

IN THE SUPREME COURT OF THE STATE OF NEVADA

KODY HARLAN

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Mar 09 2021 02:44 p.m.
Case No. 80318
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT'S APPENDIX
Volume IV**

JEAN J. SCHWARTZER, ESQ.
Nevada Bar No. 11223
Law Office of Jean J. Schwartzer
170 S. Green Valley Parkway
#300
Henderson, Nevada 89012
(702) 979-9941
Attorney for Appellant

STEVEN B. WOLFSON, ESQ.
Nevada Bar No. 1565
Clark County District Attorney
Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2500
Attorney for Respondent

Harlan v. State Case No. 80318

INDEX TO APPELLANT'S APPENDIX

<u>Document</u>	<u>Page</u>
Information (7.17.2018)	1-4
Instructions to the Jury (8.7.2019)	50-94
Judgment of Conviction (12.12.2019)	178-179
Motion in Limine re Bad Acts (4.18.2019)	37-37
Motion for New Trial (8.13.2019)	95-99
Motion to Sever (4.8.2019)	5-17
Notice of Appeal filed (12.23.2019)	180-181
Response to State's OPP to MTN for New Trial (10.3.2019)	167-177
State's OPP to MTN in Limine re bad Acts (4.25.2019)	38-47
State's OPP to MTN to Set Aside Verdict (8.20.2019)	100-117
State's OPP to MTN to Sever(4.11.2019)	18-30
State's Supplemental Opposition to MTN for New Trial (9.26.2019)	139-166
Supplemental Briefing for MTN for New Trial (9.12.2019)	118-138
Verdict Form (8.7.2019)	48-49
<u>Transcript/Minutes</u>	<u>Page</u>
Transcript of Evidentiary Hearing (1.22.2020)	1529-1600
Transcript of Hearing on MTN for New Trial (1.22.2020)	1504-1528
Transcript of Hearing on MTN to Sever (5.1.2020)	1644-1653
Transcript of Jury Trial Day 1 (1.22.2020)	182-503

Transcript of Jury Trial Day 2 (1.22.2020)	504-699
Transcript of Jury Trial Day 3 (1.22.2020)	700-954
Transcript of Jury Trial Day 4 (1.22.2020)	955-1146
Transcript of Jury Trial Day 5 (1.22.2020)	1147-1375
Transcript of Jury Trial Day 6 (1.22.2020)	1346-1495
Transcript of Jury Trial Day 7 (1.22.2020)	1496-1503
Transcript of Sentencing (1.22.2020)	1601-1643

1 on any subject connected with the case. You cannot do any kind of
2 legal or factual research, or investigation on your own, or attempt
3 to look up any information about people involved in the case either.

4 What that means in simple terms is when we take a break,
5 you got to find other things to talk about. The only time you can
6 talk about the case is when you're in the deliberation room
7 deliberating on the verdict. Every other time, you have to just find
8 other things to socialize about while you're sitting around waiting
9 for us to get started back up at court.

10 How many of you do not have smart phones?

11 Got a couple of folks left. Okay.

12 So those of you that do have smart phones, please,
13 whether it's your phone now, computer at home, anything like that,
14 no legal or factual research. Don't go on the Internet looking up
15 terms or anything like that. Everything you need to know to decide
16 a case you learn here in court. And the only way the process is fair
17 to the parties and to each other as jurors is if you're all listening to
18 and receiving the same information and then talking about that
19 same information to reach a verdict.

20 How many of you do not have any kind of social media
21 accounts? I think there's nobody in the world left, right?

22 Okay. Got a few there as well.

23 Same thing with social media. Please don't go on social
24 media talking about you're doing jury duty or updating your status
25 or anything like that. Even though that can really be kind of an

1 innocent thing from a juror standpoint, you're going to get
2 everybody's opinions bombarded back at you about what they think
3 about those things and I would prefer that we kind of prohibit any
4 of that right now, okay?

5 So please do not engage in any kind of social media
6 communication about the fact that you're doing jury duty.

7 I know that, particularly when we're done and we have 14
8 of you that are going to be staying on with this, you're going to
9 need to let your loved ones and your employers and folks know that
10 you're going to be on a jury. But let's avoid social media
11 communication, okay?

12 So when you come back to court, I'm going to say to just
13 collect downstairs again on the third floor and I'll have the marshal
14 come down there and get you and we'll try and start up at 1:30
15 because it's just about 12:30, okay?

16 If you want to leave anything in the courtroom, you
17 brought a book with you, a bottle of water, whatever it is, you're
18 going to come back to the same chairs you're in, so feel free to
19 leave anything there that you want to, okay?

20 And I will see you all back in an hour. Thank you very
21 much.

22 Ms. Gideon, can you go ahead and stay there for just a
23 second for me, please? Thank you.

24 [Outside the presence of the prospective jury,
25 with the exception of Prospective Juror Number 402]

1 THE COURT: You guys can be seated.
2 I just wanted to follow up with you a little bit since I didn't
3 really want to bring it up in the presence of everybody else. But
4 you had indicated that you went to high school with Mr. Minkler?
5 PROSPECTIVE JUROR NUMBER 402: Uh-huh.
6 THE COURT: And with whom else?
7 PROSPECTIVE JUROR NUMBER 402: Jaiden.
8 THE COURT: Pardon.
9 PROSPECTIVE JUROR NUMBER 402: Jaiden.
10 THE COURT: Jaiden. Okay. Can you make sure you keep
11 that kind of close because I have a little trouble hearing you?
12 So you went to high school with Mr. Minkler and Mr.
13 Caruso. Ahead of them? Behind them? What was the timeframe?
14 PROSPECTIVE JUROR NUMBER 402: Ahead of them.
15 THE COURT: Ahead of them. By how many years.
16 PROSPECTIVE JUROR NUMBER 402: I was one year
17 ahead of Matthew.
18 THE COURT: Okay. And did you know that gentleman at
19 all?
20 PROSPECTIVE JUROR NUMBER 402: Yeah.
21 THE COURT: Like friends and would socialize with him?
22 PROSPECTIVE JUROR NUMBER 402: Uh-uh.
23 THE COURT: No. Just kind of knew who he was?
24 PROSPECTIVE JUROR NUMBER 402: Yeah.
25 THE COURT: And then Mr. Caruso, was that the same?

1 PROSPECTIVE JUROR NUMBER 402: Yeah.

2 THE COURT: Just kind of --

3 PROSPECTIVE JUROR NUMBER 402: I didn't --

4 THE COURT: -- knew who he was?

5 PROSPECTIVE JUROR NUMBER 402: Yeah.

6 THE COURT: Okay. Was there ever any occasion that you

7 had any discussion with any of your classmates or anybody else

8 about what was alleged to have happened that's kind of part of this

9 case?

10 PROSPECTIVE JUROR NUMBER 402: It was more of like a

11 he said, she said, but like I never really listened to [indiscernible].

12 THE COURT: Okay. Got to keep that up here.

13 PROSPECTIVE JUROR NUMBER 402: Oh.

14 THE COURT: You got a really soft voice, I'm sorry.

15 So you said it was kind of a he said, she said?

16 PROSPECTIVE JUROR NUMBER 402: Yeah, but I never

17 like really like listened to it or like paid attention to it.

18 THE COURT: Okay. Just kind of chatter amongst your

19 classmates; people talking about what they think may have

20 occurred or didn't occur?

21 PROSPECTIVE JUROR NUMBER 402: Yeah.

22 THE COURT: Okay. State, you want to ask any questions

23 of Ms. Gideon?

24 MR. PESCI: Yes, thank you.

25 When you say the he said, she said, are you referring to

1 the allegations of the crime?

2 PROSPECTIVE JUROR NUMBER 402: Yeah, like people
3 talking about it.

4 MR. PESCI: Okay. So you've heard some things about the
5 crime outside of the courtroom?

6 PROSPECTIVE JUROR NUMBER 402: Uh-huh.

7 MR. PESCI: Is that a yes?

8 PROSPECTIVE JUROR NUMBER 402: Yes.

9 MR. PESCI: Sorry.

10 PROSPECTIVE JUROR NUMBER 402: No --

11 MR. PESCI: In court we just have to do a clear answer one
12 way or the other.

13 Okay. So do you have some information, whether it's
14 accurate or not, about what happened, based on what you're telling
15 us?

16 PROSPECTIVE JUROR NUMBER 402: Not really. I didn't
17 really pay attention to it, so like I didn't really like -- it just like went
18 out my ear and then out the other. So I didn't really like pay
19 attention to it.

20 MR. PESCI: Okay. Do you think that would affect your
21 ability to listen to the evidence here and only make your decision
22 on the evidence you hear in court?

23 PROSPECTIVE JUROR NUMBER 402: Yeah, I could -- I
24 don't really know much about it, so I'd rather hear both sides from
25 it then --

1 MR. PESCI: Okay. All right. Thank you very much.
2 THE COURT: Mr. Yampolsky.
3 MR. YAMPOLSKY: When you said he shed -- he said, she
4 said, that was on -- was that face-to-face?
5 PROSPECTIVE JUROR NUMBER 402: Yeah, people talk
6 about it -- like other people and I'd just be there with it, but I
7 wouldn't like listen to it.
8 MR. YAMPOLSKY: But do you remember specifically
9 what they were saying?
10 PROSPECTIVE JUROR NUMBER 402: No, not really.
11 MR. YAMPOLSKY: And -- you don't think that would
12 affect you being a juror?
13 PROSPECTIVE JUROR NUMBER 402: No.
14 MR. YAMPOLSKY: I have nothing further.
15 THE COURT: Mr. Helmick.
16 MR. HELMICK: Thank you, Your Honor.
17 Do you have social media?
18 PROSPECTIVE JUROR NUMBER 402: Yeah.
19 MR. HELMICK: Okay. Let me get over here by the
20 microphone.
21 Okay. When you were on -- what do you have for social
22 media?
23 PROSPECTIVE JUROR NUMBER 402: I have Twitter,
24 Snapchat, Instagram.
25 MR. HELMICK: Okay. And you are friends with -- do you

1 have other friends that also know Jaiden and Matthew?

2 PROSPECTIVE JUROR NUMBER 402: Yeah.

3 MR. HELMICK: Okay.

4 PROSPECTIVE JUROR NUMBER 402: Yes.

5 MR. HELMICK: Was there a lot of talk on social media
6 about this incident at the time?

7 PROSPECTIVE JUROR NUMBER 402: Yeah, when it first
8 happened, yeah.

9 MR. HELMICK: Okay. Did you read any of those
10 conversations on the social media?

11 PROSPECTIVE JUROR NUMBER 402: Not really.

12 MR. HELMICK: How were you aware of the talk about
13 Matthew and --

14 PROSPECTIVE JUROR NUMBER 402: There'd be like
15 pictures of him and I'd like brief through it, but I wouldn't like really
16 like read it or --

17 MR. HELMICK: Okay.

18 PROSPECTIVE JUROR NUMBER 402: -- anything like that.

19 MR. HELMICK: So you just read it quickly, is that --

20 PROSPECTIVE JUROR NUMBER 402: Yeah.

21 MR. HELMICK: -- what you're saying?

22 Okay. And was it a big conversation amongst the school
23 around this time?

24 PROSPECTIVE JUROR NUMBER 402: It was more like
25 when school was ending so like during the summer, so I already

1 graduated.

2 MR. HELMICK: Did you receive any text messages from
3 anybody in regard to this incident?

4 PROSPECTIVE JUROR NUMBER 402: Uh-uh.

5 MR. HELMICK: No?

6 PROSPECTIVE JUROR NUMBER 402: Uh-uh.

7 MR. HELMICK: Okay. Thank you.

8 THE COURT: Okay. All right. Ms. Gideon, go to lunch. I
9 appreciate it very much. And we'll see you back in an hour, okay?
10 Thank you.

11 [Outside the presence of Prospective Juror Number 402]

12 THE COURT: You guys have any thoughts on Ms.
13 Gideon?

14 MR. PESCI: We'll defer.

15 MR. HELMICK: I mean, I think it's risky to keep her on
16 here.

17 THE COURT: Okay. Well look, I think you're right and it's
18 always you worry about is there something that's going to jog
19 somebody's memory but Mace asked a question that I would have
20 asked after you all had the opportunity and not asked which was do
21 you remember anything specific about anything that you heard and
22 she said no. So --

23 MR. YAMPOLSKY: And Your Honor, with that being said,
24 I have to agree with Mr. Helmick because she may have read and
25 she doesn't remember anything specific and then something may

1 be said or another picture to jog her memory and I think in an
2 abundance of caution, we should let her go.

3 THE COURT: State?

4 MR. PESCI: We have no objection to their motion to
5 excuse her.

6 THE COURT: Okay. All right. I will go ahead and excuse
7 her.

8 So when she gets back after lunch, you can just tell her
9 that she's been excused, okay?

10 THE MARSHAL: What was her number again?

11 THE COURT: Her number --

12 MR. PESCI: 402.

13 THE COURT: Thank you.

14 THE MARSHAL: 482?

15 MR. PESCI: 4-0 -- 4-0-2.

16 THE COURT: 402.

17 MR. HELMICK: Who will take that spot?

18 THE COURT: Okay. You guys have anything else outside
19 the presence?

20 MR. PESCI: No.

21 MR. YAMPOLSKY: No, Your Honor.

22 THE COURT: No, okay. Then go to lunch. I'll see you
23 back in an hour, guys.

24 THE CLERK: It will be Christopher Young.

25 MR. HELMICK: Christopher Young.

1 THE CLERK: Christopher Young.

2 THE COURT: Christopher Young's taking that place.

3 [Court recessed at 12:33 p.m., until 1:49 p.m.]

4 [In the presence of the prospective jury]

5 THE MARSHAL: Jurors are present.

6 THE COURT: All right. We will be back on the record. Mr.

7 Harlan, Mr. Caruso, their attorneys, States' attorneys are all present.

8 Our prospective jurors are present as well. We are going to fill the

9 seat that was vacated by Ms. Gideon, who is?

10 THE CLERK: Badge 540, Christopher Young.

11 THE COURT: Mr. Young.

12 How are you doing, Mr. Young?

13 PROSPECTIVE JUROR NUMBER 540: Good. And

14 yourself, sir?

15 THE COURT: I'm doing well, thank you.

16 Could you go ahead and take that seat on the top row for

17 me, please, and we'll get you the microphone?

18 So Mr. Young, how long have you lived here, sir?

19 PROSPECTIVE JUROR NUMBER 540: A year and a half,

20 sir.

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

22 PROSPECTIVE JUROR NUMBER 540: The great state of

23 Tennessee.

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

25 PROSPECTIVE JUROR NUMBER 540: High school.

1 THE COURT: What type of work do you do?
2 PROSPECTIVE JUROR NUMBER 540: I run a dental
3 laboratory.
4 THE COURT: Are you married?
5 PROSPECTIVE JUROR NUMBER 540: Divorced.
6 THE COURT: Any children?
7 PROSPECTIVE JUROR NUMBER 540: One daughter.
8 THE COURT: And how old is she?
9 PROSPECTIVE JUROR NUMBER 540: Seven.
10 THE COURT: Have you ever been a juror before?
11 PROSPECTIVE JUROR NUMBER 540: No, sir.
12 THE COURT: Do you want to be?
13 PROSPECTIVE JUROR NUMBER 540: I guess so. Why
14 not?
15 THE COURT: Have you ever been the victim of a crime
16 before?
17 PROSPECTIVE JUROR NUMBER 540: No, sir.
18 THE COURT: Have you ever arrested, convicted of any
19 kind of crime?
20 PROSPECTIVE JUROR NUMBER 540: I was arrested.
21 Charges were dropped.
22 THE COURT: Okay. And how long ago was that?
23 PROSPECTIVE JUROR NUMBER 540: Five years.
24 THE COURT: Okay. And what were you originally
25 arrested for?

1 PROSPECTIVE JUROR NUMBER 540: Assault.
2 THE COURT: Okay. Back in Tennessee?
3 PROSPECTIVE JUROR NUMBER 540: Yes, sir.
4 THE COURT: Okay.
5 PROSPECTIVE JUROR NUMBER 540: Bar fight.
6 THE COURT: Did you say bar fight?
7 PROSPECTIVE JUROR NUMBER 540: Bar fight.
8 THE COURT: Got it.
9 PROSPECTIVE JUROR NUMBER 540: With my buddy, so.
10 THE COURT: Do you believe you'd be able to keep an
11 open mind in the case and not decide any issues until the case is
12 submitted to you for deliberation?
13 PROSPECTIVE JUROR NUMBER 540: Yes, sir.
14 THE COURT: Do you believe you could treat police
15 officers like any other witness and not judge what you thought
16 about their testimony until you've heard everything in evidence?
17 PROSPECTIVE JUROR NUMBER 540: Yes, sir.
18 THE COURT: Okay. So why don't you hold on to the
19 microphone for me and let me just kind of get up to the top row
20 there.
21 Any other persons on the top row ever been a juror
22 before?
23 Yep. Could you pass it down to your -- oh well actually
24 hold on. Why don't you go right to your right, to Ms. Huston first?
25 PROSPECTIVE JUROR NUMBER 506: So --

1 THE COURT: Ms. Huston, how many times?
2 PROSPECTIVE JUROR NUMBER 506: That I was called to
3 be it?
4 THE COURT: No, no, no. Actually served on a jury --
5 PROSPECTIVE JUROR NUMBER 506: Oh --
6 THE COURT: -- not just do this.
7 PROSPECTIVE JUROR NUMBER 506: -- none.
8 THE COURT: No?
9 PROSPECTIVE JUROR NUMBER 506: No.
10 THE COURT: Okay, great.
11 Then we can pass it down to the left if you would, please.
12 Mr. Gutierrez-Sosa.
13 All right. Sir, how many times?
14 PROSPECTIVE JUROR NUMBER 505: Once.
15 THE COURT: And how long ago was that?
16 PROSPECTIVE JUROR NUMBER 505: Roughly two years
17 ago.
18 THE COURT: Okay. And was that here in Las Vegas?
19 PROSPECTIVE JUROR NUMBER 505: Yes.
20 THE COURT: Criminal or civil trial?
21 PROSPECTIVE JUROR NUMBER 505: Civil.
22 THE COURT: Do you remember what the nature of the
23 dispute was?
24 PROSPECTIVE JUROR NUMBER 505: It was an
25 automobile accident.

1 THE COURT: Did the jury reach a verdict?
2 PROSPECTIVE JUROR NUMBER 505: Yes.
3 THE COURT: And were you the foreperson of the jury?
4 PROSPECTIVE JUROR NUMBER 505: No.
5 THE COURT: Okay. Great.
6 Anybody else on that top row?
7 Nope. How about middle row? Anybody been a juror on
8 the middle row?
9 Bottom row?
10 No, okay.
11 Top row, anybody ever been the victim of a crime before?
12 Okay. And Mr. Gutierrez-Sosa, was this what you started
13 to talk about earlier and I said we'd get the microphone over?
14 PROSPECTIVE JUROR NUMBER 505: Yes, about ten years
15 ago.
16 THE COURT: A car burglary or something.
17 PROSPECTIVE JUROR NUMBER 505: My car was broken
18 into.
19 THE COURT: Okay.
20 PROSPECTIVE JUROR NUMBER 505: Car stereo stolen.
21 That's it.
22 THE COURT: Here in Las Vegas?
23 PROSPECTIVE JUROR NUMBER 505: Yes.
24 THE COURT: Was it reported to the police?
25 PROSPECTIVE JUROR NUMBER 505: No.

1 THE COURT: Okay. Thank you.
2 Who else had their hands up?
3 Okay. Why don't you go right to your right? There you
4 go.
5 Mr. Meng.
6 PROSPECTIVE JUROR NUMBER 390: I've been the victim
7 of armed robbery like four different times.
8 THE COURT: Okay. In like the nature of work you were
9 doing, just kind of --
10 PROSPECTIVE JUROR NUMBER 390: Correct, yeah. I was
11 the store director for Albertsons and --
12 THE COURT: Got it.
13 PROSPECTIVE JUROR NUMBER 390: -- get robbed in the
14 morning.
15 THE COURT: Okay. And were all those here in Las Vegas
16 or --
17 PROSPECTIVE JUROR NUMBER 390: Yes, they were.
18 THE COURT: All those. So when about -- well how long
19 was the last one?
20 PROSPECTIVE JUROR NUMBER 390: You know, it's
21 between 10 and 15 years ago.
22 THE COURT: Were each of them reported to the police?
23 PROSPECTIVE JUROR NUMBER 390: Absolutely.
24 THE COURT: And did any of them result in you having to
25 go to court and testify?

1 PROSPECTIVE JUROR NUMBER 390: I wish.
2 THE COURT: Did the matters go to court at all or --
3 PROSPECTIVE JUROR NUMBER 390: I have no idea.
4 THE COURT: No idea. Got it, okay. Thank you.
5 Who else had their hand up? Up right -- why don't you go
6 right to your -- well, okay, go ahead. No, it's okay. Right to your
7 left, thank you.
8 Yeah, Mr. Contreras.
9 PROSPECTIVE JUROR NUMBER 378: Yeah, my truck was
10 stolen in 2007.
11 THE COURT: Okay. Was that here in Las Vegas?
12 PROSPECTIVE JUROR NUMBER 378: Yes.
13 THE COURT: Reported to the police?
14 PROSPECTIVE JUROR NUMBER 378: Yes.
15 THE COURT: And did you ever go to court?
16 PROSPECTIVE JUROR NUMBER 378: Yes.
17 THE COURT: Did you testify?
18 PROSPECTIVE JUROR NUMBER 378: Yes.
19 THE COURT: Was it in like a trial like this?
20 PROSPECTIVE JUROR NUMBER 378: No.
21 THE COURT: No. So down in the lower courts, a
22 preliminary hearing maybe?
23 PROSPECTIVE JUROR NUMBER 378: So I guess the guy
24 had a lot of charges already --
25 THE COURT: Okay.

1 PROSPECTIVE JUROR NUMBER 378: -- and mine was
2 just --

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

4 So go back this way. Who was the first hand I had?

5 Okay. Thank you. And that is Badge Number -- Mr.
6 Barrett, correct?

7 PROSPECTIVE JUROR NUMBER 398: Yeah.

8 THE COURT: 398, thank you.

9 PROSPECTIVE JUROR NUMBER 398: 398. A couple of
10 home burglaries and one armed robbery.

11 THE COURT: Burglaries here in Las Vegas?

12 PROSPECTIVE JUROR NUMBER 398: One of them about
13 ten years ago.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER 398: And the other one
16 was 25 years ago.

17 THE COURT: What about the armed robbery, where was
18 that?

19 PROSPECTIVE JUROR NUMBER 398: That was roughly 22
20 years ago in LA.

21 THE COURT: Okay. The burglary in Las Vegas, was it
22 reported to the police?

23 PROSPECTIVE JUROR NUMBER 398: Yes.

24 THE COURT: And in any of the events, elsewhere or here,
25 did you ever go to court and testify?

1 PROSPECTIVE JUROR NUMBER 398: No.

2 THE COURT: Okay. Thank you.

3 Ms. Huston?

4 PROSPECTIVE JUROR NUMBER 506: Yes. Last summer
5 my -- our vehicle was -- the window was busted out and my
6 husband's bike was stolen.

7 Then in 2 --

8 THE COURT: Was that here in Las Vegas that it occurred?

9 PROSPECTIVE JUROR NUMBER 506: North Las Vegas.

10 THE COURT: And was that reported to the police?

11 PROSPECTIVE JUROR NUMBER 506: It was not.

12 THE COURT: Okay. Thank you.

13 PROSPECTIVE JUROR NUMBER 506: Two years ago,
14 our -- well his wallet was stolen from our family vehicle while we
15 were all at a race. That was in Henderson.

16 THE COURT: Henderson. Was that reported?

17 PROSPECTIVE JUROR NUMBER 506: No.

18 THE COURT: No? Okay. Thank you.

19 Anybody else on that top row?

20 No.

21 How about middle row, anybody ever been the victim of a
22 crime?

23 Yeah, could you pass it forward for me, please?

24 All right. Mr. Mayhew, 426.

25 PROSPECTIVE JUROR NUMBER 426: That's correct. My

1 pickup truck was stolen approximately three months ago.

2 THE COURT: And here in Las Vegas?

3 PROSPECTIVE JUROR NUMBER 426: Yes, North Las
4 Vegas.

5 THE COURT: North Las Vegas. Was it reported to the
6 police?

7 PROSPECTIVE JUROR NUMBER 426: It was.

8 THE COURT: Have you been to court at all?

9 PROSPECTIVE JUROR NUMBER 426: I didn't have to
10 attend.

11 THE COURT: Okay. Thank you.

12 Who else did I have?

13 Yes? All right. Ms. Alvarez.

14 PROSPECTIVE JUROR NUMBER 425: I've had two cars
15 stolen and money stolen.

16 THE COURT: Money stolen as part of the cars being
17 stolen or something separate?

18 PROSPECTIVE JUROR NUMBER 425: No, it was a
19 separate incident. It was like I was investing in my daughter's
20 Quinceañera and the gentleman took the money and ran from God
21 knows how many people.

22 THE COURT: Oh, some kind of fraud thing where they
23 represented what they were going to do and they just --

24 PROSPECTIVE JUROR NUMBER 425: Uh-huh.

25 THE COURT: -- took your money.

1 Got it. Were all of those here?

2 PROSPECTIVE JUROR NUMBER 425: Yes.

3 THE COURT: And were the police contacted?

4 PROSPECTIVE JUROR NUMBER 425: Yes.

5 THE COURT: And did you ever go to court and testify?

6 PROSPECTIVE JUROR NUMBER 425: No, because they

7 didn't find the people.

8 THE COURT: Okay. Thank you.

9 Anybody else on that row?

10 No. How about the bottom row, ever been the victim of a

11 crime?

12 Okay. Oh, yeah. Would you pass it forward for me, Ms.

13 Alvarez?

14 Thank you very much.

15 Ms. Esparza.

16 PROSPECTIVE JUROR NUMBER 452: Yeah. Car stolen.

17 THE COURT: Car stolen.

18 PROSPECTIVE JUROR NUMBER 452: Uh-huh.

19 THE COURT: Okay. How long ago --

20 PROSPECTIVE JUROR NUMBER 452: 2000 and --

21 THE COURT: -- was that?

22 PROSPECTIVE JUROR NUMBER 452: 2000 and -- 2000 -- I

23 believe it was 2009.

24 THE COURT: So here in Las Vegas?

25 PROSPECTIVE JUROR NUMBER 452: From Boulder

1 Station Casino.

2 THE COURT: Were the police called?

3 PROSPECTIVE JUROR NUMBER 452: Yes.

4 THE COURT: Did you ever go to court?

5 PROSPECTIVE JUROR NUMBER 452: No.

6 THE COURT: No, okay.

7 All right. Anybody else on that row?

8 Yeah. Could you pass it down to the end for me, please?

9 Ms. Williams.

10 PROSPECTIVE JUROR NUMBER 468: My house was
11 broken into.

12 THE COURT: How long ago was that?

13 PROSPECTIVE JUROR NUMBER 468: 2013.

14 THE COURT: And police called?

15 PROSPECTIVE JUROR NUMBER 468: Yes.

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

17 PROSPECTIVE JUROR NUMBER 468: No.

18 THE COURT: Okay. Anybody else on that row?

19 No.

20 How about bottom row, ever been arrested or convicted
21 of any kind of crime?

22 Yeah. Could you pass it down for me, please? Thank you.

23 Mr. Libauskas.

24 PROSPECTIVE JUROR NUMBER 514: Yes. Possession of
25 marijuana.

1 THE COURT: Okay. How long ago was that?
2 PROSPECTIVE JUROR NUMBER 514: 30 years ago.
3 THE COURT: When it was still illegal.
4 PROSPECTIVE JUROR NUMBER 514: Yes.
5 THE COURT: All right. Was that here or some -- in
6 Indiana?
7 PROSPECTIVE JUROR NUMBER 514: Indiana.
8 THE COURT: Got it. Thank you.
9 Anybody else on that row?
10 Middle row, anybody ever been arrested or convicted of
11 any crimes?
12 Top row?
13 Yep. Could you go ahead and pass it on back for me,
14 please, and we'll get it back to Mr. Barrett. Thank you.
15 Yes, sir?
16 PROSPECTIVE JUROR NUMBER 398: Loaded firearm in
17 the trunk of the car. And that was in Ohio.
18 THE COURT: In Ohio, okay. Thank you. How long ago
19 was that?
20 PROSPECTIVE JUROR NUMBER 398: 24 years ago.
21 THE COURT: Thank you.
22 Anybody else on that top row?
23 Anybody -- starting at the top row. Anybody believe you
24 would police officers any differently than other witnesses or could
25 you treat them the same as other witnesses and evaluate their

1 testimony in light of everything in the case? Anybody treat them
2 differently just because they're police officers?

3 See no hands.

4 Second row?

5 Yes. Could you pass it forward for me, please, Mr.
6 Barrett? Thank you.

7 Mr. Pedronan?

8 PROSPECTIVE JUROR NUMBER 507: Yes.

9 THE COURT: So what are your thoughts?

10 PROSPECTIVE JUROR NUMBER 507: Yes, I'm -- have a
11 little bit of bias, Your Honor, because I have family in the police
12 department.

13 THE COURT: Okay. So do you think you would
14 automatically like believe a police officer --

15 PROSPECTIVE JUROR NUMBER 507: I think I would
16 believe a police officer more than a normal person.

17 THE COURT: Okay. Thank you.

18 How about anybody else on the second row?

19 How about on the bottom row? Anybody on the bottom
20 row on that question?

21 See no hands. Thank you.

22 And we'll start on the second row since that's where my
23 microphone is right now. Do you all of you on the second row
24 believe that you would be able to keep an open mind and not
25 decide any issue of the case until the case is submitted to you for

1 your deliberations? Again, wait to receive all of the information
2 you're going to get in the case before making up your mind about
3 what the verdict should be? Anybody not be able to do that?

4 See no hands.

5 How about on my top row on that question?

6 See no hands.

7 Anybody on the bottom row?

8 See no hands.

9 Okay. So those are the general questions I have for you
10 all in my panel of 32, so at this point I'm going to turn it over to the
11 State to ask questions of the group of you. I thank you very much
12 for your time.

13 Okay. Mr. Pesci.

14 MR. PESCI: Thank you, Your Honor.

15 Ladies and Gentlemen, thank you for your patience.

16 There are a lot of rules in court and some of them are sensical and
17 some of them are nonsensical. The Judge just explained we're --
18 we can't talk to you except for now. We're allowed to talk to you
19 now and ask you some questions. But if we go outside and you ask
20 me what time court starts tomorrow, I'm going to look down. It's
21 not because I'm trying to be rude, as the Court's explained. But we
22 can talk right now.

23 And so we'd like to be able to talk and get some
24 information because each side's trying to figure out who can be fair
25 and impartial for this trial. So there's some specific questions I

1 want to kind of ask based on some of the questions that the Court's
2 asked and some of your answers.

3 Now one of them, if I could, could you please raise your
4 hand if you've been the victim of a crime before?

5 And Judge, I -- am I taking all the 32, correct?

6 THE COURT: Yeah, all 32.

7 MR. PESCI: Okay. So if you could raise your hands if
8 you've been the victim of a crime.

9 Thank you very much. I think I heard that nobody came
10 and testified as a witness or was there one person who testified?

11 Okay. So everybody else, you've been a victim and you
12 never had to come to court and be in a proceeding like this, is that
13 correct?

14 Okay. So everyone's shaking their head yes.

15 And sir, if I could, you are I believe Badge Number 378,
16 Mr. Contreras. And if the microphone is somewhere floating
17 around, if we could pass it back to him.

18 Judge Herndon asked you about coming in to testify at a
19 different proceeding and I wasn't quite sure, did you actually take
20 the witness stand or was it negotiated when you came to court?

21 PROSPECTIVE JUROR NUMBER 378: It was negotiated
22 when I came to court.

23 MR. PESCI: All right. So you didn't have to get on the
24 stand.

25 PROSPECTIVE JUROR NUMBER 378: No because I was

1 the last -- I was a case on that guy. So as soon as I came in, there
2 was no need for me to testify.

3 MR. PESCI: Okay. So it resolved short of a hearing or a
4 trial.

5 PROSPECTIVE JUROR NUMBER 378: Yeah.

6 MR. PESCI: Okay. Thank you very much.

7 [Phone ringing]

8 MR. PESCI: It's okay. If you take a sec and maybe grab
9 your phone, double check to make sure it's turned off because we
10 all do that, right?

11 THE COURT: That's my fault. I should have reminded you
12 all that.

13 MR. PESCI: So I apologize.

14 Now as far as the times you've been victims of crimes, it
15 appears as if unfortunately in our great state there are a lot of car
16 burglaries, right? There's a lot of residential burglaries. And there
17 are some people who did report and some people who did not
18 report.

19 So could you raise your hand if you did not report? And I
20 think, ma'am, Ms. Huston, Badge Number 506, if I could start with
21 you because -- we'll come back, I apologize. Because I think you
22 said earlier there were two separate occasions and you did not
23 report it to the police, so I wanted to know why you did not.

24 PROSPECTIVE JUROR NUMBER 506: Well the first time
25 during the race we were just hot and tired and it was on a different

1 side of town from where we lived and it was just an inconvenience
2 to know where to go, what to do, or how to do it --

3 MR. PESCI: Okay.

4 PROSPECTIVE JUROR NUMBER 506: -- and it was just
5 mostly I -- like they took -- it wasn't very much money out of the
6 wallet, and it was just canceling the cards. They had already started
7 charging stuff by the time we had found out that they had stolen
8 the cards.

9 MR. PESCI: Okay.

10 PROSPECTIVE JUROR NUMBER 506: So we were in the
11 midst of canceling the cards and what not, so --

12 MR. PESCI: That --

13 PROSPECTIVE JUROR NUMBER 506: -- I didn't see what
14 the point was.

15 MR. PESCI: That was the first time, correct?

16 PROSPECTIVE JUROR NUMBER 506: Correct.

17 MR. PESCI: And the second time?

18 PROSPECTIVE JUROR NUMBER 506: Was just in our front
19 yard. They bashed in the window and just stole the bike. Again, I
20 don't know, we just -- I didn't -- we didn't know what to do.

21 MR. PESCI: Okay.

22 PROSPECTIVE JUROR NUMBER 506: So -- where to go,
23 what to do.

24 MR. PESCI: So what I'm trying to figure out -- thank you
25 very much, ma'am.

1 PROSPECTIVE JUROR NUMBER 506: Sure.

2 MR. PESCI: Is did anybody not report because they felt
3 like the police weren't going to do their job? That's what I wanted
4 to follow up on. Has anybody felt like, you know, it's just not going
5 to yield anything so I'm not even going to bother?

6 PROSPECTIVE JUROR NUMBER 506: Well I figured it
7 wasn't that big of a --

8 MR. PESCI: A deal?

9 PROSPECTIVE JUROR NUMBER 506: -- an amount, yeah.
10 It was -- you know, it's -- the first time was just 20 bucks. The
11 second time, yeah, it was a couple hundred-dollar bike but what --
12 there's bigger crimes out there I guess I thought.

13 MR. PESCI: All right. Thank you very much. Would you
14 mind passing --

15 PROSPECTIVE JUROR NUMBER 506: Sure.

16 MR. PESCI: -- I think there's a gentleman two seats over,
17 Mr. Barrett, Badge Number 398. You were nodding your head yes
18 as I said maybe something wouldn't come from it?

19 PROSPECTIVE JUROR NUMBER 398: Oh well yeah, I had
20 a couple of car break-ins that I didn't report. And just balanced the
21 fact that what was stolen wasn't worth that much and what I
22 expected out of the law system -- the enforcement system.

23 MR. PESCI: All right. So --

24 PROSPECTIVE JUROR NUMBER 398: Nothing against the
25 police in particular, but I just don't think those things come up

1 being solved too often.

2 MR. PESCI: Okay. And unfortunately this seems to bear
3 that out, right? Everybody's experienced what we're hearing here.

4 Okay. Thank you. Could you pass it over?

5 And Mr. Gutierrez-Sosa, Badge 505, you were raising your
6 hand earlier.

7 PROSPECTIVE JUROR NUMBER 505: Yeah, the only
8 reason I didn't report back then, I was a teenager, this happened
9 probably more than ten years ago -- ten years was my estimate.
10 But I was a teenager, I really didn't know what to do and I just
11 moved on with my life at that point.

12 MR. PESCI: Okay. Thank you very much.

13 Now for those of you that did in fact report -- oh, there's a
14 gentleman over here, I apologize. If I could grab that microphone --
15 or the marshal will.

16 And I believe this is Mr. Jaska, 474.

17 PROSPECTIVE JUROR NUMBER 474: Yes, correct. You
18 were talking about car burglaries. Mine was in California, you're
19 referring to Nevada, so.

20 MR. PESCI: Doesn't matter, whatever --

21 PROSPECTIVE JUROR NUMBER 474: Same --

22 MR. PESCI: -- crime.

23 PROSPECTIVE JUROR NUMBER 474: I re -- my initial
24 reaction earlier I thought I reported it, but I can't remember actually
25 seeing a cop. I think in Stockton I just called --

1 MR. PESCI: Okay.

2 PROSPECTIVE JUROR NUMBER 474: -- because I had to
3 get the insurance claim and they needed the report. But I didn't call
4 initially, and I don't remember why.

5 MR. PESCI: Okay. So for those who did report, did
6 anybody feel like you know what, the police, the District Attorney's
7 Office, the system failed me? Does anybody have a feeling -- which
8 is totally fine if you feel that way, right? Did anybody feel that the
9 system let you down being a victim of a crime?

10 We do have a hand. Judge, I think it's Number 471, Ms.
11 Kord?

12 PROSPECTIVE JUROR NUMBER 471: Yeah.

13 MR. PESCI: And ma'am, could you tell us?

14 PROSPECTIVE JUROR NUMBER 471: I have my house
15 broke in, my house was trashed. My safe was broken. Everything
16 was taken. The police and forensic personnel, they all was in my
17 house for about eight hours. Then that was it. I did not get any
18 answer, nothing. Nothing was followed up so that was the end of
19 it.

20 MR. PESCI: Was that in Chicago or here in Las Vegas?

21 PROSPECTIVE JUROR NUMBER 471: Chicago.

22 MR. PESCI: And do you feel as if the system let you
23 down?

24 PROSPECTIVE JUROR NUMBER 471: I think it was too
25 many things for the police to do, so it's not -- nobody was dead, it

1 was just some property was taken, so it wasn't important enough
2 for them to follow up.

3 MR. PESCI: All right. And so the State -- I ask this
4 question because I'm trying to figure out if there would be a feeling
5 against the State or against the police because of not following up
6 or was someone not doing enough because we're going to call
7 police officers. There's going to be some police personnel. There'll
8 be also lay witnesses, kids, and things like that. But there'll be
9 some police officers.

10 So if there's a feeling against the police, which everyone
11 has the right to have, if you have that, we'd want to know so we
12 could try to figure out if you're appropriate for this case. So does
13 anybody feel that they've been let down by the system?

14 Okay. I apologize, Mr. Jaska --

15 PROSPECTIVE JUROR NUMBER 474: Jaska, correct, like
16 Alaska.

17 MR. PESCI: -- 474.

18 PROSPECTIVE JUROR NUMBER 474: Yeah, as I said
19 before, it wasn't the system that I felt let me down, it was individual
20 bad actors who had perhaps a personal quarrel and so I wouldn't
21 go so far as to say it was the system that let me down.

22 MR. PESCI: Okay.

23 PROSPECTIVE JUROR NUMBER 474: In that regard I don't
24 think I would be unbiased in any way.

25 MR. PESCI: All right. And I think I heard earlier you talked

1 about a specific detective that came --

2 PROSPECTIVE JUROR NUMBER 474: Correct.

3 MR. PESCI: -- to your house.

4 PROSPECTIVE JUROR NUMBER 474: Yes.

5 MR. PESCI: Okay. And so -- and that was out of state?

6 PROSPECTIVE JUROR NUMBER 474: No, that was in
7 California.

8 MR. PESCI: In California, okay. So would you hold that
9 against any detectives we might call in this case?

10 PROSPECTIVE JUROR NUMBER 474: Depending on
11 their -- the interrogation tactics because that's what it really boiled
12 down to. I think that he used the whole Reid and Inbau and just the
13 pressure that he puts even on to innocent people, if they did that
14 then it wouldn't be a bias against the police, it would be a bias
15 against the tactics and the education they have with regards to their
16 detective skills so to speak.

17 MR. PESCI: So the things that they --

18 PROSPECTIVE JUROR NUMBER 474: Are taught.

19 MR. PESCI: -- utilized -- and I apologize, I'm really sorry.

20 PROSPECTIVE JUROR NUMBER 474: Yeah.

21 MR. PESCI: So this woman's listening to everything and
22 recording everything. If we talk at the same --

23 PROSPECTIVE JUROR NUMBER 474: I understand.

24 MR. PESCI: -- time, it just puts her --

25 PROSPECTIVE JUROR NUMBER 474: Understood.

1 MR. PESCI: -- in a really bad spot to write it down later.
2 So I'll try not to interrupt, I apologize. So go ahead.

3 PROSPECTIVE JUROR NUMBER 474: Oh no, I'm -- you
4 go. I kind of lost my train of thought there.

5 MR. PESCI: Okay. So you're saying that the methodology
6 that the police used, you did not agree with.

7 PROSPECTIVE JUROR NUMBER 474: 100 percent.

8 MR. PESCI: And that could come in to play, you're saying
9 in your mind, in this case, potentially.

10 PROSPECTIVE JUROR NUMBER 474: Potentially. I don't
11 know the facts of the case, so I can't say for sure but of --

12 MR. PESCI: All right.

13 PROSPECTIVE JUROR NUMBER 474: -- course,
14 potentially.

15 MR. PESCI: All right. Thank you very much.

16 PROSPECTIVE JUROR NUMBER 474: Yes.

17 MR. PESCI: Anybody else wants to add anything to that?

18 You know, he -- the gentleman just said there's -- there --
19 he doesn't know the facts of the case. Does everybody understand
20 that -- and the judge went over it earlier that the Defendants are
21 presumed innocent? So there are no facts in front of you right now,
22 there's just a charging document, as the Court explained. They are
23 presumed innocent. The only way someone is guilty is if the State
24 presents the evidence and a jury, all unanimously, beyond a
25 reasonable doubt, find them guilty. Can everyone accept that

1 concept?

2 There are no one shaking their head no. It seems to be all
3 in the affirmative.

4 Okay. There are some questions I'd like to ask based on
5 some of the facts of our case but not going into all the facts. We
6 allege that a deadly weapon was used in this case, specifically a
7 firearm. Now there are feelings that people have about firearms
8 that can affect their ability to be fair and impartial. You can be pro-
9 gun, you can be anti-gun; whatever your position is, is totally fine.
10 The question is, does anybody feel as if their feelings about
11 firearms will affect their ability to be fair in this particular case?

12 All right. We're going to ask if we could move the
13 microphone over to Mr. Meng.

14 PROSPECTIVE JUROR NUMBER 390: Right.

15 MR. PESCI: And it's Juror Number 390. And the
16 microphone has arrived.

17 PROSPECTIVE JUROR NUMBER 390: Just after being at
18 the end -- on the -- I should say on the other end of a loaded gun.
19 Also laying on the floor with a gun to my head while I'm being
20 robbed, yeah, I have a little bit of not so good with the guns.

21 MR. PESCI: Yes. Okay. And so everyone's personal life --
22 hold on to that microphone -- everyone's personal life, you come
23 into this room with those experiences and that's fine. And we just
24 need to know, will those experiences make it such that you can't be
25 fair to either side, to the State or to the Defense? And so that

1 particular situation, if I remember correctly, there were four times
2 while you were working at Albertsons?

3 PROSPECTIVE JUROR NUMBER 390: That's correct.

4 MR. PESCI: All here in Las Vegas.

5 PROSPECTIVE JUROR NUMBER 390: That's correct.

6 MR. PESCI: Okay. And then I guess they were reported
7 but you never had to come to court.

8 PROSPECTIVE JUROR NUMBER 390: Pardon me?

9 MR. PESCI: You never had to come to court on any --

10 PROSPECTIVE JUROR NUMBER 390: On the robberies,
11 that's correct.

12 MR. PESCI: Okay. Do you think the fact that you've been
13 a victim of an armed robbery would affect your ability to be fair and
14 impartial to --

15 PROSPECTIVE JUROR NUMBER 390: I think that's a
16 possibility.

17 MR. PESCI: Okay. And is that based on your personal
18 experience?

19 PROSPECTIVE JUROR NUMBER 390: Absolutely.

20 MR. PESCI: All right. Now kind of a follow-up. So the
21 State of Nevada, building on what I said a moment ago, we have to
22 prove the case beyond a reasonable doubt. It's our burden. The
23 Defense doesn't have to prove anything. They don't have to do
24 anything, they don't have to ask any questions. I'm sure they're
25 going to, but they don't have to, right?

1 If we present our case and you think we failed to prove it
2 beyond a reasonable doubt, even when we allege a gun, could you
3 return a not guilty verdict?

4 PROSPECTIVE JUROR NUMBER 390: Yes.

5 MR. PESCI: Okay. If we do prove it, could you come back
6 with guilty?

7 PROSPECTIVE JUROR NUMBER 390: Yes.

8 MR. PESCI: And I guess in this context is just because
9 there's a gun, is that going to make you automatically go to guilty?

10 PROSPECTIVE JUROR NUMBER 390: No.

11 MR. PESCI: But you're sharing with us the fact that guns
12 do bring up emotions and feelings.

13 PROSPECTIVE JUROR NUMBER 390: Absolutely.

14 MR. PESCI: Okay. So overall, do you think that you could
15 be fair considering those facts?

16 PROSPECTIVE JUROR NUMBER 390: Yes.

17 MR. PESCI: All right. Thank you very much, sir.

18 Did anybody else -- because we're spanning all the way
19 over here. Anybody else as far as firearms?

20 Let me follow-up with this point, does anybody own a
21 firearm? You want to raise your hand?

22 And then does anybody feel as if that ownership of a
23 firearm prevents you from being a fair or impartial juror?

24 So all those that raised your hand, does the fact that you
25 own a gun make it such that you can't be fair?

1 That's kind of a wordy question, I don't [indiscernible].

2 Could you raise your hand again that own firearms?

3 Could we move the microphone over two to Mr. Young,
4 Badge 540? How long have you owned firearms?

5 PROSPECTIVE JUROR NUMBER 540: Since I was able to
6 buy one.

7 MR. PESCI: Okay. And then in your experience, have you
8 had interactions with law enforcement when you've had the
9 firearm?

10 PROSPECTIVE JUROR NUMBER 540: Yes, sir.

11 MR. PESCI: Okay. And did you behave certain ways
12 because of the fact that you had the firearm when you interacted
13 with police?

14 PROSPECTIVE JUROR NUMBER 540: I behaved very well.

15 MR. PESCI: Ha, ha, ha, right.

16 Did you change your behavior to some degree because
17 you had that?

18 PROSPECTIVE JUROR NUMBER 540: I can't -- I mean --

19 MR. PESCI: A better way to say it is did you inform the
20 police like --

21 PROSPECTIVE JUROR NUMBER 540: Oh of course, yes,
22 sir.

23 MR. PESCI: Okay.

24 PROSPECTIVE JUROR NUMBER 540: That's the first thing
25 you have to do.

1 MR. PESCI: Right. So you were conscious of the fact that
2 you had it and you made decisions based on that.

3 PROSPECTIVE JUROR NUMBER 540: Yes, sir.

4 MR. PESCI: Okay. Anybody else that wanted to add
5 anything about owning a firearm or if that would affect your ability
6 to be fair?

7 No.

8 Now the Defendants in this particular case are under 18
9 years of old. There was a question, I believe, it was Question
10 Number 3 that the Judge read was if anybody had any sympathy or
11 bias based on and then there were a whole bunch of things to
12 include age. So my question is does the fact that individuals are
13 less than 18 at the time that they are charged with this crime, will
14 that affect your ability to be fair and impartial?

15 There doesn't seem to be any answers, right? So no one
16 has a difficulty saying well, they were under 18, I could hold them
17 responsible. Or anybody feel like I'm never going to hold someone
18 responsible who's under 18?

19 Okay. Where's the microphone? Let's put somebody
20 under the gun. Can we pass that forward? And can we pass that --
21 one second. Can we pass it over?

22 Yes. I want to go with I think who could one of the
23 younger people here. Mr. Bernardo? I'm sorry, 424 -- Badge
24 Number 424, Bernardo?

25 PROSPECTIVE JUROR NUMBER 424: Yes.

1 MR. PESCI: All right. Sir, I want to ask you specifically
2 about that. Do you think that the age of the Defendants has any
3 bearing on your assessment of the facts?

4 PROSPECTIVE JUROR NUMBER 424: No, it does not.

5 MR. PESCI: Okay. It wouldn't sway you one way or the
6 other?

7 PROSPECTIVE JUROR NUMBER 424: No. If they are
8 proven guilty, no matter the age, then I think it should be -- that
9 they should be proven guilty if they are.

10 MR. PESCI: Okay. All right. Thank you.

11 There was a gentleman over here who had a question.
12 Does anybody else over here before we move the microphone have
13 anything to add to that?

14 Okay. Then I think we're going to Mr. Jaska, 474, he had --
15 you had your hand up, right, sir?

16 PROSPECTIVE JUROR NUMBER 474: Yeah, just a
17 moment.

18 MR. PESCI: Sure.

19 PROSPECTIVE JUROR NUMBER 474: No, you were just
20 saying if you have a bias to someone with their age and I was just --
21 I don't know if I have that determination yet is I just wanted to say.

22 MR. PESCI: Okay.

23 PROSPECTIVE JUROR NUMBER 474: Like I don't know
24 yet whether or not that would affect any potential verdict that I
25 would reach.

1 MR. PESCI: All right. So going into it, it's not going to
2 affect you one way or the other because you don't already feel like
3 hey, that's a plus or a minus.

4 PROSPECTIVE JUROR NUMBER 474: I guess -- okay, I
5 perhaps -- yeah, that would be a good way of wording it.

6 MR. PESCI: Okay.

7 PROSPECTIVE JUROR NUMBER 474: Yes.

8 MR. PESCI: All right. So there's not a bias going in based
9 on --

10 PROSPECTIVE JUROR NUMBER 474: There's not a bias
11 going in, I just don't have an opinion.

12 MR. PESCI: Okay.

13 PROSPECTIVE JUROR NUMBER 474: Okay.

14 MR. PESCI: All right. Thank you very much.

15 There is going to be -- or there was a question earlier
16 about social media. The Court asked about, you know, who didn't
17 have social media and I think there were precious few hands that
18 went up, right?

19 Kind of following up on what the Court said, so we can't
20 go on social media during the pendency of this case, but I would
21 like someone who doesn't have social media to raise their hand.

22 All right. So could we get a microphone -- could I grab
23 that?

24 And then this is --

25 THE COURT: Ms. Esparza.

1 MR. PESCI: You're Ms. Esparza, 452.

2 All right. The fact that social media could be involved in
3 the case, would you have any difficulty following some of the
4 evidence if it's posted on some sort of social media?

5 PROSPECTIVE JUROR NUMBER 452: No.

6 MR. PESCI: Okay. Some people are just like yeah, so I
7 don't understand it, I don't get it, I want to have nothing to do with
8 it. But there could be evidence that comes in that was posted on
9 social media; the question is, is, you know, is that something that
10 you can digest and consider?

11 PROSPECTIVE JUROR NUMBER 452: Yes.

12 MR. PESCI: Even not being a user.

13 PROSPECTIVE JUROR NUMBER 452: Right.

14 MR. PESCI: Okay.

15 PROSPECTIVE JUROR NUMBER 452: Well I'm very -- I
16 know about social media.

17 MR. PESCI: Okay.

18 PROSPECTIVE JUROR NUMBER 452: I just took myself
19 out of it, so it's been about two years.

20 MR. PESCI: So you're free from it?

21 PROSPECTIVE JUROR NUMBER 452: Uh-huh. It was
22 hard. It took about two weeks but --

23 MR. PESCI: Okay. Is there anybody that really knows
24 nothing about it that thinks it might be difficult potentially to kind of
25 follow some evidence if there's social media involved?

1 Because I think there were some hands over here, some
2 people that did not have social media, correct?

3 Is it all right if I steal that?

4 So Ms. Evans, 4 -- is it 492?

5 PROSPECTIVE JUROR NUMBER 492: Yes.

6 MR. PESCI: Okay. So tell us about your social media
7 experience.

8 PROSPECTIVE JUROR NUMBER 492: Oh, I know all about
9 social media, I just don't choose to use it.

10 MR. PESCI: Okay. So you're aware --

11 PROSPECTIVE JUROR NUMBER 492: I'm a dinosaur, just I
12 don't --

13 MR. PESCI: Nobody's a dinosaur --

14 PROSPECTIVE JUROR NUMBER 492: It's -- that's plain
15 and simple.

16 MR. PESCI: Okay. But you're aware of what people can
17 do with it?

18 PROSPECTIVE JUROR NUMBER 492: Oh, absolutely.

19 MR. PESCI: All right. So --

20 PROSPECTIVE JUROR NUMBER 492: My granddaughter's
21 told me quite a bit and has taught me things that just go in one ear
22 and out the other.

23 MR. PESCI: Okay. You wouldn't prevented from
24 following that or listening to it or comprehending it?

25 PROSPECTIVE JUROR NUMBER 492: No.

1 MR. PESCI: All right. I think the gentleman to your left
2 also had raised your hand, correct?

3 PROSPECTIVE JUROR NUMBER 523: Correct.

4 MR. PESCI: All right. And then tell us about your
5 experience or the lack thereof with social media.

6 And I apologize, this is Mr. Sulstrom, Badge 523?

7 PROSPECTIVE JUROR NUMBER 523: Correct.

8 MR. PESCI: Did I pronounce that correctly?

9 PROSPECTIVE JUROR NUMBER 523: Yes.

10 MR. PESCI: Thank you.

11 PROSPECTIVE JUROR NUMBER 523: I just don't choose
12 to participate. My wife is very active. I know about social media, I
13 just choose not to be involved.

14 MR. PESCI: All right. And the fact that there could be
15 evidence from that, would that prevent you from being fair and
16 impartial?

17 PROSPECTIVE JUROR NUMBER 523: Not at all.

18 MR. PESCI: Okay. Thank you very much.

19 Speaking of phones, you know, we always think of that
20 type of social media, there are times in court when we will utilize a
21 phone because we can't always get internet access here and we're
22 trying to set up witnesses. We're trying to get witnesses lined up
23 for court and things of that nature and you might see us on the
24 phone. Is anybody going to hold that against us, that we utilize that
25 tool to try to keep the case moving along? Anybody have any

1 problems with that?

2 Okay. Well it's kind of hard because the Court tells you
3 don't touch your phone. But we're going to be under the desk, you
4 might see us because we're just trying to get things moving along.

5 Does anybody have any personal, religious, moral
6 reasons why you cannot sit in judgment of another human being?

7 No answers. I'll try to follow that up. What I mean by that
8 is we, the prosecution, are going to present our witnesses and at
9 the end of the day we're going to ask you to pass judgment on the
10 facts. As the Court explained earlier, you are the judge of the facts.
11 We're going to ask you to make a decision that will affect the
12 parties. Some people think that they can't or shouldn't do that and
13 that's totally fine, we just need to know if that's you.

14 All right. Mr. Gutierrez-Sosa, 505. If you could hold on
15 just one second so we can get the microphone.

16 PROSPECTIVE JUROR NUMBER 505: First time I served
17 as a juror I felt very uneasy with the final verdict. There was a lot of
18 he said, she said, there wasn't concrete evidence. And so I left that
19 case feeling very uneasy about it for a few weeks afterwards just
20 thinking a lot about it. And this case is several degrees more severe
21 than that. And so I feel that it could -- I could potentially feel very
22 uncomfortable assessing a guilty or not guilty verdict.

23 MR. PESCI: Okay. And I apologize, I'm looking at my
24 notes because I knew that you served on a jury before and I was
25 trying to remember if it was civil or criminal and I think it was civil,

1 correct?

2 PROSPECTIVE JUROR NUMBER 505: Yes.

3 MR. PESCI: All right. So and it was two years ago?

4 PROSPECTIVE JUROR NUMBER 505: Roughly.

5 MR. PESCI: Okay. And here in Vegas.

6 PROSPECTIVE JUROR NUMBER 505: Yes.

7 MR. PESCI: All right. So there was a judge in that case
8 that provided the law to you at the end and said look, here's the
9 standard of proof. Do you remember -- not the specifics, but do
10 you remember being told that? Just being given the law.

11 PROSPECTIVE JUROR NUMBER 505: What I remember
12 being told was that there weren't -- there wasn't any factual
13 evidence to be presented in the case that it was mostly he said, she
14 said type of argument.

15 MR. PESCI: Uh-huh.

16 PROSPECTIVE JUROR NUMBER 505: And it was the jury's
17 responsibility to assess which party was more responsible.

18 MR. PESCI: Okay. And then I believe the Court would
19 have given you at some point saying okay, here are the facts that
20 you've listened to, now here's the law. Apply the facts to the law to
21 make your determination.

22 PROSPECTIVE JUROR NUMBER 505: There -- like I said,
23 there were not -- there weren't many -- very many facts.

24 MR. PESCI: Okay.

25 PROSPECTIVE JUROR NUMBER 505: Just storytelling

1 from each side.

2 MR. PESCI: Okay. And then the big thing is at the end of
3 the day for all of you that have served on juries before, whether it's
4 civil or there are many of you that was criminal that the decision as
5 to what the law is, is Judge Herndon's and that everything you've
6 heard before you don't take into this courtroom, as far as what the
7 law is.

8 Judge Herndon at the end of the case is going to give you
9 the law and tell you it and in particular the standard of proof, right,
10 the proof beyond a reasonable doubt, that's the standard in a
11 criminal case and it's different from civil, right? We don't get into
12 what that standard is. The Judge gives an explanation at the very
13 end. We can't quantify it and we can't talk about that. He's going
14 to give a very explicit instruction on that.

15 The question is, is can you listen to that instruction and
16 apply that instruction alone and forget about, for those of you that
17 served as jurors before, what you may have been told in the past.
18 Would anybody have difficulty with that?

19 Nobody is shaking their head in the affirmative, indicating
20 that they can in fact follow the Court's instructions.

21 THE COURT: Giancarlo, right --

22 MR. PESCI: Yes?

23 THE COURT: -- before you started talking to Mr. Gutierrez-
24 Sosa, Ms. Lambert had her hand up on that question that you --

25 MR. PESCI: I'm sorry.

1 THE COURT: -- asked as well.

2 PROSPECTIVE JUROR NUMBER 466: Just --

3 MR. PESCI: Can we have the microphone. One second,
4 ma'am, I apologize.

5 Thank you, Your Honor.

6 So and I apologize, Ms. Lambert, your Badge Number?

7 PROSPECTIVE JUROR NUMBER 466: 466.

8 MR. PESCI: Thank you very much.

9 PROSPECTIVE JUROR NUMBER 466: Okay. First of all, I
10 just want to say that being a medication assistant, I work with
11 hospice and the more I'm listening about the case and hearing it, I
12 have a problem -- I give comfort meds, you understand what that
13 is?

14 MR. PESCI: Yes.

15 PROSPECTIVE JUROR NUMBER 466: Correct. I have a
16 hard time when I go home after giving these meds, returning and
17 finding the person deceased. Listening right now, it's going to be
18 really hard for me to make a decision because I feel guilty. It's my
19 job, but I still feel guilty with what I do because of the end result. I
20 don't know if that has -- will make a difference to you or anyone
21 else in it but it does every day.

22 MR. PESCI: Okay. So could you feel guilty whichever way
23 you came back?

24 PROSPECTIVE JUROR NUMBER 466: Yes.

25 MR. PESCI: Okay. So for the Prosecution or for the

1 Defense, either way you could be affected by that?

2 PROSPECTIVE JUROR NUMBER 466: Yes.

3 MR. PESCI: All right. Would that impede or impair your
4 ability to be able to make a decision?

5 PROSPECTIVE JUROR NUMBER 466: It would.

6 MR. PESCI: Okay.

7 PROSPECTIVE JUROR NUMBER 466: Because I feel so
8 bad and so strong about what I'm doing at for my job. And like I
9 said I know it's my job and a part of my job but as far as, you know,
10 having a say in someone else's life, either way, I don't feel like I
11 have that right.

12 MR. PESCI: Okay. So you don't --

13 PROSPECTIVE JUROR NUMBER 466: Nor do I want that
14 right.

15 MR. PESCI: Okay. And I guess -- and very, very important
16 within that is that would affect your ability to be able to be fair to
17 both sides.

18 PROSPECTIVE JUROR NUMBER 466: [No audible
19 response - nods head yes].

20 MR. PESCI: And I'm sorry, ma'am, you shook your head.
21 I understand it's a yes but for her --

22 PROSPECTIVE JUROR NUMBER 466: Yes.

23 MR. PESCI: -- recording -- thank you.

24 PROSPECTIVE JUROR NUMBER 466: Yes.

25 MR. PESCI: For the recording. Thank you very much.

1 Judge, could we approach?

2 THE COURT: Yeah.

3 [Bench conference transcribed as follows.]

4 THE COURT: You done already?

5 MR. PESCI: I'm sorry?

6 THE COURT: You done already?

7 MR. PESCI: No.

8 MR. YAMPOLSKY: No, you kidding me?

9 MR. PESCI: I'm making a challenge as to that juror.

10 THE COURT: Oh, as to her.

11 MR. PESCI: Yes.

12 THE COURT: Just go ahead and finish questioning the
13 panel as a whole --

14 MR. YAMPOLSKY: Yeah, we don't object to her being
15 relieved.

16 THE COURT: Okay. Generally I let you guys go through
17 all 32 --

18 MR. PESCI: Okay.

19 THE COURT: -- and then you'll let me know who you're
20 going to challenge. I'll let them do their thing and then they'll tell --
21 let us know who they're challenging, and we'll get them all figured
22 out.

23 MR. PESCI: All right.

24 THE COURT: So you know, obviously, since he's
25 challenging her, you don't have to do anything rehabilitate. If you

1 want to, obviously you can.

2 MR. YAMPOLSKY: Okay.

3 THE COURT: All right.

4 MR. PESCI: Okay. Thank you, Judge.

5 THE COURT: Either way, just keep going.

6 MR. PESCI: All right.

7 THE COURT: Okay. Thank you.

8 [End of bench conference.]

9 MR. PESCI: Thank you very much, ma'am.

10 I wanted to follow up on a few of you. If you could raise
11 your hands if you have children? There's quite a few, right?

12 Okay. Have you ever had a time where they said
13 something different about the same event?

14 THE COURT: Raise your hand if that never happened.

15 MR. PESCI: No hands, Judge.

16 THE COURT: No hands.

17 MR. PESCI: All right. So it's a joke but it's not, right? And
18 I'm going to -- Mr. Gutierrez-Sosa just talked about the experience
19 that he had in the civil case where there was things being said on
20 both sides, right?

21 So there will be evidence presented, the State has the
22 burden, the Defense does not have burden whatsoever. But you
23 might hear different versions of the same events. The question is,
24 is in your own experience, those of you that have children, have
25 you been able to assess all of the evidence and make a decision or

1 is just the fact that there are two versions enough that you can't
2 come to a conclusion? Does that make sense?

3 So even with maybe some conflict, are you as a parent,
4 able to make a determination as to what happened? And make a
5 decision as to what you're going to do, maybe potentially as to who
6 gets to watch the TV now or who ate the cookies or fill in the blank,
7 right? Can you apply that to the courtroom?

8 Could I have -- where's the microphone? Could we pass it
9 back -- thank you so much, ma'am.

10 Could we go back to, I think it's Ms. Fox?

11 PROSPECTIVE JUROR NUMBER 381: Uh-huh.

12 MR. PESCI: Badge 381. You were kind of smiling and
13 shaking your head. I get the sense that with those two kids, 20 and
14 18-year old, you've had some experience with this.

15 PROSPECTIVE JUROR NUMBER 381: Sure, yes.

16 MR. PESCI: Tell us about how you as a parent went
17 through that process.

18 PROSPECTIVE JUROR NUMBER 381: I mean, usually it
19 was about homework, right? Or grades. So the facts kind of bear
20 themselves out, so --

21 MR. PESCI: Okay.

22 PROSPECTIVE JUROR NUMBER 381: -- yeah. That's the
23 best example I can come up with.

24 MR. PESCI: And are there times when you're just not sure
25 and you're not able to make a determination?

1 PROSPECTIVE JUROR NUMBER 381: No, I don't think so.
2 No.

3 MR. PESCI: So you're saying you were able to determine
4 pretty much every time.

5 PROSPECTIVE JUROR NUMBER 381: Yes.

6 MR. PESCI: All right. Even in the conflict of evidence?

7 PROSPECTIVE JUROR NUMBER 381: Yes. I mean, there
8 was always you know, talk to them, talk to the teacher type of
9 scenario.

10 MR. PESCI: Right.

11 PROSPECTIVE JUROR NUMBER 381: You can usually
12 come up with the facts based -- you know, base your decision on
13 that.

14 MR. PESCI: Okay. Anybody have any difficulty applying
15 that kind of an approach to a courtroom and to a case when it
16 involves murder?

17 Okay. Speaking of that murder itself, does that charge
18 make it such that you cannot be fair? Some people hear that
19 charge and they just are affected by it. Is there anybody who
20 cannot be fair because of the charge in particular, murder, in this
21 case?

22 And I -- we have in the front, if we could get the
23 microphone one more time.

24 And I assume Ms. Lambert, 466, this is kind of building
25 on --

1 PROSPECTIVE JUROR NUMBER 466: It's the same -- I
2 feel -- yes. I feel it's the same. How can I judge someone and I feel
3 that I'm doing the same thing?

4 MR. PESCI: Okay. All right. I'm not trying to get overly
5 personal. Is some of this religious-based or is it just personal? Is
6 there --

7 PROSPECTIVE JUROR NUMBER 466: Personal.

8 MR. PESCI: Some of those things are intertwined
9 sometimes.

10 PROSPECTIVE JUROR NUMBER 466: It's personal.

11 MR. PESCI: Okay.

12 PROSPECTIVE JUROR NUMBER 466: I mean, just the
13 thought that this is what I do. This is my job. But then like I said,
14 when I go home, I'm questioning, do I need to get out of my job for
15 the way I feel. But I cannot judge someone else no matter.

16 MR. PESCI: And have -- is this a feeling that you've held a
17 long time, as far as the not wanting to judge others?

18 PROSPECTIVE JUROR NUMBER 466: Yes, sir.

19 MR. PESCI: All right. Maybe even before your job?

20 PROSPECTIVE JUROR NUMBER 466: Well I've been in the
21 nursing work now for 30-something years.

22 MR. PESCI: That's a good amount of time.

23 All right. Would you mind passing the microphone to
24 your right? I thought I saw Ms. Williams, Badge 468, were you
25 shaking your head as well?

1 PROSPECTIVE JUROR NUMBER 468: Yes.

2 MR. PESCI: Okay. Tell us what you're shaking you're
3 head about.

4 PROSPECTIVE JUROR NUMBER 468: Well based on the
5 charges, I think I have a problem with sympathizing with others.

6 MR. PESCI: Okay.

7 PROSPECTIVE JUROR NUMBER 468: So it'd be hard for
8 me to make a decision.

9 MR. PESCI: So the sympathy would affect your ability you
10 think?

11 PROSPECTIVE JUROR NUMBER 468: I think so.

12 MR. PESCI: All right. And is it affecting you based on the
13 fact that someone's been murdered or that someone's been
14 accused of murder?

15 PROSPECTIVE JUROR NUMBER 468: Someone's been
16 murdered.

17 MR. PESCI: Okay. And this brings up an important
18 concept. I mean, I don't think anyone's going to say that anyone
19 likes murder, right? No one's trying to condone it or anything like
20 that. And emotions are tied to that and that's understandable. The
21 question really is, is are those emotions so strong that it would
22 prevent you or anybody else, because you've got the mic right now,
23 to be fair and impartial? Would it make it so that you couldn't hold
24 me, the State of Nevada, to my burden and Ms. Overly to our
25 burden?

1 PROSPECTIVE JUROR NUMBER 468: I don't think I'm
2 understanding what you're saying.

3 MR. PESCI: It's because I'm just talking too much, I
4 apologize.

5 Would your sympathy make it such that you would
6 automatically go for guilty?

7 PROSPECTIVE JUROR NUMBER 468: Yes.

8 MR. PESCI: Even if we don't prove it to you? We bring in
9 witnesses and you think you know, that stunk.

10 PROSPECTIVE JUROR NUMBER 468: I think it'd be hard
11 to make a decision.

12 MR. PESCI: Okay. So that would affect your ability to be
13 fair?

14 PROSPECTIVE JUROR NUMBER 468: Yes.

15 MR. PESCI: All right. Thank you, Ms. Williams.

16 And then I think we had someone shaking their head.

17 So if you could pass the microphone over your shoulder,
18 someone hopefully can grab it and we'll send it back to Mr.
19 Contreras, right, 378.

20 PROSPECTIVE JUROR NUMBER 378: I think it will affect
21 my answer. I will definitely lean more towards guilty.

22 MR. PESCI: Okay.

23 PROSPECTIVE JUROR NUMBER 378: Just for the fact that
24 my cousin got killed almost in the same way, here in Vegas.

25 MR. PESCI: Okay.

1 PROSPECTIVE JUROR NUMBER 378: That's one. Two,
2 there's a firearm. They were underage. That's another fact that just
3 clicks in my mind.

4 MR. PESCI: Okay.

5 PROSPECTIVE JUROR NUMBER 378: Three, there is
6 someone that die. Okay. I just think that that person didn't have a
7 chance to defend themselves, so all of things just add up in my head
8 and I'm just like guilty.

9 MR. PESCI: Okay.

10 PROSPECTIVE JUROR NUMBER 378: It's definitely going
11 to affect my answer.

12 MR. PESCI: All right. So let me grab one thing you just
13 said and kind of pull that out and talk about that for a minute, is that
14 okay?

15 PROSPECTIVE JUROR NUMBER 378: Yeah.

16 MR. PESCI: So unfortunately, you said your victim -- your
17 cousin was a victim of murder?

18 PROSPECTIVE JUROR NUMBER 378: Yes.

19 MR. PESCI: And that was here in Las Vegas?

20 PROSPECTIVE JUROR NUMBER 378: Yes.

21 MR. PESCI: How long ago?

22 PROSPECTIVE JUROR NUMBER 378: Three/four years
23 ago.

24 MR. PESCI: Okay. Do you know, was anyone ever
25 charged?

1 PROSPECTIVE JUROR NUMBER 378: Yes.

2 MR. PESCI: And was there a case that was generated?

3 PROSPECTIVE JUROR NUMBER 378: Yeah.

4 MR. PESCI: And did that person get prosecuted?

5 PROSPECTIVE JUROR NUMBER 378: There were actually

6 four people.

7 MR. PESCI: [Indiscernible].

8 PROSPECTIVE JUROR NUMBER 378: Four guys.

9 MR. PESCI: Okay.

10 PROSPECTIVE JUROR NUMBER 378: And they were all

11 underage. House party, things got out of control.

12 MR. PESCI: Okay. Do you -- did you follow it? Did you

13 keep tabs on it?

14 PROSPECTIVE JUROR NUMBER 378: Nah.

15 MR. PESCI: Okay. And I ask that in the sense of do you

16 know who prosecuted, like was it my office?

17 PROSPECTIVE JUROR NUMBER 378: I don't know.

18 MR. PESCI: You don't -- you have no idea. Okay.

19 Did you ever come to court for any of the proceedings?

20 PROSPECTIVE JUROR NUMBER 378: I would try not to

21 get involved.

22 MR. PESCI: Okay. And do you know if they were -- like

23 did they negotiate the case? Did they go to trial?

24 PROSPECTIVE JUROR NUMBER 378: I don't know.

25 MR. PESCI: Don't know, okay. All right. But that

1 particular experience brings up some emotions to you?

2 PROSPECTIVE JUROR NUMBER 378: Oh yes.

3 MR. PESCI: Okay. And do you think all those things that
4 you said you checked off in your mind, right, about being young,
5 having a gun, are they going to make it such that you're going to
6 automatically find guilty or automatically find not guilty?

7 PROSPECTIVE JUROR NUMBER 378: It all depends on the
8 background. Like for instance in my background, where I was
9 raised, I wasn't raised in the United States. I'm an American citizen
10 but wasn't raised here. Killing is pretty much almost a normal
11 thing. So when I get here and I see these things like you just make
12 me think okay, well there was no way this guy being able to defend
13 himself. So even if you guys prove -- whatever you guys -- you
14 know, whatever you guys prove, I think I will already have an
15 answer in my mind.

16 MR. PESCI: You have an idea in your mind already?

17 PROSPECTIVE JUROR NUMBER 378: Oh yeah.

18 MR. PESCI: Okay. And you're saying based on the charge
19 itself?

20 PROSPECTIVE JUROR NUMBER 378: Yes.

21 MR. PESCI: Okay. All right. And you said the way you
22 were raised, that's affecting your viewpoints on this?

23 PROSPECTIVE JUROR NUMBER 378: Yes.

24 MR. PESCI: Okay. And how so? Just because of your
25 experience where you said that there are people -- there were

1 people that were killed before?

2 PROSPECTIVE JUROR NUMBER 378: Well back home it's
3 very easy, it's very common to see people getting killed every day,
4 so it's not something that affects us, it just affects the way that you
5 see things like when it comes to defending yourself like you know --

6 MR. PESCI: Uh-huh.

7 PROSPECTIVE JUROR NUMBER 378: Like for instance, by
8 you just saying the matter of the case, it just makes me think one
9 answer.

10 MR. PESCI: Okay.

11 PROSPECTIVE JUROR NUMBER 378: By default.

12 MR. PESCI: All right. So then if you're on the other side
13 of this, not the Prosecution, but if you're on the Defense, would
14 they be worried to have you as a juror?

15 PROSPECTIVE JUROR NUMBER 378: They should.

16 MR. PESCI: Okay. And that's because of this experience
17 that you've had?

18 PROSPECTIVE JUROR NUMBER 378: Probably, probably
19 not. It just -- that's just my feelings right now. That's -- you know,
20 those are the emotions that I'm finding at this moment.

21 MR. PESCI: Okay. And one of the things that the Court
22 will explain to everybody, not just Mr. Contreras is that your
23 decision has to be made on the facts that come into this. And so
24 your emotions or your experiences, although you can take them
25 into consideration, it's not what you can base a decision on; in the

1 sense that it only depends on what we present by way of witnesses
2 up here on the stand. And if we prove it, in your opinion, you make
3 that decision; if we haven't, you make that decision as well. Do you
4 think you could do that?

5 PROSPECTIVE JUROR NUMBER 378: Yes. But your
6 question was if it will affect my answers, so that's why I answered
7 that question.

8 MR. PESCI: Right. No, and I get that.

9 PROSPECTIVE JUROR NUMBER 378: now on this one --
10 yeah. Now on this one, it's a -- you know, it's a total different thing
11 but I don't know.

12 MR. PESCI: Okay.

13 PROSPECTIVE JUROR NUMBER 378: I mean, honestly, I
14 don't know.

15 MR. PESCI: And that's a fair response, right? Because we
16 don't until we're in it. But it -- in the absence of all the facts, we
17 have to know if you can make a determination based on facts alone.
18 We don't know them yet --

19 PROSPECTIVE JUROR NUMBER 378: Uh-huh.

20 MR. PESCI: But on facts alone and not emotion. Are you
21 able to make a decision based on facts?

22 PROSPECTIVE JUROR NUMBER 378: I will find out if I get
23 picked.

24 MR. PESCI: Okay. All right. Thank you very much.

25 I wanted to follow up -- could we pass the microphone to

1 Badge 418. And then is Gelbert?

2 PROSPECTIVE JUROR NUMBER 418: Gebhart.

3 MR. PESCI: Gebhart. Sorry, thank you.

4 So, ma'am, if I understood correctly, you said that there's
5 an uncle that's a detective and was at the Henderson Police
6 Department?

7 PROSPECTIVE JUROR NUMBER 418: Yes.

8 MR. PESCI: Okay. And do you know his or her name?

9 PROSPECTIVE JUROR NUMBER 418: Kyle --

10 MR. PESCI: I mean, uncle, I'm sorry.

11 PROSPECTIVE JUROR NUMBER 418: Kyle Massenberg
12 [phonetic].

13 MR. PESCI: All right. So the other names Ms. Overly
14 stood up and she read a bunch of names from employees from the
15 Henderson Police Department, did any of them ring a bell?

16 PROSPECTIVE JUROR NUMBER 418: No, they did not.

17 MR. PESCI: Okay. Now, during trial you and everybody
18 else cannot talk to your uncle or anybody else about the case.
19 Would you be able to do that?

20 PROSPECTIVE JUROR NUMBER 418: Yes, I would be able
21 to.

22 MR. PESCI: All right. When the case is over, you can talk
23 all you want, you can talk nothing at all, it's totally your decision.
24 But until the case is over, jurors cannot speak about the case during
25 a trial. Some time, and I want to kind of follow up with you,

1 sometimes if people who have law enforcement relatives --

2 PROSPECTIVE JUROR NUMBER 418: Uh-huh.

3 MR. PESCI: Sometimes people feel like well I'm going to
4 have to explain my verdict to my uncle who's a cop. Would you
5 feel pressured in making a determination because of a relative or a
6 friend that's in law enforcement?

7 PROSPECTIVE JUROR NUMBER 418: Can you repeat the
8 question?

9 MR. PESCI: Yes. Would you feel a need to have to
10 explain your verdict to anybody when this was done?

11 PROSPECTIVE JUROR NUMBER 418: No, I wouldn't.

12 MR. PESCI: And to include specifically your uncle, being
13 that he's a detective at the Henderson Police Department.

14 PROSPECTIVE JUROR NUMBER 418: No, we don't hang
15 out with him too much --

16 MR. PESCI: Okay.

17 PROSPECTIVE JUROR NUMBER 418: -- so I wouldn't -- I
18 maybe see him at my birthday in a month but that's it so I
19 wouldn't --

20 MR. PESCI: So --

21 PROSPECTIVE JUROR NUMBER 418: -- feel the need to
22 like -- if I was picked in the jury and everything, I wouldn't feel the
23 need to talk to him or speak to him at all.

24 MR. PESCI: Okay. Or anybody else for that matter. Can
25 you make your decision not worrying about what anybody else may

1 or may not say about it?

2 PROSPECTIVE JUROR NUMBER 418: Yes.

3 MR. PESCI: Okay. Thank you very much.

4 Could we pass the microphone to Badge Number 460,
5 Tagahashi?

6 PROSPECTIVE JUROR NUMBER 460: Takahashi.

7 MR. PESCI: Sorry.

8 PROSPECTIVE JUROR NUMBER 460: That's all right.

9 MR. PESCI: You have, I believe a brother-in-law in the
10 Honolulu --

11 THE COURT: Mr. Takahashi, right behind you there.
12 Thank you, Ms. Gebhart.

13 MR. PESCI: Thank you.

14 A brother-in-law in the Honolulu Police Department?

15 PROSPECTIVE JUROR NUMBER 460: Correct.

16 MR. PESCI: Kind of similar questions. Would you feel any
17 duty or responsibility to explain your verdict one way or the other
18 to that individual?

19 PROSPECTIVE JUROR NUMBER 460: No, I would not.

20 MR. PESCI: Could you make your determination based on
21 the evidence in this case and only the evidence?

22 PROSPECTIVE JUROR NUMBER 460: Yes.

23 MR. PESCI: Okay. Anybody else that has a friend or a
24 relative that's in law enforcement that would feel that they had to
25 explain it? Or it would affect their ability to make a determination?

1 Okay. Could I steal this from you?

2 All right. We're going to go to the gentleman who was in
3 law enforcement.

4 MR. PESCI: All right. So Badge 523, Mr. Sulstrom.

5 You mentioned earlier that you felt that you would kind of
6 lean towards a police officer witness. Did I mischaracterize that?

7 PROSPECTIVE JUROR NUMBER 523: No, that's correct.

8 MR. PESCI: Okay. Would you automatically think that an
9 officer -- that he or she is telling the truth just because they're an
10 officer?

11 PROSPECTIVE JUROR NUMBER 523: I would lean heavily
12 that way, yes.

13 MR. PESCI: Okay. The question then becomes -- and that
14 instinct is there, right? And I -- thank you for sharing that.

15 Do you think that you would automatically find guilt just
16 because we had law enforcement witnesses?

17 PROSPECTIVE JUROR NUMBER 523: Not necessarily.

18 MR. PESCI: All right. If we don't prove to you beyond a
19 reasonable doubt, even when we call some police officers, could
20 you return a not guilty verdict?

21 PROSPECTIVE JUROR NUMBER 523: If you haven't
22 proven your case.

23 MR. PESCI: So it doesn't matter what the witness is, as far
24 as a job, if we haven't proven the case, you could come back with a
25 not guilty?

1 PROSPECTIVE JUROR NUMBER 523: I could.

2 MR. PESCI: All right. And you're not going to
3 automatically come back with a guilty just because of a law
4 enforcement officer testifying?

5 PROSPECTIVE JUROR NUMBER 523: Not necessarily, no.

6 MR. PESCI: Not necessarily. Okay. All right. Thank you
7 very much, sir.

8 Court's indulgence.

9 THE COURT: Okay.

10 MR. PESCI: Judge, we'll pass for cause with that one
11 caveat.

12 THE COURT: Okay. Thank you.

13 Mr. Yampolsky, on behalf of Mr. Caruso.

14 MR. YAMPOLSKY: Afternoon. As I said, my name's Mace
15 Yampolsky. I represent Mr. Caruso. And just like the DAs would
16 want to be fair to their side, I want you to be fair to our side. And
17 we're asking these questions, we don't -- nobody wants you to think
18 we're picking on you but when you make some -- take -- say some
19 things that hmm, maybe this could affect their judgment, we have
20 to ask.

21 And if I ask any questions or anything and you have an
22 answer, but you feel embarrassed, you can ask and we can do it at
23 sidebar, so you don't have to say it in front of everyone.

24 Now Mr. Pesci talked a little bit about burden of proof.
25 You'll get an instruction. Prosecution has the burden to prove guilt

1 beyond a reasonable doubt. Defense doesn't have a burden so if I
2 so choose, I can sit there, twiddling my thumbs, not ask a question
3 of any witness would anyone, if that happened, feel that oh, we
4 have to find him guilty, his lawyer didn't do anything. He doesn't
5 believe him or something like that? Anyone feel that way?

6 I see no hands.

7 Another thing, and you'll be instructed also, is the right
8 against self-incrimination. So I may have Mr. Caruso not testify.
9 Maybe he won't get up on the stand. Does anyone feel like well, he
10 should have said something in his defense, it's --

11 Okay. Mr. Gutierrez-Sosa. Now you said you were in a
12 civil case, you didn't agree with the verdict, is that accurate?

13 PROSPECTIVE JUROR NUMBER 505: Correct.

14 MR. YAMPOLSKY: And you said that you didn't believe --
15 and I'm -- if I get this wrong, I'm paraphrasing that you didn't
16 believe there was enough evidence because it was basically a he
17 said, she said?

18 PROSPECTIVE JUROR NUMBER 505: As we were told
19 from the begin -- from the initial beginning of the case.

20 THE COURT: Hey Mace, can I interrupt you for a second?

21 So can I just clarify something because in a civil case you
22 don't have to have a unanimous verdict. So did you vote for the
23 verdict and then later you felt like you regretted that vote or were
24 you voting not for the verdict, but it got returned anyway?

25 PROSPECTIVE JUROR NUMBER 505: We had a jury of --

1 THE COURT: Eight.

2 PROSPECTIVE JUROR NUMBER 505: -- four or eight, I
3 believe.

4 THE COURT: Eight.

5 PROSPECTIVE JUROR NUMBER 505: And everyone came
6 to a consensus and I still had my doubts --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NUMBER 505: -- and I agreed to
9 the consensus, but I had strong doubts and there was nothing I
10 could do at that point.

11 THE COURT: Okay. I'm sorry.

12 MR. YAMPOLSKY: Well I --

13 THE COURT: And I didn't mean to interrupt you, Mace,
14 but I just wanted to figure that out.

15 MR. YAMPOLSKY: And I'm glad you brought it up
16 because one thing is that the Defendant is entitled to everyone's
17 individual consideration on their guilt or innocence. So the
18 question is, and I'm going to ask you Mr. Gutierrez-Sosa because
19 you volunteered. If you were on this jury and all the 11 other jurors
20 would vote one way, whether it's guilty or not guilty, but one way
21 and you disagreed, would you have the intestinal fortitude to stand
22 up and say no, not my verdict, you haven't convinced me. Would
23 you be able to do that?

24 PROSPECTIVE JUROR NUMBER 505: Yes. However, I
25 understand the Defendant doesn't have a burden of proof of

1 innocence. But personally, I don't think I can judge fairly without an
2 argument from both sides and strong evidence from both sides.

3 MR. YAMPOLSKY: Okay. And that's good. And I'm glad
4 you brought that up because everyone has strong feelings and
5 that's fine because this is the place we want to hear about them. So
6 what you're saying is you understand that Defendant has no burden
7 of proof, correct?

8 PROSPECTIVE JUROR NUMBER 505: [No audible
9 response - nods head yes].

10 MR. YAMPOLSKY: Is that a yes?

11 PROSPECTIVE JUROR NUMBER 505: Yes, correct.

12 MR. YAMPOLSKY: Okay. And you understand, if I want
13 to, I can sit there just twiddling my thumbs, correct?

14 PROSPECTIVE JUROR NUMBER 505: Yes.

15 MR. YAMPOLSKY: But you wouldn't feel comfortable if I
16 did that -- if we didn't produce any evidence [indiscernible] on
17 behalf of the Defendant, would that be accurate?

18 PROSPECTIVE JUROR NUMBER 505: Absolutely not --
19 would not feel comfortable.

20 MR. YAMPOLSKY: Okay. And thank you. And I really
21 appreciate your answer.

22 Now, give the mic to Mr. Meng, please.

23 Now I want to make this point is that what we want is a
24 fair juror for this case. Now some jurors could be fair for all kinds
25 of cases. Let's say a sexual assault. They have a relative and they

1 automatically would vote guilty or something like that. I was a
2 victim of armed robbery, so I would not be a good juror for an
3 armed robbery.

4 Now Mr. Meng, you've been a victim of robbery a couple
5 of times, correct?

6 PROSPECTIVE JUROR NUMBER 390: Four.

7 MR. YAMPOLSKY: Four times. And you know -- well you
8 don't know, I don't believe, but in this particular case one of the
9 counts is that both of these Defendants participated in an armed
10 robbery. So do you think you could be fair and it's okay if you
11 can't, but with -- I just would like to know and -- because I know I
12 couldn't be fair in a robbery trial.

13 PROSPECTIVE JUROR NUMBER 390: I would have a hard
14 time answering that. I probably -- you know, again, I do hold hard
15 feelings against hearing anything about an armed robbery when I
16 know I was a victim of one.

17 MR. YAMPOLSKY: So you're saying that there's a
18 possibility that, you know, you might not be able to be fair.

19 PROSPECTIVE JUROR NUMBER 390: Again, it would --
20 unless I was presented with all the evidence and was really, really
21 convinced, yeah, that'd be right.

22 MR. YAMPOLSKY: So -- and I'm just trying to follow up
23 like on Mr. Gutierrez-Sosa. So if the State presents all this evidence
24 on all the charges and both Mr. Caruso and his Co-Defendant, Mr.
25 Harlan didn't produce any evidence whatsoever, would you feel like

1 you probably would vote guilty?

2 PROSPECTIVE JUROR NUMBER 390: Knowing me, yes, I
3 probably would be, yeah.

4 MR. YAMPOLSKY: Okay. And that's good and I really
5 appreciate everyone's candor because we don't know. That's why
6 we ask these questions.

7 Now does -- and I know there are some. How many on
8 the jury have teenage children?

9 Okay. A bunch of you. All right. Could you please give
10 the mic to Ms. Fox?

11 Now you said that you have two children, 20 and 18, is
12 that accurate?

13 PROSPECTIVE JUROR NUMBER 381: Correct.

14 MR. YAMPOLSKY: Okay. And you said that many times
15 as a parent you would have to -- for lack of a better word, mediate
16 disputes between them.

17 PROSPECTIVE JUROR NUMBER 381: Correct.

18 MR. YAMPOLSKY: And then you would have to make a
19 determination as to what happens --

20 PROSPECTIVE JUROR NUMBER 381: Correct.

21 MR. YAMPOLSKY: -- right?

22 And you said in order to make your decision, you would
23 talk to -- are they boys? Girls? What?

24 PROSPECTIVE JUROR NUMBER 381: Boys.

25 MR. YAMPOLSKY: Okay. You talk to both boys and then

1 you said you talked to the teacher.

2 PROSPECTIVE JUROR NUMBER 381: Correct.

3 MR. YAMPOLSKY: Correct. Okay.

4 Now let's say there was no teacher involved. Let me give
5 you this hypothetical. You made this blueberry pie, you're going to
6 have a dinner party, you are the world's best baker of blueberry
7 pies and you have all the people that were on the cooking shows,
8 the chefs, and they're going to eat your blueberry pie. And you
9 come home and there is a slice of the blueberry pie that's gone and
10 you ask your kids and you say who took this and they go like this.
11 What would you do to make that determination?

12 PROSPECTIVE JUROR NUMBER 381: Figure out which
13 one likes blueberry. The answer would be obvious in that case.

14 MR. YAMPOLSKY: Okay. Now in this particular case
15 there's -- like Mr. Gutierrez-Sosa -- there's going to be a lot of he
16 said, she said. And how are you going to decide whether or not
17 what he said is what happened or is what she said did happen if
18 they're different.

19 PROSPECTIVE JUROR NUMBER 381: I mean you have to
20 look at the facts that are available.

21 MR. YAMPOLSKY: Okay. And in addition to the facts, are
22 there any factors that you might use?

23 PROSPECTIVE JUROR NUMBER 381: In this case or --

24 MR. YAMPOLSKY: Yes.

25 PROSPECTIVE JUROR NUMBER 381: I mean, no, it's

1 going to be the facts of this case.

2 MR. YAMPOLSKY: Okay. And what about in some other
3 situation?

4 PROSPECTIVE JUROR NUMBER 381: With my kids?

5 MR. YAMPOLSKY: Yeah.

6 PROSPECTIVE JUROR NUMBER 381: It would be what
7 they've previously done because I know them.

8 MR. YAMPOLSKY: Okay. So if one of your kids
9 previously kept stealing slices of your pie, you would think it's him.

10 PROSPECTIVE JUROR NUMBER 381: Because I know
11 them, yes.

12 MR. YAMPOLSKY: Okay. Thank you.

13 Now, Mister, is it Sulstrom, is that how you pronounce it?

14 PROSPECTIVE JUROR NUMBER 523: Yes.

15 MR. YAMPOLSKY: Okay. Could you please pass the mic
16 to Mr. Sulstrom?

17 Now if I remember correctly you are a -- you retired from
18 the LA County Sheriff's Department.

19 PROSPECTIVE JUROR NUMBER 523: Correct.

20 MR. YAMPOLSKY: And your wife actually worked for the
21 LA County Sheriff's Department.

22 PROSPECTIVE JUROR NUMBER 42: That's true.

23 MR. YAMPOLSKY: And earlier -- and once again,
24 everyone has their opinion, your opinion's not wrong, we just want
25 to find out. You said that based on your work experience that you

1 probably would believe a police officer as opposed to a lay witness;
2 would that be accurate?

3 PROSPECTIVE JUROR NUMBER 523: Yes.

4 MR. YAMPOLSKY: Okay. So for instance -- and I'm
5 simplifying, I'm making a hypothetical which has nothing to do with
6 this case. If a police officer said hey, this car was black and
7 somebody else gets up there who's not a police officer said hey,
8 this car is white, you would tend to believe the police officer.

9 PROSPECTIVE JUROR NUMBER 523: Unless there was
10 other evidence to prove.

11 MR. YAMPOLSKY: Right. But I'm saying that's it. It's a he
12 said, she said. There's no other evidence.

13 PROSPECTIVE JUROR NUMBER 523: Correct.

14 MR. YAMPOLSKY: So you would believe the police
15 officer.

16 And you would try to be fair though, correct?

17 PROSPECTIVE JUROR NUMBER 523: Yes.

18 MR. YAMPOLSKY: But there is a possibility that you
19 would lean towards what law enforcement is saying.

20 PROSPECTIVE JUROR NUMBER 523: Correct.

21 MR. YAMPOLSKY: Okay. I appreciate your candor.

22 And one thing I want to bring up and this goes to the right
23 to remain silent and I -- you know, some people just don't want to
24 testify and everyone -- I mean, some people like Mr. Gutierrez-Sosa
25 well, you know, if he's innocent he should say that, why -- you

1 know, why not? And can anyone think of a reason why an innocent
2 person may not want to take the stand?

3 Could you please the mic to Mr. Jaska?

4 PROSPECTIVE JUROR NUMBER 474: Do you just want
5 me to give a reason?

6 MR. YAMPOLSKY: Yes.

7 PROSPECTIVE JUROR NUMBER 474: Or -- because let's
8 say their Miranda Rights were violated under intense questioning
9 and if they took the stand, the false confession can be used against
10 them.

11 MR. YAMPOLSKY: Okay. So what you're saying is that
12 maybe because what they said before might be different to what
13 they would say on the stand.

14 PROSPECTIVE JUROR NUMBER 474: Correct.

15 MR. YAMPOLSKY: Okay. Can you think of any other
16 reasons why an innocent person might not want to take the stand?

17 PROSPECTIVE JUROR NUMBER 474: No, I'm saying an
18 innocent person could do that under -- if there's enough stress in
19 the questioning, an innocent person will say anything. So if -- that
20 would be a reason.

21 MR. YAMPOLSKY: So you're saying there's a possibility
22 there might be a false --

23 PROSPECTIVE JUROR NUMBER 474: It happens all the
24 time, no?

25 MR. YAMPOLSKY: -- confession.

1 PROSPECTIVE JUROR NUMBER 474: I think that's
2 common in America for that to happen, yes.

3 MR. YAMPOLSKY: And can you -- aside from the stress,
4 can you think of any other factors that may affect someone's --

5 PROSPECTIVE JUROR NUMBER 474: Maybe they just
6 want that *joie de vivre* just to be so cool that hey, look what I did.
7 Look at me. Sometimes --

8 MR. YAMPOLSKY: Okay.

9 PROSPECTIVE JUROR NUMBER 474: -- people do that.

10 MR. YAMPOLSKY: And do you think if someone took
11 drugs, it could affect them?

12 PROSPECTIVE JUROR NUMBER 474: Oh, that's very -- I --
13 you could certainly take that in consideration too.

14 MR. YAMPOLSKY: And do you think if someone had a
15 speech impediment, they might not want to testify from the stand?

16 PROSPECTIVE JUROR NUMBER 474: Once again, yes.

17 MR. YAMPOLSKY: And like you said, if there was stress,
18 do you think that maybe someone would want to take the stand
19 because their words might be twisted by one of the lawyers.

20 PROSPECTIVE JUROR NUMBER 474: That's a --

21 MR. PESCI: Judge, can we approach?

22 THE COURT: Yeah.

23 [Bench conference transcribed as follows.]

24 THE COURT: So here's the thing, I've always thought that
25 question is inappropriate --

1 MR. YAMPOLSKY: All right. I'll move on.

2 THE COURT: Well, because it's kind of like, you know,
3 you're inviting them to say well why might a guilty not testify or
4 something like that.

5 MR. YAMPOLSKY: Well I specifically said innocent.

6 THE COURT: I know, I know, I know. But yeah, let's move
7 on.

8 MR. YAMPOLSKY: All right.

9 THE COURT: Is that what you're going to object to?

10 MR. PESCI: Yes. And the objection is also -- I mean, the
11 hypothetical I wasn't objecting to the blueberry pie because --

12 THE COURT: Okay.

13 MR. PESCI: -- that's wonderful. And now we're getting
14 into specifics about our case and we object under 7.70 about not
15 arguing the facts of the case --

16 THE COURT: Okay.

17 MR. YAMPOLSKY: I wasn't --

18 MR. PESCI: -- during jury selection.

19 MR. YAMPOLSKY: I wasn't arguing the facts of this case.

20 THE COURT: Well I didn't know how the drug issue came
21 up.

22 MR. YAMPOLSKY: Well we -- this -- you said one of the
23 reasons was, you know, that, and I was just following up.

24 THE COURT: All right. Let's move away from that.

25 MR. YAMPOLSKY: All right. I'll move on.

1 THE COURT: Okay. Thank you.

2 [End of bench conference.]

3 THE COURT: All right. You can continue, Mace.

4 MR. YAMPOLSKY: And could you pass the mic over here
5 to Ms. Williams?

6 And if I'm wrong, please let me know. It happens all the
7 time; if you don't believe me ask my ex-wife, but be that as it may,
8 how -- I believe what you said was that because of sympathy for the
9 victim, you were afraid that you might not be fair. Is that accurate?

10 PROSPECTIVE JUROR NUMBER 468: True.

11 MR. YAMPOLSKY: Okay. And when you say might not be
12 fair, you'd be more prone to vote guilty as opposed to not guilty.

13 PROSPECTIVE JUROR NUMBER 468: I believe so, yes.

14 MR. YAMPOLSKY: Okay. Could you pass the mic to Mr.
15 Contreras, please?

16 Mr. Contreras, as I understand it, your cousin was
17 murdered like three/four years ago. Is that accurate?

18 PROSPECTIVE JUROR NUMBER 378: Yes.

19 MR. YAMPOLSKY: And that happened in Las Vegas.

20 PROSPECTIVE JUROR NUMBER 378: Yes.

21 MR. YAMPOLSKY: And the people that were -- I believe
22 you said four people were involved --

23 PROSPECTIVE JUROR NUMBER 378: Yes.

24 MR. YAMPOLSKY: -- is that right?

25 And they were accused.

1 PROSPECTIVE JUROR NUMBER 378: Yes.

2 MR. YAMPOLSKY: And do you know if they were
3 convicted or not?

4 PROSPECTIVE JUROR NUMBER 378: Don't know.

5 MR. YAMPOLSKY: No you don't know or no, they're
6 weren't convicted?

7 PROSPECTIVE JUROR NUMBER 378: I don't know.

8 MR. YAMPOLSKY: Okay. And --

9 PROSPECTIVE JUROR NUMBER 378: I was in the
10 Bahamas at that time, so.

11 MR. YAMPOLSKY: Excuse me?

12 PROSPECTIVE JUROR NUMBER 378: I was living in
13 Bahamas at that time so I just --

14 MR. YAMPOLSKY: Oh, okay.

15 PROSPECTIVE JUROR NUMBER 378: Yeah.

16 MR. YAMPOLSKY: And I believe you said -- once again, if
17 I'm wrong, you let me know that because there's a murder charge
18 here and because these Defendants are being accused of murder,
19 you may have a tough time being fair. Would that be an accurate
20 statement?

21 PROSPECTIVE JUROR NUMBER 378: Yes.

22 MR. YAMPOLSKY: Okay.

23 PROSPECTIVE JUROR NUMBER 378: Those are the
24 feelings that I'm finding out right now.

25 MR. YAMPOLSKY: Okay. And you haven't heard any

1 evidence right now.

2 PROSPECTIVE JUROR NUMBER 378: Yes, sir.

3 MR. YAMPOLSKY: Okay. Now the other thing I believe
4 you said that because there were firearms involved, correct?

5 PROSPECTIVE JUROR NUMBER 378: Yes.

6 MR. YAMPOLSKY: And how would that affect your
7 determination?

8 PROSPECTIVE JUROR NUMBER 378: Not that it'll affect it
9 in the future because I will have to see the facts but again, I answer
10 to the question of the feelings at that moment -- of this moment and
11 the fact that I think they were underage --

12 MR. YAMPOLSKY: Right.

13 PROSPECTIVE JUROR NUMBER 378: -- the fact that
14 there's an arm on underage guys, hence -- I mean, that just lead me
15 towards one answer.

16 MR. YAMPOLSKY: Okay. And you're saying because if
17 the evidence shows that there were underage people --

18 PROSPECTIVE JUROR NUMBER 378: Yes.

19 MR. YAMPOLSKY: And when you say underage, you
20 mean under 18, under 20 --

21 PROSPECTIVE JUROR NUMBER 378: Under 18.

22 MR. YAMPOLSKY: Under 18 that were using a firearm
23 that they may -- and if my words are wrong -- but that may like bias
24 you against them, would that be accurate?

25 PROSPECTIVE JUROR NUMBER 378: Not really against

1 them because I mean, again, no one is guilty until proven, you
2 know? So that's -- those are just my feelings. I answered to the
3 question that was asked earlier.

4 MR. YAMPOLSKY: Right. But just like because it's a
5 murder case, you may -- you have some strong feelings about
6 underage people that would be using firearms?

7 PROSPECTIVE JUROR NUMBER 378: No, not necessarily
8 underage people because like I said, I mean, where I come from
9 that's pretty normal. I'm just saying those things are adding up in
10 my head and because of that, that's -- if the case had to be solved
11 today, right now, I had a -- I already have an answer in my head.
12 Make sense?

13 MR. YAMPOLSKY: Okay. So -- and tell me if I'm wrong.
14 So what you're saying because the charge is murder and because --
15 and I'm just -- that there are underage people as the DA said and
16 firearms are involved, you may have a hard time being fair. Would
17 that be accurate?

18 PROSPECTIVE JUROR NUMBER 378: Yes.

19 MR. YAMPOLSKY: Okay.

20 PROSPECTIVE JUROR NUMBER 378: Without seeing no
21 evidence at this time, yes.

22 MR. YAMPOLSKY: Right. Okay. And right now you
23 haven't heard any evidence but just --

24 PROSPECTIVE JUROR NUMBER 378: Yes, sir.

25 MR. YAMPOLSKY: -- without hearing any evidence, you

1 believe that you maybe would lean towards the Prosecution?

2 PROSPECTIVE JUROR NUMBER 378: Towards one
3 answer; yes, sir.

4 MR. YAMPOLSKY: Okay.

5 I have nothing further right now. Thank you.

6 THE COURT: Thank you.

7 All right. Will you guys approach real quick?

8 [Bench conference transcribed as follows.]

9 THE COURT: I'll probably give them a quick bathroom
10 break before we move over to Ryan, but are you challenging
11 anybody?

12 MR. YAMPOLSKY: Of course I am.

13 THE COURT: Okay. So last name.

14 MR. YAMPOLSKY: Okay. So Mr. Contreras said without
15 any evidence --

16 THE COURT: No, just tell me who they are real quick. Mr.
17 Contreras.

18 MR. YAMPOLSKY: Okay. Mr. Contreras, Mr. Gutierrez-
19 Sosa, Mister --

20 MR. HELMICK: Sulstrom.

21 MR. YAMPOLSKY: Mr. Sulstrom.

22 THE COURT: Okay.

23 MR. YAMPOLSKY: Did I miss anyone? Ms. Williams.

24 THE COURT: Okay. Mr. Contreras, Gutierrez-Sosa, and
25 Ms. Williams, okay.

1 MR. YAMPOLSKY: Yes.

2 THE COURT: All right. Okay. So just be thinking about
3 those and then when we're done with Ryan, we'll all come back and
4 talk about all of them --

5 MR. PESCI: Okay.

6 THE COURT: -- including Ms. Lambert.

7 MR. YAMPOLSKY: Okay.

8 THE COURT: Okay. So we'll take a break real quick.

9 [End of bench conference.]

10 THE COURT: All right. Folks, before we continue on with
11 Mr. Helmick, we're going to go ahead and take a short break, let
12 you use the restroom, stretch.

13 I don't think I told you earlier and I apologize, but if you
14 want to bring a drink back into courtroom, please feel free to do so.
15 Even if you grab like a small pack of candy or something like that. I
16 eat obscene amounts of jellybeans when I sit in court so please feel
17 free to do that as well. With the drinks, just make sure you keep the
18 top on them if you would though.

19 So we're going to take about a 10 or 15-minute break and
20 then we'll continue on.

21 During the recess you're admonished not to talk or
22 converse among yourselves or with anyone else on any subject
23 connected with the trial. Or read or watch or listen to any report of
24 or commentary on the trial by any medium of information
25 including, without limitation, newspapers, television, the Internet,

1 and radio. Or form or express any opinion on any subject
2 connected with the case until it's finally submitted to you. No legal
3 or factual research, or investigation on your own.

4 Thank you. I need everybody to go ahead and step out.
5 Again, leave whatever you want in your chairs for now, okay?

6 [Outside the presence of the prospective jury]

7 THE COURT: Do you guys have anything outside the
8 presence?

9 MR. PESCI: Yeah, real quick, Judge.

10 THE COURT: Okay.

11 MR. PESCI: You hopefully have some records?

12 THE COURT: Yes.

13 MR. PESCI: Okay.

14 THE COURT: I just started to kind of try and glance at
15 them.

16 MR. PESCI: So just to make a record, we asked for our
17 Juvenile Division to get the records. Judge Voy signed the release,
18 they forwarded it to me.

19 THE COURT: Okay.

20 MR. PESCI: I opened the document. Once I saw there
21 were reports, I stopped --

22 THE COURT: Okay.

23 MR. PESCI: -- and I just forwarded it to you.

24 THE COURT: Okay.

25 MR. PESCI: So I haven't seen them. But the first page

1 was the order so I was trying to see -- once I saw that there were
2 some, I just sent it right to you and I haven't seen it.

3 THE COURT: Yeah, it was 105 pages, so I've printed it out.
4 Just as I was flipping through it, it looks like a lot of it is arrest
5 report, incident report, stuff like that.

6 MR. PESCI: Right.

7 THE COURT: On top of it was the Order to Testify. So I
8 haven't got into the meat to see what else is there yet.

9 MR. PESCI: And I just wanted to make the record, the
10 State doesn't have it under the advantage of in the sense of looking
11 at it. We're not going to look at it --

12 THE COURT: Okay.

13 MR. PESCI: -- until you tell us if we can.

14 THE COURT: Okay.

15 MR. PESCI: Secondly, Mr. Helmick was very kind and
16 pointed out a couple of things that he's intending on using during
17 his voir dire.

18 THE COURT: Okay.

19 MR. PESCI: One of them was the Shawshank Redemption
20 picture. I mean, I really don't know what's going to happen with
21 that so I'm not necessarily going to object at this point.

22 But there was also one that was a picture it was called the
23 game of telephone. And so the State is objecting in advance that,
24 you know, getting into the facts of the case again, under Eighth
25 Judicial District Court 7.70, you can't really argue the case. And the

1 idea of telephone is that one person says, then another person
2 says, which, you know, could be argued is the facts of this case. So
3 I'd rather not do that in front of the jury, so --

4 THE COURT: Okay.

5 MR. PESCI: -- I'm making my objection now.

6 THE COURT: Okay. Mr. Helmick.

7 MR. HELMICK: That wasn't the purpose of telephone. It
8 was really going to be into if this jury had heard about this case on
9 the news. And we haven't had many people talk about that yet, so I
10 don't think I'm really even going to use those telephone exhibits
11 that I have.

12 THE COURT: Okay. All right.

13 MR. PESCI: Thank you.

14 THE COURT: If that changes, just kind of give me a hi sign
15 or --

16 MR. HELMICK: Sure, I'll give you --

17 THE COURT: -- whatever --

18 MR. HELMICK: -- a heads up --

19 THE COURT: -- and we'll talk about it.

20 MR. HELMICK: We'll approach if I try to use it.

21 THE COURT: Okay. All right. Then we will be on break.

22 [Court recessed at 3:05 p.m., until 3:22 p.m.]

23 [Outside the presence of the prospective jury]

24 THE COURT: Okay. We're on, Ryan, you can go ahead.

25 MR. HELMICK: Okay. So I wanted to make sure because I

1 don't want to do something that's wrong. Can we talk about
2 whether they have heard about the case last year that involved
3 Russian roulette and an abandoned house. The goal is I'm trying to
4 figure out who heard about this case. They're not going to
5 remember the names of the people but --

6 THE COURT: Okay.

7 MR. HELMICK: -- those things might ring a bell as to what
8 they heard about it.

9 THE COURT: Mr. Pesci.

10 MR. PESCI: Judge, I object as to talking specifically about
11 Russian Roulette. I don't think that anybody's indicated at all they
12 have heard anything in the media. I specifically avoided specific
13 facts of this case and so I don't think we need to plant in their heads
14 the concept of Russian Roulette. I think it'd be better to --

15 THE COURT: The -- and I'm sorry to interrupt. The
16 problem with that is, is like well, okay -- then the State says well
17 maybe we want to bring up that, you know -- did you hear about
18 the case in Henderson that allegedly involved Russian Roulette and
19 dah, dah, dah. So that --

20 MR. PESCI: Right.

21 THE COURT: -- kind of gets back and forth. So I mean,
22 really it's just kind of -- I mean, you can bring up to them and say
23 there was some media attention when this case first arose. Does
24 anybody remember seeing anything about it on the news or
25 reading anything about it in the newspaper.

1 MR. HELMICK: Yeah.

2 THE COURT: You heard from Ms. Gideon that these guys
3 were in high school at the time. Anything about that ring any bells
4 with any of you all.

5 MR. HELMICK: That's how I'll do it. That was my goal.

6 THE COURT: I don't want to go into planting a fact to ask
7 them about because there's so many facts in any given situation.

8 MR. YAMPOLSKY: But just -- and obviously I don't -- well
9 maybe I do --

10 THE COURT: Go ahead.

11 MR. YAMPOLSKY: But let's say he has that question, and
12 someone says oh yeah, I remember. Could he go into it then or no?

13 THE COURT: No, no, no. If somebody says I remember
14 about the case, we'll bring them in by themselves.

15 MR. PESCI: Oh, okay.

16 THE COURT: Okay. So what I would probably say is go
17 ahead and finish all your questions of the panel and then we'll pull
18 those people back and ask them what it is --

19 MR. HELMICK: Okay.

20 THE COURT: -- they think they remember. Okay.

21 MR. PESCI: And that was going to be the State's request.
22 If someone says they remember something from media, that we do
23 it individually so that we're not telling the other people what the
24 facts are.

25 THE COURT: Yeah. I mean, that was just the same way --

1 MR. HELMICK: Okay. Well that's good that we talked
2 about that.

3 THE COURT: Yeah. Same way we did with Ms. Gideon.
4 We'll just hold them and then at the end we'll bring them in and say
5 what it is that they think they remember.

6 MR. HELMICK: Okay.

7 THE COURT: Okay. All right. You guys have anything
8 else?

9 MR. HELMICK: That's it from me.

10 THE COURT: No. Okay.

11 MR. PESCI: Not from the State --

12 THE COURT: All right.

13 MR. PESCI: -- thank you.

14 THE COURT: You can go ahead and get them in.

15 THE MARSHAL: Yes, Your Honor.

16 [In the presence of the prospective jury]

17 THE MARSHAL: Jurors are present.

18 THE COURT: You all can be seated. Thank you.

19 We will be back on the record. Attorneys, parties,
20 prospective jurors are all present.

21 We're going to continue on with our questioning.

22 Mr. Helmick.

23 MR. HELMICK: Thank you, Your Honor.

24 THE COURT: Uh-huh.

25 MR. HELMICK: Good afternoon, everybody. Again, my

1 name is Ryan Helmick. I represent Kody Harlan.

2 I want to talk with you about a comment that the lady
3 that's sitting in Mr. Young's seat made earlier. She said that she
4 had heard about this case, that she went to high school with these
5 kids. This case had some media coverage last year. Does anybody
6 remember hearing anything about this case and the facts that the
7 Prosecutors stated at the beginning of this case? Does anybody
8 remember hearing anything in the news, on social media,
9 anything? I just want to make sure.

10 Nobody? Okay. Go ahead, Jessica.

11 PROSPECTIVE JUROR NUMBER 468: Oh I just -- I
12 remember hearing it in the news.

13 MR. HELMICK: Oh, you do?

14 PROSPECTIVE JUROR NUMBER 468: Yeah.

15 MR. HELMICK: Okay. That's okay. That's all I wanted to
16 know.

17 THE COURT: So just to clar -- I don't want you to go into
18 anything, Ms. Williams, right now that you may or may not have
19 heard but was it newspaper, Internet, television?

20 PROSPECTIVE JUROR NUMBER 468: Social media.

21 THE COURT: Pardon?

22 PROSPECTIVE JUROR NUMBER 468: On social media.

23 THE COURT: Social media. Social media news sites --

24 PROSPECTIVE JUROR NUMBER 468: Yeah.

25 THE COURT: -- or amongst people you knew.

1 PROSPECTIVE JUROR NUMBER 468: News.

2 THE COURT: Okay. So like a Channel 3 social media site
3 or a Channel 8 site or something like that?

4 PROSPECTIVE JUROR NUMBER 468: Channel 8.

5 THE COURT: Okay. Great. Thank you.

6 MR. HELMICK: Okay. Thank you. Okay. So this is my
7 new whiteboard here. I'm going to write stuff on here, maybe write
8 some of your answers on here as well.

9 You didn't think we were going to be talking about sushi,
10 did you?

11 So I want to talk with you about sushi for a minute. I want
12 you to pretend that I am the judge of -- we're talking about honesty
13 here. I want to pretend that I'm the judge of a sushi contest and I
14 have to tell you that I absolutely hate sushi. I can't do it. I can't do
15 the fish taste. It's not for me. Some people do it.

16 But I'm selected as the judge for this sushi contest and
17 you got all the famous chefs in the world coming from Japan and
18 they're coming to make this sushi and I'm picked as the judge for
19 this sushi contest. Do you think that I have a duty to the
20 contestants who work so hard to let them know that I just -- I don't
21 like sushi? You think I have a duty? Can I see your hands, please?

22 Okay. Thank you. So I'm going to try to visualize all that
23 and talk to everybody who raised their hands.

24 Shayra, right? Did I say that right?

25 PROSPECTIVE JUROR NUMBER 452: Shayra.

1 MR. HELMICK: Can I call you by your first name?
2 PROSPECTIVE JUROR NUMBER 452: Yeah.
3 MR. HELMICK: Okay. So what are your -- and just state
4 your badge number for us. We just have to get a record of that.
5 PROSPECTIVE JUROR NUMBER 452: 452.
6 MR. HELMICK: Okay. So, you know, why is that? Why do
7 you think that I would have a duty to let the contestants know?
8 PROSPECTIVE JUROR NUMBER 452: It's only right.
9 You're judging off of their work or the taste of the sushi and if you
10 don't like then what's the point? I mean, it would be a lie, right?
11 MR. HELMICK: Yeah, I mean, so it wouldn't be fair.
12 PROSPECTIVE JUROR NUMBER 452: It wouldn't. Not at
13 all.
14 MR. HELMICK: It wouldn't be fair.
15 PROSPECTIVE JUROR NUMBER 452: Uh-huh.
16 MR. HELMICK: Okay. Thank you very much.
17 PROSPECTIVE JUROR NUMBER 452: You're welcome.
18 MR. HELMICK: We had some people in here today like
19 Mr. Contreras and Mr. Meng and Ms. Williams and people who
20 talked about maybe things that they feel -- and we thank you for
21 that because that's what a jury is all about. That they feel that they
22 might not be fair, right?
23 Can you pass it over to Ms. Robinson too? Thank you.
24 Sylvia, right? May I call you Sylvia?
25 PROSPECTIVE JUROR NUMBER 463: Yep.

1 MR. HELMICK: Okay. Thank you.
2 What are your thoughts on that? Do you have anything to
3 add to that?
4 PROSPECTIVE JUROR NUMBER 463: I mean, if you hate
5 sushi, why would you judge a sushi contest?
6 MR. HELMICK: Well what if I got picked? What if I got
7 picked to do it, I had to do it?
8 PROSPECTIVE JUROR NUMBER 463: I mean, it's still not
9 fair.
10 MR. HELMICK: It's still not fair.
11 PROSPECTIVE JUROR NUMBER 463: Yeah, but I feel like
12 question --
13 MR. HELMICK: Yeah.
14 PROSPECTIVE JUROR NUMBER 463: -- I mean, like trying
15 to like relate to this. So it's kind of obvious and then they might
16 kick you out of the contest. I don't know?
17 MR. HELMICK: Okay. So you should -- so I should be like
18 Mr. Contreras, I should be like Mr. Meng, and Ms. Williams, and
19 whoever else stated maybe some issues that they might have
20 personally. Do you think that I should be like that and say, you
21 know, hey, this is how I feel, right?
22 PROSPECTIVE JUROR NUMBER 463: I mean, the -- it just
23 wouldn't be fair.
24 MR. HELMICK: Wouldn't be fair.
25 PROSPECTIVE JUROR NUMBER 463: Yeah.

1 MR. HELMICK: Does anybody disagree with that?
2 Anybody disagree with that?
3 Thank you, Ms. Robinson.
4 PROSPECTIVE JUROR NUMBER 463: Uh-huh.
5 MR. HELMICK: Can each one of you promise to be as
6 honest as you can with me and my client Mr. Harlan, and the
7 Prosecutor and everybody in this courtroom? Can you promise to
8 be as honest as you can with us in this case? You think that's fair?
9 Okay. Thank you.
10 Okay. So let's talk about -- I want to talk about guns for a
11 moment. I'm just going to erase this.
12 Who here is a gun owner? May I see your hand, please?
13 Okay. I'll come over to a few of you here.
14 Okay. Let's start with Laura Leon, right?
15 PROSPECTIVE JUROR NUMBER 512: Yes.
16 MR. HELMICK: Okay.
17 PROSPECTIVE JUROR NUMBER 512: 512.
18 MR. HELMICK: 512. Thank you, Ms. Leon.
19 Well first of all, what type of gun do you own?
20 PROSPECTIVE JUROR NUMBER 512: I have a Smith &
21 Wesson M&P Shield .9 millimeter.
22 MR. HELMICK: Why? Why do you own a gun?
23 PROSPECTIVE JUROR NUMBER 512: For home security,
24 for personal security. Because it's my constitutional right to do so.
25 MR. HELMICK: Sure.

1 PROSPECTIVE JUROR NUMBER 512: I was raised with
2 them and I'm very familiar with them.

3 MR. HELMICK: Do you have any negative feelings then?
4 I'd assume not, right?

5 PROSPECTIVE JUROR NUMBER 512: No, sir.

6 MR. HELMICK: About guns?

7 PROSPECTIVE JUROR NUMBER 512: Uh-uh. No.

8 MR. HELMICK: Okay. Thank you very much.

9 PROSPECTIVE JUROR NUMBER 512: Uh-huh.

10 MR. HELMICK: And then we had Mr. Contreras, you
11 raised your hand. May I call you Luis, right?

12 PROSPECTIVE JUROR NUMBER 378: Yeah.

13 MR. HELMICK: Okay. You have a gun you said?

14 PROSPECTIVE JUROR NUMBER 378: Seven.

15 MR. HELMICK: Seven?

16 PROSPECTIVE JUROR NUMBER 378: Yes.

17 MR. HELMICK: Okay. All right. So kind of the same
18 reasons as Ms. Leon? Is it --

19 PROSPECTIVE JUROR NUMBER 378: Yes.

20 MR. HELMICK: -- kind of the same reasons?

21 PROSPECTIVE JUROR NUMBER 378: And I also like going
22 out shooting.

23 MR. HELMICK: Okay.

24 PROSPECTIVE JUROR NUMBER 378: I go to the ranges. I
25 got three memberships.

1 MR. HELMICK: So more for as a hobby too at the same
2 time, right?

3 PROSPECTIVE JUROR NUMBER 378: Yes. I was raised
4 with guns.

5 MR. HELMICK: That's what you were saying, right?

6 PROSPECTIVE JUROR NUMBER 378: Yes.

7 MR. HELMICK: Where are you from?

8 PROSPECTIVE JUROR NUMBER 378: Guatemala.

9 MR. HELMICK: Guatemala, okay. And guns are kind of
10 prevalent in Guatemala, in the streets and --

11 PROSPECTIVE JUROR NUMBER 378: Yeah, anyone can
12 own guns over there.

13 MR. HELMICK: What's that?

14 PROSPECTIVE JUROR NUMBER 378: Anyone can own
15 guns over there.

16 MR. HELMICK: So they're kind of all over the streets and
17 stuff?

18 PROSPECTIVE JUROR NUMBER 378: Yeah.

19 MR. HELMICK: Yeah, okay.

20 Anybody here have some negative feelings about guns? I
21 hate them, I don't want to be around them. We know Mr. Meng
22 talked about that, right? Does anybody share the same feelings as
23 Mr. Meng in regard to the guns?

24 Okay. We got -- may I call you Jessica?

25 PROSPECTIVE JUROR NUMBER 468: Sure.

1 MR. HELMICK: Thank you.
2 Can you pass the microphone to Jessica?
3 Thanks, Luis.
4 What are you -- what's your concern?
5 PROSPECTIVE JUROR NUMBER 468: I just don't like
6 guns.
7 MR. HELMICK: You just don't like them, right?
8 PROSPECTIVE JUROR NUMBER 468: Yeah.
9 MR. HELMICK: You don't --
10 PROSPECTIVE JUROR NUMBER 468: I don't want to be
11 around them, don't want to look at them.
12 MR. HELMICK: Would you have any negative feelings
13 because there's guns involved in this case? Would you have any
14 negative feelings about that?
15 PROSPECTIVE JUROR NUMBER 468: Possibly. I'm not
16 sure.
17 MR. HELMICK: But it is possible.
18 PROSPECTIVE JUROR NUMBER 468: Yeah.
19 MR. HELMICK: Who else has some negative feelings
20 about guns?
21 I don't know how to say your last name, but Sydney,
22 right --
23 PROSPECTIVE JUROR NUMBER 418: Yeah, Gebhart.
24 MR. HELMICK: -- is your first name. Gebhart, okay.
25 PROSPECTIVE JUROR NUMBER 418: I'm the same. I

1 just -- I don't like weapons in general. I'm very scared of weapons.

2 MR. HELMICK: Sure.

3 PROSPECTIVE JUROR NUMBER 418: So being around
4 them, if they are loaded, it puts me on edge a little bit.

5 MR. HELMICK: Okay.

6 PROSPECTIVE JUROR NUMBER 418: So yeah.

7 MR. HELMICK: And that's pretty understandable.

8 Can you just tell us your badge number for the record?

9 PROSPECTIVE JUROR NUMBER 418: Yeah. It is 418.

10 MR. HELMICK: Okay. Do you have a -- Ms. Williams said
11 that she -- it's possible for her to maybe be a little concerned that
12 there's guns in this case? Do you share the same feelings as
13 Jessica or --

14 PROSPECTIVE JUROR NUMBER 418: Yeah.

15 MR. HELMICK: -- how do you feel?

16 PROSPECTIVE JUROR NUMBER 418: I wouldn't say I feel
17 they would be guilty or not guilty but I do -- if there is weapons
18 involved it definitely gives me, I don't know, more information as to
19 which way I could go, if that makes sense.

20 MR. HELMICK: Yeah. Do you understand what Ms. Leon
21 was saying? Do you disagree with her?

22 PROSPECTIVE JUROR NUMBER 418: No, not at all.

23 MR. HELMICK: Or do you disagree with anybody's right
24 to have a gun or to use guns in general? Do you disagree with
25 that?

1 PROSPECTIVE JUROR NUMBER 418: No, not at all, as
2 long as they have a conceal carry weapon. My stepmom has that
3 and she has a gun and --

4 MR. HELMICK: Okay.

5 PROSPECTIVE JUROR NUMBER 418: -- yeah.

6 MR. HELMICK: Okay. But what if they don't have a
7 conceal carry weapon? They're just carrying it around. Does that
8 bother you?

9 PROSPECTIVE JUROR NUMBER 418: If it's for -- a little bit
10 just because if -- I feel like if you do have a conceal carry weapon
11 you're doing it for protection of yourself and maybe your family or
12 your household or whatever. If you don't, why do you have it in the
13 first place? That's just how --

14 MR. HELMICK: Sure.

15 PROSPECTIVE JUROR NUMBER 418: -- I feel.

16 MR. HELMICK: No, that's okay. I want you to tell me how
17 you feel.

18 Can I call you Henry?

19 PROSPECTIVE JUROR NUMBER 505: Yes.

20 MR. HELMICK: Okay. Henry, please.

21 PROSPECTIVE JUROR NUMBER 505: Just a quick
22 comment as to -- in regards to what you just said.

23 MR. HELMICK: Yeah.

24 PROSPECTIVE JUROR NUMBER 505: It would bother me
25 if someone was carrying a weapon irresponsibly without a

1 concealed weapons permit. And loaded and perhaps not even
2 belonging to them. It would definitely bother me.

3 MR. HELMICK: Okay. Would it bother you in a way where
4 you look at that and you say well, I don't know if I can be fair
5 because of what these actions were?

6 PROSPECTIVE JUROR NUMBER 505: Yeah, absolutely. I
7 think anyone who owns a gun is either doing responsibly or
8 irresponsibly. And if you're doing it irresponsibly then you have
9 alternative motives or bad motives in my opinion.

10 MR. HELMICK: That's okay. Yeah. Thanks, Henry, for
11 sharing that.

12 What do you think, Sarah, since you're sitting right next to
13 him?

14 PROSPECTIVE JUROR NUMBER 381: Huh?

15 MR. HELMICK: You got any opinions on this?

16 PROSPECTIVE JUROR NUMBER 381: I mean, it brings up
17 an interesting point.

18 MR. HELMICK: Yeah.

19 PROSPECTIVE JUROR NUMBER 381: Yeah, if you don't
20 have it legally then I would be concerned, what are you using it for.
21 If you have it legally, I have no problem with it.

22 MR. HELMICK: Okay. Do you think that you could be fair
23 though --

24 PROSPECTIVE JUROR NUMBER 381: Yes.

25 MR. HELMICK: -- if you heard about those facts?

1 Now, I think I gained from Henrry a little bit that maybe
2 you kind of looked at it a little differently? Maybe he couldn't be as
3 fair with those facts. Did I get that right, Henrry, is that what you
4 were kind of saying?

5 PROSPECTIVE JUROR NUMBER 505: Yes.

6 MR. HELMICK: Do you disagree with him or do you agree
7 with him?

8 PROSPECTIVE JUROR NUMBER 381: I don't know, that's
9 a tough question. It depends on the circumstances.

10 MR. HELMICK: Sure. That's fair enough, right?

11 Anybody else over here?

12 Okay. Ms. Kord --

13 PROSPECTIVE JUROR NUMBER 471: Yes.

14 MR. HELMICK: Can we get you the microphone all the
15 way down here?

16 PROSPECTIVE JUROR NUMBER 471: I have a fear of guns
17 because when I was a child, I grew up not in the United States. And
18 the law is whoever owns a gun is illegal. When they're caught, they
19 will be sentenced to death.

20 MR. HELMICK: Oh, geez.

21 PROSPECTIVE JUROR NUMBER 471: Yes.

22 MR. HELMICK: Yeah.

23 PROSPECTIVE JUROR NUMBER 471: That's probably
24 about 50/60 years ago. Now may be changed. But I know it's still
25 illegal. People -- regular people cannot own a gun. So as far as