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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 VI

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THE STATE OF NEVADA

ALPHABETIC APPENDIX FOR APPELLANT'S APPENDIX

<u>DOCUMENT</u>	<u>VOLUME</u>	<u>PAGE NOS.</u>
Defendant Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissable filed April 8, 2019	I	0001-0013
Defendant Jaiden Caruso's Joinder to Defendant Kody Harlan's Motion to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial filed August 28, 2019	I	0014-0015
Defendant Jaiden Caruso's Joinder to Defendant Kody Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissable filed April 22, 2019	I	0016-0017
Defendant Jaiden Caruso's Supplemental Points and Authorities in Support of His Joinder to Defendant Kody Harlan's Motion to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial filed September 12, 2019	I	0018-0033
Information filed July 17, 2018	I	0034-0037
Judgment of Conviction filed December 12, 2019	I	0038-0039
Notice of Appeal filed January 2, 2020	I	0040-0041
Notice of Motion to Place on Calendar to Set Aside Guilty Verdict as to Counts One and Two; In the Alternative Motion for a New Trial and to Request Additional Time for Supplemental Briefing filed August 13, 2019	I	0042-0046
Notice of Non-Filed Plea Agreements of Jaiden Caruso and Kody Harlan filed May 27, 2020	I	0046A-0046W
Order Denying Defendant's Motion to Sever, or in the Alternative, Motion to Deem Statements of the Co-Defendant Inadmissable filed May 15, 2019	I	0047-0048
Order Denying Defendant's Pretrial Petition for Writ of Habeas Corpus (as to Defendant Caruso) filed October 23, 2018	I	0049-0050
Petition for Writ of Habeas Corpus (as to Defendant Caruso) filed August 29, 2018	I	0051-0062

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Reporter's Transcript of Preliminary Hearing before the Honorable Samuel G. Bateman filed July 30, 2018	II	0088-0303
Recorder's Transcript of Proceedings: All Pending Motions filed January 22, 2020	III	0304-0375
Recorder's Transcript of Proceedings: Sentencing filed January 22, 2020	III	0376-0418
Response to State's Opposition to Harlan's Supplemental Briefing for Motion for a New Trial filed October 3, 2019	III	0419-0429
State's Opposition to Defendant Harlan's Motion to Sever or in the Alternative Motion to Deem Statements of the Co-Defendant Inadmissible filed April 11, 2019	III	0430-0442
State's Opposition to Defendant's Motion to Set Aside Jury Verdict as to Counts One and Two; or in the Alternative, Motion for New Trial and Supplemental Briefing filed August 20, 2019	III	0443-0460
State's Return to Writ of Habeas Corpus filed September 11, 2018	III	0461-0472
State's Supplemental Opposition to Defendant's Motion for New Trial filed September 26, 2019	III	0473-0500
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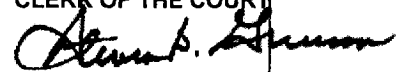
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JAIDEN CARUSO &
KODY HARLAN,

Defendants.

CASE NO. C-18-333318-1
C-18-333318-2

DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON,
DISTRICT COURT JUDGE

TUESDAY, JULY 30, 2019

TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 2

APPEARANCES:

For the State:

GIANCARLO PESCI, ESQ.
SARAH E. OVERLY, ESQ.
Chief Deputy District Attorneys

For the Defendant
Jaiden Caruso:

MACE J. YAMPOLSKY, ESQ.
JASON R. MARGOLIS, ESQ.

Kody Harlan:

RYAN K. HELMICK, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING

1 Las Vegas, Nevada, Tuesday, July 30, 2019

2
3 [Trial began at 11:08 a.m.]

4 [Outside the presence of the prospective jury]

5 THE COURT: Did you want to make -- we weren't on the
6 record earlier, were we, Jill?

7 Okay. Do you want to make a record?

8 MR. PESCI: Yes. Thank you, Your Honor.

9 I spoke with my victim advocate this morning, we met
10 with the family of the decedent, Matthew Minkler. They indicated --
11 the family of Matthew Minkler indicated that they were getting on
12 the elevator to leave last night after court was over that Juror --

13 MR. YAMPOLSKY: Ms. Phillips.

14 MR. PESCI: -- Phillips, which is Badge Number 551, who
15 all -- Denise Philips, by the way, who all three parties had agreed to
16 release because she was somewhat of inter -- she was interruptive
17 and would say things when it wasn't her time to talk. She was
18 getting on the elevator where there were an estimate of six to seven
19 other jurors -- potential jurors and said something to the effect of, I
20 wouldn't want to be the one to send those boys away.

21 The State's -- got this information right after hearing it,
22 called Defense Counsel into the anteroom and shared that
23 information so they would have that information. And then the
24 State's concern and the request of the Court is to ask to have the
25 panel brought in in its entirety, which as I understand it, Your

1 Honor, correct me if I'm wrong, still includes the individuals that
2 last night we just -- you had ordered to be released.

3 THE COURT: Correct.

4 MR. PESCI: Because I think they could potentially be in
5 that group.

6 THE COURT: Okay.

7 MR. PESCI: And then ask did anybody overhear Ms.
8 Denise Phillips say anything about this case; if you did raise your
9 hand. Whatever way you think's best, Your Honor.

10 THE COURT: Okay.

11 MR. PESCI: And then we would ask to take them
12 individually if anybody does raise their hand.

13 THE COURT: Okay. Any objection to that?

14 MR. HELMICK: No.

15 MR. YAMPOLSKY: No, Your Honor.

16 THE COURT: All right. You can go ahead and get the
17 panel in.

18 THE MARSHAL: Yes, Your Honor.

19 THE COURT: And you do not have the extra 20 people
20 right now, right?

21 THE MARSHAL: No, I've gotten -- no, just the ones from
22 yesterday, Your Honor.

23 THE COURT: Okay. Thank you.

24 Just so everybody knows, I have a sneaking suspicion, the
25 way the State's going, that they're not getting to openings today.

1 MR. PESCI: Well, we can hope for the best.
2 MR. YAMPOLSKY: We're not doing openings today.
3 MR. PESCI: Yeah, he said --
4 MR. HELMICK: Yeah, we were.
5 MR. YAMPOLSKY: What?
6 THE COURT: Yesterday we talked about doing openings
7 today.
8 MR. HELMICK: Yeah.
9 MR. YAMPOLSKY: No, we talked about doing openings
10 tomorrow.
11 MR. PESCI: Well --
12 MR. HELMICK: We did.
13 THE COURT: We did.
14 [In the presence of the prospective jury]
15 THE MARSHAL: Rise for the jurors.
16 THE COURT: Ryan?
17 MR. HELMICK: We did.
18 THE COURT: Thank you.
19 No.
20 MR. YAMPOLSKY: Yeah, we did?
21 THE COURT: No we didn't. You got to pay attention.
22 MR. YAMPOLSKY: I thought you said we're going to do it
23 the next day?
24 MR. PESCI: The jury's here.
25 THE COURT: You guys can be seated.

1 We are going to be back on the record. Our prospective
2 juror panel is present, as well as Mr. Caruso, Mr. Harlan, and all of
3 our attorneys.

4 Good morning, Ladies and Gentlemen.

5 THE PROSPECTIVE JURORS: Good morning.

6 THE COURT: How you doing?

7 THE PROSPECTIVE JURORS: Good.

8 THE COURT: Good. So do you remember yesterday at
9 the -- well not just at the close of the day, but yesterday there was a
10 lady, Ms. Phillips, sitting on the end of the first row over here to my
11 left, the one that, you know, jumped in at some point to tell me she
12 smokes marijuana, and has she some puppies, and what not, okay?

13 So at the end of the day after you guys were leaving she
14 was excused from jury service but it was relayed to me that she
15 may have been saying things out in the hallway and/or on the
16 elevator with some of our jurors as you left for the day.

17 So my question is, first off, does anybody recall having
18 any conversation with her out in the hallway or in the elevator after
19 you left yesterday?

20 See no hands, thank you.

21 Was anybody present out in the hallway or on the elevator
22 where you overheard her saying anything after you left for the day?

23 Seeing no -- oh, got one hand. Yeah. I'm sorry. What's
24 your badge number?

25 PROSPECTIVE JUROR NUMBER 497: It's 497.

1 THE COURT: 497, okay. Which is Ms. Diaz, correct?
2 PROSPECTIVE JUROR NUMBER 497: Yes.
3 THE COURT: Okay. So were in the hallway or on the
4 elevator?
5 PROSPECTIVE JUROR NUMBER 497: I was in the hallway
6 and we got in the elevator with her.
7 THE COURT: Okay. And I don't want you to tell me
8 anything that she said but do you remember what she said?
9 PROSPECTIVE JUROR NUMBER 497: That she was
10 dismissed but what you just said.
11 THE COURT: That she was dismissed.
12 PROSPECTIVE JUROR NUMBER 497: Right.
13 THE COURT: Do you remember her making any
14 statements about jury service or anything like that or just that she
15 was dismissed?
16 PROSPECTIVE JUROR NUMBER 497: Just that she was
17 dismissed.
18 THE COURT: Okay. All right. Thank you.
19 Anybody have any other questions for any of our panel
20 members?
21 MR. HELMICK: No, Your Honor.
22 THE COURT: On that issue right now?
23 MR. PESCI: I just want to follow-up with her.
24 THE COURT: Oh yeah. Go ahead, sure.
25 MR. PESCI: With everybody?

1 THE COURT: Well why don't you guys approach the
2 bench?

3 [Bench conference transcribed as follows.]

4 THE COURT: I phrased it the way I did just to see if there
5 was anything else. I mean, I'll bring her in by herself if you want
6 me to.

7 MR. PESCI: I would like that.

8 THE COURT: Okay.

9 MR. PESCI: Just -- I mean, I'm just afraid because that
10 lady couldn't stop talking all day yesterday, I don't know how she
11 did in the elevator.

12 THE COURT: Okay. All right.

13 MR. PESCI: But I mean, Judge, we can do it off the record
14 first if you want.

15 THE COURT: No, no, no.

16 MR. YAMPOLSKY: Do you want to do at now --

17 THE COURT: I get it. That's okay.

18 MR. YAMPOLSKY: -- or at the break or --

19 THE COURT: It's okay.

20 MR. PESCI: Thank you.

21 THE COURT: It's okay. It's all right.

22 [End of bench conference.]

23 THE COURT: All right. I need to chit chat with the
24 attorneys. I'm going to have to have you all go back outside if you
25 will, please. And then we're going to get started back up fairly

1 quickly I promise you.

2 I'll tell you what, Ms. Diaz, why don't you stay? Why don't
3 you go ahead and grab your seat? Thank you.

4 [Outside the presence of the prospective jury,
5 with the exception of Prospective Juror Number 497]

6 THE COURT: All right. So obviously, Ms. Diaz, you didn't
7 do anything wrong. It's just that Ms. Phillips, and you may recall
8 yesterday was very chatty and just kind of kept saying things when
9 we weren't even talking to her. So I just really want to be overly
10 cautious. And so tell me anything you remember her saying when
11 you were on the elevator.

12 PROSPECTIVE JUROR NUMBER 497: She was just going
13 over what she was telling you about her -- about marijuana and
14 stuff.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NUMBER 497: So the reason why
17 might she got dismissed.

18 THE COURT: The reasons why she thinks she may have
19 been --

20 PROSPECTIVE JUROR NUMBER 497: Yeah.

21 THE COURT: -- dismissed?

22 PROSPECTIVE JUROR NUMBER 497: So she was --

23 THE COURT: And what did she say about that?

24 PROSPECTIVE JUROR NUMBER 497: She was just
25 making the same comments of like oh, I got dismissed because of

1 my puppies or me, you know, using marijuana and stuff.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NUMBER 497: That's kind of all I
4 recall. But there was a lot of us in the elevator and the hallway.
5 Because she didn't stop.

6 THE COURT: She didn't stop, yeah, right.

7 PROSPECTIVE JUROR NUMBER 497: She was just going
8 on and on.

9 THE COURT: Did she say anything about the case at all?
10 Her idea --

11 PROSPECTIVE JUROR NUMBER 497: No.

12 THE COURT: -- about the case?

13 PROSPECTIVE JUROR NUMBER 497: I don't recall
14 anything.

15 THE COURT: Say anything about the State's attorneys?

16 PROSPECTIVE JUROR NUMBER 497: No.

17 THE COURT: Anything about the Defense attorneys?

18 PROSPECTIVE JUROR NUMBER 497: Not at all.

19 THE COURT: Anything about the Defendants?

20 PROSPECTIVE JUROR NUMBER 497: I don't recall
21 anything like that.

22 THE COURT: Okay. So it was more just babbling on
23 about why she thinks she got dismissed --

24 PROSPECTIVE JUROR NUMBER 497: Yes.

25 THE COURT: -- and that she was dismissed and stuff like

1 that.

2 PROSPECTIVE JUROR NUMBER 497: Uh-huh.

3 THE COURT: Okay. State, do you have questions?

4 MR. PESCI: No. Thank you very much, Your Honor.

5 THE COURT: Okay.

6 MR. YAMPOLSKY: No, Your Honor.

7 THE COURT: Defense?

8 MR. HELMICK: No, Your Honor.

9 THE COURT: Mr. Helmick, no.

10 Okay. You can get everybody else back in.

11 THE MARSHAL: Yes, Your Honor.

12 [Pause in proceedings; waiting for the prospective jury]

13 THE MARSHAL: Your Honor, two jurors also came

14 forward.

15 THE COURT: Oh geez.

16 THE MARSHAL: 418 and 463.

17 THE COURT: To say they heard something.

18 THE MARSHAL: That they were in the elevator with her.

19 MR. YAMPOLSKY: The plot thickens.

20 THE COURT: 418 and 4 --

21 THE MARSHAL: 63.

22 THE COURT: -- 463?

23 All right. Get me Ms. Gebhart for me, please.

24 THE MARSHAL: Yes, Your Honor.

25 THE COURT: Ms. Diaz, can you go ahead and step

1 outside? Thank you very much, ma'am.

2 [Prospective Juror Number 497 exits the courtroom]

3 THE COURT: We're bringing in Ms. Gebhart.

4 You guys can sit down.

5 [Prospective Juror Number 418 enters the courtroom]

6 THE COURT: Sydney, you can just have a seat right there
7 in that row for right now.

8 Okay. My marshal told me that while they were out in the
9 hallway you indicated that you were on the elevator with Ms.
10 Phillips as well?

11 PROSPECTIVE JUROR NUMBER 418: Yeah, I didn't say
12 anything because I was kind of nervous.

13 THE COURT: Okay. That's all right. So do you remember
14 what, if anything was said -- what she was saying when you were in
15 the elevator?

16 PROSPECTIVE JUROR NUMBER 418: We got in the
17 elevator after leaving and I know she was talking about being
18 dismissed and then she was saying stuff about the weather but
19 that's all that she said.

20 THE COURT: About the weather?

21 PROSPECTIVE JUROR NUMBER 418: Yeah. And then she
22 was talking about being dismissed. I kind of tuned her out --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NUMBER 418: -- because I just
25 wanted to get out of here.

1 THE COURT: About the weather?
2 PROSPECTIVE JUROR NUMBER 418: So --
3 THE COURT: Oh my gosh. Okay. So did she say
4 anything about the case at all?
5 PROSPECTIVE JUROR NUMBER 418: Not that I can recall,
6 no.
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NUMBER 418: She did talk about
9 being dismissed.
10 THE COURT: Nothing about the State's attorneys, or the
11 Defense attorneys, or the Defendants? Nothing about the case,
12 anything like that?
13 PROSPECTIVE JUROR NUMBER 418: No, not that I can
14 recall.
15 THE COURT: Okay. And then you get down, you get off
16 the elevator and just kind of go your separate ways?
17 PROSPECTIVE JUROR NUMBER 418: Yeah.
18 THE COURT: And do you know how many people were
19 on the elevator at that time?
20 PROSPECTIVE JUROR NUMBER 418: Probably like seven.
21 THE COURT: Okay.
22 PROSPECTIVE JUROR NUMBER 418: Six of seven people.
23 THE COURT: Did it appear to you that most people were
24 kind of tuning her out or was there anybody that was engaged with
25 talking with her?

1 PROSPECTIVE JUROR NUMBER 418: Nobody was really
2 engaged in talking to her at all.

3 THE COURT: Okay. You say about seven people. Was it
4 her and other jurors or were there other people on the elevator?

5 PROSPECTIVE JUROR NUMBER 418: From what I can
6 recall, there was one other girl -- the other girl that came up with
7 me to the marshal.

8 THE COURT: So she's over here somewhere?

9 PROSPECTIVE JUROR NUMBER 418: Yeah, Ms.
10 Robinson, she --

11 THE COURT: Ms. Robinson?

12 PROSPECTIVE JUROR NUMBER 418: Yeah.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 418: She was on there
15 and then also the lady before me. She was on there as well.

16 THE COURT: Okay. And then the other people were not
17 jurors?

18 PROSPECTIVE JUROR NUMBER 418: I -- honestly, I can't
19 remember. I was in the front, so I didn't really see who was behind
20 me.

21 THE COURT: You're just staring at the door, waiting for it
22 to open so you can get off. Got it, okay.

23 PROSPECTIVE JUROR NUMBER 418: Yeah.

24 THE COURT: Okay. Anything questions from either side?

25 MR. PESCI: No. Thank you, Your Honor.

1 MR. YAMPOLSKY: No, Your Honor.
2 MR. HELMICK: No, Your Honor.
3 THE COURT: Okay. You can go ahead and step outside,
4 MS. Gebhart.
5 PROSPECTIVE JUROR NUMBER 418: Okay.
6 THE COURT: Thank you.
7 [Prospective Juror Number 463 exits the courtroom]
8 THE COURT: And then if you'll bring Ms. Robinson in.
9 [Prospective Juror Number 463 enters the courtroom]
10 THE COURT: Hi, Ms. Robinson, how are you?
11 PROSPECTIVE JUROR NUMBER 463: Good. How are
12 you?
13 THE COURT: I'm good, thank you.
14 So you were apparently on the elevator as well --
15 PROSPECTIVE JUROR NUMBER 463: Yeah.
16 THE COURT: -- when Ms. Phillips got on.
17 PROSPECTIVE JUROR NUMBER 463: Yeah.
18 THE COURT: Do you remember what, if anything she was
19 saying while you were on the elevator?
20 PROSPECTIVE JUROR NUMBER 463: I know she said
21 something pretty like inappropriate --
22 THE COURT: Okay.
23 PROSPECTIVE JUROR NUMBER 463: -- regarding the
24 case.
25 THE COURT: Okay.

1 PROSPECTIVE JUROR NUMBER 463: And then I believe
2 we were in the elevator with the family --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 463: -- and they got
5 pretty uncomfortable --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 463: -- and I believe
8 that's why it's probably brought up.

9 THE COURT: So let's start with this. About how many
10 people do you think were on the elevator?

11 PROSPECTIVE JUROR NUMBER 463: A lot because I was
12 like crammed in --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 463: -- so it was a lot of
15 people.

16 THE COURT: Ten or more?

17 PROSPECTIVE JUROR NUMBER 463: Yes?

18 THE COURT: Okay. Maybe?

19 PROSPECTIVE JUROR NUMBER 463: Yeah.

20 THE COURT: Okay. And did Ms. Phillips appear like she
21 was talking to anybody in particular and trying to have a
22 conversation or --

23 PROSPECTIVE JUROR NUMBER 463: No, she just like --
24 even when she's in here she just kind of talks and blurts stuff out.

25 THE COURT: Right.

1 PROSPECTIVE JUROR NUMBER 463: I don't believe she
2 was talking directly to anybody.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 463: But I just remember
5 a lot of people were just silent --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 463: -- and she just kept
8 talking.

9 THE COURT: Okay. So when you say she said something
10 inappropriate, what do you remember her saying?

11 PROSPECTIVE JUROR NUMBER 463: It was just regarding
12 the Defendant's age --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 463: -- particularly.

15 THE COURT: Okay. What did she say?

16 PROSPECTIVE JUROR NUMBER 463: Just that it was sad
17 that they were underage.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 463: And then that's
20 when the family kind of -- you could just tell that they were
21 uncomfortable.

22 THE COURT: Did the family say anything or was it just
23 body language you're talking about?

24 PROSPECTIVE JUROR NUMBER 463: I don't know. I kind
25 of just like shut out --

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 463: -- everything else
3 because I didn't want to be involved in it.

4 THE COURT: Okay. Do you remember her saying
5 anything else other than that comment about it was sad that they
6 were underage?

7 PROSPECTIVE JUROR NUMBER 463: No. Other than her
8 like talking about her dismissal.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NUMBER 463: But again, I kind of
11 just shut it out because I didn't want to be involved.

12 THE COURT: Okay. Anything about what you heard her
13 say about the Defendant's age that causes you any kind of concern
14 about your ability to remain being fair and impartial?

15 PROSPECTIVE JUROR NUMBER 463: No, not at all. And I
16 don't want that incident to affect my status with this --

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NUMBER 463: -- at all.

19 THE COURT: Got it.

20 Any questions from the State?

21 MR. PESCI: If I could?

22 THE COURT: Yeah.

23 MR. PESCI: Anything -- the Court just asked you
24 specifically about the interactions and what she said about the
25 Defense, but the family's reaction in the elevator, does that affect

1 you in any way?

2 PROSPECTIVE JUROR NUMBER 463: No.

3 MR. PESCI: Okay. Will that make you feel like you need to
4 go one way or the other as far as the verdict?

5 PROSPECTIVE JUROR NUMBER 463: Not at all. I'm very
6 stern with like what I choose with. I don't know like a lot of people's
7 opinions don't really affect me. It's more like again, with the whole
8 redwood and palm tree thing --

9 MR. PESCI: Right.

10 PROSPECTIVE JUROR NUMBER 463: -- yesterday, if the
11 evidence --

12 MR. PESCI: You were very articulate yesterday. You said
13 that you may be swayed like a palm tree by the evidence --

14 PROSPECTIVE JUROR NUMBER 463: Uh-huh.

15 MR. PESCI: -- but you're going to be a redwood in being
16 fair.

17 PROSPECTIVE JUROR NUMBER 463: Exactly.

18 MR. PESCI: So would you be fair to both sides --

19 PROSPECTIVE JUROR NUMBER 463: Yeah.

20 MR. PESCI: -- as far as this interaction on the elevator
21 wouldn't sway you one way or the other, it'd be the evidence that
22 would?

23 PROSPECTIVE JUROR NUMBER 463: Of course.

24 MR. PESCI: Okay. Thank you.

25 Thank you, Your Honor.

1 THE COURT: Mr. Yampolsky?
2 MR. YAMPOLSKY: I have nothing.
3 THE COURT: Mr. Helmick?
4 MR. HELMICK: No, Your Honor.
5 THE COURT: All right. Very good.
6 Sylvia, thank you very much. If you could go ahead and
7 step on outside and then we'll get everybody in order and get them
8 back in, okay?
9 [Prospective Juror Number 463 exits the courtroom]
10 THE COURT: Do you guys have anything further?
11 MR. PESCI: No. Thank you very much, Your Honor.
12 THE COURT: All right. Anything from the defense?
13 MR. HELMICK: No, Your Honor.
14 THE COURT: I'm satisfied --
15 MR. YAMPOLSKY: No, Your Honor.
16 THE COURT: -- by what Ms. Rob -- well first off, I'm
17 satisfied by Ms. Diaz and Ms. Gebhart that they didn't really hear
18 anything other than the babbling about dismissal. And I'm satisfied
19 by Ms. Robinson that she didn't hear anything that causes her any
20 concern about being fair and impartial to all the parties, okay?
21 MR. PESCI: Thank you, Your Honor.
22 THE COURT: Okay. You can go ahead and get them in.
23 THE MARSHAL: Yes, Your Honor.
24 [In the presence of the prospective jury]
25 THE MARSHAL: Jurors are present.

1 THE COURT: You all can be seated, thank you.

2 Okay. We're back on the record. Our prospective jurors
3 are present, as well as our parties and attorneys.

4 So I'm going to excuse seven of you right now and I'm
5 going to apologize when I do it. The attorneys and I met for a long
6 time after you left yesterday to kind of go through and see about
7 agreement on certain issues. And we had agreed upon to excuse
8 seven of you. Normally I would have had somebody reach out to
9 you to tell you, you didn't have to come back today but because of
10 some of the issues, including what we've been discussing with
11 some of the other jurors in private this morning I needed to bring
12 you all back and ask the questions that I'd asked earlier.

13 So, again, I apologize that the seven of you had to come
14 back. But we are going to excuse Ms. Lambert, Ms. Williams, Mr.
15 Contreras, Mr. Sulstrom, Mr. Gutierrez-Sosa, and Mr. Pedronan.
16 You guys are all done with jury duty, okay? They're not going to
17 call you out on any other trials or anything since you've been her
18 for more than one day, okay? So I appreciate it very much. You
19 guys can all take off.

20 Oh, excuse me, and Mr. Jaska. Mr. Jaska as well.

21 So we're starting with Mr. Esposito and Ms. Rice.

22 THE CLERK: Karen Rice.

23 THE COURT: Ms. Rice, all right.

24 Ms. Rice, Badge Number 542. Could you take the seat --
25 the second seat from the right on that top row?

1 Followed by Mr. Esposito, that next open seat on the top
2 row.
3 Ms. Allen, Badge Number 560. The seat on the end of the
4 middle row.
5 Mr. Martinez, 568, the second seat from the left here on
6 the bottom.
7 Ms. Wargo, 569, the other seat on the bottom here.
8 And then if we could get our microphone to Ms. Rice,
9 please.
10 So are you excited that you get to move from over here to
11 over here now and get a better view?
12 PROSPECTIVE JUROR NUMBER 542: Well I'm ready.
13 THE COURT: Very good.
14 So how long have you lived here, Ms. Rice?
15 PROSPECTIVE JUROR NUMBER 542: Six years.
16 THE COURT: And where did you move here from?
17 PROSPECTIVE JUROR NUMBER 542: Georgia.
18 THE COURT: Georgia. And what's your level of
19 education?
20 PROSPECTIVE JUROR NUMBER 542: Masters of Science
21 and Nursing.
22 THE COURT: What type of work do you do?
23 PROSPECTIVE JUROR NUMBER 542: I'm a registered
24 nurse.
25 THE COURT: Do you work out of a hospital setting?

1 PROSPECTIVE JUROR NUMBER 542: I'm the director of
2 the Intensive Care Unit.

3 THE COURT: Are you married?

4 PROSPECTIVE JUROR NUMBER 542: Yes.

5 THE COURT: And what type of work does your spouse
6 do?

7 PROSPECTIVE JUROR NUMBER 542: Mental health.

8 THE COURT: Do you have children?

9 PROSPECTIVE JUROR NUMBER 542: One.

10 THE COURT: Pardon?

11 PROSPECTIVE JUROR NUMBER 542: One.

12 THE COURT: One. How old?

13 PROSPECTIVE JUROR NUMBER 542: Eight.

14 THE COURT: Thank you. Have you ever been a juror
15 before?

16 PROSPECTIVE JUROR NUMBER 542: No, sir.

17 THE COURT: Have you ever been the victim of a crime
18 before?

19 PROSPECTIVE JUROR NUMBER 542: No, sir.

20 THE COURT: Have you ever been arrested or convicted of
21 any kind of crime?

22 PROSPECTIVE JUROR NUMBER 542: No, sir.

23 THE COURT: Do you believe you'd be able to keep an
24 open mind and not decide any issue in the case until it was
25 submitted to you for your deliberations with your fellow jurors?

1 PROSPECTIVE JUROR NUMBER 542: Yes, sir.

2 THE COURT: And do you believe that you could treat
3 police officers like any other witnesses and decide their credibility
4 based on everything in the case or do you think you'd treat them
5 differently just because they're police officers?

6 PROSPECTIVE JUROR NUMBER 542: I would not treat
7 them differently.

8 THE COURT: Okay. Thank you very much.

9 Could you pass that down a couple to your right for me to
10 Mr. Esposito.

11 Mr. Esposito, how are you, sir?

12 PROSPECTIVE JUROR NUMBER 554: I'm good, how are
13 you?

14 THE COURT: I'm good. Thank you for asking.
15 How long have you lived here?

16 PROSPECTIVE JUROR NUMBER 554: Born and raised.

17 THE COURT: What's your level of education?

18 PROSPECTIVE JUROR NUMBER 554: Masters degree.

19 THE COURT: What type of work do you do?

20 PROSPECTIVE JUROR NUMBER 554: I'm an entrepreneur
21 in the IT sector.

22 THE COURT: Are you married?

23 PROSPECTIVE JUROR NUMBER 554: No.

24 THE COURT: Any children?

25 PROSPECTIVE JUROR NUMBER 554: No.

1 THE COURT: Have you ever been a juror before?
2 PROSPECTIVE JUROR NUMBER 554: Nope.
3 THE COURT: Ever been the victim of a crime before?
4 PROSPECTIVE JUROR NUMBER 554: No.
5 THE COURT: Ever been arrested or convicted of any
6 crimes?
7 PROSPECTIVE JUROR NUMBER 554: No.
8 THE COURT: Ever -- or excuse me, do you believe you'd
9 be able to keep an open mind and not decide any issues in our case
10 until it was submitted to you for your deliberations?
11 PROSPECTIVE JUROR NUMBER 554: Yes.
12 THE COURT: What about police officers? Do you think
13 you would treat them differently because they're police officers or
14 could you treat them like any other witness?
15 PROSPECTIVE JUROR NUMBER 554: I would treat them
16 like any other witness.
17 THE COURT: Okay. Thank you very much.
18 Could you hand that forward and we'll get down here to
19 the right to Ms. Allen, Badge Number 560.
20 Ms. Allen, how are you?
21 PROSPECTIVE JUROR NUMBER 560: Good. And you?
22 THE COURT: Did you say how am I? I'm good, thank you.
23 How long have you lived here?
24 PROSPECTIVE JUROR NUMBER 560: Born and raised.
25 THE COURT: What's your level of education?

1 PROSPECTIVE JUROR NUMBER 560: Associates.
2 THE COURT: What type of work do you do?
3 PROSPECTIVE JUROR NUMBER 560: Accounts
4 receivable.
5 THE COURT: Are you married?
6 PROSPECTIVE JUROR NUMBER 560: Yes.
7 THE COURT: Pardon?
8 PROSPECTIVE JUROR NUMBER 560: Yes.
9 THE COURT: And what type of work does your spouse
10 do?
11 PROSPECTIVE JUROR NUMBER 560: Building
12 maintenance at the federal buildings.
13 THE COURT: Federal courthouse building?
14 PROSPECTIVE JUROR NUMBER 560: Uh-huh. Down the
15 street.
16 THE COURT: And do you have children?
17 PROSPECTIVE JUROR NUMBER 560: One.
18 THE COURT: How old?
19 PROSPECTIVE JUROR NUMBER 560: 14.
20 THE COURT: Have you ever been a juror before?
21 PROSPECTIVE JUROR NUMBER 560: Yes.
22 THE COURT: How many times?
23 PROSPECTIVE JUROR NUMBER 560: Once.
24 THE COURT: And how long ago was that?
25 PROSPECTIVE JUROR NUMBER 560: Quite a while ago.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 560: Probably over 15.

3 THE COURT: And do you remember was it a criminal or a
4 civil case?

5 PROSPECTIVE JUROR NUMBER 560: Drugs.

6 THE COURT: Drugs, okay. In State Court or Federal
7 Court? This building?

8 PROSPECTIVE JUROR NUMBER 560: I want to say yes,
9 but I'm not sure.

10 THE COURT: Okay. The jury reach a verdict?

11 PROSPECTIVE JUROR NUMBER 560: Yes.

12 THE COURT: And were you the foreperson of the jury?

13 PROSPECTIVE JUROR NUMBER 560: No.

14 THE COURT: Have you ever been the victim of a crime
15 before

16 PROSPECTIVE JUROR NUMBER 560: Yes. We were
17 broken in to before we moved into our current house.

18 THE COURT: Okay. And were you home at the time?

19 PROSPECTIVE JUROR NUMBER 560: No.

20 THE COURT: Was it reported to the police?

21 PROSPECTIVE JUROR NUMBER 560: Yes.

22 THE COURT: And did it ever go to court?

23 PROSPECTIVE JUROR NUMBER 560: Not that I'm aware
24 of.

25 THE COURT: Okay. Thank you. Have you ever been

1 arrested or convicted of any kind of crime?

2 PROSPECTIVE JUROR NUMBER 560: No.

3 THE COURT: Do you believe you'd be able to keep an
4 open mind and not decide any issues in the case until it's submitted
5 to you for your deliberations?

6 PROSPECTIVE JUROR NUMBER 560: Yes.

7 THE COURT: Do you think you could treat police officers
8 like any other witness, or do you think you would treat them
9 differently just because they're police officers?

10 PROSPECTIVE JUROR NUMBER 560: No, like any other
11 witness.

12 THE COURT: Thank you very much.

13 If could pass that to Mr. Martinez. Where'd Mr. Martinez
14 go? Oh, down here, I'm sorry.

15 All right. Good morning, Mr. Martinez.

16 PROSPECTIVE JUROR NUMBER 568: Good morning.

17 THE COURT: It's still morning, right? Yeah. Okay.
18 How long have you lived here?

19 PROSPECTIVE JUROR NUMBER 568: 30 years.

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

21 PROSPECTIVE JUROR NUMBER 568: Some college.

22 THE COURT: What type of work do you do?

23 PROSPECTIVE JUROR NUMBER 568: I cook.

24 THE COURT: Are you married?

25 PROSPECTIVE JUROR NUMBER 568: Recently separated.

1 THE COURT: Okay. Children?

2 PROSPECTIVE JUROR NUMBER 568: Yes, five.

3 THE COURT: Five. And what's their age range?

4 PROSPECTIVE JUROR NUMBER 568: From 15, all the way
5 to one and a half.

6 THE COURT: Okay. Have you ever been a juror before?

7 PROSPECTIVE JUROR NUMBER 568: No.

8 THE COURT: Have you ever been the victim of a crime
9 before?

10 PROSPECTIVE JUROR NUMBER 568: Yes, I got -- my car
11 got broken into.

12 THE COURT: And was that here in Las Vegas?

13 PROSPECTIVE JUROR NUMBER 568: Yes.

14 THE COURT: Were the police called?

15 PROSPECTIVE JUROR NUMBER 568: No.

16 THE COURT: Have you ever been arrested or convicted of
17 any kind of crimes?

18 PROSPECTIVE JUROR NUMBER 568: No.

19 THE COURT: Have -- or do you believe you'd been able to
20 keep an open mind and not decide any issues in our case until it's
21 submitted to you for your deliberation?

22 PROSPECTIVE JUROR NUMBER 568: Yes.

23 THE COURT: Thank you. And do you believe you could
24 treat a police officer like any other witness, or do you think you
25 would treat them differently just because they were police officers?

1 PROSPECTIVE JUROR NUMBER 568: Any other witness.
2 THE COURT: Thank you.
3 And if you could hand it finally to Ms. Wargo.
4 Good morning, Ms. Wargo.
5 PROSPECTIVE JUROR NUMBER 569: Good morning.
6 THE COURT: How long have you lived here?
7 PROSPECTIVE JUROR NUMBER 569: 14 years.
8 THE COURT: What's your level of education?
9 PROSPECTIVE JUROR NUMBER 569: Bachelors
10 THE COURT: What type of work do you do?
11 PROSPECTIVE JUROR NUMBER 569: Administrative.
12 THE COURT: Are you married?
13 PROSPECTIVE JUROR NUMBER 569: Yes.
14 THE COURT: And what type of work does your spouse
15 do?
16 PROSPECTIVE JUROR NUMBER 569: He works at Shark
17 Reef Aquarium at Mandalay.
18 THE COURT: So this is like the coolest week of the year to
19 work at Shark Reef, right? Because it's Shark Week. Don't you
20 guys watch Discovery Channel.
21 All right. Children?
22 PROSPECTIVE JUROR NUMBER 569: No.
23 THE COURT: Thank you. Have you ever been a juror
24 before?
25 PROSPECTIVE JUROR NUMBER 569: No.

1 THE COURT: Have you ever been the victim of a crime?

2 PROSPECTIVE JUROR NUMBER 569: No.

3 THE COURT: Ever been arrested or convicted of any
4 crimes?

5 PROSPECTIVE JUROR NUMBER 569: No.

6 THE COURT: Do you believe you can keep an open mind
7 and not decide any issue in the case until it's submitted to you for
8 your deliberation?

9 PROSPECTIVE JUROR NUMBER 569: Yes.

10 THE COURT: And finally, police officers, could you treat
11 them like any other witness, or do you think you'd treat them
12 differently just because they're police officers?

13 PROSPECTIVE JUROR NUMBER 569: I'll try but honestly, I
14 have a brother-in-law who's a police officer --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NUMBER 569: -- and from where I
17 grew up like we've been taught to respect --

18 THE COURT: Sure.

19 PROSPECTIVE JUROR NUMBER 569: -- people in
20 uniform --

21 THE COURT: Yeah.

22 PROSPECTIVE JUROR NUMBER 569: -- so.

23 THE COURT: You have a lot of people that have a similar
24 sentiment. You know, you're raised, and you're taught hey, you
25 should respect police officers, they're out there trying to enforce the

1 laws. And then you have other people that say, you know, I grew
2 up and we had a lot of bad incidents with police in our
3 neighborhood. But what it -- and we all bring everything that's
4 happened to us in our lives as part of our -- the fabric of who we are
5 and how we make decisions.

6 So the question is really just can you judge this case
7 based on its evidence and judge each of the witnesses based on
8 what you're hearing in court or do you think you would judge them
9 differently just because of their status as a police officer or anything
10 else?

11 PROSPECTIVE JUROR NUMBER 569: Like I -- I'll try.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 569: But I think
14 instinctively I would probably lean more towards what a police
15 officer had to say --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NUMBER 569: -- you know, if he
18 was a witness.

19 THE COURT: Okay. Very good. Thank you very much.
20 Mr. Pesci, as to these five folks.

21 MR. PESCI: Thank you, Your Honor.

22 All right. If we could hand the microphone over to Ms.
23 Rice, Badge 542, is that correct?

24 PROSPECTIVE JUROR NUMBER 542: Yes.

25 MR. PESCI: Okay. So it's making its way back there. I

1 wanted to ask specifics about your answers and then I'm going to
2 go to those questions -- you heard me ask a lot of questions to the
3 whole panel yesterday. So we didn't get a chance to ask you so I'll
4 kind of follow up with those as well, okay?

5 PROSPECTIVE JUROR NUMBER 542: Okay.

6 MR. PESCI: So you run the Intensive Care Unit at which
7 hospital?

8 PROSPECTIVE JUROR NUMBER 542: Centennial Hills.

9 MR. PESCI: Centennial Hills, okay. And I understood
10 correctly, you're the director?

11 PROSPECTIVE JUROR NUMBER 542: Correct.

12 MR. PESCI: All right. So are you on the floor maybe
13 when ER patients come in or are you in an office kind of directing
14 where people are going to be covering and things of that nature?

15 PROSPECTIVE JUROR NUMBER 542: It depends on the
16 day really.

17 MR. PESCI: Okay.

18 PROSPECTIVE JUROR NUMBER 542: I have an office but
19 some -- I'm on the floor doing rounds as well.

20 MR. PESCI: And the reason I guess I ask you, sometimes,
21 I mean -- I'm assuming sometimes when an ER patient comes in
22 there can be officers with that patient. Have you ever interacted
23 with any officers in the ER or in the hospital?

24 PROSPECTIVE JUROR NUMBER 542: There are officers
25 that are with some of our patients, yes. I don't do much interaction

1 with them.

2 MR. PESCI: Okay.

3 PROSPECTIVE JUROR NUMBER 542: I'll only talk with the
4 patient or the nurse -- the other nurses.

5 MR. PESCI: Okay. So the -- that occasional or not that
6 occasional interaction with police officers, would that affect you one
7 way or the other from being fair in this case?

8 PROSPECTIVE JUROR NUMBER 542: No, sir.

9 MR. PESCI: Okay. It doesn't affect your ability to be fair
10 and impartial?

11 PROSPECTIVE JUROR NUMBER 542: No.

12 MR. PESCI: All right. Thank you. And then talking about
13 firearms -- we had conversations yesterday about firearms. What
14 are your feelings or your thoughts about firearms?

15 PROSPECTIVE JUROR NUMBER 542: I own firearms.

16 MR. PESCI: Okay. Does the fact that there's a firearm
17 alleged to have been used in this case affect your ability to weigh
18 the evidence?

19 PROSPECTIVE JUROR NUMBER 542: No, sir.

20 MR. PESCI: All right. Some people feel strongly one way
21 or the other and, you know, they're going to hold someone
22 accountable because a gun's being used. Many gun owners feel
23 like, you know, you need to know what you're doing. Are you
24 going to automatically find someone guilty just because they used
25 a gun?

1 PROSPECTIVE JUROR NUMBER 542: No, sir.

2 MR. PESCI: All right. And you could find someone not

3 guilty even if a gun was used if we don't prove the case?

4 PROSPECTIVE JUROR NUMBER 542: I would look at the

5 facts.

6 MR. PESCI: Okay. Thank you. The age of the Defendants,

7 does that affect your ability to make a decision as far as the guilt or

8 innocence in this case?

9 PROSPECTIVE JUROR NUMBER 542: No, sir.

10 MR. PESCI: Okay. Social media, we talked about that

11 yesterday. Do you have any social media accounts?

12 PROSPECTIVE JUROR NUMBER 542: I do.

13 MR. PESCI: All right. Will that affect you one way or the

14 other as far as evidence you might see coming from social media?

15 PROSPECTIVE JUROR NUMBER 542: No, sir.

16 MR. PESCI: All right. Overall, is there any reason why

17 you couldn't sit in judgment of another human being?

18 PROSPECTIVE JUROR NUMBER 542: No, sir.

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

20 PROSPECTIVE JUROR NUMBER 542: You're welcome.

21 MR. PESCI: Could you pass it over to Mr. Esposito, 554.

22 How are you, sir?

23 PROSPECTIVE JUROR NUMBER 554: Very good.

24 MR. PESCI: All right. All those questions, what are your

25 answers? Just kidding.

1 You have a Masters and what was your Masters in?
2 PROSPECTIVE JUROR NUMBER 554: I have two Masters.
3 Masters of Science in Management Information Systems, and an
4 MBA.
5 MR. PESCI: Okay. So Information Systems and an MBA.
6 Where did you obtain those?
7 PROSPECTIVE JUROR NUMBER 554: UNLV.
8 MR. PESCI: UNLV, okay. You were born and raised, you
9 said here?
10 PROSPECTIVE JUROR NUMBER 554: Uh-huh.
11 MR. PESCI: Okay. Switching to those questions we just
12 talked about, starting off with any reason why you cannot sit in
13 judgment of another human being?
14 PROSPECTIVE JUROR NUMBER 554: No, sir.
15 MR. PESCI: All right. What are your thoughts about
16 firearms?
17 PROSPECTIVE JUROR NUMBER 554: Neutral. I'm an
18 Eagle Scout so I grew up shooting firearms. I don't own a firearm
19 personally, but I've shot them and used them and been hunting and
20 everything else.
21 MR. PESCI: Okay. So the idea of a firearm is not going to
22 sway you one way or the other as far as finding a verdict in this
23 case?
24 PROSPECTIVE JUROR NUMBER 554: No.
25 MR. PESCI: Okay. Social media, what's your status with

1 that?

2 PROSPECTIVE JUROR NUMBER 554: Outside of business
3 I rarely use it.

4 MR. PESCI: Okay. Will it affect you as far as, you know,
5 people posting things and seeing evidence from being posted?

6 PROSPECTIVE JUROR NUMBER 554: No.

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

8 Could we pass it over to 560, so down and over to Ms.
9 Allen?

10 How are you, ma'am?

11 PROSPECTIVE JUROR NUMBER 560: Good.

12 MR. PESCI: I wanted to follow up. You were on a jury
13 before. You said you thought it was about drugs?

14 PROSPECTIVE JUROR NUMBER 560: Drugs.

15 MR. PESCI: Okay. But you don't recall what the charges
16 were in particular?

17 PROSPECTIVE JUROR NUMBER 560: It was quite a long
18 time ago.

19 MR. PESCI: All right. But here in Las Vegas?

20 PROSPECTIVE JUROR NUMBER 560: Yes.

21 MR. PESCI: And do you think it was a District Attorney's
22 Office that prosecuted him?

23 PROSPECTIVE JUROR NUMBER 560: I honestly don't
24 remember.

25 MR. PESCI: Okay.

1 PROSPECTIVE JUROR NUMBER 560: It was really a long
2 time ago.

3 MR. PESCI: Respectfully, the fact that you don't
4 remember probably means it's not going to affect you in this case?

5 PROSPECTIVE JUROR NUMBER 560: Correct.

6 MR. PESCI: All right. You'd set aside whatever you do
7 remember and just listen to what the Court tells you in this case?

8 PROSPECTIVE JUROR NUMBER 560: Yes.

9 MR. PESCI: All right. Unfortunately you were a victim of
10 a home burglary?

11 PROSPECTIVE JUROR NUMBER 560: Yes.

12 MR. PESCI: And I apologize, did you say you reported it,
13 or you did not?

14 PROSPECTIVE JUROR NUMBER 560: We did report it.

15 MR. PESCI: And then I think you said you didn't know if
16 something came of it.

17 PROSPECTIVE JUROR NUMBER 560: Right. They came
18 and dusted for fingerprints and all that but then I don't know what
19 happened after that.

20 MR. PESCI: So --

21 PROSPECTIVE JUROR NUMBER 560: We're pushing 30
22 years ago.

23 MR. PESCI: Okay. You never had to come to court.

24 PROSPECTIVE JUROR NUMBER 560: Correct.

25 MR. PESCI: All right. Did you feel as if the system did

1 enough or let you down?

2 PROSPECTIVE JUROR NUMBER 560: I think they did

3 enough.

4 MR. PESCI: Okay. Not a bad taste left in your mouth

5 based on that situation?

6 PROSPECTIVE JUROR NUMBER 560: Correct.

7 MR. PESCI: Okay. What are your feelings or thoughts

8 about firearms?

9 PROSPECTIVE JUROR NUMBER 560: I'm neutral. We

10 own a weapon.

11 MR. PESCI: Okay. And then the age of the Defendants,

12 would that affect your ability to make a decision on the facts?

13 PROSPECTIVE JUROR NUMBER 560: No.

14 MR. PESCI: Social media, what's -- what do you know or

15 what -- do you use it?

16 PROSPECTIVE JUROR NUMBER 560: I use it.

17 MR. PESCI: Okay. And that wouldn't sway you one way

18 or the other?

19 PROSPECTIVE JUROR NUMBER 560: Neither.

20 MR. PESCI: Would you agree to not get on there during

21 trial if you're a juror?

22 PROSPECTIVE JUROR NUMBER 560: Yes.

23 MR. PESCI: Okay. Thank you very much. Any reason

24 why you couldn't sit in judgment of another human being?

25 PROSPECTIVE JUROR NUMBER 560: No.

1 MR. PESCI: Okay. Thank you, ma'am.
2 If we could pass it forward and then down.
3 Mr. Martinez is Badge Number 568, I believe?
4 PROSPECTIVE JUROR NUMBER 568: Yes.
5 MR. PESCI: And sir, I -- unfortunately you were a victim of
6 a car burglary, correct?
7 PROSPECTIVE JUROR NUMBER 568: Yes.
8 MR. PESCI: All right. And did you say that you did not
9 call the police?
10 PROSPECTIVE JUROR NUMBER 568: Yes.
11 MR. PESCI: All right. How come you did not call the
12 police?
13 PROSPECTIVE JUROR NUMBER 568: I just -- I think it's
14 just -- it wasn't nothing serious for them to -- I don't think -- they
15 won't to do something about it, you know?
16 MR. PESCI: Okay. If you thought that they would, would
17 you have called them?
18 PROSPECTIVE JUROR NUMBER 568: Oh yeah, of course.
19 MR. PESCI: All right. So it's not a -- it was really based on
20 the fact you just thought nothing would come from it.
21 PROSPECTIVE JUROR NUMBER 568: Yeah.
22 MR. PESCI: Okay. Unfortunately that seems to bare out
23 with what everyone's saying here.
24 Did that leave a bad taste in your mouth as far as the
25 police or the judicial system?

1 PROSPECTIVE JUROR NUMBER 568: No.
2 MR. PESCI: Okay. What are your feelings about firearms?
3 PROSPECTIVE JUROR NUMBER 568: Neutral.
4 MR. PESCI: The fact that there's a firearm in this case,
5 would that affect your ability to be fair and impartial?
6 PROSPECTIVE JUROR NUMBER 568: No.
7 MR. PESCI: Okay. What do you think also about the age
8 of the Defendants? How would that -- or would that play into your
9 decision in making --
10 PROSPECTIVE JUROR NUMBER 568: No.
11 MR. PESCI: -- a finding?
12 PROSPECTIVE JUROR NUMBER 568: No.
13 MR. PESCI: It would not.
14 PROSPECTIVE JUROR NUMBER 568: It won't.
15 MR. PESCI: Okay. And then social media, do you have
16 any social media accounts?
17 PROSPECTIVE JUROR NUMBER 568: I do, but I rarely use
18 it.
19 MR. PESCI: Okay. That wouldn't affect you one way or
20 the other?
21 PROSPECTIVE JUROR NUMBER 568: No.
22 MR. PESCI: All right. Thank you very much, sir.
23 If you could pass the mic to your right.
24 569. Do I pronounce it Ms. Wargo.
25 PROSPECTIVE JUROR NUMBER 569: Uh-huh. Yes.

1 MR. PESCI: Okay. Sorry, just -- she's recording and so
2 she doesn't know.

3 All right. So you were very straightforward with us and
4 saying that as far as the context of police officers is that you would
5 try; that was a quote that I wrote down and that you instinctively
6 might lean towards the police officers, do you remember that?

7 PROSPECTIVE JUROR NUMBER 569: Yes.

8 MR. PESCI: Okay. And that's fine if you feel that way,
9 right? What we're just trying to figure out is does that mean that
10 you would automatically find for the State -- Prosecution because
11 there were police officers in the case?

12 PROSPECTIVE JUROR NUMBER 569: I wouldn't say
13 automatically, I would just say that I might put a little bit more
14 weight on their testimony.

15 MR. PESCI: All right. And if I've heard you correctly that's
16 based on, you said the way you were taught to look at officers?

17 PROSPECTIVE JUROR NUMBER 569: Well I grew up in
18 rural Pennsylvania and we were taught to just respect people in
19 uniform; military, police, whatever. And like I said, my brother-in-
20 law is a police officer and I've heard stories from him about, you
21 know, his day-to-day and --

22 MR. PESCI: Okay.

23 PROSPECTIVE JUROR NUMBER 569: -- just kind of how I
24 was raised, I guess. I don't --

25 MR. PESCI: All right. If -- let's assume for the sake of

1 conversation we call an officer in and the officer takes the stand and
2 you feel as if she or he just did not really explain things well to you
3 or didn't do as much you thought she or he should have done,
4 would you, based on your experience growing up, like go past and
5 fill in the gaps for that officer?

6 PROSPECTIVE JUROR NUMBER 569: No, I don't think so.
7 But if it was like equal testimony between two people giving about
8 the same amount of facts, I'd probably lean more towards what the
9 police officer had to say.

10 MR. PESCI: Okay. You'd lean towards that but you're -- if
11 I'm hearing you correctly, you're willing to listen to the evidence
12 and make --

13 PROSPECTIVE JUROR NUMBER 569: Correct. Yes.

14 MR. PESCI: -- your decision based on the evidence.

15 PROSPECTIVE JUROR NUMBER 569: Yes.

16 MR. PESCI: Okay. Even in the face of an officer testifying.

17 PROSPECTIVE JUROR NUMBER 569: Yes.

18 MR. PESCI: Okay. Firearms, what's your -- what are your
19 feelings about firearms?

20 PROSPECTIVE JUROR NUMBER 569: I don't like them.

21 MR. PESCI: Okay.

22 PROSPECTIVE JUROR NUMBER 569: I have strong
23 feelings about them, but I understand that a lot of criminal activity
24 happens with guns and that's to be expected for a trial like this, so.

25 MR. PESCI: Okay. So those strong feelings -- and

1 everybody's feelings -- just so everybody knows, whatever you feel
2 about guns or whatever it is, fill in the blank, is totally fine, right?
3 No one should feel uncomfortable about that. We're just trying to
4 figure out, could that affect making a decision. So those strong
5 feelings, would that make you lean towards guilt or to lean away or
6 would you make a decision based on the evidence, even if the
7 evidence includes a gun?

8 PROSPECTIVE JUROR NUMBER 569: I would use the
9 evidence, I think. Yeah.

10 MR. PESCI: Okay. And when you say strong, what do you
11 mean? Like what are you --

12 PROSPECTIVE JUROR NUMBER 569: I just -- I don't want
13 to get a political rant, but --

14 MR. PESCI: Would you prefer that there weren't guns?

15 PROSPECTIVE JUROR NUMBER 569: Excuse me?

16 MR. PESCI: Would you prefer that there weren't guns?

17 PROSPECTIVE JUROR NUMBER 569: I think there should
18 be more laws to regulate them. For example --

19 MR. PESCI: Okay.

20 PROSPECTIVE JUROR NUMBER 569: -- I think there's
21 certain guns people shouldn't -- civilians shouldn't have, that kind
22 of thing.

23 MR. PESCI: Okay. Right. And there are many people that
24 feel that way. In this particular case, without getting too specific,
25 it's handguns that we're talking about. Do handguns in particular

1 have any strong feelings tied to it or do they create strong feelings?

2 PROSPECTIVE JUROR NUMBER 569: No. Just as long as
3 somebody is responsible and owns it legally, then no.

4 MR. PESCI: Okay. All right. Any reason why you can't sit
5 in judgment of another human being?

6 PROSPECTIVE JUROR NUMBER 569: No.

7 MR. PESCI: Thank you very much.

8 We pass for cause, Your Honor.

9 THE COURT: Thank you.

10 Mr. Yampolsky.

11 MR. YAMPOLSKY: Thank, Your Honor.

12 Before I question you folks individually, I'd like to question
13 the new people collectively. And one of the things we talked about
14 yesterday is the burden of proof of the Prosecution; that the State
15 has to prove their case beyond a reasonable doubt. Defense has
16 absolutely no burden. Do any one of you new people have a
17 problem with that?

18 No one.

19 And then there's a possibility that my client won't take the
20 stand in his defense, he just won't testify. Does anyone have a
21 problem with that?

22 No one.

23 Okay. Well let's start with you Ms. Wargo, since you're
24 holding the microphone. Now you said that you have a brother-in-
25 law that's a police officer.

1 PROSPECTIVE JUROR NUMBER 569: Yeah, he's a
2 Pennsylvania State Trooper in York, PA. And he also sometimes
3 works with the US Marshals.

4 MR. YAMPOLSKY: Okay. And what speci -- he's a state
5 policeman, but specifically what does he do, if you know?

6 PROSPECTIVE JUROR NUMBER 569: He jumps around.
7 He's been in I.C.E., he works with narcotics. I don't know if he's
8 changed recently, but he does like security work sometimes when
9 the president's driving around, that kind of stuff.

10 MR. YAMPOLSKY: The president goes to York, PA? Okay.

11 PROSPECTIVE JUROR NUMBER 569: Well my brother-in-
12 law goes to D.C. to go --

13 MR. YAMPOLSKY: Oh, okay.

14 PROSPECTIVE JUROR NUMBER 569: Yeah.

15 MR. YAMPOLSKY: All right. And would you say you're
16 close to your brother-in-law?

17 PROSPECTIVE JUROR NUMBER 569: Well I mean, we live
18 across the country so not as close as we could be but, you know --

19 MR. YAMPOLSKY: But you have a good opinion of him.

20 PROSPECTIVE JUROR NUMBER 569: Correct.

21 MR. YAMPOLSKY: And because of your good opinion of
22 him which is why you said that you may consider a police officer's
23 testimony -- I don't want to put words in your mouth -- as maybe
24 better than someone who wasn't a police officer; would that be
25 accurate?

1 PROSPECTIVE JUROR NUMBER 569: I don't want to say
2 better, just --

3 MR. YAMPOLSKY: Okay. Why don't you tell me then, so
4 I --

5 PROSPECTIVE JUROR NUMBER 569: I just -- if there were
6 like an equal testimony between two people, one was a police
7 officer and one was a civilian, I would probably lean towards what
8 the police officer was saying over the civilian.

9 MR. YAMPOLSKY: So my hypothetical which I used
10 yesterday is so if the police officer gets up there and says the car is
11 white and a lay person gets up there, someone who's not a police
12 officer, and says the car is black, without knowing anything else
13 you're probably going to believe that the car is white; would that be
14 accurate?

15 PROSPECTIVE JUROR NUMBER 569: I mean, if there was
16 no other evidence --

17 MR. YAMPOLSKY: Right.

18 PROSPECTIVE JUROR NUMBER 569: -- then maybe, yeah.

19 MR. YAMPOLSKY: Okay. And even though someone's a
20 police officer, would you be okay in just determining their
21 credibility -- like just this person himself is a police officer but could
22 you sit back there and say hmm, I don't know what he's saying, if
23 that makes sense? Or would you automatically say well he's a
24 police officer, he's got to be telling the truth?

25 PROSPECTIVE JUROR NUMBER 569: I mean, if he wasn't

1 making sense or wasn't giving enough details to provide enough
2 evidence, I would take that into consideration but usually
3 automatically if there were a cop saying something, I would give it
4 a little bit more --

5 MR. YAMPOLSKY: So if the cop is saying something you
6 figure ah, it's most likely going to be true and accurate, right?

7 PROSPECTIVE JUROR NUMBER 569: I mean, I would
8 listen to it and decide but I would usually believe them if they were
9 saying something.

10 MR. YAMPOLSKY: And do you think this would affect
11 your ability to be fair to the Defendants?

12 PROSPECTIVE JUROR NUMBER 569: I would try to be fair
13 in this and keep an open mind.

14 MR. YAMPOLSKY: And I understand you said that, but in
15 addition to trying, do you think maybe your feeling towards your
16 brother-in-law and police in general could color your perceptions as
17 to what the facts are?

18 PROSPECTIVE JUROR NUMBER 569: I mean, I would
19 listen to the facts. If it was obvious that something was missing
20 from testimony or there's evidence missing, like I would take that
21 into consideration. But like I said I just -- I would automatically just
22 give their testimony a little bit more weight, I guess.

23 MR. YAMPOLSKY: Okay. And this is just, you know, your
24 general perception. Obviously, you haven't heard anyone testify in
25 this particular case.

1 PROSPECTIVE JUROR NUMBER 569: Correct.

2 MR. YAMPOLSKY: Okay. Now -- and I asked you people

3 collectively, but you've heard me talk about the burden of proof and

4 you're aware of the right to remain silent, right? Correct?

5 PROSPECTIVE JUROR NUMBER 569: Uh-huh.

6 MR. YAMPOLSKY: Yes? You have to say yes.

7 PROSPECTIVE JUROR NUMBER 569: Yes, sorry.

8 MR. YAMPOLSKY: Okay. Or you can say no, but she

9 hasn't.

10 And would you have a problem if my client decided not to

11 testify?

12 PROSPECTIVE JUROR NUMBER 569: I don't think so.

13 MR. YAMPOLSKY: No? You wouldn't -- really wouldn't

14 want to hear from him saying well wait a minute, this happened?

15 PROSPECTIVE JUROR NUMBER 569: I would like to hear

16 from him, but I understand that it's not -- he doesn't have to in

17 order to prove his case.

18 MR. YAMPOLSKY: Well, well, let me back up.

19 PROSPECTIVE JUROR NUMBER 569: Or I should say in

20 order to -- I can't think of the words right now.

21 MR. YAMPOLSKY: Okay. And --

22 PROSPECTIVE JUROR NUMBER 569: I think --

23 MR. YAMPOLSKY: -- I think -- I think you -- okay, you

24 realize that the State --

25 PROSPECTIVE JUROR NUMBER 569: I understand --

1 MR. YAMPOLSKY: -- has the --
2 PROSPECTIVE JUROR NUMBER 569: Yeah.
3 MR. YAMPOLSKY: -- burden of proof, right?
4 PROSPECTIVE JUROR NUMBER 569: Correct.
5 MR. YAMPOLSKY: And you realize that neither of these
6 Defendants has to quote, unquote, prove their case --
7 PROSPECTIVE JUROR NUMBER 569: Correct.
8 MR. YAMPOLSKY: -- correct?
9 Okay. I understand you said that unwittingly but --
10 PROSPECTIVE JUROR NUMBER 569: Yeah, sorry.
11 MR. YAMPOLSKY: -- I had to make sure.
12 And you said you have strong feelings about guns --
13 PROSPECTIVE JUROR NUMBER 569: Yes.
14 MR. YAMPOLSKY: -- right?
15 And are your strong -- you said that you believe there
16 should be more laws about guns?
17 PROSPECTIVE JUROR NUMBER 569: More regulation,
18 yes.
19 MR. YAMPOLSKY: So are you saying that you think that
20 guns should be harder obtain as a just private citizen?
21 PROSPECTIVE JUROR NUMBER 569: If -- not for most,
22 but there are people that shouldn't have guns. There's -- they
23 shouldn't be as easily accessible to some people.
24 MR. YAMPOLSKY: And what people would you think
25 shouldn't have access to guns?

1 PROSPECTIVE JUROR NUMBER 569: I just -- for example,
2 the shooting that just happened in California; they bought the gun
3 here and took it over there. If there were more regulations in this
4 state it may have helped the situation in the shooting in California
5 over the weekend. I don't -- I just -- I don't want to get on a political
6 rant, I just -- that's just how I feel.

7 MR. YAMPOLSKY: And we don't want you to get on a
8 political rant, we want your feelings. And how do you feel about
9 juveniles possessing firearms?

10 PROSPECTIVE JUROR NUMBER 569: No, I don't think that
11 juveniles should.

12 MR. YAMPOLSKY: Well in this case there is going to be
13 testimony that there were some juveniles that possess firearms, so
14 how is that going to make you feel?

15 PROSPECTIVE JUROR NUMBER 569: I mean, I'd still
16 listen to the all the evidence of the trial to know the facts of what
17 was going on and make a judgment based off of that. But, I mean,
18 you asked if I had feelings about firearms --

19 MR. YAMPOLSKY: Right.

20 PROSPECTIVE JUROR NUMBER 569: -- and that's -- I do.
21 So.

22 MR. YAMPOLSKY: But the fact that a -- one or more
23 juveniles might have possessed a firearm in this case, it's going to
24 bother you, right?

25 PROSPECTIVE JUROR NUMBER 569: I mean, if that's the

1 matter of the crime, maybe, yeah.

2 MR. YAMPOLSKY: I appreciate your candor. I'm not
3 trying to put you on the spot, but, you know, I feel like I need to ask
4 some of these questions.

5 Why don't you hand it to Mr. Martinez?

6 All right. You heard everything I said. Do you have any
7 strong feelings about firearms?

8 PROSPECTIVE JUROR NUMBER 568: I don't.

9 MR. YAMPOLSKY: You don't own a gun, correct?

10 PROSPECTIVE JUROR NUMBER 568: I don't.

11 MR. YAMPOLSKY: Okay. And, you know, if I'm repeating
12 myself, I'm sorry, but you've heard me talk about the presumption
13 of innocence. Would you hold it against my client if he decided not
14 to take the stand?

15 PROSPECTIVE JUROR NUMBER 568: No.

16 MR. YAMPOLSKY: No. So it'd be okay if he didn't get up
17 here and tell his story after the State finished telling their story.

18 PROSPECTIVE JUROR NUMBER 568: It's all up to him, it's
19 not -- it's his decision.

20 MR. YAMPOLSKY: And you don't have a problem with
21 that.

22 PROSPECTIVE JUROR NUMBER 568: No.

23 MR. YAMPOLSKY: Okay. Could you pass it to Ms., is it
24 Allen? Yes.

25 Now where do you work?

1 PROSPECTIVE JUROR NUMBER 560: I work for an ad
2 agency,
3 MR. YAMPOLSKY: For what?
4 PROSPECTIVE JUROR NUMBER 560: An ad agency.
5 MR. YAMPOLSKY: Okay. And what do you do there?
6 PROSPECTIVE JUROR NUMBER 560: Accounting.
7 MR. YAMPOLSKY: Oh.
8 PROSPECTIVE JUROR NUMBER 560: Accounts
9 receivable.
10 MR. YAMPOLSKY: So you don't put together the ads?
11 PROSPECTIVE JUROR NUMBER 560: Correct, I do not.
12 MR. YAMPOLSKY: Does your ad agency have any clients
13 like the NRA?
14 PROSPECTIVE JUROR NUMBER 560: No.
15 MR. YAMPOLSKY: As a matter -- are you aware that your
16 ad agency does any type of ads, like pro or anti-firearms?
17 PROSPECTIVE JUROR NUMBER 560: We do not.
18 MR. YAMPOLSKY: Okay. And would you have a problem
19 if my client decides not to testify?
20 PROSPECTIVE JUROR NUMBER 560: I don't have a
21 problem, but it's always nice to hear both sides.
22 MR. YAMPOLSKY: Okay. Could you pass that to Mr.
23 Esposito?
24 Mr. Esposito, and my hearing's not very good but I heard
25 you say you have two Masters --

1 PROSPECTIVE JUROR NUMBER 554: That's correct.
2 MR. YAMPOLSKY: -- is that right?
3 Is one in IT and the other an MBA?
4 PROSPECTIVE JUROR NUMBER 554: Yes, management
5 information systems.
6 MR. YAMPOLSKY: Say that again.
7 PROSPECTIVE JUROR NUMBER 554: Management
8 information systems.
9 MR. YAMPOLSKY: Okay. So you design computer
10 systems for various --
11 PROSPECTIVE JUROR NUMBER 554: That's correct.
12 MR. YAMPOLSKY: -- businesses.
13 Do you specialize in one area?
14 PROSPECTIVE JUROR NUMBER 554: No, I have a
15 consulting firm that focuses on consulting, digital marketing, app
16 development, and project management.
17 MR. YAMPOLSKY: So would you say that you work with
18 small businesses or --
19 PROSPECTIVE JUROR NUMBER 554: Yes. Mostly
20 smaller --
21 MR. YAMPOLSKY: What --
22 PROSPECTIVE JUROR NUMBER 554: -- businesses.
23 MR. YAMPOLSKY: Not institutions -- governmental
24 institutions?
25 PROSPECTIVE JUROR NUMBER 554: No.

1 MR. YAMPOLSKY: No. Okay.
2 And you said you do not own a firearm.
3 PROSPECTIVE JUROR NUMBER 554: No.
4 MR. YAMPOLSKY: But you don't have a problem with
5 other people owning firearms?
6 PROSPECTIVE JUROR NUMBER 554: Nope.
7 MR. YAMPOLSKY: Okay. And do you have any strong
8 feelings one way or the other about firearms?
9 PROSPECTIVE JUROR NUMBER 554: No.
10 MR. YAMPOLSKY: All right. Would you pass the mic to
11 Ms. Rice, please?
12 Ms. Rice, you said you're an RN?
13 PROSPECTIVE JUROR NUMBER 542: Correct.
14 MR. YAMPOLSKY: How long have you been an RN?
15 PROSPECTIVE JUROR NUMBER 542: 21 years.
16 MR. YAMPOLSKY: Do you specialize in one specific area?
17 PROSPECTIVE JUROR NUMBER 542: ICU.
18 MR. YAMPOLSKY: Which is?
19 PROSPECTIVE JUROR NUMBER 542: Intensive Care Unit.
20 MR. YAMPOLSKY: Oh, okay. And in the Intensive Care
21 Unit, do you deal with gunshot wounds?
22 PROSPECTIVE JUROR NUMBER 542: Not at the hospital
23 that I currently work at.
24 MR. YAMPOLSKY: I'm sorry, say that again.
25 PROSPECTIVE JUROR NUMBER 542: Not at the hospital

1 that I currently work in.

2 MR. YAMPOLSKY: Okay.

3 PROSPECTIVE JUROR NUMBER 542: Those patients
4 usually go to the trauma hospitals.

5 MR. YAMPOLSKY: What hospital are you working with
6 now?

7 PROSPECTIVE JUROR NUMBER 542: Centennial Hills.

8 MR. YAMPOLSKY: What?

9 PROSPECTIVE JUROR NUMBER 542: Centennial Hills.

10 MR. YAMPOLSKY: Okay. And they don't have a Level-I
11 Trauma Center there do they?

12 PROSPECTIVE JUROR NUMBER 542: No.

13 MR. YAMPOLSKY: Okay. Now you said you are a
14 director?

15 PROSPECTIVE JUROR NUMBER 542: Correct.

16 MR. YAMPOLSKY: You are a director of what?

17 PROSPECTIVE JUROR NUMBER 542: The Intensive Care
18 Unit.

19 MR. YAMPOLSKY: Oh, okay. Well that make sense.

20 And as a director of the ICU, what do you do?

21 PROSPECTIVE JUROR NUMBER 542: I am responsible for
22 the 24 hours/7 days a week function of the Intensive Care Unit. I
23 have about 80 employees that I'm responsible for. 20-bed unit, so
24 we have 20 patients at any time.

25 MR. YAMPOLSKY: So you're responsible like --

1 PROSPECTIVE JUROR NUMBER 542: Budget.

2 MR. YAMPOLSKY: -- you know, I need 30 people on shift
3 at this time because of what's going on, something like that?

4 PROSPECTIVE JUROR NUMBER 542: I'm responsible for
5 hiring all the nurses, for the patient flow, for budget, anything that
6 happens in the ICU.

7 MR. YAMPOLSKY: Okay. Now you said you own a
8 firearm.

9 PROSPECTIVE JUROR NUMBER 542: Correct.

10 MR. YAMPOLSKY: Okay. And do you have strong
11 feelings one way or another on people owning firearms?

12 PROSPECTIVE JUROR NUMBER 542: No, sir.

13 MR. YAMPOLSKY: Court's indulgence.

14 And then just finally, I know I've asked everyone else so
15 it's your day in the barrel. Would you have a problem if my client
16 doesn't testify?

17 PROSPECTIVE JUROR NUMBER 542: No, sir.

18 MR. YAMPOLSKY: Okay. Thank you. I have nothing
19 further.

20 THE COURT: Thank you.

21 MR. HELMICK: All right. Thank you, Your Honor.

22 Okay. Good morning, everybody. It might be afternoon
23 now. You know, since I'm going last, I guess we're going to have to
24 repeat some of these things and I apologize for that, again, to the
25 five of you. And I know you guys probably heard me talk about a

1 lot of stuff yesterday as well but we're going to go over that
2 because I didn't get to get your guy's thoughts on things, okay?

3 So let me start with you, Ms. Rice. We had talked about --
4 you heard some people talk about guilt by association and things
5 like that. Do you remember that yesterday?

6 PROSPECTIVE JUROR NUMBER 542: Yes.

7 MR. HELMICK: Okay. We had some people up here say
8 that I really can't separate these two because I feel like if they're
9 connected in some way, then the other one's got to be as guilty as
10 the other person, something like that. Do you remember that?

11 PROSPECTIVE JUROR NUMBER 542: Yes.

12 MR. HELMICK: Okay. What were your thoughts on that?

13 PROSPECTIVE JUROR NUMBER 542: Well I would say
14 that not -- I don't -- I would not say that just because someone sits
15 beside me that they're guilty of what I did.

16 MR. HELMICK: Sure. So you would be able to -- I think
17 Gordon talked about that yesterday, the word accountability -- or
18 somebody mentioned the word accountability. Maybe it was
19 Shayra, I can't remember.

20 Is that what you would do then, you would hold each one
21 accountable in this trial for the actions --

22 PROSPECTIVE JUROR NUMBER 542: Correct.

23 MR. HELMICK: -- that they did?

24 PROSPECTIVE JUROR NUMBER 542: Correct.

25 MR. HELMICK: Okay. You think that's fair.

1 PROSPECTIVE JUROR NUMBER 542: Correct.
2 MR. HELMICK: Okay.
3 PROSPECTIVE JUROR NUMBER 542: I have to do it daily
4 at work, so.
5 MR. HELMICK: Yes. Yeah, being the director I bet, right?
6 PROSPECTIVE JUROR NUMBER 542: Correct.
7 MR. HELMICK: Yeah. How many employees do you
8 supervise?
9 PROSPECTIVE JUROR NUMBER 542: About 80.
10 MR. HELMICK: 80. That's right, I'm sorry, I heard that -- I
11 did hear you say that actually. Okay. Thank you, Ms. Rice.
12 I want to talk to you about something else here. You ever
13 been blamed for something -- and we talked about this yesterday.
14 If you can go back to when you're a kid, go back to, you know,
15 being in your 20s or whatever. You ever blamed for something that
16 you didn't do?
17 PROSPECTIVE JUROR NUMBER 542: I'm sure.
18 MR. HELMICK: Yeah. Can you think of a memory like
19 that?
20 PROSPECTIVE JUROR NUMBER 542: I can't think of
21 anything specific.
22 MR. HELMICK: Off the top of your head, okay. You heard
23 some people talk about their scenarios where they were kind of
24 blamed for something they didn't do, right?
25 PROSPECTIVE JUROR NUMBER 542: Yes.

1 MR. HELMICK: Yeah. Hypothetically, I guess, what
2 feelings would you associate with that if you could put yourself in
3 those shoes of the other people?

4 PROSPECTIVE JUROR NUMBER 542: I'd probably be very
5 frustrated, angry.

6 MR. HELMICK: Okay. And we had talked about in regard
7 to that, what the people who were blaming them maybe should
8 have done differently, right? We talked about that. What do you
9 think that the people who are doing the blaming could have done
10 differently? We heard -- maybe hear both sides of the story, right?

11 PROSPECTIVE JUROR NUMBER 542: You do need to hear
12 both sides of the story.

13 MR. HELMICK: Yeah. And then I think somebody else
14 mentioned take good notes, right?

15 PROSPECTIVE JUROR NUMBER 542: Correct.

16 MR. HELMICK: Okay. Think about it, right?

17 PROSPECTIVE JUROR NUMBER 542: Look at the hard
18 evidence too.

19 MR. HELMICK: Yeah. Can you promise to do that in this
20 case?

21 PROSPECTIVE JUROR NUMBER 542: Yes.

22 MR. HELMICK: Can you promise to take good notes?

23 PROSPECTIVE JUROR NUMBER 542: Yes.

24 MR. HELMICK: And then think about your decision
25 ultimately at the end of this case, if you are selected?

1 PROSPECTIVE JUROR NUMBER 542: Yes.

2 MR. HELMICK: Okay. Thank you.

3 Now you heard me talking about redwoods and palm

4 trees and you had some really good answers on that yesterday. Did

5 you -- were you thinking to yourself, you know, what side would I

6 fall on when I was talking about that? Do you get the analogy?

7 PROSPECTIVE JUROR NUMBER 542: I do get the analogy.

8 MR. HELMICK: Okay. So what do you think? I mean, you

9 understand, right, that we have everybody in this courtroom who

10 has different personalities and come from different backgrounds,

11 right? And if you find yourself in the minority in that deliberation

12 room, what do you see yourself as being?

13 PROSPECTIVE JUROR NUMBER 542: I will -- I would look

14 at the facts and just go from there and listen to everyone's opinion

15 but I don't think that it would sway me from -- away from what that

16 evidence was.

17 MR. HELMICK: Okay. So ultimately you would have your

18 opinion, right, but you would keep an opening mind --

19 PROSPECTIVE JUROR NUMBER 542: Correct.

20 MR. HELMICK: -- but you wouldn't be -- your position is

21 you wouldn't be swayed -- you feel strong about your opinion you

22 wouldn't be swayed just because everyone else is doing it.

23 PROSPECTIVE JUROR NUMBER 542: Correct.

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

25 PROSPECTIVE JUROR NUMBER 542: You're welcome.

1 MR. HELMICK: If we could get it over to Mr. Esposito.
2 You know I'll ask you that because I just -- we just talked
3 about it. What do you think? I mean, do you get the analogy that I
4 was trying to make?

5 PROSPECTIVE JUROR NUMBER 554: Yes.

6 MR. HELMICK: Okay. What do you think?

7 PROSPECTIVE JUROR NUMBER 554: I'm generally a
8 strong-minded person and a natural leader so I'll have my own
9 opinion but I'm also going to listen to everything else because I
10 know that, you know, I don't have all the answers and everybody
11 else could come up with something different to potentially change
12 the --

13 MR. HELMICK: Right. And that's --

14 PROSPECTIVE JUROR NUMBER 554: I will evaluate the
15 effects on my own and have my own opinion.

16 MR. HELMICK: Of course. But you would be kind of like
17 what Ms. Rice was saying, right, like kind of be the open-minded
18 but at the same time, you know, you have your opinion, you have
19 your thoughts and you're going to stand.

20 PROSPECTIVE JUROR NUMBER 554: It -- I will stand with
21 what I believe.

22 MR. HELMICK: Okay.

23 PROSPECTIVE JUROR NUMBER 554: But I will take
24 everybody's opinions into consideration.

25 MR. HELMICK: Sure. All right. Thank you.

1 What are your thoughts on the whole guilt by association
2 thing? I mean, do you think because they're sitting at the same
3 table that they must be tied together in some way?

4 PROSPECTIVE JUROR NUMBER 554: No. I think
5 everybody's should be accountable for their own actions. And just
6 because one -- if one person did something, the other one didn't
7 then that's what I believe, that's the way that I will choose.

8 MR. HELMICK: But I mean, you were -- you said you were
9 an Eagle Scout, right?

10 PROSPECTIVE JUROR NUMBER 554: Yes.

11 MR. HELMICK: And so there's a lot of principle they teach
12 you in being an Eagle Scout, right? And probably one of those is
13 accountability, right? Respect? Those things.

14 PROSPECTIVE JUROR NUMBER 542: Respect. Definitely
15 respect.

16 MR. HELMICK: Yeah, definitely respect. I mean, there's a
17 lot of them, I'm sure, right?

18 PROSPECTIVE JUROR NUMBER 554: Uh-huh.

19 MR. HELMICK: And so you can do that in this trial?

20 PROSPECTIVE JUROR NUMBER 554: Yes.

21 MR. HELMICK: Thank you very much.

22 And then that same thing kind of we talked about with Ms.
23 Rice and I'm probably going to ask everybody the same thing so
24 just -- just to give a heads up. Can you think of a scenario where
25 you've ever been blamed for something that maybe you didn't do

1 it? Tell me how you felt.

2 PROSPECTIVE JUROR NUMBER 554: Yeah, probably a
3 bunch of times.

4 MR. HELMICK: Sure. Yeah, I mean --

5 PROSPECTIVE JUROR NUMBER 554: It's definitely no fun
6 being blamed for something that you didn't do.

7 MR. HELMICK: What do you think -- we had some
8 answers that were given, notes, maybe look at both sides of the
9 story. Anything else that you can add and if you can't that's okay?

10 PROSPECTIVE JUROR NUMBER 554: No. Just evaluating
11 everything that comes in and making the decision.

12 MR. HELMICK: Okay. Thank you, Mr. Esposito.

13 Let's go ahead and get it over to Ms. Allen.

14 All right, Ms. Allen. You kind of know the direction I've
15 been going, right? What do you think on the -- let's start with the
16 redwoods and the palm trees and stuff like that.

17 PROSPECTIVE JUROR NUMBER 560: I want to stand by
18 what I believe but, you know, if there's something that I'm missing,
19 you know, then show me where I don't -- I'm not seeing it.

20 MR. HELMICK: Sure. Sure, okay. So same thing, kind of
21 be open-minded, right? I mean, that's why a jury's 12 people and
22 not 1, right?

23 PROSPECTIVE JUROR NUMBER 560: Correct.

24 MR. HELMICK: Everybody has their opinions. But at the
25 end of the day, as Gordon said, the beauty of it is individuality,

1 right?

2 PROSPECTIVE JUROR NUMBER 560: Correct.

3 MR. HELMICK: You need the personal power that you
4 have, right?

5 PROSPECTIVE JUROR NUMBER 560: Right.

6 MR. HELMICK: Okay. And so what would you fall under
7 then? Are you -- do you have the type of personality that you might
8 sway with the crowd or are you going to kind of be strong in your
9 position with an open mind?

10 PROSPECTIVE JUROR NUMBER 560: I would be open-
11 minded, you know, to all the facts.

12 MR. HELMICK: Okay. And then in regards to what I asked
13 Ms. Rice and Mr. Esposito, what are some things that you can do in
14 this case to be open-minded and to look at all the facts?

15 PROSPECTIVE JUROR NUMBER 560: Just make sure --
16 you know, pay attention and make sure you have all the notes that
17 you need. Just hear all the evidence.

18 MR. HELMICK: Hear everything, okay. Thank you. Let me
19 see if I got anything else to ask you.

20 Now did you hear about anything about this case on the
21 news or anything like that because --

22 PROSPECTIVE JUROR NUMBER 560: No.

23 MR. HELMICK: -- I don't think I asked that to you guys that
24 were over here.

25 PROSPECTIVE JUROR NUMBER 560: No.

1 MR. HELMICK: Ms. Rice, anything?
2 PROSPECTIVE JUROR NUMBER 542: No.
3 MR. HELMICK: Mr. Esposito, anything on the news about
4 this case?
5 PROSPECTIVE JUROR NUMBER 554: [Inaudible].
6 MR. HELMICK: Okay.
7 And I think my -- Mr. Yampolsky probably asked you this
8 already but you said you understand the presumption of innocence,
9 right?
10 PROSPECTIVE JUROR NUMBER 560: Correct.
11 MR. HELMICK: When you walked into this courtroom you
12 didn't think that he was guilty just because he's sitting right here.
13 PROSPECTIVE JUROR NUMBER 560: No.
14 MR. HELMICK: Okay. So you understand then that there
15 has to be -- either has to be evidence beyond a reasonable doubt
16 and all that stuff.
17 PROSPECTIVE JUROR NUMBER 560: Correct.
18 MR. HELMICK: Very good.
19 Okay. Let's go ahead and get it over to Mister -- I'm sorry,
20 sir, what's your last name?
21 PROSPECTIVE JUROR NUMBER 568: Martinez.
22 MR. HELMICK: Martinez. That's right. Mr. Martinez.
23 Okay. So we're talking about the redwoods and the palm
24 trees and all that good stuff. What do you think?
25 PROSPECTIVE JUROR NUMBER 568: I mean, I'll just keep

1 an open-mind, I -- you know, I just have to see the facts before
2 anything.

3 MR. HELMICK: Yeah, I mean, so we heard -- we heard
4 yesterday it doesn't matter which one you are. We heard from
5 Sydney, we heard from --

6 PROSPECTIVE JUROR NUMBER 568: Yeah.

7 MR. HELMICK: -- Gabriel, we heard that -- you know, hey,
8 I kind of have the personality where maybe I'm a little more quiet,
9 maybe, you know, everybody has their opinion, I'm going to just
10 kind of go with it. Do you feel that that might be you?

11 PROSPECTIVE JUROR NUMBER 568: I mean, I'm quiet
12 but like I said, I'll just keep an open mind.

13 MR. HELMICK: Yeah.

14 PROSPECTIVE JUROR NUMBER 568: I'm not going to --
15 you know, I just have to see everything.

16 MR. HELMICK: Of course. You got to see everything,
17 right?

18 PROSPECTIVE JUROR NUMBER 568: Yeah.

19 MR. HELMICK: I mean, you said you have five kids, right?

20 PROSPECTIVE JUROR NUMBER 568: Yes.

21 MR. HELMICK: So I mean, you've probably been in a lot
22 of dilemmas before in your life trying to figure out what kid did
23 what and all that stuff, right?

24 PROSPECTIVE JUROR NUMBER 568: Oh yeah, a lot of
25 times.

1 MR. HELMICK: So tell me what you do. I mean, tell me
2 about that -- an example of how you solved the problem with
3 regard to your five kids before.

4 PROSPECTIVE JUROR NUMBER 568: I just say --

5 MR. HELMICK: If both of them are going like this, right?

6 PROSPECTIVE JUROR NUMBER 568: Yeah, I just sit with
7 them and make sure, you know, I can't be, you know, in the same
8 place at the same time with them so I just sit with them and just go
9 over -- you know, make sure we're on the same page.

10 MR. HELMICK: Yeah, you kind of just listen to -- talk to
11 them --

12 PROSPECTIVE JUROR NUMBER 568: Yeah.

13 MR. HELMICK: -- and listen to them and --

14 PROSPECTIVE JUROR NUMBER 568: Yes.

15 MR. HELMICK: -- figure it all out. Okay. Yeah.

16 What else do I want to ask you?

17 In regards to the -- you know, the whole guilt by
18 association thing and the accountability, do you feel that way?
19 Because there were some people up here yesterday that didn't feel
20 that way, right?

21 PROSPECTIVE JUROR NUMBER 568: Yes.

22 MR. HELMICK: Did you hear some people say that hey, I
23 think that they're associated in some way; I believe in guilt by
24 association?

25 PROSPECTIVE JUROR NUMBER 568: No, I think, you

1 know, they're accountable by their -- you know, with their own
2 actions, so. It's a separate.

3 MR. HELMICK: Okay. So you could do that? You could
4 promise to do that in this case?

5 PROSPECTIVE JUROR NUMBER 568: Yes.

6 MR. HELMICK: Okay. And we also talked about another
7 topic yesterday with making big decisions in life, right? And this is
8 a big case, a serious case, right?

9 PROSPECTIVE JUROR NUMBER 568: Yes.

10 MR. HELMICK: I mean, so what do you do in scenarios in
11 your life that you can incorporate in this case to prepare to make a
12 big decision?

13 PROSPECTIVE JUROR NUMBER 568: I mean, I just have
14 to, you know, listen, pay attention to everything, make sure
15 everything is correct and I'll make my decision.

16 MR. HELMICK: Okay. And you can do that in this case?

17 PROSPECTIVE JUROR NUMBER 568: Yes.

18 MR. HELMICK: You promise to take your time in this
19 case?

20 PROSPECTIVE JUROR NUMBER 568: Yes.

21 MR. HELMICK: Okay. Good.

22 You know, Ms. Wargo -- if you can give her the
23 microphone.

24 They've asked you so many --

25 Thank you, Mr. Martinez.

1 They've asked you so many questions, the Prosecutor and
2 Mr. Yampolsky that I don't -- I'm trying to figure out if I have
3 anything to ask you. You know, I will ask you about the redwoods
4 and palm trees though because I'm just curious how you feel about
5 that. What do you think?

6 PROSPECTIVE JUROR NUMBER 569: I mean, I would
7 listen to what the other jurors had to say, but once I have an
8 opinion, I stick with it

9 MR. HELMICK: You stick with it. Yeah. Very good. Yeah.
10 I just want to see if I need to ask you anything else, Ms.
11 Wargo.

12 Okay. Thanks -- thank you to all five of you that came
13 onboard and thank you for everybody else for listening to the same
14 questions as I talked about yesterday.

15 All right. Pass for cause.

16 THE COURT: Thank you. Can you guys approach the
17 bench?

18 [Bench conference transcribed as follows.]

19 THE COURT: You didn't ask her if she'd ever been
20 accused of something she didn't do.

21 MR. HELMICK: No, because I already have a position on
22 her.

23 THE COURT: All right. Are you guys passing for cause on
24 those five?

25 MR. HELMICK: Sorry, so I do have cause on one actually.

1 THE COURT: Okay.

2 MR. YAMPOLSKY: I have cause on Wargo.

3 MR. HELMICK: On Wargo, me too.

4 THE COURT: What's your position on Wargo?

5 MR. PESCI: I'll submit it. I think -- [indiscernible]

6 yesterday. I think she could be fair.

7 MR. HELMICK: Giancarlo's in a better mood today.

8 THE COURT: Giancarlo's a nice guy.

9 MR. YAMPOLSKY: Not when he deals with me.

10 THE COURT: His name is pronounced Yampolsky, by the

11 way.

12 MR. PESCI: I know, I know, I messed up. I know.

13 MR. YAMPOLSKY: Thank you.

14 MR. PESCI: But so --

15 MR. YAMPOLSKY: Yam rhymes with -- polsky as in --

16 MR. PESCI: Okay. Got it.

17 MR. YAMPOLSKY: -- slow.

18 MR. PESCI: I got it.

19 MR. YAMPOLSKY: Okay?

20 THE COURT: I am going to excuse here and then I guess

21 we'll just break for lunch because we're going to have to get new

22 people down here and go through the whole process of getting

23 them questioned up.

24 So while we're up here though, I take it you're not

25 prepared to open today?

1 MR. YAMPOLSKY: I'm not.

2 MR. HELMICK: That's -- I mean, I worked my butt off last

3 night because I knew we were opening today, so --

4 THE COURT: I know.

5 MR. HELMICK: -- I mean.

6 MR. YAMPOLSKY: If you want to let them go and have

7 me go tomorrow, I can live with that.

8 THE COURT: I'm not going to break it up, we're all --

9 because we would be breaking early so it's like everybody needs to

10 be prepared. I'm not going to force everybody else to go if you're

11 not ready. But you need to listen because --

12 MR. YAMPOLSKY: I'm -- because I thought I heard them

13 say oh good, we're not going to do opening tomorrow.

14 MR. PESCI: We all heard after --

15 THE COURT: You all heard it.

16 MR. HELMICK: He said after --

17 THE COURT: Originally we talked about opening

18 Wednesday morning, but then yesterday afternoon when we were

19 all up here, I'm like okay, well it looks like we're going to get to

20 things being done with our jury so we'll plan on opening tomorrow

21 and then we'll start with witnesses Wednesday morning.

22 MR. YAMPOLSKY: I didn't hear it or I spaced it, I'm sorry.

23 MR. HELMICK: I don't mind -- I mean, I know you don't

24 want to break it up, huh?

25 THE COURT: No, I don't --

1 MR. HELMICK: Okay.

2 THE COURT: I don't want to leave them thinking about
3 just what you all have to say --

4 MR. HELMICK: Yeah.

5 THE COURT: -- and not what he has to say. Unless you
6 have openings or closing that are many, many hours, I don't ever
7 think it's good to just break them up like that so I would say no,
8 we'll just get our jury selected today, okay?

9 MR. HELMICK: All right.

10 MR. YAMPOLSKY: Okay. Do you want to here why I
11 don't like Wargo and don't you care?

12 THE COURT: No, no, I said I'm going to grant the
13 challenge as to Wargo.

14 MR. YAMPOLSKY: Okay.

15 [End of bench conference.]

16 THE COURT: Okay. So here's what we're going to do,
17 folks -- well actually can you guys come back? I'm sorry. I was
18 missing you.

19 [Bench conference transcribed as follows.]

20 THE COURT: One of the things I want to do is find out
21 from Ms. Gebhart -- I meant to ask her when we brought her in
22 about her appointment this afternoon and are you going to want
23 them all in here when you exercise your challenges?

24 MR. YAMPOLSKY: No.

25 MR. PESCI: It's easier when you can visually see it.

1 MR. HELMICK: I know.

2 MR. YAMPOLSKY: Okay.

3 THE COURT: What about her?

4 MR. PESCI: We can figure out her --

5 THE COURT: Can we excuse her to go to her

6 appointment?

7 MR. PESCI: She can go to her appointment --

8 MR. YAMPOLSKY: Yes.

9 THE COURT: Is that okay?

10 MR. YAMPOLSKY: Right.

11 THE COURT: Okay. All right. Thank you.

12 [End of bench conference.]

13 THE COURT: All right, folks we're going to take a lunch

14 break and I got to get the other jurors from down in Jury Services

15 up to finish it but we will be finishing this up this afternoon so I

16 promise you that. But we're going to start back at 1:15.

17 So during our lunch break -- during the recess you're

18 admonished not to talk or converse among yourselves or with

19 anyone else on any subject connected with the trial. Or read, watch

20 or listen to any report of or commentary on the trial by any medium

21 of information including, without limitation, newspapers, television,

22 the internet, and radio. Or form or express any opinion on any

23 subject connected with the case until it's finally submitted to you.

24 No legal or factual research, or investigation on your own.

25 We'll be in recess until 1:15.

1 Sydney, would you stick around for me for just a minute,
2 please?

3 And then when you're -- when you come back after lunch,
4 you can just come up here, you don't have to go back down to Jury
5 Services, okay? Thank you.

6 Oh, Ms. Wargo? Ms. Wargo, you're going to be excused.
7 I'm sorry, I forgot to say that. You're excused.

8 PROSPECTIVE JUROR NUMBER 569: Okay.

9 THE COURT: You're all done. Thank you.

10 PROSPECTIVE JUROR NUMBER 569: Do I --

11 THE COURT: You can give the badge to the marshal on
12 your way out. Thank you.

13 [Outside the presence of the prospective jury, with the
14 exception of Prospective Juror Number 418]

15 THE COURT: So what time do you need to get out of here
16 to make your appointment?

17 PROSPECTIVE JUROR NUMBER 418: It's at 2:00.

18 THE COURT: 3:00?

19 PROSPECTIVE JUROR NUMBER 418: 2:00.

20 THE COURT: 2 -- oh 2:00?

21 PROSPECTIVE JUROR NUMBER 418: Yeah, I thought it
22 was at 3:00. It's at 2:00. It's for me to diagnose -- basically I'm
23 getting diagnosed with dyslexia.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 418: It'll help me with

1 school and everything, so I won't fail anymore.

2 THE COURT: No, no, no, that's okay. You're going to
3 make the appointments, so --

4 PROSPECTIVE JUROR NUMBER 418: Thank you.

5 THE COURT: -- you don't need to come back after lunch, I
6 want you to go to your appointment.

7 PROSPECTIVE JUROR NUMBER 418: Okay.

8 THE COURT: And then when you leave, give the marshal
9 a good phone number that we can reach you at --

10 PROSPECTIVE JUROR NUMBER 418: Okay.

11 THE COURT: -- because you may still be part of the jury --

12 PROSPECTIVE JUROR NUMBER 418: Okay.

13 THE COURT: -- I just don't want you to miss your
14 appointment.

15 PROSPECTIVE JUROR NUMBER 418: Okay.

16 THE COURT: So we're going to call you this afternoon
17 later on to let you know whether you're part of the jury or you've
18 been excused.

19 PROSPECTIVE JUROR NUMBER 418: Okay.

20 THE COURT: Once we finish talking to some more people,
21 and the attorneys whittle it down to the 14, okay?

22 PROSPECTIVE JUROR NUMBER 418: Okay.

23 THE COURT: If you're going to have to come back it's
24 going to be at 9:00 tomorrow.

25 PROSPECTIVE JUROR NUMBER 418: Okay.

1 THE COURT: Okay. This is the only appointment you had,
2 right?
3 PROSPECTIVE JUROR NUMBER 418: Yeah, this is it.
4 THE COURT: Okay. So go to your appointment, don't
5 worry about coming back today and then --
6 PROSPECTIVE JUROR NUMBER 418: Okay.
7 THE COURT: -- we'll call you.
8 PROSPECTIVE JUROR NUMBER 418: Okay.
9 THE COURT: All right.
10 PROSPECTIVE JUROR NUMBER 418: So go --
11 THE COURT: Thank you.
12 PROSPECTIVE JUROR NUMBER 418: -- to lunch and then
13 come back and give the marshal --
14 THE COURT: No, you're done, you can go ahead and take
15 off, you don't --
16 PROSPECTIVE JUROR NUMBER 418: Oh, okay, cool.
17 THE COURT: You don't have to go to lunch and come
18 back.
19 PROSPECTIVE JUROR NUMBER 418: Okay.
20 THE COURT: Since it's at 2:00, I mean, you'd be sitting
21 here for 15 minutes so don't worry about it.
22 PROSPECTIVE JUROR NUMBER 418: Okay.
23 THE COURT: You can just go do whatever you want to do
24 before your appointment and then maybe we'll see you tomorrow.
25 If you get excused, I won't see you again --

1 PROSPECTIVE JUROR NUMBER 418: Okay.

2 THE COURT: -- so thank you very much.

3 PROSPECTIVE JUROR NUMBER 418: Thank you so much.

4 THE COURT: Okay. You can just leave that in the chair
5 there, the microphone.

6 PROSPECTIVE JUROR NUMBER 418: Leave it in the
7 chair?

8 THE COURT: Yeah, thank you.

9 [Prospective Juror Number 418 exits the courtroom]

10 THE COURT: All right. Anything outside the presence?

11 MR. PESCI: We just didn't put on the record officially that
12 the Court dismissed Nicole Wargo, Badge 569, based on both
13 Defense Counsel's request. The State thought she could be fair, but
14 we submitted it.

15 THE COURT: Correct. Yeah, I did go ahead and grant the
16 challenge as to her based on the issue with police testimony.

17 All right. Anything for the Defense?

18 MR. HELMICK: Yes. I have -- I want to reopen the
19 discussion that we had yesterday in regard to the two buzz words,
20 the Russian Roulette and the abandoned house. Because I was
21 thinking last night that every time I have explained this case to
22 somebody in my office or somebody else, they don't know what I'm
23 talking about until I say, do you remember the Russian Roulette
24 case in Henderson; do you remember the kids in the abandoned
25 house? Oh yeah, yeah, now I remember that.

1 I mean, I have a legitimate concern that as soon as those
2 facts come out in the opening statement, they're going to
3 remember it. I've read some of the comments on those Facebook
4 pages and the news articles. Those kids should be hung. Those
5 kids should be burned alive. I mean, there's some bad stuff. So I'm
6 scared that there might be some people with that underlying feeling
7 that we don't know about.

8 THE COURT: State.

9 MR. PESCI: Judge, I think what you've already explained
10 yesterday is that, you know, it -- there -- they have been permitted --
11 everyone's been permitted to ask if anybody remembers anything
12 in the media. And I think you even talked about some specificity
13 you would allow as far a gun being used and some facts about
14 them being used.

15 I just don't think we need to be saying Russian Roulette
16 because in essence we're talking about an argument in the case and
17 I think that that then plants in the minds of other people a concept
18 that's not there because people have been asked about the media
19 and no one has said that.

20 THE COURT: Well -- so here's the thing -- I mean, even
21 when we do questionnaires in cases and we put in a factual
22 synopsis in there, it isn't really factually specific, right? It's that
23 these people are alleged to have committed a homicide on such
24 and such date, at such and such location. These are the people that
25 are alleged to have been involved. These are the charges they're

1 facing. And then you ask does anybody recall hearing anything
2 about the case.

3 But I agree that when you start dropping little things in
4 there that are alleged to be facts, like for instance, if a juror position
5 that this was an issue with Russian Roulette and the State may
6 think well, we don't think that's really what happened, we think was
7 an intentional shooting or what. Abandoned house, maybe it's an
8 occupied house. Maybe the State's alleging there was this felony
9 going on and you're thinking that that wasn't really what was going
10 on. So trying to kind of drop little facts in there to see if that jogs
11 somebody's memory is basically telling them things about the case
12 that are not what we do in jury selection.

13 And I think jury selection and that whole idea of trying to
14 get at whether there's been media attention is sufficiently covered
15 when I tell them as I did, there was media attention about this case,
16 does anybody recall seeing anything about it. And they know who
17 all the parties are, and that it was in Henderson, and they know that
18 kids were underage, that -- I mean, even Ms. Gideon brought up
19 they were in high school at the time.

20 So I think that's sufficient to say hey, if I remember
21 anything about these kids being involved in the shooting or this
22 other kid, you know, back in the summer of 2018.

23 Yes?

24 MR. YAMPOLSKY: Your Honor, just -- I agree with Mr.
25 Helmick and I think that while the Court has mentioned about media

1 attention and the one woman's memory was jogged by something,
2 I think he's right, especially on the Russian Roulette. You know,
3 what are you doing? Oh, well I'm doing a murder case, blah, blah,
4 blah; this and that. Well which one is it and if I say the Russian
5 Roulette case -- oh yeah, yeah. Everyone says that.

6 So based on that, I think in an abundance of caution we
7 should be allowed to ask about that because my concern --

8 THE COURT: Well here's a --

9 MR. YAMPOLSKY: -- is --

10 THE COURT: -- for instance.

11 MR. YAMPOLSKY: Wait, wait, wait.

12 THE COURT: Here's a for instance. How would Russian
13 Roulette come up to the jury?

14 MR. HELMICK: How would it?

15 THE COURT: Yeah --

16 MR. HELMICK: You mean --

17 THE COURT: -- in evidence.

18 MR. HELMICK: Through opening statement, through
19 witnesses.

20 THE COURT: No, no, no, not by the attorneys, through
21 evidence. How would it come up to the jury?

22 MR. HELMICK: Through --

23 THE COURT: Only through a statement of a Defendant,
24 correct?

25 MR. HELMICK: Or a witness.

1 THE COURT: Well, okay. But -- so what if the State for
2 whatever reason doesn't put that evidence in because a lot of times
3 the State chooses we're not going to put anything about a
4 Defendant's statement into evidence.

5 MR. HELMICK: Okay.

6 THE COURT: And they're not calling a witness that's
7 talking about Russian Roulette or anything; now you're telling the
8 jury something that they haven't heard in evidence. Maybe your
9 clients testify, and they talk about that but maybe not. And that's
10 kind of the reason why we have this rule that we don't talk about
11 facts in jury selection because you don't know what a jury's going
12 to receive and they tend to think when you all as attorneys are
13 telling them things in jury selection that that's what -- that's the
14 facts of the case.

15 So it's just a real kind of slippery slope to talk about
16 certain things to see if you can jog somebody's memory, even
17 though it may not end up coming in at evidence and then you
18 worry the jurors are saying well but what if this was really Russian
19 Roulette, right? The attorneys said that.

20 MR. HELMICK: Well, I mean, I understand Your Honor's
21 position. The reality is, based off of just reading all the witnesses'
22 statements is that the State has to put on these witnesses that are
23 going to talk about it.

24 THE COURT: And maybe they do.

25 MR. HELMICK: Yeah.

1 THE COURT: You know, that may be an imperfect
2 analogy --

3 MR. HELMICK: Yeah.

4 THE COURT: -- for this particular case but I know you
5 guys get what I'm talking about is --

6 MR. HELMICK: Yeah.

7 THE COURT: -- when you start trying to so oh well -- okay,
8 so nobody still remembers it when I say Russian Roulette, how
9 about abandoned house? How about the house where the kid was
10 killed, and somebody painted Fuck Matt on the door where his body
11 was found? I mean, how far do you go down the road of trying to
12 feed them a little bit to spark their memory about something?

13 All we can really do is ask them if they remember
14 anything about seeing it in the media. And then part of what I tell
15 them in the beginning is if any of you think during the trial that you
16 now know something about this case, and I'll talk to them about
17 that, don't talk to any other jurors and you got to let the marshal
18 know right away and then we'll chat with them about it, okay?

19 MR. YAMPOLSKY: Well, Your Honor, I understand the
20 Court's position and I do agree with Mr. Helmick and I'm just
21 wondering if, you know, before we do our peremptory challenges
22 and everything, if the Court would once again say, you know, has
23 anybody's memory been jogged by anything?

24 THE COURT: I'm happy to do that.

25 MR. YAMPOLSKY: All right. Okay.

1 THE COURT: I think you guys have done that, but I'll do it
2 again.

3 MR. PESCI: And the State has no objection to that.

4 THE COURT: Okay.

5 MR. PESCI: And Your Honor's brought up a point that I
6 was going to counter with which is I'm not getting up here and
7 saying, does everybody remember when they spray painted Fuck
8 Matt because that's going to ring some bells and that's going to be
9 negative -- I can perceive the Defense is going say no, no, State,
10 don't do that.

11 THE COURT: Right.

12 MR. PESCI: Because it's a real fast and easy way to get
13 people to remember that.

14 THE COURT: All right. Okay. Anything further?

15 MR. HELMICK: No, Your Honor.

16 THE COURT: Nope.

17 MR. YAMPOLSKY: No, Your Honor.

18 THE COURT: Okay. We'll see you in an hour after lunch,
19 guys. Thank you.

20 And it's almost 12:30 now, so we'll start at 1:30. You guys
21 take an hour-long lunch.

22 MR. PESCI: Okay, thanks.

23 MR. HELMICK: Thank you.

24 MR. YAMPOLSKY: 1:30, Your Honor?

25 THE COURT: 1:30

1 [Court recessed at 12:28 p.m., until 1:39 p.m.]
2 [Outside the presence of the prospective jury]
3 THE COURT: All right. We are back on the record.
4 Mr. Caruso, Mr. Harlan, and the attorneys are present.
5 Yes?
6 MR. PESCI: NRS 175.282, which is for our future concerns
7 about the plea.
8 THE COURT: 175.282.
9 MR. PESCI: And then *Sessions v. State*, 890 P.2d 792.
10 So I think that'll govern our admis -- the admissibility of
11 that; the requirement and how we have to admit Traceo Meadows.
12 THE COURT: Okay.
13 MR. PESCI: And on that note, my -- I got an e-mail from
14 my office saying that you had been sent Traceo's juvie stuff, but I
15 didn't get it, I didn't see it, I don't have it.
16 THE COURT: Okay. So for the record, we received a
17 multitude of e-mails from Mr. Bawa, where apparently things were
18 being scanned in, three pages here, four pages there, whatever; he
19 was sending multiple e-mails. So I was able to pull them out. It
20 looked like Mr. Meadows had some prior juvie petitions or -- I don't
21 want to use the word petitions because he had prior juvie defenses
22 that showed warning, dismissed, things like that.
23 And then in 2016 he had something, I could not tell what it
24 was amended to, that he was placed on probation for.
25 And then in April of 2018, and I'll be specific on these, it

1 looked like there was a petition for malicious destruction of private
2 property and I gave you all that, I believe.

3 And then later in 2018, there was obviously the petition
4 for the accessory murder charge. From what I can tell, he
5 negotiated those two things to include the agreement to testify here
6 and to admit to the petition for the malicious destruction of
7 property and he was placed on probation on the malicious
8 destruction of property.

9 So I think all of that is available to you to question him
10 about; that malicious destruction charge, even though it's not a
11 conviction because it was part of the negotiation here, the
12 accessory charge, the negotiation, the agreement to testify, all of
13 that.

14 MR. YAMPOLSKY: I can get into what the property was?

15 THE COURT: It's in, I think, what I gave you.

16 MR. YAMPOLSKY: Oh, okay.

17 THE COURT: It shows that he threw something at a car.

18 MR. YAMPOLSKY: Oh.

19 THE COURT: Or did some damage to a car.

20 MR. YAMPOLSKY: So he didn't kick --

21 THE COURT: So you can go into all --

22 MR. YAMPOLSKY: -- over the monitors?

23 THE COURT: -- of that but I don't think anything prior to
24 that, of his juvenile history is relevant.

25 MR. YAMPOLSKY: Okay.

1 THE COURT: And we did make copies of those two
2 petitions, as well as the order for probation.

3 MR. PESCI: Thank you, Your Honor.

4 THE COURT: Okay. All right.

5 And then Mr. Helmick raised an issue that a member of
6 Mr. Harlan's family indicated that one of our jurors may have been
7 talking to members of the victim's family. So we're going to bring
8 in Ms. Rice, if you would, please?

9 THE MARSHAL: Yes, Your Honor.

10 THE COURT: You did say Ms. Rice, right?

11 MR. PESCI: Yes.

12 MR. YAMPOLSKY: Yes.

13 MR. HELMICK: Yes.

14 [Prospective Juror Number 542 enters the courtroom]

15 THE MARSHAL: Juror's present.

16 THE COURT: Thank you. Can we get Ms. Rice the
17 microphone?

18 THE MARSHAL: Absolutely, sir.

19 THE COURT: You guys can be seated. Thank you.

20 All right. We are going to be on the record outside the
21 presence of our panel, but we do have Ms. Rice.

22 So Ms. Rice, it was brought to my attention that you may
23 have been talking outside of the court at our recess with family
24 members of one of the parties involved in our case.

25 PROSPECTIVE JUROR NUMBER 542: No, sir.

1 THE COURT: No. Did you have any conversations when
2 you left the courtroom for the lunch break with any people that
3 weren't other jurors?

4 PROSPECTIVE JUROR NUMBER 542: No, sir.

5 THE COURT: No. Okay.

6 Either side have any questions?

7 MR. PESCI: Not from the State.

8 THE COURT: Mr. Yampolsky.

9 MR. YAMPOLSKY: No, Your Honor.

10 MR. HELMICK: Let me -- I'm just asking did anybody
11 come up to you at all when you were standing in line there and talk
12 to you?

13 PROSPECTIVE JUROR NUMBER 542: In line here?

14 MR. HELMICK: Yes.

15 PROSPECTIVE JUROR NUMBER 542: The only people
16 that I talked to were Sandy, who's on the jury and another lady who
17 was sitting on this row, I don't know her name.

18 MR. HELMICK: Okay.

19 PROSPECTIVE JUROR NUMBER 542: But no one come up
20 to me to talk to me --

21 MR. HELMICK: Okay.

22 PROSPECTIVE JUROR NUMBER 542: -- no.

23 MR. HELMICK: Okay. So let's talk about that lady. She
24 was sitting down?

25 PROSPECTIVE JUROR NUMBER 542: The other juror?

1 MR. HELMICK: Was it another juror?
2 PROSPECTIVE JUROR NUMBER 542: It was another juror.
3 MR. HELMICK: Oh, okay. Okay. That's what I wanted to
4 know.
5 PROSPECTIVE JUROR NUMBER 542: Yes.
6 MR. HELMICK: So no -- you didn't talk to anybody that
7 was not a juror?
8 PROSPECTIVE JUROR NUMBER 542: Absolutely not.
9 MR. HELMICK: Okay. Thank you.
10 THE COURT: All right. Sometimes we get it wrong.
11 Thank you.
12 PROSPECTIVE JUROR NUMBER 542: You're welcome.
13 THE COURT: I appreciate it. You can go ahead and step
14 back outside.
15 [Prospective Juror Number 542 exits the courtroom]
16 THE COURT: Okay. Anything else on that?
17 MR. HELMICK: That's all.
18 MR. PESCI: None from the State.
19 THE COURT: Okay. So then why don't you go ahead and
20 tell all those folks that I've decided that I think it would be more
21 comfortable for them to go down to Jury Services and be able to
22 relax until we need them back, instead of having them sit in here
23 while we question the new group of 20.
24 THE MARSHAL: Okay.
25 THE COURT: So take -- and then take them all down to

1 Jury Services, grab that new 20 and bring them back up.
2 THE MARSHAL: Absolutely, sir.
3 THE COURT: Thank you very much.
4 MR. PESCI: So we have to fill three holes of the 32.
5 MR. YAMPOLSKY: That's it.
6 MR. PESCI: Yeah.
7 THE COURT: Unless you want to offer to waive three
8 challenges?
9 MR. PESCI: No, thank you.
10 But I mean, what -- can we do something crazy and just
11 like put three in and start with those three? Do you think it'd be
12 faster? I'm asking, actually.
13 THE COURT: Well I got to ask all those questions
14 anyway --
15 MR. PESCI: Yeah.
16 THE COURT: -- the kind of general stuff.
17 MR. YAMPOLSKY: Might as well bring them in.
18 THE COURT: So --
19 MR. PESCI: I just don't want to help Mace get his
20 continuance of his opening.
21 THE COURT: But what I do intend on doing --
22 MR. YAMPOLSKY: It's going to happen one way or
23 another.
24 THE COURT: -- once I got through that general and stuff,
25 yeah, I'm going to seat those three and then I'm going to run

1 through every -- all my questions with each one of those three and
2 then give them to you.

3 MR. PESCI: Perfect. Ms. Overly will handle that.

4 THE COURT: But the general stuff, including, you know, is
5 there any reason you can't be here for the next week and a half. I
6 mean, I guess I can do that individually with the three. It might be
7 quicker to do it that way, actually.

8 MR. PESCI: Whatever anybody wants to -- I don't care.

9 THE COURT: Okay.

10 MR. YAMPOLSKY: Well, you know, if you think it's going
11 to be quicker that way, it probably won't.

12 THE COURT: Well, well, true.

13 MR. PESCI: Especially with Mace here.

14 MR. YAMPOLSKY: Wait a minute, I'm not the one who's
15 been talking more than either of you two, so I don't want to hear it.

16 THE COURT: You have been very judicious with your
17 words, Mace.

18 MR. YAMPOLSKY: Thank you.

19 [Pause in Proceedings]

20 THE COURT: Yep, you can bring them in.

21 THE MARSHAL: Yes, sir.

22 [In the presence of the prospective jury]

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

24 So we're going to be on the record in 333318. Mr. Caruso,
25 Mr. Harlan, all the attorneys, and our new group of 20 jurors are

1 present.

2 Good afternoon, Ladies and Gentlemen.

3 THE PROSPECTIVE JURORS: Good afternoon.

4 THE COURT: How you doing?

5 THE PROSPECTIVE JURORS: Good.

6 THE COURT: How many of you are excited to be here?

7 It's okay if you raise your hand.

8 So let me kind of fill you in. There's a couple of things I
9 want to talk to you about before we get started with asking some
10 questions, but I'm just going to kind of fill you in real quickly on
11 where we are and what's going on since you're -- this is your first
12 day here.

13 So we started jury selection yesterday in what I will tell
14 you is going to be a criminal trial. We had about close to 60 folks
15 here that we've already gone through questioning and what we're
16 trying to do is get a group of 32 people who have been passed for
17 cause, which simply means that everybody's had a chance to
18 question you, there aren't any biases or prejudices that would make
19 you inappropriate as a juror, you can be fair and impartial. And
20 then that group of 32 is what the attorneys use to choose the 14
21 jurors who are going to sit in judgment of our trial.

22 So right now I need three more people for that group of
23 32. So the vast majority of you are going to be done and then
24 you're going to be done with jury duty. If I have to excuse you any
25 earlier than getting those three, then you could potentially sent out

1 on another trial, today, tomorrow, next week, whatever it is. But if
2 you sit here with us and I get my three people and we just don't
3 need you at that point then you're all done with jury duty, okay?

4 In a moment I'm going to have the attorneys introduce
5 themselves and they'll tell you a little bit about what the case is
6 about in terms of what the charges are, or when it's alleged to have
7 occurred and where, who the witnesses are that may be testifying,
8 things like that.

9 But before I do that, how many of you have ever been
10 jurors before?

11 A couple of folks.

12 How many of you have been through the jury selection
13 process, but you just weren't chosen?

14 Okay. So I got a bunch of new people here. So let me
15 kind of just familiarize you real quick with the court, with who
16 everybody is, and kind of what we're all doing.

17 The attorneys obviously sit at the tables down in the well
18 of the courtroom. So the table closest to the jury box is the State's
19 attorneys, the table -- the long table to my left have our Defendants,
20 Mr. Caruso and Mr. Harlan, as well as their attorneys and support
21 staff.

22 Seated to my left is Kory and then further on is Jill. Kory
23 is my court clerk, so she's kind of keeping track of everything that
24 goes on in our proceedings, swears in the witnesses, swears in the
25 jurors before you answer questions, keeps track of all the exhibits,

1 synthesizes everything down into the Minutes of the Court, which is
2 kind of a synopsis of what we're doing on every case, on every day.

3 Jill runs our court recording system. So we don't use
4 court reporters that type everything down anymore. We have
5 microphones, as well as some cameras that are up in the soffits of
6 the courtroom. The cameras don't film you all, but the
7 microphones will pick up your voices while you're answering
8 questions during jury selection.

9 And to that, we need to make sure that while we're doing
10 this process, we're going to pass a microphone around when you're
11 answering questions, just because we don't have these
12 microphones close enough to be able to pick up everybody's
13 voices.

14 Also, we need to make sure that we know who's talking so
15 I need to make sure I get you identified if you're answering. So I'll,
16 for instance -- how are you doing, Ms. Anderson?

17 PROSPECTIVE JUROR NUMBER 167: Fine, thank you.

18 THE COURT: Good.

19 So if Ms. Anderson has her hand up to answer a question,
20 I'll always say yes, Ms. Anderson or your badge number, which is
21 167, just those last three digits.

22 If I forget to do that and you identify yourself that would
23 be great. Inevitably we're both going to forget so I might just at
24 some point say hey, that was Ms. Anderson, Badge Number 167.

25 Additionally, you need to answer out loud so we can hear

1 the answer and if it's just yes or no kind of stuff, try and avoid the
2 uh-huh and uh-uh because that doesn't always pick up real well.
3 And then we just need to make sure that we let each other finish
4 speaking before we talk because if we talk over each other, that can
5 become really difficult later on when we're trying to prepare a
6 transcript.

7 So a lot of the questions get kind of repetitive whether
8 they're mine or the attorneys, so if would just let us finish our
9 question and we'll try and let you finish your answers before we
10 follow up with any other questions, okay?

11 You're going to see a number of marshals that are in the
12 courtroom throughout proceedings. All of the marshals,
13 collectively, in the building are responsible for everything,
14 collectively. Whether it's getting you through the metal detectors in
15 the morning, facilitating your movement in the building, taking
16 charge of a jury while they deliberate, or answering questions for
17 you.

18 Which is really important because of the rest of these
19 folks, the attorneys, the parties, any witnesses, any interested
20 people that come and just want to watch court, you cannot talk to
21 any of those people, so don't let them talk to you and please don't
22 try and talk to them. They don't want to be, as attorneys, accused
23 of trying to win favors with jurors or contaminate a verdict at all,
24 okay?

25 That being said, I know things come up that you might

1 need to bring to my attention and you got to have somebody you
2 can chat with so you can always talk to the marshals, whether it's,
3 you know, trying to figure what time we're supposed to start
4 tomorrow, where can you park, where can you go to lunch quickly, I
5 need a letter for my employer, that kind of stuff, you can always
6 chat with them, okay?

7 I also have an executive assistant Sarah and a law clerk,
8 Jackie. You might see those young ladies coming in and out of
9 court on occasion as well, but that's kind of it from a court
10 standpoint and a staff standpoint.

11 So I'm going to have the attorneys introduce themselves
12 to you now. Listen closely as they're talking to you about the case
13 and the potential witnesses because some of the questions that I'm
14 going to ask when we get started are designed to see if any of you
15 think you know anything about the case or know anybody involved
16 okay?

17 Mr. Pesci.

18 MR. PESCI: Thank you. Ladies and Gentlemen, my name
19 is Giancarlo Pesci, I'm here with Sarah Overly. We are the
20 Prosecutors assigned to this case. In this case it is alleged that the
21 Defendants have committed murder with use of a deadly weapon
22 and robbery with use of a deadly weapon.

23 Additionally, as to Mr. Kody Harlan, there is a charge of
24 accessory to murder. The Judge has just told you to listen to some
25 witnesses. I'm going to read some names. There are going to be

1 people that do actually come testify and others that may not testify,
2 but you might hear of them in the course of this trial so we want
3 you to hear the names in case you may know somebody.

4 Specifically there's an individual by the name of Kymani
5 Thompson, Alaric Oliver, Anne Higgins, Joseph Troiano, Ghunnar
6 Methvin, Traceo Meadows, Nathaniel Planells, Rexvin Mbogo,
7 Kristin Prentiss, Shannon Magrew [phonetic], Charleston Osurman,
8 Jacy Freshour, Patrick Stauffenberg, Angelina Knox, Somridee
9 McCaffrey.

10 From the Clark County Coroner's Office, Investigator
11 Nancy Dahl, Medical Examiner Chiara Mancini, another medical
12 examiner, Leonardo Roquero. Las Vegas Metropolitan Police
13 Department Firearm Examiner Kathy Geil. And Clark County DA
14 Investigator Jamie Honaker.

15 Additionally, there will be some individuals from the
16 Henderson Police Department. Patrol officers, detectives, and some
17 other analysts. There's a Detective Wayne Nichols, Detective
18 Nathan Calvano, Detective Karl Lippisch, Detective Michael
19 Condratovich, Detective Jared Spangler, a Detective Joseph Ebert.
20 And then Crime Scene Analysts Hornback, Newbold, and Farrell.
21 There's also an Officer Amezcua and Officer Olivia Mancuso.
22 Officer Kevin Lapear, Officer Kathryn Cochran, and Officer -- or
23 Crime Scene Analyst Dan Proietto. Officer Johnny Flewellen. And
24 Officer Nicholas Papacs. And then an Officer Gregory Francis.

25 You may additionally of the names Liz Stasik [phonetic]

1 and an Alisha Sorum [phonetic].

2 Thank you very much.

3 THE COURT: And I apologize if I missed it but --

4 MR. PESCI: I didn't give a date and time --

5 THE COURT: -- did you tell them --

6 MR. PESCI: -- I'm sorry.

7 THE COURT: -- when it was and where it was alleged to
8 have occurred and --

9 MR. PESCI: Thank you, Judge.

10 THE COURT: -- the name of the young men?

11 MR. PESCI: So it's June 8th, 2018, in Henderson,
12 specifically at the address of 2736 Cool Lilac Avenue, here in
13 Henderson.

14 THE COURT: Okay. Thank you.

15 MR. PESCI: Thank you.

16 THE COURT: And I apologize, if I missed this as well, but
17 they -- they're going to read you the names of all the potential
18 people who not only may they be witnesses but you may hear
19 about them during trial. It's not they're going to call all those
20 people, but --

21 Okay. On behalf of the Defense, Mr. Yampolsky. On
22 behalf of Mr. Caruso.

23 MR. YAMPOLSKY: Good afternoon, my name is Mace
24 Yampolsky. I represent Jaiden Caruso. Seated at the end is my
25 partner, Jason Margolis. Seated next to him is my paralegal Marina

1 Alvarez.

2 In addition to those people there are two others that work
3 in my office, Teresa Musgay, and Katelyn Stella [phonetic]. And it's
4 our position that Mr. Caruso is not guilty.

5 THE COURT: Thank you.

6 Mr. Helmick, on behalf of --

7 MR. HELMICK: Thank you, Your Honor.

8 THE COURT: -- Mr. Harlan.

9 MR. HELMICK: Good afternoon, everybody. My name is
10 Ryan Helmick. I represent Kody Harlan. I have one defense witness
11 in this case and his name is Dr. Alan Donelson and we look forward
12 to defending these allegations. Thank you.

13 THE COURT: Thank you.

14 Okay. We're going to call the roll of our witnesses to
15 make sure we have everybody that Jury Services told me I should
16 have. So if you would just answer present or here when you hear
17 your name for me, please.

18 [The Clerk calls the roll of prospective jurors]

19 THE COURT: How do you pronounce your last name?

20 PROSPECTIVE JUROR NUMBER 174: It's Senyahan-Valvo.

21 THE COURT: One more time.

22 PROSPECTIVE JUROR NUMBER 174: Senyahan-Valvo.

23 THE COURT: I'm going to get that right every time. Thank
24 you.

25 [The Clerk continues to call the roll of prospective jurors]

1 THE COURT: All right. Anybody present whose name
2 was not called?

3 See no hands. Thank you.

4 You all can remain seated but if you'd raise your right
5 hand for me, we'll get you sworn in before we ask some questions.

6 [The Clerk swears in the prospective jurors]

7 THE COURT: So primarily for those of you that have
8 never done this process before, let me just kind of tell you right up
9 front that there isn't any kind of right or wrong answer to what we
10 do in jury selection, okay? It's just an opportunity for the attorneys
11 to learn a little bit about you so they can intelligently choose some
12 jurors to hear our trial.

13 Don't try and hide anything because you don't need to.
14 And if you do that that fact alone could contaminate a verdict, okay?
15 So just try and answer the questions as fully and completely and
16 honestly as you can. If there's something really important that you
17 think we should know about the potential of you serving as a juror
18 and none of us have hit upon it with our questions and we're kind
19 of getting to the end of things then by all means, you know, raise
20 your hand and let us and tell us what it is.

21 If I ask a question or the attorneys do but you don't
22 understand -- I may not ask the smartest questions all the time then
23 just kind of raise your hand and say hey Judge, I have no idea what
24 you're trying to ask me about and I'll find a way to rephrase it for
25 you, okay?

1 The way the process will work is I have some questions to
2 pose to you all just as a group, so anybody that wants to answer
3 those, you just raise your hand. I kind of start on that top row with
4 Ms. Anderson and we'll work our way across, then the middle row,
5 and then the bottom row.

6 Once I get done with those I'll just kind of be focused on
7 the first three of you with some individual questions and then we'll
8 move on as need be and then the attorneys will also have an
9 opportunity to follow up and ask some questions of their own,
10 okay?

11 All right. And my question is actually is there anybody on
12 our panel for whom English is not your first language?

13 Go ahead and raise your hands if you have -- 1, 2, 3.
14 Okay. So Ms. Senyahan-Valvo? Did I get right?

15 PROSPECTIVE JUROR NUMBER 174: Yes.

16 THE COURT: I told you I was going to get right.

17 So what's your first language?

18 PROSPECTIVE JUROR NUMBER 174: Tagalog.

19 THE COURT: Tagalog. Philippines?

20 PROSPECTIVE JUROR NUMBER 174: Philippines.

21 THE COURT: Okay. And do you have any problem
22 reading, writing, understanding English at all?

23 PROSPECTIVE JUROR NUMBER 174: No.

24 THE COURT: No. Okay. Very good, thank you.

25 Who else had their hands up?

1 Can you pass that right in front of you for me, please?
2 Thank you.
3 Is that Mr. Parsa?
4 PROSPECTIVE JUROR NUMBER 189: Yes, I am.
5 THE COURT: 189. Mr. Parsa, what's your primary
6 language?
7 PROSPECTIVE JUROR NUMBER 189: Farsi.
8 THE COURT: Okay. Same question. Any problem
9 reading, writing, understanding English?
10 PROSPECTIVE JUROR NUMBER 402: Just I understand
11 like 30 percent, 40 percent.
12 THE COURT: 30 percent of English?
13 PROSPECTIVE JUROR NUMBER 189: Yeah, 30 percent.
14 THE COURT: Okay. Is it easier to converse in English
15 orally or to read things in English?
16 PROSPECTIVE JUROR NUMBER 189: Read.
17 THE COURT: Read.
18 PROSPECTIVE JUROR NUMBER 189: Yeah.
19 THE COURT: Okay. All right. Thank you very much.
20 PROSPECTIVE JUROR NUMBER 189: You're welcome.
21 THE COURT: Could you pass that down to your left for
22 me?
23 Mr. Figueroa?
24 PROSPECTIVE JUROR NUMBER 182: Spanish.
25 THE COURT: Spanish, okay. Speak any English or

1 [speaks Spanish]?
2 PROSPECTIVE JUROR NUMBER 182: No -- yes.
3 THE COURT: Thank you.
4 Okay. Next question is, is there anybody on our panel
5 who has ever -- oh, I'm sorry.
6 THE MARSHAL: One more, Your Honor.
7 THE COURT: Can you pass that back for me, please?
8 PROSPECTIVE JUROR NUMBER 178: Can I --
9 THE COURT: Ms. Laughlin, 178?
10 PROSPECTIVE JUROR NUMBER 178: Yes.
11 THE COURT: What's your first language?
12 PROSPECTIVE JUROR NUMBER 178: Can I get excused?
13 I'm too nervous.
14 THE COURT: Pardon?
15 PROSPECTIVE JUROR NUMBER 178: I'm too nervous.
16 THE COURT: Too nervous?
17 PROSPECTIVE JUROR NUMBER 178: Yes.
18 THE COURT: Ah, don't be nervous. It's okay. Have you
19 ever been to court before?
20 PROSPECTIVE JUROR NUMBER 178: No.
21 THE COURT: No? Don't I seem like a nice guy, right? It's
22 okay. So what's your first language?
23 PROSPECTIVE JUROR NUMBER 178: First name -- my
24 name's Shu.
25 UNKNOWN SPEAKER: Language.

1 PROSPECTIVE JUROR NUMBER 178: Language?
2 THE COURT: Language.
3 PROSPECTIVE JUROR NUMBER 178: My first language is
4 Cantonese.
5 THE COURT: Cantonese, okay.
6 PROSPECTIVE JUROR NUMBER 178: Okay.
7 THE COURT: All right. So I'm going to have you pass that
8 microphone back down to your left for right now.
9 PROSPECTIVE JUROR NUMBER 178: Sure.
10 THE COURT: And then take a real good deep breath,
11 okay? Okay. You're going to be okay.
12 So is there anybody on the panel that's ever been
13 convicted of a felony?
14 See no hands. Thank you.
15 Is there anybody on the panel who is not a United States
16 citizen?
17 See no hands.
18 Is there anybody who thinks that they have such a
19 sympathy, bias, or prejudice related to age, religion, race, gender,
20 or national origin they feel would affect their ability to be a fair
21 juror?
22 See no hands. Thank you.
23 Anybody believe you know either of the prosecutors, Mr.
24 Pesci or Ms. Overly?
25 No hands.

1 Anybody believe they know either Mr. Yampolsky or Mr.
2 Helmick, the defense attorneys?

3 No hands.

4 Anybody believe they know either Mr. Caruso or Mr.
5 Harlan, the Defendants?

6 No hands.

7 Anybody believe they know any of the other support staff
8 mentioned to you by the attorneys? Or not necessarily the support
9 staff, the other attorneys or support staff?

10 See no hands. See how easy this is? You guys don't got
11 to do anything. Just sitting there, looking nice, listening to me talk.

12 How about witnesses? Anybody believe you know or are
13 acquainted any of the witnesses who were spoken to you about by
14 the attorneys?

15 Yeah. Ms. Anderson.

16 PROSPECTIVE JUROR NUMBER 167: I don't know if it's
17 this category.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 167: I'm a friend and -- of
20 Nancy Dahl, the coroner.

21 THE COURT: Okay. Is she still working in the coroner's
22 office?

23 MR. PESCI: I'm not sure.

24 THE COURT: Okay. Somebody you socialize with?

25 PROSPECTIVE JUROR NUMBER 167: Now. She -- I met

1 her as a client for my --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NUMBER 167: -- business and now
4 we have become casual friends.

5 THE COURT: Okay. See her every couple of months or
6 what?

7 PROSPECTIVE JUROR NUMBER 167: Probably every two
8 months --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NUMBER 167: -- for a delivery.

11 THE COURT: She talk much about her work?

12 PROSPECTIVE JUROR NUMBER 167: Not much, no.

13 THE COURT: You're not interested in talking to her about
14 autopsies or anything?

15 PROSPECTIVE JUROR NUMBER 167: No.

16 THE COURT: Okay. Anything about the fact that you have
17 a casual friendship with her, and she works in the medical
18 examiner's office that causes you any concern about being a juror?

19 PROSPECTIVE JUROR NUMBER 167: No.

20 THE COURT: Okay. Anybody else believe you have any
21 acquaintance with any of the witnesses that were mentioned?

22 No hands.

23 How about any of you know any of the attorneys that
24 work within the Clark County District Attorney's Office?

25 See no hands. Thank you.

1 So this case, as Mr. Pesci mentioned arose out of some
2 events that are alleged to have occurred in June of 2018. After that
3 time period there was some media reporting about the incident,
4 both television and in the newspapers. Does anybody believe you
5 recall anything or have ever seen anything or heard anything on the
6 media about the case?

7 See no hands. Thank you.

8 Are you raising your hand, sir, or no?

9 PROSPECTIVE JUROR NUMBER 216: I was thinking.

10 THE COURT: Kind of starting?

11 PROSPECTIVE JUROR NUMBER 216: No, I was thinking.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 216: Did it happen in the
14 Silverado area? Henderson/Silverado area?

15 THE COURT: I don't know?

16 Yeah, I'm getting a nod from one of the attorneys that
17 it's -- if the specific address was Lilac --

18 MR. PESCI: Cool Lilac Avenue in Henderson.

19 THE COURT: -- which apparently is in the Silverado
20 area -- and I don't want you to tell me what you may or may not
21 have seen on the media, but do you think maybe you have some
22 recollection?

23 PROSPECTIVE JUROR NUMBER 216: Yes.

24 THE COURT: Do you remember anything specific that you
25 saw or heard?

1 PROSPECTIVE JUROR NUMBER 216: Just --
2 THE COURT: Or just generally you recall something being
3 recorded --
4 PROSPECTIVE JUROR NUMBER 216: Just --
5 THE COURT: -- about it.
6 PROSPECTIVE JUROR NUMBER 216: Yeah.
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NUMBER 216: Yeah.
9 THE COURT: And I can't remember if they mentioned -- I
10 think he mentioned that the young man's name that was the victim
11 of the alleged homicide was Matthew Minkler.
12 So anybody else recall anything about that?
13 No.
14 And then with regard to whatever you've been saying,
15 sir -- and that's Mr. Van Der Does, correct?
16 PROSPECTIVE JUROR NUMBER 216: Correct.
17 THE COURT: Okay. Is there anything about what you
18 recall generally having heard about the case that causes you any
19 concern about being a juror?
20 PROSPECTIVE JUROR NUMBER 216: Maybe that I --
21 THE COURT: Don't go into --
22 PROSPECTIVE JUROR NUMBER 216: Maybe --
23 THE COURT: -- specifics of anything that you heard, just
24 whether --
25 PROSPECTIVE JUROR NUMBER 216: Maybe the age.

1 THE COURT: Okay. Do you remember --
2 PROSPECTIVE JUROR NUMBER 216: And relations --
3 THE COURT: -- hearing something about people's ages?
4 PROSPECTIVE JUROR NUMBER 216: Yeah. And --
5 THE COURT: Okay.
6 PROSPECTIVE JUROR NUMBER 216: -- my friends'
7 youngest brother may have went to school.
8 THE COURT: Okay. So -- and the attorneys will probably
9 ask you about things related to age, relating to a question -- or a
10 chance to question them. Do you live in that area of town?
11 PROSPECTIVE JUROR NUMBER 216: Yes.
12 THE COURT: Okay. So you have a friend, who has a
13 brother that may have gone to high school with some of the people
14 that are alleged to have been involved?
15 PROSPECTIVE JUROR NUMBER 216: Correct.
16 THE COURT: Got it. Okay. And I'll let them follow up as
17 they need to about that, okay?
18 PROSPECTIVE JUROR NUMBER 216: All right.
19 THE COURT: Okay. Again, anybody else recall anything --
20 having heard anything about anything?
21 No? Okay.
22 So our trial is expected to last into the latter part of next
23 week so the next question I'm going to ask is whether it's going to
24 be an undue burden upon anybody to serve with us for that amount
25 of time. Before -- whoa, whoa, hold on cowboy, I didn't even get

1 there yet, all right?

2 So before I ask -- it's natural to start raising your hand and
3 it's okay. Before I ask you that though, let me just kind of fill you in
4 on the schedule of a trial and what you can kind of expect while
5 you're here because I know it's inconvenient to be here, right? I
6 mean, even people that look forward to the opportunity to do jury
7 duty understand that it's inconvenient for you to be here and we try
8 very hard to make sure that we give you good times about when
9 we're going to start, when we're going to end for the day and when
10 we'll be done so that you know what to expect in your life.

11 So from a trial standpoint, most mornings of the week we
12 can't start until at least 10:30 because the courts have other cases
13 getting ready for trial and we rule on things in the morning and we
14 get through all those cases and then we start our trials. Some days
15 we can start a little earlier so tomorrow we're planning on starting
16 at 9:00, Friday we'll probably be able to start at 9:00 but we'll also
17 stop at 1:00 on Friday because I have to judge something for the
18 law school Friday afternoon, so that would just be like a 9:00 to 1:00
19 session and then we're done.

20 Coming back next week on Monday, we can start earlier in
21 the morning but Tuesday, Wednesday, Thursday would all be at
22 least 10:30, if sometimes not later than that depending on how big
23 my calendar of cases is. And I'll let you know as far in advance as I
24 can about whether it would be 10:30 or 11:00 or maybe even 1:00 in
25 the afternoon sometimes. But all of that's taken into account when

1 we give you that estimate that we should be done by about
2 Thursday of next week.

3 Take an hour for lunch every day and then we'll stop at
4 5:00 every day because I know we have things to do in the evening
5 like everybody else.

6 The other thing I will tell you, and I alluded to this a little
7 earlier, if you raise a reason to me why you don't think you can
8 serve for that amount of time and I decide that you know what I
9 understand and I'll excuse you, you're not done with jury duty, you
10 potentially get sent out somewhere else, today, tomorrow, next
11 week, whatever. If you stay here with me the rest of the afternoon
12 and we just don't need you and we get our three people, then
13 you're all done with jury duty.

14 What else did I want to point out in regard to that?

15 I guess that was about it.

16 Oh, I know what it was. There's a reason I kind of
17 emphasized the word undue when I talk about the burden and
18 that's because we're not really talking about any inconvenience on
19 you being here because it's inconvenient on all of you to be here.
20 Every one of you has a work concern or a childcare issue, whatever
21 it may be, financial concerns, you're the only person that can do
22 your job, I get all that.

23 But really what we're looking to excuse people for is
24 having some particularly special circumstances that are undue
25 upon them beyond just the normal inconvenience. So if you raise

1 to me reasons why you think you should be excused and I do not
2 excuse you, don't be mad at anybody over there but me, all right?
3 That's ultimately my decision, don't hold it against the parties,
4 okay?

5 So all that being said, upon whom will it be an undue
6 burden to serve for the next seven days with us?

7 Go ahead and raise your hands and we'll work -- just one
8 guy, that's it? I should have let you talk when you first raised your
9 hand then.

10 PROSPECTIVE JUROR NUMBER 209: Right?

11 THE COURT: -- your hand then, right?

12 PROSPECTIVE JUROR NUMBER 209: Save some time.

13 THE COURT: So where's my microphone now. Let's pass
14 it down.

15 Actually Ms. Senyahan-Valvo, you raising your hand as
16 well? Okay.

17 PROSPECTIVE JUROR NUMBER 174: Yes, Your Honor.

18 THE COURT: 174. Yes, ma'am?

19 PROSPECTIVE JUROR NUMBER 174: I'm on family leave
20 right now because my husband just had total hip replacement last
21 week --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NUMBER 174: -- so I'm the only
24 one taking care of him and bringing him to the physical therapist
25 and doctor's appointment.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 174: And we live in a
3 two-story house. I work in the hospital actually.

4 THE COURT: So who's taking care of him today?

5 PROSPECTIVE JUROR NUMBER 174: No.

6 THE COURT: You just leave him by himself today and tell
7 him you're on your own?

8 PROSPECTIVE JUROR NUMBER 174: I leave him some
9 crackers and --

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NUMBER 174: -- water and his pain
12 medication.

13 THE COURT: You might like to do jury duty and not have
14 to deal with him for a week, right?

15 Okay. Thank you very much. Why don't you go ahead
16 and pass it on down?

17 Mr. Akers, Badge 209.

18 PROSPECTIVE JUROR NUMBER 209: Yes.

19 THE COURT: What you got?

20 PROSPECTIVE JUROR NUMBER 209: Well I'm a store
21 manager for a small retail store and there is only, including myself
22 four full-time and one part-time.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NUMBER 209: And so in other
25 words I have three people, including myself on call every day. And

1 if this were to proceed to the following Friday of next week, that
2 would be a burden on the employees --

3 THE COURT: The other employees.

4 PROSPECTIVE JUROR NUMBER 209: -- for lack of
5 coworkers to be there.

6 THE COURT: Got it.

7 PROSPECTIVE JUROR NUMBER 209: Because I still have
8 to, you know, give them their days off.

9 THE COURT: Okay. Thank you.

10 Anybody else?

11 Okay. I'll tell you what, why don't you guys approach the
12 bench if you will now, please.

13 You guys can meet your neighbors for a minute, okay?

14 [Bench conference transcribed as follows.]

15 MR. PESCI: 1 out of 20's pretty good with us.

16 THE COURT: Yeah, yeah.

17 So -- yeah, right, they seem to be good people. Ms.
18 Senyahan-Valvo and Mr. Akers, what's your pleasure? You guys
19 care about excusing either of them?

20 MR. YAMPOLSKY: I mean, with all the rest of these
21 people, you know, with everything else that went on, I think we just
22 excuse them both.

23 THE COURT: Okay.

24 MR. HELMICK: Oh, I mean, that's kind of a weak excuse.

25 MR. YAMPOLSKY: Well it -- yeah, but it's only those three

1 people with everything else.

2 THE COURT: It was two.

3 MR. HELMICK: Everyone makes a difference.

4 THE COURT: Okay. So you want to keep both for now?

5 MR. HELMICK: Yeah.

6 THE COURT: Okay. What about the -- particularly the two
7 gentleman who said they don't speak English?

8 MR. HELMICK: Except for the Filipino, I'm okay --

9 MR. YAMPOLSKY: Yeah.

10 MR. HELMICK: -- to kick her -- actually the one up top.

11 THE COURT: Filipina?

12 MR. HELMICK: Yeah.

13 THE COURT: Okay. So --

14 MR. YAMPOLSKY: And the guy that only understands --

15 MS. OVERLY: Ms. Laughlin?

16 THE COURT: Okay. Hold on, hold on.

17 So what about Senyahan-Valvo, are you --

18 MR. YAMPOLSKY: Yeah, I have no problem to get rid of

19 her.

20 MS. OVERLY: She can speak English well, right?

21 MR. YAMPOLSKY: English well --

22 MR. HELMICK: Yeah. No, I was talking about the burden.

23 THE COURT: Oh.

24 MR. HELMICK: The burden.

25 MS. OVERLY: I know but you have to clarify. Why are

1 you kicking her, because of the burden or because she --
2 MR. HELMICK: That's what I'm saying.
3 MS. OVERLY: -- doesn't speak English.
4 MR. HELMICK: No, I'm talking about the burden.
5 THE COURT: Okay. So the burden, you're okay on her.
6 He's okay. What about you, Sarah?
7 MS. OVERLY: I'm fine with that, Your Honor.
8 THE COURT: Okay. So we'll kick her. I'll excuse her
9 based on the burden.
10 And then Mr. Parsa, the gentleman that speaks Farsi?
11 MR. YAMPOLSKY: He only understands, I thought he said
12 30 percent.
13 MS. OVERLY: He said about 30 percent.
14 MR. YAMPOLSKY: Yeah. If that's the case, I think we
15 should get rid of him?
16 THE COURT: Yeah, we should?
17 MS. OVERLY: Yes.
18 THE COURT: Okay. And then Mr. Figueroa, I don't think
19 he understands most of --
20 MR. YAMPOLSKY: He didn't seem like he did.
21 THE COURT: His only response was to say Spanish.
22 MS. OVERLY: Right.
23 MR. YAMPOLSKY: Yeah.
24 THE COURT: Are you guys in agreement on him?
25 MS. OVERLY: I would agree.

1 MR. YAMPOLSKY: Yes.

2 THE COURT: All right. So I'll let those three go.

3 [End of bench conference.]

4 THE COURT: Okay. So at this time we are going to
5 excuse Ms. Senyahan-Valvo, Badge Number 174; Mr. Parsa, 189;
6 Mr. Figueroa, 182. All three of you are excused and I appreciate
7 your time, okay?

8 So you guys can give your badges to the marshal. Jury
9 Services will reach out to you if they need you further, okay?

10 Thank you.

11 Oh, I'm sorry. You're still nervous?

12 PROSPECTIVE JUROR NUMBER 178: I didn't get
13 excused?

14 THE COURT: No, you didn't get excused just yet. Just
15 hold on, it's okay. Hold on. I need you to trust me, okay?

16 Is there anybody on the panel who has ever worked in law
17 enforcement?

18 Any of you -- no hands on that.

19 Any of you have close family members -- and by close, I
20 mean, you would talk to them about their work or, you know, you
21 see them frequently, you would talk to them about the work they
22 do. Close family members that work in law enforcement.

23 Yeah. All right. Let's start with Ms. Anderson.

24 Why don't you pass my microphone down? Thank you.

25 Ms. Anderson.

1 PROSPECTIVE JUROR NUMBER 167: I have a nephew on
2 Metro in Tucson.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NUMBER 167: And my brother-in-
5 law is in the federal prison system in Martinsburg, Virginia and
6 works --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NUMBER 167: -- terrorism.

9 THE COURT: Okay. Thank you.

10 Anybody else on the top?

11 There you go. Thank you, sir.

12 Mister, is it Nocco?

13 PROSPECTIVE JUROR NUMBER 186: Yeah, Nocco.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR NUMBER 186: Not anymore but
16 my stepfather was a -- well is a retired Fort Lauderdale police officer
17 and my mother was a Broward Sheriff's Office dispatcher.

18 THE COURT: Okay. Thank you.

19 Anybody else on that middle row?

20 Okay. Could you --

21 UNKNOWN SPEAKER: Oh --

22 THE MARSHAL: He's down --

23 UNKNOWN SPEAKER: Oh, sorry.

24 THE COURT: Yeah, go ahead and pass it down to the end
25 for me, if you would, please.

1 Yeah, Mr. Akers.

2 PROSPECTIVE JUROR NUMBER 209: It would be past, but

3 my father was a state constable and a district attorney investigator

4 in Texas.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NUMBER 209: And my brother

7 also was a state constable.

8 THE COURT: Texas as well?

9 PROSPECTIVE JUROR NUMBER 209: Yes.

10 THE COURT: Are you from Texas?

11 PROSPECTIVE JUROR NUMBER 209: Yes.

12 THE COURT: Whereabouts?

13 PROSPECTIVE JUROR NUMBER 209: From El Paso.

14 THE COURT: Oh, boy that's hot.

15 PROSPECTIVE JUROR NUMBER 209: Not as bad as here.

16 THE COURT: Yeah, not as bad -- well I grew up in

17 Houston, so it was the humidity, right?

18 PROSPECTIVE JUROR NUMBER 209: Right.

19 THE COURT: I like the hot better than the humidity.

20 All right. And did I have a hand up behind?

21 No. Okay.

22 How about on the bottom row here?

23 Yeah. Could you pass it back down here and give it to Mr.

24 Van Der Does?

25 Yes, sir?

1 PROSPECTIVE JUROR NUMBER 216: Did you say only
2 family related?

3 THE COURT: Well yeah. If you have any family members
4 that have been involved in law enforcement -- close family
5 members.

6 PROSPECTIVE JUROR NUMBER 216: No, but I feel like I
7 should say that I work with -- I work closely with Tom Hollis --

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 216: -- who's a retired
10 cop and who actually handles our -- some of our cases at Bravo
11 Underground.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 216: So I don't know if
14 that affects anything, but I thought I'd --

15 THE COURT: So is he retired from Metro --

16 PROSPECTIVE JUROR NUMBER 216: I think he's --

17 THE COURT: -- Las Vegas?

18 PROSPECTIVE JUROR NUMBER 216: I think he's retired
19 from California.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 216: Whatever their
22 department is called.

23 THE COURT: Got it. Thank you.

24 Okay. Is there anybody on the panel that believes you
25 would be unable to follow the instructions on the law that I give you

1 if they differ from your personal beliefs as to what the law ought to
2 be? Does that question make sense?

3 Kind of? I didn't write the question.

4 So at the end of a case before the attorneys give their
5 arguments, I'll give you jury instructions. You get a packet of them,
6 I have to read them to you, that's the law that I determine applies to
7 this particular case.

8 Part of your obligations as jurors, when you swear your
9 oath is look, I'm going to sit in court, I'm going to listen to all the
10 evidence that's provided to me, I'm going to take the law that you
11 give me, Judge, I'll follow that law, and I'll come up with what I
12 think an appropriate verdict is, in conjunction with my fellow jurors.
13 But it's not fair to anybody, including your fellow jurors if you say,
14 you know what, I'm going to ignore this law because I don't like it.
15 The only way that it's fair to everybody is if you have the same law,
16 you've listened to the same evidence, you go back and deliberate.

17 So is there anybody -- even if you disagree with some
18 aspect of the law, that you can still follow and apply the law and
19 come up with what you think is a proper verdict. Anybody could
20 not do that?

21 See no hands.

22 Second part of that is -- I kind of alluded to is, your role in
23 the process is the fact finders. So you listen to the witnesses
24 testify, you evaluate exhibits that are introduced, and you figure out
25 what you think the facts of any given situation are. And then you

1 take the law that I give you and you kind of put that all together in
2 your deliberations and come up with whatever you think the
3 appropriate verdict is.

4 Understanding that, is there anybody thinks that you
5 could not be a fact finder and listen to evidence in a case and
6 decide what you think the facts are?

7 Seeing no hands on that either. Thank you.

8 Under our system of criminal procedure -- and by that, I
9 mean the system in this country, not just Las Vegas, Nevada. But
10 under our system of criminal procedure in the United States, there
11 are certain principles of law that apply in any criminal trial, no
12 matter what the charges and no matter where in the country it
13 occurs and those principles are Number 1, that a criminal defendant
14 is always presumed innocent. Does everybody understand that?
15 Anybody disagree with the presumption of innocence?

16 See no hands.

17 The second principle is that people get put on notice if
18 they've been charged with a crime by the filing of a document, we
19 call it an Information. It just lists the charges. That document is not
20 evidence of the allegations it contains, it's just notice to somebody
21 that they've been charged with a crime. Does everybody
22 understand that? Anybody not understand that?

23 See no hands.

24 The final principle is the entity that brings the charge,
25 that's the State, the one files that document and tells somebody

1 we're charging you with a crime, they have the obligation to prove
2 that beyond a reasonable doubt. I'm not talking about what the
3 definition of reasonable doubt is right now, that's something we'll
4 talk about in jury instructions. But does everybody understand that
5 the State has the obligation to prove somebody's guilt? A
6 defendant does not have any obligation to prove their innocence.
7 Everybody understand that? Anybody not understand that?

8 See no hands. Thank you.

9 Okay. Can we get the microphone back to Ms. Anderson
10 for me, please, sir; Mr. Van Der Does? Thank you.

11 So Ms. Anderson, how long have you lived in Las Vegas?

12 PROSPECTIVE JUROR NUMBER 167: Since 1990, the --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 167: -- come -- 19 -- what
15 is it? 29 years.

16 THE COURT: Got it. And what's your level of education?

17 PROSPECTIVE JUROR NUMBER 167: Bachelors degree.

18 THE COURT: What type of work do you do?

19 PROSPECTIVE JUROR NUMBER 167: I am currently a
20 Mary Kay sales director. My work history includes teaching high
21 school and college.

22 THE COURT: Any particular subjects you taught?

23 PROSPECTIVE JUROR NUMBER 167: English and
24 computers.

25 THE COURT: Are you married?

1 PROSPECTIVE JUROR NUMBER 167: Yes.
2 THE COURT: And what type of work does your spouse
3 do?
4 PROSPECTIVE JUROR NUMBER 167: He is a semi-retired
5 from -- as of April with Southwest Gas Pipeline.
6 THE COURT: Got it. You have any children?
7 PROSPECTIVE JUROR NUMBER 167: Yes, two adult
8 children.
9 THE COURT: Two adults. And any grandkids?
10 PROSPECTIVE JUROR NUMBER 167: One 3-year old.
11 THE COURT: Got it. Thank you. Have you ever been a
12 juror before?
13 PROSPECTIVE JUROR NUMBER 167: I have about two
14 years ago on an attempted murder trial.
15 THE COURT: Okay. Well welcome back to jury duty.
16 PROSPECTIVE JUROR NUMBER 167: Thank you.
17 THE COURT: It's good to see you again. It wasn't in my
18 court was it?
19 PROSPECTIVE JUROR NUMBER 167: No.
20 THE COURT: In the 15 years I've been a judge, I've
21 actually had a lady that's been on three of my juries. It's like every
22 time she comes, she gets assigned to my courtroom.
23 So about two years ago, you said it was an attempt
24 murder case?
25 PROSPECTIVE JUROR NUMBER 167: Yes.

1 THE COURT: And --
2 PROSPECTIVE JUROR NUMBER 167: Somewhere int hat
3 range.
4 THE COURT: Okay. And did the jury reach a verdict?
5 PROSPECTIVE JUROR NUMBER 167: Yes.
6 THE COURT: And were you the foreperson of the jury?
7 PROSPECTIVE JUROR NUMBER 167: I was not.
8 THE COURT: Okay. How you ever been the victim of any
9 kind of crime before? I mean, your bike got stolen, house was
10 burglarized, anything like that?
11 PROSPECTIVE JUROR NUMBER 167: Robbery.
12 THE COURT: Okay.
13 PROSPECTIVE JUROR NUMBER 167: Probably only --
14 THE COURT: Okay. And how long ago was the robbery?
15 PROSPECTIVE JUROR NUMBER 167: Probably in the late
16 90s.
17 THE COURT: Okay. And was that here in Las Vegas?
18 PROSPECTIVE JUROR NUMBER 167: Yes.
19 THE COURT: Did you report it to the police?
20 PROSPECTIVE JUROR NUMBER 167: Yes, it was in
21 progress when we came home.
22 THE COURT: Okay. Oh, so somebody broke into your
23 home --
24 PROSPECTIVE JUROR NUMBER 167: Yes.
25 THE COURT: -- you weren't home, but you came home

1 and could tell that they were in there and you called the police?

2 PROSPECTIVE JUROR NUMBER 167: Yes.

3 THE COURT: So nobody physically did anything to you
4 all, they were just burglarizing your home?

5 PROSPECTIVE JUROR NUMBER 167: No, they left --

6 THE COURT: Okay. Got it.

7 PROSPECTIVE JUROR NUMBER 167: -- if it -- when the
8 garage went up.

9 THE COURT: Got it. Did that matter ever go to court?

10 PROSPECTIVE JUROR NUMBER 167: No.

11 THE COURT: Thank you. Anything else or was that it?

12 PROSPECTIVE JUROR NUMBER 167: That's all.

13 THE COURT: Have you ever been arrested or convicted of
14 any kind of crimes?

15 PROSPECTIVE JUROR NUMBER 167: Not other than
16 speeding.

17 THE COURT: Speeding, okay. Do you believe that you
18 would be able to could an open mind about our case and not decide
19 any of the issues in the case until it was submitted to you for your
20 deliberation? Meaning you can't make up your mind after the State
21 gives an opening statement or the Defense cross-examines the first
22 witness. Like most things in life, you need to be willing to listen to
23 all the information you're going to be given and then you deliberate
24 with your fellow jurors and decide on what you think is an
25 appropriate verdict.

1 PROSPECTIVE JUROR NUMBER 167: Yes.

2 THE COURT: Okay. With regard to police officers, there
3 will inevitably some police officers who testify. Do you think you
4 can treat a police officer like any other witness and judge their
5 credibility and what they have to say in light of all the other facts
6 and circumstances in the case, or do you think you would give
7 more weight or less weight to a police officer, just because they
8 were a police officer?

9 PROSPECTIVE JUROR NUMBER 167: I think I would be
10 neutral.

11 THE COURT: Okay. So you can treat them like anybody
12 else.

13 PROSPECTIVE JUROR NUMBER 167: Uh-huh.

14 THE COURT: Got it. Okay. Could you pass the
15 microphone next to you for me? Thank you.

16 Ms. Hocker, how are you?

17 PROSPECTIVE JUROR NUMBER 168: Good. How are
18 you?

19 THE COURT: I'm doing well. Thank you for asking.
20 How long have you lived here?

21 PROSPECTIVE JUROR NUMBER 168: Six years.

22 THE COURT: And if it's less than ten years, I'll usually ask
23 folks where they moved here from.

24 PROSPECTIVE JUROR NUMBER 168: Pennsylvania.

25 THE COURT: Okay. And what's your level of education?

1 PROSPECTIVE JUROR NUMBER 168: Some college.
2 THE COURT: What type of work do you do?
3 PROSPECTIVE JUROR NUMBER 168: I'm an account
4 manager for a gun safe manufacturer.
5 THE COURT: Are you married?
6 PROSPECTIVE JUROR NUMBER 168: No.
7 THE COURT: Any children?
8 PROSPECTIVE JUROR NUMBER 168: No.
9 THE COURT: Ever been a juror before?
10 PROSPECTIVE JUROR NUMBER 168: No.
11 THE COURT: Want to be?
12 PROSPECTIVE JUROR NUMBER 168: Sure.
13 THE COURT: It's not a trick question.
14 Have you ever been the victim of a crime before?
15 PROSPECTIVE JUROR NUMBER 168: Yes.
16 THE COURT: What was it and when was it?
17 PROSPECTIVE JUROR NUMBER 168: I've had money
18 stolen.
19 THE COURT: Okay. From your purse, your house, your
20 car?
21 PROSPECTIVE JUROR NUMBER 168: My purse.
22 THE COURT: Purse. And were you out and about and it
23 happened, or it got -- your office at work? What kind of
24 circumstance?
25 PROSPECTIVE JUROR NUMBER 168: I was in high school.

1 THE COURT: Oh, okay. And was that in Pennsylvania?
2 PROSPECTIVE JUROR NUMBER 168: Yes.
3 THE COURT: Okay. Was that reported to the police?
4 PROSPECTIVE JUROR NUMBER 168: No.
5 THE COURT: Okay. So did it ever go to court in any
6 fashion or anything?
7 PROSPECTIVE JUROR NUMBER 168: No.
8 THE COURT: Okay. Have you ever been arrested or
9 convicted of any kind of crime?
10 PROSPECTIVE JUROR NUMBER 168: Yes.
11 THE COURT: Okay. And what was that and when was
12 that?
13 PROSPECTIVE JUROR NUMBER 168: I had a DUI and --
14 THE COURT: Okay.
15 PROSPECTIVE JUROR NUMBER 168: -- seven years ago.
16 THE COURT: Seven years ago. Pennsylvania as well?
17 PROSPECTIVE JUROR NUMBER 168: Yes.
18 THE COURT: And did that go through the court process
19 and get all closed out?
20 PROSPECTIVE JUROR NUMBER 168: Yes.
21 THE COURT: Okay. Do you believe you could keep an
22 open mind and not decide any issues in our case until it's submitted
23 to you for deliberations?
24 PROSPECTIVE JUROR NUMBER 168: Yes.
25 THE COURT: And what about police officers? Do you

1 think you can treat them like any other witness, or do you think you
2 would treat them differently, just because they're a police officer?

3 PROSPECTIVE JUROR NUMBER 168: Like any other
4 witness.

5 THE COURT: Okay. Thank you very much. Could you
6 pass it down to the gentleman next to you?

7 Mr. Castillo, how are you?

8 PROSPECTIVE JUROR NUMBER 171: Fine, Your Honor.

9 THE COURT: And how long have you lived here in Las
10 Vegas?

11 PROSPECTIVE JUROR NUMBER 171: Before that, Your
12 Honor, I forgot my hearing aid so --

13 THE COURT: Oh --

14 PROSPECTIVE JUROR NUMBER 171: -- I have a hard
15 time --

16 THE COURT: -- okay.

17 PROSPECTIVE JUROR NUMBER 171: -- hearing right now.

18 THE COURT: I'm going to hook you up. Hold on a
19 second.

20 Can you hear me okay?

21 PROSPECTIVE JUROR NUMBER 171: Yes.

22 THE COURT: Is that better?

23 PROSPECTIVE JUROR NUMBER 171: Yes.

24 THE COURT: Did you leave your hearing aid at home just
25 to get out of jury duty?

1 PROSPECTIVE JUROR NUMBER 171: No.

2 THE COURT: I'm just kidding. So that's tied into our

3 microphone. So if you continue on with us then feel free, we can

4 have you use those every day. If you have hearing aids you want to

5 bring, that's great as well.

6 PROSPECTIVE JUROR NUMBER 171: Okay.

7 THE COURT: How long have you lived here?

8 PROSPECTIVE JUROR NUMBER 171: 21 years.

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

10 PROSPECTIVE JUROR NUMBER 171: BAC?

11 THE COURT: What type of work do you do?

12 PROSPECTIVE JUROR NUMBER 171: Accounting.

13 THE COURT: Are you married, sir?

14 PROSPECTIVE JUROR NUMBER 171: Yes.

15 THE COURT: And what type of work does your spouse

16 do?

17 PROSPECTIVE JUROR NUMBER 171: Finance.

18 THE COURT: Do you have children?

19 PROSPECTIVE JUROR NUMBER 171: Yes.

20 THE COURT: How many and how old are they? If they're

21 grown, that's fine.

22 PROSPECTIVE JUROR NUMBER 171: Both are grown up.

23 THE COURT: Two?

24 PROSPECTIVE JUROR NUMBER 171: Yes, two.

25 THE COURT: Any grandkids?

1 PROSPECTIVE JUROR NUMBER 171: No.

2 THE COURT: Thank you. Have you ever been a juror
3 before?

4 PROSPECTIVE JUROR NUMBER 171: No.

5 THE COURT: Have you ever been the victim of a crime
6 before?

7 PROSPECTIVE JUROR NUMBER 171: No.

8 THE COURT: Have you ever been arrested or convicted of
9 any crimes?

10 PROSPECTIVE JUROR NUMBER 171: No.

11 THE COURT: Do you believe that you could keep an open
12 mind and not decide any issue in the case until it's submitted to you
13 for your deliberation?

14 PROSPECTIVE JUROR NUMBER 171: I believe so.

15 THE COURT: Okay. Police officers, do you think you can
16 treat them like any other witness, or do you think for any reason
17 you would treat them differently, just because they're police
18 officers?

19 PROSPECTIVE JUROR NUMBER 171: Yes.

20 THE COURT: Which one? That was an either/or. Do you
21 think you could treat them like any other witness and decide what
22 you think about their testimony based on everything you have in
23 the case, or would you say well that's a police officer so I'm
24 automatically going to believe him or I'm automatically not going to
25 believe him?

1 PROSPECTIVE JUROR NUMBER 171: No, I'll have an
2 open mind for that.

3 THE COURT: Okay. Great. Thank you very much.

4 All right. So Ms. Colon, I'm not going to chat with you
5 just yet. We'll let the attorneys talk to these three first and then
6 we'll move on as we need to.

7 So on behalf of the State, Ms. Overly.

8 MS. OVERLY: So this is a little unorthodox because I'm
9 only going to talk to you three primarily in the back since we're only
10 looking for a few jurors here.

11 So there was reference earlier to when a question was
12 asked specifically, I believe Mr. Van Der Does might have
13 mentioned the age of the parties involved in this case and that
14 might be the Defendants, and that might be some other witnesses
15 in this case, and that might be the victim.

16 And this is a question I'm posing to all three of you. Do
17 any of you have a problem with the ages of these individuals being
18 under 18? Does something about that spark you in terms of
19 causing you concern in your ability to deliberate on an issue or
20 listen to the evidence?

21 PROSPECTIVE JUROR NUMBER 171: I'll be partial to that.

22 MS. OVERLY: And I'm sorry, Mr. Castillo, you are Badge
23 Number 171, correct?

24 PROSPECTIVE JUROR NUMBER 171: Yes.

25 MS. OVERLY: I'm sorry, what did you say?

1 PROSPECTIVE JUROR NUMBER 171: I'm partial to that.

2 MS. OVERLY: You're partial to that?

3 PROSPECTIVE JUROR NUMBER 171: Yes.

4 MS. OVERLY: And what is it about it that makes you
5 partial to that?

6 PROSPECTIVE JUROR NUMBER 171: Well I'm -- being a
7 minor, I would be inclined to favor them.

8 MS. OVERLY: You would be inclined to favor them
9 because they're minors?

10 PROSPECTIVE JUROR NUMBER 171: Yes.

11 MS. OVERLY: Okay. And when you say favor them, are
12 you referring to the Defendants in this case?

13 PROSPECTIVE JUROR NUMBER 171: Not at all.

14 MS. OVERLY: Okay.

15 PROSPECTIVE JUROR NUMBER 171: Both parties.

16 MS. OVERLY: Both parties?

17 PROSPECTIVE JUROR NUMBER 171: Yes.

18 MS. OVERLY: Okay. So there could be witnesses that are
19 under the age of 18 or were under the age of 18 and the
20 Defendants, you know, at the time could have been under the age
21 of 18. When you say favor, are you referring to just believing their
22 testimony or what do you mean?

23 PROSPECTIVE JUROR NUMBER 171: I'm more inclined to
24 believe them.

25 MS. OVERLY: More inclined to believe them if they're

1 younger?

2 PROSPECTIVE JUROR NUMBER 171: Yes.

3 MS. OVERLY: Then let's say if there is another witness
4 who's older?

5 PROSPECTIVE JUROR NUMBER 171: Okay.

6 MS. OVERLY: Is that fair to say? You'd be more inclined
7 to believe the juvenile, the person who's under 18?

8 PROSPECTIVE JUROR NUMBER 171: I'm not too sure.

9 MS. OVERLY: Okay. So if there were witnesses -- just --
10 let me just ask you this -- for the other two that are sitting next to
11 him, is there anything about his answer that you agree with or
12 disagree with?

13 PROSPECTIVE JUROR NUMBER 167: I'm confused by the
14 question.

15 MS. OVERLY: Okay. So if we can go Badge Number 167,
16 Ms. Anderson. So there might be individuals that testify in this
17 case that are under the age of 18, and the Defendants in this case
18 were also under the age of 18 when this incident happened. Is
19 there something about their age, being that under the age of 18,
20 that would give you concern being a juror on this case?

21 PROSPECTIVE JUROR NUMBER 167: Not if they're all in
22 the same age category probably.

23 MS. OVERLY: Okay. What if it's just the Defendants who
24 are under the age of 18?

25 PROSPECTIVE JUROR NUMBER 167: I'm not sure.

1 MS. OVERLY: Okay. Because you heard the charges in
2 this case, correct?

3 PROSPECTIVE JUROR NUMBER 167: Correct.

4 MS. OVERLY: And so do you think -- without having
5 heard anything else, hearing the charges and the fact that the
6 Defendants in this case were under the age of 18 at the time that
7 this occurred, would that alone cause you an issue in your ability to
8 sit as a juror here?

9 PROSPECTIVE JUROR NUMBER 167: May -- probably not.

10 MS. OVERLY: Probably not? But you gave pause. What
11 is it about that that gives you pause? And please know that I'm not
12 looking for a specific answer, we're all just opening, you know --

13 PROSPECTIVE JUROR NUMBER 167: Right.

14 MS. OVERLY: -- opening dialogue here, so.

15 PROSPECTIVE JUROR NUMBER 167: Well and I've just
16 never thought of that before and so I'm very partial to teenagers
17 having been a high school teacher for many years, so.

18 MS. OVERLY: Okay. So you were an English teacher?

19 PROSPECTIVE JUROR NUMBER 167: Yes. Oh --

20 MS. OVERLY: Okay.

21 PROSPECTIVE JUROR NUMBER 167: -- just the --

22 THE COURT: Can I interrupt you for a moment?

23 PROSPECTIVE JUROR NUMBER 167: Yes.

24 THE COURT: Because -- well you've both used the word
25 partial now a couple of times. By partial are you all saying I'm kind

1 of sympathetic --
2 PROSPECTIVE JUROR NUMBER 167: Sympathetic is --
3 THE COURT: -- towards -- Okay.
4 PROSPECTIVE JUROR NUMBER 167: I don't feel like
5 partial's a good word --
6 THE COURT: Okay.
7 PROSPECTIVE JUROR NUMBER 167: -- maybe
8 sympathetic.
9 THE COURT: Well you used the word, that's why I used
10 the word. But by partial you're saying sympathetic. You're
11 sympathetic towards kids.
12 PROSPECTIVE JUROR NUMBER 167: Sympathetic, I think
13 is a better --
14 PROSPECTIVE JUROR NUMBER 171: Yes, that's the
15 right --
16 PROSPECTIVE JUROR NUMBER 167: -- word.
17 PROSPECTIVE JUROR NUMBER 173: -- term.
18 THE COURT: All right.
19 MS. OVERLY: Okay.
20 THE COURT: So sympathy is a whole different issue --
21 PROSPECTIVE JUROR NUMBER 167: Right.
22 THE COURT: -- than I would favor their testimony --
23 PROSPECTIVE JUROR NUMBER 167: No.
24 THE COURT: -- over anybody else.
25 PROSPECTIVE JUROR NUMBER 167: No.

1 THE COURT: So you're not saying that, you just feel --
2 PROSPECTIVE JUROR NUMBER 167: No.
3 THE COURT: -- somewhat sympathetic.
4 PROSPECTIVE JUROR NUMBER 167: Right, to the age --
5 THE COURT: Okay.
6 PROSPECTIVE JUROR NUMBER 167: -- group.
7 THE COURT: So one of the things -- and look, I should
8 have done this up front, so I left Ms. Overly in a precarious
9 situation. One of the things I should have told you up front is every
10 jurisdiction is different, but in Nevada you have no involvement in
11 deciding anybody's punishment for anything.
12 So it's not an issue of feeling sympathy for somebody in
13 terms of how they would be punished, should they be convicted of
14 anything, right? That's solely a court function. Your only issue in
15 the case is to decide whether somebody's guilty or not guilty.
16 I don't know if that plays into at all what you were kind of
17 reflecting on there but I just kind of wanted you to know that before
18 you move forward and answer those questions, okay?
19 MS. OVERLY: Okay. So I think that's a better question,
20 right, because the Judge just clarified that you're not going to have
21 any deliberation or say in any kind of punishment that results from
22 this trial. But you would deliberate on the guilt phase in terms of if
23 somebody's guilty or not. So would the sympathy that you have
24 for juveniles, let's say, being the Defendants here, would that --
25 guess affect your ability to deliberate and apply the facts to the law

1 in this case?

2 PROSPECTIVE JUROR NUMBER 167: I don't think so.

3 MS. OVERLY: So you wouldn't let that factor into your
4 ability to do your duty as a juror?

5 PROSPECTIVE JUROR NUMBER 167: No.

6 MS. OVERLY: Ms. Hocker or Mr. Castillo, do you agree
7 with that as well?

8 PROSPECTIVE JUROR NUMBER 171: I agree with that,
9 based on sympathetic instead of being impartial.

10 MS. OVERLY: Okay. Sorry. If we could just hand it to Mr.
11 Castillo, Badge Number 171. So you indicated that you agree that
12 the right word to use is maybe sympathetic?

13 PROSPECTIVE JUROR NUMBER 171: Yes, yes.

14 MS. OVERLY: And so you wouldn't let that affect your
15 ability to deliberate as a juror?

16 PROSPECTIVE JUROR NUMBER 171: You're right.

17 MS. OVERLY: Correct?

18 PROSPECTIVE JUROR NUMBER 171: Yes.

19 MS. OVERLY: Okay. And Ms. Hocker, Badge Number 168,
20 what do -- do you agree with that as well?

21 PROSPECTIVE JUROR NUMBER 168: I do.

22 MS. OVERLY: Okay. And now that you have the
23 microphone with you, I believe you indicated that you're an account
24 manager for, did you say a gun safe manufacturer?

25 PROSPECTIVE JUROR NUMBER 168: Yes.

1 MS. OVERLY: Okay. So what manufacturer do you work
2 for?

3 PROSPECTIVE JUROR NUMBER 168: It's called Alpha
4 Guardian but it's Stack-on, Cannon Safe, and then GunVault.

5 MS. OVERLY: Okay. So I imagine that in that line of work
6 you've heard a lot about gun safety and --

7 PROSPECTIVE JUROR NUMBER 168: Yes.

8 MS. OVERLY: -- know somewhat about guns?

9 PROSPECTIVE JUROR NUMBER 168: Yes.

10 MS. OVERLY: Okay. So I imagine that the content of, you
11 know, talking about guns is not going to be problematic for you, is
12 that fair to say?

13 PROSPECTIVE JUROR NUMBER 168: Yes.

14 MS. OVERLY: Okay. Do you have a particular opinion
15 about guns with regards to whether or not citizens should have
16 them or not?

17 PROSPECTIVE JUROR NUMBER 168: I believe we should
18 have guns.

19 MS. OVERLY: Okay. And in your line of work, working a
20 gun safe manufacturer, do you have any particular opinions or
21 feelings about gun safety?

22 PROSPECTIVE JUROR NUMBER 168: Coming from a safe
23 company I should say lock them up.

24 THE COURT: I think everybody should have a gun safe.

25 PROSPECTIVE JUROR NUMBER 168: Yes.

1 MS. OVERLY: Okay. Are you a gun owner yourself?
2 PROSPECTIVE JUROR NUMBER 168: No, I'm not actually.
3 MS. OVERLY: Oh, okay. And what about you Ms.
4 Anderson, do you own a firearm?
5 PROSPECTIVE JUROR NUMBER 167: We have firearms in
6 the house, yes.
7 MS. OVERLY: Okay. And how do you keep those?
8 PROSPECTIVE JUROR NUMBER 167: My husband has
9 them locked away --
10 MS. OVERLY: Okay.
11 PROSPECTIVE JUROR NUMBER 167: -- but not in a gun
12 safe.
13 MS. OVERLY: Not with the gun safe that she works for.
14 THE COURT: Ms. Hocker's going to --
15 PROSPECTIVE JUROR NUMBER 167: A new client, you
16 know --
17 THE COURT: -- give you her card.
18 MS. OVERLY: Okay. So do the three of you have any
19 particular opinions about gun possession or gun ownership?
20 I'm not showing any head shakes.
21 And I believe the Judge already hit on this but is there
22 anything, I guess -- I guess the point of what we're doing here is
23 we're trying to find the most unbiased individuals to sit for this jury
24 that can be open-minded and fair to both the Prosecution side and
25 the Defense side; is that fair to say?

1 So is there something about you that if you were sitting
2 on either side you would want us to know about you to sit on the
3 jury?

4 Do you think that -- Ms. Anderson, do you think you could
5 be a fair and impartial juror here?

6 PROSPECTIVE JUROR NUMBER 167: Yes.

7 MS. OVERLY: And Ms. Hocker, do you believe you could
8 be a fair and impartial juror?

9 PROSPECTIVE JUROR NUMBER 168: I believe so.

10 MS. OVERLY: When you say believe so, is there
11 something that --

12 PROSPECTIVE JUROR NUMBER 168: I mean, this is my
13 first time, so I don't know --

14 MS. OVERLY: Oh, of being a juror?

15 PROSPECTIVE JUROR NUMBER 168: -- what I'm getting
16 myself into.

17 MS. OVERLY: I see. I understand. Well Judge Herndon's
18 very good and he'll instruct you on the law and everything that
19 you're supposed to do. But you believe that you could follow the
20 rules and follow the law that applies to the rules, and do your job as
21 a juror?

22 PROSPECTIVE JUROR NUMBER 168: Yes.

23 MS. OVERLY: Okay. And then Mr. Castillo?

24 PROSPECTIVE JUROR NUMBER 171: Yes.

25 MS. OVERLY: Same question?

1 PROSPECTIVE JUROR NUMBER 171: Yes.

2 MS. OVERLY: Okay. Court's indulgence, Your Honor.

3 I'll pass.

4 THE COURT: Mr. Yampolsky?

5 MR. YAMPOLSKY: Mr. Margolis will be --

6 THE COURT: Mr. Margolis.

7 MR. MARGOLIS: Thank you, Your Honor.

8 Good afternoon, Ladies and Gentlemen. Now I wanted to

9 speak briefly with Ms. Anderson if I could. Quite frankly, you said

10 some things that interested me a lot; one of them was that you

11 formerly taught high school.

12 PROSPECTIVE JUROR NUMBER 167: Correct.

13 MR. MARGOLIS: How long did you teach high school

14 English for?

15 PROSPECTIVE JUROR NUMBER 167: I taught high school

16 for eight years. My last year was 1981.

17 MR. MARGOLIS: 1981. Did you teach aside from high

18 school or was that the only experience with teaching that you had?

19 PROSPECTIVE JUROR NUMBER 167: I taught adults in

20 junior college at night.

21 MR. MARGOLIS: Adults in junior college at night.

22 That experience teaching high schoolers, did you come to

23 any conclusions about the relative ways in which teenagers might

24 approach a problem, vis-à-vis the way an older adult might

25 approach a problem?

1 PROSPECTIVE JUROR NUMBER 167: Probably not at the
2 time but --

3 MR. MARGOLIS: Retrospect --

4 PROSPECTIVE JUROR NUMBER 167: Retro --

5 MR. MARGOLIS: -- hindsight.

6 PROSPECTIVE JUROR NUMBER 167: Yes.

7 MR. MARGOLIS: So I mean, if I were to say -- and you can
8 agree or disagree with these statements. Teenagers tend to be
9 more impulsive than older adults; agree or disagree?

10 PROSPECTIVE JUROR NUMBER 167: Depends on the
11 adult.

12 MR. MARGOLIS: Depends on the adult, fair statement.

13 Okay. Let's take a particular individual, okay? Is that
14 particular individual, knowing -- basing it on the eight years' worth
15 of teaching kids you had and the number of years you had teaching
16 adults in night school, the individual that's 16, more impulsive than
17 the individual at 26; the same individual?

18 MR. PESCI: Judge, I apologize. Can we approach?

19 THE COURT: Sure.

20 [Bench conference transcribed as follows.]

21 MR. PESCI: Should the impulsivity of a potential
22 defending the arguments of the case, I would object to this. I don't
23 understand how this determines whether someone can be fair and
24 impartial to the case.

25 THE COURT: Well, I -- look, I think it's relevant for some

1 jury selection, but I think it really does have to maintain just kind of
2 a general standpoint. Just in general, do you think somebody's
3 more impulsive at 16 versus 26, as opposed to trying to get into the
4 particulars about any individual. So that --

5 MR. MARGOLIS: She said it depends on the adult, I said --

6 THE COURT: Yeah, I know.

7 MR. MARGOLIS: -- pick your adult.

8 THE COURT: I know. Your wording is just trying to talk
9 about the same individual.

10 MR. MARGOLIS: I know.

11 THE COURT: But I'll allow it. I'll give you some --

12 MR. MARGOLIS: Thank you.

13 [End of bench conference.]

14 THE COURT: Okay. You can go ahead.

15 MR. MARGOLIS: All right. Thank you.

16 Ms. Anderson, I'm sorry, I'm not trying to make it a
17 complicated question or trip you up or trick you or anything like
18 that. I'm just saying 16-year old -- I taught prior to practice of law.
19 16-year old, generally going to be more impulsive at 16 than that
20 same individual at 26? If you don't feel like you could say based on
21 your experience in a classroom then that's fine.

22 PROSPECTIVE JUROR NUMBER 167: Probably, from lack
23 of experiences.

24 MR. MARGOLIS: Okay. So based on your experience
25 with teenagers, their lack of life experience, pardon my use of the

1 word experience over and over again, can tend to impulsive
2 decision making?

3 PROSPECTIVE JUROR NUMBER 167: Probably.

4 MR. MARGOLIS: Okay. Why did you leave teaching, if I
5 might ask?

6 PROSPECTIVE JUROR NUMBER 167: Oh, we started a
7 family and I wanted to be home. Earn income from home instead
8 of out of the home.

9 MR. MARGOLIS: I see. Another thing that you said that
10 was kind of interesting to me; you served on an attempt murder
11 jury?

12 PROSPECTIVE JUROR NUMBER 167: Yes.

13 MR. MARGOLIS: And you said approximately how long
14 ago was that again?

15 PROSPECTIVE JUROR NUMBER 167: It was two, maybe
16 three at the most, years ago.

17 MR. MARGOLIS: And what, if anything, did you take away
18 from that experience? Did you enjoy it?

19 PROSPECTIVE JUROR NUMBER 167: It was very
20 interesting, yes.

21 MR. MARGOLIS: Interesting.

22 PROSPECTIVE JUROR NUMBER 167: It was difficult but
23 interesting.

24 MR. MARGOLIS: What about it did you find difficult?

25 PROSPECTIVE JUROR NUMBER 167: Making a -- concern

1 for making a right decision.

2 MR. MARGOLIS: Yeah, I certainly understand that. Okay.
3 Thank you very much. I'll probably come back to you but thank you
4 for answering.

5 Mr. Castillo, I had a couple questions for you, if you
6 would?

7 PROSPECTIVE JUROR NUMBER 171: Yes.

8 MR. MARGOLIS: You have a PhD in Accounting?

9 PROSPECTIVE JUROR NUMBER 171: No, BAC.

10 MR. MARGOLIS: I'm sorry?

11 PROSPECTIVE JUROR NUMBER 171: Bachelors.

12 MR. MARGOLIS: Oh, Bachelors, I'm sorry. Okay.

13 Bachelors in accounting and you work in accounting.

14 PROSPECTIVE JUROR NUMBER 171: Yes.

15 MR. MARGOLIS: Fair to say you have an analytic mind?

16 PROSPECTIVE JUROR NUMBER 171: You can say that.

17 MR. MARGOLIS: Okay. When you're analyzing the
18 evidence in this case, are you -- is your sympathy going to get in
19 the way of your rigorously analyzing the evidence in front of you?
20 In other words, do you think you'll be able to look past your
21 sympathy and assess the evidence as it comes in, without letting
22 the sympathy affect your analysis?

23 PROSPECTIVE JUROR NUMBER 171: I can, yes.

24 MR. MARGOLIS: Okay. And you have two grown children,
25 is that right?

1 PROSPECTIVE JUROR NUMBER 171: Yes.

2 MR. MARGOLIS: And no grandchildren.

3 PROSPECTIVE JUROR NUMBER 171: No grandchildren.

4 MR. MARGOLIS: Okay. And thinking of your own

5 children, okay, and -- how old are they today, if I might ask?

6 PROSPECTIVE JUROR NUMBER 171: 27 and 25.

7 MR. MARGOLIS: Okay. And your 27 and 25-year old

8 children, do they approach the -- a similar situation the same way

9 today as they might have at say, 17 and 15?

10 PROSPECTIVE JUROR NUMBER 171: No.

11 MR. MARGOLIS: Okay. How is their approach different at

12 27 and 25 than it was at 17 and 15, with respect to just your children

13 and your experience?

14 PROSPECTIVE JUROR NUMBER 171: Well they're more

15 mature and they use their reason before they do any acts.

16 MR. MARGOLIS: Would you say that they make decisions

17 more slowly?

18 PROSPECTIVE JUROR NUMBER 171: Yes, they weigh

19 things before doing it.

20 MR. MARGOLIS: Okay. They weigh the pros and cons of

21 a given course of --

22 PROSPECTIVE JUROR NUMBER 171: Yes.

23 MR. MARGOLIS: -- action before doing it?

24 PROSPECTIVE JUROR NUMBER 171: Yes.

25 MR. MARGOLIS: And I suppose your belief is that at 17

1 and 15 they didn't do that as much?

2 PROSPECTIVE JUROR NUMBER 171: They don't.

3 MR. MARGOLIS: Thank you very much.

4 Ms. Hocker, a couple questions for you. You had a DUI
5 several years ago. So you had the misfortune of going through the
6 criminal justice experience as a defendant. What, if anything, did
7 you take away from your experience as a defendant, walking in the
8 courtroom and saying you've been charged with this. What was
9 the overwhelming feeling that you had at that moment in time?

10 PROSPECTIVE JUROR NUMBER 168: Don't drink and
11 drive.

12 MR. MARGOLIS: Okay. I think that's a fair thing to take
13 away from it and obviously it worked, right? So you felt treated
14 fairly in that experience?

15 PROSPECTIVE JUROR NUMBER 168: Yeah, I received an
16 ARD as well.

17 MR. MARGOLIS: What's an ARD?

18 PROSPECTIVE JUROR NUMBER 168: It's accelerated
19 rehabilitated driver. So I went through a program and had a
20 psychiatric evaluation and essentially, I didn't blow high enough to
21 get charged --

22 MR. MARGOLIS: Oh.

23 PROSPECTIVE JUROR NUMBER 168: -- the full DUI as
24 well.

25 MR. MARGOLIS: Well that would make it much -- that

1 would make it more enjoyable for me too, I think. That's good.

2 PROSPECTIVE JUROR NUMBER 168: I mean, I did learn
3 my lesson.

4 MR. MARGOLIS: Oh, I know, I know, I know.

5 I guess my question for you as one of the few people
6 who's been in the shoes of the Defendant, as it were, would be
7 about the presumption of innocence, okay? We all talk about the
8 presumption of innocence, we've talked about it here today, okay?
9 And we all know that the Defendants are presumed innocent until
10 competent evidence comes in and proves them guilty.

11 My question for you is, is when you were at your first
12 court appearance, your initial arraignment as it were and you were
13 the Defendant, did you feel cloaked in the presumption of
14 innocence in that role?

15 PROSPECTIVE JUROR NUMBER 168: Yes.

16 MR. MARGOLIS: You did. Did you ever feel as if --

17 PROSPECTIVE JUROR NUMBER 168: I mean, I got pulled
18 over while I was drinking, so --

19 MR. MARGOLIS: Okay. So --

20 PROSPECTIVE JUROR NUMBER 168: -- I knew I wasn't
21 innocent. I mean --

22 MR. MARGOLIS: All right. So fair to say your --

23 PROSPECTIVE JUROR NUMBER 168: -- I knew I had been
24 drinking.

25 MR. MARGOLIS: Your guilt undermined your belief in

1 your --

2 PROSPECTIVE JUROR NUMBER 168: Absolutely.

3 MR. MARGOLIS: -- presumption of your innocence --

4 PROSPECTIVE JUROR NUMBER 168: Yes.

5 MR. MARGOLIS: -- right?

6 PROSPECTIVE JUROR NUMBER 168: Yes.

7 MR. MARGOLIS: Now, this case is going to be a little bit
8 different, right? So the presumption of innocence, I would argue, is
9 a little bit more significant and meaningful here perhaps in a case of
10 a DUI, where there's going to be inevitably -- or more often than not
11 a blood test result that demonstrates apparently, right?

12 Furthermore, you know, the presumption of innocence
13 extends not just to the acts but to the mental state while performing
14 the acts.

15 THE COURT: I think we're getting real close --

16 MR. MARGOLIS: Yeah.

17 THE COURT: -- into talking --

18 MR. MARGOLIS: Okay.

19 THE COURT: -- about law --

20 MR. MARGOLIS: Okay.

21 THE COURT: -- and facts.

22 MR. MARGOLIS: Okay.

23 THE COURT: I mean, the -- as I told you all earlier, the
24 presumption of innocence applies to any charge, in any jurisdiction,
25 in any court, in any state, in this country, right? Beyond that,

1 instructing them about the law is something we'll talk about at the
2 end of the case.

3 MR. MARGOLIS: Fair enough.

4 THE COURT: Thank you.

5 MR. MARGOLIS: I guess my question boils down to this,
6 okay? If you found that an act occurred but that the mental state --
7 the individual through impulsivity, compulsivity, didn't intend it,
8 will you be able to evaluate that fairly?

9 PROSPECTIVE JUROR NUMBER 168: I believe so.

10 MR. MARGOLIS: Okay. Thank you very much. I think
11 that's it for now.

12 THE COURT: All right. Mr. Helmick.

13 MR. HELMICK: Thank you.

14 Your Honor, may we approach briefly though --

15 THE COURT: Sure.

16 MR. HELMICK: -- first?

17 Thank you.

18 [Bench conference transcribed as follows.]

19 MR. HELMICK: So I mean, are we -- we just stuck on these
20 three people? I mean, that's all we're doing right now?

21 THE COURT: Yeah, if we pass them for cause, we're
22 done. If we have to excuse any of them, then we move on to the
23 next one. It just seemed to be more efficient to just run the
24 questions through those three right now.

25 MR. HELMICK: All right. I'm just making sure. I didn't

1 know what the game plan --

2 THE COURT: You want to talk to everybody?

3 MR. HELMICK: I do kind of.

4 THE COURT: No, just stick with these three.

5 MR. HELMICK: Uh --

6 THE COURT: Thank you.

7 [End of bench conference.]

8 THE COURT: All right. Mr. Helmick.

9 MR. HELMICK: All right. Thank you very much.

10 Good afternoon, everybody.

11 UNKNOWN PROSPECTIVE JUROR: Good afternoon.

12 MR. HELMICK: Okay. So, you know, I got to focus on you

13 three over here, Ms. Anderson, Ms. Hocker, Mr. Castillo. I want to

14 ask you a couple questions. The first thing -- let me grab my notes

15 here, hold on.

16 Mr. Castillo, what are your opinions on guns? I think you

17 had been asked that question before, but do you own any firearms?

18 PROSPECTIVE JUROR NUMBER 171: Before.

19 MR. HELMICK: Before what?

20 PROSPECTIVE JUROR NUMBER 171: I got rid of it when I

21 have a kid.

22 MR. HELMICK: Okay. And what type of gun was that?

23 PROSPECTIVE JUROR NUMBER 171: .38.

24 MR. HELMICK: A .38. Okay. That's a handgun, right?

25 PROSPECTIVE JUROR NUMBER 171: Yes.

1 MR. HELMICK: Okay. Are you for or against or are you
2 just kind of --

3 PROSPECTIVE JUROR NUMBER 171: For.

4 MR. HELMICK: You're for guns, okay.

5 PROSPECTIVE JUROR NUMBER 171: Yes.

6 MR. HELMICK: You just believe in that right that
7 somebody can carry a gun?

8 PROSPECTIVE JUROR NUMBER 171: Yes.

9 MR. HELMICK: Okay. How old are your kids, sir?

10 PROSPECTIVE JUROR NUMBER 171: 27 and 25.

11 MR. HELMICK: Okay. I want to ask you a question and
12 this may apply to you or may apply to your kids. Have you ever
13 been blamed for something -- and just think about it for a minute.
14 Blamed for something in your life -- go back to when you were
15 younger or maybe last week -- blamed for something that you
16 didn't do. Can you think of a scenario like that?

17 PROSPECTIVE JUROR NUMBER 171: I can.

18 MR. HELMICK: Do you know --

19 PROSPECTIVE JUROR NUMBER 171: I can think.

20 MR. HELMICK: Do you know the facts of that scenario or
21 do you have a story that you can maybe share with us about that?

22 PROSPECTIVE JUROR NUMBER 171: None.

23 MR. HELMICK: None that you can remember right now.

24 PROSPECTIVE JUROR NUMBER 171: I cannot recall being
25 accused falsely.

1 MR. HELMICK: Okay. And not just accused, you know,
2 blamed for something. How did that make you feel though -- when
3 you said you experienced a scenario like that, how'd that make you
4 feel?

5 PROSPECTIVE JUROR NUMBER 171: Probably the --

6 MR. HELMICK: Excuse me.

7 PROSPECTIVE JUROR NUMBER 171: Can you say your
8 question again?

9 MR. HELMICK: Sure. So we talked about have you ever
10 been blamed for something in your life --

11 PROSPECTIVE JUROR NUMBER 171: I said no.

12 MR. HELMICK: Oh you said no?

13 PROSPECTIVE JUROR NUMBER 171: Yes.

14 MR. HELMICK: Oh, I'm sorry, okay? I thought you said
15 yes.

16 PROSPECTIVE JUROR NUMBER 171: No, I said I have
17 never experienced about being blamed.

18 MR. HELMICK: Oh, okay, I apologize, Mr. Castillo.

19 Let me ask you about something else then.

20 So there's two people being charged in this case, two
21 people sitting at the same table. Do you think that because they're
22 sitting at the same table that they must be tied together or
23 connected in some way?

24 PROSPECTIVE JUROR NUMBER 171: They might be
25 friends.

1 MR. HELMICK: Okay. They could be friends.

2 PROSPECTIVE JUROR NUMBER 171: Yes.

3 MR. HELMICK: Now if they are friends and let's say that
4 you hear in this case, if you're selected as a juror some very bad
5 facts or evil facts about one, are you automatically going to tie that
6 to the other because they're friends?

7 PROSPECTIVE JUROR NUMBER 171: I don't think so.

8 MR. HELMICK: Are you able to keep them two separate?

9 PROSPECTIVE JUROR NUMBER 171: Yes.

10 MR. HELMICK: And look at both of them for what they are
11 being charged with particularly?

12 PROSPECTIVE JUROR NUMBER 171: Yes. You need to
13 say there's always two sides of the coin so you have to listen on
14 both sides.

15 MR. HELMICK: Absolutely. Hold each one accountable,
16 right?

17 PROSPECTIVE JUROR NUMBER 171: Beg your pardon?

18 MR. HELMICK: Accountability, right?

19 PROSPECTIVE JUROR NUMBER 171: Yes.

20 MR. HELMICK: Yes. Thank you, Mr. Castillo.

21 Now, we haven't talked about this yet, but you understand
22 that somebody who's charged with a crime doesn't have to testify if
23 they don't want to, right?

24 PROSPECTIVE JUROR NUMBER 171: Yeah, that's their
25 right, I believe.

1 MR. HELMICK: Okay. I mean, are you of the position --
2 and I just want to check, it's okay if you are, that you want to see
3 him get up here and testify?

4 PROSPECTIVE JUROR NUMBER 171: Yes, I would prefer
5 it that way.

6 MR. HELMICK: Okay. Do you need to in order to be a fair
7 and impartial juror on this case?

8 PROSPECTIVE JUROR NUMBER 171: Yes.

9 MR. HELMICK: You need to see --

10 PROSPECTIVE JUROR NUMBER 171: Yes.

11 MR. HELMICK: -- him get up here?

12 PROSPECTIVE JUROR NUMBER 171: Yes.

13 MR. HELMICK: And if he doesn't, you're going to hold
14 that against him?

15 PROSPECTIVE JUROR NUMBER 171: I believe so because
16 it just implied that he's trying to avoid some questioning or avoid
17 answering something.

18 MR. HELMICK: Okay. So let's talk about this for a second.
19 Let's talk about both sides of the coin here, right? You said that
20 maybe he's hiding something by not being up here and testifying,
21 right?

22 PROSPECTIVE JUROR NUMBER 171: Yes.

23 MR. HELMICK: So he could be looked at that way. What's
24 some other reasons that maybe somebody -- what are some risks of
25 getting up here and testifying? What are some risks that somebody

1 may have if they get up here and testify?

2 PROSPECTIVE JUROR NUMBER 171: His risks?

3 MR. HELMICK: Yeah, his risks?

4 PROSPECTIVE JUROR NUMBER 171: Nothing, I believe.

5 That's why there's -- he has to testify because he has to explain her
6 side as to what.

7 MR. HELMICK: Is there a risk though to testifying for him?

8 PROSPECTIVE JUROR NUMBER 171: I don't believe so.

9 MR. HELMICK: No, you don't see any risk?

10 PROSPECTIVE JUROR NUMBER 171: No.

11 MR. HELMICK: Okay. That's -- yeah, I mean, I just want
12 your opinion on that stuff.

13 PROSPECTIVE JUROR NUMBER 171: I don't believe so.

14 MR. HELMICK: Okay. I'll come back to you, Mr. Castillo,
15 but I want to ask Ms. Hocker if she sees maybe any risk involved
16 with that? Do you see --

17 PROSPECTIVE JUROR NUMBER 168: I believe there is a
18 risk.

19 MR. HELMICK: Okay. What do you think? What are
20 some of the risks, maybe?

21 PROSPECTIVE JUROR NUMBER 168: I mean, you get
22 nervous up there, you can't think on your feet and you might let
23 something slip out that wasn't meant to slip out.

24 MR. HELMICK: Yeah, yeah, some things like that, right?
25 Maybe not used to talking in front of people. Is that one of them,

1 right?

2 PROSPECTIVE JUROR NUMBER 168: Yeah.

3 MR. HELMICK: Okay. What do you think about what Ms.
4 Hocker said, Mr. Castillo? Do you agree with her points on that?
5 That that's possible?

6 PROSPECTIVE JUROR NUMBER 171: That's possible but
7 if he is not -- if he's just telling the truth, then the truth will come
8 out.

9 MR. HELMICK: The truth will come out?

10 PROSPECTIVE JUROR NUMBER 171: Yes.

11 MR. HELMICK: What do you think?

12 PROSPECTIVE JUROR NUMBER 168: I agree, unless
13 you're really good at lying and then maybe not.

14 MR. HELMICK: Sure. What about somebody looking at
15 somebody just getting up here to say whatever they want to say to
16 save themselves? Could they be seen that way too?

17 PROSPECTIVE JUROR NUMBER 168: Yes.

18 MR. HELMICK: What do you think, Ms. Anderson? Let's
19 get you going here?

20 PROSPECTIVE JUROR NUMBER 167: I actually have no
21 opinion either way.

22 MR. HELMICK: Either way?

23 PROSPECTIVE JUROR NUMBER 167: No. I am just
24 understanding you're not obligated to testify on your own behalf,
25 so that is just kind of a fact, I guess, more than a feeling.

1 MR. HELMICK: Right. I mean, it's a constitutional right --

2 PROSPECTIVE JUROR NUMBER 167: Right.

3 MR. HELMICK: -- right?

4 PROSPECTIVE JUROR NUMBER 167: Right.

5 MR. HELMICK: Right. And so I said --

6 PROSPECTIVE JUROR NUMBER 167: I don't think I would
7 have an opinion either way.

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

9 Ms. Hocker -- let's go back to Ms. Hocker here.

10 In accordance with what Mr. Castillo was saying, do you
11 need to see them come up here and testify for you to be a fair and
12 impartial juror on this case or --

13 PROSPECTIVE JUROR NUMBER 168: I don't.

14 MR. HELMICK: You don't, okay.

15 PROSPECTIVE JUROR NUMBER 168: I don't.

16 MR. HELMICK: I mean, a lot of people probably would
17 prefer it, right? Sure, I mean, if you can get as much of the story as
18 you can, right? Everybody wants to hear it from as many people as
19 you can; would you agree with that?

20 PROSPECTIVE JUROR NUMBER 168: Yes.

21 MR. HELMICK: Yeah, okay. So I mean, I guess there is a
22 dilemma so to speak in regards to whether or not they testify or
23 whether they testify, right? If they sit here, they could be seen as
24 hiding something; if they get up there, they could be seen as saying
25 whatever the heck they want to say just to get out of this jam.

1 Would you agree with that?

2 PROSPECTIVE JUROR NUMBER 168: Honestly, I didn't
3 know what she just said. I didn't know that you could not come up.

4 MR. HELMICK: Oh, okay.

5 PROSPECTIVE JUROR NUMBER 168: So I just learned
6 something.

7 MR. HELMICK: So this is worthwhile then being on the
8 jury so far?

9 PROSPECTIVE JUROR NUMBER 168: Yeah.

10 MR. HELMICK: Okay, good.

11 What about you? I mean, we talked to Mr. Castillo about
12 two people sitting at the same table, maybe they're friends. If you
13 hear facts like that, you heard maybe some really bad facts and evil
14 facts against one, are you going to automatically just, since they
15 were friends, believe that it should apply to the other?

16 PROSPECTIVE JUROR NUMBER 168: No, I have friends
17 that do things that I don't do, so.

18 MR. HELMICK: Okay. So that should be stuck with them
19 only, right? It shouldn't be coming back to you --

20 PROSPECTIVE JUROR NUMBER 168: Yes.

21 MR. HELMICK: -- what those friends [indiscernible].

22 What do you think, Ms. Anderson? Being a teacher, right,
23 I mean, you deal with that stuff?

24 PROSPECTIVE JUROR NUMBER 167: Absolutely. But I do
25 have a question.

1 MR. HELMICK: Yeah.

2 PROSPECTIVE JUROR NUMBER 167: Just -- so why are
3 they not in different trials? Why are they together?

4 MR. HELMICK: Well I can't --

5 THE COURT: You just got to answer questions --

6 MR. HELMICK: Yeah.

7 THE COURT: -- not necessarily ask questions about --

8 MR. HELMICK: That's the teacher --

9 THE COURT: -- the legal process, okay?

10 MR. HELMICK: -- in you coming out, right? So yeah, we
11 can't answer that one here. You know, before yesterday when we
12 were talking to the other jury I gave an example of a teacher that
13 gives a test and at the end of the test the teacher finds out that one
14 of the kids cheated and she makes the whole class, right, you guys
15 got to all redo the test. And you know, I experienced that back in
16 school and I asked, you know, do you think that that's fair and a lot
17 of people said no. What do you think?

18 PROSPECTIVE JUROR NUMBER 167: I --

19 MR. HELMICK: Is that fair?

20 PROSPECTIVE JUROR NUMBER 167: Say that -- say the
21 question -- the scenario again.

22 MR. HELMICK: Sure. Okay. So a teacher gives a test,
23 right? One of the kids is caught cheating at the end of the test and
24 she says well, I'm making all you guys do it all over again, not just
25 the kid that got caught cheating.

1 PROSPECTIVE JUROR NUMBER 167: No, I wouldn't do
2 that.

3 MR. HELMICK: You wouldn't do that.

4 PROSPECTIVE JUROR NUMBER 167: No.

5 MR. HELMICK: Because you're a good --

6 PROSPECTIVE JUROR NUMBER 167: I don't know how it
7 relates to this, but I wouldn't.

8 MR. HELMICK: Sure. Well it relates to I guess the
9 accountability as to punishing the whole group, as opposed to just
10 one. Do you understand?

11 PROSPECTIVE JUROR NUMBER 167: Yeah.

12 MR. HELMICK: A little bit. Maybe I got to pick a better
13 example.

14 Okay. This applies to all three of you guys. When you
15 walked in the courtroom and you saw my client Kody Harlan sitting
16 at the table, did you think that he was automatically guilty just
17 believe he's sitting at that table?

18 PROSPECTIVE JUROR NUMBER 167: No.

19 MR. HELMICK: No, Ms. Anderson.

20 Ms. Hocker?

21 PROSPECTIVE JUROR NUMBER 168: No.

22 MR. HELMICK: Okay. Mr. Castillo?

23 PROSPECTIVE JUROR NUMBER 171: No.

24 MR. HELMICK: Okay. So you kind of were just were
25 neutral then, Ms. Anderson, as far as being open-minded?

1 PROSPECTIVE JUROR NUMBER 167: Uh-huh.
2 MR. HELMICK: Okay. Is that a yes? Sorry.
3 PROSPECTIVE JUROR NUMBER 167: Yes.
4 MR. HELMICK: Okay. You were a prior juror, right?
5 That's what you said?
6 PROSPECTIVE JUROR NUMBER 167: Yeah.
7 MR. HELMICK: Okay. So let's talk about this for a second.
8 I want to talk about redwoods and palm trees, okay? Do you know
9 what a redwood is?
10 PROSPECTIVE JUROR NUMBER 167: I do.
11 MR. HELMICK: Do you know what a palm tree is?
12 PROSPECTIVE JUROR NUMBER 167: I do.
13 MR. HELMICK: All right. So being in the deliberation
14 room, and I want to talk to you about your experience, is it possible
15 sometimes that other opinions may sway other people to think a
16 certain way, to go a certain way?
17 PROSPECTIVE JUROR NUMBER 167: Yes.
18 MR. HELMICK: Okay. Did you experience that firsthand
19 while you were in the deliberation room?
20 PROSPECTIVE JUROR NUMBER 167: I'm not sure I
21 remember feeling swayed.
22 MR. HELMICK: Maybe not you. I mean, did it get heated
23 back there at all? Was everybody pretty reasonable with each
24 other? Tell --
25 PROSPECTIVE JUROR NUMBER 167: Everyone --

1 MR. HELMICK: -- us about --

2 PROSPECTIVE JUROR NUMBER 167: We had a very
3 reasonable jury that worked well together.

4 MR. HELMICK: Okay.

5 PROSPECTIVE JUROR NUMBER 167: It took us a while to
6 come to a verdict, but everyone listened to each other and --

7 MR. HELMICK: Okay. Good. So if you're selected on this
8 case and you happen to find yourself maybe in the minority, right,
9 are you going to be a palm tree; are you going to be swayed by the
10 winds of the other jurors to go with the crowd, right? Or are you
11 going to be a redwood and stand, you know, strong in your
12 position, if you feel strong about that position, right?

13 PROSPECTIVE JUROR NUMBER 167: Yeah.

14 MR. HELMICK: What do you think?

15 PROSPECTIVE JUROR NUMBER 167: Yes. And based on
16 not feeling but evidence, yes.

17 MR. HELMICK: Evidence, sure. Yeah. Sure. Okay. Very
18 good. Thank you.

19 MS. Hocker, what do you think? Do you get the analogy
20 that I'm trying to make?

21 PROSPECTIVE JUROR NUMBER 168: I do. I'll be a
22 redwood.

23 MR. HELMICK: You would be a redwood, okay. Would
24 you be open-minded to hearing other people's opinions, but
25 ultimately if you feel strong about something, somebody's not

1 going to make you change your mind?

2 PROSPECTIVE JUROR NUMBER 168: Yes.

3 MR. HELMICK: Okay. Thank you, Ms. Hocker.

4 Mr. Castillo, how do you feel about that?

5 PROSPECTIVE JUROR NUMBER 171: Same thing.

6 MR. HELMICK: You feel like you're a redwood?

7 PROSPECTIVE JUROR NUMBER 171: Yes.

8 MR. HELMICK: Okay. So you agree with Ms. Hocker
9 then? Maybe listen to everybody -- I mean, that's what the word
10 deliberation is, right? We're --

11 PROSPECTIVE JUROR NUMBER 171: Yes.

12 MR. HELMICK: -- deliberating, we're talking. But we're
13 ultimately going to come up with our decision together.

14 PROSPECTIVE JUROR NUMBER 171: You stick with the
15 evidence and facts.

16 MR. HELMICK: Yeah. I mean, so what do you think Mr.
17 Castillo, the point I'm trying to make is, right? With a jury of 12
18 people, what do you think the point is?

19 PROSPECTIVE JUROR NUMBER 171: Say that again.

20 MR. HELMICK: Sure. Let me try to explain it further. Do
21 you understand that your opinion is as strong as the person next to
22 you?

23 PROSPECTIVE JUROR NUMBER 171: Yes.

24 MR. HELMICK: Okay. So you understand that there's
25 unique personal power on a jury --

1 PROSPECTIVE JUROR NUMBER 171: Yes.

2 MR. HELMICK: -- right?

3 And isn't that the beauty of it, right?

4 PROSPECTIVE JUROR NUMBER 171: Yes.

5 MR. HELMICK: Okay. No matter what your age is,
6 occupation, everybody's on the same playing field, right?

7 PROSPECTIVE JUROR NUMBER 171: Yes.

8 MR. HELMICK: Okay. Do you agree with that Ms. Hocker?
9 Ms. Anderson?

10 PROSPECTIVE JUROR NUMBER 167: Yes.

11 MR. HELMICK: Okay. Ms. Anderson, I want to ask you
12 just a follow up question here from one of my notes. You were
13 asked, I believe, by Ms. Overly that -- in regards to police officers or
14 maybe it was from the judge and you said you think you would be
15 able to be neutral towards cops and I just underlined the word you
16 think. Can you elaborate on that or I mean, am I just misreading
17 that? What do you think?

18 PROSPECTIVE JUROR NUMBER 167: Having cops in the
19 family --

20 MR. HELMICK: Yeah.

21 PROSPECTIVE JUROR NUMBER 167: -- I sometimes hear
22 the inside stories, so my goal is to be logical and --

23 MR. HELMICK: Yeah.

24 PROSPECTIVE JUROR NUMBER 167: -- impartial in that
25 regard.

1 MR. HELMICK: Do you believe that cops make mistakes?
2 PROSPECTIVE JUROR NUMBER 167: Oh yeah.
3 MR. HELMICK: Okay. Right.
4 PROSPECTIVE JUROR NUMBER 167: We're all --
5 MR. HELMICK: Human --
6 PROSPECTIVE JUROR NUMBER 167: -- sinners.
7 MR. HELMICK: -- beings. Yeah, we're all human beings,
8 right? But so when a cop comes up here and testifies, you're not
9 going to get -- are you going to give him more weight as opposed
10 to just a regular civilian --
11 PROSPECTIVE JUROR NUMBER 167: No.
12 MR. HELMICK: -- or a kid even?
13 No. Okay, good.
14 Okay. Thank you, Ms. Anderson, Ms. Hocker, and Mr.
15 Castillo. Thank you very much.
16 THE COURT: Can you guys approach the bench, please?
17 [Bench conference transcribed as follows.]
18 THE COURT: We got any challenges? You going to
19 challenge or are you okay?
20 MR. HELMICK: Oh, I'm going to challenge Mr. Castillo.
21 THE COURT: Castillo. What about you?
22 MR. YAMPOLSKY: I'll pass for cause.
23 MR. HELMICK: Come on, Mace, he just said he wanted --
24 he needs the client to testify. I mean, Mace.
25 MR. YAMPOLSKY: Okay. I change my mind. I will

1 challenge Mr. Castillo.

2 THE COURT: All right. What's your guy's position on Mr.
3 Castillo.

4 MS. OVERLY: [Indiscernible].

5 THE COURT: What's your specific challenge --

6 MR. HELMICK: He cannot be fair without him testifying.
7 He doesn't understand the --

8 THE COURT: Okay. I think -- a bit of misunderstanding,
9 although he was consistent with saying yes, absolutely, I needed to
10 testify. Okay. I'll let you --

11 MR. HELMICK: All right. Thanks.

12 THE COURT: Thank you.

13 [End of bench conference.]

14 THE COURT: All right. Can you guys pass it down to Ms.
15 Colon for me?

16 All right. Ms. Colon, how are you?

17 PROSPECTIVE JUROR NUMBER 173: Good, thank you.

18 THE COURT: How long have you lived here in Las Vegas?

19 PROSPECTIVE JUROR NUMBER 173: I believe it's ten
20 years.

21 THE COURT: Ten years. And what's your level of
22 education?

23 PROSPECTIVE JUROR NUMBER 173: I finished high
24 school.

25 THE COURT: What type of work do you do?

1 PROSPECTIVE JUROR NUMBER 173: I'm a loan officer
2 assistant for a mortgage company.

3 THE COURT: Are you married?

4 PROSPECTIVE JUROR NUMBER 173: Yes.

5 THE COURT: And what type of work does your spouse
6 do?

7 PROSPECTIVE JUROR NUMBER 173: He's a server.

8 THE COURT: Do you have any children?

9 PROSPECTIVE JUROR NUMBER 173: I have two.

10 THE COURT: And how old are they?

11 PROSPECTIVE JUROR NUMBER 173: 14 and 10.

12 THE COURT: Have you ever been a juror before?

13 PROSPECTIVE JUROR NUMBER 173: No.

14 THE COURT: Have you ever been the victim of a crime
15 before?

16 PROSPECTIVE JUROR NUMBER 173: No.

17 THE COURT: Have you ever been arrested or convicted of
18 any kind of crime?

19 PROSPECTIVE JUROR NUMBER 173: No.

20 THE COURT: Do you believe that you'd be able to keep an
21 open mind about our case and not decide any issues in it until it's
22 submitted to you for your deliberation?

23 PROSPECTIVE JUROR NUMBER 173: Yes.

24 THE COURT: How about police officers? Do you believe
25 you could treat police officers like any other witness and decide

1 what you think about them based on the whole case or do you think
2 you'd treat them differently just because they're police officers?

3 PROSPECTIVE JUROR NUMBER 173: Yeah, I think I can
4 be the same.

5 THE COURT: Treat them the same. Okay.

6 Ms. Overly, do you have any questions for Ms. Colon?

7 MS. OVERLY: Just briefly, Your Honor.

8 THE COURT: Okay.

9 MS. OVERLY: Ms. Colon, I'll try to keep it brief. I know
10 you've been listening to the other questions that have been posed
11 thus far. Are there any questions that myself or Mr. Helmick or Mr.
12 Yampolsky or his Counsel have asked that you want to comment
13 on? Anything that you've heard thus far that you have an opinion
14 about?

15 PROSPECTIVE JUROR NUMBER 173: No.

16 MS. OVERLY: Okay. So the age of the Defendants
17 wouldn't affect your ability to deliberate in this case?

18 PROSPECTIVE JUROR NUMBER 173: No.

19 MS. OVERLY: Okay. And you don't have any particular
20 opinions about gun possession?

21 PROSPECTIVE JUROR NUMBER 173: I don't like them --

22 MS. OVERLY: You don't like --

23 PROSPECTIVE JUROR NUMBER 173: -- personally.

24 MS. OVERLY: -- guns?

25 PROSPECTIVE JUROR NUMBER 173: No.

1 MS. OVERLY: Okay. Do you or your husband own any
2 guns?

3 PROSPECTIVE JUROR NUMBER 173: No.

4 MS. OVERLY: Okay. Would -- I understand not liking
5 guns. I don't like guns either, but does not liking guns, do you think
6 that that would affect your ability to deliberate as a juror in this
7 case?

8 PROSPECTIVE JUROR NUMBER 173: I don't know.

9 MS. OVERLY: Okay. Just -- I know that you don't know
10 any of the facts involved but there might be -- obviously part of the
11 charges here involve that of a deadly weapon. So there's going to
12 be discussion about firearms and guns and handguns. Is that
13 something that you're going to be able to listen to and take in the
14 evidence and weigh it when you're deliberating?

15 PROSPECTIVE JUROR NUMBER 173: I think so.

16 MS. OVERLY: You think so. Okay. Is there something
17 about hearing that evidence -- I mean, I don't anticipate you're
18 going to see any physical evidence here, but is hearing about that
19 going to cause you to not listen or automatically favor one side
20 over the other?

21 PROSPECTIVE JUROR NUMBER 173: I'm not sure
22 because -- well me, my belief is -- I believe that we shouldn't, you
23 know, have guns.

24 MS. OVERLY: Shouldn't have guns, okay

25 PROSPECTIVE JUROR NUMBER 173: Right.

1 MS. OVERLY: So if there was testimony from somebody
2 about somebody possessing a gun, are you going to immediately
3 favor or disfavor that individual because they had a gun or didn't
4 have a gun?

5 PROSPECTIVE JUROR NUMBER 173: I'd try not to, but I
6 don't know?

7 MS. OVERLY: Okay. What about police officers that
8 would testify, you know, in their course -- you know, scope of their
9 job they would need to possess guns. Is that going to affect your
10 ability to weigh their testimony, knowing that they possess guns
11 and have to for a living?

12 PROSPECTIVE JUROR NUMBER 173: No, because I know
13 they have to carry it for living --

14 MS. OVERLY: For their job?

15 PROSPECTIVE JUROR NUMBER 173: Right.

16 MS. OVERLY: Okay. But if you heard about somebody
17 else possessing one, maybe it's not for their job --

18 PROSPECTIVE JUROR NUMBER 173: Right.

19 MS. OVERLY: -- that that might impact your ability to
20 listen to what they have to say?

21 PROSPECTIVE JUROR NUMBER 173: Maybe.

22 MS. OVERLY: Maybe. Okay. Do you think that listening
23 to that is going to -- let me just say this -- let me just ask this, if you
24 hear about somebody possessing a gun, are you automatically
25 going to assume guilt of that person, merely because they

1 possessed a gun?

2 PROSPECTIVE JUROR NUMBER 173: No.

3 MS. OVERLY: No, okay. So you'll listen to the evidence
4 and the witnesses that testify each independently --

5 PROSPECTIVE JUROR NUMBER 173: Yes.

6 MS. OVERLY: -- is that fair to say?

7 PROSPECTIVE JUROR NUMBER 173: Yes.

8 MS. OVERLY: Okay. So the fact that somebody just
9 possesses a gun isn't going to automatically give you a right to
10 return a guilty verdict --

11 PROSPECTIVE JUROR NUMBER 173: Uh-huh.

12 MS. OVERLY: -- correct?

13 Okay. Is there anything else about you either morally,
14 religiously, or otherwise that you think would hinder your ability to
15 sit on this jury?

16 PROSPECTIVE JUROR NUMBER 173: No.

17 MS. OVERLY: Okay. You think you can be fair and
18 impartial?

19 PROSPECTIVE JUROR NUMBER 173: Yes.

20 MS. OVERLY: I'll pass the witness, Your Honor.

21 THE COURT: Mr. Yampolsky or Mr. Margolis?

22 MR. HELMICK: May we approach, please?

23 [Bench conference transcribed as follows.]

24 MR. MARGOLIS: She's probably anti-gun.

25 MR. HELMICK: I think that's for cause.

1 MR. YAMPOLSKY: Hold on.
2 THE COURT: Well hold on.
3 MR. HELMICK: Get on in her, Mace.
4 MR. YAMPOLSKY: [Indiscernible].
5 MR. HELMICK: Okay.
6 MR. YAMPOLSKY: [Indiscernible].
7 MR. HELMICK: I understand. Okay. So I know this --
8 THE COURT: I don't think there's enough so far to
9 challenge her for cause just because she says I don't really like
10 guns. I mean, I don't --
11 MR. HELMICK: Well can I just read you the notes real
12 quick? Let me just read you what I wrote down so I can put it on
13 the record. All right. So Ms. Overly said -- she said she didn't like
14 guns and she said I don't know if she could be -- if she could
15 deliberate with guns, she said I don't know. She says she thinks so.
16 THE COURT: Okay.
17 MR. HELMICK: She says she believes people shouldn't
18 have guns, she disfavors people with guns. She would try not to in
19 regards to deliberating, can you deliberate with --
20 THE COURT: Keep your voice down.
21 MR. HELMICK: Sorry.
22 THE COURT: That's okay.
23 MR. HELMICK: But you know what I mean? Basically
24 she's saying that she would try to be fair, she would try to
25 deliberate --

1 THE COURT: Okay.

2 MR. HELMICK: -- with guns.

3 THE COURT: So like I said I'll let you guys follow up and
4 ask some questions. I don't think she's come out, especially in light
5 of the last questions where she said no, I'm not going to
6 automatically assume somebody's guilty because of a gun just
7 because --

8 MR. HELMICK: Yeah, I wish she wouldn't have asked
9 those questions.

10 THE COURT: What? You wish she wouldn't have asked
11 those?

12 All right. Go ahead.

13 [End of bench conference.]

14 THE COURT: All right. Who's going?
15 Mr. Margolis?

16 MR. MARGOLIS: Yes. Thank you, Your Honor.
17 Good afternoon, Ms. Colon. I'll try and keep it brief, okay?

18 PROSPECTIVE JUROR NUMBER 173: Okay.

19 MR. MARGOLIS: A couple of questions. First about the
20 guns. You don't like guns.

21 PROSPECTIVE JUROR NUMBER 173: No.

22 MR. MARGOLIS: I'm not crazy about them either. You
23 don't own a gun.

24 PROSPECTIVE JUROR NUMBER 173: No.

25 MR. MARGOLIS: Ever fired a gun?

1 PROSPECTIVE JUROR NUMBER 173: No.
2 MR. MARGOLIS: Any desire to fire a gun?
3 PROSPECTIVE JUROR NUMBER 173: No.
4 MR. MARGOLIS: You don't want to hear the boom and
5 the --
6 PROSPECTIVE JUROR NUMBER 173: Nothing. I haven't
7 even --
8 MR. MARGOLIS: -- flash and all that good stuff.
9 PROSPECTIVE JUROR NUMBER 173: -- buy my kid a play
10 gun.
11 MR. MARGOLIS: No pellet guns, no --
12 PROSPECTIVE JUROR NUMBER 173: I don't like them at
13 all.
14 MR. MARGOLIS: No Christmas Story red rifle shooters.
15 PROSPECTIVE JUROR NUMBER 173: Nothing.
16 MR. MARGOLIS: Okay. Now, I get it, you don't like guns;
17 however, you believe cops should have guns, right?
18 PROSPECTIVE JUROR NUMBER 173: Yeah.
19 MR. MARGOLIS: And the military should have guns?
20 PROSPECTIVE JUROR NUMBER 173: Yeah.
21 MR. MARGOLIS: Your 14 and 10-year old.
22 PROSPECTIVE JUROR NUMBER 173: No.
23 MR. MARGOLIS: Okay. So let's talk about your 14 and
24 10-year old for a minute, okay? Clearly, we don't want them to
25 have guns, but I want to talk about something slightly different as

1 pertains to the 14 and 10-year old, your children. Are they often in
2 cahoots or are they often pointing the finger at one another? If
3 could characterize it as one or the other; maybe you can't.

4 I'll give you an example. My older brother and I, we were
5 more likely to be breaking the window together throwing the
6 baseball, right? Whereas my daughters, it's always she did it, right?
7 With two different arrows pointing, right? Your 14 and 10-year old,
8 what situation does it more mirror? The two brothers, me and my
9 older brother, throwing the baseball through the window and then,
10 you know, taking the lumps together; or my daughters, where it's
11 her fault?

12 PROSPECTIVE JUROR NUMBER 173: Probably her fault.

13 MR. MARGOLIS: Probably the pointing of the fingers --

14 PROSPECTIVE JUROR NUMBER 173: Yeah.

15 MR. MARGOLIS: -- right? Okay.

16 Now in that situation where you feel like clearly
17 somebody has broken the vase let's say --

18 PROSPECTIVE JUROR NUMBER 173: Uh-huh.

19 MR. MARGOLIS: -- right, and you can't get a clear answer
20 between your 14 and 10-year old as to which one of them is
21 responsible. In that situation, do you just accept the fact that you're
22 never going to know what happened to the broken vase on the
23 floor?

24 PROSPECTIVE JUROR NUMBER 173: No. I mean, I would
25 try to get it out of them or else they're both in trouble.

1 MR. MARGOLIS: Okay. Or otherwise they're both in
2 trouble, right? And that kind of brings me to a situation that's
3 analogous to here. We have two defendants, we have two people
4 sitting at that table who are alleged to have participated in the
5 offense, okay? But unlike your 10 and 14-year old, we can't compel
6 them, we can't grab them by the collar of their shirt and put them
7 on the witness stand, right?

8 PROSPECTIVE JUROR NUMBER 173: Uh-huh.

9 MR. MARGOLIS: Can you fairly the evaluate against one,
10 both, all of them, without the opportunity to do what you do to your
11 10 and 14-year old?

12 PROSPECTIVE JUROR NUMBER 173: I'm not
13 understanding.

14 MR. MARGOLIS: Okay. It's kind of similar to what we
15 asked Mr. Castillo previously, okay, and it was can you fairly
16 evaluate the evidence of someone's guilt or their lack of guilt
17 without them telling their story, for lack of a better term?

18 PROSPECTIVE JUROR NUMBER 173: I think I would need
19 to hear their story.

20 MR. MARGOLIS: Okay. So to bring it back to your 10 and
21 14-year old children, if they just both stone-walled you, didn't take
22 the stand, didn't tell their story, your conclusion would be to punish
23 both of them, correct?

24 PROSPECTIVE JUROR NUMBER 173: Right.

25 MR. MARGOLIS: And in your household that works

1 perfectly right, okay?

2 PROSPECTIVE JUROR NUMBER 173: Uh-huh.

3 MR. MARGOLIS: You understand how that might be
4 difficult here?

5 PROSPECTIVE JUROR NUMBER 173: Yes.

6 MR. MARGOLIS: Okay. I will defer to my colleague.

7 THE COURT: Thank you. Mr. Helmick.

8 MR. HELMICK: Court's indulgence.

9 THE COURT: Okay.

10 MR. HELMICK: I'm going to go ahead and pass for cause,
11 Your Honor.

12 THE COURT: Okay. Would you guys approach the bench,
13 please?

14 [Bench conference transcribed as follows.]

15 THE COURT: You're withdrawing the challenge and
16 you're passing for cause now. Okay. So what do you guys --

17 MR. YAMPOLSKY: On what? On her?

18 THE COURT: Yeah.

19 MR. YAMPOLSKY: I'll submit.

20 THE COURT: Well I mean, is there a challenge or no
21 challenge?

22 MR. YAMPOLSKY: No.

23 THE COURT: No challenge. Okay.

24 So then we've got our three and I excluded Mr. Castillo.
25 And just so you know they're in Seats 24, 26, 27. But I will take a

1 break anyway and I'll put that on the record and then I'll let you
2 guys go through your notes and everything and then we'll get them
3 back, all of them and start the process.

4 MR. YAMPOLSKY: And they'll be sitting where they're
5 supposed to be sitting?

6 THE COURT: Yeah, they'll be sitting where they're
7 supposed to be sitting, okay? All right.

8 MR. PESCI: I'm sorry, Your Honor. We're going to sit two
9 alternates?

10 THE COURT: Yeah.

11 MR. PESCI: So there's going to be 14 [indiscernible].

12 THE COURT: Yeah. The four at the end --

13 MR. YAMPOLSKY: So the 28 to 32 --

14 THE COURT: 28, 29, 30, 31, 32, there's are your four
15 alternates possible.

16 MR. YAMPOLSKY: Okay.

17 THE COURT: So you exercise your eight, you exercise --
18 the first 28 --

19 MR. YAMPOLSKY: And then we -- each side gets one
20 for --

21 THE COURT: -- as to the alternate.

22 MR. PESCI: We can only use the alternate for --

23 THE COURT: As to the alternate, yes.

24 MR. PESCI: Okay.

25 THE COURT: All right.

1 MR. PESCI: Thank you.

2 THE COURT: Uh-huh.

3 [End of bench conference.]

4 THE COURT: Okay. So we are done. We have three
5 people. So Ms. Anderson, Ms. Hocker, Ms. Colon, you are all going
6 to stay with us for right now. Everybody else, you are excused,
7 thank you very much. I hope you've enjoyed the process the short
8 time you've been here, and you're done with jury duty and they will
9 not try and send you out anywhere else, okay?

10 So the 18 of you can take off and then ladies, if you'll just
11 stay here for just a moment, please.

12 [The excused prospective jurors exit the courtroom]

13 THE COURT: You guys can be seated. Okay.

14 So here's what we're going to do. We're going to take a
15 break and I'm going to get all the other jurors that are down in Jury
16 Services that we've already questioned up here with you all and
17 then I'll have you all sitting in the courtroom while the attorneys go
18 through and get it whittled down to the 14. It's much easier to have
19 you sitting in the courtroom so they can kind of put a face in their
20 notes about who said what over the course of the last couple of
21 days. And you'll be able to kind of visit quietly among yourselves
22 while we do that.

23 But when we take a break -- since we got to go get them --
24 and every time we take a break, I have to tell you that during the
25 recess you're admonished not to talk or converse among

1 yourselves or with anyone else on any subject connected with the
2 trial. You cannot read, watch, or listen to any kind of news or
3 media reports about the case, by any medium of information,
4 including, without limitation to newspapers, television, the internet,
5 radio, nothing like that. You cannot form or express any opinions
6 about the case until the case is submitted to you for your
7 deliberations. And you can't do any kind of legal or factual
8 research.

9 So short answer means even during our breaks you
10 cannot talk about the case, even with your fellow jurors. You have
11 you find other things to chat about right now.

12 You guys all have smart phones?

13 Yeah. So don't use your phones to do any kind of
14 research about the case. Don't do any research at home later on,
15 either computer, tablet, anything like that. Don't look up people's
16 names or try and look up legal terms. Everything you need to know
17 to decide a case you'll learn here in the courtroom.

18 And you guys all have some kind of social media as well?
19 Something?

20 Yes, okay. Please do not engage in any kind of social
21 media communication about the fact that you're doing jury duty.
22 Even though it can be really innocuous on your part, social media
23 kind of works where everybody else maybe wants to comment
24 about what you're doing and give you information or influence you
25 in ways that we would like to avoid. So please do not engage in

1 any kind of social media communication either.

2 So we're going to be in recess. You guys can just wait
3 outside for right now, I'm guessing it will be about 15/20 minutes to
4 get everybody else up here and then we'll get started back up,
5 okay?

6 Thank you, ladies.

7 [Outside the presence of the prospective jury]

8 THE COURT: Okay. Just for the record, the three vacant
9 seats that we were filling were 24, 26, and 27. So Ms. Anderson,
10 Badge 167 went into Seat 24; Ms. Hocker, 168, went into Seat 26;
11 and Marybel Colon, Badge 173, went into Seat 27.

12 I'm going to give you the list and the first 28 are your
13 jurors -- or potential jurors so you can use your eight challenges in
14 that group. And then the last four, 29 through 32, are the alternate
15 group, so your alternate challenge has to be used as to that group
16 of four, okay?

17 MR. HELMICK: Okay.

18 THE COURT: And then if anybody waives a challenge, just
19 kind of write at the bottom of your column a W and the number
20 next to it that you waive. If you waive one, you're not waiving
21 anything thereafter. You can waive the fifth one and pick back up
22 or anything like that, okay?

23 MR. PESCI: Thank you, Your Honor.

24 THE COURT: Okay.

25 MR. HELMICK: Thanks.

1 THE COURT: Here is -- I'll go ahead and give you the list,
2 Giancarlo. But we'll take a break. You guys run to the restroom,
3 whatever you need to do, and we'll get everybody up here.

4 [Court recessed at 3:35 p.m., until 3:56 p.m.]

5 [In the presence of the prospective jury]

6 THE MARSHAL: Jurors are present.

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

8 All right. We are back on the record. Mr. Harlan, Mr.
9 Caruso are present with their attorneys, States' attorneys are
10 present. Our expected 32 jurors are present so welcome back
11 everybody.

12 So we've reached the point in time where we kind of
13 undergo the process of the attorneys whittling the group of 32
14 down to the 14 that we need to hear our trial. It's better to have you
15 seated in the courtroom while they do that so they kind of put your
16 face to their notes and their memory about things as we're kind of
17 going through.

18 They just have a process that they'll be going through
19 quietly kind of amongst themselves, kind of back and forth. You're
20 free to visit among yourselves while they do this. I need you to
21 obviously kind of be quiet and keep your voices down a little bit if
22 you would. But feel free to talk among yourselves while they go
23 through that, okay?

24 Except that I just noticed we're missing somebody.

25 THE CLERK: No, she's the one [indiscernible].

1 THE COURT: Oh, that's right. Okay. My fault.
2 For the record, I did excuse Ms. Gebhart earlier to be able
3 to make it to her doctor's appointment with the approval of the
4 parties, correct?
5 MR. PESCI: I'm sorry?
6 THE COURT: That we excused Ms. Gebhart --
7 MR. PESCI: Yes, yes.
8 THE COURT: -- knowing that she's still part of the --
9 MR. PESCI: Yes, yes.
10 THE COURT: -- panel. Okay.
11 So go ahead, chat amongst yourselves.
12 [Peremptory Challenges]
13 MR. YAMPOLSKY: Can we approach, Your Honor?
14 THE COURT: Yeah.
15 [Bench conference transcribed as follows.]
16 MR. YAMPOLSKY: We're just asking about --
17 THE COURT: Are you waiving Number 8?
18 MR. PESCI: Yes, we did. That's the W at the bottom. I
19 apologize, Your Honor. I didn't know where you wanted us to put
20 it.
21 THE COURT: No, that's okay. So what's the question --
22 MR. YAMPOLSKY: The question is --
23 THE COURT: -- who's your alternates?
24 MR. YAMPOLSKY: -- since they waived the alternates
25 instead of 29 to 32 or 28 to 32, so can we exercise a strike for all of

1 them or only 29 to --

2 THE COURT: No, it would be the bottom five people --

3 MR. YAMPOLSKY: Okay.

4 THE COURT: This --

5 MR. YAMPOLSKY: That's where --

6 MR. PESCI: Well hold on one second. [Indiscernible] I

7 assumed Number 12 [indiscernible] Ms. Evans.

8 THE COURT: Pardon?

9 MR. YAMPOLSKY: No, no, it's Ms. Hocker.

10 MR. HELMICK: It's Marybel.

11 MR. YAMPOLSKY: Oh.

12 MR. PESCI: No, we did not kick Ms. Evans.

13 THE COURT: Oh, I'm sure you didn't.

14 MR. PESCI: Right.

15 THE COURT: Hold on.

16 So everything in pink are your jurors and then --

17 MR. YAMPOLSKY: Yeah, Evans is next.

18 MR. PESCI: Okay.

19 THE COURT: Okay. So let's --

20 MR. PESCI: So we exercise one to the bottom.

21 MR. YAMPOLSKY: Right.

22 THE COURT: Yeah. So everywhere below the last --

23 MR. YAMPOLSKY: And they're going to go in order.

24 THE COURT: -- [indiscernible], you can use an alternate

25 on.

1 MR. PESCI: Yeah.
2 MR. YAMPOLSKY: Right.
3 THE COURT: So if you waive --
4 MR. YAMPOLSKY: So if no one kicks --
5 THE COURT: -- then that's --
6 MR. YAMPOLSKY: -- 28 or 29.
7 THE COURT: -- Number 1, that's Number 2. If you kick
8 those, then that's Number 1 and that's Number 2.
9 MR. PESCI: Okay.
10 MR. HELMICK: Got it?
11 MR. PESCI: Okay.
12 THE COURT: You sure? You look like you're still
13 confused.
14 MR. PESCI: No, no, I'm all right.
15 THE COURT: You're good?
16 MR. PESCI: Yep.
17 THE COURT: Okay.
18 MR. YAMPOLSKY: You sure?
19 MR. PESCI: Yeah.
20 [End of bench conference.]
21 THE COURT: You guys can talk again, it's okay.
22 [Peremptory Challenges]
23 THE COURT: Mr. Pesci?
24 ...
25 [Bench conference transcribed as follows.]

1 THE COURT: Does anybody have any objections to
2 challenges issued by the other side?

3 Any the objections by the State?

4 MR. PESCI: No, I'll wait and see what they say.

5 MR. HELMICK: No objections.

6 MR. YAMPOLSKY: No.

7 THE COURT: Any objections?

8 MR. MARGOLIS: No. No objections.

9 THE COURT: Okay. Thank you.

10 All right. So we will have Ms. Evans and Ms. Sepulveda
11 as your two alternates, okay?

12 [End of bench conference.]

13 THE COURT: Okay, folks, I am going to read off the list of
14 names of everybody that's going to be excused at this point. So if
15 you would let me get through all these names before you get up
16 and run away, I would appreciate that. Thank you.

17 We are going to excuse Mr. Esposito, Badge 554;
18 Mr. Meng, 390; Mr. Barrett, 398; Sandra Allen, 560;
19 Emely Villasenor, 417; Sydney Gebhart, 418; Alvarez, 425;
20 Mayhew, 426; Ballard, 429; Pereda, 432; Leon, 512; Takahashi, 460;
21 Robinson, 463; Anderson, 167; Kord, 471; Diaz, 497; Ohlandt, 502;
22 and Ms. Brown, 525.

23 So the 18 of you all are excused. I appreciate your time
24 very much the last couple of days. Thank you so much for your
25 patience and your presence, okay?

1 And everybody else just kind of stay in your seat for a
2 moment if you would.

3 [Excused prospective jurors exit the courtroom]

4 THE COURT: You all can be seated, thank you.

5 So first thing I got to count because sometimes people try
6 and sneak out with everybody else.

7 You'd be surprised.

8 Okay. So we have 14 jurors.

9 So I'm going to release you now and we're going to break
10 for the day. We're going to start tomorrow at 9:00. A couple of
11 things, as you leave tonight, you're going to give the marshal those
12 white badges and we're going to give you a plastic blue badge that
13 shows that you've been chosen as a juror in my department.
14 Please make sure you wear that whenever you come into the
15 building because that just let's everybody know that you've been
16 chosen on a jury so hopefully they avoid having any kind of
17 conversation with you.

18 Additionally, you're going to be parking right across the
19 street from the building now instead of down on Fremont Street or
20 wherever it is that they have you. So the marshal will explain that
21 to you as well about parking for tomorrow.

22 I think I talked about during jury selection the fact that you
23 can bring drinks and things like that to court. So a lot of times
24 when people know they're going to be on a jury they may bring a
25 big thermos or things like that. Feel free to do that, that's perfectly

1 fine.

2 If you need letters or anything for your employers to let
3 them know hey, I'm kind of in this for the next week now so I'm
4 going to be away from work; whatever you need, just let the
5 marshal know, we'll get letters typed up for you. We can give you
6 the hard copy, if you need it faxed over to an employer or e-mailed
7 over to them, whatever it is you need, just let us know.

8 Obviously, I realize that you need to tell your loved ones
9 and your employers that you're doing jury duty now, despite that
10 admonition about not talking to people about the case. But please
11 just leave it at I've been selected to hear a trial and I'm going to be
12 doing jury duty through the next week. Do not give them any more
13 information than that because like everybody else, the more
14 information you give somebody, the more curious they are and the
15 more inclined they may be to want to ask you questions about it.

16 So if you keep it really vanilla, just I got chosen, I'm going
17 to hear a trial for the next week and I'll be happy to talk to you
18 about it when I'm done is probably the best way to go, okay?

19 You guys have any questions for me right now?

20 No? Okay. So -- yes, Ms. Huston?

21 PROSPECTIVE JUROR NUMBER 506: So will we still
22 provide our own lunch all the days of the trial?

23 THE COURT: Yeah. I mean, --

24 PROSPECTIVE JUROR NUMBER 506: Okay. Just --

25 THE COURT: -- I'll buy you lunch when you get to the

1 point of deliberations and stuff like that but for right now, you're
2 going to be free during your lunch hours. What we're going to do
3 moving forward is whenever you get here in the morning -- thank
4 you because you jogged my memory on this.

5 There is the main doorway right outside there, kind of got
6 two courts this way, two courts that way. Whenever you arrive
7 tomorrow morning, go to that doorway, there's a little intercom
8 there, just buzz my department and we're going to bring you back
9 and keep you in the deliberation room during recesses and breaks
10 so you're not out in the hallway with everybody else, just to kind of
11 make sure we keep you separated.

12 So if you want to bring a lunch with you, I believe there's
13 a refrigerator in there, you can store your lunch in there. And if
14 there's not enough room in there, let me know and I'll put it in my
15 chambers. And then -- because if you want to stick around the
16 building and just have your lunch here, instead of going out
17 anywhere else, you can certainly do that.

18 PROSPECTIVE JUROR NUMBER 506: Okay.

19 THE COURT: But you are kind of responsible for your own
20 lunch in terms of whether you bring it with you or go grab a bite at
21 Capriotti's or anywhere else, okay?

22 Any other questions?

23 Yes, sir?

24 PROSPECTIVE JUROR NUMBER 568: Just a quick
25 question. I don't have no problem being here, but it'll be done

1 before the 15th -- 16th of August?

2 THE COURT: Yeah.

3 PROSPECTIVE JUROR NUMBER 568: We'll be -- okay
4 because that's --

5 THE COURT: Yep.

6 PROSPECTIVE JUROR NUMBER 568: Perfect.

7 THE COURT: Yep, yep, yep, yep, yep, yep. Got to be done
8 before then. I got other trials and everything, so yes.

9 PROSPECTIVE JUROR NUMBER 568: Thank you.

10 THE COURT: And the attorneys are really good about
11 breaking down their case and giving me a time estimate that's
12 conservatively done. So maybe we get done a little earlier than
13 that, but --

14 PROSPECTIVE JUROR NUMBER 568: No, that's fine I
15 just --

16 THE COURT: -- that should be the longest point, okay?

17 PROSPECTIVE JUROR NUMBER 568: I just have a
18 vacation.

19 THE COURT: Okay. Yes?

20 PROSPECTIVE JUROR NUMBER 506: Sorry. He just said
21 the 16th but the 9th, that Friday?

22 THE COURT: Yeah, we're talking about being done by the
23 latter part of next week, not the latter --

24 PROSPECTIVE JUROR NUMBER 506: Okay.

25 THE COURT: -- part of the third week.

1 PROSPECTIVE JUROR NUMBER 506: Okay. Just checking
2 because I got that wedding.

3 THE COURT: See, you got everybody all scared now.

4 PROSPECTIVE JUROR NUMBER 506: No.

5 THE COURT: No, it's the latter --

6 PROSPECTIVE JUROR NUMBER 506: I'm not missing --

7 THE COURT: -- part --

8 PROSPECTIVE JUROR NUMBER 506: -- my son's
9 wedding.

10 THE COURT: Latter part of next week.

11 PROSPECTIVE JUROR NUMBER 506: Okay.

12 THE COURT: Okay.

13 Do you guys have any other questions?

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

23 And I will see you tomorrow morning. If you'd get here
24 just a little before 9:00, as soon as we have all of you, we'll get in
25 here and get started, okay? Thank you very much.

1 [Outside the presence of the prospective jury]
2 THE COURT: Anything outside the presence?
3 MR. PESCI: Not from the State.
4 MR. HELMICK: Not from the Defense.
5 MR. YAMPOLSKY: Nope. No, Your Honor.
6 THE COURT: No questions about exhibits or anything for
7 openings that we need to decide on? Have you all had discussions
8 about that?
9 MR. PESCI: We provided them to the clerk, so she's got it
10 and an exhibit list as well.
11 THE COURT: Okay.
12 MR. PESCI: So.
13 MR. HELMICK: Yes. I mean, I have something -- I was
14 going to get here early to run it by the State.
15 THE COURT: Okay.
16 MR. HELMICK: We're starting tomorrow at 9:00, right?
17 THE COURT: Yep.
18 MR. HELMICK: So I'll be here like around 8:30 --
19 THE COURT: Okay.
20 MR. HELMICK: -- run it by Giancarlo.
21 THE COURT: Yeah.
22 MR. HELMICK: I got a couple --
23 THE COURT: Just let me know if there's anything that I
24 need to make any rulings on their admissibility before you get
25 started.

1 MR. HELMICK: Sure.

2 THE COURT: All right.

3 MR. PESCI: In that regard, in our opening statement, I
4 believe Ms. Overly intends on utilizing the videos, so everyone
5 knows.

6 THE COURT: Okay.

7 MR. PESCI: So if anyone has positions on that.

8 THE COURT: Anything other than those? Photographs or
9 no? Just the videos?

10 MR. PESCI: Yes, photographs but it's also videos.

11 THE COURT: Okay.

12 MS. OVERLY: Correct.

13 THE COURT: All right. So yeah, just get together on
14 those things and if I need to rule on anything, let me know. And
15 then we'll see you -- well about 8 -- yeah, we can open up the court
16 about 8:30, so you can get in here.

17 MR. HELMICK: Okay, good.

18 THE COURT: And get everything set up and make sure
19 your equipment's working and then we'll get started.

20 MR. HELMICK: Thanks.

21 MR. PESCI: And I'm going to try to figure out, as far as
22 my testimony on Thursday.

23 THE COURT: Oh yeah.

24 MR. PESCI: Because I don't know what Judge Bluth's
25 calendar is, as far as like -- her calendar starts at 9:00, so I don't

1 think she's getting the testimony in.

2 THE COURT: Well you're in luck because I have some pull
3 with her because she calls me literally every day for something. So
4 just let me know when the best time to do it and I'll ask her to do it
5 then.

6 MR. PESCI: Well I'll do it up and until you need me here.
7 So whatever works for her schedule. Whenever she's going to let
8 that in. But I don't know whether she can do a hearing in the
9 middle of a regular calendar.

10 THE COURT: Yeah. I'll find out.

11 MR. PESCI: Okay.

12 THE COURT: Okay. Thank you.

13 MR. YAMPOLSKY: Thank you.

14 [Evening recess at 4:25 p.m.]

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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.

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Brittany Mangerson
Independent Transcriber