

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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May 19 2020 11:00 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

8 _____)

9 **APPELLANT'S APPENDIX VOLUME V PAGES 973-1222**

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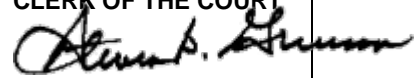
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1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 GUSTAVO ADONAY GUNERA-
12 PASTRANA,
13 Defendant.

)
) CASE#: C-16-318461-1
)
) DEPT. XXVIII
)
)
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)

14 BEFORE THE HONORABLE RONALD J. ISRAEL
15 DISTRICT COURT JUDGE
16 THURSDAY, JUNE 6, 2019

17 **RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 3**

18 APPEARANCES:

19 For the Plaintiff:

SANDRA DIGIACOMO, ESQ.
MICHELLE SUDANO, ESQ.

20 For the Defendant:

21 KEVIN SPEED, ESQ.
22 TEGAN MACHNICH, ESQ.

23
24
25 RECORDED BY: JUDY CHAPPELL, COURT RECORDER

1 Las Vegas, Nevada, Thursday, June 6, 2019

2

3 [Case called at 9:38 a.m.]

4 THE COURT: Who's not here?

5 MS. DIGIACOMO: Simpson Fain [Phonetic], which is the
6 bottom row, Your Honor, number -- in seat 21, and then somebody
7 who's in the back. Badge number 206, Myron Lesane.

8 MS. MACHNICH: I thought it was in my -- you know what I
9 did? I left -- because I saw this, it's a manila folder that says, "jury
10 selection." It has a --

11 MR. SPEED: Oh, I saw it. I saw it. Yeah, I remember your
12 writing.

13 MS. MACHNICH: Right. Because you -- yeah, and it has the
14 stuff in it.

15 [Counsel for State confer with staff]

16 THE MARSHAL: Did you want to wait for [indiscernible]?

17 THE COURT: No.

18 THE MARSHAL: Are you ready to go?

19 THE COURT: I mean, in everything else we're ready.
20 Did you try calling? Do you have the number?

21 THE MARSHAL: No.

22 THE COURT: No.

23 THE MARSHAL: Sandy said they didn't have the number
24 listed.

25 THE COURT: All right. So, we're going to go ahead and

1 replace --

2 MS. DIGIACOMO: Seat 21?

3 THE COURT: Yeah. I mean, I can't see waiting. Who knows
4 if the person will --

5 MS. DIGIACOMO: When she walked out yesterday, she was
6 like clear she --

7 MS. MACHNICH: She was like, Peace, I'm out.

8 MS. DIGIACOMO: Yeah, she was like, I'm outta here. I don't
9 even think she waited for the marshal.

10 THE COURT: All right. Okay.

11 MS. DIGIACOMO: Yeah. She said that when she walked by
12 us.

13 MS. MACHNICH: Yeah, we heard them, too.

14 THE CLERK: So, just to be clear, Priscilla Kennedy is the next
15 in line.

16 MS. SUDANO: I'm sorry, what number?

17 THE CLERK: It's number 183.

18 MS. SUDANO: Well, we have two to replace.

19 THE CLERK: Oh.

20 MS. SUDANO: We also have to replace in seat 10, zero
21 number -- or 026, Ms. Reed.

22 THE CLERK: Hang on.

23 MS. DIGIACOMO: Oh, yeah.

24 THE CLERK: You have 10. I have Cynthia Reed in 10; is that
25 correct?

1 MS. DIGIACOMO: Yeah, but she was excused after we spoke
2 to her outside the presence last night.

3 THE CLERK: Oh --

4 MS. SUDANO: Yeah.

5 THE CLERK: -- so, is it Bernard Plescher?

6 MS. DIGIACOMO: We haven't filled her.

7 THE COURT: We haven't --

8 MS. DIGIACOMO: We need --

9 MS. MACHNICH: So, she needs to go first.

10 THE CLERK: Okay. Because according to the list I have since
11 I wasn't here --

12 MS. DIGIACOMO: Yeah.

13 MS. MACHNICH: Yeah.

14 THE CLERK: -- she has 10 as Bernard Plescher.

15 MS. SUDANO: Oh, okay. So, she already --

16 MS. DIGIACOMO: Oh, okay. So, she replaced --

17 MS. SUDANO: But she didn't tell us.

18 MS. MACHNICH: Yeah.

19 THE CLERK: But -- yeah, she didn't tell -- she didn't put it in
20 the sheet either yet, so ...

21 THE COURT: All right.

22 MS. DIGIACOMO: Okay. But he is next.

23 MS. MACHNICH: What is his number?

24 THE CLERK: And that is number 176.

25 MS. SUDANO: 176.

1 MS. MACHNICH: 176, thank you.

2 THE CLERK: And then I guess 21 will be the next, which will
3 be Priscilla Kennedy, and that's badge number 183.

4 I'm glad I clarified it with you guys. Thank you.

5 THE COURT: Okay. Bring them in.

6 THE MARSHAL: Please rise for the jury.

7 [Prospective jurors in at 9:41 a.m.]

8 [Inside the presence of the prospective jurors]

9 THE COURT: Please be seated.

10 Good morning, ladies and gentlemen.

11 IN UNISON: Good morning.

12 THE COURT: The parties acknowledge the presence of the
13 venire?

14 MS. DIGIACOMO: Yes, Your Honor.

15 MS. SUDANO: Yes, Your Honor.

16 THE COURT: Call the next in line.

17 THE CLERK: Okay. Bernard -- is it Plescher -- badge number
18 176, you'll be in seat number 10.

19 Priscilla Kennedy, badge number 183, you'll be in seat
20 number 21.

21 THE COURT: Okay. Mr. Plescher, I hope I'm -- Plescher -- am
22 I pronouncing that correct --

23 PROSPECTIVE JUROR NO. 176: Yes, sir.

24 THE COURT: -- do you remember all the questions?
25 I gave you the name and badge number.

1 PROSPECTIVE JUROR 176: Yes, Your Honor.

2 THE COURT: Where do you work?

3 PROSPECTIVE JUROR 176: Oh, I'm a retired software

4 quality-assurance engineer.

5 THE COURT: Okay. Significant other?

6 PROSPECTIVE JUROR 176: No, I'm single.

7 THE COURT: Have you ever served on a jury?

8 PROSPECTIVE JUROR 176: No, I have not.

9 THE COURT: The other questions -- you or family members,

10 close friends, law enforcement or military?

11 PROSPECTIVE JUROR 176: My father served in the U.S.

12 Navy in World War II. My oldest brother served in the Marine Corps in

13 Vietnam.

14 THE COURT: You or anyone close to you been the victim of

15 a crime?

16 PROSPECTIVE JUROR 176: My brother a long time ago had

17 all four tires of his car stolen and that's about it.

18 THE COURT: I'm sorry. Is that it?

19 PROSPECTIVE JUROR 176: That's it.

20 THE COURT: Okay. You or anyone close to you been the

21 victim of a sexual assault?

22 PROSPECTIVE JUROR 176: No, sir.

23 THE COURT: You or anyone close to you ever been accused

24 of a crime?

25 PROSPECTIVE JUROR 176: No, sir.

1 THE COURT: You heard my, I guess, speech about the fact
2 that we need fair and impartial jurors. Is there any reason that you can't
3 be fair and impartial?

4 PROSPECTIVE JUROR 176: Not that I can think of, sir, no.

5 THE COURT: Thank you. Pass it to Priscilla.

6 Ms. Kennedy, 183 --

7 PROSPECTIVE JUROR 183: Yes.

8 THE COURT: -- where do you work?

9 PROSPECTIVE JUROR 183: I'm retired. I used to work in
10 class action administration.

11 THE COURT: And significant other?

12 PROSPECTIVE JUROR 183: Yes, nine years -- he's also
13 retired from construction.

14 THE COURT: Do you remember the rest or am I --

15 PROSPECTIVE JUROR 183: You know, I don't.

16 THE COURT: That's not good. You're going to get a bad
17 grade.

18 PROSPECTIVE JUROR 183: Oh, you have no idea.

19 The main thing that I can remember is that you asked if
20 we've been on a jury.

21 THE COURT: What does your significant other do?

22 PROSPECTIVE JUROR 183: Oh, I'm sorry. Construction.

23 THE COURT: What company?

24 PROSPECTIVE JUROR 183: Oh, he's retired. When he
25 worked, he was in Oregon.

1 THE COURT: Oh, okay. Never worked in Clark County?
2 PROSPECTIVE JUROR 183: No.
3 THE COURT: Ever served on a jury?
4 PROSPECTIVE JUROR 183: Yes.
5 THE COURT: Civil or criminal?
6 PROSPECTIVE JUROR 183: Criminal.
7 THE COURT: Did you reach a verdict?
8 PROSPECTIVE JUROR 183: Yes.
9 THE COURT: And were you the foreperson?
10 PROSPECTIVE JUROR 183: No.
11 THE COURT: Okay. The other questions -- and by the
12 way -- children -- adult children, where do they -- do you have any adult
13 children and where do they work?
14 PROSPECTIVE JUROR 183: I have two grown. One lives in
15 Seattle and one lives in Moses Lake. One works as an accountant and
16 the other is unemployed right now.
17 THE COURT: Okay. Anyone close to you in law enforcement
18 or military?
19 PROSPECTIVE JUROR 183: Just a brother-in-law that served
20 many years ago.
21 THE COURT: Have you or anyone close to you been the
22 victim of a crime?
23 PROSPECTIVE JUROR 183: Not that I can think of.
24 THE COURT: You or anyone close to you been the victim of
25 a sexual assault?

1 PROSPECTIVE JUROR 183: No.

2 THE COURT: Again, having heard my speech regarding the
3 standard, the fact that the defendant is absolutely innocent unless and
4 until the State proves beyond a reasonable doubt both, that a crime was
5 committed and that he was the one who committed it, can you be a fair
6 and impartial juror?

7 PROSPECTIVE JUROR 183: Yes.

8 THE COURT: What was that?

9 PROSPECTIVE JUROR 183: Yes. But -- and I don't know if
10 this is relevant, but I want to make the Court aware of it.

11 THE COURT: Go ahead.

12 PROSPECTIVE JUROR 183: I did say I was on a jury. It was
13 over 10 years ago. It --

14 THE COURT: We don't want to know what --

15 PROSPECTIVE JUROR 183: You don't want to know?

16 THE COURT: -- the case -- no.

17 PROSPECTIVE JUROR 183: Okay. I wanted to make sure it
18 wasn't relevant.

19 THE COURT: I don't --

20 PROSPECTIVE JUROR 183: Got it.

21 THE COURT: And I didn't -- I'll let counsel ask what
22 Mr. Plescher's kids did.

23 State, you may inquire.

24 MS. SUDANO: All right. Good morning, again, everyone.

25 So, good. I think you guys are just morning people.

1 All right. Ms. Plescher -- I'm sorry -- Ms. Kennedy, badge
2 number 183, because you have the microphone, I'm just going to stick
3 with you for a second.

4 PROSPECTIVE JUROR 183: Okay.

5 MS. SUDANO: So, you heard some of the questions that I
6 was asking folks yesterday. I was asking about, you know, CSI and
7 whether we understand that that's fictional and not at all necessarily
8 related.

9 Do you have any issue with that?

10 PROSPECTIVE JUROR 183: No.

11 MS. SUDANO: Okay. Are you the type of person that would
12 require some type of specific evidence in order to convict or are you
13 willing to kind of keep an open mind and listen to the evidence that's
14 presented to you and the instructions that are provided by the judge?

15 PROSPECTIVE JUROR 183: Open mind, directions by the
16 judge.

17 MS. SUDANO: Thank you, ma'am.

18 Anything else that we were talking about yesterday that sort
19 of stood out to you, like, I have a response, or I have a comment to that?

20 PROSPECTIVE JUROR 183: No, not that I can remember.

21 MS. SUDANO: Okay. Thank you, ma'am.

22 Can we get the microphone as far away from you as possible
23 to Mr. Plescher.

24 PROSPECTIVE JUROR 183: Yes. MS. SUDANO: All right.
25 Good morning, again, badge number 176, Mr. Plescher.

1 So, a couple of follow-up questions for you. Do you have
2 any children?

3 PROSPECTIVE JUROR 176: No, I don't. I'm single.

4 MS. SUDANO: And then the same questions that I just asked
5 Ms. Kennedy a moment ago, any of the things that stuck out to you that
6 we talked about yesterday that you would have had a response or a
7 comment to?

8 PROSPECTIVE JUROR 176: Not really, no. Well, the only
9 thing I had sort of an idea about was, you were discussing evidence,
10 whether it has to be presented or not. I was thinking that if there is
11 evidence, it should be brought out and if the prosecution has no
12 evidence, the Court should be informed, I imagine, and I imagine that
13 would come out during the trial.

14 MS. SUDANO: So, obviously, all of the evidence that exists
15 in the case will be presented to you, right.

16 And so, my question at this point is just whether you can
17 keep an open mind and consider all of the evidence that is presented to
18 you and the judge's instructions and follow those instructions or whether
19 there's some specific type of evidence that you're thinking in your mind
20 you would need in order to come to a verdict?

21 PROSPECTIVE JUROR 176: Oh, no.

22 MS. SUDANO: Okay. Perfect.

23 And I appreciate that, sir. Anything else that stood out to
24 you?

25 PROSPECTIVE JUROR 176: Not really, no.

1 MS. SUDANO: Okay. So, when we broke yesterday, I think
2 I -- we were kind of talking about news media and criminal justice in the
3 news media.

4 So, does anybody have such strong feelings about the
5 criminal justice system or anything that you may have seen in the media
6 that would affect your ability to be fair and impartial in this particular
7 case?

8 Ms. Zupan, badge number 135 -- if you could pass it over.

9 PROSPECTIVE JUROR 135: I just watched that "How They
10 See Us Now" on Netflix. I don't know if you guys have heard of it, but
11 it's about the Central Park 5 that were convicted. They were
12 wrongfully -- like, they had to admit to a crime they didn't commit and,
13 honestly, it's been keeping me up at night. I just -- I don't know -- I just
14 sometimes think that criminal justice is unfair and targets people and, I
15 don't know, it's just been in my mind ever since I watched it and it's been
16 keeping me up at night.

17 MS. SUDANO: Okay. So, I was asking some questions of
18 another member of the panel yesterday.

19 PROSPECTIVE JUROR 135: Uh-huh.

20 MS. SUDANO: So, obviously, there's been a lot of coverage
21 with that case and some other cases --

22 PROSPECTIVE JUROR 135: Uh-huh.

23 MS. SUDANO: -- but that was not something that you were a
24 part of --

25 PROSPECTIVE JUROR 135: Right.

1 MS. SUDANO: -- or had any personal knowledge of.

2 PROSPECTIVE JUROR 135: Right.

3 MS. SUDANO: So, do you think that you would be able to
4 sort of set aside anything that you saw in that documentary and just
5 focus on the evidence that's presented here in this particular case?

6 PROSPECTIVE JUROR 135: No.

7 MS. SUDANO: Okay. I appreciate your honesty on that one.

8 All right. So, is there anybody within our panel that's had a
9 particularly positive or a particularly negative experience with law
10 enforcement?

11 Seeing no response whatsoever on that one.

12 THE COURT: Counsel, there's a hand.

13 MS. SUDANO: Oh, a couple of hands now. We just had to
14 wait.

15 All right. Mr. Montgomery, badge number 020?

16 PROSPECTIVE JUROR 020: Yes. Well, this was a while back,
17 but when I was in college -- I went to the University of Texas -- and I
18 would art shoot and I would shoot some photos outside and some cops
19 came up to me and asked me what was I doing? Why was I there? And
20 they kept me there for like 15, 20 minutes.

21 I showed them my student ID and said I was there, and it was
22 just a little -- it wasn't really bad, but, you know, it wasn't a good
23 experience.

24 MS. SUDANO: Sure. And you said that that took place in
25 Texas?

1 PROSPECTIVE JUROR 020: Yes.

2 MS. SUDANO: All right. And that was in college?

3 PROSPECTIVE JUROR 020: Yes.

4 MS. SUDANO: So, is that experience something that you still
5 kind of carry with you today?

6 PROSPECTIVE JUROR 020: Well, yes. That, and, you know,
7 it happened to other people that I knew.

8 MS. SUDANO: So, that, though, was in Texas. That wasn't
9 anything that happened here locally; is that fair?

10 PROSPECTIVE JUROR 020: True.

11 MS. SUDANO: Okay. Do you think that you would be able to
12 set aside that particular experience and just focus on the evidence that's
13 presented in this case?

14 PROSPECTIVE JUROR 020: Yeah.

15 MS. SUDANO: Okay. So, you heard yesterday -- I want to
16 say yesterday -- from Ms. DiGiacomo that there may be some police
17 officers who are going to testify in this case. Your prior experience, if
18 police officers were to come in and testify in this case, would you be
19 willing to weigh their credibility just like you would weigh the credibility
20 of any other witness or would they be in kind of a different position for
21 you because they're police officers?

22 PROSPECTIVE JUROR 020: It may be different, but I would
23 try, you know, the best I could.

24 MS. SUDANO: Okay. And so you indicated yesterday that
25 you didn't know any of the witnesses in this particular case; is that

1 correct? You didn't know any of those officers?

2 PROSPECTIVE JUROR 020: Yeah.

3 MS. SUDANO: Okay. So, you don't know if they're good at
4 their jobs, if they're bad at their jobs, anything like that?

5 PROSPECTIVE JUROR 020: True.

6 MS. SUDANO: Okay. And you've never had any personal
7 interaction with those folks?

8 PROSPECTIVE JUROR 020: No.

9 MS. SUDANO: All right. So, I don't want to discount your
10 experiences or anything like that, but, again, I can't get in your mind, so
11 would those officers be people that you would be willing to weigh their
12 credibility just like any other witness?

13 PROSPECTIVE JUROR 020: True. I mean, yeah. It's just for
14 me, the whole thing here -- I know, like, you know, this -- you have
15 to -- this has to be done, it's just difficult for me to -- like, my decision
16 would help decide someone's innocence or guilt. I mean, I know it's part
17 of it, you know, it has to be done. It's just difficult for me, personally.

18 MS. SUDANO: And we talked a little bit yesterday
19 about -- this is something that everybody and, you know, both sides and
20 the Court all take very seriously, and we appreciate that this is kind of
21 outside of everybody's comfort zone. I think there's only a couple other
22 people in this room that have been jurors before or been called for jury
23 duty before. So, we recognize that it's new and different and kind of
24 outside the comfort zone.

25 So, what we're asking from not just you, but from everybody,

1 is whether or not you think that you can be fair and impartial.

2 Is that something that you think you can do?

3 PROSPECTIVE JUROR 020: I think I can, yeah.

4 MS. SUDANO: And whether you promise to take this
5 seriously and do the best job that you can.

6 PROSPECTIVE JUROR 020: Yes.

7 MS. SUDANO: Okay. Since we're talking about this,
8 anybody else here, that if seated doesn't feel that they could be fair and
9 impartial? And I know we talked about some of the folks yesterday, so
10 we'll come back to you if you responded yesterday.

11 Anybody here that can't make that promise that they would
12 do the absolute best job that they could as a juror?

13 Okay. I'm seeing no response on that and --

14 THE COURT: There's a hand.

15 MS. SUDANO: I know. Ms. Hausman, I'm not ignoring you.
16 Badge number 123, can you pass it all the way down.

17 PROSPECTIVE JUROR 123: Wendie Hausman, badge 123. I
18 actually just went home and I did a lot of thinking about this case and I
19 have a niece and she's two months old, and knowing what I went
20 through and I don't think knowing some of the details of this case that I
21 could be a fair juror because, you know, now my intentions are to protect
22 my niece at all cost and I just don't think I could sit here and give a fair
23 verdict to somebody knowing what I went through in the past and, yeah.

24 MS. SUDANO: And I appreciate your answer, but I might
25 have some more questions for you in a little bit, but for now we're going

1 to move on, okay. Thank you.

2 All right. So, we -- I had just asked the question of
3 Mr. Montgomery particularly positive or particularly negative
4 experiences with law enforcement and I saw a couple of other hands, I
5 thought. Oh, there we go.

6 Mr. Collins?

7 PROSPECTIVE JUROR 005: I just -- the respect has gone way
8 up since 1 October --

9 THE COURT: Badge number -- sorry.

10 PROSPECTIVE JUROR 005: -- and I kind of would expect a
11 couple --

12 THE COURT: Badge number -- sorry.

13 PROSPECTIVE JUROR 005: Oh, I'm sorry. Badge number
14 005, William Collins.

15 When you asked if there's good or bad -- yeah, I've had
16 experience with Metro -- I've been here a long time -- but it's -- you
17 respect, you know.

18 MS. SUDANO: Hang on. So, the same type of questions I
19 was just asking Mr. Montgomery -- is that going to go, though -- would
20 the fact if you heard from a police officer in this particular case, would
21 the fact that they were a police officer, would they come in kind of on a
22 different footing as other witnesses or would you be willing to weigh
23 their credibility just as everybody else?

24 PROSPECTIVE JUROR 005: No, they wouldn't -- you would
25 just expect them, but, yeah, you would weigh them like any human

1 being.

2 MS. SUDANO: Okay. So, if a police officer came in here and
3 said, Oh, this guy is green, you're going to take that into consideration
4 and weigh that; you're not just going to blindly believe because it's a
5 police officer?

6 PROSPECTIVE JUROR 005: Of course.

7 MS. SUDANO: Okay. Thank you, sir.

8 Was there another hand somewhere over in that corner?

9 Okay. Seeing no response, anybody else that had a hand up
10 on that particular question?

11 Oh, Ms. Zupan?

12 PROSPECTIVE JUROR 135: Emily Zupan, 135.

13 I don't know, but one of my girlfriends, her boyfriend just
14 became a police officer and I've kind of seen his mind change. He's just
15 more negative and profiles more.

16 He were in the car and he was like, Oh, if I was on duty, I
17 would pull that guy over on the motorcycle; he just looks like a drug
18 addict. And that kind of stuck with me because I'm like, he's doing
19 nothing wrong, so that just kind of stuck in my brain and that kind of
20 gave me a negative connotation about police.

21 MS. SUDANO: Okay. So, same type of questions that I
22 asked a couple other folks. So, you don't know any of the particular
23 officers in this case, right?

24 PROSPECTIVE JUROR 135: Right.

25 MS. SUDANO: Not people that you have personally

1 interacted with --

2 PROSPECTIVE JUROR 135: Uh-huh.

3 MS. SUDANO: -- and you don't know if they're good at their
4 jobs, bad at their jobs --

5 PROSPECTIVE JUROR 135: Right.

6 MS. SUDANO: -- at this point, right?

7 So, would you be able to set aside that particular experience
8 with your friend's boyfriend and just listen to the evidence that's
9 presented in this case?

10 PROSPECTIVE JUROR 135: I just feel like I have a negative
11 connotation about it, so I'm not sure if I could.

12 MS. SUDANO: Thank you. I appreciate that, ma'am.

13 All right. Anybody up here on our panel that has had
14 personal experiences with CPS or Child Protective Services?

15 Okay. If you could pass it to Ms. Carothers, badge number
16 131.

17 PROSPECTIVE JUROR 131: I've had to call CPS about
18 students that I've had in class.

19 MS. SUDANO: Okay. And so, has all of your contact with
20 CPS been in that professional capacity?

21 PROSPECTIVE JUROR 131: Exactly.

22 MS. SUDANO: Okay. Any particularly -- or any experiences,
23 I guess, that particularly stand out to you that you think would affect
24 your ability to be fair and impartial in this case?

25 PROSPECTIVE JUROR 131: No. No.

1 MS. SUDANO: Okay. So, could you set aside any of the
2 experiences that you've had with CPS in your professional experience --

3 PROSPECTIVE JUROR 131: Yes, I can keep an open mind.

4 MS. SUDANO: Thank you, ma'am.

5 And you didn't recognize the names of any of the folks that
6 Ms. DiGiacomo told you that might be working --

7 PROSPECTIVE JUROR 131: I did not, but I've had a lot of
8 students over the years and so the last names Ortiz and Vargas, I have
9 had students in the past with the last names of Ortiz and Vargas, but I
10 that that's a common name, so -- but I have had students with those last
11 names.

12 MS. SUDANO: I appreciate that.

13 PROSPECTIVE JUROR 131: Uh-huh.

14 MS. SUDANO: All right. And if you could pass it right in
15 front of you to Ms. Velasquez, badge number 051.

16 You also raised your hand?

17 PROSPECTIVE JUROR 051: Yes. When I was younger, I was
18 in child protective -- in CPS custody when I was younger, with my
19 siblings, as well.

20 MS. SUDANO: You said your siblings and you?

21 PROSPECTIVE JUROR 051: Yes.

22 MS. SUDANO: How long were you in the CPS system?

23 PROSPECTIVE JUROR 051: It was only like a few hours. We
24 did not spend the night there. We -- I believe we got picked up, maybe,
25 let's say around noon and we were picked up maybe a few hours later by

1 my mom maybe -- it wasn't even nighttime; it was maybe like 4:00, five
2 o'clockish.

3 MS. SUDANO: How old were you?

4 PROSPECTIVE JUROR 051: I was in middle school, so
5 about -- I was in eighth grade -- so about 14.

6 MS. SUDANO: Okay. So, was that a particularly positive
7 experience, particularly negative experience?

8 PROSPECTIVE JUROR 051: Being there? Like the people
9 who -- it was -- it wasn't a bad experience. I wasn't treated negatively or
10 anything. I didn't particularly want to be there, but it was -- I did not
11 experience anything badly there.

12 MS. SUDANO: So, it was kind of neutral?

13 PROSPECTIVE JUROR 051: Yeah, it was kind of neutral.

14 MS. SUDANO: Do you think that anything about that
15 experience in your sort of brief contact with Child Protective Services
16 would affect your ability to be fair and impartial here?

17 PROSPECTIVE JUROR 051: No.

18 MS. SUDANO: Thank you, ma'am.

19 Anybody else on that -- Ms. Argentine, badge number 035.

20 PROSPECTIVE JUROR 035: Kathryn Argentine, number
21 35 -- same as the other member on the panel, as a teacher, I've had
22 professional contact with CPS about students -- not particularly good or
23 bad -- but just as a mandated reporter, I had to do that. It doesn't affect
24 me in any particular way. I can keep a fair and open mind. I think that's
25 all.

1 MS. SUDANO: Okay. So, I'm going to switch gears here in
2 just a second, but before we do that, throughout the course of the trial,
3 you might see Ms. DiGiacomo or myself on our cell phones. We might
4 have to go out into the hall.

5 Is anybody going to hold that against us we're using our
6 phones or if we're stepping out into the hallway.

7 PROSPECTIVE JUROR 131: Definitely.

8 MS. SUDANO: Ms. Carothers, badge number 131.

9 PROSPECTIVE JUROR 131: Oh --

10 UNIDENTIFIED: Hold on. You've got to get the mic.

11 PROSPECTIVE JUROR 131: -- as a teacher, I am very aware
12 of cell phone use -- I'm just joking. I will not hold anything against you.

13 MS. SUDANO: So, you'd recognize that we're working on
14 the case; we're not actually playing Candy Crush or anything like that?

15 PROSPECTIVE JUROR 131: Exactly.

16 MS. SUDANO: Okay. Anybody else that would sort of have
17 an issue with that?

18 Okay. Seeing no response on that one, would anybody in
19 the panel here disagree with the idea that a woman has an absolute right
20 to say no to a man's sexual advances?

21 Seeing no response on that.

22 Does that change at all for anybody if we're talking about a
23 child, so somebody under the age of 18?

24 Seeing no response, again, on that one.

25 Now, does anybody here think that a child would have the

1 same ability to say no as an adult would in that context?

2 And Ms. Clark, badge number 011, you caught my eye on
3 that one. If we could pass it over.

4 PROSPECTIVE JUROR 011: Cheryl Clark, badge number 11.

5 Yeah, a child have a right to say no just like an adult say no.

6 MS. SUDANO: So, sure, a child has the right to say no. Do
7 you think it's easier for a child to say no? Do you think it's harder? Do
8 you think it's the same?

9 PROSPECTIVE JUROR 011: I guess, to me, it depends who
10 the person is that they're saying no to. But, absolutely, I think that a
11 child has the right to say no.

12 MS. SUDANO: Okay. And you said that it might depend
13 whether it's harder or easier depending on who it is.

14 PROSPECTIVE JUROR 011: Who the person is.

15 MS. SUDANO: And what do you mean by that?

16 PROSPECTIVE JUROR 011: If it's a relative, close friend,
17 somebody that they trust.

18 MS. SUDANO: Do you think it being a relative or a friend or
19 someone that they trust would make it harder or easier for a child to kind
20 of resist or say no?

21 PROSPECTIVE JUROR 011: I think with it being a friend, a
22 relative, close person, someone that you interacted with and that you
23 kind of like trust, it might confuse the child for them to say no.

24 MS. SUDANO: And I appreciate your responses on that,
25 ma'am.

1 Can anybody think of reasons why it might be more difficult
2 for a child to disclose?

3 And Ms. Hausman, 123, I saw your hand go up on that one.

4 PROSPECTIVE JUROR 123: Wendie Hausman, badge
5 number 123.

6 Just, as a child, it's harder sometimes for, you know, your
7 parents to believe or because they are close friends and they are adults,
8 sometimes it's harder. Oh, you know, maybe you just understood things
9 wrong or, you know, that's not what happened and, you know, kids like
10 to make up stories.

11 And, you know, coming from experience, I was a very -- how
12 do you put it -- like very flamboyant and I liked to make up stories and,
13 you know, so it was a little bit harder coming from my situation for, you
14 know, my parents to fully believe me.

15 MS. SUDANO: And did you have concerns about that, about
16 whether or not your parents would believe you?

17 PROSPECTIVE JUROR 123: Absolutely.

18 MS. SUDANO: And I don't want to go too much into detail
19 with you, ma'am, but you mentioned that you have some personal
20 experience on that topic. Was that something that you told your parents
21 about right away?

22 PROSPECTIVE JUROR 162: I tried to, yeah.

23 MS. SUDANO: You say you tried to.

24 PROSPECTIVE JUROR 162: Uh-huh.

25 MS. SUDANO: What do you mean that you tried to?

1 PROSPECTIVE JUROR 162: Well, I tried to. And they -- at
2 first they didn't believe me. And just -- this went on for a couple years.
3 And then, you know, as time went by, they did start seeing me act out,
4 and, you know, they did in the end believe me. So --

5 MS. SUDANO: So after you initially, sort of, said something
6 did you keep trying to tell them, or did you, sort of, find other ways to act
7 out?

8 PROSPECTIVE JUROR 162: I acted out. I just had a really
9 bad attitude and just, you know, would cry a lot, and just, you know,
10 keep to myself. So yeah, just a completely different person than I -- you
11 know, than I was as a little girl.

12 MS. SUDANO: I appreciate you sharing that. If you could
13 pass it up.

14 I saw -- was it Mr. Currie, badge number 165, did you raise
15 your hand on that one, as well?

16 PROSPECTIVE JUROR 165: Andrew Currie, badge 165. I
17 think a child, like, fully trusts their parent. And for a parent to break that
18 trust, that could be very confusing for a child.

19 MS. SUDANO: And so I don't want to put words in your
20 mouth, so correct me if I'm wrong, but it sounds like for you it sounds
21 like it might be harder for a child to talk about that with somebody that's,
22 kind of, close to them?

23 PROSPECTIVE JUROR 165: I was saying, well, it should be
24 easy for a kid to come to their parent, you know, if they have that trust.
25 But if, like, a parent did something to break that trust, like, if you're

1 talking about, like, sexual assault or something, it could be hard for a kid
2 to understand why they're doing that and harder to say no.

3 MS. SUDANO: So let me ask you a question since you have
4 the microphone, sir. So if a victim or a child didn't disclose immediately
5 right away, would you automatically disbelieve what that child had to
6 say?

7 PROSPECTIVE JUROR 165: No.

8 MS. SUDANO: Okay. And why is that?

9 PROSPECTIVE JUROR 165: Because I'd believe my kid --

10 MS. SUDANO: Okay.

11 PROSPECTIVE JUROR 165: -- over anyone first until, like, I
12 had proof to disbelieve them.

13 MS. SUDANO: Okay. And could you see reasons why that
14 might be something that a victim or a child might not report
15 immediately, or might not tell you immediately?

16 PROSPECTIVE JUROR 165: Oh absolutely.

17 MS. SUDANO: What would some of those things be?

18 PROSPECTIVE JUROR 165: They don't know how to process
19 it.

20 MS. SUDANO: Anything else along those lines?

21 PROSPECTIVE JUROR 165: Well, like, too young to
22 comprehend what's going on. And if it's in a relative that they trust,
23 they're doing something that's not right, like, they don't know -- they're
24 probably not understanding, like, what's going on with the whole thing.

25 MS. SUDANO: Thank you. I appreciate that, sir. Can you

1 pass it over one to Ms. --

2 PROSPECTIVE JUROR 035: Kathryn Argentine, number 35. I
3 would agree that a child might not disclose right away. I didn't disclose
4 my situation until eight years after the fact, and for similar reasons. You
5 know, a child may not feel like they're going to be believed. They may
6 feel guilt. So -- or yeah, not trusting, you know, that they're going to be
7 believed by whoever they tell. So I think those are all reasons that a
8 child might not disclose, but that I would take it seriously if they
9 disclosed even if it was after the fact.

10 MS. SUDANO: Is there anybody here that, kind of, disagrees
11 with that sentiment? Anybody that would never believe, could not
12 believe a victim who did not come forward right away? I'm seeing no
13 response on that one. Okay.

14 So I went through everybody yesterday and we talked about
15 kids. So can I get a show of hands for the folks that have multiple kids?
16 Okay. And I'm trying to remember --

17 Ms. Harvey, were you the one that had twin boys and a girl?

18 PROSPECTIVE JUROR 086: No, that's her.

19 PROSPECTIVE JUROR 097: No, that's me.

20 MS. SUDANO: Oh okay. Ms. Dusina-Bakken, badge number
21 097, remind me again how old your kids are.

22 PROSPECTIVE JUROR 097: My twin boys are ten, and my
23 four-year-old girl just had a birthday, so she just turned four.

24 MS. SUDANO: Okay. Have you ever had something, kind of,
25 sad or upsetting happen that affected all of your kids, like, maybe a pet

1 died, or they had to move?

2 PROSPECTIVE JUROR 097: Last year my father-in-law
3 passed away. One of my boys is on the autism spectrum. He doesn't
4 fully comprehend. He understands that grandpa is gone, and he died,
5 but he doesn't process emotion the same way, whereas my other twin
6 boy does. My daughter was two at the time, so she doesn't understand.

7 MS. SUDANO: Okay. But so even in the twin boys there
8 was, sort of, a very different --

9 PROSPECTIVE JUROR 097: Very different response.

10 MS. SUDANO: -- reaction? Would you expect your kids to
11 react the same way to the same situation?

12 PROSPECTIVE JUROR 097: Not at all.

13 MS. SUDANO: And why is that?

14 PROSPECTIVE JUROR 097: They are very different
15 individuals. They learn in different ways. They process things. We have
16 to treat them not as twins but as very much individuals. We must be a
17 lot more patient and explain things repeatedly with my one twin who is
18 on the spectrum. Whereas the one who is more neurotypical, he's ten,
19 he's getting into those pre-teen years where he understands more, and I
20 expect a higher level of maturity from him.

21 MS. SUDANO: Okay. So anybody here that, sort of,
22 disagrees with that idea or has had a different experience where you
23 would expect people to respond to an upsetting, or a sad situation in
24 exactly the same way? I'm seeing no response on that one. Is there
25 anybody here that would automatically disbelieve a person if they didn't

1 respond to a situation in the same way that you would? I'm seeing no
2 response on that one.

3 So does anybody have, kind of, a pre-conceived idea about
4 how a victim who's been affected by some sort of crime like a sexual
5 assault, or sexual abuse, should tell their story, or has to tell their story?
6 Okay. I'm seeing no response on that one.

7 So is there anybody here that would require a victim to act or
8 behave in a particular way in order for you to believe that victim? I'm
9 seeing no response on that one.

10 And Ms. Dusina-Bakken, we'll leave it with you because you
11 have the microphone. Would you require a victim to cry, or to show a
12 certain level of emotion?

13 PROSPECTIVE JUROR 097: No, not at all. Again, everyone
14 responds different. As we heard another potential juror say, she started
15 acting out when she wasn't believed. Some people will cry, some
16 people will act out, some will shut down completely. Grief and trauma
17 are not typical among everybody, and everyone will react differently.
18 You think you know how you're going to react. It's not the same.

19 MS. SUDANO: So you actually just, kind of, brought up an
20 interesting idea that I want to talk about. Have you heard about the idea
21 of fight or flight?

22 PROSPECTIVE JUROR 097: Yes.

23 MS. SUDANO: What does that mean to you?

24 PROSPECTIVE JUROR 097: Well, I know that if someone
25 jumps out and scares me, I'm going to step back; I have the flight

1 response. Whereas my younger sister, she hits. You know, you jump
2 out and scare her, her first thought is to reach out and smack you. She's
3 got the fight response.

4 MS. SUDANO: Okay. So it sounds like in your personal
5 case, you actually do know --

6 PROSPECTIVE JUROR 097: Yeah.

7 MS. SUDANO: -- how you respond?

8 PROSPECTIVE JUROR 097: Yes.

9 MS. SUDANO: But what you were, sort of, saying before that
10 was I think everybody has this idea of how they respond, but you don't
11 necessarily know --

12 PROSPECTIVE JUROR 097: Until you're in that moment.

13 MS. SUDANO: -- until you're in that moment.

14 PROSPECTIVE JUROR 097: Whereas, you know, when I was
15 in a car accident where a drunk driver hit me and then fled the scene, as
16 soon as the first firefighter arrived, my first thing to do is walk up to
17 them and tell them who was in the car, their ages, and how everyone is
18 faring thus far. I shut down and I go into go mode where I don't think
19 about emotion until later. I figure out what the next step is. That for me
20 in a trauma is my solution, whereas I know other people would be sitting
21 on the side of the road crying because they just had their car totaled and
22 they're scared.

23 MS. SUDANO: So your --

24 PROSPECTIVE JUROR 097: Not everyone's response will be
25 the same.

1 MS. SUDANO: Sure. And so you're talking about, kind of, an
2 interesting concept. You're talking about you shut down and you, kind
3 of, go into action mode?

4 PROSPECTIVE JUROR 097: Yes.

5 MS. SUDANO: And then there's other people that might,
6 sort of, be, I guess, paralyzed by the situation?

7 PROSPECTIVE JUROR 097: Yes.

8 MS. SUDANO: All right. So it's not necessarily just fight or
9 flight. There's also, kind of, this third option, this freeze option. Would
10 that sound fair?

11 PROSPECTIVE JUROR 097: Yes.

12 MS. SUDANO: Okay. Anybody that would disagree with
13 that, that people might respond differently, and you might have the fight,
14 the flight, or you might just have people that freeze and shutdown? I
15 don't see anybody on that. Has anybody ever had that experience where
16 you're in, sort of, a stressful situation, and you just froze and didn't know
17 what to do? We've got a couple hands.

18 If we could pass it to Ms. Hausman, badge number 123.

19 PROSPECTIVE JUROR 123: Wendy Hausman, badge number
20 123. It was actually October 1st. And our casino was evacuated for
21 sounds of possible gunshots. And I guess I had ran down our back
22 stairs, froze, didn't know what to do, and everything had blacked out,
23 until one of our coworkers found me and I was about to get trampled on.
24 And he proceeded to help me and get me out of the building safely into
25 the secure location. But I don't remember any of it other than, you know,

1 getting down those stairs and freezing. So -- yeah.

2 MS. SUDANO: Okay. So knowing yourself, would you have
3 expected that to be your reaction?

4 PROSPECTIVE JUROR 123: No.

5 MS. SUDANO: What -- I guess, prior to that, what would you
6 have thought you would have done in a situation like that?

7 PROSPECTIVE JUROR 123: Probably run, because I think I
8 ran, and I froze from what I've been told.

9 MS. SUDANO: Okay. And still to this day you don't really
10 remember?

11 PROSPECTIVE JUROR 123: I don't remember any of it. No.

12 MS. SUDANO: I appreciate that. If you could pass it over to
13 Mr. Ball, 124.

14 You also raised your hand on that one.

15 PROSPECTIVE JUROR 124: Cristoffer Ball, badge number
16 124. When -- before my parents got divorced, they fought a lot. I used to
17 be a very passive person. And when they fought, I would shut down
18 completely. I missed a lot of school because of it.

19 MS. SUDANO: Okay. So was that when you were real
20 young, were you a teenager?

21 PROSPECTIVE JUROR 124: That was the ages of 14 through
22 16.

23 MS. SUDANO: Okay. So you were, I guess, kind of, old
24 enough to understand that your parents were going through a divorce,
25 or headed for a divorce?

1 PROSPECTIVE JUROR 124: Yes, ma'am.

2 MS. SUDANO: So the same question I just, sort of, asked
3 Ms. Hausman. Would you -- before that happened, would you have
4 expected yourself to react that way?

5 PROSPECTIVE JUROR 124: Yes.

6 MS. SUDANO: Okay. So you just, kind of, know yourself
7 well enough to know that that's your response is to just, sort of, shut
8 down?

9 PROSPECTIVE JUROR 124: Yeah, in that situation of conflict,
10 I would shut down at that point in time.

11 MS. SUDANO: I appreciate that response, sir.

12 And then Ms. Argentine I think was the other hand I saw, 035.

13 PROSPECTIVE JUROR 035: Yeah. I think there's many
14 instances where I froze. One was when I got in a car accident and I was
15 rear-ended. I just remember literally freezing and sitting in the car until
16 the guy in front of me, like, came to check on me. And I guess I was
17 surprised at freezing. I think looking at it now, I'm surprised I didn't go
18 to, like, fight mode. So it was unexpected.

19 MS. SUDANO: I appreciate that one, ma'am.

20 Anybody here that would hold it against somebody if they
21 went into, sort of, a different reaction mode? So if you're a fighter and
22 you heard that somebody fled, or if you're somebody that would flee,
23 and you heard that somebody else froze would you hold it against them
24 because they responded differently than you think that you would in a
25 stressful situation? Seeing no response on that one.

1 All right. So there might be some witnesses in this particular
2 case who testify with the use of an interpreter. Is there anybody here
3 that would hold it against a witness if they testified through the aid of an
4 interpreter? Seeing no response on that one. Is there anybody here that
5 would automatically discount or disbelieve what a witness had to say if
6 they used the aid of an interpreter? Seeing no response on that one.

7 Is there anybody here that disagrees with the idea that the
8 law protects everyone equally?

9 Ms. Zupan, badge number 135.

10 PROSPECTIVE JUROR 135: Sometimes I don't necessarily -- I
11 think they target people. I -- in my experience, I feel like not everyone is
12 necessarily treated the same.

13 MS. SUDANO: Would you agree with me that one of the
14 ideas of our country though is that everyone should be treated equally?

15 PROSPECTIVE JUROR 135: Should be, yes. Do I think that
16 we are? No.

17 MS. SUDANO: Okay. Anybody else that shares, sort of, that
18 same idea?

19 Mr. Currie, and then I'll come up to the front row.

20 PROSPECTIVE JUROR 165: Yeah, I would agree with that
21 statement.

22 MS. SUDANO: Would you also agree with the idea though
23 that the law is supposed to --

24 PROSPECTIVE JUROR 165: Well, yeah, absolutely it's
25 supposed to. But just because it's supposed to do something doesn't

1 mean it will.

2 MS. SUDANO: Would you agree though that the law is
3 meant to protect even people that you may disagree with their opinions,
4 their lifestyles, things like that?

5 PROSPECTIVE JUROR 165: Yes.

6 MS. SUDANO: Anybody here that would disagree with that
7 idea that the law is meant to protect everyone, even if you personally
8 disagree with their lifestyle or their disciplines?

9 If you can pass it up to Mr. Noyce.

10 PROSPECTIVE JUROR 071: Adam Noyce, badge number 71.
11 Maybe I'm misinterpreting your question, but I personally have a
12 disagreement with the way that the 14th clause of the Bill of Rights -- the
13 14th Amendment, excuse me, is interpreted. But I understand that that's
14 the way it is interpreted, so I simply agree with it.

15 MS. SUDANO: Okay. So --

16 PROSPECTIVE JUROR 071: I believe everyone has equal
17 protection under the law, of course, and should have it. But --

18 MS. SUDANO: Okay. So thankfully for you, this is not a 14th
19 Amendment case.

20 PROSPECTIVE JUROR 071: I didn't think it was.

21 MS. SUDANO: But we were talking to some folks yesterday
22 about the idea if you're presented with instructions in this case or the
23 law by the judge in this case, even if you personally disagree with what
24 the instructions say, you think that the law ought to be something
25 different, would you be able to set aside that opinion and just focus on

1 the law and the instructions and follow those as they're given to you by
2 the judge?

3 PROSPECTIVE JUROR 071: Oh certainly.

4 MS. SUDANO: Okay. I appreciate that.

5 And then, Mr. Chiapparelli, badge number 068.

6 PROSPECTIVE JUROR 068: Warren Chiapparelli, 68. I just
7 agree with the statements that were given behind me, as well. I think
8 they are intended to, but I don't feel that they always are.

9 MS. SUDANO: Okay. I appreciate that.

10 And then Ms. Harvey, badge number 086 was our other hand
11 on that particular one.

12 PROSPECTIVE JUROR 086: I work for Dillard's and we have a
13 lot of theft. And I see how loss prevention, they profile certain people.
14 That's it.

15 MS. SUDANO: Okay. So anything about that particular
16 opinion or observation that you think would affect your ability to be fair
17 and impartial here?

18 PROSPECTIVE JUROR 086: No.

19 MS. SUDANO: Okay. So let me, kind of, ask you this idea.
20 So you're talking about the fact that the law should protect everyone the
21 same, and that the law works to protect people even if you disagree with
22 their opinions or their lifestyle. Do you agree with that; that it should
23 protect everyone even if you personally disagree with their opinions or
24 their lifestyle?

25 PROSPECTIVE JUROR 086: It should.

1 MS. SUDANO: Okay. So let me give you an example on that
2 one. Do you think that it's okay for someone to rob a prostitute of
3 money just because a prostitute may have done something, kind of,
4 illegal to earn that money in the first place?

5 PROSPECTIVE JUROR 086: No.

6 MS. SUDANO: Okay. So you'd agree with me then that a
7 prostitute should still have protection as a victim of a crime like that?

8 PROSPECTIVE JUROR 086: Yes.

9 MS. SUDANO: Okay. Anybody that disagrees with that
10 particular idea? Seeing no response on that.

11 So even if we're talking about a member of, sort of, a
12 marginalized population, or somebody that may have done something
13 wrong in the first place, the law is still meant to protect them. Would
14 anybody disagree with that? Okay. Seeing no responses on that one.

15 We've had responses from a couple of folks, but have any
16 members of our panel up here ever had themselves, or a close family
17 member or friend be involved with domestic violence? Okay.

18 And can we go up all the way back to Ms. Hausman, 123.

19 PROSPECTIVE JUROR 123: Wendy Hausman, 123. My
20 parents divorced when I was nine. They would get into some huge
21 physical fights.

22 MS. SUDANO: Was that something that went on for, kind of,
23 a long period of time before they split up?

24 PROSPECTIVE JUROR 123: I don't really remember. But to a
25 kid, yes. You know, time is different for kids and adults I think. So to

1 me, it seemed like a long time. But I don't think in fact it really was.
2 Maybe, you know, a few months.

3 MS. SUDANO: Oh okay. So certainly not your entire
4 childhood as you remember it?

5 PROSPECTIVE JUROR 123: No.

6 MS. SUDANO: Okay. Was it, kind of, both of them back and
7 forth, or was there one that was more violent than the other?

8 PROSPECTIVE JUROR 123: I would say my mom was
9 probably a little more violent than my dad. But they would both get into
10 it big time.

11 MS. SUDANO: Okay. Were the police ever involved in that?

12 PROSPECTIVE JUROR 123: I think there was one time that
13 the police was called, yeah.

14 MS. SUDANO: Do you know what happened the time that
15 the police were called?

16 PROSPECTIVE JUROR 123: It was nighttime. That's all I
17 remember. I was nine. I don't really remember too much. So --

18 MS. SUDANO: Were you, kind of, shielded from --

19 PROSPECTIVE JUROR 123: Yeah.

20 MS. SUDANO: -- from that? Okay. Anything about that
21 experience that you had, and I'm just talking about that, that you think
22 would affect your ability to be fair and impartial here?

23 PROSPECTIVE JUROR 123: No, not with the domestic
24 violence.

25 MS. SUDANO: Okay. And can you pass it over to Mr. Ball,

1 badge number 124.

2 PROSPECTIVE JUROR 124: Thank you. A close friend of
3 mine, she knew me since I was born really. When her and her husband
4 were still together -- they have -- they're divorced now, but the husband
5 threw a lot of things at her. She had a lot of bruises. I didn't have
6 particularly a front seat to it, but I did see the bruises on her and the
7 abuse.

8 MS. SUDANO: Was that something that just happened one
9 time, or did it happen, kind of, more than once over a period of time?

10 PROSPECTIVE JUROR 124: Multiple times over I believe a
11 year and a half.

12 MS. SUDANO: Okay. Do you know whether the police were
13 ever involved in that particular situation?

14 PROSPECTIVE JUROR 124: I believe so. I think that they put
15 her under protective custody for a couple days.

16 MS. SUDANO: So you said that that took place over you said
17 over you think about a year and a half.

18 PROSPECTIVE JUROR 124: Uh-huh.

19 MS. SUDANO: Is that a yes?

20 PROSPECTIVE JUROR 124: Yes.

21 MS. SUDANO: Did she stay in that relationship for that
22 entire year and a half to your knowledge?

23 PROSPECTIVE JUROR 124: Yes, she did.

24 MS. SUDANO: Did you ever have conversations with her
25 about hey, why are you staying?

1 PROSPECTIVE JUROR 124: No, I did not. I was still young at
2 the point.

3 MS. SUDANO: Do you have any idea why it was that she did
4 stay in the relationship?

5 PROSPECTIVE JUROR 124: I think that she cared for him too
6 much.

7 MS. SUDANO: Did you ever talk about it, kind of, after that
8 relationship ended?

9 PROSPECTIVE JUROR 124: No. She doesn't like to talk
10 about it.

11 MS. SUDANO: Did you see her as much when she was in
12 that relationship as you did before or after?

13 PROSPECTIVE JUROR 124: No, I think that it was pretty
14 consistent throughout.

15 MS. SUDANO: Okay. And then you talked there was -- you
16 said your parents had a divorce. Was there ever domestic violence
17 during -- in your parents' situation, or not to your knowledge?

18 PROSPECTIVE JUROR 124: Not to my knowledge.

19 MS. SUDANO: Thank you. I appreciate it.

20 Anybody else in the back row? If you could pass it down to
21 Ms. Carothers, badge number 131.

22 PROSPECTIVE JUROR 131: When I was young child my
23 mother had a boyfriend who was very abusive.

24 MS. SUDANO: Was that directed at your mother?

25 PROSPECTIVE JUROR 131: It was basically directed at the

1 entire family.

2 MS. SUDANO: Okay. So not just your mother?

3 PROSPECTIVE JUROR 131: No.

4 MS. SUDANO: Okay. Were you wrapped up in that, as well?

5 PROSPECTIVE JUROR 131: Some. A little bit, yes.

6 MS. SUDANO: How long was your mother --

7 PROSPECTIVE JUROR 131: About two years.

8 MS. SUDANO: Okay. And did that person live with your
9 family?

10 PROSPECTIVE JUROR 131: Yes.

11 MS. SUDANO: Okay. So did your mom stay in that
12 relationship with --

13 PROSPECTIVE JUROR 131: I think she stayed a little bit
14 longer than she should have because I think she was, kind of, scared of
15 the situation and leaving him. So yeah.

16 MS. SUDANO: Okay. How old were you at the time?

17 PROSPECTIVE JUROR 131: I was between the ages of seven
18 and ten.

19 MS. SUDANO: Were you, I guess, kind of, involved in those
20 conversations about whether your mom was going to stay or go, or were
21 you too young?

22 PROSPECTIVE JUROR 131: I would say I was too young.

23 MS. SUDANO: Okay. Is that something that you talked to
24 your mom about as you got a little bit older after that relationship
25 ended?

1 PROSPECTIVE JUROR 131: We, kind of, buried of it, yeah.
2 No, we did not talk about it very much. It was, kind of, something that
3 we had gotten through and we're going to bury it basically.

4 MS. SUDANO: Okay. Any particular reason why it was
5 decided, I guess, amongst yourself and your family to, kind of, bury that
6 instead of talking about it?

7 PROSPECTIVE JUROR 131: Good question. It was just, like, I
8 don't -- I think it was we didn't want to drudge it up because it was a
9 painful experience and it was something that we didn't want to dwell on,
10 I guess. And my mother was involved in another relationship, so it was
11 not something that -- I don't know. The page turned, I guess, is what you
12 would say.

13 MS. SUDANO: So was that relationship -- was it always
14 physical abuse, or was there, kind of, other stuff going on?

15 PROSPECTIVE JUROR 131: It was a lot of intimidation and,
16 kind of, like, intimidation that physical abuse might happen if you
17 weren't, like, completely perfect. That's what I would say.

18 MS. SUDANO: And was that directed at your mom, or was
19 that directed at you?

20 PROSPECTIVE JUROR 131: Mostly at the children. I mean,
21 he even beat up my dog, so it was something, like, it was, kind of, like,
22 encompassing everything.

23 MS. SUDANO: And was that, sort of, always what was going
24 on in the house, or were there periods where things were, kind of, calm
25 and okay?

1 PROSPECTIVE JUROR 131: When he wasn't there it was
2 calm and okay.

3 MS. SUDANO: I appreciate your responses on that, ma'am.
4 Anybody in the middle row that has had experience? And
5 we'll go backwards because you've got the microphone.

6 Ms. Velasquez, 051.

7 PROSPECTIVE JUROR 051: Yeah. Alexis Velasquez, 51.
8 Yeah, my father was -- or when I was younger -- well, my parents have
9 always been separated. They separated when I was a child, when I was,
10 like, two years old, so I've always lived with my mom. But I would live
11 with him maybe every other weekend, so not a whole lot. But when I
12 was a child, I know that for a fact that he would be very abusive towards
13 his -- not his -- I mean, they were never -- they have never been married,
14 but I guess his spouse.

15 MS. SUDANO: So the woman that he ended up with after
16 your mother?

17 PROSPECTIVE JUROR 051: A few women after my mother.

18 MS. SUDANO: Oh okay. Was that something that would
19 ever happen while you were in the home visiting you father?

20 PROSPECTIVE JUROR 051: Yes.

21 MS. SUDANO: Do you know whether that was something
22 that happened just one time, or whether it was something that happened
23 multiple times?

24 PROSPECTIVE JUROR 051: I witnessed it multiple times.

25 MS. SUDANO: Okay.

1 PROSPECTIVE JUROR 051: And I wasn't there -- like I said, I
2 wasn't there, like, all the time. I was there, like, maybe one weekend out
3 of a month -- maybe one weekend a month. But every time I was there, I
4 would witness something like that. And I would have to call my mom to
5 pick me up because I said hey, he's going at it, can you come pick me
6 up? And that's, kind of, what it was.

7 MS. SUDANO: Do you know whether those partners that he
8 had, sort of, stayed in those relationships for a while, or whether it got
9 violent and then it ended?

10 PROSPECTIVE JUROR 051: The relationship that I witnessed
11 that, he's been with her for years. He's still with her now.

12 MS. SUDANO: Okay.

13 PROSPECTIVE JUROR 051: About I want to say maybe 12
14 years.

15 MS. SUDANO: And do you know if the police were ever
16 involved in that situation?

17 PROSPECTIVE JUROR 051: No, never.

18 MS. SUDANO: Okay. Any -- do you have any insight into
19 why the police were never involved?

20 PROSPECTIVE JUROR 051: I think she's just more very
21 dependent on him because she is not a legal citizen, and she's never
22 worked here, she doesn't know how to -- she doesn't drive, she doesn't
23 speak English. And I feel she's just afraid. And she's, kind of,
24 comfortable where she's at, so I believe that's why maybe the police
25 have never been involved.

1 MS. SUDANO: And so you mentioned that at least through
2 your eyes, she's, sort of, dependent on the situation and frightened as far
3 as, kind of, going out on her own?

4 PROSPECTIVE JUROR 051: Back then I feel like she was very
5 frightened. Right now I believe the relationship has, kind of, evolved and
6 he's not physically abusive to what I have seen and to what I have heard
7 from family members. But he still maybe, kind of, is intimidating, but
8 not physically. Maybe I think it's evolved to a point where it's not
9 physical anymore.

10 MS. SUDANO: And you said that he's, sort of, intimidating
11 as far as his relationship with his spouse?

12 PROSPECTIVE JUROR 051: Yes.

13 MS. SUDANO: Okay. What do you mean by that?

14 PROSPECTIVE JUROR 051: I just feel like -- I don't go too
15 often because my father lives in my grandmother home. So if I want to
16 see my grandmother or my younger siblings that he has with his spouse,
17 I have to go to that house and he's there. So I don't necessarily go visit
18 him; I go visit my family. And just by what I see, it just, kind of, feels like
19 everybody tiptoes around him, like, they're walking on eggshells. Like,
20 nobody says anything, but it just, kind of, feels that way. Like, when he's
21 in the room it just feels, kind of, like there's tension.

22 MS. SUDANO: And I appreciate your answers on that one,
23 and I should've asked a couple other folks. Anything about that
24 experience with your father that you think would affect your ability to be
25 fair and impartial here?

1 PROSPECTIVE JUROR 051: Not at all.

2 MS. SUDANO: Okay.

3 PROSPECTIVE JUROR 051: I think that that, kind of, makes
4 me feel, like, more -- like, I can -- I'm more open-minded because I've -- I
5 don't know, I kind of see why somebody would stay in that relationship.
6 But I, kind of, see like the reason why they should go, too. I, kind of --
7 you know, it's tough. It's a tough situation. You can't really judge
8 someone for staying or for leaving.

9 MS. SUDANO: I appreciate your responses on that one. Can
10 you pass it back real quick just because I forgot to ask Ms. Carothers,
11 badge number 131.

12 PROSPECTIVE JUROR 131: Yes.

13 MS. SUDANO: Anything about your experiences with your
14 mom that you think would affect your ability to be fair and impartial?

15 PROSPECTIVE JUROR 131: No. No. Like she said, it -- I feel
16 like it, kind of, gives me a more rounded experience of seeing what other
17 people might deal with. But I -- I will not jump to conclusions about
18 whether that would occur to someone. I would have to take in evidence.

19 MS. SUDANO: I appreciate that.

20 And then any -- who else in that second row had hands up on
21 that one? Okay. If we can go over to Ms. Zupan, 135. Oh sorry, Mr. Ball,
22 124, first.

23 PROSPECTIVE JUROR 124: I just wanted to let you know that
24 I will be in part on -- by no means necessary would that affect me being
25 impartial.

1 MS. SUDANO: Okay. Thank you. I appreciate that.

2 And then up to Ms. Zupan, 135.

3 PROSPECTIVE JUROR 135: I had an ex-boyfriend. He was
4 living in my house. And I had seen some aggression previously, but
5 never towards me. And then one night he punched me and choked me.
6 And then the next day I changed the locks because I'll be damned if
7 anyone ever puts their hands on me.

8 MS. SUDANO: Okay.

9 PROSPECTIVE JUROR 135: So --

10 MS. SUDANO: And so it sounds like you were able to get out
11 of that situation very quickly?

12 PROSPECTIVE JUROR 135: Yeah, immediately.

13 MS. SUDANO: Would you hold it against somebody who
14 stayed in that situation?

15 PROSPECTIVE JUROR 135: I just feel like for me personally,
16 like, I don't understand it because I've always just been very
17 independent, and I've just always had the vision of the life that I want.
18 And I never would want -- I don't really understand how a woman can
19 put up with this when we have so many options now. Like, it doesn't
20 make sense to me.

21 MS. SUDANO: Okay. Would you agree with me that maybe
22 not everyone has as many options as you did at the time thankfully?

23 PROSPECTIVE JUROR 135: Yeah. But I just think you have
24 to figure out the life you want to live. And you know, you've had to have
25 seen that behavior before. And then if it gets physically abusive it's like

1 why would you ever want to stay with a person like that.

2 MS. SUDANO: All right. Thank you, ma'am. I appreciate
3 that.

4 Any other responses in that row? Ms. Argentine, 035.

5 PROSPECTIVE JUROR 035: Kathryn Argentine, 35. A couple
6 different ones. I'll just start with my father was abusive to my mother all
7 throughout middle school and high school. The police were never
8 involved because he was an officer, so she feared to call police on him.
9 And she stayed in the relationship because there were four children and
10 she thought she should stay. My brothers, both of them, have had
11 domestic issues with police during their high school ages.

12 And then I have had a boyfriend that was abusive to me.
13 And I got a restraining order against him for five years, and then it
14 expired. And I don't live in that state anymore. No, I don't think it would
15 affect me being impartial because of what the potential jurors said. Like,
16 it gives you a -- they're all different experiences, and everybody reacts
17 differently, and every situation is different.

18 MS. SUDANO: Okay. Thank you. I appreciate that.

19 All right. Anybody in this third row sitting on the floor? Any
20 hands on that one?

21 Ms. Kennedy? Oh sorry. All right.

22 Anybody in this front row here?

23 All right. Seeing no responses.

24 THE COURT: All right. We're going to take a short recess.

25 Hopefully they'll work on the air conditioning. We need the doors closed

1 because of the sounds but I know it's heating up and not a lot I can tell
2 you. The county doesn't pay their bills.

3 During this recess, you're admonished do not talk or
4 converse amongst yourselves or with anyone else on any subject
5 connected with this trial, or read, watch, or listen to any report of or
6 commentary on the trial, or any person connected with this trial by any
7 medium of information including without limitation newspapers,
8 television, radio or internet. Do not form or express any opinion on any
9 subject connected with this trial until the case is finally submitted to you.
10 Don't -- I've had jurors say oh why are they asking those questions.
11 Don't talk about the case, please. Have a -- take ten minutes.

12 THE MARSHAL: I will come and get you when we're ready to
13 go.

14 [Prospective jurors out at 10:41 a.m.]

15 THE MARSHAL: Please be seated.

16 THE COURT: Name and badge number?

17 PROSPECTIVE JUROR SIMPSON 059: Yeah, Christina
18 Simpson Fane, 0059.

19 THE COURT: Oh okay. You had the wrong badge number.

20 THE MARSHAL: I'm sorry.

21 THE COURT: Because I couldn't find you. You arrived
22 somewhat late.

23 PROSPECTIVE JUROR SIMPSON 059: Yes, sir, I did. May I
24 explain?

25 THE COURT: I don't think you missed --

1 PROSPECTIVE JUROR SIMPSON 059: Because I would've
2 been the first one here.

3 THE COURT: -- a lot of questioning. But we do need you to
4 be on time if you're chosen. I want to stand because we're taking a
5 break. Anyway, but we will -- if you're in the box -- and by the way --

6 UNIDENTIFIED SPEAKER: She [indiscernible].

7 THE COURT: What's that?

8 UNIDENTIFIED SPEAKER: We put someone else in.

9 THE COURT: Oh is that -- that's who I thought. Okay. So
10 she's the one we did replace.

11 UNIDENTIFIED SPEAKER: Because she was late.

12 THE COURT: Yeah. Okay.

13 PROSPECTIVE JUROR SIMPSON 059: Okay. Well, I have
14 something to say. Like, I got off at 6 o'clock this morning. I think I'm
15 going to be getting off this whole week.

16 THE COURT: It's okay. We're going to thank you for being
17 here and excuse you.

18 PROSPECTIVE JUROR SIMPSON 059: You're awesome.

19 THE COURT: So -- okay. Thank you. You can go.

20 PROSPECTIVE JUROR SIMPSON 059: Thank you.

21 THE COURT: All right.

22 THE MARSHAL: Ms. Fane, don't say anything to any of the
23 other jurors as you're leaving.

24 PROSPECTIVE JUROR SIMPSON 059: Sure won't.

25 THE COURT: Yes, thank you.

1 Okay. She's the one we did replace, so fine. Yeah. When
2 you put the number, I couldn't even find it on there. So -- okay.
3 Anything outside the presence?

4 MS. SUDANO: No, Your Honor.

5 MS. MACHNICH: No, Your Honor.

6 THE COURT: All right.

7 [Recess taken from 10:45 a.m. to 10:59 a.m.]

8 [Prospective jurors in at 11:02 a.m.]

9 THE MARSHAL: Please rise for the jury.

10 THE COURT: All right. Please be seated.

11 The parties acknowledge the presence of the venire?

12 MS. SUDANO: Yes, Your Honor.

13 MR. SPEED: The Defense does, Your Honor. Thank you.

14 THE COURT: Thank you. You may continue.

15 MS. SUDANO: Thank you, Your Honor.

16 Where's the microphone? Okay. Good. Could you give it
17 one over to Ms. Lacy, badge number 054.

18 Ms. Lacy, you've been very quiet. You haven't talked to us at
19 all the last couple of days, so I'm going to ask you a couple of questions.

20 PROSPECTIVE JUROR 054: Okay.

21 MS. SUDANO: So, I was asking folks a little bit earlier, I think
22 the entire panel, whether there was anybody that would have issues with
23 witnesses using an interpreter. Were you somebody who would have
24 any issues with that?

25 PROSPECTIVE JUROR 054: No.

1 MS. SUDANO: What if you were to learn that some of the
2 witnesses in the case may not be United States citizens, would that be an
3 issue for you?

4 PROSPECTIVE JUROR 054: No.

5 MS. SUDANO: Why is that?

6 PROSPECTIVE JUROR 054: I just want to treat everybody as
7 equals, regardless of where they're coming from. So, I would just keep
8 an open mind and just listening to all of the facts and what's taking
9 place.

10 MS. SUDANO: So, you feel like you're somebody that would
11 be comfortable just sort of setting that aside and taking everything in
12 order to reach your verdict?

13 PROSPECTIVE JUROR 054: Yes.

14 MS. SUDANO: Now, do you think you would be a good
15 juror?

16 PROSPECTIVE JUROR 054: I guess so.

17 MS. SUDANO: Why do you say that?

18 PROSPECTIVE JUROR 054: I don't know. I'd just keep an
19 open mind. I don't know.

20 MS. SUDANO: I appreciate that. If you could turn it over to
21 Mr. Coleman, 050.

22 You've also been really quiet, Mr. Coleman.

23 PROSPECTIVE JUROR 050: I'm taking it all in.

24 MS. SUDANO: Okay. Are you somebody that would have
25 any issues if you learned that some of the witnesses would not be United

1 States citizens?

2 PROSPECTIVE JUROR 050: Not at all.

3 MS. SUDANO: Why is that?

4 PROSPECTIVE JUROR 050: Well, the fact that they are from
5 here or from somewhere else is kind of irrelevant to the situation. We're
6 talking about a human being and somebody that's involved in a certain
7 situation. Where this come from is kind of irrelevant to me.

8 Where they're lineage is kind of -- it's not the point. It's not
9 really relevant to me.

10 MS. SUDANO: Okay. And do you feel that you'd be kind of
11 comfortable listening to the evidence, keeping an open mind and --

12 PROSPECTIVE JUROR 050: Absolutely. I'm an observer. I'm
13 a listener. That's -- I was raised that way. I'm a commonsense guy.

14 MS. SUDANO: So, because you are a listener, do you think
15 you would have any issues going back and deliberating with 11 folks that
16 you don't know?

17 PROSPECTIVE JUROR 050: Not at all. Not at all.

18 MS. SUDANO: All right. And I think you were one of our
19 folks that said that you were excited to be here.

20 PROSPECTIVE JUROR 050: Very excited about it when I got
21 it. Absolutely.

22 MS. SUDANO: Still excited?

23 PROSPECTIVE JUROR 050: Absolutely.

24 MS. SUDANO: Okay.

25 PROSPECTIVE JUROR 050: Absolutely. It -- whole thing has

1 been very fascinating. I'm -- yes.

2 MS. SUDANO: Okay. I appreciate that.

3 Can you pass it next to you to Mr. Eschardies, badge number
4 166.

5 PROSPECTIVE JUROR 166: Hi.

6 MS. SUDANO: Hi. So, you've also been pretty quiet
7 throughout the process. Do you think that you're somebody that would
8 be able to keep an open mind and deliberate with everybody else in this
9 particular case?

10 PROSPECTIVE JUROR 166: Absolutely.

11 MS. SUDANO: Do you think that you would be a good juror?

12 PROSPECTIVE JUROR 166: I feel I would. I'd be fair.

13 MS. SUDANO: Okay. And anything, other than the fact that
14 you'd be fair that makes you think that you would be a good juror?

15 PROSPECTIVE JUROR 166: I'd definitely take in all the facts
16 and go from there.

17 MS. SUDANO: Okay. So, I talked with some folks about the
18 idea of being able to kind of weigh credibility of witnesses. What are
19 some of the things that you would look to in order to weigh the
20 credibility of witnesses?

21 PROSPECTIVE JUROR 166: I'd probably just listen to what
22 they say and just take in the facts --

23 MS. SUDANO: Okay.

24 PROSPECTIVE JUROR 166: -- or at least, hopefully, the facts.

25 MS. SUDANO: Is there anything in addition to what

1 somebody says that you might consider; for instance, would you
2 consider how they said it?

3 PROSPECTIVE JUROR 166: No.

4 MS. SUDANO: Would you consider the demeanor in which it
5 was being said?

6 PROSPECTIVE JUROR 166: No.

7 MS. SUDANO: Okay. And why don't you think that things
8 like that are important?

9 PROSPECTIVE JUROR 166: Because that's, obviously, how
10 they want to say it to put their point across, and, you know --

11 MS. SUDANO: Okay. So, things like that, as far as demeanor
12 and how people portray information, do you think that that's always
13 something that people can control or is some of it somewhat
14 involuntary?

15 PROSPECTIVE JUROR 166: Oh, some of it is involuntary.

16 MS. SUDANO: Like what?

17 PROSPECTIVE JUROR 166: Like if -- for instance, you
18 brought up the interpreter part. That's -- I mean, that's nature. If they
19 don't know the language and they have to have assistance that's fine
20 with me, you know.

21 MS. SUDANO: So, that might also make it a little bit more
22 difficult to kind of understand tone if it's coming through an interpreter.
23 Would you agree with me on that?

24 PROSPECTIVE JUROR 166: It shouldn't be.

25 MS. SUDANO: Okay. Is that something that would make it

1 more difficult for you or would it just be something that you kind of took
2 as part of the whole package?

3 PROSPECTIVE JUROR 166: I'd take it in.

4 MS. SUDANO: Okay. I appreciate that. It you pass it next
5 door to Ms. Schultz.

6 PROSPECTIVE JUROR 045: Hi.

7 MS. SUDANO: Hi. Is it kind of funny that the two of you
8 ended up sitting right next to each other?

9 PROSPECTIVE JUROR 045: It is.

10 MS. SUDANO: And I don't know if I said it -- 045.

11 PROSPECTIVE JUROR 045: Yes, Arlene Schultz.

12 MS. SUDANO: So, Ms. Schultz, what are some of the things
13 that you would look to in order to, I guess, kind of assess the credibility
14 of a witness?

15 PROSPECTIVE JUROR 045: Their actions, body language,
16 you know, some of the information that's given.

17 MS. SUDANO: And so we talked before about the idea that,
18 you know, people react differently to the same situation. So, while
19 you're looking at demeanor and body language and things like that, do
20 you have any sort of expectations about what somebody's demeanor or
21 body language should be?

22 PROSPECTIVE JUROR 045: No. No.

23 MS. SUDANO: So, you're sort of willing to take it in, but it's
24 not this person has to react this way or behave this way?

25 PROSPECTIVE JUROR 045: Right. Right.

1 MS. SUDANO: Okay. Anybody that disagrees with
2 Ms. Schultz on that?

3 Seeing no response on that one.

4 Can you pass it back for me to Mr. Hedges, 130.

5 You're another one that's been really quiet, sir. So, how
6 would you weigh sort of the credibility? What types of things would you
7 be looking at?

8 PROSPECTIVE JUROR 130: I don't really know. I'd have to
9 see it and just kind of go with my gut, I guess.

10 MS. SUDANO: Okay. And do you feel like you're a pretty
11 good judge of character?

12 PROSPECTIVE JUROR 130: I think so.

13 MS. SUDANO: And you think you would be a good juror?

14 PROSPECTIVE JUROR 130: Sure. Yes.

15 MS. SUDANO: What makes you say, "Sure"?

16 PROSPECTIVE JUROR 130: I don't know. I don't have any
17 biases, nothing like that, so I'm open to just seeing what the evidence is
18 and -- yeah.

19 MS. SUDANO: And I appreciate that.

20 So, while I've got the microphone back there with you, sir,
21 you mentioned your wife works for a foster care agency?

22 PROSPECTIVE JUROR 130: Yeah. She works for SAFY; it's
23 like a foster care place for abused children and -- yeah.

24 MS. SUDANO: Okay. And you have children of your own?

25 PROSPECTIVE JUROR 130: Yes.

1 MS. SUDANO: You're another one with twins?

2 PROSPECTIVE JUROR 130: Yeah, twin girls.

3 MS. SUDANO: And they're how old?

4 PROSPECTIVE JUROR 130: Five.

5 MS. SUDANO: Okay. So, I was asking Ms. Dusina-Bakken
6 earlier about her twins and whether her twins always react to the same
7 situation in the same way.

8 What about your 5-year-olds, do they always react the same
9 way?

10 PROSPECTIVE JUROR 130: Pretty much. They're identical
11 twins, so they're, like -- yeah, they're two peas in a pod so they do pretty
12 much the same thing.

13 MS. SUDANO: All right. So, they are actually identical --

14 PROSPECTIVE JUROR 130: Yeah.

15 MS. SUDANO: -- in personality and everything, too?

16 PROSPECTIVE JUROR 130: Yeah, one egg.

17 MS. SUDANO: Do you think that that would be something
18 that would kind of change as they got a little bit older?

19 PROSPECTIVE JUROR 130: Yeah, it could.

20 MS. SUDANO: Would you expect them to sort of, even as
21 they're teenagers, then there's boyfriends and fights and all the things to
22 be had, once they're teenagers, would you still expect them to react to
23 everything exactly the same way?

24 PROSPECTIVE JUROR 130: No. No.

25 MS. SUDANO: Would you find it unusual if one reacted one

1 way and the other one reacted differently to a situation?

2 PROSPECTIVE JUROR 130: No.

3 MS. SUDANO: Why is that?

4 PROSPECTIVE JUROR 130: Eventually they're going
5 to -- they're around each other all the time right now, but later down the
6 line, they're going to get their own personalities, make their own friends.

7 MS. SUDANO: And that will kind of come as they get older
8 and have a little bit more experiences outside of just each other?

9 PROSPECTIVE JUROR 130: Yeah, I would assume.

10 MS. SUDANO: Now, do you have, or have you had any
11 foster care -- or foster children in your own home?

12 PROSPECTIVE JUROR 130: No.

13 MS. SUDANO: Okay. Is that something that's part of your
14 wife's job or she kind of does the foster work during the day and --

15 PROSPECTIVE JUROR 130: She does mostly just billing. She
16 deals with some of the kids, but, yeah, mostly just billing.

17 MS. SUDANO: Okay. And you said that it's typically children
18 that have been abused that end up in this particular foster care agency;
19 is that correct?

20 PROSPECTIVE JUROR 130: Yeah, it's mostly that have been
21 taken away for, like, sexual abuse or all sorts of crazy stuff.

22 MS. SUDANO: Does she typically talk about work when she
23 comes home?

24 PROSPECTIVE JUROR 130: She does, yeah.

25 MS. SUDANO: Anything about the experiences that she may

1 have shared through her work with the foster care system that you think
2 would affect your ability to be fair and impartial here?

3 PROSPECTIVE JUROR 130: No, I don't think so.

4 MS. SUDANO: Okay. Can you pass it over a couple of seats
5 to Mr. Collins, 005.

6 PROSPECTIVE JUROR 005: William Collins, 005.

7 MS. SUDANO: Hello, sir.

8 So, you mentioned, I think yesterday that your wife is a first-
9 grade teacher?

10 PROSPECTIVE JUROR 005: Uh-huh.

11 MS. SUDANO: Is that a yes?

12 PROSPECTIVE JUROR 005: Yes, that is.

13 MS. SUDANO: How long has she been teaching?

14 PROSPECTIVE JUROR 005: She's been over at M.J.

15 Christiansen for 17 years.

16 MS. SUDANO: And has she always taught first grade?

17 PROSPECTIVE JUROR 005: Yep.

18 MS. SUDANO: If you know, what is it that drew her to first
19 graders, to kids that age?

20 PROSPECTIVE JUROR 005: I think at the time when the kids
21 were little and she just really loved it, so, you know.

22 MS. SUDANO: Your own kids were little?

23 PROSPECTIVE JUROR 005: Yeah, when they were that age
24 she started teaching and she likes treating everybody likes first graders.

25 MS. SUDANO: I don't even -- so, does your wife ever kind of

1 come home and talk about work or talk about what's going on?

2 PROSPECTIVE JUROR 005: A little bit, yeah. And she's dealt
3 with Child Protective Services, but I wouldn't know names or -- a lot of
4 stuff I kind of hear, and I don't pay attention to. I mean, honestly, you
5 know what I mean?

6 MS. SUDANO: We're going to get your wife's name and
7 we're going to settle this.

8 PROSPECTIVE JUROR 005: Karen Collins.

9 MS. SUDANO: No, all kidding aside, sir.

10 So, she kind of comes home and she talks to you about work
11 and you know that she's had cases that are -- or students that have been
12 involved with CPS. Anything about those conversations that you've had
13 with your wife or her experiences that you think would affect your ability
14 to be fair and impartial here?

15 PROSPECTIVE JUROR 005: No, I don't think so, because
16 every case is -- every situation is a different situation, you know.

17 MS. SUDANO: And I appreciate that, sir. While we're over in
18 this corner, can you pass it up to Ms. Rutledge, 027.

19 Hello, Ms. Rutledge. How are you today?

20 PROSPECTIVE JUROR 027: I'm good. How are you?

21 MS. SUDANO: Good, thank you.

22 So, you mentioned yesterday -- I don't even know what day it
23 is anymore, I'm sorry -- that you had an uncle, who I think worked for
24 Metro --

25 PROSPECTIVE JUROR 027: Uh-huh.

1 MS. SUDANO: -- and then also for the school district; is that
2 right?

3 PROSPECTIVE JUROR 027: Yes.

4 MS. SUDANO: Is he a uniformed officer?

5 PROSPECTIVE JUROR 027: Yes, he is.

6 MS. SUDANO: Does he do overtime work with the school
7 district or how's that work?

8 PROSPECTIVE JUROR 027: I believe that -- well, he started
9 off doing the school police and it went up to working for Metro. So, now
10 he just does the school police during the school year and works with
11 Metro when -- over the summer break.

12 MS. SUDANO: Oh, I see, okay.

13 Is he assigned to a particular school, do you know?

14 PROSPECTIVE JUROR 027: He is, but I can't remember the
15 school.

16 MS. SUDANO: Okay. Elementary? Middle? High school?

17 PROSPECTIVE JUROR 027: High school.

18 MS. SUDANO: Are you fairly close with your uncle?

19 PROSPECTIVE JUROR 027: Not anymore.

20 MS. SUDANO: Were you close growing up?

21 PROSPECTIVE JUROR 027: Yeah. We're only 11 years apart,
22 so he was like a big brother to me.

23 MS. SUDANO: I gotcha.

24 Anything negative that happened or just kind of life got in the
25 way?

1 PROSPECTIVE JUROR 027: No, life got in the way. He got
2 married, had kids. I had kids.

3 MS. SUDANO: Are your kids close in age?

4 PROSPECTIVE JUROR 027: Two of them.

5 MS. SUDANO: Okay. Do they ever get to hang out with each
6 other?

7 PROSPECTIVE JUROR 027: No.

8 MS. SUDANO: So, when your uncle kind of moved out
9 or -- not moved out -- but kind of grew up and started with the police
10 department, were you still kind of close with him at that time?

11 PROSPECTIVE JUROR 027: No.

12 MS. SUDANO: Okay. Does he ever talk about work, either
13 with Metro or the school district police?

14 PROSPECTIVE JUROR 027: Not to me because I just keep
15 it -- I don't really communicate with him too often. It's just a, Hi, bye,
16 how's everybody doing?

17 MS. SUDANO: Okay.

18 PROSPECTIVE JUROR 027: But as far as business-wise or
19 life-wise, I'm backed up.

20 MS. SUDANO: You've got your own things going on right
21 now?

22 PROSPECTIVE JUROR 027: Yeah.

23 MS. SUDANO: Okay. Anything about your relationship with
24 your uncle that you think would affect your ability to be fair and
25 impartial?

1 PROSPECTIVE JUROR 027: Not at all.

2 MS. SUDANO: Okay. And you can kind of set aside that
3 relationship and just judge any of the witnesses that you may hear from
4 in this case, including law enforcement --

5 PROSPECTIVE JUROR 027: Absolutely.

6 MS. SUDANO: -- just as you would anybody else?

7 PROSPECTIVE JUROR 027: Absolutely. They're regular
8 humans just like we are.

9 MS. SUDANO: Okay. And so, would you agree with me if I
10 said that there's kind of good apples and bad apples in every profession?

11 PROSPECTIVE JUROR 027: Yes.

12 MS. SUDANO: Okay. So, I was asking some other folks
13 whether or not they thought that they would be good jurors.

14 PROSPECTIVE JUROR 027: I would, but I don't really know
15 why I would think I would be good. It's just, you know, something that
16 you think you would be good at.

17 MS. SUDANO: Okay. Are you --

18 PROSPECTIVE JUROR 027: I'm a good judge of character --

19 MS. SUDANO: Okay.

20 PROSPECTIVE JUROR 027: -- for the most part, I mean --

21 MS. SUDANO: Okay. And you're somebody that would be
22 open to listening to all of the evidence and weighing --

23 PROSPECTIVE JUROR 027: Yes, I'm very open-minded and
24 not judgmental.

25 MS. SUDANO: Thank you, ma'am. I appreciate it. Would

1 you pass it over to Mr. Delmour, 028.

2 PROSPECTIVE JUROR 028: Hi, good morning. Kevin
3 Delmour, 028.

4 MS. SUDANO: All right. So, you're another one of our quiet
5 folks, sir.

6 PROSPECTIVE JUROR 028: That's fine. I'm more accused of
7 talking too much.

8 MS. SUDANO: Okay. So, this is out of the ordinary for you
9 then, huh?

10 PROSPECTIVE JUROR 028: A little bit.

11 MS. SUDANO: Okay. So, I don't want to talk specifically
12 about the case. You did mention that you were a juror in a prior case; is
13 that right?

14 PROSPECTIVE JUROR 028: Yes, in Hawaii; it was a criminal
15 case.

16 MS. SUDANO: Okay. Without talking about the facts of it or
17 anything like that or the verdict that you reached, would you say that it
18 was a positive experience, a negative experience, or a neutral
19 experience?

20 PROSPECTIVE JUROR 028: I would say it was a little bit of
21 everything and the reason why I say that is I'd never been on a jury
22 before, so that was a very interesting dynamic, just like some of the folks
23 here who have never been on a jury before.

24 I thought that the give-and-take between the -- it was a City
25 attorney, as well as the defense attorneys was very much unlike what

1 you see on TV; they go from A to Z in an hour and everything's wrapped
2 up. It was very dynamic and yet I was sort of let down by my
3 expectation in the sense that it really does matter what's presented and
4 how it's presented, whether it's defense or prosecution, can determine
5 the outcome of a case.

6 And, perhaps, at the end of the day people walk out of the
7 room going, I wonder why it wound up that way when it sure seemed
8 like it should have gone in some other direction.

9 MS. SUDANO: Sure. So, when you got the jury summons
10 for this particular case, did you have a reaction to getting summoned to
11 be a juror again?

12 PROSPECTIVE JUROR 028: I would say it was kind of
13 neutral, you know, having been in the military for so many years, you
14 know, being that "good citizen" requires some degree of sacrifice, and
15 being retired, it doesn't impact much to the day-to-day requirements of
16 my life.

17 MS. SUDANO: Okay. And we certainly appreciate your
18 service and your willingness to be here.

19 Anything -- or would you have any issues, setting aside that
20 prior jury service, and just focusing on the evidence in this case?

21 PROSPECTIVE JUROR 028: No, and if you're kind of leading
22 to the "Do you think you'd be a good juror?" question, let me just kind of
23 offer that having been a commander in the Marine Corps of a helicopter
24 squadron, by virtue of being a commissioned officer, we actually hold at
25 our level, summary court marshals, which is a judicial proceeding, as

1 well as NJP, which is non-judicial proceedings.

2 And in the NJP, rules of evidence don't apply in the formal
3 sense, but I would have a marine brought before me and whatever the
4 violation or the regulation was, that was what he was there for, and I
5 would listen to his explanation and I'd listen to his NCO in charge or his
6 staff, non-commissioned officer or his officer explain why this particular
7 marine did A, B, C, or D, and what they thought about it.

8 But at the end of the day, I was kind of like judge and jury
9 and it required me to sit back and think about the character of the
10 marine, because I probably knew him fairly well, being in a small unit,
11 what he did, is this his first time that he's been up for something like this,
12 is it the third time or fourth time, is he a good-performing marine
13 generally and this was just a little hiccup.

14 So, it kind of gave me a better appreciation that you have to
15 understand what the regulations in this case, what the law is and what
16 the judge's guidance will be about it and understand the context and try
17 to, as best you can, weigh what the witnesses say and think it through
18 and try to come out with an impartial decision. And I would just be one
19 of twelve people that would have an opinion and a thought, and that's
20 what the whole jury process is about.

21 MS. SUDANO: And I appreciate that.

22 That, I guess, brings me to another question, specifically for
23 you.

24 PROSPECTIVE JUROR 028: I told you that I talk a lot.

25 MS. SUDANO: Okay. There we go.

1 So, you talked about being a part of kind of the informal
2 adjudication of some of the matters in the military. Did you ever have to
3 testify during the court martial?

4 PROSPECTIVE JUROR 028: No, the one court martial I was
5 part of, I was actually the summary court martial officer, which means I
6 ran the court martial. And like many other places, we had a script to
7 follow --

8 MS. SUDANO: Uh-huh.

9 PROSPECTIVE JUROR 028: -- so, it didn't require any real
10 legal experience or background, although we were always encouraged
11 to bring one of the judge advocate lawyers over before the process to
12 make sure we understood how to run it from A to Z, because there was
13 an appeal process which is part of all military procedures, whether it's
14 non-judicial punishment or the court martial process, and you didn't
15 want to make a mistake that you should not have made.

16 MS. SUDANO: So, the experience that you had in the court
17 martial process or --

18 PROSPECTIVE JUROR 028: NJP -- the NJP, right.

19 MS. SUDANO: -- or, you know, just interacting kind of
20 informally with whatever JAG officer happened to be there, do you think
21 that you could set aside your sort of legal knowledge of the court
22 process and just listen to the evidence and the instructions in this
23 particular case?

24 PROSPECTIVE JUROR 028: I have no problem with that.

25 MS. SUDANO: Okay. And if the evidence or the instructions

1 or the law differed from your opinion of what it ought to be, would you
2 still be able to follow the judge's instructions on the law?

3 PROSPECTIVE JUROR 028: Yes. Because, again, for the
4 former military members that are here, we don't always agree with all
5 the regulations that come from on high, but our job is to follow the
6 regulations. Not blindly, without understanding there's shades of gray in
7 life, but if you don't like something, that doesn't mean you don't do it,
8 because then the military would evolve into a million different opinions
9 on evidence and it would just be chaos. So, yeah, I would not have any
10 problem with that.

11 MS. SUDANO: Okay. And same with the court process,
12 right?

13 PROSPECTIVE JUROR 028: Exactly, yes.

14 MS. SUDANO: I appreciate that, sir.

15 PROSPECTIVE JUROR 028: Did I make up for not talking
16 enough yesterday?

17 MS. SUDANO: You did --

18 PROSPECTIVE JUROR 028: Okay. Good.

19 MS. SUDANO: -- indeed.

20 PROSPECTIVE JUROR 028: I'm good until tomorrow, then.

21 MS. SUDANO: Could you pass it right down in front of you
22 to Mr. DiGiovanni, badge number 146.

23 PROSPECTIVE JUROR 146: Michael DiGiovanni, badge 146.

24 MS. SUDANO: So, sir, you mentioned yesterday that you
25 were retired, and you were going to retire, but I don't think you told us

1 what you retired from.

2 PROSPECTIVE JUROR 146: Twenty years in the casino
3 business.

4 MS. SUDANO: Okay. And how about your significant other?

5 PROSPECTIVE JUROR 146: My wife worked in the court
6 system in Riverside, California.

7 MS. SUDANO: What did she do in the court system?

8 PROSPECTIVE JUROR 146: She was a clerk --

9 MS. SUDANO: Okay.

10 PROSPECTIVE JUROR 146: -- and a supervisor of the clerks.

11 MS. SUDANO: In criminal court? Family court? Civil court?

12 PROSPECTIVE JUROR 146: Mostly family.

13 MS. SUDANO: Okay. Did she ever come home and kind of
14 talk to you about her experiences?

15 PROSPECTIVE JUROR 146: Not really.

16 MS. SUDANO: Okay. Anything about your wife's experience
17 in the family court system that you think would affect your ability to be
18 fair and impartial here?

19 PROSPECTIVE JUROR 146: No.

20 MS. SUDANO: Do you think that you would be a good juror,
21 sir?

22 PROSPECTIVE JUROR 146: Yes.

23 MS. SUDANO: What makes you say that?

24 PROSPECTIVE JUROR 146: Having the prior experience of
25 being a juror, listening to the evidence -- I'm a good listener -- listening

1 to what people say, not necessarily how they say it and comparing
2 between the testimonies, I think would make me a good juror.

3 MS. SUDANO: So, you're another person that would kind of
4 keep an open mind?

5 PROSPECTIVE JUROR 146: Absolutely.

6 MS. SUDANO: Do you think that you're a fairly good judge
7 of character?

8 PROSPECTIVE JUROR 146: Yes.

9 MS. SUDANO: You paused.

10 PROSPECTIVE JUROR 146: I do.

11 MS. SUDANO: Okay.

12 PROSPECTIVE JUROR 146: I did a lot of hiring in my job, so
13 that's -- you have to be a good judge of character to do that, so --

14 MS. SUDANO: Okay. And so you kind of got some insight
15 into people and their character, based on the people that you're going to
16 supervise for 20 years?

17 PROSPECTIVE JUROR 146: Absolutely.

18 MS. SUDANO: What realm were you working in the casino
19 industry?

20 PROSPECTIVE JUROR 146: In the rewards center.

21 MS. SUDANO: Okay. So, you were supervising people that
22 were interacting with customers?

23 PROSPECTIVE JUROR 146: Yes.

24 MS. SUDANO: You had a fair deal of customer interaction,
25 as well, I assume?

1 PROSPECTIVE JUROR 146: Absolutely.

2 MS. SUDANO: Okay. So, that also probably shaped your
3 ability to judge character and --

4 PROSPECTIVE JUROR 146: Absolutely.

5 MS. SUDANO: Okay. I appreciate it, sir.

6 Could you pass it down to Ms. Parker. She's smiling because
7 she knew it was coming -- 076.

8 PROSPECTIVE JUROR 076: Jocelyn Parker, 76.

9 MS. SUDANO: So, correct me if I'm wrong, you've got some
10 degrees in some history and social work; is that right?

11 PROSPECTIVE JUROR 076: Yes. I have a BA in psychology
12 and a masters in social work; I just got it like a month ago.

13 MS. SUDANO: You just what?

14 PROSPECTIVE JUROR 076: I just graduated like a month
15 ago.

16 MS. SUDANO: Congratulations. And then you are also the
17 one who has the significant other --

18 PROSPECTIVE JUROR 076: And he lives and works in
19 Philadelphia. He works at the local police station in the non-emergency
20 call center --

21 MS. SUDANO: Uh-huh.

22 PROSPECTIVE JUROR 076: -- and then he also works for the
23 United States Marine Corps.

24 MS. SUDANO: Are you going out there or is he coming up
25 here?

1 PROSPECTIVE JUROR 076: I'm going to be going back there.

2 MS. SUDANO: What do you hope to do work-wise once you
3 move out to Philadelphia?

4 PROSPECTIVE JUROR 076: Well, I was working at the VA.
5 My internship was at the VA hospital, so, hopefully, I can get a job back
6 there, and then eventually, I want to join the military as a social work
7 officer.

8 MS. SUDANO: Any particular draw to being a social worker
9 in the military, specifically?

10 PROSPECTIVE JUROR 076: I think I just wanted to join the
11 military before I knew I wanted to do social work, so I think it was the
12 combination of both; I was like, oh, I can do this in the military and I
13 always wanted to join, so --

14 MS. SUDANO: So, the same sort of questions I was asking
15 some other folks: Do you think that you would be a good juror?

16 PROSPECTIVE JUROR 076: Yes, I do. I think I have the
17 ability to, like, be open-minded, a good listener, but also -- everyone has
18 biases, but I think it's important to understand that we all do and try to
19 be as impartial as possible when listening to the evidence and the facts.

20 MS. SUDANO: Okay. So, you would agree with me that you
21 have had very different life experiences than the folks sitting on either
22 side of you then, right?

23 PROSPECTIVE JUROR 076: Yes.

24 MS. SUDANO: But you're willing to sort of set aside those
25 life experiences and just focus on the evidence that's presented in the

1 case?

2 PROSPECTIVE JUROR 076: Yes.

3 MS. SUDANO: And do you think that you're a good judge of
4 character?

5 PROSPECTIVE JUROR 076: Yeah, I definitely do.

6 MS. SUDANO: I think that's it. Thank you, ma'am.

7 Can you pass it right in front of you to

8 Mr. Namboonruang -- sorry.

9 PROSPECTIVE JUROR 162: I'm Kasidate, badge number 162.

10 MS. SUDANO: Say your last name for me.

11 PROSPECTIVE JUROR 162: Namboonruang.

12 MS. SUDANO: Namboonruang, okay.

13 So, you've been another quiet individual up here.

14 PROSPECTIVE JUROR 162: Yeah.

15 MS. SUDANO: Are you always pretty quiet?

16 PROSPECTIVE JUROR 162: Yeah, I'm always quiet.

17 THE COURT: Do you think that would affect your ability to
18 kind of go back and distribute with a group of strangers?

19 PROSPECTIVE JUROR 162: Yeah, definitely. Like, I always
20 have a hard time in discussion in class in high school and I think I would
21 also have a hard time here.

22 MS. SUDANO: Okay. Do you think that you would be able
23 to, if you strongly believed in a position or you had something that you
24 really wanted to say, do you think that you'd be comfortable saying that?

25 PROSPECTIVE JUROR 162: I think I can, but most of the time

1 I just go with, like -- I would just conform and go with the majority.

2 MS. SUDANO: So, a couple of questions for you, I guess.

3 So, I was asking folks before whether they thought that they would be
4 good jurors.

5 PROSPECTIVE JUROR 162: I think I can be because, like, I'm
6 really open-minded. I would, like, follow the facts and --

7 MS. SUDANO: And I was asking people, as well, whether
8 everybody would do the best that they could during this process and
9 take it seriously. Do you think that those are things that you would be
10 comfortable doing?

11 PROSPECTIVE JUROR 162: I think so.

12 THE COURT: Okay. So, even though kind of in your personal
13 life, not in the courtroom, you're a little bit more shy and reserved, you
14 think that you would participate in the process and do it to the best of
15 your ability?

16 PROSPECTIVE JUROR 162: Yeah.

17 MS. SUDANO: Okay. That's all I can ask of any of you.

18 Do you think that you're a good judge of character?

19 PROSPECTIVE JUROR 162: Yes.

20 MS. SUDANO: Okay. So, you're probably a little bit younger
21 than some of our other folks on the panel. Would you just sort of defer
22 to everybody that's older, or would you recognize that as one of the
23 younger folks here you've got life experiences and a different
24 perspective, as well, that needs to be shared?

25 PROSPECTIVE JUROR 162: Yeah, I think so.

1 MS. SUDANO: All right. I appreciate that, sir.

2 Can you pass it over to Ms. Rafferty.

3 PROSPECTIVE JUROR 115: Rhonda Rafferty, badge 115.

4 MS. SUDANO: And another quiet individual up here,
5 Ms. Rafferty. So, you were another person who had prior jury
6 experience. I'm going to ask you some of the same questions that I was
7 asking Mr. Delfour [sic].

8 PROSPECTIVE JUROR 115: Yes.

9 MS. SUDANO: I don't want to talk about the facts in the case
10 or the verdict or anything along those lines.

11 Would you say, overall, it was a positive experience, a
12 negative experience, or a neutral experience?

13 PROSPECTIVE JUROR 115: It was very positive. It was very
14 interesting.

15 MS. SUDANO: Okay. So, when you saw your jury summons
16 for this particular case, what was your reaction?

17 PROSPECTIVE JUROR 115: I was fine with it. I'm also
18 retired, so I definitely have the time to serve.

19 MS. SUDANO: Do you think that you would be comfortable
20 sort of setting aside your prior jury service and just focusing on the
21 evidence and the law in this particular case?

22 PROSPECTIVE JUROR 115: Definitely.

23 MS. SUDANO: Okay. So, if you had, for instance, different
24 law that was presented to you in the other case or a different set of facts,
25 because every case is different, you could sort of set that aside and just

1 focus on this case?

2 PROSPECTIVE JUROR 115: Yes.

3 MS. SUDANO: Okay. And do you think that you would be a
4 good juror?

5 PROSPECTIVE JUROR 115: Yes, I do.

6 MS. SUDANO: What makes you say that?

7 PROSPECTIVE JUROR 115: I'm also very open-minded. I'm
8 very respectful of the law. I was a teacher for many years dealing with
9 parents in a variety of socioeconomic areas of town, so I learned to
10 reserve judgment on people and just take facts into consideration.

11 MS. SUDANO: Remind me again what grade level you
12 taught.

13 PROSPECTIVE JUROR 115: Kindergarten.

14 MS. SUDANO: Okay. What made you pick the little ones?

15 PROSPECTIVE JUROR 115: It was just very fun and
16 rewarding to start that early education.

17 MS. SUDANO: Did you ever have interactions with CPS as
18 part of that?

19 PROSPECTIVE JUROR 115: I did not.

20 MS. SUDANO: Okay. Were you aware of whether that was
21 something that was going on in your school, potentially?

22 PROSPECTIVE JUROR 115: Oh, yes. Uh-huh.

23 MS. SUDANO: Anything about that that you think would
24 affect your ability to be fair and impartial?

25 PROSPECTIVE JUROR 115: Not at all. I did have several

1 students over the years that were foster.

2 MS. SUDANO: And that was something that you were kind
3 of aware of --

4 PROSPECTIVE JUROR 115: Yes.

5 MS. SUDANO: -- because you were interacting with parents
6 and guardians?

7 PROSPECTIVE JUROR 115: Yes.

8 MS. SUDANO: Okay. Anything about those experiences that
9 you think would affect your ability to be fair and impartial?

10 PROSPECTIVE JUROR 115: Not at all.

11 MS. SUDANO: Okay. I appreciate that.

12 Mr. Beam 116, if you can pass it over. Thank you.

13 PROSPECTIVE JUROR 116: Hi.

14 MS. SUDANO: Hello. So another kind of quiet individual up
15 front in this front row that was so quiet.

16 PROSPECTIVE JUROR 116: It's too bright. I work nights.

17 MS. SUDANO: So you're just not used to the sunshine?

18 PROSPECTIVE JUROR 116: No.

19 MS. SUDANO: Remind us what you do for work.

20 PROSPECTIVE JUROR 116: I'm a repossessioner.

21 MS. SUDANO: Okay. Are you still working during this trial?

22 PROSPECTIVE JUROR 116: Yes.

23 MS. SUDANO: All right. Did you work last night?

24 PROSPECTIVE JUROR 116: Yes.

25 MS. SUDANO: Are you working tonight?

1 PROSPECTIVE JUROR 116: Yes.

2 MS. SUDANO: When are you sleeping?

3 PROSPECTIVE JUROR 116: I don't know.

4 MS. SUDANO: Okay.

5 PROSPECTIVE JUROR 116: I just got back to work from back

6 surgery so.

7 MS. SUDANO: Okay. How long were you out with the back

8 surgery?

9 PROSPECTIVE JUROR 116: About three months.

10 MS. SUDANO: Okay. Were you getting paid during that

11 period when you were out?

12 PROSPECTIVE JUROR 116: No.

13 MS. SUDANO: Okay. So how are you doing as far as being

14 awake right now?

15 PROSPECTIVE JUROR 116: I'm kind of tired.

16 MS. SUDANO: Okay. But you've been paying attention and

17 following everything?

18 PROSPECTIVE JUROR 116: Yes.

19 MS. SUDANO: Do you work a set schedule every week?

20 PROSPECTIVE JUROR 116: No. It's an everyday type thing.

21 MS. SUDANO: Do you work eight hours a day, ten hours a

22 day or do you just sort of work when there's a call?

23 PROSPECTIVE JUROR 116: I work about 20 hours a day. I

24 workday and night.

25 MS. SUDANO: Okay. What are you doing if there's no calls

1 or nothing that needs to be repossessed?

2 PROSPECTIVE JUROR 116: There's always --

3 MS. SUDANO: Okay.

4 PROSPECTIVE JUROR 116: -- something that needs to be
5 repossessed.

6 MS. SUDANO: Does not apply. So I've talked to a couple
7 folks about, you know, this is a very serious proceeding for everybody
8 that's involved. Do you think that given your work situation you're going
9 to be able to focus on this case, kind of give it the weight that it
10 deserves?

11 PROSPECTIVE JUROR 116: Honestly, no.

12 MS. SUDANO: Okay. Because you're --

13 PROSPECTIVE JUROR 116: I'm more worried about what I've
14 got to go pick up to make money for my family.

15 MS. SUDANO: Okay. I appreciate your response on that, sir.
16 You're doing incredibly well for somebody's that's worked all night.

17 PROSPECTIVE JUROR 116: I've been up for 24 hours
18 straight.

19 MS. SUDANO: Is there a lot of caffeine or Red Bull or
20 something going on?

21 PROSPECTIVE JUROR 116: No.

22 MS. SUDANO: Okay. Very impressed. Can you pass it over
23 to Mr. Tolman for me, 164?

24 PROSPECTIVE JUROR 164: That's me. How you doing?

25 MS. SUDANO: That's you. So another quiet individual. Are

1 you somebody that in your past life also had a lot to say?

2 PROSPECTIVE JUROR 164: I still do.

3 MS. SUDANO: Okay.

4 PROSPECTIVE JUROR 164: When it's my turn to talk.

5 MS. SUDANO: Okay. It's your turn.

6 PROSPECTIVE JUROR 164: All right. What can I do for you?

7 MS. SUDANO: So I'm just asking people some of the same
8 questions, whether or not you think you'd be a good juror?

9 PROSPECTIVE JUROR 164: Would do my best.

10 MS. SUDANO: Okay. What do you think would make you a
11 good juror?

12 PROSPECTIVE JUROR 164: I've spent the majority of my
13 adult life in uniform and trying to become a better member and member
14 of society. Trying to better myself. Over the last 13 years I've lived in 15
15 states --

16 MS. SUDANO: Oh, wow.

17 PROSPECTIVE JUROR 164: -- two countries. I've seen a lot
18 of different people from a lot of different places. I understand that
19 people come from different backgrounds, have different perspectives on
20 life. Each situation deserves its own examination.

21 MS. SUDANO: Appreciate that. So fair to say you are -- you
22 knew that question was coming, huh?

23 PROSPECTIVE JUROR 164: I was ready for it.

24 MS. SUDANO: All right. I appreciate that. So remind me
25 what you do now.

1 PROSPECTIVE JUROR 164: I'm in IT.

2 MS. SUDANO: Okay. Was that sort of your focus when you
3 were in the military?

4 PROSPECTIVE JUROR 164: No. I was in intel.

5 MS. SUDANO: Okay. How's the transition going so far into
6 civilian life and IT?

7 PROSPECTIVE JUROR 164: It's been nice. I got off active
8 duty. I went to school at UNLV. While going to school there I got the IT
9 job. I graduated this past like a couple three weeks ago. And now I'm
10 just working full-time doing IT. My degree was focused on computers.
11 So it's been a decent transition.

12 MS. SUDANO: Well, congratulations on the graduation --

13 PROSPECTIVE JUROR 164: Thank you.

14 MS. SUDANO: -- and new career. And also the beard which
15 I assume is new.

16 PROSPECTIVE JUROR 164: Six months and six days, yeah.

17 MS. SUDANO: All right. Thank you, sir. I appreciate that.

18 Can we go into the very back corner to Mr. Plescher? Hello, sir. So
19 you --

20 PROSPECTIVE JUROR 176: Hello.

21 MS. SUDANO: -- have only been with us for a little while, but
22 you are also another one that was --

23 PROSPECTIVE JUROR 176: Yeah. I'm pretty quiet.

24 MS. SUDANO: -- pretty quiet.

25 PROSPECTIVE JUROR 176: Let me help you out. Today is

1 Thursday the 6th of June 2019. It's the 75th anniversary of the D-Day
2 landings.

3 MS. SUDANO: That's true, that's true. Thank you for the
4 reminder.

5 PROSPECTIVE JUROR 176: No problem.

6 MS. SUDANO: So do you think that you'd be a good juror,
7 sir?

8 PROSPECTIVE JUROR 176: Yes. I think I would. I think I can
9 pay attention, listen to what people have to say and listen to the judge's
10 instructions, very important.

11 MS. SUDANO: Sorry. I was just looking to see if you were
12 military. You said --

13 PROSPECTIVE JUROR 176: Oh, no.

14 MS. SUDANO: -- dad and brother were?

15 PROSPECTIVE JUROR 176: Right.

16 MS. SUDANO: Okay. And dad was --

17 PROSPECTIVE JUROR 176: He was in the navy.

18 MS. SUDANO: Okay. Thank you, sir. I appreciate your
19 response on that. Did you have something else you wanted to add?

20 PROSPECTIVE JUROR 176: Well, you brought up
21 interpreters.

22 MS. SUDANO: Yes.

23 PROSPECTIVE JUROR 176: I was thinking of the way people
24 might emphasize different things they say, like you might talk to one
25 witness and they said it's hot outside and some other witness might say

1 oh, it's hot outside. But if you see it written down it's exactly the same
2 or coming from an interpreter it'd be, you know, expressed exactly the
3 same. So I guess you'd have to kind of do that yourself. You'd have to
4 listen to what the person testifying had -- you know, how they said
5 something and then listen to the interpreter's interpretation.

6 MS. SUDANO: Okay. And so knowing that distinction, that it
7 might not come across exactly the same from --

8 PROSPECTIVE JUROR 176: Uh-huh.

9 MS. SUDANO: -- an interpreter, do you feel like that would
10 affect your ability to listen and weigh the evidence in this case?

11 PROSPECTIVE JUROR 176: I don't think so, no.

12 MS. SUDANO: Okay. So just sort of by being aware --

13 PROSPECTIVE JUROR 176: Yes. I'd just have to be aware
14 that that's going on, yeah.

15 MS. SUDANO: Okay. I appreciate your comment on that
16 one, sir. Can we pass it a couple seats over back to Mr. Montgomery,
17 020? Hello, sir.

18 PROSPECTIVE JUROR 020: Hello.

19 MS. SUDANO: So we're going to sort of switch gears a little
20 bit here. You mentioned a couple of things yesterday that I wanted to
21 follow up with you on, okay. You mentioned that you had a cousin who
22 was the victim of a sexual assault; is that correct?

23 PROSPECTIVE JUROR 020: Yes.

24 MS. SUDANO: About when was that?

25 PROSPECTIVE JUROR 020: She's 18 now, but she said it's

1 been going on since she was eight.

2 MS. SUDANO: Do you know who the perpetrator was? Was
3 it a family member or a friend of hers?

4 PROSPECTIVE JUROR 020: It was her father.

5 MS. SUDANO: Okay. Where is the -- where's your cousin?
6 Is she here locally?

7 PROSPECTIVE JUROR 020: She's in Texas.

8 MS. SUDANO: Okay. Are you and your cousin close?

9 PROSPECTIVE JUROR 020: Not really. I mean, we're not
10 really close, no.

11 MS. SUDANO: Did you know about any of this while it was
12 going on or is it something that you learned after the fact?

13 PROSPECTIVE JUROR 020: I just learned about two years
14 ago.

15 MS. SUDANO: Do you know whether or not her father was
16 ever arrested or prosecuted?

17 PROSPECTIVE JUROR 020: He's in prison now.

18 MS. SUDANO: Okay. Do you have any sort of knowledge or
19 opinion about whether or not your cousin was kind of treated fairly by
20 the system?

21 PROSPECTIVE JUROR 020: I didn't follow any of it, so I'm
22 not really sure.

23 MS. SUDANO: Do you think that anything about your
24 cousin's case and the situation that she went through would affect your
25 ability to be fair and impartial in this particular case?

1 PROSPECTIVE JUROR 020: I mean, I would try not to, but I
2 mean, I can't -- it's really hard, you know, not to think about it. But --

3 MS. SUDANO: Sure.

4 PROSPECTIVE JUROR 020: -- I would definitely try not to,
5 you know.

6 MS. SUDANO: Sure. We talked a little bit about -- you know,
7 everybody that's here's had different life experiences and you know,
8 different things that have brought you on the same path to all being right
9 here right now. So it's not necessarily that you have to disregard
10 everything that's ever happened in your life that makes you who you are.
11 It's just whether you can remain fair and impartial in this case and not let
12 those other things from your past affect your judgment and affect the
13 verdict that you reach.

14 PROSPECTIVE JUROR 020: I think so.

15 MS. SUDANO: You feel comfortable doing that?

16 PROSPECTIVE JUROR 020: Yeah.

17 MS. SUDANO: Okay. I appreciate that, sir. Could you pass it
18 one seat over to Mr. Solis-Sauri?

19 PROSPECTIVE JUROR 018: Yes, 018.

20 MS. SUDANO: So sir, you work in Boulder City?

21 PROSPECTIVE JUROR 018: Yes, ma'am.

22 MS. SUDANO: And your wife I think you said works in
23 Mesquite?

24 PROSPECTIVE JUROR 018: Correct.

25 MS. SUDANO: Okay. Could you two have worked further

1 away from each other in the county?

2 PROSPECTIVE JUROR 018: Not by choice. I do like her.

3 MS. SUDANO: Where do you live?

4 PROSPECTIVE JUROR 018: My primary residence is in
5 Mesquite, Nevada.

6 MS. SUDANO: Okay. So are you travelling here every day?

7 PROSPECTIVE JUROR 018: Not every day. I also have a
8 place in Henderson.

9 MS. SUDANO: Okay.

10 PROSPECTIVE JUROR 018: Very close to Boulder City.

11 MS. SUDANO: I see.

12 PROSPECTIVE JUROR 018: So I have a four-day workweek
13 and I stay there during the week. And then I go home my primary
14 residence on weekends.

15 MS. SUDANO: Got you. So I was wondering with that
16 distance where the commute was.

17 PROSPECTIVE JUROR 018: Yeah. It's unusual.

18 MS. SUDANO: Okay. Now I want to follow up with you.

19 Yesterday we were sort of talking about the idea of whether you would
20 need any sort of kind of physical evidence or something tangible in order
21 to reach a verdict. Do you remember having that conversation --

22 PROSPECTIVE JUROR 018: Yes.

23 MS. SUDANO: -- yesterday? All right. So I want to give you
24 kind of an example. So let's say that there's a woman walking through
25 the park and a man comes up behind her, steals her purse from her,

1 takes off running. So the purse is never found but a week or two later
2 she's in that same park again and she sees that same person again and
3 she's certain that that's the person that we're talking about. She gets the
4 police involved and she says, that's the person.

5 So in a case like that there's not going to be any DNA
6 evidence, or any fingerprint evidence, or any video evidence, would you
7 agree with me on that?

8 PROSPECTIVE JUROR 018: Mostly.

9 MS. SUDANO: Okay. Is that the type of case where -- and
10 I'm not asking for what it would be, but you would be able to sort of
11 consider and weigh that evidence?

12 PROSPECTIVE JUROR 018: I'd say again it would be difficult.

13 MS. SUDANO: Okay. And I recognize that it may be difficult,
14 but you would be willing and able to try your best to reach a verdict in
15 that case; is that fair?

16 PROSPECTIVE JUROR 018: I guess when you're in a
17 situation like that I -- what I would expect to do would be to follow the
18 procedure and follow the law and listen to the facts and try to do my
19 best. I mean, I don't know that I would want to take a different route if
20 presented with those situations.

21 MS. SUDANO: Sure. And so it's easy to say, I would like this
22 kind of evidence. It's easy to say, I would like a million dollars and a
23 puppy, right? You can -- we can say a lot of things. It's just whether
24 you're somebody that would be comfortable weighing all of the evidence
25 that's presented to you in whatever quality or quantity that it is in

1 coming to a decision?

2 PROSPECTIVE JUROR 018: I would try to do my best. Again,
3 very difficult when I know there are probably a million situations and
4 considering all the little factors on everything else that would be
5 presented it would just be very tough. That's how I feel.

6 MS. SUDANO: Okay. And so you brought up kind of an
7 interesting point. You said, I know that there are a million different
8 scenarios or a million different factors that might go into that. So every
9 case is different, right? And you know absolutely nothing about this
10 particular case yet?

11 PROSPECTIVE JUROR 018: Correct.

12 MS. SUDANO: So you're willing I guess to recognize and to
13 appreciate that every case is different --

14 PROSPECTIVE JUROR 018: Uh-huh.

15 MS. SUDANO: -- and the facts and evidence in every single
16 case are different?

17 PROSPECTIVE JUROR 018: Yes.

18 MS. SUDANO: Okay. And that it would still be your duty as
19 a juror to render a verdict based on the evidence and the law?

20 PROSPECTIVE JUROR 018: I guess you put it just the way I
21 see it. You know, it's a duty and a responsibility and I guess a privilege
22 to be part of this society. To abide by those rules.

23 MS. SUDANO: Okay. And do you think that you would be a
24 good juror sir?

25 PROSPECTIVE JUROR 018: I would try. I -- you know, that

1 would be my honest intent.

2 MS. SUDANO: Okay.

3 PROSPECTIVE JUROR 018: To be the best I can be.

4 MS. SUDANO: Okay. Then like I said earlier, that's all we
5 can ask of any of you is to try your best. Can you pass it over one seat to
6 Ms. Farro-Sulio, badge number 016?

7 PROSPECTIVE JUROR 016: Hi.

8 MS. SUDANO: Hi. So ma'am, what type of nurse or what
9 type of nursing do you do?

10 PROSPECTIVE JUROR 016: I work in open heart unit. It's
11 called cardiovascular thoracic. We recover open hearts.

12 MS. SUDANO: Is that in one of the hospitals here locally?

13 PROSPECTIVE JUROR 016: Yes, it is.

14 MS. SUDANO: All right. Sounds like a pretty stressful job on
15 the day to day?

16 PROSPECTIVE JUROR 016: It's very stressful.

17 MS. SUDANO: Okay. Do you feel like you're somebody
18 that's good under pressure then I would take it?

19 PROSPECTIVE JUROR 016: Yes. I think it comes with
20 experience being exposed to different pressures, everything, every
21 single day.

22 MS. SUDANO: And do you think that that experience would
23 make you a good juror?

24 PROSPECTIVE JUROR 016: I think so.

25 MS. SUDANO: What makes you say that?

1 PROSPECTIVE JUROR 016: Being a critical care nurse we
2 always pay attention to details, because anything that we bypass can
3 mean the life of our patient.

4 MS. SUDANO: Uh-huh. So you --

5 PROSPECTIVE JUROR 016: So paying attention to details
6 make us more objective and I think that's really important as a
7 qualification for being a jury.

8 MS. SUDANO: Okay. And I appreciate that. So I want to go
9 back to you then with that same example that I just talked to Mr. Solis-
10 Sauri about. We were talking about somebody who was mugged in the
11 park, her purse is taken and there's -- the purse itself is never recovered
12 but she's able to say that's the person. In a case like that would you be
13 able to consider and weigh the evidence and come to a verdict?

14 PROSPECTIVE JUROR 016: I think I would be able to
15 consider all evidence because there are also such thing as
16 circumstantial.

17 MS. SUDANO: So when you're talking about circumstantial
18 evidence what does that mean to you?

19 PROSPECTIVE JUROR 016: There could be circumstance
20 where the bruises could show that this person is mugged. The
21 background of the one that has stolen the purse that she has identified
22 could have had some cases in the past. The character of that person.
23 There are different circumstances that can be used and weighed in order
24 to arrive at a certain judgment.

25 MS. SUDANO: Okay. And I appreciate that. So I guess what

1 I'm hearing you say is that there's a lot of different things that can exist
2 in the world of a case where the facts or the evidence --

3 PROSPECTIVE JUROR 016: Correct.

4 MS. SUDANO: -- could be presented to you? And even
5 though it's not things that you could hold in your hand and physically
6 see in the courtroom, it's still things that you would be willing and able
7 to consider; is that fair?

8 PROSPECTIVE JUROR 016: Yes.

9 MS. SUDANO: Okay. Recognizing again every single case is
10 different and the facts of every single case are different, would you ever
11 imagine that every single case is going to have every single type of
12 evidence?

13 PROSPECTIVE JUROR 016: Every single case can have
14 different types of evidence.

15 MS. SUDANO: And you'd be willing and able to consider all
16 of those different types of evidence?

17 PROSPECTIVE JUROR 016: Sure. As long as it's pertinent to
18 the case.

19 MS. SUDANO: Okay. I appreciate that. If you could pass it
20 over to Ms. Clark for me. 011, Ms. Clark.

21 PROSPECTIVE JUROR 011: Yes.

22 MS. SUDANO: All right. So same types of questions I was
23 just asking of the folks next to you. We've got the scenario of an
24 individual who's mugged in the park and the purse is never recovered.
25 Is that the type of case where you could weigh the evidence and come to

1 a decision?

2 PROSPECTIVE JUROR 011: It depends. Even if the purse is
3 not found, it's got to be some type of physical evidence. It depends on
4 the character of the person, including the lady, you know. It depends on
5 the character. I mean, after hearing all of, you know, what is presented
6 to you and stuff then the purse don't have to necessary be you know,
7 that we found it and stuff. It was in his possession or nothing like that,
8 but it'd definitely have to be some type of evidence, something showing
9 on behalf that it was some altercation between those two, you know.

10 MS. SUDANO: All right. So let me ask, what do you mean
11 when you say physical evidence?

12 PROSPECTIVE JUROR 011: What do I mean by that? It can
13 be some type of bruises. It can be somebody else that identified. You
14 know what I'm saying? Something like that.

15 MS. SUDANO: So not necessarily kind of the example that I
16 was giving before as something that comes into the courtroom and
17 you're able to physically hold it in your hands, not something like that
18 necessarily?

19 PROSPECTIVE JUROR 011: Correct. It don't have to be
20 where I can just physically see it or hold it or something like that. It'd
21 have to be some kind of interaction between them, something that
22 maybe she's able to identify of that person.

23 MS. SUDANO: Okay. And so again, we're looking at kind of
24 the entire world of the facts and everything that is presented to you in
25 the case, you'd be willing and able to consider; is that right?

1 PROSPECTIVE JUROR 011: Right.

2 MS. SUDANO: Okay. And there's not any one particular
3 type of thing that you would need to see in any particular case?

4 PROSPECTIVE JUROR 011: No.

5 MS. SUDANO: Okay. You'd just be willing to consider the
6 evidence?

7 PROSPECTIVE JUROR 011: Have to hear it all aloud and then
8 go from there.

9 MS. SUDANO: Okay. I appreciate that, ma'am. All right.
10 Can we pass the microphone -- sorry. Can we pass the microphone up
11 to Ms. Dusina-Bakken, badge number 097? So ma'am, when we were
12 talking yesterday you had mentioned that you were struck by a drunk
13 driver and your car was totaled; is that fair?

14 PROSPECTIVE JUROR 097: Right.

15 MS. SUDANO: Was that person ever caught or apprehended
16 to your knowledge?

17 PROSPECTIVE JUROR 097: She was apprehended about two
18 hours after the fact. And we were never notified of any type of a trial or
19 anything like that. We found out after the fact that she pled down to
20 community service for abandoning an accident scene, but was never
21 charged with anything related to the alcohol.

22 MS. SUDANO: Okay. Can I ask then how it is that you know
23 that she was drunk?

24 PROSPECTIVE JUROR 097: She again, after the fact we had
25 found out when they had found her because her car was fairly damaged

1 as well.

2 MS. SUDANO: Uh-huh.

3 PROSPECTIVE JUROR 097: That she was drunk at that time
4 and then people that they had interviewed prior, she had been at a party
5 and she was drinking.

6 MS. SUDANO: Okay.

7 PROSPECTIVE JUROR 097: And so I'm not sure why she
8 wasn't charged with the alcohol, but I think it was a first offense. They
9 moved that to the side and just went with what they could actually get a
10 conviction on which was fleeing a scene.

11 MS. SUDANO: Okay. And was that here locally?

12 PROSPECTIVE JUROR 097: No. That was in Chico,
13 California.

14 MS. SUDANO: Okay. About how long ago?

15 PROSPECTIVE JUROR 097: I want to say 2004.

16 MS. SUDANO: Okay. So anything about that experience --
17 and again, correct me if I'm wrong, but it sounds like you were
18 dissatisfied --

19 PROSPECTIVE JUROR 097: Frustrated that we weren't
20 included in the process. Again, we had to go search for the records. We
21 had to find out. The only thing we were notified about was that they had
22 found the person and her name, but then a month later we were just like,
23 why have we not been notified. We went searching for the records
24 because it is a public record and found that everything had already been
25 done.

1 MS. SUDANO: Okay. So would anything about your
2 frustration with that process or the lack of communication that was
3 involved in that particular case, would that affect your ability to be fair
4 and impartial here?

5 PROSPECTIVE JUROR 097: No. Again, it's -- you know,
6 when I was in college as I was studying I learned more about how the
7 process works. How you go from investigation, to arrest, through the
8 process. And while it can be frustrating at the same time there's a lot of
9 moving parts.

10 MS. SUDANO: I appreciate that. Can we pass it up to, I'm
11 going to get it wrong again, Mr. Namboonruang, badge number 162?

12 PROSPECTIVE JUROR 162: Yeah.

13 MS. SUDANO: So you mentioned that your sister was the
14 victim of a robbery; is that right?

15 PROSPECTIVE JUROR 162: Yeah.

16 MS. SUDANO: About when was that?

17 PROSPECTIVE JUROR 162: EDC, which is not long ago.

18 MS. SUDANO: Oh, so EDC a couple weeks ago --

19 PROSPECTIVE JUROR 162: Yeah.

20 MS. SUDANO: -- or a couple months ago? Do you know if
21 the person was ever apprehended?

22 PROSPECTIVE JUROR 162: I'm not sure.

23 MS. SUDANO: Okay.

24 PROSPECTIVE JUROR 162: She never told me about it.

25 MS. SUDANO: Okay. Do you have much information about

1 what actually happened in that particular instance?

2 PROSPECTIVE JUROR 162: I think she was walking back to
3 her car and then some guys pulled up on her.

4 MS. SUDANO: Okay. Was that actually out at the racetrack
5 or was that here in town; do you know?

6 PROSPECTIVE JUROR 162: She just said it was like the
7 parking lot.

8 MS. SUDANO: Anything about that experience and the fact
9 that nobody was apprehended or hasn't been apprehended yet that you
10 think would affect your ability to be fair and impartial --

11 PROSPECTIVE JUROR 162: No.

12 MS. SUDANO: -- here? Appreciate that. Your Honor, I'm at
13 kind of a transition point. I don't know if it's --

14 THE COURT: All right. We'll take our noon recess. We'll ask
15 you to be back here ten after 1:00. Give you a few minutes to get out of
16 the building.

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

25 THE MARSHAL: Make sure you grab all of your personal

1 items.

2 [Prospective jurors out at 11:59 a.m.]

3 [Outside the presence of the prospective jurors]

4 THE COURT: We're on the record outside the presence. How
5 much longer?

6 MS. SUDANO: I just have one more area to follow up with a
7 couple of them on. So depending on the answers I get, I don't know, ten,
8 fifteen minutes.

9 THE COURT: All right. How many days do you plan on --

10 MS. MACHNICH: Three, four, no.

11 THE COURT: Okay. Are we still going to be done by next
12 Friday at this rate?

13 MS. SUDANO: I think so.

14 MR. SPEED: I think so.

15 THE COURT: Okay.

16 MR. SPEED: We have to be. We've got people calling in and
17 people coming in so.

18 THE COURT: All right. I did get some jury instructions. I
19 don't know if that was one side --

20 MS. DIGIACOMO: Then if you guys call people --

21 THE COURT: -- or that was the agreed upon or --

22 MS. DIGIACOMO: -- we're going into next week.

23 MR. SPEED: You think so?

24 MS. DIGIACOMO: Yes. If we're dark on Wednesday we only
25 have Monday and Tuesday afternoons. We'd be an hour before lunch.

1 All day Thursday and all day Friday. I -- it just depends on them.

2 THE CLERK: Tuesday we're going to start at 10:30.

3 Wednesday --

4 MS. DIGIACOMO: Wednesday --

5 THE CLERK: -- the 12th.

6 MS. DIGIACOMO: Well, he had said 1:00.

7 THE CLERK: Yeah.

8 MS. DIGIACOMO: But I have to leave between 1:30 and 3:00

9 -- wait, 1:30 and -- I can be back at 3:00 for my Supreme Court argument.

10 THE CLERK: Oh, okay. So we can do it until --

11 THE COURT: What's Wednesday?

12 THE CLERK: Wednesday is the criminal calendar in the
13 morning.

14 THE COURT: Okay.

15 THE CLERK: It's pretty big. We have 12 sentencings, five
16 revos and --

17 MS. DIGIACOMO: Right. You had originally said 1:00
18 o'clock, but --

19 THE COURT: I'll -- maybe I can see about getting somebody
20 to take that and then I know we all -- we want it done by next Friday.
21 And now I -- you know, we've spent all this time and told them next
22 Friday.

23 MS. DIGIACOMO: Right. If we get a jury today I think we're
24 on pretty good, Your Honor on track.

25 THE COURT: All right.

1 MS. DIGIACOMO: And then we need to remind them that
2 tomorrow --

3 THE COURT: Tomorrow --

4 MS. DIGIACOMO: -- is from --

5 THE CLERK: Is until 2:30.

6 MS. DIGIACOMO: -- 10:00 to 2:30 --

7 THE CLERK: 10:00 to 2:30.

8 MS. DIGIACOMO: -- and no lunch.

9 THE COURT: What's in the morning?

10 THE CLERK: 10:00 a.m. you have something.

11 MS. DIGIACOMO: Right. We couldn't start, I mean, she has
12 an appointment at 8:00 in the morning with a doctor. So the 10:00
13 o'clock was enough time to get here.

14 THE COURT: All right. You're optimistic.

15 MS. DIGIACOMO: Well --

16 MS. SUDANO: Yes.

17 MS. DIGIACOMO: -- and also too what we can do if she --
18 when she's not back, we can start earlier with -- and do the hearing
19 outside the presence --

20 MS. MACHNICH: I guess that's true --

21 MS. DIGIACOMO: -- with the mom while -- like start at 9:00
22 and do that.

23 THE CLERK: Okay.

24 THE COURT: All right.

25 THE CLERK: I can change it to 9:00 and then --

1 THE COURT: Change it to 9:00.

2 THE CLERK: -- I'll put the motion in limine that day too.

3 MS. DIGIACOMO: Yeah. We can do that before we have the
4 jury come back.

5 THE COURT: All right. Are we going to do openings today?

6 MS. MACHNICH: No.

7 MR. SPEED: No, Your Honor.

8 MS. DIGIACOMO: No.

9 MS. MACHNICH: No.

10 MS. DIGIACOMO: I think they want -- they wanted to before
11 their openings, have that hearing, I think to know which way they were
12 going --

13 THE COURT: Okay.

14 MS. DIGIACOMO: -- which is fine with the State because
15 she's here and ready so. We were --

16 THE COURT: All right.

17 MS. DIGIACOMO: If we get done with the jury by an act of a
18 miracle early today I have her on call to be able to come and do the
19 hearing this afternoon, but we could do it in the morning at 9:00 before.

20 THE COURT: I assume you have several hours so --

21 MR. SPEED: Of jury selection or the hearing?

22 MS. DIGIACOMO: Yes.

23 MR. SPEED: Oh, yeah.

24 THE COURT: Jury selection.

25 MS. DIGIACOMO: The hearing shouldn't be that long.

1 THE COURT: Yeah, okay. Well --

2 MR. SPEED: Yes, Your Honor. It'll probably take the rest of
3 our workday today.

4 THE COURT: -- all right. We're going to -- yeah. If we have
5 to stay late we're going to finish picking a jury.

6 MS. MACHNICH: We'll see how far we get. Depending on
7 when the State is done. I mean, they've been up for over four hours so
8 we'll probably --

9 THE COURT: I get it, and I'll certainly want to do 6:00 if
10 necessary.

11 MS. MACHNICH: Okay.

12 THE COURT: Okay.

13 MS. DIGIACOMO: Thank you.

14 THE MARSHAL: Judge.

15 THE COURT: Oh, who doesn't --

16 MS. DIGIACOMO: Uh-oh.

17 THE COURT: In the box?

18 MS. MACHNICH: Which one?

19 MR. SPEED: God knows.

20 THE COURT: Oh, okay. That's not surprising. Ms. Hausman,
21 I'm not sure I can be on this jury. It's sending my anxiety through the
22 roof. I don't believe in good faith I could make a decision about a man
23 that is already making me angry looking at him. I'm sorry I can't put my
24 personal feelings aside for this. I can't read that word, but I also have to
25 be honest to myself and the court.

1 MR. SPEED: May we see it, Your Honor, please?
2 THE COURT: Sure. Well, let her mark it. But she's --
3 MR. SPEED: I think it's number one, isn't it?
4 MS. DIGIACOMO: Yeah.
5 MS. MACHNICH: Yeah.
6 MS. DIGIACOMO: Yeah. She said it multiple times so.
7 THE COURT: Yeah. So are you guys agreeable to --
8 MS. DIGIACOMO: I would say let's do it now so that we can
9 question the next one while we're still up.
10 MS. SUDANO: Are there any other ones we can agree on --
11 MR. SPEED: Are they close?
12 MS. SUDANO: -- right now?
13 MR. SPEED: If they're close.
14 MS. MACHNICH: The other one that we would think that's
15 pretty easy called Zupan 135.
16 MS. DIGIACOMO: Oh, yeah. But --
17 MS. SUDANO: Yeah.
18 MS. DIGIACOMO: Yeah.
19 MS. MACHNICH: I mean, she --
20 MS. SUDANO: We can agree on that one.
21 MS. DIGIACOMO: Yeah, yeah.
22 MS. MACHNICH: -- she's got to go.
23 MS. DIGIACOMO: Yeah. We have her so yeah.
24 THE COURT: Oh, and also the guy who's falling asleep.
25 MS. DIGIACOMO: Which one is that? I just hear the snoring.

1 MR. SPEED: Repo man.
2 MS. DIGIACOMO: Oh, repo man, yeah. We can agree on
3 that.
4 MR. SPEED: Oh, is that him? I -- he's the only one I thought
5 had --
6 THE CLERK: That's number 30 -- seat 32 I think.
7 THE COURT: 116.
8 THE CLERK: Yeah, 116.
9 MS. DIGIACOMO: Yeah.
10 MS. SUDANO: Yeah, that's fine.
11 MS. DIGIACOMO: That's fine.
12 MS. SUDANO: Was he snoring?
13 MS. DIGIACOMO: I heard --
14 MR. SPEED: I didn't hear him snore.
15 MS. DIGIACOMO: -- somebody snoring, and I didn't --
16 MS. MACHNICH: That's got to be him then.
17 MS. DIGIACOMO: No.
18 MS. SUDANO: I was going to say --
19 MR. SPEED: I was about to say, he was --
20 MS. DIGIACOMO: It was somebody in the back.
21 MS. MACHNICH: Oh, he's over here, okay.
22 MS. DIGIACOMO: Oh, no. It was somebody behind me.
23 MS. SUDANO: Okay. Because I was astounded at how
24 actually --
25 MS. MACHNICH: He was awake.

1 MS. SUDANO: -- awake he was.
2 MS. MACHNICH: He was totally awake.
3 THE MARSHAL: One of the jurors actually got up and
4 punched the back of the chair.
5 MS. DIGIACOMO: Is that what happened?
6 THE MARSHAL: It was a guy back here.
7 MS. MACHNICH: Oh, okay. That's fine. That's fine. It's
8 boring to be in the back.
9 THE COURT: All right. Yeah.
10 MS. DIGIACOMO: So those three we can agree on.
11 THE COURT: They get -- so 116 is gone.
12 MS. DIGIACOMO: 123.
13 THE COURT: 123.
14 MS. DIGIACOMO: And 135.
15 THE COURT: And 135.
16 MS. MACHNICH: And are you guys there on number 35 or
17 no?
18 MS. DIGIACOMO: Who?
19 MS. SUDANO: Who?
20 MS. MACHNICH: 35, Argentine?
21 MS. DIGIACOMO: No, uh-huh.
22 MS. MACHNICH: Okay. Just wondering.
23 MS. DIGIACOMO: No.
24 MS. MACHNICH: Okay.
25 MS. DIGIACOMO: She didn't say -- I can tell you who else

1 we're going to be challenging for cause.

2 MS. MACHNICH: That we would love to know.

3 MS. DIGIACOMO: Ms. Clark and -- because she's one of the
4 ones that said would not follow the law. Same as Ms. Farro-Sulio said
5 she would not follow the law and wanted you know, the -- more
6 evidence. And then Ms. Harvey said she can't be fair based upon the
7 fact of what happened to her family members. And then Ms. Pender-Bey
8 said she has that family member who was falsely accused for the same
9 thing. So she doesn't think she can be fair.

10 MS. MACHNICH: Okay. So it's Pender-Bey, Harvey, Sulio
11 and Clark are the four?

12 MS. DIGIACOMO: That is at this point.

13 MS. MACHNICH: Okay.

14 MS. DIGIACOMO: Because we just struck the other three we
15 had.

16 MS. MACHNICH: Okay.

17 THE COURT: Are you -- do you want to -- are you going to --

18 MS. DIGIACOMO: You don't have anyone else, do you?

19 MS. MACHNICH: We're not going to agree to those.

20 THE COURT: Okay, fine. Fine. So those three -- well, Steve
21 just walked out. He will, when they get back, tell them that they can go,
22 and we'll replace them.

23 MS. MACHNICH: And, Your Honor, I guess we do have two
24 others of concern. Ms. Kennedy 183, she had something about her prior
25 jury service that was giving her pause and I think we should ask her

1 about that outside --

2 THE COURT: If you want to take --

3 MS. MACHNICH: -- the presence. There --

4 THE COURT: -- her outside that's --

5 MS. MACHNICH: There was something. I --

6 THE COURT: That's fine.

7 MS. MACHNICH: I don't know what. I certainly don't want to
8 get into the details, but she wanted to say something, and we would like
9 her to say it before we have an issue. And then also 154 Tobiasson, we
10 should inform the Court that the domestic violence portion of this case
11 against the mother that may or may not come in based upon the hearing
12 that we're going to have, his sister-in-law presided over that. Judge
13 Tobiasson was involved in this case.

14 THE COURT: Is there any way --

15 MS. DIGIACOMO: He wouldn't know that though.

16 THE COURT: -- that would come out? Yeah.

17 MS. MACHNICH: Well, you never know.

18 MR. SPEED: Well, we don't know what he knows.

19 THE COURT: All right.

20 MR. SPEED: He said that --

21 THE COURT: We can ask him outside the presence --

22 MS. MACHNICH: Okay, thank you.

23 THE COURT: -- but that's --

24 MS. MACHNICH: Okay, thank you. Those were our two -- I
25 had those written down.

1 THE COURT: That's a big if. First of all, you're fighting that
2 that come in and then second of all is --

3 MS. DIGIACOMO: And with regard to Ms. Kennedy, we
4 didn't see a need for her to be addressed outside the presence.

5 MS. MACHNICH: I -- she wants to say something.

6 THE COURT: She indicated there was something. I'm still
7 not going to let her talk about -- there's no reason to talk about the prior
8 case. Except unless somehow it affects this case.

9 MS. MACHNICH: I just -- something was giving her pause
10 Your Honor, and she wanted to say it and we're like well, let's not talk
11 about it. Okay, I won't. But --

12 THE COURT: Well, they all want to talk about -- they all --
13 you know, all like the prior experiences, but as far as the prior case, as
14 long as it isn't relevant to this.

15 MS. MACHNICH: And we don't know if is. I mean, I just -- I'd
16 like to ask. We can certainly at that point --

17 THE COURT: We'll ask her outside --

18 MS. MACHNICH: -- cut it off if it's not.

19 THE COURT: -- the presence. All right.

20 MS. MACHNICH: Thank you. Appreciate it.

21 THE COURT: Steve, you can let go 135 -- what's the numbers
22 again? Do you have --

23 MR. SPEED: 123 and 116, Your Honor.

24 THE COURT: Yes. And --

25 THE MARSHAL: Hold on. Let me make sure I've got these

1 names correct.

2 THE COURT: Kathy will give you the names and everything.

3 THE MARSHAL: 123, the name?

4 MS. MACHNICH: Hausman.

5 THE MARSHAL: Spell it.

6 MS. MACHNICH: I don't know.

7 THE COURT: The one, top right.

8 MS. DIGIACOMO: H-A-U-S-M-A-N.

9 THE MARSHAL: Okay. So 123 Hausman. And?

10 MS. MACHNICH: 135.

11 MS. DIGIACOMO: And then 135 Zupan.

12 THE MARSHAL: Zupan, spell that.

13 MS. DIGIACOMO: Z-U --

14 THE MARSHAL: Z-U.

15 MS. DIGIACOMO: -- P-A-N.

16 THE MARSHAL: P-A-N.

17 MS. DIGIACOMO: And then 116, Beam, B-E-A-M.

18 THE MARSHAL: B-E-A-M.

19 MS. DIGIACOMO: Uh-huh.

20 THE MARSHAL: Okay. They're all gone to lunch right now

21 so --

22 THE COURT: You're right.

23 THE MARSHAL: -- I'll release them when they come back.

24 THE COURT: Yeah.

25 MS. MACHNICH: Thank you.

1 MS. DIGIACOMO: Thank you.

2 THE CLERK: They're all three in the box by the way.

3 THE MARSHAL: Okay.

4 MS. DIGIACOMO: Yeah.

5 THE COURT: Yeah. Now we know.

6 MS. DIGIACOMO: So we need to replace them.

7 THE COURT: I'm not sure we're going to get done today --

8 MS. MACHNICH: I don't know if we are either.

9 THE COURT: -- just picking that. All right.

10 THE CLERK: Oh, and Steve, we have two we're going to take

11 outside the presence before we start. So I'll write them down for you.

12 THE MARSHAL: Okay.

13 [Recess taken from 12:11 p.m. to 1:13 p.m.]

14 [Outside the presence of the prospective jurors]

15 THE COURT: I think we have a problem.

16 MS. DIGIACOMO: Uh-oh.

17 THE COURT: Was it you?

18 THE INTERPRETER: Yes, Judge.

19 THE COURT: All right. Give us your name.

20 THE INTERPRETER: My name is Ximena Fiene. I'm a

21 certified court interpreter.

22 THE COURT: My understanding is you were on the elevator,

23 and you discussed what happened yesterday and there was a juror in the

24 elevator --

25 THE INTERPRETER: Yes, Judge.

1 THE COURT: -- from our panel?

2 THE INTERPRETER: Yes. I did not notice her. I apologize. I
3 was talking to the DA.

4 THE COURT: You -- I have to say this. Don't ever talk about
5 a case at all, period. If you -- when you leave here you can't be talking
6 about a case and I know you know better. But now certainly you told
7 them, or you were talking about the fact that another juror had stated
8 that the officer lied?

9 THE INTERPRETER: No. I did not say that.

10 THE COURT: Then what did you say?

11 THE INTERPRETER: No. We were talking about the day, how
12 is it going. And then I said oh, I have to go to this trial up stairs. And he
13 said oh, I heard about that. And I said oh, yeah. Can you believe it? And
14 then they dismissed everybody. That was it.

15 THE COURT: All right.

16 THE INTERPRETER: And then when I turned around --

17 THE COURT: Do you know --

18 THE INTERPRETER: -- then I saw --

19 THE COURT: Can you pick out the juror?

20 THE INTERPRETER: Yes, I can.

21 THE COURT: All right. What do you guys want to do?

22 MS. DIGIACOMO: We need to bring that juror in and just see
23 if it's going to affect their ability on this case.

24 MR. SPEED: I agree.

25 MS. MACHNICH: Yeah. Let's bring them in.

1 THE COURT: All right. Did you -- can you either describe or
2 go with Steve and try to find the juror?
3 THE INTERPRETER: Yes.
4 MS. MACHNICH: Okay, okay.
5 THE COURT: Thank you.
6 MR. SPEED: Did she say that she was trying -- she thought
7 she was talking to the DA?
8 MS. DIGIACOMO: No.
9 THE CLERK: Are the interpreter too?
10 MS. DIGIACOMO: I didn't hear that.
11 THE CLERK: Or no?
12 MS. DIGIACOMO: Yes, she's an interpreter.
13 MR. SPEED: Yes.
14 THE CLERK: Okay. Then are you Spanish? Are you filling
15 in?
16 THE INTERPRETER: Yes.
17 THE CLERK: Because we may need you to fill in.
18 THE INTERPRETER: Well, we're doing different --
19 MS. MACHNICH: We're doing the trial.
20 THE CLERK: Yes.
21 THE INTERPRETER: Right. Two interpreters.
22 THE CLERK: Okay.
23 THE INTERPRETER: Yes. Do you want my name?
24 THE CLERK: Yes, please.
25 THE INTERPRETER: Okay. Mariella Lopez.

1 THE CLERK: Okay.

2 MS. DIGIACOMO: No. I didn't hear a DA.

3 MR. SPEED: Your Honor, I suppose we can ask her when --

4 MS. DIGIACOMO: I heard -- I thought I heard another

5 interpreter.

6 MR. SPEED: I suppose we can ask her when she comes back,

7 but I think she said that she thought she was talking to the DA.

8 THE COURT: No. She was talking to another interpreter.

9 MS. DIGIACOMO: Interpreter, yeah. That's what I heard.

10 THE MARSHAL: She identified the juror to me. The -- I don't

11 know the name of the woman, but she's in the box, the African American

12 woman with the long braids. I believe she said she works at the mall

13 Dillards -- Dillon's.

14 MS. DIGIACOMO: Dillards.

15 MS. MACHNICH: Dillards.

16 MS. DIGIACOMO: Oh, it's Ms. Harvey.

17 THE MARSHAL: That one.

18 MS. MACHNICH: Yes.

19 THE COURT: All right. Bring her in.

20 THE MARSHAL: Okay. What's her last name?

21 MR. SPEED: Harvey.

22 MS. DIGIACOMO: Harvey.

23 THE COURT: And for the record, I appreciate you being

24 candid but -- and telling us, but man.

25 THE MARSHAL: All right. Judge, to throw off -- I'm going to

1 call in the three we're going to release and put them in the [indiscernible]
2 and shut the door. Then I'll bring in Ms. Harvey. So the jurors won't
3 have any idea what we're talking about.

4 THE COURT: All right.

5 THE CLERK: How do you spell your name?

6 THE INTERPRETER: X-I-M-E-N-A F-I-E-N-E.

7 THE CLERK: Thank you.

8 THE COURT: Somebody is going to interpret, correct?

9 THE INTERPRETER: She's here.

10 THE COURT: Okay.

11 MR. SPEED: How do you pronounce your first name again,
12 ma'am?

13 THE INTERPRETER: Ximena.

14 MR. SPEED: Ximena, just so that we're clear on the record.
15 Did you say that you were speaking with another interpreter or with the
16 DA? You thought you were speaking with --

17 THE INTERPRETER: DA.

18 MR. SPEED: -- with the DA? Do you know who that DA was?

19 THE INTERPRETER: I don't remember his name.

20 MR. SPEED: It's a male DA?

21 THE INTERPRETER: Yes. He's young.

22 [Pause]

23 THE COURT: Before they come -- what is it -- how -- I think I
24 just have to let her go. What do you want me to ask that's not going to
25 affect her or allow her to talk about something with the other jurors

1 potentially? Let her wait outside for a second.

2 MS. DIGIACOMO: Your Honor, can we just approach?

3 [Sidebar begins at 1:19 p.m.]

4 MS. DIGIACOMO: The only thing that the State needs to ask
5 is to make sure she didn't tell any other jurors about what she heard.

6 MS. MACHNICH: I just -- I don't even know -- did she hear --
7 like is there anything that she heard during lunch about this trial? I don't
8 know if she even knows she heard anything.

9 MR. SPEED: She could have very well been on her phone. A
10 lot of things could have been happening. The conversation --

11 MS. DIGIACOMO: Well, we just need to know if she --

12 MR. SPEED: The conversation wasn't directed toward her so
13 let's just see if she --

14 MS. DIGIACOMO: Well, was there --

15 MR. SPEED: -- heard anything.

16 MS. DIGIACOMO: And if she told.

17 THE COURT: All right.

18 MS. SUDANO: And she may not even know it was --

19 MS. DIGIACOMO: This case.

20 MR. SPEED: Right.

21 THE COURT: Maybe. That's how --

22 MS. DIGIACOMO: Yeah. Did you hear --

23 THE COURT: All right. You're right.

24 MS. DIGIACOMO: Did you hear anything about --

25 THE COURT: All right.

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[Sidebar ends at 1:19 p.m.]

THE COURT: Okay. Bring her in.

THE MARSHAL: Follow me.

THE COURT: Hi. Can you for the record give us your name and badge number?

PROSPECTIVE JUROR 086: Sheree, 86 Sheree Harvey, 86.

THE COURT: I was wondering if you heard or overheard anything at all while you were at lunch regarding this case.

PROSPECTIVE JUROR 086: No. I was eating at Capriati's and watching New Edition on my phone.

THE COURT: Okay. In the hallways, the elevator, anything?

PROSPECTIVE JUROR 086: Huh-uh.

THE COURT: Okay.

MS. DIGIACOMO: Is that a no, for the record?

PROSPECTIVE JUROR 086: No. Sorry.

THE COURT: All right. So nobody mentioned anything --

PROSPECTIVE JUROR 086: No.

THE COURT: -- about the case?

PROSPECTIVE JUROR 086: No.

THE COURT: Okay. That was -- I think that's --

MS. DIGIACOMO: Yes.

THE COURT: -- all you wanted to ask. Did you have anything?

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

THE COURT: Okay. That was it. Thank you.

1 PROSPECTIVE JUROR 086: Oh, you're welcome.
2 THE COURT: You can go sit outside.
3 PROSPECTIVE JUROR 086: Okay.
4 THE COURT: Talk about the weather and don't talk about
5 anything else.
6 PROSPECTIVE JUROR 086: Yes, sir.
7 THE COURT: Thank you. All right. That's good. She
8 doesn't -- either didn't know what we were talking about or --
9 MR. SPEED: Right.
10 THE COURT: -- whatever. Okay. Anything else?
11 MS. DIGIACOMO: No, Your Honor. Just to bring in those --
12 THE COURT: Well --
13 MS. DIGIACOMO: Oh --
14 THE COURT: He was just going to let them go.
15 MS. DIGIACOMO: Oh, the other two we need to question
16 outside the presence.
17 THE COURT: That's not the three that we're letting go?
18 MS. SUDANO: No, that's the other two.
19 THE COURT: All right. So the three are in the anteroom,
20 right? That you're --
21 THE MARSHAL: I just released them.
22 THE COURT: Okay. Fine. So who is we need to talk to
23 outside the presence?
24 MS. MACHNICH: Kennedy, 183 and --
25 THE COURT: Let's start with Kennedy 183.

1 MS. MACHNICH: Thank you.

2 THE CLERK: And that's in Seat Number 21.

3 MS. DIGIACOMO: Correct.

4 THE COURT: And this was about her prior service?

5 MS. MACHNICH: Yes. It sounded like there was something
6 she had wanted to share with us and I just -- without talking about
7 anything substantive from the trial, it was like the -- about what the trial
8 was about. Was there something that happened or something? Because
9 it just sounded like there was something she wanted to say.

10 THE COURT: All right.

11 MS. MACHNICH: She might say there's not and then we're
12 done.

13 MS. DIGIACOMO: Who was the other one?

14 MS. SUDANO: Tobiasson.

15 MS. DIGIACOMO: Oh, that's right.

16 THE COURT: Yeah, who is the other one?

17 THE CLERK: The other one is -- oh, go ahead.

18 MR. SPEED: Yeah. It was Tobiasson.

19 THE CLERK: Yes. That's number 154.

20 THE COURT: Have a seat right there.

21 PROSPECTIVE JUROR 183: Oh, okay.

22 THE COURT: Ms. Kennedy, Badge 183. You were talking
23 about your prior service as a juror and although I don't want to know the
24 type of trial, was there something you wanted to talk to us about that
25 that -- is that -- did that prior trial, would that affect your ability to be fair

1 and impartial in this trial?

2 PROSPECTIVE JUROR 183: No. I just didn't know whether it
3 would be relevant or not, so I just --

4 THE COURT: What would be relevant, your prior service?

5 PROSPECTIVE JUROR 183: Prior service. Ta -- yeah --
6 prior -- yeah.

7 THE COURT: Okay. So again, without going into the details
8 of that prior trial, it was a criminal trial?

9 PROSPECTIVE JUROR 183: Yes.

10 THE COURT: Yes? And -- but it was not even Nevada,
11 correct?

12 PROSPECTIVE JUROR 183: Correct.

13 THE COURT: So you can set aside any law or instructions --
14 or can you set aside any law or instructions regarding that other case
15 and listen only to the jury instructions I give you, if you're chosen on this
16 case?

17 PROSPECTIVE JUROR 183: Yes.

18 THE COURT: And you understand different states have
19 different laws and whatever that -- and it may not have anything to do
20 with this case, but in any event, can you follow our laws and render a fair
21 and impartial verdict?

22 PROSPECTIVE JUROR 183: Yes.

23 THE COURT: Is there anything --

24 MS. MACHNICH: Your Honor, we would just briefly follow
25 up, ma'am.

1 PROSPECTIVE JUROR 183: Sure.

2 MS. MACHNICH: Is there anything that happened during the
3 course of that trial or after it that you would hold against either the State
4 or the Defense in this case?

5 PROSPECTIVE JUROR 183: No.

6 MS. MACHNICH: Okay, great. Thank you. Nothing further.

7 THE COURT: Was it a -- I'm sure. I don't know if they asked.
8 Was it a bad experience or a good experience or a neutral experience?

9 PROSPECTIVE JUROR 183: Overall, I would say it was a
10 positive experience. It was emotional, but it was positive.

11 THE COURT: Okay. State have anything?

12 MS. DIGIACOMO: No, Your Honor.

13 THE COURT: All right. I think that's it. Thank you. We just
14 have questions outside for a lot of people.

15 PROSPECTIVE JUROR 183: Okay.

16 THE COURT: No big deal. Who is the other one?

17 MS. DIGIACOMO: Tobiasson.

18 THE COURT: Tobiasson.

19 THE CLERK: Tobiasson and that's Badge Number 154 --

20 MS. DIGIACOMO: 154.

21 THE COURT: All right. Tobiasson.

22 MS. MACHNICH: Your Honor, before we bring him in --

23 THE COURT: Yes?

24 MS. MACHNICH: -- our concern is that at some point, he
25 may learn that his sister-in-law presided over part of this case.

1 MS. SUDANO: I don't know why he would ever learn that
2 particular information that she was the judge that presided. Even if the
3 DV component of the case did come into play, there's no way he's going
4 to know that she was the judge that --

5 MR. SPEED: Well, she handles all DVs, virtually all DVs.

6 MS. DIGIACOMO: She did. She doesn't now.

7 MS. SUDANO: And there was a second judge that handled
8 the other half of the DV calendar.

9 THE COURT: What is it you want me to ask?

10 MS. MACHNICH: I --

11 THE COURT: Is he aware of this case?

12 MS. DIGIACOMO: Well, he already said he didn't --

13 THE COURT: Does --

14 MS. DIGIACOMO: -- know the Defendant.

15 THE COURT: -- does he discuss cases with his, what is it,
16 sister-in-law?

17 MR. SPEED: Right.

18 THE COURT: Or is it sister?

19 MR. SPEED: Sister-in-law.

20 MS. DIGIACOMO: Sister-in-law.

21 MS. SUDANO: Sister-in-law.

22 THE COURT: Sister-in-law. Okay. What is it you want to
23 inquire about?

24 MS. MACHNICH: I guess -- because we don't want to
25 specifically ask if he would be prejudiced if he learned that his sister

1 presided over something --

2 THE COURT: Right.

3 MS. MACHNICH: -- involving this case. And we don't know
4 if that would ever come out, but theoretically, if something with the
5 preliminary hearing transcript came in, her name is on the preliminary
6 hearing transcript. Her name -- she's associated with it. I don't know
7 how --

8 THE COURT: Well, we could white that out. That's not a big
9 deal.

10 MS. DIGIACOMO: Yeah. And the entire transcript wouldn't
11 come in. It would just be a witness' testimony anyway.

12 MS. MACHNICH: It would -- I was just concerned and you
13 never know with speech patterns or what's identifiable, but if -- I mean, if
14 we don't -- if we want to leave it for right now, that's fine. We don't have
15 to do anything at this point.

16 THE COURT: I don't see how -- we have Supreme Court
17 Justices that serve on juries. We have District Court Judges that serve
18 on juries. Certainly they know that the -- whatever JP it came up from --
19 now, they obviously don't know that particular case, but they probably
20 know better than anybody, so I don't see how that in and of itself would
21 be a disqualification.

22 MS. MACHNICH: Your Honor, I don't know if it will be, either
23 and perhaps we'll just ask during the normal course of jury questioning.

24 THE COURT: All right. Yeah.

25 MS. MACHNICH: That's fine. Thank you.

1 THE COURT: What else? Anything else?

2 MS. DIGIACOMO: Your Honor. We are ready to stop
3 questioning the jury panel, but -- and we'll pass for cause all except for
4 Ms. Clark, Badge Number 11, Ms. Farro-Sulio. Badge number 6 --

5 THE COURT: Wait. Wait. Go slower. Clark.

6 MS. DIGIACOMO: Okay. Did you get --

7 THE COURT: We'll make these -- let's talk about them
8 individually. I don't know if you'll --

9 MS. DIGIACOMO: All right. Ms. Clark, Your Honor, Badge
10 11. She's the one that said that she would need more than he said/she
11 said and won't follow the law, unless there's something tangible, some
12 sort of hard evidence.

13 MS. MACHNICH: May we respond, Your Honor?

14 THE COURT: Go ahead.

15 MS. MACHNICH: Obviously, in the end, if Your Honor is
16 inclined at this point to strike this witness, we've asked for a chance to
17 traverse the witness further on some of the topics. However, I believe
18 they already rehabilitated their own strike, when during further
19 questioning -- and it was a cold call near the end, where they were
20 discussing about the unrelated purse hypothetical that Ms. Sudano was
21 discussing with several of the potential jurors. She talked about needing
22 all sorts of things.

23 She would need the character of the people involved and she
24 would need some type of evidence, but then when asked further, she
25 said bruises or a second eyewitness and that the evidence did not have

1 to be physical. It just had to be something. She was willing to consider
2 the whole world of evidence and she would figure it all out and go from
3 there.

4 So I actually believe, without being specifically questioned
5 about following the law, I believe that they did actually delve further into
6 her beliefs on evidence that she would or would not consider, in that she
7 would consider everything presented. I don't -- I think --

8 THE COURT: All right. I'll let you traverse her.

9 MS. MACHNICH: Okay. That's fine.

10 MS. DIGIACOMO: All right. And just for the record with
11 regard to Ms. Clark. She did say there had to be something else. The
12 instructions this Court's --

13 THE COURT: I wrote that down.

14 MS. DIGIACOMO: Okay.

15 THE COURT: Yes. Some evidence, not just he said/she said.

16 MS. DIGIACOMO: Right, which is not the law.

17 THE COURT: And you asked her, yes.

18 MS. DIGIACOMO: The next one is Ms. Farro-Sulio, badge
19 number 16 for the same thing.

20 MS. MACHNICH: May we --

21 MS. DIGIACOMO: She said -- you know, she did the same
22 thing. She would need something tangible. She did say she's consider
23 all stuff, but that she did say specifically previous that she wouldn't
24 follow the law, if it didn't comport with what she thought the State had
25 to prove.

1 MS. MACHNICH: And Your Honor, may we be heard on this
2 one?

3 THE COURT: Yeah, but I'll let you traverse her, so --

4 MS. MACHNICH: Thank you.

5 THE COURT: -- you can make your --

6 MS. MACHNICH: And just for the record, they also, I believe,
7 virtually rehabilitated her as well. After speaking about her job, being
8 good under pressure, stressful job, attention to detail, she was asked
9 would she be able to consider all the evidence and she said she would,
10 because circumstantial evidence exists, but in her mind, circumstantial
11 evidence is bruises and the background of the assailant and the
12 character of the people and different circumstances. And she agreed
13 with the State in that every case has different types of evidence, as
14 pertinent to a case, so she was able and willing to consider all pertinent
15 evidence in the case in rendering a verdict.

16 I will say as an aside, when Ms. Sudano was speaking with
17 the jury about being able to follow the law or not, I -- this may just be my
18 opinion, Your Honor, but I believe she was actually mischaracterizing the
19 jury instruction in question. This is why we're not allowed to go into the
20 law in jury selection, however, specifically, there was -- if the -- it made --
21 she made it sound to our ears that the Judge was going to say you have
22 to convict someone, even if there's not any evidence. That's what it was
23 sounding like.

24 And we are all familiar with the no corroboration instruction,
25 that it's not required. But what's always left out and is left out in this

1 scenario with the way it was being phrased -- and I think potentially that
2 was artful phrasing in order to get around actually discussing the law --
3 but this is why we don't do this at all, is that it was leaving out that you
4 have to believe the complainant beyond a reasonable doubt and only if
5 you believe them beyond a reasonable doubt and only if you believe
6 them beyond a reasonable doubt, at that point, you may convict, based
7 upon only that witness' testimony.

8 I don't think that that was getting across to the jurors and
9 you could see the jurors struggle with the idea that His Honor was going
10 to tell them they had to convict, even if they didn't think the State had
11 proven the case. So that was our impression of that entire line of
12 questioning and that's why we're going to wish to traverse, so that's
13 fine.

14 THE COURT: That wasn't my impression, but I did write
15 down on her, require tangible, even if the law prohibits.

16 MS. DIGIACOMO: Correct.

17 THE COURT: So I'll certainly allow you to traverse. I will
18 remind or refresh your memory regarding *Jitnan*, and its progeny, which
19 is the *Sayedzada* case.

20 MS. MACHNICH: *Sayedzada*. Yes, Your Honor.

21 THE COURT: Regarding flip-flopping.

22 MS. MACHNICH: Your Honor, I understand, but in these
23 cases, I believe it was a mischaracterization from the start. And they
24 were not being asked to weigh the evidence.

25 THE COURT: Well, I'll let you traverse and we'll --

1 MS. MACHNICH: Okay.

2 THE COURT: -- discuss this again.

3 MS. MACHNICH: Okay. That's fine.

4 MS. DIGIACOMO: All right. Your Honor, also, Ms. Pender-
5 Bey, Badge Number 94. She stated yesterday she has a family member
6 in jail falsely accused for a similar crime, so she's not sure she can be
7 fair.

8 MS. MACHNICH: And Your Honor, a lot has happened since
9 that time, we we'd ask to traverse that witness as well. It did not come
10 up again today during questioning. Nothing related to not being fair
11 with her regarding anything we've discussed today, so we'd like to look a
12 little deeper at that point.

13 THE COURT: All right. I'll let you. It may be a waste of time,
14 because that's my recollection, that she said she couldn't be fair. But I
15 think it's fair to let you traverse. Anything else?

16 MS. DIGIACOMO: No, Your Honor. With those three, the
17 State will pass for cause, minus those three.

18 THE COURT: I get it. Hm.

19 MS. DIGIACOMO: And we can take this up after their
20 questioning again, if you would like.

21 THE COURT: Do you want to, so we're not wasting time, just
22 take those three? Because if any of them have to be replaced, you're
23 going to, I assume, start all over with the questioning of a new --

24 MS. DIGIACOMO: That is true. It's up to the Court how you
25 want to do it.

1 THE COURT: What do you want to do? The quickest is
2 what --

3 MS. DIGIACOMO: Well, we can just have them question
4 those three and then --

5 THE COURT: Yeah, this is just --

6 MS. DIGIACOMO: -- then for --

7 THE COURT: -- traversing them on those issues. It --

8 MS. DIGIACOMO: I would just suggest, Your Honor, doing
9 those three. Then we fill the seats, because we'll -- the State will have to
10 ask those three jurors questions.

11 THE COURT: Right. That's what I'm saying. All right. I think
12 that's the quickest. Let's take those --

13 MR. SPEED: If the Court's going to excuse them, though,
14 we --

15 THE COURT: What's that?

16 MR. SPEED: If the Court's going to excuse them, the Court
17 isn't --

18 THE COURT: If they don't, then you'll -- they'll be there, and
19 you'll do your questioning.

20 THE CLERK: I've got two of them. I didn't get the third one.
21 I've got Clark and Pender-Bey.

22 THE COURT: I'm not saying -- you might --

23 MS. DIGIACOMO: And 16.

24 THE COURT: -- something --

25 THE CLERK: 16.

1 THE COURT: -- where they say, you know, I hate chairs. I
2 don't know. But what I'm saying is regarding these issues, where they
3 said requiring tangible evidence only, I'll let you traverse.

4 MS. MACHNICH: Okay.

5 MR. SPEED: Understood.

6 THE COURT: Okay. So what was the first one?

7 THE CLERK: This one here is Clark, Cheryl Clark.

8 MS. DIGIACOMO: 11.

9 THE CLERK: Yes. And we're sending back Tobiasson?
10 We're not going to bring him in?

11 MS. DIGIACOMO: Correct.

12 MR. SPEED: No.

13 THE CLERK: Okay.

14 THE COURT: Yeah. Correct.

15 THE COURT: So Tobiasson's not going to come in?

16 MR. SPEED: He's not coming back.

17 THE COURT: Correct.

18 MS. DIGIACOMO: Okay.

19 THE MARSHAL: I'm not releasing him. He's just --

20 MS. DIGIACOMO: No.

21 MR. SPEED: No, no, no.

22 THE COURT: No, no, no.

23 MR. SPEED: Except with the group. No -- yes, yeah.

24 MS. MACHNICH: Yeah. He's just not coming here.

25 THE COURT: If you -- well, okay.

1 MS. MACHNICH: Yeah.

2 THE MARSHAL: Cheryl Clark?

3 THE CLERK: Yes.

4 THE COURT: Yeah. Thank you.

5 [Pause]

6 THE MARSHAL: Cheryl Clark had gone to the restroom. We
7 have Almavida Farro.

8 THE COURT: Okay.

9 THE MARSHAL: Ms. Farro, I'm going to have you seated in
10 that seat right there.

11 THE COURT: Yeah. Just take a seat. We have some
12 questions that we want to ask you. We're asking some questions outside
13 the presence. That's normal, so that's all it is. Go ahead.

14 MR. SPEED: Ms. Farro-Sulio, am I pronouncing that
15 correctly?

16 PROSPECTIVE JUROR 016: You pronounce it perfectly.

17 MR. SPEED: Thank you, ma'am, very much. You can relax,
18 too. You don't -- I want you to be comfortable here. I notice that --

19 PROSPECTIVE JUROR 016: I'm not really comfortable when
20 I'm on the spot.

21 MR. SPEED: Oh, okay. I understand.

22 THE COURT: You're not on the spot.

23 MR. SPEED: You're not on the spot here.

24 PROSPECTIVE JUROR 016: Okay.

25 MR. SPEED: You haven't done anything wrong. Let me

1 assure you of that, first of all.

2 PROSPECTIVE JUROR 016: All right.

3 MR. SPEED: We just have to ask you a few more questions
4 to make sure that we have a person who's able to serve on this jury,
5 okay?

6 PROSPECTIVE JUROR 016: Okay.

7 MR. SPEED: And it has to do with -- my questioning has to
8 do with some of the things that Ms. Sudano talked with you about
9 earlier. You mentioned that you need some kind of tangible evidence
10 that even --

11 PROSPECTIVE JUROR 016: Yes.

12 MR. SPEED: -- if the law says that it's not required, in order
13 to reach a conviction in a criminal case. Now, you explained to us that
14 you're a cardiothoracic nurse at Sunrise Hospital, yes?

15 PROSPECTIVE JUROR 016: Correct.

16 MR. SPEED: I'm assuming here, and if I get too far out of
17 pocket, be sure to put me back in place, all right?

18 PROSPECTIVE JUROR 016: Okay.

19 MR. SPEED: I'm assuming you know what the word
20 evidence means, yes?

21 PROSPECTIVE JUROR 016: Correct.

22 MR. SPEED: Can you explain to us what your understanding
23 of the word evidence is?

24 PROSPECTIVE JUROR 016: My understanding is that there is
25 an acceptable proof that beyond a reasonable doubt that that patient has

1 committed the crime or not.

2 MR. SPEED: Okay. And when you're explaining what you
3 think evidence is, can I ask you whether you're envisioning something
4 physical that we can touch or see or hear?

5 PROSPECTIVE JUROR 016: It's something that -- it's a
6 tangible evidence, so something that you can touch --

7 MR. SPEED: Okay.

8 PROSPECTIVE JUROR 016: -- but it's also something -- like --
9 okay, like me just tell how this relates to my job. If a patient tells me I'm
10 having chest pain, it's something that I would validate on the patient. It's
11 something that cannot be seen, but this may be true, or it may not be
12 untrue, because patient just want his morphine or not --

13 MR. SPEED: When you're --

14 PROSPECTIVE JUROR 016: -- but --

15 MR. SPEED: Oh. I'm sorry. Go ahead.

16 PROSPECTIVE JUROR 016: I'm sorry. So tangible things like
17 the 12-lead EKG may show something that this patient is tachycardic or
18 elevated heart rate. That can be indicative of pain, so when I print the
19 12-lead EKG, and I'm holding in my hand a record that shows that this
20 patient is having a rapid heart rate, which can indicate pain, then that's
21 what I meant by something that I can touch, feel, see and it's -- for me,
22 that's tangible and it includes medical records.

23 MR. SPEED: You also talked about and I heard you mention
24 this when you were speaking with me just now. You said what the
25 patient tells you. Often, healthcare providers will rely on a patient

1 reporting their condition. Isn't that right?

2 PROSPECTIVE JUROR 016: We will rely on the patient's
3 reporting, however, there are also patients that -- who will not report, but
4 we can see that there are symptoms.

5 MR. SPEED: Okay.

6 PROSPECTIVE JUROR 016: And in that case, we would
7 validate. We would ask the patient.

8 MR. SPEED: Right. Those symptoms would be things that
9 you couldn't necessarily touch, right? Like a cough.

10 PROSPECTIVE JUROR 016: A cough you cannot touch --

11 MR. SPEED: Or a sneeze?

12 PROSPECTIVE JUROR 016: -- but an x-ray, you can touch
13 and show that this patient has, you know, reason why he's coughing. It
14 could be something that there's obstruction in their airway or things like
15 that.

16 MR. SPEED: Sure. Absolutely. Now, when we talk about
17 evidence in a courtroom setting, we're talking about all of those things.
18 Things you can touch physically, like this lectern.

19 PROSPECTIVE JUROR 016: Okay.

20 MR. SPEED: Also, things that you can't touch, like a person's
21 statements or a person's testimony on the witness stand up here. Do
22 you understand that?

23 PROSPECTIVE JUROR 016: Can you ask -- I mean, can you
24 repeat that, please?

25 MR. SPEED: Sure, sure, sure. When we're in court and if

1 you're chosen to serve on this jury, you'll be presented with many
2 different kinds of evidence. Some of it, you can touch, like the x-ray that
3 you described to us earlier.

4 PROSPECTIVE JUROR 016: Yes.

5 MR. SPEED: Some of it you won't be able to touch. You'll
6 only be able to perceive it with your hearing, all right? And that'll be a
7 witness' --

8 PROSPECTIVE JUROR 016: Yes.

9 MR. SPEED: -- testimony. Do you understand that, how
10 those are both forms of evidence that you might be asked to consider?

11 PROSPECTIVE JUROR 016: Yes. I would consider the
12 testimony, but then again, you know, that testimony has to be supported
13 by something. Like if that -- if there is a record that would indicate that
14 the patient or the witness was there at that time, then I would consider
15 that. I mean it's not just hearing what somebody testifying. It's
16 validating it through some other factors.

17 MR. SPEED: Some other form of evidence?

18 PROSPECTIVE JUROR 016: Correct.

19 MR. SPEED: Now, this is piggybacking a little bit of Ms.
20 Sudano's question from yesterday. Even if the law required you to not
21 consider anything other than testimony, you're saying that you couldn't
22 do that. You would have to have something in addition to what a person
23 says on the witness stand?

24 PROSPECTIVE JUROR 016: Not necessarily. Well, I would
25 have to follow the law and the instruction.

1 MR. SPEED: Okay.

2 PROSPECTIVE JUROR 016: If the instruction says I do not
3 have to consider it, but if it's a way where -- because I understand that
4 for somebody to be convicted guilty of a crime, should be beyond
5 reasonable doubt and if that evidence or lack of it -- I mean if that
6 evidence suggests that this patient is really guilty beyond reasonable
7 doubt, if that would erase the doubt on the mind of everybody for him to
8 be proven guilty, then I would consider that.

9 MR. SPEED: Okay. Court's indulgence, Your Honor.

10 [Counsel confer]

11 MR. SPEED: That's all we have, Your Honor.

12 MS. DIGIACOMO: Oh, no, I --

13 THE COURT: No. Sorry.

14 PROSPECTIVE JUROR 016: Oh my gosh.

15 MS. DIGIACOMO: Okay. So going back to the example that
16 Ms. Sudano said earlier about that you have a woman walking through
17 the park. Somebody mugs her, takes her purse and leaves. And we go
18 to trial on that. The only evidence of the crime is her coming to the
19 stand and saying yes, that person stole my purse and nothing else.
20 Would you be able to make a decision based upon that or would you still
21 want something else before you could believe that testimony?

22 PROSPECTIVE JUROR 016: I want something out, definitely.
23 If that particular person that's being accused of is in at that scene at that
24 particular moment --

25 MS. DIGIACOMO: Uh-huh.

1 PROSPECTIVE JUROR 016: -- and he has a record in the past
2 of doing it and the victim has purse to indicate that she got mugged and
3 that she lost her purse, she reported all her credit cards as being stolen
4 and that person that's presumed to have done it went on a spending
5 spree at that time and prior to that, he was not doing it, then that gives
6 us, you know --

7 MS. DIGIACOMO: Like conformation --

8 PROSPECTIVE JUROR 016: Like --

9 MS. DIGIACOMO: -- confirmation or corroboration?

10 PROSPECTIVE JUROR 016: Yes.

11 MS. DIGIACOMO: Okay.

12 PROSPECTIVE JUROR 016: Yes.

13 MS. DIGIACOMO: So if it was just based upon the testimony
14 of the victim, that's not enough for you?

15 PROSPECTIVE JUROR 016: If it's just based on the
16 testimony, I would say it would be very challenging and difficult and
17 probably would not be enough.

18 MS. DIGIACOMO: Okay. Thank you.

19 MR. SPEED: Ma'am, you seem to be -- and again, I am not
20 being critical. We try to understand that people are doing the best they
21 can here, and they want to serve. The entire group yesterday talked
22 about their willingness to serve. But it sounds like what I'm hearing is
23 that you're conflating two different issues; one having to do with false
24 identification or not being able to identify someone who may have taken
25 property from another person. And that relates more closely with Ms.

1 Sudano's hypothetical.

2 What I'm asking and what I want to be absolutely clear about
3 is whether testimony or hearing people speak would be enough, if you
4 believe that testimony. Or would you require something more in
5 addition to that testimony to reach a conviction in a criminal case?

6 PROSPECTIVE JUROR 016: I would require something more
7 than just believing the testimony.

8 MR. SPEED: Okay. Thank you.

9 THE COURT: Thank you. All right. We're going to ask you to
10 wait outside.

11 [Pause]

12 THE COURT: Argument?

13 MR. SPEED: We'll submit it to the Court's discretion.

14 THE COURT: I think the -- yeah -- exactly what I wrote before.
15 And you know, she wants to serve. She's diligent. She's a highly
16 technical nurse and she requires -- she said it. She requires something
17 tangible and I think she made that very clear that mere the testimony of
18 witnesses, no matter what -- and she even said towards the end, even
19 if -- what did she start to say? Even if she believed, would not be enough
20 on its own. So I'm going to grant the challenge for cause.

21 MS. MACHNICH: And Your Honor, we don't disagree with
22 Your Honor's reading, based on the last thing you said, which is even if
23 she believed it, she couldn't rely on just that. Our little bit of concern
24 that we were discussing while this was ongoing is the State keeps using
25 an eyewitness identification as the example, like a stranger eyewitness

1 identification robbery as an example in this case. And the problem with
2 that is a lot of people are skeptical of eyewitness ID for various reasons
3 that have nothing to do with not believing a witness beyond a
4 reasonable doubt.

5 Eyewitness ID has an entirely different area, a way of
6 attacking it as a defense and also challenging it and putting it forth as a
7 prosecution. And I think the fact that they're giving these false
8 equivalencies is creating a skewed version. So in that, that witness, I
9 believe, with the final questioning by Your Honor, it was proper to strike
10 her for cause, given what she said she could not be unequivocally
11 unbiased in this case and she would require more, even if she believed
12 the witness. But I think we're delving into difficult ground when we're
13 talking about eyewitness IDs, because witnesses have problems with
14 that in a way that is not at issue here, because this is not a stranger
15 situation.

16 And so I would ask that that not be so much of a focus of the
17 State's or that that be considered by the Court when we're talking about
18 it, because when Your Honor Your Honor got to the bottom of it, that -- it
19 was what it was.

20 THE COURT: Well, I don't disagree that there is no
21 equivalent, but they're entitled to try to make a --

22 MS. DIGIACOMO: Analogous.

23 THE COURT: -- something to ask the question. And whether
24 it's perfect or not -- which I grant you it isn't, because then it brings up
25 IDs. We can't, they can't, and I certainly am not going to let you, you

1 know, use the facts of this case, which would make it clear, granted, but
2 you can't do that, so --

3 MS. MACHNICH: And we can, it's just, it's a problem.

4 THE COURT: -- I will, you know, ask them to use -- because
5 they are going to have now, at least one, some sort of a different
6 analogy --

7 MS. DIGIACOMO: Well, Your --

8 THE COURT: -- if that's the issues.

9 MS. DIGIACOMO: Well, Your Honor, there's nothing wrong
10 with that analogy. It's not like we started off with it. They said that they
11 needed some sort of hard, tangible proof. We needed an example of a
12 case where it would just --

13 THE COURT: Yeah. I said that.

14 MS. DIGIACOMO: -- be witness testimony.

15 THE COURT: I agree and that's, you know, what --

16 MS. DIGIACOMO: I mean, to do anything closer to the facts
17 would be improper.

18 THE COURT: That's, I thought what I just said so --

19 MR. SPEED: I think you --

20 MS. DIGIACOMO: Oh, I thought you were saying --

21 MR. SPEED: I thought you want -- yeah.

22 THE COURT: It is hard.

23 MS. DIGIACOMO: -- our analogy.

24 THE COURT: Well, it would be nice if it was something --

25 MS. DIGIACOMO: Do you want to change it to it was her

1 brought and she --

2 THE COURT: Car accident.

3 MS. DIGIACOMO: -- recognized him?

4 THE COURT: Use a car accident. I don't know. I'd try to
5 think of something --

6 MS. DIGIACOMO: Well, a car accident would have physical
7 proof, Your Honor. It would have a smashed car. It has to be the type of
8 crime where there's --

9 THE COURT: Yes. Where there's no physical --

10 MS. DIGIACOMO: Right. In the middle of a park. No
11 surveillance video.

12 THE COURT: All right. Maybe we won't have a problem with
13 the -- whoever is going to be in there. Who's going to be in --

14 THE CLERK: Well, we --

15 MS. MACHNICH: Still have two more to talk to.

16 THE COURT: Right. But we know who's going to take her
17 place as the next in line.

18 MS. DIGIACOMO: Well, wait.

19 THE CLERK: Okay. The next in line --

20 MS. MACHNICH: We haven't filled the others.

21 MS. DIGIACOMO: We still have others to fill.

22 MS. MACHNICH: Yeah.

23 THE CLERK: Yeah, I filled the other three.

24 MS. SUDANO: Oh, you did?

25 THE CLERK: Okay.

1 MS. SUDANO: Okay. Wait.

2 THE CLERK: I've got in Seat 1 Mindy Rabinowitz, Badge
3 Number 185; Seat 13, Salvatore Augusta, Badge Number 188; Seat
4 Number 32 is Carmen Wong, Badge Number 189. So if we're replacing
5 Seat Number 6, that would be Bin He, Badge Number 197.

6 THE COURT: Okay. Who's next up?

7 THE MARSHAL: Cheryl Clark.

8 THE CLERK: And Cheryl Clark is in Seat --

9 MS. DIGIACOMO: She's in 5 right now.

10 THE CLERK: 5, yeah.

11 THE COURT: 5. And you can let Ms. Farro-Sulio go. All
12 right. Bring in Cheryl Clark, please.

13 [Pause]

14 THE MARSHAL: Take a seat in that chair.

15 THE COURT: Ms. Clark, badge 011. We -- you've seen we're
16 asking people some questions outside the presence. It's very normal.
17 It's nothing to worry about. You're probably the fifth or sixth. Not a big
18 deal. We just don't -- we want to make sure that we're asking questions
19 that -- for you and not wasting everybody else's time, so with that, don't
20 be nervous. Don't worry. This is a normal process. Counsel, you may
21 proceed.

22 MR. SPEED: Ms. Clark, I assure you that you're not in
23 trouble. You didn't do anything wrong and I appreciate you taking a few
24 more minutes to talk with us individually. We had some questions,
25 some issues that we wanted to make sure were absolutely clearly for

1 you and for the four of us, okay?

2 PROSPECTIVE JUROR 011: Okay.

3 MR. SPEED: First, yesterday Ms. Sudano or it could have
4 been today, earlier this morning, Ms. Sudano asked you a question
5 about someone having a purse stolen from them.

6 PROSPECTIVE JUROR 011: Uh-huh.

7 MR. SPEED: And it related to one of the answers that you
8 gave yesterday, when you said that a person needed more evidence than
9 just he said/she said or you would need more than he said/she said in a
10 he said/she said type of case, in order to reach a conviction, if you're
11 chosen to serve as a juror in this case.

12 PROSPECTIVE JUROR 011: Correct.

13 MR. SPEED: Explain the Court and to the State and to us, if
14 you will very clearly in your own words, what do you think of or what do
15 you understand the word evidence to mean?

16 PROSPECTIVE JUROR 011: Something that is visible.

17 MR. SPEED: Okay.

18 PROSPECTIVE JUROR 011: Something that you have that
19 you are able to present.

20 MR. SPEED: Okay. That --

21 PROSPECTIVE JUROR 011: You have that evidence.

22 MR. SPEED: Would you agree with me that the way that you
23 think of evidence and understand evidence right now is as something
24 tangible, something that you can touch, actually put your hands on, like
25 this lectern?

1 PROSPECTIVE JUROR 011: Not so much touch, but I can see.

2 MR. SPEED: Okay.

3 PROSPECTIVE JUROR 011: It's present.

4 MR. SPEED: Okay. What about something that you can
5 hear?

6 THE WITNESS: That I can what?

7 MR. SPEED: Hear.

8 THE WITNESS: Hear? Yeah.

9 MR. SPEED: In a courtroom setting, evidence comes in many
10 different forms, Ms. Clark. It's not only things that we can touch or
11 things that we can, I guess, see, like a picture, a photograph, but it's also
12 things that we can hear and things that we have to consider with other of
13 our senses, right?

14 PROSPECTIVE JUROR 011: Right. Right.

15 MR. SPEED: And often, we will have, in just about every
16 criminal case that I've ever been a part of -- couple of decades now, we
17 have witnesses give testimony and that testimony is evidence. Is that
18 clear to you? Do you understand that?

19 PROSPECTIVE JUROR 011: Yes, I understand that.

20 MR. SPEED: Okay. Now, when a person from the
21 community is asked to serve as a juror and they say to the Court and to
22 the parties in a case that they need more than he said/she said, but then
23 that person learns that at witness' testimony is evidence and the rules
24 say that you're supposed to consider that evidence the same way you
25 would consider something that you could touch or see, like this lectern

1 or a photograph, do you have an issue or a problem conforming to that,
2 if that were a rule that was given to you?

3 PROSPECTIVE JUROR 011: I would have no problem with it,
4 but it definitely would be like hard for me on the situation, because
5 again, like I say, it depends on the circumstances.

6 MR. SPEED: Okay.

7 PROSPECTIVE JUROR 011: It depends on the credibility of
8 the person. I would have to like really hear it and understand it to see
9 which way, direction it is going, versus if I have it visible and I can see it,
10 that's totally different. You know what I'm saying?

11 MR. SPEED: I do.

12 THE COURT: We all are humans.

13 MR. SPEED: I do. Credibility is definitely something that you
14 can weigh as a juror, if you're selected to serve in this case. That's one
15 of the things that you'd be asked to consider. My question, I guess,
16 getting down to brass tacks about it is, if you were instructed clearly that
17 the evidence -- and this is evidence in the form of testimony, is all that's
18 required, if you believe that evidence beyond a reasonable doubt, if
19 you're given that rule, that specific statement by the Court, are you
20 saying this morning that you would still require more, more physical
21 evidence in order to reach a conviction?

22 PROSPECTIVE JUROR 011: I would definitely need a little bit
23 more.

24 MR. SPEED: Okay. I understand.

25 THE COURT: Counsel approach.

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[Sidebar begins at 1:58 p.m.]

MS. MACHNICH: Okay. We'll submit. I mean, it was clear.
We'll submit.

THE COURT: Okay. She was very clear. That was a good
last question and I appreciate that. I'm going to thank her, because at
least this one was fairly, to me, straight forward. So I'm going to excuse
her, thank her and show submitted.

MS. MACHNICH: Okay.

THE COURT: Okay. Thank you.

[Sidebar ends at 1:59 p.m.]

THE COURT: Ms. Clark, I want to thank you for being here. I
appreciate it. We're going to excuse you. It has nothing to do with really
anything other than you might not be the best person on this particular
case. I think you'd make a great juror in other cases. And so I want to
thank you very much for being here. It's a process as I've said like three
times now. And we appreciate you taking the time out of your schedule.
Thank you.

PROSPECTIVE JUROR 011: Thank you.

THE COURT: And you should be proud that you spent the
time too.

PROSPECTIVE JUROR 011: Oh, I learned --

THE COURT: Most people --

PROSPECTIVE JUROR 011: -- I learned a little something.

THE COURT: -- tell their friends and they -- hey, I did my
service and believe me --

1 PROSPECTIVE JUROR 011: I learned a little something.
2 THE COURT: -- we are all proud of that. Okay, thank you.
3 PROSPECTIVE JUROR 011: Thank you.
4 MR. SPEED: Thank you.
5 THE COURT: And don't talk about anything on your way out.
6 PROSPECTIVE JUROR 011: Okay.
7 THE CLERK: Then the next one in line for seat number five
8 would be, is it Gelene Estrellado.
9 MS. DIGIACOMO: Estrellado.
10 THE CLERK: Estrellado.
11 MS. MACHNICH: Estrellado.
12 THE COURT: All right. And who's the next one we need to
13 bring in?
14 MS. DIGIACOMO: It's Pender-Bey.
15 MR. SPEED: It's Pender-Bey.
16 THE CLERK: It's going to be --
17 THE COURT: What's --
18 THE CLERK: -- seat number 27.
19 THE COURT: Seat number --
20 THE CLERK: 27
21 THE COURT: -- 27. And she's badge 094. Oh, yeah. That
22 has okay. Yeah. Let's bring her in.
23 THE MARSHAL: If you'll have a seat right there.
24 THE COURT: Ms. Pender-Bey -- and I haven't had a chance to
25 try at your name, so did I say that okay?

1 PROSPECTIVE JUROR 094: Yes.

2 THE COURT: All right. Badge 094. First of all, you've seen
3 we're asking a lot of people some questions outside the presence. It's
4 totally normal. It has nothing particular to do with you. We've done it
5 for many. We're just asking some questions and you shouldn't be
6 nervous or worry about it at all. So counsel.

7 MR. SPEED: Ms. Pender-Bey, good afternoon.

8 PROSPECTIVE JUROR 094: Good afternoon.

9 MR. SPEED: You'll probably be hearing a little bit more from
10 me, but we wanted to make sure that a number of issues were absolutely
11 clear for the State, for us and for the Court.

12 PROSPECTIVE JUROR 094: Okay.

13 MR. SPEED: We wanted to ask you some questions about --
14 and I understand that this is a sensitive area, but you had a family
15 member who was falsely accused you revealed to us yesterday, yes?

16 PROSPECTIVE JUROR 094: Yes.

17 MR. SPEED: Now there is some concern about whether that
18 experience, that life experience, that granted not all of us have, but many
19 people, if that life experience would somehow prevent you from being a
20 fair and impartial juror in this case. Do you think that having a family
21 member -- and before I get too much further along, can you tell us the
22 relationship? Was it an uncle?

23 PROSPECTIVE JUROR 094: It's the man that actually raised
24 me. He's in jail still now for the allegation.

25 MR. SPEED: Your father figure?

1 PROSPECTIVE JUROR 094: Yes. And I testified on his behalf.
2 I mean, if you're asking would it sway my decision, I feel like it actually
3 opens it a little bit more because I look for more facts than just okay, the
4 surface. Or -- in the situation it was, it was a child. And it was more of a
5 parent, not the child. And then in those cases it's like as a child how do
6 you put them in that situation. So for me it opened it up a little bit more
7 versus the closed mind I had about it where it's black or white.

8 MR. SPEED: Okay.

9 PROSPECTIVE JUROR 094: So --

10 MR. SPEED: Now when you say that, that has -- that
11 expression has a different meaning to different people. If you say it's
12 more than just what's black or white.

13 PROSPECTIVE JUROR 094: Yes.

14 MR. SPEED: When you say that, are you saying is it fair for
15 me to assume that you're saying you formally were of the mindset that
16 said, if a child or a person accusing someone of sexual misconduct, if a
17 person accusing says it, it must be true?

18 PROSPECTIVE JUROR 094: Yes.

19 MR. SPEED: Okay.

20 PROSPECTIVE JUROR 094: [Indiscernible].

21 MR. SPEED: Now you're saying that you no longer have that
22 mindset. You don't look at these kinds of issues in that way because of
23 your life experience?

24 PROSPECTIVE JUROR 094: Exactly.

25 MR. SPEED: Okay. Do you understand how the government

1 might be concerned, the state might be concerned about you being able
2 to serve as a fair and impartial juror because the person who raised you,
3 your father figure, was in your opinion falsely accused and is now
4 serving time in prison?

5 PROSPECTIVE JUROR 094: Correct. I can understand that.

6 MR. SPEED: But you're saying that you can set that life
7 experience aside, and again, not all of us have that, but reports, research
8 has shown that several people do, several thousand people do perhaps,
9 a lot of people share that experience with you. Do you think that that
10 experience in and of itself would be something that disqualifies you, or
11 makes you unfit to serve as a juror because it's impossible for you to put
12 those feelings aside?

13 PROSPECTIVE JUROR 094: I don't feel it disqualifies me, but
14 I can understand their concern.

15 MR. SPEED: Okay.

16 PROSPECTIVE JUROR 094: I do.

17 MR. SPEED: But it doesn't disqualify you?

18 PROSPECTIVE JUROR 094: No.

19 MR. SPEED: Because you can put those feelings aside?

20 PROSPECTIVE JUROR 094: Yes. And it's happened -- and I'll
21 be honest because I also stated earlier, my sister is also a victim of
22 sexual assault and it was at a younger age and it was also something
23 similar. And in both situations it was different than what was portrayed
24 at the end of the day.

25 MR. SPEED: In your father figure's case?

1 PROSPECTIVE JUROR 094: In both of them, yes.

2 MR. SPEED: Okay. And you said that your sister was a
3 victim?

4 PROSPECTIVE JUROR 094: Yes. Not the same case --

5 MR. SPEED: Okay. I understand.

6 PROSPECTIVE JUROR 094: -- of [indiscernible].

7 MR. SPEED: I understand. Not in the same case. Did she
8 disclose that she had been victimized to you?

9 PROSPECTIVE JUROR 094: Yes.

10 MR. SPEED: Okay. And when she made that disclosure did
11 you believe her?

12 PROSPECTIVE JUROR 094: Initially, no.

13 MR. SPEED: Initially you did not?

14 PROSPECTIVE JUROR 094: No.

15 MR. SPEED: Okay. And why was that?

16 PROSPECTIVE JUROR 094: Because it was a family member.

17 MR. SPEED: It was a family member, I see. You learn things
18 as more revelations were made that brought you to the opinion that
19 what she was saying was the truth?

20 PROSPECTIVE JUROR 094: Yes.

21 MR. SPEED: You listened to other forms of evidence, right?

22 PROSPECTIVE JUROR 094: Absolutely.

23 MR. SPEED: Okay. In that situation however, if the only
24 thing you had to go on was your sister saying that this happened to her
25 and it was not a family member, you would believe your sister, yes?

1 PROSPECTIVE JUROR 094: I would say yes, initially.
2 MR. SPEED: All right.
3 PROSPECTIVE JUROR 094: As expected.
4 MR. SPEED: That's all.
5 THE COURT: State.
6 MS. DIGIACOMO: Thank you. With regard to -- I kind of was
7 a little confused. With regard to the case with your father figure, you
8 said that kind of opened up your mind regarding, you said something
9 about like a child victim of a crime and a parent. Can you explain what
10 you mean by that a little more?
11 PROSPECTIVE JUROR 094: So right now he is in jail due to
12 the parents alleged that he touched a child. And then they retracted the
13 statement, however it was already, and he was already in jail.
14 MS. DIGIACOMO: Okay. And was it a little, little child or was
15 it one that had its own voice?
16 PROSPECTIVE JUROR 094: It's a little child. It wasn't --
17 MS. DIGIACOMO: Okay.
18 PROSPECTIVE JUROR 094: -- of age. She wasn't of age.
19 MS. DIGIACOMO: And then from what I -- from what you
20 said yesterday you said that maybe in this case it would be hard for you
21 to be fair?
22 PROSPECTIVE JUROR 094: Yeah. And --
23 MS. DIGIACOMO: Because I'm assuming because of the
24 subject matter that --
25 PROSPECTIVE JUROR 094: And that's what I looked at.

1 When initially it was a 14-year-old girl, and I'm like --

2 MS. DIGIACOMO: Under 14, yeah.

3 PROSPECTIVE JUROR 094: Under 14 and I'm like, I don't
4 know. I don't want to do this. And I'm going to be honest, I am just full
5 of discretion. I kind of didn't want to do it at all. I just didn't want to do
6 jury duty so --

7 MS. DIGIACOMO: Well --

8 PROSPECTIVE JUROR 094: -- I was like --

9 MS. DIGIACOMO: -- you're not alone in that.

10 PROSPECTIVE JUROR 094: -- I'm being honest. Like I just
11 really didn't want to do jury duty. And then for it to be that kind of case I
12 was like yeah, no.

13 MS. DIGIACOMO: And we appreciate your candor because
14 you're the only one that can tell us, you know, whether or not you can be
15 fair. And it doesn't mean that you couldn't be fair in another case. Like if
16 you walked in here and this had to do with an auto burglary, would you
17 have had the same reservations about can I be fair in this type of case?

18 PROSPECTIVE JUROR 094: Well, yeah. In that case, no.
19 Because I've never dealt with auto burglary.

20 MS. DIGIACOMO: Okay. So is it fair to say maybe in this
21 case you're having a hard time because it hits too close to home with the
22 subject matter of a child sex crime?

23 PROSPECTIVE JUROR 094: The thought of it, yes.

24 MS. DIGIACOMO: Okay. So in this case because -- and you
25 said that you would see why the state would be hesitant to have you on

1 there. Picture a starting line, like you know, runners. Are the defense
2 and the state starting from the same position or is it more because this
3 is --

4 MS. MACHNICH: That's a misstatement of the standard.

5 MR. SPEED: Your Honor, I'd object now. We're -- may we
6 approach?

7 THE COURT: Yeah.

8 [Sidebar begins at 2:09 p.m.]

9 THE COURT: Okay. I get they have the burden of proof. Go
10 on.

11 MS. DIGIACOMO: No. I'm just --

12 MR. SPEED: Right. And we're getting into a different issue.

13 MS. DIGIACOMO: No.

14 MR. SPEED: It's putting her feelings aside about having a
15 family member be falsely accused. Now we just learned that that false
16 accusation is based on the family of a non-verbal child victim recanting
17 the allegation of abuse after her father figure was sent to prison. We've
18 gone from that into, do you think the state and the defense are at a
19 different point if it's a race, if we're at a different starting line. We're
20 trudging very closely to explaining or expounding on the burden of
21 proof. And I think that's something that's inappropriate at this juncture
22 in our proceedings.

23 MS. DIGIACOMO: And that's not the State's intentions. The
24 State's intention, are we starting in the same place or is the State at a
25 slight disadvantage because of the type of a case. That's all the point --

1 THE COURT: I mean, I've heard that --
2 MS. DIGIACOMO: -- I'm trying to make.
3 MS. MACHNICH: The problem is the State is not starting at
4 the same place as the Defense.
5 MR. SPEED: Right.
6 MS. MACHNICH: The Defense starts at the finish line; you
7 don't.
8 MS. DIGIACOMO: You're yelling.
9 MS. MACHNICH: I want to make sure I'm [indiscernible].
10 THE COURT: And just one moment. First of all, what did I
11 say? One person's arguing.
12 MS. MACHNICH: Right, okay. All right.
13 THE COURT: I let you do it before --
14 MS. MACHNICH: He can go.
15 THE COURT: -- but no. Go ahead finish. You already --
16 MS. MACHNICH: I was just saying that that actually
17 misstates how the law works. We don't start at the same point.
18 MS. DIGIACOMO: Yes, we do.
19 MS. MACHNICH: We don't. You start --
20 THE COURT: Well --
21 MS. MACHNICH: -- we start at the finish line.
22 MS. DIGIACOMO: No, no, no.
23 MS. MACHNICH: Like that's not --
24 MS. DIGIACOMO: No.
25 THE COURT: I don't think that's a --

1 MS. DIGIACOMO: But each side --

2 THE COURT: All right.

3 MS. DIGIACOMO: -- each side deserves an open juror that
4 can be fair to both sides. And all I'm asking is --

5 THE COURT: All right. Keep your voices down.

6 MS. DIGIACOMO: -- am I starting at a disadvantage because
7 of this type of case.

8 THE COURT: All right. I'm going to allow it. I mean, we
9 allow it all the time. I don't think it impinges on the burden of proof. I'll
10 go ahead and explain again the burden of proof so she understands, but
11 as far as credibility, believability, whatever, they do start -- they should
12 be starting on a level playing field, that she doesn't have any biases.
13 And I think nobody said talk about biases. Talk about -- that's what we're
14 here about. All right. I'm overruling the almost objection in that regard.

15 MR. SPEED: Thank you, Your Honor.

16 [Sidebar ends at 2:12 p.m.]

17 MS. DIGIACOMO: All right. What I was saying is, you know,
18 both sides want a jury that can be fair to both sides and we both start in
19 the same position. You know, hold the state to its burden, et cetera. So
20 what I'm saying is, in this type of case because of your reservations and
21 your experience, is the state kind of starting behind the start line or are
22 we still starting in the same place as the defense? Are we on equal
23 footing or are we kind of already at a slight disadvantage because of just
24 the type of case we are presenting to you?

25 PROSPECTIVE JUROR 094: So, no. Clean slate is a clean

1 slate to me. As far as what happened before that has no bearings on this
2 young man because I have no knowledge of him. And it's not like I'm
3 against the law. Like anybody could say that I'm not against, because I
4 still date people of the law. So that's not a case. So I don't feel like you
5 all are a step behind, but I'm not going to lie, like I said, I was really just
6 trying to get out yesterday. I'm not going to lie. I was thinking like
7 everything I could do to get out. And so --

8 MS. DIGIACOMO: And you're not alone there.

9 PROSPECTIVE JUROR 094: No. But I realize, okay. I've got
10 to do this so I might as well be realistic and I'm going to be honest.

11 MS. DIGIACOMO: Okay. So let me ask it this way. And I
12 appreciate your honesty. So if you were sitting at this table and
13 presenting this case to potential jurors, would you want somebody with
14 your mindset sitting on this particular kind of case?

15 PROSPECTIVE JUROR 094: I would question it. No doubt I
16 would question it, because I would want to know, are you really giving
17 us a fair chance, but then that's when you get the facts. What happened?
18 Who said what? And given that opportunity and present it in that
19 manner, then you have to assess it and then make a reasonable decision
20 from there. But I can't hold him against other peoples' faults or
21 transgressions or even you all. I can't say well, you know, they're
22 definitely trying to gun for him because of this reason. I have no
23 knowledge of it. So there's no personal bias in this.

24 I'm not going to lie. Yesterday I did say oh yeah. I'm going
25 to have personal bias. I'm going to be honest, I thought I would get

1 immediately eliminated. I'm sorry, Judge. I thought that was an
2 immediate way to get eliminated.

3 MS. DIGIACOMO: Yeah.

4 PROSPECTIVE JUROR 094: So I did.

5 MS. DIGIACOMO: No. But it's a way to get questioned
6 individually.

7 PROSPECTIVE JUROR 094: I see now. I'm like sitting --

8 MS. DIGIACOMO: So --

9 PROSPECTIVE JUROR 094: -- here like no.

10 MS. DIGIACOMO: So what I'm hearing from you is that we
11 do start on equal footing.

12 PROSPECTIVE JUROR 094: Absolutely.

13 MS. DIGIACOMO: You'll keep an open mind?

14 PROSPECTIVE JUROR 094: Absolutely.

15 MS. DIGIACOMO: And you'll listen to the evidence and then
16 make your decision?

17 PROSPECTIVE JUROR 094: Absolutely.

18 MS. DIGIACOMO: And you're not going to be like oh well,
19 you know, I think this person falsely accused my father figure, so the
20 victim here, she already starts off at, you know, ten paces back?

21 PROSPECTIVE JUROR 094: I don't know if I can say this in
22 court because it's religious but --

23 MS. DIGIACOMO: No.

24 PROSPECTIVE JUROR 094: -- my faith allows me to walk in
25 just and that's not just.

1 MS. DIGIACOMO: Okay, thank you. I have nothing further.
2 THE COURT: Thank you.
3 MR. SPEED: Just so that it's --
4 THE COURT: Counsel, approach.
5 MR. SPEED: I'm sorry, Your Honor.
6 [Sidebar begins at 2:15 p.m.]
7 THE COURT: You won. That's when you sit down.
8 MS. MACHNICH: Thank you.
9 THE COURT: That's when you sit down.
10 [Sidebar ends at 2:15 p.m.]
11 THE COURT: Thank you. We're going to -- we'll ask you to
12 wait outside.
13 PROSPECTIVE JUROR 094: Okay.
14 THE COURT: And you know, you're doing a good service.
15 So I know you may not -- nobody seems to want to do this, but we
16 appreciate it. So if you could go outside and don't talk to anybody about
17 anything. I've said that 100 times.
18 Yeah. You violated the second rule. First is don't ask a
19 question you don't know the answer and the second is, when you're
20 winning sit down. I'm denying the challenge for cause.
21 MS. DIGIACOMO: The State withdraws --
22 THE COURT: Okay. Yes. Are the -- I'm sorry. Did you --
23 MS. DIGIACOMO: I said we were going to withdraw it.
24 THE COURT: Yeah. That --
25 MS. DIGIACOMO: Yeah.

1 THE CLERK: So --
2 THE COURT: I think that was clear.
3 THE CLERK: -- she will be excused?
4 THE COURT: She is not being excused.
5 THE CLERK: Oh, she's not being excused.
6 THE COURT: She is going to be here a while longer. That
7 was it, right?
8 MS. MACHNICH: Yeah.
9 MR. SPEED: I think that was all, Your Honor.
10 MS. MACHNICH: Yeah.
11 THE CLERK: Okay. So --
12 THE COURT: So give them the name of -- oh, we were up to
13 date on the names.
14 THE CLERK: I think we have everybody, right?
15 MS. MACHNICH: Yes.
16 THE CLERK: Okay.
17 THE COURT: All right. So I'll let the State go back to it, but
18 with these only.
19 MS. DIGIACOMO: Just these four.
20 THE COURT: Yes.
21 MS. SUDANO: Five.
22 MS. DIGIACOMO: Five.
23 MS. SUDANO: Five.
24 THE COURT: Yes.
25 MS. DIGIACOMO: Four. No, five.

1 THE COURT: I have one, two --

2 MS. DIGIACOMO: Five.

3 THE COURT: -- three, four. I have one -- how many new
4 ones. You're the one that did --

5 THE CLERK: Oh, we have --

6 THE COURT: One, two, three --

7 THE CLERK: Three. I mean, I've replaced 113, 32, 6 and 5 but
8 I'm not sure when I replaced --

9 THE MARSHAL: There should be five, Judge

10 THE COURT: Okay, five. There's a bunch of new names but I
11 -- so all right. You can question them. All right. We ready? It's already
12 2:15. Bring them in.

13 THE CLERK: Here, I'll give you the numbers so that you
14 know which ones.

15 THE COURT: Oh, yeah. I got to do preliminary questions.

16 MR. SPEED: For the next couple weeks will the Court let me
17 know when I'm winning?

18 MS. DIGIACOMO: How are you the only one that didn't
19 know?

20 MR. SPEED: I told you --

21 MS. DIGIACOMO: When you got back up --

22 MR. SPEED: I told you about yours too. Hey, I think you've
23 won.

24 MS. DIGIACOMO: Well, I got -- when you got back up I was
25 like what's he doing? I just conceded.

1 MS. MACHNICH: I wasn't going to -- I -- no comment. No,
2 really.

3 THE COURT: He was in the mode.

4 MR. SPEED: Hey, hey, many times wounded man.

5 THE COURT: He was -- well, we all get into the zone.

6 [Pause]

7 [Prospective jurors in at 2:19 p.m.]

8 [Inside the presence of the prospective jurors.]

9 THE MARSHAL: All present, Judge.

10 THE COURT: Thank you. Please be seated. Good afternoon.

11 IN UNISON: Good afternoon.

12 THE COURT: As you can see sometimes we need to do
13 things outside the presence of everybody. And there's reasons and it
14 makes it quicker. So parties acknowledge presence of the venire?

15 MS. DIGIACOMO: Yes, Your Honor.

16 THE COURT: Call the --

17 MR. SPEED: Defense does, Your Honor. Thank you.

18 THE COURT: Thank you. Call the next in line.

19 THE CLERK: Mindy Rabinowitz, badge number 185. You'll
20 be instead number one, the far corner. Okay. Salvatore Agosta, badge
21 number 188. You'll be in seat 13. Carmen Wong, badge number 189.
22 You'll be in seat number 32.

23 THE MARSHAL: Just follow that gentleman.

24 THE CLERK: Actually 32 is up front.

25 THE MARSHAL: Oh, 32 is --

1 THE CLERK: Yes. Actually, he's in 13.
2 UNIDENTIFIED SPEAKER: He's in 13.
3 THE CLERK: Sorry.
4 UNIDENTIFIED SPEAKER: You're going to need me in the
5 front.
6 UNIDENTIFIED SPEAKER: With this guy over here.
7 UNIDENTIFIED SPEAKER: Yeah. You're in the front, front.
8 THE MARSHAL: Are they going -- getting out of order?
9 THE CLERK: Out of order.
10 THE COURT: You're -- yeah.
11 THE CLERK: They're out of order, yeah. But --
12 UNIDENTIFIED SPEAKER: No, that's one. That's 13.
13 THE CLERK: Yes.
14 THE MARSHAL: It's not me. They're calling you out of order.
15 THE CLERK: There's a method.
16 THE MARSHAL: I know it's me.
17 THE CLERK: Okay. And Ms. Wong, you're in 32.
18 THE COURT: These guys have been together for like eight
19 years so they --
20 THE CLERK: Bin He, badge number 197. You'll be in seat
21 number six.
22 THE MARSHAL: Up on top.
23 THE CLERK: And is it Gelene?
24 PROSPECTIVE JUROR 200: Gelene.
25 THE CLERK: Gelene 200.

1 PROSPECTIVE JUROR 200: Yes.

2 THE CLERK: Badge number 200, you're seat number five.

3 MS. DIGIACOMO: She went to the wrong seat.

4 THE CLERK: Yes, that's correct. Okay.

5 THE COURT: So this one hasn't been changed.

6 THE CLERK: Ah-ha.

7 THE COURT: All right.

8 THE CLERK: I gave you the wrong one.

9 THE COURT: She's got too much to do. I'm going to try to

10 go in order. So seat number five is the first new -- oh, wait. No.

11 MS. DIGIACOMO: One.

12 THE COURT: Mindy, one. Ms. Rabinowitz, 185. This will be

13 a good test. Do you remember all the questions?

14 PROSPECTIVE JUROR 185: I'll give it my best shot. I am a

15 part-time retail sales associate. No significant other. No children. I --

16 my father was in the army in Korea. I have an uncle and a cousin that

17 served in the navy. Another cousin that served in the army. I have a

18 good friend who's retired navy and who was also retired from customs

19 and border protection in the port of San Diego.

20 THE COURT: You even went to the other ones, but have you

21 served on a jury?

22 PROSPECTIVE JUROR 185: No.

23 THE COURT: And have you or anyone close to you been the

24 victim of a crime?

25 PROSPECTIVE JUROR 185: No.

1 THE COURT: I guess that would -- you or anyone close to
2 you been the victim of sexual assault?

3 PROSPECTIVE JUROR 185: No.

4 THE COURT: Anyone -- you or anyone close to you been
5 accused of a crime?

6 PROSPECTIVE JUROR 185: No.

7 THE COURT: And is there any reason you can't be a fair and
8 impartial juror?

9 PROSPECTIVE JUROR 185: No.

10 THE COURT: Next is now number five, Gelene Estrellado.

11 PROSPECTIVE JUROR 200: Gelene.

12 THE COURT: Gelene. So I didn't even get the first name
13 right. How about the last?

14 PROSPECTIVE JUROR 200: Last one was right.

15 THE COURT: Oh, okay. Good. Number 200.

16 PROSPECTIVE JUROR 200: So I'm a hostess at Park MGM at
17 one of the restaurants inside there. Used to have a significant other
18 which we'll get to. His --

19 THE COURT: You have a story.

20 PROSPECTIVE JUROR 200: -- father was -- or still is currently
21 an active NHP officer as well as my ex-boyfriend's brother. Military, I do
22 have a cousin currently serving in the air force and my best friend is
23 currently serving in the army. I've never served on a jury before. As far
24 as sexual assault, nothing that I know in my family or any close friends
25 have ever reported.

1 THE COURT: Victim of crime?

2 PROSPECTIVE JUROR 200: Victim of crime, no.

3 THE COURT: And anyone -- you or anyone close to you

4 accused of a crime?

5 PROSPECTIVE JUROR 200: I believe my cousin was charged

6 for unpaid parking tickets. But other than that, nothing.

7 THE COURT: Doesn't qualify, but thank you. Any reason you

8 can't be a fair and impartial juror?

9 PROSPECTIVE JUROR 200: Not that I can think of.

10 THE COURT: Let's see now. 13 --

11 THE CLERK: Six I think. Did you do six?

12 THE COURT: Oh, six. You're right. We're going -- Bin He.

13 PROSPECTIVE JUROR 197: Bin He, jury number 197. I'm

14 retired now and my husband also retired.

15 THE COURT: Did you work in Clark County?

16 PROSPECTIVE JUROR 197: No.

17 THE COURT: Oh, okay.

18 PROSPECTIVE JUROR 197: I move from New Jersey.

19 THE COURT: All right.

20 PROSPECTIVE JUROR 197: And more than four years ago.

21 THE COURT: Your husband you said?

22 PROSPECTIVE JUROR 197: About yeah. He also retired. We

23 both move from New Jersey and no relationship with -- I don't know any

24 like legal people here or --

25 THE COURT: Ever been on a jury?

1 PROSPECTIVE JUROR 197: I haven't -- no. Not been in a
2 jury.

3 THE COURT: Okay. No -- any friends or family that are in
4 law enforcement or the military?

5 PROSPECTIVE JUROR 197: No.

6 THE COURT: Anyone -- you or anyone close to you been the
7 victim of a crime?

8 PROSPECTIVE JUROR 197: No.

9 THE COURT: You or anyone close to you been -- regarding a
10 sexual assault?

11 PROSPECTIVE JUROR 197: No.

12 THE COURT: You or anyone close to you been accused of a
13 crime?

14 PROSPECTIVE JUROR 197: No.

15 THE COURT: What are your kids, are they adults?

16 PROSPECTIVE JUROR 197: I have one daughter, 30 years old
17 and working in San Francisco.

18 THE COURT: And what does she do?

19 PROSPECTIVE JUROR 197: Private equity.

20 THE COURT: Okay. And is there any reason you can think of
21 that you can't be a fair and impartial juror?

22 PROSPECTIVE JUROR 197: I came from China when I was 30
23 years old. So constantly I compare China and United States. So during
24 the whole day when I was sitting there, listen other peoples, I thought a
25 lot. Thinking it's such a difference between two countries. First thing in

1 China a lot less family related sexual harassment or this kind of case. So
2 for myself I think I always feel more stronger, I cannot say hate it, but not
3 understand for things like that.

4 I always feel here -- I can understand is American legal
5 system is more like the -- you said, every criminal -- every people
6 assumed innocent before they were committed. But in China, I mean,
7 it's different. So I always feel here the legal system is a lot more -- I
8 cannot -- I don't know how to describe. Soft or --

9 THE COURT: We -- well, I can't say I'm all that familiar with
10 the legal system in China, but my question to you is, can you listen to the
11 jury instructions, which I will explain the law at the end of the case, can
12 you listen to those and follow the law as I explain it to you and set aside
13 whatever you may or may not know about law in China?

14 PROSPECTIVE JUROR 197: I believe I can. I just have a little
15 concern that although I can understand majority of the dialogue, but
16 sometimes when people answer the questions they all laughed, and I
17 don't know what they're laughing about.

18 THE COURT: Okay. If -- and it certainly sounds like you -- if
19 you're talking about a problem with the language, you certainly seem to
20 be communicating quite well. If you do have a problem will you raise
21 your hand and ask us to repeat it?

22 PROSPECTIVE JUROR 197: Okay.

23 THE COURT: So if you don't understand something raise
24 your hand, don't be afraid.

25 PROSPECTIVE JUROR 197: Okay.

1 THE COURT: And we'll repeat it and make sure --
2 PROSPECTIVE JUROR 197: Yeah.
3 THE COURT: -- you understand.
4 PROSPECTIVE JUROR 197: Yeah, I can.
5 THE COURT: Okay. Now we go to 13, Salvatore Agosta.
6 MS. DIGIACOMO: Behind you.
7 UNIDENTIFIED PROSPECTIVE JUROR: Wait, wait. It's okay.
8 UNIDENTIFIED PROSPECTIVE JUROR: I'm sorry.
9 THE COURT: Yeah.
10 PROSPECTIVE JUROR 188: Salvatore Agosta, badge 188.
11 THE COURT: What do you do for a living?
12 PROSPECTIVE JUROR 188: I'm an inside sales customer
13 service rep for a power transmission company.
14 THE COURT: What's the name? Is it here?
15 PROSPECTIVE JUROR 188: Motion Industries.
16 THE COURT: Okay. Significant other?
17 PROSPECTIVE JUROR 188: My wife is a nanny and I have a
18 37-year-old son in Texas that works contract work for AT&T.
19 THE COURT: Ever served on a jury?
20 PROSPECTIVE JUROR 188: No.
21 THE COURT: Okay. And the other questions, anyone you
22 know close to you, family or close friends that are in law enforcement or
23 the military?
24 PROSPECTIVE JUROR 188: None.
25 THE COURT: Okay. You or anyone close to you been the

1 victim of a crime?

2 PROSPECTIVE JUROR 188: I had a house broken into and
3 robbed years ago.

4 THE COURT: You or anyone close to you been the victim of
5 sexual assault?

6 PROSPECTIVE JUROR 188: No.

7 THE COURT: Anyone -- you or anyone close to you been
8 accused of a crime?

9 PROSPECTIVE JUROR 188: No.

10 THE COURT: And do you know of any reason why you can't
11 be a fair and impartial juror?

12 PROSPECTIVE JUROR 188: No.

13 THE COURT: Then number 32, now we'll go up front.
14 Carmen Wong, did I get that right?

15 PROSPECTIVE JUROR 189: Carmen Wong, 189.

16 THE COURT: Okay. Do you remember all the questions?

17 PROSPECTIVE JUROR 189: I think so.

18 THE COURT: Go.

19 PROSPECTIVE JUROR 189: I'm a student.

20 THE COURT: Okay. You're going to have to speak up a little.

21 PROSPECTIVE JUROR 189: I'm a student.

22 THE COURT: Perfect.

23 PROSPECTIVE JUROR 189: And significant other, I have -- he
24 works at Autism Building Blocks and he provides therapy for kids with
25 autism on the spectrum. And --

1 THE COURT: Ever served as a juror?

2 PROSPECTIVE JUROR 189: No. I have not. I don't know
3 anyone who was in the military.

4 THE COURT: Law enforcement?

5 PROSPECTIVE JUROR 189: No.

6 THE COURT: Okay. Victim of a crime?

7 PROSPECTIVE JUROR 189: No.

8 THE COURT: Anyone -- you or anyone close to you been the
9 victim of sexual assault?

10 PROSPECTIVE JUROR 189: No.

11 THE COURT: And have you or anyone close to you been
12 accused of a crime?

13 PROSPECTIVE JUROR 189: No.

14 THE COURT: Okay. Is there any reason you can think of why
15 you can't be a fair and impartial juror?

16 PROSPECTIVE JUROR 189: No.

17 THE COURT: Are you currently in school?

18 PROSPECTIVE JUROR 189: Yes.

19 THE COURT: Where are you taking classes?

20 PROSPECTIVE JUROR 189: UNLV.

21 THE COURT: Okay. You going in the summer now?

22 PROSPECTIVE JUROR 189: Oh, no. I'm not taking summer
23 classes.

24 THE COURT: Oh, okay. So you're off for now?

25 PROSPECTIVE JUROR 189: Yeah.

1 THE COURT: Okay. State.

2 MS. SUDANO: Thank you, Your Honor.

3 All right. So I'm just going to be addressing questions to our
4 new handful of folks. So Ms. Wong, badge number 189, we're just going
5 to start with you because you already have the microphone.

6 PROSPECTIVE JUROR 189: Okay.

7 MS. SUDANO: So what's your major?

8 PROSPECTIVE JUROR 189: Radiology.

9 MS. SUDANO: Okay. How close are you to graduating?

10 PROSPECTIVE JUROR 189: I actually graduated in December
11 and then I got into the program. So I'm starting in fall, in August.

12 MS. SUDANO: Congratulations.

13 PROSPECTIVE JUROR 189: Thank you.

14 MS. SUDANO: So your significant other works with children
15 on the autism spectrum --

16 PROSPECTIVE JUROR 189: Uh-huh.

17 MS. SUDANO: -- is that fair?

18 PROSPECTIVE JUROR 189: Yeah.

19 MS. SUDANO: How long has your significant other been
20 doing that line of work?

21 PROSPECTIVE JUROR 189: I think about two years.

22 MS. SUDANO: Okay. Do you ever talk about work together?

23 PROSPECTIVE JUROR 189: He'll talk about situations, never
24 any names.

25 MS. SUDANO: Sure. Some challenging situations I can

1 imagine --

2 PROSPECTIVE JUROR 189: Uh-huh.

3 MS. SUDANO: -- in that line of work?

4 PROSPECTIVE JUROR 189: Uh-huh, yeah.

5 MS. SUDANO: Do you think that there's anything about your
6 significant other's line of work that would affect your ability to be fair
7 and impartial?

8 PROSPECTIVE JUROR 189: No. I don't think so.

9 MS. SUDANO: So we were talking a little bit earlier about
10 how different people or different kids even can respond differently --

11 PROSPECTIVE JUROR 189: Uh-huh.

12 MS. SUDANO: -- to the same situation, or the same type of
13 situation. Do you think that that's even more true with some of the kids
14 that he might work with on a day-to-day basis?

15 PROSPECTIVE JUROR 189: Yes.

16 MS. SUDANO: Okay. Why do you think that might be?

17 PROSPECTIVE JUROR 189: Before he told me about the
18 situations I wasn't really educated on how sometimes kids on the
19 spectrum don't process emotions the way that we do. And so it's
20 different for everyone.

21 MS. SUDANO: Okay.

22 PROSPECTIVE JUROR 189: Yeah.

23 MS. SUDANO: And would you agree with me that it's
24 different for everyone regardless of whether or not they're on the
25 spectrum or not?

1 PROSPECTIVE JUROR 189: Yes.

2 MS. SUDANO: Okay. Why do you think it might be different
3 for everybody?

4 PROSPECTIVE JUROR 189: For the kids not on the
5 spectrum?

6 MS. SUDANO: Uh-huh.

7 PROSPECTIVE JUROR 189: I think it depends on where --
8 how they grew up at home, their parents, like how they -- how their
9 parenting style is. The different experiences that they go through day-to-
10 day.

11 MS. SUDANO: Do you think --

12 PROSPECTIVE JUROR 189: Sorry.

13 MS. SUDANO: Sorry. I didn't mean to cut you off.

14 PROSPECTIVE JUROR 189: Probably the way they
15 communicate and how they learn.

16 MS. SUDANO: So I was asking some questions earlier about
17 whether you think that a person or a child would always immediately
18 disclose some sort of sexual abuse. Do you think that everybody would
19 automatically, immediately disclose some type of abuse?

20 PROSPECTIVE JUROR 189: No.

21 MS. SUDANO: Why do you think someone might wait?

22 PROSPECTIVE JUROR 189: Depends on the situation. If
23 they're comfortable or not, if they feel safe. And if the person they're
24 telling or reporting it to the trust.

25 MS. SUDANO: What might affect whether or not somebody

1 feels comfortable or safe disclosing that type of thing?

2 MR. SPEED: Your Honor, may we approach?

3 THE COURT: Yes.

4 [Sidebar begins at 2:36 p.m.]

5 MR. SPEED: Well, now we're onto the facts of the case.

6 MS. SUDANO: No we're not. I don't think it's arguing the
7 facts of the case. It is -- it's always an issue that they --

8 MR. SPEED: Asking if --

9 MS. SUDANO: I'm sorry. Can I -- it's an issue they always
10 bring up about delayed disclosure. It's legit to see what they -- what the
11 juror members think about that. If we get somebody who says no. If
12 they don't disclose right away I'd never believe them, then that shows a
13 bias. We're not getting into the facts of the case. It's general.

14 MR. SPEED: It's absolutely arguing the facts of the case.

15 THE COURT: Well --

16 MR. SPEED: What makes someone wait to disclose sexual
17 abuse? And in this set of hypotheticals we're using the same facts that
18 exist in our case.

19 MS. SUDANO: That exist in almost --

20 MR. SPEED: Which is different --

21 MS. SUDANO: -- every case.

22 MR. SPEED: Which is different from the hypothetical that we
23 used earlier when the Court agreed that the safest way to proceed would
24 be to think of a hypothetical that's totally unrelated.

25 THE COURT: Okay. The problem I -- they asked that very

1 same question of every other -- I think just about every other potential
2 venire person.

3 MR. SPEED: Delayed disclosures --

4 THE COURT: So --

5 MR. SPEED: -- of sexual abuse?

6 THE COURT: They -- yeah.

7 MS. SUDANO: Talked about why people wouldn't --

8 THE COURT: They got into that same --

9 MS. SUDANO: -- want to talk about it.

10 THE COURT: -- area.

11 MS. SUDANO: Yeah, yesterday.

12 THE COURT: I don't know who it was with, but and it is too
13 close to the facts of this case. I don't see any reason to ask why or how
14 or whatever. Especially of a person who wasn't -- and I understand, and
15 I think it's appropriate when that person was the victim. This is -- you're
16 asking her to talk about something her boyfriend may or may not know.
17 So I'm going to sustain the objection on that. We don't need to get into
18 that with this witness or this potential juror.

19 MR. SPEED: I'm sorry; you said something else?

20 THE COURT: I said we don't need to get into that with this
21 potential juror.

22 [Sidebar ends at 2:39 p.m.]

23 MS. SUDANO: All right. So Ms. Wong, we talked about kind
24 of this idea with a number of different folks before. Would you
25 automatically disbelieve somebody if they waited to report a crime?

1 PROSPECTIVE JUROR 189: No.

2 MS. SUDANO: Okay. Would you be willing to take into
3 consideration the circumstances and the factors around that?

4 PROSPECTIVE JUROR 189: Yes.

5 MS. SUDANO: Okay. Do you think that you would be a good
6 juror?

7 PROSPECTIVE JUROR 189: I'm not sure.

8 MS. SUDANO: Okay. And what made you hesitate?

9 PROSPECTIVE JUROR 189: I think I'm easily persuaded and
10 I'm really indecisive on things. Unless there's a definite -- like definite
11 evidence it's really hard for me to decide.

12 MS. SUDANO: Okay.

13 PROSPECTIVE JUROR 189: I think.

14 MS. SUDANO: So when you say definite evidence --

15 PROSPECTIVE JUROR 189: Uh-huh.

16 MS. SUDANO: -- what do you mean definite evidence?

17 PROSPECTIVE JUROR 189: Like if there was any scientific
18 evidence then I would say it's easier for me to make the decision. If it's --
19 if like you said about the purse, the robbery in the park, I think I would
20 have a hard time.

21 MS. SUDANO: So would you require some sort of scientific
22 evidence in order to be able to reach a verdict?

23 PROSPECTIVE JUROR 189: Yes.

24 MS. SUDANO: Okay. Thank you, ma'am. I appreciate that.
25 We're going to go just in entirely reverse order. Can you pass it back to

1 Mr. Agosta, badge number 188 in seat 13? Oh, you do have the
2 microphone. Sorry, sir. So you said that your wife is a nanny; is that
3 right?

4 PROSPECTIVE JUROR 188: Correct.

5 MS. SUDANO: Is she actively working with a family or
6 multiple families?

7 PROSPECTIVE JUROR 188: Right now she's not working
8 with any family. They got transferred to Colorado Springs.

9 MS. SUDANO: Okay. So she was working with a military
10 family before?

11 PROSPECTIVE JUROR 188: Correct.

12 MS. SUDANO: All right. Does she come home and kind of
13 talk to you about her work experiences?

14 PROSPECTIVE JUROR 188: As far as with the child --
15 children, yes.

16 MS. SUDANO: Okay. Anything about those interactions that
17 you think would affect your ability to be fair and impartial in this case?

18 PROSPECTIVE JUROR 188: No.

19 MS. SUDANO: And you mentioned a few moments ago that
20 you had a house broken into at some point; is that right?

21 PROSPECTIVE JUROR 188: Correct.

22 MS. SUDANO: About how long ago was that?

23 PROSPECTIVE JUROR 188: Forty years.

24 MS. SUDANO: Do you know if the person was ever
25 apprehended?

1 PROSPECTIVE JUROR 188: Not as far as I know.

2 MS. SUDANO: Okay. Do you think that -- were the police
3 called?

4 PROSPECTIVE JUROR 188: Yes.

5 MS. SUDANO: Do you think that the police adequately
6 investigated in that particular case?

7 PROSPECTIVE JUROR 188: At that time I believe they did.

8 MS. SUDANO: Okay. Anything about that particular case
9 and your house being broken into that you think would affect your ability
10 to be fair and impartial in this case?

11 PROSPECTIVE JUROR 188: Not at all.

12 MS. SUDANO: Okay. So you've heard a number of different
13 questions asked of a number of different people. Is there any
14 information that you think anybody in the court should know, either side
15 or the judge, anything that stood out to you as, I have a response, or I
16 have a comment on that?

17 PROSPECTIVE JUROR 188: No.

18 MS. SUDANO: Okay. Thank you, sir. Can you pass it back to
19 Ms., is it He?

20 PROSPECTIVE JUROR 197: Yeah.

21 MS. SUDANO: All right. Badge number 197.

22 PROSPECTIVE JUROR 197: Yes.

23 MS. SUDANO: All right. So ma'am, you said that you and
24 your husband both used to work in New Jersey. What type of work did
25 you do?

1 PROSPECTIVE JUROR 197: I work in Bristol-Myers Squibb,
2 the pharmaceutical company as a research scientist.

3 MS. SUDANO: And what about your husband?

4 PROSPECTIVE JUROR 197: He works in the computer
5 company, it's a small computer company.

6 MS. SUDANO: Okay. Now you had expressed some
7 concerns I guess about the Chinese legal system and United -- and the
8 legal system in the United States being different?

9 PROSPECTIVE JUROR 197: Yes.

10 MS. SUDANO: Yes? You're a citizen obviously?

11 PROSPECTIVE JUROR 197: Yeah. I'm American citizen now.

12 MS. SUDANO: So you -- did you have to go through the
13 citizenship course?

14 PROSPECTIVE JUROR 197: Yes.

15 MS. SUDANO: Okay. So they taught you all the things that
16 we would have learned in all the civics classes in high school?

17 PROSPECTIVE JUROR 197: Yes.

18 MS. SUDANO: You heard from everybody else that's spoken
19 so far that we only have a couple of other people that have ever sat on
20 the jury before. Do you remember hearing that?

21 PROSPECTIVE JUROR 197: Yes.

22 MS. SUDANO: Okay. So pretty much everybody in this
23 room has never had this experience either. Would you agree with that?

24 PROSPECTIVE JUROR 197: Agree.

25 MS. SUDANO: So given your knowledge of the legal system

1 in the United States, you feel comfortable following the law and the
2 instructions that the Judge would provide to you?

3 PROSPECTIVE JUROR 197: Yes.

4 MS. SUDANO: Okay. And you think that you would be able
5 to do that?

6 PROSPECTIVE JUROR 197: Definitely I'll follow the judge's
7 rule in everything. I just feel because in China, child sex relations may
8 be much less, so I kind of feel more strongly or I feel to the true criminal
9 of these child sex abusers, I feel strongly like disgusted. I feel how can
10 somebody doing things for little kids. I myself have these strong
11 feelings, but I think I can follow the rule or try to be a fair juror. I think I
12 can do that, but in my background, in my thinking, I do feel kind of
13 strongly. I think that's a disgusting crime.

14 MS. SUDANO: And there are trials going on in this
15 courthouse all the time that are very upsetting. There's murder trials.
16 There's any other number of very serious crimes that take place. And
17 everybody takes those crimes seriously and nobody's going to say that
18 murder's okay or that any type of crime like that is okay.

19 PROSPECTIVE JUROR 197: Yeah, agree.

20 MS. SUDANO: But you're still willing to hold the State to its
21 burden?

22 PROSPECTIVE JUROR 197: Yes.

23 MS. SUDANO: And to weigh all of the evidence?

24 PROSPECTIVE JUROR 197: Yes.

25 MS. SUDANO: Okay. Thank you. I appreciate that, ma'am.

1 Can you pass it over to Ms. Estrellado? Did I say that right?

2 PROSPECTIVE JUROR 200: Yes.

3 MS. SUDANO: Okay. Badge number 200. So you've
4 mentioned a couple of times with us that the ex's dad works for NHP.
5 Were you close with your ex's father?

6 PROSPECTIVE JUROR 200: Yeah. I was close with the entire
7 family. It was his father and his brother were actually both for NHP. And
8 we'd have dinner with his family every Sunday.

9 MS. SUDANO: Did they ever talk about work while you were
10 there?

11 PROSPECTIVE JUROR 200: Yeah. I mean, like we would
12 hang out with his brother's co-workers often. So like if we would get
13 dinner I'm sure there was a bunch of shop talk at the table.

14 MS. SUDANO: Anything about sort of that shop talk that you
15 think would affect your ability to be fair and impartial in this case?

16 PROSPECTIVE JUROR 200: Only the insight of how cops like
17 to think.

18 MS. SUDANO: So do you think that you could sort of set
19 aside that insight and your experience with those folks that you do know
20 and just weigh the credibility of any of the witnesses that you hear from
21 in this case?

22 PROSPECTIVE JUROR 200: I mean, yeah. But like a part of
23 the way that I'll probably view people from now on because I've known
24 them for about four or five years, would still be like heavily influenced on
25 my way of thinking, because I've just taken some things that they've

1 taught me and use that in my everyday life.

2 MS. SUDANO: All right. And I appreciate that, but would
3 you be willing to weigh the credibility of a police officer in exactly the
4 same way that you would weigh the credibility of any other witness that
5 came in here?

6 PROSPECTIVE JUROR 200: Yes.

7 MS. SUDANO: Okay. So same example I gave before. If a
8 police officer comes in, says the sky's green, are you automatically going
9 to believe that just because it's a police officer?

10 PROSPECTIVE JUROR 200: No. If anything I would have
11 more reason to believe like the opposite just because I feel like
12 sometimes when -- well, and this is just based off like conversations I've
13 had with his father and his brother. There are times I guess I wouldn't
14 say it's a white lie, but it would be more like a broad statement.

15 MS. SUDANO: Okay.

16 PROSPECTIVE JUROR 200: So like the sky is blue but I guess
17 he could say the sky is a color, which is still true, but he didn't use the
18 word blue.

19 MS. SUDANO: Okay. So you're going to have to help me
20 out. I want to make sure I understand what you're saying.

21 PROSPECTIVE JUROR 200: Okay.

22 MS. SUDANO: So are you saying you would expect more
23 precision almost from a police officer, or am I misunderstanding you?

24 PROSPECTIVE JUROR 200: No. I would just -- I guess I
25 wouldn't really expect anything from a police officer.

1 MS. SUDANO: Okay. So you're willing to kind of weigh their
2 testimony just like you would weigh anybody else's?

3 PROSPECTIVE JUROR 200: Yeah.

4 MS. SUDANO: Okay. Do you think that you would be a fair
5 juror or a good juror in this particular case?

6 PROSPECTIVE JUROR 200: I think I could be fair.

7 MS. SUDANO: Okay. So you've heard all my other
8 questions. Is there anything that stood out to you, I need to volunteer, or
9 I have a response, something I would like to add on that front?

10 PROSPECTIVE JUROR 200: Not that I could really remember.

11 MS. SUDANO: Okay. Thank you. I appreciate that. And last
12 but not least can you pass it down to Ms. Rabinowitz over in seat
13 number one, badge number 185? All right. So you mentioned for us
14 yesterday I think that there's a semi-annual sale going on at work?

15 PROSPECTIVE JUROR 185: Correct.

16 MS. SUDANO: When does that start?

17 PROSPECTIVE JUROR 185: Monday.

18 MS. SUDANO: Okay. Would you be working more hours,
19 less hours?

20 PROSPECTIVE JUROR 185: Yes.

21 MS. SUDANO: Okay.

22 PROSPECTIVE JUROR 185: I normally work about 20 hours a
23 week. I'm already scheduled next week for about 33 plus an additional
24 few.

25 MS. SUDANO: Okay. So you also mentioned having I guess

1 some financial hardships --

2 PROSPECTIVE JUROR 185: Uh-huh.

3 MS. SUDANO: -- over the next few weeks here; is that fair?

4 PROSPECTIVE JUROR 185: Yes.

5 MS. SUDANO: Okay. So is it important for you to be able to
6 work the additional hours next week?

7 PROSPECTIVE JUROR 185: Yes.

8 MS. SUDANO: Okay. So if you are seated on this jury and
9 unable to work those hours, would you be able to kind of focus on this
10 case and give it the weight that it deserves?

11 PROSPECTIVE JUROR 185: Yes.

12 MS. SUDANO: Okay. So you'd be able to set aside your own
13 personal life and focus on the evidence and listen to the witnesses and
14 the arguments in this case?

15 PROSPECTIVE JUROR 185: Yes.

16 MS. SUDANO: Okay. Do you think that you would be a good
17 juror in this particular case?

18 PROSPECTIVE JUROR 185: I think so.

19 MS. SUDANO: Okay.

20 PROSPECTIVE JUROR 185: I think I'm fair.

21 MS. SUDANO: Okay. And what makes you say that?

22 PROSPECTIVE JUROR 185: I listen to both sides. I see things
23 from both sides. I have a good gut instinct about people.

24 MS. SUDANO: Okay. Anything that we talked about with
25 anybody else that caught your eye that you thought you needed to

1 respond to?

2 PROSPECTIVE JUROR 185: No.

3 MS. SUDANO: Okay. The Court's indulgence. Okay. Thank
4 you, Your Honor. Court's indulgence. May we approach?

5 THE COURT: Yes.

6 [Sidebar begins at 2:51 p.m.]

7 MS. SUDANO: So we're going to have a challenge for cause
8 as to Juror Number 32, Ms. Wong.

9 MS. DIGIACOMO: Badge number 189.

10 MS. SUDANO: Oh, sorry. Seat number 32. She said she
11 was unequivocal in her need for scientific evidence.

12 MS. MACHNICH: We'll submit.

13 THE COURT: Okay. She was pretty clear more than most.
14 Require -- I wrote, requires some sort of scientific evidence to reach a
15 verdict. So I'm going to grant the challenge for cause. And we'll
16 substitute her and --

17 MR. SPEED: Go ahead. Just go ahead.

18 THE COURT: No I'm just getting a little tired. You know, it's -
19 - hey, it's the end of the day. We'll be here tomorrow. And you probably
20 have that right. You had whatever, four hours. Who's next just so they
21 know? Is it time for a break?

22 MS. SUDANO: We could probably --

23 MS. MACHNICH: Probably.

24 MS. SUDANO: -- do one more.

25 THE COURT: Should we do it at a break?

1 MS. MACHNICH: I don't know, whatever.
2 THE CLERK: [Indiscernible].
3 MS. SUDANO: Oh, yeah. That's right. [Indiscernible].
4 MS. MACHNICH: We could probably do one more.
5 THE COURT: You want to do it a break?
6 MS. SUDANO: Well, we'll do --
7 MS. MACHNICH: Let's just do one more.
8 MS. SUDANO: -- this person real quick.
9 THE COURT: What? Okay.
10 MS. SUDANO: We'll do this one real quick and then break.
11 Okay.
12 THE COURT: Where's her name? Okay. Ms. Wong, right?
13 Ms. Wong, right?
14 MR. SPEED: That's who that was.
15 THE COURT: 189, Wong. Yeah.
16 MR. SPEED: Ladies. Michelle, Sandra.
17 MS. SUDANO: Sorry.
18 THE COURT: Sorry. It's Ms. Wong, right?
19 MS. SUDANO: Yeah -- yes.
20 MR. SPEED: That was --
21 THE COURT: Ms. Wong.
22 MS. SUDANO: That's what that was, yes.
23 MR. SPEED: Yes, yes.
24 THE COURT: It's Ms. Wong, right?
25 MS. DIGIACOMO: Yeah, 189.

1 MS. SUDANO: Yeah.

2 MR. SPEED: 189.

3 THE COURT: Okay, thank you. Just wanted to make sure
4 before I said --

5 [Sidebar ends at 2:53 p.m.]

6 THE COURT: All right. Badge number 189, Ms. Wong, I want
7 to thank you for being here. We're going to go ahead and let you go.
8 Appreciate you spending all the time on this. Call the next in line.

9 THE CLERK: Myron, is it Lesane?

10 PROSPECTIVE JUROR 206: Lesane.

11 THE CLERK: Okay. Badge number 206. You'll be in seat
12 number 32.

13 THE MARSHAL: Can you pass the microphone to Mr.
14 Lesane?

15 THE COURT: Yeah.

16 THE MARSHAL: You'll be in the front, sir.

17 THE COURT: You'll be in the front row. Right here. Okay.
18 So name, badge number, do you remember it all?

19 PROSPECTIVE JUROR 206: Yeah. I think I'm pretty good.

20 THE COURT: I know it's hard but go on.

21 PROSPECTIVE JUROR 206: Name is Myron Lesane. I'm
22 badge number 206.

23 THE COURT: Where do you work?

24 PROSPECTIVE JUROR 206: I work for NV Transit. I drive all
25 the city busses here.

1 THE COURT: And significant other?
2 PROSPECTIVE JUROR 206: My significant other, my wife.
3 THE COURT: Does she work?
4 PROSPECTIVE JUROR 206: No. But she has the toughest job
5 out there; she's a housewife.
6 THE COURT: Okay. Has she ever worked in Clark County?
7 PROSPECTIVE JUROR 206: No.
8 THE COURT: Ever served on a jury?
9 PROSPECTIVE JUROR 206: Yes.
10 THE COURT: Civil or criminal?
11 PROSPECTIVE JUROR 206: Criminal.
12 THE COURT: Just one?
13 PROSPECTIVE JUROR 206: [Indiscernible].
14 THE COURT: Okay. Did you reach a verdict?
15 PROSPECTIVE JUROR 206: Yes, we did.
16 THE COURT: And were you the foreperson?
17 PROSPECTIVE JUROR 206: No.
18 THE COURT: You or anyone close to you in law enforcement
19 or military?
20 PROSPECTIVE JUROR 206: Yes. My dad was in the army,
21 uncle was in the army and I had a buddy in the marines.
22 THE COURT: You or anyone close to you been the victim of
23 a crime?
24 PROSPECTIVE JUROR 206: Yes.
25 THE COURT: What sort of crime?

1 PROSPECTIVE JUROR 206: I've been robbed, been shot at,
2 had a cousin pass away from a carjacking.

3 THE COURT: Sorry to hear.

4 PROSPECTIVE JUROR 206: Yeah.

5 THE COURT: You or anyone close to you been the victim of
6 sexual assault?

7 PROSPECTIVE JUROR 206: No.

8 THE COURT: You or anyone close to you been accused of a
9 crime?

10 PROSPECTIVE JUROR 206: Yes.

11 THE COURT: Go ahead.

12 PROSPECTIVE JUROR 206: My uncle.

13 THE COURT: And was -- what was it?

14 PROSPECTIVE JUROR 206: It was assault and battery.

15 THE COURT: Okay. And do you have any adult children?

16 PROSPECTIVE JUROR 206: No.

17 THE COURT: And is there any reason you can't be a fair and
18 impartial juror?

19 PROSPECTIVE JUROR 206: No.

20 THE COURT: When did we take a break?

21 THE CLERK: It's been about an hour.

22 THE COURT: All right. We're going to take a short break.

23 We'll take ten minutes. During this recess you're admonished, do not
24 talk or converse amongst yourselves or with anyone else on any subject
25 connected with this trial, or read, watch or listen to any report of or

1 commentary on this trial, or any person connected with this trial by any
2 medium of information, including without limitation newspapers,
3 television, radio or internet. Do not form or express any opinion on any
4 subject connected with the trial until the case is finally submitted to you.

5 We'll take ten minutes.

6 THE MARSHAL: Please rise for the jury.

7 [Prospective jurors out at 2:57 p.m.]

8 [Recess taken from 2:58 p.m. to 3:14 p.m.]

9 [Outside the presence of the prospective jurors]

10 THE COURT: How many people do we have in the gallery?

11 THE CLERK: Seventeen.

12 THE COURT: So I'm going to tell Mariah to let the people
13 that have been waiting all day go.

14 [Clerk to Court]

15 THE COURT: Yeah, but what about tomorrow?

16 MS. MACHNICH: I can't imagine going through 17 people.

17 MS. SUDANO: And we only have the four hours tomorrow,
18 too, so if we get there, that's going to be a Monday problem, most likely.

19 THE COURT: Well -- so you're saying we won't get through --
20 how many are left now?

21 MS. DIGIACOMO: Seventeen.

22 MR. SPEED: Seventeen.

23 MS. DIGIACOMO: I think we're okay. I can't imagine we're
24 going through 17 for cause.

25 MS. MACHNICH: For cause.

1 THE COURT: Okay. Well, tell them we'll let them go and --
2 THE CLERK: But should we have any tomorrow? No?
3 THE COURT: They're saying no.
4 THE CLERK: Okay.
5 THE COURT: So okay. If we have a problem, we have a
6 problem. Myron Lesane?
7 MR. SPEED: Lesane.
8 MS. DIGIACOMO: Lesane.
9 THE COURT: Okay. All right. Anything else?
10 MS. DIGIACOMO: No, Your Honor.
11 THE COURT: Bring them in. Vince, bring them in.
12 THE MARSHAL: Was that Mr. Lesane or bring in everybody,
13 Judge?
14 THE COURT: No, no, no. Bring in everybody --
15 MS. MACHNICH: Well, wait. It's our turn to question Mr.
16 Lesane, right?
17 THE CLERK: Yes.
18 MS. DIGIACOMO: Yes.
19 MS. MACHNICH: Okay.
20 THE COURT: I asked him the questions, so it's just him. And
21 we're done at 2:30 tomorrow?
22 MS. DIGIACOMO: Yes.
23 MS. MACHNICH: Yes.
24 MS. SUDANO: Yes.
25 THE COURT: And what time are we starting, 9:00?

1 MS. DIGIACOMO: Well, 9:00 for the hearing --
2 MS. MACHNICH: 10:00 for the jury.
3 MS. DIGIACOMO: -- 10:00 for the jury.
4 THE CLERK: Yes, 10:00 for the jury.
5 THE COURT: Okay. Oh, right.
6 MS. MACHNICH: And we'll try to push through lunch, Your
7 Honor, if your amenable.
8 THE COURT: That's fine. I'll tell them.
9 [Pause]
10 THE MARSHAL: Please rise for the jury.
11 [Prospective jurors in at 3:17 p.m.]
12 [Inside the presence of the prospective jurors]
13 THE COURT: All right. Please be seated. Parties
14 acknowledge presence of the venire?
15 MS. DIGIACOMO: Yes, Your Honor.
16 MS. MACHNICH: Yes, Your Honor.
17 MR. SPEED: Yes, Your Honor.
18 THE COURT: State, you may inquire.
19 MS. SUDANO: Thank you, Your Honor.
20 THE MARSHAL: Judge, there's one that's in the back that
21 broke off to go to the restroom, but --
22 THE COURT: That's okay.
23 THE MARSHAL: -- he's in the back.
24 THE COURT: Go ahead.
25 MS. SUDANO: Thank you. Who has the microphone? Oh.

1 And can we just hand it to Mr. Lesane, Badge Number 206, right up
2 front? Hello, sir. You're all by yourself in the hotseat.

3 PROSPECTIVE JUROR 206: I kind of knew that.

4 MS. SUDANO: Uh-huh. And you indicated earlier that you
5 were the victim of a couple of violent offenses. First you mentioned a
6 robbery. About when was that?

7 PROSPECTIVE JUROR 206: About ten years ago.

8 MS. SUDANO: Okay. And then you also mentioned that you
9 were shot at. When was that one?

10 PROSPECTIVE JUROR 206: That was about 15.

11 MS. SUDANO: Okay. Were those here locally?

12 PROSPECTIVE JUROR 206: No.

13 MS. SUDANO: Where were they?

14 PROSPECTIVE JUROR 206: Those were in California.

15 MS. SUDANO: Okay. Do you know if anybody was ever
16 apprehended or prosecuted regarding either of those?

17 PROSPECTIVE JUROR 206: Yes. The guy who shot at me, he
18 was apprehended and sent off to prison.

19 MS. SUDANO: Okay. Did you ever have to be involved in
20 the court process at all or anything?

21 PROSPECTIVE JUROR 206: No, ma'am.

22 MS. SUDANO: Okay. The robbery, nobody apprehended?

23 PROSPECTIVE JUROR 206: No.

24 MS. SUDANO: Okay. Were you satisfied with the
25 involvement of law enforcement in both of those incidents?

1 PROSPECTIVE JUROR 206: Yes.

2 MS. SUDANO: Okay. Anything about either of those
3 experiences that you think would affect your ability to be fair and
4 impartial?

5 PROSPECTIVE JUROR 206: No.

6 MS. SUDANO: Okay. And then you also mentioned that you
7 had a cousin who passed away, again, due to a violent carjacking?

8 PROSPECTIVE JUROR 206: Yeah. It was a carjacking.

9 MS. SUDANO: When was that?

10 PROSPECTIVE JUROR 206: That was about 12 years ago.

11 MS. SUDANO: Local, California, elsewhere?

12 PROSPECTIVE JUROR 206: California.

13 MS. SUDANO: Okay. Did you have to go to court? Were
14 you involved in that process at all?

15 PROSPECTIVE JUROR 206: I just went to court for support
16 and I saw the whole, you know, process of the hearing and deliberation
17 and all that.

18 MS. SUDANO: Okay. Do you think anything about that
19 particular experience would affect your ability to be fair and impartial?

20 PROSPECTIVE JUROR 206: No.

21 MS. SUDANO: Okay. And then you also mentioned
22 something with your uncle. Anything there that you think would affect
23 your ability to be fair and impartial?

24 PROSPECTIVE JUROR 206: No.

25 MS. SUDANO: Okay. You've heard all of my questions of

1 everybody all day today and yesterday. Anything that stood out to you?

2 PROSPECTIVE JUROR 206: Nothing really stood out to me. I
3 mean, like I said, I served in a -- on a jury before.

4 MS. SUDANO: Okay.

5 PROSPECTIVE JUROR 206: And pretty much know all the ins
6 and outs of what's going to happen.

7 MS. SUDANO: Okay. Do you think that you could set that
8 experience aside and just focus on the law and the evidence that's
9 presented in this particular case?

10 PROSPECTIVE JUROR 206: Yeah, as long as the evidence is
11 presented and so, you know, we can know how to -- have the final vote.
12 You know, as long as the evidence is solid, you know, that's all I need to
13 see.

14 MS. SUDANO: Okay. Positive, negative experience being a
15 juror previously? Or neutral?

16 PROSPECTIVE JUROR 206: No. The -- it was all positive. It
17 was just, you know, because I did have the carjacking, also got robbed
18 and all that. Just to see, okay, how does the Court system work and to
19 see that happen, you know. But -- and then on the flipside, there are
20 people who are incarcerated, who shouldn't be there, as well. So you
21 know, there's two sides.

22 MS. SUDANO: Sure. And I'm going to follow up you on that
23 briefly. You recognize, though, from it sounds like your own experience
24 even, that there are definitely people that are incarcerated that
25 committed whatever crime they're accused of, right?

1 PROSPECTIVE JUROR 206: Yes. There's people that are
2 locked up that should be there.

3 MS. SUDANO: Okay. And in this particular case, would you
4 be comfortable sort of setting aside those ideas or those facts and just
5 focusing on the facts and the evidence that are presented here?

6 PROSPECTIVE JUROR 206: Yes.

7 MS. SUDANO: Okay. One of the other judges in the court
8 always says, kind of, I know it was fair, because I was there. So you
9 can't necessarily talk or have the same type of opinion about another
10 case? Right? You were talking about that yesterday. We might see a
11 verdict I the news or something like that, but we weren't in the
12 courtroom to know everything that happened, right?

13 PROSPECTIVE JUROR 206: That's correct.

14 MS. SUDANO: Okay. And so it's a little bit different when
15 you actually do sit on the jury and see the whole process. Would you
16 agree with that?

17 PROSPECTIVE JUROR 206: That's correct.

18 MS. SUDANO: Okay. And do you agree with that idea of I
19 know it was fair, because I was there?

20 PROSPECTIVE JUROR 206: Yes.

21 MS. SUDANO: Okay. Thank you, sir.

22 I appreciate your time. Your Honor, I don't have any
23 additional questions.

24 THE COURT: Pass for cause?

25 MS. SUDANO: Yes. Thank you.

1 THE COURT: Defense, you may inquire of the panel.

2 MR. SPEED: Your Honor, if I can have the Court's indulgence
3 for a few minutes. I need to see lights right here with the Elmo.

4 THE COURT: Officer Moody is the expert.

5 [Pause]

6 MR. SPEED: Good afternoon, ladies and gentlemen.

7 PROSPECTIVE JURORS: Good afternoon.

8 MR. SPEED: I am very glad that everyone has made it this far
9 in the process. All of you have answered the State's questions. All of
10 you have said to the best of your ability. We appreciate your service.
11 We appreciate the sacrifices that everybody's making to be here with us.
12 I promise we've only got maybe a few more hours of this. But we will be
13 done with jury selection tomorrow, all right?

14 Now, I will stick to that promise, if you all continue to do
15 what you've been doing for the last couple of days. And that is, be as
16 forthcoming and open and honest with us as you possibly can, because
17 the questions we're asking you and what we're going to ask you to do
18 over the next several days is very important, very important. I believe I
19 heard one of you say earlier that it's part of our responsibility as citizens
20 to serve in this capacity. And again, I appreciate everyone taking the
21 time out to help us out with this case.

22 Let me start out covering something that I heard a few of you
23 say earlier today having to say with physical evidence and the
24 requirement or some of you having the need to see something more.
25 And if you all can tell me, who has the microphone? Who was the last

1 person to have it.

2 All right. Mr. Lesane, if you would pass all the way up to
3 Badge Number 185, Ms. Rabinowitz. And now everybody knows what
4 my big whiteboard is, if there was some question about that earlier.

5 Ms. Rabinowitz, you have the microphone, yes?

6 PROSPECTIVE JUROR 185: Yes.

7 MR. SPEED: All right. When we were asking the other venire
8 members questions about requiring physical evidence, did you hear
9 some of the answers to those questions before you were seated?

10 PROSPECTIVE JUROR 185: Yes.

11 MR. SPEED: Do you share some of the opinions that you
12 heard?

13 PROSPECTIVE JUROR 185: Yes and no. I think that it makes
14 it easier to come to a decision, if there's some kind of hard evidence,
15 but --

16 MR. SPEED: Really specific with me. What makes it easier?

17 PROSPECTIVE JUROR 185: Well, there's some proof there --

18 MR. SPEED: Okay.

19 PROSPECTIVE JUROR 185: -- as opposed to listening to just
20 what people are saying.

21 MR. SPEED: And when you say proof --

22 PROSPECTIVE JUROR 185: Uh-huh.

23 MR. SPEED: -- all right? What are you talking about exactly?

24 Because when I say proof -- I'm a lawyer. Ms. DiGiacomo is a lawyer.

25 Ms. Sudano is a lawyer. When we hear the word proof, certain things

1 pop into our minds immediately. But when people in our community,
2 folks who have jobs and kids and families and lives outside of the
3 regional justice center, when they say the word proof or when they hear
4 the word proof, tell everyone what you understand that to be.

5 PROSPECTIVE JUROR 185: Well, I'm talking about, you
6 know, what other people have talked about. Fingerprints, DNA, some
7 kind of hard, scientific evidence, if you will.

8 MR. SPEED: Let me slow you down just a little bit.

9 PROSPECTIVE JUROR 185: Uh-huh.

10 MR. SPEED: Fingerprints, yes?

11 PROSPECTIVE JUROR 185: Uh-huh.

12 MR. SPEED: DNA. These are things that you can actually
13 touch. I believe another venire person said tangible evidence, yes?

14 PROSPECTIVE JUROR 185: Yeah.

15 MR. SPEED: So --

16 PROSPECTIVE JUROR 185: I would say so.

17 MR. SPEED: -- so physical things. Hard matter, right?

18 PROSPECTIVE JUROR 185: Yes.

19 MR. SPEED: What about things that you can see that you
20 can't necessarily touch?

21 PROSPECTIVE JUROR 185: I'm not sure what you mean.

22 MR. SPEED: Thinking of photographs, for instance.

23 PROSPECTIVE JUROR 185: Oh, yeah.

24 MR. SPEED: Okay. So photographs, right?

25 PROSPECTIVE JUROR 185: Uh-huh.

1 MR. SPEED: That's something that's discernible, something
2 that's sensible by a person, right?

3 PROSPECTIVE JUROR 185: Yes.

4 MR. SPEED: S-E-N-S-E, right? What about what people say?
5 I believe another one of your colleagues on the venire said I require
6 more than he said/she said, or it has to be more than what someone
7 says. What about that? What someone says? Do you think that's
8 evidence? Do you weigh that, or do you consider that the same as DNA
9 or fingerprints?

10 PROSPECTIVE JUROR 185: Yeah. I would consider it. I don't
11 know that it has the same weight, because then you have to sort of
12 figure out if people are telling the truth, but I would still consider it as
13 evidence.

14 MR. SPEED: All right. And in the whole world, I believe Ms.
15 Sudano used the phrase, the whole world of evidence, the universe of
16 things that we would ask jurors, prospective jurors like yourselves to
17 consider. You would also consider a witness' testimony and weigh it
18 just like you would other evidence?

19 PROSPECTIVE JUROR 185: Yes.

20 MR. SPEED: Okay. Would you pass the microphone to the
21 venire person seated right next to you? I believe that is Mr. Collins, yes?

22 PROSPECTIVE JUROR 005: Yes. Badge number 5, William
23 Collins.

24 MR. SPEED: All right. Now Mr. Collins, tell me what you
25 think about what your colleague sitting next to you about, Ms.

1 Rabinowitz. Do you require something more than just he said/she said?

2 PROSPECTIVE JUROR 005: Well, I mean, everyone is
3 presumed innocent, so whatever evidence is presented here, whether it's
4 he said/she said, whatever you have, I'm sure it's going to be something
5 that we'll be able to make a choice off of.

6 MR. SPEED: What do you look for, when you're making a
7 choice about testimonial evidence?

8 PROSPECTIVE JUROR 005: I maybe disagree with some of
9 the people. I think it's how it's said.

10 MR. SPEED: Let's talk about that. How it's said. When you
11 say I disagree with people who would consider a witness' testimony and
12 weigh it just like they would other evidence, you say I disagree with that.
13 I would look at how something is said. Explain that to me.

14 PROSPECTIVE JUROR 005: Well, I mean, I've been in
15 professions where you can say I love you a 100 different ways and mean
16 100 different things. So it depends on how they're saying it, whether the
17 word is -- it's just an emotion you may see, if it's given at the moment.

18 MR. SPEED: I believe it was Mr. Plescher who said that -- or
19 Fleisher [phonetic].

20 PROSPECTIVE JUROR 128: Plescher.

21 MR. SPEED: Plescher, who said that someone could say
22 man, it's hot outside and another person could say my goodness, it's hot
23 outside. Is that kind of what you're talking --

24 PROSPECTIVE JUROR 005: Exactly.

25 MR. SPEED: All right. I understand that. If you would, sir,

1 please pass the microphone to Seat Number 3, Badge Number 124.

2 PROSPECTIVE JUROR 124: Christopher Ball.

3 MR. SPEED: Mr. Ball, how are you?

4 PROSPECTIVE JUROR 124: Good. How are you?

5 MR. SPEED: We're talking about requiring more as a juror.

6 Now, you described yourself earlier as a passive person, yes?

7 PROSPECTIVE JUROR 124: Passive in the past. That's what I
8 was trying to get at.

9 MR. SPEED: You've changed, you think?

10 PROSPECTIVE JUROR 124: I hope so.

11 MR. SPEED: Tell us how.

12 PROSPECTIVE JUROR 124: I took up a religion. I'm Buddhist
13 and I think I've grown spiritually that way and I respect myself a lot
14 more.

15 MR. SPEED: You respect yourself a lot more. I'm thinking of
16 your ability to discern, to understand, to sit in judgment. Do you think
17 that you can do that now?

18 PROSPECTIVE JUROR 124: I do believe so.

19 MR. SPEED: What about your ear for deception? Do you
20 think in your growth and the spiritual change that you've undergone in
21 the past few years, have you developed a better way of detecting when
22 someone's not being completely forthcoming with you?

23 PROSPECTIVE JUROR 124: Yes, sir. I do believe so.

24 MR. SPEED: Talk to me about when you hear someone
25 testifying, would you use that new understanding, that growth, that

1 maturity that you've obtained to weigh their testimony?

2 PROSPECTIVE JUROR 124: Yes, to the best of my ability.

3 MR. SPEED: Okay. Do you need something more than that?

4 Even after you hear that, do you think you can still serve, if -- as a fair
5 and impartial juror, if the only thing you had to go on was a person's
6 testimony?

7 PROSPECTIVE JUROR 124: I believe so.

8 MR. SPEED: Given your development, the growth that
9 you've experienced?

10 PROSPECTIVE JUROR 124: Yes, sir.

11 MR. SPEED: Next to you, I believe is Badge Number 130.
12 That is Mr. Hedges, yes?

13 PROSPECTIVE JUROR 130: Yes, sir.

14 MR. SPEED: Mr. Hedges, you said that you have a pretty
15 good gut instinct about things, yes?

16 PROSPECTIVE JUROR 130: I like to think so.

17 MR. SPEED: And I also heard you mention something that is
18 very personal to me. You're the father of five year-old twins, yes?

19 PROSPECTIVE JUROR 130: Yes, sir.

20 MR. SPEED: And you said something, I believe along the
21 lines of, well, they're the same person today, but you think they're going
22 to grow and they're going to change, and they'll be different?

23 PROSPECTIVE JUROR 130: Yeah, absolutely.

24 MR. SPEED: My identical twins are 23. I promise you,
25 everything they learn in first grade is usually what carries through them

1 to adulthood. They still live in my house. They still eat my food. That's
2 neither here nor there, but we can talk maybe down the road.

3 PROSPECTIVE JUROR 130: I get you.

4 MR. SPEED: I'll see how you're doing. But being a good
5 judge of character. You think of yourself as a good judge of character?

6 PROSPECTIVE JUROR 130: Yeah, I'd like to think so.

7 MR. SPEED: When we talk about requiring more than just a
8 person's testimony or weighing a case in more terms or more
9 complicated terms than just what he said versus what she said, you think
10 you require more?

11 PROSPECTIVE JUROR 130: Yeah. You can't go off of one
12 person, but yeah, more evidence than just one person.

13 MR. SPEED: More than just one person?

14 PROSPECTIVE JUROR 130: Yeah.

15 MR. SPEED: When you say more than one person, do you
16 think you would have to hear from another person or other physical
17 evidence? Like the things we can touch.

18 PROSPECTIVE JUROR 130: Yeah. I'm not saying like
19 necessarily more people. Just, if it's just one accuser, I guess, probably
20 more than that. Maybe some other sort of evidence, not just a -- just one
21 person.

22 MR. SPEED: We -- I say we. I'm talking about the folks we
23 don't like a lot, the lawyers, that we think of words like corroboration. Do
24 you know what that means, sir?

25 PROSPECTIVE JUROR 130: Yes, sir.

1 MR. SPEED: Okay that's what I'm trying to get at. Do you
2 require more in the way of corroboration when you hear someone say
3 something?

4 PROSPECTIVE JUROR 130: Yeah, I would say so.

5 MR. SPEED: An accusation by itself isn't enough, is it?

6 PROSPECTIVE JUROR 130: No, not necessarily.

7 MR. SPEED: Not necessarily. There has to be something
8 more, if someone is willing to come into court and say that person stole
9 my purse in the forest, right?

10 PROSPECTIVE JUROR 130: Yeah.

11 MR. SPEED: You'd be looking for something more than just
12 he stole my purse. He came at me from behind, but I'm pretty sure that
13 that's the person who did it, right?

14 PROSPECTIVE JUROR 130: Yes, sir.

15 MR. SPEED: And while you have the microphone sir -- I
16 probably know the answer to a lot of this already. Do you think of
17 yourself, the father of two five year-old little girls, do you think of
18 yourself as a leader or a follower in these kind of situations with other
19 people in the community?

20 PROSPECTIVE JUROR 130: I'd say probably a leader.

21 MR. SPEED: Okay. And what makes you say that?

22 PROSPECTIVE JUROR 130: I don't know. I guess just my
23 personality.

24 MR. SPEED: Well, here's what I'm thinking. I'm thinking Mr.
25 Hedges is 100 percent wrong about everything that he said. And you

1 know what, his opinion doesn't really matter too much. We're just
2 entertaining him, because he said some things that sounded pretty pithy,
3 but really, when it gets down making a real decision, he can say what he
4 wants. I'm not really going to listen to him. If that's the way that you
5 were received by fellow jurors, if you're chosen to serve in that capacity
6 in this trial, what do you think your reaction would be?

7 PROSPECTIVE JUROR 130: Probably not real pleasant.

8 MR. SPEED: Not real pleasant?

9 PROSPECTIVE JUROR 130: Yeah.

10 MR. SPEED: What if you're by yourself? What if everybody
11 has taken that type of stance with you?

12 PROSPECTIVE JUROR 130: Yeah, I'm pretty stubborn, so --

13 MR. SPEED: You're pretty stubborn?

14 PROSPECTIVE JUROR 130: Yeah, I would say so.

15 MR. SPEED: You think you could stand up for your opinions
16 and your beliefs and what you bring to these proceedings as your
17 common sense?

18 PROSPECTIVE JUROR 130: Absolutely.

19 MR. SPEED: In serving as a juror?

20 PROSPECTIVE JUROR 130: Yes.

21 MR. SPEED: Would you pass the microphone back to your
22 left, please, sir? Back to Mr. Ball.

23 PROSPECTIVE JUROR 124: Yes. Badge Number 124.

24 MR. SPEED: Badge Number 124, Mr. Ball, did you hear what
25 Mr. Hedges was saying about being a leader, versus being a follower in

1 these kinds of very fraught situations with other adults?

2 PROSPECTIVE JUROR 124: Yes.

3 MR. SPEED: Do you think your spiritual growth as a
4 practicing Buddhist has helped you in those kinds of situations?

5 PROSPECTIVE JUROR 124: I believe so. For example, when I
6 was in school, I was never really a leader, per se, because I didn't speak
7 up a lot. But I truly believe in our system and I'll do the best of my ability
8 to formulate an opinion based off of facts and keep with my opinion.

9 MR. SPEED: Now, you said that when you were a youngster,
10 you recall your parents fighting a lot?

11 PROSPECTIVE JUROR 124: Yes, sir.

12 MR. SPEED: Okay. You didn't take sides in that.

13 PROSPECTIVE JUROR 124: Right.

14 MR. SPEED: I remember you said that you missed a lot of
15 school, right?

16 PROSPECTIVE JUROR 124: Yes, sir.

17 MR. SPEED: I'm imagining, when you're a young person in a
18 situation like that, it's difficult for you to reconcile the feelings that you
19 have for both of your parents on one hand with watching two people you
20 love very much hurt not only one another, but all of the kids in the
21 house, the people who rely on them on the other. Is that right?

22 PROSPECTIVE JUROR 124: Yes, sir.

23 MR. SPEED: That was a lot of words there. Is that fair?

24 PROSPECTIVE JUROR 124: More than.

25 MR. SPEED: Given that situation, given the fact that you

1 came from a situation like that and it's miraculous to hear how you've
2 grown. I can sense it in your voice, in the way that you communicate
3 with all of us. How would you describe yourself today?

4 PROSPECTIVE JUROR 124: Ca --

5 MR. SPEED: Leader or follower?

6 PROSPECTIVE JUROR 124: Leader, definitely.

7 MR. SPEED: You sure?

8 PROSPECTIVE JUROR 124: Yes, sir.

9 MR. SPEED: You're wrong. I think you're 100 percent wrong
10 and everybody in the room thinks you're 100 percent wrong. You can
11 stand up for yourself in a situation like that?

12 PROSPECTIVE JUROR 124: Yes, sir.

13 MR. SPEED: Okay. Two persons down, please, gentlemen,
14 to Ms. Estrellado.

15 PROSPECTIVE JUROR 136: Hello.

16 MR. SPEED: Good afternoon. How are you?

17 PROSPECTIVE JUROR 136: Hi.

18 MR. SPEED: Oh, let's see. You are fairly recent with us, Ms.
19 Estrellado, so I know that some of the notes that I took your remarks are
20 toward the back here. You said that you have a cousin in the Air Force
21 and a best friend, who is currently serving in the Army, yes?

22 PROSPECTIVE JUROR 136: That's correct.

23 MR. SPEED: But you also talked for a few minutes and I was
24 fascinated by this. You said that from the relationships that you've had,
25 an ex -- and if I'm getting any of this wrong, please stop me right in the

1 middle. And ex was a Nevada Highway Patrol Officer, yes?

2 PROSPECTIVE JUROR 136: No. His father.

3 MR. SPEED: His father.

4 PROSPECTIVE JUROR 136: And his brother.

5 MR. SPEED: All right. And you started to say that you used
6 to be in a relationship, and I have down here that you wanted to get into
7 that a little later you thought you would get into that a little bit later.

8 PROSPECTIVE JUROR 136: Yeah, if anyone had any further
9 questions about the relationship I had with the NHP officers, since they
10 were family-related.

11 MR. SPEED: I see. Was there anything that you weren't
12 asked that you want to share right now?

13 PROSPECTIVE JUROR 136: No. I --

14 MR. SPEED: You've got the microphone. Go ahead.

15 PROSPECTIVE JUROR 136: I feel like everything --

16 MR. SPEED: Floor is yours.

17 PROSPECTIVE JUROR 136: -- that should have been asked
18 was asked.

19 MR. SPEED: Okay. Now, here's what I wanted to touch on
20 with you specifically. You said that you've obtained a new insight into
21 how cops like to think.

22 PROSPECTIVE JUROR 136: Yes.

23 MR. SPEED: Does that sound like what you said earlier?

24 PROSPECTIVE JUROR 136: Almost word for word.

25 MR. SPEED: Almost word for word. All right. I'm -- I still got

1 it a little bit. Tell me what you were talking about there. Explain that to
2 us a little bit, please.

3 PROSPECTIVE JUROR 136: Well, so my relationship with
4 their family was about four to five years. It recently ended just about
5 three weeks ago, so I still keep in touch with their family. So just you
6 know, from conversations we would have over dinner or visiting his
7 family and his brother, there is -- just knowing them from a personal
8 point of view, because his father was -- has been in the police force for
9 almost all his life. They moved here from Jersey about ten years ago
10 and he's been in the force ten years before that.

11 So essentially meeting his father and seeing how his brother
12 wanted to grow up in the same sense. Knowing how they think is
13 essentially knowing how a cop thinks.

14 MR. SPEED: Is that a -- thinking about the last book I read,
15 but we'll talk about that, I guess, at some point down the road. Is that a
16 good thing or a bad thing --

17 PROSPECTIVE JUROR 136: I guess it's --

18 MR. SPEED: -- how cops like to think?

19 PROSPECTIVE JUROR 136: -- good and bad. It's good on my
20 sake, so I guess if I'm out on the streets and wanting to make sure that
21 I'm safe, I know what to do to keep a front for myself.

22 MR. SPEED: You did say they taught you things?

23 PROSPECTIVE JUROR 136: Yeah.

24 MR. SPEED: Like keep yourself safe?

25 PROSPECTIVE JUROR 136: Uh-huh.

1 MR. SPEED: Being aware of your surroundings?

2 PROSPECTIVE JUROR 136: Definitely. Or telltale signs of
3 what to notice, if you're out, if you for some reason are in fear, what to
4 notice, what pops out as red flags.

5 MR. SPEED: Now, you're relatively young and I won't call
6 your age out again, but do you think that you learned more about those
7 things or you've used more of the lessons that you've learned from your
8 relationships with members of law enforcement now than you did when
9 you were younger?

10 PROSPECTIVE JUROR 136: Definitely.

11 MR. SPEED: As a younger girl, your teenage years, middle
12 school, 12, 13, 14 and after hearing some of the things that your friends,
13 your loved ones, people you were in relationships with in law
14 enforcement officer have to tell you about being aware, listening to your
15 surroundings, having a feel for what's going on around you, after
16 hearing those things as an adult, have you ever thought back to your
17 childhood and thought, I kind of already knew this stuff? I've gotten the
18 words to attach to my thoughts and my feelings, but I kind of knew when
19 I was 12 or 13 that if a person looks suspicious, to kind of go away?

20 PROSPECTIVE JUROR 136: If it were for that, for any reason
21 for me to think that I knew that at a younger age, it would just be
22 because of my mom and her occupation herself.

23 MR. SPEED: What did she do?

24 PROSPECTIVE JUROR 136: She's a psychological nurse at
25 the -- what is that -- Rawson-Neil Psychiatric Care.

1 MR. SPEED: Okay. So you learned kind of to trust your
2 instincts?

3 PROSPECTIVE JUROR 136: Essentially. Intuition is key.

4 MR. SPEED: Intuition is key. And as you grew up -- and
5 again, you had those relationships with folks in law enforcement. You
6 learned how to put words to that, right? That's a yes, for the record?

7 PROSPECTIVE JUROR 136: Yes. Sorry.

8 MR. SPEED: All right. How do you see yourself? Leader or
9 follower?

10 PROSPECTIVE JUROR 136: Definitely a leader.

11 MR. SPEED: Okay. Is that something that is a new
12 development for you or is that something that you think has always been
13 on the case?

14 PROSPECTIVE JUROR 136: I feel like it's always been the
15 case.

16 MR. SPEED: Okay. And just so that we put a nice bow on
17 this, when you say insight into how police officers think, do you think
18 that law enforcement officers think of people with more suspicion or is
19 this insight into how they think their way of helping other people
20 understand how to protect themselves? Do you understand?

21 PROSPECTIVE JUROR 136: I wouldn't say it's a suspicion,
22 because obviously, it's their work. They have to go through this mindset
23 every day. It's not like they can really turn it off after so many years.
24 Watching behavior patterns, I believe just ends up adapting into your
25 way of life, so I would say it's more for the sake of others than just being

1 suspicious of what other people do.

2 MR. SPEED: And that insight is focused more on keeping
3 themselves, their fellow officers --

4 PROSPECTIVE JUROR 136: Yeah. To protect --

5 MR. SPEED: -- people in the community --

6 PROSPECTIVE JUROR 136: -- and the benefit of others.

7 MR. SPEED: More than it is or more than it would be
8 suspicion, casting aspersions against other people?

9 PROSPECTIVE JUROR 136: Yes. I would hope so.

10 MR. SPEED: Would you please pass the microphone to 197,
11 Ms. He?

12 PROSPECTIVE JUROR 197: Hello, 197.

13 MR. SPEED: Yes. Now, did I pronounce that correctly? I
14 apologize if I didn't.

15 PROSPECTIVE JUROR 197: Yes.

16 MR. SPEED: He. A few things caught my attention from your
17 remarks, Ms. He. You are a naturalized citizen, yes?

18 PROSPECTIVE JUROR 197: Yes.

19 MR. SPEED: And when did you achieve naturalization?
20 Congratulations, by the way. When did you achieve that?

21 PROSPECTIVE JUROR 197: 1999.

22 MR. SPEED: 1999. And your husband is, also?

23 PROSPECTIVE JUROR 197: Yes.

24 MR. SPEED: Same year?

25 PROSPECTIVE JUROR 197: Same time.

1 MR. SPEED: Same time. Here's what caught my attention
2 the most. You said that coming from China -- and you moved here to the
3 United States from China as an adult, 30 years-old, I believe you said --

4 PROSPECTIVE JUROR 197: Yes.

5 MR. SPEED: -- yes?

6 PROSPECTIVE JUROR 197: Yes.

7 MR. SPEED: Your impression of the legal system in the
8 United States is that it's pretty soft here, right?

9 PROSPECTIVE JUROR 197: Yes. I have to say one thing.

10 MR. SPEED: Okay.

11 PROSPECTIVE JUROR 197: When I came here, that's 1989.

12 At that time, China --

13 MR. SPEED: I'm sorry, '89 or '99?

14 PROSPECTIVE JUROR 197: 1989 --

15 MR. SPEED: '89.

16 PROSPECTIVE JUROR 197: -- I came here. I came here as a
17 student.

18 MR. SPEED: Naturalization in '99.

19 PROSPECTIVE JUROR 197: Not naturalization. Right. I came
20 here as a student, 1989. At that time, China was quite different. I believe
21 there was even no lawyer then. So the legal system I'm familiar with is
22 of course, totally, totally different. But now it's -- although it's different,
23 but now they have lawyer. They're more -- they change it a lot, but in
24 my mind, was those. So I have to say that what I said now is not China
25 now.

1 MR. SPEED: Now, I could be wrong on this, too, but when
2 we say 1989 in Mainland, China, I'm thinking of an incident with
3 students.

4 PROSPECTIVE JUROR 197: Yes.

5 MR. SPEED: People who were probably your cohorts,
6 colleagues at that time in Tiananmen Square, yes?

7 PROSPECTIVE JUROR 197: Yeah. I -- but I was in another
8 city, so was not participating in that.

9 MR. SPEED: And when you say soft -- and I guess it was
10 your use of that term that piqued my attention. So when you say soft,
11 that's in comparison to the China you remember leaving 30 years ago,
12 yes?

13 PROSPECTIVE JUROR 197: Yes.

14 MR. SPEED: Soft does not necessarily mean unfair, does it?

15 PROSPECTIVE JUROR 197: No. It's just like on my limitation
16 of vocabularies.

17 MR. SPEED: Okay. I understand.

18 PROSPECTIVE JUROR 197: I don't know how to pick.

19 MR. SPEED: No, you're doing an excellent job, because
20 we're getting to what I'm thinking of here. In fact, when you say soft in
21 comparison to Tiananmen Square era China, you mean just the opposite,
22 that our system here is actually fair.

23 PROSPECTIVE JUROR 197: Yeah.

24 MR. SPEED: People are provided with a defense --

25 PROSPECTIVE JUROR 197: Yes.

1 MR. SPEED: -- to crime here?

2 PROSPECTIVE JUROR 197: Yes.

3 MR. SPEED: And in order for the government to convict
4 someone of a crime, there has to be evidence, yes?

5 PROSPECTIVE JUROR 197: Yes.

6 MR. SPEED: Evidence that is weighed by people like
7 yourself --

8 PROSPECTIVE JUROR 197: Uh-huh.

9 MR. SPEED: And who thoughtfully and conscientiously
10 come to a conclusion, yes?

11 PROSPECTIVE JUROR 197: Yes.

12 MR. SPEED: Obviously, for the last 20 years, this is better
13 than Mainland China, yes?

14 PROSPECTIVE JUROR 197: Yes.

15 MR. SPEED: I remember Judge Israel said that if you don't
16 understand something, feel free to raise your hand.

17 PROSPECTIVE JUROR 197: Uh-huh.

18 MR. SPEED: If I'm asking other members of the venire panel
19 a question and something piques your interest, just like the response to
20 the State's questions piqued mine, will you raise your hand and ask for
21 the microphone and ask me a question? Can you do that?

22 PROSPECTIVE JUROR 197: I'm not 100 percent understand
23 your question. Could you --

24 MR. SPEED: I see. If I'm talking to someone else --

25 PROSPECTIVE JUROR 197: Right.

1 MR. SPEED: -- on the venire panel --
2 PROSPECTIVE JUROR 197: Right.
3 MR. SPEED: -- and we start having a discussion and maybe
4 we laugh about something --
5 PROSPECTIVE JUROR 197: Right.
6 MR. SPEED: -- or something --
7 PROSPECTIVE JUROR 197: Right.
8 MR. SPEED: -- strikes us humorous --
9 PROSPECTIVE JUROR 197: Right.
10 MR. SPEED: -- but you don't understand it --
11 PROSPECTIVE JUROR 197: Right.
12 MR. SPEED: -- would you raise your hand?
13 PROSPECTIVE JUROR 197: Usually if not important, I won't,
14 but if in the court I didn't understand, I may raise the hand. But if like --
15 MR. SPEED: You can do it right now. You're in court right
16 now. These are proceedings. This is jury selection, so I want you to feel
17 100 percent free to raise your hand and ask a question, if you don't
18 understand something that we're saying. Can you do that?
19 PROSPECTIVE JUROR 197: Usually I will hesitate.
20 MR. SPEED: Do you think of yourself, while we're on that, a
21 leader or a follower?
22 PROSPECTIVE JUROR 197: Definitely follower.
23 MR. SPEED: Okay.
24 PROSPECTIVE JUROR 197: Because I always trust people,
25 what they say. So I don't know like -- I've never been put in a situation.

1 Maybe if I was chosen juror, I have to be listening to definitely an
2 opposite witness saying to whom to trust. I don't know. I have to be --
3 wait until that point, but usually people see me as like I'm too trust --
4 always trust people what they say. That's my personality.

5 MR. SPEED: Okay. Do you understand -- let me ask you
6 about this. This notion that, first of all, Gustavo is innocent until he's
7 proven guilty, yes.

8 PROSPECTIVE JUROR 197: Yes.

9 MR. SPEED: So as he sits here right now, he is 100 percent
10 innocent.

11 PROSPECTIVE JUROR 197: Yes.

12 MR. SPEED: There's no debate. There's no discussion.
13 There's no controversy about that.

14 PROSPECTIVE JUROR 197: Yes.

15 MR. SPEED: There's also this -- I hate to call it a notion,
16 because it's more than for us, but there's a rule. I'll say it that way, that
17 says he doesn't have to say anything after the State finishes presenting
18 their evidence, presenting their case. How do you feel about that?

19 PROSPECTIVE JUROR 197: In fact, this was the first time I
20 hear this sentence like Defense does not need to say anything.

21 MR. SPEED: Wow. When was the first time you heard that?

22 PROSPECTIVE JUROR 197: This morning. The Judge said
23 that.

24 MR. SPEED: So your expectation coming into these
25 proceedings was that --

1 PROSPECTIVE JUROR 197: Like both lawyers on both side
2 has to be like debate, right?

3 MR. SPEED: Well, I would appreciate it if I said the most and
4 they said the least, but here's where he's relying on all of you.

5 PROSPECTIVE JUROR 197: Yeah.

6 MR. SPEED: And you in particular, if you're chosen to serve.

7 PROSPECTIVE JUROR 197: Right.

8 MR. SPEED: He doesn't have to say anything. He's being
9 accused of doing something wrong.

10 PROSPECTIVE JUROR 197: Uh-huh.

11 MR. SPEED: But in this country, he is innocent, until the
12 contrary is proved. That means he doesn't have to say a single word.

13 PROSPECTIVE JUROR 197: You said for him, right?

14 MR. SPEED: That's right.

15 PROSPECTIVE JUROR 197: Right. So --

16 MR. SPEED: But I don't have to say anything.

17 PROSPECTIVE JUROR 197: That's the first time I knew this
18 concept.

19 MR. SPEED: Yes, yes, yes. We can sit here and not ask any
20 questions.

21 PROSPECTIVE JUROR 197: Right.

22 MR. SPEED: We don't have to have a debate with --

23 PROSPECTIVE JUROR 197: Right. So that's why --

24 MR. SPEED: -- the attorneys for the government.

25 PROSPECTIVE JUROR 197: -- this morning Judge mentioned

1 that, I was surprised, actually.

2 MR. SPEED: That is 100 percent correct. Now, after hearing
3 that this morning, do you think your first time being exposed to the
4 bedrock of our justice system in this country, do you think that you could
5 still serve as a fair and impartial juror, given the fact that this morning's
6 conversation with the Court was the first time you had ever heard about
7 a defendant not having to say a word --

8 PROSPECTIVE JUROR 197: Right.

9 MR. SPEED: -- in his own defense?

10 PROSPECTIVE JUROR 197: Right.

11 MR. SPEED: Do you think you could still serve?

12 PROSPECTIVE JUROR 197: I'm not sure. There are other
13 things that I don't know, so I'm not so confident.

14 MR. SPEED: You probably need time and there's nothing
15 wrong with this --

16 PROSPECTIVE JUROR 197: Right.

17 MR. SPEED: -- Ms. He. You probably need time to learn a
18 little bit more about the way our justice system works.

19 PROSPECTIVE JUROR 197: That's true.

20 MR. SPEED: Before you could say comfortably, safely --

21 PROSPECTIVE JUROR 197: Right.

22 MR. SPEED: -- that you would be a fair --

23 PROSPECTIVE JUROR 197: Right.

24 MR. SPEED: -- and impartial juror.

25 PROSPECTIVE JUROR 197: Because although I live in

1 America for so many years, but we work in pharmaceutical company
2 doing research work. I never had a chance to expose to legal --

3 MR. SPEED: No experience --

4 PROSPECTIVE JUROR 197: -- things.

5 MR. SPEED: -- with something like this?

6 PROSPECTIVE JUROR 197: No.

7 MR. SPEED: And when I use this word, I'm not insulting you.

8 Please forgive me. But you would think of yourself as unqualified to
9 serve here, just because you don't --

10 PROSPECTIVE JUROR 197: That's a fair --

11 MR. SPEED: -- have the experience?

12 PROSPECTIVE JUROR 197: Yeah. That's a fair statement.

13 MR. SPEED: Perfect. Would you please --

14 PROSPECTIVE JUROR 197: Yeah. That's a fair statement.

15 MR. SPEED: Perfect. Would you please pass the microphone
16 to Mr. Solis-Sauri, yes?

17 PROSPECTIVE JUROR 018: Yes, sir. Number 18.

18 MR. SPEED: Correct on that?

19 PROSPECTIVE JUROR 018: Yes.

20 MR. SPEED: All right. Badge number 18. Now Mr. Solis-
21 Sauri, or just Sauri, Solid-Sauri, both?

22 PROSPECTIVE JUROR 018: Yes.

23 MR. SPEED: Mr. Solis-Sauri, you've got two daughters, 22
24 and 15.

25 PROSPECTIVE JUROR 018: Yes.

1 MR. SPEED: And you mentioned yesterday that one is
2 enjoying an internship in South Africa. Talk to me about that. That's
3 interesting. Where in South Africa is she?

4 PROSPECTIVE JUROR 018: Kruger National Park.

5 MR. SPEED: Kruger National Park. What is she doing?

6 PROSPECTIVE JUROR 018: I understand she's on an
7 internship leaning about wildlife management because that what she
8 recently graduated in.

9 MR. SPEED: Okay. A wildlife refuge down there, it's like a --

10 PROSPECTIVE JUROR 018: It's a national park.

11 MR. SPEED: -- a game reserve?

12 PROSPECTIVE JUROR 018: It's a national park, yeah. Kruger
13 National Park I understand.

14 MR. SPEED: Okay. Has -- did you travel abroad with your
15 children when they were younger?

16 PROSPECTIVE JUROR 018: Yes.

17 MR. SPEED: Okay. And that's probably where she got the
18 idea of -- is that the 22-year-old or the 15-year-old?

19 PROSPECTIVE JUROR 018: 22-year-old.

20 MR. SPEED: Okay. That's where she got the idea of maybe
21 traveling abroad after she's college age, yes?

22 PROSPECTIVE JUROR 018: I would like to think so, but I
23 couldn't say 100 percent.

24 MR. SPEED: Did she get good grades in school?

25 PROSPECTIVE JUROR 018: Fair, yes. Pretty good.

1 MR. SPEED: What's fair?

2 PROSPECTIVE JUROR 018: 3.3 GPA.

3 MR. SPEED: That's pretty good. That's pretty good --

4 PROSPECTIVE JUROR 018: Not --

5 MR. SPEED: -- in everybody's estimate I think.

6 PROSPECTIVE JUROR 018: Not exceptional but pretty good.

7 MR. SPEED: You're a tough dad. What else does a daughter

8 need to do? How long has she been there?

9 PROSPECTIVE JUROR 018: This is just a three-week

10 internship. So she's just -- she's been there for a couple of weeks I

11 believe.

12 MR. SPEED: Okay.

13 PROSPECTIVE JUROR 018: Yes.

14 MR. SPEED: About to return home pretty soon?

15 PROSPECTIVE JUROR 018: No. After that she's taking more

16 of a just leisure trip down to Greece and Italy to reward herself for

17 graduating from college.

18 MR. SPEED: Yes. Here it is. It was you, Mr. Solis-Sauri, who

19 said that it's a privilege to be a part of our society, or serving in this

20 capacity is a privilege?

21 PROSPECTIVE JUROR 018: Yes, sir.

22 MR. SPEED: And you heard me reference your remarks

23 earlier with another one of --

24 PROSPECTIVE JUROR 018: I did.

25 MR. SPEED: -- your fellow venireman? Do you think of

1 yourself -- and again, this is one of those questions I probably know the
2 answer to. Lead or follower first?

3 PROSPECTIVE JUROR 018: Well, that's the thing. I would -- I
4 don't even like -- my current employment I'm a supervisor.

5 MR. SPEED: Uh-huh.

6 PROSPECTIVE JUROR 018: And I like to think of myself as
7 equal with everybody else, but we all serve in different positions. So
8 there is a system in which we all have different responsibilities. And I
9 am the leader of that group, but we are all human beings. I just happen
10 to be the leader of that group.

11 Now when I think of myself of a leader, I think myself of a
12 leader of myself and let's just say part leader of my family and those
13 who are near me. But I don't like to be pretentious enough to say I am a
14 leader of something. I am just part of this group in which I may take
15 leadership of depending on the situation.

16 MR. SPEED: That's important. That's a very important thing
17 to hear a person who is in the position of possibly being selected to be a
18 juror say. I remember hearing a long time ago that a person has to be a
19 private before he can be a colonel. You have to lead yourself before you
20 can be entrusted with the lives, the property of other people. When we
21 say something like that and you're instructed on how you're supposed to
22 behave, how you're supposed to conduct yourself. Even if you have
23 strong feelings one way or another and you're given instructions that are
24 in conflict with those feelings, do you think that you can follow those
25 instructions?

1 PROSPECTIVE JUROR 018: Yes.

2 MR. SPEED: What gives you that sense about yourself
3 without being pretentious?

4 PROSPECTIVE JUROR 018: I would say that I try to do the
5 right thing. If there's such statement that can be valid. You know, I try to
6 follow the rules, follow the policies, respect authority. That would be my
7 answer. I mean, I -- I'm an imperfect human being, but I try to do the
8 right thing.

9 MR. SPEED: Understood. Tell me about would you -- tell me
10 this. Would you agree, and the way that you express your feelings is --
11 I'm thinking about it. As I am talking, I'm thinking, and it might get
12 difficult for me here. Do you think that that is something that you've
13 learned over time or do you think of your -- when you think of yourself as
14 a young person, a young boy, a young man, that was the attitude that
15 you carried into your relationships with your friends, on sports teams, or
16 you know, in church or whatever.

17 Do you think that's the same attitude you've had for years
18 and years or is that something that you can say has developed only
19 recently? Raising kids, having a career or family, that kind of a thing.

20 PROSPECTIVE JUROR 018: I wouldn't say that it's been
21 something that has been recently developed, but it has been something
22 that I've had to learn along the way, how to hone those let's call it skills
23 on how to be fair, on how to be discerning, on how to be strict or
24 anything that would be related to behavior in that situation. You know, I
25 mean, I'd have to learn how to become an adult.

1 MR. SPEED: Fairness, discernment, discipline comes with
2 adulthood. Tell me your thoughts about children, all right.

3 PROSPECTIVE JUROR 018: Uh-huh.

4 MR. SPEED: Obviously children haven't learned all of those
5 lessons, have they?

6 PROSPECTIVE JUROR 018: Correct. They have not.

7 MR. SPEED: That's why they have parents --

8 PROSPECTIVE JUROR 018: Correct.

9 MR. SPEED: -- who are stern with them and who are strict
10 with them and who demand more from them than a 3.3 and an
11 internship in South Africa. You have to do more because the world
12 expects more from you. It takes time to develop that in children; do you
13 agree?

14 PROSPECTIVE JUROR 018: I agree.

15 MR. SPEED: Children can be dishonest, can't they?

16 PROSPECTIVE JUROR 018: Yes.

17 MR. SPEED: In your experience have you had times where
18 your daughters have been dishonest with you?

19 PROSPECTIVE JUROR 018: Maybe they have.

20 MR. SPEED: You haven't found out?

21 PROSPECTIVE JUROR 018: I haven't found out. I think
22 that's --

23 MR. SPEED: Good for them.

24 PROSPECTIVE JUROR 018: -- that's probably the better way
25 to put it. I don't know if they have. I would like to think they have not.

1 MR. SPEED: You think children are capable of being
2 dishonest?

3 PROSPECTIVE JUROR 018: Yes.

4 MR. SPEED: Someone said oh yeah. I heard that. Who was
5 it? Go ahead, raise your hand. All right. I'm going to break with my
6 custom right here, but I'll ask you sir, to pass the microphone three rows
7 down to Mr. Lesane in the front row. Mr. Lesane, when I brought up the
8 topic of children being dishonest or deceitful with Mr. Solis-Sauri, you
9 said oh yeah.

10 PROSPECTIVE JUROR 206: Yes.

11 MR. SPEED: Tell me about that.

12 PROSPECTIVE JUROR 206: I have a four-year-old and a nine-
13 year-old.

14 MR. SPEED: It gets better, I promise. Go ahead.

15 PROSPECTIVE JUROR 206: And my four-year-old looked at
16 me and told me that she didn't do something when I saw what she did;
17 was right behind her.

18 MR. SPEED: Now how long has she been talking first?

19 PROSPECTIVE JUROR 206: Too long.

20 MR. SPEED: That sounds like my --

21 PROSPECTIVE JUROR 206: About three --

22 MR. SPEED: -- 13-year-old.

23 PROSPECTIVE JUROR 206: About three years.

24 MR. SPEED: About three years. So she started talking right
25 around the time she started walking, around one or so?

1 PROSPECTIVE JUROR 206: Yes.

2 MR. SPEED: Do you think that it was easy for that child, that
3 baby to learn from you, to understand what daddy's saying?

4 PROSPECTIVE JUROR 206: Yes.

5 MR. SPEED: She's four now and she's able to communicate
6 with you on a level much more advance than a person her age would
7 suggest, yes?

8 PROSPECTIVE JUROR 206: Yes. Sometimes better than my
9 wife.

10 MR. SPEED: A little too much. Someone said their wife
11 treats everyone like a first grader. Who was that? You might need our
12 card soon, but we'll get to you in a second. Do you think that children
13 have a difficult time understanding how much impact their words can
14 have?

15 PROSPECTIVE JUROR 206: I don't think they do.

16 MR. SPEED: Explain that to me. Tell me why.

17 PROSPECTIVE JUROR 206: Because they're so young, they
18 don't know the consequences that are going to come out after they say
19 something. I don't think they really know the strong impacts that are
20 going to happen.

21 MR. SPEED: As a father of a four-year-old, why would a child
22 say something that's untrue? To get what?

23 PROSPECTIVE JUROR 050: Reaction.

24 PROSPECTIVE JUROR 206: Just to -- yeah.

25 MR. SPEED: Who said reaction?

1 PROSPECTIVE JUROR 206: Yeah.
2 PROSPECTIVE JUROR 050: I did.
3 MR. SPEED: We'll get to you in a second, okay. I promise.
4 To get what they want, yeah?
5 PROSPECTIVE JUROR 206: Yeah. She wanted something
6 and I wasn't going to give it to her because I saw what she did.
7 MR. SPEED: She wanted something. You weren't going to
8 give it to her, so she said things.
9 PROSPECTIVE JUROR 206: Yeah.
10 MR. SPEED: In hopes that her words would provoke the
11 adults in her life to give her what she wants, yes?
12 PROSPECTIVE JUROR 206: Yes.
13 MR. SPEED: Pretty simple. That's why kids are sometimes
14 deceptive, yes?
15 PROSPECTIVE JUROR 206: Yes.
16 MR. SPEED: If you would, pass the microphone two rows
17 behind you to Mr. Coleman, yes?
18 PROSPECTIVE JUROR 050: Yes, sir.
19 THE CLERK: Okay. And that's badge number?
20 MR. SPEED: And you are badge number --
21 PROSPECTIVE JUROR 050: 50.
22 MR. SPEED: -- five-zero, 50.
23 PROSPECTIVE JUROR 050: Yes, sir.
24 MR. SPEED: Mr. Coleman, you had a reaction to that. Talk to
25 us about it.

1 PROSPECTIVE JUROR 050: Well, they're looking --

2 MR. SPEED: Into the microphone sir. We have to hear you.

3 PROSPECTIVE JUROR 050: I have two -- actually three young
4 grandsons. Two, one's four, one's six. I've found recently they -- this is
5 after I've raised two grown daughters, but I'm fresh back into small
6 children again with my grandsons. I find that they'll say things to get a
7 reaction out of you to -- it's almost like they're learning when they're
8 doing it if that makes sense.

9 My eldest grandson tests me a lot.

10 MR. SPEED: How old is he?

11 PROSPECTIVE JUROR 050: He's six.

12 MR. SPEED: Six.

13 PROSPECTIVE JUROR 050: Yeah. And he'll test me. He'll
14 say things. He'll -- you know, I'll tell him to do something and he'll just
15 stop and kind of look at me, kind of look away, look down you know, and
16 don't touch that. Don't touch that. And he just keeps reaching for it.
17 You know, they're in a stage of their life where they're learning, they're
18 testing, they're experiencing new things. So you know, when they're
19 young like that and if they're telling fibs or what have you, you know,
20 why did you do that? No, it was my brother. They're testing the waters.
21 It seems to be human nature to me. You know, it's human nature I think
22 for people to tell fibs and lies.

23 MR. SPEED: Human nature --

24 PROSPECTIVE JUROR 050: I believe that's human nature.

25 MR. SPEED: -- to tell fibs and lies.

1 PROSPECTIVE JUROR 050: I mean, it's -- there's not a
2 person in this room can't say they never told a lie. I mean, that's the fact
3 of the matter. So kids, I mean, kids, young children, every day's a school
4 day. Every day's a learning moment. Everything they can try or do
5 brings a reaction. And that's why kids do what they do. You know, they
6 may not -- they not -- they may not understand the ramifications of what
7 they're doing. They may not grasp what they're doing, but they're going
8 to learn after they do that, possibly what the ramifications of that are, of
9 those -- of that situation is. By telling a lie, or telling the truth, or
10 however it is they're reaching out for a reaction.

11 MR. SPEED: Do we think of, use an adult word, a
12 grandparent word, consequences as something that children as young
13 as six, or four, or twelve or thirteen can actually understand?

14 PROSPECTIVE JUROR 050: When my wife puts them in the
15 corner for a minute, they understand the consequences.

16 MR. SPEED: All right. Let me stop you. If I say something
17 and I'm trying to provoke a reaction and something bad happens, what
18 does that teach? And thinking back on your daughters' experience,
19 those are the adults, your grandsons' experience, the six-year-old. Mr.
20 Lesane, think about this, when they say something and something bad
21 happens, those are consequences. What do we as parents, as caregivers
22 expect to see in terms of their behavior in the future?

23 PROSPECTIVE JUROR 050: Well, if the consequences are
24 bad hopefully they're learning from that. And it's our job as the parents
25 or the grandparents in the room to make them understand why that went

1 bad. You know, you did this, and this is what happened, and this is why
2 it's bad.

3 MR. SPEED: Sounds like accountability, right?

4 PROSPECTIVE JUROR 050: Well, there is accountability to it.
5 So it's -- like I said, when -- it's like a new puppy. It's like anything else
6 young. Anything it does at that young age is a learning process. It's
7 reaching out to learn something, to touch something. What does that
8 feel like? What does that taste like? That's why they put everything in
9 their mouths, because they want to know, you know, does -- can I eat
10 that? Can I not eat that? Can I say this? Can I not say this?

11 MR. SPEED: All right.

12 PROSPECTIVE JUROR 050: I mean, it's the nature of
13 children.

14 MR. SPEED: Okay. So --

15 PROSPECTIVE JUROR 050: That's how we become strong
16 adults is the lesson we learn every day.

17 MR. SPEED: Mr. Coleman, you're right. You're on the beam
18 exactly. If children say something and something bad happens, our
19 expectation is that they won't say that anymore, right?

20 PROSPECTIVE JUROR 050: If you teach them that they're not
21 supposed to say that anymore, yes. You have to reinforce the -- I mean,
22 it doesn't have to be physical, but you have to reinforce their
23 understanding is what you have to do when they do something
24 incorrect.

25 MR. SPEED: When they say something and something good

1 happens, they put something in their mouth and they experience
2 chocolate for the first time, or they experience fried chicken for the first
3 time, they experience red liquorish for the first time, the reaction or the
4 expectation for them from that point on is what? If I say this thing and
5 something good happens, we expect the children to say it again, yes?

6 PROSPECTIVE JUROR 050: Yes. To reach out to that once
7 again if they -- if it's good for them, yes. Absolutely.

8 MR. SPEED: They want that reward again, yes?

9 PROSPECTIVE JUROR 050: Correct.

10 MR. SPEED: They want that secondary gain if they can get it
11 again, yes?

12 PROSPECTIVE JUROR 050: Yeah. But they might use that
13 against you later too.

14 MR. SPEED: How is that?

15 PROSPECTIVE JUROR 050: Well, you know, I mean, to -- if
16 they find something they like, they may lie to get it. You know, I mean,
17 it's -- that's human nature. We as human beings will do -- if there's
18 something we see we like, I mean, I don't know about you. When I see
19 something and I want it, I go after it you know. And I'm -- if I believe in
20 something passionately and I want it, I'm having it. And I think children
21 are the same. I mean, it's -- again, it's human nature. If you want
22 something bad enough you'll do just about anything that you know is --
23 you know, that's -- nobody's going to get hurt in the end, but saying a lie
24 to get an ice cream cone. Yeah. I got an A on my report card today
25 when you really didn't. Kids will do that.

1 MR. SPEED: Okay. It sounds like you believe that kids will lie
2 about small things?

3 PROSPECTIVE JUROR 050: I think -- it's not that I'm saying
4 that kids just want to lie all the time.

5 MR. SPEED: No.

6 PROSPECTIVE JUROR 050: That's not what I'm getting at,
7 but I'm saying, you've lied to get something before, right? Come on. I
8 mean, we're being honest here. We're being honest with each other
9 here. Maybe it's not -- maybe you can't so much as say it's a lie.

10 MR. SPEED: Uh-huh.

11 PROSPECTIVE JUROR 050: But maybe a fib, or maybe you
12 stretch the truth or embellish a little bit just to get something that you
13 need. And nobody was hurt, but you were -- I'll give a prime example.
14 When I interviewed for the job I'm in presently that I've been in for 20
15 years, let's be clear on that. When I was first interviewed for that job the
16 guy asked me he says well, how are you on the computer. And at the
17 time I could probably just about check my email and that was about it on
18 a computer. That was 20 years ago.

19 MR. SPEED: Uh-huh.

20 PROSPECTIVE JUROR 050: You know, I could check my
21 email. Well, can you operate Word, can you operate this, can you --
22 sure. I can do that. No. I couldn't, but I knew if somebody showed me I
23 could, and I would, and I'd be able to do it. So in order to achieve my
24 end goal of acquiring that job, yeah. I embellished a little bit. Yeah. I
25 told a little tale just to, you know -- it didn't hurt anybody. In the end

1 they're glad they have me.

2 MR. SPEED: Right.

3 PROSPECTIVE JUROR 050: I've been told that. I do a good
4 job for them. It's just -- I don't know if we're getting off the point or not.

5 MR. SPEED: No, we're not.

6 PROSPECTIVE JUROR 050: But that's -- it's human nature for
7 humans, children, adults, however, to tell a lie to reach a goal. Whether
8 it be a small lie or a large one. And you may or may not at that age
9 know what the ramifications are of what you said if you're an adolescent.
10 I mean, how much experience does an adolescent child have when they
11 say a lie that hurts somebody, and they don't understand that it's going
12 to hurt somebody?

13 MR. SPEED: They don't understand the consequences --

14 PROSPECTIVE JUROR 050: Correct.

15 MR. SPEED: -- of the things they say.

16 PROSPECTIVE JUROR 050: It's human nature.

17 MR. SPEED: Behind you to your right sir, is our teacher for
18 16 years, Ms. Carothers.

19 PROSPECTIVE JUROR 131: Hello.

20 MR. SPEED: I saw you nodding a lot when Mr. Coleman was
21 speaking. Now you've worked with children probably as closely as
22 anyone else on our panel.

23 PROSPECTIVE JUROR 131: Yeah. I was thinking of another
24 scenario --

25 MR. SPEED: Sure.

1 PROSPECTIVE JUROR 131: -- that I encounter a lot. Our kids
2 have recess one time a day. Basically when they go to lunch. So it's not
3 that they're getting recess three times a day. They only get it one time.
4 And so usually if we have situations it's usually at recess time. And
5 when I'm -- what I encounter a lot when I deal with lying at school, a lot
6 of the time it's a sequence of events. Child will come up to me and say,
7 you know, Jimmy hit me in the face. But he's telling me part C and part
8 D. He didn't tell me that he chased Jimmy across the field and pushed
9 him into the fence and then Jimmy hit him in the face. So that's kind of
10 like -- that's a lot of the lying that I encounter at school. But I do
11 encounter it with kids.

12 MR. SPEED: We can agree that children will lie to get
13 something they want, yes?

14 PROSPECTIVE JUROR 131: Yes. And to avoid getting in
15 trouble.

16 MR. SPEED: And to stay out of a situation that is
17 uncomfortable for them?

18 PROSPECTIVE JUROR 131: Exactly.

19 MR. SPEED: They tell lies that are centered around
20 advancing their own self-interest?

21 PROSPECTIVE JUROR 131: That's exactly it. They try to
22 protect their -- they try to safeguard themselves above all else. So if
23 there was a situation between child A and child B and whatever, I'm
24 going to try to put everything in my light and try to -- and so that you
25 understand my point of view. But I may have done something wrong,

1 but I'm going to try to persuade you that it was -- that I was the one that
2 was wronged. So they're going to have some persuasion skills.

3 MR. SPEED: Persuasion skills?

4 PROSPECTIVE JUROR 131: Yeah.

5 MR. SPEED: Children. Do children understand as young as
6 middle school age, 12, 13, that -- let me ask you this way. Do you think
7 that educators and police officers, church leaders, the adults, the
8 caregivers, parents and uncles, grandpas, grandmas, all the people who
9 take care of children, do you think that they understand we've done a
10 good enough job in teaching them that big people in your life are here to
11 help you?

12 PROSPECTIVE JUROR 131: Yes. And I believe that most
13 children would feel that way. And I could also say that I could see how
14 they could be misled.

15 MR. SPEED: Okay. Do you think that some of the
16 dishonesty, the untruthfulness that we have come to expect from
17 children because they're trying to get something that they want, or
18 they're trying --

19 PROSPECTIVE JUROR 131: Or avoid something.

20 MR. SPEED: -- to avoid something that --

21 PROSPECTIVE JUROR 131: Correct.

22 MR. SPEED: -- is uncomfortable to them. Do you think that
23 they would be dishonest for other peoples' benefit?

24 PROSPECTIVE JUROR 131: Their best friend, of course.

25 MR. SPEED: Best friend?

1 PROSPECTIVE JUROR 131: Uh-huh.

2 MR. SPEED: Siblings?

3 PROSPECTIVE JUROR 131: Yes.

4 MR. SPEED: Parents?

5 PROSPECTIVE JUROR 131: I could see -- I'm not going to say
6 that blanket statement, they all want to be protective. I don't know. I
7 would have to take what they were saying, but I could see that it would
8 be a possibility.

9 MR. SPEED: You talked earlier about your mother being in a
10 relationship with --

11 PROSPECTIVE JUROR 131: Uh-huh.

12 MR. SPEED: -- a person who was abusive.

13 PROSPECTIVE JUROR 131: Correct.

14 MR. SPEED: And I'm going to ask you to hold the
15 microphone for just a moment while I ask for a show of hands. Who
16 comes from a what people started calling, social scientists started calling
17 blended families about 20 or 30 years ago? Step-mom, step-dad in the
18 house? Yes? One, two, three, four, five. That's it? Wow, all right. Now
19 you four other venire members, remember yourselves, okay. Because I
20 want to get to all of you on this blended family question. Talk to us a bit
21 about your experience. And you already have, I know a lot.

22 PROSPECTIVE JUROR 131: Uh-huh.

23 MR. SPEED: But do you think that a blended family or being
24 a member of a blended family where the children have different parents.

25 PROSPECTIVE JUROR 131: Correct.

1 MR. SPEED: They may share one or they may not, or some
2 kids are adopted or whatever. A blended family scenario. Do you think
3 that that -- first of all, is it a positive thing or a negative thing?

4 PROSPECTIVE JUROR 131: It can be both.

5 MR. SPEED: It can be both.

6 PROSPECTIVE JUROR 131: It can be a whole range of
7 spectrum.

8 MR. SPEED: Have you seen situations where the blended
9 family is a negative?

10 PROSPECTIVE JUROR 131: Absolutely.

11 MR. SPEED: Talk to us about that.

12 PROSPECTIVE JUROR 131: Not directly, but my step-father
13 and his previous wife had three children. So before -- I was ten years old
14 when he and my mother got together. And there was three children
15 previously from their previous marriage, my step-father.

16 MR. SPEED: Okay.

17 PROSPECTIVE JUROR 131: They had a very contentious
18 relationship after they divorced. And subsequently my step-dad got
19 custody of the three children and they came to live. And there were
20 accusations thrown around all over the place about different things. And
21 it was just a lot of bitterness.

22 MR. SPEED: Were --

23 PROSPECTIVE JUROR 131: And now --

24 MR. SPEED: I'm sorry. Were those three older than you or
25 younger than you?

1 PROSPECTIVE JUROR 131: They were -- one was about the
2 same age and the other two were younger.

3 MR. SPEED: Okay.

4 PROSPECTIVE JUROR 131: So I would say that as they
5 became adults it had a very negative effect on them and they kind of
6 took themselves away from the family. Like they -- yeah. So they
7 wanted nothing to do with their parents after everything happened.

8 MR. SPEED: At ten did you have a sense of there being two
9 sides --

10 PROSPECTIVE JUROR 131: Absolutely.

11 MR. SPEED: -- in the family?

12 PROSPECTIVE JUROR 131: Absolutely.

13 MR. SPEED: Okay. Obviously it makes the most sense or
14 maybe not in this scenario because you said that --

15 PROSPECTIVE JUROR 131: Yeah. I mean, I've seen it where
16 people are very cooperative and very amiable towards each other, but
17 I've also seen the other side.

18 MR. SPEED: Where if there's a blended situation and there
19 are children from both adult partners, the children belonging to one will
20 take sides --

21 PROSPECTIVE JUROR 131: Yes.

22 MR. SPEED: -- that parent's side against maybe the new
23 parent, the --

24 PROSPECTIVE JUROR 131: Correct.

25 MR. SPEED: -- parent?

1 PROSPECTIVE JUROR 131: Right.

2 MR. SPEED: And the children will do the same thing?

3 PROSPECTIVE JUROR 131: Right.

4 MR. SPEED: What role can parents play in tamping down
5 some of that?

6 PROSPECTIVE JUROR 131: Well, obviously as an adult you
7 should be the role model in the situation and show how you could be
8 respectful and cooperative with the other partner. But if the parent is the
9 person that is being the most negative in that situation, then of course
10 the children would -- it would negatively affect the kids just by
11 association of how -- and I'm speaking like as my step-father was --
12 berated his ex-wife to no avail in front of his kids or whatever else.

13 So I saw firsthand how it could be a negative thing. So you
14 know, looking back at it he definitely was not a good role model.

15 MR. SPEED: Did you think of it, is this the person who was --

16 PROSPECTIVE JUROR 131: No.

17 MR. SPEED: Not the person?

18 PROSPECTIVE JUROR 131: No, it was not.

19 MR. SPEED: How was your step-father's relationship with
20 your mother?

21 PROSPECTIVE JUROR 131: Very good and I have an
22 exceptional relationship with him still to this day.

23 MR. SPEED: Okay. But it didn't get between --

24 PROSPECTIVE JUROR 131: But other than that and the
25 custody situation with him and his ex-wife, it just -- something clicked, or

1 you know, something just was off.

2 MR. SPEED: But I'm trying to keep every -- all the
3 relationships straight in the timeline.

4 PROSPECTIVE JUROR 131: Right.

5 MR. SPEED: It didn't work out between your step-father and
6 your mother, right?

7 PROSPECTIVE JUROR 131: Yes. They were married until
8 she passed away last year.

9 MR. SPEED: Okay, okay.

10 PROSPECTIVE JUROR 131: Yeah.

11 MR. SPEED: All right. Did you ever find yourself in the
12 position of, because he was a step-father, not your biological father, of
13 taking your mom's side when you were able to notice a disagreement
14 between the two of them?

15 PROSPECTIVE JUROR 131: I really don't know, but I would
16 say that that's possible.

17 MR. SPEED: For the other panel members who raised their
18 hands on the blended family question, I believe Ms. Velasquez you did,
19 yes?

20 PROSPECTIVE JUROR 051: Yes.

21 MR. SPEED: Would you pass the microphone one in front of
22 you, Ms. Carothers.

23 PROSPECTIVE JUROR 051: Alexis Velasquez, 0051.

24 MR. SPEED: Ms. Velasquez, you raised your hand when I
25 posed the blended family question to Ms. Carothers, yes?

1 PROSPECTIVE JUROR 051: Yes.

2 MR. SPEED: Do you think it's natural for children in blended
3 families to very often take sides?

4 PROSPECTIVE JUROR 051: Yes. In my situation no because
5 I have like -- I have to count them, but I think I have like at least -- I have
6 like at least 13 siblings.

7 MR. SPEED: Okay.

8 PROSPECTIVE JUROR 051: And I have no full blood siblings.
9 They're all half brothers and sisters.

10 MR. SPEED: Uh-huh.

11 PROSPECTIVE JUROR 051: So I love them just the same.
12 Like I wouldn't take -- I remember when my mom was married to my
13 step-father, they're no longer together. They've been divorced for quite
14 a few years, but as to the taking sides thing, sometimes I remember
15 taking my step-dad's side if they were arguing. And they had a really
16 good relationship, but in the end they divorced because my mom, she
17 became a drug addict. And you know, I -- and he really tried to help her.
18 So I took his side in, you know, the situation. So I think that yes. We do
19 take sides.

20 MR. SPEED: Do you think kids will lie to protect the person
21 they care about the most?

22 PROSPECTIVE JUROR 051: Yes. And I say that because I've
23 done it myself. When I was -- as I mentioned before when I was picked
24 up by CPS with my two younger siblings, I knew -- they asked -- the
25 social worker asked me if I knew what drugs were and she said you

1 know, explained to me what kind of drugs do you know, what is it, what -
2 - you know, what is it. What -- you know, what it is? And I told her that I
3 knew --

4 MR. SPEED: You said you were 14 at that time, yes?

5 PROSPECTIVE JUROR 051: Yes.

6 MR. SPEED: Uh-huh, go ahead.

7 PROSPECTIVE JUROR 051: And I explained to her that I
8 knew what it was. And she said, have you ever seen anything around
9 the house, or have you ever seen your mom with these symptoms. And
10 I knew that my mom was an addict. I knew. But I knew that if I would
11 say yes that I knew that it would be a problem for my mom. That she
12 would lose her job. That -- you know, they would take myself and my
13 two younger siblings away from her, so I lied. So yes. I think that
14 children will lie to protect their parents or to protect someone.

15 MR. SPEED: So that your family was not disturbed, your
16 family situation was not broken up by CPS, okay. You understood at 14
17 that these were people who were --

18 PROSPECTIVE JUROR 051: Trying to help me.

19 MR. SPEED: -- trying to help you? But you also understood
20 that because of some difficulties, some problems that your mother was
21 having at the time, the thing for you to do, the right thing for you to do in
22 your mind at that time was to be dishonest with that person?

23 PROSPECTIVE JUROR 051: Yes. At that age I think that
24 children don't have like the mental capacity sometimes to -- you know,
25 their minds aren't like fully developed. Like they're still learning. So at

1 that point I thought that that was the right thing to do, to say. But now
2 that I'm an adult and now looking back and I think of the things, I could
3 have saved myself and my siblings a lot of grief had I told the truth that
4 day.

5 MR. SPEED: Their minds aren't fully developed. They're still
6 learning. They will say things to protect the people they care about the
7 most even if those things have negative consequences for other people
8 involved?

9 PROSPECTIVE JUROR 051: Correct.

10 MR. SPEED: Mr. Coleman, you raised your hand again. Go
11 ahead, sir.

12 PROSPECTIVE JUROR 050: That's kind of the point I was
13 trying to make, and I wanted to reiterate. We talked a lot about kids
14 lying. I don't want anybody to think that that's all I think kids do is lie.

15 PROSPECTIVE JUROR 068: Yeah. I was starting to feel that
16 way. It feels -- it just feels like a generalization all kids lie.

17 PROSPECTIVE JUROR 050: Okay. So I need --

18 THE COURT: Name and badge number.

19 MR. SPEED: Go ahead, sir.

20 PROSPECTIVE JUROR 068: Warren Chiapparelli, number 68.

21 MR. SPEED: Mr. Chiapparelli, we'll get to you in just a
22 moment. Go ahead, Mr. Coleman.

23 PROSPECTIVE JUROR 050: And we had that conversation
24 about -- you know, about all the lying and the children lying and how I
25 expressed that, you know, adults lie as well. Adults will also lie to get

1 results. That's -- in my statement about myself as well as -- what I was
2 trying to say is when kids are lying they're learning because they don't
3 know. They don't understand. They -- when I got done talking I started
4 thinking about what I was saying.

5 And I don't want everybody to think that I think that kids just
6 lie because like I said, that's just part of the learning curve for children.
7 They tell the truth a lot too. You know, there's honest -- I mean, what's
8 the phrase from The Mouth of Babes? No child is more -- I mean, they'll
9 say things that you just go whoa, did you just say that. As honest as
10 they can be in their hearts, you know what I mean, from their hearts.

11 So I don't want anybody in this room to by any means think
12 that I think that children are just liars because that's so not the case. I
13 love all my kids, my grandkids. I understand the process of being a child
14 to becoming an adult is a learning process. Lying's part of it. Telling the
15 truth is part of it. Being taught is part of it by your adult counterparts.
16 That's our job for our children.

17 So like she just said, you know, they don't -- she lied, and she
18 didn't know the consequences of the lie that she told. Doing it again, she
19 wouldn't do it again. But you don't learn that unless you try something.
20 You don't know if you like to jump out of an airplane until you jump out
21 of the airplane and then you're like, I don't think I'm going to do that
22 again.

23 So it's all with experience comes learning, you know. It
24 becomes life experience. Lying about something is a life experience
25 because it -- with every action there's a reaction. That's the biggest thing

1 of all of it. Whether it's a positive or negative reaction. But the fact that
2 we're focusing just on children lying, I think we should also focus on the
3 fact that human beings lie.

4 MR. SPEED: 100 percent fair.

5 Mr. Chiapparelli?

6 PROSPECTIVE JUROR 068: Yes, yes. I'm glad --

7 MR. SPEED: Can we -- Mr. Chiapparelli is badge number --

8 PROSPECTIVE JUROR 068: 68.

9 MR. SPEED: 68.

10 PROSPECTIVE JUROR 068: I just started getting the feeling
11 that we were generalizing all children at some point, and I'm glad --
12 that's nice that he cleared that up for himself. I think it starts with
13 guidance as from a caregiver to teach children what's right, what's
14 wrong, consequences, not to lie. Some children have that advantage in
15 life that they are taught, and some don't. Some have to find it out on
16 their own.

17 But that's a big part. It starts at home with guidance and
18 teaching of not to lie, it's not the correct thing to do, and these are the
19 consequences if that happens. And yes, if you aren't taught that, then
20 you do unfortunately have to find out through life experiences. And you
21 might put something in your mouth that tastes pretty bad, and you find
22 out the hard way. But I --

23 MR. SPEED: She might get red licorice, right?

24 PROSPECTIVE JUROR 068: Yeah. No, you might get
25 something that tastes pretty good. But I did the feeling for a while we

1 were generalizing children all to be liars and I didn't think that was fair.
2 And I think there's plenty of children who tell the truth more than adults.

3 MR. SPEED: How hard was it for you to stand up when you
4 thought that the group was headed down a direction that you didn't
5 agree with personally?

6 PROSPECTIVE JUROR 068: Well, I didn't want to be rude and
7 talk out of turn. I know we're supposed to talk when we're called on. But
8 I was sitting there getting pretty -- that I did finally have to say
9 something.

10 MR. SPEED: Do you remember a few moments ago when I
11 was asking some of your other panel members -- your fellow panels
12 about whether --

13 PROSPECTIVE JUROR 068: Yeah.

14 MR. SPEED: -- they consider themselves leaders of
15 followers.

16 PROSPECTIVE JUROR 068: In this case, I would definitely
17 consider myself a follower. In certain cases I would consider myself a
18 leader.

19 MR. SPEED: You think so?

20 PROSPECTIVE JUROR 068: I don't feel qualified to be here,
21 personally, and I wouldn't want to take on a lead role.

22 MR. SPEED: Why do you feel unqualified? And I'll --

23 PROSPECTIVE JUROR 068: Yeah.

24 MR. SPEED: -- tell you why I'm following up with that, and
25 I'll get back to our blended family hand raisers.

1 PROSPECTIVE JUROR 068: Sure.

2 MR. SPEED: Why do you think that you're unqualified?

3 Because based on what I just saw, what I just --

4 PROSPECTIVE JUROR 068: Yeah.

5 MR. SPEED: -- witnessed, the interaction between two panel
6 members, I have questions. But none of them focus around your being
7 unqualified to serve.

8 PROSPECTIVE JUROR 068: Yeah. I just -- I think I'm maybe
9 too emotional, one part. I am an indecisive person. I'm not a great
10 listener at times, especially under stress, which I feel under stress at this
11 point. I have been since I got this notice in the mail that I had to come
12 here. And those are the reasons why I don't feel qualified personally.
13 And in these circumstances, I would not be comfortable taking a
14 leadership role.

15 MR. SPEED: You did say earlier that you don't think you can
16 be fair. You just don't know. It's too hard for you given the subject
17 matter, given the things that we've been talking about. The way that -- a
18 conversation about children perhaps being dishonest --

19 PROSPECTIVE JUROR 068: Yeah.

20 MR. SPEED: -- invokes certain feelings in you?

21 PROSPECTIVE JUROR 068: No, I don't know if I -- I just didn't
22 feel it was right to say that children are liars. And I felt like we were
23 generalizing children in a way.

24 MR. SPEED: You understand that --

25 PROSPECTIVE JUROR 068: It's a case by case basis. Some

1 children are liars, some aren't, just like adults. And typically -- you know,
2 I don't know, you know, statistics, but I would say if you're a liar as a
3 child, good chance you're going to be a liar as an adult. So it follows
4 through.

5 MR. SPEED: Did you get Mr. Coleman's point when he was
6 saying he's not generalizing children as liars, and he's not --

7 PROSPECTIVE JUROR 068: Well, he reiterated that, and it
8 was nice that he did because in the beginning -- he did say that the first
9 time he spoke also. But then we went on to would a child lie to protect
10 their mother or father. And it seemed like it was being -- just yes, all
11 children would. And I don't think that's true. I don't agree with that.

12 MR. SPEED: Would you give --

13 PROSPECTIVE JUROR 068: That's how I heard it.

14 MR. SPEED: Would you give the word of a child more weight
15 than you would an adult witness, especially about something as serious
16 as this?

17 PROSPECTIVE JUROR 068: I think case by case. There's a lot
18 of gray in life; I don't think everything is black and white. And I would
19 actually really need to have -- I don't know, not personally meet that
20 child, but see that child speak, see how they behave. I would have to,
21 you know, maybe form an opinion that way. I couldn't just say yes or
22 no. I think some people are capable.

23 MR. SPEED: What about if a person doesn't have to speak,
24 or --

25 PROSPECTIVE JUROR 068: I don't agree with that either.

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GUSTAVO GUNERA-PASTRANA,) No. 79861
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 Appellant,)
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 v.)
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THE STATE OF NEVADA,)
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 Respondent.)
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