IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

OSBALDO CHAPARRO,

No. 81352

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

_____/

Appeal from a Judgment of Conviction in Case CR17-0636
The Second Judicial District Court of the State of Nevada
Honorable Egan Walker, District Judge

JOINT APPENDIX VOLUME 2

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Docket 81352 Document 2020-38432

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STEPHANIE KOETTING

CCR #207

75 COURT STREET

RENO, NEVADA

IN THE SECOND JUDICIAL DISTRICT COURT

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE EGAN WALKER, DISTRICT JUDGE

--oOo--

STATE OF NEVADA, Plaintiffs, vs. OSBALDO CHAPARRO, Defendant.	Case No. CR17-0636 Department 7

TRANSCRIPT OF PROCEEDINGS

TRIAL VOLUME I

February 11, 2020

1:00 p.m.

Reno, Nevada

Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

1 APPEARANCES:

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9 Reno, Nevada

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RENO, NEVADA, February 11, 2020, 1:00 p.m.

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THE COURT: This is case CR17-0636, the State versus Osbaldo Chaparro. Mr. Chaparro is present with his attorneys. I show the appearance of the State. We're outside the presence of the jury on what is to be the first day of trial and voir dire. Counsel, it's my understanding you had some matters you wanted to discuss.

MR. FUSS: Yes, your Honor. I had filed a motion to reconsider the Court's exclusion of the three other sources in the DNA mixture or in the alternative a motion in limine to exclude the mixture of DNA evidence where no conclusion can be drawn from it.

Our defense essentially rests on the fact that none of the biological evidence found within the tights or on the person of the complaining witness matches my client. I would be calling Dr. Danielson to testify as to how that is possible, why that is possible.

I know the Court at one hearing had said it's possible for one to touch the vaginal area, touch clothing and not leave a DNA sample, but the current science and literature indicates it's more likely that you would if that happened.

1 And so I wanted a clarification. I'd like to be
2 able to introduce the tights. It has nothing to do, because
3 it doesn't have any serological value, there's no semen,
4 there's no -- anything related to sex, that the mixture is
5 more likely a result of secondary transfer or even tertiary
6 transfer. It's of such a low level that the issue is,
7 essentially, they didn't find anything.
8 If you recall, if you look at the exhibit
9 regarding criminalist Dickson, she did a swab throughout the
10 interior of the tights, front and back, and that's all that
11 was resulted, the presence of four males, low level amounts
12 of it.
13 The issue is not, hey, some other dude did it.
14 The video speaks for itself. My client did what he did on
15 the video. The issue is whether he penetrated it, whether he
16 did it with intent to commit a sexual assault or whether it
17 was an open and gross lewdness or the possibility the State
18 may offer an attempted sexual assault as a lesser included to
19 the sexual assault.
20 We would not make any argument arguing chastity of
21 the alleged victim. That's not the purpose of it. The issue
22 is transfer DNA and the idea that if I touch an item, as the
23 Court pointed out in one of the hearings, if I put my
24 fingerprint here and I take a piece of tape and put it on

1 that and pull it off, not only do you have my fingerprint but
2 you are likely going to have my DNA as a part of that
3 fingerprint.
4 There are articles out there in DNA studies that
5 when you leave a fingerprint and you put the gray powder used
6 to collect the fingerprint, you can still get a DNA match and
7 that fingerprint won't be contaminated by anything of the
8 gray powder.
9 There's a study done by Van Hoost regarding DNA
10 transfer where they have a room videotape. There are three
11 individuals sitting at a table. They're all three sitting in
12 chairs. There are three glasses and a pitcher of orange
13 juice. They videotaped this for a period of time. People --
14 one person pouring, drinking, touching each other, shaking --
15 hand-to-hand contact, hand to other glass contact. And the
16 tape -- the importance of the tape is they see where the
17 contact has been made so they know exactly where to get the
18 sample from. And what they found at the end of the study was
19 all three of them passed DNA around to each other.
20 They found DNA not related to any of the three.
21 That DNA brought in by one of the three or all of the three
22 was the -- was likely related to what you would call a third
23 party transfer. In other words, I came in with -- let's say
24 before the study, I had shaken hands with one of the people

1 running the study. I went in, put my hand on the table, they
2 took that fingerprint, they pulled it, they got my DNA and a
3 third party that is not related to the room, which would --
4 which would be tertiary, because 1, 2, 3.
5 And for the record, that would be the person
6 outside of the study, the control person in the study and the
7 third would be to the object, item or even if I put my hand
8 with a third -- with a third party's contact on to another
9 person in the study, it would find it on there.
10 And so the literature and the science is so
11 advanced at this point that DNA can be spread that way. I
12 have an article from -- that was printed in Wired but was
13 originally done, I believe, in the San Jose Mercury News
14 regarding a gentleman by the name of Lucas Anderson. He was
15 accused of committing a murder based on DNA found under the
16 fingernails of the deceased.
17 The background of the story is fairly wealthy
18 couple in an area of Silicon Valley called Monte Sereno,
19 which apparently is high end money people. Owner of the
20 house and his friend are bound and gagged. The male dies
21 because the tape is put over his mouth and he suffocates.
22 Crime lab results find a match under one of the fingernails
23 of the deceased. They accuse Mr. Anderson of the murder. He
24 is a suspect in that case.

1 During the review of the discovery by his public
2 defender, and throughout this case, his background is
3 alcoholic, homeless, kind of lives -- describes that he lives
4 under the highway bridge in the area of San Jose.
5 That night he doesn't remember and he keeps
6 telling the public defender, I don't remember doing this, but
7 they have my DNA, I guess I must have done this. And she
8 keeps telling him, no, wait, let's keep investigating. And
9 the title of it is Framed For Murder By His Own DNA.
10 Fast forward, they find DNA from two other young
11 in their early 20 kids from what they call -- from the
12 Oakland area, the Bay Area, the Oakland area, known gang
13 members, his DNA. They also find in the phone of the
14 deceased information linking a sex worker from Oakland to
15 contact with the deceased. Very wealthy man, sex worker out
16 of Oakland.
17 They come to find that there's a pair of gloves
18 that had been washed that match a third party in the case.
19 They match it to a cousin of the sex worker from the Oakland
20 area. Going back, they noticed that --
21 THE COURT: Where are we going with this? I'm
22 sorry to interrupt.
23 MR. FUSS: I'm going to how DNA gets to crime
24 scenes in a touch DNA way. And I can give you the article

1 and I would give the State the article and I will go quickly
2 or --
3 THE COURT: I'm sure I've confused things, let me
4 say, and I apologize for that if I have. The context of the
5 DNA in this case, as I understand it, is as follows -- let's
6 first make sure we have the same understanding, which is I
7 think what you requested when you said clarification. At a
8 pretrial hearing, I don't remember which one, I apologize,
9 was Mr. Lee represented that he would introduce both the
10 tights collected as evidence, they're marked as Exhibit 10
11 for purposes of this trial, and the forensic evaluation by
12 the Washoe County Crime Lab. And a fair paraphrase of what I
13 recollect he said he would represent that your client's DNA
14 was not found on that item. So I believe that will come into
15 the case in chief, will it not?
16 MR. LEE: Judge, it's that it's inconclusive.
17 That he couldn't exclude their client, but it's inconclusive.
18 THE COURT: Thank you for that clarification. The
19 next, to my recollection, conversations we had about this
20 were, again, my observation to all of you that doing or
21 dealing with motions in limine before the evidence is in
22 context in trial is always problematic, because I won't
23 understand the full context.
24 We had a discussion last week where I said if the

1 defense was -- defense's intention was to argue what it is
2 not, as I understand it, but nonetheless was to argue, well,
3 four other men must have touched her in her crouch, I think
4 is what I said last week, that would be irrelevant and also
5 factually wrong.
6 Because I am in agreement with you that transfer
7 DNA, as I understand it, the state of the art is so sensitive
8 and DNA material in places where human beings are at is so
9 pervasive that saying anything about the mixed source low
10 level DNA that has four Y chromosome sources say much of
11 anything about it is irrelevant. And I think we're in
12 agreement about that.
13 I think, though, your concern is you want your
14 expert to be able to say, well, if Mr. Chaparro had touched
15 her, his DNA would be there. I understand that. And likely
16 the defense will have the opportunity to present that through
17 their expert. I would just offer you to consider context and
18 this was the context of my comments.
19 I hear you to be saying clearly, I don't intend to
20 say, well, obviously, there's DNA in or around the crotch of
21 her panties because she had sex with someone else or other
22 men had contact with that part of her body or that item of
23 clothing, correct?
24 MR. FUSS: I will not, no.

1 THE COURT: So if that is true --
2 MR. FUSS: And neither will Ms. Bertschy for the
3 record.
4 THE COURT: If that's true, for the record, then,
5 I would just offer to you that it would seem to me that your
6 expert can opine whatever he wants to opine about whether or
7 not Mr. Chaparro's DNA should have been on her pants or her
8 tights. But here's the thing, we'll all remember the
9 context, he touched her. It's on video. So the fact that
10 DNA wasn't collected is of what meaning I suppose you'll
11 leave to the jury. That's all I was trying to say last week.
12 MR. FUSS: Okay. So I was left after Wednesday's
13 hearing with the impression that we could not mention
14 specifically that there were three other low level sources.
15 And our intent would not be to use 3, 1, none, only for the
16 purpose to say that it's likely from transfer DNA, likely
17 secondary source of DNA due to the -- probably third source
18 DNA due to the low level of it and the fact that we don't
19 have full a match.
20 Now, the issue with the videotape is he absolutely
21 did touch her, but not on the inside of the tights is what
22 our argument is.
23 THE COURT: I understand that.
24 MR. FUSS: What is important to us regarding the

1 tights is to be able to distinguish between inside and the
2 outside and that transfer DNA is so easy to occur. As the
3 Court pointed out, as I'm standing here now, and I am
4 likely -- my saliva is probably in a -- at least a one-foot
5 radius around where I am. And my skin, as I stand here, is
6 shedding cells that are falling all over this table.
7 THE COURT: To your point, your DNA is probably on
8 Mr. Chaparro, his DNA is probably on you, because of the
9 proximity. I get that. I think we're on the same sheet of
10 music. I was just, and I apologize for my inarticulateness
11 or confusion, I was just making the point that no one could
12 accurately argue the source of whatever DNA was located
13 inside or outside her tights. Factually, I understand the
14 defense has three counts to defend, not just one.
15 MR. FUSS: Yes.
16 THE COURT: And that one of those counts, the
17 sexual assault count, has specific elements which require
18 penetration.
19 MR. FUSS: Correct.
20 THE COURT: And I reread in light of your motion
21 in limine, I reread the complaining witness' preliminary
22 hearing testimony, and to my ear and eye, I say ear, I didn't
23 hear her testimony, but, you know, as I read it, she
24 described the allegation is that Mr. Chaparro put his hand

1 inside her pants, although I'm not so sure that's what she
2 said.
3 Her testimony will be what her testimony is. So I
4 understand the defense is, well, if he put his hands inside
5 her pants, we would have found her DNA. I understand that.
6 And likely the defense can make that argument.
7 MR. FUSS: So that's where likely I don't want to
8 go cross with the Court in issues of possible voir dire on
9 scientific evidence, what opening statements, cross
10 examination and closing.
11 THE COURT: I think to help, if, I'm sure I was,
12 and I apologize for any confusion I created, but if I was
13 confusing in my comments or was confused in my comments,
14 remember the context last week is you asking me to bring in
15 prior sexual contact.
16 MR. FUSS: I was incorrect about that and at this
17 point would withdraw the motion. Even though the Court
18 already ruled on it as to the issue of the question being
19 about sexual contact, I think it has some relevance, but not
20 to the extent of seven days. And either way, she's outside
21 the seven-day window and therefore as you indicated would be
22 irrelevant.
23 THE COURT: Okay.
24 MR. FUSS: And we acknowledge the Court's ruling

1 and we'll abide by it and not try to mess up the record.
2 THE COURT: So let me give an example, then, of
3 what I think you could comment on. First, I am not a fan, as
4 you all know, of arguing your case in opening statements. An
5 opening statement is in the shorthand supposed to be a road
6 map.
7 MR. FUSS: Right.
8 THE COURT: But I would expect the defense,
9 assuming the defense's expert offers testimony in support of
10 this or there's a logical inference from his testimony in
11 support of this, I would expect the defense in this case as
12 to Count One and/or Count Two and/or Count Three to be effect
13 of, look, if he had touched her in the way she described him
14 touching her, his DNA would have been found on her, in her or
15 around her, on her clothing.
16 MR. FUSS: Right. Something of that will be in
17 the opening statement.
18 THE COURT: I always offer the caution that I had
19 to give myself, nobody in this room should make promises to
20 the jury about what the evidence will be that --
21 MR. FUSS: That you can't keep.
22 THE COURT: Yes, because you'll pay for it or more
23 accurately your client will pay for it.
24 MR. FUSS: Yes. Absolutely, we have a --

1 THE COURT: We'll leave it that.
2 MR. FUSS: Yes, sir. So we are able to discuss
3 transfer through cross examination and all of that stuff,
4 bring it up in our opening statement?
5 THE COURT: I believe so, yes.
6 MR. FUSS: I'll be able to present the evidence?
7 THE COURT: Yes. The only limitation was, again,
8 to suggest that --
9 MR. FUSS: I'm sorry.
10 THE COURT: Do you need a moment?
11 MR. FUSS: No.
12 THE COURT: The only limitation in my mind was to
13 suggest that this evidence, meaning whatever was discovered
14 either inside or outside or around her tights was in some way
15 connected to sexual activity, including with your client, and
16 I don't believe there's any such evidence.
17 MR. FUSS: No.
18 THE COURT: Okay.
19 MR. FUSS: So what Ms. Bertschy was asking is
20 whether we would be able to say that there was a low level of
21 four male contributors of DNA found on the tights or would
22 you prefer --
23 THE COURT: Do you have any objection to that,
24 Mr. Lee?

1 MR. LEE: Judge, here's what Mr. Gresko will
2 testify to: The Y chromosomal DNA results obtained from the
3 tights indicate at least four male contributors. Due to the
4 nature of this mixture, no additional conclusions can be
5 offered.
6 THE COURT: Here's my answer to your question,
7 Mr. Fuss and Ms. Bertschy, as I understand it, you would
8 offer to the jury that four male contributors, literally four
9 Y chromosome material, four different sources were found. I
10 think the rub is going to be, and I'm not precluding you from
11 saying that, you will argue, well, that can't include Mr.
12 Chaparro and the State will argue, no, no, that's not what it
13 says. It says we can't say whether it's Mr. Chaparro or not.
14 MR. FUSS: I would not argue that it doesn't say
15 Mr. Chaparro. I would say it's inconclusive and maintain
16 it's inconclusive. However, I don't want the State to say
17 and be able to argue he cannot be excluded.
18 THE COURT: At some point, we're going to have to
19 try the case and we're now in the land of motion in limine
20 work in my opinion where I'm going to have to make calls on
21 the balls and strikes as the evidence comes in.
22 You've asked, can I mention trace DNA in opening?
23 I said, yes, as long as you in good faith believe that the
24 evidence will come in. I believe the State is going to

1 introduce Mr. Gresko's report in its case in chief. It says
2 what it says. I hope that answers that question.
3 MR. FUSS: But I am concerned about you can't
4 exclude him, because that's not the scientific definition of
5 no conclusions can be drawn. Because as the Valentine case
6 says, which I cited in my motion, if that is the conclusion,
7 you are not allowed to say he cannot be excluded. In fact,
8 that's why --
9 THE COURT: I won't be saying that to the jury.
10 MR. FUSS: I'd like a limiting instruction that
11 the State can't argue that.
12 THE COURT: We're going to have to hear it in
13 context. This is the point at which I can't decide your
14 concern absent hearing the testimony.
15 MR. FUSS: Okay.
16 THE COURT: Because candidly I to place blame on
17 me and to a lesser degree all of you have been sloppy with
18 our language about how we describe these conclusions. So
19 until I hear it real time, you'll have to offer the
20 appropriate objection. If you think there's an appropriate
21 objection, then I'll rule on it.
22 MR. FUSS: I would say that the Valentine case is
23 on all fours regarding the use of that. I do not have a
24 population statistical analysis of the finding that matches

1 Mr. Chaparro and therefore they can't use the language of he
2 cannot be excluded. Because if they use the language of he
3 cannot be excluded, they according to the science are
4 supposed to be able to provide me and us and we are, as you
5 indicated last week, no more new evidence is coming in, I
6 don't have that and they need that in order for them to even
7 make that statement scientifically.
8 THE COURT: I trust that you and Mr. Lee and Ms.
9 Bertschy and Ms. Northington know the law as do others
10 presume that I do. I laugh because there's no way, of
11 course, I'm a codex of the law. But I'm going to have to --
12 again, the nuance of your objection is premature. It is not
13 ripe until I hear the testimony. And so I decline to rule on
14 it. Have I given you the direction you need as relates to
15 your motion in limine?
16 MR. FUSS: So just so that we're clear, we can
17 mention that there were four male contributors with no --
18 found in the tights that are inconclusive?
19 THE COURT: I haven't even seen the report. If
20 that's what the report says.
21 MR. FUSS: I filed it as an exhibit in my motion.
22 THE COURT: I apologize. I have overlooked it.
23 MR. FUSS: It's Exhibit 2.
24 THE COURT: But if you're quoting a document that

1 you believe in good faith will be admitted, you're not going
2 to run afoul of me.
3 MR. FUSS: May I approach?
4 THE COURT: I've got Exhibit 2 here in my binders.
5 I apologize. That's Mr. Gresko's report, right?
6 MR. FUSS: Yes. It would be under results and
7 conclusions, paragraph two, beginning the Y chromosome DNA
8 results.
9 THE COURT: You'll have no quarrel from me.
10 MR. FUSS: Thank you.
11 THE COURT: It seems to me that resolves the
12 motion in limine.
13 MR. FUSS: Yes, your Honor.
14 THE COURT: Thank you. Are there any other issues
15 we need to discuss?
16 MR. LEE: None from the State, your Honor.
17 MS. BERTSCHY: Your Honor, we just had one
18 question regarding the information we discussed with your
19 court clerk that it would be our preference to strike all
20 indication regarding the category as well as whether or not
21 the charge is a felony or a gross misdemeanor offense and
22 it's my understanding that this Court had some statements
23 regarding that request.
24 THE COURT: Is there legal authority for it?

1 MS. BERTSCHY: No, your Honor. The main reason
2 for that is we just want to make sure that we're not trying
3 to confuse the jury or have them be misled. For the context
4 of this hearing, it's my information that the Court was in
5 agreement with striking the category, but not the felony or
6 the gross misdemeanor.
7 So we're just concerned that including that in
8 there, whether jurors may do when they go back.to deliberate
9 is unintentionally be considering the possible penalty,
10 because they know there's a difference between a misdemeanor
11 and a felony. So that is our concern, your Honor.
12 THE COURT: I hear the concern. I understand the
13 concern. It's been discussed on occasion and other
14 occasions. There are probably tens of thousands of
15 informations lodged in this district after -- well, maybe
16 thousands, not ten of thousands, after jury verdicts that
17 contain both the reference to felony and the misdemeanor and
18 in some cases the category.
19 I'm unaware of a legal authority, which guides
20 this issue and on the eve of trial, literally minutes before
21 the jury is due, in this context without legal authority, I
22 don't intend to change the amended information beyond the, I
23 guess, the compromise of removing the categories.
24 MS. BERTSCHY: It would be our request to have the

1 information retained as it was including the categories.
2 THE COURT: If that's your request, I'll go back
3 to the original information. Any objection to that, Mr. Lee?
4 That would include category A felony.
5 MR. LEE: I don't have any objection, your Honor.
6 MS. BERTSCHY: One moment, your Honor. Thank you,
7 your Honor.
8 THE COURT: So the information will be read as
9 filed, then, Ms. Clerk. Any other issues we need to discuss?
10 MR. FUSS: Any, quote, unquote, high signs or
11 signals when counsel needs to use the restroom?
12 THE COURT: I sort of read body language well.
13 There's a lot of bodies in the room whose language I have to
14 read, however. I'll try to be sensitive to that. You will
15 not upset me if you indicate, judge, I need a break, unless
16 it's half an hour into anything.
17 MR. FUSS: The other thing I could probably just
18 lean over and ask your deputy to let you know if I can't get
19 your attention or I can ask one of your assistants.
20 THE COURT: Certainly. I look forward to trying
21 this case with you all.
22 (A short break was taken.)
23 THE COURT: Welcome, ladies and gentlemen, to
24 Department Seven of the Second Judicial District Court. My

1 name is Egan Walker. I'm an elected judge here in the
2 Department Seven of the Second Judicial District Court.
3 I'd like to welcome you to this courtroom. You've
4 been summoned here for a criminal trial. I'll tell you more
5 about that in a few minutes, but let's begin first with roll.
6 Ms. Clerk, would you call the roll of the prospective jurors?
7 THE CLERK: Yes, your Honor.
8 (Roll of the jury called at this time.)
9 THE COURT: Ladies and gentlemen, would you please
10 stand so Ms. Encallado can issue the oath of prospective
11 service to all of you.
12 (All jurors sworn at this time.)
13 THE COURT: Please be seated, ladies and
14 gentlemen. Before we go any further, anyone have any
15 difficulty hearing me? Sir, would you please stand and tell
16 me your name.
17 A JUROR: John Curr.
18 THE COURT: Good afternoon to you. Welcome.
19 Would it be assistance to you if you were step forward and
20 take a seat closer?
21 For the moment, deputy, if you would invite him
22 over into the well of the Court. We're going to play a game
23 of musical chairs in a moment. I will try to seat those
24 folks who like me have any insults of their hearing closer so

1 you can hear. Is there anyone else with a concern being able
2 to hear? Sir, would you please give us your name?
3 A JUROR: Lynn Sorensen.
4 THE COURT: Welcome to you, Mr. Sorensen. You,
5 too, can step forward. I warn you as soon as you step
6 forward we're going to play a game of musical chairs as I
7 said in just a moment, but we'll at least get you closer so
8 you can hear clearly.
9 Anyone else have any difficulty hearing? The next
10 step, then, ladies and gentlemen, is I'm going to ask the
11 clerk to draw names at random and we're going to fill up the
12 jury box and the chairs that are in the well of the jury.
13 Some of you will be in those chairs. I ask you to follow the
14 directions of Deputy Vietti. Some of you will replace chairs
15 that are open in the well of the Court. By that process,
16 we'll have sort of have a full panel, as it were, here in the
17 well of the Court with me.
18 Ms. Clerk, if you would call the name of the
19 prospective jurors to examine first.
20 THE CLERK: Yes, your Honor. Debbie Smith. Linda
21 Skinner. Jacob Brannameng. Steve Behm. Wesley Ng. Lela
22 Hansen. Brian Wilsey. Steve Canale. Lynn Sorensen. Jared
23 Trotter. Jamie Laughton.
24 MS. BERTSCHY: I apologize. Could you spell that?

1 THE COURT: L-a-u-g-h-t-o-n.
2 MS. BERTSCHY: Thank you.
3 THE CLERK: Crista Jorgensen. Shawn Burns.
4 Katherine Patterson.
5 THE COURT: Mr. Curr, before we go no further,
6 perhaps we could impose on somebody switch with one of the
7 front seats in the gallery with you. If you would step back,
8 Mr. Curr, into the gallery. And, ladies and gentlemen, if
9 you would be kind enough give Mr. Curr one of the front seats
10 so he can hear. Thank you, sir.
11 THE CLERK: Amanda Mussehl. Brent Collamer. La
12 Nguyen. Ryan Arnaud. Stella Ramiro. Samuel Tamayo.
13 Sansanee Gasuad. Daniel Monette. Sara Tanaka. Desirae
14 Henry. Lora Buice. Paul Morrison. Jeffrey Metcalf. Gina
15 Watson. Kyle Smit. Stefanie Vincent. Robert Peterson.
16 Anthony Folen.
17 THE COURT: Thank you, ladies and gentlemen, for
18 suffering through our game of musical chairs. We have an old
19 Courthouse with rooms not quite large enough for the task. I
20 apologize to you for that reality.
21 I am going to address my remarks primarily to the
22 folks in what I call in the well of the court with me. That
23 includes the jury box. But the bad news, ladies and
24 gentlemen, in the back of the courtroom is you're not off the

1 hook yet, not even close. I can guarantee you will be
2 exchanging seats with those folks in the well of the court as
3 the questioning goes on this afternoon.
4 To all of you, I say I welcome to you. Jury
5 service can be seen as an enormous inconvenience. I'll talk
6 more about that in a moment. Your commute can be tortuous,
7 an interruption to your day and your week is difficult and
8 parking around the Courthouse is always an exercise in
9 futility.
10 I understand and appreciate your sacrifices and I
11 assure you the attorneys do as well. I want you to know I
12 and we would not impose upon your time in your lives without
13 very important work for you to do.
14 In this case, you're going to be asked whether or
15 not a fellow citizen should be deprived of his liberty.
16 There is no more solemn a task you could ever be asked to
17 undertake than jury service in that context in my opinion.
18 Because of the rights we're touching right now by
19 this process, the process of jury selection, you'll hear the
20 attorneys and I call it voir dire, which is a Latin phrase to
21 speak the truth or to seek the truth, because of this process
22 and the antecedents of this process, you now are in contact,
23 literally and physically, in contact with the Constitution of
24 the State of Nevada and the Constitution of the United States

1 of America.

2 You are directly having interaction with the

3 founding fathers of our constitutional system of justice,

4 Jefferson, Jay, Hamilton, Adams, Franklin to name a few.

5 Before them, through this process, meaning of service on a

6 jury deciding the facts related to another citizen, you're

7 actually touching history longstanding.

8 The Magna Carta was signed in the 13th Century,

9 the 1200s in England. Our system of justice in the United

10 States is based in large part on the English system of

11 justice and the Magna Carta guarantees right to a trial by

12 jury among other rights.

13 Before the Magna Carta, you have contact with the

14 Egyptians who in 3000 before the common era or before Christ,

15 would choose citizens from opposite sides of the Nile to

16 resolve disputes in a jury trial fashion. And before them,

17 the Greeks who in the Fifth Century BC began what is often

18 called the republican or also democratic system of justice.

19 I believe that juries are the hearts and lungs of

20 liberty. Even when the United States Supreme Court

21 interprets the constitution that we are in contact by this

22 process, it does so, meaning the Supreme Court does so,

23 knowing only that it's the spinal cord of the justice system.

24 You when you're chosen as jurors in this case will speak for

1 liberty.

2 There are young men and young women serving across

3 the world right now as we sit in this room. Many of them are

4 in combat zones in harm's way. By your service in this case,

5 you, like me, will do honor to their service. Let us honor

6 their service through our process in this case.

7 This system, the American jury system, is in my

8 view the most powerful method yet devised for the

9 ascertainment of the truth. We're by this process keeping

10 faith with history, with our founding fathers and with our

11 constitutional systems of federal and state government.

12 The jury in this case will try the case with me.

13 Jurors in criminal cases are triers of fact. The juries are

14 in fact the judge of what the facts in the case are. I will

15 be the judge of process and the law in this case. Together,

16 if you're chosen as a juror, we'll try this case.

17 I'd like to introduce myself again and officers of

18 the Court and I will have the attorneys introduce themselves

19 to you in a few moments. Again, my name is Egan Walker. I

20 think it's on the plaque right below me here. I'm an elected

21 district judge. I'm one of 15 sitting district judges.

22 There are nine of us in what we call the general jurisdiction

23 where criminal jury trials occur. I have the privilege of

24 serving with all of you in Department Seven.

1 To my immediate right is Ms. Encallado Alvarez.
2 She is a court clerk. It's her job to keep me out of
3 trouble, imagine that task, and to work as air traffic
4 controller of the evidence and the process in this room. To
5 her right is a senior judge, Ms. Oates. She's had to keep me
6 out of trouble for a couple of years now and she'll tell you
7 what a hard job that is.
8 To her far right is my law clerk Ms. Ebeth
9 Palafox. She's a trained lawyer. It's her job to make sure
10 that I am spot-on on the law in this case.
11 Over to the right you've already met Deputy
12 Vietti. Deputy Vietti is the dark haired lady just behind
13 counsel table there. It's her job and her fellow deputies'
14 jobs to keep us all safe in this room and I look to her for
15 issues of safety and really to keep us from tripping over
16 each other in the game of musical chairs that we play.
17 Counsel, I'm going to turn to you each of you in
18 turn and ask you to introduce yourselves, your co-counsel and
19 your clients. Let me begin with you, Mr. Lee.
20 MR. LEE: Good afternoon, ladies and gentlemen.
21 My name is Matthew Lee. I'm a Deputy District Attorney with
22 the State of Nevada. So that is my client, the State of
23 Nevada. With me is my co-counsel, Mariah Northington, also a
24 Deputy District Attorney in the District Attorney's Office

1 here in Washoe County.

2 THE COURT: Thank you.

3 MS. BERTSCHY: Good afternoon. My name is Kendra

4 Bertschy, and along with my co-counsel, Tobin Fuss, it is our

5 privilege and honor to represent Osbaldo Chaparro.

6 THE COURT: Ladies and gentlemen, I indicated to

7 you this is a criminal trial. There are three allegations.

8 Allegations are proof of nothing. They're just the claims

9 that the State makes against an individual.

10 Count One accuses Mr. Chaparro of sexual assault.

11 Count Two accuses Mr. Chaparro of battery with intent to

12 commit sexual assault upon a victim age 16 or older. And

13 Count Three charges open or gross lewdness.

14 To accomplish the proof in this case, the

15 attorneys have identified witnesses. Let me read the names

16 of those witnesses to you, because in a few moments I'm going

17 to ask you if you recognize me, any of the court personnel or

18 the attorneys, the defendant or any of the witnesses. The

19 witnesses are Marshall Eason, Brian Schuster, Sean Zint,

20 Corey Autrey, William Lynch, Deborah Moreno, Joanne Summers,

21 Michael Duncan, Darrell Anderson, Lindsay L, Ashley Derosa,

22 Natasha Evans, Angel Chavez, Miguel Santano Aguilar, Pamala

23 J, Steven Gresko, Laura Dickson, David Jacobson, Deborah

24 Robinson, Philip Danielson and Claire Nelli.

1 Now, in a moment, I am going to ask all of you to
2 introduce yourselves to me. But so that I can break the ice,
3 and I say break the ice, because we recognize the process of
4 being questioned publically is probably first on everyone's
5 list of the things that make them most uncomfortable. I'm
6 going to introduce myself to you and then I'm going to ask
7 each of you to introduce yourselves to me in turn. We'll get
8 to the business who knows who on the panel or among the
9 witnesses or with counsel or the defendant.
10 So let me show you what I want you to do. I've
11 already told you twice now, my name is Egan Walker. I'm a
12 District Judge. I am married. My wife Shelly is an
13 accountant up as TMCC. I have six children. They range in
14 age from 37 to 21. I won't bore you with their names and
15 ages, because I can't remember them all. I'm kidding. I
16 keep waiting for one my kids to come and listen to that and
17 get really upset. I've lived in Washoe County for more than
18 30 years.
19 I'm going to ask each of you break the ice with
20 us. It will help us with the pronunciation of your name,
21 among other things. We begin with what is identified as
22 juror number one. That's the seat you're sitting in,
23 Ms. Smith. If you would please stand and introduce yourself.
24 You can use the handy checklist if you'd like.

A JUROR: My name is Debbie Smith.

THE COURT: Good afternoon. Are you married?

A JUROR: Divorced.

THE COURT: And your children, if any?

A JUROR: I had one, but she passed away last year.

THE COURT: I'm sorry for your loss. Are you employed?

A JUROR: Yes, sir.

THE COURT: How are you employed?

A JUROR: I'm a housekeeper at Northern Nevada Medical Center.

THE COURT: That's great work. How long have you lived in Washoe County?

A JUROR: Since 1970.

THE COURT: Welcome to you, ma'am. Thank you. Ms. Skinner.

A JUROR: I am Linda Skinner. I'm a gaming operations analyst. I'm married 48 years. I'm having trouble seeing it one way or the other. My husband is retired. Children, I have a boy and a girl in their 40s. Length of residency, we've been in Reno for 18 years.

THE COURT: Good afternoon. Welcome.

A JUROR: You don't need to know anything about

1 anything?

2 THE COURT: We'll talk about other questions in

3 just a moment. This is just to break the ice. Sir, would

4 you pronounce your last name for me, please?

5 A JUROR: Sure. My name is Jacob Brannameng.

6 Occupation, solar installer for Simple Power Solar here in

7 Reno. I'm married for two years to my wife Shannon

8 Brannameng. She is a registered nurse at Saint Mary's. And

9 children, she's pregnant.

10 THE COURT: Congratulations.

11 A JUROR: Due in a couple of weeks. And I've been

12 in Washoe County since 2011.

13 THE COURT: Whatever else is going to happen,

14 Mr. Brannameng, your life is going to change in a couple of

15 weeks.

16 A JUROR: My name is Steve Behm. I work for

17 Washoe County School District as well as my wife working for

18 Washoe County School District. I have one son that is

19 22 years old. I've lived in Washoe County for 13 years.

20 THE COURT: Welcome to you, sir. Mr. Ng.

21 A JUROR: Yes. My name is Wesley Ng. I'm

22 unemployed. I am not married and have no children. And I've

23 lived here for six years.

24 THE COURT: Good afternoon to you, sir. Welcome.

1 Ms. Hansen.

2 A JUROR: My name is Lela Hansen. I am an HR

3 manager for a painting company in town. I've been in Washoe

4 County for about 25 years. I have a 17-year-old son.

5 THE COURT: Good afternoon to you. Mr. Wilsey.

6 A JUROR: My name is Brian Wilsey. I'm a

7 machinist, been in Washoe County for 19 years, divorced, no

8 children.

9 THE COURT: Good afternoon to you, sir.

10 Mr. Canale.

11 A JUROR: My name is Steve Canale. I'm a social

12 worker with Washoe County Human Service Agency. I'm married.

13 My wife is also a social worker. I have one child. He is

14 almost two years old. And I've been in Washoe County for

15 40 years.

16 THE COURT: Good afternoon to you, sir.

17 Mr. Sorensen.

18 A JUROR: My name is Lynn Sorensen. I'm a retired

19 pharmacist. I'm married since 2004, second wife. Spouse's

20 name is Jan. Her occupation, she's out on disability, but

21 she was a retailer. I have two children, two boys, 29, 34.

22 I've been in Washoe County since August '78.

23 THE COURT: Good afternoon to you, sir.

24 A JUROR: Thank you.

THE COURT: Mr. Trotter.

A JUROR: My name is Jared Trotter. I'm an electronics technician, fire alarm security, et cetera. Married to wife Kimberly. And we've been married almost 20 years. She's a teacher at Washoe County School District. We have two boys, 16 and nearly 18. We've been here for seven years.

THE COURT: Good afternoon to you, sir. Ms. Laughton.

A JUROR: My name is Jamie Laughton. I'm a designer and owner of Ceramic Tile Center out in Sparks, Nevada. I've been married 37 years. My husband's name is Jim. He's a wealth management advisor for Wells Fargo. I have four children, 36-year-old daughter, 34-year-old son, 24-year-old identical twin girls. And I've lived here for 38 years.

THE COURT: Good afternoon.

A JUROR: I'm Crista Jorgensen. I'm a financial analyst. I've been married for five years. My husband Wes is a manager at Intuit. I have a one-year-old daughter. And I've lived in Washoe County for 13 years.

THE COURT: Welcome to you, ma'am. Mr. Burns.

A JUROR: My name is Shawn Burns. I'm a router operator. Currently, I am single, but engaged to be married.

I have a 26-year-old son. And I have lived in Washoe County since 1981.

THE COURT: Thank you, sir. Welcome. Ms. Patterson.

A JUROR: I'm Katherine Patterson. I'm a stay-at-home mom. I'm married. 26 years in Washoe County. Been married to my husband Josh for 23 years. We have nine children from 30 to 7. And I have in Washoe County for 26 years.

THE COURT: Thank you for not naming and aging all of them.

A JUROR: You're welcome.

THE COURT: Ms. Mussehl.

A JUROR: Hi, I'm Amanda Mussehl. I'm a full-time student at UNR with a part-time employment at Dillard's. I'm single, have no kids. And I've lived here for 16 years.

THE COURT: Welcome to you. Mr. Collamer.

A JUROR: Brent Collamer. Librarian for Washoe County. I'm married to my wife Tracy for 16 years. She's a facilities manager. I've got two kids, a daughter 13, boy 15. Lived here 16 years.

THE COURT: Good afternoon to you, sir. Welcome. Ms. Nguyen.

A JUROR: Excuse me. No talk English too much.

1 THE COURT: Welcome to you, Ms. Nguyen. I gather
2 English is a second language for you? What is your first
3 language?
4 A JUROR: Vietnam.
5 THE COURT: All right. So the good news is your
6 English is way better than my Vietnamese.
7 A JUROR: A problem for me and just English and
8 regular duty. I don't talk too much, yeah, sorry. Excuse
9 me.
10 THE COURT: You're doing fine. Are you
11 comfortable communicating with us in the English language?
12 A JUROR: Yes.
13 THE COURT: Okay. That's good enough for me.
14 A JUROR: Sorry.
15 THE COURT: Do you have a driver's license?
16 A JUROR: No. What is this?
17 THE COURT: Do you have a license to drive a
18 vehicle?
19 A JUROR: Yes. Yes.
20 THE COURT: So I know you can read English signs,
21 then, and you must follow the rules of the road. Is it your
22 desire to serve as a juror in the English language? Do you
23 want to serve? Or would you be more comfortable not serving
24 in this case because English is a second language?

A JUROR: Vietnamese and English here.

THE COURT: Well, it appears to me you're having some difficulty understanding my questioning, which is my fault, not yours, let me add. And I'll simply offer to you this: If you're resident of the county, and you are, and a citizen of the country, and you are, you're qualified to serve. The bar for English understanding is fairly low. But it appears to me that this would not be an appropriate case for you to serve on, because of your discomfort working in the English language. Does that make sense?

A JUROR: Yes.

THE COURT: Counsel, do you have any objection to thanking and excusing Ms. Nguyen?

MR. LEE: No, your Honor.

MS. BERTSCHY: No, your Honor.

THE COURT: Ms. Nguyen, would you please check in with the jury commissioner downstairs. Ms. Clerk, would you call another name?

THE CLERK: Yes, your Honor. Luke Reich.

THE COURT: Good afternoon, Mr. Reich. Before you sit down in the comfortable hot seat of a chair, if you don't mind introducing yourself to us.

A JUROR: My name is Luke Reich. I work as a security officer. Also a member of the Nevada National

Guard. And I'm currently going to school as well. I am married. Her name is Karen. She's a massage therapist. I have no children. And I've lived in Reno about my whole life, Washoe County my whole life, so about 25 years.

THE COURT: Good afternoon. Mr. Arnaud.

A JUROR: Good afternoon, your Honor. My name is Ron Arnaud. I'm a firefighter medic. I am not married, no children. And I've lived in Washoe County for approximately ten years.

THE COURT: Good afternoon to you, sir. Welcome. Ms. Ramiro.

A JUROR: Good afternoon. I'm Stella Ramiro. I'm retired. I am divorced. I have three children, grown up children. And I live here for 17 years.

THE COURT: Welcome to you, ma'am. Thank you. Ms. Tamayo.

A JUROR: Hi, my name is Daniel Tamayo. I am a highway maintenance worker for the State of Nevada. I am married. My wife is Dove Tamayo. She is a surveillance manager at the GSR. And I have two kids, 4 and 6. And I've lived in Washoe County for five years.

THE COURT: Good afternoon. Ms. Gasuad.

A JUROR: Hi, Sansanee Gasuad. Married. My husband is the manager of the Prospector Club and have two

children and live in Washoe County since 1987.

THE COURT: Good afternoon to you, welcome. Mr. Monette.

A JUROR: My name is Daniel Monette. I'm an apartment manager. I am married to my beautiful wife Tamara for 37 years. She is an apartment manager with me. We have two children, age 40 and 41. And I've lived here since 1989.

THE COURT: Thank you, Mr. Monette. I apologize for mispronouncing your name. Ms. Tanaka.

A JUROR: Sara Tanaka. I'm not married. I have two children. I have a son 32, who served in our military and is a police officer. And I have a 17-year-old daughter.

THE COURT: Welcome to you, ma'am.

A JUROR: Thank you.

THE COURT: Ms. Henry.

A JUROR: Hi, I'm Desirae Henry. I'm a medical receptionist for an eye surgeon. I'm not married. I've never been married. I have two kids, a six-year-old daughter and a five-year-old son. And I've lived in Washoe County my whole life.

THE COURT: Welcome to you, ma'am. Is it Ms. Buice?

A JUROR: Buice, yes. I'm Lora Buice. I'm a director for a distribution facility. I've been married to

1 my husband Gary for 49 years. He's retired now. We have
2 three grown sons. And we've lived in Washoe County for
3 48 years.
4 THE COURT: Mr. Morrison.
5 A JUROR: Yes, Paul Morrison, I'm a chef. I'm
6 married. My wife is Michelle. She's a nurse practitioner --
7 no. She's an nurse educator now. I have two kids, 13 and
8 24. And I've been in Washoe County for 20 years.
9 THE COURT: Good afternoon to you, sir. Welcome.
10 Mr. Metcalf.
11 A JUROR: Hi, my name is Jeffrey Metcalf. I work
12 at Truckee Meadows Community College admissions and records
13 office. My spouse's name is Stan and he's in sales. I have
14 no children. And I've been here for probably about 25 years.
15 THE COURT: Welcome. Ms. Watson.
16 A JUROR: My name is actually Gina Majorsay. I
17 got remarried two and a half years ago.
18 THE COURT: Could you spell your last name?
19 A JUROR: M-a-j-o-r-s-a-y.
20 THE COURT: Congratulations on your marriage.
21 A JUROR: Thank you. I'm a clinical program
22 analyst. I'm responsible for the lab suite of an electronic
23 health records at a hospital in Truckee. My husband is
24 Donald Majorsay. He's responsible for all the facilities.

He's a supervisor at Renown. And I have two children, age 27 and 24. And I've been in Washoe County for 21 years.

THE COURT: Welcome to you, ma'am. Mr. Smith.

A JUROR: Kyle Smith. I'm inside sales at Wedco. Not married, no kids. Lived in Washoe County my whole life, so almost 33 years.

THE COURT: Good afternoon. Ms. Vincent.

A JUROR: I'm Stefanie Vincent. I'm not married. I am the office manager at Reno Trust. I have two kids, ages two and five. And I've lived here for 28 years.

THE COURT: Welcome to you. Mr. Peterson.

A JUROR: Robert Peterson. I go by Drew. I have a job in logistics. I broker freight. I'm single, no kids. Been here since I was five with the exception of leaving for school and coming back.

THE COURT: Welcome to you. Mr. Folen.

A JUROR: My name is Anthony Folen. I'm a quality assurance engineer. I've been married to my wife Jody for 15 years. We have three kids, 11, 8 and 5. I have lived here since 1996.

THE COURT: Welcome to you, sir. It's a pleasure to meet all of you. I wanted these introductions to occur prior to direct questioning, if you all. Direct questioning is an opportunity for me and then the attorneys to ask

1 questions individually of you. I want you to know that none
2 of us by asking you individual questions are asking you
3 questions meant to embarrass you or make you unnecessarily
4 uncomfortable.
5 The purpose for our questioning is to determine
6 whether or not you can be fair and impartial to serve as a
7 juror in this case. Our only objective is to determine that.
8 And, please, if you would, to give your full and complete and
9 honest answers to all the questions we ask. I always say
10 there are no wrong questions and no wrong answers as long as
11 we're all honest with one another.
12 To those in the back of the courtroom, I remind
13 you, bookmark or red flag any of these questions as you hear
14 them, so if you're called upon to take the place of a juror
15 in the well of the court, I'll go to you and say directly,
16 rather than go through each questions, did any of those
17 bookmarks or red flags go up for you.
18 Anyone here in the panel recognize any of the
19 attorneys or the parties in this case? Anyone of you know
20 either the prosecutors or defense counsel? Mr. Canale, who
21 do you know?
22 A JUROR: I know Tobin and Kendra.
23 THE COURT: You know them through your job in
24 human services, correct?

1 A JUROR: Yes.
2 THE COURT: Any reason that you don't believe you
3 can be fair and impartial in this case, because you know them
4 on a professional level in their capacities as attorneys?
5 A JUROR: I don't believe so. I believe I can
6 still be impartial.
7 THE COURT: Anyone else in the first row know any
8 of the attorneys or parties in this case? Or in the second
9 row? Or the third row? Or the forth row? Or the last row?
10 Anybody know me or any of the Court staff? I see, so,
11 Ms. Jorgensen.
12 A JUROR: We've met before. I work with your
13 wife.
14 THE COURT: So you work with my beautiful wife.
15 You know I married way out of my league. We'll just leave it
16 at that. But the real question is this: Just because you
17 know my wife, does that cause you to have any concern about
18 being fair and impartial as a juror in this case?
19 A JUROR: No.
20 THE COURT: All right. Anyone else know me or any
21 of the court staff? Mr. Metcalf.
22 A JUROR: I know your wife.
23 THE COURT: You can second the fact that I married
24 way out of my league. Mr. Canale.

1 A JUROR: You were a family court judge for a long
2 time, so I know you.
3 THE COURT: We have the pleasure of knowing each
4 other professionally. The real question boils down to this,
5 Mr. Canale: This is a criminal case, of course, and not a
6 civil case. The criminal burden of proof is beyond a
7 reasonable doubt. I'll give you if you're chosen as a juror
8 specific instructions about that. But can you assure me and
9 the attorneys that you can be fair and impartial in this case
10 no matter what experiences we've had professionally in the
11 past?
12 A JUROR: I believe I can.
13 THE COURT: Anyone know mor or any of the court
14 staff? Any of you know any of the other jurors currently
15 seated in the well of the court? I don't see any hands at
16 least as to the well of the court. I know in the back of the
17 courtroom, we'll get to that in a moment. Mr. Canale.
18 A JUROR: I do know Dan Wise.
19 THE COURT: Who do you know?
20 A JUROR: Dan.
21 THE COURT: What's his last name?
22 A JUROR: I thought it was Wise, but it's Smith.
23 THE COURT: You know Dan. You don't know his last
24 name. It's okay. How do you know Mr. Smith?

A JUROR: Just through mutual acquaintances. We play poker together at my house.

THE COURT: Just because you lose poker to Mr. Smith, is there going to be any reason that you can't be fair and impartial if you both sit on the same jury?

A JUROR: I don't believe so.

THE COURT: The way it boils down is this: Can you disagree? Are you willing if the evidence convinces you one way or the other to take a position that's different than him as a fellow juror or would you just bow to his will because you know him?

A JUROR: I can absolutely independently make my own decision.

THE COURT: Anyone else know anyone? Mr. Ng.

A JUROR: I know Mr. Megan Evans. We both teach or work for the Washoe County School District.

THE COURT: The fact that you serve as the war zones as teachers, my parents are both retired teachers, so I can say that, that causes you concern to be fair and impartial in this case if you were called upon to serve with her?

A JUROR: No.

THE COURT: Anyone else know anyone else in the jury panel? Anyone else on the jury panel know any of the

1 prospective witnesses? We'll begin front to back.
2 Ms. Skinner, who do you believe you may know?
3 A JUROR: The name Deborah Robinson.
4 THE COURT: I happen to know is a nurse.
5 A JUROR: It's not the Deborah Robinson I know.
6 THE COURT: Let's say it was the Deborah Robison
7 you knew, even though it's not, and she were called upon to
8 testify, take the oath and testify, would you evaluate the
9 credibility of any witness based on the demeanor on the
10 stand, their relation to the case, their desire for any
11 particular outcome, if any, and all the factors that must be
12 considered for a witness? Will you do that even if you end
13 up knowing any of the witnesses?
14 A JUROR: Yes.
15 MR. LEE: Judge, I'm sorry. It's actually
16 spelled wrong up there. It's actually Deborah Robison.
17 THE COURT: That's what I thought. So do you know
18 a Ms. Robison?
19 A JUROR: No.
20 THE COURT: She is a nurse. Anyone else know any
21 prospective jurors? Ms. Laughton?
22 A JUROR: Well, William Lynch is a really typical
23 name. I know a Billy Lynch. He was a trainer and he's a
24 contractor. I don't know if that's the same person.

THE COURT: Let's assume it is for moment. If that person were called upon as a witness, could you be fair and impartial to both sides as you evaluate their credibility?

A JUROR: Yes.

THE COURT: Thank you. Anyone else know or have a concern they may know any of the prospective witnesses listed on the board? I don't see any other hands.

Any of you have any prior jury service, either civil or criminal? I'll work from back to front. I'll want to know generally whether it was civil or criminal and when and where it was. Ms. Smith.

A JUROR: Criminal.

THE COURT: Where at?

A JUROR: Here.

THE COURT: About when?

A JUROR: I don't know, 10, 15 years ago, something like that.

THE COURT: Were you able to reach a verdict?

A JUROR: Not that long. Not that long. I was still working at Northern Nevada and I've been there for ten years. So I'm going to say six years ago.

THE COURT: Okay. Were you able to -- without telling me what it was, were you able to reach a verdict?

1 A JUROR: Yes.
2 THE COURT: Anything about that prior service that
3 causes you concern about being fair and impartial in this
4 case?
5 A JUROR: No.
6 THE COURT: Let me just offer, ladies and
7 gentlemen, there are four very good attorneys in this room,
8 five if you include me, but I'm not sure the very good
9 attorney applies to me. But if you're chosen as a juror in
10 this case, you will be proud and privileged to have served.
11 You'll see some very good lawyering. Anyone else in this --
12 in the first row served previously on a jury? I don't see
13 any hands in the first row. Second row that begins with
14 Mr. Sorensen? Again, I don't see any hands. Or the third
15 row that begins with Ms. Mussehl? Or the fourth row that
16 begins with Ms. Gasuad? Or the fifth row? Mr. Metcalf.
17 A JUROR: Yes. I served about 7 or 8 years ago in
18 this second district and we were able to make a --
19 THE COURT: Was it civil or criminal?
20 A JUROR: It was criminal.
21 THE COURT: You were able to reach a verdict?
22 A JUROR: Yes.
23 THE COURT: Anything about that prior service that
24 causes you concern about being fair and impartial in this

1 case?

2 A JUROR: No.

3 THE COURT: Anyone else? Any of you now involved

4 in law enforcement or acquainted with anyone who is a law

5 enforcement officer? Anybody related to, know, friends with

6 peace officer.

7 A JUROR: Past or present?

8 THE COURT: It's any time. I'll work from back to

9 front. Ms. Skinner.

10 A JUROR: My father was an LAPD for 30 years.

11 THE COURT: Thank you for his service.

12 A JUROR: My ex-husband with law enforcement.

13 THE COURT: I'll begin with you, Ms. Smith. With

14 what agency did your husband work?

15 A JUROR: California.

16 THE COURT: Anything about the fact that you have

17 an ex who was a peace officer that causes you concern about

18 being fair and impartial in this case?

19 A JUROR: No.

20 THE COURT: I will tell you, there will be peace

21 officers called to testify in this case. They'll stand right

22 next to the witness stand, which to my left, which is why I'm

23 pointing at it, and take the oath of a witness, and you'll be

24 called upon if chosen as a juror to evaluate the credibility

1 of what they have to say. Can we all agree that just because
2 someone is identified as a peace officer, it doesn't mean
3 that they begin sort of a step ahead in their testimony or a
4 step behind? That's why I asked if you know or are related
5 to a peace officer.
6 Does anyone have any quarrel with that basic
7 proposition? A peace officer is human being as the rest of
8 us subject to the same faults and foibles as the rest of us
9 and you'll have to give the appropriate weight as you deem it
10 to their testimony. Anyone else? Ms. Skinner, anyone else
11 in your family?
12 A JUROR: Not law officer. I have a lawyer, but
13 not a law officer.
14 THE COURT: My condolences to you. We'll touch on
15 that in a moment. But here's another reason I ask: I
16 imagine over the years if you have a family member who is a
17 lawyer and/or if you had a father who is a peace officer, you
18 hear what the law, quote, unquote, is or are or may be. Can
19 you agree with me that I will instruct you on the law that is
20 applied in this case?
21 Trust me, there are laws in Nevada that are
22 different than laws in California. I can say that with a
23 smile because I grew up in California. But I will supply to
24 you the laws that apply in this case, neither what your

1 father may have told you or what a lawyer may tell you are
2 the law in this case. Does that make sense?
3 A JUROR: Yes.
4 THE COURT: All right. Anyone else in the first
5 know, related to any peace officers? Mr. Brannameng.
6 A JUROR: I have a family friend who is a police
7 officer with Reno PD and Hug High School.
8 THE COURT: Do you know the officer's name?
9 A JUROR: Andrew Cardinale.
10 THE COURT: I don't believe he's going to be
11 called upon to testify in this case. I sometimes ask the
12 question this way: The attorneys for the State have the
13 burden to prove elements of the crimes alleged against Mr.
14 Chaparro beyond a reasonable doubt. I'm not going to tell
15 you what the definitions of all of that is at this time, but
16 suffice it to say, the State has to prove that Mr. Chaparro
17 did something wrong. He doesn't have to prove anything in
18 this case.
19 And if at the end of the case you're not convinced
20 the State has carried their burden of proof, are you going to
21 have any trouble going to your friend's house to have a beer
22 and watch the ball game and say I found somebody not guilty?
23 A JUROR: No.
24 THE COURT: Anyone else in the first row know any

1 peace officers? Mr. Behm.

2 A JUROR: Yes. Both professionally and also a

3 friend with my students a program I work for at Parr as an

4 instructor and I have friends in the sheriff's office.

5 THE COURT: What's the program you work at a Parr?

6 A JUROR: I'm the Washoe County School District

7 teacher that works with juveniles.

8 THE COURT: If you work with juveniles, you work

9 at Jan Evans. Or do you work with the juvenile housed at

10 Parr?

11 A JUROR: Yes.

12 THE COURT: What subjects do you teach them?

13 A JUROR: All of them.

14 THE COURT: You run across many of the deputies at

15 Parr, some of the other peace officers, probably too many to

16 name, I would imagine.

17 A JUROR: Exactly.

18 THE COURT: The heart of the matter is this: If

19 you find not guilty in this case, are you going to be able to

20 smile at your friends, walk in and be unconcerned about what

21 they may think?

22 A JUROR: Yes.

23 THE COURT: That was a yes, correct?

24 A JUROR: Yes.

THE COURT: Do you have any concerns about being fair and impartial in this case?

A JUROR: No. I can be impartial.

THE COURT: Ms. Hansen, you raised your hand?

A JUROR: I did. My grandpa was Washoe County for many years.

THE COURT: Thank you for his service. Anything about that connection with law enforcement that causes you to feel you have to sort of be on law enforcement's side just because there are officers testifying in this case?

A JUROR: No.

THE COURT: That was a no, correct?

A JUROR: No.

THE COURT: Anyone other than that family member?

A JUROR: Dispatch. I don't know.

THE COURT: Who do you know that works in dispatch?

A JUROR: My aunt.

THE COURT: Currently?

A JUROR: Yes. I think so.

THE COURT: And do you believe she works in the consolidated dispatch unit?

A JUROR: I'm not sure where she works anymore. I just know I called one time and she answered the phone. That

1 was interesting.

2 THE COURT: I don't think she's going to be called

3 upon to be a witness here. Anyone in the second row know,

4 related to or involved with law enforcement? Ms. Laughton.

5 A JUROR: My nephew is a SWAT team member down in

6 Los Angeles, California for LAPD.

7 THE COURT: Thank you for his service. You heard

8 the question: If you find not guilty, will you able to tell

9 him at a family dinner, hey, I don't believe the State

10 carried the burden. The converse is true as well. The State

11 carries the burden of proof every element beyond a reasonable

12 doubt, are you going to have any concern about telling them

13 you found guilty?

14 A JUROR: No.

15 THE COURT: Anyone else in the second row? Mr.

16 Burns.

17 A JUROR: Yeah. My father worked Churchill County

18 Sheriff's Department many years ago. He's passed away now.

19 And I have two cousins that are police officers, one in

20 Churchill County and one in Utah.

21 THE COURT: Anything about the fact that you have

22 family members who are peace officers that causes you

23 concerns about being fair and impartial here?

24 A JUROR: No.

1 THE COURT: Thank you, sir. In the third row that
2 begins with you, Ms. Mussehl? Mr. Reich.
3 A JUROR: Yes, sir. So I'm actually a military
4 police officer in the Nevada Army National Guard.
5 THE COURT: Thank you for that service.
6 A JUROR: A lot of the people there on the
7 civilian side, they're law enforcement officers locally. I
8 know more than a handful through that. My brother's
9 girlfriend is a law enforcement officer. And then just
10 through my work also are familiar with law enforcement
11 officers.
12 THE COURT: It has nothing to do with the legal
13 standard, by the way, that's my hint to the attorneys, but
14 sometimes I ask a guttural question this way: If you were
15 sitting where Mr. Chaparro is sitting accused of crimes in
16 this case, would you want someone like you trained as a peace
17 officer and knows a lot of peace officers to be a juror in
18 his case? Could he be certain that you would be fair and
19 impartial? You wouldn't just homer for the cops, as it were?
20 A JUROR: Yes. We have to. Part of the job is
21 being impartial.
22 THE COURT: And following the facts?
23 A JUROR: Yes.
24 THE COURT: And you're satisfied that you can

1 follow the facts in this case and apply the law as I instruct
2 it?
3 A JUROR: Yes, your Honor.
4 THE COURT: All right. Thank you. Anyone else in
5 that row? Mr. Arnaud.
6 A JUROR: Same thing, your Honor, just due to my
7 occupation, I work side by side with police officers, NHP,
8 way too many to name.
9 THE COURT: Anything about your connection -- you
10 wear a uniform, you work in a paramilitary organization, and
11 the police rely on you and you rely on them. It's a fairly
12 close connection. Anything about that cause you concern
13 about being fair and impartial in this case?
14 A JUROR: No, your Honor.
15 THE COURT: Anyone else in the third row? Or in
16 the fourth row that begins -- so Ms. Henry?
17 A JUROR: My cousin Kyle Bonta is a tribal police
18 officer at Pyramid Lake.
19 THE COURT: Thank you for his service.
20 A JUROR: My children's uncle is Jerry Wydell. He
21 works for the Sparks Police Department.
22 THE COURT: I met Officer Bonta at Pyramid Lake.
23 He pulled me over when I was speeding and he didn't give me a
24 ticket. So I like that Officer Bonta guy. Do you have any

1 concern about being fair and impartial in this case, because
2 of those connections?
3 A JUROR: No.
4 THE COURT: Ms. Tanaka, who do you know?
5 A JUROR: My son.
6 THE COURT: His name, please.
7 A JUROR: Craig. He's in California.
8 THE COURT: What's his last name?
9 A JUROR: Tanaka.
10 THE COURT: Where does he work in California?
11 A JUROR: Oakland, PD.
12 THE COURT: It's a tough jurisdiction to work in.
13 A JUROR: There's actually been a shooting, so
14 he's on and -- him and some other officers are on leave.
15 THE COURT: Thank you for his service. Do you
16 have a concern about being fair and impartial in this case
17 because your son is a peace officer?
18 A JUROR: I do.
19 THE COURT: Can you be more specify about your
20 concern?
21 A JUROR: Just a lot of the things he's told me
22 from -- like things from California, like being out on the
23 streets, what he's seen. I just don't believe I can be fair.
24 I really don't. I'm being very honest with you.

1 THE COURT: That's all I can ask. You're doing
2 exactly what I requested, which is to be direct and honest
3 and I appreciate that so very much.
4 A JUROR: I mean no disrespect, your Honor. I
5 mean none at all.
6 THE COURT: I can tell you mean no disrespect.
7 Quite honest, this is exactly what we want. I'm going to
8 excuse you in a moment, but you've given me a nice opening to
9 talk in this way about what I call biases and prejudices.
10 Can we all agree you all have no clue what my ethnicity or
11 ethnic background is by looking at me. Can we all agree on
12 that? I have light colored skin, but that might mean nothing
13 related to what my ethnicity is.
14 And can we all agree that the ethnicity of Mr.
15 Chaparro or any witness in this room has no bearing
16 whatsoever on this case? Anybody have any quarrel at all
17 with that?
18 The reason we ask the question is because of this:
19 We all have biases and prejudices. You've been kind enough
20 to share with me yours. We've all got one. Anybody that
21 tells you they don't have a bias or prejudice is not being
22 truthful with themselves.
23 Let me give you an example: I work late into the
24 night sometimes, I park underneath the building, but

1 sometimes I park out on the street or near to the Courthouse
2 and I walk to my car where my car is at. I think I'm a tough
3 guy and I can handle myself, but if it's late at night, as a
4 judge, I'm a bit of a target in the community, unfortunately.
5 And as a target in the community, I make assessments about
6 the people around me. I look to see who is walking around
7 me, who may be near to me, who might present a threat to me
8 and I make snap judgments on whether or not I'm safe to walk
9 on this side of the street or that side of the street or go
10 into this business or not go into that business based on what
11 I see.
12 That's my use of biases and prejudices. We've all
13 got them. So nobody can do a better job than you did,
14 Ms. Tanaka, about just telling us what they are.
15 A JUROR: I don't mean any disrespect.
16 THE COURT: I can tell. I'm not worried. I
17 appreciate your son's service. Any objection to me thanking
18 and excusing Ms. Tanaka?
19 MR. LEE: No, thank you.
20 MS. BERTSCHY: No, your Honor. Thank you.
21 THE COURT: Please check in with the jury
22 commissioner downstairs before you leave, Ms. Tanaka. Would
23 you call another name?
24 THE CLERK: Yes, your Honor. Jerada Conely.

1 THE COURT: Welcome, Ms. Conely. Before you get
2 comfortably seated, would you mind facing the board and
3 introducing yourself to us.
4 A JUROR: I'm Jerada Conely.
5 THE COURT: Thank you.
6 A JUROR: So I've lived in Washoe County -- oh,
7 occupation, retired. I was a meat wrapper for 50 years.
8 Marital status, I've been married 51 years.
9 THE COURT: Congratulations.
10 A JUROR: My spouse's name is Patrick. He works
11 for my grandson, who took over the family business. And I
12 have two children, 47, 48. And I've lived, let's see, 1972
13 is when we moved to Washoe County.
14 THE COURT: A good bit you've lived here. I'll
15 forgive you how much emphasis and the vigor you put into the
16 fact that you're retired. Every retiree that introduces
17 themselves to me rubs it in and I want let you know I resent
18 it. I'm kidding. Welcome to you, ma'am. Before I go any
19 father, ma'am, any of those red flags go up? Do you know any
20 of the court personnel, any of the jurors?
21 A JUROR: No, none of those, but I am very nervous
22 about his charges because it happened to me.
23 THE COURT: Yes.
24 A JUROR: I think I'm going to -- I'd like to pass

1 on this one.
2 THE COURT: First, I apologize for salt in any
3 wounds. Thank you as did Ms. Tanaka for being open with us.
4 You've done nothing wrong. You did nothing wrong to be hurt
5 in the way you were hurt. I'm sorry that occurred to you.
6 Your voice catches, there are tears in your eyes. I can tell
7 that even just the name of the charge causes you concern.
8 A JUROR: Yeah. I'm not saying he's guilty or
9 innocent.
10 THE COURT: Of course not and it's important that
11 you do exactly what you did, which is just be open and honest
12 with us. Thank you for that.
13 I would appreciate the ability to thank and excuse
14 you. Please check in with the jury commissioner downstairs.
15 Counsel, do you have any objection to me excusing Ms. Conely?
16 MR. LEE: No, your Honor.
17 MS. BERTSCHY: No, your Honor. Thank you.
18 THE COURT: If you'd check in with the jury
19 commissioner, Ms. Conely, and keep enjoying that retirement.
20 THE CLERK: Cynthia Pyle.
21 THE COURT: Ms. Pyle, welcome to you, ma'am.
22 Before you get comfortable, would you kindly introduce
23 yourself to us?
24 A JUROR: My name is Cynthia Pyle. I've lived in

1 and out of Washoe County since 2009. I have three children,
2 46, 44, 41, divorced and I work at Green's Feed and Sales.
3 THE COURT: Welcome, ma'am. Thank you for being
4 here this afternoon. Any red flags?
5 A JUROR: Yes. This is the demon chair. I have
6 had the same thing happen to me when I was 13.
7 THE COURT: I'm sorry for what has happened to you
8 in the past. Thank you for being open and honest with us.
9 You, too, by your demeanor communicate much to me in terms of
10 how much discomfort you feel related to this. I can
11 understand completely that discomfort and it sounds like it's
12 fair to say you are concerned that you couldn't be fair and
13 impartial.
14 A JUROR: No, I could not.
15 THE COURT: Any objection to me excusing Ms. Pyle?
16 MR. LEE: No. Thank you.
17 MS. BERTSCHY: No, your Honor. Thank you.
18 THE COURT: Thank you, Ms. Pyle. Please check in
19 with the jury commissioner downstairs.
20 A JUROR: Judge, I think I need to --
21 THE COURT: All right. Before we go to another
22 name, we've opened the topic, and it is appropriate to open
23 the topic. Let me begin my conversation with you with this
24 emphasis: If I asked all of you in this room to vote right

1 now about whether or not Mr. Chaparro is guilty or innocent,
2 what would your vote have to be?
3 It would have to be not guilty, right. You have
4 not heard a piece of evidence against him. A crime is an
5 accusation. The jury that is chosen will have what's called
6 an information. It's a document read to them. It's evidence
7 of nothing. Right now, Mr. Chaparro as he sits here is
8 innocent of any crimes.
9 However, the nature of the crime causes you grave
10 concerns, it sounds. You don't have to elaborate. Is it
11 simply fair to say that you're -- because of anything that
12 may have happened in your life or your family's life, your
13 concern about your ability to be fair and impartial in this
14 case?
15 A JUROR: I'm really concerned. It happened to
16 me. I was beaten and raped. And my daughter was roofied and
17 she was raped and dropped off in our front yard. And we did
18 a rape kit and she never pursued it and neither man has ever
19 been caught. So I am very caustic about this.
20 THE COURT: You have very strong feelings for
21 understandable reasons. It would appear this would not be
22 the appropriate case for you to serve on.
23 A JUROR: No.
24 THE COURT: Thank you for that. Counsel, do you

1 have any concern with me thanking and excusing Ms. Laughton?
2 MR. LEE: No, your Honor. Thank you.
3 MS. BERTSCHY: No, your Honor.
4 THE COURT: Please check in with the jury
5 commissioner downstairs. We need two names if you would be
6 so kind, Ms. Clerk.
7 A JUROR: Kandee Cheney for seat 23.
8 THE COURT: Before we call another one, we'll
9 begin with Ms. Cheney. Before you get comfortable there,
10 would you introduce yourself to us?
11 A JUROR: Kandee Cheney. I do billing and
12 accounts receivable for Woodburn and Wedge Law Firm. I am
13 not married, therefore, I have no spouse. I have one
14 daughter who is in her mid 30s. And I've been in Reno since
15 I was about one and we won't say how long that is. I don't
16 know any of those people and I don't know anyone in law
17 enforcement.
18 THE COURT: Thank you, Ms. Cheney. It sounds like
19 none of those red flags went up for you.
20 Lest I forget, if those men and women at Woodburn
21 and Wedge aren't nice to you, you come talk to Judge Walker
22 and I'll give you an order.
23 A JUROR: Thank you.
24 THE COURT: Another name, please.

1 THE CLERK: Christopher Thrower.
2 THE COURT: Welcome, Mr. Thrower. If you would
3 kind enough to introduce yourself to us?
4 A JUROR: My name is Chris Thrower. I'm currently
5 unemployed. I graduated from UNR earlier this year -- last
6 year, I guess, and I'm not married and no kids. Lived in
7 Washoe County for 24 years.
8 THE COURT: Good afternoon to you, sir. Welcome.
9 I think we left off -- Mr. Thrower, any of those red flags or
10 bookmarks go up for you, sir?
11 A JUROR: No.
12 THE COURT: I was asking as to whether or not any
13 of you have any connection to law enforcement. Did I miss
14 anybody? So Mr. Metcalf.
15 A JUROR: Yes. My brother-in-law is the sheriff
16 of Duchesne County, Utah.
17 THE COURT: Anything about the fact that you have
18 a close family member who is a law enforcement officer?
19 A JUROR: It's not going to change my --
20 THE COURT: You can go to Christmas dinner and
21 tell him what your verdict was one way or the other and not
22 worry about it?
23 A JUROR: Yes.
24 THE COURT: Ms. Majorsay.

1 A JUROR: Three people from the sheriff's
2 department here, Darren Balaam, Greg Rivera and Phil Jones.
3 THE COURT: You only know most of the command
4 structure.
5 A JUROR: My husband's best friends are two of
6 them, Greg and Phil, and Darren has been at social things at
7 our home.
8 THE COURT: Well, are you concerned or would you
9 be concerned if you were sitting where Mr. Chaparro is
10 sitting with you serving as a juror in this case given your
11 close connection to the sheriff of the county?
12 A JUROR: No.
13 THE COURT: That is not a disqualifier, except and
14 unless it would mean you would give more weight to the
15 testimony of a law enforcement officer than someone else just
16 because they're a law enforcement officer. Can you assure me
17 you won't?
18 A JUROR: I don't believe I would.
19 THE COURT: Thank you. Any other hands? So Mr.
20 Trotter.
21 A JUROR: Just professionally, just interacting at
22 Parr, Churchill County, California, several facilities that I
23 work with personnel there.
24 THE COURT: Do you have any concern at all about

1 being fair and impartial in this case?
2 A JUROR: No, I do not.
3 THE COURT: Have I missed anybody? So Mr. Canale.
4 A JUROR: I worked alongside law enforcement, no
5 personal outside of that relationship. But I believe
6 anybody's testimony you have to take impartially.
7 THE COURT: Thank you for that revelation,
8 Mr. Canale. Have I missed anybody else? Mr. Folen.
9 A JUROR: My wife's cousin works for the CHP.
10 THE COURT: In California?
11 A JUROR: Yes.
12 THE COURT: Do you have any concern about your
13 inability to give more or less weight to someone just because
14 they're a law enforcement officer?
15 A JUROR: No.
16 THE COURT: Thank you. Have I missed anybody? I
17 don't think I see any other hands.
18 Any of you have any legal training? Now,
19 Mr. Canale, you work as a social worker. You know 432B
20 backwards and forwards. This does involve allegations of
21 child abuse or neglect. Can you agree with me that any
22 training you have shouldn't come into this room?
23 A JUROR: I agree.
24 THE COURT: That I will instruct you on the law

1 that applies in this case?
2 A JUROR: Yes, your Honor.
3 THE COURT: Anyone else have any other legal
4 training? So Ms. Buice.
5 A JUROR: I was a CASA for ten years.
6 THE COURT: Here in this district?
7 A JUROR: Yes.
8 THE COURT: And thank you for that service.
9 CASA's work is eyes and ears of the court in child welfare
10 cases and I was a child welfare judge. I was so thankful for
11 it. Can you agree with me, Ms. Buice, anything you heard
12 about laws or burden of proof or issues in child welfare
13 court have no bearing in this case?
14 A JUROR: Absolutely no bearing, yes.
15 THE COURT: Ms. Cheney, you work around a lot of
16 lawyers. I'm sure they like to throw a lot of law at you.
17 Do you have any concern about bringing any outside legal
18 influence, as it were, to apply in this case?
19 A JUROR: No.
20 THE COURT: Thank you. Any of you been a victim
21 of a crime? We've touched on this already. The purpose for
22 the question is to bring forward any strong feelings any of
23 you may have because of your belief that you were a
24 victimized? So Ms. Hansen.

1 A JUROR: Yes. Sexually assaulted.
2 THE COURT: And --
3 A JUROR: That's probably the most relevant to
4 this case.
5 THE COURT: Yes. A long time ago? Recently?
6 A JUROR: It's been a few years, yeah, about 10,
7 15.
8 THE COURT: Do you have a concern about being fair
9 and impartial in a case where that is the allegation?
10 A JUROR: I do. On both sides, actually.
11 THE COURT: That's not uncommon, by the way. I'm
12 going to ask a question, for example, does anybody hold
13 anything against the District Attorney's Office or for or
14 against folks who work to defend the people accused of crimes
15 and people often have strong feelings both ways.
16 A JUROR: I do both sides, because I do know a lot
17 of females that have made false allegations. So I -- both
18 ways. I'm just not sure.
19 THE COURT: All right.
20 A JUROR: If I can be impartial.
21 THE COURT: If you're chosen as a juror in this
22 case, I'll instruct everyone that nothing you hear outside
23 this courtroom is evidence of anything in this courtroom.
24 The evidence in this case will come from the witness stand

1 through sworn testimony or documents or items of evidence
2 that are admitted according to the rules of evidence. So the
3 fact that people have made false accusations or people have
4 made true accusation that didn't result in charges or did
5 result in charges or whatever the outcome may be has nothing
6 to do with this case. Can we agree?
7 A JUROR: Oh, yeah.
8 THE COURT: You shared, though, you thought you
9 would have a concern about being fair and impartial. Can
10 you --
11 A JUROR: I'm just concerned about my own personal
12 biases with how this would work and the things I've dealt
13 with in my life.
14 THE COURT: Well, we can't and won't, of course,
15 try the case in front of you as we try to pry out what those
16 biases are. Can you give me an example of what they might
17 be?
18 A JUROR: My biases against?
19 THE COURT: Anything.
20 A JUROR: It's both. You know, I was sexually
21 assaulted. So, again, you know, I'm not sure if I would
22 really believe one side or the other. I don't know if I
23 would believe a female to every aspect, right, because like I
24 said, I've known both. I've personally been assaulted and

1 I've known many guys that have actually ended up being false
2 allegations.
3 THE COURT: Well, the question, though, becomes
4 this: Can you leave those experiences outside of this room
5 and weigh the facts and evidence in this case and apply them
6 to the law in this case?
7 A JUROR: I can try.
8 THE COURT: That's all anyone can do and in the
9 end that's the oath. Right?
10 A JUROR: Right.
11 THE COURT: What we don't want is somebody saying,
12 look, I was falsely accused of a crime in the past and
13 therefore I'm not going to believe anybody has ever committed
14 the crime, let alone in this case, because that would be a
15 bias and prejudice that overwhelms the evidence or the oath
16 of any juror. I don't hear you saying that.
17 A JUROR: No.
18 THE COURT: And so can you promise me that you
19 will try to fairly and impartially evaluate the facts and
20 evidence in this case?
21 A JUROR: Yes, I will try.
22 THE COURT: That's all anybody can do. Thank you
23 for being honest about your experiences and where you're at.
24 I'm sure the attorneys will have some more questions.

1 A JUROR: That's fine.
2 THE COURT: Anyone have any legal training, again?
3 I don't see any other hands.
4 We're into, have you been a victim of a crime?
5 Any other hands? So, Ms. Henry.
6 A JUROR: Yes. It was a domestic dispute between
7 me and my kids' dad.
8 THE COURT: And was it here in Washoe County?
9 THE DEFENDANT: Yes, it was.
10 THE COURT: About how long ago?
11 A JUROR: 2016.
12 THE COURT: Relatively resent. You'll notice, I
13 didn't ask Ms. Hansen, and I'm not going to ask you what the
14 result of any prosecution was, but was there any prosecution?
15 A JUROR: Yes, there was.
16 THE COURT: And anything about your experience in
17 that process of being a victim, making a claim, having it end
18 whatever way it ended that causes you concern about being
19 fair and impartial in this case?
20 A JUROR: No. I feel like every case is
21 different. I don't feel like my -- mine was my own and I
22 don't feel I would judge someone else based on what happened
23 with me.
24 THE COURT: Thank you of that. Anyone else been

1 the victim of a crime? Mr. Metcalf.

2 A JUROR: My house was broken into about ten years

3 ago. Nobody was caught, so --

4 THE COURT: Not, unfortunately, an uncommon

5 occurrence. Do you have any concern being fair and impartial

6 to the State because nobody was caught or to Mr. Chaparro

7 because he's simply accused of a crime?

8 A JUROR: No.

9 THE COURT: Not burglary, I might add.

10 A JUROR: It's got no relevance.

11 THE COURT: It does have no relevance, that is

12 true in fact. Anyone else been a victim of a crime that you

13 would disclose because it might cause you to be unable to be

14 fair and impartial in this case? I see no hands in the first

15 row or the second row or the third or fourth or fifth row.

16 Do any of you have more than a passing interest in

17 the outcome of this case? What I mean by that, anybody walk

18 in the room thinking, if this is a criminal case, I'm going

19 to find guilty, I don't care what the crime is, or I'm going

20 to find not guilty, I don't care what the crime is? I see no

21 hands.

22 Any of you entertain a bias or prejudice for or

23 against the State of Nevada? Had a family member accused of

24 a crime, been accused of a crime yourself, been prosecuted

1 for a crime and found not guilty, but have a bias or a
2 prejudice for or against the State of Nevada? I see no
3 hands. I'm sorry, one hand. It's behind the head, I
4 apologize, Mr. Morrison. Mr. Morrison, what is your concern?
5 A JUROR: I grew up in this town and I've been in
6 this courtroom and so I -- the one downstairs, but I was a
7 youth, so, you know. I just -- I -- yeah, I mean you haven't
8 got a person who is going to be. Everything you're saying, I
9 fall in between that, you know, I don't go to one side or the
10 other. I'm kind of, you know, you said about, because like
11 I've had family members that went through traumatic
12 experiences that enrage me, but it didn't happen to me. You
13 know what I mean?
14 So I don't know what to tell you exactly as far as
15 that goes, but, yeah, I was a young hooligan in this town.
16 THE COURT: I was a young hooligan, too, but not
17 in this town fortunately for me. The real question,
18 Mr. Morrison, is not do you fit a category or not, except
19 that, do you come in with sort of a prejudgment, a chip on
20 your shoulder or a belief in some way, everybody accused of a
21 crime is guilty, nobody accused of a crime is guilty, or
22 something like that that has to do with the weight of the
23 evidence?
24 A JUROR: I came in with an open mind until I

1 heard the charges and then that changed everything, because
2 of what I dealt with with loved ones.
3 THE COURT: Is it fair to say that Mr. Chaparro in
4 your mind begins a step behind simply because of he's accused
5 of doing?
6 A JUROR: Unfortunately, yes.
7 THE COURT: All I can ask is for people to be
8 honest. And to be honest in a way that demonstrates you're
9 not just trying to get out of jury service, right, you're
10 just being open with me and with the attorneys about what
11 your thoughts are.
12 A JUROR: Yeah.
13 THE COURT: It sounds as though you do not believe
14 that you can be fair and impartial in this case because of
15 the nature of the charges? Is that accurate?
16 A JUROR: Yes. When I walked through the room,
17 yes.
18 THE COURT: Anybody have any objection with me
19 excusing Mr. Morrison?
20 MR. LEE: No, your Honor.
21 MS. BERTSCHY: No, your Honor. Thank you.
22 THE COURT: If you would check in with the jury
23 commissioner downstairs, please?
24 A JUROR: Thank you, your Honor. Take care.

THE CLERK: Brian Jensen.

THE COURT: Mr. Jensen, good afternoon to you, sir.

A JUROR: I'm Brian Jensen. I work at Renown in the operating room. I'm a registered nurse. I'm married. I have four children. Wife's name is Leigh. She's a billing and coder for Silver State Spine. Four kids, so there's 16-year-old, ten-year-old, a six-year-old and a four-year-old. And I've been in Reno on and off for 30 some odd years.

THE COURT: Welcome, Mr. Jensen. Any of those red flags go up for you as a consequence to any of my questions?

A JUROR: My brother is a federal officer for the Secret Service and my stepfather or my father-in-law is a retired lieutenant or sergeant for Sparks PD.

THE COURT: What's his name?

A JUROR: Rob Pasik.

THE COURT: And your brother-in-law's name, or brother's name?

A JUROR: My brother is Keith Jensen.

THE COURT: Anything about your connection to law enforcement officers that causes you concern about being fair and impartial in this case?

A JUROR: No.

1 THE COURT: All right. Any other bookmarks go up
2 for you?
3 A JUROR: Huh-uh.
4 THE COURT: Thank you. Welcome to you, sir.
5 A JUROR: Thank you.
6 THE COURT: I asked if any of you have anything
7 other than a passing interest in this case. That was the
8 question, fortunately, that prompted Mr. Morrison's response.
9 Any of have a similar response?
10 Any of you harbor any prejudice whatsoever against
11 the race or nationality of me, the attorneys or the
12 defendant? Again, I don't believe you can tell somebody's
13 race or nationality just by looking at them. You may have
14 some clues about their race or nationality, but you don't
15 know the truth of their race and nationality just by looking
16 at them. Anybody have a bias or prejudice against anyone in
17 this room because of the color of their skin, their national
18 origin or where they are from? I see no hands.
19 I asked if any of you had any legal training.
20 Other than divorce or custody proceedings, are you now or
21 have you been involved in litigation, that's a lawsuit, suing
22 someone else typically for money. Ms. Mussehl.
23 A JUROR: My father was a couple of years ago.
24 THE COURT: Where at?

1 A JUROR: He used to work at Northern Nevada
2 Medical Center. He was sued years ago, but --
3 THE COURT: All right. Civil lawsuits have a
4 different burden of proof than criminal lawsuits, which is
5 why I ask about it. You may have heard what the burden of
6 proof in this case, if you even remember it. Would you agree
7 with me that nothing in that civil case and the burden of
8 proof in that civil case has anything to do with this
9 criminal case.
10 A JUROR: It has nothing to do with it, no.
11 THE COURT: Anyone else connected to or involved
12 in civil litigation or a lawsuit, money related. Mr. Jensen.
13 A JUROR: I sued my old landlord before we bought
14 our house.
15 THE COURT: Here in Washoe County?
16 A JUROR: Yes.
17 THE COURT: When was that?
18 A JUROR: About eight years ago.
19 THE COURT: Anything about that process or the
20 results of that process that causes you concern about being
21 fair and impartial here?
22 A JUROR: No.
23 THE COURT: All right. Anyone else? Mr. Burns.
24 A JUROR: I had a similar. I unsuccessfully tried

1 to sue a landlord for a security deposit back. And it would
2 have absolutely nothing to do with this.
3 THE COURT: It wouldn't and you volunteered it was
4 unsuccessful. Would you agree about me that that unfortunate
5 outcome for you should have no bearing on what occurs here?
6 A JUROR: It has no bearing on this. It made me a
7 little upset at the time with the people that I was dealing
8 with, but it has nothing to do with this.
9 THE COURT: I understand. I have a job that I
10 sometime tell people, my job is to make at least half of the
11 room unhappy. If I do a really good job, everybody leaves
12 unhappy. So I understand you can have bad outcomes and it
13 sounds like you understand clearly that bad outcome shouldn't
14 wash into this case?
15 A JUROR: No.
16 THE COURT: Anyone else involved in litigation
17 currently or previously? I don't think I see any other
18 hands.
19 Will you follow the instructions I give, even if
20 they differ from your personal conceptions of what the law
21 ought to be? Why I will tell you what the laws are that
22 relate to this case. They may differ from what you think
23 they are or you think they should be. Will you follow the
24 law as I give it? Does anybody have any concern not being

1 able to do that? I don't see any hands. Did you have a
2 concern, Ms. Gasuad.
3 A JUROR: How about if I don't understand clearly?
4 THE COURT: Ms. Gasuad, you've done a good job of
5 understanding. You can certainly ask questions as a juror if
6 you don't understand a piece of testimony or a piece of
7 evidence. I trust -- I know your husband. I've met your
8 husband. I can only imagine your his better half. So I
9 trust your ability to follow the evidence in this case. Do
10 you have a concern about that?
11 A JUROR: Just like in the law, you know, I don't
12 want to kind of like don't understand fully and then have to
13 give the verdict to --
14 THE COURT: The good news is if you're chosen as a
15 jury in this case, I will instruct you on what the law is.
16 We have terms, for example, sexual assault, that term will be
17 explained. It has elements that are necessary to it. It
18 will be in, I hope, plain English. You will have those
19 instructions in writing so that you can make reference to
20 them.
21 In other words, you won't just hear them given to
22 you, but I'll give them to you in writing. Does that help
23 reassure you?
24 A JUROR: Yes.

1 THE COURT: Thank you for your question. Anyone
2 else have any concern with following the law as I instruct
3 it? I don't see any other hands.
4 Every person accused of a crime is presumed to be
5 innocent of that crime until his or her guilt is proven
6 beyond a reasonable doubt. The State must prove each element
7 of a criminal allegation by evidence beyond a reasonable
8 doubt. Are there any of you who disagree with this as a
9 legal standard? I see no hands.
10 Do any of you disagree with the prospect or the
11 truth or the reality that Mr. Chaparro does not have to prove
12 a thing in this case? Even if he presents no evidence of any
13 kind, you must find him not guilty if the State fails to
14 prove his guilt to your satisfaction beyond a reasonable
15 doubt. Anybody have any concern with that?
16 Have you or any of your family members been
17 accused of a crime in such a way that would caused you
18 concern of serving in this case? The gentleman I excused
19 shared he had family members. I have two nephews by marriage
20 that have both been prison at different times in this state.
21 That doesn't wash on me and hopefully I don't wash on them.
22 It's just a fact of families and life.
23 The fact that they've been accused of a crime and
24 convicted of crimes doesn't mean that I'm not able to do my

1 job. I just recognize that what is their reality is not
2 relevant in this or any other case. Any of you have any
3 concern about that in your own families? I don't see any
4 hands.
5 Any experiences that any of you have that causes
6 you to distrust law enforcement? Ms. Hansen touched on
7 distrusting people who accuse people of a crime, but any of
8 you just out of the gate distrust law enforcement because of
9 experiences you've had or family members have had? I don't
10 see any hands.
11 Do any of you believe you heard about this case or
12 read about this case? To my knowledge, it's received no
13 press. To my knowledge, there won't be any press coverage of
14 the case, but I don't know.
15 Will you all agree not to research the case if
16 you're chosen as jurors in this case? Not to go out looking
17 for press about the case or reading articles, I don't believe
18 there are any, that may control in this case. I don't see
19 any concerns raised by that.
20 At this point, do any of you believe you can't be
21 fair and impartial in this matter? Anybody have any
22 religious or philosophical concerns about service? I see no
23 hands.
24 This jury is expected to go through Friday of this

1 week. The attorneys and I are confident we can conclude the
2 case and give it to you or in time for deliberations by
3 Friday. Anyone have concerns about the duration of the
4 trial? I'm going to work from front to back. Anybody in the
5 first row? Mr. Brannameng.
6 A JUROR: Yeah, my wife's due date is
7 February 29th and we're expecting the baby any day. I have
8 concern that I wouldn't be able to physically be here if my
9 child were to come.
10 THE COURT: Let me assure you, if you're called to
11 serve as a juror, there will be a couple of alternates at
12 least in this case, and your wife is going to have a baby,
13 you're not going to be deliberating in this case says the
14 judge. Apart from that, do you have any concern about the
15 duration of trial?
16 A JUROR: No. Other than that my job, but and
17 saving up for --
18 THE COURT: I hear that and you give me the
19 opportunity to address it in this way. Here are the
20 exemptions, the reason I can let people, as it were, out of
21 service. You all know my fundamental baseline is this is our
22 job. Right. There are kids in combat zones right now whose
23 lives are on the line. If they can do their job, we can do
24 this job is my opinion.

1 I can excuse you from jury service only for the
2 following reasons: While the legislature is in session, any
3 member of the legislature or any employee of the legislature.
4 That doesn't apply to anybody in this room that I'm aware of.
5 Any police officer, there aren't any peace officers in the
6 room who are prospective jurors. All persons over the age of
7 70 are exempt from serving as grand or trial jurors. I don't
8 think any of you are over 70.
9 A JUROR: Not yet.
10 THE COURT: A person who is 65 or older, who lives
11 more than 65 miles from the Courthouse can be excused. You
12 can be excused for sickness or disability, serious illness or
13 death of a member of the juror's immediate family, undue
14 hardship or extreme inconvenience or public necessity.
15 Unfortunately, back to you, Mr. Brannameng, you
16 weren't making a big deal about it, that job thing is not one
17 of those excuses. I apologize. Anyone else in the first row
18 have any concerns about the duration of trial? Ms. Smith.
19 A JUROR: It's not that. I've been hospitalized
20 lately with pneumonia and I'm trying to get over that. So
21 I'm still sick. So the only problem I have is I'll be
22 hacking a lung up every now and then if that doesn't bother
23 anybody.
24 THE COURT: I don't want you to hacking a lung up

1 literally. But it won't bother me, no, if you cough as you
2 have during this process.
3 A JUROR: I'm on medication, so I need to take my
4 medication.
5 THE COURT: Of course you can take your
6 medication. Anyone else in the first row or the second row,
7 or the third row? Ms. Mussehl.
8 A JUROR: I'm a full-time student at UNR and a lot
9 of my assignments are going to be due pretty soon. I don't
10 know how long this trial is going to take.
11 THE COURT: Until Friday. Generally, the day
12 period, 9 to 5, for the rest of the week.
13 A JUROR: Okay. It's just one day?
14 THE COURT: It today, tomorrow, Thursday and
15 Friday.
16 A JUROR: Okay. Yeah, I mean, I still have
17 assignments and classes I need to go to.
18 THE COURT: I feel your pain. I have a lot of
19 years of education, all of them came, unfortunately, when I
20 was full-time employed. I can't let you out.
21 A JUROR: That's okay.
22 THE COURT: Thank you. But you better get good
23 grades.
24 A JUROR: I'm graduating from this semester, I

1 should.

2 THE COURT: I believe you. Anyone else in the

3 third row have any concerns? Ms. Ramiro.

4 A JUROR: While you were talking about things what

5 is going on, I feel I am so -- it's full of me and I'm having

6 headache right now.

7 THE COURT: Well, this --

8 A JUROR: It's too much for me.

9 THE COURT: This is serious business to be sure.

10 A JUROR: I know.

11 THE COURT: And I expect citizens to rise to

12 serious business when they're called. I'm sorry if you have

13 a headache. We will take a break at some point here in just

14 a few minutes. Hopefully, you can get some fresh air and

15 perhaps something to drink.

16 A JUROR: I looked for my water. It's not in my

17 purse.

18 THE COURT: We'll take a break in a few moments.

19 A JUROR: I have a bottle of water for her.

20 THE COURT: Would you like to share some water?

21 A JUROR: I just check again. I don't have it.

22 THE COURT: She's willing to share some.

23 A JUROR: I have a bottle of water that hasn't

24 been opened.

1 THE COURT: If you'll pass it forward, that would
2 be great. Thank you.
3 I think, Ms. Cheney, you were raising your hand
4 for a concern duration?
5 A JUROR: My brother was just recently diagnosed
6 with stage four lung and liver cancer. We finally have an
7 oncologist appointment Thursday at 3:00. I'm his
8 transportation and caregiver. He's living with me.
9 THE COURT: How old is your brother?
10 A JUROR: 64.
11 THE COURT: When you say he's living with you,
12 does he not a driver's license?
13 A JUROR: He's not strong enough to drive right
14 now.
15 THE COURT: Serious illness or injury of a family
16 member is an excuse. There's always a downside, though, and
17 that is that, if I excuse you for that reason in this case,
18 you could be called next month for the eight-week murder
19 trial to be set next month.
20 A JUROR: I know. That's fine. It would take my
21 chance then.
22 THE COURT: All right.
23 A JUROR: I really feel like I need to be there
24 for treatment.

1 THE COURT: I understand the draw to your heart,
2 but more importantly the necessary role you play in your
3 brother's health care. Thank you, Ms. Cheney. If you would
4 check in with the jury commissioner downstairs.
5 A JUROR: Thank you.
6 THE COURT: You're welcome.
7 A JUROR: Megan Evans.
8 THE COURT: Welcome, to you, Ms. Evans. Before
9 you take a seat, would you please introduce yourself to us?
10 A JUROR: My name is Megan Evans. I'm a
11 behavioral specialist for the school district. I am married.
12 I'm married to Aaron Evans, who is a lieutenant with the
13 State of Nevada DPS. I have a son, he's nine. And I've
14 lived here all my life except for two years.
15 THE COURT: Welcome to you. Good afternoon. Any
16 of those bookmarks or red flags go up for you, Ms. Evans, as
17 a result of my questions?
18 A JUROR: A few. My husband is in law enforcement
19 within the state. I recognize Deputy Vietti. I'm trying
20 think of what else. There was a bunch. Sorry.
21 THE COURT: It's okay.
22 A JUROR: No legal stuff. I had an experience in
23 high school, sexual assault in a manner. I think I'm okay,
24 though. I did a lot of work, so -- I think that covers it.

1 THE COURT: All right. Do you have any concern --
2 does your husband work for the Highway Patrol?
3 A JUROR: He works for Parole and Probation.
4 THE COURT: Do you have any concern about the fact
5 that your husband is a peace officer as you are called upon
6 to evaluate what you believe about what peace officers say?
7 A JUROR: No.
8 THE COURT: All right. You shared an experience
9 from your past. I think you shared that experience is in
10 your past. I don't hear any great concern from you about the
11 nature of the charges by themselves in this case, is that
12 true?
13 A JUROR: True.
14 THE COURT: Thank you. Welcome to you. Anything
15 else?
16 A JUROR: One other thing, I years ago did
17 contract work for the child advocacy center for the DA's
18 office.
19 THE COURT: When was that, just generally?
20 A JUROR: Probably five years ago.
21 THE COURT: Okay. In the relatively recent past.
22 A JUROR: Uh-huh.
23 THE COURT: Are you going to have any problem with
24 looking Mr. Lee or Ms. Northington in the eye and saying not

1 guilty in this case if you're not convinced that they didn't
2 prove the allegations beyond a reasonable doubt?
3 A JUROR: I don't think so.
4 THE COURT: Are you going to have any problem
5 saying guilty in this case if you believe the evidence
6 satisfies you beyond a reasonable doubt?
7 A JUROR: I don't think so.
8 THE COURT: Anything else you thought you should
9 share as a result of my questions?
10 A JUROR: I think I covered it all.
11 THE COURT: You did. Thank you for your active
12 listening. Anyone else concerned about the length of trial?
13 I don't see any other hands.
14 You must wait to form your opinion upon the
15 evidence introduced at trial in this matter and apply to it
16 the law that I give you. Will you do that without fear of
17 criticism or popular opinion? That's the question, can you
18 go home, break bread with loved ones, family and friends and
19 be comfortable that the decision you make is based on the
20 facts and the evidence and not what they may think about your
21 decision? I see no concerns with that raised.
22 Counsel, I'm going to give over questioning to
23 you. The jury has been here about 90 minutes. The problem
24 with taking a break, ladies and gentlemen, it takes long time

1 with this many people. Just by show of hands, do you desire
2 a break at this juncture, or can you go a bit longer through
3 questions of counsel? Anyone absolutely have to have a break
4 at this juncture? I see 2, 3, hands. I think, counsel, I'm
5 going to defer to you for any questions. First, Mr. Lee, on
6 behalf of the State.
7 MR. LEE: If I can follow-up with a couple of you
8 and perhaps break the ice with me asking you questions now.
9 Just some things I'm curious about. Ms. Ramiro, you said you
10 were retired?
11 A JUROR: Yes.
12 MR. LEE: What did you do?
13 A JUROR: I was a medicine technician.
14 MR. LEE: Where at?
15 A JUROR: Classic Residence in Plumas.
16 MR. LEE: Okay. And, Ms. Smith, is it your
17 ex-husband is a law enforcement officer?
18 A JUROR: Yes, sir.
19 MR. LEE: I'm not going to ask your feelings about
20 your ex-husband. Does the fact that he --
21 A JUROR: Don't ask.
22 MR. LEE: Does what he did for a living affect
23 anything?
24 A JUROR: No.

1 MR. LEE: So the fact that he was law enforcement
2 doesn't change -- if you hear from a law enforcement officer
3 here you can still listen, open mind?
4 A JUROR: Yes, sir.
5 MR. LEE: Thank you very much. Mr. Sorensen, if I
6 could, have you been hearing okay?
7 A JUROR: Yes.
8 MR. LEE: You see, ladies and gentlemen, if you
9 remember, you filled out little questionnaires, probably a
10 couple of months ago and mailed them back in or submitted
11 them online. That's what we get ahead of time. So,
12 Mr. Sorensen, this is where I'm gaining this information, but
13 you said about whether you can be fair, you said maybe, maybe
14 you can be fair, maybe you could not be fair, if I understand
15 it right. Do you recall doing that?
16 A JUROR: Yes.
17 MR. LEE: Could I inquire of you about that or
18 what was on your mind with that?
19 A JUROR: I don't really remember at the time when
20 I was filling that out.
21 MR. LEE: Okay.
22 A JUROR: I don't know. I don't know why I put
23 that.
24 MR. LEE: All right. Maybe I'm getting it wrong,

1 actually. I'll double check here in a minute. Regardless of
2 as you sit here today, are you all right being fair to both
3 sides, Mr. Chaparro, the defense as well as the State of
4 Nevada who we represent?
5 A JUROR: Yes.
6 MR. LEE: Thank you. This was cued up just a
7 minute ago. Here we go. I have a number of other questions
8 that I'll ask some of you directly and some of you generally
9 and the judge has taken care of a lot of these. So this will
10 be a little shorter.
11 When you hear this phrase, sexual assault, I'm
12 curious how it makes you feel. Mr. Behm, can I ask you, how
13 does it make you feel?
14 A JUROR: Not good for potentially if it did
15 happen or not happen.
16 MR. LEE: I'm sorry. I missed the last part.
17 A JUROR: Not good in respects if it did or did
18 not happen. So it's a negative connotation, sexual assault.
19 MR. LEE: Okay. And I'm not asking you whether it
20 happened or whether it didn't. That's what your job will be
21 later on. We'll present evidence and you'll hear about that.
22 So, really, the sound of it, though, you said presents a
23 negative connotation?
24 A JUROR: Yes.

1 MR. LEE: Anyone disagree with that? What about
2 with that you may hear some words that maybe a little
3 discomforting or uncomfortable. I recognize we're all adults
4 here. Anyone have any great concerns about hearing words,
5 hearing body part words, things like that, that they wouldn't
6 be fair about?
7 Ms. Patterson, can I ask you, what do you think of
8 when you hear the phrase sexual assault?
9 A JUROR: It's a rough phrase for anybody, being a
10 mom and a woman and it would be difficult for anybody to
11 hear.
12 MR. LEE: Again, same question, just looking for
13 folks who can be fair. Regardless of what you hear, can you
14 be fair to both sides?
15 A JUROR: It is what it is. That's what we're
16 here for is to be fair.
17 MR. LEE: Anyone feel this is such a personal
18 matter that law enforcement should stay out of this?
19 Anyone have to fill out a report for police or
20 insurance companies after a crash or some other instance like
21 that? Mr. Metcalf, let me ask you, how was that?
22 A JUROR: It's a form. I mean, it's when my house
23 got broken into, both for the police and for my insurance
24 company had to list the stuff that was missing.

1 MR. LEE: Okay. Were they requiring all details
2 at that point?
3 A JUROR: The insurance company more than our
4 police department.
5 MR. LEE: Okay. Mr. Reich, did I say it right?
6 A JUROR: Yes.
7 MR. LEE: I think you raised your hand as well.
8 You filled out statements, forms?
9 A JUROR: Yes, sir.
10 MR. LEE: Did you fill it out the best you could?
11 A JUROR: Yes, sir.
12 MR. LEE: Did you hit every single aspect of what
13 happened?
14 A JUROR: To the best of my ability.
15 MR. LEE: Okay. Were there things that you
16 remembered later which weren't included in the original
17 report when doing that?
18 A JUROR: Sometimes there are.
19 MR. LEE: So if -- let me just stick with you,
20 Mr. Reich, if you later recalled some of those things, but
21 didn't write them in your report initially, does that mean it
22 didn't happen?
23 A JUROR: No.
24 MR. LEE: What about -- I'm sorry. I'm bouncing

1 around a little bit here. Anyone been through a traumatic
2 event, car accident, physical injury, anything like that?
3 Okay. Ms. Buice, how did you react?
4 A JUROR: I spent seven weeks in the hospital
5 after the accident. It was a single car accident. And at
6 another time, I was a witness to an accident and I pulled
7 over and wrote a statement out for the police.
8 MR. LEE: Okay. Ms. Patterson, you raised your
9 hand, I believe?
10 A JUROR: Yes. I spent the last 26 years as a
11 volunteer firefighter, seen more wrecks and deaths and more
12 than I care to admit to. But you do what you have to do and
13 you handle it the way you have to handle it.
14 MR. LEE: Okay. Mr. Arnaud.
15 A JUROR: Arnaud.
16 MR. LEE: Thank you. You probably share that
17 feeling, right? You see it on a daily basis?
18 A JUROR: Yes, sir.
19 MR. LEE: How about anyone that has been affect by
20 that personally? Anyone personally gone through a traumatic
21 event that happened to them like Ms. Buice described? I
22 should have these down by now. Ms. Henry.
23 A JUROR: Yes.
24 MR. LEE: How did you react after that?

1 A JUROR: It's just a shock. You're trying to
2 fill out the police report, make sure you don't forget
3 anything. It's like a shock.
4 MR. LEE: Okay.
5 A JUROR: It's hard to remember everything,
6 because you're so in the moment and your adrenalin is going.
7 MR. LEE: It's a shock, you're trying to remember
8 things, things happen fast.
9 A JUROR: Yeah, happened real fast.
10 MR. LEE: Anyone have a different reaction being
11 in a traumatic event? Ms. Buice, you said you were in the
12 hospital for seven weeks?
13 A JUROR: Yes.
14 MR. LEE: Were you unconscious after that
15 traumatic event?
16 A JUROR: No.
17 MR. LEE: But certainly required some help after
18 the traumatic event.
19 A JUROR: As it turned out, not to be pity-potty
20 here, but my husband and I were both in the hospital for that
21 duration of time and our son was two. So when we got out of
22 the hospital and got back home, he was in a hospital bed for
23 about six weeks in a body cast and so I had to be his
24 caregiver. So on crutches, you figure it out. You're young

1 and make it back work. We got our son back with us. My
2 parents took him for a while in California and then we got
3 him back and we just took care of what we had to do.
4 MR. LEE: How long ago was that?
5 A JUROR: Oh, gee, that was several years ago.
6 Probably about 45 years ago, a long time ago. Shortly after
7 we moved here.
8 MR. LEE: Shortly after you moved here? That's
9 your welcome to Washoe County.
10 A JUROR: From southern warm California.
11 MR. LEE: We're glad you stuck with Washoe County.
12 Ms. Henry, back to you, after the things were finished, let's
13 say sometime had passed, do you wish or looking back at how
14 you reacted, would you have reacted any differently?
15 A JUROR: No.
16 MR. LEE: No. You feel like your response was
17 appropriate for what had happened?
18 A JUROR: Yes.
19 MR. LEE: Okay. Anyone have any other experiences
20 where they've had something happen and feel they wish they
21 would have reacted differently or done something differently?
22 Mr. Trotter, let me ask you a question, how do you
23 think a rape victim might react to something like that
24 happen?

1 A JUROR: I think it's traumatic. I would suspect
2 the mind deals with things as it can, as it can begin to
3 process those things.
4 MR. LEE: Would you expect a victim of rape and
5 Mr. Tamayo, let me come to you, would you expect a victim of
6 rape to have any defined response to what had just happened,
7 act the same way? Every victim of rape needs to act the same
8 way?
9 A JUROR: No. Because every case is different.
10 MR. LEE: Same hold true for every person? Every
11 person is different?
12 A JUROR: Yes.
13 MR. LEE: Mr. Monette, do you agree with that.
14 A JUROR: I do.
15 MR. LEE: Mr. Burns, do you agree with that?
16 A JUROR: I think so, yeah.
17 MR. LEE: Mr. Wilsey, what do you think about
18 that? Let me go back. Would you expect a victim of rape to
19 react -- every victim of rape to react the same way to being
20 raped?
21 A JUROR: Probably not. Situations are different.
22 Personalities are different.
23 MR. LEE: What kind of things would you think a
24 victim might react like? It's a terrible question. How do

1 you think a victim might react?
2 A JUROR: Pretty sure there would be anger.
3 MR. LEE: Ms. -- I'm going to say this wrong,
4 Ms. Gasuad. Did I say it right?
5 A JUROR: Gasuad.
6 MR. LEE: What do you think might a victim react
7 who has just been raped?
8 A JUROR: Mad.
9 MR. LEE: Okay. Would you agree with anger and
10 mad, same kind of reaction?
11 A JUROR: And sad at the same time, I think.
12 MR. LEE: Okay. Anybody have any other thoughts
13 about that, any other reaction, any other emotion that might
14 create?
15 A JUROR: Might want revenge.
16 MR. LEE: What do you mean by revenge?
17 A JUROR: Like I said, they're angry, they're
18 upset. They want them to pay, to be punished.
19 MR. LEE: Okay. Ms. Jorgensen, would you expect
20 emotion?
21 A JUROR: Yes. I would expect emotion, probably a
22 state of shock.
23 MR. LEE: How about this, does -- Mr. Smith, if I
24 could, and is that right, Smith?

1 A JUROR: Yes.
2 MR. LEE: Do you think all sexual assaults get
3 reported?
4 A JUROR: No.
5 MR. LEE: Why or why not?
6 A JUROR: Fear.
7 MR. LEE: What do you mean by fear? Fear of what?
8 A JUROR: Fear of having to see somebody who did
9 it again, whoever did it.
10 MR. LEE: So are you referring to like a court
11 hearing later on where you have to see them?
12 A JUROR: Yes.
13 MR. LEE: Or are you thinking of something else?
14 A JUROR: Same, seeing them in court. It would
15 almost be like PTSD.
16 MR. LEE: How about Mr. Thrower, what do you
17 think? What are some reasons someone might not want to
18 report this kind of crime?
19 A JUROR: Embarrassment, really. They wouldn't
20 want people to know.
21 MR. LEE: So would you, Mr. Thrower, would you
22 agree that, say, discussing details of a -- something like
23 that that happened, right, where it's intimate, it's
24 personal, could that be more traumatizing, having to recount

1 it later on?

2 A JUROR: Yeah. It would be like facing it again.

3 MR. LEE: I'm not going to ask for a show of hand

4 here, but think to yourself, I'll ask you another question

5 about it. Has anyone here had someone close to them disclose

6 something like this that has happened? Ms. Smith, did the

7 person have to provide proof?

8 A JUROR: She was ten years old. She was my

9 sister.

10 MR. LEE: How did that make you feel?

11 A JUROR: Angry.

12 MR. LEE: Did you believe your sister?

13 A JUROR: Yes.

14 MR. LEE: This may sound stupid, but why?

15 A JUROR: Because she's my sister. My parents

16 called the police. They found the two that raped her and

17 justice was taken care of.

18 MR. LEE: How did you feel with that, as you said,

19 justice being taken care of?

20 A JUROR: I was relieved.

21 MR. LEE: How about this, can you tell just by

22 looking at someone whether a person has committed sexual

23 assault, just by looking at this their outward appearance?

24 I'm seeing head nods as a no. Anyone disagree with that?

1 Can you tell someone just looking at them whether
2 they've been the victim of a sexual assault? Again, I see
3 only head nods as to no. Anyone disagree with that?
4 The judge touched on this and this is a good segue
5 into that, I just want to ask another question or two about
6 it, reasonable doubt or beyond a reasonable doubt. As
7 representing the State of Nevada as the prosecution in this
8 case, Ms. Northington and I are going to ask you to hold us
9 to that burden, beyond a reasonable document. Does anyone
10 believe it should be higher than that? Should it be beyond
11 all doubt? Are you satisfied with the term beyond a
12 reasonable doubt as you know it right now?
13 Okay. Raise your hand if you've seen some type of
14 TV movie, something, story you've read depicting rape in some
15 fashion or sexual assault? Our world today, right? What
16 does it look like on TV, generally? Anyone volunteer? What
17 do you think? How does TV generally show it? Mr. Canale?
18 Do you pronounce the E at the end?
19 A JUROR: Canale. It's usually very flagrant on
20 TV and very violent and egregious.
21 MR. LEE: Okay. Does have a rape have to be, in
22 any of your minds, violent to be a rape? Mr. Canale, let me
23 come back to you, does it have to be a violent to be a rape?
24 A JUROR: I don't believe it does.

1 MR. LEE: Explain your thoughts if you could.
2 A JUROR: I don't know the exact term that rape
3 would fall under the law, but I would say it's a
4 nonconsenting party expressing their nondesire to engage and
5 it doesn't have to be violent.
6 MR. LEE: All right. What is -- I'm sorry if I'm
7 calling on some of you twice, I'm trying not to. Ms. Evans,
8 I don't know if I've ask you a question yet. Sorry. How
9 about this, what's the difference between sex and sexual
10 assault?
11 A JUROR: I would probably go with consent.
12 MR. LEE: So it's an issue of consent?
13 A JUROR: Uh-huh.
14 MR. LEE: One being consensual and another
15 nonconsensual.
16 A JUROR: And age laws and things like that.
17 MR. LEE: So would someone who commits an act of
18 sexual assault in your mind, Ms. Evans, have to use physical
19 force?
20 A JUROR: No.
21 MR. LEE: To gain submission? What kind of things
22 could a person do to gain submission?
23 A JUROR: Coercion, or, you know, threats, not
24 fully being violent, but just being strong enough to

1 overpower the situation physically.
2 MR. LEE: Thank you. Anyone have any other
3 thoughts about that? How might someone gain submission?
4 Mr. Reich?
5 A JUROR: Bribery, quid pro quo, possibly.
6 MR. LEE: Okay. Any other thoughts about that?
7 Thank you. So along these lines, Ms. Skinner, what are some
8 ways that a person would indicate they do not consent?
9 A JUROR: Well, saying no or trying to move away
10 from the situation or get themselves out of the situation.
11 MR. LEE: Okay. So you say, no, some physical
12 movement as well, correct?
13 A JUROR: Uh-huh.
14 MR. LEE: I want to say your name right,
15 Brannameng.
16 A JUROR: Yes. Close, Brannameng. Yeah. I think
17 just being unsure, if not saying no, just anything other than
18 a yes is not consent.
19 MR. LEE: Okay. I apologize for the pause. My
20 pausing is skipping over some things to be a little quicker
21 here. Bear with me, if you could. Okay.
22 Mr. Jensen, if I could, do you believe a victim of
23 a sexual assault is ever responsible?
24 A JUROR: Depends on the situation, I guess.

1 MR. LEE: Would you be willing to elaborate on
2 that?
3 A JUROR: Like maybe they were out having some fun
4 or something like that and things got a little out of hand
5 and he didn't get the message when she said that's enough.
6 He should have, but didn't, so, yeah.
7 MR. LEE: Okay. Mr. Trotter, what do you think?
8 Is a victim of sexual assault ever responsible for what
9 happens?
10 A JUROR: No. No, I don't.
11 MR. LEE: How come?
12 A JUROR: Because I think a sexual assault is the
13 basest forms -- one of the basest forms of human action and,
14 you know, there are situations one could put ourselves in all
15 sorts of risks, that doesn't mean the activity it results is
16 necessarily the result of that.
17 MR. LEE: All right. What about, Mr. Collamer,
18 let me ask you, what about if a victim of sexual assault puts
19 themselves in a situation like that, they're drunk or
20 something like that, are they responsible for what happens?
21 A JUROR: No.
22 MR. LEE: Ms. Henry, do you agree with that or
23 disagree with that? What do you think?
24 A JUROR: No. I don't think they're responsible.

1 MR. LEE: Ms. Patterson, I know I've asked you
2 before, but how about can a person provoke a rape just by
3 their appearance?
4 A JUROR: I don't think so. Their appearance is
5 irrelevant at that point. It comes down to whether it's
6 consensual or not.
7 MR. LEE: Ms. Hansen, what do you think about
8 that?
9 A JUROR: I believe it would have no meaning on
10 the fault of the sexual assault.
11 MR. LEE: I'm sorry. I missed the very last part.
12 A JUROR: The clothes should not matter on fault.
13 MR. LEE: Anyone have any other thoughts about
14 that? So how about, Mr. Sorensen, let's say you left your
15 house unlocked and you come home and you find the place
16 burglarized. How would you feel? I hope that doesn't happen
17 to you.
18 A JUROR: Minorly, but well, kind of violated, I
19 guess.
20 MR. LEE: Okay.
21 A JUROR: You think your home is your sanctuary.
22 MR. LEE: Let me take it a step further. What if
23 you left the front door wide open and you left and returned
24 home some hours later and you find it burglarized. Would you

1 have the same feelings, still feel violated?
2 A JUROR: Yes.
3 MR. LEE: Okay. Let's say -- how about this, is
4 the fact that you left your door open make it any less of a
5 burglary?
6 A JUROR: No.
7 MR. LEE: A person still doesn't have the right to
8 go and take your stuff?
9 A JUROR: Right.
10 MR. LEE: We all have fingers on our hands.
11 Sometimes in the law, we call them digits. Is it any less of
12 a crime or do you feel like the law is incorrect if
13 penetrating a person's private genital areas with digits,
14 fingers, is a sexual assault, is it any less of a crime?
15 Should it not be called sexual assault?
16 Anyone feel like -- anyone feel like it should not
17 or -- excuse me. I already asked that. I see head nods to
18 the no. Anyone disagree with that?
19 A JUROR: Can you repeat the question?
20 MR. LEE: Sure. Different types of manners of
21 sexual assault. I'm not going to get into all the law here.
22 The judge will instruct you on that. So I'm trying to stay
23 away from that. But in the basic term, sexual assault
24 requires some penetration into a private genital opening,

1 okay. Is it any less of a crime if it's with digits, your
2 fingers, as opposed to say a penis or other object? Does
3 anyone feel like that is any less of a crime?
4 Let me ask you some general questions now just a
5 little -- perhaps a little easier. Anyone have a negative
6 experience with the District Attorney's Office here in Washoe
7 County?
8 Okay. I think that's all the questions I have,
9 then, your Honor. Thank you very much. Pass for cause.
10 THE COURT: Mr. Fuss. Ms. Bertschy.
11 MS. BERTSCHY: Your Honor, would it be possible
12 since the jury has been sitting here so long to take a quick
13 break?
14 THE COURT: I've got no choice now, do I? Here's
15 the problem, ladies and gentlemen. We're approaching the
16 4:00 hour, and you wouldn't know this, but we'll have to take
17 a couple of breaks. Every time we take a break, I must take
18 roll in the entire room. Because Ms. Bertschy has given me
19 no other choice, we'll be in recess.
20 I'll ask you to follow the directions of the
21 bailiff. There are a number of restrooms on different floors
22 and only a couple of restrooms on each floor. So Deputy
23 Vietti can give you some directions as to where you might
24 find other restrooms so the lines might be a little shorter.

1 I'll ask you to move as quickly as you can. I apologize for
2 the close confines of the court. I'll try to keep the break
3 to 20 minutes. But I appreciate how many people there are
4 and how few restrooms there may be. Every person needs to
5 return to this room so we can take roll.
6 (A short break was taken.)
7 THE COURT: This is case CR17-0636, the State of
8 Nevada versus Osbaldo Chaparro. We are meeting in the
9 process of voir dire. I show the appearance of Mr. Chaparro
10 and his attorneys. I show the appearance of the attorneys
11 from the State. Ms. Clerk, would you please take the roll of
12 the prospective jurors.
13 THE CLERK: Yes, your Honor.
14 (Roll of the jury taken at this time.)
15 THE CLERK: All are present, your Honor.
16 THE COURT: Thank you, Ms. Clerk. To my defense
17 colleagues, I turn for your voir dire if you desire.
18 MS. BERTSCHY: Thank you, your Honor.
19 Good afternoon. I'm sure no one this morning woke
20 up thinking, yay, I get to go to court and talk about
21 personal issues that happened in my life, about potential
22 racism, about biases, right? Unfortunately, that's where we
23 are here today. That's how our jury system works is we have
24 to talk about really uncomfortable things in a setting like

1 this where we don't know each other.
2 And I understand it can be frustrating, weird and
3 I want to thank you on behalf of the defense and the State as
4 well for being open and honest. I heard what you said to the
5 judge, I will try my best not to repeat any of the questions
6 that have come before me. Thank you for that honesty,
7 because I do recognize this is tough.
8 I teach, aside from being an attorney, I teach at
9 UNR and that's the most difficult thing to do is actually to
10 be that teacher standing up there in front of a class who you
11 know most of them don't want to be there and trying to get
12 answers and trying to get information from them.
13 So you heard a lot of discussion about rape,
14 sexual assault, and you know what Mr. Chaparro, Ozzy, is
15 charged with. After hearing those words over and over and
16 over again, does that change how anyone feels about Mr.
17 Chaparro as he sits here right now?
18 Ms. Ramiro, before we went on break, you indicated
19 that your head was hurting and you weren't doing very well,
20 right?
21 A JUROR: Uh-huh.
22 MS. BERTSCHY: I'm sorry. Is that a yes? This
23 lovely court reporter has to write everything down. Is that
24 a yes or a no?

1 A JUROR: Which one?
2 MS. BERTSCHY: Can you hear me okay?
3 A JUROR: Yes.
4 MS. BERTSCHY: Are you having problems with
5 listening right now?
6 A JUROR: No. I'm fine.
7 MS. BERTSCHY: Before you had indicated that you
8 were having a headache and things like that, right?
9 A JUROR: Yes, because everything that we have,
10 you were talking about, it's as if it's going on in my head
11 and in my brain and it's too much. I cannot take it.
12 MS. BERTSCHY: Thank you. I appreciate that. And
13 I want to talk about that a little bit more. Okay. Because
14 I want to make sure I'm understanding you. I know it's super
15 uncomfortable the way we're talking. So I apologize for
16 that. You're going to hear from people who say that a crime
17 occurred.
18 A JUROR: Uh-huh.
19 MS. BERTSCHY: Is that going to be hard for you to
20 listen to?
21 A JUROR: I can participate, but I don't know what
22 happened with me as I grow. When I had cancer and I was
23 already free, everything that I hear, bad things, or negative
24 things, as if just -- I cannot accept it. It's too hard for

1 me to accept negative things.
2 MS. BERTSCHY: Okay.
3 A JUROR: So as much as possible I don't want to
4 hear anything negative.
5 THE COURT: Let me help. Ms. Ramiro,
6 unfortunately, jury service is an inconvenience to be sure.
7 A JUROR: I know.
8 THE COURT: And we might all wish that we lived in
9 a community, in a town where crime didn't occur.
10 A JUROR: Yes, I understand.
11 THE COURT: And, unfortunately, we don't.
12 A JUROR: Yes, I know.
13 THE COURT: You worked in a hospital, correct?
14 A JUROR: No. It was in assisted living.
15 THE COURT: Yes, a hospital?
16 A JUROR: No, it's not.
17 THE COURT: Assisted living is a hospital.
18 A JUROR: It's retirement home.
19 THE COURT: Yes, ma'am. People sometimes die in
20 retirement homes?
21 A JUROR: Yes, but I can do that.
22 THE COURT: Code blues are called in retirement
23 homes, correct?
24 A JUROR: Yes.

1 THE COURT: Nurses have to respond to emergencies
2 in retirement homes. You, I know, dealt with stressful
3 issues there and I'm sorry for that.
4 A JUROR: Yes.
5 THE COURT: I must expect you will deal with
6 stressful issues here as well.
7 A JUROR: It's really -- I will try. I'm trying
8 my best. That's why I was looking for my water and I don't
9 know what happened, if I forgot, or what happened.
10 THE COURT: All anybody can do is try their best.
11 I appreciate you're somewhat uncomfortable, but I have yet to
12 see illustrated the legal standard to excuse you. I know you
13 don't want to serve and I'm sorry for that.
14 A JUROR: That's okay.
15 THE COURT: Ms. Bertschy.
16 MS. BERTSCHY: Thank you. Mr. Canale, just to
17 clarify, you know me professionally, right?
18 A JUROR: Just professionally.
19 MS. BERTSCHY: We're also friends on social media?
20 A JUROR: That's right.
21 MS. BERTSCHY: Is there anything about our
22 relationship that would cause you issues, because it's not
23 just purely professional, right?
24 A JUROR: Right.

1 MS. BERTSCHY: There's nothing that would cause
2 any issues?
3 A JUROR: I don't think there's anything between
4 anything I heard today that would make my decision biased.
5 MS. BERTSCHY: Mr. Trotter, did I hear you
6 correctly that you said something about working at Parr?
7 A JUROR: Yes, I was a contractor. I work on the
8 fire alarm system there, so I interact with the personnel.
9 MS. BERTSCHY: That's probably how I recognize you
10 then?
11 A JUROR: Okay.
12 MS. BERTSCHY: You don't recognize me?
13 A JUROR: I don't, no.
14 MS. BERTSCHY: I was trying to figure it out for
15 the last couple of minutes here. Thank you.
16 A JUROR: Yeah. Sure.
17 MS. BERTSCHY: Ms. Majorsay, you indicated that
18 you are friends, close friends with Darren Balaam?
19 A JUROR: Right. We're closer with Greg and Phil,
20 very often together with Greg and Phil. Darren is the
21 occasionally there.
22 MS. BERTSCHY: How long have you been friends with
23 them?
24 A JUROR: I've been with my husband for six years

1 and Greg is his best friend, so we are in touch with him a
2 lot, and Phil, Phil Jones. Darren Balaam, he's been at
3 social functions at my home. I don't see him as often as the
4 other two.
5 MS. BERTSCHY: I just want to make sure, when
6 judge spoke with the other individuals about if Darren is in
7 your home, would you have a problem telling him that you
8 voted not guilty on a case that was from this community?
9 A JUROR: No.
10 MS. BERTSCHY: Now, the State talked a little bit
11 about just if anyone has watched Dateline or crime shows like
12 48, Case Files, things like that. I want to start with,
13 let's go with Ms. Evans, do you watch any of those movies or
14 those TV shows?
15 A JUROR: I honestly don't.
16 MS. BERTSCHY: Why is that?
17 A JUROR: Because, as I said, my husband is in law
18 enforcement. So it's kind of cringe worthy for him.
19 MS. BERTSCHY: Is it cringe worthy for you, too?
20 A JUROR: No. It's more about -- try to explain
21 like watching like -- what's that 911 show, or whatever, and
22 just seeing people maybe not behaving appropriately in your
23 field. So I don't watch a lot of education shows either if
24 that makes sense. That's the only reason. I used to watch

1 CSI a lot.

2 MS. BERTSCHY: Is there anyone who watches it like

3 religiously, like every night they go home and watch it on

4 TV?

5 A JUROR: I watch any of those kinds of shows, but

6 I also listen to all the true crime podcasts.

7 MS. BERTSCHY: Right. On the true crime podcasts,

8 when they're talking about some of the gory details and

9 things, do you ever go and want to look up what they're

10 showing or what they're talking about?

11 A JUROR: Yes.

12 MS. BERTSCHY: Right. You do?

13 A JUROR: Uh-huh.

14 MS. BERTSCHY: You're okay --

15 A JUROR: I'll Google the person and whatever,

16 people that are involved.

17 MS. BERTSCHY: Do you ever look at the photos of

18 the crime scenes?

19 A JUROR: No, not necessarily. It's more the

20 people.

21 MS. BERTSCHY: Is there anyone here who thinks, I

22 really couldn't look at any gory photos or anything like

23 that? Is it Ms. Mussehl?

24 A JUROR: Mussehl.

1 MS. BERTSCHY: Is it just the images or what is
2 it?
3 A JUROR: I just get -- I don't like gore that
4 much. My dad is a -- he's an ER doctor, so he's come back
5 with stories, but I don't see anything. But when I see it,
6 I'm like, no.
7 MS. BERTSCHY: What about videos of potential
8 crimes?
9 A JUROR: No.
10 MS. BERTSCHY: Absolutely no way?
11 A JUROR: No.
12 MS. BERTSCHY: If you had to watch videos and had
13 to look at photos in this case and I saw you had a visible
14 reaction, would you be okay with that?
15 A JUROR: Not particularly, no. Not personally,
16 no.
17 MS. BERTSCHY: Can you tell me why?
18 A JUROR: I just don't like being uncomfortable, I
19 guess. I've had a pretty sheltered life, so I'm pretty
20 comfortable.
21 THE COURT: Well, ladies and gentlemen, let me
22 help again. It's my duty to help control voir dire and to
23 restrict voir dire to attaining an impartial jury. Let's be
24 clear, everyone in this room is safe right now. Everyone in

1 this room will be safe at every juncture of this trial. This
2 is not a murder case. This is not a car accident case.
3 There will not be blood and gore.
4 We're not going to tell you what the facts of the
5 case are, any of the facts of the case, because it's not
6 relevant during voir dire. There may be photos of what's
7 alleged to have occurred, there may be a videotape. The
8 question is not whether it would make you uncomfortable, but
9 can be you fair and impartial even if it does make you
10 uncomfortable?
11 A JUROR: Yeah.
12 THE COURT: Thank you. Ms. Bertschy.
13 MS. BERTSCHY: Thank you, your Honor. Just to
14 confirm, is that okay with everyone, they can abide by that,
15 that's not going to be an issue?
16 Perfect. I want to talk to you about stereotypes.
17 We're all here saying, absolutely, they're wrong, but they
18 exist. And as you can see, Mr. Chaparro, he's Hispanic. And
19 does the fact that he's sitting here and Hispanic make it
20 more likely or not that he's guilty?
21 Ms. Hansen, just seeing him here and given the
22 fact that he's a Hispanic race, does that cause any issues
23 for you?
24 A JUROR: No. It's on merit.

1 MS. BERTSCHY: Does anyone have a different
2 opinion? Has anyone heard of the term Latin lover? What
3 does that mean to you, Ms. Hansen.
4 A JUROR: Like suave, like slick and they happen
5 to be of Latin descent.
6 MS. BERTSCHY: It's something you've heard, right?
7 A JUROR: Yes.
8 MS. BERTSCHY: Won't have anything to do with how
9 you decide this case, right?
10 A JUROR: No.
11 MS. BERTSCHY: There's a lot of talk about
12 immigration and it's a really hot topic issue right now and
13 specifically with Hispanics. And I just want to make sure
14 that there's no one who that might be in the back of their
15 mind, their own personal beliefs or something like that, that
16 would come into play here. Everyone can agree with me,
17 anything that's going on outside politically, that's not
18 going to come into this courtroom?
19 Mr. Sorensen, on your questionnaire, you indicated
20 that you have some problem hearing, right?
21 A JUROR: Yes.
22 MS. BERTSCHY: In particular with female voices.
23 A JUROR: Correct.
24 MS. BERTSCHY: Are you able to hear me without any

1 problem?

2 A JUROR: Yes, right now I can.

3 MS. BERTSCHY: Okay. And you say it's the pitch

4 of the voice or how loud I am?

5 A JUROR: I'm 70 percent deaf in the higher

6 ranges, usually starts around the female range up. But low

7 voices, no problem.

8 MS. BERTSCHY: Okay.

9 A JUROR: At this volume and everything, it seems

10 fine.

11 MS. BERTSCHY: Thank you. So you haven't had any

12 problems understanding me?

13 A JUROR: Huh-uh.

14 MS. BERTSCHY: Ms. Gasuad, have you had any

15 problems understanding what we've been discussing?

16 A JUROR: No, not really. It's easy terms.

17 MS. BERTSCHY: Perfect. So you're comfortable

18 with what you've heard so far?

19 A JUROR: Yes.

20 MS. BERTSCHY: Feeling comfortable you understood

21 the questions that you were asked?

22 A JUROR: Yes.

23 MS. BERTSCHY: If there's any scientific terms, do

24 you think you'll have any problems with that?

1 A JUROR: Not until I hear it.
2 MS. BERTSCHY: Okay. That's fair. You don't know
3 what you're not going to hear. And I think I saw that
4 someone at least had some background in biology. Is that
5 right? We have a pharmacist. Ms. Majorsay, what's your
6 background?
7 A JUROR: I have my degree in biology. I'm a
8 hospital technologist. I've been in the field for 32 years
9 in the hospital. I've worked with trauma surgeons, general
10 surgeons, so pretty extensive.
11 MS. BERTSCHY: Did you have to work a lot with
12 DNA?
13 A JUROR: I didn't work in genetics. It was part
14 of my schooling, but I didn't work in genetics in the
15 hospital. I worked in the blood bank and general chemistry.
16 MS. BERTSCHY: If you hear from experts talk about
17 DNA and biology and genetics, are you going to use your
18 personal knowledge or will you be able to accept what they
19 say?
20 A JUROR: I'll accept what they say.
21 MS. BERTSCHY: Does anyone else have any
22 experience with DNA in particular or biology. Anyone hear
23 about trace DNA? Mr. Reich.
24 A JUROR: I have a little bit. Like I'm studying

1 biology and stuff in school right now, but nothing too
2 serious yet.
3 MS. BERTSCHY: Are you getting into the grains of
4 the nitty-gritty like what a picometer or things like that
5 are.
6 A JUROR: Not yet. We're just getting into it.
7 MS. BERTSCHY: Okay. Are you reading materials,
8 published materials right now, scientific materials?
9 A JUROR: Yes, ma'am.
10 MS. BERTSCHY: On what DNA is?
11 A JUROR: Yes, ma'am.
12 MS. BERTSCHY: Would you expect experts in the
13 field to keep up-to-date on those materials as well?
14 A JUROR: Yes, ma'am.
15 MS. BERTSCHY: I know judge mentioned that as we
16 sit here today, Mr. Chaparro right now is presumed innocent
17 and that the defense has no burden. It's kind of a hard
18 concept to grasp, right? It's not something that we do every
19 day. And Mr. Chaparro doesn't have to testify, but we all
20 know, like, we'd expect our kids to tell us if they did
21 something wrong or to talk to us if we think they did
22 something wrong.
23 Ms. Burns, I want to pose a question to you. So
24 it is Mr. Burns. Sorry. I just looked up. Let's say your

1 spouse gets in trouble at work and gets fired. And they tell
2 you, hey, it's the work's fault, they're wrong, I'm not going
3 to talk about it, because I don't have to. You'll get a
4 report, but I'm telling you they're wrong. Would you feel
5 comfortable just hearing that?
6 A JUROR: I don't think so, just hearing.
7 MS. BERTSCHY: You'd want to know more about it?
8 A JUROR: I'd want to know the facts and what
9 happened and what exactly led to it.
10 MS. BERTSCHY: Absolutely.
11 A JUROR: Problems.
12 MS. BERTSCHY: Does anyone agree with Mr. Burns?
13 I see a head nod, Mr. Brannameng.
14 A JUROR: Uh-huh.
15 MS. BERTSCHY: What would you want to know?
16 A JUROR: What, like who was at fault, but just
17 the situation that happened. Yeah, just kind of that
18 perspective, yes.
19 MS. BERTSCHY: If we tell you, you don't get to
20 know that information, you don't get to hear that, because
21 that's not the defense's burden, do you still feel okay with
22 sitting here saying that's right, that's okay?
23 A JUROR: No. It's not like, I'd be a shot in the
24 dark kind of.

1 THE COURT: Well, what we can't do is try the case
2 to you during voir dire. We're not going to make
3 representations to you about what the facts are. We're not
4 going to tell this is or isn't true or this person is or
5 isn't going to testify.
6 I will just tell you that a defendant in a
7 criminal case has a constitutional right to remain silent.
8 They can literally say nothing. No one can comment on their
9 silence or use it against them in any way. They also cannot
10 be compelled to testify. You may draw no inference against a
11 criminal defendant who chooses not to testify or put a
12 defense on of any kind. They have no burden of proof.
13 Ms. Bertschy, go ahead.
14 MS. BERTSCHY: Court's indulgence, your Honor.
15 So Mr. Brannameng, now that you've had that
16 explanation from the judge, what do you think that means?
17 A JUROR: What I think the explanation means?
18 MS. BERTSCHY: Yes.
19 A JUROR: That basically he is sitting in
20 innocence now and doesn't have to change that. And now that,
21 yeah, now that I got that clarification, I see more clearly.
22 Yeah, I do accept that.
23 MS. BERTSCHY: I appreciate you saying the word
24 accept that. Does anyone not accept that? No. Okay.

1 Ms. Evans, have you had a situation, especially with your
2 students, where they're telling you something and they
3 absolutely believe it's true and you know it's not, like,
4 does Santa Claus exist. And they have that honest belief and
5 they may be even have things to back it up like coincidences,
6 like, hey, the cookies and milk I left out were taken, but
7 you know they're wrong. How do you verify for yourself, you
8 know, if someone has an honest belief like that?
9 A JUROR: I mean, you get information not only
10 from the student with their hand in the cookie jar or maybe
11 there are other reasons for their perceptions being that way
12 or you've got to get more proof other than he said, she said
13 if you can.
14 MS. BERTSCHY: Does anyone think -- what else
15 would you -- Mr. Monette, what else would you look for to try
16 to -- when someone is adamant something happened, you're
17 like, that is not believable, that can't be true. What else
18 do you look for to try to figure out whether or not it's
19 correct for yourself?
20 A JUROR: I would just question, why do they
21 believe that? If somebody saw them do something, why do you
22 believe they didn't do it? Just try to get an answer from
23 them like that.
24 MS. BERTSCHY: Did anybody watch the Super Bowl?

1 Who is a huge football fan? Anyone? I haven't heard from
2 Mr. Peterson in a while. Mr. Peterson, have you ever watched
3 instant replay?
4 A JUROR: Yes.
5 MS. BERTSCHY: That's something that has
6 completely changed the game of football.
7 A JUROR: Yes, ma'am.
8 MS. BERTSCHY: How do you think it's changed in
9 your perspective?
10 A JUROR: Because you have a perception of what
11 happened and you get to slow down and take a step back as to
12 what happened.
13 MS. BERTSCHY: Is it always the same as what the
14 ref calls?
15 A JUROR: No.
16 MS. BERTSCHY: Or what the coaches thought
17 happened?
18 A JUROR: Sometimes.
19 MS. BERTSCHY: In a criminal case, how do you
20 think a video would play in your deliberation?
21 THE COURT: I'm so sorry for interrupting. Ms.
22 Bertschy, asking a potential juror how they're going to
23 deliberate is improper.
24 MS. BERTSCHY: Thank you, your Honor.

1 THE COURT: Please ask a different question.
2 MS. BERTSCHY: Absolutely, your Honor.
3 MR. FUSS: May we approach briefly?
4 THE COURT: Do you have a legal objection?
5 MR. FUSS: No.
6 THE COURT: Counsel approach. Ladies and
7 gentlemen, I'm sorry, we don't have an easy way to take
8 breaks. There are too many of you and a lot of people to
9 move, so I guess we're going to have a sidebar.
10 (Discussion at the bench.)
11 THE COURT: Ms. Bertschy, go ahead.
12 MS. BERTSCHY: Mr. Reich, I want to come back to
13 you. When the judge was talking about if anyone had any
14 issues or concerns, I thought I saw your hand raised. Was it
15 someone else was around you?
16 A JUROR: Which question was it about?
17 MS. BERTSCHY: About if you have any concerns
18 about serving on this jury.
19 A JUROR: I'm currently enrolled in school as well
20 and I have a class, but since she had the same issue, that's
21 --
22 MS. BERTSCHY: So we resolved that concern?
23 A JUROR: Yeah.
24 MS. BERTSCHY: Thank you, your Honor. I want to

1 end with, just to make sure, this is your last opportunity,
2 is there anyone out there who has something the they wish
3 that if I had asked or if the State had asked, that they
4 think is important for us to know if you would be a fair and
5 impartial, just let us know.
6 Is there anyone who has anything that you think we
7 need to know in deciding if they're fair and impartial in
8 this case? Thank you, your Honor. I pass for cause
9 THE COURT: Ladies and gentlemen, we're getting
10 close. Please bear with us. The attorneys and I are now
11 going to take a break, step into chambers, where we'll engage
12 in a process of what are called peremptory challenges. That
13 process will result in a jury of 12 and 2 alternates in this
14 case and then I'll be able to release the balance of you.
15 Bear with us, it generally takes 20 minutes. Counsel, meet
16 me immediately in chambers, please.
17 (A short break was taken.)
18 (The following proceedings were had in the
19 presence of the jury.)
20 THE COURT: This is CR17-0636, State of Nevada
21 versus Osbaldo Chaparro. We're on the record outside the
22 presence of the jury in chambers. Let me make a record of
23 the previous objection. I apologize, Ms. Koetting, I know
24 that it's difficult in that room to speak quietly enough and

1 you still be able to hear.
2 The subject matter of the approach was Mr. Fuss
3 approached to indicate that he was concerned that I had
4 indicated we would not share with the jury facts of the case
5 during the voir dire and wanted to know if that included the
6 defendant's prior conviction, which I said it does.
7 I further said I am unaware of any legal
8 authority, which would allow either side to pre-try facts of
9 a case, as it were, that is, inform the jury of facts that
10 may or may not be admitted in the case. So I indicated the
11 defense could not inquire. Is there any other record you
12 want to make about that?
13 MR. FUSS: Yes. The State had been -- had voir
14 dired about the issue of penetration. It's a fact that is
15 going to be in contention, the use of digits, the use of --
16 or the difference between digits and penis, digits, penis and
17 other objects, it was, I think.
18 That in order to get a fair jury, the fact that my
19 client has been previously convicted of one of the crimes in
20 which he stands accused is important, because the bias of the
21 jury should be one that even knowing that fact, they would be
22 able to, quote, unquote, set aside that issue to determine
23 the facts that are garnered at this particular trial. They
24 can use the information as instructed by the Court for

1 propensity, whatever other exceptions that might come in
2 under the law.
3 But I think that it was a wrong reaction. We
4 dismissed, I believe, 3 or 4 female jurors for cause based on
5 prior sexual assault. There were others that had talked
6 about members of their family that had been sexually
7 assaulted. And I don't think that Mr. Chaparro can get a
8 fair trial if we are not able to find a jury that knowing the
9 fact that he has been convicted of Count Two, battery with
10 the intent of to commit sexual assault, and be able to hear
11 the facts and to be able to deliberate on these facts and
12 using that fact for what the Court instructs or what the
13 final instructions are, I believe violates his due process to
14 a fair jury and unbiased jury.
15 THE COURT: Do you want to respond, Mr. Lee?
16 MR. LEE: Judge, I think the caselaw is pretty
17 clear and I just come in through some of my notes on this.
18 But your Honor controls the voir dire and I know that
19 generally the Court can't unreasonably restrict a party from
20 asking things, but in this case, I think the restriction was
21 reasonable given the facts and given that specific, very
22 specific fact of the case.
23 THE COURT: Well, because propensity evidence is
24 so powerful that it's the subject of a statute, NRS 48.045,

1 and multiple, multiple cases, to ring the bell of Mr.
2 Chaparro's conviction for battery to commit sexual assault
3 when he stands accused of the same thing would be
4 unnecessarily volatile with this or any other jury. It would
5 be manifest abuse of discretion to open that line of
6 questions. For that reason, I will not allow the question.
7 Let's move to peremptory challenges. Each side
8 will have eight in this case. We'll begin with the State.
9 The State's first.
10 MR. LEE: Juror number six, Lela Hansen.
11 THE COURT: The defense's first peremptory
12 challenge, please.
13 MS. BERTSCHY: Your Honor, we'd like to thank and
14 excuse number 23, Megan Evans.
15 THE COURT: The State's second peremptory
16 challenge, please.
17 MR. LEE: Juror number 26, Brian Jensen.
18 THE COURT: The State's second -- pardon me -- the
19 defense's second peremptory challenge.
20 MS. BERTSCHY: Number two, Linda Skinner.
21 THE COURT: The State's third peremptory
22 challenge, please.
23 MR. LEE: Juror number one, Debbie Smith.
24 THE COURT: The defense's third peremptory

1 challenge, please.

2 MS. BERTSCHY: Number -- I apologize, your Honor,

3 number 19.

4 THE COURT: That is Stella Ramiro.

5 MS. BERTSCHY: That is correct, your Honor.

6 THE COURT: The State's fourth peremptory

7 challenge, please.

8 MR. LEE: Number seven, Brian Wilsey.

9 THE COURT: The defense's fourth peremptory

10 challenge, please.

11 MS. BERTSCHY: The defense would like to thank and

12 excuse number 21 and I'm going to mispronounce it again,

13 Gasuad.

14 THE COURT: Ms. Gasuad. The State's fifth

15 peremptory challenge, please.

16 MR. LEE: Juror number nine, Lynn Sorensen.

17 THE COURT: The defense's fifth peremptory

18 challenge, please.

19 MS. BERTSCHY: Ms. Buice, number 25.

20 THE COURT: The State's sixth peremptory

21 challenge, please.

22 MR. LEE: Juror number four, Steve Behm.

23 THE COURT: The defense's sixth peremptory

24 challenge, please.

1 MS. BERTSCHY: Number 27, Mr. Metcalf.
2 THE COURT: The State's seventh peremptory
3 challenge.
4 MR. LEE: Juror number 15, Amanda Mussehl.
5 THE COURT: The defense's seventh peremptory
6 challenge.
7 MS. BERTSCHY: Number five, Mr. Ng.
8 THE COURT: The plaintiff's eighth and final
9 peremptory challenge.
10 MR. LEE: One quick moment. Juror number 13,
11 Shawn Burns.
12 THE COURT: Defense's eighth and final peremptory
13 challenge.
14 MS. BERTSCHY: Number 17, Mr. Reich.
15 THE COURT: The jurors will be number one,
16 Mr. Brannameng, number two. The second would be -- I am just
17 out of sorts, aren't I?
18 THE CLERK: I show Canale.
19 THE COURT: Canale would be number two, Trotter
20 would be number three, yes?
21 MR. FUSS: Yes, your Honor.
22 THE COURT: Thrower would be number four,
23 Jorgensen number five, Patterson number six, Collamer number
24 seven, Arnaud number eight, Tamayo number nine, Monette

1 number ten, Desirae Henry number 11, and Gina Majorsay number
2 12.
3 Each of you will have one strike of the four
4 remaining prospective jurors. If you both exercise a strike,
5 the remaining two will be the alternates. If you waive a
6 strike, the first two in order will be the alternates. The
7 State's first peremptory challenge as to alternates.
8 MR. LEE: Mr. Folen, number 32.
9 THE COURT: The defense challenge, if any.
10 MS. BERTSCHY: We'd like to thank and excuse
11 number 29, Smith.
12 THE COURT: The alternates, will be Stephanie
13 Vincent and Robert Peterson. I will not identify them as
14 alternate to them, but they will the alternate. Any record
15 you would like to make on behalf of the State related to voir
16 dire?
17 MR. LEE: No, thank you, your Honor.
18 THE COURT: Or on behalf of the defense?
19 MR. FUSS: I believe I've pretty much made my
20 record.
21 THE COURT: I meant as to the process we just did.
22 MR. FUSS: No, your Honor. I always get confused
23 with it, too. Too many sticky pieces.
24 THE COURT: I'll meet you with alacrity in the

courtroom. Deputy Vietti will have everybody juggled so we can call the jury as quickly as possible.

(A short break was taken.)

THE COURT: We're on the record in State of Nevada versus Osbaldo Chaparro. All parties and counsel are present. Ms. Clerk, would you please announce the names of the jurors and the alternates.

THE CLERK: Yes, your Honor. Jacob Brannameng. Steven Canale.

THE COURT: Would you please step forward as your name is called.

THE CLERK: Gerald Trotter. Christopher Thrower. Crista Jorgensen. Katherine Patterson. Brent Collamer. Ryan Arnaud. Samuel Tamayo. Daniel Monette. Desirae Henry. Gina Majorsay. Stephanie Vincent. And Robert Peterson.

THE COURT: To my fellow judges of the facts, I welcome you to this case. Together we will try this case. To the balance of you in the remainder of the courtroom, I thank you deeply and profoundly for your time, for your attention in this case and for your service. Without your service, we can't select a jury.

So each of you, even though not chosen, have been an integral part of this process. I thank you for your time, I thank you for your attention to detail and I thank you for

1 your service. You are all excused. You may return to your
2 lives and your daily routine.
3 Ms. Clerk, would you please administer the oath of
4 service to the jurors and the alternates.
5 (The jury was sworn at this time.)
6 THE COURT: Please be seated. Ms. Clerk, would
7 you please read the charging document in this case.
8 THE CLERK: Yes, your Honor.
9 (Information read at this time.)
10 THE COURT: Thank you very much, Ms. Encallado.
11 Ladies and gentlemen, this case is based on that amended
12 information. An amended information is a description of the
13 charges made by the State against the defendant. It is
14 evidence of nothing and does not prove anything by its mere
15 existence.
16 The defendant is presumed innocent, unless and
17 until proved guilty beyond a reasonable document. The
18 defendant is not required to present any evidence or prove
19 his innocence.
20 The law never imposes upon a defendant in a
21 criminal case the burden of calling any witnesses or
22 introducing any evidence. The State must prove beyond a
23 reasonable doubt that a crime was committed and that the
24 person was the one who committed the crime.

1 You are now the jury in this case. There's some
2 important rules I need to make you aware of as we work
3 through the process of this trial.
4 First, no juror may declare to any fellow jurors
5 any fact relating to the case as of the juror's own
6 knowledge. You are not witnesses in the case. If any juror
7 discovers during the trial or after the jury has retired that
8 he or she or any other juror has personal knowledge of any
9 fact in controversy in this case, you shall disclose that
10 situation to me out of the presence of the other jurors
11 through Deputy Vietti.
12 You are not investigators. I once was involved in
13 the prosecution of a case in Carson City. The allegation was
14 arson against a man who was housed in the Carson City Jail.
15 The claim was that he had attempted to light his mattress on
16 fire. The jurors in that case, a couple of them, thought it
17 would be a good idea to go out and see if they can light a
18 mattress on fire. Don't light any mattresses on fire. You
19 are not investigators in this case. You are recipients of
20 evidence and only the evidence presented in this room.
21 We are all going to pretend we don't know one
22 another outside of this room. I like to think I'm a friendly
23 person. Generally, I like to say hello to people I
24 recognize. I won't when I see you around the hallways.

1 Neither will the attorneys in this case. We are literally
2 going to pretend we don't know one another, because we want
3 no one to believe that there's been any inappropriate contact
4 between you as jurors and us as participants in the trial or
5 any witnesses or any other person.
6 Deputy Vietti will give you some instructions
7 tonight before you leave the jury room. Included in those
8 instructions will be to provide you with a badge that
9 identifies you as a juror that I'll instruct you to wear
10 while you're in and around the campus of the Courthouse so
11 that no one else will come up to you and talk to you about
12 this case or any other case.
13 You're not to visit the scene of the alleged crime
14 in this case. You're not to engage in any Internet research
15 or research of any kind outside of this room. The only
16 evidence you're to consider is the evidence you receive
17 inside this room. You're not to consider anything, which you
18 see or hear outside of this room, even if it involves one of
19 the parties or a witness to this matter.
20 I must emphasize, again, the only evidence which
21 you are to consider comes from sworn testimony on the witness
22 stand or physical items of evidence which are admitted and/or
23 displayed to you after consultation with me.
24 Chief Justice John Roberts of the United States

1 Supreme Court describes the role of a trial judge is that of
2 an umpire. I may find it necessary to overrule the objection
3 of one the attorneys or to admonish one of the attorneys
4 during this case. I doubt it. I've had all of them in trial
5 before and they're all very good at what they do.
6 But if I do, you should not feel prejudice towards
7 any lawyer or his or her client as a result of any
8 admonishment that I provided.
9 No statement, ruling, remark, gesture or facial
10 expression I may make during this trial is intended to
11 indicate my opinion about what any facts may be. I do not
12 determine the facts. You determine the facts.
13 You alone must decide the believability of the
14 evidence, it's weight and it value, if any. You may give the
15 testimony of any witness the weight and value you believe the
16 witness is entitled to receive.
17 In considering the testimony of a witness, you may
18 take into consideration the behavior of the witness, the
19 interest of the witness in the outcome of the trial, the
20 relationship of the witness to any party of the trial, the
21 inclination of the witness' statements and all other facts
22 and circumstances in evidence.
23 Until this case is submitted to you, you are not
24 allowed to talk to one another about it or about anyone who

1 has anything to do with the case. You may not talk to your
2 family and friends about this case. Don't let anyone talk to
3 you about the case. If someone should try to talk to you
4 about the case while you're serving as a juror, please report
5 that contact immediately to Deputy Vietti.
6 Don't read, watch or listen to any news stories
7 about this case. Don't listen to any reports about the case
8 from any other person. Don't listen to any radio or
9 television reporting about this case from any source. Do not
10 do any independent investigation and do not let anyone, apart
11 from a witness in this room, give you any report of any
12 investigation regarding this case. Please keep an open mind
13 throughout this trial.
14 You may not use any electronic device or media
15 related to this case. So you can't visit Internet chat rooms
16 and say, hey, by the way, I'm now a juror in a criminal case
17 in the Second Judicial District Court. Don't do that. You
18 shouldn't tweet about it, post on Facebook, My Space, You
19 Tube, Linked In or any other source about this case. You may
20 not blog and use Internet media to share about the case,
21 including your participation as a juror.
22 When you retire to deliberate in this matter and
23 only when you retire, the bailiff will retrieve from you your
24 cell phones so you may focus on deliberations.

1 I always say this with a mile, because it happened
2 to me when I was a lawyer in the well of the court, but if
3 any cell phone rings during the proceedings, my bailiff is
4 going to take it. My hope that it will be an IPhone 11,
5 because I don't have an IPhone 11 yet and I would appreciate
6 your donation of an IPhone 11 through that process. I'm of
7 course being silly. Make sure your cell phones are off.
8 Don't bring them into the courtroom is really the best advice
9 I can offer you.
10 You'll be provided with materials to take notes in
11 this case. At the end of the case, you'll have to make your
12 decision based on what you recall as the evidence. You'll
13 not have a written transcript to consult. Ms. Koetting, the
14 court reporter in front of me, is engaging in a very
15 specialized form of shorthand. It is in fact a form of
16 computer code that requires translation before it can be made
17 into the official record. That takes a very long time to do.
18 So I can't give you a transcript of any particular witness'
19 testimony in this case. You'll need to rely on your own
20 recollection. So take notes as you need those notes to cue
21 yourself to important pieces of testimony.
22 Please pay close attention to the evidence as it
23 is presented. If you need a break in order to maintain
24 attention, let me know immediately.

1 I am very concerned about your time. The general
2 schedule of the trial will be from 9:00 until noon, 1:30 to
3 5:00 each day, but there will be some variations, and I'll
4 talk about that in a moment.
5 There are other matters which may require by
6 attention in court throughout the week and the bailiff and I
7 will inform you at each recess about the time the Court will
8 next resume. Please be assured that if we're not in court
9 with you, likely the attorneys and I are in court doing work
10 we need to do outside of your presence, because it doesn't
11 have anything to do with testimony or evidence that you need
12 to hear.
13 Generally, tomorrow, the schedule will be from
14 10:30 until noon and then 1:30 until an afternoon break until
15 5:00. As with today, I may run us up near 5:00 or a few
16 minutes after 5:00 to avoid an unnecessary return on a
17 following day or to make sure we keep the time line we've
18 tried to establish with all of you.
19 As I indicated, in a few moments, we'll be in
20 recess and Deputy Vietti will accompany you into the jury
21 room, orient you into the jury room and provide you with some
22 telephone numbers, her telephone number, the telephone number
23 for my court clerks and for my administrative assistant
24 should you need any of that information. Deputy Vietti is

1 really your life line to information about process and
2 timing. Don't hesitate to reach out to her.
3 As I just indicated, we'll be in recess, then,
4 until tomorrow at 10:30. At 10:30, the attorneys will
5 return, they'll offer to you their opening statements. Once
6 their opening statements are concluded, we'll move on to the
7 evidence in this case.
8 During this recess, from now until 10:30 tomorrow
9 morning, it is your duty not to converse among yourselves or
10 with anyone else on any subject connected with this trial or
11 to read, watch or listen to any report of or commentary on
12 the trial by any person connected with the trial or by any
13 medium of information, including, without limitation,
14 newspaper, television, radio, Internet or smart phones.
15 You're not to form or express an opinion on any subject
16 connected with this case until it is finally submitted to you
17 after the presentation of evidence and arguments of counsel
18 are concluded. Again, ladies and gentlemen we'll be in
19 recess follow your purposes until 10:30 a.m..
20 (The following proceedings were had outside the
21 presence of the jury.)
22 THE COURT: We remain on the record in CR17-0636,
23 the State of Nevada versus Osbaldo Chaparro. All parties and
24 counsel are present. We're outside the presence of the jury.

1 Counsel, is there anything you feel we need to place in the
2 record at this time? From the perspective of the State?
3 MR. LEE: Nothing, your Honor.
4 THE COURT: Or from the defense?
5 MR. FUSS: Just briefly. Your Honor, when Ms.
6 Bertschy asked for the break, the Court said, I don't have
7 any choice, because Ms. Bertschy asked. I think you meant
8 that in jest, but I don't know. But it didn't appear to be
9 in jest. I would ask -- because you had asked us before we
10 started that if we needed a break to give you a sign. It's
11 the best sign we could have given at the time. And I know
12 that we have -- time is of the essence as we were trying to
13 get a jury picked for today. We just --
14 THE COURT: If I was hard-edged about it, it is
15 because it's incumbent on me to control the process. In
16 point of fact, that was an unnecessary break in my opinion.
17 What I mean by that is as I expected Ms. Bertschy was fairly
18 brief in her voir dire. Another 20 minutes or 25 minutes
19 time spent in voir dire, we would have taken a break and also
20 the break necessary to engage in peremptory challenges. I
21 could be wrong about that.
22 If I sensed any irritation, it was this: I must
23 control the process of trial and no one else. And when Ms.
24 Bertschy announced, geez, judge, would it be good idea to

1 take a break, it's sort of like saying to your kids, wouldn't
2 be a good idea to go to Disneyland and making dad the bad guy
3 by saying, no, we're not going to go. That's why I made the
4 comment in the way I did.
5 I appreciate the necessities of taking a break. I
6 assure we'll always take at least one break. But I need you
7 all to be aware I have to weigh the interests of the entire
8 panel. In point of fact, there were three people in the
9 room, other than counsel, who said they needed a break of
10 become 80 people. The interests of those three can bend to
11 the interests of the other 80 in my view. I hope that offers
12 some insight into my thinking.
13 MR. FUSS: I had to go to the bathroom myself and
14 it was at that point and I don't want to put you in -- we
15 don't want to put you in a position like that. You had asked
16 us to give you a signal. I will next time look back to your
17 bailiff and see if she can do something that she can
18 communicate with you. We didn't intend to put you on the
19 spot.
20 THE COURT: I appreciate that. It is what it is.
21 It is, fortunately, a small moment in a very important case.
22 I assure you it is past for me. I hope it is past for you
23 all of you as well. In fact, it is a few minutes before
24 5:00. You all kept your promise to me and I to the jury to

1 have a jury selected by 5:00 today and I thank you for that.
2 MR. FUSS: You're welcome. Have a good afternoon.
3 THE COURT: Have a good evening. I'll see you at
4 10:30. I have a criminal calendar. I'll work through it
5 with all the alacrity I can.
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STATE OF NEVADA)
) ss.
County of Washoe)

I, STEPHANIE KOETTING, a Certified Court Reporter of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe, do hereby certify;

That I was present in Department No. 7 of the above-entitled Court on February 11, 2020, at the hour of 1:00 p.m., and took verbatim stenotype notes of the proceedings had upon the trial in the matter of THE STATE OF NEVADA, Plaintiff, vs. OSBALDO CHAPARRO, Defendant, Case No. CR17-0636, and thereafter, by means of computer-aided transcription, transcribed them into typewriting as herein appears;

That the foregoing transcript, consisting of pages 1 through 147, both inclusive, contains a full, true and complete transcript of my said stenotype notes, and is a full, true and correct record of the proceedings had at said time and place.

DATED: At Reno, Nevada, this 10th day of September 2020.

S/s Stephanie Koetting
STEPHANIE KOETTING, CCR #207