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IN THE SUPREME COURT OF THE STATE OF NEVADA

JAIDEN CARUSO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Case No. 80361

APPELLANT'S APPENDIX VOLUME V

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ALPHABETIC APPENDIX FOR APPELLANT'S APPENDIX

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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: Secondarily, 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 Henry 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, Henry, 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

1 gun, I associate with killing and death.

2 MR. HELMICK: That's what you associate it with?

3 PROSPECTIVE JUROR NUMBER 471: Yes. And I'm still
4 very afraid. And I am -- up until today, I never really hold a gun.
5 And I only see the guns in like the law enforcement's pockets --

6 MR. HELMICK: Uh-huh.

7 PROSPECTIVE JUROR NUMBER 471: -- or in the movie. I
8 never really seen a real gun.

9 MR. HELMICK: Okay. Does that bother you when you see
10 it in the movies and when you walk by an officer who has a gun?

11 PROSPECTIVE JUROR NUMBER 471: No.

12 MR. HELMICK: Okay.

13 PROSPECTIVE JUROR NUMBER 471: No. Uh-uh.

14 MR. HELMICK: Do you understand -- or can you see Ms.
15 Leon's opinion and Mr. Contreras opinion in regards to carrying
16 guns? Do you understand other people's reason for it?

17 PROSPECTIVE JUROR NUMBER 471: I do.

18 MR. HELMICK: All right.

19 PROSPECTIVE JUROR NUMBER 471: But it still -- I still
20 have the fear.

21 MR. HELMICK: Okay.

22 PROSPECTIVE JUROR NUMBER 471: Yeah.

23 MR. HELMICK: Yeah. So you just have a fear. Do you
24 have anything against somebody who carries a gun?

25 PROSPECTIVE JUROR NUMBER 471: Should I say my

1 opinion?

2 MR. HELMICK: Sure.

3 PROSPECTIVE JUROR NUMBER 471: Yes, I do. Nobody
4 should carry a gun except the law enforcement people.

5 MR. HELMICK: And if you were to find out there was guns
6 involved in this case, is that going to negatively affect your ability
7 to --

8 PROSPECTIVE JUROR NUMBER 471: Yeah.

9 MR. HELMICK: Yeah?

10 PROSPECTIVE JUROR NUMBER 471: I think I will.

11 MR. HELMICK: And that's because you have a fear of
12 them?

13 PROSPECTIVE JUROR NUMBER 471: That's right.

14 MR. HELMICK: Okay. All right. Thank you.

15 Anybody agree with Ms. Kord? I've had a few people
16 already. Anybody else though?

17 Yeah. Mr. Pereda, let's get you the microphone.

18 May I call you Juan?

19 PROSPECTIVE JUROR NUMBER 432: Yes.

20 THE COURT: Okay. Juan, go ahead.

21 PROSPECTIVE JUROR NUMBER 432: How -- based on
22 your last question I would -- I think that it would make me feel
23 uncomfortable and against the person in general that uses a gun
24 irresponsibly.

25 MR. HELMICK: Irrespons --

1 PROSPECTIVE JUROR NUMBER 432: You know, if
2 [indiscernible], if it's used to commit a crime, if you don't have the
3 license, whatever condition whether it is illegal or irresponsible, I
4 would feel -- I would take that as a [indiscernible], you know,
5 something that will make me feel very uncomfortable.

6 MR. HELMICK: Yeah. But will that --

7 PROSPECTIVE JUROR NUMBER 432: I believe in guns.

8 MR. HELMICK: Sure.

9 PROSPECTIVE JUROR NUMBER 432: I like guns, I like
10 going shooting [indiscernible] you know, guns. I like shotguns
11 and -- it's not that I don't like them or disapprove them --

12 MR. HELMICK: Yeah.

13 PROSPECTIVE JUROR NUMBER 432: -- or whatever. But
14 use them irresponsible --

15 MR. HELMICK: Well --

16 PROSPECTIVE JUROR NUMBER 432: -- commit a crime
17 while owning or carrying a gun that is -- was stolen or something
18 like that, you know, that would make me feel very, very --

19 MR. HELMICK: Right.

20 PROSPECTIVE JUROR NUMBER 432: -- bad.

21 MR. HELMICK: I think that'd make everybody in here feel
22 bad, right? Anybody -- everybody agree with Juan, if somebody is
23 using a gun irresponsibly, right?

24 PROSPECTIVE JUROR NUMBER 432: And that's all I have.
25 On the other hand, I'm okay with guns. I don't own one because

1 my wife, we're divorced, wouldn't buy a gun.

2 MR. HELMICK: Yeah, you don't want to do that.

3 PROSPECTIVE JUROR NUMBER 432: No. But I feel that
4 I -- you know, irresponsible in general. What is irresponsible with
5 guns or, you know, [indiscernible] or whatever --

6 MR. HELMICK: Yeah.

7 PROSPECTIVE JUROR NUMBER 432: It makes me feel a
8 little uncomfortable.

9 MR. HELMICK: Well, you know, Judith talked about her
10 not being able to be fair on this jury possibly because there was a
11 gun involved. Do you agree with Judith or do you disagree with
12 her?

13 PROSPECTIVE JUROR NUMBER 432: I will be fair, but I
14 can be influenced badly if the gun had been used irresponsibly or,
15 you know.

16 MR. HELMICK: That's going to negatively affect you.

17 PROSPECTIVE JUROR NUMBER 432: That would be a
18 negative, you know? It will -- I don't know how I'm going to react to
19 that. I know how I'm going to react.

20 MR. HELMICK: Sure.

21 PROSPECTIVE JUROR NUMBER 432: I know I -- I know
22 me, you know?

23 MR. HELMICK: Are you still going to listen to all the
24 evidence or do you still going to require the Prosecution to prove
25 the case beyond a reasonable doubt? Or when you hear those

1 facts, are you going to say you know what, I just don't know. I
2 mean, I'm already kind of -- I've already kind of answered it, like
3 kind of like Luis said earlier.

4 PROSPECTIVE JUROR NUMBER 432: Exactly.

5 MR. HELMICK: You have already kind of answered it if
6 you see some facts like that?

7 PROSPECTIVE JUROR NUMBER 432: Yes, I -- I'm not sure
8 but I will feel inclined to that. I -- knowing me [indiscernible], I think
9 that will tip the balance, you know, on the [indiscernible] --

10 MR. HELMICK: Okay.

11 PROSPECTIVE JUROR NUMBER 432: -- [indiscernible]
12 I'm just being honest --

13 MR. HELMICK: Please, that's what -- I mean, listen, isn't
14 that the duty of this, right? Everybody has their different opinion --

15 PROSPECTIVE JUROR NUMBER 432: [Indiscernible].

16 MR. HELMICK: -- and everybody's walked this earth in
17 different shoes, right?

18 All right. Okay. Thank you, Juan.

19 All right. I want to talk about something that I know
20 probably all of you guys have heard about.

21 Okay. Anybody here ever heard about or read about or
22 watched a movie or anything in regard to somebody being
23 wrongfully charged or wrongfully convicted? Can I see your hands,
24 please?

25 Looks like we got a lot of people. All right. Hold those up

1 for me again real quickly just so I can see if I can visualize it. Okay.

2 All right. Let me talk to a few people here. Mr. Barrett,
3 right? Can I call you Brett?

4 PROSPECTIVE JUROR NUMBER 398: Sure.

5 MR. HELMICK: Okay, Brett. Have you heard of a scenario
6 like that?

7 PROSPECTIVE JUROR NUMBER 398: I've heard of a few.

8 MR. HELMICK: Okay. Do you know the facts that you
9 could share about one in particular?

10 PROSPECTIVE JUROR NUMBER 398: I can't think of one
11 in particular, but I do know that kind of the recurring facts are that
12 oftentimes witnesses memories -- they can come up with phantom
13 memories and belief based on emotion more than what they
14 actually remember about particular crimes and get things wrong --
15 honestly wrong.

16 MR. HELMICK: So okay -- so one thing you said was
17 maybe a bad memory, right, could be a factor?

18 PROSPECTIVE JUROR NUMBER 398: Bad memory or
19 influenced memory in some way by the biases and the trauma of
20 the situation. Or by being coerced.

21 MR. HELMICK: Coerced, yeah. Thank you. Nick said
22 something about that, right?

23 PROSPECTIVE JUROR NUMBER 398: Yeah.

24 MR. HELMICK: Okay. When you hear about those things,
25 I mean, how does that make you feel?

1 PROSPECTIVE JUROR NUMBER 398: More informed.
2 MR. HELMICK: More informed? When you hear about a
3 story like that, more informed is --
4 PROSPECTIVE JUROR NUMBER 398: About the human
5 psyche, I guess, yeah.
6 MR. HELMICK: Sure.
7 PROSPECTIVE JUROR NUMBER 398: I mean, it's a good
8 thing to know.
9 MR. HELMICK: Okay.
10 PROSPECTIVE JUROR NUMBER 398: You know, the more
11 people know that or to be aware of that condition that it actually
12 happens more often than you might think.
13 MR. HELMICK: Yeah. Okay. Thanks, Brett.
14 You want to pass it over to Mr. Young.
15 Can I call you Chris?
16 PROSPECTIVE JUROR NUMBER 540: Yes, sir.
17 MR. HELMICK: Okay, Chris. What do you think? Have
18 you ever heard a scenario like that?
19 PROSPECTIVE JUROR NUMBER 540: Absolutely. A
20 couple.
21 MR. HELMICK: Okay.
22 PROSPECTIVE JUROR NUMBER 540: I mean, I don't have
23 any definitive details --
24 MR. HELMICK: Sure.
25 PROSPECTIVE JUROR NUMBER 540: -- but there's lots of

1 accounts of that happening; yes, sir.

2 MR. HELMICK: How does that make you feel?

3 PROSPECTIVE JUROR NUMBER 540: Bad for the
4 wrongfully convicted. I mean, I don't know. It's just part of the
5 process. It does happen, absolutely. But I don't know if there's
6 anything --

7 MR. HELMICK: I'm going to add something else here to --
8 just to charge -- wrongfully convicted or wrongfully charged. Let's
9 go that end there.

10 So I mean, let me ask everybody this. How do you think
11 that that happens when we know, right that they have had a jury of
12 12 people. They all went through the same process as you guys are
13 going through, what are some reasons -- and let's put these on the
14 board. What are some reasons --

15 MR. PESCI: Judge, can we approach?

16 THE COURT: Yeah.

17 [Bench conference transcribed as follows.]

18 MR. PESCI: Your Honor, The State objects and I don't
19 understand how this is getting into the qualifications for jurors. I
20 think this is arguing the case. That's, again, violation of Eighth
21 Judicial District Court Rule 7.70. So I don't know how this goes to
22 the qualifications, asking them to opine about reasons for wrongful
23 convictions.

24 MR. HELMICK: It's not going to the facts of the case at all.
25 I'm talking about -- this is normal voir dire done at countless trials

1 that we have a duty to exercise our peremptive challenges
2 appropriately. We have a ethical duty to do that in any case like
3 this and cause -- or talking --

4 THE COURT: I don't know that I've ever had anybody
5 question the jury from the standpoint of wrongful convictions as
6 the basis for questioning them about, you know, evidence in a case.
7 You need to be talking about --

8 MR. HELMICK: Well --

9 THE COURT: -- what constitutes evidence and talking
10 about witness testimony and what affects witness's --

11 MR. HELMICK: Sure.

12 THE COURT: -- credibility and all that. But --

13 MR. HELMICK: [Indiscernible] before if I'm going to say --

14 THE COURT: Wrongful convictions?

15 MR. HELMICK: No, I said so what are some of the reasons
16 why and then I want to say again, can we promise to hold
17 everybody accountable in this case, so it doesn't -- so something
18 like that doesn't happen.

19 MR. PESCI: So we're going to give them scenarios --

20 THE COURT: He's kind of started with this kind of telling
21 them this idea that there's a wrongful conviction and, you know --

22 MR. HELMICK: We can't talk about those -- all those
23 incidents before the -- whether they're --

24 THE COURT: But the problem is that starts talking about
25 other cases, right? And you're starting to say, okay, you've heard

1 about wrongful convictions or why do those occur in those other
2 cases. But the focus is this case. And so you're asking him
3 questions about how witnesses perceive things and what would
4 affect their credibility and their perception and their recall and if
5 they have any thoughts on those things is okay.

6 But just kind of saying hey has anybody ever read
7 about ---

8 MR. HELMICK: Yeah.

9 THE COURT: -- wrongful convictions and what did you
10 read about those, that's not part of this case.

11 MR. HELMICK: I don't mind the facts, I just want to know
12 why they think that can happen on a jury of 12 people. Bad
13 memory, bad witnesses, bad defense lawyers, what are the
14 reasons. I don't think that that's crossing the line.

15 THE COURT: But I think that talking to them -- this is what
16 I'm saying about talking to them about have you seen other cases
17 where wrongful convictions occurred. That's like the State --

18 MR. HELMICK: What if I'm talking about Shawshank
19 Redemption.

20 THE COURT: Hold on, hold on, hold on. Have you seen --
21 that's a movie. Have you seen cases where people get convicted
22 and why do people get convicted? You know, it doesn't matter
23 whether you're talking about somebody's conviction or
24 somebody's acquittal in another case --

25 MR. HELMICK: Sure.

1 THE COURT: -- these people don't know anything about
2 the other cases.

3 MR. HELMICK: Sure.

4 THE COURT: They don't know anything about all the facts
5 there, so you just got to ask them questions about -- let's just talk
6 about witnesses in general. Not making reference to other
7 scenarios and other cases and what they've seen on TV or what
8 have you. That's what I'm trying -- that's what I think their
9 objection is and what I'm trying to focus you on.

10 It's not about writing things on the board, it's just --

11 MR. HELMICK: Sure.

12 THE COURT: -- about trying to get them to think about
13 other cases where things have gone wrong --

14 MR. HELMICK: Right.

15 THE COURT: Right. They could not know everything in
16 that case. So then --

17 MR. HELMICK: No, I know.

18 THE COURT: -- you're talking in front of the whole jurors
19 about a case that everybody doesn't know everything about. So we
20 don't know what really went wrong there or not wrong.

21 MR. HELMICK: Well what if I reference a movie then, like
22 the --

23 THE COURT: Shawshank Redemption.

24 MR. HELMICK: Yeah.

25 THE COURT: So what are you going to ask --

1 MR. HELMICK: How that --
2 THE COURT: What are you going to ask them about
3 Shawshank?
4 MR. HELMICK: You know, it's kind of the same --
5 THE COURT: Have you seen it?
6 MR. HELMICK: Have you seen it?
7 THE COURT: Okay.
8 MR. HELMICK: How did that make you feel? What are
9 some of the reasons why the -- that guy ended up in -- you know, if
10 they remember the movie.
11 THE COURT: What is that relevant to this case though?
12 MR. HELMICK: Well it's putting in their head --
13 THE COURT: It's in a movie or in another case.
14 MR. HELMICK: -- some things that they have to look at in
15 this trial, so it doesn't -- so that potentially doesn't happen here.
16 THE COURT: I think that's getting into, you know, kind of
17 arguing the case. And you can argue your case with Shawshank
18 Redemption, but that's not --
19 MR. HELMICK: Sure.
20 THE COURT: -- can somebody be fair and impartial.
21 MR. HELMICK: Okay. I'll figure out -- so tell me how I can
22 tailor this then. You said I can ask about a witness, how a witness
23 can --
24 THE COURT: Yeah, you just say I'm making these
25 references -- have you seen these other situations where we don't

1 really know what happened in those other situations and then
2 trying to educate the jury to a situation that other people don't
3 know anything about is kind of very risky in my mind.

4 So if you're just saying -- you know, when you're talking
5 about the sufficiency of evidence in a case and you're talking about
6 okay, witnesses. Witnesses have -- testify. What do you think
7 affects a witness's ability to recall and relay things that have
8 happened or is going to affect their ability to, you know,
9 misinterpret --

10 MR. HELMICK: Okay. I can do that. I can do witnesses --
11 what do you think affects a witness's ability? Time?

12 THE COURT: Yeah.

13 MR. HELMICK: Memory?

14 THE COURT: Yeah.

15 MR. HELMICK: Things like that.

16 THE COURT: Do you have any opinions about those
17 things --

18 MR. HELMICK: Yeah.

19 THE COURT: -- about how you're evaluating witnesses,
20 okay?

21 MR. HELMICK: Okay.

22 THE COURT: All right.

23 [End of bench conference.]

24 THE COURT: All right. Mr. Helmick.

25 MR. HELMICK: All right. Thank you, Judge.

1 Let me change this for a second here.

2 So you're going to have a lot of witnesses come in here
3 and testify about an event that happened a year ago. What are
4 some things that you think can affect the witness's ability to, you
5 know, recall events? Does anybody here that -- has anybody heard
6 a witness testimony? Anybody read about that, witness testimony,
7 and things like that?

8 Can I see your hands if you have?

9 Okay. I haven't talked to you yet. I don't know how to say
10 your last name, but I know your first name's Gordon, right?

11 PROSPECTIVE JUROR NUMBER 460: Correct.

12 MR. YAMPOLSKY: Gordon, okay.

13 Can we get the microphone to Gordon, please?

14 What do you think, what can -- could affect he witness's
15 ability to testify as to what really took place?

16 PROSPECTIVE JUROR NUMBER 460: It could have been a
17 distraction, it could have been something where something else --

18 MR. HELMICK: Okay.

19 PROSPECTIVE JUROR NUMBER 460: A vague memory,
20 something --

21 MR. HELMICK: Distraction is one, okay. And you said --
22 you actually said two, you said memory; that can affect it, right?

23 PROSPECTIVE JUROR NUMBER 460: Uh-huh.

24 MR. HELMICK: Okay. Gordon, Thank you very much.

25 PROSPECTIVE JUROR NUMBER 460: You're welcome.

1 MR. HELMICK: And Sylvia, I think you raised your hand,
2 right? What's your badge number?
3 PROSPECTIVE JUROR NUMBER 463: Ummm --
4 MR. HELMICK: Sorry, it's -- take that microphone and --
5 PROSPECTIVE JUROR NUMBER 463: No, that's okay.
6 463.
7 MR. HELMICK: All right. 463. What do you think?
8 PROSPECTIVE JUROR NUMBER 463: Again, probably just
9 bad memory like Gordon said.
10 MR. HELMICK: Yeah.
11 PROSPECTIVE JUROR NUMBER 463: Especially since it's
12 so long ago --
13 MR. HELMICK: Yeah, so time, right?
14 PROSPECTIVE JUROR NUMBER 463: Yeah. It can just
15 kind of become distorted in a way.
16 MR. HELMICK: Yeah. What are some things that the
17 jurors can do to kind of cipher through that stuff?
18 PROSPECTIVE JUROR NUMBER 463: Well do they -- they
19 initially speak to them when the crime first happens, correct?
20 MR. HELMICK: Who, the police?
21 PROSPECTIVE JUROR NUMBER 463: Or --
22 MR. HELMICK: People in general?
23 PROSPECTIVE JUROR NUMBER 463: Yeah. There's --
24 MR. HELMICK: Yeah.
25 PROSPECTIVE JUROR NUMBER 463: -- some sort of

1 statement --

2 MR. HELMICK: Yeah.

3 PROSPECTIVE JUROR NUMBER 463: So you can look --

4 MR. HELMICK: Okay.

5 PROSPECTIVE JUROR NUMBER 463: -- back at the
6 statement and see if it changed in any way.

7 MR. HELMICK: Oh, okay. Okay. Yeah.

8 So maybe focus on the statement when it was fresh in
9 their mind, right?

10 PROSPECTIVE JUROR NUMBER 463: Yeah.

11 MR. HELMICK: Statement, okay.

12 Okay. Thanks, Sylvia.

13 PROSPECTIVE JUROR NUMBER 463: Uh-huh.

14 MR. HELMICK: Who else raised their hand? I know
15 Shayra?

16 PROSPECTIVE JUROR NUMBER 452: Yeah.

17 MR. HELMICK: Shayra, am I saying that right?

18 PROSPECTIVE JUROR NUMBER 452: Shayra.

19 MR. HELMICK: Shayra, okay. Shayra.

20 PROSPECTIVE JUROR NUMBER 452: Well I --

21 MR. HELMICK: What do you think?

22 PROSPECTIVE JUROR NUMBER 452: -- agree with Sylvia,
23 I was going to say time.

24 MR. HELMICK: Time.

25 PROSPECTIVE JUROR NUMBER 452: Yeah.

1 MR. HELMICK: That's a big one, right?

2 PROSPECTIVE JUROR NUMBER 452: Yeah. The more -- I
3 mean, I don't remember what I did two weeks ago, you see, so I
4 think that's a huge one.

5 MR. HELMICK: And then she had mentioned maybe you
6 go back, and you look at the statement, right?

7 PROSPECTIVE JUROR NUMBER 452: Right.

8 MR. HELMICK: What else do you think though? Vantage
9 point, maybe?

10 PROSPECTIVE JUROR NUMBER 452: Explain that.
11 Vantage point?

12 MR. HELMICK: Were they -- was something blocking their
13 view or --

14 PROSPECTIVE JUROR NUMBER 452: Would that fall with
15 like distraction?

16 MR. HELMICK: Yeah, I guess it could fall under that, right?

17 PROSPECTIVE JUROR NUMBER 452: Okay.

18 MR. HELMICK: I'll put it like this.

19 Anybody else?

20 Markletter [sic], anything from you?

21 PROSPECTIVE JUROR NUMBER 507: Oh, no, I'm good.

22 THE COURT: Okay. All right. Just checking. All right.

23 Thank you.

24 Okay. So Mr. Yampolsky had talked about kids and he
25 was talking to Ms. Fox because it seems like you got the kid thing

1 down pretty well. Who else here has kids besides Ms. Fox? We got
2 a lot of people, I know. Okay. All right, good. Who have I not
3 talked to yet?

4 Okay. So can you raise your hands for me, who has kids?

5 All right. I'm going to come over to you, Ms. Huston.
6 How many kids do you have again?

7 PROSPECTIVE JUROR NUMBER 506: I have five of my
8 own and two stepkids.

9 MR. HELMICK: Okay. So I mean, maybe this is a
10 rhetorical question but do kids do stupid stuff?

11 PROSPECTIVE JUROR NUMBER 506: All the time.

12 MR. HELMICK: Okay. What are some reasons then with
13 being a mom, what are some reasons that kids do stupid stuff?

14 PROSPECTIVE JUROR NUMBER 506: Peer pressure,
15 fitting in, just because they're not thinking.

16 MR. HELMICK: Okay. Peer pressure, yeah. Yeah, maybe
17 they're not thinking right.

18 PROSPECTIVE JUROR NUMBER 506: Fitting in.

19 MR. HELMICK: Fitting in, okay.

20 PROSPECTIVE JUROR NUMBER 506: Not thinking clearly.
21 Tired.

22 MR. HELMICK: So there's a lot of things, right?

23 PROSPECTIVE JUROR NUMBER 506: Oh yeah.

24 MR. HELMICK: Yeah. Have you experienced that yourself
25 with kids?

1 PROSPECTIVE JUROR NUMBER 506: Yeah, sure.
2 MR. HELMICK: Okay. Anybody else? Who else raised
3 their hand? Did you raise your hand, ma'am?
4 PROSPECTIVE JUROR NUMBER 425: Yes.
5 MR. HELMICK: Ms. Alvarez, yeah?
6 PROSPECTIVE JUROR NUMBER 425: Yes.
7 MR. HELMICK: All right. Thank you.
8 PROSPECTIVE JUROR NUMBER 425: In my experience,
9 my kids when they were bored, they would do things that they were
10 not supposed to do.
11 MR. HELMICK: Yeah, right. Too much time on their
12 hands, right? That's a big one, huh?
13 THE COURT: That's Ms. Alvarez.
14 MR. HELMICK: Ms. Alvarez, yes.
15 THE COURT: Okay.
16 MR. HELMICK: Okay. Ms. Alvarez, Thank you very much.
17 What else? There's a couple more that I'm trying to think of that I
18 want to get up there.
19 PROSPECTIVE JUROR NUMBER 452: What was the
20 question?
21 MR. HELMICK: Do you have kids, Shayra?
22 PROSPECTIVE JUROR NUMBER 452: Uh-huh. Too many.
23 MR. HELMICK: So we're talking about -- what was that?
24 PROSPECTIVE JUROR NUMBER 452: Too many.
25 MR. HELMICK: Too many?

1 PROSPECTIVE JUROR NUMBER 452: Uh-huh.

2 MR. HELMICK: You know, what are some reasons that

3 kids do stupid stuff?

4 PROSPECTIVE JUROR NUMBER 452: I think fear to cover

5 up certain stuff.

6 MR. HELMICK: Fear.

7 All right. Oh, I'm sorry. What's your badge number

8 again?

9 PROSPECTIVE JUROR NUMBER 452: 452.

10 MR. HELMICK: Ms. Estrada, right?

11 PROSPECTIVE JUROR NUMBER 452: Esparza.

12 MR. HELMICK: Esparza.

13 Okay. Fear. And then you else had raised their hand?

14 Yeah, Gordon, what do you think?

15 PROSPECTIVE JUROR NUMBER 460: A lot of them will do

16 it because they don't know what the consequences are.

17 MR. HELMICK: And why is that?

18 PROSPECTIVE JUROR NUMBER 460: They're young.

19 MR. HELMICK: Yeah. Okay. So they're just not mature.

20 Anybody else have anything to add to this?

21 Yeah, Juan? Let's get you the microphone.

22 Okay. Go ahead. Pass that, Jessica, thank you.

23 PROSPECTIVE JUROR NUMBER 432: Just influence from

24 others.

25 MR. HELMICK: Right, like the peer pressure. Is that what

1 it was?

2 PROSPECTIVE JUROR NUMBER 432: Yeah.

3 MR. HELMICK: Yeah. Influence huh? Do you think
4 they're easier to influence kids or -- than adults or what do you
5 think?

6 PROSPECTIVE JUROR NUMBER 432: What was --

7 MR. HELMICK: Do you think kids are easier to be
8 influenced than adults?

9 PROSPECTIVE JUROR NUMBER 432: Yes.

10 MR. HELMICK: Yeah. You were hesitant there.

11 PROSPECTIVE JUROR NUMBER 432: Because there are
12 smart kids too.

13 MR. HELMICK: That's true, right?

14 PROSPECTIVE JUROR NUMBER 432: I was
15 [indiscernible].

16 MR. HELMICK: Well we -- right. We all can --

17 PROSPECTIVE JUROR NUMBER 432: I wasn't -- I don't
18 remember being easily influenced when I was young, so that's why
19 I was thinking to myself.

20 MR. HELMICK: Sure.

21 PROSPECTIVE JUROR NUMBER 432: But in general, I
22 think so, yeah. They're not mature, they don't know --

23 MR. HELMICK: Okay.

24 PROSPECTIVE JUROR NUMBER 432: -- the
25 consequences.

1 MR. HELMICK: Yeah, thank you, Juan. Thank you. Yeah.

2 Anybody else have anything to add?

3 We got to keep Luis awake. What do you think, Luis?

4 PROSPECTIVE JUROR NUMBER 505: I just want to say --

5 MR. HELMICK: Yeah, let's get you the microphone.

6 PROSPECTIVE JUROR NUMBER 505: I just want to say

7 ego -- just ego-driven is what I remember seeing a lot, you know,

8 from my younger days. Just a lot of just ego --

9 MR. HELMICK: Yeah. Hot head, right?

10 PROSPECTIVE JUROR NUMBER 505: -- short-term

11 thinking.

12 MR. HELMICK: Yeah.

13 PROSPECTIVE JUROR NUMBER 505: Selfish thinking and
14 lack of maturity but yeah, driven by ego.

15 MR. HELMICK: Okay. Yeah, I mean, is that kind of the gist
16 of it for everybody? Like kind of the gist of it. Okay.

17 THE COURT: Mr. Gutierrez-Sosa, thank you.

18 MR. HELMICK: Thank you.

19 All right. Thanks, Henry. Let me see what else we can
20 talk about here.

21 All right. Let's talk about something else here.

22 Okay. So -- I mean, you guys see right that there's two
23 people being charged here. Do you think that because they're both
24 sitting at the same table that they must be -- that you're going to
25 keep them tied together? That you're going to think that they

1 busted them together? Anybody think that because they're sitting
2 at the same table?

3 Luis, I see you shaking your head. Can we get Luis the
4 microphone, please?

5 Do you think that they're tied together in some way
6 because they're sitting at the same table?

7 PROSPECTIVE JUROR NUMBER 378: Everyone's
8 responsible for their own actions.

9 MR. HELMICK: Yeah. Does anybody disagree with Luis?
10 Anybody disagree? Everybody agrees, right, they're responsible for
11 their actions, right?

12 Yeah, thank you, Luis.

13 But Luis, let me take it a step further. If there are bad
14 facts, even evil facts against one person in this case, are you going
15 to hold it against the other person just because they were friends?

16 PROSPECTIVE JUROR NUMBER 378: Well the facts will
17 speak for themselves.

18 MR. HELMICK: Yeah.

19 PROSPECTIVE JUROR NUMBER 378: You have to look at
20 the facts.

21 MR. HELMICK: Sure. Well I'm just saying --

22 PROSPECTIVE JUROR NUMBER 378: It's like the answer
23 to the question earlier about the blueberry pie whatever, you know?

24 MR. HELMICK: Right.

25 PROSPECTIVE JUROR NUMBER 378: I mean, same thing

1 here. I got three kids of my own and just because one kid did one
2 thing, I can't blame the other. I can't treat them the same.

3 MR. HELMICK: Okay.

4 PROSPECTIVE JUROR NUMBER 378: You know, it's
5 every -- like I said everyone's responsible for their own actions.

6 MR. HELMICK: What if I give you this hypothetical and
7 maybe this happened to some people in this room when they were
8 in school and if it did, I'll have you raise your hand. But have you
9 ever been in a situation where you were in school, so think back a
10 little bit, and you were taking a test, right, and you're done with the
11 test and the teacher finds out that one kid has cheated and they
12 make everybody take the test all over again. Do you think that
13 that's fair?

14 PROSPECTIVE JUROR NUMBER 378: No, it's not but I'm
15 pretty sure it happens to all of us in this room in different scenarios.
16 I mean, you know, you could just be at the wrong place at the
17 wrong time. You could be -- I mean, it's just part of life. You can't
18 really change those things. It just happens because it happens,
19 that's it.

20 MR. HELMICK: Yeah.

21 PROSPECTIVE JUROR NUMBER 378: You know? But as
22 far as like attaching things to, you know, actions from one person to
23 the other person, that's just not fair.

24 MR. HELMICK: So it's not fair.

25 PROSPECTIVE JUROR NUMBER 378: No, it's not.

1 MR. HELMICK: Right, right.
2 Okay. Anybody agree with Luis?
3 Yeah? I see a lot of heads shaking here.
4 Let's go over to -- thank you, Luis.
5 Let's go over to Gabriel, right?
6 Yeah, please, Gabriel. If you could ahead and just let us
7 know your badge number.
8 PROSPECTIVE JUROR NUMBER 424: 424.
9 MR. HELMICK: Okay. What'd you think about what Luis
10 was saying?
11 PROSPECTIVE JUROR NUMBER 424: I think I agree with
12 Luis what he was saying because, you know, you can't look at these
13 two and say, you know, that one of their actions, you know, you
14 could apply that to the other and say, you know, that because he
15 did this, you know, it's also his fault, you know, that he let that
16 happen or --
17 MR. HELMICK: Okay.
18 PROSPECTIVE JUROR NUMBER 424: -- something like
19 that.
20 MR. HELMICK: So you would hold -- in this trial, you
21 would hold each one accountable for their own actions?
22 PROSPECTIVE JUROR NUMBER 424: Yes.
23 MR. HELMICK: Is that the fair thing to do?
24 PROSPECTIVE JUROR NUMBER 424: Yes.
25 MR. HELMICK: Sanjuana, I see you nodding your head.

1 Thank you, Gabriel. If you can give it Sanjuana.

2 PROSPECTIVE JUROR NUMBER 425: Yes because it's not

3 like one of them grabbed the other one's hand and did the same

4 action. One of them did it and one of them didn't, probably.

5 MR. HELMICK: Okay.

6 PROSPECTIVE JUROR NUMBER 425: So.

7 MR. HELMICK: Yeah, thank you very much.

8 Okay. Leonard, go ahead.

9 PROSPECTIVE JUROR NUMBER 426: Hi. Badge Number

10 426. Can we not focus on these gentlemen over here? Let's go

11 back to the blueberry pie.

12 MR. HELMICK: Yeah.

13 PROSPECTIVE JUROR NUMBER 426: There were two

14 children involved but both of them knew that they were in the

15 young to even eat, even to cut into the pie, even though only one of

16 them did it, right?

17 MR. HELMICK: Yeah.

18 PROSPECTIVE JUROR NUMBER 426: I think the mother

19 has a responsibility to chasten both of them, maybe not equally but

20 they both need to be held accountable and responsible for the

21 action to -- I feel to society because the act was against society.

22 MR. HELMICK: Hmm. But what if only one -- one of -- you

23 said only one of --

24 PROSPECTIVE JUROR NUMBER 426: I don't know those

25 facts.

1 MR. HELMICK: No, no. No, I'm asking about the pie.
2 PROSPECTIVE JUROR NUMBER 426: Pie.
3 MR. HELMICK: Yeah.
4 PROSPECTIVE JUROR NUMBER 426: I'm not the mother.
5 I'm just saying --
6 MR. HELMICK: Okay.
7 PROSPECTIVE JUROR NUMBER 426: -- if I were the
8 mother, I would hold both children accountable for my pie, which
9 was going to a judging contest, right --
10 MR. HELMICK: Okay.
11 PROSPECTIVE JUROR NUMBER 426: -- they probably
12 wouldn't get TV for several weeks.
13 MR. HELMICK: Now if they -- if you knew which one ate
14 the pie though, would you still hold them accountable is what I'm
15 asking.
16 PROSPECTIVE JUROR NUMBER 426: Because the other
17 one knew that he wasn't supposed to, he should have talked to his
18 brother and say no, no, don't do that.
19 MR. HELMICK: I mean, I thank you for that opinion,
20 Leonard.
21 What do you think, anybody disagree with that? Please
22 tell us if you do.
23 Yeah, I mean, Jessica, I saw her foot -- Jessica. What do
24 you think? Do you agree with what he was saying?
25 PROSPECTIVE JUROR NUMBER 468: I mean, I agree that

1 everyone's responsible for their actions, but I --

2 MR. HELMICK: Okay.

3 PROSPECTIVE JUROR NUMBER 468: -- also heard the
4 saying guilty by association.

5 MR. HELMICK: Anybody else heard that saying? Do you
6 agree with that?

7 Sorry, go ahead, Jessica.

8 PROSPECTIVE JUROR NUMBER 468: No, that's it.

9 MR. HELMICK: Yeah, that -- okay. All right. So I mean, I
10 think that's kind of what Leonard was saying, right? I mean, isn't
11 that you were saying, the kids should have told the brother hey, put
12 that pie down man --

13 PROSPECTIVE JUROR NUMBER 426: Right.

14 MR. HELMICK: -- right? Or mom's going to get us, right?

15 PROSPECTIVE JUROR NUMBER 426: Right.

16 MR. HELMICK: Yeah. Okay. Thank you very much.

17 Who else? Anybody disagree though with that guilt by
18 association? I saw -- Shayra, you were shaking your head and Ms.
19 Powell.

20 Yeah, let's go ahead and pass it down here.

21 PROSPECTIVE JUROR NUMBER 518: I disagree with guilt
22 by association because in the instance with the pie, it could be two
23 toddlers, one is older, one is younger. The younger one may not
24 even know what they're doing is wrong.

25 And this case is completely different because these two

1 are old enough to know right.

2 MR. HELMICK: Okay. Now you said a couple things there.
3 And I'll come back to Leonard in regard to one of them. But do you
4 feel that there's guilt by association simply based off of age? Is that
5 what you mean?

6 PROSPECTIVE JUROR NUMBER 518: No, because it's still
7 individual.

8 MR. HELMICK: So kind of what Luis was saying?

9 PROSPECTIVE JUROR NUMBER 518: Uh-huh.

10 MR. HELMICK: You would hold each person in this trial,
11 each person, accountable for the actions that they did.

12 PROSPECTIVE JUROR NUMBER 518: Yes.

13 MR. HELMICK: Okay. Anybody agree with the guilt by
14 association or anybody agree with Terry's -- I guess -- I mean,
15 everybody has their own opinion on this stuff. Leonard, you had a
16 little bit different of an opinion. She had mentioned something
17 about the toddlers. Is your position still the same if it was toddlers
18 and they didn't -- they weren't really able to think about it?

19 PROSPECTIVE JUROR NUMBER 518: These were twins --

20 MR. HELMICK: Yeah.

21 PROSPECTIVE JUROR NUMBER 518: -- and they were all
22 over ten years old so --

23 MR. HELMICK: Okay.

24 PROSPECTIVE JUROR NUMBER 518: -- you can build all
25 kinds of stuff --

1 MR. HELMICK: Well it could go forever, right?

2 PROSPECTIVE JUROR NUMBER 518: Exactly.

3 MR. HELMICK: All right. So anybody disagree with Terry
4 at all?

5 All right. Thank you.

6 Well let me get a show of hands though. Can everybody
7 here promise, as many of you already have, to hold each person
8 accountable for their own actions?

9 Can I see your hands, please?

10 Okay, good. Thank you very much.

11 Let's tie that into something else here. Kind of what Luis
12 was saying earlier. When you walked into this courtroom and you
13 saw these individuals sitting over here and you heard what the
14 charges are, did you automatically think that because he's sitting in
15 this courtroom that he must have done something wrong or why
16 would he be here? Did anybody think that?

17 Please. Okay. May I see your hands if you thought that? I
18 got a couple hands up already. Yeah. Okay. So let's start with
19 Henry and then we'll come -- we'll work our way down. Let's get
20 Henry the microphone, please, Ms. Powell.

21 What do you think, Henry?

22 PROSPECTIVE JUROR NUMBER 505: Well to the question
23 you asked earlier in regards to wrongful convictions or charges,
24 before DNA testing, I -- you know, I could give -- I could give more
25 of a pass as to why someone would find themselves in court. Now

1 I think with the progress of investigation and police work, I
2 wouldn't -- I don't see a case why someone would end up in court if
3 they were not -- you know, if they were not somehow associated
4 with the case they were being charged for.

5 It doesn't mean they're guilty but somehow associated
6 with it.

7 MR. HELMICK: Associated, okay. All right. So that -- so
8 you didn't have the opinion that hey, he must have done something
9 wrong was my question? Did you have that opinion that -- did you
10 feel that hey, they must have done something wrong? That's
11 different than being associated, right?

12 PROSPECTIVE JUROR NUMBER 505: My initial thought
13 was they must have something to do with this, simply put.

14 MR. HELMICK: Okay. And you heard Mr. Pesci talk about
15 the presumption of innocence and so forth?

16 PROSPECTIVE JUROR NUMBER 505: Yes.

17 MR. HELMICK: Do you understand that?

18 PROSPECTIVE JUROR NUMBER 505: Yes.

19 MR. HELMICK: Okay. So you understand that it's a
20 beyond a reasonable doubt standard, right?

21 PROSPECTIVE JUROR NUMBER 505: Yes.

22 MR. HELMICK: Okay. So you understand that -- well let
23 me ask you this. I'm standing right here in the middle of the
24 courtroom, here's the Prosecutor's table over here and you
25 understand that he starts at the presumption of innocence back

1 here, right? Do you understand that?

2 PROSPECTIVE JUROR NUMBER 505: Yes.

3 MR. HELMICK: Okay. And are you saying then that based
4 off of your opinion when he walked into this courtroom, you felt
5 that he kind of already stood over here?

6 PROSPECTIVE JUROR NUMBER 505: Closer to that edge,
7 yes.

8 MR. HELMICK: Yeah. Okay.

9 But when we talked about the presumption of innocence,
10 do you feel that you can be fair -- as we have all discussed this
11 throughout today, do you feel that you could be fair though now
12 and listen to all the evidence and make a decision knowing that
13 they're presumed innocent?

14 PROSPECTIVE JUROR NUMBER 505: Having reviewed all
15 the evidence and facts presented, absolutely, I'd feel like I'd be fair.
16 But that was my initial thought coming in, just simply saying why
17 would someone end up here if they had nothing to do with --

18 MR. HELMICK: Sure.

19 PROSPECTIVE JUROR NUMBER 505: -- a particular
20 charge?

21 MR. HELMICK: Yeah. And you know what, I'm ashamed
22 to admit it because I have watched stuff on TV and I say to myself
23 oh God, those guys look guilty, right? And I say hold on, and you
24 take a step back, right? I think that's a human reaction, right?

25 PROSPECTIVE JUROR NUMBER 505: Uh-huh.

1 MR. HELMICK: Okay. Thank you for sharing. Well, let me
2 ask you this. As you sit here now though, do you still feel that way?

3 PROSPECTIVE JUROR NUMBER 505: I feel that I can be
4 fair is what I can say. I feel I can review the evidence, the facts
5 presented, and form a fair -- a more fair opinion. You know, I --
6 there has to be reasons as to why they were charged --

7 MR. HELMICK: Uh-huh.

8 PROSPECTIVE JUROR NUMBER 505: -- and those are the
9 reasons I would carefully consider.

10 MR. HELMICK: Okay. But let me just clarify. Do you feel
11 that just because he's sitting here, he did something wrong? Is that
12 your personal opinion right now?

13 PROSPECTIVE JUROR NUMBER 505: Not necessarily that
14 they did something wrong, but they had some association with the
15 case likely to be not good; likely to be wrong.

16 MR. HELMICK: Well do you feel the police ever get it
17 wrong? What's your feeling on that?

18 PROSPECTIVE JUROR NUMBER 505: Yes. I feel they
19 used to get it wrong a lot more back before the advancement of
20 DNA testing or -- you know, the advancement of police work and
21 evidence collection.

22 MR. HELMICK: Okay.

23 PROSPECTIVE JUROR NUMBER 505: I saw this show on
24 Netflix, *When They See Us*, and that made me lose faith in, you
25 know, the justice system, quite a lot.

1 MR. HELMICK: I've never seen it.

2 PROSPECTIVE JUROR NUMBER 505: It was rough.

3 MR. HELMICK: Okay.

4 PROSPECTIVE JUROR NUMBER 505: But I think times
5 have somewhat changed and science now is able to provide, you
6 know, concrete evidence and evidence that didn't exist. So it's not
7 impossible but it's tougher now to get a wrongful conviction.

8 MR. HELMICK: Okay. I hear you. I mean, you laid that
9 out pretty well. Thank you, Henry for that.

10 Gordon --

11 PROSPECTIVE JUROR NUMBER 460: Uh-huh.

12 MR. HELMICK: -- because I saw you shaking your head.

13 Can we get it down to Gordon here, please?

14 Gordon, what do you think about what Henry was
15 saying?

16 PROSPECTIVE JUROR NUMBER 460: Well I agree. You
17 know, they're here for a reason. So whatever that is, these two
18 were the ones that were actually -- you know, I guess you could say
19 the evidence proved that they -- we have enough evidence to go to
20 court. Something that probably happened.

21 MR. HELMICK: Something that probably happened.

22 PROSPECTIVE JUROR NUMBER 460: Right.

23 MR. HELMICK: Did you feel that they -- I guess what
24 you're saying then, when you walked in here you felt they had done
25 something wrong in order to even be here. Is that what went

1 through your head?

2 PROSPECTIVE JUROR NUMBER 460: Yes.

3 MR. HELMICK: Okay. When we talked about the
4 presumption of innocence just now, are you able to give them
5 that --

6 PROSPECTIVE JUROR NUMBER 460: Yes.

7 MR. HELMICK: -- presumption of innocence, even though
8 you had said that earlier?

9 PROSPECTIVE JUROR NUMBER 460: Yes.

10 MR. HELMICK: Okay. So I guess there's a bit of a conflict
11 in what you had said just a moment ago in a presumption of
12 innocence. Do you understand that that may look like a conflict?

13 PROSPECTIVE JUROR NUMBER 460: It does. You know,
14 it's just like --

15 UNKNOWN SPEAKER: Can you come over to the --

16 PROSPECTIVE JUROR NUMBER 460: -- prejudging is
17 what you're saying.

18 MR. HELMICK: Yeah.

19 PROSPECTIVE JUROR NUMBER 460: But they're here for
20 a reason. That's why you just said so looking at it, I think weighing
21 out the evidence and hearing how everything comes through, I
22 think yeah, I can sit there and make a very good judgment.

23 MR. HELMICK: Okay. Good. Yeah. I mean, it's hard for
24 us to sit here because we haven't seen a piece of evidence, heard
25 from one witness, nothing, right? We're just talking hypothetical

1 stuff, right? Yeah.

2 All right. Thank you, Gordon.

3 Anybody disagree with Gordon that hey, when I walked in
4 here, I mean, I didn't offer any opinion, I didn't think that they
5 were -- did anything wrong. Did anybody kind of -- was anybody
6 kind of just neutral?

7 Can I see your hands that you were just -- kind of just
8 neutral about this whole thing?

9 All right. Let's go over to Ronald and then we'll go to
10 Mindy. Let's go ahead and get it back here to Ronald.

11 Thank you, Gordon.

12 PROSPECTIVE JUROR NUMBER 504: Yeah, I just -- I don't
13 have any information on the case so I can't make any decisions on
14 it so -- and, you know, the way it's set up, you're innocent until
15 proven guilty.

16 MR. HELMICK: Yeah. So what are your thoughts on then
17 what Gordon was saying? I mean, do you saw -- I assume you
18 disagree with that position?

19 PROSPECTIVE JUROR NUMBER 504: Yeah, I do. I didn't
20 have any assumptions when I come in. It doesn't matter who was
21 sitting at any of the tables or anything. I mean, in my mind -- I
22 mean, I just come. I was just neutral.

23 MR. HELMICK: Okay.

24 PROSPECTIVE JUROR NUMBER 504: So -- and that's how
25 I'm supposed to be and if I'm picked as a juror -- and then I would

1 see all the evidence and then, you know, talk with the other jurors
2 to make a conclusion.

3 MR. HELMICK: Okay. So let me just hone in on
4 something you said there. You would talk with the other jurors.
5 Would the other jurors -- can they influence you in any way or
6 would -- if you had made up your mind, would you be kind of stuck
7 in your shoes there?

8 PROSPECTIVE JUROR NUMBER 504: I wouldn't have my
9 mind made up -- if I did have my mind made up, I would still have
10 to validate what I was thinking by going through the evidence with
11 the other jurors --

12 MR. HELMICK: Yeah.

13 PROSPECTIVE JUROR NUMBER 504: -- in case I missed
14 something. So I would still be open, you know, to other people's
15 opinions.

16 MR. HELMICK: Sure. Right. Maybe they saw something
17 differently, right?

18 PROSPECTIVE JUROR NUMBER 504: Yeah.

19 MR. HELMICK: Yeah. Okay. All right. Thank you very
20 much, Ronald.

21 And we had -- Mindy, let me come over to you and then
22 Nick, I'll get you in a second. Thank you very much.

23 What was your badge number again?

24 PROSPECTIVE JUROR NUMBER 504: Hmm?

25 MR. HELMICK: Badge number real quick.

1 PROSPECTIVE JUROR NUMBER 504: 504.

2 MR. HELMICK: 504, okay.

3 PROSPECTIVE JUROR NUMBER 429: Badge 429. And I'm
4 pretty much the same. I came in here not even knowing who was
5 who on the panel. It's not my place to judge and that's pretty much
6 how I try to live it. And obviously we're here to listen to the
7 statements, to listen to the evidence, and from there make a
8 decision, but I definitely came in here as a blank slate.

9 MR. HELMICK: Blank slate, okay.

10 PROSPECTIVE JUROR NUMBER 429: Okay.

11 MR. HELMICK: Now we did have a couple people raise
12 their hand when I had asked who here thought they did something
13 wrong. It was Gordon, I think, Jessica raised their hand. Who
14 elements raised their hand? Who was it because I want to talk to
15 those people?

16 Let's get over to Jessica and then I'll come back over to
17 you. I'll try to get everybody. I'm sorry. I got about an inch
18 [indiscernible].

19 Okay. What do you think?

20 PROSPECTIVE JUROR NUMBER 468: So walking into the
21 courtroom, I do have an idea that someone did something wrong.
22 And then after hearing the short story of what actually happened, it
23 kind of jogged my memory of the article I read --

24 MR. HELMICK: Oh, that's right.

25 PROSPECTIVE JUROR NUMBER 468: -- a year ago.

1 MR. HELMICK: And we don't have to get into the facts of
2 that.

3 PROSPECTIVE JUROR NUMBER 468: So it kind of just --

4 MR. HELMICK: Yeah.

5 PROSPECTIVE JUROR NUMBER 468: -- made me feel like
6 something happened.

7 MR. HELMICK: Okay. Yeah, so maybe a little bit different
8 for your scenario, which I -- we'll talk about later. But thank you for
9 sharing that.

10 Okay. Let's get it over to Nick because I almost forgot
11 about him.

12 PROSPECTIVE JUROR NUMBER 474: Hi. Yes, thank you.
13 Perhaps you can clear it up. I'm hearing this discussion, I'm really
14 like in my head just almost going crazy because I don't understand,
15 if you're -- if somebody's innocent, as you're saying, you know, not
16 guilt by association, then why weren't they listed on the witnesses
17 that the assistant DA gave? Wouldn't they have every incentive
18 to -- the prisoner's dilemma to turn State evidence.

19 And so going by guilt by association, they're really
20 together. Like either one's innocent or the other one's innocent or
21 one's guilty, the other one's guilty. So I don't know if I could find --
22 I think that's -- tell me if I'm wrong, the question you're asking --

23 MR. HELMICK: Sure.

24 PROSPECTIVE JUROR NUMBER 474: -- one guilty and
25 one innocent. I really think that they're just -- they're connected in

1 that sense. So whatever you make -- determination on one of them,
2 the other one would be in the same boat so to speak.

3 MR. HELMICK: Okay. That's an interesting perspective.

4 PROSPECTIVE JUROR NUMBER 474: Because I think
5 that -- I remember Sociology 101, you know, if you're going to --
6 you know, I don't see how you could say that you're completely
7 innocent but at the same time give every piece of information that
8 you possibly know -- you know, I'm not -- I don't know if that's
9 going to be --

10 MR. HELMICK: Sure.

11 PROSPECTIVE JUROR NUMBER 474: -- the case or not in
12 the trial but again, you would -- whatever we find you to be
13 innocent, the other person would be innocent. We find you guilty --
14 that -- I don't know that I could find a separate verdict so to speak.

15 MR. HELMICK: Well I mean, I think that some people had
16 said that maybe they had different roles and so forth. What are
17 your thoughts on that?

18 PROSPECTIVE JUROR NUMBER 474: I haven't really
19 formed an opinion on that, so to speak.

20 MR. HELMICK: Yeah.

21 PROSPECTIVE JUROR NUMBER 474: I don't know the
22 facts of the case again, so.

23 MR. HELMICK: Right, right, right. No, I mean --

24 PROSPECTIVE JUROR NUMBER 474: Maybe that'll
25 change but just like from the initial tidbits of information you're

1 giving, it really -- it would be hard for me right now --

2 MR. HELMICK: Yeah.

3 PROSPECTIVE JUROR NUMBER 474: It may be a bias, I --
4 we're supposed to tell that I suppose to you. I don't know that if I
5 find one guilty, I could find the other one innocent. Or if I find one
6 innocent that I -- I think it's going to be the same.

7 MR. HELMICK: That might be difficult for you is what
8 you're saying.

9 PROSPECTIVE JUROR NUMBER 474: It may be
10 impossible for me.

11 MR. HELMICK: Impossible for you.

12 PROSPECTIVE JUROR NUMBER 474: Potentially. If
13 there's not something that resolves that dilemma that I just laid out
14 for you.

15 MR. HELMICK: Okay. Now if -- you said a good word
16 there resolve. Now if you hear facts and evidence and so forth, are
17 you going to be open to listen to things that could resolve it or
18 could not resolve that?

19 PROSPECTIVE JUROR NUMBER 474: Certainly.

20 MR. HELMICK: Yeah. And then you'll be able to make a
21 fair decision.

22 PROSPECTIVE JUROR NUMBER 474: Like I said, from the
23 initial facts, that's the first assumption I'm getting is if you're
24 completely innocent, why haven't you given -- you know, what is it
25 the speaking to the queen or whatever they call it; where you come

1 in and you tell everyone everything. Why hasn't that happened?

2 MR. HELMICK: Sure.

3 PROSPECTIVE JUROR NUMBER 474: That's --

4 MR. HELMICK: I got ya. All right. Thank you very much,
5 Nick.

6 Marklester. Let's get it over to Marklester.

7 Pedronan, right? Is that how you say your last name?

8 PROSPECTIVE JUROR NUMBER 507: Yes.

9 MR. HELMICK: What do you think?

10 PROSPECTIVE JUROR NUMBER 507: Yeah. I mean, I feel
11 like murder is a very serious charge and that there's different
12 checks and balances for the police and the prosecutors have looked
13 at enough evidence at least charge the people here. So I just feel
14 like I have that bias that yeah, if you're here, you have some
15 evidence against them. That's all.

16 MR. HELMICK: Okay. Do you feel that they're guilty
17 based on them being here or they must have done something
18 wrong?

19 PROSPECTIVE JUROR NUMBER 507: They must have
20 done something wrong.

21 MR. HELMICK: Okay. But not guilty.

22 PROSPECTIVE JUROR NUMBER 507: Not guilty.

23 MR. HELMICK: Okay. You want to hear everything, right?

24 PROSPECTIVE JUROR NUMBER 507: Yes, sir.

25 MR. HELMICK: Can you give them the presumption of

1 innocence that we talked about? Are you able to do that?

2 PROSPECTIVE JUROR NUMBER 507: Somewhat, but with
3 a heavy bias that they're here for a reason.

4 MR. HELMICK: Okay. So you said somewhat in regard to
5 the presumption of innocence. What do you mean by that?

6 PROSPECTIVE JUROR NUMBER 507: Well I could see -- I
7 could look at evidence and if you could sway me, yes for sure.

8 MR. HELMICK: So you just kind of need to see everything
9 is what you're saying?

10 PROSPECTIVE JUROR NUMBER 507: Yes, sir.

11 MR. HELMICK: [Indiscernible].

12 PROSPECTIVE JUROR NUMBER 507: But like I said,
13 they're here for a reason.

14 MR. HELMICK: They're here for a reason. Okay. Thank
15 you very much, Markletter.

16 All right. Court's indulgence.

17 THE COURT: Okay.

18 MR. HELMICK: Now I want to talk about this big topic that
19 Mr. Yampolsky talked about. And I think that Henry had said
20 something about Defendant's right to testify. We talked about that.
21 That's always a big one. And since you got the microphone,
22 Markletter, I'll talk to you about it first.

23 Let's see what I wrote down here.

24 Okay. All right. So I mean, let's go back for a second
25 there. Who here wants to hear -- my client's Mr. Harlan. Who here

1 wants to hear him testify?

2 Henry, yeah. Mr. Meng. Okay. Go ahead. Let's get them
3 the microphone, Markletter.

4 All right. Go ahead. Henry first and then we'll go over to
5 Mr. Meng.

6 You want to, right?

7 PROSPECTIVE JUROR NUMBER 505: Yes, I want to.

8 MR. HELMICK: Do you need to in order for you to be fair
9 in this case?

10 PROSPECTIVE JUROR NUMBER 505: Not necessarily. It
11 doesn't outweigh the evidence.

12 MR. HELMICK: Okay. So you can still be fair, even if that
13 doesn't happen?

14 PROSPECTIVE JUROR NUMBER 505: Yes, I would think
15 you can tell a lot about a person, maybe a person's motives or who
16 they are just from hearing them speak -- just from hearing them
17 say -- whether they're genuine or not if they feel that they are
18 innocent. So I would prefer to hear an innocent testify and say so
19 in their own words.

20 MR. HELMICK: Okay. You would prefer it.

21 PROSPECTIVE JUROR NUMBER 505: Yes.

22 MR. HELMICK: But I guess what I'm trying to pin you
23 down is, do you absolutely need to be -- to keep an open mind, to
24 be fair in this case?

25 PROSPECTIVE JUROR NUMBER 505: No, the evidence

1 outweighs everything.

2 MR. HELMICK: Okay. All right. Mr. Meng.

3 PROSPECTIVE JUROR NUMBER 390: Actually I really
4 agree with exactly what he said.

5 MR. HELMICK: Yeah.

6 PROSPECTIVE JUROR NUMBER 390: I would like to hear
7 him but if the evidence was, you know, such then that would be
8 what it would be.

9 MR. HELMICK: Okay. So you don't -- it's not a need for
10 you. I got to do it, or I can't even be fair to the State --

11 PROSPECTIVE JUROR NUMBER 390: No, just kind of -- it
12 would just be a deal about why didn't he get up there and, you
13 know, say hey, I didn't do that. I didn't do it. That's all.

14 MR. HELMICK: Okay. Yeah, yeah. That's fair.

15 Anybody else? Anybody else feel the same way Mr. Meng
16 and Henry does?

17 Okay. While I got you -- while you got the mic there. I
18 mean, what are some of the risks of testifying? What are some of
19 the risks that you can see?

20 Leonard -- let's get you over to Leonard. Thank you, Mr.
21 Meng.

22 PROSPECTIVE JUROR NUMBER 426: Leonard, Badge
23 Number 426.

24 First of all, at the beginning of this in the Judge's
25 instructions, the necessity to testify or to do anything on behalf of

1 the Defense is not required because of the presumption of
2 innocence.

3 MR. HELMICK: Sure.

4 PROSPECTIVE JUROR NUMBER 426: The risk involved is
5 that some people maybe don't present very well --

6 MR. HELMICK: Yeah.

7 PROSPECTIVE JUROR NUMBER 426: -- and we had a case
8 of that with Robert Mueller.

9 MR. HELMICK: Was that just on the TV a few days ago?

10 PROSPECTIVE JUROR NUMBER 426: Yeah.

11 MR. HELMICK: Yeah, okay.

12 PROSPECTIVE JUROR NUMBER 426: So talk -- you can
13 shoot yourself in the foot, literally.

14 MR. HELMICK: So maybe just -- I guess how would you
15 word that then? They don't present themselves well?

16 PROSPECTIVE JUROR NUMBER 426: They don't present
17 their case well.

18 MR. HELMICK: Okay. Presentation.

19 What's another risk?

20 PROSPECTIVE JUROR NUMBER 432: [Inaudible].

21 MR. HELMICK: Sorry, Juan, we got to get you the
22 microphone.

23 Thank you, Leonard.

24 PROSPECTIVE JUROR NUMBER 432: 432, that's my juror
25 badge number.

1 MR. HELMICK: Okay. Yeah.

2 PROSPECTIVE JUROR NUMBER 432: You might
3 contradict yourself with something you said on the -- you know,
4 when you were being investigated or something.

5 MR. HELMICK: Yeah, you might contradict yourself, right?
6 Be caught in a lie, right?

7 PROSPECTIVE JUROR NUMBER 432: Yep.

8 MR. HELMICK: Okay. What about being questioned by
9 the Prosecution? Is that another one?

10 PROSPECTIVE JUROR NUMBER 432: Yeah, that's a big
11 one.

12 MR. HELMICK: Okay. Go ahead and give it over to Ms.
13 Huston there. Thank you, Juan.

14 PROSPECTIVE JUROR NUMBER 506: I'm 506.

15 MR. HELMICK: 3-0 -- yeah, go ahead.

16 PROSPECTIVE JUROR NUMBER 506: 506.

17 MR. HELMICK: 506, okay.

18 PROSPECTIVE JUROR NUMBER 506: I -- I mean, if I can
19 put myself in their shoes, I would just be scared out of my mind. I'd
20 be nervous.

21 MR. HELMICK: Okay. So nervous, right? Maybe people
22 don't speak well in front of other people, right?

23 PROSPECTIVE JUROR NUMBER 506: Yeah. And I
24 wouldn't want to be questioned by somebody that wasn't on my
25 side, I guess. They could twist things around. Whatever I'm trying

1 to say or whatever.

2 MR. HELMICK: Could be twisted up, huh? That's a good
3 one.

4 All right. Well let's do the inverse though, right, because
5 there's two sides to this. I mean, what are the risks of not
6 testifying?

7 PROSPECTIVE JUROR NUMBER 506: You don't get to tell
8 your side of the story and you don't get to see -- somebody else
9 was saying like your intent or your motives or your personality
10 and --

11 MR. HELMICK: Yeah. I mean, Henry was --

12 PROSPECTIVE JUROR NUMBER 506: -- how it happened.

13 MR. HELMICK: -- saying that, Donald was saying that,
14 right? They want them to get up there and say, you know, what the
15 heck happened, right? Okay. So what's a word that we can choose
16 for that?

17 PROSPECTIVE JUROR NUMBER 452: Accountability

18 MR. HELMICK: Risk of not testifying. Who said that?

19 PROSPECTIVE JUROR NUMBER 452: Me.

20 MR. HELMICK: Shayra?

21 PROSPECTIVE JUROR NUMBER 452: Uh-huh.

22 MR. HELMICK: What's your badge number?

23 PROSPECTIVE JUROR NUMBER 452: 452.

24 MR. HELMICK: 452.

25 THE COURT: Shayra.

1 MR. HELMICK: Shayra. Shayra. Okay. Accountability.
2 Okay. And what did you say again, Ms. Huston, I'm -- I
3 couldn't remember.

4 PROSPECTIVE JUROR NUMBER 506: The risk of not
5 testifying?

6 MR. HELMICK: Yeah.

7 PROSPECTIVE JUROR NUMBER 506: That they don't
8 have the chance to tell their side of the story; that leaves some
9 doubt as to why they didn't testify.

10 MR. HELMICK: Tell --

11 PROSPECTIVE JUROR NUMBER 506: What their motives
12 were.

13 MR. HELMICK: -- their story, okay?

14 PROSPECTIVE JUROR NUMBER 506: What do they have
15 to hide by --

16 MR. HELMICK: Oh, that's a good one, right?

17 PROSPECTIVE JUROR NUMBER 506: -- not telling it.

18 MR. HELMICK: If they're innocent then why the heck --
19 why won't they get up here, right? You know?

20 Okay. So I mean we talked about two different sides of
21 this. Can anybody here see the dilemma that there's two sides to
22 this. Is there a dilemma?

23 PROSPECTIVE JUROR NUMBER 506: Yes, there's always
24 two sides.

25 MR. HELMICK: Yeah. Fred, I see you nodding your head.

1 Let's get over to Fred.

2 Ms. Huston, thank you.

3 PROSPECTIVE JUROR NUMBER 398: Well when there's
4 two people involved such as this then it's pretty classic behavior for
5 one to quote, unquote plea bargain. So there's always that.
6 There's that influence.

7 MR. HELMICK: Okay. Thank you very much for sharing
8 that.

9 Anybody else? Anybody see the dilemma in the risk of
10 testifying, the risk of not testifying?

11 Let me ask you this, Brett, I mean, do you think that that's
12 why the founding fathers came up with that rule because they saw
13 the dilemma?

14 PROSPECTIVE JUROR NUMBER 398: Possibly.

15 MR. HELMICK: Would it be fair for me to advise my
16 client -- are you okay with me advising my client as to what I think
17 he should do --

18 PROSPECTIVE JUROR NUMBER 398: Of course.

19 MR. HELMICK: -- ultimately for him making this decision?

20 PROSPECTIVE JUROR NUMBER 398: Yeah, you're his
21 attorneys. Yeah, of course. And then again, there's so much
22 nuance that we don't know about yet. You know, there might be a
23 viable reason why not. But of course, like a lot of people have said
24 here, the decision not to testify does, you know, on the face look
25 pretty badly.

1 MR. HELMICK: Okay. And nobody talked about -- you
2 said the decision not to testify, right? But nobody talked about the
3 reasons --

4 PROSPECTIVE JUROR NUMBER 398: Yeah.

5 MR. HELMICK: -- for testifying, right?

6 PROSPECTIVE JUROR NUMBER 398: Yeah. Again, I --

7 MR. HELMICK: But for you --

8 PROSPECTIVE JUROR NUMBER 398: I can -- I'm trying
9 not be emotionally biased --

10 MR. HELMICK: Sure.

11 PROSPECTIVE JUROR NUMBER 398: -- either way.

12 MR. HELMICK: Sure.

13 PROSPECTIVE JUROR NUMBER 398: You know, I want to
14 just base it on the facts an evidence and I don't have any of that yet.

15 MR. HELMICK: Of course. Right. And that's -- I mean,
16 that's all we're talking about right now anyways.

17 PROSPECTIVE JUROR NUMBER 398: Yeah.

18 MR. HELMICK: Would it be fair -- I mean, I asked Brett
19 about that. Can everybody agree with that that it would be fair to
20 allow myself to advise my client with his permission as to what I
21 think he should do? Is that fair?

22 Anybody think that's not fair?

23 Okay. Thank you.

24 Okay. So let's talk about something else here for a
25 minute. Big decisions. Big decisions in life, right? What are some

1 things that we do -- people do in their lives before making big
2 decisions? Moving, getting a new job, having a kid, right? what are
3 some things that people do? Everybody does something
4 differently. I write it plus and minus. You know, what's the pluses,
5 what's the minuses. That's what I do.

6 Does anybody do something like that when they're trying
7 to make big decisions in their life? Can I see your hands, please?

8 All right. Who have I not talked to? Go ahead and hold
9 those up for me for a second, please?

10 All right. Let's go over to Markletter [sic] and then we'll
11 come down to Ms. Leon.

12 Brett, right here. Thank you.

13 What are some things you do?

14 PROSPECTIVE JUROR NUMBER 507: I do a pros and cons
15 sheet.

16 MR. HELMICK: Pros and cons, right? Yeah.

17 Okay. Yeah? What else? Anybody else?

18 Markletter, thank you.

19 Who else raised their hand? I saw some -- yeah, that's
20 right, Ms. Leon.

21 PROSPECTIVE JUROR NUMBER 512: Well so for personal
22 decisions for pros and cons obviously you outweigh the risk versus
23 the benefit. But when I have to make big decisions as it relates to
24 the workplace, it comes into doing your research on what's going
25 on, what's the evidence that you have, what are your options,

1 what's the best fit for all parties involved. There's quite a few
2 things that go into it. It's an investigation in itself.

3 MR. HELMICK: Yeah. Yeah, that's a lot of good stuff.
4 Thank you for sharing that. Right.

5 Steven, we haven't talked to you yet. What do you think?

6 PROSPECTIVE JUROR NUMBER 514: All of those things
7 are fantastic that you said and also consult with your spouse.

8 MR. HELMICK: Oh that's a good one, right?

9 PROSPECTIVE JUROR NUMBER 512: Oh. No.

10 UNKNOWN SPEAKER: [Indiscernible] now.

11 MR. HELMICK: We're going to tell him that, right? You
12 know that.

13 PROSPECTIVE JUROR NUMBER 512: He knows.

14 MR. HELMICK: Okay. So we got spouse, we got notes.
15 What else?

16 Anybody over here? I'm sorry you guys. Anything to add
17 over here?

18 Yeah, yeah. Ms. Huston. Let's give Ms. Huston --

19 PROSPECTIVE JUROR NUMBER 506: I'm 506.

20 MR. HELMICK: Here you go.

21 PROSPECTIVE JUROR NUMBER 506: The biggest thing I
22 do when I'm making a big decision is, I pray.

23 MR. HELMICK: Yeah. A lot of people do that too, right?
24 Of course.

25 Well I mean, you heard the charges in this case, right? I

1 mean, can anybody here agree that they will do -- that they will take
2 the time in making a decision in this case? Anybody agree that they
3 will do that with a case like of this magnitude? Could I see your
4 hands if you agree that you're going to do that?

5 Thank you very much.

6 And Ms. Leon had talked about note -- research. Now you
7 can't do research, you heard the Judge say that, right? But you can
8 take notes. Can any -- can everybody agree that they'll do their best
9 to take good notes in this case as to what they hear from the
10 witnesses? And we rely upon you to do that. Can you raise your
11 hand, please, if you're going to do that?

12 Gabriel, come on.

13 Here we go. All right. Okay. Thank you.

14 Okay. So today's July 29th. Halloween is October 31st. I
15 want to give you a hypothetical, especially for the parents. I want
16 you to pretend that you heard on the news that there are a handful
17 of Snickers bars in the valley that contain poison, right? And you
18 are -- you send your kids out the door to go trick-or-treating, they
19 come home, they take out the Snickers -- they take the candy, they
20 dump it on the floor and you see just a few Snickers bars. Maybe
21 one out of ten on the News said that there's some poison in it.

22 I want to see your hands if you're going to let your kid
23 have one of the Snickers bars.

24 PROSPECTIVE JUROR NUMBER 551: If you don't like
25 your kid.

1 MR. HELMICK: Okay. And why is that? I mean, what is
2 the reason for that?

3 PROSPECTIVE JUROR NUMBER 506: You're not going to
4 take the chance.

5 MR. HELMICK: Take the chance, okay.
6 What else?

7 And who was that, I'm sorry, Ms. Huston?

8 PROSPECTIVE JUROR NUMBER 506: Yeah, 506.

9 MR. HELMICK: Sorry, we just have to --

10 PROSPECTIVE JUROR NUMBER 506: I still have the
11 microphone.

12 MR. HELMICK: Okay.

13 PROSPECTIVE JUROR NUMBER 506: Yeah, 506.

14 MR. HELMICK: Good. 506, all right.

15 What else? And nobody --

16 PROSPECTIVE JUROR NUMBER 506: You love your kids.

17 MR. HELMICK: -- raised their hand. Thank God, right?

18 I'll talk to you, Roxanne. Let's get the microphone up
19 here.

20 Why? What's another reason? She's not going to let
21 them take the chance. We had Gordon say protection. What do
22 you think?

23 PROSPECTIVE JUROR NUMBER 466: I'd only not take the
24 chance, but they have more candy, so let them eat the other.

25 MR. HELMICK: You let them eat the other candy, right?

1 PROSPECTIVE JUROR NUMBER 466: Yeah.

2 MR. HELMICK: Okay. I mean, what's another word here?
3 because they have a what? A doubt as to the what, safety, of the
4 Snickers bars, right? Everybody understand that?

5 Okay. Would you consider that doubt to be reasonable?

6 THE COURT: Ah, we're not going to go there.

7 MR. HELMICK: Okay.

8 THE COURT: There is a very specific definition of
9 reasonable doubt that you'll get at the conclusion of the case. So
10 we don't discuss that or quantify it in any fashion.

11 MR. HELMICK: I wasn't trying to go further on that.

12 THE COURT: I know.

13 MR. HELMICK: Thank you, Your Honor.

14 THE COURT: I always jump in anyway. It's not a you
15 thing. Don't worry.

16 MR. HELMICK: All right.

17 Okay. Let's see what else we have here, hold on.

18 All right. So anybody here, let me see your hands, please,
19 ever been blamed for something and think back when you were
20 kids if you had siblings or anything like that -- blamed for
21 something they didn't do?

22 Okay. All right. Let's go to Sydney here and then we'll go
23 over to some other people.

24 Can you give us an example of that, Sydney? What's your
25 badge number please?

1 PROSPECTIVE JUROR NUMBER 418: 418.

2 MR. HELMICK: 418.

3 PROSPECTIVE JUROR NUMBER 418: I have four younger
4 siblings, so I was always blamed when I was a kid -- or when we
5 were kids, I was always blamed. Like who snuck out at night? Who
6 left the doors unlocked? Just something just stupid. It was always
7 my fault.

8 MR. HELMICK: And how did that make you feel?

9 THE COURT: Well --

10 PROSPECTIVE JUROR NUMBER 418: Well --

11 THE COURT: -- were you sneaking out at night?

12 PROSPECTIVE JUROR NUMBER 418: No, my brother was
13 and I got blamed for it.

14 MR. HELMICK: You got blamed for it, okay.

15 PROSPECTIVE JUROR NUMBER 418: Yeah, actually. But
16 my parents didn't trust me, they trusted the younger kids which
17 sucked.

18 MR. HELMICK: So it bothered you, right?

19 PROSPECTIVE JUROR NUMBER 418: Yeah.

20 MR. HELMICK: Yeah. Okay, good. That's a very good
21 example. Thank you for sharing that, Sydney.

22 Gilbert [sic], I saw you raise your hand too. Let's get you
23 the microphone.

24 PROSPECTIVE JUROR NUMBER 424: Yeah, I think my
25 friends and I were arguing about something that -- about like an

1 argument, debate that was happening between us and they'd think
2 that like in that particular case -- I forgot what it was about really
3 but they think I was the one who did it but like clearly I was just --
4 you know, just trying to be in a debate with them.

5 MR. HELMICK: Uh-huh.

6 PROSPECTIVE JUROR NUMBER 424: But for some reason
7 they all pointed towards me being like the culprit of this thing that I
8 know I didn't do, and nobody would listen to me and it -- that kind
9 of feeling just sucked overall.

10 MR. HELMICK: Okay. So it made you -- it sucked.

11 PROSPECTIVE JUROR NUMBER 424: Yeah.

12 MR. HELMICK: Yeah. And Sydney said she -- what was
13 the word that you used, I'm sorry? How did that make you feel?
14 Sydney? Bad?

15 PROSPECTIVE JUROR NUMBER 418: Yeah, bad.

16 MR. HELMICK: Okay. Sucked, it was bad.

17 PROSPECTIVE JUROR NUMBER 424: Yeah.

18 MR. HELMICK: Yeah. Thank you for sharing.

19 Anybody else, right? I mean, I think -- Henry, did you
20 raise your hand on that one too?

21 PROSPECTIVE JUROR NUMBER 505: Yes. But I'd rather
22 not comment on that.

23 MR. HELMICK: That's all right. That's okay.

24 Okay. Let me ask you this then. Hold on. This is kind of
25 going back to what I guess Mr. Yampolsky was talking about with

1 Sarah in regards to the cookies. So you have two people that say
2 that they felt bad, that they felt it sucked being blamed for
3 something they didn't do. I mean, what are some things that -- let
4 me ask you this, Gilbert, what are some things that those people
5 should have done who were accusing you of this?

6 PROSPECTIVE JUROR NUMBER 424: They should have
7 listened to my side of the story because they just write it off.

8 MR. HELMICK: Yeah. So I mean, listen to both sides of
9 the story, right?

10 Okay. What else? What else, Sydney.

11 Thank you, Gilbert.

12 PROSPECTIVE JUROR NUMBER 418: My siblings could
13 have owned up to their own actions.

14 MR. HELMICK: Okay.

15 PROSPECTIVE JUROR NUMBER 418: Does that make
16 sense?

17 MR. HELMICK: So the other people that did it should have
18 owned up to their own actions?

19 PROSPECTIVE JUROR NUMBER 418: Yeah.

20 MR. HELMICK: That kind of goes back to what we were
21 saying in regard to taking responsibility, right?

22 PROSPECTIVE JUROR NUMBER 418: Uh-huh.

23 MR. HELMICK: Yeah. Okay. Sarah, I forgot what you --
24 thank you, Sydney.

25 What did you say in regard to the cookies? I mean, you

1 had -- one of the kids was being blamed for something, right? And
2 what did you do to solve the dilemma?

3 PROSPECTIVE JUROR NUMBER 381: I knew who liked the
4 blueberries. The pie.

5 MR. HELMICK: I would have done cookies, that's why. I
6 don't know why. Okay, so what would you do -- you had it easy
7 then, I guess.

8 PROSPECTIVE JUROR NUMBER 381: Yeah.

9 MR. HELMICK: Can you think of anything else? You
10 raised your hand when I asked that question --

11 PROSPECTIVE JUROR NUMBER 381: Yes.

12 MR. HELMICK: -- have you ever been blamed for
13 something.

14 PROSPECTIVE JUROR NUMBER 381: I have.

15 MR. HELMICK: Okay. Tell us about that.

16 PROSPECTIVE JUROR NUMBER 381: Sixth grade, there
17 was -- it was guilt by association. I was friends with a bunch of girls
18 that were stealing candy bars.

19 MR. HELMICK: Uh-huh.

20 PROSPECTIVE JUROR NUMBER 381: So I got blamed for
21 one of the school fundraisers. I was not stealing candy bars.

22 MR. HELMICK: But how did that make you feel?

23 PROSPECTIVE JUROR NUMBER 381: Angry.

24 MR. HELMICK: Angry. So there's another adjective, right?
25 Angry, okay.

1 What should those people have done?
2 PROSPECTIVE JUROR NUMBER 381: They should have
3 told the truth.
4 MR. HELMICK: Yeah. Okay. So kind of like take
5 responsibility --
6 PROSPECTIVE JUROR NUMBER 381: Correct.
7 MR. HELMICK: -- right?
8 Okay. Thank you very much, Sarah.
9 Okay. I got one more topic and then I just want to talk to
10 just a few jurors that I made some notes on earlier. This is a very
11 important topic though.
12 Okay. Redwoods. Anybody know what a Redwood tree
13 is? Everybody know what that is, right? A sequoia, right, versus
14 palm trees? Okay.
15 You know, there's some people on this jury that have
16 served on juries before, right? Who was that, again, can you raise
17 your hand? Henry, I think you did, right? Okay.
18 Let me talk to you just for a second, Henry. And you
19 went -- you were in that deliberation room, right? Okay.
20 PROSPECTIVE JUROR NUMBER 505: Yes.
21 MR. HELMICK: Yes.
22 PROSPECTIVE JUROR NUMBER 505: Yes.
23 MR. HELMICK: Okay. And you said that you had some
24 reservations about what happened in that case, right?
25 PROSPECTIVE JUROR NUMBER 505: Yes.

1 MR. HELMICK: Now you understand that based off of
2 what we have talked about here today that everybody has their own
3 opinion, right?

4 PROSPECTIVE JUROR NUMBER 505: Yes.

5 MR. HELMICK: And sometimes I think that -- somebody
6 over here said that they may feel that they could be swayed but
7 they'll still have their own opinion, right?

8 PROSPECTIVE JUROR NUMBER 505: Correct.

9 MR. HELMICK: Okay. So what's -- I mean, what's one of
10 the reasons that that may happen and a jury of 12 -- or eight people
11 in your case. What are some of the reasons that people might be
12 swayed or convinced otherwise of their opinion?

13 PROSPECTIVE JUROR NUMBER 505: Sometimes you can
14 misinterpret facts as they're presented to you. You can come up
15 with your own story as to what happened, rather than sticking to
16 the facts. So go off on a tangent based on your imagination.

17 MR. HELMICK: Uh-huh. Yeah. And when you're in a
18 room with other people, maybe there's peer pressure? Is that
19 possible, you think?

20 PROSPECTIVE JUROR NUMBER 505: Yeah, that's
21 possible. Also --

22 MR. HELMICK: That happen --

23 PROSPECTIVE JUROR NUMBER 505: -- being in a room
24 with those other people for a very long time --

25 MR. HELMICK: Yeah.

1 PROSPECTIVE JUROR NUMBER 505: -- it will start to
2 wear you down as well.

3 MR. HELMICK: Okay. And can you imagine that that can
4 happen in a scenario like that?

5 PROSPECTIVE JUROR NUMBER 505: Yes.

6 MR. HELMICK: Yeah. Okay. So you have had a firsthand
7 experience with that then.

8 Is anybody here -- I mean, does anybody here, please
9 honest with yourselves, especially for a case like this. Does
10 anybody here feel if they are back there in that deliberation room --
11 [beeping]. Am I out of time, Gordon?

12 PROSPECTIVE JUROR NUMBER 460: [Indiscernible].

13 MR. HELMICK: All right. Just making sure.

14 Does anybody here feel if they're back there in that
15 deliberation room that they have the personality that you know
16 what, enough people are saying this and I'm just going to go with
17 the crowd. I'm just going to be a palm tree. If enough wind blows
18 on me, then I'm going to sway with the others. Does anybody here
19 feel that you know what, I'm a palm tree? And it's okay if you are.
20 Anybody feel that way? Let me see your hands if you do. If enough
21 wind is blown on you that you may sway.

22 PROSPECTIVE JUROR NUMBER 505: Can I comment on
23 that?

24 MR. HELMICK: Yeah, go ahead.

25 PROSPECTIVE JUROR NUMBER 505: When people

1 present an argument, they don't do it without basis. People can
2 present a very logical argument, very logical way of interpreting
3 their facts and seeing things that maybe you didn't consider. And if
4 you're a nonbiased person, if you're attempting to judge a case
5 fairly, then you're considering their points of views as well. And if
6 they're logical enough and they go along with the evidence and it's
7 something that you haven't considered before, that can sway a
8 person's opinion. That can change your opinion.

9 MR. HELMICK: Yeah. Do you feel that if -- that that could
10 happen to you?

11 PROSPECTIVE JUROR NUMBER 505: Yes.

12 MR. HELMICK: Okay.

13 PROSPECTIVE JUROR NUMBER 505: Sometimes. I'll tell
14 you something happens in my life candidly.

15 MR. HELMICK: Uh-huh.

16 PROSPECTIVE JUROR NUMBER 505: My girlfriend and I
17 are arguing about something we see on TV, you know, a topic
18 relating to politics or culture, and she brings up points that I may
19 not have considered before and vice versa. So we change each
20 other's opinions all the time --

21 MR. HELMICK: Okay. So --

22 PROSPECTIVE JUROR NUMBER 505: -- and we grow each
23 other's perspectives. We expand them.

24 MR. HELMICK: So you have an open mind is what you're
25 saying basically, right?

1 PROSPECTIVE JUROR NUMBER 505: Yes.

2 MR. HELMICK: Okay. Okay, good.

3 Anybody disagree with Henrry? Or feel the same as
4 Henrry? Let me get -- okay, let's go over to Nick.

5 Henrry, if you could just pass it down there.

6 PROSPECTIVE JUROR NUMBER 474: Yeah, in terms of
7 the palm tree argument, I just -- I was -- when you said that I just
8 thought about the Challenger disaster where everyone knew the O-
9 rings were faulty in that weather. And all those PhDs from NASA,
10 50 of them, when there wasn't the stakes of someone on a murder
11 trial and you're -- you know, your ethical bounds, et cetera, they all
12 went for it, even though most of them knew that it was wrong.

13 And so if those people succumb to that kind of pressure, I
14 don't know if there's anyone here who legitimately can say I'm a
15 Redwood, 100 percent of the time. So for me, being truthful, I
16 probably have a bias that I don't even know about, you know, kind
17 of hidden with regards to whether or not I can be swayed. And so
18 that's where I come down on this.

19 MR. HELMICK: Yeah, thanks for sharing that.

20 Well we got two different perspectives here. Does
21 anybody understand the point that Nick was trying to make; that
22 that could happen? Does anybody feel that you know what -- and
23 you made a good point, maybe that could happen to me?
24 Anybody?

25 Anybody feel that if they are in the minority and the wind

1 is blowing very hard and the rest are in the majority, do you feel
2 that you're just -- you're going to stick -- you're going to stand
3 strong. That you are a Redwood, that you're not going to be
4 swayed by the winds. Anybody feel that way?

5 All right. Thank you, Nick.

6 I mean, what is the most important -- what is the most
7 important function of the jury that you think I'm trying to point out
8 here? What's the most important pieces of this whole thing? What
9 do you think?

10 PROSPECTIVE JUROR NUMBER 460: Individuality.

11 MR. HELMICK: Yeah, there it is.

12 Gordon said -- can we give Gordon the microphone?

13 We just got to get that recorded, Gordon.

14 What did you say again?

15 PROSPECTIVE JUROR NUMBER 460: Individuality.

16 MR. HELMICK: Right. So unique personal power, right?

17 Gilbert -- I think that Gilbert is -- and correct me if I'm
18 wrong, I mean, there's some younger people on this jury, right? So
19 Gordon, you're saying that no matter what age you are, what
20 occupation you have, what your color of your skin is, everybody is
21 as powerful as the person next to them, is that -- that's the beauty
22 of it all?

23 PROSPECTIVE JUROR NUMBER 460: Yes.

24 MR. HELMICK: Right.

25 PROSPECTIVE JUROR NUMBER 460: Yeah.

1 MR. HELMICK: Okay. Well let's see a show of hands then.
2 I mean, who here feels that they can be a Redwood in this case, no
3 matter how hard the winds may blow in the back of that jury room?
4 Let me see your hands if you feel that you can be a Redwood.

5 Uh-oh, we don't have all the hands up. Sydney, what do
6 you think?

7 Let's give Sydney the microphone. Thank you, Gordon.

8 PROSPECTIVE JUROR NUMBER 418: I feel like I would
9 be -- I would lean towards more of a palm tree just because I don't
10 want to have a different opinion than everybody else. I don't want
11 to stand out from everybody else. I want to kind of blend in, if that
12 makes sense.

13 MR. HELMICK: Sure. No, I appreciate you sharing that.
14 That's what I'm looking for. And there's nothing wrong with that,
15 right? There's wrong with being a palm tree or a redwood. This is
16 just a figure of speech that I'm talking about --

17 PROSPECTIVE JUROR NUMBER 418: Yeah.

18 MR. HELMICK: -- right?

19 Okay. Thank you very much.

20 Sylvia?

21 PROSPECTIVE JUROR NUMBER 463: So with being like a
22 palm tree, it's not more like oh, I want to go with the crowd.

23 MR. HELMICK: Yeah.

24 PROSPECTIVE JUROR NUMBER 463: It's kind of like if
25 you can sway me with the evidence --

1 MR. HELMICK: Oh, okay.

2 PROSPECTIVE JUROR NUMBER 463: -- then I would
3 possibly become a palm tree, but I'm going to be a redwood when
4 it comes to being fair.

5 MR. HELMICK: Yeah, so that's -- I mean, that's a good
6 analogy but what I'm going for is swayed with the crowd --

7 PROSPECTIVE JUROR NUMBER 463: Yeah.

8 MR. HELMICK: -- right? So you would be a redwood --

9 PROSPECTIVE JUROR NUMBER 463: Yeah.

10 MR. HELMICK: -- in that scenario.

11 Okay. All right. So there were some people that didn't
12 raise their hand though.

13 Gilbert, did you raise your hand?

14 Okay. Let's give it to Gilbert. Thank you, Sylvia.

15 What do you think, are you kind of like in Sydney's shoes?

16 PROSPECTIVE JUROR NUMBER 424: I'm more of being
17 palm tree out of the fact that it's -- I think it's best to keep an open
18 mind and say yeah, you could be a redwood in the sense that you
19 could have your opinion of staying strong but in the -- but you
20 could also be like a palm tree in the fact that you can consider what
21 other people think about the same thing because what someone
22 else said before, you know, points could be, you know, there are
23 points that could be brought up about the --

24 MR. HELMICK: Henry.

25 PROSPECTIVE JUROR NUMBER 424: Yeah, Henry.

1 About the case that you haven't considered before and maybe you
2 might put those points that you haven't considered for into your
3 own conclusion about what had happened in considering all the
4 facts that -- you know, that can be interpreted.

5 MR. HELMICK: Okay. So in regards to what Sylvia was
6 saying, do you agree with her that you're not going to be swayed
7 by the crowd, but you're going to be open-minded to what's
8 presented in this case.

9 PROSPECTIVE JUROR NUMBER 424: Yes.

10 MR. HELMICK: Yeah. That's different, right?

11 PROSPECTIVE JUROR NUMBER 424: Yeah.

12 MR. HELMICK: Yeah. Okay.

13 Who else didn't raise their -- Jessica, did you raise your
14 hand?

15 PROSPECTIVE JUROR NUMBER 468: No, I did not.

16 MR. HELMICK: She did not. That's what I thought.

17 All right. Go ahead, Gilbert, if you could get to Jessica.
18 Thank you very much.

19 What do you think?

20 PROSPECTIVE JUROR NUMBER 468: I mean, I get the
21 concept that redwoods are sturdy and strong, but the base of the
22 palm trees are as well. It's more along the top of the palm tree that
23 makes it sway back and forth. So regardless, you're still a strong
24 tree.

25 MR. HELMICK: Okay.

1 PROSPECTIVE JUROR NUMBER 468: So I still think I'm a
2 palm tree; I still lean towards things, depending on the
3 circumstances. Like based on the evidence, I might be swaying one
4 way or the other.

5 MR. HELMICK: Sure.

6 PROSPECTIVE JUROR NUMBER 468: And I might be
7 leaning towards the crowd.

8 MR. HELMICK: So it's possible for both?

9 PROSPECTIVE JUROR NUMBER 468: Yeah.

10 MR. HELMICK: Okay. Anybody else? Who else did I
11 miss? Anybody over here?

12 Okay. I just want to follow up with a few jurors here and
13 then I'll be done. I know everybody wants to get out of here.

14 All right. Let's go ahead and pass the microphone to
15 Markletter, please.

16 Thank you, Jessica.

17 All right. So you had mentioned earlier that you feel that
18 you would be a little biased towards the police. You would tend to
19 believe the police more kind of like gentleman over here, Mister --
20 what's your last name, sir, Sultan?

21 PROSPECTIVE JUROR NUMBER 523: Sulstrom.

22 MR. HELMICK: Sulstrom

23 PROSPECTIVE JUROR NUMBER 523: 523.

24 MR. HELMICK: Thank you.

25 Yeah, I mean -- so tell me about that. Why?

1 PROSPECTIVE JUROR NUMBER 507: Yes, because I have
2 friends and family who are in a -- the police and I know they have
3 good character and also it's their job and their civil duty to do the
4 right thing. And murder is not a small charge, it's some -- it's a very
5 serious charge and I think most or all police officer will take that
6 murder charge very seriously and not just throw a charge out there
7 or make things up.

8 MR. HELMICK: So are you saying -- are you saying -- and
9 maybe I'm taking this the wrong way but are you saying that every
10 murder charge that comes about is legit?

11 PROSPECTIVE JUROR NUMBER 507: I feel like there is
12 evidence to it, yes.

13 MR. HELMICK: Okay. And you feel that -- do you feel that
14 the cops are immune to making mistakes?

15 PROSPECTIVE JUROR NUMBER 507: No, obviously not.
16 They are human.

17 MR. HELMICK: Okay. That's all I'm asking.

18 PROSPECTIVE JUROR NUMBER 507: And my name is
19 Marklester, by the way.

20 MR. HELMICK: Marklester.

21 PROSPECTIVE JUROR NUMBER 507: Yeah.

22 MR. HELMICK: I've been saying wrong, huh?

23 PROSPECTIVE JUROR NUMBER 507: Yep.

24 MR. HELMICK: I apologize. Thank you.

25 Who else -- I mean, who disagrees with Marklester?

1 Nobody disagrees with Marklester?

2 Okay. Yeah, Ms. Leon. Thank you.

3 PROSPECTIVE JUROR NUMBER 512: I think what we are
4 raised to believe is that those in law enforcement and our
5 firefighters and our first responders that they are above reproach
6 and that's mainly because they're held to higher standard. But we
7 also have you're innocent until proven guilty, that's part of it.

8 So yes, we give our respect to our law enforcement
9 officers, but we also have to be realistic and understanding that not
10 everyone behind the badge is of sound mind and not everyone
11 who's behind the badge has the best intentions in their heart. I
12 mean, we have to be honest in saying that sometimes there are
13 people that will lie, no matter what profession they're in.

14 So I think we have to take that into account and not, you
15 know, have that confirmation bias that simply because that's what
16 you are then everything you say is golden. We have to be open-
17 minded in the evaluation of that.

18 MR. HELMICK: Yeah, confirmation bias, I've heard about
19 that lately. I mean, right, any profession, does anybody -- does
20 everybody agree that any profession that there are good lawyers,
21 bad lawyers; good doctors, bad doctors, right? I mean, they're
22 human beings, right?

23 PROSPECTIVE JUROR NUMBER 512: Yes.

24 MR. HELMICK: Okay. Thank you, Ms. Leon.

25 So, I mean, let's pass it back to Mr. Marklester, because I

1 just want to ask you, based off of what you said, sir, do you feel that
2 you're going to give more weight to the Prosecution because of
3 that?

4 PROSPECTIVE JUROR NUMBER 507: Yes.

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

6 Let's go ahead and give it over to Mr. Donald Meng,
7 please.

8 Now, you had talked about some scenarios in your life
9 that sounded absolutely horrifying and I understand your position
10 on guns and all that -- and all those things. So you had said that
11 this is going to affect your ability to fair. Do you still feel that --

12 PROSPECTIVE JUROR NUMBER 390: I said it could.

13 MR. HELMICK: Could. Could affect your ability to be fair?

14 PROSPECTIVE JUROR NUMBER 390: It could, yeah.

15 MR. HELMICK: Yeah.

16 PROSPECTIVE JUROR NUMBER 390: That's honest --
17 yeah.

18 MR. HELMICK: No, I mean, that's what we're looking for,
19 right? Yeah.

20 Are you going to start off looking at this scenario on the
21 Prosecution's side or are you going to be kind of neutral?

22 PROSPECTIVE JUROR NUMBER 390: You're going to
23 have to repeat that.

24 MR. HELMICK: Yeah. I mean, are you going to start off
25 looking at the Defendants in this case negatively? Are you going to

1 think that they are -- they must have done something wrong or are
2 you going to believe the Prosecution --

3 PROSPECTIVE JUROR NUMBER 390: I don't think I'd be
4 sitting if they -- something -- somebody did something wrong.

5 MR. HELMICK: Sure.

6 PROSPECTIVE JUROR NUMBER 390: I don't think they'd
7 be sitting at the Defendant table --

8 MR. HELMICK: Yeah.

9 PROSPECTIVE JUROR NUMBER 390: -- if something,
10 yeah.

11 MR. HELMICK: Okay. So I mean, can you be fair though
12 in regards to --

13 PROSPECTIVE JUROR NUMBER 390: Yeah, absolutely.
14 I'm a very fair person.

15 MR. HELMICK: Even based off of your -- are your personal
16 experiences with criminals going to affect your ability to judge this
17 case?

18 PROSPECTIVE JUROR NUMBER 390: I don't believe so.

19 MR. HELMICK: You don't believe so. All right. Thank
20 you, Donald.

21 Let's go ahead and get it over to Ms. Williams, please.
22 Okay. Thank you very much.

23 Okay. What's your badge number, again, ma'am?

24 PROSPECTIVE JUROR NUMBER 468: 468.

25 MR. HELMICK: Now you had mentioned that you're going

1 to have more sympathy to the victim in this case, right, because
2 somebody was killed, right?

3 PROSPECTIVE JUROR NUMBER 468: Yes.

4 MR. HELMICK: Is that what you said?

5 PROSPECTIVE JUROR NUMBER 468: Yes.

6 MR. HELMICK: Okay. Now is that going to affect your
7 ability to be fair to the people that have -- that were charged in this
8 case?

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

10 MR. HELMICK: Yeah. Are you going to believe them to
11 be -- are you going to be more prone to looking at them as being
12 guilty because of that?

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

14 MR. HELMICK: Okay. Thank you, Jessica.

15 Okay. Thank you very much, everybody. I don't have any
16 other questions.

17 THE COURT: Thank you. Will you guys approach?

18 [Bench conference transcribed as follows.]

19 THE COURT: All right. Who all are you going to
20 challenge for cause?

21 MR. HELMICK: Contreras, Sulstrom, cop guy, Jessica
22 Williams, Donald Meng.

23 MR. YAMPOLSKY: Pedronan.

24 MR. HELMICK: Huh?

25 MR. YAMPOLSKY: Pedronan or whatever it was.

1 MR. HELMICK: Oh, yeah, Pedronan. Yeah, Pedronan.
2 MR. PESCI: That's five.
3 How many is that, five?
4 THE COURT: That's five.
5 MR. YAMPOLSKY: Five or six.
6 MR. HELMICK: Yeah.
7 THE COURT: Is that it?
8 MR. HELMICK: Yeah.
9 So what is your -- you all's position on Lambert now?
10 MR. YAMPOLSKY: I agree with everything on them, but I
11 also --
12 MR. HELMICK: On who?
13 MR. YAMPOLSKY: On all of yours --
14 MR. HELMICK: Oh.
15 THE COURT: No, no, no, we're starting with -- they had
16 challenged Lambert. You disagreed earlier.
17 MR. PESCI: Earlier I made one on Lambert. You at that
18 point disagreed. You disagreed.
19 MR. YAMPOLSKY: No, I agree --
20 THE COURT: What's your position on Lambert?
21 MR. PESCI: Right. [Indiscernible].
22 MR. HELMICK: I still object to --
23 MR. YAMPOLSKY: I'm submitting --
24 MR. HELMICK: -- for cause, I still object to that one.
25 THE COURT: All right. I'm going to grant the challenge as

1 to Lambert.

2 And then you all both are challenging Williams. What's

3 your position as to Williams?

4 MR. YAMPOLSKY: Yes.

5 MR. PESCI: Judge, I oppose the challenge for cause. I

6 think that's she indicated that she can lean one way. We've talked

7 about the palm trees and redwood, but I don't think that she says

8 that she can't be fair.

9 MR. YAMPOLSKY: She --

10 MR. HELMICK: Hold on, hold --

11 MR. YAMPOLSKY: She --

12 MR. HELMICK: -- on, let him --

13 THE COURT: Calm down.

14 MR. YAMPOLSKY: All right. Sorry. Sorry.

15 THE COURT: Okay. And they both have challenged

16 Sulstrom. What's your position on Sulstrom?

17 MR. PESCI: I object again, to him being released.

18 THE COURT: Okay. I think that he's even a stronger

19 position to stay. He's talked about how he would listen to police

20 officers -- he was leaning towards police officers, but I asked him

21 specifically if we did not prove the case could you come back not

22 guilty and he said yes, he could.

23 THE COURT: Okay.

24 MR. YAMPOLSKY: And I asked him black and white --

25 THE COURT: Hold on, hold on.

1 They also challenged Contreras. Are you in agreement
2 with any of their challenges?

3 MR. PESCI: No.

4 MR. HELMICK: Oh come on, Giancarlo.

5 MR. PESCI: You didn't agree with --

6 MR. HELMICK: Oh, one.

7 MR. PESCI: -- Lambert.

8 THE COURT: Hold on, hold on. I'm going to send them
9 home then and we'll argue on the record, so that we cannot have to
10 be crammed over the microphone. I was just trying to see if there
11 was an agreement, then I was going to let those people go right
12 now.

13 MR. YAMPOLSKY: I agree that he's wrong.

14 THE COURT: Okay. All right. So hold on, hold on, come
15 back. When we get them back, I'm going to start at 10:30
16 tomorrow.

17 MR. YAMPOLSKY: Okay.

18 THE COURT: And we'll bring back those extra six, I guess,
19 that we have and I'll probably have them send down some more as
20 well.

21 MR. YAMPOLSKY: Okay.

22 THE COURT: All right.

23 MR. PESCI: Judge, sorry, can you --

24 You know, we haven't quite gotten there yet, but I'm
25 having a really hard time with 466, Ms. Lambert.

1 MR. YAMPOLSKY: The marijuana smoker?
2 MR. PESCI: She can't stop talking --
3 THE COURT: I know.
4 MR. HELMICK: Yeah, I know.
5 MR. PESCI: -- when it's not her time.
6 THE COURT: I know.
7 MR. PESCI: I'm afraid that someone who has already
8 manifestly expressed inability --
9 THE COURT: Do you guys have --
10 MR. PESCI: -- to follow instructions --
11 THE COURT: -- any objection?
12 MR. HELMICK: No, I don't have --
13 MR. YAMPOLSKY: I like her, but --
14 MR. HELMICK: -- an objection to her.
15 MR. YAMPOLSKY: -- yeah --
16 MR. HELMICK: If Giancarlo doesn't have any objection to
17 all the other ones.
18 THE COURT: You good?
19 MR. YAMPOLSKY: Yeah.
20 THE COURT: All right. I'll tell the marshal.
21 MR. YAMPOLSKY: I don't have an objection.
22 MR. HELMICK: She's a loose cannon.
23 MR. YAMPOLSKY: Yeah, I like her.
24 MR. HELMICK: She's a loose cannon.
25 THE COURT: Okay. All right.

1 MR. YAMPOLSKY: Thank you.
2 THE COURT: Thank you.
3 [End of bench conference.]
4 THE COURT: Hey, will you come here for a sec?
5 THE MARSHAL: Yes, sir.
6 THE COURT: No, not you guys.
7 [Bench conference transcribed as follows.]
8 THE COURT: Jill, my noise back.
9 So I'm going to send them home for the evening
10 obviously.
11 THE MARSHAL: Uh-huh.
12 THE COURT: But there are one or two --
13 THE MARSHAL: Can I use your stickies here?
14 THE COURT: Yeah. They've agreed to let Ms. Phillips go,
15 the lady on the end of that row that keeps talking all the time.
16 THE MARSHAL: Oh.
17 THE COURT: She's Badge Number --
18 THE MARSHAL: 551.
19 THE COURT: -- 551.
20 THE MARSHAL: Okay.
21 THE COURT: So once you get them outside you can just
22 tell her she's off.
23 THE MARSHAL: Okay.
24 THE COURT: Okay.
25 THE MARSHAL: Yes, sir.

1 THE COURT: Thank you.

2 THE MARSHAL: Thank you.

3 [End of bench conference.]

4 THE COURT: Okay. So here's what we're going to do,
5 folks. I think we go it worked out. We're going to go ahead and
6 break for the evening. We're going to start at 10:30 tomorrow
7 morning. I am anticipating that we should by -- before we break for
8 lunch, get everything whittled down to the 14 of you. That's my
9 hope. Might need to go through the lunch hour a little bit but get it
10 whittled down to the 14 of you and then the rest of you will be on
11 your way, okay?

12 So during the recess you're admonished not to talk or
13 converse among yourselves or with anyone else on any subject
14 connected with the trial. Or read or watch or listen to any report of
15 or commentary on the trial by any medium of information
16 including, without limitation, newspapers, television, the internet,
17 and radio. Or form or express any opinion on any subject
18 connected with the case until it's finally submitted to you. No legal
19 or factual research, or investigation or social media communication
20 on your own.

21 Thank you very much for your time today and I will see
22 you tomorrow morning.

23 Do you want them on the third floor and then you'll get
24 them? Hallway?

25 THE MARSHAL: 16B.

1 THE COURT: 16B?

2 THE MARSHAL: In front of 16B.

3 THE COURT: So just collect down this hallway down the
4 way there and when we get you all here, we'll get started, okay?

5 All right, guys, thank you very much.

6 [Outside the presence of the prospective jury]

7 THE COURT: Okay. So outside the presence of the jurors,
8 I did tell the marshal, pursuant to your agreement at the bench that
9 he can excuse Ms. Phillips, Badge Number 551. And I agree that
10 she was constantly wanting to answer questions when I told her we
11 weren't talking to her at those moments and she was -- just kept
12 answering things out loud when people were -- other people were
13 talking. So I agree with you all's assessment.

14 So on the challenges for cause, the defend -- or excuse
15 me, the State challenged Ms. Lambert and there was some
16 discussion at the bench but what I had said over Mr. Helmick's
17 objection -- I think Mr. Yampolsky agreed with the challenge for
18 Lambert, but I was going to grant the challenge as to Ms. Lambert.

19 She -- I think overall what she was saying about the
20 difficulties she faces is that she works in an industry where she is
21 involved in essentially euthanizing people by giving them drugs in a
22 hospice-type setting and helping them to -- kind of give them -- I
23 think she referred to it as comfort meds. And that it's a -- it's
24 something that she struggles greatly with, helping people with their
25 death and feeling guilt over that and she did not think -- and it was

1 obvious through her body language as well that she did not think
2 that this was a case that she could be involved in and fairly assess
3 everything because of those aspects of her work.

4 And I recognize Defendant Harlan was objecting, but I
5 think the totality of things, which is the way I always view it, was
6 appropriate to grant the challenge on her, as to her ability to be a
7 fair juror.

8 Then in regard to both Defendants, they've challenged
9 Contreras, Sulstrom, and Williams. And then Mr. Yampolsky also
10 challenged Gutierrez-Sosa. And then Mister -- or Mr. Helmick did
11 not challenge Gutierrez-Sosa but challenged Meng and Pedronan.
12 So I think we have --

13 MR. YAMPOLSKY: And I agree with those challenges.

14 MR. HELMICK: I'm sorry, I didn't hear what you said, Your
15 Honor.

16 THE COURT: Okay. So Mr. Yampolsky challenged
17 Williams, Contreras, Sulstrom, and then Gutierrez-Sosa. And you,
18 Mr. Helmick, challenged Williams, Contreras, Sulstrom, and then
19 also Meng, and Pedronan.

20 MR. HELMICK: Correct.

21 THE COURT: Okay. All right.

22 MR. YAMPOLSKY: And I also join in those challenges.

23 THE COURT: You join in on Meng and Pedronan?

24 MR. YAMPOLSKY: Yes.

25 THE COURT: All right. Are you joining in his Gutierrez-

1 Sosa challenge or no?

2 MR. HELMICK: No, not at this time.

3 THE COURT: Okay. So essentially the Defense has
4 challenged six people. And the State doesn't agree with any of
5 them, correct?

6 MR. PESCI: The State agrees with Gutierrez-Sosa.

7 THE COURT: With Gutierrez-Sosa. Okay. And I'm sorry,
8 Ryan, you disagreed with that one or agreed?

9 MR. HELMICK: I disagreed.

10 MR. YAMPOLSKY: No, he --

11 THE COURT: Disagreed with that one. So what's your
12 disagreement on Mr. Gutierrez-Sosa?

13 MR. HELMICK: I'm trying to look at my notes, Your Honor.

14 THE COURT: Okay.

15 MR. HELMICK: You want to maybe come back to this one.

16 THE COURT: Okay. So what's the -- and I know you
17 started to talk about it, but I'll give you more of an opportunity,
18 Giancarlo. As to the three in common, Williams, Contreras,
19 Sulstrom?

20 MR. PESCI: Williams, Contreras, and Sulstrom. Judge, I
21 think that they've indicated, you know, building on this redwood
22 versus palm trees concept and I think that one juror, in particular
23 said it really, really well. She talked about how, you know, you
24 could be a redwood on being fair but be a palm tree based on the
25 evidence. That you're willing to listen and be swayed by the

1 evidence but you're not going to be unfair.

2 I think that those three individuals were asked questions
3 and I think that they were very honest with saying that they may
4 lean one way, for example, Mr. Contreras, towards police; or Ms.
5 Williams, towards the victims; Mr. Sulstrom, the police. but they
6 didn't say that they couldn't be fair.

7 And I specifically asked Mr. Sulstrom who was retired out
8 of the LA County Sheriff's Department, I believe, if he's going to
9 have any problem coming back with a not guilty if the State
10 proves -- doesn't prove it, including calling police officers. And he
11 said he would not have a problem returning a not guilty verdict in
12 that scenario.

13 I think with Ms. Williams, she also talked about how, you
14 know, she would be feeling sympathy towards the victims -- the
15 victim or the victim's family, but that she also said that she could
16 listen to the evidence and make her decision on the evidence.

17 I think that applies to Mr. Contreras. I'm trying to look
18 really fast. He specifically -- I wrote it in quotes: No one is guilty
19 until proven. Without seeing the evidence, you can't answer the
20 question.

21 So he's been given all these hypotheticals and he said
22 unequivocally no one's guilty until it's proven guilty. So he's not
23 starting off as guilty. So under those three, I object.

24 THE COURT: Okay. So Mr. Yampolsky, as to those three?

25 MR. YAMPOLSKY: Well, on Ms. Williams, I mean, she

1 said lots of things and I wish I wrote down all of them but the last
2 question -- the last question he asked, so you think -- and you can
3 tell me it's -- so you think you prob -- and I'll probably find him
4 guilty. Would you lean this way? She said yes. After everything.
5 After the pound her in the head, you got to be fair; she couldn't be
6 fair. So there's no question in my mind, she's got to go.

7 Now on Mr. Sulstrom, he's not an idiot. She was a county
8 sheriff for 30 years, his wife was a county sheriff, they probably
9 have kids that are county sheriffs. And when I asked him --

10 THE COURT: I don't think he said anything about having
11 kids that are the county sheriff.

12 MR. YAMPOLSKY: Well I'm speculating.

13 THE COURT: Okay.

14 MR. YAMPOLSKY: Well in any event, when I said hey, if
15 this one says black, this one says white, well without anything
16 more, he'd believe the cop. Now yeah, he's going to say well I'm
17 swayed by the evidence, this and that, but when you're going in like
18 that, you don't believe in the presumption of innocence and I think
19 that's where we go back to.

20 I don't think he believes in the presumption of innocence.
21 I believe he believes in the presumption that cops tell the truth and
22 other people don't. Or maybe cops tell more of the truth or cops
23 are more believable. But because of that you're skewing the
24 balance. It's not presumption of innocence, it's presumption of
25 maybe innocence, unless the cops say so. So I think he's got to go

1 for cause.

2 And Mr. Contreras, he did go back and forth, but I mean,
3 his cousin was killed four years ago, and he said in the beginning --
4 and I forget exactly what because I questioned him this morning
5 that he would --

6 THE COURT: You questioned him this afternoon. It was
7 an hour and a half ago.

8 MR. YAMPOLSKY: It was right after him and before him,
9 that was like yesterday.

10 THE COURT: No.

11 MR. YAMPOLSKY: Anyway, I'm remembering --

12 THE COURT: You are correct in your chronology --

13 MR. YAMPOLSKY: All right.

14 THE COURT: -- but it was an hour and --

15 MR. YAMPOLSKY: All right.

16 THE COURT: -- a half ago. Hold on. The young lady --

17 MR. YAMPOLSKY: Look --

18 THE COURT: -- Ms. Alvarez would like to tell you
19 something.

20 MR. YAMPOLSKY: Excuse me.

21 [Colloquy between Counsel]

22 MR. YAMPOLSKY: I believe -- and I don't know who --
23 maybe Mr. Helmick because he has better questions than me,
24 unfortunately. But I think he said to him -- and if it's not him, I
25 apologize. Should the Defense be scared about you being on the

1 jury and I think he said yes. Someone said yes, I believe it was him.
2 So if he's saying that, what does that mean?

3 He also said he had a problem with people having guns
4 illegally and he also said if someone's underage they shouldn't
5 have guns. Well what's going to happen in this case? There's
6 going to be evidence that people who were underage had guns. So
7 when you add that to the murder and add that to the fact that he
8 said the Defense should be scared, I don't know how he could fair,
9 even if he said it later, he couldn't. So that's him.

10 Do I have anyone else I can rail against?

11 THE COURT: Well not yet, I'm just dealing with those --

12 MR. PESCI: I'm sure you do.

13 THE COURT: -- three for this moment.

14 MR. YAMPOLSKY: Okay.

15 THE COURT: Mr. Helmick?

16 MR. HELMICK: All right. Thank you. Okay, so are we
17 talking about Williams?

18 THE COURT: Yeah, Williams, Contreras, Sulstrom.

19 MR. HELMICK: Okay. The last two questions that I asked
20 her, I said will this affect your ability to be fair? Yes. Or more
21 inclined to prove him guilt -- to rule him guilty, something like that.
22 Yes.

23 Also, she's the one who said she knew about the case and
24 we forgot to bring her up to talk about that aspect.

25 THE COURT: I know.

1 MR. HELMICK: So I mean, she's already admitted that she
2 can't be fair in this case. I mean, Mace already said all those things,
3 but that's what she just said to us.

4 THE COURT: Okay.

5 MR. HELMICK: I don't think you can rehab her.

6 And then in regards to Contreras, I wrote down, because
7 he said it so many times, he said, I've already came up with an
8 answer in my head. This always leads me to -- I've already been led
9 to the answer in this case. The Defense should be worried. If I get
10 picked, I guess we'll find out.

11 I mean, come on? I mean, he's clearly at a huge bias
12 towards the Defendants in this case already. He said it multiple
13 times, he's already made up his mind. He doesn't need to hear a
14 single piece of evidence.

15 THE COURT: All right. So here's the thing, I'm going to
16 grant the challenges as to all three of those. And look, when you're
17 evaluating things from the totality, you do have individual topics
18 that people can talk about and express a problem with, but they can
19 still be overall --pass the smell test, so to speak, for their ability to
20 be fair and impartial and move forward in the process, even though
21 you may later challenge them with a peremptory challenge.

22 And that works both ways. There are times when people,
23 you know, tell the Prosecution that they have a lot of problem with
24 police officers, right? That they've had bad encounters, et cetera
25 and they read the news about horrible things the police officers do.

1 But they say look, I'm going to listen to this case for whatever it is
2 and I'll evaluate evidence and give you a fair decision. It may not
3 make the State have a warm feeling about them, but they still can
4 be passed for cause.

5 Likewise, the Defense may have people that say look, I
6 think a Defendant should testify. I don't know why somebody
7 wouldn't testify if they're innocent and why they wouldn't want to
8 get up there. But look, I get it, you guys might advise your clients
9 some way, I'm still going to listen to whatever the Judge tells me
10 the law is and I'll give you a fair opinion, based on the evidence.

11 Again, it may not make the Defense feel real good about
12 what they think about your client not testifying but they've still, you
13 know, been able to be fair. So what I look for through all of your
14 questions are consistent themes or issues where maybe I feel
15 somebody that's inconsistent was confused about something and
16 sincerely understands it now and have answered in a certain way.

17 So Ms. Williams I thought was pretty consistent in saying
18 she would -- was struggling with the idea of whether she could be
19 completely fair. And if a juror is anything other than unequivocal in
20 that, then I think case law says they are to be challenged.

21 And you're right, we didn't go into what it was she read in
22 the news. I didn't have a sense that she really read anything
23 prejudicial, she just remembered seeing it. But I do think that she
24 consistently was struggling with this idea and telling us that it
25 would be hard for her to be fair. Regardless of how she viewed

1 herself on the redwood/palm tree analogy, she was still saying it
2 would be hard to be fair.

3 Similar on Mr. Sulstrom, the thing that I think was -- what
4 kind of tipped the balance with him was yes, he was saying he
5 could return a verdict of not guilty if he felt the State didn't prove
6 their case but he was saying, and his word was heavily, he would
7 lean very heavily in favor of believing the cops over anybody else
8 just believe they're cops.

9 And that kind of a viewpoint on that, kind of informs the
10 rest of how you view evidence in a case if it's coming from police
11 officers and I think that is an inappropriate person to have on the
12 jury.

13 Mr. Contreras, I do think he was fairly consistent in the
14 problem areas that had been elucidated here during our discussion.
15 I'm not going to go into all those but obviously it kind of came up in
16 the beginning when he was talking about his cousin having been
17 murdered and the difficulty sitting on a trial with individuals that
18 are charged with that.

19 All right. That leaves us with first off, Ryan, Gutierrez-
20 Sosa. Have you had a chance to look at that?

21 MR. HELMICK: Yes, I did.

22 THE COURT: Mace challenges, State agrees, your
23 position is?

24 MR. HELMICK: Let's see here. I mean, I can't remember
25 exactly what was -- what notes I had written down in regard to

1 talking to him, but I mean --

2 THE COURT: And let me just add this into it. He is the
3 gentleman that said he's self-employed and has a number of --

4 MR. HELMICK: Oh the construction guy.

5 THE COURT: -- projects due in the next two weeks and
6 then he's going to be gone and so it's going to be really difficult for
7 him financially as well. If that informs you at all about what
8 position you want to take.

9 MR. HELMICK: Right, right. I mean, I thought he was
10 pretty -- I think I asked him multiple times if he could be fair and
11 impartial and all those basic questions. From what I understood he
12 seemed like he could have that position. I will go ahead and just
13 submit that to Your Honor.

14 THE COURT: Okay. I think he's a gentleman that was kind
15 of hard because I felt like he was not consistent in any one thing.
16 Not because he was trying to get out of jury duty, but I couldn't
17 really figure out exactly what his position overall was in terms of
18 his ability to be fair, separate and apart from his prior jury
19 experience that he seemed to be troubled by. And it sounded like
20 he was saying he signed off on a verdict that he then regretted and
21 didn't disagree with and -- so.

22 He was somebody that I think was challenge -- or could
23 have been excused for cause based on his work issues but we left
24 him on. You guys didn't really explore that anymore with him,
25 which is fine, you don't have to. But that's one of the reasons I left

1 him there in the beginning was to let you all follow up if you
2 wanted to. But I think under the totality, I will go ahead and grant
3 Defendant Caruso's challenge as to that gentleman as well.

4 All right. And then we have Meng and Pedronan that are
5 being challenged and joined in -- so Mr. Harlan challenges, Mr.
6 Yampolsky joins in for Mr. Caruso. So State, what's your position
7 as to Mr. Meng and Mr. Pedronan?

8 MR. PESCI: So, Judge, I think it's a different approach in
9 the sense that Pedronan would fall under kind of the Sulstrom
10 because Pedronan's got the family members that are with the
11 police department in Hawaii, so it's that bias -- or the perception of
12 bias towards that. I mean, if it's -- if the analysis is the same as it
13 was for Mr. Sulstrom, I'm assuming that's what's going to happen
14 but not --

15 THE COURT: I don't think he was as --

16 MR. PESCI: Adamant.

17 THE COURT: -- adamant or used the same kind of
18 terminology in what he thought about cops.

19 MR. PESCI: Right. And, you know, Judge, it brings up
20 something -- and I want to bring it up now because we're going to
21 bring in other jurors tomorrow, so it's impossible to rebut or
22 prepare for they must have done something to get here.

23 THE COURT: Right.

24 MR. PESCI: Because he --

25 THE COURT: I know.

1 MR. PESCI: -- kept going back to that, right? And it's
2 really crazy to ask a jury they must have done something. Well of
3 course they must have done something, they're been charged,
4 right? For me to really respond to that I got to talk about well you
5 see there was a determination of probable cause, then a sergeant
6 reviewed what that person decided, then it was submitted to the
7 DA's office.

8 THE COURT: Right.

9 MR. PESCI: Then the screening department decided to
10 look at it, then it was decided by our office to send it. There are so
11 many layers of things that are done. Someone doesn't just show
12 up here willy nilly. And I'm going to do that tomorrow if this same
13 thing happens. In fact, I'm going to do it unless you're making a
14 ruling that they can't do that because I go first, they go last.

15 There's no way for me to respond to that where there's
16 smoke, there's fire analysis. There is something that got you here
17 but he, specifically, and that's why I'm bringing this up, kept saying
18 they're innocent until proven guilty. They're here for a reason, he
19 would say that, I admit that, I could see that, but that's factually
20 accurate. Whether we believe there's sufficient evidence is a whole
21 nother issue. You've already made a determination in a Writ
22 context that there was sufficient evidence.

23 Do you want me to tell him guess what, that guy thinks
24 that there's enough evidence?

25 THE COURT: No. Look, I get what you're getting at. I

1 don't think it's inappropriate to ask the question that's being asked
2 about, you know, do you think they're guilty just because they're
3 here and somebody says no, look, I figure they're here because
4 there's a reason they're here. And a lot of people have that kind of
5 belief that gee, if a case is going to trial there must be some
6 evidence against these people. It doesn't mean they can't
7 appreciate the presumption of innocence and still evaluate the case
8 fairly.

9 So I don't think -- no, you don't get to go back in and say
10 to them well the reason you're here, you understand, is people
11 have found evidence against them. It's just like they're here
12 because they were charged, right? That's the -- the reason they're
13 here is because they were charged with crimes and the trial is to
14 decide what evidence is there that they either did or didn't commit
15 the crimes.

16 MR. PESCI: Then it's inappropriate --

17 THE COURT: Right?

18 MR. PESCI: -- to have a basis of trying to remove them by
19 saying they're here for a reason.

20 THE COURT: I -- well that hasn't --

21 MR. PESCI: There's some reason that they're here.

22 THE COURT: Well first off that hasn't happened yet, right?

23 MR. PESCI: Well I think that's the underpinnings of the
24 arguments for these individuals.

25 THE COURT: For Mr. Pedronan?

1 MR. PESCI: Yes.

2 THE COURT: Okay. All right.

3 MR. PESCI: And so that's my concern.

4 THE COURT: Okay. What about Mr. Meng?

5 MR. PESCI: Mr. Meng, it's a different analysis because
6 he's the victim of armed robberies when he's working at Albertsons
7 four times.

8 THE COURT: Right.

9 MR. PESCI: I asked him specifically if he could set that
10 aside, if he could make the determination as to his own experience
11 and he said yes. Of course he has emotional experiences or
12 feelings based on that but he said he would make his determination
13 based on the facts of this case and so I don't think it's appropriate
14 for him to be released because he said he could be fair.

15 In fact I wrote down -- he said, I'm a very fair person and
16 he said that he didn't believe that that was going to affect his ability
17 to be fair.

18 THE COURT: Okay. All right. Mr. Helmick.

19 MR. HELMICK: Thank you. Are we talking about Mr.
20 Meng?

21 THE COURT: Yeah. Sure.

22 MR. HELMICK: Okay. So in regards to Mr. Meng I mean, I
23 think that -- I recognize what Mr. Pesci said in regards to can he be
24 fair but there were a lot of things that he said prior to that after he
25 was so to speak, rehabilitated, even though some of those

1 questions were by me that he said that he would look at individuals
2 with guns with bias because he had been on the other end of the
3 gun.

4 And so, I mean, I don't think it's to the level of Sulstrom,
5 for sure, but I think that it's something the Court should consider. I
6 think it's a chal -- it's a basis for a challenge for cause. It doesn't
7 seem like he can be fair given his scenario, his personal
8 experiences being robbed four times and being held at gunpoint, I
9 just don't it's possible for him to be fair.

10 THE COURT: And then Mr. Pedronan?

11 MR. HELMICK: Now Mr. Pedronan at the end there I think
12 I really kind of pinned him down on whether he could be fair to the
13 Defense and I forgot what the question was I asked him, but it
14 seemed like he could not. He said he feels like every murder charge
15 is legit. He is biased in believing in police authority because he has
16 friends and family in the force. He didn't seem at all like he could
17 be fair towards the Defense based off of the last questions that I just
18 asked him.

19 MR. YAMPOLSKY: And I believe the last was, you know,
20 would you lean towards the Prosecution and he didn't even
21 hesitate, he -- yes.

22 MR. HELMICK: Yeah.

23 MR. YAMPOLSKY: So I think it was abundantly -- I think
24 he's worse than Sulstrom and I think Sulstrom's bad.

25 THE COURT: So let Ryan finish, please. Thank you.

1 MR. HELMICK: Well thank you. So he refreshed my
2 memory and that's what I asked him. And you could tell he's pretty
3 clear cut on that.

4 THE COURT: All right. So I'm going to grant the
5 challenge as to Pedronan. I'm going to deny the challenge as to
6 Meng. And I agree that Meng made comments early on about what
7 I believe are more in terms of I don't really relish the idea of sitting
8 on a case investigation robbery considering I was the victim of
9 armed robberies. But it wasn't that he ever said he couldn't be fair.

10 And you got to remember, you know -- let's take the
11 sexual assault of a child case for instance. Pretty much every juror
12 will say I have a bias against people that sexually abuse kids. Well
13 that's fine, you can still be a fair juror. I mean, the issue isn't if you
14 think badly of people that sexually abuse kids, it's can you be fair in
15 evaluating a trial and then listening to the evidence, which you
16 don't have any of right now and then deciding whether somebody's
17 guilty of that crime.

18 So whether people think minors should or shouldn't have
19 guns, think badly of people that, you know, commit crimes, things
20 like that, that's not the issue for them as jurors. The totality of what
21 that gentleman said I believe was that he could be fair. And a lot of
22 that quite honestly kind of came out at the Defense questioning. It
23 wasn't the State doing that. And he said I agree that he said he
24 could -- he was a very fair gentleman, that he could be fair
25 regardless of the other aspects. So I think he -- that gentleman

1 passes for cause.

2 So we will be excusing Lambert, Williams, Contreras,
3 Sulstrom, Gutierrez-Sosa, and Pedronan.

4 MR. PESCI: Judge, I apologize, I forgot one.

5 THE COURT: Oh, okay.

6 MR. PESCI: 474, Jaska. I wrote down specifically he said
7 he would give less weight to police officers. That was just one of --
8 and then he put into context about the Reid method -- he actually
9 utilized --

10 THE COURT: Yeah, I -- look, that guy was a little odd. I
11 don't think the singular comment about, you know, I would give
12 less weight or credence to police officers is something that's
13 automatically going to make you challengeable. Well first off, -- I
14 mean, like I said the guy was just kind of -- seemed a little odd. I
15 don't know. Mace, what's your position?

16 MR. YAMPOLSKY: He was all over the board.

17 THE COURT: Okay.

18 MR. YAMPOLSKY: I --

19 MR. PESCI: Right. He says things that are bad for you.

20 MR. YAMPOLSKY: Well --

21 THE COURT: Well that's why -- you know, [indiscernible]
22 argument that nobody --

23 MR. YAMPOLSKY: Well all I'm saying --

24 THE COURT: -- wants that kind of a person.

25 MR. YAMPOLSKY: -- is my recollection, he was all over

1 the board. One thing he did say which troubled me and should
2 really trouble you is that either they're both innocent or they're both
3 guilty. So what that says, he's not going to consider all the
4 evidence fairly and he's going to decide one way or another. So I
5 think based on that --

6 THE COURT: So you're in agreement.

7 MR. YAMPOLSKY: What?

8 THE COURT: You're in agreement.

9 MR. YAMPOLSKY: Yeah, I'm in agreement.

10 THE COURT: Okay. All right.

11 MR. YAMPOLSKY: I hate to say it.

12 THE COURT: Mr. Helmick.

13 MR. HELMICK: I'm in agreement with Jaska too.

14 THE COURT: Okay.

15 MR. PESCI: Thank you.

16 THE COURT: So we will excuse Jaska as well then. Thank
17 you. So that's --

18 MR. PESCI: Sorry, I forget that earlier.

19 THE COURT: -- seven total.

20 So when we get back tomorrow morning, we'll let those
21 folks go. We have six right now. So before we start with those six,
22 I'm going to have Jury Services send us more people and then I'll
23 run through my stuff with them first and then we'll fill the seven
24 empty seats and then we'll move forward.

25 MR. PESCI: What do you want me to do -- or I'm sorry, us

1 to do for witnesses, timing wise?

2 THE COURT: I mean, if you want we can just plan on
3 getting through openings tomorrow --

4 MR. PESCI: Okay.

5 THE COURT: -- and then start with witnesses Wednesday
6 morning.

7 MR. PESCI: That's fine.

8 THE COURT: I'm --

9 MR. YAMPOLSKY: That's fine.

10 THE COURT: Because I'm thinking we probably will spend
11 maybe a couple hours finishing up jury selection in the morning,
12 take a later lunch break and then it may be that we're starting at
13 2:00 after lunch instead of earlier. So that may mean we get done a
14 little early but I'm fine with that.

15 MR. PESCI: And Wednesday's an early day, 9:00 day.

16 THE COURT: Wednesday is 9:00 a.m.

17 MR. PESCI: So we'll anticipate getting witnesses lined up
18 for Wednesday, 9:00 a.m.

19 THE COURT: Yeah.

20 MR. PESCI: Okay. Thank you, Your Honor.

21 THE COURT: Okay. Good? Okay.

22 MR. HELMICK: Okay.

23 THE COURT: And just so you know -- hold on one second.
24 Sorry.

25 My brief ability to review all this has nothing about any

1 juvenile record. It's everything related to this case.

2 MR. PESCI: Okay.

3 THE COURT: It's just incident reports, arrest reports, and
4 a couple of handwritten voluntary statements from some people. I
5 don't know --

6 MR. PESCI: I don't know, I haven't seen it.

7 THE COURT: I don't know what all's in discovery but
8 there are a variety of incident reports and -- you know, the main
9 arrest report, the incident reports, and then as I said a couple of
10 voluntary statements. Patrick Stauffenberg.

11 MR. PESCI: He's in this case.

12 THE COURT: Jacy Freshour.

13 MR. PESCI: Yep, she's in this case.

14 MS. OVERLY: Yes.

15 THE COURT: Angie Knox.

16 MS. OVERLY: Yes.

17 MR. PESCI: In this case.

18 THE COURT: And that's pretty much it.

19 MR. PESCI: Okay.

20 THE COURT: So there isn't any juvenile record
21 information in here. So I don't know if they misunderstood --

22 MR. PESCI: Could be and --

23 THE COURT: -- because --

24 MR. PESCI: -- I apologize.

25 THE COURT: It's okay.

1 MR. PESCI: I'll try to follow up.
2 THE COURT: But I'm going to go ahead and copy and
3 disseminate this to both sides just so you have all of it.
4 MR. PESCI: And they should have it anyway from
5 discovery.
6 THE COURT: Okay.
7 MR. PESCI: So your -- so I can try to make it more clear
8 then. You're saying that the juvenile charges referenced in this,
9 separate and distinct from our case, those records should be
10 reviewed.
11 THE COURT: Yeah, I don't -- I didn't see anything in here
12 that references Traceo Meadows' juvenile record at all.
13 MR. PESCI: Okay.
14 THE COURT: It's -- yeah, I mean, you -- normally you'd
15 get a printout from the Juvenile Court that shows --
16 MR. PESCI: All the times they've been charged.
17 THE COURT: Yeah.
18 MR. PESCI: Yeah. I'll follow up. Thank you, Your Honor.

19 [Evening recess at 5:30 p.m.]

20 * * * * *

21 ATTEST: I do hereby certify that I have truly and correctly
22 transcribed the audio/video proceedings in the above-entitled case
23 to the best of my ability.

24 
25 Brittany Mangerson
Independent Transcriber