

IN THE NEVADA SUPREME COURT

Electronically Filed
Sep 28 2020 08:16 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Tyrone David James Sr.,

Petitioner-Appellant,

v.

State of Nevada/Brian Williams et. al.,

Respondents-Appellees.

On Appeal from the Order Denying Post-Conviction Petition
Requesting Genetic Marker Analysis (10C265506) &
Post-Conviction Petition for Writ of Habeas Corpus (A-19-797521-W)
Eighth Judicial District, Clark County
Honorable Ronald J. Israel, District Court Judge

**Petitioner-Appellant's Appendix to the Opening Brief
Volume I of V**

Rene Valladares
Federal Public Defender,
District of Nevada
*C.B. Kirschner
Assistant Federal Public Defender
411 E. Bonneville Ave., Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
CB_Kirschner@fd.org

*Counsel for Tyrone David James Sr.

ALPHABETICAL INDEX

1. Court Minutes Re All Pending Motions Hearing, Case No. C265506 776
Dated January 16, 2020
2. Court Minutes Re All Pending Motions, Case No. A-19-797521-W 700
Dated August 19, 2019
3. Court Minutes Re All Pending Motions, Case No. A-19-797521-W 712
Dated September 25, 2019
4. Court Minutes Re Post Conviction Petition Requesting A Genetic
Marker Analysis of Evidence Within Possession or Custody of the
State of Nevada, Case No. 10C265506 656
Dated July 29, 2019
5. Court Minutes Re Status Check: Status of Stay/Reset Petition for
Writ, Case No. A-19-797521-W 713
Dated November 25, 2019
6. Criminal Complaint, Case No. C265506 001
Dated May 18, 2010
7. Findings of Fact, Conclusions of Law and Order, Case Nos. A-19-
797521-W & 10C265506 778
Dated February 25, 2020
8. Index of Exhibits in Support of Petition for Writ of Habeas Corpus
Part One, Case No. A-19-797521-W 631
Dated June 27, 2019

9.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus Part Two, Case No. A-19-797521-W.....	638
	Dated June 27, 2019	
10.	Judgment of Conviction, Case No. C265506.....	599
	Dated February 9, 2011	
11.	Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination- Biology/DNA Detail and Sunrise Hospital Records- FILED UNDER SEAL	841
	Dated June 12, 2018	
12.	Minute Order, Case No. A-19-797521-W	641
	Dated June 28, 2019	
13.	Motion for Stay of Petition for Writ of Habeas Corpus, Case No. A- 19-797521-W.....	692
	Dated August 8, 2019	
14.	Motion to File Exhibit Under Seal, Case No. A-19-797521-W....	634
	Dated June 27, 2019	
15.	Motion to Preserve and Inventory Evidence, and Proposed Order, Regarding Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506	666
	Dated August 5, 2019	
16.	Notice of Appeal, Case No. 10C265506	839
	Dated February 26, 2020	
17.	Notice of Appeal, Case No. A-19-797521-W	837
	Dated February 26, 2020	
18.	Notice of Entry of Findings of Fact, Conclusions of Law and Order, Case No. A-19-797521-W	797
	Dated February 26, 2020	

19. Notice of Entry of Findings of Fact, Conclusions of Law and Order, Case No. 10C265506	817
Dated February 26, 2020	
20. Order of Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506	697
Dated August 8, 2019	
21. Order, Case No. 2:18-cv-00900-KJD-GWF	606
Dated March 4, 2019	
22. Petition for Writ of Habeas Corpus, Case No. A-19-797521-W	610
Dated June 27, 2019	
23. Post-Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506	642
Dated July 16, 2019	
24. Reply to State’s Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W	706
Dated September 10, 2019	
25. Reply to State’s Supplemental Response to Defendant’s Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506	731
Dated December 12, 2019	
26. Second Amended Criminal Complaint, Case No. C265506	003
Dated May 26, 2010	

27. State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and State's Motion to Dismiss, Case Nos. A-19-797521-W & 10C265506 672
Dated August 6, 2019
28. State's Response to Defendant's Petition Requesting Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506..... 651
Dated July 23, 2019
29. State's Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W..... 701
Dated September 4, 2019
30. State's Supplemental Response to Defendant's Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506..... 714
Dated December 9, 2019
31. Transcript of Defendant's Motion to Reconsider Motion to Admit Evidence of Other Crimes, Wrongs, or Bad Acts, and Jury Trial Volume I, Case No. C265506 005
Dated September 21, 2010
32. Transcript of Jury Trial Volume II, Case No. C265506 286
Dated September 22, 2010
33. Transcript of Jury Trial Volume III, Case No. C265506..... 516
Dated September 23, 2010
34. Transcript of Post Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506..... 657
Dated July 29, 2019

- 35. Transcript of Post-Conviction Petition Requesting A Genetic Marker
Analysis of Evidence Within Possession or Custody of the State of
Nevada, Case No. 10C265506..... 760
Dated January 13, 2020

- 36. Transcript of Status Check: Status of Stay/Reset Petition for Writ,
Case No. A-19-797521-W 744
Dated January 13, 2020

- 37. Unopposed Motion for Appointment of Counsel to Represent
Petitioner, Case No. 2:18-cv-00900-KJD-GWF..... 602
Dated February 27, 2019

- 38. Verdict, Case No. C265506 597
Dated September 23, 2010

CHRONOLOGICAL INDEX

VOLUME I

1. Criminal Complaint, Case No. C265506..... 001
Dated May 18, 2010
2. Second Amended Criminal Complaint, Case No. C265506 003
Dated May 26, 2010
3. Transcript of Defendant's Motion to Reconsider Motion to Admit
Evidence of Other Crimes, Wrongs, or Bad Acts, and Jury Trial
Volume I, Case No. C265506..... 005
Dated September 21, 2010

VOLUME II

3. (Cont.) Transcript of Defendant's Motion to Reconsider Motion to
Admit Evidence of Other Crimes, Wrongs, or Bad Acts, and Jury
Trial Volume I, Case No. C265506..... 249
Dated September 21, 2010
4. Transcript of Jury Trial Volume II, Case No. C265506..... 286
Dated September 22, 2010

VOLUME III

4. (Cont.) Transcript of Jury Trial Volume II, Case No. C265506 . 499
Dated September 22, 2010
5. Transcript of Jury Trial Volume III, Case No. C265506 516
Dated September 23, 2010
6. Verdict, Case No. C265506..... 597
Dated September 23, 2010

7.	Judgment of Conviction, Case No. C265506.....	599
	Dated February 9, 2011	
8.	Unopposed Motion for Appointment of Counsel to Represent Petitioner, Case No. 2:18-cv-00900-KJD-GWF	602
	Dated February 27, 2019	
9.	Order, Case No. 2:18-cv-00900-KJD-GWF	606
	Dated March 4, 2019	
10.	Petition for Writ of Habeas Corpus, Case No. A-19-797521-W	610
	Dated June 27, 2019	
11.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus Part One, Case No. A-19-797521-W.....	631
	Dated June 27, 2019	
12.	Motion to File Exhibit Under Seal, Case No. A-19-797521-W ...	634
	Dated June 27, 2019	
13.	Index of Exhibits in Support of Petition for Writ of Habeas Corpus Part Two, Case No. A-19-797521-W.....	638
	Dated June 27, 2019	
14.	Minute Order, Case No. A-19-797521-W	641
	Dated June 28, 2019	
15.	Post-Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506	642
	Dated July 16, 2019	

16. State’s Response to Defendant’s Petition Requesting Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506	651
Dated July 23, 2019	
17. Court Minutes Re Post Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506	656
Dated July 29, 2019	
18. Transcript of Post Conviction Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506	657
Dated July 29, 2019	
19. Motion to Preserve and Inventory Evidence, and Proposed Order, Regarding Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506	666
Dated August 5, 2019	
20. State’s Response to Defendant’s Petition for Writ of Habeas Corpus (Post-Conviction) and State’s Motion to Dismiss, Case Nos. A-19-797521-W & 10C265506	672
Dated August 6, 2019	
21. Motion for Stay of Petition for Writ of Habeas Corpus, Case No. A-19-797521-W	692
Dated August 8, 2019	
22. Order of Petition for Genetic Marker Analysis Pursuant to NRS 176.0918, Case No. 10C265506	697
Dated August 8, 2019	
23. Court Minutes Re All Pending Motions, Case No. A-19-797521-W	700
Dated August 19, 2019	

- 24. State’s Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W 701
Dated September 4, 2019

- 25. Reply to State’s Response to Motion for Stay of Petition for Writ of Habeas Corpus (Post-Conviction), Case No. A-19-797521-W 706
Dated September 10, 2019

- 26. Court Minutes Re All Pending Motions, Case No. A-19-797521-W 712
Dated September 25, 2019

- 27. Court Minutes Re Status Check: Status of Stay/Reset Petition for Writ, Case No. A-19-797521-W 713
Dated November 25, 2019

- 28. State’s Supplemental Response to Defendant’s Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 714
Dated December 9, 2019

- 29. Reply to State’s Supplemental Response to Defendant’s Petition Requesting A Genetic Marker Analysis of Evidence Within Possession or Custody of the State of Nevada, Case No. 10C265506 731
Dated December 12, 2019

VOLUME IV

- 30. Transcript of Status Check: Status of Stay/Reset Petition for Writ, Case No. A-19-797521-W 744
Dated January 13, 2020

- 31. Transcript of Post-Conviction Petition Requesting A Genetic Marker
Analysis of Evidence Within Possession or Custody of the State of
Nevada, Case No. 10C265506 760
Dated January 13, 2020

- 32. Court Minutes Re All Pending Motions Hearing, Case No. C265506
..... 776
Dated January 16, 2020

- 33. Findings of Fact, Conclusions of Law and Order, Case Nos. A-19-
797521-W & 10C265506 778
Dated February 25, 2020

- 34. Notice of Entry of Findings of Fact, Conclusions of Law and Order,
Case No. A-19-797521-W 797
Dated February 26, 2020

- 35. Notice of Entry of Findings of Fact, Conclusions of Law and Order,
Case No. 10C265506 817
Dated February 26, 2020

- 36. Notice of Appeal, Case No. A-19-797521-W 837
Dated February 26, 2020

- 37. Notice of Appeal, Case No. 10C265506 839
Dated February 26, 2020

VOLUME V
FILED UNDER SEAL

- 38. Las Vegas Metropolitan Police Department Forensic Laboratory
Report of Examination- Biology/DNA Detail and Sunrise Hospital
Records 841
Dated June 12, 2018

Dated this 28th day of September, 2020.

Respectfully submitted,

/s/ *CB Kirschner*

C.B. Kirschner

Assistant Federal Public Defender

CERTIFICATE OF SERVICE AND MAILING

I hereby certify that this document was filed electronically with the Nevada Supreme Court on September 28, 2020. Electronic Service of the foregoing **Petitioner-Appellant's Appendix to the Opening Brief** shall be made in accordance with the Master Service List as follows:

James Sweetin, District Attorney

/s/ Adam Dunn

An Employee of the
Federal Public Defender, District of Nevada

FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

May 18 8 05 AM '10

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAMES D. TYRONE, aka,
Tyrone D. James #1303556,

Defendant.

JUS. CLERK
LAS VEGAS, NEVADA
BY JSM DEPUTY

CASE NO: 10F09328X

DEPT NO: 1

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364, 200.366) and BATTERY WITH INTENT TO COMMIT A CRIME (Felony - NRS 200.400), in the manner following, to-wit: That the said Defendant, on or about the 14th day of May, 2010, at and within the County of Clark, State of Nevada,

COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did then and there wilfully, unlawfully, and feloniously sexually assault and subject T [REDACTED] H [REDACTED], a female child under sixteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said T [REDACTED] H [REDACTED], against her will, or under conditions in which Defendant knew, or should have known, that the said T [REDACTED] H [REDACTED] was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did then and there wilfully, unlawfully, and feloniously sexually assault and subject T [REDACTED] H [REDACTED], a female child under sixteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said T [REDACTED] H [REDACTED], against her will, or under conditions in which Defendant knew, or should have known, that the said T [REDACTED] H [REDACTED] was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

///

RIM
IMAGED
AF

1 COUNT 3 - BATTERY WITH INTENT TO COMMIT A CRIME

2 did then and there wilfully, unlawfully, and feloniously use force or violence upon
3 the person of another, to-wit: T [REDACTED] H [REDACTED], with intent to commit sexual assault,
4 by digital penetration, by grabbing the said T [REDACTED] H [REDACTED] by the neck.

5 All of which is contrary to the form, force and effect of Statutes in such cases made
6 and provided and against the peace and dignity of the State of Nevada. Said Complainant
7 makes this declaration subject to the penalty of perjury.

8
9
10 5/17/2010
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

27 10F09328X/td
28 LVMPD EV# 1005142100
(TKI)

RIM
IMAGED
AF

10F09328X
544294



ORIGINAL

JUSTICE COURT, LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

FILED IN OPEN COURT
DATE: 008/11/10
CLERK: [Signature]

3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 JAMES D. TYRONE,
7 aka Tyrone D. James,
8 #1303556,

Defendant.

CASE NO: 10F09328X

DEPT NO: 1

SECOND AMENDED

CRIMINAL COMPLAINT

9 The Defendant above named having committed the crimes of **SEXUAL ASSAULT**
10 **WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Felony - NRS 200.364,**
11 **200.366), OPEN OR GROSS LEWDNESS (Gross Misdemeanor - NRS 201.210) and**
12 **BATTERY WITH INTENT TO COMMIT A CRIME (Felony - NRS 200.400) in the**
13 manner following, to-wit: That the said Defendant, on or about the 14th day of May, 2010,
14 at and within the County of Clark, State of Nevada,

15 COUNT 1 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

16 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
17 T [REDACTED] H [REDACTED] a female child under sixteen years of age, to sexual penetration, to-
18 wit: digital penetration, by inserting his finger(s) into the genital opening of the said
19 T [REDACTED] H [REDACTED], against her will, or under conditions in which Defendant knew, or
20 should have known, that the said T [REDACTED] H [REDACTED] was mentally or physically
21 incapable of resisting or understanding the nature of Defendant's conduct.

22 COUNT 2 - OPEN OR GROSS LEWDNESS

23 did, then and there, willfully and unlawfully commit an act of open or gross lewdness
24 by said Defendant using his penis and/or finger(s) and/or hand(s) and/or an unknown object
25 to touch and/or rub and/or fondle the genital area of the said T [REDACTED] H [REDACTED].

26 //

27 //

28 //

APP. 003

1 COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

2 did then and there wilfully, unlawfully, and feloniously sexually assault and subject
3 T [REDACTED] H [REDACTED], a female child under sixteen years of age, to sexual penetration, by
4 Defendant inserting his penis and/or finger(s) and/or unknown object into the genital
5 opening of the said T [REDACTED] H [REDACTED], against her will, or under conditions in which
6 Defendant knew, or should have known, that the said T [REDACTED] H [REDACTED] was mentally
7 or physically incapable of resisting or understanding the nature of Defendant's conduct.

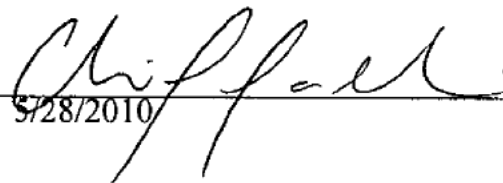
8 COUNT 4 - OPEN OR GROSS LEWDNESS

9 did, then and there, willfully and unlawfully commit an act of open or gross
10 lewdness by said Defendant using his penis and/or finger(s) and/or hand(s) and/or an
11 unknown object to touch and/or rub and/or fondle the genital area of the said T [REDACTED]
12 H [REDACTED].

13 COUNT 5 - BATTERY WITH INTENT TO COMMIT A CRIME

14 did then and there wilfully, unlawfully, and feloniously use force or violence upon
15 the person of another, to-wit: T [REDACTED] H [REDACTED], with intent to commit sexual assault,
16 by digital ^{4th penal.} penetration, by grabbing the said T [REDACTED] H [REDACTED] by the neck.

17 All of which is contrary to the form, force and effect of Statutes in such cases made
18 and provided and against the peace and dignity of the State of Nevada. Said Complainant
19 makes this declaration subject to the penalty of perjury.

20
21 
22 5/28/2010

23
24
25
26
27 DA#10F09328X/hjc/SVU
28 LVMPD EV#1005142100
(TK1)

FILED

APR 29 1 21 PM '11

ORIGINAL

TRAN

EIGHTH JUDICIAL DISTRICT COURT
CIVIL/CRIMINAL DIVISION
CLARK COUNTY, NEVADA

Ann L. Shuman
CLERK OF THE COURT

STATE OF NEVADA,

Plaintiff,

vs.

TYRONE D. JAMES,

Defendant.

CASE NO. C265506

DEPT. NO. VII

10C265506
TRAN
Reporters Transcript
1383285



BEFORE THE HONORABLE LINDA M. BELL, DISTRICT COURT JUDGE

TUESDAY, SEPTEMBER 21, 2010

TRANSCRIPT RE:

DEFENDANT'S MOTION TO RECONSIDER MOTION TO ADMIT
EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS

TRIAL BY JURY
DAY 1 - VOLUME I

APPEARANCES:

For the State:

STACY L. KOLLINS, ESQ.
CHRISTOPHER P. PANDELIS, ESQ.
Deputy District Attorneys

For the Defendant:

BRYAN A. COX, ESQ.
DANIEL R. PAGE, ESQ.
Deputy Public Defenders

RECORDED BY: Renee Vincent, Court Recorder

RECEIVED
APR 29 2011
CLERK OF THE COURT

APP28005

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

INDEX OF WITNESSES

Direct Cross Redirect Recross

STATE'S WITNESSES:

Detective Daniel Tomaino	251	262	273	276
--------------------------	-----	-----	-----	-----

* * * * *

DEFENDANT'S WITNESSES:

None

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

INDEX OF EXHIBITS

		<u>Identified</u>	<u>Admitted</u>
<u>STATE'S EXHIBITS:</u>			
1	Evidence envelope with latex gloves	260	260
2	Evidence envelope with night shirt and Consent to Search card	255	255

* * * * *

DEFENDANT'S EXHIBITS:

None

* * * * *

1 CLARK COUNTY, NEVADA

TUESDAY, SEPTEMBER 21, 2010

2 **PROCEEDINGS**

3 (PROCEEDINGS BEGAN AT 9:07:10 A.M.)

4 (Whereupon the following proceedings were held
5 outside the presence of the prospective jury panel)

6 THE COURT: Okay. I received a copy of the motion to reconsider the
7 motion to admit other bad acts. It was filed on the 17th by the Public Defender's
8 Office. And you know, I have a couple concerns. My first concern is this. I don't
9 think it's particularly appropriate practice, and in fact I'm not really even sure what
10 authority I would have to reverse a ruling of another sitting district court judge.
11 That's really a function of the Nevada Supreme Court. Or if there's a concern
12 about bias, that's something that needs to be addressed with -- basically with the
13 chief judge by way of a motion to get a different judge on the case.

14 My second concern is this. The motion that I received doesn't have
15 any case or legal citations, so it doesn't provide any legal basis for me to reconsider.
16 You know, there are rules about when reconsideration is appropriate. They're not
17 cited to and there is no basis given for reconsideration.

18 And then finally, after reviewing the transcript, while -- Well, I certainly
19 appreciate that Judge Glass and I probably have a little bit different style, I don't
20 think that there is anything in the transcript that shows she has any sort of inherent
21 bias towards the defendant, nor that she made her decision based on bias towards
22 the defendant. I think her decision was based on the law.

23 So the motion to reconsider is denied. Is there anything else we need
24 to take care of outside the presence of the jury?

1 MR. COX: Well, maybe it's premature, but the limiting instruction I think we
2 can argue at the end, but.

3 THE COURT: Well, any instruction you want to have, just submit with your
4 proposed instructions, or if you haven't already.

5 MR. COX: Well, the one change I returned on the limiting instruction, it still
6 included all the theories of admissibility. I still think that the Court is in a position
7 to look into the -- the Court has read the Petrocelli hearing -- to look at whether it
8 should be allowed for all purposes or it should be limited to --

9 THE COURT: Well, Judge Glass' ruling was motive and --

10 MR. PANDELIS: She listed off several, Your Honor.

11 THE COURT: Right. But I think it would be limited to whatever her ruling was.

12 MR. COX: Okay.

13 MR. PANDELIS: And those were intent, motive, opportunity, absence of
14 mistake or accident, were the ones she specifically mentioned.

15 THE COURT: Right. Absence of mistake was what I was trying to think of.
16 Yes.

17 Okay. Anything else we need to take care of outside --

18 MR. COX: No, Judge.

19 THE COURT: -- the presence of the jury?

20 MS. KOLLINS: Did the Court get a copy of our instructions?

21 JUDICIAL EXECUTIVE ASSISTANT: I have them.

22 THE COURT: Yes.

23 MS. KOLLINS: Okay.

24 MR. COX: I did.

1 THE COURT: That's not my job right now. Chermaine handles that until
2 they're all together.

3 JUDICIAL EXECUTIVE ASSISTANT: That's my job. I got it.

4 THE COURT: So, she did.

5 MS. KOLLINS: Well, I just wanted to make sure they got where they were
6 going, that's all.

7 JUDICIAL EXECUTIVE ASSISTANT: Yeah, we got it.

8 THE COURT: They did. Thank you. Anything else?

9 MR. PANDELIS: I think we're good to go.

10 THE COURT: Okay.

11 (Briefly off the record)

12 THE COURT: While we're waiting for the jury to come up, I just wanted to
13 go through a few preliminary things. First of all, generally my preference is to pick
14 the two alternates by lottery at the end of the trial. That allows the attorneys the
15 flexibility to use that last peremptory challenge for any juror -- as long as everybody
16 is comfortable doing it that way.

17 MR. COX: That's fine.

18 MS. KOLLINS: We're fine.

19 THE COURT: Okay. Bench conferences are part of the record, so anything
20 you say up here will be recorded and transcribed. That being said, it can be very
21 difficult, particularly when we have -- as we do in this case, there's three male
22 lawyers -- if people are speaking, for the Court Recorder to identify who is speaking
23 at the bench. So if you could please try to remember to say your name before you
24 speak, that's very helpful.

1 Also, if there's some discussion up here that is important and you want
2 to make sure that it's part of the record, we should also make a record of whatever
3 discussion we have during the next break, just so that we're sure that you have that
4 as part of your appellate record, because they're just having some problems with
5 transcribing the bench conferences. So while I want you to be aware that what you
6 say up here is being recorded, I also want you to be aware that there may be a
7 problem transcribing it.

8 Do you have a list of witnesses?

9 MS. KOLLINS: Yes, Judge.

10 MR. PANDELIS: I do. I can make you a copy.

11 THE COURT: I'll have you introduce yourselves, but generally I read the list
12 of witnesses when we get to that question, just because I think if you do it when
13 you introduce yourself, by the time they get to that question they've absolutely
14 forgotten. And then I would also prefer, sometimes it kind of highlights that the
15 State has a lot of witnesses, and generally there aren't so many for the defense,
16 so it's just I think better if I just read the list when we get to that question. So if you
17 have a list for me, then I can take care of that.

18 Are there any defense witnesses, other than perhaps your client,
19 Mr. Cox?

20 MR. COX: No.

21 THE COURT: Okay. Do you want to – Mr. Pandelis, do you mind running
22 and making a quick copy of that for me?

23 MR. PANDELIS: I'll go ahead and do that, Your Honor.

24 THE COURT: Thank you.

1 MS. KOLLINS: And I just wanted the Court and everyone to know, I have
2 an appointment at 3:15 on Thursday that I've been waiting for for five weeks.

3 THE COURT: Okay.

4 MS. KOLLINS: I'm trying to move it, okay, but it's difficult.

5 (Court at ease)

6 (Mr. Pandelis gives witness list to the Court)

7 (Off the record colloquy)

8 THE COURT: Okay. Anything else?

9 MS. KOLLINS: Do you ask the question, has anybody ever been the victim
10 of sexual assault or known a victim of sexual assault, or known anyone accused of
11 sexual assault?

12 THE COURT: I will.

13 MR. COX: Actually, if you asked it, Judge, it would probably save time.

14 THE COURT: I will. I just -- what I try to do is if there's questions that are
15 being asked repeatedly I try to pick them up so that -- because it usually goes quicker
16 if I do it.

17 MS. KOLLINS: Well, and there's either a real visceral reaction and it's
18 somebody that they want gone or it's a bad -- so it just makes it move quicker.

19 (Court at ease)

20 THE COURT: Just to make sure we're clear for the record, because
21 apparently the calendar has this differently, it's Tyrone David James, sir, that's
22 your correct name?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay.

1 MR. PANDELIS: Your Honor, is juror number one up in the corner there
2 and then this way?

3 THE COURT: Top, my right. Yeah, top right.

4 MR. PANDELIS: All right. So one through seven and then eight through
5 fourteen?

6 THE COURT: Right.

7 (Court at ease)

8 THE MARSHAL: All rise. The jury is coming in.

9 (The prospective jury panel enters the courtroom)

10 THE MARSHAL: All present and accounted for, Judge.

11 THE COURT: Thank you. Good morning, everyone. Please go ahead and
12 have a seat. This is the time set for the trial of Case No. C265506, State of Nevada,
13 plaintiff, versus Tyrone James, defendant. The record will reflect the presence of Mr.
14 James with his counsel, the deputy district attorneys, and all the officers of the court.

15 Are the parties ready to proceed?

16 MR. COX: Yes, Your Honor.

17 MR. PANDELIS: Yes, Your Honor.

18 THE COURT: Thank you. At this time do either of the parties desire to
19 present a challenge to the panel as a whole?

20 MR. COX: No, ma'am.

21 MR. PANDELIS: No.

22 THE COURT: Thank you.

23 Ladies and gentlemen, you are in Dept. 7 of the Eighth Judicial District
24 Court. My name is Linda Bell and I am the presiding judge in this department. I'm

1 and then after those general questions the clerk will call fourteen people up to sit
2 in the jury box and then I'll ask some individual questions of those jurors, and then
3 the attorneys will have some opportunity to do some follow-up questions.

4 At some point during the process of selecting a jury, the attorneys for
5 both sides will have the right to ask that certain people not serve as a juror, and
6 that's called a challenge. There's two types of challenges. The first is a challenge
7 for cause, and a challenge for cause is a request to excuse a juror because the juror
8 might have a difficult time giving a fair hearing to this particular case. A peremptory
9 challenge means that a juror can be excused from duty without counsel having to
10 give any reason at all. In this case each side has nine peremptory challenges.
11 Please do not be offended if you are excused by either challenge procedure. They
12 are simply part of the process designed to protect the rights of the parties under our
13 system.

14 This process is done under oath, so if you will all please stand and
15 raise your right hand, the clerk will administer the oath.

16 (The clerk administers the oath to the prospective jury panel)

17 THE COURT: Okay. I'm going to start by asking some questions of you all
18 where you sit there. If you wish to respond to a question, please raise your hand.
19 When I get to you, please stand up and then give us the last three numbers that
20 are on your badge so that we can keep track of who is answering questions.

21 First of all, is there anyone here who has been convicted of a felony,
22 who is not a United States citizen, or who has trouble speaking or understanding
23 the English language?

24 Okay. Yes, sir?

1 PROSPECTIVE JUROR ARAUJO: I don't understand a hundred percent
2 English.

3 THE COURT: Okay. Sir, what's your badge number?

4 PROSPECTIVE JUROR ARAUJO: 040.

5 THE COURT: 040. Okay. And sir, what do you do for a living?

6 PROSPECTIVE JUROR ARAUJO: Cable. No work at this time.

7 THE COURT: How long have you been in the United States?

8 PROSPECTIVE JUROR ARAUJO: About thirty-two years.

9 THE COURT: Where did you go to school?

10 PROSPECTIVE JUROR ARAUJO: in Mexico.

11 THE COURT: How far did you go in school?

12 PROSPECTIVE JUROR ARAUJO: Junior High.

13 THE COURT: Have you taken any classes in English?

14 PROSPECTIVE JUROR ARAUJO: No.

15 THE COURT: Okay. Thank you, sir. Go ahead and have a seat.

16 Is there anyone else? Yes, ma'am?

17 PROSPECTIVE JUROR KIFLE: I'm not hundred percent speak English.

18 THE CLERK: Your badge number, please.

19 PROSPECTIVE JUROR KIFLE: 14-0028.

20 THE CLERK: 28. Thank you.

21 THE COURT: Okay. You're concerned about your ability to speak English?

22 PROSPECTIVE JUROR KIFLE: Uh, yes.

23 THE COURT: How long have you been in the United States, ma'am?

24 PROSPECTIVE JUROR KIFLE: Fourteen years.

1 THE COURT: Three years, you said?
2 PROSPECTIVE JUROR KIFLE: Fourteen.
3 THE COURT: Fourteen years. What do you do for a living?
4 PROSPECTIVE JUROR KIFLE: Africa.
5 THE COURT: Okay. And how far did you go in school?
6 PROSPECTIVE JUROR KIFLE: Twelfth grade.
7 THE COURT: Where did you go to school?
8 PROSPECTIVE JUROR KIFLE: Back home.
9 THE COURT: Where is back home?
10 PROSPECTIVE JUROR KIFLE: Yeah.
11 THE COURT: Where?
12 PROSPECTIVE JUROR KIFLE: Africa.
13 THE COURT: Okay. Did you take any classes in English?
14 PROSPECTIVE JUROR KIFLE: No. Here, no.
15 THE COURT: Here or when you were in school?
16 PROSPECTIVE JUROR KIFLE: No.
17 THE COURT: Thank you, ma'am. Go ahead and have a seat.
18 Okay. Anyone else? (No response).
19 Is there anyone who has a disability or a medical issue that might
20 affect their ability to serve as a juror? Yes, ma'am?
21 PROSPECTIVE JUROR BARTELL: My badge number is 046.
22 THE COURT: Okay.
23 PROSPECTIVE JUROR BARTELL: I have two auto-immune diseases.
24 I have Crohn's disease and Interstitial cystitis, which keeps me in the bathroom for

1 a long time, and I also have to go frequently.

2 THE COURT: Okay. If we take regular breaks that are about fifteen minutes,
3 will that work for you?

4 PROSPECTIVE JUROR BARTELL: Hopefully. Sometimes with Crohn's
5 you can't tell when a bout is going to come on. I usually have about three bouts
6 a morning.

7 THE COURT: Okay. Can you let us know if you have a problem and we
8 need to take a break?

9 PROSPECTIVE JUROR BARTELL: Absolutely.

10 THE COURT: Okay. Thank you, ma'am.

11 Anyone else? (No response).

12 We anticipate this case is going to last three days. I recognize that
13 serving on a jury is almost always a personal or financial hardship. Everybody
14 has important things going on that they need to take care of in their lives. But for
15 that reason, financial hardship is generally not considered an excuse to serving
16 as a juror. However, we do understand that you may be confronted with unique
17 inconveniences or hardships that would impact your service in this particular case
18 at this particular time.

19 So is there anyone who has an extraordinary reason they wouldn't
20 be able to serve for the next three days? Okay, let's go ahead and start in the
21 back row. Sir?

22 PROSPECTIVE JUROR AYLWARD: Badge number 054. I have two
23 depositions in a civil case tomorrow. I may be able to reschedule them, but I'm
24 not certain if they would accept I'm on jury service as a reason to miss depositions

1 which have been twice rescheduled.

2 THE COURT: Okay. Well, I can make some phone calls if that's necessary.

3 PROSPECTIVE JUROR AYLWARD: Thank you, Your Honor.

4 THE COURT: Okay. Yes? There was another hand in the back row. No?
5 Okay, ma'am. Okay, I think maybe I just -- Ma'am, in the second row.

6 PROSPECTIVE JUROR UNDERWOOD: 042. I don't have adequate day
7 care for the next three days. I'm the only one here, so it's just impossible.

8 THE COURT: Ma'am, what age are your children?

9 PROSPECTIVE JUROR UNDERWOOD: He's four.

10 THE COURT: What do you do for a living?

11 PROSPECTIVE JUROR UNDERWOOD: I work at the Palazzo.

12 THE COURT: What are your normal work hours?

13 PROSPECTIVE JUROR UNDERWOOD: From 7:00 to 3:00.

14 THE COURT: So what do you normally do with your child?

15 PROSPECTIVE JUROR UNDERWOOD: I normally take him to my dad's,
16 but he's in the hospital. He just had a hip replacement.

17 THE COURT: What do you do when you can't do that?

18 PROSPECTIVE JUROR UNDERWOOD: Beg somebody, like I did today,
19 but the next three days is impossible. Today I got lucky.

20 THE COURT: So are you not working right now?

21 PROSPECTIVE JUROR UNDERWOOD: No, not right now. I work tonight.

22 THE COURT: So you work from 7:00 at night to 3:00 in the morning?

23 PROSPECTIVE JUROR UNDERWOOD: Um-hm. I had to manipulate a lot
24 of things to make it here today, and the next three days I just -- I can't do it.

1 THE COURT: Okay. Thank you, ma'am. Go ahead and have a seat.

2 Anyone else in the middle row? Okay, how about the front row on the
3 left side? On the right side? Yes, ma'am?

4 PROSPECTIVE JUROR VISSERS: My badge number is 022 and my name
5 is Janet Vissers. And my husband was just served with a lawsuit yesterday. I have
6 the case number with me, I have documentation. We are being sued. His sister is
7 trying to take his home away from him. In fact, today we have a meeting with our
8 attorney at 2:00 p.m., which I may not be able to be there. But it's rather complicated.
9 It involves a home that he had owned in Los Angeles. My husband is 65 years old.
10 He's on Social Security Disability. He's a Vietnam Vet. He's hard of hearing.

11 And my mind is not in a good place, first of all, to be involved in this.
12 My mind is – I'm worrying about losing the roof over our heads. I'm gathering
13 documentation. I wake up in the middle of the night to type letters. And I would
14 respectfully request to be excused. Plus I work full time, combined with this lawsuit
15 that has been foisted upon us, the stress of that. I'm a nurse, I work in surgery at
16 Sunrise on an open heart team and I work call. That combined with – the lawsuit
17 is the big deal, the possible loss of our home. It's very frightening.

18 THE COURT: Okay. Thank you, ma'am. Go ahead and have a seat.

19 Is there anybody else in the second row? Yes, ma'am?

20 PROSPECTIVE JUROR ORNELAS: Badge number 027.

21 THE COURT: Yes, ma'am.

22 PROSPECTIVE JUROR ORNELAS: I had a death in the family yesterday
23 morning.

24 THE COURT: I'm sorry to hear that, ma'am. And I certainly don't mean to

1 pry, but who passed away in your family?

2 PROSPECTIVE JUROR ORNELAS: My mother's brother.

3 THE COURT: Okay. Did he live here in Las Vegas?

4 PROSPECTIVE JUROR ORNELAS: Um-hm.

5 THE COURT: Okay. Go ahead and have a seat ma'am. Thank you.

6 Anybody else in the second row there? Yes, ma'am?

7 PROSPECTIVE JUROR KIFLE: Badge number 028. For the next two days
8 I don't have no babysitter for my child.

9 THE COURT: Okay. Thank you, ma'am. Go ahead and have a seat.

10 MR. COX: Judge, I'm sorry, I didn't hear that.

11 MR. PANDELIS: I had trouble hearing that as well.

12 THE COURT: Okay, I'm sorry. Ma'am, could you just go ahead and stand
13 up and repeat yourself there so everybody can hear you.

14 PROSPECTIVE JUROR KIFLE: The next – for the two days I can't make it
15 'cause I don't have no babysitter.

16 THE COURT: Okay, thank you.

17 Anyone else in that row? Okay. Anyone else on the right side of the
18 room? Yes, sir, in the back.

19 PROSPECTIVE JUROR JOHNSON: Badge number 066. I just wanted to
20 clarify the three days. On Friday I'm committed with a youth group. I'm taking them
21 down to the lake. It's been planned for many, many months. If I am not there, they
22 won't be able to go. But if it was through Thursday – (inaudible).

23 THE COURT: You're good through Thursday? Okay.

24 PROSPECTIVE JUROR JOHNSON: I'm good through Thursday. I just

1 wanted to clarify that.

2 MR. COX: What was the badge number? I'm sorry.

3 THE COURT: 66. Mr. Johnson. Thank you, sir.

4 PROSPECTIVE JUROR JOHNSON: Thank you.

5 THE COURT: Yes, sir?

6 PROSPECTIVE JUROR SWEENEY: Number 064. I'm a full-time student
7 at College of Southern Nevada, so I've got to get all my school work done.

8 THE COURT: Okay. Do you have any tests this week?

9 PROSPECTIVE JUROR SWEENEY: I actually had a test today. Actually,
10 yes, I do have an exam, it's throughout the whole week, that I have to get done.

11 THE COURT: I'm not sure I understand that.

12 PROSPECTIVE JUROR SWEENEY: Well, we have a certain period of time
13 to get it, okay. It's a long exam. It's five days, and we have to -- I just have to use
14 every day I can, studying and getting it all put together.

15 THE COURT: Is it like a take home exam or --

16 PROSPECTIVE JUROR SWEENEY: In a way, yeah.

17 THE COURT: Okay. Go ahead and have a seat. Thanks.

18 Is there anyone else? (No response).

19 Okay. Counsel approach for a moment.

20 **(Bench conference begins)**

21 THE COURT: I just wanted to go through the folks who have had some
22 issue and see if there's people that we have a feeling about one way or the other,
23 and I can let go whoever we need to. So we have Ms. Vissers, who was served
24 with a lawsuit yesterday, who seems to be having a fair amount of anxiety, but --

1 MS. KOLLINS: I don't have a problem with her going -- (indiscernible).

2 MR. COX: Bryan Cox saying I don't have an objection.

3 THE COURT: Okay. Ms. Ornelas, who had a death in her family.

4 MS. KOLLINS: We're fine with -- (inaudible).

5 MR. COX: Bryan Cox saying that's fine.

6 THE COURT: Okay. Ms. Kifle, whose English is --

7 MR. COX: Yeah, I don't know if you picked up on it, but you asked one
8 question like, how long have you been in the country and she said Africa.

9 THE COURT: She was struggling.

10 MR. COX: I don't know if you picked up on that.

11 MR. PANDELIS: No, I heard her say that -- (inaudible).

12 MR. COX: I don't think she's faking that.

13 THE COURT: No, I don't.

14 MR. PANDELIS: The State agrees.

15 THE COURT: I don't think so either. I think you would end up asking her
16 a bunch of questions and figuring out that.

17 Okay. Mr. Araujo has been here for 33 years. I actually thought his
18 English was not horrible.

19 MS. KOLLINS: I guess the only problem -- I mean, there is medical
20 testimony -- (inaudible). As far as -- (indiscernible) -- problem.

21 MR. COX: I submit it. You know, I'll leave it up to you guys and to the Court.
22 I don't -- (inaudible).

23 THE COURT: We can hang on to him and ask him some more questions
24 and see. I mean, I don't want to waste a lot of time, but if we ask him a few

1 questions and just kind of flesh it out a little bit. I don't like to excuse everybody
2 who's not a native English speaker just because they have a heavy accent. I mean,
3 I think we have plenty of people who have sat on a jury and made some really good
4 contributions, even people who are a little reticent at first because they're unfamiliar
5 with the process. So let's just give -- I want to keep him and see how it goes.

6 Okay. Ms. Underwood, who has a dad in the hospital and she has --

7 MR. COX: A child care issue.

8 THE COURT: -- a child care issue, which --

9 MS. KOLLINS: I don't -- (indiscernible).

10 MR. PANDELIS: The State will not -- (inaudible).

11 MR. COX: The defense at this point -- (inaudible).

12 THE COURT: Let's see what she says and I'll talk to her about it.

13 Okay. Ms. Bartell with the Crohn's, we'll just see if we can work around
14 that. I think that she seemed willing to work with us -- (indiscernible).

15 Mr. Aylward has a two day deposition in a civil case. I'm not excusing
16 somebody because they have a deposition in a civil case. I will make phone calls
17 if necessary.

18 Mr. Sweeney, who is the full-time student at CSN, I'm not going to
19 excuse him. I think he'll be able to make up whatever he has.

20 MS. KOLLINS: A five day test. It's kind of like a take home test -- (inaudible).

21 MR. COX: What class is that?

22 THE COURT: I don't know, but I've gone to a lot of school and I've never --
23 (inaudible).

24 And then Mr. Johnson just let us know he has a problem on Friday.

1 You know, obviously if the jury deliberates longer we could run into a roadblock
2 there, but –

3 MS. KOLLINS: Yeah. I probably wouldn't keep anybody that wasn't able
4 to be here for the week, because we never know what's going to happen in these
5 cases, you know. We'd probably get -- (indiscernible) -- just because of that.

6 MR. COX: The defense will submit it.

7 MS. KOLLINS: And why ask him more questions when we know he's only
8 going to be available to deliberate on Wednesday.

9 THE COURT: Okay.

10 **(Bench conference concluded)**

11 THE COURT: Okay. Ms. Vissers. Ma'am?

12 PROSPECTIVE JUROR VISSERS: Oh, yes, ma'am.

13 THE COURT: Yes, ma'am. I'm going to ask you to return to Jury Services.
14 They're going to have you return in about three months, and hopefully you will be in
15 a better position to serve on the jury at that point.

16 PROSPECTIVE JUROR VISSERS: Thank you.

17 THE COURT: I will suggest to you that civil lawsuits generally are sort of long
18 and drawn-out processes, so try not to stress about it too much. It will work itself
19 out, ma'am. So if you could just return to Jury Services, please.

20 PROSPECTIVE JUROR VISSERS: Thank you very much, Your Honor.

21 THE COURT: That's badge 22. I'm sorry, Tina.

22 Okay. Ms. Ornelas, badge number 27. Ma'am, it's going to be the
23 same thing for you. They'll bring you back in about three months. We're very sorry
24 for your loss.

1 PROSPECTIVE JUROR ORNELAS: Thank you.

2 THE COURT: That was number 27. Did I say that? Badge 27. Okay.

3 Number 28, Ms. Kifle. Ma'am, if you could just return back to Jury
4 Services and let them know that we excused you. Thank you, ma'am.

5 Ms. Underwood. Okay, ma'am, we're going to have you return to
6 Jury Services. They will bring you back in about three months, when hopefully
7 your father is doing better.

8 PROSPECTIVE JUROR UNDERWOOD: Oh, I hope he's home by then.

9 THE COURT: Okay. Thank you, ma'am.

10 PROSPECTIVE JUROR UNDERWOOD: Thank you.

11 THE COURT: That's badge 42.

12 And badge 66, Mr. Johnson.

13 PROSPECTIVE JUROR JOHNSON: Yes.

14 THE COURT: Sir, while we fully anticipate that this case will be done by
15 Thursday, we can never say for sure about deliberations, so we're a little concerned
16 this might not be the best trial for you this week. We're going to have you return to
17 Jury Services. They may see if there's a short case that you can sit on this week,
18 or otherwise they'll probably just bring you back in a few months.

19 PROSPECTIVE JUROR JOHNSON: Okay, thank you.

20 THE COURT: Thank you, sir.

21 PROSPECTIVE JUROR JOHNSON: I appreciate that.

22 THE COURT: Thank you for letting us know now.

23 Okay. Are any of you acquainted with me or any of the court staff?

24 (No response). Do any of you know each other? Okay, let's see. Let's start in the

1 back row.

2 PROSPECTIVE JUROR SPRAGUE: I know this gentleman right here.

3 THE COURT: Sir, could you give us your badge number, please.

4 PROSPECTIVE JUROR SPRAGUE: Oh, 057.

5 THE COURT: Okay. Mr. Sprague.

6 PROSPECTIVE JUROR SPRAGUE: Yes.

7 THE COURT: Who is it that you know?

8 PROSPECTIVE JUROR SPRAGUE: I know this gentleman here in the
9 yellow shirt, Sean. We went to high school together.

10 THE COURT: Okay. And sir, what's your badge number?

11 PROSPECTIVE JUROR GRUPE: 049.

12 THE COURT: Okay. So you went to high school together. How long ago
13 was that?

14 PROSPECTIVE JUROR SPRAGUE: Six years.

15 THE COURT: Do you stay in contact?

16 PROSPECTIVE JUROR SPRAGUE: Yeah, we know each other outside of
17 that.

18 THE COURT: Do you anticipate that there would be any problem, were you
19 to both be on this jury?

20 PROSPECTIVE JUROR SPRAGUE: No.

21 PROSPECTIVE JUROR GRUPE: No.

22 THE COURT: You'd be able to work together and you wouldn't be overly
23 influenced by what the other thought, since you know each other?

24 PROSPECTIVE JUROR SPRAGUE: I don't think it would be a problem.

1 THE COURT: Okay. Sir?

2 PROSPECTIVE JUROR GRUPE: No.

3 THE COURT: Okay, thank you. And we had another –

4 PROSPECTIVE JUROR AYLWARD: Good morning, Your Honor.

5 THE COURT: Good morning.

6 PROSPECTIVE JUROR AYLWARD: This is my wife.

7 THE COURT: Okay.

8 THE CLERK: Your badge numbers, please?

9 PROSPECTIVE JUROR AYLWARD: 054 and 055.

10 THE COURT: That's funny.

11 PROSPECTIVE JUROR AYLWARD: You're not going to ask if we can work
12 together, are you?

13 THE COURT: I am going to – I am. We've had a mother and daughter
14 before, but not – they didn't end up on the jury, but they both made it up. We've
15 had that happen before, we've had a husband and wife serve before. So, do you
16 see any problem?

17 PROSPECTIVE JUROR AYLWARD: No.

18 PROSPECTIVE JUROR BARR: No.

19 THE COURT: Would you be able to not talk about the case until the case
20 was submitted to the jury? I mean, if you were at home, you would be able to not
21 talk about what was going on with the case until the case was submitted to you?

22 PROSPECTIVE JUROR AYLWARD: Absolutely.

23 THE COURT: Okay, thank you.

24 PROSPECTIVE JUROR AYLWARD: Thank you.

1 THE COURT: The juries where the people don't know each other, when
2 I ask this question look at me like why would we know each other? But then we
3 have a jury like this, a panel like this.

4 Yes, sir?

5 PROSPECTIVE JUROR MITCHELL: Badge number 062.

6 PROSPECTIVE JUROR LAYGO: And mine is 061.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR MITCHELL: Nestor worked for me at Mandalay Bay.

9 THE COURT: You both work together?

10 PROSPECTIVE JUROR MITCHELL: Not now.

11 THE COURT: Oh, you used to?

12 PROSPECTIVE JUROR MITCHELL: Yeah, yeah.

13 THE COURT: Okay. Do you still stay in touch, now that you don't work
14 together?

15 PROSPECTIVE JUROR LAYGO: No.

16 THE COURT: Okay. But you just knew each other from before?

17 PROSPECTIVE JUROR MITCHELL: Yeah, he worked for me there.

18 THE COURT: Do you think that would create any problems if you were to
19 serve on this jury together?

20 PROSPECTIVE JUROR MITCHELL: No.

21 THE COURT: No? And sir?

22 PROSPECTIVE JUROR LAYGO: No.

23 THE COURT: Okay. Go ahead and have a seat.

24 Anyone – Yes, ma'am?

1 Meltzer, Las Vegas Metropolitan Police Department Detective Timothy Hatchett,
2 Las Vegas Metropolitan Police Department Detective Daniel Tomaino, Cheryl
3 Cooley, Pamela Douglass, Dr. Theresa Vergara, Tahisha James, N [REDACTED] C [REDACTED].
4 Is there anybody who is familiar with any of the names that i just read? Yes?

5 PROSPECTIVE JUROR KAUDER: Badge number 019. I work at Sunrise
6 Children's Hospital. I know Dr. Vergara.

7 THE COURT: Okay. Thank you, ma'am.

8 Does anybody know anything about this case, other than what's been
9 stated so far in the courtroom today? There are no responses to that question.

10 Does anyone have philosophical, religious, or other beliefs that would
11 prevent them from serving as a fair and impartial juror? There are no responses
12 to that question.

13 Under our system certain principles apply in every criminal trial. They
14 are, first, that the charging document filed in this case is merely an accusation and
15 is not evidence of guilt. Second, that Mr. James is presumed innocent. And third,
16 the State must prove that Mr. James is guilty beyond a reasonable doubt. Does
17 anyone not understand or believe in these concepts? And there are no responses
18 to that question.

19 Okay. Ms. Clerk, if you will please call the first fourteen names.

20 THE CLERK: Badge number 2, Cedric Griffin. Badge number 7, Richard
21 Septer. Badge number 9, Jessica Higgs. Badge number 10, Jessica Ricafort.
22 Badge number 11, David Mann. Badge number 12, Jacqueline Varon. Badge
23 number 13, Susan Winters. Badge number 17, Carolyn Swords. Badge number
24 19, Katherine Kauder. Badge number 20, Virginia McCourt. Badge number 29,

1 Kimberley Johnston. Badge number 30, Elizabeth Mitchell. Badge number 31,
2 Tracy Lent-Gonsalves. Badge number 32, Robert Garcia.

3 THE COURT: Mr. Griffin, good morning, sir.

4 PROSPECTIVE JUROR GRIFFIN: Good morning, Your Honor.

5 THE COURT: Go ahead and have a seat, sir. We try to make you as
6 comfortable as we can here. I know those chairs are not so great, though.

7 Sir, how long have you lived in Clark County?

8 PROSPECTIVE JUROR GRIFFIN: Fourteen or fifteen years now.

9 THE COURT: What do you do for a living?

10 PROSPECTIVE JUROR GRIFFIN: Unemployed at the time.

11 THE COURT: What did you do before you were unemployed?

12 PROSPECTIVE JUROR GRIFFIN: Worked for Federal Express and
13 managed several businesses at McCarran Airport.

14 THE COURT: Are you married or in a significant relationship?

15 PROSPECTIVE JUROR GRIFFIN: Significant relationship.

16 THE COURT: What does your significant other do?

17 PROSPECTIVE JUROR GRIFFIN: She's a bell lady at Primm, Nevada.

18 THE COURT: Do you have any children?

19 PROSPECTIVE JUROR GRIFFIN: Just one.

20 THE COURT: And what is your child's age and gender?

21 PROSPECTIVE JUROR GRIFFIN: Twenty-one and male.

22 THE COURT: And what does he do?

23 PROSPECTIVE JUROR GRIFFIN: Right now he's going to college. He's in
24 Chicago.

1 THE COURT: What's he studying?

2 PROSPECTIVE JUROR GRIFFIN: Business law and management.

3 THE COURT: Have you or anyone close to you worked in law enforcement
4 or the legal field?

5 PROSPECTIVE JUROR GRIFFIN: Yes.

6 THE COURT: Can you tell me about that?

7 PROSPECTIVE JUROR GRIFFIN: Actually I have a sister who worked as
8 a fingerprint technician in Chicago, and I have a cousin who works for the Federal
9 Bureau of Investigation.

10 THE COURT: Where at?

11 PROSPECTIVE JUROR GRIFFIN: In Indianapolis.

12 THE COURT: So your -- Is your cousin a man or a woman?

13 PROSPECTIVE JUROR GRIFFIN: A man.

14 THE COURT: Does he -- Do you talk to him much about his work?

15 PROSPECTIVE JUROR GRIFFIN: Not really.

16 THE COURT: Does the fact that you have some relatives that work in law
17 enforcement, would that you think impact your ability to sit as a juror in this case?

18 PROSPECTIVE JUROR GRIFFIN: No.

19 THE COURT: Sir, have you or anyone close to you been charged with a
20 crime?

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

22 THE COURT: Have you or anyone close to you been the victim of a crime,
23 including sexual assault?

24 PROSPECTIVE JUROR GRIFFIN: No.

1 THE COURT: Have you ever served as a juror before?

2 PROSPECTIVE JUROR GRIFFIN: No.

3 THE COURT: Can you base your verdict solely on the evidence presented
4 at trial and wait to form an opinion until you've heard all of the evidence?

5 PROSPECTIVE JUROR GRIFFIN: Yes.

6 THE COURT: Can you follow the instructions on the law that I give you,
7 regardless of whether you think the law is good or bad?

8 PROSPECTIVE JUROR GRIFFIN: Yes.

9 THE COURT: Can you make a decision without worrying about criticism or
10 what other people might think?

11 PROSPECTIVE JUROR GRIFFIN: Yes.

12 THE COURT: Do you know of any reason you couldn't be completely fair
13 and impartial if you were selected as a juror in this case?

14 PROSPECTIVE JUROR GRIFFIN: No.

15 THE COURT: And if you were either party to this case, would you be
16 comfortable having someone like yourself as a juror?

17 PROSPECTIVE JUROR GRIFFIN: Yes, Your Honor.

18 THE COURT: Thank you, sir.

19 Mr. Pandelis or Ms. Kollins?

20 MR. PANDELIS: Mr. Griffin, I missed it. What did you say your wife did out
21 in Primm?

22 PROSPECTIVE JUROR GRIFFIN: She's a bell lady.

23 MR. PANDELIS: Oh. I'm sorry?

24 PROSPECTIVE JUROR GRIFFIN: Bell lady.

1 MR. PANDELIS: Bell lady?
2 PROSPECTIVE JUROR GRIFFIN: Yes.
3 MR. PANDELIS: So what does –
4 PROSPECTIVE JUROR GRIFFIN: Takes the luggage to the rooms.
5 MR. PANDELIS: Oh, at one of the resorts out there?
6 PROSPECTIVE JUROR GRIFFIN: Yes.
7 MR. PANDELIS: Okay. Mr. Griffin, as you know, this case involves charges
8 of sexual assault on a minor, so there's going to be a child testifying in this case.
9 How do you think a juvenile should act when they're talking about a sexual assault?
10 Do you think there's a particular way a juvenile should act?
11 PROSPECTIVE JUROR GRIFFIN: No.
12 MR. PANDELIS: So you have no expectations about how they would act
13 when they're in here testifying?
14 PROSPECTIVE JUROR GRIFFIN: No, I don't.
15 MR. PANDELIS: Do you have any expectations about how a child would act
16 when they actually come forward and disclose the allegations to somebody or what
17 happened to them to somebody?
18 PROSPECTIVE JUROR GRIFFIN: Yes.
19 MR. PANDELIS: What do you – How do you expect a child would act in that
20 situation?
21 PROSPECTIVE JUROR GRIFFIN: As far as the sexual harassment, they
22 probably – they were dominated, meaning that they felt that they was raped.
23 MR. PANDELIS: How do you think the – Do you think there's a particular
24 way that that child would act when they're going to a parent or a school teacher or

1 whoever it may be that they're disclosing that to? Do you think there's a particular –
2 PROSPECTIVE JUROR GRIFFIN: Yes. Scared.
3 MR. PANDELIS: Scared?
4 PROSPECTIVE JUROR GRIFFIN: Yes.
5 MR. PANDELIS: Can you think of other ways a child might act?
6 PROSPECTIVE JUROR GRIFFIN: (Inaudible).
7 MR. PANDELIS: Do you think all children might act the same way?
8 PROSPECTIVE JUROR GRIFFIN: No.
9 MR. PANDELIS: So do you think there's the possibility that different children,
10 depending on the circumstances, could act in different manners when disclosing
11 sexual abuse?
12 PROSPECTIVE JUROR GRIFFIN: Yes.
13 MR. PANDELIS: Do you think it's easy for a child – or not even a child, but
14 do you think it's easy for a person, adult or child, to come into court in front of twelve
15 strangers who are sitting on a jury, a judge, court staff, attorneys, and talk about sex
16 and sexual abuse?
17 PROSPECTIVE JUROR GRIFFIN: No.
18 MR. PANDELIS: Do you think it would be easier or more difficult for a child
19 to do that?
20 PROSPECTIVE JUROR GRIFFIN: More difficult.
21 MR. PANDELIS: And Judge Bell asked you, you do not know any victims of
22 sexual assault?
23 PROSPECTIVE JUROR GRIFFIN: No.
24 MR. PANDELIS: Would you believe an adult over a child simply because

1 they're older than a child?

2 PROSPECTIVE JUROR GRIFFIN: No.

3 MR. PANDELIS: What factors would you use when determining – when
4 you're assessing somebody's credibility?

5 PROSPECTIVE JUROR GRIFFIN: Steady eyes; repeating the same thing,
6 the same situation.

7 MR. PANDELIS: As you're sitting here right now, can you think of any reason
8 that you can't be fair and impartial as a juror in this case?

9 PROSPECTIVE JUROR GRIFFIN: No.

10 MR. PANDELIS: Thank you, Your Honor. Pass for cause.

11 THE COURT: Thank you. Mr. Cox?

12 MR. COX: Thank you, Judge.

13 Good morning, Mr. Griffin.

14 PROSPECTIVE JUROR GRIFFIN: Good morning.

15 MR. COX: Just in follow-up to some of Mr. Pandelis' questions, do you
16 believe that children are capable of lying, even about very serious things?

17 PROSPECTIVE JUROR GRIFFIN: Yes.

18 MR. COX: Okay. Do you believe it's possible that once a child has told a lie,
19 it's very difficult for them to admit that in fact they fabricated a story?

20 PROSPECTIVE JUROR GRIFFIN: Yes.

21 MR. COX: Now, Mr. Pandelis talked about believing an adult over a child,
22 but do you believe that – could you view the testimony of an adult as at least equal
23 to that of a child? Would you – Let me rephrase that question, it was a horrible
24 question. Would you – Do you believe a child is inherently – a child's testimony is

1 inherently more reliable than that of an adult?

2 PROSPECTIVE JUROR GRIFFIN: No, I think both of them would be about
3 the same.

4 MR. COX: So you could look at the credibility of each independently and
5 evaluate their testimony as such?

6 PROSPECTIVE JUROR GRIFFIN: Right.

7 MR. COX: I'll pass the witness, Judge.

8 THE COURT: Thank you.

9 Mr. Septer.

10 PROSPECTIVE JUROR SEPTER: Yes.

11 THE COURT: Good morning, sir. How long have you lived in Clark County?

12 PROSPECTIVE JUROR SEPTER: Twenty-three years.

13 THE COURT: What do you do for a living?

14 PROSPECTIVE JUROR SEPTER: I'm an operating engineer.

15 THE COURT: Tell me a little bit more about what you do.

16 PROSPECTIVE JUROR SEPTER: I run the facility over at Mike O'Callaghan
17 Federal Hospital.

18 THE COURT: Are you married or in a significant relationship?

19 PROSPECTIVE JUROR SEPTER: Significant relationship.

20 THE COURT: What does your significant other do?

21 PROSPECTIVE JUROR SEPTER: Sales at the Fashion Show Mall for
22 Clinique Cosmetics.

23 THE COURT: Do you have any children?

24 PROSPECTIVE JUROR SEPTER: I have a son that's 22.

1 THE COURT: What does he do?

2 PROSPECTIVE JUROR SEPTER: He works for – he's a computer IT for
3 Pinnacle Entertainment.

4 THE COURT: Have you or anyone close to you ever worked in law
5 enforcement or the legal field?

6 PROSPECTIVE JUROR SEPTER: No.

7 THE COURT: Have you or anyone close to you ever been charged with
8 a crime?

9 PROSPECTIVE JUROR SEPTER: No.

10 THE COURT: Have you or anyone close to you ever been the victim of a
11 crime, including sexual assault?

12 PROSPECTIVE JUROR SEPTER: My stepson was molested back – I want
13 to say around 1997.

14 THE COURT: Okay. And I take it from the answer to the previous question
15 that you're no longer married to –

16 PROSPECTIVE JUROR SEPTER: Correct.

17 THE COURT: – his mother.

18 PROSPECTIVE JUROR SEPTER: Correct.

19 THE COURT: Were you married at the time that that happened?

20 PROSPECTIVE JUROR SEPTER: No, I was not.

21 THE COURT: Was that before or after you were married to his mother?

22 PROSPECTIVE JUROR SEPTER: After.

23 THE COURT: Did you –

24 PROSPECTIVE JUROR SEPTER: I was involved in the trial. As far as –

1 Jennifer Togliatti was prosecuting the case for the District Attorney's Office. Stewart
2 Bell was the District Attorney at the time. They interviewed me in regards to the
3 case. There was, with the defendant a –

4 THE COURT: Hang on just a second. Did you testify at trial in that case?

5 PROSPECTIVE JUROR SEPTER: He took a plea deal.

6 THE COURT: Just – if you could, just yes or no.

7 PROSPECTIVE JUROR SEPTER: No, I did not.

8 THE COURT: So you didn't testify. Okay. Do you think having gone through
9 that experience that it would be difficult for you to be a fair juror in this particular trial?

10 PROSPECTIVE JUROR SEPTER: Absolutely I could.

11 THE COURT: You think you could?

12 PROSPECTIVE JUROR SEPTER: Um-hm.

13 THE COURT: Okay. Have you ever served as a juror before?

14 PROSPECTIVE JUROR SEPTER: No, I have not.

15 THE COURT: You'd base your verdict solely on the evidence presented
16 at trial and wait to form an opinion until you've heard all of the evidence?

17 PROSPECTIVE JUROR SEPTER: Absolutely.

18 THE COURT: You'd follow the instructions on the law that I give you,
19 regardless of whether you think the law is good or bad?

20 PROSPECTIVE JUROR SEPTER: Absolutely.

21 THE COURT: You'd make a decision without worrying about criticism or what
22 other people might think?

23 PROSPECTIVE JUROR SEPTER: Absolutely.

24 THE COURT: Do you know of any reason you couldn't be completely fair

1 and impartial if you were selected as a juror in this case?

2 PROSPECTIVE JUROR SEPTER: None.

3 THE COURT: And if you were either party in this case, would you feel
4 comfortable having someone like yourself as a juror?

5 PROSPECTIVE JUROR SEPTER: I would feel comfortable with it.

6 THE COURT: Okay. Ms. Kollins?

7 MS. KOLLINS: Thank you, Judge.

8 Good morning, Mr. Septer. How are you?

9 PROSPECTIVE JUROR SEPTER: Just fine, thank you.

10 MS. KOLLINS: Good. Not to make you re-live old experiences, but I have
11 a couple questions –

12 PROSPECTIVE JUROR SEPTER: Sure.

13 MS. KOLLINS: – for you about the case –

14 PROSPECTIVE JUROR SEPTER: Sure.

15 MS. KOLLINS: – that was handled with my office. Without telling me what the
16 result was, were you happy with the way the prosecuting attorney handled the case?

17 PROSPECTIVE JUROR SEPTER: Absolutely.

18 MS. KOLLINS: Was the individual involved a family member or a stranger
19 to your family or –

20 PROSPECTIVE JUROR SEPTER: The –

21 MS. KOLLINS: The defendant. Was he –

22 PROSPECTIVE JUROR SEPTER: The defendant. He was a friend of my
23 son's – or stepson, rather.

24 MS. KOLLINS: Were you with your stepson when this all came forward?

1 PROSPECTIVE JUROR SEPTER: No.

2 MS. KOLLINS: Do you know how it was ultimately reported to law
3 enforcement?

4 PROSPECTIVE JUROR SEPTER: He had told his mother about it and she
5 reported it to the police immediately.

6 MS. KOLLINS: Did you come with your stepson to court?

7 PROSPECTIVE JUROR SEPTER: No. They indicated since I was not living
8 with his mother that they –

9 MS. KOLLINS: That they didn't need you as a witness?

10 PROSPECTIVE JUROR SEPTER: They didn't need me. Well, I had a
11 statement done, a deposition, with the attorney's office, but he took a plea deal, so.

12 MS. KOLLINS: Again, I don't really want to talk about the result so much as
13 how was it for your stepson going through all that.

14 PROSPECTIVE JUROR SEPTER: It was pretty traumatic.

15 MS. KOLLINS: How old is he now?

16 PROSPECTIVE JUROR SEPTER: He would be, I would say about 27 years
17 old.

18 MS. KOLLINS: So in 1997, you said it was?

19 PROSPECTIVE JUROR SEPTER: Um-hm.

20 MS. KOLLINS: So he was about thirteen? Twelve, thirteen, in that age?

21 PROSPECTIVE JUROR SEPTER: He would be about two years older than
22 that, so.

23 MS. KOLLINS: When he told his mom, was it something that he told her
24 immediately after it happened, or did it take him awhile to disclose what happened?

1 PROSPECTIVE JUROR SEPTER: I would say it was probably within the
2 week.

3 MS. KOLLINS: Within the week?

4 PROSPECTIVE JUROR SEPTER: Um-hm.

5 MS. KOLLINS: Did you have to accompany him to doctor's appointments –

6 PROSPECTIVE JUROR SEPTER: No.

7 MS. KOLLINS: – any check-ups, anything like that? Is that because you
8 weren't married still at the time; you didn't participate in the whole process?

9 PROSPECTIVE JUROR SEPTER: Uh, yeah, that's pretty much what it was.

10 MS. KOLLINS: Okay. Any obligations, anything going on at work that would
11 distract you from your service?

12 PROSPECTIVE JUROR SEPTER: No.

13 MS. KOLLINS: I'm going to mimic some of the questions Mr. Pandelis asked.
14 Do you have any specific set of expectations for a sexual assault victim?

15 PROSPECTIVE JUROR SEPTER: No.

16 MS. KOLLINS: Do you think every victim acts the same under the same set
17 of circumstances?

18 PROSPECTIVE JUROR SEPTER: Absolutely not.

19 MR. COX: Your Honor, respectfully, I'd object. I don't think –

20 THE COURT: Counsel approach.

21 MR. COX: – we should refer to her as –

22 THE COURT: Counsel approach.

23 **(Bench conference begins)**

24 THE COURT: Okay. I forgot to mention this before. If you're going to make

1 any objection beyond like an objection, hearsay, or objection –

2 MS. KOLLINS: No speaking?

3 THE COURT: There are no speaking objections. They're all done up here.
4 I have a couple favors to ask. Under the rule you can't ask questions that have
5 been already asked, so if everybody could keep that in mind. So, Mr. Pandelis,
6 I had already asked them if they could be fair and impartial. We've already gone
7 over whether they can serve, so if we can try to –

8 MS. KOLLINS: I just lost my place -- (inaudible).

9 THE COURT: I know. Let's just try not to talk them out of it once we got
10 them talked into it.

11 Okay. And Mr. Cox, you had an objection.

12 MR. COX: I have issue with constantly referring to somebody as a victim.
13 I know it's their position in their argument, but it's their decision in the end whether
14 to determine this person is a victim or not.

15 MS. KOLLINS: It wasn't a specific reference to the victim in this case, it was
16 a victim. It was generically with a victim. It wasn't this victim.

17 THE COURT: Given that, I'm going to overrule the objection.

18 MR. COX: I'm sorry, what was that?

19 THE COURT: I'm going to overrule the objection –

20 MR. COX: Okay.

21 THE COURT: – given that she was – And that was my understanding of the
22 question as well, was that -- (indiscernible). Anyway, go ahead.

23 **(Bench conference concluded)**

24 MS. KOLLINS: Let's see if I can finish that, Mr. Septer.

1 PROSPECTIVE JUROR SEPTER: Okay, sure. Uh-huh.

2 MS. KOLLINS: Okay. I apologize.

3 PROSPECTIVE JUROR SEPTER: No worries.

4 MS. KOLLINS: Would it surprise you that one victim may have a calm
5 demeanor when talking about these types of events and another victim may cry or
6 acts differently? I mean, would that shock you?

7 PROSPECTIVE JUROR SEPTER: No.

8 MS. KOLLINS: Would you automatically believe an adult over a kid?

9 PROSPECTIVE JUROR SEPTER: No.

10 MS. KOLLINS: Mr. Cox asked several questions of Mr. Griffin about would
11 kids lie. Would adults lie?

12 PROSPECTIVE JUROR SEPTER: Anybody is capable of lying.

13 MS. KOLLINS: Okay. What are some of the reasons that you think a kid
14 would lie about sexual abuse?

15 PROSPECTIVE JUROR SEPTER: Revenge would be the only thing that
16 I could come up with off the top of my head.

17 MS. KOLLINS: Do you think it's easy for a kid to walk in here and talk about
18 graphic sexual details in front of a bunch of strangers?

19 PROSPECTIVE JUROR SEPTER: I don't think they would be comfortable
20 with it at all.

21 MS. KOLLINS: It's hard for some adults to talk about sexual things –

22 PROSPECTIVE JUROR SEPTER: Absolutely.

23 MS. KOLLINS: – in front of a bunch of strangers, right?

24 PROSPECTIVE JUROR SEPTER: Agree. Agree.

1 MS. KOLLINS: It took me five years at this job to say vagina in public.

2 PROSPECTIVE JUROR SEPTER: Agree.

3 MS. KOLLINS: So – Right?

4 PROSPECTIVE JUROR SEPTER: Um-hm.

5 MS. KOLLINS: Okay. So do you think it would be tough for a kid to talk
6 about that stuff? It's a little embarrassing?

7 PROSPECTIVE JUROR SEPTER: I would more than likely believe that, yes.

8 MS. KOLLINS: Can you think of some reasons why a kid wouldn't immediately
9 talk about sexual abuse?

10 PROSPECTIVE JUROR SEPTER: My personal belief is that a lot of
11 confusion. They don't necessarily equate the urgency in reporting it or they're,
12 you know, not really in touch with their feelings or maybe what their responses
13 would be normally.

14 MS. KOLLINS: Could fear be a reason?

15 PROSPECTIVE JUROR SEPTER: Absolutely.

16 MS. KOLLINS: Family preservation be a reason –

17 PROSPECTIVE JUROR SEPTER: Absolutely.

18 MS. KOLLINS: – keeping the family together?

19 PROSPECTIVE JUROR SEPTER: Um-hm.

20 MS. KOLLINS: Saving someone's feelings?

21 PROSPECTIVE JUROR SEPTER: Sure.

22 MS. KOLLINS: I mean, say if it's a stepfather figure, maybe saving mom's
23 feelings?

24 PROSPECTIVE JUROR SEPTER: Absolutely.

1 MS. KOLLINS: Saving mom's relationship?

2 PROSPECTIVE JUROR SEPTER: Those are all possible, yes.

3 MS. KOLLINS: Perhaps that person is a father in the family to another
4 sibling, so family preservation –

5 PROSPECTIVE JUROR SEPTER: Absolutely.

6 MS. KOLLINS: – would be a reason for them to delay?

7 PROSPECTIVE JUROR SEPTER: I think that's a possibility, sure.

8 MS. KOLLINS: I will pass the witness, Your Honor – or pass the juror.

9 Excuse me.

10 THE COURT: Mr. Cox?

11 MR. COX: Mr. Septer.

12 PROSPECTIVE JUROR SEPTER: Yes, sir.

13 MR. COX: As Mr. James sits before you, do you view him as being not guilty,
14 not having heard any evidence at all?

15 PROSPECTIVE JUROR SEPTER: Well, I think that – Yes, I would agree
16 that he's not guilty.

17 MR. COX: Now, you're over at the federal hospital right next to Nellis Air
18 Force Base?

19 PROSPECTIVE JUROR SEPTER: Correct.

20 MR. COX: Now, does that service only the military or is that all federal?

21 PROSPECTIVE JUROR SEPTER: No. That would be active duty and V.A.
22 at the current time.

23 MR. COX: Okay. Now, you mentioned one of the reasons why a child may
24 fabricate a story of sexual assault may be revenge.

1 PROSPECTIVE JUROR SEPTER: Um-hm.

2 MR. COX: Do you – Would you be willing to consider that perhaps a child
3 may fabricate a story and we may not know the reason why?

4 PROSPECTIVE JUROR SEPTER: That I'm – I would have to speculate on
5 that. You know, I think that it's possible, sure.

6 MR. COX: Okay. Well, I guess the nuts and bolts of it is, would you be
7 willing to reserve your ruling or your determination until after you've heard the
8 evidence?

9 PROSPECTIVE JUROR SEPTER: Absolutely.

10 MR. COX: Okay. Would you be willing to look at both parties and look at
11 their character and their credibility based on what you've heard and weigh it as
12 such?

13 PROSPECTIVE JUROR SEPTER: Absolutely.

14 MR. COX: And obviously you would agree that children are capable of lying?

15 PROSPECTIVE JUROR SEPTER: Absolutely.

16 MR. COX: Okay. I'll pass the juror, Judge.

17 THE COURT: Thank you.

18 Okay, Ms. Higgs. Good morning,

19 PROSPECTIVE JUROR HIGGS: Good morning.

20 THE COURT: Ma'am, how long have you lived in Clark County?

21 PROSPECTIVE JUROR HIGGS: Five years.

22 THE COURT: Where did you live before that?

23 PROSPECTIVE JUROR HIGGS: Idaho Falls, Idaho.

24 THE COURT: What do you do for a living?

1 PROSPECTIVE JUROR HIGGS: I was a teacher for four years and then
2 when I had my first child I quit and I just substitute teach now off and on.

3 THE COURT: What did you – what – the question is not coming to me; sorry.
4 What grades do you substitute teach for? (There we go).

5 PROSPECTIVE JUROR HIGGS: I can substitute all the way from kindergarten
6 through twelfth grade.

7 THE COURT: Any particular area that you specialize in?

8 PROSPECTIVE JUROR HIGGS: I mainly substitute in elementary. That's
9 where I'm more comfortable.

10 THE COURT: Are you married or in a significant relationship?

11 PROSPECTIVE JUROR HIGGS: I'm married.

12 THE COURT: What does your husband do?

13 PROSPECTIVE JUROR HIGGS: My husband is an electrician, an
14 apprentice. He works for Henkels & McCoy.

15 THE COURT: And you have children. What are the ages and genders of
16 your children?

17 PROSPECTIVE JUROR HIGGS: I have a daughter who is almost two years
18 old, and I'm pregnant with an unknown one.

19 THE COURT: Okay. Have you or anyone close to you worked in law
20 enforcement or the legal field?

21 PROSPECTIVE JUROR HIGGS: No.

22 THE COURT: Have you or anyone close to you been charged with a crime?

23 PROSPECTIVE JUROR HIGGS: Yes. My older brother.

24 THE COURT: And can you tell me a little about that?

1 PROSPECTIVE JUROR HIGGS: Yeah. He was charged with embezzlement
2 and drug abuse.

3 THE COURT: Was that here in Clark County?

4 PROSPECTIVE JUROR HIGGS: No. That was in Bonneville County in
5 Idaho.

6 THE COURT: How long ago was that?

7 PROSPECTIVE JUROR HIGGS: Uh, this was in high school, so 2000.
8 About ten years ago.

9 THE COURT: Were you involved at all in what was going on with the case?
10 Did you know much about it while it was going on?

11 PROSPECTIVE JUROR HIGGS: I knew my brother did drugs when I was
12 a teenager, so it wasn't a shock to me at all, but he usually got caught.

13 THE COURT: Is there anything about your brother going through that
14 experience that you think would make it difficult for you to sit as a juror in this case?

15 PROSPECTIVE JUROR HIGGS: No.

16 THE COURT: Have you or anyone close to you ever been the victim of a
17 crime, including sexual assault?

18 PROSPECTIVE JUROR HIGGS: Yes.

19 THE COURT: And can you tell me about that?

20 PROSPECTIVE JUROR HIGGS: The same brother, he was molested when
21 he was around fourteen, but he never told anybody until about five years ago, so
22 nothing ever came of it.

23 THE COURT: Okay. Is there anything about that you think may make it
24 difficult for you to sit as a juror in this case?

1 PROSPECTIVE JUROR HIGGS: No.

2 THE COURT: Have you ever served as a juror before?

3 PROSPECTIVE JUROR HIGGS: No.

4 THE COURT: Will you base your verdict solely on the evidence presented
5 at trial and wait to form an opinion until you've heard all of the evidence?

6 PROSPECTIVE JUROR HIGGS: Yes.

7 THE COURT: Can you follow the instructions on the law that I give you,
8 regardless of whether you think the law is good or bad?

9 PROSPECTIVE JUROR HIGGS: Yes.

10 THE COURT: Can you make a decision without worrying about criticism or
11 what other people might think?

12 PROSPECTIVE JUROR HIGGS: Yes.

13 THE COURT: Do you know of any reason why you couldn't be completely
14 fair and impartial if you were selected as a juror in this case?

15 PROSPECTIVE JUROR HIGGS: No.

16 THE COURT: And if you were either party to this case, would you feel
17 comfortable having someone like yourself as a juror?

18 PROSPECTIVE JUROR HIGGS: Yes.

19 THE COURT: Thank you. Mr. Pandelis?

20 MR. PANDELIS: Thank you, Your Honor.

21 Ms. Higgs, just a moment ago you stated you have a background
22 in education. As a teacher and now a substitute teacher, are you a mandatory
23 reporter?

24 PROSPECTIVE JUROR HIGGS: To crimes?

1 MR. PANDELIS: Just if a child – Do you know what a mandatory reporter is?
2 If a child were to come to you in the classroom and disclose to you that they were
3 a victim of physical abuse or sexual abuse, do you have any duties on you as a
4 teacher?

5 PROSPECTIVE JUROR HIGGS: Yes.

6 MR. PANDELIS: And what are those duties?

7 PROSPECTIVE JUROR HIGGS: If a child comes to me with anything like
8 that, you have to report it to CPS.

9 MR. PANDELIS: And that's what I mean as a mandatory reporter. So you
10 are a mandatory reporter?

11 PROSPECTIVE JUROR HIGGS: Yes.

12 MR. PANDELIS: Have you ever had to exercise that duty as a mandatory
13 reporter?

14 PROSPECTIVE JUROR HIGGS: I have not.

15 MR. PANDELIS: You haven't. That's good news. You indicated that your
16 brother was a victim of sexual abuse in the past and he went a number of years
17 without disclosing it?

18 PROSPECTIVE JUROR HIGGS: Yes.

19 MR. PANDELIS: So I'd ask you, what are some of the reasons a child may
20 have for delaying their disclosure or not wanting to talk about the sexual abuse?

21 PROSPECTIVE JUROR HIGGS: I think there would be a lot of reasons.
22 I think shame might be one of them. They might feel, you know, that it would be
23 kind of – it might be embarrassing that something like that happened. Or some
24 people might not want to admit that it happened at all and just kind of bury it so

1 they can get through it.

2 MR. PANDELIS: So those motivations might – or those concerns might
3 come into play with certain children?

4 PROSPECTIVE JUROR HIGGS: Um-hm.

5 MR. PANDELIS: But would you also agree some children are able to talk
6 about it much more freely?

7 PROSPECTIVE JUROR HIGGS: Sure. It probably just depends on the
8 child, their personality.

9 MR. PANDELIS: Would you agree whether or not it's a delayed disclosure
10 or an immediate disclosure, that children when talking about sexual abuse, just their
11 demeanor while they're talking about it can be – from one child to the next can be
12 very different?

13 PROSPECTIVE JUROR HIGGS: Yes.

14 MR. PANDELIS: So it would be reasonable to you if a child were calm when
15 talking about sexual abuse?

16 PROSPECTIVE JUROR HIGGS: Yes. It might be a way of coping with it,
17 rather than –

18 MR. PANDELIS: And some children at the same time, too, may be very
19 emotional, would you agree?

20 PROSPECTIVE JUROR HIGGS: Yes.

21 MR. PANDELIS: Just a moment ago or just a few minutes ago Mr. Cox
22 asked you questions about as his client sat there he's – it's our burden to prove
23 the case beyond a reasonable doubt. Do you understand that at this point we've
24 presented no evidence?

1 PROSPECTIVE JUROR HIGGS: Yes.

2 MR. PANDELIS: And it is our duty as the prosecutors in this case to present
3 evidence to you and prove the case beyond a reasonable doubt?

4 PROSPECTIVE JUROR HIGGS: Yes.

5 MR. PANDELIS: I just want to go back to a question I asked earlier and
6 Ms. Kollins asked, would you automatically believe a child over an adult?

7 PROSPECTIVE JUROR HIGGS: No.

8 MR. PANDELIS: Would you automatically believe an adult over a child?

9 PROSPECTIVE JUROR HIGGS: No.

10 MR. PANDELIS: What are some things you would look for when a witness
11 is up there testifying to assess their credibility?

12 PROSPECTIVE JUROR HIGGS: I would look for you to present evidence
13 that would back up what they were saying, because you can't believe anybody just
14 at their word. So, but like he said, I would also look for if they are able to repeat
15 the same facts over and over again, because usually if something happens and you
16 remember it, you can repeat the same thing. But I would also base it off of facts
17 presented.

18 MR. PANDELIS: So would consistency in their testimony with prior
19 statements weigh on you? Would that be something you would consider?

20 PROSPECTIVE JUROR HIGGS: Consistency would help with truth, yes.

21 MR. PANDELIS: Now, let me ask you this. Would you agree with me that
22 sometimes sexual abuse is something that's committed in secret?

23 PROSPECTIVE JUROR HIGGS: Yes.

24 MR. PANDELIS: And a lot of times that's why we don't find out about it

1 immediately?

2 PROSPECTIVE JUROR HIGGS: Yes.

3 MR. PANDELIS: Based on that, would you agree with me that sometimes
4 there are no other witnesses to a sexual – or to sexual abuse, other than the child?

5 PROSPECTIVE JUROR HIGGS: That is possible, yes.

6 MR. PANDELIS: And would you agree with me that due to that, sometimes
7 all we have is the child's word?

8 PROSPECTIVE JUROR HIGGS: Yes, that's true.

9 MR. PANDELIS: And if you were given an instruction at the end, if you were
10 selected to serve as a juror and you're given an instruction that tells you that if you
11 believe the child's testimony beyond a reasonable doubt, that testimony alone is
12 all you need to convict the defendant, would you have any problem convicting the
13 defendant if you believe the child's testimony beyond a reasonable doubt?

14 PROSPECTIVE JUROR HIGGS: Yeah, I'd have to really believe that, if there
15 were absolutely no facts other than just her testimony.

16 MR. PANDELIS: But do you understand that that child's testimony is
17 evidence in this case?

18 PROSPECTIVE JUROR HIGGS: Yes, their sworn testimony. They're sworn
19 to tell the truth.

20 MR. PANDELIS: And some of the things you would use in evaluating that
21 testimony is some of the things I believe this gentleman next to you talked about,
22 just the way they are on the stand and things like that?

23 PROSPECTIVE JUROR HIGGS: Uh-huh.

24 MR. PANDELIS: But again, if you believe that child beyond a reasonable

1 doubt, you'd have no problem convicting in this case?

2 PROSPECTIVE JUROR HIGGS: No, I would not, if I believed them.

3 MR. PANDELIS: Thank you.

4 PROSPECTIVE JUROR HIGGS: You're welcome.

5 THE COURT: Mr. Cox?

6 MR. COX: Thank you, Judge.

7 Ms. Higgs, I congratulate you on surviving four years of teaching,
8 educating children.

9 PROSPECTIVE JUROR HIGGS: Oh, thank you -- (inaudible).

10 MR. COX: I have children, so -- (inaudible) -- grateful. Mr. Pandelis
11 mentioned the demeanor of somebody when they're giving a version of events,
12 when they're telling the truth. Is it possible that their demeanor can change
13 unexpectedly when they're being untruthful?

14 PROSPECTIVE JUROR HIGGS: Um, yes.

15 MR. COX: Okay. And as a teacher, educator -- I'm sorry -- you frequently
16 hear two children give competing versions of what happens?

17 PROSPECTIVE JUROR HIGGS: Right.

18 MR. COX: And it's very important to hear both versions?

19 PROSPECTIVE JUROR HIGGS: Yes, it is.

20 MR. COX: Look at the credibility of what they're saying; whether or not
21 they've changed their story?

22 PROSPECTIVE JUROR HIGGS: Yes.

23 MR. COX: Okay. I'll pass the witness -- or juror, Judge.

24 THE COURT: Thank you, Mr. Cox.

1 Okay. Ms. Ricafort. Did I say that correctly? Ricafort, is that right?

2 PROSPECTIVE JUROR RICAFORT: Yes, that's right.

3 THE COURT: Okay. Ma'am, how long have you lived in Clark County?

4 PROSPECTIVE JUROR RICAFORT: I'd say a little over three years.

5 THE COURT: Where did you live before that?

6 PROSPECTIVE JUROR RICAFORT: Houston, Texas.

7 THE COURT: What do you do for a living?

8 PROSPECTIVE JUROR RICAFORT: I'm a full time nursing student right

9 now.

10 THE COURT: And are you married or in a significant relationship?

11 PROSPECTIVE JUROR RICAFORT: I am married.

12 THE COURT: What does your spouse do?

13 PROSPECTIVE JUROR RICAFORT: He's a nursing assistant.

14 THE COURT: Do you have any children?

15 PROSPECTIVE JUROR RICAFORT: Yes, I've got three.

16 THE COURT: What are their ages and genders?

17 PROSPECTIVE JUROR RICAFORT: I have a 14-year-old son, a 10-year-old

18 daughter, and a 3-year-old son.

19 THE COURT: Have you or anyone close to you ever worked in law

20 enforcement or the legal field?

21 PROSPECTIVE JUROR RICAFORT: No.

22 THE COURT: Have you or anyone close to you ever been charged with a

23 crime?

24 PROSPECTIVE JUROR RICAFORT: No.

1 THE COURT: Have you or anyone close to you ever been the victim of a
2 crime, including sexual assault?

3 PROSPECTIVE JUROR RICAFORT: No.

4 THE COURT: Have you ever served as a juror before?

5 PROSPECTIVE JUROR RICAFORT: No.

6 THE COURT: Can you base your verdict solely on the evidence presented
7 at trial and wait to form an opinion until you've heard all of the evidence?

8 PROSPECTIVE JUROR RICAFORT: Yes.

9 THE COURT: Can you follow the instructions on the law that I give you,
10 regardless of whether you think the law is good or bad?

11 PROSPECTIVE JUROR RICAFORT: Yes.

12 THE COURT: Can you make a decision without worrying about criticism or
13 what other people might think?

14 PROSPECTIVE JUROR RICAFORT: Yes.

15 THE COURT: Do you know of any reason you couldn't be completely fair
16 and impartial if you were selected as a juror in this case?

17 PROSPECTIVE JUROR RICAFORT: No.

18 THE COURT: And if you were either party to this case, would you be
19 comfortable having someone like yourself as a juror?

20 PROSPECTIVE JUROR RICAFORT: Yes.

21 THE COURT: Thank you. Ms. Kollins?

22 MS. KOLLINS: Ms. Ricafort, you're a nursing assistant?

23 PROSPECTIVE JUROR RICAFORT: A nursing student.

24 MS. KOLLINS: Nursing student. Okay, I'm sorry.

1 PROSPECTIVE JUROR RICAFORT: My husband is a nursing assistant.
2 MS. KOLLINS: And where are you in nursing school?
3 PROSPECTIVE JUROR RICAFORT: Where?
4 MS. KOLLINS: Yes.
5 PROSPECTIVE JUROR RICAFORT: Carrington College.
6 MS. KOLLINS: Do you have occasion as a component of your education to
7 be around sexual assault nurse examiners or anybody that does that kind of work?
8 PROSPECTIVE JUROR RICAFORT: Not examiners, but children, yes.
9 MS. KOLLINS: Okay. So is there a practical part of your work where you
10 work in a hospital?
11 PROSPECTIVE JUROR RICAFORT: Yes.
12 MS. KOLLINS: And which hospital is that?
13 PROSPECTIVE JUROR RICAFORT: Right now Summerlin.
14 MS. KOLLINS: Summerlin Hospital?
15 PROSPECTIVE JUROR RICAFORT: Yes.
16 MS. KOLLINS: Have you interacted with either nurses or physicians that
17 have done sexual assault examinations or been present when they do those?
18 PROSPECTIVE JUROR RICAFORT: No, I haven't.
19 MS. KOLLINS: Okay. Have you had to maybe take the history or triage for
20 a kid or an adult that's coming in as a victim of sexual assault?
21 PROSPECTIVE JUROR RICAFORT: No.
22 MS. KOLLINS: Have you done any work at Sunrise kid's hospital?
23 PROSPECTIVE JUROR RICAFORT: No.
24 MS. KOLLINS: How about your husband?

1 PROSPECTIVE JUROR RICAFORT: At Sunrise?

2 MS. KOLLINS: Well, has he had any interaction with sexual assault nurse
3 examiners or any of that process or victims, anything like that?

4 PROSPECTIVE JUROR RICAFORT: No.

5 MS. KOLLINS: Does he work at a hospital, an E.R., somewhere different?

6 PROSPECTIVE JUROR RICAFORT: Yes, he works in a hospital in a Geri-
7 Psyche unit.

8 MS. KOLLINS: Mr. Cox was talking with the previous juror about the
9 instruction that says if you believe the testimony of a victim beyond a reasonable
10 doubt that that's sufficient to support a conviction. What do you think about that
11 instruction?

12 PROSPECTIVE JUROR RICAFORT: Well, yeah, if there's no other evidence
13 aside from the testimony, then I guess I would have to base my judgment based on
14 that, the testimony itself.

15 MS. KOLLINS: And would you be willing to take into consideration things like
16 sensory details, motivations to lie, and things like that when you looked at whether
17 you thought a child was being credible?

18 PROSPECTIVE JUROR RICAFORT: Yes.

19 MS. KOLLINS: Because we don't always have DNA. It's not TV, right?

20 PROSPECTIVE JUROR RICAFORT: Right.

21 MS. KOLLINS: Okay. Anything that causes you concern to sit in judgment
22 of another?

23 PROSPECTIVE JUROR RICAFORT: No.

24 MS. KOLLINS: Okay. Do you think it's easy for a kid to come in and talk

1 about this kind of stuff?

2 PROSPECTIVE JUROR RICAFORT: No.

3 MS. KOLLINS: Can you hold a kid to a kid's standard?

4 PROSPECTIVE JUROR RICAFORT: As far as telling the story, you mean?

5 MS. KOLLINS: Well, any -- You wouldn't expect a fourteen, fifteen year old
6 kid to come in here and be able to articulate things at the level of a 30-year-old with
7 a degree, right?

8 PROSPECTIVE JUROR RICAFORT: Oh, definitely. Yes.

9 MS. KOLLINS: Okay. So you'd be able to hold a kid to a kid's standard and
10 their level of communication?

11 PROSPECTIVE JUROR RICAFORT: Yes.

12 MS. KOLLINS: Just because maybe they don't communicate at the level an
13 adult does, does that make them incredible?

14 PROSPECTIVE JUROR RICAFORT: No.

15 MS. KOLLINS: Do you think it's easy for a kid to come in here?

16 PROSPECTIVE JUROR RICAFORT: No.

17 MS. KOLLINS: Okay. I will pass the juror. Thank you.

18 THE COURT: Thank you. Mr. Cox?

19 MR. COX: Ms. Ricafort, as you sit in the position you are now, you've not
20 heard any testimony at all or any evidence, are you prepared to view my client as
21 not guilty at this time, not having heard any evidence?

22 PROSPECTIVE JUROR RICAFORT: Yes.

23 MR. COX: Are you prepared to reserve your ruling until you've heard all the
24 evidence?

1 PROSPECTIVE JUROR RICAFORT: Yes.

2 MR. COX: Okay. If you were in a position where you have strong feelings
3 about guilt or innocence of anyone, are you prepared to voice your opinion one way
4 or the other?

5 PROSPECTIVE JUROR RICAFORT: Yes, I would.

6 MR. COX: And disagree with others perhaps?

7 PROSPECTIVE JUROR RICAFORT: Yes.

8 MR. COX: I'll pass the juror, Judge.

9 THE COURT: Thank you.

10 Mr. Mann, good morning, sir.

11 PROSPECTIVE JUROR MANN: Good morning.

12 THE COURT: Sir, how long have you lived in Clark County?

13 PROSPECTIVE JUROR MANN: Fourteen years.

14 THE COURT: What do you do for a living?

15 PROSPECTIVE JUROR MANN: I did floor covering, but I'm unemployed
16 right now.

17 THE COURT: Are you married or in a significant relationship?

18 PROSPECTIVE JUROR MANN: Yes.

19 THE COURT: What does your significant other do?

20 PROSPECTIVE JUROR MANN: I have a lady friend here, but I'm married.
21 My wife is in Oklahoma.

22 THE COURT: What does she do?

23 PROSPECTIVE JUROR MANN: What does she do? I don't know. I haven't
24 talked to her lately.

1 THE COURT: Okay. Do you have any children?

2 PROSPECTIVE JUROR MANN: Yes, they're grown kids.

3 THE COURT: What are their ages, genders, and what do they do for a
4 living?

5 PROSPECTIVE JUROR MANN: My daughter goes to school, respiratory
6 therapy, and my son works for a moving company.

7 THE COURT: Have you or anyone close to you ever worked in law
8 enforcement or the legal field?

9 PROSPECTIVE JUROR MANN: I have two brothers in Carolina. One is a
10 policeman, the other one works for the sheriff's department.

11 THE COURT: Anything about that you think might make it difficult for you
12 to sit as a juror in this case?

13 PROSPECTIVE JUROR MANN: No. Is it – Ask that question again?

14 THE COURT: Sure. Is there anything about the fact that you have family
15 members who are in law enforcement you think might make it difficult for you to be
16 a fair juror in this case?

17 PROSPECTIVE JUROR MANN: No.

18 THE COURT: Sir, have you or anyone close to you ever been charged with
19 a crime?

20 PROSPECTIVE JUROR MANN: No.

21 THE COURT: Have you or anyone close to you ever been the victim of a
22 crime, including sexual assault?

23 PROSPECTIVE JUROR MANN: Yes.

24 THE COURT: And can you tell me about that?

1 PROSPECTIVE JUROR MANN: I had – my friend's daughter was victimized
2 a few years back.

3 THE COURT: Was that here in Clark County?

4 PROSPECTIVE JUROR MANN: No, it was in Oklahoma.

5 THE COURT: Is this a friend that you talk to regularly?

6 PROSPECTIVE JUROR MANN: No. It kind of stays in my mind a lot
7 because they were so close to me.

8 THE COURT: Okay. Were you involved at all in any of – any court
9 proceedings with respect to your friend's daughter?

10 PROSPECTIVE JUROR MANN: No.

11 THE COURT: Have you ever served as a juror before?

12 PROSPECTIVE JUROR MANN: No.

13 THE COURT: Can you base your verdict solely on the evidence presented
14 at trial and wait to form an opinion until you've heard all of the evidence?

15 PROSPECTIVE JUROR MANN: Yes.

16 THE COURT: Can you follow the instructions on the law that I give you,
17 regardless of whether you think the law is good or bad?

18 PROSPECTIVE JUROR MANN: Yes.

19 THE COURT: Can you make a decision without worrying about criticism or
20 what other people might think?

21 PROSPECTIVE JUROR MANN: Yes.

22 THE COURT: Do you know of any reason you couldn't be completely fair
23 and impartial if you were selected as a juror in this case?

24 PROSPECTIVE JUROR MANN: Well, I can't guarantee that right now.

1 THE COURT: What's your concern?

2 PROSPECTIVE JUROR MANN: Well, the people – as women, too, you
3 know, they – I hear of them doing something to a female or a kid, you know, that
4 kind of bothers me. I can't trust them.

5 MR. COX: I didn't hear that, Judge.

6 THE COURT: Okay, I'm sorry.

7 PROSPECTIVE JUROR MANN: I mean, they could be not guilty, you know,
8 but still – I just don't feel good with it.

9 THE COURT: Okay. I'm going to let the lawyers go ahead and follow up
10 with that, sir.

11 Mr. Pandelis?

12 MR. PANDELIS: Thank you, Your Honor.

13 Mr. Mann, you just a moment ago said you knew a victim, a juvenile
14 victim of sexual assault out in Oklahoma?

15 PROSPECTIVE JUROR MANN: No, not me. I knew someone.

16 MR. PANDELIS: You knew somebody.

17 PROSPECTIVE JUROR MANN: I had a friend.

18 MR. PANDELIS: How did you know this person?

19 PROSPECTIVE JUROR MANN: Well, we worked together. Me and my
20 friend worked together. It was her daughter, the one that was victimized.

21 MR. PANDELIS: So it was a friend from work's daughter?

22 PROSPECTIVE JUROR MANN: Right.

23 MR. PANDELIS: Do you know who the offender was, the person that did it
24 to her daughter?

1 PROSPECTIVE JUROR MANN: Uh, I found out later who it was, but it was –
2 you know, nothing really did about it. They went to court and everything, but I guess
3 it was thrown out. I don't know.

4 MR. PANDELIS: You don't know what the outcome was?

5 PROSPECTIVE JUROR MANN: Other than they didn't – he wasn't charged.
6 You know, they didn't – They were charged, but nothing ever came of it. It was
7 dismissed, I guess.

8 MR. PANDELIS: How often would you talk to your friend from work about
9 the case?

10 PROSPECTIVE JUROR MANN: I don't talk to her.

11 MR. PANDELIS: But while this was going on, did you talk to her about the
12 case?

13 PROSPECTIVE JUROR MANN: Yes. My wife did, mostly, and then she
14 would tell me about it.

15 MR. PANDELIS: So you got hand-me-down information basically about the
16 case?

17 PROSPECTIVE JUROR MANN: Yes.

18 MR. PANDELIS: You didn't have personal contact with the victim?

19 PROSPECTIVE JUROR MANN: Not really.

20 MR. PANDELIS: Had you ever met the victim before?

21 PROSPECTIVE JUROR MANN: Yes.

22 MR. PANDELIS: How well did you know the victim?

23 PROSPECTIVE JUROR MANN: Well, they played with my kids. They were
24 about the same age.

1 MR. PANDELIS: How many years ago was this?

2 PROSPECTIVE JUROR MANN: About --

3 MR. PANDELIS: Approximately?

4 PROSPECTIVE JUROR MANN: Twenty.

5 MR. PANDELIS: And that brings me -- I wanted to follow up with you on your
6 kids. You said they're both adults. How old are they now?

7 PROSPECTIVE JUROR MANN: Thirty-three.

8 MR. PANDELIS: Your son or daughter is thirty-three?

9 PROSPECTIVE JUROR MANN: Both of them are the same age.

10 MR. PANDELIS: Are they twins?

11 PROSPECTIVE JUROR MANN: No. We adopted a little girl and then my
12 wife had a kid at the same time.

13 MR. PANDELIS: I want to go back to go back to the case in Oklahoma with
14 your friend from work. You said you talked to the mother of the child a little bit about
15 the case. Do you know whether or not the child went and gave an interview with the
16 police department there in Oklahoma?

17 PROSPECTIVE JUROR MANN: Yeah, she had spoken to them.

18 MR. PANDELIS: Do you know if the child went in for a medical exam after
19 she disclosed the sexual abuse?

20 PROSPECTIVE JUROR MANN: Yes.

21 MR. PANDELIS: How do you know that? Were you with the child when she
22 had the exam or --

23 PROSPECTIVE JUROR MANN: No. Her mother and my wife talked to me
24 about it.

1 MR. PANDELIS: How old – I don't know if I asked you, how old was the
2 victim at the time?

3 PROSPECTIVE JUROR MANN: About eleven.

4 MR. PANDELIS: She was eleven years old at the time?

5 PROSPECTIVE JUROR MANN: Yeah, something like that.

6 MR. PANDELIS: I just want to follow up on something Judge Bell asked you.
7 You indicated you would have some problem sitting here as a juror in this case.
8 What exactly would keep you from sitting as a juror? You know, you expressed
9 some hesitation when she asked you that question.

10 PROSPECTIVE JUROR MANN: Yeah, like I said, I just have – be against
11 people who are hurting kids and people like women, girls. Whether they're guilty
12 or not, you know, it just bothers me to know that those things happened.

13 MR. PANDELIS: Are you going to have difficulty following the instructions
14 that you're given in this case?

15 PROSPECTIVE JUROR MANN: I won't be having difficulty following
16 instructions, but the outcome, I don't know.

17 MR. PANDELIS: So your opinions may affect your eventual decision in this
18 case?

19 PROSPECTIVE JUROR MANN: It's possible.

20 MR. PANDELIS: It is possible?

21 PROSPECTIVE JUROR MANN: (Nods head).

22 MR. PANDELIS: Nothing further, Your Honor.

23 THE COURT: Counsel approach.

24 /////

1 (Bench conference begins)

2 THE COURT: Do you want to ask him any follow-up questions or do you
3 just want to --

4 MR. COX: I can't make heads or tails because I can't -- I'd like to think I
5 understand what he's saying. I'm having trouble. I think he fleshed it out as
6 thoroughly as I can. Notwithstanding, he's -- (indiscernible).

7 MS. KOLLINS: (Indiscernible).

8 MR. COX: Anyway, I'll submit it.

9 MS. KOLLINS: I think he's articulated that, whatever his hangup is, it's going
10 to influence his ability to deliberate fairly. That's how I understand what he's saying.

11 THE COURT: Right. That's how I understand it. That's why --

12 MS. KOLLINS: So --

13 THE COURT: Because of this experience his friend's daughter had, he has
14 some very negative feelings about the charges and people who are charged with
15 respect to them.

16 MS. KOLLINS: (Indiscernible).

17 MR. COX: No, I'm just saying.

18 THE COURT: No. I was actually calling you up to see if you wanted to ask
19 questions or if you were going to make a motion.

20 MR. COX: No.

21 THE COURT: You're not asking questions or anything? Okay.

22 MR. COX: Yeah, I will, Judge. I will briefly and then I'll submit it.

23 THE COURT: Okay.

24 MR. COX: Well, I mean, do you want me to question Mr. Mann?

1 THE COURT: Mr. Mann. Do you want to ask Mr. Mann questions?

2 MR. COX: I will briefly, yes.

3 THE COURT: Okay. Go ahead.

4 MR. COX: Thank you.

5 **(Bench conference concluded)**

6 MR. COX: Good morning, Mr. Mann. Now, I'm going to try and understand,
7 and if I don't understand what you're saying, jump in and correct me, okay? Now,
8 if I understand correctly, you have very strong feelings about the abuse of children?

9 PROSPECTIVE JUROR MANN: Yes.

10 MR. COX: Okay. And I think most – everybody on the planet has strong
11 feelings about the abuse of children?

12 PROSPECTIVE JUROR MANN: Right.

13 MR. COX: Okay. I think the question here is whether or not you could reserve
14 your judgment to see whether or not this man has committed a crime or not. Are you
15 capable of doing that?

16 PROSPECTIVE JUROR MANN: Uh, yes.

17 MR. COX: Okay. So just to ask a question – I'm probably sure I've bored
18 people already – but do you view him as being innocent or not guilty simply because
19 there's been no evidence presented against him at this point?

20 PROSPECTIVE JUROR MANN: Yes, because the law states that he's
21 innocent until proven guilty.

22 MR. COX: Yes. Now, are you prepared if you don't hear any evidence
23 except for the testimony of two people, are you prepared to look at the testimony
24 to determine whether or not one person is more credible than the other one to

1 determine who is telling the truth?

2 PROSPECTIVE JUROR MANN: Yes.

3 MR. COX: Are you prepared to scrutinize the testimony of the child?

4 PROSPECTIVE JUROR MANN: Yes.

5 MR. COX: Would you concede that not all children tell the truth?

6 PROSPECTIVE JUROR MANN: Uh-huh.

7 MR. COX: And we may not always know the reason why they don't tell the
8 truth sometimes?

9 PROSPECTIVE JUROR MANN: Right.

10 MR. COX: Sometimes about very serious things. Would you agree, Mr.
11 Mann?

12 PROSPECTIVE JUROR MANN: Yeah.

13 MR. COX: I'll pass the juror, Judge.

14 THE COURT: Okay, thank you.

15 Ms. Varon.

16 PROSPECTIVE JUROR VARON: Yes.

17 THE COURT: Good morning, ma'am. How long have you lived in Clark
18 County?

19 PROSPECTIVE JUROR VARON: Six years.

20 THE COURT: Where did you live before that?

21 PROSPECTIVE JUROR VARON: Southern California.

22 THE COURT: What do you do for a living?

23 PROSPECTIVE JUROR VARON: Retired.

24 THE COURT: What are you retired from? You look too young to be retired.

1 PROSPECTIVE JUROR VARON: Sales and management in tele-
2 communications for about twenty-five years, and prior to that I was an X-ray
3 technician for ten years.

4 THE COURT: Okay. Are you married or in a significant relationship?

5 PROSPECTIVE JUROR VARON: Married.

6 THE COURT: What does your spouse do?

7 PROSPECTIVE JUROR VARON: He's retired.

8 THE COURT: And what is he retired from?

9 PROSPECTIVE JUROR VARON: Union Pacific Railroad for thirty-five years.

10 THE COURT: And what do the two of you do now that you're retired?

11 PROSPECTIVE JUROR VARON: Well, we travel quite a lot and we belong
12 to – we have an RV and we belong to a couple clubs and we go out in the RV.

13 THE COURT: Do you have any children?

14 PROSPECTIVE JUROR VARON: Two sons.

15 THE COURT: What are their ages and what do they do?

16 PROSPECTIVE JUROR VARON: Twenty-five and a student and he works
17 at Starbucks. And twenty-three and just graduated and he's not employed right now.

18 THE COURT: Okay. Have you or anyone close to you ever worked in law
19 enforcement or the legal field?

20 PROSPECTIVE JUROR VARON: One of the groups that we're involved with,
21 the RVing club, is a group of retired California Highway Patrol.

22 THE COURT: Anything about that that you think might make it difficult for
23 you to sit as a juror in this case?

24 PROSPECTIVE JUROR VARON: No.

1 THE COURT: You wouldn't feel like you had to justify any decision you made
2 to your friends who are retired highway patrol guys; people?

3 PROSPECTIVE JUROR VARON: No.

4 THE COURT: Have you or anyone close to you ever been charged with a
5 crime?

6 PROSPECTIVE JUROR VARON: No.

7 THE COURT: Have you or anyone close to you ever been the victim of a
8 crime, including sexual assault?

9 PROSPECTIVE JUROR VARON: No.

10 THE COURT: Have you ever served as a juror before?

11 PROSPECTIVE JUROR VARON: Yes.

12 THE COURT: How many times?

13 PROSPECTIVE JUROR VARON: Four.

14 THE COURT: Okay. Without telling us what the verdicts were – Well, let's
15 start with this. Were they civil or criminal cases?

16 PROSPECTIVE JUROR VARON: Criminal.

17 THE COURT: All four criminal?

18 PROSPECTIVE JUROR VARON: Yes.

19 THE COURT: Without telling us what the verdicts were, was the jury able to
20 reach a verdict –

21 PROSPECTIVE JUROR VARON: Yes.

22 THE COURT: – in each of the four cases? Yes?

23 PROSPECTIVE JUROR VARON: Yes.

24 THE COURT: Were you the foreperson on any of the cases?

1 PROSPECTIVE JUROR VARON: Yes.

2 THE COURT: How many?

3 PROSPECTIVE JUROR VARON: One.

4 THE COURT: Anything about your prior jury experience that would make it
5 difficult for you to sit as a juror in this case?

6 PROSPECTIVE JUROR VARON: No.

7 THE COURT: Can you base your verdict solely on the evidence presented
8 at trial and wait to form an opinion until you've heard all of the evidence?

9 PROSPECTIVE JUROR VARON: Yes.

10 THE COURT: Can you follow the instructions on the law that I give you,
11 regardless of whether you think the law is good or bad?

12 PROSPECTIVE JUROR VARON: Yes.

13 THE COURT: Can you make a decision without worrying about criticism or
14 what other people might think?

15 PROSPECTIVE JUROR VARON: Yes.

16 THE COURT: Do you know of any reason you couldn't be completely fair
17 and impartial if you were selected as a juror in this case?

18 PROSPECTIVE JUROR VARON: No.

19 THE COURT: And if you were either party to this case, would you be
20 comfortable having someone like yourself as a juror?

21 PROSPECTIVE JUROR VARON: Yes.

22 THE COURT: Thank you. I lost my place. Ms. Kollins?

23 MS. KOLLINS: Thanks, Judge.

24 Is it Varon or Varon?

1 PROSPECTIVE JUROR VARON: I'll take either.

2 MS. KOLLINS: Either way? Flexibility, I like that. Your previous jury
3 experience was here in Las Vegas?

4 PROSPECTIVE JUROR VARON: No. Southern California.

5 MS. KOLLINS: Anything about – well, let me strike that. The California
6 Highway Patrol individuals that you interact with, I assume you probably don't talk
7 to them about any sexual assault cases, it's probably traffic accidents and stuff like
8 that; shop talk, right?

9 PROSPECTIVE JUROR VARON: Right.

10 MS. KOLLINS: Do you think it's easy for a kid to come in here and talk about
11 this kind of stuff?

12 PROSPECTIVE JUROR VARON: No.

13 MS. KOLLINS: A little bit embarrassing maybe for them?

14 PROSPECTIVE JUROR VARON: (No audible response).

15 MS. KOLLINS: There's been a lot of talk about how do you assess
16 somebody's credibility. What kind of things would you look at when you're listening
17 to a kid testify to see whether you thought they were credible and being truthful?

18 PROSPECTIVE JUROR VARON: Well, as we've mentioned, different
19 personalities would react differently. I would definitely look for consistency in their
20 testimony, and I would also – body language, the way they totally respond to
21 questioning or to answers and what they – what's on their mind.

22 MS. KOLLINS: But you'd still agree with me that every person or every kid
23 could have a different reaction to delivering that information, probably based on their
24 personality type?

1 PROSPECTIVE JUROR VARON: Yes.

2 MS. KOLLINS: I mean, some kinds are kind of strong-willed and they'll tell
3 you right back at you, no, it didn't happen this way, it happened this way, where
4 other kids might be more reserved, more upset about –

5 PROSPECTIVE JUROR VARON: Internalized. Yes.

6 MS. KOLLINS: Would you automatically believe an adult over a child?

7 PROSPECTIVE JUROR VARON: No.

8 MS. KOLLINS: What kind of reasons do you think a kid would use or would
9 have to make up a story or an allegation of sexual abuse?

10 PROSPECTIVE JUROR VARON: Shame, embarrassment, fear. Just the
11 domination of an adult.

12 MS. KOLLINS: Those are reasons maybe they wouldn't come forward?

13 PROSPECTIVE JUROR VARON: Maybe.

14 MS. KOLLINS: Okay. What kind of reasons would a kid have to falsely
15 accuse someone of this kind of conduct?

16 PROSPECTIVE JUROR VARON: Attention. Financial. Acceptance.

17 MS. KOLLINS: Would you agree with me that a kid would have to be pretty
18 sophisticated to calculate the ultimate result of this type of allegation? In other
19 words, to carry it through –

20 PROSPECTIVE JUROR VARON: Yes.

21 MS. KOLLINS: – they'd have to be pretty sophisticated to calculate that this
22 would be the place where it would end up. Does that make sense?

23 PROSPECTIVE JUROR VARON: Yes.

24 MS. KOLLINS: I'll pass the juror, Judge.

1 THE COURT: Thank you. Mr. Cox?

2 MR. COX: Thank you, Judge.

3 So you go RVing with retired highway patrol men?

4 PROSPECTIVE JUROR VARON: Yes, and women.

5 MR. COX: Do they speed?

6 PROSPECTIVE JUROR VARON: No.

7 MR. COX: Now, Ms. Kollins asked you if an adult is inherently more credible
8 than a child. I'll ask the converse, is a child inherently more credible than an adult?

9 PROSPECTIVE JUROR VARON: No.

10 MR. COX: So you would reserve your ruling based on hearing both versions?

11 PROSPECTIVE JUROR VARON: Yes.

12 MR. COX: Do you believe that it's possible for children to lie?

13 PROSPECTIVE JUROR VARON: Yes.

14 MR. COX: About very serious things?

15 PROSPECTIVE JUROR VARON: Yes.

16 MR. COX: Now, Ms. Kollins asked you about calculating results and whatnot.
17 Do you also believe that it's possible a child can have an allegation, and quite frankly
18 it just goes in directions they might not realize?

19 PROSPECTIVE JUROR VARON: Yes.

20 MR. COX: And also it may be difficult for them, if not given a really good
21 opportunity, to say, you know, wait a minute, we need to put the brakes on this whole
22 thing. Is that possible too?

23 PROSPECTIVE JUROR VARON: Yes.

24 MR. COX: I'll pass the juror, Judge.

1 THE COURT: Thank you.

2 Good morning, Ms. Winters. How long have you lived in Clark County?

3 PROSPECTIVE JUROR WINTERS: Twenty years.

4 THE COURT: And you're a lawyer. What kind of law do you practice?

5 PROSPECTIVE JUROR WINTERS: I no longer practice. I stay at home with
6 my two daughters.

7 THE COURT: Okay. What kind of law did you practice?

8 PROSPECTIVE JUROR WINTERS: I did -- well, I practiced one year here.
9 I didn't really practice, I was an appellate law clerk from October of '92 or October
10 of '91, and then I did some plaintiff's medical malpractice and insurance defense.
11 I never did any criminal law after I left the District Attorney's Office.

12 THE COURT: Are you married or in a significant relationship?

13 PROSPECTIVE JUROR WINTERS: I'm married.

14 THE COURT: What does your spouse do?

15 PROSPECTIVE JUROR WINTERS: He's a psychologist.

16 THE COURT: Does he practice in any particular area?

17 PROSPECTIVE JUROR WINTERS: He's just general practice. He sees
18 everybody.

19 THE COURT: And how old are your -- What are the ages and gender --
20 well, you said daughters, so how old are your girls?

21 PROSPECTIVE JUROR WINTERS: They're ten and eight.

22 THE COURT: Have you or anyone close to you ever worked in law
23 enforcement or -- other than what you've mentioned, obviously, the legal field?

24 PROSPECTIVE JUROR WINTERS: Other than that year at the District

1 Attorney's Office here, no law enforcement with anybody.

2 THE COURT: Okay. Have you or anyone close to you ever been charged
3 with a crime?

4 PROSPECTIVE JUROR WINTERS: No.

5 THE COURT: Have you or anyone close to you ever been the victim of a
6 crime, including sexual assault?

7 PROSPECTIVE JUROR WINTERS: No.

8 THE COURT: Have you ever served as a juror before?

9 PROSPECTIVE JUROR WINTERS: No.

10 THE COURT: Can you base your verdict solely on the evidence presented
11 at trial and wait to form an opinion until you've heard all of the evidence?

12 PROSPECTIVE JUROR WINTERS: Yes.

13 THE COURT: Can you follow the instructions on the law that I give you,
14 regardless of whether you think the law is good or bad?

15 PROSPECTIVE JUROR WINTERS: Yes.

16 THE COURT: Can you make a decision without worrying about criticism or
17 what other people might think?

18 PROSPECTIVE JUROR WINTERS: Oh, yeah.

19 THE COURT: Do you know of any reason you couldn't be completely fair
20 and impartial if you were selected as a juror in this case?

21 PROSPECTIVE JUROR WINTERS: (Nods head negatively).

22 THE COURT: And if you were either party to this case, would you be
23 comfortable having someone like yourself as a juror?

24 PROSPECTIVE JUROR WINTERS: Yeah.

1 THE COURT: Thank you. Mr. Pandelis?

2 MR. PANDELIS: Thank you, Your Honor.

3 Good morning, Ms. Winters.

4 PROSPECTIVE JUROR WINTERS: Hello.

5 MR. PANDELIS: You indicated you have a background in medical -- or you
6 were plaintiff's counsel for --

7 PROSPECTIVE JUROR WINTERS: Medical malpractice.

8 MR. PANDELIS: -- medical malpractice. Did you have contact with doctors
9 while doing that?

10 PROSPECTIVE JUROR WINTERS: Sure.

11 MR. PANDELIS: And did you have contact with other medical professionals?

12 PROSPECTIVE JUROR WINTERS: Well, yeah.

13 MR. PANDELIS: Nurses, things like that?

14 PROSPECTIVE JUROR WINTERS: Right. Yes.

15 MR. PANDELIS: What type of contact would you have with them?

16 PROSPECTIVE JUROR WINTERS: Depositions. For awhile when I did
17 insurance defense I represented Valley Hospital, so I would speak with the
18 administrators, nurses, anybody involved in the cases that I needed to investigate
19 and know about.

20 MR. PANDELIS: So you had them in depositions. Did you ever call them
21 as witnesses in trials?

22 PROSPECTIVE JUROR WINTERS: I never went to trial.

23 MR. PANDELIS: Okay. But you did deal with these people on a somewhat
24 consistent basis --

1 PROSPECTIVE JUROR WINTERS: Yes.

2 MR. PANDELIS: -- in preparing for cases on the plaintiff's side and the
3 defense side?

4 PROSPECTIVE JUROR WINTERS: Yes.

5 MR. PANDELIS: And I know you're not a medical professional yourself,
6 but did you develop a little background in certain medical fields --

7 PROSPECTIVE JUROR WINTERS: Oh, yeah.

8 MR. PANDELIS: -- based on that experience?

9 PROSPECTIVE JUROR WINTERS: Yeah. Yes.

10 MR. PANDELIS: You indicated your husband is a psychologist, correct?

11 PROSPECTIVE JUROR WINTERS: Yes.

12 MR. PANDELIS: And he's in the general field?

13 PROSPECTIVE JUROR WINTERS: Yes. He's out of Boulder City, so it
14 turned out that he sees everybody from kids to seniors to people in the hospital.

15 MR. PANDELIS: So he does meet with children?

16 PROSPECTIVE JUROR WINTERS: Yes, he does.

17 MR. PANDELIS: What types of things does he offer services to children for?

18 PROSPECTIVE JUROR WINTERS: Normally just problems adjusting in
19 school. He's never had a case where somebody was accusing anybody of a sexual
20 assault. He is currently involved in kind of a messy custody case, but he by no
21 means wants to be considered an expert in any of that. He doesn't -- He's not one
22 of those. He's more of a treating psychologist. He does not go to trial.

23 MR. PANDELIS: Okay. So he has not counseled children who have been
24 victims of sexual assault?

1 PROSPECTIVE JUROR WINTERS: No.

2 MR. PANDELIS: Has he counseled adults who have been victims of sexual
3 assault?

4 PROSPECTIVE JUROR WINTERS: I would not know that.

5 MR. PANDELIS: Okay. Do you talk to your husband about his work?

6 PROSPECTIVE JUROR WINTERS: Sure.

7 MR. PANDELIS: Just generally or --

8 PROSPECTIVE JUROR WINTERS: You know, he's been out there fourteen
9 years. I just don't remember any sexual assault, anything like that coming up.
10 I mean, other things, anorexia, alcoholism, things like that, but none of that -- no
11 sexual assault sticks in my mind.

12 MR. PANDELIS: How do you think a juvenile victim of sexual assault should
13 act?

14 PROSPECTIVE JUROR WINTERS: Well, I mean, I guess it depends on the
15 person. I actually knew -- I had a friend who was a victim of sexual assault when
16 she was a child, and she spoke of it very matter-of-factly. She was very kind of --
17 her tone when she spoke about it, there was no emotion. She had dealt with it and
18 accepted it and moved on, but after years of therapy.

19 MR. PANDELIS: Well, in your opinion, is that an acceptable way for a --

20 PROSPECTIVE JUROR WINTERS: Absolutely.

21 MR. PANDELIS: -- victim of sexual assault to act?

22 PROSPECTIVE JUROR WINTERS: Absolutely.

23 MR. PANDELIS: In your opinion, would the exact opposite be an acceptable
24 way for a victim of sexual assault to act?

1 PROSPECTIVE JUROR WINTERS: Yes. It's gotta -- it depends on each
2 child.

3 MR. PANDELIS: Speaking of children, you have two children. I know they're
4 close in age, but are their personalities different anyway?

5 PROSPECTIVE JUROR WINTERS: Yes.

6 MR. PANDELIS: Does one have a stronger personality and one a more laid
7 back personality?

8 PROSPECTIVE JUROR WINTERS: Yes.

9 MR. PANDELIS: Can you think of reasons why a juvenile victim of sexual
10 assault may not be comfortable disclosing sexual assault immediately?

11 PROSPECTIVE JUROR WINTERS: Oh, yeah. Embarrassment, shame,
12 fear; lots of different things.

13 MR. PANDELIS: Would keeping a family together, as Ms. Kollins discussed
14 earlier, be one of the things that may cause a delayed disclosure?

15 PROSPECTIVE JUROR WINTERS: Unfortunately.

16 MR. PANDELIS: But at the same time, too, do you have any problem with
17 a child immediately disclosing sexual abuse?

18 PROSPECTIVE JUROR WINTERS: Oh, no, I hope they would.

19 MR. PANDELIS: Do you think it's easy for a child to talk to police officers and
20 detectives and doctors and nurses about sexual assault?

21 PROSPECTIVE JUROR WINTERS: No.

22 MR. PANDELIS: And do you think it's easy for a child to come into court and
23 talk about sexual abuse?

24 PROSPECTIVE JUROR WINTERS: No.

1 MR. PANDELIS: Would you automatically believe an adult over a child just
2 because the adult is older?

3 PROSPECTIVE JUROR WINTERS: No.

4 MR. PANDELIS: And what are -- I know we've talked about it with the last
5 six people, but what are some of the things you would look for when gauging
6 somebody's credibility on the stand when they're here this week?

7 PROSPECTIVE JUROR WINTERS: Definitely consistency when the witness
8 speaks, how they stick to the story. Body language. If they're looking up or if
9 they're looking down. Just, there's a certain way people speak when they're telling
10 something; a lot of times you can tell if they're actually telling the truth.

11 MR. PANDELIS: But in the back of your mind would you agree that, again,
12 different people -- just like different people are more comfortable talking about
13 abuse, different people handle coming into court differently, would you agree with
14 that?

15 PROSPECTIVE JUROR WINTERS: Oh, yes.

16 MR. PANDELIS: And some people might be more comfortable than others
17 coming into court and testifying?

18 PROSPECTIVE JUROR WINTERS: Yes.

19 MR. PANDELIS: I'll pass, Your Honor.

20 THE COURT: Thank you. Mr. Cox?

21 MR. COX: Thank you, Judge.

22 Good morning, Ms. Winters.

23 PROSPECTIVE JUROR WINTERS: Good morning.

24 MR. COX: So you practiced law and got out?

1 PROSPECTIVE JUROR WINTERS: Yes, I did.

2 MR. COX: I wonder if you're just one of the lucky ones.

3 PROSPECTIVE JUROR WINTERS: I don't know. Some days I want to
4 come back.

5 MR. COX: I'm not talking about the judge, of course. So you did work as an
6 appellate law clerk?

7 PROSPECTIVE JUROR WINTERS: Um-hm.

8 MR. COX: Now, was that with the intent to work for their office?

9 PROSPECTIVE JUROR WINTERS: Yes.

10 MR. COX: Okay. But then you went and did insurance defense?

11 PROSPECTIVE JUROR WINTERS: Well, first of all, I worked for Gerry
12 Gillock at Barker Gillock. That's where I did plaintiff's medical malpractice.

13 MR. COX: Uh-huh. Okay. Now, Mr. Pandelis asked you lots of questions
14 about late reporting; how the person's demeanor is. Do you believe it's possible
15 for children to lie?

16 PROSPECTIVE JUROR WINTERS: Yes.

17 MR. COX: About very serious matters?

18 PROSPECTIVE JUROR WINTERS: Yes.

19 MR. COX: And therefore it's important if there's no other evidence other than
20 their testimony to look at what they're saying, and you mentioned consistency.

21 PROSPECTIVE JUROR WINTERS: Right.

22 MR. COX: Do you think it's important to note if they gave different versions
23 to different people?

24 PROSPECTIVE JUROR WINTERS: Yes, I do.

1 MR. COX: Okay. Now, we mentioned what would motivate a child to come
2 up with a story. One juror mentioned revenge. Do you think it's possible that, you
3 know, a child may not have a credible version and we may not know why? It would
4 only be speculation, but we may not actually know what motivated a child?

5 PROSPECTIVE JUROR WINTERS: Right. Yeah.

6 MR. COX: Okay. I'll pass the juror, Judge.

7 THE COURT: Thank you.

8 Ms. Swords, good morning.

9 PROSPECTIVE JUROR SWORDS: Good morning.

10 THE COURT: How long have you lived in Clark County?

11 PROSPECTIVE JUROR SWORDS: Six years.

12 THE COURT: What do you do for a living?

13 PROSPECTIVE JUROR SWORDS: I'm an office manager for a real estate
14 company.

15 THE COURT: Where did you live before you lived in Clark County?

16 PROSPECTIVE JUROR SWORDS: Southern California.

17 THE COURT: Are you married or in a significant relationship?

18 PROSPECTIVE JUROR SWORDS: I'm married.

19 THE COURT: What does your spouse do?

20 PROSPECTIVE JUROR SWORDS: He's a service director for a car
21 dealership.

22 THE COURT: Do you have any children?

23 PROSPECTIVE JUROR SWORDS: Yeah, I have a son who's 23 who is in
24 the military in security forces. I have a 19-year-old daughter who is a student at

1 Nevada State.

2 THE COURT: Okay. What's she studying?

3 PROSPECTIVE JUROR SWORDS: She wants to be a physical therapist.

4 THE COURT: Have you or anyone close to you ever worked in law
5 enforcement or the legal field?

6 PROSPECTIVE JUROR SWORDS: My ex-sister-in-law's brother is a
7 Henderson police.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR SWORDS: But I mean, we're still in contact, but.

10 THE COURT: You're still in contact with your former sister-in--

11 PROSPECTIVE JUROR SWORDS: With my former brother-in-law, yeah.

12 THE COURT: Your former brother-in-law who --

13 PROSPECTIVE JUROR SWORDS: He's a Henderson police officer.

14 THE COURT: Anything about that you think might impact your ability to sit
15 as a juror in this case?

16 PROSPECTIVE JUROR SWORDS: No.

17 THE COURT: Have you or anyone close to you ever been charged with a
18 crime?

19 PROSPECTIVE JUROR SWORDS: My -- I have three brothers and my
20 middle brother spent most of his juvenile life thirty years ago in and out of jail.

21 THE COURT: For what kind of things?

22 PROSPECTIVE JUROR SWORDS: Drugs, theft. Mainly those two things.

23 THE COURT: What is he doing now?

24 PROSPECTIVE JUROR SWORDS: We really don't talk. I had to contact

1 him when my dad passed away about two years, but it was about the first time I
2 talked to him in about ten years.

3 THE COURT: Have you or anyone close to you ever been the victim of a
4 crime, including sexual assault?

5 PROSPECTIVE JUROR SWORDS: No.

6 THE COURT: Have you ever served as a juror before?

7 PROSPECTIVE JUROR SWORDS: Yes.

8 THE COURT: How many times?

9 PROSPECTIVE JUROR SWORDS: Just once.

10 THE COURT: Was it a criminal case or a civil case?

11 PROSPECTIVE JUROR SWORDS: It was a criminal case.

12 THE COURT: Without telling us what the verdict was, was the jury able to
13 reach a verdict?

14 PROSPECTIVE JUROR SWORDS: Yes.

15 THE COURT: And were you the foreperson?

16 PROSPECTIVE JUROR SWORDS: No, I was not.

17 THE COURT: Anything about that experience that might make it difficult for
18 you to sit as a juror in this case?

19 PROSPECTIVE JUROR SWORDS: No.

20 THE COURT: Can you base your verdict solely on the evidence presented
21 at trial and wait to form an opinion until you've heard all of the evidence?

22 PROSPECTIVE JUROR SWORDS: Yes.

23 THE COURT: Can you follow the instructions on the law that I give you,
24 regardless of whether you think the law is good or bad?

1 PROSPECTIVE JUROR SWORDS: Yes.

2 THE COURT: Can you make a decision without worrying about criticism or
3 what other people might think?

4 PROSPECTIVE JUROR SWORDS: Yes.

5 THE COURT: Do you know of any reason you couldn't be completely fair
6 and impartial if you were selected as a juror in this case?

7 PROSPECTIVE JUROR SWORDS: No.

8 THE COURT: And if you were either party to this case, would you be
9 comfortable having someone like yourself as a juror?

10 PROSPECTIVE JUROR SWORDS: Yes.

11 THE COURT: Thank you. Ms. Kollins?

12 MS. KOLLINS: Good morning.

13 PROSPECTIVE JUROR SWORDS: Good morning.

14 MS. KOLLINS: The Henderson police officer that is your ex--

15 PROSPECTIVE JUROR SWORDS: My ex-sister-in-law's brother.

16 MS. KOLLINS: Ex-sister-in-law's brother, is he a detective, is he --

17 PROSPECTIVE JUROR SWORDS: He's a patrol officer.

18 MS. KOLLINS: Okay. So not somebody that you would communicate about
19 cases about necessarily?

20 PROSPECTIVE JUROR SWORDS: No.

21 MS. KOLLINS: Okay. It sounds like your brother had a little bit of run-in with
22 the law when he was younger.

23 PROSPECTIVE JUROR SWORDS: Yes, he did.

24 MS. KOLLINS: Was that quite a few years ago?

1 PROSPECTIVE JUROR SWORDS: Yeah.

2 MS. KOLLINS: I think you said --

3 PROSPECTIVE JUROR SWORDS: Well, probably late '60's, early '70's.

4 MS. KOLLINS: Did law enforcement treat him fairly back then?

5 PROSPECTIVE JUROR SWORDS: I thought so. And I was younger, so.

6 MS. KOLLINS: Right. Is he still in any trouble as an adult, or is that all in
7 the past?

8 PROSPECTIVE JUROR SWORDS: I honestly don't know.

9 MS. KOLLINS: Okay. But in any event, nobody treated him unfairly, the
10 system didn't give him a bad deal?

11 PROSPECTIVE JUROR SWORDS: No. I think he got pretty much what he
12 deserved.

13 MS. KOLLINS: We've talked a lot about kids and how they would react when
14 they came into an environment like this; things that, you know, might be motivations
15 for them to be untruthful. Any of those things that you'd like to comment on, so we
16 don't keep going through the same routine questions with everyone?

17 PROSPECTIVE JUROR SWORDS: Yeah. I mean, I think every person,
18 every child, every adult acts differently. I have two children and they're opposite,
19 you know. One would tell you like this and the other one not, so it just depends on
20 the person.

21 MS. KOLLINS: Hold a kid to a kid's standard?

22 PROSPECTIVE JUROR SWORDS: Absolutely.

23 MS. KOLLINS: Thank you. Pass the juror, Judge.

24 THE COURT: Thank you. Mr. Cox?

1 MR. COX: Ms. Swords?

2 PROSPECTIVE JUROR SWORDS: Yes.

3 MR. COX: Good morning.

4 PROSPECTIVE JUROR SWORDS: Good morning.

5 MR. COX: We've asked lots of questions, perhaps too many, and I'll plead
6 guilty to that. Now, we've asked questions about do you believe children are
7 capable of telling very serious lies?

8 PROSPECTIVE JUROR SWORDS: Absolutely.

9 MR. COX: Do you believe that sometimes we don't always understand their
10 motivation or may never know, except for themselves?

11 PROSPECTIVE JUROR SWORDS: Yes.

12 MR. COX: Do you view my client as he sits before you and having had no
13 evidence presented, that he is not guilty at this time?

14 PROSPECTIVE JUROR SWORDS: Yes. Innocent.

15 MR. COX: Do you believe you'd be a fair juror in this case?

16 PROSPECTIVE JUROR SWORDS: Yes.

17 MR. COX: I'll pass the juror.

18 THE COURT: Thank you.

19 Okay. Ms. Kauder. Did I say that correctly?

20 PROSPECTIVE JUROR KAUDER: Um-hm, you did.

21 THE COURT: Ma'am, how long have you lived in Clark County?

22 PROSPECTIVE JUROR KAUDER: Forty-four years.

23 THE COURT: And you mentioned you work at Sunrise. What do you do
24 there?

1 PROSPECTIVE JUROR KAUDER: I'm an R.N.
2 THE COURT: What particular area do you work in?
3 PROSPECTIVE JUROR KAUDER: I'm on General Peds, but we fill in
4 anywhere within the children's hospital.
5 THE COURT: And are you married or in a significant relationship?
6 PROSPECTIVE JUROR KAUDER: I'm single.
7 THE COURT: Do you have any children?
8 PROSPECTIVE JUROR KAUDER: No.
9 THE COURT: Have you or anyone close to you ever worked in law
10 enforcement or the legal field?
11 PROSPECTIVE JUROR KAUDER: My brother-in-law was a North Las Vegas
12 reserve officer, but that was like twenty years ago.
13 THE COURT: Have you or anyone close to you ever been charged with a
14 crime?
15 PROSPECTIVE JUROR KAUDER: No.
16 THE COURT: Have you or anyone close to you ever been the victim of a
17 crime, including sexual assault?
18 PROSPECTIVE JUROR KAUDER: No.
19 THE COURT: Have you ever served as a juror before?
20 PROSPECTIVE JUROR KAUDER: Yes.
21 THE COURT: How many times?
22 PROSPECTIVE JUROR KAUDER: Once.
23 THE COURT: Was it a criminal case or a civil case?
24 PROSPECTIVE JUROR KAUDER: Criminal.

1 THE COURT: Without saying what the verdict was, was the jury able to
2 reach a verdict?

3 PROSPECTIVE JUROR KAUDER: Yes.

4 THE COURT: And were you the foreperson?

5 PROSPECTIVE JUROR KAUDER: No.

6 THE COURT: Anything about that experience that might impact your ability
7 to sit as a juror in this case?

8 PROSPECTIVE JUROR KAUDER: No.

9 THE COURT: Can you base your verdict solely on the evidence presented
10 in court and wait to form an opinion until you've heard all of the evidence?

11 PROSPECTIVE JUROR KAUDER: Yes.

12 THE COURT: Can you follow the instructions on the law that I give you,
13 regardless of whether you think the law is good or bad?

14 PROSPECTIVE JUROR KAUDER: Yes.

15 THE COURT: Can you make a decision without worrying about criticism or
16 what other people might think?

17 PROSPECTIVE JUROR KAUDER: Yes.

18 THE COURT: Do you know of any reason you couldn't be completely fair
19 and impartial if you were selected as a juror in this case?

20 PROSPECTIVE JUROR KAUDER: I could be fair.

21 THE COURT: And if you were either party to this case, would you be
22 comfortable having someone like yourself as a juror?

23 PROSPECTIVE JUROR KAUDER: Yes.

24 THE COURT: Thank you. Mr. Pandelis?

1 MR. PANDELIS: Ma'am, you work at Sunrise Hospital --
2 PROSPECTIVE JUROR KAUDER: Yes.
3 MR. PANDELIS: -- and earlier you indicated you know Dr. Vergara?
4 PROSPECTIVE JUROR KAUDER: Um-hm.
5 MR. PANDELIS: How well do you know Dr. Vergara?
6 PROSPECTIVE JUROR KAUDER: I've worked in the E.R. when she's
7 been on.
8 MR. PANDELIS: So you've worked together --
9 PROSPECTIVE JUROR KAUDER: Yeah.
10 MR. PANDELIS: -- but you don't do anything socially?
11 PROSPECTIVE JUROR KAUDER: No.
12 MR. PANDELIS: There's another witness in this case, Pamela Douglass.
13 She's actually a nurse at Sunrise as well. Do you know Ms. Douglass?
14 PROSPECTIVE JUROR KAUDER: I'm not sure because it's not my
15 department, so if she's not there the day that I floated there, I don't know.
16 MR. PANDELIS: Having worked with Dr. Vergara, would that affect your
17 ability to sit as a juror in this case? Would you give -- would you pay special
18 attention to her testimony just because you've worked with her?
19 PROSPECTIVE JUROR KAUDER: No.
20 MR. PANDELIS: Okay. So you would hold her to the same standard that
21 you would hold all other witnesses in this case?
22 PROSPECTIVE JUROR KAUDER: Yes.
23 MR. PANDELIS: How do you expect a child to act when they're coming into
24 court to testify?

1 PROSPECTIVE JUROR KAUDER: Scared. Most of the time scared, but
2 everybody is an individual. They may be just matter-of-fact.

3 MR. PANDELIS: So as many of the other people have said here today,
4 there's a variety of ways --

5 PROSPECTIVE JUROR KAUDER: Yes.

6 MR. PANDELIS: -- that a child can act when they come into court to testify?

7 PROSPECTIVE JUROR KAUDER: Yes.

8 MR. PANDELIS: And likewise with adults, there's a variety of ways that
9 adults can act when they come in to testify in court?

10 PROSPECTIVE JUROR KAUDER: Yes.

11 MR. PANDELIS: Do you think it's easy for a child to talk about sexual abuse,
12 whether it be to a police officer or here in court?

13 PROSPECTIVE JUROR KAUDER: No.

14 MR. PANDELIS: Thank you, Your Honor.

15 THE COURT: Thank you, Mr. Pandelis. Mr. Cox?

16 MR. COX: Thank you, Judge.

17 Good morning, Ms. Kauder.

18 PROSPECTIVE JUROR KAUDER: Good morning.

19 MR. COX: Are you prepared to give Mr. James a fair trial --

20 PROSPECTIVE JUROR KAUDER: Yes.

21 MR. COX: -- if you were selected as a juror?

22 PROSPECTIVE JUROR KAUDER: Yes.

23 MR. COX: Why is that?

24 PROSPECTIVE JUROR KAUDER: You have to listen to the evidence, and

1 right now he's innocent until proved guilty.

2 MR. COX: The district attorney has mentioned the demeanor of children
3 when they come to court, and I don't know about you, but I could be nervous going
4 to court myself. Do you believe children are capable of being very dishonest?

5 PROSPECTIVE JUROR KAUDER: Yes.

6 MR. COX: And once they start with a version of events or stories, they don't
7 recant or they don't come clean and say I'm sorry, what I said was not actually true;
8 they can get out of hand?

9 PROSPECTIVE JUROR KAUDER: Yes.

10 MR. COX: Do you believe children can be very convincing, notwithstanding
11 everything they're saying is a complete fantasy?

12 PROSPECTIVE JUROR KAUDER: Yes.

13 MR. COX: I'll pass the juror, Judge.

14 THE COURT: Thank you.

15 Ms. McCourt, good morning.

16 PROSPECTIVE JUROR McCOURT: Good morning.

17 THE COURT: Ma'am, how long have you lived in Clark County?

18 PROSPECTIVE JUROR McCOURT: Thirty-six years.

19 THE COURT: What do you do for a living?

20 PROSPECTIVE JUROR McCOURT: My husband and I own a plumbing and
21 repair service company.

22 THE COURT: Are you -- Oh, you're married. And do you have any children?

23 PROSPECTIVE JUROR McCOURT: I have one daughter, nine years old,
24 female.

1 THE COURT: Have you or anyone close to you ever worked in law
2 enforcement or the legal field?

3 PROSPECTIVE JUROR McCOURT: My husband is being an expert witness
4 on several cases regarding construction defect right now. We've had a few Metro
5 officers that have been friends; nothing current.

6 THE COURT: Okay. Have you or anyone close to you ever been charged
7 with a crime?

8 PROSPECTIVE JUROR McCOURT: Not that I'm aware of.

9 THE COURT: Have you or anyone close to you ever been the victim of a
10 crime, including sexual assault?

11 PROSPECTIVE JUROR McCOURT: Not that I'm aware of.

12 THE COURT: Have you ever served as a juror before?

13 PROSPECTIVE JUROR McCOURT: No, ma'am.

14 THE COURT: Can you base your verdict solely on the evidence presented
15 at trial and wait to form an opinion until you've heard all of the evidence?

16 PROSPECTIVE JUROR McCOURT: I think so.

17 THE COURT: Can you follow the instructions on the law that I give you,
18 regardless of whether you think the law is good or bad?

19 PROSPECTIVE JUROR McCOURT: Yes.

20 THE COURT: Can you make a decision without worrying about criticism or
21 what other people might think?

22 PROSPECTIVE JUROR McCOURT: Yes.

23 THE COURT: Do you know of any reason you couldn't be completely fair
24 and impartial if you were selected as a juror in this case?

1 PROSPECTIVE JUROR McCOURT: No.

2 THE COURT: And if you were either party to this case, would you be
3 comfortable having someone like yourself as a juror?

4 PROSPECTIVE JUROR McCOURT: Yes.

5 THE COURT: Thank you. Ms. Kollins?

6 MS. KOLLINS: I'll try to change it up a little bit so we don't bore you all to
7 pieces. The case is submitted to you, it's Friday afternoon, it's four o'clock. It's
8 eleven to one back there. I'm not going to say which way. You're the one. What
9 are you going to do?

10 PROSPECTIVE JUROR McCOURT: I would argue my point.

11 MS. KOLLINS: Stand your ground?

12 PROSPECTIVE JUROR McCOURT: Yes, ma'am.

13 MS. KOLLINS: Okay. Be willing to listen to what the eleven have to say,
14 but also try to convince them of your point of view?

15 PROSPECTIVE JUROR McCOURT: Yes.

16 MS. KOLLINS: There's going to be some pretty graphic testimony in here
17 from a sexual assault nurse, or a doctor, Dr. Vergara. Any problem listening to that?

18 PROSPECTIVE JUROR McCOURT: I might.

19 MS. KOLLINS: Okay. We can all agree this is a very unpleasant topic, no
20 matter how you look at it, right? Can you still be fair and impartial despite the fact
21 that might be distasteful to you?

22 PROSPECTIVE JUROR McCOURT: I would like to think so, but I've never
23 been put in that position.

24 MS. KOLLINS: You've never -- I'm sorry?

1 PROSPECTIVE JUROR McCOURT: I've never been put in that position to
2 be -- (inaudible).

3 MS. KOLLINS: What specifically makes you think that you would have an
4 issue with it? If you know.

5 PROSPECTIVE JUROR McCOURT: My concern is I might start seeing my
6 daughter.

7 MS. KOLLINS: You understand that the victim that you're going to meet in
8 this case is separate and apart from anything else that you know about?

9 MR. COX: Your Honor, I would object to the characterization.

10 MS. KOLLINS: Well --

11 THE COURT: Ms. Kollins, if you could just rephrase the question. Thank you.

12 MS. KOLLINS: You've never heard any of the facts of this case before?

13 PROSPECTIVE JUROR McCOURT: No.

14 MS. KOLLINS: And you don't know any of the players in this case until the
15 case gets started?

16 PROSPECTIVE JUROR McCOURT: Right.

17 MS. KOLLINS: So do you think you could separate any thoughts or concerns
18 about your daughter from what you're going to hear in this courtroom?

19 PROSPECTIVE JUROR McCOURT: I would try.

20 MS. KOLLINS: Give a fair trial to the State of Nevada, as well as the
21 defendant?

22 PROSPECTIVE JUROR McCOURT: I'll try to.

23 MS. KOLLINS: Okay, thank you. Pass the juror, Judge.

24 THE COURT: Thank you. Mr. Cox?

1 MR. COX: Ms. McCourt. Good morning. Are you related to the author by
2 any chance?

3 PROSPECTIVE JUROR McCOURT: No, sir. I wish.

4 MR. COX: Are you a martial arts instructor?

5 PROSPECTIVE JUROR McCOURT: Not an instructor. Sometimes I help out
6 as an assistant.

7 MR. COX: Well, I saw self-employed there, so I assumed that you were an
8 instructor. Sorry. When she asked you about standing your ground, I thought you'd
9 be very familiar with that.

10 PROSPECTIVE JUROR McCOURT: That I can do.

11 MR. COX: Okay. In all fairness, I have a daughter that's ten. But do you
12 believe it's capable for us to leave those things aside and view the case for what it is
13 here in the courtroom?

14 PROSPECTIVE JUROR McCOURT: I would like to think that I could.

15 MR. COX: Okay. Well, obviously you have concerns. Please be completely
16 honest in sharing those.

17 PROSPECTIVE JUROR McCOURT: My concern is my daughter -- I've
18 almost lost her twice, and it's really hard for me to think about someone hurting a
19 child without thinking about my child, and I do have a hard time.

20 MR. COX: Okay. Obviously there are scenarios in this world where children
21 are harmed. However, are you prepared to view the case and be prepared to rule
22 or make a decision whether or not somebody has actually been a victim at all?

23 PROSPECTIVE JUROR McCOURT: I would like to think that I can. I can't
24 sit here and say yes for sure.

1 MR. COX: Okay.

2 THE COURT: Mr. Cox, maybe I can ask her a question that might clarify.

3 MR. COX: Sure.

4 THE COURT: Ma'am, if we select you to sit on this jury, if you -- obviously
5 you haven't been in this position and I understand you're trying to give us the best
6 information you can. If you got to a point where you felt that you were overwhelmed
7 or you weren't going to be able to make a fair decision, would you be able to let us
8 know?

9 PROSPECTIVE JUROR McCOURT: Yes.

10 THE COURT: Okay.

11 MS. KOLLINS: Judge, may we approach?

12 THE COURT: Yes.

13 **(Bench conference begins)**

14 MS. KOLLINS: Stacy Kollins, D.A.'s Office, and I'm the only female.

15 There's been two times where Mr. Cox has personally referred to his life as a father
16 or a parent, and that's inappropriate. I don't think endearing himself in that regard
17 as a parent and having to defend this type of offender, that's kind of -- to me that's
18 what's communicated, even though indirectly. I just think it's inappropriate.

19 THE COURT: Okay.

20 MS. KOLLINS: I don't think our personal lives should be a part of jury
21 selection.

22 THE COURT: Well, the trial is about Mr. James, not about what is going on
23 in anybody's personal life, so if you could not make any comments to that effect,
24 I would appreciate it all around.

1 MR. COX: Okay.

2 THE COURT: Thank you.

3 (Bench conference concluded)

4 THE MARSHAL: Excuse me, Judge. Some of the jurors need a break.

5 THE COURT: Rick, can you come here for a second.

6 (The Court confers with the marshal)

7 THE COURT: We're just going to let a couple of the prospective jurors use
8 the restroom. I would like to continue going until noon and then we'll break for
9 lunch. Okay.

10 Ms. Johnston. Good morning. Ma'am, how long have you lived in
11 Clark County?

12 PROSPECTIVE JUROR JOHNSTON: Seventeen years.

13 THE COURT: What do you do for a living?

14 PROSPECTIVE JUROR JOHNSTON: I'm an accountant.

15 THE COURT: Are you married or in a significant relationship?

16 PROSPECTIVE JUROR JOHNSTON: I'm married.

17 THE COURT: What does your spouse do?

18 PROSPECTIVE JUROR JOHNSTON: He's an electrician at the Venetian.

19 THE COURT: Do you have any children?

20 PROSPECTIVE JUROR JOHNSTON: Two daughters. One 23 and the other
21 is 17.

22 THE COURT: What does your 23-year-old do?

23 PROSPECTIVE JUROR JOHNSTON: She's in nursing school at Nevada
24 State College.

1 THE COURT: Have you or anyone close to you ever worked in law
2 enforcement or the legal field?

3 PROSPECTIVE JUROR JOHNSTON: No.

4 THE COURT: Have you or anyone close to you ever been charged with a
5 crime?

6 PROSPECTIVE JUROR JOHNSTON: No.

7 THE COURT: Have you or anyone close to you ever been the victim of a
8 crime, including sexual assault?

9 PROSPECTIVE JUROR JOHNSTON: No.

10 THE COURT: Have you ever served as a juror before?

11 PROSPECTIVE JUROR JOHNSTON: Yes.

12 THE COURT: How many times?

13 PROSPECTIVE JUROR JOHNSTON: Once.

14 THE COURT: Was it a civil case or a criminal case?

15 PROSPECTIVE JUROR JOHNSTON: Criminal.

16 THE COURT: Without telling us what the verdict was, was the jury able to
17 reach a verdict?

18 PROSPECTIVE JUROR JOHNSTON: They did a plea deal before it was
19 over.

20 THE COURT: Okay. So the jury didn't get to deliberate?

21 PROSPECTIVE JUROR JOHNSTON: (No audible response).

22 THE COURT: Anything about that experience that you think might make it
23 difficult for you to sit as a juror in this case?

24 PROSPECTIVE JUROR JOHNSTON: No.

1 THE COURT: Can you base your verdict solely on the evidence presented
2 at trial and wait to form an opinion until you've heard all of the evidence?

3 PROSPECTIVE JUROR JOHNSTON: Yes.

4 THE COURT: Can you follow the instructions on the law that I give you,
5 regardless of whether you think the law is good or bad?

6 PROSPECTIVE JUROR JOHNSTON: Yes.

7 THE COURT: Can you make a decision without worrying about criticism or
8 what other people might think?

9 PROSPECTIVE JUROR JOHNSTON: Yes.

10 THE COURT: Do you know of any reason you couldn't be completely fair
11 and impartial if you were selected as a juror in this case?

12 PROSPECTIVE JUROR JOHNSTON: No.

13 THE COURT: And if you were either party to this case, would you be
14 comfortable having someone like yourself as a juror?

15 PROSPECTIVE JUROR JOHNSTON: Yes.

16 THE COURT: Thank you. Mr. Pandelis?

17 MR. PANDELIS: Thank you.

18 Good morning, Ms. Johnston. What do you think would motivate a
19 child to lie about sexual abuse?

20 PROSPECTIVE JUROR JOHNSTON: Uh, I don't know. Not understanding
21 what's going on or some kind of peer pressure or confusion. I mean, kids can come
22 up with anything.

23 MR. PANDELIS: So there's no one single thing --

24 PROSPECTIVE JUROR JOHNSTON: Oh, no.

1 MR. PANDELIS: -- you can really identify? And I know the question was
2 asked to the prior juror, there's going to be some testimony in here in this case from
3 some medical professionals regarding sexual assault examinations and there could
4 be some graphic testimony. Is that going to affect you?

5 PROSPECTIVE JUROR JOHNSTON: No, I'd be fine.

6 MR. PANDELIS: And is a child talking about sexual abuse going to affect
7 you in any way?

8 PROSPECTIVE JUROR JOHNSTON: No.

9 MR. PANDELIS: So you'd be comfortable sitting as a juror in this case?

10 PROSPECTIVE JUROR JOHNSTON: Yeah, I think so.

11 MR. PANDELIS: Will you hold the child testifying in this case to a kid's
12 standard?

13 PROSPECTIVE JUROR JOHNSTON: Oh, yes.

14 MR. PANDELIS: And you wouldn't expect the same testimony out of her that
15 you would a 40-year-old adult?

16 PROSPECTIVE JUROR JOHNSTON: No.

17 MR. PANDELIS: Do you think it's easy for a child to talk to a police officer
18 about sexual abuse?

19 PROSPECTIVE JUROR JOHNSTON: No.

20 MR. PANDELIS: Do you think they could be feeling nervous while talking to
21 a police officer?

22 PROSPECTIVE JUROR JOHNSTON: Definitely.

23 MR. PANDELIS: Do you think it's difficult for a child to talk to a nurse about
24 sexual abuse that they just experienced?

1 PROSPECTIVE JUROR JOHNSTON: Yeah. I mean, they don't talk to their
2 mom, so, yeah.

3 MR. PANDELIS: And do you think while the child is talking to that nurse in
4 a hospital about sexual abuse, they're nervous because they're in a hospital, on top
5 of the sexual abuse?

6 PROSPECTIVE JUROR JOHNSTON: Oh, yes.

7 MR. PANDELIS: So there's probably two factors that can come into play
8 when a child is talking to a nurse in a hospital about sexual abuse?

9 PROSPECTIVE JUROR JOHNSTON: Yes.

10 MR. PANDELIS: Do you think it would be uncomfortable for a child to talk to
11 a social worker about sexual abuse?

12 PROSPECTIVE JUROR JOHNSTON: Yes.

13 MR. PANDELIS: So, would you agree with me that talking about sexual
14 abuse is probably uncomfortable for children?

15 PROSPECTIVE JUROR JOHNSTON: Yes.

16 MR. PANDELIS: Especially when they experienced the sexual abuse?

17 PROSPECTIVE JUROR JOHNSTON: Yes.

18 MR. PANDELIS: I'll pass the juror, Your Honor. Thank you.

19 THE COURT: Thank you. Mr. Cox?

20 MR. COX: Thank you, Judge.

21 Ms. Johnston, are you related to Robert Johnston?

22 PROSPECTIVE JUROR JOHNSTON: No.

23 MR. COX: He is a federal magistrate.

24 PROSPECTIVE JUROR JOHNSTON: No.

1 MR. COX: Mr. Pandelis talked about it being very difficult for I think anybody
2 to talk about sexual things in public.

3 PROSPECTIVE JUROR JOHNSTON: Yes.

4 MR. COX: Especially a child. Do you believe children are capable of lying?

5 PROSPECTIVE JUROR JOHNSTON: Sure.

6 MR. COX: About very serious matters?

7 PROSPECTIVE JUROR JOHNSTON: Sure.

8 MR. COX: Okay. Now, Mr. Pandelis talked about it would be difficult for
9 a child to talk about it to a police officer or a nurse. And I think it's fair to say I'm
10 nervous when I'm pulled over talking to --

11 PROSPECTIVE JUROR JOHNSTON: Exactly.

12 MR. COX: Okay. We're nervous when we talk to any law enforcement?

13 PROSPECTIVE JUROR JOHNSTON: Right.

14 MR. COX: And I think it's fair to say we'd be nervous in a hospital as well.

15 PROSPECTIVE JUROR JOHNSTON: Yes.

16 MR. COX: Okay. Would you expect somebody to be honest with a nurse?

17 PROSPECTIVE JUROR JOHNSTON: Not necessarily.

18 MR. COX: Okay. Do you believe that it's possible for a child to be very
19 convincing but yet not be honest?

20 PROSPECTIVE JUROR JOHNSTON: Sure.

21 MR. COX: I'll pass the juror, Judge.

22 THE COURT: Thank you.

23 Ms. Mitchell. Good morning, ma'am. How long have you lived in
24 Clark County?

1 PROSPECTIVE JUROR MITCHELL: About five years.
2 THE COURT: Where did you live before that?
3 PROSPECTIVE JUROR MITCHELL: New Jersey.
4 THE COURT: What do you do for a living?
5 PROSPECTIVE JUROR MITCHELL: I work in the casino industry.
6 THE COURT: What kind of thing?
7 PROSPECTIVE JUROR MITCHELL: Casino management; casino games.
8 THE COURT: Okay. Are you married or in a significant relationship?
9 PROSPECTIVE JUROR MITCHELL: I am a widow.
10 THE COURT: I'm sorry to hear that, ma'am. Do you have any children?
11 PROSPECTIVE JUROR MITCHELL: I have two daughters, a 9-year-old and
12 a 14-year-old.
13 THE COURT: Have you or anyone close to you ever worked in law
14 enforcement or the legal field?
15 PROSPECTIVE JUROR MITCHELL: No.
16 THE COURT: Have you or anyone close to you ever been charged with a
17 crime?
18 PROSPECTIVE JUROR MITCHELL: No.
19 THE COURT: Have you or anyone close to you ever been the victim of a
20 crime, including sexual assault?
21 PROSPECTIVE JUROR MITCHELL: No.
22 THE COURT: Have you ever served as a juror before?
23 PROSPECTIVE JUROR MITCHELL: No.
24 THE COURT: Can you base your verdict solely on the evidence presented

1 at trial and wait to form an opinion until you've heard all of the evidence?

2 PROSPECTIVE JUROR MITCHELL: Yes.

3 THE COURT: Can you follow the instructions on the law that I give you,
4 regardless of whether you think the law is good or bad?

5 PROSPECTIVE JUROR MITCHELL: Yes.

6 THE COURT: Can you make a decision without worrying about criticism or
7 what other people might think?

8 PROSPECTIVE JUROR MITCHELL: Yes.

9 THE COURT: Do you know of any reason you couldn't be completely fair
10 and impartial if you were selected as a juror in this case?

11 PROSPECTIVE JUROR MITCHELL: No.

12 THE COURT: And if you were either party to this case, would you be
13 comfortable having someone like yourself as a juror?

14 PROSPECTIVE JUROR MITCHELL: Yes.

15 THE COURT: Thank you. Ms. Kollins?

16 MS. KOLLINS: Good morning. How are you?

17 PROSPECTIVE JUROR MITCHELL: I'm fine.

18 MS. KOLLINS: Did you hear us talk a little bit ago about you'll receive an
19 instruction that if you believe the testimony of a child beyond a reasonable doubt
20 that that's sufficient to convict?

21 PROSPECTIVE JUROR MITCHELL: Yes.

22 MS. KOLLINS: What do you think about that instruction?

23 PROSPECTIVE JUROR MITCHELL: Uh, I guess it would depend on the
24 testimony and what comes out of that. Yes, I could do that. I could understand.

1 MS. KOLLINS: Absolutely. Absolutely it would. Testimony is evidence,
2 though.

3 PROSPECTIVE JUROR MITCHELL: Um-hm. Right.

4 MS. KOLLINS: And sometimes people that don't do this on a routine basis
5 don't understand that testimony is evidence. Just because it's not something
6 physical that you can touch, that the testimony is still evidence, and that's sufficient
7 if you believe that testimony beyond a reasonable doubt.

8 PROSPECTIVE JUROR MITCHELL: Okay.

9 MS. KOLLINS: Do you have a problem with that?

10 PROSPECTIVE JUROR MITCHELL: No.

11 MS. KOLLINS: Okay. Do your daughters live with you here in Las Vegas?

12 PROSPECTIVE JUROR MITCHELL: Yes.

13 MS. KOLLINS: Both same or similar personalities?

14 PROSPECTIVE JUROR MITCHELL: Totally different.

15 MS. KOLLINS: You walk in a room and they're having a fight and you're
16 trying to determine what's gone on, what's happened. Can you assess the situation
17 and listen to both of them and figure out what you really know happened, based on
18 what they're telling you?

19 PROSPECTIVE JUROR MITCHELL: Um, yes, I would hope so. Yes.

20 MS. KOLLINS: But you can make a decision?

21 PROSPECTIVE JUROR MITCHELL: Yeah, I can make a decision on it.

22 Right.

23 MS. KOLLINS: And you don't doubt that decision generally --

24 PROSPECTIVE JUROR MITCHELL: No.

1 MS. KOLLINS: -- once you make it?
2 PROSPECTIVE JUROR MITCHELL: No.
3 MS. KOLLINS: Casino management. Do you -- are you over several people?
4 PROSPECTIVE JUROR MITCHELL: Um-hm. Yes.
5 MS. KOLLINS: If there is a dispute at work, can you --
6 PROSPECTIVE JUROR MITCHELL: Yes.
7 MS. KOLLINS: -- listen to two parties and make a decision, a determination
8 of what happened?
9 PROSPECTIVE JUROR MITCHELL: Yes.
10 MS. KOLLINS: And act based on that decision?
11 PROSPECTIVE JUROR MITCHELL: Yes. Um-hm.
12 MS. KOLLINS: Do you think it's easy for a kid to come in here and relate
13 these types of facts?
14 PROSPECTIVE JUROR MITCHELL: No.
15 MS. KOLLINS: Have any expectation of a child victim of sexual assault?
16 PROSPECTIVE JUROR MITCHELL: No.
17 MS. KOLLINS: Agree with me, and I think like we've all said -- or agree with
18 everyone else, excuse me, not whether you agree with me or not, that's not
19 important -- but every kid would act different?
20 PROSPECTIVE JUROR MITCHELL: Yes.
21 MS. KOLLINS: Hold a kid to a kid's standard?
22 PROSPECTIVE JUROR MITCHELL: Yes.
23 MS. KOLLINS: I'll pass the juror, Judge.
24 THE COURT: Thank you. Mr. Cox?

1 MR. COX: Thank you, Judge.

2 Ms. Mitchell.

3 PROSPECTIVE JUROR MITCHELL: Yes.

4 MR. COX: Good morning. Based on everything that you've heard, is there
5 anything that's been asked or answered that you take particular exception with?

6 PROSPECTIVE JUROR MITCHELL: No.

7 MR. COX: You're prepared to weigh the credibility of witnesses?

8 PROSPECTIVE JUROR MITCHELL: Yes.

9 MR. COX: Whether one is a child and one is an adult?

10 PROSPECTIVE JUROR MITCHELL: Yes.

11 MR. COX: Are you -- Would you agree that children are capable of telling
12 very serious lies?

13 PROSPECTIVE JUROR MITCHELL: Yes.

14 MR. COX: If you were to sit as a juror, would you be prepared to give Mr.
15 James a fair trial?

16 PROSPECTIVE JUROR MITCHELL: Yes.

17 MR. COX: I'll pass the juror, Judge.

18 THE COURT: Thank you.

19 Ms. Lent-Gonsalves.

20 PROSPECTIVE JUROR LENT-GONSALVES: Yes.

21 THE COURT: Good morning, ma'am. How long have you lived in Clark
22 County?

23 PROSPECTIVE JUROR LENT-GONSALVES: Approximately fourteen years.

24 THE COURT: What do you do for a living?

1 PROSPECTIVE JUROR LENT-GONSALVES: I sell timeshare.
2 THE COURT: Are you married or in a significant relationship?
3 PROSPECTIVE JUROR LENT-GONSALVES: I'm separated.
4 THE COURT: I'm sorry to hear that. What does your husband do?
5 PROSPECTIVE JUROR LENT-GONSALVES: He sells timeshare as well.
6 THE COURT: Do you have any children?
7 PROSPECTIVE JUROR LENT-GONSALVES: I have a 15-month-old
8 daughter.
9 THE COURT: Have you or anyone close to you worked in law enforcement
10 or the legal field?
11 PROSPECTIVE JUROR LENT-GONSALVES: Due to being separated,
12 I currently have a divorce attorney. I don't know if that's relevant or not.
13 THE COURT: Okay. Other than that?
14 PROSPECTIVE JUROR LENT-GONSALVES: No.
15 THE COURT: Everybody always likes their own lawyer, they just don't like
16 any of the other ones, right? Okay. Ma'am, have you or anyone close to you ever
17 been charged with a crime?
18 PROSPECTIVE JUROR LENT-GONSALVES: No.
19 THE COURT: Have you or anyone close to you ever been the victim of a
20 crime, including sexual assault?
21 PROSPECTIVE JUROR LENT-GONSALVES: No.
22 THE COURT: Have you ever served as a juror before?
23 PROSPECTIVE JUROR LENT-GONSALVES: No.
24 THE COURT: Can you base your verdict solely on the evidence presented

1 at trial and wait to form an opinion until you've heard all of the evidence?

2 PROSPECTIVE JUROR LENT-GONSALVES: Yes.

3 THE COURT: Can you follow the instructions on the law that I give you,
4 regardless of whether you think the law is good or bad?

5 PROSPECTIVE JUROR LENT-GONSALVES: Yes.

6 THE COURT: Can you make a decision without worrying about criticism or
7 what other people might think?

8 PROSPECTIVE JUROR LENT-GONSALVES: Yes.

9 THE COURT: Do you know of any reason you couldn't be completely fair
10 and impartial if you were selected as a juror in this case?

11 PROSPECTIVE JUROR LENT-GONSALVES: No.

12 THE COURT: And if you were either party to this case, would you be
13 comfortable having someone like yourself as a juror?

14 PROSPECTIVE JUROR LENT-GONSALVES: Absolutely.

15 THE COURT: Thank you. Mr. Pandelis?

16 MR. PANDELIS: Good morning, ma'am.

17 PROSPECTIVE JUROR LENT-GONSALVES: Good morning.

18 MR. PANDELIS: Would you agree with me that sexual abuse is a crime
19 that's generally committed in secret?

20 PROSPECTIVE JUROR LENT-GONSALVES: Yes.

21 MR. PANDELIS: So other than the victim and the perpetrator, there's usually
22 no witnesses to sexual abuse?

23 PROSPECTIVE JUROR LENT-GONSALVES: I believe that strongly, yes.

24 MR. PANDELIS: And given that belief, do you have any problem with the

1 instruction that we've talked about that the testimony of a victim in a case of sexual
2 abuse is all you need to reach a guilty verdict?

3 PROSPECTIVE JUROR LENT-GONSALVES: If the testimony is the only
4 thing presented, then that would have to be the case.

5 MR. PANDELIS: And are you going to have a problem in this case if there
6 are no other witnesses that can come in and testify as to what happened between
7 the victim and the defendant?

8 PROSPECTIVE JUROR LENT-GONSALVES: No.

9 MR. PANDELIS: I'll pass Your Honor.

10 THE COURT: Thank you. Mr. Cox?

11 MR. COX: Ms. Lent-Gonsalves.

12 PROSPECTIVE JUROR LENT-GONSALVES: Yes.

13 MR. COX: I'm sorry if I pronounced it wrong. Mr. Pandelis and Ms. Kollins
14 have mentioned correctly that if there's -- that you can rely solely on the testimony of
15 just one person in reaching a verdict. However, does that -- Do you feel that would
16 have to be credible testimony?

17 PROSPECTIVE JUROR LENT-GONSALVES: Are you asking me if the
18 verdict -- or, I'm sorry -- the testimony has to be credible in order for someone to
19 reach a decision?

20 MR. COX: To reach a verdict of guilty. If a child -- If there's no physical
21 evidence --

22 PROSPECTIVE JUROR LENT-GONSALVES: Okay.

23 MR. COX: -- and no other witnesses, do you at least have to have a credible
24 witness; the child would have to at least be credible in what they're saying to be

1 believed, do you think?

2 PROSPECTIVE JUROR LENT-GONSALVES: I think that in that case
3 I would answer that question, whether the person testifying was credible or not
4 credible, I think a decision could be made.

5 MR. COX: True. But to reach a verdict of guilt, that the person was actually
6 victimized, would you look to see whether or not their testimony was consistent
7 with what they're saying -- with the events that they're saying took place?

8 PROSPECTIVE JUROR LENT-GONSALVES: Would I look to see if it was
9 consistent?

10 MR. COX: Yes.

11 PROSPECTIVE JUROR LENT-GONSALVES: Sure.

12 MR. COX: Okay. And would you look for other things in what they're -- in the
13 story they're telling to see whether or not there's things that could be corroborated,
14 or things that just don't make sense?

15 PROSPECTIVE JUROR LENT-GONSALVES: Sure.

16 MR. COX: Okay. Now, Mr. Pandelis and Ms. Kollins have mentioned several
17 times also, you wouldn't inherently take the word of a child over an adult, but you
18 wouldn't also inherently take the testimony of an adult over a child?

19 PROSPECTIVE JUROR LENT-GONSALVES: Neither here nor there.

20 MR. COX: Okay. Do you feel you'd be a fair juror if selected for this trial?

21 PROSPECTIVE JUROR LENT-GONSALVES: Yes.

22 MR. COX: Why is that?

23 PROSPECTIVE JUROR LENT-GONSALVES: I feel that I would be a fair
24 person in any person's trial because I would take all the testimony and evidence into

1 consideration and listen to the instructions of the law, and I can base a decision off
2 of that that would be fair.

3 MR. COX: Thank you. I'll pass the juror. Thank you.

4 THE COURT: Thank you.

5 Mr. Garcia. Good morning, sir. How long have you lived in Clark
6 County?

7 PROSPECTIVE JUROR GARCIA: Nine years.

8 THE COURT: Where did you live before that?

9 PROSPECTIVE JUROR GARCIA: In Northern California.

10 THE COURT: What do you do for a living?

11 PROSPECTIVE JUROR GARCIA: I work for the Venetian. I'm a gardener.

12 THE COURT: Are you married or in a significant relationship?

13 PROSPECTIVE JUROR GARCIA: Married.

14 THE COURT: What does your spouse do?

15 PROSPECTIVE JUROR GARCIA: She works for Harrah's. She's in security.

16 THE COURT: Do you have any children?

17 PROSPECTIVE JUROR GARCIA: Yes, I do. I have a 35-year-old son, a
18 30-year-old daughter, a 15-year-old daughter and a 18-year-old step-daughter.

19 THE COURT: What do your two adult children do?

20 PROSPECTIVE JUROR GARCIA: My son is an assistant slot manager for
21 Harrah's, and my daughter is a housewife. And my 18-year-old daughter is a
22 student at UNLV.

23 THE COURT: What's she studying?

24 PROSPECTIVE JUROR GARCIA: Psychology.

1 THE COURT: Have you or anyone close to you worked in law enforcement
2 or the legal field?

3 PROSPECTIVE JUROR GARCIA: No.

4 THE COURT: Have you or anyone close to you ever been charged with a
5 crime?

6 PROSPECTIVE JUROR GARCIA: I have.

7 THE COURT: And can you tell me about that, sir?

8 PROSPECTIVE JUROR GARCIA: Check writing.

9 THE COURT: When was that?

10 PROSPECTIVE JUROR GARCIA: In 2001.

11 THE COURT: Was that here in Clark County?

12 PROSPECTIVE JUROR GARCIA: No, it was in Contra Costa County, and
13 I pleaded down to a misdemeanor.

14 THE COURT: And that was resolved; it's all taken care of at this point?

15 PROSPECTIVE JUROR GARCIA: Pardon me?

16 THE COURT: It's all taken care of at this point?

17 PROSPECTIVE JUROR GARCIA: Yes, ma'am. Yes.

18 THE COURT: Anything about that that you think might make it difficult for
19 you to sit as a juror in this case?

20 PROSPECTIVE JUROR GARCIA: No.

21 THE COURT: Sir, have you or anyone close to you ever been the victim of
22 a crime, including sexual assault?

23 PROSPECTIVE JUROR GARCIA: Yes. My 19-year-old -- or my 30-year-old
24 daughter when she was 19. And a possibility, my step-daughter, just recently.

1 THE COURT: Okay. Do you think either of those experiences would make it
2 difficult for you to sit as a juror in this case?

3 PROSPECTIVE JUROR GARCIA: No.

4 THE COURT: Have you ever served as a juror before?

5 PROSPECTIVE JUROR GARCIA: No, ma'am.

6 THE COURT: Can you base your verdict solely on the evidence presented
7 at trial and wait to form an opinion until you've heard all of the evidence?

8 PROSPECTIVE JUROR GARCIA: Yes.

9 THE COURT: Can you follow the instructions on the law that I give you,
10 regardless of whether you think the law is good or bad?

11 PROSPECTIVE JUROR GARCIA: Yes.

12 THE COURT: Can you make a decision without worrying about criticism or
13 what other people might think?

14 PROSPECTIVE JUROR GARCIA: Yes.

15 THE COURT: Do you know of any reason you couldn't be completely fair
16 and impartial if you were selected as a juror in this case?

17 PROSPECTIVE JUROR GARCIA: No.

18 THE COURT: And if you were either party to this case, would you be
19 comfortable having someone like yourself as a juror?

20 PROSPECTIVE JUROR GARCIA: Yes, I would.

21 THE COURT: Thank you. Ms. Kollins?

22 MS. KOLLINS: I feel awkward walking over there to talk to you right here, so
23 I'm just going to stand right here if that's okay. You said there were some situations
24 with your daughter and perhaps your step-daughter.

1 PROSPECTIVE JUROR GARCIA: That's correct.

2 MS. KOLLINS: I'm going to talk about those one at a time, and I don't mean
3 to get too personal, but I just -- The incident with your 30-year-old daughter, was
4 that reported to law enforcement?

5 PROSPECTIVE JUROR GARCIA: No.

6 MS. KOLLINS: Was that when she was younger, as a child?

7 PROSPECTIVE JUROR GARCIA: As a child.

8 MS. KOLLINS: Was it somebody inside the family or outside the family?

9 PROSPECTIVE JUROR GARCIA: Inside the family.

10 MS. KOLLINS: Okay. Did it just recently come to light or was a decision
11 made back then not to go to law enforcement?

12 PROSPECTIVE JUROR GARCIA: When she was 19, her feelings were that
13 she didn't want to re-live the experience.

14 MS. KOLLINS: Okay. So did the family make a decision not to involve law
15 enforcement then?

16 PROSPECTIVE JUROR GARCIA: That's correct.

17 MS. KOLLINS: Is that somebody that's still a part or a close part of your
18 family?

19 PROSPECTIVE JUROR GARCIA: No, not anymore.

20 MS. KOLLINS: Okay. Was it easy for her to talk about?

21 PROSPECTIVE JUROR GARCIA: No.

22 MS. KOLLINS: When you found out at age 19, is it something that had
23 occurred earlier?

24 PROSPECTIVE JUROR GARCIA: Yes.

1 MS. KOLLINS: Quite a few years earlier?

2 PROSPECTIVE JUROR GARCIA: Yes.

3 MS. KOLLINS: Do you know what finally made her be comfortable enough
4 to tell?

5 PROSPECTIVE JUROR GARCIA: My understanding was her mother's
6 intuition, and her mom kept prying and kept prodding and asking her, and finally
7 she was able to feel strong enough to say something about it.

8 MS. KOLLINS: Strong enough, safe enough to tell about it?

9 PROSPECTIVE JUROR GARCIA: Um-hm.

10 MS. KOLLINS: Okay. And your step-daughter, is that a recent developing
11 situation?

12 PROSPECTIVE JUROR GARCIA: Just this past week.

13 MS. KOLLINS: Okay. Is that something where law enforcement has been
14 involved in that?

15 PROSPECTIVE JUROR GARCIA: Uh, at this point it's mother's intuition,
16 and so she's not quite sure where she wants to take it at this time. She's still trying
17 to get her to say something about it.

18 MS. KOLLINS: Okay. Is this somebody that's inside the family or outside
19 the family?

20 PROSPECTIVE JUROR GARCIA: Inside the family.

21 MS. KOLLINS: Somebody that she still has routine interaction with?

22 PROSPECTIVE JUROR GARCIA: No.

23 MS. KOLLINS: Would it be your intent as a family to involve law enforcement
24 should you find out that her mother's intuition is accurate?

1 PROSPECTIVE JUROR GARCIA: Yes.

2 MS. KOLLINS: Now, given the fact that you have two very close females in
3 your family that have gone through very similar, it sounds like, incidents, if you will,
4 do you have the ability to be fair and impartial and set those aside, knowing that
5 those have nothing to do with what you're going to hear about in this courtroom?

6 PROSPECTIVE JUROR GARCIA: Yes.

7 MS. KOLLINS: You would be fair to both the State of Nevada and the
8 defendant?

9 PROSPECTIVE JUROR GARCIA: Yes.

10 MS. KOLLINS: Your wife is in hotel security. Is she in a position such that
11 she's in management or is she in a position where she has regular interaction with
12 Metro?

13 PROSPECTIVE JUROR GARCIA: As a dispatcher, she does.

14 MS. KOLLINS: If you know, has she ever been involved in the reporting of
15 a sexual assault or a sexual crime that's taken place on a Harrah's property?

16 PROSPECTIVE JUROR GARCIA: No.

17 MS. KOLLINS: Nothing you've ever talked about like that with her work?

18 PROSPECTIVE JUROR GARCIA: No.

19 MS. KOLLINS: I will pass the juror, Judge.

20 THE COURT: Thank you. Mr. Cox?

21 MR. COX: Thank you, Judge.

22 Mr. Garcia, I feel that I echo Ms. Kollins' feelings when it comes to the
23 difficulty you must be experiencing with these females in the family. In all honesty,
24 can you put the strong feelings you have aside and give Mr. James a fair trial?

1 PROSPECTIVE JUROR GARCIA: According to the law, I believe I can.

2 MR. COX: According to you? That's what's really important here, Mr. Garcia.
3 I want you to feel comfortable being completely honest with us in how your feelings
4 might affect this trial.

5 PROSPECTIVE JUROR GARCIA: They could.

6 MR. COX: In which way?

7 PROSPECTIVE JUROR GARCIA: Just listening to the testimony, wondering
8 if that's what -- If that's what my daughter went through.

9 MR. COX: So it may be very difficult or maybe impossible to keep your
10 emotions aside --

11 PROSPECTIVE JUROR GARCIA: Yes.

12 MR. COX: -- because they're very strong as a parent?

13 PROSPECTIVE JUROR GARCIA: Yes.

14 MR. COX: And so because of that it would be very difficult or maybe
15 impossible to give Mr. James a fair trial here today?

16 PROSPECTIVE JUROR GARCIA: I would hope not.

17 MR. COX: But it's possible?

18 PROSPECTIVE JUROR GARCIA: It's possible.

19 MR. COX: Your Honor?

20 THE COURT: Ms. Kollins, do you want to ask any follow-up questions?

21 MS. KOLLINS: Just a couple, Judge.

22 We're going to bring you a set of facts and circumstances in here that
23 are kind of in a bubble. I mean, we don't want you to leave your common sense
24 outside or your feelings outside, because that's what makes us be able to, you

1 know, take in a situation and judge. But is your emotion for your daughters so
2 overwhelming that you can't set it aside and listen to evidence for three days and
3 give Mr. James a fair trial? That's kind of what we're trying to get to. Is it going to
4 really affect your decision-making?

5 PROSPECTIVE JUROR GARCIA: Again, to be honest and truthfully, I hope
6 it wouldn't.

7 MS. KOLLINS: Okay. And just like when the judge asked the previous juror
8 who was afraid, you know, she would attach some of this emotion because of her
9 own daughter, if it got to a point where it was affecting you so that you couldn't be
10 fair, would you come and tell us?

11 PROSPECTIVE JUROR GARCIA: Yes.

12 MS. KOLLINS: Okay, thank you. No more questions.

13 THE COURT: Mr. Cox, anything you want to follow up on?

14 MR. COX: Well, the reality is, Judge, is that --

15 THE COURT: Counsel, if you'd like to approach?

16 MR. COX: Okay.

17 **(Bench conference begins)**

18 MR. COX: Is it possible -- This is Bryan Cox for the defense -- to check
19 themselves out of a trial part-way through? I mean, I've never seen that happen
20 or heard of it. But if things got overwhelming, I think we'd have to know now going
21 in.

22 THE COURT: Well, I am certainly much more concerned about Mr. Garcia.
23 The other woman had said all along that she could be fair, and then she was a little
24 concerned because she has a daughter, and so she said, you know, she was going

1 to try her best. I mean, we really never know with any juror. It's entirely possible
2 that somebody could fall -- and as a matter of fact, I've had that happen where they
3 just fall apart in the middle, and that's why we have alternates, frankly. But I am
4 a little concerned with Mr. Garcia, given the fact that he has something apparently
5 currently going on in his house.

6 MS. KOLLINS: And we're talking -- (inaudible) -- daughters.

7 THE COURT: So I think in an abundance of caution it would be better for
8 Mr. Garcia to find a different trial, and we'll just bring somebody -- We're going to
9 break for lunch now. We'll bring up somebody after lunch and we'll keep going.

10 **(Bench conference concluded)**

11 THE COURT: Mr. Garcia, sir, we really appreciate your time here today.
12 I think given the unfortunate circumstances with your daughters, it probably would
13 be best to see if there's a different sort of trial for you to sit on. I really do appreciate
14 you being willing to give it your best effort, but just to make sure that the trial is fair
15 for everybody involved, including you, I think it would be best if you return to Jury
16 Services and they'll see if there's maybe a different case for you.

17 PROSPECTIVE JUROR GARCIA: Okay.

18 THE COURT: Thank you, sir.

19 And everyone else, we're going to go ahead and break for lunch.
20 We will break until 1:15.

21 During this recess you are admonished not to talk or converse among
22 yourselves or with anyone else on any subject connected with this trial, or read,
23 watch or listen to any report of or commentary on the trial or any person connected
24 with this trial by any medium of information, including without limitation newspapers,

1 television, the Internet and radio, or form or express any opinion on any subject
2 connected with the trial until the case is finally submitted to you.

3 So we'll see you folks back here at 1:15. Thank you.

4 (The prospective jury panel exits the courtroom)

5 THE COURT: Okay, folks. Anything we need to take care of right now?

6 MR. COX: I don't have anything, Judge.

7 THE COURT: All right. We'll see you back at 1:15 then. Thank you.

8 MR. COX: 1:15?

9 THE COURT: 1:15. Don't be late.

10 (Court recessed at 12:02:20 p.m. until 1:12:10 p.m.)

11 /////

12 /////

13 /////

14 /////

15 /////

16 /////

17 /////

18 /////

19 /////

20 /////

21 /////

22 /////

23 /////

24 /////

1 (Whereupon the following proceedings were held
2 outside the presence of the prospective jury panel)

3 MR. COX: I'm sorry we're late, Judge.

4 THE COURT: I'm sorry?

5 MR. COX: Sorry we're late.

6 THE COURT: You know -- Well, it depends on what clock you're looking at.

7 Ms. Kollins?

8 MS. KOLLINS: Just very briefly, Judge. I noticed that Mr. Cox brought
9 something demonstrative into the courtroom. I'm assuming it's appropriate. Usually
10 if I use something for opening, everybody has to share it before the jury sees it, so
11 I'm assuming there's nothing on there that's objectionable.

12 MR. COX: I've had D.A.'s show me things and not show me, but out of
13 professional courtesy I'd be happy to show Ms. Kollins that board.

14 THE COURT: Lovely. Why don't you show her right now.

15 MR. COX: Sure. It's blank.

16 THE COURT: It's blank?

17 MR. PAGE: It's just blank. It doesn't have any words on it.

18 MS. KOLLINS: Okay.

19 THE COURT: There you go.

20 MR. COX: Out of professional courtesy, we're happy to.

21 MS. KOLLINS: Sometimes you can't unring that bell.

22 MR. PANDELIS: One other thing, Your Honor, we just wanted to advise the
23 Court as far as scheduling goes, we were going to start with our victim but we did
24 not schedule any witnesses today. Obviously jury selection is going --

1 MR. COX: Start with T [REDACTED] a today?

2 MR. PANDELIS: Well, no, we did not schedule anybody today because we
3 thought jury selection would take us fairly late into the afternoon, and then by the
4 time we did opening – and quite frankly we don't like to really start with our –

5 THE COURT: Can you call? Especially since Ms. Kollins needs to get done,
6 is there somebody that you might be able to get today?

7 MR. PANDELIS: Your Honor, we would prefer not to start with our victim late
8 in the afternoon. I mean, she is going to be our first witness in this case. It could go
9 awhile and we'd like to have the jury's full attention when she's testifying, hopefully
10 tomorrow morning.

11 THE COURT: I mean, if we're –

12 MR. PANDELIS: Your Honor, I can assure the Court, though, that once we
13 do get going with witnesses tomorrow things are going to move.

14 THE COURT: I understand that, Mr. Pandelis. I have a couple problems.
15 I mean, I try to use the jury's time as effectively as possible, so I do anticipate we
16 have full trial days. The other thing is that Ms. Kollins has an issue and she needs
17 to be done by 3:00 on Thursday, so we need to make sure we use all of the time
18 that we have, because I'm not going to bring the jury back on Friday if – you know,
19 I mean, we're going to finish this up Thursday.

20 MS. KOLLINS: I can tell the Court that if we start at 10:30 tomorrow and
21 we're just doing witness testimony, I mean, we might have one witness left for
22 Thursday, because we only have seven or eight people that we're calling. So if
23 we settle –

24 THE COURT: I mean, I don't –

1 MS. KOLLINS: Well, let us see what we can do right now.

2 THE COURT: Okay.

3 THE MARSHAL: Ready, Judge?

4 THE COURT: Do you have them?

5 THE MARSHAL: Yes, ma'am.

6 THE COURT: Absolutely.

7 THE MARSHAL: The jury is entering the courtroom.

8 (Whereupon the following proceedings were held

9 in the presence of the prospective jury panel)

10 THE COURT: You folks can go ahead and have a seat.

11 MR. PANDELIS: Your Honor, may we approach briefly?

12 THE COURT: Sure.

13 MR. PANDELIS: Thank you.

14 (Bench conference begins)

15 MR. PANDELIS: This is Chris Pandelis from the D.A.'s Office. I just wanted
16 to ask permission to leave the courtroom so I can try to arrange to have a witness
17 here.

18 THE COURT: That's fine. Yeah, go right ahead.

19 MR. PANDELIS: Okay. I just didn't want you to think I was being rude or
20 disrespectful.

21 THE COURT: That's fine.

22 (Bench conference concluded)

23 THE COURT: Okay. We're back on the record in Case No. C265506, State
24 of Nevada versus Tyrone James. Let the record reflect the presence of Mr. James

1 with his counsel, representatives of the District Attorney's Office, and all of our
2 prospective jurors.

3 If the Clerk could please call up the next juror to take the seat vacated
4 by Mr. Garcia.

5 THE CLERK: Badge No. 33, Sondra Gomez.

6 THE COURT: Good afternoon, ma'am. How long have you lived in Clark
7 County?

8 PROSPECTIVE JUROR GOMEZ: Forty-three years.

9 THE COURT: What do you do for a living?

10 PROSPECTIVE JUROR GOMEZ: I'm a school teacher.

11 THE COURT: What grade do you teach?

12 PROSPECTIVE JUROR GOMEZ: K through 12.

13 THE COURT: Are you – What are you teaching right now?

14 PROSPECTIVE JUROR GOMEZ: I teach adapted P.E., so I travel –

15 THE COURT: I see.

16 PROSPECTIVE JUROR GOMEZ: – to five different schools in the area.

17 THE COURT: Are you married or in a significant relationship?

18 PROSPECTIVE JUROR GOMEZ: I'm married.

19 THE COURT: And what does your spouse do?

20 PROSPECTIVE JUROR GOMEZ: He's also a teacher.

21 THE COURT: What kind of teacher?

22 PROSPECTIVE JUROR GOMEZ: Secondary. High school.

23 THE COURT: And do you have any children?

24 PROSPECTIVE JUROR GOMEZ: Yes. I have a son who is sixteen, a

1 daughter who is fifteen, and a daughter who is eleven.

2 THE COURT: Have you or anyone close to you worked in law enforcement
3 or the legal field?

4 PROSPECTIVE JUROR GOMEZ: No. My next door neighbor is a
5 Metropolitan motorcycle policeman.

6 THE COURT: Do you talk to him much about his work?

7 PROSPECTIVE JUROR GOMEZ: Most of them are car accidents; those
8 kinds of things.

9 THE COURT: So nothing about that that you think would impact your ability
10 to sit as a juror in this case?

11 PROSPECTIVE JUROR GOMEZ: No.

12 THE COURT: Ma'am, have you or anyone close to you ever been charged
13 with a crime?

14 PROSPECTIVE JUROR GOMEZ: Yes. Within the last couple of months
15 my brother-in-law is going through a situation, and I also have a good friend who
16 has a daughter going through a similar situation.

17 THE COURT: Okay. Are either of those people being prosecuted by the
18 Clark County District Attorney's Office?

19 PROSPECTIVE JUROR GOMEZ: My –

20 THE COURT: Are their cases here in Clark County?

21 PROSPECTIVE JUROR GOMEZ: Actually my ex-brother-in-law, he's being
22 prosecuted, and the little girl is the victim. Not in the same case; two different
23 cases.

24 THE COURT: Okay. So I want to make sure I understand this. Your former

1 brother-in-law –

2 PROSPECTIVE JUROR GOMEZ: Yes, ma'am.

3 THE COURT: – is being charged with a crime currently, and then you have
4 a friend whose daughter is the victim of a crime?

5 PROSPECTIVE JUROR GOMEZ: Yes.

6 THE COURT: Okay. Let's start with your former brother-in-law. Do you
7 have much contact with him now?

8 PROSPECTIVE JUROR GOMEZ: No.

9 THE COURT: Do you know any – Have you gone to court or had any
10 involvement in this?

11 PROSPECTIVE JUROR GOMEZ: Not with the court itself, no.

12 THE COURT: Anything about that that you think would impact your ability
13 to sit as a juror in this case?

14 PROSPECTIVE JUROR GOMEZ: No.

15 THE COURT: And then with respect to your friend's daughter, how much
16 have you been involved in what's going on with her?

17 PROSPECTIVE JUROR GOMEZ: Again, not with any of the legal
18 proceedings.

19 THE COURT: Okay. And is there anything about that that you think would
20 impact your ability to sit as a juror in this case?

21 PROSPECTIVE JUROR GOMEZ: No.

22 THE COURT: Have you ever served as a juror before?

23 PROSPECTIVE JUROR GOMEZ: No.

24 THE COURT: Can you base your verdict solely on the evidence presented

1 at trial and wait to form an opinion until you've heard all of the evidence?

2 PROSPECTIVE JUROR GOMEZ: Yes.

3 THE COURT: Can you follow the instructions on the law that I give you,
4 regardless of whether you think the law is good or bad?

5 PROSPECTIVE JUROR GOMEZ: Yes.

6 THE COURT: Can you make a decision without worrying about criticism or
7 what other people might think?

8 PROSPECTIVE JUROR GOMEZ: Yes.

9 THE COURT: Do you know of any reason why you couldn't be completely
10 fair and impartial if you were selected to serve as a juror in this case?

11 PROSPECTIVE JUROR GOMEZ: No, ma'am.

12 THE COURT: And if you were either party to this case, would you be
13 comfortable having someone like yourself as a juror?

14 PROSPECTIVE JUROR GOMEZ: Yes, ma'am.

15 THE COURT: Thank you. Ms. Kollins?

16 MS. KOLLINS: Thank you, Judge.

17 How are you this afternoon?

18 PROSPECTIVE JUROR GOMEZ: Fine. Yourself?

19 MS. KOLLINS: Fine. Better after lunch. And I don't want to pry and I don't
20 want to be too personal, but I want to ask you some questions about the pending
21 cases that are going on. What is your brother-in-law or ex-brother-in-law charged
22 with?

23 PROSPECTIVE JUROR GOMEZ: Sexual assault.

24 MS. KOLLINS: Sexual assault, sexual abuse?

1 PROSPECTIVE JUROR GOMEZ: Of a minor.

2 MS. KOLLINS: And it's an active case right now in the D.A.'s Office?

3 PROSPECTIVE JUROR GOMEZ: It's just finished. Yes.

4 MS. KOLLINS: Do you know which prosecutor handled that case?

5 PROSPECTIVE JUROR GOMEZ: No, I do not.

6 MS. KOLLINS: Any opinion you have one way or the other about the way

7 the victim in that case was treated; the way your ex-brother-in-law was treated?

8 PROSPECTIVE JUROR GOMEZ: Of course I have opinions, yes.

9 MS. KOLLINS: Okay. Can you share those with me?

10 PROSPECTIVE JUROR GOMEZ: I do believe he was wrongly accused.

11 I am not happy with the choice that he felt he was forced to make. It never went to

12 trial. He's plea bargaining out of it, and that's a recent development. I do disagree

13 with that.

14 MS. KOLLINS: Okay. So I'm standing here as a Special Victim's prosecutor.

15 Can you really set that strong opinion aside, if you felt that he got a raw deal?

16 PROSPECTIVE JUROR GOMEZ: Yes, I can.

17 MS. KOLLINS: Do you know the name of the D.A. that handled that case?

18 PROSPECTIVE JUROR GOMEZ: No, I do not.

19 MS. KOLLINS: Did you go to court with your brother-in-law?

20 PROSPECTIVE JUROR GOMEZ: No, I did not. I stayed home with my

21 niece.

22 MS. KOLLINS: And the victim in that case, an adult or a child?

23 PROSPECTIVE JUROR GOMEZ: Child.

24 MS. KOLLINS: Someone in his family or outside his family?

1 PROSPECTIVE JUROR GOMEZ: In his family.

2 MS. KOLLINS: And he was married to your sister?

3 PROSPECTIVE JUROR GOMEZ: He was.

4 MS. KOLLINS: Your friend's daughter, is that a current case as well?

5 PROSPECTIVE JUROR GOMEZ: Yes, ma'am.

6 MS. KOLLINS: How did you come to know about that case or be involved
7 in that case?

8 PROSPECTIVE JUROR GOMEZ: My girlfriend, she's a very dear friend of
9 mine, so she shared with me.

10 MS. KOLLINS: Okay. And how old is her daughter?

11 PROSPECTIVE JUROR GOMEZ: Six.

12 MS. KOLLINS: Has the six-year-old had to go to court and testify?

13 PROSPECTIVE JUROR GOMEZ: Yes.

14 MS. KOLLINS: Did you accompany them through that process at all?

15 PROSPECTIVE JUROR GOMEZ: Did not.

16 MS. KOLLINS: Okay. Did your friend share with you the impact that had
17 on her child?

18 PROSPECTIVE JUROR GOMEZ: Absolutely.

19 MS. KOLLINS: Okay. Do your feelings of – Do you have different feelings
20 about the validity of that case as you do compared to your brother-in-law's case?

21 PROSPECTIVE JUROR GOMEZ: Yes.

22 MS. KOLLINS: And why is that?

23 PROSPECTIVE JUROR GOMEZ: The way – the motivation behind each
24 case I felt was very different. The motivation, the evidence, the outcome, the

1 reasoning behind both situations, they're completely different in my opinion.

2 Different ages.

3 MS. KOLLINS: Okay. When you speak to the evidence, what are you talking
4 about?

5 PROSPECTIVE JUROR GOMEZ: One was – there were multiple witnesses,
6 and the other one there was each.

7 MS. KOLLINS: Do you remember – I don't know if you were listening to
8 everything back there. I mean, we like to think that we're riveting you back there –

9 PROSPECTIVE JUROR GOMEZ: No, I was. I was.

10 MS. KOLLINS: You know, personally I would probably be sitting back there
11 reading a book, but.

12 PROSPECTIVE JUROR GOMEZ: No, I was listening.

13 MS. KOLLINS: You know, these crimes don't occur in public with kids.

14 PROSPECTIVE JUROR GOMEZ: They do not.

15 MS. KOLLINS: Okay. So is the fact that –

16 PROSPECTIVE JUROR GOMEZ: Not usually.

17 MS. KOLLINS: – there is zero – Well, I'll save my feelings to myself. So are
18 you telling me that you could not come to a conclusion beyond a reasonable doubt
19 as to guilt based on just the testimony of a child, if that's the instruction that's given
20 to you?

21 PROSPECTIVE JUROR GOMEZ: No, I am not telling you that. If the
22 testimony of the child is researched and supported through both sides of the
23 attorneys, I don't have a problem.

24 MS. KOLLINS: In the other two cases that we've been speaking about, did

1 you have an opportunity to read the police reports?

2 PROSPECTIVE JUROR GOMEZ: No, ma'am.

3 MS. KOLLINS: Did you have an opportunity to read the statements, the
4 forensic interviews of the children –

5 PROSPECTIVE JUROR GOMEZ: I did not.

6 MS. KOLLINS: – that gave the statements? So your opinions are based on
7 just what you've been told?

8 PROSPECTIVE JUROR GOMEZ: Through second parties.

9 MS. KOLLINS: Is the six-year-old in counseling; do you know?

10 PROSPECTIVE JUROR GOMEZ: Yes, ma'am.

11 MS. KOLLINS: What about the child in the other case?

12 PROSPECTIVE JUROR GOMEZ: No.

13 MS. KOLLINS: Is the child in the other case related to you at all, or just by
14 marriage or – ?

15 PROSPECTIVE JUROR GOMEZ: Yes, marriage.

16 MS. KOLLINS: Either yourself or your husband as teachers –

17 PROSPECTIVE JUROR GOMEZ: Well, I shouldn't say that.

18 MS. KOLLINS: Okay.

19 PROSPECTIVE JUROR GOMEZ: Her father is also the father of my niece.

20 MS. KOLLINS: Okay. As teachers, have you or your husband ever had to
21 exercise your mandates under the mandatory reporter laws?

22 PROSPECTIVE JUROR GOMEZ: I have.

23 MS. KOLLINS: In what capacity?

24 PROSPECTIVE JUROR GOMEZ: It was concerns I had over physical abuse.

1 MS. KOLLINS: Okay. And you're required to do what if you have concerns?

2 PROSPECTIVE JUROR GOMEZ: I contacted CPS.

3 MS. KOLLINS: And those concerns were evidenced, I assume, by injuries

4 or a child's demeanor or –

5 PROSPECTIVE JUROR GOMEZ: Actually we witnessed it happening.

6 MS. KOLLINS: Oh, okay. Did you have to give a statement to Child

7 Protective Services?

8 PROSPECTIVE JUROR GOMEZ: I did.

9 MS. KOLLINS: Did you have to come to court with that child?

10 PROSPECTIVE JUROR GOMEZ: I did not.

11 MS. KOLLINS: Did you have to testify in Family Court or anything?

12 PROSPECTIVE JUROR GOMEZ: Did not.

13 MS. KOLLINS: Okay. Did you have to speak to Metro?

14 PROSPECTIVE JUROR GOMEZ: Did not.

15 MS. KOLLINS: The case with your friend's daughter, has that – where is that

16 in the stream of the criminal justice system? If you know.

17 PROSPECTIVE JUROR GOMEZ: Uh, I think it's been settled in court.

18 MS. KOLLINS: Okay.

19 PROSPECTIVE JUROR GOMEZ: And I hesitate only because there's still

20 things that are going on after.

21 MS. KOLLINS: Are you – Do you know the perpetrator in that case?

22 PROSPECTIVE JUROR GOMEZ: I do.

23 MS. KOLLINS: Do you have an opinion one way or the other whether he's

24 been treated fairly?

1 PROSPECTIVE JUROR GOMEZ: He has, in my opinion. He's also a minor,
2 a young minor, so.

3 MS. KOLLINS: Okay. So this is in juvenile court –

4 PROSPECTIVE JUROR GOMEZ: Yes.

5 MS. KOLLINS: – this isn't up here in the adult system?

6 PROSPECTIVE JUROR GOMEZ: Yes. Yes.

7 MS. KOLLINS: Okay. I will pass the juror, Judge.

8 THE COURT: Thank you. Mr. Cox?

9 MR. COX: Thank you, Judge.

10 Good afternoon, Ms. Gomez. You've lived in Clark County a long,
11 long time.

12 PROSPECTIVE JUROR GOMEZ: I've lived here a very long time.

13 MR. COX: Where did you go to high school?

14 PROSPECTIVE JUROR GOMEZ: Rancho High School.

15 MR. COX: Would you hold it against me if I went to Valley?

16 PROSPECTIVE JUROR GOMEZ: (Laughter)

17 MR. COX: You don't have to answer that. I appreciate you being very
18 honest about your feelings. It sounds like you've kind of had two different scenarios
19 occur in your family and with your close friend?

20 PROSPECTIVE JUROR GOMEZ: Yes.

21 MR. COX: One case somebody is being prosecuted, the other case
22 somebody has been victimized?

23 PROSPECTIVE JUROR GOMEZ: Yes.

24 MR. COX: Now, from what you've said, Ms. Kollins and Mr. Pandelis have

1 nothing to do, that you're aware of, with anything to do with either case?

2 PROSPECTIVE JUROR GOMEZ: No.

3 MR. COX: And you obviously have no reason to hold –

4 PROSPECTIVE JUROR GOMEZ: At least I wouldn't know if they were.

5 MR. COX: And you have no reason to hold – Any feelings you have about
6 the way a case is handled one way or another, you don't have any reason to hold
7 any emotions against these two individuals?

8 PROSPECTIVE JUROR GOMEZ: No.

9 MR. COX: Okay. Now, as a defense attorney, would you hold a defense
10 attorney accountable because it sounds like a negotiation was reached in the other
11 case?

12 PROSPECTIVE JUROR GOMEZ: No. He had the choice to make the
13 negotiation.

14 MR. COX: Okay, fair enough. Fair enough. Now, notwithstanding it sounds
15 like strong emotions either way, can you be a fair juror if selected in this case?

16 PROSPECTIVE JUROR GOMEZ: Yes.

17 MR. COX: Okay. Do you see my client – at present there's no evidence
18 presented at all, as being an innocent person or a person who is not guilty?

19 PROSPECTIVE JUROR GOMEZ: Yes.

20 MR. COX: I'll pass the juror, Judge.

21 THE COURT: Thank you.

22 Okay. It's the State's first peremptory challenge.

23 MS. KOLLINS: Judge, the State would thank and excuse Juror No. 33,
24 Ms. Gomez.

1 THE COURT: Okay. Ms. Gomez, thank you so much for your time today.
2 I really appreciate you coming in. If you could just return to Jury Services. Thank
3 you, ma'am.

4 PROSPECTIVE JUROR GOMEZ: Thank you.

5 THE CLERK: Badge number 34, Chrystal Gates.

6 THE COURT: Good afternoon, ma'am. How long have you lived in Clark
7 County?

8 PROSPECTIVE JUROR GATES: Three years.

9 THE COURT: Where did you live before that?

10 PROSPECTIVE JUROR GATES: We were stationed in Florida, in Tampa.

11 THE COURT: Okay. How long were you in Florida?

12 PROSPECTIVE JUROR GATES: Three years.

13 THE COURT: And where were you before that?

14 PROSPECTIVE JUROR GATES: Cheyenne, Wyoming.

15 THE COURT: Okay. What do you do for a living?

16 PROSPECTIVE JUROR GATES: I'm a teacher.

17 THE COURT: What do you teach?

18 PROSPECTIVE JUROR GATES: I teach reading, English, yearbook, in
19 middle school.

20 THE COURT: Middle school. Are you married or in a significant
21 relationship?

22 PROSPECTIVE JUROR GATES: I'm married.

23 THE COURT: And what does your spouse do?

24 PROSPECTIVE JUROR GATES: My husband is a security forces cop for

1 the military.

2 THE COURT: Okay. Do you have any children?

3 PROSPECTIVE JUROR GATES: Yes.

4 THE COURT: What are their ages and genders?

5 PROSPECTIVE JUROR GATES: Females, seven and five.

6 THE COURT: Your husband works in law enforcement. Besides him,
7 anybody else in law enforcement or the legal field?

8 PROSPECTIVE JUROR GATES: No.

9 THE COURT: Have you or anyone close to you ever been charged with a
10 crime?

11 PROSPECTIVE JUROR GATES: No.

12 THE COURT: Have you or anyone close to you ever been the victim of a
13 crime, including sexual assault?

14 PROSPECTIVE JUROR GATES: Yes.

15 THE COURT: And can you tell me about that?

16 PROSPECTIVE JUROR GATES: I was raped at 17, did not report it, and
17 took like a year before I ever told my family.

18 THE COURT: Ma'am, do you think because of your own personal
19 experience it may be difficult for you to sit as a juror in this case?

20 PROSPECTIVE JUROR GATES: Yes.

21 THE COURT: Okay. I am going to excuse you. I appreciate your honesty.
22 I'm sorry that we had to dig into personal things like that here today. And I'd ask
23 you to return to Jury Services. Thank you, ma'am.

24 THE CLERK: Badge number 35, Vernon Zobian, Jr.

1 THE COURT: Good afternoon, sir.
2 PROSPECTIVE JUROR ZOBAN: Hello.
3 THE COURT: Sir, how long have you lived in Clark County?
4 PROSPECTIVE JUROR ZOBAN: Twenty-five years.
5 THE COURT: What do you do for a living?
6 PROSPECTIVE JUROR ZOBAN: I'm retired.
7 THE COURT: What are you retired from?
8 PROSPECTIVE JUROR ZOBAN: Fiscal services manager at University
9 Medical Center.
10 THE COURT: What are you retired to? What are you doing now that you're
11 retired?
12 PROSPECTIVE JUROR ZOBAN: Oh, now that I'm retired I've made a study
13 of the American Civil War, and I play a lot of golf and a lot of boating.
14 THE COURT: Sounds great. Are you married or in a significant relationship?
15 PROSPECTIVE JUROR ZOBAN: I'm married.
16 THE COURT: What does your spouse do?
17 PROSPECTIVE JUROR ZOBAN: She is a training officer for Circle K stores.
18 THE COURT: Do you have any children?
19 PROSPECTIVE JUROR ZOBAN: I have two daughters.
20 THE COURT: What are their ages and genders and what do they do?
21 PROSPECTIVE JUROR ZOBAN: Let's see. The oldest is forty.
22 THE COURT: You already said daughters. We got the gender part. Sorry.
23 PROSPECTIVE JUROR ZOBAN: The oldest is forty, the youngest is thirty-
24 nine. The oldest is an elementary school teacher, and the youngest is a book editor.

1 THE COURT: Okay. Have you or anyone close to you worked in law
2 enforcement or the legal field?

3 PROSPECTIVE JUROR ZOBAN: I have two friends in the legal field, one
4 an attorney and the other a judge.

5 THE COURT: Okay. What kind of attorney is your friend?

6 PROSPECTIVE JUROR ZOBAN: I believe Ron focuses in real estate, and
7 the judge I believe is in Clark County but she's in the civil part.

8 THE COURT: Okay. Have you or anyone close to you ever been charged
9 with a crime?

10 PROSPECTIVE JUROR ZOBAN: No.

11 THE COURT: Have you or anyone close to you ever been the victim of a
12 crime, including sexual assault?

13 PROSPECTIVE JUROR ZOBAN: I have. Many years ago while living in
14 California I awoke in the middle of the night to find some person unknown in my
15 bedroom. I yelled and screamed like a banshee and chased him out. And there
16 was a lineup and I was unable to pick the perpetrator, so I'm not sure what
17 happened in that case.

18 THE COURT: Anything about that experience you think might make it difficult
19 for you to sit as a juror in this case?

20 PROSPECTIVE JUROR ZOBAN: No.

21 THE COURT: Sir, have you ever served as a juror before?

22 PROSPECTIVE JUROR ZOBAN: No.

23 THE COURT: Can you base your verdict solely on the evidence presented
24 at trial and wait to form an opinion until you've heard all of the evidence?

1 PROSPECTIVE JUROR ZOBAN: Yes.

2 THE COURT: Can you follow the instructions on the law that I give you,
3 regardless of whether you think the law is good or bad?

4 PROSPECTIVE JUROR ZOBAN: Yes.

5 THE COURT: Can you make a decision without worrying about criticism or
6 what other people might think?

7 PROSPECTIVE JUROR ZOBAN: Yes.

8 THE COURT: Do you know of any reason why you couldn't be completely
9 fair and impartial if you were selected as a juror in this case?

10 PROSPECTIVE JUROR ZOBAN: No.

11 THE COURT: And if you were either party to this case, would you be
12 comfortable having someone like yourself as a juror?

13 PROSPECTIVE JUROR ZOBAN: Yes.

14 THE COURT: Thank you. Ms. Kollins?

15 MS. KOLLINS: Good afternoon, Mr. Zoban.

16 PROSPECTIVE JUROR ZOBAN: Hello.

17 MS. KOLLINS: This is the hot seat, apparently, right here.

18 PROSPECTIVE JUROR ZOBAN: It seems so.

19 MS. KOLLINS: We can't get much past this.

20 THE COURT: There's always one.

21 MS. KOLLINS: Do you have grandkids as well as -- do your kids have kids?

22 PROSPECTIVE JUROR ZOBAN: No.

23 MS. KOLLINS: No, not yet? Okay. You heard us talk about a lot of things
24 earlier to do with how a kid might testify. Did you listen to any of that a little bit?

1 PROSPECTIVE JUROR ZOBAN: I did.

2 MS. KOLLINS: Do you have any opinion about how a kid should act on the
3 stand if they come in here to talk about these type of details?

4 PROSPECTIVE JUROR ZOBAN: I really don't have any preconceived
5 notions about how they should behave.

6 MS. KOLLINS: Every kid is different?

7 PROSPECTIVE JUROR ZOBAN: You bet.

8 MS. KOLLINS: Can you hold a kid to a kid's standard?

9 PROSPECTIVE JUROR ZOBAN: I believe so.

10 MS. KOLLINS: We talked a little bit about that instruction where if you
11 believe the testimony of the victim beyond a reasonable doubt, that itself is sufficient
12 to return a verdict a guilty. What do you think about that?

13 PROSPECTIVE JUROR ZOBAN: Would you say again, please?

14 MS. KOLLINS: The judge is going to read you an instruction that if you
15 believe the testimony of the victim beyond a reasonable doubt, that in and of itself
16 with nothing more is enough to sustain a conviction. What do you think about that
17 instruction?

18 PROSPECTIVE JUROR ZOBAN: If it's the instruction then it's the law, and
19 I would follow it.

20 MS. KOLLINS: Okay. Mr. Cox asked a bunch of the jurors earlier or made
21 the statement that kids will still lie about really serious things. Do you remember
22 when he said that a few times earlier?

23 PROSPECTIVE JUROR ZOBAN: Sure.

24 MS. KOLLINS: Would you also agree that kids will tell the truth about very

1 serious things?

2 PROSPECTIVE JUROR ZOBIAN: Yes.

3 MS. KOLLINS: Kids will tell the truth about things that make them feel in
4 danger?

5 PROSPECTIVE JUROR ZOBIAN: Sure.

6 MS. KOLLINS: Okay. I'll pass the juror, Judge.

7 THE COURT: Thank you. Mr. Cox?

8 MR. COX: Thank you, Judge.

9 Golf and the Civil War.

10 PROSPECTIVE JUROR ZOBIAN: And boating.

11 MR. COX: And what?

12 PROSPECTIVE JUROR ZOBIAN: Boating.

13 MR. COX: It's interesting because golf is one sport that actually predates the
14 Civil War, isn't it?

15 PROSPECTIVE JUROR ZOBIAN: I believe it does.

16 MR. COX: It goes way back. Do you feel you'd be a fair juror if chosen to be
17 on the jury?

18 PROSPECTIVE JUROR ZOBIAN: I believe so.

19 MR. COX: Why is that?

20 PROSPECTIVE JUROR ZOBIAN: Well, I'm impartial and I would just listen
21 to the evidence and make a decision.

22 MR. COX: And you'd follow the law?

23 PROSPECTIVE JUROR ZOBIAN: Sure.

24 MR. COX: You mentioned that. And as Ms. Kollins already mentioned,

1 children are capable of not only being honest but also telling horrendous stories that
2 can potentially have an impact on people, would you agree?

3 PROSPECTIVE JUROR ZOBAN: Yes.

4 MR. COX: I'll pass the juror, Judge.

5 THE COURT: Thank you. It's the Defense first peremptory challenge.

6 MR. COX: Court's indulgence. Your Honor, the Defense would like to thank
7 and excuse Ms. McCourt. I forgot the number here.

8 THE COURT: Okay. And she's juror –

9 THE CLERK: Ms. McCourt is juror number twenty.

10 MR. COX: Twenty.

11 THE COURT: Twenty. Okay. Ma'am, thank you so much for your time
12 today. I really appreciate you coming in. If you could just return to Jury Services.
13 Thank you, ma'am.

14 THE CLERK: Badge number 36, Grace T. Berlinger.

15 THE COURT: Good afternoon, ma'am. How long have you lived in Clark
16 County?

17 PROSPECTIVE JUROR BERLINGER: Twenty-five years.

18 THE COURT: What do you do for a living?

19 PROSPECTIVE JUROR BERLINGER: I'm the H.R. payroll director for a
20 medical health care facility.

21 THE COURT: Are you married or in a significant relationship?

22 PROSPECTIVE JUROR BERLINGER: Married.

23 THE COURT: What does your spouse do?

24 PROSPECTIVE JUROR BERLINGER: Own a auto collision.

1 THE COURT: Do you have any children?

2 PROSPECTIVE JUROR BERLINGER: Yes. We both – He has two and
3 I have one.

4 THE COURT: Okay. What are the ages and genders of all three of them?

5 PROSPECTIVE JUROR BERLINGER: My son is twenty-three and he's an
6 IT Help Desk supervisor. And his one daughter is twenty-two. I don't know what
7 she does. The son is twenty-seven, in and out of prison.

8 THE COURT: Okay. Have you or anyone close to you worked in law
9 enforcement or the legal field?

10 PROSPECTIVE JUROR BERLINGER: No.

11 THE COURT: Have you or anyone close to you ever been charged with a
12 crime?

13 PROSPECTIVE JUROR BERLINGER: Yes, his son.

14 THE COURT: And can you – Do you know anything about that?

15 PROSPECTIVE JUROR BERLINGER: Burglary, drugs; you name it, he
16 got it.

17 THE COURT: Have you ever gone to court with him?

18 PROSPECTIVE JUROR BERLINGER: No.

19 THE COURT: You've never been involved in any court proceedings?

20 PROSPECTIVE JUROR BERLINGER: No.

21 THE COURT: Is there anything about the problems that he's had that you
22 think would impact your ability to sit as a juror in this case?

23 PROSPECTIVE JUROR BERLINGER: I was assaulted, too. Two days
24 after my wedding I got beat up by three different people in the back yard. I was

1 hospitalized for a week.

2 THE COURT: And you think –

3 PROSPECTIVE JUROR BERLINGER: And I'm not going to name race,
4 what color or whatever, but I was beaten.

5 THE COURT: Okay. So you think that that would make it difficult –

6 PROSPECTIVE JUROR BERLINGER: Yes.

7 THE COURT: – for you to sit as a juror in this case?

8 PROSPECTIVE JUROR BERLINGER: Yes.

9 THE COURT: Okay. Ma'am, I'm going to go ahead and have you return to
10 Jury Services. They'll see if maybe there is a different sort of trial for you to sit on
11 that would be a better fit for you. Thank you.

12 PROSPECTIVE JUROR BERLINGER: Thank you.

13 THE CLERK: Badge number 37, Cassandra Jefferson.

14 THE COURT: Afternoon, ma'am. How long have you lived in Clark County?

15 PROSPECTIVE JUROR JEFFERSON: Twenty-five years.

16 THE COURT: What do you do for a living?

17 PROSPECTIVE JUROR JEFFERSON: I'm a relief supervisor in slots in a
18 casino.

19 THE COURT: Are you married or in a significant relationship?

20 PROSPECTIVE JUROR JEFFERSON: I'm married.

21 THE COURT: What does your spouse do?

22 PROSPECTIVE JUROR JEFFERSON: He's security.

23 THE COURT: Do you have any children?

24 PROSPECTIVE JUROR JEFFERSON: Yes, three boys. One is 28, one is 22,

1 and one is 18.

2 THE COURT: What do they do?

3 PROSPECTIVE JUROR JEFFERSON: On and off construction.

4 THE COURT: Have you or anyone close to you worked in law enforcement
5 or the legal field?

6 PROSPECTIVE JUROR JEFFERSON: My first cousin's husband, he works
7 for North Las Vegas. He's a police officer. And I did two semesters at an internship
8 at the juvenile court, coroner's office and the morgue.

9 THE COURT: When did you do that?

10 PROSPECTIVE JUROR JEFFERSON: Pardon?

11 THE COURT: When did you do that?

12 PROSPECTIVE JUROR JEFFERSON: Uh, three years ago.

13 THE COURT: Have you or anyone close to you ever been charged with a
14 crime?

15 PROSPECTIVE JUROR JEFFERSON: Yes, my 28-year-old when he was 15.

16 THE COURT: What was he charged with?

17 PROSPECTIVE JUROR JEFFERSON: Accessory to a theft. The other kid
18 stole a car and he went along with it.

19 THE COURT: Okay. Anything about that you think might impact your ability
20 to sit as a juror in this case?

21 PROSPECTIVE JUROR JEFFERSON: No, not that.

22 THE COURT: Has anyone – has you or anyone close to you been a victim
23 of a serious crime, including sexual assault?

24 PROSPECTIVE JUROR JEFFERSON: Yes. A lot of my friends around me.

1 THE COURT: A lot of your friends?

2 PROSPECTIVE JUROR JEFFERSON: Yes.

3 THE COURT: And I hate to pry, I'm sorry. Can you just give me a little bit
4 more information?

5 PROSPECTIVE JUROR JEFFERSON: A couple of my girlfriends with sexual
6 assault, beating sometime. Well, one of them it was her husband, and a couple
7 more just random sexual assaults.

8 THE COURT: Okay. Do you think that might make it difficult for you to serve
9 as a juror in this case?

10 PROSPECTIVE JUROR JEFFERSON: Probably, yes.

11 THE COURT: Do you think it's possible you could put that aside and look at
12 this case on its own circumstances?

13 PROSPECTIVE JUROR JEFFERSON: I'm not sure. It depends on what
14 I hear.

15 THE COURT: Okay. Ms. Kollins or Mr. Pandelis, would you like to ask any
16 questions right now?

17 MR. PANDELIS: Ms. Jefferson, you mentioned some things about one of
18 your sons who ran into some trouble back when he was fifteen, I think you said.

19 PROSPECTIVE JUROR JEFFERSON: Yes.

20 MR. PANDELIS: So was he charged as a juvenile?

21 PROSPECTIVE JUROR JEFFERSON: Yes.

22 MR. PANDELIS: Was it the Clark County District Attorney's Office that
23 handled that case against him back when he was a juvenile?

24 PROSPECTIVE JUROR JEFFERSON: I don't remember. I think so.

1 MR. PANDELIS: Okay. But you don't have any frustrations or animosity
2 towards the D.A.'s Office because of that old case that would cause some concern
3 to Ms. Kollins and I, do you?

4 PROSPECTIVE JUROR JEFFERSON: No, it was actually the P.O., not the
5 D.A.'s Office.

6 MR. PANDELIS: What do you mean?

7 PROSPECTIVE JUROR JEFFERSON: The P.O. was actually incompetent
8 and inexperienced, and I had to make a lot of phone calls and have him to be
9 removed and have another one in his place.

10 MR. PANDELIS: So that was – but the P.O. was assigned after the case
11 had already been charged and he was –

12 PROSPECTIVE JUROR JEFFERSON: I mean, the Public Defender.

13 MR. PANDELIS: Oh, the Public Defender. I'm sorry.

14 PROSPECTIVE JUROR JEFFERSON: Yeah.

15 MR. PANDELIS: So you had some frustrations with the Public Defender?

16 PROSPECTIVE JUROR JEFFERSON: Yes.

17 MR. PANDELIS: Okay. You said you had several friends who were the
18 victims of sexual assault?

19 PROSPECTIVE JUROR JEFFERSON: Yes.

20 MR. PANDELIS: Are these close friends –

21 PROSPECTIVE JUROR JEFFERSON: Very close friends.

22 MR. PANDELIS: – people you talk to on a daily basis?

23 PROSPECTIVE JUROR JEFFERSON: (Nods head).

24 MR. PANDELIS: Have you had conversations with them about what

1 happened to them?

2 PROSPECTIVE JUROR JEFFERSON: Yes.

3 MR. PANDELIS: How often do you speak to them about this?

4 PROSPECTIVE JUROR JEFFERSON: Well, for now they're beginning to
5 heal, so – (inaudible) – move on. We don't discuss it very much anymore.

6 MR. PANDELIS: But when it first happened to them you would have lengthy
7 discussions with them?

8 PROSPECTIVE JUROR JEFFERSON: (Nods head).

9 MR. PANDELIS: Do you know anybody, any juveniles who were the victims
10 of sexual assault?

11 PROSPECTIVE JUROR JEFFERSON: Well, when I used to work at the
12 juvenile court and I was an intern and I was the assistant for the P.O., I spoke to all
13 of the children and I kept up with them, and a lot of cases when we transported
14 them to the hospital then I would have conversations with them while we were in the
15 car, and I heard a lot of bad stuff.

16 MR. PANDELIS: So you had day-to-day interaction when you were on that
17 job with children who were victims of sexual assault?

18 PROSPECTIVE JUROR JEFFERSON: Yes.

19 MR. PANDELIS: Did those children all act the same way?

20 PROSPECTIVE JUROR JEFFERSON: Of course not.

21 MR. PANDELIS: So each child acted differently?

22 PROSPECTIVE JUROR JEFFERSON: Yes.

23 MR. PANDELIS: Was each child willing to openly discuss the sexual abuse
24 with you?

1 PROSPECTIVE JUROR JEFFERSON: A couple of them were, yeah. Some
2 of them I had to pry it out, but mostly they – most of them, they're runaways, just
3 grown kids, so they actually were able to speak.

4 MR. PANDELIS: But you would agree based on that experience there was
5 no one way that a juvenile victim of sexual assault acted?

6 PROSPECTIVE JUROR JEFFERSON: No.

7 MR. PANDELIS: Do you think it's easy for a child to come into court and talk
8 about sexual abuse?

9 PROSPECTIVE JUROR JEFFERSON: No.

10 MR. PANDELIS: Do you think it's easy for a child to talk to the police and
11 medical professionals about sexual assault?

12 PROSPECTIVE JUROR JEFFERSON: It depends on if the child is – I
13 learned that if the child is angry and very revengeful about who the person is, then
14 they would easily point the finger at them.

15 MR. PANDELIS: Pardon?

16 PROSPECTIVE JUROR JEFFERSON: If the child has revenge, they're very
17 revengeful, then they will point the finger at them and step up and say yes, that was
18 that person right there.

19 MR. PANDELIS: And you mentioned revenge. what exactly do you mean?

20 THE COURT: Mr. Pandelis, I'm sorry to interrupt you. Could counsel
21 approach for just a second?

22 MR. PANDELIS: Yes.

23 **(Bench conference begins)**

24 THE COURT: I think this was my fault. I wasn't very clear. I actually

1 stopped asking her questions so that you could just follow up with her with respect
2 to whether she could be fair, given the fact that she had -- she expressed some
3 concern about the ability to be fair because she had some friends that were
4 assaulted.

5 MR. PANDELIS: Oh, okay. I'm sorry about that.

6 THE COURT: So if we could focus on that, if we get her through that, then
7 I'll go back and ask the rest of the questions.

8 MR. PANDELIS: Okay.

9 THE COURT: I was just trying not to waste time if we were going to excuse
10 her on the basis of that.

11 Wait, while I have everybody -- Just so that -- I think I should have
12 probably mentioned this before, if we have somebody who gets up and says that
13 they have been a victim personally and they don't feel that they can serve, I'd prefer
14 to not ask them more. I mean, I'll just excuse them -- (inaudible). But if it's not them
15 personally, then I --

16 MS KOLLINS: I know some people in my unit that would really fight to try
17 to, you know -- (indiscernible). The teacher, I thought maybe I let her -- (inaudible).
18 She wasn't personally a victim. I agree with you. A person who has been
19 personally a victim -- (indiscernible).

20 THE COURT: Right. I mean, I just don't think it's fair to them to have to go
21 through all of that if they are not comfortable with that and they're not comfortable
22 being here, if it's themselves. Okay.

23 (Bench conference concluded)

24 MR. PANDELIS: Ms. Jefferson, just a few more questions about your friends.

1 Are you going to have any difficulty if you were asked to serve as a juror in this case
2 this week acting fair and impartially because of what your friends went through?

3 PROSPECTIVE JUROR JEFFERSON: I'm not sure.

4 MR. PANDELIS: So it could potentially affect your service as a juror?

5 PROSPECTIVE JUROR JEFFERSON: Probably.

6 MR. PANDELIS: I'll pass the juror, Your Honor.

7 THE COURT: Anything you'd like to ask, Mr. Cox?

8 MR. COX: Yes, Judge.

9 Good afternoon, Cassandra. I'm sorry to hear you've had several
10 friends that were victimized in the past. Obviously you're going to have strong
11 feelings about these type of cases. Am I correct in assuming that?

12 PROSPECTIVE JUROR JEFFERSON: That's true.

13 MR. COX: Okay. Now, at this point, you know, my client – would you view
14 my client sitting before you as a person who is innocent, or not guilty? There's been
15 no evidence presented.

16 PROSPECTIVE JUROR JEFFERSON: Innocent, yes.

17 MR. COX: Now, because you had these experiences with close friends of
18 yours, do you feel some of that, the experiences your friends have gone through
19 can spill over into the trial of Mr. James?

20 PROSPECTIVE JUROR JEFFERSON: Possibly.

21 MR. COX: I would just appreciate if you could be as honest as possible.

22 PROSPECTIVE JUROR JEFFERSON: Possibly.

23 MR. COX: Possibly?

24 PROSPECTIVE JUROR JEFFERSON: Yes.

1 MR. COX: Okay. So it might be difficult to differentiate between what
2 happened with your friends and what Mr. James is accused of?

3 PROSPECTIVE JUROR JEFFERSON: It could.

4 MR. COX: It could. Okay.

5 MR. PANDELIS: Your Honor, we'll challenge for cause at this point.

6 THE COURT: Okay, thank you.

7 Ma'am, we're just going to ask if you could return to Jury Services.
8 They'll see if there's a different trial for you to sit on today that maybe is of a
9 different nature. Okay? Thank you, ma'am.

10 THE CLERK: Badge number 38, Diana Wainford.

11 THE COURT: Good afternoon, ma'am. How long have you lived in Clark
12 County?

13 PROSPECTIVE JUROR WAINFORD: Twenty-three years.

14 THE COURT: What do you do for a living?

15 PROSPECTIVE JUROR WAINFORD: Right now I'm unemployed.

16 THE COURT: What did you do before you were unemployed?

17 PROSPECTIVE JUROR WAINFORD: I was a project coordinator for a civil
18 engineer.

19 THE COURT: Are you married or in a significant relationship?

20 PROSPECTIVE JUROR WAINFORD: Married.

21 THE COURT: And what does your spouse do?

22 PROSPECTIVE JUROR WAINFORD: He's a truck driver.

23 THE COURT: Do you have any children?

24 PROSPECTIVE JUROR WAINFORD: Two boys. One is 23, he's a truck

1 driver, and the other one is 19, he's a student at CSN.

2 THE COURT: What's he studying?

3 PROSPECTIVE JUROR WAINFORD: Music composing.

4 THE COURT: Have you or anyone close to you worked in law enforcement
5 or the legal field?

6 PROSPECTIVE JUROR WAINFORD: (Shakes head negatively)

7 THE COURT: No?

8 PROSPECTIVE JUROR WAINFORD: No.

9 THE COURT: Have you or anyone close to you ever been charged with a
10 crime?

11 PROSPECTIVE JUROR WAINFORD: Yes.

12 THE COURT: And can you tell me about that?

13 PROSPECTIVE JUROR WAINFORD: My oldest son for domestic battery
14 with me. And –

15 THE COURT: Okay. I'm sorry, go ahead.

16 PROSPECTIVE JUROR WAINFORD: And I just wanted to say, as a child
17 I was molested.

18 THE COURT: Okay. Let's start with the thing with your son first. Is there
19 anything about that that you think would make it difficult for you to sit as a juror in
20 this case?

21 PROSPECTIVE JUROR WAINFORD: No.

22 THE COURT: Okay. And then let's talk about your personal experience.
23 Do you think that it's going to make it difficult for you to sit as a juror in this case
24 because of your personal experience?

1 PROSPECTIVE JUROR WAINFORD: (Nods head affirmatively).

2 THE COURT: Okay. Counsel?

3 MS. KOLLINS: No, Judge.

4 THE COURT: Okay. Ma'am, we're going to have you go and return to Jury
5 Services. They'll see if they find a case that's a better fit. Thank you, ma'am.

6 THE CLERK: Badge number 39, Lindsey Johnston.

7 THE COURT: Afternoon, Ms. Johnston. How long have you lived in Clark
8 County?

9 PROSPECTIVE JUROR JOHNSTON: Twenty-nine years.

10 THE COURT: What do you do for a living?

11 PROSPECTIVE JUROR JOHNSTON: I work at an advertising agency.

12 THE COURT: Are you married or in a significant relationship?

13 PROSPECTIVE JUROR JOHNSTON: Significant relationship.

14 THE COURT: And what does your significant other do?

15 PROSPECTIVE JUROR JOHNSTON: He's a registered dietician.

16 THE COURT: Do you have any children?

17 PROSPECTIVE JUROR JOHNSTON: No.

18 THE COURT: Have you or anyone close to you worked in law enforcement
19 or the legal field?

20 PROSPECTIVE JUROR JOHNSTON: No.

21 THE COURT: Have you or anyone close to you ever been charged with a
22 crime?

23 PROSPECTIVE JUROR JOHNSTON: No.

24 THE COURT: Have you or anyone close to you ever been the victim of a

1 crime, including sexual assault?

2 PROSPECTIVE JUROR JOHNSTON: My parents' house was robbed twice,
3 once while I was house sitting.

4 THE COURT: You were there in the house when it happened?

5 PROSPECTIVE JUROR JOHNSTON: I came home right after.

6 THE COURT: Okay. Anything about that you think might impact your ability
7 to sit as a juror in this case?

8 PROSPECTIVE JUROR JOHNSTON: No.

9 THE COURT: Have you ever served as a juror before?

10 PROSPECTIVE JUROR JOHNSTON: No.

11 THE COURT: Can you base your verdict solely on the evidence presented
12 at trial and wait to form an opinion until you've heard all of the evidence?

13 PROSPECTIVE JUROR JOHNSTON: Yes.

14 THE COURT: Can you follow the instructions on the law that I give you,
15 regardless of whether you think the law is good or bad?

16 PROSPECTIVE JUROR JOHNSTON: Yes.

17 THE COURT: Can you make a decision without worrying about criticism or
18 what other people might think?

19 PROSPECTIVE JUROR JOHNSTON: Yes.

20 THE COURT: Do you know of any reason you couldn't be completely fair
21 and impartial if you were selected as a juror in this case?

22 PROSPECTIVE JUROR JOHNSTON: No.

23 THE COURT: And if you were a party to this case, would you be comfortable
24 having someone like yourself as a juror?

1 PROSPECTIVE JUROR JOHNSTON: Can you say that again?

2 THE COURT: If you were either of the parties to this case, would you feel
3 comfortable having someone like yourself as a juror?

4 PROSPECTIVE JUROR JOHNSTON: Yes.

5 THE COURT: Okay. Ms. Kollins?

6 MS. KOLLINS: How are you this afternoon?

7 PROSPECTIVE JUROR JOHNSTON: Good.

8 MS. KOLLINS: Good. You heard the questions that we were going through
9 earlier with everyone?

10 PROSPECTIVE JUROR JOHNSTON: Um-hm.

11 MS. KOLLINS: Anything you have a strong opinion about you'd like to
12 comment on?

13 PROSPECTIVE JUROR JOHNSTON: No.

14 MS. KOLLINS: Do you think it's easy for a kid to come in here and talk about
15 these kind of things?

16 PROSPECTIVE JUROR JOHNSTON: No.

17 MS. KOLLINS: Can you hold a child to a child's standard?

18 PROSPECTIVE JUROR JOHNSTON: Yes.

19 MS. KOLLINS: What are your expectations of a child victim of sexual
20 assault?

21 PROSPECTIVE JUROR JOHNSTON: They're scared. I agree that no two
22 children will act alike, based on their personality.

23 MS. KOLLINS: Do you have brothers and sisters?

24 PROSPECTIVE JUROR JOHNSTON: I have one brother.

1 MS. KOLLINS: Do you have any nieces or nephews?
2 PROSPECTIVE JUROR JOHNSTON: Two nieces.
3 MS. KOLLINS: How old are they?
4 PROSPECTIVE JUROR JOHNSTON: Six and two.
5 MS. KOLLINS: Spend a lot of time around them or a little time?
6 PROSPECTIVE JUROR JOHNSTON: A fair amount of time when we can.
7 MS. KOLLINS: It's next Friday afternoon, it's 4:30, everyone wants to go,
8 it's eleven to one; it doesn't matter what the decision is, but you're the one. What
9 are you going to do?
10 PROSPECTIVE JUROR JOHNSTON: Make the decision that I believe in,
11 that I think is –
12 MS. KOLLINS: Will you listen to the opinions of others?
13 PROSPECTIVE JUROR JOHNSTON: I'll listen to them, but I won't base my
14 decision on them.
15 MS. KOLLINS: Okay. Will you share your opinions with others?
16 PROSPECTIVE JUROR JOHNSTON: Yes.
17 MS. KOLLINS: Will you talk to everybody else on the jury panel and try to
18 convince them of your point of view?
19 PROSPECTIVE JUROR JOHNSTON: Yes.
20 MS. KOLLINS: Will you just change your mind because it's 4:30 Friday and
21 you want to go home?
22 PROSPECTIVE JUROR JOHNSTON: No.
23 MS. KOLLINS: Okay. When your parents' house was burglarized, was that
24 here in Las Vegas?

1 PROSPECTIVE JUROR JOHNSTON: Yes.
2 MS. KOLLINS: Did Metro respond?
3 PROSPECTIVE JUROR JOHNSTON: Yes.
4 MS. KOLLINS: Did they ever catch anybody?
5 PROSPECTIVE JUROR JOHNSTON: Yes, the first time.
6 MS. KOLLINS: The first time. Did you have to go to court?
7 PROSPECTIVE JUROR JOHNSTON: I did not. They did.
8 MS. KOLLINS: Were your parents satisfied with how it was handled by Metro
9 and the D.A.'s Office?
10 PROSPECTIVE JUROR JOHNSTON: Yes.
11 MS. KOLLINS: No complaints?
12 PROSPECTIVE JUROR JOHNSTON: No.
13 MS. KOLLINS: Okay. You're lucky they caught someone.
14 I'll pass the juror, Judge.
15 THE COURT: Okay. Mr. Cox, just before you get up, I just want to make
16 sure, and I know that you didn't raise your hands, but Ms. Johnston and Ms.
17 Johnston, you don't know each other and you're not related as far as you know?
18 PROSPECTIVE JUROR LINDSEY JOHNSTON: No.
19 PROSPECTIVE JUROR KIMBERLEY JOHNSTON: No.
20 THE COURT: Okay, thank you. Mr. Cox, go ahead.
21 MR. COX: Thank you, Judge.
22 And you're not related to Judge Johnston?
23 PROSPECTIVE JUROR JOHNSTON: No.
24 MR. COX: And you're not sisters with Ms. Lent? You look very similar.

1 Ms. Kollins asked you some questions about the behavior of children. I think you
2 would agree that you shouldn't believe, inherently believe an adult over a child,
3 but is the converse also true that you wouldn't believe a child over an adult simply
4 because one is an adult and one is a child?

5 PROSPECTIVE JUROR JOHNSTON: Correct.

6 MR. COX: Do you believe that children are capable of telling lies that are
7 very large?

8 PROSPECTIVE JUROR JOHNSTON: Yes.

9 MR. COX: Okay. And that once they get down that path, it's difficult or
10 sometimes they're incapable of reversing the direction they've pointed in?

11 PROSPECTIVE JUROR JOHNSTON: Yes.

12 MR. COX: Would you feel you'd be fair as a juror if selected on this case?

13 PROSPECTIVE JUROR JOHNSTON: Yes.

14 MR. COX: I'll pass the juror.

15 THE COURT: Thank you. It's the State's 2nd.

16 MR. PANDELIS: Judge, at this time the State would thank and excuse Juror
17 No. 31.

18 THE COURT: That's Ms. Lent-Gonzalez, is that right?

19 MS. KOLLINS: Yes, Your Honor.

20 MR. PANDELIS: Yes.

21 THE COURT: Okay. Ma'am, thank you so much for your time today. We
22 really appreciate you coming in. If you could just return to Jury Services. Thank
23 you, ma'am.

24 THE CLERK: Badge number 40, Rudy Araujo.

1 THE COURT: Afternoon, sir.
2 PROSPECTIVE JUROR ARAUJO: Good afternoon.
3 THE COURT: How long have you lived in Clark County?
4 PROSPECTIVE JUROR ARAUJO: More than three years.
5 THE COURT: Where did you live before that?
6 PROSPECTIVE JUROR ARAUJO: California.
7 THE COURT: And tell me again what you for a living?
8 PROSPECTIVE JUROR ARAUJO: Here I work for a cable company, but
9 I am unemployed right now.
10 THE COURT: Okay. What did you do for the cable company?
11 PROSPECTIVE JUROR ARAUJO: I work in the warehouse; supervisor.
12 THE COURT: How many people did you supervise there?
13 PROSPECTIVE JUROR ARAUJO: About thirty people.
14 THE COURT: Are you married or in a significant relationship?
15 PROSPECTIVE JUROR ARAUJO: I'm married.
16 THE COURT: What does your spouse do?
17 PROSPECTIVE JUROR ARAUJO: She is a R.A. at the Bellagio Casino.
18 THE COURT: Do you have any children?
19 PROSPECTIVE JUROR ARAUJO: Two.
20 THE COURT: What are their ages and genders?
21 PROSPECTIVE JUROR ARAUJO: Eighteen and eight.
22 THE COURT: And are they boys or girls?
23 PROSPECTIVE JUROR ARAUJO: Boys.
24 THE COURT: Have you or anyone close to you ever worked in law

1 enforcement or the legal field?

2 PROSPECTIVE JUROR ARAUJO: No.

3 THE COURT: Have you or anyone close to you ever been charged with a
4 crime?

5 PROSPECTIVE JUROR ARAUJO: No.

6 THE COURT: Have you or anyone close to you ever been the victim of a
7 crime, including sexual assault?

8 PROSPECTIVE JUROR ARAUJO: No.

9 THE COURT: Have you ever served as a juror before?

10 PROSPECTIVE JUROR ARAUJO: No.

11 THE COURT: No? Okay. Can you base your verdict solely on the evidence
12 presented at trial and wait to form an opinion until you've heard all of the evidence?

13 PROSPECTIVE JUROR ARAUJO: Can you repeat that question?

14 THE COURT: Sure. Can you base your verdict solely on the evidence
15 presented at trial and wait to form an opinion until you've heard all of the evidence?

16 PROSPECTIVE JUROR ARAUJO: Yes.

17 THE COURT: Can you follow the instructions on the law that I give you,
18 regardless of whether you think the law is good or bad?

19 PROSPECTIVE JUROR ARAUJO: Yes.

20 THE COURT: Can you make a decision without worrying about criticism or
21 what other people might think?

22 PROSPECTIVE JUROR ARAUJO: Yes.

23 THE COURT: Do you know of any reason you could not be a fair and
24 impartial juror if you were selected as a juror in this case?

1 PROSPECTIVE JUROR ARAUJO: No.

2 THE COURT: And if you were either party to this case, would you be
3 comfortable having someone like yourself as a juror?

4 PROSPECTIVE JUROR ARAUJO: Yes.

5 THE COURT: Mr. Pandelis or Ms. Kollins?

6 MR. PANDELIS: Mr. Araujo, is that correct?

7 PROSPECTIVE JUROR ARAUJO: Araujo. Sounds good.

8 MR. PANDELIS: Before moving to Las Vegas you were in California?

9 PROSPECTIVE JUROR ARAUJO: Yes.

10 MR. PANDELIS: How long were you in California?

11 PROSPECTIVE JUROR ARAUJO: About thirty years.

12 MR. PANDELIS: Thirty years. What did you do in California?

13 PROSPECTIVE JUROR ARAUJO: I started working – I worked just for one
14 company there at a warehouse, and when I left I was a warehouseman there.

15 MR. PANDELIS: So you worked for the same company for –

16 PROSPECTIVE JUROR ARAUJO: Thirty years.

17 MR. PANDELIS: Wow.

18 PROSPECTIVE JUROR ARAUJO: Twenty-nine.

19 MR. PANDELIS: That's impressive. When you worked at that warehouse,
20 were you a supervisor over some of the other employees?

21 PROSPECTIVE JUROR ARAUJO: Yes.

22 MR. PANDELIS: How many employees did you supervise?

23 PROSPECTIVE JUROR ARAUJO: The group that I got was around 30 guys.

24 MR. PANDELIS: So there were thirty people under you?

1 PROSPECTIVE JUROR ARAUJO: Yes.

2 MR. PANDELIS: Now, you've heard some of the questions that we've asked
3 everybody else here today.

4 PROSPECTIVE JUROR ARAUJO: Yes.

5 MR. PANDELIS: Do you expect certain things from a child coming into court
6 and testifying?

7 PROSPECTIVE JUROR ARAUJO: No. I'd have to listen to whatever they
8 have to say.

9 MR. PANDELIS: Are you expecting a child to be able to – Are you expecting
10 the child is going to be able to come in here and testify the same way that an adult
11 would?

12 PROSPECTIVE JUROR ARAUJO: No.

13 MR. PANDELIS: I'll pass the juror, Your Honor.

14 THE COURT: Thank you. Mr. Cox?

15 MR. COX: Thank you, Judge.

16 I'm going to call you Rudy, okay? I don't want to mispronounce your
17 name. Would you say you'd be able to understand everything that the judge has
18 told you?

19 PROSPECTIVE JUROR ARAUJO: Yes.

20 MR. COX: Okay. And the district attorney?

21 PROSPECTIVE JUROR ARAUJO: Um-hm.

22 MR. COX: Because you mentioned earlier you might have trouble
23 understanding.

24 PROSPECTIVE JUROR ARAUJO: Well, I was thinking what to answer.

1 MR. COX: Okay. Now, you supervise about thirty people.

2 PROSPECTIVE JUROR ARAUJO: Yes.

3 MR. COX: Is that in English or a different language?

4 PROSPECTIVE JUROR ARAUJO: Spanish.

5 MR. COX: Spanish. Okay.

6 PROSPECTIVE JUROR ARAUJO: Well, it's in East L.A., that's why.

7 MR. COX: Okay.

8 PROSPECTIVE JUROR ARAUJO: Ninety percent is, you know.

9 MR. COX: But you also deal with not just your employees but other people?

10 PROSPECTIVE JUROR ARAUJO: Well, the people on top of me was all
11 English here.

12 MR. COX: They spoke to you in English?

13 PROSPECTIVE JUROR ARAUJO: Uh-huh.

14 MR. COX: Okay. Do you have any hesitation now as to whether or not you
15 feel you'd be able to understand?

16 PROSPECTIVE JUROR ARAUJO: Well, yeah, a little bit.

17 MR. COX: Well, the reality is is that the State is going to have a lot they want
18 you to hear and I'm going to have a lot I want you to hear, and we want you to be
19 able to make a fair decision. And you're not going to be able to do that if you don't
20 understand everything. Fair enough?

21 PROSPECTIVE JUROR ARAUJO: (Nods head)

22 MR. COX: So how do you feel now, honestly?

23 PROSPECTIVE JUROR ARAUJO: I don't feel capable, you know, to
24 understand everything. You know, I understand a lot, but you know -

1 MR. COX: Okay. Would you feel comfortable if you got to a portion where
2 you missed something, would you feel brave enough to raise your hand?

3 PROSPECTIVE JUROR ARAUJO: Oh, sure. Sure.

4 MR. COX: And have it spelled out or just said more slowly?

5 PROSPECTIVE JUROR ARAUJO: Yeah.

6 MR. COX: So is that something you'd feel comfortable doing?

7 PROSPECTIVE JUROR ARAUJO: I will.

8 MR. COX: Okay. All right. I'll pass the juror, Judge.

9 THE COURT: Thank you. Okay, it's the Defense 2nd.

10 MR. COX: Your Honor, the Defense would like to thank and excuse Ms.
11 Kauder. Let me get the juror badge for you.

12 THE COURT: Juror number 19.

13 THE CLERK: Nineteen.

14 MR. COX: Yes. Thank you very much.

15 THE COURT: Yes. Ma'am, thank you so much for your time.

16 PROSPECTIVE JUROR KAUDER: Okay.

17 THE COURT: We really appreciate you coming in today. If you could just
18 return to Jury Services. Thank you, ma'am.

19 THE CLERK: Badge number 41, Jocelyn Kettwich.

20 THE COURT: And ma'am, if you could just go ahead and take that seat,
21 please. Good afternoon, ma'am. How long have you lived in Clark County?

22 PROSPECTIVE JUROR KETTWICH: Six years.

23 THE COURT: Where did you live before that?

24 PROSPECTIVE JUROR KETTWICH: Texas.

1 THE COURT: What do you do for a living?
2 PROSPECTIVE JUROR KETTWICH: I'm a full time mom.
3 THE COURT: Did you work outside the home before you had children?
4 PROSPECTIVE JUROR KETTWICH: Yes.
5 THE COURT: What did you do?
6 PROSPECTIVE JUROR KETTWICH: I worked for H&R Block.
7 THE COURT: What did you do for them?
8 PROSPECTIVE JUROR KETTWICH: I prepared taxes.
9 THE COURT: Are you married or in a significant relationship?
10 PROSPECTIVE JUROR KETTWICH: Married.
11 THE COURT: What does your spouse do?
12 PROSPECTIVE JUROR KETTWICH: He works for security at the Bellagio.
13 THE COURT: And you have children. What are the ages and genders of
14 your children?
15 PROSPECTIVE JUROR KETTWICH: I have one and only daughter. She
16 is six.
17 THE COURT: Have you or anyone close to you ever worked in law
18 enforcement or the legal field?
19 PROSPECTIVE JUROR KETTWICH: No.
20 THE COURT: Have you or anyone close to you ever been charged with a
21 crime?
22 PROSPECTIVE JUROR KETTWICH: No.
23 THE COURT: Have you or anyone close to you ever been the victim of a
24 crime?

1 PROSPECTIVE JUROR KETTWICH: No.
2 THE COURT: Have you ever served as a juror before?
3 PROSPECTIVE JUROR KETTWICH: Yes.
4 THE COURT: How many times?
5 PROSPECTIVE JUROR KETTWICH: Twice.
6 THE COURT: Were they civil cases or criminal cases?
7 PROSPECTIVE JUROR KETTWICH: Criminal.
8 THE COURT: They were both criminal cases?
9 PROSPECTIVE JUROR KETTWICH: (Nods head).
10 THE COURT: Without telling us what the verdict was, was the jury able to
11 reach a verdict in both cases?
12 PROSPECTIVE JUROR KETTWICH: Yes.
13 THE COURT: Were the foreperson on either case?
14 PROSPECTIVE JUROR KETTWICH: Say again?
15 THE COURT: Were you the foreperson on either case?
16 PROSPECTIVE JUROR KETTWICH: No.
17 THE COURT: Can you base your verdict solely on the evidence presented
18 at trial and wait to form an opinion until you've heard all of the evidence?
19 PROSPECTIVE JUROR KETTWICH: Yes.
20 THE COURT: Can you follow the instructions on the law that I give you,
21 regardless of whether you think the law is good or bad?
22 PROSPECTIVE JUROR KETTWICH: Yes.
23 THE COURT: Can you make a decision without worrying about criticism or
24 what other people might think?

1 PROSPECTIVE JUROR KETTWICH: Yes.

2 THE COURT: Yes? Do you know of any reason you couldn't be completely
3 fair and impartial if you were selected as a juror in this case?

4 PROSPECTIVE JUROR KETTWICH: No.

5 THE COURT: And if you were either party to this case, would you be
6 comfortable having someone like yourself as a juror?

7 PROSPECTIVE JUROR KETTWICH: Yes.

8 THE COURT: Let me ask you a question about your jury service before.
9 Do you think anything about your prior jury service would impact your ability to sit
10 as a juror in this case?

11 PROSPECTIVE JUROR KETTWICH: I don't think so.

12 THE COURT: Okay, thanks. Ms. Kollins, is it your turn?

13 MS. KOLLINS: Thank you, Judge.

14 THE COURT: Okay. I lost my place again.

15 MS. KOLLINS: I apologize, we lost track over here.

16 How long has your husband been with the Bellagio?

17 PROSPECTIVE JUROR KETTWICH: Since 2005.

18 MS. KOLLINS: Now, in security, is he like in management or is he actually
19 on the floor? Does he interact with Metro?

20 PROSPECTIVE JUROR KETTWICH: He's on the floor and he's interacting
21 with Metro.

22 MS. KOLLINS: Okay. Ever come home and told you stories about cases
23 he'd had to report or when he's had to call the police?

24 PROSPECTIVE JUROR KETTWICH: Yes.

1 MS. KOLLINS: Anything about any sexual assault cases he's ever had to
2 report or contact the police about?

3 PROSPECTIVE JUROR KETTWICH: No.

4 MS. KOLLINS: Does he have any strong opinions about Metro one way or
5 the other that he's shared with you?

6 PROSPECTIVE JUROR KETTWICH: Yes.

7 MS. KOLLINS: Okay. And those are what?

8 PROSPECTIVE JUROR KETTWICH: Well, some are nice and some are
9 not nice.

10 MS. KOLLINS: Well, that's like every profession, right? Some are nice,
11 some aren't so nice?

12 PROSPECTIVE JUROR KETTWICH: Right.

13 MS. KOLLINS: So any of the things he's told you about maybe some of
14 those officers that weren't so nice or weren't, say, perhaps the most energetic, you
15 can set that aside because that has nothing to do with what we're going to hear in
16 here, right?

17 PROSPECTIVE JUROR KETTWICH: Right.

18 MS. KOLLINS: That won't influence your decision?

19 PROSPECTIVE JUROR KETTWICH: No.

20 MS. KOLLINS: Okay. Where did you move from in Texas?

21 PROSPECTIVE JUROR KETTWICH: Where? Say again?

22 MS. KOLLINS: I thought you said before you moved here you lived in Texas.

23 PROSPECTIVE JUROR KETTWICH: Right.

24 MS. KOLLINS: Where at?

1 PROSPECTIVE JUROR KETTWICH: Around the Austin area.

2 MS. KOLLINS: It's beautiful there. Did you hear some of the things we
3 were talking about about child witnesses today? No? Okay. So you're one of the
4 members of the panel that was not riveted by everything that came out of our
5 mouths. Can you hold a kid to a kid's standard when they come in here?

6 PROSPECTIVE JUROR KETTWICH: I think so.

7 MS. KOLLINS: You think so? I mean, is a 15-year-old a fully developed
8 adult?

9 PROSPECTIVE JUROR KETTWICH: In my opinion?

10 MS. KOLLINS: Yes.

11 PROSPECTIVE JUROR KETTWICH: Not really.

12 MS. KOLLINS: So would you expect them to communicate like a 15-year-old
13 communicates or like we as adults communicate?

14 PROSPECTIVE JUROR KETTWICH: Like a 15-year-old communicates.

15 MS. KOLLINS: Okay. Do you think it's embarrassing for a kid to come in
16 here and talk about graphic sexual details?

17 PROSPECTIVE JUROR KETTWICH: Yes.

18 MS. KOLLINS: Do you have any set or certain way that you think that they
19 should act?

20 PROSPECTIVE JUROR KETTWICH: (No response).

21 MS. KOLLINS: Well, in other words, if a kid doesn't come up here and
22 start bawling her eyes out, then she's not telling the truth? Do you understand what
23 I mean? I mean, some kids might communicate in a different manner. Some might
24 become really upset, some might be kind of calm and reserved. Do you agree with

1 that?

2 PROSPECTIVE JUROR KETTWICH: Yes.

3 MS. KOLLINS: What kind of things would you look at when listening to the
4 testimony of a kid to decide whether or not you believe them?

5 PROSPECTIVE JUROR KETTWICH: I'd have to listen to the evidence.

6 MS. KOLLINS: Okay. What kinds of things do you think would make a kid
7 credible or believable?

8 PROSPECTIVE JUROR KETTWICH: I guess I'd have to -- I'd have to see
9 if she's consistent, the way she answers the questions.

10 MS. KOLLINS: The trials you sat on before, were those here in Las Vegas?

11 PROSPECTIVE JUROR KETTWICH: Yes.

12 MS. KOLLINS: In this courthouse?

13 PROSPECTIVE JUROR KETTWICH: Yes.

14 MS. KOLLINS: Okay. I'll pass the juror, Judge. Thanks.

15 THE COURT: Thank you. Mr. Cox?

16 MR. COX: Thank you, Judge.

17 Ms. Kettwich, I'm going to -- I don't know if -- Judge, I don't know if you
18 asked the question or not, but I'm going to ask it again.

19 THE COURT: Okay.

20 MR. COX: On the trials you sat on, I don't want you to tell me what was the
21 verdict, but was a verdict reached, was a decision made?

22 PROSPECTIVE JUROR KETTWICH: Yes.

23 MR. COX: On both --

24 THE COURT: And she was not the foreperson.

1 MR. COX: Oh, okay. I'm sorry, Judge, I wasn't paying attention.

2 Ms. Kollins asked you some questions about the behavior of children
3 when they speak. Do you believe that it's also possible for children to tell very
4 serious lies?

5 PROSPECTIVE JUROR KETTWICH: Yeah, that is possible.

6 MR. COX: It's possible. Do you believe it's also possible that we may not
7 know what their motive is for doing that?

8 PROSPECTIVE JUROR KETTWICH: Yes.

9 MR. COX: We may have an idea, but we may not know for sure?

10 PROSPECTIVE JUROR KETTWICH: Yeah. Yes.

11 MR. COX: And sometimes it's very difficult once the ball gets rolling, the
12 snowball gets bigger, to bring it back and harness it. Would you agree with that?

13 PROSPECTIVE JUROR KETTWICH: Yes.

14 MR. COX: Okay. Do you feel you'd be a fair juror for Mr. James on this case
15 if picked as a juror?

16 PROSPECTIVE JUROR KETTWICH: I think so.

17 MR. COX: Why?

18 PROSPECTIVE JUROR KETTWICH: Because I will listen to the evidence --

19 MR. COX: Okay.

20 PROSPECTIVE JUROR KETTWICH: -- and I'll go from there.

21 MR. COX: Judge, I'll pass the juror for cause.

22 THE COURT: Thank you. It's the Defense third.

23 MR. COX: Judge, the Defense would like to thank and excuse Mr. Mann.

24 He is in --

1 THE COURT: Juror number eleven.

2 MR. COX: Thank you, Judge. Yes.

3 THE COURT: Sir, thank you so much for your time. We really appreciate
4 you coming in. If you could just return to Jury Services. Thank you, sir.

5 (The Clerk confers with the Court)

6 THE COURT: I'm sorry, no. Mr. Mann, hold on for just a second. Have a
7 seat. It was actually the State's turn. I apologize.

8 MR. COX: Well, I wasn't paying attention either, Judge.

9 MS. KOLLINS: Court's indulgence.

10 THE COURT: Counsel approach. I just want to make sure we're all in the
11 same place. I apologize.

12 (Bench conference begins)

13 MR. PANDELIS: Chris Pandelis for the State. I was showing Defense's last
14 challenge was juror number nineteen.

15 THE COURT: Nineteen. And that would be your third, right? Okay.

16 MR. PANDELIS: Yeah. I'm going to scratch that out -- (inaudible).

17 THE COURT: I'm sorry. No, I just -- I was in the right box and I just --

18 MS. KOLLINS: It's okay. I mean --

19 MR. COX: I didn't catch it either.

20 MS. KOLLINS: Since he already preempted, we'll just do two in a row if you
21 want us to, because we don't want to leave them in the box.

22 MR. COX: That's fine.

23 THE COURT: That's fine.

24 MS. KOLLINS: That will repair everything so that -- (inaudible).

1 THE COURT: That's fine. Okay.

2 (Bench conference concluded)

3 THE COURT: Mr. Mann, we're going to go ahead and excuse you, sir. If you
4 could just return to Jury Services. And then – Well, go ahead, sir. Thank you.

5 THE CLERK: Badge number 43, Alisa Price.

6 THE COURT: Good afternoon, Ms. Price. Ma'am, how long have you lived
7 in Clark County?

8 PROSPECTIVE JUROR PRICE: Twenty-three years.

9 THE COURT: What do you do for a living?

10 PROSPECTIVE JUROR PRICE: I run an in-home daycare.

11 THE COURT: Are you married or in a significant relationship?

12 PROSPECTIVE JUROR PRICE: Married.

13 THE COURT: What does your spouse do?

14 PROSPECTIVE JUROR PRICE: He's unemployed.

15 THE COURT: What did he do before he was unemployed?

16 PROSPECTIVE JUROR PRICE: He was a union carpenter.

17 THE COURT: Do you have any children?

18 PROSPECTIVE JUROR PRICE: I have five.

19 THE COURT: Wow, that's a lot. What are their – this is going to be a test.
20 What are their ages and genders?

21 PROSPECTIVE JUROR PRICE: I have a 16-year-old boy, a 14-year-old boy,
22 a 13-year-old girl, a 3-year-old girl and a 1-year-old girl.

23 THE COURT: Okay. Well, you have your hands full. Have you or anyone
24 close to you worked in law enforcement or the legal field?

1 PROSPECTIVE JUROR PRICE: No.

2 THE COURT: Have you or anyone close to you ever been charged with a
3 crime?

4 PROSPECTIVE JUROR PRICE: No.

5 THE COURT: Have you or anyone close to you ever been the victim of a
6 crime, including sexual assault?

7 PROSPECTIVE JUROR PRICE: No.

8 THE COURT: Have you ever served as a juror before?

9 PROSPECTIVE JUROR PRICE: No.

10 THE COURT: Can you base your verdict solely on the evidence presented
11 at trial and wait to form an opinion until you've heard all of the evidence?

12 PROSPECTIVE JUROR PRICE: Yes.

13 THE COURT: Can you follow the instructions on the law that I give you,
14 regardless of whether you think the law is good or bad?

15 PROSPECTIVE JUROR PRICE: Yes.

16 THE COURT: Can you make a decision without worrying about criticism or
17 what other people might think?

18 PROSPECTIVE JUROR PRICE: Yes.

19 THE COURT: Do you know of any reason you couldn't be completely fair
20 and impartial if you were selected as a juror in this case?

21 PROSPECTIVE JUROR PRICE: No.

22 THE COURT: And if you were either party to this case, would you be
23 comfortable having someone like yourself as a juror?

24 PROSPECTIVE JUROR PRICE: Yes.

1 THE COURT: Okay. And folks, we have – on that white table there's tissues
2 and cough drops if anyone needs them. It's just starting to be that time of year, so
3 please help yourself if you need them.

4 Mr. Pandelis?

5 MR. PANDELIS: Good afternoon, Ms. Price. You mentioned you run an
6 in-home daycare?

7 PROSPECTIVE JUROR PRICE: Yes.

8 MR. PANDELIS: How many children are under your supervision?

9 PROSPECTIVE JUROR PRICE: I watch four kids before school at 5:30 in
10 the morning. Then I take them to school and then I have a 1-year-old that I watch
11 during the day. Her mom is a teacher.

12 MR. PANDELIS: And in addition to that, you have five children of your own?

13 PROSPECTIVE JUROR PRICE: Yes.

14 MR. PANDELIS: So you spend a lot of time around kids?

15 PROSPECTIVE JUROR PRICE: I do.

16 MR. PANDELIS: Would you agree with me that every one of those children
17 has a different personality?

18 PROSPECTIVE JUROR PRICE: Absolutely.

19 MR. PANDELIS: They're unique?

20 PROSPECTIVE JUROR PRICE: Yes.

21 MR. PANDELIS: And you can imagine any one of them telling you a story or
22 telling you about something that happened to them at school, they might tell you the
23 story in a different manner?

24 PROSPECTIVE JUROR PRICE: Yes.

1 MR. PANDELIS: One might get excited –

2 PROSPECTIVE JUROR PRICE: Yes.

3 MR. PANDELIS: – and one might be very subdued?

4 PROSPECTIVE JUROR PRICE: Um-hm.

5 MR. PANDELIS: So taking that, would you agree with me also that not every
6 child is going to come into court and testify in the same way?

7 PROSPECTIVE JUROR PRICE: I agree with that.

8 MR. PANDELIS: So we're going to have a 15-year-old in this case that's
9 going to be testifying. Are you going to expect that her testimony is going to be
10 similar to that if we had a 30-year-old coming in and testifying?

11 PROSPECTIVE JUROR PRICE: Oh, no.

12 MR. PANDELIS: Do you think it's easy for a child to come in and talk to
13 twelve strangers about sexual abuse?

14 PROSPECTIVE JUROR PRICE: No, that won't be easy.

15 MR. PANDELIS: I'd pass the juror, Your Honor.

16 THE COURT: Okay. Mr. Cox?

17 MR. COX: Thank you, Judge.

18 Do you believe it's possible for children to tell very serious – tell stories
19 that are not true that can have very serious consequences?

20 PROSPECTIVE JUROR PRICE: Yes.

21 MR. COX: And there are times when we may not know the motive for why
22 it originated?

23 PROSPECTIVE JUROR PRICE: I agree.

24 MR. COX: Do you feel you'd be a fair juror if selected to be impaneled on

1 this trial?

2 PROSPECTIVE JUROR PRICE: Yes.

3 MR. COX: Why is that?

4 PROSPECTIVE JUROR PRICE: I can just listen to what I've been given and
5 make an informed decision.

6 MR. COX: Thank you very much. Judge, I'll pass the juror for cause.

7 THE COURT: Thank you. Okay. So we'll do the State's 3rd and then move
8 on to the 4th.

9 MR. PANDELIS: Thank you. Your Honor, the State would thank and excuse
10 juror number 41, Ms. Kettiwich – or Kettwich; excuse me.

11 THE COURT: Okay. Ma'am, thank you so much for coming in. We really
12 appreciate your time. If you could just return to Jury Services. Thank you, ma'am.

13 THE CLERK: Badge number 44, Jacqueline Welch.

14 THE COURT: Afternoon, ma'am. How long have you lived in Clark County?

15 PROSPECTIVE JUROR WELCH: Five years.

16 THE COURT: Where did you live before that?

17 PROSPECTIVE JUROR WELCH: New York.

18 THE COURT: What do you do for a living?

19 PROSPECTIVE JUROR WELCH: I'm assistant manager in a movie theater.

20 THE COURT: Are you married or in a significant relationship?

21 PROSPECTIVE JUROR WELCH: Single.

22 THE COURT: Do you have any children?

23 PROSPECTIVE JUROR WELCH: Four.

24 THE COURT: And what are their ages and genders?

1 PROSPECTIVE JUROR WELCH: Twenty-eight, male; twenty-five, male;
2 twenty-two, female; twenty, male.

3 THE COURT: Okay. What do they do?

4 PROSPECTIVE JUROR WELCH: My oldest, he works at Mandalay Bay as
5 a convention porter. The 25-year-old is in school in New York. He's going to school
6 for criminal justice. My daughter is a certified nurse in New York, and my 20-year-
7 old is also in school in New York for general construction.

8 THE COURT: Okay. Have you or anyone close to you ever worked in law
9 enforcement or the legal field?

10 PROSPECTIVE JUROR WELCH: No.

11 THE COURT: Have you or anyone close to you ever been charged with a
12 crime?

13 PROSPECTIVE JUROR WELCH: No.

14 THE COURT: Have you or anyone close to you ever been the victim of a
15 crime, including sexual assault?

16 PROSPECTIVE JUROR WELCH: No.

17 THE COURT: Have you ever served as a juror before?

18 PROSPECTIVE JUROR WELCH: No.

19 THE COURT: Can you base your verdict solely on the evidence presented
20 at trial and wait to form an opinion until you've heard all of the evidence?

21 PROSPECTIVE JUROR WELCH: In this case I'm not sure.

22 THE COURT: Okay. What makes you say that?

23 PROSPECTIVE JUROR WELCH: I don't know. I have strong feelings about
24 something like this with children and sexual abuse and things of this nature.

1 THE COURT: Okay. And I think – My question is could you wait and listen
2 to all of the evidence before you make a decision? That's really the question.

3 PROSPECTIVE JUROR WELCH: I understand the question. I – Being
4 honest, I'm the type of person that's easily swayed. I don't know a hundred percent
5 that I could take the evidence and not go with my emotion. I'm the type of person
6 that someone can push me to make a decision. I'm being honest.

7 THE COURT: Okay. Ms. Kollins, would you like to ask any questions at this
8 point?

9 MS. KOLLINS: Just a couple, Judge.

10 Ms. Welch, my intent here isn't to make you uncomfortable or upset
11 you in any fashion, so if anything I say does upset you, I apologize in advance. I
12 noticed when you started to speak about that, you got a little choked up and a little
13 emotional. Now, is this because of some experience you know about involving
14 somebody that's close to you that is making you very emotional –

15 PROSPECTIVE JUROR WELCH: Honestly –

16 MS. KOLLINS: – or is it just the subject matter? Because the subject matter
17 is very distasteful. We all – there's not one person here that said, oh, boy, I can't
18 wait to be on a jury for a child sexual assault trial. So to the extent the subject
19 matter itself is distasteful and egregious, I understand that. But something is
20 making you emotional, and if it's painful for you to be here, then that's –

21 PROSPECTIVE JUROR WELCH: I believe it will be. When I – when I was
22 fifteen, I never talked to anyone about it.

23 MS. KOLLINS: That's all I wanted to know. Okay, thank you.

24 Judge, no objection.

1 THE COURT: Okay. Ma'am, thank you. I'm sorry. If you could just return
2 to Jury Services, ma'am. Thank you.

3 You know what, we're just going to go ahead and take a break for
4 about ten minutes.

5 During this recess, folks, you are admonished not to talk or converse
6 among yourselves or with anyone else on any subject connected with this trial,
7 or read, watch or listen to any report of or commentary on the trial or any person
8 connected with this trial by any medium of information, including without limitation
9 newspapers, television, the Internet and radio, or form or express any opinion on
10 any subject connected with the trial until the case is finally submitted to you.

11 Okay, folks, we'll see you back here at 2:40. Thank you.

12 MS. KOLLINS: May we approach real briefly? May we approach briefly?

13 **(Bench conference begins)**

14 MS. KOLLINS: Stacy Kollins, D.A.'s Office. Can you admonish them not to
15 speak to the lawyers, because they're all kind of chatty.

16 THE COURT: Sure. I go over that in a lot of detail in the pretrial instructions,
17 but we're not quite there yet, so.

18 MS. KOLLINS: When we were leaving earlier, hey, have a good lunch.

19 THE COURT: I'll remind them when they come back. Okay.

20 MS. KOLLINS: As we were walking they were this far behind us and there
21 was this chatter.

22 MR. COX: Oh, okay.

23 THE COURT: Okay, thanks.

24 **(Bench conference concluded)**

1 (Court recessed from 2:25:40 p.m. until 2:37:30 p.m.)

2 (Whereupon the following proceedings were held

3 in the presence of the prospective jury panel)

4 THE COURT: Okay. We're back on the record in Case Number C265506,
5 State of Nevada versus Tyrone James. Let the record reflect the presence of all of
6 our prospective jurors, Mr. James with his attorneys, and the representatives of the
7 District Attorney's Office.

8 And let's see, we need to call up –

9 THE CLERK: Badge number 45, Heather Lynn Egan.

10 THE COURT: Okay. Ms. Egan. Good afternoon, ma'am. How long have
11 you lived in Clark County?

12 PROSPECTIVE JUROR EGAN: Off and on for about five years.

13 THE COURT: Where did you live before that?

14 PROSPECTIVE JUROR EGAN: California.

15 THE COURT: Is that where you were living when you were "off"?

16 PROSPECTIVE JUROR EGAN: Yeah, back and forth from California.

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

18 PROSPECTIVE JUROR EGAN: I am now a club manager at a fitness facility.

19 THE COURT: Are you – What were you doing before that?

20 PROSPECTIVE JUROR EGAN: I was still with 24 Hour Fitness.

21 THE COURT: I see.

22 PROSPECTIVE JUROR EGAN: But now I'm permanent.

23 THE COURT: I see. Are you married or in a significant relationship?

24 PROSPECTIVE JUROR EGAN: Significant relationship.

1 THE COURT: What does your significant other do?
2 PROSPECTIVE JUROR EGAN: He's a PSR worker.
3 THE COURT: Do you have any children?
4 PROSPECTIVE JUROR EGAN: No.
5 THE COURT: Have you or anyone close to you worked in law enforcement
6 or the legal field?
7 PROSPECTIVE JUROR EGAN: Yes. My best friend's husband is a defense
8 attorney.
9 THE COURT: Okay. Here in Clark County?
10 PROSPECTIVE JUROR EGAN: Yes.
11 THE COURT: Do you talk to him much about his work?
12 PROSPECTIVE JUROR EGAN: No.
13 THE COURT: Have you or anyone close to you ever been charged with a
14 crime?
15 PROSPECTIVE JUROR EGAN: No.
16 THE COURT: Have you or anyone close to you ever been the victim of a
17 crime, including sexual assault?
18 PROSPECTIVE JUROR EGAN: No.
19 THE COURT: Have you ever served as a juror before?
20 PROSPECTIVE JUROR EGAN: Yes.
21 THE COURT: How many times?
22 PROSPECTIVE JUROR EGAN: Once.
23 THE COURT: Was it a criminal case or a civil case?
24 PROSPECTIVE JUROR EGAN: Criminal.

1 THE COURT: Without telling us what the verdict was, was the jury able to
2 reach a verdict?

3 PROSPECTIVE JUROR EGAN: Yes.

4 THE COURT: Were you the foreperson?

5 PROSPECTIVE JUROR EGAN: No.

6 THE COURT: And anything about your jury experience that you think would
7 impact your ability to sit as a juror in this case?

8 PROSPECTIVE JUROR EGAN: No.

9 THE COURT: Can you base your verdict solely on the evidence presented
10 at trial and wait to form an opinion until you've heard all of the evidence?

11 PROSPECTIVE JUROR EGAN: Yes.

12 THE COURT: Can you follow the instructions on the law that I give you,
13 regardless of whether you think the law is good or bad?

14 PROSPECTIVE JUROR EGAN: Yes.

15 THE COURT: Can you make a decision without worrying about criticism or
16 what other people might think?

17 PROSPECTIVE JUROR EGAN: Yes.

18 THE COURT: Do you know of any reason you couldn't be completely fair
19 and impartial if you were selected as a juror in this case?

20 PROSPECTIVE JUROR EGAN: No.

21 THE COURT: And if you were a party to this case, either party, would you
22 feel comfortable having someone like yourself as a juror?

23 PROSPECTIVE JUROR EGAN: Yes.

24 THE COURT: Thank you. Ms. Kollins?

1 MS. KOLLINS: Thank you, Judge.

2 Good afternoon, Ms. Egan. How are you?

3 PROSPECTIVE JUROR EGAN: Good. How are you?

4 MS. KOLLINS: Good. I'm sure you've listened intently to everything that's
5 been said today. Any expectations of a child victim of sexual assault, sexual abuse?

6 PROSPECTIVE JUROR EGAN: Uh-uh.

7 MS. KOLLINS: No? Do you think every kid is going to act the same?

8 PROSPECTIVE JUROR EGAN: No.

9 MS. KOLLINS: I heard you tell the judge what your significant other did,
10 but I didn't quite get it. I don't know if it's my cold or –

11 PROSPECTIVE JUROR EGAN: No, it's an acronym. Sorry. But PSR,
12 Psychological Social Rehabilitation for children; minors.

13 MS. KOLLINS: And where does he do that?

14 PROSPECTIVE JUROR EGAN: Clark County.

15 MS. KOLLINS: So he works for the County?

16 PROSPECTIVE JUROR EGAN: It's an actual – It's Inspiration Behaviors,
17 so here in Las Vegas.

18 MS. KOLLINS: Okay. So is he involved at all in the treatment of child victims
19 of sexual abuse?

20 PROSPECTIVE JUROR EGAN: That could be one, yeah. He deals with
21 several –

22 MS. KOLLINS: Okay. So behavioral problems, all types of things?

23 PROSPECTIVE JUROR EGAN: Absolutely.

24 MS. KOLLINS: Okay. Does he talk to you about his work?

1 PROSPECTIVE JUROR EGAN: To a certain extent. There's some
2 information he can't disclose.

3 MS. KOLLINS: Right, because it's privileged because of his profession?

4 PROSPECTIVE JUROR EGAN: Um-hm.

5 MS. KOLLINS: Do you think you would be compelled to explain your verdict
6 to him one way or another, given what he does for a living?

7 PROSPECTIVE JUROR EGAN: No.

8 MS. KOLLINS: Has he ever been called to testify in court regarding one of
9 his patients?

10 PROSPECTIVE JUROR EGAN: He's not been called to testify, but he does
11 have to – he reserves the right to present them in court, but he hasn't been called.

12 MS. KOLLINS: Okay. Does he ever do evaluations of kids for Family Court,
13 things like that?

14 PROSPECTIVE JUROR EGAN: Absolutely.

15 MS. KOLLINS: So those reports are ultimately shared with the court?

16 PROSPECTIVE JUROR EGAN: Yes.

17 MS. KOLLINS: Okay. Have you ever worked with him and assisted him in
18 his position –

19 PROSPECTIVE JUROR EGAN: No.

20 MS. KOLLINS: – with kids? Okay. Do you think it's easy for a kid to come
21 in here and talk about this kind of stuff?

22 PROSPECTIVE JUROR EGAN: No.

23 MS. KOLLINS: Can you think of reasons why a kid might fabricate an
24 allegation of sexual abuse?

1 PROSPECTIVE JUROR EGAN: Scared; intimidation or retaliation.

2 MS. KOLLINS: What would you look for when evaluating a kid's testimony
3 to decide whether or not you believe them?

4 PROSPECTIVE JUROR EGAN: The content.

5 MS. KOLLINS: You heard the instruction I've kind of asked a few people
6 about. If you believed the testimony of a child victim beyond a reasonable doubt
7 with nothing more, could you return a verdict of guilty?

8 PROSPECTIVE JUROR EGAN: Um, can you rephrase the question a little?

9 MS. KOLLINS: Sure. And kind of the point is, you know, we're kind of in the
10 day and age of "CSI" and everybody thinks it happens in an hour and DNA comes
11 back in fifteen minutes and, you know, we're going to have videotape and all, and
12 that's just not real life. It's not like that. You know, in sexual assault cases they –
13 most of them, most of child/adult sexual assault interaction occurs in private, so
14 what you have is the word of a child. So if you find that child credible and you
15 believe her beyond a reasonable doubt, are you comfortable with the instruction
16 that tells you that's enough to return a verdict of guilty?

17 PROSPECTIVE JUROR EGAN: Yes and no. I guess it would just depend
18 on the rest of the evidence of the case.

19 MS. KOLLINS: Okay.

20 PROSPECTIVE JUROR EGAN: I mean, if she's the only person that I'm
21 talking to or that I'm hearing, is that what you're asking?

22 MS. KOLLINS: We have a single victim here. And you're going to be
23 instructed. If you were sworn as part of this panel, you swear to follow the law as
24 instructed –

1 PROSPECTIVE JUROR EGAN: Absolutely.

2 MS. KOLLINS: – even if you don't like it; even if you don't care for what it
3 says. But if – Testimony is evidence.

4 PROSPECTIVE JUROR EGAN: Um-hm.

5 MS. KOLLINS: You agree on that? If you believe this kid on her word
6 beyond a reasonable doubt, are you comfortable returning a verdict of guilty,
7 or are you going to –

8 PROSPECTIVE JUROR EGAN: Yes. Beyond a reasonable doubt, yes.

9 MS. KOLLINS: Okay. The same four o'clock Friday question. It's four
10 o'clock Friday, eleven to one. You're going one way, the other eleven people are
11 going another way. What are you going to do?

12 PROSPECTIVE JUROR EGAN: I'm very opinionated. I like to voice my
13 opinion when I think that something is what I believe to be true and correct, or in this
14 case beyond a reasonable doubt, I stand my ground. I don't have a problem doing
15 that. I'm not easily swayed, so four o'clock or not.

16 MS. KOLLINS: Okay. So you're not going to say, I'm going to go your way
17 so we can all go home?

18 PROSPECTIVE JUROR EGAN: Absolutely not.

19 MS. KOLLINS: But you're going to, in the same respect, keep an open mind
20 and listen to the opinions of others?

21 PROSPECTIVE JUROR EGAN: Absolutely.

22 MS. KOLLINS: Okay. At 24 Hour Fitness, do you manage people?

23 PROSPECTIVE JUROR EGAN: Several.

24 MS. KOLLINS: Several trainers, I would imagine, or everything?

1 PROSPECTIVE JUROR EGAN: Everything.

2 MS. KOLLINS: Everything. You have to make decisions regarding disputes
3 there?

4 PROSPECTIVE JUROR EGAN: Um-hm.

5 MS. KOLLINS: You're able to listen to both sides and take all the information
6 in and come to a decision?

7 PROSPECTIVE JUROR EGAN: Absolutely.

8 MS. KOLLINS: Okay. I will pass the juror, Your Honor.

9 THE COURT: Thank you. Mr. Cox?

10 MR. COX: Thank you, Judge.

11 Just a couple questions, Ms. Egan. Do you believe that children are
12 capable of telling the truth but also capable of telling lies?

13 PROSPECTIVE JUROR EGAN: Yes.

14 MR. COX: Serious lies?

15 PROSPECTIVE JUROR EGAN: Um-hm.

16 MR. COX: And do you believe it's sometimes possible for us not to know
17 what the motive is?

18 PROSPECTIVE JUROR EGAN: Um-hm.

19 MR. COX: You may have a belief, but you know, you really can't get into
20 somebody's mind or really know exactly why they do something?

21 PROSPECTIVE JUROR EGAN: Um-hm.

22 MR. COX: Do you feel you'd be a fair juror if you were impaneled to sit on
23 Mr. James' trial?

24 PROSPECTIVE JUROR EGAN: Yes.

1 MR. COX: Do you see him as present -- there's no evidence presented,
2 do you see him as being innocent or not guilty at this time?

3 PROSPECTIVE JUROR EGAN: (Nods head affirmatively).

4 MR. COX: Judge, I'll pass the juror for cause.

5 THE COURT: Thank you. Okay. And then it will be the State's 4th.

6 MR. COX: I think Defense.

7 MR. PANDELIS: No, State's.

8 MR. COX: Oh, State's. Yes. I'm sorry, yes, you're correct.

9 THE COURT: And that puts us back on -- Well, it's because I got out of
10 order, but this will put us back on track.

11 And if you folks want to take a second while -- any time we have
12 counsel up here or if there's a break in the action, feel free to use that as a moment
13 to stand up. I know it's hard to sit for long periods of time. I think they're ready now,
14 but when we have a break of things or if the lawyers are up here and we're talking
15 about something, feel free to use that time to stand up, get a drink of water or do
16 whatever you need to do to stretch and stay awake.

17 MS. KOLLINS: Your Honor, the State would thank and excuse juror number
18 10, Ms. Ricafort in seat four.

19 THE COURT: Okay. Ma'am, thank you so much for your time. We really
20 appreciate you coming in. If you could just return to Jury Services. Thank you.

21 THE CLERK: Badge number 46, Jane Bartell. Is it Bartell or Bartell?

22 PROSPECTIVE JUROR BARTELL: Bartell.

23 THE CLERK: Bartell.

24 THE COURT: Good afternoon, Ms. Bartell. How are you feeling? Are you

1 doing okay?

2 PROSPECTIVE JUROR BARTELL: Yes, thank you.

3 THE COURT: Okay. How long have you lived in Clark County?

4 PROSPECTIVE JUROR BARTELL: Sixteen years.

5 THE COURT: What do you do for a living?

6 PROSPECTIVE JUROR BARTELL: I'm a professional dancer, a dance
7 teacher, a dance competition judge, and I'm a personal assistant to the head of
8 Mary Kay Cosmetics.

9 THE COURT: Are you married or in a significant relationship?

10 PROSPECTIVE JUROR BARTELL: Married.

11 THE COURT: What does your significant other do?

12 PROSPECTIVE JUROR BARTELL: He's a stage hand at the Flamingo.

13 THE COURT: Do you have any children?

14 PROSPECTIVE JUROR BARTELL: Yes. I raised two stepdaughters and
15 my husband and I have a little boy. He is eight.

16 THE COURT: How old are your stepdaughters and what do they do?

17 PROSPECTIVE JUROR BARTELL: My eldest, she's 26. She is a school
18 teacher, elementary. Our middle is 24 and she works for Fresh Express as an
19 account manager.

20 THE COURT: Have you or anyone close to you ever worked in law
21 enforcement or the legal field?

22 PROSPECTIVE JUROR BARTELL: My son-in-law is a Metro police officer.
23 My uncle and godfather is a deputy sheriff in New York in the courtroom. And my
24 best friend is a lawyer here in Las Vegas.

1 THE COURT: Okay. What kind of law does your best friend practice?

2 PROSPECTIVE JUROR BARTELL: She was criminal defense in Reno and
3 now she is construction law here.

4 THE COURT: Anything about your relationships with any of those folks that
5 you think would make it difficult for you to sit as a juror in this case?

6 PROSPECTIVE JUROR BARTELL: No, ma'am.

7 THE COURT: So you wouldn't feel like, say, you had to justify any decision
8 you made in this case to your son-in-law?

9 PROSPECTIVE JUROR BARTELL: Correct.

10 THE COURT: Have you or anyone close to you ever been charged with a
11 crime?

12 PROSPECTIVE JUROR BARTELL: No.

13 THE COURT: Have you or anyone close to you ever been the victim of a
14 crime, including sexual assault?

15 PROSPECTIVE JUROR BARTELL: I was sexually assaulted at eighteen by
16 someone that I knew.

17 THE COURT: Do you think that's going to make it difficult for you to sit as a
18 juror in this case?

19 PROSPECTIVE JUROR BARTELL: Yes.

20 THE COURT: Ms. Kollins? Mr. Cox?

21 MS. KOLLINS: Judge, I don't think the State is going to object.

22 THE COURT: Okay. Ma'am, we're going to go ahead and excuse you.

23 They'll see if they have a different nature of trial for you. If you could just return to
24 Jury Services. Thank you, ma'am.

1 THE CLERK: Badge number 47, James Beneda.

2 THE COURT: Afternoon, sir. How long have you lived in Clark County?

3 PROSPECTIVE JUROR BENEDA: For the past eight years, but off an on for
4 forty-five years.

5 THE COURT: Okay. So where did you live when you weren't here?

6 PROSPECTIVE JUROR BENEDA: From where?

7 THE COURT: Where did you live when you – before here, before you were
8 living here?

9 PROSPECTIVE JUROR BENEDA: I lived here until 1990 and then I lived –
10 I served as an ex-Pat for ten years ago. I came back here in 2002.

11 THE COURT: Okay. Where were you when you were out of the country?

12 PROSPECTIVE JUROR BENEDA: Oh, I lived in several different countries.
13 England, Jamaica, Pakistan.

14 THE COURT: What do you do for a living?

15 PROSPECTIVE JUROR BENEDA: What?

16 THE COURT: What do you do for a living?

17 PROSPECTIVE JUROR BENEDA: Where do I work?

18 THE COURT: Um-hm.

19 PROSPECTIVE JUROR BENEDA: I work in the telecommunications
20 business.

21 THE COURT: Are you married or in a significant relationship?

22 PROSPECTIVE JUROR BENEDA: I'm single.

23 THE COURT: Do you have any children?

24 PROSPECTIVE JUROR BENEDA: I do. Two sons.

1 THE COURT: And how old are they and what do they do?

2 PROSPECTIVE JUROR BENEDA: Ages 42 and 36.

3 THE COURT: And what do they do?

4 PROSPECTIVE JUROR BENEDA: They – one works for – my youngest son
5 works for Liberty Mutual in Milwaukee, Wisconsin, and my oldest works for a storage
6 shed company here in Las Vegas.

7 THE COURT: Have you or anyone close to you worked in law enforcement
8 or the legal field?

9 PROSPECTIVE JUROR BENEDA: No.

10 THE COURT: Have you or anyone close to you ever been charged with a
11 crime?

12 PROSPECTIVE JUROR BENEDA: Yes.

13 THE COURT: And can you tell me about that?

14 PROSPECTIVE JUROR BENEDA: My oldest son has been charged with a
15 crime probably twenty years ago. It was counted as a misdemeanor for – I believe
16 it was theft.

17 THE COURT: Okay. And that's all – it was resolved many years ago?

18 PROSPECTIVE JUROR BENEDA: It was over twenty years ago, yes.

19 THE COURT: That wasn't here? Was that here in Clark County?

20 PROSPECTIVE JUROR BENEDA: Yes, it was.

21 THE COURT: Anything about that experience that you think might prevent
22 you from sitting as a juror in this case?

23 PROSPECTIVE JUROR BENEDA: No.

24 THE COURT: Have you or anyone close to you ever been the victim of a

1 crime, including sexual assault?

2 PROSPECTIVE JUROR BENEDA: No.

3 THE COURT: Have you ever served as a juror before?

4 PROSPECTIVE JUROR BENEDA: Yes.

5 THE COURT: How many times?

6 PROSPECTIVE JUROR BENEDA: Three.

7 THE COURT: And criminal cases or civil cases?

8 PROSPECTIVE JUROR BENEDA: Both.

9 THE COURT: How many of –

10 PROSPECTIVE JUROR BENEDA: One criminal, two civil.

11 THE COURT: Okay. Without telling us verdicts in any of the cases, was the
12 jury able to reach a verdict in each case?

13 PROSPECTIVE JUROR BENEDA: Yes. It was a hung jury, but we finally
14 came up with it, yes.

15 THE COURT: Okay. So you – Let's start in the criminal case. Was the jury
16 able to reach a verdict?

17 PROSPECTIVE JUROR BENEDA: Yes.

18 THE COURT: Were you the foreperson in that case?

19 PROSPECTIVE JUROR BENEDA: No.

20 THE COURT: In the civil cases, was the jury able to reach a verdict in each
21 case?

22 PROSPECTIVE JUROR BENEDA: Yes.

23 THE COURT: And were you the foreperson in either of those cases?

24 PROSPECTIVE JUROR BENEDA: No.

1 THE COURT: Okay. Anything about your prior jury experience that you think
2 might make it difficult for you to sit as a juror in this case?

3 PROSPECTIVE JUROR BENEDA: No.

4 THE COURT: Can you base your verdict solely on the evidence presented
5 at trial and wait to form an opinion until you've heard all of the evidence?

6 PROSPECTIVE JUROR BENEDA: Yes.

7 THE COURT: Can you follow the instructions on the law that I give you,
8 regardless of whether you think the law is good or bad?

9 PROSPECTIVE JUROR BENEDA: Yes.

10 THE COURT: Can you make a decision without worrying about criticism or
11 what other people might think?

12 PROSPECTIVE JUROR BENEDA: Yes.

13 THE COURT: Do you know of any reason you couldn't be completely fair
14 and impartial if you were selected as a juror in this case?

15 PROSPECTIVE JUROR BENEDA: No.

16 THE COURT: And if you were either party to this case, would you be
17 comfortable having someone like yourself as a juror?

18 PROSPECTIVE JUROR BENEDA: Yes.

19 THE COURT: Okay. Mr. Pandelis?

20 MR. PANDELIS: Thank you.

21 Good afternoon, sir. Do you have any grandchildren?

22 PROSPECTIVE JUROR BENEDA: I do.

23 MR. PANDELIS: How many?

24 PROSPECTIVE JUROR BENEDA: Two.

1 MR. PANDELIS: How old are they?

2 PROSPECTIVE JUROR BENEDA: Ages two and a half and eight.

3 MR. PANDELIS: Do you have steady contact? Do they live here in Las
4 Vegas?

5 PROSPECTIVE JUROR BENEDA: No, they're in Wisconsin.

6 MR. PANDELIS: Okay. So they're not the children of the son that lives here
7 in town?

8 PROSPECTIVE JUROR BENEDA: Correct.

9 MR. PANDELIS: Do you have contact with any children here in Las Vegas
10 through family friends, things like that?

11 PROSPECTIVE JUROR BENEDA: Yes.

12 MR. PANDELIS: Are you around children often?

13 PROSPECTIVE JUROR BENEDA: Yes.

14 MR. PANDELIS: Would you agree with me that each one of those children
15 acts differently?

16 PROSPECTIVE JUROR BENEDA: Well, each one acts differently.

17 MR. PANDELIS: They have unique personalities?

18 PROSPECTIVE JUROR BENEDA: Yes.

19 MR. PANDELIS: Do you have certain expectations how a child might testify
20 in court?

21 PROSPECTIVE JUROR BENEDA: Not really. They'll act like children.

22 MR. PANDELIS: But at the same time, you don't expect that a child is going
23 to be able to come in and testify in the same way that an adult would, do you?

24 PROSPECTIVE JUROR BENEDA: No.

1 MR. PANDELIS: Do you think it's difficult for a child to talk about sexual
2 abuse?

3 PROSPECTIVE JUROR BENEDA: Yes.

4 MR. PANDELIS: Do you think different children handle talking about sexual
5 abuse in different ways?

6 PROSPECTIVE JUROR BENEDA: Yes.

7 MR. PANDELIS: I'll pass the juror, Your Honor.

8 THE COURT: Thank you. Mr. Cox?

9 MR. COX: Thank you.

10 Mr. Beneda, good afternoon. You lived in Pakistan?

11 PROSPECTIVE JUROR BENEDA: Yes.

12 MR. COX: Was that setting up telecommunications?

13 PROSPECTIVE JUROR BENEDA: Yes.

14 MR. COX: Was it dangerous?

15 PROSPECTIVE JUROR BENEDA: Pardon?

16 MR. COX: Was it dangerous?

17 PROSPECTIVE JUROR BENEDA: That's relative.

18 MR. COX: Okay. Mr. Pandelis talked to you about the testimony of a child.
19 I guess we don't really know what to expect. They're going to behave like children,
20 right? Do you believe children are capable of telling lies?

21 PROSPECTIVE JUROR BENEDA: Yes.

22 MR. COX: Very serious lies, in fact?

23 PROSPECTIVE JUROR BENEDA: Very what?

24 MR. COX: Very serious lies that have -- they can have a big --

1 PROSPECTIVE JUROR BENEDA: Serious lies?

2 MR. COX: Very serious lies. Yes. Do you believe a child is capable of lying
3 about being sexually assaulted?

4 PROSPECTIVE JUROR BENEDA: I'm not sure whether it would be a lie,
5 but I believe they might indicate that adults might not believe them, but it might not
6 be a lie.

7 MR. COX: Okay. Do you think it's possible for them to report something that
8 actually didn't happen?

9 PROSPECTIVE JUROR BENEDA: I think it's possible that they can, yes.

10 MR. COX: Okay. And we may not know what their motive is that they had
11 done that?

12 PROSPECTIVE JUROR BENEDA: That's correct.

13 MR. COX: Is that possible?

14 PROSPECTIVE JUROR BENEDA: Yes.

15 MR. COX: Now, Ms. Kollins and Mr. Pandelis mentioned about the credibility
16 of a child versus an adult, whether or not you would inherently believe the testimony
17 of a child over an adult. Would you do that?

18 PROSPECTIVE JUROR BENEDA: Inherently?

19 MR. COX: Inherently. If a child comes in and says something happened and
20 an adult says it didn't, would you choose the side of the child simply because the
21 child is young?

22 PROSPECTIVE JUROR BENEDA: No, I don't think I would do that.

23 MR. COX: And vice-versa, would you simply side with the adult?

24 PROSPECTIVE JUROR BENEDA: No.

1 MR. COX: Are you prepared to look at the credibility of both versions?

2 PROSPECTIVE JUROR BENEDA: Correct. Yes.

3 MR. COX: Okay. I'll pass the juror for cause, Judge.

4 THE COURT: Thank you. Okay. And it's the Defense 4th. Is that right?

5 MR. COX: Judge, the Defense would like to thank and excuse Mr. Beneda,
6 juror badge 47. Thank you.

7 THE COURT: Sir, thank you so much for your time today. We really
8 appreciate you coming in. If you could just please return to Jury Services. Thank
9 you, sir.

10 PROSPECTIVE JUROR BENEDA: Thank you.

11 THE CLERK: Badge number 49, Sean Grupe. Is it Grupe?

12 PROSPECTIVE JUROR GRUPE: Grupe.

13 THE CLERK: Grupe. Thank you.

14 THE COURT: Afternoon, sir. How long have you lived in Clark County?

15 PROSPECTIVE JUROR GRUPE: Fifteen plus years.

16 THE COURT: What do you do for a living?

17 PROSPECTIVE JUROR GRUPE: I'm in banking.

18 THE COURT: Are you married or in a significant relationship?

19 PROSPECTIVE JUROR GRUPE: No.

20 THE COURT: Do you have any children?

21 PROSPECTIVE JUROR GRUPE: No.

22 THE COURT: Have you or anyone close to you ever worked in law
23 enforcement or the legal field?

24 PROSPECTIVE JUROR GRUPE: No.

1 THE COURT: Have you or anyone close to you ever been charged with a
2 crime?

3 PROSPECTIVE JUROR GRUPE: No.

4 THE COURT: Have you or anyone close to you ever been the victim of a
5 crime, including sexual assault?

6 PROSPECTIVE JUROR GRUPE: No.

7 THE COURT: Have you ever served as a juror before?

8 PROSPECTIVE JUROR GRUPE: No.

9 THE COURT: Can you base your verdict solely on the evidence presented
10 at trial and wait to form an opinion until you've heard all of the evidence?

11 PROSPECTIVE JUROR GRUPE: Correct.

12 THE COURT: Can you follow the instructions on the law that I give you,
13 regardless of whether you think the law is good or bad?

14 PROSPECTIVE JUROR GRUPE: Yes.

15 THE COURT: Can you make a decision without worrying about criticism or
16 what other people might think?

17 PROSPECTIVE JUROR GRUPE: I can.

18 THE COURT: Do you know of any reason you couldn't be completely fair
19 and impartial if you were selected as a juror in this case?

20 PROSPECTIVE JUROR GRUPE: No.

21 THE COURT: And if you were either party to this case, would you be
22 comfortable having someone like yourself as a juror?

23 PROSPECTIVE JUROR GRUPE: I would.

24 THE COURT: Okay. Ms. Kollins?

1 MS. KOLLINS: How are you today?
2 PROSPECTIVE JUROR GRUPE: I'm doing well.
3 MS. KOLLINS: Raised in Las Vegas?
4 PROSPECTIVE JUROR GRUPE: Pretty much.
5 MS. KOLLINS: Pretty much? What do you do when you're not banking?
6 PROSPECTIVE JUROR GRUPE: Mostly just hang out with friends.
7 MS. KOLLINS: Mostly just hang out with friends. Doing what? Hanging out?
8 PROSPECTIVE JUROR GRUPE: Frisbee, miniature golf, anything.
9 MS. KOLLINS: Did you go to high school here then?
10 PROSPECTIVE JUROR GRUPE: Yes, I did.
11 MS. KOLLINS: Are you in school right now or are you just working?
12 PROSPECTIVE JUROR GRUPE: I'm just working.
13 MS. KOLLINS: Is this the first time you've been called for jury service or even
14 got a summons to come down?
15 PROSPECTIVE JUROR GRUPE: Yeah.
16 MS. KOLLINS: Did you think you'd make it this far?
17 PROSPECTIVE JUROR GRUPE: Yeah, probably.
18 MS. KOLLINS: Great, right? Okay. It's Friday afternoon at four o'clock.
19 You're one. There's eleven people with an opposite view than you. What are you
20 going to do?
21 PROSPECTIVE JUROR GRUPE: I'd like to hear their opinions and I'd voice
22 my opinion.
23 MS. KOLLINS: Okay. Stand your ground with them?
24 PROSPECTIVE JUROR GRUPE: Stand my ground.

1 MS. KOLLINS: Okay. You're going to hear a young lady come in here and
2 talk about some pretty graphic stuff. What do you think that's going to be like for
3 her?

4 PROSPECTIVE JUROR GRUPE: It's probably going to be pretty hard.
5 I imagine it would be pretty hard for anybody.

6 MS. KOLLINS: You're going to hear some graphic medical testimony about
7 genitalia, etcetera. What do you – Do you think you're good with that, you can listen
8 to that and make a decision?

9 PROSPECTIVE JUROR GRUPE: I'll come to a decision.

10 MS. KOLLINS: What about if you get on the panel with your friend from high
11 school? You guys aren't going to like form a union and have a standoff, are you,
12 with everybody else?

13 PROSPECTIVE JUROR GRUPE: No.

14 MS. KOLLINS: Okay. Are you still good enough friends that you hang out
15 all the time?

16 PROSPECTIVE JUROR GRUPE: We hang out once in awhile.

17 MS. KOLLINS: Once in a while? Okay. What do you expect from a victim
18 in this kind of case? What do you expect them to act like?

19 PROSPECTIVE JUROR GRUPE: Whatever they're feeling. I don't really
20 know exactly how you're supposed to act. I haven't done this before, so they should
21 just act how they feel.

22 MS. KOLLINS: Because there's fourteen personalities in there and you're all
23 different, right?

24 PROSPECTIVE JUROR GRUPE: I think so.

1 MS. KOLLINS: You probably communicate in different ways. Yeah. If she
2 doesn't cry, does that mean you won't believe her?

3 PROSPECTIVE JUROR GRUPE: No.

4 MS. KOLLINS: You know it's not TV, we're not going to wrap it up in an hour
5 with a bunch of hysteria and stuff, right?

6 PROSPECTIVE JUROR GRUPE: Of course. There are no particular --
7 (inaudible).

8 MS. KOLLINS: Thank you very much, Mr. Grupe. Pass the juror, Judge.

9 THE COURT: Thank you. Mr. Cox?

10 MR. COX: How do you pronounce your last name?

11 PROSPECTIVE JUROR GRUPE: Grupe.

12 MR. COX: Grupe. If you hang with a band, that would be awfully ironic,
13 wouldn't it?

14 PROSPECTIVE JUROR GRUPE: It would.

15 MR. COX: Do you feel that kids are capable of telling very serious lies?

16 PROSPECTIVE JUROR GRUPE: I believe anybody is capable of lying.

17 MR. COX: And we may not always know their motive?

18 PROSPECTIVE JUROR GRUPE: Sure.

19 MR. COX: Do you think you'd be a fair juror if you were impaneled to sit on
20 this trial?

21 PROSPECTIVE JUROR GRUPE: I do.

22 MR. COX: Why is that?

23 PROSPECTIVE JUROR GRUPE: I like to hear both sides of the story.

24 MR. COX: Are you prepared to reserve your conclusion until the end?

1 PROSPECTIVE JUROR GRUPE: Yes.

2 MR. COX: I'll pass for cause, Judge.

3 THE COURT: Thank you. Okay, I have State's 5th.

4 MS. KOLLINS: Court's indulgence. Judge, the State is going to waive its 5th.

5 THE COURT: Okay. Mr. Cox?

6 MR. COX: Court's indulgence. Your Honor, the Defense would like to thank
7 and excuse juror number 12, Jacqueline Varon.

8 THE COURT: Ma'am, thank you so much for your time. I really appreciate
9 you being here today. If you could just return to Jury Services. Thank you.

10 THE CLERK: Badge number 52, Jennifer Mills.

11 THE COURT: Afternoon, ma'am. How long have you lived in Clark County?

12 PROSPECTIVE JUROR MILLS: This is my seventh year.

13 THE COURT: Where did you come from?

14 PROSPECTIVE JUROR MILLS: Lawrence, Kansas.

15 THE COURT: That's quite a difference, isn't it?

16 PROSPECTIVE JUROR MILLS: Yes.

17 THE COURT: What do you do for a living?

18 PROSPECTIVE JUROR MILLS: Currently I'm a high school librarian. I was
19 an English teacher in middle school prior to that.

20 THE COURT: Are you married or in a significant relationship?

21 PROSPECTIVE JUROR MILLS: I'm married.

22 THE COURT: What does your spouse do?

23 PROSPECTIVE JUROR MILLS: He's a high school social studies teacher.

24 THE COURT: Do you have any children?

1 PROSPECTIVE JUROR MILLS: We have one on the way.

2 THE COURT: Well, congratulations.

3 PROSPECTIVE JUROR MILLS: Thank you.

4 THE COURT: Have you or anyone close to you worked in law enforcement
5 or the legal field?

6 PROSPECTIVE JUROR MILLS: No.

7 THE COURT: Have you or anyone close to you ever been charged with a
8 crime?

9 PROSPECTIVE JUROR MILLS: Yes.

10 THE COURT: And can you tell me about that?

11 PROSPECTIVE JUROR MILLS: A friend and colleague at the high school
12 where I work was charged with – I don't know what the legal term is, but having sex
13 with a minor.

14 THE COURT: Okay. Were you involved in any of the court proceedings
15 with that?

16 PROSPECTIVE JUROR MILLS: No.

17 THE COURT: Do you have any –

18 PROSPECTIVE JUROR MILLS: I actually don't even know what's going on
19 with that case.

20 THE COURT: Okay. Anything about that you think would impact your ability
21 to sit as a juror in this case?

22 PROSPECTIVE JUROR MILLS: No.

23 THE COURT: Have you or anyone close to you ever been the victim of a
24 crime, including sexual assault?

1 PROSPECTIVE JUROR MILLS: No.

2 THE COURT: Have you ever served as a juror before?

3 PROSPECTIVE JUROR MILLS: No.

4 THE COURT: Can you base your verdict solely on the evidence presented
5 at trial and wait to form an opinion until you've heard all of the evidence?

6 PROSPECTIVE JUROR MILLS: Yes.

7 THE COURT: Can you follow the instructions on the law that I give you,
8 regardless of whether you think the law is good or bad?

9 PROSPECTIVE JUROR MILLS: Yes.

10 THE COURT: Can you make a decision without worrying about criticism or
11 what other people might think?

12 PROSPECTIVE JUROR MILLS: Yes.

13 THE COURT: Do you know of any reason you couldn't be completely fair
14 and impartial if you were selected as a juror in this case?

15 PROSPECTIVE JUROR MILLS: No.

16 THE COURT: And if you were either party to this case, would you be
17 comfortable having someone like yourself as a juror?

18 PROSPECTIVE JUROR MILLS: Yes.

19 THE COURT: Thank you. Ms. Kollins?

20 MS. KOLLINS: How are you this afternoon?

21 PROSPECTIVE JUROR MILLS: I'm well. How are you?

22 MS. KOLLINS: I'm fine. Better than I was a couple hours ago. You have
23 a colleague that has been involved in the criminal justice system, sexual assault
24 with a student?

1 PROSPECTIVE JUROR MILLS: Uh-huh.

2 MS. KOLLINS: Unlawful contact with a student, I imagine.

3 PROSPECTIVE JUROR MILLS: Uh-huh.

4 MS. KOLLINS: And that is here in Las Vegas?

5 PROSPECTIVE JUROR MILLS: It is.

6 MS. KOLLINS: Is that an active case?

7 PROSPECTIVE JUROR MILLS: It – I believe that she pleaded guilty, and
8 so there is a sentencing that is still to take place, and that part – I don't even know
9 when that is occurring.

10 MS. KOLLINS: Okay. Is this someone that you were close enough to that
11 you followed through the proceedings with them and communicated about them?

12 PROSPECTIVE JUROR MILLS: No. I mean, we were close, but after that
13 I just cut off communication.

14 MS. KOLLINS: Okay. So do you have a strong opinion one way or another
15 how she was treated by the criminal justice system?

16 PROSPECTIVE JUROR MILLS: I actually don't know how she was treated.

17 MS. KOLLINS: Okay. So just the fact that she was charged, there was an
18 investigation, a complaint was filed, a kid came forward, anything about what you
19 know about the process up until you cut communication that you felt she was
20 treated unfairly?

21 PROSPECTIVE JUROR MILLS: No.

22 MS. KOLLINS: So anything that happened with her will not have any affect
23 on how you decide this case or decide the issues in this case?

24 PROSPECTIVE JUROR MILLS: No.

1 MS. KOLLINS: Because that's completely different from what happened
2 here?

3 PROSPECTIVE JUROR MILLS: Correct.

4 MS. KOLLINS: You teach what grade level now?

5 PROSPECTIVE JUROR MILLS: High school.

6 MS. KOLLINS: High school. And now you're a librarian but you did teach
7 high school English?

8 PROSPECTIVE JUROR MILLS: Middle school English; eighth graders.

9 MS. KOLLINS: So you've had some exposure to teenagers?

10 PROSPECTIVE JUROR MILLS: Yes.

11 MS. KOLLINS: And teenage angst?

12 PROSPECTIVE JUROR MILLS: Yes.

13 MS. KOLLINS: And teenage attitude?

14 PROSPECTIVE JUROR MILLS: Yes.

15 MS. KOLLINS: That's the way kids are for the most part, right? Our victim
16 in here is fifteen. She's fifteen all day, okay. Anything about any of your experiences
17 as a middle school teacher or as a librarian that would affect the way you receive her
18 testimony or any judgment you might make?

19 PROSPECTIVE JUROR MILLS: No.

20 MS. KOLLINS: Do you think every kid is going to act the same under this set
21 of circumstances?

22 PROSPECTIVE JUROR MILLS: Of course not.

23 MS. KOLLINS: Are you familiar with the mandatory reporter thing that I spoke
24 about earlier?

1 PROSPECTIVE JUROR MILLS: Yes.

2 MS. KOLLINS: Have you ever had to use that in your job?

3 PROSPECTIVE JUROR MILLS: I have.

4 MS. KOLLINS: For sex abuse, physical abuse or --

5 PROSPECTIVE JUROR MILLS: It was physical abuse and I simply reported
6 it to CPS and they took it from there.

7 MS. KOLLINS: Here in Las Vegas?

8 PROSPECTIVE JUROR MILLS: Yes.

9 MS. KOLLINS: Ever have to go to court, file a report, anything like that?

10 PROSPECTIVE JUROR MILLS: No, I did not.

11 MS. KOLLINS: Did the child come to you or did you approach the child?

12 PROSPECTIVE JUROR MILLS: The child -- actually, because I taught
13 English, we wrote in journals, and he wrote in his journal about it.

14 MS. KOLLINS: So it wasn't necessarily something that he was voluntarily
15 coming to you with?

16 PROSPECTIVE JUROR MILLS: Correct.

17 MS. KOLLINS: Something you ran across?

18 PROSPECTIVE JUROR MILLS: Correct.

19 MS. KOLLINS: How about your husband as a high school teacher; mandatory
20 report ever? Has he ever had to do any?

21 PROSPECTIVE JUROR MILLS: Not that I know of.

22 MS. KOLLINS: And now, is he teaching at the same school as the colleague
23 that we spoke about earlier?

24 PROSPECTIVE JUROR MILLS: That's correct.

1 MS. KOLLINS: And did his social interaction cut off about the same as yours
2 did whenever this –

3 PROSPECTIVE JUROR MILLS: Correct.

4 MS. KOLLINS: – came out?

5 PROSPECTIVE JUROR MILLS: Yes.

6 MS. KOLLINS: Does he have any strong feelings whether she was treated
7 fairly or not or prosecuted fairly?

8 PROSPECTIVE JUROR MILLS: Not that we've discussed, no.

9 MS. KOLLINS: Nothing that would influence you being fair today?

10 PROSPECTIVE JUROR MILLS: No.

11 MS. KOLLINS: There's been some discussion back and forth today about
12 people wanting to hear both sides. And just so we're clear, the obligation is on
13 myself and Mr. Pandelis to prove this case beyond a reasonable doubt. The
14 defense, no one has to testify, no one has to put on anything. It's our burden, okay,
15 so there's not necessarily two sides to lay. Are you familiar with that concept?

16 PROSPECTIVE JUROR MILLS: Yes.

17 MS. KOLLINS: Thank you very much, ma'am.

18 THE COURT: Mr. Cox?

19 MR. COX: Thank you, Judge. Just briefly.

20 Ms. Mills?

21 PROSPECTIVE JUROR MILLS: Yes.

22 MR. COX: Good afternoon.

23 PROSPECTIVE JUROR MILLS: Good afternoon.

24 MR. COX: There's been lots of questions asked, perhaps too many. Is there

1 any particular question or response that you took particular exception with? Not to
2 go back and rehash all the questions.

3 PROSPECTIVE JUROR MILLS: Not in particular, no.

4 MR. COX: Any view that you would disagree with, taking an exception to?

5 PROSPECTIVE JUROR MILLS: No.

6 MR. COX: Do you feel that you could give Mr. James a fair trial if you were
7 impaneled?

8 PROSPECTIVE JUROR MILLS: Yes.

9 MR. COX: Why is that?

10 PROSPECTIVE JUROR MILLS: I feel that I am just able to look at what's
11 presented and be unbiased and take this as a separate situation.

12 MR. COX: Thank you very much, Ms. Mills. Pass for cause, Judge.

13 THE COURT: Thank you. State's 6th.

14 MR. PANDELIS: Your Honor, the State waives their 6th challenge.

15 THE COURT: Mr. Cox?

16 MR. COX: Your Honor, the Defense would like to thank and excuse Mr.
17 Septer, juror number seven.

18 THE COURT: Sir, thank you so much for your time. We really appreciate
19 you coming in. If you go that way, which is fine, don't trip on the cords, please.
20 There's just - okay. Thank you so much for your time today, sir. Just go back to
21 Jury Services. Thanks.

22 THE CLERK: Badge number 53, Natalie Duggan.

23 THE COURT: Afternoon, ma'am. How long have you lived in Clark County?

24 PROSPECTIVE JUROR DUGGAN: Almost six years.

1 THE COURT: Where did you live before that?
2 PROSPECTIVE JUROR DUGGAN: New Zealand.
3 THE COURT: What do you do for a living?
4 PROSPECTIVE JUROR DUGGAN: I'm a cocktail server at a casino.
5 THE COURT: Are you married or in a significant relationship?
6 PROSPECTIVE JUROR DUGGAN: I have a boyfriend.
7 THE COURT: So what does your significant other do?
8 PROSPECTIVE JUROR DUGGAN: He's a nurse.
9 THE COURT: Do you have any children?
10 PROSPECTIVE JUROR DUGGAN: No.
11 THE COURT: Have you or anyone close to you ever worked in law
12 enforcement or the legal field?
13 PROSPECTIVE JUROR DUGGAN: I have a lot of friends who are cops and
14 lawyers and judges. They don't live here though.
15 THE COURT: No one here?
16 PROSPECTIVE JUROR DUGGAN: All over the place.
17 THE COURT: Okay. Anybody – Would your friendships with any of those
18 people impact your ability to sit as a juror in this case?
19 PROSPECTIVE JUROR DUGGAN: No.
20 THE COURT: Let me go back and ask a question about your boyfriend.
21 What kind of nurse is he?
22 PROSPECTIVE JUROR DUGGAN: He's an R.N. He runs a small surgery
23 center. He's worked in hospitals and kind of does everything.
24 THE COURT: So it's like a day surgery, outpatient surgery center?

1 PROSPECTIVE JUROR DUGGAN: (Inaudible response).

2 THE COURT: Have you or anyone close to you ever been charged with a
3 crime?

4 PROSPECTIVE JUROR DUGGAN: No, not me. My roommate. I had a
5 really good friend in Hawaii who was charged with a federal drug case.

6 THE COURT: How long ago was that?

7 PROSPECTIVE JUROR DUGGAN: It was a long time ago. Twelve years
8 ago.

9 THE COURT: Anything about that incident that you think would impact your
10 ability to sit as a juror in this case?

11 PROSPECTIVE JUROR DUGGAN: Uh-uh.

12 THE COURT: Have you or anyone close to you ever been the victim of a
13 crime, including sexual assault?

14 PROSPECTIVE JUROR DUGGAN: I have not. One of my good friends
15 I grew up with was really beaten pretty badly -- (inaudible). It was a long time ago.
16 We were like fourteen, fifteen.

17 THE COURT: Okay. Is there anything about that you think might make it
18 difficult for you to sit as a juror in this case?

19 PROSPECTIVE JUROR DUGGAN: No.

20 THE COURT: Have you ever served as a juror before?

21 PROSPECTIVE JUROR DUGGAN: No, I haven't.

22 THE COURT: Can you base your verdict solely on the evidence presented
23 at trial and wait to form an opinion until you've heard all of the evidence?

24 PROSPECTIVE JUROR DUGGAN: Yes.

1 THE COURT: Can you follow the instructions on the law that I give you,
2 regardless of whether you think the law is good or bad?

3 PROSPECTIVE JUROR DUGGAN: Yes.

4 THE COURT: Can you make a decision without worrying about criticism or
5 what other people might think?

6 PROSPECTIVE JUROR DUGGAN: Yes.

7 THE COURT: Do you know of any reason you couldn't be completely fair
8 and impartial if you were selected as a juror in this case?

9 PROSPECTIVE JUROR DUGGAN: No.

10 THE COURT: And if you were either party to this case, would you be
11 comfortable having someone like yourself as a juror?

12 PROSPECTIVE JUROR DUGGAN: yes.

13 THE COURT: Thank you. Mr. Pandelis?

14 MR. PANDELIS: Thank you, Your Honor.

15 Good afternoon. You said you had lots of friends who were involved in
16 law enforcement and also lots of friends who are lawyers out of – not in Las Vegas,
17 though?

18 PROSPECTIVE JUROR DUGGAN: Correct.

19 MR. PANDELIS: What types of lawyers are those people?

20 PROSPECTIVE JUROR DUGGAN: All kinds. Real estate, defense attorneys.

21 MR. PANDELIS: So you do know some criminal defense attorneys?

22 PROSPECTIVE JUROR DUGGAN: Um-hm.

23 MR. PANDELIS: Do you ever talk to them about their cases?

24 PROSPECTIVE JUROR DUGGAN: Well, I haven't seen quite a few of them

1 in awhile. Most of them are in Hawaii. But they have talked to me about cases.

2 MR. PANDELIS: Will they just give you random details here and there –

3 PROSPECTIVE JUROR DUGGAN: Yeah.

4 MR. PANDELIS: – or were there ever like lengthy discussions about their
5 cases with them?

6 PROSPECTIVE JUROR DUGGAN: No.

7 MR. PANDELIS: Likewise, do you have any friends who do what I do, who
8 are prosecutors?

9 PROSPECTIVE JUROR DUGGAN: Uh, I knew a couple but we weren't
10 close.

11 MR. PANDELIS: They weren't as close as your other friends?

12 PROSPECTIVE JUROR DUGGAN: No.

13 MR. PANDELIS: Just a minute ago you mentioned a friend of yours who had
14 something happen, she was sexually assaulted back when she was – I believe you
15 said fifteen, or was it fifteen years ago?

16 PROSPECTIVE JUROR DUGGAN: Like fourteen or fifteen. It was her
17 birthday. I can't remember which birthday it was.

18 MR. PANDELIS: But she was very young?

19 PROSPECTIVE JUROR DUGGAN: I was the same age, so it was a long
20 time ago.

21 MR. PANDELIS: Okay, so it was a long time ago. Are you still close with her?

22 PROSPECTIVE JUROR DUGGAN: No. I moved away, and I lost touch with
23 her.

24 MR. PANDELIS: So you don't really have any contact with her?

1 PROSPECTIVE JUROR DUGGAN: No.

2 MR. PANDELIS: Back then when it first happened, how long after it
3 happened did you find out?

4 PROSPECTIVE JUROR DUGGAN: I found out an hour after the ambulance
5 took her away.

6 MR. PANDELIS: After you found out, did you have long discussions with her
7 about it?

8 PROSPECTIVE JUROR DUGGAN: They let me see her a couple of days
9 later. I didn't recognize her. She was in the hospital for two weeks. We talked
10 a few times, but she didn't really want to talk about it.

11 MR. PANDELIS: So it's not something she wanted to talk about?

12 PROSPECTIVE JUROR DUGGAN: (No audible response).

13 MR. PANDELIS: Would you agree that some victims of sexual assault are
14 more reluctant to talk about it than others?

15 PROSPECTIVE JUROR DUGGAN: Um-hm.

16 MR. PANDELIS: I'll pass the juror, Your Honor.

17 THE COURT: Thank you. Mr. Cox?

18 MR. COX: Good afternoon, Ms. Duggan. Did I pronounce that right?

19 PROSPECTIVE JUROR DUGGAN: It's Duggan. That's okay.

20 MR. COX: Duggan. I'm very sorry. Are you from New Zealand or you just
21 recently lived in New Zealand?

22 PROSPECTIVE JUROR DUGGAN: No, I'm from Connecticut.

23 MR. COX: Connecticut. Okay. You're a cocktail waitress?

24 PROSPECTIVE JUROR DUGGAN: Um-hm.

1 MR. COX: Now, can I presume that you're subjected to sexual harassment?

2 PROSPECTIVE JUROR DUGGAN: Um-hm.

3 MR. COX: Okay. It's not uncommon for you to deal with people who are
4 perhaps intoxicated; generally males?

5 PROSPECTIVE JUROR DUGGAN: I work the graveyard shift.

6 MR. COX: Graveyard shift. Generally males, I presume? Okay.

7 PROSPECTIVE JUROR DUGGAN: For the most part.

8 MR. COX: Excuse me?

9 PROSPECTIVE JUROR DUGGAN: For the most part.

10 MR. COX: Okay. You never know. This case obviously, as you're already
11 aware of, involves an allegation of sexual assault. And do you feel that you could
12 be fair to my client, Mr. James, in this circumstance?

13 PROSPECTIVE JUROR DUGGAN: Well, yeah. I mean, I don't get assaulted
14 at work.

15 MR. COX: Excuse me?

16 PROSPECTIVE JUROR DUGGAN: I don't get assaulted.

17 MR. COX: Okay. All right. Would you -- Are you prepared to look at the
18 testimony of both an adult and child and weigh the two irrespective of age or gender?

19 PROSPECTIVE JUROR DUGGAN: Oh, yes. Yes.

20 MR. COX: Okay. Are you prepared to make a determination that a child
21 made false allegations and are you prepared to return a verdict of not guilty if the
22 evidence pointed in that direction to you?

23 PROSPECTIVE JUROR DUGGAN: Yes.

24 MR. COX: I'll pass for cause, Judge.

1 THE COURT: Thank you. State's 7th.

2 MS. KOLLINS: I'm sorry, Court's indulgence for just a minute. The State
3 would waive, Judge.

4 THE COURT: Defense 7th.

5 MR. COX: Your Honor, the Defense is waiving their 7th preempt. This is our
6 7th, correct?

7 THE COURT: Seventh. Um-hm. Ms. Kollins?

8 MS. KOLLINS: Judge, the State would thank and excuse juror number 17,
9 Ms. Swords, in seat eight.

10 THE COURT: Okay. Ma'am, thank you so much for being here today. We
11 really appreciate your time. If you could just return to Jury Services. Thank you.

12 THE CLERK: Badge number 54, Jeffrey Aylward.

13 THE COURT: Good afternoon, sir. How long have you lived in Clark County?

14 PROSPECTIVE JUROR AYLWARD: Since 1990.

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

16 PROSPECTIVE JUROR AYLWARD: I'm an attorney.

17 THE COURT: And what area of law do you practice in?

18 PROSPECTIVE JUROR AYLWARD: Civil litigation.

19 THE COURT: Okay. And I know you're married.

20 PROSPECTIVE JUROR AYLWARD: Yes.

21 THE COURT: What does your wife do?

22 PROSPECTIVE JUROR AYLWARD: She is a – and she's in the room.

23 She's a learning facilitator. She teaches teachers to teach better.

24 THE COURT: Have you – Let me just go back to your own employment.

1 Have you ever worked in the area of criminal law?

2 PROSPECTIVE JUROR AYLWARD: You know, I've covered a couple of
3 hearings for friends, run down to enter a plea or run down and get a continuance,
4 but I've never had a criminal case other than a ticket here or there.

5 THE COURT: Okay. Do you have any children?

6 PROSPECTIVE JUROR AYLWARD: Yes. Three.

7 THE COURT: Ages, genders?

8 PROSPECTIVE JUROR AYLWARD: A boy, eleven; a girl, seven; and boy
9 eleven months old.

10 THE COURT: Have you or anyone close to you ever worked in law
11 enforcement? Obviously you know people who are in the legal profession.

12 PROSPECTIVE JUROR AYLWARD: If law enforcement includes criminal
13 prosecution and public defense, then yes. But if you're talking about law
14 enforcement agencies, no.

15 THE COURT: Let's start – let's just break it down. First of all, do you know
16 anyone who works in law enforcement as a police officer?

17 PROSPECTIVE JUROR AYLWARD: No.

18 THE COURT: Do you know anyone in the legal field who handles criminal
19 cases primarily?

20 PROSPECTIVE JUROR AYLWARD: Yes. My father-in-law has worked for
21 both sides of the criminal defense, as a defender and as a prosecutor.

22 THE COURT: Here in Clark County?

23 PROSPECTIVE JUROR AYLWARD: If he did, it was long ago. Right now
24 it's in Utah. And I've got a handful of acquaintances who are criminal defense

1 attorneys. I know a couple people at the D.A.'s Office in the Bad Check Unit.

2 THE COURT: Is there anything about your relationship with any of those
3 people that would impact your ability to sit as a juror in this case?

4 PROSPECTIVE JUROR AYLWARD: No.

5 THE COURT: Have you or anyone close to you ever been charged with a
6 crime?

7 PROSPECTIVE JUROR AYLWARD: Other than traffic stuff, no.

8 THE COURT: Not including traffic stuff or we'd probably be here for three or
9 four days talking about just that, right?

10 PROSPECTIVE JUROR AYLWARD: Right.

11 THE COURT: Okay. Have you or anyone close to you ever been the victim
12 of a crime, including sexual assault?

13 PROSPECTIVE JUROR AYLWARD: I had a burglary at my house in
14 October of last year, but other than that, no.

15 THE COURT: No one was home at the time?

16 PROSPECTIVE JUROR AYLWARD: Actually my wife was home.

17 THE COURT: Oh, she was. Okay. She's okay?

18 PROSPECTIVE JUROR AYLWARD: Yes.

19 THE COURT: Was there an investigation?

20 PROSPECTIVE JUROR AYLWARD: They went through the house, you
21 know, dusted and ran around, had a number of units looking for folks. After that
22 I didn't hear anything more, or if my heard anything more after that, I don't know.

23 THE COURT: Okay. Have you ever served as a juror before?

24 PROSPECTIVE JUROR AYLWARD: No, I have not.

1 THE COURT: Can you base your verdict solely on the evidence presented
2 at trial and wait to form an opinion until you've heard all of the evidence?

3 PROSPECTIVE JUROR AYLWARD: Yes.

4 THE COURT: Can you follow the instructions on the law that I give you,
5 regardless of whether you think the law is good or bad?

6 PROSPECTIVE JUROR AYLWARD: Yes, I can.

7 THE COURT: Can you make a decision without worrying about criticism or
8 what other people might think?

9 PROSPECTIVE JUROR AYLWARD: Of course.

10 THE COURT: Do you know of any reason you couldn't be completely fair
11 and impartial if you were selected as a juror in this case?

12 PROSPECTIVE JUROR AYLWARD: I don't know any reason I couldn't be
13 impartial, but those depositions tomorrow are starting to concern me, especially
14 since I'm sitting over here.

15 THE COURT: Okay. And what we'll do is when we finish selecting a jury,
16 if you are on the jury I will have my assistant call whoever we need to call to let
17 them know that I'm not letting you go to your depositions.

18 PROSPECTIVE JUROR AYLWARD: Sure. Well, and just in the spirit of all
19 candor, I'm going to let you know where we're at. Trial – We are on a continuance
20 or an extension of the depositions past discovery cut-off. Trial is in mid-October.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR AYLWARD: So missing these depositions may
23 require a continuance of the trial. It is the first trial setting, so that may not be
24 terribly problematic, but just so you know.

1 THE COURT: Okay. What department is that trial in?

2 PROSPECTIVE JUROR AYLWARD: Judge Bixler's chambers.

3 THE COURT: Okay. We'll make sure. If that's your only concern, don't
4 worry about that. We'll make sure that that gets all straightened out.

5 PROSPECTIVE JUROR AYLWARD: I appreciate that.

6 THE COURT: And if you were either party to this case, would you be
7 comfortable having someone like yourself as a juror?

8 PROSPECTIVE JUROR AYLWARD: Yes, I would.

9 THE COURT: Okay. Mr. Pandelis?

10 MR. PANDELIS: Good afternoon, sir.

11 PROSPECTIVE JUROR AYLWARD: Good afternoon.

12 MR. PANDELIS: Now, you're a lawyer, I am a lawyer, though we're two
13 different people. If I try this case and ask a witness questions in a different manner
14 than you would, are you going to hold it against me if we have different styles?

15 PROSPECTIVE JUROR AYLWARD: No, not at all. I would expect it.

16 MR. PANDELIS: That we have different styles?

17 PROSPECTIVE JUROR AYLWARD: Correct.

18 MR. PANDELIS: But as long as I prove the case beyond a reasonable doubt,
19 you're going to have no problem returning a guilty verdict?

20 PROSPECTIVE JUROR AYLWARD: If the evidence is there, absolutely.

21 MR. PANDELIS: Earlier you said that you – in the past you've covered some
22 routine criminal hearings for some friends here in town?

23 PROSPECTIVE JUROR AYLWARD: Sure.

24 MR. PANDELIS: Who are some of those friends that you've covered for?

1 PROSPECTIVE JUROR AYLWARD: Jerry Donohue, Joseph Noll, and I
2 believe I covered one for Daniel Podecheck.

3 MR. PANDELIS: And those were criminal proceedings here?

4 PROSPECTIVE JUROR AYLWARD: Yeah. One was a DUI, one was a
5 pretrial that I had to ask for a continuance on on a misdemeanor theft. And the
6 one for Mr. Podecheck, I can't even recall what it was. Misdemeanor stuff.

7 MR. PANDELIS: But you were basically going and getting new dates, things
8 like that?

9 PROSPECTIVE JUROR AYLWARD: Exactly.

10 MR. PANDELIS: You had no real involvement in the cases?

11 PROSPECTIVE JUROR AYLWARD: Correct.

12 MR. PANDELIS: And other than that, you have no real experience in criminal
13 law?

14 PROSPECTIVE JUROR AYLWARD: I'd be lost.

15 MR. PANDELIS: Okay. You also mentioned you know some people in the
16 Bad Check Unit at the District Attorney's Office?

17 PROSPECTIVE JUROR AYLWARD: Yes.

18 MR. PANDELIS: Who is it that you know?

19 PROSPECTIVE JUROR AYLWARD: I've done considerable negotiations
20 with Bernie Zadrowski and his assistant, and I forget her name.

21 MR. PANDELIS: Okay. How well do you know Mr. Zadrowski?

22 PROSPECTIVE JUROR AYLWARD: We've had professional relations;
23 it's nothing social.

24 MR. PANDELIS: It sounds like you've negotiated some cases with him.

1 PROSPECTIVE JUROR AYLWARD: Yes.

2 MR. PANDELIS: And I don't want you to answer the question, but if you were
3 not satisfied with the negotiation you reached with him or there's just something
4 about your interaction with Mr. Zadrowski, you're not going to hold it against Ms.
5 Kollins and I, are you?

6 PROSPECTIVE JUROR AYLWARD: Oh, absolutely not.

7 MR. PANDELIS: Okay. You mentioned the burglary at your house and the
8 police came –

9 PROSPECTIVE JUROR AYLWARD: Yes.

10 MR. PANDELIS: – and processed the scene. They didn't find anybody,
11 correct?

12 PROSPECTIVE JUROR AYLWARD: Actually they did catch one gentleman,
13 the get-away person, they presumed, waiting out front. The one that went through
14 the house and out the back, we never heard – I didn't hear of them again.

15 MR. PANDELIS: Was that get-away person prosecuted?

16 PROSPECTIVE JUROR AYLWARD: I had no word.

17 MR. PANDELIS: Were you satisfied with how the police handled the case?

18 PROSPECTIVE JUROR AYLWARD: Yes.

19 MR. PANDELIS: So no –

20 PROSPECTIVE JUROR AYLWARD: The hesitation there – one of the
21 investigators actually tracked dog-doo through my house while he was working,
22 but other than that I was happy.

23 MR. PANDELIS: Was that a person employed by Metro?

24 PROSPECTIVE JUROR AYLWARD: He had a badge, so. But I mean, it

1 was an accident. Things happen.

2 MR. PANDELIS: You're not going to hold that against the police officers –

3 PROSPECTIVE JUROR AYLWARD: No, I will not.

4 MR. PANDELIS: – coming in to testify in this case, are you?

5 PROSPECTIVE JUROR AYLWARD: No, I will not.

6 MR. PANDELIS: Thank you. We'll pass the juror, Your Honor.

7 THE COURT: Okay. Mr. Cox?

8 MR. COX: Good morning, sir. Or I'm sorry, afternoon.

9 PROSPECTIVE JUROR AYLWARD: Good afternoon.

10 MR. COX: I guess you and Ms. Winters are in the same boat, really, that you
11 both know your way around the courtroom – courthouse, courtroom. And as you
12 indicated to Mr. Pandelis, you would not scrutinize us in a way that you'd hold us –
13 You would not view the evidence and weigh it accordingly?

14 PROSPECTIVE JUROR AYLWARD: I would not weigh the evidence
15 accordingly?

16 MR. COX: You would not weigh our conduct in critiquing us?

17 PROSPECTIVE JUROR AYLWARD: No.

18 MR. COX: Okay.

19 PROSPECTIVE JUROR AYLWARD: The lawyering would have nothing to
20 do with my decision. It would be about the evidence.

21 MR. COX: Have you done a lot of trial work?

22 PROSPECTIVE JUROR AYLWARD: I wouldn't call it a lot. Probably more
23 arbitration than actual trials. Settlements, those kind of things.

24 MR. COX: Those kind of turn into almost a big trial, don't they?

1 PROSPECTIVE JUROR AYLWARD: Sometimes.
2 MR. COX: I've never done them myself. I'll take your word for it.
3 Judge, I'll pass for cause.
4 THE COURT: Okay. Is it the Defense 8th? Is that right?
5 THE CLERK: Defense 8th. Yes.
6 THE COURT: Mr. Cox, it's your challenge.
7 MR. COX: Court's indulgence. Your Honor, the Defense will waive – I believe
8 it's our eighth peremptory challenge.
9 THE COURT: Okay. State's 9th and final.
10 MR. PANDELIS: Your Honor, the State will thank and excuse juror number
11 54, Mr. Aylward.
12 THE COURT: Thank you so much for your time. Good luck with your
13 depositions.
14 PROSPECTIVE JUROR AYLWARD: Thank you, Your Honor.
15 THE CLERK: Badge number 55, April Barr.
16 THE COURT: Afternoon, ma'am. How long have you lived in Clark County?
17 PROSPECTIVE JUROR BARR: I was born here and I just moved when I
18 was in high school and then back in 1990.
19 THE COURT: We heard what you do for a living already.
20 PROSPECTIVE JUROR BARR: I actually have taught middle school for
21 fifteen years, and this year they asked me to be a learning strategist at my school.
22 THE COURT: Let's see. I'm just going to ask you just in case you have
23 some separate friends that we haven't covered, but have you or anyone close
24 to you, obviously other than your husband, worked in law enforcement or the

1 legal field?

2 PROSPECTIVE JUROR BARR: Just my dad.

3 THE COURT: Okay, your dad.

4 PROSPECTIVE JUROR BARR: Just my dad and my husband.

5 THE COURT: What did your dad do? I might – I think I –

6 PROSPECTIVE JUROR BARR: He is a public defender in Utah.

7 THE COURT: Have you or anyone close to you ever been charged with a
8 crime?

9 PROSPECTIVE JUROR BARR: No.

10 THE COURT: And other than the home burglary, have you or anyone close
11 to you been the victim of a crime?

12 PROSPECTIVE JUROR BARR: No.

13 THE COURT: With respect to the burglary, is there anything about that that
14 you think might make it difficult for you to sit as a juror in this case?

15 PROSPECTIVE JUROR BARR: No.

16 THE COURT: Have you ever served as a juror before?

17 PROSPECTIVE JUROR BARR: No.

18 THE COURT: Can you base your verdict solely on the evidence presented
19 at trial and wait to form an opinion until you've heard all of the evidence?

20 PROSPECTIVE JUROR BARR: Yes.

21 THE COURT: Can you follow the instructions on the law that I give you,
22 regardless of whether you think the law is good or bad?

23 PROSPECTIVE JUROR BARR: Yes.

24 THE COURT: Can you make a decision without worrying about criticism

1 or what other people might think?

2 PROSPECTIVE JUROR BARR: Yes.

3 THE COURT: Do you know of any reason you couldn't be completely fair
4 and impartial if you were selected as a juror in this case?

5 PROSPECTIVE JUROR BARR: No.

6 THE COURT: And if you were either party to this case, would you be
7 comfortable having someone like yourself as a juror?

8 PROSPECTIVE JUROR BARR: Absolutely.

9 THE COURT: Okay. Ms. Kollins?

10 MS. KOLLINS: Good afternoon. How are you?

11 PROSPECTIVE JUROR BARR: I'm good, thanks.

12 MS. KOLLINS: Were you looking forward to spending a couple days on a
13 jury with your husband, or not so much?

14 PROSPECTIVE JUROR BARR: Actually not. No. It's purely coincidental.

15 MS. KOLLINS: Yeah, that happens every once in awhile. We get fathers
16 and sons in here and it's kind of crazy. Your dad is a public defender?

17 PROSPECTIVE JUROR BARR: Um-hm.

18 MS. KOLLINS: Has he been a defense attorney all your life?

19 PROSPECTIVE JUROR BARR: No. When he first started he was here in
20 town and he worked for a private firm. And then he moved to Utah and he's been
21 a prosecutor and public defender.

22 MS. KOLLINS: How long ago was he practicing in Vegas?

23 PROSPECTIVE JUROR BARR: It's been twenty-five years.

24 MS. KOLLINS: Now he does criminal defense work, so our obvious question

1 as prosecutors is are you going to feel compelled to explain your verdict to him –

2 PROSPECTIVE JUROR BARR: No.

3 MS. KOLLINS: – or talk to him about the case; dad, this is what's going on,
4 what do you think about this? Because that's the kind of stuff we worry about
5 when people have close associations with attorneys that aren't really here in our
6 information bubble. You're not going to do that?

7 PROSPECTIVE JUROR BARR: No.

8 MS. KOLLINS: You're not going to go home and talk to husband about it,
9 you're just going to let him go do his depositions and –

10 PROSPECTIVE JUROR BARR: Absolutely not.

11 MS. KOLLINS: Okay. He does civil, obviously your dad does criminal. The
12 standards are a little different, beyond a reasonable doubt versus preponderance
13 or whatever they do in the civil world. So you're not going to go seek advice, look,
14 they have this, this and this, Honey, is that enough? You're not going to do that?

15 PROSPECTIVE JUROR BARR: No.

16 MS. KOLLINS: Because the judge is going to tell you you can't talk about the
17 case until it's over. A lot of talk in here today about child witnesses, child victims.
18 Can you hold a kid to a kid's standard, let them testify like a kid versus an adult?

19 PROSPECTIVE JUROR BARR: Absolutely.

20 MS. KOLLINS: And I think a repeated question by Mr. Cox has been kids
21 will lie about serious stuff. Have you heard that?

22 PROSPECTIVE JUROR BARR: Yes.

23 MS. KOLLINS: Well, kids tell the truth about serious stuff, don't they?

24 PROSPECTIVE JUROR BARR: Yes.

1 MS. KOLLINS: When they feel threatened or not safe? Any expectations
2 about what a kid sexual assault victim should act like?

3 PROSPECTIVE JUROR BARR: I don't have any preconceived expectations.
4 I've taught middle school for fifteen years and children act differently on every single
5 thing I've ever dealt with.

6 MS. KOLLINS: Right. So middle school is 7th, 8th, or 6th, 7th, 8th?

7 PROSPECTIVE JUROR BARR: 6th, 7th, 8th.

8 MS. KOLLINS: So right in that teenage angst part of time?

9 PROSPECTIVE JUROR BARR: Um-hm.

10 MS. KOLLINS: And they're all different, right?

11 PROSPECTIVE JUROR BARR: Um-hm.

12 MS. KOLLINS: Ever had to exercise your responsibilities as a mandatory
13 reporter?

14 PROSPECTIVE JUROR BARR: A couple of times, but we just went directly
15 to the counselor and told her what we were seeing.

16 MS. KOLLINS: Physical or sexual?

17 PROSPECTIVE JUROR BARR: It was child neglect. It was just not looking
18 so good.

19 MS. KOLLINS: Okay. Did you have to talk to CPS?

20 PROSPECTIVE JUROR BARR: No.

21 MS. KOLLINS: Anything like that, participate in any investigation?

22 PROSPECTIVE JUROR BARR: No.

23 MS. KOLLINS: Thank you. I will pass the juror for cause, Judge.

24 THE COURT: Thank you. Mr. Cox?

1 MR. COX: Thank you, Judge. Thanks, Ms. Kollins.

2 Just a couple brief questions, Ms. Barr. It's getting late in the day.

3 Are you prepared to weigh the testimony of two witnesses, irrespective of age or
4 gender? In other words, not let age or gender play an influence?

5 PROSPECTIVE JUROR BARR: Absolutely not.

6 MR. COX: Okay. Do you feel you'd be a fair juror if impaneled on this trial?

7 PROSPECTIVE JUROR BARR: Yes.

8 MR. COX: As you sit there now and having not heard any evidence or
9 testimony, do you view Mr. James as innocent or view him as being not guilty?

10 PROSPECTIVE JUROR BARR: Yes, he is.

11 MR. COX: Okay. I'll pass for cause, Judge.

12 THE COURT: Thank you. It's the Defense 9th and final.

13 MR. COX: Judge, we'll waive our challenge.

14 THE COURT: Okay. Folks, if you would all please stand and raise your right
15 hand. We have our jury. The clerk is going to administer the oath to you.

16 (The clerk administers the oath to the jury)

17 THE COURT: And to the last few of you out there, thank you so much.

18 As you can tell, we never know exactly how many people it's going to take to get our
19 jury. In fact, I was a little concerned we were going to have to get some more of
20 you, but I appreciate you hanging in there. I know it seems like a long day of just
21 listening to questions, but we absolutely couldn't do it without you because we never
22 know how many people it's going to take. So I really appreciate your time here
23 today. If you could just return back to Jury Services. Thank you all.

24 (Remaining prospective jurors exit the courtroom)

1 THE COURT: Okay. And I'm just going to read through some brief
2 preliminary instructions with you. We're going to take a very short break just so
3 everyone can use the restroom and the lawyers can get set up for their opening
4 statements. We're going to hear openings. We may do a little – get into a little
5 bit of testimony, but we'll wrap it up right at 5:00 today and then we'll come back
6 tomorrow at ten o'clock.

7 This is a criminal case commenced by the State of Nevada, which I
8 may sometimes refer to as the State, against Tyrone James, the defendant. The
9 case is based on an Information. The clerk will now read the Information to you
10 and state the plea of Mr. James to the Information.

11 (The clerk reads the Information aloud)

12 THE COURT: Ladies and gentlemen, please understand that the Information
13 is simply a charge and that it is not in any sense evidence of the allegations it
14 contains. Mr. James has pled not guilty to the Information. The State therefore
15 has the burden of proving each of the essential elements of the counts in the
16 Information beyond a reasonable doubt. As Mr. James sits there now, he is not
17 guilty. The purpose of this trial is to determine whether the State will meet their
18 burden.

19 It is your primary responsibility as jurors to find and determine the
20 facts. Under our system of criminal procedure, you are the sole judge of the facts.
21 You are to determine the facts from the testimony you hear and the other evidence,
22 including exhibits introduced in court. It is up to you to determine the inferences
23 which you feel may be properly drawn from the evidence.

24 You must base your verdict solely on the evidence presented in the

1 courtroom. You may not do any outside investigation during the course of the trial.
2 It is very important for the integrity of the jury process that until the jury has reached
3 a final decision that you do not consult any reference works like dictionaries, don't
4 Google anything. I know if you're like me you pull out your phone and you're looking
5 up anything that you don't know right then and there on the spot, but I need you to
6 wait until the case is over and I tell you that you can. Don't go to any places that
7 are mentioned during the course of the trial. Don't post updates on your Facebook
8 account about how the trial is going. If you could just please wait.

9 When the trial is over and you've been excused as jurors, you can
10 do all of those things to your heart's content, but trials are very expensive and very
11 time-consuming. We're taking all of your time right now, and I would hate to have
12 to do a trial over again because somebody was not able to follow those rules.
13 So please, it's very important to not do any sort of outside research or any sort of
14 outside communication about the trial until the case is completely done and I've told
15 you that it's okay to do that.

16 You may not declare to your fellow jurors any facts relating to this
17 case of your own knowledge, and if you discover during the trial or after the jury
18 has retired that you or any other juror has personal knowledge of any witness or
19 fact in controversy in this case, you must disclose that information to me outside
20 the presence of the other jurors. So I read a list of witnesses, and it may be that a
21 witness comes in here and you realize that it's a parent of somebody that your kid
22 plays on the same soccer team with, or you just didn't know their name and when
23 they get in here you realize, oh, I know that person, I just didn't know it. If that
24 happens, don't tell all of the other jurors, just had a note to Officer Moon and he'll

1 get it to me and then we'll take it from there. The same thing if you start hearing
2 about the facts of the case and you realize, oh, you know, for some reason that
3 you know something about it, just let us know and then we'll take it from there.

4 In every case there are two types of evidence, direct and
5 circumstantial. Direct evidence is testimony by a witness about what that person
6 saw or heard or did. Circumstantial evidence is testimony or exhibits which are
7 proof of a particular fact from which if that fact is proven you can infer the existence
8 of a second fact.

9 Let me explain that in English. Direct evidence would be if you walked
10 outside, you see snowflakes falling down onto the ground. That's direct evidence
11 that it is snowing. Circumstantial evidence would be if you went to sleep tonight and
12 it would be quite shocking, but if you woke up tomorrow morning and there was
13 snow laying on the ground, that would be circumstantial evidence that snow had
14 fallen in the night. So you didn't see it, but you can infer that snow fell on the
15 ground because that's probably the most likely way that it would have gotten onto
16 your lawn during the course of the evening.

17 You can consider both direct and circumstantial evidence in deciding
18 this case. The law permits you to give equal weight to both types of evidence, but
19 it is up to you to decide how much weight to give a particular piece of evidence.

20 The parties may sometimes present objections to some of the
21 testimony or other evidence. It is the duty of a lawyer to object to evidence which
22 he or she believes may not be properly offered, and you should not be prejudiced
23 in any way against the lawyer who makes objections on behalf of the party he or she
24 represents. They are just doing their job. At times I may sustain objections or direct

1 that you disregard certain testimony or exhibits. You must not consider any
2 evidence to which an objection has been sustained or which I have instructed you
3 to disregard.

4 You also must not consider anything which you may have seen or
5 heard when court is not in session, even if what you see or hear is said or done
6 by one of the parties or one of the witnesses. And just as a reminder, the parties,
7 lawyers, court staff, we're all not allowed to talk to you, so if you see us and we just
8 walk right by you, please don't take that as any sort of slight. It's just that the rules,
9 again, for the integrity of the jury process don't permit us to talk to you while the trial
10 is going on.

11 In considering the weight and value of the testimony of any witness,
12 you may take into consideration the appearance, attitude and behavior of the
13 witness, the interest of the witness in the outcome of the case, if any, the relation
14 of the witness to the defendant or the State, the inclination of the witness to speak
15 truthfully or not, and the probability or improbability of the witness' statements, and
16 all of the facts and circumstances in evidence. Thus you may give the testimony of
17 any witness just such weight and value as you believe the testimony of the witness
18 is entitled to receive.

19 After I finish these instructions and we have a short break, we will have
20 opening statement by the State, maybe opening by the Defense, State's evidence,
21 possibly Defense evidence, jury instructions and closing arguments. Opening
22 statements and closing argument are intended to help you in understanding the
23 evidence and applying the law, but please understand that what the attorneys tell
24 you is not evidence.

1 At the conclusion of all evidence, I will instruct you on the law.
2 You must not be concerned with the wisdom of any rule of law stated in these
3 instructions, or the instructions which I will read to you after the evidence is in.
4 Regardless of any opinion you may have as to what the law ought to be, It would
5 be a violation of your oath to base a verdict upon any other view of the law than
6 that given you by the Court.

7 Until the case is submitted to you, you must not discuss it with anyone,
8 even your fellow jurors. After it is submitted to you, you must discuss it only in the
9 jury room with your fellow jurors. It is important that you keep an open mind and not
10 decide any issue in the case until the entire case has been submitted to you under
11 instructions from me.

12 Again, if you discover during the course of the trial that you have
13 personal knowledge of the facts of the case or that you know one of the witnesses,
14 please give a note to the marshal, who will present it to me.

15 Next to your seat you will find paper and pens for your use, as well as
16 a red badge that we request you wear at all times during your jury service while
17 you're in the courtroom. Since we can't talk to you, that readily identifies you as a
18 juror and it just makes it a little bit easier so nobody accidentally speaks to you, not
19 realizing that you're a juror. The paper and pens that are there for your use, you are
20 free to take notes during the trial if you wish, but please keep the notes to yourself
21 until you and your fellow jurors go to the jury room to decide the case. Do not let
22 note taking distract you. You should also rely on your own memory of what was said
23 and not be overly influenced by the notes of other jurors. If jurors have conflicting
24 notes, you should not rely on the notes because the Court Recorder's record

1 contains the complete and authentic record of the trial.

2 I will probably type a lot of notes during the trial. Please do not take
3 this into consideration. If I begin to type during a witness' testimony, some portions
4 and not others, that doesn't mean that I consider the testimony more important than
5 something else, it may just mean my hand is tired. I just do it simply to track along.
6 Sometimes I am communicating with my staff in the back just to let them know how
7 close we are to taking a break, or we were concerned about how many jurors we
8 had, so sometimes there's issues like that that I'm taking care of as well. So please
9 don't take into consideration anything – you know, that I'm typing during one part
10 and not during another part because it doesn't mean anything.

11 If you cannot hear a witness, please raise your hand as an indication.
12 If you don't feel well or if you're having any other problem, please let us know.
13 We'll try to make you as comfortable as possible. We know you have to sit here for
14 extended periods of time and it's not always very comfortable, so if there's anything
15 that we can do to help make you more comfortable, please let us know. Everything
16 that's on that little white table at the end of the jury box is there for your convenience,
17 so there's usually water, tissue, cough drops, sometimes a little bit of candy. Please
18 help yourself to anything that is down there.

19 Jurors are allowed to ask questions. This procedure requires that you
20 write your juror number. Now your juror number is not going to be the number on
21 your badge, it's going to be the number that's on your notebook. Write your juror
22 number and the question on a full sheet of paper and tear the sheet of paper out.
23 We have to keep those, so if we get small pieces they're really hard to keep track of.
24 And then give it to the marshal while the witness is still in the courtroom.

1 I will ask you to hold your questions until the attorneys have had the
2 opportunity to ask the witness questions. Often times they will ask the question that
3 you are thinking of and it makes the process go a little smoother if we wait until the
4 end. When the witness is done, I will ask you if the jury has any questions. If for
5 some reason I forget to do that – I'm usually pretty good about it but if I forget,
6 please raise your hand before the witness leaves, because once the witness has
7 left then we can't – obviously can't ask them a question if they're not here. If the
8 question is a proper question under the court rules, I will ask it. If not, I'll hold on to
9 the question and then at the end of the trial I'll explain to you what the rule was that
10 prevented me from asking the question.

11 With that, we're going to just take just a really quick like five minute
12 break for everybody just to run to the restroom and then we're going to have
13 openings.

14 During this recess you are admonished not to talk or converse among
15 yourselves or with anyone else on any subject connected with this trial, or read,
16 watch or listen to any report of or commentary on the trial or any person connected
17 with this trial by any medium of information, including without limitation newspapers,
18 television, the Internet and radio, or form or express any opinion on any subject
19 connected with the trial until the case is finally submitted to you.

20 So if you could all just be back here at 4:05 and then we'll get started
21 with openings.

22 (Court recessed from 3:54:10 p.m. until 4:03:20 p.m.)

23 (Whereupon the following proceedings were held

24 in the presence of the jury)

1 defendant moved in with a family member.

2 From January 2010 through April, May of 2010, he was barely around.
3 He didn't live there. Their relationship as it had been had come to an end. No
4 longer responsible for anything to do with the kids, disciplining them or anything
5 else. In April of 2010, Theresa had a car accident – that's the victim's mom – and
6 they began to communicate again. He did some things for her, gave her rides
7 places, helped her with errands, and they began to communicate a little bit again.

8 On May 14th, the school year was not yet over. Triaunna goes to
9 a school where they start about 10:00 o'clock in the morning. And the defendant
10 in a philanthropic gesture offers to pay an electric bill for mom, and he tells mom
11 he's going to pay the electric bill and he's going to take his grandmother fishing.
12 And he stops by their residence and T[REDACTED] is asleep, and she hears the
13 defendant come in her room. He takes off her top, he puts his hands around her
14 neck. She tries to get to her cell phone. She drops it; he takes it away from her
15 and puts it in his pocket. She's able to get up and she moves to her sister's bed.
16 The defendant then comes and drags her into the living room, puts her on the floor,
17 puts his fingers in her vagina, puts his penis in her vagina, and eventually stops.
18 He does not ejaculate. Why are you doing this, she asks him. Shut up or I'll snap
19 your fucking neck, is what he tells her.

20 It's time for her to go to school. He's going to take her to school, but
21 he says to her, I'm afraid of who you're going to tell. Who are you going to call?
22 He gives her her phone back. He takes her to school. Until she gets to a point of
23 safety at school, she has no adult to talk to. She texts her little sister. Her little
24 sister, D[REDACTED], sends her mom a text message this very day, this very morning