am a supervisor and dealer.

11 THE COURT: Significant other?

12 PROSPECTIVE JUROR 123: No, a dog.

13 THE COURT: That's very common. Ever served on a jury?

14 PROSPECTIVE JUROR 123: No.

15 THE COURT: Thank you. Next.

16 PROSPECTIVE JUROR 005: William Collins, badge number 5.
17 I'm a real estate agent here with Windermere Excellence in Summerlin,
18 the past five years. I've been in Vegas 27 years. My wife is first grade
19 schoolteacher for the past 17 years.

20 THE COURT: Clark County School District?

21 PROSPECTIVE JUROR 005: Yes, sir.

22 THE COURT: What school?

23 PROSPECTIVE JUROR 005: M.J. Christensen, over in the
24 Lakes.

25 THE COURT: Thank you. Ever served on a jury?

1 PROSPECTIVE JUROR 005: No, I have no.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR 124: My name is Christopher Ball. My
4 badge number is 124. I work in the UPS Store, and a part-time student. I
5 have a girlfriend and her name is Samantha, and she works at a
6 Cheesecake Factory and a Shake Shack. And I have never served on a
7 jury before.

8 THE COURT: Thank you. Next?

9 PROSPECTIVE JUROR 130: Garry Hedges, badge number
10 130. I work at UNLV in facilities, and my wife works at SAFY, it's like
11 foster care agency. And never been on a jury.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR 011: My name is Cheryl Clark, badge
14 number 11. I work for Clark County at McCarran Airport. I also have a
15 dog. I never served on a jury.

16 PROSPECTIVE JUROR 016: My name is Alma Farro-Sulio,
17 badge number 16. I'm a registered nurse, working at Sunrise Hospital.
18 My husband is unemployed. I've never served in a jury.

19 PROSPECTIVE JUROR 018 : My name is Sergio Solis-Sauri. I
20 am a landscape supervisor for the City of Boulder City. My wife's name
21 is Rebecca Stokes, she is a clinic manager in Mesquite Nevada Physical
22 Therapy Clinic. And I've never served on a jury.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR 020: Marcus Montgomery, badge
25 number 20. I work for the City of Las Vegas, in the Office of Cultural

1 Affairs. I'm an art gallery assistant, I'm single. And, no, I've never
2 served on a jury before.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR 131: Badge number 131, Julie
5 Carothers. I've worked as a teacher for the Clark County School District
6 for the last 16 years, currently fifth grade at Reedom Elementary in
7 Mountains Edge. My husband is an IVW electrician at the Convention
8 Center, he works for various companies. I've been through selection, but
9 I've never been on a jury.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR 026: Badge number 26, Cynthia Reed.
12 A business owner for 24 years, I'm a registered document preparation
13 service, registered with the State of Nevada and bonded. My significant
14 other is a retired gaming attorney, general counsel of a private -- or of a
15 publicly traded gaming company here in Las Vegas. I've never served
16 on a jury.

17 Additionally, I would like to say I do recognize another juror
18 in the room, someone who I've had contact with on a regular basis, as a
19 -- in a retail setting.

20 THE COURT: And who is the juror?

21 PROSPECTIVE JUROR 026: Chris Ball, the UPS Store, I see
22 him three times a week.

23 THE COURT: He delivers at your store?

24 PROSPECTIVE JUROR 026: No, it's a UPS Store.

25 THE COURT: Oh, okay. You go in there.

1 PROSPECTIVE JUROR 026: So I talk to him, I probably would
2 see him this weekend.

3 THE COURT: All right. Thank you.

4 PROSPECTIVE JUROR 027: Badge number 27, my name is
5 Courtney Rutledge. I am not married, but I am in a relationship of 12
6 years. I work at Kodobuki Marketing, and I've never served on a jury
7 duty.

8 THE COURT: Does your significant other work in Clark
9 County?

10 PROSPECTIVE JUROR 027: He currently isn't he just lost his
11 job, so he's a stay-at-home father.

12 THE COURT: Fine, thank you.

13 PROSPECTIVE JUROR 028: Good afternoon, Your Honor.
14 My name is Kevin Delmour, badge number 28. I'm a retired marine
15 corps officer. I -- my significant other is a nurse at Comprehensive
16 Cancer Centers of Nevada. I have served on a jury in Hawaii, it was a
17 criminal case, we did reach a verdict, and I have not been a foreperson.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR 135: My name is Emily Zupan. My
20 badge number is 135, I'm a cocktail waitress. My significant other is a
21 president of a -- it's called Cable Grippers, a lighting and suspension
22 company. And I've never served on jury.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR 031: Hi. My name is Sara Drollinger-
25 Caldwell, my badge number is 31. I'm a substitute teacher at the school

1 district. I'm single and I've never been summoned before.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR 035: Kathryn Argentine, 35, badge
4 number, not age. Clark County School District, West Prep High School. I
5 do work during the summer as well, so all year round. My significant
6 other is the Vice President of Mammoth College. And I've never been on
7 a jury before.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 045: Hello. My name is Arlene
10 Schultz, badge number 45. I work in radiology as a medical
11 administrative assistant. I am single, and I have never served on a jury
12 before.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR 046: Hi, Jaqueline Miller, badge
15 number 46, good afternoon. Married 48 years, I'm retired, my husband
16 is retired, no dogs, and I have doctor's appointment tomorrow at 8:00
17 a.m.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR 050: My name is David Coleman, I'm
20 a Las Vegas native of 55 years. I work for MV Energy, 20 years now. I'm
21 a material specialist in the lines department. My bride is a realtor for
22 Realty One, of 22 years. We've been married for 32 years. I have not
23 served on a jury.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 051: Badge number 51. My name is

1 Alexis Velasquez. I'm a customer service and sales representative for
2 Wells Fargo Bank. I've been -- my husband works, he's an electrician for
3 Aristotle Electric Company. And I have not been on a jury.

4 THE COURT: Thank you. Next?

5 PROSPECTIVE JUROR 054: Hi. I'm Nichole Lacy, badge
6 number 54, work for Cox Communications as dispatch technical hotel
7 dispatcher, and single. I've never been on a jury before.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 059: My badge number is 0059, my
10 name is Christina Simpson Fane. I am a security officer at Custom
11 Security, and I own an Eyelashes Company. And I have yet to serve on
12 a jury.

13 PROSPECTIVE JUROR 146: My name if Michael DiGiovanni.
14 My badge number is 146. I am retired, and my wife is also retired. I
15 have served on a jury in California. We did reach a verdict, and I was the
16 foreman.

17 THE COURT: Civil or criminal?

18 PROSPECTIVE JUROR 146: It was a criminal.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR 068: My name is Warren Chiapparelli,
21 badge number 68. I'm a small business owner of a sunglass retail shop.
22 I've been a Las Vegas resident for 17 years, going on 17 years this year. I
23 live with my long-time fiancée. She is a corporate flight attendant for
24 Wynn Resorts, for top level executives. Mainly two that have been in the
25 news in the past couple of years for certain reasons. I have not been on

1 a jury.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR 068: Thank you.

4 PROSPECTIVE JUROR 071: Good afternoon, Your Honor.

5 My name is Adam Noyce, badge number 71. I am a legal assistant in the

6 medical malpractice unit at Alverson Taylor and Sanders. I am married.

7 My wife works in retail for a Roadrunner Engine Parts Warehouse. And I

8 have not served on a jury. Well, not trial jury, but --

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR 076: My name Jocelyn Parker, badge

11 number 76. I just finished graduate school, a Master's in social work, so

12 currently looking for jobs. And my significant other he works and lives in

13 Philadelphia, and he works at a local police station and the marine corps.

14 And I've never served on a jury before.

15 THE COURT: Thank you. Next.

16 PROSPECTIVE JUROR 086 : My name is Sheree Harvey, I'm

17 badge number 86. I'm a single mother of 10 and 12 year old girls. I've

18 worked at Dillard's at the Fashion Show Mall for 17 years, and today's

19 my birthday.

20 GROUP RESPONSE: Happy birthday.

21 PROSPECTIVE JUROR 086 : Never served on a jury before.

22 THE COURT: Thank you. Happy Birthday.

23 PROSPECTIVE JUROR 086 : Thank you. If you had told us

24 before we'd get a cake.

25 PROSPECTIVE JUROR 086 : I don't think the candles would

1 fit.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR 094: Kahmishia Pender-Bey, 94. And I
4 work for [indiscernible]. I'm a consultant at technology company. I'm
5 not married, and I have never served on a jury before.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR 097: Breann Dusina-Bakken, badge
8 number 97. I work as a billing coordinator and office coordinator for
9 Encore Event Technologies at ARIA. My husband is a freelance lighting
10 technician, and I've never served on a jury.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR 154: James Tobiasson, badge number
13 154. I work for Ken Morgan, single. I was on a jury three or four years
14 ago. We come to a decision, and it was criminal.

15 THE COURT: Were you the foreperson?

16 PROSPECTIVE JUROR 154: No.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 162 : Kasidate Namboonruang, badge
19 number 162. I just graduated high school. Unemployed, and I'm single.
20 I've never been served as a juror before.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 115: My name is Rhonda Rafferty,
23 badge 115. I'm a retired Clark County School District teacher. My
24 husband is a retired college professor. I did serve on a jury, it was a
25 criminal. We did not reach a verdict, I was not the foreperson.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR 116: My name is Henry Beam, badge
3 number 116. I work for Western Asset Recovery as a reposessor. No
4 significant other, and I never served on a jury.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR 164: Michael Tolman, badge 164, I
7 work in IT for Qdigital Services, here in town. Single, never served on a
8 jury.

9 THE COURT: Thank you. All right.

10 Now I'm going to have some general questions for the entire
11 box. If you are answering, raise your hand, and again, we'll need your
12 name and badge number. So first of all, are you or anyone close to you,
13 a family member, a close friend in law enforcement? Start with the back.

14 THE MARSHAL: Okay. You're going to start in the back, and
15 you folks will now pass around the microphone, you know how it works
16 now.

17 UNIDENTIFIED PROSPECTIVE JUROR: Your Honor, does that
18 include retired?

19 THE COURT: Sure.

20 UNIDENTIFIED PROSPECTIVE JUROR: Okay.

21 PROSPECTIVE JUROR 020: Marcus Montgomery, badge
22 number 20. I have two brothers that are police officers with Fort Worth,
23 Texas.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 027: My uncle is --

1 THE COURT: Name and badge number?

2 PROSPECTIVE JUROR 027: Oh. Courtney, number 27, and
3 my uncle is a Metro police officer.

4 THE COURT: Active now currently?

5 PROSPECTIVE JUROR 027: Yeah, active.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR 027: And he works in the Alamo
8 School District, when he's not dealing with Metro.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR 031: Hi. Sara Drollinger-Caldwell, 31.
11 My mother is a retired parole and probation officer.

12 THE COURT: In Clark County or somewhere else?

13 PROSPECTIVE JUROR 031: In Clark County.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR 035: Kathryn Argentine, number 35.
16 My father is a retired police officer and worked for the State's Attorney's
17 Office in Cook County, Chicago.

18 THE COURT: Anyone else, raise your hand? Go ahead.

19 PROSPECTIVE JUROR 076 : Jocelyn Parker, badge number
20 76. My boyfriend works in Philadelphia for a local police department, but
21 he's not a police officer.

22 THE COURT: Okay. Who else?

23 PROSPECTIVE JUROR 124: Christoffer Ball, badge number
24 124. I'm not sure if it matters, but I have a close friend that does
25 marriage -- she does divorce court, I believe.

1 THE COURT: An attorney, a judge, what?
2 PROSPECTIVE JUROR 124: Attorney.
3 THE COURT: Okay. Here in Clark County?
4 PROSPECTIVE JUROR 124: I believe so.
5 THE COURT: Okay. Thank you.
6 Anybody else? Okay. We'll get to you. Go ahead.
7 PROSPECTIVE JUROR 068: Warren Chiapparelli, badge
8 number 68, I have two first cousins on NYPD, New York.
9 THE COURT: Thank you. Down at the end?
10 PROSPECTIVE JUROR 154: James Tobiasson, badge number
11 154. My brother is retired Metro, and my future son-in-law works
12 currently for Metro.
13 THE COURT: Thank you. Now the same, more or less the
14 same question. You, or anyone close to you in the military, raise your
15 hand?
16 PROSPECTIVE JUROR 164: Michael Tolman, badge 164. I'm
17 six months out of uniform.
18 THE COURT: Army, navy?
19 PROSPECTIVE JUROR 164: Air force for five years, active
20 duty had been three and half, Nevada National Guard.
21 THE COURT: Thank you for your service.
22 Who else?
23 PROSPECTIVE JUROR 097: Breann Dusina-Bakken, number
24 97. My brother-in-law is a former marine, he's been out of service for 20
25 years.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR 076: Jocelyn Parker, badge number
3 76. My boyfriend's currently in the marine corps.

4 MR. SPEED: Is that number 70?

5 PROSPECTIVE JUROR 076: 76.

6 PROSPECTIVE JUROR 028: Kevin Delmour, badge 28, 26
7 years in the marine corps, retired as an 06.

8 THE COURT: Thank you. for your service.

9 We've got somebody upfront?

10 PROSPECTIVE JUROR 031: Sara Drollinger-Caldwell,
11 number 31. My father and grandfather both served in the navy.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR 059: Christina Simpson Fane, badge
14 number 59, and my aunt served in the military for nine years.

15 THE COURT: I'm sorry.

16 PROSPECTIVE JUROR 059: My aunt served in the military in
17 New York for nine years.

18 PROSPECTIVE JUROR 146: Michael DiGiovanni, badge
19 number 146. My father served 35 years in the United States Marine
20 Corps.

21 THE COURT: Yeah. There was some --

22 PROSPECTIVE JUROR 045: Arlene Shultz, badge 45. My
23 brother served in the U.S. Marine Corps.

24 PROSPECTIVE JUROR 050: David Coleman, my badge if 50,
25 my daughter is currently serving in the United States Air Force.

1 THE COURT: Right behind -- well, kiddy corner.

2 PROSPECTIVE JUROR 131 : 131 Julie Carothers. My brother
3 served in the Marine Corps., my mother and father served in the army in
4 Vietnam. All grandparents, aunts and uncles, cousins, served in the
5 military.

6 THE COURT: Is that it for that question? Okay.

7 New question. Have your or anyone close to you been the
8 victim of a crime? Victim of a crime? Go ahead. Somebody up here?

9 PROSPECTIVE JUROR 035: Kathryn Argentine, 35. My father
10 was assaulted by an inmate, during service in the police force.

11 PROSPECTIVE JUROR 135: Emily Zupan, 135. I was given
12 the date-rape pill and sexually consulted.

13 THE COURT: Next row?

14 PROSPECTIVE JUROR 086: My name Sheree Harvey, badge
15 86. I've been robbed twice. Last year on my daughter, my 12-year-old
16 daughter's birthday, and then 13 years ago, right before my oldest
17 daughter turned 9.

18 PROSPECTIVE JUROR 094: Kahmishia Pender-Bey. Number
19 94. I have been robbed and my sister has been molested.

20 PROSPECTIVE JUROR 097: Breann Dusina-Bakken, number
21 97. I have been hit by a drunk driver, who then fled the scene; it totaled
22 my car.

23 THE COURT: Wasn't there some more up here?

24 PROSPECTIVE JUROR 068: Warren Chiapparelli, badge 68.
25 My significant other is the victim of sexual harassment.

1 PROSPECTIVE JUROR 162: Kasidate Namboonruang, badge
2 162, my sister has been robbed.

3 THE COURT: And there was -- two in the back. Yeah, sorry.

4 PROSPECTIVE JUROR 031 : Sara Drollinger-Caldwell,
5 number 31. My aunt and my cousin were a witness to a shooting at a
6 hospital in Longview, Texas.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR 123: Wendie Hausman, 123, and I was
9 sexually assaulted when I was little, by a family friend.

10 THE COURT: And next question. Has anyone been the
11 victim, or anyone, close family member or personal friend been the
12 victim of a sexual assault, other than you just said. That was Wendie
13 Hausman.

14 PROSPECTIVE JUROR 135: Emily Zupan, 135, and, yes, I
15 have.

16 PROSPECTIVE JUROR 035: Kathryn Argentine, 35. I was
17 sexually assaulted from age 8 to 16.

18 PROSPECTIVE JUROR 020: Marcus Montgomery, badge
19 number 20. I have a cousin who was molested by her father, when she
20 was eight years old.

21 THE COURT: Anyone else?

22 PROSPECTIVE JUROR 086: I have a cousin, just a couple of
23 years ago her husband, shot her, and stabbed her, and then she -- he
24 stabbed his daughter and then he - his son.

25 THE COURT: Name and badge number.

1 PROSPECTIVE JUROR 086: Sheree, badge 86. And this
2 happened here in Las Vegas.

3 THE COURT: Sorry to hear. Anyone else?

4 Okay. Similar question. You or anyone close to you been
5 accused of a crime? No hands? No hands.

6 PROSPECTIVE JUROR 094: Kahmishia Pender-Bey, Juror
7 number 94. I have several uncles and cousins in jail for criminal activity.

8 THE COURT: You need to speak up. You're very soft spoken.

9 PROSPECTIVE JUROR 094: I have several family members in
10 jail for criminal activity.

11 THE COURT: All right. Counsel, approach.

12 MS. DIGIACOMO: Actually, Your Honor, there's somebody
13 else.

14 THE COURT: Oh, there was somebody else. Oh, sorry.

15 PROSPECTIVE JUROR 059: Christina Fane, badge number
16 0059. My granddaughter's father is recently in prison, for false
17 accusation [sic] of rape of a minor.

18 THE COURT: And did I miss any others? No.

19 Okay. Counsel, approach.

20 [Sidebar begins at 3:31 p.m.]

21 THE COURT: All right. I know I forgot to ask about their kids,
22 but I figured I'd leave that to you.

23 MS. MACHNICH: Okay.

24 MS. DIGIACOMO: Okay.

25 THE COURT: Anything else?

1 MS. MACHNICH: No.

2 THE COURT: But thank you, you're right. I totally, I don't
3 know, spacing out today. When you interrupted me, you're right, that I
4 missed that entirely. Any other questions you need me to ask?

5 MS. SUDANO: We're good.

6 THE COURT: Okay. We'll -- I think we've only been going a
7 half hour.

8 MS. DIGIACOMO: Yeah.

9 THE COURT: We'll go unless they --

10 MS. MACHNICH: Well, fair and impartial.

11 MS. DIGIACOMO: Oh, yeah --

12 MS. MACHNICH: Any reason you can't be fair and impartial,
13 you've got to ask it.

14 MS. DIGIACOMO: But also, you know about the presumption
15 of innocence, doesn't anyone have a problem with that?

16 MS. MACHNICH: Yeah. The other --

17 THE COURT: Okay. But that's where we went off the tracks
18 last time.

19 MS. MACHNICH: But we have to find those people.

20 THE COURT: All right. I'll try to give the whole speech this
21 time.

22 MS. DIGIACOMO: Okay.

23 MR. SPEED: Yeah.

24 MS. MACHNICH: Okay.

25 [Sidebar ends at 3:32 p.m.]

1 THE COURT: All right. Ladies and gentlemen, and this goes
2 for everybody also in the gallery, as I said, we're going to be filling in, so
3 it's going to be test to see whether you remember all the questions I've
4 asked, because you're going to have to go back and answer those same
5 questions if you're asked to fill in. So it's not like you get to not pay
6 attention.

7 So some of the basic ground rules that are involved in a
8 case -- a criminal case are the fact that the Defendant is presumed
9 innocent. In the United States everyone is innocent until they are proven
10 guilty. That happens if the State proves two things beyond a reasonable
11 doubt: One, that a crime was committed; and second, that the Defendant
12 committed the crime.

13 As the Defendant sits here today, he is absolutely innocent
14 and doesn't have to do anything to prove his innocence. In fact -- and I'll
15 read, if you're chosen as a jury, a longer speech, if you will, regarding
16 this -- Defense counsel and the Defendant can do absolutely nothing.
17 Not ask any questions. Not put on any witnesses. They don't have to do
18 anything. The Defendant is presumed innocent.

19 It's the State's burden. And I'll get into the burden of proof
20 also. That's established by the legislature and we will -- I will be reading
21 jury instructions later on, explaining everything to you. Again, if you're
22 chosen. don't -- I'm not going to do that now, because obviously, a lot
23 of you are not going to be on the jury panel. It's a process of
24 elimination, I guess, is the best word.

25 But I will be instructing you, as to the law on the case. You

1 will be interpreting the facts from the evidence presented. Having said
2 that, does anyone have a problem, or -- well, a problem with the concept
3 that the Defendant, as he sits here is absolutely innocent? Raise your
4 hand if that is a problem. You don't understand that.

5 I don't see any hands.

6 Okay. Second of all, does -- and I will explain what the
7 burden of proof is. I'll tell you it's beyond a reasonable doubt. I guess I
8 already did tell you that.

9 The State has to prove beyond a reasonable doubt those two
10 things. I will explain what the burden of proof and the standard is, but as
11 far as that is concerned, is there anyone here who cannot, for whatever
12 reason, follow my instructions on the law when I give them to you at the
13 end of the case?

14 Is there anyone who says I'm going to do what I'm going to
15 do? I don't care what the law is. I'm going to follow my own whatever.
16 Is there anybody who cannot follow the jury instructions when I give
17 them to you?

18 I don't see any hands.

19 I'm sorry was there a hand? Because people are --

20 PROSPECTIVE JUROR 031: Oh, no. I'm just **3:37:05 --

21 THE COURT: -- you know, I just want to make sure. All right.

22 No hands.

23 And I think did I cover everything, Counsel?

24 MR. SPEED: Fair and impartial --

25 THE COURT: Was there anything else?

1 MR. SPEED: -- Your Honor.

2 THE COURT: Is there anyone here who feels for any reason
3 they would have a -- they would have a problem being a fair and
4 impartial juror? Anybody have a problem? Raise your hand. We'll take
5 it in order.

6 THE MARSHAL: We're going to start here, work back, and
7 then work down.

8 THE COURT: Again, name and badge number.

9 PROSPECTIVE JUROR 123: Wendie Hausman, 123. Just with
10 my prior experiences as a young child, I don't think that I could fairly
11 serve on this jury.

12 THE COURT: Anyone in the back row?

13 No. Next row.

14 PROSPECTIVE JUROR 135: Emily Zupan, Badge Number
15 135. Also, because I've been a victim of sexual assault, I don't think I'd
16 be able to give a fair understanding, or a fair judgment of it.

17 PROSPECTIVE JUROR 035: Kathryn Argentine, 35. Same
18 reason, as a victim of sexual assault. There's also a teacher, who I
19 worked with, who has an open case against them for a similar instance.

20 THE COURT: Next front row. Raise your hand. Go ahead.

21 PROSPECTIVE JUROR 086: Sheree Harvey, badge 86. Only
22 because of the incident with my almost losing three cousins, and I lost a
23 12-year-old cousin through sexual assault.

24 PROSPECTIVE JUROR 094: Kahmishia Pender-Bey, Number
25 94. I have a family member that is currently in jail for a similar allegation

1 that was falsely accused, so I don't think I could be that
2 biased -- unbiased.

3 THE COURT: Sorry your voice dropped off.

4 PROSPECTIVE JUROR 094: Oh, I'm sorry.

5 THE COURT: You're very soft spoken.

6 PROSPECTIVE JUROR 094: I'm sorry.

7 THE COURT: I like it, but for this purpose we need you to --

8 PROSPECTIVE JUROR 094: I have a family member that is
9 locked up for --

10 THE COURT: Well, no, that part I did hear.

11 PROSPECTIVE JUROR 094: -- a similar --

12 THE COURT: Okay. The end -- towards --

13 PROSPECTIVE JUROR 094: And I said, I can't -- I wouldn't be
14 unbiased. I would be honest.

15 THE COURT: Okay. Thank you.

16 We want you to be open and honest and give us whatever
17 answers that are appropriate.

18 Go ahead.

19 PROSPECTIVE JUROR 116: Henry Beam, 116. I had a friend
20 get committed for the same thing. I just don't think I could do --

21 THE COURT: Anybody -- okay, and there's one more.

22 PROSPECTIVE JUROR 068: Warren Chiapparelli, Number 68.
23 As I mentioned earlier, and considering what my significant other has
24 gone through, I don't -- I don't know that it would be fair for me.

25 THE COURT: Anyone else?

1 Okay. Anybody want to ask you -- I don't want to embarrass
2 you -- anybody need a break? If you need a break -- okay. We'll do it,
3 because we don't want to make anybody uncomfortable.

4 THE MARSHAL: Judge, there's a woman here -- raise your
5 hand.

6 MR. SPEED: Another hand.

7 THE COURT: Yeah.

8 THE MARSHAL: I don't know -- she had spoken with me
9 earlier. She has an issue.

10 THE COURT: Well, why don't you write it down. Will you
11 give her -- write down the problem and we'll discuss it during our break.

12 We're going to take ten minutes. Now, that you know even a
13 little bit, although you haven't heard one bit of evidence, please still
14 don't talk about this. Don't, oh, my relative, whatever. Nothing about
15 the case.

16 During this recess you're admonished do not talk or converse
17 amongst yourselves or with anyone else on any subject connected with
18 this trial, or read, watch, or listen in, or report of, or commentary on this
19 trial, or any person connected with this trial by any medium of
20 information, including without limitation, newspapers, television, radio,
21 or internet.

22 Do not form or express any opinion on any subject
23 connected with the trial until the case is finally submitted to you. That
24 means don't go on Google, or search anybody's name, or anything like
25 that. Don't go on Twitter and say you might be -- we will know about it

1 and it is not a good thing.

2 Ten minutes. Thank you.

3 THE MARSHAL: I'll come and get you after ten minutes.

4 Remember the seat you were in.

5 [Prospective jurors out at 3:42 p.m.]

6 [Outside the presence of the prospective jurors]

7 THE COURT: All right. We're on the record outside the
8 presence, but I'm sure 46 wants off.

9 MS. DIGIACOMO: Yeah.

10 THE COURT: Doctor's appointment, whatever it might be.
11 She wants off.

12 MS. MACHNICH: Yeah.

13 THE COURT: Did you get her note? You're going to get it
14 after the break?

15 THE MARSHAL: I gave her a notepad and pen.

16 THE COURT: Yeah, okay.

17 THE MARSHAL: She kept telling me what her issue was, and
18 I said you got to tell the judge. Quit telling me.

19 THE COURT: What's her issue? She's wants off.

20 THE MARSHAL: She thought that it was going to end
21 Friday -- this Friday, not next Friday, and she had some surgery done,
22 and can't sit that long.

23 THE COURT: Oh, okay.

24 THE MARSHAL: Some issue with her leg or something.

25 THE COURT: All right.

1 THE MARSHAL: Something to that effect.

2 MS. SUDANO: Your Honor, before you -- well, before we
3 bring the jury back in, we think we're just going to stipulate -- or the
4 State's going to stipulate to excuse a number of those folks.

5 THE COURT: Yeah. That's great. Fine. We'll talk about.

6 MS. SUDANO: Okay.

7 THE COURT: I just wanted to point out that she obviously
8 wants off.

9 MS. MACHNICH: Yep.

10 THE MARSHAL: She does.

11 THE COURT: And who is this? Oh, that's the --

12 MR. SPEED: Interpreter.

13 THE COURT: Okay. Thank you.

14 Ten minutes.

15 [Recess taken from 3:44 p.m. to 3:52 p.m.]

16 [Outside the presence of the prospective jurors]

17 THE COURT: I've got -- we have a note from Juror 31. "I
18 don't think I can be fair on this case, due to working with kids, and my
19 mother's legal career."

20 MR. SPEED: I'm sorry, Your Honor. That was Number 31?

21 MS. DIGIACOMO: I'm sorry can you --

22 THE COURT: 31, Sara --

23 MS. DIGIACOMO: And I'm sorry, could you read that again?
24 I only heard the last part.

25 THE COURT: You can look at it.

1 MS. DIGIACOMO: Oh, okay. Thank you.

2 MS. MACHNICH: Do we need to speak with that individual
3 outside the presence, since she brought it up with us outside the
4 presence? Would that be -- do you think beneficial? Do you think she's
5 clearly uncomfortable talking about it?

6 THE COURT: Well, it doesn't say she's uncomfortable talking
7 about it. It's just I think she -- because Juror Number 46 Jackie Miller
8 something on her left leg, doctor's appointment tomorrow with
9 somebody doctor at 8 a.m. in Henderson.

10 MS. MACHNICH: I think we can -- we have a consistent
11 position of saying she should be released, but we'll submit to the State
12 on that.

13 MS. DIGIACOMO: I'm sorry. I was still reading so what?

14 THE COURT: 46 wants off.

15 MS. MACHNICH: Oh, 46.

16 THE COURT: You want to -- here's her note. I can't read half
17 of it, but --

18 MS. MACHNICH: She has a doctor's appointment --

19 THE COURT: She has a doctor's appointment --

20 MS. MACHNICH: -- in Henderson tomorrow.

21 THE COURT: -- basically.

22 MS. DIGIACOMO: At 8 a.m.

23 THE COURT: Show it to the other side.

24 MS. MACHNICH: Yeah.

25 THE COURT: Yeah.

1 MS. MACHNICH: She'll never make it back.

2 THE COURT: We'll not starting probably -- we wouldn't get
3 going until 10, but still --

4 MS. MACHNICH: We've all waited longer than that.

5 THE COURT: She doesn't want to -- yeah.

6 MS. DIGIACOMO: Oh.

7 MS. MACHNICH: Oh, yeah. Can she go?

8 MS. DIGIACOMO: Oh, no, no. It's shingles, Your Honor.
9 From somebody who's had that --

10 MR. SPEED: She's got to go --

11 MS. DIGIACOMO: -- and it was more painful --

12 MS. MACHNICH: She needs --

13 MS. DIGIACOMO: -- oh, no. This is so painful.

14 THE COURT: I've it had it too. Relax.

15 MS. DIGIACOMO: No, I'm just saying, that I feel for her.

16 THE COURT: It's not deadly.

17 MS. DIGIACOMO: No, but it is so painful. I had to do a
18 Supreme Court argument with shingles up north.

19 THE COURT: All right. Everybody is okay. We'll replace 46.
20 Now, the other note, will you give it back to us?

21 MS. SUDANO: Oh, sorry.

22 MS. DIGIACOMO: Yeah. I'm sorry.

23 THE COURT: Did you show it to --

24 MS. DIGIACOMO: I was trying to figure out where she was.

25 THE COURT: -- the other side?

1 MS. MACHNICH: I mean, the State would -- or the Defense
2 would have no objection to kicking 31. We understand that the State
3 probably does have an issue with that. I think we would ask, since she
4 brought it up outside the presence, that we question her outside the
5 presence. We don't want her to clam up and not talk. If we could bring
6 her in now, and -- I mean, I don't know why she wrote it later. Did she
7 think of it later, or is it emotional?

8 THE COURT: That's fine. We'll take her outside.

9 MS. MACHNICH: Thank you.

10 THE COURT: Juror Number 31 Caldwell.

11 MS. MACHNICH: Yeah. She said she could not be fair and
12 impartial.

13 MS. MACHNICH: Your Honor, for the record, are these being
14 marked as Court's exhibits --

15 MR. SPEED: Yes.

16 MS. MACHNICH: -- as part of the appellate record?

17 MS. DIGIACOMO: They are --

18 MR. SPEED: They are.

19 MS. DIGIACOMO: -- marked.

20 MS. MACHNICH: Thanks.

21 MR. SPEED: They are. I'm sorry.

22 MS. MACHNICH: Oh, great. Thank you.

23 THE COURT: Go ahead and get Caldwell.

24 THE MARSHAL: Yes, Judge.

25 THE COURT: Please.

1 All right. Then after that, the State will inquire. It's 4:00.

2 Wow. And yeah.

3 Ms. Caldwell, just sit anywhere. We just wanted to clarify
4 your note.

5 PROSPECTIVE JUROR 031: Thank you.

6 THE COURT: She has your note.

7 THE CLERK: Oh, I'm sorry.

8 THE COURT: Your note says what again?

9 PROSPECTIVE JUROR 031: That I might not be impartial
10 because I work with kids every day. I'm a substitute teacher. So -- and
11 my mom's a retired parole officer.

12 You know, I go to 30 different schools. I see thousands of
13 kids every different day. Unless this victim has specifically gone to a
14 school that I've never been to, I really don't know if I know this victim or
15 not, because, you know, I don't know that -- all their names. I go to
16 different schools every single day. And odds are I don't know their
17 names.

18 THE COURT: Defense, you wanted to -- you had a question?

19 MS. MACHNICH: No, Your Honor. We were comfortable
20 with --

21 THE COURT: State.

22 MS. DIGIACOMO: When you say you go to schools every
23 single day, are you elementary school, middle school, or high school?

24 PROSPECTIVE JUROR 031: I do all over. Mostly elementary
25 school, because middle school, high school are harder, but I go to all

1 three whenever they need me.

2 MS. DIGIACOMO: Okay.

3 PROSPECTIVE JUROR 031: I get to pick and choose where I
4 go, when I go.

5 MS. DIGIACOMO: So I guess you're saying you're not sure
6 you can be fair because you possibly might know the victim?

7 PROSPECTIVE JUROR 031: I could possibly, unless this
8 victim has been to a school that I've definitely never been to, because I
9 try to stay on the east side by my home. I don't know.

10 MS. DIGIACOMO: Okay. But if it's a -- even if you did know
11 the student, I mean, are you saying you couldn't keep an open mind and
12 listen to the evidence and hold the State to its burden?

13 PROSPECTIVE JUROR 031: I could possibly --

14 MS. DIGIACOMO: Well --

15 PROSPECTIVE JUROR 031: -- but it's, you know, the crime
16 being accused of it's a hard crime to try to keep partial on, especially
17 when you work with kids every single day. I'm actually more
18 comfortable with kids than I am with adults sometimes.

19 MS. DIGIACOMO: Right. But you wouldn't -- let me ask you
20 this: If the State did not prove its case, if we did not show beyond a
21 reasonable doubt that the crimes were committed, are you saying that
22 you would still feel like the need to --

23 PROSPECTIVE JUROR 031: No, if you -- if you proved
24 everything and I could say the Defendant did it, or not did it, yeah, I
25 could be partial on that, but --

1 MS. DIGIACOMO: Okay. Well, and I understand it's a hard
2 subject matter --

3 PROSPECTIVE JUROR 031: Yeah.

4 MS. DIGIACOMO: -- for everyone on this panel, but from
5 what I'm hearing is, you still could keep an open mind and listen to the
6 evidence and hold the State to its burden?

7 PROSPECTIVE JUROR 031: Yeah, I guess.

8 MS. DIGIACOMO: All right. Well, you --

9 PROSPECTIVE JUROR 031: I don't know if I'm understanding
10 the question correctly, yes, I could.

11 MS. DIGIACOMO: Okay. Well, and unfortunately, you're the
12 only one can tell us what's going in your mine. And so you're saying I
13 guess, I mean, are you saying like yes, that's what I would do, but
14 I'm -- the subject matter seems hard, or no, I don't think I could do that.

15 PROSPECTIVE JUROR 031: If you could prove to me that
16 the -- the Defendant did it, because you -- you know -- yes, I could say
17 yes, he did it. Yes, I could try to give a -- a verdict.

18 MS. DIGIACOMO: And if I -- and if we didn't prove it, you
19 could say no, I'm not going to convict?

20 PROSPECTIVE JUROR 031: If you were able to partially
21 convince me that it could possibly be him, it would be hard for me to just
22 let him go free, because, you know, other potential victims -- other future
23 crimes that may be committed. Yeah, it'd be hard for me on my part
24 to -- you know --

25 MS. DIGIACOMO: No, I --

1 PROSPECTIVE JUROR 031: -- not know.

2 MS. DIGIACOMO: -- but if -- I mean, if you don't feel that
3 we've proved it beyond a reasonable doubt, then it would be your duty
4 to find him not guilty.

5 PROSPECTIVE JUROR 031: Yes. I understand that. That's
6 just -- I think that that would be hard for me to do is if I'm not 100 percent
7 sure that he is completely innocent, it would be hard for me to say not
8 guilty and let him walk.

9 MS. DIGIACOMO: Got you. Would you listen and discuss
10 with the other jury members, you know, during deliberations and listen
11 to their views?

12 PROSPECTIVE JUROR 031: Yeah, I would definitely listen to
13 what their thoughts are, but I'm not going to let their thoughts sway my
14 own thoughts, you know, just because they all say not guilty or guilty.
15 It's not going to sway my opinion.

16 MS. DIGIACOMO: Okay. I have nothing further, Your Honor.

17 MS. MACHNICH: Your Honor, do we need to ask questions?

18 THE COURT: Do you have any questions?

19 MS. MACHNICH: I mean, we do if you're not inclined to
20 strike for cause at this time. She's been pretty clear.

21 THE COURT: All right. Thank you. You can go step outside.

22 PROSPECTIVE JUROR 031: All right. Thank you.

23 THE COURT: All right. You shouldn't be making a challenge
24 for cause in front of the juror. You can approach. You can do whatever,
25 and especially, since we did this yesterday.

1 I'm going to excuse her for cause. The case I was thinking of
2 was the predecessor, which is referred to in *Sayedzada*, it's *Jitnan*, but in
3 any event, this is inferable bias, where it appears from the overall
4 answers that this particular -- and it's 031 -- can't put aside basically her
5 feelings that potentially she would know this child, which although,
6 bizarre because out of the population of well over 100,000 students, she
7 seems to be worried that she would somehow know this child.

8 Again, it doesn't make a lot of sense, but it goes to show that
9 there's some sort of, in my mind, irrational bias, and based up her
10 presentation, which again, is in the new case, and everything that she
11 has said, I am going to excuse her for cause.

12 So we will be replacing those two and --

13 MS. DIGIACOMO: Wait, I'm sorry. Who is the second one?

14 MS. SUDANO: 046.

15 THE COURT: The 46. The one that doesn't want to --

16 MS. DIGIACOMO: Oh, yes, with the shingles. Sorry.

17 THE COURT: She's got shingles, shingles, shingles.

18 MS. DIGIACOMO: No, I know. I just --

19 THE COURT: Hurts so much.

20 MS. DIGIACOMO: -- I am having a hard time keeping --

21 THE COURT: Well, hey, so did I. I forgot to -- you know --

22 MS. DIGIACOMO: All right.

23 THE COURT: -- went right past your introductions. It
24 happens.

25 Okay. Ready.

1 MS. MACHNICH: Yes, Your Honor.
2 THE COURT: Bring them in.
3 [Pause]
4 THE MARSHAL: Please rise for the jury.
5 [Prospective jurors in at 4:05 p.m.]
6 [Inside the presence of the prospective jurors]
7 THE COURT: Okay. Please be seated.
8 Call the next in line.
9 THE CLERK: Badge Number 165 Andrew Currie.
10 THE COURT: He'll that empty seat.
11 THE CLERK: Seat 14 on the right.
12 And then Badge Number 166 Gene Eschardies.
13 PROSPECTIVE JUROR 166: Uh-huh.
14 THE CLERK: The only open seat.
15 THE MARSHAL: Next to the gentleman with the Blackjack
16 Daniels shirt.
17 PROSPECTIVE JUROR 166: Okay.
18 THE COURT: Mr. Currie, 165. Memorized all the questions?
19 PROSPECTIVE JUROR 165: Yeah.
20 THE COURT: Go ahead.
21 PROSPECTIVE JUROR 165: Andrew Currie, 165. Bartend at
22 Paris and Caesars. Significant other is currently pregnant. And no, I've
23 never --
24 THE COURT: Congratulations.
25 PROSPECTIVE JUROR 165: -- served on a jury.

1 THE COURT: Okay. How about the other question?

2 UNIDENTIFIED SPEAKER: Oh, sorry. Go ahead. Go ahead.
3 Answer those.

4 PROSPECTIVE JUROR 166: My name is Gene Eschardies,
5 badge 166. I'm single. I work for Sprint. I have served on a coroner's
6 inquest many years ago.

7 THE COURT: Okay. Thank you. Since you have the mic still,
8 law enforcement or military?

9 PROSPECTIVE JUROR 166: No, sir.

10 THE COURT: Close family members?

11 PROSPECTIVE JUROR 166: I have a nephew in the Coast
12 Guard.

13 THE COURT: Have you ever been, or anyone close to you
14 been the victim of a crime?

15 PROSPECTIVE JUROR 166: No, sir.

16 THE COURT: And you or anyone close to you been the
17 victim of sexual assault?

18 PROSPECTIVE JUROR 166: No, sir.

19 THE COURT: Have you ever been, or anyone close to you
20 accused of a crime?

21 PROSPECTIVE JUROR 166: No, sir.

22 THE COURT: You heard my questions regarding the burden
23 of proof and the fact that the Defendant -- and this going to go for all
24 these -- or for Mr. Currie in a second -- as the Defendant sits here, he's
25 absolutely innocent, and that he will -- or can only be convicted if the

1 State proves beyond a reasonable doubt that a crime was committed
2 and the Defendant is the one who did it. Do you understand that?

3 PROSPECTIVE JUROR 166: Yes, I do.

4 THE COURT: Do you have any questions regarding that?

5 PROSPECTIVE JUROR 166: No, sir.

6 THE COURT: Do you think you can be a fair and impartial
7 juror?

8 PROSPECTIVE JUROR 166: Yes, sir.

9 THE COURT: Mr. Currie.

10 PROSPECTIVE JUROR 165: No law enforcement. Who
11 family in military: brother, sisters, parents retired, currently serving. No
12 to criminal offense. My sister was raped. Then no and yes.

13 THE COURT: And do you think you can be a fair and
14 impartial juror?

15 PROSPECTIVE JUROR 165: Yeah.

16 THE COURT: Thank you.

17 State, you may inquire of the panel.

18 MS. SUDANO: Thank you, Your Honor.

19 THE COURT: You know, before you do that, Counsel,
20 approach.

21 [Sidebar begins at 4:10 p.m.]

22 THE COURT: Do you think we need more jurors for
23 tomorrow?

24 MS. DIGIACOMO: How many are we down to?

25 THE COURT: Well, we haven't gone through that many. Do

1 you think we need more jurors for tomorrow? I guess -- I'm not sure, but
2 I could have them reserve 30 for tomorrow afternoon.

3 MR. SPEED: That makes sense.

4 MS. DIGIACOMO: Yeah, that would make sense.

5 MR. SPEED: That makes sense.

6 THE COURT: I'm not sure we can -- can we ask that they
7 reserve 30 for 1:00? All right. Thank you.

8 That should be enough, right? I hope.

9 MS. DIGIACOMO: Yeah.

10 MS. SUDANO: Sorry, I answered my own question. We're
11 great.

12 THE COURT: Okay. Thank you.

13 MR. SPEED: Thank you.

14 [Sidebar ends at 4:10 p.m.]

15 THE COURT: All right. State, you proceed.

16 MS. SUDANO: Thank you, Your Honor.

17 Good afternoon, again, everyone.

18 PROSPECTIVE JURORS: Good afternoon.

19 MS. SUDANO: Okay. That was not as good as what the
20 judge.

21 So I'm going to direct my questions up to the folks that are
22 up in front of the attorneys up here.

23 For everybody back here: same thing the judge earlier, we
24 may get to you, so pay attention.

25 Just to kind of start off, we may ask some questions that

1 seem personal. Please know that nobody intends to pry. If we're asking
2 those questions, it's just because we all take this process very seriously,
3 and we understand that you do as well, but we just want to make sure
4 that we have a jury that can be fair and impartial to be both sides, so
5 please don't take offense to any of the questions that we ask. We don't
6 mean to pry or anything like that. We wouldn't be asking them if we
7 didn't think that it was important for us to have the information.

8 All right. So we're going to start off real easy. Anybody
9 when they got the jury summons in the mail that was actually kind of
10 excited about the prospect of coming down and being a jury -- or juror?

11 All right. So I see a couple of hands. The first person, Mr.
12 Coleman, Badge Number 050, if we could pass it down.

13 Sir, why was that?

14 PROSPECTIVE JUROR 050: I would just -- I would love to see
15 the process from the beginning to the end. I've always been interested.
16 Like I said, I'm a native Las Vegas. I've been pulled for jury duty
17 countless times since I was young. I've never made it this far.

18 I'm excited mostly to see the process; to be part of the
19 process. This is my town. There's not a lot of us natives here my age.
20 I'm -- I'm just -- I'm very interested in the pros and would like to be a big
21 part of it.

22 MS. SUDANO: Okay. We appreciate that.

23 I saw there were a number of other hands. Anybody else
24 that wanted to share on that particular topic?

25 All right. We could come up right in front of you first to, sit it

1 Ms. Dusina-Bakken?

2 PROSPECTIVE JUROR 097: Yes.

3 MS. SUDANO: Badge Number 097.

4 PROSPECTIVE JUROR 097: Yes. I was a criminal justice
5 major in college. That was derailed by having children, but the process
6 is interesting. And I'm 34; I've never been called, so this was actually
7 kind of an exciting thing for me.

8 MS. SUDANO: So had the children not kind of derailed
9 college, what do think you would have done with a criminal justice
10 degree?

11 PROSPECTIVE JUROR 097: I was actually looking at going
12 into possibly some type of a crime lab. Before that, I had focused on the
13 law side, but then just before having children I decide maybe the science
14 side would be more my speed.

15 MS. SUDANO: Okay. So crime scene analyst, or something
16 like that?

17 PROSPECTIVE JUROR 097: Yes.

18 MS. SUDANO: All right. I'm going to ask you some more
19 questions in a second I --

20 PROSPECTIVE JUROR 097: Okay.

21 MS. SUDANO: -- think.

22 Can we pass it down -- was it Mr. Noyce?

23 PROSPECTIVE JUROR 071: Correct.

24 MS. SUDANO: Badge Number 071?

25 PROSPECTIVE JUROR 071: Hello. When I got the

1 summons -- my mother is a lawyer. My sister is going to law school. My
2 other sister -- we all work in law. We're all very involved in, you know,
3 the legal field. My mother is actually in family law, nothing criminal. I
4 work in civil law. So actually going and seeing the process done would
5 be interesting and exciting.

6 MS. SUDANO: Okay. And so you're the one that told us
7 earlier that you're the legal assistant with the medical malpractice firm;
8 is that correct?

9 PROSPECTIVE JUROR 071: That's correct.

10 MS. SUDANO: Okay. And you kind of answered some of
11 questions. Nobody ever has done anything criminal within your firm
12 that you've been involved with.

13 PROSPECTIVE JUROR 071: As far as I know, no. We don't
14 do any criminal work.

15 MS. SUDANO: So would you feel pressured, based on the
16 relationships with your coworkers and your colleagues, or with your
17 family to come back one way or another, as far as the verdict goes?

18 PROSPECTIVE JUROR 071: No, as a matter of fact, I'd be
19 more pressured to be as impartial as possible.

20 MS. SUDANO: Okay. So you want to be able to kind of go to
21 them after however it turns out and say --

22 PROSPECTIVE JUROR 071: I weighed the evidence --

23 MS. SUDANO: -- I stand by this.

24 PROSPECTIVE JUROR 071: -- yeah.

25 MS. SUDANO: Appreciate that. Thank you, sir.

1 All right. So we're going to hop over -- can you pass the
2 microphone just two rows back to Mr. Ball, Seat number 124. So we
3 heard from somebody earlier, I believe it was Ms. Reed --

4 PROSPECTIVE JUROR 124: Uh-huh.

5 MS. SUDANO: -- that you guys might have, sort of, a
6 professional relationship you might see each other at your store?

7 PROSPECTIVE JUROR 124: Yes, ma'am. What the UPS
8 Store usually does is that we hand off packages, and I do mail.

9 MS. SUDANO: Okay. So anything about the fact that you
10 know Ms. Reed, she's a customer of yours, that would affect your ability
11 to be fair and impartial in this case?

12 PROSPECTIVE JUROR 124: No, ma'am.

13 MS. SUDANO: Okay. So you wouldn't worry about having a
14 conversation and deliberating knowing that she's a customer and you're
15 going to see her in the future?

16 PROSPECTIVE JUROR 124: Yeah. I would have no problem
17 with that.

18 MS. SUDANO: Okay. Can you pass it down to Ms. Reed for
19 us? She's at the very end of the row.

20 PROSPECTIVE JUROR 026: Good afternoon.

21 MS. SUDANO: Good afternoon. What do you think I'm
22 going to ask you?

23 PROSPECTIVE JUROR 026: I just assumed maybe incorrectly
24 that jurors if they were sitting on the same case could not be in the same
25 room and I would go pick up my mail and he could be there and he

1 might retrieve my mail for me and I might have to sign for my mail this
2 weekend prior to a case commencing, in which case, I would not want
3 that to be an issue for either party.

4 MS. SUDANO: Sure. Can you agree that you will not discuss
5 the case outside of court?

6 PROSPECTIVE JUROR 026: Well, of course. I just didn't want
7 that to go undisclosed, because if you look at my mailing address it's the
8 UPS Store that he works at.

9 MS. SUDANO: Uh-huh. Okay. So and we appreciate that.
10 So I guess I have the same kind of questions for you. Would anything
11 about the fact that you have a professional relationship and you're a
12 customer at that UPS Store, do you think anything about would affect
13 your ability to be fair and impartial in this case?

14 PROSPECTIVE JUROR 026: No.

15 MS. SUDANO: Would you feel any pressure to vote one way
16 or another if both you and Mr. Ball ended up on the jury?

17 PROSPECTIVE JUROR 026: No.

18 MS. SUDANO: Would you have any concerns about the fact
19 that you might see each other after this case is over during --

20 PROSPECTIVE JUROR 026: No.

21 MS. SUDANO: Okay. So thank you for that.

22 So do any other members of our panel recognize or know
23 any other members on the panel?

24 Okay. Mr. --

25 PROSPECTIVE JUROR 166: Eschardies.

1 MS. SUDANO: Eschardies. Thank you, sir. Badge Number
2 166. If you could pass it for me.

3 PROSPECTIVE JUROR 166: Hi. I used to work probably five
4 years ago with this young lady right here.

5 MS. SUDANO: Oh, okay. And you're referencing, just for the
6 record Ms. Schultz right next to you, Badge Number 045.

7 PROSPECTIVE JUROR 166: Correct.

8 MS. SUDANO: And so it sounds like the two of you had a
9 professional relationship?

10 PROSPECTIVE JUROR 166: Correct.

11 MS. SUDANO: Okay. I don't want to pry on that one, but
12 that professional relationship no longer --

13 PROSPECTIVE JUROR 166: Oh, no, we -- this is the first time
14 I saw her in five years.

15 MS. SUDANO: Okay. So same sort of questions I was asking
16 just a second ago. Do you think anything about that prior professional
17 relationship that the two of you had would affect your ability to be fair
18 and impartial?

19 PROSPECTIVE JUROR 166: Not at all.

20 MS. SUDANO: Okay.

21 And Ms. Schultz, was asking, as well, I appreciate that. She
22 also said no, for the record. Do you think that -- and I'm going to come to
23 you in just one second, Ms. Schultz.

24 Mr. Eschardies, did I do that right?

25 PROSPECTIVE JUROR 166: You did perfect.

1 MS. SUDANO: Okay. Would you feel pressure to vote one
2 way or another if both you and Ms. Schultz made it onto the jury?

3 PROSPECTIVE JUROR 166: Oh, no.

4 MS. SUDANO: Okay. And do you think that you would have
5 any issues deliberating with your fellow, because you might know Ms.
6 Schultz?

7 PROSPECTIVE JUROR 166: No.

8 MS. SUDANO: Okay. If you could pass it right over for me.

9 PROSPECTIVE JUROR 045: Thanks.

10 MS. SUDANO: Hi. So Ms. Schultz, now, same questions for
11 you. Would you feel pressure to vote one way or another if you and Mr.
12 Eschardies both made it onto the jury.

13 PROSPECTIVE JUROR 045: Absolutely not.

14 MS. SUDANO: Okay. Would you feel that it would become
15 hard for you or be difficult for you to deliberate, based on the prior
16 professional relationship that the two of you --

17 PROSPECTIVE JUROR 045: Absolutely not.

18 MS. SUDANO: Okay. Thank you. I appreciate you guys on
19 that --

20 PROSPECTIVE JUROR 045: Uh-huh.

21 MS. SUDANO: -- one.

22 Anybody else on that?

23 Seeing no hands.

24 All right. So while we're kind of on this conversation of
25 personal and professional relationships, you were asked earlier whether

1 or not you know any of the attorneys in this room. Does anybody else
2 know any of the other attorneys or folks that work in the District
3 Attorney's Office?

4 PROSPECTIVE JUROR 026: Like the DA?

5 MS. SUDANO: Oh, and was that Ms. Reed?

6 PROSPECTIVE JUROR 026: Yeah.

7 MS. SUDANO: Badge Number 026.

8 PROSPECTIVE JUROR 026: 026. I personally know District
9 Attorney.

10 MS. SUDANO: Okay. So you know Mr. Wolfson.

11 PROSPECTIVE JUROR 026: Correct.

12 MS. SUDANO: Okay. Personally, professionally, socially?

13 PROSPECTIVE JUROR 026: Socially, personally.

14 MS. SUDANO: How often is he somebody that you run into
15 socially?

16 PROSPECTIVE JUROR 026: Not often.

17 MS. SUDANO: All right. When is the last time that you think
18 you saw him?

19 PROSPECTIVE JUROR 026: Probably nine months ago.

20 MS. SUDANO: Okay. When you see him do you talk about
21 cases or work with him?

22 PROSPECTIVE JUROR 026: No.

23 MS. SUDANO: Do you think that anything about that
24 particular relationship would affect your ability to be fair and impartial?

25 PROSPECTIVE JUROR 026: No.

1 MS. SUDANO: Okay. Same type of question I was asking
2 before. Would you feel pressure to vote one way or another because of
3 that relationship with him?

4 PROSPECTIVE JUROR 026: No, not because of that
5 relationship.

6 MS. SUDANO: Okay. So you'd be willing to just let the
7 evidence speak for itself and guide your verdict?

8 PROSPECTIVE JUROR 026: Correct.

9 MS. SUDANO: Thank you, ma'am.

10 Anybody else on that one?

11 All right. Mr. Tobiasson, I saw you kind of doing this. Badge
12 Number 154.

13 PROSPECTIVE JUROR 154: Well, I know a judge in here
14 somewhere. She's my sister-in-law.

15 MS. SUDANO: We kind of guessed that with your last name,
16 sir. So you know one of the judges, who is your sister-in-law. So she's
17 married to your brother?

18 PROSPECTIVE JUROR 154: Correct.

19 MS. SUDANO: And he was the one that was retired from --

20 PROSPECTIVE JUROR 154: Retired Metro.

21 MS. SUDANO: -- law enforcement.

22 PROSPECTIVE JUROR 154: Yeah.

23 MS. SUDANO: Okay. Do you ever talk about work or cases
24 with her?

25 PROSPECTIVE JUROR 154: Melanie, no, not her. No.

1 MS. SUDANO: Okay. Anything about your relationship with
2 Judge Tobiasson that you think would affect your ability to be fair and
3 impartial here?

4 PROSPECTIVE JUROR 154: No.

5 MS. SUDANO: Okay. What about the relationship with your
6 brother? When he was working for Metro, did you guys ever talk about
7 work with his cases?

8 PROSPECTIVE JUROR 154: Uh-huh.

9 MS. SUDANO: Okay. He retired years ago? Do you
10 remember about how many?

11 MR. SPEED: Sir, you're going to have answer verbally.

12 PROSPECTIVE JUROR 154: Yeah, I know. I'm trying to think
13 of when he retired. Probably early '90s.

14 MS. SUDANO: Okay. So it's been a while since he's stopped
15 working for Metro; is that fair?

16 PROSPECTIVE JUROR 154: Probably about seven years.

17 MS. SUDANO: Okay. So anything about your relationship
18 with your brother, the conversations that you had with him about work
19 during the time that he was working, do you think that that would affect
20 your ability to be fair and impartial?

21 PROSPECTIVE JUROR 154: No.

22 MS. SUDANO: Okay. Would you feel pressured to vote one
23 way or another based on your relationship with the two of them?

24 PROSPECTIVE JUROR 154: No.

25 MS. SUDANO: Thank you, sir.

1 All right. And so we've talked -- oh, I'm so sorry. Ms.
2 Parker --
3 PROSPECTIVE JUROR 076: Yes.
4 MS. SUDANO: -- Badge Number 076.
5 PROSPECTIVE JUROR 076: I don't know the District Attorney
6 personally, but I went to high school and I was on the same team as his
7 daughter.
8 MS. SUDANO: Okay.
9 PROSPECTIVE JUROR 076: I don't talk to her really anymore
10 since high school.
11 MS. SUDANO: And so you'd maybe see her parents at
12 different sporting events and things like that?
13 PROSPECTIVE JUROR 076: Yes.
14 MS. SUDANO: Okay. Anything about that relationship that
15 would affect your ability to be fair and impartial in this case?
16 PROSPECTIVE JUROR 076: No.
17 MS. SUDANO: Thank you, ma'am.
18 All right. So anybody else that knows any criminal defense
19 attorneys? That's friends with anybody -- oh, we're going to go back to
20 you in a second, Mr. Tobiasson.
21 Anybody that knows defense attorneys, or members of the
22 criminal defense bar?
23 Okay. Seeing no hands on that one.
24 Only because I said I'm going to -- oh, Ms. Reed, had a
25 question -- 026.

1 PROSPECTIVE JUROR 026: Did you ask -- could you repeat
2 the question?

3 MS. SUDANO: I asked if anybody knows or is friendly with
4 any members of the criminal defense bar, so any criminal defense
5 attorneys?

6 PROSPECTIVE JUROR 026: Yes.

7 MS. SUDANO: Okay. Who do you know, ma'am?

8 PROSPECTIVE JUROR 026: Osvaldo Fumo.

9 MS. SUDANO: Okay. Same questions: personally and
10 professionally, socially?

11 PROSPECTIVE JUROR 026: Would not affect the situation
12 here.

13 MS. SUDANO: Okay. All right. You can -- do ever
14 talk -- work with Mr. Fumo?

15 MS. SUDANO: Yes.

16 PROSPECTIVE JUROR 026: Yes.

17 MS. SUDANO: But you think that those conversations you
18 could set aside and just reach a --

19 PROSPECTIVE JUROR 026: Yes.

20 MS. SUDANO: -- verdict, based on the evidence presented in
21 the courtroom?

22 PROSPECTIVE JUROR 026: Yes.

23 MS. SUDANO: Okay. And then if we could pass it up to Mr.
24 Tobiasson again? Badge Number 154.

25 PROSPECTIVE JUROR 154: James Tobiasson, 154.

1 MS. SUDANO: All right. So --

2 PROSPECTIVE JUROR 154: I told you I know Gregor [sic] and
3 Byron.

4 MS. SUDANO: Right. And that was actually why I realized,
5 oh, I have to come back to you. Anything about the fact that
6 you're -- they're your neighbors that would affect your ability to be fair
7 and impartial?

8 PROSPECTIVE JUROR 154: No. I mean, I've gone out with
9 Gregor, but not Byron. So I'm closer to Gregor, but answer no.

10 MS. SUDANO: Okay. And do you ever talk about work with
11 either of them?

12 PROSPECTIVE JUROR 154: Gregor, every once in a while.

13 MS. SUDANO: Okay. But you don't think anybody about
14 those conversations would affect your ability --

15 PROSPECTIVE JUROR 154: No.

16 MS. SUDANO: -- to be fair and impartial? Okay. Thank you.
17 Anybody else friends with defense attorneys?

18 Ms. Argentine

19 PROSPECTIVE JUROR 035: [R jin teen].

20 MS. SUDANO: Argentine. Sorry. Argentine, 035. Will you
21 pass that back?

22 PROSPECTIVE JUROR 035: Kathryn Argentine, 035. I'm not
23 sure if it's -- how criminal and civil the difference, but I have an open
24 court case for a car accident I was in that I'm the defendant of that. So I
25 talk to my attorney James Green.

1 MS. SUDANO: Okay. And so that sounds like it's a civil case;
2 is that right?
3 PROSPECTIVE JUROR 035: I believe so, yes.
4 MS. SUDANO: You're getting sued?
5 PROSPECTIVE JUROR 035: No, I'm suing them.
6 MS. SUDANO: Oh.
7 PROSPECTIVE JUROR 035: So he -- I'm the -- or --
8 MS. SUDANO: You're the plaintiff.
9 PROSPECTIVE JUROR 035: -- plaintiff -- yep. Sorry. That's
10 embarrassing. Yep. Okay.
11 MS. SUDANO: So anything about that pending court case
12 that you think --
13 PROSPECTIVE JUROR 035: No.
14 MS. SUDANO: -- would affect your ability?
15 PROSPECTIVE JUROR 035: Nope.
16 MS. SUDANO: All right. Sorry I didn't mean to embarrass
17 you.
18 PROSPECTIVE JUROR 035: It's okay.
19 MS. SUDANO: All right. So the next question I've got for
20 everybody, can I get a show of hands for folks with kids?
21 All right. Can we start in the back row with Mr. Collins and
22 we're just going to kind of work our way around.
23 UNIDENTIFIED SPEAKER: Should we also include working
24 with kids?
25 MS. SUDANO: We can -- yes, we'll come back -- we'll have

1 that too.

2 PROSPECTIVE JUROR 005: I have two children, but they're
3 both grown adults: 25 and 21.

4 MS. SUDANO: Okay.

5 PROSPECTIVE JUROR 005: No -- no children.

6 MS. SUDANO: Do you either of them work outside the
7 home?

8 PROSPECTIVE JUROR 005: Yes.

9 MS. SUDANO: What does your 25-year old do?

10 PROSPECTIVE JUROR 005: Right now he works at a bagel
11 shop in Summerlin. That's what he's doing.

12 MS. SUDANO: How about the 21-year old?

13 PROSPECTIVE JUROR 005: She works for the Organ Donor
14 Network here in town. She's a collections specialist.

15 MS. SUDANO: Okay. All right. And you can if you could
16 pass it over, whoever was next. Mr. Hedges, sorry, Badge Number 130.

17 PROSPECTIVE JUROR 130: Yeah, I got -- I have twin five-
18 year-old girls. Okay. Are they school age yet?

19 PROSPECTIVE JUROR 130: They don't start school yet until
20 August.

21 MS. SUDANO: Okay. Thank you, sir.

22 Can you pass it over to whoever is next?

23 Ms. Clark, Badge Number 011.

24 PROSPECTIVE JUROR 011: I have a 26-year old.

25 MS. SUDANO: Does she work --

1 PROSPECTIVE JUROR 011: It's a he.
2 MS. SUDANO: He. I'm sorry. I don't know why I decided it
3 was a girl. Does your son work outside the home?
4 PROSPECTIVE JUROR 011: Yes, he does.
5 MS. SUDANO: What does he do?
6 PROSPECTIVE JUROR 011: He's a choreographer.
7 MS. SUDANO: A choreographer?
8 PROSPECTIVE JUROR 011: Uh-huh.
9 MS. SUDANO: Here locally? Where is he?
10 PROSPECTIVE JUROR 011: Here local.
11 MS. SUDANO: Okay. If you could pass it over to our next --
12 PROSPECTIVE JUROR 016: Badge 16. I have three children:
13 11, 12, and 21 years old.
14 MS. SUDANO: Your 21-year old work outside the home?
15 PROSPECTIVE JUROR 016: Yes. She's a student, as well as
16 she works -- she's -- she's a criminal -- criminal justice and psychology at
17 UNLV, and she works also at Caesars Palace.
18 MS. SUDANO: Thank you, ma'am.
19 PROSPECTIVE JUROR 018: Number -- Badge Number 18. I
20 have two daughters: 22 and 15.
21 MS. SUDANO: Does your 22-year old work outside the
22 home?
23 PROSPECTIVE JUROR 018: She just graduated from college
24 and yes. She works in Northern Utah at a restaurant. Not employed
25 right now. She's on an internship in South Africa.

1 MS. SUDANO: Oh, wow.

2 PROSPECTIVE JUROR 018: So --

3 MS. SUDANO: Thank you, sir.

4 PROSPECTIVE JUROR 026: 26 badge ID. Two boys: 34 and

5 29. Yes, they both work outside the home.

6 MS. SUDANO: What does the 34-year old do?

7 PROSPECTIVE JUROR 026: Talent agent in Los Angeles.

8 MS. SUDANO: What about the 29-year old?

9 PROSPECTIVE JUROR 026: Ticket broker, music agent, Santa

10 Barbara, California.

11 MS. SUDANO: Thank you. Before you pass it all the back

12 down, can you pass it over to Ms. Carothers, Badge Number 131?

13 You were there one that asked earlier about working with

14 kids, right? What do you do?

15 PROSPECTIVE JUROR 131: I teach fifth grade --

16 MS. SUDANO: Okay.

17 PROSPECTIVE JUROR 131: -- which is ten-year

18 old -- ten -- basically ten year old.

19 MS. SUDANO: Okay. No kids of your own?

20 PROSPECTIVE JUROR 131: No.

21 MS. SUDANO: Okay. But you have 30 of them most of nine

22 months out of the year.

23 PROSPECTIVE JUROR 131: Exactly. Right.

24 MS. SUDANO: Okay. Have you always taught fifth grade?

25 Do you teach any other grades?

1 PROSPECTIVE JUROR 131: No. I've taught eight years in
2 junior high, and then I taught -- I've taught fourth, fifth, and third.

3 MS. SUDANO: Okay. Thank you. Appreciate that, ma'am.

4 All right. And can we pass it down to the second row. Who
5 is our first person in the second row?

6 All right. All the way down to Ms. Rutledge, Badge Number
7 027.

8 PROSPECTIVE JUROR 027: I have four kids and one on the
9 way.

10 MS. SUDANO: Congratulations.

11 PROSPECTIVE JUROR 027: I have -- I have seven, three, two,
12 and one.

13 MS. SUDANO: Thank you, ma'am. And if you could pass it
14 over.

15 PROSPECTIVE JUROR 165: 15-month-year old and one on
16 the way.

17 MS. SUDANO: All right. Congratulations to you as well..

18 MS. DIGIACOMO: And who is that?

19 MS. SUDANO: Oh, I'm sorry. Mr. Currie.

20 PROSPECTIVE JUROR 165: Oh, badge 165.

21 MS. SUDANO: Thank you.

22 PROSPECTIVE JUROR 035: Kathryn Argentine, Number 35. I
23 work with kids. I've taught middle school and I currently teach freshmen.

24 MS. SUDANO: Okay. Thank you, ma'am.

25 PROSPECTIVE JUROR 045: Arlene Schultz, badge 045. I

1 have two adult kids -- adults actually: 30 and 25. And -- go ahead.

2 MS. SUDANO: You know what I'm going to ask. Do they
3 work?

4 PROSPECTIVE JUROR 045: One works at TIMEC. I don't
5 know it's sheet metal. I don't know what he does. And the other one
6 works for Orkin's Pest Control.

7 MS. SUDANO: Thank you.

8 Will you pass it over whoever is next?

9 PROSPECTIVE JUROR 050: David Coleman, badge 50. I have
10 two grown daughters. My eldest daughter is an ER nurse at San Martin
11 Hospital here in Las Vegas. And my youngest daughter is at Beale Air
12 Force Base. She's 26. She's a co-pilot for Global Hawk drone program.

13 MS. SUDANO: Thank you, sir.

14 PROSPECTIVE JUROR 054: Nichole Lacy, badge 54. I have
15 two girls: 18 and 25.

16 MS. SUDANO: Okay. Does the 25-year old work?

17 PROSPECTIVE JUROR 054: She does. She actually attends
18 Pima for medical assistant, as well as work for the school district as a
19 support staff.

20 MS. SUDANO: Okay. And then the 18-year old did she just
21 graduate?

22 PROSPECTIVE JUROR 054: She just graduated, but she's at
23 Pima as well for veterinary.

24 MS. SUDANO: All right. Can we pass it down to the next
25 row?

1 Who is first in this third row down here?

2 PROSPECTIVE JUROR 059: Ma'am, I'm first, but no kids.

3 MS. SUDANO: Okay.

4 PROSPECTIVE JUROR 059: I'm a baby myself.

5 PROSPECTIVE JUROR 086: Sheree Harvey, 86. I have three

6 girls: 21, 10, and 12. My 21-year old is a cosmetologist and then she

7 works part time with me at Dillard's.

8 MS. SUDANO: Thank you, ma'am.

9 PROSPECTIVE JUROR 097: Breann Dusina-Bakken, Number

10 97. I have twin ten-year-old -- fraternal twin boys, and four-year-old girl.

11 MS. SUDANO: Okay. Thank you, ma'am.

12 PROSPECTIVE JUROR 154: James Tobiasson, 154. I have a

13 29-year-old daughter, who is a stay-at-home mom.

14 MS. SUDANO: Thank you, sir.

15 And then anybody in the front row?

16 Ms. Rafferty.

17 PROSPECTIVE JUROR 115: Badge Number is 115. I have a

18 37-year-old daughter, who is a teacher; a 35-year-old daughter, who is a

19 hairdresser; and a 33-year-old son, who is a chemist.

20 MS. SUDANO: Thank you, ma'am.

21 PROSPECTIVE JUROR 116: Henry Beam, 116. A 21-year-old

22 daughter, 18-year-old daughter, and a 17-year-old son.

23 MS. SUDANO: Okay. Do any of them work outside the

24 home?

25 PROSPECTIVE JUROR 116: My 21-year old does, but she

1 lives in Fargo, North Dakota.

2 MS. SUDANO: What does she do?

3 PROSPECTIVE JUROR 116: She's a phone call operator.

4 MS. SUDANO: Okay. Thank you.

5 Thank you, all.

6 All right. Can you pass it back to Ms. Dusina-Bakken right
7 behind you? Badge Number 097.

8 Told you I was going to have some questions for you in a
9 second.

10 PROSPECTIVE JUROR 097: Yes.

11 MS. SUDANO: So you said that at some point in a prior life
12 you were thinking about going into maybe like crime scene analysis or
13 something along those lines?

14 PROSPECTIVE JUROR 097: Correct.

15 MS. SUDANO: You watch any of the CSI TV shows?

16 PROSPECTIVE JUROR 097: No. Probably around that time I
17 did for a season or two, but working full time, three kids, so you just -- I
18 don't have time.

19 MS. SUDANO: Very fair. Would you agree with me, though,
20 from your brief viewing of some of those shows that any of those types
21 of shows -- the CSIs, the 48 Hours --

22 PROSPECTIVE JUROR 097: Are not accurate?

23 MS. SUDANO: Right.

24 PROSPECTIVE JUROR 097: Not accurate at all.

25 MS. SUDANO: So I think you've probably gotten the idea

1 that we don't wrap up all of our cases in a neat little bow within the
2 hour?

3 PROSPECTIVE JUROR 097: No.

4 MS. SUDANO: Okay. Anybody that does watch some of
5 those shows -- the CSIs, the Law & Orders?

6 All right. And I saw, Ms. Harvey.

7 PROSPECTIVE JUROR 086: Yes.

8 MS. SUDANO: 086

9 PROSPECTIVE JUROR 086: Uh-huh.

10 MS. SUDANO: What do you watch?

11 PROSPECTIVE JUROR 086: I watch them all: CSI Los
12 Angeles, Chicago PD, I watch all of them.

13 MS. SUDANO: Okay. So your DVR is full.

14 PROSPECTIVE JUROR 086: DVR, library, all of it, HULU.

15 MS. SUDANO: All right. So would you disagree with Ms.
16 Dusina-Bakken that those shows aren't really based in reality?

17 PROSPECTIVE JUROR 086: They're -- they're all actors. It's
18 acting.

19 MS. SUDANO: Okay. And there's certain types of
20 technology that they have, or procedures that may or may not exist in
21 the real world?

22 PROSPECTIVE JUROR 086: Yes.

23 MS. SUDANO: Okay. And there are certain things that are
24 just sort of made for TV?

25 PROSPECTIVE JUROR 086: Yes.

1 MS. SUDANO: And even some of the technology that might
2 exist may not be routinely in use by our local police departments; would
3 you agree with that?

4 PROSPECTIVE JUROR 086: Yes.

5 MS. SUDANO: Would you also agree with me that not every
6 type of case is going to have the same type of evidence?

7 PROSPECTIVE JUROR 086: Yes. Okay. And certain types of
8 cases are more likely to have certain types of evidence than others;
9 would you agree with that?

10 PROSPECTIVE JUROR 086: Uh-huh. Yeah.

11 MS. SUDANO: Why would you think something like that
12 might be the case?

13 PROSPECTIVE JUROR 086: Just depending on what the case
14 is and the person.

15 MS. SUDANO: Okay. So do you think that there are certain
16 types of crimes where there's more likely to be some sort of forensic
17 evidence like DNA or fingerprints, or something like that?

18 PROSPECTIVE JUROR 086: Yes.

19 MS. SUDANO: Okay.

20 PROSPECTIVE JUROR 086: DNA.

21 MS. SUDANO: And why would you think that certain types
22 of cases might have DNA or fingerprints, where others might not?

23 PROSPECTIVE JUROR 086: Depending on the person that
24 did the crime, if they left any evidence behind.

25 MS. SUDANO: Okay. Would you agree with me that not

1 every case is going to have DNA or evidence left behind?

2 PROSPECTIVE JUROR 086: Definitely.

3 MS. SUDANO: Okay. So Ms. Harvey, would you require
4 DNA evidence, or physical evidence, forensic evidence in order for
5 yourself to reach a verdict, even if the law tells you that something like
6 that's not required?

7 PROSPECTIVE JUROR 086: No.

8 MS. SUDANO: Okay. Is there anybody here that would
9 require a certain type of evidence -- fingerprint evidence, DNA evidence,
10 something like that -- in order to reach a verdict?

11 All right. I'm not -- oh, Ms. Zupan, Badge Number 135.

12 PROSPECTIVE JUROR 135: Yeah. I would want some hard
13 evidence I feel like.

14 MS. SUDANO: Okay. So even if the law tells you that it's not
15 required or that it may be present in every single case, you would still
16 want some sort of hard evidence.

17 PROSPECTIVE JUROR 135: Yeah.

18 MS. SUDANO: Okay. Would you have a hard time if there
19 wasn't anything that you could hold in your hand and just had testimony
20 from witnesses?

21 PROSPECTIVE JUROR 135: I would have a hard time
22 believing it, yeah.

23 MS. SUDANO: Anybody else that feels similarly?

24 PROSPECTIVE JUROR 011: Badge Number 11, Cheryl Clark.
25 Yeah, I'd have to have some kind of evidence, not just he say, they say.

1 MS. SUDANO: Okay. Some even if the law tells you that you
2 don't necessarily need evidence like that in order to come back with a
3 verdict one way or the other, you would still require something more?

4 PROSPECTIVE JUROR 011: Yes.

5 PROSPECTIVE JUROR 059: I just have a quick question. I'm
6 sorry.

7 MS. SUDANO: Can I come back to you in just one second?

8 PROSPECTIVE JUROR 059: Yes. It's [indiscernible].

9 MS. SUDANO: Don't let me forget. Okay.

10 There were a couple of other hands in that back row.

11 PROSPECTIVE JUROR 016: Badge Number 16. Yes, I would
12 require some tangible evidence.

13 MS. SUDANO: Okay. And same question I just asked Ms.
14 Clark a second ago, even if the law says that it's not required?

15 PROSPECTIVE JUROR 016: Yes.

16 MS. SUDANO: Thank you.

17 And then --

18 PROSPECTIVE JUROR 018: Badge Number -- Badge Number
19 18. And what I want to send across is it would just be more difficult.

20 MS. SUDANO: Okay. And sure. And that's fair. More
21 difficult absolutely, but could you come back and render a verdict one
22 way or the other, or would you require some sort of physical evidence?

23 PROSPECTIVE JUROR 018: I would follow the directions of
24 the law --

25 MS. SUDANO: Okay.

1 PROSPECTIVE JUROR 018: -- of courtroom.

2 MS. SUDANO: All right. And then I'm only going to go back
3 real quick, because I sort of saw you nodding along, Ms. Farro-Sulio,
4 right next to -- can you pass it one back over.

5 PROSPECTIVE JUROR 016: Yes, ma'am.

6 MS. SUDANO: And Badge Number 016. Sorry, were you
7 kind of nodding along as Mr. Solis-Sauri was talking, or are you sort of in
8 the same position you were a second ago?

9 PROSPECTIVE JUROR 016: I'm in the same position that I
10 would require some tangible evidence at least to base, you know,
11 the -- to -- to be able to arrive to a certain conclusion.

12 MS. SUDANO: Sure. And so even if you were instructed that
13 that's not necessarily the status of the law, would you be able to follow
14 the instructions that were given to you by the judge?

15 PROSPECTIVE JUROR 016: Yes, I would be able to follow the
16 instruction.

17 MS. SUDANO: Okay. And if the instructions differed with
18 your personal opinion, would you be able to set aside your personal
19 opinion about what the law ought to be and follow the instructions as
20 given to you by the judge?

21 PROSPECTIVE JUROR 016: I think it has to be an objective
22 finding and that's why it requires some tangible evidence.

23 MS. SUDANO: Okay. Thank you, ma'am.

24 And then now, can we pass it up to Ms. Simpson Fane.

25 PROSPECTIVE JUROR 059: Fane.

1 MS. SUDANO: Badge Number 059.

2 PROSPECTIVE JUROR 059: 59. I think you kind of, like,
3 answered it low-key, like, if -- if we don't have -- oh, I'm sorry -- if we
4 don't have hard evidence, and we have to go off of the he say, she says,
5 is that really fair to the person who is being defended to go off what
6 someone else says?

7 MS. SUDANO: So --

8 PROSPECTIVE JUROR 059: Or would y'all give us hard
9 evidence, or what do y'all mean, or can you break it down even further?

10 MS. SUDANO: So the question that I'm asking you is just
11 whether you would require some sort of certain type of evidence in order
12 to come back with a verdict, or whether you could keep an open mind
13 and hear everything that's presented to you, and then follow the
14 instructions that the judge is going to give you at the end of the trial as
15 to what the law is.

16 PROSPECTIVE JUROR 059: Does the law tell you about the
17 evidence, like, why he would be guilty of that?

18 MS. SUDANO: So the law will be presented to you and then
19 your job is the fact finders.

20 PROSPECTIVE JUROR 059: Oh, basically, can you solve the
21 case without no hard evidence?

22 MS. SUDANO: My question -- I'm sorry -- and I'm not -- I just
23 want to make sure that I understand --

24 PROSPECTIVE JUROR 059: Me too.

25 MS. SUDANO: -- what you're saying. So my question is just

1 whether you would require some sort of certain type of evidence, for
2 instance, would you say I need surveillance video. I need X. I need Y. I
3 need Z. Or would you just be open to listening to the evidence that's
4 presented.

5 PROSPECTIVE JUROR 059: I get that one -- I get that one.
6 That -- yes, I would be able to do, but the part I don't get is when you
7 said that the judge will give you -- say that part again.

8 MS. SUDANO: So the judge will present you at the end of
9 the case with what the law is.

10 PROSPECTIVE JUROR 059: That part.

11 MS. SUDANO: And then it's going to be your job to apply
12 the law to the facts and come back with a verdict. So my question was
13 whether you can follow the law and the instructions that the judge is
14 going to provide you.

15 PROSPECTIVE JUROR 059: If it's right.

16 MS. SUDANO: Okay. So --

17 PROSPECTIVE JUROR 059: I mean, because, like, the -- the
18 case that y'all presented just -- the case that y'all presented earlier -- I'm
19 sorry -- the case that y'all presented earlier seemed like a case that
20 would need some hard evidence.

21 MS. SUDANO: Okay. So if you disagree with the status of
22 the law, would you be willing and able to follow the law as the judge
23 presents it to you, or are you going to, sort of, go with what your opinion
24 of the law ought to be?

25 PROSPECTIVE JUROR 059: No, I'll listen to what he says.

1 MS. SUDANO: Okay. So you could follow the judge's
2 instructions on the law, even it's something that you personally
3 disagreed with?

4 PROSPECTIVE JUROR 059: No, I'll be honest, if I personally
5 disagreed with it, no.

6 MS. SUDANO: Okay.

7 PROSPECTIVE JUROR 059: That would be wrong.

8 MS. SUDANO: And I appreciate your honesty on that one,
9 ma'am.

10 All right. And then, Mr. Chiapparelli.

11 PROSPECTIVE JUROR 068: Chiapparelli. Warren
12 Chiapparelli, Number 68. I would have to say I'm -- I'm torn between
13 that. I guess it would depend on the crime, for me personally,
14 depending on what the crime was.

15 MS. SUDANO: All right. So my same question that I've sort
16 of been asking everybody else is, do you need a certain thing? Do you
17 need surveillance video? Do you need fingerprints? Do you need
18 something like that, or are you open to just listening to the evidence as
19 it's presented and the instructions that the law provides, or that the
20 judge will provide?

21 PROSPECTIVE JUROR 068: Is this a question pertaining to
22 this particular case, or in general law?

23 MS. SUDANO: Just in general.

24 PROSPECTIVE JUROR 068: General law, again, I would have
25 to say I'm torn between the answer, because of certain crimes I would

1 probably require some hard evidence.

2 MS. SUDANO: Okay. So even if the law instructs you, you
3 don't necessarily need hard evidence --

4 PROSPECTIVE JUROR 068: I would have a difficult time
5 making that decision personally.

6 MS. SUDANO: All right. So it were a case where your
7 personal opinion was one thing --

8 PROSPECTIVE JUROR 068: Uh-huh.

9 MS. SUDANO: -- and the judge instructs you differently that
10 the law is different, would you be able to set aside your personal opinion
11 and follow the law?

12 PROSPECTIVE JUROR 068: I would have -- I would probably
13 have a hard time making that decision and moving forward with it after
14 the fact, if I didn't real comfortable about it.

15 MS. SUDANO: Okay.

16 PROSPECTIVE JUROR 068: So if I was forced to, I -- I
17 wouldn't be happy about it.

18 MS. SUDANO: All right. So --

19 PROSPECTIVE JUROR 068: Probably wouldn't make me feel
20 good after the fact that I had made a decision and I didn't feel 100
21 percent certain about it.

22 MS. SUDANO: Okay.

23 PROSPECTIVE JUROR 068: And my -- my decision help set
24 the fate of someone's future.

25 MS. SUDANO: Okay. And I appreciate your honesty and

1 candor on that, and --

2 PROSPECTIVE JUROR 068: Again, depending on the crime.

3 MS. SUDANO: Okay. And I know that we talked about kind
4 of a lot of things and there's a lot of pretty serious subjects.

5 PROSPECTIVE JUROR 068: Uh-huh.

6 MS. SUDANO: So my question for you -- because I can't get
7 in your head, I don't know --

8 PROSPECTIVE JUROR 068: Sure.

9 MS. SUDANO: -- what's going on in your head.

10 PROSPECTIVE JUROR 068: Sure.

11 MS. SUDANO: So I recognize that you're saying I might not
12 like it. I might not feel great about it --

13 PROSPECTIVE JUROR 068: Uh-huh.

14 MS. SUDANO: -- but my actual question is --

15 PROSPECTIVE JUROR 068: Uh-huh.

16 MS. SUDANO: -- would you be able to follow the law as
17 given to you by the judge?

18 PROSPECTIVE JUROR 068: I'd like to say yes, but I guess,
19 I -- I wouldn't be able to really. I don't think I can, unless I knew exact
20 case or the crime of it.

21 MS. SUDANO: All right. Thank you. I appreciate your
22 honesty.

23 PROSPECTIVE JUROR 068: Yeah, if that's -- yeah. Thank you.

24 MS. SUDANO: All right.

25 Somebody -- okay. Thank you. I was like I know there was

1 another hand over here. If we can pass it back to Ms. Carothers, Badge
2 Number 131.

3 PROSPECTIVE JUROR 131: And this is just full disclosure,
4 I'm going back to your prior question about watching LA LAW and all
5 that.

6 MS. SUDANO: Uh-huh.

7 PROSPECTIVE JUROR 131: Anyway, I -- I read about 150 cop,
8 detective novels, so I'm just -- but I have a very open mind, but I'm going
9 to be paying attention to everything.

10 MS. SUDANO: Okay. So I appreciate all of that. Are they
11 fiction, nonfiction type of thing?

12 PROSPECTIVE JUROR 131: It's all fiction.

13 MS. SUDANO: Okay.

14 PROSPECTIVE JUROR 131: Yeah.

15 MS. SUDANO: So same --

16 PROSPECTIVE JUROR 131: I can -- I can discern between
17 reality and fiction, so I'm good.

18 MS. SUDANO: And you could kind of set aside anything that
19 you may have seen --

20 PROSPECTIVE JUROR 131: Yep.

21 MS. SUDANO: -- or read --

22 PROSPECTIVE JUROR 131: All of it.

23 MS. SUDANO: -- in any of those books, and just focus on the
24 evidence that's presented here?

25 PROSPECTIVE JUROR 131: Yes.

1 MS. SUDANO: Thank you, ma'am.

2 All right. So kind of on that same vein that we were talking
3 about before. Is there anybody here that has a problem with the idea
4 that not every act of sexual abuse leaves medical evidence? Anybody
5 that has a problem with that?

6 Okay. And I'm not seeing any responses on that particular
7 question.

8 Ms. Pender-Bey, Badge Number 094.

9 PROSPECTIVE JUROR 094: Yes, ma'am.

10 MS. SUDANO: So I saw you nodding your head, which is
11 why I'm coming to you with this question. So you indicated that you
12 didn't have an idea with -- or a problem with the idea that not every act
13 of sexual abuse is going to leave medical evidence. Why do you think
14 that might be?

15 PROSPECTIVE JUROR 094: It depends on how it happened
16 also.

17 MS. SUDANO: Okay. Might it also depend on when it
18 happened?

19 PROSPECTIVE JUROR 094: Yes, when it -- between the time
20 it happened and when they reported it, most definitely.

21 MS. SUDANO: Okay. Or where, or how, or why?

22 PROSPECTIVE JUROR 094: Yeah.

23 MS. SUDANO: Okay. So you kind of have to know all of the
24 circumstances in order --

25 PROSPECTIVE JUROR 094: Most definitely.

1 MS. SUDANO: Okay.

2 PROSPECTIVE JUROR 094: Especially if you don't evidence
3 for it [indiscernible] details.

4 MS. SUDANO: Okay. I recognize that you guys are sort of
5 getting asked questions in a vacuum. We appreciate that it's sort of hard
6 to answer questions. So we appreciate your honesty.

7 All right. So anybody here that would call themselves kind of
8 like a news junkie or somebody that spends a lot of time reading news
9 articles on social media, anything along those lines?

10 All right. We got a couple.

11 PROSPECTIVE JUROR 068: Highlights.

12 MS. SUDANO: I saw Ms. Reed first. Badge Number 026.

13 PROSPECTIVE JUROR 026: Yes.

14 MS. SUDANO: Coming for you back there. Do you --

15 PROSPECTIVE JUROR 026: Confirmed news junkie. I watch
16 the news -- the first thing I wake up channel 3. I watch local news in the
17 morning. I watch it in the evening. I listen to Fox News in my car. I have
18 Fox News on at home. I read the R J still, like a real newspaper. So
19 yeah.

20 MS. SUDANO: All right. So would you agree with me that
21 there's a lot of questions or stories about the criminal justice system in
22 either the local news or the national news? Would you agree with me on
23 that?

24 PROSPECTIVE JUROR 026: There's a lot of?

25 MS. SUDANO: Of stories about the criminal justice system.

1 PROSPECTIVE JUROR 026: Oh, tons. Yeah.

2 MS. SUDANO: Okay. Do you follow those stories, or do you
3 kind of shy away from them, or do you just read them like anything else?

4 PROSPECTIVE JUROR 026: Totally follow them.

5 MS. SUDANO: Okay. Anything about the stories that you
6 follow that you think would affect your ability to be fair and impartial in
7 this particular case?

8 PROSPECTIVE JUROR 026: Possibly.

9 MS. SUDANO: Okay. Now, you'd agree with me, right, that
10 you don't know any of the facts at all in this particular case?

11 PROSPECTIVE JUROR 026: Correct.

12 MS. SUDANO: Okay. And you don't know any of the parties
13 in this case, or any of the potential witnesses; is that right?

14 PROSPECTIVE JUROR 026: Correct.

15 MS. SUDANO: Okay. So at this point, you have very little
16 information about anything in this case?

17 PROSPECTIVE JUROR 026: Uh-huh.

18 MS. SUDANO: So would you have an issue sort of setting
19 aside any of those stories in the media and just sort of focusing, again,
20 on the evidence that you're going to hear here in the courtroom?

21 PROSPECTIVE JUROR 026: I could certainly focus on the
22 evidence presented.

23 MS. SUDANO: Okay. Do you think that anything about the
24 other stories that you've seen in the media would affect your ability to be
25 fair and impartial?

1 PROSPECTIVE JUROR 026: Possibly. I have to say possibly
2 it would.

3 MS. SUDANO: Okay. Why is that?

4 PROSPECTIVE JUROR 026: I just -- you know, when you pay
5 attention to current events and you see how the justice system works,
6 and you see the verdicts, and what the verdicts were based on, you tend
7 to form -- formulate your own opinions.

8 MS. SUDANO: All right. So I guess, we've sort of all seen
9 stories in the news about whatever criminal trial and the jury comes back
10 one way or the other, and there's -- it's a big story however the jury
11 came back; is that right? Okay.

12 But you weren't a part of any of those trials, right?

13 PROSPECTIVE JUROR 026: Correct.

14 MS. SUDANO: Okay. So you don't actually know everything
15 that the jury heard, or everything that the jury considered; would that be
16 fair?

17 PROSPECTIVE JUROR 026: Fair.

18 MS. SUDANO: Okay. And sometimes the account that we
19 get in the media isn't the full story, or the complete story?

20 PROSPECTIVE JUROR 026: Most likely.

21 MS. SUDANO: Okay. So do you think that it would be
22 different if you were actually seated on the jury and you did have all of
23 the evidence that was presented in the case?

24 PROSPECTIVE JUROR 026: Possibly, yes.

25 MS. SUDANO: Okay. And do you think, then, if you were

1 seated in the jury, and you did have all of the evidence that was
2 presented in the case, that you could kind of go back and deliberate and
3 just focus on this case without considering any other verdicts that you
4 may have seen in the media?

5 PROSPECTIVE JUROR 026: I -- I could possibly do that.

6 MS. SUDANO: Okay. Same kind of question that I asked
7 somebody else earlier. I can't get in your mind, right? You're the only
8 one that can tell us.

9 PROSPECTIVE JUROR 026: I think there's some other things
10 working against me, as a juror, that I was in the hall pacing about. And
11 the fact -- the nature of the business that I have been committed to for a
12 quarter of a century, and that's been family law. And I have assisted a
13 lot of people in proper person, a lot of people who could not afford an
14 attorney, in a lot of contested matters.

15 I no longer do contested matters.

16 MS. SUDANO: Uh-huh.

17 PROSPECTIVE JUROR 026: I only do uncontested, but a lot
18 of it was contentious. A lot of it had to do with custody, with
19 guardianship, termination of parental rights. And I saw a lot of scary
20 things -- a lot of really dark, twisted things, and there's a reason I no
21 longer do that.

22 MS. SUDANO: So we've now kind of gone away from the
23 original question.

24 PROSPECTIVE JUROR 026: Uh-huh.

25 MS. SUDANO: So I guess, knowing what you know, and

1 what your career was for all those years --

2 PROSPECTIVE JUROR 026: And still is. I just
3 choose -- because my lease expired December 31 --

4 MS. SUDANO: Uh-huh.

5 PROSPECTIVE JUROR 026: -- I now work part time, and I
6 only take uncontested matters.

7 MS. SUDANO: Okay. So do you think that you could kind of
8 set aside your experience there and just focus on the evidence in this
9 case?

10 PROSPECTIVE JUROR 026: I have a couple of cases. I mean,
11 I was out in the hallway really pacing about this.

12 MS. SUDANO: Okay.

13 PROSPECTIVE JUROR 026: And I think I might have an issue.

14 MS. SUDANO: Okay.

15 MS. MACHNICH: Your Honor, may we approach?

16 THE COURT: Yes.

17 [Sidebar begins at 4:52 p.m.]

18 MS. MACHNICH: Your Honor, we would request that further
19 questioning of this witness be done outside the presence of the jury.
20 She's trying not to taint the pool, but she has something she wants to
21 say, and she needs to be able to say it.

22 MR. SPEED: She's been struggling up and down the hall
23 with an issue and --

24 MS. MACHNICH: We need to know what that issue is, but
25 she doesn't want to say it.

1 MR. SPEED: She seemed to be prepared enough -- mature
2 enough not to blurt out something that might jeopardize the proceeding
3 and then she has enough experience with the proceeding to know that I
4 probably shouldn't say out loud what I think [indiscernible].

5 MS. MACHNICH: I just think that we need to be able to ask
6 her questions outside the presence and she's going to take this
7 panel -- okay.

8 THE COURT: And I totally disagree, but I'll allow it, because I
9 think you're reading all kinds of things into it. She does -- it does bother
10 her, but --

11 MS. MACHNICH: No.

12 THE COURT: -- it bothers a lot of people with this.

13 MS. MACHNICH: There's something in her job --

14 MR. SPEED: I might have an issue with --

15 THE COURT: We'll deal with it outside.

16 MS. MACHNICH: We could do it at the end of the day. Thank
17 you. Appreciate it.

18 THE COURT: Sure. Before we go --

19 MS. SUDANO: Do you just want to do it now?

20 MS. MACHNICH: Yeah. We could it -- yeah.

21 THE COURT: Well, let's -- go another -- can you go another
22 five minutes and -- do you have another -- you know, and then do it, or
23 do you want to just do it now?

24 MS. MACHNICH: And then we'll hold her --

25 MS. SUDANO: Sure.

1 MS. MACHNICH: Okay.

2 MR. SPEED: I think doing it now.

3 THE COURT: I'm trying to --

4 MR. SPEED: Are we going to let them go at 5:00?

5 THE COURT: -- get further -- yeah. I'm trying to get further

6 along.

7 MS. DIGIACOMO: Yeah.

8 MR. SPEED: Then let's just do that now, because --

9 MS. SUDANO: Then let them go.

10 MR. SPEED: -- that might take a minute or two and it's --

11 MS. MACHNICH: And before she starts on a new line of

12 questioning.

13 THE COURT: Yeah.

14 MS. MACHNICH: Yeah.

15 MR. SPEED: Right.

16 THE COURT: All right. If you've got to --

17 MS. SUDANO: Yeah.

18 THE COURT: -- you're not done with that.

19 MS. MACHNICH: Is this a good breaking for you?

20 MS. SUDANO: It's fine.

21 [Sidebar ends at 4:54 p.m.]

22 [Sidebar begins at 4:54 p.m.]

23 THE COURT: We're going to talk to Ms. Reed outside the

24 presence, but I'm going to read them all these stuff and let them go for

25 tonight, so just tell her that we want to ask her a few questions.

1 THE MARSHAL: Which one is she?

2 THE COURT: She's back row, far left. The one who has been
3 talking.

4 THE MARSHAL: In the corner?

5 THE COURT: Yeah.

6 THE MARSHAL: Okay.

7 THE COURT: Thank you.

8 [Sidebar ends at 4:54 p.m.]

9 THE COURT: Ladies and gentlemen, we're going to take our
10 evening recess now. We'll ask that you be back at 9:30.

11 I do have a brief morning calendar. I'm doing my best to
12 guess that it will be done by 9:30. I'll throw them out for you guys. That
13 was a joke, but anyway, we will get it done. See, judges shouldn't
14 tell -- we will get them done as soon as soon as possible. I don't like you
15 to have to wait, obviously, but sometimes we are guessing as to how
16 long things are going to take.

17 During this recess, it's very important, as in every one, but
18 this is really your first where you could go home and Twitter, and Tweet,
19 and all that Instagram, and all that. Don't do it. Don't go on Google.
20 Don't research anybody. Don't put on Facebook that you're a potential
21 juror, whatever it might be.

22 We see these things and all it does is create problems, so
23 please do not do that. You don't know anything about the case yet. You
24 would only be guessing. And you cannot, should not, et cetera.

25 During this recess, you're once again admonished do not

1 talk, or converse amongst yourselves, or with anyone else on any
2 subject regarding this trial. Do not read, watch, or listen to any report of,
3 or commentary on this trial, or any person connected with this trial by
4 any medium of information, including without limitation newspapers,
5 television, radio, or internet.

6 Do not form or express any opinion on any subject
7 connected with the trial, until the case is finally submitted to you.

8 When you go home your family, your friends are going to oh,
9 what you -- what'd you do. I am sitting on a venire for a criminal case.
10 End of story. Period. That's all you can say. Please.

11 All right. Have a good evening. We'll see you at 9:30.

12 THE MARSHAL: Ladies and gentlemen, before you go,
13 tomorrow you'll have to get your parking validated on the third floor,
14 either before you come up, or on your way out. I can't do that for you.

15 Remember where you are seated. You'll be in the same
16 seats tomorrow. If you have any questions for me, I will answer them for
17 you outside. No, I cannot get you out of this. You have to be here
18 tomorrow at 9:30, so don't waste your breath asking me that. Okay.

19 So make sure you grab all of your personal items and I will
20 come get you at 9:30 and bring you in. Don't come in and have a seat.
21 Just wait for me outside. I'll be outside at 9:30. I'll be outside for any
22 questions that you may have.

23 [Prospective jurors out at 4:58 p.m.]

24 [Outside the presence of the prospective jurors]

25 THE COURT: Ms. Reed, badge 026. We were somewhat

1 concerned you might have something you would like to tell us outside
2 the presence of everybody; is that the case?

3 PROSPECTIVE JUROR 026: Well, I really, really thought, in
4 my heart, I could be an impartial person, but because of some of the
5 cases I've taken over the years, I have had a case -- a termination of
6 parental rights, drafted and filed documents for female petitioner. Her
7 husband -- ex-husband was incarcerated for abusing both of her
8 sons -- their sons, and so the judge granted the termination.

9 So many of the cases that I have drafted and filed over the
10 years -- the vast majority have been for females, and so I have to say I
11 think I'm -- I have a skewed opinion of what I -- how I may handle the
12 evidence. I don't know. I just don't know if I'm capable of being
13 impartial.

14 THE COURT: State.

15 MS. DIGIACOMO: Nothing.

16 MS. SUDANO: Nothing, Your Honor.

17 THE COURT: Defense.

18 MS. MACHNICH: May we approach?

19 THE COURT: Yes.

20 MS. MACHNICH: Thank you.

21 [Sidebar begins at 5:00 p.m.]

22 MS. MACHNICH: Your Honor, we'd move to have her
23 released at this point. I don't think we need to ask anything further. I'm
24 happy to do so, but I just wanted to make the for-cause challenge outside
25 the presence. And if Your Honor is inclined to release her, we have

1 nothing. If you're not inclined to release her, I certainly can ask some
2 questions, but it sounds like there's no way she's going to be
3 unequivocal and there's no way there's not inferable bias based upon
4 what she's seen and what she said.

5 MR. SPEED: And given the facts of our case.

6 MS. MACHNICH: Yeah. Which is literally --

7 THE COURT: Objection?

8 MS. SUDANO: No.

9 THE COURT: Okay. We'll let her go.

10 MS. MACHNICH: Fantastic. Thank you.

11 [Sidebar ends at 5:01 p.m.]

12 THE COURT: All right. Ms. Reed, we want to thank you for
13 participating. It seems that you would rather be on a different type of
14 case. We understand that --

15 PROSPECTIVE JUROR 026: Yeah. It's --

16 THE COURT: -- and so you can either go down to the third
17 floor and report or do it online. Thank you for being here.

18 All right. Anything else outside the presence?

19 MS. MACHNICH: Not from the Defense.

20 MR. SPEED: Nothing, Your Honor. Thank you.

21 THE COURT: State.

22 MS. SUDANO: No. Thank you, Your Honor.

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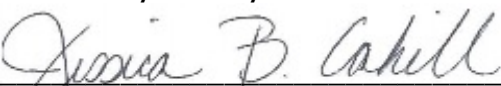
THE COURT: We'll see you at 9:30.

MS. MACHNICH: Thank you.

MS. SUDANO: Thank you, Your Honor.

[Proceedings concluded at 5:02 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



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Jessica B. Cahill, Transcriber, CER/CET-708

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GUSTAVO GUNERA-PASTRANA,) No. 79861
)
 Appellant,)
)
 v.)
)
THE STATE OF NEVADA,)
)
 Respondent.)
)

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