

1 found this towel and tape, and all this other stuff that goes
2 to identification. No gun was found on Mr. Adams when he was
3 arrested. No gun was ever found at his residence, or in his
4 car. There is no gun. That's something you did not see a
5 slide of because it doesn't exist. And yet it's charged on
6 every one of these counts. Amber herself will tell you she
7 never saw a gun, and yet you have the charge of use with a
8 deadly weapon.

9 You'll hear from those two young witnesses that we
10 talked about earlier, Angela and Jonathan. And you'll hear
11 from Jonathan that he thought Amber was very scared, that --
12 he's the one witness who will talk about how she seemed
13 distressed, that he was -- she was being dragged away by a man
14 that was not her father. He seemed to have something in his
15 pocket, something that was threatening.

16 But you'll also hear the evidence that he never did
17 anything. And what he actually says is, I forgot to call
18 anyone about it. Is that something that you forget to call
19 about? And Angela, who contradicts both Jonathan and Amber,
20 tells the detective, Amber was the one running to keep up with
21 him. He wasn't dragging her. He wasn't even touching her.

22 You'll also hear that the detective in this case, as
23 part of this investigation, canvassed the area. And what he
24 came across was what he described as a physically fit, young
25 black male adult who lived in the nearby area. And according

1 to this witness, he saw two people who matched the description
2 of Amber and Mr. Adams together.

3 He walked right by them, close enough that he was
4 able to exchange greetings and say, hey, what's up. And what
5 he noticed was that they acted perfectly normal. No one was in
6 distress, no one was emotional, no one was crying. That's what
7 this witness says. An independent witness. Nothing to do with
8 this case whatsoever. No connections, no motives.

9 Now, you're going to be asked to see if that matches
10 with what Amber tells you. Because what Amber's going to tell
11 you, and her story all along has been, as soon as he grabbed
12 me, from the first second to the last, I was crying, I was
13 shaking, I was highly emotional.

14 And yet we have this independent witness who sees
15 them on the street and says, no, he wasn't dragging her. He
16 wasn't acting like a gun, he didn't see a gun. None of that
17 was even mentioned. They were just walking down the street
18 together.

19 Mr. Hendricks mentioned a few times about after the
20 two of them had sex that there was blood flowing and there was
21 flowing blood, and these types of things. Amber when
22 interviewed by the detective, which is right after this event,
23 it's the same day, is asked whether or not she has any injuries
24 or whether there's any bleeding, any vaginal bleeding or
25 anything like that, and she says no.

1 She talks about cleaning herself off with a towel.
2 And there isn't a bunch of blood on this towel. The detective
3 who then goes and investigates this scene says that in his
4 report, that there doesn't even seem to be enough blood or
5 bodily fluid to be consistent with having sexual acts in the
6 areas as described. There's no blood flowing anywhere.

7 You'll hear that she does have abrasions in her
8 vaginal area. Those are -- an abrasion is like a scrape. That
9 there is hymenal tissue, which surrounds the inside of the
10 vagina. It is not -- you'll hear from the State's own
11 witnesses that this is -- it's not the old wife's tale of an
12 intact hymen or a broken hymen, or anything like that.

13 Instead, it's just the lining of tissue that goes
14 around the outside. And there can be injuries to it. There
15 can be sexual intercourse that leaves no injuries. There can
16 be consensual intercourse that leaves abrasions. By itself,
17 this exam is not going to show what was going on in the mind.

18 You'll get to see pictures of the towel and the
19 testing of the towel, and you'll see that there wasn't blood
20 flowing all over the place or anything like that. You will
21 also hear from the detective in this case who will talk about
22 some inconsistencies, and things that don't quite make sense.

23 Amber tells everybody that afterwards, Mr. Adams took
24 the towel, walked over to the kitchen sink, ran the water, ran
25 the towel under the water, and then told her to get cleaned up.

1 That apartment didn't have electricity or running water for
2 months. It didn't even work. Why would Amber say that? Why
3 does Amber truly believe that maybe, that she saw that, that
4 she saw water running? Because it's physically impossible.
5 And yet, she swears by it.

6 She told the detective about these shoes, the
7 description of the shoes. And when the detective ran over to
8 the scene, he found the shoes that she described. The problem
9 is, that the shoes had been there for so long that they were
10 cobwebbed over.

11 These are not shoes that -- well, I guess this
12 wouldn't make sense either. Mr. Adams brings someone this
13 (sic) abandoned apartment complex, sexually assaults them, and
14 then takes off his shoes, leaves them there? That doesn't make
15 sense either way.

16 But anyways, the shoes that you kept seeing pictures
17 of, the shoes that are being described, are shoes that have
18 been sitting in that apartment with cobwebs in them, and not
19 touched. And who points out this strangeness? The lead
20 detective in this case.

21 You'll hear from the lead detective who talks about
22 this blue tape. At one point, originally Amber had said, yes,
23 there was this blue tape at the apartment. And when I tried to
24 say no, he taped my mouth with it, and then he taped my wrists
25 and everything else. Well, a number of problems with this.

1 First of all, the interview and the forensics were
2 done immediately afterwards. And there were no injuries to her
3 wrists, no marks on her wrists, nothing on her face, nothing
4 that would show that she was taped up or bound in any way.

5 The detective even says, you know, did you wash your
6 face or anything? Because we can check for adhesive to see if
7 there was adhesive. And she said no, they told me not to wash
8 or anything, so everything's fine. And you won't hear any
9 evidence about any of that.

10 Then the detective goes to this scene and he finds
11 this blue tape, this blue tape which is actually being used to
12 hold this old rickety table together. And it's not duct tape
13 or electrical tape, or anything strong like that. It's very
14 papery. It's like for outlining for painting. And the
15 detective notes in his report how easy it is to just tear it,
16 that it's not something that you would bind someone with.

17 Now, that was Amber's original story. She also
18 testifies at a hearing in court under oath. And during that
19 entire hearing, she never mentions anything about tape or being
20 bound by tape, or anything like that. So I guess we'll have to
21 wait and see what she says at trial, and which way she decides
22 to go with it.

23 These are the things that you're going to hear
24 throughout the presentation of the evidence. And the only
25 thing we're asking you to do is to keep not only your eyes and

1 ears open throughout, but keep your minds open. Keep your
2 minds open until you've heard everything, until you've seen it
3 all, and then make your decision.

4 And the reason we ask you to do this is because you
5 are not an angry mom. You are not a witch hunt. You are an
6 American jury. And we trust you with the most important
7 decisions there are.

8 And we trust that once you've considered everything
9 and taken a look at it all, that you will realize that this was
10 not a kidnap, that there was no use of a deadly weapon; there
11 wasn't even a deadly weapon involved. That this was not a
12 sexual assault done against anyone's will. But that this was a
13 bad decision made by two people, and a charge for that will be
14 available to you at the end of the trial. Thank you for your
15 attention.

16 THE COURT: Parties approach.

17 (Off-record bench conference)

18 THE COURT: All right. Ladies and gentlemen, the
19 conference at the bench, I'm going to let you go for this
20 evening. It is your duty not to converse among yourselves or
21 with anyone else on any subject connected with this trial.

22 Further, you may not read, watch, or listen to any
23 report of or commentary on this trial by any medium of
24 information, including without limitation newspaper,
25 television, radio. You may not form or express any opinion by

1 any subject connected with this case until it's finally
2 submitted to you.

3 As I indicated earlier, we'll do a 10:00 call.
4 Officer Reichart's got some directions for you in terms of
5 making your parking situation easier. He's also going to have
6 some ideas on where he would like you to stage tomorrow
7 morning. We will be in recess again until tomorrow morning, 10
8 a.m. Follow Officer Reichart, please. Are you going to take
9 them out the back?

10 THE MARSHAL: I can take them (indiscernible).

11 THE COURT: Okay. At ease. Follow Officer Reichart,
12 ladies and gentlemen.

13 (Outside the presence of the jury)

14 THE COURT: The record should reflect we're outside
15 the presence of the jury. As the conference at the bench
16 indicated, we'll get into evidence tomorrow morning. Is that
17 agreed, Mr. Scow?

18 MR. SCOW: Yes, Judge.

19 THE COURT: Mr. Maningo? All right. Anything -- any
20 additional record need to be made as a consequence of opening
21 statement, either side? State?

22 MR. HENDRICKS: No, Judge.

23 THE COURT: Defense?

24 MR. MANINGO: No, sir.

25 THE COURT: All right. We'll see you tomorrow

1 morning, 10:00 a.m.

2 MR. MANINGO: Thank you, Judge.

3 (Off the record at 4:40 p.m. until 4:42 p.m.)

4 (Outside the presence of the jury)

5 MR. MANINGO: Defendant's here; do you want him?

6 THE COURT: Yes. We can get the defendant in here as
7 well?

8 MR. MANINGO: We need the defendant.

9 THE COURT: I want to talk about an OSC on Juvenal
10 Castillo-Martinez, Juror number 202 who failed to return after
11 lunch. That's all. I just need to make a record on --

12 MR. MANINGO: Oh.

13 THE COURT: He -- yeah, evidently, Mr. Castillo
14 didn't come back. So I wanted to make any initial -- any
15 additional record that either side thought was necessary. I
16 have no idea why he didn't show up. There could be a perfectly
17 logical reason, or he could have just blown us off completely;
18 who knows. Do you care?

19 MR. MANINGO: No. I'll leave it to the Court's
20 discretion.

21 THE COURT: All right. Well, we're on the record in
22 this case, outside the presence of the jury, representatives of
23 State and defense are also noted for the record. It should
24 further reflect that Juror number 202, Juvenal
25 Castillo-Martinez was absent at jury call after lunch.

1 As a consequence, we moved past him in jury
2 selection, requiring us to pull additional jurors. It's my
3 understanding Mr. Maningo that you're not requesting any
4 additional inquiry Mr. -- is that correct?

5 MR. MANINGO: That's correct, Judge.

6 THE COURT: Mr. Scow, Mr. Hendricks, any additional
7 inquiry on your side as a consequence of why Mr. Martinez
8 failed to appear -- Castillo-Maartinez failed to appear?

9 MR. HENDRICKS: No, Judge.

10 THE COURT: I'm going to direct that Jury Services
11 inquire for Mr. Castillo, why he failed to appear, and offer an
12 explanation to this Court. I am not sending this to the chief
13 judge for an order to show cause at this time based upon the
14 position of parties, but I want to know why Mr. Castillo
15 decided not to come back. All right? Thank you, gentlemen.

16 MR. MANINGO: Thanks, Judge.

17 MR. HENDRICKS: Thank you, Judge.

18 (Court recessed at 4:44 p.m., until Tuesday,

19 November 3, 2009, at 10:00 a.m.)
20
21
22
23
24
25

INDEX

STATE'S OPENING STATEMENT	221
DEFENSE'S OPENING STATEMENT	238

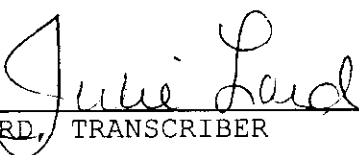
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

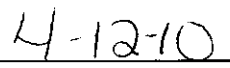
AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

Verbatim Digital Reporting, LLC
Littleton, CO 80120
(303) 798-0890



JULIE LORD, TRANSCRIBER



DATE

COPY

FILED

COPY

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

NOV 4 7 51 AM '10

THE STATE OF NEVADA,

Plaintiff,

vs.

EDWARD MICHAEL ADAMS,

Defendant.

CASE NO. C-241003

DEPT. NO. 18

**Transcript of
Proceedings**

BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

TUESDAY, NOVEMBER 3, 2009

APPEARANCES:

FOR THE PLAINTIFF:

CRAIG L. HENDRICKS, ESQ.
Chief Deputy District Attorney

RICHARD H. SCOW, ESQ.
Deputy District Attorney

FOR THE DEFENDANT:

JEFFREY S. MANINGO, ESQ.
Deputy Public Defender

COURT RECORDER:

RICHARD KANGAS
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Littleton, CO 80120
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

000432

1 LAS VEGAS, NEVADA, TUESDAY, NOVEMBER 3, 2009, 10:03 A.M.

2 (Outside the presence of the jury).

3 THE COURT: Okay, this is C-241003, State of Nevada,
4 plaintiff, versus Edward Michael Adams. Record should reflect
5 the presence of representatives of the State, defense, outside
6 the presence of the jury.

7 Anything to come before the court, either side,
8 before we bring the jury in? We've got them in the hall and
9 Juror No. 6 who we were waiting for did arrive, so we're good
10 to go as the panel was constituted yesterday. State, do you
11 have anything?

12 MR. HENDRICKS: Outside the presence? I don't.

13 THE COURT: Defense.

14 MR. MANINGO: No, Judge.

15 THE COURT: All right. Bring them in.

16 (In the presence of the jury).

17 THE MARSHAL: Jury's present, please.

18 THE COURT: Thank you. This is C-241003, State of
19 Nevada, plaintiff versus Edward Michael Adams. Record should
20 reflect the presence of representatives of the State, defense,
21 all members of the jury panel appear to be present. Do the
22 parties stipulate to the presence of the entire panel?

23 MR. SCOW: Yes, Judge.

24 THE COURT: Mr. Maningo?

25 MR. MANINGO: Yes, sir.

1 THE COURT: All right. We are in State's case in
2 chief. Call your first witness.

3 MR. HENDRICKS: State calls Amber Valles.

4 THE CLERK: Please step forward to the witness stand
5 and just keep standing and then I'll swear you in. Raise your
6 right hand.

7 AMBER VALLES, STATE'S WITNESS, SWORN

8 THE CLERK: And then speak up for us, and then you
9 may be seated and then state your name for us, full name.

10 THE MARSHAL: Pull way up. You have to stay right on
11 top of this because you got a real soft voice.

12 THE WITNESS: Okay.

13 THE MARSHAL: They'll make you say everything twice
14 if --

15 THE CLERK: State your name, please.

16 THE WITNESS: Amber Valles.

17 DIRECT EXAMINATION

18 BY MR. HENDRICKS:

19 Q How old are you?

20 A 15.

21 Q What grade are you in?

22 A Ninth.

23 Q I won't ask you what school you're attending now, but
24 I am going to ask you what school you were attending when you
25 were 13 years old?

1 A Johnson Junior High.

2 Q And where is that located?

3 A On Alta and Buffalo.

4 Q Did you live near there back when you were 13 years
5 old?

6 A Yes.

7 Q Okay. And what's your date of birth?

8 A 10/12/94.

9 Q Now, back on December 14th of 2007, how old were you?

10 A 13.

11 Q And you had just turned 13 two months prior in
12 October, right?

13 A Yes.

14 Q Okay. And you had just started in seventh grade in
15 August or September?

16 A Yes.

17 Q Now, do you remember December 14th of 2007?

18 A Yes.

19 Q Do you remember whether or not you went to school
20 that day?

21 A Yes.

22 Q Did you?

23 A Yes.

24 Q Do you remember what time you got out of school?

25 A 2:15.

1 Q And is that the normal time that school let out?

2 A Yes.

3 Q What did you do after you were out of school?

4 A I called my mom.

5 Q And why did you do that?

6 A Because we were planning on -- I was planning on
7 going to my friend's house spending the night.

8 Q And who's your friend?

9 A Cierra.

10 Q And how old's Cierra?

11 A 13 at the time.

12 Q And was she in the same grade as you?

13 A Yes.

14 Q And how long had you known her?

15 A A couple weeks, maybe.

16 Q Did you know her that well?

17 A No.

18 Q But you were going to go spend the night at her
19 house?

20 A Yes.

21 Q Was that her idea or your idea?

22 A Both, I don't know.

23 Q Did you ever end up spending the night at her house?

24 A No.

25 Q Why not?

1 A Because she had called her mom, and her mom said no.

2 Q So you didn't spend the night over there?

3 A No.

4 Q About what time did that phone call take place?

5 A About 2:20.

6 Q Now, let me ask you before we go any further, and
7 I've shown counsel -- previously shown defense counsel what's
8 been marked State's Proposed Exhibit 8.

9 MR. HENDRICKS: May I approach the witness, Judge?

10 THE COURT: You may.

11 MR. HENDRICKS: Thanks.

12 BY MR. HENDRICKS:

13 Q Do you recognize the person that's shown in State's
14 Proposed Exhibit 8?

15 A Yes.

16 Q Who's that?

17 A Me.

18 Q And how hold were you?

19 A 13.

20 Q Do you like that picture?

21 A No.

22 Q Why not?

23 A Because it -- I don't know, I just don't like it.

24 Q How come?

25 A It's ugly.

1 Q It's ugly? Do you look different now?

2 A Yes.

3 Q Okay. Do you like how you look now?

4 A Yes.

5 MR. HENDRICKS: Judge, at this point I'd move for the
6 admission of State's Proposed Exhibit 8.

7 THE COURT: Any objection?

8 MR. MANINGO: No objection.

9 THE COURT: It's admitted.

10 (Exhibit 8 admitted).

11 BY MR. HENDRICKS:

12 Q So that's what you looked like back when you were 13,
13 right?

14 A Yes.

15 Q Okay. Now, you said you didn't go spend the night
16 over at Cierra's, correct?

17 A Yes.

18 Q Did you talk with your mom after that?

19 A No.

20 Q Was she supposed to pick you up or were you going to
21 walk home at that point?

22 A I was going to walk.

23 Q Had you walked home before?

24 A Yes.

25 Q How often?

1 A Not very often.

2 Q Mom usually picked you up?

3 A Yes.

4 Q Okay. You decided to walk home that day?

5 A Yes.

6 Q What time did you start walking home?

7 A About 2:30, maybe.

8 Q Had you stayed at school for a little while with
9 Cierra?

10 A Yes.

11 Q About how long?

12 A About ten minutes.

13 Q Now, were other kids getting out of school at the
14 same time?

15 A Yes.

16 Q And were they leaving?

17 A Yes.

18 Q Okay. So at the time that you were leaving school,
19 were there still a lot of kids around?

20 A No.

21 Q Had most of them gone.

22 A Yes.

23 Q Okay. Now, when you -- how far away was your house
24 from the school at that point?

25 A About three or four blocks.

1 Q That's it?

2 A Yeah.

3 Q Okay. And you were going to walk home?

4 A Yes.

5 Q Were you alone at that time?

6 A Yes.

7 Q Now, which way do you start heading home?

8 A Through the field.

9 Q And when you say through the field, is that part of
10 the school?

11 A Yes.

12 Q Okay. And you started walking in that area?

13 A Yes.

14 Q Is that in the direction towards your house at the
15 time?

16 A Yes.

17 Q And you said you were alone, right?

18 A Yes.

19 Q Okay. Tell us what you did?

20 A I walked through the field and out of the gate and
21 then to the light.

22 Q What streets are we talking about?

23 A Alta and Buffalo.

24 Q And then where did you go?

25 A I crossed over Buffalo and started walking down Alta.

1 Q And is that still headed towards your house?

2 A Yes.

3 Q Were you making any phone calls at that point?

4 A When I was walking through the field I had talked to
5 my dad.

6 Q And what's your dad's name?

7 A Well, I just told him at that I was walking home and
8 to have my mom call her friend.

9 Q Who's her friend?

10 A Nancy.

11 Q And why did you have your dad do that?

12 A Because she had called my phone and she couldn't get
13 ahold of my mom.

14 Q Who couldn't get ahold of your mom?

15 A Nancy.

16 Q But you wanted your dad to know where you were at?

17 A Yeah, I told him I was walking.

18 Q And is -- was it your intention to head straight
19 home?

20 A Yes.

21 Q Were you able to get home that afternoon?

22 A After awhile, yes.

23 Q Did something happen in between the time you left
24 school and the time you eventually got home?

25 A Yes.

1 Q Do you understand that's what we're going to talk
2 about today, right?

3 A Yes.

4 Q Now, you said that you were in that Alta and Buffalo
5 area, correct?

6 A Yes.

7 Q At some point did you come in contact or see someone
8 that's present here in the courtroom this morning?

9 A Yes.

10 Q Can you please point to that person and tell us what
11 he's wearing today.

12 A He's right there in white shirt with a tie.

13 MR. HENDRICKS: May the record reflect identification
14 of the defendant?

15 THE COURT: It will.

16 BY MR. HENDRICKS:

17 Q Now, let me ask you, Amber, does that person that you
18 recognize as the same person you saw back on December 14th of
19 2007, does he look the same today?

20 A Yes.

21 Q How so?

22 A His face is the same, I don't know.

23 Q And is that what you recognize about him?

24 A Yes.

25 Q Okay. Now, where is it that this -- the defendant is

1 at when you first see him?

2 A Across the street on the other side of Alta.

3 Q So the first time you see him, how far away are you
4 from him?

5 A I'm not sure. Like --

6 Q You're across a whole intersection away from him?

7 A Yes.

8 Q Okay. What's he doing?

9 A Sitting on the wall smoking a cigarette.

10 Q And is that something you noticed?

11 A Yes.

12 Q Could you see what he looked like from where you were
13 at?

14 A Yes.

15 Q Now, when you first saw him did you think he was a
16 good looking guy?

17 A No.

18 Q An attractive guy?

19 A No.

20 Q Someone that you just couldn't wait to meet?

21 A No.

22 Q Did you even give it a thought at that time?

23 A No.

24 Q Now, you said you crossed the street, correct?

25 A Yes.

1 Q Was that headed in the direction towards him or away
2 from him?

3 A Away from him.

4 Q You never walked towards him, did you?

5 A No.

6 Q What did he do?

7 A Well, as soon as I got to the light, he had got off
8 the wall and crossed over to the same side I was.

9 Q What were you thinking when he did that?

10 A I was just praying --

11 Q Why?

12 A -- and saying -- because I was scared. I was by
13 myself and no one really was around.

14 Q Could you see anyone else out there?

15 A No.

16 Q What about cars?

17 A Yes, cars.

18 Q Was it still daylight?

19 A Yes.

20 Q Okay. But you said you were scared?

21 A Yes.

22 Q Okay. Do you keep walking?

23 A Yes.

24 Q In what direction?

25 A Down Alta --

1 Q And is that --

2 A -- towards my house.

3 Q Okay. Now, what is the defendant doing?

4 A He's walking behind me.

5 Q Do you remember what he was wearing?

6 A Yes.

7 Q What?

8 A A black hoody and blue pants, like -- I don't

9 remember.

10 Q Okay. Like blue pants, you think?

11 A Yeah.

12 Q Okay. When you say a hoody, what do you mean by

13 that?

14 A Like a pullover with pockets and a hood.

15 Q Where are the pockets located?

16 A In the front, like across his stomach.

17 Q What was it -- did you notice anything about his --

18 his face or his head?

19 A It had a Band-Aid on it.

20 Q Do you remember where that Band-Aid was?

21 A Over his eyebrow.

22 Q Okay. Is that something you remember?

23 A Yes.

24 Q Anything else about his face?

25 A No.

1 Q Did he have facial hair?

2 A Yes.

3 Q How would you describe it?

4 A Like a goatee type thing.

5 Q Okay. Did he have hair on his head or was he bald?

6 A A little bit of hair, but not much.

7 Q Is that something that you recognized?

8 A Yes.

9 Q Now, you're still walking towards your home, correct?

10 A Yes.

11 Q And do you eventually or does the defendant
12 eventually make contact with you?

13 A Yes.

14 Q How does that happen?

15 A He came up behind me and put his arm on my shoulder
16 and turned me around.

17 Q What were you thinking when he did that?

18 A Just -- I don't remember. Just scared.

19 Q Did he say anything to you?

20 A He said don't scream, not to yell, that he had a gun.

21 Q Now, you've had conversations with your mom about
22 what happens when you're dealing with strangers, right?

23 A Yes.

24 Q Was there any conversation about what you were
25 supposed to do when you came in contact with strangers?

1 A Yes.

2 Q What did you guys talk about?

3 A Just if anyone ever came up to you, just to run and
4 yell.

5 Q Were you thinking about that when he said he had a
6 gun?

7 A No.

8 Q Why not?

9 A Just -- just wanted like so he wouldn't kill me.

10 Q Did he threaten to kill you?

11 A Yes.

12 Q Did you believe him?

13 A Yes.

14 Q Why?

15 A I don't know.

16 Q You said he had on a hoody, right?

17 A Yes.

18 Q You said he -- he told you he had a gun, right?

19 A Yes.

20 Q Was there anything that he did that made you think he
21 had a gun?

22 A He had his hands in his pocket and --

23 Q Were they situated in any way that would indicate
24 that he had a gun?

25 A Yes.

1 Q Was that a yes?

2 A I don't know.

3 Q Okay. Did his hands stay in his pocket?

4 A One of them did.

5 Q Do you remember which hand it was?

6 A His left.

7 Q And it stayed in his pocket the entire time?

8 A Yes.

9 Q And is that why you thought he had a gun?

10 A Yes.

11 Q Now, you didn't scream, right?

12 A Yes.

13 Q Yes, you did or yes, you didn't?

14 A No.

15 Q Okay. Did he say anything else to you?

16 A You mean when we were walking or when?

17 Q Well, let me ask you this. You said that he had his

18 hand in the -- in the hoody, his left hand in his hoody the

19 whole time. You said that he grabbed your shoulder and turned

20 you around and then made those threats to you, right?

21 A Yes.

22 Q Okay. Did he grab any other part of your body at the
23 time?

24 A My hand.

25 Q Do you remember which hand?

1 A My left hand.

2 Q And he grabbed it with his hand?

3 A Yes.

4 Q And then what happened?

5 A And then he just like turned around and started
6 walking back towards my school.

7 Q Is that somewhere where you wanted to go?

8 A No.

9 Q Was that in the opposite direction of your home?

10 A Yes.

11 Q What were you thinking at that point?

12 A Just praying that I would get home and that nothing
13 would happen and --

14 Q Now, right at that point were there any other kids or
15 anyone out standing near you?

16 A Jonathan was walking on that side of the street.

17 Q How far away was Jonathan when you first saw him?

18 A Maybe like 25 steps, maybe, 10.

19 Q Was there anyone with Jonathan?

20 A Yes.

21 Q Who?

22 A I don't know.

23 Q Was it a male or a female?

24 A I don't know. I didn't really know who they were.

25 Q Did you know Jonathan that well?

1 A Yes, sort of.

2 Q Sort of?

3 A Yeah.

4 Q Had you had a class with him or been in school with
5 him at any point?

6 A Yes.

7 Q Now, you and Jonathan weren't tight close friends,
8 were you?

9 A No.

10 Q You just recognized him from school?

11 A Yeah, he was like my neighbor.

12 Q But you didn't know him that well?

13 A No.

14 Q Did you scream to Jonathan?

15 A Not scream, but just like mouthing to him.

16 Q What did you mouth to him?

17 A Like help me --

18 Q How did you do that?

19 A -- a bunch of times.

20 Q Tell me what you did.

21 A Just like was crying, and I was -- and I told him
22 help me, but not even whispering, just with my mouth.

23 Q Why didn't you scream it out?

24 A Because he might have killed me or did something,
25 hurt me.

1 Q Now, did you think 12-year-old Jonathan was going to
2 be able to protect you if you screamed out to him?

3 A Probably not.

4 Q Was the guy that was walking you back in the
5 direction of the school, was he a little bit bigger than
6 Jonathan?

7 A Yes.

8 Q A lot bigger than Jonathan?

9 A Not really.

10 Q Now, you said someone else was with Jonathan, right?

11 A Yes.

12 Q Did you even know that person?

13 A No.

14 Q Now, at some point did you walk past Jonathan and
15 that other person?

16 A Yes.

17 Q Do you walk right next to him or are you off the
18 sidewalk at that point?

19 A No, there was a house there, and we walked up into
20 the grass and around.

21 Q Who walked you up into the grass?

22 A The man that grabbed me.

23 Q He walked you away from the sidewalk?

24 A Away from where Jonathan was like towards a house?

25 Q In a different direction from where they were at?

1 A Yes.

2 Q Okay. So does Jonathan and this other person pass
3 you?

4 A Yes.

5 Q Where do you go from there?

6 A Kept walking up Alta until we got to the light.

7 Q Now, when you said walking up, how is it happening
8 that you're walking with him? Are you in front of him, behind
9 him, on the side of him or what?

10 A On the side. He was like holding my hand.

11 Q Is he leading you or are you leading him?

12 A He was leading me.

13 Q Did you even know where you were going?

14 A No.

15 Q So you couldn't have been leading him, could you?

16 A No.

17 Q Did he tell you where you were going?

18 A No.

19 Q Now, do you remember running into anyone else as you
20 were walking?

21 A No.

22 Q Not that you can remember?

23 A No.

24 Q Certainly not anyone that you were familiar with,
25 right?

1 A No.

2 Q So do you eventually end up somewhere?

3 A Yes.

4 Q And where was that?

5 A In an apartment.

6 Q Now, is that an apartment that you had been to
7 before?

8 A No.

9 Q And let me ask you, had you ever seen this -- this
10 man before?

11 A No.

12 Q Did you even know his name?

13 A No.

14 Q Is had you ever called him on the telephone?

15 A No.

16 Q Did you find him so attractive that you wanted to go
17 to this apartment with him?

18 A No.

19 Q Did you want to have anything to do with this guy?

20 A No.

21 Q So you end up at this apartment. Do you remember
22 where the apartment was located at?

23 A On Charleston and Buffalo.

24 Q Do you -- was there a name associated with those
25 apartments or do you remember?

1 A I don't remember.

2 Q Okay. Was it a first floor apartment or a second
3 floor apartment?

4 A Second.

5 Q And did you go inside the apartment?

6 A Yes.

7 Q And how is it that you got inside there?

8 A He opened the door.

9 Q Did he use a key?

10 A No.

11 Q How did he open it?

12 A Just opened it.

13 Q Did you go inside?

14 A Yes.

15 Q Did you want to go inside?

16 A No.

17 Q What were you thinking as he's taking you inside that
18 apartment?

19 A I just was praying that I'd get home and that he'd
20 let me go and nothing was going to happen.

21 Q What did you think was going to happen?

22 A I don't know.

23 Q You didn't know? Was he saying anything to you?

24 A No.

25 Q Were you saying anything to him?

1 A No.

2 Q Why not?

3 A I don't know.

4 Q Now, once you got inside the apartment what happened?

5 A He closed the door and locked it. And he told me to
6 sit on the couch.

7 Q Let me stop you there. What did you see inside the
8 apartment when he got you inside of there?

9 A There was a couch.

10 Q What color?

11 A Black.

12 Q What else?

13 A And there was candles.

14 Q Do you remember where they were located?

15 A On the counter.

16 Q Anywhere else?

17 A I don't remember.

18 Q Okay. Did he do anything with those candles?

19 A They were lit.

20 Q They were already lit before you even got there?

21 A Yes.

22 Q Okay. What else did you see inside that apartment?

23 A There was a black bag and some shoes.

24 Q What did the shoes look like?

25 A They were like running shoes, like --

1 Q Do you know what brand of shoes, if you remember?

2 A Nikes.

3 Q Okay. Those shoes were already there before you went
4 inside the apartment, right?

5 A I think so.

6 Q Okay. You said that there was a black bag inside
7 that apartment?

8 A Yes.

9 Q Now, did it look like someone was living there?

10 A Possibly. Someone could have been.

11 Q Was there a lot of -- a lot of furniture in there?

12 A No.

13 Q What else was in there other than that black couch,
14 the bag and those -- those Nike shoes you saw and the candles?
15 Do you remember anything else?

16 A No.

17 Q Now, did he take you around to look at the whole
18 apartment?

19 A No.

20 Q Did you just remain in what area?

21 A Yes.

22 Q And what area was that?

23 A The front room.

24 Q And you said he took you inside there. And did he
25 say anything to you at that point?

1 A No, just to sit on the couch.

2 Q Did you do that?

3 A Yes.

4 Q What were you thinking then?

5 A I don't know. I don't remember.

6 Q Now, did you have a phone with you?

7 A Yes.

8 Q Did you call anyone at that point?

9 A No.

10 Q Was anything done with your phone?

11 A Yes.

12 Q What was that?

13 A He took the battery out of it.

14 Q Do you remember what type of phone it was?

15 A Yes.

16 Q What kind?

17 A A Chocolate.

18 Q And he took the battery out of that?

19 A Yes.

20 Q Did you see what he did with it?

21 A No.

22 Q Now, so you weren't able to call anyone at that
23 point, right?

24 A No.

25 Q Did you see any other individuals inside that

1 apartment?

2 A No.

3 Q Did he say anything else to you as you were sitting
4 on that couch?

5 A No.

6 Q What happened next?

7 A He told me to take off my clothes.

8 Q Did you do that?

9 A Yes.

10 Q Did you want to?

11 A No.

12 Q Why not?

13 A Because I didn't --

14 Q Okay.

15 A No, I just --

16 Q Now, let me ask you, had you ever even had sex with a
17 boy?

18 A No.

19 Q Had you ever even kissed a boy?

20 A No.

21 Q And you didn't even know this guy, did you?

22 A No.

23 Q Now, you've previously testified at a preliminary
24 hearing. Do you remember that?

25 A Yes.

1 Q Okay. And you were -- you were telling the attorney
2 at that point that once you got to the apartment, there was
3 discussion about this gun or he may have done something with a
4 gun. Do you remember that?

5 A Yes.

6 Q Did you see him do anything in regards to his hands,
7 the hoody in any part of that apartment?

8 A Yes.

9 Q What did you see him do?

10 A He took something out of his pocket and put it like
11 underneath the couch cushion.

12 Q Now, did you see what that was?

13 A No.

14 Q Now, how was the lighting in there?

15 A It was -- it was dark besides the candles.

16 Q Did he turn on any lights?

17 A No.

18 Q Did he turn on any music?

19 A No.

20 Q Was there any TV in there to watch?

21 A No.

22 Q Did he get you a soda to drink or anything like that?

23 A No.

24 Q No. Now, you said that he had you take your clothes
25 off, right?

1 A Yes.

2 Q What did he do after he had you do that?

3 A He told me to get on the floor.

4 Q Did he have his clothes on at that point?

5 A No.

6 Q Who took off his clothes?

7 A He did.

8 Q Did you got on the floor?

9 A Yes.

10 Q Would you describe that apartment as being a clean
11 apartment?

12 A No.

13 Q Now, he didn't take you back into a bedroom and have
14 you lay down on a bed, did he?

15 A No.

16 Q Told you to get down on the dirty floor, right?

17 A Yes.

18 Q And you did that, right?

19 A Yes.

20 Q Now, he was completely naked at that point?

21 A Yes.

22 Q What did he do to you?

23 A He got on top of me and he -- he put his fingers
24 inside my vagina.

25 Q Is that something you wanted him to do?

1 A No.

2 Q What did that feel like when he was doing that to
3 you?

4 A It hurt.

5 Q Did you tell him that it hurt?

6 A Yes.

7 Q What did he say to you?

8 A He just told me to -- just to shut up.

9 Q Okay. Did he do anything else after he hut his
10 fingers inside of you?

11 A Yes.

12 Q What else?

13 A He put his penis inside of me.

14 Q And what did that feel like?

15 A It hurt.

16 Q Is that something you wanted him to do?

17 A No.

18 Q At some point did he take his penis out of your
19 vagina?

20 A Yes.

21 Q Then what did he do to you?

22 A He told me to get on the couch.

23 Q Did you do that?

24 A Yes.

25 Q How were you positioned on couch?

1 A Sitting up like I am.

2 Q Did he start doing anything else to you?

3 A Yes.

4 Q What else?

5 A He put his fingers inside me.

6 Q Did you say anything to him again?

7 A Yes.

8 Q What did you say?

9 A I told him to stop, that it hurt.

10 Q Did he stop?

11 A No.

12 Q What else did he do?

13 A He put his penis inside.

14 Q Is that while you were on the couch?

15 A Yes.

16 Q So he put his penis inside of you a second time?

17 A Yes.

18 Q Did you say anything to him at that point?

19 A Yes. That it hurt and to stop.

20 Q He didn't stop, did he?

21 A No.

22 Q At some point did he then take his penis out of you?

23 A Yes.

24 Q Then what did he do to you?

25 A He told me to get back on the floor.

EDWARD MICHAEL ADAMS,) No. 55494
)
 Appellant,)
)
 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)

Cheryl Puscia
Employee, Clark County Public
Defender's Office

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

No. 55494

Electronically Filed
Feb 22 2011 01:48 p.m.
Tracie K. Lindeman

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DAVID ROGER
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

INDEX
Adams, Edward

PAGE NO.

Amended Criminal Complaint filed 1/30/08.....	005-009
Amended Information filed 10/28/09.....	096-101
Criminal Complaint filed 1/15/08.....	001-004
Defendant's Motion to Dismiss Based Upon the State's Failure to Preserve Exculpatory Evidence, and Motion to Dismiss Due to the State's Failure to Provide Brady Material (DOH 10/27/09) filed 10/21/09.....	082-088
Defendant's Notice of Witnesses filed 10/21/09.....	094-095
Information filed 2/12/08.....	057-062
Instructions to the Jury (Instruction No. 1) filed 11/4/09.....	102-136
Judgment of Conviction filed 2/2/10.....	141-144
Justice Court Minutes through 1/30/08.....	056
Minutes through 1/13/10.....	148-157
Motion to Continue Trial Date (DOH 10/9/08) filed 10/6/08.....	079-081
Notice of Appeal filed 2/22/10.....	145-147
Notice of Witnesses and/or Expert Witnesses filed 4/16/08.....	063-078
Supplemental Notice of Witnesses and/or Expert Witnesses filed 10/21/09.....	089-093

1 Verdict filed 11/4/09..... 137-140

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

TRANSCRIPTS:

Transcript: All Pending Motions (DOH 10/27/09) filed 3/25/10.....	173-175
Transcript: Arraignment (DOH 2/19/08) filed 3/25/10.....	158-160
Transcript: Calendar Call (DOH 6/10/08) filed 3/17/10.....	161-163
Transcript: Calendar Call (DOH 10/7/08) filed 3/17/10.....	164-166
Transcript: Calendar Call (DOH 3/31/09) filed 3/25/10.....	170-172
Transcript: Jury Trial - Day 1 (Split Transcript) (DOH 11/2/09) filed 4/14/10.....	176-431
First Part, Page 176-249, Volume I	
Second Part, Page 250-431, Volume II	
Transcript: Jury Trial - Day 2 (Split Transcript) (DOH 11/3/09) filed 4/14/10.....	432-710
First Part, Page 432-462, Volume II	
Second Part, Page 463-710, Volume III	
Transcript: Jury Trial - Day 3 (DOH 11/4/09) filed 4/14/10.....	711-891
Transcript: Preliminary Hearing (DOH 1/30/08) filed 2/8/08.....	010-055
Transcript: Sentencing (DOH 1/13/10) filed 4/13/10.....	892-903
Transcript: Status Check: Negotiations and/or Trial Setting (DOH 10/28/08) filed 3/17/10.....	167-169

1 MR. HENDRICKS: No, thank you, Judge.

2 THE COURT: All right. Mr. Maningo, any?

3 MR. MANINGO: No, Judge.

4 THE COURT: All right. Mr. Scott, based upon what
5 you've described as your wife's situation, I'm going to thank
6 and excuse you and send you back to Jury Services for further
7 assignment. Just leave that microphone in your chair. We'll
8 call another name to fill seat number 16.

9 THE CLERK: And that would be 194, Risa Clayton,
10 please.

11 THE COURT: Come on up, ma'am. You know, about six
12 months ago, while Ms. Clayton's working her way, I had -- I
13 went through a jury selection on a case, very similar to you
14 Ladies and Gentlemen, and we got all the way to the jury and we
15 found out that two of the jurors knew each other. In fact that
16 they were married and they never talked about it because we
17 kind of go around these questions. And so I see Ms. Clayton
18 here, the new young lady, Ms. Clayton in seat number and I see
19 Ms. Clayton in seat number 19, so I ask now. Do you know each
20 other? Are you related at all?

21 PROSPECTIVE JUROR NO. 194: No, not that I know of.

22 PROSPECTIVE JUROR NO. 156: No.

23 THE COURT: Okay. Anybody know anybody else on the
24 jury? See, see, I get the hand up. Let's get the microphone
25 to Mr. Cooper.

1 PROSPECTIVE JUROR NO. 167: That's my Union rep right
2 here.

3 PROSPECTIVE JUROR NO. 172: I represent him and the
4 young lady back here.

5 THE COURT: Okay. Anything about --

6 PROSPECTIVE JUROR NO. 172: And this young lady here.

7 THE COURT: So you have three people that you rep.

8 PROSPECTIVE JUROR NO. 172: Yes.

9 THE COURT: Does that -- let's get the microphone up
10 here to Mr. Cianci. Mr. Cianci.

11 PROSPECTIVE JUROR NO. 172: Yes, sir.

12 THE COURT: You've indicated that three other people
13 on the prospective panel that you represent in -- as a Union
14 rep.

15 PROSPECTIVE JUROR NO. 172: Correct.

16 THE COURT: Anything about that relationship that
17 might affect your ability to sit as a fair and impartial juror?

18 PROSPECTIVE JUROR NO. 172: I don't believe so.

19 THE COURT: So you can judge the case, this case
20 needs to be judged by everybody, independently. Relationships
21 are not important. You have your own vision or your own
22 determination of what the facts are. Can you make that
23 independent determination here?

24 PROSPECTIVE JUROR NO. 172: I believe so. Also,
25 these two gentlemen to my left, I don't know why, but I do a

1 lot of political functions and everything. They also look very
2 familiar to me. I don't know if you agree with that or not,
3 but I don't know. That also does not matter to me, but just
4 wanted to make that clear.

5 THE COURT: All right. I need the hands up again for
6 everybody who's in the Union or rep'd here. If we can get that
7 microphone back to Loveless. Ms. Loveless, anything about the
8 nature of your participation in that Union, in the Union that
9 might affect your ability to sit as a fair and impartial juror
10 if you all went in that room together and talked about this
11 case?

12 PROSPECTIVE JUROR NO. 191: No, sir.

13 THE COURT: You wouldn't feel obligated to vote one
14 way or the other as a consequence?

15 PROSPECTIVE JUROR NO. 191: No.

16 THE COURT: All right. What about you, Mr. Cooper?

17 PROSPECTIVE JUROR NO. 167: No, not at all.

18 THE COURT: Okay. You can be fair and impartial?

19 PROSPECTIVE JUROR NO. 167: Absolutely.

20 THE COURT: Who else? Ms. Winterbottom. How about
21 you? How do you feel? The fact that you're in this Union have
22 anything to do with making a decision in this case?

23 PROSPECTIVE JUROR NO. 133: No, no. It wouldn't
24 affect me.

25 THE COURT: Okay, good. Thank you very much. See,

1 I'm glad I asked that question. All right. We're still
2 talking about close family member, friends or personally a
3 victim of a crime. Third row back, anybody in that row? Back
4 row.

5 All right. The other side of that question. Is
6 anybody have a close family member or friend or personally
7 accused of a crime? Anybody? All right. Let's move the
8 microphone, anybody that's got their hands up, let's head that
9 microphone that way. Ms. Loveless. You're 191.

10 PROSPECTIVE JUROR NO. 191: Yeah, 191.

11 THE COURT: Yes.

12 PROSPECTIVE JUROR NO. 191: My godbrother was accused
13 of robbing a bank.

14 THE COURT: Okay. Here in Nevada or elsewhere?

15 PROSPECTIVE JUROR NO. 191: In California.

16 THE COURT: Anything about the nature of his
17 difficulty that might affect your ability to sit as a fair and
18 impartial juror?

19 PROSPECTIVE JUROR NO. 191: Not really.

20 THE COURT: Okay. I take that as a no.

21 PROSPECTIVE JUROR NO. 191: Yeah.

22 THE COURT: Okay. Anyone else? Hand that microphone
23 down to Mr. Parker, please. Yes, sir.

24 PROSPECTIVE JUROR NO. 154: Yeah, I've been accused
25 of a crime. I know several people who have been accused of

1 crimes.

2 THE COURT: Okay. Anything about -- here in Nevada
3 or elsewhere?

4 PROSPECTIVE JUROR NO. 154: California.

5 THE COURT: Okay. Anything about the nature of those
6 difficulties that might affect your ability to sit as a fair
7 and impartial juror?

8 PROSPECTIVE JUROR NO. 154: No.

9 THE COURT: All right. Thank you very much. Can we
10 get the microphone in the back, I saw Mr. Beirne's hand up.
11 Anybody in the middle of there, that will be fine.

12 PROSPECTIVE JUROR NO. 141: Yeah. My son was
13 convicted of attacking police officers.

14 THE COURT: Here in Nevada or elsewhere?

15 PROSPECTIVE JUROR NO. 141: Here.

16 THE COURT: How long ago?

17 PROSPECTIVE JUROR NO. 141: About a year ago.

18 THE COURT: Anything about the nature of your son's
19 difficulties that might effect your ability to sit as a fair
20 and impartial juror?

21 PROSPECTIVE JUROR NO. 141: No.

22 THE COURT: Angry with the authorities for what they
23 did or didn't do?

24 PROSPECTIVE JUROR NO. 141: No.

25 THE COURT: All right. Thank you very much. Anyone

1 else? Ms. Clayton, yes, ma'am.

2 PROSPECTIVE JUROR NO. 194: My mother was in a
3 physically abusive relationship with my stepfather, but no, I
4 don't think that would --

5 THE COURT: How long have you lived here in Nevada?

6 PROSPECTIVE JUROR NO. 194: Nineteen years.

7 THE COURT: And what do you do for a living?

8 PROSPECTIVE JUROR NO. 194: I'm a teacher.

9 THE COURT: Okay. Married, single, kids?

10 PROSPECTIVE JUROR NO. 194: Married, one son.

11 THE COURT: Any prior jury service?

12 PROSPECTIVE JUROR NO. 194: No.

13 THE COURT: It's like I got so in front of myself
14 that I didn't even ask you those questions.

15 PROSPECTIVE JUROR NO. 194: That's okay.

16 THE COURT: So I apologize, trying to catch up.
17 Anything about the victim of crime question, because we're on
18 the other side of that. I don't know if you were already up
19 here talking about it.

20 PROSPECTIVE JUROR NO. 194: Right, no.

21 THE COURT: And you've heard all the questions I've
22 asked so far. Anything that you need to add about your life
23 experience you think either side might want to know about you
24 so far?

25 PROSPECTIVE JUROR NO. 194: Just what I said with my

1 mother.

2 THE COURT: Anything about your mother's situation
3 involving, you said your stepfather?

4 PROSPECTIVE JUROR NO. 194: Yes.

5 THE COURT: That might affect your ability to sit as
6 a fair and impartial juror here?

7 PROSPECTIVE JUROR NO. 194: No.

8 THE COURT: Thank you very much. All right. Is that
9 everybody in terms of the victim of or accused of a crime that
10 has something that they're thinking about?

11 All right. Understanding that police officers have
12 been identified as potential witnesses. Would anybody have a
13 tendency to give more or less credence, that means believe them
14 less or believe them more simply because a witness is employed
15 as a police officer? Anybody -- understanding that a police
16 officer needs to be treated just like every other witness and
17 their testimony judged just like every other witness.

18 Is somebody so upset with authorities, with the
19 police in a general sense or like them so much that, you know,
20 just because he's a police officer, you're automatically going
21 to believe him or her? Anybody of that kind of mind set? This
22 is just the top 32.

23 Okay. Can everybody up here wait in forming your
24 opinion, in this case, until you've heard all the evidence?
25 What you're going to see, Ladies and Gentlemen, if you're

1 selected to be a member of this jury is a jury trial in real
2 life is a very formal process. It goes step by step by step
3 intentionally so. And it's important for you to understand
4 that you wait in forming your opinion as to the guilt or
5 innocence of the defendant until you've heard all of the
6 evidence, I've instructed you on the law and you've had the
7 opportunity to listen to the attorneys tell how that law on
8 those facts interact.

9 It's at that point that you start making your
10 decisions. Up to that point, you've got to keep an open mind.
11 Can everybody pledge to me that you'll keep an open mind,
12 listen to all the evidence, listen -- be instructed on the law,
13 consider the law and listen to arguments of counsel and then
14 make your decision? All right.

15 Does anybody know, this is kind of my catchall
16 question for the top 32. Anybody know of any reason that you
17 don't believe you can sit as a fair and impartial juror?
18 Something in the back of your mind that you think either side
19 might want to know about you, but based upon the kind of the
20 general nature of the questions that I've asked so far that,
21 you know, I've just kind of been on the edge of that you
22 haven't already talked about? Okay, a uniform negative
23 response.

24 All right. State, you can go first.

25 MR. HENDRICKS: Thanks, Judge. Good afternoon or

1 morning. Almost there. Ms. Laba.

2 PROSPECTIVE JUROR NO. 180: Yes.

3 MR. HENDRICKS: You said you've been a juror
4 approximately ten times or more?

5 PROSPECTIVE JUROR NO. 180: Yes.

6 MR. HENDRICKS: What makes you so desired by all the
7 attorneys to have you on their panel?

8 PROSPECTIVE JUROR NO. 180: Do I need the mic?

9 THE COURT: Yes, you do. Thank you.

10 MR. HENDRICKS: Or shout. One of the other.

11 THE COURT: No shouting.

12 PROSPECTIVE JUROR NO. 180: I really don't know. I
13 just get picked every time or almost every time. Maybe because
14 I've been through jury duty and I know the routine.

15 MR. HENDRICKS: So we just keep picking you over and
16 over?

17 PROSPECTIVE JUROR NO. 180: Well, I don't know. I
18 can keep an open mind. I understand that what we hear in court
19 really cannot be decided on until the Judge gives us the
20 details of what we can use and when we get in that room, it has
21 to be what we hear in court. It's not a innocent or guilty.
22 It's not guilty or guilty. It's based on the evidence that we
23 were given. But I think it's the luck of the draw.

24 MR. HENDRICKS: Do you feel lucky?

25 PROSPECTIVE JUROR NO. 180: Sometimes.

1 MR. HENDRICKS: Okay.

2 PROSPECTIVE JUROR NO. 180: I think it's an
3 interesting, to be here.

4 MR. HENDRICKS: Based upon all your experience, do
5 you want to be the foreperson?

6 PROSPECTIVE JUROR NO. 180: I can be, but not
7 necessarily.

8 MR. HENDRICKS: Would you like to be?

9 PROSPECTIVE JUROR NO. 180: Not really.

10 MR. HENDRICKS: Okay. Just letting everyone else
11 know.

12 PROSPECTIVE JUROR NO. 180: Thank you.

13 MR. HENDRICKS: Thank you. If you could pass that on
14 to Mr. Grassian? I find you. Hate to touch on this, but you
15 said that you had two family members that were abused?

16 PROSPECTIVE JUROR NO. 159: Right.

17 MR. HENDRICKS: Okay. Now, were they abused by a
18 family member, or was it a stranger?

19 PROSPECTIVE JUROR NO. 159: Stranger, both cases.

20 MR. HENDRICKS: And was someone apprehended?

21 PROSPECTIVE JUROR NO. 159: No, no, in neither case.

22 MR. HENDRICKS: In neither instance.

23 PROSPECTIVE JUROR NO. 159: No.

24 MR. HENDRICKS: Okay. Did that cause any frustration
25 among your family members?

1 PROSPECTIVE JUROR NO. 159: Absolutely.

2 MR. HENDRICKS: Or with you?

3 PROSPECTIVE JUROR NO. 159: Absolutely.

4 MR. HENDRICKS: Okay. Still, to this day, is it
5 frustrating?

6 PROSPECTIVE JUROR NO. 159: Yes.

7 MR. HENDRICKS: Now are you going to be able to be
8 fair to both sides based upon that prior knowledge of those
9 things?

10 PROSPECTIVE JUROR NO. 159: I'm not sure that I can.
11 I'd like to think so, but I'm not positive.

12 MR. HENDRICKS: You know it's something completely
13 separate. And you said it happened several years ago, right?

14 PROSPECTIVE JUROR NO. 159: Yes.

15 MR. HENDRICKS: Okay. And this is something
16 completely different. Different set of facts.

17 PROSPECTIVE JUROR NO. 159: Different set of facts.

18 MR. HENDRICKS: Different individual sitting before
19 you here today; right?

20 PROSPECTIVE JUROR NO. 159: Right.

21 MR. HENDRICKS: Do you think you can withhold
22 judgment until after you've heard everything that we present to
23 you?

24 PROSPECTIVE JUROR NO. 159: I'd like to think so, but
25 I'm not completely sure.

1 MR. HENDRICKS: Now, the Judge is going to ask,
2 you're going to have to make a decision on whether you think
3 you can be fair or you can't be fair.

4 PROSPECTIVE JUROR NO. 159: I would have to say no,
5 then.

6 MR. HENDRICKS: Is there anything that we can ask you
7 that would change your mind in regards to being fair or not
8 fair?

9 PROSPECTIVE JUROR NO. 159: I'm just concerned that
10 when it comes to the time of actually evaluating the evidence
11 that I might have a bias that I might not even be completely
12 aware of that could affect me.

13 MR. HENDRICKS: Okay.

14 THE COURT: Professor, I'm going to thank and excuse
15 you.

16 PROSPECTIVE JUROR NO. 159: Okay.

17 THE COURT: And that's kind of the look I got. It's
18 important that -- you're telling me that you don't, based upon
19 your very limited, intentionally so, limited understanding of
20 the facts of this case, you don't believe you can be fair just
21 upon the nature of the charge. And everybody, you know,
22 everybody's got to start off equal and you're telling me that's
23 not your mind set at this point.

24 PROSPECTIVE JUROR NO. 159: I would have to say
25 that's correct.

1 THE COURT: I'm going to sent you back to the third
2 floor, Jury Services and have you head out on a different panel
3 this afternoon, different type of charge.

4 PROSPECTIVE JUROR NO. 159: Okay.

5 THE COURT: Thank you very much. Call another name
6 to fill seat number 21.

7 THE CLERK: Again, that would be 195, Dustin Payne,
8 please.

9 THE COURT: Mr. Payne, come on up. Mr. Payne, how
10 long have you been here in Nevada?

11 PROSPECTIVE JUROR NO. 195: Been here all my life,
12 about 26 years.

13 THE COURT: Okay. And what do you do for a living?

14 PROSPECTIVE JUROR NO. 195: I was a civil engineer.
15 I got laid off in January.

16 THE COURT: Okay. And you're looking for work. You
17 have your appointment as I recall.

18 PROSPECTIVE JUROR NO. 195: Yes.

19 THE COURT: But we probably can work through that if
20 you can make that appointment with the, did you say the State?

21 PROSPECTIVE JUROR NO. 195: It's, yes, Department of
22 Transportation.

23 THE COURT: Okay. Married, single, kids?

24 PROSPECTIVE JUROR NO. 195: Single and no kids.

25 THE COURT: Any prior jury service?

1 PROSPECTIVE JUROR NO. 195: No.

2 THE COURT: And ever had a close family member,
3 friend or personally accused of or victim of a crime?

4 PROSPECTIVE JUROR NO. 195: No.

5 THE COURT: Okay. Would you have a tendency to give
6 more or less credence or weight to the testimony of a witness
7 simply because they're employed as a police officer?

8 PROSPECTIVE JUROR NO. 195: No.

9 THE COURT: Okay. You can judge them just like every
10 other witness?

11 PROSPECTIVE JUROR NO. 195: Yes.

12 THE COURT: Can you wait in forming your opinion in
13 this case until after you've heard all the evidence and I've
14 instructed you on the law and you've retired with your fellow
15 jurors to consider the evidence?

16 PROSPECTIVE JUROR NO. 195: Yes.

17 THE COURT: All right. Anything -- you've been
18 sitting here patiently listening. Anything about the questions
19 that have been asked so far that you think either side might
20 want to know about you, but really hasn't been asked directly?

21 PROSPECTIVE JUROR NO. 195: No.

22 THE COURT: All right. State, you have the entire
23 panel for cause.

24 MR. HENDRICKS: Thanks. If you could pass that back
25 to Mr. Marvin, 147. We haven't heard much from you yet. Got a

1 question though. The Judge told you you have to tell the truth
2 and answer every question that he poses to you truthfully;
3 right?

4 PROSPECTIVE JUROR NO. 147: Correct.

5 MR. HENDRICKS: Now, when you first got your jury
6 summons, what was the first word that came to mind?

7 PROSPECTIVE JUROR NO. 147: Crap.

8 MR. HENDRICKS: Crap? Now, I said you have to tell
9 the truth; right?

10 PROSPECTIVE JUROR NO. 147: Um-hum.

11 MR. HENDRICKS: Okay. Was it really crap?

12 PROSPECTIVE JUROR NO. 147: Yes.

13 MR. HENDRICKS: Okay. Now, do you want to serve on
14 this panel?

15 PROSPECTIVE JUROR NO. 147: I understand the
16 obligation. I don't have any issues with it.

17 MR. HENDRICKS: Do you think it's a duty or a
18 privilege?

19 PROSPECTIVE JUROR NO. 147: I would say more of a
20 duty.

21 MR. HENDRICKS: Would you feel comfortable being the
22 foreperson of this jury?

23 PROSPECTIVE JUROR NO. 147: If my fellow jurors saw
24 fit, I wouldn't have any issues with it.

25 MR. HENDRICKS: Thank you. If you could pass it over

1 to Ms. Aguas.

2 PROSPECTIVE JUROR NO. 149: Yes, yes.

3 MR. HENDRICKS: Hi.

4 PROSPECTIVE JUROR NO. 149: Hi.

5 MR. HENDRICKS: You said you had three kids; right?

6 PROSPECTIVE JUROR NO. 149: Yes.

7 MR. HENDRICKS: Six, eight and ten.

8 PROSPECTIVE JUROR NO. 149: Yes.

9 MR. HENDRICKS: Boys or girls?

10 PROSPECTIVE JUROR NO. 149: Two boys, one girl.

11 MR. HENDRICKS: Which one's the girl?

12 PROSPECTIVE JUROR NO. 149: The middle, the eight-
13 year-old.

14 MR. HENDRICKS: Do kids always get along?

15 PROSPECTIVE JUROR NO. 149: Not all the time.

16 MR. HENDRICKS: Really?

17 PROSPECTIVE JUROR NO. 149: Yeah.

18 MR. HENDRICKS: Okay. What happens when something
19 goes wrong with your kids and you're trying to determine which
20 one's telling the truth. How do you figure that out?

21 PROSPECTIVE JUROR NO. 149: I just ask them what the
22 issue was and whoever, for me, whoever speaks the loud is the
23 one who's guilty. I mean, who gives a lot of excuses is the
24 one who's guilty.

25 MR. HENDRICKS: So would it be fair to say, you can

1 tell when your children are being dishonest with you?

2 PROSPECTIVE JUROR NO. 149: I can tell.

3 MR. HENDRICKS: You can tell?

4 PROSPECTIVE JUROR NO. 149: Yeah.

5 MR. HENDRICKS: Would that be fair to say with your
6 six, eight and ten-year-old? With all of them, you can tell?

7 PROSPECTIVE JUROR NO. 149: I can tell.

8 MR. HENDRICKS: Pretty easy?

9 PROSPECTIVE JUROR NO. 149: Yes.

10 MR. HENDRICKS: Because you know your kids; right?

11 PROSPECTIVE JUROR NO. 149: Yeah.

12 MR. HENDRICKS: If you could pass that back to Mr.
13 Wheeler behind you. Thank you.

14 You said you're an attorney; right?

15 PROSPECTIVE JUROR NO. 137: Yes.

16 MR. HENDRICKS: Okay. Now civil stuff's a little bit
17 different than criminal; right?

18 PROSPECTIVE JUROR NO. 137: Correct.

19 MR. HENDRICKS: You understand the burden on the
20 State is beyond a reasonable doubt; correct?

21 PROSPECTIVE JUROR NO. 137: Correct.

22 MR. HENDRICKS: Now, you're not going to hold us to
23 an even higher burden of no doubt, are you?

24 PROSPECTIVE JUROR NO. 137: I would hold it to what
25 the standard is.

1 MR. HENDRICKS: Okay. Do you feel as an attorney
2 serving on a jury, on the jury here?

3 PROSPECTIVE JUROR NO. 137: Yes.

4 MR. HENDRICKS: Why?

5 PROSPECTIVE JUROR NO. 137: The type of work that I
6 do does not lend itself to me being in court. In fact, I, for
7 all intents and purposes, have never appeared in court as part
8 of my professional obligations. My work's primarily in
9 transaction.

10 MR. HENDRICKS: So you were the smart guy coming out
11 of law school. You didn't get stuck in the courtroom; right?

12 PROSPECTIVE JUROR NO. 137: I think the jury's out on
13 that.

14 MR. HENDRICKS: Okay. Trust me on that. What if you
15 were to serve with another attorney? Would that cause any
16 problems?

17 PROSPECTIVE JUROR NO. 137: No.

18 MR. HENDRICKS: None whatsoever?

19 PROSPECTIVE JUROR NO. 137: Not for me.

20 MR. HENDRICKS: Now, are you going to go back there
21 and -- what if you're the only person holding out for one
22 particular side, are you going to fight as much as you can? Or
23 are you going to express your views to the others or try and
24 convince them of how you feel?

25 PROSPECTIVE JUROR NO. 137: I don't -- I don't know

1 yet, but I don't think that the answer is dependent upon my
2 occupation. I think it would be more of personality.

3 MR. HENDRICKS: Do you get along with others?

4 PROSPECTIVE JUROR NO. 137: Yes.

5 MR. HENDRICKS: Thank you. If you could pass it down
6 two rows, in front.

7 PROSPECTIVE JUROR NO. 137: In front?

8 MR. HENDRICKS: In front. Down to Ms. Clayton, 156.
9 Hello.

10 PROSPECTIVE JUROR NO. 156: Hi.

11 MR. HENDRICKS: You said you worked in the Attorney
12 General's office?

13 PROSPECTIVE JUROR NO. 156: Yes, I did, in the 1990's
14 as a Deputy Attorney General.

15 MR. HENDRICKS: Did you enjoy that?

16 PROSPECTIVE JUROR NO. 156: Very much so, yes.

17 MR. HENDRICKS: Why?

18 PROSPECTIVE JUROR NO. 156: You know, when you come
19 right out of law school, as you know, you're pretty optimistic
20 about your future as an attorney and I was very excited about
21 the opportunities there.

22 MR. HENDRICKS: And you no longer do that; correct?

23 PROSPECTIVE JUROR NO. 156: No, I teach criminal law
24 instead.

25 MR. HENDRICKS: All right. Is that enjoyable?

1 PROSPECTIVE JUROR NO. 156: Very much so, yes.

2 MR. HENDRICKS: Why did you choose criminal law?

3 PROSPECTIVE JUROR NO. 156: That actually was the
4 slot that was open.

5 MR. HENDRICKS: Okay. Would you have preferred to
6 teach that?

7 PROSPECTIVE JUROR NO. 156: Now, I'm thrilled because
8 it's, of course, much more interesting than transactional work.

9 MR. HENDRICKS: See, now that's what I was talking
10 about. You two attorneys, you think you can get along?

11 PROSPECTIVE JUROR NO. 156: Of course.

12 MR. HENDRICKS: Okay. He's shaking his head also.
13 You said you had a teenage daughter?

14 PROSPECTIVE JUROR NO. 156: Yes.

15 MR. HENDRICKS: How old?

16 PROSPECTIVE JUROR NO. 156: She's 14.

17 MR. HENDRICKS: Now, Ms. Aguas, juror number 149,
18 stated that she can tell when her kids are telling the truth or
19 when they're lying. Can you?

20 PROSPECTIVE JUROR NO. 156: Yes, absolutely.

21 MR. HENDRICKS: Absolutely.

22 PROSPECTIVE JUROR NO. 156: With my daughter, it's
23 pretty obvious, yes. She's not a very good liar.

24 MR. HENDRICKS: Okay. Now, I have -- well, let me
25 ask you this. As she was growing up, did you have discussions

1 with her about sex and female type things? I hate to be
2 personal, but --

3 PROSPECTIVE JUROR NO. 156: Pretty limited actually.
4 I was pretty uncomfortable about that, but yeah, of course.
5 She's 14, so, yeah, we've had the discussions, yes.

6 MR. HENDRICKS: Now, you said that you teach criminal
7 law.

8 PROSPECTIVE JUROR NO. 156: Yes.

9 MR. HENDRICKS: Is that going to affect you at all in
10 here in regards to your understanding? In regards to what
11 takes place and what you communicate to fellow jurors in
12 regards to here's how the law is, here's how the criminal cases
13 are suppose to proceed?

14 PROSPECTIVE JUROR NO. 156: I don't think so. I
15 mean, I'm pretty familiar with Chapter 200 and those elements.
16 I teach both at the regular community college and I teach at
17 the regional, the Southern Nevada Regional Law Enforcement
18 Academy as well. So I teach both, police officers and regular
19 community college students. So, the Nevada criminal law
20 material. So I know the NRS pretty, especially Chapter 200
21 pretty well.

22 MR. HENDRICKS: Okay.

23 PROSPECTIVE JUROR NO. 156: But that wouldn't affect
24 -- I mean, I'm not going to be teaching a class to the jurors.

25 MR. HENDRICKS: Okay.

1 PROSPECTIVE JUROR NO. 156: The instructions are what
2 the Judge is going to give.

3 MR. HENDRICKS: Would you be comfortable as the
4 foreperson?

5 PROSPECTIVE JUROR NO. 156: Probably not, no.

6 MR. HENDRICKS: Why not?

7 PROSPECTIVE JUROR NO. 156: Because I'd rather not
8 have that role.

9 MR. HENDRICKS: Okay. What if you're that lone
10 holdout on one side or the other, what action are you going to
11 take?

12 PROSPECTIVE JUROR NO. 156: I'm going to stick with
13 whatever my convictions are and what I believe to be the
14 correct verdict based on the evidence presented.

15 MR. HENDRICKS: Would you be able to listen to the
16 others?

17 PROSPECTIVE JUROR NO. 156: Yes.

18 MR. HENDRICKS: Do you get along well with others?

19 PROSPECTIVE JUROR NO. 156: Of course, yes.

20 MR. HENDRICKS: Okay. Thank you.

21 PROSPECTIVE JUROR NO. 156: You wouldn't be a teacher
22 if you don't.

23 MR. HENDRICKS: Right. One last question. You said
24 that you were familiar with Judge Barker and his wife.

25 PROSPECTIVE JUROR NO. 156: Yes, yes.

1 MR. HENDRICKS: Is that going to affect you in any
2 way in being able to make a just decision in regards to both
3 defense and the State?

4 PROSPECTIVE JUROR NO. 156: No.

5 MR. HENDRICKS: Thank you. If you could pass it down
6 to Mr. Parker, this way. Good afternoon.

7 PROSPECTIVE JUROR NO. 154: Good afternoon.

8 MR. HENDRICKS: You said you've got four kids; right?

9 PROSPECTIVE JUROR NO. 154: Yes, four kids.

10 MR. HENDRICKS: What ages?

11 PROSPECTIVE JUROR NO. 154: I have a five-year-old
12 daughter, four-year-old son, excuse me, and two twin, about,
13 one and a half year olds.

14 MR. HENDRICKS: Okay. So still little kids; right?

15 PROSPECTIVE JUROR NO. 154: All little kids, yes.

16 MR. HENDRICKS: And you can tell when they're being
17 truthful or lying to you; right?

18 PROSPECTIVE JUROR NO. 154: Yeah, most of the time.

19 MR. HENDRICKS: I hate to touch on this, but you said
20 that you had been charged with something before; right?

21 PROSPECTIVE JUROR NO. 154: Yes, sir.

22 MR. HENDRICKS: Was it anything similar to this?

23 PROSPECTIVE JUROR NO. 154: No.

24 MR. HENDRICKS: Okay. Is that going to affect your
25 opinion sitting here as a juror in regards to this case? Can

1 you be fair to both the State and to the defense?

2 PROSPECTIVE JUROR NO. 154: Yeah, I think so.

3 MR. HENDRICKS: How come?

4 PROSPECTIVE JUROR NO. 154: Well, I've been on both
5 sides. I've been a victim and I've been charged with a crime.

6 MR. HENDRICKS: Were you properly charged, or was it
7 something that you shouldn't have been charged with?

8 PROSPECTIVE JUROR NO. 154: Well, of course, I
9 believe I shouldn't have been charged with it, but, I mean,
10 what do you mean by properly though? I mean, I don't --

11 MR. HENDRICKS: Well, you said you didn't do it;
12 right?

13 PROSPECTIVE JUROR NO. 154: Well, eh.

14 MR. HENDRICKS: Eh.

15 PROSPECTIVE JUROR NO. 154: I did it, but I don't
16 think I should have been charged for it. I mean, what I did --
17 basically I got charged with having an unregistered, unloaded
18 firearm. And the case got thrown out, so did I do it? Yes,
19 but --

20 MR. HENDRICKS: Okay. So was that the proper result?
21 It got thrown out.

22 PROSPECTIVE JUROR NO. 154: Yes, it was the proper
23 result.

24 MR. HENDRICKS: Okay. And were you happy with that?

25 PROSPECTIVE JUROR NO. 154: Of course.

1 MR. HENDRICKS: Okay. Okay, Ms. Alberts. Thank you,
2 Mr. Parker. Good afternoon.

3 PROSPECTIVE JUROR NO. 174: Good afternoon.

4 MR. HENDRICKS: You said that you had a sister --

5 PROSPECTIVE JUROR NO. 174: Yes.

6 MR. HENDRICKS: -- that was a victim; right?

7 PROSPECTIVE JUROR NO. 174: Yes, one of my older
8 sisters.

9 MR. HENDRICKS: How long ago was that?

10 PROSPECTIVE JUROR NO. 174: About 20 years ago.

11 MR. HENDRICKS: Was that person ever apprehended?

12 PROSPECTIVE JUROR NO. 174: No, they were not.

13 MR. HENDRICKS: Was -- I'm assuming that's a
14 stranger, then; right?

15 PROSPECTIVE JUROR NO. 174: It was an acquaintance,
16 somebody she barely knew.

17 MR. HENDRICKS: And so why wasn't the person arrested
18 or prosecuted, or do you know?

19 PROSPECTIVE JUROR NO. 174: I do not know.

20 MR. HENDRICKS: Is that something that you guys
21 discussed amongst the family members?

22 PROSPECTIVE JUROR NO. 174: It was very difficult for
23 my sister to discuss it, so it didn't really get brought up
24 that much.

25 MR. HENDRICKS: Did you ask her why it was difficult?

1 PROSPECTIVE JUROR NO. 174: That's a fairly obvious
2 question.

3 MR. HENDRICKS: Right.

4 PROSPECTIVE JUROR NO. 174: It's emotionally very
5 draining to talk about that experience.

6 MR. HENDRICKS: Did she ever tell you -- you said she
7 had a tough time talking about it. Did she tell you what had
8 happened?

9 PROSPECTIVE JUROR NO. 174: Yes. She was date raped.

10 MR. HENDRICKS: And how did she react emotionally in
11 regards to that?

12 PROSPECTIVE JUROR NO. 174: I remember being very
13 young and I remember her being very depressed and very -- and
14 crying a lot. That's -- and being very upset. She's also had
15 issues with being touched by men. It's been something that
16 she's had to work through.

17 MR. HENDRICKS: Okay, understandable. Are you going
18 to be able to be fair to both the State and also to the defense
19 based upon that experience?

20 PROSPECTIVE JUROR NO. 174: I'm not sure. It depends
21 upon the evidence which is presented.

22 MR. HENDRICKS: Well, I can't comment on that. But
23 can you sit with an open mind, like the Judge said, and wait
24 until you see all the evidence that's presented and then make a
25 decision?

1 PROSPECTIVE JUROR NO. 174: It's honestly going to be
2 difficult, but I believe I can, I can do it.

3 MR. HENDRICKS: You can do it. Okay.

4 PROSPECTIVE JUROR NO. 174: I believe so.

5 MR. HENDRICKS: Okay. Thank you. Ms. Byrkit. Is
6 that right? Byrkit and Bricket?

7 PROSPECTIVE JUROR NO. 192: Byrkit.

8 MR. HENDRICKS: Okay. How are you?

9 PROSPECTIVE JUROR NO. 192: Fine.

10 MR. HENDRICKS: You also said that you had a family
11 member or relative or knew someone that had been victimized?

12 PROSPECTIVE JUROR NO. 192: It was my cousin. She
13 was raped by her boyfriend. This is like -- this is out-of-
14 state.

15 MR. HENDRICKS: Did you speak with her about it?

16 PROSPECTIVE JUROR NO. 192: No.

17 MR. HENDRICKS: Not at all?

18 PROSPECTIVE JUROR NO. 192: No. I just heard it
19 through my aunt, through my mother.

20 MR. HENDRICKS: How did they communicate that to you?

21 PROSPECTIVE JUROR NO. 192: It was just in
22 conversation. She's had a troubled -- I mean, she's been
23 pregnant and abortions and, I mean, she's heavy into drugs,
24 she's just a mess. So it always -- she always is the topic of
25 conversation a lot.

1 MR. HENDRICKS: Okay. How old was she?

2 PROSPECTIVE JUROR NO. 192: Let's see. I don't want
3 to divulge my age. She was probably like 29.

4 MR. HENDRICKS: Was that individual prosecuted?

5 PROSPECTIVE JUROR NO. 192: Not that I believe so,
6 no.

7 MR. HENDRICKS: Is that going to effect your opinion
8 one way or another how you're going to rule on this case?

9 PROSPECTIVE JUROR NO. 192: No.

10 MR. HENDRICKS: Thank you. Mr. Cooper, 167.

11 PROSPECTIVE JUROR NO. 167: Yes, sir.

12 MR. HENDRICKS: Hi.

13 PROSPECTIVE JUROR NO. 167: How you doing.

14 MR. HENDRICKS: Good. You said that your daughter
15 was mugged?

16 PROSPECTIVE JUROR NO. 167: Yeah. Yeah, she was
17 walking home from school and a couple kids jumped out of a car
18 and just grabbed her Ipod and they didn't rough her up or
19 anything, but it was very scary for her.

20 MR. HENDRICKS: Okay. Did she fight them?

21 PROSPECTIVE JUROR NO. 167: No. No, I told her just,
22 you know, if something like that happened, you just give it up
23 and, you know, make sure that you're okay.

24 MR. HENDRICKS: Okay. Was she okay when she got
25 home?

1 PROSPECTIVE JUROR NO. 167: Yeah. A little shaken
2 up.

3 MR. HENDRICKS: But she didn't fight them?

4 PROSPECTIVE JUROR NO. 167: No.

5 MR. HENDRICKS: But the property -- she was robbed
6 essentially; right?

7 PROSPECTIVE JUROR NO. 167: Yes, yes.

8 MR. HENDRICKS: Did she report it?

9 PROSPECTIVE JUROR NO. 167: No.

10 MR. HENDRICKS: Why not?

11 PROSPECTIVE JUROR NO. 167: We figured nothing would
12 get done anyhow.

13 MR. HENDRICKS: Why not?

14 PROSPECTIVE JUROR NO. 167: Because they were gone.

15 MR. HENDRICKS: Did she know who they were?

16 PROSPECTIVE JUROR NO. 167: No.

17 MR. HENDRICKS: Was she able to describe them?

18 PROSPECTIVE JUROR NO. 167: Not well enough.

19 MR. HENDRICKS: How did she describe them to you?

20 PROSPECTIVE JUROR NO. 167: Just a -- about 5'6",
21 dark hair, no real -- anything descriptive.

22 MR. HENDRICKS: Now, because they weren't
23 apprehended, did that cause you frustration?

24 PROSPECTIVE JUROR NO. 167: No.

25 MR. HENDRICKS: You went out and bought her a new

1 Ipod; right?

2 PROSPECTIVE JUROR NO. 167: Yeah.

3 MR. HENDRICKS: Okay. Good dad; right?

4 PROSPECTIVE JUROR NO. 167: Yeah.

5 MR. HENDRICKS: Good. Okay, thank you. If you could
6 pass it to Mr. Beirne, up top, please. How are you?

7 PROSPECTIVE JUROR NO. 141: Good, how you doing?

8 MR. HENDRICKS: Good. You said that you had a
9 daughter that was victimized; correct?

10 PROSPECTIVE JUROR NO. 141: Yeah, she was 21, it was
11 about five years ago. She was date raped at the Beach Night
12 Club.

13 MR. HENDRICKS: And when you say -- so it was someone
14 that she knew?

15 PROSPECTIVE JUROR NO. 141: No.

16 MR. HENDRICKS: Not at all?

17 PROSPECTIVE JUROR NO. 141: No.

18 MR. HENDRICKS: What were the circumstances
19 surrounding that?

20 PROSPECTIVE JUROR NO. 141: She and some of her
21 girlfriends went out drinking one night and apparently they
22 slipped something in her drink. And then they got her off in
23 another room and raped her. One person.

24 MR. HENDRICKS: Did they find out who that was?

25 PROSPECTIVE JUROR NO. 141: No.

1 MR. HENDRICKS: Was she able to even remember any of
2 it?

3 PROSPECTIVE JUROR NO. 141: Yeah.

4 MR. HENDRICKS: What did she tell you about that?

5 PROSPECTIVE JUROR NO. 141: Basically that's about
6 all she wanted to talk about. She didn't want to talk about
7 it. She kept it inside pretty much.

8 MR. HENDRICKS: Were the police ever called?

9 PROSPECTIVE JUROR NO. 141: Yeah.

10 MR. HENDRICKS: Did they investigate it?

11 PROSPECTIVE JUROR NO. 141: Yeah, they investigated,
12 but nothing happened.

13 MR. HENDRICKS: Did that cause you frustration?

14 PROSPECTIVE JUROR NO. 141: Of course.

15 MR. HENDRICKS: Did it change her?

16 PROSPECTIVE JUROR NO. 141: Yeah.

17 MR. HENDRICKS: How so?

18 PROSPECTIVE JUROR NO. 141: I think it -- she didn't
19 trust people as much as she did previously.

20 MR. HENDRICKS: Did she come home all bruised and
21 battered and beaten or --

22 PROSPECTIVE JUROR NO. 141: No. No, we ended up
23 meeting her over at UMC.

24 MR. HENDRICKS: And did she fight the guy?

25 PROSPECTIVE JUROR NO. 141: No, apparently not.

1 MR. HENDRICKS: Now, did you believe her when she
2 told you what had happened to her?

3 PROSPECTIVE JUROR NO. 141: Of course.

4 MR. HENDRICKS: Can you tell when your daughter is
5 being honest and dishonest?

6 PROSPECTIVE JUROR NO. 141: Pretty much.

7 MR. HENDRICKS: Does it become tougher as they get
8 older?

9 PROSPECTIVE JUROR NO. 141: No, I don't think so.
10 She's a really good person.

11 MR. HENDRICKS: So you know your daughter, don't you?

12 PROSPECTIVE JUROR NO. 141: Yeah.

13 MR. HENDRICKS: You also said that your son had been
14 convicted for getting in a fight with a cop; right?

15 PROSPECTIVE JUROR NO. 141: Right.

16 MR. HENDRICKS: Was he rightly convicted or wrongly
17 convicted?

18 PROSPECTIVE JUROR NO. 141: I don't really know.

19 MR. HENDRICKS: Did he explain the circumstances to
20 you?

21 PROSPECTIVE JUROR NO. 141: Yeah. I honestly don't
22 know which side to believe really.

23 MR. HENDRICKS: Can you tell when he's being honest
24 and dishonest?

25 PROSPECTIVE JUROR NO. 141: It's a lot tougher with

1 him than my daughter.

2 MR. HENDRICKS: Okay. Were you frustrated with the
3 police officers or District Attorney's office or the City
4 Attorney's office, whoever handled it?

5 PROSPECTIVE JUROR NO. 141: No.

6 MR. HENDRICKS: No hard feelings?

7 PROSPECTIVE JUROR NO. 141: No.

8 MR. HENDRICKS: What's your general impression of
9 police officers?

10 PROSPECTIVE JUROR NO. 141: I respect them. I mean,
11 they've got a really tough job. I wouldn't want to do it.

12 MR. HENDRICKS: But you wouldn't give them anymore
13 credit than the average citizen, you know --

14 PROSPECTIVE JUROR NO. 141: No.

15 MR. HENDRICKS: -- in case they come in to testify;
16 right?

17 PROSPECTIVE JUROR NO. 141: No, it's just like
18 everything else, there's good ones, there's bad ones.

19 MR. HENDRICKS: Okay. That's fair. Thank you.
20 Could you pass it to Mr. Oyamoto. Good afternoon.

21 PROSPECTIVE JUROR NO. 150: Good afternoon.

22 MR. HENDRICKS: Do you want to serve on this jury?

23 PROSPECTIVE JUROR NO. 150: Sure.

24 MR. HENDRICKS: Why?

25 PROSPECTIVE JUROR NO. 150: It seems interesting.

1 MR. HENDRICKS: You say you have three kids; right?

2 PROSPECTIVE JUROR NO. 150: Yeah, three girls.

3 MR. HENDRICKS: What age?

4 PROSPECTIVE JUROR NO. 150: A newborn, 13 months and
5 a seven-year old.

6 MR. HENDRICKS: So let's talk about your seven-
7 year-old. Can you tell when she's telling the truth or not?

8 PROSPECTIVE JUROR NO. 150: Oh, yes.

9 MR. HENDRICKS: Easy?

10 PROSPECTIVE JUROR NO. 150: Uh-huh.

11 MR. HENDRICKS: Why is that?

12 PROSPECTIVE JUROR NO. 150: I don't think she's got
13 it in her to be dishonest. She tries, but --

14 MR. HENDRICKS: Do you think your seven-year-old
15 could fool a stranger, someone who does not know her?

16 PROSPECTIVE JUROR NO. 150: Probably not.

17 MR. HENDRICKS: Probably not? Why not?

18 PROSPECTIVE JUROR NO. 150: She's just bad at it.
19 She can't look you in the eye, you know. So that's how I can
20 tell.

21 MR. HENDRICKS: So you look at her and do some Jedi
22 mind trick --

23 PROSPECTIVE JUROR NO. 150: Yeah, yeah.

24 MR. HENDRICKS: -- even when she's telling the truth?

25 PROSPECTIVE JUROR NO. 150: Oh, yeah.

1 MR. HENDRICKS: Okay. So it's easy for you; right?

2 PROSPECTIVE JUROR NO. 150: Yeah.

3 MR. HENDRICKS: Would you want to be the foreperson
4 on this jury?

5 PROSPECTIVE JUROR NO. 150: Sure.

6 MR. HENDRICKS: Thank you. If you could pass it down
7 this way. Ms. Lisy-Miekle.

8 PROSPECTIVE JUROR NO. 146: Yes.

9 MR. HENDRICKS: Okay. You've -- I know you've got a
10 very, very young infant at home; right? One?

11 PROSPECTIVE JUROR NO. 146: She's 14 months.

12 MR. HENDRICKS: Fourteen months. Now you said that
13 you applied to be a school teacher?

14 PROSPECTIVE JUROR NO. 146: Yes.

15 MR. HENDRICKS: Have you been a school teacher
16 before?

17 PROSPECTIVE JUROR NO. 146: No.

18 MR. HENDRICKS: You just got out of college not too
19 long ago?

20 PROSPECTIVE JUROR NO. 146: I got out of college
21 three years ago. I originally applied with the School District
22 right when I moved out here two years ago. They messed up my
23 file pretty badly. I turned to Sylvan Learning Center, that's
24 been my job, hours have decreased quite a bit because of the
25 economy. So I turned to the School District again. I had my

1 daughter last year. So, I'm fully credentialed but I still
2 have one more test that I have to take in order to make me
3 considered highly qualified and hireable in the database.

4 MR. HENDRICKS: What age group are you going to
5 teach?

6 PROSPECTIVE JUROR NO. 146: Elementary.

7 MR. HENDRICKS: Any specific grade?

8 PROSPECTIVE JUROR NO. 146: It's preschool through
9 second grade.

10 MR. HENDRICKS: The young ones.

11 PROSPECTIVE JUROR NO. 146: Yes.

12 MR. HENDRICKS: Why?

13 PROSPECTIVE JUROR NO. 146: A lot of energy. I just
14 really like being around them and, you know, they have lots of
15 questions all the time and, I don't know, it's just a lot of
16 fun to work with them. They're creative.

17 MR. HENDRICKS: Even if there's 30 of them?

18 PROSPECTIVE JUROR NO. 146: Yes.

19 MR. HENDRICKS: Okay. Wish I could ask you that same
20 question a year from now. Thank you. If you could pass it
21 down -- if you could, pass it up to Mr. Schiffman back in the
22 corner. You said you're a gambler; right?

23 PROSPECTIVE JUROR NO. 104: Something like that,
24 yeah.

25 MR. HENDRICKS: Okay. Why?

1 PROSPECTIVE JUROR NO. 104: Well, I just play poker
2 actually, no table games.

3 MR. HENDRICKS: What is it about poker that excites
4 you?

5 PROSPECTIVE JUROR NO. 104: How much time you got.
6 Well, there's a never-ending learning curve, right. It's a
7 game of skill in the long run, luck in the short term. You get
8 financially rewarded for your, you know, your good decisions.

9 MR. HENDRICKS: So you think it's skill and luck?

10 PROSPECTIVE JUROR NO. 104: Absolutely.

11 MR. HENDRICKS: Do you think you're skilled at it?

12 PROSPECTIVE JUROR NO. 104: My results have seemed
13 to, you know, agree with that statement, yeah.

14 MR. HENDRICKS: Okay. And what is it that you do
15 other than play poker?

16 PROSPECTIVE JUROR NO. 104: Computer security for
17 probably the last 15 years. Computer stuff. I've done
18 everything. Currently I own the research role for Cisco
19 Systems. I work out of my house. Computer security related
20 research and development. You want more details, I can --

21 MR. HENDRICKS: I don't even know how to turn my
22 computer on. So, yeah, that wouldn't be helpful to me. But is
23 that something you enjoy?

24 PROSPECTIVE JUROR NO. 104: Yeah, absolutely.

25 MR. HENDRICKS: How come?

1 PROSPECTIVE JUROR NO. 104: Again, I mean, there's a
2 lot to learn. Originally, it started off as, you know, there
3 was like a wide open playing field. There wasn't really much
4 in the industry around it, it was more of a hobby. And I grew
5 up around the industry and learned a lot. There's a lot of,
6 you know, balanced (indiscernible) that kind of thing.

7 MR. HENDRICKS: Do you want to serve on this jury?

8 PROSPECTIVE JUROR NO. 104: Well, it's my civic duty,
9 I suppose. That's not the answer you're looking for.

10 MR. HENDRICKS: Not really.

11 PROSPECTIVE JUROR NO. 104: Let me answer that in a
12 different way. If I have to serve on a jury, then I would
13 serve on this one. This seems interesting.

14 MR. HENDRICKS: What if it wasn't interesting?

15 PROSPECTIVE JUROR NO. 104: Well, then it has -- if
16 it's not interesting to me, it has a -- you know, it's hard for
17 me to hold my attention. I'd have the, you know, the whole
18 commercial-length attention span thing. If it's not
19 challenging, I get bored.

20 MR. HENDRICKS: So, are we going to be able to hold
21 your attention for a while week?

22 PROSPECTIVE JUROR NO. 104: A whole week? You know,
23 I mean, do I have a choice?

24 MR. HENDRICKS: (Indiscernible).

25 PROSPECTIVE JUROR NO. 104: Yeah. I mean, like I

1 said, this -- I've been rolling it over in my head since I
2 walked in here. If I had to be on a jury, this one seems to
3 be, you know, a compelling case. More so than a civil trial.

4 MR. HENDRICKS: Could you pass it in front of you
5 please. And you're -- thank you. You're missing out on
6 patients; right?

7 PROSPECTIVE JUROR NO. 143: Um-hum.

8 MR. HENDRICKS: Is that yes?

9 PROSPECTIVE JUROR NO. 143: Yes, sir.

10 MR. HENDRICKS: Okay. And your dentist doesn't pay
11 you a salary or --

12 PROSPECTIVE JUROR NO. 143: No, I'm hourly.

13 MR. HENDRICKS: Is he going to reimburse -- he or she
14 going to reimburse you, or?

15 PROSPECTIVE JUROR NO. 143: I can ask.

16 MR. HENDRICKS: Okay. Do you want to serve?

17 PROSPECTIVE JUROR NO. 143: In regards to work, no.

18 But, again, if I have to, then I will.

19 MR. HENDRICKS: Is that the only thing that's holding
20 you back, the thought of not getting paid?

21 PROSPECTIVE JUROR NO. 143: Yes.

22 MR. HENDRICKS: You hesitated a little bit. What
23 else is there?

24 PROSPECTIVE JUROR NO. 143: Honestly, it's an
25 interesting case. So, I'd like to serve and hopefully be open

1 minded and see if I can hear this case and decide.

2 MR. HENDRICKS: Now, just looking around, you appear
3 as though you're one of the youngest individuals up there. How
4 is that going to affect you if you're a juror?

5 PROSPECTIVE JUROR NO. 143: Not at all. I don't --
6 my age?

7 MR. HENDRICKS: Yes.

8 PROSPECTIVE JUROR NO. 143: It doesn't -- I don't
9 think anything of it.

10 MR. HENDRICKS: Okay. If you're back there with
11 people that are a little bit older than you or have a little
12 bit more experience, are you going to be intimidated by that?

13 PROSPECTIVE JUROR NO. 143: No.

14 MR. HENDRICKS: Why not?

15 PROSPECTIVE JUROR NO. 143: I'm a pretty strong
16 individual and I'll listen to what they have to say in hopes
17 that they have -- what I have to say, they'll listen to it
18 also.

19 MR. HENDRICKS: Do you, in your life, do you judge
20 people?

21 PROSPECTIVE JUROR NO. 143: Geez, I -- not, no. Not
22 at -- no. Automatically, without knowing anything, no.

23 MR. HENDRICKS: Well, do you judge people based upon
24 their actions that you can see?

25 PROSPECTIVE JUROR NO. 143: (No audible response)

1 MR. HENDRICKS: Do you have any ideas in your mind,
2 you know, once you see a person or get to know a person, do you
3 make judgments upon what you think that person would be like?

4 PROSPECTIVE JUROR NO. 143: After they act in a
5 certain way?

6 MR. HENDRICKS: Yes.

7 PROSPECTIVE JUROR NO. 143: Probably, yes.

8 MR. HENDRICKS: That's only human; right?

9 PROSPECTIVE JUROR NO. 143: After I -- after they've
10 already acted that way, yes.

11 MR. HENDRICKS: Okay. And that's something we
12 probably all do; agree?

13 PROSPECTIVE JUROR NO. 143: I'm not sure.

14 MR. HENDRICKS: Do you have girlfriends?

15 PROSPECTIVE JUROR NO. 143: Yes.

16 MR. HENDRICKS: And do you have boyfriends?

17 PROSPECTIVE JUROR NO. 143: Yes.

18 MR. HENDRICKS: Do you judge both of them?

19 PROSPECTIVE JUROR NO. 143: No.

20 MR. HENDRICKS: Why not?

21 PROSPECTIVE JUROR NO. 143: Judge them how?

22 MR. HENDRICKS: Based upon their actions.

23 PROSPECTIVE JUROR NO. 143: I'm pretty ethical, so I
24 would judge them if they're doing something wrong.

25 MR. HENDRICKS: Okay.

1 PROSPECTIVE JUROR NO. 143: Not judge them, but --
2 MR. HENDRICKS: What if they're doing something
3 right?

4 PROSPECTIVE JUROR NO. 143: Well, right on.

5 MR. HENDRICKS: Is that difficult for you to do
6 though?

7 PROSPECTIVE JUROR NO. 143: To judge them or not
8 judge them?

9 MR. HENDRICKS: Is it difficult for you to pass
10 judgment on another person?

11 PROSPECTIVE JUROR NO. 143: No. I'm usually nicer to
12 people, I think. I usually judge them better than they might
13 be probably.

14 MR. HENDRICKS: Okay. All right. Thank you. If you
15 could pass it right next door. Mr. Harris, right?

16 PROSPECTIVE JUROR NO. 145: Yes.

17 MR. HENDRICKS: Now, if Mr. Scow and I do our job,
18 okay, and we convince you beyond a reasonable doubt of this
19 man's guilt, are you going to have any problem coming back into
20 this courtroom, looking at that man and saying guilty?

21 PROSPECTIVE JUROR NO. 145: I will do what the facts
22 show.

23 MR. HENDRICKS: Okay. You can withhold judgment?

24 PROSPECTIVE JUROR NO. 145: (No audible response)

25 MR. HENDRICKS: Would you want to be the foreperson?

1 PROSPECTIVE JUROR NO. 145: No.

2 MR. HENDRICKS: Why not?

3 PROSPECTIVE JUROR NO. 145: I'm not built for that.

4 MR. HENDRICKS: What is it about your personality
5 that doesn't make you built for it?

6 PROSPECTIVE JUROR NO. 145: Because I like to feel
7 that everybody is nice, equal, there aren't any bad people. So
8 this individual here, as far as I'm concerned, there's no bad
9 people. But the facts, that's what you judge by.

10 MR. HENDRICKS: Just to clarify, you said there's no
11 bad people; right?

12 PROSPECTIVE JUROR NO. 145: In my mind.

13 MR. HENDRICKS: We're all the same?

14 PROSPECTIVE JUROR NO. 145: Correct.

15 MR. HENDRICKS: But someone's acts can differentiate
16 between another person and that person?

17 PROSPECTIVE JUROR NO. 145: There's an old saying,
18 your actions speak so loud, I can't hear a thing you're saying.
19 So you can talk a whole lot, but your actions show who you are
20 and what you are.

21 MR. HENDRICKS: Okay. Thank you. Appreciate that.
22 If you could pass it up forward. Mr. Parker, if you could grab
23 that and pass it in front of you to Mr. Cianci. Did I get that
24 right?

25 PROSPECTIVE JUROR NO. 172: Close enough.

1 MR. HENDRICKS: Okay. Now, you said that you're a
2 Union rep for a number of different individuals here; right?

3 PROSPECTIVE JUROR NO. 172: Correct.

4 MR. HENDRICKS: You don't have any personal
5 relationship with anyone of them; do you?

6 PROSPECTIVE JUROR NO. 172: To be honest, the only
7 one, I actually did work side-by-side with Dion Cooper for a
8 few years at the Flamingo as a bartender there also.

9 MR. HENDRICKS: Did you guys get along?

10 PROSPECTIVE JUROR NO. 172: As far as I know. What
11 do you think? Yeah.

12 PROSPECTIVE JUROR NO. 167: Yeah.

13 PROSPECTIVE JUROR NO. 172: Okay, yeah, we did.

14 MR. HENDRICKS: Positive response from Mr. --

15 PROSPECTIVE JUROR NO. 172: Yeah. And they dealt
16 with Dion also.

17 MR. HENDRICKS: Okay. So, does that mean that if you
18 go back in the jury room, you guys are going to be on the same
19 page no matter what?

20 PROSPECTIVE JUROR NO. 172: Absolutely not.

21 MR. HENDRICKS: Okay. What if you disagree with him?

22 PROSPECTIVE JUROR NO. 172: I disagree with a lot of
23 people.

24 MR. HENDRICKS: That's why you're an effective Union
25 rep; right?

1 PROSPECTIVE JUROR NO. 172: I hope so.

2 MR. HENDRICKS: Okay. Would you like to be the
3 foreperson?

4 PROSPECTIVE JUROR NO. 172: I have no problems with
5 that at all.

6 MR. HENDRICKS: Is there anything in your background,
7 and I know the Judge touched on this, anything religiously or
8 morally that would prevent you from passing judgment on this
9 man's actions?

10 PROSPECTIVE JUROR NO. 172: No.

11 MR. HENDRICKS: Nothing at all?

12 PROSPECTIVE JUROR NO. 172: No. My religion is my
13 personal beliefs and that has nothing to do with this. And
14 morally, I tell people, you ask the question can you tell
15 somebody to their face guilty or not guilty. I do that daily.
16 Not guilty or not guilty, but tell somebody that they do not
17 have a case because the offense that you did warrants the
18 effect of it.

19 MR. HENDRICKS: And you have no problem with that?

20 PROSPECTIVE JUROR NO. 172: No.

21 MR. HENDRICKS: Thank you.

22 PROSPECTIVE JUROR NO. 172: You're welcome.

23 MR. HENDRICKS: I pass, Judge.

24 THE COURT: Pass for cause? All right. Ladies and
25 Gentlemen, we're going to take our luncheon recess at this

1 time. Before I let you go, any jury as a matter of fact, I
2 have to read an admonition.

3 That admonition is, it is your duty not to converse
4 amongst yourselves nor with anyone else on any subject
5 connected with this trial. Further, you may not read, watch or
6 listen to any report of or commentary on this trial by any
7 medium of information including, without limitation, newspaper,
8 television, radio. And you may not form or express any opinion
9 on any subject connected with this case until it's finally
10 submitted to you.

11 Again, if you're picked to be a member of this jury,
12 you're going to hear me say that every time. So let's have
13 some words of explanation for you. As I've stated earlier,
14 it's important for you to wait, if you're selected to be a
15 member of this jury, in talking about the case among
16 yourselves, until you've heard all the evidence and I've
17 instructed you on the law and you've listened to the arguments.

18 That said, it's okay to have a conversation with
19 members of your -- other members of your jury, fellow jurors
20 about your life experience, your frustrations with the
21 elevators, what you've experienced in terms of parking,
22 whatever it might be. Life experiences that you bring or might
23 come up in casual conversation. You just can't speak about
24 this case, any aspect of this case, as a matter of fact, until
25 it's finally submitted to you.

1 So that's the most important thing for you to
2 understand. When you go out those doors and you head out for
3 lunch, again, if you want to have lunch, you've just barely met
4 each other now, if you want to go out and have lunch, sit down
5 and have lunch, that's fine. Talk about your life, your
6 family. It's all -- anything you want as long as it has
7 nothing whatsoever to do with this case. That's the rule.

8 Now, when you step out the doors, we usually take an
9 hour and 15 minutes for lunch. It's usually a lunch hour
10 because I recognize the fact that we have six elevators and
11 sometimes some of them don't even work and it's difficult for
12 people to move up and down those elevators. I do an hour and
13 minutes. Again, those elevators are notoriously slow.

14 We're going to reconvene at, say, it's 12:05 now. So
15 that will bring us back at 1:20 -- 1:20 is when I'm going to
16 need you back here. Give yourself five minutes or so at the
17 bottom of the elevators to get here to the 11th floor to where
18 we need you to stage outside.

19 I also need you to look to your left and look to your
20 right, see the face next to you, know where you're seated
21 because I'm going to need you back in exactly the same seat
22 after lunch, okay. Understanding -- don't go yet -- understand
23 that until everybody's here, that means everybody that's in
24 this room now is here, we can't start again. So one person
25 running a little late, what you're going to find is walking in

1 those doors and everybody's going to be staring at you.

2 So I just appreciate the consideration. All the
3 fellow members of the jury, everybody here, that includes the
4 parties, everybody needs to be here at 1:20.

5 Now, you -- downstairs, there's a cafe, on the north
6 side, you can go there. Out the doors, it's probably a fairly
7 nice day outside. You might want to take a walk around the
8 courthouse or whatever. There's a caf, directly across the
9 street. There's a Quizno's two -- or one block down as you go
10 out those same doors towards Main Street. There's a Starbucks
11 in the Bank of America building, all very close, very easy to
12 get to. Again, you can go anywhere you want as long as you're
13 back here at 1:20.

14 If you would like to bring water, coffee, soda with
15 you, that makes you comfortable in this process, I sit up here,
16 I drink my water, I have my coffee in the morning, I won't deny
17 you that same comfort. Bring that with you, as long as it's
18 not disruptive of the process, you don't spill it
19 unintentionally on the floor, bring it with you, I will not
20 deny you that.

21 If you're suffering from diabetes or any type of
22 physical condition that requires you to eat on a routine basis,
23 bring that with you, same rule, as long as it's not disruptive
24 of the process, I won't deny you that basic comfort. I usually
25 run about 90 minutes to two hours in terms -- it's about how

1 long I'm going have people sit there without getting too
2 uncomfortable in those chairs. So kind of judge that
3 accordingly. We run about 90 minutes to two hours before your
4 next break.

5 If you have a need to take a break that's
6 unanticipated, just look me a go -- and give me the universal
7 sign for break, that's this, Judge, I need a break and I'll
8 give you a break immediately. All you got to do is give me
9 that sign.

10 All right. Those are the instructions I have. Oh,
11 one other. If you happen to see any of the parties in the
12 hallway as you're moving to and from the courtroom and they do
13 not recognize you, they don't say, good afternoon, how was your
14 lunch, isn't it a beautiful day outside, it's not because
15 they're rude, it's not because they're being antisocial. It's
16 because they're under my direct orders not to have that type of
17 verbal or non-verbal communication with you.

18 Decisions made in this case or any case, it's not a
19 popularity contest, it's not about who you like or don't like.
20 It's about the evidence. So they're not allowed to talk to
21 you. They're not even allowed to have eye contact with you.
22 So should you see them walk past you and they don't even act
23 like you're there, again, it's not because they're being rude
24 or anti-social. It's because they're under my direct orders to
25 not to have that type of conduct with you.

1 Those are my instructions. We'll see you at 1:20,
2 Ladies and Gentlemen. We'll stand in recess. Officer
3 Reichert, where do you want them staged? Right outside the
4 door, Ladies and Gentlemen. Have a good lunch.

5 (Outside the presence of prospective jurors)

6 THE COURT: The record shall reflect we're outside
7 the presence of the jury. Any additional record need to be
8 made as a consequence of the jury selection so far? Mr.
9 Maningo, you have the panel after lunch.

10 MR. MANINGO: Yes, sir, Judge. And the only thing
11 I'd like to add right now quickly for the record is our
12 appellate team has asked that we make a record somewhat of the
13 makeup of the veneer.

14 THE COURT: Okay.

15 MR. MANINGO: I spoke with Mr. Scow and these are
16 estimates because we don't know the actual, obviously, ethnic
17 backgrounds, but it looks like I've got a count of four
18 African-Americans, 23 women and approximately 15 people of
19 color. And we had a total of, I think, what was it, 45?

20 THE COURT: Forty-five at count.

21 MR. MANINGO: Out of 45.

22 THE COURT: Is that a fair estimation, Mr. Scow and
23 Mr. Hendricks, on your side of the room? It's kind -- it seems
24 fair in just the broad strokes.

25 MR. SCOW: I think it's close. I did check with

1 Dorothy, I was able to semi confirm, as to me, it looked like
2 either three or four African-American, I -- you know, it's hard
3 to tell.

4 MR. MANINGO: Right. So I went with the -- you know,
5 I gave the jury the benefit and went with four.

6 THE COURT: Sounds good. All right.

7 MR. MANINGO: Okay. Thanks, Judge.

8 THE COURT: Anything else?

9 MR. HENDRICKS: Nope. Thank you, Judge.

10 THE COURT: All right. See you at 1:20.

11 (Recess from 12:06 p.m. to 1:20 p.m.)

12 (In the presence of the prospective jurors)

13 THE MARSHAL: The panel appears to be present, Your
14 Honor.

15 THE COURT: This is C-241003, State of Nevada v.
16 Edward Michael Adams. Let the record reflect the presence of
17 representatives of the State, defendant, all members of the
18 jury panel appear to be present.

19 Do the parties stipulate to the presence of the
20 entire panel? State?

21 MR. SCOW: Yes, Judge.

22 THE COURT: Defense?

23 MR. MANINGO: Yes, sir.

24 THE COURT: Our record should reflect we're in
25 challenge for cause jury selection. Mr. Maningo, you have the

1 panel.

2 MR. MANINGO: Thanks, Judge. Good afternoon.

3 ALL PROSPECTIVE JURORS: Good afternoon.

4 MR. MANINGO: Thank you for coming back after lunch.

5 It's good to see everyone made it.

6 Most likely I will not get to each and every one of
7 you individually about everyone of these issues because if I
8 did, we'd be here all week long. So if there are any red
9 flags, if I'm asking somebody on this side of the room and
10 someone over here, if it rings a bell like something that you
11 feel you need to tell me, please, raise your hand, shout it
12 out. There's no particular order to any of this. Can we agree
13 to that? Okay, good.

14 Where's the mic these days.

15 MR. KANGAS: Right here.

16 MR. MANINGO: Ah, there we go. Thank you, Richard.
17 Let's start with -- up in that far corner, the one least
18 convenient for you. That's Mr. Beirni.

19 PROSPECTIVE JUROR NO. 141: Berney (phonetic).

20 MR. MANINGO: Beirni. You stated that you're from --
21 you spent some time in Colorado. Is that where you're from?

22 PROSPECTIVE JUROR NO. 141: Yeah. Well, I mean, I
23 lived there for ten years in Denver.

24 MR. MANINGO: Oh, okay. Bronco fan?

25 PROSPECTIVE JUROR NO. 141: Big time.

1 MR. MANINGO: All right. Now, you have three kids;
2 correct?

3 PROSPECTIVE JUROR NO. 141: Correct.

4 MR. MANINGO: What ages are they?

5 PROSPECTIVE JUROR NO. 141: The oldest is 35, 26 and
6 23.

7 MR. MANINGO: Okay. Now, I don't remember. Were you
8 asked by Mr. Hendricks if you were one of the people who can
9 tell when your kids are telling the truth and whatnot?

10 PROSPECTIVE JUROR NO. 141: Yeah.

11 MR. MANINGO: Okay. Okay. And you said that you
12 feel that you could for the most --

13 PROSPECTIVE JUROR NO. 141: I can tell more with my
14 daughter than I can with my son.

15 MR. MANINGO: Okay. Do you think that you would be
16 able to tell whether or not Ms., is it Aguas?

17 PROSPECTIVE JUROR NO. 149: Aguas.

18 MR. MANINGO: Aguas. Do you think you would be able
19 to tell if her children were telling the truth or not?

20 PROSPECTIVE JUROR NO. 141: I couldn't really say. I
21 mean, I'd just have to listen to them.

22 MR. MANINGO: Okay. So it's obviously different,
23 though, when it's your own kids.

24 PROSPECTIVE JUROR NO. 141: Yeah.

25 MR. MANINGO: Would you agree with that?

1 PROSPECTIVE JUROR NO. 141: Yes.

2 MR. MANINGO: You know your kids better than you do a
3 stranger?

4 PROSPECTIVE JUROR NO. 141: Definitely.

5 MR. MANINGO: Okay. I heard a lot of people say
6 earlier today that they feel confident that they can tell when
7 their kids are telling the truth or not. Would you agree, sir,
8 that it would be different, though, if it's someone you've
9 never met before?

10 PROSPECTIVE JUROR NO. 141: Yeah.

11 MR. MANINGO: Okay. This has been brought up a few
12 times, but your daughter was sexually assaulted?

13 PROSPECTIVE JUROR NO. 141: Correct.

14 MR. MANINGO: Okay. These cases can become very
15 emotional at times. These types of cases that you're here for
16 today. Will you be able to separate the emotional content of
17 what happened to your own family with what happened with your
18 daughter?

19 PROSPECTIVE JUROR NO. 141: Yeah, I think so.

20 MR. MANINGO: Okay. Is there any -- should there be
21 any concern for anyone involved in this trial that you would
22 have a hard time with that? That you might start thinking or
23 placing your daughter in that situation and thinking about what
24 happened?

25 PROSPECTIVE JUROR NO. 141: I -- well, I mean, I'm

1 sure I would probably think about it some, but I think, I think
2 I can judge fairly.

3 MR. MANINGO: Okay. You feel that you can keep it
4 separate?

5 PROSPECTIVE JUROR NO. 141: Yeah.

6 MR. MANINGO: Okay. Why don't you go ahead and just
7 pass it to your left for now and we'll speak with Miss Alvarez.

8 Hi, Miss Alvarez.

9 PROSPECTIVE JUROR NO. 138: Hi.

10 MR. MANINGO: Okay. You said earlier that you might
11 have some problems with the language.

12 PROSPECTIVE JUROR NO. 138: Yeah.

13 MR. MANINGO: Okay. Have you been able to understand
14 everything so far?

15 PROSPECTIVE JUROR NO. 138: Yeah, I understand, but I
16 can explain to, like -- to me, I can -- I understand a little,
17 but I can explain very well.

18 MR. MANINGO: Okay. You feel like you can speak
19 English better than you understand it?

20 PROSPECTIVE JUROR NO. 138: Yeah.

21 MR. MANINGO: Okay. Did you understand the Judge
22 when he was talking about following the rules of law?

23 PROSPECTIVE JUROR NO. 138: Yeah, a little bit, I
24 understand it.

25 MR. MANINGO: Are you --

1 PROSPECTIVE JUROR NO. 138: But I don't know, I don't
2 know too much about the laws, why.

3 MR. MANINGO: Okay. Are you able to read English?

4 PROSPECTIVE JUROR NO. 138: Yeah, I read a little
5 bit.

6 MR. MANINGO: Okay. Because you're going to get a
7 packet at the end of the trial --

8 PROSPECTIVE JUROR NO. 138: Okay.

9 MR. MANINGO: -- with a whole bunch of instructions
10 telling you this is the law, this is how you're suppose to, you
11 know, do things in this case. Do you feel like you're going to
12 be able to -- you know, do you feel confident about being able
13 to do that and being able to participate in this?

14 PROSPECTIVE JUROR NO. 138: No. Is the first time to
15 me, so I'm not feel comfortable.

16 MR. MANINGO: Do you think -- and you think your
17 difficulty with language will affect --

18 PROSPECTIVE JUROR NO. 138: Yeah.

19 MR. MANINGO: -- whether or not --

20 PROSPECTIVE JUROR NO. 138: So I -- I'm scared
21 because I don't want to -- I don't want to say, okay, this is
22 later and when it's not (indiscernible) I don't understand very
23 good.

24 MR. MANINGO: Okay. And some of what you're going to
25 get today is going to be, or during this trial will be written.

1 And will that be a problem?

2 PROSPECTIVE JUROR NO. 138: No.

3 MR. MANINGO: Maybe?

4 PROSPECTIVE JUROR NO. 138: Yeah, maybe.

5 MR. MANINGO: Okay. While we're in the neighborhood,
6 why don't you just hand it to Mr. Wheeler.

7 Hi, Mr. Wheeler.

8 PROSPECTIVE JUROR NO. 137: Good afternoon.

9 MR. MANINGO: You are a lawyer; correct?

10 PROSPECTIVE JUROR NO. 137: Correct.

11 MR. MANINGO: Okay. And you said that you didn't
12 really do much that would bring you into court; correct?

13 PROSPECTIVE JUROR NO. 137: That's correct.

14 MR. MANINGO: Okay. And you've never -- so then I'm
15 guessing you didn't do any trial work or anything like that?

16 PROSPECTIVE JUROR NO. 137: That's correct, I have
17 not.

18 MR. MANINGO: Okay. And this will go for anybody.
19 I'm sure many of you have seen television shows with lawyers in
20 courtroom dramas and that kind of thing. But especially for
21 you Mr. Wheeler, will you be able to just sit there as an
22 observer and listen to the facts, or do you think that you're
23 going to judge either myself or Mr. Scow or Mr. Hendricks on
24 our performance as attorneys?

25 PROSPECTIVE JUROR NO. 137: Based on my lack of

1 experience in court, I would say that I'm predisposed to being
2 just judging on the facts. I don't have any interaction with
3 litigation or litigators.

4 MR. MANINGO: Okay. And so you think that you can
5 just sort of be, be neutral as far as even though we're all
6 members of the same profession?

7 PROSPECTIVE JUROR NO. 137: Yes, that's correct.

8 MR. MANINGO: Okay. Let's go ahead and since we're
9 on the topic, skip on down to Ms. Clayton.

10 PROSPECTIVE JUROR NO. 156: Yes.

11 MR. MANINGO: If we can just pass that down a little
12 bit. Ms. Clayton, now you worked in the AG's office?

13 PROSPECTIVE JUROR NO. 156: Yes.

14 MR. MANINGO: Okay. So did you participate in some
15 trials while you were there?

16 PROSPECTIVE JUROR NO. 156: No. The only criminal
17 matters we did, where I was, was some habeas cases. So I wrote
18 some briefs. But it was all appellate. It was nothing at the
19 trial level.

20 MR. MANINGO: Okay. Have you ever been able or had
21 the opportunity to observe trials or anything like that?

22 PROSPECTIVE JUROR NO. 156: Sure, yes.

23 MR. MANINGO: Okay. And as a teacher, you have some
24 experience in what's going on as far as the criminal justice
25 system?

1 PROSPECTIVE JUROR NO. 156: Yes.

2 MR. MANINGO: Okay. So, I guess, two questions.
3 Number one, the same as Mr. Wheeler, will you be able to just
4 judge the facts in this case, or do you think it will be a
5 distraction in judging our performance? Or if Mr. Hendricks
6 shows up in a better looking tie than me or they've got a --
7 they're going to use PowerPoint which could be very flashy,
8 okay. Is that going to affect how you look at it?

9 PROSPECTIVE JUROR NO. 156: No.

10 MR. MANINGO: Okay. The second question, I guess,
11 because of your experience is, are you willing to listen to the
12 facts and the evidence as they come out in this trial without
13 trying to, I don't know, I guess peek behind the curtains.
14 Think about what's going on at a bench conference or something
15 like that, or what laws are being applied. Do you think that
16 will be a distraction for you or can you put that aside?

17 PROSPECTIVE JUROR NO. 156: Well, I think I would be
18 thinking about that, but I don't think it would be -- it's not
19 a distraction. I think I can focus on just being a juror
20 rather than, you know, leaving my attorney hat at home which
21 I'm happy to do.

22 MR. MANINGO: Okay. You think this will be a good
23 experience for you for your teaching?

24 PROSPECTIVE JUROR NO. 156: Oh, very much so. I told
25 my class, I hope to get on a jury.

1 MR. MANINGO: Okay. Terrific. Let's send it up to
2 far corner, Mr. Schiffman. Hello.

3 PROSPECTIVE JUROR NO. 104: What's up?

4 MR. MANINGO: Poker player.

5 PROSPECTIVE JUROR NO. 104: Um-hum.

6 MR. MANINGO: Part -- is it fair to say that part of
7 being a poker player is reading other people?

8 PROSPECTIVE JUROR NO. 104: Correct.

9 MR. MANINGO: Okay. I've heard -- now, I'm not a big
10 poker player, but I've heard the phrase that you play the
11 person, not the cards?

12 PROSPECTIVE JUROR NO. 104: Sometimes, yeah.

13 MR. MANINGO: Something like that?

14 PROSPECTIVE JUROR NO. 104: Sure.

15 MR. MANINGO: Okay. And there's bluffing in poker.

16 PROSPECTIVE JUROR NO. 104: There is.

17 MR. MANINGO: Okay. What kind of things do you look
18 at when you're trying to judge someone's credibility, when
19 you're trying to tell if someone's telling the truth or if
20 they're hiding something, what do you look at?

21 PROSPECTIVE JUROR NO. 104: Well, I suppose for me
22 it's, you know, more subjective than objective. I just, you
23 know, you got a feel for a type of person and, you know, you
24 try not to let your previous experiences, you know, interfere
25 with your judgment.

1 MR. MANINGO: Okay. One of the things that you'll be
2 asked to do as a juror, if you're selected, is to make those
3 kinds of reads and those judgments on witnesses as they come up
4 and take the stand. Do you feel confident that you'd be able
5 to do that?

6 PROSPECTIVE JUROR NO. 104: Well, yeah. My point is
7 is as an effective juror, you need to do that objectively and
8 not subjectively, right.

9 MR. MANINGO: Okay. Well --

10 PROSPECTIVE JUROR NO. 104: You need to be objective
11 in terms of listening to what everyone has to say without
12 having any sort of predisposed opinion or --

13 MR. MANINGO: Sure. It's some -- to a point. But
14 we're not asking for 12 robots.

15 PROSPECTIVE JUROR NO. 104: Right.

16 MR. MANINGO: We want people to come in, you've all
17 got different life experiences. You've all got different
18 backgrounds. You've all got different things that form your
19 commonsense. And we want you all to individually use those.

20 PROSPECTIVE JUROR NO. 104: Um-hum.

21 MR. MANINGO: So we're certainly not going to ask you
22 to shut any of that off. Do you just -- I guess what I'm
23 asking is do you feel confident in being able to tell if
24 someone's telling the truth or if they're not telling the
25 truth, or to get a feel for someone like that if they're on the

1 witness stand?

2 PROSPECTIVE JUROR NO. 104: Yeah, I suppose. Sure.

3 MR. MANINGO: Okay. You had -- you brought up the
4 issue earlier about your girlfriend and --

5 PROSPECTIVE JUROR NO. 104: Um-hum.

6 MR. MANINGO: -- that she had been assaulted in the
7 past.

8 PROSPECTIVE JUROR NO. 104: Correct.

9 MR. MANINGO: Do you think that's going to affect the
10 way you sit as a juror? The way you see this case?

11 PROSPECTIVE JUROR NO. 104: Yeah, you know, I've
12 thought a lot about it because I've heard a lot of people talk
13 about similar experiences and whatnot. And me personally, you
14 know, I just -- I just don't know for sure. You know, it was
15 an incident that happened about five years ago out-of-state and
16 I'm the kind of guy that it makes me real angry.

17 You know, nobody was ever caught, prosecuted,
18 anything like that, you know. I mean, she's, you know, a 98
19 pound defenseless girl, the way I look at it. It makes me real
20 angry, couldn't do anything to help. You know, it's long gone,
21 over with, you know, except for the mental scars and the
22 emotional scars.

23 MR. MANINGO: Right.

24 PROSPECTIVE JUROR NO. 104: To me personally, it's
25 extremely frustrating. Would I bring that experience into a

1 situation like this? Again, I mean, the professor who was
2 dismissed earlier, you know, I -- a lot of what he said sort of
3 rang true with me in terms of he just wasn't sure if he could,
4 you know, if it was or was not going to play in.

5 MR. MANINGO: Um-hum. And that's all we're asking
6 you for.

7 PROSPECTIVE JUROR NO. 104: Right.

8 MR. MANINGO: We're just -- I mean, we're just asking
9 for honest answers.

10 PROSPECTIVE JUROR NO. 104: Yeah.

11 MR. MANINGO: We want to make sure that when we pick,
12 you know, our 12 individuals, that both sides are going to get
13 a fair shake.

14 PROSPECTIVE JUROR NO. 104: Yeah.

15 MR. MANINGO: So I guess my question is, if for
16 whatever reason, you were the person sitting over here at this
17 table with me, would you be concerned about a juror such as
18 yourself?

19 PROSPECTIVE JUROR NO. 104: Absolutely.

20 MR. MANINGO: Okay. And I do appreciate your honesty
21 in talking about that. If you could please pass it all the way
22 to the front here so we can speak with Ms. Alberts. And you
23 can probably guess what this is about, Ms. Alberts.

24 How are you?

25 PROSPECTIVE JUROR NO. 174: Good. How are you?

1 MR. MANINGO: I'm good, thank you. You had mentioned
2 earlier about your sister.

3 PROSPECTIVE JUROR NO. 174: Yes.

4 MR. MANINGO: Okay. And that situation was very
5 difficult.

6 PROSPECTIVE JUROR NO. 174: Yes.

7 MR. MANINGO: And you had talked about how it was
8 very difficult to put that aside?

9 PROSPECTIVE JUROR NO. 174: Yes.

10 MR. MANINGO: Okay. And I think you used the words
11 emotionally draining.

12 PROSPECTIVE JUROR NO. 174: Yes.

13 MR. MANINGO: Okay. Well, for everyone here, if
14 you're selected, this is a trial that you've already heard the
15 charges. You already know that at least one young person is
16 involved in this case. And these kinds of trials can be very
17 emotionally draining, these kinds of situations. And what
18 we're going to be asking you to do as a juror is to have logic
19 sort of guide your way and not get emotionally carried away
20 with it.

21 Now, we're not saying shut down, you know, but let
22 logic be your guide. And so I guess my question to you, Ms.
23 Alberts, is do you feel like -- because of the emotional
24 content of this kind of a trial and what has happened in your
25 family, that it will cause some problems as far as being able

1 to look at it unbiased or -- you know?

2 PROSPECTIVE JUROR NO. 174: As far as looking at it
3 fairly or unbiased, it's going to be difficult. It's something
4 that will always probably, I mean throughout the trial, will
5 sit in the back of my mind thinking, well, is that how my
6 sister felt, is that what happened to her, and thinking about
7 the emotional consequences that had on her that, to this day.
8 I mean, it's been 20 years. I mean, it's obviously gotten a
9 lot easier for her, but she's still has some residual issues.

10 MR. MANINGO: Okay. And it's affected you and your
11 entire family.

12 PROSPECTIVE JUROR NO. 174: Yes.

13 MR. MANINGO: Okay.

14 PROSPECTIVE JUROR NO. 174: Pretty much so.

15 MR. MANINGO: And I sense in you a little bit that
16 you feel a little bit emotional already.

17 PROSPECTIVE JUROR NO. 174: A little bit, yes, sir.

18 MR. MANINGO: Okay. And I don't -- I'm not trying to
19 upset you or anything. We're just trying to figure this all
20 out.

21 PROSPECTIVE JUROR NO. 174: I understand.

22 MR. MANINGO: I guess my question would be, do you
23 feel like maybe you would be a great juror on a trial where
24 there was, maybe, a burglary or a car theft or a civil case.
25 But just this kind of trial, because of its nature, is probably

1 not the right fit for you?

2 PROSPECTIVE JUROR NO. 174: I think -- I would say
3 that's accurate, yes. That it would be easier to sit on a
4 different kind of a jury.

5 MR. MANINGO: If we could slide directly to your
6 right to Mr. Stein.

7 PROSPECTIVE JUROR NO. 186: Yes.

8 MR. MANINGO: How are you, sir? Okay?

9 PROSPECTIVE JUROR NO. 186: Okay.

10 MR. MANINGO: You had also mentioned a situation --
11 well, I guess you had said that because of the type of case it
12 is and because of the fact that you have kids and grandkids,
13 that you felt like you would be biased in this sort of a case?

14 PROSPECTIVE JUROR NO. 186: Well, I don't know if
15 biased is the right thing. After sitting here for a while, I
16 think because of helping raise two young ladies, my daughter
17 and also my granddaughter, that I would be extremely careful
18 about weighing the evidence because of the severity of the
19 crime.

20 MR. MANINGO: And that's what we would want you to
21 do. We want everyone to be very careful about how they look at
22 the evidence because it is very serious. And this is no TV
23 show.

24 PROSPECTIVE JUROR NO. 186: No.

25 MR. MANINGO: There will be real people taking the

1 stand. Mr. Adams is a real individual who stands trial. So,
2 we definitely want you to be careful.

3 We just want to make sure that even though you have
4 family and you love them very much, you're very close to them,
5 that you can separate your personal with what's going on in
6 this court.

7 PROSPECTIVE JUROR NO. 186: I think I would be extra
8 careful because of that.

9 MR. MANINGO: Okay. Extra careful -- I mean, that
10 sounds like a good thing, am I right?

11 PROSPECTIVE JUROR NO. 186: What I'm driving at is
12 that to try to separate myself from, like I said, raising
13 daughters and just deal with the facts.

14 MR. MANINGO: Okay. Very good, okay. That's what we
15 would ask of you. If we could slide it up to Mr. Harris, all
16 the way up here in the second row, towards the end.

17 PROSPECTIVE JUROR NO. 145: Hi.

18 MR. MANINGO: Hi, Mr. Harris. You're retired and you
19 enjoy watching TV.

20 PROSPECTIVE JUROR NO. 145: Fishing, too.

21 MR. MANINGO: And fishing, okay. As far as watching
22 TV, what kind of TV programs do you like to watch?

23 PROSPECTIVE JUROR NO. 145: Space ships.

24 MR. MANINGO: Science fiction type stuff?

25 PROSPECTIVE JUROR NO. 145: Si-Fi, right.

1 MR. MANINGO: Okay. Do you ever come across any of
2 the lawyer stuff?

3 PROSPECTIVE JUROR NO. 145: No.

4 MR. MANINGO: Okay.

5 PROSPECTIVE JUROR NO. 145: I don't like to watch
6 that.

7 MR. MANINGO: Me neither.

8 PROSPECTIVE JUROR NO. 145: It's all the same thing.

9 MR. MANINGO: Okay. Is this the kind of situation
10 that you would feel comfortable in, sitting on this kind of a
11 jury with this sort of a case?

12 PROSPECTIVE JUROR NO. 145: I think that this kind of
13 situation that's happening is extremely sensitive, extremely.
14 So everybody here has to have that feeling of what am I going
15 to do. So that's why we have to look at the facts.

16 MR. MANINGO: Okay. Who here's -- just raise your
17 hand, who here's nervous about being on a jury? Anyone? Quite
18 a few. And that's okay, it's perfectly natural. That's
19 perfectly natural. Pass it back to Ms. Winterbottom, please.
20 Hi.

21 PROSPECTIVE JUROR NO. 133: Hello.

22 MR. MANINGO: You work at the Excaliber?

23 PROSPECTIVE JUROR NO. 133: Um-hum. Yes.

24 MR. MANINGO: Have you attended the tournament show?

25 PROSPECTIVE JUROR NO. 133: No.

1 MR. MANINGO: No? Never checked it out?

2 PROSPECTIVE JUROR NO. 133: Um-um.

3 MR. MANINGO: Oh. You raised your hand when you said
4 you'd be a little bit nervous.

5 PROSPECTIVE JUROR NO. 133: Yeah.

6 MR. MANINGO: Okay. And why would that be? Why
7 would you --

8 PROSPECTIVE JUROR NO. 133: It's a sensitive subject
9 matter and I would try to look at the facts, but, you know, I
10 have a family history of abuse. Not me personally, but my
11 mother and all of her siblings. And it's, you know, sometimes
12 it's hard to put yourself outside of that.

13 MR. MANINGO: Right. And you said there was quite a
14 large number of them; right?

15 PROSPECTIVE JUROR NO. 133: Yeah. My mom was one of
16 seven children and they were abandoned by their parents and
17 then put -- given to their grandparents. Then their
18 grandfather abused them for about ten years before Services
19 came and took them away.

20 MR. MANINGO: Okay. And was anything done with
21 the --

22 PROSPECTIVE JUROR NO. 133: No.

23 MR. MANINGO: -- with the Criminal Justice
24 Department? I mean --

25 PROSPECTIVE JUROR NO. 133: No. Their grandfather

1 never stood trial.

2 MR. MANINGO: Never arrested or anything?

3 PROSPECTIVE JUROR NO. 133: Um-um.

4 MR. MANINGO: Okay. And that, has it had an effect
5 on your entire family then?

6 PROSPECTIVE JUROR NO. 133: For the most part. I
7 mean, everyone was placed in foster care. My mother was
8 emancipated when she was 15-years-old and raised herself. And
9 I mean, they managed to know each other and, you know, I had
10 known all my cousins and everything, but it's put a strain.
11 Everyone has kind of dealt with it in their own way. Like, my
12 one uncle is now a heroin addict. My other uncle eventually
13 abused one of my cousins because of his abuse. So it's just
14 kind of a chain of events.

15 MR. MANINGO: Okay. Now, do you think, well, if you
16 were to remain on this jury and you were sitting there, would
17 you feel like you'd be able to separate that if you saw a
18 teenage girl get up here on the stand? Or do you -- would you
19 feel like you were afraid of maybe substituting in your mom in
20 that situation or thinking about that? Or I guess what our
21 biggest concern is holding, maybe, Mr. Adams responsible for
22 something that happened, you know, a long time ago?

23 PROSPECTIVE JUROR NO. 133: I honestly don't know.
24 It's a situation I've never been put in before.

25 MR. MANINGO: Okay. Are you worried that that's a

1 possibility?

2 PROSPECTIVE JUROR NO. 133: Kind of. And, you know,
3 and that's not fair to him. It should be a fair trial.

4 MR. MANINGO: And that's exactly what we're getting
5 at. I mean, if it's going to be a concern, I mean, that's what
6 we need to know now.

7 PROSPECTIVE JUROR NO. 133: Um-hum.

8 MR. MANINGO: We don't want to get halfway through a
9 trail and then have someone say, you know what, I can't
10 separate this.

11 PROSPECTIVE JUROR NO. 133: Yeah.

12 MR. MANINGO: And so I appreciate your honesty about
13 it.

14 PROSPECTIVE JUROR NO. 133: Yeah, no problem.

15 MR. MANINGO: Okay. Mr. Washington. Let's hand it
16 over there. You've been quiet.

17 PROSPECTIVE JUROR NO. 135: Yeah.

18 MR. MANINGO: You've been lucky; right?

19 PROSPECTIVE JUROR NO. 135: Yep.

20 MR. MANINGO: Okay. Now, you're in the hot seat.

21 PROSPECTIVE JUROR NO. 135: All right.

22 MR. MANINGO: Okay. Do you have any kids?

23 PROSPECTIVE JUROR NO. 135: No.

24 MR. MANINGO: Okay. And for some reason I missed.

25 What do you do?

1 PROSPECTIVE JUROR NO. 135: Maintenance engineering.

2 MR. MANINGO: Oh, that's right. At which --

3 PROSPECTIVE JUROR NO. 135: South Point.

4 MR. MANINGO: South Point.

5 PROSPECTIVE JUROR NO. 135: Yeah.

6 MR. MANINGO: Okay. Do you feel like you would be
7 comfortable judging whether or not people are telling the
8 truth?

9 PROSPECTIVE JUROR NO. 135: Depending on what they --
10 yeah. Depending on what they say and how they act, I guess so.

11 MR. MANINGO: Okay. Well, that's sort of my next
12 question. What things would you look at in determining whether
13 or not you think they're being truthful or not?

14 PROSPECTIVE JUROR NO. 135: Just the facts, the way
15 they answer questions and their body language.

16 MR. MANINGO: Body language?

17 PROSPECTIVE JUROR NO. 135: Yeah.

18 MR. MANINGO: Okay. What about consistency? If they
19 told the same story or if the stories changed?

20 PROSPECTIVE JUROR NO. 135: Yeah.

21 MR. MANINGO: Would that make a difference to you?

22 PROSPECTIVE JUROR NO. 135: Yeah, jumping around in
23 their story and stuff.

24 MR. MANINGO: Okay. Let's send that mike down to Ms.
25 Clayton over here on this end. Hi, Ms. Clayton. Heard a lot

1 earlier about parents being able to tell whether or not their
2 own kids are telling the truth, you've heard all that; right?

3 PROSPECTIVE JUROR NO. 194: Yes.

4 MR. MANINGO: Okay. Now, you're teacher.

5 PROSPECTIVE JUROR NO. 194: Yes.

6 MR. MANINGO: Okay. So you deal with a large number
7 of kids?

8 PROSPECTIVE JUROR NO. 194: Yes.

9 MR. MANINGO: Is it fair to say you have your fair
10 share of conflict resolution?

11 PROSPECTIVE JUROR NO. 194: Yes.

12 MR. MANINGO: Okay. What do you look at when dealing
13 with kids to tell, you know -- I mean, if you've got, you've
14 got two kids in the classroom and there's a broken vase behind
15 them and they're both doing one of these.

16 PROSPECTIVE JUROR NO. 194: I talk to them
17 separately.

18 MR. MANINGO: Okay. And when you talk to them, what
19 are the kind of things that you look at --

20 PROSPECTIVE JUROR NO. 194: Their behavior.

21 MR. MANINGO: Okay. Such as?

22 PROSPECTIVE JUROR NO. 194: Going on the defense,
23 crying, blaming it on someone else.

24 MR. MANINGO: Okay.

25 PROSPECTIVE JUROR NO. 194: These are things that

1 third graders do.

2 MR. MANINGO: Right, right. Okay. And I guess that
3 kind of leads into the question, do you think that children are
4 capable of lying?

5 PROSPECTIVE JUROR NO. 194: Yes.

6 MR. MANINGO: Okay. I've got the -- I've got a
7 single father here who I saw laughing. Mr. Cooper. Let's do
8 it this way. Raise your hand if you don't think kids are
9 capable of lying. Okay. That's what I --

10 Let's go straight down to Ms. Ramsey. Ms. Ramsey,
11 hi.

12 PROSPECTIVE JUROR NO. 190: Hello.

13 MR. MANINGO: You're also a teacher?

14 PROSPECTIVE JUROR NO. 190: Yes.

15 MR. MANINGO: Okay. And what age?

16 PROSPECTIVE JUROR NO. 190: Second grade.

17 MR. MANINGO: Second grade.

18 PROSPECTIVE JUROR NO. 190: Seven, eight years old.

19 MR. MANINGO: Right, okay. Same question for you.

20 Do you have to sometimes tell between different --

21 PROSPECTIVE JUROR NO. 190: Most definitely, all the
22 time.

23 MR. MANINGO: Okay. All the time?

24 PROSPECTIVE JUROR NO. 190: All the time.

25 MR. MANINGO: Okay. And what are the things that you

1 look at when you make those judgments?

2 PROSPECTIVE JUROR NO. 190: There's a lot of things.
3 You know, body language, behavior, how they talk, the way their
4 eyes look at you. And then, I also, you know, if you have a
5 student who's a repeat offender, then I always have to try to
6 ask students, well, who saw the situation. And I have the kids
7 tell me their side and then I base my, you know, my punishment,
8 so to speak, to that regards.

9 MR. MANINGO: Okay. Okay. So, so as far as being a
10 juror, you would do a lot of the same types of things?

11 PROSPECTIVE JUROR NO. 190: Correct.

12 MR. MANINGO: Any kind of punishment, that's all a
13 non-issue. That's all for the Judge, okay.

14 PROSPECTIVE JUROR NO. 190: Right.

15 MR. MANINGO: But as far as being able to decide
16 whether or not someone's telling the truth or lying or they're
17 sort of fudging it a little bit --

18 PROSPECTIVE JUROR NO. 190: Yes.

19 MR. MANINGO: -- that's something that you feel
20 comfortable doing?

21 PROSPECTIVE JUROR NO. 190: Yes.

22 MR. MANINGO: Okay. Now, what we're talking about
23 here are with second graders. What about with teenagers?

24 PROSPECTIVE JUROR NO. 190: I have a teenage
25 daughter, 15.

1 MR. MANINGO: Okay. What do you think is more
2 difficult, second graders or teenagers?

3 PROSPECTIVE JUROR NO. 190: Teenagers.

4 MR. MANINGO: Teenagers?

5 PROSPECTIVE JUROR NO. 190: Yes.

6 MR. MANINGO: Okay. Mr. Carter?

7 PROSPECTIVE JUROR NO. 188: Sir.

8 MR. MANINGO: You have two stepsons?

9 PROSPECTIVE JUROR NO. 188: Yes.

10 MR. MANINGO: Okay. How old are they?

11 PROSPECTIVE JUROR NO. 188: Thirty-five and thirty-
12 three.

13 MR. MANINGO: Okay. Were you around when they were
14 younger, when they were teenagers?

15 PROSPECTIVE JUROR NO. 188: Yes.

16 MR. MANINGO: Okay. Okay. And would you agree or
17 disagree with Ms. Ramsey, that teenagers are more difficult
18 than younger, let's say second grade, third grade.

19 PROSPECTIVE JUROR NO. 188: Yes, I do.

20 MR. MANINGO: Okay. Why do you think that is?

21 PROSPECTIVE JUROR NO. 188: Well, I couldn't give you
22 a specific reason why, but it just seems about that age, they
23 -- all teenagers start acting out a little bit, trying to
24 become themselves and getting their own minds the way they want
25 to do things.

1 MR. MANINGO: Something kicks in and obviously, at
2 that point, they all become smarter than their parents.

3 PROSPECTIVE JUROR NO. 188: Exactly.

4 MR. MANINGO: Okay. If we have teenage witnesses in
5 this case, do you feel like you would be able to be a good
6 judge of their credibility and whether or not they're telling
7 the truth or they're hiding anything or?

8 PROSPECTIVE JUROR NO. 188: Sure.

9 MR. MANINGO: Let's go over to Mr. McKenzie. Oop,
10 this way, there you go. Hi, how you doing?

11 PROSPECTIVE JUROR NO. 158: Good.

12 MR. MANINGO: Okay. You mentioned a situation with
13 your girlfriend.

14 PROSPECTIVE JUROR NO. 158: Former girlfriend, yes.

15 MR. MANINGO: Former girlfriend, okay. Will that
16 impact, I don't know, I guess how you would sit and look at
17 this case?

18 PROSPECTIVE JUROR NO. 158: I don't believe so, no.

19 MR. MANINGO: Okay. You'd be able to keep that
20 separate?

21 PROSPECTIVE JUROR NO. 158: Yes.

22 MR. MANINGO: You wouldn't start thinking about her
23 when someone else is on the witness stand or anything like
24 that?

25 PROSPECTIVE JUROR NO. 158: No, I don't believe so.

1 MR. MANINGO: Okay. Okay. You know, let me ask you,
2 Mr. McKenzie. This is a question I asked for the other
3 attorneys, but it really applies to everybody else.

4 Despite whether or not you like a certain
5 presentation or a certain set of questions or anything else
6 from the attorneys, that aside, will you be able to just based
7 the case on the facts?

8 PROSPECTIVE JUROR NO. 158: Yes.

9 MR. MANINGO: Okay. There's no worry of this
10 becoming some kind of a popularity contest or anything like
11 that?

12 PROSPECTIVE JUROR NO. 158: No.

13 MR. MANINGO: Okay. Let's speak with Mr. Marvin for
14 a moment. Hi, Mr. Marvin.

15 PROSPECTIVE JUROR NO. 147: Hello.

16 MR. MANINGO: I think Mr. Hendricks asked you if
17 you'd want to be on this jury?

18 PROSPECTIVE JUROR NO. 147: I recall the question
19 about what was my reaction.

20 MR. MANINGO: Oh, yeah. Well, let me just ask you.
21 Would you want to be on this jury?

22 PROSPECTIVE JUROR NO. 147: If I'm selected, I'm okay
23 with that. If I'm not, I can live with that as well.

24 MR. MANINGO: Okay. Do you feel -- do you feel like
25 you'd be okay with following all the rules that the Judge sets

1 out for you?

2 PROSPECTIVE JUROR NO. 147: I live by -- I'm a man of
3 my word and I live by rules. I play by the game, so yeah, I
4 don't have any issues with that.

5 MR. MANINGO: Okay. So when the Judge tells you that
6 from the very beginning, you have to presume Mr. Adams is
7 innocent unless the State can prove that he's not beyond a
8 reasonable doubt, you're okay with that?

9 PROSPECTIVE JUROR NO. 147: I understood that, yeah.

10 MR. MANINGO: Okay.

11 PROSPECTIVE JUROR NO. 147: I mean, I've know that my
12 whole life. That's Law 101 right there.

13 MR. MANINGO: Absolutely, absolutely. That's a
14 Constitutional foundation. And you're okay with going along
15 with that?

16 PROSPECTIVE JUROR NO. 147: Absolutely.

17 MR. MANINGO: And you're okay with the fact that the
18 State has to do the proving in this case?

19 PROSPECTIVE JUROR NO. 147: Absolutely, that's the
20 rules.

21 MR. MANINGO: Okay. They're bringing the charges, so
22 they have to prove it up. And that's okay with you?

23 PROSPECTIVE JUROR NO. 147: I understand that.

24 MR. MANINGO: Okay. Is there anyone who's not okay
25 with that? Anyone who disagrees with that? Good.

1 Let's go to Miss Callowhill.

2 PROSPECTIVE JUROR NO. 136: Hi.

3 MR. MANINGO: Hi. Did you think you were going to
4 sneak by?

5 PROSPECTIVE JUROR NO. 136: Yeah.

6 MR. MANINGO: What about you, would you like to be on
7 this jury?

8 PROSPECTIVE JUROR NO. 136: Yes.

9 MR. MANINGO: Have you ever done jury service before?

10 PROSPECTIVE JUROR NO. 136: No.

11 MR. MANINGO: Okay. And you would like to be
12 selected?

13 PROSPECTIVE JUROR NO. 136: Yes.

14 MR. MANINGO: Okay. Why?

15 PROSPECTIVE JUROR NO. 136: I just think that
16 everybody deserves a fair chance and I think that the more
17 people that can come in and, you know, are selected that can do
18 that, the better off everybody would be.

19 MR. MANINGO: Okay. And what about those rules that
20 we just talked about with Mr. Marvin? You're okay with those?

21 PROSPECTIVE JUROR NO. 136: You have to live by rules
22 everyday.

23 MR. MANINGO: Okay. And you're okay with the fact
24 that the State has to do all the proving?

25 PROSPECTIVE JUROR NO. 136: Yes.

1 MR. MANINGO: Okay. Let's come down here to Ms.
2 Laba. Yeah, all the way, straight down. Hi.

3 PROSPECTIVE JUROR NO. 180: Hi.

4 MR. MANINGO: You've seen a lot of lawyers.

5 PROSPECTIVE JUROR NO. 180: Many, yes.

6 MR. MANINGO: Okay. And a lot of judges and other
7 jurors and everything else; right?

8 PROSPECTIVE JUROR NO. 180: Yes.

9 MR. MANINGO: Okay. You can put all that aside,
10 though, and kind of start from a clean slate as far as this
11 trial is concerned?

12 PROSPECTIVE JUROR NO. 180: Definitely.

13 MR. MANINGO: Okay. You have three grown children?

14 PROSPECTIVE JUROR NO. 180: Yes, I do.

15 MR. MANINGO: Okay. Now you heard what this case is
16 sort of about; right? The charges and that kind of thing.

17 PROSPECTIVE JUROR NO. 180: Yes.

18 MR. MANINGO: Okay. Is it going to have any impact
19 on you to be a juror on this type of a case, this nature of
20 case concerning the fact that you've had children and that kind
21 of thing?

22 PROSPECTIVE JUROR NO. 180: I don't think so.

23 MR. MANINGO: Okay. Okay. Have you served on a jury
24 where it was this kind of a case before?

25 PROSPECTIVE JUROR NO. 180: No.

1 MR. MANINGO: And I think you've already answered
2 this, but you've never been foreperson?

3 PROSPECTIVE JUROR NO. 180: No, I haven't.

4 MR. MANINGO: Ms. Byrkit, right down here, same row.
5 Would you want to be on this jury?

6 PROSPECTIVE JUROR NO. 192: I mean, yes or no. If
7 I'm picked, great. If not, I'm good with that, too.

8 MR. MANINGO: It's okay to say no. You don't have to
9 say well, yeah, I'll do it. I mean, if you don't want to be
10 here, that's okay. You can say that.

11 PROSPECTIVE JUROR NO. 192: I mean, I'd rather not,
12 but you know, it's my civic duty and I want to, you know, give
13 the guy a fair trial and --

14 MR. MANINGO: Okay.

15 PROSPECTIVE JUROR NO. 192: -- and so, I'll take it
16 or leave it.

17 MR. MANINGO: Okay. And do you feel like you could
18 do that?

19 PROSPECTIVE JUROR NO. 192: Yes, I do.

20 MR. MANINGO: Okay. And I know you've already
21 answered this, but the situation with your cousin, that
22 wouldn't play into, into this trial?

23 PROSPECTIVE JUROR NO. 192: No, no.

24 MR. MANINGO: That wouldn't affect you?

25 PROSPECTIVE JUROR NO. 192: Not at all, uh-huh.

1 MR. MANINGO: Okay. And just pass it right on down
2 to the end here, to Mr. Cianci.

3 PROSPECTIVE JUROR NO. 172: Close enough. Someone
4 will get it right before the end of the day.

5 MR. MANINGO: I wrote it phonetically like that, too,
6 to even try --

7 PROSPECTIVE JUROR NO. 172: That's okay.

8 MR. MANINGO: I wanted to be the first. You have a
9 seven-year-old son?

10 PROSPECTIVE JUROR NO. 172: Yes, sir.

11 MR. MANINGO: Okay. Is that going to impact --

12 PROSPECTIVE JUROR NO. 172: No.

13 MR. MANINGO: -- any kind of emotional --

14 PROSPECTIVE JUROR NO. 172: No.

15 MR. MANINGO: -- way that you handle this case?

16 PROSPECTIVE JUROR NO. 172: Not at all.

17 MR. MANINGO: Okay. You'll be able to separate it
18 completely from your personal life and just listen to the facts
19 as they come out?

20 PROSPECTIVE JUROR NO. 172: Absolutely.

21 MR. MANINGO: And put it together. Okay.

22 PROSPECTIVE JUROR NO. 172: That's what I am here
23 for.

24 MR. MANINGO: And is that somewhat what you do as --

25 PROSPECTIVE JUROR NO. 172: What I do basically to

1 kind of -- I defend people who were wrongfully terminated. I
2 do negotiations, I sit in front of federal mediators, federal
3 arbitrations. I present the case to all those, whether it be a
4 mediator or an arbitrator, Human Resource director. That's
5 basically what I do for a living.

6 MR. MANINGO: Sounds like an attorney.

7 PROSPECTIVE JUROR NO. 172: I am not one, nor do I
8 claim to be one, nor do I want to be one. But, kind of, in a
9 way. I do --

10 MR. MANINGO: I didn't mean to insult you.

11 PROSPECTIVE JUROR NO. 172: No, and there was. And I
12 do deal with attorneys. McCracken (phonetic) is our labor law
13 attorney. I deal basically with labor law and stuff like that,
14 so.

15 MR. MANINGO: Okay. So you would feel probably
16 somewhat comfortable with the process and the way it works?

17 PROSPECTIVE JUROR NO. 172: I have no problem with
18 the process. The questions that have been asked of me, whether
19 I want to be on a jury or not? It's the duty to be on one.
20 It's a privilege to be on one.

21 My only regret is that I have people who, and when
22 the Honor or His Honor asked the question, I didn't think it
23 was relevant, but people who are terminated that I defend this
24 week that will -- who were wrongfully terminated in my mind,
25 that I could possibly get their job back, but now will have to

1 wait a couple more months before I can reschedule them. Just
2 like you guys are scheduled.

3 MR. MANINGO: Right.

4 PROSPECTIVE JUROR NO. 172: But other than that, I
5 have no problems.

6 MR. MANINGO: Okay. Now, you also understand, and I
7 don't know much about the labor field and how the hearings are
8 decided. But you know that in a criminal trial, there's a
9 specific standard of proof which means, you know --

10 PROSPECTIVE JUROR NO. 172: A 100 percent?

11 MR. MANINGO: Well, no, no. We don't put numbers on
12 it, and the Judge will give you the definition of what proof
13 beyond a reasonable doubt means, okay. So you'll get that
14 definition. But it's probably somewhat unique to criminal
15 cases, meaning it's different from what you do.

16 PROSPECTIVE JUROR NO. 172: Okay.

17 MR. MANINGO: Will you be okay with reading the
18 Judge's instructions and his definition and applying that
19 standard?

20 PROSPECTIVE JUROR NO. 172: Absolutely.

21 MR. MANINGO: And not sort of apply --

22 PROSPECTIVE JUROR NO. 172: Apples and oranges, no.

23 MR. MANINGO: Okay.

24 PROSPECTIVE JUROR NO. 172: No problem.

25 MR. MANINGO: Okay, great. All right. Last chance.

1 Raise your hand, get my attention, do something. Is there
2 anything here from any of you that you feel would cause you
3 concern? I know I haven't got to speak with everyone of you
4 individually. Yes, Ms. Raymond.

5 PROSPECTIVE JUROR NO. 131: Well, you've asked other
6 people if they wanted to be on this jury and I, myself, no.

7 MR. MANINGO: Okay.

8 PROSPECTIVE JUROR NO. 131: I feel it's a very
9 uncomfortable situation.

10 MR. MANINGO: Okay. Okay. And why is that?

11 PROSPECTIVE JUROR NO. 131: Maybe just from watching
12 TV, I would identify maybe with the victim, although I know
13 after the Judge's given orders, you have to based your decision
14 on the evidence. But, still, it's uncomfortable.

15 MR. MANINGO: Okay. Okay. Ms. Carroll, I haven't
16 spoke to you. Anything, any issues? I know I'm the third
17 person to go, the Judge goes, the DA goes. So I don't want to
18 repeat everything that's already been said. Is there anything
19 that you wanted to bring up? Any issues?

20 PROSPECTIVE JUROR NO. 143: No.

21 MR. MANINGO: No. Mr. Parker, I haven't had a chance
22 to speak with you. If there anything, any questions you might
23 have or concerns about this process? Or I shouldn't say
24 questions because I can't really --

25 PROSPECTIVE JUROR NO. 154: (Indiscernible),

1 MR. MANINGO: Okay. Okay. Nothing, no concerns,
2 though, about you being able to serve as a fair juror?

3 PROSPECTIVE JUROR NO. 154: (Indiscernible).

4 MR. MANINGO: Okay, great. Anyone else? Okay.
5 Thank you for your time and your attention and staying awake.
6 May we approach?

7 THE COURT: Yes.

8 (Off-record bench conference from 2:01 p.m. to 2:04 p.m.)

9 THE COURT: All right. The record should reflect a
10 conference at the bench. As a consequence of that conference,
11 Mr. Schiffman, juror number 104, and Ms. Alvarez, juror number
12 138, I'm going to thank and excuse you at this point. I'm
13 going to send you back to the third floor, Jury Services, for
14 further assignment. So you're -- thank you. Yeah.

15 We're going to call another name to fill seat number
16 1 and seat number 7, respectively. Actually, seat 7 is going
17 to be filled first and then seat number 1.

18 THE CLERK: Okay. Seat seven is 197, Birgit
19 Velasquez, please.

20 PROSPECTIVE JUROR NO. 197: Which one was seven.

21 THE COURT: That's the top row, ma'am.

22 THE CLERK: And seat number one will be 199, Lovella
23 Malicdem.

24 THE COURT: Ms. Winterbottom, can you be fair in
25 judging this case based upon the facts that you hear from this

1 witness stand and from no other source?

2 PROSPECTIVE JUROR NO. 133: I'll do my best.

3 MR. KANGAS: Just a second, I'll get you a mic. Just
4 checking my battery. It's number seven over there?

5 THE COURT: That's Ms. Winterbottom. And evidently
6 based upon what Mr. Kangas's reaction, he didn't pick up your
7 answer. And my question again, we're just looking for jurors
8 who can -- everybody starts off even, judges the case based
9 upon the evidence and not from prior life experience. And I
10 want to be comfortable that you are that type of person in your
11 own mind. Is that -- you say you'll do your best.

12 PROSPECTIVE JUROR NO. 133: Yeah, I said I'll do my
13 best.

14 THE COURT: Is that --

15 PROSPECTIVE JUROR NO. 133: I -- just I've never been
16 put in this kind of situation. So I don't know how I'm going
17 to react when, you know, evidence starts unfolding.

18 THE COURT: Do you believe that you have the tendency
19 to react more emotionally or more analytically?

20 PROSPECTIVE JUROR NO. 133: I'm usually pretty
21 level-headed, but I mean --

22 THE COURT: Well, that is good.

23 PROSPECTIVE JUROR NO. 133: Yeah.

24 THE COURT: All right. Ms. Alberts, same question to
25 you. Do you believe based upon all the information -- if we

1 could hand that microphone forward, right up here.

2 Do you believe that you could listen to the evidence
3 from this -- what you hear from this witness stand and judge
4 the case on that evidence?

5 PROSPECTIVE JUROR NO. 174: I believe I can try, but
6 I think it would be very difficult for me to put aside what's
7 happened.

8 THE COURT: So you believe it would be difficult to
9 put aside?

10 PROSPECTIVE JUROR NO. 174: Yes, sir.

11 THE COURT: All right, Ms. Alberts, I'm going to
12 thank and excuse you, send back -- send you back to Jury
13 Services on the third floor for further assignment. We'll call
14 another name. Have we called a name to fill seat number seven.
15 This young lady, and I'm sorry, what was her name? Ms.
16 Velasquez, is that right? Velasquez, okay. And your badge
17 number is 197?

18 PROSPECTIVE JUROR NO. 197: Correct.

19 THE COURT: Okay. Let's also call a name to fill
20 seat number one next.

21 THE CLERK: That would be 204 -- seat number 26, you
22 mean?

23 THE COURT: No, we don't have seat -- yes, we do have
24 seat one filled, I'm sorry.

25 THE CLERK: Seat 26 will be filled by 204, Darrius

1 Banks, please.

2 THE COURT: 204.

3 THE CLERK: Replacing Ms. Alberts.

4 THE COURT: Mr. Banks, come forward, please, sir.

5 And remind me again who we have in seat number one.

6 MR. HENDRICKS: 199, Ms. Malicdem.

7 THE COURT: 199, thank you. All right. These
8 questions, and we just need to catch you three individuals, you
9 three folks up.

10 Is -- let's get -- where's the microphone? We have
11 it with Ms. Velasquez. Ms. Velasquez, how long have you been
12 here in Nevada?

13 PROSPECTIVE JUROR NO. 197: Nine years.

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

15 PROSPECTIVE JUROR NO. 197: I'm a hair stylist.

16 THE COURT: Married, single, kids?

17 PROSPECTIVE JUROR NO. 197: Married, one child, 25
18 years old.

19 THE COURT: You run your own -- you have your own
20 chair or tell me in broad scopes.

21 PROSPECTIVE JUROR NO. 197: I run my own business. I
22 have my own salon.

23 THE COURT: Okay. Ever served on a jury before?

24 PROSPECTIVE JUROR NO. 197: No, sir.

25 THE COURT: Ever had a close family member or friend

1 or personally the victim of or accused of a crime?

2 PROSPECTIVE JUROR NO. 197: Yes, a close friend.

3 THE COURT: Which one, tell me.

4 PROSPECTIVE JUROR NO. 197: My personal close friend,
5 he was -- yeah.

6 THE COURT: A victim of or accused?

7 PROSPECTIVE JUROR NO. 197: Accused.

8 THE COURT: Accused of a crime. And this friend,
9 again, in a broad sense, how close a friend is it and when did
10 it all happen?

11 PROSPECTIVE JUROR NO. 197: It happened about seven
12 years ago. He was a very close friend of mine that took care
13 of me when I first came to United States, kind of took me in
14 the family. And he was a DA Investigator accused of shooting
15 somebody on duty.

16 THE COURT: Here in Las Vegas or elsewhere?

17 PROSPECTIVE JUROR NO. 197: In California.

18 THE COURT: In California. As a consequence of that
19 family -- the difficulty with the family friend, are you going
20 to be able to, if you're selected to be a member of this jury,
21 judge this case, or is that in someway going to influence,
22 could it influence your decision?

23 PROSPECTIVE JUROR NO. 197: No, I believe in the
24 justice system and everything is right.

25 THE COURT: So even with that life experience in your

1 past, you can -- you feel that you can fairly judge this case
2 based upon the merits?

3 PROSPECTIVE JUROR NO. 197: I sure think so.

4 THE COURT: All right. Would you have a tendency to
5 give more or less credence or weight to the testimony of an
6 individual simply because they're employed as a police officer?

7 PROSPECTIVE JUROR NO. 197: No. My ex-husband is a
8 police officer.

9 THE COURT: Is that a good or bad thing?

10 PROSPECTIVE JUROR NO. 197: Neutral.

11 THE COURT: Or neutral, okay. How about can you wait
12 in forming your opinion as to the guilt or innocence in this
13 case until after you've heard all the evidence, I've instructed
14 you on the law and you've heard argument by the attorneys?

15 PROSPECTIVE JUROR NO. 197: Absolutely.

16 THE COURT: Anything in your past, you've listened to
17 all the questions that have been asked here. Any question
18 that's been asked by either side, information that you believe
19 those side -- that side might want to know about you, but
20 really haven't had a chance to talk about based upon our brief
21 conversation here?

22 PROSPECTIVE JUROR NO. 197: No, I'm pretty boring,
23 so.

24 THE COURT: Okay. I appreciate that. If you could
25 hand the microphone down to chair number one. Is is Maldema?

1 Malcadema?

2 PROSPECTIVE JUROR NO. 199: Malicdem.

3 THE COURT: Ma'am, how long have you been here in
4 Nevada?

5 PROSPECTIVE JUROR NO. 199: Three years.

6 THE COURT: And what do you do for a living? You
7 work at CCDC?

8 PROSPECTIVE JUROR NO. 199: Yes.

9 THE COURT: As a nurse?

10 PROSPECTIVE JUROR NO. 199: Yes.

11 THE COURT: Are you married?

12 PROSPECTIVE JUROR NO. 199: Yes, with two kids.

13 THE COURT: All right. Have you ever served on a
14 jury before?

15 PROSPECTIVE JUROR NO. 199: No, sir.

16 THE COURT: You've been here three years. Where did
17 you come from?

18 PROSPECTIVE JUROR NO. 199: California.

19 THE COURT: Are you an RN or what --

20 PROSPECTIVE JUROR NO. 199: LPN.

21 THE COURT: LPN, okay. You've had -- have you had
22 any close family members or friend either the victim of or
23 accused of a crime?

24 PROSPECTIVE JUROR NO. 199: No, sir.

25 THE COURT: Is there any reason or would you have the

1 tendency to give more or less credence or weight to the
2 testimony of a witness simply because they're a police officer?

3 PROSPECTIVE JUROR NO. 199: No.

4 THE COURT: Anything about your work at CCDC as a
5 nurse -- now, you don't work for Metro, you work for an
6 independent contractor as a nurse for Metro?

7 PROSPECTIVE JUROR NO. 199: Yes.

8 THE COURT: Anything about that type of professional
9 involvement that might affect your ability to sit as an fair
10 and impartial juror here?

11 PROSPECTIVE JUROR NO. 199: No, sir.

12 THE COURT: Can you judge this case based on what you
13 hear from the stand, from the witnesses and from no other
14 source?

15 PROSPECTIVE JUROR NO. 199: Yes.

16 THE COURT: All right. Can you wait in forming your
17 opinion on this case until you've heard all the evidence,
18 you've been instructed on the law and you hear arguments of the
19 attorneys?

20 PROSPECTIVE JUROR NO. 199: Yes.

21 THE COURT: Yes? All right. And you've heard
22 questions, all questions asked. Anything that's been asked by
23 anybody in this room today that you want to offer in terms of
24 your life experience that you think either side might want to
25 know about you?

1 PROSPECTIVE JUROR NO. 199: Yes.

2 THE COURT: Is there anything in your life, anything
3 about the nature of the charge or anything that you think
4 either side might want to know about you?

5 PROSPECTIVE JUROR NO. 199: No, sir. No, no.

6 THE COURT: You've got a kind of -- would you
7 characterize your boring life, too, like the last young lady?

8 PROSPECTIVE JUROR NO. 199: (No audible response)

9 THE COURT: Okay. Thank you very much. Can we get
10 the microphone down to Mr. Banks, please.

11 Mr. Banks, how long have you been here in Nevada?

12 PROSPECTIVE JUROR NO. 204: Born and raise, 34 years.

13 THE COURT: What do you do for a living, sir?

14 PROSPECTIVE JUROR NO. 204: I work at the Rio and I
15 coach varsity basketball at Desert Pines High School.

16 THE COURT: Okay. So what do you do at the Rio?

17 PROSPECTIVE JUROR NO. 204: Food server.

18 THE COURT: Food server and basketball coach.

19 PROSPECTIVE JUROR NO. 204: Yeah.

20 THE COURT: Married, single, kids?

21 PROSPECTIVE JUROR NO. 204: Married, two kids, two
22 little girls.

23 THE COURT: All right. Any prior jury service?

24 PROSPECTIVE JUROR NO. 204: No, sir.

25 THE COURT: Would you -- any close family member,

1 friend, personally either accused or a victim of a crime in
2 your life?

3 PROSPECTIVE JUROR NO. 204: In -- no, no, not really.

4 THE COURT: You --

5 PROSPECTIVE JUROR NO. 204: Not close, not close
6 close.

7 THE COURT: Not close. A distant acquaintance of
8 somebody?

9 PROSPECTIVE JUROR NO. 204: Right.

10 THE COURT: Anything about that situation that you
11 think either side might be concerned about your ability to be
12 fair and impartial?

13 PROSPECTIVE JUROR NO. 204: No, sir.

14 THE COURT: Would you have a tendency to give more or
15 less credence to the testimony of an individual simply because
16 they're employed as a police officer?

17 PROSPECTIVE JUROR NO. 204: No, sir.

18 THE COURT: Can you wait in forming your opinion on
19 this case until after they all -- you've heard all the evidence
20 in the case and has been -- you've been instructed and you've
21 heard the argument?

22 PROSPECTIVE JUROR NO. 204: Yes.

23 THE COURT: All right. Here's my catchall again.

24 Anything about your life experience you think either side might
25 want to know about you, Mr. Banks?

1 PROSPECTIVE JUROR NO. 204: No.

2 THE COURT: Thank you very much. State, cause as to
3 the three prospective.

4 MR. HENDRICKS: Since Mr. Banks has the microphone,
5 I'll ask him a couple questions.

6 You said you had some kids; right?

7 PROSPECTIVE JUROR NO. 204: Yes, sir.

8 MR. HENDRICKS: How old?

9 PROSPECTIVE JUROR NO. 204: Two and four.

10 MR. HENDRICKS: Okay. Really little kids.

11 PROSPECTIVE JUROR NO. 204: Yeah.

12 MR. HENDRICKS: Okay. Now you said you coach
13 basketball at Desert Pines; right?

14 PROSPECTIVE JUROR NO. 204: Yeah.

15 MR. HENDRICKS: Do you also teach there?

16 PROSPECTIVE JUROR NO. 204: No, I'm off campus. All
17 the coaches are off campus, the varsity boys.

18 MR. HENDRICKS: Do you know Karen Robertus
19 (phonetic)?

20 PROSPECTIVE JUROR NO. 204: No.

21 MR. HENDRICKS: Okay. Judge, I pass the panel for
22 cause.

23 THE COURT: State passes the panel for cause. Mr.
24 Maningo.

25 MR. MANINGO: Thanks, Judge. If we could pass it

1 back up to Ms. Malicdem. Ma'am, earlier today you had said
2 that from working at CCDC, that you presume that they're all
3 guilty.

4 PROSPECTIVE JUROR NO. 199: Yes. I presume that they
5 committed the crime because they're -- they were there in the
6 Detention Center.

7 MR. MANINGO: Okay. So your feeling is if someone's
8 arrested, then they must have been guilty?

9 PROSPECTIVE JUROR NO. 199: They should then maybe
10 guilty.

11 MR. MANINGO: Okay. Now you understand that our
12 Constitution, our United States Constitution and the
13 Constitution for the State of Nevada says that we have to
14 presume that people are innocent until they have been proven
15 guilty beyond a reasonable doubt.

16 PROSPECTIVE JUROR NO. 199: Yes.

17 MR. MANINGO: Okay. Now that means, you know, at
18 this point, no evidence has been presented whatsoever, okay?

19 PROSPECTIVE JUROR NO. 199: Yes.

20 MR. MANINGO: So you would have to be able to look at
21 Mr. Adams and say, that man is not guilty. As of right now, he
22 is innocent.

23 PROSPECTIVE JUROR NO. 199: Yes.

24 MR. MANINGO: You -- that's different from what you
25 feel because of your job; correct?

1 PROSPECTIVE JUROR NO. 199: Um-hum, yes.

2 MR. MANINGO: Okay. Because of your job, you feel
3 like people are guilty if they're in that position?

4 PROSPECTIVE JUROR NO. 199: Yeah. Unless they're --
5 for me, they committed the crime because they were doing the
6 jail in the Detention Center.

7 MR. MANINGO: Okay.

8 PROSPECTIVE JUROR NO. 199: But unless they were
9 proven that they're guilty. So they're not guilty yet.

10 MR. MANINGO: Oh, you're saying that they'd have to
11 prove that they're not guilty?

12 PROSPECTIVE JUROR NO. 199: Yeah.

13 MR. MANINGO: Okay.

14 PROSPECTIVE JUROR NO. 199: By the Court.

15 MR. MANINGO: Okay. Your Honor, I would ask to
16 excuse Ms. Malicdem.

17 THE COURT: Ms. Malicdem, I'm going to thank and
18 excuse you, send you back to the third floor, please. Just
19 leave that microphone in your chair. Call another name to fill
20 seat number one, please.

21 THE CLERK: That would be 205, Sylvia Tran, please.

22 THE COURT: Ms. Tran, if you could come forward,
23 please. Ms. Tran, how long have you been in Nevada?

24 PROSPECTIVE JUROR NO. 205: Seven years.

25 THE COURT: What do you -- I know you're taking care

1 of a baby and you've got -- you're breast feeding as well.

2 PROSPECTIVE JUROR NO. 205: I have -- I am a
3 pharmacist, married with two kids. One is three and a half,
4 the other is seven months old.

5 THE COURT: Okay. Ever served on a jury before?

6 PROSPECTIVE JUROR NO. 205: No.

7 THE COURT: Any -- and I try to be very respectful,
8 not only of people's work, but their life situation. You're
9 nursing a child right now. If you were picked to be a member
10 of this jury, could you continue the routine that you had to do
11 today as a consequence of kind of planning ahead and pumping to
12 keep your baby nourished?

13 PROSPECTIVE JUROR NO. 205: Yes.

14 THE COURT: So you could do that?

15 PROSPECTIVE JUROR NO. 205: I can make arrangements.

16 THE COURT: Very good. Ever had a close family
17 member or friend either accused of or the victim of a crime?

18 PROSPECTIVE JUROR NO. 205: No.

19 THE COURT: Would you have a tendency to give more or
20 less credence to the testimony of a witness simply because
21 they're a police officer:

22 PROSPECTIVE JUROR NO. 205: No.

23 THE COURT: What about waiting and forming your
24 opinion till you've heard all the evidence and I've instructed
25 you on the law; can you do that?

1 PROSPECTIVE JUROR NO. 205: Yes.

2 THE COURT: You've heard the questions asked by
3 either -- or both sides at this point. Anything in your life
4 experience that you think either side might want to know about
5 you that might bear upon your ability to sit as a fair and
6 impartial juror if you're asked to do so?

7 PROSPECTIVE JUROR NO. 205: I mean, I just feel that
8 it's a sensitive topic. You know, I'm a mother, I feel
9 passionate about certain things.

10 THE COURT: Sure. Can -- and passion is fine as long
11 as you can fairly judge the case. As we begin the process,
12 that everybody's on an equal playing field. Is that how you
13 would characterize your position right now? You feel that way?

14 PROSPECTIVE JUROR NO. 205: Yes.

15 THE COURT: All right. State, as to Ms. Tran for
16 cause.

17 MR. HENDRICKS: I have no questions, I pass.

18 THE COURT: You pass for cause?

19 MR. HENDRICKS: Yes.

20 THE COURT: Mr. Maningo, Ms. Tran for cause.

21 MR. MANINGO: Just very quickly, Ms. Tran, just to
22 sort of clarify a little bit. I understand that you have -- do
23 you have only one child?

24 PROSPECTIVE JUROR NO. 205: I have two kids.

25 MR. MANINGO: Two kids, okay. Now, we're just asking

1 you to be able to separate that and the emotional content of
2 it, to judge, you know, what you hear as to whether or not
3 something actually happened a certain way. Do you think you'll
4 be able to do that way as sort of an observer?

5 PROSPECTIVE JUROR NO. 205: Yes.

6 MR. MANINGO: Or do you feel that you'll get too
7 wrapped up emotionally?

8 PROSPECTIVE JUROR NO. 205: No.

9 MR. MANINGO: No?

10 PROSPECTIVE JUROR NO. 205: I mean, it's a sensitive
11 topic --

12 MR. MANINGO: Yes.

13 PROSPECTIVE JUROR NO. 205: -- but I can still be
14 impartial and listen to what I have to listen to before forming
15 an opinion.

16 MR. MANINGO: Okay. Okay. And you think you'd be a
17 good juror for this case?

18 PROSPECTIVE JUROR NO. 205: I can probably be a
19 better juror, you know, at a different trial.

20 MR. MANINGO: But you would try to be a good juror in
21 this case?

22 PROSPECTIVE JUROR NO. 205: Of course.

23 MR. MANINGO: Okay. I'll pass for cause, Judge.

24 THE COURT: All right. All parties having passed for
25 cause, Ladies and Gentlemen, that concludes the challenge for

1 cause portion of the jury selection. We move immediately and
2 seamlessly into the peremptory challenge portion of jury
3 selection.

4 A peremptory challenge is a challenge recognized
5 under law. I like to say, in explanation, that it's -- the law
6 recognizes -- excuse me for just a moment.

7 (Pause in proceedings)

8 THE COURT: The law recognizes that as a consequence
9 of how jury selection works, the parties know a little bit
10 about you as individuals, you know very little about the case,
11 that's by design. So the system builds in a safeguard. It's
12 called the peremptory challenge. Each side has a limited
13 number of challenges that they can execute peremptorily. They
14 don't have to state a reason for it. They basically indicate
15 decisions that they make based upon these brief conversations
16 that they've had with you. They go back and forth in making
17 those decisions. They enter them on a piece of paper that I've
18 just handed the bailiff.

19 After they've made those decisions, they bring that
20 up to me, I make some entries on my seating chart that we've
21 been visually trying to maintain and we excuse some folks and
22 we move some folks around and then we move into the next phase
23 of the trial, into the instruction -- or excuse me, the opening
24 statement phase of the trial.

25 So that's what's happening. Even though you aren't

1 being asked any questions, the attorneys are conferring among
2 themselves and making those decisions.

3 As we do that, or as they do that, I like to have
4 some -- a brief conversation, at least an initial conversation
5 with the jury to give you an idea of what you can look forward
6 to if you are selected.

7 I talked about, before lunch, about my
8 responsibilities as a Judge and how distinct they are from your
9 responsibilities as a juror. One of my additional
10 responsibilities as a Judge is to make sure you're capable and
11 able to do your job. So I'm -- my job is to make sure you can
12 hear, see and understand everything as it happens here in
13 court. I want you to pledge to me that you can be proactive
14 also in that effort.

15 If you can't hear or see something that's happening
16 that you need to hear or see, I need you to raise your hand and
17 indicate to me by that, Judge, I can't see. To the extent that
18 I'm capable, I'll move you around inside the -- inside this
19 room so you can do that. I just need you to understand that
20 you have that freedom. You can say, Judge, I need a little
21 help.

22 Mr. Kangas touched upon it earlier. We have the
23 microphone system in the courtroom. You can see them, you've
24 seen Dick move around in the room, shifting the microphones to
25 make sure everything's picked up. He records that. If you

1 can't hear what's being said, what I do is I commonly tell the
2 witness to scoot up closer to the microphone, speak louder,
3 whatever it takes to get the witness to speak up.

4 We also have microphones, headphones that we give to
5 jurors routinely if they need that additional assistance, that
6 amplification. All you have to do is ask and I'll give it to
7 you.

8 Those chairs that some of you are seated in in the
9 jury box, those are your tax dollars at work, they're the
10 lowest bidder. And some people tell me, Judge, these are very
11 uncomfortable chairs, that they're not adjustable in lumbar
12 support or in height. Some people, I've been told, who are
13 under 5'6" or so have difficulty sometimes touching the ground
14 with their feet.

15 I have little footstools that we keep in the back to
16 give people who are -- find themselves in that situation. I
17 have pillows in the back in my chambers that I give folks to
18 give them that little extra lumbar support.

19 We are in a 21st Century courthouse, courtroom which
20 sometimes means things break and nobody has a clue on how to
21 fix them. That includes the HVAC system, our air conditioning.
22 Sometimes it gets a little warm, sometimes it gets a little
23 cold. If you find yourself on the cold side of that equation,
24 just give me a hint that you might need something. I have --
25 literally, I have throw blankets in the back that I give out to

1 jurors.

2 If you find yourself already in that situation, some
3 of you already have coats on or sweaters. Bring them with you
4 when we reconvene tomorrow so you're comfortable.

5 All again so I can help you do your job, that you're
6 not so uncomfortable, that you're listening to the evidence and
7 you're considering all the evidence as it's presented.

8 I've already told you about how the break system
9 works and that's very important because sometimes we get into
10 the evidence and something unanticipated happens and somebody
11 needs a break. Just give me the sign for break and I'll make
12 that -- I'll do that as quickly as I possibly can.

13 I instruct you now, know, if you're selected to be a
14 member of this jury, independent or factual or legal
15 investigation is allowed. Why -- what do I say or why do I say
16 that? And sometimes it's common sense. You need to understand
17 that if you're selected to be a member of this jury, you base
18 the decision of the jury upon, again, this witness stand,
19 what's heard from here and no other source.

20 There's so much technology out there right now that
21 people -- you probably, many of you probably have in your
22 pocket the ability to access the internet, this is a Wi-Fi
23 building, access the internet at will.

24 There was actually a situation not too long ago, a
25 few months ago back east, where a juror was in a jury box in a

1 criminal case, as reported -- I wasn't there, but it was
2 reported in the media -- twittering about the fact that they'd
3 been selected to be a member of a jury, what kind of case it
4 was, what the evidence was and making comment about the
5 testimony of a witness on the twitter, right as it's happening.
6 Now how a judge wouldn't see that happening, I'm not exactly
7 sure, but the bottom line of it is that's not appropriate.

8 I've already told you why it's important for you to
9 keep the information and evidence you're hearing to yourself
10 until you go to the jury room to consider it. So that's why
11 you can't do any independent investigation. I don't want you
12 to, say you hear a term from a witness that you don't
13 understand and you want further clarification on that, I don't
14 want you to pull out your cell phone at the break and Googling
15 a term to try to adduce any legal analysis.

16 If there's a location that's discussed here, and
17 based upon the brief information that you already have, you
18 know that there is some locations that are going to be at issue
19 here, and you find yourself as a consequence of your normal
20 routine, commute to and from this building, passing that area.
21 I'm asking you to change your direction, your commute. I don't
22 want you going by the locations at issue in this case and
23 making an independent investigation, stopping at an
24 intersection and looking around, saying oh, here's the traffic
25 light, there's the 7-11 or whatever it might be that's

1 relevant, you don't do that. Again, for the same reason. You
2 draw your information from what you hear on this witness stand
3 and from no other source.

4 The way, based upon the formality of a jury trial,
5 the only way you can communicate with me is through the
6 Bailiff. I told you about that very briefly earlier. And I
7 hope it's kind of self-evident why. You need to make sure that
8 everybody in the process understands what any -- whatever
9 questions or concerns you might have.

10 So if something comes up during the course of the
11 trial that you need to communicate with me, it's a personal
12 matter that's developed or you realize that you might know
13 something about the case that you haven't previously disclosed,
14 you would write that information out and hand the note to Dan
15 in the notebooks that we're going to hand you.

16 Or you can even come up to him at the break as you're
17 walking past him because he sits there, that's his job, and
18 say, Bailiff or Officer, I need to communicate some
19 information. He basically listens to what you have to say and
20 then he brings that information to me and in a conference with
21 the parties, we consider that information and what, if
22 anything, needs to be done regarding that disclosure.

23 I tell everybody and it's important to understand,
24 that doesn't mean that you've done anything wrong, and I'll get
25 into that a little bit later. But that's how it works. You've

1 got to -- you can't just come up to me and say, Judge, can I
2 see you in your office or Judge, can I see you in the hallway
3 and talk about whatever it is that might be of concern to you.
4 You've got to maintain that formality for purposes of
5 maintaining that independence in that record.

6 As I stated, anticipate four to five days for
7 purposes of commitment to the process. We anticipate getting
8 into opening statements today and into the evidence probably
9 today. We start at 10:00 a.m. in the morning, I have normal
10 calendars in the morning. Those start at 8:00 and then we run
11 to 10:00 for those, they usually take me an hour and a half,
12 two hours and then I can be in the jury trial. I try to work
13 effectively and efficiently. I don't want to interrupt your
14 schedules anymore than necessary.

15 About 10:00 a.m. to noonish. I like to look for a
16 natural part or portion, a natural break in the process,
17 whether it be the completion of a witness's testimony, they're
18 on direct or cross-examination, some natural break in the
19 process, to take the lunch break. That's why I say noonish.
20 It could be 10 minutes before, it could be 10 minutes after, so
21 to speak. An hour and 15 minutes for lunch is the routine.
22 Then we reconvene in the afternoon and run about 90 minutes,
23 take an afternoon break, 15, 20 minutes, usually 15 minutes.
24 Then we're back in and we run till about 5:00, 5:15, again,
25 depending on where we are. And you can anticipate that will be

1 the routine in terms of planning your schedules.

2 After the case, obviously, is submitted to the jury,
3 you've heard argument and you're deliberating on the case, it's
4 up to the jury to decide on how they want to handle that part
5 of the process.

6 THE MARSHAL: Okay, counsel needs to approach.

7 THE COURT: Yes.

8 (Off-record bench conference)

9 THE COURT: All right. That's handled. That's
10 called the bench or sidebar. Obviously, they're approaching to
11 discuss with me privately some information. It's information
12 that they need to discuss with me and you need not really be
13 concerned with what that is. No one obviously -- no one's
14 hiding anything from you. It was just communication that they
15 have with the Court independently.

16 The parking situation. You've got these little white
17 badges on that you go from the Jury Services. If you're
18 selected to be a member of this jury, we're going to replace
19 those little plastic badges with a different one that Dan will
20 hand you.

21 Your parking situation, probably, when you got out of
22 your car this morning, if you followed the directions on the
23 back of your jury summons, was a long walk. And some of you
24 probably didn't want to do that walk. Some of you probably
25 parked over, judging from doing this every week, people park

1 all over the place down because they don't want to walk as far.

2 You're -- if you're selected to be a member of this
3 jury, the parking situation will change considerably for the
4 better. We move you to a lot directly across the street. So
5 rather than walking five blocks from the City lot over at
6 Fremont Street, you're put a half a block -- you know, right
7 across, frankly right across the street. Makes things a lot
8 better for you. So that may make you -- may help you a little
9 bit.

10 Those are really the instructions that I have right
11 now. Mr. Cianci, yes.

12 PROSPECTIVE JUROR NO. 172: I just have one question.
13 You talked about places. During the beginning you gave the
14 charges and you mentioned Johnston and Middle School.

15 THE COURT: Let's get the microphone.

16 PROSPECTIVE JUROR NO. 172: Yeah, when you presented
17 the charges, you mentioned the charges, you mentioned Johnston
18 and Middle School.

19 THE COURT: Yes, sir. I didn't mention them, but the
20 DA did.

21 PROSPECTIVE JUROR NO. 172: Oh. Was that the one in
22 North Las Vegas? Okay, because I live right behind it.

23 MR. HENDRICKS: It's not for the record.

24 THE COURT: Okay. For the record, Mr. Hendricks is
25 indicating that Johnston Middle School is not in North Las

1 Vegas.

2 PROSPECTIVE JUROR NO. 172: Oh, okay. I thought you
3 said Johnston, my bad, sorry.

4 THE COURT: That's okay.

5 MR. HENDRICKS: I think it's Johnson and it's located
6 in that Charleston, Alta, Buffalo area.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 172: I just live behind
9 Johnston Middle School, so I wanted to make sure.

10 THE COURT: Okay. That's fine. Just hold onto that.
11 Those are -- and as we get to it, as I told you earlier,
12 there's 32 of you Ladies and Gentlemen here. Many of you will
13 be headed down to the third floor for additional assignment or
14 talking to the Jury Services in a few minutes.

15 I have more instruction and in terms of how to look
16 at where this case is going to go and presentation after I get
17 you, those of you who are selected to be members of this jury.
18 Right now, if you want to take a drink of your water, coffee,
19 everybody just sit back and relax. We'll let the parties, the
20 attorneys do what they need to do and as soon as they're done,
21 we'll make some entries on the record. Dan, do you want to
22 grab that mic?.

23 If you want to stand up, stretch.

24 (Pause in proceedings)

25 THE COURT: All right. Ladies and Gentlemen, we're

1 going to need to take a recess. It is your duty not to
2 converse amongst yourselves nor with anyone else on any subject
3 connected with this trial. Further, you may not read, watch or
4 listen to any report of or commentary on this trial by any
5 medium of information including, without limitation, newspaper,
6 television, radio. And you may not form or express any opinion
7 on any subject connected with this case until it's finally
8 submitted to you.

9 This will be our afternoon recess, approximately 15
10 minutes, Ladies and Gentlemen. We'll be in recess. Dan will
11 probably want you to stage outside in the hall, much like right
12 before lunch. We'll be in recess 15 minutes.

13 (Out of the presence of potential jurors)

14 THE COURT: The record should reflect we're outside
15 the presence of the jury. I'm going over this one more time,
16 gentlemen, because I got an issue here.

17 (Pause in proceedings)

18 THE COURT: All right, I found it. I actually did
19 not strike Mr. Parker, juror 154. So when I went through, I
20 was counting, I had 15 and I'm going, well, that's -- that's
21 where I dropped the ball.

22 All right. The record, again, should reflect we're
23 outside the presence of the jury. We're also missing Mr.
24 Adams who is in the back using the facilities. Mr. Maningo,
25 the record should further report -- we don't have Adams, we

1 don't have Sharon, we're going to wait. Why don't you guys
2 come on up here and let's make that I -- assuming Mr. Parker
3 stays struck, then I'll show you what the panel looks like.

4 (Off-record bench conference)

5 THE COURT: All right. The record should -- let's
6 wait for Sharon. Actually, gentlemen, why don't you take, do
7 whatever personal break you need and then when Sharon gets back
8 in a few minutes, we'll make the record on the Batson
9 challenge, okay?

10 (Court recessed at 2:32 p.m. until 2:41 p.m.)

11 (Outside the presence of prospective jurors)

12 THE COURT: Okay. And this is C-241003, State of
13 Nevada plaintiff vs. Michael -- excuse me, Edward Michael
14 Adams. The record should reflect the presence of the
15 representatives of State and defense, outside the presence of
16 the prospective panel.

17 Mr. -- minutes should further reflect that Mr.
18 Maningo approached and made a contemporaneous objection when he
19 noted the peremptory challenge for Juror number 154, Mr.
20 Parker. And Mr. Maningo, you have the floor.

21 MR. MANINGO: Oh thank you, Judge. I was just
22 asserting a Batson challenge as to that juror. He is an
23 African-American juror. And the Supreme Court has stated that
24 the defense attorneys are in error when we wait for what has
25 been traditionally thought of as a pattern for more than one to

1 occur. And that if we lose the challenge, we do not make the
2 challenge on the first person of color who is excused.

3 THE COURT: Okay.

4 MR. MANINGO: So I am making that challenge as --
5 regarding Mr. Parker.

6 THE COURT: Who wants to make the record on behalf of
7 the State?

8 MR. HENDRICKS: I will, Judge.

9 THE COURT: Okay.

10 MR. HENDRICKS: Judge, as Mr. Maningo previously
11 pointed out, there are at least three or four African-Americans
12 on this panel. There was only one that we had stricken from
13 the panel, and that was based upon a couple of different race
14 neutral reasons.

15 Well, first of all, they haven't established that
16 there has been a clear pattern that we were striking
17 African-Americans from the panel. There's one. The rest of
18 them remained.

19 But the race neutral reasons were clear, I'm sure to
20 the Court and also to Mr. Maningo, that this is an individual
21 who had been arrested prior to coming into court. He claimed
22 that he was carrying a weapon, and he was wrongly accused of
23 that, and the case was eventually dismissed.

24 He said that he had been a victim of shootings,
25 burglaries, and I believe had other friends that had been

1 arrested before. The State, based upon those race-neutral
2 reasons, felt uncomfortable with leaving him on this panel,
3 having previously been arrested and accused of a crime to which
4 he said he was wrongly arrested.

5 And so those are the reasons why we didn't feel
6 comfortable leaving him on the panel. And like I said, there
7 was no pattern. The rest of the African-Americans were kept
8 on.

9 THE COURT: All right. Mr. Maningo, anything else?

10 MR. MANINGO: Not regarding that, Judge.

11 THE COURT: All right. I don't -- the Court does not
12 find that there has been a demonstrated pattern of bias on
13 behalf of, or strike -- the striking by the State if members of
14 this voir dire that are African-American. So the challenge is
15 noted and overruled. Mr. Maningo, anything else?

16 MR. MANINGO: Yes, Judge. Just to make part of the
17 record, because this was done at the bench and I don't know if
18 it was recorded.

19 The defense did at the end of our voir dire move for
20 four challenges for cause. The first one was Mr. Schiffman,
21 number 104. That was granted by the Court. We also have Ms.
22 Alvarez, number 138, also granted by the Court.

23 We had Ms. Alberts, number 174. That was granted by
24 the Court. And then we had Ms. Winterbottom, number 133. That
25 was not granted by the Court. And the defense did use their

1 first peremptory on Ms. Winterbottom.

2 THE COURT: All right. That's noted for the record.
3 Anything from the State's side regarding the execution of those
4 challenges?

5 MR. HENDRICKS: No. And when we approached the
6 bench, Mr. Maningo had approached the Court with some concerns
7 about those individuals. And I agreed with Mr. Maningo about
8 the first two. The other two had been wavering, and said that
9 they could be fair.

10 The Court erred -- or the Court decided to be very
11 cautious in regards to Mr. Maningo and his client's rights, and
12 questioned those individuals afterwards. And one individual
13 said she was still wavering, and made some comments in regards
14 -- she doesn't know whether she can be fair or not. And the
15 Court decided, yes, I'm going to go ahead and have her removed.

16 THE COURT: That was Ms. Alberts, yeah.

17 MR. HENDRICKS: Right. And then the one other one
18 said yeah, I think I can be fair. And then of course, she was
19 struck anyway. So she wasn't left on the panel in any event.

20 THE COURT: Right. She's not currently on the panel.
21 But that -- I think that restatement is substantially accurate.
22 Number 133 indicated, to the Court's satisfaction, that she
23 would do her best to be fair and impartial. Ms. Alberts, 174,
24 indicated that she didn't believe she could be after my inquiry
25 -- my final inquiry. And so I excused her, sent her on her

1 way. All right. Anything else?

2 MR. HENDRICKS: I think Ms. -- I went through -- I
3 wanted to make sure Mr. Maningo -- he's had all these photos.
4 These are all photos he's had before. And some of those photos
5 I'm using in my opening --

6 THE COURT: All right.

7 MR. HENDRICKS: -- statement.

8 THE COURT: It's important that if a power point's
9 being presented to the trier of fact that each side have an
10 equal opportunity to review that power point and lodge any
11 objection. I also need a physical copy of that power point to
12 be lodged as a Court's exhibit for purposes of maintaining the
13 record, either in a six or eight-pack format. Mr. Hendricks,
14 I'm sure you'll make that happen?

15 MR. HENDRICKS: I will, Judge. And I know that
16 that's part of something that you do, and I think it's
17 appropriate. And I will get that done in regards to opening,
18 closing, and rebuttal. We'll have a copy of all those things
19 so that the Court has those items.

20 THE COURT: All right. Mr. Maningo, have you had an
21 opportunity to look at -- at least initially, to look at the
22 power point presentation. And do you want to launch any
23 contemporaneous objection at this time?

24 MR. MANINGO: Yes and yes, Judge. I just reviewed
25 with Mr. Scow and Mr. Hendricks at least I think most of the

1 power point presentation. I have no objections regarding
2 slides that show evidence that they expect to be presenting
3 throughout.

4 I do however have an objection with each one of the
5 slides depicting my client's face. There is a mug shot. There
6 are also numerous shots taken of my client in his jail clothes
7 with his back up against the jail wall where they're showing
8 his face, I guess for the -- in order to show his facial hair,
9 or something else.

10 I know that the State can try the case however they
11 see fit and whatever they think is best. But this is not an
12 identification case, which is what I'm going to be opening on.
13 ID is not an issue at all. We're giving it up as soon as I get
14 to standup. There's DNA fingerprints and everything else.

15 So I'm not quite sure why we need to have so many
16 pictures of my client's face, especially when he's wearing his
17 jail shirt and he's incarcerated. So I'm objecting to those.

18 THE COURT: I would be concerned about any picture
19 that might depict the defendant wearing jail -- what would be
20 commonly described as jail clothes.

21 MR. HENDRICKS: Well Judge, all it is is from the
22 upper chest, up. It's not a picture of him that's in anything
23 that says CCDC. Mr. Maningo of course knows they're jail
24 clothes. You know they're jail clothes, I know they're jail
25 clothes.

1 THE COURT: But you don't see anything in the --

2 MR. HENDRICKS: How is --

3 THE COURT: -- photograph that says CCDC? Or --

4 MR. HENDRICKS: No, of course not.

5 THE COURT: -- they're not black and white striped
6 pajamas, or?

7 MR. HENDRICKS: No.

8 MR. SCOW: Do you want to see some of them, Judge?

9 THE COURT: All right, that wouldn't hurt. I might
10 ask you to --

11 MR. HENDRICKS: The other thing --

12 THE COURT: I might ask you to --

13 MR. HENDRICKS: Just for the record, Judge --

14 THE COURT: -- strike them.

15 MR. HENDRICKS: While I appreciate Mr. Maningo's
16 concession that yeah, it's not going to be a case of identity,
17 but it is, especially in regards to what takes place between
18 the initial interaction between our victim and the defendant,
19 and the eyewitnesses who can now describe this particular
20 individual by certain characteristics.

21 Some of our witnesses will describe him as being bald
22 on top with hair shaved around the sides. Now as you can see
23 him sitting here today, he is completely different than what he
24 appeared to -- as back on January 11th when he was arrested.
25 She describes there being kind of a reddish goatee, or facial

1 hair. Mustache, beard. He doesn't have that anymore; he's
2 drastically changed his appearance.

3 They also describe him as having had a band-aid over
4 his left eye. Which now a month later, you can still see
5 scarring above the left eye in one of those photos. He's also
6 described by the victim as having extremely crooked teeth. One
7 of the photos shows his crooked teeth.

8 So one is in regards to the top of his head, which
9 shows he has a bald head, which they describe.

10 THE COURT: Are there any --

11 MR. HENDRICKS: One is the eye.

12 THE COURT: Okay. Any -- okay, I understand. You're
13 allowed to try your case. Any chains, anything of obvious
14 indication that he is in custody at the time of taking the
15 photograph? Show me the picture that's the concern.

16 MR. HENDRICKS: I don't know --

17 THE COURT: That's the picture?

18 MR. HENDRICKS: No, not yet.

19 THE COURT: And Dick, I want you to capture this,
20 please.

21 MR. HENDRICKS: That's the first one.

22 THE COURT: Okay.

23 MR. HENDRICKS: And as you can see, Judge, you should
24 know that his appearance is drastically different.

25 MR. MANINGO: Well, I mean if you look at the last

1 picture, that's --

2 THE COURT: Hang on. All right. So it's the first
3 picture that we've captured at 3:03:45. That's the first
4 picture of the defendant. I -- all right. It's a facial shot.
5 All right.

6 MR. SCOW: Forehead.

7 THE COURT: Then the top of his head. Close-up of
8 his face.

9 MR. SCOW: Circles the scar.

10 THE COURT: Okay. Teeth.

11 MR. SCOW: That's the full. I think that was the
12 last one.

13 MR. HENDRICKS: Yeah.

14 THE COURT: Nothing to indicate that it's CCDC. Mr.
15 Maningo, anything else?

16 MR. MANINGO: Nothing further.

17 THE COURT: All right.

18 MR. MANINGO: I --

19 THE COURT: I have noted there is nothing that
20 indicates custody status of the defendant. They do appear to
21 be photographs that would aid the trier of fact, and addressing
22 one of the issues obviously of identity. I'm not going to tell
23 the State how to try their case.

24 So the objection to those series of photographs is
25 noted for the record. And again, there's no foundational

1 challenge that they aren't a true and accurate depiction of the
2 defendant, they've been altered. It's just that they -- it's a
3 standard relevance analysis where they're more prejudicial than
4 probative.

5 MR. MANINGO: Yes, sir.

6 THE COURT: All right. And I find that they are not
7 more prejudicial than probative, so the State would be
8 permitted to use them. Anything else?

9 THE CLERK: Your Honor?

10 MR. HENDRICKS: Not --

11 THE CLERK: Can I have exhibit number for those
12 (indiscernible)?

13 THE COURT: That's power point slide number --

14 THE CLERK: I mean, are they actually exhibits?

15 MR. SCOW: It's slide number 20. And all the
16 previous ones are based on that same picture.

17 THE COURT: And are they actual exhibits,
18 contemporaneous exhibits that the jury's going to have?

19 MR. SCOW: They should be in there, yes. These
20 pictures are in that packet.

21 THE COURT: So there's nothing in this power point
22 presentation that hasn't been already marked independently from
23 the photographs? All right. Anything else?

24 MR. HENDRICKS: Judge, another thing is -- and I know
25 Mr. Maningo said that identification not an issue. I don't

1 know what -- I have some indication, because he's requested
2 specific jury instructions of where he's going with the
3 defense. But he has not told me where he's going to go with
4 this defense at this point. So I don't know. So I have to
5 present it as, so yeah, identification's still an issue.

6 And especially given the fact that he provided us
7 with a timely witness notice. And some of these witnesses have
8 been interviewed and said that they are going to be alibi
9 witnesses for the defendant. Which I know Mr. Maningo doesn't
10 think so, but that's what our interviews have revealed.

11 MR. MANINGO: Yeah.

12 MR. HENDRICKS: So --

13 MR. MANINGO: Which is incorrect. And I filed no
14 alibi notice. And --

15 THE COURT: All right. I --

16 MR. MANINGO: -- that won't be part of the defense.

17 THE COURT: I don't try -- I don't tell either side
18 how to try their case. You have to -- yeah. And identity is
19 an element to the offense that the State must prove beyond a
20 reasonable doubt.

21 So I'm going to allow you -- and I don't find
22 basically doing a relevance analysis that the photographs that
23 have been marked, and you anticipate showing to the trier of
24 fact are more prejudicial than probative. They don't show
25 chains, they don't show -- there's no big CCDC.

1 So I believe that there's grounds for you to be able
2 -- sufficient support for you to be able to use them.

3 Objection's noted. Anything else?

4 MR. HENDRICKS: Nothing from the State, Judge.

5 THE COURT: Mr. Maningo, anything else?

6 MR. MANINGO: No, Judge. Nothing.

7 THE COURT: Okay. Let's get them in here. It's
8 (indiscernible).

9 MR. MANINGO: Oh. Could I -- if I could just ask one
10 quick --

11 THE COURT: Sure.

12 MR. MANINGO: -- housekeeping question. What time
13 does this Court typically stop? Just so I can --

14 THE COURT: About five-ish.

15 MR. MANINGO: -- so I can do childcare --

16 THE COURT: 5:00, 5:00'ish, 5:30. If you can --

17 MR. MANINGO: -- calls and --

18 THE COURT: I'll tell you what. I try to be as
19 accommodating as possible. If you tell me, Judge, I got to
20 pick up my kid at 5:30, or I got -- you know, I've got PASS at
21 -- you know, I try to the extent that I'm capable give you that
22 latitude.

23 MR. MANINGO: Okay.

24 THE COURT: So are you telling me right now you need
25 to go home -- you need to be out of here at 5:15?

1 MR. MANINGO: 5:00'ish, yes.

2 THE COURT: 5:00'ish. Then you just remind me if I
3 seem to be into a grove.

4 MR. MANINGO: Okay. Great.

5 THE COURT: Okay.

6 MR. MANINGO: Thanks, Judge.

7 THE CLERK: And Your Honor, did we announce the
8 (indiscernible)?

9 THE COURT: No. Well, 13 and 14 will be the
10 alternates.

11 THE CLERK: And we're starting at 9:30.

12 THE COURT: Can we start at 9:30 tomorrow? I told
13 them 10:00. But I think the one juror that had the interview
14 is no longer an issue; is that correct?

15 MR. HENDRICKS: He's not on there?

16 THE COURT: I don't remember. Frankly I --

17 MR. HENDRICKS: I wasn't keeping track of numbers.

18 MR. MANINGO: He was Dustin Payne. He is on the jury
19 actually.

20 THE COURT: Then 10:00 it is. I told him 10:00, he
21 has that interview with the State at 9:30 -- or 9:00. And I
22 don't want to -- you know. I've already interrupted enough --
23 we've interrupted enough schedules. 10:00's the call.

24 MR. MANINGO: And I know Mr. Scow and I have a
25 calendar call tomorrow morning also. So we need to take care

1 of that.

2 THE COURT: So 10:00's the call. I'm already kind of
3 mentioned that to them, so that will be the plan. Danny, line
4 them up. Rack them, stack them.

5 THE CLERK: The calendar is showing 9:30.

6 THE COURT: The calendar is showing 9:30, but it's a
7 10:00 call.

8 (Pause in proceedings)

9 THE MARSHAL: Jury is present, please.

10 (In the presence of the prospective jurors)

11 THE COURT: All right. This is C-241003, State of
12 Nevada plaintiff vs. Edward Michael Adams. The record should
13 reflect the presence of representatives of the State and
14 defense. All members of the prospective panel appear to be
15 present. Do the parties stipulate to the presence of the
16 entire panel; State?

17 MR. SCOW: Yes, Judge.

18 THE COURT: Defense?

19 MR. MANINGO: Yes, sir.

20 THE COURT: All right. Peremptory challenges having
21 been executed and provided to the Court, ladies and gentlemen,
22 I'm going to read a series of names. Would these individuals
23 -- if you hear your name, please just stand, and remain
24 standing at your seat.

25 Ms. Tran, Ms. Raymond, Ms. Winterbottom, Ms.

1 Velasquez, Ms. Carroll, Mr. Harris, Ms. Lisy-Meikle, Ms.

2 Aguas, Mr. Oyamot, Ms. Clayton, Mr. Parker, Ms. Lovelace --

3 UNKNOWN FEMALE SPEAKER: Which one, Your Honor? I'm
4 sorry.

5 THE COURT: Clayton number 194, right here.

6 UNKNOWN FEMALE SPEAKER: Did you call Velasquez, or
7 Vasquez?

8 THE COURT: Vasquez. I'm sorry, Velasquez. You are
9 -- I need you to stand up. Thank you. I have Mr. Parker
10 standing; thank you. Ms. Loveless, are you standing as well?
11 Mr. Viernes, you're standing please. Mr. Cianci, please stand.
12 Ms. Byrkit, Mr. Stein, and Ms. Ramsey. And folks, if I've read
13 your name, take up all your stuff. Go over -- stand by Officer
14 Reichart, by Dan's desk, please.

15 Now it might seem kind of strange, but I need to keep
16 everybody else in order. Okay? So I'm going to move those of
17 you who are still seated around a little bit.

18 Mr. Washington, I'm going to move you down to seat
19 number 1. Ms. Callowhill, you're following him to seat number
20 2. Mr. Wheeler, you're in seat number 3. Mr. Beirne, you're
21 out, right? Mr. Beirne, you're out. If I didn't read your
22 name I apologize.

23 Mr. Marvin, you're up behind you in seat number 4.
24 Ms. -- sorry.

25 PROSPECTIVE JUROR NO. 151: Sheikewitz.

1 THE COURT: Yes, you're still here. You're in seat
2 number 5 directly behind you. Ms. Lopez, you're up in the box
3 in seat number 6. Ms. Clayton, you're up next to her in seat
4 number 7. That still remains top row. Mr. McKenzie, you're up
5 in seat number 8. That's the last chair, top row.

6 Mr. Payne, you're up and in the box in chair number
7 9. Mr. Cooper, you're up and in the box in chair number 10,
8 that's next to Mr. Payne. Mr. Banks, you're up and in the box
9 in seat number 11. Mr. Perkins, you're up in seat 12. Ms.
10 Laba, you're up in seat number 13. And Mr. Carter, you're up
11 in seat number 14. Yeah, doing great.

12 Ladies and gentlemen of both State and defense, is
13 this the jury you picked; State?

14 MR. HENDRICKS: It is, Judge.

15 THE COURT: Defense?

16 MR. MANINGO: That's correct, Judge.

17 THE COURT: Thank you very much. Ladies and
18 gentlemen both seated and standing behind the bar; that's you
19 folks. I want to thank you for your time, your patience,
20 attention. I'm sending you back to the third floor jury
21 services.

22 It's Monday. Even though it's 3:15, there's lots of
23 work going out the door. So you'll probably get reassigned.
24 But I do want to thank you for your patience here in Department
25 18. You are excused.

1 We're going to have marked as Court's exhibits next
2 in order, the jury panel selection seating chart and peremptory
3 challenges executed by parties. Okay, the record should
4 reflect we're outside the presence of the balance of the
5 prospective jury panel. Ladies and gentlemen, you are the jury
6 selected to

7 Hear this case. I need you to all please stand
8 again, raise your right hand to be re-sworn.

9 (Jury panel sworn)

10 THE CLERK: You may be seated.

11 THE COURT: Now ladies and gentlemen, you are
12 admonished that no juror may declare to any fellow juror any
13 fact related to this case of his or her own knowledge. Now if
14 any juror discovers during the trial or after the jury has
15 retired that he or she, or any other juror has personal
16 knowledge of any fact of controversy in this case, you must
17 disclose that situation to myself in the absence of the other
18 jurors.

19 This means that if you learn during the course of the
20 trial that you were acquainted with any of the facts in the
21 case or witnesses in the case that you have no previously again
22 disclosed, you must declare that fact. You do that through the
23 bailiff.

24 So I like to think this instruction is -- it states
25 more common sense. You know as a consequence of the jury

1 selection process very little about this case. You've been
2 given general information, you've been given some names.

3 So as witnesses come forward during the course of the
4 taking of testimony, should you realize that you recognize
5 those folks, maybe there's somebody that lives in your
6 neighborhood that you don't really know their name, but you do
7 the wave as you're driving to and -- you know, out of the
8 complex during the day, or somebody you have a casual
9 relationship with, you just didn't realize that was the
10 individual everybody was talking about.

11 Doesn't meant that you've done anything wrong or
12 failed to disclose accurately information about your life
13 experience. You simply realize that, write a note or contact
14 Officer Reichart, Dan, at a break, and indicate that that's the
15 conversation of the situation that's developed or that you've
16 realized. And then in conference with the parties, we decide
17 what if any action need be taken. Please understand that
18 doesn't mean you've done anything wrong.

19 The other side of that admonition is also that you
20 have a continuing obligation to report to me if somebody --
21 another member of the jury says, you know, last witness, that
22 was my next-door neighbor, second cousin, and I really don't
23 like them or I really like them a lot; something about the fact
24 that another member of the jury might have personal knowledge
25 that they hadn't previously disclosed. You're under an

1 obligation to provide that information to me as well.

2 Now we've already talked about the fact that during
3 the course of the trial, attorneys for both sides, witnesses,
4 court personnel other than the bailiff are not allowed to speak
5 or converse with you. And you understand the reasons why.
6 This is not a personality or a popularity contest. You
7 understand why they're not allowed to speak with you and what
8 might happen in the consequence of going to and from the
9 courtroom on a daily basis.

10 So don't throw any -- don't get angry with anybody
11 should they not show you the common courtesy. You might even
12 see, ladies and gentlemen, as you're getting off the elevator
13 or onto the elevator that because now you're wearing that red
14 badge, you're going to be treated a little differently. You
15 might see people wearing suits that look like lawyers quiet
16 down. They may be talking about their case, they see you get
17 on the elevator; they might shut up.

18 It's not because they're hiding anything. It's
19 because they're trying to show you the deference. They
20 recognize that you're wearing the jury badge and that they're
21 going to shut up while you're on the elevator, because you have
22 a job to do, and they don't want to be part of that process to
23 interrupt that process.

24 You need to wear that jury badge as a consequence of
25 what you do for that reason. It identifies you in this

1 building in the role as a juror. If you come in in the morning
2 from -- you're trying to get up here in a rush, that badge
3 should allow you to go to the front of the line because
4 sometimes it's very -- it's kind of crazy busy down there.

5 You should be permitted to go up to the marshals at
6 the gate and say, I'm juror in Department 18, or any other
7 jury, frankly, and move through the security process --
8 expedited through the security process. We've had some
9 frustration with that. Some jurors have reported to me in the
10 past that they haven't been given that deference.

11 But should you find yourself time pressured tomorrow,
12 or at any point you need to move through that security, just go
13 to the front of the line and say, marshal I've got to -- I'm a
14 juror in Department 18, and they should expedite you through
15 that for that reason.

16 Now what I'm about to go in to is intended to serve
17 only as an introduction to the trial, and it's not a substitute
18 for the detailed instructions that I'll give you at the end.

19 Now this is a criminal case commenced by the State of
20 Nevada, which sometimes I might refer to as the State, against
21 Mr. Adams. This case is based upon an Information. The clerk
22 will now read the information to the ladies and gentlemen of
23 the jury, and state the plea of the defendant to that document.

24 (Information read to jury, not transcribed)

25 THE COURT: Ladies and gentlemen, this case is based

1 upon the information which has just been read to you by the
2 clerk. You should distinctly understand that this information
3 is simply a charge and is not in any sense evidence of the
4 allegation it contains.

5 The defendant has plead not guilty to the charge.
6 The State therefore has the burden of proving each essential
7 element of the crime charged beyond a reasonable doubt.
8 Remember as the defendant sits here now he is not guilty
9 because no evidence has been presented.

10 The purpose of this trial is to determine whether the
11 State will meet it's burden, and it is your primary
12 responsibility as jurors to find and determine the facts. And
13 under our system of criminal procedure, you are the sole judges
14 of those facts.

15 You are to determine the facts from the testimony
16 that you hear and other evidence, including exhibits introduced
17 in court and it is up to you to determine what inferences may
18 be properly drawn from that evidence.

19 Now at times, I may sustain or overrule objections
20 made. You must not consider any objection to which -- that I
21 have sustained and which I have instructed you to disregard.
22 You -- if you have seen or heard anything out of the courtroom
23 that is not evidence, it must also be disregarded.

24 You must not be influenced in any degree by personal
25 feelings for or sympathy for, or prejudice against the State or

1 the defendant. Both sides are entitled to the same fair and
2 impartial consideration.

3 In considering the weight and value of the testimony
4 of any witness, you may take into consideration the appearance,
5 attitude, behavior of the witnesses, the interest of the
6 witness in the outcome of the case, if any, the relation of the
7 witness to the defendant or the State, the inclination of the
8 witness to speak truthfully or not, the probability or
9 improbability of the witness statements and all facts and
10 circumstances in evidence.

11 Thus, you may give the testimony of any witness just
12 such weight and value as you believe the testimony of the
13 witness is entitled to receive. Again ladies and gentlemen,
14 you are the sole judges of the facts. You decide what the
15 facts are.

16 Now there are two types of evidence. There is direct
17 and circumstantial evidence. Direct evidence is commonly
18 referred to in many situations. It's like an eyewitness,
19 somebody who comes in here and testifies to you they heard,
20 saw, smelled, touched something. That's a direct -- that's
21 direct evidence.

22 Circumstantial evidence is different. Circumstantial
23 evidence is a proof of a chain of independent facts that prove
24 a separate fact. The analogy that I use in explanation for
25 jury is that say when you walk into this room about a half-hour

1 ago after our lunch -- or our afternoon break that when you
2 looked out those windows, you saw it beginning to cloud up, and
3 the wind began to pick up.

4 That when you walk out in an hour or so after our
5 afternoon work, you notice out those same windows that there's
6 water on the exterior of the windows, that you look out and you
7 see that the cars below might be wet, the pavement might be
8 wet, that the people walking down below have their umbrellas
9 out.

10 You could conclude based upon those two separate
11 independent observations that it's probably rained in the time
12 you were in this window of this room. You wouldn't have seen
13 it rain as a consequence of your inability to look out the
14 building. But you could conclude those two -- that fact from
15 those two independent observations.

16 That in a very basic sense is all circumstantial
17 evidence is. And remember as triers of fact, it's up to you to
18 decide what weight to give either direct or circumstantial
19 evidence.

20 As I said before, one of my jobs is to make sure that
21 you can do your job. So I ask you to be proactive. If you
22 cannot hear or see something that's happening from this witness
23 stand, raise your hand so I can move people around, move you
24 around in the jury box to the extent necessary, or have the
25 witness speak up.

1 You may take notes. Dan in a few minutes is going to
2 hand out a notebook and give you pencils, pens for you to do
3 that. I caution you that the taking of testimony or jury
4 trials in the real world can be very dynamic events. They --
5 testimony moves along with some speed and deliberation. I
6 caution you not to get so wrapped up in the taking of one
7 particular point that you miss the next question that's asked
8 the witness, and the answer to that question.

9 Also remember that the statements, the words out of
10 the attorneys are not evidence. The evidence is what the
11 witness says in response to the question. So listen to the
12 question, it offers meaning to the answer. Listen to the
13 answer because the answer is the evidence that you must rely
14 upon in making the decision in this case.

15 Now the way this works. In a few minutes, we're
16 going to begin with opening statements. Each side has an
17 opportunity to present to you what they believe to be -- well I
18 analogize it to the index of a book or a roadmap. Opening is
19 supposed to be that type of information, information that these
20 -- the sides believe will help you understand where the
21 evidence is about to take you. Again, the words of the
22 attorneys are not evidence, but again it's a roadmap.

23 After the -- each side has an opportunity to present
24 an opening statement, we'll get into the evidence. The State
25 has the burden of proof. They call the first witnesses.

1 That's called their case -- State's case in chief. They
2 present witnesses, the witness takes the stand, is sworn, and
3 there's called what's a direct examination of the witness. The
4 witness in essence is just asked questions that the calling
5 side, in that case the State, believes is relevant, important
6 for you to hear.

7 After the witness has gone through a direct
8 examination, they have -- there's ability to do a
9 cross-examination. Remember again that there is no burden on
10 the defense side in a criminal case to do anything at all. But
11 they have the ability to do a cross-examination of every
12 witness.

13 And again, same situation. Slightly different rules,
14 but same situation. They ask the witness who's on the stand
15 questions that they believe are important for you as the jury
16 to understand.

17 After cross-examination is complete, then the calling
18 side has the ability to do a redirect examination. And the
19 other side, the non-calling side has the ability to do
20 recross-examination, and that's how it goes back and forth.

21 What you're going to see as a practical matter as the
22 witnesses are called and we move through that process is a
23 quick narrowing of the focus of the questions. Because the
24 rules require that any question asked on redirect, recross
25 relate only back to the previous portion of the previous

1 testimony. So everything should focus fairly quickly, and
2 shorten up.

3 After the witness has gone through direct,
4 cross-examination, redirect, recross, and the witness is
5 complete and the attorneys indicate that the witness can be
6 excused, the jury, you, ladies and gentlemen, have the ability
7 to ask questions if you feel it's necessary. The Supreme Court
8 has set up a procedure how that would happen. And this is how
9 it works.

10 But before I get into how it works, let me give you a
11 couple of points. It's the primary -- the asking of a lot of
12 questions by a jury is not encouraged unless you deem it a
13 necessity. It's the primary responsibility of the attorneys to
14 ask questions. But again, if you believe a question that is
15 relevant and important that needs to be asked a witness has not
16 been asked, you can ask that question.

17 Understand that any question asked by a jury must be
18 one, factual. And it must meet the same strict legal rules
19 that any question asked either side must meet. As a
20 consequence of how this works, there are things that -- there
21 is information that -- in forms of questions that I have to
22 basically review the question with the parties. Some can be
23 asked, some cannot be asked.

24 If the question is asked I look at the question, I
25 show it to the sides here at the bench. We review it. I'll

1 read the question to the witness. The witness will be directed
2 to answer the question, and the jury will be given a chance to
3 do a follow-up question if they wish to do so.

4 Then each side will have an opportunity to ask
5 follow-up questions as a consequence of the question posed by
6 the jury. Do not draw undo influence, or don't believe -- or
7 don't give a question asked by a jury greater weight simply
8 because it's a question that's been thought of and asked by a
9 jury.

10 I ask questions, or read questions to witnesses that
11 are posed by juries all the time. Don't believe that just
12 because it's a question that one of you ladies and gentlemen
13 thought of, it deserves greater attention, or greater focus
14 than any of the questions asked by either side, because it does
15 -- it must be balanced with all of the questions asked the
16 witness.

17 Also, should I based on conference at the bench
18 determine that a question cannot be asked for whatever reason,
19 don't draw any adverse inference. Don't think anybody's trying
20 to hid anything from you; that's not the purpose.

21 Again, the rules require analysis of every question
22 asked as a necessary mechanism in the way this works. I can't
23 sit with you and have a conversation, and say, okay, juror, you
24 want to ask X, Y, Z. Can we change it around a little bit here
25 and there and tighten up the question; I can't do that for you.

1 All I can do is make a decision on the way the
2 question is worded and posed. And if I can't -- if I ask it,
3 it's asked. If I can't ask it, I mark it and give it to the
4 clerk, and we move past it. I can't sit here and help you
5 fashion a question. So again, don't get angry with anybody if
6 a question is not asked. It's not intended that anything be
7 hidden from you as a consequence of how that works.

8 So, other practical points from doing this a while.
9 I cannot say, one, to witness -- witness one is complete, and
10 you're thinking, I'd like to ask witness one a question but I'm
11 not quite ready to raise my hand and inject myself into that
12 process.

13 Once witness one is out the door, and we're into
14 witness two, I cannot, absent extraordinary circumstances --
15 frankly, strike that. I cannot call witness one back, and put
16 witness one back on the stand if you decide after witness
17 number two that you'd like to ask witness number one a
18 question.

19 The request of -- the question has got to be
20 contemporaneous with the witness being on the stand, and it's
21 got to be at the same time. So if you believe that there's a
22 question that you want to have asked that hasn't been asked,
23 and I'll give you a chance, raise your hand.

24 What you're going to see me do as I -- I'm going to
25 say something to the effect of, is there anything else for this

1 witness? And you're going to see me do a pass, a visual pass
2 of you, because I'm going to be looking for somebody doing
3 this. Now, maybe. I need you to be proactive again; raise
4 your hand.

5 I'll give you the time you need if you think you want
6 to ask a question, or write out that question, or think about
7 it before you write it out. I'll give you the time you need so
8 you can do that. I just need you to understand that once the
9 witness is up, I can't bring them back. All right? So that's
10 how it works.

11 The questions are asked, the witness leaves, and the
12 next witness is called. And that's -- and it moves along. It
13 can move along fairly rapidly as the process -- as we go
14 through the process. And it works the same for every witness.

15 State has the burden of proof again, they call their
16 witnesses, they present their case in chief. Defense has an
17 equal opportunity if they wish to do so, but they're under no
18 obligation whatsoever to do anything to present a case in chief
19 as well.

20 After the evidence, both case in chief is presented,
21 then the other side has the ability to present what's known as
22 rebuttal evidence, depending on whether or not as a consequence
23 of what you've heard they believe there's additional witnesses
24 that need to be called. Each side has an opportunity to
25 present rebuttal evidence.

1 After all of the evidence is in and the evidence is
2 closed, then we move into the instruction portion of the trial.
3 I produce a copy of instructions. It's basically an
4 8-and-a-half by 11 pieces of paper with the jury instructions
5 numbered for you. I make photocopies of the jury instructions
6 for you. I hand them to you and then I go through those
7 instructions with you. Basically, I read those instructions
8 with you.

9 And as much as frankly I would like to have a
10 conversation with you about the laws that applies (sic) in
11 every case, the instructions are of such importance that I
12 reduce them to writing, the instructions are what they are. I
13 read them to you after I've instructed you on the law, you're
14 holding onto that law.

15 Then we move into the argument phase. State goes
16 first, they present their closing argument. Defense has an
17 equal opportunity to present closing argument because the State
18 has the burden, they have what's called right of rebuttal, and
19 they finish the argument.

20 It's after argument is complete, the evidence is
21 closed, you've been instructed on the law, and you have heard
22 the argument. The argument again is designed to bring together
23 the law that you've been instructed on and the facts that
24 you've heard to arrive on an appropriate verdict based upon
25 that information.

1 It's at that point that I swear the officers to take
2 charge of you as a jury. You move back into the jury
3 deliberation room, and you begin your process to deliberate the
4 facts of the case as a panel. So that's kind of in a nutshell,
5 in ten minutes what you're going to be looking at in the next
6 four days or so.

7 Just as I indicated in opening statement, closing
8 arguments of counsel are not evidence. They're just intended
9 to give you an idea or some direction based upon what they have
10 heard, and they understand the law to be on what the
11 appropriate verdict based upon that law and fact is. It is up
12 to you to decide what the facts are in this case.

13 The -- I've talked about it's important for you to
14 understand. You can't talk to each other about the facts of
15 the case until the case is charged. You're probably going to
16 be going back into the jury room earlier than when the case --
17 when you're charged with the case.

18 When you go back there or when you go out to lunch --
19 again you can go out to lunch with each other, you just can't
20 talk about anything that's happened in court, nothing. You
21 wait in that effort until you're all in the room together and
22 you've heard all the evidence, and again you've been
23 instructed. So you can't talk to each other about the case at
24 any point.

25 Do not let anybody else talk to you about the case.

1 Should you head out on a break or a lunch and somebody attempt
2 to contact you and discuss this case with you, you need to pull
3 away from that conversation immediately and report that contact
4 back to the bailiff so I know what's happening, because he'll
5 bring that information to me so I can inquire.

6 Don't go home this afternoon or this evening, or at
7 any point during the trial and call up your next -- your
8 trusted friend, your advisor, your family lawyer, your
9 next-door neighbor over a barbeque or a planned social event
10 that you might have and say, I've just been charged as a member
11 of this jury -- picked to be a member of this jury, it's a
12 criminal case, and then begin to discuss the facts.

13 You can't talk to your wife, your husband, your
14 significant other. You can't talk to anybody about this case.
15 And you hold that information to yourself, you keep it to
16 yourself until you are charged with the case and you are able
17 to talk about it as a jury.

18 Do not read any news stories, articles, listen to any
19 radio or TV reports about the case. This is an open and public
20 courtroom. Those doors are open, our constitution says open
21 and public trials, and that's exactly what we have here.
22 People can come and go from this courtroom at any point at any
23 time.

24 There are people who are paid by the news bureaus, by
25 the TV, by the newspaper to be in this building and find out

1 what's happening in this building. So they come and go as they
2 please.

3 As a consequence of that, should you see anything in
4 the paper or see anything on the news about this case, you are
5 to disregard that information. Same reason as I've been
6 talking to you about from the beginning. You draw your
7 information in making this important decision from what you
8 hear from this witness stand, and from no other source.

9 I've already talked about not visiting the scene or
10 doing any independent legal investigation. So you understand
11 why you can't do that.

12 The parking situation I've already touched on. Dan's
13 going to hand you a piece of paper that's going to change your
14 parking situation for the better.

15 We'll start at 10:00 in the morning, run till
16 noon-ish -- run for an hour and 15 minutes for lunch take an
17 afternoon break, and run until about 5:00. You have already
18 got -- I've already told you about how to indicate to me that
19 you need a quick break. Happens fairly routinely.

20 Dan, let's hand out the notebooks if we can, and
21 hands out the pens or paper -- or the pencils. The notebooks
22 you are being handed will have a number on the top. That is
23 your designated seat number at this time. So that badge number
24 that you have, that three digit badge number has been replaced
25 by 1 through 14.

1 So keep that notebook that you have a specific number
2 on, that's your notebook for the pendency of this trial.
3 You're going to leave that here in the building. Dan protects
4 that information -- keeps that information private. But you
5 get your own notebook back as you go through the process so you
6 can keep that consistency. Everybody got a pen, got a pad?
7 Pencils? What do we need? Okay.

8 State, prepared for opening statement?

9 STATE'S OPENING STATEMENT

10 MR. HENDRICKS: Yes. Thank you, Judge. May it
11 please the Court, Mr. Maningo, Mr. Scow, ladies and gentlemen.
12 December 14th, 2007, almost two years ago, Joseph and Louise
13 Valles had the worst, their absolute worst nightmare come true.

14 As their 13 year-old daughter Amber Valles was
15 walking home from school that day in the afternoon hour, she
16 was approached from behind by the man that sits before you in
17 court today. She was threatened with a gun, she was told that
18 she had to go with him. The defendant took her to a vacant
19 apartment nearby, and she was raped. She was raped both
20 vaginally, and she was raped anally.

21 Now as I told you, the man responsible for this is
22 the individual that sits before you here today in court. What
23 you are going to find out is that Amber had no idea who Edward
24 Adams was before that date. She had never met this man, she
25 didn't know his name, she had never seen this man, she knew

1 nothing about this man. Of course after he raped her, this is
2 someone that she is going to spend the rest of her life trying
3 to forget.

4 What did he do on December 14th. Like I said, he
5 followed her home from school. He was sitting on a wall
6 smoking a cigarette, saw her walking across the street. He
7 goes behind her. And as he approaches from behind, he grabs
8 her arm or her hand, and basically threatens her and says,
9 you're going with me.

10 He's wearing a hoodie, puts his hand inside of the
11 hoodie. He has his hand pointed like he has a gun, and tells
12 her I've got a gun. So Amber complies with these threats.

13 As I stated, Amber is taken to a nearby vacant
14 apartment in that area of Buffalo and Charleston here in Clark
15 County. You're going to find out that that apartment was
16 located at the 1111 Apartments, and it's apartment number 204
17 in that Charleston, Buffalo area.

18 You're going to find out that this apartment was not
19 owned or rented by this man. This man had absolutely no
20 business being inside of that apartment at any time, much less
21 on the afternoon of December 14th. He never lived there, he
22 never rented that place. It was vacant because there was fire
23 damage and water damage, and it had been vacant for months.
24 Yet the defendant knew where it was, and that's where he took
25 this little girl.

1 You're going to find out he had access to this vacant
2 apartment because he jammed paper or some type or material
3 inside of that little area so that the door would not fully
4 close. She will describe to you that as he arrived at that
5 apartment, he was able to just push the door open and enter
6 inside.

7 You are also going to find out that inside of that
8 apartment, and Amber's going to tell you this as she was forced
9 inside of there, there was a black leather couch, and there
10 were jar candles located throughout that vacant apartment. She
11 is also going to describe that there was tennis shoes, these
12 black and white Nike tennis shoes located inside that
13 apartment.

14 Now, of course these are photos that are taken later
15 on after she reports that she was raped. These are photos that
16 are taken by the crime scene analyst that goes out to the scene
17 afterwards. And all of these things that she states and the
18 evidence will show are all corroborated by the evidence that's
19 going to be presented. As I said, you'll find that there was a
20 black couch in there, a black leather couch. There were
21 candles, there were those shoes.

22 You're also going to find out from her that there was
23 this dirty white towel located inside of that apartment, and
24 there was this blue tape that was wadded up. And you'll find
25 out the significance of that in a minute.

1 You can also see in that photo that there is, and we
2 will present evidence that there were these jar candles located
3 inside of that apartment. You're going to find out like I said
4 the significance of that towel later on, and also the
5 significance of those blue wads of tape located right there
6 next to the couch.

7 In regards to this couch, she's going to tell you
8 about what took place on that leather couch, what took place on
9 the floor next to that leather couch, and what took place as
10 she was bent over that black leather couch.

11 As they entered inside of that apartment, the
12 defendant lit a candle because there was no power on in that
13 apartment at that time. Like I told you, no one was renting
14 it, and he had absolutely no business being in there. He then
15 orders her to take off her clothes, to which she complies.

16 You have to keep in mind that this is a young girl
17 who two months earlier was just 12 years-old, and now had just
18 turned 13 years of age. She was in 7th grade at the time, and
19 went to Johnson Middle School. He ordered her to take off her
20 clothes, she complied. He then took off his own clothes. And
21 then the sexual assaulting began.

22 He started out with jamming his fingers inside of his
23 vagina. He then tried to force his penis inside of her vagina.
24 And then he stopped, and then he put her up on that leather
25 couch. Once again jammed his fingers inside of her vagina,

1 forced his penis or tried to force his penis inside of her
2 vagina, and then he just kept going.

3 He bent her over the couch, forced his fingers in
4 again, tried forcing his penis in again, but that wasn't enough
5 for him. He just kept going. He bent her over the couch, and
6 then started putting his fingers or his penis, or some unknown
7 object inside of her anus, into this young child's rectum.

8 Now during this time, you can imagine what was going
9 through her mind. And she is going to tell you, stop, please
10 stop, it's hurting me; please stop, it's hurting me. She's
11 going to tell you that she was a virgin. That she had never,
12 ever had sex before. This was the first time anything like
13 that had ever happened, at the hands of this man that sits
14 before you here today.

15 As she's saying, please stop, it's hurting me, and
16 crying for help, what does he do? He grabs the blue tape
17 that's in there. And you're going to find out that this wasn't
18 a thick, thick masking duct tape. It was a thinner painter's
19 type tape. But he grabbed it anyways, he tried putting it over
20 her mouth to keep her from crying out as he's telling her to
21 shut up.

22 He also wraps it around her wrists to try and keep
23 her from fighting back. But you're also going to hear from
24 Amber that it wasn't very strong, and she broke it loose. And
25 you're going to see that that blue tape was located by the

1 crime scene analyst exactly where she described she was being
2 taped up. And that's the blue tape in the photo.

3 She is also going to describe that while he was doing
4 this, he took out some lotion and started rubbing it on his
5 penis and masturbating. Providing himself a little lubrication
6 so he can either jam it inside of her vagina or jam it inside
7 her rectum. And she'll tell you that's what he was doing.

8 And you're actually going to find out that there was
9 a little lotion packet located right next to that couch area.
10 And the crime scene analyst will describe what they retrieved
11 from that item.

12 That white towel I talked about, after he was done
13 raping her repeatedly, over and over and over, and after he had
14 ejaculated -- and you'll find out that when the detective
15 eventually interviews this child, he asks her, "Do you know if
16 he ejaculated or not?" And she didn't even know what that was.
17 Had no idea what ejaculation meant. You're going to find out
18 about that ejaculation, and where it ended up in regards to the
19 inside of her body, the outside of her body, and her clothes.

20 But after he was done raping her both vaginally and
21 anally, he told her to go get that dirty towel, and start
22 cleaning herself up. Wipe herself up to try and get rid of the
23 evidence that was left there. Some dirty towel that was left
24 in this vacant apartment.

25 Unbeknownst to him, she wasn't going to be able to

1 clean everything up, because there was things that he left
2 inside of her, in a couple different parts inside of her body.
3 She couldn't clean up the blood that was now coming out of her
4 vagina. She couldn't clean up the blood that was now flowing
5 from her rectum. And you're going to find out about that when
6 the nurse comes in and testifies about the damage that this man
7 caused to this little thirteen year-old child.

8 She will tell you as she laid there and this was
9 happening, she did not fight him, bite him, kick him in the
10 groin, or anything like that. She laid there and said, "I just
11 hope he lets me go so I can see my mom and my dad again."
12 That's what she was praying for. She told her rapist, "Just
13 let me go, I won't tell anyone. Just please let me go, just
14 please let me go home."

15 He says to her, "You better not tell anyone or I'll
16 end up going to jail." Fortunately for her, her prayers were
17 answered. After this man got what he wanted, she was
18 eventually released.

19 You will find out that during this rape he had taken
20 her phone away, and taken the battery out. At the end of this
21 rape when he actually agreed to let her go, he threw the phone
22 at her, and she was allowed to leave. She gathered up her
23 underclothes, stuck them inside her backpack, and fled as the
24 defendant threw her phone at her.

25 You're going to find out from Amber's mother, Louise,

1 that she was calling her while this was taking place. And
2 Amber could not answer because the defendant had taken her
3 phone. She now has her phone back. She's fled this apartment,
4 and now she's heading towards a place where she thinks she's
5 going to be safe.

6 She ends up going near the McDonald's located in that
7 area. And her mom is repeatedly calling her, over and over and
8 over. And she's now able to answer that call. And all she can
9 say as she's crying and sobbing is, "Mom, please come get me."

10 When her mom shows up and they begin talking, she
11 says to her mother what had happened. And she put it in a way
12 that only a child can put it. She says to her mom, "Mom he put
13 his thing inside of me."

14 So you can imagine Louise Valles immediately called
15 9-11 because her daughter had just been raped. And now what
16 takes place is the gathering of evidence. This 911 call is one
17 of those calls that you're going to hear when the mother comes
18 in and testifies when she's trying to tell the 911 operator
19 what had just happened to her daughter, and trying to get
20 details about this man, about what he looks like and where he's
21 headed.

22 She's taken to UMC. And that's a photo of Amber as
23 she's about to begin her first examination as a woman, as a
24 child. The first time she's ever examined in her private parts
25 by a doctor. And why is that her first examination? Because

1 this man decided that he was going to take what he wanted, and
2 that's what he did.

3 So she goes in and talks with the nurse. She
4 describes digital penetration to both her vagina and to her
5 anus. She's going to describe penal penetration to both her
6 vagina and her anus.

7 Now in regards to her anus, she is going to say she
8 wasn't sure whether it was an unknown object, whether it was
9 his penis, or whether it was his fingers, because she was bent
10 over the couch, and he was standing behind her trying to do
11 these things to her as she was bent over.

12 Now during this medical exam, you're going to find
13 out from the nurse that there was abrasions on her vagina
14 located at 6:00. And you will find out where that is as far as
15 location on the vagina, called the posterior fourchette, and
16 there was oozing from that abrasion, fluids coming out of her,
17 blood is now coming out of her.

18 The results, the hymenal laceration with bleeding.
19 And you will find out what exactly that hymen is and how it's
20 damaged, and how it was damaged in this particular case, and as
21 I stated before that this young girl was a virgin at the time,
22 and there was damage to that hymenal tissue that surrounds her
23 vaginal orifice.

24 There is also going to be physical evidence that
25 shows there was an anal laceration at 1:00, 6:00, and at 11:00.

1 In three different spots this man caused damage to this young
2 girl's rectum and anus area because he was forcing either his
3 penis or his fingers, or something else into her anus.

4 Now in regards to this evidence collection from the
5 medical exam, you're going to find out that what the nurse does
6 during this exam is take swabs from Amber's vagina. A little
7 Q-tip goes inside of there to try and get evidence that can
8 somehow be linked back to a possible perpetrator.

9 Swabs are taken from her vagina, swabs are located
10 from her cervix, which is located inside of that orifice. And
11 swabs are also taken from Amber's anus. And you will find out
12 a little later why that's so important.

13 Now in regards to the description of the suspect,
14 keep in mind Amber had no idea who this individual was. Had
15 never met him before, had never spoken before, had never seen
16 him before. And she had to give a description of who the
17 perpetrator was.

18 At the time there hadn't been any evidence collected
19 from the crime scene. And at the time, there had not been any
20 evidence collected and compared to a DNA sample from her body,
21 from the removal -- from those swabs, and other things that
22 were taken from her during her exam.

23 So she's now trying to provide a description to the
24 detectives about who her perpetrator was. And this is what she
25 tells them, and this is what she tells the nurse that also

1 interviewed her as she was being probed and prodded in regards
2 to that exam. 25-45 years of age, bald head. There was a
3 band-aid on the left side of his head or his forehead. He had
4 crooked teeth, a goatee, and there were black and white shoes,
5 possibly Nike, located at the crime scene.

6 Now, the cops didn't know who the perpetrator was on
7 that date on December 14th. They eventually located an
8 individual, and I'll tell you how. An individual -- that same
9 person that's in the courtroom here, they located him about
10 January 10th, 11th, 12th, somewhere in that time frame. And
11 they took photos of this individual.

12 Keep in mind this description that she gives on
13 December 14th. Bald head, 25 to 45 years of age. Keep in mind
14 this is a young child describing approximately how old someone
15 much older than her is. Bald head, possible scar located on
16 the left side of his head, right above the left eye possible
17 scar. Keep in mind this is January 11th. No longer a band-aid
18 located there because it's now healed up, and it's now a scar.

19 Crooked teeth, one thing that she said the suspect
20 had. Crooked teeth. Goatee, mustache, beard, facial hair,
21 kind of reddish. Black and white Nike tennis shoes located at
22 the crime scene. Keep in mind these are all items that were
23 picked up after she gives her description of this guy.

24 Now what you are also going to find out is that there
25 were two other witnesses. We don't know who this guy is yet.

1 This is December 14th. Two other witnesses who were out there
2 at the same time that he's kidnapping this young girl. Two
3 other eye witnesses you're going to find out 12 and 13
4 years-old. You're going to find out -- did they do the
5 appropriate thing? That's left up for you to decide.

6 But they are going to come in and testify, and here
7 is what they're going to say. 12 year-old Jonathan Cerboni
8 describes to the cops white male adult, holding Amber by the
9 right arm. His hand was in his pocket like he had a gun,
10 exactly what Amber's going to describe for you. At the time we
11 thought we should call but they did not.

12 He was bald but had hair around his head, something
13 hanging from the left side of his head about 5'11, between 190
14 and 220 pounds, and at the time Amber had a scared look on her
15 face. Not just one eye witness, two. Keep in mind we don't
16 have fingerprints or DNA, or anything yet.

17 Eyewitness number 2, Angela Abarzua, 13 years-old.
18 Saw Amber with an adult male, recognized that it was not her
19 father, because she had met Amber's father before. Something
20 different that day; she usually says hi and hugs me. Had never
21 seen the man before. The man was holding her by the hand or
22 wrist, like pulling her. The man walked Amber up into a yard
23 to avoid us as we were walking on the sidewalk.

24 The man was wearing a hoodie, and tennis shoes. I
25 was going to call, but I didn't want to be blamed if we were

1 wrong. And you'll also find out that she was shown a photo
2 lineup of six different individuals, one of which was the
3 defendant. She picked out two individuals that looked like the
4 suspect, one of which was this man.

5 Now, like I said, this is evidence that we're going
6 to present to you. Evidence that at the time they had --
7 December 14th, they're collecting all the eye witness
8 identifications, they're collecting stuff from Amber's body.
9 But they're also going to the crime scene which they originally
10 could not locate because Amber was turned around and described
11 a different apartment.

12 So they thought hum, there's something wrong here.
13 She wasn't able to describe the right place. So the detective
14 was getting a little curious. But they did go back and find
15 that that same apartment was there. They spoke with the
16 apartment manager, and there was a vacant apartment. It was
17 described as having fire damage, water damage, and a black
18 leather couch.

19 And you're going to hear from the apartment manager
20 that that apartment had been vacant and this man had never
21 rented it. This man never belonged inside of it, had no
22 business being there.

23 Now, they go in and start retrieving evidence. And I
24 told you about those little jars, those glass candle jars.
25 They were lifting fingerprints from those. They were lifting

1 fingerprints from this little lotion packet here, because the
2 victim -- Amber had described him putting lotion on himself,
3 masturbating in front of -- lubricating himself up so he could
4 start putting it in her anus, and also inside her vagina.

5 That's what was left in regards to the fingerprint
6 dusting and stuff like that. And you're going to find out that
7 little packet right there was dusted for fingerprints. And you
8 can imagine who's fingerprints those were. This guy's.

9 So now they know. Edward Adams. Now we can put a
10 face to our suspect. Even though we had all of these witness
11 identifications, now is when they put together the six-pack
12 lineups with six different individuals that look similar to one
13 another to make it difficult for the witness to pick out.

14 Once they have this name almost a month later, Edward
15 Adam's photo is put in with five other guys that look very
16 similar to him. It's shown to Amber Valles, and who do you
17 think she picks out? There is the man that raped me. On a
18 scale of 1 to 10, it's a 10. I'm absolutely positive that's
19 the guy that raped me.

20 As I told you before, they presented it to that other
21 young lady, and she was able to pick out two individuals that
22 looked like the guy who was dragging, and taking Amber off
23 somewhere. And she picked out one other individual, and this
24 guy right here.

25 Now I already told you about the swabs and the exam

1 that Amber had to go through. The reason for that is so they
2 could retrieve the evidence, whether it be epithelial cells,
3 whether it be sperm cells, whether it be skin cells, whatever
4 it may be.

5 They retrieve those items so that they can test them
6 when they have a known exemplar -- a known individual, a sample
7 from that person. After this guy is identified after the photo
8 lineups, they then do a search warrant, get a buckle swab out
9 of his mouth, and then they start doing the DNA comparison.

10 Well we know his fingerprints were there, we know
11 he's been identified by the witnesses. And now, the final nail
12 in the coffin here. What was found in regards to the DNA
13 evidence? Edward Adams' sperm was found on Amber's vaginal
14 swab. This man's sperm was located inside this little girl's
15 vagina.

16 Edward Adams' sperm was found on Amber's cervical
17 swab located even deeper inside of her vagina. There was a DNA
18 mixture of two different individuals, that being Edward Adams
19 and Amber Valles in regards to epithelial or skin cells, or DNA
20 that the DNA expert will explain to you.

21 There was an inner thigh swab of a fluid, or a
22 colored fluid on her leg which showed a DNA mixture of Edward
23 Adams' and our victim, Amber Valles. How about the rectal and
24 anal swabs that they took from her at the hospital? A DNA
25 mixture of Edward Adams and Amber Valles.

1 Didn't stop there. There is also going to be
2 evidence presented that some of those items that were retrieved
3 from Amber at the hospital when she was subjected to that exam.
4 You're going to find out about her clothing.

5 You're also going to find out about that towel that I
6 talked about, the towel that was taken from the apartment, that
7 she is going to testify that the defendant said, wipe yourself
8 up with this dirty towel that was found in that apartment.

9 What was located on that dirty towel? A DNA mixture
10 of the defendant Edwards Adams, and Amber Valles, epithelial
11 mixture of both of them, and sperm from Edward Adams.

12 Now she was wearing white pants at the time, and she
13 was wearing a pink T-shirt. Those were also tested. Those
14 were items that were left at the hospital, and they were
15 collected by the detective and sent over to the DNA lab. And
16 what did it show? Epithelial fractions from Amber Valles, and
17 a sperm fraction from Edward Adams on both the victim's pants
18 and on her shirt.

19 So what the State submits to you is that this man was
20 identified by at least a couple different individuals as being
21 the kidnapper and rapist. There was fingerprints located at
22 the crime scene placing this man there, a man who had no
23 business being in that apartment, an apartment -- vacant
24 apartment that the victim described as being the place where
25 she was sexually assaulted.

1 Not only the identification and the fingerprints, but
2 the DNA. His cells, his sperm located all over her clothes,
3 and located inside her vagina and inside her anus.

4 This is a man who did not know this young girl. This
5 is a man, and the evidence will show, that was sitting outside
6 of a junior high school waiting for a victim. This is a man
7 that grabbed this 13 year-old girl off of the street in broad
8 daylight, threatened her with a gun, grabbed her, took her to a
9 vacant apartment, and raped her over and over and over again.

10 The evidence will show you that she did not know this
11 man, had nothing to do with this man, and she was an innocent
12 victim who was repeatedly raped at the hands of this man.

13 Now ladies and gentlemen, at the close of this trial
14 I'm going to ask you to hold him responsible, hold him
15 accountable for every one of his actions. Every single action.
16 Every single thing that he did to that young, 13 year-old
17 virgin girl.

18 I'm going to ask you at the close of this trial to
19 find him guilty of kidnapping, first-degree kidnapping with a
20 deadly weapon, battery with an intent to intent to commit
21 sexual assault with a deadly weapon, all of those separate
22 counts of sexual assault on a minor under 14 years of age with
23 a deadly weapon.

24 And I'm going to ask you to find him guilty of open
25 or gross lewdness for exposing his penis and masturbating in

1 front of her just prior to inserting his penis into her vagina,
2 or into her rectum.

3 At the close of this trial, I'm going to say please
4 hold him accountable for all of his actions. Then I'm going to
5 ask you to find him guilty of each and every one of those
6 charges. Thank you.

7 THE COURT: Mr. Maningo.

8 MR. MANINGO: Thank you, Judge.

9 DEFENSE'S OPENING STATEMENT

10 MR. MANINGO: Well the prosecution's story certainly
11 sounds like a nightmare, like a nightmare straight out of one
12 of these crime show dramas. Unfortunately however, it is as
13 inaccurate and fictional, and as much fantasy as those TV shows
14 as well.

15 This is not a case about an abduction. This is not a
16 case about a kidnap. This is a case about a teenager who goes
17 thrill seeking after school, and when confronted by her mother
18 decides that it's easier to tell a lie than to take
19 responsibility.

20 It doesn't excuse the actions of Mr. Adams, because
21 at the time he's 25 years-old. 25 years-old is too old, and it
22 is still against the law. And there is a charge for that, an
23 appropriate charge for that. There was no use of a deadly
24 weapon, and there was no sexual assault. This is a consensual
25 act between two people, and that's what the evidence is going

1 to show you.

2 Now on December 14th of 2007, Amber was with some
3 friends out in front of her school, underneath a tree where
4 they hang out. And she was going to -- the initial plan was
5 that she was going to stay the night at one of her friend's
6 house; her friend is Cierra. And Cierra had called her mom and
7 asked if she had permission to have her friend come over, her
8 friend being Amber. Cierra's mom said tonight's not a good
9 night, it's not going to work out.

10 So rather than call her mom and have her come pick
11 her up, Amber decided, well you know what, I can't stay at your
12 house, but I'm going to go off on my own. I'm going to go on
13 my own, I'm going to walk home. I'll eventually call my mom to
14 get picked up, or I'll make my way there. But I'm not going to
15 go to your house Cierra, and I'm not going to call my mom, even
16 though she's got her cell phone on her and everything else.

17 So she takes off. And she goes through a field
18 that's next to the school, and then ends up on a public street.
19 I believe it's Alta at this point. And she's on a sidewalk
20 where not just Mr. Adams is there who's across the street, but
21 also a number of her other schoolmates are there. Now, keep in
22 mind, this is the middle of the middle of the day. Broad
23 daylight, public sidewalk. Other kids she goes to school with
24 are right there.

25 Now Mr. Adams is across the street. She approaches

1 Mr. Adams, and they begin a conversation. They begin talking.
2 Eventually they begin flirting with one another, and they begin
3 walking together.

4 Now, there's no car involved. Mr. Adams doesn't have
5 a car. Middle of the day, light out, no car where you could
6 lure someone in and then drive off quickly. The two of them
7 begin walking on foot together. Now you're going to see a map
8 later on as the evidence comes out, and you're going to see
9 that where they made contact from that point all the way to
10 where they go, which is 1111 Warbonnet Way.

11 It's about a 25-minute walk. So they're walking
12 public streets in broad daylight for 25 minutes together. No
13 one jumps in to help what Amber will describe to you as a
14 distressful situation. Her friends, like this Jonathan Cerboni
15 who's on the street, who supposedly witnesses this and says
16 that Amber looked very scared.

17 She was being dragged away by a man who looked like
18 he had a gun against her will. And so what does Jonathan do?
19 Not a darn thing. He doesn't use his cell phone, which every
20 teenager has nowadays, and call 911. He doesn't call his own
21 mom, he doesn't go back into the school that's right there and
22 say, hey, I think there's a problem. Does that make any sense?
23 I mean, this is one of their big eyewitnesses they're talking
24 about.

25 Also on that public street, Angela -- and I'll

1 probably mispronounce this, but it's Abarzua, is the other
2 teenager who's there on the street. And whatever story she
3 tells now in court, it sounds like it's going to be different
4 from what she told the lead detective in this case.

5 Because what she tells the lead detective that she
6 witnessed is that Amber was chasing down Mr. Adams from behind,
7 following him, that she was having a hard time keeping up with
8 him as he was walking down the street away from her. This is
9 what Angela tells the detective, this is what she witnesses.

10 Now suddenly I guess she's going to come in and tell
11 a different story. We'll have to wait and see. But the
12 detective already wrote down in his report what he interviewed
13 her about.

14 The two of them walked together about 25 minutes.
15 They end up at this abandoned apartment complex. Or not the
16 entire complex, but this unit. There was a fire in this
17 building, and the building had been abandoned. It was shut
18 down. There was no running water whatsoever, there was no
19 electricity.

20 This is not a place where anyone was living. And Mr.
21 Adams, as you'll hear when the arrest was made, you will hear
22 from the police, that he had his own residence. This is not
23 someplace where he was squatting, or anything else. It seems
24 that a number of other people had been in and out of this
25 apartment.

1 Some evidence of that is that they found prescription
2 medication bottles on the counter belonging to someone by the
3 name of I think it's Roda Wate (phonetic). Has nothing -- she
4 has nothing to do with anyone in this case. But for some
5 reason her prescription meds are there. There's other items
6 that appear at this scene.

7 It seems that this is a place where everyone in the
8 neighborhood -- well, I shouldn't say everyone. But a number
9 of people in the neighborhood probably knew was abandoned, and
10 wasn't being used. It wasn't something that Mr. Adams had set
11 up there, or anything else. There seems to have been quite a
12 bit of traffic in this complex. The two of them go to this
13 place, both making bad decisions admittedly. They have a
14 consensual encounter, and then they go their separate ways.

15 Now, think about this. Mr. Hendricks described, you
16 know, how brutal this encounter was, and used the word rape
17 over and over and over. After this happens, supposedly at
18 gunpoint, Mr. Adams, I guess then takes Amber's cell phone,
19 fully functional, working, not broken. You'll hear from her
20 that the battery was pulled apart, that he actually put it back
21 together.

22 But either way -- and he hands her this cell phone,
23 and says okay, that's it. I'm going to let you go. Here's a
24 phone where you can call 911, where you can call the police,
25 where you can call your mom, where you can call your best

1 friend. But that's the story. That's the story of what
2 happened.

3 You'll hear that when she does leave and goes on her
4 way, that she doesn't do any of those things. She doesn't call
5 911 or the police. She doesn't even call her mom. The first
6 contact made with her mother is made by the mother, the mother
7 who's worried because her daughter, who was supposed to be
8 either going to her friend Cierra's house or coming straight
9 home, had done neither. Mom calls Amber.

10 Now, according to the State's story, she had just had
11 this horrible nightmare experience, and then was blessed with
12 getting her phone back at least, and she doesn't even use it to
13 call anybody? Instead, she's just headed off down towards the
14 McDonald's, and the gas station that are in the area.

15 Now her mom calls. And her mom calls and says, where
16 have you been? And she's angry, and Amber knows. And she --
17 Amber tells the detective during her interview this. She knows
18 that when her mom calls, her mom is mad. Because she's been
19 worried sick, she doesn't know where her kid is. Any parent
20 would probably feel the same.

21 So Amber says, yes. When my mom called, I answered.
22 I knew she was mad, I knew she was upset. So I told her, hey,
23 just go pick me up at the McDonald's, and I'll tell you what
24 happened. And this is the point as I mentioned earlier where
25 she decided that telling a lie was a lot easier than taking

1 responsibility.

2 Let's clear something up right now. Because you just
3 watched about 30 minutes of slides about identification. I'll
4 tell you right now, this is not a who-done-it. Edward Adams
5 was there with Amber Valles on December 14th of 2007. He was
6 there. You saw all these slides, and heard all this -- about
7 all this evidence that will be coming out through the trial.
8 And it is true, it will be. But let's talk about it.

9 You are going to hear DNA evidence from clothing and
10 towels, and stuff like that. And all that DNA evidence is
11 going to show you is that Mr. Adams was there. Guess what? As
12 of about two minutes ago, you already know that.

13 You're going to be shown fingerprint evidence. And
14 you're going to be shown experts who come in here, and they
15 talk about fingerprints, and they're going to give you all
16 kinds of explanations. And you know what that's for? To show
17 that Mr. Adams was there. Once again, you're already going to
18 know that.

19 You're going to hear about descriptions that match
20 Mr. Adams. They should match Mr. Adams, because it was already
21 him. You already know that. You're going to hear about a
22 photo lineup, and probably more slides, and more pictures. And
23 it all goes to the same issue, which isn't an issue at all,
24 identification. Mr. Adams was there.

25 So let's talk about the evidence that you're going to

1 hear and see now that goes to the real issue. And that issue
2 is what was going on in a teenager's head. Okay, that's what
3 it is. Consent, or not consent. That's the issue for this
4 trial. That's what the evidence needs to lean towards.

5 And the only way you can get to that is by looking
6 inside Amber's head, and trying to figure out what was going
7 on. Now, exploring the mind of a teenager is never an easy
8 task, so you look at the evidence that surrounds it. And here
9 is some of the evidence that you are going to hear, and you are
10 going to talk about.

11 As already mentioned, time and place. This so-called
12 abduction takes place on a public street without any vehicle in
13 order to make a getaway, or get anywhere quickly. The entire
14 thing is done on foot, in public. They pass several public
15 markets, intersections, storefronts. And not once does anybody
16 see any young girl in distress where they need to help, where
17 they need to call 911, where they need to call a patrol
18 officer.

19 You will hear that the mom was upset. You will hear
20 that from her, and from Amber. And that she is the one that
21 made the phone call to contact Amber, not that Amber contacted
22 her after this event. You will hear that no one saw a gun.
23 Period. There was no description of a gun. No one can talk
24 about what this gun looked like.

25 No gun was ever found. Not at the scene where they